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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

SENATE—*Friday, October 13, 1995*

(Legislative day of Tuesday, October 10, 1995)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, we thank You for the energy-releasing power of Your spirit. Life's challenges and difficulties often excavate trenches in our hearts. These can be riverbeds for the flow of discouragement or of joy. In this time of prayer we ask that Your joy overflow the banks of our hearts.

Nehemiah expressed this assurance in the arduous time of the rebuilding of the walls of Jerusalem. "The joy of the Lord is your strength," he said. Only You could give the people what they needed to persist and endure. The same is true for us in our work today. We do not always find joy in our work: Sometimes it is demanding and exasperating. But we can bring Your joy to our work, a joy that lasts, a joy that bursts forth from Your love, forgiveness, and hope. Thank You for the creative thought and energy that Your divine joy triggers in our minds and our bodies.

This is the day You have made. We will rejoice and be glad in You, for Your joy is our strength. In our blessed Lord's name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, the first responsibility I have this morning is to announce for the leader what our potential points of business are for this morning.

This morning, there will be a period for the transaction of morning business until the hour of 10 a.m. Following morning business, the majority leader has stated that it would be his intention to appoint conferees to S. 652, the telecommunications bill. It is possible that a Senator will make a motion in regard to the appointment of those conferees. Therefore, it may be necessary to have a rollcall vote today if such a motion is made.

The majority leader has also indicated that it is hoped that the Senate will be able to appoint conferees to H.R. 4, the welfare reform bill, and to do that during today's session.

Mr. President, do I have time allocated for morning business?

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KEMPTHORNE). Under the previous order, the time for the two leaders is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a period for morning business until 10 a.m., with Senators allowed to speak for not more than 5 minutes, with the exception of the Senator from Iowa [Mr. GRASSLEY] who is entitled to speak for 10 minutes.

The Senator from Iowa is recognized.

DRUG POLICY, DRUG LEADERSHIP

Mr. GRASSLEY. Mr. President, several weeks ago on this floor, I addressed the issue of what I regard as a serious and growing problem in this country. The problem has two major features: Disturbing indications of a new drug epidemic among the Nation's young; and a lack of leadership from the administration either to provide the necessary moral guidance at home or to sustain programs overseas.

I called upon Democrats and Republicans to join in an effort to reverse this trend. In addition, Senator COVERDELL and I worked to restore funding to our international narcotics efforts as did Senator MCCONNELL. We hope that as we go to conference with the House that we can preserve the funding for our international programs that contribute to our overall efforts to fight drug abuse. Yesterday, Senator HATCH, in an eloquent and forceful statement, joined me in summoning up the awareness and resolve that we need to address now the dangerous trends we see in teenage drug use. Something that we must do before we find ourselves deep in a new wave of addicts and ruined lives.

Two weeks ago, Senator DOLE pointed out the seriousness of the problems that we face in an insightful opinion piece. As he noted there, we have lost our focus on drug policy. As a result the voice most commonly heard on the drug issue is from those who favor legalization in one form or another. Despite the fact that the public routinely, by overwhelming majorities, opposes any such notion, the press, our cultural elite, and some of our political leaders act as if this was not the case. The most remembered voice on the Clinton administration's drug policy was the call by Joclyn Elders, the Surgeon General of the United States, for legalization. The result of a policy of replacing Just Say No with Just Say Nothing has had predictable results.

Our interdiction efforts have fallen off as the focus on law enforcement has diminished. The priorities at DEA and Customs have shifted away from international efforts. Even domestically these agencies are doing far less to combat drug trafficking, as declines in arrests and seizures indicate. The Coast Guard has seen its budget shrink for drug control, and DOD counterdrug funding has plummeted. More seriously, the administration has not fought for its own programs or supported its own drug czar in Congress. And the President has abandoned the bully pulpit—something that his own Attorney General, his Secretary of Health and Human Services, and his drug czar have called one of the most important tools in our counterdrug arsenal.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

As a consequence, the message that drug use is both harmful and wrong is simply not getting to the audience that most needs it—young Americans. Marijuana use is on the rise, dramatically. Lest anyone forget, this was how the drug epidemic of the 1960's and 1970's got started. Marijuana was the gateway to an age of major drug addiction. We are seeing a repeat of that history because we failed to learn from our history. Today's marijuana, however, is many times more potent than anything from the 1960's, and we know a great deal more about the dangerous health consequences of even small use. Thus, we are not ignorant. We are, however, in danger of being negligent.

It is not as if we have learned nothing about what works. After many years of trial and error, we hit upon the mix of things that gets the job done. The first hurdle we overcame in the efforts of the late 1980's was to realize that counterdrug efforts cannot be a sometime thing. We need consistency and sustained effort.

We also learned that we needed comprehensive programs that combine effective interdiction, law enforcement, education, prevention, and treatment in well-publicized efforts. This is what it takes to send a clear message to the most at-risk population—young people between the ages of 12 and 20. When we managed to put these things together we saw significant declines in use.

Now, however, all that is at risk. We have retreated from what works. We have seen rhetoric that tries to ignore one of the most significant parts of the message about illegal drug use—that drugs are illegal because they are dangerous and wrong. Instead, the voice we hear says that drugs are dangerous because they are illegal. Or just as bad, that the only way to deal with the problem of drug abuse is through treatment. And we have seen program changes that reinforce this view. Once again, however, we can see the obvious: When you do not make it clear that drug use is not only harmful but wrong, and that use has consequences both social and judicial, then the coherence of the message is lost on our young people.

We need to revitalize our efforts. To remind ourselves of our responsibilities and of what is needful. It also involves asking ourselves what are the appropriate responses of the Federal Government. It certainly is not simply throwing money at programs.

There are a number of things the Federal Government is best able to do and most responsible for. First, there is a need to develop sound strategies that have substance rather than rhetoric as their main components. Second, Federal authorities need to focus on those things State and local authorities are less able or unable to do. This means, in particular, a major focus on interdiction, international control efforts, and law enforcement at and near the borders. These are areas that have suffered the most in recent years.

Third, we need consistent, visible leadership that ensures the level of cooperation and oversight of individual programs necessary to produce coordinated efforts. We need a drug czar whose authority is backed by a President committed to the effort.

Fourth, we need to renew our public agenda. To encourage local groups, family organizations, and private, voluntary groups in their efforts to fight drug abuse and the creeping influence of legalizers. We need a Just-Say-No czar with visibility and credibility.

Fifth, we need to revitalize our interdiction efforts at and near the borders and to recover the lost ground in recent years. We need to stop using our Federal drug law enforcement officers as deputy sheriffs in local jurisdictions. They should be focusing on the major cases that involve multiple jurisdictions. We need a recommitment to protect our borders, something even more important as we move forward with NAFTA.

Sixth, we need a major international effort to go after the major criminal organizations that are responsible for a spreading wave of criminality here and abroad.

Finally, we need congressional commitment to sustain realistic programs that have proven records. We need all of these things today.

As chairman of the Drug Caucus, I have highlighted the problems in the past. It is time for us to move ahead. In this regard, as a first step, I intend to offer a sense-of-the-Senate resolution in the coming days calling for a day of national drug awareness. This is in conjunction with Red Ribbon Week, sponsored by the National Family Partnership. I call on my colleagues and all Americans to wear a red ribbon during the period of October 23–31 in memory of a real hero in the drug war, Enriqué Camarena, a DEA agent killed fighting drug traffickers, and as a reminder of and commitment to a drug free country.

In the coming weeks I will be working with the private sector and my colleagues to bring greater focus to and effort on the drug issue. It is time. It is necessary. It is right. We need to make the whole country one big drug-free zone.

UNANIMOUS-CONSENT AGREEMENT

Mr. GRASSLEY. Mr. President, I want to make an announcement on behalf of our Republican leader.

We are asking unanimous consent that at 10:30 a.m. the Chair lay before the Senate a message from the House on S. 652, the telecommunications bill; that there be 2 hours of debate, with 1½ hours under the control of Senator DORGAN and Senator KERREY and the remaining 30 minutes under the control of Senator PRESSLER.

Further, that immediately following the debate or yielding back of time, the Senate disagree with the House amendments and the Senate agree to the House request for a conference and the Chair be authorized to appoint conferees on the part of the Senate, and that no other motion be in order during the pendency of this House message.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, in light of this agreement, I have been authorized by the majority leader to announce that there will be no rollcall votes during today's session.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask that the morning business period be extended until 10:30 a.m. under the same terms and conditions as the previous morning business order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. DOLE. Mr. President, we will not be in session on Monday. There may be committee meetings. Some of us will be working on the tax portion of the reconciliation package. I have conferred last evening with the Democratic leader, and it is our view that it is going to be very difficult for people to be able to get to the Capitol on Monday, particularly staff. So there may be committee meetings, but we will not be in session.

I thank my colleague.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, morning business is closed.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. PRESSLER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 652 a bill to provide for a procompetitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 652) entitled "An Act to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Commerce: Mr. Bliley, Mr. Fields of Texas, Mr. Oxley, Mr. White, Mr. Dingell, Mr. Markey, Mr. Boucher, Ms. Eshoo, and Mr. Rush: *Provided*, Mr. Pallone is appointed in lieu of Mr. Boucher solely for consideration of section 205 of the Senate bill.

As additional conferees, for consideration of sections 1–6, 101–104, 106–107, 201, 204–205, 221–225, 301–305, 307–311, 401–402, 405–406, 410, 601–606, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Barton of Texas, Mr. Hastert, Mr. Paxon, Mr. Klug, Mr. Frisa, Mr. Stearns, Mr. Brown of Ohio, Mr. Gordon, and Mrs. Lincoln.

As additional conferees, for consideration of sections 102, 202–203, 403, 407–409, and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Hastert, and Mr. Frisa.

As additional conferees, for consideration of sections 105, 206, 302, 306, 312, 501–505, and 701–702 of the Senate bill, and title III of the House amendment, and modifications committed to conference: Mr. Stearns, Mr. Paxon and Mr. Klug.

As additional conferees, for consideration of sections 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Hastert, and Mr. Klug.

As additional conferees, for consideration of title VI of the House amendment, and modifications committed to conference: Mr. Schaefer, Mr. Barton, and Mr. Klug.

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except sections 1–6, 101–104, 106–107, 201, 204–205, 221–225, 301–305, 307–311, 401–402, 405–406, 410, 601–606, 703, and 705), and of the House amendment (except title I), and modifications committed to conference: Mr. Hyde, Mr. Moorhead, Mr. Goodlatte, Mr. Buyer, Mr. Flanagan, Mr. Conyers, Mrs. Schroeder, and Mr. Bryant of Texas.

As additional conferees, for consideration of sections 1–6, 101–104, 106–107, 201, 204–205, 221–225, 301–305, 307–311, 401–402, 405–406, 410, 601–606, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference: Mr. Hyde, Mr. Moorhead, Mr. Goodlatte, Mr. Buyer, Mr. Flanagan, Mr. Gallegly, Mr. Barr, Mr. Hoke, Mr. Conyers, Mrs. Schroeder, Mr. Berman, Mr. Bryant of Texas, Mr. Scott, and Ms. Jackson-Lee.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate divided in the following manner: 90 minutes under the control of Senators DORGAN and KERREY of Nebraska, 30 minutes under the control of Senator PRESSLER.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. If the Senate should agree later today, I believe that the Chair will be appointing the following conferees to the telecommunications bill. If the Chair so appoints and if there is not objection, Senators PRESSLER, STEVENS, MCCAIN, BURNS, GORTON, LOTT, HOLLINGS, INOUYE, FORD, EXON, and ROCKEFELLER will be named as conferees.

Mr. President, let me summarize for the Senate where we stand on the telecommunications bill.

The House and Senate have both passed major bills reforming the Telecommunications Act of 1934, bringing it up to date, and also making certain changes in our Nation's telecommunications laws. In addition, there are efforts to make it more procompetitive and deregulatory but also to protect the rights of the consumers in our country and to move the telecommunications bill forward.

We are in a situation today that our Nation very much needs to modernize its telecommunications laws. A House-Senate conference will soon begin to iron out the differences between the Senate and the House versions of telecommunications. We are doing this on a bipartisan basis, and I hope that it will proceed quickly and thoroughly.

I look forward to working with those Senators and all Members of this Chamber. Let me say, Mr. President, that although there are certain conferees named, all Senators are invited to have input, as they have had on this bill. I commend Senator HOLLINGS of South Carolina, the ranking Democrat and former chairman of the Commerce Committee, who has provided so much leadership on this bill. Indeed, he has brought to this process a very bipartisan spirit, and I look forward to working with him and the Republicans and Democrats in the Senate and the House.

Mr. President, I reserve as much time as I may have and I note the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I wanted to have a discussion this morning prior to the Senate appointment of conferees to the telecommunications bill.

After the appointment of conferees, there will then be a conference between the House and Senate on the telecommunications bill. This bill is very important. The telecommunications bill is the first substantial change in telecommunications law since the 1930's.

All of us know what has happened in this country to communication since the 1930's. I mean, it is breathtaking the kinds of changes we have seen in the communications industry and for everybody in this country. So when this Congress sits down and decides to make changes to law—and we should and must—the question is, How will those changes affect our country? Who will they affect? What will they affect?

One of the things I have been very concerned about is the issue of universal service for telephone service. You know, it is more costly to have telephone service in a town of 100 people in South Dakota, North Dakota, or Montana, than it is to have telephone service in New York City. Why is that? Well, because the fixed costs of providing telephone service in New York can be spread over millions of phone instruments, but in Grenora, ND, the fixed costs are spread over relatively few telephones.

But is the telephone in Grenora, ND, or Regent, ND, any less important than the telephone in New York City? No. One is used to call the other. The absence of one makes the other less valuable. Universal service in telephone service is important. It has been a concept in this country we have understood and protected for a long, long time.

We must make sure to protect universal service in the telecommunications legislation. People say, "Well, this bill is about competition." I love the flowery language about opening up the petals of competition, competition in the marketplace; worshiping at that altar is what is going to allow us to flourish and provide vast new opportunities in communications for everyone in our country.

I want to talk a little bit about that competition today. One can conceive of competition in a rural area being someone saying, "I want to come into this rural county"—where you barely have a telephone structure and are able to survive currently—"and I want to pick the only town that exists out in that county and serve that. That is all I want to serve." What about the rest of it that cannot stand by itself? "That doesn't matter to me because I only want to compete in that small town."

That is the kind of thing we have to be concerned about. We need legislation that protects us and provides universal service for the long term. We made progress on universal service in the telecommunications bill. Now, we just have to keep universal service intact in the conference. That is critically important.

There are two other areas that concern me greatly.

The two areas are this:

One is, when should local telephone carriers who essentially have a monopoly be free to compete in long distance? And should the Department of Justice have a role in determining when there is competition in the local exchange so that that carrier then is free to compete in long distance? The bill is set up pretty much like it is for airlines.

The airline situation says that if a couple airlines want to merge, the Department of Transportation determines whether it is in the public interest, and they make the decision, and they say to the Department of Justice and the antitrust folks over there, "We will allow you to advise us on what you think, but we will make the decision at the Department of Transportation."

Guess what? There has not been a merger that these folks have not loved to death. It does not matter which kind of corporations want to marry. Two airlines want to marry each other? Just fine. The Department of Justice might say, "This is going to be anticompetitive, it is going to increase fares, it is not going to be in the public interest." But guess what? The Department of Transportation says, "Well, it's just fine with us. Just get hitched. Merge up. That's fine."

What do we have in this country these days? We see all these big airlines swallow the little airlines, either they crush them or they swallow them, one of the two, whichever they have the opportunity to do.

And if they decide to buy them and merge, the Department of Justice might say, "Well, you know, they are trying to take out their competition here. It will be less competitive if you have this merger." The Department of Transportation says, "It doesn't matter to us. We will allow them to merge anyway."

That is what the experience has been. If you like that and think that is the right approach, then you do what is done in the Senate bill on telephones and communications. You say the same thing, prevent the Department of Justice from having a role in determining whether you have anticompetitive practices.

That does not make any sense to me. This bill is advertised with neon lights and bells and bands as being a bill for competition. "It provides America the fruits and flowers of competition." Well, if that is the case, why would you not allow the Justice Department and the antitrust people in the Justice Department to weigh in on the question of when are you involved in anticompetitive practices? When is there truly competition in local exchanges so the local telephone carriers can then be free to compete in long distance?

The second area I want to talk about is whether there should be limits in this country on the number of television stations you can own. Or, the number of radio stations you can own.

Why is that important? We now have in law a limit that you can only own 12 television stations. It says 12 is the limit; and those 12 can reach no more than 25 percent of the American population. Now, why would we have a law like that? Well, because we believe that there ought to be competition in the flow of communications and ideas and in the media.

How do you promote competition? By broad-based ownership; that is how. If you get concentration of ownership, if you get half a dozen companies owning everything, you do not have competition. So we said, in the television industry, you can only own 12 television stations that reach no more than 25 percent of the population.

Now, we write a bill, the telecommunications bill, that we say promotes this idea of competition, and guess what, the bill says, "By the way, we are going to change the law. Now you can have as many television stations as you want. You want to own 100? God bless you. You can own 100. It is no problem with us," they said. "And we want to, by the way, allow you to own as many as you want up to 50 percent of the population." Then they thought better of it and said, "OK, we better compromise; 35 percent of the population." So you can own as many television stations as you want that reach 35 percent of the population in this country.

Well, anybody worth their salt knows what is going to happen as a result of that. We will see a half dozen companies in America owning almost all the television stations in our country. And if you look surprised 10 years from now when we reach that point and stand on the floor of the Senate and say, "Gee," scratch our head and say, "Gee, I never thought that would happen," let me just tell you it is going to happen. You know it is going to happen. And it's not good for this country. This is about pressure, politics, and big money; it is not about good economics and good competition. Look what has already been happening in this country. Mega media mergers. This is not a discussion in which I am trying to be pejorative about all these mergers. Some are probably just fine.

People say, "There's all this competition. Why should you worry about somebody owning more than 12 televisions stations? We have 250 channels or 500 channels." That sounds interesting. One of the major networks owns 19 cable channels, 19. So when you say we have 19 channels, is that competition where the same company owns it? I do not think so.

Here is a new mega media merger. We witnessed their big grins, smoking their cigars talking about this merger. Time Warner and Turner Broadcasting Co. Both are good companies. People I admire work for these companies. But let us look at the size of these companies. Time Warner decides to merge with Turner, for a total of $18.7 billion in revenue. Look at their cable holdings: CNN, TBS, TNT, Court TV, HBO, Cinemax, Comedy Central, Warner Brothers Television Network, New York 1 News Channel, on and on. You see the publications, the cable systems.

Mr. KERREY. I wonder if my friend from North Dakota will yield?

Mr. DORGAN. I will be happy to.

Mr. KERREY. First of all, I ask my friend from North Dakota, Mr. President, is it not the case that one of the arguments we have heard all along for this bill that we are going to get more competition?

Are Time Warner and Turner competitive?

Mr. DORGAN. Yes.

Mr. KERREY. Will we not get less competition as a consequence of bringing these two companies together?

Mr. DORGAN. Yes, that is exactly the point. When you have mergers, it means companies that used to be two get married up and now they are one.

Mr. KERREY. I wonder if my friend also will talk about something else that I think is terribly important. That is, all of us, when we go home and talk to people who are working, they feel a great deal of insecurity about their jobs today. As I saw that announcement, it seems to me I heard them say that there may be somewhere between 5,000 and 10,000 fewer jobs as a consequence of this merger, that they are expected to have some savings, as they call it, as a consequence. I believe I also saw Ted Turner is going to get $20 million a year for 5 years and Mike Milken got $50 million for shaking hands, none of which I doubt will benefit those people who will lose their jobs.

James Fallows the other morning talked about the fact that a single corporation, Boeing, laid more people off in the last 5 years than every corporation in Japan has over that comparable period of time.

What is going on, I ask my friend from North Dakota? We heard all through this debate that this piece of legislation was going to create jobs, that we are going to get more opportunity, that this is going to be good for the American worker? Do you see it that way?

Mr. DORGAN. I do not see it that way. I am going to go through a couple of charts and talk about the mergers, the corporate weddings where people get together and say, "Bigger is better. There used to be two, we are now going to be one, we don't have to compete. We control the markets."

They say, "This is all about competition. We are going to have competition and competition is good for people." Not in this case. This is about concentration, the issue of whether you ought to limit the number of television stations you own to 12, as in current law. Some feel maybe we ought to make an adjustment. It should not be a political adjustment by somebody in Congress who says, "Gee, let's remove the shackles from the folks who want to buy 100 television stations." Maybe that ought to be made by the Federal Communications Commission after an evaluation of what represents effective and good competition, what is in the public interest.

ABC and Walt Disney got hitched a couple months ago; ABC and Disney. Let us look at what all this means. Disney, 11 television stations so far: Walt Disney Television, Touchstone, Buena Vista. They have cable: Disney channel, ESPN, Lifetime, they have 10 FM radio stations, 11 AM radio stations, publications, retail, motion pictures.

Put all of this together and what do they have? Less competition. Is that bad? Not necessarily. I am not saying every merger is bad. I say when you look at the confluence of mergers in this industry, you cannot conclude at the end of that look that this is good for competition. You cannot at the same time brag about the virtues of competition and then create a bill that gives you a fast slide toward more concentration. That does not fit.

CBS and Westinghouse just announced they were fond of each other and decided they would have an arrangement to get together. I do not know much about either of them, but let us look: 15 television stations owned by CBS broadcasting; Westinghouse has 18 AM stations, 21 FM stations; they have cable channels, publications, a whole range of broadcasting properties, $4.5 billion revenue.

Another merger, Gannett and Multimedia—15 television stations, $4.5 billion revenue.

NBC and GE, they are folks looking around to figure out who they can put together. There have been no mergers here, but there is lots of speculation in the press about if this group is able to be out there alone when everybody else is forming new partnerships. Fox, take a look at Fox.

Mr. KERREY. I wonder if my friend will yield for an additional question.

Mr. DORGAN. I will be happy to.

Mr. KERREY. One of the things the public needs to understand, it seems to me, is that these companies have been given public franchises. They made their money not as a consequence of going out and starting a business and trying to get customers to buy their product. Their business began by coming to Washington, DC, and getting a public franchise, in many cases a monopoly franchise.

The phone company is a monopoly. It is not a competitive business. It is not a farm in North Dakota or a manufacturer in Nebraska. This is not a person who said, "Gee, I have an idea. I want to go to my bank, borrow a little bit of money, put a little bit of my money on the line, go into business and get customers to buy my products."

You have 12 stations on that list on the left. These are franchises granted by the people's Government to these businesses. In the case of each of these stations, even if some of them do not make any money, just by holding a contract with the Government, the franchise that they have been given has value. They sometimes sell these stations for 20 times earnings simply because people know that there are a limited number of franchises. There are only so many that we can grant to these companies.

So they own something that the people have given them, they have made money as a consequence of the Government having granted them a license, and now they come in and object, very often, to us putting rules in place. They say, "Oh, no, let the market take care of this."

They did not make their money off the market to begin with. Certainly, they are out there selling and certainly there is a competitive environment. It seems to me, however, that it is a different kind of business than most small businesses and most entrepreneurs and most free enterprise capitalists who start off and try and engage in the competitive exercise of producing revenue from customers.

Mr. DORGAN. I agree with the Senator. The point is, these are important properties, and the reason we provide them franchises is the communication industry is a very important industry. I am not unmindful of the fact that some of these are very good corporations, very well run. I am not critical of individual corporations. I am critical of a mindset that says it does not matter how big you get, you can combine all you want and earn all you want and the public interest be damned. I am critical of that, because I think there is a public interest in maintaining and fostering competition in this country. The fewer corporations you have in an industry, the greater concentration you have, by definition the less competition you have. And that does not auger well for the American people.

The Wall Street Journal has an article. I want to read the headline: "Immediate Consolidation Has Left and Right Worried About Big Firms Getting a Lock on Information."

You talk about an odd couple. A picture of Bill Bennett and Jesse Jackson. That is both ends of the political spectrum, both of them essentially saying the same things: Worried about media concentration, media consolidation, stemming the flow of ideas, the competition that comes from having ideas moving from different centers of energy.

We need to reform our telecommunications laws. But this bill is in deep, deep trouble. If you try to push this bill through the White House, I think the President is going to veto it. I think what he said publicly indicates he is going to veto it, and I think he should veto it. He ought not in a million years allow a bill to come to the White House where a bunch of politicians decide, "Hey, boys, let's take the limit off the number of television stations you can own. Let's say the sky is the limit." That is not in the public interest. That may be part of a deal somebody wants to make around here, but that is not in the public interest.

That is why when we had a vote on an amendment I offered, with the help of the Senator BOB KERRY from Nebraska, we prevailed, that is why we won. A lot of folks did not feel comfortable voting against an amendment that says, "Hey, let's have the FCC determine what kind of limits are in the public interest, instead of a bunch of politicians saying we are arbitrarily going to say the sky is the limit on the number of television stations you own."

So we won the vote, and then, politics of course—and somebody changes their vote and we lose.

The reason I come to the floor today is to say, if you try to push this kind of bill without a role for the Department of Justice on the issue of antitrust and on the issue of where there is competition with respect to the telephone industry, and when local carriers who have a monopoly are free to go out and compete in the long distance area, if you try to push a bill without the opportunity for the Justice Department to weigh in on this question of public interest and competition, I think the President will veto it.

If you try to push a telecommunications bill through conference committee that says the sky is the limit on television ownership, we do not care about concentration—the bigger the better, and the less competition the better, I think this President will veto it.

In conference, if we can make changes in this bill dealing with ownership limits on television stations and radio stations and make some changes with respect to the role of the Department of Justice, I think this bill will advance. If it keeps protection for universal service, then this bill can and will advance and should be signed by the President. If not, I hope very much the President says, no, this is radical and extreme and should not pass.

I yield the floor to my friend from Nebraska, Senator KERREY.

Mr. KERREY. Mr. President, first of all, I thank my friend from North Dakota for this presentation. I would like to be able to vote for a piece of legislation. I have spent a great deal of time on telecommunications. I am prepared to not only embrace the future but place a bet that there is tremendous opportunity for us in technology. Many of our systems need to rapidly acquire the transmission capacity to use these new technologies, as the computer moves from a calculating device to a communication device—I think, especially, for example, for our university systems.

I just had a meeting a couple of weeks ago in Nebraska with an individual with a very large software company who happens to be from a farm not far from Ashland, NE, and who came back to try to help us bring computer technology into our university. It is a tough transition. The university is sitting there with a real problem. They have increased enrollment as people recognize that a college degree is worth an awful lot more than a high school degree. Student enrollment has almost doubled in a 4-year period as that demand goes up. In addition, what a person needs to know coming out of college is that there is a doubling, tripling, quadrupling of the requirements of the universities and they cannot get the professors and instructors to do more for less. The tax base will not allow us to build more buildings rapidly enough to be able to accommodate the demands. Only one thing can do that for us, and that is computer technology.

We are trying to figure out how to get these systems into an old system that does not replace the old system but augments it. Well, there are real serious problems trying to make those adjustments. We just got a couple of grants to match local commitments for three schools in the State through the Department of Education, and that will leverage a great deal of the private sector, as well as local money, to get the job done. But those are a couple of schools amongst many who are trying to bring this technology into the educational environment. I was pleased that a majority of this body, the Senate—I do not believe it is in the House bill—but in the Senate language we included a provision I cosponsored which provides for preferential rates for local K–12 schools. Connectivity may represent only 17 percent of the total cost of bringing information technology into local schools, but it is an awful lot of money. It is a principal barrier for many communities that do not, as I say, have competitive choice; they do not have competitive choice now, and they are not likely to see it for a long period of time.

So I do not want anybody to suffer under the illusion that I do not support change. I believe our telecommunications laws need to be changed. I am prepared to embrace the future. I am prepared to put down a bet. I am prepared to help institutions from the K-through-12 environment through the postsecondary, and indeed for Congress to bring this technology in so it becomes part of our core competency so that we are able to improve our efficiency.

We are going to debate in reconciliation the earned-income tax credit. One of the biggest reasons EITC has had trouble has nothing to do with the merits of being able to help people at the lower end of the economic scale—a woman, for example, that you see at your checkout stand at the grocery store making $7, $8 an hour, $12,000 to $15,000 a year, trying to support a couple of kids. That is better than being on welfare. So we want to refund your taxes and give you a couple thousand dollars so you can buy health insurance. Well, the IRS has a tough time doing it because it does not have a good information system.

I am prepared to embrace technology and place a bet because I believe there is tremendous merit in it. However, if we change the law to produce less competition, not more, to concentrate the power into fewer and fewer hands, to concentrate not only the power of economic decisions—but, I point out to Americans, it will concentrate the power of the individuals to be making decisions about what to tell us is going on in the world—these deals being done in anticipation of this law being changed will present Americans in their homes with fewer news choices. Fewer people will be telling us what is going on out there in the world.

I would love to be able to stand on this floor and vote for a piece of legislation that changes the law. I believe strongly, first of all, that there needs to be preferential rates for education. I believe strongly what the Senator from North Dakota is saying, that concentration in television stations would be a mistake. I believe strongly, as well, that we are far better off, instead of having a 10-part test that the Federal Communications Commission is going to look at to determine whether there is competition, to have the Department of Justice with a role in making the decision regarding entry by the regional Bell operating companies into the long distance market.

Mr. President, earlier, before I came to the floor, I was discussing with staff the reconciliation bill, trying to prepare myself for that debate. There is a lot about it that we do not know yet. We have not seen the details on the Medicaid proposal or the Medicare proposal, and there is a lot of discussion on the tax side of it and so forth.

One of the things I have said to staff is—and I will say to the people at home when discussing this—before we can talk about what kind of a budget we have here in Washington, we have to have jobs and growth and income out there in the private sector. That is where the money comes from. One of the most remarkable constants in this town over the last 70–80 years, really—is that the percentage of money that we withdraw for Federal expenditures from the economy has stayed, except for World War II and the Vietnam war, roughly 19 percent. It is about $1 out of $5 we bring to Washington for a variety of things. One of the disturbing things I find is that we are transferring more and more of that and investing less of it. Almost 7 cents out of every 10 cents, or 70 cents out of every dollar today, is transferred out for retirement, health care, or other sorts of things. That is a real concern.

We now know there is a great deal of consensus—and some may not believe this, but I believe that it is important for us to have laws, whether it is the regulations we have or the tax laws we have, and it is important for us to have expenditure patterns that produce economic growth.

Without economic growth, without people out there that are willing to invest money and willing to run the risk, whether it is a big or small business, it seems to me that we have serious problems.

Indeed, during the week that we took off to be at home last week, the Census Bureau came out with numbers that showed that as a result of the economic growth that we have been enjoying in the last 15-some months, we have seen the rates of poverty drop—not just the rates of poverty, but the number of people who are trapped in poverty has decreased. In almost every State—certainly in Nebraska—as a result of economic growth, we saw a substantial decrease of almost 20 percent in the number of people who are in poverty.

Now, the alarming thing in that—we know if we have rules and regulations and tax structure and expenditure patterns that produce economic growth, which we have to constantly watch and make sure that we have, if we have economic growth then we do see the boats of those who are poor begin to lift, a good piece of news.

However, the Census Bureau said there is a continuation of the widening between the economic haves—those in the work force, not on welfare, at the lower end of the economic spectrum—and those like Members of Congress that are at the higher end of the economic spectrum. There is a widening gap. The market growth all by itself does not seem to be fixing that problem.

One of the downward pressures upon wages in this country is the concentration of power. No question about it. You cannot read whether it is a bank merger or a megamedia deal that the Senator from North Dakota talked about earlier, every single one of the transactions talks about thousands of people being laid off. Every one.

You have the Time-Warner-Turner deal up there earlier, that was the most egregious example, because they said 5,000 to 10,000 jobs would be lost. However, the good news is Ted Turner will get $20 million a year for 5 years and a convicted felon will get $50 million—Mike Milken.

Workers out there are saying, well, we are doing everything we are supposed to be doing; should the laws of this country be written so that people can come in and merge the deal? And maybe it is a good deal. I am not coming down here proposing we change the law to prohibit this, but it is painfully obvious that inside of this transaction we are creating something that will create significant problems: 5,000 to 10,000 people being laid off, and a couple of guys making a heck of a lot of money.

It is not like we are talking about somebody starting a chain of restaurants or somebody—a doctor or somebody—that started a business from scratch.

These are companies that made their money as a consequence of a Government franchise. They were given the right to broadcast. They were given the right to operate cable companies. They did not go out there and start this business out there in the wild blue yonder.

Mr. BURNS. Would the Senator yield?

Mr. KERREY. I am happy to yield to the Senator.

Mr. BURNS. Would you also relate what you are talking about to the Homestead Act?

Were the farms and lands granted to individual ownership by an act of the Homestead Act?

Mr. KERREY. If you want to talk of the Homestead Act, it has many specific requirements for the individual to develop, and if they worked the land and developed the land, they owned the land.

Mr. BURNS. Would you make the same comparison that spectrum—even though granted by this Government—has no value unless investment is made in equipment to make it valuable in the Government, I suggest to my friend in Nebraska, the Government did not go out there and buy—did not put up the tower, did not pay for the technology.

Mr. KERREY. I am pleased to acknowledge that is the case, in fact. No question that it is true that when we give somebody a monopoly franchise, when we give them that and say it is yours, there is no question they have to make an investment.

Mr. BURNS. Did we not make the same requirements when we gave the land, probably what your house sets on, and our house and my house, probably the folks up there, did we not make the same demand that we had to make——

Mr. KERREY. Mr. President, I ask the Senator from Montana, what is the point? I acknowledge that is the case.

Mr. BURNS. The point is that the land was granted and then there was a property right. The point is there was a property right—they could buy and sell that land from that point on without Government intrusion.

I just want to make that comparison, and I also ask is there anything in this act——

Mr. KERREY. I can answer the question, now I understand what the Senator is saying.

You are saying that bandwidth and a piece of real estate are the same? They are not the same. In that regard they are not the same. The people's airwaves are licensed.

Mr. BURNS. If it were not for the Homestead Act you could say it is people's land.

Mr. KERREY. It is not the same.

Mr. President, I ask the Senator from Montana, did the Senator believe we should not pass laws restricting what broadcasters can put over the airwaves? We do not have similar laws for people in their home. I can engage in any kind of discussion I want inside my house.

Do you think, I ask the Senator from Montana, should we have pornography laws in place or let the market dictate—they own it, for gosh sakes. Let them put whatever they want over the airwaves. Does the Senator from Montana believe the Government should not write decency laws in place to protect the communities?

Mr. BURNS. I imagine if you did that on private land you will have a neighbor holler at you.

Mr. KERREY. I ask the Senator from Montana a question: Does he believe that the people of the United States, having granted a franchise to somebody to operate a service using a piece of the frequency bandwidth, should say, "You own it, do whatever you want? It is yours, have some fun with it. If you want to show pornography on television at 6 o'clock go do it."

I am asking the Senator from Montana, does he believe that the people's laws should be written to protect against pornography, or does he believe we ought to change the laws to say, no, you own that, we get rid of pornography laws, let the market take care of it?

Mr. BURNS. I say there are certain rules but there are rules and regulations placed on land ownership.

I want to say that the land originally that was purchased by this Government through the Louisiana Purchase was paid for by the taxpayers of this country, taken from the Treasury. And then it was given, 160 acres to anybody that wanted it, who could stake it out and build a house and make it produce. After that it becomes—

I say what is the difference when you take a grant from a Government on a resource——

Mr. DORGAN. Let me reclaim my time, if the Senator would indulge me.

Mr. KERREY. I have the floor, Mr. President. I yielded to the distinguished Senator from Montana to ask a question and we have gone beyond that.

I am perfectly willing to have a debate about the comparative analysis between the Homestead Act and private property and franchises granted to phone companies to have a monopoly to deliver a local telephone service or to a television station or radio station to broadcast over public airspace.

I am perfectly willing to acknowledge certainly there is a similarity in having granted that franchise that people make substantial investments.

Mr. DORGAN. If the Senator would yield, the Senator from Montana raises an interesting but irrelevant question.

It is always interesting to hear irrelevant questions but this is irrelevant.

I guess the proposition you are trying to develop here is that concentration does not matter. If you receive a franchise to send a television signal, you have that and you do what you want. If you want to concentrate and bring them into one ownership pattern in this country that is fine.

The issue here we are talking about is concentration—not the television band, but the concentration.

I bet the Senator from Montana cares a little bit about concentration in the meatpacking industry. We have not talked about that. But I bet when you have three, four, five companies commanding 85 to 90 percent of the meatpacking industry, creating the neck on top of that bottle that forces down ranchers and holds their prices down, I bet the Senator from Montana cares about that.

If he does, and I think he does, and I care not only about that but I care about the big agrifactories that will be the superagrifactories farming America pretty soon, the fewer family farmers we have the more concentration you have and the less advantage you will have for the consumer because it is not in this country's interest to see concentration. It is in this country's interest to see broad-based economic ownership.

If it is true that the Senator from Montana believes that concentration in the meatpacking industry is a problem, and I think he does, and God bless him for that, I think that is in the interest of Montana ranchers and North Dakota ranchers to believe that, is there a point at which the Senator from Montana would believe that concentration in this industry is a problem?

If there is, then we ought to debate where is that point. He may figure you can have a dozen more of these mergers and there is not a problem but this will be a point, I assume, where he might also think that the concentration in an industry we are moving about ideas and information is as dangerous in this country as the concentration in the meatpacking industry is to his ranchers.

If that is the case, then we ought to be debating not whether concentration is good or bad, but how many more of these does one need to see before one understands that saying the sky is the limit on the number of television stations you can own is good for America. That is the point we are making today.

Mr. BURNS. I would get very upset. We have already filed an action, as far as IBP is concerned, on meat packing.

Mr. DORGAN. So the Senator agrees the concentration of the meatpacking industry is damaging?

Mr. BURNS. I would. I would be very concerned about this. But there is nothing in this piece of legislation as passed by this Senate that repealed the Sherman Antitrust Act. We did not repeal the Clayton Act, or the Hart-Scott-Rodino Act.

In other words, the Justice Department is not cut out of this. Somebody has to bring an action, and I imagine before now—and, remember, this is happening under the present law. This is happening under the present law. Not under one we are going to go to conference on.

Mr. DORGAN. But some of this is happening in anticipation of us passing what my colleague and others have supported. In fact, some of these mergers now have more television stations involved than they are permitted to hold. Why would they do that? Because they know some in here have said we want to take the limits off the number of television stations you can own, so, because they are going to do that for us, we are going to start gearing up and have more stations than the current law allows. So they are anticipating what you are going to do for them. I am saying what you are going to do for them is not good for this country, that is the point.

Mr. BURNS. This Senator is not going to get into the business of forecasting what might happen. I am saying this is probably the biggest jobs bill we will pass. I just wanted to throw that in there.

Do we repeal any of those antitrust acts that are now the law of the land? No. And, on spectrum, has it any value at all until someone makes the investment to make it valuable? And then does it become a property right? That is what we have to see.

Those of us who live in the West—I think the Senator from North Dakota is very sound in his thinking, and understands the same values that I understand, because western North Dakota and eastern Montana are awfully a lot alike, on the way they think. But, if we took that case, basically, then maybe we should not have granted all that land to private ownership. Maybe we should have Government control all the way. In other words, I do not know how it is halfway/halfway/halfway.

But I ask those questions. I would be concerned about concentration because I think we will finally get to a point where Justice will have to step in on the meatpacking industry. But we have the laws in place for them to do so. The same laws would apply to concentration here.

Mr. DORGAN. My point is—and let me restate the point, probably more clearly. My point is on both areas of this bill. One is the trigger of when you have competition in the local telephone exchange so the monopoly carriers there, the Bell systems, are allowed to go out and compete against long-distance carriers. That trigger is a trigger that does not have the active participation of the Justice Department determining when there is competition. So you have, in my judgment, largely eliminated or limited Justice's role. Second, my point is we have affirmatively changed the law in this legislation that says: We used to say you can only own 12 television stations in this country because we thought that was in the public interest, but, guess what, we have folks here generous enough to believe you ought to be able to own as many as you like, the sky is the limit. Both of those changes, both of those actions taken by this Chamber, in my judgment, move against the public interest. That is the point of it.

The fact is, there are things in this bill that are good. I agree with that. And we ought to do a bill. I agree with that. But you move this bill with those provisions in it forward and it is going to get vetoed and it ought to get vetoed. That is the point of it.

We are about to appoint conferees to sit and have a conference, and there is not much disagreement between the House and Senate on these provisions, unfortunately. We have sort of the same mindset. My point is, it is a mindset not good for the people of this country.

The Senator from Montana makes some interesting points on the issue of spectrum. "Is it not true that when spectrum is given someone and that person makes an investment, does that not enhance the value of the spectrum?" So, of course, the Senator wins a debate we were not having. Of course. That is not the point. The point is concentration.

It is the point in both areas we are talking about, the telephone service and competition, the issue of concentration, and the issue of when the Department of Justice has a role and what role. And also the issue of concentration of media ownership.

I should put up a couple of other charts. I had a chart of TCI, a very large cable company, and a chart with Viacom, which has substantial holdings in a number of areas.

Let me point out, it is not my intention to say many of these companies are bad companies. They are wonderful companies, that have done breathtaking things in communications for which I offer them my heartfelt congratulations. Substantial progress has been made as a result of inventive people who work in these companies.

My point is concentration of ownership. I am a Jeffersonian Democrat. I am one of those people who believe broad-based economic ownership and healthy, robust competition is what advances and drives the best interests of this country. Concentration always augers against the interests of the market system in this country, in my judgment.

I will be happy to yield again to the Senator from Nebraska.

Mr. KERREY. Mr. President, I have said about all I need to say on this subject, having talked on it previously. I just say again, I would love to vote for a piece of legislation. I hope the conference committee comes back with one in a form I am able to vote for it. I am prepared not to just embrace the future but to make a bet, based on my strong belief that there is tremendous opportunity in education, tremendous opportunity for jobs in these new technologies.

But there are 100 million households in this country and each one of those individual households has very little economic power. When it comes time for them to make a purchase of cable service or phone service, when they are buying information services they are not buying at $1 million a month. They are buying at $20, $30, $40, $50 a month; very little economic power, very little. And the 16,000 school districts in America that operate individual schools at the local level, they have very little economic power. Both as a consumer of telecommunications services and as somebody who has been working with school districts in Nebraska, trying to get them hooked up to the Internet, trying to get them enhanced information services, I can tell you that when you do not have much economic power you do not have much choice. You do not have much leverage. You do not have much opportunity.

These guys who are doing these deals, they have real power. When you have a couple of billion dollars you can leverage an awful lot. But when you do not have much economic power you cannot.

The importance of this is not only consumer choice, not only the kinds of decisions that our citizens will be making as a consequence of who tells them what is going on in the world—and they are getting fewer and fewer numbers of people telling them what is going on in the world—not only is it relevant for those individuals in the household, but it is terribly relevant for our economy. Our economy has been robust and develops as a consequence of a competitive environment. The competition that matters the most is that entrepreneur who starts in business, who says, "I would like to approach that household, I would like to sell packaged information services in the households in Omaha, the households throughout this country, I would like to be able to approach those consumers and try to give them a competitive option and a competitive alternative."

Those are the people that this legislation ignores. This legislation has been put together with far more concern about the national companies, the regional companies—whether it is long distance or local—who come here and say this is what this is going to do for me, this is what it is going to do for the other guy.

This has been a balancing act from the beginning, between a range of corporations, long distance and local versus cable versus publishers versus all these big guys and gals who come into Washington and have access and are able to come and talk to us. This has not been put together by the entrepreneurs of America. It has not been put together by the consumers of America. It has not been put together by people who are either going to create the jobs—and most of the new jobs are not going to be created by these megacompanies. They are going to be created by the smaller startup companies. It has not been put together, in my judgment, in a fashion that is going to enable competition to really produce the benefits this Nation, I think, deserves and needs and expects.

Mr. DORGAN. Mr. President, I was originally considering, along with the Senator from Nebraska, offering a motion to instruct conferees this morning. But it turned out to be something that we thought was probably not fruitful and not the thing to do. So we, instead, came to the floor to describe a couple of major areas of this bill that tell us, and I think tell a lot of people, this bill is in trouble.

I hope after a lot of reflection that conferees will recant or repent or rethink these two issues and address the issue of competition in the right way. You cannot advertise competition when in fact the product you are describing is enhancing concentration. That is mislabeling. There is much to commend this legislation for, but these areas are of great concern to us.

I hope very much that we get a different result out of this conference. We decided not to offer a motion to instruct. But there is going to be a lot of attention paid to this conference by us, and by a lot of others in this country. The result of this conference will have a significant impact on what people in this country will experience in the future.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. Thirty minutes.

Mr. DORGAN. Mr. President, I have finished my presentation. The Senator from Nebraska has finished. The Senator from Vermont wanted 3 or 4 or 5 minutes. I will allow the Senator from Vermont to take whatever time he wishes and ask that he return the remaining time.

It is my understanding that the other side does not intend to use his time. When the Senator from Vermont completes his statement, we are finished with respect to the time agreement.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank my good friend from North Dakota. I was at another hearing, and I heard this debate was proceeding on the floor. I am concerned that we may end up in a situation with this conference where, among other things, the Senate does not even have Members of the Judiciary Committee on the conference.

The distinguished senior Senator from South Carolina, Senator THURMOND, who chairs the Antitrust Subcommittee of the Judiciary Committee, and I have written to the majority and minority leaders on this legislation asking that we be named, or people from our subcommittee on antitrust be named to the conference. I believe the House has named a number of Judiciary Committee members to their conference. Yet, we do not have anybody from the Judiciary Committee here.

There are significant antitrust issues. There are significant consumer issues. There are significant competitive issues, all of which have been looked at, explored and discussed by the Judiciary Committee. Yet, Senate Judiciary members will have no input in the conference, and we all know the bill is going to be written in conference.

When we remove competitive incentives, we all know what happens. Take a look at the cable industry. If you are fortunate enough to get cable television in Fairfax County, VA, you are faced with using antiquated equipment in the form of a set-top box that is kept on only because the consumers have to pay a monthly fee to use it even though the stuff would be in the trash bin otherwise. You pay a significant amount of money. But they can do that. They can give you an inferior product. They can give you out-of-date equipment. They can charge you for the use of outdated equipment because the cable company has a monopoly.

We are going to see some of the same things happen here without competition and without the consumer being considered in any way, shape or manner.

This bothers me a great, great deal, and it should bother all Senators, as it does Senator THURMOND and myself. This is not a conservative issue. Obviously, the two of us join on this question. But, rather, it is a basic, good-sense consumer issue. If you end up getting gouged in your cost, the people gouged will be both Republicans and Democrats and Independents. The people gouged will be in the North, the South, the East, and the West. One thing they will all share in common may not be a political ideology, but it will be the pain they will feel in their pocketbooks.

Yesterday, the House appointed 34 conferees to this conference. Of those 34, 14 of them came from the House Judiciary Committee. We do not see—as yet anyway—any Senate Judiciary conferees at all. They have 14. We do not even see any coming from the Senate Judiciary Committee.

As I said, earlier, Senator THURMOND and I sent a letter to the chairman and the ranking members of the Commerce Committee making clear our view that you should have Senate Judiciary Committee members. We would help with the conference to assure that those issues relating to antitrust and competition are resolved in a principled manner, good both for American business and American consumers.

If anyone would look at the hearings that Senator THURMOND and I and other members of our subcommittee have held on telecommunications legislation, they would see stressed the need for telecommunications reform both for business and for consumers.

Certainly, it does not take any special knowledge to know how critical telecommunications is to the economic health of our country, or to the education of our children, or to the delivery of health care services to our citizens, or to the overall quality of life in this country. In fact, the explosion of all these new technologies in telecommunications has fueled many of our newest innovations.

In the way I run my office—I know the distinguished Presiding Officer does the same—we do virtually everything in telecommunications by our computers. Just as frequently as we see memos or letters on paper, we also see electronic messages sent by computers. I stay connected by computer and telephone at home in the Washington area, in my home in Vermont, and at my office here at the Capitol. It is a given. When I get to Vermont this weekend, I will in effect be able to bring my office and my files, my filing cabinets, my staff, and everything else with me with a laptop computer. More and more of us do that. More and more of us are more efficient doing that.

But when we have legislation like this, we want to make sure that it expands those abilities and not contract them. Our challenge is to keep pace with the changes in the marketplace. But, if in keeping pace with them you pass legislation that stifles the growth of the industry, that quashes the opportunity presented by rapidly expanding telecommunications technology, then we have done a disservice to the country. We have done a disservice to consumers. We have done a disservice to business. We have done a disservice to the competitive edge of our Nation as we go into the next century.

So we have to make sure that our laws governing our telecommunications industries provide for future growth but to the benefit of consumers. We have to make sure that the promise of this legislation to open up competition in telecommunications is fulfilled because that is the bottom-line purpose of this legislation: to open up competition in telecommunications. If we do it wrong, we will not see new competition. We will see competition stifled. We will not see new innovation. We will see innovation stifled. We will not see consumers benefited. We will see consumers harmed. We will not see a cutting-edge industry having a chance to expand, but rather see the cutting-edge industry facing a dead end.

We have to understand that the Senate telecommunications bill is significantly different from the one passed by the House. This conference is going to be one of the most complicated, complex and difficult ones we have had in years. The conference is going to have to pick and choose between provisions in the two bills, provisions that are in many cases unreconcilable. They are not provisions like in an appropriations bill where maybe we can just split the difference. It is a case that you are either going to have to craft an entirely new provision or drop one or the other.

I think that given that situation it would be helpful to have input of Members with expert knowledge in antitrust issues. In fact, on the modification of final judgment, the MFJ, the House, to their credit, realizes that and has put Judiciary Committee members on the conference. The Senate has yet to do it.

In fact, the administration now threatens to veto this legislation for a number of reasons, including the need for a stronger test for Bell company entry into the long-distance business and also a more meaningful role for the Justice Department.

I also share the administration's concern about the legislation not only taking the lid off but also promoting increased cable rates. I mean, we have already lived through a period of skyrocketing cable rates. Congress took action to address the problem of cable rate increases when we passed the 1992 Cable Act over a Presidential veto. Let us not go backward in time, but go forward with responsible telecommunications reform.

Again, I use Fairfax County as an example. Here you see rates go up for antiquated equipment. Rates go up, we are told, for all these channels we get, most of which I doubt if anybody including the cable system ever watch. But if at 3 o'clock in the morning, you are moved with a great desire to buy 10 pounds of zircons, you have at least five channels that you are paying for to know where you can buy those 10 pounds of zircons. Or, if you need to have your soul saved there are at least 10 different people at any given time who will tell you that your soul will be saved but only if you send the money to them. I guess they give you a plaque saying you have been saved. None of the 10 says why the other 9 should not get the money and why you get less soul salvation from them.

Well, that is fine, but I just wonder whether there might be a little more filtering, a little more selectivity, if there was competition here. Without competition, their rates go up. We see the same thing in local telephone service. Their rates go up because competition is not yet available.

Now, we know that there is a need for new legislation. Certainly the legislation from the 1950's, 1960's, 1970's, and early 1980's cannot keep up with the technology of today. But let us make sure we do not turn the clock back both for business and consumers. Rather, give us a chance to use the marketing and technological genius of our great country as we go into the next century.

I worry also about issues like criminal penalties for engaging in constitutionally protected speech that occurs over computer networks. Right now a provision in the Senate telecommunications bill would penalize you, if you are, for example, a botanist and click onto an online article on wild orchids, but suddenly find something that is not the kind of wild orchid you grow in your planter but reference to an obscene movie. The fact that you even clicked on, downloaded and found out what it was, you could be prosecuted. The distinguished Presiding Officer uses the Internet as I do, uses his computer as I do. Not that this would ever happen, but suppose he sends me a message disagreeing—I say it would probably never happen—but disagreeing with a political position I took. And suppose I sent back a message to him and in the heat of the moment was less than senatorial in my courtesy toward him and used terms that neither he nor I would use. I use this, of course, as a hypothetical, Mr. President. I could be prosecuted under this bill for doing it.

The interesting thing is he might be prosecuted for receiving it even before he knew what was in there, and certainly should he get incensed by what he received he could be in a real heap of hurt if he sent back, and you're one, too.

These are the kinds of silly things that we have crafted in this telecommunications bill that we ought to take a second look at. It might make us all feel good at the moment, but the long-range implications are weird and we ought to look at all of these issues.

The distinguished chairman of the Commerce Committee, the distinguished chairman of the Judiciary Committee, the distinguished ranking members of both of those committees and so many other Members in this body, Republicans and Democrats alike, have worked so hard to get a bill out of here. Let us not in almost a sense of final relief of throwing it out the door, throw out something that is going to come back and bite us. It will not just bite the 100 of us, but hundreds of millions of consumers and dozens and dozens of businesses that deserve better.

So let us appoint Judiciary Committee members. It does not guarantee that everything that I might want or Senator THURMOND might want would be on that bill by any means. But it might mean that those with expertise in the areas of antitrust, first amendment rights, and so on, would have a choice, and we might have better legislation as a result.

Mr. President, I understand that neither the distinguished Senator from North Dakota nor anybody else wishes to speak over here.

I might ask the distinguished Senator from South Dakota if it is his same feeling as the distinguished Senator from North Dakota, that upon completion of this we just yield back all the time?

I understand it is, Mr. President, and I yield back all time.

Mr. PRESSLER. Mr. President, I would just like to make a couple of remarks regarding the distinguished Senator from Nebraska.

Mr. LEAHY. In that case I think I will reserve the remainder of the time, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would say that through this legislation we are trying to address and correct some of the problems raised, and we will be proceeding with the conferees after they are agreed to. I thank all of my colleagues who have participated in this debate, and I am prepared to yield back the remainder of our time on this side.

I am prepared to yield back the remainder of our time.

Mr. LEAHY. I yield back the remainder of our time.

The PRESIDING OFFICER. Under the previous order, the Senate disagrees with the amendments of the House, agrees to a conference requested by the House on the disagreeing votes of the two Houses, and the Chair appoints the following conferees: Senators PRESSLER, STEVENS, MCCAIN, BURNS, GORTON, LOTT, HOLLINGS, INOUYE, FORD, EXON, and ROCKEFELLER.

Mr. PRESSLER. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

HOUSE-SENATE CONFERENCE ON TELECOMMUNICATIONS REFORM HAS IMPLICATIONS FOR FIRST AMENDMENT APPLICATION TO THE INTERNET

Mr. FEINGOLD. Mr. President, today the Senate appointed Members to the House-Senate conference committee on telecommunications reform. The historic nature of this legislation and its effect on the lives of every citizen of this country goes well beyond the issues associated with regulation of telephony, cable rates, and other forms of communications. Mr. President, this legislation has dramatic implications for the first amendment rights of every American.

Mr. President, I am referring to the precedent-setting provisions in S. 652 and H.R. 1555 regarding indecency on the Internet. I am here today to urge each Senate conferee to take the first amendment issues of these bills seriously and to consider the ramifications of these provisions not just for speech on the Internet but for all speech in this country. During conference deliberations, I urge Senate conferees to strike the potentially unconstitutional provisions regarding on-line indecency contained in both the Senate and House versions of this legislation.

The issue of Government censorship of the Internet is a critical first amendment matter. Guaranteeing the Internet is free of speech restrictions, other than the statutory restrictions on obscenity and pornography on the Internet which already exist, should be of concern to all Americans who want to be able to freely discuss issues of importance to them regardless of whether others might view those statements as offensive or distasteful.

Specifically, Mr. President, the Exon-Coats amendment, added to S. 652 on the Senate floor, included provisions which I believe violate the first amendment rights of Internet users and will have a chilling effect on further economic and technological development of this exciting new form of telecommunications. When this matter was considered on the Senate floor, I urged my colleagues to reject the Exon-Coats amendment in favor of legislation requiring the Department of Justice to carefully study the applicability of existing obscenity statutes to computer networks, which Senator LEAHY and I offered as an alternative.

Specifically I have objected to the indecency provisions of S. 652 for the following reasons:

First, indecent speech, unlike obscenity, is protected under the first amendment to the U.S. Constitution; second, an outright ban on indecent speech on computer networks is not the least restrictive means of protecting children from exposure to such speech on the Internet. There are a number of existing tools available today to allow parents to protect their children from materials which they find inappropriate; third, a ban on indecent speech to minors on the Internet will unnecessarily require adults to self-censor their communications on the Internet; fourth, since indecency will be defined by community standards, protected speech by adults will be diminished to what might be considered decent in the most conservative community in the United States and to what might be appropriate for very young children; fifth, the on-line indecency provisions will establish different standards for the same material that appears in print and on the computer screen. Works that are completely legal in the bookstore or on the library shelf would be criminal if transmitted over computer networks; sixth, the Supreme Court has ruled that the degree to which content can be regulated depends on the characteristics of the media. The unique nature of interactive media must be considered when determining how best to protect children. S. 652 ignores the degree to which users have control over the materials to which they are exposed as well as the decentralized nature of interactive technology which liken it more to print media than broadcast media.

Mr. President, the Senate was not alone in its rush to judgment on the controversial and highly emotional issue of pornography accessed via computer networks. Section 403 of H.R. 1555, known as the Hyde amendment, raises equally serious concerns with respect to the first amendment and appears antithetical to other provisions contained in the House bill. The prohibitions against on-line indecency contained in the Hyde language will have a similar chilling effect on the on-line communications of adults. The Hyde amendment is also inconsistent with the more market oriented and less intrusive provisions of section 104 of H.R. 1555, the On-Line Family Empowerment Act introduced by Congressmen COX and WYDEN, as adopted by the House. Section 104 recognizes that first amendment protections must apply to on-line communications by prohibiting FCC content regulation of the Internet. The Cox-Wyden provisions also promote the use of existing technology to empower parents to protect their children from objectionable materials on the Internet, and encourages on-line service providers to self-police offensive communications over their private services.

In addition, the Hyde amendment is incompatible with the pro-first amendment provisions of section 110 of H.R. 1555, which requires a report by the Department of Justice [DOJ] on existing criminal obscenity and child pornography statutes and their applicability to cyber-crime. Section 110 also requires an evaluation of the technical means available to enable parents to exercise control over the information that their children receive on the Internet. Perhaps most significantly, section 110 embraces the application of first amendment speech protections to interactive media. H.R. 1555, while embracing the principles of restraint with respect to new criminal sanctions on protected speech and the promotion of a free-market parental empowerment approach, simultaneously ignores both of those axioms with the Hyde provision. By imposing new criminal sanctions on indecent speech and amending existing criminal statutes, the Hyde amendment rushes to judgment before the DOJ study has even begun.

Mr. President, recently the Senate Judiciary Committee held the first ever congressional hearing on the issue of cyberporn. Based on the testimony of the witnesses, which included parents as well as victims of cyberporn, it became clear that the objectionable communications on the Internet are already covered by existing criminal statutes. The concerns raised at the hearing centered upon trafficking of child pornography, the proliferation of obscenity, and the solicitation and victimization of minors via the Internet. However, those offenses are already violations of criminal law. Indeed, recent press accounts indicate that law enforcement officers are already aggressively prosecuting on-line users for violations of criminal law relating to obscenity and child pornography.

It is critical that we use law enforcement resources to prosecute criminal activity conducted via the Internet and not be distracted by the issue of indecency which has not been identified as a serious concern by users or parents. It was clear, during our recent Senate hearing, that the witnesses' concerns about the Internet did not relate to indecent speech or the so-called seven dirty words. It is incumbent upon Congress to wait for the results of the study required by H.R. 1555 before embracing overly restrictive, potentially unnecessary, and possibly unconstitutional prohibitions on indecent speech contained in both versions of telecommunications reform legislation.

Mr. President, I urge the conference committee to reject the Exon-Coats and Hyde provisions during its deliberations and to maintain the Cox-Wyden amendment adopted overwhelmingly by the House of Representatives. If the United States is to ever fully realize the benefits of interactive telecommunications technology, we cannot allow the heavy hand of Congress to unduly interfere with communications on this medium.

Furthermore, Mr. President, I urge Senate conferees to recognize that if the first amendment has any relevancy at all in the 1990's, it must be applied to speech on the Internet. As Members of this body sworn to uphold the Constitution we cannot take a cafeteria style approach to the first amendment, protecting the same speech in some forms of media and not in others. Shifting political views about what types of speech are viewed as distasteful should not be allowed to determine what is or is not an appropriate use of electronic communications. While the current target of our political climate is indecent speech—the so-called seven dirty words—a weakening of first amendment protections could lead to the censorship of other crucial types of speech, including religious expression and political dissent.

I believe the censorship of the Internet is a perilous road for the Congress to walk down. It sets a dangerous precedent for first amendment protections and it is unclear where that road will end.

CHILDREN'S TELEVISION

Mr. LIEBERMAN. Mr. President, I rise today to continue the discussion that I gather a few of my colleagues here in the Senate began earlier in the day as a result of the fact that conferees have been appointed to deal with the telecommunications bills that have passed both the Senate and the other body. These are very important bills dealing with a rapidly expanding, rapidly changing, ever more influential sector of not only our economy but our lives, that of telecommunications.

I rise today not to talk about the corporate structures that are overlapping or the technical details of the revolutionary changes occurring in telecommunications but to talk about the content, talk about what is broadcast on these increasingly important parts of our lives and particularly to focus on the ever-present box, the television, in our homes and the impact that what is on television has on our kids and therefore on our society.

The Senate and the House included in their telecommunications bills the so-called V chip, or violence chip, or C chip, as we like to call it, choice chip provisions that I was privileged to cosponsor with the Senator from North Dakota [Mr. CONRAD], but which was supported by a very strong bipartisan group in the Senate to create the technical capacity in parents and viewers generally to have some control over what comes through the television screen and affects our kids and also to require the industry to create a rating system that would make it easier for a parent or anyone to block out shows either rated as too violent or containing lewd material, language or scenes or otherwise—all of that I think an expression of what I am hearing and I would guess the occupant of the chair, the distinguished Presiding Officer, is hearing from his constituents in New Hampshire, that what we are seeing on television is becoming ever more morally questionable; so much sexually inappropriate material is working its way into what is known as the family viewing hours from 7 to 9 in the evening, and it is having an effect on our kids.

I find over and over as I talk to parents in Connecticut that they will say to me: Please do something about the violence and sex and lewd language on television and movies and music and video games because all of this is making us feel as if we are in a struggle with these other great, very powerful entertainment forces in our society to effect the growth and maturation of our own kids.

They say to me, "You know, we're trying to give our kids values. We're trying to give them a sense of priorities and discipline, and then the television music, movies, video games come along and seem to be competing with the values we're trying to give our kids. So please try to help." And the V chip component of these two telecommunications bills is critical to that effort. And I hope that the conferees will keep the V chip component in there.

I know that the television industry is lobbying against it. But it is not censorship. It is really about citizenship. It is really about the television industry upholding its responsibility to the community. And it is about empowering parents and viewers generally to at least have some greater opportunity to control what is coming through the television screen into their homes affecting their children and their families. And it may in some sense, in doing that, make it easier for those of us who are viewers to express our opinions by what we are watching and what we are blocking out to the networks that we want better programming. We want programming that better reflects the values of the American people, which too much programming today simply does not.

Mr. President, I want to now focus for a moment on another arena in which this struggle to upgrade the television and to hope that it can do something other than downgrading or degrading our culture and affecting our kids; and that is to call the attention of my colleagues to a significant debate taking place at the Federal Communications Commission about the responsibility of the broadcast television industry to serve the educational needs of America's children.

What has stirred this debate is a ground breaking proposal being advocated by the Commission's Chairman, Reed Hundt, that would require a minimum amount of educational programming each week from each television station in America, 3 hours a week at first, growing ultimately to 5 hours.

Before the FCC closes its public comment period on this subject next week, I want to take this opportunity to share with my colleagues why I believe this issue should be of such concern to us and the FCC and why I am so grateful to Chairman Hundt for taking the initiative here.

I begin, Mr. President, with a little history. Congress has clearly been concerned about the content of television programming for our kids for a long time. Congress acted on that concern in 1990 when we adopted the Children's Television Act of 1990. And passing the legislation—incidentally, it passed with overwhelming, again, bipartisan majorities in both Houses—Congress made an unambiguous statement about television's extraordinary potential as an educational resource and our displeasure at seeing that potential squandered. Congress also made an equally unambiguous statement about the responsibility of the broadcasters as what might be called public fiduciaries in meeting the educational needs of and potentials of our children.

The fact is that the broadcasters have always been required the serve the public interest as a condition of receiving access to the public's airwaves, which is how they transmit to us, over airwaves that we, the public, own.

The report language for the Children's Television Act of 1990 states explicitly that as part of that obligation—I quote —"broadcasters can and indeed must be required to render public service to children."

To meet that standard, the Children's Television Act set specific goals for the industry. We asked them to increase the number of hours of quality educational programming for children that are on the air. We chose, I think in good faith and wisely, appropriately at the time, not to mandate a set number of hours of programming, instead, to make an appeal through the legislation to the television industry and to hope and trust that they would meet with specific action to broad goals we articulated.

Mr. President, I am sad to say that 5 years later it is clear that that trust has not been vindicated. Not only has there been no noticeable increase in the amount of quality children's programming on the air, but the fact is that the spirit of the act has been trod upon. Some local broadcast outlets have actually made a mockery of the act's requirements by publicly claiming that programs such as the "Jetsons" and "Super Mario Brothers" are educational. The "Jetsons" can be fun, but I would not say that it is educational.

Mr. President, just yesterday The Washington Post reported on a study that was released by Dale Kunkel, a researcher at the University of California in Santa Barbara, that concluded—it was an update of an earlier 1993 report on the broadcasters' compliance with the Children's Television Act. The conclusion was that the law has had little effect on the quantity of educational programs to be found in 48 randomly selected TV stations around the country.

Mr. Kunkel concluded that the vaguely written law allows broadcasters to engage in what he describes as "creative relabeling" of programs with dubious educational value. And there he points to stations that have claimed that the beloved, but usually not educational, "Yogi Bear" is an educational television program according to the study, and the claim by one station as to "The Mighty Morphin Power Rangers."

The researchers found that broadcasters reported airing an average of 3.4 hours per week of educational shows last year, exactly the same amount as reported after the law became effective. But he said that the averages have been inflated by such shows as "Yogi Bear," "Sonic the Hedgehog," "X-Men" and other shows, including a Pittsburgh station that put "America's Funniest Home Videos," an enjoyable show but not educational by my standards, into the education category.

Another in Portland, ME, claimed "Woody Woodpecker" and "Bugs Bunny and Friends" were educational, and five stations listed the "Biker Mice From Mars" as educational programs, obviously making a mockery of the intention of the act.

To add insult to the mockery, I would offer this testimony, one recent report that said one station in Cincinnati went so far as to list two Phil Donahue shows as educational to improve its compliance with the Children's Television Act. And the content of those two shows were: The first one on "Teen-Age Strippers and Their Moms" and, second, "Parents Who Allow Teenagers to Have Sex at Home," which is part of the normal fare on the daytime television talk shows, a subject for another series of comments in terms of the impact it is having on people who are watching and kids who watch, but surely not educational.

Mr. President, this kind of callous disregard for kids is all too evident in what we are seeing coming over the television screen. As a study by the Center for Media Education detailed a couple years ago, the few educational programs that make it on the air have been too often "ghettoized," you might say, in the early morning hours when few children are watching. Much of the programming that does see the light of day is largely used as a marketing vehicle for the greatest, latest toys. And a number of those action-oriented shows are tinged with what a recent study by the UCLA Center for Communication Policy called sinister combat violence, which as many parents can attest, study after study has shown, often translates into imitative aggressive behavior.

So let us be painfully candid about what seems to be happening here. Rather than serving the public interests, the industry has too often been serving our kids garbage. And it has an effect on them in our society. We have given the broadcast networks, their affiliates and independent local stations, use of the public airwaves, and they have not used those airwaves well.

Too often our children have been subjected to a diet featuring ever larger helpings of morally questionable programs meant for adults that are appearing at hours when children and families are watching, and children's shows, as my friend, Congressman ED MARKEY of Massachusetts, a leader in this effort, recently said, offer the kids' minds the nutritional value of a twinkie. Congressman MARKEY is right.

In pursuing this path, the broadcasters, I think, are not only ignoring their legal obligations but, in a broader sense, their moral obligations to the larger community to which they belong. Knowing how powerful a median television is and knowing that the average young viewer watches 27 hours a week of television, the people who are running the American television industry, which, in a sense, is our Nation's electronic village, must recognize that they have a greater responsibility to wield their power carefully and constructively.

This all really comes down, Mr. President, to a question of values. What are we saying to our kids and about our kids when we allow them to be subjected to the kind of lowest common denominator trash that they, too often, are forced or choose to watch on television? How can we expect our kids to appreciate the importance of education which parents are trying to convey to them and to recognize the necessity for self-discipline, indeed, sometimes for sacrifice, in order to learn and to improve one's place in life when so much of what is on television treats knowledge as either irrelevant or worthy of disrespect?

I stress the word "we" here, because our society, as a whole, I think, shares the blame for the status quo. We have ignored the warnings of people like Newt Minow, Peggy Charren, and dozens of other advocates for kids who have warned us about the impact of what is coming across television has on our children and our society.

I have spoken about this subject before, Mr. President. No one is prepared to say violence on television and in the movies and music and video games is the cause of the ever greater violence in our society. No one is prepared to say that the way in which sexual behavior is treated so casually, without consequence, without warning, without awareness of a sense of responsibility, is the sole cause of some of the moral breakdown in our society, the moral breakdown of families, the outrageous epidemic of babies being born to women unmarried, particularly teenage women. But I cannot help but believe while the treatment of sex and violence on television is not the cause of those two fundamental problems our society is threatened with, it has been a contributor, and, in that sense, we all share some responsibility for making it better, including those at the Federal Communications Commission who have not done as much as they could have up until now and now have the opportunity, thanks to the proposal that Reed Hundt has made to begin a new era.

This proposal would make significant changes in the rules implementing the Children's Television Act, which, taken as a whole, would guarantee that the broadcasters know exactly what is expected of them in terms of meeting their obligations to serve the needs of our kids. The demands are modest; some have even said too modest. They should not put an undue burden on the television industry. Indeed, the FCC proposal proves that this is not an either/or equation, that we can be both sensitive to the educational needs of our children and the economic needs of the broadcast industry.

In drafting these proposals, Chairman Hundt has been guided by the precept that we should do whatever we can to enable the market to work more efficiently. For instance, the proposal would require that each identify what programs are deemed educational and to alert parents about the air time, time in which those shows would be on the air.

Such a requirement should help stimulate demand for more and better children's programming, without putting a hardship on the industry. The new rules would also ask stations to enhance parental access to their children's television reports. This requirement would make it easier for parents rather than the Government to enforce compliance with the law.

In the end, though, I must say that I share Reed Hundt's judgment that regardless of the changes, the market will probably continue to underserve children unless the FCC steps in and explicitly requires a commitment from the broadcast industry to provide some minimal amount of programming every week for our kids.

The competitive pressures seem to be so great in the industry that one broadcast outlet will not unilaterally arm itself with educational programming and risk giving ground to a rival.

So I think the best solution will be to guarantee a level playing field and assure that no broadcaster is put at a disadvantage by offering quality children's programming. This proposal, for a minimum of 3 hours a week educational programming for kids, I think will create that level playing field.

The solution the Commission is considering is more than fair. As Peggy Charren has pointed out, the broadcasters claim they are already airing an average of more than 3 hours a week of educational programming. Assuming that is true, they should have no problem whatsoever in meeting the 3-hour obligation that Chairman Hundt is proposing.

On the other side, if implemented, this proposal will present families, especially those without access to cable, with a real positive alternative to the growing level of offensive and vacuous programming on the air today. In other words, it will give families an oasis in what too often has been the intellectual and moral desert of contemporary television.

That relief is something that parents want. I referred earlier to informal conversations I have had with parents in Connecticut, but to make it somewhat more scientific, in a recent poll, 82 percent of those surveyed said that there is not enough educational programming on television today, and nearly 60 percent supported a minimum requirement of broadcasters to show at least 1 hour a day of enriching programming, in effect, going well beyond the standard that Chairman Hundt is proposing at the FCC.

Like those parents who answered that poll, it is my hope that these new rules will inspire more kids to become, if you will, power thinkers, power builders, power growers instead of Power Rangers.

I was reminded of television's potential as an educational tool in a study released this spring by John Wright of Aletha Huston of the University of Kansas. After working with 250 low-income preschoolers, the researchers found that children who regularly viewed educational programming not only were better prepared for school but actually performed better on verbal and math tests, and that is what this is all about.

The FCC will be making a decision on this proposal probably next month, and the outcome, unfortunately, is uncertain. I hope that my colleagues and members of the public, parents, advocates for children, will let the Federal Communications Commission know where they stand; that we remain in Congress committed to the Children's Television Act and the principle of serving the public interest; that our children deserve something better from television than a choice between "Dumb and Dumber."

Mr. President, that concludes my remarks. It strikes me, looking at the Presiding Officer, that I should make clear his years in television only contributed to the well-being and intellectual awareness of those who watched his shows.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 927

Mr. GRASSLEY. Mr. President, I ask unanimous consent that notwithstanding rule XXII of the standing rules of the Senate, Senators have until close of business today to file first-degree amendments to the substitute amendment to H.R. 927, the Cuba Libertad bill, in conjunction with the cloture vote to take place on Tuesday of next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AMERICAN PUBLIC'S DISSATISFACTION WITH CONGRESS

Mr. ASHCROFT. Mr. President, the American public's dissatisfaction with the Congress is again on the rise. The American public's faith in its elected leaders is waning, and I think there are reasons for this disturbing trend.

I think it is because when the people look at Washington, DC, they are beginning again to see what they have seen in years past. They see business as usual. They see politicians putting self-interest first and politics first. They see politicians perhaps then moving to parochial interests or just the interests of a small part of the country. The national interest, it seems, follows somewhere after the special interests. But it takes a long time, as people watch this body deliberate, for them to see us finally get to the national interest. It sees a body in deliberation that finds it very difficult to confront the issues that the people have actually sent us here to confront.

In short, I think the American people see an imperial Congress, a Congress that is perceived to be arrogant and indifferent and out of touch, and seen so because the agenda of the people is accorded a standing which is simply disproportionately low compared to the standing of the political interests, the special interests, the provincial or parochial interests.

I think it is important that we begin again to restate and redemonstrate our commitment to the agenda of the American people. As the people grow in their dissatisfaction, they manifest their disapproval in a number of ways which are clear and apparent.

Approval ratings of Congress are at an all-time low again. We have managed to snatch from the jaws of victory a defeat here. The American people were beginning to think that they could count on us for reform. As a matter of fact, there are a number of substantial reforms which we have undertaken. We have made a commitment to balance the budget in 7 years, and that is important. And we are on track for doing it. That is significantly different than the President of the United States who said he wants to balance the budget in 10 years. But if you look through the smoke and mirrors of those 10 years, you find that they are predicated upon administration figures, and they do not have the integrity or validity of the Congressional Budget Office bipartisan figures that the Congress is using.

It is a shame when we are making that kind of progress, when we are doing welfare reform that is substantial and will make a real difference, when we are addressing major issues, that we again are falling in the approval of the American people. But I think it is because they see some of the endemic, old-time politics as usual rising again to the surface. You see our two-party system being questioned and people talking about a third party and people discussing the potential of independent candidacies with an alarming frequency and with a tremendous—well, it is an alarming array of support. There is a new desire for a third party and a reincarnation again of Ross Perot.

I think we need to demonstrate that, as American people, we are a different kind of Congress, that this Congress which was elected in 1994 is a Congress where our rhetoric is matched by our resolve. It is a Congress where our agenda meets the agenda and the challenges of the American people. It is a Congress where our greatest concern is not losing a vote but losing the faith of the American people.

I think in order to reacquire the confidence of the people we have to be willing again to tackle the toughest issues—issues like the balanced budget and term limits which represent fundamental systemic reform. We now have the opportunity to keep the faith on term limits. We are in the process of making good on our commitment for a balanced budget. But we have an opportunity to keep the faith on term limits. To do so will require courage—not the courage of shying away from fights and delaying votes, but the courage of meeting our challenges and keeping the faith with the American people. We came here to change Washington. We need to ensure that Washington does not change us.

There are lessons to be learned, lessons about how to get things done, about how to be most effective, about how not to spin our wheels, how to take advantage of the rules so we are not dislocated in our efforts for achievement by those who are much more familiar with the process than we are.

But there are things that we do not want to learn here in Washington. We do not want to learn about sacrificing our principles or setting aside the agenda of the American people.

We do not want to learn how to avoid or skirt dealing with the issues for which we were sent here. We do not want to learn to act just for political expedience. Those would be substantial lessons, but they would be lessons which would drive us away from the American people and drive the wedge of insecurity and a lack of confidence between the people and their representatives.

We must always be sure that we are ready to fight for principles, always stand up for what we know is right even if it means losing a vote.

As you well know, Mr. President, I am speaking about our commitment to address the issue of term limits. Why are term limits important? Because they help restore one of the first principles of the American people and the American Republic, and that is representative democracy. Term limits help ensure that there are competitive elections. When incumbents are running for public office, even in years where there is as much revolutionary change as there was in 1994, incumbents win 91 percent of the time. Yes, even in the revolution of 1994, incumbents won 91 percent of elections where they were seeking reelection.

How? Well, they use their biggest perk. That is incumbency. If you look at the data about who raises the most funds and who can just simply blow away the competition, it is the fact that incumbents have the ability to amass these war chests. They obviously have the most easy access to the media. They speak from an official position. And incumbency becomes a perk which is so big that it tilts the playing field. It is unfair to expect that there would be a massive infusion of the will of the people against incumbency, at least few are asking for it in the election, because the incumbents are so inordinately favored with the tools of politics—access to the podium and the resources that are necessary to buy advertising.

We need term limits to help ensure accountability. Individuals who know that they will be returning to their districts or to their home States to live under the very laws that they enact, I believe, will have a different kind of incentive to deal with the public interest rather than the special interests or rather than the provincial interests or rather than the political interests, to deal with the interests of this Nation. The national interests of America would be elevated if we were to embrace the concept of term limits.

Term limits would also help to ensure the right kind of voice of the people in Government by making it possible for new people and new ideas to come here. We need to open the doors of Government to the citizens of this country, and I think having reasonable term limits would make it possible not only for more people to serve but for groups of people that have previously been unrepresented to have the opportunity for running in elections where there are open seats. Those open seat elections are the kinds of elections that can provide opportunity for newcomers to the process—the minorities, the women who would seek to be candidates.

Incumbency is such an advantage that that tilted playing field, added to the disadvantage of people who do not have a heritage of running for public office, makes their access to public office almost impossible. Term limits would help remedy that problem. We need to return to the concept of a citizen legislature. We need a new respect for ideas that come from the people, not from the power. When we allow the voice of the people to be heard, we will really again begin to see a restoration of the public confidence in American Government.

Now, the problem of term limits and the enactment of term limits is a significant one, and it is compounded by the events of recent days. Last year, the executive branch, the Clinton administration, sent its lawyers from the Justice Department into court to argue in the Thornton case against the right of States to impose term limits on Members of Congress. So the executive branch has clearly stated—at least the Clinton administration has—that it is against the right of the people as expressed in 23 of the States already that tried to impose term limits on their States and on their State's representatives to the Congress. The Clinton administration has said that door is slammed shut. The executive branch opposes that, went to court, and argued in the Supreme Court against it.

The people know that there are three branches of Government, and they looked to the judicial branch, they looked to the Supreme Court until last spring when the Supreme Court again slammed the door of self-government in their faces, saying you do not have a right in your State to say how long any individual would be eligible for service in the U.S. Congress. It is not up to you. We know better than you here in Washington. We will slam that door shut.

Having exhausted the potential of the executive branch and having experienced the disappointment of a ruling in the judicial branch, the people of America, seeking a branch of Government confident in the voice of the people, confident in wanting to recognize the inputs of people, wanting to swing wide the door of self-government rather than to hold it shut, the people of America are looking now to the Congress, the House of Representatives and the Senate.

Earlier in the year, we scheduled that on this day and the day preceding—yesterday—we would devote these 2 days to a debate of term limits and a vote on term limits. It would be the first time in history that we would have done so, and we would have been able to vote on an amendment that passed out of the Judiciary Committee.

That amendment was passed out not only with a majority but with a bipartisan majority and sent to the floor of this Senate for consideration, and, well, we are simply not debating that. As a response to our change in plans, I simply do not want us to avoid confronting this issue that the American people expect us to confront.

Will we win a vote? Since the Thornton case, where the State of Arkansas's laws were struck down by the Supreme Court, it means that we will have to have 67 votes in order to win enough support for a constitutional amendment in this Chamber and two-thirds, of course, in the House of Representatives. Frankly, that is unlikely. But that does not mean we should not begin. And the American people deserve a vote on this issue because we promised them we would give them a vote on this issue and because they deserve a vote on this issue to identify who the supporters are and who the supporters are not.

Seventy-four percent of the people of this country registered their approval for term limits; 23 States have actually tried to enact them on a State-by-State basis in spite of the fact that the Supreme Court has said it cannot be done, and two additional States will be voting on term limits in the South in the next couple weeks.

I think it is time for us Members of the Senate to respond to our own commitment to have a vote on term limits, and that is why I have offered an amendment to this measure which is now being considered on our relationship to our neighbor to the south, to Cuba, and saying we need a sense of the Senate providing a marker for every Member of this body to cast a ballot either in favor of term limits or against term limits. I look forward to a vote on that amendment. I look forward to a vote on that amendment in the near future, a vote that will not be binding, no, because it is just a sense of the Senate—not binding, but it will be revealing, a vote that will finally allow the American people to know where Senators stand on this very important issue.

I believe term limits provides an opportunity for us to justifiably regain the confidence of the American people because a vote on term limits is something we promised the American people. It is something we should deliver, not just because we promised it but because the people of America want it. It is a part of the agenda of the American people and as such it must be a part of the agenda of the Senate.

Mr. President, I thank the Chair for this opportunity, and I yield the floor.

Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRAUD IN THE MEDICARE SYSTEM

Mr. HARKIN. Mr. President, I could not believe my eyes this morning when I opened up the front page of the newspaper. And here is the headline, Mr. President: "Gingrich places low priority on Medicare crooks, defends cutting anti-fraud defenses."

Well, what is this all about, Mr. President? Well, what it is about is the House bill, the House bill on Medicare reform, which I think ought to be titled, "The Scam Artist Protection Act." But, Mr. President, do not take my word for it. Here is a letter dated September 29 from the inspector general's office of the Department of Health and Human Services.

It says:

> However, if enacted, certain major provisions of H.R. 2389—

The House bill.

> would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

"Would cripple their efforts." And so the Speaker yesterday says, "It is all right. No big deal." He said that it is more important to lock up murderers and rapists than dishonest doctors. Well, it is important to lock up murderers and rapists. You bet it is. But what does that have to do with Medicare fraud? Talk about using a logic that just about takes all right there.

But even more astounding is this quote attributed to the Speaker. When he was pressed on it, he said that they might be willing to negotiate on it. He said—this is a quote attributed to the Speaker—"We can be talked out of it if there is enough public pressure."

I will repeat that:

> We can be talked out of it if there is enough public pressure.

Talked out of what? Talked out of easing the antifraud measures that we now have in the law?

I think in that statement is a tacit acknowledgment by the Speaker that they are, indeed, opening the doors to more fraud and abuse in Medicare. But he said if there is enough public pressure, we can change it.

If we can slip it through in the dark of night, if we can do it behind closed doors, if we can ram it through in a hurry and the public does not know about it, we will do it. But if the public finds out about it and they put pressure on us, well then, we will change it.

Mr. President, I am here to start putting pressure on us. The public ought to put pressure on us, because what has been happening in Medicare is billions of dollars in proportion. The ripoffs, the fraud, the waste and abuse is ongoing and getting worse instead of better, and the few minimal laws that we have that permit the inspector general's office to go after the crooks in Medicare are now being weakened in the House bill and the inspector general said so. She said it would cripple the efforts of law enforcement agencies to control health care fraud and abuse.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated September 29 from the inspector general's office outlining the provisions in the House bill that would, indeed, cripple their efforts.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH
& HUMAN SERVICES,
Washington, DC, September 29, 1995.

Re H.R. 2389: "Safeguarding Medicare Integrity Act of 1995."

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the "Medicare Preservation Act." We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

A voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from qui tam suits under the False Claims Act (but not waiver by the Secretary of sanctions);

Minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based statutes, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

1. MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the "knows or should know" standard for the mental element of the offense, Congress chose a standard which is well defined in the Restatement of Torts, Second, Section 12. The term "should know" places a duty on health care providers to use "reasonable diligence" to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the "should know" standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term "should know" in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with "deliberate ignorance" of false claims or if they act with "reckless disregard" of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use "reasonable diligence" to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which may be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

2. MAKING THE ANTI-KICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT "THE SIGNIFICANT" INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc. paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

H.R. 2389 Proposal: Section 201 would require the Government to prove that "the significant purpose" of a payment was to induce referrals of business. The phrase "the significant" implies there can only be one "significant" purpose of a payment. If so, at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, if enacted it would threaten the Government's ability to prosecute all but the most blatant kickback arrangements.

The courts interpreting the anti-kickback statute agree that the statute applies to the payment of remuneration "if one purpose of the payment was to induce referrals." United States v. Greber, 760 F.2d 68, 69 (3d Cir. 1985) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also: United States v. Kats, 871 F.2d 105, 108 (1989); United States v. Bay State Ambulance, 874 F.2d 20, 29-30 (1st. Cir. 1989). The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care industry requires the interpretation adopted by Greber and its progeny, to prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the prosecution must establish the defendant's state of mind, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony about what the defendant said to business associates or potential customers, etc. These types of evidence are rarely clear about the purposes and motivations of the defendant. The difficulties of establishing intent are multiplied by the complexity, size, and dynamism of the health care industry, as well as the sophistication of most kickback scheme participants. Documents are "pre-sanitized" by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has a difficult task to prove beyond a reasonable doubt that even one purpose of a payment is to induce referrals.

If the Government had to prove that inducement of referrals was "the significant" reason for the payment, many common kickback schemes would be allowed to proliferate. In today's health care industry, very few kickback arrangements involve the bald payment of money for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment serves one or more "legitimate purposes." For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some payments to referral sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide use of space incorporate some inducement to refer in the lease rates. In all of these examples, and countless others, it is impossible to qualify what portions of payments are made for nefarious versus legitimate purposes.

Where the defendant could argue that there was some legitimate purpose for the payment, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant actually had another motive that was "the significant" reason. For the vast majority of the present-day kickback schemes, the proposed amendment would place an insurmountable burden of proof on the Government.

3. CREATION OF AN EASILY ABUSED EXCEPTION FROM THE ANTI-KICKBACK STATUTE FOR CERTAIN MANAGED CARE ARRANGEMENTS

Background: There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as most health maintenance organizations (HMOs) doing business with Medicare, consist of providers who assume financial risk for the quantity of medical services needed by the population they serve. In this context, the incentive to offer kickbacks for referrals of patients for additional services is minimized, since the providers are at risk for the additional costs of those services. If anything, the incentives are to reduce services. Many other managed care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In the fee for service system, the payer (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad protection from the anti-kickback statute may be appropriate for capitated, at-risk entities like the HMO described above, such protection for managed care organizations in the fee for service system would invite serious abuse.

H.R. 2389 Proposal: Section 202 would establish broad new exceptions under the anti-kickback statute for "any capitation, risk-sharing, or disease management program." The lack of definition of these terms would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is "risk-sharing?" Is not any insurance a form of risk sharing? What is a "disease management program?" Does not that term include most of health care?

Nefarious organizations could easily escape the kickback statute by simply rearranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape kickback liability by establishing some device whereby the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least theoretically). Then, the organization could pay blatant kickbacks for every referral with impunity.

If the concern is that the kickback statute is hurting innovation, as observed above, there is now an explosion of innovation in the health care industry, especially in managed care. No one in Government is suggesting that HMOs or preferred provider arrangements, etc., formed in good faith, violate the kickback statute. There has never been any action against any such arrangement under the statute.

4. INAPPROPRIATE EXPANSION OF THE EXCEPTION TO THE ANTI-KICKBACK STATUTE FOR DISCOUNTS

Background. Medicare/Medicaid discounts are beneficial and to be encouraged with one critical condition: that Medicare and/or Medicaid receive and participate fully in the discount. For example, if the Medicare reasonable charge for a Part B item or service is $100, Medicare would pay $80 of the bill and the copayment would be $20. If a 20 percent discount is applied to this bill, the charge should be $80, and Medicare would pay $64 (80 percent of the $80) and the copayment would be $16. If the discount is not shared with Medicare (which would be improper), the bill to Medicare would falsely show a $100 charge. Medicare would pay $80, but the copayment would be $0. This discount has not been shared with Medicare.

Many discounting programs are designed expressly to transfer the benefit of discounts away from Medicare. The scheme is to give little or no discount on an item or service separately billed to Medicare, and give large discounts on items not separately billed to Medicare. This scheme results in Medicare paying a higher percentage for the separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a predetermined fee (such as lab tests paid by Medicare to the facility as part of a bundled payment), if the facility refers to the lab its separately billed Medicare lab work, for which no discount is given. The lab calls this a "combination" discount, yet is a discount on some items and not on others. Another example is where ancillary or noncovered items are furnished free, if a provider pays full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a "free" adult diaper. Medicare has not shared in these combination discounts.

H.R. 2389 Proposal. Section 202 would permit discounts on one item in a combination to be treated as discounts on another item in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissible for a supplier to offer a discount on a combination of items or services, so long as every item or service separately billed to Medicare or Medicaid receives no less of a discount than is applied to other items in the combination. If the items or services separately billed to Medicare or Medicaid receive less of a discount than other items in the combination, Medicare and Medicaid are not receiving their fair share of the discounts.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers more advice on the anti-kickback statute than is provided regarding any other criminal provision in the United States Code.

Industry groups have been seeking advisory opinions under the anti-kickback statute for many years, with vigorous opposition by the Department of Justice (DOJ), and the HHS Office of Inspector General (OIG) under the last three administrations, as well as the National Association of Attorneys General. In 1987, Congress rejected calls to require advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue "safe harbor" regulations describing conduct which would not be subject to criminal prosecution or exclusion. See Section 14 of Public Law 100–93.

To date, the OIG has issued 13 final anti-kickback "safe harbor" rules and solicited comment on 8 additional proposed safe harbor rules, for a total of 21 final and proposed safe harbors. Over 50 pages of explanatory material has been published in the Federal Register regarding these proposed and final rules. In addition, the OIG has issued six general "fraud alerts" describing activity which is suspect under the anti-kickback statute. Thus, the Government gives providers guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal. HHS would be required to issue advisory opinions to the public on the Medicare/Medicaid anti-kickback statute (section 1128B(b) of the Social Security Act, as well as all other criminal authorities, civil monetary penalty and exclusion authorities pertaining to Medicare and Medicaid. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requestors a user fee, but there is not provision for this fee to be credited to HHS. Fees would therefore be deposited in the Treasury as miscellaneous receipts.

Major problems with anti-kickback advisory opinions include:

Advisory opinions on intent-based statutes (such as the anti-kickback statute) are impractical if not impossible. Because of the inherently subjective, factual nature of intent, it would be impossible for HHS to determine intent based solely upon a written submission from the requestor. Indeed, it does not make sense for a requestor to ask the Government to determine the requestor's own intent. Obviously, the requester already knows what their intent is.

None of the 11 existing advisory opinion processes in the Federal Government provide advisory opinions regarding the issue of the requestor's intent. An advisory opinion process for an intent-based statute is without precedent in U.S. law.

The advisory process in H.R. 2389 would severely hamper the Government's ability to prosecute health care fraud. Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the dependent read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Advisory opinions would likely require enormous resources and many full time equivalents (FTE) at HHS. The user fees in the bill would go to the Treasury, not to HHS. Even if they did go to HHS, appropriations committees tend to view them as offsets to appropriations. There are no estimates of number of likely requests, number of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural and program changes. The possible result of the bill is a diversion of hundreds of anti-fraud workers to handle the advisory opinions.

For the above reasons, DOJ, HHS/OIG and the National Association of Attorneys General strongly oppose advisory opinions under the anti-kickback statute, and all other intent-based statutes.

6. CREATION OF TRUST FUND MECHANISM WHICH DOES NOT BENEFIT LAW ENFORCEMENT

Background: In our view, the most significant step Congress could undertake to reduce fraud and abuse would be to increase the resources devoted to investigating false claims, kickbacks and other serious misconduct. It is important to recognize that the law enforcement effort to control Medicare fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and abuse, and Medicare expenditures continue to grow substantially. Yet, the staff of the HHS/OIG, the agency with primary enforcement authority over Medicare, has declined from 1,411 employees in 1991 to just over 900 today. (Note: 259 of the 1,411 positions were transferred to the Social Security Administration). Approximately half of these FTE are devoted to Medicare investigations, audits and program evaluations. As a result of downsizing, HHS/OIG has had to close 17 OIG investigative offices and we now lack an investigative presence in 24 States. The OIG has only about 140 investigators for all Medicare cases nationwide. By way of contrast, the State of New York gainfully employs about 300 persons to control Medicaid fraud in that State alone.

Ironically, the investigative activity of OIG pays for itself many times over. Over the last 5 years, every dollars devoted to OIG investigations of health care fraud and abuse has yielded an average return of over $7 to the Federal Treasury, Medicare trust funds, and State Medicaid programs. In addition, an increase in enforcement also generates increased deterrence, due to the increased chance of fraud being caught. For these reasons, many fraud control bills contain a proposal to recycle monies recovered from wrongdoers into increased law enforcement. The amount an agency gets should not be related to how much it generates, so that it could not be viewed as a "bounty." The Attorney General and the Secretary of HHS would decide on disbursements from the fund. We believe such proposals would strengthen our ability to protect Medicare from wrongdoers and at no cost to the taxpayers. The parties who actually perpetrate fraud would "foot the bill."

H.R. 2389 Proposal: Section 106 would create a funding mechanism using fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bring others to justice. Instead, all the funds would be used only by private contractors for "soft" claims review, such as, medical and utilization review, audits of cost reports, and provider education.

The above functions are indeed necessary, and they are now being conducted primarily by the Medicare carriers and intermediaries. Since the bill would prohibit carriers and intermediaries from performing these functions in the future, there appears to be no increase in these functions, but only a different funding mechanism.

These "soft" review and education functions are no substitute for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 will not result in any more Medicare convictions and sanctions.

* * * * *

In summary, H.R. 2389 would:

Relieve providers of the legal duty to use reasonable diligence to ensure that the claims they submit are true and accurate; this is the effect of increasing the Government's burden of proof in civil monetary penalty cases;

Substantially increase the Government's burden of proof in anti-kickback cases;

Create new exemptions to the anti-kickback statute which could readily be exploited by those who wish to pay rewards to physicians for referrals of patients;

Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law; since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory opinion writers; and

Create a fund to use monies recovered from wrongdoers by law enforcement agencies, but the fund would not be available to assist the law enforcement efforts; all the monies would be used by private contractors only for "soft" payment review and education functions.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

Thank you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

Mr. HARKIN. Mr. President, over the last several years when I was Chair of the Subcommittee on Appropriations that funded HCFA and Medicare, we held a series of hearings, and I requested GAO to do a number of studies on waste, fraud, and abuse in the Medicare system.

What we have uncovered is mind boggling: HCFA paying for 240 yards of tape per person per day—Medicare paying that. Medicare paying over some $200 for a blood glucose tester that you can buy down at Kmart for $49.99. Medicare is paying thousands of dollars for devices that only cost $100. Foam cushions that cost about $50 that Medicare is paying $880 each for.

The list goes on and on and on, and we know it is happening out there. We know how medical suppliers are scamming the system, double billing going on. We have documentation. GAO has documented this in the past.

Last year, I asked the GAO to do a study just on medical supplies—just on medical supplies. They started their study in about May or June 1994, and the study was completed in August of this year. They issued their report.

GAO went to Medicare and said, "We want to take a representative sample of bills that you have paid for medical supplies."

You have to understand, Mr. President, that when Medicare pays a bill for medical supplies, they do not even know what they are paying for, because all of the supplies are put under one code, 270. So Medicare pays a bill, code 270, medical supplies, $20,000. They have no idea what is in there, because they do not require it to be itemized. Imagine that.

So GAO went to Medicare, got a representative sample, went behind the code to the suppliers, to the nursing homes, to the hospitals and said, "OK, we want the itemized account."

Guess what they found? Now this will knock your socks off. They found that that 89 percent—89 percent—of the claims should have been totally or partially denied; 61 percent of the money spent should never have been paid out—61 percent.

Then you ask the question: How much did Medicare pay last year for medical supplies? The answer, $6.8 billion. If you can extrapolate from this sample and say that 61 percent of that money should not have been paid out, you are talking about $4 billion—$4 billion. Maybe we cannot get it all, but could we get $3 billion? I bet we could. How about even $2 billion? We ought to be able to save that. Multiply that over 7 years, which is what we are talking about here, and you can see that is a pretty good chunk of money. And that is just medical supplies, that is just tape and bandages, things like that. We are not even talking about durable medical equipment. We are not talking about the double billing that goes on. That is just one, just medical supplies. It does not include oxygen, and it does not include ambulances, orthotic devices. It does not include durable medical equipment. It is just the bandages, $6.8 billion, and 61 percent should not have been paid.

A lot of this is fraud. A lot of it comes about because scam artists know that they can game the system.

Why would they do that? Are there not enough penalties? Would they not be afraid of getting caught? The fact is that in 24 States, the inspector general's office does not even have a presence. They are not even in 24 States.

Right now, Medicare reviews about 5 percent of the claims. So if you want to scam the system, you want to put in fraudulent claims, your chances are 5 percent that you are even going to be reviewed, and out of the reviews, they may or may not do something based upon that. If you are in one of the 24 States where there is not an inspector general operating, the sky is the limit.

That is why fraud is so rampant in the Medicare system today. What the Speaker says is that is fine, that is a low priority. We do have some antifraud legislation on the books, as inadequate as it is right now. The House bill weakens it even further, and the Speaker says that is fine, but he says if the public catches on to it and they put on enough pressure, maybe we will change it.

I hope the public does put on the pressure, because we do have to change it. The House will say, well, they put more money into the IG's office, they put $100 million into the inspector general's office. So you give more money into the inspector general, then you put the handcuffs on it by making it so they cannot prove fraud. That is exactly what they have done.

Mr. President, we have to not put waste, fraud, and abuse in the back seat, we ought to put it in the front seat. We have to attack that. I do not think it is right, I do not think it is fair for this Congress, for the Speaker of the House to say, "OK, we're going to double your premiums for the elderly, we're going to double your deductibles, but we're going to let the crooks go, we're not going to crack down on them."

Oh, yeah, from what I read, they are going to let the doctors off, too. They are not going to have to belly up to the bar.

One other item before I finish on fraud. I have another report from the inspector general's office issued just this month in October. Here is what they found: 13 percent of nursing homes have been offered inducements in exchange for allowing suppliers to provide products to patients in their facilities; 17 percent of nursing homes with Medicare-reimbursed products have been offered these inducements. The inducements range from free trial products to cameras, blenders, and diamond rings. Fraud, and yet the Speaker says it is too tough the way it is, we have to make it even less tough. We have to ease up. One other thing, Mr. President, that has disturbed me, came to my attention in the last 24 hours. It has to do with the block granting of Medicaid to the States. The Finance Committee—the Senate Finance Committee, of which I am not a member, but I follow closely what it has done—adopted an amendment offered by a Republican, Senator CHAFEE, that says, OK, if you block grant it to the States, we still want to have some guarantees. What do we want to guarantee? We want to guarantee that pregnant women who fall under the poverty line get medical help under Medicaid; we want to guarantee that all children under the age of 12 get Medicaid medical help; we want to guarantee that all disabled continue to get medical help, as they are today. Plus, they want to guarantee that we continue the provisions in law that provide that a spouse does not have to spend all of his or her money down to nothing and give up their income before Medicaid will start paying for their spouse's long-term care in a nursing home. It is called the spousal impoverishment provision. It says you cannot impoverish a spouse simply because his or her husband or wife is in a nursing home. What does it say? It says basically that, minimum, a spouse can keep, I think, a little over $14,000 in assets and can make a little over $1,200 a month.

Now, in my view, if a couple saved up all of their lives and they have $50,000 in the bank, and one spouse gets Alzheimer's and cannot be cared for and has to go to a nursing home and the other spouse has to spend that $50,000 until they get to $14,000 and then Medicaid will kick in and start paying, that $14,000 is not a lot of money to have in the bank for a rainy day when you are getting old.

So these provisions were left in the Senate-passed Finance Committee bill. It passed, as I understand, by a vote of 17 to 3. I picked up this publication, the National Journal of Congress, dated Friday, October 13, this morning. Here is what it says:

> "Thursday, Senator Jay Rockefeller said GOP leaders were trying to undo a compromise that preserved the disabled's right to Medicaid," the Associated Press reported. Rockefeller and Senator John Chafee won a 17 to 3 Finance panel vote to keep the Medicaid entitlement for poor children and pregnant women, as well as the disabled. But GOP Governors have protested overly prescriptive and onerous provisions in the bill. Roth said Thursday evening, "It is a matter that is still open."
>
> The AP said, "Sheila Burke, Dole's Chief of Staff, told reporters, "The disabled will not be an entitlement." Chafee and six other moderates wrote Dole, asking him to "stand fast in your support for at least a minimal level of support provided to our Nation's most vulnerable populations."

Mr. President, I hope this is not true. I hope this is not true that now the Republicans on the Senate Finance Committee are going to throw out the disabled in our country, that they are going to say, OK, all right, we will keep pregnant women in and children up to age 12, but the disabled, you are out the door, you are not entitled to be covered, we are not going to guarantee you coverage—the most vulnerable of our population, those who are disabled.

Mr. President, here is another thing I cannot believe. We got a letter the other day, sent to Senator DOLE on October 6, signed by 24 Republican Governors, saying that they wanted the block granting of the Medicaid bill. They supported that, but they said there are some things they do not like.

I will read this from the letter of 24 Republican Governors:

> The bill includes a number of overly prescriptive and onerous provisions that will mitigate against the States' ability to implement reforms.

What are those onerous provisions? They are that the Senate Finance Committee, by a vote of 17 to 3, on a bipartisan basis, said you have to cover pregnant women who fall under the poverty line with medical care, you have to provide for children to age 12 who are in poverty, you have to cover the disabled, and you have to have provide against espousal impoverishment. The Republican Governors said that is onerous.

I have to ask this, Mr. President. These Governors have said, "Turn Medicaid over to the States. We will take care of it better than the Federal Government can take care of it." What makes you think that these Republican Governors do not care for the disabled, poor, and the women as much as Congress? Well, they cannot have it both ways. If these Republican Governors say they do not want these provisions in there that mandate that they continue to cover the disabled, then are they then saying they want to have the freedom to throw the disabled out? If the Republican Governors are saying they do not want the provision in there that says we will ensure against spousal impoverishment, are they then saying that they, the Republican Governors, are willing to throw that out?

Well, if they are not saying that and if the Republican Governors are saying, oh, no, no, no, no, we will make sure we keep provisions against spousal impoverishment, we will cover the disabled, pregnant women, and the children, why do they care if it is in there? You cannot have it both ways.

These Republican Governors have shown their hand. If we turn Medicaid over to the States without these provisions, they are going to go cut the disabled, pregnant women, children, and cut back on the provisions against spousal impoverishment. It is right here in this letter, signed by 24 Republican Governors.

So I think it is becoming clearer as the days roll by, Mr. President, that on the Medicare side, the Speaker and the GOP are turning a blind eye to the concerns of seniors. But they are giving a wink and a nod to the Medicare crooks.

When it comes to Medicare, Mr. GINGRICH and his allies are willing to tell the seniors they have to pay more, double their premiums, double their deductibles. They want to take $270 billion out of Medicare and use it for a tax cut for some of the most privileged in our society. Yet, they are not willing to crack down on those that are scamming the system, bilking the system of billions of dollars a year. Oh, no, we do not want to do that. Well, I think the public ought to know about it. I think the public is becoming aware of it, Mr. President. I think the public is now beginning to wake up to the fact that we do not need to cut $270 billion out of Medicare.

The head of Medicare said that maybe $90 billion would get us through the next 10 years; $90 billion would provide for the security of the Medicare system through 2006. Think about that. GAO said that 10 percent of Medicare goes for waste, fraud, and abuse. That is about $18 billion a year. Well, $18 billion a year for 7 years is $126 billion, which, over the next 7 years, will go for waste, fraud, and abuse. If we cannot get all the $126 billion, can we get $90 billion of it? We might be able to squeeze enough out of waste, fraud, and abuse to ensure the viability of Medicare at least for the next 10 years. But, no, Republicans say, though, they want $270 billion out of Medicare. Sock it to the seniors, make them pay double for premiums, double for deductibles, and then they will take that money and give a $245 billion tax cut for the most privileged in our society. Not fair, not right. I think the people and the public are beginning to understand that.

Now, on the Medicaid side, $187 billion of cuts in Medicaid and then block granted to the States. I think the Senate Finance Committee cast a conscientious vote last week when they said, "Look, we will block grant to the States but we want to make sure that we cover all pregnant women who are eligible for Medicaid, all children who are eligible for Medicaid, and the disabled."

Now, I understand that they are willing to throw out the disabled. That is unconscionable—unconscionable that some would be willing to throw out the disabled to say that, "No, we are not going to cover you. You just go plead your case in the States. Go to the Governors." Well, the Governors told us what they wanted to do in their letter. They found those provisions onerous.

Mr. President, it is becoming clearer, in Medicare it is the seniors who get hit. In Medicaid, it is the poor.

Here it is right here in contrast, Wednesday, October 11, the Washington Post. Here it is. This is it, right here. Two stories, side by side, that tell it all.

On the right hand side, it says: "Leaders Pledge Full Tax Cut By Senate GOP." Full $245 billion tax cut. "Leaders Pledge Full Tax Cut By Senate GOP." The story right next to it: "Working Poor May Pay the High Price for Reform."

There you go. It cannot be said any better than that.

In Medicare, the disabled, if you are disabled, forget it. You will not have any protections. We throw you out.

Well, I hope that is a wrong report. I hope everything I have said here today will prove not to be so. I hope that the Senate Finance Committee will not jettison the most vulnerable in our society, the disabled. If they do, if that is what comes here to the Senate floor, that we have a Medicaid bill—I do not care how it is wrapped up. If it is wrapped up in reconciliation, as you know, we cannot filibuster that under the rules. But if they jettison the disabled, I hope and trust that President Clinton will veto that the second it lands on his desk and say to this country that we are not going to make the most vulnerable in our society, those who have disabilities, pay for the $245 billion tax cut for the most privileged in our society.

I yield the floor.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times]

GINGRICH PLACES LOW PRIORITY ON MEDICARE CROOKS

DEFENDS CUTTING ANTI-FRAUD DEFENSES

(By Nancy E. Roman)

House Speaker Newt Gingrich yesterday defended GOP moves to reduce penalties and enforcement efforts against Medicare fraud by saying it's more important to lock up murderers and rapists than dishonest doctors.

The Georgia Republican cited "murderers out after three years" and "rapists who don't even get tried" in response to a question at a seniors gathering to promote the GOP Medicare overhaul. "For the moment, I'd rather lock up the murderers, the rapists and the drug dealers," he said. "Once we start getting some vacant jail space, I'd be glad to look at it."

The GOP bill in the House would weaken laws against kickbacks and self-referrals in the Medicare program. The Congressional Budget Office has estimated the seven-year cost of relaxing those laws to be $1.1 billion.

Gerald M. Stern, special counsel for health care fraud at the Justice Department, said one provision would overturn a common interpretation of Medicare anti-kickback case law and increase the burden of proof in criminal prosecutions.

Rep. Pete Stark, the California Democrat who drafted the anti-kickback and self-referral statutes, called Mr. Gingrich's comments "arrogant and gratuitous."

"To put O.J. Simpson, the Menendez brothers and Claus von Bulow in the same category as physicians who get kickbacks and who steal from the government is not the issue," Mr. Stark said. "Republicans are in the position of having weakened protections that we put in [Medicare law] at the urging of the Reagan and Bush administration."

Mr. Stark said Republicans weakened the provisions to shore up support from the American Medical Association, a wealthy lobby representing 300,000 doctors.

Rep. Tom Coburn, Oklahoma Republican and obstetrician who helped draft the new anti-kickback provisions, said the changes simply would put medical professionals on equal footing with other professionals subject to such laws.

Courts have interpreted the Medicare anti-kickback law to prohibit a payment if "one purpose" of it is to induce referrals of services paid for by Medicare.

The GOP bill would change that to "the significant purpose," which Mr. Stern and others said is much harder to prove in court. Under this standard, he said, the government would not have won two big cases this year that led to fines of hundreds of millions of dollars.

Kern Smith, an assistant commerce secretary under Presidents Johnson and Kennedy, posed the question about lighter fraud rules to Mr. Gingrich at a forum sponsored by the Coalition to Save Medicare, a group backing the GOP reforms.

The 73-year-old Democrat said he's gone "around the country selling your plan" but found seniors vexed by the new fraud rules. He said they were hard to defend.

"I've been around Washington for a long time, and you are giving the Democrats something to clobber you with," Mr. Smith said.

Mr. Gingrich said Republicans are willing to negotiate on fraud and abuse provisions, leaving open the possibility of the bill being changed on the House floor.

"We can be talked out of it if there is enough public pressure," he said.

A senior House aide yesterday said the legal standard in the anti-kickback law was changed to make it consistent with other such laws "without a lot of thought, and it is something that could be changed."

Republicans spent much of the summer discussing Medicare changes with seniors, and many found that fraud topped constituents' complaints. Many seniors erroneously thought eliminating fraud and abuse could solve Medicare's money woes.

Republicans have created other ways to reduce fraud, such as: allowing seniors to keep a portion of money recovered from fraud cases they report; establishing a voluntary disclosure program for corporate managers who uncover wrongdoing in their companies; and increasing the maximum civil penalties for health care fraud.

The CBO estimates that these changes would save $2 billion over seven years.

Democrats support some of these changes but argue that relaxing kickback and self-referral laws would undermine the success achieved in reducing Medicare fraud.

After Democrats upbraided Republicans for going soft on fraud, the House Ways and Means Committee added $100 million to the budget of the Inspector General's Office to prosecute fraud and abuse. The CBO estimates that the additional money would produce $700 million more in Medicare fraud fines.

Rep. Sam M. Gibbons of Florida, ranking Democrat on the Ways and Means Committee, said it will be difficult to block the softer fraud rules without public outcry.

"The Republicans are all marching in lock step," Mr. Gibbons said. "In my lifetime I've never seen anybody march in lock step like this."

Mr. HARKIN. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REPUBLICAN GOVERNORS ASSOCIATION,
Washington, DC, October 6, 1995.
Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Capitol Building, Washington, DC.

DEAR SENATOR DOLE: Collectively we desire to express our gratitude for the working relationship with you and Republican governors. We share your commitment to balancing the budget and returning responsibilities to the states. Your leadership on these matters is acknowledged and admired. We are writing to you to convey our deep concern with provisions that were included in the Medicaid portion of the reconciliation bill approved by the Senate Finance Committee on September 30.

Since January of this year, Republican governors have worked in good faith with Republican leadership on concepts to bring meaningful, urgently needed reforms to the Medicaid program while achieving the Congressional budget targets. As governors representing the unique needs of our individual states, we have not been in total agreement on all aspects of the program. However, throughout this lengthy partnership, we have consistently argued that the fiscal and functional integrity of the program demand freedom from individual and provider entitlements and other mandates on states. The Senate Finance Committee bill ignores this principle.

The bill includes a number of overly prescriptive and onerous provisions that will militate against the states ability to implement reforms. Among these are individual entitlements, which create both a huge potential cost shift to states and unlimited potential for litigation; a set-aside for one class of providers; and mandated federal requirements on spousal asset protection.

Further, we are concerned that the bill reported out by the Senate Finance Committee will be amended on the Senate floor with additional mandates on states. While we support efforts to reduce the deficit and balance the federal budget we will not sit idly by while the costs associated with this program are shifted to the states.

We have kept our commitments to Republican leadership throughout a difficult process of negotiating reforms that states can implement, while protecting the interests of all of our citizens. We are fully prepared to provide health care for our most vulnerable populations, without prescriptions and mandates from the federal government. We are pleased with the flexibility provisions incorporated in the House measure and intend to work for inclusion of such provisions in the final bill.

We are hopeful that we can work with the Senate leadership on this most important issue. We urge you to remove mandates and other prescriptive provisions from the Senate bill.

It is our sincere hope that we can resolve these issues quickly. As those charged with the actual administration of these programs, we cannot support a combination of individual entitlements and mandate provisions that will subject us to unlimited ligation, and still meet the budget targets.

Sincerely,

Michael O. Leavitt, Bill Weld, Fife Symington, John G. Roland, Christine T. Whitman, John Engler, Marc Racicot, Gary E. Johnson, George V. Voinovich, Frank Keating, William J. Janklow, George Allen, Jim Edgar, Fob James, Jr., Pete Wilson, Phil Batt, Terry E. Branstad, Kirk Fordice, Stephen Merrill, Edward T. Schafer, Tommy G. Thompson, David M. Beasly, George Bush, Jim Geringler.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, every day since February 1992, I have reported to the Senate the exact total of the Federal debt, down to the penny, as of the close of business of the previous day, or on Mondays it would be, of course, for the previous Friday.

As of the close of business yesterday, October 12, the Federal debt stood at $4,972,685,593,071.75. And this figure is approximately $27 billion away from $5 trillion which the Federal Government will surpass later this year or early next year. On a per capita basis, every man, woman and child in America owes $18,876.40, as is his or her share of that debt.

No wonder babies come into this world crying.

THE NOMINATION OF JIM SASSER TO SERVE AS UNITED STATES AMBASSADOR TO MAINLAND CHINA

Mr. HELMS. Mr. President, on another subject, with varying frequency all Senators occasionally find themselves in the predicament of having to be in two places or more at one time. Generally, the problem can be resolved by dividing time between conflicting responsibilities. This happened to me yesterday, when the distinguished former Senator from Tennessee, Jim Sasser, appeared before the Foreign Relations Committee, having been scheduled a week or so earlier in connection with his nomination by President Clinton to serve as United States. Ambassador to mainland China, which calls itself the People's Republic of China. If ever there was a misnomer, that is it.

In any case, the hearing had been set several days ago for 10 a.m. yesterday morning.

On Wednesday evening, the distinguished majority leader and the distinguished minority leader of the Senate scheduled the Cuba Libertad bill to be the pending business of the Senate at 11 a.m. yesterday. This kind of scheduling happens to all Senators with a high degree of frequency, as I say. And all of us understand that it is endemic to Senate procedure.

Yesterday morning I knew it would be a tight fit to handle both responsibilities, but I had many times done it before. But yesterday it did not turn out quite that way.

In any event, in my opening statement as chairman of the Senate Foreign Relations Committee I wanted to say some positive things about former Senator Sasser's nomination to be Ambassador to Communist China. So, midway through my brief remarks I commented, and I quote myself:

> When Jim was nominated, I was especially pleased to learn that the President had nominated a gentleman who hasn't always been that easy on the Communists in Beijing.
>
> When Mr. Sasser was in the Senate, in fact, he and I often agreed on our respective approaches to China.
>
> Between 1988 and 1994 Senator Sasser voted six times to condition the renewal of most-favored-nation trading status for China until the Chinese made significant progress on human

rights. He helped override President Bush's veto of the legislation prohibiting the President from extending MFN until the Chinese cleaned up their act after the massacre of 1989.

I commend Senator Sasser for standing firm.

In his capacity as Senator from Tennessee, Jim Sasser voted to impose some of the very sanctions against China that many U.S. businessmen now actively seek to relax—for example, the suspension of the operations in China by the Overseas Private Investment Corporation. Senator Sasser supported restrictions on the transfer of nuclear equipment, materials, or technology to China unless specific conditions were met. These were hard, tough issues and Senator Sasser chose the right way every time. I hope he will continue to stick by his principles in making the decisions he will have to make as Ambassador Sasser.

Now that he has been nominated to represent the President and the executive branch, I trust he will understand, encourage, and support the congressional role in the formulation and adaptation of the United States foreign policy toward China, Taiwan, and Tibet.

That was the statement I made yesterday at the hearing.

Now, then, I am getting to the point. Mr. President, I ask unanimous consent that the full text of a letter I have this afternoon faxed to Senator Sasser be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 13, 1995.

Hon. JIM SASSER,
Ambassador Nominate to the People's Republic of China, U.S. Department of State, Washington, DC.

DEAR JIM: It was unfortunate that circumstances yesterday required that I depart from your hearing and go to the Senate Floor to manage a piece of legislation that became the Senate's pending business at 11 a.m.

Your comments on two matters after I departed left two significant additional matters that I feel obliged to have you discuss further in a second public hearing on your nomination.

They are: (1) Your comment after I had departed, to the effect that you "corrected the record" (according to media reports) by testifying that you had become "less and less convinced" that it was correct to link trade with China to human rights, and (2) your comments relating to China's threat to disband Hong Kong's Legislative Council.

It need not be a lengthy hearing but I believe it essential that there be one. Accordingly, I am asking Admiral Nance and his staff to work with you and the State Department in scheduling your appearance at the most mutually agreeable date and time.

It is my intent to schedule a business meeting of the Foreign Relations Committee as quickly as possible for a vote on reporting your nomination to the Senate.

Sincerely,
JESSE HELMS.

Mr. HELMS. Let me read the letter.

DEAR JIM: It was unfortunate that circumstances yesterday required that I depart from your hearing and go to the Senate Floor to manage a piece of legislation that became the Senate's pending business at 11 a.m.

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It is my intent to schedule a business meeting of the Foreign Relations Committee as quickly as possible for a vote on reporting your nomination to the Senate.

When I made my statement, my positive statement, regarding the Sasser nomination, and identified the six votes that Senator Sasser as a Senator had cast correctly, he nodded. It never dawned on me that he was going to correct the record after I left the hearing. If he had made any indication of what he was going to do, I would have called the Senate floor and said I will be delayed in getting there, because it is time that the American people, and particularly those of us who say we represent the American people, understand that we become a part of what we condone. For us to condone what is going on in Red China is to be a part of it. And that is the reason I want to hear further from Senator Sasser, about his nomination to be Ambassador to Communist China—which they call the People's Republic of China.

Mr. President, yesterday's comments by Mr. Sasser relating to the administration's position on China's threat to disband and abolish the Hong Kong Legislative Council deserves a bit more comment as well. I do not challenge the opinion expressed by Mr. Sasser on behalf of the administration regarding this action by China. I want to emphasize, however, that China is sweeping away every vestige of democracy in Hong Kong. It is a matter that deserves somewhat more detailed understanding by Americans of precisely what is at stake in Hong Kong.

Therefore, Mr. President, I ask unanimous consent that a front page article of the South China Morning Post faxed to me from Hong Kong be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the South China Morning Post, Oct. 13, 1995]

U.S. NOMINEE SAYS CHINA HAS RIGHT TO DISBAND LEGCO

(By Simon Beck)

The nominee to become U.S. Ambassador to China last night appeared to side with Beijing one the Hong Kong question, saying China was not required to keep the Legislative Council in place after 1997.

Even though former senator James Sasser said he hoped China would not carry out its threat to abolish Legco, his remarks at this sensitive time are certain to be viewed with alarm.

Until now, successive administrations have lent strong support to widening the democratic franchise in the territory. Governor Chris Patten was praised for his brave stand in going ahead with his reforms in the face of violent opposition from Beijing. Democratic Party leader Martin Lee Chu-ming was recently feted in the U.S. and awarded the American Bar Association Human Rights Award.

But speaking at his Senate confirmation hearing late last night, Mr. Sasser said: "Governor Patten has sought to 'enlarge it' [the 1984 Joint Declaration] to some extent by his encouragement of the democratic movement in Hong Kong.

"The Chinese have indicated that they are not going to abide by this democratic election of legislative councillors, and clearly by the covenant of 1984, they are not required to. But I am hopeful they will reconsider that."

His comments appeared to conflict with the passion in the U.S. for supporting the continuation of Hong Kong's rights and freedoms after 1997.

In June, senators joined senior officials in declaring U.S. determination to stay deeply involved in the future of the territory.

China came under fire from all sides for blocking the Court of Final Appeal and for vowing to dismantle the Legislative Council.

Assistant Secretary of State Winslow Lord said the Legco issue had caused great concern to Washington and warned that apparent moves by China to put pressure on civil servants were "making many in the career rank uncomfortable at a time when Beijing should instead be reassuring them".

Former U.S. attorney-general Dick Thornburgh said China "has signalled its intention to renege on virtually all of the guarantees it made to preserve Hong Kong's legal system and the rule of law".

He said he was troubled by the lack of attention that Hong Kong and its people were receiving despite the gravity of the developments taking place in the territory.

Beijing has warned Britain not to "internationalise" the Hong Kong issue and the U.S. not to interfere in China's internal affairs.

Foreign Relations Committee chairman Senator Jesse Helms, a staunch critic of China, promised to "expedite" Mr. Sasser's confirmation for the Beijing job.

A vote could come within one week at which Mr. Sasser is expected to be easily confirmed.

Mr. Sasser vowed to push for human rights improvements in China, stick firmly to the United States' one-China policy and promote U.S. trade with Beijing.

Mr. Sasser told senators: "Some people say China needs us more than we need China. The reality is that China and the United States need each other."

Asked by several senators how he would handle Tibet and other human rights issues, he replied: "I intend at every appropriate occasion and on occasions when it might not seem appropriate to make the views of the administration known in this regard.

"The American people expect the Chinese Government to respect the human rights of its own citizens."

The White House made a symbolic gesture of support for its nominee, by sending Vice-President Al Gore to urge the committee to support Mr. Sasser, whom he described "a man of stature, wisdom and authority".

Mr. Sasser, who when he was a senator voted six times to link China's trading status to human rights, said he had changed his mind and now believed that trading with China was the best way to encourage freedom and democracy in that country.

On Taiwan, he defended the administration's one-China policy.

If he is confirmed before October 24, Mr. Sasser said he hoped to take part in the summit meeting in New York between presidents Jiang Zemin and Bill Clinton.

The only question as to Mr. Sasser's competence in the job was raised by Senator Craig Thomas, who pointed out that the past five ambassadors were career diplomats with much China experience, and not political appointees like Mr. Sasser.

However, Mr. Sasser, a Democrat who lost his Senate seat last year, said he had spent recent months studying Chinese language and politics at Harvard University and the Foreign Service Institute.

Mr. HELMS. I thank the Chair. I apologize for keeping the Senate in session a little bit longer than would otherwise have been the case.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

THE LIBERTAD BILL

Mr. COVERDELL. Mr. President, first I would like to commend the Presiding Officer, the chairman of the Foreign Relations Committee, for the attention and dedication to the legislation that is pending before the Senate, the Libertad bill which deals with the notorious dictator and the oppression that has occurred for over three decades over the people in Cuba, and for your attempts to address those vital issues.

As you know, Mr. President, I spoke on that yesterday in support of your effort with particular emphasis on the abrogation of property rights. This has been something that has bothered me, not only in Cuba but in Nicaragua and other countries in the hemisphere, and I think the President is doing exemplary service, not only for our citizens, but citizens around the world in confronting the issue of the confiscation of property in our world today, and without compensation and without appropriate redress.

So I compliment the Chair.

THE FISCAL AFFAIRS OF THE UNITED STATES

Mr. COVERDELL. Mr. President, I also appreciate your accepting the duty of presiding so that I might make a comment or two about a number of the speeches that have been made as amendments and commentary at the time of discussing your bill that had nothing whatsoever to do with your bill.

From the other side of the aisle, we have heard repeatedly criticism of the efforts of the new majority to take charge of the fiscal affairs of the United States, even though the vast majority of the American people sent this new majority here to do just that. They have rejected the status quo. They have rejected the concept of spending money we do not have. They have rejected the prospect of robbing the future of its opportunity because there are no resources left. They have rejected the idea that this Nation not stumble into the next century 5 years from now. Yet, all we hear is the same song sheet—leave everything the way it is, and reject the pleas of the American people to take charge of our own financial house.

I tell you. It is mind-boggling.

We have said there are four things that must happen. We must balance our budgets. Eighty-eight percent of the American people say we must balance our budget. Are we deaf? They want the budget balanced, and for good reason. They have to balance their own checkbooks. They have to balance the checkbooks of their businesses. And they know nations have to do the same thing.

I was reading in the bipartisan entitlement commission report just the other day where it said—and it ought to be a loud wake-up call for every American, and certainly for the President and for every American policymaker. It says this: It says that within 10 years—that is a snap of a finger—within 10 years all U.S. resources will be exhausted by just five programs. Just five—Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And there is nothing left. We will not be debating a B-2 bomber. There will not be one, nor anything else to defend the Nation, nor a school lunch program nor a Transportation Department nor a Commerce Department nor any of them. No American, no Member of this Senate, not a person who has abused their financial affairs can carry out their mission—not a person, not a family, not a business, not a community and yes, Mr. President, not even nations. No generation of Americans has ever given the future a country crippled. But we are perilously close to doing just that.

Mr. President, we have said we must balance our budgets so that we quit adding debt. We have said we want to save Medicare because the trustees have said it is going bankrupt, and we want to protect it and preserve it. And we want to save $270 billion, not for a tax increase, but by law to keep it in the Medicare Trust Fund so that its solvency is pushed out years from now so that it does not go bankrupt, so that the current beneficiaries will not have the program closed, and, importantly, so the beneficiaries to come will have it in place.

We said welfare as it is known must come to an end. You would be hard pressed to find a single citizen in this country that would not agree with that—balance the budget, protect Medicare, alter welfare, and, Mr. President, the fourth item is lower taxes.

You would think that was a travesty from what we have heard on the floor; that it is an absolute sin to talk about lowering taxes on the American working family.

When Ozzie and Harriet were the preeminent American family, Ozzie sent 2 percent of his paycheck to this town. If Ozzie was here today, first of all his family would be completely different and not look a bit like what it was then, mainly because he would be sending 25 percent of every dime he earned to this town. Would it be any wonder that Harriet would not be in the house? She would have to be working.

Balance our budget—America wants that done; protect Medicare—America wants that done; change welfare—America wants that done; lower the financial burden on middle America so that it can do the job it is supposed to do with its own family and without a Washington caretaker—America wants that done.

Boy, you would never think that from what we have heard the last 2 days. I tell you. Where America is and where those speeches are is totally different.

A couple more things, and then I will allow the Presiding Officer to get on with his business of the day.

One, where has the President been in this debate? First, during the campaign, he said he was going to balance the budget in 5 years. I do not know what happened to that promise. He was going to balance the budget in 5 years. Then we offered a balanced budget, and he said, I am not offering any budget.

That is real leadership. That did not play very well in America.

So he says, OK, I am going to offer a budget. I will balance it in 10 years, and it will be easier to do. He has gone all over the country saying that. There is only one problem. That budget never balances, ever—not in 7 years, not in 5 years, not in 7, not in 10; never.

How do I know that? Because the Congressional Budget Office, which he told a joint session of Congress is the numbers we should use, says it will not. The only thing that says it will is the President and his own budget makers.

Mr. President, your budget does not balance, and that is not leadership, and it is not what America is asking for.

The last thing I am going to say is this, Mr. President. That is a sober message, that all our money would be gone for five things in less than 10 years; that Medicare is going bankrupt. We have to really get tough on managing our financial affairs.

That is a tough message, but America needs to know that at the end of the day, if we take charge of our business, if we run this country the way our forefathers would have us do it, the way those who went to Europe to defend it would have us do it, we will send America into the next century with more hope and more opportunity than is even describable. We will lower interest rates. That will affect everybody who buys a car or a refrigerator or a home or has to borrow money to send kids to school. We will lower the economic pressure on those families. We will leave more money for them to manage their education, their housing, their retirement. We will create millions of new jobs—millions of new jobs. We will be strong. We will be the only superpower, and we will have the muscle to defend it.

This happens very quickly if we just start taking charge of our business. If nothing else would motivate you to do it, the kinds of results that come from managing our affairs ought to make every American be calling their Congressman, their Senator, and, yes, the President and say: Get on with this. Do this for me. Do this for my family. And, yes, do this for our country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Coverdell). Without objection, it is so ordered.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

Mr. DOLE. Mr. President, I now ask the Senate resume the pending business, H.R. 927.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

CLOTURE MOTION

Mr. DOLE. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 202, H.R. 927, an act to seek international sanctions against the Castro government in Cuba:

Bob Dole, Jesse Helms, Conrad Burns, Don Nickles, Frank H. Murkowski, John H. Chafee, Chuck Grassley, Paul D. Coverdell, Bob Smith, Hank Brown, Trent Lott, Larry E. Craig, Bill Frist, Jim Inhofe, Rod Grams, Mike DeWine.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1499. A communication from the Administrator of the Environmental Protection Agency, transmitting, the report of the Federal Field Work Group on Alaska rural sanitation; to the Committee on Environment and Public Works.

EC–1500. A communication from the Inspector General of the Department of Defense, transmitting, pursuant to law, the report on Superfund financial transactions for fiscal year 1994; to the Committee on Environment and Public Works.

EC–1501. A communication from the Secretary of Transportation and the Administrator of the Environmental Protection Agency, transmitting jointly, pursuant to law, the report entitled, "Administrative Assistance to the States: Compliance with Nitrogen Oxides Requirements of the Transportation Conformity Rule"; to the Committee on Environment and Public Works.

EC–1502. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the report entitled, "Monitoring the Impact of Medicare Physician Payment Reform on Utilization and Access"; to the Committee on Finance.

EC–1503. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the report on hospital and hospital health care complex cost; to the Committee on Finance.

EC–1504. A communication from the Commissioner of the Social Security Administration, transmitting, pursuant to law, an interim report testing ways of promoting vocational rehabilitation; to the Committee on Finance.

EC–1505. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the report entitled, "Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution"; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 1319. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Too Much Fun*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. Inouye):

S. 1320. A bill to amend chapter 3 of title 28, United States Code, to provide for the appointment in each Federal judicial circuit Court of Appeals, of at least one resident of each State in such circuit, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1321. A bill for the relief of Alfredo Tolentino of Honolulu, Hawaii; to the Committee on Governmental Affairs.

By Mr. DOLE (for himself, Mr. Moynihan, Mr. Kyl, Mr. Inouye, Mr. D'Amato, Mr. Helms, Mr. Brown, Mr. Mack, Mr. Specter, Mr. Bond, Mr. Thurmond, Mr. Pressler, Mr. Faircloth, Mr. Bradley, Mr. Levin, Mr. Gramm, Mr. DeWine, Mr. Harkin, Mr. Shelby, Mr. McConnell, Mr. Lott, Mr. Hatch, Mr. Coats, Mr. Baucus, Mr. Thomas, Mr. Gorton, Mrs. Boxer, Mr. Grassley, Mr. Inhofe, Mr. Hollings, Mr. Heflin, Mr. Burns, Mr. Domenici, Mr. Lieberman, Mr. Nickles, Mr. Santorum, Mr. Cohen, Mr. Grams, Ms. Moseley-Braun, Mr. Ashcroft, Ms. Snowe, Mr. Robb, Mr. Conrad, Mr. Smith, Mr. Warner, Mr. Craig, Mr. KEMPTHORNE, Mr. REID, Mr. COVERDELL, Mrs. HUTCHISON, Mr. FORD, Mr. FRIST, Mr. CAMPBELL, Mr. MURKOWSKI, Mr. COCHRAN, Mr. ROTH, Mr. FEINGOLD, Mr. STEVENS, Mr. ROCKEFELLER, Mr. BIDEN, Mr. BRYAN, and Mr. BENNETT):

S. 1322. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; read the first time.

S. 1323. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 1319. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Too Much Fun*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

JONES ACT WAVIER LEGISLATION

Mr. WARNER. Mr. President, I am introducing a bill today to provide for a Jones Act wavier for a boat owned by a resident of the Commonwealth of Virginia.

The owner of the boat, Mr. Chip Frederick of Virginia, intends to use the boat to begin a boat charter business.

In the 103d Congress, H.R. 3281, was introduced which provided for a Jones Act waiver for Mr. Frederick's boat. The bill was never considered by the Senate and thereafter died after the session ended.

Mr. Frederick purchased his boat from a dealer he believed to be reputable. The dealer informed him that the boat could serve as an excellent charter boat and could be licensed for both commercial and charter uses. After Mr. Frederick purchased the boat, he discovered that additional upgrades were needed to prepare the boat for commercial use. When Mr. Frederick attempted to license the boat for commercial use, he was informed that the boat could not be licensed because it was built in Taiwan. Since that time, the dealer has closed his business and cannot be located. During the past few years, this potentially successful business has been placed on hold. In anticipation of beginning this new business, Mr. Frederick had hired a crew and support staff, but as time elapsed, he has been forced to lay off several employees.

When you consider the facts of this case, Mr. Frederick has made a sizable investment in a boat he purchased with misleading information. A Jones Act waiver will allow for Mr. Frederick to begin his new business and create more jobs in his community.

ADDITIONAL COSPONSORS

S. 386

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes.

S. 1032

At the request of Mr. ROTH, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1032, a bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1274

At the request of Mr. LOTT, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1274, a bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes.

S. 1299

At the request of Mr. PRYOR, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1299, a bill to bring opportunity to small business and taxpayers.

AMENDMENTS SUBMITTED

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

DOLE AMENDMENTS NOS. 2920–2921

Mr. DOLE submitted two amendments intended to be proposed by him to the amendment No. 2898 proposed by him to the bill (H.R. 927) seeking international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes; as follows:

AMENDMENT NO. 2920

At the end of Title I concerning international sanctions against the Castro government, insert the following new section:

SEC. . It is the Sense of the Congress that the President should exercise his authority under United States law to deny entry to Fidel Castro and other senior officials of the Cuban government into the territory of the United States because of Cuban government actions in support of acts of international terrorism, as determined by the Secretary of State pursuant to section 620A of the Foreign Assistance Act of 1961.

AMENDMENT NO. 2921

At the end of Title I, insert the following new section:

SEC. . EXCLUSION OF REPRESENTATIVES OF CERTAIN FOREIGN GOVERNMENTS FROM THE UNITED STATES.

The United Nations Headquarters Agreement Act (Public Law 80–357) is amended—

(1) in section 6, after "and its immediate vicinity", by inserting "except as provided in section 7 of this Act"; and

(2) by adding at the end the following new section:

"SEC. 7. Notwithstanding Article IV of the Agreement Between the United Nations and the United States of America Regarding the Headquarters of the United Nations, the President is authorized, at his discretion, to deny entry into the United States to—

(1) "representatives of Members whose government has repeatedly provided support for acts of international terrorism as determined by the Secretary of State in accordance with section 620A of the Foreign Assistance Act of 1961, such as Cuba under Fidel Castro's rule; and

(2) "representatives of Members which the President knows or has reason to believe based on information available to him has engaged in a terrorist activity, is likely to engage after entry in any terrorist activity, or is a member of any group which has engaged in terrorist activity.

HELMS AMENDMENTS NOS. 2922–2927

(Ordered to lie on the table.)

Mr. HELMS submitted six amendments intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

AMENDMENT NO. 2922

After section 302(a)(5)(B), add the following new paragraph:

(C) Notwithstanding the provision of (a) hereof, a United States national other than U.S. nationals on whose behalf the United States has already provided and is deemed hereby to have already provided adequate notice through the Foreign Claims Settlement Commission process or otherwise of the ownership by a U.S. national of property that may become subject to a cause of action hereunder, shall be required to provide following the effectiveness hereof, notice pursuant to the rules for litigants in the United States district court in which such action ultimately is brought two years prior to initiating that action, hereunder, notice on the intended defendant of its ownership claim and a demand that the unlawful trafficking therein cease forthwith. Such damages claimed in any suite filed against the aforesaid intended defendant may only be for trafficking occurring following said period of adequate notice.

AMENDMENT NO. 2923

At the end of the substitute, insert the following new title:

TITLE IV—EXCLUSION OF CERTAIN ALIENS

SEC. 401. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State, in consultation with the Attorney General, shall exclude from the United States any alien who the Secretary of

State determines is a person who has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a national of the United States, or converts or has converted for personal gain confiscated property the claim to which is owned by a national of the United States.

(b) This subsection shall be construed and applied consistent with the North American Free Trade Agreement, the General Agreement on Tariffs and Trade, and other applicable international agreements.

(c) EXCEPTIONS.—This subparagraph shall not apply—

(1) to claims arising from territory in dispute as a result of war between United Nations member states in which the ultimate resolution of the disputed territory has not been resolved; or

(2) where the Secretary of State deems that making such a determination would be contrary to the national interest of the United States.

(d) REPORT REQUIREMENT.—(1) The U.S. Embassy in each country shall provide the Secretary of State with a list of foreign nationals in that country who have confiscated properties of American citizens and have not fully resolved the cases with the American citizens.

(2) The Secretary of State shall submit this list to the appropriate congressional committees no later than six months after the date of the enactment of this Act.

(3) The Secretary of State, shall submit to the appropriate congressional committees a list of foreign nationals denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of foreign nationals refused entry to the United States as a result of this provision.

(4) The Secretary shall submit a report under this subsection not later than one year after the date of the enactment of this Act; and not later than February 1 of each year thereafter.

AMENDMENT NO. 2924

On page 18 of the pending amendment beginning with line 34 strike all through line 27 on page 20 and insert in lieu thereof the following:

(b) IN GENERAL.—It is the sense of the Congress that—

(1) no sugar or sugar product should enter the United States unless the exporter of the sugar or sugar product to the United States has certified, to the satisfaction of the Secretary of the Treasury, that the sugar or sugar product is not a product of Cuba;

(2) the Secretary of the Treasury should establish and enforce a certification requirement sufficient to satisfy the Secretary that the exporter has taken steps to ensure that it is not exporting to the United States, sugar or sugar products that are a product of Cuba;

(3) the Customs Service should fully exercise the authorities it has under sections 581 through 641 of the Tariff Act of 1930 (19 U.S.C. 1581 through 1641) against those found in violation thereof,

(4) the Secretary of the Treasury should report to the Congress on any unlawful acts and penalties imposed for violations of the prohibition of subsection (d); and

(5) the Secretary of the Treasury should publish in the Federal Register a list containing, to the extent such information is available, the name of any person or entity located outside the customs territory of the United States whose acts result in a violation of the prohibition on exporting any sugar of Cuban origin into the Customs territory of the United States.

(c) DEFINITIONS.—For purposes of this section:

(1) ENTER, ENTRY.—The terms "enter" and "entry"—mean entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) PRODUCT OF CUBA.—The term "product of Cuba" means a product that—

(A) is of Cuban origin,

(B) is or has been located in or transported from or through Cuba, or

(C) is made or derived in whole or in part from any article which is the growth, produce, or manufacture of Cuba.

(3) SUGAR, SUGAR PRODUCT.—The terms "sugar" and "sugar product" means sugars, syrups, molasses, or products with sugar content described in additional U.S. note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States.

AMENDMENT NO. 2925

On page 18 of the pending amendment beginning with line 2 strike all through line 27 on page 20.

AMENDMENT NO. 2926

After section 303 (c)(2) insert the following new paragraph.

(3) Nothing in this Act shall be deemed to establish either a precedent for a cause of action pursuant to this Act as it relates to other circumstances. Nor will anything in this Act give rise to a right or cause of action for any other confiscated property in Cuba or anywhere else in the world.

AMENDMENT NO. 2927

On page 36 of the pending amendment on lines 42 and 43 strike the words "exclusive of costs" and insert in lieu thereof "exclusive of interest and costs."

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Friday, October 13, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10 a.m. The purpose of this hearing is to examine the role of the Council on Environmental Quality in the decisionmaking and management processes of agencies under the committee's jurisdiction—Department of the Interior, Department of Energy, and the U.S. Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Government Information of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Friday, October 13, 1995, at 10 a.m., in Senate Hart room 216, on the Ruby Ridge incident.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FOURTH PREFERENCE FAMILY IMMIGRATION CATEGORY

• Mr. SIMON. Mr. President, immigration has been in the news a great deal over the past few months. The debate usually fails completely to account for the vast difference between legal and illegal immigration. Amidst calls for increased enforcement of our laws against illegal immigration to the United States—enforcement which I strongly support—we see proposals aimed at cutting back admissions of legal immigrants: those immigrants who play by the rules and enter our Nation the correct way.

In general, I oppose the idea of further restricting legal immigration to the United States, and particularly oppose drastic cuts in family-based immigration. Those foreigners who demonstrate the initiative to move to the United States are among the most industrious and motivated members of their own nations. Like the immigrants who arrived in America before them, they come to this country to join their families and to carve out opportunities for themselves. In doing so, they enrich our country economically, culturally, and socially. Those who support cuts in legal immigration often do so without identifying any concrete reason for these cuts, repeating only that the "national interest" justifies restricting both legal and illegal immigration. I cannot see how preventing worthy immigrants from reuniting with their families is in our national interest.

Today, I would like to focus on one particular category of legal immigrants who face the threat of a locked door to the United States: the brothers and sisters of U.S. citizens, who are currently eligible for immigrant visas under the fourth family preference category in our immigration laws. Currently, 65,000 immigrants enter the United States annually under this category, and hundreds of thousands of others face a backlog. Both Barbara Jordan's Commission on Immigration Reform and various Members of Congress have proposed eliminating this family preference category outright. I have great concerns about these proposals on two levels.

First, proponents of elimination of the fourth family preference justify their proposals by emphasizing that our family-based immigration system should focus on the nuclear family, and that the sibling relationships protected by the fourth preference category are too attenuated to qualify as a priority in our immigration policy. I think that if we were to survey the American public, we would find that people of every ethnic and racial background value sibling relationships so much that they would—and do—fully support an immigration system that reunifies siblings as well as nuclear family members. While the public is undoubtedly and justifiably concerned about illegal immigration, I have seen no evidence that it devalues legal immigration generally, or sibling relationships in particular, in the manner suggested by those who propose eliminating the fourth family preference. In fact, quite the contrary.

Second, I am especially concerned about the effect of elimination of the fourth preference on those individuals who are currently in the backlog. These prospective immigrants and their sponsors—who are citizens of the United States—have expended substantial resources and funds in attaining eligibility for an immigrant visa. They have played by the rules, and waited patiently for their numbers to come up. As much as these individuals want to reunite with their siblings, they have decided against taking the rash but convenient step of entering or staying in the United States illegally. It would be fundamentally unfair for the United States to take the money and run without fulfilling its commitment to these individuals.

I submit for the RECORD a New York Times article from September 24, 1995, which tells the story of Sonya Canton, a naturalized American citizen. She has two sisters, one of whom has illegally overstayed her visa to the United States, is living here today legally under the 1986 amnesty, and will soon become eligible for citizenship; and the other of whom waits patiently in the fourth preference backlog, having paid both her fees and her dues. Mrs. Canton states: "It is some kind of injustice when those who played by the rules can't get in, but those who broke the rules are now going to become citizens." I could not say it any better. At the very least, proposals to reform the fourth preference should, as a matter of fairness, provide for those in the current backlog.

I bring to this issue a personal perspective. The director of my Chicago office, Nancy Chen, has sponsored two of her brothers into the United States under the fourth preference. Both of them live near her in Illinois, and both are productive members of society with good jobs. The closeness and industry demonstrated by this family is the very behavior we should applaud and encourage. I fear that by eliminating the fourth preference category we do just the opposite, and call on my colleagues in Congress and on the administration to find a more suitable solution in this area—one that, at the very least, treats those backlogged visa applicants with the fairness they deserve.

The article follows:

[From the New York Times, September 24, 1995]

NARROWING THE U.S. IMMIGRATION GATE

(By Seth Mydans)

Seventeen years ago, Sonya Canton, an American citizen born in the Philippines, petitioned for her sister, a banker, to join her here under the family-reunification policy that has been the basic principle of United States immigration law for 30 years.

While she was waiting, a second sister, who sold exotic seashells for a living, visited the United States as a tourist, liked the place and decided to stay on illegally with her three children.

To this sister's surprise and good fortune, in 1986 Congress offered amnesty to illegal immigrants, and she and her children became legal residents, eligible for citizenship. Today she works as a saleswoman in a department store, and her children have all graduated from high school with honors.

Meanwhile, as a banker sister continues to wait, the mood of the country, and of Congress, has changed. Struggling to stem a flood of legal and illegal immigrants, Congress is preparing to cut deeply into family-reunification quotes this fall and drop people like her from eligibility.

If the changes are enacted, the United States would shut the door on about 2.4 million people—the brothers, sisters and adult children of citizens and legal residents—who have waited for years or decades to enter the country as legal immigrants. That number nearly matches the three million illegal immigrants granted amnesty in 1986.

"It is some kind of injustice when those who played by the rules can't get in, but those who broke the rules are now going to become citizens," said Ms. Canton, an import specialist for the United States Customs Service.

But even immigration advocates concede that the current law has become unwieldy, with a total of 3.5 million people waiting—some in lines that stretch for 40 years or more—to join relatives in the United States.

In some countries, like the Philippines, the projected wait for American visas is so long that the categories for siblings and adult children effectively no longer exist. Nonetheless, the applications keep coming in, and the lines grow longer. The solution most favored by Congress is to focus on the nuclear family and to eliminate from eligibility those with less immediate ties.

"I don't think there is any risk that family unity will be eliminated as a basis for immigration to the United States," said Arthur C. Helton, an immigration expert with the Open Society Institute, a lobbying group in New York that studies international issues. "But what that means in a number of specific contexts will be redefined, and a focus on the immediate nuclear family will emerge."

That approach became evident when a Presidential commission led by Barbara Jordan, a Democrat and former Representative from Texas, recently began drafting proposed changes in the immigration law. In an interim report issued in June, the commission recommended, among other things, allowing citizens and legal residents to bring in only spouses and minor, unmarried children—not their siblings or adult children.

Congress is now considering a number of immigration bills. The most far-reaching was submitted in June by Representative Lamar Smith, the Texas Republican who heads the House subcommittee on immigration. His bill is in the hands of the House Judiciary Committee. In the Senate, Alan K. Simpson, Republican of Wyoming, is preparing to introduce a similar bill.

The Smith and Simpson measures largely attack illegal immigration; they propose stronger border controls, workplace enforcement and deportation procedures. In addressing legal immigration, the bills drastically cut family-reunification admissions by making the siblings and grown children of legal residents and citizens no longer eligible for immigration. The Smith bill would reduce the number of legal immigrants to 535,000 a year, compared with about 800,000 last year.

The changes would reduce the waiting lists and speed the entry of the spouses and minor children of legal residents. Currently, the spouses and minor children of United States citizens can enter immediately, without a numerical quota. But about 1.1 million spouses and minor children of legal residents are caught in the backlog, along with siblings and children over 21.

Apart from family reunification, the primary avenue for immigration into the United States is employment.

The 1986 amnesty is partly responsible for the flood of applicants that has created pressure for the changes. About 80 percent of the spouses and minor children on the immigration waiting lists are relatives of those who won legal residence under that law, Government figures show.

The total family-preference waiting list of 3.5 million is twice as long as when the amnesty law took effect. Under current quotas, only 253,721 of those waiting will receive visas this year, even as the list of applicants grows longer.

The backlog includes one million applicants from Mexico and about 500,000 from the Philippines. Before the 1986 amnesty, the Philippines was the largest source of legal immigrants into the United States. Those countries are followed by India, China, Vietnam, the Dominican Republic, Taiwan, South Korea, El Salvador and Haiti.

Short of raising the ceiling for immigration, there seems to be little way to accommodate the lengthening waiting list of siblings and adult children.

"Clearly the public mood and the practical realities of today's America require that we cut down on immigration," said Dan Stein, executive director of the Federation for American Immigration Reform, an independent lobbying group.

Calling the Jordan, Smith and Simpson proposals "an effort to strike a balance," he said, "We have to make these decisions based on what is in our national interest." He added, "We have no duty or obligation to people who have been waiting in line because the system is impractical in the first place."

But opponents say the cuts are politically motivated and unnecessary. "Since when did the United States become too small for the parents and children and brothers and sisters of United States citizens?" asked Frank Sharry, executive director of the National Immigration Forum, a pro-immigration lobbying group. "The idea of bringing in energetic newcomers who are helped by family members to get a leg up in this society is something that has worked for 300 years."

He added, "For a Congress that prides itself in being pro-family, it seem hypocritical to cut family immigration by 30 percent."

One potential victim of the expected changes is Leticia Chong, a Filipino nurse who has played by the rules and prospered. She entered the country legally in 1981, became a legal resident, obtained both business and nursing degrees here and brought up five Philippines-born children to become American doctors, nurses and engineers. Today they are all either citizens or legal residents.

Her problem is her sixth and last child, an engineering student who will turn 21 this month, having waited in vain for his name to come up in the backlog of petitions for minor children of legal residents. He now enters the category of adult children, and—like

Ms. Canton's banker sister—he would simply be dropped from eligibility under the proposed changes.

"He has been here since he was 11 years old," Mrs. Chong said. "He has friends here. His family is here. This is his home. What will he do if he has to go back to the Philippines?"•

HONORING THE MONTSHIRE MUSEUM OF SCIENCE 1995 WINNER OF THE NATIONAL MUSEUM SERVICES AWARD

• Mr. JEFFORDS. Mr. President, on Friday, October 6, 1995, the Institute of Museum Services announced the winners of the 1995 National Awards for Museum Services. The awards were presented to five museums that demonstrated success in attracting new audiences, developing innovative programming which address educational, social, economic, and environmental issues, and entering into collaborations with other public institutions in the community. Winners received the awards at a special White House ceremony. I am so proud that one of the museums chosen to be honored this year comes from the State of Vermont. The Montshire Museum of Science in Norwich, VT is a recipient of the 1995 National Museum Service Award. Serving both Vermont and New Hampshire, the Montshire Museum is a model of creativity, usefulness, and public service.

The Montshire Museum is an outstanding science museum that has enriched the cultural and educational life of the Norwich community and surrounding environs. It has set itself apart through a commitment to special activities and exhibitions, bringing unique vitality and purpose to innovative programming. For years, the Montshire Museum has been making learning science fun and accessible for people of all ages. For example, the Montshire has developed educational exhibitions that inform visitors about recycling and "precycling," or making smart purchasing decisions as part of its work in partnership with the Hartford Community Center for Recycling and Waste Management. As a result of the Montshire Museum's commitment, thousands who have come to the center to dispose of waste have had an opportunity to learn more about recycling and making smarter, more environmentally friendly purchasing decisions. In addition, the Montshire has been a leader in creating a new community computer network housed in the museum—a great asset to all served by the museum. Clearly, this small science museum has taken a leadership role in making a difference to its community.

Since it was established 20 years ago, the Montshire Museum has made an enormous impact on presenting unique educational opportunities for the people of Vermont and New Hampshire. It is truly an example of excellence in partnership and learning. My sincere congratulations to David Goudy, director of the Montshire Museum and to Bruce Pipes, chairman of the board—as well as to the all of the other committed individuals working at the Montshire Museum—for this exceptional honor. I am certain that it will continue to make a positive difference in our State that will last far into the future.•

TRIBUTE TO MAJ. GEN. JAMES M. HURLEY, USAF, ON HIS RETIREMENT

• Mr. NUNN. Mr. President, I would like the Senate to recognize Maj. Gen. James M. Hurley on the occasion of his retirement from active duty with the U.S. Air Force. General Hurley will retire from his position as the Director of Plans and Programs at Headquarters Air Combat Command at Langley AFB, VA. Throughout his tenure in this position, General Hurley has been responsible for the development of concepts, policies, and doctrine for the employment of Combat Air Forces. In addition, he has overseen the force structure requirements and budgeting for all Combat Air Forces programs and aircraft assignments as well as the interactions between Combat Air Forces and the FAA.

During his college years at Texas A&M University, General Hurley participated in the Reserve Officer Training Corps program. After his graduation from college in May 1965, he began his career in the Air Force. He earned a command pilot rating and has logged more than 3,300 flight hours, primarily in fighter aircraft such as the F-4 and F-16. He flew 143 combat missions over North Vietnam and Laos. From January 1978 to November 1981, General Hurley commanded a squadron in the 347th Tactical Fighter Wing at Moody AFB, GA. His next assignment was at Headquarters U.S. Air Force in Washington, DC, where he served as the Chief of Flying Training for the Deputy Chief of Staff for Manpower and Personnel. From July 1987 through June 1988, General Hurley served as the vice commander and wing commander of the 474th Tactical Fighter Wing based at Nellis AFB, NV.

In 1987, General Hurley returned to Headquarters, U.S. Air Force to assume the post of Deputy Director, and later, the post of Director of Personnel Plans. From July 1989 through July 1991, he served as the Chief of Staff for NATO's 2d Tactical Air Force in Germany. In July 1991, General Hurley became the Director of Manpower and Organization at Headquarters U.S. Air Force. He remained in that position until May 1992, when he undertook his current assignment.

General Hurley has served the United States with great distinction and honor. Throughout his outstanding career in the U.S. Air Force, General Hurley has received numerous decorations and medals, including the Defense Superior Service Medal, the Legion of Merit, the Distinguished Flying Cross, the Meritorious Service Medal with 4 oak leaf clusters, the Air Medal with 11 oak leaf clusters, the Presidential Unit Citation, and the Vietnam Service Medal with 3 bronze stars.

Mr. President, on behalf of a grateful Nation, I ask my colleagues to join me in thanking Maj. Gen. James M. Hurley for his exemplary service in the U.S. Air Force. We wish him, his wife Donna, and their two daughters, Lisa and April, Godspeed and every success in their future endeavors.•

VIOLENCE POLICY CENTER'S REPORT, "COP KILLERS: ASSAULT WEAPON ATTACKS ON AMERICA'S POLICE"

• Mr. SIMON. Mr. President, I would like to draw my colleagues' attention to a report recently released by the Violence Policy Center which refutes one of the most persistent criticisms of the assault weapon ban—that assault weapons are not used by criminals. The ban on semiautomatic assault weapons, enacted into law last year, has been the subject of intense criticism and unfortunately seems to be the target of an almost inevitable repeal effort in this Congress. This report should help clarify the real dangers posed by these weapons.

Despite the support of numerous law enforcement groups, and compelling testimony to the contrary, many opponents of the assault weapon ban claim that assault weapons are rarely used in crimes, and pose little threat to law enforcement personnel. This report, based on a survey of newspaper clips from across the nation from February to July, 1995, provides further evidence to the contrary.

The survey identifies eight police officers killed and nine wounded by assault weapons during this 5-month period. It documents 20 separate incidents in which at least 43 law enforcement officers were confronted by assailants armed with assault weapons. This figure only includes incidents where these weapons posed an imminent threat to the officers, not incidents where assault weapons were found on suspects or confiscated during the course of an investigation or arrest. Twelve of the 20 incidents involved AK-47 assault rifles or TEC-9 assault pistols, both of which are explicitly banned by the Federal legislation. The study finds that at least 1 in 10 law enforcement officers killed in the line of duty will be felled by assault weapons.

I urge my colleagues to read this report, and seriously consider the public safety and public policy issues involved in this issue. We should heed the voices of the many law enforcement groups which strongly support the ban. We should not repeal the assault weapon ban before it is given a chance to make a difference.•

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 193, S. 1267.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1267) to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1267) was deemed read the third time and passed, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Act Amendments of 1995".

SEC. 2. EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.

Section 5(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking "and 1994" and inserting "1994, 1995, 1996, and 1997".

SEC. 3. TERMINATION.

Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 1995" and inserting "October 1, 1998".

WEEK WITHOUT VIOLENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 180, a resolution designating October 15–21, 1995 as the "Week Without Violence"; that the Senate then proceed to its immediate consideration; that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 180) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 180

Whereas the Week Without Violence, a public-awareness campaign designed to inspire alternatives to the problem of violence in our society, falls on October 15, 1995, through October 21, 1995;

Whereas the prevalence of violence in our society has become increasingly disturbing, as reflected by the fact that 2,000,000 people are injured each year as a result of violent crime, with a staggering 24,500 reported murders in 1993 and with losses from medical expenses, lost pay, property, and other crime-related costs totaling billions of dollars each year;

Whereas studies show that violence against women in their own homes causes more total injuries to women than rape, muggings, and car accidents combined and that one-half of all women who are murdered in the United States are killed by their male partners;

Whereas violence has invaded our homes and communities and is exacting a terrible toll on our country's youth;

Whereas children below the age of 12 are the victims of 1 in 4 violent juvenile victimizations reported to law enforcement, adding up to roughly 600,000 violent incidents involving children under the age of 12 each year;

Whereas studies show that childhood abuse and neglect increases a child's odds of future delinquency and adult criminality and that today's juvenile victims are tomorrow's repeat offenders;

Whereas the risk of violent victimization of children and young adults has increased in recent years;

Whereas according to FBI statistics, on a typical day in 1992, 7 juveniles were murdered;

Whereas from 1985 to 1992, nearly 17,000 persons under the age of 18 were murdered;

Whereas the YWCA, as the oldest women's membership movement in the United States, continues its long history as an advocate for women's rights, racial justice, and nonviolent approaches to resolving many of society's most troubling problems;

Whereas the chapters of the YWCA provide a wide range of valuable programs for women all across the country, including job training programs, child care, battered women's shelters, support programs for victims of rape and sexual assault, and legal advocacy;

Whereas the YWCA Week Without Violence campaign will take an active approach to confront the problem of violence head-on, with a grassroots effort to prevent violence from making further inroads into our schools, community organizations, workplaces, neighborhoods, and homes;

Whereas the Week Without Violence will provide a forum for examining viable solutions for keeping violence against women, men, and children out of our homes and communities;

Whereas national and local groups will inspire and educate our communities about effective alternatives to violence; and

Whereas the YWCA Week Without Violence is both a challenge and a clarion call to all Americans: Now, therefore, be it

Resolved, That the Senate encourages all Americans to spend 7 days without committing, condoning, or contributing to violence and proclaims the week of October 15, 1995, through October 21, 1995, as the "Week Without Violence".

Mr. HATCH. Mr. President, I am pleased to rise today to support passage of Senate Resolution 180, declaring next week the "Week Without Violence." This week is part of what I hope will be a tremendous public awareness campaign to educate Americans about the threat of violence in our society and to offer alternatives to this grave problem.

None of us is immune from the violence in our communities. In rural and urban areas across this country, men, women, and children are at risk. They are at risk not just on the streets, but all too often in their homes or in their schools.

I enthusiastically join Senator BRADLEY and others in supporting this resolution; it calls on Americans to spend a week without committing, condoning, ignoring, or contributing to violence.

Teaching people that violence is not acceptable and educating victims of violence to seek out protection will save lives. The issue of violence deserves national attention and demands community involvement. I hope and believe that the focus of the "Week Without Violence" will be a small but significant step in decreasing the scourge of violence in our society.

RYAN WHITE CARE REAUTHORIZATION ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 641) entitled "An Act to reauthorize the Ryan White CARE Act of 1990, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ryan White CARE Act Amendments of 1995".

SEC. 2. REFERENCES.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

SEC. 101. ESTABLISHMENT OF PROGRAM OF GRANTS.

(a) NUMBER OF CASES; DELAYED APPLICABILITY.—Effective October 1, 1996, section 2601(a) (42 U.S.C. 300ff–11) is amended—

(1) by striking "subject to subsection (b)" and inserting "subject to subsections (b) through (d)"; and

(2) by striking "metropolitan area" and all that follows and inserting the following: "metropolitan area for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency

syndrome for the most recent period of five calendar years for which such data are available.".

(b) OTHER PROVISIONS REGARDING ELIGIBILITY.—Section 2601 (42 U.S.C. 300ff–11) is amended by adding at the end thereof the following subsections:

"(c) REQUIREMENTS REGARDING POPULATION.—

"(1) NUMBER OF INDIVIDUALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not make a grant under this section for a metropolitan area unless the area has a population of 500,000 or more individuals.

"(B) LIMITATION.—Subparagraph (A) does not apply to any metropolitan area that was an eligible area under this part for fiscal year 1995 or any prior fiscal year.

"(2) GEOGRAPHIC BOUNDARIES.—For purposes of eligibility under this part, the boundaries of each metropolitan area are the boundaries that were in effect for the area for fiscal year 1994.

"(d) CONTINUED STATUS AS ELIGIBLE AREA.—Notwithstanding any other provision of this section, a metropolitan area that was an eligible area under this part for fiscal year 1996 is an eligible area for fiscal year 1997 and each subsequent fiscal year.".

(c) CONFORMING AMENDMENT REGARDING DEFINITION OF ELIGIBLE AREA.—Section 2607(1) (42 U.S.C. 300ff–17(1)) is amended by striking "The term" and all that follows and inserting the following: "The term 'eligible area' means a metropolitan area meeting the requirements of section 2601 that are applicable to the area.".

SEC. 102. HIV HEALTH SERVICES PLANNING COUNCIL.

(a) ESTABLISHMENT.—Section 2602(b)(1) (42 U.S.C. 300ff–12(b)(1)) is amended—

(1) in subparagraph (A), by inserting before the semicolon the following: ", including federally qualified health centers";

(2) in subparagraph (D), by inserting before the semicolon the following: "and providers of services regarding substance abuse";

(3) in subparagraph (G), by inserting before the semicolon the following: "and historically underserved groups and subpopulations";

(4) in subparagraph (I), by inserting before the semicolon the following: ", including the State medicaid agency and the agency administering the program under part B";

(5) in subparagraph (J), by striking "and" after the semicolon;

(6) by striking subparagraph (K); and

(7) by adding at the end the following subparagraphs:

"(K) grantees under section 2671, or, if none are operating in the area, representatives of organizations in the area with a history of serving children, youth, women, and families living with HIV; and

"(L) grantees under other HIV-related Federal programs.".

(b) DUTIES.—Section 2602(b)(3) (42 U.S.C. 300ff–12(b)(3)) is amended—

(1) by striking "The planning" in the matter preceding subparagraph (A) and all that follows through the semicolon at the end of subparagraph (A) and inserting the following: "The planning council under paragraph (1) shall carry out the following:

"(A) Establish priorities for the allocation of funds within the eligible area based on the following factors:

"(i) Documented needs of the HIV-infected population.

"(ii) Cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available.

"(iii) Priorities of the HIV-infected communities for which the services are intended.

"(iv) Availability of other governmental and nongovernmental resources.";

(2) in subparagraph (B)—

(A) by striking "develop" and inserting "Develop"; and

(B) by striking "; and" and inserting a period;

(3) in subparagraph (C)—

(A) by striking "assess" and inserting "Assess";

(B) by striking "rapidly"; and

(C) by inserting before the period the following: ", and assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs"; and

(4) by adding at the end the following subparagraphs:

"(D) Participate in the development of the statewide coordinated statement of need initiated by the State health department (where it has been so initiated).

"(E) Obtain input on community needs through conducting public meetings.".

(c) GENERAL PROVISIONS.—Section 2602(b) (42 U.S.C. 300ff–12(b)) is amended by adding at the end the following paragraph:

"(4) GENERAL PROVISIONS.—

"(A) COMPOSITION OF COUNCIL.—The planning council under paragraph (1) shall (in addition to requirements under such paragraph) reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. Nominations for membership on the council shall be identified through an open process, and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard for each nominee.

"(B) CONFLICTS OF INTEREST.—

"(i) The planning council under paragraph (1) may not be directly involved in the administration of a grant under section 2601(a). With respect to compliance with the preceding sentence, the planning council may not designate (or otherwise be involved in the selection of) particular entities as recipients of any of the amounts provided in the grant.

"(ii) An individual may serve on the planning council under paragraph (1) only if the individual agrees to comply with the following:

"(I) If the individual has a financial interest in an entity, and such entity is seeking amounts from a grant under section 2601(a), the individual will not, with respect to the purpose for which the entity seeks such amounts, participate (directly or in an advisory capacity) in the process of selecting entities to receive such amounts for such purpose.

"(II) In the case of a public or private entity of which the individual is an employee, or a public or private organization of which the individual is a member, the individual will not participate (directly or in an advisory capacity) in the process of making any decision that relates to the expenditure of a grant under section 2601(a) for such entity or organization or that otherwise directly affects the entity or organization.".

SEC. 103. TYPE AND DISTRIBUTION OF GRANTS.

(a) FORMULA GRANTS BASED ON RELATIVE NEED OF AREAS.—Section 2603(a) (42 U.S.C. 300ff–13(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting ", subject to paragraph (4)" before the period; and

(B) by adding at the end the following sentence: "Grants under this paragraph for a fiscal year shall be disbursed not later than 60 days after the date on which amounts appropriated under section 2677 become available for the fiscal year, subject to any waivers under section 2605(d).";

(2) in paragraph (2), by amending the paragraph to read as follows:

"(2) ALLOCATIONS.—Of the amount available under section 2677 for a fiscal year for making grants under section 2601(a)—

"(A) the Secretary shall reserve 50 percent for making grants under paragraph (1) in amounts determined in accordance with paragraph (3); and

"(B) the Secretary shall, after compliance with subparagraph (A), reserve such funds as may be necessary to carry out paragraph (4)."; and

(3) by adding at the end the following paragraph:

"(4) MAXIMUM REDUCTION IN GRANT.—In the case of any eligible area for which a grant under paragraph (1) was made for fiscal year 1995, the Secretary, in making grants under such paragraph for the area for the fiscal years 1996 through 2000, shall (subject to the extent of the amount available under section 2677 for the fiscal year involved for making grants under section 2601(a)) ensure that the amounts of the grants do not, relative to such grant for the area for fiscal year 1995, constitute a reduction of more than the following, as applicable to the fiscal year involved:

"(A) 1 percent, in the case of fiscal year 1996.

"(B) 2 percent, in the case of fiscal year 1997.

"(C) 3 percent, in the case of fiscal year 1998.

"(D) 4 percent, in the case of fiscal year 1999.

"(E) 5 percent, in the case of fiscal year 2000.".

(b) SUPPLEMENTAL GRANTS.—Section 2603(b) (42 U.S.C. 300ff–13(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "Not later than" and all that follows through "section 2605(b)—" and inserting the following: "After allocating in accordance with subsection (a) the amounts available under section 2677 for grants under section 2601(a) for a fiscal year, the Secretary, in carrying out section 2601(a), shall from the remaining amounts make grants to eligible areas described in this paragraph. Such grants shall be disbursed not later than 150 days after the date on which amounts appropriated under section 2677 become available for the fiscal year. An eligible area described in this paragraph is an eligible area whose application under section 2605(b)—";

(B) in subparagraph (D), by striking "and" after the semicolon;

(C) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(D) by adding at the end thereof the following subparagraph:

"(F) demonstrates the manner in which the proposed services are consistent with the local needs assessment and the statewide coordinated statement of need."; and

(2)(A) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(B) by inserting after paragraph (1) the following paragraph:

"(2) PRIORITY.—

"(A) SEVERE NEED.—In determining severe need in accordance with paragraph (1)(B), the Secretary shall give priority consideration in awarding grants under this subsection to eligible areas that (in addition to complying with paragraph (1)) demonstrate a more severe need based on the prevalence in the eligible area of—

"(i) sexually transmitted diseases, substance abuse, tuberculosis, severe mental illness, or other conditions determined relevant by the Secretary, which significantly affect the impact of HIV disease;

"(ii) subpopulations with HIV disease that were previously unknown in such area; or

"(iii) homelessness.

"(B) PREVALENCE.—In determining prevalence of conditions under subparagraph (A), the Secretary shall use data on the prevalence of the

conditions described in such subparagraph among individuals with HIV disease (except that, in the case of an eligible area for which such data are not available, the Secretary shall use data on the prevalences of the conditions in the general population of such area).".

(c) ADDITIONAL REQUIREMENTS FOR GRANTS.—Section 2603 (42 U.S.C. 300ff–13) is amended by adding at the end the following subsection:

"(c) COMPLIANCE WITH PRIORITIES OF HIV PLANNING COUNCIL.—Notwithstanding any other provision of this part, the Secretary, in carrying out section 2601(a), may not make any grant under subsection (a) or (b) to an eligible area unless the application submitted by such area under section 2605 for the grant involved demonstrates that the grants made under subsections (a) and (b) to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section 2602(b)(3)(A), by the planning council serving the area.".

SEC. 104. USE OF AMOUNTS.

Section 2604 (42 U.S.C. 300ff–14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking "including case management and comprehensive treatment services, for individuals" and inserting the following: "including HIV-related comprehensive treatment services (including treatment education and measures for the prevention and treatment of opportunistic infections), case management, and substance abuse treatment and mental health treatment, for individuals";

(B) in paragraph (2)(A)—

(i) by inserting after "nonprofit private entities," the following: "or private for-profit entities if such entities are the only available provider of quality HIV care in the area," ; and

(ii) by striking "and homeless health centers" and inserting "homeless health centers, substance abuse treatment programs, and mental health programs"; and

(C) by adding at the end the following paragraph:

"(3) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—For the purpose of providing health and support services to infants, children, and women with HIV disease, the chief elected official of an eligible area shall use, of the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population in such area of infants, children, and women with acquired immune deficiency syndrome to the general population in such area of individuals with such syndrome, or 15 percent, whichever is less. In expending the funds reserved under the preceding sentence for a fiscal year, the chief elected official shall give priority to providing, for pregnant women, measures to prevent the perinatal transmission of HIV."; and

(2) in subsection (e), by adding at the end thereof the following sentence: "In the case of entities to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).".

SEC. 105. APPLICATION.

Section 2605 (42 U.S.C. 300ff–15) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking "1-year period" and all that follows through "eligible area" and inserting "preceding fiscal year";

(B) in paragraph (4), by striking "and" at the end thereof;

(C) in paragraph (5), by striking the period at the end thereof and inserting "; and"; and

(D) by adding at the end thereof the following paragraph:

"(6) that the applicant will participate in the process for the statewide coordinated statement of need (where it has been initiated by the State), and will ensure that the services provided under the comprehensive plan are consistent with such statement.";

(2) in subsection (b)—

(A) in the subsection heading, by striking "ADDITIONAL"; and

(B) in the matter preceding paragraph (1), by striking "additional";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b), the following subsection:

"(c) SINGLE APPLICATION.—Upon the request of the chief elected official of an eligible area, the Secretary may authorize the official to submit a single application through which the official simultaneously requests a grant pursuant to subsection (a) of section 2603 and a grant pursuant to subsection (b) of such section. The Secretary may establish such criteria for carrying out this subsection as the Secretary determines to be appropriate.".

SEC. 106. TECHNICAL ASSISTANCE; PLANNING GRANTS.

Section 2606 (42 U.S.C. 300ff–16) is amended—

(1) by inserting before "The Administrator" the following: "(a) IN GENERAL.—";

(2) by striking "may, beginning" and all that follows through "title," and inserting "(referred to in this section as the 'Administrator') shall"; and

(3) by adding at the end the following subsection:

"(b) PLANNING GRANTS REGARDING INITIAL ELIGIBILITY FOR GRANTS.—

"(1) ADVANCE PAYMENTS ON FIRST-YEAR FORMULA GRANTS.—With respect to a fiscal year (referred to in this subsection as the 'planning year'), if a metropolitan area has not previously received a grant under section 2601 and the Administrator reasonably projects that the area will be eligible for such a grant for the subsequent fiscal year, the Administrator may make a grant for the planning year for the purpose of assisting the area in preparing for the responsibilities of the area in carrying out activities under this part.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—A grant under paragraph (1) for a planning year shall be made directly to the chief elected official of the city or urban county that administers the public health agency to which section 2602(a)(1) is projected to apply for purposes of such paragraph. The grant may not be made in an amount exceeding $75,000.

"(B) OFFSETTING REDUCTION IN FIRST FORMULA GRANT.—In the case of a metropolitan area that has received a grant under paragraph (1) for a planning year, the first grant made pursuant to section 2603(a) for such area shall be reduced by an amount equal to the amount of the grant under such paragraph for the planning year. With respect to amounts resulting from reductions under the preceding sentence for a fiscal year, the Secretary shall use such amounts to make grants under section 2603(a) for the fiscal year, subject to ensuring that none of such amounts are provided to any metropolitan area for which such a reduction was made for the fiscal year.

"(3) FUNDING.—Of the amounts available under section 2677 for a fiscal year for carrying out this part, the Administrator may reserve not more than 1 percent for making grants under paragraph (1).".

TITLE II—CARE GRANT PROGRAM

SEC. 201. GENERAL USE OF GRANTS.

Section 2612 (42 U.S.C. 300ff–22) is amended to read as follows:

"SEC. 2612. GENERAL USE OF GRANTS.

"(a) IN GENERAL.—A State may use amounts provided under grants made under this part for the following:

"(1) To provide the services described in section 2604(b)(1) for individuals with HIV disease.

"(2) To provide to such individuals treatments that in accordance with section 2616 have been determined to prolong life or prevent serious deterioration of health.

"(3) To provide home- and community-based care services for such individuals in accordance with section 2614.

"(4) To provide assistance to assure the continuity of health insurance coverage for such individuals in accordance with section 2615.

"(5) To establish and operate consortia under section 2613 within areas most affected by HIV disease, which consortia shall be designed to provide a comprehensive continuum of care to individuals and families with such disease in accordance with such section.

"(b) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—For the purpose of providing health and support services to infants, children, and women with HIV disease, a State shall use, of the funds allocated under this part to the State for a fiscal year, not less than the percentage constituted by the ratio of the population in the State of infants, children, and women with acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome, or 15 percent, whichever is less. In expending the funds reserved under the preceding sentence for a fiscal year, the State shall give priority to providing, for pregnant women, measures to prevent the perinatal transmission of HIV.".

SEC. 202. GRANTS TO ESTABLISH HIV CARE CONSORTIA.

Section 2613 (42 U.S.C. 300ff–23) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "(or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)" after "nonprofit private,"; and

(B) in paragraph (2)(A)—

(i) by inserting "substance abuse treatment, mental health treatment," after "nursing,"; and

(ii) by inserting after "monitoring," the following: "measures for the prevention and treatment of opportunistic infections, treatment education for patients (provided in the context of health care delivery),"; and

(2) in subsection (c)(2)—

(A) in clause (ii) of subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding after subparagraph (B) the following subparagraph:

"(C) grantees under section 2671, or, if none are operating in the area, representatives in the area of organizations with a history of serving children, youth, women, and families living with HIV.".

SEC. 203. PROVISION OF TREATMENTS.

Section 2616(a) (42 U.S.C. 300ff–26(a)) is amended—

(1) by striking "may use amounts" and inserting "shall use a portion of the amounts";

(2) by striking "section 2612(a)(4)" and inserting "section 2612(a)(2)"; and

(3) by inserting before the period the following: ", including measures for the prevention and treatment of opportunistic infections".

SEC. 204. ADDITIONAL REQUIREMENTS FOR GRANTS.

(a) FINDINGS.—The Congress finds as follows:

(1) Research studies have demonstrated that administration of antiviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus

(commonly known as HIV) from an infected mother to her baby.

(2) The Centers for Disease Control and Prevention have recommended that all pregnant women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including antiviral therapy) and support services.

(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults.

(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

(7) For the reasons specified in paragraphs (1) through (6)—

(A) mandatory counseling and voluntary testing of pregnant women should be the standard of care; and

(B) the relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.

(b) ADDITIONAL REQUIREMENTS FOR GRANTS.—Part B (42 U.S.C. 300ff–21 et seq.) is amended—

(1) in section 2611, by adding at the end the following sentence: "The authority of the Secretary to provide grants under this part is subject to section 2673D (relating to the testing of pregnant women and newborn infants)."; and

(2) by inserting after section 2616 the following section:

"SEC. 2616A. REQUIREMENT REGARDING HEALTH INSURANCE.

"(a) IN GENERAL.—Subject to subsection (c), the Secretary shall not make a grant under this part to a State unless the State has in effect a statute or regulations regulating insurance that imposes the following requirements:

"(1) That, if health insurance is in effect for an individual, the insurer involved may not (without the consent of the individual) discontinue the insurance, or alter the terms of the insurance (except as provided in paragraph (3)), solely on the basis that the individual is infected with HIV disease or solely on the basis that the individual has been tested for the disease.

"(2) That paragraph (1) does not apply to an individual who, in applying for the health insurance involved, knowingly misrepresented any of the following:

"(A) The HIV status of the individual.

"(B) Facts regarding whether the individual has been tested for HIV disease.

"(C) Facts regarding whether the individual has engaged in any behavior that places the individual at risk for the disease.

"(3) That paragraph (1) does not apply to any reasonable alteration in the terms of health insurance for an individual with HIV disease that would have been made if the individual had a serious disease other than HIV disease.

"(b) REGULATION OF HEALTH INSURANCE.—A statute or regulation shall be deemed to regulate insurance for purposes of this section only to the extent that it is treated as regulating insurance for purposes of section 514(b)(2) of the Employee Retirement Income Security Act of 1974.

"(c) APPLICABILITY OF REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section applies upon the expiration of the 120-day period beginning on the date of the enactment of the Ryan White CARE Act Amendments of 1995.

"(2) DELAYED APPLICABILITY FOR CERTAIN STATES.—In the case of the State involved, if the Secretary determines that a requirement of this section cannot be implemented in the State without the enactment of State legislation, then such requirement applies to the State on and after the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of the enactment of the Ryan White CARE Act Amendments of 1995. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session is deemed to be a separate regular session of the State legislature.".

(c) TESTING OF NEWBORNS; PRENATAL TESTING.—Part D (42 U.S.C. 300ff–71 et seq.) is amended by inserting before section 2674 the following sections:

"SEC. 2673C. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS; PROGRAM OF GRANTS.

"(a) PROGRAM OF GRANTS.—The Secretary may make grants to States described in subsection (b) for the following purposes:

"(1) Making available to pregnant women appropriate counseling on HIV disease.

"(2) Making available to such women testing for such disease.

"(3) Testing newborn infants for such disease.

"(4) In the case of newborn infants who test positive for such disease, making available counseling on such disease to the parents or other legal guardians of the infant.

"(5) Collecting data on the number of pregnant women and newborn infants in the State who have undergone testing for such disease.

"(b) ELIGIBLE STATES.—Subject to subsection (c), a State referred to in subsection (a) is a State that has in effect, in statute or through regulations, the following requirements:

"(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease.

"(2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved:

"(A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant).

"(B) If the State is the legal guardian of the infant:

"(i) To the appropriate official of the State agency with responsibility for the care of the infant.

"(ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant.

"(iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent.

"(iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent.

"(C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant.

"(3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved.

"(4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency).

"(c) LIMITATION REGARDING AVAILABILITY OF GRANT FUNDS.—With respect to an activity described in any of paragraphs (1) through (4) of subsection (b), the requirement established by a State under such subsection that the activity be carried out applies for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

"(1) Federal funds provided to the State in grants under subsection (a).

"(2) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.

"(d) DEFINITIONS.—For purposes of this section, the term 'authorized agency', with respect to the placement of a child (including an infant) for whom a State is a legal guardian, means an entity licensed or otherwise approved by the State to assist in such placement.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2673D. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS; CONTINGENT REQUIREMENT REGARDING STATE GRANTS UNDER PART B.

"(a) DETERMINATION BY SECRETARY.—During the first 30 days following the expiration of the 2-year period beginning on the date of the enactment of the Ryan White CARE Act Amendments of 1995, the Secretary shall publish in the Federal Register a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (4) of section 2673C(b). In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination.

"(b) CONTINGENT APPLICABILITY.—

"(1) IN GENERAL.—If the determination published in the Federal Register under subsection (a) is that (for purposes of such subsection) the activities involved have become routine practices, paragraph (2) applies on and after the expiration of the 18-month period beginning on the date on which the determination is so published.

"(2) REQUIREMENT.—Subject to subsection (c), the Secretary shall not make a grant under part B to a State unless the State meets not less than one of the following requirements:

"(A) The State has in effect, in statute or through regulations, the requirements specified in paragraphs (1) through (4) of section 2673C(b).

"(B) The State demonstrates that, of the newborn infants born in the State during the most recent 1-year period for which the data are available, the HIV antibody status of 95 percent of the infants is known.

"(c) LIMITATION REGARDING AVAILABILITY OF FUNDS.—With respect to an activity described in any of paragraphs (1) through (4) of section 2673C(b), the requirements established by a State under subsection (b)(2)(A) that the activity be carried out applies for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

"(1) Federal funds provided to the State in grants under part B.

"(2) Federal funds provided to the State in grants under section 2673C.

"(3) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.".

SEC. 205. STATE APPLICATION.

Section 2617(b)(2) (42 U.S.C. 300ff–27(b)(2)) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon;

(2) in subparagraph (B), by striking "and" after the semicolon; and

(3) by adding at the end thereof the following subparagraphs:

"(C) a description of the activities carried out by the State under section 2616; and

"(D) a description of how the allocation and utilization of resources are consistent with a statewide coordinated statement of need, developed in partnership with other grantees in the State that receive funding under this title and after consultation with individuals receiving services under this part.".

SEC. 206. ALLOCATION OF ASSISTANCE BY STATES; PLANNING, EVALUATION, AND ADMINISTRATION.

Section 2618(c) (42 U.S.C. 300ff–28(c)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(3) in paragraph (3) (as so redesignated), by adding at the end the following sentences: "In the case of entities to which the State allocates amounts received by the State under the grant (including consortia under section 2613), the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).".

SEC. 207. TECHNICAL ASSISTANCE.

Section 2619 (42 U.S.C. 300ff–29) is amended by inserting before the period the following: ", including technical assistance for the development and implementation of statewide coordinated statements of need".

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM.

Section 2651(b) (42 U.S.C. 300ff–51(b)) is amended—

(1) in paragraph (1), by inserting before the period the following: ", and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph"; and

(2) in paragraph (4), by inserting after "nonprofit private entities" the following: "(or private for-profit entities, if such entities are the only available providers of quality HIV care in the area)".

SEC. 302. MINIMUM QUALIFICATIONS OF GRANTEES.

Section 2652(b)(1)(B) (42 U.S.C. 300ff–52(b)(1)(B)) is amended by inserting after "nonprofit private entity" the following: "(or a private for-profit entity, if such an entity is the only available provider of quality HIV care in the area)".

SEC. 303. MISCELLANEOUS PROVISIONS; PLANNING AND DEVELOPMENT GRANTS.

Section 2654 (42 U.S.C. 300ff–54) is amended by adding at the end thereof the following subsection:

"(c) PLANNING AND DEVELOPMENT GRANTS.—

"(1) IN GENERAL.—The Secretary may provide planning grants, in an amount not to exceed $50,000 for each such grant, to public and nonprofit private entities for the purpose of enabling such entities to provide early intervention services.

"(2) REQUIREMENT.—The Secretary may award a grant to an entity under paragraph (1) only if the Secretary determines that the entity will use such grant to assist the entity in qualifying for a grant under section 2651.

"(3) PREFERENCE.—In awarding grants under paragraph (1), the Secretary shall give preference to entities that provide HIV primary care services in rural or underserved communities.

"(4) LIMITATION.—Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2655 may be used to carry out this section.".

SEC. 304. ADDITIONAL REQUIRED AGREEMENTS.

Section 2664(a)(1) (42 U.S.C. 300ff–64(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon; and

(2) by adding at the end the following subparagraph:

"(C) evidence that the proposed program is consistent with the statewide coordinated statement of need and that the applicant will participate in the ongoing revision of such statement of need.".

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 (42 U.S.C. 300ff–55) is amended by striking "$75,000,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1996 through 2000.".

TITLE IV—GENERAL PROVISIONS

SEC. 401. COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 2671 (42 U.S.C. 300ff–71) is amended—

(1) in subsection (a), by amending the subsection to read as follows:

"(a) IN GENERAL.—

"(1) PROGRAM OF GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the purpose of—

"(A) providing through such entities, in accordance with this section, opportunities for women, infants, and children to be participants in research of potential clinical benefit to individuals with HIV disease; and

"(B) providing to women, infants, and children health care on an outpatient basis.

"(2) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.—With respect to the projects of research with which an applicant under paragraph (1) is concerned, the Secretary may not make a grant under such paragraph to the applicant unless the following conditions are met:

"(A) The applicant agrees to make reasonable efforts—

"(i) to identify which of the patients of the applicant are women, infants, and children who would be appropriate participants in the projects; and

"(ii) to offer women, infants, and children the opportunity to so participate (as appropriate), including the provision of services under subsection (f).

"(B) The applicant agrees that the applicant, and the projects of research, will comply with accepted standards of protection for human subjects (including the provision of written informed consent) who participate as subjects in clinical research.

"(C) For the third or subsequent fiscal year for which a grant under such paragraph is sought by the applicant, the Secretary has determined that—

"(i) a significant number of women, infants, and children who are patients of the applicant are participating in the projects (except to the extent this clause is waived under subsection (k)); and

"(ii) the applicant, and the projects of research, have complied with the standards referred to in subparagraph (B).

"(3) PROHIBITION.—Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

"(4) CONSIDERATION BY SECRETARY OF CERTAIN CIRCUMSTANCES.—In administering the requirement of paragraph (2)(C)(i), the Secretary shall take into account circumstances in which a grantee under paragraph (1) is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.";

(2) in subsection (c), by amending the subsection to read as follows:

"(c) PROVISIONS REGARDING CONDUCT OF RESEARCH.—With respect to eligibility for a grant under subsection (a):

"(1) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research.

"(2) The grant may not be made unless the Secretary makes the following determinations:

"(A) The applicant or other entity (as the case may be under paragraph (1)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

"(B) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention and treatment of HIV disease in women, infants, and children. After consultation with public and private entities that conduct such research, and with providers of services under this section and recipients of such services, the Secretary shall establish a list of such protocols that are appropriate for purposes of this section. The Secretary may give priority under this subparagraph to a research protocol that is not on such list.";

(3) by striking subsection (i);

(4) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively;

(5) by inserting after subsection (f) the following subsection:

"(g) ADDITIONAL PROVISIONS.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees as follows:

"(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

"(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the State) and in revisions of such statement.";

(6) by redesignating subsection (j) as subsection (m); and

(7) by inserting before subsection (m) (as so redesignated) the following subsections:

"(j) COORDINATION WITH NATIONAL INSTITUTES OF HEALTH.—The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants *and grantees under this section, shall require that the projects, as appropriate, enter into arrangements for purposes of this section, and shall require that each project entering into such an arrangement inform the applicant or grantee under this section of the needs of the project for the participation of women, infants, and children.*

"(k) TEMPORARY WAIVER REGARDING SIGNIFICANT PARTICIPATION.—

"(1) IN GENERAL.—In the case of an applicant under subsection (a) who received a grant under this section for fiscal year 1995, the Secretary may, subject to paragraph (2), provide to the applicant a waiver of the requirement of subsection (a)(2)(C)(i) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

"(2) TERMINATION OF AUTHORITY FOR WAIVERS.—The Secretary may not provide any waiver under paragraph (1) on or after October 1, 1998. Any such waiver provided prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

"(l) TRAINING AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (m) for a fiscal year, the Secretary may use not more than five percent to provide training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.".

(b) CONFORMING AMENDMENTS.—Section 2671 (42 U.S.C. 300ff–71) is amended—

*(1) in the heading for the section, by striking "**DEMONSTRATION**" and all that follows and inserting "**COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, AND CHILDREN.**";*

(2) in subsection (b), by striking "pediatric patients and pregnant women" and inserting "women, infants, and children"; and

(3) in each of subsections (d) through (f), by striking "pediatric", each place such term appears.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 2671 (42 U.S.C. 300ff–71) is amended in subsection (m) (as redesignated by subsection (a)(6)) by striking "there are" and all that follows and inserting the following: "there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.".

SEC. 402. PROJECTS OF NATIONAL SIGNIFICANCE.

(a) IN GENERAL.—Part D of title XXVI (42 U.S.C. 300ff–71 et seq.) is amended by inserting after section 2673 the following section:

"SEC. 2673A. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) IN GENERAL.—The Secretary shall make grants to public and nonprofit private entities (including community-based organizations and Indian tribes and tribal organizations) for the purpose of carrying out demonstration projects that provide for the care and treatment of individuals with HIV disease, and that—

"(1) assess the effectiveness of particular models for the care and treatment of individuals with such disease;

"(2) are of an innovative nature; and

"(3) have the potential to be replicated in similar localities, or nationally.

"(b) CERTAIN PROJECTS.—Demonstration projects under subsection (a) shall include the development and assessment of innovative models for the delivery of HIV services that are designed—

"(1) to address the needs of special populations (including individuals and families with HIV disease living in rural communities, adolescents with HIV disease, Native American individuals and families with HIV disease, homeless individuals and families with HIV disease, hemophiliacs with HIV disease, and incarcerated individuals with HIV disease); and

"(2) to ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

"(c) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the applicable statewide coordinated statement of need under part B, and the applicant agrees to participate in the ongoing revision process of such statement of need (where it has been initiated by the State).

"(d) REPLICATION.—The Secretary shall make information concerning successful models developed under this section available to grantees under this title for the purpose of coordination, replication, and integration.

"(e) FUNDING; ALLOCATION OF AMOUNTS.—

"(1) IN GENERAL.—Of the amounts available under this title for a fiscal year for each program specified in paragraph (2), the Secretary shall reserve 3 percent for making grants under subsection (a).

"(2) RELEVANT PROGRAMS.—The programs referred to in subsection (a) are the program under part A, the program under part B, the program under part C, the program under section 2671, the program under section 2672, and the program under section 2673.".

(b) STRIKING OF RELATED PROVISION.—Section 2618 (42 U.S.C. 300ff–28) is amended by striking subsection (a).

SEC. 403. SPECIAL TRAINING PROJECTS.

(a) TRANSFER OF PROGRAM.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by transferring section 776 from the current placement of the section;

(2) by redesignating the section as section 2673B; and

(3) by inserting the section after section 2673A (as added by section 402(a)).

(b) MODIFICATIONS.—Section 2673B (as transferred and redesignated by subsection (a)) is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraphs (B) and (C);

(B) by redesignating subparagraphs (A) and (D) as subparagraphs (B) and (C), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following subparagraph:

"(A) to train health personnel, including practitioners in programs under this title and other community providers, in the diagnosis, treatment, and prevention of HIV disease, including the prevention of the perinatal transmission of the disease and including measures for the prevention and treatment of opportunistic infections;";

(D) in subparagraph (B) (as so redesignated), by adding "and" after the semicolon; and

(E) in subparagraph (C) (as so redesignated), by striking "curricula and";

(2) by striking subsection (c) and redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking "is authorized" and inserting "are authorized"; and

(ii) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1996 through 2000"; and

(B) in paragraph (2)—

(i) by striking "is authorized" and inserting "are authorized"; and

(ii) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1996 through 2000".

SEC. 404. EVALUATIONS AND REPORTS.

Section 2674 (42 U.S.C. 300ff–74) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "not later than 1 year" and all that follows through "title," and inserting the following: "not later than October 1, 1996,";

(B) by striking paragraphs (1) through (3) and inserting the following paragraph:

"(1) evaluating the programs carried out under this title; and"; and

(C) by redesignating paragraph (4) as paragraph (2); and

(2) by adding at the end the following subsection:

"(d) ALLOCATION OF FUNDS.—The Secretary shall carry out this section with amounts available under section 241. Such amounts are in addition to any other amounts that are available to the Secretary for such purpose.".

SEC. 405. COORDINATION OF PROGRAM.

Section 2675 of the Public Health Service Act (42 U.S.C. 300ff–75) is amended by adding at the end the following subsection:

"(d) ANNUAL REPORT.—Not later than October 1, 1996, and annually thereafter, the Secretary shall submit to the appropriate committees of the Congress a report concerning coordination efforts under this title at the Federal, State, and local levels, including a statement of whether and to what extent there exist Federal barriers to integrating HIV-related programs.".

TITLE V—ADDITIONAL PROVISIONS

SEC. 501. AMOUNT OF EMERGENCY RELIEF GRANTS.

Paragraph (3) of section 2603(a) (42 U.S.C. 300ff–13(a)(3)) is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(B) DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii), the term 'distribution factor' means the product of—

"(i) an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (C); and

"(ii) the cost index for the eligible area involved, as determined under subparagraph (D).

"(C) ESTIMATE OF LIVING CASES.—The amount determined in this subparagraph is an amount equal to the product of—

"(i) the number of cases of acquired immune deficiency syndrome in the eligible area during each year in the most recent 120-month period for which data are available with respect to all eligible areas, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

"(ii) with respect to—

"(I) the first year during such period, .06;

"(II) the second year during such period, .06;

"(III) the third year during such period, .08;

"(IV) the fourth year during such period, .10;

"(V) the fifth year during such period, .16;

"(VI) the sixth year during such period, .16;

"(VII) the seventh year during such period, .24;

"(VIII) the eighth year during such period, .40;

"(IX) the ninth year during such period, .57; and

"(X) the tenth year during such period, .88.

"(D) COST INDEX.—The amount determined in this subparagraph is an amount equal to the sum of—

"(i) the product of—

"(I) the average hospital wage index reported by hospitals in the eligible area involved under

section 1886(d)(3)(E) of the Social Security Act for the 3-year period immediately preceding the year for which the grant is being awarded; and

"(II) .70; and

"(ii) .30.

"(E) UNEXPENDED FUNDS.—The Secretary may, in determining the amount of a grant for a fiscal year under this paragraph, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the most recent fiscal year for which the amount of such funds can be determined using the required financial status report. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

"(F) PUERTO RICO, VIRGIN ISLANDS, GUAM.—For purposes of subparagraph (D), the cost index for an eligible area within Puerto Rico, the Virgin Islands, or Guam shall be 1.0.".

SEC. 502. AMOUNT OF CARE GRANTS.

Section 2618 (42 U.S.C. 300ff–28), as amended by section 402(b), is amended by striking subsection (b) and inserting the following subsections:

"(a) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Subject to subsection (b) (relating to minimum grants), the amount of a grant under this part for a State for a fiscal year shall be the sum of—

"(A) the amount determined for the State under paragraph (2); and

"(B) the amount determined for the State under paragraph (4) (if applicable).

"(2) PRINCIPAL FORMULA GRANTS.—For purposes of paragraph (1)(A), the amount determined under this paragraph for a State for a fiscal year shall be the product of—

"(A) the amount available under section 2677 for carrying out this part, less the reservation of funds made in paragraph (4)(A) and less any other applicable reservation of funds authorized or required in this Act (which amount is subject to subsection (b)); and

"(B) the percentage constituted by the ratio of—

"(i) the distribution factor for the State; to

"(ii) the sum of the distribution factors for all States.

"(3) DISTRIBUTION FACTOR FOR PRINCIPAL FORMULA GRANTS.—For purposes of paragraph (2)(B), the term 'distribution factor' means the following, as applicable:

"(A) In the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, the product of—

"(i) the number of cases of acquired immune deficiency syndrome in the State, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data are available; and

"(ii) the cube root of the ratio (based on the most recent available data) of—

"(I) the average per capita income of individuals in the United States (including the territories); to

"(II) the average per capita income of individuals in the State.

"(B) In the case of a territory of the United States (other than the Commonwealth of Puerto Rico), the number of additional cases of such syndrome in the specific territory, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available.

"(4) SUPPLEMENTAL AMOUNTS FOR CERTAIN STATES.—For purposes of paragraph (1)(B), an amount shall be determined under this paragraph for each State that does not contain any metropolitan area whose chief elected official received a grant under part A for fiscal year 1996. The amount determined under this paragraph for such a State for a fiscal year shall be the product of—

"(A) an amount equal to 7 percent of the amount available under section 2677 for carrying out this part for the fiscal year (subject to subsection (b)); and

"(B) the percentage constituted by the ratio of—

"(i) the number of cases of acquired immune deficiency syndrome in the State (as determined under paragraph (3)(A)(i)); to

"(ii) the sum of the respective numbers determined under clause (i) for each State to which this paragraph applies.

"(5) DEFINITIONS.—For purposes of this subsection and subsection (b):

"(A) The term 'State' means each of the 50 States, the District of Columbia, and the territories of the United States.

"(B) The term 'territory of the United States' means each of the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Republic of the Marshall Islands.

"(b) MINIMUM AMOUNT OF GRANT.—

"(1) IN GENERAL.—Subject to the extent of the amounts specified in paragraphs (2)(A) and (4)(A) of subsection (a), a grant under this part for a State for a fiscal year shall be the greater of—

"(A) the amount determined for the State under subsection (a); and

"(B) the amount applicable under paragraph (2) to the State.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(B), the amount applicable under this paragraph for a fiscal year is the following:

"(A) In the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico—

"(i) $100,000, if it has less than 90 cases of acquired immune deficiency syndrome (as determined under subsection (a)(3)(A)(i)); and

"(ii) $250,000, if it has 90 or more such cases (as so determined).

"(B) In the case of each of the territories of the United States (other than the Commonwealth of Puerto Rico), $0.0.".

SEC. 503. CONSOLIDATION OF AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—Part D of title XXVI (42 U.S.C. 300ff–71) is amended by adding at the end thereof the following section:

"SEC. 2677. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out parts A and B, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000. Subject to section 2673A and to subsection (b), of the amount appropriated under this section for a fiscal year, the Secretary shall make available 64 percent of such amount to carry out part A and 36 percent of such amount to carry out part B.

"(b) DEVELOPMENT OF METHODOLOGY.—With respect to each of the fiscal years 1997 through 2000, the Secretary may develop and implement a methodology for adjusting the percentages referred to in subsection (a).".

(b) REPEALS.—Sections 2608 and 2620 (42 U.S.C. 300ff–18 and 300ff–30) are repealed.

(c) CONFORMING AMENDMENTS.—Section 2605(d)(1) (as redesignated by section 105(3)), is amended by striking "2608" and inserting "2677".

SEC. 504. ADDITIONAL PROVISIONS.

(a) DEFINITIONS.—Section 2676(4) (42 U.S.C. 300ff–76(4)) is amended by inserting "funeral-service practitioners," after "emergency medical technicians,".

(b) MISCELLANEOUS AMENDMENT.—Section 1201(a) (42 U.S.C. 300d(a)) is amended in the matter preceding paragraph (1) by striking "The Secretary," and all that follows through "shall," and inserting "The Secretary shall,".

(c) TECHNICAL CORRECTIONS.—Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

(1) in section 2601(a), by inserting "section" before "2604";

(2) in section 2603(b)(4)(B), by striking "an expedited grants" and inserting "an expedited grant";

(3) in section 2617(b)(3)(B)(iv), by inserting "section" before "2615";

(4) in section 2618(b)(1)(B), by striking "paragraph 3" and inserting "paragraph (3)";

(5) in section 2647—

(A) in subsection (a)(1), by inserting "to" before "HIV";

(B) in subsection (c), by striking "section 2601" and inserting "section 2641"; and

(C) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "section 2601" and inserting "section 2641"; and

(ii) in paragraph (1), by striking "has in place" and inserting "will have in place";

(6) in section 2648—

(A) by converting the heading for the section to boldface type; and

(B) by redesignating the second subsection (g) as subsection (h);

(7) in section 2649—

(A) in subsection (b)(1), by striking "subsection (a) of"; and

(B) in subsection (c)(1), by striking "this subsection" and inserting "subsection";

(8) in section 2651—

(A) in subsection (b)(3)(B), by striking "facility" and inserting "facilities"; and

(B) in subsection (c), by striking "exist" and inserting "exists";

(9) in section 2676—

(A) in paragraph (2), by striking "section" and all that follows through "by the" and inserting "section 2686 by the"; and

(B) in paragraph (10), by striking "673(a)" and inserting "673(2)";

(10) in part E, by converting the headings for subparts I and II to Roman typeface; and

(11) in section 2684(b), in the matter preceding paragraph (1), by striking "section 2682(d)(2)" and inserting "section 2683(d)(2)".

TITLE VI—EFFECTIVE DATE

SEC. 601. EFFECTIVE DATE.

Except as provided in section 101(a), this Act takes effect October 1, 1995.

Amend the title so as to read: "An Act to amend the Public Health Service Act to revise and extend programs established pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990.".

Mr. DOLE. Mr. President, I move that the Senate disagree to the House amendments and request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. FRIST, Mr. KENNEDY, and Mr. DODD conferees on the part of the Senate.

APPOINTMENT OF CONFEREES—H.R. 2076

The PRESIDING OFFICER. Mr. President, I understand that pursuant to the order of September 29, 1995, the Chair is authorized to appoint conferees on the part of the Senate for H.R. 2076, the Commerce, Justice, State appropriations bill for fiscal year 1996.

The PRESIDING OFFICER appointed Mr. GREGG, Mr. HATFIELD, Mr. STEVENS, Mr. DOMENICI, Mr. MCCONNELL, Mr. JEFFORDS, Mr. COCHRAN, Mr. HOLLINGS, Mr. BYRD, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. KERREY of Nebraska conferees on the part of the Senate.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT

Mr. DOLE. Mr. President, I understand that S. 1322, introduced earlier by myself is at the desk.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the first time.

The bill (S. 1322) was read the first time.

Mr. DOLE. Mr. President, I ask for its second reading.

Mr. BYRD. Mr. President, I have been asked to object and do object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, as indicated, I have introduced S. 1322, the Jerusalem Embassy Relocation Act of 1995. I am pleased to do so with the distinguished senior Senator from New York, Senator MOYNIHAN, as the lead cosponsor. As the Senate knows, Senator MOYNIHAN has been the expert and the leader on Jerusalem for his entire career. I am pleased that he has joined with Senator KYL, Senator INOUYE and other cosponsors in this important legislation. I would like to take special note of the roles of Senator KYL and Senator INOUYE in developing this legislation, and in agreeing to the changes included today.

This legislation is very similar to S. 770, introduced on May 9, 1995. S. 770 currently has 62 cosponsors—and 61 of them are included on the legislation I am introducing today. There is one major change between S. 770 and S. 1322—the provision requiring groundbreaking in 1996 for construction of a new Embassy has been deleted, and minor or conforming changes have been made. All major provisions are identical: Findings on the importance of Jerusalem, statement of policy on recognizing Jerusalem as the capital of Israel, semiannual reporting requirements, and, most important, the requirement that the American Embassy be open in Jerusalem no later than May 31, 1999.

A number of Members expressed concern about the potential impact of the requirement for breaking ground on construction next year. Clearly 62 percent of the Senate was comfortable with the provision. The lead cosponsor, Senator KYL, felt particularly strongly about some action occurring next year—the 3000th anniversary of Jerusalem. But Senator KYL and the other cosponsors have agreed to remove the requirement in the interests of gaining even broader support.

All of us in the Senate are aware of the possible impact our actions could have on the peace process in the Middle East. We want the peace process to succeed. As I said upon introducing S. 770, "the peace process has made great strides and our commitment to that process in unchallengeable." Last spring, the fate of the declaration of principles "Phase II" agreement was very much up in the air. The July deadline was missed. The August deadline was missed. Fortunately, the Oslo II accord was signed last month. Implementation is underway. While always subject to disruption and always under attack from extremists, the pace process is working. The toughest issues are yet to be resolved in final status talks, including Jerusalem.

In my view, the United States does not have to wait for the end of final status talks to begin the process of moving the United States Embassy to Jerusalem. As both S. 770 and today's legislation state: "Jerusalem should be recognized as the capital of Israel and the United States Embassy should be officially open in Jerusalem no later than May 31, 1999." In my view, we should begin the process of moving now and we should conclude it by May 31, 1999. That is the bottom line, and that is what S. 1322 does.

In the 5 months since the introduction of S. 770, the Clinton administration has done nothing to bridge our differences. A questionable legal opinion was offered and a veto threat was made, but no substantive contacts have occurred. Not one. I am disappointed the administration has ignored what is obviously a strong bipartisan majority in the Senate. I am disappointed the administration has made no effort at all to communicate with the lead sponsors of this legislation. Our hope is to unify, not to divide, on the sensitive issue of Jerusalem. Our hope is to move ahead on this issue. Our hope is the administration will support the legislation to move the Embassy. In 2 weeks, Prime Minister Rabin, mayor of Jerusalem Olmert and hundreds of others will assemble in the rotunda of the U.S. Capitol to commemorate the 3000th anniversary of Jerusalem. Many of us noted that the American Ambassador to Israel could not find the time to attend opening ceremonies for the 3000th anniversary of Jerusalem in Israel. I am confident that the Congress will celebrate this historic event in a much more appropriate manner.

In the coming days I expect additional cosponsors will be added to the Jerusalem embassy legislation. I also expect decisions to be made in the administration and in the Congress about how and when to proceed with this legislation.

I ask unanimous consent that a legal analysis supporting the constitutionality of this legislation along with a comparison of S. 770 and S. 1322, be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Legal Time, Oct. 9, 1995]

CAN CONGRESS MOVE AN EMBASSY?

(By Malvina Halberstam)

This year marks 3,000 years since Jerusalem was first established as the capital of a Jewish state, by King David. Although the city has been ruled by many empires and states since then, it has never been the capital of any other country. It was formally re-established as the capital of Israel in 1950. In a fitting tribute to the 3,000th anniversary, Sens. Robert Dole (R–Kan.) and Jon Kyl (R–Ariz.) introduced a bill on May 9 of this year to move the U.S. embassy from Tel Aviv to Jerusalem.

Besides the policy issue, which have been the subject of considerable debate, the Dole-Kyl bill raises interesting questions concerning the scope of congressional and executive authority in the conduct of foreign affairs, and the extent to which Congress can use its appropriations power to influence executive action in this area.

The proposed Jerusalem Embassy Relocation Implementation Act, which has 60 cosponsors, makes a number of findings, including that Jerusalem has been the Israeli capital since 1950 and that the United States maintains its embassy in the functioning capital of every country except Israel. The bill declares it to be U.S. policy to recognize Jerusalem as the capital of Israel, to begin breaking ground for construction of the embassy in Jerusalem no later than Dec. 31, 1996, and officially to open the embassy no later than May 31, 1999.

The provides that at least $5 million in 1995, $25 million in 1996, and $75 million in 1997 of the funds authorized to be appropriated for the State Department's acquisition and maintenance of buildings abroad shall be made available for the construction and other costs associated with the relocation. It further provides that not more than 50 percent of those funds appropriated in 1997 may be obligated until the secretary of state reports to Congress that construction has begun and that not more than 50 percent of the funds appropriated in 1999 may be obligated until the secretary reports to Congress that the Jerusalem embassy has officially opened.

President Bill Clinton has opposed the legislation on policy grounds, and the Justice Department has prepared a memorandum arguing that the bill is unconstitutional. Essentially, the department argues (1) that the bill interferes with the president's power to conduct foreign affairs and make decisions pertaining to recognition, and (2) that the bill is an inappropriate exercise of Congress' appropriations power because it includes an unconstitutional condition.

THE "FOREIGN AFFAIRS" POWER

Contrary to popular impression, the Constitution does not vest the foreign affairs power in the president. It does not vest the foreign affairs power in any branch. Indeed, it makes no reference to "foreign affairs."

The Constitution vests some powers that impact on foreign affairs in the president, others in the president and the Senate jointly, and still others in Congress. It provides that the president "shall receive ambassadors." It gives him the power to appoint ambassadors, but only with the advice and consent of the Senate, and to make treaties, provided two-thirds of the senators concur.

The Constitution also gives Congress a number of powers affecting foreign affairs, including the power to "regulate commerce with foreign nations"; to "establish uniform rules of naturalization"; to "coin money and regulate the value thereof, and of foreign coin"; to "define and punish piracies and felonies committed on the high seas, and offenses against the law of nations"; to "declare war, grant letters of marque and reprisal, and make rules concerning capture on land and water"; and to "raise and support armies," and "provide and maintain a navy." As Edward Corwin put it in The President: Office and Powers, 1787–1984, "the Constitution . . . is an invitation to struggle for the privilege of directing American foreign policy."

Probably the most comprehensive Supreme Court discussion of the foreign affairs power is Justice George Sutherland's opinion in United States v. Curtiss-Wright Export Corp. (1936). In that case, the Court sustained a statute authorizing the executive to order an embargo on arms to Brazil—a delegation of congressional authority unacceptable at that time with respect to domestic regulation. Sutherland argued that in foreign affairs, as distinct from domestic affairs, the authority of the federal government does not depend on a grant of power from the states. Turning to the specific issue before the Court, the president's authority to declare an embargo, Sutherland stated, "We are dealing here not alone with an authority vested in the President by exercise of legislative power, but with such an authority plus the very delicate plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations."

In addition to making no reference to "foreign affairs," the Constitution also makes no reference to "recognition" of foreign states. The provision that the president "shall receive ambassadors," now considered the basis of the president's power over recognition, was described by Alexander Hamilton in Federalist No. 69 as "more a matter of dignity than of authority" and "a circumstance which will be without consequence."

Historically, however, presidents have made decisions on recognition, starting with George Washington's recognition of the French Republic. In United States v. Belmont (1937) and United States v. Pink (1942), the Supreme Court implicitly accepted the executive's authority over recognition when it held that an executive agreement recognizing the Soviet government and providing for settlement of claims between the United States and the Soviet Union superseded inconsistent state law.

Both the Court's reference to the president's broad foreign affairs powers in Curtiss-Wright (and other cases cited in the Justice Department memo), and the Court's implied acceptance of the executive's authority to recognize foreign governments to Belmont and Pink were made in situations in which Congress either delegated authority to the executive or was silent. None involved a conflict between Congress and the president.

FLUCTUATING AUTHORITY

Indeed, the Supreme Court has never held that Congress could not exercise one of its constitutional powers because doing so would interfere with the president's conduct of foreign affairs. The Court has held the converse: that presidential action, which might have been constitutional if Congress had not acted, was unconstitutional because it was inconsistent with legislation enacted by Congress. In Youngstown Sheet and Tube Co. v. Sawyer (1952), the Court held that, notwithstanding his constitutional power as commander in chief, President Harry Truman's seizure of the steel mills to ensure that a threatened strike did not stop the production of steel needed for the Korean War, was illegal because it was inconsistent with the Taft-Hartley Act for resolving labor disputes. Justice Robert Jackson, who had been President Franklin Roosevelt's attorney general and was a strong proponent of broad executive authority, concurred in what has become the classic statement on the relationship between executive and legislative power. Jackson wrote: Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . .

1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all the Congress can delegate. In these circumstances, and in these only, may he be said (for what it may be worth) to personify the federal sovereignty. If his act is held unconstitutional under these circumstances, it usually means that the Federal Government as an undivided whole lacks power. . . .

2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables rather than on abstract theories of law.

3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.

Justice Jackson cited Curtiss-Wright as an example of the first class of cases and noted that "that case involved not the President's power to act without Congressional authority, but the question of his authority to act under and in accord with an Act of Congress." Jackson concluded, "It was intimated that the President might act in external affairs without congressional authority, but not that he might act contrary to an Act of Congress."

Admittedly, the Dole-Kyl bill does not explicitly require the president to relocate the embassy to Jerusalem. However, the findings that Jerusalem is the Israeli capital and that Israel is the only state in which the U.S. embassy is not in the capital, the assertion that it is U.S. policy that the embassy be in Jerusalem, the allocation of funds for relocation and construction of an embassy there, and the prohibition on the use of some funds appropriated to the State Department if construction is not started by December 1996 and completed by May 1999, all clearly indicate the purpose of Congress to commence construction of a U.S. embassy in Jerusalem no later than December 1996 and to open that embassy no later than May 1999.

THE JACKSON ANALYSIS

Under the Jackson analysis, were the president to take "measures incompatible with the expressed or implied will of Congress," his power would be "at its lowest ebb." He could "rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter." Such exclusive presidential control could be sustained "only by disabling the Congress from acting upon the subject." While the question has never been decided, it is unlikely that a court would hold that the president's authority to receive ambassadors (his power to appoint ambassadors requires the advice and consent of the Senate), minus the power of Congress under the necessary and proper clause and the spending clause of Article I, is sufficient to disable Congress from acting upon the subject.

Both the necessary and proper clause and the spending clause have been broadly interpreted to permit Congress to legislate on a wide range of matters. Neither limits congressional action to the matters enumerated in Article 1, §8.

The necessary and proper clause authorizes Congress to make not only all laws necessary and proper to implement the enumerated powers of Congress, but all laws necessary and proper to execute all powers vested in the government of the United States or in any department or office thereof. Thus, even if recognition were deemed an executive power—on the basis of historical precedent, if not constitutional provision—Congress has the power under this clause to enact legislation concerning the location of U.S. embassies.

The Dole-Kyl bill is also clearly a proper exercise of Congress' spending power. That the use of the spending power is not limited to those areas that Congress can otherwise regulate was made clear in United States v. Butler (1936). Justice Owen Roberts, writing for the majority, stated, [The first clause of Article I, §8] confers a power separate and distinct from these later enumerated, is not restricted in meaning by the grant of them, and Congress consequently has a substantive power to tax and to appropriate, limited only by the requirement that it shall be exercised to provide for the general welfare of the United States [emphasis added].

The Justice Department memo argues, correctly, that Congress cannot use the spending power to impose unconstitutional conditions. Thus, the Supreme Court has held that Congress cannot use the appropriations power to violate the establishment clause of the First Amendment, Flast v. Cohen (1968); the compensation clause in Article III, United States v. Will (1980); or the prohibition on bills of attainder in Article I, §9, United States v. Lovett (1946). The principle that has emerged is that Congress cannot use the spending power to achieve that which the Constitution prohibits. But neither appropriating funds for relocation and construction of an embassy nor limiting expenditure of funds appropriated for the acquisition and maintenance of buildings abroad if construction is not started and completed on specified dates violates any prohibition of the Constitution.

The Justice memo relies on Butler, the only case in which the Court has held a federal appropriation invalid because of the unconstitutionality of a condition that did not involve infringement of individual rights. In that case, decided more than half a century ago, the majority took the position that

Congress could not use federal funds to induce states to enact regulations that Congress could not enact under its enumerated powers. Within a year of that decision, however, the Court (in Steward Machine Co. v. Davis and Helvering v. Davis (1937) sustained conditional appropriations in areas outside the scope of Congress' enumerated powers. Since then, Congress has enacted numerous statutes in which it used the spending power to achieve results that it could not have achieved by regulating directly.

Most recently, in South Dakota v. Dole (1987), the Supreme Court rejected a state argument that Congress could not use federal highway funding to achieve a national minimum drinking age because the 21st Amendment gave the states the power to make that decision. After reviewing its earlier decisions, the Court stated, These cases establish that the "independent constitutional bar" limitation on the spending power is not, as petitioner suggests, a prohibition on the indirect achievement of objectives which Congress is not empowered to achieve directly. Instead, we think that the language in our earlier opinions stands for the unexceptionable proposition that the power may not be used to induce the States to engage in activities that would themselves be unconstitutional.

CONGRESS' POWER OF THE PURSE

Moreover, in Butler the Court held that Congress could not use the spending power to limit states' rights. The Court has never held that Congress cannot limit the proper exercise of power by another branch of the federal government through the use of its appropriations authority unless the matter falls within Congress' enumerated powers. Such a holding would vitiate one of the most important—if not the most important—of the checks and balances: Congress' power of the purse. As the U.S. District Court for the District of Columbia stated in United States v. Oliver North (1988), [t]hough the parameters of Congress' powers may be contested, Congress surely has a role to play in aspects of foreign affairs, as the Constitution expressly recognizes and the Supreme Court of the United States has affirmed. The most prominent among those Congressional powers is of course the general appropriations power.

That Congress can use the spending power to limit the executive's constitutional powers is well established. Consider, for example, the president's power as commander in chief. Although the Constitution provides that the president shall be commander in chief, and the Supreme Court stated almost 150 years ago that this encompasses the power "to direct the movements of the naval and military forces at his command and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy" (*Fleming v. Page* (1850)), Congress has repeatedly used its funding power to limit military action by the president. Indeed, in some of the challenges to the Vietnam War, courts have stated that Congress' failure to prohibit the president from using funds for the war (or for certain aspects of it) constituted authorization. If Congress can exercise its appropriations power to limit the president's power as commander in chief—a power specifically provided for in the Constitution—a fortiori it can exercise the appropriations power to limit the president's foreign affairs power—a power not expressly vested in the president, but implied from other powers and shared with Congress.

Since World War II, Congress has consistently used appropriations as a means of controlling some aspects of foreign policy. In 1989, commentator Louis Fisher characterized the assertion that Congress cannot control foreign affairs by withholding appropriations as "*the* most startling constitutional claim emanating from the Iran contra hearings" ("How Tightly Can Congress Draw the Purse Strings?" *American Journal of International Law*). Or, as Professor John Hart Ely put it in his 1993 book, *War and Responsibility: Constitutional Lessons of Vietnam and Its Aftermath*, assertions "that foreign affairs just aren't any of Congress's business . . . bear no relation to the language or purposes of the founding document, or the first century and a half of our history."

EVEN KISSINGER CONCEDED

Even strong proponents of broad executive power in foreign affairs agree that Congress can use the appropriations power to affect the conduct of foreign affairs. Professor Louis Henkin, chief reporter for the latest Restatement of U.S. Foreign Relations Law, has written, "Congress has insisted and presidents have reluctantly accepted that in foreign affairs as in domestic affairs, spending is expressly entrusted to Congress. . . ." And then Secretary of State Henry Kissinger conceded, following the executive confrontations with Congress during the Vietnam War: The decade long struggle in this country over executive dominance in foreign affairs is over. The recognition that Congress is a coequal branch of government is the dominant fact of national politics today. The executive accepts that Congress must have both the sense and the reality of participation foreign policy must be a shared enterprise.

Whatever the respective powers of Congress and the president to decide whether to recognize a foreign state—a question on which the Constitution is silent and the Supreme Court has never ruled—that issue is not raised by the Dole-Kyl bill. Rather, the issues are whether Congress can enact legislation that may affect U.S. foreign policy interests, and whether it can achieve its ends through use of the appropriations power. Long-established practice, the writings of scholars and statesmen, and judicial decisions all indicate that the answer to both is clearly yes.

COMPARISON OF S. 770 AND S. 1322

The withholding of funds pending groundbreaking for a new embassy in Jerusalem in 1996 has been deleted (Section 3(a)(2) and section 3(b) of S. 770).

A new finding concerning a 1990 resolution on Jerusalem passed by Congress has been added (finding 9 of S. 1322).

The statement of policy has been amended to include reference to Jerusalem being undivided and open to all ethnic and religious groups.

The statement of policy has been re-worded to use "relocated" rather than "officially open" in reference to the Embassy (section 3).

Fiscal Year 1995 funding (section 4 of S. 770) has been deleted.

Funding for relocation costs in fiscal year 1996 and fiscal year 1997 has been modified to be discretionary rather than mandatory (section 4 of S. 1322).

Mr. LIEBERMAN. Mr. President, I rise today to join with Senators DOLE, MOYNIHAN, KYL and INOUYE and most of my other colleagues in introducing the Jerusalem Embassy Relocation Implementation Act, S. 1322. I hope that this bill will gain the support of all of my colleagues in the Senate.

Mr. President, Jerusalem is and always shall be the capital of Israel. Jerusalem is a unified city in which the rights of all faiths have been respected. The Embassy of the United States of America to Israel should be in that country's capital, the city of Jerusalem.

Earlier this year, I joined with many of my colleagues in sending a letter to the Secretary of State encouraging the administration to begin planning for relocation of the U.S. Embassy to the city of Jerusalem. This process must move forward.

The bill we are introducing today establishes U.S. policy that Jerusalem should be recognized as the capital of the state of Israel.

The bill also establishes a timetable for construction and relocation of the U.S. Embassy to Israel in Jerusalem by May 31, 1995. The Secretary of State is required to present an implementation plan to the Senate within 30 days of enactment and provide a progress report every 6 months. The bill allocates substantial initial funding for the project—$25 million in fiscal 1996 and $75 million in fiscal 1997.

Like the President and many of my colleagues, I believe we can and should move forward to establish the U.S. Embassy in Jerusalem in a manner consistent with the continued negotiation and implementation of the peace process which achieved another significant step last month. The modification to this legislation from the version earlier introduced, S. 770, will ensure that this can be accomplished. There is no change in the real result of the bill: The opening of the U.S. Embassy in Jerusalem by May 31, 1999.

Mr. President, the Jerusalem 3,000 celebration underway in Israel and throughout the world commemorates the 3,000th anniversary of King David's entry into Jerusalem. There could be no more fitting occasion than this celebration to commit America to finally establish our Embassy in Jerusalem by the end of the decade.

With the adoption of the Jerusalem Embassy Relocation Implementation Act and continued progress in the peace process, we can enter the 21st century with the U.S. Embassy in Jerusalem, the capital of a safe and secure Israel, at peace with her Arab neighbors, in an economically prosperous Middle East.

ORDERS FOR TUESDAY, OCTOBER 17, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45, Tuesday, October 17, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for 5 minutes each, with the exception of the following: Mr. LOTT, 30 minutes; Mr. THOMAS, 60 minutes; Mr. HARKIN and Mr. SIMON, 45 minutes; Mr. BURNS, 10 minutes; Mr. FRIST, 15 minutes.

I further ask unanimous consent that at the hour of 12:30 p.m., the Senate stand in recess until the hour of 2:15 p.m. for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the substitute amendment to H.R. 927, the Cuban sanctions bill, occur at a time to be determined by the majority leader after consultation with the minority leader; I further ask unanimous consent that in accordance with the provisions of rule XXII, Senators have until the hour of 12:30 on Tuesday to file any second-degree amendments to the substitute amendment to H.R. 927.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, if cloture is invoked on Tuesday, the Senate can be expected to be in session into the evening in order to complete action on the Cuban sanctions bill. A third cloture motion was filed today. Therefore, if cloture is not invoked on Tuesday, a third vote will occur during Wednesday's session.

Also during next week's session, the Senate can be expected to consider any of the following items: Labor HHS appropriations bill, if a consent agreement can be reached after brief consideration; NASA authorization; Amtrak authorization; available appropriations conference reports.

I am also going to announce that the first cloture vote will not be before 5 p.m. on Tuesday. To clarify, there will not be any votes until 5 p.m.

Let me also announce that under the able leadership of Senator ROTH of the Senate Finance Committee, the Republicans have completed action on the tax part of the reconciliation package—$245 billion in tax cuts; as far as family tax credits, $500. It is permanent.

There are a lot of good features in this bill: capital gains rate reduction, estate tax, family, health, businesses, a number of provisions that I think the American people will certainly find to their liking. I want to compliment the distinguished chairman of the Finance Committee. This is his first tax bill.

Last week, we were working on our goal to reach the reconciliation package on the budget resolution. I congratulate Senator ROTH from Delaware. He has done an outstanding job in a very short time.

It is my understanding that hopefully some time next week the full Senate Finance Committee will meet for markup on the tax provisions of the bill, and we will be able to take up the reconciliation package on the Senate floor, hopefully on Tuesday, October 24, under a 20-hour time agreement. So we should finish it without much difficulty that week.

I will say that everybody wants us to complete action on welfare reform. It is my hope on Tuesday we will be in a position to appoint conferees. I am advised by the Democratic leader that that may be possible on Tuesday. I hope that is the case.

We need to work very quickly on trying to reach some accommodation with the House and hopefully have the same strong bipartisan support we had on the vote in the Senate when the vote was 87 to 12, with one absentee. I hope we can come back to the Senate with a bill that can be supported by every one of the 87, plus maybe some of the others.

RECESS UNTIL 9:45 A.M., TUESDAY, OCTOBER 17, 1995

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 3:52 p.m., recessed until Tuesday, October 17, 1995, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate October 13, 1995:

DEPARTMENT OF STATE

DAVID P. RAWSON, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALI.

GERALD WESLEY SCOTT, OF OKLAHOMA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA

RALPH R. JOHNSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

ROBERT E. GRIBBIN III, OF ALABAMA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be captains

ANDREW M. SNELLA
EVELYN J. FIELDS
KENNETH W. PERRIN
TERRANCE D. JACKSON

To be commanders

MARLENE MOZGALA
ERIC SECRETAN
ROBERT W. MAXSON
GARY D. PETRAE
JAMES C. GARDNER, JR.
RICHARD R. BEHN
DANIEL R. HERLIHY
GARY P. BULMER
DAVID J. KRUTH
DENNIS A. SEEM
PAUL E. PEGNATO
GEORGE E. WHITE
JONATHAN W. BAILEY
TIMOTHY B. WRIGHT
BRADFORD L. BENGGIO
RICHARD S. BROWN
MICHAEL W. WHITE
GRADY H. TUELL
PAUL T. STEELE
GARNER R. YATES, JR.
CRAIG N. MCLEAN
PHILIP M. KENUL

To be lieutenant commanders

MICHAEL R. LEMON
JEFFREY A. FERGUSON
PHILIP S. HILL
WILLIAM B. KEARSE
JOHN E. HERRING
JAMES S. VERLAQUE
WILTIE A. CRESWELL, III
JAMES D. RATHBUN
MATTHEW H. PICKETT
CHRISTOPHER A. BEAVERSON
BRIAN J. LAKE
CARL R. GROENEVELD
GUY T. NOLL

To be Lieutenants

WILBUR E. RADFORD, JR.
JAMES A. ILLG
STEVEN A. LEMKE
DOUGLAS G. LOGAN
CHRISTOPHER J. WARD
MICHAEL J. HOSHLYK
DENISE J. GRUCCIO
MICHELE A. FINN
MATTHEW J. WINGATE
CYNTHIA M. RUHSAM
PHILIP A. GRUCCIO
BARRY K. CHOY
MICHAEL D. FRANCISCO
RALPH R. ROGERS
MARK P. MORAN
KIMBERLY R. CLEARY

To be Lieutenants (Junior Grade)

PAMELA K. HAINES
GEOFFREY S. SANDORF
KATHARINE A. MCNITT
ALAN C. HILTON
RICHARD R. WINGROVE
BJORN K. LARSEN
HAROLD E. ORLINSKY
MICHAEL S. WEAVER
DOUGLAS D. BAIRD, JR.
THOMAS R. JACOBS
GRAHAM A. STEWARD
STEPHEN C. TOSINI
JAMES S. BOSSHARDT
JULIANA PIKULSKY
STEPHEN S. MEADOR
LAWRENCE E. GREENE
DANIEL S. MORRIS, JR.
CARRIE L. HADDEN
KELLY G. TAGGART
JOHN C. GEORGE
PATRICK V. GAJDYS
KARL F. MANGELS
DANTE B. MARAGNI
HEIDI L. JOHNSON
DAVID A. SCORE
STEPHEN F. BECKWITH
KENNETH A. BALTZ
VICTOR B. ROSS, III
MARK S. HICKEY
RANDALL J. TEBEEST
MARK J. BOLAND
HEATHER A. PARKER
CAROLYN M. SRAMEK
JAMES E. DAVIS-MARTIN
STEPHEN J. THUMM
KURT F. SHUBERT
JONATHAN M. KLAY
JOSEPH G. EVJEN
ANITA L. LOPEZ
ANNE K. NIMERSHIEM
RICHARDO RAMOS
MICHAEL WILLIAMSON
NEIL D. WESTON
JENNIFER A. YOUNG

To be ensigns

JEFFREY C. HAGAN
ERIC J. SIPOS
PETER C. FISCHEL
WILLIAM R. ODELL
JAMES M. CROCKER
JEREMY M. ADAMS
CHRISTOPHER E. H. PARRISH
JOEL R. BECKER
JESSICA J. WALKER
JOEL T. MICHALSKI
DAWN M. WELCHER
CHRISTINE M. SHIBLEY
LESLIE A. REDMOND
RICHARD H. ALDRIDGE
RAYMOND A. SANTOS
KURT A. ZEGOWITZ
MARK A. SRAMEK
NATALIE G. BENNETT
ERIC J. CHRISTENSEN
RUSSELL C. JONES
JENNIFER D. GARTE

HOUSE OF REPRESENTATIVES—*Friday, October 13, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LAHOOD].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 13, 1995.

I hereby designate the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we go on with our lives and seek to be the people You would have us be, we pray, almighty God, that we would heed the words of the scriptures and do justice, love mercy, and ever walk humbly with You. May that primary perspective of mercy and justice be our conviction as we seek to live our lives in service to others. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. OXLEY] come forward and lead the House in the Pledge of Allegiance.

Mr. OXLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1976) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes."

The message also announced that Mr. BENNETT be a conferee, on the part of the Senate, on the bill (H.R. 1868) "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes," vice Mr. GRAMM.

The message also announced that Mr. SHELBY be a conferee, on the part of the Senate, on the bill (H.R. 2002) "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes," vice Mr. GRAMM.

The message also announced that Mr. CAMPBELL be a conferee, on the part of the Senate, on the bill (H.R. 2020) "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes," vice Mr. GREGG.

The message also announced that Mr. CAMPBELL be a conferee, on the part of the Senate, on the bill (H.R. 2099) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices, for the fiscal year ending September 30, 1996, and for other purposes," vice Mr. GRAMM.

The message also announced that pursuant to Public Law 95-521, the Chair, on behalf of the President pro tempore, appoints Thomas B. Griffith as Senate Legal Counsel, effective as of October 24, 1995, for a term of service to expire at the end of the 105th Congress.

The message also announced that pursuant to Public Law 95-521, the Chair, on behalf of the President pro tempore, appoints Morgan J. Frankel as Deputy Senate Legal Counsel, effective as of October 24, 1995, for a term of service to expire at the end of the 105th Congress.

OHIO LEADING THE WAY IN THE GLOBAL MARKETPLACE

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I rise to commend Ohio manufacturers for their continued success in exporting products abroad.

Early this year I took to the floor to note a World Trade magazine report that ranked Ohio No. 1 in the country in the number of businesses that export goods. Now comes a study from the Massachusetts Institute for Social and Economic Research showing that in the first half of 1995 Ohio exports increased 18 percent to $12.1 billion through June.

This dynamic performance was broad based, with sectors as diverse as electronics, agriculture, and industrial equipment logging impressive gains. Indeed, auto supplier Buckeye Rubber Products of Lima, OH, was among those cited for posting healthy increases.

Mr. Speaker, as a long-time free trader I'm proud to see Ohio leading the way in the global marketplace. It's further proof that protrade policies are benefiting Ohio companies and Ohio workers.

MEDICARE CUTS

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, I consider H.R. 2425 to be the latest and most blatant act of legislative terrorism aimed straight at our Nation's older Americans. Older Americans are being held captive by the Republican Medicare proposal.

Mr. Speaker, when I say captive, I really mean captive. That was proven beyond a shadow of a doubt Wednesday morning when the chairman of the Commerce Committee had 13 senior citizens handcuffed and taken off to jail simply for trying to voice their concern about the Republican draconian cuts.

Mr. Speaker, I will never forget the words of a 90-year-old senior citizen who, while being placed in a police paddy wagon, looked at me and said, "If I had to do it all over again, I would."

I ask my Republican colleagues, when will they cease waging generational guerrilla warfare against the elderly and the disabled in this Nation?

I yield back the balance of my time.

INCREASING MEDICARE, BUT AT A SLOWER RATE

(Mr. WELDON of Florida asked and was given permission to address the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, President Clinton's Medicare trustees told us Medicare will be bankrupt by the year 2002. As a physician, I am one of a few Members of Congress who has treated Medicare patients. I understand how important this program is for the seniors and the future generations.

Under the Republican plan, Medicare spending increases from $4,800 to $6,700. This is per senior. This is an increase of $1,900 and exceeds the projected inflation rate. For those in the other party and in the media who keep calling this a cut, I should put it another way. If you had a basket with 48 apples in it, how do you get to 67? Do you add apples to the basket or do you take apples out?

Republicans agree that you add 19 apples to the basket in order to reach 67. Matehmatics agrees with us. We are increasing Medicare, but at a less than 10-percent rate increase. This is responsible and reasonable, and we will preserve and protect the Medicare plan. I urge all of my colleagues to support the Republican proposal.

MEDICAID CUTS WILL HURT RURAL AMERICA

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, the Medicare cuts will hurt, but, for rural America, the Medicaid cuts will inflict unbearable pain. The majority proposes to cut Medicaid by $182 billion. What do these cuts mean?

They mean that my State will lose $6.76 billion in Medicaid funding over the next 5 years—882,000 Medicaid recipients will be affected in North Carolina and that number is growing.

Almost 8 out of 10 of the 31,600 North Carolina nursing home residents are covered by Medicaid—who will take care of them at an average cost of $38,000 per year? Thirty-one thousand, three hundred seniors and other disabled people in North Carolina receive home care through Medicaid—who will pay for that?

Nineteen percent, close to half a million of North Carolina's children, rely on Medicaid for their health care needs—these children are the poorest of the poor—who will help them? What will happen to families and spouses when incapacitated seniors go broke?

This plan takes us back to the days when the whole family will be left with nothing when faced with unexpected, costly illness. Hurting our seniors, our indigent, and our disabled is not the way to balance the budget—in the end—it only hurts us all.

Our seniors should grow old with grace, dignity, and security. Next week, let's reject this hastily done, insensitive, unthoughtful majority plan to take from the poor and give to the rich.

THE TOP 10

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, here are the top 10 reasons why liberals refuse to help in the effort to save Medicare from bankruptcy.

No. 10, they are not in charge anymore.

No. 9, they are just mad because they will not be getting a pay raise this session.

No. 8, fearmongering. What a blast.

No. 7, they might throw a collective tantrum and explode.

No. 6, they are just stalling until they can get into the witness protection program.

No. 5, responsibility? Why act responsible?

No. 4, that Trojan horse thing. What a breakthrough in modern political communications.

No. 3, forget that going from $4,800 per year to $6,700 per year is really an increase. Forget that. We have some really neat color pictures to show you.

No. 2, with all their scary disguises they did not know Halloween was at the end of the month.

And the No. 1 reason why liberals refuse to help us in our efforts to save Medicare from bankruptcy, well, that would actually mean caring about seniors instead of the next election.

MEN, WOMEN, AND CHILDREN SHOULD MARCH TOGETHER

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SCHROEDER. Mr. Speaker, we are told that a million men will be marching on Monday in this city, and we are told that the march is to strengthen and rebuild families, but where are the families? They are to be at home. This is to be a sex-related march with no women. It is to be an age-related march with no children.

I think, Mr. Speaker, men professing to celebrate family in a family free zone makes no sense. If women went off to spas saying they were rebuilding themselves to celebrate family, they would be attacked. The way we need to celebrate and build America's families is shoulder to shoulder and marching together.

I certainly hope the organizers rethink and make this an inclusive march of men, women, and children, marching together to rebuild the family structure of America that is so desperately in need of rebuilding.

THE SEVENTH ANNUAL CONGRESSIONAL BASKETBALL CLASSIC

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, so far this year the Democrats and the Republicans have squared off on the House floor, we have squared off in the committees, we have squared off on the baseball diamond, but next Tuesday we will meet each other on the basketball court and finally we will have the answer to whether or not STEVE LARGENT can actually dunk.

Mr. Speaker, next Tuesday is the seventh annual congressional basketball classic. Every 2 years we play this game in support of Gallaudet University, the only university in the world specifically devoted to students who are deaf and have a hearing impairment.

This year's game is being sponsored by the NBA, the Washington Bullets, Abe Pollin and Wes Unseld, the Denver Nuggets, with Walter Davis and COMSAT and many other businesses. The game is going to be played at the Gallaudet fieldhouse which is close to the Capitol, next Tuesday, 7:30. Tickets are available, so if you want to have fun, support a good cause, see some good action, come to the fieldhouse and see this ball game, where we take on the gentleman from Ohio [Mr. OXLEY] and his mighty group of dunkers over there on the Republican side of the aisle.

CONCERNS ABOUT MEDICARE LOBBYING

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, two groups came to Washington this week with concerns about the GOP Medicare cuts. One group got a private meeting with Speaker GINGRICH. The other group got arrested.

When the American Medical Association sent its high priced lobbyists up to Capitol Hill, they got a closed-door meeting with Speaker GINGRICH and a billion dollar deal. But, the National Council of Senior Citizens didn't get the same reception. Its members got no meeting with the Speaker and no special deals. Instead, they got arrested.

That's right. Fifteen senior citizens were arrested, handcuffed, and led away in a paddy wagon. What was their crime? Asking questions about the Republican Medicare cuts. Here's a photo of 67-year-old Roberta Saxton being handcuffed for asking a question about her health care plan. Welcome to the Gingrich revolution.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE ISTOOK PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, I want to talk this morning about one of the many, many provisions, hidden, dirty little secrets to use the phrase of the gentleman from Indiana [Mr. MCINTOSH], the gentleman from Oklahoma [Mr. ISTOOK], and the gentleman from Maryland [Mr. EHRLICH], who are proposing this legislation, buried in their proposal designed to shut down a large part of a cherished American tradition of open and free political speech and political debate. That part of their proposal has to do with compliance and enforcement.

Mr. Speaker, one of the revered principles of American law is the presumption of innocence. One of the bizarre aspects of my colleagues' proposal is that it would create a presumption of guilt. How would it do that? I will tell my colleagues how. In order to be able to be in compliance with these draconian provisions restricting the ability of Americans and American organizations to engage in the political life of this country, everyone covered by this proposal would be put to the burden of proving compliance, that is, proving their innocence.

Most times when we might be accused or challenged for an alleged violation of law, civil or criminal, it is the burden on those making that allegation, bringing the charges, to prove a violation, but not here. Here the tables are turned and anyone that is challenged on their compliance with the Istook proposal would have to prove compliance, prove their innocence.

Mr. Speaker, that is bad enough, but I want to tell Members something more, another dirty little secret hidden in this proposal. That is not only would each of us have to prove our innocence, our compliance, that we are not speaking too much in this country, that we are not too fully engaged in the political life of America, but we would have to sustain a burden of proving that by what the lawyers call clear and convincing evidence.

Most times in civil cases, if you have the burden of proof, all that you have to do is show that your side is right by what is called a preponderance of evidence. You might think of that as 51 percent. But not here. Here you would have to demonstrate your compliance by clear and convincing evidence and, again to give it a kind of quantitative feel, most lawyers would say that is 70, 75, 80 percent.

So that is the kind of really bizarre provision buried in this proposal. Again, that would be bad enough if we were dealing with some normal kinds of enforcement issue, have we violated an environmental law or done something else that has to do with the normal course of business in this country. But this is a regulation designed, intended, constructed to curtail political expression.

I know, Mr. Speaker, you are saying this cannot be true. How can anyone in a freedom loving country like ours write a law intended to constrain, to regulate political expression? But that is what this does.

It would limit what we can do to a percentage of our income, almost all Americans are likely to be covered because of the way this thing is written, and, again, we would be put to the task of proving that we have not overdone it, that we have not been hyperactive politically, and if we cannot prove our compliance, not just by 51 percent but by this clear and convincing evidence standard, what happens? Well, we could be subject to treble damages, to have to pay three times the value of what we might have gotten in value from the Federal Government in any number of different ways of having exceeded our political expression limits for the year.

Mr. Speaker, can my colleagues imagine anything more unfair, more un-American that this kind of intrusion on the hallowed, hallowed principles of freedom of expression, freedom of association guaranteed to each of us by the Constitution of the United States?

GET ON WITH AMERICA'S PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say that it has been a very rough week for those of us who believe that this is the people's House, and, indeed, the people should be able to come here and ask questions. We found we have not even been allowed to ask questions or even see the Medicare reform. We are told trust us, you are in the hands of your mother. Oh, really? Well, mother is turning into a terror, it seems, as we see what some of these changes are.

This was a very hard week for me, Mr. Speaker, as I watched these people being handcuffed just for coming to ask questions. I have never seen that happen before. This person does not look like a physical threat to anyone, to me, people in wheelchairs, everyone else, and we are supposed to be grateful because they were not put in jail, they were just taken down and booked and then they let them all go.

Today I see in the paper even more of a shock, and I am sure these people will be even more angry, because today's headlines say "Gingrich places low priority on Medicare crooks." Well, now, that makes us feel real good, does it not? It goes on to say that in the area of self-referrals and kickbacks, they have taken all of that out because the doctors did not want it, and that the Congressional Budget Office, remember the Director of the Congressional Budget Office is appointed by the Speaker in his leadership, so part of their team, the Congressional Budget Office estimates that this is going to cost you $1.1 billion.

My guess, Mr. Speaker, is that is very low. But at a time we are trying to ask people—or they are asking people, to put in more and to trust them, and that these are not really cuts, and we have heard it all, in the interim their very own office says they are winking at waste, fraud, and abuse. It will come back in even a bigger form. Rather than trying to take out what we know is in there, they are winking and letting it come back in. I find that really very, very surprising. I think most Americans would find that surprising.

I am sure to people at home it sounds like we are a bunch of 5-year-olds in a fight out on a playground, but this is a very important fight. It is a fight about the future of Medicare and Medicaid and what it is going to look like for future generations.

You have a trustees report that says we need to save about $90 to $100 billion. We have put out a plan that would do that, that the trustees say would get us there, and that is very important. You see the other side waiving the trustees report, but then they come up with $270 billion. They do not take it to the trustees to say is this the right way to go, they do not have hearings where the trustees come, and day after day we see a constant trickle of more shocking news about what is in their reform program. I do not know how you can call putting a low priority on Medicare crooks reform. That does not sound like reform at all. That sounds very retro.

Mr. Speaker, I think that is why some of us on this side get very impatient and our voices go up and maybe we get too shrill about this, but these types of issues are very serious. People are entitled to hearings. The people who came here and got arrested, I think that is one of the largest affronts to American citizens I have ever seen, and I wish the leadership would apologize to them and say that they are welcome here and this is the people's House and they can come ask these questions.

We on our side of the aisle, we want to ask some questions, too. Since when is a low priority on Medicare crooks the priority of this House? It certainly is not on this side of the aisle. We do not approve of Medicare crooks, we do not approve of defense fraud, we do not approve of fraud wherever it is. Money is money and people should be treated with dignity. But to see this type of thing constantly trickling out in the press without the openness and without the discussion that we need, I think is very tragic, and that is why people get cynical about government, and that is why I think people are really beginning to wonder and wake up. What is going on on Medicare and Medicaid?

I am also concerned, Mr. Speaker, that we have done away with what we called spousal impoverishment, but you may as well call take-your-house-away bill, because a couple, if one gets sick, is going to have to put all their assets on the line to take care of that one person before they will qualify for Medicaid.

Boy, that is not a family value as far as I am concerned. In 1988, this Congress said no to that type of thing. We said that the family's assets should be split and we should not do that. I hope people find out Medicare fraud is not my priority. Putting families in the poor house is not my priority, and I hope we get on to America's priorities.

PROVIDING CHOICES IN HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, when I was a kid growing up, one of my favorite TV shows was Dragnet. There was a fellow on that show, Officer Friday, and one of his expressions that I liked, if he was getting a lot of extraneous information he would just say just "The facts, ma'am. We need the facts."

I would like to get into a little bit of the facts surrounding the so-called arrest of these innocent senior citizens at the Committee on Commerce meeting yesterday. When I heard about this, I was indeed myself concerned, and I asked some of the members of the Committee on Commerce what went on, and the Committee on Commerce hearing was disrupted by a group of seniors who just happened to be a group of seniors affiliated with a group called the National Council of Senior Citizens, which is a very liberal left wing organization which this previous Democratic-led Congress had been giving about $75 million a year to for the express purpose of lobbying the Congress to spend more and more and more money.

Yes, you the taxpayers were having your tax dollars given to an organization that was devoting its efforts full time to lobbying the Government to engage in more deficit spending. This group, this innocent group of seniors, who came in were quietly and politely asked to leave, not once, not twice, not three times, not four times, not five times, but six times they were asked to leave the Committee on Commerce meeting because they were interrupting the hearing.

Finally, it became quite apparent to all those there that the purpose of those people being in that room who were working with this liberal left wing organization, the purpose was to make sure that they got arrested so that they could get some photographs, so that those photographs could be used in newspapers, in magazines, and in this body. This is a staged event.

Mr. Speaker, I have been talking to the senior citizens in my district and they understand that we have a problem. Indeed, the nature of the problem was established credibly by three Democrats working in the White House, Robert Rubin, Robert Reich, and Donna Shalala, who said the fund is projected to be exhausted. What did we do, Mr. Speaker? When we got this information, we sat down with AARP. No, we did not talk to the National Council of Senior Citizens, because their only answer is to raise taxes and increase spending and borrow more money. We talked to responsible groups. We talked to the senior citizens. We talked to the hospital providers and we talked to the physician providers as well.

We have come up with a plan that I think is reasonable and credible. It provides choices for senior citizens. If a senior likes the plan that they are in right now and likes their physician, they can select traditional Medicare and they can stay in it. If they want to opt for some different options, we have a new program called Medicare Plus, which will allow senior citizens to select a variety of different options. Those include if they are getting near retirement and they like the coverage that they have with their current employer, if that employer's insurance provider has a senior option, they can actually select to stay with that company if they want to.

If they want to, they can select a vehicle called a Medical Savings Account, which allows them to really control their dollars and determine exactly how it is going to be spent. There is another option in there for the establishment of provider-sponsored networks. Why is that in there? It is in there for this reason. Managed care has been shown to be, in many ways, a better way to deliver care that is of very, very good quality, and it is also a way to help control escalating and spiraling costs in the managed care environment. There are many communities that do not have managed care vehicles available to the people in those communities.

We have allowed hospitals and physicians to form networks together. They are called provider-sponsored networks, so that they can offer managed care vehicles, managed care systems for the seniors in those communities.

Now, in the process of doing that, we did have to repeal a lot of provisions in previous law that prohibited physicians from getting together. We have to repeal those provisions or they cannot get together.

Mr. Speaker, I think we clearly received a definite message that our plan was credible and it was workable. The Washington Post, of all publications, a publication that has a long tradition, a long record of supporting Democrats and attacking Republicans in this city, came out with an editorial where they said the Democrats campaign, the MediScare campaign, they called it crummy stuff, demagoguery big time, they called it scare talk, expostulation, they said it was irresponsible.

What did the Washington Post, the traditional voice for liberal Democratic policies, say about our plan? Congressional Republicans have confounded skeptics. It is credible, it is gutsy, and I think it is a good plan. I think it is good for seniors. I think it is good for America, and I think it will help us to balance the needs of seniors with needs to be responsible with our tax dollars and all Americans should support this plan.

□ 1030

SAVING MEDICARE

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I want to respond to my colleague and friend from the other side of the aisle who just spoke. Teresa McKenna in this picture was arrested because she wanted to speak about the injustices and the inequities and the lack of discussion on the issue that is most important to her and the people that she affiliates with in this country, the Medicare issue.

We have had one hearing on a proposal that will affect 40 million people, and she and other of her colleagues went to the Committee on Commerce to ask to be heard. She asked to be heard. They were told they could not be heard. She asked why, and she was told she could not be heard. Then they were arrested and taken down to the jail.

Now, the gentleman who just spoke talked about this was a left-wing type of an organization. Does she look like some left-wing radical that wants to overthrow this Government? All she wants is a fair shake for herself and her seniors.

Do you know why she wants a fair shake? Because in a report that was done very recently by the Department of Labor, we found that 60 percent of senior citizens in this country, 60 percent, have combined retirement incomes, that is the retirements and their Social Security, of $10,000 a year or less. I will repeat that again for you. We have got 60 percent of our seniors living on $10,000 a year or less in this country.

What the National Council of Senior Citizens do is they go out and help these low-income seniors get low-income jobs so they can have some supplement to that $10,000.

What is going on here is my colleagues on the other side of the aisle have a proposal that will take $270 billion out of Medicare in order to pay for a tax cut which comes out to about $245 billion, which predominantly goes to the wealthiest Americans. Fifty percent of that tax cut goes to people who make over $100,000 a year. That is what this fight is about. It is about the Teresa McKenna's and the people struggling to make ends meet, and who will have $1,000 added to their bills each year. They are living on $10,000 and $13,000, and we are giving tax cuts to the wealthiest corporations and wealthiest individuals in our country.

That is why we are so upset and mad. Do we need to fix Medicare and improve it as we go along? Of course we do. We have been doing that for 30 years. But how do you fix it when the Speaker of the House, as this headline in the Washington Times indicates today, says "Gingrich places low priority on Medicare crooks. Defends cutting antifraud defenses." How do you fix it when you have that type of an attitude running this institution?

Now, let me just say with respect to this issue, not one dime, not one dime of their plan goes back into the Medicare trust fund. Not one dime. The last speaker indicated that the Medicare trustees, the three that he mentioned, Secretaries Rubin, Shalala; and Reich, indicated that the trust fund was broke. But they also said it was not broke. They said basically all you need is $90 billion. You don't need $270 billion to fix it.

The other thing I wanted to talk about very briefly is what is happening to Medicaid. We are cutting $182 billion out of Medicaid. What they are doing by cutting this money is they are putting in jeopardy literally hundreds of thousands of seniors from getting nursing home care that they so desperately need and impoverishing spouses in this country by changing the rules and regulations. A $182 billion cut in Medicaid, 60 percent of which, or close to that number, goes to long-term care for our seniors in nursing homes.

Medicaid is not just a program for the poor, it is for seniors. Two out of every five children in this country get health care from Medicaid, and they are cutting it by $182 billion. That will mean 15,000 residents in my State of Michigan will not have nursing home care next year if this cut goes through; 175,000 will not have it over a 7-year period. These are draconian cuts.

The New York Times had a headline saying the Republican Gingrich revolution is rolling back the regulations we put on nursing homes. Remember the time when people were being drugged and straitjacketed to their beds? We had serious home abuses. We changed that with humane regulations. Those are all being rolled back now. This proposal that they have to cut Medicaid also repeals the minimum quality standard for nursing homes and other quality care.

So, in conclusion, Mr. Speaker, let me just say that I hope America is paying attention to these two important issues we will be debating in the next week or so.

THE TRUTH ON MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes as the designee of the majority leader.

Mr. TAUZIN. Mr. Speaker, I am a member of the Committee on Commerce, and of all the speakers you heard this morning talking about the incident that occurred at the Committee on Commerce on the Medicare markup this week, I am the only person who was actually present for that incident. Let me tell you the truth about that incident; the facts, ma'am, just the facts, if you will.

What occurred was a woman named Teresa McKenna, who is not some poor person worried about her Medicare, she is a paid lobbyist working for the National Council of Senior Citizens, brought a few of her members into the committee room as we had opened up the session to begin marking up the bill, and they began shouting and protesting at that markup hearing.

The committees of the Congress work just like this body does. Members of the public are invited to attend and to sit in the galleries or sit in the committee rooms and to witness the process by which we mark up bills and debate them and process them through this House. Guests are always welcome, as is the press, at our committee markups.

Had Ms. Teresa McKenna brought her members into this room, into this gallery, and conducted themselves the same way, began shouting and interrupting the process, the same thing would have occurred in this House as occurred in that committee room. They were asked three times by the officers in charge at the request of the chairman to either take seats or leave the room so that we could begin our business. Three times they refused. The officers had no choice then but to escort them out of the room.

Immediately after they had been escorted under arrest outside the room, the chairman instructed the police officers involved not to press charges, but to release them to go free. In short, the committee did exactly what this House would do; it exercised its responsibility to enforce order in the process by which we debated the bill.

Teresa McKenna represents an organization headquartered here in Washington. She has been representing it for some many years now. She is a paid lobbyist for that organization. You need to know about the organization. Last year it received $72 million of taxpayer funds to carry out their business. That is a pretty hefty sum. Can you imagine how much health care we could give to seniors in America if we spent that $72 million on some senior health care problems. But, instead, this group got $72 million of taxpayer moneys as grants from the Federal Government to do their work.

Well, what kind of work do they do? They lobby. That is what they do. And, guess what? That $72 million was 96 percent of the income that that organization derived last year. That organization is almost totally taxpayer funded as a lobby group. Ms. Teresa McKenna took some of her members and tried to disrupt the process by which our committee was beginning to debate this extraordinarily important issue for the sake of all Americans, for our mothers and fathers and grandmothers and grandfathers and those to come.

Now, should she and her members have been ejected from the room when they refused to obey? Of course. They would have been ejected from this Chamber the same way. Should they have been put in jail? Of course not. As soon as they were taken out of the room, the charges were dropped and they were dismissed.

I wanted to clear that up first of all. No Speaker of this House, Democrat or Republican, could put up with that kind of disorder in this body. No chairman of the committee, Democrat or Republican, would have put with that kind of disorder in the committee process.

Did our committee have hearings on Medicare? Our committee held 10 hearings on Medicare this year. Ten hearings. That is more than the previous three Congresses combined held on Medicare. We had lots of hearings. We have had meetings all over the country. We have had focus meetings all over the country. Members have had town hall meetings all over the country. Citizens have had many opportunities to discuss with us this critical and important issue of how to save the Medicare program.

So when you hear Members on the other side get up and make believe that some poor senior citizen was arrested because she just wanted to be heard, understand the truth. This was a lobby group, paid for with Federal funds through grants, that was just trying to disrupt the process.

That is what occurred the other day. What the committee did was exactly what the Speaker of this House is obliged to do. The committee gave them three warnings, and then had them removed from the room, and they should have done so. We processed the bill from 5 o'clock that day until 11 o'clock that night. We came back at 10 o'clock the next day, and we finished our work at approximately 12:30 midnight the next day. Our committee worked diligently and hard and debated amendment after amendment after amendment, offered mostly by Members on the other side, before we finally produced the Medicare bill for this House to consider next week.

I will in a minute begin to discuss with you the merits of that Medicare bill. I want to first yield to my friend from Florida.

Mr. WELDON of Florida. I want to thank the gentleman for yielding. I just want to make a point that I think is a very important one. This disruption of a committee hearing, this staged, theatrical disruption, to include photographers being present, and these photographs being brought here into this House, I think clearly demonstrates how desperate our opponents are in this Medicare debate. They have not put forward a credible plan to restore, protect, and preserve Medicare. They have not put forward a credible proposal.

I said earlier when I was speaking that the Washington Post itself has come out and said our plan is credible. They have not been able to do that. They do not have a plan to restore Medicare, and they realize we are about to do something that will probably be very, very good for seniors in restoring the solvency of the Medicare plan, and they are literally desperate to do something to stop us from doing good.

I think it is really a shame that that is what politics in this city has gotten down to, where these kinds of tactics have to be used. I think our plan is a reasonable plan. I think our plan is a well thought out plan. I think we have gotten a lot of input from a variety of different groups in open meetings.

There have not been any secret meetings here at all. Committee on Commerce, as you said, had 10 hearings. I think the Committee on Ways and Means has had 30 meetings. We have had hearings and hearings and hearings and hearings on restoring the solvency to the Medicare plan, and we have put forward a proposal that everybody seems to be saying is reasonable and balanced and restores solvency to the Medicare plan. Not only does it do those things, but it provides our seniors more choice in selecting their health care plans.

I think it is a good plan, and I think it is a sorry day in the annals of political history in this city when the minority party has to resort to these kinds of desperate tactics in this debate.

Let us have an open debate, let us have an open debate and really discuss the various virtues and merits of our Medicare plan, and let us not resort to these kinds of tactics.

Mr. TAUZIN. Well, if the tactics at the committee were bad, the tactics on the floor are worse, to pretend this was some real demonstration by real senior citizens, when this was an organized lobby group planning to disrupt the meeting. To bring pictures on the floor and make it look like some poor senior citizen was not heard is just Hollywood. That is all it is. We ought to put that behind us as quickly as we can and begin to debate the merits of our proposal.

I agree, we have a good plan. We ought to debate it, and I am prepared to begin talking about it.

Mr. KIM. Mr. Speaker, I agree, I think this is all politically motivated. I have a deep concern about all these attacks, that we are taking money from senior citizens and giving that to rich people. My golly, we are talking about a tax credit of $500 per child, and that was given to everybody, not just rich people. Also remember, we just passed an amendment which prohibits any money transfer from Medicare to any other general fund money.

Mr. TAUZIN. If the gentleman will let me emphasize that point, in the Medicare markup we adopted the lockbox amendment, which makes sure any savings the new Medicare reforms produce has to stay for Medicare purposes. It does not go for any other purpose such as a tax cut. It is used within the system to keep the system solvent.

Mr. KIM. I think the public should know that you cannot transfer money from the Medicare trust fund to any other account. The money has to stay within the Medicare trust fund. But all these scare tactics to frighten senior citizens, let me also point out that we should look at President Clinton's plan. He recognized the problem. He is the one that told us Medicare will be bankrupt within 7 years. His proposal is about saving $127 billion over 10 years.

Mr. TAUZIN. If the gentleman will allow me, he proposed saving $127 billion, but on the same baseline that our calculations are made, his number is really $192 billion. The President himself said we need to save at least $192 billion in spending, the bleeding that is occurring in the system, to save it from bankruptcy. Our number is $270 billion. His number is $192 billion. We are not that far apart.

The President understands bankruptcy is about to happen in Medicare. We have to cut the waste, fraud, and abuse, the spending driving it into bankruptcy, as quickly as we can. It does not take Band-Aids, it takes real reform.

Mr. KIM. That is exactly right. So the President recognizes the problem. As a matter of fact, the Board of Trustees are his appointees. They are the ones that released the report that said it is going bankrupt. The President's plan and our plan are not that much different. As you said, if we look at the same baseline, we are talking about the same thing.

Let us look at the Democrat's demagoguery. They have no plan, nothing until about a week ago, and they come up with an idea, a gentler plan, which says they can save $90 billion. Let us take a look at that.

What is going to happen with the $90 billion savings when Medicare is about to go bankrupt? Ninety billion dollars certainly does not go far enough. Their plan simply delays Medicare bankruptcy by an additional 3 years. That is what they are doing.

Worse than that, their plan leaves Medicare about $300 billion in debt, just as the first wave of baby boomers comes along. What is going to happen then? When the baby boomers decide to retire, then we have a $300 billion debt in the Medicare trust fund. Undoubtedly that is going to bankrupt it again.

This is just another political gesture. I am concerned about this.

Mr. TAUZIN. The gentleman makes a great point that we need to emphasize. The Democratic Party finally came with some alternative. They finally said this week, here is what we would do. What they would do would be to cut the spending, the bleeding in the program, by only $90 billion. What that does is that just delays the bankruptcy. It is like putting a Band-Aid on a gaping wound and say all you have to do is pump.

Mr. MORAN. Blood in the patient. The patient is going to die unless you close up the wound. Ninety billion dollars will only get you past the next election. It will not save Medicare from bankruptcy and protect it for the next generation. Our goal is to protect Medicare, not pass the next election, but for the next generation.

Mr. KIM. That is right. Ninety billion dollars is just a political game without any details. You are trying to use this figure and trying to frighten senior citizens.

I am concerned with what is happening right now, all the verbal assault and demagoguery.

Mr. TAUZIN. Mr. Speaker, I want to start this discussion by laying something on the table that I think ought to be a predicate to all the discussions we have, a precedent. The first thing I think we ought to put on the table for everyone to consider is that no Democrat, no Republican, has a greater claim to loving their parents and their grandparents than anyone else in this body. No one can credibly make an argument that because they are a member of one party or the other, they love their parents or grandparents more than a member of the other party. This is not about parties.

We should love our parents and grandparents enough to make sure that the Medicare system is not only solvent for the next 7 years but is solvent for as long as we can possibly see into the future. It is that important.

My mother is a cancer survivor twice, survived breast cancer surgery in 1961, survived lung cancer surgery in 1980. She is a miracle, a product of the miracles of medicine. I consider her my miracle mom. She is still around. She is celebrating her birthday this week at the Senior Olympics in Baton Rouge, in her two favorite categories, shot put and javelin, believe it or not. She is doing great. She is one of the incredible success stories of our Medicare program, of our health care system.

No one in this body can dare lay claim to the notion that they love their parents or grandparents any more than any one of us in this body, regardless of party. That ought to be the first principle.

The second principle ought to be that all of us recognize what the President said, that he and his trustees have said, that if we do not do something dramatic and immediate, the Medicare system will go bankrupt in 7 years.

Now, I expect my mother to be around longer than 7 years. I do not want that bankruptcy to occur for her, not for your mother, not for anybody's mother or father or grandfather.

The second principle that we all ought to agree on, regardless of our disputes, is that we cannot let that happen. We cannot let this system that has cared for my mother and yours go into bankruptcy in 7 years.

The third principle I want to put on the table as we begin this discussion is that the President himself has recognized the need for an immediate and dramatic action to stem the bleeding of money from this system, the tripling of inflationary costs in health care, to Medicare, the waste, the fraud, the abuse in that system—they estimate 10 percent of the dollars we spend in Medicare is nothing but waste and fraud and abuse.

The President has recognized we have to put an end to that. He has recommended $192 billion of reforms in that area. We have recommended $270 billion. The President said in 1993 that for the system to continue at three times the rate of inflation is intolerable. He said in 1993, the President, Bill Clinton said, "I will recommend reducing the growth of spending in Medicare dramatically and in Medicaid. This will not be a cut. Don't let people tell you it is a cut. We simply have to reduce this incredible rate of spending to save the system." That was the President's words in 1993.

We have some agreement there. We ought to have agreement in this body on those same three principles. One, we all equally love our parents and grandparents; two, we all ought to be committed to saving Medicare from bankruptcy; and, three, we can agree, from this body to the Senate to the White House, on a plan to rescue it.

Mr. KIM. If the gentleman will yield further, I would just like to point out I hope people in California are watching this debate, because I read the report carefully. It says that part A of the trust fund, the hospital insurance trust fund, which pays the hospital costs, will be bankrupt within 7 years, unless we do something right now.

That is financed by payroll taxes, the FICA, which the beneficiary pays a half and the employer contributes the other half. If that goes into bankruptcy, we have two choices. One is raise taxes, which is not fair to younger people. Why should they pay a higher rate to subsidize beneficiaries, the retirees?

The second is you have to control the costs. That is exactly what we are trying to do. We have shown again and again that last year alone the Medicare trust fund, which is mismanaged in my opinion, the cost has gone up 10.5 percent. The private plan in California, the costs have actually gone down 1.5 percent.

If you give choices to join a private plan, just a choice, an option, the more joining the private plan, we can save easily 10 percent by avoiding this mismanagement.

Then part B, which is, again, paying for the doctor's bill, which is paid by the beneficiaries, $41.22 a month, that is hardly enough. So what we are doing is, other taxpayers have been subsidizing two-thirds of this cost. The beneficiary only pays one-third. It used to be half and half. If we do nothing, what is going to happen at the end of 7 years, it is going to be 90 percent subsidized by the other taxpayers, only 10 percent paid by the beneficiary. That is not fair.

What we are trying to do is maintain the same situation, one-third/two-third relationship, by doing it we have to ask the retiree to contribute a little more to maintain the level. We are not cutting anything. We are trying to maintain the same level.

I think we should stop bickering and sending all this disinformation and frightening tactics, so we can work together and come up with a comprehensive plan. We are in a serious problem in Medicare.

Mr. TAUZIN. I thank the gentleman for his statements. I guess maybe the gentleman has put his finger on it. The last thing we ought to do is try to scare seniors today. They have enough to worry about.

We all ought to be trying to calm these fears. We ought to be talking about our debate, of course, on how to resolve it; it ought to be a good debate. But we ought to all talk about those three principles I talk about. We love you enough to try to keep Medicare solvent, and we will do whatever it takes in working with the White House to come up with an eventual solution that saves it from bankruptcy. That ought to be the theme.

These fear tactics ought to be put aside. We ought to work for the good of this country instead of for the good of somebody's politics today.

I yield to my doctor friend from Florida.

Mr. WELDON of Florida. I just want to amplify on a point that the gentleman from California [Mr. KIM] just made, which I think is an extremely important point.

In developing our plan, we met with a variety of different groups, both consumer groups and senior groups, as well as provider groups. And we, frankly, were shocked to discover that in many of the private groups that do health care, they are actually seeing their cots go down.

So here we have on this one side this government-run program with all its bureaucracy, with all its fraud and waste, and it is increasing at 10.5 percent. Then you go to these civilian-run, private programs, where they are actually reducing the premium. It is not growing at 3 percent, it is not growing at 5 percent, it is not growing at 6 percent. They are actually lowering the premiums to the employers, and that helps those employers be more competitive. It helps them to be more competitive on the international market, where so much of the competition is going on right now.

So what we did is we said, how are you doing that? How have you been able not only to lower the rate of increase of health care costs, but to actually see some real dollar reductions in your costs in health care? And we have taken some of those principles that they have adopted, many of which—actually what they accomplish is they root out fraud and abuse. And we have adopted some of those into our Medicare Plus program.

Now, our friends on the other side of the aisle would like to say that we do not want that, we do not want that. We cannot have that. We want to maintain the status quo. But the reality is the working people who work for these companies who have adopted many of these managed care type plans have to live under those managed care plans.

The ultimate irony of all this is, if you do pause and you ask those working people, the people who are paying the bills for the Medicare plan through their payroll taxes, how do they like them, what they think of those plans, they say they are great. They love them. They think they are wonderful, and they indeed, many of them, are happy that it saves money for their employers so their employers can be more successful. And they indeed are very, very happy that it weeds out fraud and abuse.

Mr. Speaker, that was such a crucial point that the gentleman from California [Mr. KIM] brought up. All we are doing is saying, gosh, how did you guys out there in the free market manage to do this? Let us see if we can put a little of your free market common sense into our Government program. That is what we have done with our Medicare Plan.

To accuse us of some of the things that are coming from the left on this issue, I think is just dead wrong. It is a good plan.

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Mr. TAUZIN. It is important I think for us to answer some of those accusations right up front. First, are we forcing anybody out of Medicare? The answer is no. Our plan says if you want to stay under the traditional Medicare fee-for-service, you choose your own doctor, choose your own hospital, you continue as my mother has under the Medicare program, you can continue under the current Medicare program as long as you want to.

I will say it again. You can stay in Medicare as long as you want to. Will there be increases in the benefits over the next 7 years in our plan if you stay in Medicare? The answer is yes. We will increase the benefits per beneficiary from about $4,800 a person on average to $6,700 a person on average over the next 7 years.

So if you are like my mother, you like Medicare and want to stay there, you can and your benefits increase over the next 7 years by almost $2,000. So do not believe this awful fear tactic that we are somehow cutting the benefits to Medicare beneficiaries. Neither are we forcing anybody out of the Medicare system as they knew it.

I will tell you the other good news. What about the case if a Medicare beneficiary decides to choose one of these new plans and then does not like it? Guess what, under our plan if you choose it and do not like it, you can go right back into Medicare. In the first 2 years you can do that on a 60, 90-day turnover. You can try a plan and go right back to Medicare. After that you sign up for 1 year at a time.

You will get to do what Members of Congress get to do; you get to choose from among plans. Do you remember when Hillary Clinton was presenting her national health care plan and they argued on television that we ought to give Americans the same option people in Congress have to choose different plans? Well, guess what? Under our Medicare proposal, seniors can stay in Medicare like it is, if they like it, or they can choose another plan, exactly what Hillary was recommending for every American.

Third, if you do not like the plan you choose, under our plan you can move back into Medicare any time you want to during the first 2 years and every year thereafter at election date when it is time for you to choose.

Guess what else? Seniors are not going to have to use vouchers and go buy these plans. The truth is seniors are going to have a booklet sent out to them in plain English, same way we get one every year, that explains the options to you, that tells you what you can choose and what you can try, and then if you do not like that you can switch back to the Medicare the next year or during that first 2-year period.

That is a pretty good deal. When I went to my mother last weekend and she asked me what we are doing in this thing and I explained it to her, I said Mom would you like to have some option. She said I like Medicare just like it is. I said you can stay there, but would you not like to know you have the same options that we have in the private sector, that Members of Congress have under our Blue Cross plan? Would you not like to know you can move from one plan to another if there is a plan better than the one you are in and that you can go back to Medicare if you do not like the one you choose? She said, well, that makes a lot of sense. I said, yes, it really does.

If Americans hear what is really in the plan instead of what they are being told about it by those who simply wanted to create fear out there, if they hear what is really in the plan, most senior citizens say, wow, somebody is finally giving us a choice, somebody is finally giving us a chance to choose what others in our society can choose, better private plans if they are better for us, and if they are not we can stay in basic Medicare as we know it.

Mr. KIM. Mr. Speaker, I want to say that was very well said. I want to add that under the current plan, once you hit 65, you have to give up whatever plan you have. You must join this Government-mandated Medicare plan.

Mr. TAUZIN. That is correct.

Mr. KIM. You have no choice. That is the only plan available to you, which is Government run and run by bureaucrats. You have to follow their regulations, which is, in my opinion, socialized medicine. Just one plan, period.

All we are trying to do is give those beneficiaries options to join other plans. Why? By joining other plans, you can save more money. This Medicare plan has so much abuse, so much waste and fraud, people would not believe. Even the report so stated that there is more than 50 percent, which is easy to save if we eliminate the waste and fraud.

It is unbelievable. It is out of control. That is why it has gone up 10½ percent, while private plans are under control. Their costs have actually gone down 1½ percent. It is ridiculous.

As long as a third party pays, as long as the Government pays it, who cares? That is the problem we have. So we are trying to eliminate that problem by simply offering all the beneficiaries choices to join private plans. We expect that at least 1 out of 4 will eventually join a private plan.

Mr. TAUZIN. One out of four. Mr. KIM, you have put your finger on it again. Every time I go to a townhall meeting, I am always asked by someone in the audience the same question. Why do not you Members of Congress spend our money as carefully as you would spend your own? Why do you allow bureaucrats to waste 10 percent of the money that is needed for health care for the senior citizens of America? How do you put up with that? Why do you let it happen? Why do you not be more careful with our taxpayer dollars, as careful as you would be with your own dollars?

The truth is it is harder when you are spending someone else's money to be as careful as when you are spending your own. You have to work a little harder. So guess what? In this bill we are putting in more antifraud, waste and abuse procedures; we are putting in more ability of Americans to help us root out the waste, fraud and abuse in this system than this system has ever seen.

I want to tell people about what is in this bill that you will not hear from the other side. First, everybody knows about the IRS system. If there is somebody cheating on the IRS and you report them, you are entitled to a bonus. Do you know that? If someone is not paying their fair share so that the rest of us have to keep seeing increases in our taxes, any citizen can report an IRS violation and there is a bounty system under the IRS to reward those who report fraud and abuse in the IRS system.

Well, guess what? The new bill will install the similar type system for every senior citizen who catches a bill coming to them, who catches a waste, fraud and abuse situation and reports it to HCFA. Let me be specific.

How many seniors have told us that when we get that bill back, the Medicare bill back that is being submitted to the Government, and say, wait a minute, I do not remember having that service, I do not remember that test, I do not remember this being done? How many have told us that? If a senior suspects they are being charged for something that did not happen and the taxpayers are having to foot the bill, there is no real incentive now to report it because somebody else paid it.

But now the seniors will have the same incentive that every taxpayer has to root out fraud and abuse and report it. There will be a reward for seniors who help us find fraud and abuse.

Second, the bill doubles the penalties on people who defraud this system. Let me say it again. We double the penalties on people who defraud this system. We make it mandatory that any provider under this system that defrauds the seniors of this country and the taxpayers of this country is forbidden to provide services under the Medicare system for a minimum of 3 years. Mandatory. That is not in current law. We provide a doubling of the penalties and a mandatory 3 years you are out of the system if you dare defraud seniors any more.

Fourth, we put together a coordinated antifraud and abuse system like we never had before. We give to the Secretary the power which the Justice Department now has to work with people who will turn states evidence and help us root out other fraud, waste and abuse cases. We cannot afford the billions of dollars that are going into this rat hole of waste, fraud and abuse any longer.

So when you hear from the other side that this bill is somehow kind of lax on waste, fraud and abuse, just do not believe them. You know what CBO said. CBO scores our work. CBO does the objective analysis that is done on every bill that comes before this House. It tells us what a bill does financially. CBO said we will pick up at least $2 billion in extra collections from waste, fraud and abuse by some of the measures we put in. There is a potential to pick up a lot more. We think there could be as much as $50, $100 billion eventually picked up if we begin to root out the 10 percent of waste, fraud and abuse in this system.

So we are going after it, Mr. KIM, finally. We are going after it not just for the taxpayers but for the seniors who want their program to be here after 7 years, who do not want it bankrupt and who want the dollars we spend, the precious dollars we spend to go to their health care and not to this awful system of waste, fraud, and abuse.

Mr. WELDON of Florida. Mr. Speaker, I want to just amplify on this fraud and abuse issue, because it is a very, very important area. I had a series of townhall meetings with senior citizens in my district over the summer, and one of the messages I heard over and over and over again is we have to do something about this waste and abuse in the system.

I had a lady come to me, she had a bill that was for her week in the hospital and it showed her staying 2 weeks in the hospital. I had another gentlewoman come to me with a bill that showed they billed for her being in the hospital and her husband being in the hospital at the same exact time when he was not in the hospital at all. He was at home and coming in to visit her every day.

So we have some real problems in the system with that. One of the aspects of the Medicare Plus plan is these provider-sponsored networks. I want to underscore a very, very important point in that feature of Medicare Plus. If there is any excessive testing being done, if there is any excessive procedures being done, the person who picks up the tab for those is not the taxpayer; it is not the Federal Government, and it is not the senior citizen, it is the provider in that network who did that unnecessary test and who did those unnecessary procedures. So that will be a tremendous incentive in that part of our reform package, in Medicare Plus, that will make sure that we really do root out fraud and abuse.

I think that feature, coupled with the things you were mentioning, increased penalties, a hot line where they can report fraud, when you start looking at all those things coming into effect, we will have a lot of savings in rooting out a lot of this fraud and abuse.

Mr. TAUZIN. I thank the gentleman, and let me emphasize again what the gentleman added. The bill contains a hot line system for the first time. So citizens who find waste, fraud and abuse on their forms, they do not have to report it to somebody locally who may lose it; you can call directly to a hotline in D.C.

We will also have a system whereby the Secretary puts out fraud abuse alerts, so if there is something going on they pick up in the marketplace out there, where fraudulent practice is occurring, they can notify seniors to watch out for this, there is something going on out there, help us root it out.

In other words, we are beginning to build in this bill a partnership between the seniors who receive the services and who very often see the fraud and abuse firsthand and those who run the program and the taxpayers who are footing the bill. That kind of partnership means that we may end up with a much better, more solvent system. That is worth fighting for.

Mr. KIM. The gentleman is right. As long as we have a third-party paying system, without somebody watching so to speak, we will continue to have this kind of abuse and fraud. Right now, the Government pays it without truly looking at it closely. That is what has happened.

That is why I like the concept of the Republican plan to set up a Medisave concept. So you have a choice. Any savings you got by transferring your plan to a private plan without costing you a penny, whatever savings you can generate out of that, you can put the money into a tax free Medisave account and after that you can do whatever you want to do. It is your money to spend, which gives senior citizens incentives in trying to look at the cost.

Right now nobody cares. Nobody asks how much it costs me having this operation. Nobody even shops around. This will give us some incentive to shop around so that I can get a better treatment and cheaper, so to speak. I think it is an incentive rather than some kind of additional regulation. I like the concept, and I think it is an excellent concept.

Second, I want to point out again, going back to part B, which is again, as I mentioned earlier, that right now we are one-third paid by the beneficiary, two-thirds subsidized by the taxpayer, because $46 a month certainly is not enough and, therefore, all the other taxpayers subsidize it. Now, if we do not do anything, it will be totally out of control.

So what we are trying to do is maintain the one-third, two-third relationship. We are trying to have it so that what we call the rich, wealthy senior citizens will not be subsidized, which is fair. We are talking about $100,000 a year or more for single, $150,000 for the couple immediately to stop the subsidy. Anybody making $75,000 per single and $125,000 per couple, we will gradually phase out the subsidy. Is it not fair to do it, so we can maintain this one-third, two-thirds relationship?

I do not think it is right that other taxpayers subsidize 90 percent of it. I think right now all the media polls are saying that senior citizens are upset, that they are against us. I think when they find out the truth, I think it will be turned around.

I do not understand why we have all the blame. Mr. Clinton's plan is no different than ours. How does he get away from all the criticism and we get all the blame?

Mr. TAUZIN. I thank the gentleman, and you made two excellent points again. One is that among the various plans that we give the seniors an option to choose are the Medisave accounts. Medisave accounts are being used now. NBC showed a film the other night on New Jersey's plans in many corporate businesses where, instead of belonging to the Medicare system as you know it, you can choose instead to have the money deposited in a Medisave account. A catastrophic policy is purchased, the balance is kept in the account. If you do not use it, the money then becomes yours at the end of the year. If you use it, your high option coverage then kicks in to protect you.

Those Medisave accounts do, in fact, allow people in the marketplace another option and, in fact, ought to be made available to seniors who want to perhaps use them, too. It does ensure accountability. When it is your money, you will spend it a lot more carefully.

So it is one of the options that seniors will have. You do not have to choose it, but it is one of the options and is working quite well in many business settings in America for employees registered under health care programs with their companies.

The gentleman also makes a second point. Under part B Medicare, that is the voluntary part; the part A is the part we all have to belong to today when we reach 65. That is the mandatory hospital coverage. But part B coverage is the voluntary part which most people choose when they have the option.

That part B coverage covers your doctor bills primarily. That part B coverage is paid 68½ percent by the taxpayers of America, the young workers of America, and it is paid one-third, 31½ percent in fact, by the seniors who choose to participate in it. About one-third, two-thirds, you were right.

What we do in our plan is to maintain that ratio through the 7-year period. The recipients of the program will still pay 31½ percent, the taxpayers will still foot the bill for 68½ percent, but we do one thing that cries out for reform.

Here is the question. How can you ask a young couple earning $20,000 a year to continue to subsidize part B premiums for an older couple that is making $100,000 or $150,000 a year?

You can understand why all of us working in the work force should help our seniors who are similarly situated in terms of income. But how do you explain to a working couple struggling to buy their own health care at $20,000 a year salary that they also have to subsidize the part B voluntary premiums of someone earning $100,000 to $150,000 a year? It is pretty hard to explain.

The odd thing about it is, believe it or not, we are getting criticized by the other side, who should be against taxpayer subsidies for wealthy people. We are getting criticized for trying to make this change. What we are saying is that when you are in that income category, $100,000 to $150,000 a couple, that you should not have to depend upon those making $20,000 a year to pay your part B premium. That ought to be your responsibility if you are that well off. You ought not be counting on poor working Americans struggling to feed their families and pay their own health care.

So our plan changes that and phases out that subsidy for the well-to-do in America who do not need a subsidy from those who are working in the poor and middle class families struggling to pay their own health care.

Mr. WELDON of Florida. Mr. Speaker, I was a practicing physician before I came to the U.S. Congress, and, actually, the truth is a lot of those working families on limited incomes, families where maybe the husband has a $15,000, $20,000 a year job, and the wife may have a part-time job while the kids are in school making $6,000 or $7,000 a year, many of those families have no health insurance, they have zero health insurance. I have seen that in my practice, where they do not have the money to pay me, and you have to set up a schedule of payments or you have to just write that off, because you know they cannot afford it. So you end up seeing them for free.

We have been taxing those people to subsidize the part B premium for many very, very wealthy senior citizens. This is just another example, I believe, of how our plan is a well thought out plan, a balanced plan. What we are asking is those wealthy seniors, who have the money to pay for their part B premium, that they pick it up themselves. So we have some provisions in there that will make sure that those affluent wealthy senior citizens are paying, indeed, their fair share of what their health care costs are and that we are not excessively burdening working families, many of whom have no health insurance.

I think that is a very, very good balanced feature of our Medicare reform proposal and our Medicare Plus plan.

Mr. TAUZIN. Again, you have put it so well. Here we are talking about a family that cannot even afford to buy their own health care they are at such a low income, struggling. Yet our law now requires them to subsidize, through their taxes, the health care premiums of the wealthy in America. That does not make sense when you talk about part B voluntary programs.

You can make an argument, as we have all made the argument, that when it comes to part A, all of us who work in America owe our part A contributions to make sure that part A is solvent. That is maintained in this plan. But to say that working Americans, who cannot afford medical care insurance for their own doctors for their children, and who do not even have coverage for their family, who have to go, if you will, to Hill Burton coverage, or the good graces and charity of their physician for health care, to say to them we are going to ask you to pick up the part B premium for people earning $150,000 or more for next year is a little unfair.

If ever there was an unfairness in a system, I think we have found it. We correct that unfairness in this bill. One of many features of this bill that I think Americans should look at instead of reading the fear tactics put out by the other side.

Mr. KIM. Mr. Speaker, I read a month ago a report that simply says that we live longer, which is good news, and that each beneficiary actually spends $170,000 more than he or she has contributed in a lifetime. Of course, some people live longer and some people die earlier, but, on average, each senior citizen actually spends $170,000 more than they have contributed in their lifetime. We have to make this up somehow.

Part A we know is a payroll tax, 2.9 percent, half and half, employee and employer. Is it fair to raise that? No, I do not think it is right to raise it because why should they pay it? So we have tried to maintain the same tax rate. Part B, one-third, two-third relationship, that must be maintained. That is not fair asking young people to pay more.

So we have tried to maintain the same rate. What else can we do, except avoiding all the waste and fraud? We have all the innovative ideas of giving choices to private plans.

What really bothers me is our colleagues, the Democrats, come up with this silly $80 billion savings. Come on, that is certainly not enough. They know it. It is clearly stated in the report. That is not going to do anything. It is just a political motivator. Who are we trying to kid?

As I said earlier, at the end of 7th year, when the baby boomers decide to retire, how will we do it? By then we will be $300 billion in debt using the 80 plan they are suggesting, which they never had a plan until a couple of weeks ago. Last minute, without any details. It is just a joke. It is another politically motivated tactic that they are trying to use to say we have a gentler plan, that the Republicans are cutting too deep, too fast.

I have just had it with this rhetoric and painting us like we are mean-spirited people. Come on, we care about people, just as they do. We should stop the bickering, and they should join us. If they have a problem, let us work this out together and come up with a comprehensive plan so they can save Medicare from bankruptcy.

Mr. TAUZIN. I thank the gentleman. I think I know where the problem is. The problem is that, No. 1, the Democrats who do not like our plan would prefer to call us mean spirited and create all these fear tactics, and Republicans who are upset with the Democrats for not coming up with a plan would like to believe that the Democrats do not want to save Medicare.

I do not think either of those arguments are true. I really do not. I think Medicare is sacred to all of us here. I think the other side should be given credit that they do not want Medicare to go bankrupt, but their solution will not sell anymore. Their solution is either raise taxes some more or borrow some more money. Do not try to control the cost or the waste, fraud, and abuse, just raise taxes some more or borrow some more money.

I want to end, before I yield back to my friend from California on that note. I was raised to believe that it was the job of parents in America to try to leave some patrimony to their children, to try to leave them a base, a foundation upon which to build their future. I was raised to believe that. I think most of us in this country were raised to believe that.

But the most awful crime occurring in our country today, if all the other crimes were lumped together, they are misdemeanors compared to this great felony. The greatest felony in America today is the fact we in America today, our generation, is now not simply living on our income, we are now living on the income of our children and our children's children yet to be born. We are living at such a deficit rate that our grandchildren and children will have to endure an 80 percent real tax rate on their earnings to pay for our debt.

We are not leaving our kids any inheritance anymore; we are leaving them mortgages and we should be ashamed. If there is one felony we ought to end in this Congress, in this country, it is the notion that we can live off our children's income forever, that it does not come due one day, that somebody does not have to pay that bill one day.

What we are trying to do this year is to say beginning through this year into the next 7 years we will put Medicare in solvency again, we will put the budget in balance, we will quit living off our children's income and we will do it in a way that protects our seniors and gives respect and due credit to the workers of America who are trying to fund this system and make it work.

What a great challenge. What a great challenge. Is it worth some political heat? You bet you. You bet you. Is it worth getting a little political stain on you because you get hit and accused and abused through the process? Of course. Do I care whether or not anybody's politics is helped or hurt by this? Not a bit. What I care about and I hope you care about is at the end of this process we cure Medicare for America, we make it solvent again, we balance this budget in 7 years and we end this awful felony of living off our children and our grandchildren's income.

Shame on us for letting that continue for one more year. Blessings upon us if we can do it in this 7-year period. It will take at least that long, but we ought to be about that business today. We ought to be about it as Americans, not as Democrats or Republicans. We should be about it as parents who love our kids enough to leave them something better than a great debt they cannot pay.

Mr. WELDON of Florida. That will be hard to follow on. As always, he spoke very, very well on this issue.

I want to close by pointing out that the Washington Post itself, a publication that has a long-standing reputation of opposing Republican initiatives and supporting Democratic initiatives, and I raise that not to criticize the Washington Post but just to emphasize that this is basically a statement from a group who has been traditionally our critics, they say that the Republican's Medicare plan has confounded the skeptics, it is credible, it is gutsy, and it addresses a genuine problem that is only going to get worse.

This is what they had to say about our opponents. They called their proposal crummy stuff. They called it demagoguery big time, scare talk, expostulation, and they called it irresponsible.

What you were just talking about, you were talking about being responsible when you talked about leaving our children not a debt but leaving them a good posterity at this, that is called being responsible. That is called being a responsible parent when you do that. That is what this is about. It is a responsible proposal that we are putting forward and what our opponents are doing is irresponsible, and I thoroughly support the Republican Medicare reform plan, the Medicare Plus plan. I think it is a good plan. It will preserve and protect Medicare for our seniors. I think it is good for seniors, it is good for working people who are getting near retirement age, and it is good for those young people who will be saddled with all those taxes if we do not straighten the problems out.

I thank this gentleman from Louisiana for planning this 1-hour special session to talk about this. I think this has been very, very good. The gentleman from California [Mr. KIM] has made some very, very good comments. I think this is a very, very complicated issue, but we covered a lot of the high points on what our plan offers.

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Mr. KIM. Mr. Speaker, I was coming down to the office when I heard this radio talk show, and it concerned me because they were interviewing an opponent that said that now Republicans are trying to tax the students. I was absolutely shocked.

As a matter of fact, we added more money for Pell grants. We are not cutting any student programs. All we are doing is we are asking students when they borrow the money, they should pay back all the interest. Right now they do not have to pay anything until they graudate or 6 months later.

Is it fair for the other young people who are not fortunate enough to go to college to subsidize a medical student with free interest? Of course, not. So we are asking them to pay back interest after they graduate, which is about 60 cents a day on average. This kind of demagoguery, this kind of scare tactics, frightening now senior citizens, now young students, I do not appreciate this.

This is my second term, but this is politics and I am very disappointed. We should send a clear, true message to the American people, not twisted, not demagoguery, not scare tactics.

A lot of senior citizens from my district are frightened. I have to go explain to them the factual information. I was an engineer all my life. I do not know any other way except presenting facts. Now they are satisfied. But it is really not necessary doing all this. They should tell the truth, exactly what it is.

I thank again the gentleman from Louisiana [Mr. TAUZIN] who has done an outstanding job hosting today's debate.

Mr. TAUZIN. I thank my friends from California and Florida for what I think is a very useful hour.

Let me say it again: The Washington Post, what most people consider a very liberal editorial page, said it very clearly. But I want to caution, if you want to get educated on the Medicare proposal before the Congress, do not count on the newspapers or anybody else to educate yourself. Try to educate yourselves and be in touch with us. Write to us, call us, ask for information, as you always do, come to town hall meetings. We will continue to share that information here on the floor as freely as we can.

Let me say again, our plan mandates no one to leave Medicare. They can stay in it if they like, and it will grow from $4,800 per recipient to $6,700 over 7 years. It is good reform that saves Medicare for a whole generation, not just for the next election, and that is important.

It is a plan I think we ought to be debating, as the gentleman from California says, in a way that does not pit the White House against the Congress, or Democrats against Republicans, in this awful kind of political warfare. It is one where we all ought to recognize we all love our parents and grandparents, we love them enough to behave ourselves around here, instead of acting like children, and to come to some mature decisions about how to save this program and make it endure for the good of the seniors of America, while respecting the legitimate interests of taxpayers that want to make sure the wasteful spending in this system is curtailed as rapidly as possible.

This is a great challenge for the country this year. I hope we are up to it. I hope seniors are calm and cool and deliberative as they look at these programs. If there is something wrong in what we are proposing, I hope they suggest changes that make sense that we can incorporate into it.

The last thing we need is demonstrations and disruptions like we saw in the Committee on Commerce organized by lobbyists paid exclusively by Federal funds. The last thing we need are scare tactics. What we need is honest, truthful debate of the facts, and then coming to terms as Americans, not as party members, but as Americans, to save this incredibly important system for those we love so dearly, and who created the path upon which all of us have walked.

I want to remind you of something. All of us owe so much to the seniors who came before us. All of us owe so much. They did not leave us with a big debt, they gave us a lot. We ought to not leave our children with a great debt, and we ought to honor and love our mothers and fathers enough to take care of them in their senior years with a program that does not go bankrupt because we did not have the political courage to debate it as mature adults.

I again want to thank the gentleman from California [Mr. KIM] and the gentleman from Florida [Mr. WELDON].

AMERICA IS NOT A SPECTATOR DEMOCRACY

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I would like to begin where the last speaker left off.

I think that it is important to note that America is not a spectator democracy. Americans should participate. Americans should be engaged in the process of deciding our own faith.

We have a Constitution which allows us to do that. We are not helpless victims. We should not sit by. We should participate. We need more demonstrations. We need more writing of letters to Congressmen. We need more petitions. We need more marches. Whatever is possible to participate in, we should do that. Action is needed now.

I think it is important also to note that the first participation of Americans should be in terms of the dialog. Let us engage in the dialog. Let us listen to what we hear. Let us analyze it. One of the great things about seniors, and I like to be around seniors because senior citizens have lived for some time and experienced a great deal. I am not too far away from that myself now. When I was very young, I always liked to be around senior citizens. They know so much more than the rest of us. They are always so much more interesting to talk to and listen to.

You cannot put much over on senior citizens. I do not think the salesmen we have heard this morning will be able to put much over on senior citizens. I do not think the sales package of the Republican majority will put that much over on senior citizens. Senior citizens will listen and ask themselves the question, how is it that the Republican majority in their plan makes such a great deal about eliminating fraud, when at the same time, they have recently made a deal with the doctors and the medical establishment, the perpetrators of the fraud, to endorse their plan? Why are the doctors so happy? What is contained in the deal that was made between the AMA and the medical establishment and the Republican majority which makes them so happy?

Surely they are not agreeing to a program which is going to make them more accountable. Who is responsible for the excessive costs? The medical establishment. Who is responsible for the fraud and the waste? The medical establishment.

How can you say that to a senior citizen who has seen a number of things happen in their lives? They have seen the hustlers and seen the swindlers come and go. No senior citizen would go out to buy a used car without thoroughly checking it out and having somebody with them who knows a lot about cars. No senior citizen would buy a new car without checking it out. There are a number of things you do, because you are old enough to know better.

So check out the proposition that fraud and waste will be eliminated in the Republican majority plan, and the Republican majority made a deal with the doctors. How can those two things be the same? The doctors, the medical establishment, are the people responsible for the fraud and the waste, certainly the fraud.

Last year when the Clinton administration's plan was on the table, I proposed a number of times that we have a one-tenth of 1 percent set aside of all the money appropriated to establish consumer advisory committees, patient advisory committees. The people who are in the plan should at least have one-tenth of 1 percent of the total amount of money so they can maintain an organized advisory committee made up of the people receiving the service.

Nobody would support that plan. Nobody would support that plan. If you do not have that kind of organized plan built in to defend yourself against fraud, I do not suggest to any senior citizen, and I do not think any senior citizen would be foolish enough to turn their doctor in.

I heard the proposition that you get a reward, you get a bonus for turning your doctor in for fraud. If you turn your doctor in, be sure you get another doctor. I think I can tell senior citizens, if you turn your doctor in, do not go back to him. If you turn two or three doctors in in the same city, they are going to blacklist you. I do not advise you to follow that route, period. And I do not think most seniors would be dumb enough to get involved in a situation where the people responsible for their lives, they are reporting fraud on.

That is not enough. If you want to deal with fraud in health care, you need a better apparatus to do it. Do not tell senior citizens to buy that.

Do not make comparisons with the Clinton plan. Let us engage. Let us remember, what did the Clinton plan try to do last year? What was the administration's primary aim? The primary aim was to get universal health care coverage, not just to deal with Medicare. Medicare, Medicaid, it was understood that the programs had to be refined, that there was some waste, that it is possible to make it more efficient and more effective. And in order to get the money needed to extend the coverage and to have more people covered, we would do that.

The noble purpose of the Clinton administration plan is not one of the purposes and goals of this Republican health care plan. They are dumping the coverage. Less people will be covered because they are saying that Medicaid should no longer be an entitlement. They did not talk about that. There is a health care plan which includes more than Medicare; it includes Medicaid also.

Medicaid will no longer be an entitlement. You will not be able to get Medicaid, which means seniors are in great jeopardy. Those who spend all their resources as a result of a very serious long-term illness will not be able to fall back on Medicaid and go into a nursing home and deal with a long-term convalescence because it will not be there without the Medicaid entitlement.

They are going to take away the responsibility of the Federal Government to provide for the poorest people, the health care. That is a great step backward from the Clinton plan that was on the table last year. It was called too complicated, too complex. It was more complicated because of the fact it tried to do more. It tried to address the problem of our civilization that we must be ashamed of.

American civilization is the only industrialized nation in the world which does not have universal health care coverage. By universal, I mean it is moving toward the coverage as many people as possible. Some have 96 percent. Canada may have 98 percent. But the idea of universal coverage is there in most of the industrialized nations of the world. Only South Africa is an industrialized nation that has no universal health care coverage.

So we are trying to move in that direction. This plan abandons it completely. In the Republican health care plan, there is no attempt to move toward universal coverage. In fact, there is a headlong gallop backward toward less coverage by denying the Medicaid entitlement. So we are in serious trouble.

I also hope that everybody who heard the previous discussion will use their faculties and engage and go back and look at a little recent history and know that the biggest felony in America was already committed. In the future you might say to saddle our children, our grandchildren, with bills that are difficult to pay in the future. You may call that a felony, but I think that is quite farfetched. That is going way out.

We have had the worse felony in the history of America take place right before our eyes. It is called the savings and loan swindle. Some of the gentlemen who are talking, certainly the one in the well, knows the history of the savings and loan debacle very well. Never before in the history of civilization has there been a swindle of the magnitude of the S&L swindle, where the taxpayers in America were made to pick up a bill of $250 billion, by the most conservative estimates. It is conservative, and it is not settled yet, because it is still going on. It might be $300 to $400 billion that the taxpayers have to put out to clean up the savings and loan swindle. Never before in the history of civilization have so many stolen so much from so many and gotten away with it with so few prison terms, never before.

So the savings and loan association swindle is the biggest swindle in the history of mankind. Newspapers like the Washington Post and some others never seem to quite get the time or the space to deal with the magnitude of that swindle.

The party that now proposes to cut Medicare by $270 billion over a 7-year period has not dealt with the fact that we still have a $250 to $300 billion bill that we maybe ought to try to collect. The taxpayers of America maybe ought to say to the savings and loan associations that do exist now, to the accountants that were part of the conspiracy, to the lawyers for the banks that were part of the conspiracy, that they all pay a surcharge until that $250 to $300 billion is paid back.

The great swindle has taken place already. The greatest felony in the history of civilization, has taken place right before our very eyes, and very little is being done about it.

Finally, I want to address myself to the fact that everybody who hears should engage and listen and question and ask the question, is the Medicare system about to go bankrupt? You have heard them quote the trustees, and they have given you the names of the trustees, Shalala, people within the Clinton administration. Why do you not go and ask Donna Shalala, Mr. Rubin, why do you not go and ask them, is the system in danger of bankruptcy within 7 years?

Since they are being quoted, listen to their answer. they said so already. You have a problem of about $90 billion, $89 to $90 billion over the 7-year period.

It was assumed that, if you make the system more efficient, if you weed out the waste and the fraud, you could achieve the savings of that $90 billion over a 7-year period without draconian cuts in the benefits, without tremendous increases in the premiums.

So listen to their dialogue and take it a little further. Go ask the trustees. Go ask them, do you have to make this $270 billion cut? And also the $270 billion, how does it relate to the tax cut that the Republicans are proposing, which is $240 billion?

Let us listen. Americans, we are not spectators, we do not have to be witnesses. We can do things. We need action. That is what I want to talk about today. We need people to understand that, if you sit still and watch this as a spectator, the President as a Democrat against the Republican controlled Congress, and we wait for the great train wreck situation to evolve to its climax, you will be derelict in your duty as Americans.

You owe it to all of us, we elected officials have to do our job and we have not done it well and should find new ways to do it better. Even Democrats in the majority are going to have to find a way to deal with the fact that a Republican controlled Committee on Ways and Means will be on the floor with a bill which will have a closed rule. As Members of Congress, we have to vote it up or down, but we cannot have an opportunity to let our constituents know where we stand and offer some alternatives and go on record for the alternatives. That will not be the case. We have to find a way to deal with that, but that is another discussion for another time.

We need action now. Every American should ask themselves the question, what am I closest to, what can I do? My vote is not enough. I have an opportunity to vote every 2 years for Congress. I have an opportunity to vote every 4 years for the President. That is not enough. I also have in the Constitution the first amendment, a number of other things standing behind me which allow me to do things beyond my vote. Action is needed.

On the issue like education right now, let me make an appeal that you get involved in the fact that the education budget was cut by $4 billion, the Federal aid to education. You say that is a tiny amount. The Federal Government only puts in about 7 percent of the total amount for education anyhow. So why are you worried about that? Well, the cuts in the Federal dollars are followed by cuts in many States where the States are cutting the money available for education and the localities are cutting money. So we have an education crisis in most of the country. Certainly in the big cities we have a serious crisis.

I am calling for some action now. I think that we should call upon all of the children in the schools, we should call upon all the parents. And beyond the parents and the children, we should call upon the church leaders, the business people. Everybody should let it be known that we think education is very important.

The polls consistently show that education ranks in the top five concerns of Americans over and over again. No matter how other things fluctuate, crime may go to the top sometimes, health care may go to the top, education always comes out of the top five.

There is a basic understanding, the folk wisdom of Americans is that education does come first. It is like the early slaves coming out of slavery. They wanted first of all to learn to read. Education had the primary value for the early free families. Education in the black community has always been a highly charged value. Confusion about how to get that education and obstacles being placed in the way of preventing the obtainment of the education has been a problem. But the value is there. It is certainly a value in the African-American community. It is an American value.

Action is needed now, because the signal has been sent from Washington. The Republic controlled Congress has cut education by $4 billion. Head Start has been cut. The one program that sends the greatest amount of money out to elementary and secondary schools, the aid to the disadvantaged, called the title I program, the title I program has been cut by $1.1 billion. the summer youth employment program has been cut out completely, zero. We have an emergency. We ought to do something.

So we are asking that everybody—this is an appeal that I made to the National Commission for African-American Education. It is an appeal I made to an assemblage of the Congressional Black Caucus education brain trust. It was adopted and made a resolution that November 15, which is right in the middle of open school week, open school week is a national phenomena all across the country. So on Wednesday, November 15, we are asking that everybody who cares about education will do something.

Do not be a spectator. Bear witness. Go out to your local school. Everybody has a school near them. It is the nature of education in America that there is some school near everybody. Go to the nearest school and do something to let it be known that all citizens care about education.

In the leaflet we have put out calling for overwhelming support for education on November 15, the national education funding support day, we have stated that you can participate in the following activities: Show up at your nearest school. Just show up and let your presense be a testimony of your support. This is the first and most important step.

During the morning gathering at the school, spend 1, 2, 3 hours at the school. Do some upbeat things. Take some upbeat and positive action to demonstrate your love for children. Bring some pencils and papers and crayons if you are in a poor neighborhood to hand out to the children. Or bring chalk and erasers and supplies for the teachers inside the classrooms. If you are in New York City, they need chalk, pencils, erasers. We have a crisis in supplies in the great city of New York where we spend $8 billion on education. There is a crisis in terms of supplies and chalk.

There is a crisis also in terms of they do not have places to seat children. At the beginning of the school year in New York, there were 8,000 high school pupils who did not have a place to sit.

They have not fully solved that problem.

So show up and do something useful. If the area around the school needs the rubbish and dirt removed, then bring some plastic bags and shovels and clean it up. Do something useful to help the program inside the school. Talk to the school administration, the principals. if it is not disruptive, ask what you can do to help inside the school.

At the same time as you pass out information about PTA meetings, school board meetings, legislative budget hearings, citizen rallies, you should sign up volunteers to help with school trips. Distribute a list of names and addresses and phone numbers of all elected officials, especially those elected officials who are directly responsible for education. You should engage all participants who come by to register new voters and to make sure they are registered themselves. If you are in an area like the area I live in, where there are 150,000 people who are not citizens, you should certainly encourage immigrants to seek citizenship. These are legal immigrants. They can seek citizenship. Show them ways to do that. Certainly the parents of children in the schools who are immigrants, you should encourage them to seek citizenship.

There are a number of ways on November 15, Wednesday, everybody can take action. You do not have to be a spectator. You can take action for education. You can deal with the fact that the President is going to be in negotiations with the Republican controlled Congress on the appropriations bill for education. There are a lot of items in there.

We want him not to lose his focus, to understand that the American people care about education. Education is one of the top priorities. It is not enough just to believe that; you have to manifest it and let it be known. We have to engage in what is called a manifestation to your empowerment, a manifestation of your concerns. You are not only concerned but you want to let it be known, you are a voter, you are out there, and you want to do something about the problem of funding for education.

I have just used education as an example. But there are many other ways in which we need to show that we are involved in this process. You have to believe that this is a turning point in the history of America. It is a turning point. You have to believe Speaker GINGRICH when he says we are going to remake America; take him seriously. Whatever you may think of the Speaker, he is competent, he is a great organizer. He is probably the greatest politician that has come along in the last 20 years. When he says he is going to do something, take him seriously.

The Speaker says we are going to remake America. He has a lot of bright people with him who believe that they can do that and are trying to do that.

I think they are very bright, but they have no compassion. I have called them high-technology barbarians because of the lack of compassion. I will repeat it again. They are the smartest people you can engage anywhere, but they have no compassion; and therefore I think they deserve the label of high-tech.

Barbarians. But they have to be taken seriously.

The Speaker has said we are engaged in war without blood. Politics is war without blood. Politics is war without blood. If you are engaged in war without blood, then do not sit there and assume that you are on the sidelines, that civilians are not going to be involved. There are no civilians in the political war. Everybody is in danger. Everybody must understand that you must engage in the war. He has said it. This is war. Therefore, you must make plans to participate in the war.

The allied forces must plan a defense against those who have mounted the attack. The Speaker has made it clear, he is going to remake America. We are mounting the attack. They hit the Nation on November 9, 1994, with a blitzkrieg. That blitzkrieg was very successful. They have taken control. They will march on. Allied forces must be united. Allied forces must understand they are in a war, and you must plan for the defense. Do not sit there and think that you are a civilian and you are going to escape. None of us are going to escape. We are all part of this war.

They are going to remake America, and I do not think we need to remake America. I have said that over and over again. America needs to be improved. There are all kinds of ways in which we should strive to improve America. We do not need to remake it. We need a steady process of escalating improvement, but they are going to remake it. And they are not going to remake it in the interests of the majority. America is going to be remade, and they have made that clear in all of their actions since January 1995. Since January 1995 of this year, it has been quite clear that, no matter what the Contract With America says, the overwhelming aim of the Contract With America is to make America a place where the elite can survive conveniently without any problem in terms of taking care of the majority. A small elite minority will be survivors, and they will enjoy the fruits and benefits of a great American economy, and the rest of the people will be thrown overboard. That is clearly how America will be remade if we sit by and let it happen.

We should not be spectators. There is a train wreck in process already. People have said, well, the great train wreck metaphor did not quite materialize on October 1. We passed a continuing resolution which will take us until the middle of November. The drama of a train wreck has been avoided.

Well, the train wreck process has started. It is pretty clear that the Republican majority is not going to yield. They are moving headlong forward with Medicare, the rape of Medicare, as one of the things they are proposing to do, into the entitlement for Medicaid. All kinds of things are happening which make the train wreck inevitable.

But recently it was announced that the Speaker and the majority in the House are contemplating sabotaging the train process, put a brick on the track and run away, not to engage. The train wreck metaphor always assumed you would have a situation where the President would veto the bills, the Republican majority in both Houses cannot override the veto, and therefore there would be negotiations at the White House. That happened once with George Bush. The negotiations at the White House would be between a Democratic President and a Republican controlled Congress.

What the Speaker has recently indicated is that in his war without blood, guerrilla tactics are going to be introduced. They are going to put a brick on the track and run away. Congress is going to pass the bills, send them to the White House, and adjourn.

I can think of nothing more irresponsible than that. But that is the kind of guerrilla action we have to look forward to.

Why not? Because in the process of avoiding the dramatic train wreck, what has happened already? What happened with the continuing resolution? The continuing resolution that has been passed already reduces spending and moves toward the level of spending that the Republican-controlled Congress wants. Already we have downloaded, we are spending less, moving in that area. Why do they not try to negotiate another continuing resolution and also further download the situation and decrease the budgets of all the programs?

That is what you call slow poisoning, a slow poisoning through the continuing resolution. Instead of attacking the victim with a knife and slashing him to death, you poison them quietly. The continuing resolution can poison all the programs that the Republicans do not want. The pain will be less visible. Most of this pain will not be felt until next October 17 anyhow. Some of it will be introduced, however, right away, through this poisoning process, the greatest most dramatic things in Medicare and Medicaid, the big programs.

What we do now will take effect in the next fiscal year. So you have to keep in mind that the process is important right now because of the pain it is going to produce later on.

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Some of the pain will not come until after the November 1996 elections. That is not by accident. Certain cuts are programmed and scheduled so that the impact will be felt after the November 1996 election. Keep your eyes on the process now. Do not be a spectator now. Get up and act now. Write your letters now. March and demonstrate now. The train wreck calendar is in process. It is no less a problem than it was 2 months ago.

Taxes, revenue, money, budgets, appropriations, that is the heart of the process of what is going on here. We do a lot of important things in the U.S. Congress. We should not minimize any of the things we do. What the Congress of the United States does affects the life, health, and welfare of people all over the world. It should not be minimized ever. But of all the things we do, at the heart of it are the processes which relate to taxes, revenue, money, budgets, and appropriations. That is at the heart of the process.

My colleagues may wonder why I always come back to this discussion of the tax burden and the way the tax burden has been shifted over the last 50 years. I do not have my chart here today, but I had one last time which showed in graphic terms one of the great problems with America, one of the reasons why people who want to remake America are telling us that the good things will go bankrupt, they want to reduce school lunches because they are too costly, they want to reduce Medicare drastically, Medicaid, they want to end the eligibility. They have already ended the eligibility for Aid to Families With Dependent Children. Everything is going to go bankrupt, they say, because we have a deficit and it is possibly going to get greater and there are no more sources of revenue, no sources of taxes.

They have labeled certain people as big spenders. As I said last Tuesday, one of the right wing groups has labeled me as one of the five biggest spenders in the Congress. I proudly accept that honor of being labeled a big spender by their standards, although their standards are quite flawed.

I am the sponsor of a $60 billion bill. They have gone around and checked to see what the dollar figure is on the bills that Members have proposed. I am the sponsor of a bill which proposes to spend $60 billion for job training, for jobs for the stimulation of the economy, and $60 billion may sound like a lot of money.

How dare anybody propose over a 5-year period to spend, over a period of time to spend $60 billion a year to revitalize the economy. That is a stimulus to deal with what I consider to be a transition periods that we are now in. We are in a transition period where the new technology is throwing people out of work, downsizing and streamlining and pushing people out of jobs and we need a stimulus.

We may thing $60 billion is a great amount. The little nation of Japan, with 75 slightly more than 75 million people, has a package now going forward that is $90 billion a year. A stimulus package that is $90 billion. So a $60 billion proposal, I do not have the power to get it passed, but if we want to judge me on what I see as a vision, the vision of America I have, what I see as the remedies, then I accept that judgment.

On the other hand, the flaw in this rating of big spenders does not take into consideration what a Member is against, the spending they are against. As I said before, Rush Limbaugh, who chose to highlight this on this show, needs some people who know how to subtract. Take all the programs and all the times I have spoken on this floor and all the amendments I have introduced to subtract from the Federal budget. Programs that I am against mount up into the billions of dollars.

The F-22 that will be manufactured in NEWT GINGRICH'S district of Georgia. Will cost us $12 billion over the next 7 years. I am for taking that one out. The B-2 bomber, over the life of its history, will cost us $33 billion. I am for taking the B-2 out. The *Seawolf* submarine, more aircraft carriers, star wars, the CIA.

I had a very specific amendment on the budget to reduce the CIA budget by 10 percent a year over a 5-year period. If we assume the New York Times figure of $28 billion for the CIA and the intelligence operation is correct, then, over a 5-year period that $2.8 billion would amount to quite a bit of money that we could use to replace the $4 billion they took out of education, the $7 billion they are taking out of low-income housing. We could do things with that $2.8 billion per year over a 5-year period or, let us extend it to a 7-year period.

The CIA has proven over and over again that not only is it of dubious worth, but it is also dangerous. The CIA recently revealed that they had a petty cash fund of $1.5 billion that nobody knew about in high places. The Director of the CIA did not know about the $1.5 billion. The President did not know about it. Nobody knew about it in high places. How much more do they have? How is the CIA able to have a $1.5 billion slush fund? That is what they admit to. I am sure it is higher. A $1.5 billion slush fund and nobody knew about it.

I think one of our famous predecessors said when we have a million here and a million there, we get into the billions and it all starts adding up. A billion is a lot of money, ladies and gentlemen; $1.1 billion is the amount of the cut on the title I program. If they would just please give us, CIA, your petty cash fund, your unauthorized petty cash fund, give us your unauthorized petty cash fund to make up the $1.1 billion, we will let them keep the rest.

I know what the deal is. I heard the Permanent Select Committee on Intelligence say now that we know about that money, we have taken it back. How is it the Office of Management and Budget did not know about it?

Office of Management and Budget specializes in cutting small programs. They cut out like library programs that acquire foreign language books in universities; they cut out little programs that train teachers; they are specialists in going through and cutting out little programs. To be small is to be dangerous in the Office of Management and Budget. How, Office of Management and Budget, did you ever let the CIA acquire a $1.1 billion slush fund?

So the message is, if we look at the record of MAJOR OWENS in terms of spending, and we subtract all the things I have said we should stop spending for, including the farm cash subsidies that flow to places like Kansas to farmers who are making $400,000 and $500,000 a year, let us stop giving money to farmers that make more than $100,000 a year. That is a good cutoff point. They will not give me that kind of cutoff for the welfare recipients in New York, but for the welfare farmers we propose let them keep getting cash subsidies if they make $100,000 or less.

No, no, we put that on the floor and it was voted down. Where was the Rush Limbaugh statisticians to figure that one out when that amendment, cosponsored by myself, was voted down? We could save a lot of money if the farm subsidy program were just limited to people making $100,000 or less. But this Congress would not tolerate that. It only got 47 the last time we put that on, 47 votes out of 435.

Americans had better engage in a dialog. There is a lot of waste in government, and the places where they will not touch it are the places we should all be looking.

Take a look at a recent report that was put out by the Center on Budget and Policy Priorities. The Center on Budget and Policy Priorities said congressional Republicans, I am quoting from the National Journal's Congress Daily, October 11, 1995, "if the Rush Limbaugh researchers want to track this," October 11, 1995, the National Journal's Congress Daily.

The Center on Budget and Policy Priorities said, "Congressional Republicans in their budget cutting fervor are giving corporate subsidies a free ride."

The study was based on the Congressional Budget Office report defining which Government programs or tax breaks constitute business subsidies and focus on tax appropriations and reconciliation proposals passed so far in the House.

It found that for every dollar that this majority, Republican majority House, has reduced corporate subsidies provided by Government program, for every dollar they have reduced the House has increased corporate tax subsidiaries some other way by nearly the same amount, $1. So addition and subtraction. Do not let the Republicans play games with us. They have reduced some of the corporate tax subsidies, but for every one that they have reduced in dollar value, they have given the same amount in some other way.

Therefore, a statement accompanying the study contended, "Congress is achieving an overall reduction of only $6 billion, or less than 1 percent, in the $724 billion in corporate subsidies the Federal Government is slated to provide over the next 7 years."

Let me read that again and put that down in this dialog that we have to participate in. Remember this figure that this Republican majority that is so intent on cutting Medicare by $270 billion, this Republican majority is only willing to cut the corporate welfare by $6 billion, which is less than 1 percent if we look at the total amount of $724 billion that the Government is slated to provide to corporations over the next 7 years.

Herein is the problem. Not only must we cut defense programs, not only must we cut wasteful farm subsidies, weapon systems, and a CIA that is spending our money in a very excessive way; we must cut the subsidies that we are providing for corporations.

"This lack of progress," I am reading again from the report:

> This lack of progress in reducing the overall level of corporate subsidies stands in sharp contrast to the deep cuts that Congress is making elsewhere in the budget. If overall corporate subsidies were to be cut to the same degree that the Congressional budget resolution targets programs other than defense and Social Security, they would be reducing $122 billion over the next seven years out of the corporate subsidy budget.

Let me repeat the figures. These are figures we should put in our private database and remember as we go through the dialog about where America is going and what money and funding will be available for programs that are worthwhile for all the people. Understand that the corporations are refusing, the Congress is refusing to reduce the subsidy for corporations, which now would be $724 billion over a 7-year period. They are refusing to reduce that in the same manner that they are reducing other nondefense programs. If they did that, we could save $122 billion over the next 7 years.

Remember, as we listen to this dialog of the swindlers who want to take $270 billion from Medicare and they want to end the entitlement for Medicaid totally, the heart of this whole process is remaking America, is the question of who will get the money.

Will the American majority, those in need, or the educational establishment in order to guarantee we have productive taxpayers in the future, will the places that will do the most for America be the recipients of the funds or will they give it to the Americans having the most, corporations making profits at a great booming rate? They are the ones who should be paying more; they are only paying 11 percent of the total tax burden, while families and individuals are paying 44 percent of the tax burden. Here is the time to correct it.

If the Republican majority were sincere, if the salesmen who tried to sell us the $270 billion cut in Medicare as an effort to save Medicare, if they were to get to work on cutting the corporate subsidies, we would be able to lower the deficit at the same time, not make draconian cuts in Medicare, Medicaid, and education, and still go forward with a fair tax system. Raise the tax burden, eliminate the subsidies, have the corporations carry more of the burden. That is the answer.

Now, what will happen? They are going to make these draconian cuts and try to sell them to us by coming with a set of diversions. How will the Republicans try to get away with all this? How will they face senior citizens next fall at election time? How will they face the parents of children who have been deprived of lunches? How will they face the people who are sons or daughters of immigrants or people who are the fathers and mothers of immigrants, or people who are certainly immigrants themselves who have become American citizens? How will they get away with all this? The great massacre will be covered by diversions.

They will have arguments on gun control to divert the attention of people who care about guns away from the fact that they are being robbed of an opportunity to get an education or to have a job retraining program when they are laid off. Large numbers of people in the working class care a lot about guns. I am sorry they do. The great majority of American people, 80 percent, want some form of gun control, and they can certainly care about guns and agree to the sensibility of gun control, but, no, they will divert us. They will be talking about guns and the need to save America by having more freedom to use guns and less gun control.

They will be talking about the Voting Rights Act being a threat to Americans, that if we draw districts in a certain way, that is un-American. Odd shaped districts have been drawn since the history of the country by both parties, and America has never suffered.

They will be after the immigrants, yelling and screaming about the immigrants are causing the downfall of America. Well, immigrants have traditionally been a vital part of the American scene, and America is doing very well compared to most of the other industrial nations of the world.

They will talk about affirmative action, affirmative action and a colorblind society. Again, I have talked about that in the past. Affirmative action is necessary, to correct past wrongs. We had 232 years of slavery, the greatest crime in the history of humanity, 232 years of slavery in America, 100 years of brutal oppression following that 232 years of slavery. We cannot expect the African-American population as a group to make up for all that lost time.

There was a recent book on wealth, black and white in America, and one of the important conclusions of that book was that in terms of wealth versus wages African-Americans are coming closer and closer. Certainly middle class African-Americans who have an education are closer and closer to the wages of middle class whites, not the same but getting closer all the time. The gap has been closed over the past 10 years. Great advances have been made in terms of wages.

But when we look at wealth, and wealth means more than wages, it means ownership of assets, when we have a home, we have a car, we have stocks and bonds, when we look at wealth, the gap is wider than ever before between middle class African-Americans and middle class whites. Why? The biggest factor in wealth is inheritance. What is passed down from one generation to another is the biggest factor. The biggest factor of home ownership in America is the fact that the mothers and fathers are able to give a young couple the downpayment on a house. And the biggest body of wealth held by average Americans is in their homes.

So it is just common sense. If we had 232 years where your slave ancestors were passing nothing down, there was nothing they could pass down because they had nothing for 232 years, they are behind, and then 100 years of oppression after that where they had very little to pass down. Then they are not ever going to catch up, and nobody says they must catch up.

But understand, the great disparity that has been inflicted on African-Americans is because of slavery, because of slavery, the greatest crime in the history of humanity, the obliteration I call it. The obliteration. It was an attempt to obliterate the humanity, the soul, of a set of people so that those people would be a more efficient beast of burden. They would be more efficient in industry, mostly the agricultural industry, but efficient machines, efficient beasts of burden. It was an attempt to obliterate them and take away their humanity. Do not let them have families, do not treat them like human beings. Sell them as if they were commodities.

That great crime of slavery cannot be just ignored. It is a vital 232 years of American history, 232 years. I have talked about slavery before and people have gotten upset. I have talked about the great Atlantic crossing, the number of people lost, and the figures I used aroused Rush Limbaugh researchers, and I conceded the point that I had made a mistake, quoted in the New York Times, which itself was quoting a sort of folk history that is prevalent in the black history about the numbers. It is like Paul Bunyan exaggerating the numbers.

The fact is that millions were lost crossing the Atlantic in the slave trade. Millions were lost crossing the Atlantic, and millions were lost in the brutality of the slave industry in America.

If we want to quibble like some of the Nazis still want to quibble about the holocaust, it was not 6 million, they want to talk about 5½ million, or 4 million. If we want to quibble, go ahead, but I say to those who are interested in the conversation and the dialog, just mourn for the first million. Mourn for the first million. Everybody will concede there were at least a million lost crossing the Atlantic. Everybody will concede there were at least a million lost through the brutality of the slave trade in America.

In North America, the slave trade was kind compared to the slave trade in the Caribbean Islands and the slaves trade in Brazil and South America. The practice in Brazil and South America was to work the slaves until they worked them to death. They did not have breeding farms. They did not attempt to keep the slaves alive and get offspring from them like they did with their livestock. They just worked them to death and brought in more, so the numbers will never be known.

So anybody who thinks he can count the numbers of slaves that came into the New World by looking at British ships and British accounts and assuming this whole thing was organized and regulated is not naive; he is dishonest. We cannot regulate savings and loans and banks in America to keep them from swindling taxpayers. How do we think in those days there was any kind of real regulation of a slave trade that was pumping money into the coffers of some of the most respected people in the European nations?

So let us not quibble about the numbers, Rush Limbaugh and your researchers. Let us not quibble about the numbers. If we care about the subject, than just mourn for the first million. Mourn for the first million slaves who were treated like animals and died like animals. Mourn for all of those who were thrown into the breeding pens and forced to breed like animals. Mourn for all of those who died horrible deaths as a result of being under masters that wanted to work them to death. They wanted as much as they could get out of them until they dropped dead. So there is plenty to mourn for.

Do not make a joke out of slavery. When we make a joke out of slavery, we are endangering ourselves. I think of your posterity, your children and your grandchildren, may not appreciate it. Do not make a joke of the greatest crime ever in the history of humanity, the attempt to obliterate the souls of millions of human beings.

We are not spectators, as I said before. We do not have to stand by and watch this diversion. This diversion is going to take place. Gun control, affirmative action, voting rights, immigrants, that diversion is going to take place. We know it will take place, so let us prepare ourselves. Let us get our allied forces together.

The constitution provides us with the weapon. We can demonstrate, we can petition, we can march. Do not sit and mourn about somebody else's march. Let us make our own march. The caring majority ought to be marching, the caring majority should get ready at every level. What I call manifestations of empowerment should be taking place at every level all across America.

What is a manifestation of empowerment? It is an action like the one I just proposed for Wednesday, November 15. Come out, wherever you are, and go to a public school. Let it be known we care about education. That is a manifestation of empowerment.

In every way the health care problem is not just a national problem. They are threatening to sell the hospitals in New York City. Some of the best hospitals in the world that have great reputations, that have served people for several generations are now to be sold and made into private hospitals. So we are saying in New York come out on a given Sunday, let us have hospital appreciation Sunday. Let all the churches bring their congregations from church to the hospitals and let us surround them and let it be known that people care about their hospitals, people care about health care in various ways in cities, in towns. Get people to moving and doing things. We cannot wait until November 1996 and think we can deal with the problem then. Get people moving now.

Mr. Speaker, this is nothing new. I have an action paper, which I call "The Third Force." It is a draft paper, and I may change the name and call it "The Caring Majority Agenda," but I put it out in June and I have circulated it to colleagues of mine in the Congress and in the Congressional Black Caucus, and to members of the Progressive Caucus, I have circulated it to labor leaders and other elected firms and I have said we have to get moving. We cannot wait until November 1996, let us move now.

I will quote from my action paper.

> Republican arrogance and impatience have clearly framed the parameters of the battleground. The issues and causes around which we must mobilize are clearer now than ever before. The questions are: Is the United States of America a nation of the rich and powerful only? Shall the great majority of the population remain immobile while it is reduced to a status of urban servants or suburban peasants? Shall the resources of the richest Nation that has ever existed in the history of the world be used primarily to benefit an oppressive elite minority? Or shall public policies be shaped to share our real wealth and spread the benefits of our collective labor, our hard won peace, and the exploding advances of our technologies? Shall we share it for everybody?
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> The oppressive elite majority presently in charge of the Congress has thrown down the gauntlet. An assumption has been made that the majority vote in the Congress and the financial contributors to these Members of Congress are the only ones who have the real power to decide the basic questions facing our Nation.
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> A mistaken assumption has been made that until 1996, only the votes on the floor of Congress shall decide the fate of America as it moves towards the year 2000. It is a sacred duty of the caring majority to demonstrate that Americans do not have to sit idly by as spectators while their elected officials wreck their democracy. The ballot box on election day is a primary instrument, however, it is not the only means toward the end of freedom and justice for all.
>
> The people have a right to intervene. To save our Nation we must interpose or creative political energies and our individual bodies to halt the onslaught by a merciless set of hightech barbarians who have misinterpreted their election by an oppressive elite minority as a mandate to tyrannize the caring majority.
>
> The caring majority must rise to defend itself. To lead the crusade to save America, we need a caring majority agenda. From coast to coast, in every one of the 435 Congressional districts, we need citizen activists to insist that they are ready to fight intensely to save their Nation from catastrophe. This caring majority force needs ordinary people willing to participate in a national master plan for justice. We need legions recruited from among those who suffer as a result of the current oppression, which is imposed by the oppressive elite minority, and we need legions from among those who are not suffering but who understand the inevitable destructive path of the present blitzkrieg to remake the American government in the wrong direction.
>
> The primary weapons to be employed for all strategies and tactics of the caring majority should be nonviolent weapons. A lapse into violence against the entrenched establishment automatically guarantees defeat. Nonviolent direct action employed in conjunction with clear sets of demands shall be the operating rule of the caring majority. Massive nonviolent direct actions and coordinated simultaneous other actions are what are necessary to carry the caring majority forward.

Now, Mr. Speaker, I am just reading portions of an action paper that I put out in June. I am still waiting for comments from key people. I also have a timetable here. I have an agenda, a partial agenda, that was proposed to the Congressional Black Caucus. About 3 weeks ago, I said the Congressional Black Caucus should endorse groups that support its agenda. The Congressional Black Caucus should put out an agenda and have groups march to support that agenda, and that agenda should be the caring majority agenda, an agenda for everybody to strongly urge all concerned groups to lobby, demonstrate, petition, write letters, and march in these critical days ahead when the President will be negotiating with the Republican-controlled Congress to save the Nation from devastating budget cuts.

First on the agenda is to fight aggressive racist attacks in all forms. Fight the attacks on affirmative action. Fight the attacks on school desegregation, on set-asides, and the Voting Rights Act. Fight government and unofficial acts which encourage sexism, antisemitism, homophobia, immigrant persecution or denial of basic rights to any groups.

No. 1 on the agenda must be a fight against any racism, any divisiveness. We need to build allies. We need to come all together and understand that America should be America for everybody and we cannot have separations in the process of the fighting. Otherwise, we play into the hands of those who are in the elite minority profiting from those divisions.

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Fight for education as a national opportunity. Fight for education as a national priority. The opportunity for an education must remain a national priority. Fight to stop all cuts in Medicaid as well as Medicare. This Nation still needs a national health insurance program with universal coverage. Fight to stop those cuts. Fight to stop the taking away of the Medicaid entitlement. Fight to end the monstrous cuts in the HUD programs for low income housing. Fight to support the retention of adequate wages and pensions for the military, Federal workers and other public service workers.

Fight to increase the minimum wage. The Republican majority said they will not entertain any dialog on increasing the minimum wage. One hundred American economists have said we need an increase in the minimum wage. The only way you can have workers keep pace with what has happened is to increase the minimum wage. All we are proposing in the Gephardt bill, which I am a cosponsor of, is a measly 45-cent increase in two steps, a 90-cent increase in the minimum wage.

The Republican majority says they will not entertain any discussions of any increase in the minimum wage.

So we need to fight to increase the minimum wage. We need to fight to guarantee the right to organize unions in the worker replacement provisions. To end striker replacement, we have to first support President Clinton's Executive order. We need to fight to maintain health and safety conditions in the workplace. There has been a fight on the Occupational Safety and Health Administration [OSHA]. We need to fight that.

We need to fight for cuts in the defense budget, those cuts that will downsize the budget and generate the money to fund the programs needed. We need to fight for an increase in foreign aid to Africa, Caribbean, Haiti. Haiti was one of our proudest moments in our foreign policy. The anniversary of the liberation of Haiti will take place shortly. We should take note of the fact it was a shining hour, a great moment, for American foreign policy.

We need to fight for an increase in the funds for youth crime prevention program. The majority has eliminated this program. We need to fight for an increase in those programs and a decrease in the prison funds to build prisons.

We need to fight and unite with the caring majority for the retention of Social Security as it is now. They are chipping away at Social Security. Do not believe what you hear. Stop moving the age requirement back. Stop tampering with the COLA's. This is an agenda for the caring majority. You need to move on an agenda that is focused.

I have a timetable. You need to have actions in your localities, in your States. You need to do things. Americans are not spectators. We are not put in that spectator role. Actions at the local level, make allies, all races, all sexes, all religions. And finally we need an action in Washington.

The whole culmination of this activity should take place in Washington. Washington is the place, Washington is the key. What happens here sends out signals. It determines the way things are going to go in the States and in the cities. Washington does not provide all the money for our cities and local government, but they set the tone. So, therefore, at some time on this agenda, the climax has to be the caring majority with its agenda has to come to Washington in millions. The caring majority has to come.

I propose next spring, the anniversary of Tiananmen Square in China, why don't we come together and work toward it between now and next June? Tiananmen Square in China took place in the first week of June. Tiananmen Square I offer because it is so important to note the fact that a totalitarian government of China could not resist, could not stop the flow of information out from Tiananmen Square to the rest of the world. When you get that many people together with determination, they built statutes of liberty, the media was there. The media tends to try to ignore the caring majority agenda. You cannot get the same exposure for the caring majority agenda that you get for the Republican health care plan.

So a Tiananmen Square type operation, have a million people come together on the mall. You have an agenda. There is no question why you are there. Come together to confront the Congress, confront the White House. What we need most of all is direction for our Government. Let us plan to do it. You are not spectators in America. You have the right to get up and move. Let us use our right and let us make certain that the remaking of America does not take place while we are sitting on the sidelines. Troops, get ready. The march you make will be to save your own soul and your own nation.

THE TRUTH ON MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, we have an off day today, and I thought that I would take advantage of the opportunity to both respond to some of the charges made with respect to Medicare and then probably, more importantly, talk about exactly what it is that we are going to be marking up next week with respect to a really very, very needed reform of the Medicare program in America.

I wanted to talk particularly to the senior citizens today, Mr. Speaker, because I know that there is a great deal of anxiety and concern and some confusion as well. My gosh, if I were watching this debate on a day-to-day basis at home and trying to ferret out the truth from the confusion, I think it would be a tremendous challenge.

So what I would like to do is, first of all, think about the one charge that has been raised on a daily basis with respect to Medicare by the minority party, and then go into the actual details of what we are going to do.

What we have heard here on the floor on a regular basis is that Medicare is going to be slashed by $270 billion over the next 7 years in order to pay for tax cuts for the rich. I would like to take that apart on a piece-by-piece basis and show that it is completely untrue. I would like to do it from the back end, because I think that the tax cuts for the rich is probably the kind of class warfare that turns one off, but has a kind of a hook. It is sort of like pornography. You know, people are offended by it, and they recognize that they are hearing something that is wrong and that there is something fundamentally wrong about it; but, at the same time, there is something attractive about it, because it seems as though there is a hook there.

Well, the hook of class warfare is it is an ugly hook, and it is a hook that basically says we should not aspire. It assumes that people do not want to aspire to the American dream and they do not want to aspire to be able to actually improve their position materially for themselves and for their families.

The fact is that with respect to the tax cut, it has absolutely nothing to do, nothing whatsoever, to do with Medicare. It has nothing to do with anything other than a tax cut. And the Medicare trust fund, which is the part A trust fund, is not affected by whether we raise taxes or whether we lower taxes.

The Medicare trust fund is actually funded by the 1.45 percent payroll tax that comes from people who have earned income, workers, employees, and employers. Anybody that has earned income gets taxed at 1.45 percent, the worker, the employee, plus another 1.45 percent on the employer. And there is no limit on what that amount of money can be. There used to be a cap. You know, the first $60,000 or so of income is subject to the Social Security tax, and that that is what funds Social Security. But there is a ceiling on that, and the ceiling is the first $60,000. There is no ceiling on the amount of money that is taxed for Medicare at this 1.45 percent amount.

All of that money goes into part A of the Medicare trust fund and it is part A of the Medicare trust fund, it is that HI, health insurance trust fund, that is going bankrupt.

I have some charts here. The reason we know it is going bankrupt is that the trustees of the trust fund are required by law to make a report to the President on an annual basis, to talk about and describe the actual status of the fund, of the trust fund themselves.

By the way, this is not a partisan group or political group. If it is political, it is partisan in terms of being members of the party of the President, whoever the President happens to be. In this case three of the members, three of the trustees are Robert Reich, the Secretary of Labor, Donna Shalala, the Secretary of Health and Human Services, and Bob Rubin, the Secretary of the Treasury. In addition, there is the Commissioner of the Social Security Administration and two private sector trustees. They all sign this report. They say, and this was dated April 3, 1995, the fund is projected to be exhausted in 2001. That is under the worst case scenario. Under the middle case scenario it is projected to be exhausted in 2002.

Now, the money that goes into this fund, and this is the important point, the only money that goes into that fund comes from the 1.45 percent payroll tax that is paid by workers, working people in this country. That is where the part A trust fund revenues come from. They do not come from tax revenue.

We could have an increase and make a marginal rate of 70 percent, and not one more dollar would go into part A of the Medicare trust fund. That is what is going bankrupt.

You can see right here the trust fund reserves. Right now there is actually about $150 billion in the trust fund. This is a chart that is reproduced from that same April 3, 1995, annual report of the health insurance trustees. By the way, anybody that wants a copy of that report, they are available from your congressional office. If you simply call the Capitol switchboard and ask for your Congressman and talk to their legislative assistant that deals with health care, ask them to send you a copy of the trustee's report on the HI trust fund dated April 3, 1995. There is a 14-page summary of it. If you call 202–225–3121 and ask for a copy of it, they will give you the full copy. It is well written, plainly written, and it is not a partisan document. It simply describes what is going on with this program.

Anyway, this is a chart reproduced from that report. It shows you very clearly that starting in 1996, the fund actually is paying out more than it takes in. In other words, it is paying out more to hospitals and doctors than it is taking in in revenue in that 1.45-percent amount. As you can see, you get to zero in about the year 2002, where there is nothing left whatsoever in the fund. Once there is no money in the fund, there is no money to pay. Without a change in the law or a change in the tax rate, that money is exhausted, and it is all over for the payments.

That is why the trustees in their report are so strong and so clear about saying Congress has got to act. Congress has got to do something to protect this fund if we are going to have Medicare in the future. And there has got to be a resolution brought, or we are going to be completely without health care for senior citizens with respect to the part A.

So that is what the point is. The point is that the tax issue, this issue of raising or lowering taxes for the rich has absolutely nothing to do with Medicare part A. Not one penny.

Now, let us look at the charge with respect to this idea that the cut goes to the rich. What did we do in August 1993 in this body? I was a freshman Congressman at the time and I remember it vividly. What we did is we passed the greatest, the largest tax increase in the history of our country. One of the things that we did in that tax increase is that we increased the highest marginal rate, first of all to 36 percent, and then we put a 10 percent "millionaire's surcharge" on top of that, so that people that have income of more than $1 million would have an additional surtax of 10 percent. So the top marginal rate right now in the United States is 39.6 percent.

Well, there are a lot of people who think that that is bad policy. There are a lot of economists that will tell you when you increase the marginal tax rate at the top, you are not going to actually increase revenue. What you will find is people's behaviors will change. I think that those people are correct.

But the fact is that that change in the law was made in August 1993, and it is still the law, and this Congress has not done anything and does not intend to do anything and is not going to do anything to change that law, to repeal that, to come back and repeal that 10-percent surtax that was added on.

Now, if this Congress, if the majority party, the Republican Party, wanted in fact to give a tax cut to the rich, would not the first place to go be to repeal the add-on, that surcharge that was made into law in August 1993? It seems to me that is where we would go. But there has been no talk of that. Of course, there has been no talk of that.

But what we have done is created a tax break to give relief to middle-income families. Over 75 percent of the tax relief in the tax cut package that is part of the Contract With America goes to families making less than $75,000 per year. The tax break goes to families, and it goes to working families. It goes to that group of people in America who are shouldering the greatest amount of the tax burden, and it tries to bring some tax equity so it is easier to raise a family in the United States.

Let us go to the first part of the catechism that you hear so frequently in the Chamber, and that is that we are slashing Medicare by $270 billion.

Well, how is it possible? The real problem in Washington, and probably the greatest change that we made in this Congress, the most important change and one that rarely gets talked about because it is a subtle change, but it will have more to do with giving the truth, telling the truth to the American people about the money that is spent in the U.S. Congress, their tax dollars, is this change away from what is known as baseline budgeting.

Basically baseline budgeting is a kind of phony accounting system that is used nowhere in this country except right here with the Federal Government. What it does is it says that we predict that we should be spending x number of dollars in 1996 while we are spending a number of dollars in 1995. We think that in 1996 we will probably be spending this amount of money, and because that is what we think we should be spending, then if we spend less than that, that is a cut.

Let us make it in real terms. If we spent in 1995 $175 billion on a program, and the Congressional Budget Office says that they think we are going to spend $200 billion in the program in 1996, but the Congress says well, no, we don't think we need to spend $200 billion, we think we can do the same job or a better job for $185 billion, well, according to the CBO, that used to be, before we changed the law on this, that used to be known as a $15 billion cut, even though we were spending $25 billion more in 1996 than we spent in 1995.

Nowhere else in America, nowhere else in America, is that a cut, only right here in Washington. The problem with it is that it confuses the public. It confuses the voters and makes it very, very difficult for voters to make real choices about whom they want to represent them in the U.S. Congress or the U.S. Senate or in the White House.

What we have done this year, the very first day of the Congress, and then we memorialized it again in some other budget language that came out with the first budget resolution, is we have changed the law, so that now when we talk about spending for 1996 and the numbers that are in this budget, the numbers that are in this 7-year budget that go out to 2002 are not based on predictions of what we should or could or might be spending in the future.

They are based on what we spent in 1995, the same way that you do your accounting at home, the same way that companies all over this country do their accounting. It means that, if you spent $150 a month, if a person in a family spent $150 a month on utilities in 1995, and they spend $160 a month on utilities in 1996, that is a $10-per-month increase. That is how much it is. And we are going to use the same language right here in the U.S. Congress that everybody else is using in this country.

Well, let us see what that means. What it means is that we, under the Medicare proposal that will be debated on the floor next week, that has been a subject of many, many hearings in the past 2 years actually, and over this summer we will be spending twice as much, twice as much on Medicare in the next 7 years than we spent in the previous 7 years.

To make it more close to home, we will be spending $4,800, we are spending right now $4,800 per beneficiary per year right now. That is going to $6,700 per beneficiary in the year 2002. By the way, does it take into account the predictions on demographic changes in terms of new enrollees? Because we know that more and more we are having increasing enrollment in Medicare as we have an aging of our population.

So what we know is we are going from $4,800 per beneficiary per year, that is about $400 per month, up to $6,700 per beneficiary per year in the year 2002.

Now, if that is a cut, where is the cut? How is that a cut? Could somebody please explain to me how that could possibly be called a cut? It is about a 35-percent increase in spending per beneficiary.

All right. So let us start with those basics. We have $4,800 a year going up to $6,700. Obviously we are increasing the amount of money to be spent on Medicare. The real question is, A, can we provide health care for every senior citizen in this country over the age of 65 for that amount of money? And, B, can we do maybe a better job than the traditional fee-for-service medicine which has been the hallmark and only way we have distributed Medicare up until very, very recently?

We have done some pilot programs with managed care models around the country now with Medicare. But up until recently, the only kind of medical services that were available under Medicare was traditional fee for service.

I happen to think that traditional fee for service is a heck of a good way to deliver medical services. But there is a problem when nobody is minding the cost factor, when nobody is paying attention to how much it costs. Let us face it: If the Government is paying for all of it, then the patient does not particularly care about it. If the Government is not being vigilant about what things are costing and whether or not the bills they are getting are real bills and ought to be paid, then you have got terrible problems. That is the situation that we have come into with respect to Medicare now.

In fact, we found out from the Director of the Congressional Budget Office at hearings in 1994 that they believe 15 to 20 percent of all of the money that the Health Care Finance Administration pays out is in fraudulent claims. Can you imagine that? Fifteen to twenty percent of that money? That is stunning. And what we have done in the Medicare reform proposal that we will be voting on, and I believe passing next week in this Chamber, is we have put together an 11-point program to ferret out for the very first time, to genuinely and honestly and aggressively and with a very tough program, get at waste, fraud and abuse in Medicare, and particularly fraud.

What are we going to do? The first thing we are going to do is make the 35 million beneficiaries, Medicare recipients, we are going to make out of them, we are going to make 35 million watchdogs of the Federal Treasury. And they are going to be given, every single beneficiary will be given a financial incentive to actually look at the bills, to ferret out the mistakes, to find out if it is a bona fide bill or not a bona fide bill.

Every single Member of this Congress, I guarantee you, has been told stories by his or her constituents at home about specific examples of overbilling, weird examples of billing that goes on months after a person has passed away, double billings, billings for procedures that have not been actually performed, billings for procedures that were performed but then were rebilled several days later.

There are more horror stories about the fraud and abuse. You can understand that, when you see that, up to 20 percent of all of the money that is spent on medical costs under Medicare is believed to be fraudulent.

So we have put together, there is going to be a Commission that will specifically look at private sector methods, because I can tell you in the State of Ohio, where I come from, that the Blue Cross/Blue Shield plans in northeastern Ohio realized there was a terrible problem with fraud. They got onto this about 8 or 10 years ago, and they went after the problem. They decided they were going to solve this problem.

What did they do? They contracted with people that ferret out fraud and abuse in the private sector. Think about it for a second. We had a shoplifting problem in this country up until a number of years ago, before the big companies figured out how to get a handle, really get a handle, on shoplifting as an overall problem.

Now we know that, if somebody goes into a place like a K-Mart or a Sears, they are not going to be able to get out of there stealing things. Why not? Because large retailers decided they were going to do something about this problem and they were going to get at it and solve it and were not going to allow it to affect their bottom line and affect the way they do business.

That is exactly what insurance companies have done around the country, and that certainly is what Blue Cross and Blue Shield of northeastern Ohio has done. They have gotten at that problem. That is exactly what we are going to do with respect to Medicare. We are going to get at that problem. The first way that we do it is with making 35 million Medicare recipients watchdogs of the Federal Treasury.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. I thank my colleague for yielding.

I just wanted to address a point. I was in my office doing work and listening at the same time as we all do, and noted your commentary with regard to the trustees and the Medicare Trust Fund. I wanted to take this opportunity.

Mr. HOKE. I would be happy to yield for a question or a comment, not a long speech.

Ms. DELAURO. I will be quick. The point is in fact I think there is some misrepresentation of what the trustees have said. I will quote from the September letter from the trustees addressed to the Speaker and to the majority leader.

The trustees have said, because I know that that is a read on which my colleague has hung his commentary and his colleagues have hung the commentary. And this is a quote from the trustees, from really actually the Secretary of the Treasury, Mr. Bob Rubin, a Wall Street business person before he came to this position. Simply said, no Member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

I just might add the trustees in fact did say that $90 billion was more in the nature of what was needed over a period of time to look at the solvency issue. And to that end, in the Committee on Ways and Means this week, our Democratic colleagues offered a specific amendment that talked about a $90 billion savings over the next 7 years to deal with the solvency problem to the year 2006.

That was defeated by the Republicans. The question is, if $90 billion is what the trustees have said is necessary and we want to hang our hat on what the trustees have said, then what happens to the additional $180 billion? You cannot rely on the trustees on the one hand to talk about what they have said that we need to do for the solvency, and then discount what they say when they say it is not $270 billion, but in fact it is $90 billion.

In response to the cry that the Democrats have not had a plan or proposal, in fact and in deed there was an amendment in the Committee on Ways and Means for $90 billion. In addition, a commission was set up that would deal with the longer solvency problem, what has to do with baby boomers, a bipartisan commission set up down the line. That was defeated. You have to represent the entire situation rather than just wanting to use the trustees as it might satisfy your point.

Mr. HOKE. Reclaiming my time, I will respond to that.

Ms. DELAURO. Mr. Speaker, I would like to put in the RECORD the op ed that was written by the trustees in response to this issue and talking about $270 billion being factually incorrect.

[From the Houston Chronicle, Sept. 5, 1995]

IT'S NOT NECESSARY TO CUT MEDICARE BENEFITS

(By Robert E. Rubin, Donna E. Shalala, Robert B. Reich, and Shirley S. Chater)

The United States is involved in a serious examination of the status and future of Medicare. Congressional Republicans have called for $270 billion in cuts over the next seven years, claiming that Medicare is facing a sudden and unprecedented financial crisis that President Clinton has not dealt with, and all of the majority's cuts are necessary to avert it.

While there is a need to address the financial stability of Medicare, the congressional majority's claims are simply mistaken. As trustees of the Part A Medicare Trust Fund which is the subject of the current debate, and authors of an annual report that regrettably has been used to distort the facts, we would like to set the record straight.

Concerns about the solvency of the Medicare Part A Trust Fund are not new. The solvency of the trust fund is of utmost concern to us all. Each year, the Medicare trustees undertake an examination to determine its short-term and long-term financial health. The most recent report notes that the trust fund is expected to run dry by 2002. While everyone agrees that we must take action to make sure it has adequate resources, the claim that the fund is in a sudden crisis is unfounded.

The Medicare trustees have nine times warned that the trust fund would be insolvent within seven years. On each of those occasions, the sitting president and members of Congress from both political parties took appropriate action to strengthen the fund.

Far from being a sudden crisis, the situation has improved over the past few years. When President Clinton took office in 1993, the Medicare trustees predicted the fund would be exhausted in six years. The president offered a package of reforms to push back that date by three years and the Democrats in Congress passed the plan. In 1994, the president proposed a health reform plan that would have strengthened the fund for an additional five years.

So what has caused some members of Congress to become concerned about the fund? Certainly not the facts in this year's Trustees Report that these members continually cite.

The report found that predictions about the solvency of the fund had improved by a year. The only thing that has really changed is the political needs of those who are hoping to use major Medicare cuts for other purposes.

President Clinton has presented a plan to extend the fund's life. Remarkably, some in Congress have said that the president has no plan to address the Medicare Trust Fund issue. But he most certainly does. Under the president's balanced budget plan, payments from the trust fund would be reduced by $89 billion over the next seven years to ensure that Medicare benefits would be covered through October 2006—11 years from now.

The congressional majority's Medicare cuts are excessive; it is not necessary to cut benefits to ensure the fund's solvency. The congressional majority says that all of its proposed $270 billion in Medicare cuts over seven years are necessary. Certainly, some of those savings would help shore up the fund, just as in the president's plan. But a substantial part of the cuts the Republicans seek—at least $100 billion—would seriously hurt senior citizens without contributing one penny to the fund. None of those savings (taken out of what is called Medicare Part B, which basically covers visits to the doctor) would go to the Part A Trust Fund (which mostly covers hospital stays). As a result, those cuts would not extend the life of the trust fund by one day.

And those Part B cuts would come out of the pockets of Medicare beneficiaries, who might have to pay an average of $1,650 per person or $3,300 per couple more over seven years in premiums alone. Total out-of-pocket costs could increase by an average of $2,825 per person or $5,650 per couple over seven years. According to a new study by the Department of Health and Human Services, these increases would effectively push at least half a million senior citizens into poverty and dramatically increase the health-care burden on all older and disabled Americans and their families. The president's plan, by contrast, protects Medicare beneficiaries from any new cost increases.

As Medicare trustees, we are responsible for making sure that the program continues to be there for our parents and grandparents as well as for our children and grandchildren.

The president's balanced budget plan shows that we can address the short-term problems without taking thousands of dollars out of peoples' pockets; that would give us a chance to work on a long-term pan to preserve Medicare's financial health as the baby boom generation ages. By doing that, we can preserve the Medicare Trust Fund without losing the trust of older Americans.

Mr. HOKE. I think it is really remarkable that what had been a completely unpoliticized document, that is, the trustees report of April 3, 1995, when that document was actually scrutinized and read with great interest by the American people and by Members of Congress and was used on this floor to bring to the attention of the American people the very calamitous situation that Medicare finds itself in, that that, all of a sudden, the trustees—it is not the trustees, it is one Mr. Robert Rubin who has written this letter claiming that——

Ms. DELAURO. Secretary of the Treasury, Wall Street business person——

Mr. HOKE. Who has written this letter now in a very, very political way. He has decided to jump in politically because he sees that apparently the President's approach to this, which had been, frankly, very evenhanded, which had recognized that, yes, there clearly is a problem with respect to Medicare, Medicare has got to be fixed. We have got to step up to the plate and fix this problem.

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The President apparently has been more recently, in the past month, or even less, 3 or 4 weeks, he has been persuaded by Democrat leadership in the House that political points can be scored by repeating this mantra of slashing Medicare in order to pay for tax cuts for the rich. I think that that is bad politics. It certainly is bad policy, and I am not going to yield more time at this point.

Ms. DELAURO. Mr. Speaker, I thank the gentleman for the time that he did yield.

Mr. HOKE. Mr. Speaker, the gentlewoman is very welcome.

With respect to the $90 billion cuts that were actually suggested by Democrats in the Committee on Ways and Means, I do not know if those were $90 billion scored that way by the CBO or if they would have been scored higher. The fact is the cuts the President talked about of about $135 or $140 billion were scored by CBO at about $190 billion.

The truth is that every reasonable person in this body, every responsible person who has examined the situation, every responsible person in the administration, every person who is looking at it in a dispassionate and temperate way, not for political gain, not for political purposes but for the purposes of preserving, protecting and improving Medicare not just for this generation but also for the next generation, has concluded without question that we have to fix the problem.

We believe that we cannot only fix the problem, that is the impending problem of bankruptcy, but we can offer so much more to senior citizens in terms of what will be available for them under choices that they ought to have as senior citizens that are available to other people in the country as well.

Let us look at, first of all, the managed care option, because I think it is an interesting and a good option. The truth is there will be a lot of senior citizens who will be interested in it because it is going to offer them more care for less money. Let us face it, it will be less expensive for them. At the same time, in order to qualify, they would have to be part of an "HMO" or health maintenance organization, a managed care plan.

What does that mean? It means that you go through somebody who decides whether or not you are going to see a physician at a particular time for a particular ailment.

What I have found is that senior citizens who can sign up with an HMO that has, as one of the physician members in the HMO, if the senior citizen's physician is already in the HMO, then that HMO becomes very attractive to the senior citizen. If that senior citizen's physician is not in the HMO, then they are not particularly interested.

It is also apparent that the older the senior citizen, the less attractive any kind of change to an HMO becomes. That is why it is very, very important that senior citizens be reminded by me and by others that the first option that they have with Medicare Plus is to stay in traditional fee-for-service medicine, exactly the way that it is today. If what they opt for is to stay in the Medicare Program, the traditional fee-for-service Medicare Program as it is today, with exactly the same copayments, with exactly the same deductibles, and with exactly the same part B premium, they can do that. That is available to them. They can do that.

What is also to be available to them are a number of other choices that emulate and resemble choices that are available in the private sector to citizens in the United States today. Let us talk about this HMO, because I think it will be an option that will be attractive to some senior citizens.

The reason is that what will happen, I believe, and what can happen under the plan, and what has happened in other States already, where they have piloted this, particularly in Florida, and there are two HMO's in northeastern Ohio, Medicare HMO's, is that, at least in Florida, already you can join a Medicare HMO and you can have full prescription drug coverage. That is not true under traditional fee-for-service Medicare. But it is true under Medicare HMO's that are being run in Florida right now.

I think it will probably be even more true in the rest of the country when there is a lot more competition. Because if there are 8 or 10 or 12 or 15 HMO's competing for Medicare senior citizens to be in their plan, what you will find is that they will find ways to do it better for less money and they will offer greater services.

But the marketplace will be working and the marketplace will work very aggressively. I think it would be reasonable to assume that there will be plans that will offer complete coverage for prescription drugs, complete coverage for eyewear, complete coverage for chiropractic, and additional coverages for maybe psychiatric or other things that are not covered fully under Medicare today.

Why will that happen? Because the marketplace will be at work, and it will be working to make the delivery of services more efficient.

I have to tell you that personally, from my own personal point of view, HMO's are not the delivery service of choice or delivery system of choice. I think they are decidedly, frankly, un-Republican, in the sense that they are top down. They are driven from the top and are bureaucratic.

I would think they would be much more attractive to my friends and colleagues on the other side of the aisle. In fact, they have been in the past, and it was a big part of what the President was talking about in terms of mandating people to get into in the 1993 health reform that was so soundly rejected by the American public.

In any event, there are HMO's that exist today. A substantial number of American citizens are covered by HMO's in the private sector, and people tend to have varying degrees of satisfaction with them, I suppose. The one that I like is the plan that is a medical savings account, a Medisave account, plus a high dollar catastrophic, high deductible catastrophic insurance policy.

I think this will be tremendously popular with some senior citizens, not all senior citizens. Remember again, this is another option that senior citizens will have. They can stay in traditional fee-for-service medicine, Medicare. They can get into a Medicare HMO, or they could opt for a medical savings account.

Let us talk about what a medical savings account does, because I think there has been a lot of talk about it but not a lot of understanding. Medical savings accounts allow you to purchase catastrophic illness insurance guarding against extraordinary costs and then deposit money into an MSA, a medical savings account, to cover the routine costs. The difference between the MSA level and the insurance policy's deductible would be certainly less than what today's seniors pay for so-called medigap policies.

I will give you an exact example of how this works so it will make more sense to you. Right now we do not really have health insurance in this country, we have more like what is prepaid health care. In other words, we pay on a monthly basis to cover a whole slew of things that we know will go wrong.

It would be as though you were paying on a monthly basis to have your brakes realigned, your oil changed regularly, and your shocks and tires rotated. We know there are certain things that we are going to experience in terms of our needs, our health care needs. But what insurance is supposed to do, real insurance is supposed to protect individuals against unaffordable losses due to unforeseen circumstance. That is what insurance is supposed to do. It is supposed to create a pool of money that allows us to share the risk, the real risk of having unforeseen things happen to us that are calamitous and that we cannot afford.

That is what insurance is supposed to do. Specifically, what it really does is it allows you to sleep at night so that you know if you have some problem you cannot get wiped out as a result of that.

Well, what the Medisave plan does is it goes back to the real theory, the underlying theory of insurance with a high deductible policy. Let us say that the first $3,000 is the amount of the deductible. It would be like if you had a car insurance policy where the first $3,000 of damages would have to come out of pocket. Instead of having to come out pocket, that first $3,000 would be in a Medisave account.

Where does the money come from? Well, let us go back to how much we are spending right now per beneficiary per year. We are spending $4,800; the Federal Treasury, through the Medicare trust fund, is spending $4,800 per beneficiary per year. That money, that $4,800 would be divided up between a medical savings account, money placed in a medical savings account, or buying a high deductible insurance policy.

The money that is in the medical savings account, plus money that the beneficiary, him or herself, could put in that account. Presumably, that would be the money that a senior citizen is now paying for medigap insurance. Most senior citizens buy medigap insurance to cover the amount that is not covered by Medicare, that money they could use in that medical savings account up to the amount of the deductible.

Now, if they use it, that is great. If they need it, that is great. It gets used up, and then after that, the insurance company takes over. If they do not, at the end of the year, who does that money belong to? Does it belong to the insurance company? No. Does it go back to the Government? No. It belongs to the senior citizen. What is the point of all this? The point of this is to give incentives to the individual who is getting the care. The point is to actually create consumer motivation on the part of the patient, the beneficiary, the Medicare beneficiary.

What does it mean? It means that that beneficiary is going to be making the same kind of cost conscious consumer decisions in the purchase of their health care that they make in every other area of their lives, whether it has to do with housing, or whether it has to do with clothing, whether it has to do with food. And they are going to become cost-conscious consumers of health care as well.

Now, a lot of people say, well, that is ridiculous; that is not the way it works. People do not make good decisions with respect to health care based on cost. I will give you a couple of examples of things that have to do with health care where people do and where it has been extraordinarily successful.

First of all, and I know that this will, Mr. Speaker, apply to many, many people who hear this, it has to do with eyewear. The fact is that eyewear is not something covered either by Medicare or, by and large, by private insurance. What have we seen in the area of eyewear where we do not have third party payers but in fact we have consumers purchasing the product? What we see is the following: You can get your eyes checked and you can have your eyes examined by any of three different people with levels of education and expertise. You can go to an optometrist, an optician, or an ophthalmologist at different levels of education and expertise and different costs. You can go to any mall in this country and actually have your eyes checked and a prescription filled the same day. So there is tremendous consumer availability.

Not only that, but we have seen the prices of glasses on an inflation-adjusted basis remain flat for the past 25, 30 years. We have seen the prices of contact lenses come down dramatically over the same period of time. So, clearly, consumer forces work in the medical area.

They also work with respect to dental services, which are largely not paid for by insurance companies. They even work in the area of pharmaceutical supplies and prescription drugs, which also are in many cases not covered by insurance. They are not covered by traditional fee-for-service Medicare, although they are covered in some Medicare HMO plans.

What does this mean? It means that you have seen the proliferation of generic drugs and of discount programs and drugs by mail, and the market has responded to bring those prices down. There are other things that push drug prices up, such as liability issues and the difficulty of getting drugs to market in this country because of FDA hurdles that are overwrought and too high. But, in any event, the point is that consumer forces can work in the health care area, and medical savings accounts will offer senior citizens the opportunity to make choices themselves, manage their own health care, and actually become the drivers and be in the driver's seat when it comes to making health care choices. So that is another choice.

The point of this is the plan that we are going to vote on next week is going to do a number of important things. No. 1, is will take us out of the 1960's with respect to the delivery of health care to senior citizens. It will preserve the traditional fee-for-service Medicare for seniors that want it, but it will also give them a number of other choices, including managed care plans, including medical savings accounts, including some other things that I have not discussed with you that are a little bit more complex. But it will give a range of choices that will be available.

What will it do with respect to the spending? It will increase the spending from $4,800 per year to $6,700 per year. What does that mean over that period of time? It means we are going to spend twice as much on Medicare in the next 7 years than we have spent in the previous 7 years. It also means that we are going to increase the spending on an annual basis of about 6.5 percent per year. In other words, we are increasing 6.5 percent per year on average from 1995 to 2002.

What are we doing right now in the private sector? Well, in 1994, a big six accounting company report came out and said that the increase in the inflation in the health care sector is now down to about 3.1 percent in the private sector. Think about that for a second. Why has it gone down to 3.1 percent? The reason that it has gone down to 3.1 percent is that America has woken up. Individuals, families, companies, employers, they have said we are not going to allow this to continue, this kind of double-digit health care inflation. We have had it. We are going to do what is necessary to squeeze all the fat out of the delivery of health care in this country. We are going to fix the problem. That is exactly what the private sector has done.

What was it that CBO had projected the increase to be at which gives the Democrats, my friends on the other side of the aisle, the ability to claim this $270 billion cut, which does not exist, of course? Well, what was the projection by CBO? They projected we would be increasing at 10.5 percent per year over the next 7 years.

We are saying we are going to increase at 6.5 percent per year. But either way, what has made it possible? Why is it that we have gone up at 10.5 percent per year in the public sector, with government funding of health care, but we are now only going up at 3.1 percent in the private sector? The fact is that it goes up at 10.5 percent per year because it can, because we have allowed it to, because we have said that is what the amount is going to be. We have made it an entitlement, and nature abhors a vacuum. so the amount of spending will certainly fill the amount that is appropriated. It is absolutely guaranteed that will happen.

My own prediction about what will happen with respect to the Medicare reforms is that we will not need the 6.5-percent increase. We will not use that much money because these other factors will come into play and will actually use market forces to squeeze out the waste, fraud, and abuse, to squeeze out the fat, to squeeze out and bring about market competitive forces into play.

So that is what we will be dealing with next week on the floor. I think, Mr. Speaker, the American people deserve to know the facts about this and that, the more that they learn about Medicare, the more that they see exactly what choices will be available to them, the expansion of the choices, the more that they will absolutely and utterly reject the scare mongering, what the Washington Post called medagoguery that has been taking place on the other side of the aisle. And I think it is to the discredit of the President of the United States that, while he had, up until the past 2 or 3 weeks, been, very frankly, evenhanded and accurate in his rhetoric about the problems with Medicare and the need to fix those problems, he has now dived into the same muck bucket that my friends on the other side of the aisle have been engaged in all year by making this a political issue and politicizing it rather than making it a policy issue that deserve everybody's attention and that they should join us to try to come up with solutions that will be real.

This letter that Bob Rubin, the Secretary of the Treasury, has decided to send now, which is blatantly political, that letter is clearly an example of this decision that was probably made in consultation with pollsters, handlers, and political consultants to go political on the course instead of to talk about it in a dispassionate, rational way so that this program that is so important to American senior citizens could be preserved. Instead, what you get now is a great deal of scare mongering and the attempt to create anxiety on the part of senior citizens.

I know that, Mr. Speaker, they are not going to believe it. I know that they know that we have parents who are on Medicare ourselves and that we feel the responsibility that responsible legislators everywhere in this country feel, and that is to do what is right to preserve this program that has been a great success for the American people.

With that, Mr. Speaker, I will yield back the balance of my time.

REPUBLICANS RUSHING MEDICARE REFORM LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I probably will not use all the hour, but I will ask for at least that initially.

I wanted to come because of the developments that have occurred in the last few weeks particularly this week with regard to Medicare and the Republican leadership proposal to change Medicare.

I happen to be a member of the House Committee on Commerce. The Committee on Commerce spent this past Monday and Tuesday doing a markup of the Medicare bill and did report the bill out on Tuesday late in the evening. I am very concerned about that bill. I understand it may be coming to the floor sometime next week, perhaps as early as next Thursday.

I think it is a terrible thing that this legislation is coming to the floor of the House of Representatives without ample opportunity for hearings and sufficient debate.

As I have mentioned before on the floor of this House, Mr. Speaker, our Committee on Commerce did not have hearings on the legislation. In fact, a substitute bill, which was actually the bill that we voted on just this past week, we only received about 24 hours before the time we were actually asked in committee to mark up the bill. So what, in effect, the Republican majority is doing is rushing Congress into these Medicare changes without most of us even knowing what the changes are and what the implications are going to be on America's seniors.

Just to illustrate that point, I wanted to start out, Mr. Speaker, by entering into the RECORD, ands I think part of it may already be in the RECORD, but I wanted to mention some highlights of an editorial that was in my hometown newspaper, the Asbury Park Press, on Tuesday, October 10. And if I could just highlight some of the statements that were made in the editorial, it is captioned "Explain The Changes":

Congress should not be rushing on Medicare. The editorial starts out by saying that congressional Republicans are moving too fast on reforming Medicare, the Federal health insurance program for the elderly. They propose to squeeze $270 billion from Medicare spending over the next 7 years, about a 14-percent reduction. And, as they did in their first 100 days, the Republicans plan to speed up the voting on their Medicare spending bills without taking much time for floor debate.

Given their importance, the revolutionary changes the Republicans propose are worth at least as much time and attention as they have given to, say, the Whitewater affair. As it stands, two House committees plan to complete action on the Medicare changes by tomorrow night. That was earlier this week, just 2 days after revised versions of the bill were distributed to committee members. And again, that is exactly what we did.

Under one major GOP proposal to save money, senior citizens would be given incentives to switch to managed care plans instead of the traditional and more expensive fee-for-service. Yet Congress so far has given short shrift to some of the reservations expressed by seniors and others about managed care.

Polls indicate that most senior citizens as well as other Americans fear that congressional Republicans seeking not only to slow the growth of Medicare spending but also to wring enough savings for a tax cut that would benefit mostly the wealthy.

Finally, the editorial says that it is difficult to determine just how the Republicans arrived at their numbers because too few details have been released. That is not information the Republicans should shield the public from. The debate should be open, robust, and based on a complete understanding of the facts. Anything else invites misperceptions and misinterpretations.

I think what we are seeing in this editorial is that more and more the media around the country, the newspapers, are coming to the realization that these Medicare reforms by Speaker GINGRICH and the Republican majority are being moved too fast without adequate opportunity for debate, without anyone really knowing exactly what the changes are going to mean other than the fact that we know that the savings are going to be used for a tax cut, which, once again, goes mostly to wealthy Americans.

Now, one of the things that I was most upset about this week, and I know it has received a lot of attention in the media, but I want to mention it myself because I was there, and that is on the second day of our hearings earlier this week, there were senior citizens representatives. I did not know where they were from, but they turned out to be people from the National Council of Senior Citizens, who came to our Committee on Commerce room. Some of them were very elderly. Some were as old as 90, and wanted an opportunity to address the committee. They basically were told that that opportunity would not be presented and, after they tried to speak, they were arrested.

They were handcuffed and they were basically led out of the Rayburn Office Building into a paddy wagon where they were taken down by the Capitol Police, potentially to be booked, although I understand later that they were released and not charged with any kind of trespass.

Mr. Speaker, I subsequently got a couple of pictures of these senior citizens. Just to give you an idea of the situation, I would just like to point them out here. This is the woman who initially tried to speak and basically was told that she could not. You can see there where she is being taken away, essentially. Then afterward, out in the corridor, there were additional senior citizens, as I said, who were actually handcuffed and taken away.

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I do not want to get into all the details of this, but it was very upsetting to me, because I think it would not have happened if the opportunity had presented itself for seniors and their representatives to actually have addressed the House Committee on Commerce, and the fact that they were not given that opportunity is the reason why so many of them were upset and why we had this very unfortunate incident. I only point it out again because I think it is important, and it is not just individual seniors. It is also the newspapers, including my own in my own area, the part of New Jersey that I represent, who have expressed outrage and astonishment over the fact that there has not been an opportunity for seniors and other Americans to make their case about these Medicare changes that are so important to the country.

The previous speaker, the person who spoke before me, suggested, and I know this has been a basic tenet of the Republican leadership that somehow Medicare is broke; it faces bankruptcy if we do not do something about it that that is significant, we are going to be faced with a situation where it will not exist any more. Nothing could be further from the truth with a lot of statements made by the previous speaker about the trustees' report and how the trustees have predicted insolvency in 7 years.

One of the things I want to point out in response to that is that every year the Medicare trustees issue a report, and they predict how many years it will be before the fund that finances Medicare will be insolvent, and if you look at it, there are great variations over the years. Starting in 1970, I have a chart here where if trustees predicted insolvency in 2 years, in 1971, again, in 2 years, in 1972 in 4 years, most recently in 1995, the report that the gentleman, my previous speaker mentioned, 7 years, in 1994 it was 7, in 1993 it was 6, and it goes on and on. The

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point of the matter is that a tremendous amount of attention has been focused by the Republic leadership on these trustees' reports, but they fail to mention that many times over the last 30 years or so or the last 25 years, that these reports have come out that indicated a certain number of years in the future when this program would possibly be insolvent.

It has really been an issue before except that Congress periodically steps in and tries to correct the situation. The bottom line is this is nothing new. This is not an emergency situation that requires the level of cuts and the level of changes that the Republican leadership is basically suggesting.

Mention was also made of Secretary Rubin, the Secretary of the Treasury Rubin letter of September 21 to the Speaker and to Senator DOLE wherein he points out, and I will quote that:

> No Member of Congress should vote for $270 billion in Medicare cuts, believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

So basically not only Secretary Rubin but other trustees I could cite have specifically said that the Republican proposal to cut this huge amount of money out of Medicare, $270 billion, 14 percent, is not the answer to the trustees' concerns and, in fact, by cutting the program by that amount of money, all you are really doing is making the situation even worse for the Medicare Program and for those who benefit from it.

I also wanted to address the fact, and I was very concerned when the previous speaker mentioned Medicare savings accounts as somehow being the answer to all of our problems. My concern with these so-called Medicare savings accounts, which is one of the new ideas that the Republican leadership have come up with in this Medicare plan, is that what it is going to do is make the situation even more serious in terms of the amount of money that is available to the Medicare Program, in other words, aggravate the situation so that even less money is available in the program. What we know now is that 90 percent of Medicare beneficiaries basically cost the Government about $1,000 a year; in other words, most, the overwhelming 90 percent of seniors who receive Medicare basically do not take advantage of much health care activity, if you will, over the course of the year, because they are not sick and they only cost the Government, the Medicare Program, about $1,000 a year. So if all of these, or a significant number of these well seniors who do not need a lot of medical attention end up getting Medicare savings accounts and the Government has to contribute something like $4,000 a year to these Medicare savings accounts, the Government is basically going to be losing money, because it would normally cost them only about $1,000 a year to maintain the health of those seniors, and now the Government is transferring all of these additional funds to these Medicare savings accounts.

It is nice, I mean, I am not going to be critical of the fact that some of the seniors may actually end up having some more money as a result of this, but in a situation where the Republican leadership is talking about the insolvency or suggesting that Medicare is insolvent and how we have to cut $270 billion out of the program, why in the world are we trying to, in effect, inflate the program by costing the Government as much as $3,000 more per person if the majority of the people who go into Medicare savings accounts are people who are fairly well? And those are the people that are likely to do it, because if you think that your health is not that great, you are not going to want to risk going into the Medicare savings account where you might have to shell out a lot of money. So we know that these Medicare savings accounts are going to cost the Government a lot of money, and I think it is fiscally irresponsible to rob the Medicare Program of billions of dollars by setting up these savings accounts when theoretically your reason for Medicare reform is to try to save the Medicare Program some Federal dollars.

I think that what we really have here, I know what we really have here, and it is documented well based on the statements that were made in the Committee on Commerce when we marked up the Republican Medicare bill this week. What we really have here is an effort to try to come up with some money by squeezing Medicare to pay for a tax cut, and I know that my Republican colleagues deny this is the case, but if you look at the way this program is set up, the way this bill has come out of committee, there is no question in my mind that that in fact is what is going on. Now, let me explain why I say that. Of the $270 billion that is proposed for reduction in Medicare by the Republicans, nearly half of that money would not even go to shoring up the Medicare hospital trust fund, known as Medicare part A, which the Republican leaders claim faces insolvency. This part A, the hospital trust fund, is what is discussed in the trustees' report, not part B, which is the separate program that seniors pay into which goes to pay for their doctor bills, and basically part A is where if we have extra money, if we ever have the money, we should be trying to put it in order to shore up the plan.

We estimate that about $90 billion would be needed to shore up, if you will, and to avoid that potential insolvency 7 years from now in part A. So if you took about $270 billion, compared to the $90 billion that the trustees really need, you can see that the difference is essentially what would be used for the tax cut.

What they are doing with part B, instead of, in order to guarantee that there is a lot more money available there that could be used for a tax cut is increasing premiums. We have heard over and over again on the floor of this House that the part B premium will go from about $46 a month that the seniors pay right now to over $90 a month by the year 2002, in a sense doubling, and the problem is that this part B, the money that goes into part B, including all that additional money that is going to come from the increased or doubling of the premiums, the seniors would pay under the Republican plan, that comes out of the same fund or goes into the same fund as it used for the $245 billion in tax cuts that has been proposed by the Republican leadership. Since any changes to part B do not impact the insolvency of part A, again they are separate funds, it is highly likely that the part B cuts could be used for tax cuts, again which I said much of which goes to the wealthiest Americans.

In an effort to try to make sure that was not the case, in other words, that whatever cuts came to this Medicare Program under the Republican bill would not be used for tax cuts, we, the Democrats on the Committee on Commerce, tried a number of amendments earlier this week, because our point was, well, if you on the other side are saying that you are not going to use this for tax cuts, well then, fine, you know, go along with some of the amendments that will make that perfectly clear that this money that is being cut from Medicare is not going to be used for tax cuts, and so we came up with a few amendments. I actually proposed the first amendment, which was basically to say that since part B is not insolvent, since part B, which is generated through these premiums as well as general revenues, is not a program that faces potential insolvency or bankruptcy, why do we need to deal with part B at all? So the amendment that I proposed basically struck part B from the Medicare bill, the idea being that we would only deal with part A, since that is where the potential problem is. Well, that amendment was, of course, defeated. I would maintain the reason it was defeated is primarily because the fact of the matter is the Republican leadership intends to use this money for tax cuts.

But then in the Committee on Commerce, the gentleman from California [Mr. WAXMAN] offered another amendment after mine that basically I called directed scorekeeping. It is sort of a technical term. But what it means is that if the money is saved in Medicare and it is put aside under the budget rules, a tax cut can be implemented, because he knows that that money for

Medicare from the cuts in Medicare has been set aside and is sitting there as part of the Federal budget. In other words, the idea is that since the money is there, you can score against it or charge against it to implement a tax cut, and so the gentleman from California [Mr. WAXMAN] had an amendment that basically said that the Director of the Congressional Budget Office shall not include estimates of net reduction in outlays under the Medicare Program for fiscal years 1996 through 2002, the 7 years, to the extent that such net reductions exceed $89 billion. So what he was saying is that you can score $89 billion of that $279 billion for the savings to shore up the part A hospital trust fund, but you cannot score any more of it that could possibly be used for a tax cut, and again that amendment was defeated. I think that the defeat of the amendment offered by the gentleman from California [Mr. WAXMAN] showed definitively that what the Republican leadership has in mind is to use this money for a tax cut, because if they did not have that intention, they would not have found it necessary to use that money for scoring for budget purposes.

Now, what is it, what is this Republican Medicare? What are these Medicare changes essentially going to do? We know they are trying to save $270 billion or cut $270 billion. I believe very strongly that is going to be used for a tax cut.

How are they going to do it? In other words, what is actually going to happen to the Medicare Program, and how is that going to translate into the type of health care, quality of health care that seniors will actually get if that level of cuts is implemented? Basically what the Republicans are doing is they are limiting Medicare spending to specific dollar amounts in the law. It is what we call caps. In other words, they are saying that only so much money can be spent on Medicare, and that is it. It is capped. The problem though is that if you look at these caps and the level of spending that is going to be allowed with all the cuts is that they do not bear any relationship to the actual cost of health care.

All of us would like to save money. Frankly it would be wonderful if we could save billions of dollars in the Medicare Program, and we can to some extent. But if you put artificial caps on the amount of spending that is available because you want to use that other money for a tax cut, well, the problem is if they have no relation to the actual costs of health care, what you are doing is squeezing the Medicare system. You are making it so that traditional care and the quality of care that hospitals and physicians give you they can no longer give you, because the money is not there to pay for it.

What I think that the most important or the most significant aspect of this initially is that a lot of seniors are going to lose their choice of doctors. In other words, the Republicans feel very strongly that if they put a lot of seniors, if they force a lot of seniors in effect into what we call HMO's or managed care where they do not have a choice of doctors, the Republicans believe that that will then accomplish a lot of savings, and they will save a lot of money, because they feel that the HMO's or managed care ultimately will save money.

I would argue that the jury is definitely out on whether or not HMO's or managed care actually save dollars in the long run, but clearly what the Republican leadership is doing here in coercing seniors into HMO's or managed care. I know that the previous speaker said that, you know, seniors are going to continue to have choices if they want to stay in a traditional fee-for-service plan where they have their choice of doctor; they go to the doctor that they have been seeing for years, and he just gets reimbursed. They can continue to do that; they do not have to necessarily sign up for an HMO. But there are some very cute budgetary gimmicks in this Republican Medicare proposal that are going to make it increasingly difficult for you to stay in a traditional fee-for-service plan where you have your own doctor, and the reason for that, there are many reasons, but one of the key reasons is because the cuts impact much greater on the traditional fee-for-service plan than they do on HMO's or managed care. This is in the bill that came out of the Committee on Commerce, what we call a fail-safe that says that after a few years if savings are not achieved in this sufficiently to reach that goal of $270 billion—through the changes that we have suggested in Medicare, if we find after a couple of years that we are not saving that level of money, we are not likely to save that level of money over the seven years—then a fail-safe comes into play that cuts back on the reimbursement rate that doctors and hospitals and other health care providers get from Medicare. But the fail-safe, the cutbacks at that point, do not come on the HMO's or the managed care patients or systems but strictly on the fee-for-service side. So in essence what is happening is after a couple of years the squeeze, if you will, the amount of money that goes into the traditional fee-for-service plan where you can choose your own doctor and get reimbursed, the squeeze is solely on the people that remain in those traditional fee-for-service plans. So what it is going to mean is less and less money is going to go to doctors or hospitals that are in the traditional fee-for-service plan and you will find increasingly that you cannot find a doctor through a traditional fee-for-service plan, and you have to go to an HMO if you want to get any kind of attention.

It is very unfortunate, but it is a rather cynical way, if you will, of eventually abolishing or making it impossible for seniors to stay in the traditional fee-for-service system.

I wanted to just talk a little bit more about some of the amendments that Democrats proposed in the Committee on Commerce to try to improve on this terrible proposal that the Republican leadership has put forward on Medicare. I think a lot of us recognize that even though we thought the overall plan was terrible that if there was some way we could amendment it in committee to lessen some of the worst aspects of it, at least we would have accomplished something. But every one of these amendments, every one of these attempts on our part to try to correct the bill or make it a little less onerous failed. Some of these amendments though, or corrections if you will, do point out how sinister this plan is in various ways. I just want to talk about a few of them. I do not want to talk about too many of them, because we could stay here all day, and I do not want to take up that much time.

The gentleman from Massachusetts [Mr. MARKEY] offered an amendment basically that would have decreased the part B premiums and taking the law back, the Medicare law back to what it is today. A lot of people, a lot of the Republicans have come on this floor and they have said, well look, why are you Democrats talking about doubling the part B premiums, the premiums that you pay for doctors, when in reality the part B premiums would be going up anyway over the next few years? Well, the fact of the matter is under the current law the part B premiums do go up. It is now about $46 a month, and under current law by the year 2002, 7 years from now, the premiums would go up to about $60 a month. But I would point out that that $60 a month under current law, assuming current inflation, is significantly less than what Speaker GINGRICH has proposed. Speaker GINGRICH's proposal and the bill that came out of committee would double the premiums. They'd probably be at least $90 per month as opposed to the $60 that exists under the current law.

The reason for that is very simple. Under the current law, the percentage that senors pay actually goes down in the next few years, because it was understood that it is very, very difficult for a lot of seniors who live on fixed incomes to pay very high premiums, and so if we do not change the law you will see the actual percentage seniors have to pay out of pocket for part B go down, and that even with inflation, although there will be some increase in your part B premiums, it will not be anywhere near as great as what Speaker GINGRICH has proposed.

That amendment, of course, by the gentleman from Massachusetts [Mr.

MARKEY] to try to strike those drastic increases in the part B premiums also failed because of Republican opposition.

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The other thing I think is particularly sad, when you talk about the part B premiums, and, again, something we tried to change in committee unsuccessfully, is that under current law Medicaid pays the total cost of the part B premium for seniors who fall below a certain income, who are low-income seniors.

Well, the Medicare bill and the Medicaid bill that we passed out of the Committee on Commerce a week earlier has eliminated the requirement for the Federal Government to pay the part B premiums, the $40-some odd a month for those low-income seniors. And there are millions of them.

What we did in committee this week is we tried to incorporate into Medicare, into this Republican Medicare bill, a requirement that that premium for the low-income seniors would be paid under Medicare. Again, that amendment was defeated.

I think some of my colleagues on the other side have suggested that, well, that is OK, because these low-income seniors can all go into an HMO and the HMO will take care of their physicians' bills, so they do not need part B anymore.

That is a false assumption. First of all, there is absolutely nothing in this Republican Medicare legislation that guarantees anyone that they are going to have an HMO in their area that will pay for physicians' bills that is available to them at a decent cost. So I think what you are going to see is a lot of low-income seniors, or even middle-income seniors, will simply not be able to pay for their part B premiums, and the consequence of that is they simply go without part B and they do not have health insurance that pays for their doctors' bills.

The other thing we tried in committee that I was very supportive of is if you have this terrible Republican bill that basically forces a lot of seniors into HMO's or managed care where they do not have a choice of doctor, at least change the law when we pass this bill, let us put into the bill what we call a point of service provision, that says that if you are in an HMO or managed care system, and all of a sudden you need to go to a specialist or a doctor that is not part of the system, that is not on the list, so-to-speak, that at least you can opt out of the system and go to that other doctor, even if it means you have to pay a little more out-of-pocket in order to see the doctor that is not part of the HMO.

I am not saying that is a great alternative, because you have to shell out more money out of your pocket. But at least the option would exist under point of service, as we call it, so that if you were forced into the HMO or managed care, but you wanted to go see a doctor not in the system in a particular circumstance, if you could afford a little extra copayment, you could operate to do that.

Again, that point of service provision was defeated. It was actually an amendment that was offered by a Republican member of the committee, the gentleman from Iowa [Mr. GANSKE], who is a physician, but we did not have sufficient votes on the Republican side in order to guarantee that the point of service option would be available.

One of the most sinister things in this Republican Medicare bill the way it came out of committee, again, is that there has been an effort to try to change the current law that limits the amount of money that seniors have to pay a physician out-of-pocket. In other words, under current law if you are under Medicare and if you are covered by Medicare and you see a physician, they can only charge you a certain percentage increase for a copayment. But in this bill that came out of our committee that is going to be voted on the floor of this House probably next week, those provisions were changed in certain circumstances.

If you decide to join what we call a hospital network, or doctors' network system, in other words, if you decide to join a managed care system which is put together by a hospital or by a certain group of doctors, rather than the ones that are advertised on TV, the large ones, the large HMO's, managed care systems, then they allow what is called balanced billing in those systems, where the doctors can charge you basically whatever they want for a copayment.

This is the first time under Medicare in my memory that any exemption has existed from the limitation on what the doctors can charge for a copayment. And what I would say is happening here, and the reason this is happening, is very simple: So much money is being squeezed out of the Medicare system, so much money for health care needs is being squeezed by these cuts in Medicare, that the recognition is out there on behalf of the Republican leadership that they need to provide a situation where seniors can be charged a lot more by their physicians in order to provide quality care. So they are building this exemption, knowing full well that some seniors may want to get into a better quality system through a hospital or doctor network in their area that is going to provide the quality physicians, that is going to provide the quality care, but the only way to pay for it is by charging the seniors more out-of-pocket so the physicians can charge whatever they want.

I think it is a terrible recognition of the fact that there is not going to be enough money in this Medicare system the way the Republicans have put their bill together to provide for quality care. That is just a beginning, I think, of what you are going to see, where more and more money has to be paid out of pocket by senior citizen in order to guarantee them quality care.

I had a little chart, which I do not actually have in front of me, but to give you an idea I will read from it, that gives the percent of income spent on out-of-pocket costs by adults 65 and older in 1994. Of the total elderly population, 21 percent of their income is basically spent for out-of-pocket health care costs. If you look at senior citizens who are below poverty, that shoots up to 34 percent. Low-income seniors, 34 percent of their income was actually spent on out-of-pocket costs for health care.

So already we are in a situation where a lot of senior citizens spend a significant amount of their money out-of-pocket to make up for deductibles, copayments, and other health care necessities. And with this bill, you are going to see even more of that occurring, particularly when it comes to the balanced billing provisions.

I just wanted to mention a couple more things, because I think they are particularly egregious, and these again were things that the Democrats tried to change in the bill, in the Medicare bill in the Committee on Commerce, but, again, we were unsuccessful.

The Republican leadership, and particularly the Speaker, have made such an issue over the fact that there is a tremendous amount of fraud and abuse in the Medicare Program under current law, and that is certainly true. Estimates are that something like 10 percent or perhaps more of the money in the Medicare Program is wasted, either because of fraud or abuse or just general waste. All of us, I think, on both sides of the aisle, Republican and Democrat, would like to see certain things done to correct that. And we were hoping that any kind of Medicare reform legislation that came out of the Committee on Commerce as a result of this Medicare debate would seriously try to address the fraud and abuse problems.

The sad thing is this bill that was reported out of committee actually makes it more difficult for the Federal Government to go after those who are committing fraud and to weed out the abuse in the system.

I think it is a particularly sad commentary on the fact that here was an opportunity, particularly in a climate where we are trying to save money and we know there is a tremendous amount of money that could be saved, to make it more difficult for the Government to go after fraud and abuse.

If I could just read from some of the statements that were made by the inspector general of the Department of Health and Human Services about the bill and why it would make it more difficult for the Government to go after those who are defrauding the system.

Over the course of 7 years, the 7 years we are talking about here, it is estimated that $126 billion could be saved by reducing fraud and abuse. But the GOP bill actually makes the existing civil monetary penalties and antikickback laws considerably more lenient. According to the inspector general, the Medicare restructuring legislation:

> Would substantially increase the government's burden of proof in cases under the Medicare-Medicaid antikickback statute. Although a fund would be created to direct moneys recovered from wrongdoers, this fund would not go to further law enforcement efforts.

What the inspector general said is that the one way that we can significantly crack down on fraud and abuse is if there are more enforcers out there. This bill actually makes it more difficult for enforcement to take place, because, on the one hand, it increases the standard of proof of the Government in going after those who are taking advantage of the Medicare system, and that whatever money is recovered does not go to hire more people to do law enforcement. So actually there ends up being less people out there who are going after the abusers.

I just think that is a particularly egregious situation, because so much has been played about the need to deal with the fraud and abuse problem.

I would like to conclude in just a couple more minutes by saying that although I talked about Medicare today, and that is what we are going to be voting on next week, the problem of what seniors are going to face with Medicare because they are going to have to pay so much more money out of pocket is aggravated because of what is happening on other fronts with regard to senior citizen concerns.

A couple weeks ago in the Committee on Commerce we reported out a Medicaid bill which, and, again, the Republican leadership is trying to cut about $180 billion in the Medicaid program in order to pay for their tax cuts. If you combine the cuts in Medicaid, $180 billion, with the cuts in Medicare, $270 billion, you see a tremendous amount of money is going toward cuts that primarily impact the elderly, because 70 percent or so of the money that is spent on Medicaid, which is the program for the poor, health care for the poor, still goes to pay for senior citizens, most of whom are in nursing homes.

So what we are going to see is that senior citizens are going to have to pay more out of pocket for Medicare, they or their families are going to have to pay more out of pocket because of the cuts in Medicaid.

Then looking on the horizon, and it had a lot of attention in the media today, is the proposed cut in the COLA for Social Security. I mention that again, first of all, because I am opposed to the cuts in the COLA that are being presented; but even more important because, think, about the senior citizen.

Let me give you an example, let's say a senior citizen of low income, who now is being told that your Medicare part B premium is going to go up, it is going to be doubled over the next 7 years; that the supplement, the Medicaid provision that pays for part of your Medicare part B is possibly going to be eliminated; and then you are not going to get the COLA that you expect to take into consideration inflation over the next few years.

Well, if you think of that combination, less of a COLA, more out of pocket for Medicare, and loss of any kind of supplement for Medicaid, you are talking about senior citizens that are getting a double, triple, or even more possibly with cutbacks in other programs like nutrition or outpatient care, a double, triple, quadruple whammy.

The thing that is amazing to me is how so many of our colleagues on the other side just refuse to recognize how the combination of all these cuts and increased out-of-pocket expenditures and less of a COLA are going to have such a devastating impact on people who have fixed incomes.

I have to say, and I am not just talking in an insider's sense here, when I go home on weekends, when I am in the district, when I am in New Jersey, seniors come up to me on the street, they come up to me in my district offices, and they explain how they have budgeted down to the last penny or the last dollar, and they simply cannot afford the types of increases that we are going to see here. These increases are not necessary.

If we eliminated or even cut back significantly on the tax cut, particularly those provisions that are going to the wealthy, then we would not have to make these kinds of cuts and cause these out-of-pocket expenditures to occur.

So, again, this is a needless effort on the part of the Republican leadership. I think it is a shame. I hope that more and more Americans will see the light on these terrible changes that are being proposed.

TRAVEL AND TOURISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, I thank the Speaker for granting me this time, and I want the Speaker to know I am speaking about a subject that of much interest to him and to myself, and I think just about every Member I would think in this body. Because, Mr. Speaker, today I want to talk just a few minutes about travel and tourism.

Travel and tourism has a great story to tell in America. It is not always told. Let me say, Mr. Speaker, that from our largest cities to our smallest towns, along superhighways and the back roads of America, no other industry spreads economic development as widely as travel and tourism. It is obvious how tourism impacts the districts of New York or Los Angeles or Miami, but many of the people in Congress represent a much different segment of America, and they ask, how does tourism affect me in my district?

So let me say that whether it is a large district, a strong economic district; whether it is a small town, whether it is rural America; whether it is a State without a coastline, does tourism affect you? You bet it does. Every town with a gas station, a motel, or a diner, is impacted by tourism.

In these areas, tourism is a catalyst for community development. It spurs new businesses, encourages park and historic site restoration, and stimulates community growth. Tourism funnels millions of dollars and thousands of jobs into every State, every congressional district, in America. In fact, the travel and tourism industry puts food on the tables, pays for the bills, and provides solid careers for people in every congressional district of America.

Across this Nation, tourism supports the lives of 13 million working Americans. It is the Nation's second largest employer. That is right, travel and tourism is the country's second largest employer. This is the industry of the future. By the year 2005, in 10 years, executive and administrative positions alone, within this industry, will outnumber the total employment of all but two manufacturing industries.

Not only does travel and tourism create millions of jobs, but it generates billions of dollars in revenue. Just listen to this: In 1994, last year, travel and tourism generated $417 billion in sales. That is right, $417 billion in sales as well as $58 billion in tax revenues for our country.

But there is more to the tourism story than just jobs and dollars. Tourism is also about community revitalization and helping the American family. Our communities desperately need tourist dollars to resurface roads, to build new highways, to restore parks and recreation areas, and improve our schools. In fact, without these revenues each American household would have to pay an additional $652 a year in taxes. So wherever you are in America, what is travel and tourism doing for you? It is shaving your tax bill by $652. Tourism dollars prevent higher taxes in America. Tourism means jobs. Tourism is leading this country into the 21st century for economic development and jobs.

Increasing export trade means that in 1993, the travel and tourist industry trade surplus reached an all-time high of over $22 billion.

This year, we are going to have the largest trade deficit. It is going to be close to $200 billion. Last year it was $166 billion. But do you know what is keeping at least part of this trade deficit in line? Is what we are doing with tourism. Because when the tourist comes to America and buys a dollar's worth of goods or services, it is the same as if we sold that goods or service overseas.

On October 30 and 31 we are going to have some 1,700 industry professionals here in Washington for the White House Conference on Travel and Tourism. It is the first time we have really had a conference like this. And when you see what is happening in travel and tourism around America, the developments of travel and tourism globally in the 21st century, this is truly preparing our children and our country for a huge economic development.

So I am asking Members of the House to join in our Travel and Tourist Caucus. We now have 286 Members. The Travel and Tourist Caucus is the largest caucus in Congress. I am asking Members to join up before October 30 and 31, so that when we have the people from this huge industry come to Washington, we can tell them what they can do with us for the future of America.

I am also asking Members of this body to look at H.R. 1083, the Travel and Tourism Relief Act, what it can do economically for our country, for every district, for the jobs in America. I am asking Members to do those three things: First, become active in the travel and tourist conference; second, to look at this legislation; and, third, to fight to preserve and to build better jobs.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SKAGGS) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. BONIOR, for 5 minutes, today.

(The following Members (at the request of Mr. WELDON of Florida) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. BONIOR.

Mr. TOWNS.

Ms. DELAURO.

ADJOURNMENT

Mr. ROTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Tuesday, October 17, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1529. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President intends to exercise his authority under section 610(a) of the Foreign Assistance Act in order to authorize the furnishing of $2.8 million to El Salvador, pursuant to 22 U.S.C. 2411; to the Committee on International Relations.

1530. A message from the President of the United States, transmitting notification for DOD to make purchases and purchase commitments, and to enter into cost sharing arrangements for equipment to develop manufacturing processes under the Defense Production Act of 1950, as amended, pursuant to 50 U.S.C. App. 2093(a)(6)(A) (H. Doc. No. 104-124); jointly, to the Committees on Appropriations and Banking and Financial Services, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. QUINN:

H.R. 2480. A bill to establish an Office of Inspector General for the Medicare and Medicaid Programs; to the Committee on Government Reform and Oversight, and in addition to the Committees on Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. SEASTRAND (for herself, Mr. GILCHREST, Mr. COX, Ms. DUNN of Washington, Mr. DAVIS, Mr. SAXTON, Mr. CUNNINGHAM, Mr. OXLEY, Mr. DORNAN, Mr. HOKE, Mr. TIAHRT, Mr. BARTON of Texas, Mr. WALKER, Mr. BAKER of California, Mr. LEWIS of California, Mr. ROHRABACHER, Mrs. KELLY, Mr. KIM, Mr. HALL of Texas, Mr. LIVINGSTON, Mr. TAYLOR of North Carolina, Mr. MCKEON, Mr. BILBRAY, Mr. KING, Mr. HERGER, Mr. CALVERT, Mr. BARRETT of Nebraska, Mr. YOUNG of Alaska, Mr. LAUGHLIN, Mr. KNOLLENBERG, Mr. MOORHEAD, Mr. HASTERT, Mr. COOLEY, Mr. RADANOVICH, Mrs. CHENOWETH, Mrs. CUBIN, Mr. DOOLITTLE, Mr. HUNTER, Mr. HORN, and Mr. RIGGS):

H.R. 2481. A bill to designate the Federal Triangle project under construction at 14th Street and Pennsylvania Avenue, NW, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center"; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE:

H.R. 2482. A bill to require States to consider adopting mandatory, comprehensive, statewide one-call notification systems to protect underground facilities from being damaged by any excavations, and for other purposes; to the Committee on Commerce.

By Mr. HOKE:

H. Con. Res. 107. Concurrent resolution urging a home field advantage in the major league baseball league championship series; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 540: Mr. HOUGHTON.

H.R. 864: Mr. BARR.

H.R. 1575: Mr. COX, Mr. DAVIS, Mr. DUNCAN, Mrs. KELLY, Mr. LINDER, Mr. WELLER, and Mr. BARR.

H.R. 1686: Mr. COX and Mr. CHRISTENSEN.

H.R. 1715: Mr. HEINEMAN.

H.R. 1733: Ms. FURSE, Mr. SERRANO, and Mr. TATE.

H.R. 1893: Mr. SCHUMER and Mrs. KENNELLY.

H.R. 2003: Ms. WOOLSEY and Mr. HINCHEY.

H.R. 2446: Mr. HORN and Mr. POSHARD.

H.R. 2463: Ms. MCKINNEY.

H. Res. 30: Mr. BRYANT of Tennessee and Mr. FRANK of Massachusetts.

H. Res. 220: Mr. FOGLIETTA, Mrs. MALONEY, Ms. SLAUGHTER, and Mr. OWENS.

EXTENSIONS OF REMARKS

H.R. 1715—LEGISLATIVE INTENT ON SUBSTITUTE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. GOODLING. Mr. Speaker, next week the House is scheduled to consider H.R. 1715. At that time I plan to offer a substitute to the version of H.R. 1715 that passed the Economic and Educational Opportunities Committee. I am pleased to be joined in offering the substitute by the ranking member, Mr. CLAY and the chairman and ranking member of the Subcommittee on Workforce Protections, Mr. BALLENGER and Mr. OWENS. Following is the substitute to H.R. 1715 which will be offered to the House and a statement of legislative intent which I offer on behalf of myself, and Representatives CLAY, BALLENGER, and OWENS.

JOINT STATEMENT OF LEGISLATIVE INTENT ON SUBSTITUTE TO H.R. 1715

Section 1 reverses the effect of the decision of the United States Supreme Court in Adams Fruit Company, Inc. v. Barrett 494 U.S. 638(1990). The Supreme Court held that an action for damages under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) was preserved and could be maintained by injured farm workers, even though the farm workers were covered under State workers' compensation for the same injuries suffered in the course of employment for the Adams Fruit Company.

Section 1 amends MSPA to provide that where workers' compensation coverage is secured under a State worker's compensation law for a migrant or seasonal agricultural worker, workers' compensation shall be the farm worker's exclusive remedy, and the employer's sole liability under MSPA for bodily injury or death. Section 1 reinstates and makes permanent a change in law that was temporarily in effect from October 6, 1992 to July 6, 1993, pursuant to Section 325(c) of Public Law 102-392.

Section 1 bars actions under MSPA for actual damages for injuries suffered by a farm worker where State workers' compensation is applicable and coverage is provided. It does not bar actions under MSPA for statutory damages or for equitable relief so long as such equitable relief does not include back or front pay, or expand, alter or affect rights or recoveries under State workers' compensation laws. Nothing in the bill is intended to limit the inherent authority of a court to impose sanctions where the court finds a defendant in contempt of court for refusing to comply with a court order. Further, nothing in the bill is intended to bar a party from maintaining an action under State law which is not precluded by the State's workers' compensation law. These amendments are intended to incorporate into MSPA the full preclusive effect of the State's workers' compensation law, but not to create a broader preclusive effect in MSPA than is provided by the States' workers' compensation law.

Section 1 is applicable to all cases and claims under MSPA in which a final judgment has not yet been entered.

Section 2 provides for increased statutory damages under MSPA in certain cases where (1) actual damages are precluded because of the plaintiff's coverage under State workers' compensation law provided in section 1 of the bill, and (2) the circumstances and the defendant's actions meet any one of four sets of criteria described in the bill. In those cases, the maximum award of statutory damages is increased from up to $500 to up to $10,000 per plaintiff per violation.

The bill provides that multiple infractions of a single provision of MSPA shall constitute only one violation per plaintiff for purposes of the statutory damages provided in section 2. This language is identical to and should be construed the same as present language in section 504(c)(1) of MSPA.

Section 2 is applicable to claims for statutory damages under MSPA on which a final judgment has not been entered, as well as to future claims for such damages.

Section 3 provides for tolling of the statute of limitations on actions brought under MSPA during the time period in which a claim under a State workers' compensation law is pending. Specifically, the purpose of this provision is two-fold: first, it tolls the applicable statute of limitations governing a suit for actual damages for bodily injury or death under MSPA while a determination is being made whether the State workers' compensation law was applicable to the injury or death. Second, it tolls the statute of limitations governing claims which arise out of the same transaction or occurrence but which do not implicate workers' compensation. It intends to avoid forcing parties to split their claims into two suits, litigating their nonbodily injury claims in one lawsuit in order to preserve these claims under the applicable statute of limitations and then later litigating the injury claims in another lawsuit, if it were subsequently determined under State workers' compensation law that the injury was not covered.

Section 4 requires disclosure of information regarding workers' compensation coverage to migrant agricultural workers and, upon request, to seasonal agricultural workers. The purpose of this amendment is to help ensure that farm workers have sufficient information to know whether workers' compensation insurance is provided, who is providing it and how to file timely workers' compensation claims where workers' compensation is provided. Compliance with this disclosure requirement may be met by giving the migrant or seasonal agricultural workers a photocopy of any notice regarding workers' compensation which state law requires that the workers receive. The amendment is not intended to modify the joint employment doctrine which determines employment relationships under MSPA.

Section 5 pertains to the level of liability insurance required by the Department of Labor by employers engaged in transportation of migrant and/or seasonal agricultural workers. Current DOL regulations (29 CFR 500.121.(b)) require that the vehicle liability insurance carried by covered employers engaged in transporting migrant and/or seasonal farm workers be no less than the amount established by the Interstate Commerce Commission (ICC) for carriers which transport passengers. Because of the difficulty many of those governed by this requirement experienced in obtaining the insurance limits established by the ICC and applicable to MSPA as of February 1, 1992, this provision allows the Secretary of Labor to determine the appropriate insurance levels based upon the statutory criteria set forth in 401(b)(2)(B), which consider, among other factors, the protection of the health and safety of migrant and seasonal farmworkers and the extent to which the insurance standard would cause an undue burden on agricultural employers and associations or farm labor contractors.

It is necessary to reaffirm that voluntary carpool arrangements established by workers for their mutual economy and convenience are not subject to the Act's transportation and insurance requirements.

Workers participating in voluntary carpool arrangements should not be deemed farm labor contractors under MSPA merely because they receive remuneration from fellow workers to defray the cost of transportation. Employers, agricultural associations and farm labor contractors for whom voluntary carpoolers (as defined in the Department of Labor's regulations) work shall not be subject to transportation-related liability or liability for employment of an unregistered farm labor contractor under MSPA for employing such carpoolers.

H.R. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WORKERS' COMPENSATION.

(a) AMENDMENTS.—

(1) Section 325 of the Legislative Branch Appropriations Act, 1993 (Public Law 102-392) is repealed.

(2) Section 504(d) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854(d)) is amended to read as follows:

"(d)(1) Notwithstanding any other provision of this Act, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death in accordance with such State's workers' compensation law.

"(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) for statutory damages or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect (A) a recovery under a State workers' compensation law or (B) rights conferred under a State workers' compensation law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to all cases in which a final judgment has not been entered.

SEC. 2. EXPANSION OF STATUTORY DAMAGES.

(a) AMENDMENT.—Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended by adding after subsection (d) the following:

"(e) If the court finds in an action which is brought by or for a worker under subsection (a) in which a claim for actual damages is precluded because the worker's injury is covered by a State workers' compensation law as provided by subsection (d) that—

"(1)(A) the defendant in the action violated section 401(b) by knowingly requiring or permitting a driver to drive a vehicle for the transportation of migrant or seasonal agricultural workers while under the influence of alcohol or a controlled substance (as defined in section 102 of the Controlled Substances Act(21 U.S.C. 802)) and the defendant had actual knowledge of the driver's condition, and

"(B) such violation resulted in injury to or death of the migrant or seasonal worker by or for whom the action was brought and such injury or death arose out of and in the course of employment as determined under the State workers' compensation law,

"(2)(A) the defendant violated a safety standard prescribed by the Secretary under section 401(b) which the defendant was determined in a previous judicial or administrative proceeding to have violated, and

"(B) such safety violation resulted in an injury or death described in paragraph (1)(B),

"(3)(A)(i) the defendant willfully disabled or removed a safety device prescribed by the Secretary under section 401(b), or

"(ii) the defendant in conscious disregard of the requirements of section 401(b) failed to provide a safety device required under such section, and

"(B) such disablement, removal, or failure to provide a safety device resulted in an injury or death described in paragraph (1)(B), or

"(4)(A) the defendant violated a safety standard prescribed by the Secretary under section 401(b),

"(B) such safety violation resulted in an injury or death described in paragraph (1)(B), and

"(C) the defendant at the time of the violation of section 401(b) also was—

"(i) an unregistered farm labor contractor in violation of section 101(a), or

"(ii) a person who utilized the services of a farm labor contractor of the type specified in clause (i) without taking reasonable steps to determine that the farm labor contractor possessed a valid certificate of registration authorizing the performance of the farm labor contracting activities which the contractor was requested by or permitted to perform with the knowledge of such person,

the court shall award not more than $10,000 per plaintiff per violation with respect to whom the court made the finding described in paragraph (1), (2), (3), or (4), except that multiple infractions of a single provision of this Act shall constitute only one violation for purposes of determining the amount of statutory damages due to a plaintiff under this subsection and in the case of a class action, the court shall award not more than the lesser of up to $10,000 per plaintiff or up to $500,000 for all plaintiffs in such class action.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all cases in which a final judgment has not been entered.

SEC. 3. TOLLING OF STATUTE OF LIMITATIONS.

Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854), as amended by section 2, is amended by adding after subsection (e) the following:

"(f) If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of a migrant or seasonal agricultural worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (a) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for other actual damages, statutory damages, or equitable relief arising out of the same transaction or occurrence as the injury or death of the migrant or seasonal agricultural worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.".

SEC. 4. DISCLOSURE OF WORKERS' COMPENSATION COVERAGE.

(a) MIGRANT WORKERS.—Section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding after paragraph (7) the following:

"(8) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of paragraph (8) for a migrant agricultural worker may be met if such worker is given a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed. Such worker shall be given such disclosure at the time of recruitment or if sufficient information is unavailable at that time, at the earliest practicable time but in no event later than the commencement of work.".

(b) SEASONAL WORKERS.—Section 301(a)(1) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1831(a)(1)) is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting "; and", and by adding after subparagraph (G) the following:

"(H) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of subparagraph (H) may be met if such worker is given, upon request, a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect upon the expiration of 90 days after the date final regulations are issued by the Secretary of Labor to implement such amendments.

SEC. 5. LIABILITY INSURANCE.

(a) AMENDMENT.—Section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) is amended to read as follows:

"(3) The level of insurance required under paragraph (1)(C) shall be determined by the Secretary considering at least the factors set forth in paragraph (2)(B) and similar farmworker transportation requirements under State law.".

(b) REGULATIONS.—Within 180 days of the date of the enactment of this Act, the Secretary of Labor shall promulgate regulations establishing insurance levels under section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of 180 days after the date of enactment of this Act or upon the issuance of final regulations under subsection (b), whichever occurs first.

TRIBUTE TO DR. FRANCIS A. HIGGINS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a distinguished educator and a friend for many years, Dr. Francis A. Higgins, retired superintendent of the L'Anse Creuse Public Schools in Macomb County, MI.

This Sunday, October 15, 1995, the people of L'Anse Creuse Public Schools will honor Dr. Higgins by proudly naming their newest facility the Francis A. Higgins Elementary School. Higgins elementary is now accommodating 700 kindergarten through fifth grade students.

I have known Dr. Higgins for many years and he richly deserves the honor that will be bestowed upon him. For 15 years, Frank Higgins' leadership made L'Anse Creuse a model school district that has been emulated throughout the county and State. He championed educational methods and programs that benefited students of all ages while instilling a sense of pride and commitment from all who worked with him.

In 1979, when Frank first assumed his role as superintendent, the school district faced severe financial difficulties and declining enrollment. Today, the L'Anse Creuse Public School District is an excellent school system where many parents choose to buy homes. And, it is in excellent financial shape.

While Dr. Higgins deserves much credit for the district's successes, he is first to acknowledge the role of the staff and a community that supported millages during difficult economic times. However, when one becomes familiar with Dr. Higgins' administrative and educational talents, it is easy to see why he received such support. His success at educating students and inspiring a desire to learn is only surpassed by his success at fostering support for education.

As the L'Anse Creuse Public Schools prepare to honor Dr. Higgins this weekend, I urge my colleagues to join with me and thank him for his many years of devoted service. I know he is proud to be immortalized by the community he so faithfully served for many years.

UPHOLDING THE AMERICAN DREAM IN CLEVELAND

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. HOKE. Mr. Speaker, I want to take a few minutes out of our hectic legislative schedule to congratulate several families in my district that are overcoming the odds and making their dreams come true. I also want to salute the Cleveland Housing Network, which helped make those dreams a reality.

For 13 years the Cleveland Housing Network [CHN] has been helping Clevelanders buy their own homes. The network's lease-purchase program is especially noteworthy since it offers stable, decent, and affordable housing—with the ultimate goal of homeownership—to families currently living in poverty. And it is widely recognized that homeownership stabilizes neighborhoods and unites communities. I am personally gratified to have assisted in the crafting and passage of the Federal tax law which created the economic foundation of CHN's program.

Those being recognized today are truly impressive—impressive as individuals and impressive as families. They have made a commitment to themselves and their children that whatever winds may blow, their families will be well-grounded.

For decades, the dream of owning one's own home has inspired millions of Americans to work hard, plan and save for the future, and become active and committed citizens. When I think of a home several things come to mind: A place of shelter, a place of love, and a place of sanctuary from the turbulent world outside. Gathering with friends and family over a good meal or a good movie, home is truly where the heart is.

Today, several families in my district are being recognized for their commitment to these ideals. And I know that with this commitment comes certain responsibilities. Requirements to attend numerous homeownership training workshops, to learn how to maintain property, and to become financially self-sufficient have encouraged each of these families to take personal responsibility for their futures. These sacrifices will pay off and one day, in the not so distant future, they will be the proud owners of a piece of the American dream. To these families I say, may God bless you as you strive to make your house a home.

OSEOLA MCCARTY OF MISSISSIPPI

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. LAZIO of New York. Mr. Speaker, recently I read story that ran in some of the New York papers about an 87-year-old woman from Hattiesburg, MS named Oseola McCarty. Ms. McCarty quit school in the sixth grade and went to work as a laundress. She never married, and she never had children. She merely worked hard, day in and day out, and lived a simple life.

Over the years, she saved the money she made rather than spending it. She saved until the sum grew to an astounding $150,000. She claimed it was more money than she would ever need so she decided to donate the amount to the University of Southern Mississippi to finance scholarships for African-American students. In the words of John Melloncamp, "Ain't that America?" Stories like this inspire us and demonstrate that people like Oseola McCarty are what makes this Nation great. This gift has been matched by local business leaders.

Some have criticized this voluntary gift by a private citizen because it is earmarked for African-American students only and will be used by a public university. Talk about not getting the point. This woman is a modern example of the biblical story about the poor widow putting her two copper coins in the temple treasury, an amount greater in meaning than all the gifts of the wealthy combined. This should be encouraged, not criticized. I refuse to believe that our culture has gotten to the point where an act of generosity such as this will be discouraged because it is not politically correct.

I believe in America. And when I have my doubts, the story of Oseola McCarty, and the knowledge that there are others like her in communities throughout this Nation, make it a little easier to have faith.

THE 84TH ANNIVERSARY OF THE FOUNDING OF THE REPUBLIC OF CHINA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. BURTON of Indiana. Mr. Speaker, October 10 marks the 84th anniversary of the founding of the Republic of China, a day that is marked here in Washington by a number of social events. But there is a more important reason for us to celebrate this date along with our Chinese friends, for it could only be under a democratic system that Taiwan has been able to flourish economically and socially as we have seen over the past decade, becoming one of the worlds leading economic powers.

To help us celebrate all of these momentous accomplishments for our friends on Taiwan, I urge my colleagues here in the Congress to support the Republic of China's bid to gain membership in the United Nations. Although a member of several international organizations, the Republic of China has been refused a seat in the United Nations, which to many of us, is truly absurd, for it denies to all of us around the world the benefits that the Republic of China's membership could bring. I know that Representative Benjamin Lu has worked tirelessly for the last year on this matter, and I know that we all hope to see this important step realized for the Republic of China. I can think of no better way for us to show our support for the democratic ideals found in the Republic of China than to support this United Nations bid.

THE LOGICAL RESULTS OF GERRYMANDERING

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Miss COLLINS of Michigan. Mr. Speaker, I rise to add a very brief overview to the discussion relating to congressional redistricting. First, however, I want to congratulate my fellow Congresswoman, the Honorable CYNTHIA MCKINNEY of Georgia for her recent and valuable contributions on this topic. Partly because of her intense interest in this vital issue, and based on the work of legal scholars who have studied congressional redistricting, I have come to recognize that Congress clearly has the authority to compel fair representation by the States in the House of Representatives and to provide for uniform redistricting standards such as compactness, contiguity and equality of population. Unfortunately, Congress has not acted.

In recent years, there have been bills introduced providing specific standards for congressional redistricting. In the 101st Congress, a bill was introduced providing for the establishment of State redistricting commissions to draft congressional districts that would meet three specified standards:

First, the boundaries of each district could not be drawn for the purpose of minimizing the voting strength of any racial, ethnic or economic group, or for the purpose of favoring any political party;

Second, each district would have to be composed of contiguous territory, including adjoining insular territory, in a compact form; and

Third, the boundaries of each district would have to coincide with the boundaries of local political subdivisions.

In the 102d Congress a proposed Senate measure would have required equality, compactness, contiguity and reasonable adherence to county, municipal, and other political subdivision boundaries, in addition, it would have prohibited political gerrymandering.

Another Senate bill introduced in the 103d Congress would have required that congressional districts be equal, contiguous, compact, reasonably adhering to the boundaries of counties, municipalities and other political subdivisions, and without ethnic, racial or political gerrymandering. Again, and unfortunately, none of these bills were entered into law. Also, of course, the prospects for passing such reasonable legislation in this Congress are not favorable.

Now, to be sure that we all know exactly what we're talking about here, let's be clear about this evil called gerrymandering that some in previous Congresses have sought to prohibit. It is defined as the process of dividing a State into civil or political divisions, but with such a geographical arrangement so as to assure a majority for a given political party or population in districts where the result would be otherwise, if they were divided according to obvious natural lines. As Ms. MCKINNEY, has graphically pointed out, the concept has long been used to devise Congressional districts that are not compact, that do not adhere to the boundaries of other political subdivisions within districts and as a means of preventing certain racial or ethnic minorities from obtaining representation. It inevitably results in a Congress that does not reflect the diversity of our society and, in turn, that results in laws that do not adequately protect the interests of all peoples in our society. This is occurring despite all of the so-called protections built into our national Constitution and our statutes that supposedly are designed to protect the interests of minorities in this country.

I hate to be the one to point it out Mr. Speaker, but the makeup of this Congress does not allow much room or consideration to be given to the protection of minority interests of any kind. This is a winner-take-all political free-for-all. The laws of this Congress are primarily being crafted by a great mass of young white males with limited living experience and their slightly older white male congressional employers who do not really believe in Democracy anyway.

In my humble opinion, this white male dominated majority, partly elected due to the continuing use of gerrymandering all across the country, has misread their electoral mandate. The voters in the last election may have called for a revolution, but they did not send you guys up here to run rough shod over the interests of all groups who may disagree with your view of what that revolution is all about. The voters really were trying to instruct you to come to Congress and work with us to resolve governmental gridlock and solve the Nation's problems. They did not send you here to tilt all decisions toward the radical right, to arbitrarily deny representation to minorities in our country or to create greater hardships and havoc for significant numbers of our fellow citizens who just do not have the raw power to control the lawmaking process here in Congress.

So, Mr. Speaker, let me end with a bit of friendly advice. Don't misinterpret your mandate. Remember that it was obtained with gerrymandering congressional districts, which means that your power was acquired through the use of wrongful and discriminatory political tactics. Also, remember, Mr. Speaker, as you continue to abuse your ill-gotten power, that at some point the voters could very well become sufficiently outraged and could rise-up and take back that power. And I believe that is exactly what is going to happen to a lot of your arrogant, power-mad legislative co-conspirators. I also believe that you have already missed your chance to run for President because of this very same arrogant use and abuse of political power.

MILLIONS WILL SUFFER AND SOME WILL DIE, NEEDLESSLY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. STARK. Mr. Speaker, I would like to enter in the RECORD an op ed from today's New York Times entitled "A Giant Leap Backward" written by Emory University Professor Melvin Konner.

[From the New York Times, Oct. 13, 1995]

A GIANT LEAP BACKWARD

(By Melvin Konner)

Now it's official. The Republican House plans to cut a total of $452 billion out of Medicare and Medicaid over the next seven years. Medicaid would lose $182 billion, even though it covers a disproportionately large number of children as well as elderly people who have spent themselves into destitution to qualify for it. Later this month, the measure is to be voted on as part of the budget reconciliation package, and Speaker Newt Gingrich plans to block a Presidential veto by forcing the country to the verge of default on our national debt. International markets await news of this potential disaster with thousands of pairs of hands poised over keyboards.

Default would be only the latest step in the third worldization of America. The gap between rich children and poor children here is larger than in Switzerland, France or any of the 15 other industrial nations examined in a report this year by the Luxembourg Income Study, a non-profit group. Not only that, we have a health care delivery system that overtreats the well-to-do—not actually a good thing for them—while all but withholding treatment from 43 million uninsured citizens.

Where will the savings from health care cutbacks go? Republicans argue that the money will insure that Medicare and Medicaid remain solvent. But they are also pressing for a huge tax cut for the middle class and well-to-do; presumably that money has to come from somewhere. And of course nothing Republicans do will be allowed to slow profit-taking in the health care industry, whose profits outpace national corporate averages by far. Characteristically, the American Medial Association came out in support of the Republican plan only after payments to doctors were carefully protected.

Few people may realize that our much praised health care system, about to be made worse, is already an international disgrace. The most scientifically advanced medicine in the world has limited practical or moral value when nearly a fifth of the population cannot get to it. During the past few years, while the spirit of health-care reform was being born and then started dying, the throng of the uninsured swelled from 37 million to 43 million. This trend will only worsen. Cutbacks are closing emergency rooms and clinics, and the great public hospitals are being sold off or destroyed in New York, Los Angeles and other cities. Does anyone care where the poor will go?

Republican leaders say they have a mandate to cut costs. But only about 38 percent of eligible voters went to the polls in 1994 and only slightly more than half of those voted Republican. The result is perfectly democratic, but it is not a mandate. Sixty percent of voters currently say they are dissatisfied with Congress. Time will tell whether the voters of 1994 were indulging in conservatism or merely in volatility.

Mr. Gingrich says he wants to renew America, but the only thing he is likely to renew is the frustration and anger of people who can only gape at the good life, and good health care, without hope of having it themselves. Senator Phil Gramm, a Presidential candidate, invokes the Second Coming on the campaign trail. Which Second Coming? The one brought on by Armageddon, or the one that many Christians believe grows gradually in the world through the imitation of Jesus Christ?

Deep in the Judeo-Christian tradition are such sentiments as "Do justice to the poor and fatherless; deal righteously with the afflicted and destitute." A modern politician who transfers wealth from the suffering to the comfortable and cuts off poor people's access to decent medical care might wonder how he would stand in a Second Coming.

America is taking a great step backward. All other industrial countries seem to know something we don't: having no place to take a sick child does not encourage people to identify with their country or its interests.

Americans have always been torn between self-reliance and compassion. Those who think that conservatism is now set in stone should study American history; they are only watching part of the arc of a pendulum swing. Compassion, fairness, cooperation—these are the forces that will stop this swing, whether in one year, five or seven.

In the meanwhile, millions will suffer and some will die, needlessly, for want of decent medical care.

TRIBUTE TO AL VELLUCCI, MAYOR EMERITUS OF THE CITY OF CAMBRIDGE

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to and congratulate Mayor Emeritus Al Vellucci of the city of Cambridge for a lifetime of outstanding service. On Sunday, October 15, 1995 Mayor Vellucci will be presented with a memorial statue in recognition of his outstanding contributions to the Portuguese-American community of Cambridge.

Over the years, Al has served as school committeeman, city councilor, and as mayor. During his four terms as mayor, Al exemplified the spirit of passion and commitment to the community he served. He has worked very hard to bring together the people of Cambridge and has achieved an impeccable record. The residents of Cambridge are fortunate to have Al, who gives so much of himself because of the love and pride he has for the community. I applaud his extraordinary service and efforts.

This is a most deserved tribute and I wish him all the best on his day of recognition. May he continue to serve the community of Cambridge for many years to come.

THE BOOK TOUR

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Mrs. SCHROEDER. Mr. Speaker, there is some good news. The Speaker says he'll pay for the Government-paid security on his book tour. Today I've written the Sergeant at Arms asking him to send a bill. Let's hope there is prompt payment.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 13, 1995.

WILSON LIVINGOOD,
Sergeant at Arms, The Capitol, Washington, DC.

DEAR MR. LIVINGOOD: Thank you for your September 8 letter. The October 9, 1995, issue of Bill Shipp's Georgia indicates that House Speaker Newt Gingrich has offered to reimburse the taxpayers "for the cost of his government-paid security" during his whirlwind book tour. I congratulate the Speaker on his offer, and I request that you prepare and send him a bill.

What with the Republican efforts to cut Medicare and balance the budget, I'm sure the Speaker's offer will be welcome.

Sincerely,

PAT SCHROEDER,
Congresswoman.

HAS NEWT'S BOOK BOMBED?

It now looks as if House Speaker Newt Gingrich should have taken the $4.5 million book advance offered by HarperCollins, the publishing house owned by controversial media mogul Rupert Murdoch. Reports from the publishing industry are that there'll be no second printing of the speaker's book, "To Renew America," and as many as half of the 625,000 run may be returned.

Gingrich is on the hook for an agent's fee of $675,000, based on the original $4.5 million advance, which Gingrich turned down after bipartisan criticism of the deal. After payments to his ghost-writer, reimbursement to HarperCollins for the costs of his 25-city tour, taxes and reimbursing taxpayers for the cost of his government-paid security, Gingrich may net less from the book deal than his salary as speaker.

On top of all that, Gingrich has said he will give all of the royalties from book signings to his favorite charity, Earning by Learning, which Gingrich's pal Mel Steely set up at West Georgia College. Maybe the speaker should have arranged for "bulk purchases" from some wealthy GOPAC supporters, a la former Speaker Jim Wright.

HONORING CELEBRATION OF LEARNING

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1995

Ms. DELAURO. Mr. Speaker, this year, the University of New Haven marks its 75th anniversary with a year-long "Celebration of Learning." It is with great pleasure that I rise today to congratulate the university administration, staff, alumni, and students on reaching this historic milestone.

With 6,000 students currently enrolled and over 28,000 alumni, the University of New Haven has become one of the largest independent institutions of higher education in the region. The university offers an impressive array of services to its students and, under the strong leadership of President Lawrence J. DeNardis, has forged strong ties with the surrounding community. Indeed, the university administration has worked hard to cultivate a long-lasting and mutually beneficial relationship with the city of New Haven. Students from all walks of life are able to take advantage of the school's diverse and exciting programs.

The University of New Haven has more than fulfilled the vision and expectations of its founders who conducted the first classes at Yale University in the 1920's. Since then, the university has become known nationally for its exceptional programs in a number of different disciplines. I am confident that UNH will continue to expand its services while maintaining its hard-earned reputation for academic excellence and innovative programs.

On Saturday, October 14, 1995, more than 600 alumni and friends of the University of New Haven will attend the 75th anniversary gala. I thank the university administration for including me in this historic celebration, and wish them continued success in preparing students for the 21st century.

SENATE—*Tuesday, October 17, 1995*

(Legislative day of Tuesday, October 10, 1995)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

O God, our help in ages past, free us to be open to Your gift of hope for years to come. Particularly, we pray for a lively hopefulness for today. Grant that we may not allow our experience of You in the past to make us think You are predictable or limited in what You can do today. Help us not to become so familiar with Your customary, daily blessings that we lose a sense of expectancy for Your special interventions in the complexities and challenges of this day. Today we will expect great things from You and we will attempt great things for You. In our worries and cares, give us the joy of knowing that You are with us. In our Lord's burden-banishing name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Mississippi is recognized.

SCHEDULE

Mr. LOTT. Mr. President, there will be a period for morning business until the hour of 12:30 p.m. Following morning business, the Senate will stand in recess until the hour of 2:15 p.m. for the weekly policy conferences to meet.

At 2:15, the Senate will resume consideration of H.R. 927, the Cuba sanctions bill, with a cloture vote on the substitute amendment to occur today at a time to be determined by the majority leader after consultation with the minority leader.

In accordance with rule XXII, Senators have until 12:30 today to file second-degree amendments to the substitute amendment to H.R. 927. Also, for the information of all Members, a third cloture motion was filed on Friday. Therefore, if cloture is not invoked today, another cloture vote will occur on Wednesday. There will be no votes before the 5 o'clock hour today.

MORNING BUSINESS

Mr. LOTT. Mr. President, I believe we have time reserved now for morning business, and I would like to proceed now under morning business.

The PRESIDENT pro tempore. The Senator is correct. There will now be a period for morning business.

The Senator is recognized for 30 minutes.

A TIME FOR HISTORIC DECISIONS

Mr. LOTT. Mr. President, we have a long, hard few weeks ahead of us, probably the most crucial 6 or 7 weeks or so that we have had in many years—at least 12 or 15 years, in my own experience. Between now and Thanksgiving, every Member of this Congress will make decisions that can only be described as historic. The votes we cast in the weeks ahead on Medicare, Medicaid, welfare, and the whole legislative package known as the reconciliation bill, will determine the course of the American Republic for at least the next generation.

When I go home to Mississippi and I use this word "reconciliation," constituents ask what that means. I explain that "reconciliation" is just a fancy word for saying this is the time when we keep our word, when we actually do what we said we were going to do in earlier legislation we passed this year—in the budget resolution, for instance.

So, this is an historic time. That is no exaggeration. This year's budget showdown is quite different from the budgetary experiences of past years. In the past, we have implemented budgets with so-called spending cuts that never seem to reduce spending and with revenue increases that got spent before the taxpayers ever saw what they had earned. This time I really believe it is going to be different. This time the reductions in spending are going to be real. They are going to be structural, that is, actually changing the nature of many programs to build into them fiscal safeguards.

As long as most of us have been in the Congress, everyone has talked a good game about entitlement reform. It never happened. But this time it is actually underway. This time around, the taxpayers are going to get the benefit of our holding down spending.

Radical as it may seem to much of official Washington, we are going to leave more money in the hands of those who actually earn it; the workers, the families, and investors of America. That is the goal we have been working toward all year. It has been our guiding light, our polar star during the tough contests over the budget, the balanced budget constitutional amendment, the appropriations bills, and entitlement reform. We have won some. We have lost a few. But all the while we have kept our focus on the greater goal of the financial independence of the American home.

In that way, we have laid the groundwork for reducing the size and scope of the Federal Government. We started the process of returning decisionmaking to the States and to the citizens of the States. What we are doing this year is only the beginning of the most profound power shift this country has seen since King George's colonial governors were sent packing back from where they came.

That is what makes our work this autumn so historic. By themselves, tax cuts come and, sadly, tax cuts usually go. But once you downsize Government, once you break its appetite for the public's purse, once you take away its reason for devouring so much of the public's resources, then you have started a process that is almost impossible to reverse. You have rewritten the equation of power, if you can do that. You have changed the rules of the game, and that is what we want to do. That is what is happening in Congress this year, and that is what we will be focused on for the next 6 weeks or so.

The transfer of power is seldom a neat process. Our effort to return power to the American people through the reconciliation bill of 1995 is no exception. None of us will get exactly what we want in this legislation. There is bound to be something in there that makes each one of us swallow a little hard, perhaps something that hits too close to our own home States. So be it. Some losses will be well worth the overall result: Medicare preserved and strengthened, welfare finally tied to work and to personal responsibility, the tax burden eased for families with children, and the Federal Government locked on track toward a balanced budget within 7 years.

That last item is worth repeating. The bill will put the Federal Government on track to budgetary balance by the year 2002.

Through all my years in the House and Senate, I have heard the naysayers insist that it could not be done, it just could not be done, but now that we are actually doing it, they have changed their tune. Now they say it should not be done. It is too fast; it is too much; it is too soon; too little spending; too much tax relief. In short, just too much change.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

And yet in today's Washington Post, a very interesting editorial column by James Glassman pointed out that even with these spending controls, Federal spending will increase by $2.6 trillion over the next 7 years, while revenues will increase by $3.3 trillion. Yet there are those in Washington who are screaming: Oh, you are cutting things so deeply. How do you reconcile an increase of several billion dollars over what we are now spending with the accusation that we are cutting spending? In fact, we are not really cutting. We are just controlling the rate of growth of Government. In fact, in my State, many people say: Why is it taking 7 years to balance the budget? You really should do it sooner.

But the important thing is that we are doing it. We are getting locked in on this path, and the Congressional Budget Office is going to certify that we are actually getting the job done.

When it comes to restraining the size and spending of Government, the citizens I hear from do not think there is such a thing as too much change. They do not understand why their elected officials cannot restrain the spending appetite and habit in this city. They do not understand why a handful of Senators abandoned their longstanding support for the balanced budget constitutional amendment and voted to kill that amendment earlier this year. And most of all, they do not understand why the President has made himself the defender and guardian of the status quo.

I do not know how to explain President Clinton's extraordinary record this year on the budget except to describe it as "Bill's Peculiar Adventure." This is why; here is the script.

Earlier this year, the President submitted to Congress a budget that was so shamelessly out of step with the wishes of the public that the Senate voted 99 to zero to reject it. That vote, for the record, occurred on May 19. Thereafter, both the Senate and the House passed budget resolutions which the Congressional Budget Office said would result in a balanced budget in the fiscal year 2002. CBO's assurance was, of course, critical because, as President Clinton said himself, the "Congressional Budget Office was normally more conservative than what was going to happen and closer to right than previous Presidents have been."

Those were wise words then, and I believe they still are applicable today. For whatever reason, perhaps because he was left behind in an untenable position, President Clinton took the exceptional step of devising another budget, President Clinton's Budget II. This he submitted to Congress on June 13, contending that it would achieve balance in the fiscal year 2005. This second Clinton budget was an interesting effort and in some ways a definite improvement over the administration's first try.

CBO estimates that it would achieve savings of $120 billion in Medicare through the year 2002, and $295 billion through 2005. Note these savings were not described as cuts but as savings. CBO also estimated that Clinton II would reduce Federal revenues—that means allowing for tax cuts—by $97 billion over 7 years and $156 billion over 10 years. Those amounts were more than offset by President Clinton's proposed savings—not cuts—from Medicare. That did not mean, of course, that he was using Medicare money for tax breaks because, as we all know, the two items are entirely separate, as should be our decisions concerning them.

So far so good. But the CBO had some bad news, too. The President's second budget would result in deficits in excess of $200 billion in each of the next 10 years. Let us add that up. By my calculation, that comes to a 10-year deficit of more than $2 trillion. In fact, even that figure of $2 trillion underestimates the President's proposed deficit, for he included in revenues the surpluses that are expected in Social Security. He counted against his deficit spending the resources of the old age, survivors and disability insurance trust funds. Whether this was an ominous sign of long-range intentions or whatever else might have been involved, perhaps just sloppy bookkeeping at OMB, I leave for others to determine. But it is an area of concern for those who have looked at how these trust funds might be impacted.

In any case, the Congressional Budget Office, in which President Clinton had, quite accurately, told the Nation to repose its trust, scored President Clinton's second budget as a loser. But even so, the President has never renounced it. In fact, he still refers to it on occasion, though only in passing, and he still cultivates the illusion that he has offered Congress something to work with when really there is not much there except some broad principles.

I wonder how many of my colleagues on the other side of the aisle believe that Clinton II is something with which we can work. Perhaps we should find out. We will be casting scores of budget-related votes in the weeks ahead, and a vote on Clinton II might well be one of them. That would be a clear referendum on what the President has done and has not done with regard to spending, taxes, Medicare and the deficit. I suspect it would fail by a wide margin.

With all due respect to the Presidency and to President Clinton, the office he holds has a way of insulating its occupants from the realities the rest of us have to face. That is the most charitable explanation I can devise from some of the things that are being said from the White House. For example, in a conference call with hospital administrators last week, President Clinton opined that "the budget cuts that Republicans are pushing in Congress are excessive and not necessary—not necessary—to balance the budget."

How would he propose to do it? Obviously, he does not propose to do it. His inaction in that regard is as unacceptable as his proposal just last week that we move toward a grand compromise on spending and taxes by adopting the administration's economic projections. Never mind what he said in the past to a joint session of Congress about the accuracy of the Congressional Budget Office as opposed to the politically slanted estimates that come from OMB. All of a sudden, we are being told we have these big differences between what the Congress is trying to do and what the President wants to do, and the way to solve that problem is just to have different economic assumptions.

I have seen that happen before, unfortunately, in previous administrations and previous Congresses. It is not the way to do business.

We have not come this far in fulfilling our pledges to the American people just to cop out by using phony numbers. Speaker GINGRICH spoke for many of us in his response to the President when he said, "This is exactly what's sick about this city. [Somebody says] Let's find another smoke-and-mirrors. It's only been, after all, 60 years of deficits." It is time to get the job done.

Now, I am no stranger to differences between parties. We have a two-party system. That is so we can have good, wholesome debates between competing programs. But eventually we need to vote and get the job done, and I think we are prepared to do that.

We can take our politics straight up, face to face, but when that is done, we have got to face the budget problems. We must deal with tax relief for the American people, and we must move toward a balanced budget.

Official Washington is looking toward mid-November for what is commonly called a legislative train wreck. I think it is a misnomer, but that's the term being used to describe a showdown over the budget, the appropriations bills and the debt ceiling. I prefer to think of that conjunction in a different way. I think of it as a day of accounting, a time when truth will finally prevail.

The President and his senior staffers have been talking a lot lately about using the veto to block virtually everything that would move this country toward a balanced budget. President Clinton has made his veto pen the last desperate defense of big government.

Over the past 20 years, I have watched the budgets we have dealt with and the appropriations bills. I don't remember a President threatening to veto appropriations bills because they did not spend enough. It was always because Congress could not control its insatiable appetite in spending too much. Now we have a President who is threatening to veto almost all the appropriations bills, with only one or two exceptions, because he wants more spending, increases over last year, increases that will add to the deficit.

So we have a tough task before us. Many people wonder if we will be able to get the job done. I believe we will. I would like for it to be done with cooperation between the two Houses of Congress, across the aisle between the two parties, and, yes, with the President. I encourage the President to join us in this discussion.

This is a crucial time. Over the next few weeks we have to make tough decisions. It is time that we engage. We need the President to get involved, to roll up his sleeves and say we are going to do what is right for our country's future.

Today Senate Republicans look both to the immediate opinion of the American people and to the judgment of their posterity. It is, after all, our children and our grandchildren, most of all, for whom we are doing this. They, rather than any party, will be the big winners in the reconciliation bill in 1995.

That is why I and my colleagues approach the arguments, the decisions, and perhaps the crises ahead with a confidence that goes beyond political assurance. Like the Quaker poet of the last century, John Greenleaf Whittier, said, we know we have "the safe appeal of truth to time." That is what this is all about. And now is the time for historic decisions.

Mr. President, I yield the floor. And I observe the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE REFORM

Mr. BURNS. Mr. President, with the press and all the reports and the dialog continuing on Medicare, I guess for most of us who are trying to do some things to reform Medicare, to strengthen it and save the program, which has broad-based public support, we have become frustrated about what is really at issue here. We know that there have been ways devised in order to save and strengthen the program and to increase the spending on each beneficiary between now and the year 2002.

With those that would be critical of the plan that has been put forward and with continuing to call what some would say are cuts in Medicare, then maybe we should approach it from a situation that maybe if you think it is a big cut, let us just freeze it, let us just freeze it at current levels. And I wonder if they would start counting the apples that are in their basket.

You know, it seems to me that math is a funny subject to study. But, nonetheless, if you have 48 apples in your basket, and by the year 2002 we are going to add some apples to that basket to where you have 67, in other words, 2½ apples—that is pretty tough to do, add a half apple a year to your basket—that does not sound like a cut to me. It sounds like an increase to me. But the cost per beneficiary will go from $4,800 presently being spent per beneficiary to $6,700 in the year 2002. That is under the plan that is presently called for in the budget resolution that passed this body and this Congress.

What started this whole debate is right here, this little report. Now we cannot get very many of them because they did not print very many of them. But it is the status of Social Security and Medicare programs done by the trustees, of which four of the seven are President Clinton's own appointees.

They said it pretty plainly, "The Medicare Program is clearly unsustainable in its present form"—in this little report.

There have been other reports that have come out in the past that said Social Security will run out of money. Other reports say, in 2 years, Medicare will run out of money. Those reports are OK, but this one is a little bit different because next year is the first time in the history of the Medicare Program, which is 30 years old this year, the first time when we will be spending more money in outlays to the beneficiaries than we have money coming in—for the first time. That changes the debate a little bit, and it also should change the way we look at this problem and the way we want to deal with it.

So the trustees say we have to do something about Medicare. Secretary of Health and Human Services Shalala, Secretary Reich of Labor, Secretary Rubin of Treasury, Commissioner of Social Security, Shirley Chater, all appointees of President Clinton, said:

> We feel strongly that comprehensive Medicare reforms should be undertaken to make this program financially sound now and over the long term.

We went through a situation in Montana, when I was a county commissioner, of falling property values. We had an initiative passed in Montana that froze all property taxes, the mills that we could levy, and we were in pretty tough straits trying to finance county government. That may not sound very important to us who work in this town but, nonetheless, the people who live in our counties and our cities across the Nation would say that is pretty important because that operates our schools, takes care of our sheriff departments, public safety, our roads, bridges.

You had to act then to make some adjustments to our outlays, or we would find ourselves in financial difficulty that we could not get ourselves out of. If you do not take into consideration that next year we will be paying out more than taking in, and as that escalates, pretty soon if we go 2 or 3 years, then you will find even this Government will be incapable of dealing with the debt that has been created by overextension of payments out of the Medicare Program.

So, basically, what they said was that we had to take some actions now.

Let me show another chart. They also said:

> We strongly recommend that the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis, including a review of the program's financing methods, benefit provisions, and delivery mechanisms.

In other words, let us take a look at the whole program, and we tried to do that.

> Today, Medicaid and Medicare are going up three times the rate of inflation. We propose to let it go up at two times the rate of inflation. That is not a Medicare or Medicaid cut. So when you hear all this business about cuts, let me caution you that is not what is going on. We are going to have increases in Medicare and Medicaid, and a reduction in the rate of growth.

Guess who said that? President Clinton, October 5, 1993.

Who is fooling whom? We have to take a look at all of it. This is what the President wants. He is saying, let us limit the growth to 7 percent; the budget resolution says 6.4. We have an area where we can really, really compromise and come up with a program.

So we have established that there are not going to be any cuts in Medicare. So how do we deal with it? We say, "Mr. President, that is exactly what we have proposed in this Congress." So how is it that President Clinton proposes a reduced growth rate and it seems acceptable and yet, when the Republicans propose the exact same thing, it is splashed all over papers and televisions and all across our States by the folks on the other side of the aisle as "devastating cuts." I think it is time for a little fairness here, and I also advise all of us, you cannot have it both ways.

So if you do not like the cuts, let us just freeze them. Think about that for a little bit. We will freeze it at levels right now. I am wondering if that will be acceptable to the other side. The senior Senator from Montana recently wrote a guest column in the Missoula paper. He said, "There is no crisis here." Their report clearly states the crisis needs to be urgently addressed. It does not say we should start to think about maybe making some changes. It says now is the time to do it. That is, deal with it when we have the ability to deal with it. We cannot stick our heads in the sand, not for very long anyway, because you know what is exposed the most.

We have to worry about the financing. Any savings in this plan—any savings—even in part B, goes back into the plan. It can go nowhere else. It must stay in the system of Medicare, either part A, which is the hospital trust fund, or part B, which is the dollars. It has to stay there. Any savings goes back into the plan. It can go nowhere else. It can finance no other part of government. So the trustees' report requires us to act.

Anyone who says otherwise is not being very candid with the American people. It is not being very honest if we are to preserve the system while expanding the choices the beneficiaries will have if we do nothing at all. With the proposal now on the table, spending continues to increase around 6.4 percent a year. That is twice the rate of inflation. That means spending per beneficiary will go from $4,800 a year to $6,700 in just 7 short years. And I ask you, can that be a cut?

So when the other side and the media say we are cutting Medicare to give tax cuts to the rich—we have heard all about that—it sells good but it "ain't" necessarily so. In fact, it is not so.

A colleague of mine recently remarked the new Democratic mascot should be the ostrich. We do not want to get into a situation like that.

I also heard the expression other day that maybe it is not Medicare, maybe it is "Mediscare." Every day is Halloween for the other side, because they just like to scare folks.

Mr. President, I say to my colleagues, we are trying to be honest with America, just honest with America. Get the figures down and make sure that we do what this report says we should do and also maybe accept some leadership from our President who said, yes, we have to do some things, and he said it on October 5, 1993.

I do not think he is too far off the mark, and I do not think America thinks that either. I know we do not, and we have undertaken this very, very seriously.

Mr. President, I yield back the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to be recognized for up to 15 minutes following the presentation of the Senator from Missouri.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Missouri is recognized.

TERM LIMITS

Mr. ASHCROFT. Mr. President, the 1994 elections were elections about reform. Those of us sent here by the people of America were asked to make substantial changes in the way this body conducts business, the way in which Government is carried out in this country. The people asked us to make significant changes. In return, we made promises which resulted in their entrusting to us the sacred opportunity to serve the people. The promises we made were important promises. They were promises to end politics as usual, to curtail an imperial Congress. They were promises to balance the budget. They were promises to change the welfare system profoundly.

Mr. President, I believe they were important promises. I believe they were promises upon which the people relied, and have a substantial expectation. We have made progress in satisfying those promises in a significant way.

Earlier this year, the American people were optimistic about our efforts, about our willingness to change Washington. This fall, though, the American people tell a different story. Those who keep their finger on the pulse of the American public have indicated a signal from the people—a serious discomfort with what is coming. The public's faith in their elected officials has again plummeted to an all-time low. Once more, Ross Perot, talks about putting an end to the two-party system, and once more he is heard.

What has happened? What is the reason for the new season of discontent? I believe it is, in part, because the people have asked us to commit to the reforms we promised and they feel that some of their agenda is being ignored. One of those agenda items which we have not directly addressed, that we have not spoken too clearly on, one that is on the minds of the American people indelibly, is the idea and concept of term limits. People are familiar with that. Forty Governors have term limits. Twenty-three States have, out of their own capacity and ability, attempted to impose term limits on the Congress. They see the Congress as being a place which bogs down in beltway politics instead of reflecting the agenda of America, and does so because of individuals who come here and just stay. Certainly, it is an agenda that the people expected us to carry forward. Seventy-four percent of the people support the concept of term limits. They believe, and I believe, it ought to be a part of the agenda of the 104th Congress.

Leadership is about the messages that we send, the signals we give—signals not of rhetoric but of action, signals of real reform. Last March, our class came to the floor to support a constitutional amendment to balance the budget. We spoke of a common commitment to change and a new day in the Congress. It mattered very little that we fell short of the 67 votes we needed. It was clear what we were doing and the depth of our commitment and the sense of our real dedication to that objective. I think the people understood there were some who stood in the way of that objective. But what truly mattered was the signal we sent as a class. It was a signal of promises made and promises kept.

What matters is that we fought the fight, we kept the faith, we kept our promise, and we will keep moving toward that objective. We have already moved toward the objective in the budget, and we are moving toward the objective in the appropriations, and we will again move toward that objective by way of a resolution to have a constitutional amendment.

We must decide what signals we will be sending this fall as the American people monitor our performance. It is out of concern for those signals that I believe we should vote on a sense-of-the-Senate amendment relating to the limitation of terms of Members of Congress. We are talking about the number of terms people in the Congress can serve.

This afternoon, barring any legislative maneuvering, we will have a vote on that amendment. It will be the first time in 50 years that there has been a vote on term limits in the U.S. Senate. I believe it will be an important vote, it will be a historic vote. It does not carry with it the power of law, so it is not a binding amendment. It is, however, an identifying amendment. It is the power of a clear and principled statement of the purpose and resolve of this body to enact term limits, to provide the people of this country with an opportunity to change the Constitution of this country, to reflect the fact that the biggest perk of all in Washington is the perk of incumbency. The playing field is so inordinately tilted toward incumbents that individuals from outside have a very difficult time challenging.

I am glad that the majority leader has expressed his commitment to voting on this sense-of-the-Senate term-limit amendment. We will send an important signal to the American people that we remain serious about serious reform, that we have an agenda which is the agenda of the American people. We will again say that those of us who were sent here in 1994 made promises—promises that we will be keeping.

The promises we made are not options—they are commitments, they are our mandate. We did not cook up the idea of term limits as an election gimmick. Term limits are part of the fabric of the political philosophy of the same American people who have seen it work for hundreds of years at both the State and local level. They have seen it work when voluntarily embraced by Presidents from George Washington forward. They have enacted it into the Constitution of the United States in the 22d amendment. They expect us to make it possible to enact term-limits into the Constitution of the United States and provide real reform in the U.S. Congress.

Promises made, promises kept. These promises are not an option, they are our mandate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I am recognized for 15 minutes, I understand.

The PRESIDING OFFICER. That is correct.

MEDICARE

Mr. DORGAN. Mr. President, I have listened this morning to a discussion about Medicare, and I want to make a couple of points about it, although that was not why I originally sought to take the floor this morning.

It is interesting to me that people say this is not about politics. This is about the sanctity of the Medicare Program, about the solvency of the Medicare Program. Nothing to do with tax cuts, tax cuts for the affluent, but the Medicare Program and its solvency.

I cannot resist pointing out when Medicare was initially offered, 97 percent of the Republicans voted against it. They did not like it. They did not want it. We still have some today who think it is a terrible program, that it is tantamount to socialism.

Now, most people, including most Republicans, think the Medicare Program is a pretty decent program and has been very helpful to people in this country.

No one should misunderstand what is going on here. No amount of discussion on the floor of the Senate should be allowed to persuade people this is something other than what it really is.

I brought a chart to the floor that describes what Kevin Phillips, a Republican political analyst, noted author, noted Republican analyst, says: "The revolutionary ideology driving the new Republican Medicare proposal is also simple. Cut middle-class programs as much as possible and give the money back to private sector business, finance, and high-income taxpayers."

That is not from me. That is a description of what this is about from a Republican.

Let me give another comment from Kevin Phillips—again, a Republican. This is not a Democrat, but a Republican speaking. "Let's be blunt. If the Republican Medicare form proposal was a movie, its most appropriate title would be 'Health Fraud II.'"

Do not say that is a Democrat standing up attacking a Republican plan. This is a Republican telling us what the Republican plan is all about.

I flew into Minot, ND, on Saturday morning this week. A lady at the airport asked if she could speak to me, and we stepped off to the side where there was a big crowd. She quietly began to ask me a couple of questions.

She was probably 75 or 80 years old. As she began to speak, her chin began to tremble and quiver and she began to get tears in her eyes. She said, "My husband is in a nursing home and he has been there 3 years. I am paying for the nursing home care. We had a few quarter sections of land. We owned a farm. I have sold most of that farm now to pay for his nursing home care. I cannot get Medicaid help for him, and now I am worried that I will lose my house and not be able to continue to live in my house."

By then she was a person with tears in her eyes and expressing the anguish that a lot of Americans have about what is going on in this country. This is not about statistics or theory; this is about someone who lives on a farm for 55 years, does not take, always contributes, always helps, always extends and reaches out, and then they reach the end of their life and one spouse is in a nursing home and the other is worried about losing their home.

Or an Indian school that I visited not so long ago where children who come from dysfunctional families, from backgrounds of alcoholism and chemical abuse, are trying to make a go of it and get an education, get some therapy, get some help, told me about one little fourth grader who, when she came to the Indian boarding school, would show up every day down at the school administrative office and ask whether a letter had come from home.

"Has a letter come from home?" Every day they said, "No, no letter for you." Every day for weeks, the same routine. "Has a letter come from home?" Actually, her home was not her parents'. It was her aunt and uncle, because her parents were elsewhere. She was living with an aunt and uncle. Finally, she stopped coming to the office to ask whether a letter had come.

The last week of the school year she got her letter and it was the $5—$5 that she was given by her aunt and uncle for the year, $5 spending money that this poor little girl had counted on because they said they would try to send her some help. Every day she went to see whether that money had come, but it had not. She finally got $5 at the end of the year.

That is the kind of human condition that exists in this country. Policies are wonderful to debate here on the floor of the Senate, but we are talking about little fourth graders, little kids whose lives are profoundly impacted by public policies. We are talking about senior citizens, 75 and 80-year-olds who fear that they will lose their home, who fear they will not have health care, who fear they will get sick and have no money.

People say we are not cutting Medicare; it is growing. We will cut $270 billion from what is needed to fund Medicare at its current level. That is a fact.

Yes, it will increase, but the fact is we will have more senior citizens. That is why it is increasing. And you have health care inflation. That is why it is increasing. But the $270 billion necessary to provide the same kind of care will not be available.

They say this is not about anything other than trying to make the system work. This is about cutting taxes for the rich. That is what Kevin Phillips, a Republican, says it is about. "Let's be blunt. If the Republican Medicare reform proposal was a movie, its most appropriate title would be 'Health Fraud II.'"

We will have more debate on Medicare. Do we need to make some adjustments? Yes. Should we take money out of the Medicare Program, a program that works and is so important to people, in order to provide a tax cut to Donald Trump, Ross Perot, and the folks who have it pretty well in this country? I do not think so. That is not what we need to do at this point.

GROSS DOMESTIC PRODUCT

Mr. DORGAN. Mr. President, let me turn to another subject. One of the things that is interesting to me is why we are told daily in the newspapers that the GDP, the gross domestic product, in America is up, our economy is moving forward and we are doing so well. The economists, some politicians, say, gee, things are really moving along. We measure progress in America by the gross domestic product. They say NAFTA and GATT—more jobs, more progress. We are better off because the GDP goes up. Experts worship it. Economists worship at the altar of the GDP.

The Federal Reserve Board comes to the Congress in the last year and a half and says the economy is growing too fast based on the GDP. What we really need to do is create more unemployment and less economic growth. That is what we hear from some of these economists.

Why, when Americans are working longer and harder just to keep up, why are we told that things are so good, that the GDP is a measure of enormous progress?

Finally, there is a cover story in the recent issue of the Atlantic Monthly that provides some clue. It is called, "If the Economy Is Up, Why Is America Down?" I urge my colleagues to read this article because it helps explain the big gap between what the economists talk about in economic progress and what the American people feel or actually experience.

Economists, this article says, view the economy through kind of a warped and myopic system, a counting system called the gross domestic product. The GDP was invented actually during the Second World War to guide the Nation's production through the Second World War. It is basically a tool of planning of industrial policy that was never really designed to serve as a guide to how well the economy is doing, but that is how the experts, economists, and politicians use it here in Washington.

Essentially, the gross domestic product adds up everything Americans spend and declares that as the total good. The more money people have to spend, the better this weird accounting system says we are doing.

As a result, all of the pain and all the misery, the social breakdown, shows up in the computer screens in Washington, DC, as economic gain. The hundreds of billions of dollars that Americans spend to cope with crime, the lawyers, the social breakdown costs is all GDP—car crashes, fender benders in front of the Capitol—gross domestic product increasing. Mr. President, $200 billion a year in repair bills and hospital bills, car accidents give this country a real boost.

Americans lose some time with their children because wages are falling, so they work longer these days, and both parents often have to work. When the kids go into day care, that is more GDP. When the roads are so congested it takes more time to drive to work, the gas people burn in their car to sit and wait, that is more GDP.

The lists goes on. Almost everything Americans experience as bad shows up in the gross domestic product as good. They do not take account—the economists—of the contribution of the family and the household as an example.

It is a curious circumstance that the sectors of the economy which are crucial to economic well-being in this country, the social realm—that is the economic functions performed by households, by the communities and all across the country, by people in their natural habitat—those do not count. Those are not part of the national accounting system. Most of the Nation's important work that goes on, from caring for children to older people volunteering their work in many different forms—that is the social glue in this country. Yet because no money changes hands, no one scores that. That is invisible to the conventional economists.

GDP does not count at all in these circumstances, because it means the more our families and communities decline and a monetized service sector takes over, the more the GDP goes up and the more these economists think our country is doing better. They count the poisons in our air and water as double gain, once when the factory spews it out and also, then, again when we have to buy bottled water and air purifiers to deal with it. Then the Government has to spend billions to clean up the Superfund site, so it gets counted again.

We are awash in this kind of phony accounting. It is like a gas gauge on a car that goes up as your car is running out of gas. That is the problem with the GDP measurement and, as the authors in the Atlantic article point out, by the curious standards of the GDP, the Nation's economic hero is a terminal cancer patient who is going through a divorce. They say the happiest event is an earthquake or a hurricane.

I pointed out on the floor before that when hurricane Andrew came through and leveled Florida, the economists counted that as a one-half of 1 percent gain of the gross domestic product in our country. The same phony accounting labels lead to political double-talk when you are talking about GDP and what makes the economy tick. When politicians want to push tax breaks for big corporations or for top executives, they talk about growth, by which they mean GDP. When they want to earn political Brownie points, they blast Time Warner for gangsta rap, for example. Gangsta rap is GDP.

Entertainment is one of the fastest growing parts of the economy and so is gambling and so is prison building. It is all GDP. So, when the politicians say they want more GDP, what are they calling for, more television programs with violence? That is GDP. Is there any distinction between what is good and what is bad, what advances our country's interests and what retards it?

The family or business that uses this kind of a system to measure its progress would not last very long at all. They would be bankrupt in a month. Yet, America has been making economic policy by using this indicator of progress for 50 years, and we need to change.

I do not agree with everything in the article that I referred to in the Atlantic. Some things I disagree with. But I think it is a useful thing for us in this country to begin exploring. Does the gross domestic product really measure anything, anything useful—a gross domestic product that leaves out the value of the care that someone gives for a sick parent, that includes the value of the cleanup from a hurricane but does not include the damage from a hurricane, does not include the damage from a car accident?

You know, another economic all star with the GDP is someone with a cardiac problem. You talk about a heart attack, we are talking about real GDP. The whole system swings into action with a heart attack, and that advances the country's economic interests, right? Of course it does not. Of course it does not.

I hope my colleagues will read not only the Atlantic article, but I am going to include in the RECORD an article written by Lars-Erik Nelson in the Daily News and an article in the Financial Times by Michael Prowse on this same issue.

This is an important issue, and I hope we will begin to look at it in a thoughtful way and evaluate what do you measure to determine what advances American economic interests.

Mr. President, I ask unanimous consent to have those articles printed in the RECORD, and I yield the floor.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily News, Sept. 29, 1995]

A FUNKY WAY OF LOOKING AT U.S. "GROWTH"

Washington—If the economy is growing as all the economists tell us, why are Americans in such a foul mood? This is the question that undermined Reaganomics, defeated President George Bush and has President Clinton muttering about a national funk.

And now we have an answer, both simple and blindingly clear. The people are not wrong. The economists are. What they measure as growth in the Gross Domestic Product is merely increased spending—not what that spending actually buys.

Under the currently accepted definition of growth, if you sit stuck every day in a traffic jam, burning gasoline and wasting your time, you are contributing to growth. If you spend more and more money, $65 billion a year, to protect your self against crime—locks, insurance policies, replacement of stolen goods—that's growth.

The GDP does not care whether the money is spent for useful purposes or for decay. Spending on food and pornography rank equally. Divorce is a major contributor to our "economic growth" since it piles up lawyers' fees, the cost of a second home and counseling.

And the GDP assigns no value to intangibles like air pollution or the loss of leisure time. If you're to busy to cook or read stories for your children and so you buy them prepared meals and leave them in front of a VCR that's counted as pure economic growth.

This flash of insight is spelled out in the October Atlantic Monthly by Clifford Cobb. Ted Halstead and Jonathan Rowe, "By the curious standard of the GDP," they write, "the nation's economic hero is a terminal cancer patient who is going through a costly divorce. The happiest event is an earthquake or a hurricane. The most desirable habitat is a multi-billion-dollar Superfund site. All these add to the GDP because they cause money to change hands."

The most bizarre example is the $32 billion diet industry. "[The GDP] counts the food that people wish they didn't eat and then the billions they spend to lose the added pounds that result."

Instead of GDP, the authors propose a different measure—a Genuine Progress Indicator—that would total up the nation's expenditures (including intangibles like the value of parenting) and then subtract the obviously negative components: costs of crimes, family breakdown, loss of leisure time, commuting, automobile accidents, pollution and environmental damage.

Lo and behold, they come up with figures—debatable to be sure—indicating that in terms of genuine progress we have not come very far since 1960. We have an abundance of gadgets but the costs—in family breakdown, safe neighborhoods, good public schools, jobs that let a single earner raise a family—have offset the technological gains.

The "growth" myth has been a terrific weapon in persuading Americans to accept a worse qualify of life NAFTA, the Mexican trade agreement, is good for us because it will add to "growth"—never mind what it does to a community that loses a factory. Cutting down old-growth forests adds to growth. The gambling industry is growth. Gangster rap is growth. "Showgirls is growth. The millions spent on the O.J. Simpson trial—it all adds to our economic "growth".

What the three authors have figured out is that we spend so much of our incomes not to add to our quality of life but merely to insulate ourselves from a world that has grown less civil. We work harder, spend more, have less time, and the economists tell us we are growing. No wonder there's a funk.

[From the Financial Times, Oct. 2, 1995]

BETTER WAYS TO MEASURE PROGRESS

It may be time to consider new yardsticks of economic and social progress. Gross domestic product has grown robustly for years in the US and many other countries. Yet, ordinary families believe they are worse off than in the past. The official data do not appear to measure economic life as it is experienced by real people. They ignore the "feel bad" aspect of growth.

GDP has acquired an extraordinary aura of authority over the years. Yet it is worth recalling that national accounts in their present form were invented quite recently. They were a response to the needs of the generation that endured the Great Depression and fought in the second world war. The priority then was to find ways of utilising spare resources, first to combat unemployment and then to further the war effort. A measure of "final monetary demand" was essential if Keynesian policies were to succeed. GDP filled the bill perfectly. And, in an age of slide rules, it was not practicable to supplement it with more sophisticated measures of economic well-being.

Today's needs are different. Our ability to sustain the growth of monetary demand is not in question. The focus of attention is now on ecological and social concerns. After decades of rapid industrial expansion, we worry that growth may inflict irreparable damage on the natural environment. We also worry that the social fabric of nations is being ripped apart. Economic growth will not bring happiness if the quality of life is simultaneously being destroyed by social shortcomings, such as rampant crime, family breakdown, inadequate education and so forth.

The Roosevelt generation devised the statistical measures it required to solve its problem. Should we not do the same? This seems to be the thought underlying two recent attempts to devise broader measures of economic well-being. A group at the World Bank argues that economic health is best measured by a broad yardstick of wealth or net worth, not by the annual flow of monetary income. Instead of simply focusing on "produced assets"—the products of the market economy—it draws attention to three other classes of assets: natural capital (such as forests and mineral deposits); human resources (the value represented by education) and social capital (the value of human organisations and institutions).

A Californian think-tank called Redefining Progress has a somewhat similar philosophy. It is promoting a new measure of economic health called the Genuine Progress Indicator (GPI), which adjusts for many social and ecological factors ignored in GDP figures. The group has persuaded 400 US economists to sign an anti-GDP manifesto stating that "new indicators of progress are urgently needed to guide our society: ones that include the presently unpriced value of natural and social capital". Luminaries backing the GPI initiative include Prof Herbert Simon, a Nobel economics laureate, Alvin Toffler, the futurologist, and Ted Turner, the media magnate.

How economic well-being is measured makes a bigger difference than you might suspect. Measured by per capita GDP, the US is one of the world's richest nations. Yet it ranks a poor 12th on the bank's per capita wealth measure, behind countries such as Norway and Denmark. Per capita GDP figures indicate that the US has been growing robustly for decades. Per capita GPI, on the other hand, peaked in 1969 and has since fallen substantially.

These large discrepancies are not altogether surprising if you remember that the alternative measures are trying to capture wealth not reflected in monetary transactions. The bank team discovered, to its surprise, that the value of human resources-accounts for about two-thirds of the typical nations's total wealth. One reason is that people tend to become more valuable over time: they learn as they generate income and so become capable of generating more income. Produced assets such as durable goods and factories, by contrast, rapidly become obsolescent. Yet this principal source of national wealth is ignored in conventional national accounts.

The rational for GPI is explored at length in the October issue of the Atlantic Monthly magazine. The main reason why it shows a decline in US economic welfare is because it insists on fully accounting for the depletion of non-renewable natural resources, the cost of pollution and many other forms of environmental degradation not captured in GDP figures.

But it also allows for many aspects of social welfare ignored in official statistics, such as the economic value of housework, volunteer labour and leisure time. It treats many types of market transaction as negatives rather than positives; for example the spending associated with crime, family breakdown and commuting are regarded as costs not benefits. It even adjusts for income distribution, deeming greater inequality a negative for social and economic progress.

I have reservations about all "macro" indicators. Any attempt to measure "social welfare" involves a host of subjective judgments. A measure such as GDP that fails to value natural capital or non-market labour can hardly be construed as neutral or objective. The issue is not whether we have macro indicators, but whether we have indicators that are relevant to people's needs. We cannot live forever on the Roosevelt generation's intellectual capital. We have to move beyond GDP.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Wyoming is now recognized for up to 1 hour.

CHANGE

Mr. THOMAS. Mr. President, my purpose in requesting an hour was to share with my freshman colleagues an opportunity to talk some about change, an opportunity to talk about the real chance we have to bring about change here in the next 3 weeks. So I intend to take 10 minutes and share the rest, then, with other members of the freshman and sophomore class. I wanted to talk just a little bit about change. I wanted to talk a little bit about the development of policy.

I must confess, I am concerned we are seeking increasingly to formulate public policy in this country based on something other than facts, to formulate public policy based on what seems to be a marketing technique to oppose change. I want to talk about that just a little bit.

My friend from North Dakota just finished. He just finished talking in some areas I think are not factual, that I think probably do not represent where we are really going with policymaking in Medicare.

What we are doing is, those who are opposed to change in Medicare are seeking to use scare tactics to cause people to think Medicare is going out the window, we are not going to do it, when the fact is if we do not make some changes, then we will lose Medicare. Those of us who want Medicare for the elderly, for those of us who want Medicare soon for ourselves and others, know you have to make some changes. The idea we are going to cut and ravage Medicare just is not true. Whether it is Phillips or whoever it is, the fact is that the spending is going to increase. What we are talking about doing is changing a growth pattern that is not maintainable—more than 10 percent—bringing it down to 6.5 percent.

Mr. DORGAN. Mr. President, inasmuch as the Senator from Wyoming mentioned my name, I wonder if I might just ask the Senator from Wyoming a brief question. If the Senator from Wyoming believes——

Mr. THOMAS. The Senator has had his time. I really do not yield to him. I would like to go ahead and make my presentation, sir. You have made yours.

Mr. DORGAN. The only reason I ask the question is the Senator from Wyoming suggested they were not facts coming from this side; in fact, we were misstating facts. I wonder if the Senator would be prepared during the hour at some point to discuss specifically what he means by that, so we can discuss what he means is factual and not factual.

Mr. THOMAS. If the Senator will yield back my time, I will be happy to, because I intend to do that. We are talking here that it is being done to save taxes. That is not true. That is just not true. If there was no budget crisis at all, if there were no tax reductions being talked about, you have to do something with part A of Medicare. Kevin Phillips and others seem to ignore that.

The fact is, the money that goes into part A of Medicare is taken from your salary and mine, 2.9 percent, and goes into this fund. And this fund, according to the trustees, three out of six of whom are Cabinet members, they say that by the year 2002 that fund will be paying out more than it is taking in. That is a fact.

The fact is, even if you did not have anything to do with the budget, you would have to do something if you want to continue to have Medicare based on that premise of paying for part A from what is withheld from salary and from the employer. That is a fact.

So, that is where we are. The people who oppose change do not talk about that. They get into this tax thing, which really, really has nothing to do with it. And, on the contrary, the opposite is they do not have any suggestions. They simply want to complain about the idea that people are saying we need to make some changes there. And our friends stand up and say "Oh, yes, we need to make changes," and then resist every change that is made.

So, I think we need to start talking a little more about the facts and get a little off this idea of a marketing rhetoric that is designed, simply, to oppose what it is we are doing. We have a basic difference in philosophy. I understand that. That is perfectly legitimate. That is what elections are about. That is what two parties are about.

I happen to think we are better with less government and less taxes, and trying to find a way to reduce the costs of Medicare, not to simply find more money to put in it.

Do you want to talk about fraud? The Senator mentioned fraud. Most experts indicate that there is $30 billion of fraud in Medicare now. So I feel very strongly that, if we are going to have public policy that is good public policy for all of us, public policy needs to be made based on some facts and not simply some kind of marketing technique.

The other is change. Mr. President, we have a great opportunity now to make change. We have an opportunity in the next several weeks to finish the job the American voters asked us to start last November, to finish the job we said we would do: To have a less intrusive Government, to have a Government that costs less, to have a Government where the programs that are in place have been evaluated in terms of their effectiveness, whether or not the expenditure of taxpayers' money is getting to the people it is designed to assist. For a program such as welfare, the job is evaluating whether it is indeed accomplishing what it set about to do, and that is to help people who need help and then to help those people into a position to help themselves. Is that happening? The answer is no.

So, if you would like to have different results, I think it is imperative that you change. It is pretty hopeless to look for something to happen, to continue to do the same thing and expect different results. Mr. President, that does not happen.

We have a great opportunity in the next several weeks to talk about fundamental change for the first time in 40 years; for the first time in 25 years, to balance the budget. Who would argue with the idea that we need to balance the budget, that it is not morally and fiscally responsible to balance the budget? We hear that—yes, yes, that is a good thing to do. But, when we seek to do it, all we hear is resistance to it.

We are going to do that. We are going to save Medicare, and Medicare has to be changed to be saved. We are going to reform welfare. These are the things we are setting about, necessarily, to do.

It is tough when you talk about change. It is hard to change the direction of Government. It is increasingly difficult as the Government is in more and more programs, that more and more people are involved in lobbying for those programs, that more and more people are involved in the bureaucracy that supports those programs. So it is difficult to make change.

Change is what President Clinton talked about almost 3 years ago when he was elected. Has he brought about change? The biggest change was the largest tax increase we have had in the history of this country. But I think change was the basis for the 1994 elections. I think change is something that almost everybody embraces, but it is difficult to do, and I do understand that. But if we are to have different results, we have to change the way we do things.

Mr. President, we have worked now for a number of months. We are down to the critical decision time, when all this work now will result in a decision and we will decide whether we are going to balance the budget. We will decide what kind of country we want to transfer to our kids and their kids, as we go into another century.

What happens if we do not? In a few weeks we will be talking about voting on a debt extension to $5 trillion. In just a year or two, unless we change, we will find that all the available tax revenues will be used for entitlements and interest on the debt. If we do not change, we will not have a Medicare Program by the year 2002.

So, change is not an option, in my view. Change is exactly what has to be done, and, of course, there are different views of how you do it. But the idea that you use a marketing rhetoric designed to scare people and say change will devastate the programs that the country is committed to carrying out just is not the case.

I think we need to continue to say, here are the good things that happen when we balance the budget and ultimately reduce the amount of money we take out of families to pay for Government. We can reduce the growing inflation. We can create more jobs by putting more dollars into the private sector. And we can be more effective in what we do.

So we are talking about change. We are talking about public policy based on facts. We disagree, then, as to the remedy. But we ought to start, at least, by recognizing these facts that are there, that are described not by the Members of Congress but by the trustees of Medicare.

Mr. President, our time is to be shared among several of our freshman colleagues, so I would like now to yield to my colleague and friend from Georgia. And he then will be followed by another. I yield to the Senator from Georgia.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

HISTORIC DECISIONMAKING

Mr. COVERDELL. Mr. President, as my good colleague from Wyoming has noted, the contemporary custodians of this great democracy are coming upon a decision in the next several weeks that will be historic. For the first time, we will be considering major questions with regard to how we are going to govern ourselves. We will be taking under advisement major changes. We will be talking about balancing the budget for the first time in 32 years. We will be talking about dramatically changing the welfare system that has been developed over the last 30 or 40 years. We will have before us a proposal to protect Medicare, and we will be talking about lowering the economic burden on every working family and business by lowering taxes.

Obviously, when you are talking about changes of this magnitude, which I believe the vast majority of Americans believe should occur, they want taxes lowered. They are tired of a welfare program that does not work. They cannot believe we do not balance our budgets, and they are worried about a Medicare Program that is collapsing.

In the midst of this, of course, you will have very adversarial debate, contentious debate. Essentially, the debate is centered between two very different ideas about governing America. On the one hand, mostly on the other side of the aisle, we have defenders of Washington as it is, that we should not balance our budgets, it is too difficult to balance our budgets; we do not need to lower taxes—in fact, we should raise them; Medicare is just fine the way it is, put a Band-Aid on it and it will be OK; and we ought to leave the welfare system just the way it is today. Obviously, these two views take the country into the new century very differently. If we leave things the way they are, I think we are turning our back on the American people.

Coming back to my point, though, about the contentious debate, I was with a group of people from my State last week. I was very interested, as they tried to sort out these two presentations, change or leave it the way it is, and I purposely asked them were they aware of the Medicare trustees' report? They really were not.

Then I asked them: Do you know about the bipartisan entitlement commission work that was issued earlier this year? They had not even heard of that.

So the point I would like to make this morning to every citizen who may be listening is, in addition to listening to this debate, which is historic, on their own they ought to get a copy of the bipartisan entitlement commission report, which was chaired by Senator KERREY, a Democrat, and Senator DANFORTH, a Republican, appointed by President Clinton, and they should for themselves read the report, or scan it. Beyond listening to the debate going on back and forth, go get a copy of the report. It was issued early this year. Get a copy of the Medicare trustees' report for themselves and their family and look at what it says. That is not a political ad. That is not a political speech. That is just an objective statement about the condition of the financial affairs of the United States. Read it for yourselves. You can skip the ads. You can almost skip these debates, but just look at the documents themselves among your own family.

What does the bipartisan entitlement commission report say? It says that within 10 years, maybe 8, maybe 12, all U.S. resources are exhausted—all of our revenues, the vast revenues of the United States are exhausted—by just five expenditures.

The five expenditures are: Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And then there is nothing left. So we will not be arguing about the size of the Defense Department; there will not be one. And the debate that went on in the House about school lunches, we will not have to worry about that; there will not be enough to deal with it.

Five expenditures; nothing left. Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt, and it is all gone. That ought to be a wakeup call for anybody.

Now, the Medicare trustees' report came out in April. It says the first entitlement to run out is Medicare in 2001, 6 years and it is all over; there will not be any money to write a check. And then it goes on to say the Congress and the President need to take bold and corrective actions to make this program solvent.

The balanced budget that we will be dealing with in the next 3 to 4 weeks attacks all of these issues. It balanced the budget so it quits adding debt. That is a plus. It takes Medicare and tries to reconfigure it, save money, so that it stays solvent longer. That is a plus. It takes Medicaid and starts to restructure it and move it to the States so that it can be more efficiently run. That is a plus. It lowers taxes, which expands the economy, which makes it easier for us to deal with these problems. That is a plus.

Now, meanwhile, the President first said he was not going to give us a budget. Then he gave us a budget that was unbalanced as far as the eye could see. And then he said, "I'm going to give you a balanced budget. It will balance in 10 years." He has gone across the country saying that. And the Congressional Budget Office says that is phony, that that budget does not balance in 5 years, which he promised when he ran for President. It does not balance in 7 years, like the majority of this Congress is trying to do. And it does not balance in 10 years like he said it does. It is never balanced.

I do not think you have to be a math major to understand that if you just keep submitting budget after budget and it never balances, we are not going to solve these problems that these two reports have told America about.

Mr. President, in conclusion, let me just say that while these are sober messages and this is an important debate, we ought to remember that if the United States, this great democracy, this only superpower, takes control of its own finances and manages them, we will create unlimited opportunity for America as it comes into the new century. And we will start reaping the benefits very quickly.

We are going to lower interest rates because our budgets are balanced. That means every family that buys a car, borrows money to educate, or buys a refrigerator or new home saves money that they can use to carry out their mission in their own family. It means we are going to create millions of new jobs. And it means America is going to be strong when it comes into the new century, able to defend itself and its stature in the world and make this a more peaceful world and a more secure world for every son and daughter of America and the world itself.

Mr. President, we have everything to gain and everything to lose. And the decision about what this country is going to be as we get into the new century is going to be made on our watch. I like to tell Americans whenever I am speaking to them that they are sitting next to the American right now that is going to make the decision. We cannot pass this to another generation. We are going to make this decision.

If we do it right, we will have done what every generation of Americans has done, protected the great democracy and given it to the future with broader and greater opportunity.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

TAX CUTS

Mr. GRAMS. Mr. President, as an author of the $500 per child tax credit, I want to join other Republicans this morning and am very pleased to express my support for the Senate Finance Committee's tax-cut package. I want to congratulate the chairman of the Finance Committee, Senator ROTH, for keeping his pledge to fight for the entire $245 billion tax-cut package and also for making the $500 per child tax credit the centerpiece of the committee's plan.

This plan represents the true change that the American voters called for last November. Contrary to the longstanding belief inside the Washington beltway, tax dollars do not belong to the Government; they belong to the taxpayers. Cutting taxes is not some kind of reward to the American people; it is rightfully their money to keep.

Now, when I introduced the $500 per child tax credit as part of my Family First legislation in 1993, I had high expectations, but I never thought we would make so much progress so quickly. But then, again, I never counted on a revolution in 1994.

As we Americans know, revolutions do occur over tax policy. Just think of the Boston Tea Party, which paved the way toward the American Revolution, which was staged over a tax of just one-half of 1 percent. Now, that does not seem like much when it is compared to the President's $255 billion tax hike that we were fighting just 2 years ago, the largest tax increase in American history.

Then came November 1994, a second American revolution, which turned the Washington elite on their heads. With it, along with the dramatic change demanded by the voters, comes the opportunity to disprove the liberals' well-worn philosophy that your salary somehow belongs to the Government. With just one election the American people stopped this tax-and-spend trend in its tracks, and it reminded Washington to get off our backs and to get out of our back pockets.

By passing the $500 per child tax credit, the Senate will give nearly $500 million a year in tax relief to families in Minnesota every year. It will be $25 billion in tax relief for Americans across this country every year. And the benefits of this tax credit will be directed where it is needed most, and that is to the middle-class Minnesotans and all Americans who work hard, pay their bills, and finance the Federal Government with their tax dollars.

But most important, we will keep the promises we made to the American people. Minnesotans elected me to the Senate to balance the budget, reduce the size of Government, and to allow average working-class people to keep more of their hard-earned tax dollars. And the passage of the $500 per child tax credit is the best message that we can send that our promises will be kept.

While we still may need to work out all the details of this plan, we should all agree on the overall thrust of empowering people, not Government; rewarding taxpayers, not the bureaucrats; and take money out of Washington and leave it in the hands of the people who have earned it.

We cannot back down now. We must continue to push ahead in spite of the criticism that is aimed our way by the defenders of the status quo. They will try to chip away at this tax cut in an attempt to maintain the grip that they have held on your salary for the past 40 years. So I encourage my colleagues to resist these attacks, to be proud of our efforts to cut taxes, because it is the right thing to do.

Mr. President, I again commend Chairman ROTH and the majority leader for producing this tax package. I look forward to supporting a balanced budget and a $245 billion tax-cut plan here on the Senate floor. We can do both. We must. We will cut taxes and we will balance the budget this year.

Thank you very much. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

A BALANCED BUDGET

Mr. KYL. Mr. President, earlier this year the Congress had the opportunity to pass the balanced budget amendment and put an end to chronic budget deficits. As we know, the amendment failed by a single vote. A number of those who opposed it did so saying it was not needed, that Congress could balance the budget if only it had the courage and the will to do so.

Well, those of us who heard the message that the American people sent so loudly and clearly just about a year ago pledged that with or without the balanced budget amendment, we would work to balance the budget by the year 2002, just as we promised the American people last fall. Failing to address the budget problem not only threatens the economic well-being of generations to come, but also the ability of our Government today to respond to our needs.

The national debt now amounts to about $18,500 for every man, woman, and child in the country. In 1994, every American paid an average of about $800 in taxes just to pay the interest on the national accident. My new grandson, born just 5 months ago, can expect to pay $187,000 in his lifetime just to service the debt, just to pay the interest on the debt. I cannot look at him without thinking of that obligation, without thinking of our responsibility to every child like him where this Congress and the Congresses before us have run up the credit card debt and, in effect, as we leave the stage, we will be handing that to our children and our grandchildren. It is immoral, Mr. President.

The gross interest on the national debt will amount to nearly $300 billion this year. That is $300 billion of lost opportunity now, money that cannot be spent on health care or housing for the poor, nutrition, law enforcement, and defense—anything else. We cannot afford not to balance the budget given these realities.

A failure to balance the budget means condemning our children and grandchildren to a declining standard of living just because we are unwilling to pay our bills today.

Balancing the budget will not only pay dividends to future generations in that they will have less in taxes to service the debt and thus get more out of their Government for every dollar they pay, it will also pay dividends to our generation as well.

The Congressional Budget Office predicts that a balanced budget by the year 2002 would facilitate a reduction in long-term real interest rates of between 1 and 2 percent.

For business, a 2-percent interest rate reduction would result in lower investment costs, opening up new opportunities for job creation and business expansion.

A 2-percent reduction on a typical 30-year $80,000 mortgage would save homeowners $107 a month, that is $1,284 a year, or over $38,000 over the life of the mortgage.

A 2-percent reduction in interest rates on a 4-year $15,000 new car loan would save the car buyer $676.

A 2-percent reduction on a typical 10-year student loan for a 4-year private college would save students and their parents nearly $9,000 in interest costs, an 8.5-percent cost reduction.

Critics will not argue these points, but they are not willing to make the difficult choices to balance the budget either. They are avoiding their responsibility.

Frankly, as the Senator from Georgia pointed out a moment ago, President Clinton has no plan to balance the budget and, therefore, must accept key responsibility today. The CBO projects that the President's so-called balanced budget plan would result in $200 billion annual deficits for the foreseeable future. So that is not an alternative.

Let us put the Republican budget into perspective. This year, the Federal Government will spend about $1.59 trillion, a sum of money that none of us can really comprehend, Mr. President, but that is $1,590,000,000,000.

In 7 years, by the year 2002, we will be spending $1.88 trillion—$1,880,000,000,000 that is an additional $300 million, or an increase of 18 percent.

One of the areas of growth is Medicare. Even under the Republican budget, Medicare spending will rise from about $178 billion this year to $274 billion in the fiscal year 2002, that is an average increase of about 6.4 percent per year. Medicare spending will be 54 percent higher by the year 2002.

Mr. President, I was just informed before I came over to the floor that my office has begun receiving a lot of telephone calls from seniors who have received a bulletin from the AARP warning of a cut in Medicare. With all due respect to the people who prepared that bulletin, I think we need to assure the senior citizens of this country that that bulletin is wrong; that they need not be worried about a cut in Medicare because, as I just said, under the budget that is being criticized, Medicare spending will rise from $178 billion today to $274 billion 7 years from now. In other words, we will be spending 50 percent more in 7 years than we spend today.

Total Medicare spending will be $1.6 trillion over the next 7 years, 73 percent higher than what was spent over the previous 7 years. And on average, per beneficiary, Medicare spending will increase from about $4,800 per person this year to $6,700 by the year 2002. That is a $1,900 increase. I think that it is totally irresponsible for any organization to be scaring America's senior citizens, asserting that a $1,900 increase is a cut.

The money that we are spending on Medicare is a lot of money, but we believe it is necessary to care for our senior citizens. We also know that it is necessary to prevent the Medicare Program from going broke. The Republican budget will slow the growth in Medicare because the Medicare trustees have warned us that without doing so, the system will go broke.

But are we cutting the growth in Medicare in order to pay for tax cuts for the rich? No. Revenues in fiscal year 1996 are projected to be $1.4 trillion. By 2002, they will total $1.88 trillion. That is 34 percent more than this year. So revenues to the Federal Treasury are increasing, not declining. We are proposing that those revenues just not increase quite so much, just like we are proposing that spending just not increase by quite so much; that a tax cut is not reducing the revenues to the Federal Treasury. They are still going up by 34 percent.

Many in the opposition do not want to concede that Medicare spending constraint is needed because, frankly, they like big Government—the Government that chooses the doctors people see, the procedures that they perform. They do not want to see tax relief because it deprives them of the revenue to expand Government even further into our lives.

Let me conclude by talking for a moment about our proposed tax cuts. Tax relief is really the dividend we are giving the American people from the downsizing of the other parts of the Government: The $200 million reduction in the congressional budget, which the President has vetoed; elimination of the Commerce Department, which he threatens to veto; reforming welfare to get people back to work, to strengthen families and force deadbeat dads to pay support; and consolidate and eliminate other programs. So the tax relief is the dividend to the American people for Congress downsizing this Government.

Some oppose tax relief because they do not believe the American people can make better decisions on how to spend the money that they worked so hard to earn. The Republican Party puts faith in the American people and the States. I would not be rich but I would be wealthier than I am if I had a dollar for every time somebody on the other side of the aisle proclaimed that it was necessary for the Federal Government to make these decisions because we cannot trust the States.

Mr. President, you and I know it is a whole lot easier to influence directly the people at the State and local levels who are making the decisions than it is to get the Federal Government to slow down, to change direction and to begin moving in the right direction.

The opposition's bottom line is, support big Government. They do not want to see programs and agencies eliminated. But the bottom line is that the Government is the problem. As Bill Bennett, former Education Secretary said earlier this year in testimony before the Senate Budget Committee:

> We have created a nanny state that takes too much from us in order to do too much for us. This has created inefficiency, sapped individual responsibility, and intruded on personal liberty.

Mr. President, I could not say it better. It is time for us to take a stand. Congress cannot duck its responsibility and neither can the President.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee has 15 minutes.

THE REPUBLICAN COMMITMENT TO THE AMERICAN PEOPLE

Mr. FRIST. Mr. President, I rise today to join my freshman Republican colleagues in discussing further the Republican commitment to the American people, initially made last year in the elections and carried through to today. We promised essentially four things: to balance the Federal budget, and to do that in 7 years; to end welfare as we know it; to save Medicare, to have the courage to save Medicare and, at the same time, as pointed out by my colleague from Arizona, to strengthen Medicare and preserve it for that next generation, and to not just put Band-Aids on a system that is literally hemorrhaging but to prepare that system and strengthen that system on into the next century; fourth, to reduce taxes in a way that provides relief to families with children, allowing them to keep some of the money they have earned in their own pockets, and to stimulate growth and generate jobs.

The bottom line is very clearly that the future of our Nation and the future of our children depends upon whether we have the courage to balance the budget, to save Medicare, to strengthen Medicare, to end welfare as we know it, and to give some degree of tax relief.

The current path of this country leads to uncontrolled Federal spending and borrowing, skyrocketing annual deficits—$200 to $300 billion by the year 2000 and even higher deficits thereafter. In fact, the deficit spending increases approximately $320,000 every minute, which means just in the short period of time that I have been talking, it has increased about a million dollars.

Our current path leads to another $1.2 trillion added to our national debt. It is unacceptable. It will bring, by the year 2000, that debt to about $6.7 trillion. Our current path, if we were to do nothing, leaves a Medicare Program that goes broke, a Medicaid Program that doubles in size, with no tax base that can support that.

Our current path, if we do nothing, leads to an enormous, unsustainable tax burden on young workers, on our children today, who will be forced to face an 82-percent tax burden over the course of their lives. Unless we do something, and do something courageously and aggressively, our current path will lead to the first generation of Americans in our history who have fewer opportunities than their parents.

What will happen if we balance the budget? The Senator from Arizona pointed out a number of interesting facts. Again, we have to face the truth. We have to return to see what the facts actually are. A lot of scare tactics are being used today—especially in the field of health care, against our seniors—which are in essence, I think, cruel. In that same debate, we have to come back to the facts of what can be accomplished, what the realities are today.

Similarly, by just balancing the budget, what are the facts? Economists calculate, again—everyone that has come through—that interest rates will fall incrementally by 1 to 2 percent once we balance the budget. The higher interest rate people pay today because of the debt means that people pay more for car loans, for mortgages, for credit card balances, and for equipment for their small businesses.

Thus, if we can balance the budget—and we need to do it within 7 years, again, with no phony numbers, but accurate numbers—we can do the following: lower interest rates, which to the average family will mean that they can save as much as $1,200 each year on a $75,000, 30-year mortgage. It means on the purchase of a car, say $15,000, over the life of that loan a family will be able to keep $1,000 additionally in their pocket to invest, put in their small business or to put in education. For a typical credit card balance of $1,800—which is what it is in this country—an individual or family will save $36 per year by just balancing the budget. Over the next 6 to 8 weeks, the blueprint will be out there. A family can save as much as $1,100 over the life of a loan on a small business or for a typical piece of farm equipment.

For business, lower interest rates will mean that businesses—by that, I mean small businesses—one- and two-person operations, as well as large businesses—will be able to grow because an investment will cost less. Profit margins will exist or be higher. Short-term loans will be less expensive. Inventories will cost less to store. Expansion will increase and innovation will be less costly.

By simply putting a blueprint out there in law over the next 6 to 8 weeks to balance the budget, we will also, in addition to allowing interest rates to come down, allow businesses to grow, new jobs to be created. And as businesses invest and grow and our Nation's output begins to rise, opportunities for every American will expand. According to recent studies, as many as 6 million new jobs—new jobs—will be created.

According to a well-known economic forecasting firm, if we balance the budget by the year 2002, the gross national product will be $170 billion higher than if we do nothing and we do not balance the budget. That represents, overall, a 2.5-percent increase in productivity for businesses. That translates down to an average family's standard of living being increased by about $1,000 a year.

What does it take? Courage. It takes us acting as elected representatives in a responsible way. The outcome of the budget battle will clearly determine in what direction our country will move for the remainder of this century, the next 6 years, but also well into the next. It will take the courage of each of us, the President of the United States, every Member of Congress, and every American citizen, to make sure that the direction we choose is the right one.

We will either have the courage to make tough choices, to face facts, so we can march into the future secure in the knowledge that the promise of America will be as bright for our children as it was for our parents.

The alternative is to sink deeper and deeper into debt, until the despair that many Americans now register in the polls will be justified. The President talks a lot about common ground today, but really what this country needs is common sense—common sense and the courage to carry out the blueprint.

Thank you, Mr. President.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

THE MISSION BEFORE US

Mr. SANTORUM. Mr. President, I rise to join today with my freshman and sophomore colleagues to talk about the mission before us here in the next several weeks. We here in the Senate, and in the House, and the American public are now focused on the mission at hand, which is to try to balance this budget over the next 7 years and come up with a plan for reforming a number of areas of Government.

It is, I think, one of the most important times in our country's history, certainly from a financial standpoint and a long-term economic security standpoint. I think this debate is as important as the debate that occurred during the Great Depression when we were trying to right the ship of state and preserve a long-term future during that crisis.

We are at a similar crisis, I believe, in our country's time, with the mountains of debt that we continue to pile up, and, really, no end is in sight. The fact is that we have over half of our Government on automatic pilot, spending money without any idea of how much it is going to go up. We have projections that Medicare is going to go up 10 percent a year, Medicare 8 percent a year, whatever the case may be. But we do not know what it is. We add up the bills at the end of the year and that is what we pay out.

Can you imagine a family or a business saying, well, half of the money we spend, we have absolutely no idea what it is going to be at the end of the year because we promised people we were going to pay these things, and whether we have enough money or not, it does not matter because we promised we were going to pay it. That is the insanity we are in that causes the deficits to be at this level—now almost $5 trillion in the national debt.

We have an opportunity to do something about that now. It is really the first time since I have been in the Congress—I was in the House 4 years prior to coming to the Senate. This is the first chance I have had to seriously address the issue which, when I first got elected to the House of Representatives, I promised I would come down here and do—to do things differently, to put our fiscal house in order, to establish America—as many speakers here talked about the moral authority of a Government that lived within its means and understands that we cannot continue to tax and penalize and put through very difficult times, because of the excesses of today. I think we have that moral obligation to act from that perspective.

We also have an obligation, I think, a moral obligation, to act from the perspective that we promised. We promised back in 1994—and many of us who ran for office promised many times throughout our careers—we promised to come to Washington and seek to balance the budget.

It is not an easy thing to do. I think if it was easy, it would have been done a long time ago. It is difficult. I think the American public understands it is difficult. But we promised. We have a Contract With America that says we will balance the budget.

I think almost every Member on this side, and I know many Members on the other side when they ran for election talked about how crucial it was for the long-term future of this country to get our fiscal house in order and to balance the budget. We promised.

You can put up all the arguments, charts, and graphs and say we should do this because it will help future generations, we are going to do this because it will lower interest rates or it will create more economic growth, or we will get rid of wasteful programs or create more freedom and opportunity, we will reform the welfare system, we will save Medicare.

Those are all very good reasons to balance the budget. All very good reasons why we should act on the reconciliation package that will be coming up in the next several weeks. I have listed only a few. There are innumerable reasons why we should balance this budget. Possibly paramount among all of those is the fact that we promised.

One thing I have heard from people, whether it is Democrats or Republicans, liberals or conservatives, the reason they are so disgruntled with government, whether it is at the State or national level, is there is a lack of trust that people who get elected actually follow through with what they promised when they run their campaigns. There is a dislink. There is the politician the candidate, and then the politician the elected official. What one says during the campaign does not jive with what one does when they are elected to office.

We elect leaders of this country who promise all sorts of things and come down and do exactly the opposite. Then you ask people, how can you support someone who does that? Well, they all do it. It does not make any difference. They all say what they need to say to get elected. But they all do it. Why is he or she any worse than the rest? We can forgive that, I guess.

I think those days are gone. I do not think the public will forgive that any more. I do not think they should forgive it in the first place, and I hope they do not. I think the least people should expect out of their elected representatives is they keep their promises. We made 10 promises in a Contract With America. I think probably paramount of all those promises was to balance the budget.

Promises are important. If people do not have faith in their elected officials and institutions, that erosion of faith in support of our Government has very long-term consequences to the future and safety and freedom of this country.

This is a big one. This is not a little white promise, a little white lie that we will tell. This is a big one. This is a major promise that we made to the American public.

I heard a preacher the other day tell the story about this subject—not the balanced budget—but about the importance of that trust. He talked of a man who headed up a college, I believe it was in South Carolina, a Bible college.

His father had started this school, and all throughout his life growing up his dream was to succeed his father and run this school where people would have their avocation to become preachers and ministers. This was very important for him. He felt it was a calling from God to do this.

He did. He succeeded his father in that position and ran that college very, very well. Unfortunately, his wife of many years contracted Alzheimer's disease. Alzheimer's is a devastating disease that eventually deteriorates the mind to the point where a person is no longer able to take care of themselves and needs full-time care. This happened to this woman at a very young age, unfortunately. She did deteriorate to the point where she was simply not able to take care of herself and needed full-time care.

This husband, the man who had been called to run this college, this passion of his, decided to resign as president of the college, to take the time and spend the time to take care of his wife, who was a victim of Alzheimer's.

His friends and people on the board of the college came up to him and said:

> Why are you doing this? She has Alzheimer's. She has no idea who you are. She has no idea who is taking care of her. Anyone can take care of her. Anyone can take care of her. You have a calling. You are serving the Lord. You are doing what you are good at. You may be the only one who can do this. How can you leave that to do something that anyone can do?

He said two things. First, he said: "She may not know who I am, but I know who she is and I promised her when we got married to be there until death do us part. I promised."

Promises mean something. Promises are important for relationships, for the future of this country, between its elected representatives and the people. We promised. Now it is time to deliver. I yield the floor.

Mr. DEWINE. Mr. President, I inquire of the Chair how much time is remaining on the time of the Senator from Wyoming?

The PRESIDING OFFICER. The time is 13 minutes 20 seconds.

RECONCILIATION

Mr. DEWINE. Mr. President, I want to congratulate my freshman colleagues who have been on the floor the last hour. I think they have brought to the floor today an understanding of what this national debate that is going on is all about and what the debate that we will be having for the next few weeks in this Chamber is all about.

It is appropriate that the freshman Members, myself included, are making this debate today as we have in the past, because we were the ones who came through the last election and listened to what the American people had to say, as, of course, all our colleagues did. In a sense, we were a little closer to that.

My colleagues who preceded me today have talked very eloquently. I think if I could summarize, I would say that what they have talked about is to try to give us real understanding about what this debate that we are engaging in this Congress is all about.

The term "reconciliation" may be a term that is not familiar to the American people today, but I suspect in the next 3 or 4 weeks it may become more familiar.

We are going to be talking about a lot of specifics that are contained in the reconciliation bill. We will talk about some provisions of this bill that, frankly, I may not like. I suspect there are few Members on this floor, if they were very candid, who would not point out a provision or two or more of the reconciliation bill that we will be considering that they may not like.

But, instead of focusing on the minutiae, I think it is important for us to step back, as we tried to do during this last 50 minutes of debate, and keep our eye on the ball and talk about the big picture and what is at stake.

My colleague from Pennsylvania, Senator SANTORUM, who just concluded, I think, said it very, very well when he talked about promises that were made. What are those promises? What were those promises? How will this Congress be judged? I think we will ultimately be judged on four things, the four big promises that were made.

First, to balance the budget; to do something that this Congress has not done since I was a senior at Miami University in Ohio in 1969—a long time ago, a quarter of a century—that is to balance the Federal budget, and to set us on the path so that we will, within that reasonable period of time of 7 years, have a balanced budget and do something we have not done for a quarter of a century and to make sure the figures are real, the promises kept.

Second, to save Medicare. I use the term save because, as my colleague from Tennessee, who is currently presiding, has very eloquently pointed out, that is what this debate about Medicare is really all about: to save it, to preserve it, to strengthen it.

Third, is to reform welfare. We passed a welfare bill. The House has passed one. We understand if we are really going to change the direction of this country, we have to first start with a change in welfare.

And the fourth: commitment. The fourth thing I think this Congress will be judged on is our commitment to have a modest tax cut—it is a modest tax cut—for working men and women in this country. So, I think it is important for us to truly keep our eye on the ball.

Let me conclude by saying the comments of my colleague from Tennessee I thought were most appropriate as was the chart that was displayed here a few moments ago. What these promises, once they are kept, will really do is to improve dramatically the quality of life for the average man, woman, and child—particularly child—in this country. Because, as he so eloquently pointed out, interest rates and other things that silently affect our ability to purchase a home, for a young, newly married couple to purchase a home, have their interests rates down, to have a newer car, a safer car, all of these will be affected by what we do with the Federal deficit. The quality of life of people who are struggling to get out of poverty will be affected by what we have done and will do in regard to true welfare reform.

I think sometimes we forget the big picture. Sometimes we spend a lot of time on this floor talking about individual bills, which we should, and what impact some small bill, relatively small bill, is going to have on individuals. Sometimes we forget what we do in regard to the big picture, what we do in regard to welfare reform, what we do in regard to a meaningful tax cut for working men and women, what we do in regard to balancing the budget, what we do in regard to saving Medicare. This big picture will affect, ultimately, the quality of life of our children much more than what we do on any individual program.

I again congratulate my colleagues, congratulate my friend and colleague from Tennessee, whose statistics and chart I think pointed that out very, very well. So, as we head into this debate and as we talk about the minutiae of reconciliation—I see my friend from New Mexico, the chairman of the Budget Committee, who is, obviously, going to be involved very much in that debate—I think it is important to keep our eye on the ball, keep our eye on the commitments, what we told the American people we were going to do, why we were coming to Washington. And, as we cast these tough and, frankly, very unpleasant votes we are going to have to cast in the weeks ahead, it is important for us to do that, to keep our eye on the ball and remember the big picture.

Remember, it is the big actions that we take in the four areas I have talked about that are going to impact the quality of life of our children and our grandchildren much more than any one particular bill, any one particular amendment, any one particular vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there any order that we have agreed upon? I do not want to impose if there is.

The PRESIDING OFFICER. Senators can have up to 5 minutes. The Senator from Illinois has 45 minutes reserved, which he has not yet used.

Mr. DOMENICI. I wonder if we could complete our argument in about 6 or 7 minutes and then the Senator could have his time?

Mr. SIMON. I yield to my colleague from New Mexico, as I almost always do.

THE PRESIDENT'S BUDGET

Mr. DOMENICI. Mr. President, I am very, very proud of the Republican Senators who have taken to the floor today to talk about the most significant issue for the American people, all of the American people. I know some ask, on whose side are we? We are on everybody's side. Because if you do not get a balanced budget, sooner rather than later, you are probably never going to get one. And if you do not get one soon, you are literally giving away a legacy to the next generation and the next generation that could have been prosperity, economic gain, a better chance to take care of yourselves—you are giving that away by imposing a silent tax on all the young people, all the children yet unborn, where they will have to pay our debt.

You cannot escape it. Some say, what is this debt? This debt means that millions of people, banks, insurance companies, foreign countries, lent us money. We gave them a nice little promissory note, and we said: "Thank you for lending us the money. We will pay you back."

So we owe it—in fact, we owe part of it to the Social Security trust fund.

Frankly, sooner or later, the bell will toll. And this is our last best chance to get a real balanced budget. When they ask who are they who are for it, a vision comes to my mind of a big American shopping center with people in the center from all walks of life. If you are in a shopping center in New Mexico, you will see a cowboy with cowboy boots, and you will see a dressed up, almost aristocratic person, and then you will see all ages, some with new T-shirts with their latest words on it of support for the Bulls or the Cavaliers or even the march.

All of those people—not one piece of them, all of them—anxiously expect that the U.S. Government will not let them and their children down as we promise them a decent life and, if they will work hard, a decent return and if we will do our job, that they expect a little better life with each passing decade.

Almost all of that is tied up in whether we get a balanced budget, Mr. President. And I thank you very much, I say to the Senator from Tennessee, for your comments of just how important to every day events a balanced budget is.

I wish to talk today about the President's budget, and I do not know if Members on the other side are up here in the Chamber defending the President's budget. I think we voted on his first budget, did we not, in the budget debate? And I do not think one Senator voted for it. We all forget that. Not one. I think every single Member including everyone on that side voted no.

Now the issue comes, since the President gave us a new budget about 3 months ago, how many on that side of the aisle would vote for it. I am going to try in about the next 5 or 6 minutes to convince the American people that none of them would, and that a great big hoax is being perpetrated on the American people by the President.

So let me start by saying to all of you if you do not have to cut anything because you have jimmied up the numbers, you can run across America beating up on the Republican budget. You can say I did not do that. I do not have to do that. You can say I wish to go slower. I do not want to change the programs that fast.

Let me remind you. The only way you can do that and have a balanced budget is to phony up the numbers.

Let me give you a little history. In the Reagan era, there became a rather famous asterisk which I think my friend, Senator SIMON, recalls, the Stockman asterisk. My memory is not precise; it was either $24 or $34 billion. It was sort of we don't know how we are going to get that last amount, but let's just put an asterisk there and say we will get it.

Now, friends, the President of the United States has a $475 billion asterisk. And it says I changed what the Congressional Budget Office says, the authenticator of the budget. In whose name and under whose power did the Congressional Budget Office become the authenticator of the budget? None other than the President of the United States.

Two years ago, in a State of the Union Message, he said the CBO was normally more conservative in what is really going to happen and closer to right. Why is it, I say to my good friend, Senator SIMON, who is advocating a balanced budget, who came down here talking about a constitutional amendment, why is it that the President of the United States decided 1 year after he admonished us to abandon the Congressional Budget Office and do what? Use his own numbers. You know he has experts. The Congressional Budget Office is the expert for everybody. He has an OMB. He has economic advisers, I say to my friend from Tennessee, and what he decided to do was to let them make the predictions for the future—make the predictions for the future.

The best I can tell you, fellow Senators and Americans, it is tough to explain, but I looked around for an explanation of what the President has done, and the best I could find is the former Congressional Budget Office Director. If he is not a Democrat, he is an independent but, indeed, he is independent and here is what he said about how this administration got to the balanced budget that they run across America now and say we are not like those bad Republicans because we do not have to do all those things.

Listen to a quote from the former Director, a very simple quote:

> The administration conveniently lowered the bar and jumped over it.

> The administration conveniently lowered the bar and jumped over it.

That means if the world record was 6 foot 6 on the high jump, and the Republicans had jumped it, the President comes along and what does he do? He lowers the bar and then jumps it. So he puts it down to 6 feet and he jumps it, and he said, lo and behold, I set the same record you did.

If the bar is the balanced budget and the President decides with his own experts to lower the bar and jump it, what does that tell us? Mr. President and fellow Senators and Americans, it tells us that the Congressional Budget Office is warning us that if you use the President's bar, the lowered bar, you will never get to balance.

I do not want to take a lot of time talking about the manipulation, the smoke and mirrors. In fact, it is so much smoke and mirrors I was trying to find a new word or new words to describe it, but I cannot. Somebody suggested the fog machine instead of smoke and mirrors. But let me just give you an example of what has happened.

I say to Senator SIMON, had your balanced budget constitutional amendment passed and the Senate had come together and said it is law now, let us have a balanced budget in 7 years, and we said let us listen to the Congressional Budget Office on how we should do it, and we did it, along comes the President and he says, "Whoa there. You do not have to do all that." In fact, he said in his second budget you can get there by doing $475 billion less. Got it. He lowered the bar $475 billion.

Let me tell you just precisely how he did that. I do not know if in his negotiations he lowered the bar a little bit at a time or just waited around until his own estimators lowered it all the way, but here is what he did.

First, Medicare spending will come down over 7 years by $55 billion. Got it. Fifth-five billion dollars less in Medicare savings, I say to the occupant of the chair. But he did not change anything about the program. He did not say this or that or the other. He just said it is going to cost less.

I ask for 3 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. He merely said we have decided that Medicare will cost $55 billion less. Put it down. Take the bar down $55 billion. He did not change anything, did not reform anything, did not make it more solvent excepting that they came up with new numbers on what it would cost and disagreed with the Congressional Budget Office, which we were told to follow, which we think is closer to right over the last 14 years, especially long-term figures, much more accurate than Democrat or Republican executive branch estimates.

Medicare, the bar has been taken down by $55 billion. Now he comes along and says, do not worry so much about Medicaid because it, too, is going to come down, I say to the Senator from Illinois, on its own. You do not have to change anything. It is going to come down $68 billion. So he brought the bar down $68 billion.

He has not done anything yet, has not changed the program, has not reformed an entitlement, has not cut a single program of any type but now that is $68 billion. And then he looked out at the farm subsidy program, other pensions and the welfare programs and he said oh, even if we do not change anything, they are going to come down $85 billion.

Now the bar has come down $55 billion in Medicare without changing anything, $68 billion in Medicaid by wishing and hoping that it will not cost so much, $85 billion from farm pensions and others, and we are not there yet. Hold on—$70 billion from lower interest rates. And then, believe it or not, $175 billion because he assumes better economic assumptions, rosy economic assumptions. They will say they are small. The differences with the Congress are small. That one is $175 billion without changing anything.

When you add them up, $475 billion that we had to work at, to change programs, to say entitlements are coming down instead of going up, the President of the United States found them like a bird's nest on the ground by putting his team together and saying it really is not going to cost all that much to run our Government. So why do we not just change the numbers?

Now, let me suggest to everyone who takes the floor and says to the Republicans, "You should not be doing this, you should not be doing that," I ask them, are you following the President's blueprint in suggesting that we do not have to do that? If you are, you will be startled, and so will the American people, because if we did it your way, there would be no balanced budget come time that we commit it.

I ask unanimous consent for 1 additional minute. I will wrap it up now.

Mr. SIMON. I will be generous with my colleague.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator. Let me say this is part of the reason that the U.S. Congressional Budget Office has said the President's budget never comes into balance.

But I think it is more serious than that. It is the real reason that the President can stop over here and there picking the issues and say, "The Republicans are cutting too much. We ought not have to do that. We can take a longer time to get it," when, as a matter of fact, if we did it his way, we would be inventing 475 billion dollars' worth of reductions that the experts say are probably not going to happen and running around and saying, "It doesn't matter which budget, they are both in balance." I submit that is not the case.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the remaining time is under the control of the Senator from Illinois and the Senator from Iowa.

Mr. SIMON. I ask unanimous consent, Mr. President, since we originally agreed to 45 minutes, that the time be extended to 12:45.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

STUDENT DIRECT LENDING

Mr. SIMON. Mr. President, Senator HARKIN and I are going to talk a little bit about direct lending and what is happening in the area of student aid. Here is an area where we can save real money. It is very interesting what happened when direct lending was under consideration. Sallie Mae, the student loan marketing association which we created—the chief executive officer of Sallie Mae, I say to the Presiding Officer and about to be Presiding Officer—they said that direct lending would cost the average school $219,000. Here is what they said in their letter of March 31, 1993.

> As a result of our indepth visit with 10 schools, it is abundantly clear that direct lending will mean increased costs, additional personnel, and upfront investment.

This is Sallie Mae. They had big ads about what a great job they are doing. And they have done some good.

(Mr. ASHCROFT assumed the chair.)

Mr. SIMON. What is the experience now that we have had direct lending? The experience, Mr. President, is that it cuts redtape, it eliminates layers of bureaucracy—how many speeches have we made about that on the floor—uses competition and market forces, and is simple and consumer friendly, promotes accountability, is flexible, and provides educational opportunity.

My colleague from Iowa went to Iowa State University. Instead of having the experience that Sallie Mae talked about, Iowa State University has been able to shift four people from student loans over to other fields, and they have canceled eight computers, at a savings of $200 each month. Less bureaucracy; direct lending.

Here is a student newspaper. "Direct Loan Ends Long Lines," from the Daily Egyptian of Southern Illinois University. The Milwaukee Journal, "Direct Student Loans Pay Off." The Chicago Sun Times, "Direct Loan Program Is Good Deal for All." The St. Louis Post-Dispatch—Mr. President, I know the Presiding Officer is familiar with that newspaper—"Loans Should Help Students, Not Bankers." The St. Louis Post-Dispatch is right.

"Student Loans: The Wrong Cuts, With This Vital Program Republicans Appear to Prefer a Wasteful Monopoly to Effective Competition." That is the Washington Monthly.

The University of Florida. Here is their experience in the first week of classes under the old program. They had $3.7 million in for students. Their first year under direct student lending, the first week they had $9.1 million. But this current year, $21 million in the first week. And it is similar in the other statistics here.

The University of Colorado in Boulder, under the old program, 3,068 loans disbursed; under the new program, the first year 4,800, the second year 6,500.

Here is a USA Today editorial: "Banks Cash In, Taxpayers Lose on Loan Program." And then it says in a subheading in this editorial in USA Today, "Congress in a sweet deal for the banks is on the verge of killing direct student loans."

We hear a lot about unfunded mandates around here. If we go ahead with the bill that came out of our committee, Mr. President, what we are saying to the banks and the guarantee agencies is, "You have an 80 percent monopoly, 20 percent will be limited for direct lending."

In my State of Illinois, because they have seen what a good program it is, over half the loans right now are direct loans. It is interesting that not a single college or university that has gone to direct lending is moving away from it; not a single one anywhere in the 50 States, including Missouri and Illinois.

Unfunded mandates? What we are doing is we are imposing costs on universities if we do not take that 20-percent cap off and permit choice—that is all I ask. I am not going along with the administration that says it ought to be 100 percent direct lending. I recognize that would save money. But let us give colleges and universities the choice. Let competition prevail.

What did we do in order to somehow make the old program, the guaranteed loan program, appear to be a money saver? Well, in the words of the Chicago Tribune editorial, "Cooking the books on student loans," that is what we did. We passed in the budget resolution a provision that said on the old guaranteed student loans, "You will not count administrative costs, while you will on the direct loans."

We asked CBO—and my colleague who is presiding, and I see my colleague from Michigan here—we asked CBO, "If you don't take this rigging that took place in the budget resolution, if you just put under the old law what we would save or what it would cost"—under the old Congressional Budget Act the cost of going to this 20-percent limitation would be $4.64 billion instead of a phony savings—I heard Senator DOMENICI talking about phonying up numbers. That is what we did in a major way in order to protect the banks and the guarantee agencies. I think we have to do what is right.

Our former colleague—and, Mr. President, you did not serve with him nor did the Senator from Michigan—but Senator David Durenberger said, "This is not the free market. It is a free lunch." He is talking about the old guaranteed student loan program.

Take a look at the numbers of Government personnel involved in the old program: 2,500 or more in the guarantee system, only about 500 under full direct lending. And this does not count college and university personnel. Every college and university says that a direct loan program reduces paperwork, reduces personnel demands. Just take a look at the personnel under the Federal Government and the guarantee agencies paid for by the Federal Government under the direct loan program and under the guaranteed loan program and add on top of this, Mr. President, the colleges and universities.

Now, why, if this is so obviously good, why are we having opposition? Why do we have this 20-percent limitation? The banks, my friends—and I am all for healthy banks; I have a house mortgage on my home in southern Illinois—the banks make more money on student loans than they do on house mortgages, on car loans, on any other enterprise other than on their credit cards. And they are interested.

And the guarantee agencies are interested. Take a look at what happens—forget all the other things—what happens on the collection of defaulted loans. Under the old program—Mr. President, I direct this to you because I know you are a fiscal conservative. Under the old program we want to guarantee 80 percent to the old programs. We say to these financial institutions, "You get 27 percent on defaulted loans for collection."

Take a look at what happens under the direct program. Instead of just giving people a monopoly, we put it out for competitive bidding. Do you know what it is turning out to be? Fourteen percent. You want to save money? Here are millions and millions of dollars that you can save.

Why are the guarantee agencies, which do not have—these are not stockholders. This is not private enterprise versus Government. It is Government versus Government. But the guarantee agency in Indiana, called USA Group—their CEO incidentally, Roy Nicholson's 1993 salary was $619,949, not too bad for an agency that does not have any private funds in it. We pay the President of the United States $200,000 a year. They are spending $750,000 to lobby against direct lending. This is just one group.

Let me tell you, this Guaranteed Student Loan Program was fine for its time, and I would say in fairness to these groups, they helped students when we were trying to find our way, but we certainly ought to do it the right way. I ask unanimous consent, Mr. President, to print in the RECORD a letter from the president, Dallas Martin, of the National Association of Student Financial Aid Administrators.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 16, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SIMON: On behalf of the National Association of Student Financial Aid Administrators (NASFAA) representing professional student aid administrators at over 3,100 postsecondary institutions across the nation, I am writing to strongly urge you to include in any floor amendment to the Reconciliation bill four provisions to benefit students and postsecondary institutions. We believe any amendment must include retention of the grace period for student loan borrowers; elimination of the .85 percent tax on annual school loan volume; allowing schools the choice to join in the Direct Loan Program without elimination of current participating institutions; and, retention of the current interest rate calculation and caps in the PLUS loan program. Each of these provisions is so critical for students and postsecondary institutions that NASFAA would seriously consider not supporting any amendment package that does not include each of these four provisions.

Retention of the grace period is important to ensure students do not have even greater loan debt as they begin their chosen careers. Depending on how much a student borrowed, elimination of the grace period would add up to $2,500 to their loan debt possibly leading students to alter career plans, default in greater numbers, or defer major life and consumer decisions for the future.

Every student in the country and every postsecondary institution would be affected by the .85 percent tax on a school's annual loan volume. If this fee is approved, postsecondary institutions would either cut their budgets in various areas leading to decreased academic or student services, or schools will pass this cost onto their enrolled students in the form of increased tuition or fees. This would be an unfortunate escalation of student costs imposed by Congress at a time when American families are already having difficulties financing postsecondary education.

NASFAA believes Congress should follow through on its earlier commitment to operate a Federal Direct Loan Program, along with the Federal Family Education Loan Program for a minimum five-year period. In 1993, when the William D. Ford Federal Direct Loan Program was authorized, institutions were assured this new program would operate for a minimum five-year period in order to determine whether such an approach might prove more cost-effective and efficient than the existing Federal Family Education Loan Program. For the first time in many years there is healthy competition occurring between the two Federal loan programs.

The quality of service being offered by both programs, however, is much better than it was with a single program, and students and institutions are being better served. Therefore, NASFAA supports inclusion in any amendment to the Reconciliation bill "plus demand" language to ensure postsecondary institutions have the freedom to choose the Direct Loan Program if that best serves the needs of its students. Under the committee-reported bill reducing loan volume to twenty percent, half of the current Direct Lending Program participants would be arbitrarily removed from that program. Further, the committee-reported bill would eliminate scores of schools from participating in the current award year since the legislation mandates a drop of Direct Loan Program volume to thirty percent in academic year 1995-96. This would not be a "minor inconvenience" to these postsecondary institutions that have invested heavily in changing operating procedures, hardware and software systems, and explanatory materials to students.

The cost of a PLUS loan could increase by as much as $5,000 unless this provision is stricken from the bill. This large increase could potentially lead to greater defaults in this program when combined with an increase in the PLUS loan cap or discourage parents from assuming their responsibility to pay for their children's postsecondary education expenses.

NASFAA is thankful for your leadership efforts to develop an amendment reducing the impact of cuts mandated by the Reconciliation bill. While we appreciate your efforts, again, NASFAA must strongly urge you to include in any amendment all of the above four elements benefiting students, families, and schools.

Sincerely,

DALLAS MARTIN,
President.

Mr. SIMON. Mr. President, they say what I think makes sense: Give people the choice. We are going to have an amendment to do precisely that.

Then, finally, Mr. President, the inspector general of the Department of Education testified that with these guarantee agencies who are handling Federal funds, we have $11 billion at risk. Indiana University, "What we have learned": Ninety percent less paperwork, this is under direct lending; 25 percent fewer errors, easier adjustments, faster disbursement.

Director of financial aid, University of Idaho:

> On registration day, we had 46 percent more funds available for students who did not have to wait for the whole process. Every school that has gone with the direct loan program sees it as a simpler program for students. It saves taxpayers money and provides the students with more options.

Kay Jacks, director of financial aid, Colorado State University:

> I can hardly talk about eliminating the direct lending program without crying. Students are happy, universities are happy. Why they want to cut it, I just don't get it.

Every college and university, I repeat, that has the direct lending program wants it to continue. Not a single one wants to back off.

It ought to be clear, Mr. President, that we ought to give colleges and universities choice, and when reconciliation comes up on the floor, there will be an amendment, I hope a bipartisan amendment, which will save money for taxpayers, save paperwork, give colleges and universities the choice. That is what it ought to be about.

One other not so minor point, Mr. President, under the old program, many, many students could not qualify. Under the changes we made when we first adopted this program, any student can qualify, including middle-income students. I hope we do the sensible thing.

I am pleased to yield the remainder of this time to my colleague from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank Senator SIMON for his statement. I want to also thank him for being a great leader on direct lending all these years and especially the statement just made this morning.

I might differ one little bit from my friend and colleague from Illinois. I happened to have gone to college in the late fifties, and I remember a program came in under the Eisenhower administration. I did not have it my first couple years of college, but I had it in my last years of college, the National Defense Student Loan Program, a direct lending program. You went to the window and got your money.

I always thought it was a great program for a lot of reasons: You got your money right there. There was not a lot of hassle. It was right there at the school. And then when you got out of college, well, if you went in the military, you did not have to pay anything. No interest accrued on the loan during the time you were in college.

If you went in the military, no interest accrued during that time or if you went on to school after that. I am quite frank to admit that after college, I spent 5 years in the military and then 3 years in law school. I had a year's grace period after that. So no interest accrued for almost 9 years from the time I graduated from college.

For someone like me whose parents had no income at all—my father was on Social Security when I started college, very modest Social Security, we had no assets whatsoever—it was a godsend. So I always thought it was a great program.

Then we went to the guaranteed student loan program. Maybe it did work all right for a period of time. But, the banks, frankly, made a lot of money on that. Fine, good, that's their business. But why should we continue doing business as usual when we have a better way of doing it, and the better way of doing it is the direct lending program.

The Senator from Illinois started his comments by saying about how the long lines have dwindled. I always say one picture is worth a thousand words. This is at the University of Northern Iowa, one of our regent schools in Iowa. This is a picture last year before we had direct lending. This is the line for students to get their guaranteed student loans and get it processed. These are all the students that are having problems with their loans.

I was told the picture does not do it justice, because if you look back to the doorway, the line goes on down the hall. But you get the idea. There is a line of students waiting to get their guaranteed student loans. That was last year. They have now instituted direct lending.

Here is the same picture, same place, same financial aid office. No lines at all. No one waiting in line, and that has been the story at all of the schools in Iowa that have used direct lending. We have 38 Iowa schools right now. What I have heard from all of them is just positive comments about how the direct lending program is working. No lines, no hassle, students get their loans, and they are able to get about their business of studying.

Earlier the Senator from New Mexico was on the floor talking about the budget. We do have to bring our deficit down. No one is arguing about that. The Senator from Illinois has been a leader in the effort to reach a balanced budget and to get us moving toward a balanced budget. That is not the debate here. The debate is how we get there, out of whose hide do we take it? Who pays the most? Who sacrifices the most? That is the debate. I am sorry I have to disagree with my friend from New Mexico. He makes it seem as though the debate is whether or not we are going to have a balanced budget. That is not the debate. We all agree on the need to bring down the deficit. The debate is how, who pays, and what is the end result if one group pays more than the other.

I daresay that if we are going to take it out of the hides of our students, if we are going to make it tougher on middle-income and below-middle-income students to get a college education, then I daresay that our deficit will not come down, it will probably grow in the future. To get out of the debt we are in, we are going to need the best work force possible, the most motivated, and you are not going to get out of our debt situation, you are not going to lower our national debt by increasing the debt of students in college.

The Senator from Illinois—and, again, I commend him—has been a leader in this effort. I might also add, Mr. President, that Iowa State University, my alma mater, was one of the first 104 schools to participate in direct lending. Last spring, Earl Dowling, the financial aid director, testified at an oversight hearing on direct lending. He told the committee that ISU is running a larger loan program with fewer staff. That is not a bad deal. He has been involved in the administration and management of student financial aid programs for 23 years and said, "Direct lending is the first new program in those 23 years that was such a definite improvement over its predecessor."

The financial aid director for the University of Northern Iowa, Roland Carrillo, said that direct lending has been a "resounding success." He said, "* * * there is no question that direct lending is the most efficient method of delivering financial aid dollars to students."

As the Senator from Illinois pointed out, in the collection of those loans later on, we pay less money under the direct loan program by putting out for competitive bids than we did under the old program. So, again, Mr. President, the direct lending program has worked. It is working well. The last thing we need to do is throw that overboard, in some kind of mistaken idea that somehow this is going to help reduce the deficit. Absolutely not. It is going to do just the opposite. I want to take most of my time, Mr. President, to talk about taxes and about the taxes that are being levied by the GOP's proposal that will be before us here in the so-called budget resolution. There is going to be a lot of talk about cutting taxes. I understand there is a big tax break in that bill. But what is not going to be talked about, and what I want to talk about, are the hidden taxes that are included in that reconciliation bill that will be before us.

As I said—and I will keep repeating the argument—the debate is not about reducing the deficit. It is, who pays and how much do they pay, and does it reach a good result in the end? It will be middle-class working families already pinched that will be asked to pay these new hidden taxes, stealth taxes. Most Americans will get less, but pay more, so that a few people on the top can get a tax break.

People ask me, Mr. President, to describe what is going on in Washington these days and I say it is not easy to explain it. When ideology gets ahead of common sense, when I see the agenda of these extremists, I have to say they have turned the Nike add slogan on its head. You know, the ad that says, "just do it." I think the new motto for the GOP ought to be, "just undo it." Do not analyze, do not question, do not even have hearings, just undo it. Undo laws that give our seniors quality health care. Undo laws to protect workers on the job, and undo our Nation's commitment to quality education.

The GOP says provide more tax breaks for the wealthiest. Pump billions more into the Pentagon—$7 billion more than they asked for. Put education on the chopping block. To that, I say: We have been there, we have done that. We tried that in the 1980's, and it dug us into the biggest debt hole our Nation has ever been in. Let us use some common sense and cut down the spending for the Pentagon. Let us cut the waste, fraud, and abuse. Let us cut the tax breaks.

We do not need tax breaks now. I figured it out. It would be maybe a dollar a day, at the most, to people in the upper income brackets. I do not know what they are going to do with that—maybe buy another Big Mac and a Coke. You cannot even get that for a buck anymore. Maybe you can get a giant Coke. In downtown Washington, maybe you can get a cup of coffee. Maybe it will buy an extra cup of coffee a day. That means if we are going to have those tax breaks, we are going to have these hidden taxes on student loans.

The budget proposal cuts about $11 billion from student loans. This will result in increased student debt, a new direct tax on schools, elimination of the successful direct lending program, about which Senator SIMON spoke. The GOP plan adds an extra $700 to $2,500 of debt per student. How? By eliminating the interest subsidy during the 6-month grace period. People say, well, that is not a big deal, 6 months. Well, it is a big deal. When you are out of school and trying to find a job and jobs are hard to find, and maybe you want to get married and start raising a family, you bet it is a big deal. Well, you say maybe it is a little bit of a hit.

This is the seventh time, Mr. President, since 1981, we have increased the cost of student loan programs. It is always just a little bit, a little bit, and a little bit, until finally the straw breaks the camel's back. That is what is happening here. Not only is it more than just a little bit, what is worse about it is that the lower income the student, the higher their debt load. Why? Well, the poorer student borrows the most money, so they have the most debt. They get out of school and have to start paying interest during the grace period, and they have to start paying more money right away than higher income students. What kind of sense does that make? Well, also, the GOP plan adds up to $5,000 in additional costs for families who use the PLUS loan by raising interest rates, and a new Federal tax of 0.85 percent on colleges and universities participating. Well, they say that is not much. But it is a lot when you look at a college in my State of Iowa. Where are these colleges going to get it? They have to pass it on to students. The plan will also force at least half of the schools participating in the direct student loan program out by rolling back the successful program.

So we are going to hear a lot about tax breaks. How about the taxes that are in the GOP plan? Taxes on students, taxes on their families, taxes on the schools. All of it added together—you can say, this is a little bit here and here. But you add it all up, and it is a direct assault on higher education, a direct assault on middle and lower-income students having the ability to go to college, and to get ahead and to work and be productive members of society and help us reduce the deficit in our country.

Mr. President, I heard a comment a week or so ago in the committee about how students are going to have to sacrifice, too, because we have this big debt and we have to reduce the debt. As I said, we all want to reduce the debt. I think we ought to think about this and look at history a little bit. I know the occupant of the Chair heard me say this because he was in the committee when I said it. I will say it again because it needs repeating and repeating and repeating. Right now, our debt to gross national product is somewhere in the neighborhood of 70 to 75 percent. That is bad. I am not saying that is good. That is bad. It ought to be reduced. As our gross national product goes up, we have to start reducing that debt so that gap widens. Well, we had another period of time when our debt to gross national product was bad. That was after World War II. Our debt was actually greater than our gross national product.

Now, did President Truman and the Congress stick their heads in the sand and say, oh, my gosh, our debt is more than our gross national product, so we cannot afford student loans, to send kids to college? No. What they recognized was that the best way out of the debt situation was to send kids to school. So President Truman and the Congress passed the GI bill.

Now, I just might point out, in 1945 our debt was 122 percent of our gross national product. This year it is estimated to be 69.9 percent. I was close, 70 percent.

What happened, in 1945, our debt was 122 percent of gross national product. They passed the GI bill. Mr. President, this was not even a loan. They gave the money to them. They built housing all over America, sent the kids to school, and did not ask them to pay back a cent.

Did they pay us back? You bet they did.

Mr. SIMON. Would my colleague yield?

Mr. HARKIN. I am happy to yield to the Senator.

Mr. SIMON. I think the point is extremely important. The GI bill was a grant. If you were to take the average grant and put the inflation factor on it, today it would be a grant of $9,400—an incredible amount. There is not a school in Iowa or Illinois or any other State where students get that kind of a grant.

Let me point out one other little bit of history that I did not know. The immediate past national commander of the American Legion stopped in my office last week and he said in the old GI bill which we all—everyone looks back to and said what a great thing it was—the American Legion and the other veterans groups were in a fight. The other veterans groups wanted a cash bonus instead of the GI bill for education. The American Legion prevailed.

Ironically, we are going through the same fight today. Is it a cash bonus of tax reduction, or do we put the money into education?

We ought to learn from history. The lesson from history is that the Nation benefits when instead of a cash bonus we put the money invested in education.

I thank my colleague for yielding.

Mr. HARKIN. I thank the Senator from Illinois for pointing that out. That is a good lesson in history. I was unaware of that.

What the Senator said, if you took the GI bill, what they gave as a grant to those students to go to college, in today's dollars, it would be $9,400—a grant to go to college. I do not know of any grant program around that is anywhere near that. Pell grants are down to about $2,000, if I am not mistaken.

Mr. SIMON. Pell grants are about $2,400, and you have to be below a certain income level. Most students do not qualify.

The GI bill was available to everyone no matter what your income was. Of course, you had to be a veteran.

Mr. HARKIN. There were no income guidelines. They just gave the money to students to go to college.

I point out because it is interesting another little tidbit of history. These students went to college, got out. They made higher incomes—probably the greatest period of productivity, inventiveness, innovations, in our Nation's history and the world's history.

The debt in 1945 was 122 percent of our gross national product. By 1981, it had gone down to 33 percent—the lowest point that we had ever had. I think that is because we were riding on the shoulders of those GI's who went to school and got an education and produced this miracle of innovation and inventiveness in America.

I think if you look at what has happened since 1981, we have retreated and gone the other way in education. We are making it tougher. As I said, Mr. President, seven times since 1981 we have taken a hit on students, and made them pay more, make it more costly to go to college.

What is happening? Our national debt keeps getting bigger and bigger and bigger. I am not saying that is the only cause. There are a lot of other causes.

I will say this: Unless and until we invest upfront in education and in higher education and in making sure students can go to college and not be burdened with heavy debts themselves, unless and until we do that, we will never get out of our deficit situation.

I do not care what we do around here. You can cut programs, you can cut all the things the Government does, but if our productivity does not stay high, if we do not have the kind of high paying jobs that are going to take us into the next century, forget it. We will not work ourselves out of this debt.

Mr. President, I went to college under a direct loan program, as I said. I went up to the window, got a direct loan. I did not have to pay it back for about 9 years. I had the GI bill when I went to law school. I still had the GI bill available to go to law school. I did not have to pay it back. They just gave me money to go to school.

Well, I think it is time we learned from that. All I can say is I understand that the Speaker of the House also went to school under that kind of a program. All I can say, if it was good enough for the Speaker of the House, it ought to be good enough for students today. It was good enough for me, it ought to be good enough for students today, too.

Here is what is happening in Iowa with the student debt. Right now, this is a percentage of financial aid dollars awarded as loans out of the total financial aid grants and everything, percent as loans. Here at the University of Northern Iowa, at the top, it has gone from slightly over 40 percent to almost 60 percent. This is a regent school, not a private college. Here is Iowa State, which went from about 34 percent to 48 percent, my alma mater. That is from 1991 to 1995, not a long period of time, 3 to 4 years.

Here is the University of Iowa, which went from about 28 percent to about 38 percent—again in the last 4 years. So what has happened is that students are taking on bigger and bigger debt loads, all the time making it tougher for them to pay it back.

Now, it has another impact. Right now, indebtedness for a student graduating from the University of Iowa last spring is about $11,278; from Iowa State, $14,900; the University of Northern Iowa, $14,681. On average they pay about $170 per month for student loans.

You say that does not sound like much. Sure it does. You know what a starting salary for a secondary schoolteacher in Iowa is? About $18,000 a year. That $170 a month they are paying they could be using to buy a home, maybe even to buy a new car, to maybe get their lives going and start building our economy. But no, they will be saddled with more and more debt to pay for their education.

Grant aid has declined at our three universities in Iowa. It was 30 percent in 1990, and now is down to 25 percent.

Instead of creating more debt per student, why not go after the deadbeats who owe about $50 billion to the U.S. taxpayers in nontax debt? There is a lot of debt out there that people owe the Federal Government. I am not just talking students but a lot of people. We ought to go after those rather than hitting the students.

Finally, I just wanted to bring this to an end and close my remarks by showing what it means for an individual. The average loan on a per-student basis at the University of Northern Iowa, our smallest regent school in the State of Iowa, the average loan indebtedness, in 1992 was $2,589. Now it is $4,395 per student basis.

When they graduate, the indebtedness will be $14,641. But this is the average debt per student, per year at the University of Northern Iowa; not quite doubled, but pretty darned close to doubling in just the last 4 years.

So, yes, the debt of the United States is bad. We have to reduce our deficit and our total debt. We do want to reach a balanced budget. But the way the GOP is going about it with their reconciliation bill, especially how they are hitting students, is going to cause more debt in our country, less productivity, less ability for us to raise our gross national product and get out of this debt. It is almost as if the proponents of our reconciliation bill with all of the cuts they have, taking away the direct loans for students—it is almost like, "We are in debt, so let's go to debtors prison."

That is not the answer. The answer is to provide our people in this country with the wherewithal to earn more, make more, climb that ladder of opportunity and success, pay more when they earn more so more revenue comes into the Government, so we are able to make better products and sell better products and compete around the world. That is the way. That is the way out of the mess we are in. This GOP proposal, I must say in all frankness, is a "stick your head in the sand" approach to the deficit problems we have in America.

The Senator from Illinois has it exactly right. By keeping our commitment to direct student loans, we are saving a bundle of money. We are making it easier for students to go to college. Beyond that, we have to do whatever we can, I believe, to point out the hidden taxes in the GOP proposal: The taxes on students, the taxes on their parents, and the taxes on the schools. This is a direct hit at education in this country. All for what reason? To reduce the deficit? No. To pay for a big tax break that might amount to about a dollar a day, about a dollar a day for people in upper-income brackets. What a foolish waste of money.

If we want to use our money wisely, put it into education. I thank the Senator from Illinois for yielding me this time.

Mr. SIMON. Mr. President, in the 2 minutes that are remaining, let me just thank my colleague and underscore what he is saying. We face, really, the same choice we faced right after World War II. The Presiding Officer was not here when it was mentioned. The GI bill, which we look to now with so much pride, was a matter of great controversy. The American Legion wanted the GI bill. The other veterans groups wanted a cash bonus. And now we face the same question: A cash bonus in a tax reduction or investing money in education?

I am pleased the Senator from Iowa, along with the Senator from Washington, are among those who voted for a balanced budget constitutional amendment. Our experience with legislative efforts is they last about 2 years and then there is too much political drag.

The particular difficulty of this approach right now, with the tax cut, is without a constitutional amendment, basically the budget amendment that we adopted—and in the Budget Committee, I voted along with the Senator from Washington for that goal of balancing in 7 years—but it is like a New Year's resolution on a diet. Only we are going to start the diet with a great big dessert called the tax cut.

What we are saying here is, let us see if we cannot get bipartisan agreement to reduce that dessert just a little bit. Let us take $10 billion of that dessert and put it into education. And we are going to have a much better country if we do it. That should not be a partisan thing. We ought to be able to agree on that across the aisle and I hope we can work something out on that line.

Mr. HARKIN. If I might just ask the Senator from Illinois, all this talk about these tax cuts—what the heck, I will be honest about it, I have friends who make over $100,000 a year, because the Senator from Illinois is a friend of mine. We are paid more than that every year, the Senators. But I have friends who make more than $100,000 a year. I will be frank about it. I have not had one person come to me and say they need a tax break; not one.

I would ask the Senator from Illinois, has he had anyone coming to him begging for tax breaks?

Mr. SIMON. I share that experience, including people who make many times what the Senator and I make, who tell us this really does not make sense.

Mr. HARKIN. It does not make sense.

Mr. SIMON. I commend our colleague, Senator FEINGOLD from Wisconsin, for leading a fight on this. We are going to have an amendment on this on the floor. I hope sounder heads will prevail.

We all love to hand goodies out. But this is a time for restraint and not handing goodies out, and certainly not taking back from educational opportunity.

Mr. President, I see I am getting a signal up there our time is expired. I thank my colleague from Iowa again.

RECESS

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:45 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Senator from Missouri.

APPOINTMENT OF CONFEREES—H.R. 4

Mr. ASHCROFT. Mr. President, I understand the Chair is prepared to appoint conferees on behalf of the Senate for H.R. 4, the welfare reform bill.

The PRESIDING OFFICER appointed Mr. ROTH, Mr. DOLE, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MOYNIHAN, Mr. BRADLEY, Mr. PRYOR, and Mr. BREAUX; and from the Committee on Labor and Human Resources for the consideration of title VI and any additional items within their jurisdiction including the Child Abuse and Protection Act title: Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. KENNEDY, Mr. DODD, and Ms. MIKULSKI; and from the Committee on Agriculture, Nutrition and Forestry for the consideration of items under their jurisdiction: Mr. LUGAR, Mr. DOLE, Mr. HELMS, Mr. LEAHY, and Mr. PRYOR conferees on the part of the Senate.

CORRECTING THE ENROLLMENT OF H.R. 402—MESSAGE FROM THE HOUSE

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a message from the House to accompany Senate Concurrent Resolution 27.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 27) entitled "Concurrent resolution correcting the enrollment of H.R. 402", do pass with the following amendment:

Page 1, line 2, strike all that follows after "That" to the end of the resolution and insert the following:

the action of the Speaker of the House of Representatives and the President pro tempore of the Senate in signing the bill (H.R. 402) is rescinded, and the Clerk of the House of Representatives shall, in the reenrollment of the bill, make the following correction:

Strike section 109.

Mr. ASHCROFT. I ask unanimous consent that the Senate concur with the House amendment and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I observe the absence of a quorum.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold that request?

Mr. ASHCROFT. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

ABSENCE OF SENATOR MIKULSKI

Mr. SARBANES. Mr. President, as many of my colleagues know, our colleague, Senator BARBARA MIKULSKI, was robbed Sunday evening in front of her home in Fells Point in Baltimore. She was knocked to the ground in the course of this robbery and injured her hand. We expect she will be back tomorrow, and she asked that I share with our colleagues this statement of hers:

I regret that I will be necessarily absent today, as I recuperate from Sunday's unfortunate experience. While I share the pain and anger of other victims of this type of crime, I have been heartened by the many good wishes I received from my friends and colleagues. I look forward to returning to duty tomorrow.

I know my colleagues look forward to having her return to duty tomorrow, and I know they join me in wishing Senator MIKULSKI a very speedy recovery.

I thank the Chair and yield the floor.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 927, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition Government leading to a democratically elected Government in Cuba, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

Ashcroft amendment No. 2915 (to amendment No. 2898), to express the sense of the Senate regarding consideration of a constitutional amendment to limit congressional terms.

Ashcroft amendment No. 2916 (to amendment No. 2915), to express the sense of the Senate regarding consideration of a constitutional amendment to limit congressional terms.

Mr. ASHCROFT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I would like to move to morning business for the purpose of giving a statement of about 7 or 8 minutes. I would ask unanimous consent that I might speak as in morning business for a period not to exceed 8 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Nevada is recognized.

Mr. BRYAN. Again, I thank the Chair.

HIGH-LEVEL NUCLEAR WASTE

Mr. BRYAN. Mr. President, I want to bring to the attention of my colleagues an issue of great importance to Nevada, but should be of concern to those from other States as well.

Mr. President, for 13 years, since 1982, Nevada has been the prime target of the nuclear power industry for the disposal of its high level commercial nuclear waste.

In spite of the fact that Nevada has no nuclear reactors, commercial or otherwise, and never benefited from nuclear power, Nevada has been identified by the nuclear power special interest lobby as its chosen site for the disposal of one of the most poisonous, dangerous substances known to mankind.

Since 1987, as the result of a backroom deal reached during the deliberations of a conference committee, Yucca Mountain, 90 miles northwest of Nevada, has been the sole site being studied by the Federal Government for a high-level nuclear waste dump.

As many of my colleagues are aware, the repository program has been a dismal failure.

Despite the expenditure of nearly $5 billion, a repository is no closer to being built today than it was in 1982, when the original Nuclear Waste Policy Act was passed by Congress.

Faced with the failure of the permanent repository program, and frustrated by the Federal Government's obvious inability to accept nuclear waste from commercial reactors anytime near the originally planned 1998 deadline, the nuclear power industry and its advocates decided to initiate another, even more dangerous, assault on Nevada.

Raising the specter of widespread shutdowns of nuclear power reactors across the Nation, and demanding adherence to the obviously impossible 1998 deadline, the nuclear power industry now demands that the Federal Government immediately build so-called interim storage facilities at the Nevada test site.

This new attack on the health and safety of Nevadans is coming at us from all angles.

Numerous bills have been introduced in the House and Senate to target Nevada for interim storage—all written by the nuclear power industry, and all fiercely opposed by Nevada's Governor and congressional delegation, and the vast majority of Nevadans.

At the same time, we face the prospect of another back room deal on a conference report singling Nevada out for a dump it wants no part of.

In spite of the fact that neither the House or Senate energy and water appropriations bills would allow interim storage to be constructed in Nevada, by all indications, the conference report may target Nevada as the sole site for interim storage.

Mr. President, nothing could be less fair to the citizens of my State and I, and the rest of the Nevada congressional delegation, will do everything possible to see that this provision does not pass.

Mr. President, as you may expect, we in Nevada fear that should a nuclear waste dump of any type ever be built in our State, the health and safety of Nevadans will be severely threatened.

With 16,000 shipments of highly toxic waste arriving from across the Nation, the potential for a catastrophic accident near Las Vegas, a community of 1 million residents, is enormous.

Mr. President, while Nevada faces the greatest risk, and is at the most peril should the nuclear power industry get its way with Congress, every Senator should take a careful look at exactly what is being proposed.

As citizens across the Nation are slowly beginning to realize, the nuclear power industry is proposing to ship, at the earliest date possible, an unprecedented volume of shipments of extremely poisonous, highly toxic high level nuclear waste—over 16,000 shipments across 43 States, by both rail and truck.

Mr. President, I invite my colleagues' attention to the proposed shipment routes. Each Senator will note that his or her State may be a candidate for this massive shipment with all the risks that are here by way of accident or other unforeseen consequence. Even though the plan sadly targets Nevada out here as the ultimate repository, it will pass through the States of most of my colleagues. I emphasize that they too and their constituents are at risk, as are my constituents.

Mr. President, my colleagues should look closely at this map, because this map shows the likely routes for the transportation of high-level waste in the very near future.

As I pointed out a moment ago, nearly every State would be affected.

The nuclear power industry, of course, is quick to claim that we have nothing to worry about, that nuclear waste transport is perfectly safe.

Mr. President, I doubt many of my constituents, or those of other Members, would put much faith in the nuclear power industry's assertions.

Quite simply, accidents do happen. While only a relative few make the national news, the United States has nearly 1,500 rail derailments a year.

Heavy truck accidents occur approximately six times for each million miles traveled which, if applied to the thousands of truck shipments under the nuclear power industry's plan, would result in at least 15 truck accidents involving nuclear waste each and every year.

The events of the past week raise even more frightening possibilities. In addition to the potential for accidents, nuclear waste shipments could become prime targets for acts of sabotage or terrorism.

Monday's sabotage of the Sunset Limited near Hyder, AZ, is a stark reminder of the dangers we face from criminals and terrorists every day. In a matter of minutes, those responsible for the Sunset Limited wreck created a derailment which took the life of one passenger, and injured numerous others.

From the reports that I have read, Mr. President, that sabotage took approximately 10 minutes to effect.

In an ironic twist, this week's act of sabotage appears to be a copycat of the August, 1939 derailment near Harney, NV, that killed 24 passengers.

The simple fact is that no one, not the nuclear power industry, not the Department of Energy, and not the Nuclear Regulatory Commission, no one can guarantee the safety of the transportation of nuclear waste.

Sound public policy dictates a cautious approach to the transport of such hazardous materials. They should only be moved if absolutely necessary. This is simply not the case with nuclear waste.

Nuclear waste is currently stored onsite, at the 109 nuclear power reactors in the United States—80 percent of them east of the Mississippi River.

These sites, of necessity, will remain storage facilities for nuclear materials at least as long as the reactor continues to operate—several decades, if not longer. Technology Mr. President, currently exists—dry cask storage—that is licensed by the Nuclear Regulatory Commission and available for utilities to purchase if they need additional storage.

Numerous utilities have taken advantage of this technology, and have moved to dry cask storage. Outside of the local political problems many reactors face when they try to increase storage, there is simply no reason any utility needing additional storage could not do the same.

The PRESIDING OFFICER. The Chair would advise the Senator that his 8 minutes has expired.

Mr. BRYAN. Mr. President, I would like to ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank again the Chair for his courtesy.

Mr. President, the point I would seek to make this afternoon is this is not just a Nevada issue. Look at the map. Forty-three States are affected by these proposed nuclear waste shipment proposals. And each State bears a risk of an accident or an act of sabotage, an act of terrorism with all of the frightening consequences that brings to bear on those States and the constituents of those States being represented here in the U.S. Senate.

The plans being advanced by the nuclear power industry threaten the health and safety of citizens across the Nation, for no good reason.

The crisis mentality generated by nuclear power industry propaganda is nothing new. In the early 1980's, advocates for the nuclear power industry argued on the Senate floor, and elsewhere, that unless some away-from-reactor plan called AFR storage was provided by the Federal Government soon, reactors across the Nation would shut down, creating an electricity crisis for millions of Americans. Of course, no reactors have ever shut down for lack of storage, and there is no crisis. The same is true today.

Mr. President, the reality is that the nuclear power industry is a dying industry. No new reactors have been ordered for over a decade, not because of lack of storage, but because nuclear power is simply not competitive in the marketplace. In an ill-founded and irresponsible attempt to jump-start a dying industry, nuclear utilities have advanced a proposal that places the population of 43 States at risk, all for the benefit of the bottom line of the commercial nuclear power industry.

I urge my colleagues to reject the nuclear power industry's interim storage proposal.

Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2916, AS MODIFIED

Mr. ASHCROFT. Mr. President, I send a modification of my second-degree amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the word "SEC. ." and insert the following:

SENSE OF THE SENATE REGARDING CONSIDERATION OF A CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS.

It is the sense of the Senate that the United States Senate should pass a constitutional amendment limiting the number of terms Members of Congress can serve.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I offer this amendment to clarify the sense of the Senate that would be expressed, and the amendment makes very clear the simplicity of this sense-of-the-Senate resolution.

The sense-of-the-Senate resolution would read as follows:

> It is the sense of the Senate that the U.S. Senate should pass a constitutional amendment limiting the number of terms Members of Congress can serve.

I think that is a straightforward statement of the intention and sentiment which I believe the American people have as their agenda for reform, and I believe we should advance that agenda of reform in accordance with their clear mandate last fall.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 927 is the pending business.

Mr. GORTON. Mr. President, I ask unanimous consent that I may proceed for not to exceed 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending business, H.R. 927, is set aside and the Senator is recognized for 10 minutes to proceed as in morning business.

ECONOMIC ASSUMPTIONS

Mr. GORTON. Mr. President, one habit or custom that the President and I have in common is that we are runners—I know I can say in my case, I believe in his case, not particularly gifted or particularly fast, but nonetheless we are runners as a method of keeping in good physical condition. I believe that the President, as I have, has on some occasions run in these rather large races where there are a large number of people and one tests oneself against the clock.

We always will attempt to beat our previous best time in a given race, but at least in this connection, we never attempt to do so by saying, "Gosh, I just can't break 45 minutes for 10 kilometers, so I'll shorten the race. I'll shorten it to 8 kilometers, but I'll call it 10, and then I will have broken 45 minutes."

The President of the United States would not consider doing that in a road race, but that is precisely what he has done with respect to our dispute over a balanced budget.

Shortly after Mr. Clinton took the Office of the Presidency of the United States, he sought to lay to rest a dispute, which the Presiding Officer will remember, as I do, over economic assumptions. Through all of the Reagan administration and all of the Bush administration, we on this side of the aisle were criticized for using assumptions about the future state of the economy that were too optimistic, too rosy and, thereby, underestimating the challenge presented to us by continuing huge deficits in the budget of the United States.

Almost without exception, those budget assumptions in the Reagan and Bush administrations presented by the administrations were more optimistic than those presented to us by the Congressional Budget Office.

So President Clinton, on taking office, said, "Let's end this dispute. Let's all agree that in the past, the Congressional Budget Office has been both more cautious and more conservative and more accurate and we will debate substance in the future. We will all work off the same set of projections. We will all work out of the same books."

I think everyone, both Republicans and Democrats, took that as a statement of good faith and a significant step forward, because the motivation to overestimate growth in the economy on the part of an administration and, thus, to make its budgeting job easier is not limited either to Republicans or Democrats. There is always an easy way out.

Unfortunately, Mr. President, when push came to shove, the President abandoned that salutary way of making estimates and has gone back into exactly what he criticized his predecessors for—estimating or projecting his way out of difficulties. And so while this Congress, both in the Senate and in the House, has accepted without reservation the economic projections of the Congressional Budget Office and has proposed to balance the budget within 7 years, under the rules which the Congressional Budget Office has set out, as difficult as they are and although as a consequence we, in order to bring the budget into balance, have been forced to propose relatively drastic changes in policies which would reduce the growth of spending in the United States across the broad spectrum of all of the items which the Government of the United States funds, we find a President saying, well, there is not really much difference between us. The President says: I want to take a little longer, 9 or 10 years to balance the budget, while the Republicans want to do it in 7. We can easily reach an agreement or an accommodation on those two goals, they are so close to one another.

But the President gets there by cooking the books. He gets there by abandoning his commitment of 1993 and doing exactly what he criticized others for doing and getting more than 50 percent of the way to a balanced budget simply by saying, "I do not think we are going to spend as much as the Congressional Budget Office says. I think interest rates are going to be lower, and I believe that the tax system will take in more money." It amounts to a tremendous amount of dollars, Mr. President.

President Clinton simply estimates $55 billion more in Medicare spending savings, without changing Medicare at all; he estimates that Medicare will cost $68 billion less; he estimates that farm programs, pension programs, and other welfare programs, will cost $85 billion less; he estimates that we will save $70 billion more in interest costs because interest rates will be lower; and he estimates that we will take in $175 billion more because the economy will grow more rapidly, for a net of $475 billion between now and the year 2002—a trillion dollars over the next 10 years, Mr. President.

Well, he could just as easily have made these estimates a little bit more optimistic and we would not have any deficit problem at all. It would go away without doing anything.

That is the great difference in the debate which we are about to begin. Are you willing to look realistically at the future of our economy and the growth in our spending programs and do something about them as a matter of substance? Or, on the other hand, Mr. President, do you just say times are going to be good, the problem will go away by itself? That is the difference.

Well, if the experience of the last 15 years holds true, the problem will not go away by itself. We need to begin from a common basis. The President is simply wrong in overestimating the strength of the economy and telling the American people that no sacrifices are needed, no changes in policies are needed. All we need to do is reestimate the economy and everything comes up smelling like roses.

Now, Mr. President, I started speaking about 10 kilometer versus 8 kilometer races. I must admit that there is one difference, one with respect to that analogy, that does not work. Neither of us, those of us who depend conservatively on the Congressional Budget Office nor the President, can be precisely certain that that side is correct. Economic projections are notoriously difficult to make even a year in advance, much less 7 years in advance. And we must admit that it is clearly possible that the President might be right in spite of the experience of the last 15 years, just as he, I suspect, if he were forced to answer the question, might be willing to admit that perhaps he is wrong and that the Congressional Budget Office projections are better.

But what are the contrasting consequences of being wrong in this case, Mr. President? Well, if President Clinton is wrong and we are correct, the budget deficit will never be less than $200 billion a year. In the next decade, another $2 trillion will be added to the burden of debt imposed on the people of the United States, money which we spend, the bills which we send to our children and to our grandchildren. That would be the consequence, Mr. President, of President Clinton being in error. The problem of the budget will never have been addressed if we accept his policies.

By contrast, Mr. President, what would the consequences be if we are wrong, if we are too conservative, too cautious, and if in fact the economy does grow as rapidly as the President predicts in his easy-does-it budget? Well, Mr. President, the budget might be balanced in the year 1999 or 2000 rather than in 2002. Is that a horrendous consequence? No, Mr. President, that is exactly the goal we seek with our conservative projections and with the very real policy changes we propose. We only claim we will get to balance by the year 2002. But even that claim carried out by changes in policies will, from the perspective of almost every economist, itself build a stronger and better economy, provide more opportunities for generations looking for those opportunities in the future, lower interest rates, lessen the burdens of Government on not only this generation but the next generation and the generation after that. And if we do better than we thought, that burden will be even lighter and we will get rid of the deficit even earlier.

So if we are wrong and too cautious, we reach the goal all of us share more quickly. If President Clinton is wrong, we never reach that goal at all, and we continue to add to the burden of debt on our children and on our grandchildren.

Mr. President, both from a policy standpoint and from the point of view of having an intelligent debate, the rights and wrongs of which the American people can understand, and from the moral point of view of bringing to an end this huge addition to the burden of debt on future generations, we must and we should agree on the starting point, on the projections we are going to use. What better way in which to start that part of the debate, Mr. President, can there be than to have President Clinton keep the commitment that he made 2½ short years ago.

We are not going to debate the projections. We will take the projections of the neutral objective Congressional Budget Office and work our debate. We will work our debate off of them.

If we do that, we will see clearly how necessary the budget is that we have already passed, the reconciliation bill which we will debate in the next 2 or 3 weeks in order to enforce it.

Mr. President, we should start from a common ground and make that common ground the ground the President of the United States himself stood on 2½ short years ago. We should not try to shorten the race and pretend we are running faster.

Mr. SPECTER. Mr. President, I ask unanimous consent I may proceed for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY BIRTHDAY, HILDA SPECTER MORGENSTERN

Mr. SPECTER. Mr. President, permit me a personal moment or two on the floor of the U.S. Senate and in the CONGRESSIONAL RECORD to comment on my own family values on the occasion of the 74th birthday of my sister, Hilda Specter Morgenstern. It is a major occasion for our family because Hilda is the first member of the Specter family to reach a 74th birthday. My father died at 72, my mother and brother, Morton, at 73.

An excellent indicator of family values is longevity of marriage, and I speak with great pride about the Specter family on that subject.

My parents, Harry and Lillie Specter, were married 45 years before my father's death in 1964. My brother, Morton, and his wife, Joyce, were married 51 years before his death in 1993. My sister, Hilda, and her husband, Arthur, have been married 52 years. My sister, Shirley, and her husband, Dr. Edwin Kety, were married 46 years before his death last August. Joan and I celebrated our 42d anniversary last June 14. That is a total of 236 years without a divorce.

On Sunday last, October 15, 1995, Hilda Specter Morgenstern celebrated her 74th birthday with her husband, her four children, and most of her 9 grandchildren in Teaneck, NJ, on a visit from her home in Jerusalem.

A beautiful redhead, Hilda married Arthur Morgenstern after they met in the synagogue at Rosh Hashanah services in Wichita, KS, in 1942, while Arthur was in the cavalry at Fort Riley, KS. She was a straight "A" student and a real academic inspiration for me. When she saw my report card in the seventh grade, my first testing with A's and B's, she scoffed at my one A and seven B's and offered a dollar for every "A" I got thereafter. When I graduated from college, she and Arthur handed me a check for $266.

Hilda Specter was an honor student and an excellent debater at the University of Wichita where she was a member of the prestigious Association of American University Women. She was studying for her masters degree at Syracuse University in the spring of 1942 when Arthur received his orders to embark to the South Pacific as an Army artillery officer. After a coast-to-coast train ride to San Francisco, they married. Their wartime romance gave them only a weekend together before he sailed for a 31-month tour of duty in the South Pacific.

After the war, Hilda, Arthur, and their family of four children lived in Russell, KS, without the benefit of a Jewish education, so they moved to Wichita where Hilda became superintendent to the Hebrew school. When they found the Jewish education there insufficient, they moved to Denver. When that proved insufficient, they moved to New York City. When that was not enough, they moved to Jerusalem where Hilda and Arthur now reside—except for periodic visits to the United States to help in my many campaigns.

Hilda Specter Morgenstern is a model wife, mother, grandmother, and great-grandmother. She is a real matriarch of the family. She tackles with equal ease an analysis of the ABM Treaty to help me in my Senate duties, or the change of diapers for her new, great-grandson.

I have urged her to follow the model of Golda Meir, the Milwaukee-born American, who later became Prime Minister of Israel. Hilda responded by telling me to become President of the United States first.

Happy 74th birthday, Hilda.

IN HONOR OF MORTON SPECTER

Mr. SPECTER. Mr. President, 2 days from today, on October 19, 1993, the second anniversary will be marked of the passing of my brother, Morton Specter, an honest, hard-working American who paid more than enough taxes to be memorialized in a brief statement in the CONGRESSIONAL RECORD.

I now ask unanimous consent to have printed in the CONGRESSIONAL RECORD the eulogy which I delivered at his funeral in October 1993.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Ours is a very close family, so Morton's passing came as a real shock—not that it was totally unexpected because he had many medical problems—but perhaps a family is never really prepared for the finality of it all.

The words "family value" were never used in the Specter household. It wasn't necessary because we had them without talking about them. They evolved naturally from the example of our parents who struggled to achieve for their children what they never had—education and opportunity. As the oldest of four children, Morton set the example for Hilda, Shirley, and me. None of us would even consider doing less than our best or doing anything to embarrass our parents, considering their sacrifices.

The 1920's Depression left its mark on Morton at the tender age of ten. From his earliest days, he was a tireless worker—the hardest worker I've ever seen. At 11 or 12, he rode his bicycle on the streets of Wichita delivering bills of lading to railroad offices for Beyer Grain Co. As a teenager, he would go after dark to the golf courses, and wade the lakes to find golf balls which he would make sparkling white with peroxide bleach and sell in downtown office buildings.

When he wanted to get a job to earn money right after high school, my father talked him into going to Wichita U. for one year which turned into four and a college degree. In college he boxed, careful to protect his strikingly handsome face, and acted in the school plays. He made a short trip to Hollywood when he was 19 or 20—hoping, I think to meet—or maybe even to become another Robert Taylor.

During World War II he answered the call of his country and went to Officers Candidate School and became an Ensign. We talked about reading the text books at that school after lights were out with a flashlight under his blanket.

After the war, he sold magazines door to door. His crew chief Walter Lewis said he covered twice as many houses as anyone else. I joined him in Sioux Falls, South Dakota, in June 1945 and at the first house we visited, where he was showing me the sales speech, the lady complimented him on being a super salesman. When he approached one house, a young girl ran excitedly to the house shouting: "Mommie, Mommie, here comes Dennis Morgan"—then a famous movie actor.

After the war he joined our father and Hilda's husband, Arthur Morgenstern, at the

Russell Iron & Metal Co.—at first a junkyard, then an oil field equipment company and ultimately modest oil production.

He worked long hours Monday through Saturday, making telephone calls in the evenings, and on Sundays he would drive to the surrounding counties to look at oil rigs to salvage.

Morton did find time to meet and marry a beautiful young woman, Joyce Hacker. She stood by his side sharing his strenuous work schedules and the Kansas hot summers and windy cold winters. Last November 19th, they celebrated their 50th anniversary—a very rare quality in modern America. Joyce's steadfast devotion to Morton—especially during the last difficult years—was extraordinary.

Hilda, Shirley, and I returned to Kansas often to visit Morton and Joyce just as they traveled to our homes—as long as he was able. Our family was always on the telephone. Morton would also often call his nephews and nieces and their children and his aunts and uncles and cousins. He was a generous man, making certain his contribution to Allied Jewish Appeal was completed before the end of each year.

Morton made many trips to and through Pennsylvania to help on our many campaigns. There's nothing like a brother or a sister traveling upstate to local newspaper and radio stations to talk about their candidate brother.

When I saw him last Monday at the Wesley Hospital in Wichita, he wanted to know what was going on in the Senate and how Bob Dole was doing.

Bob's father and our father were friends in Russell more than 50 years ago. In the 1940's Harry Specter weighed truckloads of junk at the Russell Grainery operated by Doran Dole.

Our parents were very proud of him. How often I heard our mother Lillie Shanin Specter call him her "Motala." He will rest beside her as he expressed his wish during his lifetime in Montelfiore Cemetery. For my sisters and me, he was a role model of integrity and hard work. He was a man of total honesty who valued his good name and impeccable reputation.

We have not waited until his funeral to tell him how we feel. We have expressed our feelings over the years—by words, but more importantly by deeds—visits and calls and caring.

For Joyce and our entire family and his many friends—I say: We all loved him very much and we all will miss him very much.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I support the cloture motion which will be voted on this afternoon at 5 o'clock, because I believe that it is very important that this legislation be considered by the Senate and acted upon by the Senate.

While I ordinarily support an active international role for the United States and active involvement with other nations around the world, I believe that the current situation in Cuba presents a situation where we ought not to do anything to strengthen the hand of Fidel Castro. I believe that the legislation will increase the pressure on the Castro regime and lay the groundwork for future U.S. support for a democratic transition.

The State Department's 1994 human rights report to Congress paints a grotesque picture of repression by the Castro regime. It shows Government-organized mob attacks on dissidents. It shows nationwide political surveillance. It shows extrajudicial killings of Cubans attempting to flee; for example, the sinking of boats loaded with refugees by Government forces last year. It shows, by every significant human rights standard, the Castro regime has an appalling record on freedom of speech, of assembly, and freedom from arbitrary arrest.

Castro has been largely immune to the democratic changes that have swept the hemisphere during the past 10 years and what that regime has in common with totalitarian states such as the ones created by Erich Honecker in East Germany and Kim Il-song in North Korea.

Mr. President, the legislation will be a significant step forward in isolating Fidel Castro and in hastening the day when democracy can return to Cuba so that that community, that nation, may be liberated from Castro's totalitarian regime and may take its place in the family of nations as a productive nation and a productive society.

Ms. MOSELEY-BRAUN. Mr. President, at the outset, I want to make it clear that I strongly endorse the central objective of H.R. 927, namely, the peaceful transition to democracy in Cuba. The Cuban people have too long been deprived the freedoms of speech, association, and self-expression. Like almost every American, I want to see that the repression of the Cuban people by the Cuban Government is ended. And, like almost every American, I want to see that long overdue economic reforms in Cuba are implemented, so that ordinary Cuban people can improve their standard of living.

These are not, however, the questions before the Senate. What is before the Senate is H.R. 927, and what we have to decide is whether the provisions of this bill will help move Cuba toward freedom, democracy, and greater economic opportunity, or not. I would like to say that I believe the bill will work, but the simple fact is that it will not.

This legislation pursues a laudable objective the wrong way. It seeks to increase the pressure and isolation of Cuba by further tightening the trade embargo and encouraging United States allies and trading partners to terminate their trade relations with Cuba through punitive and retributive measures. That policy cannot and will not work.

The United States approach to Cuba has been virtually unchanged since the early 1960's. Since then, the United States has maintained a comprehensive trade embargo to isolate the Castro regime politically, to weaken it economically and, thereby, to pressure the Cuban Government into making the desired reforms. H.R. 927 is simply the latest in a series of legislative proposals that purport to provide the final push that will force the Cuban Government over the brink.

This new final push, though, is perhaps even less likely than the series of past final pushes to succeed, because it is not based on the economic, political, and diplomatic facts. Despite close to 35 years of U.S. trade embargo, the Castro regime remains in place.

Even more importantly, the embargo represents a policy orientation that the rest of the world seems to be abandoning. Our most loyal allies and other countries do not support the United States position on Cuba. In fact, the United States is the only country in the Western Hemisphere with a trade embargo of Cuba and one of only five countries that does not have formal ties with Cuba.

Moreover, it was only last year, October 1994, that the world community soundly rejected a proposal that was similar to H.R. 927—one that would broaden the embargo against Cuba—by a vote of 101 to 2. Apparently, our neighbors in the hemisphere and allies around the world believe that dialog and engagement, not confrontation, isolation, and threats, are the best ways to encourage change in Cuba.

The fact is that, without support of our allies and other countries, unilateral United States action against Cuba is unlikely to succeed and could have the unintended effect of unnecessarily increasing friction between the United States and its allies and trading partners.

For economic sanctions to work, strong international cooperation is required. When we have that cooperation, as in the case of South Africa, sanctions can work and can make sense as a policy alternative. The success of the sanctions directed at South Africa was due, almost exclusively, to our ability to convince our allies and other countries, through moral suasion, not punitive or retributive legislation, to support economic sanctions to change the domestic policies and behavior of South Africa.

On the other hand, when the United States acts unilaterally and tries to bludgeon the rest of the world into line with our policy, the result is often failure. It is worth keeping in mind what happened when the United States acted unilaterally to try to prevent a natural gas pipeline in the former Soviet Union from being completed. The policy was a failure; the pipeline was built. However, major U.S. exporters were hurt. Caterpillar, in my own State of Illinois, lost a major sale to its largest international competitor, Komatsu, weakening Caterpillar, and strengthening Komatsu, in international markets for a long time.

Moreover, the United States policy created a major controversy with our closest NATO ally, Great Britain, and with France. They saw the U.S. policy as an infringement on their sovereignty.

This legislation raises important governmental, as well as practical and diplomatic, issues. Many experts see it as an encroachment on the President's authority under the Constitution to conduct the foreign affairs of the United States. For example, the President would be prohibited from providing foreign aid or international development aid credits to Russia and the other Newly Independent States if they continue to trade with or give money to Cuba. As the only remaining world superpower, we have widespread global interests, interests which do not all turn on the status of a particular country's trade relations with Cuba.

Mr. President, H.R. 927 is therefore unlikely to advance United States interests in Cuba. Instead, what it is more likely to do is to damage other U.S. interests. Increased political and economic pressure on Cuba is more likely to enable Castro to play his nationalistic card and use the United States as a scapegoat to explain away Cuba's economic problems than to weaken his grip on Cuba.

And even though it is unlikely to achieve the objectives for Cuba we all share, title III of this legislation will create a nightmare for the United States judicial system, potentially costing United States taxpayers billions of dollars to provide access to United States courts for property claim lawsuits filed by or on behalf of individuals who were not legally entitled to have their claims adjudicated in United States courts when their claims initially arose. The bill, in effect, extends a benefit to Cuban-Americans denied to other groups, including Polish-Americans, Italian-Americans, Americans of Eastern European descent, Chinese-Americans, and Vietnamese-Americans. Finally, U.S. taxpayers will also have to foot the bill for the litigation of trade suits pursuant to NAFTA and GATT/WTO.

Mr. President, what we really need is a new, innovative, and bold approach to Cuba, an approach based on the realities of the situation, an approach that can and will succeed. We need a policy based on our successes. If we can create a situation where we can get the same kind of cooperating on sanctions against Cuba that we were able to put together in the case of South Africa, then a sanctions policy could work, and could be pursued. But if we cannot, we ought to take a lesson from some of our other successes. After all, we did not win the cold war by isolating the now former-Soviet Union, through a sophisticated, flexible policy that engaged the U.S.S.R. where that made sense.

Since unilateral United States sanctions are unlikely to be effective, and since legislation designed to force our trading partners into tighter sanctions against Cuba is more likely to create new problems than to solve the Castro problem, we ought to at least consider new approaches. We need to at least examine, for example, whether more extensive United States contacts with Cuba would strengthen Castro or strengthen the prospects for real democratic and economic reform in Cuba. What we cannot afford to do is to continue to pursue a policy that has not succeeded in the past, and that offers even smaller chances of success in the future. Unfortunately, that is fundamentally what H.R. 927 is all about; I therefore cannot support it. I urge the Senate to defeat this legislation, and to work toward a new policy toward Cuba that offers a better chance of bringing long overdue, fundamental democratic and economic reform to the Cuban people.

Mr. BOND. Mr. President, I rise to address the vote for cloture on the Dole-Helms amendment to the Sanctions Act.

I will be voting for cloture because I wish to see this process move along. This bill has been pending all year, and it is time we addressed it and moved on. In voting for cloture, however, I want to make clear that I do not support this legislation. I think it is a mistake, and I do not believe it will achieve the intended results.

First, this bill will impose trade sanctions on many of our closest allies and trading partners throughout the world. That is not going to help the people of Cuba in any way, but it is going to hurt American companies doing business around the world.

Second, the bill creates an unprecedented right of action for legal claims of former property owners in Cuba. Not only will that impose a severe burden on our court system, it will do so without, in anyway helping the people who need it most—families and small property owners who lost their homes and businesses to the Castro regime. This new right of action will also put us into conflict with some companies headquartered in some of our closest allies who are now operating plants in Cuba.

As a result of both of these problems, the United States will find itself under immediate attack in the World Trade Organization.

This legislation will only add to the already overwhelming misery of the Cuban people. I do not want to do that, and I know none of my colleagues do either. Certainly, we all want to see an end to the Castro regime—a cold war relic whose time has passed. I believe, however, that Castro's days are numbered. Communism has fallen around the world, and it will fall in Cuba as well. We should let it fall of its own weight, and then be there to assist the Cuban people in developing and nurturing a new democratic successor. This bill will not achieve that goal—in fact, it will move in the other direction. I urge Senators to oppose it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I also ask unanimous consent to now proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHOOLBUS SAFETY

Mr. DEWINE. Mr. President, I rise this afternoon to discuss a matter that I have discussed on several other occasions on this floor over the last few months, and that is the issue of schoolbus safety in this country. I would like to update the Senate on the progress that we are making in this particular area.

The bad news, Mr. President, is that there are still, we believe, over 100,000 unsafe schoolbuses on the road in this country today, 100,000 schoolbuses that at this moment, at least in the Eastern time zone, the Eastern part of the country, are in the process of taking children home from school.

I have been involved in, and my staff has been involved in, trying to alert the school officials, schoolbus safety officials, in all the 50 States to this particular problem. And I think we are making progress on a number of fronts.

First, one of the major causes, as I have talked about before on this floor, of schoolbus fatalities is the drawstrings that appear around the waist and other parts of clothing of the coats worn by many schoolchildren today. As children get off of schoolbuses, this drawstring is liable to get snagged in the gap that exists between the bus wall and the handrail itself.

Since 1991, at least five children that we know of have been killed in this manner, have been stuck on the bus that that particular drawstring has caught, and they have been dragged by the bus and they have been killed.

I am pleased, Mr. President, to report that the Consumer Product Safety Commission is taking action on this problem. Last month they recommended to the American Society of Testing Materials, the ASTM, that the drawstrings be shortened. Experts agree that this measure will help prevent these accidents.

This is, Mr. President, a big step—a big step—in the right direction. As a result of CPSC's recommendation, the ASTM has already announced a voluntary standard for the drawstrings. Drawstrings that are 4 or 5 inches in length are now banned.

The ASTM also announced plans for a research project to determine if there is any ideally safe drawstring length. The results of this study are to be announced on November 30.

Second, we, as a country, are starting to fix the buses. A bus manufacturing company bought some of the assets of another bus company, a company had gone out of business, a defunct bus company that was purchased. And the new bus company has decided voluntarily to provide materials to retrofit many of the dangerous buses made by the defunct company. It will do this at cost. That particular company is also trying to identify other unsafe buses that are still on the road so they, too, can be retrofitted.

Third, I have brought with me to the floor, Mr. President, a copy of a pamphlet that children are getting in an elementary school in my hometown of Cedarville, OH. This particular pamphlet gives good advice to parents. "Teach your children to look out for the straps and drawstrings. Be very careful when you are getting on and off the schoolbus."

This was provided courtesy of the Pupil Transportation Safety Institute, 1-800-836-2210. It is a very simple brochure, but a brochure that we hope will do some good.

Mr. President, in conclusion, I think parents all over America should get a pamphlet just like this. It is available from the Pupil Transportation Safety Institute. Let me again repeat the number, 1-800-836-2210. As the pamphlet says, "Schoolbus safety is a team effort." So, Mr. President, let us work together to make all these schoolbuses as safe as they can be.

RECONCILIATION

Mr. DEWINE. Mr. President, I would also like to talk about another issue this afternoon, and that is an issue that I discussed briefly this morning, an issue that we in the Senate will be debating for the next few weeks and an issue that has, I believe, historic importance, not just in this Senate but to this country, not just to this generation but to our children's generation and our grandchildren's.

I rise specifically today, Mr. President, to discuss the reconciliation bill that we expect to reach the floor sometime in the next 2 weeks.

This bill embodies the decision that the American people expressed last November. The American people last December decided that we need to make a fundamental change in course for our U.S. Government

Many of us ran, many of us talked about these issues, and what were the commitments? I think we can summarize them as follows. There are many, but four essential commitments were made last November, four commitments that we will work over the next few weeks to carry out:

First, we need to balance the budget.

Second, we need to replace the welfare system with a system that rewards work and creates opportunity.

Third, we need to rescue Medicare from bankruptcy.

And fourth, we need to give some tax relief to the hard-working families of this country. Four basic simple things that I believe, if passed, if enacted, will fundamentally change the direction of this country.

While these are simple, I think it is fair to say that this is really an extremely ambitious agenda. Even to consider an agenda of this magnitude would make this a truly historic Congress. But in this reconciliation package, the Senate is about to pass this agenda, to actually pass it, and to send it on to the President of the United States.

Except for a few days at the beginning of 1953, the last time a Democratic President had to deal with a Republican Congress—with a Republican Congress—was from 1947 to 1949. In the 1948 election, the Democratic President accused the Republicans of running a do-nothing Congress. The current President is very well equipped with rhetorical ammunition. They work very hard on this at the other end of Pennsylvania Avenue, but I think that the charge that this is a do-nothing Congress is not one the White House will be using any time soon, or at least the White House will be using successfully any time soon, because the fact is, this Congress has stepped up to the plate and made some extremely tough decisions.

This Congress has passed a balanced budget plan for the first time, if we carry it out, since 1969. This Congress is fundamentally overhauling the welfare system, and just a few weeks ago on this floor, this Senate passed a historic welfare bill.

I believe this Congress will take the steps to save Medicare from bankruptcy.

This Congress is working to relieve the tax burden on working families.

Mr. President, this is the historic agenda the 104th Congress is prepared to send to the President of the United States. Let us make no mistake, this reconciliation package is the only proposal on the table that will achieve the goals of the American people.

Our national goals are to balance the budget and to let working families keep more of their own money. The Republican reconciliation package accomplishes both of these goals. Indeed, Mr. President, if you look at it a certain way, these two are, in fact, the same goal. If we do not take action now to balance the budget, the tax burden will only get worse and worse for American families in the future.

The report of the bipartisan entitlement commission could not be more clear: If we do not change our present course by the year 2012, every single penny in the Federal budget will be consumed by entitlements and interest on the national debt. If in the year 2012 we want Government to do anything at all, such as run the Army, Navy, Air Force, Marines, run a program for women, infants, and children, the WIC Program, or any other things we consider important, it would have to mean a tax increase, a huge, staggering tax increase. You would have to have a tax increase, because there is no money left to do these things.

Let me try to put our present course in historical perspective and talk about an American family.

When my parents graduated from high school in early 1940's, the debt on each child who graduated that year was approximately $360. By the time my wife, Fran, and I graduated in 1965, it was up to $1,600 for each child.

When our older children, Patrick, Jill, and Becky, graduated in the mid-1980's, that figure had risen per child. The debt for each child graduating those years was $9,000. If we continue to go the way we have been going, by the year 2012, just 1 year after our grandson, Albert, graduates from high school and just 1 year after our daughter, Anna, enters college, by that year 2012, that figure will be $25,000. That will be $25,000 in debt for each person—each man, woman, child—in this country.

What a staggering debt, what a horrible legacy we would be leaving to our children and our grandchildren. Clearly, the longer we wait to change course, the worse it will be for the American people.

The reconciliation package that we will be considering balances the budget by slowing the rate of growth of Federal spending. Let me repeat that. It balances the budget by slowing the rate of growth.

Columnist James Glassman of the Washington Post has proposed a useful way of looking at this bill, this package. Add up all the spending by the Federal Government over the last 7 years and compare it with the total this budget proposes to spend over the next 7 years. The result: Spending over the next 7 years will increase over the last 7 years by $2.6 trillion.

Let me repeat that. Spending will increase. The truth is that by limiting spending growth to just a little more than the expected rate of inflation, by doing this, what would seem to be, simple act, we can balance the budget.

If we as a nation cannot summon the will and the courage to make that relatively small sacrifice, how on Earth can we expect the next generation to face a budget with no money in the discretionary account, no money for defense, no money for social programs, and $25,000 of debt owed by every single American?

Mr. President, over a working lifetime, the interest alone on the national debt will cost an American child born today a total of $187,000.

It is clear to me as well as to the American people this could very well be our last chance to solve this problem before it is really too late. This is a grave responsibility, and I do not believe that we can back away from it.

Is there an alternative? Is there anything else we can do? The President has proposed a different approach. His budget, according to the nonpartisan Congressional Budget Office, the budget office that he told us we should be following, contains deficits, according to their calculation. His budget, the President's budget, contains deficits of $200 billion as far as the eye can see, for the foreseeable future. His budget never gets to balance. Let me repeat that. According to CBO, the President's budget never gets to balance. In other words, no balanced budget, staggering deficits as far as the eye can see.

Mr. President, I do not believe that is how America wants to begin a new millennium. For over 200 years, we have given hope to all the nations of the world—hope that free men and women are, in fact, capable of self-government, capable of making responsible choices to ensure a prosperous future for our families, our children, and for our country.

Mr. President, a vote for the Republican reconciliation package is a vote to balance the budget so that we can start reducing the national debt and so we can put America on course toward a future we can be proud to leave our children.

The administration's budget proposal would take today's staggering deficits, add 24 percent, and then ask our children and grandchildren to pay our bills. Often in the past, Americans have faced up to a choice, a choice between two futures. The choice we make in this historic Congress will rank with some of the most important in our Nation's history. As Congress decides and as America decides, I believe we should stay true to our national calling. We should prove, Mr. President, that America is in fact capable of responsibility. We must balance the budget so that our children and grandchildren do not have to pay our bills. We must, we should, put the future first and support the reconciliation bill.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2916, AS MODIFIED

Mr. BYRD. Mr. President, I appreciate the passion with which the author of this term limitation amendment believes in his cause. I can also appreciate the fact that he is adamant in having the Senate debate the issue of term limits. But I strongly suggest that the remaining days of the first session of the 104th Congress are not the time to undertake this debate. There will be plenty of opportunity when we return next year, as the able and distinguished majority leader has indicated, for the Senate to consider a constitutional amendment limiting the terms of service. I urge my colleagues to not vote for cloture today and to reject the amendment.

Notwithstanding the logistics, I believe that the Founding Fathers were exactly correct when they declined to establish in the Constitution arbitrary limits beyond those that are set forth in the Constitution regarding congressional service. It is not that the idea had not occurred to them. On the contrary, the Framers of our great charter deliberately rejected this structural prescription—one might call it a proscription; it is both a prescription and a proscription. Instead, they opted for having the number of terms a Member could serve limited not by the calendar, but rather by the Member's performance, measured through regular and periodic elections. After more than 200 years under that principle, we would all be correct to question why it deserves radical change.

Proponents may argue that it is, in fact, necessary to amend our Constitution in order to preserve the Framers' original vision of a citizen-legislator who would set aside his plow to serve the Republic, only to return to his fields as swiftly as possible. But when I think about those men who painstakingly crafted our Constitution—men like Madison, Washington, Franklin, Hamilton, Wilson, Mason, and others—I have serious doubts about the strength of such vision. These were men who devoted nearly all of their adult lives to public service. And that such men could truly embrace that bucolic notion is dubious, at best. The fact is that the citizen-legislator has long been a political myth. Now, with the ever-increasing complexities of public affairs, it is also an unrealistic myth.

For the same reason we have professional doctors, professional accountants, professional teachers and professional engineers, we need an experienced Congress. In each of the cases I have mentioned, experience counts, and it should count. No one would go to an untrained and inexperienced heart surgeon. If they want to do that, they could come to me. That surgeon only becomes so professional through a long period of schooling and an equally long residency at a hospital.

In the same light, the only way to become a better, more efficient, more professional legislator is through years of practical experience here in the Congress. Richard Russell, Everett Dirksen, Sam Rayburn, and Hubert Humphrey did not become the legislators that they became through limited terms. Just the opposite is true. They became proficient and experienced lawmakers through long years of dedicated service, learning their craft and honing their skills.

And finally, Mr. President, although I will have more to say to this issue at the appropriate time, I hope Senators will reject this notion of term limits for the most obvious of reasons: the surest and most effective term limit is that which can already be imposed by the voters. When the term of any Member of the House of Representatives or the Senate expires, the American voter can turn any Member of this body or of the House of Representatives out of office for any reason. They, the voters, alone pick and choose whom they wish to have represent them. They alone, and not some arbitrary calendar, determine who will serve in this body. And no constitutional amendment, no matter how well intentioned, can improve upon that situation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. HOLLINGS. What is the pending business, Mr. President?

The PRESIDING OFFICER. The pending business is H.R. 927.

Mr. HOLLINGS. Mr. President, I gather there is no time agreement other than the set rollcall, as I understand it, at 5 o'clock?

The PRESIDING OFFICER. There is no time limit at this time.

Mr. HOLLINGS. Mr. President, as I understand it, the matter of strengthening sanctions on the Cuban Government is the underlying legislation, with the pending amendment being one offered by the distinguished colleague from Missouri with regarding term limits. I wish to talk on a subject relating to term limits, specifically the need to retain a sense of history around this place. I oppose term limits by way of any further provision other than that in the Constitution, that we in the Senate have to run every 6 years. I have faced the voters in six elections since I first came to the U.S. Senate.

In attempting to change the existing restraints, we are in danger of losing the sense of history that is necessary in a democratic government. Specifically, I want to address the budget and the reconciliation measure that will soon be considered, the so-called train wreck, to see if we can all talk in one vocabulary relative to this budget, and to specifically demonstrate that there is no plan at the present time that balances the budget.

If you were to go out on the sidewalk and ask any of the relatively informed passers-by, they would tell you, "Well, there is a Republican plan to balance the budget by the year 2002, but the Democrats want to spend more money." The fact is, neither the President nor the Democrats nor the Republicans have a plan to balance the budget by the year 2002—or 2005, for the simple reason we refuse to face the truth; to face the reality.

Let me ask the staff to put copies of our budget tables around on all the desks and some upstairs for the media.

When Senator Howard Baker was the majority leader back in 1981, we saw that we were on a collision course. Specifically, we knew you could not cut taxes and raise revenues. Finally, the press seems to be catching on. I read with pleasure the first "truth in budgeting" article that I have seen this year, entitled "GOP Tax Cuts Will Add $93 Billion to the United States Debt, Budget Analysts Say," by Jackie Calmes.

I have called to congratulate the young lady since yesterday. I am going to continue to try to find her, because she really has made history.

I ask unanimous consent the article be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 16, 1995]

GOP TAX CUTS WILL ADD $93 BILLION TO U.S. DEBT, BUDGET ANALYSTS SAY

(By Jackie Calmes)

WASHINGTON.—Despite Republicans' claims to the contrary, their tax cuts will add billions to the nation's nearly $5 trillion debt even as the GOP seeks to balance the budget by 2002.

An estimated $93 billion in extra debt will pile up as a result of the Republicans' proposed $245 billion in seven-year tax cuts, according to calculations from GOP congressional budget analysts. And that's assuming the economy gets the huge $170 billion fiscal stimulus that Republicans are counting on as a consequence of balancing the budget over seven years, thanks mostly to lower interest rates.

GOP leaders agreed last summer, as part of a House-Senate budget compromise, to apply that hypothetical $170 billion "fiscal dividend" toward their proposed $245 billion in tax cuts. That left $75 billion in revenue losses unaccounted for. Interest on that amount would add about $18 billion, for the total $93 billion in debt.

Meanwhile, the Republican architects of the plan boast that the tax cuts are all paid for with spending cuts. Senate Finance Committee Chairman William Roth, announcing his panel's draft $245 billion tax-cut package last Friday, said it would be completely financed with lower interest rates and smaller government. "Other factors like that will add up to $245 billion," the Delaware-Republican said.

And Oklahoma Sen. Don Nickles, another Finance Committee panelist and a member of the Senate GOP leadership, added, "We will not pass this tax cut until we have a letter" from the Congressional Budget Office reporting that Republicans' proposed spending cuts through 2002 will give us a balanced budget *and* a surplus of at least $245 billion." He added, "It's all paid for."

The confusion has to do with the frequently misunderstood distinction between the nation's accumulated debt, now approaching $4.9 trillion, and its annual budget deficits, which have built up at roughly $200 billion a year.

Republicans' spending cuts, it's projected, generally will put the annual deficit on a downward path until the fiscal 2002 budget shows a minimal surplus. But the annual deficits until then, while declining, together add nearly $1 trillion more to the cumulative debt. Meanwhile, the GOP tax cuts add to those annual deficits in the early years—in fact, the fiscal 1997 deficit would show an increase from the previous year. Thus the debt, and the interest on the debt, would be that much higher.

Interviews in recent weeks indicate that many House and Senate GOP members are unaware of the calculus. And some are unfazed even when they hear of it. "It would bother me if I thought we were adding to the debt," said Texas Sen. Phil Gramm, now seeking the presidency on his record as a fiscal conservative, "but I don't think we are."

Mr. HOLLINGS. Mr. President, I worked with Senator Baker when he was in the majority, and the majority leader, in pushing for a freeze; namely, to take this year's budget for next year. We reasoned that if we could just hold the line, we would save billions and billions of dollars.

I was asked to go ahead and offer the budget freeze. Senator Baker gave some laudatory remarks. He could not endorse it. Unfortunately, we were tackled from behind, by Don Regan, the Secretary of Treasury, and Dave Stockman. Since I have started putting articles in, let me get right to the subject of tax cuts.

Mr. President, let me quote what the Director of the Office of Management and Budget, Mr. Stockman had to a couple of years ago, when I quote from an article in which he wrote:

> The root problem goes back to the July 1981 frenzy of excessive and imprudent tax cutting that shattered the Nation's fiscal stability. A noisy faction of Republicans have willfully denied this giant mistake of fiscal governance and their own culpability in it ever since. Instead, they have incessantly poisoned the political debate with a mindless stream of antitax venom while pretending that economic growth and spending cuts alone could cure the deficit. It ought to be obvious by now that we can't grow our way out of it.

We have had none other than the better words of Mr. Stockman, who was one of the leaders of the tax-cut Reaganomics, Kemp-Roth approach.

I have heard the distinguished Chair and others talk about a balanced budget, and I want to shed some light on the reality that you are not saving money or making money with tax cuts. If we are going to get rid of the deficit and the debt, we are going to have to have spending cuts, spending freezes, tax loophole closings, and we are going to have to deny ourselves programs. I support the idea of voluntarism and helped to start the Peace Corps. But when went to start AmeriCorps, I withheld my support because there was a new multi-billion-dollar program that we just could not afford. So, it takes sacrifices, but it also takes a balanced approach with spending freezes, spending cuts, loophole closings, withholding of new programs, and a revenue increases.

The reason we are in this particular dilemma is that nobody in public office can use the expression "tax increase" and get by with it. They describe it as some kind of lunatic fringe. The media, which is charged with the responsibility of exposing the truth and bringing us in public office to task, has joined the conspiracy. They are one of the major culprits—by constantly quoting inaccurate deficit numbers and to budget that are balanced when they should know otherwise.

Take this particular budget we will soon be discussing. I ask you to refer to Mr. KASICH, the chairman of the House Budget Committee, concurrent resolution on the budget for fiscal year 1996. Mr. KASICH in the conference report on page 3, and I read under the entitlement subsection 4, "deficits," fiscal year 2002, a deficit of $108.4 billion. So, please, spare me from all this balanced budget talk. The media, the politicians, the White House, both parties and everybody else—let us start talking reality. The Republican plan that claims to balance budgets has no idea of being balanced. Indeed, Chairman KASICH himself in his conference report projects a deficit of $108.4 billion.

Let me focus for a moment on this tax-cut nonsense that we have to listen to in our debate. We talk about whether the cut is for the middle class, or the rich, or whether you are going to get credit, or we get credit or how much, or whatever it is, but no one really wants to come and say that the tax cut is going to lose revenues. That is why I have inserted this article that appeared yesterday in the Wall Street Journal, entitled "GOP Tax Cuts Will Add $93 billion to the United States Debt."

Going just to the October 23 issue of the New Republic, let me quote:

> Neoconman in the late 1970's and early 1980's, Irving Crystal, editor of the Public Interest, helped lend intellectual credibility to the supply side theory that cutting taxes would not increase the deficit. Crystal opened the public interests to supplysiders and introduced Jack Kemp, author of the Kemp-Roth tax bill that initiated the era of disastrous deficits, to supply side guru Jude Waninsky. In the 30th anniversary of the Public Interest, Crystal now confesses that he and his allies never really understood economics. They were merely after a something-for-nothing gimmick that could help elect Republicans.

Now he quotes from that particular statement in Public Interest, and I quote it.

> Among the core social scientists around the Public Interest there were no economists. They came later as we matured. This explains my own rather cavalier attitude toward the budget deficit and other monetary or fiscal problems. The task, as I saw it, was to create a Republican majority so political effectiveness was the priority, not the accounting deficiencies of Government.

I quote just a couple other sentences from that particular article:

> Now he tells us. Thanks anyway, Irving, for the confession of complete political cynicism. The accounting deficiencies of Government, by the way, at last count add up to $4.9 trillion.

If you look at the historical budget tables that I have distributed, I started back when we balanced the budget. This Senator has voted for a balanced budget. Yes, I am an endangered species—one of a very few left around here. But in 1968–1969, under President Lyndon Baines Johnson, you can see that the unified budget was in surplus by $3.2 billion, or the real budget surplus was $2.9 billion.

These are CBO figures, by the way. And I have researched them all the way back to the 1940's. But I wanted to have these figures on one piece of paper showing the Government budget in outlays, the trust funds and the unified deficit—which together make up for the real deficit—the gross Federal debt, and the gross interest costs.

I know people get bored listening to figures, but they better listen to this because they are going to have to live with these figures. You cannot avoid them. You cannot avoid death. You cannot avoid taxes. And you cannot avoid the interest costs on the national debt.

Right here in 1996, the present fiscal year, you can see that the Congressional Budget Office has projected an interest cost on the national debt of $348 billion. That is $1 billion a day. There are only 365 days in a year. So we have got automatic spending—or, rather, spending on automatic pilot of $1 billion a day.

This cancer has got to be excised. It cannot be defrauded. It cannot be finessed.

The present budget for 1996 increases spending. You will find at the bottom of the page not only the Kasich conference report which shows a $108 billion deficit in the year 2002—where they say on the face of the document itself there is a deficit and not a balanced budget—but also the 1996 budget outlay of $1.5756 trillion. Then look just below that, of course, is 1995, last year's, $1.518 trillion. So as you go from 1995 to 1996, you have increased spending.

Here is the best of the best that have come to town, the 74 freshmen on the House side that are controlling the agenda and are said to be beyond the control of the distinguished Speaker. And instead of cutting spending, they have increased spending $57.6 billion. That envisions, of course, abolishing the Department of Commerce, the Office of Technology and Assessment, the Advanced Technology Program, cutting education, cutting housing, cutting all of these other things, and Government outlays still increase.

Mr. President, here we have also listed the CBO baseline assuming passage of legislation to enact the budget resolution. The outlays for the year 2002 are $1.876 trillion, and the revenues of $1.883 trillion. So that is close enough. We call that a balanced budget. But now look down below, how they get to that particular outlay figure. They do that by extending the freeze on discretionary spending through the year 2002.

This fact is assumed rather than stated in the document prepared by the Republican Budget Committee staff entitled, "Conference Agreement Compared to Baseline." It is used by Senator DOMENICI, our distinguished chairman and shows $1.876 trillion in outlays. The way you get it down to those outlays is starting from a figure at the top of the sheet called "Current Law Deficit."

Well, if you have not been in the budget game, you might say, "Wait a minute. What in the world is a current law deficit?" Translated into reality, it says, "Assume that the discretionary caps do not expire in 1998 and continue them for the year 1999, the year 2000, the year 2001, and the year 2002." They pick up $91 billion—by extending the discretionary freeze through 2002.

Then they say, "the necessary spending cuts of total deficit reduction" on the work sheet. This is using the chairman of the Republican Budget Committee's own document. I am not playing games with figures. I want to assume everything they say is true and show you they still do not have a cause of action.

If we assume everything they say is true, they still do not have a balanced budget. Why? Because they say you have got to cut in the year 2002 a reduction of $235 billion in addition to the freeze of $91 billion. And then comparing apples to apples, we must subtract from that $1.876 trillion, the $109 billion surplus in the Social Security trust fund. So the total reduction needed in the year 2002, is a $435 billion reduction.

Now, Mr. President, look at what we are doing here. In the year 1996 we are trying to get a $10 billion reduction in non-defense spending—$10 billion. And, at the present time, we cannot get it. That is why we have not passed all of the appropriations bill. Our colleagues on the Republican side, as well as the colleagues on the Democratic side, are struggling to find $10 billion in discretionary cuts, much less $435 billion.

In the debate on the State, Justice, Commerce Appropriations bill, I used the expression that if the present budget plan balanced by the year 2002, I would jump off the Capitol dome. The chairman of the Budget Committee, my colleague, Senator DOMENICI, said, "Well, you better take hang gliding lessons." I said, "I'm not going to take them from you because I know I will crash, just like this budget."

I can tell you here and now, if we cannot cut $10 billion in this struggle with the best of the best and the sincere intent of the newcomers claiming that all we have to do is cut spending, I know I have a safe bet when you look at the year 2002, and try to cut $435 billion.

Now, that is a swing, Mr. President, from this present year of a $57.6 billion increase. If you want to talk reality, rather than increasing $57.6 billion, you need to turn around and cut $435 billion. That is an almost $500 billion change in position. It is not going to happen.

Why do the distinguished newcomers have such difficulty in stomaching these cuts? The mistaken assumption is that Government began when they got elected—that we had not been cutting. President Ronald Reagan, the best of the cutters, was here for 8 years, and I worked with him. I was on the Grace Commission. That is when we tried the freeze, and then Gramm-Rudman-Hollings. When we could not get the freezes, we said we had to have automatic cuts across the board. If the budget did not come out as you had predicted, what you had to do was automatically cut across the board, otherwise known as a sequester. A majority of the Democrats and a majority of the Republicans voted for Gramm-Rudman-Hollings.

Now, right to the point, Senator GRAMM went along with the repeal of that on October 19, 1990, at 12:41 a.m. Look at the RECORD. I raised the point of order. I said that if we did not follow through with automatic cuts across the board, we would instead start increasing spending. We do not have truth in budgeting.

We not only cut under President Reagan, we cut under President Bush. Incidentally, I had gone from the attempts of the freeze and cuts across the board with Gramm–Rudman-Hollings to supporting of closing of tax loopholes. We worked it out with the Finance Committee, and passed the Tax Reform Act of 1986. We had supposedly done away with corporate welfare, but now they are beginning to talk about it again.

Then in 1989 and 1990, I talked to the President, and particularly to Dick Darman, the Director of his Office of Management and Budget. I said, "This thing is getting out of hand. The debt is so big and interest is so high that we are not getting on top of just paying the interest on the national debt." It was something like Alice in Wonderland's character whereby you have to run faster to stay where you are.

So I said to Darman, what we need is a value-added tax across the board in America. He said, "How are you going to get votes for it?" I said, "We will get it in the Budget Committee. If you and the President will come out for it, we will run with them and get on top of it. If you don't, by 1992, you are going to be in real trouble."

The truth is, in 1992, President Bush was in real trouble. The deficit was up to $400 billion and President Clinton did not so much as win that election as President Bush lost it. The people said: "We hear all the rhetoric about what all they are going to do with balanced budgets, but like Tennessee Ernie, another day longer and deeper in debt;" and there we are, Mr. President, you can understand exactly what I am talking about.

We had been to the Budget Committee and we got eight votes to increase taxes across the board. We had Senator Boschwitz. We had Senator Danforth. It was bipartisan. We got eight votes in the Budget Committee, but the Bush administration would not follow through. As a result, as I stated in 1992, we were up against $400 billion deficits.

President Reagan came to office in 1988 and pledged to balance the budget in 1 year. Of course, he soon backtracked and said, "Oops, this is way worse than I ever thought. It is going to take me 3 years." Well, here was the pledge made; they are all talking about pledges and I want to get to this one. The pledge made was to balance the budget in a year, and then in 3 years, and they instead paved the way for truly astronomical deficits.

Mr. President, gross Federal debt in 1980 was $909 billion; in 1981, it was $994.8 billion.

Former OMB Director Stockman called this gross incompetence—let me use the exact expression he used. I had it here just a minute ago. To quote Mr. Stockman: "Willfully denying this giant mistake of fiscal governance."

Giant mistake of fiscal governance, whereby in almost 200 years of history and 38 Presidents, Republican and Democrat, we had not reached a trillion-dollar debt. Now, in 12 short years, add on 3 under Clinton, 15 years, we are up to $5 trillion. We have quintupled the debt of the United States of America.

Senator THURMOND and I are going to get by. We are up there now in age, so we do not have to worry. It is not going to be us paying. It will be our children and grandchildren. We have to constantly hear this caterwaul over on the other side of the aisle: "We want people to get out of the wagon and start pulling"____

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. HOLLINGS. Mr. President, I ask unanimous consent, I am about to complete my thought here, to extend for another 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, my only question will be, there are some of us who want to speak on the Cuban matter before the vote. The vote is at 5 o'clock. I do not know how many people are lined up to speak. I am enjoying the Senator's speech. I would like to listen to it. Can we extend the vote for 5 or 10 minutes?

The PRESIDING OFFICER. It would take unanimous consent to change the time of the vote, which is now set for 5 o'clock.

Mr. HOLLINGS. I ask unanimous consent that it be extended to 5 past 5 and that I be allowed to speak.

Mr. FEINGOLD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the remaining time be equally divided between the two sides in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, the point should be made that for years now up here, at least for the past 15 years, we in the Congress have jumped up into the wagon. We have not paid a bill in 15 years, and we have crowded out the children; we have crowded out the hungry; we have crowded out the poor and the sick; and we have been up in that wagon. So do not give me this stuff about let us help pull the wagon when we do not pay our own way.

There is one fellow in this town, one individual that is not responsible for this deficit, and that is William Jefferson Clinton. President Clinton was down in Little Rock, AR, when this sham and fraud started. He came to town and cut the deficit 500 billion bucks. He increased taxes even on Social Security. He cut defense without a single vote on that side of the aisle.

Yet, they constantly appear talking about a balanced budget when they know it is not balanced, and continue to chastise the one person who did something about it.

Last year when the Medicare trustees reported that Medicare was going broke in the year 2001, they cried, "What is the matter? We have the best health system. There's nothing wrong." They would not do anything.

So President Clinton has tried. Now we are trying again. I ask these fellows to get off that high horse of this fraudulent nonsense about their balanced budget plan when it is far from being balanced—they report it themselves as a $108 billion deficit—and start working with us and cut out the sham about who is in the wagon.

I thank my distinguished colleague and ask that the document that I have referred to throughout my speech entitled, "Budget Tables" be printed at this point in the RECORD.

There being no objection, the material was ordered printed in the RECORD, as follows:

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	368.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS—Continued

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,518.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 est.	1,575.6	121.8	−189.3	−311.1	5,238.0	348.0

Source: CBO's "1995 Economic and Budget Outlook: An Update," August 1995.

[In billion of dollars]

	Year 2002
1996 Budget:	
Kasich Conf. Report, p.3 (Deficit)	−108
1996 Budget Outlays (CBO est.)	1,575.6
1995 Budget Outlays	1,518.0
Increased spending	+57.6
CBO baseline assuming budget resolution:	
Outlauys	1,876
Revenues	1,883
This assumes:	
(1) Extending discretionary freeze 1999–2002	−91
(2) Spending cuts	−235
(3) Using SS Trust Fund	−109
Total needed	−435

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. There is 10 minutes for the proponents and 10 minutes for the opponents.

Who yields time?

Mr. FEINGOLD. Mr. President, I assume the proponents as being those seeking cloture?

The PRESIDING OFFICER. That is correct.

Mr. FEINGOLD. What is the amount of time for the opponents?

The PRESIDING OFFICER. There are 10 minutes on each side.

Mr. FEINGOLD. I ask the Senator from Connecticut, through the Chair, if he would yield me time to speak in opposition to the motion.

Mr. DODD. It is my understanding that the time remaining is equally divided.

The PRESIDING OFFICER. Yes.

Mr. DODD. I yield 2 minutes to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise in opposition to the Helms bill on Cuba. As I have said on the floor several times before, it advances the wrong policy at the wrong time.

Fidel Castro is finally, reluctantly, finding that his government must accept the realities of the 1990's: that free trade and political liberalization are fundamental to the promotion of enlightened self-interest. As we have seen time and again, once people have tasted the fruit of freedoms they invariably demand the only atmosphere in which free markets and human rights flourish. That, of course, is democracy and a government protective of a phalanx of rights: the free exchange of ideas and information; respect for human rights; the right to seek one's livelihood unhindered by government fiat. We are seeing the first tentative steps toward an emerging market economy in Cuba; the first steps, we can all agree and hope, which point towards and end of this dictatorship.

So I find it ironic that at the very moment when the United States is presented with the best opportunity in nearly four decades to encourage and influence the move toward positive change in Cuba, the Senator seeks to legislate that opportunity out of existence. Rather than encourage the Cuban Government to move into the 1990's, the Helms bill would have it slide back into the 1960's, dragging the administration as well into continuing and, indeed, strengthening a fossilized policy of isolation that did not work even when, it could be argued, a bipolar world justified such short-term thinking.

In fact, rather than seek to promote the kind of positive change administrations, Republican and Democratic, have sought for decades, and which at long last holds out the promise to lift the Cuban people out of the misery visited on them by Castro's totalitarian regime, the Helms bill, incredibly, would increase their pain by further isolating Cuba. It is wishful thinking—nearly 40 years of wishful thinking—that a tightened embargo will provide the final push leading to the downfall of the Castro regime. We can be certain, rather, that Castro will put this pain to good effect: if the history of recent Cuban-American relations has taught us anything, it is that to this day Castro can still rally a proud people against the bogeyman of Yanqui imperialism.

But Senator HELMS' bill does not stop at increasing the hardship of Cuba's people. It seeks to impose on other nations—close allies in many cases—extraterritorial provisions which conflict with international law and various treaties to which the United States is party. I note that the embargo is already considered by many of our allies to be a hopelessly out-dated affront to their sovereignty: the HELMS proposal will only lead to retaliation at a time when we seek their cooperation on issues of greater complexity and, frankly, of more immediate import to our national interests.

I would add, as well, that our Latin American friends see efforts such as the Helms bill as a vestige of the gunboat diplomacy which, to this day, leaves them wary of our intentions. But it is not enough that this bill would hurt the average Cuban, enrage our allies, and renew the suspicions of our Latin American friends. It would also strike at the American taxpayer. Senator HELMS would have the administration seek—in vain, in my opinion—to expand TV Marti, a failed program which figuratively and literally crashed in a Florida swamp. The Cuban people have not seen the truth from TV Marti, because they never see TV Marti.

Rather, the truth is more likely to come to them as Cuba gains more access to international television, engages in dialogs about the rest of the world, and integrates into the international community. Therefore, we should encourage policies and dialogs which will lead to the political changes and freedoms sought by the Cuban people.

The administration's October 5 announcement that it will seek to put in place measures designed to promote the flow of information into and out of Cuba is a step in that direction. To further promote, rather than strangle, democratic transition in Cuba, United States NGO's would now be authorized to help independent Cuban NGO's provide training to Cuban human rights activists. Without employing the expensive baloondoggle of taxpayer-funded TV Marti, for example, United States news bureaus would set up shop directly in Cuba and Cuban news agencies here in the United States. The new regulations are also family friendly, easing procedures for Cuban-Americans who want to visit relatives in Cuba.

However, the proposed policy will not reward a totalitarian regime which continues to violate basic human rights with impunity. In fact, the administration proposes enhanced enforcement of the embargo and the U.S. Neutrality Act. This mixed bag approach—injecting into Castro's system the poison of free thought while continuing to restrict his access to the relief found in free trade—may not be the perfect solution. I think it is time for a new strategy in Cuba, rather than more of the same, which the Helms bill advocates and which has clearly failed. I believe an incremental approach, which minimizes the pain to the Cuban people and the cost to the American taxpayer, while making clear our determination to not do business as usual with the Castro regime, offers the best current hope of effecting change. The Helms amendment does everything but that, so I urge its defeat.

Mr. President, I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. FEINGOLD. I ask unanimous consent that Juan Alsace be granted the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I yield 5 minutes to the distinguished Senator from Georgia.

Mr. NUNN. Mr. President, the Cuban Liberty and Democratic Solidarity Act currently before the Senate presents us with a difficult decision. I am sure we all favor the early return of freedom in Cuba. I am sure the sponsor of this act believes that this legislation would contribute to that aim. There are those of us, though, who have grave doubts.

Mr. President, I am particularly concerned about the impact of this proposed legislation on our Nation's national security interests. For that reason, I requested the views of our responsible military commander Jack Sheehan, commander in chief of the United States Atlantic command, under whose command Cuba falls.

I would like to share the letter I received, dated October 15, from General Sheehan, who is in direct charge of the security aspects of Cuba under his command. It says:

DEAR SENATOR NUNN: I am writing to provide my assessment of the potential effect of the Cuban Liberty and Democratic Solidarity Act * * * could have on the United States Atlantic command and operations in Guantanamo Bay, Cuba. There are currently 8,000 Cuban migrants in camps at Guantanamo Bay, down from 20,000 5 months ago. The Department of Defense has processed more than 100,000 Cuban and Haitian migrants in Guantanamo Bay over the last few years. When the migrant population was at its peak, it cost the Department of Defense over $1 million a day in operation and maintenance—money which was not in the budget. Additionally, prior to the White House policy announcement in May, we had more than 6,000 U.S. personnel in a potentially explosive situation—guarding and caring for Cuban migrants who were frustrated because there was no hope of leaving the camps.

From a military perspective, the current version of the Helms-Burton bill could create conditions for more migrants. I believe the Cuban economy is at a low point. I have this on interviews of more than 40,000 Cubans who have been through Guantanamo. They say one of the primary reasons for leaving Cuba is to be able to provide a basic quality of food and shelter for their families. The bill in its current form could further punish the people, not Castro or the privileged elites. Furthermore, rather than promoting a peaceful transition in Cuba, the bill could give Castro an excuse to maintain his focus on "U.S. aggression," rather than his own failed ideology. I also question the bill's implied assumption that strengthening the embargo would lead to a revolt from within and create the conditions for a transition to democracy. Cuba is not Haiti—the circumstances which allowed for a successful intervention in Haiti, with only one American casualty, do not exist in Cuba. Any operations involving U.S. forces in Cuba would likely have a much higher cost in terms of lives and national treasury.

Our policy objective should be the peaceful transition of power in Cuba, and I support any congressional language that brings about that change.

Mr. President, in short, General Sheehan believes that our policy objective should be the peaceful transition of power in Cuba to democracy. But he does not believe the legislation before us will make a net contribution to this objective. He believes that this legislation, in fact, will have the opposite effect and that it will basically cause an increase in the very migration that has now finally subsided.

Mr. President, I hope we can work out, before this legislation is concluded, a satisfactory bill that can be agreed to on both sides of the aisle and supported by the administration. I do not believe this legislation meets that test.

I thank the Senator for the time. I yield back whatever time I have remaining.

I ask unanimous consent that General Sheehan's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMANDER IN CHIEF,
U.S. ATLANTIC COMMAND,
October 15, 1995.

Hon. SAM NUNN,
Senate, Committee on Armed Services, Senate Russell Office Building, Washington, DC.

DEAR SENATOR NUNN: I am writing to provide my assessment of the potential effect the Cuban Liberty and Democratic Solidarity Act (The Helms/Burton Bill) could have on the United States Atlantic Command and operations in Guantanamo Bay, Cuba. There are currently 8,000 Cuban migrants in camps at Guantanamo Bay, down from 20,000 five months ago. DoD has processed more than 100,000 Cuban and Haitian migrants in Guantanamo Bay over the last few years. When the migrant population was at its peak, it cost the Department of Defense over $1 million a day in operations and maintenance—money which was not in the budget. Additionally, prior to the White House policy announcement in May, we had more than 6,000 U.S. personnel in a potentially explosive situation—guarding and caring for Cuban migrants who were frustrated because there was no hope of leaving the camps.

From a military perspective, the current version of the Helms-Burton Bill could create the conditions for more migrants. I believe the Cuban economy is at a low point. I have this on our interviews of more than 40,000 Cubans who have been through Guantanamo. They say one of the primary reasons for leaving Cuba is to be able to provide a basic quality of food and shelter for their families. The bill in its current form could further punish the people, not Castro or the privileged elites. Furthermore, rather than promoting a peaceful transition in Cuba, the bill would give Castro an excuse to maintain his focus on "U.S. aggression," rather than his own failed ideology. I also question this bill's implied assumption that strengthening the embargo will lead to a revolt from within and create the conditions for a transition to democracy. Cuba is not Haiti—the circumstances which allowed for a successful intervention in Haiti, with only one American casualty, do not exist in Cuba. Any operations involving U.S. forces in Cuba would likely have a much higher cost in terms of lives and national treasure.

Our policy objective should be the peaceful transition of power in Cuba, and I support any congressional language that brings about that change.

Sincerely,

J.J. SHEEHAN,
General, U.S. Marine Corps.

Mr. DODD. Mr. President, I do not see any of the proponents on the floor at this point. How much time remains?

The PRESIDING OFFICER. Three minutes, forty seconds.

Mr. DODD. Let me take the time. I presume the Senator from North Carolina may come to the floor shortly.

Mr. President, I want to spend some time this afternoon explaining the very complex issue of how the U.S. Government deals with property claims by U.S. citizens who have had their property expropriated by a foreign government and who failed to receive adequate and effective compensation for such action.

I believe that it is important to do so, because what we are prepared to do today, if we enact this pending legislation into law, is to totally reverse more than 46 years of practice on how we as a government have dealt with this question. Not only would it alter the scope of claimants who would be able to seek some remedy from the U.S. Government for acts against property held abroad, it would also change the manner in which the U.S. Government seeks to ensure that claimants are compensated.

So, how have property claims been handled in the past? for which countries? What have been the results?

Claims by U.S. citizens for losses arising from a foreign government's nationalization, expropriation, or other takeover of their property are administered under provisions of the International Claims Settlement Act of 1949. That act originally authorized the International Claims Commission to adjudicate claims pursuant to an agreement negotiated between the United States Government and the Government of Yugoslavia.

During ensuing years the act has been amended a number of times to authorize the Commission—now called the Foreign Claims Settlement Commission—to determine claims against a number of other foreign governments, including Cuba that have expropriated property from our citizens.

The Foreign Claims Settlement Commission has already processed the claims of United States citizens who lost property in Cuba. That is why we can say with certainty today that there are 5,911 certified U.S. claimants who have not been compensated for their losses.

It is not the responsibility of the Commission to actually make payment of the awards for these certified claims. That responsibility rests with the Secretary of the Treasury, as funds become available for payment of claims. Funds generally come available through negotiated agreements between the U.S. and the foreign government in question.

Since 1949, the Commission has undertaken claims programs in 36 countries—including most recently—Yugoslavia, Panama, Poland, Ethiopia, Bulgaria, Hungary, Romania, Italy, the Soviet Union, Czechoslovakia, Cuba, the People's Republic of China, East Germany, Iran, Vietnam, and most recently Albania. That means that the Commission has processed or is processing claims by American citizens that their property was taken by the government in question.

Claims settlement agreements have been reached with a number of these countries including Yugoslavia, Panama, Poland, Bulgaria, Hungary, Romania, Italy, China, and Vietnam. That means that the United States and the government in question have reached agreement on a sum of money which such government has agreed to provide to the United States for distribution to the claimants.

In the case of Cuban claims, the Commission evaluated some 8,800 United States claims over a 5-year review period—1967–1972—and determined that some 5,911 were in fact valid claims. Once the United States and the Cuban Government have reached agreement on a sum of money to compensate these claimants then the funds will be paid out by the Secretary of the Treasury for these claims.

In none of these cases were property claims of non-U.S. citizens included in these claims settlement procedures. One of the key qualifications in each one of these claims programs is that the claimant must first and foremost have been a U.S. citizen at the time the property was taken. The reason for this is obvious. While we may not agree with the manner in which another government regulates or otherwise makes decisions about the property of its citizens, how that issue gets resolved is to be sorted out between that citizen and his or her government.

Now, not only are we going to jettison the Foreign Claims Settlement Commission as a method of adjudicating property claims, we are going to dramatically increase the scope of claimants. The bill would change the definition of who is eligible for U.S. assistance in resolving his or her claims.

The bill before us would have the Federal district courts be the venue for resolving these suits. Any Cuban-American whose property was taken and is currently being used in a commercial activity is eligible to sue for up to triple damages for such losses.

How many claims are we talking about? There is clearly some dispute here. In one of the earlier versions of the Helms legislation, it was asserted that this figure was in the hundreds of thousands. Analysis by outside experts have indicated that there is a range of possibilities reaching as high as $430,000. No one knows for sure. Yet some in this chamber are prepared to vote for this legislation anyway, in the name of being tough on Castro.

This is the height of irresponsibility in my view. The only one that we are being tough on is ourselves and our own judicial system. The only one we are being tough on is this administration and future administrations that will have to deal with the court logjam in the context of forging normal relations with any post-Castro government.

Mr. President, let me point out to my colleagues once again that the heart of this legislation is title III of the bill. Again, briefly, what this title III of the bill will do is expand the universe, the population of those who would be able to utilize the U.S. system in order to be compensated for lands that were expropriated from them. What it does is carve out a unique group of citizens in our country—in fact, people not even citizens of this country—to be able to take advantage of our claims compensation program.

Under more than four decades of law, Mr. President, we have provided assistance to United States citizens whose lands were expropriated by a foreign government. There are some 6,000—in fact, we know the exact number, which is 5,911 claimants, who have been certified as bona fide claimants. This legislation would say that you no longer have to be a United States citizen when it comes to Cuba, that even if you are not a citizen of the United States today, but you incorporate yourself for that purpose, you can take advantage of the law that is designed specifically to assist United States citizens.

Now, Mr. President, that would expand the universe from 5,911 certified claimants to one estimate of 430,000 people, at a cost of $4,500 to process each claim. My colleagues can do the math and see the explosive costs here. Beyond the costs, there are 37 other nations in the world with whom we have expropriation cases pending on behalf of U.S. citizens. We do not carve out or create a situation where those who have left those countries and have become citizens or are not citizens of this country, but would incorporate themselves for the purpose of having those claims processed by the United States, are included. So nations such as Poland, Vietnam, People's Republic of China, and others, would not be given the same benefits, with all due respect to Cuban-Americans, Cubans who left Cuba to seek redress under this law we are adopting.

I am sympathetic to the people who had lands expropriated without compensation, but the law was written specifically to assist U.S. citizens at the time of the expropriation. If we want to change the law, we ought to do so with all nations, not just one. Certainly, Polish-Americans, those who were left in East Germany, and others, would have just as much right, it seems to me, if we are going to carve out an exception as those so poorly treated in Cuba. For that reason, title III deserves special attention.

Let me echo the comments of my colleague from Georgia. I would love nothing more than to see democracy come this evening to Cuba. But we need to think smartly, intelligently, and prudently as to how we can expedite that conclusion.

Jude Winitisky wrote an excellent piece in the Houston Chronicle, which I inserted in the RECORD last week. I encourage my colleagues to review that article.

He makes a strong case that we have a wonderful opportunity, I think, to create that kind of a change. This legislation would set us back in that process.

For those reasons, I urge my colleagues to vote against this cloture motion in hopes we might be able to come up with some sort of a bill here that makes far more sense, with all due respect, than the one that would come before the Senate if cloture is adopted. I urge the rejection of the cloture motion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, some opponents of the pending Libertad bill, I am sad to say, appear to be willing to say almost anything to defeat this bill, a bill that Cubans inside of Fidel Castro's land are pleading with us daily to pass so that they could have an opportunity for freedom.

These people in Cuba are writing to me every day. We have had—I do not know how many letters—50 or 60. Yet the forces who oppose this bill have repeatedly misrepresented what the bill does and have ignored the support that this bill has among the American certified claimant community as well as among Cubans inside Cuba.

Now, the record needs to be set straight about what these two groups are saying about the Libertad Act.

Last week, for example, this Senate was told that all certified claimants oppose this bill. Not so. For example, Colgate-Palmolive, a certified claimant whose stolen property is valued at over $14 million in 1960 dollars, wrote to me stating this communication is to state for the record the support of Colgate-Palmolive Co. for Senate bill S. 381. This is the bill pending right now.

Then Procter & Gamble, another company who had property seized by Fidel Castro's crowd and is therefore a certified claimant, wrote to me and said, We support this legislation as currently written, and agree with the aims and goals of the Cuban Liberty and Solidarity Act.

Then there is another claimant company, Consolidated Development Corp., whose president, Alberto Diaz-Masvidal, testified before the Foreign Relations Committee this past June in strong support of this bill.

The United States-Cuban Business Council, the largest private sector organization addressing Cuban issues of interest to businessmen—particularly American certified claimants—has actively encouraged its members to support this legislation. In September, a letter went to all of its members asserting that the Council considers the Libertad Act to be beneficial for the United States business community, protection of United States property rights, and the economic development of a free market, democratic Cuba.

Another American property owner supporting the Libertad bill is the Cintas Foundation, which is a New York charitable organization. This organization owns artwork on loan right now to the National Museum in Havana and it, too, has been victimized by Castro's thievery. In 1991, two pieces from the Cintas collection appeared for auction in London. See, what is happening? Castro is stealing this stuff and selling it overseas. The Cintas Foundation submitted testimony to the Foreign Relations Committee saying that the Libertad bill provides an important legal avenue for the Cintas Foundation to prevent any further attempts by the Castro regime to break up and sell off this valuable art collection.

These are just a few examples. Now, then, the truth deserves to be heard.

There have been specious suggestions that the Cuban people are opposed to the Libertad bill, the pending bill. Absolutely untrue. Yet it has been said on this Senate floor that that is the case.

Scores of letters and cassette tapes have been smuggled out of Castro's Cuba and delivered to me expressing support for the Dole-Helms bill or the Helms-Burton bill, or however you want to describe it.

These are Cubans who are very well aware that in speaking out against Castro they will be persecuted, to say the very least. They go ahead and speak at great personal risk because they are willing to put their lives on the line to help get this bill passed. Yet we have voices in this Senate and we have voices in the news media saying this is a terrible bill.

Mr. President, let me read from one or two of the letters. A vast number of Cuban citizens on October 8 signed a letter to me saying:

> We, as members of the internal opposition to the dictatorial regime that oppresses us, ask you, in the name of the men and women who languish in Castro's prisons or who saw the ends of their days before a firing squad, that you cooperate to remove the last tyrant in our continent.

Then they said:

> A vote in favor of Helms-Burton will bring joy and hope to all Cubans. It is not the embargo that keeps the Cuban people hungry and desperate, but the Castro dictatorship, and that, all of Cuba knows well.

Then there is an October 10 statement delivered by cassette tape representing the views of more than a dozen leaders of human rights and dissident groups in Cuba saying:

> The U.S. embargo works. The few changes that have taken place in Cuba are a result of economic, political, and diplomatic pressures. Those pressures should be intensified. We support the Helms-Burton initiative. We call upon the Executive not to veto it, if passed. It is a peaceful measure, aimed only at preventing that foreign investors continue buying from the Cuban Government properties confiscated from and not paid to United States and other citizens. By passing this bill, you will be taking a fair ethical decision in the name of freedom and democracy.

In September, the leader of another dissident group, Democratic Solidarity Party in Cuba, wrote,

> We want freedom from oppression, we want respect for our rights, but most democratic government seems to ignore this, * * * But we know that we are not alone in this problem, and you are proof of that Sir. * * * We are deeply thankful of you, and all the politicians who are not forgetting the ultimate interest of the Cuban people * * * to live in freedom and democracy.

There are many more, but I think Senators get the point, which is this: American citizens whose property was stolen by Castro want this bill passed. The Cuban people are begging that it be enacted. I simply cannot be a party to our turning our backs on them. The Cuban people deserve freedom. They are pleading for our help.

The question just will not go away. Can we in good conscience, Mr. President, turn away from them and walk away on the other side of the road?

Mr. President, I ask unanimous consent that the letters and statements previously referred to in my brief remarks be printed in the RECORD.

There being no objection, the material has ordered to be printed in the RECORD, as follows:

U.S.-CUBA BUSINESS COUNCIL,
Washington, DC, September 20, 1995.

DEAR COUNCIL MEMBER: As you know, the US-Cuba Business Council has closely monitored congressional and Executive Branch action on the Cuban Liberty and Democratic Solidarity Act of 1995 [H.R. 1868], known as the LIBERTAD Act of the Helms-Burton bill. The LIBERTAD Act has undergone significant change since the bill was originally introduced. Council members have inquired as to how the Council views the potential impact of this bill on the US business community.

The measure, in its current form, addresses many of the concerns expressed by the Executive Branch, the business community and legal scholars. As modified, we believe that the LIBERTAD Act is fundamentally consistent with the goal of current US policy on Cuba designed to foster a democratic change with guarantees of freedom and human rights under the rule of law. Congressional action on the bill may take place as early as this week.

Chapter I of the bill includes measures to strengthen the embargo against Cuba. Questions have been raised about the "extraterritoriality" of these provisions. As currently drafted, LIBERTAD Act is consistent with US obligations under the North American Free Trade Agreement and the General Agreement on Tariffs and Trade and does not involve secondary boycotts.

Chapter II establishes a framework for trade with, and economic assistance to, a transitional or democratic government in Cuba. Some US certified claimants have expressed concerns that Section 737 of the bill may diminish the pool of available assets for American property claimants by conditioning US assistance to Cuba on resolution of claims held by those who were not US citizens at the time of confiscation. Section 737 of the LIBERTAD Act has been significantly modified to address such concerns. As amended, this section protects the rights of certified US claimants by conditioning assistance to a transitional government in Cuba on U.S. Presidential certification that the Cuban government is taking appropriate steps to resolve property claims involving US claimants as described in Section 620(a)(2) of the Foreign Assistance Act of 1961.

A key element of the LIBERTAD Act involves measures under Chapter III to defend US property rights and discourage foreign investors from trafficking in confiscated US properties. Under these provisions, foreign firms trafficking in stolen US property in Cuba would risk action by US claimants against their US-based assets [(Chapter III) Sections 741–744] and invite US action to revoke entry visas of foreign corporate executives trafficking in confiscated US properties.

We believe these measures will enhance the leverage of US claimants seeking to discourage prospective foreign investors from trafficking in their confiscated properties in Cuba, facilitate the rapid and effective resolution of claims disputes, and level the playing field for US firms preparing to participate in the economic development of a democratic Cuba.

Some US claimants have expressed concerns about allowing Cuban American claimants to file suits against traffickers or to obtain default judgements against the Cuban government. Sections 742 and 744 of the LIBERTAD Act have also been modified to clarify that the bill does not authorize the President to espouse the claims of naturalized US citizens in any settlement with Cuba and will not dilute the pool of assets available to US claimants. As modified, the LIBERTAD Act significantly narrows and limits the filing of suits to effectively target foreign firms trafficking in confiscated US-owned property.

In the new version of LIBERTAD, it is not possible to obtain a default judgement against the current government of Cuba. Moreover, the right of action to sue a trafficker in stolen US assets applies almost exclusively to commercial property. Claimants must provide suspected traffickers with 180 days notice before filing legal action and the case must involve property worth more than $50,000. The Cuban government claims a total of 212 joint ventures on the island. Few of those enterprises are likely to have US-based subsidiaries or other assets. Thus, only a handful of cases against foreign firms in the US would qualify for consideration in US courts. Accordingly, the Congressional Budget Office estimated that the cost of enforcement of the LIBERTAD Act would be less than $7 million. Furthermore, under current law the President could halt such suits through is authority under the International Emergency Economic Powers Act once a transition regime is in power in Cuba.

On balance, the Council considers the LIBERTAD Act, in its current form, to be consistent with the Council's mission statement and beneficial for the US business community, protection of US property rights, and the economic development of the free market, democratic Cuba.

Please contact me or USCBC Executive Director Tom Cox in our Washington office (202) 293–4995 if you need further information on issues relating to this measure. I look forward to hearing from you.

Best regards.

Sincerely yours,

OTTO J. REICH.

COLGATE-PALMOLIVE CO.,
New York, NY, June 20, 1995.

Subject: Cuba

Chairman HELMS,
U.S. Senate, Committee on Foreign Relations, Washington, DC.

DEAR MR. CHAIRMAN, This communication is to state for the record the support of Colgate-Palmolive Company for Senate Bill S. 381 in the form of its June 12, 1995 draft.

Sincerely,

EMILIO ALVAREZ-RECIO.

ADOLFO FERNANDEZ SAINS,
PARTIDO SOLIDARIDAD DEMOCRATICA,
Havana, September 12, 1995.

Hon. SENATOR JESSE HELMS,
U.S. Senate,
Washington, DC.

HON. SENATOR JESSE HELMS: We admire your courage, and we thank you for your help.

We regret that you are so right. Because you are right sir, if you were wrong, than we the cuban people would be facing a lesser problem, but our problem is serious indeed. We want freedom from oppression, we want respect for our rights, but most democratic governments seem to ignore this, most important newspapers ignore this, but we know that we are not alone, in this problem, and you are aproof of that Sir.

Our problem is, that we are rule by intolerance. We are not going to ignore this, and we should not reward intolerance.

A glance at the conduct of the cuban government will tell you, the only language they understand is might, and never reason.

Some seek dialogue, we deeply regret that they are wrong. They are trying to dialogue with a non-repentant dictator with all the power in his hands.

We would certainly prefer dialogue, but we cannot ignore the truth.

Our prisons are full of political prisoners, and convicts, that are convicts only in Cuba, their crimes are crimes only in Cuba.

Our problem is not only economic, solving the economic problem, and ignoring the political one, would leave us in the hands of tyranny.

America has the right to defend their property, economic sanctions are right, they are applied daily everywhere.

We are deeply thankful of you, and all the politicians who are not forgetting the ultimate interest of the cuban people, the ultimate right of the cuban people, to live in freedom, and democracy.

Our struggle is not about the right we have to invest in our own country, that is obvious. We are not opposing Fidel Castro's government, because we want to be the owners of a laundry shop, or a bar, or even a sugar factory.

We want all that for our people, but we also want to publish an article in a newspaper, to establish an association independent from the government, to create a political party without having to go to prison for that.

Nobody should forget or ignore this. We think that the U.S. government has so far understood this, and has remain firm, and we appreciate it deeply.

You have been extremely generous with the cubans, so we are very thankful to you, Senator personally, for all you have done for us in this very difficult time, of our history, and we have a history of friendship, and understanding, and good neighborliness between our two people, and we want to go back to that situation again.

ADOLFO FERNANDEZ SAINS.

PARTY OF DEMOCRATIC SOLIDARITY,
City of Habana, October 8, 1995.

DISTINGUISHED U.S. SENATORS: Today you are not simply debating a law, you are debating the future of a nation. We, as members of the internal opposition to the dictatorial regime that oppresses us, ask you, in the name of the men and women who languish in Castro's prisons or who saw the end of their days before a firing squad, that you cooperate to remove the last tyrant in our continent. It is dishonorable to allow a dictator, who with terror maintains an entire nation in the dark ages, to continue to blatantly ignore the rights of the men and women in the land of José Martí.

A vote in favor of Helms-Burton in the Senate of the U.S. will bring joy and hope to all Cubans. It is not the embargo that keeps the Cuban people hungry and desperate, but the Castro dictatorship, and that, all of Cuba knows well.

May God illuminate you and allow you, and the rest of the world, to clearly declare enough is enough! to the bloody dictatorship that misgoverns our country.

MIGUEL ANGEL ALDANA RUIZ,
President of the Marti Civic League.
RAMON VARELA SANCHEZ,
(In detention),
Vice-president.
ANNIA NAVARRO GONZALEZ.
OMAR ACOSTA RODRIGUEZ.

OCTOBER 10, 1995.

Message to: Senator Robert Dole, President of the Senate, Senator Jessie Helms, Chairman of the Foreign Relations Committee, the U.S. Senate.

Cuba is the country with the highest rate of suicide, prisoners, exiled nationals and abortions in the Americas, and probably in the whole world. That will be enough to oppose Castro's government, even if it were not a 36 year old dictatorship that has plunged the Cuban people into poverty, divided the Cuban family, and brought to the country an ideology, enemy of Democracy and Freedom, alien to our traditions and our environment, and on behalf of which the human rights of the Cuban people are violated.

The Cuban government has not shown the necessary political will to bring about changes in the country. We believe that the Cuban government does not understand any language, other than pressure, and coercion measures. Even if the Cuban government decided to effect a true economic reform, leading to a market economy, something it has not done, and in our opinion, will not do, we would still be in the hands of a dictatorship.

President Clinton recently announced a package of measures, adopted unilaterally by the U.S. Government in relation to Cuba. We consider it counter-productive to send the Havana regime a mixed signal, giving them a certain hope that with our holding free, fair and internationally supervised elections, an amnesty for all political prisoners and legalizing the internal opposition, they could get rid of the U.S. Embargo.

The U.S. Embargo works. The few changes that have taken place in Cuba are a result of economic, political and diplomatic pressures. Those pressures should be intensified. We support the Helms-Burton initiative. We call upon the Executive not to veto it, if passed. It is a peaceful measure, aimed only at preventing that foreign investors continue buying from the Cuban government properties confiscated from and not paid to, U.S. and other citizens. Those investments only completed to extend the suffering of the Cuban people.

Distinguished Senators, you are facing an ethical alternative, where you choose whether you support or not this Bill, know that you are choosing between the weak and the powerful. The weak are the Cuban people, torn by so much pain and suffering. The powerful are Fidel Castro's totalitarian and antidemocratic government, that continues to make decisions affecting our lives and compromising the future of the whole people, without ever submitting to the will of those people in the ballot box. By passing this Bill, you will be taking a fair ethical decision in the name of Freedom and Democracy, which you enjoy fully as their main advocates in today's civilized world.

Finally, a word of thanks to the American people and their Government, and for the support, the solidarity and generosity that historically they have extended to the Cuban people.

And now, from Cuba, signing this document on behalf of their respective organizations:

Partido Solidaridad Democratica, Hector Palacio Ruiz, President and Fernando Sanchez Lopez, Vice President, and National Executive; on behalf of Partido Democrata 30 de Noviembre Frank Pais, Osmel Lugo Gutierrez, Vice President; on behalf of ALFIN, Asociacion de Lucha Frente a la Injusticia Nacional, Beatriz Garcia Alvarez, President, Fernando Alfaro Garcia, Vice President; on behalf of Liga Civica Juvenil Martiana, Miguel Aldana Ruiz, President, Ania Navarro Gonzalez, Vice President; on behalf of Partido Pro Derechos Humanos en Cuba, Lazaro Gonzalez Valdes, President; on behalf of APAL Independiente, Juan Jose Perez Izquierdo, Vice President, and Vicente Escobar Rivero; on behalf of Corriente Liberal Cubana, Juan Jose Lopez Diaz, President; on behalf of Asociacion Ecologista y

Pacifista de Cuba, Leonel Morejon Almairo, President; on behalf of Movimiento Democrata Cientifico, Juan Rafael Fernandez Peregrin, President; on behalf of Comite Cubano de Opositores Pacificos Independientes, Victoria Ruiz, President, and Lazaro Garcia Cernuda; on behalf of Movimiento Maceista por la Dignidad, Isidro Herrera Carrillo, President; on behalf of Frente Femenino Humanitario, Gladys Linares, President; on behalf of Consejo Medco Cubano Independiente, Jesus Marante Pozo, President, and Dianeli Garcia Gonzalez; on behalf of Frente Maximo Gomez from Pinar del Rio, Jose Angel Chente Herrera, President, Juan Jose Perez Manso, and Julio Cesar Perez Manso.

Also signing this document are a number of independent activists: Norman Brito Hernandez Human Rights Activitist, Rafael Solano, a Journalist and president of Havana Press News Agency, Hector Paraza, Journalist, also from Havana Press, Raul Rivero, a Poet and Journalist, President of Cuba Press News Agency, Miguel Fernandez, a Journalist, Vice President of Cuba Press News Agency, and Ana Luisa Lopez Baeza, a Journalist, also from Cuba Press News Agency.

This document was produced in Havana City, on 10 of October, 1995, and your speaker is Adolfo Fernandez Sainz, from Democratic Solidarity Party.

Thank you very much.

[Source: Radio Marti, Havana, Sept. 21, 1995]

COMMENTS BY MIGUEL ANGEL ALDANA, EXECUTIVE OF THE COALITION FOR A DEMOCRATIC CUBA AND MEMBER OF THE MARTI CIVIC LEAGUE

At this time, we ask the U.S. Government and we ask President Bill Clinton to support the Helms-Burton bill, because it's the only way to free the Cuban people. It's the only way that our human rights groups and the political opposition are going to feel strong. If that bill is not passed, the Fidel Castro dictatorship, which is crushing the Cuban people, and which is committing injustices daily, is going to get stronger. It's deceiving the U.S. Government, the way it did with the boat people. It obligated the U.S. Government to sit down at the negotiations table. They're laughing at the American government, they're laughing at the entire world, and they're doing away with the Cuban people.

We ask the U.S. Senate and House of Representatives to support those Senators, and we ask the American people to support the Helms-Burton bill so that once and for all the Cuban people will be freed from a dictatorship of more than 36 years that is leading and subjecting the people of Cuba to injustice and abuses, and killing children, women and the elderly from hunger.

When here the diplotiendas [stores for the elite with cash] and the markets are full of food, the Cuban government is alleging that there's an embargo, or blockade. The only blockade here is the Fidel Castro dictatorship.

This bill has to be passed because the freedom that the people of the U.S. enjoy has to be shared. This law is necessary!

A MESSAGE TO SENATE MAJORITY LEADER BOB DOLE, SENATE FOREIGN RELATIONS COMMITTEE CHAIRMAN JESSE HELMS, AND THE ENTIRE UNITED STATES SENATE FROM THE DEMOCRATIC SOLIDARITY PARTY

Cuba is the country with the highest rate of suicides, political prisoners, exiled nationals, in the Americas, and perhaps, in the whole world. That would be enough to oppose Castro's government even if it were not a 36 year old dictatorship that has plunged the Cuban people into poverty, devided the Cuban family, and brought to the country an ideological enemy of democracy and freedom alien to our traditions and environment and on behalf of which the human rights of the Cuba people are violated.

The Cuban government has not shown the necessary political will to bring about changes within the country. We believe that the Cuban government does understand any language other than pressure and coercive measures. Even if the Cuban government decided to effect a true economic reform leading to a market economy, something it has not done and will not do, we would still be in the hands of a dictatorship.

President Clinton recently announced a package of measures adopted unilaterally by the U.S. government in relation to Cuba. We consider it counterproductive to send the Havana regime a mixed signal, giving them a certain hope that without holding free, fair, and internationally supervised elections, an amnesty for all political prisoner, and legalizing the internal opposition, they could get rid of the U.S. embargo.

The U.S. embargo works. The few changes that have taken place in Cuba are a result of economic, political and diplomatic pressures. Those pressures should be intensified. We support the Helms-Burton initiative. We call upon the Executive not to veto it if passed. It is a peaceful measure aimed only at preventing that foreign investors continuing buying properties confiscated from and not paid to U.S. and other citizens. Those investments only contribute to extending the suffering of the Cuban people.

Distinguished Senators, you are a facing an ethical alternative. When you choose whether to support or not this bill know you are choosing between the weak and the powerful. The weak are the Cuban people, torn by so much pain and suffering. The powerful are Fidel Castro's totalitarian and anti-democratic government that continue to make decisions effecting our lives and compromising the future of the whole people without ever submitting to the will of those people in the ballot box.

By passing this bill you will be making a fair ethical decision in the name of freedom and democracy, which you enjoy fully as the main advocates in today's main civilized world.

Finally, a word of thanks for the American people and their government, for their support, solidarity, and the generousity that they have historically extended to the Cuban people.

And finally, in this message from the Cuba Democratic Solidarity Party president Hector Palacio Ruiz, vice-president Osmel Lugo Guttirez, and the national Executive; by the 30th November Democratic Party "Frank Pais"; and on behalf of Rafael Ibarra Roque who is in prison; the Association for the National Struggle for Justice, Beatrice Garcia Alvarez, president, Reinaldo Fargo Garcia, vice-president; Marti Youth Civil League, Miguel Angel Aldana Ruiz, president, Amnia Navarro Gonzalez, vice-president; the Pro-Human Rights Party of Cuba, Lazaro Gonzalez Valdes, president; Ampare Independiente, Juan Jose Perez Izquierdo, vice-president, Vincente Escobar Trabiero; the Liberal Cuban Current, Juan Jose Lopez Diaz, president; on behalf of Association of Cuban Pacificists, Leonel Morejon Almagro, president; on behalf of the Scientific Democratic Movement, Juan Rafael Fernandez Pelegrin, president; on behalf of the Cuban Committee Independent Pacifists in Opposition, Vicotrio Ruiz, president, Lazaro Garcia; Maceo Movement for Dignity, Isidro Carrera Carillo, president; on behalf of the Women's Humanitarian Front, Gladys Linares, president; on behalf of the Independent Cuban Medical Council, Jesus Marante Pozo, president, Ana Beoneles Gonzalez, on behalf of the Maximo Gomez Front from Pinar del Rio Province, Jose Vincente Herrera, president, and Juan Jose Perez Manzo and Julio Cesar Perez Manzo; and also a number of independent activists who are also signing this document, Norma brito Hernandez, an activist of human rights, Rafael Solano, a journalist who is president of Havana Press News Agency, Hectro Peraza, journalist, also from Havana Press, Raul Ribero, poet, journalist and president of Cuba Press News Agency, Miguel Fernandez, journalist, vice-president of Cuba Press, Ana Luisa Lopez Baeza, journalist from Cuba Press.

This document is signed in Havana, October 10, 1995.

Thank you very much.

TRANSLATION OF INTERVIEWS WITH CUBAN DISSIDENTS, SEPTEMBER 24, 1995

New Jersey, United States, Sunday, September 24, 1995. The Revolutionary Movement of the 30th of November this week held interviews with several organizations in Cuba so as to know their opinions with regard to the bill proposed by Senator Jesse Helms and Congressman Dan Burton, a law that was approved by the Congress this past Friday, 21 of September.

The first interview is with Osmel Lugo, Vice-president of the Democratic Party, November 30 in Cuba. For those who don't know, the President of this party, Mr. Rafael Ibarra is in jail completing a 20 year sentence for his ideas contrary to those of the Castro regime:

November 30 Democratic Party, special communique that reflects the opinions of our organization.

In more than 36 years of the Castro regime never have human rights been respected and the desire for development, prosperity and liberty has been ignored for the Cuban people now for more than three decades. In Cuba, when the U.S. embargo wasn't even mentioned, and it was a time of need, already more than 70% of imports were covered by the European Communist markets. Unfortunately the Soviet Union sustained and maintained the Cuban economy in exchange for a military base called Cuba and not even then were we allowed to enjoy our civil, political and human rights and we have never been able to rid ourselves of the ration card that limits us to what and when we can eat. The Cuban government has not shown any interest in solving the serious problems affecting the country even though government and non-government organizations as well as other countries and governments have made recommendations for this out of compassion for the tough conditions the Cuban people are being put through. The Cuban government has not only not shown signs of any interest of a political process for change to a democratic and representative government, but it remains in complete immobility since it does not wish to lose the throne of absolute power with which it has been able to govern the country with an iron fist. Fidel Castro, as the most faithful representative and highest ranking official of the Cuban government has expressed and continues to express so that there will be no misunderstandings his known phrase "Socialism or death." "Socialism or death" means or his type of government or death with as much transparency as macabre is the phase. The only solution Castro offers the Cuban people is death or to live under his system of death itself. And if several reforms have been taking place in the economic field, reform measure which, may we add, could be easily reversed, it has been simply to gain some time and accommodate his needs of the moment more than to try and solve the despairing social conditions. So we harbor no false hopes that the lifting of the economic sanctions will change the will of those who try to stay in power or that they will put the dictatorial regime which allows them to on the line. The end or lifting of the embargo would not guarantee the respect of the civic, political and human rights of the Cuban people or bring democracy to our country. Rather, it would strengthen the totalitarian and dictatorial regime that has destroyed Cuban society sinking it into misery, indigence and mental slavery, facilitating it the millions it needs to develop and perfect its repressive apparatus the base and principle of its power. The lifting of the embargo will not bring an amnesty for all the political and conscience prisoners. It will not return the life of hundreds of thousands that have died at the hands of the regime or of those who have lost their lives trying to escape through the Florida straits. Nor will it allow the recovery of the remains of more than 42 people killed during the homicide that took place in the sinking massacre of the "13 de Marzo" tugboat for which the regime hasn't even allowed flowers to be thrown in the sea. The embargo is not the cause of Cuba's problems, it is actually the solution to these. Intolerance is the only thing that should not, and cannot be tolerated. The November 30 Democratic Party Frank Pais ratifies its support for the bill for democracy in Cuba and even asks for the globalization and internationalization of sanctions against the Cuban government. We thank the U.S. legislators that voted in favor of Helms-Burton and we recognize their good will to contribute to the democratization and liberty of the Cuban nation. At this same time, we exhort the President of the United States, Bill Clinton, to not veto this law if he truly wishes that Cuba be among the democratic countries of the world where human rights are respected and recognized.

Signed by the Democratic Party November 30. Dated in the City of Havana on the 21st day of September, 1995.

Interview with Rafael Solano, president of Havana Press

SERGIO GATRIA from New Jersey. We want your opinion regarding the debate this week in the House where the name of Havana Press, your name, Jose Rivero's, who are journalists who are being persecuted in Cuba, we want to know what your opinion is with regard to these Congressmen who were defending you.

SOLANO. Well, let me tell you that when I first received the news I was very excited. Family members in Miami called me that on the U.S. TV channels my name was appearing. In other words, a series of personalities in this Congressional session spoke about persecution and where it affects me directly. As President of Havana Press I am very grateful to these people, among who are Ileana Ros-Lehtinen, Lincoln Diaz-Balart, Robert Menendez, Robert Torricelli, Senator Jesse Helms and Congressman Solomon from New York. That is an incentive for all the independent press in Cuba, that people within the U.S. government defend the independent press and that encourage us to continue our task in this country that censors the freedom of expression, it inspires us to continue exercising independent journalism. I can sincerely tell you that I am very grateful to these individuals and I believe history will one day pick up these names that fight civically so that we, the independent journalists, can continue practicing our careers without the harassment from the repressive organs of this government.

GATRIA. Have you continued to be persecuted?

SOLANO. Yes. As everyone knows, last week I was arrested by three officials of our country's State Security. I personally, as director of Havana Press, am threatened with 10 years of jail for the crime of enemy propaganda. In other words, in our country, he who expresses himself freely is considered as a person who issues enemy propaganda. However, the Constitution states that every Cuban citizen has the right to express himself freely and change ideas, but in practice, it is not allowed. Our position is that if we have to go to jail for our cause, free press, the independent press of which Jose Marti dreamt about, we are willing to take that risk.

GATRIA. Are you the only journalist that has been arrested or have there been others?

SOLANO. Well Mr. Jose Rivero was also arrested in the past few days. I was arrested on Thursday and he was arrested on Friday; he also suffers from government harassment by the State's Security Forces. I think the free press is an instrument to make public the true Cuban reality and that is what the government is afraid of, but, when we feel the support of people like the ones I mentioned we are inspired and we love our fight for a free press in Cuba even more.

GATRIA. You also said that several journalists were being attacked didn't you?

SOLANO. Well actually, I have next to me the Vice-President of Havana Press who has actually been attacked because they have launched a wave of attacks against independent journalists, supposed delinquents have attacked independent journalists and I would like you to speak to Julio Martinez so that he can tell you what happened.

GATRIA. So you were attacked?

MARTINEZ. Yes, I was attacked by two unknown assailants the morning of the 15th of September when I was headed home. They immobilized me and took my jacket, shirt and tie and they left me with pants and shoes.

GATRIA. Do you think that was a normal mugging or have there been other attacks against journalists?

MARTINEZ. Solano was attacked by two unknowns after he interviewed the ex-lieutenant Colonel Labrada. Rail Rivero was also attacked a few days before and they stole his briefcase. I was the last to be attacked.

GATRIA. So it is a strange coincidence that there have been so many muggings of Cuban journalists.

MARTINEZ. They must simply be categorized as suspicious muggings.

GATRIA. Do you have anything else to add, Martinez?

MARTINEZ. I want to congratulate those U.S. government individuals who have come out in defense of the independent journalists in Cuba. I especially want to thank Ileana Ros-Lehtinen and the gentlemen Lincoln Diaz-Balart and Bob Menendez who are Cuban.

GATRIA. You know that Helms-Burton was approved in the House . . .

SOLANO. Did it have more than the two thirds?

GATRIA. Almost 300 votes . . . Has there been any reaction from the Cuban people?

SOLANO. So it had a great majority. Well, I don't think the Cuban people are very aware of what's happened, maybe the Cuban press will have something today. You know that the Cuban government had launched a huge campaign to stop Helms-Burton, holding meetings in the streets, at work. We had a favorable reaction to the approval of the bill and we gave our reasons in Cuba's free press.

Interview with Elizardo San Pedro Marin, president of Democratic Solidarity Party

GATRIA. I need you to state your name, the organization and your opinion regarding Helms-Burton.

SAN PEDRO MARIN. We consider the approval of Helms-Burton in the House is a very positive step that brings us closer to a peaceful transition to democracy. The Cuban government has felt the effects of the U.S. economic embargo after the fall of the socialist bloc and it began to issue changes in the economic sector, not in the political but in the economic to try and retain its power. All this foreign investment and looking for foreign investors shows that they have no means within the country they have no solution to the problems we face. And so the fight against Helms-Burton has become the Cuban government's foreign relations priority and they have been using all their time and manpower to fight against it. There is still a lot of territory for the Helms-Burton bill to cover but I believe the reasonable outcome will be reached, that the bill will be approved. The Cuban government doesn't understand any other kind of language except this style, it is a government that is known for its intolerance. So I think it is very positive that this bill was approved because it is a commitment by the U.S. Congress to democracy in Cuba. And even though we Cubans know that we are the ones responsible for the changes within the island, we also need the support from the U.S. government and this time we have it.

GATRIA. Do the other dissidents in Cuba have the same criteria?

SAN PEDRO MARIN. There are all different kinds of opinions among the dissidents. Of course there are dissidents who think there are other alternatives to the situation, such as the embargo being lifted, establishing a dialogue, that Helms-Burton not be approved etc., but the Cuban government has never stated that those changes will help to bring about any kind of political change. For example, the Cuban government has never stated that in exchange for something it will release political prisoners, it does not recognize the internal opposition, it doesn't speak about a free electoral process, and it doesn't even speak about asking the people if they want "Socialism or Death", or if they want pluralism and democracy. in other words, there can be no concessions to the Cuban government if the Cuban government has no intention of solving any of its internal political problems.

GATRIA. What is the opinion of the majority of the Cuban people with whom you have spoken?

SAN PEDRO MARIN. The people don't know this bill. The legislation has not been published by the Cuban press. The people only know sections, details, partial or manipulated information so the people really don't know. And even the free press that reaches them, like Radio Marti, only broadcasts sections of the bill so the people don't know. I'm sure that there are people who don't understand it and don't share this criteria but I think what the people need right now is that this bill be approved and made law.

Interview with Raul Rivero, Cuba Press

GATRIA. Helms-Burton was passed in the House, would you like to make a statement?

RIVERO. Well, I signed a letter from the Democratic Solidarity Part (Sampedro Marin) on a personal level, I'm not a member of any political party but I signed it as a journalist and as a Cuban. I support the bill, I believe in it. It may seem strange and there has been a lot of controversy that people could want more pressure on their country, the problem is however, that there is no foreign blockade, only an internal one that causes damage, that is stuck on us by the government, that is the true blockade that hurts the people. The true blockade as I said is an internal one, issued by a group of people who wish to stay in power and that is what has this country in ruins, not just in material ruin, but a spiritual ruin.

Interview with Jose Rivero, Cuba Press

GATRIA. Your names were mentioned and the persecution suffered.

RIVERO. Well, it's something that has been happening for the past couple of months against the members of the free press and they seem to have it in especially for Solano and myself. Especially after the 13 of July, the anniversary of the sinking of the "13 de Marzo" tugboat, since the 11th or 12th we've been visited by these people who harass us and try to manipulate us and now around the 15th of this month when we were arrested for a couple of hours. We know that this is how it is going to be and it is nothing out of the ordinary where dissidents are concerned. Against members of political or human rights groups there has always been repression, against journalists it is a more sensitive issue.

GATRIA. What does the government want you to do?

RIVERO. They want us to leave. They don't care if we practice journalism is the U.S. or Europe they just don't want us here so that they can protect their public image which as you know is very important to them and that is why they have always tried to monopolize the press.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the substitute amendment, calendar No. 202, H.R. 927, an act to seek international sanctions against the Castro government in Cuba:

Senators Robert Dole, Jesse Helms, Bob Smith, Bill Frist, John Ashcroft, James M. Inhofe, Paul Coverdell, Spencer Abraham, Larry E. Craig, Trent Lott, Rod Grams, Frank Murkowski, Fred Thompson, Mike DeWine, Hank Brown, and Charles E. Grassley.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the substitute amendment (No. 2898) to H.R. 927, the Cuban Liberty and Democratic Solidarity Act, shall be brought to a close?

The yeas and nays are required under the rules.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON], the Senator from Maryland [Ms. MIKULSKI] and the Senator from Illinois [Ms. MOSELEY-BRAUN] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Ms. MOSELEY-BRAUN] would vote "no."

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 59, nays 36, as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—59

Abraham
Ashcroft
Bennett
Bond
Bradley
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Kempthorne
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—36

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Harkin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Moynihan
Murray
Nunn
Pell
Pryor
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—4

Exon
Hatfield
Mikulski
Moseley-Braun

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 36, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the pending business now?

The PRESIDING OFFICER. The pending business is the Ashcroft amendment in the second degree to amendment No. 2916.

Mr. BUMPERS. Is that the Ashcroft amendment?

The PRESIDING OFFICER. In the second degree.

Mr. BUMPERS. An amendment would not be in order to that amendment?

The PRESIDING OFFICER. The Senator is correct. It is in the second degree.

Mr. BUMPERS. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2916, AS MODIFIED

Mr. ASHCROFT. Mr. President, I come to the floor to make a motion in regard to the second-degree amendment which I have submitted to this body. It is an amendment related to term limits. I believe that it is a substantial question and item on the agenda of the American people. All the polls indicate overwhelmingly that the people favor term limits. Forty States term limit their Governors; 20-some States have attempted to term limit the U.S. Congress.

The amendment before the U.S. Senate is a simple one. It says:

> It is the sense of the Senate that the United States Senate should pass a constitutional amendment limiting the number of terms Members of Congress can serve.

Members of this body have debated this issue on this occasion and on previous occasions. The pros and cons are well known. I do not believe we will settle this issue with a sense-of-the-Senate resolution, but I do believe it is possible for us to identify those of us who are for term limits and those of us who are against term limits.

In order to get this vote, I have conferred with the majority leader, and I have modified the amendment so as to make it consistent with his agreement with the rest of the freshman class on the Republican side and others that the amendment itself should be voted on next April.

Thus, this amendment merely says that it is the sense of the Senate that we should pass a constitutional amendment limiting the number of terms that Members of Congress can serve. I want to express my appreciation to the majority leader for his cooperation in this respect.

Last week, he assured me that he would do his best to assist me in getting a vote on this matter at the earliest possible time this week, and here we are on the first day of our deliberations this week, and we will have an opportunity to vote in this respect.

The procedure which I intend to invoke in order to have this vote is a motion to table the amendment. Those who vote against tabling would be voting in favor of term limits; those who vote in favor of tabling, would be voting against term limits. But this will provide an opportunity for us to vote on this most important issue.

So, Mr. President, I now move to table the Ashcroft second-degree amendment regarding the limitation of congressional terms, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, if I can take 1 minute or 2 minutes of leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I do not have any objection to the vote. I am going to vote against tabling the resolution. But as I indicated when we were requested by nearly every group who is supporting term limits, in addition to the Christian Coalition, I thought nearly every Member, every Member of the freshman class and others, we did accommodate them by saying we would have the vote later. Some suggest next April, which would give them time to do whatever they do in that time to encourage more people to vote for term limits.

So I do not have any problems with the efforts of Senator ASHCROFT. I was prepared to bring it up 3 weeks ago, but I must say the same thing happened with the flag amendment. We asked about it, and then all the people who support the flag amendment said, "Oh, we have to have more time." All right, we will give you more time.

I am not certain when that amendment will be brought up, or if they would like to do it later this year. I am not certain we will have time. We had time last week and the week before. We had time for term limits. I assume by next April we will have some additional time. I cannot set an exact date. All this resolution says is that we should vote sometime on term limits. I do not have any problem with that. So I hope the amendment will not be tabled.

Mr. President, I ask unanimous consent that letters from the supporters of term limits requesting that I reschedule the term limits vote for next year be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CHRISTIAN COALITION,
Chesapeake, VA, October 13, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The Cristian Coalition thanks you for granting our request to reschedule a vote on a constitutional amendment to provide for term limits until next year.

Postponement of the vote should increase our prospects for success as the Senate will not be in the midst of deliberations on reconciliation and appropriations bills, and 1996 will be an election year.

Thank you for your leadership and for your support for term limits.

Sincerely,

BRIAN LOPINA,
Director, Governmental Affairs Office.

AMERICANS BACK IN CHARGE,
Washington, DC, October 12, 1995.

TERM LIMITS ACTIVISTS APPLAUD SENATOR DOLE FOR RESCHEDULING TERM LIMITS VOTE; PLEDGE TO MOBILIZE GRASSROOTS SUPPORT FOR ISSUE

WASHINGTON, DC.—Term limits activists today applauded Senate Majority Leader Bob Dole (R-KS) for agreeing to their request to reschedule the Senate vote on term limits.

"We applaud the willingness of Sen. Dole to reschedule the first ever Senate floor vote on a term limits constitutional amendment," said Cleta Mitchell, Director/General Counsel of Americans Back in Charge in Washington, D.C. "We requested that Sen. Dole reschedule the vote on term limits until next year. We believe it is in the best interests of the issue to be able to focus public attention on term limits for the weeks leading up to the Senate vote and that is not possible at this time, with the congressional focus on the budget, taxes and Medicare. It would not be fair to term limits for the vote to occur now and we are pleased that Sen. Dole agreed to our request that floor action be rescheduled."

"Term limits is an issue of fundamental importance and one that the American people care about. Over 25 million votes have been cast in favor of term limits in the past five years in elections held in 22 states. Ultimately, the members of the U.S. Senate will be called upon to make a decision as to whether they intend to honor or ignore the obvious will of the American people. We want to be certain that when that day comes, the people have had a full and fair opportunity to weigh in on the issue with their Senators, reminding the Senate of the public support for term limits. We look forward to working with our principal author, Sen. Thompson and the other members of the Senate supporting term limits to build the Senate between now and next spring when SJ Res 21 comes to the Senate floor."

Americans Back in Charge is the first national term limits organization, which grew out of the 1st in the nation Colorado state term limits effort in 1989-90. Other groups participating in the Term Limits Coalition include American Conservative Union, Council for Citizens Against Government Waste, Council for Government Reform, Seniors Coalition, and the Christian Coalition.

[News Release from Fred Thompson, U.S. Senator, Tennessee, Washington, DC, Oct. 12, 1995]

THOMPSON THANKS DOLE FOR RESCHEDULING TERM LIMITS VOTE

WASHINGTON, DC.—Senator Fred Thompson (R-TN) today thanked Senate Majority Leader Bob Dole for his willingness to reschedule a Senate floor vote on Thompson's term limits Constitutional amendment from this week to early next year.

"The Majority Leader has provided supporters of term limits with an opportunity to maximize the public's involvement in this critical debate," Thompson said, "while at the same time giving term limits backers in the Senate the time to urge their colleagues in the strongest terms to support the amendment. Make no mistake, it is in the best interest of the term limits movement that this Senate vote come next April."

Thompson pointed out that a vote now, in the midst of the Senate debate over the budget and appropriations legislation, would not receive the public or Senate attention it deserves.

Eight other Senate freshmen joined Thompson on a letter delivered to Majority Leader Dole on October 4 requesting that the vote be rescheduled in April. In addition, the Term Limits Coalition—which includes Americans Back in Charge, American Conservative Union, Christian Coalition, Council for Government Reform, Seniors Coalition, Council for Citizens Against Government Waste and National Taxpayers Union—strongly urged in a separate letter that Dole delay the floor debate and vote.

U.S. SENATE,
Washington, DC, October 3, 1995.

Hon. BOB DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: As the primary sponsors and supporters of Senate Joint Resolution 21, the constitutional amendment to limit congressional terms, we are joining forces to request that the Senate postpone any scheduled vote on SJ Res 21 until April, 1996.

We have been meeting with and discussing the upcoming term limits vote in the Senate with those individuals and organizations who are most dedicated to passage by Congress of the term limits constitutional amendment. Those who are prepared to lead the effort to round up votes for SJ Res 21 are in agreement that it makes little sense to bring the issue to the Senate floor for a vote this fall when the Senate is otherwise wholly absorbed with the crucial budget issues.

Supporters of term limits have indicated to us that the crush of other legislative business pending before the Senate over the next two months will make it difficult, if not impossible, for term limits to receive the kind of attention from the Senate and the American people that it deserves.

We do not propose an indefinite postponement of the first recorded vote on the term limits amendment. Rather, we would specifically ask that the resolution be scheduled for a vote in April, 1996. By making this change in the schedule, we believe that it will enable the Senate leadership to work with term limits supporters inside and outside the Senate to achieve the maximum possible support for SJ Res 21.

Please let us know at your earliest possible convenience your response to this letter so that those of us committed to term limits can have the certain knowledge of exactly how and when the Senate plans to proceed in considering this vitally important issue. The American people are anxious for the Senate to consider term limits when we can give it our full attention. We believe that April, 1996 is the appropriate time for a complete and fair Senate debate on term limits. We urge your favorable consideration of this request.

Sincerely,

James M. Inhofe, Spencer Abraham, Rick Santorum, Rod Grams, Jon Kyl, Fred Thompson, Bill Frist, Craig Thomas, and Mike DeWine.

SEPTEMBER 29, 1995.

Hon. BOB DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The undersigned organizations have been actively involved in the effort to pass the constitutional amendment to limit the terms of members of Congress. We are all deeply committed to term limits as a cornerstone of a permanent restraint on the role of the federal government. We believe that limiting the terms of members of Congress is an important structural change that the American people support overwhelmingly and we want to do all in our power to help bring term limits to reality as part of our Constitution.

To that end, we are aware that you have promised to bring the term limits constitutional amendment to the floor of the U.S. Senate for a vote in the 104th Congress and for that we are grateful. We believe it is significant that this Congress will allow, for the first time in America's history, a recorded vote on term limits in the House and the Senate. While we appreciate your commitment to bring term limits to the Senate floor this fall, we are asking that you postpone consideration of the term limits amendment to April of next year.

All of us are aware of the difficult and crowded legislative calendar facing the United States Senate during the weeks between now and the scheduled adjournment of the first session of the 104th Congress. Term limits is an issue that deserves a complete and open debate on the floor of the United States Senate. We believe that the American people are entitled to such a full and fair hearing on the issue of term limits—and we believe that this fall is not a time when such a debate can or will occur. Because of the budget, tax, Medicare and other major fiscal issues facing the Senate, not to mention the other issues remaining to be considered as part of the House Contract with America, we do not believe that term limits will be able to be given its proper consideration by the Senate if the vote is held this fall. We do not think there is adequate time available to the members or the citizens to focus the necessary national attention on term limits if it is wedged among the issues now facing Congress.

It is further our belief that the most important contribution you can make at this point in time toward helping to maximize the Senate's support for term limits is by granting to the supporters of term limits a specified time on the Senate calendar for April, 1996 to schedule a vote on term limits. If April is not acceptable, we would request that you advise us now of another time certain in the spring of next year when term limits will be rescheduled for a Senate vote.

We believe that this is more appropriate timing that will benefit the issue of term limits and the ability of the American people to focus their attention—and that of their Senators—on the importance of this vote.

We urgently request that you adopt this strategy and notify us as soon as possible as to whether we can expect a Senate vote in April of 1996, or exactly when such a vote would be rescheduled. We look forward to the opportunity to work with your leadership team to encourage passage of the constitutional amendment for term limits next year.

Thank you for your consideration.

Organizations Supporting Term Limits: Americans Back in Charge, American Conservative Union, Christian Coalition, Council for Government Reform, Seniors Coalition, and Council for Citizens Against Government Waste.

Mr. LEVIN. Mr. President, I will vote to table the Ashcroft amendment to H.R. 927, the Cuban Liberty and Democratic Solidarity Act.

I have not yet decided how I will vote on an amendment to the Constitution proposing limits on the terms of office for Members of Congress when it comes before the Senate next year.

The Ashcroft amendment is not a constitutional amendment. It is a sense-of-the-Senate resolution lacking the force of law. Its language is totally open-ended without restrictions and standards. Therefore, although I may support specific constitutional amendment language when it is offered, I cannot support and will vote to table the Ashcroft amendment.

The PRESIDING OFFICER. The pending question is on agreeing to the motion to table amendment No. 2916 offered by the Senator from Missouri.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mrs. BOXER (When her name was called). Present.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Florida [Ms. MOSELEY-BRAUN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 490 Leg.]

YEAS—49

Akaka
Baucus
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cochran
Conrad
Daschle
Dodd
Dorgan
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McConnell
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Specter

NAYS—45

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kohl
Kyl
Mack
McCain
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—4

Exon
Hatfield
Mikulski
Moseley-Braun

ANSWERED "PRESENT"—1

Boxer

So the motion to lay on the table the amendment (No. 2916) was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, there will be no more votes this evening.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask that there now be a period for the transaction of morning business not to extend beyond the hour of 7 p.m. with Members entitled to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1329 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CENSUS BUREAU BURDENS ON SMALL BUSINESS

Mr. COVERDELL. Mr. President, I rise today to bring your attention to a single example of what I believe to be an all too common practice of our Government bullying small businesses with burdensome requirements.

My office recently received a letter from a small business in Georgia describing the mounds of reports required by the U.S. Bureau of the Census. I believe this case serves as an excellent example of the kind of bully Government so many of us in the Senate have worked to control through regulation reform and paper work reduction. The most troubling message to me in this letter is that this small company does not perceive such Government burdens as atypical, just as a normal course of doing business in America.

How far are we going to stretch the limited resources of our small businesses? Let me list for you the reports this company, the Great American Cookie Co., must submit to the Bureau of the Census or face Federal penalties: Report of Organization, Survey of Industrial Research and Development, Survey of Business, Investment Plans Survey, Current Retail Sales and Inventory Report, Annual Trade Report, and Annual Capital Expenditures Survey.

In addition, it also provides much of the same information to each of the more than 40 States and in some cases municipalities in which it operates retail outlets. These State reports include summaries on payroll taxes, income taxes, property taxes, sales taxes, worker's compensation, property and liability insurance, annual reports and franchise returns.

As you and my other colleagues know, we succeeded in getting a provision included in the Paper Work Reduction Act to reduce the burden of firms who are forced to file quarterly reports by the Bureau of the Census used to compile the "Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations." While I am pleased this is now law, I firmly believe we can do more to reduce the formidable burdens imposed by the Bureau of the Census, especially for small businesses.

By allowing this veritable gauntlet of requirements for doing business in America to continue, I wonder at the kind of message we, the Members of the U.S. Senate, are sending to small businesses.

Mr. President, I ask unanimous consent that the content of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GREAT AMERICAN COOKIE CO., INC.,
Atlanta, GA, September 14, 1995.

Hon. PAUL COVERDELL,
U.S. Senate, Washington, DC.

DEAR SENATOR COVERDELL: I am writing this letter to express concern over reporting requirements of the Census Bureau upon The Great American Cookie Company, Inc. (the Company). The Company is currently responsible for the following reports: Report of Organization, Survey of Industrial Research and Development, Survey of Businesses, Investment Plans Survey, Current Retail Sales and Inventory Report, Annual Trade Report and Annual Capital Expenditures Survey. We understand that, as a governmental agency, the information provided by these reports is a valuable tool for monitoring certain types of business activity. However, as a small business with limited resources, these reporting requirements place an undue burden on us.

The initial difficulty arises from the fact that we currently have over 100 retail outlets located in over 40 states. As a result, we are already providing a multitude of information to each state (and in some instances, each municipality). These reporting requirements include, but are not limited to, payroll, income, property, sales and use taxes, worker's compensation, property and liability insurance, annual reports and franchise returns. Along with these requirements come the inevitable compliance audits. These reporting requirements, that are merely a cost of doing business in each locality, considerably increase our administrative costs.

Furthermore, over the past two years, our form of business organization has changed. Late in 1993, our company became subject to The Security and Exchange Commission's reporting requirements as defined in The Securities Exchange Act of 1934. To satisfy these reporting requirements, we have had to stretch our resources further.

As a company, we view our circumstances not as excuses, but rather as evidence that governmental controls can sometimes create more of a burden to certain businesses instead of a benefit. Certainly, the letter of the law can require us to continue to report the requested information or incur the penalties. However, in keeping with the spirit of the law, we respectfully submit this letter as a plea to be relieved of our Census Bureau reporting requirements.

Thank you for your consideration in this matter.

Best regards,

W. JAMES SQUIRE III, CFE,
Senior Vice President—Franchising.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt, now about $25 billion short of $5 trillion, has been fueled for a generation by bureaucratic hot air; it is sort of like the weather, everybody has talked about it but almost nobody did much about it. That attitude began to change immediately after the elections in November 1994.

When the new 104th Congress convened this past January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. On the Senate side, all but one of the 54 Republican Senators supported the balanced budget amendment.

That was the good news. The bad news was that only 13 Democrat Senators supported it, and that killed the balanced budget amendment for the time being. Since a two-thirds vote—67 Senators, if all Senators are present—is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote during the 104th Congress.

Here is today's bad debt boxscore:

As of the close of business Monday, October 16, the Federal debt—down to the penny—stood at exactly $4,967,827,640,196.29 or $18,857.96 for every man, woman, and child on a per capita basis.

BIOTECHNOLOGY PROCESS PATENTS

Mr. HATCH. Mr. President, this afternoon, the House gave final approval to S. 1111, a bill Senator KENNEDY and I have authored to remove barriers to the patenting of biotechnology processes by establishing a modified examination by the U.S. Patent and Trademark Office [PTO] of those patent applications.

Passage of this legislation is a tremendous testament to the foresight and capabilities of our House colleague, Representative CARLOS MOORHEAD, chairman of the House Judiciary Subcommittee on Courts and Intellectual Property. Chairman MOORHEAD drafted the original legislation this session, H.R. 587, which was approved in committee on June 7, 1995.

The bill now goes to the President for signature.

Mr. President, under the provisions of S. 1111, if a claimed biotechnology process uses or produces a patentable composition of matter, the process will be presumed nonobvious for the purpose of examining the process. This modified examination will resolve delays and inconsistent determinations faced by biotechnology patentees under present PTO practices, and thereby increase innovation and stimulate the development of new products and processes.

For the edification of my colleagues, I want to take this historic opportunity to explain the purpose of the bill and the need for the legislation.

Biotechnology: The Office of Technology Assessment defines biotechnology as "any technique that uses living organisms—or substances from those organisms—to make or modify products, to improve plants or animals, or to develop microorganisms for specific uses."

Biotechnology, in the sense of genetic manipulation, has been practiced by man for many hundreds of years. It has been used successfully by plant breeders in developing schemes for crossing plants to introduce and maintain desirable traits in various crops such as wheat or maize. Bakers and beverage producers have used yeast, a fungus, for leavening dough and for fermentation.

Today, the practice of biotechnology is far more powerful, with promising applications in diverse industries ranging from pharmaceuticals, agriculture and nutrition to environmental cleanup, new energy resources and law enforcement.

Some examples of widely known products made with the use of biotechnology include insulin, human growth hormone, home pregnancy tests, tests for diagnosing human immunodeficiency virus (HIV), vaccine against the Hepatitis B virus, and high-protein-yielding corn.

The dramatic breakthroughs and future promises of biotechnology became possible in the 1950's when scientists James Watson and Francis Crick discovered the structure of DNA, or deoxyribonucleic acid. Ironically, neither scientist seemed aware that their discovery would give birth to an entire new generation of technology. In a March 12, 1953, letter to Max Delbruck, Watson wrote:

> In the next day or so Crick and I shall send a note to Nature proposing our structure (of DNA) as a possible model, at the same time emphasizing its provisional nature and the lack of proof in its favor. Even if wrong, I believe it to be interesting since it provides a concrete example of a structure composed of complementary chains. If, by chance, it is right, then I suspect we may be making a slight dent into the manner in which DNA can reproduce itself.

The discovery of DNA put more than a slight dent in our knowledge of basic biology: it became the basis of a new, promising industry that has led to significant breakthroughs in the ability to improve human life.

DNA, known as the ultimate molecule of life, contains the codes that instruct cells to grow, to differentiate into specialized structures, to duplicate, and to respond to environmental changes.

DNA guides the special functions of cells by directing the synthesis of proteins. A gene, which is comprised of a specific section of DNA, contains the special instructions the cell needs to synthesize proteins. Proteins give living organisms their unique characteristics. Some proteins give the organism its structure; others mediate the many biochemical reactions that occur within the body and are necessary for organisms to function.

The DNA code for certain genes is sometimes defective. The defect may have been present at birth or later developed due to other factors such as infection, age, or exposure to ultraviolet light. When a defect occurs, the code for the synthesis of proteins is scrambled and causes the cell to produce either a defective protein or no protein at all. If the function of this defective protein is important, this can have serious consequences for the health of the organism. For human beings, the deficiency in the protein may lead to tragic disabilities like cancer and arthritis, or even lead to death. For corn and other agricultural crops, the incorrect protein may lead to limited resistance to insects or extinguishment of the crop all together.

Once scientists determine which specific protein performs which function in an organism, they, with the aid of biotechnology, are able to effectively fight disease and other abnormalities. For example, when the absence of a certain regulatory protein leads to cancer, it is possible to stop the growth of cancerous cells by replacing the defective gene with a normal one that would produce the necessary protein in the body.

It is also possible to reproduce the normal protein in another organism and then supply it in the human body. The technology enabling this method is known as recombinant DNA technology. A well-known example of such a method is the process used to produce insulin. Insulin is produced in mass quantities in microorganisms and then injected into human beings to treat diabetes.

Proteins produced through recombinant DNA technology are used not only to treat numerous diseases, such as cancer, allergies, blood disorders, and infections, but also for more prosaic tasks, such as use in laundry detergents and food production. All of the tools that currently allow scientists to perform such marvels are the product of innovative research utilizing biotechnology.

Given the complexities of developing such treatments, the underlying research is often expensive and takes many years before it yields practical results. The biotechnology industry estimates that the average cost of discovery and bringing a single drug to market exceeds $230 million. It is also estimates that bringing a drug from initial discovery to final FDA approval takes an average of 12 years.

Certain incentives are necessary to encourage biotechnology researchers to invest in the much needed, but often expensive, research endeavors. To date, the patent laws have been the source of such incentives. The biotechnology industry relies heavily on patent protection in recouping the costs of bringing new drugs to the market. Furthermore, adequate patent protection is vital in persuading investors to provide the necessary capital to the industry.

The biotechnology industry has been one of the success stories in U.S. industry, creating new jobs and pioneering exciting breakthroughs that improve our way of life. However, the biotechnology industry now faces formidable challenges in continuing its ground-breaking research. Japan and Europe have invested heavily in biotech research and Japan has targeted pharmaceutical development as an industry of vital economic importance. In facing this competition, it is vital that the United States provide adequate and effective intellectual property protection for the biotechnology industry.

General patent protection: A patent on an invention gives the patent holder the right to exclude others from making, using, or seling that invention. Under 35 U.S.C., section 101, an inventor may obtain a patent on "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof . . ." Once an invention is determined to be of the kind that may be patentable under section 101, it must also satisfy other requirements before a patent is granted on that particular invention. The two other major requirements are that the invention be "novel" and be "nonobvious."

If a U.S. patent is granted on a particular product, the owner of the patent can prevent others from manufacturing, selling, or importing the product in the United States. However, because patents are national rights, the owner of the U.S. patent cannot prevent others from manufacturing or selling the patented product in another country. In order to prevent others from exploiting his patented product in another country, the inventor must obtain a patent in that country.

A patent may be granted for a new method of using or a new method of making a product. Such patents are referred to as "process patents." It is not uncommon for an inventor to seek both product and process patent protection relating to the same invention. A process patent must meet the same basic requirements for patentability as a product patent, that is, that the claimed invention be new, useful, and nonobvious. The owner of a process patent may prevent the sale or manufacture of a product made using that process.

The courts have described the difference between a process patent and a product patent as one relating to scope:

> A product patent gives the patentee the right to restrict the use and sale of the product regardless of how and by whom it was manufactured. A process patentee's power extends only to those products made by the patented process. A process patent thus "leaves the field open to ingenious men to invent and to employ other processes. . . ." A sale of a product made by a patented process does not itself infringe the patent; it is the unauthorized use of the process that infringes the patent.

The Process Patent Amendments Act of 1988 provided additional protection for process patent owners. Under this act, the process patent owner may not only prevent unauthorized domestic use of the process, but also the importation of foreign-manufactured products if a U.S. patented process was used in making the products. This amendment provides protection to domestic U.S. process patent holders against foreign companies using the U.S. patented process overseas and importing the resulting product into the United States without any recourse by the process patent owner for infringement. Therefore, a patent on the final product, or at least a patent on the process for making that product, is necessary in order to effectively protect innovators from the unfair competition of imported "knock-offs" of their creations.

Although a product patent is generally considered to provide better protection for innovators than process patents, they are often not available for products of biotechnology. Biotechnology products are difficult to patent because they are usually the recombinant version of a naturally occurring protein. In many cases, the naturally occurring version of the protein has been identified and described in the literature to some extent. Even if this protein has not been completely characterized, the patent application on the recombinant version of the protein may be denied because, in the eyes of the PTO, it is not novel, or it is obvious in light of the previous disclosure. In patent law parlance, that product has already been discovered and does not warrant a patent under the U.S. patent code.

A good example of this problem is human insulin. Human insulin was discovered in 1921 when scientists first extracted the protein from a dog's pancreas. In 1951, Frederick Sanger identified the chemical structure of human insulin and won the Nobel Prize for this discovery. He would not have been able to obtain a patent on insulin despite the fact that his discovery earned him the Nobel Prize. Then in 1979, David Goeddel synthesized human insulin using biotechnology methods, enabling patients to gain access to the product they needed to control their diabetes. Even Goeddel would not have been able to receive a product patent on insulin.

The difficulties in obtaining patents on products of biotechnology, therefore, make the availability of effective process patent protection vital in providing a reward for the achievements of biotechnology pioneers. Moreover, adequate protection is necessary to encourage the continued investment in biotechnology research and development.

Biotechnology process patenting: The ability of the biotechnology industry to obtain process patent protection has been undermined by the lack of clarity in the rules for the patentability of such process patents. Not only does the lack of adequate and effective process patent protection affect the industry's ability to fend off unfair competition of foreign-made products using U.S. patented starting products, but it also inhibits venture capital investment in biotechnology research.

The uncertainty in the rules of process patent protection has been the result of the Patent and Trademark Office's [PTO] inconsistent and erroneous application of In re Durden, and other related and conflicting decisions issued by the U.S. Court of Appeals for the Federal Circuit [CAFC].

Although In re Durden did not involve a biotechnology invention, the principles espoused by the court in that case have had a significant effect on the patentability of biotechnology processes. In re Durden involved an appeal of the PTO's denial of a patent for a process to make certain new chemical compounds. The process used was similar to one already familiar to those in the industry, however, it used a novel and nonobvious starting material and produced a novel and nonobvious chemical product. As stated by the court, the issue in the case was "whether a chemical process, otherwise obvious, is patentable because either or both the specific starting material employed and the product obtained are novel and nonobvious." The court concluded that the process was not patentable. Given the particular facts of In re Durden, it held that a process using a new starting material to make a new product will not automatically be presumed nonobviousness for patentability purposes. It noted that the patentability of each process claim must be evaluated on a case-by-case basis.

Since the In re Durden decision, it has become increasingly difficult to obtain process patent protection in the United States for genetic engineering inventions. It is reported that the PTO frequently cites this case in automatically rejecting applications for biotechnology processes.

The reasoning used in rejecting biotechnology process patent applications is as follows: The basic process of genetic engineering, recombinant DNA technology, is known. It consists of inserting a DNA molecule into a living cell so that the cellular machinery produces the specific protein encoded by the inserted DNA molecule. Therefore, when a new DNA molecule has been invented, it is assumed "obvious" that it can be used in a recombinant DNA process to produce the protein it encodes. Since nonobviousness is a condition for patentability, the process for producing the protein is rejected by the PTO as obvious. Under In re Durden, the process is rejected even if the starting materials used in the process in producing the final product are new and patentable.

The Court of Appeals for the Federal Circuit revisited the issue in the subsequent case of In re Pleuddemann. As with In re Durden, this case involved a challenge of the PTO's denial of a patent to a process. The challenger had a patent on a starting material that he used in the process at issue to make a patentable final product. Except for the use of the patented starting material, the process for making the final product was already known in the industry. The court held that the process in this particular case was patentable. In its opinion, the court emphasized that In re Durden was not to be read as a "per se" rule against patenting old processes that use new starting materials or produce new products.

The court distinguished In re Durden in this case on the ground that the process at issue in In re Pleuddemann involved a process of "using" rather than a process of "making," which was the claimed process at issue in In re Durden. This distinction between the two types of processes was lost on many and has caused further confusion on the status of the law on patenting processes. It is not clear why a method of "using" a starting material should be treated differently, for purposes of determining nonobviousness, from a method of "making" the end product.

Relying on In re Pleuddemann, some applicants have manipulated phrasing in crafting patent applications to explain processes in terms of "using" rather than "making." However, the PTO continues to reject such claims citing In re Durden and arguing that such claims are really a process of making claim in disguise

Although biotechnology innovators have difficulties obtaining patents on products and processes of biotechnology, they can receive patents on new starting materials they discover. However, unlike patents on products or the process by which those products are developed, U.S. patents on the starting materials fail to provide adequate protection from unfair foreign competition.

The U.S. patent on the starting materials—typically a new DNA molecule, a genetically altered host cell or a vector—can prevent others from using them in the United States in any way, including using them to produce a final product. However, without process patent protection, the patent owner of the starting materials cannot prevent another from taking the patented materials to another country, use it to produce a product based on such material, and import the product back into this country for commercial sale.

Under the patent laws, there is no infringement of the patent on the starting materials because there is no "use" of the materials in the United States. Without process patent protection, the inventor cannot challenge the unfair importation of the product and is forced to watch helplessly as foreign copy-cats reap the harvest to which he, as a pioneer, is entitled.

The uncertainty in the examination of biotechnology process patents under current U.S. law has become a serious impediment to the development of new technologies in this industry. The confusion in the case has led to inconsistent results by patent examiners. The inconsistent application of the case law, in turn, has led to severe delays or denials of issuance of process patent protection to deserving patent applicants. The resolution of this problem will provide both certainty for patent applications in this field and adequate protection against unfair foreign competition.

It is not clear if or when the CAFC will resolve the confusion in the case law relating to process patents. Currently, there are two cases pending in the CAFC relating to this issue. These two cases have been pending before the CAFC for over 3 years, and there is no indication when the court might issue a decision on them. Even if the court issues a decision on these cases, it is by no means certain that they will resolve the confusion caused by In re Durden and related cases. The PTO, in congressional hearings, testified that it does not believe it can resolve the problem administratively because of the seemingly conflicting court opinions.

S. 1111 resolves the In re Durden problem in our patent law by providing that a biotechnological process of making or using a product may be considered nonobvious if the starting material or resulting product is patentable. This change will provide a degree of certainty to the protection of biotechnology inventions and will simplify the PTO's examination of biotechnology process patent applications. This bill will also allow U.S. researchers to enforce their patents claiming a certain starting material against the unfair importation of products made overseas using such material.

As my colleagues are aware, the Senate has gone on record in support of this change in the law many times, most recently in 1994 when we approved the DeConcini-Hatch legislation. I am proud that the Congress has now given final approval to the bill, and I am hopeful the President will sign the measure as soon as it reaches his desk.

Mr. President, I ask unanimous consent that the text of S. 1111 and a section-by-section summary be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 1111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIOTECHNOLOGICAL PROCESS PATENTS; CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph the following:

"(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

"(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

"(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the composition of matter used in or made by that process, or

"(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.

"(3) For purposes of paragraph (1), the term 'biotechnological process' means—

"(A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to—

"(i) express an exogenous nucleotide sequence,

"(ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or

"(iii) express a specific physiological characteristic not naturally associated with said organism;

"(B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and

"(C) a method of using a product produced by a process defined by (A) or (B), or a combination of (A) and (B).".

SEC. 2. PRESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: "Notwithstanding the preceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 1 shall apply to any application for patent filed on or after the date of enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) an application for the reissuance of a patent.

SECTION-BY SECTION ANALYSIS AND DISCUSSION

SECTION 1. BIOTECHNOLOGICAL PROCESS PATENTS; CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER

Section 1 provides a mechanism for applicants to facilitate the procurement of a patent for a biotechnological process that makes or uses a novel and non-obvious biotechnology product, overruling the decision in In re Durden, 763 F.2d 1406 (Fed. Cir. 1985). This section would amend section 103 of title 35, United States Code, to ensure that a biotechnological process would not be considered obvious, and thus unpatentable, if it either makes or uses a composition of matter that itself is novel and non-obvious.

The legislation has an impact on only one element of patentability of biotechnological processes—the element of non-obviousness. There is no guarantee of patentability even if the process claim satisfies the non-obvious provisions of the revised section 103. The process must still satisfy all other requirements of patentability, including novelty and utility among other requirements.

To qualify as non-obvious under this section, the claims to the process and the composition of matter, to which the process is linked, must be contained in either the same application for patent or in separate applications having the same effective filing date. Additionally, the composition of matter and the process at the time it was invented, must be owned by the same person or be subject to an obligation of assignment to the same person.

Section 1 also allows an applicant to demonstrate the independent patentability of a process under current law or proceed under the non-obviousness rule established by this section. Independent patentability may be demonstrated, for example, by showing the non-obviousness of the process through proof that the process demonstrates unpredictable results.

Finally, this section provides five possible definitions of the term "biotechnological process." These definitions limit the applicability of this section to biotechnological process patents. The new definitions are broad enough to include most genetic engineering technologies that are currently being used by biotechnology researchers.

The first proffered definition explains a "biotechnological process" as a process of inducing an organism to express a characteristic not naturally associated with it through the methods of genetic engineering or other methods. Such a process may cause an organism to "express an exogenous nucleotide sequence." An example of such a method is the process by which human insulin is produced in commercial quantities. The DNA sequence for human insulin is inserted into the bacteria E. coli so the bacteria begins expressing, or producing, human insulin in its cellular machinery.

This second definition of a "biotechnological process" specifies that such a process could be altering an organism to "inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence." A popular example of a product produced by such a process is the Flavr-Savr Tomato. This process involves the alteration of tomatoes to eliminate the inter-cellular production of an enzyme that causes the tomato to rot. By eliminating the expression of this "rotting" enzyme, the tomato is allowed to have a longer shelf-life.

The third qualifying definition interprets "biotechnological process" as altering an organism to "express a specific physiological characteristic not naturally associated with said organism." The Hepatitis B virus vaccine is produced utilizing such a process. The "antigen," or surface protein to which the human immune system responds, for Hepatitis B is inserted into yeast to yield commercial quantities of the protein. The expression of the protein does not occur naturally in yeast but does so because its genetic coding has been altered. The protein is then removed from the yeast and injected into humans to induce the body to safely and naturally produce an immune reaction to fight the deadly virus, which causes liver damage and cancer. The use of such a process to combat many human and animal diseases, including AIDS.

The fourth qualifying definition comprises "cell fusion procedures." An example of such a process is the method used for producing monoclonal antibodies, referred to by scientists as "hybridoma technology." This technology involves fusing spleen cells that produce certain desired antibodies to a specialized "immortal" cell—usually a cancer cell—that no longer produces an antibody of its own. The resulting fused cells, or "hybridomas," grow continuously and rapidly like a cancer cell, yet they produce the desired antibodies. Monoclonal antibodies are widely used in targeting special cells to diagnose infections and cancer. The possibility of their use in the direct treatment of cancer and immune disorders is currently a major focus of biomedical researchers.

Finally, the fifth definition of a qualifying "biotechnological process" is described as any method of using a final product that has been produced by a process defined by any of the other four definitions provided or a combination of the processes thereof.

SECTION 2. PRESUMPTION OF VALIDITY

This section provides that if a patent claim to a composition of matter—either the starting material or the final product—is held invalid because the Patent and Trademark Office determines that it is non-obvious, the patent process application that is dependent on that composition of matter will no longer be entitled to rely on that composition of matter for a presumption of non-obviousness. In such a case, the inventor must show that such a process is non-obvious without relying on this legislation.

SECTION 3. EFFECTIVE DATE

The amendments made by this act are effective on the date of enactment. The amendments will apply to all patents filed on or after the date of enactment and all patent applications, including applications for the reissuance of a patent, pending on the date of enactment.

MESSAGES FROM THE HOUSE

At 2:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 2405. An act to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes.

At 6:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment.

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

The message also announced that the Speaker appoints Mr. OBERSTAR as a conferee in the committee of conference on the disagreeing votes of the two Houses on the amendment numbered 4 of the House to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes; to fill the vacancy resulting from the resignation from the House of Representatives of Mr. Mineta.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. COMBEST, Mr. DORNAN, Mr. YOUNG of Florida, Mr. HANSEN, Mr. LEWIS of California, Mr. GOSS, Mr. SHUSTER, Mr. MCCOLLUM, Mr. CASTLE, Mr. DICKS, Mr. RICHARDSON, Mr. DIXON, Mr. TORRICELLI, Mr. COLEMAN, Mr. SKAGGS, and Ms. PELOSI.

From the Committee on National Security for the consideration of defense tactical intelligence and related activities: Mr. SPENCE, Mr. STUMP, and Mr. DELLUMS.

As additional conferees from the Committee on International Relations, for consideration of section 303 of the House bill, and section 303 of the Senate amendment, and modifications committed to conference: Mr. GILMAN, Mr. SMITH of New Jersey, and Mr. BERMAN.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2405. An act to authorize appropriations for fiscal years 1996 and 1997 for civilian science activities of the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1506. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the report entitled, "Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers"; to the Committee on Finance.

EC–1507. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of a Presidential determination relative to Serbia and Montenegro; to the Committee on Foreign Relations.

EC–1508. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of a Presidential determination relative to Mongolia; to the Committee on Foreign Relations.

EC–1509. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of a Presidential determination relative to Rwanda and Burundi under the Migration and Refugee Assistance Act of 1962; to the Committee on Foreign Relations.

EC–1510. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of certification for fiscal year 1996 relative to the United Nations; to the Committee on Foreign Relations.

EC–1511. A communication from the Assistant Legal Affairs Adviser for Treaty Affairs, the Department of State, transmitting, pursuant to law, the text of the international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1512. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the management report for the period October 1, 1994 to March 31, 1995; to the Committee on Governmental Affairs.

EC–1513. A communication from the Chief Financial Officer, the Assistant Secretary for Administration, the Department of Commerce, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1994, to the Committee on the Judiciary.

EC–1514. A communication from the Chief of the Retirement Branch Directorate of Force Management and Personnel, the Department of Air Force, transmitting, the annual report for the Air Force Nonappropriated Fund Retirement Plan; to the Committee on Governmental Affairs.

EC–1515. A communication from the Comptroller General, transmitting, pursuant to law, reports and testimony for the month of August 1995; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–344. A resolution adopted by the Governing Board of the Northeast Ohio Areawide Coordinating Agency relative to the Environmental Protection Agency; to the Committee on Appropriations.

POM–345. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations:

"JOINT RESOLUTION NO. 29

"Whereas, the Congress of the United States is expected to consider funding for additional Air Force B–2 Stealth Bombers beyond the 20 currently authorized; and

"Whereas, international challenges persist, and the availability of stealth bomber technology will enable the Air Force to respond quickly and decisively; and

"Whereas, the United States' ability to respond effectively would be greatly undermined if the Air Force's current fleet of bombers is allowed to become obsolescent; and

"Whereas, according to the 1995 defense appropriations bill, 'Independent studies have concluded that the 20 B–2 aircraft currently on order are simply not enough to provide a militarily-significant and cost-effective long-rang conventional bomber force . . .'; and

"Whereas, the B–2 is the only aircraft currently in production that incorporates advanced stealth technology, developed in California, that unlike the current fleet of bombers, gives the United States superiority over any adversary in the world; and

"Whereas, the B–2 program employs 9,000 people in California at Northrop Grumman Corporation, the prime contractor, and more than 2,000 suppliers throughout the state, and helps support thousands of additional jobs at local businesses: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the B–2 Stealth Bomber is acknowledged as a key element of the military strategy for the defense of the United States; and be it further

"*Resolved,* That the Legislature of the State of California respectfully urges the President and the Congress of the United States to provide the necessary funding in the 1996 fiscal year for additional production of the Air Force B–2 Stealth Bomber, an important national resource; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–346. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

"JOINT RESOLUTION NO. 40

"Whereas, the most recent base closure and realignment recommendations forwarded to the President by the federally-appointed Defense Base Realignment and Closure Commission now include an additional 20 California defense facilities; and

"Whereas, Presidents Franklin D. Roosevelt, John F. Kennedy, and Ronald Reagan led the charge in rebuilding American's defenses in the 20th Century and in practicing a policy of 'peace through strength'; and

"Whereas, the fruits of this policy were realized with the collapse of the Soviet empire, America's victory in the Cold War, and the military's stunning victory in the Persian Gulf War; and

"Whereas, Americans have a profound respect for the men and women of the United States military who faithfully serve the country; and

"Whereas, we believe that, if the men and women of the military are sent into harm's way, they must be equipped with whatever is necessary to ensure their safety and to get the job done; and

"Whereas, the world remains a dangerous place, with military involvements recently in Iraq, Haiti, and now Bosnia, and the maintenance of our defense should be a top priority; and

"Whereas, downsizing and streamlining military operations are important goals—but only as long as the security of the United States is not compromised; and

"Whereas, the bases in California, especially McClellan Air Force Base and the Long Beach Naval Shipyard, are vital national assets on the Pacific Rim; and

"Whereas, it was recently learned that technology from McClellan Air Force Base was used in the rescue of downed Air Force pilot Scott O'Grady in Bosnia; and

"Whereas, the radio beacon and transmitter, as well as the E3A AWACS aircraft equipment and radio communication system used by O'Grady and his rescuers, were repaired and serviced at McClellan Air Force Base; and

"Whereas, California has been forced to endure up to 50 percent of all national economic impact from base closures; and

"Whereas, the closure of these California facilities would represent direct and indirect job losses of up to 46,000 jobs, and since the California economy is highly reliant upon the high technology associated with national defense expenditures, these closures will only exacerbate that devastation; and

"Whereas, the California economy, already suffering from the strain of previous base closures, would be further injured by these additional closures, which would represent the loss of an estimated additional $10,200,000,000 in annual income: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States and the United States Congress to reject the entire base-closure list to be submitted on or before July 1, 1995, by the Defense Base Closure and Realignment Commission; and be it further

"*Resolved*, That the President, in consultation with the Congress, is urged to develop a more balanced policy with regard to the security needs of the United States; and be it further

"*Resolved*, That a more balanced national security policy should take into consideration the strong military strategic concerns of the United States Defense Department and the Joint Chiefs of Staff; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-347. A resolution adopted by the Chamber of Commerce of the City of San Angelo, Texas relative to trust fund accounts; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

POM-348. A resolution adopted by the Board of Commissioners of Caswell County, North Carolina relative to tobacco; to the Committee on Labor and Human Resources.

POM-349. A resolution adopted by the Military Chaplains Association of the United States of America relative to the Impact Aid Program; to the Committee on Labor and Human Resources.

POM-350. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"JOINT RESOLUTION NO. 25

"Whereas, the Congress of the United States, acknowledging the fiscal burden placed on local educational agencies by the loss of revenue from traditional funding sources such as property, sales and income taxes resulting from a federal presence, in 1950 enacted Public Law 81-815/874 authorizing the Impact Aid program that was reauthorized in 1994 as Section 8003 of Title VIII of Public Law 103-382 (20 U.S.C. Sec. 236 and following); and

"Whereas, Federal impact aid is funding provided to a local school district in lieu of taxes not paid by the federal government and certain federal employees and to compensate for revenues the local community would collect if the land did not belong to the federal government; and

"Whereas, unlike other federally funded education programs, Federal impact aid is not a program designed to respond to a social need or provide supplemental state and local funding but is a program designed to help cover basic education costs; and

"Whereas, Federal impact aid is a program that imposes no federal requirements directing states or schools to develop performance standards or learning objectives; and

"Whereas, Federal impact aid is funding that goes directly to the local agency for the general support of the education program for all students as determined by the local educational agency without burdensome bureaucratic costs; and

"Whereas, there are 229 California school districts serving approximately 2,200,000 students located throughout the state from Del Norte County in the north, to San Diego County in the south, that educate 180,000 federally connected children who depend on the federal fair share financial contribution to the local educational system; and

"Whereas, withdrawal of federal impact aid funding would adversely impact the educational program of every school district that depends on federal impact aid to provide the federal government's share of support for the education of the federally connected child and force districts to curtail services to all children; and

"Whereas, the withdrawal of federal impact aid funding would result in state and local taxpayers subsidizing the education of the federally connected child; and

"Whereas, California and its citizens are struggling to overcome a severe economic crisis; and

"Whereas, the federal government's financial support for California's federally connected child and federal presence has declined below the 1981 level of funding although the numbers of children in the educational system has been increasing: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California proclaims its support for the maintenance and full funding of federal impact aid to local school districts; and be it further

"*Resolved*, That the Legislature respectfully memorializes the President and Congress of the United States to uphold the responsibility of the federal government to provide funding to local school districts impacted by a federal presence; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-351. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Labor and Human Resources:

"SENATE CONCURRENT RESOLUTION NO. 15

"Whereas, eighty-two national toll-free telephone hotlines provide assistance to victims of crime and disease but there is no such hotline for victims of domestic violence, who may not know whom to call or how to find a shelter; and

"Whereas, a national hotline for battered women was in operation from September, 1988, until June, 1992, receiving approximately 10,000 calls a month in its last months of operation; and

"Whereas, after the hotline closed for lack of funding, national women's organizations and statewide family violence coalitions reached a consensus that the Texas Council on Family Violence should lead a project to reestablish the hotline; and

"Whereas, the Texas Council on Family Violence has developed a plan to reestablish the national hotline after first establishing a pilot project in Texas; and the Texas Council on Family Violence has received more than $200,000 for the implementation of the Texas Pilot Hotline and has hired a hotline specialist who has worked on a detailed plan for the project; and

"Whereas, the Texas Council on Family Violence has developed a budget summary regarding the costs of the National Domestic Violence Hotline as well as the Texas pilot project; and

"Whereas, since 1978, the Texas Council on Family Violence has worked closely with the Texas Legislative, Texas state agencies, and Texas elected officials and has consistently demonstrated their organizational capacity and the requisite expertise to run a domestic violence hotline and has secured a portion of the funding to implement and maintain a statewide hotline for domestic violence victims and is poised to receive grant funding from the federal government to set up the nationwide 1-800 hotline for victims of domestic violence; and

"Whereas, section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as added by Section 40211, Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. No. 103-322), signed into law by President Clinton on September 13, 1994, provides funds for a National Domestic Violence Hotline Grant to fund a 1-800 hotline for victims of domestic violence; and the Texas Council on Family Violence has worked for two years to obtain private and public money to establish such a hotline: Now, therefore, be it

"*Resolved*, That the 74th Legislative of the State of Texas hereby petition the Secretary of Health and Human Services to award to the Texas Council on Family Violence the National Domestic Violence Hotline Grant to set up a national hotline for victims of domestic violence; and, be it further

"*Resolved*, That the Texas Secretary of State forward official copies of this resolution to the President of the United States, the president of the senate and speaker of the house of representatives of the United States Congress, all members of the Texas delegation to the congress, and to the Secretary of Health and Human Services with the request that this resolution be entered in the Congressional Record as a petition to the Secretary of Health and Human Services."

POM-352. A resolution adopted by the Military Chaplains Association of the United States of America relative to the Department of Veterans' Affairs Chaplain Service; to the Committee on Veterans' Affairs.

POM-353. A resolution adopted by the Council of City of Honolulu, Hawaii relative to the proposed "Filipino Veterans Equity Act of 1995"; to the Committee on Veterans' Affairs.

POM-354. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on Veterans' Affairs.

"HOUSE JOINT RESOLUTION NO. 271

"Whereas, Alabama's atomic veterans showed steadfast dedication and undisputed loyalty to their country and made intolerable sacrifices in service to America; and

"Whereas, these atomic veterans gave their all during the terribly hot atomic age to keep our country strong and free; and

"Whereas, these atomic veterans were unknowingly placed in the line of fire, after being assured that they faced no harm, and were subjected to an ungodly bombardment of ionizing radiation; and

"Whereas, the radiation to which they were exposed is now and will continue to eat away at their bodies every second of every day for the rest of their lives with no hope of cessation or cure; and

"Whereas, because their wounds were not of the conventional type, and were not caused by the enemy but by the United States Government, the atomic veterans did not receive service-connected medical disability benefits and did not receive a medal such as the Purple Heart; and

"Whereas, many atomic veterans have already died and others will die a horrible and painful death: Now therefore be it

"*Resolved by the Legislature of Alabama, both Houses thereof concurring*, That atomic veterans be recognized by the federal government, and that the United States Senators and Representatives from Alabama support legislation granting service-connected medical and disability benefits to all atomic veterans who were exposed to ionizing radiation and legislation issuing a medal to atomic veterans to express the gratitude of the people and government of the United States for the dedication and sacrifices of these veterans, be it further

"*Resolved*, That copies of this resolution be sent by the Clerk of the House of Representatives to the President of the United States, the Vice President of the United States, the Speaker of the U.S. House of Representatives, the Secretary of Defense, the Secretary of Veterans Affairs, the Chairpersons of the Senate and the House of Representatives' Veterans Affairs Committees, and each member of Alabama's Congressional Delegation."

POM-355. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

"SENATE JOINT RESOLUTION NO. 14

"Whereas, the Philippine Islands became a United States possession in 1898 when they were ceded from Spain following the Spanish-American War and remained a possession of the United States until 1946; and

"Whereas, in 1934, Congress passed Public Law 73-127, the Philippine Independence Act, that set a 10-year timetable for the eventual independence of the Philippines and in the interim established a Commonwealth of the Philippines with certain powers over its internal affairs; and

"Whereas, the granting of full independence ultimately was delayed for two years until 1946 because of the Japanese occupation of the islands from 1942 to 1945; and

"Whereas, during the interval between 1934 and the final independence in 1946, the United States retained certain sovereign powers over the Philippines, including the right, upon order of the President of the United States, to call into the service of the United States Armed Forces all military forces organized by the Commonwealth government; and

"Whereas, President Roosevelt invoked this authority by executive order of July 26, 1941, bringing the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East under the command of Lt. General Douglas MacArthur; and

"Whereas, there are four groups of Filipino nationals who are entitled to all or some of the benefits to which United States veterans are entitled. These are:

"(1) Filipinos who served in the regular components of the United States Armed Forces.

"(2) Regular Philippine Scouts, called 'Old Scouts,' who enlisted in Filipino-manned units of the United States Army prior to October 6, 1945.

"(3) Special Philippine Scouts, called 'New Scouts,' who enlisted in the United States Armed Forces between October 6, 1945, and June 30, 1947, primarily to perform occupational duty in the Pacific following World War II.

"(4) Members of the Philippine Commonwealth Army who on July 26, 1941, were called into the service of the United States Armed Forces. This group includes organized guerrilla resistance units that were recognized by the United States Army; and

"Whereas, the first two groups, Filipinos who served in the regular components of the United States Army and Old Scouts, are considered United States veterans and are generally entitled to the full range of United States veterans' benefits; and

"Whereas, the other two groups, New Scouts and members of the Commonwealth Army, are eligible for certain benefits, and some of these are paid at lower than full rates. United States veterans' medical benefits for the four groups of Filipino veterans vary depending upon whether the person resides in the United States or the Philippines; and

"Whereas, the Old Scouts were created in 1901 pursuant to the Act of February 2, 1901, that authorized the President of the United States 'to enlist natives [of the Philippines] . . . for service in the Army, to be organized as scouts . . . or as troops or companies, as authorized by this Act, for the regular Army'; and

"Whereas, prior to World War II, these troops assisted in the maintenance of domestic order in the Philippines and served as a combat ready force to defend the islands against foreign invasion; and

"Whereas, during the war, they participated in the defense of and retaking of the islands from Japanese occupation. The eligibility of Old Scouts for benefits based on military service in the United States Armed Forces, including veterans' benefits, has long been established; and

"Whereas, the federal Department of Veterans Affairs operates a comprehensive program of veterans' benefits in the Republic of the Philippines, including the operation of a federal Department of Veterans Affairs office in Manila; and

"Whereas, the federal Department of Veterans Affairs does not operate a program of this type in any other country; and

"Whereas, the program in the Philippines evolved because the Philippines were a United States possession during the period 1898-1946, and many Filipinos have served in the United States Armed Forces, and because the preindependence Commonwealth Army of the Philippines was called into the service of the United States Armed Forces during World War II (1941-1945); and

"Whereas, many Filipino veterans, however, have been discriminated against by the classification of their service as not being service rendered in the United States Armed Forces for purposes of benefits from the federal Department of Veterans' Affairs; and

"Whereas, Filipinos gallantly served at Bataan and Corregidor, giving their toil, blood, and lives so as to provide the United States valuable time to rearm materiel and men to launch the counter-offensive in the Pacific war; and

"Whereas, all other nationals, even foreigners, who served in the United States Armed Forces have been recognized and granted full rights and benefits, but the Filipinos who actually were American nationals at that time were and are still denied recognition and singled out for exclusion, and this treatment is unfair and discriminatory; and

"Whereas, on March 6, 1995, House Resolution 1136 was introduced in the United States House of Representatives, and on January 4, 1995, Senate bill 55 was introduced in the United States Senate, to deem service in the organized military forces of the government of the Commonwealth of the Philippines and the Philippine Scouts during World War II to be active service for the purpose of benefits under programs administered by the Secretary of Veterans Affairs; and

"Whereas, on January 4, 1995, Senate bill 72 was introduced in the United States Senate, to direct the Secretary of the Army to issue a certificate of service to Filipino nationals whom the Secretary determines have performed any military service in the Philippine Islands during World War II that qualifies the person or a survivor to receive any military, veterans', or other benefits under federal laws; and

"Whereas, the proposed legislation would bring relief to the estimated remaining 60,000 to 80,000 Filipino veterans (out of the initial 175,000 to 200,000 troops) who risked their lives during World War II, surviving the occupation of the Philippine Islands and the infamous Bataan Death March, and who, now in their mid-60's to mid-90's, have been battling for years to obtain the benefits of other veterans of that war: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to act favorably on legislation pertaining to granting full veterans' benefits to Filipino veterans of the United States Armed Forces; and be it further

"*Resolved*, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-356. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

"SENATE JOINT RESOLUTION NO. 19

"Whereas, the American Legion estimates that more than 20,000 Persian Gulf War veterans are suffering from 'Gulf War illness' that is an affliction involving various undiagnosed, chronic ailments with symptoms that include fatigue, skin problems, headaches, muscle pain, joint pain, neurological symptoms, neuropsychological symptoms, respiratory system symptoms, sleep disturbances, gastrointestinal symptoms, cardiovascular symptoms, abnormal weight loss, and menstrual disorders; and

"Whereas, there is evidence that Persian Gulf War participants were exposed to chemical and biological warfare agents, chemical and biological warfare pretreatment drugs, and other hazardous materials and substances that are being linked to the symptoms of 'Gulf War illness'; and

"Whereas, there is also evidence that spouses and other family members of Persian Gulf War veterans are experiencing health problems related to 'Gulf War illness'; and

"Whereas, in November 1994 Congress enacted the Persian Gulf War Veterans' Act authorizing the Department of Veterans Affairs to compensate any Persian Gulf War veteran suffering from a chronic disability resulting from an undiagnosed illness or combination of undiagnosed illnesses that became manifest either during active duty in the Southwest Asia theater of operations or within a certain period following service in that area during the Persian Gulf War; and

"Whereas, despite mounting evidence that illnesses suffered by many Persian Gulf War veterans are service connected, many of the medical complaints of these veterans have yet to be diagnosed as service connected; Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take action to, as soon as possible, identify and locate those veterans of the Persian Gulf War that may be suffering from 'Gulf War illness,' and make adequate federal funds available for research on 'Gulf War illness' and for full medical treatment for all of those veterans suffering from 'Gulf War illness,' particularly those veterans who have chronic disabilities resulting from military service during the Persian Gulf War; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of Veterans Affairs."

POM–357. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Veterans' Affairs.

"JOINT RESOLUTION

"Whereas, September 1995 marks the 50th anniversary of the end of World War II, the greatest armed conflict the world has ever known, in which the victory of the Allied united nations made possible the promise of peace, dignity and freedom for all peoples; and

"Whereas, in that conflict some 250,000 Americans served in the United States Merchant Marine, which carried goods, grain, armaments, food, personnel and materiel to Allied forces in both the Pacific and the Atlantic theaters, in the great ocean convoys President Roosevelt called the 'American bridge of ships'; and

"Whereas, in that conflict 6,835 United States merchant mariners and over 1,800 United States Navy personnel on merchant ships gave their lives for their country, the highest casualty rate of any United States service in World War II; and

"Whereas, in that conflict over 600 United States merchant mariners were incarcerated in Axis POW camps, suffering a casualty rate of over 10%; and

"Whereas, in that conflict Maine built and launched almost 270 Liberty ships at the Todd-Bath East and West Yards in South Poland, Maine and sent thousands of officers and enlisted personnel into the United States Merchant Marine, continuing the proud Maine tradition of 'those that go down to the sea in ships': Now, therefore, be it

"*Resolved*, That we, your Memorialists, respectfully recommend and urge the Congress of the United States to provide that certain service of members of the United States Merchant Marine during World War II constitutes active military service as proposed in bipartisan bills S–254 and H–44, now before the 104th Congress, as just and due recognition of the United States merchant mariners' selflessness, sacrifice and service to their country and the Allied cause; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

REPORTS OF COMMITTEES

The following report of committee was submitted:

By Mr. HATCH from the Committee on the Judiciary:

Report to accompany the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms (Rpt. 104–158).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, and Mr. FRIST):

S. 1324. A bill to amend the Public Health Service Act to revise and extend the solid-organ procurement and transplantation programs, and the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. McCAIN (for himself and Mr. KYL):

S. 1325. A bill to amend title XI of the Social Security Act to provide an incentive for the reporting of inaccurate medicare claims for payment, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1326. A bill respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act; to the Committee on Labor and Human Resources.

By Mr. McCAIN (for himself and Mr. KYL):

S. 1327. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for Mr. HATCH (for himself, Mr. BIDEN, Mr. GRASSLEY, Mr. HEFLIN, Mr. SPECTER, Mr. SIMON, Mr. DEWINE, Mrs. FEINSTEIN, and Mr. ABRAHAM)):

S. 1328. A bill to amend the commencement dates of certain temporary Federal judgeships; read the first time.

By Mr. DOLE:

S. 1329. A bill to amend title 38, United States Code, to provide for educational assistance to veterans, and for other purposes; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, and Mr. FRIST):

S. 1324. A bill to amend the Public Health Service Act to revise and extend the solid-organ procurement and transplantation programs, and the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

THE ORGAN AND BONE MARROW TRANSPLANT PROGRAM REAUTHORIZATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, on behalf of Senator KENNEDY, Senator FRIST, and myself, I introduce legislation which will further improve the quality and equity of solid organ and marrow transplantation.

We can all be proud of the solid foundation that private initiatives, supported by Federal funding, have created. However, now that this infrastructure is in place, I believe that it is time for Congress to reexamine the Federal role in the oversight and the financing of solid organ and bone marrow transplantation.

The partnership between the Government, the solid-organ transplant community, and the public has worked well. However, the recent experience with the heart transplant program in my own State of Kansas, or the public distrust voiced when Mickey Mantle received his liver transplant, reminds us that improvements need to be made.

In 1994, more than 18,000 solid organ transplants were performed. Yet, more than 41,000 other Americans still await an organ for transplantation. This disparity between the supply and the demand for organs to transplant confirms that continued Federal oversight is necessary to provide the public with a sense of fairness and trust. Even though Federal oversight is still required, we must consider alternatives to fund the vital functions of the organ transplant network.

The legislation we are introducing today stresses equity for all beneficiaries and proposes a balanced approach. Governmental oversight is maintained but clarified. The Organ Transplant Network remains responsible for the development of transplant policies, and the program remains grounded in the expertise of the transplant community.

The importance of transplant candidates, patients, and their families as the real consumers of transplant services is reconfirmed, and this legislation increases their voice in the process. In addition, the phase-in of a new "data management fee" will guarantee that future transplant services will continue uninterrupted.

Mr. President, the shortage of organs for transplantation is a problem which we, as a nation, have not yet solved. Recent medical studies have shown a continued reluctance by the American public to consent to organ donation when faced with the impending death of a family member. New and innovative approaches must be developed to increase the public's acceptance of organ donation. This legislation authorizes funding—obtained through a partnership among the government, the Nation's transplant centers, and the organ procurement organizations—to address the continued shortage of organs for transplantation. A single piece of legislation cannot be expected to correct the problem of insufficient organs for transplantation, but we believe that this proposal moves the transplant program in the right direction.

Unrelated-donor bone marrow transplantation poses a different challenge. The National Bone Marrow Donor Registry was developed to facilitate and to maximize the number of bone marrow transplants for patients who do not have a matched relative. The success of this program to recruit potential marrow donors has been admirable, but as noted in the recent past by the General Accounting Office, the number of resulting transplants has been quite modest.

Increasing the number of unrelated-donor bone marrow transplantations will likely require more than just expanding the potential marrow donor pool. Improvements in technology and scientific understanding of transplantation will need to be made. Because of these biologic limitations, I question continued Federal funding and the merits of a government-funded national bone marrow registry.

Therefore, Mr. President, this legislation reauthorizes the National Bone Marrow Donor Registry, it reconfirms the goal to increase unrelated-donor bone marrow transplants, and it provides advocacy services for patients and donors. This legislation also requests the Institute of Medicine to evaluate the future role of a government-funded marrow transplant program as a means to maximize the number of unrelated-donor bone marrow transplants.

I recognize that the present Federal budget constraints and the proposed reevaluation of the Federal role in transplantation have caused some concern. However, I believe this situation provides both the transplant communities and the Congress with a unique opportunity. This legislation is a carefully crafted plan for the future. It strives for equity for all beneficiaries, an appropriate degree of Government oversight, an evaluation of the future governmental role, an appropriate level of fiscal responsibility, and the development of a system to respond to the present and future transplantation needs.

As discussion of these issues develops, I would welcome any suggestions my colleagues or others may have for improving this legislation.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ and Bone Marrow Transplant Program Reauthorization Act of 1995".

TITLE I—SOLID-ORGAN TRANSPLANT PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Solid-Organ Transplant Program Reauthorization Act of 1995".

SEC. 102. ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 371 of the Public Health Service Act (42 U.S.C. 273(a)) is amended to read as follows:

"(a)(1) The Secretary may enter into cooperative agreements and contracts with qualified organ procurement organizations described in subsection (b) and other public or nonprofit private entities for the purpose of increasing organ donation through approaches such as—

"(A) the planning and conducting of programs to provide information and education to the public on the need for organ donations;

"(B) the training of individuals in requesting such donations;

"(C) the provision of technical assistance to organ procurement organizations and other entities that can contribute to organ donation;

"(D) the performance of research and the performance of demonstration programs by organ procurement organizations and other entities that may increase organ donation;

"(E) the voluntary consolidation of organ procurement organizations and tissue banks; or

"(F) increasing organ donation and access to transplantation with respect to minority populations for which there is a greater degree of organ shortages relative to the general population.

"(2)(A) In entering into cooperative agreements and contracts under subparagraphs (A) and (B) of paragraph (1), the Secretary shall give priority to increasing donations and improving consent rates for the purpose described in such paragraph.

"(B) In entering into cooperative agreements and contracts under paragraph (1)(C), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to increasing donations from both organ procurement organizations and hospitals.".

(b) QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—Section 371(b) of such Act (42 U.S.C. 273(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "for which grants may be made under subsection (a)" and inserting "described in this section"; and

(ii) by striking "paragraph (2)" and inserting "Paragraph (3)";

(B) by realigning the margin of subparagraph (E) so as to align with the margin of subparagraph (D); and

(C) in subparagraph (G)—

(i) in the matter preceding clause (i), by striking "directors or an advisory board" and inserting "directors (or an advisory board, in the case of a hospital-based organ procurement organization established prior to September 1, 1993)"; and

(ii) in clause (i)—

(I) by striking "composed of" in the matter preceding subclause (I) and inserting "composed of a reasonable balance of";

(II) by inserting before the comma in subclause (II) the following: ", including individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of an individual who has donated or received an organ or who is a transplant candidate";

(III) by striking subclause (IV) and inserting the following new subclause:

"(IV) physicians or other health care professionals with knowledge and skill in the field of neurology, emergency medicine, or trauma surgery"; and

(IV) in subclause (V), by striking "a member" and all that follows through the comma and insert the following: "a member who is a surgeon or physician who has privileges to practice in such centers and who is actively and directly involved in caring for transplant patients,";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2);

(4) in paragraph (2) (as so redesignated)—

(A) in subparagraph (A)—

(i) by striking "a substantial majority" and inserting "all";

(ii) by striking "donation," and inserting "donation, unless they have been previously granted by the Secretary a waiver from paragraph (1)(A) or have waivers pending under section 1138 of the Social Security Act"; and

(iii) by adding at the end thereof the following: "except that the Secretary may waive the requirements of this subparagraph upon the request of the organ procurement organization if the Secretary determines that such an agreement would not be helpful in promoting organ donation,";

(B) by redesignating subparagraphs (B) through (K) as subparagraphs (D) through (M), respectively,

(C) by inserting after subparagraph (A) the following new subparagraphs:

"(B) conduct and participate in systematic efforts, including public education, to increase the number of potential donors, including minority populations for which there is a greater degree of organ shortage than that of the general population,

"(C) be a member of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (referred to in this part as the 'Network') established under section 372,";

(D) by inserting before the comma in subparagraph (G) (as so redesignated) the following: ", which system shall, at a minimum, allocate each type of organ on the basis of—

"(i) a single list encompassing the entire service area;

"(ii) a list that encompasses at least an entire State;

"(iii) a list that encompasses an approved alternative local unit (as defined in paragraph (3)) that is approved by the Network and the Secretary, or

"(iv) a list that encompasses another allocation system which has been approved by the Network and the Secretary,

of individuals who have been medically referred to a transplant center in the service area of the organization in order to receive a transplant of the type of organ with respect to which the list is maintained and had been placed on an organ specific waiting list;";

(E) by inserting before the comma in subparagraph (I) (as so redesignated) the following: "and work with local transplant centers to ensure that such centers are actively involved with organ donation efforts"; and

(F) by inserting after "evaluate annually" in subparagraph (L) (as so redesignated) the following "and submit data to the Network contractor on" the effectiveness of the organization,"; and

(5) by adding at the end thereof the following new paragraph:

"(3)(A) As used in paragraph (2)(G), the term 'alternative local unit' means—

"(i) a unit composed of two or more organ procurement organizations; or

"(ii) a subdivision of an organ procurement organization that operates as a distinct procurement and distribution unit as a result of special geographic, rural, or minority population concerns but that is not composed of any subunit of a metropolitan statistical area.

"(B) The Network shall make recommendations to the Secretary concerning the approval or denial of alternative local units. The Network shall assess whether the alternative local units will better promote organ donation and the equitable allocation of organs.

"(C) The Secretary shall approve or deny any alternative local unit designation recommended by the Network. The Secretary shall have 60 days, beginning on the date on which the application is submitted to the Secretary, to approve or deny the recommendations of the Network under subparagraph (B) with respect to the application of the alternative local unit.".

(c) AFFECT OF AMENDMENTS.—The amendments made by subsection (b) shall not be construed to affect the provisions of section 1138(a) of the Social Security Act (42 U.S.C. 1320b-8(a)).

(d) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to organ procurement organizations and the Organ Procurement and Transplantation Network beginning January 1, 1996.

SEC. 103. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) OPERATION.—Subsection (a) of section 372 of the Public Health Service Act (42 U.S.C. 274(a)) is amended to read as follows:

"(a)(1) Congress finds that—

"(A) it is in the public interest to maintain and improve a durable system for promoting and supporting a central network to assist organ procurement organizations in the nationwide distribution of organs among transplant patients;

"(B) it is desirable to continue the partnership between public and private enterprise, by continuing to provide Federal Government oversight and assistance for services performed by the Network; and

"(C) the Federal Government should actively oversee Network activities to ensure that the policies and procedures of the Network for serving patient and donor families and procuring and distributing organs are fair, efficient and in compliance with all applicable legal rules and standards; however, the initiative and primary responsibility for establishing medical criteria and standards for organ procurement and transplantation stills resides with the Network.

"(2) The Secretary shall provide by contract for the operation of the Network which shall meet the requirements of subsection (b).

"(3) The Network shall be recognized as a private entity that has an expertise in organ procurement and transplantation with the primary purposes of encouraging organ donation, maintaining a 'wait list', and operating and monitoring an equitable and effective system for allocating organs to transplant recipients, and shall report to the Secretary instances of continuing noncompliance with policies (or when promulgated, rules) and requirements of the Network.

"(4) The Network may assess a fee (to be known as the 'patient registration fee'), to be collected by the contractor for listing each potential transplant recipient on its national organ matching system, in an amount which is reasonable and customary and determined by the Network and approved as such by the Secretary. The patient registration fee shall be calculated so as to be sufficient to cover the Network's reasonable costs of operation in accordance with this section. The Secretary shall have 60 days, beginning on the date on which the written application justifying the proposed fee as reasonable is submitted to the Secretary, to provide the Network with a written determination and rationale for such determination that the proposed increase is not reasonable and customary and that the Secretary disapproves the recommendation of the Network under this paragraph with respect to the change in fee for listing each potential transplant recipient.

"(5) Any increase in the patient registration fee shall be limited to an increase that is reasonably required as a result of—

"(A) increases in the level or cost of contract tasks and other activities related to organ procurement and transplantation; or

"(B) decreases in expected revenue from patient registration fees available to the contractor.

The patient registration fees shall not be increased more than once during each year.

"(6) All fees collected by the Network contractor under paragraph (4) shall be available to the Network without fiscal year limitation. The contract with the Network contractor shall provide that expenditures of such funds (including patient registration fees collected by the contractor and or contract funds) are subject to an annual audit under the provisions of the Office of Management and Budget Circular No. A–133 entitled 'Audits of Institutions of Higher Learning and Other Nonprofit Institutions' to be performed by the Secretary or an authorized auditor at the discretion of the Secretary. A report concerning the audit and recommendations regarding expenditures shall be submitted to the Network, the contractor, and the Secretary.

"(7) The Secretary may institute and collect a data management fee from transplant hospitals and organ procurement organizations. Such fees shall be directed to and shall be sufficient to cover—

"(A) the costs of the operation and administration of the Scientific Registry in accordance with the contract under section 373; and

"(B) the costs of contracts and cooperative agreements to support efforts to increase organ donation under section 371.

Such data management fee shall be set annually by the Network in an amount determined by the Network, in consultation with the Secretary, and approved by the Secretary. Such data management fee shall be calculated to be sufficient to cover the reasonable costs of operation in accordance with section 373. Such data management fee shall be calculated based on the number of transplants performed or facilitated by each transplant hospital or center, or organ procurement organization. The per transplant data management fee shall be divided so that the patient specific transplant center will pay 80 percent and the procuring organ procurement organization will pay 20 percent of the per transplant data management fee. Such fees shall be available to the Secretary and the contractor operating the Scientific Registry without fiscal year limitation. The expenditure (including fees or contract funds) of such fees by the contractor shall be subject to an annual independent audit (performed by the Secretary or an authorized auditor at the discretion of the Secretary) and reported along with recommendations regarding such expenditures, to the Network, the contractor and the Secretary.

"(8) The Secretary and the Comptroller General shall have access to all data collected by the contractor or contractors in carrying out its responsibilities under the contract under this section and section 373.".

(b) REQUIREMENTS.—Section 372(b) of the Public Health Service Act (42 U.S.C. 274(b)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i)—

(i) by striking "(including organizations that have received grants under section 371)"; and

(ii) by striking "; and" at the end thereof and inserting "(including both individuals who have received a transplant of an organ (or transplant candidates), individuals who are part of the family of individuals who have donated or received an organ, the number of whom shall make up a reasonable portion of the total number of board members), and the Division of Organ Transplantation of the Bureau of Health Resources Development (the Health Resources and Services Administration) shall be represented at all meetings except for those pertaining to the Network contractor's internal business;";

(B) in clause (ii)—

(i) by inserting "including a patient affairs committee and a minority affairs committee" after "committees,"; and

(ii) by striking the period; and

(C) by adding at the end thereof the following new clauses:

"(iii) that shall include representation by a member of the Division of Organ Transplantation of the Bureau of Health Resources Development (the Health Resources and Services Administration) as a representative at all meetings (except for those portions of committee meetings pertaining to the Network contractor's internal business) of all committees (including the executive committee, finance committee, nominating committee, and membership and professional standards committee) under clause (ii);

"(iv) that may include a member from an organ procurement organization on all committees under clause (ii); and

"(v) that may include physicians or other health care professionals with knowledge and skill in the field of neurology, emergency medicine, and trauma surgery on all committees under clause (ii)."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "or through regional centers" and inserting "and at each Organ Procurement Organization"; and

(ii) by striking clause (i) and inserting the following new clause:

"(i) with respect to each type of transplant, a national list of individuals who have been medically referred to receive a transplant of the type of organs with respect to which the list is maintained (which list shall include the names of all individuals included on lists in effect under section 371(b)(2)(G)), and";

(B) in subparagraph (B), by inserting ", including requirements under section 371(b)," after "membership criteria";

(C) by redesignating subparagraphs (E) through (L), as subparagraphs (F) through (M), respectively;

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) assist and monitor organ procurement organizations in the equitable distribution of organs among transplant patients,";

(E) in subparagraph (K) (as so redesignated), by striking "and" at the end thereof;

(F) in subparagraph (L) (as so redesignated), by striking the period and inserting ", including making recommendations to organ procurements organizations and the Secretary based on data submitted to the Network under section 371(b)(2)(L),";

(G) in subparagraph (M) (as so redesignated)—

(i) by striking "annual" and inserting "biennial";

(ii) by striking "the comparative costs and";

(iii) by striking the period and inserting the following: ", including survival information, waiting list information, and information pertaining to the qualifications and experience of transplant surgeons and physicians affiliated with the specific Network programs,"; and

(H) by adding at the end thereof the following new subparagraphs:

"(N) submit to the Secretary for approval a written notice containing a justification, as reasonable and customary, of any proposed increase in the patient registration fees as maintained under subparagraph (A)(i), such change to be considered as so approved if the Secretary does not provide written notification otherwise prior to the expiration of the 60-day period beginning on the date on which the notice of proposed change is submitted to the Secretary,

"(O) make available to the Secretary such information, books, and records regarding the Network as the Secretary may require,

"(P) submit to the Secretary, in a manner prescribed by the Secretary, an annual report concerning the scientific and clinical status of organ donation and transplantation, and

"(Q) meet such other criteria regarding compliance with this part as the Secretary may establish.".

(c) Procedures.—Section 372(c) of the Public Health Service Act (42 U.S.C. 274(c)) is amended—

(1) in paragraph (1), by striking "and" at the end thereof;

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(3) working through and with, the Network contractor to define priorities; and

"(4) working through, working with, and directing the Network contractor to respond to new emerging issues and problems.".

(d) Expansion of Access.—Section 372 of the Public Health Service Act (42 U.S.C. 274) is amended by adding at the end thereof the following new subsection:

"(d) Expansion of Access to Committees and Board of Directors.—Not later than 1 year after the completion of the Institute of Medicine study, the Network contractor, in consultation with the Network and the Secretary, shall implement the study recommendations relating to the access of all interested constituencies and organizations to membership on the Network Board of Directors and all of its committees. Ensuring the reasonable mix of minorities shall be a priority of the plan for implementation.".

(e) Regulations.—

(1) In general.—Not later than the expiration of the 1-year period beginning on the date of enactment of this Act, the Secretary of Health and Human Services shall issue a final rule to establish the regulations for criteria under part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.).

(2) Consideration of certain bylaws and policies.—In developing regulations under paragraph (1), the Secretary shall consider the bylaws and policies of the Network.

(3) Failure to issue regulations by date certain.—

(A) In general.—If the Secretary fails to issue a final rule under paragraph (1) prior to the expiration of the period referred to in such paragraph, the notice of proposed rule making issued by the Secretary on September 8, 1994, (which shall be referred to as the "proposed final rule") shall be deemed to be the final rule under paragraph (1), and shall remain in effect until the Secretary issues a final rule under such paragraph.

(B) Conflict between rule and policy.—Except as otherwise provided in this paragraph, and effective as described in paragraph (1), if the Secretary determines that there is a conflict between the proposed final rule and Network policy, the Secretary shall ensure that the proposed final rule is enforced until the final rule is issued.

(C) New policies.—The Secretary shall require that new policies developed after September 8, 1994, (the date of the publication of the "Notice of Proposed Rule Making") shall go through the policy development process as described in section 121.3(a)(6) of such "Notice of Proposed Rule Making".

SEC. 104. TERMS AND CONDITIONS OF GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274b) is amended—

(1) in subsection (b)(2), by striking "two years" and inserting "(three years)";

(2) in subsection (c)—

(A) by redesignating paragraph (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) The Secretary shall annually withhold not to exceed $250,000 or 10 percent of the amount of the data management fees collected under section 372 (whichever is greater) to be used to fund contracts as described in section 371.";

(3) by redesignating subsection (d) as subsection (e); and

(4) by adding at the end thereof the following new subsection:

"(d) No contract in excess of $25,000 may be made under this part using funds withheld under subsection (c)(1) unless an application for such contract has been submitted to the Secretary, recommended by the Network and approved by the Secretary. Such an application shall be in such form and be submitted in such a manner as the Secretary shall prescribe.".

SEC. 105. ADMINISTRATION.

Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended—

(1) in section 375 (42 U.S.C. 274c), by inserting before the dash the following: "oversee the Network, the Scientific Registry and to";

(2) in paragraph (3)—

(A) by inserting "and oversight" after "assistance";

(B) by striking "in the health care system"; and

(C) by striking "and" at the end thereof;

(3) in paragraph (4), by striking the period and inserting "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(5) through contract, prepare a triennial organ procurement organization specific data report (the initial report to be completed not later than 18 months after the date of enactment of this paragraph) that includes—

"(A) data concerning the effectiveness of each organ procurement organization in acquiring potentially available organs, particularly among minority populations;

"(B) data concerning the variation of procurement across hospitals within the organ procurement organization region;

"(C) a plan to increase procurement, particularly among minority populations for which there is a greater degree of organ shortages relative to the general population; and

"(D) a plan to increase procurement at hospitals with low rates of procurement.".

SEC. 106. STUDY AND REPORT.

Section 377 of the Public Health Service Act (42 U.S.C. 174f) is amended to read as follows:

"SEC. 377. STUDY AND REPORT.

"(a) Evaluation by the Institute of Medicine.—

"(1) In general.—The Secretary shall enter into a contract with a public or nonprofit private entity to conduct a study and evaluation of—

"(A) the role of and the impact of the Federal Government in the oversight and support of solid-organ transplantation, the Network (which on the date of enactment of this section carries out its functions by government contract) and the solid organ transplantation scientific registry; and

"(B) the access of all interested constituencies and organizations to membership on the Network board of directors and all Network committees;

"(2) Institute of medicine.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study and evaluation described in such paragraph. If the Institute declines to conduct the study and evaluation under such paragraph, the Secretary shall carry out such activities through another public or nonprofit private entity.

"(b) Report.—Not later than 2 years after the date of enactment of this section, the Institute of Medicine (or other entity as the case may be) shall complete the study required under subsection (a)(1) and prepare and submit to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.".

SEC. 107. GENERAL PROVISIONS.

(a) Contracts.—Section 374 of the Public Health Service Act (42 U.S.C. 274b) is amended—

(1) in the section heading, by striking "GRANTS AND";

(2) in subsection (a), by striking "grant may be made under this part or contract" and inserting "contract may be";

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "grant" and inserting "contract"; and

(ii) by striking "and may not exceed $100,000";

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2) (as so redesignated)—

(i) by striking "Grants or contracts" and inserting "Contracts"; and

(ii) by striking "371(a)(3)" and inserting "371(a)(2)";

(4) in subsection (c)—

(A) by striking "grant or" each place that such appears; and

(B) in paragraph (1), by striking "grants and"; and

(5) in subsection (d)(2), by striking "and for purposes of section 373, such term includes bone marrow".

(b) REPEAL.—Sections 376 and 378 of the Public Health Service Act (42 U.S.C. 274d and 274g) are repealed.

SEC. 108. AUTHORIZATION OF APPROPRIATION.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 378. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out sections 371, 372, and 373, $1,950,000 for fiscal year 1997, and $1,100,000 for fiscal year 1998, and to carry out section 371, $250,000 for each of the fiscal years 1999 through 2001.".

SEC. 109. EFFECTIVE DATES.

The amendments made by this title shall become effective on the date of enactment of this Act.

TITLE II—BONE MARROW DONOR PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Bone Marrow Transplantation Program Reauthorization Act of 1995".

SEC. 202. REAUTHORIZATION.

(a) ESTABLISHMENT OF DONOR REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended—

(1) by striking "'Registry'" and inserting "'Donor Registry'";

(2) by inserting after the end parenthasis the following: "the primary purpose of which shall be increasing unrelated donor marrow transplants,"; and

(3) by adding at the end thereof the following: "With respect to the board of directors—

"(1) each member of the board shall serve for a term of 2 years, and each such member may serve as many as three consecutive 2-year terms;

"(2) a member of the board may continue to serve after the expiration of the term of such member until a successor is appointed;

"(3) to ensure the continuity of the board, not more than one-third of the board shall be composed of members newly appointed each year;

"(4) all appointed and elected positions within committees established by the board shall be for 2-year periods;

"(5) the terms of approximately one-third of the members of each such committee will be subject each year to reappointment or replacement;

"(6) no individual shall serve more than three consecutive 2-year terms on any such committee; and

"(7) the board and committees shall be composed of a reasonable balance of representatives of donor centers, transplant centers, blood banks, marrow transplant recipients, individuals who are family members of an individual who has required, received, or is registered with the Donor Registry to become a recipient of a transplant from a biologically unrelated marrow donor, with nonvoting representatives from the Naval Medical Research and Development Command and the Division of Organ Transplantation of the Bureau of Health Resources Development (of the Health Resources and Services Administration).".

(b) PROGRAM FOR UNRELATED MARROW TRANSPLANTS.—Section 379(b) of such Act (42 U.S.C. 274k(b)) is amended—

(1) in paragraph (4) to read as follows:

"(4) provide information to physicians, other health care professionals, and the public regarding the availability of unrelated marrow transplantation as a potential treatment option;";

(2) in paragraph (5) to read as follows:

"(5) establish a program for the recruitment of new bone marrow donors that includes—

"(A) the priority to increase minority potential marrow donors for which there is a greater degree of marrow donor shortage than that of the general population; and

"(B) the compilation and distribution of informational materials to educate and update potential donors;";

(3) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(4) by inserting after paragraph (5), the following new paragraphs:

"(6) annually update the Donor Registry to account for changes in potential donor status;

"(7) not later than 1 year after the date on which the 'Bone Marrow Program Inspection' (hereafter referred to in this part as the 'Inspection') that is being conducted by the Office of the Inspector General on the date of enactment of this paragraph is completed, in consultation with the Secretary, and based on the findings and recommendations of the Inspection, the marrow donor program shall develop, evaluate, and implement a plan to streamline and make more efficient the relationship between the Donor Registry and donor centers;"

(c) INFORMATION AND EDUCATION PROGRAM.—Section 379 of such Act (42 U.S.C. 274k) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i), the following new subsection:

"(j) INFORMATION AND EDUCATION PROGRAM.—

"(1) IN GENERAL.—The Secretary may enter into contracts with, public or nonprofit private entities for the purpose of increasing unrelated allogeneic marrow transplants, by enabling such entities to—

"(A) plan and conduct programs to provide information and education to the professional health care community on the availability of unrelated allogeneic marrow transplants as a potential treatment option;

"(B) plan and conduct programs to provide information and education to the public on the need for donations of bone marrow;

"(C) train individuals in requesting bone marrow donations; and

"(D) recruit, test and enroll marrow donors with the priority being minorities for which there is a greater degree of marrow donor shortage than that of the general population.

"(2) PRIORITIES.—In awarding contracts under paragraph (1), the Secretary shall give priority to carrying out the purposes described in such paragraph with respect to minority populations.".

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—

(1) IN GENERAL.—Section 379 of such Act (42 U.S.C. 274k), as amended by subsection (c), is further amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j), the following new subsection:

"(k) PATIENT ADVOCACY AND CASE MANAGEMENT.—

"(1) ESTABLISHMENT.—The Donor Registry shall establish and maintain an office of patient advocacy and case management that meets the requirements of this subsection.

"(2) FUNCTIONS.—The office established under paragraph (1) shall—

"(A) be headed by a director who shall serve as an advocate on behalf of—

"(i) individuals who are registered with the Donor Registry to search for a biologically unrelated bone marrow donor;

"(ii) the physicians involved; and

"(iii) individuals who are included in the Donor Registry as potential marrow donors.

"(B) establish and maintain a system for patient advocacy that directly assists patients, their families, and their physicians in a search for an unrelated donor;

"(C) provide individual case management services to directly assist individuals and physicians referred to in subparagraph (A), including—

"(i) individualized case assessment and tracking of preliminary search through activation (including when the search process is interrupted or discontinued);

"(ii) informing individuals and physicians on regular intervals of progress made in searching for appropriate donors; and

"(iii) identifying and resolving individual search problems or concerns;

"(D) collect and analyze data concerning the number and percentage of individuals proceeding from preliminary to formal search, formal search to transplantation, the number and percentage of patients unable to complete the search process, and the comparative costs incurred by patients prior to transplant;

"(E) survey patients to evaluate how well such patients are being served and make recommendations for streamlining the search process; and

"(F) provide individual case management services to individual marrow donors.

"(3) EVALUATION.—

"(A) IN GENERAL.—The Secretary shall evaluate the system established under paragraph (1) and make recommendations concerning the success or failure of such system in improving patient satisfaction, and any impact the system has had on assisting individuals in proceeding to transplant.

"(B) REPORT.—Not later than April 1, 1996, the Secretary shall prepare and make available a report concerning the evaluation conducted under subparagraph (A), including the recommendations developed under such subparagraph.".

(2) DONOR REGISTRY FUNCTIONS.—Section 379(b)(2) of such Act (42 U.S. C. 274k(b)(2)) is amended by striking "establish" and all that follows through "directly assists" and inserting "integrate the activities of the patient advocacy and case management office established under subsection (k) with the remaining Donor Registry functions by making available information on (A) the resources available through the Donor Registry Program, (B) the comparative costs incurred by patients prior to transplant, and

(C) the marrow donor registries that meet the standards described in paragraphs (3) and (4) of subsection (c), to assist''.

(e) Study and Reports.—Section 379A of such Act (42 U.S.C. 274l) is amended to read as follows:

"SEC. 379A. STUDIES, EVALUATIONS AND REPORTS.

"(a) Evaluation by the Institute of Medicine.—

"(1) In general.—The Secretary shall enter into a contract with a public or nonprofit private entity to conduct a study and evaluation of—

"(A) the role of a national bone marrow transplant program supported by the Federal Government in facilitating the maximum number of unrelated marrow donor transplants; and

"(B) other possible clinical or scientific uses of the potential donor pool or accompanying information maintained by the Donor Registry or the unrelated marrow donor scientific registry.

"(2) Institute of medicine.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study and evaluation described in such paragraph. If the Institute declines to conduct the study and evaluation under such paragraph, the Secretary shall carry out such activities through another public or nonprofit private entity.

"(3) Report.—Not later than 2 years after the date of enactment of this section, the Institute of Medicine (or other entity as the case may be) shall complete the study required under paragraph (1) and prepare and submit to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

"(b) Bone Marrow Consolidation.—

"(1) In general.—The Secretary shall conduct—

"(A) an evaluation of the feasibility of integrating or consolidating all federally funded bone marrow transplantation scientific registries, regardless of the type of marrow reconstitution utilized; and

"(B) an evaluation of all federally funded bone marrow transplantation research to be conducted under the direction and administration of the peer review system of the National Institutes of Health.

"(2) Report.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate a report concerning the evaluations conducted under paragraph (1).

"(3) Definition.—As used in paragraph (1), the term 'marrow reconstitution' shall encompass all sources of hematopoietic cells including marrow (autologous, related or unrelated allogeneic, syngeneic), autologous marrow, allogeneic marrow (biologically related or unrelated), umbilical cord blood cells, peripheral blood progenitor cells, or other approaches that maybe utilized.''.

(f) Bone Marrow Transplantation Scientific Registry.—Part I of title III of such Act (42 U.S.C. 274k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 379B. BONE MARROW SCIENTIFIC REGISTRY.

"(a) Establishment.—The Secretary, acting through the Donor Registry, shall establish and maintain a bone marrow scientific registry of all recipients of biologic unrelated allogeneic marrow donors.

"(b) Information.—The bone marrow transplantation scientific registry established under subsection (a) shall include information with respect to patients who have received biologic unrelated allogeneic marrow transplant, transplant procedures, pretransplant and transplant costs, and other information the Secretary determines to be necessary to conduct an ongoing evaluation of the scientific and clinic status of unrelated allogeneic marrow transplantation.

"(c) Report.—The Donor Registry shall submit to the Secretary on an annual basis a report using data collected and maintained by the bone marrow transplantation scientific registry established under subsection (a) concerning patient outcomes with respect to each transplant center and the pretransplant comparative costs involved at such transplant centers.''.

(g) Authorization of Appropriations.—Part I of title III of such Act (42 U.S.C. 274k et seq.) as amended by subsection (f), is further amended by adding at the end thereof the following new section:

"SEC. 379C. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 379, $13,500,000 for fiscal year 1997, $12,150,000 for fiscal year 1998, and such sums as may be necessary for fiscal year 1999.''.

Solid Organ and Bone Marrow Transplant Program Reauthorization Act of 1995—Summary

TITLE I—SOLID ORGAN TRANSPLANT PROGRAM REAUTHORIZATION ACT OF 1995

I. Organ Procurement Organizations:

(1) The Secretary may enter into cooperative agreements and contracts with Organ Procurement Organizations (OPOs) and other public or nonprofit entities for the purpose of increasing organ donation.

The importance of increased donation and the recruitment of minority donors is reconfirmed.

(2) The Board of Directors (or an advisory board) of an OPO shall be diversified and composed of a "reasonable balance of" individuals, including individuals who have received a transplant (or a transplant candidate) and/or their family members.

(3) OPOs will be members of the Organ Transplant and Procurement Network (Network) and will abide by the Network rules.

(4) Allocation systems at a minimum shall allocate each type of solid organ on the basis of:

A single list encompassing the entire service area, or, a list encompassing at least an entire state, or, a list that encompasses an approved alternative local unit, or, a list that encompasses another allocation system which is approved by the Network and the Secretary.

(5) The amendments included in this act do not interfere with Section 1138 of the Social Security Act (Medicare Technicals) pertaining to the relationships between hospitals and OPOs.

II. Transplant Network:

(1) The Secretary shall provide by Contract for the operation of the Network and the maintenance of a national waiting list. Implementation of the Contract will be carried out by the Network contractor.

Continuation of the partnership between the government and private entities is desirable.

The federal government shall oversee Network activities.

(2) The Network continues to be recognized as a private entity that has an expertise in organ procurement and transplantation.

(3) The Network contractor may collect a fee for listing each potential transplant recipient. This fee (known as the "patient registration fee") is to cover the cost of the Network's operation.

The fee amount will be determined by the Network, the Secretary is given 60 days after submission of a written request to increase "the fee," to disapprove the proposed request.

Patient registration fee increases must be "reasonable and customary" and shall not occur more frequently than once per year.

Patient registration fees and or contract funds will be subject to an annual audit (OMB circular no. A-133). An audit report will be submitted to the Network, the contractor, and the Secretary.

III. The Scientific Registry:

(1) The Secretary shall provide by Contract for the operation of a Scientific Registry.

(2) The Secretary may institute and collect a "data management fee" from transplant centers and OPOs. These fees shall be directed to cover the costs of the Scientific Registry.

The "data management fee" shall be set annually by the Network and approved by the Secretary.

The data management fee will be calculated on a per-transplant basis. The fee will be divided in a 80/20 split between the responsible transplant center and OPO.

Expenditure of the "data management fee" will be subject to an annual audit. The audit report will be submitted to the Network, the Scientific Registry contractor, and the Secretary.

IV. Transplant Network Governance:

(1) Composition of the Network's Board of Directors and Committees shall include "a reasonable number" of individuals from the transplant community. This act confirms the importance and need for representation of transplant recipients (or candidates) and their family members.

(2) The Health Resources and Services Administration shall be represented on the Network's Board of Directors and all Committees. The government representative will be excluded from meetings in which the internal business of the Network contractor is discussed.

(3) The Network shall submit to the Secretary a biennial report which contains center specified data including survival, waiting list time, and qualifications of transplant physicians and surgeons.

(4) The Secretary's failure to issue within one year of enactment, a "final rule" establishing Network regulations, will initiate the following process:

The proposed rule making issued on September 8, 1994, (the "proposed final rule") shall be deemed the final rule.

The Secretary will enforce the "proposed final rule" until the final rule is issued.

Instances of conflict between the "proposed final rule" and existing or new Network policies shall be resolved through the policy development as described in 121.3(a)(6) of the "Notice of Proposed Rule Making".

V. Administration:

(1) The Secretary shall withhold annually, $250,000 or 10 percent of the collected "data management fee" (whichever amount is larger), to be used to fund contracts to increase organ donation.

No contract in excess of $25,000 may be made, using the above funds, unless an application is submitted to the Secretary, recommended by the Network, and approved by the Secretary.

(2) The Secretary through contract shall prepare a triennial OPO specific data report that includes an assessment of the effectiveness of OPOs in acquiring available organs.

The first OPO specific report should be completed within 18 months of enactment.

VI. Study:

(1) The Secretary will request the Institute of Medicine (IOM) to conduct a study and evaluation of:

The role of and the impact of the federal government in the oversight and support of solid organ transplantation, the Network (which presently carries out its functions by government contract) and the solid organ transplantation scientific registry.

The access of all interested constituencies to membership on the Network's Board of Directors and all its committees.

Recommendations from the second portion of the IOM study are to be implemented within one year of study completion.

VII. Authorization of Appropriation:

(1) A five year authorization is requested.

The authorization requests $1.95 million in 1997, $1.1 million for 1998 and $250,000 per year for 1999-2001.

TITLE II—"BONE MARROW TRANSPLANTATION PROGRAM REAUTHORIZATION OF 1995"

I. Donor Registry:

(1) The primary purpose of the "Donor Registry" is to increase the number of unrelated marrow donor transplants.

(2) The Board of Directors has been further clarified. A term of office is two years, with a limit of three terms of service.

(3) Composition of the Board of Directors and the Program's Committees will be composed of a "reasonable balance" of constituents including transplant recipients and their families.

The Program's Board of Directors and Committees shall include non-voting representation from the Health Resources and Services Administration and the Naval Medical Research and Development Command.

(4) A priority to increase the number of minority transplants and potential donors is mandated.

(5) Informational materials to educate and update potential donors shall be compiled and distributed.

"Donor Registry" should be updated annually to account for changes in donor status.

(6) The Bone Marrow Program, in consultation with the Secretary, using the recommendations of the ongoing Inspector General study, "Bone Marrow Program Inspection," shall develop and implement within one year of study completion, a plan to make more efficient the relationship between the donor registry and the donor centers.

(7) The Secretary may enter into contracts with public or nonprofit private entities for the purpose of increasing unrelated-donor marrow transplants.

Programs to provide information to educate the health community on the availability of unrelated marrow transplants.

Public information on the need for marrow donations.

Train individuals in requesting marrow donations.

Recruit, test, and enroll marrow donors with the primary priority being minority populations.

II. Patient Advocacy and Case Management:

(1) The office of patient advocacy and case management shall be established and maintained by the "Donor Registry."

The patient advocacy and case management office shall serve as an advocate for patients searching for a donor, physicians, and potential marrow donors.

Comparative costs incurred by patients prior to marrow transplantation shall be provided to constituents.

(2) The Secretary shall evaluate the patient advocacy and case management functions and make recommendations concerning the success or failure of these efforts.

A report shall be prepared no later than April 1, 1996, on the effectiveness of the Office of Patient Advocacy and Case Management.

III. Studies and Evaluations:

(1) The Secretary shall request the Institute of Medicine to conduct a study that evaluates:

What is the role of a government-supported "National Bone Marrow Transplant Program" in facilitating the maximum number of unrelated marrow donors transplants.

Other possible clinical and scientific uses for the Donor Registry's potential donor pool and or the unrelated marrow donor scientific registry.

This report is to be completed within two years of enactment.

(2) The Secretary shall evaluate the feasibility of consolidating:

All federally funded scientific bone marrow transplantation registries (regardless of the type of marrow reconstitution).

All federally funded bone marrow transplant research under the administration and direction of the National Institutes of Health.

IV. Unrelated Marrow Transplant Scientific Registry:

(1) The unrelated marrow transplant scientific registry is to be established and maintained on all recipients of biologically unrelated bone marrow transplants regardless of the method of marrow reconstitution.

The Donor Registry shall submit an annual report to the Secretary on the state of unrelated donor marrow transplantation, using information from the scientific registry.

V. Authorization of Appropriations:

(1) A three-year authorization is requested.

The authorization requests $13,500,000 for fiscal year 1997, $12,150,000 for fiscal year 1998, and such sums as necessary for fiscal year 1999.

By Mr. McCAIN (for himself and Mr. KYL):

S. 1325. A bill to amend title XI of the Social Security Act to provide an incentive for the reporting of inaccurate Medicare claims for payment, and for other purposes; to the Committee on Finance.

THE MEDICARE WHISTLEBLOWER ACT

• Mr. McCAIN. Mr. President, I am introducing legislation today with Senator KYL that will significantly reduce fraud and abuse by providers in the Medical Program. The Medicare Whistleblower Act of 1995 will efficiently and effectively create an army of private inspectors general intent upon wiping out Medicare provider fraud.

At Medicare town meetings throughout Arizona, we have heard over and over from senior citizens that the Medicare Program is rampant with negligent and fraudulent billings. They have told me, based on their personal experiences, that their Medicare bills frequently include services that they have not received, double billings for the same service, or charges that are disproportionate to the value of services received. Often, they have no idea what Medicare is being billed for on their behalf, and they are not able to obtain explanations from providers.

These perceptions of Medicare beneficiaries are confirmed by more systematic analyses. The General Accounting Office has estimated that fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year, which is 10 percent of the program's costs. A report by the Republican staff of the Senate Committee on Aging has documented a broad array of fraudulent activities, including false claims for services that were supposed to have been rendered after the beneficiaries had died.

The Medicare Program has many problems. A fundamental problem, and the source of many other problems, is that too few people are adequately concerned about its costs because the Government is paying most of the bills. One constituent informed me of a situation in which his provider double-billed for the same service and told him not to worry about it because "Medicare is paying." This is an outrage and must be stopped. When Medicare overpays, we all overpay, and costs to beneficiaries and other taxpayers spiral.

The Medicare Whistleblower Act addresses this fundamental problem of the Medicare Program. It gives beneficiaries an added incentive to carefully scrutinize their bills and to actively pursue corrections when they believe that there has been inappropriate billing of Medicare. In particular, beneficiaries would be financially rewarded if they uncover negligence or fraud to the benefit of us all. Although such provider fraud is not the entire problem, and there is other legislation that I support which also addresses beneficiary fraud, studies clearly indicate that provider fraud is most prevalent and the greatest concern.

Under this bill, beneficiaries would have a right to receive in writing from their providers, within 30 days of when their request is received, an itemized bill for Medicare services provided to them. The beneficiary would then have 90 days to raise specific allegations of inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have to make one of the following determinations: That the bill was: First, accurate; second, innocently inaccurate, for example, misinterpretation; third, negligent; or fourth, fraudulent. All overpayments resulting from inaccurate bills will be reimbursed to the Medicare Program.

If the Secretary of HHS confirms that the billing was either negligent or fraudulent, the beneficiary would receive a reward of 1 percent of the overpayment up to $10,000. Because these rewards would be paid directly out of the overpayments, they would not increase costs to the Federal Government. In the case of fraud, the rewards would be paid directly by the fraudulent provider as a penalty, and would therefore not even reduce the amount of the overpayment reimbursed to the Federal Government. The Secretary would be required to establish appropriate procedures to ensure that the incentive system is not abused.

Some will argue that many seniors and other beneficiaries do not need personal rewards for fighting fraud, and in any event, this is a matter of national duty. While I agree with this contention, I also recognize that these individuals would not be able to identify and report fraud without having access to the itemized bills that this legislation provides. Moreover, I see nothing wrong with giving beneficiaries an added financial incentive. After all, we pay Federal employees for ideas that save the taxpayers money, and we pay private citizens for identifying fraud by defense contractors.

Mr. President, we must put an end to rampant Medicare fraud and abuse. This bill would contribute significantly to this goal. I believe that there is no more effective approach to detecting and fighting fraud than giving individuals a personal financial interest in doing so. Just wait and see what will happen when we empower over 36 million Medicare beneficiaries to ensure that their program is no longer looted and abused. I request unanimous consent that this bill and letters of support from the Committee to Preserve Social Security and Medicare and the Seniors Coalition be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Whistleblower Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to—

(1) reduce and eliminate fraud and abuse under the medicare program;

(2) reduce negligent and fraudulent medicare billings by providers;

(3) provide medicare beneficiaries with incentives to report inappropriate billing practices; and

(4) provide savings to the medicare trust funds by increasing the recovery of medicare overpayments.

SEC. 3. REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each claim submitted to the fiscal intermediary or carrier under paragraph (3), make one of the following determinations:

"(A) The itemized bill accurately reflects medical or other items or services provided to the beneficiary.

"(B) The itemized bill does not accurately reflect medical or other items or services provided to the beneficiary or contains a billing irregularity but the inaccuracy or irregularity is inadvertent or is the result of a misinterpretation of law.

"(C) The itemized bill negligently describes medical or other items or services not provided to the beneficiary or contains a negligent billing irregularity.

"(D) The itemized bill fraudulently describes medical or other items or services not provided to the beneficiary or contains a fraudulent billing irregularity.

"(5) REVIEW OF FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—

"(A) IN GENERAL.—If a fiscal intermediary or carrier makes a finding described in subparagraph (B), (C), or (D) of paragraph (4), the fiscal intermediary or carrier shall submit to the Secretary a report containing such findings and the basis for such findings.

"(B) DETERMINATION BY SECRETARY.—The Secretary shall determine whether the findings of the fiscal intermediary or carrier submitted under subparagraph (A) are correct.

"(6) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts inappropriately paid under title XVIII with respect to a bill for which the Secretary makes a determination of correctness under paragraph (5)(B).

"(7) ANTIFRAUD INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If the Secretary makes a determination of correctness under paragraph (5)(B) with respect to a finding described in subparagraph (C) or (D) of paragraph (4), the Secretary shall make an antifraud incentive payment (in an amount determined under subparagraph (B)) to the beneficiary who submitted the request for the itemized bill under paragraph (1) that resulted in such findings.

"(B) ANTIFRAUD INCENTIVE PAYMENT DETERMINED.—

"(i) IN GENERAL.—The amount of the antifraud incentive payment determined under this subparagraph is equal to the lesser of—

"(I) 1 percent of the amount that the bill negligently or fraudulently charged for medical or other items or services; or

"(II) $10,000.

"(ii) LIMITATION OF AMOUNT.—The amount determined under this subparagraph may not exceed—

"(I) in the case of a negligent bill, the total amounts recovered with respect to the bill in accordance with paragraph (6); or

"(II) in the case of a fraudulent bill, the sum of the amounts assessed and collected with respect to the bill under paragraph (8).

"(8) PENALTY.—If the Secretary makes a determination of correctness with respect to a finding described in paragraph (4)(D) (relating to fraudulent billing), the provider or other person responsible for providing the beneficiary with the itemized bill that is the subject of such findings, shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty equal to the lesser of—

"(A) 1 percent of the amount that the bill fraudulently charged for medical or other items or services; or

"(B) $10,000.

"(9) PREVENTION OF ABUSE BY BENEFICIARIES.—The Secretary shall—

"(A) address abuses of the incentive system established under this subsection; and

"(B) establish appropriate procedures to prevent such abuses.

"(10) REQUIREMENT THAT BENEFICIARY DISCOVER NEGLIGENT OR FRAUDULENT BILL TO RECEIVE INCENTIVE PAYMENT.—No incentive payment shall be made under paragraph (7) to a beneficiary if the Secretary or the appropriate fiscal intermediary or carrier identified the bill that was the subject of the beneficiary's request for review under this subsection as being negligent or fraudulent prior to such request.".

(b) PAYMENT OF ANTIFRAUD INCENTIVE TO MEDICARE BENEFICIARY.—Section 1128A(f) of the Social Security Act (42 U.S.C. 1320a–7a(f)) is amended—

(1) in paragraph (3), by striking "(3)" and inserting "(4)"; and

(2) by inserting after paragraph (2) the following:

"(3) Any penalty recovered under subsection (m)(8) shall be paid as an antifraud incentive payment to the beneficiary who submitted the request for the itemized bill under subsection (m)(1) that resulted in the imposition of the penalty.".

(c) CONFORMING AMENDMENT.—Subsections (c) and (d) of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) are each amended by striking "(a) or (b)" each place it appears and inserting "(a), (b), or (m)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1996.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 16, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the nearly six million members and supporters of the National Committee to Preserve Social Security and Medicare, I offer our endorsement of the Medicare Whistleblower Act of 1995, legislation to strengthen procedures for identifying fraud and waste in the Medicare system.

A major effort to prevent fraud and abuse is essential and appropriate—particularly at a time when Congress is considering ways to reduce federal health care costs. It is essential that we enlist the cooperation of the public, beneficiaries, providers and carriers to curb fraud and waste in the Medicare program and ensure that Medicare funds go toward patient care. As you know, major and increasingly complex patterns of fraud and abuse have infiltrated many health sectors including ambulance and taxi services, clinical laboratories, home health and durable medical equipment providers.

Your legislation will strengthen the role of beneficiaries in detecting and reporting fraud and waste. Of particular importance are the provisions mandating that beneficiaries be provided, upon request, copies of itemized bills submitted on their behalf. Beneficiaries must have accurate information about bills submitted on their behalf in order to meaningfully participate in this program. It is also important for the Secretary to establish standards to prevent abuse or over-use of the reporting system.

Seniors thank you for your help in combating this growing problem.

Sincerely,

MARTHA A MCSTEEN,
President.

THE SENIORS COALITION,
October 12, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the two million members and supporters of The Seniors Coalition, I salute your efforts to reduce the fraud and abuse which have plagued the Medicare system. We also believe that seniors themselves are excellent "Inspectors General," and, when empowered to do so will be a most effective whistleblower force.

The Seniors Coalition stands ready to work with you and every other member of Congress in taking action to put an end to rampant Medicare fraud and abuse.

Sincerely,

JAKE HANSEN,
Vice President for Government Affairs.•

By Mrs. FEINSTEIN:

S. 1326. A bill respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act; to the Committee on Labor and Human Resources.

THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT AMENDMENT ACT OF 1995

• Mrs. FEINSTEIN. Mr. President, I introduce legislation that would overturn a 1990 U.S. Supreme Court decision in Adams Fruit Co. versus Barrett and restore workers' compensation as the exclusive remedy for loss under the Migrant and Seasonal Agricultural Worker Protection Act where a State workers' compensation law is applicable and coverage is provided.

This legislation embodies an agreement worked out by the National Council of Agricultural Employers and the Farmworkers Justice Fund and other farm worker advocacy groups. In the House this compromise will be offered as a substitute amendment to H.R. 1715, sponsored by Congressmen GOODLING, FAZIO and others.

By way of background, in 1985, 19 migrant farmworkers employed by the Adams Fruit Co. suffered injuries in an accident while they traveled to work in an Adams Fruit van. The company was found liable and the injured farmworkers were awarded damages to the fullest extent under Florida's workers' compensation system. In addition, 10 of the workers filed suit against Adams Fruit for motor safety violations under the Migrant and Seasonal Agricultural Worker Protection Act.

In the Adams Fruit decision, the U.S. Supreme Court held that the injured farmworkers could bring an action for damages under the Migrant and Seasonal Agricultural Worker Protection Act even though they were covered under State workers' compensation for the same injuries. In so ruling, the court disregarded one of the basic concepts of workers' compensation, the assurance of a prompt remedy in exchange for limited liability on the part of the employer. As a result, agricultural employers who pay the cost of workers' compensation for farmworkers are not receiving the protection from lawsuits that all other employers providing workers' compensation receive.

The legislation I am introducing today would reverse the effects of the Adams Fruit decision and restore the exclusivity of workers' compensation. Specifically, the bill:

Amends the Migrant and Seasonal Agricultural Worker Protection Act to provide that where workers' compensation coverage is provided under a State workers' compensation law for a migrant or seasonal agricultural worker, workers' compensation will be the farmworker's exclusive remedy and the employer's sole liability under the act for bodily injury or death;

Provides for increased statutory damages under the Migrant and Seasonal Agricultural Worker Protection Act in cases where actual damages are precluded because the worker's injury is covered under a State workers' compensation law and the court finds the defendant's actions meet certain criteria set forth in the legislation, such as the defendant knowingly permitting a driver to drive farmworkers while under the influence of alcohol;

Provides for tolling of the statute of limitations on actions brought under the Migrant and Seasonal Agricultural Worker Protection Act during the period of time a claim under a State workers' compensation law is pending;

Requires disclosure of information regarding workers' compensation coverage to migrant farmworkers and upon request to seasonal farmworkers, helping ensure that farmworkers have adequate information to file timely claims for workers' compensation; and

Allows the Secretary of Labor to determine the appropriate level of liability insurance required by employers engaged in transporting farmworkers, helping increase the ability of persons to obtain insurance.

Mr. President, the appropriate relationship between workers' compensation benefits and benefits available under the Migrant and Seasonal Agricultural Worker Protection Act has been debated at great length since the Adams Fruit decision. Many have tried to reconcile the legitimate interests of both agricultural employers and farmworkers in this issue. In the 102d Congress I sponsored legislation, and I worked very hard, meeting with representatives of agriculture from around the Nation, with representatives of farmworkers, with Congressman FAZIO, with Congressman BERMAN and others, in an effort to achieve consensus. I am pleased to say that there is now agreement. I hope the Senate will be able to move quickly to approve this agreement and pass this legislation.•

By Mr. MCCAIN (for himself and Mr. KYL):

S. 1327. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, AZ, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE SADDLEBACK MOUNTAIN-ARIZONA SETTLEMENT ACT OF 1995

• Mr. MCCAIN. Mr. President, I am pleased to join with my colleague, Senator KYL, in introducing legislation to approve an agreement to settle a longstanding dispute over 701 acres of unique and valuable land within the city of Scottsdale, AZ, currently held by the Resolution Trust Corporation [RTC]. The agreement, which was negotiated by representatives of the Salt River Pima-Maricopa Indian Community, the city of Scottsdale, and the RTC, provides for the RTC to sell part of the property to the community and the remainder to the city.

The property is located in the eastern-most part of Scottsdale, abuts 1.7 miles of the northern boundary of the community's reservation, and is undeveloped. Its most distinctive feature is Saddleback Mountain, a striking landmark that rises abruptly from the desert floor to a height of some 900 feet. Due to its location, high conservation values and other special features, the property's use and disposition are of major importance both to the community and the city.

A dispute arose after the RTC, in its capacity as receiver for the Sun State Savings & Loan Association, acquired the Saddleback property in 1989 and subsequently noticed it for sale. The community submitted the highest cash bid for the property, conditioned upon being allowed to develop the flat portion of the property. The city, concerned about the direction that the development might follow, sued the RTC to acquire the property by eminent domain. The RTC then rejected all auction sale bids and determined to transfer the property to Scottsdale through the eminent domain litigation. The community thereupon sued the city and the RTC, seeking damages.

Rather than pursue the litigation, the city, the community, and the RTC sought to resolve their dispute through negotiation. The result of their efforts is a settlement agreement that will allow all parties to realize their respective goals for the Saddleback property. Under the agreement, the RTC will sell the property to Scottsdale and the community for a total of $6.5 million. The city will pay $636,000 to acquire approximately 125 acres, located north and south of Shea Boulevard, for preservation and future road expansion. The community will pay $5,864,000 to acquire 576 acres adjoining their reservation. The two lawsuits, which are pending in U.S. District Court in Phoenix, will be dismissed.

The agreement further provides that 365 acres of the property to be acquired by the community, including Saddleback Mountain, will be forever preserved in its natural State for use only as a public park and recreation area. Except for a limited number of sites that are of particular historical and cultural significance to the community, the public will have free access to this area. Together with the preservation property to be acquired by the city, it will be jointly managed by the city and the community. The remaining 211 acres to be acquired by the community will be subject to a detailed development agreement with the city, as well as the limitations and restrictions of current community zoning.

Mr. President, the bill that Senator Kyl and I are introducing today has two primary objectives. First, it will approve and ratify the settlement agreement and ensure that its terms will be fully enforceable. Second, it provides that the property purchased by the community will be held in trust by the United States and become part of its reservation. Enactment of this legislation is a necessary step for the settlement's provisions to become effective.

Achievement of the Saddleback settlement agreement demonstrates once again the value and benefit of seeking to settle disputes through negotiation rather than litigation. The Salt River Pima-Maricopa Indian Community, its president and council, and the mayor and council of the city of Scottsdale, along with their representatives and those of the Resolution Trust Corporation who cooperated to make a settlement possible, deserve great credit for their leadership and hard work to resolve their differences amicably.

I believe the legislation to approve the Saddleback settlement agreement is noncontroversial and clearly in the public interest, and I note with satisfaction that no expenditure of funds from the U.S. Treasury will be necessary for its implementation. Accordingly, I am hopeful that the Congress will consider and approve this legislation in an expeditious manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saddleback Mountain-Arizona Settlement Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) in its capacity as a receiver for the Sun State Savings and Loan Association, F.S.A., the Resolution Trust Corporation holds a tract of land consisting of approximately 701 acres within the city of Scottsdale, Arizona (referred to in this Act as the "Saddleback Property");

(2) the Saddleback Property abuts the north boundary of the Salt River Pima-Maricopa Indian Reservation;

(3) because the Saddleback Property includes Saddleback Mountain and scenic hilly terrain along the Shea Boulevard Corridor in Scottsdale, Arizona, a major portion of the Saddleback Property has significant conservation value;

(4) pursuant to section 10(b) of the Coastal Barrier Improvement Act of 1990 (12 U.S.C. 1441a-3(b)), the Resolution Trust Corporation identified the conservation value of the Saddleback Property and provided a description of the Saddleback Property in a notice of the availability of the property for sale;

(5) the use and disposition of the Saddleback Property are critical to the interests of both the City and the Salt River Pima-Maricopa Indian Community;

(6) during the course of dealings among the Community, the City, and the Resolution Trust Corporation, disputes arose regarding the ownership, conservation, use, and ultimate development of the Saddleback Property;

(7) the Community, the City, and the Resolution Trust Corporation resolved their differences concerning the Saddleback Property by entering into an agreement that provides for the sale, at an aggregate price equal to the highest cash bid that has been tendered to the Resolution Trust Corporation, of—

(A) a portion of the Saddleback Property to the City; and

(B) the remaining portion of the Saddleback Property to the Community; and

(8) the Settlement Agreement provides—

(A) for a suitable level of conservation for the areas referred to in paragraph (3); and

(B) that the portion of the Saddleback Property referred to in paragraph (7)(B) will become part of the Reservation.

(b) Purposes.—The purposes of this Act are—

(1) to approve and confirm the Settlement, Release, and Property Conveyance Agreement executed by the City, the Community, and the Resolution Trust Corporation; and

(2) to ensure that the Settlement Agreement (including the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits)—

(A) is carried out; and

(B) is fully enforceable in accordance with its terms, including judicial remedies and binding arbitration provisions.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) City.—The term "City" means the city of Scottsdale, Arizona, which is a municipal corporation in the State of Arizona.

(2) Community.—The term "Community" means the Salt River Pima-Maricopa Indian Community, which is a federally recognized Indian tribe.

(3) Dedication property.—The term "Dedication Property" means a portion of the Saddleback Property, consisting of approximately 27 acres of such property, that the City will acquire in accordance with the Settlement Agreement.

(4) Development agreement.—The term "Development Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Development Property.

(5) Development property.—The term "Development Property" means a portion of the Saddleback Property, consisting of approximately 211 acres, that the Community will acquire in accordance with the Settlement Agreement.

(6) Mountain property.—The term "Mountain Property" means a portion of the Saddleback Property, consisting of approximately 365 acres, that the Community will acquire in accordance with the Settlement Agreement.

(7) Preservation property.—The term "Preservation Property" means a portion of the Saddleback Property, consisting of approximately 98 acres, that the City will acquire in accordance with the Settlement Agreement.

(8) Reservation.—The term "Reservation" means the Salt River Pima-Maricopa Indian Reservation.

(9) Saddleback property.—The term "Saddleback Property" means a tract of land that—

(A) consists of approximately 701 acres within the city of Scottsdale, Arizona; and

(B) includes the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property.

(10) Secretary.—The term "Secretary" means the Secretary of the Interior.

(11) Settlement agreement.—The term "Settlement Agreement"—

(A) means the Settlement, Release and Property Conveyance Agreement executed on September 11, 1995, by the Community, the City, and the Resolution Trust Corporation (in its capacity as the Receiver for the Sun State Savings and Loan Association, F.S.A.); and

(B) includes the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits.

(12) Use agreement.—The term "Use Agreement" means the agreement between the City and the Community, executed on

September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Mountain Property.

SEC. 4. APPROVAL OF AGREEMENT.

The Settlement Agreement is hereby approved and ratified and shall be fully enforceable in accordance with its terms and the provisions of this Act.

SEC. 5. TRANSFER OF PROPERTIES.

(a) IN GENERAL.—Upon satisfaction of all conditions to closing set forth in the Settlement Agreement, the Resolution Trust Corporation shall transfer, pursuant to the terms of the Settlement Agreement—

(1) to the Secretary, the Mountain Property and the Development Property purchased by the Community from the Resolution Trust Corporation; and

(2) to the City, the Preservation Property and the Dedication Property purchased by the City from the Resolution Trust Corporation.

(b) TRUST STATUS.—The Mountain Property and the Development Property transferred pursuant to subsection (a)(1) shall, subject to sections 6 and 7—

(1) be held in trust by the United States for the Community; and

(2) become part of the Reservation.

(c) RECORDS.—Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the Secretary shall file a plat of survey depicting the Saddleback Property (that includes a depiction of the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property) with—

(1) the office of the Recorder of Maricopa County, Arizona; and

(2) the Titles and Records Center of the Bureau of Indian Affairs, located in Albuquerque, New Mexico.

SEC. 6. LIMITATIONS ON USE AND DEVELOPMENT.

Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the properties transferred pursuant to paragraphs (1) and (2) of section 5(a) shall be subject to the following limitations and conditions on use and development:

(1) PRESERVATION PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Preservation Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(i) be utilized and maintained for the purposes set forth in section 4(C) of the Settlement Agreement; and

(ii) be subject to the restrictions set forth in section 4(C) of the Settlement Agreement.

(B) SHEA BOULEVARD.—At the sole discretion of the City, a portion of the Preservation Property may be used to widen, reconfigure, repair, or reengineer Shea Boulevard in accordance with section 4(D) of the Settlement Agreement.

(2) DEDICATION PROPERTY.—The Dedication Property shall be used to widen, reconfigure, repair, or reengineer Shea Boulevard and 136th Street, in accordance with sections 4(D) and 7 of the Settlement Agreement.

(3) MOUNTAIN PROPERTY.—Except for the areas in the Mountain Property referred to as Special Cultural Land in section 5(C) of the Settlement Agreement, the Mountain Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(A) be utilized and maintained for the purposes set forth in section 5(C) of the Settlement Agreement; and

(B) be subject to the restrictions set forth in section 5(C) of the Settlement Agreement.

(4) DEVELOPMENT PROPERTY.—The Development Property shall be used and developed for the economic benefit of the Community in accordance with the provisions of the Settlement Agreement and the Development Agreement.

SEC. 7. AMENDMENTS TO THE SETTLEMENT AGREEMENT.

No amendment made to the Settlement Agreement (including any deviation from an approved plan described in section 9(B) of the Settlement Agreement) shall become effective, unless the amendment—

(1) is made in accordance with the applicable requirements relating to the form and approval of the amendment under sections 9(B) and 34 of the Settlement Agreement; and

(2) is consistent with the provisions of this Act.•

By Mr. DOLE (for Mr. HATCH (for himself, Mr. BIDEN, Mr. GRASSLEY, Mr. HEFLIN, Mr. SPECTER, Mr. SIMON, Mr. DEWINE, Mrs. FEINSTEIN, and Mr. ABRAHAM)):

S. 1328. A bill to amend the commencement dates of certain temporary Federal judgeships; read the first time.

THE JUDICIAL IMPROVEMENT ACT AMENDMENT ACT OF 1995

• Mr. HATCH. Mr. President, I introduce a bill to amend the commencement dates of certain temporary judgeships that were created under section 203(c) of the Judicial Improvements Act of 1990, Public Law 101-650, 104 Stat. 5101. The minor adjustment embodied in this bill should improve the efficiency of the courts involved, and is not expected to be controversial. I am pleased to have Senators BIDEN, GRASSLEY, HEFLIN, SPECTER, SIMON, DEWINE, FEINSTEIN, and ABRAHAM as original cosponsors.

The Judicial Improvements Act of 1990 created the temporary judgeships by providing that a new district judge would be appointed to each of 13 specified districts, and by providing that the first vacancy in the office of a district judge in those districts occurring after December 1, 1995 would not be filled.

The districts are as follows: The northern district of Alabama, the eastern district of California, the district of Hawaii, the central district of Illinois, the southern district of Illinois, the district of Kansas, the western district of Michigan, the eastern district of Missouri, the district of Nebraska, the northern district of New York, the northern district of Ohio, the eastern district of Pennsylvania, and the eastern district of Virginia.

In a given district, the new judgeship is temporary but the individual judge appointed serves on a permanent basis in the same manner as any other article III judge. The overlap in judgeships—between the appointment of a judge to a temporary judgeship and the point at which a vacant permanent judgeship is left unfilled—is what effectively adds another judge to the district for a temporary period of time.

Due to delays in nomination and confirmation, however, many districts have had only a relatively brief period of time in which to take advantage of their temporary judgeship. In the district of Hawaii and the southern district of Illinois, for example, new judges were not confirmed until October 1994. Other districts have faced similar delays. Those delays mean that many of the temporary judgeships will be unable to fulfill congressional intent to alleviate the backlog of cases in those districts. Many of the districts faced a particularly heavy load of drug enforcement matters.

This bill changes the second part of the temporary judgeship calculus by providing that the first district judge vacancy occurring 5 years or more after the confirmation date of the judge appointed to fill the temporary judgeship would not be filled. In that way, each district would benefit from an extra active judge for at least 5 years, regardless of how long the appointment process takes. This will help alleviate the extra burden faced in those districts. The only district excluded from this treatment is the western district of Michigan. That district requested to be excluded because its needs will be met under the current scheme.

The Administrative Office of the United States Courts has requested that the Senate pass this bill before December 1, 1995. After that date, some vacant judgeships will be unable to be filled under current law. As Chairman of the Judiciary Committee, I will do my part to expedite this bill's passage.•

By Mr. DOLE:

S. 1329. A bill to amend title 38, United States Code, to provide for educational assistance to veterans, and for other purposes; to the Committee on Armed Services.

THE SERVICE PERSONS READJUSTMENT ACT OF 1995

Mr. DOLE. Mr. President, today I am proud to introduce the Service Persons Readjustment Act of 1995. This legislation will provide our brave service men and women with education benefits comparable to the benefits previously earned by generations of veterans. This measure is long overdue.

Fifty years ago, Congress and the American Legion worked diligently to pass the Servicemen's Readjustment Act of 1944, Better known as the GI bill of rights. That measure has been recognized as one of the greatest pieces of legislation ever enacted. As a result of educating its veterans, the United States experienced the greatest economic boom in our Nation's history. The Nation transformed from an industrial giant to a technological world leader. For the majority of veterans, including minorities and women, the dream of receiving a college education became a reality.

When the original GI bill was introduced in Congress, many Members feared that the cost of this program would bankrupt the country. Colleges and universities nationwide argued that such a program would lower educational standards. President Roosevelt initially opposed the idea because of the projected cost. Now, as history demonstrates, the dollars invested in veterans' education have returned to the Government 10 times. I ask my colleagues to demonstrate the same courage and resolve as the Members of Congress did in 1944, by making a financial investment in our Nation's future.

Unfortunately, the GI bill which once covered 100 percent of a veteran's education presently offsets educational costs by only 37 percent. Today, America's veterans are willing to work and invest more money than ever before for their educational benefits. Congress should provide them with that opportunity. The current Montgomery GI bill does not provide the flexibility to meet veterans needs. If a veteran wishes to attend a 1 year vocational school or a 4 year university, the program remains the same. The veteran who chooses a 1 year school will receive a disproportionately smaller benefit package.

Under my proposed legislation, benefits can be shaped to meet the educational or training goals of veterans by allowing them to choose the length of their benefit package.

An improved GI bill will create economic equality among many Americans. Because individuals from the lower and middle classes comprise the majority of the military, the bill will allow the less fortunate to earn their educations rather than depending on social handouts. With the percentage of women and minorities in the military growing steadily, improved benefits will also help level the playing field.

Presently, the GI bill is both a recruiting incentive and an educational opportunity. Current program values are simply inadequate to meet a veterans educational needs. Plenty of veterans sign up for the program. Few actually ever receive benefits. Sadly, once ready to start school, veterans quickly realize that their benefits pale in comparison to their financial obligations. America's veterans, thoroughly understand responsibility and sacrifice. However, veterans should not be forced to bear these burdens when other Government educational programs provide greater benefits to nonveterans with considerably less commitment.

The American Legion has repeatedly asked Congress to increase education benefits for our brave men and women who have served honorably. The legislation I am introducing will allow service members to invest more money. It will teach young men and women the value of working hard and saving money to reach one's goals and dreams. Educational assistance for veterans consistently proves to be a winning concept. Trained and educated individuals make more money, spend more money, and pay more taxes. Many of my colleagues are present today because of the GI bill. Their benefits were far more generous than today's educational package. I hope those Senators will support this measure. This new program, like the original GI bill, is a wise investment in America's future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicepersons Readjustment Act of 1995".

TITLE I—READJUSTMENT ASSISTANCE

SEC. 101. EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

"CHAPTER 33—SERVICEPERSONS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—PURPOSES

"Sec.
"3301. Purposes.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"3311. Basic educational assistance entitlement: service on active duty.
"3312. Basic educational assistance entitlement: service as a Reserve.
"3313. Duration of basic educational assistance.
"3314. Payment of basic educational assistance.
"3315. Amount of basic educational assistance.

"SUBCHAPTER III—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

"3321. Time limitation for use of eligibility and entitlement.
"3322. Bar to duplication of educational assistance benefits.
"3323. Program administration.

"SUBCHAPTER I—PURPOSES

"§ 3301. Purposes

"The purposes of this chapter are—

"(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service; and

"(2) to provide supplemental assistance to such members to facilitate that assistance.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"§ 3311. Basic educational assistance entitlement: service on active duty

"(a) Except as provided in subsection (c), each individual—

"(1) who first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces after April 1, 1996, and—

"(A) who serves as the individual's initial obligated period of active duty at least 2 years of continuous active duty in the Armed Forces; or

"(B) who serves in the Armed Forces and is discharged or released from active duty—

"(i) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service-connected, for hardship, or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty (as determined by the Secretary of the military department concerned in accordance with regulations prescribed under section 3011(a)(1)(A)(ii)(I) of this title);

"(ii) for the convenience of the Government in the case of an individual who completed not less than 20 months of continuous active duty, if the initial obligated period of active duty of the individual was less than 2 years, or in the case of an individual who completed not less than 30 months of continuous active duty if the initial obligated period of active duty of the individual was at least 2 years; or

"(iii) involuntarily for the convenience of the Government as a result of a reduction in force (as determined by the Secretary of the military department concerned in accordance with regulations prescribed under section 3011(a)(1)(A)(ii)(III) of this title);

"(2) who has completed the requirements of a secondary school diploma (or equivalency certificate) not later than the original ending date of the individual's initial obligated period of active duty, regardless of whether the individual is discharged or released from active duty on such date;

"(3) who is not a graduate of a military academy or the recipient of financial assistance from the Government for participation in a Reserve Officers' Training Corps program; and

"(4) who, after the completion of the service described in paragraph (1)—

"(A) continues on active duty;

"(B) is discharged from active duty with an honorable discharge;

"(C) is released from service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

"(D) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

"(b)(1) The basic pay of any individual described in subsection (a) who does not make an election under subsection (c) shall be reduced by $100 for each month of a period (as designated by the individual) of months in which the individual is entitled to such pay. The period shall begin upon the commencement of the person's initial period of obligated active duty as described in subsection (a)(1). The period shall be a multiple of 12 months and shall be not less than 12 months or more than 48 months.

"(2) Any amount by which the basic pay of an individual is reduced under this section shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of the individual.

"(c) An individual described in subsection (a) may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance and supplemental assistance under this chapter.

"§ 3312. Basic educational assistance entitlement: service as a Reserve

"(a) Except as provided in subsection (b), each individual—

"(1)(A) who—

"(i) first becomes a member of a reserve component after April 1, 1996; or

"(ii) first enters on active duty as a member of the Armed Forces after that date;

"(B) beginning within 1 year after first becoming such a member or first entering on such duty, enters into an agreement to serve at least 6 years of continuous duty in a reserve component; and

"(C) serves at least 6 years of such duty during which the individual participates satisfactorily in training as determined by the Secretary concerned;

"(2) who, before completion of the duty described in paragraph (1) pursuant to the agreement in that paragraph, has completed the requirements of a secondary school diploma (or an equivalency certificate);

"(3) who is not a graduate of a military academy or the recipient of financial assistance from the Government for participation in a Reserve Officers' Training Corps program; and

"(4) who, after completion of the duty in a reserve component described in paragraph (1) pursuant to the agreement in that paragraph is discharged from service with an honorable discharge, is placed on the retired list, or continues on active duty or in a reserve component;

is entitled to basic educational assistance under this chapter.

"(b)(1) The requirement of 6 years of service under paragraph (1) of subsection (a) pursuant to an agreement referred to in such paragraph is not applicable to an individual—

"(A) who, during the active duty service described in such paragraph, was discharged or released from active duty in the Armed Forces for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, or for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, if the individual was obligated, at the beginning of such active duty service, to serve such 6 years of service;

"(B) who, during the 6 years of service, is discharged or released from service in a reserve component (i) for a service-connected disability, (ii) for a medical condition which preexisted the individual's becoming a member of the reserve component and which the Secretary determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 30 months of such service for the convenience of the Government, (v) involuntarily for the convenience of the Government as a result of a reduction in force (as determined by the Secretary of the military department concerned in accordance with regulations prescribed under section 3012(b)(1)(B)(ii)(V) of this title), or (VI) for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title; or

"(C) who, before completing the 6 years of service described in such paragraph, ceases to be a member of any reserve component during the period beginning on October 1, 1991, and ending on September 30, 1999, by reason of the inactivation of the person's unit of assignment.

"(2) In the case of an individual described in paragraph (1) of subsection (a) who begins service in the Selected Reserve within one year after completion of the service described in such paragraph pursuant to an agreement referred to in such paragraph, the continuity of service of such individual as a member of the Selected Reserve shall not be considered to be broken—

"(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

"(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

"(c) The basic pay of any individual described in subsection (a) who does not make an election under subsection (d) shall be reduced by $50 for each month of a period (as designated by the individual) of the months in which the individual is entitled to such pay. The period shall begin upon the commencement of the person's initial period of obligated duty in a reserve component as described in subsection (a)(1). The period shall be a multiple of 12 months and shall be not less than 12 months or more than 48 months.

"(2) Any amount by which the basic pay of an individual is reduced under this section shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of the individual.

"(d) An individual described in subsection (a) may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance and supplemental assistance under this chapter.

"§ 3313. Duration of basic educational assistance

"(a) Subject to section 3695 of this title, each individual entitled to basic educational assistance under section 3311 of this title is entitled to 1 month of educational assistance benefits under this chapter for each month of continuous active duty served by the individual for which the basic pay of the individual is reduced by operation of subsection (b) of such section 3311.

"(b) Subject to section 3695 of this title, each individual entitled to basic educational assistance under section 3312 of this title is entitled to 1 month of educational assistance benefits under this chapter for each month of duty in a reserve component served by the individual for which the basic pay of the individual is reduced by operation of subsection (b) of such section 3312.

"(c) No individual may receive basic educational assistance benefits under this chapter for a period in excess of 48 months.

"§ 3314. Payment of basic educational assistance

"(a) The Secretary shall pay to each individual entitled to basic educational assistance under this chapter a basic educational assistance allowance to be used by the individual for the purposes described in subsection (b).

"(b) Subject to subsection (c), an individual shall use a basic educational assistance allowance under this chapter for the following purposes:

"(1) To pay the cutstanding interest and principal on educational loans of the individual.

"(2) To meet the costs (including subsistence, tuition, fees, supplies, books, equipment, and other educational costs approved by the Secretary) of a program of institutional training, including a program of institutional training at an institution of higher learning and a program of institutional training that does not lead to a standard college degree.

"(3) To meet the costs of an approved on-the-job training program or apprentice training program.

"(4) To meet the costs of a program of correspondence courses.

"(5) To meet the costs of a cooperative training program.

"(6) To meet the costs of tutorial assistance.

"(7) To meet the costs of other educational programs, training programs, or other programs that the Secretary determines appropriate to achieve the purposes for which educational assistance is provided under this chapter.

"(c) An individual may not use a basic educational assistance allowance under this section unless such use is approved by the Secretary in accordance with such regulations as the Secretary shall prescribe. To the maximum extent practicable, the regulations shall conform to the provisions on approval of courses and programs of education set forth in chapter 36 of this title, and the regulations prescribed thereunder.

"§ 3315. Amount of basic educational assistance

"(a)(1) Subject to subsection (b), a basic assistance allowance under this chapter shall be paid as follows:

"(A) In the case of an individual entitled to the allowance under section 3311 of this title—

"(i) at the monthly rate of $800 for a program (including tutorial assistance) referred to in section 3315(b) of this title pursued on a full-time basis;

"(ii) at the monthly rate of $600 for such a program pursued on a three-quarters time basis; or

"(iii) at the monthly rate of $400 for such a program pursued on less than a three-quarters time basis.

"(B) In the case of an individual entitled to the allowance under section 3312 of this title—

"(i) at the monthly rate of $400 for a program (including tutorial assistance) referred to in section 3315(b) of this title pursued on a full-time basis;

"(ii) at the monthly rate of $300 for such a program pursued on a three-quarters time basis; or

"(iii) at the monthly rate of $200 for such a program pursued on less than a three-quarters time basis.

"(2) An individual receiving educational assistance benefits under this chapter for purposes of paying outstanding interest and principal on educational loans shall be considered to be an individual pursuing a program on a full-time basis.

"(b) With respect to any fiscal year beginning after fiscal year 1997, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) or (2) of subsection (a), the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(2) such Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).

"SUBCHAPTER III—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 3321. Time limitation for use of eligibility and entitlement

"(a) The period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year period beginning on the date of such individual's initial discharge or release from active duty or service in a reserve component, as the case may be.

"(b) In the case of an individual eligible for educational assistance under this chapter—

"(1) who was prevented from pursuing the individual's chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

"(2) who applies for an extension of such 10-year period within 1 year after (A) the last day of such period, or (B) the last day on which the individual was so prevented from pursuing the program, whichever is later,

the 10-year period shall not run with respect to the individual during the period of time that the individual was so prevented from pursuing the program and the 10-year period will again begin running on the first day following the individual's recovery from the disability on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the individual to initiate or resume pursuit of a program of education or training with educational assistance under this chapter.

"(c)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under section 3313, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

"(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under section 3313, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

"§ 3322. Bar to duplication of educational assistance benefits

"An individual entitled to educational assistance under this chapter who is eligible for educational assistance under a program under chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs concurrently but shall elect (in such form and manner as the Secretary may prescribe) under which program to receive educational assistance.

"§ 3323. Program administration

"(a) The Secretary shall prescribe regulations governing the provision of educational assistance and supplemental assistance under this chapter and otherwise governing the administration of this chapter. To the maximum extent practicable, and except as provided in subsection (b), such regulations shall be consistent with relevant provisions on the administration of educational assistance benefits under chapters 30, 34, and 36 of this title.

"(b) Notwithstanding any limitation on the period of operation of an educational institution under section 3689 of this title, or under regulations prescribed thereunder, the Secretary may approve the enrollment of an eligible individual under this chapter in a course offered by a proprietary profit educational institution at a subsidiary branch or extension of such institution in operation for less than two years if—

"(1) the main branch of such institution has been in operation for more than two years at the time the course is offered; and

"(2) another subsidiary branch or extension of such institution has been in operation for more than two years at such time".

(b) CLERICAL AMENDMENTS.—The table of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 31 the following new item:

"33. SERVICEPERSONS EDUCATIONAL ASSISTANCE PROGRAM .... 3301".

(c) CONFORMING AMENDMENT.—Paragraph (4) of section 3695(a) of such title is amended to read as follows:

"(4) Chapters 30, 32, 33, 34, 35, and 36 of this title, and the former chapter 33 of this title that was repealed before the date of the enactment of the Servicepersons Readjustment Act of 1995.".

SEC. 102. TAX TREATMENT OF EDUCATIONAL ASSISTANCE.

(a) TAX CREDIT FOR UNUSED EDUCATIONAL ASSISTANCE.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. UNUSED PORTION OF VETERANS EDUCATIONAL ASSISTANCE.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual—

"(1) who is entitled to educational assistance under chapter 33 of title 38, United States Code, and

"(2) whose eligibility for such assistance expires under section 3331 of such title during the taxable year,

there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the unused portion of such educational assistance.

"(b) UNUSED PORTION.—For purposes of subsection (a), the term 'unused portion' means, with respect to any individual, an amount equal to the lesser of—

"(1) the total amount of reductions in the individual's basic pay under chapter 33 of title 38, United States Code, by reason of the individual having elected to receive educational assistance under such chapter, or

"(2) the excess (if any) of—

"(A) the total amount of basic educational assistance which the individual is entitled to under subchapter II of chapter 33 of title 38, United States Code, over

"(B) the sum of—

"(i) the total amounts received by such individual under subchapter II of chapter 33 of title 38, United States Code, and

"(ii) the total amounts received by such individual under any program described in section 3332 of such title which the individual elects to receive in lieu of amounts described in clause (i)."

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Unused portion of veterans educational assistance.
"Sec. 36. Overpayments of tax."

(b) EXCLUSION OF CERTAIN AMOUNTS.—Section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended by adding at the end the following new subsection:

"(c) CERTAIN EDUCATIONAL BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any educational assistance provided under chapter 33 of title 38, United States Code, shall be treated as a qualified military benefit.

"(2) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any individual solely because the individual's basic pay is reduced under chapter 33 of title 38, United States Code, by reason of the individual having elected to receive educational assistance under such chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

TITLE II—FUNDING

SEC. 201. VETERANS PROGRAMS.

(a) EXTENSION OF AUTHORITY TO REQUIRE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.—

(1) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2000".

(2) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2000".

(b) EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.—Section 1729(a)(2)(E) of such title is amended in the matter preceding clause (i) by striking out "October 1, 1998," and inserting in lieu thereof "October 1, 2000,".

(c) REPEAL OF PROHIBITION ON OFFSETS FOR LIABILITIES ON LOAN GUARANTEES.—(1) Section 3726 of such title is repealed.

(2) The table of sections at the beginning of chapter 37 of such title is amended by striking out the item relating to section 3726.

(d) EXTENSION OF AUTHORITY TO COLLECT INCREASED LOAN FEES.—

(1) HOME LOAN FEES.—Section 3729(a)(4) of such title is amended by striking out "October 1, 1998," and inserting in lieu thereof "October 1, 2000,".

(2) FEE FOR MULTIPLE USE OF HOUSING ASSISTANCE.—Section 3729(a)(5)(C) of such title is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2000".

(e) AUTHORITY TO COLLECT INCREASED LOAN FEES FOR MANUFACTURED HOUSING.—

(1) AUTHORITY.—Section 3729(a)(4) of such title, as amended by subsection (c)(1), is further amended by striking out ", (D)(ii),".

(2) EXPIRATION.—The amendment made by paragraph (1) expires on September 30, 2000.

(f) EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS.—Section 3732(c)(11) of such title is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2000".

(g) EXTENSION OF INCOME VERIFICATION AUTHORITY.—Section 5317(g) of such title is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2000".

(h) EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.—Section 5503(f)(7) of such title is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2000".

(i) CLOSURE OF VA SUPPLY DEPOTS.—Notwithstanding the provisions of sections 510(b) and 8121 of title 38, United States Code, the Secretary of Veterans Affairs shall phase out and close the Department of Veterans Affairs Supply Depots located at Somerville, New Jersey, Hines, Illinois, and Bell, California, over 2 fiscal years, beginning in fiscal year 1995 and ending in fiscal year 1996, and shall transfer from the Department of Veterans Affairs Revolving Supply Fund to the General Fund of the Treasury, $45,000,000 by September 30, 1995, and $44,000,000 by September 30, 1996.

(j) PROVISION OF DATA BANK INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—

(1) ADDITIONAL PURPOSE OF DATA BANK.—

(A) The heading to section 1144 of the Social Security Act (42 U.S.C. 1320b-14) is amended by striking "**MEDICARE AND MEDICAID**" and inserting "**HEALTH CARE**".

(B) Subsection (a) of that section is amended—

(i) in the matter preceding paragraph (1), by striking "Medicare and Medicaid" and inserting "Health Care";

(ii) by striking "and" at the end of paragraph (1);

(iii) by substituting ", and" for the period at the end of paragraph (2); and

(iv) by adding at the end the following:

"(3) assist in the identification of, and the collection from, third parties responsible for payment for health care items and services furnished to veterans under chapter 17 of title 38, United States Code.".

(2) DISCLOSURE OF DATA BANK INFORMATION TO SECRETARY OF VETERANS AFFAIRS.—Subsection (b)(2)(B) of that section is amended by inserting "to the Secretary of Veterans Affairs and" after "Data Bank".

SEC. 202. ANNUAL PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

Effective as of December 31, 1995, paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 is amended—

(1) by striking "(2) Effective" and inserting "(2)(A) Subject to subparagraph (B), effective"; and

(2) by adding at the end the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.".

SEC. 203. DETERRENCE OF FRAUD AND ABUSE IN FECA PROGRAM.

(a) Section 8102 of title 5, United States Code, is amended to redesignate subsection (b) as subsection (c), and to add the following new subsection (b):

"(b) An individual convicted of a violation of 18 U.S.C. 1920, as amended, or of any other fraud related to the application for or receipt of benefits under subchapter I or III of chapter 81 of title 5, shall forfeit, as of the date of the conviction, all entitlement to any prospective benefits provided by subchapter I or III for any injury occurring on or before the date of the conviction. Such a forfeiture of benefits shall be in addition to any action the Secretary may take under section 8106 or 8129 of title 5, United States Code.".

(b) Section 8116 of title 5, United States Code, is amended by adding the following new subsection (e):

"(e) Notwithstanding any other provision of this title, no benefits under sections 8105 or 8106 of this subchapter shall be paid or provided to any individual during any period during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to that individual's conviction of an offense that constituted a felony under applicable law, except where such individual has one or more dependents within the meaning of section 8110 of this subchapter, in which case the Secretary may, during the period of incarceration, pay to such dependents a percentage of the benefits that would have been payable to such individual computed according to the percentages set forth in section 8133(a)(1)–(5) of this subchapter.".

(c) Section 8116 of title 5, United States Code, is further amended by adding the following new subsection (f):

"(f) Notwithstanding the provisions of section 552a of this title, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the names and Social Security account numbers of individuals who are confined in a jail, prison or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to such individuals' conviction of an offense that constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.".

(d) Section 1920 of title 18, United States Code, is amended to read as follows: "Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with the application for or receipt of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, United States Code, shall be punished by a fine of not more than $250,000, or by imprisonment for not more than five years, or both.".

(e) Except as otherwise provided in this section, the amendments made by this section shall be effective on the date of enactment and shall apply to actions taken on or after the date of enactment both with respect to claims filed before the day of enactment and with respect to claims filed after such date.

(f) The amendments made by subsections (a), (b), and (c) of this section shall be effective on the date of enactment and shall apply to any person convicted or imprisoned on or after the date of enactment.

(g) The amendment made by subsection (d) of this section shall be effective on the date of enactment and shall apply to any claim, statement, representation, report, or other written document made or submitted in connection with a claim filed under subchapter I or III of chapter 81 of title 5, United States Code.

SEC. 204. ENHANCEMENT OF REEMPLOYMENT PROGRAMS FOR FEDERAL EMPLOYEES DISABLED IN THE PERFORMANCE OF DUTY.

(a) IN GENERAL.—Section 8104 of title 5, United States Code, is amended—

(1) by striking the comma after "employment" and by striking "other than employment undertaken pursuant to such rehabilitation" from subsection (b); and

(2) by adding the following new subsection (c):

"(c) The Secretary of Labor, as part of the vocational rehabilitation effort, may assist permanently disabled individuals in seeking and/or obtaining employment. The Secretary may reimburse an employer (including a Federal employer), who was not the employer at the time of injury and who agrees to employ a disabled beneficiary, for portions of the salary paid by such employer to the reemployed, disabled beneficiary. Any such sums shall be paid from the Employees' Compensation Fund.".

(b) EXPANSION OF FEDERAL EMPLOYEES' COMPENSATION ACT PERIODIC ROLL MANAGEMENT PROJECT.—The Secretary of Labor may expand the Federal Employees' Compensation Act Periodic Roll Management Project to all offices of the Office of Workers' Compensation Program of the Department of Labor.

SEC. 205. SALE OF ALASKA POWER ADMINISTRATION.

(a) SNETTISHAM.—

(1) AUTHORITY TO SELL.—The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this section as "Snettisham") to the State of Alaska (referred to in this section as the "Authority"), in accordance with the terms of this section and the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority.

(2) AUTHORITY TO SELL TO MUNICIPALITY OF ANCHORAGE.—The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this section as "Eklutna") to the municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this section as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(3) ASSISTANCE.—The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this subsection.

(4) DISPOSITION OF PROCEEDS.—The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(5) AUTHORITY TO MAKE EXPENDITURES.—There are authorized to be expended such sums as are necessary to prepare or acquire

Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient section to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(b) EXEMPTION FROM FEDERAL POWER ACT REQUIREMENTS.—

(1) EXEMPTIONS.—After the sales authorized by this section take place, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a), including its requirements with respect to applications, permits, licenses, and fees, unless a future modification of Eklutna or Snettisham affects Federal lands not used for the two projects when this section takes effect. The foregoing exemptions are subject to the Memorandum of Agreement entered into between the State of Alaska, the Eklutna Purchasers, the Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, remaining in full force and effect. Nothing in this section or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(2) JURISDICTION.—The District Court of the United States for the District of Alaska has jurisdiction to review decisions made under the Memorandum of Agreement and enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance. An action seeking review of a fish and wildlife program of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the program shall be brought within 90 days of the time the program is adopted by the Governor of Alaska, or be barred. An action seeking review of implementation of the program shall be brought within 90 days of the challenged act implementing the program, or be barred.

(3) RIGHTS-OF-WAY.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(A) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(i) at no cost to the Eklutna Purchasers;

(ii) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(iii) sufficient for operation, maintenance, repair, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including land selected by the State of Alaska.

(B) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with current law.

(C) Fee section to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to and selections of those lands are invalid or relinquished.

(D) With respect only to approximately 853 acres of Eklutna lands identified in paragraphs 1.a., b., and c. of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select and the Secretary of the Interior shall convey to the State improved lands under the selection entitlements in section 6(a) of the Act of July 7, 1958 (Public Law 85-508) and the North Anchorage Land Agreement of January 31, 1983. This conveyance is subject to the rights-of-way provided to the Eklutna Purchasers under subparagraph (A).

(4) AUTHORITY TO SELECT LANDS.—With respect to the approximately 2,671 acres of Snettisham lands identified in paragraphs 1.a., and b. of Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select and the Secretary of the Interior shall convey to the State improved lands under the selection entitlements in section 6(a) of the Act of July 7, 1958 (Public Law 85-508).

(5) PROHIBITIONS.—Federal lands conveyed to the State of Alaska as part of, or in support of, the Snettisham transfer are specifically prohibited from being included in the Alaska Mental Health Enabling Act (70 Stat. 709) or any reconstitution thereof, under the Alaska Mental Health Trust Lands Settlement Act (Secs. 54-58, Ch. 66, Alaska Session Laws 1991), or any other law.

(6) INTERNAL REVENUE CODE OF 1986.—For purposes of section 147(d) of the Internal Revenue Code of 1986, "1st use" of Snettisham shall be considered to occur pursuant to acquisition of the property by or on behalf of the State of Alaska.

(7) CLOSING OF ALASKA POWER ADMINISTRATION.—No later than 1 year after both of the sales authorized in subsection (a) have occurred, as measured by the transaction dates, stipulated in the purchase agreements, the Secretary of Energy shall—

(A) complete the business of, and close out, the Alaska Power Administration;

(B) prepare and submit to Congress a report documenting the sales; and

(C) return unused balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(8) REPEAL OF ACT OF JULY 31, 1950.—The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

(9) REPEAL OF SECTION 204 OF THE FLOOD CONTROL ACT OF 1962.—Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, when all Snettisham assets have been conveyed to the Authority.

(10) EFFECTIVE DATE OF AMENDMENTS.—As of the later of the two dates determined in paragraphs (8) and (9), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(A) in paragraph (1), by striking subparagraph (C) and redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(B) in paragraph (2), by striking "and the Alaska Power Administration" and inserting "and" after "Southwestern Power Administration,".

(11) REPEAL OF ACT OF AUGUST 9, 1955.—The Act of August 9, 1955, concerning water resources investigations in Alaska (69 Stat. 618), is repealed.

(12) DISCLAIMER.—The sales of Eklutna and Snettisham under this section are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

SEC. 206. TERMINATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 preceding note) is amended by striking subsection (c) and inserting the following:

"(c) This chapter, other than sections 282 and 283, shall terminate on September 30, 1995.

"(d)(1) Except as provided in paragraph (2), chapters 2 and 3 shall terminate on September 30, 1995.

"(2) If, on or before September 30, 1995, a worker—

"(A) is eligible to apply for assistance under subchapter D of chapter 2; and

"(B) is otherwise eligible to receive assistance in accordance with section 250,

such worker shall continue to be eligible to receive such assistance for any week after such date for which the worker meets the eligibility requirements of such section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ", except that for fiscal year 1997, the total amount of payments made under paragraph (1) shall not exceed $70,000,000".

(2) Section 245 of such Act (19 U.S.C. 2317) is amended—

(A) in subsection (a), by striking "1995, 1996, 1997, and 1998" and inserting "and 1995"; and

(B) in subsection (b), by striking "1996, 1997, and 1998" and inserting "1996, and 1997".

SEC. 207. CONSOLIDATION OF SOCIAL SERVICE PROGRAMS.

(a) AT-RISK CHILD CARE PROGRAM MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.—

(1) CONSOLIDATION OF SERVICES.—Section 2002(a)(2)(A) of the Social Security Act (42 U.S.C. 1397a(a)(2)(A)) is amended by inserting "(including services that could have been provided under section 402(i), as in effect immediately before the date of enactment of the Servicepersons Readjustment Act of 1995" after "child care services".

(2) CONSOLIDATION OF FUNDING.—Section 2003(c) of such Act (42 U.S.C. 1397b(c)) is amended—

(A) in paragraph (4), by striking "and";

(B) in paragraph (5), by striking "each fiscal year after fiscal year 1989." and inserting "the fiscal years 1990, 1991, 1992, 1993, and 1994; and"; and

(C) by adding at the end the following:

"(6) $2,976,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.".

(b) CERTAIN DISCRETIONARY SOCIAL SERVICES PROGRAMS MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES BUT LEFT DISCRETIONARY.—

(1) CONSOLIDATION OF SERVICES.—Section 2002 of such Act (42 U.S.C. 1397a) is amended—

(A) in subsection (a), by adding at the end the following:

"(3) In addition to payments pursuant to paragraph (1), the Secretary may make payments to a State under this title for a fiscal year in an amount equal to its additional allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

"(4) For purposes of paragraph (3)—

"(A) services which are directed at the goals set forth in section 2001 include services that could have been provided under—

"(i) the Community Services Block Grant Act;

"(ii) the Child Care and Development Block Grant Act of 1990;

"(iii) title III or VII of the Older Americans Act of 1965; or

"(iv) the State Dependent Care Development Grants Act,

as in effect immediately before the date of enactment of the Servicepersons Readjustment Act of 1995; and

"(B) expenditures for such services may include expenditures described in paragraph (2)(B)."; and

(B) in each of subsections (b), (c), and (d), by inserting "or additional allotment" after "allotment" each place such term appears.

(2) CONSOLIDATION OF FUNDING.—Section 2003 of such Act (42 U.S.C. 1397b) is amended by adding at the end the following:

"(d) The additional allotment for any fiscal year to each State shall be determined in the same manner in which the allotment for the fiscal year is determined for the State under the preceding subsections of this section, except that, in making such determination the following amounts shall be used in lieu of the amount specified in subsection (c):

"(1) $2,298,000,000 for the fiscal year 1995.

"(2) $2,360,000,000 for the fiscal year 1996.

"(3) $2,424,000,000 for the fiscal year 1997.

"(4) $2,490,000,000 for the fiscal year 1998.

"(5) $2,557,000,000 for the fiscal year 1999.".

(c) CONFORMING AMENDMENTS AND REPEALS.—

(1) COMMUNITY SERVICES BLOCK GRANT ACT.—The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is hereby repealed.

(2) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(3) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by striking titles III and VII.

(4) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is hereby repealed.

(5) AT-RISK CHILD CARE PROGRAM.—

(A) PROGRAM AUTHORITY.—Section 402 of the Social Security Act (42 U.S.C. 602) is amended—

(i) in subsection (g)(7), by striking "and subsection (i)"; and

(ii) by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by striking subsection (n).

(d) EFFECTIVE DATE.—The amendments and repeals made by this section shall take effect on October 1, 1995.

SEC. 208. FEDERAL CLEARINGHOUSE ON DEATH INFORMATION.

(a) CLEARINGHOUSE DESIGNATION.—The heading for section 205(r) of the Social Security Act is amended to read as follows: "Clearinghouse on Death Information".

(b) ACQUISITION OF DISCLOSABLE DEATH INFORMATION FROM STATES.—

(1) Section 205(r)(1)(A) of the Social Security Act is amended by striking "to furnish the Secretary periodically with" and inserting "to furnish periodically to the Secretary, for use in carrying out subparagraph (B) and paragraphs (3) and (4),".

(2)(A) Notwithstanding clause (ii) of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66)), in order for a contract requiring a State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it to meet the requirements of such section 6103(d)(4)(B), such contract shall authorize the Secretary to use such information and to redisclose such information to any Federal agency or any agency of a State or political subdivision in accordance with section 205(r) of the Social Security Act.

(B) The provisions of subparagraph (A) of this paragraph and, notwithstanding subparagraph (C) of section 6103(d)(4) of the Internal Revenue Code of 1986 (as added by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66)), the provisions of subparagraphs (A) and (B) of such section 6103(d)(4) shall apply to all States, regardless of whether they were, on July 1, 1993, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(C) Subparagraphs (A) and (B) of this paragraph shall take effect at the same time as the amendment made by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 takes effect.

(D) For the purpose of applying the special rule contained in section 13444(b)(2) of the Omnibus Budget Reconciliation Act of 1993, the reference in such section to section 6103(d)(4)(B) of the Internal Revenue Code of 1986 shall be deemed to include a reference to subparagraph (A) of this paragraph.

(c) PAYMENT TO STATES FOR DEATH INFORMATION.—Section 205(r)(2) of the Social Security Act is amended—

(1) by striking "the reasonable costs" and inserting "a reasonable amount"; and

(2) by striking "transcribing and transmitting" and inserting "furnishing".

(d) FEE FOR CLEARINGHOUSE INFORMATION.—

(1) Section 205(r)(3) of the Social Security Act is amended by striking out "if" and all that follows, and inserting ", provided that such agency agrees to pay the fees set by the Secretary pursuant to paragraph (8).".

(2) Section 205(r)(4) of the Social Security Act is amended—

(A) by inserting "and political subdivisions" after "States" the first place such term appears;

(B) by striking "the States" and inserting "any State, political subdivision, or combination thereof"; and

(C) by striking "if" and all that follows and inserting "provided such States and political subdivisions agree to pay the fees set by the Secretary pursuant to paragraph (8).".

(3) Section 205(r) of the Social Security Act is amended by adding at the end a new paragraph as follows: "(8) The Secretary shall establish fees for the disclosure of information pursuant to this subsection. Such fees shall be in amounts sufficient to cover all costs (including indirect costs) associated with the Secretary's responsibilities under this subsection. Fees collected pursuant to this paragraph shall remain available, without fiscal year limitation, to the Secretary to cover the administrative costs of carrying out this subsection.".

(e) TECHNICAL ASSISTANCE.—Section 205(r) of the Social Security Act is amended by adding at the end (after the paragraph added by subsection (d)(3)) the following new paragraph:

"(9) The Secretary may provide to any Federal or State agency that provides Federally funded benefits, upon the request of such agency, technical assistance on the effective collection, dissemination, and use of death information available under this subsection for the purpose of ensuring that such benefits are not erroneously paid to deceased individuals.".

(f) TECHNICAL AMENDMENT.—Section 205(r) of the Social Security Act is amended by adding at the end (after the paragraph added by subsection (e)) the following new paragraph:

"(10) For purposes of this subsection, the term 'Federally funded benefit' means any payment funded in whole or in part by the Federal Government.".

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect upon their enactment.

SEC. 209. SECTION 235 MORTGAGE REFINANCING.

Section 235(r) of the National Housing Act is amended—

(1) in paragraph (2)(C), by inserting after "refinanced" the following: ", plus the costs incurred in connection with the refinancing as described in paragraph (4)(B) to the extent that the amount for those costs is not otherwise included in the interest rate as permitted by subparagraph (E) or paid by the Secretary as authorized by paragraph (4)(B)";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by inserting after "otherwise)" the following: "and the mortgagee (with respect to the amount described in subparagraph (A))"; and

(B) in subparagraph (A), by inserting after "mortgagor" the following: "and the mortgagee"; and

(3) by amending paragraph (5) to read as follows:

"(5) The Secretary shall use amounts of budget authority recaptured from assistance payments contracts relating to mortgages that are being refinanced for assistance payments contracts with respect to mortgages insured under this subsection. The Secretary may also make such recaptured amounts available for incentives under paragraph (4)(A) and the costs incurred in connection with the refinancing under paragraph (4)(B). For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection and for amounts paid under paragraph (4) shall not be construed as unused.".

SEC. 210. HUD MULTIFAMILY HOUSING DISPOSITION PROCESS.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary of Housing and Urban Development has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) Management and Disposition of Multifamily Housing Projects.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) Goals.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) Definitions.—For purposes of this section, the following definitions shall apply:

"(1) Multifamily housing project.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) Subsidized project.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iii) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) Formerly subsidized project.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) Unsubsidized project.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) Management or Disposition of Property.—

"(1) Disposition to purchasers.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational staff and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) Contracting for management services.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) Maintenance of Housing Projects.—

"(1) Housing projects owned by the Secretary.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) Housing projects subject to a mortgage held by the Secretary.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) Required Assistance.—In carrying out the goal specified in subsection (a)(3)(A), the Secretary shall take not less than one of the following actions:

"(1) Contract with owner.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) Subsidized or formerly subsidized projects receiving certain assistance.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraphs (A) through (C) of subsection (b)(2) that does not otherwise receive project-based assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining affordability, as defined in paragraph (3)(B).

"(B) Subsidized or formerly subsidized projects receiving other assistance.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) with at least an equivalent increase in units made affordable to very low-income persons within unsubsidized projects;

"(ii) low-income tenants residing in units otherwise requiring project-based assistance under subparagraph (A) or (B) upon disposition receive section 8 tenant-based assistance; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in unsubsidized projects, the contract shall at least be sufficient to provide—

"(i) project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for low-income families. Actions taken pursuant to this paragraph may be taken in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary annually.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms which will ensure that—

"(i) at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions authorized by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—In connection with projects referred to in subsection (e), make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall make available tenant-based rental assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A), and the Secretary shall take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance.

"(g) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(h) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—Notwithstanding subparagraph (A), to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area (as determined by the Secretary under section 8(c) of the United States Housing Act of 1937) as the Secretary may prescribe.

"(B) UP-FRONT GRANTS AND LOANS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to—

"(i) provide project-based section 8 rental assistance; and

"(ii)(I) provide up-front grants for the necessary cost of rehabilitation; or

"(II) pay for any cost to the Government, as defined in section 502 of the Congressional Budget Act, for loans made pursuant to subsection (f)(1).

"(i) Disposition Plan.—

"(1) In general.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) Community and tenant input into disposition plans and sales.—

"(A) In general.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) Tenant organizations.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities which represent or are affiliated with existing tenant organizations.

"(C) Technical assistance.—

"(i) Use of funds.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly, and to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section for the provision of technical assistance under this section.

"(ii) Source of funds.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(j) Right of First Refusal.—

"(1) Procedure.—

"(A) Notification by secretary of the acquisition of title.—Not later than 30 days after acquiring title to a project, the Secretary shall notify the unit of general local government and the State agency or agencies designated by the Governor of the acquisition of such title.

"(B) Expression of interest.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) Timely expression of interest.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B), and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for a project, shall notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan and give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) No timely expression of interest.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.

"(2) Acceptance of offers.—Where the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e). If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) Purchase by unit of general local government or designated state agency.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(4) Applicability.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(k) Displacement of Tenants and Relocation Assistance.—

"(1) In general.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) Rights of displaced tenants.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(l) Mortgage and Project Sales.—

"(1) In general.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) Sale of certain projects.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) Mortgage sales to state and local governments.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, which report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after enactment of the Housing and Community Development Act of 1993 and actions taken in years prior to such enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary of Housing and Urban Development shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments, and the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

ADDITIONAL COSPONSORS

S. 96

At the request of Mr. HATCH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 96, a bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

S. 643

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 643, a bill to assist in implementing the plan of action adopted by the World Summit for Children.

S. 832

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 832, a bill to require the Prospective Payment Assessment Commission to develop separate applicable percentage increases to ensure that medicare beneficiaries who receive services from medicare dependent hospitals receive the same quality of care and access to services as medicare beneficiaries in other hospitals, and for other purposes.

S. 863

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 863, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 864

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 864, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 955

At the request of Mr. HATCH, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 974

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 974, a bill to prohibit certain acts involving the use of computers in the furtherance of crimes, and for other purposes.

S. 1136

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1136, a bill to control and prevent commercial counterfeiting, and for other purposes.

S. 1160

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1160, a bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes also shall apply for alternative minimum tax purposes.

S. 1219

At the request of Mr. FEINGOLD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1219, a bill to reform the financing of Federal elections, and for other purposes.

S. 1289

At the request of Mr. KYL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1289, a bill to amend title XVIII of the Social Security Act to clarify the use of private contracts, and for other purposes.

SENATE RESOLUTION 177

At the request of Mr. BIDEN, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the

Senator from New Mexico [Mr. DOMENICI], the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mrs. BOXER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mr. DOLE], the Senator from New York [Mr. D'AMATO], the Senator from Louisiana [Mr. BREAUX], the Senator from Nevada [Mr. BRYAN], the Senator from Tennessee [Mr. FRIST], the Senator from South Dakota [Mr. DASCHLE], the Senator from Connecticut [Mr. DODD], the Senator from Iowa [Mr. GRASSLEY], the Senator from New Hampshire [Mr. GREGG], the Senator from Utah [Mr. HATCH], the Senator from North Dakota [Mr. DORGAN], the Senator from Texas [Mrs. HUTCHISON], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from California [Mrs. FEINSTEIN], the Senator from Ohio [Mr. GLENN], the Senator from Kentucky [Mr. FORD], the Senator from Florida [Mr. MACK], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], the Senator from Vermont [Mr. LEAHY], the Senator from New Hampshire [Mr. SMITH], the Senator from Maine [Ms. SNOWE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. LEVIN], the Senator from Alaska [Mr. STEVENS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mrs. MURRAY], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. THURMOND], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. WELLSTONE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arizona [Mr. MCCAIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wyoming [Mr. THOMAS], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of Senate Resolution 177, a resolution to designate October 19, 1995, as "National Mammography Day."

AMENDMENTS SUBMITTED

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

KEMPTHORNE (AND CRAIG) AMENDMENTS NOS. 2928–2929

(Ordered to lie on the table.)

Mr. KEMPTHORNE (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by them to amendment No. 2898 proposed by Mr. DOLE to the bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes; as follows:

AMENDMENT NO. 2928

At the end, insert the following:

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(i) and (B)(ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, an action may be brought under Title III by a United States national only where the amount in controversy exceeds $50,000, exclusive of costs, attorneys' fees, and exclusive interest under sections 302(a)(i)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, a United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this Title.

( ) Notwithstanding any other provisions of this Act, but for purposes of Title III, in the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the case of any action brought under this Title by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this Title.

AMENDMENT NO. 2929

At the end, insert the following:

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(i) and (B)(ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, an action may be brought under Title III by a United States national only where the amount in controversy exceeds $50,000, exclusive of costs, attorneys' fees, and exclusive interest under sections 302(a)(i) (I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, a United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this Title.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the case of any action brought under this Title by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this Title.

( ) Notwithstanding any other provision of this Act, any provisions in this Act related to the import of sugar or sugar products shall be deemed "sense of the Congress" language.

BRADLEY AMENDMENTS NOS. 2930–2931

(Ordered to lie on the table.)

Mr. BRADLEY submitted two amendments intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

AMENDMENT NO. 2930

On page 14, strike line 1 and all that follows through line 14 on page 16 and insert in lieu thereof the following:

"(5) except for assistance under the secondary school exchange program administered by the United States Information Agency, for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination without the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or".

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2298b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national.".

"(4) CUBAN GOVERNMENT.—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code.".

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) the President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) the report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term 'appropriate congressional committees' includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform and rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160)".

AMENDMENT NO. 2931

In lieu of the matter proposed to be inserted by the amendment, insert the following:

The language beginning on page 14, line 1, through line 14 on page 16 is deemed to be as follows:

"(5) except for assistance under the secondary school exchange program administered by the United States Information Agency, for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or".

(2) Subsection (k) of section 498B of that Act. (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in, section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national.".

"(4) CUBAN GOVERNMENT.—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code.".

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term appropriate congressional committees, includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform and rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public law 103-160)".

DODD AMENDMENT NO. 2932

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to amendment No. 2913 submitted by Mr. MACK to amendment No. 2898 proposed by Mr. DOLE to the bill, H.R. 927, supra; as follows:

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

(a) CONGRESSIONAL NOTIFICATION.—The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations in the Senate within 48 hours of concluding any agreement entered into between the governments of the United States and Cuba;

(b) To the extent possible, the President should also consult the relevant committees of Congress with respect to any ongoing negotiations between such governments unless such consultations would adversely effect the outcome.

DODD AMENDMENT NO. 2933

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to amendment No. 2923 submitted by Mr. HELMS to amendment No. 2898 proposed by Mr. DOLE to the bill, H.R. 927, supra; as follows:

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

IV—STUDY ON EXCLUSION OF ALIENS FOR PROPERTY PURPOSES

SEC. 401. (a) The Secretary of State shall undertake a study of how serious a problem the confiscation of U.S. property by foreign governments has become.

(b) The Secretary of State shall submit a legal analysis to the relevant Congressional Committees as to whether the exclusion of aliens from the U.S., who may be involved in the expropriation issues, is consistent with U.S. obligations entered into in the context of GATT and NAFTA.

SIMON AMENDMENT NO. 2934

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 2899 submitted by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

Strike Title , "Freedom to Travel."

Strike section 103(d), and insert the following in its stead:

SEC. 103(d). TRAVEL TO CUBA.

(1) FREEDOM TO TRAVEL TO CUBA FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—Notwithstanding any other provision of law, the President shall not restrict travel to Cuba by United States citizens or legal residents, except in the event that armed hostilities between Cuba and the United States are in progress, or where such travel presents an imminent danger to the public health or the physical safety of United States travelers.

(2) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With The Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraphs:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, and of the following transactions incident to travel to or from Cuba by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from Cuba, including the importation into Cuba or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel to or maintenance within Cuba, including the payment of living expenses and the acquisition of goods and services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to or within Cuba.

"(D) Any transactions ordinarily incident to nonscheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into Cuba except accompanied baggage.

"(E) Normal banking transactions incident to the foregoing, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in Cuba other than those items described in paragraph (4)."

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, travel to Cuba incident to

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, U.S. Code."

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which amy not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With The Enemy Act."

(4) APPLICABILITY.—The authorities conferred upon the President by section 5(b) of the Trading with the Enemies Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b)(5) or (6) of the Trading with the Enemy Act (as added by this Act) may not be regulated or prohibited.

SIMON AMENDMENT NO. 2935

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

Strike section 103(d), and insert the following in its stead:

SEC. 103(d). TRAVEL TO CUBA

(1) FREEDOM TO TRAVEL TO CUBA FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—Notwithstanding any other provision of law, the President shall not restrict travel to Cuba by United States citizens or legal residents, except in the event that armed hostilities between Cuba and the United States are in progress, or where such travel presents an imminent danger to the public health or the physical safety of United States travelers.

(2) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With The Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraphs:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, any of the following transactions incident to travel to or from Cuba by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from Cuba, including the importation into Cuba or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel to or maintenance within Cuba, including the payment of living expenses and the acquisition of goods and services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to or within Cuba.

"(D) Any transactions ordinarily incident to non-scheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into Cuba except accompanied baggage.

"(E) Normal banking transactions incident to the foregoing, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in Cuba other than those items described in paragraph (4)."

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, travel to Cuba incident to

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country.

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, United States Code."

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which may not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With The Enemy Act."

(4) APPLICABILITY.—The authorities conferred upon the President by section 5(b) of the Trading with the Enemies Act, which

were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b) (5) or (6) of the Trading with the Enemy Act (as added by this Act) may not be regulated or prohibited.

HELMS AMENDMENT NO. 2936

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

Strike out all after the first word and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short Title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Sec. 101. Statement of Policy.
Sec. 102. Authorization of support for democratic and human rights groups and international observers.
Sec. 103. Enforcement of the economic embargo of Cuba.
Sec. 104. Prohibition against indirect financing of Cuba.
Sec. 105. United States opposition to Cuban membership in international financial institutions.
Sec. 106. United States opposition to the termination of the suspension of the Government of Cuba from participation in the Organization of American States.
Sec. 107. Assistance by the independent states of the former Soviet Union for the Government of Cuba.
Sec. 108. Television broadcasting to Cuba.
Sec. 109. Reports on commerce with, and assistance to, Cuba from other foreign countries.
Sec. 110. Reinstitution of family remittances and travel to Cuba.
Sec. 111. News bureaus in Cuba.
Sec. 112. Impact on lawful U.S. government activities.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.
Sec. 202. Assistance for the Cuban people.
Sec. 203. Implementation; reports to Congress.
Sec. 204. Termination of the economic embargo of Cuba.
Sec. 205. Requirements for a transition government.
Sec. 206. Factors for determining a democratically elected government.
Sec. 207. Settlement of outstanding U.S. claims to confiscated property in Cuba.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in subsidies from the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of Cuba's economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba or to adopt any economic or political reforms that would lead to democracy, a market economy, or an economic recovery.

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 40 Cuban men, women, and children attempting to flee Cuba.

(7) The Castro government holds hostage in Cuba innocent Cubans whose relatives have escaped the country.

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and supplying of groups dedicated to international violence.

(9) Over the past 36 years, the Cuban government has posed a national security threat to the United States.

(10) The completion and any operation of a nuclear-powered facility in Cuba, for energy generation or otherwise, poses an unacceptable threat to the national security of the United States.

(11) The unleashing on United States shores of thousands of Cuban refugees fleeing Cuban oppression will be considered an act of aggression.

(12) The Government of Cuba engages in illegal international narcotics trade and harbors fugitives from justice in the United States.

(13) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(14) Attempts to escape from Cuba and courageous acts of defiance of the Castro regime by Cuban pro-democracy and human rights groups have ensured the international community's continued awareness of, and concern for, the plight of Cuba.

(15) The Cuban people deserve to be assisted in a decisive manner in order to end the tyranny that has oppressed them for 36 years.

(16) Radio Marti and Television Marti have been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(17) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals, and the political manipulation of the desire of Cubans to escape that results in mass migration to the United States;

(4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(5) to provide for a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect American nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

SEC. 4. DEFINITIONS.

As used in this Act, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code, except as otherwise provided for in this Act under paragraph 4(5).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED.—The term "confiscated" refers to

(A) the nationalization, expropriation, or other seizure by the Cuban government of ownership or control of property, on or after January 1, 1959,—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban government of, the default by the Cuban government on, or the failure by the Cuban government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban government,

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban government, or

(iii) a debt which was incurred by the Cuban government in satisfaction or settlement of a confiscated property claim.

(5) CUBAN GOVERNMENT.—(A) The terms "Cuban government" and "Government of Cuba" include the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality" is used within the meaning of section 1603(b) of title 28, United States Code.

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government that the President has determined as being democratically elected, taking into account the factors listed in section 206.

(7) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5 (b)), the International Emergency Economic Powers Act (50 U.S.C. 1701 and following), the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following), as modified by the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following).

(8) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien, or

(b) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

(10) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to members of the Council of Ministers, Council of State, central committee of the Cuban Communist Party, the Politburo, or their equivalents.

(11) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of title III of this Act, the term "property" shall not include real property used for residential purposes, unless, at the time of enactment of this Act—

(i) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban government or the ruling political party in Cuba.

(13) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a government that the President determines as being a transition government consistent with the requirements and factors listed in section 205.

(14) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian government of Cuba pursuant to similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, and the continuation of intelligence activities from Cuba targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

SEC. 102. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION.—The President is authorized to furnish assistance to and make available other support for individuals and nongovernmental organizations to support democracy-building efforts in Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) DENIAL OF FUNDS TO THE GOVERNMENT OF CUBA.—In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance are provided to the Government of Cuba or any of its agencies, entities, or instrumentalities.

(c) SUPERSEDING OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law, except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs appropriations Act.

SEC. 103. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) TRADING WITH THE ENEMY ACT.—(1) Subsection (b) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102–484, is amended to read as follows:

"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code".

(2) Section 16 of the Trading With the Enemy Act is further amended—

(A) by striking subsection (b), as added by Public Law 102–393; and

(B) by striking subsection (c).

(e) COVERAGE OF DEBT-FOR-EQUITY SWAPS UNDER THE ECONOMIC EMBARGO OF CUBA—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national; and".

SEC. 104. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(A) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to a foreign or United States national for the purpose of financing transactions involving any property confiscated by the Cuban government the claim to which is owned by a United States national as of the date of enactment of this Act, except for financing by the owner of the property or the claim thereto for a permitted transaction.

(b) SUSPENSION AND TERMINATION OF PROHIBITION.—(1) The President is authorized to suspend this prohibition upon a determination pursuant to section 203(a).

(2) The prohibition in subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba, as provided for in section 204.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by such civil penalties as are applicable to similar violations of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

SEC. 105. UNITED STATES OPPOSITION OF CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination pursuant to section 203(c).

(2) Once the President submits a determination under section 203(a) that a transition government in Cuba is in power—

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 106. UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE GOVERNMENT OF CUBA FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban government from participation in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 107. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE GOVERNMENT OF CUBA.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(1)) is amended by striking "of military facilities" and inserting "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,".

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or".

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national.

"(4) CUBAN GOVERNMENT.—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraphs (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code.".

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term appropriate congressional committees, includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform and rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system; or

"(F) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160)".

SEC. 108. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) are repealed.

SEC. 109. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, and by January 1 each year thereafter until the President submits a determination under section 203(a), the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is available—

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national;

(5) a determination of the amount of Cuban debt owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals or businesses; and

(B) the amount of debt owed the foreign country that has been exchanged, reduced, or forgiven in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national;

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties; and

(7) an identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material, and

(C) the terms or conditions of any such agreement.

SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.

(a) STATEMENT OF POLICY.—(1) The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and dealings outside the United States in, merchandise that—

(A) is of Cuban origin,

(B) is or has been located in or transported from or through Cuba, or

(C) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(2) The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba, noting that the statement of administrative action accompanying that trade agreement specifically states the following:

(A) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the NAFTA would operate to override this prohibition.".

(B) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries.".

(3) The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198) required the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the United States any sugar produced in Cuba.

(4) Protection of essential security interests of the United States requires enhanced assurances that sugar products that are entered are not products of Cuba.

SEC. 111. REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.

It is the sense of Congress that the President should, before considering the reinstitution of general licensure for—

(1) family remittances to Cuba—

(A) insist that, prior to such reinstitution, the government of Cuba permit the unfettered operation of small businesses fully endowed with the right to hire others to whom they may pay wages, buy materials necessary in the operation of the business and such other authority and freedom required to foster the operation of small businesses throughout the island, and

(B) require a specific license for remittance above $500; and

(2) travel to Cuba by U.S. resident family members of Cuban nationals resident in Cuba itself insist on such actions by the Government of Cuba as abrogation of the sanction for refugee departure from the island, release of political prisoners, recognition of the right of association and other fundamental freedoms.

SEC. 112. NEWS BUREAU IN CUBA.

(a) ESTABLISHMENT OF NEWS BUREAUS.—The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if—

(1) the exchange is fully reciprocal;

(2) the Cuban Government allows free, unrestricted, and uninhibited movement in Cuba of journalists of any United States-based news organizations;

(3) the Cuban Government agrees not to interfere with the news-gathering activities of individuals assigned to work as journalists in the news bureaus in Cuba of United States-based news organizations;

(4) the United States Government is able to ensure that only accredited journalists regularly employed with a news gathering organization avail themselves of the general license to travel to Cuba; and

(5) the Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of any United States-based news organization that has a news bureau in Cuba.

(b) ASSURANCE AGAINST ESPIONAGE.—In implementing this section the President shall take all necessary steps to assure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) FULLY RECIPROCAL.—It is the sense of Congress that the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance or other support from a governmental or official source, are permitted to establish and operate a news bureau in each nation.

SEC. 113. IMPACT ON LAWFUL U.S. GOVERNMENT ACTIVITIES

Nothing in this Act shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

It is the policy of the United States—

(1) to support the self-determination of the Cuban people;

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to consider the restoration of diplomatic relations with Cuba and support the reintegration of the Cuban government into of the Inter-American System after a transition government in Cuba comes to power and at such a time as will facilitate the rapid transition to a democratic government;

(6) to remove the economic embargo of Cuba when the President determines that there exists a democratically elected government in Cuba; and

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, subject to subsections 203 (a) and (c).

(2) EFFECT ON OTHER LAWS.—Subject to section 203, the President is authorized to provide such forms of assistance to Cuba as are provided for in subsection (b), notwithstanding any other provision of law, except for—

(A) this Act;

(B) section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)); and

(C) section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs appropriations Act.

(b) RESPONSE PLAN.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan detailing, to the extent possible, the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and

(B) a democratically elected government in Cuba.

(2) TYPES OF ASSISTANCE.—Support for the Cuban people under the plan described in paragraph (1) shall include the following types of assistance:

(A) TRANSITION GOVERNMENT.—(i) The plan developed under paragraph (1)(A) for assistance to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the basic human needs of the Cuban people.

(ii) When a transition government in Cuba is in power, the President is encouraged to remove or modify restrictions that may exist on—

(I) remittances by individuals to their relatives of cash or humanitarian items, and

(II) on freedom to travel to visit Cuba other than that the provision of such services and costs in connection with such travel shall be internationally competitive.

(iii) Upon transmittal to Congress of a determination under section 203(a) that a transition government in Cuba is in power, the President should take such other steps as will encourage renewed investment in Cuba to contribute to a stable foundation for a democratically elected government in Cuba.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—(i) The plan developed under paragraph (1)(B) for assistance for a democratically elected government in Cuba should consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(I) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(II) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(III) assistance provided by the Trade and Development Agency;

(IV) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(V) Peace Corps activities.

(c) INTERNATIONAL EFFORTS.—The President is encouraged to take the necessary steps—

(1) to seek to obtain the agreement of other countries and multinational organizations to provide assistance to a transition government in Cuba and to a democratically elected government in Cuba; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(d) REPORT ON TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and other appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade and any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act; and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and other appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President is encouraged to take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination, consistent with the requirements and factors in section 205, that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the authorization of appropriations and the availability of appropriations, commence to provide assistance pursuant to section 202(b)(2)(A).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance authorized under section 202(b)(2)(A) to the transition government in Cuba, the types of such assistance, and the extent to which such assistance has been distributed.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall consult regularly with the appropriate congressional committees regarding the development of the plan.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—Upon making a determination, consistent with section 206, that a democratically elected government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the authorization of appropriations and the availability of appropriations, commence to provide such forms of assistance as may be included in the plan for assistance pursuant to section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Once the President has transmitted a determination referred to in either subsection (a) or (c), the President shall, not later than 60 days after the end of each fiscal year, transmit to the appropriate congressional committees a report on the assistance to Cuba authorized under section 202, including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(a) that a transition government in Cuba is in power, the President, after consulting with the Congress, is authorized to take steps to suspend the economic embargo on Cuba and to suspend application of the right of action created in section 302 as to actions thereafter filed against the Government of Cuba, to the extent that such action contributes to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with regard to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act (22 U.S.C. 6003, 6004(d), and 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of the title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act (22 U.S.C. 6003, 6004(d), 6005) are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic

embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on .", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURE.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6-month period thereafter.

SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

(a) A determination under section 203(a) that a transition government in Cuba is in power shall not be made unless that government has taken the following actions—

(1) legalized all political activity;

(2) released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has committed to organizing free and fair elections for a new government—

(i) to be held in a timely manner within 2 years after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(b) In addition to the requirements in subsection (a), in determining whether a transition government is in power in Cuba, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has publicly committed itself to, and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights;

(C) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) assuring the right to private property; and

(F) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(3) has ceased any interference with broadcasts by Radio Marti or the Television Marti Service;

(4) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

(5) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206. FACTORS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of determining under section 203(c) of this Act whether a democratically elected government in Cuba is in power, the President shall take into account whether, and the extent to which, that government—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba; and

(5) is continuing to comply with the requirements of section 205.

SEC. 207. SETTLEMENT OF OUTSTANDING U.S. CLAIMS TO CONFISCATED PROPERTY IN CUBA.

(a) SUPPORT FOR A TRANSITION GOVERNMENT.—Notwithstanding any other provision of this Act—

(1) no assistance may be provided under the authority of this Act to a transition government in Cuba, and

(2) the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of a transition government in Cuba, except for assistance to meet the emergency humanitarian needs of the Cuban people.

unless the President determines and certifies to Congress that such a government has publicly committed itself, and is taking appropriate steps, to establish a procedure under its law or through international arbitration to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by the Government of Cuba on or after January 1, 1959, from any person or entity that is a United States national who is described in section 620(a)(2) of the Foreign Assistance Act of 1961.

(b) SUPPORT FOR A DEMOCRATICALLY ELECTED GOVERNMENT.—Notwithstanding any other provision of this Act—

(1) no assistance may be provided under the authority of this Act to a democratically elected government in Cuba, and

(2) the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of a democratically elected government in Cuba.

unless the President determines and certifies to Congress that such a government has adopted and is effectively implementing a procedure under its law or through international arbitration to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by the Government of Cuba on or after January 1, 1959, from any person or entity that is a United States national who is described in section 620(a)(2) of the Foreign Assistance Act of 1961.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban government held by United States nationals beyond those certified under section 507 of the International Claims Settlement Act of 1949,

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy,

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions,

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property confiscated by the Cuban government held by United States nationals who did not receive or qualify for certification under section 507 of the International Claims Settlement Act of 1949, and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) SENSE OF CONGRESS.—It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban government recognized by the United States remains an essential condition for the full resumption of economic and diplomatic relations between the United States and Cuba.

(e) WAIVER.—The President may waive the prohibitions in subsections (a) and (b) if the President determines and certifies to the Congress that it is in the vital national interest of the United States to provide assistance to contribute to the stable foundation for a democratically elected government in Cuba.

HELMS AMENDMENT NO. 2937

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS AGAINST CONFISCATORY TAKINGS BY THE CASTRO REGIME

SEC. 301. STATEMENT OF POLICY.

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people, and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens,

(ii) thousands of United States nationals, and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the government of Cuba respect equally the property rights of Cuban and foreign nationals.

(5) The Cuban government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures with property and assets some of which were confiscated from United States nationals.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil and productive investment and expertise, to the current government of Cuba and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure, and

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban government.

(7) The U.S. State Department has notified other governments that the transfer of properties confiscated by the Cuban government to third parties "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to "conduct outside its territory that has or is intended to have substantial effect within its territory".

(10) The United States Government has an obligation to its citizens to provide protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS.

(a) CIVIL REMEDY.—(1) LIABILITY OF TRAFFICKING.—(A) Except as otherwise provided in this section, any person or entity, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that after the end of the 6-month period beginning on the date of enactment of this Act traffics in property which was confiscated by the Government of Cuba on or after January 1, 1959, shall be liable to the United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 303(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) reasonable court costs and attorneys' fees.

(B) Interest under subparagraph (A)(I) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) PRESUMPTION IN FAVOR OF THE CERTIFIED CLAIMS.—There shall be a presumption that the amount for which a person or entity, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, is liable under clause (i) of paragraph (1)(A) is the amount that is certified under subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) REQUIREMENT FOR PRIOR NOTICE AND INCREASED LIABILITY FOR SUBSEQUENT ADDITIONAL NOTICE.—(A) Following the conclusion of 180 days after the date of enactment of this Act but at least 30 days prior to instituting suit hereunder, notice of intention to institute a suit pursuant to this section must be served on each intended party or, in the case of ongoing intention to add any party to ongoing litigation hereunder, to each such additional party.

(B) Except as provided in this section, any person or entity, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that traffics in confiscated property after having received—

(i) a subsequent additional notice of a claim to ownership of the property by the United States national who owns the claim to the confiscated property, and

(ii) notice of the provisions of this section, shall be liable to that United States national for money damages in an amount which is the sum of the amount equal to the amount determined under paragraph (1)(A)(ii), plus triple the amount determined applicable under subclause (I), (II), or (III) of paragraph (1)(A)(I).

(C) For purposes of this section, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(I) and (ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of enactment of this Act.

(B) In the case of property confiscated by the Government of Cuba before the date of enactment of this title, no United States national may bring an action under this section unless such national acquired ownership of the claim to the confiscated property before such date of enactment.

(C) In the case of property confiscated on or after the date of the enactment of this Act, no United States national who acquired ownership of a claim to confiscated property by assignment for value after such date of enactment may bring an action on the claim under this section.

(5) TREATMENT OF CERTAIN ACTIONS.—(A) A United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(7) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without the necessity of obtaining any license or other permission from any agency of the United States, except that this subsection shall not apply to the execution of a judgment against or the settlement of actions involving property blocked under the authority of the Trading with the Enemy Act (Appendix to title 50, United States Code, sections 1 through 44).

(8) Notwithstanding any other provision of law, any claim against the Government of Cuba shall not be deemed an interest in property the transfer of which required or requires a license or permission of any agency of the United States.

(b) AMOUNT IN CONTROVERSY.—An action may be brought under this section by a United States national only where the matter in controversy exceeds the sum or value of $50,000 exclusive of costs and attorneys' fees, exclusive of interest under sections 302(a)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

(c) SERVICE OF PROCESS.—(1) Service of process shall be effected against an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law in conformity with section 1608 of title 28, United States Code, except as provided by paragraph (3) of this subsection.

(2) Service of process shall be effected against all parties not included under the terms of paragraph (1) in conformity with section 1331 of title 28, United States Code.

(3) For all actions brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, no judgment by default shall be entered by a court of the United States against the government of Cuba, its political subdivision, or its agencies or instrumentalities, unless a government recognized by the United States in Cuba and with which it has diplomatic relations is given the opportunity to cure and be heard thereon and the claimant establishes his claim or right to relief by evidence satisfactory to the court.

(d) Certain Property Immune From Execution.—Section 1611 of title 28, United States Code, is amended by adding at the end of the following:

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 1605(7) to the extent the property is a facility or installation used by an accredited diplomatic mission for official purposes.".

(e) Election of Remedies.—

(1) Election.—Subject to paragraph (2), and except for an action or proceeding commenced prior to enactment of this Act—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several states, the District of Columbia, or any territory or possession of the United States that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) Treatment of certified claimants.—In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(A) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(B) If the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in subparagraph (A) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(C) If there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in subparagraph (A) to the same extent as any certified claimant who does not bring an action under this section.

(D) In the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

(f) Deposit of Excess Payments by Cuba Under Claim Agreement.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (e) shall be deposited into the United States Treasury.

(g) Termination of Rights.—(1) All rights created under this section to bring an action for money damages with respect to property confiscated by the Government of Cuba before the date of enactment of this Act shall cease upon transmittal to the Congress of a determination of the President under section 203(c).

(2) The termination of rights under paragraph (1) shall not affect suits commenced before the date of such termination, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

SEC. 303. PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY.

(a) Evidence of Ownership.—(1) In any action brought under this Act, the courts shall accept as conclusive proof of ownership a certification of a claim to ownership that has been made by the Foreign Claims Settlement Commission pursuant to title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) In the case of a claim that has not been certified by the Foreign Claims Settlement Commission before the enactment of this Act, a court may appoint a Special Master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of claims to ownership of confiscated property by the Government of Cuba. Such determinations are only for evidentiary purposes in civil actions brought under this Act and do not constitute certifications pursuant to title V of the International Claims Settlement Act of 1949.

(3) In determining ownership, courts shall not accept as conclusive evidence of ownership any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that invalidate the claim held by a United States national, unless the invalidation was found pursuant to binding international arbitration to which United States submitted the claim.

(b) Amendment of the International Claims Settlement Act of 1949.—Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end of the following new section:

"DETERMINATION OF OWNERSHIP CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

"Sec. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, a United States district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States nationals (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of action by the Government of Cuba".

(c) Rule of Construction.—Nothing in this Act or in section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made pursuant to title V of the International Claims Settlement Act of 1949 before the enactment of this Act.

SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 303, is further amended by adding at the end the following new section:

"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

"Sec. 515. (a) Subject to subsection (b) neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any national of the United States (on the date of the enactment of this section) who was not eligible to file a claim under that section, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba in place on the date of the enactment of this section, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or non-monetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission pursuant to section 507, nor shall any district court of the United States have jurisdiction to adjudicate any such claim.

"(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of capital stock of nationals of the United States owning claims certified by the Commission under section 507.".

SEC. 305. DEFINITIONS.

As used in this title, the following terms have the following meanings:

(1) Agency or instrumentality of a foreign state.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title

28, United States Code, except as otherwise provided for in this title under paragraph 4(B).

(2) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(3) CONFISCATED.—The term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban government of, the default by the Cuban government on, or the failure by the Cuban government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban government,

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban government, or

(iii) a debt which was incurred by the Cuban government in satisfaction or settlement of a confiscated property claim.

(4) CUBAN GOVERNMENT.—(A) The terms "Cuban government" and "Government of Cuba" include the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality" is used within the meaning of section 1603(b) of title 28, United States Code.

(5) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien, or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

(6) KNOWINGLY.—The term "knowingly" means with knowledge or having reason to know.

(7) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to members of the Council of Ministers, Council of State, central committee of the Cuban Communist Party, the Politburo, or their equivalents.

(8) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of this title, the term "property" shall not include real property used for residential purposes, unless, at the time of enactment of this Act—

(I) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban government or the ruling political party in Cuba.

(9) TRAFFICS.—(A) As used in this title, a person or entity "traffics" in property if that person or entity knowingly and intentionally—

(I) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, received, possesses, obtains, control of, manages, uses or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefitting from a confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (I) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (I) and (ii)) through another person,

without the authorization of the United States national who holds a claim to the property.

(B) The term "traffic" does not include—

(I) the delivery of international telecommunications signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the degree that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property for residential purposes by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban government or the ruling political party in Cuba, unless, at the time of enactment of this title, the claim to the property is held by a United States national and the claims has been certified under title V of the International Claims Settlement Act of 1949.

(10) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

NOTICE OF HEARING

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management to receive testimony from academicians and State and local officials on alternatives to Federal forest land management. Testimony will also be sought comparing land management cost and benefits on Federal and State lands.

The hearing will take place Thursday, October 26, 1995, at 9 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC. 20510. For further information, please call Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, October 17, 1995, in open session, to receive testimony on United States policy on Bosnia and the use of United States military forces to implement a peace agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 17, 1995, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on the Administrative Oversight and the Courts of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, October 17, 1995 at 10 a.m., in the Senate Dirksen Building room 226, to hold a hearing on Conserving Judicial Resources: The Caseload of the U.S. Court of Appeals for the District of Columbia Circuit and the Appropriate Allocation of Judgeships.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, October 17, 1995, to conduct a hearing on Low Income Housing Preservation Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 17, 1995, at 3 p.m. to hold a closed conference with the House Permanent Select Committee on Intelligence on the fiscal year 1996 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WORLD WAR II VETERANS LEAVE LEGACY OF FREEDOM

• Mr. THOMPSON. Mr. President, there are defining moments in history, as there are in all our lives. World War II was one of those times. History stood still while men and women from nations around the world struggled mightily to determine which direction the future would take.

Fifty years ago, when that war ended, America embarked on a journey toward freedom—not suppression; toward peace—not war; and toward progress for all peoples—not ignorance, fear and darkness.

While we still are far from reaching the end of that journey, we know now, as we did then, that our path would have been quite different had not so many American men and women offered their country years of personal sacrifice. More than 400,000 Americans gave their lives, and their simple, dignified graves here and around the world mark their heritage far better than words.

Among that number more than 6,000 Tennesseans died on foreign battlefields during that great conflict. Yet today 150,000 Tennessee men and women who served their country so well 50 years ago still are living.

On October 11, 1995, the United States Congress held a rare joint Senate-House meeting in the Chamber of the House of Representatives to honor our World War II veterans, and those who served on the home front. I was pleased to be able to invite a Tennessee war veteran to attend this ceremony, and was honored to welcome Brig. Gen. Enoch Stephenson of Columbia, TN.

A combat pilot during the war, Stephenson flew 66 combat missions in a P-51 Mustang for the 8th Air Force, including missions over Berlin, Poland, and Czechoslovakia.

Stephenson, then a lieutenant based in Great Britain, normally "flew escort for heavy bombers—B-24s and B-17s—on their daylight raids," as he recounted. "* * * As the Army started working its way across Europe, we continued to escort the bombers. But after they had completed their bomb run and were headed back to England, we'd leave them and go look for targets of opportunity."

After the war Stephenson returned to Tennessee and took a position with the Third National Bank in Nashville. He also served in the Tennessee National Guard until he retired 24 years later. He is currently chairman of the World War II Memorial Trust—an organization focused on creating a World War II memorial on the Tennessee Bicentennial walk planned for Nashville.

During his career Stephenson received the Legion of Merit, the Distinguished Flying Cross with Oak Leaf Cluster, the Air Medal with six Oak Leaf Clusters and the European Battlefield Ribbon with four Battle Stars.

But Stephenson represented more than one man when he traveled to Washington for the special ceremony and recognition. Sitting with him in that congressional Chamber were all of Tennessee's World War II veterans, living and dead.

With him was Sgt. Charles H. Coolidge of Signal Mountain who served in the 36th Infantry Division in France. On October 24, 1944, Coolidge's company was under heavy enemy tank and machine gun fire delivered at close range. Coolidge picked up a bazooka and moved to within 25 yards of the tanks. When the bazooka failed to function he threw it aside, crawled even closer and armed only with hand grenades inflicted heavy casualties on the advancing enemy.

With him was Sgt. Vernon McGarity of Memphis who served in the 99th Infantry Division. On December 16, 1944, near Krinkelt, Belgium, McGarity was wounded in an artillery barrage. After being treated at an aid station, he refused evacuation and returned to the men of his squad. Then, in the thick of battle and under heavy fire, he separately rescued two wounded American soldiers, immobilized the lead tank of the enemy with a rocket launcher, and ran through concerted enemy fire to recover ammunition critical to his unit's ability to continue the fight. When his squad was pinned down by a German machine gun, McGarity left cover, charged the machine gun, and single-handedly killed or wounded all the enemy gunners.

Also with Stephenson in that stately congressional Chamber was 1st Lt. Hugh B. Mott of Nashville who served in the 9th Armored Engineer Battalion in Germany. On March 7, 1945, Mott arrived with his unit at Remagen Bridge which crossed the Rhine River. Although the bridge was protected by enemy demolition charges and intense sniper, machine gun and 20 mm fire, Mott ran along the entire length of the bridge cutting the wires leading to the demolitions. By doing this he prevented the immediate destruction of the bridge and enabled U.S. forces to establish a bridge head on the east bank of the Rhine River.

Following the war Mott joined the Tennessee National Guard, from which he retired as a major general. He served in the State Legislature, and for several years was the chief of police in Nashville.

Mott was awarded the Distinguished Service Cross, among other honors. Both Coolidge and McGarity were recipients of the Nation's highest battlefield award, the Congressional Medal of Honor.

It is sometimes hard to believe that a half-century has passed since heros like Enoch Stephenson, Charles Coolidge, Vernon McGarity, Hugh Mott—and so many others—left their homes and families to travel into hell.

Time, however, will never diminish their sacrifices and service to our Nation. For, quite simply, their legacy is nothing less than the freedom we enjoy today. And that is the most important legacy anyone can leave.•

IN HONOR OF SISTER HENRIETTA HEBERT, SISTER WINIFRED LEDOUX, AND SISTER STEPHEN LELEUX, SISTERS OF THE MOST HOLY SACRAMENT

• Mr. BREAUX. Mr. President, today I recognize three Sisters of the Most Holy Sacrament who have dedicated their lives to making the lives of others more rewarding both spiritually and through education.

Sister Henrietta Hebert, Sister Winifred LeDoux, and Sister Stephen Leleux have ministered primarily as educators to young women and men in my hometown of Crowley, in Acadia Parish where Crowley is located, and in south Louisiana.

On October 14, these Sisters celebrated with family and friends a mass of thanksgiving in Crowley. They celebrated and gave thanks with deep spiritual humility for one reason, that they have been able to serve others for so many years.

Sister Henrietta and Sister Winifred celebrated their Diamond Jubilee. Sister Stephen celebrated her Golden Jubilee.

As young women, these Sisters vowed solemnly to live a life of service to others. For many years they have fulfilled those vows faithfully as educators, both academic and spiritual. Today, they continue to serve through their deeply spiritual lives, through their prayers, through their example.

Their selflessness and humility stem from the deep faith which their families nurtured in them. That deep faith enabled them, as young women, to make personal and prayerful choices to serve others as Sisters of the Most Holy Sacrament.

Their dedicated service has blessed and benefited so many south Louisiana students through the academic subjects they taught and the spiritual values they instilled. In turn, the community has been blessed and has benefited as well.

I believe, Mr. President, that through their roles as dedicated Sisters, they actually have lead the community as well as served it. Their commitment, their values, and their spirituality have been models of leadership and service, especially for the many young women and men they have educated.

Though they have been community leaders, in their profound humility they would see themselves as only as servants. Though they have given so much to the community, in their profound humility they would never seek or expect anything except to continue their service.

Being from Crowley, I am one of those who was so fortunate to have been taught by Sister Henrietta. On this occasion I express gratitude with all those who have learned from her, from Sister Winifred and from Sister Stephen for all that they have taught and instilled in us.

For Sister Henrietta, Sister Winifred, and Sister Stephen my personal prayers, therefore, are for many more years of peace and joy in their service to others as Sisters of the Most Holy Sacrament. Our Nation and our State are truly better off for their service to so many.•

WORLD POPULATION AWARENESS WEEK

• Mr. ROCKEFELLER. Mr. President, next week, October 22, 1995, through October 28, 1995, has been declared as World Population Awareness Week. Over a decade ago, the United Nations estimated that by the end of this century there would be 65 countries unable to either grow sufficient food to enable their inhabitants to meet minimum nutrition levels or purchase beyond their borders sufficient food to reach these standards.

Recently, the World Food Program reported that there are already 88 low-income, food-deficit countries. With a full 4 years remaining in this century, the dire prediction made back in the mid-1980's already has exceeded by 23 countries.

Although a complete solution to the world hunger problem involves action on many, many fronts, I believe that part of the solution is to reduce global population growth. I do this with special pride over my own family's historic role in raising public awareness of population issues and their effect on the world's human condition and stability.

Last year the International Conference on Population and Development was held in Cairo to create a strategy for voluntarily reducing world population. The implementation of that strategy is the theme of World Population Awareness Week. I am proud to join Gov. Gaston Caperton of West Virginia and my fellow West Virginians in observing this week as a time to express the importance of addressing population trends. I ask that the text of the West Virginia Proclamation be printed in the RECORD designating October 22–28 as World Population Week.

The text follows:

PROCLAMATION BY GOV. GASTON CAPERTON

Whereas, the developing world is plagued by alarmingly high rates of maternal and infant mortality, environmental degradation, malnutrition and unemployment; and,

Whereas, without a reduction of population growth rates, the world's population will be subject to unprecedented economic and social hardship, hunger and political strife; and,

Whereas, world population is currently 5.7 billion and increasing by nearly 100 million per year, with virtually all of the growth added to the poorest countries and regions—those that can least afford to accommodate their current populations, much less massive infusions of human numbers; and,

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, with three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and,

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and, at the same time, have deleterious repercussions for the standard of living in more affluent regions; and,

Whereas, environmental and economic problems caused by overpopulation will affect all nations of the world, including the United States;

Now, Therefore, Be It Resolved that I, Gaston Caperton, Governor of the State of West Virginia, do hereby proclaim October 22, 1995 through October 28, 1995 as: "World Population Awareness Week" in West Virginia and encourage all citizens to understand the importance of educating ourselves in order to help curb these trends and help eliminate poverty, illiteracy, unemployment, social disintegration and gender discrimination.•

WORLD POPULATION AWARENESS WEEK

• Mr. KOHL. Mr. President, every year the United States sends billions of dollars overseas for foreign aid and military operations trying to bring peace and prosperity to troubled regions around the world. Our help often comes too late and seldom alleviates the root of the dilemma.

Overcrowding and rapid population growth exacerbates many causes of conflict around the world, like ethnic tensions, economic disparity, and struggle over scarce resources. The population of our planet has ballooned rapidly from 2 billion in 1935 to almost 6 billion today, and will reach 8 billion by 2025. Ninety percent of this growth will occur in the most troubled regions of the Third World, increasing their already difficult tasks of peace and economic development.

Stable population growth could help these regions achieve their goals by improving economic conditions, lessening the stress on scarce resources, raising the quality of life, and facilitating economic development. Increasing the awareness of population growth focuses the efforts of our Government, and governments around the world, on finding solutions to this problem.

To focus attention on population expansion, the State of Wisconsin has declared October 22–28 World Population Awareness Week. I hope Wisconsin's effort to increase sensitivity on this issue will be joined by other State and local governments. World Population Awareness Week is the first step toward stable population growth and a better and more peaceful life for everyone on the planet.•

BILL READ FOR THE FIRST TIME—S. 1328

Mr. DOLE. Mr. President, I understand that S. 1328, introduced earlier today by Senator HATCH, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1328) to amend the commencement dates of certain temporary Federal judgeships.

Mr. DOLE. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I wish to object on behalf of the distinguished Democratic leader, Senator DASCHLE.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

ORDERS FOR TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Wednesday, October 18; that, following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and then there be a period for morning business until the hour of 2 p.m., with Senators permitted to speak therein for up to 5 minutes each with the following exceptions: Senator THOMAS or designee, for 60 minutes, and Senator DASCHLE or designee, for 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that the cloture vote on the substitute amendment occur at 2 p.m., with the mandatory live quorum waived; further, that under the provisions of rule XXII, Members have until 1 o'clock to file second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, there will be a third cloture vote at 2 o'clock on the Cuban sanctions bill. If cloture is invoked, the Senate will stay on that bill until disposed of. If cloture is not invoked, the Senate may be asked to return to any of the following items: NASA authorization; Amtrak authorization; Labor-HHS appropriations—we are trying to work out some agreement on that; State Department reorganization; and it is my hope—I know that the Senator from North Carolina, Senator HELMS, has prepared for several days to proceed on that matter—that the Senator from Massachusetts, Senator KERRY, will submit some offer to Senator HELMS so we can work out that matter, as we agreed to earlier; plus any available appropriations conference reports.

ADJOURNMENT UNTIL TOMORROW

Mr. DOLE. If there is no other Senator seeking recognition, and no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:19 p.m., adjourned until Wednesday, October 18, 1995, at 12 noon.

HOUSE OF REPRESENTATIVES—*Tuesday, October 17, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. CLINGER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 17, 1995.

I hereby designate the Honorable WILLIAM F. CLINGER, Jr., to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority and minority leader, limited to not to exceed 5 minutes.

JOSEPH ROTBLAT, NOBEL PEACE PRIZE WINNER, CONDEMNS FRENCH NUCLEAR TESTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized during morning business for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, on the first day of this month, the Government of France exploded another nuclear bomb in the South Pacific, its second detonation in a new series of tests. France's nuclear bomb—involving a 110 kiloton blast—was seven times more destructive than the bomb that we exploded in Hiroshima 50 years ago.

Mr. Speaker, as we recall the destructive nuclear fury that was first unleashed in history against the people of Hiroshima and Nagasaki, I think it most appropriate to recognize Mr. Joseph Rotblat, a physicist working on the Manhattan nuclear bomb project during WW II who quit in protest because of his convictions, and who was personally devastated when he learned of the bomb's consequences in Japan.

Mr. Speaker, I want to congratulate Mr. Rotblat, a Polish-born scientist, who has just been awarded the Nobel Peace Prize by the Norwegian Nobel Committee. Mr. Rotblat, the world's first protester against nuclear weapons, has devoted his entire life to ending the madness of the nuclear arms race. He is the founding member of the Pugwash Conference on Science and World Affairs, as well as the Stockholm International Peace Research Institute, a leading think tank on security and disarmament issues.

Mr. Speaker, at a time France is thumbing its nose at the international community, over 160 nations have officially protested this madness by President Chirac and the Government of France to continued exploding of nuclear bombs in the South Pacific, I find it highly commendable that the Nobel Peace Prize has been awarded to Mr. Rotblat, one of the world's most eminent and vocal opponents of nuclear testing.

Mr. Speaker, Mr. Rotbalt has condemned France's resumption of nuclear testing and has written French President Chirac, urging that France immediately cancel its tests. Mr. Rotblat says, "There is no reason at all in my opinion for President Chirac to resume tests. I can't see any tactical reason at all. I can only see this as an attempt to make their bomb a little better, or develop perhaps a new type." That is right, Mr. Speaker, a bomb a little better. To kill more people.

The two bombs that we exploded in Japan, Mr. Speaker, accounted for over 290,000 men, women, and children who died as a result of those nuclear explosions. What madness, what madness, Mr. Speaker. We can say that let us get rid of chemical and biological warfare, but let us continue dropping nuclear bombs.

Mr. Speaker, again, I commend Mr. Rotblat for his life's work and the Nobel Committee for their selection of Mr. Rotblat as a Nobel recipient. By these actions, the Nobel Committee on behalf of the world community has sent a strong message of protest to the French Government and I would hope that Paris would respond by immediately canceling their nuclear testing in the South Pacific.

What arrogance, Mr. Speaker, that President Chirac has the unmitigated gall to do this. For over 30 years they have been exploding nuclear bombs in the South Pacific. The American people do not know the suffering of the some 100,000 or 200,000 people who live in those islands, and, yes, 28 million people who live in that region. We just have not taken a better understanding of the very real serious problem we have there in the Pacific.

While President Chirac is drinking his sweet wine in Paris, some 200,000 people's lives are at stake if that Muroroa atoll should break and leak, and there are already indications of leakages because of the 168 nuclear bombs that have been exploded on that atoll alone.

What arrogance, Mr. Speaker, what arrogance.

ANTI-BOMB PHYSICIST WINS PEACE PRIZE—NOBEL "PROTEST" AGAINST ATOMIC TESTS SHARED WITH ARMS CONTROL GROUP

(By Fred Barbash)

LONDON, October 13.—The Nobel Peace Prize was awarded today to Joseph Rotblat, a British physicist who helped invent atomic weapons in the 1940s, and the organization dedicated to doing away with them that he later formed with Albert Einstein and Bertrand Russell.

This year's prize stands as a "protest" against French and Chinese nuclear testing, the chairman of the Norwegian Nobel Committee, Francis Sejersted, said in Oslo as he announced the award to Rotblat and the Pugwash Conferences on Science and World Affairs.

Rotblat, 86, who walked out of the secret U.S. government laboratory at Los Alamos, N.M., in 1944 after deciding the atomic bomb being developed there was unnecessary, also used the occasion to express his "outrage" at France's two recent nuclear tests in the South Pacific.

Since 1957, the Pugwash Conferences have been assembling select groups of scientists, including many of the brains behind the American, Russian and British nuclear arsenals, for private exchanges on arms control. They have opened up lines of communication among such scientists, serving as forums for both technical and political issues, and as back channels to top-level policymakers. Subsequently the conferences were broadened beyond the scientific community.

Rotblat said today that the organization's goal is, and always has been, to convince governments that "the genie can be put back in the bottle."

A French Foreign Ministry spokesman offered congratulations to Rotblat today, the Reuter news agency reported, but Prime Minister Alain Juppe rejected appeals that France end its nuclear testing program and said the award would have no effect on "policies we have adopted for reasons of national interest."

While no single treaty or agreement can be traced precisely to Pugwash discussions, according to historians of the nuclear era as well as Rotblat, the conferences have addressed complex problems—such as anti-ballistic missile systems, test ban monitoring and the spread of chemical and biological weapons—long before they reached the formal negotiating tables of world leaders. They are considered to have exercised at the very least a subtle influence on virtually every major contemporary arms accord.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

More broadly, the organization, which has 10 Nobel laureates among its charter members, was among the first of what are now many such groups designed to encourage scientists to confront—and control—the uses of their science.

The group was cited by the Nobel committee for its efforts to "diminish the part played by nuclear arms in international politics and in the longer run to eliminate such arms." It has made scientists "take responsibility for their inventions," it said.

Unlike with last year's Peace Prize—awarded jointly to Israeli leaders Shimon Peres and Yitzhak Rabin and Palestine Liberation Organization leader Yasser Arafat—names of the recipients of this one were not leaked in advance. Indeed, neither Rotblat nor the Pugwash Conferences, of which he is president, was on any of the speculative "short lists" published in the Norwegian press.

The Pugwash Conferences, along with philosopher and antiwar activist Bertrand Russell, were viewed with suspicion by some fervent anti-communists during the 1950s and by ardent Cold Warriors afterward. But the organization has been respected for years by arms control professionals. Until today, however, it was relatively unknown to the rest of the world, as was Rotblat, a cheerful, intense man who says he still "wakes up in a cold sweat" when he hears about such events as France's nuclear tests.

"Who would expect that a little man like myself and a little-known movement, unknown to the general public," would get the Nobel Peace Prize, Rotblat said today as he walked briskly from the organization's grungy office near London's Russell Square to a news conference. "Who is he?" bystanders asked reporters as they followed him.

Rotblat, a native of Poland, was working on a one-year atom bomb project at the University of Liverpool in 1939 when the British team of which he was a part joined U.S. scientists working on the Manhattan Project to develop an atomic bomb at Los Alamos.

"I started to work in 1939 on the atom bomb," he said in an interview today. "I was afraid that German scientists would build the weapon and use it to rule the world. I thought that the only way this could be prevented was if we built it too and threatened to retaliate—the classical concept of nuclear deterrence."

Two new pieces of information gained at Los Alamos persuaded him to leave. First, he said, he learned that a major purpose for the bomb was to threaten the Soviet Union, which was then a World War II ally.

Then, he said, "at the end of 1944 I learned that the Germans had abandoned their project; the purpose of my being on the project was gone." When he informed his superiors at Los Alamos that he was leaving, he said they "accused me of being a spy" who was planning to turn over atomic secrets to the Russians. After refuting the accusation, and agreeing for security reasons to a fabricated story about why he was leaving, he was allowed to return to Britain, where he switched from nuclear physics to nuclear medicine.

When he heard that the United States had dropped the bomb on Hiroshima, he said, he was "devastated. . . . I did not expect it would be used as soon as it was made. I felt angry, worried and fearful about the future of our civilization."

"The world didn't know it, but we knew that scientists were capable of making a bomb a thousand times more powerful—a hydrogen bomb."

In 1955, he and Russell decided to seek the help of Einstein in warning the world of the danger they foresaw. From that collaboration came the "Russell-Einstein Manifesto," which declared that "such weapons threaten the continued existence of mankind." Among the signers were 10 men who were or would become Nobel laureates, including Max Born, Percy W. Bridgman, Einstein, Frederic Joliot-Curie, Hermann J. Muller, Linus Pauling, Cecil F. Powell and Rotblat.

From the manifesto emerged the Pugwash Conferences, so named because the first one was financed by American industrialist Cyrus Eaton and held at his retreat in the village of Pugwash, Nova Scotia.

The meetings, which were by invitation only, tended to be small—groups of 25—and moved from country to country.

While participants often read from prepared papers, they could be and were challenged in open give-and-take sessions, according to accounts of meetings by historians.

Invitees have included not only scientists committed to arms control—such as Rotblat—but top-level government scientists guiding the rapid Cold War nuclear arms buildup. Soviet physicists Andrei Sakharov and Igor Tamm and Princeton scientist Frank von Hippel were among the participants.

Rotblat said today he has never been able to say with any precision how much the Pugwash discussions influenced the Soviet position on arms limitations.

At the very least, he said, they opened channels of communication among scientists on both sides of the arms race.

He said he is certain that Pugwash discussions influenced Soviet leader Mikhail Gorbachev's thinking on nuclear issues through the participation of Yevgeny Velikhov, one of the former Soviet leader's key science advisers, who helped persuade Gorbachev not to try to match President Ronald Reagan's Strategic Defense Initiative.

Experts said today that the Pugwash meetings also have contributed significantly to the nuclear testing moratorium observed by the United States and the Soviet Union; to resolving complex issues involving testing verification and monitoring; to the intermediate-range nuclear forces treaty of 1987; and to the nuclear Non-Proliferation Treaty of 1968, designed to stop the spread of nuclear weapons to countries that do not already possess them.

Indeed, the idea for the treaty was first discussed at a Pugwash meeting in 1958, according to the organization's official history.

The peace prize, which will be formally awarded in Oslo in December, carries an award of $1 million. Asked what would be done with the money, Rotblat gestured toward his cramped and cluttered office.

"I haven't really thought about it," he said. "But look around you."

ROTBLAT, FIRST NUCLEAR PROTESTER, WINS PEACE PRIZE

LONDON, October 13.—Polish-born Joseph Rotblat may have been the world's first protester against nuclear weapons, quitting the Manhattan project to build America's atom bomb in 1945 because of his convictions.

The physicist, who was awarded the 1995 Nobel Peace Prize on Friday, went on to become one of the world's most vocal and effective opponents of the nuclear arms race.

The 86-year-old, who lost his wife in the Holocaust, won the Prize jointly with the Pugwash Conferences on Science and World Affairs, of which he was a founder member and is now chairman.

He is also a founding member of the Stockholm International Peace Research Institute (SIPRI), a leading "think-tank" on security and disarmament issues.

Rotblat lives in London where he was professor of physics at the University of London. He has been a British subject since 1946.

He was a refugee from Hitler's Europe who was working at Liverpool University in northern England when World War Two broke out.

He began research on the potential of atomic power in Britain in 1940.

He became a member of a group of British-based scientists who worked on the secret Manhattan Project. But he left the project as Germany headed for defeat, making him possibly the world's first anti-nuclear arms protester.

Rotblat was the only scientist to leave the Manhattan project base at Los Alamos, New Mexico, where the atomic bomb was developed that later devastated Hiroshima and Nagasaki.

His departure was officially said to have been because he wanted to return to Europe to search for his wife.

After the end of World War Two, he founded the Atomic Scientists Association, the forerunner to the Pugwash organisation. He later became president of the organisation, which was dedicated to arms control.

Although Rotblat had always been conscious of the disastrous consequences that the development of nuclear weapons could entail, he had felt compelled to work on the Manhattan project to develop the atomic bomb before Germany could do so.

When it became clear that Germany had given up working on the atomic bomb, he pulled out of the project and did not know the bomb had been completed until it was dropped on Hiroshima.

He was said to have been "devastated" by the consequences of its use on Japan in the dying days of the Pacific war and dedicated his life to campaigning against the nuclear arms race, urging other scientists to do so.

FRANCE UNEASILY CONGRATULATES ROTBLAT ON NOBEL

(By Alistar Doyle)

PARIS, October 13.—France uneasily congratulated ban-the-bomb scientist Joseph Rotblat on winning the Nobel Peace Prize on Friday, dodging the laureate's condemnation of French nuclear tests in the South Pacific.

"We congratulate the Nobel Peace Prize laureate," Foreign Ministry spokesman Jacques Rummelhardt told reporters. "France wants disarmament, including nuclear disarmament, in security."

"Security will permit disarmament," he told the ministry's regular daily press briefing, adding: "French policy aims to establish security."

Despite Paris's official congratulations, the award to the veteran nuclear physicist-turned-peace campaigner seemed set to make the French government squirm.

Pierre Lellouche, a member of parliament and former strategic affairs adviser to President Jacques Chirac, said he was "perfectly scandalised" and accused the group Rotblat heads of being a former tool of Soviet propaganda.

Both Rotblat and the Norwegian Nobel Committee wasted no time in urging France to cancel nuclear tests. Paris broke a three-year moratorium last month by detonating an underground nuclear device in French Polynesia.

Rotblat, 86, said he hoped the prize "is a message not only to the French but to the Chinese as well." China and France are the only official nuclear powers still testing.

Rotblat wrote to President Jacques Chirac last month protesting against the French tests. "I think it's very bad," he told Reuters in London on Friday.

"There is no reason at all in my opinion for President Chirac to resume tests. I can't see any tactical reason at all. I can only see this as an attempt maybe to make their bomb a little better, or develop perhaps a new type."

Nobel Committee chairman Francis Sejersted told Reuters Television: "The specific message to the French is a protest against the nuclear tests, as it is a protest against nuclear tests in general and nuclear armaments in general."

France has staged two tests since early September despite howls of outrage abroad. Chirac says tests are vital to check France's nuclear arsenal and plans as many as six more before banning testing for ever.

France's La Chaine Info television commented that the impact of the Nobel decision on French diplomacy would hardly have been worse had environmental group Greenpeace won.

Rotblat, who helped develop the first atom bomb in the United States in hopes it would never be used, shared the million-dollar prize with the Pugwash Conferences on Science and World Affairs which he chairs.

Lellouche said: "I am personally—and as a specialist in these matters—perfectly scandalised by the fact that an organisation which one knows was openly manipulated by the Soviets should be honoured in this way at a time when everyone knows the controversy about the French tests."

The Pugwash conferences played a backroom role in the Cold War, bringing together scientists, scholars and public figures from East and West to discuss nuclear and other security issues.

AUSTRALIA LAUDS PRIZE FOR ANTI-NUCLEAR CAMPAIGNER

SYDNEY, October 14.—Australia, a fierce opponent of French nuclear testing in the South Pacific, welcomed on Saturday the award of the 1995 Nobel Peace Prize to anti-nuclear campaigner Joseph Rotblat.

A Foreign Ministry spokesman said Australia applauded Rotblat's remark that he hoped the prize would send "a message not only to the French but to the Chinese as well."

"We certainly welcome those remarks from someone as eminent as a Nobel Peace Prize winner and it reinforces the wide range of interests against the nuclear testing programmes," the spokesman told Reuters.

"It basically reinforces the need for a comprehensive test ban treaty, which Australia has been consistently working towards over so many years."

Rotblat, a nuclear physicist who devoted his life to trying to ban the bomb he helped create, won the Nobel Peace Prize on Friday and seized the opportunity to spread his anti-nuclear message.

The Norwegian Nobel Committee, which awarded the prize to the 86-year-old peace campaigner and the Pugwash organisation he founded, also made clear it was intended as a protest against French nuclear tests.

France, which is carrying out a series of tests in the South Pacific, and China are the only nuclear powers still carrying out tests.

Australia has said French and Chinese nuclear tests threaten to undermine negotiations for a Comprehensive Test Ban Treaty due for completion next year by encouraging more non-nuclear powers to develop atomic weapons.

Canberra is especially critical of French testing, arguing Paris should, like Beijing, test on their home soil. Having failed to prevent the resumption of tests in French Polynesia, Australia is now trying to embarrass France in world forums.

Australia will seek condemnation of nuclear testing at next month's Commonwealth Heads of Government Meeting in New Zealand.

It is also lobbying with Japan and New Zealand for an anti-testing resolution within the United Nations.

OAS HITS FRENCH TESTS

French nuclear tests are detrimental to peace and international security, the Mexican ambassador to the OAS said as she assumed the rotating presidency of the organization's permanent council.

Ambassador Carmen Moreno de Del Cueto restated the Organization of American States' call for France to end its tests in the South Pacific.

"I deeply regret that the French government has ignored [our] call . . . to suspend the nuclear tests," she said. "I reiterate our call . . . and urge the French government to finally suspend their nuclear tests, which do not contribute to either peace or international security."

Mrs. Moreno de Del Cueto thanked the OAS for its gradual reforms.

"Little by little the OAS has moved forward in pluralism and tolerance and has begun to eliminate the radical bad habits of the Cold War," she said last week.

DO NOT USE SCARE TACTICS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Kentucky [Mr. WHITFIELD] is recognized during morning business for 3 minutes.

Mr. WHITFIELD. Mr. Speaker, I have in my hands today an article taken from yesterday's Wall Street Journal entitled "Clinton Recruits Campaign Team of Nasty Boys." I would like to just read the first paragraph:

> Gearing up for 1996, President Clinton is fielding a motley crew of reelection strategists with reputations for shrewdness and ruthless tactics. A mainstay on his team, New Yorker Henry Sheilkoph, readily boasts, "I subscribe to terror." Last year, in speaking to a convention of political consultants, Mr. Sheilkoph told a gathering that terror works in political campaigns because it is so easy to make people hate.

What a sad commentary that is on the political system in America that political strategists would deliberately be trying to terrorize and scare people in America, and the efforts to terrorize have already started in the area of Medicare.

As you know Medicare will be bankrupt by the year 2002, according to the President's own board of trustees, and we are committed to preserving that plan, to make it a better plan than it is today. Under the Republican plan, we are going to be spending $355 billion more over the next 6 years, 7 years, on Medicare than were spent in the past 7 years.

But more important than that, if you work in a major corporation today or if you work in the Federal Government today, or if you are in the U.S. Congress today, you have options to choose your health care from five or six different plans. But if you are a senior citizen in America today, you have one option, a fee-for-service option.

Some suburban areas and urban areas, you have an HMO that you can participate in. But we are going to provide senior citizens with additional options. If they want to keep the system they have today, they can do so. If they want to go to an HMO, they can do so. If they want to go to provider service networks, they can do so. If they want to be into a medical savings account, paid for by the Government, they can do so.

So I would urge the President, I would urge those Members of the Democratic Party who are trying to use this issue to scare the American people, to come forward and be honest and say, "Yes, this is going to be a better system."

We do not need nasty boys, so to speak, running political campaigns in America.

MEDICARE FRAUD AND ABUSE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

Ms. DELAURO. Mr. Speaker, this week the House of Representatives will take up unprecedented cuts of $270 billion from Medicare which has been a lifeline for over 37 million seniors. During its 30 year legacy, Medicare has provided our elders with the security of health care coverage and has lifted millions of our seniors out of poverty. Medicare is a solemn contract between this Nation and our elders. It should not be tampered with lightly.

Over the years, those of us genuinely concerned with strengthening the Medicare system have urged a crackdown on Medicare fraud. The Congressional Budget Office estimates that stopping the growing problem of fraud will reap billions of dollars in savings.

But you don't need some policy-wonk's study to tell you that the system is rampant with waste, fraud, and abuse. Just visit one of our Nation's senior centers and sit down for a senior lunch and ask one of our senior citizens to show you their bills.

However, the Republican bill we will take up later this week does not toughen enforcement. It does not even defend the status quo. Even worse, the Republicans turn back the clock on cracking down on Medicare fraud.

Sadly, I am not surprised. As Speaker GINGRICH said last week in this

Washington Times article, in his feeble effort to defend GOP moves to reduce penalties and enforcement efforts against Medicare fraud: "murderers out after 3 years" and rapists who don't even get tried." "For the moment, I'd rather lock up the murderers, the rapists and the drug dealers," he said. "Once we start getting some vacant jail space, I'd be glad to look at it."

The Republican leadership is not interested in correcting and punishing the criminal elements in the Medicare system. Because that may hurt the special interest supporters in the medical industry.

Their priority is to ensure that the special interest supporters in the medical industry are taken care of, with minimal losses in this debate on cutting Medicare.

So, while the Speaker cuts a deal in a backroom with the American Medical Association to make sure that the interests of doctors are protected, while the health care cheats make a fast buck at the Government's expense, seniors are being asked to pay more in out-of-pocket costs and deductibles.

My colleagues on the other side of the aisle have abandoned the most obvious of the potential savings in the Medicare program: Combating Medicare fraud and abuse. I introduced legislation this Congress, the Health Care Prosecution Act, to do just that. My bill stops health care cheats in their tracks, retrieves the financial losses in restitution and fines, and puts the criminals behind bars so that they are unable to promulgate more health care scams in the future.

Further, my legislation establishes a temporary health care fraud and abuse commission to study the nature, and extent of fraud in our system. The commission would make recommendations to Congress on innovative approaches to attack fraud.

Mr. Speaker, I think my bill is a good one but it is not the only effective way to crack down on fraud. There are lots of good ideas out there about how to rid our system of the scams that are ripping off our Nation's seniors and taxpayers.

I am sorry that my Republican colleagues have chosen to pursue none of them.

THE GOAL OF THE MEDICARE PRESERVATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized during morning business for 5 minutes.

Mr. HOKE. Mr. Speaker, on April 3, 1995, the Medicare trustees, which include three members of the President's Cabinet, issued the following warning: "Medicare begins going bankrupt next year, and unless prompt and decisive action is taken, Medicare will be completely out of money by 2002."

There is no reason to doubt the accuracy of the report or its conclusion, and I urge every American to obtain an official summary of the report from their Congressman's or Congresswoman's office to judge for themselves. They can get that by calling 202-225-3121, that is, 202-225-3121. Ask for an official 14 page summary of the Medicare trustees' report.

This week, the House of Representatives will take a giant step forward toward putting Medicare back on sound fiscal footing and giving our seniors the same choices enjoyed by Federal employees, including Members of Congress and all citizens in the private sector when it passes the Medicare Preservation Act of 1995.

The goal of the Medicare Preservation Act is to preserve Medicare for current beneficiaries, protect future beneficiaries, and strengthen it through reforms that have been tested and proven in the private sector. The bottom line is that if Medicare is not reformed, either seniors will be forced to accept sharply curtailed medical services or working Americans will be forced to pay increased payroll taxes estimated by the Heritage Foundation to cost my constituents in northeastern Ohio an average of an additional $1,200 per year.

Under the Medicare Preservation Act, total Medicare spending will increase, will increase, will increase, will increase 54 percent from $161 billion in 1995 to $274 billion in 2002.

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On an annual per beneficiary basis, average spending will increase, that was increase, from $4,800 today to more than $6,700 in 2002. Obviously not only is Medicare not being cut, but at an average increase of about 6.5 percent per year it will grow faster than the current 2.3 percent of private sector medical inflation and more than fast enough to accommodate all new entrants into the system. Only in the bizarre and convoluted world of Washington bookkeeping and partisan bickering can such an indisputable spending increase be called a cut.

The Medicare Preservation Act will give seniors the same four choices that all Federal employees, including Members of Congress, have. First, if they want to, seniors can stay with the current Medicare system exactly as it is today, and, if they choose another option and decide later they want to return to traditional Medicare, they can do that, too. No senior citizen will be forced to give up his or her current Medicare coverage, switch doctors, or be forced into a plan that they do not want.

Second, seniors can opt for managed care and join a health maintenance organization, or HMO, in which beneficiaries agree to receive their medical care from a defined pool of providers in exchange for lower out-of-pocket expenses and broader coverage, which might include prescription drugs, dental care, and eye wear. Many seniors, particularly those those private physicians are already associated with the HMO that they choose, will find this to be an attractive alternative.

Third, seniors can opt for a medical savings account plan which uses the beneficiary's Medicare stipend to fund both catastrophic health insurance plus an MSA, a medical savings account, out of which seniors would pay for routine medical needs. Seniors choosing this plan would have complete control over the money they spend on medical care, and any money left over in the medical savings account at the end of the year would belong to the senior, not to the insurance company nor to the Government. Seniors can join provider service networks similar to HMO's organized by doctors and hospitals themselves.

The Medicare Preservation Act will also aggressively attack waste, fraud, and abuse that has contributed so much to Medicare's rising costs. Incredibly, the Congressional Budget Office has estimated that as much as 20 percent of Medicare spending is fraudulent. The Medicare Preservation Act requires the Department of Health and Human Services to identify and eliminate these huge losses, including financially rewarding Medicare recipients who report abuses. It makes doctors and hospitals accountable for their actions, and imposes stiff new penalties on anyone caught defrauding Medicare.

Another important point is that the portion of Medicare part B costs paid by seniors through premiums, currently 31.5 percent, will not change. Over the past 7 years, part B premiums have nearly doubled, rising from $24.80 in 1988 to $46.10 today.

Mr. Speaker, that is the plan. It is innovative, responsible, and cost effective, and we are going to pass it on Thursday.

SAVING MEDICARE

The SPEAKER pro tempore (Mr. CLINGER). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, I would also like to use my time to talk about Medicare. As we know, the Republican leadership plans to bring up their cuts in Medicare and their program that in my opinion will destroy the Medicare system in the bill this Thursday, without really any significant debate that has occurred so far.

I think there are many aspects of this Republican Medicare plan that disturb me greatly, but the one thing I think that has not been stressed enough is how this is going to have such a negative impact on the quality of health care in the United States.

There was an article last Friday in the New York Times, an op-ed by Mr. Melvin Connor out of Atlanta. He says essentially what these changes in Medicare as well as Medicaid are going to do is to create a third-world atmosphere, essentially, for health care in the United States. He calls it "Medicare and the Third Worldization of America."

The reason he says this essentially is because when you take so much money out of the health care system, out of Medicare and out of Medicaid—and we are talking about $450 billion—the inevitable result is that the system is squeezed so much that the quality of health care suffers.

Few people I think realize this. Many of us realize that our country has the best health care system in the world. It is not always evenly distributed. A lot of the poor people or the poor elderly oftentimes do not have the best quality care or access to that best quality care. But the bottom line is that the system as a whole works fairly well right now, and we do have the best quality care in the world.

But what this proposal does, what the Republican proposal does, is to basically cap the Medicare Program and limit Medicare spending to specific dollar amounts in the law. These caps—and not the choice that the Republicans talk about, which is not going to be there—these caps on Medicare spending essentially yield the enormous Medicare budget savings that the Republicans keep talking about.

But the problem is that the caps on spending bear no relationship whatsoever to the costs of health care. Instead, they were set up to produce the budget savings Republicans need to pay for their tax cut for the wealthy. When inflation and enrollment growth push Medicare costs beyond these arbitrary budget caps, Medicare and the elderly and disabled citizens that are part of the program will be at serious risk.

Now, one of the previous speakers this morning talked about the trustees and said well, we have to do something to Medicare; otherwise it is going to go broke.

That simply is not true. If you look at the trustees report that comes out this year that estimates that the program has another 7 years, every year over the last 25 or 30 years the trustees have come out with a report. Sometimes they have predicted insolvency in 2 years, sometimes in 7, sometimes in 10.

The bottom line is that the trustees are not saying that this kind of a cut, that this magnitude of a cut in the Medicare Program, is what is necessary in order to keep Medicare solvent. In fact, in a letter that I previously quoted from Robert Rubin, the Secretary of the Treasury, dated September 21, to the Speaker, to Speaker GINGRICH, he simply said:

> No Member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

In fact, the trustees have not said that. The trustees have said that something like $90 billion in savings would do fine in order to keep the Medicare Program solvent well beyond the next 7 years.

What we are talking about here is an effort to basically squeeze all this money out of the Medicare Program and provide us essentially with a third world health care system just in order to achieve a tax cut for the wealthy. If anybody doubts that, I would suggest to them that they look at what came out of the House Committee on Commerce, which is the committee that I serve on in Congress. We tried in the Committee on Commerce when we were marking up the Medicare bill last week to make the point that if you really felt that these cuts were not being achieved in order to give a tax break for the wealthy, then why not take the Medicare Program out of this budget reconciliation bill that we are considering in Congress right now?

In other words, if the Republicans really believe that they are trying to save Medicare, rather than take this money that they are cutting and using it for a tax cut for the wealthy, then why do they need to deal with Medicare in the context of the budget? Why do they not give us some time, a couple weeks, a couple months, to look at the Medicare Program, to look at all its different aspects, and try to deal with it in a way that tries to come up with a better quality health care system, not a worse one?

The answer is very simple. They were not willing to do that. We actually submitted an amendment in the Committee on Commerce to take the bill out of the reconciliation, and it failed along a partisan vote line because the Republicans are not serious. They want to use the money for the tax cut.

THE RAPID GROWTH IN TRAVEL AND TOURISM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Mr. Speaker, America needs a bold agenda for change, change not only in the way we do business, but in a new way at looking at the world. Consider for a moment that the single largest global revenue producer for individuals and governments, travel and tourism, has been almost totally ignored. Yet, like a sleeping giant, travel and tourism is awakening from its slumber, and everyone, particularly the politicians, will have to stand and take notice.

This year, travel and tourism is finally getting a little of the recognition it deserves, and justly so. Travel and tourism employs some 204 million worldwide, almost as many people as we have living in the United States minus California. That equals 10 percent of the global work force.

Tourism produces $655 billion in tax revenue. More than 10 percent of all capital investment worldwide goes into travel and tourism. Maybe that is why travel and tourism is growing 23 percent faster than the world economy.

But the most revealing statistic, the one that should make all of us collectively hang a welcome sign on every port of entry into the United States, is that there is an increase of some 50 million travelers, an increase of some 50 million travelers worldwide in the next 5 years. This could mean tens of thousands of new jobs for American workers, but only if we in Congress have the foresight to take advantage of this remarkable opportunity.

Yet when it comes to travel and tourism, we in Congress have been more than willing to take a back seat to any other country in the world, any country, that is willing to put priority in job creation. We in Congress have been oblivious to the dynamics of travel and tourism, the tremendous force in this industry, the tremendous force it has on our economy. We are all too often engrossed in issues of the day and fail to take a look at the big picture.

That is why as chairman of the 297-member Travel and Tourism Caucus, the largest caucus in Congress, I ask all Members to focus on the juggernaut of this global economy.

Also, on a personal note for each Member, let me repeat a fact that you are all acquainted with. Travel and tourism is either the first, second, or third largest employer in your congressional district. These are the businesses, the working men and women in your district. Think of them when you think of travel and tourism. Virtually all over the world, and particularly in the United States, travel and tourism is the predominant industry for jobs that our people need. But note well, the United States is losing its market share in travel and tourism, and this means that we are losing jobs and tax revenue.

Effectively ignored all too often by Congress for its economic benefits, travel and tourism has had a rough row to hoe, a road full of tax pitfalls, disincentives and economic roadblocks, and American workers, small businesses and local economies, especially in our small towns, have suffered.

What should we do? I will start by telling you what I am not willing to do.

I am not willing to see thousands of new jobs created in other countries and sit back wondering why it did not happen here in the United States. I am not willing to see Main Street, America fade away and then wonder was there something I could have done or other Members of Congress could have done.

On October 30 and 31 of this year, in a few days, we will hold the first ever White House Conference on Travel and Tourism. We are going to strategize on a national tourism plan that will create jobs here in America, keep Main Street alive, and pump new tourism dollars into our local economies.

As a member of the Travel and Tourism Caucus, this is your conference, too. Come, take part, and get in step with the American working people. One out of every nine workers is employed by travel and tourism. Just think of the tremendous impact this industry has on your congressional district.

For us the travel and tourism industry is the No. 1 source of foreign revenue. Fifty-six billion dollars came into the United States last year because of foreign tourists, $56 billion that we did not have to get from our taxpayers here in this country. Travel and tourism has moved to the forefront of our national economy. It cannot be ignored, and justly so.

Mr. Speaker, if the Members have not already done so, I invite them as Members of Congress to join the 297 members of the Travel and Tourism Caucus. Join us on October 30 and 31 at the White House conference and get involved in this blockbuster industry of the 1990's and the 21st century.

Let me predict that as we move into the new century, travel and tourism will be No. 1 in jobs, No. 1 in revenue, No. 1 in economic activity, and I invite you all to join the Travel and Tourism Caucus today.

MORE COMPREHENSIVE DEBATE NEEDED ON MEDICARE PLAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized during morning business for 5 minutes.

Mr. DURBIN. Mr. Speaker, if the Gingrich Republican plan to cut $270 billion out of Medicare is such a good idea, why were there no committee hearings to speak of? Why was this bill not brought to the floor so Members could have an opportunity to amend it and debate it at length?

In fact, this week on the floor of the House of Representatives in Washington, DC, we will consider this $270 billion cut in Medicare, the biggest cut in the history of this program, with only a handful of days of hearings in various committees, and a very limited opportunity for debate. It is no surprise that over the weekend, if you read the New York Times, you find that more things are starting to trickle out in terms of what is included in this Medicare change.

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Some of the changes that are being proposed are absolutely horrible. One of the worst relates to the fraud and abuse of the Medicare system. Most of the people that we talk to, who are on Medicare, believe the system needs to be changed and improved. I certainly do.

One of the first places they suggest that we turn to is to stop overbilling, stop the overcharging of the Government for medical services. We know that the vast majority of health care providers under Medicare are honest, ethical people. The doctors, the hospital administrators, those who provide various medical equipment and medical supplies are by and large very honest people, but 1 or 2 percent of them are not and they cost us as taxpayers dearly.

The General Accounting Office estimates that about 10 percent of all the billing to Medicare each year is fraudulent, to the tune of about $18 billion a year, more than enough to make Medicare a sound system for years to come. Unfortunately, if we look closely at what Mr. GINGRICH has proposed under his Medicare reform, we find instead of tightening it up to eliminate the fraud and to eliminate the abuse, the gentleman takes a step in the opposite direction. He lifts the burden now put on Medicare providers so that they cannot be guilty of self-referral.

What is self-referral? OK. A senior goes to the doctor, the doctors takes a look at the person and says, "I think you need a test." Now, how many of us would argue with a doctor at that point? "If I need a test, Doctor, and you think it is right, let us do it." But we found out something curious. If the doctor owns the laboratory that performs the test, the inspector general's office finds out that 45 percent more tests are ordered.

The doctor is not only making money out of the examination, the doctor is making money out of the test. In fact, they are overtesting the patients, beyond what they need for good health care. We put in some regulations and said let us put an end to it. If a patient needs it, if a patient needs a test, let us do it, but this sort of self-referral so that some doctors who own the labs can make more money is a rip-off.

Well, guess what? Along comes the Gingrich Medicare proposal and the whole question of self-referral is pushed to the back.

Then there is a question of kickbacks. We honestly found in the last 2 years dramatic instances of kickbacks, where one group of physicians was referring to another group of physicians, when it was totally unnecessary, and the second group of physicians would kick back some money to the first group for the referral. In one instance, one group paid over $300 million in fines for these kickbacks under Medicare. In the second instance, over $150 million in fines.

So what does the Gingrich Medicare bill do about this? Sad to say, it makes it easier for this kind of kickback to take place. It reduces the likelihood that any medical provider is going to be found of any kind of criminal penalty as a result of this kind of waste and abuse.

Mr. Speaker, there should be things Democrats and Republicans agree on in this town when it comes to Medicare. The first and foremost of these should be that the seniors should not be ripped off, they should not pay more out-of-pocket for medical care than they ought to, but, more importantly is, taxpayers should not be ripped off.

Why in the world at a time when we are facing these deficits should we allow this Medicare system to become so lax and so flabby that, in fact, it is overcharging taxpayers to the tune of more than $18 billion a year? So along come my Republican friends, having sat down and struck a deal with the doctors of America, the AMA, and they are going to relax the standards when it comes to waste and fraud. That is not fair. I do not think anybody in this country believes that is fair. It may be a sweetheart deal, but it is one that should see the light of day.

Mr. Speaker, it should trouble everybody listening to this that the fact is we are going to consider the most significant change in Medicare this week by the Gingrich Republicans without the light of day, without an opportunity to bring these proposals before the public. We will hear about them, but I hope we hear about them before it is too late.

SUPPORT THE MEDICARE PRESERVATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maryland [Mr. BARTLETT] is recognized during morning business for 5 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, this week, this Thursday, the House of Representatives will vote on a plan that will save and preserve the Medicare program for the current generation of senior citizens by introducing choice and competition into this 30-year-old health insurance program for the elderly and disabled.

Let me start by reviewing why these changes are necessary. Then I want to talk about some of these changes.

The trustees of Medicare, four of them appointed by President Clinton, three of them Cabinet Secretaries, warned America in their April annual report that the Medicare part A trust fund that pays hospital bills will go bankrupt by 2002.

Beginning next year, in 1996, for the first time in the history of Medicare, more money will be spent on senior's hospital bills then will come into the trust fund from the payroll taxes that are paid out of the wages of current workers.

If we do nothing, seniors' out-of-pocket costs would continue to climb and Medicare would be bankrupt in 7 years.

If we do nothing and Medicare goes bankrupt, the Government does not have the authority to pay for the hospital bills of any one senior, let alone the 37 million who now depend on it, and the millions more who will need it in the future.

Clearly doing nothing was not a responsible or acceptable option. The problem will not go away—it will only get worse.

Republicans stepped up to the challenge of saving Medicare because Medicare is a vital program that is too important for politics as usual. That is why we began in the spring and have continued throughout year to hold hearings here in Washington. In fact, between the House and the Senate there have been 50 hearings.

More importantly, we have held meetings back at home with seniors, doctors, nurses, hospital administrators, insurance companies, advocacy groups such as the American Association of Retired Persons—AARP.

Based on what the people in western Maryland told me and what other Members learned from their constituents, we developed the Medicare Preservation Act.

The Medicare Preservation Act is based on two simple, but effective principles: First, choice for seniors, and second, competition among health care providers.

Choice and competition always do two things in our free enterprise system: lower costs, and improve quality. That is what the Medicare Preservation Act is about. That is what the Medicare Preservation Act will do. It will give seniors the right to choose the health care and health care insurance plan that best meets their needs, not the Government's. It will give seniors the choice between traditional Medicare or new options.

If seniors do nothing, they will keep traditional Medicare. It will preserve seniors' right to keep their current doctor and hospital. I have two special concerns that the Medicare Preservation Act solves.

Rural areas of America, such as western Maryland, will greatly benefit from the new option of provider service networks—or PSN's. Provider service networks are collaborative partnerships between hospitals and doctors that will compete against insurance companies. Provider service networks already exist in western Maryland, but they are hampered by unbelievable amounts of redtape.

The unnecessary redtape is eliminated under the Medicare Preservation Act so that doctors and hospitals can concentrate on what they want to do and should do—take care of patients. That is why the Maryland State Medical Society supports the Medicare Preservation Act.

Seniors know that fraud is a big problem in Medicare. The GAO estimates 10 percent or so. The Heritage Foundation estimates up to 20 percent of Medicare costs—that is up to $32 billion is estimated to be lost to waste, fraud, or abuse each year.

For instance, Mr. Charles Hardy of Cumberland, MD, found that Medicare was billed for services for his mother—after she died. The Medicare Preservation Act attacks waste, fraud, and abuse in two ways.

First, it sets up a rebate program that will award people like Mr. Hardy with 10 percent of savings over $1,000. Mr. Hardy got no reward for being diligent. People like Mr. Hardy deserve a reward for taking the time and trouble to look for and report mistakes they find in Medicare bills. Health care providers need to be aware that people like Mr. Hardy are paying attention.

Second, the new options for seniors that will be created by the Medicare Preservation Act means that doctors and hospitals, health management organizations, insurance companies, and provider service networks will have to compete for senior's business based on quality and price.

The Medicare Preservation Act is a real, honest, practical, long term, solution that will save Medicare because it is based upon the two key advantages that we seniors have.

We are smart because of the accumulated wisdom of our experience.

We have the time to pick the plan that is right for us.

I urge all of my colleagues to join me in supporting the Medicare Preservation Act.

SUPPRESSION OF POLITICAL ADVOCACY AND FREE SPEECH

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. SKAGGS] is recognized during morning business for 5 minutes.

Mr. SKAGGS. Mr. Speaker, I would like to address for just a few minutes a proposal that is pending in the House that is generally referred to as the Istook amendment or the Istook-McIntosh proposal. What, one may ask, is that about? Well, this is an effort to set up a very, very complicated system for regulating, if one can believe this, regulating and really suppressing political speech and political advocacy in this democracy, which is based, of course, on freedom of political speech and association.

There are many, many aspects to this proposal, but it is often masqueraded, anyway, under the guise of ending welfare for lobbyists. And that may sound like a catchy and compelling concept until we realize who it is that we are talking about. This proposal is intended to get at such organizations as the American Red Cross, the United Church of Christ, the YMCA, the Girl Scouts, a whole range of mainstream American charitable and philanthropic organizations that happen, in addition to their regular activities in our communities, to be involved in some fashion or other in the debate and consideration in America of good public policy.

Many of these organizations, as are well known, are involved in a whole range of philanthropic and charitable activities in their communities in their States. They learn about the problems in our society from those activities, and, understandably, they exercise their first amendment rights to communicate those concerns to State and local and Federal policymakers and legislators. This proposal would put limits on what they can do to help us in the Congress or in the State capitals do a better job.

Why? Well, I cannot really answer that question. The proponents of this proposal seem to think that we should go back to a kind of 19th century view of charity, in which the only thing that is legitimate is to feed the poor, house the homeless, do the fundamental good works, which are clearly very, very important. But if they learn something from that, that might help inform government to do its job better, well, that is out of line.

Mr. Speaker, this reminds me of our colleague from Georgia, Mr. GINGRICH's, comments about wanting to go back to a kind of 19th century orphanage way of dealing with children who do not have the advantages of having both parents at home.

Now, this is being called, this effort to get at the political activities of nonprofits and, for that matter, individuals and businesses that happen to be involved in the political life of this country, going after one of Washington's dirty little secrets; that is that somehow the idea that the YMCA or the Girl Scouts or the American Red Cross might be involved in political advocacy is an anathema.

Mr. Speaker, I think it may also have something to do with wanting to divert attention from one of the real dirty little secrets in town right now, which is the avoidance of dealing with real lobbying reform and real gift reform around this place. We are preoccupied in this proposal, again with, I think, a real diversionary tactic.

When I am home, I at least do not have a lot of people coming up to me saying, "Congressman, I wish you would rein in the Girl Scouts from being quite so active politically. It is just an outrage." Or commenting about how dangerous it is to American society to have the YMCA involved in the debate about child care.

☐ 1315

But while we are off on this tangent, people are being distracted from the fundamental inaction in the House of Representatives on real, central, political reform here in the House; namely, getting to the activities of real lobbyists and their inappropriate ways of trying to influence decisions here through a whole range of extracurricular activities, whether it is gifts or meals or junkets or what have you.

Mr. Speaker, why haven't we taken up that legislation which most Members of the House arrived in January saying ought to be central to our reform agenda around here? Why are we not doing that, rather than messing around with this very, very trivializing and, I think, insulting diversion about wanting to make sure that the Girl Scouts do not have too much say in the political life of this country.

RECESS

The SPEAKER pro tempore (Mr. CLINGER). There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 15 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. RIGGS) at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, for a clear vision of ourselves and of the world in which we live and work and have our being. Enable us to see ourselves as we truly are—created in Your image and marked by opportunities to be the people You would have us be—and also aware that we often miss the mark and lose the vision. We know, O God, that if we do not see the heavenly vision and miss the direction for our lives, our steps will wander and we will lose our way. Open our eyes, gracious God, so we see the path to freedom and opportunity and of service to others. This is our earnest prayer. Amen.

JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announced to the House his approval thereof.

Pursuant to clause 1 of rule I, the Journal stands approved.

Mr. LINDER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Ohio [Mr. TRAFICANT] will lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

> H.R. 2076. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2076) "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GREGG, Mr. HATFIELD, Mr. STEVENS, Mr. DOMENICI, Mr. MCCONNELL, Mr. JEFFORDS, Mr. COCHRAN, Mr. HOLLINGS, Mr. BYRD, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. KERREY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 1267. An act to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 641) "An Act to reauthorize the Ryan White CARE Act of 1990, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. FRIST, Mr. KENNEDY, and Mr. DODD, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 652) "An Act to provide for a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes," agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PRESSLER, Mr. STEVENS, Mr. MCCAIN, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. EXON, and Mr. ROCKEFELLER, to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREE IN LIEU OF CONFEREE ON S. 395, ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The SPEAKER pro tempore. The Chair appoints, without objection, Mr. OBERSTAR as a conferee for consideration of House amendment No. 4 for the conference on the bill S. 395 to fill the vacancy resulting from the resignation from the House of the gentleman from California, Mr. Mineta.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

ACT NOW TO PRESERVE MEDICARE

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, Medicare is a lot like a 1965 model car. It is comfortable transportation, but it may not always be reliable. The 1965 model lacks the efficiency of the newer cars and is expensive to maintain.

The Medicare Preservation Act would allow folks to have the health care equivalent of a new car with air-conditioning, better gas mileage, or other options of their choice. The technology has improved and the new safety features are important. Of course, those who prefer the classic car are welcome to keep it.

I urge the American people and particularly our senior citizens to be informed consumers. Do not be hastily swayed by the advertising of AARP and other groups which depend on Government spending and bureaucracy for their livelihoods.

When individuals in my district in Georgia understand the facts of the Medicare crisis they soon realize that the Medicare Preservation Act is the best solution. They know we must act now to save Medicare for today's retirees and preserve it for the next generation.

SPECIAL INTERESTS WINNING IN REPUBLICAN MEDICARE PROPOSAL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week, we learned the extent to which the special interests are winning out over the public interests when it comes to the Republican Medicare proposal. Two groups came to Washington to protest the GOP plan to cut $270 billion from Medicare; one group got a $3 billion deal, the other got arrested.

Here is a photo, of 67-year-old Roberta Saxton as she is handcuffed by Capitol Police. Her crime? She came to the people's House to ask questions about plans to change her health care plan.

While Roberta was being arrested, the American Medical Association was treated to a different reception. They did not get handcuffed, they got handed a $3 billion deal in a private meeting with Speaker GINGRICH. As the New York Times editorialized this weekend in a piece entitled "Bribes for the Doctors"—the Speaker's concessions made an already bad Medicare bill substantially worse. This bill was never designed to give the elderly high quality health care. It is less likely to do so now.

MEDICARE PRESERVATION ACT WILL PRESERVE, PROTECT, AND STRENGTHEN MEDICARE

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, the Republican Party has boldly led the 104th Congress in the effort to save Medicare. However, these efforts are being challenged by Washington-based special interest groups who are receiving tax dollars.

The AFL–CIO has received $1.3 million in Federal grants but has spent $1.4 million attacking Medicare. The AARP has received $24 million and the National Council of Senior Citizens received $71 million. The American taxpayers should not be forced to fund lobbyists who intentionally mislead our elderly.

The Medicare Preservation Act will preserve Medicare for future generations, protect the program so that Medicare will stay as the beneficiaries know it to be, and strengthen it to provide coverage options, that empower citizens to choose the health plan that fits their needs.

Instead of helping save Medicare, these special interest groups are trying to hold back the progress that must be made.

IN MEMORY OF MEREDITH MILLER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, we pause here today for just a moment to remember Meredith Miller.

Meredith Miller was murdered a year ago today as she was returning from studying to her residence in Virginia.

Meredith Miller was one of those wonderful kinds of persons. She was a very bright student, a wonderful giver. She gave of herself to many wonderful causes, and she was preparing to lead a really spectacular life.

Her murder was unusually brutal. It was a terrible loss of a wonderful life and a terrible loss to her mother and father and her brother and her kin and family and friends who reside in my congressional district.

We all loved Meredith Miller. She was the kind of person we want our daughters to be. She was the kind of American we want our fellow citizens to be.

Justice was done. The murderers were captured. The murderers were tried and sentenced, and they are now serving time in jail. But nothing can return to Meredith Miller her life or to her family their wonderful daughter and sister.

All murder is useless, but Meredith Miller's murder was useless, tragic, and a horrible crime.

Let us pause and remember Meredith Miller.

MEREDITH MILLER WILL ALWAYS BE REMEMBERED

(Mr. BUNN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNN of Oregon. Mr. Speaker, before we start today's business, I would like all of my colleagues to help me remember a young woman dedicated to change. This young woman's story is one that all of my colleagues, on both sides of the aisle, should keep close to their hearts. Her name is Meredith Miller.

Meredith Miller was a student at the George Washington University. Exactly 1 year ago today, she was returning from a study session when she became the victim of a murder. Meredith was an honor student at Princeton University and was attending graduate school here working toward her Masters Degree. She was pursuing her dream, to make a positive change in this world, but her dream was taken from her.

A member of my staff was a friend of hers and has told me that she was an inspiration to all the people she touched. We can all learn something from the tragic events that took Mary away from her family and friends; do not take anything in this life for granted, live each day to its fullest, and give thanks to the Lord for all that He has given you.

We, as Members of Congress and leaders of this Nation, must work to keep our streets safe and bring criminals to justice. If the dreams of the next generation of leaders, of which Mary was certainly one, are to be fulfilled we must lay that foundation today. We are charged with the duty of ensuring that the hopes and dreams of our Nation's future leaders, such as Mary, can someday be reached.

Meredith, your friends and family want you to know that you may be gone but you will never be forgotten.

THE MILLION MAN MARCH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I attended the Million Man March. I thought it was the right thing to do.

Many of my constituents were there. They happened to be black. They also happened to be Americans, and I try to honestly be a Congressman for all people.

The Million Man March was a success. The message was powerful. The themes were responsible: self-responsibility, self-actualization, economic independence, morality, love, parenthood. Those are good messages for all America.

Mr. Speaker, in closing, there is a reality here. The Pope and Billy Graham are great human beings, but the Pope and Billy Graham and all of the religious leaders of the world will not solve the race problem in America. It is going to, in fact, require the help of all people. Congress should join in and commend that march. It was good for the country.

JOIN US IN SAVING MEDICARE

(Mr. METCALF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. METCALF. Mr. Speaker, it would have been simple for the new Republican majority to ignore Medicare's impending bankruptcy, hide the problem, create a quick fix, and let a Congress 2 or 4 years down the road worry about our seniors. But that is not what the American people elected us to do.

The people spoke clearly when they elected the new majority. They expect more from us because they realize those previously in control refused to accept the responsibility of leadership.

The people expect us to do what is right, and we will preserve and protect and strengthen Medicare for the next generation, not just for the next election. We will not play politics with this issue.

I urge all Members of this House to stop the scare tactics and join with us to save Medicare.

CRACK DOWN ON MEDICARE FRAUD

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, in an editorial on Friday, USA Today said:

> Medicare reform invites doctors to bend the rules. Easing limits on physicians' self-referral is bound to cost the program billions it cannot afford.

USA Today called the deal cut between the American Medical Association and the Speaker a payoff to the AMA. It simply eliminates fraud by legalizing it.

Another newspaper said the Speaker's concessions made an already bad Medicare bill substantially worse. This bill was never designed to give the elderly high-quality care.

What concerns me most about that, Mr. Speaker, is that we can save, and this is a conservative estimate, we can save $100 billion over the next 7 years by going after fraud.

Instead of cutting Medicare $270 billion to give tax breaks to the wealthy, we should go after fraud aggressively. Crack down on fraud, that is what the Medicare debate should be about, not cutting Medicare, raising people's premiums and deductibles and copay $1,000 per person per year so we can give a tax break to the wealthiest Americans.

SETTING THE RECORD STRAIGHT ON MEDICARE

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, why are Democrats willing to destroy Medicare and then point an accusing finger at Republicans when we are working hard to save it?

The Democrats' arguments regarding the Republican Medicare plan simply make no sense. They say that Republicans want to destroy Medicare. They say we want to raise premiums and deductibles to pay for a tax cut for the rich. They say we want to close hospitals and deny children and babies access to decent health care. I resent those remarks, especially since my parents are 78 years old and depend on Medicare.

These claims are beyond ludicrous, and by even the most casual scrutiny, no politician in their right mind would ever support such draconian measures, especially when their friends and family would be harmed.

□ 1415

Let us set the record straight. Republicans will provide more choices for seniors. Slowing of Medicare growth cannot and will not be used to fund our tax cuts. Our plan preserves, protects and strengthens Medicare. It is supported by AMA and the U.S. Chamber of Commerce, among others. Come on, Democrats, start making sense. Think before you speak.

PRIVATE "HEARINGS"

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, I rise to call attention to one of the many undemocratic practices being utilized by the majority party during this session of the Congress. As I am sure you are aware, certain Members of the U.S. House of Representatives—including some freshmen Members—have been claiming to have held something they carelessly refer to as hearings on legislation introduced—or to be introduced—in this Congress, when in fact some of these so-called hearings were conducted without notice to Members of the opposite political party. Others of these so-called hearings were nothing more than secret meetings with special interest groups, not hearings at all. Some of these same Members have then falsely claimed credit for holding an exaggerated number of hearings on certain important bills—including the bill designed to dismantle the Commerce Department, Medicare/Medicaid, and the Clean Water Act—when in reality they were conducting private meetings that arbitrarily denied participation in the legislative process to members of the Democratic party and all other concerned citizens who might be adversely impacted by such legislation. I think it is time to call a halt to such abuses of the legislative process.

VOTE "YES" FOR THE MEDICARE PRESERVATION ACT

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, Medicare is going bankrupt. It took a while, but my Democrat colleagues have finally accepted this fact, and they are now presenting a plan to reform Medicare. This afternoon, I would like to compare their plan with ours.

The Republican plan provides a long-term solution. The Democrat plan ignores the root of Medicare's problems and simply postpones Medicare's bankruptcy for 3 years.

The Republican plan focuses on accountability—it's a fair and realistic plan. The Democrat plan is the epitome of politics as usual—it offers nonsolutions that fail to preserve the program.

In short, the Republican plan saves Medicare from bankruptcy. The Democrat plan saves Democrats for the next election.

Mr. Speaker, the list of major senior groups, medical associations, and others supporting the Republican plan grows every day. I urge my colleagues to vote to save Medicare. Vote "yes" for the Medicare Preservation Act.

TAKE MEDICARE PLAN TO THE TRUSTEES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I think as we talk about Medicare, the real issue is the trustees. We have some nonpoliticians here, trustees, who oversee Medicare. As we hear people on the other side accusing us of MediScare or that their program is better, or whatever they want to say, all I want to say to them is please take your plan to the trustees and see if it fits what the trustees have asked for.

When they were arresting seniors last week, one senior, as her handcuffs were being put on, looked up at the police officer and said: "Do you have a mother? Why would you do this to me?"

Well, I think all of us do not want to scare our senior citizens, our mothers, or anyone else. The ones they will believe in is the trustees. We will take our plan to the trustees. We dare them to take their plan to the trustees and get their seal of approval.

PRESERVE AND STRENGTHEN MEDICARE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, it is interesting the previous speaker would say that, take your plan to the trustees. They are a bunch of politicians, Reich, Shalala, and Rubin, all appointed by President Clinton. As the gentlewoman well knows, not one of them is an elected Member of Congress. I do not think Members of Congress need to go around pandering to Clinton administration trustees, saying would you please accept our plan. You are all good Democrats.

As the gentlewoman knows, Medicare is a 1964 Blue Cross plan. I want to do something for my mom. I do not want her to drive around in a 1964 Chevrolet Biscayne that we used to have when I was a kid.

We are trying to do what I hope the Democrats are trying to do: Protect, preserve, and strengthen Medicare. We want your help. I agree with the gentlewoman it should not be partisan. It bothers me when I hear countless speech after speech, partisan flame throwing back and forth.

We have to decrease the inflation rate. Medicare is up to an 11-percent inflation rate. We have to bring it down to the 4- to 6-percent rage. We have been accused of cutting Medicare, but we are going from $4,800 to $6,700 per recipient. We want seniors to have the options and choices on physicians, and so forth.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I would say for my mom, I would rather have trustees look at it rather than Members of Congress.

Mr. KINGSTON. Mr. Speaker, reclaiming my time, my mom does not trust them. She trusts me.

DO NOT CUT MEDICARE FOR A TAX CUT

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, the Republican plan on Medicare is a falsehood on the people of this country. It is detrimental to all of those persons who are above 60. It is detrimental to everything that America should stand for.

We talked about trustees a minute ago, Mr. Speaker. Every person in this country should have trust in this body, trust to do what is right, especially for those persons who have worked all of their lives and who in the twilight of their years see this body snatch from them their Medicare, their Medicaid benefits, that they are due because of trust that they place in this body. They trust us to do the right thing.

Mr. Speaker, we have failed to do the right thing because we have taken money, we are attempting to take money from Medicare just to support a tax cut for rich.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 1594, ECONOMICALLY TARGETED INVESTMENTS IN CONNECTION WITH EMPLOYEE BENEFIT PLANS

Mr. GOODLING. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 108) to correct technical errors in the enrollment of the bill, H.R. 1594, and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. RIGGS). Is there objection to the request of the gentleman from Pennsylvania?

Mr. OWENS. Mr. Speaker, reserving the right to object, I would ask the gentleman from Pennsylvania [Mr. GOODLING] to explain his request.

Mr. GOODLING. Mr. Speaker, during consideration of the bill H.R. 1594, the Committee of the Whole adopted an amendment offered by Mr. TRAFICANT, which we intended to be language contained in the House Report 104-238. Unfortunately, the language offered was not identical to the House report; hence, this resolution would instruct a correction of the House-passed bill.

Mr. OWENS. Mr. Speaker, further reserving my right to object, I rise in support of the unanimous-consent report.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania [Mr. GOODLING]?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 108

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 1594) to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans, the Clerk of the House of Representatives shall, in section 5 of the bill, strike "Nothing" and all that follows through the end of such section and insert the following: "Nothing in this Act is intended to affect the ability of the Department of Labor to issue advisory opinions, information letters, technical releases, prohibited transaction exemptions, or other pronouncements interpreting and applying the fiduciary responsibility rules of the Employee Retirement Income Security Act of 1974 in relation to particular factual situations, or exempting specific transactions from the prohibited transaction provisions of such Act (pursuant to sections 406 and 408 of such Act (29 U.S.C. 1106, 1108)).".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

REVERSING SUPREME COURT DECISION IN ADAMS FRUIT VERSUS BARRETT

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1715) respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act as amended.

The Clerk read as follows:

H.R. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WORKERS' COMPENSATION.

(a) AMENDMENTS.—

(1) Section 325 of the Legislative Branch Appropriations Act, 1993 (Public Law 102-392) is repealed.

(2) Section 504(d) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854(d)) is amended to read as follows:

"(d)(1) Notwithstanding any other provision of this Act, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death in accordance with such State's workers' compensation law.

"(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) for statutory damages or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect (A) a recovery under a State workers' compensation law or (B) rights conferred under a State workers' compensation law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to all cases in which a final judgment has not been entered.

SEC. 2. EXPANSION OF STATUTORY DAMAGES.

(a) AMENDMENT.—Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended by adding after subsection (d) the following:

"(e) If the court finds in an action which is brought by or for a worker under subsection (a) in which a claim for actual damages is precluded because the worker's injury is covered by a State workers' compensation law as provided by subsection (d) that—

"(1)(A) the defendant in the action violated section 401(b) by knowingly requiring or permitting a driver to drive a vehicle for the transportation of migrant or seasonal agricultural workers while under the influence of alcohol or a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) and the defendant had actual knowledge of the driver's condition, and

"(B) such violation resulted in injury to or death of the migrant or seasonal worker by or for whom the action was brought and such injury or death arose out of and in the course of employment as determined under the State workers' compensation law,

"(2)(A) the defendant violated a safety standard prescribed by the Secretary under section 401(b) which the defendant was determined in a previous judicial or administrative proceeding to have violated, and

"(B) such safety violation resulted in an injury or death described in paragraph (1)(B), "(3)(A)(i) the defendant willfully disabled or removed a safety device prescribed by the Secretary under section 401(b), or

"(ii) the defendant in conscious disregard of the requirements of section 401(b) failed to provide a safety device required under such section, and

"(B) such disablement, removal, or failure to provide a safety device resulted in an injury or death described in paragraph (1)(B), or

"(4)(A) the defendant violated a safety standard prescribed by the Secretary under section 401(b),

"(B) such safety violation resulted in an injury or death described in paragraph (1)(B), and

"(C) the defendant at the time of the violation of section 401(b) also was—

"(i) an unregistered farm labor contractor in violation of section 101(a), or

"(ii) a person who utilized the services of a farm labor contractor of the type specified in clause (i) without taking reasonable steps to determine that the farm labor contractor possessed a valid certificate of registration authorizing the performance of the farm labor contracting activities which the contractor was requested or permitted to perform with the knowledge of such person,

the court shall award not more than $10,000 per plaintiff per violation with respect to whom the court made the finding described in paragraph (1), (2), (3), or (4), except that multiple infractions of a single provision of this Act shall constitute only one violation for purposes of determining the amount of statutory damages due to a plaintiff under this subsection and in the case of a class action, the court shall award not more than the lesser of up to $10,000 per plaintiff or up to $500,000 for all plaintiffs in such class action.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all cases in which a final judgment has not been entered.

SEC. 3. TOLLING OF STATUTE OF LIMITATIONS.

Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854), as amended by section 2, is amended by adding after subsection (e) the following:

"(f) If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of a migrant or seasonal agricultural worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (a) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for other actual damages, statutory damages, or equitable relief arising out of the same transaction or occurrence as the injury or death of the migrant or seasonal agricultural worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.".

SEC. 4. DISCLOSURE OF WORKERS' COMPENSATION COVERAGE.

(a) MIGRANT WORKERS.—Section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding after paragraph (7) the following:

"(8) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of paragraph (8) for a migrant agricultural worker may be met if such worker is given a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed. Such worker shall be given such disclosure regarding workers' compensation at the time of recruitment or if sufficient information is unavailable at that time, at the earliest practicable time but in no event later than the commencement of work.".

(b) SEASONAL WORKERS.—Section 301(a)(1) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1831(a)(1)) is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting "; and", and by adding after subparagraph (G) the following:

"(H) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of subparagraph (H) may be met if such worker is given, upon request, a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect upon the expiration of 90 days after the date final regulations are issued by the Secretary of Labor to implement such amendments.

SEC. 5. LIABILITY INSURANCE.

(a) AMENDMENT.—Section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) is amended to read as follows:

"(3) The level of insurance required under paragraph (1)(C) shall be determined by the Secretary considering at least the factors set forth in paragraph (2)(B) and similar farmworker transportation requirements under State law.".

(b) REGULATIONS.—Within 180 days of the date of the enactment of this Act, the Secretary of Labor shall promulgate regulations establishing insurance levels under section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of 180 days after the date of enactment of this Act or upon the issuance of final regulations under subsection (b), whichever occurs first.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes, and the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1715 clarifies the relationship between workers' compensation benefits and the private right of action available under Migrant and Seasonal Agricultural Workers Protection Act [MSPA].

H.R. 1715 reverses the Supreme Court's ruling in Adams Fruit Company, Inc. versus Barrett. In that case the Supreme Court held that agricultural workers covered by MSPA could sue for actual damages over injury or death under the private right of action provided under the act, even though the workers are covered for those injuries under State workers' compensation law. In so doing, the Supreme Court rejected the principle of the exclusivity of workers' compensation, which is a fundamental rationale and underpinning for workers' compensation in this country.

As a result of this decision, many agricultural employers in this country face liability for injuries suffered by farm workers even though they have provided workers' compensation coverage for these workers. At the same time, and because not all States require workers' compensation coverage of farm workers, the dual liability of agricultural employers above and beyond workers' compensation insurance serves to discourage more agricultural employers from providing workers' compensation coverage for farm workers.

Mr. Speaker, I introduced H.R. 1715 in May, along with a bipartisan group of cosponsors: Representatives FAZIO, BALLENGER, ANDREWS, FAWELL, STENHOLM, HOEKSTRA, THURMAN, FUNDERBURK, and DOOLEY.

The Economic and Educational Opportunities Committee voted to report H.R. 1715 as introduced on July 22. As introduced, H.R. 1715 was a single section bill that simply reversed the Adams Fruit decision and provided that where State workers' compensation is applicable and coverage is provided, workers' compensation shall be the farm workers exclusive remedy and the employer's sole liability under MSPA for bodily injury or death.

Subsequent to the committee's passage of the bill, several weeks of intensive negotiation took place among the staffs of Republican and Democratic Members along with representatives of national agricultural employer groups and farm workers organizations. As a result of those negotiations, I am today offering a substitute to H.R. 1715 which has the support of not only myself and the other cosponsors of H.R. 1715, but of Members who had concerns with the original bill.

The substitute bill has five sections. Section 1 is similar to the language of the original H.R. 1715, and reverses the Adams Fruit decision. Section 2 provides for increased statutory damages under MSPA under certain limited circumstances described in the bill. Section 3 provides for tolling of the statute of limitations on actions brought under MSPA during the time period in which a claim under State workers' compensation is pending. Section 4 requires disclosure of information regarding workers' compensation coverage to migrant or seasonal agricultural workers. Section 5 requires the Department of Labor to determine the level of liability insurance required of employers engaged in transportation of migrant or seasonal agricultural workers.

I believe that the concerns with this legislation as it was passed by the Economic and Educational Opportunities Committee have been addressed in the substitute that is being offered today. I want to especially thank several Members for their efforts and willingness to work with us in forging this bipartisan agreement: Mr. CLAY, Mr. OWENS, Mr. BERMAN, and Mr. MILLER, along with the group of original cosponsors of H.R. 1715 that I have already mentioned.

For those who may later be reading these comments, I also want to call attention to the fact that a more extensive joint statement of legislative intent reflecting the understandings of myself, Mr. CLAY, Mr. BALLENGER, and Mr. OWENS regarding this substitute to H.R. 1715 is printed in the CONGRESSIONAL RECORD of Friday, October 13, 1995.

It is my hope and expectation that we will quickly pass H.R. 1715 today and that the Senate will likewise pass it on a bipartisan basis and send the bill to the President for his signature. Again, I want to thank many Members from both sides, and particularly Mr. CLAY, Mr. OWENS, Mr. BERMAN, and Mr. FAZIO for their willingness to work with us to reach this bipartisan agreement on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING]. I want to express my appreciation to the distinguished chairman of the Economic and Educational Opportunities Committee, Mr. GOODLING, and to the chairman of the Subcommittee on Work Force Protections, Mr. BALLENGER, for their willingness to seek consensus with the ranking member of our committee, Mr. CLAY, and myself on this legislation. I also want to acknowledge the efforts of three gentlemen from California, Mr. MILLER, Mr. BERMAN, and Mr. FAZIO. The efforts of all three gentlemen have been instrumental in the development of the amendment before us.

The legislation before us is a compromise. Those of us who have sought to represent the interests of farm workers have had to make difficult concessions. Nevertheless, unlike the bill reported by committee, the amendment before us also contains important provisions to ensure that H.R. 1715 reflects the interests of farmworkers as well as growers. Among other provisions, the amendment provides for notification of farmworkers of their rights under State workers' compensation laws, tolls the statute of limitations while State workers' compensation claims are pending, and enhances statutory damages for certain egregious violations of the Migrant and Seasonal Agricultural Workers Protection Act. I refer my colleagues to page E1943 of the CONGRESSIONAL RECORD of last Friday, October 13, in which the gentleman from Pennsylvania [Mr. GOODLING] placed a definitive explanation of the amendment before us.

I fully support the amendment of the gentleman from Pennsylvania and believe this legislation now merits the support of my colleagues. I urge the House to suspend the rules and pass H.R. 1715.

Mr. Speaker, I reserve the balance of my time.

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Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, I strongly support H.R. 1715, a bill to clarify the relationship between workers compensation benefits and the private right of action for certain job-related injuries under the Migrant and Seasonal Agricultural Worker Protection Act [MSPA]. In the 1990 decision on the Adams Fruit case, the Supreme Court interpreted MSPA to provide for a private right of action for certain job-related injuries, even if the individual was covered by workers compensation at the time of the injury.

H.R. 1715 would reverse the Supreme Court's ruling, which essentially permits migrant and seasonal farmworkers to seek dual remedies. Agricultural employers could be exposed to potentially enormous liability for damages, in spite of the fact that they have contributed into the workers compensation system. The purpose of workers compensation is to provide a prompt and reasonable remedy to the injured worker without delay or expense. Employers pay into workers compensation programs to avoid being exposed to additional liability. Moreover, in States where agricultural employers are not required to provide workers compensation for migrant and seasonal farmworkers, the Supreme Court's decision may act as a disincentive for employers to provide coverage for those workers.

I urge my colleagues to support Chairman GOODLING's substitute amendment to H.R. 1715. This package of legislative changes to MSPA is fully supported by agricultural employers and farmworker organizations. Not only will this amendment permanently reverse the Adams Fruit decision, it also adds provisions to MSPA which encourage employers to provide safe transportation for farmworkers. This bipartisan agreement has the support of Members on both sides of the aisle. I commend the chairman of the committee, Mr. GOODLING, as well as Mr. CLAY and Mr. OWENS for their success in forging a compromise on this important issue.

Mr. CANADY of Florida. Mr. Speaker, let me begin by thanking Chairman GOODLING for allowing me the opportunity to address the House in support of H.R. 1715, a bill to overturn the Supreme Court's decision in Adams Fruit versus Barrett. And I also want to thank you for all your hard work and dedication in bringing this measure before us today.

Mr. Chairman, in 1990 the Supreme Court, in handing down the Adams Fruit decision, held that injured farmworkers may bring a private right of action under the Migrant and Seasonal Agricultural Worker Protection Act. This was allowed Seven though the workers had already received workers compensation benefits for those same injuries. The implications of this decision have been quite troubling.

First, this decision undermines the exclusivity of workers compensation as a remedy—both in the context of agricultural law and beyond. The workers comp system was designed to be a trade in which employees forego the right to a tort remedy in exchange for expeditious relief without questions of liability or contributory negligence. The Adams Fruit decision does an end-run around this important bargain and opens up employers to costly litigation and open-ended liability for workplace injuries they thought they were insuring themselves against.

Second, it is important to note that farmworkers will also suffer if the Court's decision is allowed to stand. The Adams Fruit decision removes an incentive for agricultural employers to provide workers compensation coverage. In several States, farmworker coverage on workers comp remains optional. The Court's decision provides employers in those States with little reason to exercise that option. For injured farmworkers, lengthy, costly, and uncertain suits are no substitute for the quick and dependable relief of workers compensation.

The bill before us today, Mr. Chairman, ensures that the integrity of this crucial remedy remains available to all farmworkers and all employers. By reversing Adams Fruit and reaffirming the exclusivity of workers compensation, this legislation returns us to Congress' original intent in enacting the statute's current remedial scheme.

This bill is good for agricultural workers and it is good for agricultural employers. I urge my colleagues to support this measure and I look forward to seeing this bill passed by the House today.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in support of the compromise version of H.R. 1715, a bill that addresses the Supreme Court decision in the Adams Fruit case.

The bill as originally introduced would have prohibited farmworkers from both receiving workers compensation and suing in court for violations under MSPA [the Migrant and Seasonal Agricultural Worker Protection Act]. The compromise bill we are considering today would achieve that purpose, while at the same time providing some needed safeguards for farmworkers and some deterrence to would-be violators.

I offered in committee an amendment to strengthen the deterrence in the bill by addressing egregious violations of the law, and I am satisfied that the essence of my amendment was incorporated in the compromise version of this bill.

The bill changes the current statutory damages from $500 dollars to $10,000 dollars for egregious cases in which a worker was injured or killed in an accident where alcohol or drugs were involved, where an employer has a history of violations, where the employer willfully makes a vehicle dangerous, or where the employer uses an unregistered farm-labor contractor.

The increase in statutory damages is very much needed to provide a deterrence against violations. As we all know, farmworkers are some of the most exploited workers in America: kids are used in the fields in clear violation of child labor laws; workers are crammed into grossly unsafe, uninsured vehicles that have no seats or safety belts and are injured, maimed and killed; work-cite sanitation is poor or nonexistent; and wages are skimmed by unscrupulous farm-labor contractors.

Enhanced penalties in H.R. 1715 provides needed deterrence to some of these violations, and I therefore urge my colleagues to support this legislation.

Again, Mr. Speaker, I thank the gentleman from New York [Mr. OWENS], for yielding and for his help during these negotiations, and I also thank the chairman of the committee, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I thank my friend for yielding. This is a very fair and balanced bill. It has taken a number of years to get calibrated so that we can pass it on suspension.

I want to thank the gentleman from Pennsylvania, Mr. GOODLING, and the gentleman from Missouri, Mr. BILL CLAY, and the gentleman from New York, Mr. MAJOR OWENS, and the gentleman from North Carolina, Mr. CASS BALLENGER, for seeing this effort through to conclusion this year. But I also want to thank my friends, the gentlemen from California, Messrs. HOWARD BERMAN, GEORGE MILLER, and CAL COOLEY, for working so diligently in the last Congress and on into this one to find the right balance so that we could come to closure on this very important issue for agricultural employers and for farmworkers.

Leon Panetta, Rick Lehman, and Austin Murphy, former Members of this body, contributed greatly during their tenure here. In fact, this is the result of 5 years of discussions, but it is a bill that needed to be enacted because it reverses a Supreme Court decision in the Adams Fruit case that unfairly placed agricultural employees in the United States and employers in an untenable position.

Mr. Speaker, agricultural employers were the only people who were eligible both to be sued in court under the tort liability system and required to provide worker's compensation coverage so that they could be sued for workplace injuries by their employees. That double jeopardy needed to be repaired, and, in doing so, we have written a bill that also benefits farmworkers by removing any disincentives to supplying worker's compensation, also encouraging employers to maintain safe transportation practices, the area that was most at issue in terms of these kinds of problems.

Mr. Speaker, it did so by creating four new areas where increased damages are available for transportation related violations. It gives the Secretary of Labor authority to establish appropriate levels of vehicle insurance, given the fact that the Interstate Commerce Commission levels have made it difficult for some involved in farmworker transportation to obtain insurance.

This is a bill that will make sure that farmworkers truly get to exercise their remedy under workers compensation. I think it is a good bill. It certainly is long overdo. I would hope the administration would support it and the President sign it into law. I would ask my colleagues in both parties to sign off on what the gentleman from New York, Mr. OWENS, has described as a cease-fire in the war between the sides on this committee and, I think, a fine example of bipartisanship.

Mr. Speaker, I rise today in support of H.R. 1715, a bill that would reverse the effect of the U.S. Supreme Court in the Adams Fruit Company versus Barrett case. The Supreme Court held that an action for damages under the migrant and seasonal agricultural worker protection was preserved and could be maintained by injured farm workers, even though the farm workers were covered under State workers' compensation for the same injuries suffered in the course of employment.

I commend Chairman BILL GOODLING and ranking member BILL CLAY of the Economic and Educational Opportunities Committee for bringing this bill to the floor along with ranking member MAJOR OWENS and Chairman CASS BALLENGER of the Subcommittee on Workforce Protections. HOWARD BERMAN has also played a leading role in crafting this compromise. But it is also some measure of how long we have been at this that I also want to recognize three former members—Leon Panetta and Rick Lehman from my home State of California, and former subcommittee chairman Austin Murphy—all three of whom were instrumental in moving forward with this compromise during the last Congress.

This bill is the product of 5 years of extensive discussion between representatives of agriculture and farmworkers from throughout the United States. It is a balanced bill, stemming from two hearings before the former Education and Labor Committee, one of which I participated in in California along with then chairman Austin Murphy and my California colleagues CAL DOOLEY, Rick Lehman, HOWARD BERMAN, and GEORGE MILLER. A more recent hearing was held this past summer here in Washington. So the issues addressed in this legislation have been thoroughly considered by the committee and the problems raised are addressed in a balanced way that reflects the realities of the agricultural workplace.

The cornerstone of the bill is the reversal of the Adams Fruit decision, which unfairly places agricultural employers throughout the United States in the position of being the only employers in America who can be mandated under State law to provide workers' compensation—it is mandatory in my own State of California—yet still be sued for unlimited damages in State court for the workplace injuries already compensated under the workers' compensation system.

The decision by the Supreme Court in 1990 was very unfortunate. I felt it was important to respond quickly and strongly, and we temporarily reversed the decision in 1992 as part of the legislative branch appropriations bill, Public Law 192–392.

The legislation before us makes permanent what we accomplished in 1992. Workers' compensation will now be the exclusive remedy for workplace injuries where workers' compensation is provided. Agricultural employers will now be treated the same as all other employers in this country. If workers' compensation is not provided, however, workers will have the right to sue for actual damages under the Migrant and Seasonal Agricultural Worker Protection Act [MSPA].

In addition to providing equity to agricultural employers, this legislation also benefits farmworkers. Because of the transient nature of migrant farmworkers, workers' compensation is very beneficial to them because it provides immediate medical, disability, or death benefits. Without such benefits they would have to sue in a location far from their homes and wait with uncertainty for several years before the court system resolved their claim. Yet with the Adams Fruit decision, agricultural employers in a number of States which make the providing of workers' compensation by employers voluntary have no incentive to provide it, because they still can be sued. But as a result of this legislation, employers will be encouraged to provide workers' compensation to farmworkers.

This bill will also encourage employers to maintain safe transportation practices for their workers. It elevates the statutory damages available to migrant and seasonal farmworkers if those subject to MSPA engage ignore the existing transportation safety requirements of MSPA. The bill creates four new areas where increased damages are available for transportation-related violations. Whatever deterrence to unsafe practices was created by the Adams Fruit decision will be offset more than adequately by the availability of the new transportation-safety provisions.

Finally, the bill gives the Secretary of Labor the authority to establish the appropriate levels of vehicle insurance coverage to be required under MSPA. Currently, the Secretary has to follow ICC-mandated levels. The ICC levels have made it difficult for those involved in farmworker transportation to obtain insurance, thus exposing them to liability and preventing farmworkers from getting needed protection. This provision will allow the Secretary of Labor to balance the need to protect farmworkers' health and safety against undue burdens to agricultural employers and associations and farm labor contractors.

In short, this legislation is an excellent product. It treats agricultural employers the same as other employers, it encourages the provision of workers' compensation to farmworkers, and it encourages transportation safety—a source of many injury claims arising under MSPA. It is evenhanded and fair. While we have taken a long time getting here, the final product is worth the wait. I urge my colleagues to support this bill.

I will also ask the President to sign it, and I believe the administration has given a strong indication in this regard. Secretary of Labor Robert Reich sent a letter to the Economic and Educational Opportunities Committee during its hearing on H.R. 1715, the predecessor to this bill, this past summer and indicated his support for the intent of the legislation in reversing the Adams Fruit decision. He also indicated that farmworker reforms should be a part of it, and the committee has responded to his request. I believe the bill meets the Secretary's and the administration's concerns. It reverses Adams Fruit and contains farmworker reforms. I urge my colleagues to support this long and bipartisan effort, and I look forward to seeing it signed into law.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I want to thank the chairman of the committee and my colleagues, the gentleman from New York, Mr. OWENS, and the gentleman from Missouri, BILL CLAY, for all of their help in bringing us to this point. I want to make a few comments.

This bill is a very different bill than the bill that was originally introduced or the bill that came out of the Committee on Economic and Educational Opportunity, or whatever that committee is now called. There are a couple of points to make.

First of all, Mr. Speaker, my colleague from Virginia kept talking about the Adams Fruit decision as if it was wrong, because State law somehow would, because State law somehow would preempt Federal law; that is the Migrant and Seasonal Agricultural Worker Protection Act. The court decision was the recognition, everyone knows, that Federal law preempts State law.

On the other hand, Mr. Speaker, there were many weaknesses in that Federal law and some of which we have addressed. This is no longer a bill that allows a grower in a State which has no coverage for farm workers or only partial coverage for farm workers or only voluntary coverage for farm workers to avoid workers compensation and also to immunize himself from any lawsuit. That particular issue has been affected and dealt with through the amendments.

It is also no longer a bill which leaves the inadequate penalty structures of the existing Migrant and Seasonal Agricultural Worker Protection Act, because, in the context of this particular Congress, and in this situation, this seemed to me like, and others, like the best possible arrangement that we could get in terms of the two different needs.

Mr. Speaker, I support this compromise and urge its adoption.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, we are called the Golden Opportunity Committee.

Mr. BERMAN. I assume golden not having any reference to age?

Mr. GOODLING. Grimes Golden, Golden Delicious.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for his correction of my earlier remarks and yield back the balance of my time.

Mr. OWENS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 1715, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1715, a bill to reverse the Supreme Court's decision on Adams Fruit versus Barrett.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HARRY KIZIRIAN POST OFFICE BUILDING

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1606) to designate the United States Post Office building located at 24 Corliss Street, Providence, RI, as the "Harry Kizirian Post Office Building."

The Clerk read as follows:

H.R. 1606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, shall be known and designated as the "Harry Kizirian Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Harry Kizirian Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentlewoman from Michigan [Miss COLLINS] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Government Reform and Oversight voted favorably on the measure before us. Congressman REED of Rhode Island introduced H.R. 1606 and was joined by his State delegation in cosponsoring his bill, as required by committee policy. This legislation designates the main U.S. Post Office in Providence, RI, be named the "Harry Kizirian Post Office."

The measure before us honors Mr. Kizirian, a World War II marine veteran and former Providence Postmaster. Mr. Kizirian is Rhode Island's most decorated living veteran and was a career postal worker who held the position of Providence Postmaster for 25 years until his retirement.

Mr. Speaker, I urge our colleagues to support H.R. 1606, a bill which would name a Post Office after the postal employee who served as Postmaster at the facility for 25 years.

Mr. Speaker, I reserve the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again join my colleague and chairman of the Subcommittee on the Postal Service in support of H.R. 1606, legislation naming the U.S. Post Office, located at 24

Corliss Street in Providence, RI as the, "Harry Kizirian Post Office Building."

It gives me great pleasure to acknowledge Mr. Kizirian. He retired from the Post Office as the Postmaster of the facility being named after him and is the most decorated World War II veteran in Providence.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Rhode Island, Mr. JACK REED, sponsor of the bill.

Mr. REED. Mr. Speaker, I would first like to thank Chairman MCHUGH and the ranking member, Representative COLLINS of the Subcommittee on Postal Service and Chairman CLINGER of the Government Reform and Oversight Committee for helping me bring this bill to the floor. I would also like to thank my colleague from Rhode Island, Mr. KENNEDY, who cosponsored this bill with me, and Senators CHAFEE and PELL, who have introduced an identical bill in the Senate.

This bill would designate the main U.S. Post Office in Providence, RI, as the "Harry Kizirian Post Office." Because some of you may not know Harry, I would like to tell you a little about this outstanding Rhode Island citizen.

Harry Kizirian is the most decorated living veteran in Rhode Island. On Okinawa, he was severely wounded while leading an infantry assault. For his extraordinary heroism, Harry was awarded the Navy Cross, the Bronze Star with V Device for Valor, the Purple Heart with a Gold Star, and the Rhode Island Cross.

When Harry returned to the United States, he immediately went to work at the main post office in Providence where he had worked during high school to support his widowed mother. Displaying the same commitment and teamwork he showed on the frontlines at Okinawa, he worked his way up to an appointment as the Postmaster. He was confirmed by the U.S. Senate in 1961, and held the position of Postmaster for 25 years.

Throughout his career with the Postal Service, Harry also devoted much of his time to the community, serving on numerous boards and committees. Harry served on the board of directors for Butler Hospital, Big Brothers of Rhode Island, Rhode Island Blue Cross, the Rhode Island Heart and Lung Associations, and numerous others.

Harry and his wife, Hazel, also successfully raised a wonderful family. They have five children: JoAnne, Thomas, Janice, Shakay, and Richard; four grandchildren: Rebecca, Thomas, Joseph, and Janice; and three stepgrandsons: Dylan, Collin, and Matthew.

Harry has served his country in every capacity: in the military, as a civil servant, as a devoted husband and father, and as a loyal American. Harry Kizirian is a source of inspiration for the young and old, and he is a particularly cherished member of Rhode Island's proud and vibrant Armenian community.

This bill would commemorate his generosity and valor for future generations, and it would pay tribute to a remarkable gentleman who has given so much to his Nation, his community, and his family. I urge my colleagues to join me in honoring Harry Kizirian by supporting this bill.

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Miss COLLINS of Michigan. Mr. Speaker, I yield as much time as he may consume to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today in strong support of H.R. 1606, a bill that will designate the main post office in Providence, RI, as the "Harry Kizirian Post Office."

Harry Kizirian is a shining example of someone who has fully realized the American Dream. A dedicated individual, Harry grew up in my own neighborhood of Mount Pleasant in Providence and worked hard to support his widowed mother.

As a high school graduate, Harry enlisted in the Marine Corps and served in the South Pacific, where he would lead a Marine fire team to victory despite sustaining multiple gunshot wounds. For this selfless heroism, Harry was awarded the Navy Cross, the Bronze Star with a device for Valor, the Purple Heart with a Gold Star, and the Rhode Island Cross.

Harry's service to our country did not end with the Allied Victory in World War II. For the next 35 years, Harry would demonstrate the same commitment to duty and service at the Post Office in Providence as he did during his days in Okinawa. In 1961, the honor and respect that Harry had earned from, not only his colleagues, but also the people of Rhode Island, reached a pinnacle as Harry was confirmed by the Senate as Postmaster.

During his tenure as Postmaster, Harry went well beyond his required duties and served many important social causes. As a leading member of the Big Brothers of Rhode Island, the Providence Human Relations Commission and the Providence Heritage Commission, Harry demonstrated his high regard for his friends and citizens of his community.

Perhaps Harry's greatest achievement is shared with his wife Hazel as they have successfully raised five children, who now have several children of their own, Shakay and Richard. When asked about all his achievements, Harry humbly responded: "I'm just an ordinary American boy who loves dealing with people from all walks of life."

In my opinion, Harry Kizirian is anything but ordinary. Raised with a strong Armenian heritage, Harry is a living tribute to his family, his friends, and his country.

Mr. Speaker, I am honored to stand with my colleague, JACK REED, to offer this bill which will honor Harry Kizirian's commitment and generosity for generations to come.

Miss COLLINS of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH], that the House suspend the rules and pass the bill, H.R. 1606.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1606, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

WINFIELD SCOTT STRATTON POST OFFICE

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1026) to designate the U.S. Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, CO, as the "Winfield Scott Stratton Post Office."

The Clerk read as follows:

H.R. 1026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 201 East Pikes Peak Avenue, Colorado Springs, Colorado, shall be known and designated as the "Winfield Scott Stratton Post Office."

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Winfield Scott Stratton Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] will be recognized for 20 minutes, and the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report that the legislation before us, H.R. 1026, was approved unanimously by the Committee on Government Reform and Oversight. This legislation, designating the U.S. Post Office located at 201 East Pikes Peak Avenue, Colorado Springs, CO, be named the "Winfield Scott Stratton Post Office," was introduced by the gentleman from Colorado [Mr. HEFLEY], and was cosponsored by his full State Delegation, as required by committee policy.

H.R. 1026 honors the late Mr. Stratton, a Colorado Springs philanthropist and benefactor. Mr. Stratton was one of many adventurers who came to Colorado seeking their fortune. He literally struck gold in discovering a rich deposit in the mines of Cripple Creek, CO.

Mr. Stratton believed it was the duty of the fortunate to use their wealth in the development of their community. In keeping with this personal philosophy, he dedicated the rest of his life to helping others less fortunate and to advancing the development of Colorado Springs and Colorado.

Mr. Speaker, I support the passage of H.R. 1026 and urge our colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I would like to first thank the gentleman from Pennsylvania [Mr. CLINGER] the chairman of the full committee, and the gentleman from New York [Mr. MCHUGH], chairman of the Subcommittee on the Postal Service, for allowing H.R. 1026 to be brought up on the Suspension Calendar today. I think it is a fitting tribute to a man who gave so much to Colorado, and particularly to the area of Colorado that I am fortunate enough to represent.

Mr. Speaker, H.R. 1026, which as has been indicated, will designate the U.S. Post Office building located at 201 Pikes Peak Avenue in Colorado Springs, CO, as the "Winfield Scott Stratton Post Office."

Working as a carpenter and as a prospector, Mr. Stratton became wealth after finding gold in Cripple Creek, CO. His sudden wealth allowed him to pursue life's pleasures any way that he would like to do it, but instead he spent much of his life and much of his fortune helping those that were less fortunate. In addition to helping the needy, he also played an integral part in the development of Colorado Springs as a community by providing money for a city hall, a new courthouse, the streetcar system, and perhaps his most generous, important contribution that he made was the Myron Stratton Home, which was a foster home for children and for impoverished elderly.

Mr. Speaker, it still exists today. It is an interesting concept in that they had children who did not have parents. In the early days it was an orphanage, but it was not the image that you have of the Charles Dickens orphanage. It was an orphanage where the kids that went there had many of the things that money could buy in terms of living a good life under the circumstances of not having a family. And he combined that with elderly people to create an intergenerational type of concept that has worked very well even to this day.

Especially pertinent to H.R. 1026, is that Mr. Stratton sold the property where the post office is located, and which we are asking to be named today, to the Federal Government for half its value on the condition that they would build a post office there.

Mr. Speaker, I did not know Mr. Stratton. He was before my time there. But I have been able to see his work in the Colorado Springs area over the years.

Finally, Mr. Speaker, I would like to thank Mr. John Zorack, a former resident of the Stratton Home, who has worked closely with me to see that this fitting tribute be enacted. I would add that H.R. 1026 has the support of the Colorado Delegation and the Colorado Springs City Council. Mr. Speaker, I thank the gentleman from New York [Mr. MCHUGH] for his support of this legislation.

Mr. MCHUGH. Mr. Speaker, I reserve the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague and chairman of the Subcommittee on the Postal Service in support of H.R. 1026, legislation designating the U.S. Post Office at 201 East Pikes Peak Avenue in Colorado Springs, CO, as the Winfield Scott Stratton Post Office.

The late Mr. Stratton was well known as a great philanthropist and most deserving to have a Post Office named after him.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 1026.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1026, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

BIOTECHNICAL PROCESS PATENTS

Mr. MOORHEAD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 587) to amend title 35, United States Code, with respect to patents on biotechnological processes.

The Clerk read as follows:

H.R. 587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

BIOTECHNOLOGICAL PROCESS PATENTS

SEC. 101. CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph the following:

"(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a 'biotechnological process' using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

"(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

"(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the composition of matter used in or made by that process; or

"(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.

"(3) For purposes of paragraph (1), the term 'biotechnological process' means—

"(A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to—

"(i) express an exogenous nucleotide sequence,

"(ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or

"(iii) express a specific physiological characteristic not naturally associated with said organism;

"(B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and

"(C) a method of using a product produced by a process defined by (A) or (B), or a combination of (A) and (B).".

SEC. 102. PRESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: "Notwithstanding the preceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).".

SEC. 103. EFFECTIVE DATE.

The amendments made by section 101 shall apply to any application for patent filed on or after the date of enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) an application for the reissuance of a patent.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes, and the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 587, the Biotech Process Patent Protection Act of 1995. I would like to commend the gentleman from Virginia [Mr. BOUCHER] and thank him for working so hard with us over the past 5 years to make this legislation possible. I also want to thank the gentlewoman from Colorado [Mrs. SCHRODER] for her support and cooperation.

From an economic point of view, the U.S. biotech industry has gone from zero revenues and zero jobs 15 years ago to $8 billion and 103,000 jobs today. The White House Council on Competitiveness projects a $30 to $50 billion market for biotech products by the year 2000, and many in the industry believe this estimate to be conservative.

Companies that depend heavily on research and development are especially vulnerable to foreign competitors who copy and sell their products without permission. The reason that high-technology companies are so vulnerable is that for them the cost of innovation, rather than the cost of production, is the key cost incurred in bringing a product to market. The award of patent protection ensures a greater degree of protection for businesses in the United States who makes major investments in innovation.

The House Judiciary Committee took the first step in protecting innovation in 1988 when the Congress enacted two bills which I introduced relating to process patents and reform of the International Trade Commission. However, our work will not be complete until we enact this legislation. This bill modifies the test for obtaining a process patent, a problem that was created by In Re Durden (1985), a case frequently criticized and cited by the Patent Office as grounds for denial of biotech patents. The legislation impacts only one element of patentability of biotech processes and that is the element of nonobviousness. The process must still satisfy all other requirements of patentability.

Because so many of the biotech inventions are protected by patents, the future of that industry depends greatly on what Congress does to protect U.S. patents from unfair foreign competition. America's foreign competitors, most of whom have invested comparatively little in biotechnology research, have targeted the biotech industry for major and concerted action.

In conclusion, Mr. Speaker, this is important legislation. The biotech industry is an immensely important industry started in the United States with many labs housed in California. In the decade ahead, biotechnology research will improve the lives and health of virtually every American family. It will put people to work and it will save people's lives. Identical legislation has already passed the other body, S. 1111.

I urge a favorable vote on H.R. 587.

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Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 587.

One of the most important tasks faced by the Intellectual Property Subcommittee is to make sure that our patent law keeps pace with technological change. The importance of this task is nowhere more evident than in the area of biotechnology, where industry has encountered difficulty in obtaining timely and adequate process patent protection because of conflicting case law and inconsistency in PTO examination practices resulting from the conflicting holdings of relevant court cases.

It is critical to our economy and to our quality of life that biotechnology research and development can take place on a level playing vis-a-vis foreign competitors, and without excessive uncertainty or delay in patent protection.

This bill will achieve those goals: It will mitigate the uncertainty in the patent examination process, and it will bring about a more level playing field for U.S. biotechnology companies and their overseas competitors.

The bill before us today is supported by the administration, and it has bipartisan support from the Judiciary Committee. The roadblocks faced by predecessor bills have been removed by making the bill biotechnology industry-specific. I believe, through this bill, that we have fashioned a fair and effective means of addressing the uncertainties and inadequacies in patent law as it applies to biotechnology, and I urge my colleagues to support it.

I also want to acknowledge the hard work on both sides of the aisle over a number of years to resolve this problem. Our subcommittee chairman, the gentleman from California, the gentleman from Massachusetts [Mr. FRANK], and the gentleman from Virginia [Mr. BOUCHER], have all worked diligently to address this problem, and I congratulate them for their efforts.

Mr. Speaker, it looks like this is the year it will really happen. I congratulate them.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise to support this bill, which will establish an objective standard to determine if biotechnology patent applications involve nonobvious material.

This standard is necessary to clarify patent law for one of our Nation's most important growth industries, the biotechnology industry, and I congratulate Chairman MOORHEAD for his leadership in bringing this bill to the floor.

We need, however, to deal with the fundamental problem, the lack of a minimum guaranteed patent term. For over 100 years, this country had a patent term of 17 years from grant. That term acted to encourage and reward innovation. Unfortunately, the GATT implementing legislation established an uncertain term of 20 years from filing. Many biotech patents take years to be issued, which under the new rules results in a vastly reduced patent term biotech companies and anyone else whose breakthrough technology takes longer than usual to get through the Patent Office are victimized. I have introduced legislation, H.R. 359, which will establish a term of 20 years from filing or 17 years from grant, whichever is longer. That's consistent with the GATT agreement and with our Nation's tradition of strong intellectual property rights. That tradition has fueled the growth of new, dynamic industries in America and will continue to do so as long as this Congress continues to respect the creativity and hard work of the Nation's independent inventors.

The subcommittee chairman and I continue to have honest differences on this and other issues, such as unconditional publication of all patent applications 18 months after filing. Such publication will allow unscrupulous people to copy and infringe on the inventions of biotech companies and other innovative industries. I am encouraged that we will have a hearing on November 1 to examine these problems, just as I am encouraged that the chairman has shown concern for the biotechnology industry with H.R. 587. I look forward to the day when the Congress will decide, on this floor, up or down, on whether to restore the fundamental patent rights of all of America's inventors.

Mrs. SCHROEDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr.

CONYERS], the distinguished ranking member.

Mr. CONYERS. Mr. Speaker, first of all, congratulations to the gentleman from California [Mr. MOORHEAD], the subcommittee chairman, and the gentlewoman from Colorado [Mrs. SCHROEDER], who has worked with him across the years.

I am a cosponsor and strong supporter of H.R. 587 which resolves the confusion created by two conflicting appellate court decisions on the standards for granting process patents to biotechnology companies.

Though this is a matter that could have been resolved by the courts, the matter has been pending since November 1992 without any resolution. Further delays could be costly to American biotech companies.

The legislation prohibits the Patent and Trademark Office from rejecting applications for process patents using or resulting in a composition of matter that is novel and nonobvious.

This legislation serves the important purpose of protecting the rights of American companies to bring patent infringement claims against importers who are able to evade the law by processing cells outside the United States and importing the finished products into the United States on the technicality that there has been no use of patented host cells in the United States. Without a process patent, the importation of the final product cannot be challenged. I urge passage of this worthy bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK] who has been working on this bill forever and ever, and I am sure is glad to see it on the floor.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the ranking minority member of the subcommittee for yielding.

The chairman has been congratulated and deservedly. This is an important issue that has more complexity than one might think, as we explain it, I think the reaction is, well, gee, this is just so straightforward. But people should understand that there were issues to be resolved, whether this was going to be a change in patent law in general or whether it was better to make it specific to an industry.

There were traditional practitioners of patent law who had objections to this. What we are doing today and, as I understand the parliamentary situation since we are taking up the Senate bill, we are sending this right to the President. One of the striking things about the current situation people should understand is that on those occasions, and I say this is clearly in order because it explains why we are doing what we are doing and why we are taking the Senate bill. On those occasions when the U.S. Senate can be persuaded to do anything at all, one then grabs it and takes it and does not take the chance of sending it back.

So this will now go right to the President for signature. It is a mark of the successful chairmanship of the gentleman from California that this important piece of legislation will within a few weeks be law. We are not simply passing a bill through the House today, but we are sending it to the President who we know is going to sign it. I can simply say I am not an expert on this as are few of my colleagues but, talking to the people in the biotechnology industry in Massachusetts, this was very high on their list of things that will help. It is one of these things that does good in a multiplicity of ways.

In the first place, it will help produce the products, and this is of greatest importance, that cure people, that alleviate illnesses. We are here doing something that will facilitate better health care for people, and that is of course fundamental.

It will also promote jobs in the State that I represent and in other States because it will help the biotechnology industry improve its market. It will help exports. It will help the American economy.

So this is something which has all positive and no negative. But, despite that, given the world we live in, it was not an easy thing to bring it here. As I said, this may look to people like kind of a ho-hum thing. It is to the credit of the gentleman from California and his management of this issue that something that had a lot of pitfalls and a lot of potential controversies does come forward in this guise.

I also wanted to express my appreciation to the gentleman who spoke just before me, the other Member from California, he has his own very strong interests in patent issues, some of which I agree with him on, and his willingness to collaborate with us in getting this bill through is something I very much appreciate, thanks to the ranking member for her leadership, to the chairman. I think we have shown today that we are able to function in a very positive way to advance a number of goals.

Mrs. SCHROEDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BOUCHER]. He has worked so hard on this bill. I am sure for his sake he is very happy to have this happen.

Mr. BOUCHER. Mr. Speaker, for the last several years, I have been involved in a very productive partnership with my friend and colleague, the gentleman from California [Mr. MOORHEAD], in an effort to extend better patent protection to the biotechnology industry. Today I am pleased to be here on the floor joining with him as we culminate that effort and as we send to the President legislation that will enact this much needed reform.

The biotechnology industry is a bright promise for our Nation's success in the international market of the future. The industry was originated and developed in the United States. This uniquely American enterprise is expected to confer an annual benefit of approximately $50 billion on the American economy by the year 2000. And even today, it has created more than 100,000 new highly paid, highly skilled jobs in this economy.

But more important than its economic contributions are the benefits biotechnology is bringing to the fields of medicine and agriculture. Through biotechnology, new strains of plants are being produced that are resistant to disease, that can thrive in hostile terrain, and can survive adverse climatic conditions.

Through biotechnology, new human drugs are on the market today that, when administered to heart attack victims, save lives by dissolving dangerous blood clots.

Other drugs treat anemia, reducing need for blood transfusions in patients who are suffering from chronic kidney failure. And human growth hormone is today enriching the lives of children throughout the world.

American companies are now developing treatments or even potential cures for a variety of hard to treat diseases, including AIDS, Alzheimer's disease, cystic fibrosis, and Lou Gehrig's disease.

And yet the promise of biotechnology is seriously challenged today by a simple and obvious inadequacy in America's patent law. That inadequacy opens the door for foreign firms to expropriate American inventions and compete in this country directly with the inventing firm. In essence, the patent law confers and advantage on foreign companies not enjoyed by the American inventing firm and actually encourages a pilfering of United States creativity. We have examples today of that very practice occurring.

It is that defect in the patent law that H.R. 587 is designed to address. In most cases, biotechnology products are genetically engineered forms of chemicals which naturally occur. The goal of biotechnology is to create the chemicals in larger and commercially viable quantities. To do that, the company engineers a host cell to produce the product. The firm then treats the host cell with a frequently straightforward and well-known process to create the naturally occurring chemical in commercially viable quantities.

The company cannot patent the end product because it occurs in nature. All the company is doing is creating that product in larger quantities. The company can patent the host cell but, under current law, the use of a patented host cell abroad to manufacture a product for importation into the United States is not an infringement of the American host cell patent.

Under a series of court decisions, most prominently In Re Durden, the inventor has great difficulty in obtaining a patent on the process that is used to produce the product. The legislation that the gentleman from California [Mr. MOORHEAD] has brought to the House today and which I have been pleased to work with him on over the last several years will open the door to a more certain award of process patents.

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In turn the biotechnology firms that have the assurance of receiving those process patents will exhibit a greater willingness to make research investments totaling hundreds of millions of dollars on an annual basis, the very research investments that are essential to sustain and advance this highly important American industry.

Mr. Speaker, I am pleased to urge support for this measure and passage of it by the House, and I join with our colleague, the gentleman from Massachusetts [Mr. FRANK], in commending the gentleman from California for his legislative skill which has brought the measure to this point which, when added to the Senate bill already passed by that body, can then send this measure directly to the President for his signature and for enactment into law. It is a positive measure. It will advance a very important industry, and I join with the gentleman from California [Mr. MOORHEAD] in strongly urging its passage.

Mrs. SCHROEDER. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish the congratulate each member of our subcommittee for the hard work they have done on this legislation over a long period of time. This is a fine moment today as we get this bill adopted, and every single Member of both sides of the aisle have worked hard, put their effort in. I know that the gentleman from Virginia [Mr. BOUCHER] has really put his heart and soul into it over a period of years, and we had Bill Hughes, who was the chairman of our subcommittee, who worked hard on it. We have the gentleman from Colorado [Mrs. SCHROEDER] and the ranking member of the full committee. Everyone in our committee has really worked on this: The gentleman from Virginia [Mr. BOUCHER], the gentleman from Massachusetts [Mr. FRANK], the gentleman from Oklahoma [Mr. COBURN], the gentleman from Wisconsin [Mr. SENSENBRENNER], and I want to thank each and every one of them for the product that we are presenting.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. RIGGS). The question is on the motion offered by the gentleman from California [Mr. MOORHEAD] that the House suspend the rules and pass the bill, H.R. 587.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1111) to amend title 35, United States Code, with respect to patents on biotechnological processes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. SCHROEDER. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from California [Mr. MOORHEAD] to explain the purpose of the request.

Mr. MOORHEAD. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, this is the companion Senate bill. This action will enable the bill to go immediately to the President. The Senate bill is identical to the recent House-passed legislation.

Mrs. SCHROEDER. Mr. Speaker, I salute the gentleman for this very adept explanation. That is exactly what we hope to do, get this right to the President. I thank the gentleman for being so expeditious.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIOTECHNOLOGICAL PROCESS PATENTS; CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States code is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph the following:

"(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

"(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

"(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the composition of matter used in or made by that process, or

"(B) shall, if such composition of matter is claimed in another patent, be set to expire on the dame date as such other patent, notwithstanding section 154.

"(3) For purposes of paragraph (1), the term 'biotechnological process' means—

"(A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to—

"(i) express an exogenous nucleotide sequence,

"(ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or

"(iii) express a specific physiological characteristic not naturally associated with said organism;

"(B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and

"(C) a method of using a product produced by a process defined by (A) or (B), or a combination of (A) and (B).".

SEC. 2. PRESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: "Notwithstanding the preceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 1 shall apply to any application for patent filed on or after the date of enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) an application for the reissuance of a patent.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 1655, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. COMBEST. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none and, without objection, appoints the following conferees:

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Messrs. COMBEST, DORNAN, YOUNG of Florida, HANSEN, LEWIS of California, GOSS, SHUSTER, MCCOLLUM, CASTLE, DICKS, RICHARDSON, DIXON, TORRICELLI, COLEMAN, SKAGGS, and Ms. PELOSI.

From the Committee on National Security, for the consideration of defense tactical intelligence and related activities:

Messrs. SPENCE, STUMP, and DELLUMS.

As additional conferees from the Committee on International Relations, for consideration of section 303 of the House bill, and section 303 of the Senate amendment, and modifications committed to conference:

Messrs. GILMAN, SMITH of New Jersey, and BERMAN.

There was no objection.

DIGITAL PERFORMANCE RIGHT IN SOUND RECORDINGS ACT OF 1995

Mr. MOORHEAD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1506) to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Performance Right in Sound Recordings Act of 1995".

SEC. 2. EXCLUSIVE RIGHTS IN COPYRIGHTED WORKS.

Section 106 of title 17, United States Code, is amended—

(1) in paragraph (4) by striking "and" after the semicolon;

(2) in paragraph (5) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.".

SEC. 3. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.

Section 114 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "and (3)" and inserting "(3) and (6)";

(2) in subsection (b) in the first sentence by striking "phonorecords, or of copies of motion pictures and other audiovisual works," and inserting "phonorecords or copies";

(3) by striking subsection (d) and inserting:

"(d) LIMITATIONS ON EXCLUSIVE RIGHT.—Notwithstanding the provisions of section 106(6)—

"(1) EXEMPT TRANSMISSIONS AND RETRANSMISSIONS.—The performance of a sound recording publicly by means of a digital audio transmission, other than as a part of an interactive service, is not an infringement of section 106(6) if the performance is part of—

"(A)(i) a nonsubscription transmission other than a retransmission;

"(ii) an initial nonsubscription retransmission made for direct reception by members of the public of a prior or simultaneous incidental transmission that is not made for direct reception by members of the public; or

"(iii) a nonsubscription broadcast transmission;

"(B) a retransmission of a nonsubscription broadcast transmission: Provided, That, in the case of a retransmission of a radio station's broadcast transmission—

"(i) the radio station's broadcast transmission is not willfully or repeatedly retransmitted more than a radius of 150 miles from the site of the radio broadcast transmitter, however—

"(I) the 150 mile limitation under this clause shall not apply when a nonsubscription broadcast transmission by a radio station licensed by the Federal Communications Commission is retransmitted on a nonsubscription basis by a terrestrial broadcast station, terrestrial translator, or terrestrial repeater licensed by the Federal Communications Commission; and

"(II) in the case of a subscription retransmission of a nonsubscription broadcast retransmission covered by subclause (I), the 150 mile radius shall be measured from the transmitter site of such broadcast retransmitter;

"(ii) the retransmission is of radio station broadcast transmissions that are—

"(I) obtained by the retransmitter over the air;

"(II) not electronically processed by the retransmitter to deliver separate and discrete signals; and

"(III) retransmitted only within the local communities served by the retransmitter;

"(iii) the radio station's broadcast transmission was being retransmitted to cable systems (as defined in section 111(f)) by a satellite carrier on January 1, 1995, and that retransmission was being retransmitted by cable systems as a separate and discrete signal, and the satellite carrier obtains the radio station's broadcast transmission in an analog format: Provided, That the broadcast transmission being retransmitted may embody the programming of no more than one radio station; or

"(iv) the radio station's broadcast transmission is made by a noncommercial educational broadcast station funded on or after January 1, 1995, under section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)), consists solely of noncommercial educational and cultural radio programs, and the retransmission, whether or not simultaneous, is a nonsubscription terrestrial broadcast retransmission; or

"(C) a transmission that comes within any of the following categories:

"(i) a prior or simultaneous transmission incidental to an exempt transmission, such as a feed received by and then retransmitted by an exempt transmitter: Provided, That such incidental transmissions do not include any subscription transmission directly for reception by members of the public;

"(ii) a transmission within a business establishment, confined to its premises or the immediately surrounding vicinity;

"(iii) a retransmission by any retransmitter, including a multichannel video programming distributor as defined in section 602(12) of the Communications Act of 1934 (47 U.S.C. 522(12)), of a transmission by a transmitter licensed to publicly perform the sound recording as a part of that transmission, if the retransmission is simultaneous with the licensed transmission and authorized by the transmitter; or

"(iv) a transmission to a business establishment for use in the ordinary course of its business: Provided, That the business recipient does not retransmit the transmission outside of its premises or the immediately surrounding vicinity, and that the transmission does not exceed the sound recording performance complement. Nothing in this clause shall limit the scope of the exemption in clause (ii).

"(2) SUBSCRIPTION TRANSMISSIONS.—In the case of a subscription transmission not exempt under subsection (d)(1), the performance of a sound recording publicly by means of a digital audio transmission shall be subject to statutory licensing, in accordance with subsection (f) of this section, if—

"(A) the transmission is not part of an interactive service;

"(B) the transmission does not exceed the sound recording performance complement;

"(C) the transmitting entity does not cause to be published by means of an advance program schedule or prior announcement the titles of the specific sound recordings or phonorecords embodying such sound recordings to be transmitted;

"(D) except in the case of transmission to a business establishment, the transmitting entity does not automatically and intentionally cause any device receiving the transmission to switch from one program channel to another; and

"(E) except as provided in section 1002(e) of this title, the transmission of the sound recording is accompanied by the information encoded in that sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer.

"(3) LICENSES FOR TRANSMISSIONS BY INTERACTIVE SERVICES.—

"(A) No interactive service shall be granted an exclusive license under section 106(6) for the performance of a sound recording publicly by means of digital audio transmission for a period in excess of 12 months, except that with respect to an exclusive license granted to an interactive service by a licensor that holds the copyright to 1,000 or fewer sound recordings, the period of such license shall not exceed 24 months: Provided, however, That the grantee of such exclusive license shall be ineligible to receive another exclusive license for the performance of that sound recording for a period of 13 months from the expiration of the prior exclusive license.

"(B) The limitation set forth in subparagraph (A) of this paragraph shall not apply if—

"(i) the licensor has granted and there remain in effect licenses under section 106(6) for the public performance of sound recordings by means of digital audio transmission by at least 5 different interactive services: Provided, however, That each such license must be for a minimum of 10 percent of the copyrighted sound recordings owned by the licensor that have been licensed to interactive services, but in no event less than 50 sound recordings; or

"(ii) the exclusive license is granted to perform publicly up to 45 seconds of a sound recording and the sole purpose of the performance is to promote the distribution or performance of that sound recording.

"(C) Notwithstanding the grant of an exclusive or nonexclusive license of the right of public performance under section 106(6), an interactive service may not publicly perform a sound recording unless a license has been granted for the public performance of any copyrighted musical work contained in the sound recording: Provided, That such license to publicly perform the copyrighted musical work may be granted either by a performing rights society representing the copyright owner or by the copyright owner.

"(D) The performance of a sound recording by means of a retransmission of a digital audio

transmission is not an infringement of section 106(6) if—

"(i) the retransmission is of a transmission by an interactive service licensed to publicly perform the sound recording to a particular member of the public as part of that transmission; and

"(ii) the retransmission is simultaneous with the licensed transmission, authorized by the transmitter, and limited to that particular member of the public intended by the interactive service to be the recipient of the transmission.

"(E) For the purposes of this paragraph—

"(i) a 'licensor' shall include the licensing entity and any other entity under any material degree of common ownership, management, or control that owns copyrights in sound recordings; and

"(ii) a 'performing rights society' is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owner, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

"(4) RIGHTS NOT OTHERWISE LIMITED.—

"(A) Except as expressly provided in this section, this section does not limit or impair the exclusive right to perform a sound recording publicly by means of a digital audio transmission under section 106(6).

"(B) Nothing in this section annuls or limits in any way—

"(i) the exclusive right to publicly perform a musical work, including by means of a digital audio transmission, under section 106(4);

"(ii) the exclusive rights in a sound recording or the musical work embodied therein under sections 106(1), 106(2) and 106(3); or

"(iii) any other rights under any other clause of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

"(C) Any limitations in this section on the exclusive right under section 106(6) apply only to the exclusive right under section 106(6) and not to any other exclusive rights under section 106. Nothing in this section shall be construed to annul, limit, impair or otherwise affect in any way the ability of the owner of a copyright in a sound recording to exercise the rights under sections 106(1), 106(2) and 106(3), or to obtain the remedies available under this title pursuant to such rights, as such rights and remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995."; and

(4) by adding after subsection (d) the following:

"(e) AUTHORITY FOR NEGOTIATIONS.—

"(1) Notwithstanding any provision of the antitrust laws, in negotiating statutory licenses in accordance with subsection (f), any copyright owners of sound recordings and any entities performing sound recordings affected by this section may negotiate and agree upon the royalty rates and license terms and conditions for the performance of such sound recordings and the proportionate division of fees paid among copyright owners, and may designate common agents on a nonexclusive basis to negotiate, agree to, pay, or receive payments.

"(2) For licenses granted under section 106(6), other than statutory licenses, such as for performances by interactive services or performances that exceed the sound recording performance complement—

"(A) copyright owners of sound recordings affected by this section may designate common agents to act on their behalf to grant licenses and receive and remit royalty payments: Provided, That each copyright owner shall establish the royalty rates and material license terms and conditions unilaterally, that is, not in agreement, combination, or concert with other copyright owners of sound recordings; and

"(B) entities performing sound recordings affected by this section may designate common agents to act on their behalf to obtain licenses and collect and pay royalty fees: Provided, That each entity performing sound recordings shall determine the royalty rates and material license terms and conditions unilaterally, that is, not in agreement, combination, or concert with other entities performing sound recordings.

"(f) LICENSES FOR NONEXEMPT SUBSCRIPTION TRANSMISSIONS.—

"(1) No later than 30 days after the enactment of the Digital Performance Right in Sound Recordings Act of 1995, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d)(2) of this section during the period beginning on the effective date of such Act and ending on December 31, 2000. Such terms and rates shall distinguish among the different types of digital audio transmission services then in operation. Any copyright owners of sound recordings or any entities performing sound recordings affected by this section may submit to the Librarian of Congress licenses covering such activities with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

"(2) In the absence of license agreements negotiated under paragraph (1), during the 60-day period commencing 6 months after publication of the notice specified in paragraph (1), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings. In addition to the objectives set forth in section 801(b)(1), in establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements negotiated as provided in paragraph (1). The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by entities performing sound recordings.

"(3) License agreements voluntarily negotiated at any time between one or more copyright owners of sound recordings and one or more entities performing sound recordings shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

"(4)(A) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in paragraph (1) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe—

"(i) no later than 30 days after a petition is filed by any copyright owners of sound recordings or any entities performing sound recordings affected by this section indicating that a new type of digital audio transmission service on which sound recordings are performed is or is about to become operational; and

"(ii) in the first week of January, 2000 and at 5-year intervals thereafter.

"(B)(i) The procedures specified in paragraph (2) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon the filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

"(I) six months after publication of a notice of the initiation of voluntary negotiation proceedings under paragraph (1) pursuant to a petition under paragraph (4)(A)(i); or

"(II) on July 1, 2000 and at 5-year intervals thereafter.

"(ii) The procedures specified in paragraph (2) shall be concluded in accordance with section 802.

"(5)(A) Any person who wishes to perform a sound recording publicly by means of a nonexempt subscription transmission under this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording—

"(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

"(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

"(B) Any royalty payments in arrears shall be made on or before the twentieth day of the month next succeeding the month in which the royalty fees are set.

"(g) PROCEEDS FROM LICENSING OF SUBSCRIPTION TRANSMISSIONS.—

"(1) Except in the case of a subscription transmission licensed in accordance with subsection (f) of this section—

"(A) a featured recording artist who performs on a sound recording that has been licensed for a subscription transmission shall be entitled to receive payments from the copyright owner of the sound recording in accordance with the terms of the artist's contract; and

"(B) a nonfeatured recording artist who performs on a sound recording that has been licensed for a subscription transmission shall be entitled to receive payments from the copyright owner of the sound recording in accordance with the terms of the nonfeatured recording artist's applicable contract or other applicable agreement.

"(2) The copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission shall allocate to recording artists in the following manner its receipts from the statutory licensing of subscription transmission performances of the sound recording in accordance with subsection (f) of this section:

"(A) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

"(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings.

"(C) 45 percent of the receipts shall be allocated, on a per sound recording basis, to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists' performance in the sound recordings).

"(h) LICENSING TO AFFILIATES.—

"(1) If the copyright owner of a sound recording licenses an affiliated entity the right to publicly perform a sound recording by means of a

digital audio transmission under section 106(6), the copyright owner shall make the licensed sound recording available under section 106(6) on no less favorable terms and conditions to all bona fide entities that offer similar services, except that, if there are material differences in the scope of the requested license with respect to the type of service, the particular sound recordings licensed, the frequency of use, the number of subscribers served, or the duration, then the copyright owner may establish different terms and conditions for such other services.

"(2) The limitation set forth in paragraph (1) of this subsection shall not apply in the case where the copyright owner of a sound recording licenses—

"(A) an interactive service; or

"(B) an entity to perform publicly up to 45 seconds of the sound recording and the sole purpose of the performance is to promote the distribution or performance of that sound recording.

"(i) NO EFFECT ON ROYALTIES FOR UNDERLYING WORKS.—License fees payable for the public performance of sound recordings under section 106(6) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners of musical works for the public performance of their works. It is the intent of Congress that royalties payable to copyright owners of musical works for the public performance of their works shall not be diminished in any respect as a result of the rights granted by section 106(6).

"(j) DEFINITIONS.—As used in this section, the following terms have the following meanings:

"(1) An 'affiliated entity' is an entity engaging in digital audio transmissions covered by section 106(6), other than an interactive service, in which the licensor has any direct or indirect partnership or any ownership interest amounting to 5 percent or more of the outstanding voting or non-voting stock.

"(2) A 'broadcast' transmission is a transmission made by a terrestrial broadcast station licensed as such by the Federal Communications Commission.

"(3) A 'digital audio transmission' is a digital transmission as defined in section 101, that embodies the transmission of a sound recording. This term does not include the transmission of any audiovisual work.

"(4) An 'interactive service' is one that enables a member of the public to receive, on request, a transmission of a particular sound recording chosen by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large does not make a service interactive. If an entity offers both interactive and non-interactive services (either concurrently or at different times), the non-interactive component shall not be treated as part of an interactive service.

"(5) A 'nonsubscription' transmission is any transmission that is not a subscription transmission.

"(6) A 'retransmission' is a further transmission of an initial transmission, and includes any further retransmission of the same transmission. Except as provided in this section, a transmission qualifies as a 'retransmission' only if it is simultaneous with the initial transmission. Nothing in this definition shall be construed to exempt a transmission that fails to satisfy a separate element required to qualify for an exemption under section 114(d)(1).

"(7) The 'sound recording performance complement' is the transmission during any 3-hour period, on a particular channel used by a transmitting entity, of no more than—

"(A) 3 different selections of sound recordings from any one phonorecord lawfully distributed for public performance or sale in the United States, if no more than 2 such selections are transmitted consecutively; or

"(B) 4 different selections of sound recordings—

"(i) by the same featured recording artist; or

"(ii) from any set or compilation of phonorecords lawfully distributed together as a unit for public performance or sale in the United States,

if no more than three such selections are transmitted consecutively:

Provided, That the transmission of selections in excess of the numerical limits provided for in clauses (A) and (B) from multiple phonorecords shall nonetheless qualify as a sound recording performance complement if the programming of the multiple phono-records was not willfully intended to avoid the numerical limitations prescribed in such clauses.

"(8) A 'subscription' transmission is a transmission that is controlled and limited to particular recipients, and for which consideration is required to be paid or otherwise given by or on behalf of the recipient to receive the transmission or a package of transmissions including the transmission.

"(9) A 'transmission' includes both an initial transmission and a retransmission.".

SEC. 4. MECHANICAL ROYALTIES IN DIGITAL PHONORECORD DELIVERIES.

Section 115 of title 17, United States Code, is amended—

(1) in subsection (a)(1)—

(A) in the first sentence by striking out "any other person" and inserting in lieu thereof "any other person, including those who make phonorecords or digital phonorecord deliveries,"; and

(B) in the second sentence by inserting before the period ", including by means of a digital phonorecord delivery";

(2) in subsection (c)(2) in the second sentence by inserting "and other than as provided in paragraph (3)," after "For this purpose,";

(3) by redesignating paragraphs (3), (4), and (5) of subsection (c) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3)(A) A compulsory license under this section includes the right of the compulsory licensee to distribute or authorize the distribution of a phonorecord of a nondramatic musical work by means of a digital transmission which constitutes a digital phonorecord delivery, regardless of whether the digital transmission is also a public performance of the sound recording under section 106(6) of this title or of any nondramatic musical work embodied therein under section 106(4) of this title. For every digital phonorecord delivery by or under the authority of the compulsory licensee—

"(i) on or before December 31, 1997, the royalty payable by the compulsory licensee shall be the royalty prescribed under paragraph (2) and chapter 8 of this title; and

"(ii) on or after January 1, 1998, the royalty payable by the compulsory licensee shall be the royalty prescribed under subparagraphs (B) through (F) and chapter 8 of this title.

"(B) Notwithstanding any provision of the antitrust laws, any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a)(1) may negotiate and agree upon the terms and rates of royalty payments under this paragraph and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay or receive such royalty payments. Such authority to negotiate the terms and rates of royalty payments includes, but is not limited to, the authority to negotiate the year during which the royalty rates prescribed under subparagraphs (B) through (F) and chapter 8 of this title shall next be determined.

"(C) During the period of June 30, 1996, through December 31, 1996, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subparagraph (A) during the period beginning January 1, 1998, and ending on the effective date of any new terms and rates established pursuant to subparagraph (C), (D) or (F), or such other date (regarding digital phonorecord deliveries) as the parties may agree. Such terms and rates shall distinguish between (i) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (ii) digital phonorecord deliveries in general. Any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a)(1) may submit to the Librarian of Congress licenses covering such activities. The parties to each negotiation proceeding shall bear their own costs.

"(D) In the absence of license agreements negotiated under subparagraphs (B) and (C), upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to subparagraph (E), shall be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period beginning January 1, 1998, and ending on the effective date of any new terms and rates established pursuant to subparagraph (C), (D) or (F), or such other date (regarding digital phonorecord deliveries) as may be determined pursuant to subparagraphs (B) and (C). Such terms and rates shall distinguish between (i) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (ii) digital phonorecord deliveries in general. In addition to the objectives set forth in section 801(b)(1), in establishing such rates and terms, the copyright arbitration royalty panel may consider rates and terms under voluntary license agreements negotiated as provided in subparagraphs (B) and (C). The royalty rates payable for a compulsory license for a digital phonorecord delivery under this section shall be established de novo and no precedential effect shall be given to the amount of the royalty payable by a compulsory licensee for digital phonorecord deliveries on or before December 31, 1997. The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept and made available by persons making digital phonorecord deliveries.

"(E)(i) License agreements voluntarily negotiated at any time between one or more copyright owners of nondramatic musical works and one or more persons entitled to obtain a compulsory license under subsection (a)(1) shall be given effect in lieu of any determination by the Librarian of Congress. Subject to clause (ii), the royalty rates determined pursuant to subparagraph (C), (D) or (F) shall be given effect in lieu of any contrary royalty rates specified in a contract pursuant to which a recording artist who is the author of a nondramatic musical work grants a license under that person's exclusive rights in the musical work under sections 106(1)

and (3) or commits another person to grant a license in that musical work under sections 106(1) and (3), to a person desiring to fix in a tangible medium of expression a sound recording embodying the musical work.

"(ii) The second sentence of clause (i) shall not apply to—

"(I) a contract entered into on or before June 22, 1995, and not modified thereafter for the purpose of reducing the royalty rates determined pursuant to subparagraph (C), (D) or (F) or of increasing the number of musical works within the scope of the contract covered by the reduced rates, except if a contract entered into on or before June 22, 1995, is modified thereafter for the purpose of increasing the number of musical works within the scope of the contract, any contrary royalty rates specified in the contract shall be given effect in lieu of royalty rates determined pursuant to subparagraph (C), (D) or (F) for the number of musical works within the scope of the contract as of June 22, 1995; and

"(II) a contract entered into after the date that the sound recording is fixed in a tangible medium of expression substantially in a form intended for commercial release, if at the time the contract is entered into, the recording artist retains the right to grant licenses as to the musical work under sections 106(1) and 106(3).

"(F) The procedures specified in subparagraphs (C) and (D) shall be repeated and concluded, in accordance with regulations that the Librarian of Congress shall prescribe, in each fifth calendar year after 1997, except to the extent that different years for the repeating and concluding of such proceedings may be determined in accordance with subparagraphs (B) and (C).

"(G) Except as provided in section 1002(e) of this title, a digital phonorecord delivery licensed under this paragraph shall be accompanied by the information encoded in the sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer.

"(H)(i) A digital phonorecord delivery of a sound recording is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, unless—

"(I) the digital phonorecord delivery has been authorized by the copyright owner of the sound recording; and

"(II) the owner of the copyright in the sound recording or the entity making the digital phonorecord delivery has obtained a compulsory license under this section or has otherwise been authorized by the copyright owner of the musical work to distribute or authorize the distribution, by means of a digital phonorecord delivery, of each musical work embodied in the sound recording.

"(ii) Any cause of action under this subparagraph shall be in addition to those available to the owner of the copyright in the nondramatic musical work under subsection (c)(6) and section 106(4) and the owner of the copyright in the sound recording under section 106(6).

"(I) The liability of the copyright owner of a sound recording for infringement of the copyright in a nondramatic musical work embodied in the sound recording shall be determined in accordance with applicable law, except that the owner of a copyright in a sound recording shall not be liable for a digital phonorecord delivery by a third party if the owner of the copyright in the sound recording does not license the distribution of a phonorecord of the nondramatic musical work.

"(J) Nothing in section 1008 shall be construed to prevent the exercise of the rights and remedies allowed by this paragraph, paragraph (6), and chapter 5 in the event of a digital phonorecord delivery, except that no action alleging infringement of copyright may be brought under this title against a manufacturer, importer or distributor of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or against a consumer, based on the actions described in such section.

"(K) Nothing in this section annuls or limits (i) the exclusive right to publicly perform a sound recording or the musical work embodied therein, including by means of a digital transmission, under sections 106(4) and 106(6), (ii) except for compulsory licensing under the conditions specified by this section, the exclusive rights to reproduce and distribute the sound recording and the musical work embodied therein under sections 106(1) and 106(3), including by means of a digital phonorecord delivery, or (iii) any other rights under any other provision of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

"(L) The provisions of this section concerning digital phonorecord deliveries shall not apply to any exempt transmissions or retransmissions under section 114(d)(1). The exemptions created in section 114(d)(1) do not expand or reduce the rights of copyright owners under section 106(1) through (5) with respect to such transmissions and retransmissions."; and

(5) by adding after subsection (c) the following:

"(d) DEFINITION.—As used in this section, the following term has the following meaning: A 'digital phonorecord delivery' is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.".

SEC. 5. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "device", "machine", or "process" the following:

"A 'digital transmission' is a transmission in whole or in part in a digital or other non-analog format.".

(b) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS.—Section 111(c)(1) of title 17, United States Code, is amended in the first sentence by inserting "and section 114(d)" after "of this subsection".

(c) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.—

(1) Section 119(a)(1) of title 17, United States Code, is amended in the first sentence by inserting "and section 114(d)" after "of this subsection".

(2) Section 119(a)(2)(A) of title 17, United States Code, is amended in the first sentence by inserting "and section 114(d)" after "of this subsection".

(d) COPYRIGHT ARBITRATION ROYALTY PANELS.—

(1) Section 801(b)(1) of title 17, United States Code, is amended in the first and second sentences by striking "115" each place it appears and inserting "114, 115,".

(2) Section 802(c) of title 17, United States Code, is amended in the third sentence by striking "section 111, 116, or 119," and inserting "section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115,".

(3) Section 802(g) of title 17, United States Code, is amended in the third sentence by inserting "114," after "111,".

(4) Section 802(h)(2) of title 17, United States Code, is amended by inserting "114," after "111,".

(5) Section 803(a)(1) of title 17, United States Code, is amended in the first sentence by striking "115" and inserting "114, 115" and by striking "and (4)" and inserting "(4) and (5)".

(6) Section 803(a)(3) of title 17, United States Code, is amended by inserting before the period "or as prescribed in section 115(c)(3)(D)".

(7) Section 803(a) of title 17, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) With respect to proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 114, the Librarian of Congress shall proceed when and as provided by that section.".

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 3 months after the date of enactment of this Act, except that the provisions of sections 114(e) and 114(f) of title 17, United States Code (as added by section 3 of this Act) shall take effect immediately upon the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes, and the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1506, the Digital Performance Right in Sound Recordings Act of 1995. I would like to thank the gentlewoman from Colorado [Mrs. SCHROEDER] for her cooperation and hard work on this important legislation. I also want to commend the gentleman from Michigan [Mr. CONYERS], an original cosponsor of H.R. 1506, for his support and leadership in bringing about the compromise that made this legislation possible. The Subcommittee on Courts and Intellectual Property began last Congress to try and construct legislation to take care of what all parties agree is a likely problem for U.S. record companies and the people who sing and play music. The problem concerns home subscription services for the digital transmission of music offered by different companies. This type of service permits the home subscriber, for a monthly fee, to select music. The company providing a subscription service can purchase a single record and play it for hundreds of subscribers and by so doing displace record sales.

Under current law, owners of almost every kind of copyright work have exclusive rights to authorize the public performance of that work. But sound recordings and the artists and companies that produce them have no such performance rights. Records sold at a store is the primary source of income for the record companies and for the singers. When a song is played on the radio or a digital audio cable service, neither the musicians who perform the work nor the record company have a legal right to control or receive compensation. H.R. 1506 will provide a very limited right for this purpose.

This new right is limited in that it only applies to digital audio transmission services that are sold primarily to the home. It does not apply to traditional radio and TV broadcasts, or to background music services, such as Muzak or 3M nor does it apply to public radio, restaurants, department stores, hotels, amusement parks.

The purpose of this legislation is to ensure that performing artists, record companies, and others whose livelihood depends upon effective copyright protection for sound recordings will be protected as new technologies affect the ways in which their creative works are marketed.

WHAT ABOUT THE PUBLIC INTEREST

The Department of Justice's Antitrust Division reviewed the compromise agreement and sent a letter to the subcommittee supporting the compromise saying that it will "advance competition" and by adopting the two amendments that they recommended the new language will preclude the recording companies from acting as a cartel and exploiting the combined market power associated with the pooling of intellectual property rights and thereby prevent the driving up of prices that consumers will have to pay for their product.

This legislation will also permit the development of new technologies that will be used and enjoyed by the consumer. It will also provide the consumer with access to a variety of choices of new entertainment which will be regulated by the market. We must remember that our copyright industries contribute more to the U.S. economy and employ more workers than any single manufacturing sector in the United States Between 1977 and 1993, employment in the U.S. copyright industries more than doubled to 3 million workers, which is 2.5 percent of the total U.S. work force. During the same period, the U.S. copyright industry employment grew almost four times the annual rate of the whole economy—2.6 percent versus 0.7 percent. In 1993, the U.S. copyright industries achieved estimated foreign sales of $45.8 billion. After automobiles and parts, the copyright industry is the second largest industry in exports.

Again, I want to thank the committee members for their patience and support and I would like to congratulate the parties of interest for working together and coming up with what I believe is a good, solid piece of legislation, that's both good for the industry and good for the American consumer.

Mr. Speaker, in conclusion, this legislation is the first step in bringing our copyright industries closer to the information superhighway. As we enter the digital and information age, the protection of America's intellectual property is essential. It's essential for two reasons. First, for the development, use, and advancement of new technology, and second, such protection will encourage more creative works from which society is the ultimate benefactor.

I am not aware of any opposition to this legislation. It has the support of the American Federation of Musicians, the American Federation of Television and Radio Artists, the record industries, the songwriters, the radio and TV broadcast industry, and the administration.

I urge a favorable vote on H.R. 1506.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1506, and yield myself such time as I may consume.

I strongly support the establishment in our copyright law of a digital performance right in sound recordings. In the digital age, creation of this right becomes imperative if we are to ensure that creators and copyright owners receive fair compensation for their property.

I also want to emphasize how important the creation of this right is with respect to our efforts to ensure strong protection for intellectual property on a global basis. While complete harmonization of our copyright laws with those of other countries is not possible, it is difficult for us to persuade other countries to protect intellectual property if our own laws are not sufficiently strong.

I particularly want to commend the various interested parties who have spent long and arduous hours in negotiations with respect to this bill. Under the leadership of our subcommittee chairman, the gentleman from California, we have seen the parties negotiate successfully in a way that makes the bill before us today as strong as possible. I think the result is a positive one for all parties involved, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

□ 1530

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support for H.R. 1506, the Digital Performance Right in Sound Recordings Act of 1995. This bill gives recording artists and their recording companies copyright protection over the transmission of digital sound recordings. Under current law, songwriters, but not recording artists or companies, receive royalties when their music is played on radio or television.

Artists and companies receive much of their compensation through the sale of compact discs, records, and tapes that are often promoted on radio and television. However, new interactive services are being created which allow consumers to use their TV's and computers to order any recording at any time. These subscriber services threaten sales of CD's, records and tapes. With this legislation recording artists will have a performance right in digital transmissions which will afford them the opportunity to receive compensation when their performances are transmitted digitally. Presently, under American copyright law, owners of almost every kind of copyrighted work have exclusive rights to authorize the public performance of that work. It is time to provide recording artists and companies some copyright protection.

H.R. 1506 is equally important for what it doesn't do. This bill does not require businesses, such as bars and restaurants to pay an additional performance royalty when they play music. Such businesses should be allowed the play "incidental" or background music without having to pay fees to music performers. Background music is not now and will never be a substitute for consumer purchases of prerecorded music.

I congratulate Chairman MOORHEAD and all the parties who contributed to the negotiations on this issue and made this compromise legislation possible. H.R. 1506 brings copyright law up-to-date to accommodate the new digital technologies in today's marketplace. I strongly urge its passage.

Mrs. SCHROEDER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. CONYERS], the ranking member of the subcommittee.

Mr. CONYERS. Mr. Speaker, my congratulations again to the chairman of the subcommittee, the gentleman from California [Mr. MOORHEAD], who was joined by the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from California [Mr. BERMAN] to make sure that we got to this point.

Mr. Speaker, I rise in support of the measure. The sounds of harmony that I hear today on H.R. 1506 are, well, music to my ears.

I am truly delighted that our friends in the recording industry, the performing rights societies, the broadcasters and the background music services have, under the auspices of this subcommittee, done the tough job of hammering out a compromise agreement that is acceptable to all.

When Mr. MOORHEAD asked me to join with him as a lead cosponsor of H.R. 1506, we both knew that such a process would be essential to the final resolution of this matter. We both knew that H.R. 1506 as introduced would not be the final word, but rather the logical starting point of a process which broke down in an unfortunate manner last year.

Three major issues were critical to the resolution of this matter.

First, there was disagreement about the exclusive rights to license performances of digital music on interactive or audio-on-demand services and whether this would be a right shared with the performance rights societies.

Second, the commercial music services, like MUZAK, wanted an exemption such as provided for them in the House bill but not in the Senate bill.

Third, there was a dispute over when there is a digital delivery which affects the record companies' ability to collect royalties.

Under your leadership, Mr. Speaker, these three sticky matters have now become transformed into harmonic convergence.

The agreement requires the interactive music distributor to obtain licenses from both the record company, for the sound recording, and from the performing rights societies, for the musical composition. That seems fair to me.

Commercial background services, so long as they do not alter their operations to make copying easier, are fully exempt, and that, too, is similar to the exemption for broadcasters.

Finally, the recording industry will pay mechanical royalties at two different rates, one when records are actually sold and the customer makes a permanent copy, and one in situations where there may be copying of albums by someone who is paying only for the right to listen to the music. This settles a dispute that received a lot of discussion at the June 21 hearing.

By passing this legislation, Congress will open the door to a golden age of digital technology where—as described in a Boston University Law Review article—consumers may never have to set foot in a record store, yet have the ability to choose a musical selection from everything ever recorded without fear that it is out of stock, and be able to copy the album, at any time of the day or night, over a fiber optic cable by using a remote control while sitting in the comfort of their living rooms.

Best of all, all this will be possible without the industrial meltdown that many had feared would put the record companies out of business as a result of the new digital technology or cut off a stream of income to the creative geniuses who are America's composers and song writers.

I am especially pleased that performing artists will also benefit from this legislation. One estimate is that in 1987, performing artists should have received as much as half of the $120 million that is collected worldwide for the public performance of sound recordings; now they stand to recover royalties when recordings of their performances are distributed digitally. I urge strong support for this compromise.

Mrs. SCHROEDER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. BERMAN] who probably knows more about this issue than I could ever learn.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman for yielding time to me. I know longer about this bill, I do not know more about this bill. I am happy to voice my strong support of H.R. 1506, the Digital Performance Right in Sound Recordings Act, and I want to congratulate my colleague from California, CARLOS MOORHEAD, because it is on his watch that this long overdue legislation is finally coming to fruition.

The proliferation of new technologies capable of transmitting the fruits of American musical genius directly to consumers with compact disc quality, and what is more, transmitting to Americans what they want to hear when they want to hear it—commands a congressional response. It is not the technology itself which I lament; rather it is the fact that if we fail to act, then American intellectual property is highly likely to lose all meaningful protection.

The constitutional imperative that the Congress protect copyright compels us from time to time to adjust our laws to fit new circumstances. While I have long felt that a performance right in sound recordings is the unfinished business of the omnibus overhaul of our copyright code in 1976, it is the proliferation of new technologies which makes the legislation before us today more important than ever.

Some have criticized the bill for falling short of the ideal, but I have always been loathe to view the best as the enemy of the good. As a member of the Subcommittee on Intellectual Property who proudly represents many of the segments of the music industry with a deep interest in H.R. 1506, I am delighted that this legislation has finally come to fruition, and that it does justice to legitimate concerns which have been raised with us.

This legislation is long overdue, and I commend it to my colleagues for their approval.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in strong support of this legislation. As has been said in this modern age of technological advancement, this type of legislation is needed. Current copyright law cannot adequately address the numerous issues which arise when digital technology is used. Moreover, the number of subscribers obtaining access to digital transmissions is ever-increasing. Therefore, certain modifications to the law are necessary to ensure that recording artists' and record companies' rights are protected. This carefully crafted legislation will ensure that the recording community will not only have the ability to control the distribution of their work, but receive payment for the use of their creative works. From hip-hop to country, reggae to classical, this bill helps to ensure our talented recording artists and recording companies are fairly compensated for public performance of their work. Without this legislation many situations could and, I am sure, would arise where the artists and music companies would not be compensated for their creative work. For many of them, their livelihood depends upon their being appropriately compensated for the use of the songs they have created. It takes much time, energy, and labor to produce material which provides public enjoyment. The creators of these materials deserve to be adequately compensated.

Mr. Speaker, as I am sure some on this floor know, Stephen Foster died essentially a pauper. He died a pauper not because his music was not popular, not because many thousands of people did not play or sing or enjoy his music on a daily, weekly, monthly, and annual basis. It was because there was no system for compensating the genius that was Stephen Foster.

We have geniuses among us today, some of whom are incredibly well compensated, but unfortunately, some of the most creative, perhaps not the most famous or well-known, have not been fairly compensated. This legislation, targeted, is important in a particular area. There are many areas which copyright fails to adequately compensate those who create. Therefore, I think it is incumbent upon us, as has been said, I know, by the chairman and by the ranking member, in an increasingly technological age in which the reproduction of what others have done is much easier, and frankly, the copying and dissemination of that, without any compensation to those who created it, is becoming epidemic, it is important that this Congress act to protect those who create.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to once again urge people to please vote for this. As we see the information highway coming up, this is the information that will go over the highway. If we cannot protect the creators of that information so that they can get compensated when people pull this down and copy it, then there will not be any information on the highway. This is terribly important to the future of the country in the 21st century.

I thank everyone who has worked so hard on this, especially my chairman and especially the industry, who negotiate the long and hard coming to this agreement.

Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is important legislation. It has been made possible by the leadership of the chairman of our full committee, by the ranking member of our full committee, by the ranking member of our subcommittee, and each and every member of the subcommittee. It is a group endeavor that has made it possible for us to move forward with this important bill in the new superhighway that we are building in the telecommunications industry. I ask every Member to vote "aye" on this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MOORHEAD] that the House suspend the rules and pass the bill, H.R. 1506, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 227) to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes, and ask for its immediate consideration.

The Clerk red the title of the Senate bill.

The SPEAKER pro tempore (Mr. RIGGS). Is there objection to the request of the gentleman from California?

Mrs. SCHROEDER. Mr. Speaker, reserving the right to object, I do so basically to yield to the gentleman from California [Mr. MOORHEAD] to explain the purpose of his request.

Mr. MOORHEAD. Mr. Speaker, this is the companion Senate bill. This action will enable the bill to go to the President. Both this bill and the former bill basically originated in the House, but the Senate was able to get it passed in their House first, and we want the bills to go immediately to the President of the United States without having to go back to the Senate, so we are incorporating it into the Senate legislation.

Mrs. SCHROEDER. I thank the gentleman from California for his explanation. That is exactly what we want to do. We want to get these bills moving as quickly as possible.

Mr. Speaker, since the gentleman's motion does that, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Performance Right in Sound Recordings Act of 1995".

SEC. 2. EXCLUSIVE RIGHTS IN COPYRIGHTED WORKS.

Section 106 of title 17, United States Code, is amended—

(1) in paragraph (4) by striking "and" after the semicolon;

(2) in paragraph (5) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.".

SEC. 3. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.

Section 114 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "and (3)" and inserting "(3) and (6)";

(2) in subsection (b) in the first sentence by striking "phonorecords, or of copies of motion pictures and other audiovisual works," and inserting "phonorecords or copies";

(3) by striking subsection (d) and inserting:

"(d) LIMITATIONS ON EXCLUSIVE RIGHT.—Notwithstanding the provisions of section 106(6)—

"(1) EXEMPT TRANSMISSIONS AND RETRANSMISSIONS.—The performance of a sound recording publicly by means of a digital audio transmission, other than as a part of an interactive service, is not an infringement of section 106(6) if the performance is part of—

"(A)(i) a nonsubscription transmission other than a retransmission;

"(ii) an initial nonsubscription retransmission made for direct reception by members of the public of a prior or simultaneous incidental transmission that is not made for direct reception by members of the public; or

"(iii) a nonsubscription broadcast transmission;

"(B) a retransmission of a nonsubscription broadcast transmission: *Provided*, That, in the case of a retransmission of a radio station's broadcast transmission—

"(i) the radio station's broadcast transmission is not willfully or repeatedly retransmitted more than a radius of 150 miles from the site of the radio broadcast transmitter, however—

"(I) the 150 mile limitation under this clause shall not apply when a nonsubscription broadcast transmission by a radio station licensed by the Federal Communications Commission is retransmitted on a nonsubscription basis by a terrestrial broadcast station, terrestrial translator, or terrestrial repeater licensed by the Federal Communications Commission; and

"(II) in the case of a subscription retransmission of a nonsubscription broadcast retransmission covered by subclause (I), the 150 mile radius shall be measured from the transmitter site of such broadcast retransmitter;

"(ii) the retransmission is of radio station broadcast transmissions that are—

"(I) obtained by the retransmitter over the air;

"(II) not electronically processed by the retransmitter to deliver separate and discrete signals; and

"(III) retransmitted only within the local communities served by the retransmitter;

"(iii) the radio station's broadcast transmission was being retransmitted to cable systems (as defined in section 111(f)) by a satellite carrier on January 1, 1995, and that retransmission was being retransmitted by cable systems as a separate and discrete signal, and the satellite carrier obtains the radio station's broadcast transmission in an analog format: *Provided*, That the broadcast transmission being retransmitted may embody the programming of no more than one radio station; or

"(iv) the radio station's broadcast transmission is made by a noncommercial educational broadcast station funded on or after January 1, 1995, under section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)), consists solely of noncommercial educational and cultural radio programs, and the retransmission, whether or not simultaneous, is a nonsubscription terrestrial broadcast retransmission; or

"(C) a transmission that comes within any of the following categories:

"(i) a prior or simultaneous transmission incidental to an exempt transmission, such as a feed received by and then retransmitted by an exempt transmitter: *Provided*, That such incidental transmissions do not include any subscription transmission directly for reception by members of the public;

"(ii) a transmission within a business establishment, confined to its premises or the immediately surrounding vicinity;

"(iii) a retransmission by any retransmitter, including a multichannel video programming distributor as defined in section 602(12) of the Communications Act of 1934 (47 U.S.C. 522(12)), of a transmission by a transmitter licensed to publicly perform the sound recording as a part of that transmission, if the retransmission is simultaneous with the licensed transmission and authorized by the transmitter; or

"(iv) a transmission to a business establishment for use in the ordinary course of its business: *Provided*, That the business recipient does not retransmit the transmission outside of its premises or the immediately surrounding vicinity, and that the transmission does not exceed the sound recording performance complement. Nothing in this clause shall limit the scope of the exemption in clause (ii).

"(2) SUBSCRIPTION TRANSMISSIONS.—In the case of a subscription transmission not exempt under subsection (d)(1), the performance of a sound recording publicly by means of a digital audio transmission shall be subject to statutory licensing, in accordance with subsection (f) of this section, if—

"(A) the transmission is not part of an interactive service;

"(B) the transmission does not exceed the sound recording performance complement;

"(C) the transmitting entity does not cause to be published by means of an advance program schedule or prior announcement the titles of the specific sound recordings or phonorecords embodying such sound recordings to be transmitted;

"(D) except in the case of transmission to a business establishment, the transmitting entity does not automatically and intentionally cause any device receiving the transmission to switch from one program channel to another; and

"(E) except as provided in section 1002(e) of this title, the transmission of the sound recording is accompanied by the information encoded in that sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer.

"(3) LICENSES FOR TRANSMISSIONS BY INTERACTIVE SERVICES.—

"(A) No interactive service shall be granted an exclusive license under section 106(6) for the performance of a sound recording publicly by means of digital audio transmission for a period in excess of 12 months, except that with respect to an exclusive license granted to an interactive service by a licensor that holds the copyright to 1,000 or fewer sound recordings, the period of such license shall not exceed 24 months: *Provided, however*, That the grantee of such exclusive license shall be ineligible to receive another exclusive license for the performance of that sound recording for a period of 13 months from the expiration of the prior exclusive license.

"(B) The limitation set forth in subparagraph (A) of this paragraph shall not apply if—

"(i) the licensor has granted and there remain in effect licenses under section 106(6) for the public performance of sound recordings by means of digital audio transmission by at least 5 different interactive services: *Provided, however*, That each such license must be for a minimum of 10 percent of the copyrighted sound recordings owned by the licensor that have been licensed to interactive services, but in no event less than 50 sound recordings; or

"(ii) the exclusive license is granted to perform publicly up to 45 seconds of a sound recording and the sole purpose of the performance is to promote the distribution or performance of that sound recording.

"(C) Notwithstanding the grant of an exclusive or nonexclusive license of the right of public performance under section 106(6), an interactive service may not publicly perform a sound recording unless a license has been granted for the public performance of any copyrighted musical work contained in the sound recording: *Provided*, That such license to publicly perform the copyrighted musical work may be granted either by a performing rights society representing the copyright owner or by the copyright owner.

"(D) The performance of a sound recording by means of a retransmission of a digital audio transmission is not an infringement of section 106(6) if—

"(i) the retransmission is of a transmission by an interactive service licensed to publicly perform the sound recording to a particular member of the public as part of that transmission; and

"(ii) the retransmission is simultaneous with the licensed transmission, authorized by the transmitter, and limited to that particular member of the public intended by the interactive service to be the recipient of the transmission.

"(E) For the purposes of this paragraph—

"(i) a 'licensor' shall include the licensing entity and any other entity under any material degree of common ownership, management, or control that owns copyrights in sound recordings; and

"(ii) a 'performing rights society' is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owner, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

"(4) RIGHTS NOT OTHERWISE LIMITED.—

"(A) Except as expressly provided in this section, this section does not limit or impair the exclusive right to perform a sound recording publicly by means of a digital audio transmission under section 106(6).

"(B) Nothing in this section annuls or limits in any way—

"(i) the exclusive right to publicly perform a musical work, including by means of a digital audio transmission, under section 106(4);

"(ii) the exclusive rights in a sound recording or the musical work embodied therein under sections 106(1), 106(2) and 106(3); or

"(iii) any other rights under any other clause of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

"(C) Any limitations in this section on the exclusive right under section 106(6) apply only to the exclusive right under section 106(6) and not to any other exclusive rights under section 106. Nothing in this section shall be construed to annul, limit, impair or otherwise affect in any way the ability of the owner of a copyright in a sound recording to exercise the rights under sections 106(1), 106(2) and 106(3), or to obtain the remedies available under this title pursuant to such rights, as such rights and remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995."; and

(4) by adding after subsection (d) the following:

"(e) AUTHORITY FOR NEGOTIATIONS.—

"(1) Notwithstanding any provision of the antitrust laws, in negotiating statutory licenses in accordance with subsection (f), any copyright owners of sound recordings and any entities performing sound recordings affected by this section may negotiate and agree upon the royalty rates and license terms and conditions for the performance of such sound recordings and the proportionate division of fees paid among copyright owners, and may designate common agents on a nonexclusive basis to negotiate, agree to, pay, or receive payments.

"(2) For licenses granted under section 106(6), other than statutory licenses, such as for performances by interactive services or performances that exceed the sound recording performance complement—

"(A) copyright owners of sound recordings affected by this section may designate common agents to act on their behalf to grant licenses and receive and remit royalty payments: *Provided*, That each copyright owner shall establish the royalty rates and material license terms and conditions unilaterally, that is, not in agreement, combination, or concert with other copyright owners of sound recordings; and

"(B) entities performing sound recordings affected by this section may designate common agents to act on their behalf to obtain licenses and collect and pay royalty fees: *Provided*, That each entity performing sound recordings shall determine the royalty rates and material license terms and conditions unilaterally, that is, not in agreement, combination, or concert with other entities performing sound recordings.

"(f) LICENSES FOR NONEXEMPT SUBSCRIPTION TRANSMISSIONS.—

"(1) No later than 30 days after the enactment of the Digital Performance Right in Sound Recordings Act of 1995, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d)(2) of this section during the period beginning on the effective date of such Act and ending on December 31, 2000. Such terms and rates shall distinguish among the different types of digital audio transmission services then in operation. Any copyright owners of sound recordings or any entities performing sound recordings affected by this section may submit to the Librarian of Congress licenses covering such activities with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

"(2) In the absence of license agreements negotiated under paragraph (1), during the 60-day period commencing 6 months after publication of the notice specified in paragraph (1), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings. In addition to the objectives set forth in section 801(b)(1), in establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements negotiated as provided in paragraph (1). The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by entities performing sound recordings.

"(3) License agreements voluntarily negotiated at any time between one or more copyright owners of sound recordings and one or more entities performing sound recordings shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

"(4)(A) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in paragraph (1) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe—

"(i) no later than 30 days after a petition is filed by any copyright owners of sound recordings or any entities performing sound recordings affected by this section indicating that a new type of digital audio transmission service on which sound recordings are performed is or is about to become operational; and

"(ii) in the first week of January, 2000 and at 5-year intervals thereafter.

"(B)(i) The procedures specified in paragraph (2) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon the filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

"(I) six months after publication of a notice of the initiation of voluntary negotiation proceedings under paragraph (1) pursuant to a petition under paragraph (4)(A)(i); or

"(II) on July 1, 2000 and at 5-year intervals thereafter.

"(ii) The procedures specified in paragraph (2) shall be concluded in accordance with section 802.

"(5)(A) Any person who wishes to perform a sound recording publicly by means of a nonexempt subscription transmission under this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording—

"(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

"(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

"(B) Any royalty payments in arrears shall be made on or before the twentieth day of the month next succeeding the month in which the royalty fees are set.

"(g) PROCEEDS FROM LICENSING OF SUBSCRIPTION TRANSMISSIONS.—

"(1) Except in the case of a subscription transmission licensed in accordance with subsection (f) of this section—

"(A) a featured recording artist who performs on a sound recording that has been licensed for a subscription transmission shall be entitled to receive payments from the copyright owner of the sound recording in accordance with the terms of the artist's contract; and

"(B) a nonfeatured recording artist who performs on a sound recording that has been licensed for a subscription transmission shall be entitled to receive payments from the copyright owner of the sound recording in accordance with the terms of the nonfeatured recording artist's applicable contract or other applicable agreement.

"(2) The copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission shall allocate to recording artists in the following manner its receipts from the statutory licensing of subscription transmission performances of the sound recording in accordance with subsection (f) of this section:

"(A) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

"(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings.

"(C) 45 percent of the receipts shall be allocated, on a per sound recording basis, to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists' performance in the sound recordings).

"(h) LICENSING TO AFFILIATES.—

"(1) If the copyright owner of a sound recording licenses an affiliated entity the right to publicly perform a sound recording by means of a digital audio transmission under section 106(6), the copyright owner shall make the licensed sound recording available under section 106(6) on no less favorable terms and conditions to all bona fide entities that offer similar services, except that, if there are material differences in the scope of the requested license with respect to the type of service, the particular sound recordings licensed, the frequency of use, the number of subscribers served, or the duration, then the copyright owner may establish different terms and conditions for such other services.

"(2) The limitation set forth in paragraph (1) of this subsection shall not apply in the case where the copyright owner of a sound recording licenses—

"(A) an interactive service; or

"(B) an entity to perform publicly up to 45 seconds of the sound recording and the sole purpose of the performance is to promote the distribution or performance of that sound recording.

"(i) NO EFFECT ON ROYALTIES FOR UNDERLYING WORKS.—License fees payable for the public performance of sound recordings under section 106(6) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners of musical works for the public performance of their works. It is the intent of Congress that royalties payable to copyright owners of musical works for the public performance of their works shall not be diminished in any respect as a result of the rights granted by section 106(6).

"(j) DEFINITIONS.—As used in this section, the following terms have the following meanings:

"(1) An 'affiliated entity' is an entity engaging in digital audio transmissions covered by section 106(6), other than an interactive service, in which the licensor has any direct or indirect partnership or any ownership interest amounting to 5 percent or more of the outstanding voting or non-voting stock.

"(2) A 'broadcast' transmission is a transmission made by a terrestrial broadcast station licensed as such by the Federal Communications Commission.

"(3) A 'digital audio transmission' is a digital transmission as defined in section 101, that embodies the transmission of a sound recording. This term does not include the transmission of any audiovisual work.

"(4) An 'interactive service' is one that enables a member of the public to receive, on request, a transmission of a particular sound recording chosen by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large does not make a service interactive. If an entity offers both interactive and non-interactive services (either concurrently or at different times), the non-interactive component shall not be treated as part of an interactive service.

"(5) A 'nonsubscription' transmission is any transmission that is not a subscription transmission.

"(6) A 'retransmission' is a further transmission of an initial transmission, and includes any further retransmission of the same transmission. Except as provided in this section, a transmission qualifies as a 'retransmission' only if it is simultaneous with the initial transmission. Nothing in this definition shall be construed to exempt a transmission that fails to satisfy a separate element required to qualify for an exemption under section 114(d)(1).

"(7) The 'sound recording performance complement' is the transmission during any 3-hour period, on a particular channel used by a transmitting entity, of no more than—

"(A) 3 different selections of sound recordings from any one phonorecord lawfully distributed for public performance or sale in the United States, if no more than 2 such selections are transmitted consecutively; or

"(B) 4 different selections of sound recordings

"(i) by the same featured recording artist; or

"(ii) from any set or compilation of phonorecords lawfully distributed together as a unit for public performance or sale in the United States,

if no more than three such selections are transmitted consecutively:

Provided, That the transmission of selections in excess of the numerical limits provided for in clauses (A) and (B) from multiple phonorecords shall nonetheless qualify as a sound recording performance complement if the programming of the multiple phonorecords was not willfully intended to avoid the numerical limitations prescribed in such clauses.

"(8) A 'subscription' transmission is a transmission that is controlled and limited to particular recipients, and for which consideration is required to be paid or otherwise given by or on behalf of the recipient to receive the transmission or a package of transmissions including the transmission.

"(9) A 'transmission' includes both an initial transmission and a retransmission.".

SEC. 4. MECHANICAL ROYALTIES IN DIGITAL PHONORECORD DELIVERIES.

Section 115 of title 17, United States Code, is amended—

(1) in subsection (a)(1)—

(A) in the first sentence by striking out "any other person" and inserting in lieu thereof "any other person, including those who make phonorecords or digital phonorecord deliveries,"; and

(B) in the second sentence by inserting before the period ", including by means of a digital phonorecord delivery";

(2) in subsection (c)(2) in the second sentence by inserting "and other than as provided in paragraph (3)," after "For this purpose,";

(3) by redesignating paragraphs (3), (4), and (5) of subsection (c) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3)(A) A compulsory license under this section includes the right of the compulsory licensee to distribute or authorize the distribution of a phonorecord of a nondramatic musical work by means of a digital transmission which constitutes a digital phonorecord delivery, regardless of whether the digital transmission is also a public performance of the sound recording under section 106(6) of this title or of any nondramatic musical work embodied therein under section 106(4) of this title. For every digital phonorecord delivery by or under the authority of the compulsory licensee—

"(i) on or before December 31, 1997, the royalty payable by the compulsory licensee shall be the royalty prescribed under paragraph (2) and chapter 8 of this title; and "(ii) on or after January 1, 1998, the royalty payable by the compulsory licensee shall be the royalty prescribed under subparagraphs (B) through (F) and chapter 8 of this title.

"(B) Notwithstanding any provision of the antitrust laws, any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a)(1) may negotiate and agree upon the terms and rates of royalty payments under this paragraph and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay or receive such royalty payments. Such authority to negotiate the terms and rates of royalty payments includes, but is not limited to, the authority to negotiate the year during which the royalty rates prescribed under subparagraphs (B) through (F) and chapter 8 of this title shall next be determined.

"(C) During the period of June 30, 1996, through December 31, 1996, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subparagraph (A) during the period beginning January 1, 1998, and ending on the effective date of any new terms and rates established pursuant to subparagraph (C), (D) or (F), or such other date (regarding digital phonorecord deliveries) as the parties may agree. Such terms and rates shall distinguish between (i) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (ii) digital phonorecord deliveries in general. Any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a)(1) may submit to the Librarian of Congress licenses covering such activities. The parties to each negotiation proceeding shall bear their own costs.

"(D) In the absence of license agreements negotiated under subparagraphs (B) and (C), upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to subparagraph (E), shall be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period beginning January 1, 1998, and ending on the effective date of any new terms and rates established pursuant to subparagraph (C), (D) or (F), or such other date (regarding digital phonorecord deliveries) as may be determined pursuant to subparagraphs (B) and (C). Such terms and rates shall distinguish between (i) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (ii) digital phonorecord deliveries in general. In addition to the objectives set forth in section 801(b)(1), in establishing such rates and terms, the copyright arbitration royalty panel may consider rates and terms under voluntary license agreements negotiated as provided in subparagraphs (B) and (C). The royalty rates payable for a compulsory license for a digital phonorecord delivery under this section shall be established de novo and no precedential effect shall be given to the amount of the royalty payable by a compulsory licensee for digital phonorecord deliveries on or before December 31, 1997. The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept and made available by persons making digital phonorecord deliveries.

"(E)(i) License agreements voluntarily negotiated at any time between one or more copyright owners of nondramatic musical works and one or more persons entitled to obtain a compulsory license under subsection (a)(1) shall be given effect in lieu of any determination by the Librarian of Congress. Subject to clause (ii), the royalty rates determined pursuant to subparagraph (C), (D) or (F) shall be given effect in lieu of any contrary royalty rates specified in a contract pursuant to which a recording artist who is the author of a nondramatic musical work grants a license under that person's exclusive rights in the musical work under sections 106(1) and (3) or commits another person to grant a license in that musical work under sections 106(1) and (3), to a person desiring to fix in a tangible medium of expression a sound recording embodying the musical work.

"(ii) The second sentence of clause (i) shall not apply to—

"(I) a contract entered into on or before June 22, 1995, and not modified thereafter for the purpose of reducing the royalty rates determined pursuant to subparagraph (C), (D) or (F) or of increasing the number of musical works within the scope of the contract covered by the reduced rates, except if a contract entered into on or before June 22, 1995, is modified thereafter for the purpose of increasing the number of musical works within the scope of the contract, any contrary royalty rates specified in the contract shall be given effect in lieu of royalty rates determined pursuant to subparagraph (C), (D) or (F) for the number of musical works within the scope of the contract as of June 22, 1995; and

"(II) a contract entered into after the date that the sound recording is fixed in a tangible medium of expression substantially in a form intended for commercial release, if at the time the contract is entered into, the recording artist retains the right to grant licenses as to the musical work under sections 106(1) and 106(3).

"(F) The procedures specified in subparagraphs (C) and (D) shall be repeated and concluded, in accordance with regulations that the Librarian of Congress shall prescribe, in each fifth calendar year after 1997, except to the extent that different years for the repeating and concluding of such proceedings may be determined in accordance with subparagraphs (B) and (C).

"(G) Except as provided in section 1002(e) of this title, a digital phonorecord delivery licensed under this paragraph shall be accompanied by the information encoded in the sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer.

"(H)(i) A digital phonorecord delivery of a sound recording is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, unless—

"(I) the digital phonorecord delivery has been authorized by the copyright owner of the sound recording; and

"(II) the owner of the copyright in the sound recording or the entity making the digital phonorecord delivery has obtained a compulsory license under this section or has otherwise been authorized by the copyright owner of the musical work to distribute or authorize the distribution, by means of a digital phonorecord delivery, of each musical work embodied in the sound recording.

"(ii) Any cause of action under this subparagraph shall be in addition to those available to the owner of the copyright in the nondramatic musical work under subsection (c)(6) and section 106(4) and the owner of the copyright in the sound recording under section 106(6).

"(I) The liability of the copyright owner of a sound recording for infringement of the copyright in a nondramatic musical work embodied in the sound recording shall be determined in accordance with applicable law, except that the owner of a copyright in a sound recording shall not be liable for a digital phonorecord delivery by a third party if the owner of the copyright in the sound recording does not license the distribution of a phonorecord of the nondramatic musical work.

"(J) Nothing in section 1008 shall be construed to prevent the exercise of the rights and remedies allowed by this paragraph, paragraph (6), and chapter 5 in the event of a digital phonorecord delivery, except that no action alleging infringement of copyright may be brought under this title against a manufacturer, importer or distributor of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or against a consumer, based on the actions described in such section.

"(K) Nothing in this section annuls or limits (i) the exclusive right to publicly perform a sound recording or the musical work embodied therein, including by means of a digital transmission, under sections 106(4) and 106(6), (ii) except for compulsory licensing under the conditions specified by this section, the exclusive rights to reproduce and distribute the sound recording and the musical work embodied therein under sections 106(1) and 106(3), including by means of a digital phonorecord delivery, or (iii) any other rights under any other provision of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

"(L) The provisions of this section concerning digital phonorecord deliveries shall not apply to any exempt transmissions or retransmissions under section 114(d)(1). The exemptions created in section 114(d)(1) do not expand or reduce the rights of copyright owners under section 106(1) through (5) with respect to such transmissions and retransmissions."; and

(5) by adding after subsection (c) the following:

"(d) DEFINITION.—As used in this section, the following term has the following meaning: A 'digital phonorecord delivery' is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, non-interactive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.".

SEC. 5. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "device", "machine", or "process" the following:

"A 'digital transmission' is a transmission in whole or in part in a digital or other non-analog format.".

(b) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS.—Section 111(c)(1) of title 17, United States Code, is amended in the first sentence by inserting "and section 114(d)" after "of this subsection".

(c) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.—

(1) Section 119(a)(1) of title 17, United States Code, is amended in the first sentence by inserting "and section 114(d)" after "of this subsection".

(2) Section 119(a)(2)(A) of title 17, United States Code, is amended in the first sentence by inserting "and section 114(d)" after "of this subsection".

(d) COPYRIGHT ARBITRATION ROYALTY PANELS.—

(1) Section 801(b)(1) of title 17, United States Code, is amended in the first and second sentences by striking "115" each place it appears and inserting "114, 115,".

(2) Section 802(c) of title 17, United States Code, is amended in the third sentence by striking "section 111, 116, or 119," and inserting "section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115,".

(3) Section 802(g) of title 17, United States Code, is amended in the third sentence by inserting "114," after "111,".

(4) Section 802(h)(2) of title 17, United States Code, is amended by inserting "114," after "111,".

(5) Section 803(a)(1) of title 17, United States Code, is amended in the first sentence by striking "115" and inserting "114, 115" and by striking "and (4)" and inserting "(4) and (5)".

(6) Section 803(a)(3) of title 17, United States Code, is amended by inserting before the period "or as prescribed in section 115(c)(3)(D)".

(7) Section 803(a) of title 17, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) With respect to proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 114, the Librarian of Congress shall proceed when and as provided by that section.".

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 3 months after the date of enactment of this Act, except that the provisions of sections 114(e) and 114(f) of title 17, United States Code (as added by section 3 of this Act) shall take effect immediately upon the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Similar House bills (H.R. 1506) and (H.R. 587) were laid on the table.

GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR DISTRIBUTION OF USIA FILM "FRAGILE RING OF LIFE"

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2070) to provide for the distribution within the United States of the U.S. Information Agency film entitled "Fragile Ring of Life."

The Clerk read as follows:

H.R. 2070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE UNITED STATES INFORMATION AGENCY FILM ENTITLED "FRAGILE RING OF LIFE".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Fragile Ring of Life"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. MORAN] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

□ 1545

Mr. Speaker, I yield myself such time as I may consume.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 2070 as introduced by our colleague, Mr. MORAN. This legislation authorizes the distribution within the United States of a specific film, "The Fragile Ring of Life" produced by the U.S. Information Agency.

This legislation is necessary because section 501 of the Smith Mundt Act of 1948 prevents the release within the United States of products commissioned by the U.S. Information Agency for 12 years.

The intent of the Smith Mundt Act is to prevent the executive branch from using the U.S. Information Agency as a political tool within the United States. While this is a reasonable objective, over the years Congress has approved the early release of several films and videotape programs through legislative action. The decision to waive the Smith Mundt Act restriction on domestic dissemination is usually based on finding the material offers worthwhile educational or cultural information of interest or value to American citizens.

The "Fragile Ring of Life" does meet these standards. The film discusses programs operating around the world that are focused on protecting sea life and coral reefs. In addition, it provides a useful summary of various efforts to establish environmentally sound practices within countries that rely upon the sea for food, commerce, or tourism.

I urge support for H.R. 2070 so that this film may be made available to domestic viewers.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

This is a very simple, straightforward, noncontroversial bill. It simply allows the film that the U.S. Information Agency sponsored, the "Fragile Ring of Life," to be distributed within the United States.

If it were not for this legislation, this film could not be shown for another 12 years, because, as the gentleman from New Jersey [Mr. SMITH] said, the Smith-Mundt Act of 1948, and I gather that was no relation to the gentleman from New Jersey [Mr. SMITH], it was another Mr. Smith, but in 1948 to prevent the executive branch from using the U.S. Information Agency as a political tool, and it said that the film has to be around for 12 years before it can be shown initially in the United States.

We have passed any number of other pieces of legislation because of this restrictive law. The Thomas Jefferson papers show, which commemorated the 250th anniversary of Thomas Jefferson's birth; we had a documentary about crimes against humanity regarding the conflict in Yugoslavia; we had a film called "The Long Way Home," about the humanitarian crisis in Afghanistan; a tribute to Mickey Leland; photographs of military operations-related activities in the Republic of Vietnam for the purpose of developing and publishing military histories. All of these films served an important purpose, but they all had to get this kind of specific legislative authority before they could be shown in the United States.

The "Fragile Ring of Life" is important because it will contribute to scholarly efforts and public awareness of these undersea issues. There are a number of private sector efforts going on to protect the world's coral reefs by revealing the incredible beauty and productivity of coral reefs in generating food, income, and employment to communities around the world. This film shows some stark examples of the environmental degradation that has occurred and highlights the most successful reef conservation programs. The filmmakers went all the way around the Florida keys, Sri Lanka, Jamaica, Egypt, Israel, Jordan, and shot some stunning underwater scenes in all of these locations. It is just so ironic that it cannot be shown in the United States.

Coral reefs are one of the most diverse and important of all natural ecosystems. They are considered the rain forests of the ocean. They are located within eight States, U.S. States and territories, and the third largest reef in the world is located next to the Florida keys. It spans 150 miles from the south of Miami to the Gulf of Mexico, and over 6 million tourists every year visit the keys to boat, fish, and snorkel and scuba dive and see more than 6,000 species of plants, fish, and invertebrates.

Because the keys are so important, not only commercially but because of protein they provide, any number of environmental contributions that coral reefs make, it is disturbing that 10 percent of the reefs have been lost already, and scientists estimate another 20 to 30 percent could be lost over the next 15 years.

That is why this is important to be shown. The State Department has a coral reef initiative that brings seven countries together to more effectively manage coral reef ecosystems.

The Department of State already has a long list of organizations that want to participate in this within the United States, schools, museums, environmental groups, and they need to be able to show this film.

I cannot imagine any reason why all of the Members would not want them to be able to show this film, and, in fact, many of the Members may want to make it available to their school systems.

I do want to express my appreciation to the gentleman from Indiana [Mr. HAMILTON], the ranking Democrat on the full committee, and the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations, in moving this through the committee, and lastly, I want to put in a plug in recognition to the superb staff of the Committee on International Relations, Beth Ford and Kristen Gilley. They have done a terrific job, as well as Kris King, on my staff, who has followed this for months and made sure it got legislated, as well as putting all of these thoughts together.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I do thank the gentleman for his kind words. It is a good bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from New Jersey [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2070.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2070, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE FALL RIVER VISITOR CENTER ACT OF 1995

Mr. ALLARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 629) to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado.

The Clerk read as follows:

H.R. 629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Fall River Visitor Center Act of 1995".

SEC. 2. EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK.

(a) VISITOR CENTER.—The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on the privately owned lands described in subsection (b).

(b) DESCRIPTION OF PARCELS OF LAND.—The lands referred to in subsection (a) are described as follows:

Being land owned by H.W. Stewart, Inc., and more particularly described as follows:

Beginning at the southwest corner of the north one-half of section 16, township 5 north, range 73 west of the sixth principal meridian, Colorado; thence south eighty-seven degrees six minutes east, eight hundred and fifty-four feet; thence north two degrees west, three hundred and forty-six and one-tenth feet to the south boundary of the right-of-way of U.S. Highway 34; thence northwesterly along said south boundary nine hundred and sixty feet to the west line of said section 16; thence south along the west line of said section 16 to the point of beginning.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes, and the gentleman from California [Mr. MILLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was brought before the Natural Resources Committee's Subcommittee on National Parks, Forests and Lands last year but could not be moved forward because of concerns raised during the planning process. I am happy to report that all of those concerns have now been addressed and the proposal was approved by the Larimer County Planning Commission in January. The Larimer County Commissioners approved the plan in March. Finally, last year the Park Service suggested a technical change to the bill language which was incorporated into this year's bill. This legislation is a fine example of how the Government and private sector can work together and I appreciate the opportunity to bring the bill before the House today.

This bill is a simple piece of legislation, but one that will have a noticeable impact on the people who enjoy the beauty and recreational opportunities at Rocky Mountain National Park. The legislation simply allows the National Park Service to enter into a cooperative agreement to operate and maintain a visitor center at the Fall River entrance to the park. The bill gives the Secretary of Interior the authority to collect and expend donated funds and expend appropriated funds for the operation and maintenance of the visitor center, which will be located outside the boundary of Rocky Mountain National Park. I introduced this legislation on January 23, 1995, and Senator HANK BROWN introduced a companion bill in the Senate on February 7, 1995.

Mr. Speaker, this is a unique project that deserves our attention and utmost consideration. For some time now there has been tremendous support to construct a visitor center at the Fall River entrance of Rocky Mountain National Park. With 1 million tourists entering the park at this entrance every year, the need to provide an orientation and interpretation facility is well known. As you can imagine, park visitation through this entrance is expected to increase in coming years, not decrease.

The need and desire for a visitor center at the Fall River site is not new. It was first documented in a plan prepared by the Park Service in 1976, and again in 1989. However, due to budget pressures and fiscal constraints this plan was never set into motion.

It was not until early 1993 that the prospect for constructing a new visitor center actually became possible. It was then that Mr. Bill Carle, owner of H.W. Stewart, Inc., approached the park superintendent with his idea for the creation of the Fall River Visitor Center.

Under the Fall River proposal, the visitor center would be built with private funds on land that will remain privately owned. The National Park Service, with assistance from the Shirley S. Scrogin Charitable Trust, the Rocky Mountain Nature Association, and the Rocky Mountain National Park Associates, would operate and maintain the visitor center. The park will use existing staff and operational funds to operate the center. Besides covering the cost of construction, the Shirley S. Scrogin Trust would also contribute funds annually for the maintenance of the center. The Rocky Mountain Nature Association, a friends of the park group, will provide a book sales operation and staff support for the center. Revenue generated from book sales will assist in defraying costs associated with the visitor center's operation. The Rocky Mountain National Park Associates, another friends of the park group, will assume the financial expenses for exhibit planning, design, and construction.

Mr. Speaker, as a member of the House Budget Committee, I can attest to the difficulty the committee faces all the time when trying to stay within the budget requirements and utilize taxpayer's money judiciously. We are constantly looking for ways to reduce spending, cut duplicative programs, and put Congress on a path toward fiscal responsibility. I believe H.R. 629 fulfills these goals and will yield savings for the Federal Government, as well as produce rewards.

I am sure you understand the financial constraints that face our National Park Service today. Due to the scarcity of dollars, it is doubtful that Rocky Mountain National Park will be appropriated—at any time in the near future—the funds necessary to construct a new visitor center from start to finish. Thus, the opportunity before us today is unique and one that we must not let fall through the cracks. The idea of a private-public partnership is one that I know many in Congress and the administration support. It makes sense from both a fiscal and practical point of view.

As I have tried to note, the benefits of this proposal are numerous: Visitors who come to Rocky Mountain National Park can enjoy the new visitor center; the Park Service will be allowed to collect fees at the Fall River entrance; and the developer will be able to reopen his businesses that were lost during a fire.

In summary, this proposal brings together the best qualities in both the public and private sectors. It combines the strengths and visions of both entities and provides a blueprint for similar joint ventures in the future. Whenever Congress has the opportunity to provide the public with the services it needs, while at the same time saving taxpayer's money, it must seize that opportunity. By passing this legislation today, we will have taken the first important step on the road to similar public-private partnerships in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Colorado has quite accurately reflected the content of H.R. 629. It had bipartisan support coming out of the committee. We continue to support it.

Mr. Speaker, if enacted this legislation would allow the National Park Service to enter into cooperative agreements with private and not-for-profit entities in order to construct, maintain, and operate a visitors center on private land outside park boundaries of the Rocky Mountain National Park. This would be the first ever such public-private venture to address a park need.

Rocky Mountain National Park is the No. 1 tourist attraction in the State of Colorado with an annual visitation of almost 3 million people. Currently, almost 1 million of those visitors enter the park through the Fall River entrance and do so without benefit of a National Park Service facility. Such a facility would greatly enhance the stay of the park visitor by providing information on camping, trails, park rules, safety tips, and historical data on the terrain and wildlife.

There has been much local input on this proposal and I believe all parties have addressed the foreseeable issues. I look forward to the outcome of this joint venture as I believe it may be a model for similar agreements in the future.

Mr. YOUNG of Alaska. Mr. Speaker, H.R. 629 is a noncontroversial bill which will authorize the National Park Service to spend Federal funds to operate a new visitor center. The center will be developed with private funds and located on private lands just outside the entrance of Rocky Mountain National Park. The bill is consistent with Park Service plans, supported by the administration and will be funded from existing funds.

Mr. Speaker, Rocky Mountain National Park is the No. 1 tourist attraction in the State of Colorado and a new visitor center will serve to educate the visitors about the park and its resources, while encouraging a partnership with the private sector. I urge my colleagues to support this bill.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. ALLARD] that the House suspend the rules and pass the bill, H.R. 629.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 629, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

WATER RESOURCES RESEARCH ACT AMENDMENTS OF 1995

Mr. DOOLITTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1743) to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Section 102 of the Water Resources Research Act of 1984 (42 U.S.C. 10301) is amended—

(1) in paragraph (2), by inserting ", productivity of natural resources and agricultural systems," after "environmental quality";

(2) by striking out "and" at the end of paragraph (6);

(3) by striking out the period at the end of paragraph (7) and inserting "; and"; and

(4) by adding at the end the following:

"(8) long-term planning and policy development are essential to assuring the availability of an abundant supply of high quality water for domestic and other uses; and

"(9) the States must have the research and problem-solving capacity necessary to effectively manage their water resources.".

SEC. 2. PURPOSE.

Section 103 of the Water Resources Research Act of 1984 (42 U.S.C. 10302) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) encourage long-term planning and research to meet future water management, quality, and supply challenges.".

SEC. 3. GRANTS; MATCHING FUNDS.

Section 104(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(c)) is amended by striking "one non-Federal dollar" and all that follows through "thereafter" and inserting "two non-Federal dollars for every Federal dollar".

SEC. 4. GENERAL AUTHORIZATIONS OF APPROPRIATIONS.

Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking "of $10,000,000 for each of the fiscal years ending September 30, 1989, through September 30, 1995," and inserting "of $5,000,000 for fiscal year 1996, $7,000,000 for fiscal years 1997 and 1998, and $9,000,000 for fiscal years 1999 and 2000".

SEC. 5. COORDINATION.

Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by adding at the end the following:

"(h)(1) To carry out provisions of this Act, the Secretary—

"(A) shall encourage other Federal departments, agencies (including agencies within the Department of the Interior), and instrumentalities to use and take advantage of the expertise and capabilities which are available through the institutes established by this section, on a cooperative or other basis;

"(B) shall encourage cooperation and coordination with other Federal programs concerned with water resources problems and issues;

"(C) may enter into contracts, cooperative agreements, and other transactions without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(D) may accept funds from other Federal departments, agencies (including agencies within the Department of the Interior), and instrumentalities to pay for and add to grants made, and contracts entered into, by the Secretary;

"(E) may promulgate such rules and regulations as he deems appropriate; and

"(F) may support a program of internships for qualified individuals at the undergraduate and graduate level to carry out the educational and training objectives of this Act.

"(2) The Secretary shall report to Congress annually on coordination efforts with other Federal departments, agencies, and instrumentalities under paragraph (1).

"(3) Nothing in this Act shall preempt the rights and authorities of any State with respect to its water resources or management of those resources.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will be recognized for 20 minutes, and the gentleman from California [Mr. MILLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the primary intent of H.R. 1743 is to extend the authorization for the State Water Resources Research Institutes. Through the act, the institutes have established a Federal/State partnership in water resources, education, and information transfer. There are 54 of these institutes located at the land grant university in each of the 50 States and several of the territories. These institutes are a primary link between the academic community, the water-related personnel in Federal and State Government, and the private sector. The institutes provide a mechanism for promoting State, regional, and national coordination of water resources research and training. They also serve as a network to facilitate research coordination and information transfer. Their programs are coordinated with the general guidance of the Secretary of the Interior.

This is a popular program because research from the water institutes is often directed at finding solutions to water problems that have local and regional relevance. Research results from the program are often applied to real-world problems in water management.

H.R. 1743 would expand the act's findings and focus on the need for long-term planning and policy development, support for States in water resources management, and maintaining productivity of natural resources and agricultural systems.

H.R. 1743 sets forth new requirements for the Interior Department to coordinate and cooperate with other departments and agencies of the Federal Government on water resources problems and requires an annual report on these efforts to Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, on this legislation, H.R. 1743, the Water Resources Research Act reauthorization, the gentleman from California [Mr. DOOLITTLE], the subcommittee Chair, has accurately described the bill, and it has bipartisan support, and I believe bipartisan support both here and in the Senate.

We would urge the passage of the bill.

Mr. Speaker, I rise in support of H.R. 1743, a bill to amend the Water Resources Research Act of 1984.

This legislation extends the authorization of this important program for 5 years and also provides new flexibility for the program. New cost-sharing requirements are also specified in this legislation.

The Water Research Program has provided us with extraordinary benefits for 30 years. We now have water research institutes in every State, as well as in the Virgin Islands, Guam, the District of Columbia, and Puerto Rico. The program supports our educational institutions by training engineers and scientists skilled in all aspects of water research and management.

With help from the Water Research Program and the State research institutes, we have improved our capability to manage floods and to plan community growth to avoid flood damages. We have improved our ability to clean up chemical contamination of our water supplies. And we have trained hundreds of scientists, technicians, and engineers to help us solve complex water management problems.

The Water Resources Research Program authorized by H.R. 1743 is a cost-effective and inexpensive program. Costs of operating the program are shared with non-Federal interests. The program provides valuable research that is useful to local and State water managers throughout the Nation. The water research program has given us years of service and deserves our continued support.

I urge my colleagues to support H.R. 1743.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from California [Mr. MILLER] for his support on this.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the bill, H.R. 1743, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1743, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2066

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 2066.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1600

COLLECTION OF FEES FOR TRIPLOID GRASS CARP CERTIFICATION INSPECTIONS

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 268) to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

The Clerk read as follows:

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COLLECTION OF FEES FOR TRIPLOID GRASS CARP CERTIFICATION INSPECTIONS.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Fish and Wildlife Service (referred to in this section as the "Director"), may charge reasonable fees for expenses to the Federal Government for triploid grass carp certification inspections requested by a person who owns or operates an aquaculture facility.

(b) AVAILABILITY.—All fees collected under subsection (a) shall be available to the Director until expended, without further appropriations.

(c) USE.—The Director shall use all fees collected under subsection (a) to carry out the activities referred to in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes, and the gentleman from California [Mr. MILLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I rise in support of S. 268. This legislation establishes a fee-for-service system whereby the Secretary of the Interior may collect fees from private fish producers for the cost of grass carp certification inspections. It also allows the U.S. Fish and Wildlife Service to retain those funds for that program.

This legislation is important because many States require that grass carp, which are imported by these States to eat aquatic vegetation, must be certified as sterile or triploid. This is to ensure that these carp do not reproduce and have an adverse effect on the environment.

The Fish and Wildlife Service has been certifying the sterility of grass carp since 1979. In fiscal year 1994, over $70,000 was spent by the Service on this program. Due to budget constraints, however, the Fish and Wildlife Service has announced that it is no longer able to bear the cost of this program. Private producers have notified the Service that they are willing to pay certification costs. This legislation will allow the fee-for-service to be established so the Service can continue the program at no cost to the Federal Government.

This legislation was the subject of a hearing in my subcommittee on June 8 and it was unanimously approved by the House Resources Committee.

It is an excellent example of how a user fee can be established that is both beneficial to those who receive the inspection services and to our taxpayers.

I want to compliment our distinguished colleague from Arkansas, BLANCHE LAMBERT LINCOLN, for her leadership on this legislation.

I urge an "Aye" vote on S. 268.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this legislation, which is a very good example of a private-public partnership that benefits the taxpayers, private industry, and the environment.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Speaker, I would like to thank the gentleman from California, Mrs. MILLER, as well as the gentleman from New Jersey, Chairman SAXTON, for their assistance in this matter.

Mr. Speaker, I rise to urge adoption of this legislation before the House today that epitomizes the type of relationship that should exist between private industry and the Federal Government.

For the past several years the Fish and Wildlife Service has conducted a certification program for the triploid grass carp. This beneficial fish is utilized by 29 States to help control aquatic vegetation in lakes ponds, and streams. The triploid grass carp provides an effective, economical method of caring for these environments without the use of chemical agents.

As the use of the fish has increased over the years, a number of States have adopted regulations which require the grass carp to be certified as sterile. If a reproducing carp were introduced into these environments it could cause serious damage to the existing fish species. The certification process has assured States that the fish were sterile, thereby allowing their shipment by private aquaculturists.

In the past year the Fish and Wildlife Service conducted 550 triploid grass carp inspections at no charge to the producer. The cost of the program was $70,000. However, this year because of the dire fiscal situation that faces many agencies, the Fish and Wildlife Service has indicated that it cannot afford to operate the program.

The producers who have utilized this program have agreed to pay a fee that would cover the entire cost of the program with the understanding that the funds would be utilized for this purpose only. The Fish and Wildlife Service supports this arrangement but lacks the authority to implement it without congressional authorization.

This bill is identical to one that I introduced earlier this year and I appreciate the support of Chairman SAXTON, Chairman YOUNG, and Congressmen STUDDS in bringing this measure to the floor today. I urge my colleagues to support this legislation.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from Arkansas [Mrs. LINCOLN] for her work on this legislation. She has garnered partisan support for this legislation. We urge support of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to build on the comments of the gentleman from California, Mr. MILLER. The gentlewoman from Arkansas, Mrs. LINCOLN, has in fact done a yeoman's job on this bill in an atmosphere where partisan politics seems to play an overly aggressive role around here, both on the committee level and here on the House floor.

She has been able to, No. 1, fashion a bill that makes sense and, No. 2, to get support, I believe almost unanimous support, on the committee in a very, very businesslike and professional way. We appreciate that approach and are glad to have been able to work with the gentlewoman on this.

Mr. YOUNG of Alaska. Mr. Speaker, I strongly support S. 268 and feel it is appropriate to allow private fish producers to fully reimburse the U.S. Fish and Wildlife Service for the costs of their certification to triploid grass carp.

The U.S. Fish and Wildlife Service began its involvement in the DNA certification of triploid grass carp nearly two decades ago. Since that time, the program has grown to more than 550 inspections per year for private producers whose fish are shipped to some 30 States. In fiscal year 1994, over $70,000 was spent by the Service on this program.

This certification process is necessary to ensure that only sterile grass carp are released in public and private waters to control aquatic vegetation.

Earlier this year, the Fish and Wildlife Service announced its intention to terminate this certification program. Since States will not allow the release of grass carp without the Service's stamp of approval, this legislation has become necessary.

S. 268 will establish a fee-for-service system and it will allow the Fish and Wildlife Service to retain those collected funds to cover the expenses of the triploid grass carp certification inspections.

I urge an "aye" vote on this measure and compliment our colleague, BLANCHE LAMBERT LINCOLN, for her leadership in bringing this matter to our attention.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the Senate bill, S. 268.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 268, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXTENDING CERTAIN VETERANS' AFFAIRS HEALTH AND MEDICAL CARE EXPIRING AUTHORITIES

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2353) to amend title 38, United States Code, to extend certain expiring authorities of the Department of Veterans' Affairs relating to delivery of health and medical care, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXPIRING AUTHORITIES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) HOSPITAL CARE AND MEDICAL SERVICES FOR PERSIAN GULF VETERANS EXPOSED TO TOXIC SUBSTANCES.—(1) Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

(2) Section 1712(a)(1)(D) of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

(b) CONTRACT AUTHORITY FOR ALCOHOL AND DRUG ABUSE CARE.—Subsection (e) of section 1720A of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(c) NURSING HOME CARE ALTERNATIVES.—(1) Section 1720C(a) of such title is amended by striking out "September 30, 1995" and inserting in lieu thereof "December 31, 1997".

(2) The Secretary of Veterans Affairs shall submit to Congress, not later than March 31, 1997, a report on the medical efficacy and cost effectiveness, and disadvantages and advantages, associated with the use by the Secretary of noninstitutional alternatives to nursing home care.

(d) HEALTH SCHOLARSHIPS PROGRAM.—(1) Section 7618 of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(2)(A) The Secretary of Veterans Affairs shall submit to Congress, not later than March 31, 1997, a report setting forth the results of a study evaluating the operation of the health professional scholarship program under subchapter II of chapter 76 of title 38, United States Code. The study shall evaluate the efficacy of the program with respect to recruitment and retention of health care personnel for the Department of Veterans Affairs and shall compare the costs and benefits of the program with the costs and benefits of alternative methods of ensuring adequate recruitment and retention of such personnel.

(B) The Secretary shall carry out the study under this paragraph through a private contractor. The report under subparagraph (A) shall include the report of the contractor and the comments, if any, of the Secretary on that report.

(e) ENHANCED-USE LEASES OF REAL PROPERTY.—(1) Section 8169 of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(2) The Secretary of Veterans Affairs shall submit to Congress, not later than March 31, 1997, a report evaluating the operation of the program under subchapter V of chapter 81 of title 38, United States Code.

(f) COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322; 38 U.S.C. 1712 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "December 31, 1997".

(g) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY AND THERAPEUTIC TRANSITIONAL HOUSING.—Section 7 of Public Law 102–54 (38 U.S.C. 1718 note) is amended—

(1) in subsection (a), by striking out "During fiscal years 1991 through 1995, the Secretary" and inserting in lieu thereof "The Secretary"; and

(2) by adding at the end the following:

"(m) SUNSET.—The authority for the demonstration program under this section expires on December 31, 1997.".

(h) HOMELESS VETERANS PILOT PROGRAM.—The Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590) is amended as follows:

(1) Section 2(a) (38 U.S.C. 7721 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "December 31, 1998".

(2) Section 3(a) (38 U.S.C. 7721 note) is amended by striking out ", during fiscal years 1993, 1994, and 1995,".

(3) Section 12 (38 U.S.C. 7721 note) is amended by striking out "each of the fiscal years 1993, 1994, and 1995" and inserting in lieu thereof "each fiscal year through 1998".

SEC. 2. REPORTS.

(a) REPORT ON CONSOLIDATION OF CERTAIN PROGRAMS.—The Secretary of Veterans Affairs shall submit to Congress, not later than March 1, 1997, a report on the advantages and disadvantages of consolidating into one program the following three programs:

(1) The alcohol and drug abuse contract care program under section 1720A of title 38, United States Code.

(2) The program to provide community-based residential care to homeless chronically mentally ill veterans under section 115 of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note).

(3) The demonstration program under section 7 of Public Law 102–54 (38 U.S.C. 1718 note).

(b) REPORT ON SCIENTIFIC EVIDENCE CONCERNING HEALTH CONSEQUENCES OF MILITARY SERVICE IN PERSIAN GULF WAR.—(1) The Secretary of Veterans Affairs shall, in consultation with the National Academy of Sciences and with officials of other appropriate Federal departments and agencies, review the scientific evidence, and assess the strength of such evidence, concerning association between military service in the Southwest Asia theater of operations during the Persian Gulf War and any disease that may be associated with such service.

(2) The Secretary shall, not later than March 1, 1998, submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the findings of the review and assessment under paragraph (1).

SEC. 3. REPEAL OF AUTHORITY TO MAKE GRANTS TO VETERANS MEMORIAL MEDICAL CENTER IN THE PHILIPPINES.

(a) REPEAL.—Section 1732 of title 38, United States Code, is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (b) and striking out "or grant" both places it appears in that subsection; and

(3) by redesignating subsection (d) as subsection (c) and striking out "and to make grants" in that subsection.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended by striking out "**and grants**".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended by striking out "and grants".

SEC. 4. DISPLAY OF POW/MIA FLAG AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) DAILY DISPLAY OF FLAG.—Subsection (a) of section 1084 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 36 U.S.C. 189 note) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) on, or on the grounds of, each Department of Veterans Affairs medical center (except as provided in subsection (e)), on every day on which the flag of the United States is displayed.".

(b) EXCEPTION FOR CERTAIN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.—Such section is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) SPECIAL RULE FOR DISPLAY AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.—(1) Upon a determination by the director of a Department of Veterans Affairs medical center that the daily display of the POW/MIA flag at that medical center may be detrimental to the treatment of patients at that center, the provisions of subsection (a)(3) shall be inapplicable with respect to that medical center.

"(2) Whenever the director of a Department of Veterans Affairs medical center makes a determination described in paragraph (1), that officer shall submit a report on such determination, including the basis for the determination, to the Under Secretary for Health of the Department of Veterans Affairs.".

(c) PROCUREMENT AND DISTRIBUTION OF FLAGS.—(1) Subsection (c) of such section is amended by striking out "Within 30 days after the date of the enactment of this Act, the Administrator" and inserting in lieu thereof "The Administrator".

(2) The Administrator of General Services shall carry out subsection (c) of section 1084 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 36 U.S.C. 189 note) with respect to the procurement and distribution of POW/MIA flags for the purposes of paragraph (3) of subsection (a) of such section (as added by subsection (a) of this section) within 30 days after the date of the enactment of this Act.

SEC. 5. CONTRACTS FOR UTILITIES, AUDIE L. MURPHY MEMORIAL HOSPITAL.

(a) AUTHORITY TO CONTRACT.—Subject to subsection (b), the Secretary of Veterans Affairs may enter into contracts for the provision of utilities (including steam and chilled water) to the Audie L. Murphy Memorial Hospital in San Antonio, Texas. Each such contract may—

(1) be for a period not to exceed 35 years;

(2) provide for the construction and operation of a production facility on or near property under the jurisdiction of the Secretary;

(3) require capital contributions by the parties involved for the construction of such a facility, such contribution to be in the form of cash, equipment, or other in-kind contribution; and

(4) provide for a predetermined formula to compute the cost of providing such utilities to the parties for the duration of the contract.

(b) FUNDS.—A contract may be entered into under subsection (a) only to the extent as provided for in advance in appropriations Acts.

(c) ADDITIONAL TERMS.—The Secretary may include in a contract under subsection (a) such additional provisions as the Secretary considers necessary to secure the provision of utilities and to protect the interests of the United States.

SEC. 6. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, WALLA WALLA, WASHINGTON.

The Department of Veterans Affairs Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall after the date of the enactment of this Act be known and designated as the "Jonathan M. Wainwright Department of Veterans Affairs Medical Center". Any reference to that medical center in any law, regulation, map, document, paper, or other record of the United States shall be considered to be a reference to the Jonathan M. Wainwright Department of Veterans Affairs Medical Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes, and the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2353.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2353 would extend various authorities of the Department of Veterans Affairs relating to delivery of health care for eligible veterans.

These include: Hospital care and medical services for Persian Gulf veterans; use of nursing home care alternatives; care for homeless veterans; and extension of the VA Health Scholarship program.

H.R. 2353 would also: Provide for the daily display of the POW/MIA flag at VA medical centers; authorize VA to contract for utilities at the Audie Murphy Memorial Veterans Hospital in San Antonio, TX; and, change the name of the Walla Walla, Washington VA Medical Center to the Jonathan M. Wainwright VA Medical Center.

As with all VA medical care authorizations, these provisions would be subject to annual appropriation levels.

The Congressional Budget Office has stated this bill would not affect direct spending or receipts; thus it would have no pay-as-you-go implications under budget rules.

As always, I want to thank the VA Committee's ranking member, my distinguished colleague SONNY MONTGOMERY for his cooperation and assistance on this bill.

I also want to thank CHRIS SMITH, vice-chairman of the VA Committee, the chairman of the Hospital and Health Care Subcommittee, TIM HUTCHINSON, and the subcommittee's ranking member, CHET EDWARDS, for their bipartisan work on this measure.

They worked in a very constructive fashion with other members of the committee to resolve differences of opinion and accommodate Members' desires in regard to this legislation.

Mr. FOX, a member of the Hospitals and Health Care Subcommittee should be acknowledged for his instruction of the provision regarding flying the POW/MIA flag at VA medical centers.

Additionally, I would like to acknowledge the contribution of Mr. NETHERCUTT of Washington, for his leadership in renaming the VA medical center in Walla Walla, in honor of Gen. Jonathan M. Wainwright.

General Wainwright was an extremely distinguished military and civic leader, so it is very fitting that we take this action in his memory.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH], the vice chairman of the committee, for an explanation of the bill.

Mr. SMITH of New Jersey. Mr. Speaker, I strongly support H.R. 2353, legislation to extend eight needed expiring authorities for the Department of Veterans Affairs, including other important provisions. Before I summarize the bill I would like to express my sincere appreciation for the bipartisan effort and the outstanding work by those who brokered the compromises reflected in the bill. Through the efforts of Chairman HUTCHINSON and Chairman STUMP, along with full committee ranking member MONTGOMERY, and CHET EDWARDS, the ranking member of the subcommittee, we were able to reach a compromise that reflects not only the specific concerns of each of the members but also the needs of our veteran constituents. We were also, in the spirit of compromise, able to address the concerns of Mr. NETHERCUTT and the entire Washington State delegation to rename the Walla Walla VA Medical Center for a Great Washingtonian, Gen. Jonathan M. Wainwright.

Under this bill, hospital and medical care services for Persian Gulf veterans will be extended for 3 years, until December 31, 1998.

This bill also extends the following seven authorities: Contract authority for alcohol and drug abuse care through December 31, 1997; the nursing home care alternatives program through December 31, 1997 with an evaluation due to Congress March 31, 1997; The Health Scholarships program to December 31, 1997, with a report by a private contractor due to Congress March 31, 1997; enhanced-use lease of real property authority to December 31, 1997 with a report due to Congress March 31, 1997; the community-based residential care for homeless chronically mentally ill veterans to December 31, 1997; the demonstration program of compensated work therapy and therapeutic transitional housing to December 31, 1997; and the homeless veterans pilot program to December 31, 1998.

Section 2 of the bill requires the VA to submit to Congress by March 1, 1997 a report on the advantages and disadvantages of consolidating the following programs: Alcohol and drug abuse contract care, community-based residential care to homeless chronically mentally ill veterans, and compensated work therapy and therapeutic transitional housing.

Section 2 also includes a compromise provision which authorizes a report on the scientific evidence concerning the health consequences of military service in the Persian Gulf war.

Section 3 of the bill repeals the authority of the VA to provide grants to the Veterans Memorial Medical Center in the Philippines.

Section 4 of the bill permits the daily display of the POW/MIA flag at Department of Veterans Affairs medical centers.

Section 5 authorizes contract authority for utilities at the Audie L. Murphy Memorial Medical Center, San Antonio, Texas.

Finally, Section 6 authorizes the name change of the Walla Walla VA Medical Center to the Jonathan M. Wainwright Department of Veterans Affairs Medical Center, a great American hero and son of the State of Washington.

Mr. Speaker, this legislation is strongly supported by the Department, professional organizations representing the affected groups, and the Committee on Veterans' Affairs. Both the Subcommittee on Hospitals and Health Care and the full committee unanimously reported this measure. I strongly support passage of this legislation.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to start by thanking the gentleman from Arizona [Mr. STUMP], the chairman of the committee, for bringing this bill to the floor. I also want to commend the gentleman from Arkansas [Mr. HUTCHINSON], and also the gentleman from New Jersey, [Mr. CHRIS SMITH], who handled the bill today. The gentleman from Arkansas [Mr. HUTCHINSON] is the chairman of the Subcommittee on Hospitals and Health Care, and also, the gentleman from Texas [Mr. CHET EDWARDS], the ranking member on this side, for their work in moving this measure to the House today.

As the gentleman from Texas [Mr. EDWARDS] said last week, along with the gentleman from Arizona [Mr. STUMP], we like to do things that affect veterans in a nonpartisan fashion, and this bill demonstrates our commitment to that principle.

Mr. Speaker, I would like to take a minute or two to talk about two important areas of this legislation. The first is the authority to provide health care on a priority basis to Persian Gulf veterans. Although the vast majority of these veterans do not have health concerns, there has been a great deal of attention paid to those with undiagnosed illnesses.

I would like to point out, Mr. Speaker, that in fact we passed historic legislation last year that if there is an undiagnosed illness of a veteran who was in the Persian Gulf, who served over in that faraway land, that that veteran can draw disability either for his or her family on a temporary basis until the research gets forward and helps us decide what the cause of that illness is. Both the Congress and the President are determined to get answers for those undiagnosed illnesses.

Mr. Speaker, I want to assure those veterans that if they need health care, I would hope they would go to the veterans hospital where they are, and they can try and we will try to search out the answers to some of these cases that have not been solved on the illness.

The second topic that I would like to briefly touch upon is the extension of the authorization for programs addressing the problems of veterans with mental illnesses. This bill authorizes the VA to continue to help veterans who are homeless or who have been recently discharged from the hospital.

The VA has a number of different programs to provide medical care, transitional housing and work therapy for these veterans. These are very important programs because they provide hope and dignity to veterans who have served their country and who are now suffering from the most invisible pain of mental illness. These veterans are very dependent on the Government for basic human needs and we have a special duty to continue to care for them.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Mrs. THURMAN].

□ 1615

Mrs. THURMAN. Mr. Speaker, I thank the gentleman from Mississippi [Mr. MONTGOMERY] for yielding me this time, and I stand here ready to support H.R. 2353 and commend the work that has been done on this by the gentleman from Arizona [Mr. STUMP], the chairman of the committee. However, Members will hear me more than once on this issue for the next, at least for the 104th Congress, because I think there is something that needs to continue to be pointed out about veterans health care.

Mr. Speaker, in the U.S. Senate there was a Member that actually brought this up as well. I think the gentleman from Arizona [Mr. STUMP] might be well aware because he and I actually share some similar problems with Arizona and Florida.

As most of you know, Florida is a very popular veteran's destination. Between 1980 and 1990, the veterans population within my district increased immensely. For example, in Pasco County the number of veterans increased 56 percent; for Gilchrist County, it increased 63 percent; and in Marion County, the number of veterans increased 76 percent.

In the past, the VA has attempted to better allocate limited resources through the resource planning and management system [RPM]. Unfortunately, the Department of Veterans Affairs is reluctant to implement the proposals and findings of the RPM and rellocate resources to meet this shifting demand. According to a July 19, 1995, GAO report, the Department has failed to fully implement the new budgeting method known as the resource planning and management system.

The GAO stated:

> Because VHA lacked resources to fund all facilities' expected needs, it chose to limit the resources given to facilities with growing workloads. . . . For facilities with decreasing workloads, VHA chose not to reduce their funding in proportion to the expected decreases in workload. These decisions led only to small adjustments in the funding for the projected cost of increased workload, while facilities with decreasing workloads received more resources than they were projected to need.

In other words, those that were decreasing in workload actually were getting almost the same amount, while we that were increasing were getting less, or at least not meeting our needs.

Throughout the country, as well as in my home State of Florida, inequities exist in veterans health funding which need to be addressed. For example, the national average cost per veteran for medical services and administration as contained in the Department of Veterans Affairs Summary of Expenditures by State for fiscal year 1993 was $574. Florida, however, was allocating $405 per veteran for a veteran population of 1,719,022, the second largest veteran population in the Nation. Earlier in the summer, I pointed out that the total VA health care expenditures in Florida for fiscal year 1994 were the same as total expenditure levels in Illinois and Pennsylvania, even though Florida's veteran population is 620,000 greater than Illinois and 330,000 greater than Pennsylvania's. In short, I would just like the chairman and the ranking member to know, I really believe we need to push for the Department of Veterans Affairs to allocate funding to ensure that veterans have equal access to quality health care regardless of what region they live in or which facility provides them services.

I think that is something all of us in this Congress believe we need to do to make sure that those men and women who fought for this country, some which have lost their lives, but those that returned, are given the same opportunities no matter where they live.

Again, Mr. Speaker, I thank the gentleman from Mississippi [Mr. MONTGOMERY] very much for his giving me the opportunity to bring this to the Congress' attention.

Mr. MONTGOMERY. Mr. Speaker, I would like to thank the gentlewoman for her comments. It is a problem we certainly will take a look at, and I think the gentleman from Arizona [Mr. STUMP] has about the same problem as she does as far as veterans moving into your area.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. EDWARDS], the ranking member on the Subcommittee on Hospitals and Health Care. The gentleman from Texas has done a splendid job on that subcommittee and as a committee member of the Committee on Veterans' Affairs.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman from Mississippi [Mr. MONTGOMERY] and I rise in support of H.R. 2353, as amended.

This bill, H.R. 2353, as amended, would extend VA's authority to provide needed services to veterans. Of particular importance, the bill would extend the period during which VA may furnish priority care to Persian Gulf veterans, without regard to whether health problems from which they suffer have been adjudicated as service incurred.

The bill would also permit VA to continue several high-visibility programs which help in rehabilitating homeless and chronically mentally ill veterans. These and other extensions in the bill are needed because in each instance the underlying legal authority to furnish care will expire on or before January 1, 1996.

H.R. 2353, as amended, would also underscore our commitment to achieving a full accounting of the status of American prisoners of war and missing in action by providing for display of the POW/MIA flag at VA medical centers.

Mr. Speaker, I especially want to pay tribute to the gentleman from Pennsylvania [Mr. FOX] for his leadership effort and fighting so that all Americans can be reminded of the fact that we do still have American MIA's and that we should never forget either our MIA's or our American POW's who have served this country. Had it not been for that gentleman's particular leadership on this effort, I do not think this provision would be in the bill and he deserves our credit and our support for that leadership.

This bill also provides a framework for VA to achieve cost savings at the Audie Murphy VA Medical Center in San Antonio, TX, through contracts with a non-Federal institution for construction and shared use of an energy production facility.

I would like to commend my friend and colleague, the gentleman from Texas [Mr. TEJEDA], for his hard work on this provision. While Mr. TEJEDA is not here on the floor today because of a recent operation, our debt of thanks goes out to him. And if he happens to be watching this today, I know I speak on behalf of all of my colleagues in this House in saying we wish him well and appreciate his leadership and input on this bill.

Mr. Speaker, once again, it must be either a Monday or a Tuesday and it must once again be veterans legislation, because the chairman of the committee, the gentleman from Arizona [Mr. STUMP], and the ranking member, the gentleman from Mississippi [Mr. MONTGOMERY], have done their business one more time. They have crafted, with the help of the gentleman from Arkansas [Mr. HUTCHINSON], a bipartisan piece of legislation that is important to our Nation's veterans and they have brought it to the floor without discord, without fighting.

Mr. Speaker, there will not be anyone in the press gallery reporting on this, but, hopefully, once again, as happened last week and so many times before, the cooperative efforts of Mr. STUMP and Mr. MONTGOMERY have resulted in positive, good, constructive legislation coming through this House that will benefit millions of our Nation's veterans who have served our country.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman, yield?

Mr. EDWARDS. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman's mentioning the gentleman from Texas [Mr. TEJEDA], who is a member of the committee, and we are certainly pulling for him.

One thing I talked to the gentleman from Arizona [Mr. STUMP] about is, usually veterans bills are always up first in number. This time we are at the bottom, but I am sure that correction will be looked into, and I appreciate the gentleman's yielding.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman. I am sure they just saved the best for last.

Mr. Speaker, I also want to congratulate the gentleman from Mississippi, [Mr. MONTGOMERY] and the gentleman from Arizona, [Mr. STUMP] and I urge support of this bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to acknowledge the very diligent work of the gentleman from Texas [Mr. EDWARDS]. He is always there, always willing to compromise, and stays right there. I thank both he and the gentleman from Pennsylvania [Mr. FOX] for resolving the issues of the POW-MIT problem of flying the flag at the VA centers and in working out their differences, and I commend both of them.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I too want to thank very much the gentleman from Arizona [Mr. STUMP], the chairman of the committee, and the ranking member, the gentleman from Mississippi [Mr. MONTGOMERY], and, of course, my colleague who has worked with me on this bill, the gentleman from Texas [Mr. EDWARDS], for his help in making this day possible, and also to the gentleman from Arkansas [Mr. HUTCHINSON], the chairman of the subcommittee, and to my good friend, the gentleman from New Jersey [Mr. SMITH], for his efforts in moving ahead this important veterans legislation.

In addition to extending expiring health care authorities, we act today to honor our commitment to the 2,202 brave American soldiers who are still missing or unaccounted for, and to their families.

It is our duty to remember these proud warriors and their families and to do everything within our power to obtain a full accounting. Particularly in light of the President's recent normalization of relations with Vietnam, we must ensure that we remain vigilant, Mr. Speaker, in our duty to American POW and MIA's. Today I am proud to join my colleagues on the Veterans' Affairs Committee in offering H.R. 2353, which includes a provision to have the POW/MIA flag flown daily at each Department of Veterans Affairs Medical Center until the President determines that the fullest possible accounting has been made.

As you know, Mr. Speaker, the National League of Families POW/MIA flag has been recognized by law as the Symbol of the Nation's concern and commitment to resolving as fully as possible the data on Americans still prisoner, missing, and unaccounted for. It is appropriate that this flag be flown at the institutions which we have established to care for those who have served our great country.

The POW/MIA flag is already flown daily at the Coatesville VA Medical Center in Coatesville, PA. Veterans there are grateful for this visible symbol of the concern and commitment of the U.S. Government to their missing brethren.

I would like to thank again Chairman STUMP, ranking member MONTGOMERY, Chairman HUTCHINSON, ranking member EDWARDS, with whom I have worked with so long, the gentleman from New Jersey, Mr. SMITH, the American Legion, and the national POW/MIA legislative network for their support and I urge my colleagues to fully support H.R. 2353.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 2353 and to commend the gentleman from Arkansas, Mr. HUTCHINSON for his efforts to being this legislation to the floor of Congress. H.R. 2353 will extend spending authority for numerous Health Care and housing programs that aid our Nation's veterans.

In specific terms, this measure extends the Veterans Administration's authority to provide health care on a priority basis to Persian Gulf veterans, while extensive research continues on the causes and treatment of these illnesses. In addition, this bill extends the VA's authority to first, contract for substance abuse care and rehabilitative services at non-VA halfway houses and treatment centers; second, continue the pilot program providing home nursing care to eligible veterans as an alternative to institutional care; third, continue the VA's Health Scholarship Program which provides funding for health care professional studies in return for VA service obligation; fourth, carry on the compensated work therapy and Therapeutic Transitional Housing Demonstration Program, helping mentally ill veterans to make a re-entry into independent living; and fifth, to continue VA's pilot program to assist homeless veterans.

This bill allows us to continue to pursue new and proven avenues to assist those who have risked their lives to preserve the freedoms that we hold so dear. This legislation enables us to lend a hand to those who have suffered greatly as a result of their service. I welcome this opportunity to speak on their behalf. Accordingly, I urge my colleagues to support H.R. 2353.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from Arkansas [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2353, as amended.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 4 o'clock and 28 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. RIGGS) at 5 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each question on which further proceedings were postponed earlier today in the order in which that question was entertained.

Votes will be taken in the following order:

First, the approval of the Journal, followed by votes on H.R. 2070 de novo and H.R. 2353 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MOLINARI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 53, answered "present" 2, not voting 33, as follows:

[Roll No. 714]

YEAS—344

Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Ewing
Farr
Fattah
Fawell
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
Meek
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Neumann
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
LaFalce
Lewis (GA)
Longley
McNulty
Mfume
Miller (CA)
Neal
Ney
Pickett
Pombo
Roberts
Roybal-Allard
Rush
Sabo
Scarborough
Schroeder
Stark
Stockman
Stump
Taylor (MS)
Thompson
Torkildsen
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Wicker
Zimmer

NAYS—53

Allard
Becerra
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Coleman
Conyers
Crane
Davis
Dicks
Evans
Everett
Fazio
Filner
Gephardt
Gibbons
Gillmor
Gutierrez
Hastings (FL)
Hefley
Hilliard
Jacobs
Johnson, E. B.

ANSWERED "PRESENT"—2

Hoyer
Lipinski

NOT VOTING—33

Abercrombie
Ackerman
Barcia
Chambliss
Chapman
Dellums
Deutsch
Diaz-Balart
Ensign
Fields (LA)
Foglietta
Gordon
Harman
Hilleary
Hinchey
Jackson-Lee
Jefferson
Kennedy (MA)
Latham
Lowey
McDade
McInnis
Meehan
Menendez
Mink
Moakley
Payne (NJ)
Solomon
Tejeda
Towns
Tucker
Volkmer
Waldholtz

□ 1724

Mr. ALLARD changed his vote from "yea" to "nay."

Mr. HASTINGS of Washington changed his vote from "nay" to "yea."

Mr. JOHNSTON of Florida changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RIGGS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which the vote by electronic device may be taken on each motion to suspend the rules on which the Chair has postponed further proceedings.

PROVIDING FOR DISTRIBUTION OF USIA FILM "FRAGILE RING OF LIFE"

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 2070.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2070.

The question was taken.

RECORDED VOTE

Mr. CAMP. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 403, noes 2, not voting 27, as follows:

[Roll No. 715]

AYES—403

Allard
Andrews
Archer
Armey
Bachus
Baesler

Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—2

Cooley
Funderburk

NOT VOTING—27

Abercrombie
Ackerman
Barcia
Chambliss
Chapman
Deutsch
Ensign
Fields (LA)
Foglietta
Gordon
Harman
Hilleary
Hinchey
Jackson-Lee
Jefferson
Kennedy (MA)
Latham
Lowey
McDade
McInnis
Meehan
Payne (NJ)
Tejeda
Towns
Tucker
Volkmer
Waldholtz

□ 1734

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENDING CERTAIN VETERANS' AFFAIRS HEALTH AND MEDICAL CARE EXPIRING AUTHORITIES

The SPEAKER pro tempore (Mr. FOLEY). The pending business is the question of suspending the rules and passing the bill, H.R. 2353, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2353, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 29, as following:

[Roll No. 716]

YEAS—403

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall

Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—29

Abercrombie
Ackerman
Barcia
Barrett (WI)
Chambliss
Chapman
Deutsch
Ensign
Fields (LA)
Foglietta
Gordon
Harman
Hilleary
Jackson-Lee
Jefferson
Kennedy (MA)
Latham
Lowey
McDade
McInnis
Meehan
Payne (NJ)
Studds
Tejeda
Torres
Towns
Tucker
Volkmer
Waldholtz

□ 1743

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BARCIA. Mr. Speaker, due to difficulties with return air flights from Michigan today, I was unable to vote on rollcalls 714, 715, and 716.

Had I been present, I would have voted "yea" on rollcall 714, the motion to approve the Journal, "aye" on rollcall 715 providing for U.S. distribution of the "Fragile Ring of Life" film, and "yea" on rollcall 716, extending certain Veterans' Affairs Health and Medical Care Expiring Authorities.

PERSONAL EXPLANATION

Mr. LATHAM. Mr. Speaker, due to prior commitments in my district, I was not present for rollcall votes Nos. 714, 715, and 716 on October 17, 1995. Had I been present:

I would have voted "yea" on rollcall vote 714 on approving the Journal;

I would have voted "yea" on rollcall vote 715—providing for U.S. distribution of "The Fragile Ring of Life" film; and

I would have voted "yea" on rollcall vote 716—extending certain veterans' affairs health and medical care expiring authorities.

PERSONAL EXPLANATION

Ms. JACKSON-LEE. Mr. Speaker, I rise to indicate that I had an official leave of absence because of official business in my district, and I would like to place in the RECORD my position on rollcall votes No. 714, 715, and 716.

Mr. Speaker, if I had been present at the time of rollcall 714, I would have voted "aye"; if I had been present at the time of rollcall 715, I would have voted "aye"; and if I had been present at the time of rollcall 716, I would have voted "aye."

PERSONAL EXPLANATION

Mr. CHAMBLISS. Mr. Speaker, I was tending to business in my district, which caused me to miss rollcall votes 714, 715, and 716. Had I been present, I would have voted "yes" on approving the Journal, "yes" on H.R. 2070, and "yes" on H.R. 2353.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, on October 17, I was unavoidably delayed on my return to Washington, DC, from Hawaii because of a plane delay. Had I been present I would have voted "nay" on rollcall vote No. 714 and "yea" on rollcall votes Nos. 715 and 716.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE REPORT ON THE BUDGET RECONCILIATION ACT

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent that the Committee on the Budget may have until midnight tonight to file the report to accompany the Budget Reconciliation Act.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1745

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FOLEY). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INCREASE DEBT CEILING NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GIBBONS] is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, I am talking to the regularly elected Speaker of the House of Representatives, who happens to be the head of the Republican Party here in this Congress.

Mr. Speaker, three times the Secretary of the Treasury has written you this year asking you to move on increasing the debt ceiling. Every Member of your party has already voted to increase the debt ceiling to $5.5 trillion.

Why the delay, Mr. Speaker? Are you attempting to cause a Government wreck? You know, Mr. Speaker, that the Government runs out of borrowing authority. In fact, it is already out of borrowing authority, but is can only be stretched until the end of this month.

This is a serious matter. It is already costing the Federal taxpayers money. It already is acting as a tax increase to the tune of about $15 billion over a 6-year period. And your refusal to allow the debt ceiling legislation to come to the floor so that it can be extended can only be classified, as far as I am concerned, as an attempt to perpetuate a government wreck upon the American people.

Today the Treasury had to suspend selling special obligations to States and local governments. This will prevent the States and local governments from refinancing the debt that they had planned to refinance to reduce interest payments of their own citizens on those local debts. Already a number of States, including my own State of Florida, have had to cancel their refinancing because the Treasury window is not open, because the Treasury can no longer issue these obligations. This is just the first of a series of cascading events that are already in process.

Mr. Speaker, you have done some remarkable things in your short career around here, but you are the first person, Mr. Speaker, to remove and put the Federal obligations in the role of having a risk factor added to them. In 200 years the U.S. Government has never defaulted on an obligation.

Mr. Speaker, you said the other day that you did not care whether we defaulted on an obligation or not, you would keep the window closed on increasing the debt for as much as 60 days. I do not know who you are trying to bluff, but you ought to know, Mr. Speaker, that this is already costing the American taxpayers money, just like a tax would cost them money, this increase in interest rates.

A 10-point increase in basis points will cost the American taxpayers $15 billion over a 6-year period. This increase in basis points will also reduce the value of American private pension funds. Let me repeat this: This 10-point basis-point increase in interest rates that has already occurred and is occurring at this very moment, and it can get worse, has already cost the private pension plans $8 billion in assets.

Mr. Speaker, your actions are reckless. You need to bring up the debt ceiling legislation as rapidly as possible. Your obstinacy in doing this will prove nothing. Every Member of your party in both the House and the Senate have already voted to direct an increase in the debt ceiling until 1997, and the amount of money increase in the debt ceiling has already been fixed in legislation they are voting on.

I cannot think of anything you are doing, Mr. Speaker, except trying to blackmail the Government into a government wreck. This is irresponsible action. You should back off of that course of action immediately, Mr. Speaker.

CONGRESS SHOULD KEEP IN TOUCH WITH THEIR CONSTITUENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, you know, there are a lot of great statesmen that have walked through the halls of Congress for many years from both parties, people who have done so much with the budget, people who have done a lot with the Judiciary, people who have done a lot with the House rules and appropriations process. Fair men and women on both sides of the aisle have added so much to the institution. Sometimes people ask me, well, what is your identity? What great issue have you done?

I guess after thinking about this, oh, for a long time, Mr. Speaker, I would say, maybe I could be best described as the Congressman in the carpool line. Not really glamorous, but you know, I do, every Monday, drive the carpool. Then often after driving the carpool, I go over to the Piggly Wiggly, buy a little milk or whatever we happen to run out of. Then if you see me on a Saturday, I am at the soccer field. Our daughter plays soccer.

Often I will go to other things. Last weekend, for example, I went to Midway, GA, for an opening of a school down there, actually not an opening, but a new building of a school in the community that was an African-American community in coastal Georgia over 100 years ago. We are trying to restore that area. There is a lot of good leadership on that.

After that meeting I went to the Farm Bureau meeting in Folkston, GA. Then the next day, Mr. Speaker, I went to Odom, GA, to the Odom homecoming. The population of Odom last year went from 692 to over 700 people this year.

During this period, all day long, whether I am in the carpool line or at the grocery store or at the Farm Bureau meeting or at the Odom homecoming, people are coming up to me and asking me about Medicare, asking me about the budget, asking me about the debt ceiling. They are giving me opinions on Bosnia, and all kinds of different things, the space station B-2. Sometimes the questions are from people that know more about the issue than I do. Other times they are general questions. Generally they just want me to listen to them. I try my best to do that, Mr. Speaker, as I know every other Member of Congress does.

I think we can be proud that so many of our Members are good listeners. They do return back home. They do listen. But now let us compare ourselves to the other body. In this House, in this great U.S. Capitol, we have two bodies. We have the lower House and then we have the other body, which decorum does not permit me using their name. When we refer to the folks on the other side of the Capitol as the other body, I did not know we were speaking of a corpse. But that is what we are. We are speaking of folks who are not coming home and are not listening and not going to the grocery store and are not going to the homecomings and listening to the man and woman on the street on their different views.

I think as a result of that, Mr. Speaker, our product of government is not as good as it should be, because I believe that one of the key things we have to do as representative government is always remember who sent us here, why they sent us here, and remember the promises and the representations that were made to these folks.

We are going into a very critical period, Mr. Speaker. We have passed 12 appropriations bills. They are now in that other body. Some of them have come back and we have had some conference committee meetings on them. But the bulk of our work is still yet to be done. The bulk of our work, including not just finalization of the appropriations process, but the reconciliation, where we amass all the bills, all the legislation into one monster bill that we have to pass on both sides.

Through this process, I believe House Members in both parties have paid close attention to the constituents back home. A lot of our constituents in Georgia, for example, are saying you all are not going far enough. You are backing off on your promises. You are not doing what you said you are going to do. Maybe in some areas you have gone too far too fast. But people want us to listen, and they want to be assured that what we are doing is in the interests of what is best for the Republican Party but for the American public.

I believe that that is the case, Mr. Speaker. But I must say I worry about our friends on the other side of the aisle, if they are listening to the degree that they need to be listened to. I would urge the folks back home, because of that, to continue writing Members of the House and the Senate and give opinions on how they feel, because I do not think the message in every case is getting through. As we go into the budget process, right now it is even more important than other times.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN], if he would like some time.

Mr. DORNAN. Mr. Speaker, I just wanted to tell the gentleman, I want to associate myself with his remarks. I am going to ask for a 5-minute special order here myself to discuss the infamous O.J. Simpson trial. I wanted to let the Chair know that I was going to ask for that when the gentleman is through. I certainly appreciate the 5-minute special order.

Mr. KINGSTON. Mr. Speaker, the gentleman from California is never without an opinion and never without truth and righteousness. It was refreshing to see the gentleman the other night spouting some of his views.

THE PROBLEM OF MEDICARE FRAUD AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I am proud to kick off a series of 5-minute special orders this evening to address the growing problem of Medicare fraud and abuse. It is shameful that Members of Congress have been virtually denied the opportunity to discuss the leadership's proposal to cut Medicare by $270 billion, and it is unprecedented its rollback of Medicare fraud law enforcement.

The Republican plan would devastate Medicare to pay for a tax giveaway for the wealthy, but it also misses a golden opportunity to fix a major problem with Medicare. In fact, it actually makes this serious problem worse. The GOP plan actually will make it easier for Medicare cheats to get away with their health care scams. This plan rips off American taxpayers and American seniors.

Many of us are genuinely concerned with strengthening the Medicare system, and we have urged a crackdown on Medicare fraud. I am happy that some of my colleagues have joined with me tonight to talk about this critical issue. I am proud to commend the gentleman from Michigan [Mr. LEVIN] for his commitment to combatting fraud and abuse in Medicare. The gentleman from Michigan plays a key role on the Committee on Ways and Means in the effort to toughen the punishments for fraud and strengthening our enforcement capabilities.

I would like to recognize the gentleman from Illinois [Mr. DURBIN], an original cosponsor of my legislation, the Health Care Prosecution Act, to combat fraud and abuse in our health care system. The gentleman has been a leader in the fight to defeat the GOP's Medicare cuts and to restore integrity to the Medicare program for our elderly.

□ 1800

I also would like to thank the gentleman from New Jersey, Mr. FRANK PALLONE, and the gentleman from Ohio, Mr. SHERROD BROWN, for joining us tonight. Their work on the Committee on Commerce to remedy fraud and abuse in the Medicare system has been invaluable.

We are here tonight, Mr. Speaker, to let the American people know that the Republican bill does not, let me repeat, it does not toughen enforcement measures. It does not even defend the status quo. Far worse, the Republicans turn back the clock on Medicare fraud enforcement.

Just today, Mr. Speaker, the Inspector General of Health and Human Services and the Justice Department that monitors, the policemen, if you will, the fraud that occurs in the health care system said that the Republican proposal would make it harder for the government to obtain convictions under an anti-kickback statute, and, in fact, would cripple the Justice Department's ability to crack down on health care fraud.

The Congressional Budget Office estimates that stopping the growing problem of fraud could save as much as $80 billion. And despite this evidence, the GOP plan does nothing to crack down on waste, fraud and abuse. That is because the plan has nothing to do with fixing Medicare, it has everything to do with providing the Republicans' rich political supporters with a fat tax giveaway.

Mr. Speaker, while I am sadly disappointed, I am not surprised, as the Washington Times, not exactly a liberal publication, reported last week Speaker Gingrich dismissed the necessity of cracking down on Medicare cheats by suggesting that we have insufficient jail space to lock up all the crooks in the system. The GOP shows no hesitation to crack down on the elderly, the sick, the disabled, the poor, and the young in their plan. But when it comes to targeting the real bad guys, the Republicans suddenly express concern about inadequate vacant correctional facility space.

The congressional leadership is not interested in correcting and punishing the criminal elements in the Medicare system. However, I have introduced legislation in this Congress, the Health Care Prosecution Act, to do just that. My bill stops health care cheats in their tracks. It retrieves the financial losses in restitution and fines and it puts the criminals behind bars so that they are unable to pull off more health care scams in the future.

Further, my legislation establishes a temporary health care fraud and abuse commission to study the nature and the extent of fraud in our system. This blue ribbon panel would make recommendations to Congress on innovative approaches to attack fraud.

Mr. Speaker, there are a lot of good ideas out there about how to attack Medicare fraud, waste and abuse. I am sorry that my Republican colleagues have chosen to pursue none of that.

Mr. Speaker, I am delighted to be joined by additional colleagues tonight who will also address this issue of Medicare fraud and abuse and the way that we might address it, and that it is not addressed in the Republican proposal.

REPUBLICANS WEAKEN FRAUD AND ABUSE PROVISIONS IN THEIR BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. LEVIN] is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, I congratulate the gentlewoman from Connecticut [Ms. DELAURO] for talking about this issue, and I would like to say a few words as a Member of the Committee on Ways and Means.

Mr. Speaker, we worked on this issue. I was deeply disappointed with the product that came out of the committee: $270 billion in Medicare cuts in order to pay for a tax break, mostly for wealthy families, is bad enough, doubling the monthly premium for seniors in part B, the physician and other provider part of Medicare, is bad enough, especially when we take into account, for example, looking at Michigan, that 85 percent of the seniors in Michigan have an income annually of less than $25,000 and $15,000 is the annual income of 70 percent of the seniors.

So doubling the premium is bad enough, Mr. Speaker, but the Republicans went further and they weakened the fraud and abuse provisions of Medicare. They weakened them.

Mr. Speaker, I want to refer to a few documents. There are two sets of penalties involved: one is criminal, where there is intentional serious fraudulent action; and the other is monetary civil penalties, where the offense is less serious. Both of them are weakened.

The criminal is weakened by adding a provision requiring that the significant purpose of the effort must have been inducing essentially fraudulent or other similar activity.

On this, here is what the Justice Department says, Mr. Speaker. This is of the Republicans that is now in the bill that will be before us on Thursday. "The proposed amendment will seriously undercut our anti-kickback enforcement efforts". This is the Justice Department. The Republicans did not listen to them.

Here is what the Inspector General of the Health and Human Services department says. "These proposals would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice".

Here is what the GAO says about the change in the Republican bill in the criminal statute. "The effect could well be to make it easier to disguise the intent behind kickback arrangements or make disguises currently used more effective in evading prosecution".

In a word, Mr. Speaker, when it comes to criminal sanctions against fraud and abuse, the bill that will be before us on Thursday would make it much more difficult and would weaken our efforts. And, look, the HHS IG points out that the GAO estimates loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion.

Why then, Mr. Speaker, are the Republicans weakening these provisions?

There is also a weakening of the monetary provisions, the civil provisions, and, here again, there is no reason to do it. Here is what the GAO says. "We agree with the Inspector General of HHS that this new definition of 'should know', which essentially would require proof of reckless activity, would, as drafted, significantly curtail enforcement under the Medicare civil monetary penalty provisions". Significantly curtail enforcement.

Now, why is this being done? The Washington Times, October 4, the headline is GOP's Medicare plan takes hit for weakness in stopping fraud. Why are the Republicans doing this? It is terribly misguided.

Searching for a reason, the Speaker, on October 12, said this. "The speaker defended GOP moves to reduce penalties and enforcement efforts against Medicare fraud by saying it is more important to lock up murderers and rapists than dishonest doctors".

I think the answer is, Mr. Speaker, we can do both. We should, obviously, lock up everybody, everybody who is convicted of murder and rape. However, that is not an excuse to let dishonest providers off the hook.

Mr. Speaker, I urge everybody to take a look at this. This Republican effort is terribly misguided.

REPUBLICANS MEDICARE BILL WORSENS PROBLEM OF FRAUD AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I also want to address the problem of waste, fraud, and abuse in Medicare and say that I am very pleased to be a cosponsor, an original cosponsor, of the gentlewoman from Connecticut, Ms. DELAURO's, bill to deal with the problem.

As she pointed out, she is trying to address this problem. But, unfortunately, the Republican leadership, in their Medicare bill, which we are going to vote on, I understand, this Thursday, does not. In fact, Speaker GINGRICH's proposal, the Republican leadership proposal on Medicare actually makes the problem of waste, fraud, and abuse in the Medicare Program seriously worse.

The reason for that is, essentially what the Republican leadership is doing with this Medicare bill is trying to achieve savings by cutting Medicare to provide money for a tax cut primarily for the well-to-do. So their concern about problems dealing with waste, fraud, and abuse is really relatively minor in the overall bill that they have and that they will bring before the House.

I am concerned, Mr. Speaker, because we had a hearing, we were not allowed a hearing in the Committee on Commerce, which I sit on, to actually deal with the Republican Medicare proposal, but we decided that we would have our own hearing. And the day after the bill was first presented to us last week, we had our own Democratic hearing on Medicare. Interestingly enough, a number of representatives from the various Federal agencies that go after those who abuse the Medicare System, or commit fraud on the Medicare System, testified to the problems that exist in this bill with fraud and abuse.

Essentially, Mr. Speaker, what they say is that the Medicare restructuring proposed by Speaker GINGRICH and the Republican leadership actually weakens the Government's ability to weed out bad practices and Medicare scams. Over the course of 7 years, $126 billion could be saved by reducing fraud and abuse, but the GOP bill makes the existing civil monetary penalties and the antikickback laws considerably more lenient. According to the inspector general of the Department of Health and Human Services, the Medicare restructuring legislation by the Republicans would substantially increase the Government's burden of proof in cases under the Medicare-Medicaid antikickback statute. And although a fund would be created to direct money recovered from wrongdoers, this fund would not go to further law enforcement efforts.

Now, just to put this in perspective, here we are, pursuant to this Republican proposal, squeezing every last dime or nickel out of the Medicare Program with these spending caps that limit how much can be spent on Medicare, and in the context of that, with our health care system and the quality of our health care system significantly declining because of these cuts, we are now, instead of addressing fraud and abuse and trying to save some more money there, actually making it easier for fraud and abuse to take place.

Mr. Speaker, I think one of the speakers mentioned that the Congressional Budget Office actually estimated that over the 7 years of this Republican Medicare Program, the regulatory relief would actually incur an additional expense of $1.1 billion. In other words, it would cost us another billion dollars or more in this Medicare Program because of the relaxation of the laws that deal with fraud and abuse.

Now, I just want to just give some brief statements that were made by June Gibbs Brown, the inspector general of the U.S. Department of Health and Human Services, at our Commerce alternative hearing on October 3, because she basically specifies why it is true that this Republican bill will cripple efforts of the Federal and State law enforcement agencies to control fraud and abuse in the Medicare system.

She says, "We believe that H.R. 2425 contains several provisions which would seriously erode our ability to address Medicare and Medicaid fraud and abuse."

Here are some of the examples she cites. "The bill would make the existing civil monetary penalty and antikickback laws considerably more lenient." She goes on to say, "The bill would relieve providers of the legal duty to use reasonable diligence for ensuring that the claims they submit to Medicare and Medicaid are true and accurate. This will have the effect of increasing the government's burden of proof in cases under the civil monetary penalties law. In an era where there is great concern about fraud and abuse in the Medicare and Medicaid Programs, it would not be appropriate to relieve providers of the duty to use reasonable diligence to ensure that their claims for payment are truthful and accurate."

She then says, "The bill would substantially increase the government's burden of proof in cases under the Medicare-Medicaid antikickback statutes. For the vast majority of present-day kickback schemes, the proposed legislation would place an insurmountable burden of proof on the government."

She then says, "The bill would create new exemptions to the Medicare-Medicaid antikickback statute, which could be readily exploited by those who wish to pay rewards or incentives to physicians for the referral of patients."

But worst of all, Mr. Speaker, even though the bill creates a fund for directing moneys recovered from wrongdoers, the moneys do not go to the enforcement agencies within the Government to continue their efforts to try to stop fraud and abuse. It is incredible to me, Mr. Speaker, that in all the talk about Medicare, that this is what we have in this Republican bill.

O.J. SIMPSON IS GUILTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I said earlier during someone else's 5-minute special order that I was going to discuss the O.J. Simpson case. I used to represent, for 6 years, the precinct in Los Angeles, the real estate name is Brentwood, CA, where Nicole Simpson had her throat slashed to her spine, and where young Ron Goldman, doing a simple act of kindness, bringing over a pair of reading glasses belonging to Nicole Simpson's mother, then stumbled on to a situation where he yelled either hey, hey, hey or hey, O.J.

The word on the streets of Brentwood, in Los Angeles, from the lawyer of the Goldman family is that one of the defense witnesses lied on the stand.

□ 1815

That he actually told all of his friends that, "O.J. is going to kiss me if he beats this," and that he actually physically saw O.J. Whether that is true remains to be seen. This is somebody who should be polygraphed, should be arrested for perjury, if in fact he told all of his friends that he heard Goldman say, "Hey, O.J.", which means he gave his life beyond common courtesy as a Good Samaritan in trying to interfere into what he thought was a beating, until he saw the flash of the knife in the moonlight. I believe that Ron Goldman, at age 25, did die as a hero.

Mr. Speaker, in these short few minutes I want to discuss what I would like to do in an hour special order. If this truly was the double murder or the trial of the century, then it should be discussed on the floor of this, the world's most important legislative body, this Knesset, this House of Commons, this Duma. This House should discuss this issue.

Last night I watched an hour on the murder of Stanford White, the New York architect, on the roof garden of Madison Square Garden which he designed. If that was the trial of the century, and it was only 6 years into the century, or the Lindburgh trial, when I was an infant, was the trial of a century, and this has eclipsed all of that; if more people were aware of the O.J. murder than the atrocity of the bombing in Oklahoma City, or just about anything other than the assassination of President Kennedy or Pearl Harbor, for those of us old enough to remember that, then it should be discussed on this floor.

In this brief, 5-minute introduction to what I intend to do here for an hour, let me say three things. One, of course, O.J. Simpson did it. Of course he did it. Of course the jury did not hear Nicole's statements, because it was hearsay, to several friends. "He will kill me and he will get away with it. He will O.J. his way out of it. He thinks he is above the law."

O.J. Simpson is now called the butcher of Brentwood, my former area that I raised five of my children in. Two of my children came home from the hospital to a little house on Chenault three short blocks from the murder scene. Of course he did it.

No. 2, Mr. Speaker, I am going to, with my last breath, defend cameras in the courtroom, because about 50 million people in this country became the 13th juror. They knew more than the alternates did. We must never sequester human beings like this again. They feel they are locked up with less contact with the outside world than Simpson, so of course they felt they were angry with the State. But we must keep the cameras in the courtroom or we would not have know more evidence than the jury itself knows.

No. 3, we must reopen this case. I said this to Mr. Garcetti. I said this to my friend, Sheriff Sherwin Block. And I have said it to the detectives, the prime detectives, one of the trio of detectives that handled most of the evidence. And he said to me on the phone last week, "Congressman, we had gobs of evidence we did not use."

How can Garcetti stamp his foot like a petulant child, when a third of this country believes O.J. Simpson was not just not found guilty, not that he was acquitted, but that he is innocent. You cannot leave a third of this country in a fog that a murderer or double killers, maybe more than one, Colombian necklacing drug lords are out there going to terrorize some other family.

We must put this to rest. And here is what I told the detectives and in 4 short minutes, they bought my case. Reopen it. Take Johnny Cochran and Simpson at his word and go look for the killer or killers. Let us reinterview everybody that was interviewed in this case and then a second and a third tier of potential witnesses.

Go over every speck of evidence. It is locked up. Play one lab in this country off against the other. And then come out with a paper or report 6 months or a year from now. And those of us who were the 13th jurors who followed this trial know what the verdict will be. It was the butcher of Brentwood. Mr. Simpson, who if he had any decency, would not ruin his children's lives. He slaughtered their mother. He would go to Mexico, or some foreign country, and get out of our face.

He is shocked that we are not groveling and accepting him back. He told the gentleman from California [Mr. DREIER], on the Tuesday before the murder, that he voted for Bush and that he told that to Clinton's face when they played golf.

I will do this in a 60-minute special order, Mr. Speaker. But let me close on this line. As I told the Presidential candidates in New Hampshire, that Republican millionaires who voted for Bush are more a jury of his peers and they would have found him guilty.

These poor, emotionally distraught jurors were not his peers. Not his peers. He did it. He simply did it, and he has not gotten away with it yet; not in the court of public opinion.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2259, DISAPPROVAL OF CERTAIN SENTENCING GUIDELINE AMENDMENTS

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–279) on the resolution (H. Res. 237) providing for the consideration of the bill (H.R. 2259) to disapprove certain sentencing guideline amendments, which was referred to the House Calendar and ordered to be printed.

AMERICANS SHOULD PAY ATTENTION TO THE REPUBLICAN MEDICARE REFORM AGENDA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, there are many items and subjects debated on the floor of the House, as the previous speaker indicated, from the O.J. Simpson trial to some items that are considered to be very parochial, very regional, very specific.

But there will be a debate on the floor of the House this week which I am afraid has not caught the attention of the American people. The reason I have this fear is because of the gravity and importance of this debate, not only to tens of millions of senior citizens across America, but to all of their families as well.

You can measure the importance of an item in the U.S. House of Representatives by the time we dedicate to that item, in most cases, but not when it comes to this Gingrich Medicare reform. Take a look at this chart as an indication of the time that we have spent in committee hearing on the Medicare reform plan of NEWT GINGRICH.

Well, we spent 10 days looking into Ruby Ridge. We spent 10 days looking into Waco. We have spent 28 days of committee hearings on Whitewater. And how many days have we spent on a $270 billion cut in Medicare? Look closely. One. One day.

The fact of the matter is that even as of this weekend, we are just learning what is included in this bill; a bill which will literally affect every family in America.

My mother is 86 years old. She lives by herself. She has had some medical problems. Thank goodness for Medicare. It's been there when she needed it, and that story is told over and over again. She is happy, but equally important, her family is happy.

As her son, and my brothers, we are all very content that she is under Medicare and has quality health care available to her and a quality of life, which was not around 30 years ago.

So, the Republicans come to the floor and say, We are just trying to preserve Medicare. Well, excuse me if I am skeptical. Medicare was created by the Democrats. A person like BOB DOLE voted against the Medicare plan when it was originally proposed, and many Republicans did as well.

This plan for Medicare has been in place for 30 years, a creation of the Democrats, has worked and worked well. We fear, many of us on the Democratic side of the aisle, that the Gingrich Medicare reform plan is a disaster.

Mr. Speaker, I think the Republicans know it as well. They will not bring it out in the light of day. They will not let us see the details of it. They will not let us have committee hearings. They will not even let us offer but one amendment, one substitute. They are talking about maybe 2 hours of debate on the floor of the House for something that could literally affect American families for decades to come.

Let me tell my colleagues several of the things they should know about it. The Republicans want to cut $270 billion out of Medicare spending. They say that is to save Medicare. That is not what the trustees say.

The trustees say we need to reduce spending by $90 billion, one-third of the amount. Why did they triple the cuts to increase premiums for seniors, to reduce the services available? They need the money for other purposes, and the purposes are very clear. They want to create a tax-break package. A package which, frankly, goes way beyond what working families need.

It is a tax-break package primarily for the wealthiest people in this country: $245 billion dollars. Nothing new. This is the old Republican philosophy. The big business philosophy. The trickle-down philosophy. If you give enough money to the wealthiest people in this country, the Republicans believe that somehow it will eventually get down to working families.

Well, I applaud them for their consistency, even though they have been proven wrong historically and economically. But here they go again. To find the money for it, they want to cut Medicare.

The other thing that troubles me greatly is if you talk to people who receive Medicare payments, the providers, you will find that by and large they are honest and ethical people who are working hard to provide good quality health care, and God bless them for their hard work.

But they will also acknowledge that there are a lot of wrongdoers as well. One to two percent of the people who turn in bills to Medicare are frankly trying to rip-off the Government through fraud and waste and abuse. We know it and we know it costs us dearly.

We estimate 10 percent of all Medicare billing each year is fraudulent; $18 billion lost that should be spent to help people and reduce our deficit. We have had some tough laws on the books. They should get tougher. But know what? The Gingrich Republican approach on Medicare reform lightens the load; makes it harder to prove fraud on the part of those who would try to rip-off the system.

They say it is a sweetheart deal which the Speaker cut with some of the interest groups. I do not know if it is or not, but the bottom line is the Federal prosecutors who have looked at the Republican Medicare reform plan have come to the conclusion that it is going to make it tougher to go after the wrongdoers. That is not fair and it is not fair to the seniors and it is not fair to the taxpayers.

Mr. Speaker, I hope the people of the United States will tune into this debate this week. The Republicans have tried to keep it under wraps. Now it is time to bring it out into the light of day and make sure America knows what is in store for them if these Gingrich Medicare reform plans go through.

MEDICARE REFORM SHOULD ROOT OUT FRAUD AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I have conducted numerous town meetings and hearings in my district on Medicare. As my friend, the gentleman from Illinois [Mr. DURBIN], just said, unfortunately, hearings have not taken place in this institution in this body for the public to hear them.

But at these hearings which I have conducted, and in town meetings, I have heard over and over again people's anger about the $270 billion in Medicare cuts in order to pay for tax breaks for the wealthiest citizens in this country, the people who need them the least.

But what also concerns me and what troubles me is something else that I hear at these hearings, these town meetings, and that is people believe there is a good deal of fraud in the Medicare system. That fraud is something we have to aggressively pursue and prosecute and root out and do something about.

That is why it particularly troubles me and concerned me to see an article in USA Today, an editorial on Friday, and the headline reads, "Medicare Reform Invites Doctors To Bend the Rules. Easing Limits on Physicians' Self-Referral Is Bound To Cost the Medicare Program Billions of Dollars That It Can't Afford."

USA Today goes on to say:

> No wonder the American Medical Association has signed on to Medicare reform, with the deal that they made with Republican leadership. The Republican Medicare bill actually promotes fraud, waste and abuse in several areas, particularly in its weakening of the ban on physician referral of Medicare and Medicaid patients for tests and treatment in places where the doctor has a financial interest.

Another newspaper talking about this agreement made between Republican leadership and the American Medical Association says:

> Regrettably the Speaker's concessions made an already bad Medicare bill substantially worse. The Gingrich bill was never designed to give the elderly high-quality health care. It is less likely to do so now.

Unfortunately, this piece of legislation, this Medicare bill which the American people have not been able to find out much about, because there have not been hearings in this institution, that Gingrich Medicare bill eliminates fraud by legalizing it. It simply makes things legal that were not legal before. It encourages more fraud, instead of less.

Not too long ago, about a week ago, in the Committee on Commerce, a committee on which I sit, the committee that heard the Medicare and Medicaid bills. Rather, did not really hear them, because we were not allowed to have hearings, but a committee that discussed Medicare and Medicaid and allowed amendments and we talked about the bill, my colleague, the gentleman from Michigan [Mr. STUPAK], offered a substitute bill that would have, instead of cutting $270 billion in Medicare in order to give tax breaks to the wealthiest citizens in this country, would have gone directly after fraud and abuse in the Medicare program.

Unfortunately the chairman of the committee ruled the Stupak substitute out of order. We were not able to debate this or discuss this and we were not allowed to vote for a bill, instead of $270 billion in cuts to Medicare beneficiaries and to give tax breaks to the wealthiest citizen, instead it would have devoted resources to rooting out fraud.

□ 1830

The Office of Inspector General reports that every year for every $1 spent on going after fraud and investigators and inspectors and prosecutors, that $80 is recovered that can go back into the Medicare system. So why are we cutting $270 billion out of Medicare to pay for tax breaks for the wealthy and why are we cutting back on the enforcers and the investigators and the prosecutors and the people that for every dollar spent can recover $80?

I think it goes back to that editorial in USA Today about the arrangement that the American Medical Association made with the Republican leadership in this House. It is troubling to me that we could save much more than even the trustees said. They said that we need to cut $89 billion in order to keep Medicare strong for the next decade or so. We are saying that pursuing fraud the way that we can can save almost $100 billion. The inspector general says that 10 percent of Medicare moneys are fraudulent, that over the space of the next 7 years, $200 billion will be lost to fraud. If we can go after that fraud, whether it is durable medical equipment reform, whether it is putting in civil penalties for kickbacks, whether it is strengthening conflict of interest rules, whether it is grand jury disclosure, increased subpoena authority, all these together, if we can only save half, if we can only recover half of the fraud in the Medicare system, we will have more than enough to meet the trustees' recommendation, to keep Medicare strong for the next 10 years.

Mr. Speaker, it simply does not make sense to make these cuts in Medicare to give tax breaks to the wealthy. We should go after fraud aggressively. We should crack down on fraud, not cut senior citizens' ability to get health care.

MEDICARE DECEPTION

The SPEAKER pro tempore (Mr. GUTKNECHT). Under the Speaker's announced policy of May 12, 1995, the gentleman from Washington [Mr. MCDERMOTT] is recognized for 60 minutes as the designee of the minority leader.

Mr. MCDERMOTT. Mr. Speaker, in these Halls in 2 days we will have a vote on H.R. 2425. It is the Republicans' plan to slash Medicare by $270 billion over the next 7 years. Now, if you believe the Republican rhetoric, every one of us here would think that these drastic cuts are necessary to prevent the Medicare program from going bankrupt. Nothing could be further from the truth. These cuts have little to do with saving Medicare or the part A trust fund.

Let me say, we throw terms around in this House that are often not well understood by the public. Medicare is divided into two pieces: part A, which is the hospital payments, and part B, which is the payments to doctors and other providers of services to the elderly. These cuts have little to do with saving part A.

The Republicans are cutting $270 billion from Medicare because they want to use that money to offset the $245 billion in tax cuts for wealthy Americans.

Now, ask yourself this: If the Republicans were so concerned about the impending bankruptcy of the Medicare trust fund, how come they never mentioned it before November 1994? It is ironic, when you think about it, that with all of the Republican rhetoric about saving the trust fund, the only action they took this year in 1995 was to approve a tax provision in the Contract on America which takes money out of the hospital trust fund through a reduction in the amount of Social Security taxes paid. Over $36 billion would be removed from the fund over the next 7 years as a result of that legislation that has already passed this floor.

You heard me right. The first thing the Republicans did was to take $36 billion out of the trust fund. They will stand out here and say we have to put this money into the trust fund, but the first thing they did was to take it out.

Furthermore, the issue of the insolvency of the part A trust fund has simply nothing to do with Medicare's supplementary insurance that is part B, the report of the part B trustees, which you never hear mentioned on this floor, is that part B is actuarially sound. It is absolutely financed.

Therefore, if you are making cuts in Medicare which are being made solely to save part A, the hospital part, there is no need to take $140 billion in cuts out of part B. Almost $54 billion is in increased premiums to seniors that they pay each month. That is not necessary to save part A.

Not 1 cent of the money cut from part B in their proposal, which you will see on Thursday, will go into part A. The dollars go into the general fund to take care of the tax cuts which will follow.

As a result of the increasing public opposition to these drastic cuts in Medicare, the Republicans had to do something, which is saying, you are just shifting the money around. So they said, we will create a lockbox which they claim will sever the connection between the Medicare savings and the tax cut. They are going to try and divide it.

One of the reasons why we are voting on Medicare this week and the tax breaks next week is they do not want you to think there is any connection. This lockbox is simply an illusion. It is really a return to the kind of smoke and mirrors budget gimmickry that they hope will fool the American people.

The Republicans think that the American people are stupid. They want us to believe that by depositing the money they cut from Medicare into a separate account, they can prove that the Medicare cuts will not pay for tax breaks.

Now, we all know that money is green. The term we use around here is fungible. You can use it here, you can use it there. It makes absolutely no difference which Government account the money is put into or taken out of. The Government must pay its bills, and it does not matter which checking account it is in. You can have a bunch of different checking accounts. It is still Government money. It comes from taxes. They are just simply trying to hide it.

The bottom line is that the Republican lockbox is just a new Federal bank account. The Republican Medicare bill and the rhetoric that makes it sound as if no spending is allowed out of the lockbox is simply an illusion.

Their bill allows borrowing. They put it into the lockbox. You cannot spend it, they say, but you can borrow it. In fact, it requires the lockbox to lend money to the Department of the Treasury.

Coincidentally, of course, the Treasury Department needs these funds because of the Republican tax break. The American people need to know that the money from the cuts in Medicare not only goes into the new lockbox, but the money goes right through the lockbox and into the pockets of the wealthiest taxpayers who will benefit from the Republican tax cut. Over half of that $245 billion in tax breaks goes to people making more than $100,000.

Now, to further mislead the American people, the Republican leadership has suddenly decided that this Medicare legislation will have a separate vote in the House of Representatives. The Medicare legislation will be considered separate from reconciliation. On Thursday we do Medicare. Next week or sometime thereafter, who knows, we will have the reconciliation bill which will have all the tax breaks in it, and the Medicare legislation will be incorporated by reference.

That is a fancy term we use in the Congress to say, what happened a few days ago applies today. They will say they are totally disconnected, but in fact the bill contains an incorporation by reference.

Without that phrase, without that incorporation by reference, the Congressional Budget Office would not be able to count the Medicare cuts in determining whether the reconciliation bill includes enough deficit reduction to allow the $245 billion in tax breaks to go forward.

The Republican leadership has created a perfect scenario for spin control and deception. They can argue that the $270 billion in Medicare cuts are separate from the $245 billion in tax breaks while at the same time counting the savings from Medicare toward the amounts needed to balance the budget.

Now, you can get as fancy parliamentarily as you want to here, but no amount of procedural vote wrangling or accounting gimmicks can hide the fact that the $270 billion in Medicare cuts are tied to the $245 billion in tax breaks. The numbers match.

In addition to creating this lockbox, which could be raided at any time, the Republican bill does not extend the solvency of the part A hospital trust fund any longer than the Democratic substitute bill but it slashes Medicare by three times as much. The Republicans cannot hide this any longer.

Although they claim that their plan will extend the solvency of part A until 2014, and you will hear this on Thursday, you will hear 2014, it is not true. The net impact of the Republican plan is to extend the solvency of the hospital trust fund, part A, until 2006 at a cost of $270 billion.

I dropped in a bill, H.R. 2422, which also extends the Medicare trust fund until 2006, but it costs $90 billion, not $270 billion, $90 billion.

Four of the Medicare trustees and the HCFA Administrator—HCFA is Health Care Financing Administration, for those of you who have forgotten—the HCFA Administrator, who runs this thing, says that the reductions in part A are approximately $89 billion and would be enough to ensure solvency to 2006.

The Republicans can only achieve $270 billion in cuts by drastically reducing benefits to seniors and shifting the costs onto beneficiaries; that means senior citizens and their families. The Republicans want to reduce the Medicare Program to a worthless shell.

Medicare that seniors know today will exist in name only while providing no real health care or economic security to the beneficiaries and their families. People will pay more and get less.

Despite the $270 billion in Medicare cuts, the Republican bill does nothing to solve the problem of baby boomers entering the Medicare Program in 2010.

Now, lots of people throw this term baby boomers around. I am not always sure they understand what we mean by that. If you were born after 1945, you will be 65 in 2010, and you come into Medicare. Anybody born after 1945 is a baby boomer. They are the people who come into the program in 2010.

On December 27, 1995, I introduced a bill, the Medicare Security Act, which extends the solvency of the Medicare trust fund until 2006 and creates a bipartisan commission to deal with this problem of the baby boomers.

In response to the introduction of my alternative Medicare bills, the Committee on Ways and Means chairman, the gentleman from Texas [Mr. ARCHER], stated in a press release: "Any proposal that fails to save Medicare until the eve of the baby boom retirement must be considered a failure."

Well, Mr. Speaker, the chairman by his own standard failed in his Medicare bill. According to the actuaries for the Medicare trust fund, the Republican plan would extend the life of the hospital trust fund, part A, through the third quarter of calendar year 2006. That is a quote from a letter dated 11 October 1995 to the gentleman from Florida [Mr. GIBBONS] from the HCFA Administrator, Bruce Vladeck, based on data from the Medicare actuaries.

The year 2006 is 5 years before the first baby boomers begin to retire in 2011 and 8 years shorter than the Republican claims of solvency until 2014.

In addition to cutting three times more than is needed for Medicare to stabilize the part A trust fund until 2006, the Republican bill is loaded with sweeteners for various interest groups to silence any opposition.

As a doctor, it is troubling to me to see members of the American Medical Association put their own interests ahead of their patients by cutting backroom deals with the Speaker in exchange for their support of the Republican bill. In a bill in which beneficiaries are being asked to contribute $53 billion more, the doctors were negotiating provisions allowing them to create their own health care plans and avoid further reductions in their fees.

□ 1845

The Republican bill will allow doctors, as well as hospitals, to create doctor-hospital networks to sell health insurance plans directly to Medicare beneficiaries. These new networks will be called provider-sponsored networks or PSN's. It is a new term for you to learn because you are going to hear it endlessly on Thursday. Provider-sponsored networks; that means doctors are out there doing whatever they want with hospitals under special Federal rules which will preempt, which will preempt, override, existing State laws. It will allow the PSN's to operate with lower financial reserve requirements and other standards than are required for HMO's and private insurers. That means the insurance commissioner in the 50 States will not be able to control and regulate what these PSN's are out selling to beneficiaries.

To allow these PSN's to operate immediately, Mr. Speaker, the Medicare plan by the Republicans changes existing antitrust laws and says that the States do not need, the PSN's do not need, State licenses. Clearly, being exempt from existing State regulation will give these PSN's an unfair competitive advantage for doctors and hospitals over existing HMO's. If that was not enough, other giveaways to doctors are limits on medical malpractice awards for pain and suffering to $250,000.

The approach taken by this bill is extremely one-sided and does nothing to protect and promote the legal rights of injured patients. The Republican bill only seeks to protect doctors from full legal and financial accountability for their negligent behavior while restricting the ability of patients and their families to receive fair and adequate compensation.

The list of benefits for doctors goes on, rolling back vital Federal oversight of clinical laboratories in doctor's offices. In other words, doctors can refer to their own laboratories. They eliminate provisions on doctors' self-referral. They provide unwarranted antitrust relief for physicians. They provide the ability to charge Medicare Plus, and that is what they are going to try and push all the seniors into, is Medicare Plus. They are going to allow the doctors to charge higher fees, and they also set a new formula for setting fees in the old traditional Medicare. Mr. Speaker, it is clear that the only interest the American Medical Association has in Medicare is a financial interest for themselves.

The Republican plan also offers beneficiaries some false choices and false promises of security. The Republican plan creates Medicare Plus; I mentioned it earlier. It is a program which is advertised as offering seniors more choice of health care options, but in reality will create divisions and inequalities within Medicare. Medicare Plus will actually force beneficiaries to pay more for less while initiating what I call a death watch for the traditional Medicare Program. Medicare Plus under the Republican plan will be available as an alternative to traditional Medicare fee for service.

Now what is Medicare Plus? Well, it really is managed-care plans, some new types of specifically specially structured health plans such as the PSN's I talked about, medical savings accounts, and health plans offered by qualified associations like the Chamber of Commerce. I do not know; it is not clear in the bill. It is simply there.

Unfortunately for seniors all these new choices for health care are based on a false promise because Medicare Plus, Medicare's contribution to these plans, will be a defined contribution or a fixed amount of money which will be given each year which will decline over time resulting in seniors being able to purchase less and less health insurance. It is right in the bill.

Now what does that mean for seniors? Well, it is pretty simple. It means that an underfunded voucher, they hand you something that will buy for this year what next year will buy you 20 percent less, and this time, instead of the Government sending the voucher to the beneficiary, to the senior, they are going to send it to the health plan.

Under the Republican plan, Mr. Speaker, the total annual growth in the size of vouchers for health care plans is set at 4.7 percent. Now where did that number come from? It came out of the air. There is no basis for that. We expect, and CBO expects, that private health insurance premiums will grow at 7.1 percent. So, if it is growing for everybody else in the society at 7.1 percent, but we are going to only pay 4.7 for seniors under this Medicare Plus, you can see that gradually the buying power of senior citizens is going down by a couple of percent every year. By the time we get to 2002, you will be paying a thousand dollars more out of your pocket if you are a senior citizen buying health care than you are today.

Now that is a rate of 30 percent higher than the Medicare vouchers are allowed to grow. The private sector is still going to grow 30 percent faster than Medicare will be allowed to grow. It does not take a rocket scientist to figure out that the Republican vouchers are putting seniors on a road to second-class health care. The vouchers will quickly buy less and less coverage on their Medicare Plus, and beneficiaries will have to pay the difference, or their families. If you realize that there are more than 3 million widows in this country living on less than $8,000, and you are talking about the year 2002 they are going to have to come up with another grand out of their pocket, you know they cannot do it. Their kids will have to do, if they are lucky to have kids who have the money to do it. Somebody else is going to have to pay for it because these seniors are not going to be able to do it.

Mr. Speaker, the additional out-of-pocket costs which will be paid by seniors makes it clear that the additional choices provided by Medicare Plus do nothing to reduce the health care costs overall. It is an arbitrary 4.7 annual growth limit on vouchers. That saves money to be given for a tax break to the richest Americans.

In addition to having to pay the difference between the value of the voucher and the cost of the benefit package, seniors enrolled in Medicare Plus will also be liable for extra charges by providers trying to compensate for Medicare's declining provider reimbursement rates, so if we cut the doctors what they are paid under Medicare, and you allow the doctors to balance bill, they can get it back out of the senior because we have taken off the protection against balance billing.

These extra charges, as I say, are called balance billing. It is a practice by which providers charge beneficiaries more than Medicare approves. The restrictions in current law on balance billing, which permits no balance billing by hospitals and only limited balance billing by seniors, will not exist for seniors enrolled in the Medicare Plus plan. This is a very important concept. There will be no protection for seniors against these hidden new charges, and doctors will have a financial incentive to no longer see patients in traditional Medicare. If you stay in traditional Medicare, they cannot charge you balance billing. If you go into Medicare Plus, they can get you. Now that is what I call a real revolution.

One of the most egregious examples of waste in this Medicare plan are the Medicare savings accounts which are an option under Medicare Plus. Every legitimate health care expert has agreed that a MSA, medical savings account option, will result in extra costs for the Medicare program and weaken the hospital trust fund. MSA's allow beneficiaries to choose a high-deductible health plan combined with a fixed deposit from the Government into an MSA to cover their routine health care costs.

Let us say the Government gives you $5,000, and you take a thousand of it and buy a $10,000 deductible program. Then you got $4,000 in the plan, and you can use that to cover your routine health costs. If you do not spend anything, you got $4,000 bucks for yourself, and the healthy seniors will do very well on that, but people who have real problems are going to be a problem for the system.

Mr. Speaker, CBO says that the MSA's in this bill will increase, I emphasize increase, Medicare costs by $2.3 billion. It is not a savings mechanism for the system. It is a giveaway to people who opt out of the Medicare system.

Now this money that could have been spent on health care for senior citizens will instead go to the healthiest and wealthiest of seniors. Medicare loses money with MSA's because healthy people will choose the MSA option while Medicare lacks the ability to adjust the MSA payments for the risk factors. Furthermore, the idea that MSA's will protect freedom of choice for seniors is a sham. Once this product, once the MSA's are out there and become widespread, the insurance companies will take over the MSA product, and they will change it to managed care. The result for seniors will be a high-deductible plan with a managed-care product at the end of your deductible.

Mr. Speaker, this is not Medicare reform. It is one of the first steps in the destruction of the traditional Medicare and elimination of the guarantee of health care for all senior citizens.

The impact of $148 billion in cuts to Medicare providers under the Republican plan will create severe hardships in rural areas. It is not just a city problem. We are talking about rural areas where hospitals exist in many cases almost totally on Medicare and Medicaid payments because retired seniors are living out there, and that is what keeps those rural hospitals going. Rural hospitals and clinics already are in financial difficulty, and they will be hard pressed to absorb the reductions mandated by the Republican bill. In addition, the urban hospitals will be forced to accept added reductions and special Medicare payments for uncompensated care. Big-city hospitals take care of a lot of people who come in who do not have any way to pay, and Medicare gives them money to cover that. It is called dish payments, disproportionate share. Those payments are made by Medicare, and, when we cut those out in this bill, those hospitals are going to be in even worse shape.

Now, if all of this was not bad enough, in addition to the $148 billion cut from providers, that is doctors and other people who provide services, the Republican bill includes something called a fail-safe mechanism requiring an additional $37 billion in cuts from providers if Medicare spending does not meet the arbitrary targets set in this budget resolution. What they are admitting here is they do not know how it is going to come out, and just in case it does not work, they will cut another $37 billion out of doctors and whatever with no specificity. You do not know what is going to happen. What will happen to home health care? Who knows. What will happen to nursing visits, Visiting Nurse Association kinds of things? Who knows? That $37 billion is sort of sitting there waiting to take a whack out of these things someplace down the road.

Now this fail-safe mechanism will only affect the traditional fee-for-service Medicare system. Is that fair? Why only the traditional one that people have known, and have lived with and felt secure with? Why not the MedicarePlus? Well, it is pretty obvious. It is simply an assault on the Medicare plan that every senior citizen in this country knows and understands.

Slashing reimbursements to doctors who remain in the traditional fee-for-service system will result in more and more doctors leaving Medicare to join these PSN's, these provider service networks, where they can escape State regulation and charge beneficiaries more.

□ 1900

Over time, Medicare beneficiaries will find that the Republican Medicare bill will force their family doctors to leave them and join a provider service network.

If you do a survey of seniors and ask them for suggestions on how to control the rate of growth of the Medicare Program, nine out of 10 seniors will respond that the Government needs to crack down on fraud and abuse in the Medicare system. The Republican plan does nothing, nothing to curtail fraud and abuse, and instead, does the exact opposite by weakening the administration's efforts to combat fraud and abuse.

The GAO, that is the Government Accounting Office, they are the people who go in and look and see if the numbers really add up, they estimate that fraud and abuse in the health care industry account for an estimated 10 percent of our yearly private and public health care expenditures. Based on that estimate, fraudulent payments in 1994 amounted to nearly $94 billion in this country. Broken down, that amounts to approximately $258 million a day, or $11 million every single hour.

As the General Accounting Office stated in testimony before the Committee on Ways and Means, Medicare has already begun to address the problem, and actually leads the private sector in health care anti-fraud and abuse efforts. Unfortunately, in spite of all the rhetoric you hear about fraud and abuse, the Republican proposal loosens the rules that outlaws kickbacks and that requires providers to exercise due diligence in submitting accurate and true Medicare claims.

That is not just Democrat rhetoric against the Republican bill. Under the Republicans, the Congressional Budget Office has estimated that the Republican fraud and abuse provisions will cost, cost the Medicare program over $1 billion from 1996 to 2002. That is right. Get it straight. The Republican bill encourages $1 billion in fraud and abuse in the Medicare program. All three of the Federal Government's health law enforcement agencies have spoken out against the Republican plan. It is too bad, in my opinion, that the Republicans are too stubborn to listen to the people who actually enforce the law.

It really is time to focus on the facts. The Republicans are cutting Medicare by $270 billion to pay for unnecessary tax cuts, and they at the same time are starting the death spiral of the traditional Medicare program. My bill, H.R. 2422, the Medicare Security Act, shows the American people that we can protect the Medicare program without hurting our beneficiaries, or disrupting our health care delivery system.

I would be the last person in this House to dispute the fact that Medicare is growing too rapidly, and its rate of growth needs to be controlled, if we are going to avoid bankrupting the Federal Government. However we do not need to cut $270 billion from the Medicare program over the next 7 years. Cuts of this magnitude do nothing to save the Medicare program, or extend the solvency of the part A hospital trust fund any longer than is extended by my bill to 2006. Medicare is being cut for one reason and one reason only: That is, to balance the budget and pay for the tax cuts in the amount of $245 billion.

My bill shows Medicare spending by $90 billion over the next 7 years, which would keep the part A solvent until 2006. This gives the Congress and the President 10 years to fix the problem of the baby boomers entering the Medicare system, without imposing any hidden costs on seniors or impeding their access to care.

As a reasonable alternative, my bill cuts $67 billion from Medicare part A and $23 billion from part B. All of the part B savings go into Part A to make it solvent. These cuts are basically technical adjustments that the health care delivery system can absorb and that will preserve the same level of Medicare coverage and benefits that beneficiaries have today, which is quite different than the Republican bill. Equally important, my bill ensures that the savings in the Medicare program will not create profound disruptions in the health care delivery system, or our teaching hospitals, or access to quality care by our seniors.

My approach avoids the substantial increases in both the cost of private insurance and the number of uninsured persons which the Republican plan guarantees. The cuts in my bill are distributed throughout the health care system in an equitable manner to doctors, hospitals, home health agencies, and skilled nursing facilities. In my bill, there are no increased costs to beneficiaries, and adjustments to provider reimbursements have been specifically tailored to protect the basic elements of our health care infrastructure.

The Medicare Security Act will not place any additional financial burdens on our elderly poor or their families. You have to understand that fully 83 percent of Medicare expenditures are for beneficiaries in this country, senior citizens in this country, with incomes of less than $25,000. We are talking about people who are living a comfortable life, they are not in poverty, but they are not rolling in money. This is a program that protects the basic American infrastructure that has built this country, people that paid their way, that made this country what it is.

Beneficiary payments and copayments should be increased only as a last resort, because these seniors simply cannot afford a doubling of the part B premium, which is what is anticipated under the Republican plan. Their part B premium, that is, for the doctors, already rises from $46 a month to $87 a month by the year 2002.

Under my plan, the premiums, as they have grown each year a little bit, will be increased to $58 per month. That is a savings of $30 a month for senior citizens. The real problem, and I think the thing that has been missed in all this debate, because most people walk around thinking this is a senior citizens issue, it really is not a senior citizens issue only. It is partly theirs, but it really is also everyone else's in the population, because the problem for Medicare starts in 2010, when the baby boomers enter the program.

Many young people in this country do not believe that Medicare will be there for them when they reach that age. They say, "Why should I pay for Medicare, because it is not going to be there when I get to be 65." That is a legitimate concern. The Republicans' proposal to slash Medicare does nothing to solve that problem. For that reason, my bill, like the Republican bill, creates a bipartisan commission to specifically address the changes needed in Medicare and in health care coverage and finance generally to accommodate those aging baby boomers in 2010.

You may say, "Why another commission?" In 1983, this House was worried about Social Security. There were thoughts it was going to be insolvent. It would not be there at some point in the future. They formed a commission, made recommendations to this House, we changed some of the laws, and it is now solvent to about 2040. It is that proposal that we have before this House in terms of a bipartisan commission to facilitate the national debate, which is necessary to determine what kind of Medicare program we want for older Americans, and whether or not we as a Nation are willing to pay for that program.

We have to make a decision again that was made in 1965. The reason we have to make it now is that we have been so successful. Medicare has been successful. People are living longer. They are living more productive lives. We have more ways in which we can extend life and make life meaningful, and it is costing more. We have to have that debate again. Are we willing to do that for the rest of the society when they get to be 65, and are we willing to pay for it?

This blue ribbon commission created by my bill will be charged with the responsibility of building a national consensus on the future of Medicare. This commission will make recommendations to the Congress by January 1, 1998. That is 8 years before any future Medicare collapse in 2006. It is clearly possible for them to do that over the next 2 years, and they should do it. I firmly believe that this commission is the most important part of the bill, and the most important part of this Medicare debate.

Before making radical changes in the structure of Medicare, let us have an open and honest debate about what we can do to fix Medicare without destroying it. Changes in Medicare of the magnitude proposed by the Republicans should not be rammed through the House of Representatives after one day of floor debate. Four hours and we are going to ram it out of here.

We had not one day of testimony before the Committee on Ways and Means on the proposal that was voted out last week. We had many days talking about what the problem was. You will hear people say, "We had days and days of hearings on it;" yes, describing the problem, but not a single day was spent in careful examination, with people coming in from the outside to talk about what the effects of their proposal really would be, so we are going to ram something out of here destroying Medicare, and it does not have to happen.

My bill lays down a marker for honesty and simplicity. According to the Congressional Budget Office, this bill and the Republican Medicare bill take the Nation to the same destination, 2006. Fortunately, my bill costs one-third as much, and I believe that is what the House ought to go for. I can see no reason to dismantle Medicare simply for the sake of a tax cut for the wealthiest Americans.

Mr. Speaker, I yield to my colleague, the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding to me. I applaud him on his work.

Mr. Speaker, I would remind the gentleman that several years ago we were in discussion about another issue.

Mr. MCDERMOTT. If you are talking about single-payer, I am ready to go.

Mr. SANDERS. At that time we were not talking about making savage cuts in Medicare or making savage cuts in Medicaid. At that time what the gentleman was doing and many other Members of this House, and what I was trying to do, is bring forth a program that would not be cutting programs for the seniors or the low-income people, but in fact, in a cost-effective way, would be guaranteeing health care to every man, woman, and child in this country without out of pocket expense. In fact, it would be providing health care to all of our people without spending any more than we are currently spending. We have come a long way in 2 years. Unfortunately, we have moved rapidly in the wrong direction.

Today, instead of talking about how we are going to cover everybody, what we are talking about is how we are going to throw huge numbers of people off of health insurance altogether.

What I wanted to focus on for a few moments is the impact of the cuts in Medicare and Medicaid on small, rural States like the State of Vermont. As the gentleman indicated, in terms of the Medicare cuts, we are talking about a $270 billion cut over a 7-year period. In terms of Medicaid, we are talking about a $180 billion cut over 7 years. I want to make a point here that is not made often enough, I think, that the cuts in Medicare and the cuts in Medicaid are only part of an overall attack by the Republican leadership on senior citizens in general. Medicare, yes; Medicaid, yes, cuts. The LIHEAP program, the fuel assistance program that is very important in the cold weather States like Vermont, is being proposed for elimination by the Speaker, the gentleman from Georgia [Mr. GINGRICH], and the other leaders in the House. What that means is that many elderly people throughout this country are going to find it very difficult to pay the fuel bills when the weather gets to be 20 below zero in the State of Vermont.

I would also mention that senior citizen housing, which is very important in the State of Vermont, and I am sure important in Washington State as well, is targeted for no more new construction. In Vermont senior citizen housing is terribly important. I used to be the mayor of Burlington, VT. We had long waiting lists of elderly people who wanted to get into the reasonably inexpensively comfortable senior citizens housing. No more senior citizen housing.

Furthermore, we are talking about the elimination of the RSVP program and other senior citizen programs, so we should look at the cuts in Medicare and Medicaid within a broader scope, and that is part of a savage attack on the needs of elderly people.

The gentleman is correct when he talks about the fact that the real reason behind these terrible cuts in Medicare and also in Medicaid have far more to do with tax breaks for the wealthy than they do with protecting the Medicare system.

The Republican leadership is proposing a $245 billion tax break over a 7-year period, and much of those tax breaks are going to the wealthiest people in America. In addition to the individual tax breaks, we should reemphasize the point, reiterate the point, that the Republicans are proposing to repeal the minimum corporate tax, so on one hand we are going to be telling elderly people that they must pay more for health care when they cannot afford it. On the other hand, we are telling the largest corporations in America who make billions of dollars in profits, whose profits now are at an all-time high, that they are not going to have to pay any taxes at all.

□ 1915

Furthermore, we are talking about increases in military spending, more money for B-2 bombers, more money for star wars.

Furthermore, we are talking about the maintenance of a system which provides $125 billion a year in corporate welfare.

Now, why, in God's name, are we cutting back on Medicare, cutting back on Medicaid, but not making significant cuts in corporate welfare, which is tax breaks for the wealthy and subsidies for large corporations.

In my State of Vermont, as a result of the Republican Medicare cuts, some 80,000 senior citizens and disabled Vermonters will be paying higher premiums for a weakened Medicare system. In Vermont, these cuts represent a $356 million loss of revenue. As a result of the Republican proposal, Medicare part B premiums will rise from the current cost of $46.10 a month to $87 per month in the year 2002. Under current law, the part B premiums would have increased to $61 a month.

In other words, the Republican proposal will cost Vermont senior citizens and disabled people, by the year 2002, $312 a year more in part B premiums.

What I would point out is that there may be some people who are not senior citizens who think, well, Medicare is providing great coverage right now. Is that not great? As I know the gentleman from Washington knows, that is not the case. In my State of Vermont, I talk to many seniors who have Medicare who today cannot afford the high cost of prescriptions. They cannot afford to pay their fuel bills. They are hurting, despite Medicare, as the gentleman, I think, knows. Elderly people are paying a larger percentage of their fixed incomes out of their own pockets for health care today than before Medicare because of the escalating cost of Medicare in America. So with Medicare today untouched, many of the elderly are having a hard time affording their health care needs. With these cuts, there will be an absolute disaster.

I also want to say a word on the issue of Medicaid. Medicaid, of course, applies to many senior citizens who use Medicaid for long-term care in nursing homes, but it also applies to the low-income disabled, and it applies to low-income children, and I would hope that the American people would take a deep breath and take a look at the values of a society which say, yes, more money for star wars, more money for B-2 bombers, more money for corporate welfare, more money for tax breaks for the rich, but we are going to go after the weakest and most vulnerable people in our society, low-income elderly people, low-income disabled people, and low-income children. What a set of values. It does not make a whole lot of sense to me.

I would also point out that in the State of Vermont and all over the country, when these cuts come to Medicaid and these cuts come to Medicare, many, many middle-class families today that are struggling with declining incomes are suddenly going to wake up and find out that they are going to have to pay more out of their limited incomes to take care of their parents who are in senior citizen nursing homes or wherever, because Medicaid will not be covering those needs.

I would also point out that in rural States these Medicaid cuts are going to be very devastating, and the Medicare cuts as well, for our hospitals. We do not have huge hospitals. Many of the hospitals in the State of Vermont are small, rural hospitals which today are barely hanging in, and when we appreciate the fact that in the State of Vermont, a rural State, 55 percent on average, 55 percent of the revenue that comes into the hospitals comes from Medicare or Medicaid, there is no debate that in rural America and in rural Vermont, many of the hospitals, we have hospitals, Central Vermont Hospital, 60 percent of the revenue comes from Medicare and Medicaid, Grace College, 66 percent, North Country Hospital, 64 percent, Northeastern, 59 percent, Northwestern, 59 percent, Springfield Hospital, 61 percent, Mt. Ascutney, 68 percent of their revenues coming in from Medicare and Medicaid. How do these hospitals continue if there are savage cuts in those programs?

The last point I want to make, and the gentleman from Washington has already make this point, is we are talking about drastic cuts in programs which are going to affect tens of millions of Americans all over this country. The calls coming into my office now are primarily calls which say, "Bernie, do not cut Medicare. Do not cut Medicaid. We just can't survive if those programs are cut." I am sure that is true of most of the Members of this House.

One would think, one might think that when we are talking about drastic cuts in programs which affect the lives of tens and tens of millions of American people, there would be very long, serious debates in committee and on the floor of this House, that these debates would go on day after day, we would hear discussion from the most knowledgeable people in America as well as from the senior citizens and the low-income people who are going to be impacted. But as the gentleman has already points out, that debate is very, very limited, and we know the reason why.

I think the Republican leadership understands that the more the American people learn about their proposals, and the polls all indicate this, the less support there is for that. So they are trying to push these things through and in, I think, a very unfair and undemocratic way.

I thank the gentleman from Washington very much for the opportunity, to say a few words.

Mr. McDERMOTT. Your last point reminds me of the fact that Seattle is playing, tonight, baseball against the Cleveland Indians. The pitcher on the mound is a guy named Randy Johnson, who throws about a 95-mile-an-hour fast ball. The Republicans are throwing a 95-mile-an-hour fast ball past the American people. They want this jammed through here so fast that nobody can really figure it out. That is really what this is all about, only they do not understand it. The American people have seen that pitch before, and they are going to hang in there and clobber it. I hope the Cleveland Indians cannot clobber Randy Johnson tonight.

Mr. SANDERS. I would remind the gentleman a couple of years ago we did a poll in the State of Vermont. We asked Vermonters if, given a choice between raising taxes on upper-income people or cutting Medicare, what would they prefer. Overwhelmingly, people said if the choice is cutting Medicare or raising taxes on upper-income folks, we should raise taxes on upper-income folks.

What would be the poll results if we said should we lower taxes on the richest people in America and cut Medicare? I do not know of 5 percent of the population who thinks that is a good idea. That is why they want to move this thing through the House so very fast.

Mr. McDERMOTT. Absolutely. I thank the gentleman very much.

THE PROGRAM TO SAVE MEDICARE

The SPEAKER pro tempore (Mr. GUTKNECHT). Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. MILLER] is recognized for 60 minutes as the designee of the majority leader.

Mr. MILLER of Florida. Mr. Speaker, we are finally coming down to the time we are actually going to be able to vote on the Medicare Program. I am excited about the fact that we are finally going to have the chance to really vote and pass a good Medicare Program that saves the Medicare Program. That is something we are proud of over on this side of the aisle.

All we hear from the other side of the aisle, all we hear are fear and scare tactics. You know, the saying is Medicare or mediscare. All we are hearing is, "Oh, my gosh, what are we going to do?"

Listen to the truth. We are saving Medicare. It is going to become a better program. You know, Medicare is a very, very important program. It is very important for me in my district in Florida. I have got more seniors than any congressional district in the United States. So I have large numbers of seniors. It is very important for jobs in my district. It is the largest employer in my district. My mother, my 86-year-old mother, is on Medicare, and my in-laws, whom I just lost recently, were on Medicare. It is very important to me personally. So we have to save Medicare. No one wants to get rid of Medicare.

The simple question is, and I do not understand what they are screaming about, Medicare should not be a partisan issue. Everybody on both sides of the aisle agree Medicare is going bankrupt. We do not disagree with that issue, and Medicare, we need to save it. We agree on that.

We have the plan. We have the only plan, actually. The Democrats are saying they want to save Medicare, too. So we are all in agreement on that. All we want to do is offer choices.

What is wrong with offering choices? The previous speakers said we do not want to have these choices; this is a bad choice, that is a bad choice. What is wrong with choices? As a Federal employee, I have choice. You have choice, I say to the gentleman from Arizona [Mr. HAYWORTH]. You have a choice when you choose next month. We are going to get a choice next month. As a Federal employee, we have the same plan as anybody in the Department of Agriculture and Commerce. We are going to get a list of choice, and we choose. Why should not seniors get a right to choose?

Mr. HAYWORTH. If the gentleman will yield, I think that is absolutely the key point to this debate, and we have to ask ourselves, realizing that good people can disagree, and indeed we come to this Chamber to discuss issues of vital importance, such as Medicare preservation and Medicare improvement; we have to simply give people choice. You know, I listened with great interest, Mr. Speaker, as our friends preceded us in this special order, and I noted with interest a couple of remarks from my good friend from Washington State, and just to put this in some perspective, in my former profession, where I talked a great deal about athletics, I think my friend from Washington State offered the improper analogy. He was claiming that the new majority was trying to throw a Randy Johnson-like fast ball past the American people. I would take issue with that. Instead I would say that our friends, who are really guardians of the status quo and the old order, the new minority, is trying to throw the American people a hanging curve ball, because let us make no mistake about it, my good friend from Washington State who preceded us here in the well, those who studied the health care debate of a year and a half to 2 years ago realize that our friend from Washington State was the proponent of a health care plan, a national health care plan that can be safely said was even to the left of President Clinton's plan.

It was as if my friend from Washington State wanted to transmogrify the United States into the Dominion of Canada to try to bring that type of health care to this country, cradle to grave, soup to nuts, State-sponsored triage that was, in my humble opinion, irresponsible, with a massive centralized bureaucracy and putting health care decisions in the hands of government.

What we are trying to do is to change that, to say that the time for scaring the American people is over. It is time to provide options. We have options in every other walk of life. Why should we change at age 65 and only have one plan in a one-size-fits-all scenario? That is the wrong route.

Let us provide more choices even as we restrain the rate of growth. We still have growth in expenditures.

But I was also struck by one diagnosis that my friend from Washington State, as a psychiatrist, I think, was very appropriate in offering. In the early days of this Congress, as things changed, he talked about the fact that the guardians of the old order were, to quote him now, "in a state of denial about the way things have changed here, and the new philosophies predominant on the Hill." I would simply add a footnote to that. Not only were members of the new minority in a state of denial, that denial has been followed by rage, and one of the lessons I have learned here, and I will be very candid with my friend from Florida, to my eternal regret, in the wake of the historic shift within this body, what we find so often now is that the debate has very little to do with policy and everything to do with power from the perspective of my friends in the new minority.

So jealous are they of the change in power that they will do anything, say anything, claim anything, to scare people about changes that need to take place, and so, again, I think that we ought to stretch out a hand and say good people can disagree, but let us suffer no illusions or delusions about what is going on here. We have a plan, a responsible plan to deal with the sobering realization that the trustees' report brought to the floor that Medicare, if we do nothing, goes bankrupt in the next 7 years.

Again, I hear our friends in the mass media, many of them almost acting as if in collusion with the new minority to claim it is to pay for some sort of tax cut. Nothing could be further from the truth. This is, as my friend from Florida knows, through the stewardship of the Committee on the Budget, the hard work of the gentleman from Ohio chairing that committee, we took care of making sure that all Americans could have more of their hard-earned money in their pocket, and this instead is in response to a bipartisan trustees' report that compels us to act now.

□ 1930

In fact, as I see here, the gentleman has brought something to the floor from a publication not typically sympathetic to conservative points of view.

Mr. MILLER of Florida. I just do not understand what the point they are making from the other side of the aisle is. They agree we are saving Medicare. They say we are having choices. What is wrong with choices? They cannot disagree with the fact we are not changing the deductibles, we are not changing the coinsurance. They cannot disagree with that.

The premiums are going to continue going up, but at a slower rate than they have been going up in the past. So they cannot disagree with that. We are going after waste, fraud, and abuse. What is wrong with going after waste, fraud, and abuse? I do not understand what their point is.

The Washington Post, not known as a Republican paper, says the congressional Republicans have confounded the skeptics. Our plan is credible, gutsy, and it addresses the genuine problem that is only going to get worse.

Let us see what the Washington Post says about the Democrats. My friend from Arizona, look what they are saying about the Democrats.

Mr. HAYWORTH. This is something. To use the words you have up here for us, let me recite it for the folks on what the Post has to say about the Democrats' MediScare campaign. "Crummy stuff." "Demagoguery, big time." "Scare talk." "Expostulation."

Finally, quoting again, "It is irresponsible."

The fact is, as my good friend from Florida knows, we have yet to really see a definitive plan. And this is part of the frustration that I am sure the gentleman encounters in his district. As the gentleman's experience warrants in Florida, so too is my experience in Arizona. Many seniors living in the Sixth Congressional District of Arizona are saying to me, "You know, you are right to try and fix this problem, and not wait on a commission or not take a Band-Aid approach to say, 'Okay, there is a problem, but let us just try to solve it through the next election.'"

Believe me, from the old days of politics, the easiest thing to do would be to stick our heads in the sand or try a little change here in the hopes that we could paper over it through the next election. But I know that is not what the people in Arizona or Florida or Connecticut sent us here to do. We are here to make the changes needed, responsible, reasonable changes, to improve this system; thus the name, Medicare Plus.

This is one other note we really have to reinforce, despite all the scare talk: If people like conventional Medicare, as they have it now, they are free to keep it. You mentioned the experience of your mother. My granddad is 91. He does not want a lot of things to complicate his lifestyle. He may very well want to stay on the program that has served him, and that, too, will be his choice.

Mr. MILLER of Florida. Let us define the problem. I am sure everybody listening here this evening understands what happened. The fund is going broke. It is going bankrupt. There is no dispute of that issue. The trustees, most of them are members of the Cabinet of President Clinton, but this is not a partisan issue. We are doing it together. The fund is projected to be exhausted in 2001. That is not politics; it is the facts, folks. We have to do something about saving Medicare. It is a simple fact it is going to be totally bankrupt in 7 years.

We have a trust fund. The only money going into this trust fund is payroll taxes. Under the Medicare part A, there is 2.9 percent payroll taxes that goes into a trust fund. The only money going out of that trust fund is to pay for Medicare part A. Next year, for the first time in the history of the Medicare Program, actually this year, which started October 1, more money will be going out than going in. For the first time in history we are going to spend more money out of that trust fund than money coming in in payroll taxes.

It is going broke. All the reserves, which are about $129 billion, are going to be completely gone in the year 2002, and then we have a disaster. And the real problem hits in the year 2010, because in 2010, that is the baby-boomer year, 65 years after the close of World War II, and when the baby-boomers start retiring. Everything blows up. So if we just put it off, the decision about Medicare, if we just put it off, what happens is it gets worse and worse every year.

We cannot put our head in the sand to try to solve this problem. We need to remember that the spending on Medicare has been going up at over 10 percent a year, and the private sector health care costs are going up much less. All we need to do is slow the rate of growth in spending.

This always bothers me, when they say we are cutting Medicare. Our plan does not cut Medicare. We increase spending every year on Medicare. Over the next 7 years we are going to spend $354 billion more than we spent on Medicare for the past 7 years. We are increasing spending by $354 billion more during the next 7 years than we did for the past 7 years.

It is going up every year. We keep saying only in Washington do you call an increase in spending a cut. I just do not understand how you keep increasing spending and saying you are cutting spending. The facts are the facts. We are increasing spending $354 billion over 7 years.

Mr. HAYWORTH. I just do not think we can state this enough. Now, I do not know by what mathematical gauge we are dealing here in Washington. I know George Orwell wrote of a "Newspeak," a different type of language that said ignorance is strength, war is peace, and things of that nature. I cannot help but see the same type of pattern here with what goes on in terms of Washington numbers.

Now, I know the gentleman has been well respected in the world of business. Would the gentleman just review the numbers here again on this chart and explain again very slowly, so the American people can understand, and especially those who reside inside this Beltway, can understand what in essence is going to transpire.

Mr. MILLER of Florida. I am a former statistics professor, I have a Ph.D. and taught statistics for many years. It does not take a Ph.D. in statistics to understand this. These are simple numbers. The way you get these numbers, in 1995, we are spending $179 billion on Medicare, which is $4,816 per person for every man and woman on Medicare. The total amount of money we are spending right now is $4,816 per person on Medicare.

Now, in 7 years, we are going to spend $6,734 per person on Medicare. That is an increase per person, whether we talk about a total amount of dollars or on a per person basis.

Mr. HAYWORTH. An increase of almost $2,000, it appears.

Mr. MILLER of Florida. That is right, per person, almost $2,000 more. It is MediScare, fear tactics.

Mr. HAYWORTH. I notice, without having the privilege of taking one of your statistics courses when I was at North Carolina State, but just to put it in real terminology, I offered this example before and I think it has some validity here, in real live terms. When my daughter asked for an increase in her allowance, I gave her $5 a week until junior high. By the time she got to high school, we said, Honey, live a little. We doubled it to $10. I do not know if it was fiscally responsible or not. She did not grouse and complain and say, Daddy, you did not take it to $15. Therefore, you cut my allowance by $5. She had a genuine increase. Her allowance was doubled.

I think the point the gentleman is making is this is not rocket science, but is, as in the mid-to-late fifties, what Dwight Eisenhower used to call the study of government and description of politics, "sophisticated nonsense." Lost among the sophisticated nonsense and fear tactics and rhetoric is this very simple message that is the foundation of what it is we are doing.

Again, I yield to my friend from Florida, because I do not think we can repeat this enough.

Mr. MILLER of Florida. One other chart that shows it is, let us look at it on a monthly basis over the next 7 years. This is what the Federal Government is spending per month for every person, beneficiary, on Medicare: In 1995, $401 per month; 1996, $423; $440; $460; $481; up to $561 per month per beneficiary on Medicare.

I just do not understand where you get a cut when you go from $401 a month to $561 a month. That is an increase in spending. In fact, when I explained it one time at a meeting back in my district in Sarasota, somebody got mad at me. Why are we increasing it so much? We can live within these numbers. They are live, and we can have a good program. I am proud of the program that we have on Medicare. It is an exciting program, giving more choices and options.

I am glad our colleague from Connecticut, Mr. SHAYS, is with us today.

Mr. SHAYS. Mr. Speaker, I just would like to weigh in on this. I was listening to both of you in my office and I felt compelled to join you, because this is something that we have been working on for years, particularly this last year.

We are going to spend $675 billion of additional new dollars in the next 7 years as opposed to the last 7 years. We spent about $926 billion between these last 7 years, and in the next 7 years we expect to spend about $1.6 trillion. That is an extraordinary amount of new dollars. Those new dollars are going to be used to help beneficiaries.

What amazes me is that when I listen to the plan, described by some of my constituents, that was described candidly by Members on the other side of the aisle, I thought, I do not like that Medicare plan.

They described to me a plan that created new copayments and increased existing copayments. That is a not. They described a plan that created new deductions and new deductibles and increased the deductibles that exist. That is a not. The hospital deductible, the doctor deductible is going to stay the same. They described premiums where they were going to have to pay more, and the fact is they are going to pay 31.5 percent, which is exactly what they pay now, and it will stay that way. As health care rises that premium cost will go up, as it has during the last 7 years.

I thought, none of that is true. As I talk to my constituents, they say it is a not. I have been told it was. It is not true. The bottom line is no copayment, no deductible, no increase until premiums. But they say, but I have been told I cannot have my doctors. I am going to be forced out to get private care. That is a not as well. It is not going to happen.

Beneficiaries can stay in the same program they are in now. If they have a doctor for their heart, kidneys, or stomach, or any other ill they have, they can keep those doctors. No change whatsoever.

I am excited about this plan, because it allows people to stay in the existing plan, but it then allows them to get into private care plans if they want. They can even have a medical savings account and buy a large deductible if they want to do that. They have so many options. They can stay in fee for service.

So I look at what we are trying to do, which is slow the growth of this program to about 6.3 percent. I would just come back to the original point: In the 7th year we are going to spend 54-percent more than we spend today. That is a gigantic increase. In the 7th year, beneficiaries, per beneficiary, are going to get 40-percent more per beneficiary.

I look at the plan and say this is a job well done. I would defend this program anywhere. I would debate anyone on this issue. It simply is a plan we can be very proud of. I hope ultimately the American people are focused in on what this plan is and not a plan described by people on the other side of the aisle who simply want to prevent this from happening.

Mr. HAYWORTH. Mr. Speaker, I think you make such an outstanding point, that we have to remember that we are offering again, as our good friend from Florida pointed out at the outset of this time together, we are offering choices. And the ultimate choice is if people like what they have, they can keep it.

Again, I am struck by the difference. It is interesting to see some Members of the fourth estate try to cover this debate and try to draw an analogy with the failed soup to nuts, cradle to grave, socialized plans that were offered 2 years ago and say that somehow there is a synergy between the two things.

Nothing could be further from the truth. Going back to our analogy of the hanging curve ball, how interesting it is that guardians of the old order and proponents of socialized medicine are now coming to this floor saying that we denied, or that we would deny people their choice of their own physician.

Nothing could be further from the truth. There is no synergy between these two episodes in history. We are offering something profoundly different, predicated on what is, I believe, the essence of being an American, the chance to take a look economically and personally at what is best for our future destiny and having an option to determine what is best.

It is so interesting to hear the descriptions, as if latitude in personal decisions is something to be feared or as if there is some sort of unseen compulsory action that will take place that will force people into certain programs.

Nothing could be further from the truth. We are enlarging choice for the American people and renewing freedom that heretofore has been denied for the past 30 years, despite the virtues of this program, when people magically hit the age of 65.

Mr. SHAYS. Mr. Speaker, one of the plans we are allowing, we are allowing doctors and hospitals to have their own program. In other words, they can now compete directly with the insurance industry; they can compete with HMO's, health maintenance organizations. They can participate in this process. I believe that they will be able to provide patients extraordinary care at significant reductions in price.

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One of the things that happens is in this process of choice, they can stay in their fee-for-service. The only way they have to leave is they have to choose to leave. And the only way they will choose to leave is if they can get better health care in one of the private plans.

So, for instance, if a private plan wants to say that their premium will be less, they will get a rebate or, in fact, their deductible, which presently is on hospitals and doctors, would be reduced, they can get that. Some plans might entice individuals to participate because they will get drug care for the first time, or eyeglass care or dental care, which they might not get now. The only way that happens is if they can convince individuals they should leave their plan.

Now, if they leave their plan, under our proposal, we are allowing Medicare patients every month to go back into their old system. There is a 2-year window where they can simply go back the next month. And then, in the third year, it would be every year. So we are saying if an individual really wants to test it, and they are not sure they will like it, they can go right back to what they have.

I have tremendous confidence a lot will choose to do the private care and they will stay there because they will find they will be better.

Mr. MILLER of Florida. I think those are very important points to remember. Two important points the gentleman has made. Traditional Medicare will be there. My 86-year-old mother is not going to change, and that is fine. I think she should have the right to stay in the system the way she is. She is not going to want to change. So everybody has the right to stay in the system.

The other important point is, during the first couple years of this, with 30 days notice, an individual can change back to the system. They can change every month if they want. What is wrong with that? Why would someone object to having the chance to choose, and if they do not like it, change again? It is their right to choose. Just like as a Federal employee we get to choose once a year. That makes sense. What is wrong with that? I don't understand what the scare tactics.

Mr. HAYWORTH. If the gentleman would continue to yield, I know we listened to our colleague from Vermont [Mr. SANDERS] bemoaning prescription costs. Again, the gentleman from Connecticut [Mr. SHAYS] has pointed out what may very well be one of the virtues of these many different plans, that there may be copayments and reduced fees for the very prescription drugs that my friend from Vermont was so concerned about.

This is really the essence of the debate we are having here. Again, good people can disagree. There are some who legitimately believe that it is the domain and the responsibility of the Federal Government to act not only as the charity of first recourse, but to be the principal architect and the principal provider of about every service here in the late 20th century. I think, fundamentally, the American people reject that notion, but the American people look for a plan that empowers the populace, that empowers the citizenry, and that can give them the very choice they need to make responsible decisions. Again, those decision governed by their particular situations and their particular lifestyles. That is what is so important.

So the very thing that our friend seemed to fear, may, in the final analysis, be a phantom.

Mr. SHAYS. If the gentleman would yield, we basically have a plan that has no increase in the deductible, no increase in copayment, keeps the same premium cost, allows individuals to keep the present system they have, allows them to move into private care, if they do not like the private care, they can come right back in.

Someone said, well, why not take the premium, which is 31.5 percent and have it go down? What they are saying is, on Medicare part B, which is what the premium pays for, all the health care services, we are saying the taxpayer is going to continue to pay 68.5 percent. If we allow the premium to go down, we are then saying the taxpayers are going to have to pay 70 percent and 80 percent and so on.

So we are saying taxpayers will stay at 68.5 percent for Medicare part B, and those who receive the care are going to stay at 31.5 percent. To me, that is a very honest and straightforward way. The taxpayers will have to pay more as health care costs go up, and the premium will also go up slightly as well, but we are keeping that bond and that protection.

While we are not always mentioning this, it is something that I think should be put on the table. We are trying very hard to make sure that there is not a transfer of wealth from families to senior citizens. We have to be straight with everyone here; that the Federal Government cannot continue to pick up more of the percentage, because, otherwise, we will make families poorer and poorer. And it is not easy for a family today with two children, that makes $40,000, that now does not have the same deduction per child that my parents had. My parents had, in today's dollars, the equivalent, $8,000, they could take for each child, and a family today has $2500. My parents paid about 20 percent of their income in Federal, State and local taxes. A family today pays 30 to 40 percent.

We have to, when we talk about what we are doing for our elderly so we can protect Medicare, we also have to focus in on what we are trying to do for families.

Mr. HAYWORTH. If the gentleman would yield, I think he makes a very, very valid point. And, quite candidly, there have been those seniors that have come to me, and perhaps other Members in your respective districts have found this to be true as well, and they say, now, wait a minute, what about this whole notion of tax cuts? So many of those seniors I talk to I ask, and many of them were starting a family in 1948, maybe had a couple of kids. Back from the war, starting a career. And for an average family of four in 1948, 3 percent of that family's income went to the Federal Government in terms of taxation. Now, compare and contrast that with last year, when a typical family of four surrendered almost one quarter, 24 percent, of its income to the Federal Government.

As the gentleman from Connecticut [Mr. SHAYS] points out, with State and local taxes, with the hidden cost, the hidden taxes, if you will, of regulation, more and more people are surrendering 40, almost 50 percent of their income to the Federal Government.

So, again, what this new majority is trying to do, what we are tying to do in the Congress of the United States is empower people, not only the seniors but the families, to have more of their hard earned money. The people of the 6th district of Arizona last November sent a very simple message to Washington through my election, and that is this. We work hard for the money we earn. Let us hang on to more of it and send less of it to Washington. That is not born of a selfish impulse. Simply people realize that the place for charity does not come from the Federal Government being the charity of first resort.

And while there have been many innovative programs designed to empower people, we cannot empower people on one hand and yet enslave others with the same type of equation. There has to be opportunity across the board.

And I thank the gentleman from Connecticut for bringing up that very real challenge, whether it is income tax or payroll tax for part B Medicare in that trust fund. We have to understand that the work force today is called on more and more to pay taxes and they need to hang on to their money, and we have to find a way to get that done.

And that is why this plan, I believe, offers the best alternative yet devised to empower people and to work this problem through.

Mr. SHAYS. I wonder if the gentleman would yield again. I want to point out that we are a family in this place, in terms of our desire to take on some very tough issues. I have been here 8 years, and this is the first time we have had an honest dialog with our constituents about the need to deal with entitlements and control their growth. Slow the growth. Allow them to grow faster than any other part of the Government, but to slow the growth and to make some very necessary spending reductions in domestic spending.

We have been very honest to say that we have to get our financial house in order and balance the budget. That is our first task. Our second task is to save our trust funds, particularly Medicare, which the gentleman from Florida [Mr. MILLER] has focused so eloquently on. And our third task is to change the social corporate welfare state into an opportunity society.

We are going to do our best to save this American civilization and have a society where people can prosper.

Mr. MILLER of Florida. I am excited about the plan we will vote on on Thursday. It really is a great plan, and I am proud to be able to be part of the process of being able to introduce it on Thursday.

When we talk about the process, the gentleman mentioned talking to your constituents, and our friend from Arizona also. The thing that made our plan I think a successful plan is that we have been talking to the people that make the difference, that make the decisions that it impacts.

So often they want to have these hearings and we have all the policywonks, and maybe some from your State and my State, that come up here and say here is the theory. This is the way it should happen. I think that was the mistake in the plans last year. We have had over a thousand town hall meetings throughout the country listening to people. I am having another one this Saturday in Sarasota. I had one in a mobile home park in Ellington, FL, a week ago. I have them all the time, listening to the people and getting their input.

In addition, we have listened to the organizations that are on the front line. We have listened to the AARP, we have listened to the hospital groups and the physician groups. We have listened to the different groups that are on the front line and delivering care, and they believe what we are doing is the right direction.

There may be some differences. They may not wholeheartedly support this. They may not like something in it. The trial lawyers may not like us, of course. But the thing is we have listened to the people. That is the most important thing, the ones on the front line, rather than just the policywonks. The message basically is save Medicare and no Band-Aids. Let us fix it now and let us address the problem.

Mr. SHAYS. I wonder if the gentleman would continue to yield, so that I can point out and use real numbers. One of the points I want to make, and the gentleman from Florida, I think, represents an extraordinary number of senior citizens and your input, as in my work, as we have worked together on the Committee on the Budget on Medicare and Medicaid, has helped shape this plan, and that plan has been shaped by what we have been hearing.

My constituents have said, I have to keep my own doctor. Done. I have had other constituents say I want some choice. Done. I have had other constituents say I would like the opportunity for plans to give me eyeglass care or dental care. Done. Or prescription drug care. Done. I have had other constituents who have said I want the opportunity to have a medical savings account and to buy only catastrophic care. Done.

I mean we have been listening. That is not the way our plan started out. It has been shaped by the constituents we represent.

Now, I have had a number of constituents, I have had, candidly, I went to a funeral last night, where the member who passed away was a member of the Republican town committee. And I had one of my best supporters walk down the stairs and say, "Don't you dare. Don't you dare make any change in my Medicare plan." I said, "Tell me what are you concerned about." She said, "I am concerned you are cutting my medicare plan." I said, "Well. We are allowing it to grow at 6.3 percent." "No, I heard you were cutting. I heard this from the AARP." I said, "We are slowing the growth." Then she said, "Well, AARP told me I cannot have my own doctors." I said, "Well, that is not accurate." I said, "Hold it." We just went through the entire plan. And she said, "If that is the plan, I support it."

My conviction is that there are a lot of people right now who are being told a lot of things. I have had some of my colleagues go to nursing homes saying nursing homes will be closed next year. I have had some of my colleagues having press conferences with doctors saying they will not be able to have their doctor anymore. None of that is true.

Now, what is my conviction in voting for this plan? We have worked on it for an extraordinarily long period of time. We have had the input of so many different people who have told us what they want in the plan, and that is what we are doing. I am absolutely convinced that next year, when people see this plan unfold, and, candidly, that is when I have to face the electorate. I would not want to be so stupid as to do a plan that is unfolded and then does not work. That does not make sense for our country and it certainly does not make sense for anyone that has to go back to the electorate.

I am proud to defend and promote this bill when we debate it on Thursday, and I will be proud to defend it and promote it during the course of all next year. And I predict that people next year will say "What a great plan, and thank you for making sure that I could keep my existing health care, and if I want, I can change it and get other kinds of health care that meet more of my personal needs."

Mr. MILLER of Florida. I agree with the gentleman completely. I think 5 years from today people will sit back and look at what we had in Medicare, the one-size-fits-all model, and people will say, "Why did we wait so long before we made the changes in Medicare; before we gave choices?"

We were criticized that, oh, we had one day of hearing. Wrong. We had hearing after hearing. We worked together in the Committee on the Budget. We had representatives from industry in and actuaries and different groups in at different committees. At least 38 hearings this year on Medicare. So we have had the official hearings, lots and lots of them. Plus, we have built on all the hearings we have had for years.

I was lucky to serve on the health care task force that the gentleman from Florida [Mr. MICA] had for the past couple of years and, really, we had a lot of hearings and worked very hard on the plan there. So we listened. And when people came with ideas, we would go and say, "Can we do this?"

I will tell my colleagues some ideas that senior groups advocated. Any plan that is offered under our Medicare choice program has to offer benefits at least as good as current Medicare. So any plan they choose, they are going to have at least the same benefits or better.

Mr. SHAYS. Let me get this straight. So if a private plan, when the private plan steps forward, they have to tell and make sure that their health care plan covers everything that Medicare presently does plus.

I do not know if the gentleman from Florida was the one who had thought of the name of Medicare plus, but it is such an apt description of what our health care plan does. It allows them to have their existing health care plan plus.

Mr. MILLER of Florida. Right. Because the current Medicare system is going to continue. For those that want to stay with it, fine. But why not give those choices? As long as any choice they choose has benefits as good as the current Medicare, what is wrong with that?

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We are hearing people that have these other options for people that are low income. There are some choices out there that are going to be less money. It is going to cost them less and they get more benefits, if we just allow the marketplace to help bring the costs under control.

So, I am excited about the options, because we are going to give people the choice and they are going to say, "Great, why did we insist that it could not be changed?" It is exciting, what we are going to have, and I look forward to that.

Let me talk about the some of the choices we have. We always start off with the fact that the current Medicare stays. The plan, basically, is that every year beneficiaries are going to get some forms and they get to choose. If they want to change plans, fine. If they do nothing, they stay in current Medicare. If they want to change, they get assigned a form to change. But if they want to stay in the current plan, they stay in it. It is automatic. Nothing to do but just stay in the plan and it continues just the way it is. There are no changes.

But then we have these choices: Medical savings accounts, or the HMO-like organizations, or the provider service networks. I think these provider service networks are going to be exciting in local communities. When you think about it, most health care is local. Ninety-eight percent of the health care we receive is our local doctors, our local hospital, our local home health care agency.

Why not encourage the local doctors and the hospitals to go together and form their own program? As long as they meet the financial standards and they can buy reinsurance to provide those financial guarantees to make it sound, why not encourage those local hospitals and doctors to go together to form their group? They know their patients and communities best.

What is good in Florida may not be necessarily good in Connecticut or Spokane or Arizona. I have hospitals with 80 percent Medicare populations because of my high senior population. They are going to be most interested in this.

I am very concerned about Medicare. We cannot let that program go bad. We cannot let it go bankrupt. It is job in our community and for the senior citizens in our community. My own mother. We have choices that are going to bring it under control.

We have had over a thousand town hall meetings and coming up with some great ideas. Our leadership and our committees have listened and put the ideas that our Members found in town hall meetings into the plan. One of the biggest things they talk about is waste, fraud, and abuse. We all agree that we need to get tough on waste, fraud, and abuse. This is where a lot of the money is.

We believe that the marketplace is one area that is going to help drive that out. When we have competition for the business and we have to satisfy those patients, if they do not like it, they leave and go some place else.

I have a restaurant. If customers do not like my restaurant, they can go down the street to the other restaurants. We have to keep people satisfied, and if the doctor is not doing a good job, the patients will go down the street. That is going to force it out.

They have to efficiently provide the service at the same time. We are going to give seniors an option to help us root out the waste, fraud, and abuse. It is hard for the bureaucracy in Washington to discover all the waste in the system. It is hard to discover it out here, but patients come up to me all the time and tell me about the problems.

One case was on network news. The lady was talking about being billed for an autopsy when she was in the hospital. That is a little bit extreme, but if they can locate the problems, let us give incentives to seniors to go out and find that waste, fraud, and abuse. So much of this is related to defensive medicine where the lawyers have driven up the cost. If we can do that, we can have benefits that are going to address that issue.

I am glad that my colleague, the gentleman from Florida [Mr. MICA] is here, because he has a large number of seniors in his district just north of Orlando.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding. I cannot think of anyone in the Congress who probably represents more seniors than the gentleman from Florida [Mr. MILLER], and who has been more active in trying to bring some fiscal responsibility to this Nation and also to the Congress.

I am also pleased to join the gentleman from Connecticut [Mr. SHAYS]. I know many of the Members, particularly on this side of the aisle, and there is no one who has greater sense of compassion for the people of this country, their needs, and who cares more about human beings in our Nation. I have seen him work in this fashion and toward a compassionate solution to many of the problems that confront us. I am extremely pleased to join both of my colleagues this evening to talk about Medicare reform.

I have really remained somewhat silent. I have held my town hall meetings and looked at what the Republican proposal was. Tonight, I am here to strongly endorse the House Medicare reform proposals.

I have looked at them. I have talked with our seniors. The nice thing about senior citizens is they were not born yesterday and they have seen a lot of water over the dam and heard a lot of rhetoric and they have been able to sort through some of the smoke and charges and rhetoric from the other side of the aisle.

It is unfortunate that some of these people have not come up with what is a new idea, or some new solutions, in more than three decades to some of the mounting problems of this country. I am here tonight to say that, in fact, I think the greatest threat to our senior citizens is the national deficit and we must do something about it.

I brought a couple of charts that I blew up. They are not very colorful, but one of them I wanted to show to our seniors and other Members tonight was the fact that our Federal budget in 1995 now is composed of $153 billion in entitlements. That is some of the welfare programs; $333 billion in Social Security, and that we hope will stay off budget and is not affected by anything that is proposed by our side of the aisle; Medicaid is another $90 billion; and you see Medicare $176 billion. Then you add in interest on the national debt and we are looking at somewhere around two-thirds to three-quarters of our entire expenditure for the Nation.

What this says is that we must do something to bring some of these costs into check. The two biggest Government programs are the health care programs, Medicare and Medicaid. And even a simple mathematics computation will tell us, and the President's own trustees, and I brought a copy of that, that basically, that the trust fund is projected to become exhausted.

What I said about simple math is we have been spending somewhere between 11 percent, 10.5 percent, and 13 percent per year. And simple math will tell us that in about 7½ years, if we continue at that rate, those huge expenditures will bankrupt the system and this chart again goes completely awry and we cannot bring the finances of this country into order.

Now, what is even of concern not only to seniors, but what should be of concern to working men and women, is the country's population and its worker base actually starts to decrease. The ratio of active workers to Medicare beneficiaries in 1995, as you can see, is way up here on this chart: 3.3. And if you look at the year 2035, it is down to 20.

So, what is going to happen is people who are now concerned about what is being taken out for Social Security and other taxes and Medicare, there will be a smaller pool to draw from. They will be able to take home very little and we will be taxing them to an unheard of degree. We will not be able to support the system.

So, we did not create the mess. We may have been here while the mess was created, but, in fact, the other side has had control of both the House and the other body here. We see the same thing, whether it is the District of Columbia, it is Amtrak, whether it is Medicaid, whether it is the pension funds that I oversee for the Federal Government on the House side as chair of the House Civil Service Subcommittee. All of these programs are basically bankrupt. We have robbed from the cookie jars and now we have to face reality.

But I think that the plan that we have come up with, you have heard my colleagues, Mr. MILLER and Mr. SHAYS, outline some of the things that we have done. We addressed the real problems here.

Everyone knows, every senior who has attended any town hall meeting that I have held has come forward and said, Mr. MICA, look at the waste, fraud, and abuse. Look how much I was charged for this 15 minute service. And they hold up a bill. Look how much this item cost, this overbilling.

The Miami Herald in Florida did an article on Medicaid fraud and they estimated a $1 billion fraud and abuse of the system in just the State of Florida.

Mr. SHAYS. The gentleman said 1 billion?

Mr. MICA. Yes, $1 billion in waste, fraud, and abuse. And that is the cornerstone of the Republican plan, is to tackle some of that. Every senior has seen it when they have sat in an office and seen how the system is abused. When they have seen the billing, they see the net results.

We had one individual come to a town hall meeting and talk about what he was forced to pay for a wheelchair. He could have purchased probably four or five wheelchairs for what the system required him, or the system and the taxpayers to pay for under this ridiculous system. So waste, fraud, and abuse are an important cornerstone.

Medicaid is the same thing and we will not get into that tonight. but I sit on the subcommittee and we oversaw Medicaid with the gentleman from New York [Mr. TOWNS], and Medicaid in Florida is somewhere in the neighborhood of $1 billion in waste just by estimates of the General Accounting Office report that our subcommittee received last year. So, the cornerstone is doing something about waste, fraud, and abuse.

Then, the second point is tort reform, and we know we have to face tort reform. We sent to the other body litigation and legal and tort reform that is so necessary, whether it involves medical expenses. And we see that again. Someone said a doctor charged so much for an office visit. And I checked with the doctor to see what his liability was. His premium is $50,000 a year. That is a thousand dollars a week. If you do 100 visits, that is tacked on at the front end of every visit.

We have to do something to bring some of the need for reform into place here as far as tort and liability reform. A second major point.

And then again my colleagues have described the opportunity for choices. No one is forced out of Medicare. No one is forced into any plans under what we are proposing. Beneficiaries are given choices. What is wrong with choices? And choices that we offer will create competition. We think we will drive prices down. We are not positive it will work, but we think from the models that we have seen, from pure logic, that competition and also having various plans such as we have in the Federal Health Benefits Program that I oversee, also as chair of the House Civil Service Subcommittee, people will have the opportunity to choose from a variety of plans which will begin to be self-policing.

And we have seen that. They bring down costs. They offer more options for folks. Things like medical savings accounts, which makes so much sense. What is wrong with providing an alternative to bankruptcy?

It is all done, too, on the House side we say no change in copayments. No change in deductible and the premiums remain the same. Seniors can stay in Medicare. We can reform Medicare and also offer choices, and I think that makes sense. The most important thing is it helps bring the finances of the country and the system into some balance and we will not bankrupt the system or the country.

Mr. SHAYS. When the gentleman said not positive it will work, I am absolutely as positive as I can be that this system will work extraordinarily well. The issue is will the savings be 270? 260? 280? How many people will choose private care? Will it be 24 percent that the Congressional Budget Office says? My judgment, based on all the people that we have interviewed, says that well more than 50 percent by the seventh year will have chosen private care. They are going to choose it because they get better opportunities.

The certainty is no one can predict exactly what it will be in the seventh year. Is it 45 percent who are in private care? 60 percent? 70 percent? That is the uncertainty. To what extent will that happen? But the one thing we are certain of, we are certain that we will provide $4,800, as we do not, per beneficiary. We are certain that we will provide $6,700 in the seventh year. That is a 40 percent increase per beneficiary.

There is over $600 billion into the plan. Doctors will get more; hospitals will get more; all the people who provide quality service will get more, not less.

□ 2015

There is not anything like an increase in the number of hospitals and doctors of 40 percent. So those who are in the system now that are being told that somehow they are going to have to make extraordinary sacrifices, it is just not accurate.

Mr. MICA. Well, again, Mr. Speaker, nothing is certain. We are trying to do our best. We all have relatives. I have aunts who are on Medicare and trying to make if from week to week and month to month. We are concerned about these people. But our number one concern should be that we do not bankrupt the country. And simple math will show you that this whole structure we have created, this huge government program is going to collapse. Even the President's commission says that.

So we are willing to work with the other side. We are willing to work with the administration. We are willing to work with people who have ideas. We have held hundreds of hearings on this and Members have held literally thousands of town hall meetings trying to bring together the best ideas into a plan that makes sense.

The last thing we would want to do is hurt any senior citizen, someone in need or someone who needs that care. We think we can do a better job, and it is not necessarily throwing more money at the problem. That seems to be the only solution around here.

Do we do a better job, as proposed by some folks on the other side of the aisle or the administration, just by ignoring the problem or letting the waste continue? Well, we will let the waste go to 89 billion or let the waste go to 100 billion. This does not make sense. We need to make the system work and it should operate and function in a responsive, accountable fashion and give the people the choices that others have. Why confine them to one failed choice?

Mr. MILLER of Florida. You are chairman of the committee that is involved in Federal employee health insurance. We looked at that. That is basically what we are going to offer senior citizens, a separate system that gives a choice just like all Federal employees have a choice.

The Medicare program is a very complex system. If you are under Medicare you have to have three different insurance plans. You have a Medicare part A with one insurance company handling that. You have Medicare part B, which costs $46.10 that another insurance company handles, and then you have a Medigap policy. That is a complicated system. That is part of the inefficiencies of Medicare. And as a Federal employee, we only have one insurance plan. Anybody in the private sector has one insurance plan. That simplifies it. It is going to be so much simpler. The benefits are going to be better, and we are going to slow the rate of growth. I do not see where the argument is, why anyone could disagree. We have more money every year.

Mr. SHAYS. I would love to just emphasize that point. I had more constituents who said, I want the same kind of choices you have, Mr. Congressman, hopefully they call me CHRIS, but the bottom line is, they are saying as a Federal employee I get to choose a wide range of programs. I have to pay 28 percent of health care costs. But I can choose any kind of program. I can choose one that is more expensive, less expensive and so on. I just want to emphasize, the gentleman from Florida is right on target. We are doing what our constituents have asked: Give us the same kind of choices you have.

Mr. MILLER of Florida. I am excited about the plan. I think we have been debating health care for almost 3 years. Now we are going to be able to do it. We are going to make the changes. We are going to give a better system to the seniors of our country. We are going to preserve a program that is so essential that we have to have it, and it is going to be there and it is going to be a much better plan. I do not understand what all this scare rhetoric is. It is politics. People do not want politics on this issue. It is too important for politics. I am getting tired of the scare tactics that keep coming in from the other side.

Mr. HAYWORTH. I guess it is just a situation where Halloween came a little bit early and lasted for the better part of 3 months. The chances now for us to expand choices, to offer real reform rather than a Band-Aid approach for the American people and preserve this program so that we can take the steps necessary in later years, indeed to preserve it for future generations, it is summed up in the name Medicare Plus. And as both my colleagues from Florida, Mr. Speaker, have indicated, it offers choice. And as my good friend from Connecticut so articulately phrased it, what is wrong with having that type of choice. We will leave it to the American people who duly elected us to debate this issue and make the necessary changes to preserve, protect, and improve Medicare.

Mr. SHAYS. I would just like to say, if I could, I compliment the President on one issue. He said to the American people, we need to deal with health care. It was a big wake-up call for a lot of Members of Congress. And what the President did is set in motion a number of us, if not all of us, giving this our number one priority and studying this issue tremendously. And so for that, it has been extraordinarily helpful because this is not something we just started working on.

You started and others and my colleagues started well before the President asked, but the general bottom line is that we have been working on this health care issue for over 3 years now and we think we have come to a plan that the American people really will find is what they want.

Mr. MICA. In closing, I just want to say again that I do not think there is any greater threat to senior citizens or all Americans, if this Congress does not act responsibly on the fiscal problems. And they are not just Medicare, it is a big item, but it is also providing jobs and opportunity for this and future generations. And some of that does involve changing our tax policy. So we are going to have to do all of this. I think if we work together we can do a better job and we do not have to scare anyone in the process. But I think all of us working together we can improve what we have.

Mr. MILLER of Florida. Mr. Speaker, just in closing, for the seniors of this country, we have a good program. You are going to be excited by this program when it comes out next year. It is going to save a system that is essential to keep up.

Do not get scared by the rhetoric out there. It is going to be a good program. You are going to be very pleased with it. It is going to continue to exist and that is what we are here for. We are going to preserve and protect Medicare.

STATE OF EMERGENCY

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, the state of emergency continues. You have just heard some of the brightest and most decent human beings in the Congress make a long statement about Medicare and health care funding, and neither one of them admitted that Medicaid will cease to be an entitlement under their bill. Millions of Americans who are now covered right now by Medicaid will no longer be covered as a result of the legislation that they want to pass.

They have not admitted that we are the only industrialized nation, we are the only industrialized nation other than South Africa that does not have universal health care coverage of some kind, are not moving in that direction. We were moving in that direction with Medicaid coverage for the poor, but they are going to take away the Medicaid entitlement. They say that we are going to be happy when we see the package. Americans will be happy when they see that less people are covered as a result of this legislation than were covered before. We are going backward and we should be happy.

There is a state of emergency that ought to be recognized here. Nearly half a million dedicated troops were here in Washington yesterday. Unfortunately, they had no commanders to tell them about the state of emergency. Unfortunately, no one told them to concentrate on the place where the real battles are being fought. They do not understand were the real battles are taking place. They do not understand that the state of emergency directly impacts on their lives.

They came, they are engaged, and I hope they will remain so. I want to discuss tonight how they must be energized and informed and directed to become a part of defending themselves against the big guns that are aimed at them and their way of life.

Nearly half a million dedicated troops were in Washington yesterday. Nearly half a million young black males marched yesterday. But they were not told the nature of the war they are in and the danger they face, and they were not told how best to engage the enemy.

I want to talk about how they must engage the enemy.

First I want to just describe what happened yesterday. I want to use the language of some of the editorials and columnists who have commented on it. In the Daily News of New York City, the Daily News language I think was very sensitive to what happened. I quote from the Daily News editorial of today, October 17:

> The pain of generations of hope denied brought a sea of seekers to Washington. They came seeking solutions to the problems that divide them from the rest of the nation and from themselves. From the cold of early morning to the setting of the sun over the Nation's Capitol, they stood patiently, admirably, listening, waiting for words to heal them, to inspire them. Most waited in vain. But the power of their presence was so strong that it captured the attention of a nation. The power of their presence was so strong that it captured the attention of the nation.

I think it is important to note that these dedicated young men who came, according to one poll that has been taken, came for many different reasons. Unfortunately, too few of them came to Washington, the capital of power, and understood that not only could they capture the attention of the Nation but they could do more.

They could have focused in on some of the emergencies that exist right here in this legislative hall. We are going to have a vote this Thursday on Medicare, Medicaid. Nobody talks about Medicaid very much, but Medicaid is part of the package, too. There is going to be a huge cut in Medicare. That is horrible. We want to stop that cut. I do not think we have the votes. It is going to pass the House with that huge $270 billion cut over a 7-year period. More than $180 billion will be cut from Medicaid. And Medicaid will no longer be an entitlement. Right now it is an entitlement.

In case people do not know what entitlement is, entitlement, in summary, is the Federal Government saying that you as a citizen of the United States have a right to this particular benefit if you qualify for it. It is a means-tested entitlement. It is not like the farm subsidies or cash subsidies in the farm program. No matter how rich you are, you are entitled to your cash subsidy for the growth of tobacco or peanuts or whatever.

Medicaid is a means-tested entitlement. You have to profess you are poor. You have to prove you have great need before you can qualify for Medicaid. And Medicaid is as close as we have gotten in this country to coverage of the poorest people with some kind of health care plan.

We are like South Africa in that we do not have any effort going forward to move toward universal coverage. So, even that which exists already under Medicaid will be taken away. And the only hope that is being held out is in the Senate where the great debate in the Senate is, they will leave the entitlement in place for pregnant women and children. They will leave the entitlement in place for pregnant women and children. They can get Medicaid. But the young black males and all the other poor males of America, you will not be entitled to Medicaid, no matter how you qualify.

If you have an accident on your job, the likelihood is that you will be in a situation where you do not have health care coverage because so many of the kinds of jobs that these young black males will have or young males entering the work force are not jobs where you have a health plan. There is no health plan. So young males are in jeopardy in terms of not only accidents on the job, which there might be some relief in terms of workmen's compensation, but they are in jeopardy in terms of other kinds of illnesses.

They are certainly in jeopardy in terms of the violence that takes place and I have seen by visiting some hospitals where they have convalescing people who are receiving therapy, large numbers of young men who are the victims of gun shots, gun play, and other kinds of violence that have partially disabled them, not only black men but white men also. Violence often causes young men to need a great deal of health care, very expensive health care, also, health care for people with great disabilities.

So they have the guns aimed at them. Speaker GINGRICH has said that politics is war without blood. So I do not hesitate to use the analogy of guns. Politics is war without blood. While we dillydally these few days, it is very slow around here, not much happened on the floor today. We had a few votes, we had a few suspensions discussed, but the guns are being maneuvered into position. Those guns will be aimed at the programs that have been put in place over the last 50 years, programs which are compassionate and programs which seek to help poor people, people who qualify because they are poor and they need help.

□ 2030

We have all kinds of programs in America which help people. We have programs that help people that have been victimized by earthquakes, and they do not have to have means tests, does not matter who it is. People have been victimized by floods. There is no means test necessary to get government assistance. There are those victimized by drought or by hurricanes. There are ways to get help without means tests. So we have a humane society in many ways that extends help, but we are saying for people who are in dire need of help because their health is a problem, "We are going to cut it off. We are not going to have the Federal Government stand behind that. We are going to dump it off on the States." And the States have already made it quite clear that there is a minimum amount that they are going to offer in terms of additional help beyond what the Federal Government provides at present.

The big guns are aimed at the young men who were here yesterday. The earned income tax credit benefits poor families. It is a way to benefit working families. It is a way to reward people for working. We say we want people to go to work, and the earned income tax is one idea that brings to life the notion that people should be rewarded for work, but that is going to be cut, too. The gun is aimed at the earned income tax credit.

The guns are aimed at job training. We understand there are a lot of people being thrown out of work. There is a change in the industrial situation, and companies are changing in terms of technology. Downsizing, streamlining is taking place. I have talked about this before, and the only answer to it is in this transition period maximize the amount of education and job training so that people can recycle themselves, be helped to recycle themselves, but job training has been cut, too. Job training has been cut by $5 billion by this Republican-controlled Congress. Job training programs cut, education programs have been cut, by $4 billion.

The guns are aimed at the young persons who were here yesterday, and they did not hear anybody really focus on how important it was for them to understand and to rise up in very concrete, nonviolent, political ways to defend themselves.

Summer youth employment; many of the youngest youngsters there qualify for a summer youth employment program which has existed since the Great Society programs were created by Lyndon Johnson. Every summer minimum-wage jobs are available for 25 to 30 hours, and youngsters who are given those jobs and given some kind of training and prepare for the world of work as well as help to earn, allowed to earn, some money to go back to school, and I know from direct experience many of them end up contributing to their very poor families from the meager amounts of money they make in the summer youth employment program. That is zeroed out. The summer youth employment program, it is not just for men. It is for women, too, for females, too. That is zeroed out. It will exist no more as a result of legislation passed by this Republican-controlled House of Representatives.

The Senate, I think, have pretty much followed suit. I do not know of any effort to revitalize it. Title I, direct education program, Federal money flowing into the schools which have the younger sisters and brothers of the males who came here yesterday. Their nephews and nieces and their children are in those schools. Title I is the only Federal program that helps elementary and secondary schools all across the Nation, and we have cut that by $1.1 billion, which is one-seventh of the total amount.

Those young men and their families are targeted by the guns that are aimed at them, and they did not realize it. We must get to them and make them understand that there is a state of emergency and they must be involved in the fight to reverse this state of emergency. Their survival is at stake.

The crime prevention programs that were passed in the last Congress are on the chopping block. There is no more crime prevention of any significance in the bills that were passed by the Republican-controlled Congress. There are more prisons in greater amounts, and there are harsh regulations which force prisons to focus primarily on punishment and not on rehabilitation, but the young men who were here yesterday were not told about these changes.

Drug treatment is out of the window. Nothing of significance is going to happen with respect to drug treatment. The funding is no longer there.

One in three black males now are somewhere in the criminal justice system, either in prison, on parole, or probation, or under some kind of court supervision, one in three black males in America. A few years ago it was one in four. When these statistics came out, everybody was shocked. One in four black males in America are in the criminal justice system somewhere. Now it is one in three. In a few years will it be one in two? There is nothing to stop us from moving in that direction. But not much discussion of that took place yesterday either. We have to deal with the one in three right here.

There are bills on the floor in the next 2 weeks dealing with the prison system directly. The Sentencing Commission has recommended that we stop the discrepancy between the sentencing for people that have crack cocaine and those who have powdered cocaine because large numbers of blacks, females, and males, are being imprisoned for the possession of crack cocaine when more expensive and larger amounts of powdered cocaine, which are generally the choice of richer people, more affluent people, middle-class people, more white people; those persons are not sentenced in the same harsh way that those who have crack cocaine are. The Sentencing Commission has recommended a change, but the Republican-controlled majority does not want to allow that change to take place. The Sentencing Commission sees it as being the only just way to go, but that kind of justice is not accepted by the Republican majority control in this House.

The men who came yesterday are in serious trouble. They are in jeopardy, and they had some sense of the fact that they are in jeopardy. But men everywhere are in trouble, and too often they do not know it. Large numbers of men are in trouble, large numbers of families are in trouble, and I hate to continue to be repetitive and quote this article by Lester Thurow, but it is the best summary. It drives straight to the heart of the matter that you are going to find anywhere. Lester Thurow's article that I quoted several times in the past month is an article which appeared September 3, in the Sunday, New York Times just before Labor Day, and he was talking about the state of the working man in the world, not just in America. That article began with a statement that no country without a revolution or military defeat and subsequent occupation has ever experienced such a sharp shift in the distribution of earnings as America has in the last generation. At no other time have median wages of men fallen for more than two decades. Never before have a majority of American workers suffered real wage reductions while the per capita domestic product was advancing.

I read it because it needs to be read over, and over, and over again.

Now here is some parts I have not read and emphasized before. Let me just tell you how Lester Thurow brings this all together and focuses on families and focuses on males. Quote another paragraph that I have not read before although I have entered this entire article into the RECORD:

> Wages of white men are falling slightly faster than those of black men, and the young have been clobbered. Wages are down 25 percent for men 25 to 34 years of age. Median wages for women didn't start to fall until 1989, but are now falling for every group except college-educated women. The pace of decline seems to have doubled in 1994 and early 1995.

This is Lester Thurow, professor of economics at the Massachusetts Institute of Technology, a recognized expert in this area of manpower, the economy, technology, et cetera. He has testified innumerable times before Congress in various committees. Let me just quote two more paragraphs:

Thiry-two percent of all men between 25 and 34 years of age earn less than the amount necessary to keep a family of four above the poverty line. Thirty-two percent of all men between 25 and 34 years of age earn less than the amount necessary to keep a family of four above the poverty line.

Now he is not talking about black males, just black men. He is talking about American men, 34 percent of all American men, black and white. To continue quoting Lester Thurow:

Using the language of capitalism in today's economy children have shifted from being profit centers to being cost centers. To support them parents have to be willing to make large economic sacrifices.

Now listen closely. Men have a strong economic incentive to bail out of family responsibility since, when they do, their real standard of living rises 73 percent, although that of the family left behind falls 42 percent.

Listen carefully. I will repeat it. He is not talking about black males or black men only. Men have a strong economic incentive to bail out of family responsibility since, when they do so, their real standard of living rises 73 percent, although that of the family left behind falls 42 percent.

To continue Lester Thurow, I quote: "Whether it is fathering a family without being willing to be a father, whether it is divorce and being unwilling to pay alimony or child support, or whether it is being an immigrant from the Third World and after a time failing to send payments to the family back home, men all around the world are opting out. The Japanese seems to be the only exception," quoting Lester Thurow. Men all over the world are opting out under the pressure of not having enough wages to take care of families.

Let me just repeat the last paragraph. Whether it is fathering a family without being willing to be a father, whether it is divorce and being unwilling to pay alimony or child support, whether it is being an immigrant from the Third World and after a time failing to send payment to the family back home, men all around the world are opting out. The Japanese seem to be the only exception.

The men who came here yesterday came, and it was advertised as a day of atonement. From the very first this march, called by Louis Farrakhan, it was Farrakhan's march, spoke of a day of atonement for the sins that have been committed against black women and families, a day of atonement for the sins that have been committed. The men came to deal with taking personal responsibility, and that is very important. That is very important. Nobody should minimize the importance of men and women, human beings, taking personal responsibility.

The problem is that in this world there is a government responsibility that is also very much tied to what happens to individuals and what happens to families, and to oversimplify, not understand, that you must change the way your government operates in order to be able to take care of your family, that it is child neglect not to be involved in the political process, it is child neglect and family neglect not to exercise your responsibilities as a citizen and try to change the policies of your government.

□ 2045

That has to be understood. Medicare and Medicaid are not individual responsibilities, except the way they utilized, and the way individuals pay taxes into a system which helps to support Medicare and Medicaid. But you cannot have your family taken care of properly, with respect to health care, by yourself, no matter how much you reform and change your own lifestyle, which is highly desirable in many cases, and I am told that the men who came yesterday, the police have remarked that rarely have they seen such an orderly group, such a purposeful group, such a group that was intent on making a good impression, so great things will happen as a result of those individuals who came yesterday. I expect there will be personal changes that are very important.

However, to ignore the Medicare emergency, ignore the Medicaid emergency, to have the leaders not really focus more on the earned income tax credit, the job training, the summer youth employment, the title I cuts, the crime prevention cuts, the drug treatment cuts, to not understand that the economy is shaped by forces that are beyond the control of individuals and families, and to not address the fact that Government policies at this point are at the root of the problems being faced by families and their inability to cope, in many cases.

My evaluation of the Million Man March is mixed. Many people will wonder why I am going out in praise of the young men who came. I agree with the sensitivity expressed by the Daily News editorial, that their intent was magnificent and they came for good reasons. The overall impression is a good one, that made a Martin Luther King on the conscience of America.

I am one of the people who did not support the march. I did not endorse the march. I did not participate. Today, after proclaiming that it made a good impression on the conscience of America, I still have no apologies for not participating. The young men who came, came for various reasons. I know, because I have talked to dozens of them over and over again, over the past 3 months. They have told me.

I would summarize by saying the greatest percentage of them came in order to be a part of the positive energy of so many black males gathered in one place. They wanted to be a part of the positive energy. They wanted to bond with their black brothers. They did not have a political agenda, unfortunately. They also did not have an agenda to support Minister Louis Farrakhan in his endeavors. They were not interested in a philosophy of isolationism. They were not interested in a separatist philosophy. They were not interested in anti-Semitism. The great majority of them did not have that as an agenda.

As a member of the leadership, I could not participate because I knew very well the danger of supporting an activity which is led by a minister, Louis Farrakhan, who refuses, basically, to change his agenda. Let it be clearly understood that I am pleasantly surprised and quite happy and optimistic about the fact that there was a moderate statement made, a moderating statement, a conciliatory statement made, about moving toward unity, about sitting down with people that the Nation of Islam has had differences with, about sitting down with the Jewish community. I think all of that should be applauded. I think it is a great step forward. Blessed are the peacemakers. All of us should look forward to wanting to move through those kinds of hurdles and get over bigotry, racism, and any kind of religious condemnation or anti-Semitism. We should all want to do that. I applaud that, and am happy that it happened.

We have to see, however, how it develops. I did not support the Million Man March, but I respect those leaders who did participate. I consider myself a follower of Martin Luther King, who has taken a totally opposite approach to Minister Louis Farrakhan. Martin Luther King preached integration, not isolation, not segregation. Martin Luther King preached love, Martin Luther King preached moving forward in a positive way to overcome the difficulties of this society. Yet, when he died, he was planning a poor people's march on Washington, so economics was also a concern of Martin Luther King.

That agenda that he had was awesome. Segregation was the major problem. He had gotten around, on to economics, and dealing with a change in the way America does business and the way it treats people, black people in particular, economically, only because he had had to go through such a rigorous agenda on segregation and the violation of civil rights, so it was not because Martin Luther King did not understand the need to address basic problems such as jobs, businesses, and sharing in the great American economy.

I am a follower of Martin Luther King, the way of Martin Luther King, not a way of isolationism or hate or bigotry. There were others who were also followers of Martin Luther King who chose to join the march and participate, other leaders. I certainly think all the young people who participated are not in one category, and there is no question about their choice.

I think the leaders who participated, there is a slight philosophical difference between me and them in terms of those who are followers of Martin Luther King and felt they had to participate and feel that there is a danger in following an isolationist leader, a leader who preaches hate, segregation, et cetera. I respect them, and I do not consider myself as having a monopoly on wisdom.

I went through several stages in reaching the decision that I should not participate in the Million Man March. The Congressional Black Caucus considered whether it should endorse the Million Man March. At that time I led the opposition. I was in favor of issuing a statement by the Caucus which said:

> We welcome all marchers. We certainly want to encourage maximum participation in this political process. We welcome more letter writing to Congressmen, we welcome lobbying, we welcome more petitioning, and above all we welcome more demonstrations and marches.

The Caucus would issue that agenda. For that reason we developed an 11-point program. I offered to the caucus an 11-point program which summarized what is going on here in Washington that all black people ought to be concerned about, which part of this war without blood affects them, which part of this effort to remake America impacts on black people. If you look at the list that I drew up, the 11 points, I think it is pretty well covered there.

I made that argument and I lost. The overwhelming percentage of Caucus Members voted to endorse the march. We do not deal with the numbers and that and so forth, but suffice it to say an overwhelming percentage endorsed the march, and I felt I had to respect that decision. I certainly was not going to go out and campaign against a decision in the Caucus when I had participated in the debate, in the process, but I did tell people that I was not going to participate.

When I was confronted with numerous young people who wanted to participate and other people who wanted to participate, I listened to their arguments and I came to the conclusion that the best recommendation was, to those people who wanted to participate and who had reasons for participating which had nothing to do with a day of atonement for the sins committed against black women and their children or families, they wanted to go for other reasons, of the dozens that I talked to, at least one-quarter of them wanted to go for religious reasons, and they identified with the Nation of Islam's religious agenda.

Another one-quarter did have some political agenda. They understood that Medicare was under attack, that Medicaid was under attack. They understood that programs which had benefited the black community for years were about to be destroyed. They wanted to be a part of the march in order to protest that. At least half of them had no agenda, politically or religious. They wanted to bond with the million men who came. They wanted to be a part of the positive energy.

Given that agenda, I respected it. I told everybody that if they go, they should go and carry their own banner, to say what they are in the march for, give out their own leaflets. I even offered leaflets to people which had the Congressional Black Caucus 11-point agenda. I came to that conclusion, and verbally made that statement to individuals who asked me. I made the same statement to many press people who called.

However, it became obvious that the march was too big, the issues were too great, to just make verbal statements. I prepared a draft of a written statement, and was about to issue that draft last Thursday when several new developments took place that made me revise the draft. My draft, first draft, said that I understood from talking to young black males in my community, I understood from talking to black males in general, that large numbers of people would come and large numbers of people who could not come to the Million Man March yesterday wanted to come.

I understood their sentiments, and I hoped that with the momentum of the occasion, I hoped that having that many young black males who felt that strongly about their presence being important in Washington, would make Minister Farrakhan rise to the occasion. I said in that statement that I hoped that he would renounce all anti-Semitism, all isolationism and hostility toward the idea of one world, and the fact that the black community cannot exist alone.

I hoped that he would abandon the philosophy which endangers the black community, that philosophy which makes it appear that somehow blacks can exist alone; no other group has attempted to exist alone, but somehow blacks can go it alone and be hostile toward traditional allies. We do not need allies. History hear clearly shown, a number of studies have shown, that minorities above all need allies. In order for minorities to survive, they must have allies.

Studies have shown that no matter how good a minority may be in terms of measuring up to the standards of the majority, the majority will inevitably, if the minority does not have some protection, turn on the minority. It is not a matter of how good you are and how you measure up to the standards that are set by the majority, the minority is always in danger. The Jews in Germany excelled in many fields, so envy took over and they were in danger, as they were in the inquisition in Spain. There were a number of occasions where the excelling and the measuring up to the standards of a given society did not please the majority. They found some other excuse.

There are blacks who think that what you have to do is measure up to the standards set by whites, get an education, raise your moral standards, do all the things that middle-class America says are its values, and automatically the race problem will go away, automatically being a minority will no longer be a problem. That is not what history bears out. If you do that, you will be an object of envy, and the same racism will be there, because majorities behave in that way toward minorities, usually. Usually there is some demagogue who comes along and takes advantage of the fact that there is a minority, and they can use that minority and the persecution of that minority to galvanize the majority.

Minorities are always vulnerable, for that reason. Either you are condemned and treated with contempt and labeled as inferior, as the Bell Curve does, and a number of other respectable scientists and philosophers are attempting to do, and that is the excuse for the oppression of the minority, or you are too rich, too talented, and taking too much of the resources, and therefore, you must be persecuted, so minorities are always in danger.

Only a philosophy which says we are going to continually reach out for allies, we are going to continually try to be less of a minority, and continue to integrate into a larger society of what I call the caring majority. There are people in the world of all colors that we want to identify with, people in the world of all religions that we want to identify with. They label themselves. They become a kind of caring majority that must be joined.

I have used the word "barbarian" here many times, and I have had people here recently tell, me "You are as hostile and militant and uncompromising as some of the people you criticize." I use the word "barbarian" and I have defined it every time I use it. I say there are high-technology barbarians running the majority here. They are in control. I have defined it, not as the Romans defined barbarian. The Romans defined barbarian as anybody who was not a Roman. I have not defined barbarians in that way. That is a racist definition.

I defined clearly, barbarians are people who have no compassion. They cannot empathize. They have no feeling for anyone except those in their immediate family or their immediate friends, but they cannot feel or have compassion for other people. That is a barbarian. I have defined high-technology barbarians as people who are very bright, people who know how to use communications, modern communications media, people who have computers and know how to use computers, people who have gone to the best colleges. Those are the people who I call the high-technology barbarians.

It has nothing to do with color. There are black high-technology barbarians, there are white high-technology barbarians, there are Jewish high-technology barbarians, there are Protestant, Catholic high-technology barbarians. I define people by conditions they have control over.

□ 2100

We are not born a barbarian. We can become a barbarian as a result of our own actions and our own attitudes or our own philosophy. Nobody is a barbarian because of the color of their skin or the religion they happen to have adopted. They are barbarians because of their attitudes. When they are public officials and in powerful places, they are dangerous barbarians.

So Mr. Speaker, I want to make it clear that my use of the term is not a racist definition of everybody who is not black, or everybody who is not a Baptist, a Protestant, a Christian. I clearly label barbarians as those who have no compassion, those who would sit and make policies which disenfranchise from health care millions of people and not have any feeling or any compassion in the process. Those are barbarians.

Let me just continue, Mr. Speaker. My first draft appealed to Minister Farrakhan to rise above his own prejudices, his own past agenda of isolationism, and segregationist strategies. I said in that draft that I hoped that he would do that. And then, 3 days before the reports began to come out about the charge of bloodsuckers; that Jews were called bloodsuckers. And when an explanation was sought, it was expanded to not only Jews but Koreans and Arabs and everybody in the black community who takes money out of the black community are bloodsuckers. It looked as if there would be no opportunity to have Minister Farrakhan on the podium rising above the occasion, so I rewrote my draft and did not make an appeal that would look stupid.

I want to enter the entire statement for the record, Mr. Speaker. The statement is labeled "Statement of Congressman Major Owens on the October 16 Million Man March sponsored by the Nation of Islam". The statement was issued on Monday morning, October 16, 1995. It has an attachment, which is called "The fight for the CBC and caring majority agenda".

The 11 points that I talked about before, in which I said the Congressional Black Caucus should put out as reasons to march, are attached, and I want to enter the statement in its entirety, but let me just read from the statement in a few areas to clarify what I have just said.

My statement on the Million Man March begins as follows:

In my activist bones there is something that makes me always yearn to support a demonstration or a march. Certainly, given the vicious unrelenting attack on public policies which benefit the majority of Blacks, there is an urge to applaud any nonviolent action that makes the Gingrich hi-tech barbarians a target. As a manifestation of massive people empowerment a march on Washington by the Caring Majority could be very much in order and long overdue.

But the October 16th march is not a Caring Majority march. Is Minister Louis Farrakhan's march focused on the current outrages of the Washington Republican majority? Is the anger of this march targeted at the pending legislation which will eradicate the entitlement of all poor children, including Black children, to receive Aid For Families with Dependent Children? Are the voices of the organizers denouncing the proposals to eradicate the entitlement for Medicaid? Are the idealistic youth headed for Washington being told that they should vent their rage on those who have cut billions of dollars from low-income housing, job training, education and other vital programs? Unfortunately in most march organizing circles the answer to these questions is "No".

Despite my activist instincts I refuse to participate in the October 16th Million Man March because the agenda of the March is purposefully shrouded in contradictions and conflicting messages. As a leader and elected member of Congress I can not endorse and engage in an activity which has leaders who loudly call for ecumenical and united action, but who thrive on autocratic planning and decisionmaking. I can not agree to blind and unconditional unity with those slogans and platforms have consistently been reckless and divisive. I cannot support a major statement by a group whose continuing isolationist posture and separatist strategy pose a long-term threat to the survival of the African American community.

Those who want to participate should not be denounced or even discouraged. I have talked to several dozen young men who are planning to join the March. One quarter of them clearly see the March as a religious affirmation experience. Approximately one half see it as an opportunity to "bond" with males and be a part of a massive generation of "positive energy". One fourth state that they are going in order to personally protest the "political situation".

Given this obvious intense desire to participate, my advice to these young men has been: If you go carry your own banner and give out your own leaflets to state the reason you are there.

This March is a golden opportunity to send a powerful message to America. But this March is Minister Louis Farrakhan's March. His picture has been on every recruitment poster. Farrakhan will determine who speaks and for how long on the program in Washington. This assemblage in Washington could have been Farrakhan's golden opportunity.

It could have been a golden opportunity. I did not know at that time what would happen. Fortunately, nothing terrible happened in Farrakhan's speech, buy nothing was done to eradicate some of the policies that have been clearly set forth in the past. I am optimistic. I am willing to wait. I hope that the few things that were said in the spirit of conciliation will go forward.

In another part of this statement I say that one problem that is a major problem relates to the fact that as the march progressed, I am quoting from the statement, "As the march progressed," and this happened at a church in Brooklyn. The speech was made by this gentleman. "As the march progressed, Khalid Muhammed continued to view the march as primarily a religious march with the date chosen to be as near the birthdate of the Honorable Elijah Muhammed as possible. For him this march is still primarily "a day of atonement for the sins of black men against black women and their families."

This was taken from a newspaper article which quoted a speech made by Mr. Khalid Muhammed in a church in Brooklyn.

Leadership by an unrepentant Khalid Muhammed emphasizing the presence of Black men in Washington for the purpose of "atoning" for their sins is the one certain way to guarantee a dangerous and harmful message from this massive March. Speaker Gingrich and his hi-tech barbarians will welcome such a "confession" by Black men. This "atoning" validates the repeated Republican attacks on the Black community.

If the sins of Black men are the problem, then 232 years of slavery and a hundred years of brutal oppression after slavery are not part of the problem. If the collective sins of Black men are the major problem, then government policies which have denied economic development to the great cities and generated long-term unemployment for Blacks are not a significant part of the problem.

If the collective sins of Black men are the primary problem, then there is no need to fight the eradication of the entitlement of public assistance for poor children. There is no need to fight the proposals to end the entitlement to health care through medicaid. If sin is the primary problem then government policies and actions have almost no role to play in the struggle to rebuild African American Communities. Sin is the province and responsibility of religions, ministers, churches, mosques, synagogues, temples and other similar groupings. Government only causes confusion and division when it mixes with religion.

Not sin, but public policies, government laws, rules, regulations and actions must be the primary concerns of elected officials and other secular lenders. No one should ever underestimate the role of personal morality in human affairs. We know that individuals are ultimately the masters of their own fates. But it is the duty of government to facilitate human and family positive development. Government and public policies must always strive to remove as many obstacles to "life, liberty and the pursuit of happiness" as possible. The Nation of Islam should not oversimplify the problems of our complex society and allow those in power to wash their hands and forget the problems they have created.

Instead of the Congressional Black Caucus endorsing a primarily religious march which had a planning process and an agenda which the Caucus could not influence, I urged the members of the CBC to issue its own agenda for action and invite all interested groups to march and fight for this Caring Majority Agenda.

In the final analysis time, intellect and energy spent denouncing the actions of others represent resources not being most effectively used. Let us leave the Nation of Islam to crusade with its religious focus on sin.

It is for us, the Caring Majority, to define ourselves not merely with words but the mass actions. From coast to coast, throughout this nation, Manifestations of Empowerment must be organized by the Caring Majority with high visibility, and a powerful focus. With representatives from both sexes, all races and ethnic groups, all religions and creeds; in unison with all who care about the expansion of freedom, jobs, justice, and health care, the Caring Majority must move beyond October 16th and seize the initiative. And, as a climactic statement to those in Washington who want to "remake America" for the convenience of an oppressive elite minority, the Caring Majority must convene its own assembly of one million persons on the mall in Washington. We shall overcome!

The important thing is now that almost a half million young black males were engaged. I hope they stay engaged. There were some positive things that were recommended by Minister Farrakhan. He told them to go back and join organizations, join churches, adopt one person in jail, register eight voters, pledge not to commit violence themselves against anyone, pledge not to strike women, pledge not to dishonor women.

Mr. Speaker, I think those were agendas for returning that are important. The most important agendas, however, have still to be supplied. Elected officials, whether Congressmen or city councilmen, assembly persons, State Senators must supply that agenda. We must enter the battle for the minds of our young males. They are engaged, we must guarantee that they remain engaged in a constructive way. We must guarantee they understand that a state of emergency exists. It is a political problem, and they must step forward to deal with that problem.

The full text of the statement is as follows:

STATEMENT OF CONGRESSMAN MAJOR R. OWENS ON THE OCTOBER 16 MILLION MAN MARCH SPONSORED BY THE NATION OF ISLAM

In my activist bones there is something that makes me always yearn to support a demonstration or a march. Certainly, given the vicious unrelenting attack on public policies which benefit the majority of Blacks, there is an urge to applaud any nonviolent action that makes the Gingrich hitech barbarians a target. As a manifestation of massive people empowerment a march on Washington by the Caring Majority could be very much in order and long overdue.

But the October 16th march is not a Caring Majority march. Is Minister Louis Farrakhan's march focused on the current outrages of the Washington Republican majority? Is the anger of this march targeted at the pending legislation which will eradicate the entitlement of all poor children, including Black children, to receive Aid For Families with Dependent Children? Are the voices of the organizers denouncing the proposals to eradicate the entitlement for Medicaid? Are the idealistic youth headed for Washington being told that they should vent their rage on those who have cut billions of dollars from low-income housing, job training, education and other vital programs? Unfortunately in most march organizing circles the answer to these questions is "NO".

Despite my activist instincts I refuse to participate in the October 16th Million Man March because the agenda of the March is purposefully shrouded in contradictions and conflicting messages. As a leader and elected member of Congress I can not endorse and engage in an activity which has leaders who loudly call for ecumenical and united action, but who thrive on autocratic planning and decision-making. I can not agree to blind and unconditional unity with those whose slogans and platforms have consistently been reckless and divisive. I cannot support a major statement by a group whose continuing isolationist posture and separatist strategy pose a long-term threat to the survival of the African American community.

Those who want to participate should not be denounced or even discouraged. I have talked to several dozen young men who are planning to join the March. One quarter of them clearly see the March as a religious affirmation experience. Approximately one half see it as an opportunity to "bond" with males and be a part of a massive generation of "positive energy". One fourth state that they are going in order to personally protest the "political situation".

Given this obvious intense desire to participate, my advice to these young men has been: If you go carry your own banner and give out your own leaflets to state the reason you are there.

This March is a golden opportunity to send a powerful message to America. But this March is Minister Louis Farrakhan's March. His picture has been on every recruitment poster. Farrakhan will determine who speaks and for how long on the program in Washington. This assemblage in Washington could have been Farrakhan's golden opportunity.

Minister Farrakhan could have used this platform to truly unify Black America by endorsing the ideals and principles which place the African American community on the very highest moral ground. Farrakhan could have wiped out the past and taken a great leap forward by following the example of Nelson Mandela and denouncing all racism, sexism, anti-semitism and other religious bigotry, homophobia, prejudice, immigrant bashing and oppression of the poor.

A pledge to cleanse anti-semitism from the Nation of Islam's literature, videos, radio and television scripts would have constituted a dramatic first step toward the rising of a new sun of unity in the firmament of the Black community. The doors would have been opened wide for the full embracing of our allies among all ethnic, religious, national and economic groups. The Nation of Islam, in unison with the African American Community, would have been able to assume its rightful place as a critical part of the greater Caring Majority.

This March offered a golden opportunity for Minister Farrakhan. But the speeches within the last forty eight hours have indicated that he has chosen to trample on this option for conciliation. Basic steps to establish an environment which rejects bigotry and anti-semitism have been rejected. Farrakhan's speeches trumpeting the charge of "bloodsuckers" has grown more shrill. At the same time that Black college professors are working to prepare a more detailed political manifesto, Minister Khalid Muhammad, one of the nation's crudest and most notorious anti-semites, has been given the pivotal role of instructing the young Marchers.

As the march progressed, Khalid Muhammed continued to view this March as primarily a religious one with the date chosen to be as near the birthdate of the Honorable Elijah Muhammed as possible. For him the March is still primarily "a day of atonement for the sins of Black men against Black women and their families".

Leadership by an unrepentant Khalid Muhammed emphasizing the presence of Black men in Washington for the purpose of "atoning" for their sins is the one way to guarantee a dangerous and harmful message from this massive March. Speaker Gingrich and his hi-tech barbarians will welcome such a "confession" by Black men. This "atoning" validates the repeated Republican attacks on the Black community.

If the sins of Black men are the problem, then 232 years of slavery and a hundred years of brutal oppression after slavery are not part of the problem. If the collective sins of Black men are the major problem, then government policies which have denied economic development in the great cities and generated long-term unemployment for Blacks are not a significant part of the problem.

If the collective sins of Black men are the primary problem, then there is no need to fight the eradication of the entitlement to public assistance for poor children. There is no need to fight the proposals to end the entitlement to health care through medicaid. If sin is the primary problem then government policies and actions have almost no role to play in the struggle to rebuild African American Communities. Sin is the province and responsibility of religions, ministers, churches, mosques, synagogues, temples and other similar groupings. Government only causes confusion and division when it mixes with religion.

Not sin, but public policies, government laws, rules, regulations and actions must be the primary concerns of elected officials and other secular leaders. No one should ever underestimate the role of personal morality in human affairs. We know that individuals are ultimately the masters of their own fates. But it is the duty of government to facilitate human and family positive development. Government and public policies must always strive to remove as many obstacles to "life, liberty and the pursuit of happiness" as possible. The Nation of Islam should not oversimplify the problems of our complex society and allow those in power to wash their hands and forget the problems they have created.

Instead of the Congressional Black Caucus endorsing a primarily religious march which had a planning process and an agenda which the Caucus could not influence, I urged the members of the CBC to issue its own agenda for action and invite all interested groups to march and fight for this Caring Majority Agenda. (See Attached) For the sake of our families and our communities we must never engage in actions that are wasteful and counterproductive. But all Americans must understand that these are desperate times. The oppressive forces in control of the Congress have created a political state of emergency. In support of a Caring Majority Agenda all concerned groups must lobby, write letters, petition, demonstrate, and march!

In the final analysis time, intellect and energy spent denouncing the actions of others represent resources not being most effectively used. Let us leave the Nation of Islam to crusade with its religious focus on sin.

It is for us, the Caring Majority, to define ourselves not merely with words but with mass actions. From coast to coast, throughout this nation, Manifestations of Empowerment must be organized by the Caring Majority with high visibility, and a powerful focus. With representatives from both sexes, all races and ethnic groups, all religions and creeds; in unison with all who care about the expansion of freedom, jobs, justice, and health care, the Caring Majority must move beyond October 16th and seize the initiative. And, as a climactic statement to those in Washington who want to "remake America" for the convenience of an oppressive elite minority, the Caring Majority, in the Spring of 1996, must convene its own "Tianamen Square" assembly of one million persons on the mall in Washington. We shall overcome!

CONGRESSMAN MAJOR R. OWENS' STATEMENT ON THE MILLION MAN MARCH

FIGHT FOR THE CBC AND CARING MAJORITY AGENDA

In support of the Congressional Black Caucus and Caring Majority Agenda we strongly urge all concerned groups to lobby, demonstrate, petition, write letters and march in these critical days ahead when the President will be negotiating with the Republican controlled Congress to save the nation from devastating budget cuts.

Fight Aggressive Racist Attacks in All Forms: the attacks on affirmative action, school desegregation, set asides and the voting rights act. Fight government and unofficial acts which encourage sexism, anti-semitism, homophobia, immigrant persecution or denial of basic rights to any group.

Fight for Education as a national priority. The CBC Alternative Budget demands a 25 per cent increase in funding for education. President Clinton is also proposing a large increase for education. The Summer Youth Employment Program must also be funded. The Republicans have voted zero for next years Summer Youth Employment Programs.

Fight to stop all cuts in Medicaid as well as Medicare. This nation still needs a National Health Insurance Program with universal coverage.

Fight to end the monstrous cuts in HUD programs for low income housing. More than seven billion dollars have already been cut. That is already too much taken from the poorest families in the nation and the homeless.

Fight to support the retention of adequate wages and pensions for the military, federal workers and other public service workers.

Fight to increase the minimum wage, to guarantee the right to organize unions, to end striker replacement and to maintain safe and healthy conditions in the workplace.

Fight to balance the nation's tax burden lowering taxes on families and individuals while forcing corporations to pay their fair share. At present corporations cover only 11 per cent of the tax burden while individuals and families shoulder 44 per cent of the tax load.

Fight for cuts in defense which downsize the CIA, the overseas bases and wasteful weapons.

Fight for an increase in foreign aid to Africa, the Caribbean, Haiti and other third world nations to assist with vital health and education needs.

Fight for increase in funding for youth crime prevention programs and for a decrease in the billions being voted to build prisons.

Fight and unite with the Caring Majority for the retention of Social Security as it is now. Stop moving the age requirement back and stop tampering with the COLAS.

Fight for ourselves—fight for America

Mr. Speaker, I want to close with a quote from the New York Times again. Columnist Russell Baker, a white man, felt very strongly about what happened yesterday. Columnist Russell Baker spoke his mind and I want to quote. I am going to enter the entire article in the Record, but I want to quote columnist Russell Baker from the New York Times' October 17 issue in the Record.

So it was left to Louis Farrakhan to act. It is hard to say why without speaking realistically of the state of American politics, which has less and less to do with anything of consequence.

Surely somebody of stature, Democrat or Republican, ought to have felt obliged to act long ago. It is hardly a secret that one of the country's most dangerous problems is the increasingly desperate situation of its young black male citizens.

The portrait of a nation in trouble is etched in the statistics on black unemployment rates, black school dropouts, rising imprisonment of young blacks and killings of black youngsters by black youngsters.

When a large portion of a nation's youth is being thrown away, or hustled into prisons, or lowered into graves, it takes a remarkable capacity for indifference to say that, well, it's a pity, but it's not our problem, it's a problem for the black community, black churches, black neighborhood leaders.

It is hard to see how a multiracial nation can avoid damage if its leaders refuse to deal with its gravest problems on ground that they are distinctively problems of race.

□ 2115

I am quoting from Russell Baker's article in the New York Times today.

Everybody now knows about the problem of the young black male, and nobody with power has done anything about it. To be sure, President Clinton has gone into the occasional black church and made the correct sounds, but where is the highpowered, bipartisan, interracial Presidential commission empowered to recommend executive and legislative action?

Have the leaders of the black community put pressure on White House and Congress to wake up? If so, the pressure has been as that of a feather pillow on the pyramid of Cheops.

Who are the leaders of this black community, anyhow? Are there any, or are they just fictional creations of the media? Maybe the "black community" is fictional, too. Why shouldn't it be? After all, there is no such thing as a "white community," no group who can sensibly be called "white leaders."

Maybe it is tired old racist thinking to keep talking about a "black community" complete with "black leaders." Maybe it makes more sense nowadays to drop all that separatist language and say, "There's nobody here but us Americans."

The Clinton administration was not the first to do nothing about the desperate situation of the young black American. Doing nothing about it has been the unswerving policy of Presidents back as far as Richard Nixon.

Not incidentally, it was Mr. Nixon's so-called southern strategy that rebuilt the Republican party on white hostility to the Democratic record on civil rights. Nor are the dynamic Newt Gingrich conservatives engaged with the problem. The Contract With America may ask us to assume this its blessings will lead one of these days to more secure childhoods, better schooling, better jobs, and a full dinner pail for young black men. But in the meantime, the Contract With America is explicit about the need to cut welfare.

If a single Republican presidential candidate has spoken on the matter that produced the Million Man March, it has been a pianissimo performance. Let's not forget, either, that some kind of action is overdue. Some kind of action was overdue. There was a vacuum to be filled. Politics has declined into a game for overgrown boys and their high-tech toys. You win by finessing reality.

So, finally it was left for Louis Farrakhan to act. It made a lot of people so mad they could spit. That often happens when good people have done nothing.

End of quote by columnist Russell Baker, a white man commenting on the Million Man March.

The full text of the article is as follows:

[The New York Times, Oct. 17, 1995]

He Filled a Vacuum

(By Russell Baker)

So it was left to Louis Farrakhan to act. It is hard to say why without speaking realistically of the state of American politics, which has less and less to do with anything of consequence.

Surely somebody of stature, Democrat or Republican, ought to have felt obliged to act long ago. It is hardly a secret that one of the country's most dangerous problems is the increasingly desperate situation of its young black male citizens.

The portrait of a nation in trouble is etched in the statistics on black unemployment rates, black school dropouts, rising imprisonment of young blacks and killings of black youngsters by black youngsters.

When a large portion of a nation's youth is being thrown away, or hustled into prisons, or lowered into graves, it takes a remarkable capacity for indifference to say that, well, it's a pity, but it's not our problem, it's a problem for the black community, black churches, black neighborhood leaders.

It is hard to see how a multiracial nation can avoid damage if its leaders refuse to deal with its gravest problems on ground that they are distinctively problems of race.

This mistake was made by President Eisenhower 40 years ago and swiftly regretted, for Eisenhower was a serious man, serious about government's duties. He tried to avoid the multiracial reality of America in the Arkansas school desegregation crisis by arguing that race passions resided in the human heart, which could not be changed by government action.

When Arkansas's white Governor Faubus proposed to let the white human heart express itself by defying a court desegregation order, however, Eisenhower used the Army to preserve government by law.

Everybody now knows about the problem of the young black male, and nobody with power has done anything about it. To be sure, President Clinton has gone into the occasional black church and made the correct sounds, but where is the high-powered, bipartisan, interracial Presidential commission empowered to recommend executive and legislative action?

Have the leaders of the black community put pressure on White House and Congress to wake up? If so, the pressure has been as that of a feather pillow on the pyramid of Cheops.

Who are the leaders of this black community, anyhow? Are there any, or are they just fictional creations of the media? Maybe the "black community" is fictional, too. Why shouldn't it be? After all, there is no such thing as a "white community," no group who can sensibly be called "white leaders."

Maybe it is tired old racist thinking to keep talking about a "black community" complete with "black leaders." Maybe it makes more sense nowadays to drop all that separatist language and say, "There's nobody here but us Americans."

The Clinton Administration is not the first to do nothing about the desperate situation of the young black American. Doing nothing about it has been the unswerving policy of Presidents back as far as Richard Nixon. Not incidentally, it was Mr. Nixon's so-called "Southern strategy" that rebuilt the Republican Party on white hostility to the Democratic record on civil rights.

Nor are the dynamic new Gingrich conservatives engaged with the problem. The Contract With America may ask us to assume that its blessings will lead, one of these days, to more secure childhoods, better schooling, better jobs and a full dinner pail for young black men, but in the meantime it is explicit about the need to cut welfare.

If a single Republican Presidential candidate has spoken of the matter that produced the Million Man March, it has been a pianissimo performance.

Let's not forget, either, the fierce and forbidding tetchiness of many black people, which discourages whites from discussing the problem. It is understandable that a politician might ignore the subject entirely when he fears that getting involved may earn him the epithet of "racist."

Some kind of action was overdue. There was a vacuum to be filled. Politics has declined into a game for overgrown boys and their high-tech toys. You win by finessing reality. So finally it was left for Louis Farrakhan to act. It made a lot of people so mad they could spit. That often happens when good people have done nothing.

MEDICARE AND VA HEALTH BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I want to take this opportunity to address the House this evening to address a couple of major issues, not the least of which is the bill we passed today, H.R. 2353, which I was a cosponsor of with the gentleman from Arkansas [Mr. HUTCHINSON] to extend certain VA health and medical care benefits.

We extended the priority care for Persian Gulf veterans, the alcohol and drug abuse care, nursing home care alternatives, health scholarships, and we have also included within that legislation, which received bipartisan support, almost unanimous vote of the House, residential care for homeless and chronically mentally ill veterans, compensated work therapy and therapeutic transitional housing demonstration grants, and homeless veterans pilot programs, along with a displaying of the POW/MIA flag at all of our VA medical health centers, until the President has confirmed to the House and Senate that all the POW's and MIA's are accounted for.

This legislation was part of our committee work and we are happy to see that it was adopted today in the House and now moves on to the Senate.

One of the areas in which the general public has great interest, and especially the seniors who we are trying to protect with Medicare, we have this legislation coming before the House this week. And for those in the House who have been working on this issue for a long time, many others may ask why are you discussing it this year and why are you trying to reform it?

It was only in April that the President's trustees came back to the House and Senate and said that in 7 years, if we do nothing with Medicare, we will actually run out of money to have a Medicare health care system for our seniors.

Medicare is the Nation's primary medical assistance program for seniors and the disabled. It is composed of two parts: Part A, for which an individual automatically qualifies for at age 65. It provides hospital, home health, and skilled nursing facility coverage, and is paid for by payroll taxes. Those taxes go into the hospital trust fund which, by law, serves as the exclusive source of part A funding.

Part B, a voluntary system in which individuals who qualify for part A may choose to enroll, pays for doctor and outpatient service as well as medical equipment costs. It is paid for out of the general fund of our Government and from premiums paid by beneficiaries

At this point, health care costs in the country, Mr. Speaker, are rising about 4 percent a year. But Medicare has been rising at the rate of 10 to 11 percent a year. Anyone can say: How is there such a disparate difference? Why is it that health care is a 4-percent increase and Medicare is going up at 10 percent?

A large part of that is the fraud, abuse, and waste which exists in the Medicare system, unfortunately.

Mr. Speaker, $30 billion a year goes to pay for fraud, abuse, and waste.

Under legislation that is before the House this week that legislation will address for the first time the enforcement, the speeding up of the prosecution of, investigation of fraud abuse and waste that we have in the Medicare system. It will establish through legislation that I cosponsored with the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Mexico [Mr. SCHIFF], this legislation will in fact increase the penalties and create for the first time the crime of Medicare fraud.

Mr. Speaker, that will go a long way to making sure that our Medicare system will become solvent and will in fact be secure and strengthened for many years to come.

But the other alternatives, which are also important to discuss tonight, Mr. Speaker, offer not only the fee for services, as has been traditional under Medicare, but also offer to beneficiaries the choice of a managed care option or medical savings accounts.

Under the managed care option there could be additional services, such as pharmaceuticals available, hearing aids, dentures, and the like. Under medical savings accounts, we now have an investment of $4,800 per subscriber in Medicare, which under the proposal now before the House could go to $6,700 by the year 2002.

And this increase for medical savings accounts, for the subscriber that does not use all the funds for 1 year, they could either keep the savings, Mr. Speaker, or have it roll over to the next year's medical health care provided.

In addition to providing the option of fee for service, managed care, and also for the medical savings accounts, it would allow providers to establish provider-sponsored organizations that can offer the Medicare Plus option. That would be for doctors or hospitals to provide, as well as the managed care companies, such options for our senior constituents.

It would establish under the legislation a commission to recommend long-term structural changes to preserve, protect, and strengthen Medicare. It would strengthen the Federal efforts, I may have made it very clear, to have the fraud addressed. I said that previously. But it would also create a new trust fund funded from both Medicare and the Federal Treasury to finance teaching hospitals and graduate medical education programs.

I believe, Mr. Speaker, that while the time is running short, I did want to say that to do nothing with Medicare would have us go bankrupt. So, it is important that we Republicans and Democrats work together this week, the House and the Senate together with the executive branch, to make sure that we not only keep a strong Medicare for this generation's seniors, but for seniors that follow so that we have a strong medical system for many years to come.

Thank you Mr. Speaker. I yield back the balance of my time.

DEBATE OMITTED FROM THE RECORD OF THURSDAY, OCTOBER 12, 1995, ON THE OMNIBUS CIVILIAN SCIENCE AUTHORIZATION ACT OF 1995

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Alabama.

Mr. CRAMER. Mr. Chairman, I want to quickly point out that, as the gentleman and I both know, our areas have been designated by the National Research Council as likely among the most vulnerable gap areas in the country with the modernization plan and the recommended placement of NEXRADS. The gentleman and I have been so budget-conscious that we have talked about sharing a NEXRAD, if in fact we get that opportunity, as we hope we will, placing it somewhere between our respective districts, so we can in fact protect our citizens, but at the same time save as much money as possible. I wanted the Members to know that is how well we worked together.

Mr. WAMP. Reclaiming my time, Mr. Chairman, it can be in the State of Alabama, as long as it covers Chattanooga and southeast Tennessee adequately. I appreciate that, and commend the gentleman.

Mr. SOUDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I commend the gentleman from Alabama. I am a cosponsor of his amendment, and I want to thank the chairman of the committee for his willingness to hold hearings. We appreciate his willingness to work through problems in northeast Indiana, as well as northwest Ohio, and the tri-state region I represent. I also understand we are moving to new radar systems, and I think those changes in science are very important, and will provide more protection.

However, we have gaps in that system. While we are going through those gaps, if we close our local weather service, we are unprotected over the next few years. If we do not have a whole country covered in the radar systems, it becomes more problematic about the weather stations. Our constituents rely greatly on the National Weather Service to provide advanced warnings of tornadoes and other severe storms. Current law prohibits the National Weather Service from closing weather stations unless it can certify that the closing will cause no degradation in the warning service the stations provide to local residents. Without this amendment, that protection would be struck. A few years ago, the city of Kendalville in my district was hit without warning by a tornado that injured 28 people, destroyed 29 buildings, and damaged over 150 businesses and residences. I happen to be very familiar with that, because I was just south of where the tornado was going, heard the warning on the radio, and turned south so I did not get caught in the path.

All of northeast Indiana, as well as at least 30 other areas of this country, now face the prospect of losing their weather service warnings, even though independent experts at the National Research Council recently acknowledged that they face a potential for a degraded service. We in our area, in the current proposals for the new radar system, are covered by four different systems, and it leaves us very vulnerable in the middle of that.

I was also at a fair last summer where a tornado went from western Ohio and came back west, rather than going west to east, and had there not been a weather service in Fort Wayne, they would have had to relay that to Cincinnati, back to Indianapolis, back to Fort Wayne, and this way in minutes they were able to get us to a shelter.

I know in a very personal way 125,000 people in my districts have sent postcards to NOAA with concerns for this. It is very important. There are a couple of concerns. This bill saves $15 million, this amendment, but $35 million additional, I understand, could be saved. I have been working to cut the budget on appropriations bills and will continue to do that, but we also in this bill, I have supported the space program, I supported the space station, I think the chairman of this committee and the subcommittees have done well in battling for science, but if we can have $100 million for space and Russia, we can afford to protect our own citizens in this country.

It is not just a matter of children's lives being lost and the homes being lost and lives; in my case, it is my wife, my children, myself, people who I grew up with and who are friends, and this is far too important to lose in a transition where, overall, the program is very effective, but some lives could be lost by this degradation of service.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Cramer amendment. Mr. Chairman, the modernization of the National Weather Service's purpose is to consolidate weather service offices nationwide without jeopardizing the quality of weather service to any region. While I strongly support this goal, weather service users, the public, and elected officials have repeatedly expressed deep concern that the modernization plan might actually degrade services in some regions of the country.

In response to these concerns, Congress enacted Public Law 102-567, which stipulates that the weather service will not close any of its stations without first certifying that doing so will not degrade weather service to the affected region. Mr. Chairman, I have grave concerns about the provisions of this bill that repeal this mandate. No one in this Chamber is more committed to streamlining Government than I am. However, we should not do so at the expense of the safety of the people in northern California and elsewhere in the country. Yet, that is precisely what will happen if we do not adopt the amendment offered by the gentleman from Alabama.

Mr. Chairman, let me illustrate by describing several situations in my own district of northern California. Presently, the National Weather Service plans to close its office in the city of Redding, the largest population center in California north of Sacramento. This decision has been made despite mountains of credible scientific evidence, including findings by the weather service meteorologists in California, that doing so could have a potentially devastating impact on Redding and the communities further north. The mountains to the north of Redding, including the Interstate 5 corridor, which provides the primary transportation route between Oregon and California, are subject to severe storms that have been the source of some of the worst flooding in California history. Last spring, for example, floods ravaged the 10 counties in my district, leaving each a Federal disaster area. During this tragedy, the weather service in Redding provided critical, up-to-the-minute information to local officials, enabling them to react almost instantaneously to individual emergencies.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. GIBBONS, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. LEVIN, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. JONES, for 5 minutes, today.
Mr. CUNNINGHAM, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. LANTOS.
Mrs. MALONEY in five instances.
Mr. HALL of Ohio.
Mr. GIBBONS.
Mr. RANGEL.
Mr. TOWNS.
Mrs. SCHROEDER.
Mr. PALLONE.
Mr. HASTINGS.
Mrs. THURMAN.
Mr. FILNER.
Mr. STOKES.
Mr. HAMILTON.
Mr. SCHUMER.
Ms. WOOLSEY.
Mrs. MEEK of Florida.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mrs. MORELLA in two instances.
Mr. GINGRICH.
Mr. SHADEGG.
Mrs. VUCANOVICH.
Mr. GALLEGLY.
Mr. KING.
Mr. GREENWOOD.
Mr. CLINGER.

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. FORBES.
Mr. GILLMOR in two instances.
Mr. DOOLEY.
Mr. OWENS.
Mr. SOLOMON.
Mr. OBERSTAR.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1267. An act to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board; to the Committee on Economic and Educational Opportunities.

ADJOURNMENT

Mr. FOX of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 18, 1995, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized by a committee of the U.S. House of Representatives during the second quarter of 1995, as well as an amendment to the consolidated Speaker's report for the 2d quarter of 1995 in connection with official foreign travel, pursuant to Public Law 95–384, are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CONSOLIDATED SPEAKER'S REPORT, U.S. HOUSE OF REPRESENTATIVES, MR. DOUGLAS J. LAMUDE, EXPENDED BETWEEN MAY 28 AND JUNE 2, 1995

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Douglas J. Lamude	5/28	6/2	Nigeria	227.01	339.00	60.98	3990.15	1.83	35.00	289.82	4364.15
Committee total					566.01		4051.13		36.83		4653.97

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DOUGLAS J. LAMUDE, Oct. 2, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APRIL 1 AND JUNE 30, 1995.

Name of Member of employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Sonny Callahan	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/30	England		592.00		(3)				592.00
Hon. Norm Dicks	6/8	6/12	France		1,332.00		(3)				1,332.00
Commercial airfare							657.35				657.35
Hon. Steny Hoyer	4/18	4/19	Italy		235.00		(3)				235.00
Hon. Joe Knollenberg	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/30	England		592.00		(3)				592.00
Hon. Jim Lightfoot	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/30	England		592.00		(3)				592.00
Hon. John Myers	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/30	England		592.00		(3)				592.00
Hon. Esteban Torres	4/19	4/20	Ireland		279.00		(3)				279.00
	4/20	4/24	Italy		1,226.00		(3)				1,226.00
	4/24	4/27	Israel		879.00		(3)				879.00
	4/27	4/29	Belgium		729.00		(3)				729.00
Hon. Barbara Vucanovich	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/29	England		592.00		(3)				592.00
Hon. Roger F. Wicker	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/29	England		592.00		(3)				592.00
Hon. Charles Wilson	6/10	6/14	France		1,332.00						1,332.00
Commercial air fare							3,354.75				3,354.75
Sally Chadbourne	4/9	4/15	Chile		472.00						472.00
Commercial air fare							1,934.95				1,934.95
Elizabeth C. Dawson	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/30	England		592.00		(3)				592.00
William Inglee	4/22	4/25	Belgium		981.00		(3)				981.00
Commercial air fare							[4] 484.95				484.95
Frederick G. Mohrman	4/22	4/25	Belgium		981.00		(3)				981.00
	4/25	4/28	Italy		870.00		(3)				870.00
	4/28	4/30	England		592.00		(3)				592.00
Commmittee total					27,009.00		6432.00				33,441.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

[4] One-way.

BOB LIVINGSTON,
Chairman, Sept. 27, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SURVEYS AND INVESTIGATIONS STAFF, HOUSE COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APRIL 1 AND JUNE 30, 1995.

Hame of Member of employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Frederick A. Bigden	6/24	7/1	GERMANY		1,042.25		2,612.00		19.04		3,673.29
Joseph R. Fogarty	6/24	6/28	ITALY		725.00		4,116.15		43.36		4,884.51
Walter C. Hersman	6/24	7/1	GERMANY		1,042.25		2,612.00		8.40		3,662.65
Terrence E. Hobbs	4/24	4/28	ITALY		641.00		4,116.15		101.38		4,858.53
Johannah P. O'Keeffe	4/24	4/28	ITALY		641.00		4,116.15		18.96		4,776.11
R.W. Vandergrift, Jr.	4/24	4/28	ITALY		737.50		4,116.15		216.07		5,069.72
Committee total					4,829.00		21,688.60		407.21		26,924.81

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB LIVINGSTON,
Chairman, Sept. 27, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1531. A letter from the Secretary of Agriculture, transmitting the annual horse protection enforcement report for fiscal year 1994, pursuant to 15 U.S.C. 1830; to the Committee on Commerce.

1532. A letter from the Administrator, General Services Administration, transmitting a report of a building project survey for Oklahoma City, OK, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted October 16, 1995]

Mr. ARCHER: Committee on Ways and Means. H.R. 2425. A bill to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program; with an amendment (Rept. 104–276, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2425. A bill to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program; with an amendment (Rept. 104–276, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

[Submitted October 17, 1995]

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1508. A bill to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park; with an amendment (Rept. 104–277, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1114. A bill to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards; with an amendment (Rept. 104–278). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE: Committee on Rules. House Resolution 237. Resolution providing for consideration of the bill (H.R. 2259) to disapprove certain sentencing guideline amendments (Rept. 104–279). Referred to the House Calendar.

Mr. KASICH: Committee on the Budget. H.R. 2491. A bill, the 7-year balanced budget reconciliation act of 1995 (Rept. 104–280). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEES

Under clause 5 of rule x, the following action was taken by the Speaker:

[Submitted October 16, 1995]

H.R. 2425. The Committees on the Judiciary and Rules discharged from further consideration.

[Submitted October 17, 1995]

H.R. 1508. The Committee on Government Reform and Oversight discharged from further consideration. H.R. 1508 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[Submitted October 16, 1995]

H.R. 2425. Referral to the Committees on the Judiciary and Rules extended for a period ending not later than October 16, 1995.

[Submitted October 17, 1995]

H.R. 1508. Referral to the Committee on Government Reform and Oversight extended for a period ending not later than October 17, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HOKE (for himself, Mr. HYDE, Mr. LIVINGSTON, Mr. SPENCE, Mr. DELAY, Mr. BOEHNER, Mr. COX, Mr. STUMP, Mr. DORNAN, Mr. HUNTER, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. ROYCE, Mr. BARR, Mr. BONO, Mr. FUNDERBURK, Mr. JONES, Mr. SHADEGG, Mr. SMITH of Texas, and Mr. HANSEN):

H.R. 2483. A bill to require the President to give notice of the intention of the United States to withdraw from the Anti-Ballistic Missile Treaty, and for other purposes; to the Committee on International Relations, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINGE:

H.R. 2484. A bill to amend the Clean Air Act to modify the reformulated gas program; to the Committee on Commerce.

By Mr. ARCHER (for himself, Mr. BLILEY, Mr. BILIRAKIS, Mr. THOMAS, Mr. HYDE, Mr. GREENWOOD, Mr. HASTERT, Mrs. JOHNSON of Connecticut, and Mr. MCCRERY):

H.R. 2485. A bill to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, the Judiciary, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Minnesota:

H.R. 2486. A bill to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, the Judiciary, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROSE:

H.R. 2487. A bill to amend title 5, United States Code, to allow periods of certain service performed as an employee under certain Federal-State cooperative programs to be creditable for purposes of civil service retirement; to the Committee on Government Reform and Oversight, and in addition to the Committees on Agriculture, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF:

H.R. 2488. A bill to amend title 18, United States Code, to provide appropriate remedies with respect to prison conditions; to the Committee on the Judiciary.

By Mrs. VUCANOVICH:

H.R. 2489. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of certain additional oral anticancer drugs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH (for himself, Mr. PASTOR, and Mr. KOLBE):

H.R. 2490. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, AZ, and for other purposes; to the Committee on Resources, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MOLLOHAN (for himself and Mr. BARTLETT of Maryland):

H.J. Res. 113. Joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, MD, and Mineral County, WV, entered into between the States of West Virginia and Maryland; to the Committee on the Judiciary.

By Mr. GOODLING:

H. Con. Res. 108. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1594; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

165. By the SPEAKER: Memorial of the Legislature of the State of California, relative to homebased business; to the Committee on Economic and Educational Opportunities.

166. Also, memorial of the Legislature of the State of California, relative to Domestic Violence Awareness Month; to the Committee on Economic and Educational Opportunities.

167. Also, memorial of the Legislature of the State of California, relative to air pollution; to the Committee on Commerce.

168. Also, memorial of the Legislature of the State of California, relative to the Federal Clean Air Act; to the Committee on Commerce.

169. Also, memorial of the Legislature of the State of California, relative to a nonmotorized facility in the Tahoe Basin; to the Committee on Resources.

170. Also, memorial of the Legislature of the State of California, relative to Yosemite

National Park; to the Committee on Resources.

171. Also, memorial of the Legislature of the State of California, relative to immigration; to the Committee on the Judiciary.

172. Also, memorial of the Legislature of the State of California, relative to airline ticket commission levels; to the Committee on the Judiciary.

173. Also, memorial of the Legislature of the State of California, relative to the Federal role in transportation; to the Committee on Transportation and Infrastructure.

174. Also, memorial of the Legislature of the State of California, relative to Korean war veterans; to the Committee on Veterans' Affairs.

175. Also, memorial of the Legislature of the State of California, relative to commemorating the 50th anniversary of Victory Over Japan Day; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 117: Mr. Hoke, Mr. Watts of Oklahoma, Mr. LaHood, Mrs. Roukema, Mr. Tate, Mr. Wamp, and Mr. LaTourette.

H.R. 127: Mr. Duncan, Mr. Hunter, and Mr. McDade.

H.R. 218: Mr. Bliley.

H.R. 353: Miss Collins of Michigan.

H.R. 359: Mr. Young of Alaska.

H.R. 528: Mr. Fazio of California, Mr. Walsh, Mr. LaHood, Mr. DeFazio, Mr. Sam Johnson, Miss Collins of Michigan, Mr. Zeliff, Mr. LaFalce, Mr. Mfume, Mr. Fields of Texas, Mrs. Lowey, and Mr. Gene Green of Texas.

H.R. 682: Mr. Goodlatte.

H.R. 705: Mr. Shadegg.

H.R. 752: Mr. Romero-Barcelo.

H.R. 789: Mr. White and Mr. Franks of Connecticut.

H.R. 899: Mr. Martini.

H.R. 910: Mr. Owens, Ms. Roybal-Allard, and Mr. Meehan.

H.R. 941: Mrs. Meek of Florida.

H.R. 997: Mr. Brewster, Mr. Brown of California, Mr. Hayes, Mr. Schiff, Mr. Stockman, Mr. Tate, Mrs. Thurman, and Mr. Whitfield.

H.R. 1023: Mr. Owens, Mr. Jefferson, Mr. Ehlers, and Mr. Miller of California.

H.R. 1127: Mr. Andrews, Mr. McCollum, and Mr. Rangel.

H.R. 1202: Mr. Gunderson, Mr. Wolf, Mr. Davis, and Mr. Schiff.

H.R. 1278: Mr. Foglietta and Mr. Stark.

H.R. 1493: Mr. Foglietta.

H.R. 1499: Mr. Hastert and Mr. Thornberry.

H.R. 1500: Mr. Dicks and Mr. Durbin.

H.R. 1589: Mr. Herger and Mr. Sensenbrenner.

H.R. 1626: Mr. Weldon of Florida and Mr. Mica.

H.R. 1627: Mr. Smith of Texas and Ms. Pryce.

H.R. 1651: Mr. Andrews.

H.R. 1684: Mrs. Kennelly, Mr. Gene Green of Texas, and Mr. Orton.

H.R. 1701: Ms. Furse.

H.R. 1711: Mr. Stockman and Mr. Davis.

H.R. 1713: Mr. Fazio of California.

H.R. 1757: Mr. Foglietta and Ms. Slaughter.

H.R. 1758: Mrs. Thurman and Mr. Pallone.

H.R. 1796: Mr. Calvert, Mr. Inglis of South Carolina, Mr. Bliley, and Mr. Hancock.

H.R. 1803: Mr. Farr.

H.R. 1834: Mr. Archer, Mr. Bateman, Mr. Crane, Mr. Duncan, and Mr. Hunter.

H.R. 1863: Mr. Luther and Mr. Johnston of Florida.

H.R. 1876: Mr. McDermott, Mr. Nadler, Mr. Waxman, Mr. Engel, and Ms. Rivers.

H.R. 1965: Mr. Bachus, Mr. Watt of North Carolina, Mr. Bonior, Mrs. Roukema, Mr. Foley, Mrs. Kennelly, and Ms. Slaughter.

H.R. 1968: Ms. Molinari.

H.R. 2013: Mr. Hoke.

H.R. 2024: Mr. Ewing, Mr. Schaefer, Mr. Sensenbrenner, and Mr. Stupak.

H.R. 2029: Mr. Condit.

H.R. 2137: Mr. Walsh and Mr. Hoke.

H.R. 2148: Mrs. Kelly, Mr. Bono, and Mr. Smith of Michigan.

H.R. 2178: Mr. Bonior and Mr. Mascara.

H.R. 2190: Mr. Gordon, Mr. Lewis of Kentucky, Mr. Fox, Mr. Bevill, Mr. Barr, Mr. Moorhead, Mr. Lipinski, Mr. Bonilla, Mr. Radanovich, Mr. Hefley, Mr. Lewis of Georgia, Mrs. Kelly, Mr. Bonior, Mr. Jones, Mr. Saxton, Mr. Skeen, Mr. Dornan, Mr. Solomon, Mr. Rahall, Mr. Horn, and Mr. Boucher.

H.R. 2240: Mrs. Meyers of Kansas, Ms. Slaughter, and Ms. Furse.

H.R. 2286: Mr. Hunter.

H.R. 2339: Mr. Stenholm.

H.R. 2364: Mr. Bartlett of Maryland, Mr. Funderburk, and Mr. Skeen.

H.R. 2374: Mr. Farr and Mr. Lewis of Georgia.

H.R. 2411: Ms. McKinney and Mr. Thornberry.

H.R. 2429: Mr. Peterson of Minnesota.

H.R. 2435: Mr. Talent, Mr. Rohrabacher, Mr. Burton of Indiana, Mr. McHugh, Mrs. Smith of Washington, and Mr. Filner.

H.R. 2468: Mr. Rogers and Mr. Stenholm.

H.J. Res. 64: Mr. Shadegg.

H.J. Res. 70: Miss Collins of Michigan.

H.J. Res. 100: Mr. Dixon, Mrs. Myrick, Mr. Richardson, and Mr. Royce.

H.J. Res. 109: Mr. Moorhead, Mr. Horn, Mr. Royce, Mr. Dornan, Mr. Lipinski, Mr. Calvert, and Mrs. Chenoweth.

H. Con. Res. 50: Ms. Roybal-Allard.

H. Con. Res. 95: Mr. Ackerman, Mr. Saxton, Mr. Berman, Mr. Frost, Ms. Roybal-Allard, Mr. Lipinski, Mrs. Schroeder, Mr. Markey, Mr. Taylor of North Carolina, Mr. Underwood, Mrs. Meyers of Kansas, Mr. McNulty, and Mr. Porter.

H. Res. 39: Mr. Foglietta.

H. Res. 214: Mr. Smith of Michigan, Mr. Hayworth, Mr. Bentsen, Mr. Ganske, Mr. Sanford, Mr. Stupak, Mr. Fox, and Mr. Canady.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2066: Mr. Miller of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 39

Offered By: Mr. Goss

Amendment No. 2: Page 29, line 3, add "and" after the semicolon.

Page 29, strike lines 4 through 7 (and redesignate the subsequent paragraph accordingly).

H.R. 39

Offered By: Mr. Traficant

Amendment No. 3: At the end of the bill, add the following new section:

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) In General.—Title IV, as amended by section 19, is further amended by adding at the end the following new section:

"SEC. 402. SENSE OF CONGRESS; NOTICE TO RECIPIENTS OF ASSISTANCE.

"(a) Purchase of American-Made Equipment and Products.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) Notice to Recipients of Assistance.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.".

(b) Clerical Amendment.—The table of contents in the first section, as amended by section 19, is further amended by adding at the end the following:

"Sec. 402. Sense of Congress; notice to recipients of assistance.".

H.R. 2425

Offered By: Mr. Archer

(Amendment in the Nature of a Substitute)

Amendment No. 1: Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to reform the medicare program, in order to preserve and protect the financial stability of the program.

TITLE XV—MEDICARE

SEC. 15000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) Short Title.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) References to OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(d) Table of Contents of Title.—The table of contents of this title is as follows:

Sec. 15000. Short title of title; amendments and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

Part 1—Increasing Choice Under the Medicare Program

Sec. 15001. Increasing choice under medicare.

Sec. 15002. MedicarePlus program.

"Part C—Provisions Relating to MedicarePlus

"Sec. 1851. Requirements for MedicarePlus organizations; high deductible/medisave products.

"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to MedicarePlus organizations.
"Sec. 1856. Establishment of standards for MedicarePlus organizations and products.
"Sec. 1857. MedicarePlus certification.
"Sec. 1858. Contracts with MedicarePlus organizations.
Sec. 15003. Duplication and coordination of medicare-related products.
Sec. 15004. Transitional rules for current medicare HMO program.

PART 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 15011. MedicarePlus MSA's.
Sec. 15012. Certain rebates excluded from gross income.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

Sec. 15021. Application of antitrust rule of reason to provider service networks.

PART 4—COMMISSIONS

Sec. 15031. Medicare Payment Review Commission.
Sec. 15032. Commission on the Effect of the Baby Boom Generation on the Medicare Program.
Sec. 15033. Change in appointment of Administrator of HCFA.

PART 5—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 15041. Treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Preventing Fraud and Abuse

PART 1—GENERAL PROVISIONS

Sec. 15101. Increasing awareness of fraud and abuse.
Sec. 15102. Beneficiary incentive programs.
Sec. 15103. Intermediate sanctions for medicare health maintenance organizations.
Sec. 15104. Voluntary disclosure program.
Sec. 15105. Revisions to current sanctions.
Sec. 15106. Direct spending for anti-fraud activities under medicare.
Sec. 15107. Permitting carriers to carry out prior authorization for certain items of durable medical equipment.
Sec. 15108. National Health Care Anti-Fraud Task Force.
Sec. 15109. Study of adequacy of private quality assurance programs.
Sec. 15110. Penalty for false certification for home health services.
Sec. 15111. Pilot projects.

PART 2—CRIMINAL LAW PROVISIONS

Sec. 15121. Offenses involving fraud, false statement, theft, or embezzlement.

Subtitle C—Regulatory Relief

PART 1—PHYSICIAN OWNERSHIP REFERRAL REFORM

Sec. 15201. Repeal of prohibitions based on compensation arrangements.
Sec. 15202. Revision of designated health services subject to prohibition.
Sec. 15203. Delay in implementation until promulgation of regulations.
Sec. 15204. Exceptions to prohibition.
Sec. 15205. Repeal of reporting requirements.
Sec. 15206. Preemption of State law.
Sec. 15207. Effective date.

PART 2—OTHER MEDICARE REGULATORY RELIEF

Sec. 15211. Repeal of Medicare and Medicaid Coverage Data Bank.
Sec. 15212. Clarification of level of intent required for imposition of sanctions.
Sec. 15213. Additional exception to anti-kickback penalties for managed care arrangements.
Sec. 15214. Solicitation and publication of modifications to existing safe harbors and new safe harbors.
Sec. 15215. Issuance of advisory opinions under title XI.
Sec. 15216. Prior notice of changes in billing and claims processing requirements for physicians' services.

PART 3—PROMOTING PHYSICIAN SELF-POLICING

Sec. 15221. Exemption from antitrust laws for certain activities of medical self-regulatory entities.

Subtitle D—Medical Liability Reform

PART 1—GENERAL PROVISIONS

Sec. 15301. Federal reform of health care liability actions.
Sec. 15302. Definitions.
Sec. 15303. Effective date.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 15311. Statute of limitations.
Sec. 15312. Calculation and payment of damages.
Sec. 15313. Alternative dispute resolution.

Subtitle E—Teaching Hospitals and Graduate Medical Education

PART 1—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

Sec. 15401. Establishment of Fund; payments to teaching hospitals.

"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"Sec. 2201. Establishment of Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"Sec. 2211. Formula payments to teaching hospitals.

"Subpart 2—Amount Relating to Indirect Costs of Graduate Medical Education

"Sec. 2221. Determination of amount relating to indirect costs.
"Sec. 2222. Indirect costs; special rules regarding determination of hospital-specific percentage.
"Sec. 2223. Indirect costs; alternative payments regarding teaching hospitals in certain States.

"Subpart 3—Amount Relating to Direct Costs of Graduate Medical Education

"Sec. 2231. Determination of amount relating to direct costs.
"Sec. 2232. Direct costs; special rules regarding determination of hospital-specific percentage.
"Sec. 2233. Direct costs; authority for payments to consortia of providers.
"Sec. 2234. Direct costs; alternative payments regarding teaching hospitals in certain States.

"Subpart 4—General Provisions

"Sec. 2241. Adjustments in payment amounts.

PART 2—AMENDMENTS TO MEDICARE PROGRAM

Sec. 15411. Transfers to Teaching Hospital and Graduate Medical Education Trust Fund.
Sec. 15412. Modification in payment policies regarding graduate medical education.

PART 3—REFORM OF FEDERAL POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION

Sec. 15421. Establishment of advisory panel for recommending policies.

"PART C—OTHER MATTERS

"Sec. 2251. Advisory Panel on Reform in Financing of Teaching Hospitals and Graduate Medical Education.

Subtitle F—Provisions Relating to Medicare Part A

PART 1—HOSPITALS

SUBPART A—GENERAL PROVISIONS RELATING TO HOSPITALS

Sec. 15501. Reductions in inflation updates for PPS hospitals.
Sec. 15502. Reductions in disproportionate share payment adjustments.
Sec. 15503. Payments for capital-related costs for inpatient hospital services.
Sec. 15504. Reduction in adjustment for indirect medical education.
Sec. 15505. Treatment of PPS-exempt hospitals.
Sec. 15506. Reduction in payments to hospitals for enrollees' bad debts.
Sec. 15507. Permanent extension of hemophilia pass-through.
Sec. 15508. Conforming amendment to certification of Christian Science providers.

SUBPART B—PROVISIONS RELATING TO RURAL HOSPITALS

Sec. 15511. Sole community hospitals.
Sec. 15512. Clarification of treatment of EAC and RPC hospitals.
Sec. 15513. Establishment of rural emergency access care hospitals.
Sec. 15514. Classification of rural referral centers.
Sec. 15515. Floor on area wage index.

PART 2—PAYMENTS TO SKILLED NURSING FACILITIES

Sec. 15521. Payments for routine service costs.
Sec. 15522. Incentives for cost effective management of covered non-routine services.
Sec. 15523. Payments for routine service costs.
Sec. 15524. Reductions in payment for capital-related costs.
Sec. 15525. Treatment of items and services paid for under part B.
Sec. 15526. Certification of facilities meeting revised nursing home reform standards.
Sec. 15527. Medical review process.
Sec. 15528. Report by Medicare Payment Review Commission.
Sec. 15529. Effective date.

PART 3—CLARIFICATION OF CREDITS TO PART A TRUST FUND

Sec. 15531. Clarification of amount of taxes credited to Federal Hospital Insurance Trust Fund.

Subtitle G—Provisions Relating to Medicare Part B

PART 1—PAYMENT REFORMS

Sec. 15601. Payments for physicians' services.
Sec. 15602. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 15603. Payments for durable medical equipment.

Sec. 15604. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 15605. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 15606. Freeze in payments for ambulatory surgical center services.
Sec. 15607. Rural emergency access care hospitals.
Sec. 15608. Ensuring payment for physician and nurse for jointly furnished anesthesia services.
Sec. 15609. Statewide fee schedule area for physicians' services.
Sec. 15609A. Establishment of fee schedule for ambulance services.
Sec. 15609B. Standards for physical therapy services furnished by physicians.

PART 2—PART B PREMIUM

Sec. 15611. Extension of part B premium.
Sec. 15612. Income-related reduction in medicare subsidy.

PART 3—ADMINISTRATION AND BILLING OF LABORATORY SERVICES

Sec. 15621. Administrative simplification for laboratory services.
Sec. 15622. Restrictions on direct billing for laboratory services.

PART 4—QUALITY STANDARDS FOR DURABLE MEDICAL EQUIPMENT

Sec. 15631. Recommendations for quality standards for durable medicare equipment.

Subtitle H—Provisions Relating to Medicare Parts A and B

PART 1—PAYMENT FOR HOME HEALTH SERVICES

Sec. 15701. Payment for home health services.
Sec. 15702. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 15703. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.
Sec. 15704. Report on recommendations for payments and certification for home health services of Christian Science providers.
Sec. 15705. Extension of period of home health agency certification.

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

Sec. 15711. Extension and expansion of existing requirements.
Sec. 15712. Improvements in recovery of payments.
Sec. 15713. Prohibiting retroactive application of policy regarding ESRD beneficiaries enrolled in primary plans.

PART 3—FAILSAFE

Sec. 15721. Failsafe budget mechanism.

PART 4—ADMINISTRATIVE SIMPLIFICATION

Sec. 15731. Standards for medicare information transactions and data elements.

PART 5—OTHER PROVISIONS RELATING TO PARTS A AND B

Sec. 15741. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 15742. Additional exclusion from coverage.
Sec. 15743. Competitive bidding for certain items and services.
Sec. 15744. Disclosure of criminal convictions relating to provision of home health services.
Sec. 15745. Requiring renal dialysis facilities to make services available on a 24-hour basis.

Subtitle I—Clinical Laboratories

Sec. 15801. Exemption of physician office laboratories.

Subtitle J—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 15901. Establishment of Medicare Growth Reduction Trust Fund for Part B savings.

Subtitle A—MedicarePlus Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 15001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

"(B) THROUGH A MEDICAREPLUS PRODUCT.—Through a MedicarePlus product (as defined in paragraph (2)), which may be—

"(i) a high deductible/medisave product (and a contribution into a MedicarePlus medical savings account (MSA)),

"(ii) a product offered by a provider-sponsored organization,

"(iii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

"(iv) a product providing for benefits on a fee-for-service or other basis.

"(2) MEDICAREPLUS PRODUCT DEFINED.—For purposes this section and part C, the term 'MedicarePlus product' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

"(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

"(A) NON-MEDICARE-PLUS OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-MedicarePlus option'.

"(B) MEDICAREPLUS OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a MedicarePlus product is considered to have elected the 'MedicarePlus option' for that product.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus product offered by a MedicarePlus organization only if the organization in relation to the product serves the geographic area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a MedicarePlus product offered by a limited enrollment MedicarePlus organization (as defined in section 1852(c)(4)(E)) only if—

"(i) the individual is eligible under section 1852(c)(4) to make such election, and

"(ii) in the case of a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a MedicarePlus product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

"(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a MedicarePlus product offered by a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor if the individual previously had elected a MedicarePlus product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

"(3) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual is not eligible to elect a high deductible/medisave product if the individual is entitled to benefits under chapter 89 of title 5, United States Code, as an annuitant or spouse of an annuitant.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for MedicarePlus products in an area as soon as such products become available in that area.

"(3) COORDINATION THROUGH MEDICARE-PLUS ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus product offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus product offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-MedicarePlus option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate MedicarePlus product offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a MedicarePlus product is discontinued, if the individual had elected such product at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the MedicarePlus program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in MedicarePlus products under this section.

"(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the MedicarePlus option during the initial election period described in subsection (e)(1).

"(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which MedicarePlus products are offered:

"(A) INFORMATION BOOKLET.—

"(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the MedicarePlus option under this section during coverage election periods.

"(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

"(I) the benefits (including cost-sharing) and premiums for the various MedicarePlus products in the areas involved;

"(II) the quality of such products, including consumer satisfaction information; and

"(III) rights and responsibilities of medicare beneficiaries under such products.

"(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of MedicarePlus products and the benefits and premiums for such products.

"(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of part C.

"(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the MedicarePlus option provided under this section in the annual notice of medicare benefits under section 1804.

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a MedicarePlus product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE-PLUS OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-MedicarePlus option may change such election to a MedicarePlus option at any time.

"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—

"(i) IN GENERAL.—During the transition period, an individual who has elected a MedicarePlus option for a MedicarePlus product may change such election to another MedicarePlus product or to the non-MedicarePlus option.

"(ii) SPECIAL RULE.—During the transition period, an individual who has elected a high deductible/medisave product may not change such election to a MedicarePlus product that is not a high deductible/medisave product unless the individual has had such election in effect for 12 months.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect MedicarePlus products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects a MedicarePlus option (other than a high deductible/medisave product) under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the MedicarePlus product under such option becomes effective.

"(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-MedicarePlus option.

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a MedicarePlus product offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

"(B) in the case of an individual who has elected a MedicarePlus product offered by a MedicarePlus organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(6) SPECIAL RULE FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS.—Notwithstanding the previous provisions of this subsection, an individual may elect a high deductible/medisave product only during an annual, coordinated election period described in paragraph (3)(B) or during the month of October, 1996.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible/medisave product shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) EFFECT OF ELECTION OF MEDICAREPLUS OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a MedicarePlus organization under section 1858(a) with respect to an individual electing a MedicarePlus product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(h) ADMINISTRATION.—

"(1) In general.—This part and sections 1805 and 1876 shall be administered through an operating division (A) that is established or identified by the Secretary in the Department of Health and Human Services, (B) that is separate from the Health Care Financing Administration, and (C) the primary function of which is the administration of this part and such sections. The director of such division shall be of equal pay and rank to that of the individual responsible for overall administration of parts A and B.

"(2) Transfer authority.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the operating division referred to in paragraph (1) as are used in the administration of section 1876 and as may be required to implement the provisions referred to in such paragraph promptly and efficiently.".

SEC. 15002. MEDICAREPLUS PROGRAM.

(a) In General.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"Part C—Provisions Relating to MedicarePlus

"requirements for medicareplus organizations; high deductible/medisave products

"Sec. 1851. (a) MedicarePlus Organization Defined.—In this part, subject to the succeeding provisions of this section, the term 'MedicarePlus organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

"(b) Organized and Licensed Under State Law.—

"(1) In general.—A MedicarePlus organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus product.

"(2) Exception for union and Taft-Hartley sponsors.—Paragraph (1) shall not apply to an MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor (as defined in section 1852(c)(4)).

"(3) Exception for provider-sponsored organizations.—Paragraph (1) shall not apply to a MedicarePlus organization that is a provider-sponsored organization (as defined in section 1854(a)) except to the extent provided under section 1857(c).

"(4) Exception for qualified associations.—Paragraph (1) shall not apply to a MedicarePlus organization that is a qualified association (as defined in section 1852(c)(4)(C)).

"(c) Prepaid Payment.—A MedicarePlus organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(d) Assumption of Full Financial Risk.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a MedicarePlus organization that is a union sponsor (as defined in section 1852(c)(4)(A)), Taft-Hartley sponsor (as defined in section 1852(c)(4)(B)), a qualified association (as defined in section 1852(c)(4)(C)), this subsection shall not apply with respect to MedicarePlus products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(e) Provision Against Risk of Insolvency.—

"(1) In general.—Each MedicarePlus organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of MedicarePlus products offered by the organization.

"(2) Treatment of union and Taft-Hartley sponsors.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(3) Treatment of certain qualified associations.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to MedicarePlus products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(f) High Deductible/Medisave Product Defined.—

"(1) In general.—In this part, the term 'high deductible/medisave product' means a MedicarePlus product that—

"(A) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the product) equal to the amount of a deductible (described in paragraph (2));

"(B) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

"(C) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in subparagraph (A) in the year, for a level of reimbursement that is not less than—

"(i) 100 percent of such expenses, or

"(ii) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less. Such term does not include the MedicarePlus MSA itself or any contribution into such account.

"(2) Deductible.—The amount of deductible under a high deductible/medisave product—

"(A) for contract year 1997 shall be not more than $10,000; and

"(B) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this paragraph increased by the national average per capita growth rate under section 1855(c)(3) for the year.

If the amount of the deductible under subparagraph (B) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(g) Organizations Treated as MedicarePlus Organizations During Transition.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1998:

"(1) Health maintenance organizations.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) Licensed insurers.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) Current risk-contractors.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"(h) MediGrant Demonstration Projects.—The Secretary shall provide, in at least 10 States, for demonstration projects which would permit MediGrant programs under title XXI to be treated as MedicarePlus organizations under this part for individuals who are qualified to elect the MedicarePlus option and who eligible to receive medical assistance under the MediGrant program, for the purpose of demonstrating the delivery of primary, acute, and long-term care through an integrated delivery network which emphasizes noninstitutional care.

"requirements relating to benefits, provision of services, enrollment, and premiums

"Sec. 1852. (a) Benefits Covered.—

"(1) In general.—Except as provided in section 1851(f)(1) with respect to high deductible/medisave products, each MedicarePlus product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

"(2) Organization as secondary payer.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(3) SATISFACTION OF REQUIREMENT.—A MedicarePlus product (other than a high deductible/medisave product) offered by a MedicarePlus organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) NON-MEDICAREPLUS LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-MedicarePlus option.

"(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-MedicarePlus option) of the payment rate provided under the contract.

"(b) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(c) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under section 1805 with respect to a MedicarePlus product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

"(A) first to such individuals as have elected the product at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under section 1805 for a MedicarePlus product it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under section 1805 with respect to a MedicarePlus product it offers if—

"(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-MedicarePlus option (as defined in section 1805(a)(3)(A)).

"(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each MedicarePlus organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICAREPLUS ORGANIZATIONS.—

"(A) UNIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for MedicarePlus products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(B) TAFT-HARTLEY SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for MedicarePlus products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

"(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(C) QUALIFIED ASSOCIATIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a MedicarePlus product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

"(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

"(II) does not exist solely or principally for the purpose of selling insurance, and

"(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) LIMITED ENROLLMENT MEDICAREPLUS ORGANIZATION.—In this part and section 1805, the term 'limited enrollment MedicarePlus organization' means a MedicarePlus organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

"(F) EMPLOYER, ETC.—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(d) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premiums for coverage under each MedicarePlus product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

"(B) the enrollment capacity in relation to the product in each such area.

"(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a MedicarePlus organization for a MedicarePlus product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

"(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

"(B)(i) 1/12 of the annual MedicarePlus capitation rate specified in section 1855(b)(2) for the area and period involved, or (ii) in the case of a high deductible/medisave product, the monthly adjusted MedicarePlus capitation rate specified in section 1855(b)(1) for the individual and period involved.

"(3) UNIFORM PREMIUM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the premiums charged by a MedicarePlus organization under this part may not vary among individuals who reside in the same payment area.

"(B) EXCEPTION FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS.—A MedicarePlus organization shall establish premiums for any high deductible/medisave product it offers in a payment area based on each of the risk adjustment categories established for purposes of determining the amount of the payment to MedicarePlus organizations under section 1855(b)(1) and using the identical demographic and other adjustments among such categories as are used for such purposes.

"(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus product for failure to make premium payments only in accordance with subsection (c)(3)(B).

"(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a MedicarePlus organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization.

"(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

"(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) NO APPLICATION TO HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—Subparagraph (A) shall not apply to a high deductible/medisave product.

"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(3) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

"(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus products offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—Each MedicarePlus organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee under this part for any damage caused to the enrollee by the organization's denial of medically necessary care.

"(5) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(g) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

"(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PRODUCT.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its MediGrant program under title XXI with those provided under a MedicarePlus product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

"(i) TRANSITIONAL FILE AND USE FOR CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a MedicarePlus product proposed to be offered before the end of the transition period (as defined in section 1805(e)(1)(B)), by a MedicarePlus organization described in section 1851(g)(3) or by a MedicarePlus organization with a contract in effect under section 1858, if the organization submits complete information to the Secretary regarding the product demonstrating that the product meets the requirements and standards under subsections (a), (d), and (e) (relating to benefits and premiums), the product shall be deemed as meeting such requirements and standards under such subsections unless the Secretary disapproves the product within 60 days after the date of submission of the complete information.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as waiving the requirement of a contract under section 1858 or waiving requirements and standards not referred to in paragraph (1).

"PATIENT PROTECTION STANDARDS

"SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A MedicarePlus organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each MedicarePlus product it offers:

"(1) Benefits under the MedicarePlus product offered, including exclusions from coverage and, if it is a high deductible/medisave product, a comparison of benefits under such a product with benefits under other MedicarePlus products.

"(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(3) Potential liability for cost-sharing for out-of-network services.

"(4) The number, mix, and distribution of participating providers.

"(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

"(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

"(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

"(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

"(b) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus product may restrict the providers from whom the benefits under the product are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

"(D) coverage is provided for emergency services (as defined in paragraph (4)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a MedicarePlus product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 40 percent) of the lesser of—

"(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

"(B) the amount charged by the entity furnishing such items and services.

"(3) PROTECTION OF ENROLLEES FOR CERTAIN EMERGENCY SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a MedicarePlus organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) EMERGENCY SERVICES DESCRIBED.—The emergency services described in this subparagraph are emergency services which which are furnished to an enrollee of a MedicarePlus organization under this part by a physician or provider of services that is not under a contract with the organization.

"(D) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this paragraph shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(A) are furnished by an appropriate source other than the organization,

"(B) are needed immediately because of an injury or sudden illness, and

"(C) are needed because the time required to reach the organization's providers or suppliers would have meant risk of serious damage to the patient's health.

"(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(d) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluates the continuity and coordination of care that enrollees receive;

"(F) has mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establishes or alters practice parameters;

"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) is evaluated on an ongoing basis as to its effectiveness; and

"(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

"(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

"(e) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(f) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

"(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus products.

"(4) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

"(g) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—Each MedicarePlus organization may not distribute marketing materials unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a MedicarePlus product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards in relation to MedicarePlus products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

"PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1854. (a) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity that (in accordance with standards established under subsection (b)) is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary under such standards) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) PROCESS FOR ESTABLISHING STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—For process of establishing of standards for provider-sponsored organizations, see section 1856(c).

"(c) PROCESS FOR STATE CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS.—For process of State certification of provider-sponsored organizations, see section 1857(c).

"(d) PREEMPTION OF STATE INSURANCE LICENSING REQUIREMENTS.—

"(1) IN GENERAL.—This section supersedes any State law which—

"(A) requires that a provider-sponsored organization meet requirements for insurers of health services or health maintenance organizations doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency, or

"(B) imposes requirements that would have the effect of prohibiting the organization from complying with the applicable requirements of this part,

insofar as such the law applies to individuals enrolled with the organization under this part.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides standards or requirements, or provides for enforcement thereof, so as to meet the requirements of section 1857(c)(2) with respect to approval by the Secretary of State certification requirements thereunder.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1855. (a) PAYMENTS.—

"(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each MedicarePlus organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted MedicarePlus capitation rate (as provided under subsection (b)) with respect to that individual for that area.

"(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each payment area for the year, and

"(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

"(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(b) MONTHLY ADJUSTED MEDICAREPLUS CAPITATION RATE.—

"(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted MedicarePlus capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual MedicarePlus capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

"(2) ANNUAL MEDICAREPLUS CAPITATION RATES.—For purposes of this section, the annual MedicarePlus capitation rate for a payment area for a year is equal to the annual MedicarePlus capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

"(3) PAYMENT AREA DEFINED.—In this section, the term 'payment area' means a county (or equivalent area specified by the Secretary), except that in the case of the population group described in paragraph (5)(C), the payment area shall be each State.

"(4) CLASSES.—

"(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

"(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

"(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

"(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

"(c) PER CAPITA GROWTH RATES.—

"(1) FOR 1996.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

"(i) LOWEST SERVICE UTILIZATION COHORT.—For areas assigned to the lowest service utilization cohort, 9.7 percent plus the additional percent provided under subparagraph (B)(ii).

"(ii) LOWER SERVICE UTILIZATION COHORT.—For areas assigned to the lower service utilization cohort, 8.0 percent.

"(iii) MEDIAN SERVICE UTILIZATION COHORT.—For areas assigned to the median service utilization cohort, 5.1 percent.

"(iv) HIGHER SERVICE UTILIZATION COHORT.—For areas assigned to the higher service utilization cohort, 4.7 percent.

"(v) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 4.0 percent.

"(B) BUDGET NEUTRAL ADJUSTMENT.—In order to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996, the Secretary shall adjust the per capita growth rates for payment areas as follows:

"(i) INCREASE UP TO FLOOR FOR LOWEST SERVICE UTILIZATION COHORT.—First, such additional percent increase as may be necessary to assure that the annual MedicarePlus capitation rate for each payment area is at least 12 times $250 for 1996.

"(ii) RESIDUAL INCREASE TO LOWEST SERVICE UTILIZATION COHORT.—Next, for payment areas assigned to the lowest service utilization cohort, such additional percent increase as will assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate. The increase under this clause may apply to a payment area described in clause (i) and shall be applied after the increase provided under such clause.

"(2) FOR SUBSEQUENT YEARS.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

"(i) MEDIAN SERVICE UTILIZATION COHORT SET AT NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the median service utilization cohort for the year shall be the national average per capita growth rate for the year (as specified under paragraph (3)), subject to subparagraph (C).

"(ii) HIGHEST SERVICE UTILIZATION COHORT SET AT 75 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 75 percent of the national average per capita growth rate for the year.

"(iii) LOWEST SERVICE UTILIZATION COHORT SET AT 187.5 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the lowest service utilization cohort for the year shall be 187.5 percent of the national average per capita growth rate for the year, subject to subparagraph (C).

"(iv) LOWER SERVICE UTILIZATION COHORT SET AT 150 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—

"(I) IN GENERAL.—Subject to subclause (II), the per capita growth rate for areas assigned to the lower service utilization cohort for the year shall be 150 percent of the national average per capita growth rate for the year.

"(II) ADJUSTMENT.—If the Secretary has established under clause (v) the per capita growth rate for areas assigned to the higher service utilization cohort for the year at 75 percent of the national average per capita growth rate, the Secretary may provide for a reduced per capita growth rate under subclause (I) to the extent necessary to comply with subparagraph (B).

"(v) HIGHER SERVICE UTILIZATION COHORT.—The per capita growth rate for areas assigned to the higher service utilization cohort for the year shall be such percent (not less than 75 percent) of the national average per capita growth rate, as the Secretary may determine consistent with subparagraph (B).

"(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) (before the application of subparagraph (C)) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

"(C) FINAL ADJUSTMENT OF GROWTH RATES.—After computing per capita growth rates under the previous provisions of this paragraph the Secretary shall—

"(i) reduce the per capita growth rate for areas assigned to the median service utilization cohort by the ratio of .1 to 5.3, and

"(ii) increase the per capita growth rate for areas assigned to the lowest service utilization cohort by such proportion as the Secretary determines will result in an increase in outlays resulting from this clause equal to the reduction in outlays resulting from clause (i) for the year involved.

"(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

"(A) 1996 is 5.3 percent,

"(B) 1997 is 3.8 percent,

"(C) 1998 is 4.6 percent,

"(D) 1999 is 4.3 percent,

"(E) 2000 is 3.8 percent,

"(F) 2001 is 5.5 percent,

"(G) 2002 is 5.6 percent, and

"(H) each subsequent year is 5.0 percent.

"(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

"(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

"(A) LOWEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than .80 shall be assigned to the lowest service utilization cohort.

"(B) LOWER SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least .80 but less than .90 shall be assigned to the lower service utilization cohort.

"(C) MEDIAN SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least .90 but less than 1.10 shall be assigned to the median service utilization cohort.

"(D) HIGHER SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.10 but less than 1.20 shall be assigned to the higher service utilization cohort.

"(E) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

"(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

"(A) the annual MedicarePlus capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

"(B) the input-price-adjusted annual national MedicarePlus capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

"(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

"(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national MedicarePlus capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

"(i) the national standardized MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED MEDICAREPLUS CAPITATION RATE.—In this paragraph, the 'national standardized MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all payment areas) of the product of (I) the annual MedicarePlus capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(e) PAYMENT PROCESS.—

"(1) IN GENERAL.—Subject to subsection (f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a MedicarePlus organization under this part.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

"(f) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—

"(1) IN GENERAL.—In the case of an individual who has elected a high deductible/medisave product, notwithstanding the preceding provisions of this section—

"(A) the amount of the payment to the MedicarePlus organization offering the high deductible/medisave product shall not exceed the premium for the product, and

"(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible/medisave product, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 137(b) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible/medisave product effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(g) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization, and payments to a MedicarePlus MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a MedicarePlus product offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus product or Non-MedicarePlus option (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a MedicarePlus organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"ESTABLISHMENT OF STANDARDS FOR MEDICARE-PLUS ORGANIZATIONS AND PRODUCTS

"SEC. 1856. (a) STANDARDS APPLICABLE TO STATE-REGULATED ORGANIZATIONS AND PRODUCTS.—

"(1) RECOMMENDATIONS OF NAIC.—The Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of the Medicare Preservation Act of 1995, proposed standards consistent with the requirements of this part for MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and MedicarePlus products offered by such organizations, except that such proposed standards may relate to MedicarePlus organizations that are qualified associations only with respect to MedicarePlus products offered by them and only if such products are issued by organizations to which section 1851(b)(1) applies.

"(2) REVIEW.—If the Association submits such standards on a timely basis, the Secretary shall review such standards to determine if the standards meet the requirements of the part. The Secretary shall complete the review of the standards not later than 90 days after the date of their submission. The Secretary shall promulgate such proposed standards to apply to organizations and products described in paragraph (1) except to the extent that the Secretary modifies such proposed standards because they do not meet such requirements.

"(3) FAILURE TO SUBMIT.—If the Association does not submit such standards on a timely basis, the Secretary shall promulgate such standards by not later than the date the Secretary would otherwise have been required to promulgate standards under paragraph (2).

"(4) USE OF INTERIM RULES.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1996, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(b) UNION AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIATIONS, AND PRODUCTS.—

"(1) IN GENERAL.—The Secretary shall develop and promulgate by regulation standards consistent with the requirements of this part for union and Taft-Hartley sponsors, for qualified associations, and for MedicarePlus products offered by such organizations (other than MedicarePlus products offered by qualified associations that are issued by organizations to which section 1851(b)(1) applies).

"(2) CONSULTATION WITH LABOR.—The Secretary shall consult with the Secretary of Labor with respect to such standards for such sponsors and products.

"(3) TIMING.—Standards under this subsection shall be promulgated at or about the time standards are promulgated under subsection (a).

"(c) ESTABLISHMENT OF STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards that entities must meet to qualify as provider-sponsored organizations under this part.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of Medicare Preservation Act of 1995.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be September 1, 1996.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than June 1, 1996, regarding the committee's progress on achieving a concensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

"(10) PROCESS FOR APPROVAL OF APPLICATIONS FOR CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification as provider-sponsored organizations under this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.

"(B) CIRCULATION OF PROPOSED APPLICATION FORM.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering becoming certified as a provider-sponsored organization under this part.

"(d) COORDINATION AMONG FINAL STANDARDS.—In establishing standards (other than on an interim basis) under the previous provisions of this section, the Secretary shall seek to provide for consistency (as appropriate) across the different types of MedicarePlus organizations, in order to promote equitable treatment of different types of organizations and consistent protection for individuals who elect products offered by the different types of MedicarePlus organizations.

"(e) USE OF CURRENT STANDARDS FOR INTERIM STANDARDS.—To the extent practicable and consistent with the requirements of this part, standards established on an interim basis to carry out requirements of this part may be based on currently applicable standards, such as the rules established under section 1876 (as in effect as of the date of the enactment of this section) to carry out analogous provisions of such section or standards established or developed for application in the private health insurance market.

"(f) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(g) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law or regulation with respect to MedicarePlus products which are offered by MedicarePlus organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"MEDICARE-PLUS CERTIFICATION

"SEC. 1857. (a) STATE CERTIFICATION PROCESS FOR STATE-REGULATED ORGANIZATIONS.—

"(1) APPROVAL OF STATE PROCESS.—The Secretary shall approve a MedicarePlus certification and enforcement program established by a State for applying the standards established under section 1856 to MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and MedicarePlus products offered by such organizations if the Secretary determines that the program effectively provides for the application and enforcement of such standards in the State with respect to such organizations and products. Such program shall provide for certification of compliance of

MedicarePlus organizations and products with the applicable requirements of this part not less often than once every 3 years.

"(2) EFFECT OF CERTIFICATION UNDER STATE PROCESS.—A MedicarePlus organization and MedicarePlus product offered by such an organization that is certified under such program is considered to have been certified under this subsection with respect to the offering of the product to individuals residing in the State.

"(3) USER FEES.—The State may impose user fees on organizations seeking certification under this subsection in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this paragraph shall be construed as restricting a State's authority to impose premium taxes, other taxes, or other levies.

"(4) REVIEW.—The Secretary periodically shall review State programs approved under paragraph (1) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary finds that a State program no longer so provides, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State program to meet the requirements of paragraph (1). If the Secretary makes a final determination that the State program, after such an opportunity, fails to meet such requirements, the provisions of subsection (b) shall apply to MedicarePlus organizations and products in the State.

"(5) EFFECT OF NO STATE PROGRAM.—Beginning on the date standards are established under section 1856, in the case of organizations and products in States in which a certification program has not been approved and in operation under paragraph (1), the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and products of such organizations as meeting such standards.

"(6) PUBLICATION OF LIST OF APPROVED STATE PROGRAMS.—The Secretary shall publish (and periodically update) a list of those State programs which are approved for purposes of this subsection.

"(b) FEDERAL CERTIFICATION PROCESS FOR UNION SPONSORS, TAFT-HARTLEY SPONSORS, AND PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations and MedicarePlus products offered by such sponsors and organizations as meeting the applicable standards established under section 1856.

"(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(3) USE OF STATE LICENSING AND PRIVATE ACCREDITATION PROCESSES.—

"(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that MedicarePlus organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

"(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

"(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(c) CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS BY STATES.—

"(1) IN GENERAL.—The Secretary shall establish a process under which a State may propose to provide for certification of entities as meeting the requirements of this part to be provider-sponsored organizations.

"(2) CONDITIONS FOR APPROVAL.—The Secretary may not approve a State program for certification under paragraph (1) unless the Secretary determines that the certification program applies standards and requirements that are identical to the standards and requirements of this part and the applicable provisions for enforcement of such standards and requirements do not result in a lower level or quality of enforcement than that which is otherwise applicable under this title.

"(d) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a MedicarePlus organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

"(e) QUALIFIED ASSOCIATIONS.—In the case of MedicarePlus products offered by a MedicarePlus organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a MedicarePlus product offered by a MedicarePlus organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one MedicarePlus product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (1) and (2), the Secretary may not enter into a contract under this section with a MedicarePlus organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—Paragraph (1) shall not apply with respect to a contract that relates only to a high deductible/medisave product.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the MedicarePlus organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under a high deductible/medisave account be effective before January 1997 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(e) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(f) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(f)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(g) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization under this section or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1853(g)," after "1833(s),", and

(B) by inserting ", MedicarePlus organization," after "provider of services", and

(2) by adding at the end the following new paragraph:

"(4) Nothing in this subsection shall be construed to require the provision of information regarding assisted suicide, euthanasia, or mercy killing.".

(e) Conforming Amendment.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are emergency services (as defined in section 1853(b)(4)) that are covered under this title and are furnished to any individual enrolled under part C with a MedicarePlus organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".

SEC. 15003. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PRODUCTS.

(a) Treatment of Certain Health Insurance Policies as Nonduplicative.—

(1) In general.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending clause (i) to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus product under section 1805—

"(I) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) in the case of an individual not electing a MedicarePlus product, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) in the case of an individual electing a MedicarePlus product, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy.";

(B) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(C) by adding at the end the following new clauses:

"(iv) For purposes of this subparagraph a health insurance policy shall be considered to 'duplicate' benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title.

"(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), including a policy (such as a long-term care insurance contract described in section 7702B(b) of the Internal Revenue Code of 1986, as added by the Contract with America Tax Relief Act of 1995 (H.R. 1215)) providing benefits for long-term care, nursing home care, home health care, or community-based care, that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title. For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy during such period, if such policy meets the requirements of clause (iv) or (v).

"(vii) A State may not impose, with respect to the sale or issuance of a policy (or rider) that meets the requirements of this title pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B or enrolled under a MedicarePlus product under part C, any requirement based on the premise that such a policy or rider duplicates health benefits to which the individual is otherwise entitled under this title.".

(2) Conforming amendments.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (B), by inserting "(including any MedicarePlus product)" after "health insurance policies";

(B) in subparagraph (C)—

(i) by striking "with respect to (i)" and inserting "with respect to", and

(ii) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(C) by striking subparagraph (D).

(3) MedicarePlus products not treated as medicare supplementary policies.—Section 1882(g) (42 U.S.C. 1395ss(g)) is amended by inserting "a MedicarePlus product or" after "and does not include"

(4) Report on duplication and coordination of health insurance policies that are not medicare supplemental policies.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report on the advisability and feasibility of restricting the sale to medicare beneficiaries of health insurance policies that duplicate (within the meaning of section 1882(d)(3)(A) of the Social Security Act) other health insurance policies that such a beneficiary may have. In preparing such report, the Secretary shall seek the advice of the National Association of Insurance Commissioners and shall take into account the standards established under section 1807 of the Social Security Act for the electronic coordination of benefits.

(b) Additional Rules Relating to Individuals Enrolled in MedicarePlus Products.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) Notwithstanding the previous provisions of this section, the following provisions shall not apply to a health insurance policy (other than a medicare supplemental policy) provided to an individual who has elected the MedicarePlus option under section 1805:

"(A) Subsections (o)(1), (o)(2), (p)(1)(A)(i), (p)(2), (p)(3), (p)(8), and (p)(9) (insofar as they relate to limitations on benefits or groups of benefits that may be offered).

"(B) Subsection (r) (relating to loss-ratios).

"(2)(A) It is unlawful for a person to sell or issue a policy described in subparagraph (B) to an individual with knowledge that the individual has in effect under section 1805 an election of a high deductible/medisave product.

"(B) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the high deductible/medisave product.".

SEC. 15004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) Transition From Current Contracts.—

(1) Limitation on new contracts.—

(A) No new risk-sharing contracts after new standards established.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall not enter into any risk-sharing contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for MedicarePlus organizations and products are first established under section 1856(a) of such Act with respect to MedicarePlus organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(B) No new cost reimbursement contracts.—The Secretary shall not enter into any cost reimbursement contract under section 1876 of the Social Security Act beginning for any contract year beginning on or after the date of the enactment of this Act.

(2) Termination of current contracts.—

(A) Risk-sharing contracts.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) Cost reimbursement contracts.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) Conforming Payment Rates.—

(1) Risk-sharing contracts.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(A) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(B) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act.

For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

(2) COST CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under cost reimbursement contracts under section 1876(a) of the Social Security Act shall take into account adjustments in payment amounts made in parts A and B of title XVIII of such Act pursuant to the amendments made by this title.

(c) ELIMINATION OF 50:50 RULE.—

(1) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended by striking subsection (f).

(2) CONFORMING AMENDMENTS.—Section 1876 is further amended—

(A) in subsection (c)(3)(A)(i), by striking "would result in failure to meet the requirements of subsection (f) or", and

(B) in subsection (i)(1)(C), by striking "(e), and (f)" and inserting "and (e)".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

PART 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

SEC. 15011. MEDICAREPLUS MSA'S.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICAREPLUS MSA'S.

"(a) EXCLUSION.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under section 1855(f)(1)(B) of the Social Security Act.

"(b) MEDICAREPLUS MSA.—For purposes of this section—

"(1) MEDICAREPLUS MSA.—The term 'MedicarePlus MSA' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1855(f)(1)(B) of the Social Security Act.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

"(i) for medical care (as defined in section 213(d)) for the account holder, but only to the extent such amounts are not compensated for by insurance or otherwise, or

"(ii) for long-term care insurance for the account holder.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A)(i) shall not apply to any payment for insurance.

"(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the MedicarePlus MSA is maintained.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A MedicarePlus MSA is exempt from taxation under this subtitle unless such MSA has ceased to be a MedicarePlus MSA by reason of paragraph (2). Notwithstanding the preceding sentence, any such MSA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to MedicarePlus MSA's, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a MedicarePlus MSA which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a MedicarePlus MSA which is not so used shall be included in the gross income of such holder.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in the MedicarePlus MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the high deductible/medisave product covering the account holder as of January 1 of the calendar year in which the taxable year begins.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all MedicarePlus MSA's of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

"(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a MedicarePlus MSA for qualified medical expenses shall not be treated as an expense paid for medical care.

"(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

"(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

"(A) IN GENERAL.—In the case of an account holder's interest in a MedicarePlus MSA which is payable to (or for the benefit of) such holder's spouse upon the death of such holder, such MedicarePlus MSA shall be treated as a MedicarePlus MSA of such spouse as of the date of such death.

"(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such MedicarePlus MSA, other than payments attributable to periods before such date,

"(ii) in applying subsection (b)(2) with respect to such MedicarePlus MSA, references to the account holder shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse, and

"(iii) in lieu of applying subsection (d)(2), the rules of section 220(f)(2) shall apply.

"(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account holder's interest in a MedicarePlus MSA which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(A) such account shall cease to be a MedicarePlus MSA as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such holder, in such holder's gross income for last taxable year of such holder.

"(f) REPORTS.—

"(1) IN GENERAL.—The trustee of a MedicarePlus MSA shall make such reports regarding such account to the Secretary and to the account holder with respect to—

"(A) the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

"(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account holder—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations."

(b) Exclusion of MedicarePlus MSA's From Estate Tax.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICAREPLUS MSA'S.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any MedicarePlus MSA (as defined in section 137(b)) included in the gross estate."

(c) Tax on Prohibited Transactions.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for MedicarePlus MSA's.—An individual for whose benefit a MedicarePlus MSA (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a MedicarePlus MSA by reason of the application of section 137(c)(2) to such account."

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) Plan.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d),

"(E) a MedicarePlus MSA described in section 137(b), or

"(F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(d) Failure To Provide Reports on MedicarePlus MSA's.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) Reports.—

"(1) In general.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) Provisions.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

"(B) section 220(h) (relating to medical savings accounts), and

"(C) section 137(f) (relating to MedicarePlus MSA's)."

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS."

(e) Clerical Amendments.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. MedicarePlus MSA's.

"Sec. 138. Cross references to other Acts."

(2) The table of sections for part 1 of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions."

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. MedicarePlus MSA's."

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 15012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) In General.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) Certain Rebates Under Social Security Act.—Gross income does not include any rebate received under section 1852(e)(1)(A) of the Social Security Act during the taxable year."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

SEC. 15021. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS.

(a) Rule of Reason Standard.—In any action under the antitrust laws, or under any State law similar to the antitrust laws—

(1) the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a MedicarePlus PSO product, and

(2) the conduct of any member of such network for the purpose of providing such health care services under such contract to such extent,

shall not be deemed illegal per se. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

(b) Definitions.—For purposes of subsection (a):

(1) Antitrust laws.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) Health care provider.—The term "health care provider" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(3) Health care service.—The term "health care service" means any service for which payment may be made under a MedicarePlus PSO product including services related to the delivery or administration of such service.

(4) MedicarePlus program.—The term "MedicarePlus program" means the program under part C of title XVIII of the Social Security Act.

(5) MedicarePlus PSO product.—The term "MedicarePlus PSO product" means a MedicarePlus product offered by a provider-sponsored organization under part C of title XVIII of the Social Security Act.

(6) Provider service network.—The term "provider service network" means an organization that—

(A) is organized by, operated by, and composed of members who are health care providers and for purposes that include providing health care services,

(B) is funded in part by capital contributions made by the members of such organization,

(C) with respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a MedicarePlus PSO product—

(i) requires all members of such organization who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

(ii) receives the compensation paid for the health care services of such type provided under such contract by such members, and

(iii) provides for the distribution of such compensation,

(D) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in such product, along with internal procedures to correct identified deficiencies relating to such methods and such services,

(E) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a program to monitor and control utilization of health care services provided under such product, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

(F) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in such product, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

(G) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a grievance and appeal process for such organization designed to review and promptly resolve beneficiary or patient grievances and complaints.

Such term may include a provider-sponsored organization.

(7) PROVIDER-SPONSORED ORGANIZATION.—The term “provider-sponsored organization” means a MedicarePlus organization under the MedicarePlus program that is a provider-sponsored organization (as defined in section ____ of the Social Security Act).

(8) STATE.—The term “State” has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(c) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of subsection (a).

PART 4—COMMISSIONS

SEC. 15031. MEDICARE PAYMENT REVIEW COMMISSION.

(a) IN GENERAL.—Title XVIII, as amended by section 15001(a), is amended by inserting after section 1805 the following new section:

“MEDICARE PAYMENT REVIEW COMMISSION

“SEC. 1806. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the ‘Commission’).

“(b) DUTIES.—

“(1) GENERAL DUTIES AND REPORTS.—

“(A) IN GENERAL.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.

“(B) ANNUAL REPORTS.—By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

“(C) ADDITIONAL REPORTS.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matter described in paragraph (2)(G).

“(D) SECRETARIAL RESPONSE IN RULEMAKING.—The Secretary shall respond to recommendations of the Commission in notices of rulemaking proceedings under this title.

“(2) SPECIFIC DUTIES RELATING TO MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C—

“(A) the appropriateness of the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas);

“(B) the appropriateness of the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries;

“(C) the implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the non-MedicarePlus option;

“(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;

“(F) the impact of the MedicarePlus program on access to care for medicare beneficiaries;

“(G) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which MedicarePlus products are made available to individuals residing in the county; and

“(H) other major issues in implementation and further development of the MedicarePlus program.

“(3) SPECIFIC DUTIES RELATING TO THE FAILSAFE BUDGET MECHANISM.—Specifically, the Commission shall review, with respect to the failsafe budget mechanism described in section 1895—

“(A) the appropriateness of the expenditure projections by the Secretary under section 1895(c) for each medicare sector;

“(B) the appropriateness of the growth factors for each sector and the ability to take into account substitution across sectors;

“(C) the appropriateness of the mechanisms for implementing reductions in payment amounts for different sectors, including any adjustments to reflect changes in volume or intensity resulting for any payment reductions;

“(D) the impact of the mechanism on provider participation in parts A and B and in the MedicarePlus program; and

“(E) the appropriateness of the medicare benefit budget (under section 1895(c)(2)(C) of the Social Security Act), particularly for fiscal years after fiscal year 2002.

“(4) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

“(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

“(B) payment methodologies; and

“(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

“(5) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

“(c) MEMBERSHIP.—

“(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

“(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

“(3) CONSIDERATIONS IN INITIAL APPOINTMENT.—To the extent possible, in first appointing members to the Commission the Comptroller General shall consider appointing individuals who (as of the date of the enactment of this section) were serving on the Prospective Payment Assessment Commission or the Physician Payment Review Commission.

“(4) TERMS.—

“(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

“(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(5) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

“(6) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

“(7) MEETINGS.—The Commission shall meet at the call of the Chairman.

“(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

“(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

“(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

“(4) make advance, progress, and other payments which relate to the work of the Commission;

“(5) provide transportation and subsistence for persons serving without compensation; and

“(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information.

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w-1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting "Medicare Payment Review Commission".

(iii) Section 1848 (42 U.S.C. 1395w@4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than March 31, 1996.

(2) TRANSITION.—Effective on a date (not later than 30 days after the date a majority of members of the MPRC have first been appointed, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), and amendments made by subsection (b), are terminated. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

SEC. 15032. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) The most efficient and effective manner of administering the program, including the appropriateness of continuing the application of the failsafe budget mechanism under section 1895 of the Social Security Act for fiscal years after fiscal year 2002 and the appropriate long-term growth rates for contributions electing coverage under MedicarePlus under part C of title XVIII of such Act.

(C) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(D) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(E) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(C) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

SEC. 15033. CHANGE IN APPOINTMENT OF ADMINISTRATOR OF HCFA.

(a) IN GENERAL.—Section 1117 (42 U.S.C. 1317) is amended by striking "President by and with the advice and consent of the Senate" and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to Administrators appointed on or after the date of the enactment of this Act.

PART 5—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 15041. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1854(a)(1) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Preventing Fraud and Abuse

PART 1—GENERAL PROVISIONS

SEC. 15101. INCREASING AWARENESS OF FRAUD AND ABUSE.

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a "special fraud alert" is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in 15214(b); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 15102. BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this subtitle referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted

by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 15103. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(ii) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists; and

"(iii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—(A) Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(B) Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 15104. VOLUNTARY DISCLOSURE PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"VOLUNTARY DISCLOSURE OF ACTS OR OMISSIONS

"SEC. 1129. (a) ESTABLISHMENT OF VOLUNTARY DISCLOSURE PROGRAM.—Not later than 3 months after the date of the enactment of this section, the Secretary shall establish a program to encourage individuals and entities to voluntarily disclose to the Secretary information on acts or omissions of the individual or entity which constitute grounds for the imposition of a sanction described in section 1128, 1128A, or 1128B.

"(b) EFFECT OF VOLUNTARY DISCLOSURE.—If an individual or entity voluntarily discloses information with respect to an act or omission to the Secretary under subsection (a), the following rules shall apply:

"(1) The Secretary may waive, reduce, or otherwise mitigate any sanction which would otherwise be applicable to the individual or entity under section 1128, 1128A, or 1128B as a result of the act or omission involved.

"(2) No qui tam action may be brought pursuant to chapter 37 of title 31, United States Code, against the individual or entity with respect to the act or omission involved.".

SEC. 15105. REVISIONS TO CURRENT SANCTIONS.

(a) DOUBLING THE AMOUNT OF CIVIL MONETARY PENALTIES.—The maximum amount of civil monetary penalties specified in section 1128A of the Social Security Act or under title XVIII of such Act (as in effect on the day before the date of the enactment of this Act) shall, effective for violations occurring after the date of the enactment of this Act, be double the amount otherwise provided as of such date.

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION.—Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acts or omissions occurring on or after January 1, 1996.

SEC. 15106. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

"(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

"(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

"(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

"(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

"(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

"(B) fines imposed under section 1128B arising out of a claim under this title, and

"(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

"(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

"(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 1893(g)".

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1893, as added by subsection (a), is amended by adding at the end the following new subsection:

"(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and consumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

SEC. 15107. PERMITTING CARRIERS TO CARRY OUT PRIOR AUTHORIZATION FOR CERTAIN ITEMS OF DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)), as amended by section 135(b) of the Social Security Act Amendments of 1994, is amended by adding at the end the following new subparagraphs:

"(D) APPLICATION BY CARRIERS.—A carrier may develop (and periodically update) a list of items under subparagraph (A) and a list of suppliers under subparagraph (B) in the same manner as the Secretary may develop (and periodically update) such lists.

"(E) WAIVER OF PUBLICATION REQUIREMENT.—A carrier may make an advance determination under subparagraph (C) with respect to an item or supplier on a list developed by the Secretary or the carrier without regard to whether or not the Secretary has promulgated a regulation with respect to the list, except that the carrier may not make such an advance determination with respect to an item or supplier on a list until the expiration of the 30-day period beginning on the date the Secretary or the carrier places the item or supplier on the list.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Act Amendments of 1994.

SEC. 15108. NATIONAL HEALTH CARE ANTI-FRAUD TASK FORCE.

(a) ESTABLISHMENT.—The Attorney General, in consultation with the Secretary of

Health and Human Services, shall establish a national health care anti-fraud task force (in this section referred to as the "task force"). The Attorney General shall establish the task force within 120 days after the date of the enactment of this Act.

(b) COMPOSITION.—The task force shall include representatives of Federal agencies involved in the investigation and prosecution of persons violating laws relating to health care fraud and abuse, including at least one representative from each of the following agencies:

(1) The Department of Justice and the Federal Bureau of Investigation.

(2) The Department of Health and Human Services and the Office of the Inspector General within the Department.

(3) The office in the Department of Defense responsible for administration of the CHAMPUS program.

(4) The Department of Veterans' Affairs.

(5) The United States Postal Inspection Service.

(6) The Internal Revenue Service.

The Attorney General (or the designee of the Attorney General) shall serve as chair of the task force.

(c) DUTIES.—The task force shall coordinate Federal law enforcement activities relating to health care fraud and abuse in order to better control fraud and abuse in the delivery of health care in the United States. Specifically, the task force shall coordinate activities—

(1) in order to assure the effective targeting and investigation of persons who organize, direct, finance, or otherwise knowingly engage in health care fraud, and

(2) in order to assure full and effective cooperation between Federal and State agencies involved in health care fraud investigations.

(d) STAFF.—Each member of the task force who represents an agency shall be responsible for providing for the detail (from the agency) of at least one full-time staff person to staff the task force. Such detail shall be without change in salary, compensation, benefits, and other employment-related matters.

SEC. 15109. STUDY OF ADEQUACY OF PRIVATE QUALITY ASSURANCE PROGRAMS.

(a) IN GENERAL.—The Administrator of the Health Care Financing Administration (acting through the Director of the Office of Research and Demonstrations) shall enter into an agreement with a private entity to conduct a study during the 5-year period beginning on the date of the enactment of this Act of the adequacy of the quality assurance programs and consumer protections used by the MedicarePlus program under part C of title XVIII of the Social Security Act (as inserted by section 15002(a)), and shall include in the study an analysis of the effectiveness of such programs in protecting plan enrollees against the risk of insufficient provision of benefits which may result from utilization controls.

(b) REPORT.—Not later than 6 months after the conclusion of the 5-year period described in subsection (a), the Administrator shall submit a report to Congress on the study conducted under subsection (a).

SEC. 15110. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a-7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

SEC. 15111. PILOT PROJECTS.

The Secretary of Health and Human Services shall establish and operate 5 pilot projects (in various geographic regions of the United States) under which the Secretary shall implement innovative approaches to monitor payment claims under the medicare program to detect those claims that are wasteful or fraudulent.

PART 2—CRIMINAL LAW PROVISIONS

SEC. 15121. OFFENSES INVOLVING FRAUD, FALSE STATEMENT, THEFT, OR EMBEZZLEMENT.

(a) IN GENERAL.—Part A of title XI is amended by inserting after section 1128B the following:

"OFFENSES INVOLVING FRAUD, FALSE STATEMENT, THEFT, OR EMBEZZLEMENT

"SEC. 1128C. (a) FRAUD.—Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any person or entity in connection with the delivery of or payment for health care benefits, items, or services under a program under title XVIII or a State health care program (as defined in section 1128(h)), or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any person or entity in connection with the delivery of or payment for health care benefits, items, or services under a program under title XVIII or a State health care program,

shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of title 18, United States Code), such person may be imprisoned for any term of years.

"(b) FALSE STATEMENTS.—Whoever, in connection with the delivery of or payment for health care benefits, items, or services under a program under title XVIII or a State health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact,

"(2) as to any material fact, makes any false, fictitious, or fraudulent statements or representations, or

"(3) makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry that is material,

shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(c) THEFT OR EMBEZZLEMENT.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of under the custody or control of any person or entity in connection with the delivery of or payment for health care benefits, items, or services under program under title XVIII or a State health care program, shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a-7(h)) is amended by striking "and 1128B" and inserting ", 1128B, and 1128C".

Subtitle C—Regulatory Relief

PART 1—PHYSICIAN OWNERSHIP REFERRAL REFORM

SEC. 15201. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and

(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2)—

(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";

(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B)," and inserting "subsection (a)(2),"; and

(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY"; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.".

SEC. 15202. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

"(B) Parenteral and enteral nutrients, equipment, and supplies.

"(C) Magnetic resonance imaging and computerized tomography services.

"(D) Outpatient physical or occupational therapy services.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and

(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".

SEC. 15203. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA-1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA-1993.

SEC. 15204. EXCEPTIONS TO PROHIBITION.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.".

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 15201(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";

(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";

(3) in subparagraph (A), by inserting "or part C" after "section 1876";

(4) by striking "or" at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

"(F) which is a MedicarePlus organization under part C or which provides or arranges for the provision of health care items or services pursuant to a written agreement between the organization and an individual or entity if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

"(A) that is furnished—

"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(iii) to a patient of a shared facility physician; and

"(B) that is billed by the referring physician or a group practice of which the physician is a member.".

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 15201(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

"(1) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".

(i) New Exception for Services Furnished in a Comprehensive Outpatient Rehabilitation Facility.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".

(i) Definition of Referral.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking "an item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 15205. REPEAL OF REPORTING REQUIREMENTS.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (g)(5).

SEC. 15206. PREEMPTION OF STATE LAW.

Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

"(i) Preemption of State Law.—This section preempts State law to the extent State law is inconsistent with this section.".

SEC. 15207. EFFECTIVE DATE.

Except as provided in section 15203(b), the amendments made by this part shall apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments.

PART 2—OTHER MEDICARE REGULATORY RELIEF

SEC. 15211. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) In General.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(c) Conforming Amendments.—

(1) Medicare.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under—" and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) Medicaid.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "including the use of" and all that follows through "any additional measures".

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) Data matches.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding "; or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 15212. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) Clarification of Level of Knowledge Required for Imposition of Civil Monetary Penalties.—

(1) In general.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(2) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) Definition of standard.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) Clarification of Effect and Application of Safe Harbor Exceptions.—For purposes of section 1128B(b)(3) of the Social Security Act, the specification of any payment practice in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Program and Patient Protection Act of 1987 is—

(1) solely for the purpose of adding additional exceptions to the types of conduct which are not subject to an anti-kickback penalty under such section and not for the purpose of limiting the scope of such exceptions; and

(2) for the purpose of prescribing criteria for qualifying for such an exception notwithstanding the intent of the party involved.

(c) Limiting Imposition of Anti-kickback Penalties to Actions With Significant Purpose to Induce Referrals.—Section 1128B(b)(2) (42 U.S.C. 1320a–7b(b)(2)) is amended in the matter preceding subparagraph (A) by striking "to induce" and inserting "for the significant purpose of inducing".

(d) Effective Date.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 15213. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR MANAGED CARE ARRANGEMENTS.

(a) In General.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing services pursuant to a written agreement between the organization and the individual or entity if the organization is a MedicarePlus organization under part C of title XVIII or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 15214. SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.

(a) In General.—

(1) Solicitations.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary of Health and Human Services shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(A) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987;

(B) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act; and

(C) special fraud alerts to be issued pursuant to section 15101(c).

(2) Publication of proposed modifications and proposed additional safe harbors.—Not later than 120 days after receiving the proposals described in subparagraphs (A) and (B) of paragraph (1), the Secretary, after considering such proposals in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(3) Report.—The Inspector General shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978, describe the proposals received under subparagraphs (A) and (B) of paragraph (1) and explain which proposals were included in the publication described in paragraph (2), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(b) Criteria for Modifying and Establishing Safe Harbors.—In modifying and establishing safe harbors under subsection (a)(2), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(1) An increase or decrease in access to health care services.

(2) An increase or decrease in the quality of health care services.

(3) An increase or decrease in patient freedom of choice among health care providers.

(4) An increase or decrease in competition among health care providers.

(5) An increase or decrease in the cost to health care programs of the Federal Government.

(6) An increase or decrease in the potential overutilization of health care services.

(8) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

SEC. 15215. ISSUANCE OF ADVISORY OPINIONS UNDER TITLE XI.

(a) In General.—Title XI (42 U.S.C. 1301 et seq.), as amended by section 15104(a), is amended by inserting after section 1129 the following new section:

"ADVISORY OPINIONS

"Sec. 1130. (a) Issuance of Advisory Opinions.—The Secretary shall issue written advisory opinions as provided in this section.

"(b) Matters Subject to Advisory Opinions.—The Secretary shall issue advisory opinions as to the following matters:

"(1) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(2) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(3) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(4) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

"(5) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

"(c) Matters Not Subject to Advisory Opinions.—Such advisory opinions shall not address the following matters:

"(1) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(2) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(d) Effect of Advisory Opinions.—

"(1) Binding as to Secretary and parties involved.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(2) Failure to seek opinion.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(e) Regulations.—

"(1) In general.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

"(A) the procedure to be followed by a party applying for an advisory opinion;

"(B) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(C) the interval in which the Secretary shall respond;

"(D) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(E) the manner in which advisory opinions will be made available to the public.

"(2) Specific contents.—Under the regulations promulgated pursuant to paragraph (1)—

"(A) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

"(B) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to requests for advisory opinions made on or after January 1, 1996.

SEC. 15216. PRIOR NOTICE OF CHANGES IN BILLING AND CLAIMS PROCESSING REQUIREMENTS FOR PHYSICIANS' SERVICES.

Except as may be specifically provided by Congress, the Secretary of Health and Human Services may not implement any change in the requirements imposed on the billing and processing of claims for payment for physicians' services under part B of the medicare program unless the Secretary notifies the individuals furnishing such services of the change not later than 120 days before the effective date of the change.

PART 3—PROMOTING PHYSICIAN SELF-POLICING

SEC. 15221. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.

(a) Exemption Described.—An activity relating to the provision of health care services shall be exempt from the antitrust laws, and any State law similar to the antitrust laws, if the activity is within the safe harbor described in subsection (b).

(b) Safe Harbor for Activities of Medical Self-Regulatory Entities.—

(1) In General.—The safe harbor referred to in subsection (a) is, subject to paragraph (2), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care services provided to patients.

(2) Exception.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under paragraph (1) if the activity—

(A) is conducted for purposes of financial gain, or

(B) interferes with the provision of health care services by any health care provider who is not a member of the specific profession which is subject to the authority of the medical self-regulatory entity.

(c) Definitions.—For purposes of this section:

(1) Antitrust laws.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition.

(2) Health benefit plan.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(3) Health care service.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(4) Medical self-regulatory entity.—The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(5) Health care provider.—The term "health care provider" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(6) Standard setting or standard enforcement activities.— The term "standard setting or standard enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

Subtitle D—Medical Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 15301. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) Applicability.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) Preemption.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) Effect on Sovereign Immunity and Choice of Law or Venue.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) Amount in Controversy.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) Federal Court Jurisdiction Not Established on Federal Question Grounds.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 15302. DEFINITIONS.

As used in this subtitle:

(1) Actual damages.—The term "actual damages" means damages awarded to pay for economic loss.

(2) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) Claimant.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) Clear and convincing evidence.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) Collateral source payments.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) Drug.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) Economic loss.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) Harm.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) Health benefit plan.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) Health care liability action.—The term "health care liability action" means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter-claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) Health care liability claim.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) Health care provider.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) Health care service.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) Medical device.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) Noneconomic damages.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) Person.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) Product seller.—

(A) In general.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) Exclusion.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) Punitive damages.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) State.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 15303. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 15311. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 15312. CALCULATION AND PAYMENT OF DAMAGES.

(a) Treatment of Noneconomic Damages.—

(1) Limitation on noneconomic damages.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) Joint and several liability.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) Treatment of Punitive Damages.—

(1) General rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) Proportional awards.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) Applicability.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) Bifurcation.—At the request of any party, the trier of fact shall consider in a

separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 15313. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

Subtitle E—Teaching Hospitals and Graduate Medical Education

PART 1—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

SEC. 15401. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:

"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2201. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts appropriated to the Fund in subsection (d) and subsection (e)(3), amounts transferred to the Fund under section 1886(j), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2211.

"(c) ACCOUNTS IN FUND.—There are established within the Fund the following accounts:

"(1) The Indirect-Costs Medical Education Account.

"(2) The Medicare Direct-Costs Medical Education Account.

"(3) The General Direct-Costs Medical Education Account.

"(d) GENERAL TRANSFERS TO FUND.—

"(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund (effective on the applicable date under paragraph (2)), out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(A) For fiscal year 1997, $1,300,000,000.

"(B) For fiscal year 1998, $1,500,000,000.

"(C) For fiscal year 1999, $2,300,000,000.

"(D) For fiscal year 2000, $3,100,000,000.

"(E) For fiscal year 2001, $3,600,000,000.

"(F) For fiscal year 2002, $4,000,000,000.

"(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—

"(i) the amount appropriated for the preceding fiscal year; and

"(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.

"(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1) (and for purposes of section 2221(a)(1), and subsections (b)(1)(A) and (c)(1)(A) of section 2231)), the applicable date for a fiscal year is the first day of the fiscal year, exclusive of Saturdays, Sundays, and Federal holidays.

"(3) ALLOCATION AMONG CERTAIN ACCOUNTS.—Of the amount appropriated in paragraph (1) for a fiscal year—

"(A) there shall be allocated to the Indirect-Costs Medical Education Account the percentage determined under paragraph (4)(B); and

"(B) there shall be allocated to the General Direct-Costs Medical Education Account the percentage determined under paragraph (4)(C).

"(4) DETERMINATION OF PERCENTAGES.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:

"(A) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.

"(B) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.

"(C) The percentage of such total that was constituted by payments under subsection (h) of such section.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1997 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:

"(1) An amount determined under section 2221 (relating to the indirect costs of graduate medical education).

"(2) An amount determined under section 2231 (relating to the direct costs of graduate medical education).

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.

"(c) ADMINISTRATOR OF PROGRAMS.—This part, and the subsequent parts of this title, shall be carried out by the Secretary acting through the Administrator of the Health Care Financing Administration.

"(d) SPECIAL RULES.—

"(1) AUTHORITY REGARDING PAYMENTS TO CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2231:

"(A) The requirement under such subsection to make the payments to teaching hospitals is subject to the authority of the Secretary under section 2233(a) to make payments to qualifying consortia.

"(B) If the Secretary authorizes such a consortium for purposes of section 2233(a), subsections (a) and (b) of this section apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.

"(2) CERTAIN HOSPITALS.—Paragraph (1) of subsection (a) is subject to sections 2222 and 2223 of subpart 2. Paragraph (2) of subsection (a) is subject to sections 2232 through 2234 of subpart 3.

"(e) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—For purposes of this title, the term 'approved medical residency training program' has the meaning given such term in section 1886(h)(5)(A).

"Subpart 2—Amount Relating to Indirect Costs of Graduate Medical Education

"SEC. 2221. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—

"(1) the amount in the Indirect-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(2) the percentage determined for the hospital under subsection (b).

"(b) HOSPITAL-SPECIFIC PERCENTAGE.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the percentage determined under this subsection for a teaching hospital is the mean average of the respective percentages determined under paragraph (3) for each fiscal year of the applicable period (as defined in paragraph (2)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to sections 2222 and 2223.

"(2) APPLICABLE PERIOD REGARDING RELEVANT DATA; FISCAL YEARS 1992 THROUGH 1994.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.

"(3) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(A) the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during the fiscal year involved; to

"(B) the sum of the respective amounts determined under subparagraph (A) for the fiscal year for all teaching hospitals.

"(c) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in subsection (b)(3)(A) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such subsection for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"SEC. 2222. INDIRECT COSTS; SPECIAL RULES REGARDING DETERMINATION OF HOSPITAL-SPECIFIC PERCENTAGE.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under 1886(d)(5)(B) were for discharges occurring in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2221(b) to the hospital, except that the percentage under paragraph (2) shall be adjusted in accordance with section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—Subject to paragraph (4), in the case of a teaching hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2221(b) to the hospital, except that the percentage under paragraph (3) shall be adjusted in accordance with section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) LIMITATION.— This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2221 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2221(b) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"SEC. 2223. INDIRECT COSTS; ALTERNATIVE PAYMENTS REGARDING TEACHING HOSPITALS IN CERTAIN STATES.

"(a) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect, this section applies in lieu of section 2221. For purposes of section 2211(a)(1), the amount determined for such a teaching hospital for a fiscal year is the product of—

"(1) the amount in the Indirect-Costs Medical Education Account for the fiscal year pursuant to the allocation under section 2201(d)(3)(A) for the year; and

"(2) the percentage determined under subsection (b) for the hospital.

"(b) DETERMINATION OF PERCENTAGE.—For purposes of subsection (a)(2):

"(1) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(d)(5)(B) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(2) The percentage determined under this subsection for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2221(b)(1), except that the estimate made by the Secretary under paragraph (1) of this subsection for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2221(b)(3)(A) for such year.

"(c) Rule Regarding Payments From Certain Amounts.—In the case of a teaching hospital described in subsection (a), this section does not authorize any payment to the hospital from amounts transferred to the Fund under section 1886(j).

"(d) Adjustment Regarding Payments to Other Hospitals.—In the case of a fiscal year for which payments pursuant to subsection (a) are made to one or more teaching hospitals, the following applies:

"(1) The Secretary shall determine a percentage equal to the sum of the respective percentages determined for the hospitals under subsection (b).

"(2) The Secretary shall determine an amount equal to the product of—

"(A) the percentage determined under paragraph (1); and

"(B) the amount in the Indirect-Costs Medical Education Account for the fiscal year pursuant to the transfer under section 1886(j)(1).

"(3) The Secretary shall, for each hospital (other than hospitals described in subsection (a)), make payments to the hospital in amounts whose sum for the fiscal year is equal to the product of—

"(A) the amount determined under paragraph (2); and

"(B) the percentage that applies to the hospital for purposes of section 2221(b), except that such percentage shall be adjusted in accordance with the methodology of section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"Subpart 3—Amount Relating to Direct Costs of Graduate Medical Education

"SEC. 2231. DETERMINATION OF AMOUNT RELATING TO DIRECT COSTS.

"(a) In General.—For purposes of section 2211(a)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

"(1) the amount determined under subsection (b) (relating to the General Direct-Costs Medical Education Account); and

"(2) the amount determined under subsection (c) (relating to the Medicare Direct-Costs Medical Education Account).

"(b) Payment From General Account.—

"(1) In general.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2).

"(2) Hospital-specific percentage.—

"(A) In general.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (B) for each fiscal year of the applicable period (as defined in section 2221(b)(2)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this subparagraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to sections 2232 through 2234.

"(B) Respective determinations for fiscal years of applicable period.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(i) the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning during the fiscal year involved; to

"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

"(3) Availability of data.—If a teaching hospital received the payments specified in paragraph (2)(B)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such paragraph make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"(c) Payment From Medicare Account.—

"(1) In general.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the Medicare Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2) for the fiscal year.

"(2) Hospital-specific percentage.—For purposes of paragraph (1)(B), the percentage determined under this subsection for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—

"(A) the estimate made by the Secretary for the hospital for the fiscal year under section 1886(j)(2)(B); to

"(B) the sum of the respective estimates referred to in subparagraph (A) for all teaching hospitals.

"SEC. 2232. DIRECT COSTS; SPECIAL RULES REGARDING DETERMINATION OF HOSPITAL-SPECIFIC PERCENTAGE.

"(a) Special Rule Regarding Fiscal Years 1995 and 1996.—

"(1) In general.—In the case of a teaching hospital whose first payments under 1886(h) were for cost reporting period beginning in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, except that the percentage under paragraph (2) shall be adjusted in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) Determination of percentage.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(b) New Teaching Hospitals.—

"(1) In general.—Subject to paragraph (4), in the case of a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, except that the percentage under paragraph (3) shall be adjusted in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) Designated fiscal year regarding data.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) Determination of percentage.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) Limitation.— This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) Consolidations and Mergers.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2231 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2231(b) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"SEC. 2233. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO CONSORTIA OF PROVIDERS.

"(a) IN GENERAL.—In lieu of making payments to teaching hospitals pursuant to section 2231, the Secretary may make payments under this section to consortia that meet the requirements of subsection (b).

"(b) QUALIFYING CONSORTIUM.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

"(1) The consortium consists of an approved medical residency training program and one or more of the following entities:

"(A) Schools of allopathic medicine or osteopathic medicine.

"(B) Teaching hospitals.

"(C) Other approved medical residency training programs.

"(D) Federally qualified health centers.

"(E) Medical group practices.

"(F) Managed care entities.

"(G) Entities furnishing outpatient services.

"(H) Such other entities as the Secretary determines to be appropriate.

"(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

"(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

"(4) The consortium meets such additional requirements as the Secretary may establish.

"(c) PAYMENTS FROM ACCOUNTS.—

"(1) IN GENERAL.—Subject to subsection (d), the total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

"(1) the aggregate amount determined for the teaching hospitals of the consortium pursuant to paragraph (1) of section 2231(a); and

"(2) an amount determined in accordance with the methodology that applies pursuant to paragraph (2) of such section, except that the estimate used for purposes of subsection (c)(2)(A) of such section shall be the estimate made for the consortium under section 1886(j)(2)(C)(ii).

"(d) LIMITATION ON AGGREGATE TOTAL OF PAYMENTS TO CONSORTIA.—The aggregate total of the amounts paid under subsection (c)(2) to qualifying consortia for a fiscal year may not exceed the sum of—

"(1) the aggregate total of the amounts that would have been paid under section 2231(c) for the fiscal year to the teaching hospitals of the consortia if the hospitals had not been participants in the consortia; and

"(2) an amount equal to 1 percent of the amount that applies under section 2231(c)(1)(A) for the fiscal year (relating to the Medicare Direct-Costs Medical Education Account).

"(e) DEFINITION.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of subsection (b).

"SEC. 2234. DIRECT COSTS; ALTERNATIVE PAYMENTS REGARDING TEACHING HOSPITALS IN CERTAIN STATES.

"(a) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect, this section applies in lieu of section 2231. For purposes of section 2211(a)(2), the amount determined for a teaching hospital for a fiscal year is the product of—

"(1) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(2) the percentage determined under subsection (b) for the hospital.

"(b) DETERMINATION OF PERCENTAGE.—For purposes of subsection (a)(2):

"(1) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(h) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(2) The percentage determined under this subsection for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2231(b)(2)(A), except that the estimate made by the Secretary under paragraph (1) of this subsection for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2231(b)(2)(B)(i) for such year.

"(c) RULE REGARDING PAYMENTS FROM CERTAIN AMOUNTS.—In the case of a teaching hospital described in subsection (a), this section does not authorize any payment to the hospital from amounts transferred to the Fund under section 1886(j).

"Subpart 4—General Provisions

"SEC. 2241. ADJUSTMENTS IN PAYMENT AMOUNTS.

"(a) COLLECTION OF DATA ON ACCURACY OF ESTIMATES.—The Secretary shall collect data on whether the estimates made by the Secretary under section 1886(j) for a fiscal year were substantially accurate.

"(b) ADJUSTMENTS.—If the Secretary determines under subsection (a) that an estimate for a fiscal year was not substantially accurate, the Secretary shall, for the first fiscal year beginning after the Secretary makes the determination—

"(1) make adjustments accordingly in transfers to the Fund under section 1886(j); and

"(2) make adjustments accordingly in the amount of payments to teaching hospitals pursuant to 2231(c) (or, as applicable, to qualifying consortia pursuant to section 2233(c)(2)).".

PART 2—AMENDMENTS TO MEDICARE PROGRAM

SEC. 15411. TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges occurring on or before September 30, 1996, the Secretary shall provide";

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and

(B) by adding at the end the following paragraph:

"(6) LIMITATION.—

"(A) IN GENERAL.—The authority to make payments under this subsection applies only with respect to cost reporting periods ending on or before September 30, 1996, except as provided in subparagraph (B).

"(B) RULE REGARDING PORTION OF LAST COST REPORTING PERIOD.—In the case of a cost reporting period that extends beyond September 30, 1996, payments under this subsection shall be made with respect to such portion of the period as has lapsed as of such date.

"(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and

(3) by adding at the end the following subsection:

"(j) TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—

"(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Indirect-Costs Medical Education Account (under section 2201) an amount determined by the Secretary in accordance with subparagraph (B).

"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1996. For purposes of subparagraph (A), the amount determined under this subparagraph for the fiscal year is the estimate made by the Secretary under the preceding sentence.

"(2) DIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Direct-Costs Medical Education Account (under section 2201) the sum of—

"(i) an amount determined by the Secretary in accordance with subparagraph (B); and

"(ii) as applicable, an amount determined by the Secretary in accordance with subparagraph (C)(ii).

"(B) DETERMINATION OF AMOUNTS.—For each hospital (other than a hospital that is a member of a qualifying consortium referred to in subparagraph (C)), the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods ending on or before September 30, 1996. For purposes of subparagraph (A)(i), the amount determined under this subparagraph for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(C) ESTIMATES REGARDING QUALIFYING CONSORTIA.—If the Secretary elects to authorize one or more qualifying consortia for purposes of section 2233(a), the Secretary shall carry out the following:

"(i) The Secretary shall establish a methodology for making payments to qualifying consortia with respect to the reasonable direct costs of such consortia in carrying out programs of graduate medical education.

The methodology shall be the methodology established in subsection (h), modified to the extent necessary to take into account the participation in such programs of entities other than hospitals.

"(ii) For each qualifying consortium, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid to the consortium during the fiscal year if, using the methodology under clause (i), payments had been made to the consortium for the fiscal year as reimbursements with respect to cost reporting periods. For purposes of subparagraph (A)(ii), the amount determined under this clause for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(D) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(3) APPLICABILITY OF CERTAIN AMENDMENTS.—Amendments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimates under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not require any adjustment to amounts paid under subsection (d)(5)(B) or (h) with respect to fiscal year 1996 or any prior fiscal year.

"(4) RELATIONSHIP TO CERTAIN DEMONSTRATION PROJECTS.—In the case of a State for which a demonstration project under section 1814(b)(3) is in effect, the Secretary, in making determinations of the rates of increase under such section, shall include all amounts transferred under this subsection. Such amounts shall be so included to the same extent and in the same manner as amounts determined under subsections (d)(5)(B) and (h) were included in such determination under the provisions of this title in effect on September 30, 1996.".

SEC. 15412. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION.

(a) INDIRECT COSTS OF MEDICAL EDUCATION; APPLICABLE PERCENTAGE.—

(1) MODIFICATION REGARDING 5.6 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) by striking "on or after October 1, 1988," and inserting "on or after October 1, 1999,"; and

(B) by striking "1.89" and inserting "1.38".

(2) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT.—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: "In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.38' is deemed to be '1.48'.".

(3) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "1985" and inserting the following: "1985, but (for discharges occurring after September 30, 1995) not taking into account any reductions in such costs resulting from the amendments made by section 15412(a) of the Medicare Preservation Act of 1995".

(b) DIRECT COSTS OF MEDICAL EDUCATION.—

(1) LIMITATION ON NUMBER OF FULL-TIME-EQUIVALENT RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—

"(i) IN GENERAL.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002, the number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents with respect to the program as of August 1, 1995 (except that this subparagraph applies only to approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine).

"(ii) DISPOSITION OF UNUSED RESIDENCY POSITIONS.—In the case of a cost reporting period to which the limitation under clause (i) applies, if for such a period the number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program is less than the maximum number applicable to the program under such clause, the Secretary may authorize for one or more other approved medical residency training programs offsetting increases in the respective maximum numbers that otherwise would be applicable under such clause to the programs. In authorizing such increases with respect to a cost reporting period, the Secretary shall ensure that the national total of the respective maximum numbers determined under such clause with respect to approved medical residency training programs is not exceeded.".

(2) EXCLUSION OF RESIDENTS AFTER INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C) (42 U.S.C. 1395ww(h)(4)(C)) is amended to read as follows:

"(C) WEIGHTING FACTORS FOR RESIDENTS.—Effective for cost reporting periods beginning on or after October 1, 1997, such rules shall provide that, in the calculation of the number of full-time-equivalent residents in an approved residency program, the weighting factor for a resident who is in the initial residency period (as defined in paragraph (5)(F)) is 1.0 and the weighting factor for a resident who has completed such period is 0.0. (In the case of cost reporting periods beginning before October 1, 1997, the weighting factors that apply in such calculation are the weighting factors that were applicable under this subparagraph on the day before the date of the enactment of the Medicare Preservation Act of 1995.)".

(3) REDUCTIONS IN PAYMENTS FOR ALIEN RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)), as amended by paragraph (1), is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR ALIEN RESIDENTS.—In the case of individuals who are not citizens or nationals of the United States, aliens lawfully admitted to the United States for permanent residence, aliens admitted to the United States as refugees, or citizens of Canada, in the calculation of the number of full-time-equivalent residents in an approved medical residency program, the following rules shall apply with respect to such individuals who are residents in the program:

"(i) For a cost reporting period beginning during fiscal year 1996, for each such individual the Secretary shall apply a weighting factor of .75.

"(ii) For a cost reporting period beginning during fiscal year 1997, for each such individual the Secretary shall apply a weighting factor of .50.

"(iii) For a cost reporting period beginning during fiscal year 1998 or any subsequent fiscal year, for each such individual the Secretary shall apply a weighting factor of .25.".

(4) EFFECTIVE DATE.—Except as provided otherwise in this subsection (or in the amendments made by this subsection), the amendments made by this subsection apply to hospital cost reporting periods beginning on or after October 1, 1995.

PART 3—REFORM OF FEDERAL POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION

SEC. 15421. ESTABLISHMENT OF ADVISORY PANEL FOR RECOMMENDING POLICIES.

Title XXII of the Social Security Act, as added by section 15401, is amended by adding at the end the following part:

"PART C—OTHER MATTERS

"SEC. 2251. ADVISORY PANEL ON REFORM IN FINANCING OF TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

"(a) ESTABLISHMENT.—The Chair of the Medicare Payment Review Commission under section 1806 shall establish a temporary advisory panel to be known as the Advisory Panel on Financing for Teaching Hospitals and Graduate Medical Education (in this section referred to as the 'Panel').

"(b) DUTIES.—The Panel shall develop recommendations on whether and to what extent Federal policies regarding teaching hospitals and graduate medical education should be reformed, including recommendations regarding the following:

"(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education.

"(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII.

"(3) The methodology for making payments for graduate medical education, and the selection of entities to receive the payments. Matters considered under this paragraph shall include the following:

"(A) The methodology under part B for making payments from the Fund, including the use of data from the fiscal years 1992 through 1994, and including the methodology that applies with respect to consolidations and mergers of participants in the program under such part and with respect to the inclusion of additional participants in the program.

"(B) Issues regarding children's hospitals, and approved medical residency training programs in pediatrics.

"(C) Whether and to what extent payments are being made (or should be made) for graduate training in the various nonphysician health professions.

"(4) Federal policies regarding international medical graduates.

"(5) The dependence of schools of medicine on service-generated income.

"(6) The effects of the amendments made by section 15412 of the Medicare Preservation Act of 1995, including adverse effects on teaching hospitals that result from modifications in policies regarding international medical graduates.

"(7) Whether and to what extent the needs of the United States regarding the supply of physicians will change during the 10-year beginning on October 1, 1995, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

"(8) The appropriate number and mix of residents.

"(c) COMPOSITION.—Not later than three months after being designated as the initial chair of the Medicare Payment Review Commission, the Chair of the Commission shall appoint to the Panel 19 individuals who are not members of the Commission, who are not officers or employees of the United States, and who possess expertise on matters on which the Panel is to make recommendations under subsection (b). Such individuals shall include the following:

"(1) Deans from allopathic and osteopathic schools of medicine.

"(2) Chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs.

"(3) Chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery.

"(4) Individuals with leadership experience from each of the fields of advanced practice nursing, physician assistants, and podiatric medicine.

"(5) Individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States.

"(6) Individuals with expertise on the financing of health care.

"(7) Representatives from health insurance organizations and health plan organizations.

"(d) RELATIONSHIP OF PANEL TO MEDICARE PAYMENT REVIEW COMMISSION.—From amounts appropriated under subsection (n), the Medicare Payment Review Commission shall provide for the Panel such staff and administrative support (including quarters for the Panel) as may be necessary for the Panel to carry out the duties under subsection (b).

"(e) CHAIR.—The Panel shall designate a member of the Panel to serve as the Chair of the Panel.

"(f) MEETINGS.—The Panel shall meet at the call of the Chair or a majority of the members, except that the first meeting of the Panel shall be held not later than three months after the date on which appointments under subsection (c) are completed.

"(g) TERMS.—The term of a member of the Panel is the duration of the Panel.

"(h) VACANCIES.—

"(1) IN GENERAL.—A vacancy in the membership of the Panel does not affect the power of the remaining members to carry out the duties under subsection (b). A vacancy in the membership of the Panel shall be filled in the manner in which the original appointment was made.

"(2) INCOMPLETE TERM.—If a member of the Panel does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(i) COMPENSATION; REIMBURSEMENT OF EXPENSES.—

"(1) COMPENSATION.—Members of the Panel shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS–15.

"(2) REIMBURSEMENT.—Members of the Panel may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Panel.

"(j) CONSULTANTS.—The Panel may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Panel may determine to be useful in carrying out the duties under subsection (b). The Panel may not procure services under this subsection at any rate in excess of the daily equivalent of the maximum annual rate of basic pay payable under the General Schedule for positions above GS–15. Consultants under this subsection may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred for activities carried out on behalf of the Panel pursuant to subsection (b).

"(k) POWERS.—

"(1) IN GENERAL.—For the purpose of carrying out the duties of the Panel under subsection (b), the Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate.

"(2) OBTAINING OFFICIAL INFORMATION.—Upon the request of the Panel, the heads of Federal agencies shall furnish directly to the Panel information necessary for the Panel to carry out the duties under subsection (b).±

"(3) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies.

"(l) REPORTS.—

"(1) FIRST INTERIM REPORT.—Not later than one year after the date of the enactment of the Medicare Preservation Act of 1995, the Panel shall submit to the Congress a report providing the recommendations of the Panel regarding the matters specified in paragraphs (1) through (4) of subsection (b).

"(2) SECOND INTERIM REPORT.—Not later than 2 years after the date of enactment specified in paragraph (1), the Panel shall submit to the Congress a report providing the recommendations of the Panel regarding the matters specified in paragraphs (5) and (6) of subsection (b).

"(3) FINAL REPORT.—Not later than 3 years after the date of enactment specified in paragraph (1), the Panel shall submit to the Congress a final report providing the recommendations of the Panel under subsection (b).

"(m) DURATION.—The Panel terminates upon the expiration of the 180-day period beginning on the date on which the final report under subsection (l)(3) is submitted to the Congress.

"(n) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 1999.

"(2) LIMITATION.—The authorization of appropriations established in paragraph (1) is effective only with respect to appropriations made from allocations under section 302(b) of the Congressional Budget Act of 1974—

"(A) for the Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations of the House of Representatives, in the case of any bill, resolution, or amendment considered in the House; and

"(B) for the Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations of the Senate, in the case of any bill, resolution, or amendment considered in the Senate.".

Subtitle F—Provisions Relating to Medicare

Part A

PART 1—HOSPITALS

Subpart A—General Provisions Relating to Hospitals

SEC. 15501. REDUCTIONS IN INFLATION UPDATES FOR PPS HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following:

"(XI) for fiscal year 1996, the market basket percentage increase minus 2.5 percentage points for hospitals in all areas,

"(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas, and

"(XIII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 15502. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and

(2) by adding at the end the following new clause:

"(ix) In the case of discharges occurring on or after October 1, 1995, the additional payment amount otherwise determined under clause (ii) shall be reduced as follows:

"(I) For discharges occurring on or after October 1, 1995, and on or before September 30, 1996, by 20 percent.

"(II) For discharges occurring on or after October 1, 1996, and on or before September 30, 1997, by 25 percent.

"(III) For discharges occurring on or after October 1, 1997, by 30 percent.".

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", and the Secretary shall not take into account any reductions in the amount of such additional payments resulting from the amendments made by section 15502(a) of the Medicare Preservation Act of 1995.".

SEC. 15503. PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) REDUCTION IN PAYMENTS FOR PPS HOSPITALS.—

(1) CONTINUATION OF CURRENT REDUCTIONS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence—

(A) by striking "through 1995" and inserting "through 2002"; and

(B) by inserting after "10 percent reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".

(2) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by

7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Medicare Preservation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on such date of enactment).''.

(b) Reduction in Payments for PPS-Exempt Hospitals.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

''(4)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.

''(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1)).''.

(c) Hospital-Specific Adjustment for Capital-Related Tax Costs.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

''(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

''(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

''(I) is a hospital that may otherwise receive payments under this subsection,

''(II) is not a public hospital, and

''(III) incurs capital-related tax costs for the fiscal year.

''(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

''(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

''(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Medicare Preservation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

''(v) For purposes of this subparagraph, capital-related tax costs include—

''(I) the costs of taxes on land and depreciable assets owned by a hospital (or related organization) and used for patient care,

''(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

''(III) the costs of taxes paid by a hospital (or related organization) as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital (or related organization) under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease).

In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

''(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.''.

(d) Revision of Exceptions Process Under Prospective Payment System for Certain Projects.—

(1) In general.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(1) by redesignating subparagraph (D) as subparagraph (E), and

(2) by inserting after subparagraph (C) the following:

''(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

''(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

''(ii) The minimum payment level for qualifying hospitals shall be 85 percent.

''(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

''(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority, and

''(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

''(iv) The amount of the exception payment made shall not be reduced by any offsetting amounts.''.

(2) Conforming amendment.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking ''may provide'' and inserting ''shall provide (in accordance with subparagraph (D))''.

SEC. 15504. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

For provisions modifying medicare payment policies regarding graduate medical education, see part 2 of subtitle E.

SEC. 15505. TREATMENT OF PPS-EXEMPT HOSPITALS.

(a) Updates.—Section 1886(b)(3)(B)(ii)(V) (42 U.S.C. 1395ww(b)(3)(B)(ii)(V)) is amended by striking ''thorugh 1997'' and inserting ''through 2002''.

(b) Rebasing for Certain Long-Term Care Hospitals.—

(1) In general.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(A) in subparagraph (A), by striking ''and (E)'' and inserting ''(E), and (F)'';

(B) in subparagraph (B)(ii), by striking ''(A) and (E)'' and inserting ''(A), (E), and (F)''; and

(C) by adding at the end the following new subparagraph:

''(F)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)), the term 'target amount' means—

''(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1991; or

''(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increase by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

''(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during fiscal year 1995 for which the hospital's allowable operating costs of inpatient hospital services recognized under this title for each of the two most recent previous 12-month cost reporting periods exceeded the hospital's target amount determined under this paragraph for such cost reporting periods, if the hospital—

''(I) has a disproportionate patient percentage during such cost reporting period (as determined by the Secretary under subsection (d)(5)(F)(vi) as if the hospital were a subsection (d) hospital) of at least 25 percent, or

''(II) is located in a State for which no payment is made under the State plan under title XIX for days of inpatient hospital services furnished to any individual in excess of the limit on the number of days of such services furnished to the individual for which payment may be made under this title.''.

(2) Effective date.—The amendment made by paragraph (1) shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

(c) Treatment of Certain Long-Term Care Hospitals Located Within Other Hospitals.—

(1) In general.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended in the matter following clause (v) by striking the period and inserting the following: '', or a hospital classified by the Secretary as a long-term care hospital on or before September 30, 1995, and located in the same building as, or on the same campus as, another hospital.''.

(2) Study by review commission.—Not later than 12 months after the date a majority of the members of the Medicare Payment Review Commission are first appointed, the

Commission shall submit a report to Congress containing recommendations for appropriate revisions in the treatment of long-term care hospitals located in the same building as or on the same campus as another hospital for purposes of section 1886 of the Social Security Act.

(3) Effective date.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(d) Study of Prospective Payment System for Rehabilitation Hospitals and Units.—

(1) In general.—After consultation with the Prospective Payment Assessment Commission, providers of rehabilitation services, and other appropriate parties, the Secretary of Health and Human Services shall submit to Congress, by not later than June 1, 1996, a report on the advisability and feasibility of providing for payment based on a prospective payment system for inpatient services of rehabilitation hospitals and units under the medicare program.

(2) Items included.—The report shall include the following:

(A) The available and preferred systems of classifying rehabilitation patients relative to duration and intensity of inpatient services, including the use of functional-related groups (FRGs).

(B) The means of calculating medicare program payments to reflect such patient requirements.

(C) Other appropriate adjustments which should be made, such as for geographic variations in wages and other costs and outliers.

(D) A timetable under which such a system might be introduced.

(E) Whether such a system should be applied to other types of providers of inpatient rehabilitation services.

SEC. 15506. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS.

(a) In General.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T)(i) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—

"(I) 75 percent for cost reporting periods beginning during fiscal year 1996,

"(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and

"(III) 50 percent for subsequent cost reporting periods.

"(ii) Clause (i) shall not apply with respect to bad debt of a hospital described in section 1886(d)(1)(B)(iv) if the debt is attributable to uncollectable deductible and coinsurance payments owed by individuals enrolled in a State plan under title XIX or under the MediGrant program under title XXI.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 15507. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

SEC. 15508. CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.

(a) Hospitals.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by inserting after "Massachusetts," the following: "or by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(b) Skilled Nursing Facilities.—Section 1861(y)(1) is amended by inserting after "Massachusetts," the following: "or by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

Subpart B—Provisions Relating to Rural Hospitals

SEC. 15511. SOLE COMMUNITY HOSPITALS.

(a) Update.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking "and" at the end; and

(B) by striking subclause (IV) and inserting the following:

"(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

"(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(b) Study of Impact of Sole Community Hospital Designations.—

(1) Study.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) Report.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 15512. CLARIFICATION OF TREATMENT OF EAC AND RPC HOSPITALS.

Paragraphs (1)(A)(i) and (2)(A)(i) of section 1820(i) (42 U.S.C. 1395i@4(i)) are each amended by striking the semicolon at the end and inserting the following: ", or in a State which the Secretary finds would receive a grant under such subsection during a fiscal year if funds were appropriated for grants under such subsection for the fiscal year;".

SEC. 15513. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) In General.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) Requiring Rural Emergency Access Care Hospitals To Meet Hospital Anti-Dumping Requirements.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) Reference to Payment Provisions Under Part B.—For provisions relating to payment for rural emergency access care hospital services under part B, see section 15607.

(d) Effective Date.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 15514. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) Prohibiting Denial of Request for Reclassification on Basis of Comparability of Wages.—

(1) In general.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 15515. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

PART 2—PAYMENTS TO SKILLED NURSING FACILITIES

SEC. 15521. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 15522. INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy, including supplies and support services incident to such services and therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title with respect to the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

"(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) RECONCILIATION OF AMOUNTS.—

"(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

"(i) the per stay limit applicable to the facility under subsection (d) for the period; and

"(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

"(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

"(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

"(1) LIMIT FOR FISCAL YEAR 1997.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

"(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) REBASING OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

"(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit determined for the fiscal year under the methodology for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1996, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a methodology for determining on an annual basis a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 15523. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting before the period at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995)".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(c) LIMITATION ON AGGREGATE INCREASE IN PAYMENTS RESULTING FROM ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1997, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1996 increased by the SNF market basket percentage increase (as defined in section 1888A(e)(3)) for fiscal year 1997; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year increased by the SNF market basket percentage increase for such subsequent fiscal year.".

(d) IMPOSITION OF LIMITS FOR ALL COST REPORTING PERIODS.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended in the matter preceding paragraph (1) by inserting after "extended care services" the following: "(for any cost reporting period for which payment is made under this title to the skilled nursing facility for such services)".

SEC. 15524. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 15506, is amended by adding at the end the following new subparagraph:

"(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 15525. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than physicians' services and other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, or otherwise).".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by sections 15506 and 15524, is amended by adding at the end the following new subparagraph:

"(V) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 15526. CERTIFICATION OF FACILITIES MEETING REVISED NURSING HOME REFORM STANDARDS.

(a) IN GENERAL.—Section 1819(a)(3) (42 U.S.C. 1395i@3(a)(3)) is amended to read as follows:

"(3)(A) is certified by the Secretary as meeting the standards established under subsection (b), or (B) is a State-certified facility (as defined in subsection (d)).".

(b) REQUIREMENTS DESCRIBED.—Section 1819 (42 U.S.C. 1395i@3) is amended by striking subsections (b) through (i) and inserting the following:

"(b) STANDARDS FOR AND CERTIFICATION OF FACILITIES.—

"(1) STANDARDS FOR FACILITIES.—

"(A) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of standards consistent with the contents described in subparagraph (B) for skilled nursing facilities which furnish services for which payment may be made under this title.

"(B) CONTENTS OF STANDARDS.—The standards established for facilities under this paragraph shall contain provisions relating to the following items:

"(i) The treatment of resident medical records.

"(ii) Policies, procedures, and bylaws for operation.

"(iii) Quality assurance systems.

"(iv) Resident assessment procedures, including care planning and outcome evaluation.

"(v) The assurance of a safe and adequate physical plant for the facility.

"(vi) Qualifications for staff sufficient to provide adequate care.

"(vii) Utilization review.

"(viii) The protection and enforcement of resident rights described in subparagraph (C).

"(C) RESIDENT RIGHTS DESCRIBED.—The resident rights described in this subparagraph are the rights of residents to the following:

"(i) To exercise the individual's rights as a resident of the facility and as a citizen or resident of the United States.

"(ii) To receive notice of rights and services.

"(iii) To be protected against the misuse of resident funds.

"(iv) To be provided privacy and confidentiality.

"(v) To voice grievances.

"(vi) To examine the results of inspections under the certification program.

"(vii) To refuse to perform services for the facility.

"(viii) To be provided privacy in communications and to receive mail.

"(ix) To have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long term care ombudsman, and any person the resident has designated as a visitor.

"(x) To retain and use personal property.

"(xi) To be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

"(xii) To be provided with prior written notice of a pending transfer or discharge.

"(D) REQUIRING NOTICE AND COMMENT.—The standards established for facilities under this paragraph may only take effect after the Secretary has provided the public with notice and an opportunity for comment.

"(2) CERTIFICATION PROGRAM.—

"(A) IN GENERAL.—The Secretary shall provide for the establishment and operation of a program consistent with the requirements of subparagraph (B) for the certification of skilled nursing facilities which meet the standards established under paragraph (1) and the decertification of facilities which fail to meet such standards.

"(B) REQUIREMENTS FOR PROGRAM.—In addition to any other requirements the Secretary may impose in establishing and operating the certification program under subparagraph (A), the Secretary shall ensure the following:

"(i) The Secretary shall ensure public access (as defined by the Secretary) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the Secretary regarding the ownership, compliance histories, and services provided by certified facilities.

"(ii) Not less often than every 4 years, the Secretary shall audit its expenditures under the program, through an entity designated by the Secretary which is not affiliated with the program, as designated by the Secretary.

"(c) INTERMEDIATE SANCTION AUTHORITY.—

"(1) AUTHORITY.—In addition to any other authority, where the Secretary determines that a nursing facility which is certified for participation under this title (whether certified by the Secretary as meeting the standards established under subsection (b) or a State-certified facility) no longer or does not substantially meet the requirements for such a facility under this title as specified under subsection (b) and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its residents, the Secretary shall at least provide for the termination of the facility's certification for participation under this title, or

"(B) do not immediately jeopardize the health and safety of its residents, the Secretary may, in lieu of providing for terminating the facility's certification for participation under the plan, provide lesser sanctions including one that provides that no payment will be made under this title with respect to any individual admitted to such facility after a date specified by the Secretary.

"(2) NOTICE.—The Secretary shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer or does not substantially meet the requirements for such a facility under this title, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) EFFECTIVENESS.—The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the Secretary, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title, or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the Secretary shall terminate such facility's certification for participation under this title effective with the first day of the first month following the month specified in such clause.

"(d) STATE-CERTIFIED FACILITY DEFINED.—In subsection (a), a 'State-certified facility' means a facility licensed or certified as a skilled nursing facility by the State in which it is located, or a facility which otherwise meets the requirements applicable to providers of nursing facility services under the State plan under title XIX or the MediGrant program under title XXI.".

(c) CONFORMING AMENDMENTS.—(1) Section 1861(v)(1)(E) (42 U.S.C. 1395x(v)(1)(E)) is amended by striking the second sentence.

(2) Section 1864 (42 U.S.C. 1395aa) is amended by striking subsection (d).

(3) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1819(c)(2)(E),".

(4) Section 1883(f) (42 U.S.C. 1395tt(f)) is amended—

(A) in the second sentence, by striking "such a hospital" and inserting "a hospital which enters into an agreement with the Secretary under this section"; and

(B) by striking the first sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cost reporting periods beginning on or after October 1, 1995.

SEC. 15527. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this part on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 15528. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.

Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 15522) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

SEC. 15529. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

PART 3—CLARIFICATION OF CREDITS TO PART A TRUST FUND

SEC. 15531. CLARIFICATION OF AMOUNT OF TAXES CREDITED TO FEDERAL HOSPITAL INSURANCE TRUST FUND.

Section 121(e)(1)(B) of the Social Security Amendments of 1983 (Public Law 98–21) is amended by adding at the end the following: "The Secretary of the Treasury shall carry out this subparagraph without regard to any amendments to this subsection or to section 86 of the Internal Revenue Code of 1986 which take effect on or after January 1, 1994.".

Subtitle G—Provisions Relating to Medicare Part B

PART 1—PAYMENT REFORMS

SEC. 15601. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w@4(f)) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law (including changes made by the Secretary in response to section 1895), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(2) EXCLUSION OF SERVICES FURNISHED TO PRIVATE PLAN ENROLLEES.—In this subsection, the term 'physicians' services' with respect to a fiscal year does not include services furnished to an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus product offered under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w@4(d)) is amended—

(A) by striking paragraph (2);

(B) by amending paragraph (3) to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June of 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—

"(i) IN GENERAL.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(I) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100); or

"(II) less than the applicable percentage limit of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100).

"(ii) APPLICABLE PERCENTAGE LIMIT.—In clause (i)(II), the 'applicable percentage limit' for a year is—

"(I) for 1997, 93 percent;

"(II) for 1998, 92.25 percent; and

"(III) for 1999 and each succeeding year, 92 percent."; and

(C) by adding at the end the following new paragraph:

"(4) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—Not later than November 1 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that describes the update in the conversion factor for physicians' services (as defined in subsection (f)(3)(A)) in the following year.

"(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) for a year and shall submit to the Congress, by not later than December 1 of the year, a report containing its analysis of the conversion factor for the following year.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1996.

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w@4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.".

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w@4), as amended by paragraph (1), is amended—

(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii);

(B) in subsection (d)(1)(A), by striking "or updates";

(C) in subsection (d)(1)(D)(ii), by striking "(or updates)"; and

(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 15602. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 15603. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) for each of the years 1996 through 2002, 1 percent, and".

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in 1996, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

(c) PAYMENT FOR UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) PAYMENT FOR CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of this title, effective on the date on which the Secretary issues regulations under subparagraph (C), payment may be made under this part for an upgraded item of durable medical equipment in the same manner as payment may be made for a standard item of durable medical equipment.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) full disclosure by the supplier of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(ii) conditions of participation for suppliers of upgraded items, including conditions relating to billing procedures;

"(iii) sanctions (including exclusion) of suppliers who are determined to have engaged in coercive or abusive practices; and

"(iv) such other safeguards as the Secretary determines are necessary.".

(d) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 15604. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1997," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1996, is equal to 65 percent of such median.".

SEC. 15605. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 15606. FREEZE IN PAYMENTS FOR AMBULATORY SURGICAL CENTER SERVICES.

The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for any of the fiscal years 1996 through 2002.

SEC. 15607. RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) COVERAGE UNDER PART B.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(b) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)) is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(2) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(B) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 15608. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—

(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) (42 U.S.C. 1395w@4(a)(4)) is amended by adding at the end the following new subparagraph:

"(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".

(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".

(b) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

SEC. 15609. STATEWIDE FEE SCHEDULE AREA FOR PHYSICIANS' SERVICES.

(a) IN GENERAL.—Notwithstanding section 1848(j)(2) of the Social Security Act, in the case of the State of Wisconsin, the Secretary of Health and Human Services shall treat the State as a single fee schedule area for purposes of determining the fee schedule amount (as referred to in section 1848(a) of such Act) for physicians' services (as defined in section 1848(j)(3) of such Act) under part B of the medicare program.

(b) BUDGET-NEUTRALITY.—Notwithstanding any provision of part B of title XVIII of the Social Security Act, the Secretary shall carry out subsection (a) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in Wisconsin during a year are not greater or less than total payments for such services would have been but for this section.

(c) CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842 of such Act, or physicians in the State of Wisconsin) of otherwise applicable administrative procedures for modifying the fee schedule area or areas in the State after implementation of subsection (a).

(d) EFFECTIVE DATE.—This section shall apply with respect to physicians' services furnished on or after January 1, 1997.

SEC. 15609A. ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.

(a) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking "and (P)" and inserting "(P)"; and

(2) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (in accordance with section 15608(b) of the Medicare Preservation Act);".

(b) REQUIREMENTS FOR ESTABLISHMENT OF FEE SCHEDULE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish the fee schedule for ambulance services under section 1833(a)(1)(Q) of the Social Security Act (as added by subsection (a)) through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

(2) CONSIDERATIONS.—In establishing the fee schedule for ambulance services, the Secretary shall—

(A) establish mechanisms to control increases in expenditures for ambulance services under part B of the medicare program which fairly reflect the changing nature of the ambulance service industry;

(B) establish definitions for ambulance services which promote efficiency and link payments (including fees for assessment and treatment services) to the type of service provided;

(C) take into account regional differences which affect cost and productivity, including differences in the costs of resources and the costs of uncompensated care;

(D) apply dynamic adjustments to payment rates to account for inflation, demographic changes in the population of medicare beneficiaries, and changes in the number of providers of ambulance services participating in the medicare program; and

(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

(3) SAVINGS.—In establishing the fee schedule for ambulance services, the Secretary shall—

(A) ensure that the aggregate amount of payments made for ambulance services under part B of the medicare program during 1998 does not exceed the aggregate amount of payments which would have been made for such services under part B of the program during 1998 if the amendments made by this section were not in effect; and

(B) set the payment amounts provided under the fee schedule for services furnished in 1999 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(4) CONSULTATION.—In establishing the fee schedule for ambulance services, the Secretary shall consult regularly with the American Ambulance Association, the National Association of State Medical Directors, and other national organizations representing individuals and entities who furnish or regulate ambulance services, and shall share with such associations and organizations the data and data analysis used in establishing the fee schedule, including data on variations in payments for ambulance services under part B of the medicare program for years prior to 1998 among geographic areas and types of ambulance service providers.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the fee schedule described in subsection (b) shall apply to ambulance services furnished on or after January 1, 1998.

SEC. 15609B. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.

(a) APPLICATION OF STANDARDS FOR OTHER PROVIDERS OF PHYSICAL THERAPY SERVICES TO SERVICES FURNISHED BY PHYSICIANS.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2), is amended

(1) by striking "or" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; or"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of physicians' services under section 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.".

(b) CONFORMING AMENDMENT.—Section 1848(j)(3) (42 U.S.C. 1395w@4(j)(3)) is amended by inserting "(subject to section 1862(a)(17))" after "(2)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

PART 2—PART B PREMIUM

SEC. 15611. EXTENSION OF PART B PREMIUM.

(a) IN GENERAL.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "and prior to January 1999", and

(B) by inserting "(or, if higher, the percent described in subparagraph (C))" after "50 percent"; and

(2) by adding at the end the following new subparagraph:

"(C) For purposes of subparagraph (A), the percent described in this subparagraph is the ratio (expressed as a percentage) of the monthly premium established under this section for months in 1995 to the monthly actuarial rate for enrollees age 65 and over applicable to such months (as specified in the most recent report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund published prior to the date of the enactment of the Medicare Preservation Act of 1995).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to premiums for months beginning with January 1996.

SEC. 15612. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $25,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $25,000. In the case of a joint return filed under section 6013 of the Internal Revenue Code of 1986 by spouses both of whom are enrolled under this part, the previous sentence shall be applied by substituting '$50,000' for '$25,000'. The preceding provisions of this paragraph shall not apply to any individual whose threshold amount is zero.

"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

"(A) Not later than October 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to $1/12$ of the difference between—

"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

"(B) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

"(C) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

"(5) In this subsection, the following definitions apply:

"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

"(B) The term 'threshold amount' means—

"(i) except as otherwise provided in this paragraph, $75,000,

"(ii) $125,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

"(iii) zero in the case of a taxpayer who—

"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

"(II) does not live apart from his spouse at all times during the taxable year.".

(b) CONFORMING AMENDMENT.—Section 1839(f) (42 U.S.C. 1395r(f)) is amended by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer,

"(iii) the adjusted gross income of such taxpayer,

"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

"(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act."

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (14)" each place it appears and inserting "(14), or (15)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1997.

PART 3—ADMINISTRATION AND BILLING OF LABORATORY SERVICES

SEC. 15621. ADMINISTRATIVE SIMPLIFICATION FOR LABORATORY SERVICES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in accordance with the process described in subsection (b)) shall adopt uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of the medicare program.

(b) PROCESS FOR ADOPTION OF POLICIES.—The Secretary shall adopt uniform policies under subsection (a) in accordance with the following process:

(1) The Secretary shall select from carriers with whom the Secretary has a contract

under part B during 1995 15 medical directors, who will meet and develop recommendations for such uniform policies. The medical directors selected shall represent various geographic areas and have a varied range of experience in relevant medical fields, including pathology and clinical laboratory practice.

(2) The medical directors selected under paragraph (1) shall consult with independent experts in each major discipline of clinical laboratory medicine, including clinical laboratory personnel, bioanalysts, pathologists, and practicing physicians. The medical directors shall also solicit comments from other individuals and groups who wish to participate, including consumers and other affected parties. This process shall be conducted as a negotiated rulemaking under title 5, United States Code.

(3) Under the negotiated rulemaking, the recommendations for uniform policies shall be designed to simplify and reduce unnecessary administrative burdens in connection with the following:

(A) Beneficiary information required to be submitted with each claim.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The performance of post-payment review of test claims.

(E) The prohibition of the documentation of medical necessity except when determined to be appropriate after identification of aberrant utilization pattern through focused medical review.

(F) Beneficiary responsibility for payment.

(4) During the pendency of the adoption by the Secretary of the uniform policies, fiscal intermediaries and carriers under the medicare program may not implement any new requirement relating to the submission of a claim for clinical diagnostic laboratory tests retroactive to January 1, 1995, and carriers may not initiate any new coverage, administrative, or payment policy unless the policy promotes the goal of administrative simplification of requirements imposed on clinical laboratories in accordance with the Secretary's promulgation of the negotiated rulemaking.

(5) Not later than 6 months after the date of the enactment of this Act, the medical directors shall submit their recommendations to the Secretary, and the Secretary shall publish the recommendations and solicit public comment using negotiated rulemaking in accordance with title 5, United States Code. The Secretary shall publish final uniform policies for coverage, administration, and payment of claims for clinical diagnostic laboratory tests, effective after the expiration of the 180-day period which begins on the date of publication.

(6) After the publication of the final uniform policies, the Secretary shall implement identical uniform documentation and processing policies for all clinical diagnostic laboratory tests paid under the medicare program through fiscal intermediaries or carriers.

(c) OPTIONAL SELECTION OF SINGLE CARRIER.—Effective for claims submitted after the expiration of the 90-day period which begins on the date of the enactment of this Act, an independent laboratory may select a single carrier for the processing of all of its claims for payment under part B of the medicare program, without regard to the location where the laboratory or the patient or provider involved resides or conducts business. Such election of a single carrier shall be made by the clinical laboratory and an agreement made between the carrier and the laboratory shall be forwarded to the Secretary of Health and Human Services. Nothing in this subsection shall be construed to require a laboratory to select a single carrier under this subsection.

SEC. 15622. RESTRICTIONS ON DIRECT BILLING FOR LABORATORY SERVICES.

(a) REQUIREMENT FOR DIRECT BILLING.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

"(7)(A) Effective for services furnished on or before October 1, 1996, an individual or entity that performs clinical laboratory diagnostic tests shall not present or cause to be presented a claim, bill, or demand for payment to any person, other than the individual receiving such services or the health plan designated by such person, except that (i) in the case of a test performed by one laboratory at the request of another laboratory, which meets the requirements of clause (i), (ii), or (iii) of paragraph (5)(A), payment may be made to the requesting laboratory, and (ii) the Secretary may by regulation establish appropriate exceptions to the requirement of this subparagraph.

"(B)(i) Any person that collects any amounts that were billed in violation of paragraph (7)(A) above shall be liable for such amounts to the person from whom such amounts were collected.

"(ii) Any person that furnishes clinical laboratory services for which payment is made under paragraph (1)(D)(i) or paragraph (2)(D)(i) that knowingly violates subparagraph (A) is subject to a civil money penalty of not more than $10,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

"(iii)(I) Any individual or entity that the Secretary determines has repeatedly violated subparagraph (A) may be excluded from participation in any Federal health care program . The provisions of section 1128A (other than subsections (a) and (b)) shall apply to an exclusion under this paragraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

"(II) The provisions of section 1128(e) of the Social Security Act shall apply to any exclusion under clause (iii)(I) in the same manner as such provisions apply to a proceeding under section 1128.

"(iv) If the Secretary finds, after a reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 of the Public Health Service Act has on a repeated basis violated subparagraph (A), the Secretary may suspend, revoke, or limit such certification in accordance with the procedures established in section 353(k) of Public Health Service Act.

"(C) For purposes of this paragraph, the following definitions shall apply:

"(i) The term 'Federal health care program' means—

"(I) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(II) any State health care program, as defined in section 1128(h).

"(ii) The term 'health plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by an insurer, except that such term does not include any of the following:

"(I) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

"(II) Medicare supplemental health insurance.

"(III) Coverage issued as a supplement to liability insurance.

"(IV) Liability insurance, including general liability insurance and automobile liability insurance.

"(V) Worker's compensation or similar insurance.

"(VI) Automobile medical-payment insurance.

"(VII) Coverage for a specified disease or illness.

"(VIII) A hospital or fixed indemnity policy.

(b) LOOK BACK PROVISIONS TO ASSURE SAVINGS.—

(1) IN GENERAL.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)), as amended by section 15604(b), is amended—

(A) in clause (vii), by striking "and" at the end;

(B) in clause (viii)—

(i) by inserting "and before January 1, 2000," after "1996,", and

(ii) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new clause:

"(ix) after December 31, 1999, is equal to such percentage of such median as the Secretary establishes under paragraph (8)(B), or, if the Secretary does not act under paragraph (8)(B), is equal to 65 percent of such median.".

(2) PROCESS FOR REDUCTIONS.—Section 1833(h) (42 U.S.C. 1395l(h)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(8)(A) On July 31, 1999, the Secretary shall estimate—

"(i) the amount of expenditures under this section for clinical diagnostic laboratory tests which will be made in the period from January 1, 1997, through September 30, 2002, and

"(ii) the amount of expenditures which would have been made under this section for clinical diagnostic laboratory tests in the period from January 1, 997, through September 30, 2002, if paragraph (7) had not been enacted.

"(B) If the amount estimated under subparagraph (A)(i) is greater than 97 percent of the amount estimated under subparagraph (A)(ii), the Secretary shall establish a limitation amount under paragraph (4)(B)(ix) such that, when such limitation amount is considered, the amount estimated under subparagraph (A)(i) is 97 percent of the amount estimated under subparagraph (A)(ii).

"(C) The Director of the Congressional Budget Office (hereafter in this subparagraph referred to as the 'Director') shall—

"(i) independently estimate the amounts specified in subparagraph (A) and compute any limitation amount required under subparagraph (B), and

"(ii) submit a report on such estimates and computation to Congress not later than August 31, 1999.

The Secretary shall provide the Director with such data as the Director reasonably requires to prepare such estimates and computation.".

PART 4—QUALITY STANDARDS FOR DURABLE MEDICAL EQUIPMENT

SEC. 15631. RECOMMENDATIONS FOR QUALITY STANDARDS FOR DURABLE MEDICARE EQUIPMENT.

(a) APPOINTMENT OF TASK FORCE BY SECRETARY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a broadly based task force to develop recommendations for quality standards for durable medical equipment under part B of the medicare program.

(2) COMPOSITION.—The task force shall include individuals selected by the Secretary from representatives of suppliers of items of durable medical equipment under part B, consumers, and other users of such equipment. In appointing members, the Secretary shall assure representation from various geographic regions of the United States.

(3) NO COMPENSATION FOR SERVICE.—Members of the task force shall not receive any compensation for service on the task force.

(4) TERMINATION.—The task force shall terminate 30 days after it submits the report described in subsection (b).

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the task force established under subsection (a) shall submit to the Secretary its recommendations for quality standards for durable medical equipment under part B of the medicare program.

Subtitle H—Provisions Relating to Medicare Parts A and B

PART 1—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 15701. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 15106, is amended by adding at the end the following new section:

"PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1894. (a) IN GENERAL.—

"(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, or otherwise).

"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1886(d)(8)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) for cost reporting periods beginning after October 1, 1995).

"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994, increased (in a compounded manner) by the home health market basket percentage increase for fiscal years 1995, 1996, and 1997; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the home health market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) REBASING OF RATES.—The Secretary shall provide for an update to the national per visit payment rates under this subsection for cost reporting periods beginning not later than the first day of the fifth fiscal year which begins after fiscal year 1997, and not later than every 5 years thereafter, to reflect the most recent available data.

"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

"(c) PER EPISODE LIMIT.—

"(1) AGGREGATE LIMIT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) CASE MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for a year is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year.

"(iii) REBASING OF PER EPISODE AMOUNTS.—Beginning with fiscal year 1999 and every 2 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF APPLICABLE AREA.—For purposes of determining per episode limits under this subparagraph, the area in which a home health agency is considered to be located shall be such area as the Secretary finds appropriate for purposes of this subparagraph.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Phase II Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'episode' means the continuous 120-day period that—

"(I) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(II) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(ii) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(A) OVERPAYMENTS TO HOME HEALTH AGENCIES.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall reduce payments under this section to the home health agency in the following fiscal year in such manner as the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost cases described in subsection (e)(3) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 30, 60, 90, 120, and 165 days into an episode described in subsection (c)(1)(D).

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—The Secretary shall develop a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage of low-cost episodes for which home health services are furnished by the agency over such percentage determined for the agency for the 12-month cost reporting period ending on June 30, 1994. The Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) The adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.

"(g) NO EFFECT ON NON-MEDICARE SERVICES.—Nothing in this section may be construed to affect the provision of or payment for home health services for which payment is not made under this title.".

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 15522(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1894".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1894(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1894; or

"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 15525(a)(1), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1894(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 15525(a)(3), is amended by striking "section 1842(b)(6)(E);" and inserting "subparagraphs (E) and (F) of section 1842(b)(6);".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2) and section 15609B(a), is amended—

(i) by striking "or" at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting "; or"; and

(iii) by adding at the end the following new paragraph:

"(18) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) LIMITATION ON PART A COVERAGE.—

(1) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 165 days during any spell of illness;".

(2) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 165 days during such spell.".

(3) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5)).''; and

(B) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

(e) EFFECTIVE DATE.—Except as provided in subsection (d)(4), the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 15702. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 15703. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA–1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of OBRA–1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996".

SEC. 15704. REPORT ON RECOMMENDATIONS FOR PAYMENTS AND CERTIFICATION FOR HOME HEALTH SERVICES OF CHRISTIAN SCIENCE PROVIDERS.

Not later than July 1, 1996, the Secretary of Health and Human Services shall submit recommendations to Congress regarding an appropriate methodology for making payments under the medicare program for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, Massachusetts, and appropriate criteria for the certification of such providers for purposes of the medicare program.

SEC. 15705. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION.

Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is amended—

(1) by striking "15 months" and inserting "36 months"; and

(2) by striking the second sentence and inserting the following: "The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.".

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

SEC. 15711. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "24-month", and

(2) by striking the second sentence.

SEC. 15712. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

SEC. 15713. PROHIBITING RETROACTIVE APPLICATION OF POLICY REGARDING ESRD BENEFICIARIES ENROLLED IN PRIMARY PLANS.

For purposes of carrying out section 1862(b)(1)(C) of the Social Security Act, the Secretary of Health and Human Services shall apply the policy directive issued by the Administrator of the Health Care Financing Administration on April 24, 1995, only with respect to items and services furnished on or after such date.

PART 3—FAILSAFE

SEC. 15721. FAILSAFE BUDGET MECHANISM.

(a) IN GENERAL.—Title XVIII, as amended by sections 15106(a) and 15701(a), is amended by adding at the end the following new section:

"FAILSAFE BUDGET MECHANISM

"SEC. 1895. (a) REQUIREMENT OF PAYMENT ADJUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.—If the Secretary determines under subsection (e)(3)(C) before a fiscal year (beginning with fiscal year 1998) that—

"(1) the fee-for-service expenditures (as defined in subsection (f)) for a sector of medicare services (as defined in subsection (b)) for the fiscal year, will exceed

"(2) the allotment specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (h) for that fiscal year),

then, notwithstanding any other provision of this title, there shall be an adjustment (consistent with subsection (d)) in applicable payment rates or payments for items and services included in the sector in the fiscal year so that such expenditures for the sector for the year will be reduced by 133⅓ percent of the amount of such excess.

"(b) SECTORS OF MEDICARE SERVICES DESCRIBED.—

"(1) IN GENERAL.—For purposes of this section, items and services included under each of the following subparagraphs shall be considered to be a separate 'sector' of medicare services:

"(A) Inpatient hospital services.

"(B) Home health services.

"(C) Extended care services (for inpatients of skilled nursing facilities).

"(D) Hospice care.

"(E) Physicians' services (including services and supplies described in section 1861(s)(2)(A)) and services of other health care professionals (including certified registered nurse anesthetists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.

"(F) Outpatient hospital services and ambulatory facility services.

"(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.

"(H) Diagnostic tests (including clinical laboratory services and x-ray services).

"(I) Other items and services.

"(2) CLASSIFICATION OF ITEMS AND SERVICES.—The Secretary shall classify each type of items and services covered and paid for separately under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.

"(c) ALLOTMENT.—

"(1) ALLOTMENTS FOR EACH SECTOR.—For purposes of this section, subject to subsection (h)(1), the allotment for a sector of medicare services for a fiscal year is equal to the product of—

"(A) the total allotment for the fiscal year established under paragraph (2), and

"(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.

"(2) TOTAL ALLOTMENT.—

"(A) IN GENERAL.—For purposes of this section, the total allotment for a fiscal year is equal to—

"(i) the medicare benefit budget for the fiscal year (as specified under subparagraph (B)), reduced by

"(ii) the amount of payments the Secretary estimates will be made in the fiscal year under the MedicarePlus program under part C.

In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.

"(B) MEDICARE BENEFIT BUDGET.—For purposes of this subsection, subject to subparagraph (C), the 'medicare benefit budget'—

"(i) for fiscal year 1997 is $208.0 billion;

"(ii) for fiscal year 1998 is $217.1 billion;

"(iii) for fiscal year 1999 is $228.4 billion;

"(iv) for fiscal year 2000 is $246.4 billion;

"(v) for fiscal year 2001 is $265.5 billion;

"(vi) for fiscal year 2002 is $288.0 billion; and

"(vii) for a subsequent fiscal year is equal to the medicare benefit budget under this subparagraph for the preceding fiscal year increased by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of medicare beneficiaries from the previous fiscal year to the fiscal year involved.

"(3) MEDICARE ALLOTMENT PROPORTION DEFINED.—

"(A) IN GENERAL.—For purposes of this section and with respect to a sector of medicare services for a fiscal year, the term 'medicare allotment proportion' means the ratio of—

"(i) the baseline-projected medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to

"(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.

"(B) BASELINE-PROJECTED MEDICARE EXPENDITURES.—In this paragraph, the 'baseline, projected medicare expenditures' for a sector of medicare services—

"(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and

"(ii) for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).

"(C) BASELINE ANNUAL GROWTH RATES.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:

"For the following sector—	Baseline annual growth rates for fiscal year—						
	1996	1997	1998	1999	2000	2001	2002 and thereafter
(A) Inpatient hospital services	5.7%	5.6%	6.0%	6.1%	5.7%	5.5%	5.2%
(B) Home health services	17.2%	15.1%	11.7%	9.1%	8.4%	8.1%	7.9%
(C) Extended care services	19.7%	12.3%	9.3%	8.7%	8.6%	8.4%	8.0%
(D) Hospice care	32.0%	24.0%	18.0%	15.0%	12.0%	10.0%	9.0%
(E) Physicians' services	12.4%	9.7%	8.7%	9.0%	9.3%	9.6%	10.1%
(F) Outpatient hospital services	14.7%	13.9%	14.5%	15.0%	14.1%	13.9%	14.0%
(G) Durable medical equipment and supplies	16.1%	15.5%	13.7%	12.4%	13.2%	13.9%	14.5%
(H) Diagnostic tests	13.1%	11.3%	11.0%	11.4%	11.4%	11.5%	11.9%
(I) Other items and services	11.2%	10.2%	10.9%	12.0%	11.6%	11.6%	11.8%

"(d) MANNER OF PAYMENT ADJUSTMENT.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for a sector for a fiscal year in such a manner as to—

"(A) make a change in payment rates (to the maximum extent practicable) at the time payment rates are otherwise changed or subject to change for that fiscal year; and

"(B) provide for the full appropriate adjustment so that the fee-for-service expenditures for the sector for the fiscal year will approximate (and not exceed) the allotment for the sector for the fiscal year.

"(2) TAKING INTO ACCOUNT VOLUME AND CASH FLOW.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—

"(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

"(B) the fact that an adjustment may apply to items and services furnished in a fiscal year (payment for which may occur in a subsequent fiscal year),

in a manner that is consistent with assuring that total fee-for-services expenditures for each sector for the fiscal year will not exceed the allotment under subsection (c)(1) for such sector for such year.

"(3) PROPORTIONALITY OF REDUCTIONS WITHIN A SECTOR.—In making adjustments under this subsection in payment for items and services included within a sector of medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included within the sector for the fiscal year.

"(4) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A FISCAL YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such year.

"(B) DESCRIPTION OF APPLICATION TO SPECIFIC SERVICES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE FACTOR FOR PAYMENT FOR OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS HOSPITALS.—To the computation of the applicable percentage increase specified in section 1886(d)(3)(B)(i) for discharges occurring in the fiscal year.

"(ii) HOME HEALTH SERVICES.—To the extent payment amounts for home health services are based on per visit payment rates under section 1894, to the computation of the increase in the national per visit payment rates established for the year under section 1894(b)(2)(B).

"(iii) HOSPICE CARE.—To the update of payment rates for hospice care under section 1814(i) for services furnished during the fiscal year.

"(iv) UPDATE FACTOR FOR PAYMENT OF OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS-EXEMPT HOSPITALS.—To the computation of the target amount under section 1886(b)(3) for discharges occurring during the fiscal year.

"(v) COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES.—To the computation of the facility per stay limits for the year under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).

"(5) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a calendar year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished at any time during such calendar year as follows:

"(i) For fiscal year 1997, the reduction shall be made for payment rates during calendar year 1997 in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of calendar year 1997.

"(ii) For a subsequent fiscal year, the reduction shall be made for payment rates during the calendar year in which the fiscal year ends in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of the calendar year, but also taking into account the payment reductions made in the first quarter of the fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.

"(iii) Payment rate reductions effected under this subparagraph for a calendar year and applicable to the last 3 quarters of the fiscal year in which the calendar year ends shall continue to apply during the first quarter of the succeeding fiscal year.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS' SERVICES.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section, for items and services furnished during the calendar year in which the fiscal year ends.

"(ii) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payments for professional services of certified registered nurse anesthetists under section 1833(l), nurse midwives, physician assistants, nurse practitioners and clinical nurse specialists under section 1833(r), clinical psychologists, clinical social workers, physical or occupational therapists, and any other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services, for services furnished during the calendar year in which the fiscal year ends.

"(iii) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.

"(iv) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.

"(v) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment basis under section 1834(a)(1)(B) for covered items described in section 1834(a)(13), for items furnished during the calendar year in which the fiscal year ends.

"(vi) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for services furnished during the calendar year in which the fiscal year ends.

"(vii) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography under section 1834(c)(1)(C)(ii), for screening mammography performed during the calendar year in which the fiscal year ends.

"(viii) PROSTHETICS AND ORTHOTICS.—To the computation of the amount to be recognized under section 1834(h) for payment for prosthetic devices and orthotics and prosthetics, for items furnished during the calendar year in which the fiscal year ends.

"(ix) SURGICAL DRESSINGS.—To the computation of the payment amount referred to in section 1834(i)(1)(B) for surgical dressings, for items furnished during the calendar year in which the fiscal year ends.

"(x) PARENTERAL AND ENTERAL NUTRITION.—To the computation of reasonable charge screens for payment for parenteral and enteral nutrition under section 1834(h), for nutrients furnished during the calendar year in which the fiscal year ends.

"(xi) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services, for services furnished during the calendar year in which the fiscal year ends.

"(6) APPLICATION TO PAYMENTS MADE BASED ON COSTS DURING A COST REPORTING PERIOD.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the Secretary shall provide for the payment adjustment under such subsection for a fiscal year through an appropriate proportional reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) CAPITAL-RELATED COSTS OF HOSPITAL SERVICES.—To the computation of payment amounts for inpatient and outpatient hospital services under sections 1886(g) and 1861(v) for portions of cost reporting periods occurring during the fiscal year.

"(ii) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886(b) for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.

"(iii) DIRECT GRADUATE MEDICAL EDUCATION.—To the computation of payment amounts under section 1886(h) for reasonable costs of direct graduate medical education costs for portions of cost reporting periods occurring during the fiscal year.

"(iv) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814(j) for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.

"(v) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility (other than covered non-routine services subject to section 1888A) for portions of cost reporting periods occurring during the fiscal year.

"(vi) REASONABLE COST CONTRACTS.—To the computation of payment amounts under section 1833(a)(1)(A) for organizations for portions of cost reporting periods occurring during the fiscal year.

"(vii) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(ii), for payment amounts for home health services, for portions of cost reporting periods occurring during such fiscal year.

"(7) OTHER.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on a basis not described in a previous paragraph of this subsection, the Secretary shall provide for the payment adjustment under such subsection through an appropriate proportional reduction in the payments (or payment bases for items and services furnished) during the fiscal year.

"(8) ADJUSTMENT OF PAYMENT LIMITS.—The Secretary shall provide for such proportional adjustment in any limits on payment established under part A or B for payment for items and services within a sector as may be appropriate based on (and in order to properly carry out) the adjustment on the amount of payment under this subsection in the sector.

"(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.

"(e) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—

"(1) ONE-TIME PUBLICATION OF SECTORS AND GENERAL PAYMENT ADJUSTMENT METHODOLOGY.—Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services into the sectors of medicare services under subsection (b) and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.

"(2) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—

"(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year 1999, the President shall include in the budget submitted under section 1105 of title 31, United States Code, information on—

"(i) the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year; and

"(ii) actual annual growth rates for fee-for-service expenditures in the different sectors in the second previous fiscal year.

"(B) RECOMMENDATIONS REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C). Such recommendations shall take into account medically appropriate practice patterns.

"(3) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—

"(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Secretary and the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year.

"(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a notice containing the Secretary's preliminary determination, for each sector of medicare services, concerning the following:

"(i) The projected allotment under subsection (c) for such sector for the fiscal year.

"(ii) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).

"(iii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.

"(iv) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.

Such notice shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C) shall be based on the best data available at the time of such determinations.

"(C) FINAL DETERMINATION.—Not later than September 1 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a final determination, for each sector of medicare services, concerning the matters described in subparagraph (B) and an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B).

"(4) LIMITATION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the classification of items and services among the sectors of medicare services under subsection (b),

"(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),

"(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or

"(D) any adjustment in an allotment effected under subsection (h).

"(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term 'fee-for-service expenditures', for items and services within a sector of medicare services in a fiscal year, means amounts payable for such items and services which are furnished during the fiscal year, and—

"(1) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and

"(2) does not include amounts paid under part C.

"(g) EXPEDITED PROCESS FOR ADJUSTMENT OF SECTOR GROWTH RATES.—

"(1) OPTIONAL INCLUSION OF LEGISLATIVE PROPOSAL.—The President may include in recommendations under subsection (e)(2)(B) submitted with respect to a fiscal year a specific legislative proposal that provides only for the substitution of percentages specified in the proposal for one or more of the baseline annual growth rates (specified in the table in subsection (c)(3)(C) or in a previous legislative proposal under this subsection) for that fiscal year or any subsequent fiscal year.

"(2) CONGRESSIONAL CONSIDERATION.—

"(A) IN GENERAL.—The percentages contained in a legislative proposal submitted under paragraph (1) shall apply under this section if a joint resolution (described in subparagraph (B)) approving such proposal is enacted, in accordance with the provisions of subparagraph (C), before the end of the 60-day period beginning on the date on which such proposal was submitted. For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

"(B) JOINT RESOLUTION OF APPROVAL.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President submits a proposal under paragraph (1) and—

"(i) which does not have a preamble;

"(ii) the matter after the resolving clause of which is as follows: 'That Congress approves the proposal of the President providing for substitution of percentages for certain baseline annual growth rates under section 1895 of the Social Security Act, as submitted by the President on ___________.', the blank space being filled in with the appropriate date; and

"(iii) the title of which is as follows: 'Joint resolution approving Presidential proposal to substitute certain specified percentages for baseline annual growth rates under section 1895 of the Social Security Act, as submitted by the President on ___________.', the blank space being filled in with the appropriate date.

"(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

"(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

"(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of a legislative proposal under paragraph (1)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Finance of the Senate;

"(ii) any reference to a resolution of which a committee shall be discharged from further consideration shall be deemed to be a reference to the first such resolution introduced; and

"(iii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the President submits the legislative proposal under paragraph (1).

"(h) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—

"(1) IN GENERAL.—If the Secretary determines under subsection (e)(3)(B) with respect to a particular fiscal year (beginning with fiscal year 1999) that the fee-for-service expenditures for a sector of medicare services for the second preceding fiscal year—

"(A) exceeded the adjusted allotment for such sector for such year (as defined in paragraph (2)), then the allotment for the sector for the particular fiscal year shall be reduced by 133⅓ percent of the amount of such excess, or

"(B) was less than the adjusted allotment for such sector for such year, then the allotment for the sector for the particular fiscal year shall be increased by the amount of such deficit.

"(2) ADJUSTED ALLOTMENT.—The adjusted allotment under this paragraph for a sector for a fiscal year is—

"(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in subsection (c)(2)(A)(ii) for that fiscal year,

"(B) adjusted to take into account the amount of any adjustment under paragraph (1) for that fiscal year (based on expenditures in the second previous fiscal year).

"(i) PROSPECTIVE APPLICATION OF CERTAIN NATIONAL COVERAGE DETERMINATIONS.—In the case of a national coverage determination that the Secretary projects will result in significant additional expenditures under this title (taking into account any substitution for existing procedures or technologies), such determination shall not become effective before the beginning of the fiscal year that begins after the date of such determination and shall apply to contracts under part C entered into (or renewed) after the date of such determination.".

(b) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1895 restrain the rate of growth of expenditures under this part in order to achieve such solvency.".

PART 4—ADMINISTRATIVE SIMPLIFICATION

SEC. 15731. STANDARDS FOR MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS.

Title XVIII, as amended by section 15031, is amended by inserting after section 1806 the following new section:

"STANDARDS FOR MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1807. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—

"(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt standards for information transactions and data elements of medicare information and modifications to the standards under this section that are—

"(A) consistent with the objective of reducing the administrative costs of providing and paying for health care; and

"(B) developed or modified by a standard setting organization (as defined in subsection (h)(8)).

"(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different from the standard developed by a standard setting organization, if—

"(A) the different standard or modification will substantially reduce administrative costs to health care providers and health plans compared to the alternative; and

"(B) the standard or modification is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—

"(A) IN GENERAL.—Each person, who maintains or transmits medicare information or data elements of medicare information and is subject to this section, shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(i) to ensure the integrity and confidentiality of the information;

"(ii) to protect against any reasonably anticipated—

"(I) threats or hazards to the security or integrity of the information; and

"(II) unauthorized uses or disclosures of the information; and

"(iii) to otherwise ensure compliance with this section by the officers and employees of such person.

"(B) SECURITY STANDARDS.—The Secretary shall establish security standards and modifications to such standards with respect to medicare information network services, health plans, and health care providers that—

"(i) take into account—

"(I) the technical capabilities of record systems used to maintain medicare information;

"(II) the costs of security measures;

"(III) the need for training persons who have access to medicare information; and

"(IV) the value of audit trails in computerized record systems; and

"(ii) ensure that a medicare information network service, if it is part of a larger organization, has policies and security procedures which isolate the activities of such service with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

The security standards established by the Secretary shall be based on the standards developed or modified by standard setting organizations. If such standards do not exist, the Secretary shall rely on the recommendations of the Medicare Information Advisory Committee (established under subsection (g)) and shall consult with appropriate government agencies and private organizations in accordance with paragraph (5).

"(4) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards and the modifications to the standards adopted pursuant to paragraph (1) or (3).

"(5) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this section, the Secretary shall rely on recommendations of the Medicare Information Advisory Committee established under subsection (g) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register the recommendations of the Medicare Information Advisory Committee regarding the adoption of a standard under this section.

"(b) STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make medicare information uniformly available to be exchanged electronically, that is—

"(A) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, enrollment and disenrollment, eligibility, premium payments, and referral certification and authorization; and

"(B) related to other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) UNIQUE HEALTH IDENTIFIERS.—

"(A) ADOPTION OF STANDARDS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the medicare information system. In developing unique health identifiers for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(B) PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—

"(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or

"(ii) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both.

"(3) CODE SETS.—

"(A) IN GENERAL.—The Secretary, in consultation with the Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies, shall—

"(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

"(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

"(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under subsection (c)(2).

"(4) ELECTRONIC SIGNATURE.—

"(A) IN GENERAL.—The Secretary, after consultation with the Medicare Information Advisory Committee, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this section and written signatures on enrollment and disenrollment forms.

"(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures—

"(A) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and

"(B) for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to reduce administrative costs or duplicative (or inappropriate) payment of claims, the Secretary shall establish further transaction standards for the coordination of benefits between health plans.

"(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a medicare information network.

"(c) TIMETABLES FOR ADOPTION OF STANDARDS.—

"(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of medicare information and security described in subsections (a) and (b).

"(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this paragraph, the modified code set shall include instructions on how data elements of medicare information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"(d) REQUIREMENTS FOR HEALTH PLANS.—

"(1) IN GENERAL.—If a person desires to conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of medicare information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by directly transmitting standard data elements of medicare information or submitting nonstandard data elements to a medicare information network service for processing into standard data elements and transmission.

"(3) TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.—Not later than 24 months after the date on which standards are adopted under subsections (a) and (b) with respect to any type of information transaction or data element of medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.

"(4) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification. However, the time determined appropriate under the preceding sentence shall be not earlier than the last day of the 180-day period beginning on the date such modified standard is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines such extension is appropriate.

"(e) GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—

"(1) GENERAL PENALTY.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall impose on any person that violates a requirement or standard—

"(i) with respect to medicare information transactions, data elements of medicare information, or security imposed under subsection (a) or (b); or

"(ii) with respect to health plans imposed under subsection (d);

a penalty of not more than $100 for each such violation of a specific standard or requirement, but the total amount imposed for all such violations of a specific standard or requirement during the calendar year shall not exceed $25,000.

"(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this paragraph in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(C) DENIAL OF PAYMENT.—Except as provided in paragraph (2), the Secretary may deny payment under this title for an item or service furnished by a person if the person fails to comply with an applicable requirement or standard for medicare information relating to that item or service.

"(2) LIMITATIONS.—

"(A) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under paragraph (1) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in paragraph (1).

"(B) FAILURES DUE TO REASONABLE CAUSE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a penalty may not be imposed under paragraph (1) if—

"(I) the failure to comply was due to reasonable cause and not to willful neglect; and

"(II) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(ii) EXTENSION OF PERIOD.—

"(I) NO PENALTY.—The period referred to in clause (i)(II) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(II) ASSISTANCE.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i)(II). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(C) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under paragraph (1) that is not entirely waived under subparagraph (B) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"(f) EFFECT ON STATE LAW.—

"(1) GENERAL EFFECT.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), a provision, requirement, or standard under this section shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(B) EXCEPTIONS.—A provision, requirement, or standard under this section shall not supersede a contrary provision of State law if the Secretary determines that the provision of State law should be continued for any reason, including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.

"(2) PUBLIC HEALTH REPORTING.—Nothing in this section shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

"(g) MEDICARE INFORMATION ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established a committee to be known as the Medicare Information Advisory Committee (in this subsection referred to as the 'committee').

"(2) DUTIES.—The committee shall—

"(A) advise the Secretary in the development of standards under this section; and

"(B) be generally responsible for advising the Secretary and the Congress on the status and the future of the medicare information network.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The committee shall consist of 9 members of whom—

"(i) 3 shall be appointed by the President;

"(ii) 3 shall be appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; and

"(iii) 3 shall be appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate.

The appointments of the members shall be made not later than 60 days after the date of the enactment of this section. The President shall designate 1 member as the Chair.

"(B) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, information networking and integration, consumer health, or health care financial management, and who possess the demonstrated capacity to discharge the duties imposed on the committee.

"(C) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of not more than 3 members expire at one time.

"(D) INITIAL MEETING.—Not later than 30 days after the date on which a majority of the members have been appointed, the committee shall hold its first meeting.

"(4) REPORTS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the committee shall submit to Congress and the Secretary a report regarding—

"(A) the extent to which entities using the medicare information network are meeting the standards adopted under this section and working together to form an integrated network that meets the needs of its users;

"(B) the extent to which such entities are meeting the security standards established pursuant to this section and the types of penalties assessed for noncompliance with such standards;

"(C) any problems that exist with respect to implementation of the medicare information network; and

"(D) the extent to which timetables under this section are being met.

Reports made under this subsection shall be made available to health care providers, health plans, and other entities that use the medicare information network to exchange medicare information.

"(h) DEFINITIONS.—For purposes of this section:

"(1) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, enrollment information, and encounter data.

"(2) COORDINATION OF BENEFITS.—The term 'coordination of benefits' means determining and coordinating the financial obligations of health plans when health care benefits are payable under such a plan and under this title (including under a MedicarePlus product).

"(3) MEDICARE INFORMATION.—The term 'medicare information' means any information that relates to the enrollment of individuals under this title (including information relating to elections of MedicarePlus products under section 1805) and the provision of health benefits (including benefits provided under such products) under this title.

"(4) MEDICARE INFORMATION NETWORK.—The term 'medicare information network' means the medicare information system that is formed through the application of the requirements and standards established under this section.

"(5) MEDICARE INFORMATION NETWORK SERVICE.—The term 'medicare information network service' means a public or private entity that—

"(A) processes or facilitates the processing of nonstandard data elements of medicare information into standard data elements;

"(B) provides the means by which persons may meet the requirements of this section; or

"(C) provides specific information processing services.

"(6) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, or any combination thereof:

"(A) Part A or part B of this title, and includes a MedicarePlus product.

"(B) The medicaid program under title XIX and the MediGrant program under title XXI.

"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

"(D) Worker's compensation or similar insurance.

"(E) Automobile or automobile medical-payment insurance.

"(F) A long-term care policy, other than a fixed indemnity policy.

"(G) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(H) An employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits.

"(7) INDIVIDUALLY IDENTIFIABLE MEDICARE INFORMATION.—The term 'individually identifiable medicare information' means medicare enrollment information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or medicare information network service, and

"(B) identifies an individual.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute.

"(9) STANDARD TRANSACTION.—The term 'standard transaction' means, when referring to an information transaction or to data elements of medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).".

PART 5—OTHER PROVISIONS RELATING TO PARTS A AND B

SEC. 15741. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term "approved device" means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 15742. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2), section 15609B(a), and section 15701(c)(2)(C), is amended—

(1) by striking "or" at the end of paragraph (17),

(2) by striking the period at the end of paragraph (18) and inserting "; or", and

(3) by inserting after paragraph (18) the following new paragraph:

"(19) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 15743. COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES.

(a) ESTABLISHMENT OF DEMONSTRATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and operate over a 2-year period a demonstration project in 2 geographic regions selected by the Secretary under which (notwithstanding any provision of title XVIII of the Social Security Act to the contrary) the amount of payment made under the medicare program for a selected item or service (other than clinical diagnostic laboratory tests) furnished in the region shall be equal to the price determined pursuant to a competitive bidding process which meets the requirements of subsection (b).

(b) REQUIREMENTS FOR COMPETITIVE BIDDING PROCESS.—The competitive bidding process used under the demonstration project under this section shall meet such requirements as the Secretary may impose to ensure the cost-effective delivery to medicare beneficiaries in the project region of items and services of high quality.

(c) DETERMINATION OF SELECTED ITEMS OR SERVICES.—The Secretary shall select items and services to be subject to the demonstration project under this section if the Secretary determines that the use of competitive bidding with respect to the item or service under the project will be appropriate and cost-effective. In determining the items or services to be selected, the Secretary shall consult with an advisory taskforce which includes representatives of providers and suppliers of items and services (including small business providers and suppliers) in each geographic region in which the project will be effective.

SEC. 15744. DISCLOSURE OF CRIMINAL CONVICTIONS RELATING TO PROVISION OF HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) The Secretary, and each State or local survey agency or other State agency responsible for monitoring compliance of home health agencies with requirements, shall make available, upon request of any person, information the Secretary or agency has on individuals who have been convicted of felonies relating to the provision of home health services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 15745. REQUIRING RENAL DIALYSIS FACILITIES TO MAKE SERVICES AVAILABLE ON A 24-HOUR BASIS.

(a) IN GENERAL.—Section 1881(b)(1) (42 U.S.C. 1395rr(b)(1)) is amended by striking the period at the end and inserting the following: ", together with a requirement (in the case of a renal dialysis facility) that the facility make institutional dialysis services and supplies available on a 24-hour basis (either directly or through arrangements with providers of services or other renal dialysis facilities that meet the requirements of such subparagraph) and that the facility provide notice informing its patients of the other providers of services or renal dialysis facilities (if any) with whom the facility has made such arrangements.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1996.

Subtitle I—Clinical Laboratories

SEC. 15801. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

"(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

"(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

"(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).";

(2) in paragraph (3) (as so redesignated) by striking "(3)" and inserting "(4)"; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking "(2)" and inserting "(3)".

Subtitle J—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

SEC. 15901. ESTABLISHMENT OF MEDICARE GROWTH REDUCTION TRUST FUND FOR PART B SAVINGS.

Part B of title XVIII is amended by inserting after section 1841 the following new section:

"MEDICARE GROWTH REDUCTION TRUST FUND

"SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Growth Reduction Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Trust Fund, out of any amounts in the Treasury not otherwise appropriated, amounts equivalent to 100 percent of the Secretary's estimate of the reductions in outlays under this part that are attributable to the Medicare Preservation Act of 1995. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund.

"(3)(A) Subject to subparagraph (B), with respect to monies transferred to the Trust Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(B) Beginning with fiscal year 2003, the Secretary may expend funds in the Trust Fund to carry out this title, but only to the extent provided by Congress in advance through a specific amendment to this section.

"(b) The provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Supplementary Medical Insurance Trust Fund.".

H.R. 2425

OFFERED BY: MR. GIBBONS

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 2: Strike all after the enacting clause and insert the following:

TITLE XV—MEDICARE

SEC. 15000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the "Medicare Enhancement Act of 1995".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(d) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Subtitle A—Provisions Relating to Medicare Part A

Sec. 15001. Reductions in inflation updates for inpatient hospital services.
Sec. 15002. Continuation of current reduction in payments for capital-related costs for inpatient hospital services.
Sec. 15003. Elimination of certain additional payments for outlier cases.
Sec. 15004. Clarification of treatment of transfers.
Sec. 15005. Prospective payment for skilled nursing facilities.
Sec. 15006. Maintaining savings resulting from temporary freeze on payment increases for skilled nursing facilities.

Subtitle B—Provisions Relating to Medicare Part B

Sec. 15101. Payment for physicians' services.
Sec. 15102. Freeze in updates to payment amounts for certain items and services.
Sec. 15103. Reduction in effective beneficiary coinsurance rate for certain hospital outpatient services.
Sec. 15104. Expanding coverage of preventive benefits.
Sec. 15105. Reduction in payment for capital-related costs of hospital outpatient services.
Sec. 15106. Part B premium.
Sec. 15107. Ensuring payment for physician and nurse for jointly furnished anesthesia services.

Subtitle C—Provisions Relating to Parts A and B

PART 1—MEDICARE SECONDARY PAYOR

Sec. 15201. Extension of existing secondary payer requirements.
Sec. 15202. Clarification of time and filing limitations.
Sec. 15203. Clarification of liability of third party-administrators.
Sec. 15204. Clarification of payment amounts to medicare.
Sec. 15205. Conditions for double damages.

PART 2—OTHER PROVISIONS RELATING TO PARTS A AND B

Sec. 15221. Making additional choices of health plans available to beneficiaries.
Sec. 15222. Teaching hospital and graduate medical education trust fund.
Sec. 15223. Revisions in determination of amount of payment for medical education.
Sec. 15224. Payments for home health services.
Sec. 15225. Requiring health maintenance organizations to cover appropriate range of services.
Sec. 15226. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 15227. Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens.

Subtitle D—Preventing Fraud and Abuse

PART 1—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

Sec. 15301. Anti-kickback statutory provisions.
Sec. 15302. Civil money penalties.
Sec. 15303. Private right of action.
Sec. 15304. Amendments to exclusionary provisions in fraud and abuse program.
Sec. 15305. Sanctions against practitioners and persons for failure to comply with statutory obligations relating to quality of care.
Sec. 15306. Revisions to criminal penalties.
Sec. 15307. Definitions.
Sec. 15308. Effective date.

PART 2—INTERPRETIVE RULINGS ON KICKBACKS AND SELF-REFERRAL

Sec. 15311. Establishment of process for issuance of interpretive rulings.
Sec. 15312. Effect of issuance of interpretive ruling.
Sec. 15313. Imposition of fees.

PART 3—DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE

Sec. 15321. Direct spending for anti-fraud activities under medicare.

PART 4—PREEMPTION OF STATE CORPORATE PRACTICE LAWS UNDER MEDICARE

Sec. 15331. Preemption of State laws prohibiting corporate practice of medicine for purposes of medicare.

PART 5—MEDICARE ANTI-FRAUD AND ABUSE COMMISSION

Sec. 15341. Establishment of Medicare Anti-Fraud and Abuse Commission.
Sec. 15342. Functions of Commission.
Sec. 15343. Organization and compensation.
Sec. 15344. Staff of Commission.
Sec. 15345. Authority of Commission.
Sec. 15346. Termination.
Sec. 15347. Authorization of appropriations.

Subtitle A—Provisions Relating to Medicare Part A

SEC. 15001. REDUCTIONS IN INFLATION UPDATES FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following:

"(XI) for each of the fiscal years 1996 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area and the market basket percentage increase minus 1.0 percentage point for all other hospitals, and

"(XII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

(b) PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) in subclause (V)—

(A) by striking "thorugh 1997" and inserting "through 1995", and

(B) by striking "and" at the end;

(2) by redesignating subclause (VI) as subclause (VII); and

(3) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1996 through 2002, is the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area and the market basket percentage increase minus 1.0 percentage point for all other hospitals, and".

SEC. 15002. CONTINUATION OF CURRENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) REDUCTION IN PAYMENTS FOR PPS HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence by striking "through 1995" and inserting "through 2002".

(b) REDUCTION IN PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.

"(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1)).".

SEC. 15003. ELIMINATION OF CERTAIN ADDITIONAL PAYMENTS FOR OUTLIER CASES.

(a) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended—

(1) by striking "the sum of"; and

(2) by striking "and the amount paid to the hospital under subparagraph (A)".

(b) DISPROPORTIONATE SHARE ADJUSTMENTS.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended—

(1) by striking "the sum of"; and

(2) by striking "and the amount paid to the hospital under subparagraph (A) for that discharge".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1995.

SEC. 15004. CLARIFICATION OF TREATMENT OF TRANSFERS.

(a) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 15005. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITIES.

Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October

1, 1996, provide for payment for routine costs of extended care services in accordance with a prospective payment system established by the Secretary, subject to the limitations in subsections (f) through (h).

"(f)(1) The amount of payment under subsection (e) shall be determined on a per diem basis.

"(2) The Secretary shall compute the routine costs per diem in a base year (determined by the Secretary) for each skilled nursing facility, and shall update the per diem rate on the basis of a market basket and other factors as the Secretary determines appropriate.

"(3) The per diem rate applicable to a skilled nursing facility may not exceed the following limits—

"(A) With respect to skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in rural areas within the same region, as updated by the same percentage determined under paragraph (2).

"(B) With respect to skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in urban areas within the same region, updated by the same percentage determined under paragraph (2).

"(g) In the case of a hospital-based skilled nursing facility or a skilled nursing facility receiving payment under subsection (d) as of the date of enactment of this provision, the amount of payment to the facility based on application of subsections (e) and (f) may not be less than the per diem rate applicable to the facility for routine costs on the date of enactment of this provision.

"(h) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1998, provide for payment for all costs of extended care services (including routine service costs, ancillary costs, and capital-related costs) in accordance with a prospective payment system established by the Secretary. The Secretary shall adjust the payment amounts under this subsection in a manner to assure that the aggregate payments made under this subsection in a fiscal year result in a 5 percent reduction (as estimated by the Secretary) in the amount of payments that would otherwise have been made for such fiscal year.

"(i) The Secretary may provide for such exceptions as the Secretary determines appropriate to the amount of payment based on application of subsections (e) though (h).".

SEC. 15006. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITIES.

(a) Basing Updates to Per Diem Cost Limits on Limits for Fiscal Year 1993.—

(1) In general.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(2) No exceptions permitted based on amendment.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) Payments Determined on Prospective Basis.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

Subtitle B—Provisions Relating to Medicare Part B

SEC. 15101. PAYMENT FOR PHYSICIANS' SERVICES.

(a) Replacement of Volume Performance Standard With Cumulative Expenditure Target.—Section 1848(f)(2) (42 U.S.C. 1395w@4(f)(2)) is amended to read as follows:

"(f) Cumulative Expenditure Target.—

"(1) Specification of target.—

"(A) Fiscal year 1996.—The cumulative expenditure target for all physicians' services and for each category of such services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) Subsequent fiscal years.—The cumulative expenditure target for all physicians' services and for each category of physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the cumulative expenditure target determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.".

"(2) Exclusion of services furnished to private plan enrollees.—In this subsection, the term 'physicians' services' with respect to a fiscal year does not include services furnished to an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) Establishing Update to Conversion Factor to Match Spending Under Cumulative Expenditure Target.—

(1) In general.—Section 1848(d) (42 U.S.C. 1395w@4(d)(3)) is amended—

(A) by striking paragraph (2);

(B) by amending paragraph (3) to read as follows:

"(3) Update.—

"(A) In general.—Subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) Update adjustment factor.—The 'update adjustment factor' for a year for a category of physicians' services is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services in such category furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished in such category during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services in such category furnished during the year.

"(C) Determination of allowed expenditures.—For purposes of subparagraph (B), allowed expenditures for physicians' services in a category of physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June of 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the cumulative expenditure target under subsection (f) for the fiscal year which begins during the year.

"(D) Determination of actual expenditures.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services in a category of physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) Restriction on variation from medicare economic index.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 percent of the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year; or

"(ii) less than 92.5 percent of the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year."; and

(C) by adding at the end the following new paragraph:

"(4) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—Not later than November 1 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that describes the update in the conversion factor for physicians' services (as defined in subsection (f)(3)(A)) in the following year.

"(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) for a year and shall submit to the Congress, by not later than December 1 of the year, a report containing its analysis of the conversion factor for the following year.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—Section 1848(d)(1) (42 U.S.C. 1395w@4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $34.60 for all physicians' services.".

SEC. 15102. FREEZE IN UPDATES TO PAYMENT AMOUNTS FOR CERTAIN ITEMS AND SERVICES.

(a) CLINICAL DIAGNOSTIC LABORATORY TESTS.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended striking "1994 and 1995" and inserting "1994, 1995, 1996, and 1997".

(b) DURABLE MEDICAL EQUIPMENT.—

(1) COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) for 1996 and 1997, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "1994, 1995, 1996, and 1997".

(c) AMBULATORY SURGICAL CENTER SERVICES.—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal years 1996 and 1997.

SEC. 15103. REDUCTION IN EFFECTIVE BENEFICIARY COINSURANCE RATE FOR CERTAIN HOSPITAL OUTPATIENT SERVICES.

(a) IN GENERAL.—

(1) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(A) by striking "of 80 percent"; and

(B) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(2) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "of 80 percent"; and

(B) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) REDUCTION IN BENEFICIARY COINSURANCE RATE.—Section 1866(a)(2) (42 U.S.C. 1395cc(a)(2)) is amended by adding at the end the following new subparagraph:

"(E)(i) In the case of services furnished during a year for which the amount of payment under part B is determined under section 1833(i) or section 1833(n), clause (ii) of subparagraph (A) shall be applied by reducing '20 percent' by the percentage established for the year under clause (ii).

"(ii) The percentage established for a year under this clause shall be the percentage which, if applied for the year, will result in a reduction in projected total coinsurance payments under part B during the year in an amount equal to the Secretary's estimate of the reduction in expenditures under part B which would have occurred as a result of the enactment of section 15103(a) of the Medicare Enhancement Act of 1995 if this subparagraph were not in effect for the year.

"(iii) The Secretary shall establish and publish the percentage established for a year under this clause not later than October 1 preceding the year involved (or not later than December 1, 1995, in the case of the percentage established for 1996).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to services furnished during portions of cost reporting periods occurring on or after January 1, 1996.

SEC. 15104. EXPANDING COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(B) by striking "(nn)" and inserting "(nn)(1)";

(C) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(D) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

"(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).".

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking "and (5)" and inserting "(5)"; and

(B) by striking the period at the end and inserting the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

"(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

"(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

"(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) REVISION OF FREQUENCY.—

"(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

"(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.".

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w–4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking "and" at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(III) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(ii) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) PROSTATE CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and".

(2) TESTS DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.".

(3) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(e) DIABETES SCREENING BENEFITS.—

(1) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking "and" at the end of subparagraph (N);

(ii) by striking "and" at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

"(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and".

(B) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

"DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.".

(C) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(A) INCLUDING STRIPS AS DURABLE MEDICAL EQUIPMENT.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: ", and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);".

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by adding "or" at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

"(iv) which is a blood-testing strip for an individual with diabetes,".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

SEC. 15105. REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS OF HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 15106. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "1995" and inserting "1996", and

(2) in subparagraph (B)(v), by inserting "and 1996" after "1995".

SEC. 15107. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—

(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) (42 U.S.C. 1395w@4(a)(4)) is amended by adding at the end the following new subparagraph:

"(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".

(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".

(b) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

Subtitle C—Provisions Relating to Parts A and B

PART 1—MEDICARE SECONDARY PAYER

SEC. 15201. EXTENSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "18-month", and

(2) by striking the second sentence.

SEC. 15202. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) IN GENERAL.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) TIME, FILING, AND RELATED PROVISIONS UNDER PRIMARY PLAN.—Requirements under a primary plan as to the filing of a claim, time limitations for the filing of a claim, information not maintained by the Secretary, or notification or pre-admission review, shall not apply to a claim by the United States under clause (ii) or (iii).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to items and services furnished after 1993.

SEC. 15203. CLARIFICATION OF LIABILITY OF THIRD PARTY ADMINISTRATORS.

(a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended by inserting ", or which determines claims under the primary plan" after "primary plan".

(b) CLAIMS BETWEEN PARTIES OTHER THAN THE UNITED STATES.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) (as amended by section 15201(a)) is further amended by adding at the end the following new clause:

"(vi) CLAIMS BETWEEN PARTIES OTHER THAN THE UNITED STATES.—A claim by the United States under clause (ii) or (iii) shall not preclude claims between other parties.".

(c) EFFECTIVE DATE.—The amendments made by the previous subsections apply to items and services furnished after 1993.

SEC. 15204. CLARIFICATION OF PAYMENT AMOUNTS TO MEDICARE.

(a) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended to read as follows:

"(i) REPAYMENT REQUIRED.—

"(I) Any payment under this title, with respect to any item or service for which payment by a primary plan is required under the preceding provisions of this subsection, shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for that item or service has been or should have been made under those provisions. If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).

"(II) The amount owed by a primary plan under the first sentence of subclause (I) is the lesser of the full primary payment required (if that amount is readily determinable) and the amount paid under this title for that item or service.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Subparagraphs (A)(i)(I) and (B)(i) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended by inserting "(or eligible to be covered)" after "covered".

(2) Section 1862(b)(1)(C)(ii) (42 U.S.C. 1395y(b)(1)(C)(ii)) is amended by striking "covered by such plan".

(3) The matter in section 1861(b)(2)(A) (42 U.S.C. 1395x(b)(2)(A)) preceding clause (i) is amended by striking ", except as provided in subparagraph (B),".

(c) EFFECTIVE DATE.—The amendments made by the previous subsections apply to items and services furnished after 1993.

SEC. 15205. CONDITIONS FOR DOUBLE DAMAGES.

(a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking ", in accordance with paragraph (3)(A)", and

(2) by inserting ", unless the entity demonstrates that it did not know, and could not have known, of its obligation to pay" after "against that entity".

(b) CONFORMING AMENDMENT.—Section 1862(b)(3)(A) (42 U.S.C. 1395y(b)(3)(A)) is amended by striking "(or appropriate reimbursement)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished after 1993.

PART 2—OTHER PROVISIONS RELATING TO PARTS A AND B

SEC. 15221. MAKING ADDITIONAL CHOICES OF HEALTH PLANS AVAILABLE TO BENEFICIARIES.

(a) DEFINITION OF PPO.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) A preferred provider organization (as defined in paragraph (2)) shall be considered to be an eligible organization under this section.

"(2) In this section, the term 'preferred provider organization' means an organization that—

"(A) would be an eligible organization (as defined in subsection (b)) if—

"(i) clauses (ii) through (iv) of subsection (b)(2)(A) did not apply,

"(ii) subsection (b)(2)(C) did not apply, and

"(iii) subsection (b)(2)(D) only applied (in the case of services not provided under this title) to the physicians' services the organization provides; and

"(B) permits enrollees to obtain benefits through any lawful provider.

Nothing in subparagraph (B) shall be construed as requiring that the benefits for services provided through providers that do not have a contract with the organization be the same as those for services provided through providers that have such contracts so long as an enrollee's liabilities do not exceed the liabilities that the enrollee would have under parts A and B if the individual were not enrolled under this section.".

(b) PARTIAL RISK PAYMENT METHODS.—Section 1876 (42 U.S.C. 1395mm) is further amended by adding at the end the following new subsection:

"(l) Notwithstanding the previous provisions of this section, at the election of an eligible organization the Secretary may establish an alternative partial-risk-sharing mechanism for making payment to the organization under this section. Under such mechanism fee-for-service payments would be made to the organization for some services provided under the contract, under such conditions and subject to such restrictions as the Secretary may determine.".

(c) CONFORMING AMENDMENT.—Section 1876 (42 U.S.C. 1395mm) is further amended—

(1) in the heading by striking "ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS" and inserting "ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND PREFERRED PROVIDER ORGANIZATIONS", and

(2) in subsection (c)(3)(E)(ii), by inserting "(if any)" after "the restrictions".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

SEC. 15222. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

"TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2101. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

"(c) TRANSFERS TO FUND.—

"(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

"(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

"(A) the nationwide total of the amounts that would have been paid under section 1876(a)(4) during the year but for the exclusion of medical education payments from the adjusted average per capita cost pursuant to section 1876(a)(4)(B)(ii); and

"(B) the nationwide total of the amounts paid under section 1876(a)(4) during the year.

"(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.".

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the "Council").

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended—

(A) by striking "(4)" and inserting "(4)(A)"; and

(B) by adding at the end the following new subparagraph:

"(B) In determining the adjusted average per capita cost for a contract year under subparagraph (A), the Secretary shall exclude any amounts which the Secretary estimates would be payable under this title during the year for—

"(i) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

"(ii) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).".

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

"(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount excluded from the adjusted average per capita cost for the fiscal year pursuant to section 1876(a)(4)(B)(i).".

SEC. 15223. REVISIONS IN DETERMINATION OF AMOUNT OF PAYMENT FOR MEDICAL EDUCATION.

(a) INDIRECT MEDICAL EDUCATION.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clauses:

"(v) In determining such adjustment with respect to a hospital for discharges occurring on or after October 1, 1995, and on or before September 30, 2002—

"(I) the total number of interns and residents counted by the Secretary may not exceed the number of interns and residents counted with respect to the hospital as of August 1, 1995, and

"(II) the number of interns and residents counted by the Secretary who are not primary care residents (as defined in subsection (h)(5)(H)) may not exceed the number of such residents counted with respect to the hospital as of such date.

"(vi) In calculating the number of full-time-equivalent interns and residents of a hospital in determining such adjustment with respect to the hospital, the Secretary shall provide for a weighting factor of .50 with respect to each intern and resident who is not in an initial residency period (as defined in subsection (h)(5)(F)).".

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by striking "any entity" and all that follows through "and residents)" and inserting "any other entity under an agreement with the hospital".

(b) DIRECT MEDICAL EDUCATION.—

(1) LIMITATION ON NUMBER OF RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002—

"(i) the total number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents with respect to the program as of August 1, 1995, and

"(ii) the number of full-time-equivalent residents determined under this paragraph with respect to the program who are not primary care residents (as defined in paragraph (5)(H)) may not exceed the number of such residents counted with respect to the program as of such date.".

(2) CONTINUATION OF FREEZE ON UPDATES TO FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D)(ii) (42 U.S.C. 1395ww(h)(2)(D)(ii)) is amended by striking "fiscal year 1994 or fiscal year 1995" and inserting "fiscal years 1994, 1995, 1996, or 1997".

(3) PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) Beginning with cost reporting periods beginning on or after July 1, 1996, notwithstanding any other provision of this title, the Secretary may make payments (in such amounts and in such form as the Secretary considers appropriate) to entities other than hospitals for the direct costs of medical education, if such costs are incurred in the operation of an approved medical residency training program described in subsection (h).".

(c) EXPANDING DEFINITION OF PRIMARY CARE RESIDENTS.—Section 1886(h)(5)(H) (42 U.S.C. 1395ww(h)(5)(H)) is amended by inserting "obstetrics and gynecology," after "geriatric medicine,".

(d) EFFECTIVE DATE.—Except as provided otherwise in this section (or in the amendments made by this section), the amendments made by this section apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 15224. PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by inserting "and before October 1, 1996," after "July 1, 1987" in subclause (III),

(2) by striking the period at the end of the matter following subclause (III), and inserting ", and",

(3) by adding at the end the following new subclause:

"(IV) October 1, 1996, 105 percent of the median of the labor-related and nonlabor per visit costs for free standing home health agencies.".

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "July 1, 1996" and inserting "October 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(d) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(e) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(f) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

"(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.".

(g) LIMITATION ON PART A COVERAGE.—

(1) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 160 visits during any spell of illness;".

(2) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 160 visits during such spell.".

(3) Exclusion of additional part B costs from determination of part B monthly premium.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5))."; and

(B) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(4) Effective date.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

(h) Requiring Billing and Payment To Be Based on Site Where Service Furnished.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.".

(i) Maintaining Savings Resulting From Temporary Freeze on Payment Increases.—

(1) Basing updates to per visit cost limits on limits for fiscal year 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(2) No exceptions permitted based on amendment.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 15225. REQUIRING HEALTH MAINTENANCE ORGANIZATIONS TO COVER APPROPRIATE RANGE OF SERVICES.

(a) In General.—Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(9) The organization shall not deny any health care professionals, based solely on the license or certification as applicable under State law, the ability to participate in providing services covered under the contract under this section, or be reimbursed or indemnified or by a network plan for providing such services under the contract.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to risk-sharing contracts under section 1876 of the Social Security Act which entered into or renewed on or after January 1, 1996.

SEC. 15226. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) Coverage.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of either an approved device or a covered procedure.

(b) Clarification of Payment Amount.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device or a covered procedure.

(c) Definitions.—In this section—

(1) the term "approved device" means a medical device (or devices) which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means—

(A) a medical device or devices (other than a device described in paragraph (1)) approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act, or

(B) an investigational combination product under section 503(g) of the Federal Food, Drug, and Cosmetic Act which includes a device (or devices) authorized for use under section 505(i) of such Act.

SEC. 15227. COMMISSION ON THE FUTURE OF MEDICARE AND THE PROTECTION OF THE HEALTH OF THE NATION'S SENIOR CITIZENS.

(a) Establishment.—There is established a commission to be known as the Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens (in this section referred to as the "Commission").

(b) Duties.—

(1) In general.—The Commission shall—

(A) analyze indicators of the health status of individuals in the United States who are eligible for benefits under the medicare program;

(B) make specific recommendations on actions which may be taken to improve the medicare program which would promote the health of medicare beneficiaries;

(C) analyze the effect of changes in the medicare program (including changes in medicare payments) on the access to and delivery of health care services to individuals who are not medicare beneficiaries;

(D) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(E) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) Considerations in making recommendations.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program.

(B) The most efficient and effective manner of administering the program.

(C) Methods used by other nations to finance the delivery of health care services to their citizens.

(D) The financial impact on the medicare program of increases in the number of individuals in the United States without health insurance coverage.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint 3 members.

(C) The Minority Leader of the Senate shall appoint 3 members.

(D) The Speaker of the House of Representatives shall appoint 3 members.

(E) The Minority Leader of the House of Representatives shall appoint 3 members.

(2) Chairman and vice chairman.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) Vacancies.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) Quorum.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) Meetings.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) Compensation and reimbursement of expenses.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) Staff and Consultants.—

(1) Staff.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) Powers.—

(1) Hearings and other activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) Studies by GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations

as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

Subtitle D—Preventing Fraud and Abuse

PART 1—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

SEC. 15301. ANTI-KICKBACK STATUTORY PROVISIONS.

(a) REVISION TO PENALTIES.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraphs (1) and (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);".

(2) DESCRIPTION OF CIVIL MONETARY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "given)." at the end of the first sentence and inserting the following: "given or, in cases under paragraph (4), $50,000 for each such violation)."; and

(B) by striking "claim." at the end of the second sentence and inserting the following: "claim (or, in cases under paragraph (4), damages of not more than three times the total amount of remuneration offered, paid, solicited, or received.".

(3) INCREASE IN CRIMINAL PENALTY.—Paragraphs (1) and (2) of section 1128B(b) (42 U.S.C. 1320a–7b(b)) are each amended—

(A) by striking "$25,000" and inserting "$50,000"; and

(B) by striking the period at the end and inserting the following: ", and shall be subject to damages of not more than three times the total remuneration offered, paid, solicited, or received.".

(b) REVISIONS TO EXCEPTIONS.—

(1) EXCEPTION FOR DISCOUNTS.—Section 1128B(b)(3)(A) (42 U.S.C. 1320a–7b(b)(3)(A)) is amended by striking "program;" and inserting "program and is not in the form of a cash payment;".

(2) EXCEPTION FOR PAYMENTS TO EMPLOYEES.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting at the end "if the amount of remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals, except that such employee can be paid remuneration in the form of a productivity bonus based on services personally performed by the employee.".

(3) EXCEPTION FOR WAIVER OF COINSURANCE BY CERTAIN PROVIDERS.—Section 1128B (b)(3)(D) (42 U.S.C. 1320a–7b(b)(3)(D)) is amended to read as follows:

"(D) a waiver or reduction of any coinsurance or other copayment if—

"(i) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

"(ii) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(iii) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

"(iv) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

"(v) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan (as defined in section 1128(j)); and".

(4) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972; and

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service.".

(c) AUTHORIZATION FOR THE SECRETARY TO ISSUE REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions described in paragraph (3).".

(d) CLARIFICATION OF OTHER ELEMENTS OF OFFENSE.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(2) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend"; and

(3) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.".

SEC. 15302. CIVIL MONEY PENALTIES.

(a) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by section 15301(a)(1), is amended—

(A) by striking "; or" at the end of paragraph (3) and inserting a semicolon;

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program, other than to influence an individual enrolled in a managed care plan or a point-of-service plan (as defined in section 1128(j)) to receive benefits under the plan in accordance with established practice patterns for the delivery of medically necessary services;".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver or reduction of coinsurance amounts, and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver or reduction of coinsurance amounts by a person or entity, if—

"(A) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

"(B) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(C) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

"(D) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

"(E) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan under section 1128(j).".

(b) Additional Offenses.—Section 1128A(a) of such Act, as amended by section 15301(a)(1) and subsection (a)(1), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the semicolon at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) engages in a practice which has the effect of limiting or discouraging (as compared to other plan enrollees) the utilization of medically necessary health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

"(7) substantially fails to cooperate with a quality assurance program or a utilization review activity; or

"(8) engaging in a pattern of failing substantially to provide or authorize medically necessary items and services that are required to be provided to an individual covered under a health plan (as defined in section 1128(j)) or public program for the delivery of or payment for health care items or services, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individual;".

"(9) submits false or fraudulent statements, data or information on claims to the Secretary, a State health care agency, or any other Federal, State or local agency charged with implementation or oversight of a health plan or a public program that the person knows or should know is fraudulent;".

(c) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by section 15301(a), subsection (a)(1), and subsection (b), is amended in the matter following paragraph (9)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting after "under paragraph (4), $50,000 for each such violation" the following: "; in cases under paragraph (5), $10,000 for each such offer, payment, or transfer; in cases under paragraphs (6) through (9), an amount not to exceed $10,000 for each such determination by the Secretary"; and

(3) by striking "twice the amount" and inserting "three times the amount".

(d) Interest on Penalties.—Section 1128A(f) (42 U.S.C. 1320a–7a(f)) is amended by adding after the first sentence the following: "Interest shall accrue on the penalties and assessments imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where the penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of penalties and assessments owed to cover the costs of collection.".

(e) Authorization To Act.—

(1) In general.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by striking all that follows "(b)" and inserting the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(2) Effective date.—The amendment made by this paragraph (1) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

(f) Clarification of Penalty Imposed on Excluded Provider Furnishing Services.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a–7a(a)(1)(D)) is amended by inserting "who furnished the service" after "in which the person".

SEC. 15303. PRIVATE RIGHT OF ACTION.

Section 1128A (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m)(1) Subject to paragraphs (2) and (3), a carrier offering an insured health plan and the sponsor of a self-insured health plan that suffers financial harm as a direct result of the submission of claims by an individual or entity for payment for items and services furnished under the plan which makes the individual or entity subject to a civil monetary penalty under this section may, in a civil action against the individual or entity in the United States District Court, obtain damages against the individual or entity and such equitable relief as is appropriate.

"(2) A carrier or sponsor may bring a civil action under this subsection only if the carrier or sponsor provides the Secretary and the Attorney General with written notice of the intent to bring an action under this subsection, the identities of the individuals or entities the carrier or sponsor intends to name as defendants to the action, and all information the carrier or sponsor possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

"(3) A carrier or sponsor may bring a civil action under this subsection only if any of the following conditions are met:

"(A) During the 60-day period that begins on the date the Secretary receives the written notice described in paragraph (2), the Secretary does not notify the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

"(B) If the Secretary notifies the carrier or sponsor during the 60-day period described in subparagraph (A) that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, the Secretary subsequently notifies the carrier or sponsor that the Secretary no longer intends to initiate such a proceeding against the defendants.

"(C) After the expiration of the 2-year period that begins on the date the Secretary notifies the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, the Secretary has not made a good faith effort to initiate such a proceeding against the defendants.

"(4) No action may be brought under this subsection more than 6 years after the date of the activity with respect to which the action is brought.".

SEC. 15304. AMENDMENTS TO EXCLUSIONARY PROVISIONS IN FRAUD AND ABUSE PROGRAM.

(a) Mandatory Exclusion of Individual Convicted of Criminal Offense Related to Health Care Fraud.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) Felony conviction relating to fraud.—Any individual or entity that has been convicted under Federal or State law, in connection with the delivery of a health care item or service on or after January 1, 1997, or with respect to any act or omission on or after such date in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) Conforming amendment.—Section 1128(b)(1) (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.—

(1) IN GENERAL.—Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraphs (1), (2), or (3) of subsection (b), the period of exclusion shall be a minimum of 3 years, unless the Secretary determines that an alternative period is appropriate because of aggravating or mitigating circumstances.

"(E) In the case of an exclusion of an individual or entity under paragraph (4) or (5) of subsection (b), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

(2) CONFORMING AMENDMENT.—Section 1128(c)(3)(A) (42 U.S.C. 1320a–7(c)(3)(A)) is amended by striking "subsection (b)(12)" and inserting "paragraph (1), (2), (3), (4), (6)(B), or (12) of subsection (b)".

SEC. 15305. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS RELATING TO QUALITY OF CARE.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than one year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) AMOUNT OF CIVIL MONEY PENALTY.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "$10,000 for each instance".

(c) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations," and

(2) by striking the third sentence.

SEC. 15306. REVISIONS TO CRIMINAL PENALTIES.

(a) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a) or (c) any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(b) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

SEC. 15307. DEFINITIONS.

Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) OTHER DEFINITIONS RELATING TO HEALTH PLANS.—

"(1) HEALTH PLAN.—The term 'health plan' means—

"(A) any contract of health insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, that is provided by a carrier in a State; or

"(B) an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides health benefits in a State and is funded in a manner other than through the purchase of one or more policies or contracts described in subparagraph (A).

"(2) MANAGED CARE PLAN.—The term 'managed care plan' means a health plan that provides for items and services covered under the plan primarily through providers in the provider network of the plan.

"(3) POINT-OF-SERVICE PLAN.—The term 'point-of-service plan' means a health plan other than a managed care plan that permits an enrollee to receive benefits through a provider network.

"(4) PROVIDER NETWORK.—The term 'provider network' means, with respect to a health plan, providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services covered under the plan to individuals enrolled in the plan.".

SEC. 15308. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1997.

PART 2—INTERPRETIVE RULINGS ON KICKBACKS AND SELF-REFERRAL

SEC. 15311. ESTABLISHMENT OF PROCESS FOR ISSUANCE OF INTERPRETIVE RULINGS.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Inspector General of the Department of Health and Human Services) shall establish a process under which individuals and entities may submit a request to the Secretary for an interpretive ruling regarding the provisions of section 1128B(b) of the Social Security Act or part 3 which relate to kickbacks, bribes, and rebates, or the provisions of section 1877 of the Social Security Act.

(b) DEADLINE FOR REJECTION OF REQUEST.—If the Secretary of Health and Human Services rejects a request for an interpretive ruling submitted under this section, the Secretary shall notify the individual submitting the request of the rejection not later than 60 days after receiving the request.

SEC. 15312. EFFECT OF ISSUANCE OF INTERPRETIVE RULING.

(a) NO LEGAL EFFECT.—If the Secretary of Health and Human Services issues an interpretive ruling under section 15311, the ruling shall not be binding upon the Secretary, the party requesting the ruling, or any other party.

(b) PUBLICATION OF RULINGS.—The Secretary of Health and Human Services shall publish each interpretive ruling issued under section 15311 in the Federal Register.

SEC. 15313. IMPOSITION OF FEES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall require an individual or entity requesting an interpretive ruling under section 15311 to submit a fee.

(b) AMOUNT.—The amount of the fee required under subsection (a) shall be equal to the costs incurred by the Secretary in responding to the request.

PART 3—DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE

SEC. 15321. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 15224(f), is amended by adding at the end the following new section:

"APPROPRIATIONS FOR COMBATING FRAUD AND ABUSE

"SEC. 1894. (a) DIRECT SPENDING FOR PAYMENT SAFEGUARD ACTIVITIES.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for each fiscal year such amounts as are necessary to carry out the payment safeguard activities described in paragraph (2), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The payment safeguard activities described in this paragraph are as follows:

"(A) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review.

"(B) Audit of cost reports.

"(C) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(D) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(B) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(C) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(D) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(E) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(F) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(G) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(b) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust

Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and consumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(c) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under subsection (a) and subsection (b) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

PART 4—PREEMPTION OF STATE CORPORATE PRACTICE LAWS UNDER MEDICARE

SEC. 15331. PREEMPTION OF STATE LAWS PROHIBITING CORPORATE PRACTICE OF MEDICINE FOR PURPOSES OF MEDICARE.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"PERMITTING CORPORATIONS TO SERVE AS PROVIDERS

"SEC. 1893. The Secretary may not refuse to treat any individual or entity as a provider of services under this title or refuse to make payment under this title to the individual or entity on the grounds that the individual or entity is prohibited from practicing medicine under a provision of State or local law which prohibits a corporation from practicing medicine.".

PART 5—MEDICARE ANTI-FRAUD AND ABUSE COMMISSION

SEC. 15341. ESTABLISHMENT OF MEDICARE ANTI-FRAUD AND ABUSE COMMISSION

(a) IN GENERAL.—There is established a commission to be known as the "Medicare Anti-Fraud and Abuse Commission" (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 8 members as follows:

(1) OFFICIALS.—

(A) The Secretary of Health and Human Services (or the Secretary's designee).

(B) The Inspector General of the Department of Health and Human Services (or the Inspector General's designee).

(C) The Administrator of the Health Care Financing Administration (or the Administrator's designee).

(2) PUBLIC MEMBERS.—Five members, appointed by the President, of which—

(A) one shall be a representative of physicians;

(B) one shall be a representative of hospital administrators;

(C) one shall be a representative of medicare carriers;

(D) one shall be a representative of medicare peer review organizations; and

(E) one shall be a representative of medicare beneficiaries.

In making appointments under this paragraph of an individual who is a representative of persons or organizations, the President shall consider the recommendations of national organizations that represent such persons or organizations. The President shall report to Congress, within 90 days after the date of the enactment of this Act, the names of the members appointed under this paragraph.

(c) TERMS.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

SEC. 15342. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) investigate the nature, magnitude, and cost of health care fraud and abuse in the medicare program, and

(2) identify and develop the most effective methods of preventing, detecting, and prosecuting or litigating such fraud and abuse, with particular emphasis on coordinating public and private prevention, detection, and enforcement efforts.

(b) PARTICULARS.—Among other items, the Commission shall examine at least the following:

(1) Mechanisms to provide greater standardization of claims administration in order to accommodate fraud prevention and detection.

(2) Mechanisms to allow more freedom of the medicare program to exchange information for coordinating case development and prosecution or litigation efforts, without undermining patient and provider privacy protections or violating anti-trust laws.

(3) Criteria for physician referrals to facilities in which they (or family members) have a financial interest.

(4) The availability of resources to the medicare program to combat fraud and abuse.

(c) REPORT.—After approval by a majority vote, a quorum being present, the Commission shall transmit to Congress a report on its activities. The report shall be transmitted not later than 18 months after the date that a majority of the public members of the Commission have been appointed. The report shall contain a detailed statement of the Commission's findings, together with such recommendations as the Commission considers appropriate.

SEC. 15343. ORGANIZATION AND COMPENSATION.

(a) ORGANIZATION.—

(1) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(2) CHAIRMAN.—The Commission shall elect one of its members to serve as chairman of the Commission.

(3) MEETINGS.—The Commission shall meet at the call of the chairman or a majority of its members. Meetings of the Commission are open to the public under section 10(a)(10) of the Federal Advisory Committee Act, except that the Commission may conduct meetings in executive session but only if a majority of the members of the Commission (a quorum being present) approve going into executive session.

(b) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

SEC. 15344. STAFF OF COMMISSION.

(a) IN GENERAL.—The Commission may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment and compensation and other conditions of service in the competitive service.

(b) DETAIL OF FEDERAL EMPLOYEES.—Upon request of the chairman, any Federal employee who is subject to such laws, rules, and regulations, may be detailed to the Commission to assist it in carrying out its functions under this title, and such detail shall be without interruption or loss of civil service status or privilege.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of 120 percent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

SEC. 15345. AUTHORITY OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OBTAINING OFFICIAL DATA.—

(1) IN GENERAL.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of that department or agency shall furnish that information to the Commission.

(2) ACCESS TO INFORMATION.—Information obtained by the Commission is available to the public in the same manner in which information may be made available under sections 552 and 552a of title 5, United States Code.

(c) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property for the purpose of aiding or facilitating the work of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter which the Commission is authorized to investigate under this title. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

SEC. 15346. TERMINATION.

The Commission shall terminate 90 days after the date the report is submitted under section 15342(c).

SEC. 15347. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its functions, to remain available until expended.

H.R. 2425

OFFERED BY: MR. RANGEL

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 3: Strike all after the enacting clause and insert the following:

TITLE XV—MEDICARE

SEC. 15001. COMMISSION ON THE FUTURE OF MEDICARE AND THE PROTECTION OF THE HEALTH OF THE NATION'S SENIOR CITIZENS.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) analyze indicators of the health status of individuals in the United States who are eligible for benefits under the medicare program;

(B) make specific recommendations on actions which may be taken to improve the medicare program which would promote the health of medicare beneficiaries;

(C) analyze the effect of changes in the medicare program (including changes in medicare payments) on the access to and delivery of health care services to individuals who are not medicare beneficiaries;

(D) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(E) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program.

(B) The most efficient and effective manner of administering the program.

(C) Methods used by other nations to finance the delivery of health care services to their citizens.

(D) The financial impact on the medicare program of increases in the number of individuals in the United States without health insurance coverage.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint 3 members.

(C) The Minority Leader of the Senate shall appoint 3 members.

(D) The Speaker of the House of Representatives shall appoint 3 members.

(E) The Minority Leader of the House of Representatives shall appoint 3 members.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDUES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

SEC. 15002. LIMITATION ON TAX BENEFITS; APPROPRIATION OF SAVINGS TO MEDICARE PART A TRUST FUND.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the reduction in a taxpayer's net tax liability for any taxable period or event by reason of a provision referred to in subsection (c) shall not exceed the applicable fraction of the amount of such reduction (determined without regard to this section), and

(2) any increase in such liability for any taxable period or event by reason of such a provision shall not exceed the applicable fraction of such increase (determined without regard to this section).

(b) APPLICABLE FRACTION.—For purposes of subsection (a), the term "applicable fraction" means 155/245.

(c) PROVISIONS.—The provisions referred to in this subsection are any provision of this Act or of any Act hereafter enacted which is the same as or comparable to any provision contained in subtitle A, B, C, or D of title VI of H.R. 1215 of the 104th Congress, as passed by the House of Representatives.

(d) NET TAX LIABILITY.—For purposes of subsection (a), the term "net tax liability" means the liability for tax under the Internal Revenue Code of 1986 determined—

(1) after the application of any credit against such tax other than the credits under sections 31, 33, and 34, and

(2) in the case of tax imposed by chapter 1 of such Code, before crediting any payment of estimated tax.

(e) APPROPRIATION OF SAVINGS TO MEDICARE PART A TRUST FUND.—There are hereby appropriated to the Federal Hospital Insurance Trust Fund established pursuant to section 1817 of the Social Security Act amounts equal to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of subsection (a). Such appropriated amounts shall be transferred from the general fund of the Treasury on the basis of estimates of such tax liabilities made by the Secretary of the Treasury. Transfers shall be made pursuant to a schedule made by the Secretary of the Treasury that takes into account estimated timing of collection of such liabilities.

EXTENSIONS OF REMARKS

A RENAISSANCE MAN OF VISION, HUMANITY, AND TECHNICAL EXPERTISE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. LANTOS. Mr. Speaker, I rise to pay tribute to the leadership James D. Wolfensohn is displaying in his new role as the president of the World Bank. At the Bank's annual meeting this past week in Washington, Mr. Wolfensohn unveiled his ambitious blueprint for the global development agency's role in a changing world. He is fully cognizant of the difficulties facing the organization, but emphasizes the new opportunities for the Bank, the donor countries, and the recipient nations to forge a more effective partnership.

Of course, Mr. Wolfensohn has been forging productive partnerships in the business, academic, and philanthropic communities throughout his long and distinguished career. Prior to joining the Bank, Mr. Wolfensohn was an international banker who played a prominent role in the performing arts.

Before assuming the presidency of the World Bank on June 1, 1995, Mr. Wolfensohn was the chairman of the board of trustees of the John F. Kennedy Center for the Performing Arts. From 1980 to 1991, as chairman of New York's Carnegie Hall, he oversaw the much hailed renovation of this treasured national cultural landmark.

Mr. Wolfensohn also held several key positions in the international community in addition to leading the World Bank. He is chairman of the Institute for Advanced Study at Princeton University as well as the finance chairman of the Howard Hughes Medical Institute. In addition, he is an honorary trustee of the Brookings Institution and member of the Council on Foreign Relations.

Mr. Speaker, I would like to include in the RECORD some highlights from Mr. Wolfensohn's address to the Board of Governors of the World Bank Group at their joint annual discussion on October 10. I think he offers sound advice on the future of multilateral development assistance that all of us would do well to consider:

EXCERPTS OF JAMES D. WOLFENSOHN'S ADDRESS TO THE BOARD OF GOVERNORS OF THE WORLD BANK, OCTOBER 10, 1995

"We have made good progress on poverty reduction in several areas—in East Asia and some parts of Latin America. But there are still 1.3 billion people living on a dollar a day or less. Adequate sanitation and electricity are still beyond the reach of two-fifths of the world's people.

"This shocking poverty is fueled by continuing rapid population growth—increasing by more than 80 million people a year, 95 percent of them in the developing countries. And it is compounded in the developing world. . . .

"It strikes me as bitterly ironic that just as we are reaching a consensus on how to address these challenges in our changing world, the threat to development assistance has never been greater. I refer here specifically to the funding crisis facing our concessional affiliate, the International Development Association—IDA. . . .

". . . IDA is the backbone of the international effort to help the poorest nations help themselves. And yet, despite the record, there is a serious question about the fulfillment of some donor commitments under IDA–10 (covering the years 1993–1996). Budget cutting by the U.S. Congress has led to delays, and probably large reductions in the size of the contribution by IDA's leading donor. And for every dollar cut by the United States, IDA could a total of $% as other nations reduce their contributions proportionally.

"This means that if congressional estimates of a U.S. cut of approximately 50 percent materialize, overall donor contributions to IDA this coming 12 months could be reduced from $6 billion to under $3 billion. Achieving an adequate IDA–11 (covering the years 1996–1999) for the next three years will be extraordinarily difficult if IDA–10 is reduced so drastically. This is not only a threat to IDA, it is a threat to the long-term viability of multilateral financing for development.

"As Michael Camdessus (Managing Director of the International Monetary Fund) has pointed out, if there is a seriously underfunded IDA, we will be faced with a world of increasingly unstable nations. . . .

"The donor community needs to understand the cons of an underfunded IDA. We must explain that world citizenship has a price and that IDA is central to the whole development process. National budget cutting exercises in the developed countries must give due weight to international considerations. Money saved now for domestic purposes will lead to huge costs later. It is the donors' own self-interest to maintain an adequate level of support.

"Obviously, IDA and its partners in government and civil society must be accountable—and must be seen to spend scarce resources wisely and well. There must be a 'compact': that in return for the donor community ensuring IDA has adequate resources, recipient countries and the bank must ensure that those resources are used more effectively. Projects must be well managed and corruption eliminated. In addition, we need to provide better information about the benefits of this important work to donor governments—and to their voters. . . .

"From my experience in the private sector I know the power of partnership. This was reaffirmed during my recent travels (to China, Mexico, and the West Bank and Gaza). . . .

"We must deepen our cooperation—as we have begun to do—with the UN system, the IMF and the WTO. We can expand our cooperation with the private sector—which plays such an increasingly important role in development. And we can do much more to reach out to NGOs and civil society. Let me also pay tribute to the regional development banks with whom we work, and to their leaders who have given me so much advice and help. . . .

"Of all our partnerships, we must remember that the most important is that with the governments to which we lend—and the people that they serve. It is a point worth repeating: we must get closer to our clients. This will mean continuing to strengthen our field presence, while maintaining a very strong base at the center. At the same time, we must be mindful that the projects we finance are not World Bank projects—they are Chinese, or Haitian, or Malawian projects. But it is for the countries to own them and be responsible for them."

BEYOND THE GREAT SATAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MALONEY. Mr. Speaker, the recent incidents involving China's proposed nuclear reactor deal with Iran have focused attention once again on Iran and its troubled place in the community of nations.

I commend to your attention a thoughtful piece which appeared in the Washington Post, written by Hushang Ansary, a former Iranian Ambassador to the United States and Minister of Finance in the Iranian Government before the ouster of the Shah in 1979. While I do not necessarily agree with or endorse all of Ambassador Ansary's proposals, I believe that he lays out an interesting road map for setting relations between the United States and Iran on a new course.

[From the Washington Post, July 9, 1995]

BEYOND THE GREAT SATAN

(By Hushang Ansary)

The Clinton administration has taken a series of steps to further isolate Iran and tighten the economic sanctions that could throttle its economy. If successful, these new U.S. initiatives against the Islamic Republic are likely to have a far-reaching impact on the course of events in a region that supplies much of the West's oil needs.

At the same time, U.S. failure to win strong international backing for its containment policy would allow Iran to continue its pursuit of a nuclear development program, one that continues to raise questions.

President Ali Akbar Hashemi Rafsanjani has retorted that the United States will be the ultimate loser. And so far, America's European allies and Japan have not been supportive.

The latest move to raise the stakes in a decade and a half of hostility between the United States and Iran is no surprise. Secretary of State Warren Christopher has called Iran an outlaw state. President Clinton has used his executive authority to nullify an agreement between Iran and Conoco. A more alarming hint was dropped in February by Gen. Binford Peay, commander of the U.S. Forces in the Middle East, that the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

two countries might even become involved in military conflict.

By the time the last of the American hostages returned home from Tehran just over 15 years ago, even the most optimistic knew that the historic friendship between the United States and Iran has suffered a terrible setback. Successive U.S. administrations have pursued policies of accommodation, military pressure and sanctions against Iran. Some of these policies have backfired, as in the case of the Iran-contra affair. Some have inadvertently provided trading opportunities for others. By and large, this potpourri of U.S. measures has not altered the fundamental positions of Iran.

These measures have, however, helped to push Iran toward international isolation and accelerated the pace of its mostly self-inflicted social and economic ills. Even a policy of critical cooperation, advocated by Germany with French support, has not had the desired effect.

Now that the Clinton administration and the new Republican majority in Congress appear to agree on placing Iran high on the agenda of U.S. foreign policy, is it not time to address the Iranian dilemma at its roots? The United States may hold to its current course of isolating Iran, but it has to reckon with all the international forces at work on this issue. Russian and Chinese nuclear agreements, and German and Japanese debt refinancings, give evidence of the fragility of the administration's approach.

This appears to be a propitious time for a different approach and it is, therefore, worth considering how relations between the United States and Iran might be set on a new course.

Iran is now facing mass unemployment, double-digit inflation, falling productivity and massive foreign debt. The value of the Iranian currency, the rial, dropped from 75 to the dollar in 1977 to 6,000 at one point. Iran's GNP per capita is now less than half its 1977 level.

Iran is also feeling the weight of diplomatic isolation. Sixteen years after the revolution, the only Western head of state to have paid a visit to Tehran is Kurt Waldheim, the former Austrian president.

Economic and governmental disorder have unleashed political forces beyond the control of the radical clergy. In recent months, Iran has faced a number of industrial strikes and anti-government demonstrations. Important social groups, including lawyers, doctors, bazaar merchants, retired military officers, writers and journalists, have publicly challenged the government and its policies.

Even the Shiite Muslim clergy, initially the backbone of the revolutionary regime, has asserted its independence. Some senior ayatollahs have said publicly that they would support new policy makers and policies capable of turning the economy around and ending the nation's diplomatic isolation.

The constant theme of these dissenting voices is a call for a new political course, one freely chosen by the Iranian people. As the level of dissent rises, there is reason to believe that even some of the more extreme elements of the regime, their customary rhetoric notwithstanding, may now be inclined to consider a plan that would address the country's economic disorder and diplomatic isolation. General elections are scheduled in 1996 and presidential elections in 1997. A workable plan, properly monitored and performance-related, could have a positive effect on these two crucial events.

Such a plan should let the people of Iran normalize the state of the nation. At home, it should aim for democracy, respect for human rights and an agreeable quality of life. Abroad, it would need to restore the image of Iran as a responsible member of the United Nations, ready to live in peace with all other nations.

In the first phase of such a plan, Iran would have to take appropriate steps, in keeping with its constitution, to dismantle the bureaucracy it created to cope with the problems of the early years of the Islamic revolution. These steps should include the rehabilitation of those unjustly deprived of their civil rights on the basis of their political beliefs, the repeal of laws and regulations that discriminate on the basis of sex, race, ethnicity and faith, and the removal of restrictions, often unconstitutional, on freedom of expression, association and election.

The normalization of political life in Iran would facilitate the no less complex task of bringing the country's foreign policy into line with its international obligations. This would, of necessity, include measures to dispel any notion that Iran supports international terrorism and the assassination of dissidents abroad. Iran would also need to cease its campaign against the Middle East peace process, adhere to the now renewed version of the Nuclear Non-Proliferation Treaty and take steps to make credible its announced decision not to acquire nuclear weapons.

Iran could also facilitate visits by the International Committee of the Red Cross to prisons where it is alleged that prisoners of conscience and members of religious and ethnic minorities are being held, often without charges being filed. It should allow international human rights organizations access to its officials and open itself to the international media in the normal manner.

Linking its response to Iranian performance, the United States would need to give evidence of its own willingness to make positive contributions. First steps would include establishing a timetable for the final settlement of all outstanding claims between the two countries and for the release of the remaining Iranian assets, setting up a procedure in which sanctions against Iran would be lifted in stages and normalizing visa requirements for Iranian nationals visiting the United States.

The United States could encourage the formation of a Council on Trade and Economic Cooperation with Iran with the participation of the leaders of the U.S. business community. The United States might also form an appropriate body to advise on various aspects of U.S.-Iranian relations. While policies are obviously formulated by governments, this could help mobilize private resources in the services of the new set of foreign policy objectives as containment gives way to rapprochement.

In the next phase, Iran would resume its quest for democracy that started almost 100 years ago. The Iranian people would be given the opportunity to return to the electoral process and the organization of presidential and parliamentary elections in line with the provisions of Iran's constitution. These elections should be open to political parties of all denominations and conducted in a verifiably fair fashion.

The last phase of the plan would thus begin in an atmosphere of stability, without which all attempts at reviving Iran's economy through domestic and international cooperation will remain tentative and fragile. At this point, the Council on Trade and Economic Cooperation with Iran, having completed its initial studies, would be in a position to sponsor a series of conferences designed to help Iran reintegrate into the world-economy and to realize its economic potential, estimated to reach $100 billion in annual trade and economic opportunities.

The stage could thus be set for the Middle East to open a chapter in regional economic cooperation—possibly including Central Asia, which hungers for peace and development—an enterprise that could foster opportunities not dissimilar to those in the Pacific Rim nations. Moderate Arab nations too would be helped to accelerate the pace of their social and economic transformation, and the way would be paved for a more constructive relationship between the West and the world of Islam as a whole.

Is this farfetched? It is no more farfetched than the thought of a visit to Jerusalem by President Anwar Sadat of Egypt in the aftermath of the Yom Kippur War or the thought in the mid-1980s that the Berlin Wall could be brought down before the end of that decade. The Middle East has always dealt with logjams that block the normal course of its politics through courageous steps that have defied conventional wisdom. History belongs to those who do not merely contemplate the sour aspects of present reality, but labor with persistence to give birth to new possibilities of hope.

OCTOBER IS MENTOR MONTH

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to the Montgomery County (Maryland) Task Force on Mentoring. The task force will be sponsoring a mentor training workshop on Saturday, October 21, 1995 in celebration of their theme, "October is Mentor Month."

The Montgomery County Task Force on Mentoring was established by the Montgomery County Human Relations Commission in response to a study of the plight of young black males in the county. In 1991, the commission hosted a conference on "Young Black Males: Is Mentoring a Solution?" At that conference, it became apparent that several mentor programs were in operation in the county unaware of each other's existence. It was obvious at that conference that an umbrella organization was needed to provide support for mentor activities in Montgomery County.

In Homer's "Odyssey," Mentor was the man to whom Odysseus entrusted the care and education of his son, Telemachus, when Odysseus embarked on his travels and adventures. The word "mentor" has come to mean "a trusted friend or teacher."

Mentoring has evolved into a time-honored tradition that smooths the path for newcomers to get ahead and allows seasoned-professionals to leave a legacy for the future. A mentor is someone who consciously serves as a career role model for students. A mentor can increase the confidence and self-esteem of students and provide the inspiration needed to persevere during the early stages of career development. Studies show that people who have been nurtured in their careers by mentors achieve more than individuals with equal talent who have not had an advocate encouraging their success.

Mentors often combat the isolation and fragmentation experienced by teenagers who lack guidance from adult role-models. Mentors have been especially important for single mothers who need encouragement to aspire to professional growth and higher-paying jobs. In many instances, mentors help their proteges overcome persistent barriers in the workplace.

Through their workshop on October 21, the Montgomery County Task Force on Mentoring hopes to assist young people who need adult guidance in their lives. Information and materials will be available to organizations interested in developing mentor programs.

Mr. Speaker, it is a proud moment for me to applaud the task force for providing organizations in the Montgomery County community with the technical assistance and support services they need to promote mentoring. I wish the winning combination of task force members, interested citizens, county agencies, community organizations, and students continued success as they embark on future odysseys in mentoring.

BREAST CANCER AWARENESS MONTH

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. VUCANOVICH. Mr. Speaker, October is Breast Cancer Awareness Month. It is time to remember the 46,000 women who died last year, and the 182,000 women who will be diagnosed with breast cancer this year. I know the hard cold facts because I am a breast cancer survivor.

Women must play a vital role in the war against breast cancer by performing a monthly breast-self-examination, visiting a physician and obtaining an annual mammogram. Since there is no cure for breast cancer, early detection is the key to survival.

However, early diagnosis of breast cancer is of no use if the patient cannot get proper treatment once a tumor is discovered. The treatment for 50 percent of all breast cancers is limited to one drug, yet current law does not permit Medicare coverage.

Today I am introducing legislation which provides coverage of this drug under Medicare. Without this coverage, breast cancers are left untreated, and women are left to suffer.

Remember the women during Breast Cancer Awareness Month. Become a cosponsor of this life-saving legislation.

TRIBUTE TO CWO DENNIS ST. CLAIR

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to CWO Dennis St. Clair, a dedicated public servant who will soon retire from the Ohio Army National Guard after over 41 years of distinguished service.

Dennis St. Clair began his service at the Camp Perry Training Site, located near Port Clinton, OH, on July 22, 1954. Since that time, CWO St. Clair has distinguished himself as a man of dedication, innovation, and personal accomplishment. During his tenure, CWO St. Clair's expert management was instrumental in a comprehensive building program which included the construction of four new barracks, a new beach tower, a new troop medical clinic, new officers quarters and new motel units.

As the full-time Operation and Plans officer for the Camp Perry Training Site, CWO St. Clair developed one of the most comprehensive range safety programs in the country. His legacy is an outstanding range safety record at Camp Perry.

Mr. Speaker, Dennis St. Clair is a remarkable individual whose 41 years personal competence, unwavering commitment and selfless sacrifice is a model for public servants. I ask my colleagues to join me in congratulating him for his service to the U.S. Army, the Ohio Army National Guard, and to the people of the State of Ohio.

As he begins his retirement, may he and his family fully enjoy the benefits of the freedom he has so ably defended for over four decades as a member of the Armed Forces of the United States.

MEDICARE SUBSTITUTE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. RANGEL. Mr. Speaker, I plan to offer a substitute for H.R. 2425, the Medicare Preservation Act of 1995 when it is debated in the House of Representatives on Thursday, October 19, 1995. My substitute is very simple. It is printed in its entirety in the amendments section of this RECORD. It contains three provisions.

First, my substitute would establish a bipartisan commission to develop recommendations to strengthen and improve the Medicare Program. The commission would be required to submit its recommendations to the Congress not later than May 1, 1997.

Second, my substitute would provide for $90 billion less in tax reductions than now contemplated by the budget resolution. This would be accomplished by an across-the-board limitation on all the tax reductions.

Finally, my substitute would transfer the additional revenues resulting from the limitation on the tax reductions into the Medicare Part A Trust Fund. This would extend the solvency of that trust fund until the year 2006.

Mr. Speaker, there is no reason to do irrevocable damage to Medicare and senior citizens by cutting $270 billion from the program over the next 7 years—unless you want to grant excessive tax cuts to the very wealthiest of our citizens. The trustees of the fund made it clear that an infusion of $90 billion into the Part A Trust Fund will assure solvency through 2006.

My substitute will solve any intermediate problems of the fund now, while creating a mechanism by which any long-term problems can be addressed in a thoughtful and reasoned manner.

By this substitute, we truly can preserve, protect, and strengthen Medicare for both present and future beneficiaries.

A VISION FOR AMERICA

HON. JOHN SHADEGG

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. SHADEGG. Mr. Speaker, I rise today to pay tribute to Miss Jacquelyn Clark, a student at Horizon High School and a resident of my district in Scottsdale, AZ. Miss Clark is the Arizona State winner of the Veterans of Foreign Wars' Voice of Democracy broadcast scriptwriting scholarship contest. The contest theme this year was "My Vision For America." I commend to you, Mr. Speaker, and all of my fellow Members of Congress, both in this House and in the other body, her words:

MY VISION FOR AMERICA

In 1783, a group of men had a vision for a country based on justice and liberty for all Americans. One of the most beautifully written documents in our nation's history was created, the United States Constitution.

My vision for America is that the people of our nation maintain a faith in the ideals held by our forefathers. The United States Constitution has proven itself worthy of our respect and allegiance. It has upheld its values with fortitude, and has stood the test of time by remaining true to its original principles.

James Madison, considered the "Father of the Constitution," believed that "in framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce." Our nation has undergone many remarkable changes since its beginning. We have spread the words of liberty across our entire continent, and to all people who call our great nation their home. Amazingly, our Constitution's words are as valid today as they were when first written. These words of hope have served as a guiding light for all men. No matter where our individual paths may lead us, we always know that the rights recognized to us in the Constitution are rights we realize from birth, and rights on which we can depend to shield us from civil injustice and oppression. Included, are the rights to share in our government, the right to worship God in one's own way, and the right to a full and happy life.

We must keep in mind, however, that with these rights come responsibilities, and how we invest in our country determines how we profit from it. A wise American once said, "ask not what your country can do for you, but what you can do for your country," This message remains true today. From its beginning, our Constitution has represented a belief in the future, but this belief must be maintained in the present.

My vision for America is the hope of a shared vision between all Americans, and that they would be dedicated to protecting our nation's heritage. Today's Americans must have the desire and initiative to educate our children. Our coming generations need to realize that great accomplishments grow from average people. Every day, men and women had hopes for a brighter future and ended up making our great country what it is today. When I see veterans standing proudly to salute the American flag while the National Anthem plays patriotically in the background, and when I see small children with their hands held over their hearts stumble through the Pledge of Allegiance, I feel such pride for our nation and the principles for which it stands. We need to remember that those who come before us cannot depend on those who come after us to maintain the spirit of our Constitution. The goal of our forefathers was to assure within the wording of this great document that our nation would remain strong and would be a land of opportunity for all who supported it. Our constitutional foundation will remain firm only as long as its holders continue to protect its principles. It is up to us, today's Americans, to cherish the beliefs of our fathers and keep them alive and safe for our children.

My vision for keeping this spirit alive is through a personal involvement in our government. Americans have a responsibility to its authors to not only teach the wording of the Constitution, but to demonstrate it's principles through our actions. We need to encourage all citizens to exercise their Constitutional privilege of suffrage, and to actively take part in the decisions that shape and mold our nation. By encouraging our children to participate in the KIDS VOTING program, we hope to emphasize the importance of democracy and set an example of individual responsibility and citizenship. However, individual responsibility requires active participation daily, and not merely at the polls on voting day. By keeping oneself informed about the day-to-day workings of our government, citizens can experience the enthusiasm shared by our nation's patriots as they framed our basic freedoms of religion, speech, press, and assembly. In this way, the values on which our country was founded will continue to flourish and strengthen us as we meet the challenges of the twenty-first century.

My vision for America is a shared vision, and it begins with us, the people. We hold the key to keeping our country on the path of greatness. In just two hundred years, much has been done, but many great accomplishments are yet to come. With continued support from its people, this country will remain a land of freedom and opportunity and will hold fast to the principles of "one nation, under God, indivisible, with liberty and justice for all!" May God bless America—Thank you.

THE PEOPLE'S FIREHOUSE CELEBRATE ITS 20TH ANNIVERSARY OF SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MALONEY. Mr. Speaker, I rise to honor the People's Firehouse, Inc. which is celebrating its 20th anniversary of service to the Williamsburg and Greenpoint communities of northern Brooklyn this November. PFI was founded when, in November of 1975, the city of New York announced that it would close fire engine company 212. The threatened loss of prevention services brought the people of north Brooklyn together to form the People's Firehouse.

In an act of courage rising out of concern for their community, residents entered the firehouse and refused to leave. They held the firetruck hostage and, for 16 months, lived and worked in the fire station, all the while pressuring the city to reopen engine company 212.

One official called off attempts to remove the protesters from the firehouse saying that the fire station was now "the people's firehouse." The name stuck and after much negotiation, engine company 212 was reopened as a fully operational fire station. Those involved in the firehouse situation decided to form a permanent organization to assist their community, and, this year, the People's Firehouse, Inc. a Housing and Community Development Co., celebrates its 20th anniversary.

Mr. Speaker, PFI offers a number of services to the community deserving of recognition. PFI provides legal rights outreach and mediation services to tenants, landlords and the homeless; housing management programs; and housing preservation and development. Seniors and immigrants are given special assistance in English, Spanish and Polish. PFI manages 16 buildings consisting of 141 residential units. The NYC Housing Preservation and Development Community Management Program provided funding for PFI to renovate and manage previously abandoned, city-owned buildings. Since beginning contracting with Housing Preservation and Development in 1979, PFI has rehabilitated nine city-owned buildings and later sold them to the tenants as limited equity cooperatives.

As if their housing and citizen-outreach programs were not enough, the PFI has received fire and arson prevention funding from the U.S. Fire Administration, the Federal Emergency Management Agency, the New York Department of State, and the mayor's office arson strike force. The PFI also offers a weatherization assistance program; participates in historic restoration; strengthens the Northside Merchants Association with marketing assistance, store renovation and a matching grant program; improves streets with the Bedford Avenue street reconstruction project; and engages in protection of the environment.

Mr. Speaker, the 20 years of service to the community provided by PFI deserve our recognition and praise. PFI takes great pride in its community and responds to the needs of its citizens throughout Greenpoint, Williamsburg, Northside and Southside. One of PFI's most recent projects includes youth job training and establishment of the People's School which offers programs designed to address issues of unemployment, poverty and neighborhood stabilization.

Mr. Speaker, I urge my colleagues to join me in recognition of the People's Firehouse Inc.'s 20 years of service to its community. At a time when many argue that neighborhoods and any "sense of community" no longer exist—PFI strives to find more and more ways to serve its citizenry.

OVERCOMING EXTREME POVERTY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MORELLA. Mr. Speaker, today, October 17, is the World Day To Overcome Extreme Poverty. In thousands of cities, towns, and villages across the United States and around the world, the poorest people, and those who stand beside them, will be solemnly recommitting themselves to the task of ending extreme poverty.

The first observance of October 17 took place in Paris in 1987. It was made possible by a partnership between extremely poor families and a man named Joseph Wresinski. Together, they founded the Fourth World Movement, which is now an international anti-poverty organization whose activities span the globe.

Around the world, there are 1.3 billion people living with little other than a dream of a better future. Their dreams are usually not for themselves, but for their children. It is our job as their fellow human beings, and as elected leaders, to recognize those dreams and to take up our full responsibilities in seeing that they become a reality. The poorest people are ready to join us in building a better world. It is only with their cooperation and partnership that we can succeed.

Today, we must resolve to work with these poor families to put an end to extreme poverty, just as apartheid and slavery have been abolished. Today, we must resolve that never again should a single man, woman, or child be condemned to the silence and uselessness that extreme poverty entails.

I hope that Members will join me in observing October 17, the World Day To Overcome Extreme Poverty.

TAMING THE EITC

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues an excellent article regarding the Earned Income Tax Credit.

TAMING THE EITC

The Earned Income Tax Credit often is hailed by Republicans as the best welfare program around. So why are they bent on cutting it? The answer: It has grown so much that it's now doing more harm than good.

House Ways and Means Committee Chairman Bill Archer, R-Texas, hopes to cut the EITC some $20 billion over the next seven years.

President Clinton sharply attacked the move, saying it's "inconsistent with those basic, bedrock values this country should be standing for."

What's all the fuss about?

Started in 1975, the EITC was supposed to help offset the growing costs of payroll taxes on the working poor. Those eligible could get a credit on a portion of their income taxes.

For some families below a certain income threshold, the EITC worked as a negative income tax. They paid little or no income taxes to begin with.

The idea was to encourage work among the poor by boosting their after-tax income. So the EITC has come to be seen as a welfare program with a built-in work incentive.

Popular with both Republicans and Democrats, the cost of the credit grew rapidly. Presidents Bush and Clinton both expanded the credit's size and scope dramatically.

So much so, in fact, that when the Clinton expansions are fully phased in next year, the EITC's cost will have nearly quadrupled since 1990. By 1996, the credit will cost $26 billion—equal in size to the federal food stamp program.

As a modest program, the EITC worked fine. But most economists agree that today it's doing more harm that good.

The problem stems from the way the credit is structured.

It gets phased in for working families with income up to $8,900. The effect of the credit is to provide a wage subsidy of 40 cents on each dollar up to that income limit.

From there, the credit is maxed out. Families who earn up to $11,600 don't get any additional credit.

Once a family exceeds that limit, the credit is phased out. For each dollar over $11,600, the family loses 21 cents of its EITC until its income hits $28,000.

Economists say this acts like a marginal tax rate of 21 percent, on top of all the other state and federal taxes, giving these families one of the highest marginal rates around. And that, they say, provides a strong distinctive to work.

The trouble is, as the EITC expands, this disincentive looms larger, overwhelming the work incentives created when the credit is phased in.

Marvin Kosters, who has done extensive research on the EITC for the American Enterprise Institute, finds that today about 40 percent of American families are eligible for the credit.

But of these, there are nearly four times as many families in the phase-out range as in the phase-in range.

Worse, the work incentives for families in the phase-in range are mixed, Kosters notes. For example, the EITC encourages low-income families to work, rather than not—the so-called substitution effect.

But it also encourages them to work less. After all, they get a 40-percent raise without working any harder.

And, Kosters notes, the EITC imposes a marriage penalty on low-income workers—a problem made worse by the expansion of the credit in the '90s.

"Under the most adverse circumstances, the marriage penalty would amount to over $5,000," Kosters said before a House panel looking at the EITC. "(That) would be about 25 percent of the combined income of the married couple."

And, as the EITC becomes more generous, it invites fraud and abuse, which has been the focus of GOP complaints. Audits by the IRS have found higher rates of false or exaggerated EITC claims.

For now, the GOP appears to be listening to these concerns.

RECOGNITION OF THE CENTER FOR ADVANCED FOOD TECHNOLOGY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to the Center for Advanced Food Technology [CAFT] at Rutgers, the State University of New Jersey, on the occasion of its 10th anniversary.

CAFT was established by our fine State in 1985. My colleagues and I in the State Senate established CAFT and the other New Jersey Advanced Technology Centers to be administered under the auspices of the State's Commission on Science and Technology to link our State's high technology industries with some of Rutgers University's most prominent departments so as to enhance the State's economy. The resulting impacts are something of which I am particularly proud.

Over its 10-year history, the center's unique multidisciplinary approach to research and technology transfer has resulted in the development of cutting edge scientific knowledge and technologies that address the product, process, and manufacturing needs of the food industry.

As I am sure you know, the food industry is one of the major employers in our country. The food manufacturing sector is also one of the greatest contributors to our Nation's economy by adding value to our Nation's considerable agricultural commodities sector. By coordinating the research efforts of about 40 faculty members from 10 university departments who are overseeing the research of over 130 graduate and undergraduate students and post doctoral associates, CAFT is supporting the research needs of this important manufacturing sector.

CAFT's past achievements are many. Through its development of new equipment and manufacturing technologies for military rations, the Defense Logistics Agency is now better prepared to provide a variety of high quality foods to support the morale of our service men and women. By performing research aimed at understanding and enhancing food quality, these rations will continue to improve.

The facilities and equipment used for the military ration studies have been used on a cost recovery basis to assist smaller food companies and entrepreneurs to develop new businesses and to develop new or improve existing products and manufacturing operations. This type of activity is necessary to keep the food industry healthy and to enhance the viability of smaller companies which are the lifeblood of the manufacturing sector.

CAFT has also worked with food, pharmaceutical, and chemical companies which have needed highly sophisticated research analysis performed. Several of these companies have been able to bring new products to market partially because of CAFT's expert assistance.

Underlying all these efforts are the fundamental research studies through which CAFT has developed its well deserved international recognition. Companies worldwide have benefited from the cutting edge knowledge CAFT has developed. Of this, the center is understandably proud.

I am very pleased to let the people of this Nation know about the unique and wonderful research capabilities, such as those at CAFT, that have been established in New Jersey. These centers can serve as models of how industry, universities, and government can work together to make our Nation stronger.

TRIBUTE TO IVONETTE WRIGHT MILLER

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. HALL of Ohio. Mr. Speaker, I rise today to join the Wright family in honoring their beloved Ivonette Wright Miller who passed away this month at the age of 99. Mrs. Miller, niece of Orville and Wilbur Wright, was the last direct connection of the birth of aviation and was instrumental in preserving the Wright heritage.

Mrs. Miller became the third American woman to fly when, on August 29, 1911, she rode beside her uncle, Orville, in the Wright B Flyer. Mrs. Miller played an important role in the donation of the original 1903 Wright Flyer to the Smithsonian Institution and in the placement of the Wright papers in the Library of Congress and Wright State University in Dayton, OH.

The following are excerpts of remarks made at a memorial service by Tom D. Crouch, noted Wright brothers biographer and chairman, of the Department of Aeronautics of the National Air and Space Museum.

It is a very great honor indeed to participate in this celebration of the life of Ivonette Wright Miller. I did not know Mrs. Miller as long as some of you, but we shared a genuine friendship, and I owe her a debt of gratitude of the sort which cannot be repaid. It is a debt that I share with all of those scholars, historians, and just plain Wright enthusiasts whom she assisted over the years, and I will try to speak on their behalf this afternoon.

When I think of what I most admired about Ivonette Miller, the term "family values" comes to mind. My wife Nancy and I were privileged to attend Ivonette and Harold "Schribze" Miller's 70th anniversary celebration at Hawthorn Hill in 1989. That was a marriage you had to admire, at least I did. The two of them went through a great deal together, and through it all, they remained devoted to one another and to their daughter and her family.

Of course, Ivonette also defined herself as a member of that extraordinary family into which she was born. "It was late afternoon, on the eighth day of April in 1896," she once wrote: . . . and one could hear the tapping of a typewriter in the upstairs room at 7 Hawthorne Street in Dayton, Ohio, where Bishop Milton Wright did his writing and carried on his duties as a minister for the United Brethren in Christ denomination. . . . When he had finished a letter to [his daughter] Katharine [who was then a sophomore at Oberlin College], he picked up a small notebook in which recorded the events of each day, smiled, and wrote: "Lorin's have a little girl named Ivonette born near 4:00 this morning."

"So it was," Ivonette concluded, "that I came into this world, innocent of all that was to take place in a lifetime, in the midst of an event which had been a world wide dream as long ago as ancient Greece." Orville Wright once remarked on his own good fortune, and that of his brothers and sister, to have been born into a family where children were loved and nurtured, where genuine curiosity and self-confidence were encouraged, and real education prized. That was doubly true of the young Wrights of

Ivonette's generation. She and her brothers, sister and cousins were raised in the bosom of an extended family that included not only their own loving parents, but their Wright grandfather, uncles and aunt who lived just around the block.

"When I was about seven," Ivonette once commented, "the first flight at Kitty Hawk took place. I'm sure the family was excited by it, but they all went about their daily chores as if nothing significant had occurred." Perhaps, but it is not difficult to find traces of the young Ivonette in the records of the invention of the airplane.

There is no more important or precious manuscript in the history of flight than the small pocket notebook in which Wilbur Wright recorded the results of the flight tests of his 1902 glider. The penciled notations that fill the little notebook record the career of the world's first fully controllable airplane. The document is a treasure, not simply of the history of technology, or even American history, but of the history of the world. And on one of the final sheets in the notebook you will find the name Ivonette inscribed twice in childish block printing. ". . . I was sitting on Uncle Will's lap, as I often did," she recalled many years later, "when he asked me if I could write my name. I was six years old at the time and just learning to write. He probably pulled the notebook out of his pocket (where he usually kept it) and asked me to show him how I could write my name."

As she grew older, and her uncles emerged as the first great heros of the 20th century, Ivonette occasionally played a more active role on the public stage. While she was not the first American woman to fly, she did take the sky at an early date. In 1910, her younger sister Leontine wrote to Wilbur and Orville, who were in Europe at the time, asking if she could be the first American girl to fly in the U.S. The next summer, when their cousin Bertha Ellwyn Wright was visiting from Kansas, Orville invited all three young ladies for a flight. The great day was August 29, 1911. Twelve year old Leontine, who had, after all, asked, went first. Their visitor and guest, fourteen year old Bertha, was next. Then it was fifteen year old Ivonette's turn.

"We used Captain [Charles DeForrest] Chandler's coat and gloves," she explained. "He was taking flight training at the time." "I wore a small hat with a scarf tied tightly under my chin to keep it on. I climbed over the wires and took my seat on the wing to the right of Uncle Orv. Our feet were braced on a cross-strut—no cockpit. We took off and soon everything on the ground was dwarfed. I remember how squared off the fields looked, just like a patchwork quilt my grandmother used to have. We circled around over the field and after some minutes Uncle Orv pointed to the interurban car approaching in the distance from Springfield. He shouted above the noise of the engine, "There comes the traction car, shall be try to catch it?" I nodded. We came down, I slid out under the wires, dropped the coat and gloves off at the hanger for Captain Chandler as I went by and by that time the traction car was slowing to a stop and we joined the passengers boarding it."

As one of the last surviving Wrights with vivid personal memories of life in the house at number 7 Hawthorn St. in Dayton, Ohio, Ivonette delighted a great many people with her recollections of her famous uncles. But her notion of the serious responsibilities of family stewardship went well beyond that.

Ivonette and "Scribze" Miller devoted themselves to insuring that the precious historical treasures in their keeping would be presented as gifts to the nation, and that the achievements of Wilbur and Orville Wright would be fully understood and appreciated in an honest and accurate fashion. The Millers, and the other heirs of the Wright estate, played a key role in negotiating the presentation of the 1903 airplane to the Smithsonian, by means of an agreement that brought the forty year old dispute between the Wrights and the Institute to a final conclusion.

Moreover, the Millers took a deep personal interest in placing the Wright Papers in an archive where they would be available to the maximum number of researchers. The bulk of the papers went to the Manuscript Division of the Library of Congress. They insisted that the information in those precious documents be made widely disseminated. The result was the publication, in 1953, of the monumental two-volume set of "The Papers of Wilbur and Orville Wright."

Ivonette and "Scribze" befriended Marvin Wilkes McFarland, the chief editor and leader of the team of scholars who produced the published papers. And Mac was not alone. The Millers befriended two generations of Wright scholars. Their friendship with the great English student of early flight, C.H. Gibbs-Smith, was forged via the mails, and cemented when Charles spent a year in the U.S. as the Smithsonian's first Lindbergh Scholar. Charles dedicated his classic study, "The Wright Brothers and the Rebirth of European Aviation," to: "Ivonette Miller of Dayton, Ohio, First Lady of the Wright Descendants."

I was fortunate to count both Marvin McFarland and C. H. Gibbs-Smith as my mentors. In 1972, I was a twenty-seven year old doctoral candidate writing a dissertation on the early history of flight technology when Mac McFarland suggested that I would find the answers to some of my questions in the books and manuscripts still in the hands of Ivonette and Harold Miller in my hometown of Dayton, Ohio. It was material that the Library of Congress had chosen not to take as part of the Wright Papers.

Mac gave me Mrs. Miller's telephone number and advised me to call her the next time I was visiting my parents in Dayton. "They are nice folks," he assured me. "They won't mind." When I did make that call, I discovered that Mac had understated both the Miller's hospitality and their capacity to put up with an inquisitive graduate student requesting permission to poke around in the boxes stored in their basement.

I had never before encountered treasure of this sort outside a public repository. There were great aeronautical books—annotated by the Wright brothers. The manuscripts included volume after volume of a diary kept by their father, Milton Wright, from the middle years of the 19th century until the time of his death in 1916. One box contained Wilbur, Orville and Katharine's report cards, school papers, and early examples of the items printed by the firm of Wright and Wright. Other boxes were stuffed with financial records, and photographs, many of which I had never seen before.

At the end of that first day, Ivonette invited me to join her in the kitchen for tea and cookies. She was the real treasure. It is difficult to explain what it meant to be sitting there across the table from the woman who had sat on Wilbur's lap and written her name in his notebook; the seven year old who could remember what it was like when the news of success had arrived from Kitty Hawk; the fifteen year old who had donned Charles DeForrest Chandler's leather coat, gloves and helmet to go flying with her Uncle Orv. She was a living link to one of the great moments in American history.

Over the next decade and a half, I recycled the material in the Miller's basement into a dissertation, two books and a dozen articles. Very early on, I suggested that, while their home was as lovely and as fire-resistant as any in Dayton, they should give some thought to selecting a final home for what amounted to an entirely new set of Wright Papers unknown to researchers. Wisely, they selected Wright State University, then a relatively new institution of higher learning named for the inventors of the airplane. A decade and a half later, that collection has provided the basis for an entire series of books, exhibitions, and educational materials.

We own Ivonette and Harold Miller, and all of the Wright heirs, our gratitude for their wise stewardship. Thanks to them, the world's first airplane hangs in the place of honor in the world's most visited museum. The priceless record of one of the world's great achievements—the letters, notebooks, photographs and other documents relating to the invention of the airplane—are safely preserved in the greatest manuscript collection in the nation. It was at their insistence that the core documents in that collection were published. They saw to it that another large collection of Wright family materials would be housed in a second great archive in the city that was home to all of them.

Such a list of achievements scarcely scratches the surface of our debt to Ivonette Wright Miller. She was our personal link to that marvelous family which nurtured the inventors of the airplane. She represented them to a curious world with grace, warmth, and dignity. Her memories helped all of us to see her uncles a bit more clearly and to appreciate their achievement a bit more deeply. The very definition of a gracious soul, she enabled those of us who knew her to touch an important moment in history. She has earned her place of honor and rest with the other members of the Wright family. We will not see her likes again, and those of us whose lives she touched can thank God for the privilege.

COMMEMORATING THE FIFTH ANNIVERSARY OF DEDICATING THE FATHER JERZY POPIELUSZKO STATUE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MALONEY. Mr. Speaker, I rise to commemorate the fifth anniversary of the dedication of the statue honoring Father Jerzy Popieluszko, the young, idealistic priest who was brutally slain in October 1984. To honor Father Jerzy and the people who built the statue in his honor, a special commemorative mass will be said on Sunday, October 22, at the Stanislaus Kostka Church. The people of Greenpoint, home of the statue, and the members of the Polish-American Congress deserve our support and praise for honoring a man as brave and good as Father Popieluszko. Father Popieluszko lived his life as an outspoken supporter of solidarity and human rights. Twelve years have passed since his death and his name has become a symbol of a heroic battle for truth and justice.

Father Popieluszko's funeral was a mass celebration which drew crowds of tens of thousands. His grave is always covered with fresh flowers and surrounded by many people—Poles as well as foreigners who visit Poland. His memory and his statue remind our community of the impact he had on his native Poles and the important message of what he preached and the way of life he showed. Many people have been and continue to be positively changed by his message of truth, justice, and moral strength.

The fifth anniversary commemoration at his statue between Bedford Avenue and Nassau Avenue in Greenpoint, Brooklyn will continue what Father Popieluszko did to unify people. His statue and his memory continue to teach us his message of forgiveness in the place of hatred and the importance of truth and courage.

Father Popieluszko was born to a poor farming family in 1947, in the village of Okopy, 20 miles from the Soviet border. From early childhood he was deeply religious: he rose every morning at 5 a.m. and walked 3 miles to serve as an altar boy before school. He became a priest in 1972 and worked as a priest for the next 8 years. He was loved by all with whom he worked. Mr. Speaker, it is important that we honor and remember a man who went wherever he was needed and worked hard, even in the face of his own serious illness.

The circumstances surrounding Father Popieluszko's abduction and murder are still unclear. But, the spirit of Father Popieluszko has outlived him and is rightfully honored in his statue and the fifth anniversary commemoration of its dedication. Mr. Speaker, I hope all of my colleagues will join me in honoring Father Popieluszko, the Polish people, and the members of the Polish-American Congress who will honor him on Sunday, October 22.

THE 72D ANNIVERSARY OF THE ALLEGHENY NATIONAL FOREST

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. CLINGER. Mr. Speaker, I rise today to challenge the notion that one shouldn't mix business and pleasure. That's exactly what we've been doing for 72 years in Pennsylvania's Allegheny National Forest, and it's worked remarkably well.

The Commonwealth's only national forest, it is one of northwest Pennsylvania's greatest assets. Selective harvesting of timber has created thousands of jobs, provides funding for schools and roads, and returns millions of dollars annually to the U.S. Treasury. The University of Pittsburgh at Bradford has estimated that "5,540 jobs are directly related to wood products, and another 12,576 are significantly impacted by the forest products industry."

But its economic benefits don't stop there. Each year, 12 million visitors—and area residents—enjoy camping, fishing, and hiking in the forest. If any of my colleagues and their families would like to visit, I'd be happy to identify some truly amazing sites.

I'm proud to say that this mix of work and pleasure is balanced with a keen awareness and diligent attention to the forest's conservation needs. By responsibly harvesting our renewable timber resources, we allow the forest to flourish and continue to fuel the economy.

The Allegheny National Forest strikes a wonderful balance between its many uses and its needs. For many, it's a source of livelihood; for millions more, a recreational haven. And, through its responsible management, it will remain so for generations to come.

The saying "don't mix business and pleasure" may have its merits, but it's also important to remember another, "there's an exception to every rule." Pennsylvania's national forest is certainly exceptional.

Thank you, Mr. Speaker, for this opportunity to recognize the Allegheny National Forest on its 72d anniversary, and to congratulate all those who have come to enjoy, respect, and benefit from it.

THE FEDERAL BUDGET

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. HASTINGS. Mr. Speaker, a constituent of mine, Mr. Norman Hardy of West Palm Beach, FL, sent me the following article regarding balancing the Federal budget. Mr. Hardy said this article is "right on the mark" and I agree with him. The same municipalities and local governments that the new Republican majority claim were the ones to request the block grants are now the ones saying we may need to slow down. Balancing the budget and block-granting Federal funds might have sounded good in the abstract but the reality may very well be disastrous.

[From the Palm Beach Post, Sept. 24, 1995]

WASHINGTON'S MESSAGE TO AMERICA'S CITIES: DROP DEAD

(By Nancy Graham)

I am gravely concerned about where this country seems to be heading. That puts me among the 60 percent or more of Americans who would like to join a third political party.

What I see at the state and federal levels in the way of partisan politics disgusts me. As the elected leader of the largest city in Palm Beach County, it is clear to me that our "elected representatives" at those levels, particularly those in Washington, have no knowledge of the world in which most of us live—and, frankly, I don't think they even care. If we have any hope of putting Americans first, the power plays and the ego-driven, mean-spirited partisan politics must give way to reason and logic.

There is not and should not be anything partisan about local government. We are closest to the people we serve, provide most of the services, have to pick up the pieces of people's lives fractured by the actions of the state and federal governments and still try to maintain some quality of life for all our citizens.

There is no greater example of mean-spirited, ego-driven partisan politics than in the current debate over the proposed federal budget cuts. I think I will be sick to my stomach if I see another 30-second sound bite by either party extolling the virtues of its actions on the budget, or slamming the other side's. What is frightening to me is that most Americans will sit back and take these professionally scripted sound bites for the truth. There is much not being told to Americans, particularly about how these budget cuts will affect each of us, no matter where we live.

Don't get me wrong. I strongly support the goal of balancing the federal budget, reducing the federal deficit and reforming a number of federal programs such as welfare and Medicare. We will all need to sacrifice to make them happen. West Palm Beach has to balance its budget every year, in good times and in bad. We know how to impose financial discipline. We know how to cut popular services, to raise revenues. West Palm Beach is ready to do our fair share.

Congress, however, is asking local communities to take a direct hit for its years of free-wheeling spending. The budget currently under consideration does not ask cities and counties to do their fair share to balance the budget. It asks cities and counties to do the lion's share.

Proposals in Washington would have a devastating impact on crime prevention, economic development, housing, children and our elderly. Amazingly, these proposals have received very little scrutiny.

So far, Congress has engaged in a "stealth" budget process. It appears that Congress is hoping that the American people don't figure out what's going on until it's too late.

The new Congress went to Washington promising to reform government.

Unfortunately, all they did was pass the buck.

The proposed budget doesn't actually solve problems, it just shifts the problems and shifts taxes to the local level.

Worst of all, this is a very short-sighted budget. It was put together with virtually no public input or hearings. The vast majority of the cuts being made are from only one-third of the federal spending, the domestic spending for Americans. In fact, the proposed budget adds about $7 billion in the defense budget, an increase not even requested. We are spending more for our foreign agenda than to preserve a decent quality of life for our own citizens.

ECONOMIC FUTURE SACRIFICED

The proposed budget would sacrifice the long-term economic future of this country for short-term political gain. At a time when America should be investing in our people and our economic foundation, this budget is a unilateral retreat. This budget would cut job training. It would cut education. It would cut youth programs. There is absolutely no logic or rationale to the proposed cuts. No matter what political party one comes from, we should all agree on the need to invest in our economic future.

The U.S. Conference of Mayors and National Association of Counties recently conducted a survey of mayors and county officials to see how these proposed cuts would affect our cities and our citizens. The response was overwhelming—96 percent of the mayors believe the proposed cuts would hurt their cities and residents. Ninety-three percent believe the cuts would hurt their human-investment efforts; 84 percent foresee negative effects on their cities' economies; 85 percent see negative effects on their economic development efforts; and 86 percent believe that the effects of the cuts would extend to their regional economies.

For most city residents, the cuts would be felt in loss of services and/or increased taxes.

Eighty-five percent of the survey respondents said that they would have to reduce city services; 61 percent said they would be forced to lay off city workers; 41 percent said they would be forced to raise taxes.

The survey responses from the National Association of Counties were very similar.

So what does this mean for West Palm Beach? If we are to revitalize our city, we must reduce crime, clean up our decaying neighborhoods, create economic development opportunities (businesses and jobs) and focus heavily on our youth. We have started these efforts over the past few years, but much more needs to be done. We have developed partnerships with the Palm Beach County School Board, our business community and non-profit groups to save taxpayers money. We have cut staff and worked to improve services. We cannot stretch any further.

Yet, several times a day I hear from frustrated people about what they see as a declining quality of life, fear of crime, lack of affordable housing, lack of jobs and other problems that are so complex and intertwined. Balancing the federal budget almost solely on the backs of domestic programs is going to substantially aggravate these problems and increase the public's frustration with government. West Palm Beach is by no means an isolated case.

We want welfare reform—and rightly so. Yet we cut—and in some cases eliminate—job training; we cut education, cut student loans, fail to provide decent, affordable health care, and penalize poor families who try to stay together. We talk to the working poor, and we tell them, "We want you to go to work. We want to end welfare." But what does this budget do? What messages of hope does it send to the working poor? It increases the tax burden on the working poor by lowering the earned income tax credit. The working poor will pay $230 more a year in taxes. They are getting a tax increase. In many cases, that's a substantial percentage of their income. This is in the face of a proposed tax cut for the wealthy.

CUTS WILL PRODUCE MORE CRIME

Crime among our youth is rising at frightening rates. Young people are dropping out of school at record levels. We talk to them about staying in school so they can get a good, decent job. The one program that links them, while they're students, to the job market and opens up opportunities for them to get jobs is the Summer Youth Employment Program. This money is to be completely eliminated. No jobs, no job training—no question, higher crime.

West Palm Beach receives about $1 million annually in grants from the Department of Housing and Urban Development. We currently rehabilitate 25 full-scale housing units and handle 46 emergency "rehab" housing units each year. The proposed 50 percent cut would drastically reduce West Palm Beach's ability to assist low-to-moderate-income working families to maintain their homes.

We also receive $446,000 from HUD Home Funds. Seventy-five percent is used for the Mayor's Renaissance Fund for first-time home buyers. This money generates between seven and 10 times the money in the form of investments by local lending institutions. More than 30 families have been able to purchase homes in the past year. There is a waiting list in excess of 344 applicants wanting to buy a home. The city has used HUD money to create attractive, decent, affordable rental units for low-to-moderate-income people with the Harris Music Building and Ballet Villages in the downtown area.

LONG WAITING LIST FOR HOUSING

More than 1,000 people are on the waiting list for public housing in West Palm Beach. Most of these people are decent, caring human beings who have not been as fortunate as most of us who will read this article.

I recently visited Dunbar Village on Tamarind Avenue. Most of the units there leak badly when it rains, damaging walls and floors. Is that acceptable for our seniors and poor because they are throwaways?

No summer youth jobs? Consider that last summer, the city used $240,000 in federal money to get approximately 23 dropout youth back into education programs and job training. Our success rate was about 70 percent—excellent. Most are now continuing their educations, some at college. Others have jobs. One young man received his high school equivalency diploma, trained with the city to become a certified landscape sprayer and is now employed by us full time. Most of the youth we saved were headed toward becoming a criminal statistic.

We are all sadly aware of the problems in our schools. Yet the proposed budget cuts education, food for hungry children at school and money for Safe and Drug Free Schools. Can children learn with empty stomachs and daily fear of violence?

There are many more examples I could give about what these proposed cuts will mean here in Palm Beach County, but you have probably gotten the point. The proposed cuts are unfair, illogical and lack any rational basis.

We do need to balance the federal budget and reduce the deficit for future generations. We do need reform of entitlement programs. These important objectives can be achieved and still ensure a decent quality of life and vital communities for us all. This can only happen, however, if we demand that our elected representatives consider our best interests as they were elected to do and put the good of America over petty, mean-spirited partisan politics. We must accept no less—our future depends on it.

I would draw upon the maxim that the true test of a democracy is the treatment of its poor, its young and its elderly. Cuts will "write off" whole segments of our country's population rather than building upon action that can create improved national economic viability for our future.

West Palm Beach, as most cities in Florida, does not have the option of raising property taxes. We are too close to our legal limit. We can only cut services. The county can increase taxes, but that money comes from the same pocketbooks. The real irony is that if crime increases and neighborhoods decline, property values decrease, and we end up with even less revenue to meet the public demands.

GOVERNMENT FOR THE WEALTHY?

We can solve these problems, but the federal and state governments must do so in a logical, rational, thoughtful manner—not through immature bickering and posturing. Local governments can't make all of these changes overnight; we need time to adjust to some of them. We also have to make sure that the effort to balance the federal budget is not just a shift to local property taxes. Property taxes tend to be regressive taxes.

What is even more unbelievable to me is that while Washington is proposing to drastically cut domestic spending, at the cost of low- and middle-class Americans, it is proposing a tax cut for the wealthy. Is Washington being run only by the wealthy for the wealthy, with the interests of lobbyists being put over us regular and less fortunate folks?

Washington uses 30-second sound bites of abuses in domestic programs to convince us they are doing the right thing. They do not tell you the success stories. Let me tell you just one.

I was raised in a large, poor, but hardworking family. We lived for a number of years in public housing, received free school lunches and received some free medical care. I worked and put myself through college and law school with the assistance of student loans. (I have repaid every penny.) I have one sister who had a child out of wedlock.

Yet not one person in my family is on welfare or receives federal assistance. I am not the exception; there are many more like me. Under the proposed cuts, I can guarantee you I would not have been able to succeed alone.

Yes, there are abuses. But inept federal government and complex regulations cause many of them. Yes, families must also take responsibility for their well-being and that of their communities. But if the federal and state governments just dealt with their own waste first, we probably would be a lot closer to balancing the federal budget and reducing the deficit without the extreme measures being proposed.

Call or write your congressional representatives in Washington now. Demand truth in governance, responsibility and accountability to the people they represent—us—and demand that petty partisan politics stop for the sake of America's future. Let them know you are not in favor of the cuts as proposed and demand that they hold open hearings.

SHELTER ISLAND HEIGHTS FIRE DEPARTMENT 100TH ANNIVERSARY REMARKS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. FORBES. Mr. Speaker, I rise today to pay tribute and to congratulate the men and women of the Shelter Island Heights Fire Department for 100 years of dedicated service to the people of the Heights. The residents of the Shelter Island Heights Fire District are very fortunate to have such a well-trained and devoted fire department. The Shelter Island Heights Fire department worked hard to establish itself as one of the best departments in New York and has achieved an impeccable record.

The success of the fire department is a direct result of selfless dedication and effective management displayed by its members. Under the leadership of Chairman Frederick J. Gurney, the fire department has continued to play an active role in the life of the Shelter Island community. This leadership umbrella extends to the other members of the Board of Fire Commissioners: Charles Williams, Eugene Tybaert, Louis Cicero, and Richard Surozenski, as well as the loyalty and hard work exemplified by Chief Officer Stuart Nicoll, First Assistant Larry Lechmanski, and Second Assistant Dave Sharp. The Shelter Island Heights Fire Department consists of more than 35 professional volunteer firefighters, containing no career employees, offering further evidence of their passion and commitment to the community they serve.

On Saturday, September 30, 1995, the Shelter Island Heights Fire Department celebrated its 100th anniversary, marking a long, proud history by recognizing and honoring the efforts of those who have sacrificed and served the department and community over the years. Therefore Mr. Speaker, it is with great pride that I ask the rest of the House to join me in congratulating this all-volunteer fire department on achieving this momentous milestone. This is a much-deserved tribute and I wish them all the best on their day of recognition and glory. They give of themselves because of the love and pride they share for their community and we applaud their extraordinary service and efforts. These courageous individuals have truly earned this recognition. May they continue to serve their community for the many 100 years to come.

A TRIBUTE TO HUGH HANDLEY

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. DOOLEY. Mr. Speaker, I rise before my colleagues today to pay a special tribute to Hugh Handley, who is retiring after serving 23 years as the agricultural commissioner of Kings County.

Over that time, Hugh has not only kept up with the myriad changes in agricultural practices in California's Central Valley, he has helped develop them. His coworkers consider him an encyclopedia of information, and they no doubt will miss his expertise.

As ag commissioner, Hugh has witnessed technological breakthroughs made by the farms in his county, and has tried to provide a supportive role to those breakthroughs. He managed to maintain this even as government budgets were reduced.

One major development in the county that Hugh was directly responsible for was the building of a one-stop agricultural government center. The center houses all of the agricultural offices for the county, the U.C. Cooperative Extension, and the U.S. Department of Agriculture, greatly benefiting farmers by simplifying the process of dealing with government agencies.

While the center is only a building, it embodies the approach to his job that Hugh has maintained—he has always sought to make the complex world of government rules and regulations more manageable to farmers so that they can spend more of their time farming rather than digging through redtape.

For that and his wealth of knowledge and impressive body of experience, the farming community in Kings County will miss Hugh. As a county farmer myself, and as a Congressman, I salute Hugh Handley and wish him a very happy retirement.

SUPPORTING TAIWAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. GALLEGLY. Mr. Speaker, last week, on October 10, the Chinese people on Taiwan celebrated the anniversary of the Revolution of 1911 in which the last imperial dynasty in China was overthrown and the Republic of China, under the leadership of Dr. Sun Yat-sen was born.

Today, the Republic of China on Taiwan is a strong world economic leader and a growing and vibrant democracy which deserves our continued support.

As the President prepares to meet with Chinese President Jiang Zemin, we need to reaffirm the importance of peace and mutual understanding among all interests in the Asian region.

Now that Harry Wu has been returned to his home and the Chinese ambassador has been sent back to Washington, we hopefully anticipate a more normal relationship with Beijing.

However, it must be made clear by the President that our support for the freedom and democracy of Taiwan cannot be compromised and that continued attempts by Beijing to intimidate Taiwan or to undermine the political stability in Taipei, through the use of missile and artillery firings off the coast of Taiwan are unacceptable.

I hope that the Chinese leadership in Beijing has realized that it cannot undermine our support for the people of Taiwan by either holding a temper tantrum against us or by bullying Taiwan with military exercises.

Taiwan has been a long and steady friend to the United States. They are our sixth largest trading partner. They are a strong democracy committed to the freedoms enjoyed and promoted by the United States and other democracies throughout the world.

The President must communicate to President Zemin in an unequivocal manner as possible that Beijing should not attempt to test our resolve over Taiwan and that the United States will not sacrifice Taiwan's friendship, democracy, and status in the world as a way to normalize our relations with Beijing.

HONORING THE HISTORY OF GREENPOINT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MALONEY. Mr. Speaker, I rise to bring recognition to the Greenpoint World War II 50-Year Commemorative Day, October 21, 1995. The St. Stanislaus Memorial Post 1771, Kings County's largest American Legion will honor all veterans of Greenpoint on this day. Veterans of the United States involved in any war or conflict will be honored while World War II veterans will be a focus of these observances.

Since the Civil War, Greenpoint maintains the exclusive honor of defending this Nation's freedom throughout the years with the largest number of resident representatives compared to similar urban communities anywhere in the United States. As World War II festivities honoring D-day, V–E Day, V–J Day, and signing of unconditional surrender by all aggressive nations wind to a memorable conclusion, the Greenpoint World War II 50-Year Commemorative Day will include over 13 hours of events including outdoor ceremonies, recognition of honored guests, recitation of patriotic letters and poems, an explanation of the proper flag presentation. Boy and Girl Scouts of the Greenpoint community will demonstrate flag presentations; and patriotic music will be played throughout the day by the John Erickson Junior High School (P.S. 126) band.

Acknowlegment of all Greenpoint veterans will be completed by playing of military theme songs and acknowledgment of every veteran in attendance.

Mr. Speaker, the show of community pride in this thank you to their veterans deserves our praise and notice. I am proud to represent the people of Greenpoint and other fine neighborhoods of northern Brooklyn, and I am also very pleased to offer recognition to the St. Stanislaus Memorial Post 1771's World War II 50-Year Commemorative Day.

PAUL SCHOELLHAMER—A TRIBUTE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. OBERSTAR. Mr. Speaker, it is the good fortune of our colleagues and the American people that talented professionals from throughout the United States seek to serve in the national interest as staff members in the House of Representatives.

One of this company, Paul Schoellhamer, has served this institution for more than a dozen years, and we have had better public policies, I believe, for his tireless efforts most recently as Democratic chief of staff for the Transportation and Infrastructure Committee.

In this Congress, Paul has had the thankless job of reducing the most impressive committee staff in the House by 60 percent. But in so doing Paul and the just-retired ranking Democratic Member, Norm Mineta, succeeded in creating the most versatile and experienced body of professionals to help do the work of protecting the Nation's transportation and environmental investments. For this job alone, he has the respect and appreciation of this Member.

Mr. Speaker, I would like our colleagues to know something more about Paul, who is a native Californian. He is the son of Alicia and Jack Schoellhamer. Norm Mineta, in tribute 5 years ago to Paul's late mother, said that she was "loved throughout her community, for her tireless charitable work and her devotion to bettering the lives of those around her, especially those in greatest need." Of Paul's father, Norm noted his many years of service to the U.S. Geological Survey. Paul is clearly, in the work and in the friendship I've known with him, the son of his parents.

Paul received his bachelor's degree from the University of Santa Cruz and not all that many years later found his way to Norm Mineta's personal office in 1975, volunteering as an intern. Norm soon found his work indispensable, put him on his paid staff, and within 2 years assigned him to the Public Works and Transportation Committee.

Over the years, Paul built a substantive expertise throughout our committee's jurisdiction—first, on the Public Buildings and

Grounds Subcommittee; next, on the Investigations and Oversight Subcommittee; and last, on the Aviation Subcommittee until 1985, when he became a vice president of Republic Airlines.

After a few more years in the private sector, we were able to lure him back to the House as chief of staff for the Public Works and Transportation Committee in one of our most productive Congresses on record—and I say that having myself been committee administrator for Chairman John Blatnik of Minnesota prior to my election to the House in 1974.

In 1993 alone, in his first year as chief of staff at the beginning of a new Congress, here's a sampling of the legislative product Paul helped our colleagues produce:

LAW

H.R. 904, to create the Airline Commission, which investigated the condition of the Nation's airlines.

H.R. 2121, legislation to resolve the costly and contentious "negotiated rates" problem affecting the trucking and shipping industries.

H.R. 3445, legislation assisting victims of the 1993 Midwest floods.

PASSED BY THE HOUSE

H.R. 5, striker replacement legislation, which would guarantee that striking employees could return to their jobs.

H.R. 2739, The Aviation Infrastructure Investment Act, a three-year program to improve airports and airways.

H.R. 3276, technical corrections to the landmark Intermodal Surface Transportation Efficiency Act of 1991.

H.R. 2440, reauthorization of the National Transportation Safety Board for three years.

H.R. 881, legislation banning smoking in Federal buildings, with very limited provisions for designated smoking areas.

PASSED BY THE COMMITTEE

H.R. 1865, legislation to create a Federal program to construct water supply systems.

H.R. 2442, to reauthorize the Economic Development Administration, including provisions to assist communities adversely affected by military base closings.

Mr. Speaker, Paul is now joining our former colleague, Norm Mineta, at Lockheed Martin's transportation systems and services division. I know that Paul's skills in the private sector will parallel those he polished in our company, both professionally and personally. Our loss here in the House is considerable, but we are far better for having had him with us for so many years.

I ask my colleagues to join me in wishing him, his wife, and their children well in their new adventure.

A LETTER FROM THE BARONA, SYCUAN, AND VIEJAS TRIBES OF SAN DIEGO COUNTY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise to place into the RECORD the results of a recent California statewide voter survey on Indian gaming. In the spring of this year, California tribes commissioned an independent research company, J. Moore Methods of Sacramento, to survey a cross-section of 1,000 registered voters across the State.

A letter from Clifford La Chappa, tribal chairman of the Barona Band of Kumeyaay Indians, Georgia Tucker, tribal chairperson of the Sycuan Band of Kumeyaay Indians, and Anthony Pico, tribal chairman of the Viejas Band of Kumeyaay Indians, states:

We needed reliable data to begin to understand public attitudes towards all forms of gaming. An objective survey was crucial as an intentionally-biased study would have served no one. What we now have is a solid sampling of public opinion we can share with community and state leaders. Voters were clear in their message of support.

Sixty percent of the state's registered voters back Indian gaming with support reaching a hefty 73 percent in San Diego County.

The opinion poll also reveals voters do not believe tribal gaming needs further government regulation, and they are opposed to Nevada casino interests operating gaming facilities in California.

The findings show 82 percent of San Diegans support continued operation of Indian reservation casinos, compared to 75.9 percent support statewide.

Overall, 54.7 percent of California voters approve various forms of legalized gambling in contrast to 29.2 percent opposed, with 16 percent expressing no or mixed opinions.

These figures show the general public favors reservation gaming to such an extent that politicians who are against Indians using gaming to improve economic conditions are not listening to the people.

Survey findings show 58 percent of California voters oppose Governor Pete Wilson's position not to negotiate gaming compacts with California tribes. In San Diego County, 57 percent of voters surveyed said they opposed the governor's position.

Seventy percent say they "do not feel" gambling in general required additional government regulation, and a majority of 50.3 percent expressed opposition to legislative restrictions on Indian reservation casino gaming.

By a 53 to 35 percent ratio, state voters also oppose expansion of legal gaming into new communities to compete with Indian reservation gaming. Californians agreed that the best place for new gambling facilities is on Indian reservations. This preference exceeded support for expanded gaming at race track (20.9%), additional card rooms (6.4%), and Nevada-style commercial casinos (15.1%).

Other survey findings included: 79 percent Republican men agree Indian gaming is good because it is eliminating welfare dependency among Indians.

85 percent of Republican women agree that Indians, not state governments, should be accountable for keeping tribal gaming free of corruption.

73 percent of Democratic women agree with the use of gaming revenue to improve life on the reservations.

California voters clearly are telling us that while they support gambling as a valid form of recreation, they feel it is best confined to certain areas. Voters support Indian gaming for two reasons: most facilities are located in relatively isolated rural areas, and Californians see gaming as the best opportunity Native Americans have to provide for their people and to secure a solid economic base for the future.

Reservation gaming is a fair play issue, in many respects. The public knows Indians have suffered in the past and that many continue to suffer the worst of all human statistics. Today the public can support reservation gaming because it takes nothing away from the larger population and gives tribes an even chance to become self-supporting. In fact, as you are already aware, reservation gaming in San Diego County and throughout the state creates jobs and significant economic benefits to the wider community."

SENIORS: FACES OF MEDICARE AND MEDICAID

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. STOKES. Mr. Speaker, I rise to speak on behalf of the Nation's seniors who will be devastated by the GOP-destruction of the Medicare Program. Just this morning, I heard from a number of elderly in my district who are extremely concerned about the cuts to Medicare and Medicaid. In fact, Mr. Eli Strinic said that he would like the opportunity to be on the floor to talk to the Congress himself. Well, on his behalf, and that of Mrs. Beatrice Waltoncarr, and thousands of other seniors, I would like to take this opportunity to share their specific concerns with my colleagues here on the floor.

Mr. Strinic and his wife are on Medicare. He has been seeing the same doctor for more than 15 years. In fact, he sees six different doctors. Mr. Strinic is extremely concerned about the proposed funding cuts and changes to Medicare.

He expressed opposition to the way the GOP-proposal would indirectly force seniors into managed care. Mr. Strinic is concerned that the quality of care will be restricted and that the cuts in nursing home care provided under Medicaid will devastate his family. He spoke about how he was bothered by the fact that a friend of his was not allowed to see a specialist outside his HMO plan.

With respect to Mrs. Beatrice Waltoncarr of Cleveland, OH, she spoke about the fact that the $182 bill cut in Medicaid will make it impossible for her to make it. Just two prescriptions cost her more than $100. In fact, while she was able to get the prescription to the drug store to have it refilled, she had to leave the medicine behind because she did not have the money to pay for it.

Mr. Strinic's and Mrs. Waltoncarr's concerns mirror those of hundreds of thousands of other seniors who must depend on Medicare and Medicaid for their health care services, and who will be forced to pay more for less under the GOP-Medicare proposal.

Our seniors must not be forced to worry about their health care coverage. They have worked long and hard to provide for their families and for a secure retirement—that security must not be taken away. They deserve better than that. For the sake of our seniors, let's not allow the GOP to destroy Medicare.

TRIBUTE TO CASA ALLEGRA COMMUNITY SERVICES

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Ms. WOOLSEY. Mr. Speaker, today I rise to pay tribute to the Casa Allegra Community Services project. Casa Allegra was founded in 1975 and provides residential, job training, and community integration services to adults with disabilities. This important organization has been an instrumental component in the successful integration of Marin County's disabled adult population.

One part of the Casa Allegra's work on behalf of people with disabilities has been the Adult Community Service [ACS] program. The staff at ACS provide individualized support in employment, education, community integration as well as instruction in self-advocacy, communication, and behavioral skills. All ACS instruction is provided in the settings and contexts in which nondisabled adults participate. The goal of ACS is to team up with family members, coworkers, employers, classmates, and others to help people with disabilities succeed as productive, accepted members of the whole community.

It is this focus, one of integration coupled with a healthy respect for self determination, that makes the work of Casa Allegra so very valuable and so very important. Mr. Speaker, Marin County has been very fortunate to have Casa Allegra Community Services in its midst. This program is a model for the entire Nation.

TRIBUTE TO "GLORY GRADS," JAMES MADISON HIGH SCHOOL CLASS OF 1935

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. SCHUMER. Mr. Speaker, I rise to pay tribute to one of the most distinguished groups of students ever to attend New York City high school. They are members of the class of 1935 of James Madison School in Brooklyn who are coming from all parts of this land to mark the 60th anniversary of their commencement. The celebration will take place at the Stanley Kaplan Penthouse at Lincoln Center on November 12. The members of the class were named the "Glory Grads" by their teachers because of their outstanding achievements. The school was named after the fourth President of the United States, whose words are carved in stone above the entrance: "Education is the true foundation for civil liberty."

The Glory Grads attained the highest scholastic average in New York State that year and fielded a football team that won the city championship. "You are the cream and you will rise to the top," their grad advisor told them at graduation and they have fulfilled that prediction in a spectacular manner. Over the many years, they have achieved honors and national distinctions in the fields of medicine and surgery, engineering, mathematics, journalism, business, and the arts. They were children of the Great Depression, who came mostly from poor families and had to struggle to get on the first rung of the ladder of achievement. But, they were inspired by family tradition to study and work hard and, therefore, to go on to self-made success.

These Glory Grads never forgot the opportunities they were given by the country to which their parents came as immigrants. They have paid their dues many times over. The great majority of male class members served in World War II. They made their way up in professional and business careers. They also became leaders in community and civic organizations and have been unusually generous in their philanthropies.

I wish to extend special congratulations and felicitations to the chairman of the reunion committee, Stanley H. Kaplan, a friend of long standing and founder of the international chain of test-prep centers that bears his name. I congratulate, too, the members of the reunion committee, including Marty Glickman, famed sportscaster and hero of the Madison Gridiron and track oval; Martin Abramson, prize-winning author and war correspondent; businessmen Winn Heimer and Sidney Thomsahower, and travel consultant Anita Forian Fine.

I salute "Mr. Basketball Coach," Jammy Moskowitz, a spry 92, who will be making the trip from Florida to New York to attend the reunion. I also salute Principal Wendy Karp and director of alumni relations, Sonya Lerner, without whose cooperation, this return to James Madison would not have been successful.

I salute the Glory Grads. May they have many years of good health, happiness, and continued friendship.

AMERICAN CIVILIZATION TAKES A GIANT STEP BACKWARD

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. OWENS. Mr. Speaker, movement toward universal health care coverage was the centerpiece of the Clinton health plan during the 103d session of Congress. Concern with the achievement of that ideal generated great complexity in the proposal prepared by the administration. It was a noble plan in pursuit of a most compassionate purpose. Among the industrialized nations our Government stands almost alone in its refusal to sponsor universal health care coverage. In this 104th Congress the majority has chosen to catapult our American civilization further backward and away from the health care coverage of the poor provided by the Medicaid entitlement. To end the provision of health care for the poorest Americans would be a barbaric act. Nevertheless the plan for this heartless public deed is going forward.

If the Republican health care bill is passed thousands of Americans who now have health care coverage will lose it. The Republicans are giving notice to the uncovered that when the Declaration of Independence declared that all men have a right to "life, liberty and the pursuit of happiness" it did not mean them. This mean and extreme position cannot be accepted. The tree of life must be allowed to bloom for every human soul. Attached is a summary of the notice that the Republicans are sending to the uncovered.

REPUBLICAN NOTICE TO THE UNCOVERED

Health and happiness
The majority can pursue
But the tree of life
We won't let bloom for you
The medicine
Modern miracles make
Not available for your sake
A dose of penicillin
Cost less than a penny
With no HMO
You don't get any
Why should the government
Pay everybody's doctor bills
Only the evil poor
Contract expensive ills
Drugs cost dollars
The uncovered can't pay
On this beautiful earth
Not everybody
Is scheduled to stay
Health and happiness
The majority can pursue
But the tree of life
We won't let bloom for you
Your days of strife
Our policies renew
O say can you see
Your liberty to die free
From heavenly hospitals
Mothers hustle your
Discharged babies home quick
Abuse will be charged
If you let them get sick
For the elderly
It is wise to stay well
Unregulated nursing homes
Will be harder than hell
Health and happiness
The majority can pursue
But the tree of life
We won't bloom for you.

BRIDGEHAMPTON FIRE DEPARTMENT 100TH ANNIVERSARY REMARKS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. FORBES. Mr. Speaker, I rise today to pay tribute and to congratulate the men and women of the Bridgehampton Fire Department for 100 years of dedicated service to the people of Bridgehampton. The residents of the Bridgehampton Fire District are very fortunate to have such a well-trained and devoted fire department. The Bridgehampton Fire Department worked hard to establish itself as one of the best departments in New York and has achieved an impeccable record.

The success of the fire department is a direct result of the selfless dedication and effective management displayed by its members. Under the leadership of Chairman Clifford Foster, the fire department has continued to play an active role in the life of the Bridgehampton community. This leadership umbrella extends to the other members of the board of fire commissioners: William Babinski, Howell H. Topping, Fred Wilford and James McCaffrey, as well as the loyalty and hard work exemplified by Chief Officer John O'Brien, First Assistant Robert Comfort and Second Assistant Richard Thare. The Bridgehampton Fire Department consists of more than 100 professional volunteer firefighters, containing no paid employees, offering further evidence of their passion and commitment to the community they serve.

On Saturday, June 17, 1995, the Bridgehampton Fire Department celebrated its 100th anniversary with a parade, marking a long proud history by recognizing and honoring the efforts of those who have sacrificed and served the department and community over the years. Therefore Mr. Speaker, it is with great pride that I ask the rest of the House to join me in congratulating this all volunteer fire department on achieving this momentous milestone. This is a much-deserved tribute and I wish them all the best on their day of recognition and glory. They give of themselves because of the love and pride they share for their community and we applaud their extraordinary service and efforts. These courageous individuals have truly earned this recognition. May they continue to serve their community for the many hundred years to come.

MALONEY HONORS GEORGE DELIS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to a wonderful event that will be taking place in my district this weekend.

On Saturday, October 14th the Broadway-Astoria Merchants & Professionals Association will be holding their 15th Annual Dinner Dance. This year's dinner dance will pay tribute to Mr. George Delis as the Association's Man of the Year.

The life of George Delis is one of those classic American success stories. Born in Greece in 1945, George's parents left Greece to move to the United States when George was still very young. In 1962, the entire Delis family moved from Manhattan to the Astoria section of Queens, and they still live there today. I am proud to represent this wonderful community in the U.S. Congress.

George Delis' contributions to Queens are well known throughout the community. After graduation from college, George was hired by the Youth Services Agency as a youth counselor. This marked the beginning of a life devoted to helping out both those in need and the community in which he lives.

In 1974, George was appointed to Community Board 1, and was hired as district manager of the board in 1977. George wrote the proposal for the Motion Picture Museum and has worked for the development of the Steinway Industrial area, which in turn became the single largest industrial development in Queens.

In addition, George has played a large part in the organization of the Greater Astoria Historical Society, the 30th Avenue Merchants Association, and the Colon Council. He is married to Terri Angelis, a public school teacher from Forest Hills.

Mr. Speaker, I ask my colleagues to join me in commending George.

FLORIDA ENDORSES WORLD POPULATION AWARENESS WEEK

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. THURMAN. Mr. Speaker, rampant population growth causes or exacerbates many of the world's most serious problems. Civil strife, hunger, infant mortality, and soil erosion all are affected by increased population. The solution to these problems lies in striking a more equitable balance between the world's population and resources.

The first step toward solving any problem is to generate awareness of the existence of the problem. This is precisely the reason behind the recognition of World Population Awareness Week, October 22–29. I would hope that every State will join with my State of Florida in recognizing World Population Awareness Week. Population awareness is important not only to poor countries of the world that feel the impact of explosive demographic growth more directly but also to all countries, because we all have a large stake in a peaceful, harmonious world.

For the benefit of my colleagues, the proclamation of Gov. Lawton Chiles follows these remarks.

PROCLAMATION—STATE OF FLORIDA

Whereas, world population is currently 5.7 billion and increasing by nearly 100 million per year, with virtually all of this growth added to the poorest countries and regions—those that can least afford to accommodate their current populations, much less such massive infusions of human numbers; and

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, with three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life and, at the same time, have deleterious repercussions for the standard of living in more affluent regions; and

Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources that was duly approved by 180 nations, including the United States;

Now, Therefore, I, Lawton Chiles, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim October 22–29, 1995, as "World Population Awareness Week" in Florida and urge all residents to support the purpose and the spirit of the Cairo Program of Action, and call upon all governments and private organizations to do their utmost to implement that document, particularly the goals and objectives therein aimed at providing universal access to family planning formation, education and services, as well as the elimination of poverty, illiteracy, unemployment, social disintegration and gender discrimination that have been reinforced by the 1995 United Nations International Conference on Social Development, endorsed by 118 world leaders in 1995, and by the 1995 United Nations Fourth World Conference on Women.

ANTIPERSONNEL LASER WEAPONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. HAMILTON. Mr. Speaker, on August 16, 1995, I wrote to Secretary of State concerning U.S. policy on the production or use of antipersonnel laser weapons. I expressed to the Secretary my support for a worldwide ban on such weapons.

On October 13, 1995, I received a reply from the Department of State on progress on the laser weapons issue at the Review Conference of the 1980 Convention on Conventional Weapons.

I commend the correspondence to the attention of my colleagues. The text of the correspondence follows:

COMMITTEE ON INTERNATIONAL RELATIONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 16, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State,
Department of State, Washington, DC.

DEAR MR. SECRETARY: I write concerning the upcoming conference in September, 1995 to review the 1980 Conventional Weapons Convention.

I want to urge you to support proposals at that conference to ban the production or use of anti-personnel laser weapons, since virtually all laser weapons systems have the potential to cause permanent damage of eyesight.

Lasers have valuable and legitimate uses in battle as range finders and target designators, but I believe it should be the policy of the United States to oppose development or production of anti-personnel laser weapons that can blind.

It is in the interest of the United States to work together with other technologically-advanced countries to stop the development or production of such laser weapons, to prevent their proliferation and possible future use against U.S. forces.

The upcoming September conference is a unique opportunity to achieve an outcome that is in the interest of the United States and the entire international community. Therefore, I urge you to support actively efforts to seek an international prohibition on the use of lasers for the purpose of blinding as a method of warfare.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, October 13, 1995.

Hon. LEE HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: Thank you for your letter of August 16, seeking Secretary Christopher's support for an international prohibition on the use of blinding laser weapons in warfare.

I am pleased to inform you that the states parties to the 1980 Convention on Conventional Weapons (CCW) have reached consensus at the Review Conference on a new laser weapons protocol, Protocol IV. Not only does it include U.S. language prohibiting the use of "laser weapons specifically designed to cause permanent blindness of unenhanced vision," but it includes a complete transfer ban on such weapons and a requirement that parties take all feasible precautions in the use of all laser systems to avoid the incidence of such blindness. We support these provisions as well.

As you noted in your letter, lasers have valuable military uses. The Administration wants to protect the legitimate uses of lasers. Our position at the Review Conference therefore balances the concerns raised regarding such weapons with U.S. military requirements. Article 4 of the new laser protocol reflects the U.S. position: "Blinding as an incidental or collateral effect of the legitimate employment of laser systems, including laser systems used against optical instruments, is not covered by this Protocol."

Thank you for your interest in this important issue. We look forward to a favorable resolution of the blinding laser issue at the conclusion of the CCW Review Conference.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

REMEMBERING BOB BILLINGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. SOLOMON. Mr. Speaker, I would like to insert into the RECORD remarks I made on the passing of a truly great American, Bob Billings.

Bob was an inspiration to me. President Reagan was also inspired by Bob's tireless efforts to promote family values and Christian ethics in Washington.

We often met with Bob and discussed Christian education, moral issues, and the promotion of legislation to protect the rights of Christians to guide their children to believe in God.

Bob's conviction and enthusiasm inspired us all as we sought to hold America to traditional values. Bob will be greatly missed. Those of us who love this country and want to see it survive will experience a large void at the passing of Bob Billings.

Our prayers are with the entire Billings family at this time.

SADDLEBACK MOUNTAIN PROPERTY SETTLEMENT

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. HAYWORTH. Mr. Speaker, on behalf of the city of Scottsdale and the Salt River Pima-Maricopa Indian community in Arizona, I am introducing legislation which would approve an agreement for the settlement of litigation over property located in Scottsdale, known as the Saddleback Mountain property. Saddleback Mountain is an important conservation resource, and this agreement will preserve it for future generations. The property is a 701-acre tract of land which was owned by the failed Sun State Savings and Loan and is now held by the Resolution Trust Corporation [RTC]. The agreement approved by this legislation provides for the sale by the RTC of part of the Saddleback Mountain property to the Salt River Pima-Maricopa Indian community, to be held in trust by the United States as part of the tribe's reservation. The rest of the property will be sold to the city of Scottsdale. This legislation, which is the result of months of negotiation between the city of Scottsdale and the Salt River Pima-Maricopa Indian community, will serve to ratify and authorize the agreement and will provide that the property purchased by the tribe will be taken into trust reservation status. It does not authorize any expenditure of funds by the United States.

The Saddleback Mountain-Arizona Settlement Act of 1995 is noncontroversial and I urge my colleagues to support this important legislation.

THE DEMOCRATIC SUBSTITUTE FOR H.R. 2425

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mr. GIBBONS. Mr. Speaker, during the debate on H.R. 2425, the so-called Medicare Preservation Act, later this week, Representative JOHN DINGELL and I plan, along with Representative JIM MCDERMOTT, and others, to offer a substitute that takes the steps needed to assure solvency for Medicare for the next decade—through 2006. Instead of cutting $270 billion out of Medicare as the Republicans have proposed to finance their tax breaks for the wealthy, our Democratic plan reduces Medicare by $90 billion—and achieves solvency through 2006.

To assure an informed debate, I want to share a copy of the summary of the Gibbons-Dingell substitute. The legislative language of the substitute is published in the amendments section of today's RECORD. The summary follows:

A DEMOCRATIC MEDICARE REFORM PLAN

A BALANCED PACKAGE OF REFORMS TO MAKE MEDICARE SOLVENT FOR THE NEXT DECADE (2006)

The Gibbons-Dingell substitute

Peace of Mind for Medicare Beneficiaries

Assurance that Medicare—as you know it now—will be there when you need it.

Expanded choice of providers and plans.

A freeze in the part B premium.

Reduced copayments for outpatient services.

New preventive benefits—payment for more frequent mammographies, colorectal screening, pap smears, and diabetes screening.

Quality standards for nursing homes.

Reasonable Provider Reductions and Reforms

Modest reductions in hospital payments.

Protection for hospitals that serve the uninsured in urban and rural areas.

Reduced funds for hospital construction.

A new graduate medical education trust fund.

Limits on physician reimbursement.

Other "Good Government" Reforms

A prospective payment system for home health services.

Reformed nursing home reimbursement.

Tough fraud and abuse prevention.

Aggressive pursuit of payment by private insurers, to assure Medicare is the payer of last resort.

A commission on the long-term solvency of Medicare.

Total savings: $90 billion.

DETAILED SPECIFICATIONS

Subtitle A. Provisions relating to Medicare part A

A. Reasonable Hospital Reductions and Reforms

Medicare is the single largest insurer in the United States today. Reductions in payments to providers under Medicare must be carefully planned and implemented to avoid severe negative consequences for Medicare beneficiaries and the American taxpayer. Excessive reductions in hospital costs—like those proposed by the Republican majority—could be counter-productive, negatively affecting the quality of care, reducing access to care, and resulting in higher costs for the private sector. Little would be accomplished by unnecessarily blunt reductions in Medicare payments to hospitals. Our most vulnerable hospitals—those who serve a large share of the 40 million Americans who are uninsured—would carry an unfair burden.

Under this Democratic plan, reasonable reductions would be made in hospital payments. Furthermore, there would be no reductions in payments made to compensate hospitals that care for a disproportionate share (DSH) of the uninsured. In addition, funding for DSH hospitals, now paid to HMO's, would be paid directly to these high-indigent care hospitals.

Specifically, the substitute would:

1. Make modest hospital payment reductions with special protections for vulnerable rural hospitals.—Hospital payments would be limited to market basket minus one in FY '96 through FY '02 except that the rural hospital update would be set at 0.5 percent in each of these years.

2. Reduce payments for hospital capital (construction) expenses, given excess capacity.—All hospital capital payments would be reduced by 10 percent (including PPS-exempt hospitals) through 2002.

3. Retarget outlier payments.—The indirect medical education and disproportionate share hospital add-on payment would be eliminated for outlier cases.

B. Nursing Home Reforms

The Republican majority has proposed to reduce payments for skilled nursing facilities by $10 billion over seven years, through untested limits on payments that could place patients with complex needs at risk of inadequate services or, even worse, encourage facilities to avoid patients with greater resource needs.

The Republican majority also proposes to eliminate the current nursing home reform standards, leaving elderly nursing home patients and their families without protections that have improved the quality of life for millions of nursing home residents. The regulations—which the Republican majority wants to repeal—have resulted in fewer hospital visits and healthier nursing home residents, more complete and reliable medical records, a significant improvement in patient well-being, and savings to Medicare of $2 billion since the regulations took effect.

This Democratic plan would retain these essential protections for Medicare beneficiaries in nursing homes. In addition, this substitute would revamp the nursing facility reimbursement system by taking the following steps:

1. Extend the skilled nursing facility (SNF) cost limits.—The OBRA '93 SNF cost limits would be extended.

2. Establish a prospective payment system to control costs.—Beginning in FY 1997, routine costs would be paid in accordance with a prospective payment system established by the Secretary. Payments under the system would be determined on a per diem basis and would equal 112 percent of the mean per diem routine costs in a base year for freestanding skilled nursing facilities located in the same region. These limits would be determined separately for urban and rural facilities; hospital-based facilities would be held harmless. Beginning in FY 1998, all costs for skilled nursing facilities would be paid based upon the prospective payment system.

3. Reform SNF transfer policies.—End gaming of discharge status by hospitals who also have their own nursing home unit. Patients transferred from a hospital to a SNF unit of the hospital would be classified as a transfer and not as a discharge. Patients discharged to home health services would still be classified as a discharge.

Subtitle B. Provisions relating to Medicare part B

A. Physician Payment Reforms

Efforts to control Medicare spending require that limits be placed on reimbursements to all providers, including physicians. Since the nation's doctors have been supportive of the reforms included in HR 2425, this substitute includes those reforms with very slight modifications.

To control Medicare spending on physician payments, this Democratic plan adopts the recommendations of the Physician Payment Review Commission. This means that on January 1, 1996, the fee schedule conversion factor for all three categories of service—primary care, surgery, and all other services—would be set to a uniform $34.60. Three separate expenditure targets are retained, however, for determining updates in future years for each category.

In addition, the upward bias in the current Medicare Volume Performance System (MVPS) is corrected by assuring that the targets are cumulative—the MVPS bonuses and penalties apply for only one year, and are not built into the base-year spending target. Adjustments to the annual updates are also limited.

B. Reforms in Payments for Other Health Services

The Republican majority has proposed an unprecedented seven-year freeze on payments for clinical laboratory services, durable medical equipment, and ambulatory surgery, raising questions about whether these providers will, in the future, continue to serve Medicare beneficiaries. In addition, the Republican majority curtails the steady progress Democrats have made, over the past decade, in improving preventive benefits; under the Republican plan, no new preventive benefits are offered, despite strong evidence that the basic Medicare benefit package needs improvement in this area.

This Democratic substitute offers a package of shared sacrifice combined with modest program improvements. It would:

1. Impose a two-year freeze.—Fee schedules for clinical labs, durable medical equipment, and ambulatory surgery would be frozen for two years.

2. Eliminate excessive beneficiary copayments for outpatient services by correcting the payment formula.—The hospital outpatient department formula driven overpayment would be eliminated, on a budget-neutral basis, as the savings would be returned to the beneficiaries to reduce the effective beneficiary co-payment.

3. Add new services to prevent cancer and complications from diabetes.—Medicare's preventive benefits would be improved to more quickly detect breast, cervical and colon cancer by increasing the mammography scheudle and providing payment for colorectal screening, pap smears, and pelvic examinations. In addition, payment would be authorized for diabetes outpatient self-management services and for blood-testing strips for individuals with diabetes.

4. Extend limits on payments for outpatient capital expenses.—The current 10 percent capital reduction for hospital outpatient services would be extended.

c. Freeze the Beneficiary Premium

Fully 83 percent of Medicare expenditures are for beneficiaries with incomes of less than $25,000 per year. Clearly, beneficiary premiums and copayments should be increased only as a very last resort. These senior citizens can ill-afford to pay any increase in the part B premium, however small. Under this Democratic plan, Medicare beneficiaries are protected.

Under current law, the part B beneficiary premium is $46.10 for 1995. Under the Democratic plan, the premium will remain the same for 1996. Subsequent premiums would be determined without regard to home health services transferred from Part A to Part B as a result of this proposal. The following chart shows the premium amounts under current law, the Republican proposal (HR 2425), and the Democratic plan:

	1995	1996	1997	1998	1999	2000	2001	2002
Current law	$46	$43	$48	$53	$55	$57	$59	$61
Republican plan	46	53	57	60	64	72	79	88
Democratic substitute	46	46	47	51	53	54	56	58

D. Anesthesiology Payments

Payment for anesthesia services would be clarified such that when services are provided jointly by anesthesiologists and by nurse anesthetists, both providers would be reimbursed.

Subtitle C. Provisions relating to parts A and B

A. Continue Medicare as the Payer of Last Resort

When a Medicare beneficiary also has private insurance, Medicare pays only after the other insurer has met its obligations. The authority for this policy is temporary, however, expiring in 1998. This Democratic plan extends the so-called Medicare secondary payer provisions through 2002. In addition, insurers would be required to report on secondary payer status and current rules would be clarified, given recent judicial action.

B. Expand Beneficiary Choice

Medicare beneficiaries currently select either traditional fee-for-service or an HMO for the delivery of their health care. Under this democratic plan, additional managed care choices would be provided, including preferred provider organizations (PPOs), point-of-service (POS) plans, and provider service organizations. Plans could not bar any professional from participating in a plan solely on the basis of their license or certification under State law.

C. Improve Graduate Medical Education

Prudent reforms are needed in Medicare's policies for reimbursing the costs of graduate medical education. Instead, the Republican majority has chosen to slash support for hospitals dedicated to training the next generation of health professionals. Under this Democratic substitute, only the needed reforms would be made. Specifically, the plan would:

1. Establish a graduate medical education trust fund.—Funds would be targeted to teaching hospitals by creating a graduate medical education trust fund. Funds for teaching hospitals, now paid to HMO's, would be deposited into the new graduate medical education trust fund. A commission on graduate medical education would also be established to develop a method for assuring that academic medical centers train the types of physicians that will be required to meet the nation's health needs.

2. Reform Medicare payments for graduate medical education.—A number of needed improvements would be made in Medicare policies for reimbursing the costs of graduate medical education. Specifically:

The total number and number of non-primary care residency positions reimbursed under Medicare would be frozen.

The OBRA '93 freeze on updates for nonprimary care residents would be extended for an additional two years.

Residents in training beyond their initial residency period would be counted less, for purposes of the indirect medical education adjustment.

Reimbursement would be made for work performed in non-hospital settings for indirect medical education.

Payments would be authorized for non-hospital settings for residents receiving primary care training when a hospital is not paying the resident's salary.

D. Home Health Reforms

Payments for home health services have been one of the fastest growing components of Medicare since the late 1980's. In fact, outlays for home health services more than quintupled between 1987 and 1994. This increase is, in large part, due to a 1989 court decision—Duggan v. Bowen—which liberalized the Medicare benefit and made the denial of home health claims difficult. Clearly, reforms are needed to control the growth in expenditures.

Under this Democratic substitute, payments for home health would, over time, shift from cost-based retrospective reimbursement, to a prospective payment system. Specifically, the plan would:

1. Establish a prospective payment system for home health services effective in FY 2000 with the following steps.—

Impose interim cost limits.—Through the end of FY 1996, the cost limits on home health services would equal to 112 percent of the mean labor-related and nonlabor costs per visit of free standing home health agencies.

Effective October 1, 1996, the cost limits would be reduced to 105 percent of the median costs.

Effective October 1, 1996, the Secretary would be authorized to establish a TEFRA-limits type system under which each home health agency would be subject to a total dollar cap for each beneficiary per year, based on the lesser of (1) actual costs per visit times the average number of visits per beneficiary in calendar year 1995 (the base year); or (2) the agency-specific per beneficiary limit.

Extend, through FY 1996, the OBRA '93 freeze on updates.

Modify payment rules.—Effective for FY 1996, payment to home health agencies would be based on the site where service is rendered, as opposed to the location of the site where the service is billed.

Establish a prospective payment system.—The Secretary would be authorized to impose a full per episode home health prospective payment system in FY 2000.

2. Establish a 160-visit limit.—A 160-visit limit would be imposed on home health services under part A of Medicare. Visits beyond the limit would be reimbursed under part B, as in current law.

E. Commission on the Future of Medicare and the Protection of the Health of Senior Citizens

A commission would be established to analyze the health status of the Medicare-eligible population, make recommendations on actions to improve the health of that population, analyze the effects of changes in Medicare on the private health financing system, examine the impact of the increase in the eligible population occurring after 2010, and make recommendations to the Congress on actions to preserve the program during that period.

F. Miscellaneous

Under this Democratic plan, Medicare law could not be construed to prohibit coverage of items and services associated with the use of a medical device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) on the grounds that the device is not an approved device if it is an investigational device or is used instead of an approved device or a covered procedure.

Subtitle D. Preventing fraud and abuse

A. Tough Anti-fraud Measures

This Democratic plan would fill the holes in the Republican fraud detection proposal by strengthening Federal anti-fraud and abuse provisions, requiring HHS to offer interpretive rulings on kick-back and self-referral legislation, and pre-emption of State corporate practice laws.

B. Mandatory Funding for the Inspector General

The HHS Inspector General (IG) is responsible for Medicare fraud detection, yet this year the Republican majority has proposed to reduce funding for the IG by 6 percent. And, given limited funds, the IG doesn't even maintain a field office in 23 States. Simply put, rhetoric alone won't result in fraud detection—and prosecution. We need an aggressive IG who has the manpower to carry out the threat.

For that reason, this Democratic plan mandates appropriation of funds from the Medicare trust funds to the HHS Office of the Inspector General. This will assure adequate funds for the IG and a field office in every State. Funding would total $130 million in FY 96, $181 million in FY 97, and $204 million in FY 98 with future amounts indexed to total increases in Medicare expenditures.

C. Enhanced Payment Safeguards

This Democratic substitute also mandates appropriation of funds from the Medicare trust funds for enhanced payment safeguard activities by the Health Care Financing Administration and its contractors to crack down on double billing, overcharging, and other abuses. Funding for these payment safeguards would total $430 million in FY 96, $490 million in FY 97, $550 million in FY 98, $620 million in FY 99, $670 million in FY 00, $690 million in FY 01, and $710 million in FY 02.

D. Commission to Prevent Medicare Fraud and Abuse

Finally, this Democratic substitute established a temporary "blue ribbon panel" to examine the full scope of waste, fraud and abuse in the Medicare system and recommend cost effective remedies. The Commission would hold hearings, take testimony, receive evidence with full subpoena power, and report to Congress within 18 months. The Commission would terminate within 90 days after submission of its report to Congress.

WORLD POPULATION AWARENESS WEEK IN NORTH CAROLINA

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 17, 1995

Mrs. CLAYTON. Mr. Speaker, Gov. James B. Hunt, Jr., of North Carolina has recently proclaimed October 22–29 as World Population Awareness Week in the State of North Carolina. This week is being recognized by States across this country and by organizations in other countries.

The purpose of World Population Awareness Week is to focus attention on the problem of world population growth. There are more than 5.7 billion people in the world, a total that is expected to double in about 40 years. More than 90 percent of this growth is occurring in the poorest countries of the world, those that can least afford it. But it is not a problem for the developing world alone.

Mr. Speaker, I include for the RECORD a copy of the proclamation.

"WORLD POPULATION AWARENESS WEEK 1995 BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

"Whereas, the world population is currently 5.7 billion and is increasing by nearly 100 million people per year, with virtually all of this growth added to the poorest countries and regions, which are the areas that can least afford to accommodate their current populations, much less such massive infusions of human numbers; and

"Whereas, the annual increment to the world population is projected to exceed 86 million through the year 2015, with three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and

"Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and, at the same time, have deleterious repercussions for the standard of living in more affluent regions; and

"Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt, crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources, that was duly approved by 180 nations, including the United States;

"Now, therefore, I, James B. Hunt Jr., Governor of the State of North Carolina, do hereby proclaim October 22-29, 1995, as 'World Population Awareness Week' in North Carolina, and commend its observance to our citizens."

SENATE—*Wednesday, October 18, 1995*

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by the Reverend H. Kenneth Dutille, pastor of the First Baptist Church in Bath, ME.

PRAYER

The guest Chaplain, the Reverend H. Kenneth Dutille, offered the following prayer:

Today, Lord, we praise You that You hold our whole Earth in Your mighty hands. We thank You that the Sun, the Moon, and the stars are preserved by Your mighty power. We are so indebted to You because You have given Your prescription for perfect peace in providing help when we go through periods of problems, pain, and perplexities. Sometimes our country looks like a puzzle, and we do not know what path to pursue. One group promotes what they believe is truth, while another group believes they have the perfect plan. We pray that all people in our great diverse Nation will look to the Deity. Bind us together with a pattern of fibers that will make a complete puzzle with a greater potential.

Encourage each of us when we are discouraged, give us confidence when in doubt, boldness when we are fearful, and strength when we are spent.

I pray that we may have a clear and crisp vision of Your plans, and give us the honor, integrity, and uprightness to carry those plans forward. Let the mighty power of God become our power in all we do this day.

We entrust this day to our Lord who is the Light of the World. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

Mr. DOLE. I thank the Chair.

SCHEDULE

Mr. DOLE. Let me announce to my colleagues we have morning business until the hour of 2 p.m. today, and then at 2 p.m. there will be a cloture vote on the substitute amendment to H.R. 927, the Cuba sanctions bill. Yesterday's vote was 59 to 36. It is our hope that we can invoke cloture today. This will be the third effort. And if we do, we will continue consideration of the bill until disposed of. Second-degree amendments to the substitute amendment may be filed up until 1 p.m. today.

If cloture is not invoked, the Senate may turn to any of the following items: NASA authorization, which I understand is not controversial. We are close to having some consent agreement on that.

Amtrak authorization, which may be referred to the Finance Committee because it has some tax provisions. Hopefully, if it is referred, it can be done on a limited basis so it would come back here within 2 or 3 weeks.

Labor, HHS appropriations. We have been precluded from bringing that bill to the floor. It is my hope that Senators SPECTER and HARKIN, the managers of the bill, can get together to see if they cannot work out some agreement so we can pass Labor, HHS appropriations. Senator COCHRAN will be working on that as sort of the expediter of the appropriations bills. This is the last appropriations bill to leave the Senate, and we are locked up over a number of provisions dealing with abortion, others dealing with striker replacement. It is my hope we can resolve some of those issues, bring it to the floor, have the votes, and go to conference.

State Department reorganization. Hopefully, they are about to reach an agreement between Senator KERRY of Massachusetts and Senator HELMS, the chairman of the committee. It was our hope that we could have disposed of this matter by now. And I know there was a meeting yesterday. I hope we can follow up and maybe dispose of that today, and any available conference reports.

I might ask the Senator from Mississippi, are there any additional conference reports that may be coming to the floor on appropriations bills?

Mr. COCHRAN. Mr. President, if the distinguished Senator will yield, the Transportation appropriations conference is one that has been the subject of some hard work. Our chairman of the full committee, Senator HATFIELD, is chairman of that subcommittee here, and we are hopeful that that bill will come to the floor in the form of a conference report soon.

Energy and water is another where we are hopeful that differences can be resolved between the House and Senate at an early date and we can get that conference report before the body.

Mr. DOLE. And the Agriculture appropriations bill has gone to the President?

Mr. COCHRAN. It has gone to the President. We are happy that the Senate acted favorably on the report. So did the House. And that bill is now on its way to the President. We hope he will sign it. All indications are that he will. The Secretary of Agriculture indicated that was his strong recommendation. Others in the administration have likewise indicated they think the President will sign the bill.

Mr. DOLE. I thank the Senator, my colleague.

MEASURES PLACED ON CALENDAR—S. 1322 AND S. 1328

Mr. DOLE. Mr. President, I understand there are two bills at the desk that are due for their second reading.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will read the two bills for the second time.

The legislative clerk read as follows:

A bill (S. 1322) to provide for the relocation of the U.S. Embassy in Israel to Jerusalem, and for other purposes.

Mr. DOLE. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. Without objection, the bill will be placed on the calendar.

The legislative clerk read as follows:

A bill (S. 1328) to amend the commencement dates of certain temporary Federal judgeships.

Mr. DOLE. I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. Without objection, the bill will be placed on the calendar.

Mr. DOLE. Mr. President, is the Senator from Wyoming seeking recognition?

Mr. THOMAS. Yes.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Wyoming [Mr. THOMAS] or his designee is recognized to speak for up to 60 minutes.

THE BUDGET

Mr. THOMAS. Mr. President, let me first allay any fears that I intend to speak for 60 minutes. But I do have some colleagues who will join in using this opportunity to talk about where we are going in the next several weeks. Of course, what we do in the next several weeks is relatively less important than the impact on where we are going in the next century. It is my belief and the belief of many of us that we have the opportunity during this time to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

make a great deal of difference, and much of it has to do with the budget. It has to do with our ability to be responsible in spending and what we do.

I would like, if the Senator from New Mexico is ready, to yield to have some basic comments with respect to the budget and where we are going with the budget. So if I might, Mr. President, I will yield to my colleague from New Mexico, the chairman of the Budget Committee.

Mr. DOMENICI. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from New Mexico.

A BALANCED BUDGET

Mr. DOMENICI. First of all, let me in advance thank Senator COCHRAN for organizing this time. I am only going to use a few minutes because I get more than enough time in expressing budget and fiscal problems for our country. But today I want to start by saying the long, long journey of getting to a balanced budget from the standpoint of the Senate and all of the committees of this Senate doing their work is completed as of now.

In fact, just about a half-hour ago, dated today, I received a letter from the Congressional Budget Office directed to me as chairman of the Budget Committee signed by Dr. June O'Neill, Director of the Congressional Budget Office, that says when we pass in the Senate and if the President will just sign what we have done, we have a balanced budget, literally. For the first time in more than 25 years we have put together a package of reforms and changes, restraints and modifications in the law such that the authenticator of our budgets, the institution created to tell us the truth, has said in this letter that we have a balanced budget.

Now, for many of us, this letter has been years, years, and years in the making, and for some who have joined us recently, like the occupant of the chair and my good friend from Wyoming, they came and they lent their support to this very, very important endeavor in their first year of what may be for them many years of being Senators when the United States spends only what it takes in and establishes a new premise that we will only fund what we can afford.

So it is with a great deal of pleasure that I kick off this 1 hour today, and many to follow, when we explain why we are doing what we are doing by saying to those who want future Americans to have a better standard of living, for those seniors, those parents across this land that are wondering why our children cannot have a better standard of living, why they cannot get better paychecks. This is the beginning of the reinstating, across this land, of a U.S. economy that can grow and prosper with low inflation and provide an increasing standard of living.

Why? Because it is obvious when you borrow so much money to pay for Government that you probably could not afford, you siphon off the resources and the productivity of our people, young and old. Those around now and those who will be here in a couple years, you take their productivity and their wealth and you say the U.S. Government needs that. We need it, to borrow it, to pay our bills, which we should not have incurred in the first place. Mr. President, $4.6 trillion of that kind of debt, which sooner or later will stop growing when all these bills we are going to send to the President gets signed or when the President gets real and says how we will do it with real numbers, not with phony economic numbers.

I repeat, it would not have been very difficult to get this letter from the Director of the Budget Office if we had the luxury that the President had. The President found $475 billion without cutting anything, without reforming anything. He just said, "We'll have better numbers than the Congressional Budget Office. Things are just going to be so much better, Medicaid is not going to cost so much. You don't have to change it. It is just going to stop costing so much."

"Medicare, you know, it is also going to stop costing so much," said the President. "We are going to save a bunch of money because the costs are going to start going down." He said, "We're going to pick up interest." He says we are going to pick up $175 billion because he thinks we are going to grow more than the Congressional Budget Office says, again, the authenticator of truism and the opposite of smoke and mirrors that we so long looked for around here and now we have.

So when the President comes to the party, after we have done what this CBO Director says, after we pass what she says will get you the balance, the ball is going to be in the President's court. What does he want to do about it? We already had the Secretary of the Treasury, with weeping and gnashing of teeth about the debt limit, making changes in advance of what he assumes might happen around here.

Mr. Secretary of the Treasury, while we recognize and respect your past business performance, we insist that you understand that we want, too, a balanced budget. We do not want America to default on its debt. But, Mr. Secretary, we want a balanced budget. And we believe that the CBO Director told us today how you do it. You do not dream up better numbers so you do not have to do so much, you do what must be done. No smoke and mirrors. Reform the entitlement programs. You will get there. America will have a much better place for its youngsters to grow up in and have the opportunity to prosper and grow in.

So, I will ask unanimous consent that the letter, and for those interested, the attached charts be printed in the RECORD. The charts are now attached. And believe it or not, in 2002, the Congressional Budget Office, without a rosy scenario, with conservative economics, real estimates, says we will have a $10 billion surplus.

Now, I know for many that is one of these "believe it or nots," is it not? It has been so long since we ever thought about this seriously. You never thought we could get there. And I might conclude after all my years of trying to get there, I never thought we would be here today, and next week and the week after when we vote to do this. And I would hope some of those on the other side of the aisle will help us do it. I am not sure they will. But I hope they do not rely on the President's budget as a means of getting there.

I have heard some very, very expert members of the Democratic Party on that side of the aisle talk about the need to reform entitlement programs. Well, reform did not mean that you wish away the costs by just sitting down and saying it just is not going to cost that much, you do not have to change anything.

Let me tell everyone, I have been down that route. The one summit that failed, when we got the Executive and the Congress together, failed because we refused to reform entitlement programs. We estimated their costs. And much like the President, we estimated them very low. The OMB Director thought they would not cost so much. We saw the result. They cost a lot more than we predicted, and we never came close to the goals we had set.

We are not doing that. We are not doing that. We are taking on some very tough issues. There is some pain. We think it is fair pain. And so today I am very, very proud to say that the journey toward a balanced budget is perhaps drawing to an end.

Mr. President, pursuant to section 205(a)(4) of the fiscal year 1996 concurrent resolution on the budget (H. Con. Res. 67), I am submitting to the Senate the Congressional Budget Office certification of the reconciliation recommendations.

In accordance with the procedures set forth in the budget resolution, the Budget Committee transmitted the recommendations received pursuant to section 105(a) of that resolution to the Congressional Budget Office [CBO]. CBO completed the required estimate and transmitted it to the Senate Budget Committee today. The estimate projects that enactment of the legislation will result in a balanced total budget in 2002—indeed there will be a $10 billion surplus in that year. This estimate does not include projections of the fiscal dividend.

This certification triggers the revenue reconciliation instructions to the

Senate Finance Committee contained in section 105(b) of the budget resolution. Pursuant to that section, the Finance Committee must submit its revenue reduction recommendations to the Budget Committee within 5 days.

I submit officially for the RECORD the CBO's letter saying when we pass the Senate proposals we will have a balanced budget in the year 2002.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 18, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the legislation submitted to the Senate Committee on the Budget by eleven Senate committees pursuant to the reconciliation directives included in the budget resolution for fiscal year 1996 (H. Con. Res. 67). CBO's estimates of the budgetary effects of each of those submissions have been provided to the relevant committees and to the Budget Committee. Based on those estimates, using the economic and technical assumptions underlying the budget resolution, and assuming the level of discretionary spending specified in that resolution, CBO projects that enactment of the reconciliation legislation submitted to the Budget Committee would produce a small budget surplus in 2002. The effects of the proposed package of savings on the projected deficit are summarized in Table 1, which includes the adjustments to CBO's April 1995 baseline assumed by the budget resolution. The estimated savings that would result from enactment of each committee's reconciliation proposal is shown in Table 2.

As you noted in your letter of October 6, CBO published in August an estimate of the fiscal dividend that could result from balancing the budget in 2002. CBO estimated that instituting credible budget policies to eliminate the deficit by 2002 could reduce interest rates by 150 basis points over six years (based on a weighted average of long-term and short-term interest rates) and increase the real rate of economic growth by 0.1 percentage point a year on average, compared with CBO's economic projections under current policies. CBO projected that the resulting reductions in federal interest payments and increases in federal revenues would total $50 billion in 2002 and $170 billion over the 1996–2002 period. Those projections were based on a hypothetical deficit reduction path developed by CBO. The deficit reductions estimated to result from the reconciliation legislation submitted to the Budget Committee, together with the constraints on discretionary spending proposed in the budget resolution, would likely yield a fiscal dividend similar to that discussed in the August report.

If you wish further details on this projection, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

TABLE 1.—PROPOSED SENATE BUDGETARY CHANGES FROM CBO'S APRIL BASELINE

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	Total 1996–2002
CBO April baseline deficit [1]	210	230	232	266	299	316	349	*
Baseline adjustments [2]								
CPI rebenchmarking [3]	0	0	0	−1	−3	−6	−9	−18
Other adjustments [4]	1	1	1	2	2	1	1	10
Subtotal	1	1	1	1	−1	−5	−8	−8
Policy changes:								
Outlays:								
Discretionary: [5]								
Freeze [6]	−8	−9	−12	−35	−55	−75	−96	−289
Additional savings	−10	−21	−27	−24	−20	−24	−25	−151
Subtotal	−18	−29	−39	−59	−75	−99	−121	−440
Mandatory:								
Medicare	−8	−17	−25	−36	−48	−60	−75	−270
Medicaid	−5	−9	−16	−25	−33	−42	−52	−182
Other	−12	−21	−24	−27	−29	−30	−32	−175
Subtotal	−26	−48	−65	−87	−110	−133	−159	−627
Net interest	−2	−6	−12	−21	−33	−48	−67	−189
Total outlays	−45	−83	−116	−168	−217	−280	−347	−1,256
Revenues [7]	−1	−3	−3	−4	−4	−4	−4	−24
Total policy changes	−46	−86	−120	−171	−221	−284	−351	−1,280
Total adjustments and policy changes	−45	−85	−118	−171	−222	−288	−359	−1,288
Senate policy deficit	165	146	113	96	77	28	−10	*

[1] Projections assume that discretionary spending is equal to the spending limits that are in effect through 1998 and will increase with inflation after 1998.

[2] The budget resolution was based on CBO's April 1995 baseline projections of mandatory spending and revenues, except for a limited number of adjustments.

[3] The budget resolution baseline assumed that the 1998 rebenchmarking of the CPI by the Bureau of Labor Statistics will result in a 0.2 percentage point reduction in the CPI compared with CBO's December 1994 economic projections.

[4] The budget resolution baseline made adjustments related to revised accounting of direct student loan costs, assuming expiration of excise taxes dedicated to the Superfund trust fund as provided under current law, the effects of enacted legislation, and technical corrections.

[5] Discretionary spending specified in the Concurrent Resolution on the Budget for Fiscal Year 1996 (H. Con. Res. 67).

[6] Savings from freezing 1996–2002 appropriations at the nominal level appropriated for 1995.

[7] Revenue increases are shown with a negative sign because they reduce the deficit.

Source.—Congressional Budget Office.

Note: *=not applicable; CPI=consumer price index.

TABLE 2.—SENATE RECONCILIATION SAVINGS BY COMMITTEE

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
Agriculture, Nutrition and Forestry:								
Outlays:								
Farm and export programs	−0.9	−1.6	−2.1	−2.0	−2.0	−2.0	−2.0	−12.7
Nutrition programs	−2.4	−4.0	−4.7	−5.3	−5.9	−6.4	−7.0	−35.7
Subtotal	−3.3	−5.6	−6.8	−7.3	−7.8	−8.4	−9.0	−48.4
Armed Services: Outlays	−0.1	−1.2	0.4	0.4	0.3	0.3	0.3	0.3
Banking, Housing, and Urban Affairs: Outlays	−5.1	0.3	0.3	0.3	0.3	0.3	0.3	−3.3
Commerce, Science and Transportation: Outlays	−0.1	−1.8	−2.6	−3.5	−3.1	−2.6	−1.4	−15.1
Energy and Natural Resources:								
Outlays	−0.6	−1.4	−1.1	−0.3	−0.9	−0.3	−0.1	−4.7
Revenues[1]	0.0	[2]	[2]	[2]	[2]	[2]	[2]	[2]
Deficit	−0.6	−1.4	−1.1	−0.3	−0.9	−0.3	−0.1	−4.7
Environment and Public Works: Outlays	−0.1	−0.3	−0.2	−0.5	−0.4	−0.4	−0.4	−2.3
Finance:								
Outlays:								
Medicare	−8.4	−17.1	−25.3	−36.1	−47.8	−60.3	−75.2	−270.2

TABLE 2.—SENATE RECONCILIATION SAVINGS BY COMMITTEE—Continued

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
Medicaid	−5.1	−9.0	−16.4	−24.5	−32.9	−42.2	−51.9	−182.0
Welfare reform	−0.8	−9.0	−10.9	−12.1	−13.6	−15.0	−16.9	−78.3
Subtotal	−14.3	−35.1	−52.6	−72.7	−94.3	−117.5	−144.0	−530.5
Revenues[1]:								
Earned Income Tax Credit	−0.1	−1.2	−1.4	−1.6	−1.8	−2.1	−2.5	−10.7
Hospital Insurance Tax	−1.1	−1.6	−1.5	−1.5	−1.4	−1.4	−1.3	−9.8
Subtotal	−1.2	−2.8	−2.9	−3.1	−3.2	−3.5	−3.8	−20.5
Deficit	−15.5	−37.9	−55.5	−75.8	−97.5	−121.0	−147.7	−550.9
Governmental Affairs:								
Outlays	−0.5	−1.0	−1.0	−1.0	−0.9	−0.9	−0.9	−6.2
Revenues[1]	−0.2	−0.4	−0.6	−0.6	−0.6	−0.6	−0.7	−3.7
Deficit	−0.7	−1.4	−1.5	−1.6	−1.5	−1.6	−1.6	−9.9
Judiciary: Outlays	0.0	0.0	0.0	−0.1	−0.1	−0.1	−0.1	−0.5
Labor and Human Resources: Outlays	−1.3	−1.1	−1.4	−1.6	−1.7	−1.8	−1.9	−10.9
Veterans' Affairs: Outlays	−0.2	−0.3	−0.5	−1.3	−1.5	−1.4	−1.5	−6.7
Interactive Effects: Outlays	(2)	0.1	0.1	0.2	0.2	0.3	0.3	1.1
Total:								
Outlays	−25.5	−47.6	−65.4	−87.4	−110.0	−132.7	−158.6	−627.1
Revenues[1]	−1.4	−3.2	−3.4	−3.7	−3.9	−4.1	−4.4	−24.1
Deficit	−26.9	−50.8	−68.9	−91.1	−113.8	−136.8	−163.0	−651.3

[1] Revenue increases are shown with a negative sign because they reduce the deficit.

[2] Less than $50 million.

Sources.—Congressional Budget Office; Joint Committee on Taxation.

Mr. DOMENICI. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, let me first congratulate the Senator from New Mexico. This is a tough job. This is the toughest job in the Congress. Everyone likes the programs that we have. Everyone is involved in the programs. So you have to make some really tough decisions. It has not been done for 25 years. So I certainly congratulate the Senator, the Budget Committee, and the Finance Committee. They are doing tough work.

So we say, why are we doing this? It is very tough. What is the benefit? Let me tell you that I think there are substantial benefits. As a matter of fact, I do not think there is any question whether we have to do it.

One, if we are to be responsible, fiscally, morally, in terms of paying for what we ask for, you have to balance the budget. We have gone for a very long time, and we have known it, all of us, as citizens but we have not cared too much. But now we are at a time when, for example, interest on the national debt soon will become the largest single line item in the budget: $260 billion interest; not debt service, not a reduction, interest. That is one reason we do it.

If you have a philosophy about government, should Government continue to grow and become larger, better Government, it has to do with balancing the budget. If we do not ask ourselves, are we willing to pay for the services that we ask for or are we going to put them on the credit card, as we have done for a very long time, then we will continue to have larger and larger Government.

One of the benefits, I think, is to leave more money in the pockets of American families to spend as they chose to invest and create jobs.

Of course, I mentioned the interest. We will, next month, I suspect, be asked to vote on raising the debt limit to $5 trillion—whatever that is—$5 trillion because that is where we have gotten ourselves over a period of time. These young people, like these pages here, have, I think, $180,000 debt each they will inherit because we have not balanced the budget.

So that is what it is all about. It is not really a question of whether we do it, we must do it to be morally, fiscally responsible.

So we are doing the business this week. This is a defining moment, I believe, in a very long time. This is my first year in the Senate that I have been here. But I have been here for several years, 5 years, in the House. We have not had a moment of that kind since I have been here. But more importantly, we have not had a moment of that kind for many years, a defining moment when we decide to make some fundamental changes in Government.

It is not just the budget. The budget is reflective of it. The budget is the key to doing it. But much more will be changed besides simply balancing the budget.

I do not think there is any question but what voters asked for change. I do not think there is any question, as you go out to your constituency and talk in town meetings, about where we are going. Everyone knows we have to do something different. Almost everyone knows that you cannot keep doing the same thing and expect different results.

So we have before us this week and next week and will have before us next month the defining moment. We will have before us a budget that will bring us into balance in 7 years, the first time for a very long time.

So I would like to talk a little bit about the process we go through to do that, as opposed to the detail, and it will be difficult. I would like to talk a little bit about philosophy, because it is quite obvious that there are two points of view. There is nothing wrong with that. There are, clearly, at least two points of views. There are many views, of course, and they center on the role of the Federal Government in America today. That is the reason we have debate, that is the reason we have two parties, that is the reason we vote, to get a sense of direction as to how we want to go.

Some, including the President, and many of the more liberal Members on the other side, support more spending. That is a legitimate point of view, to spend more in the Federal Government, have more programs, have larger Government. I do not happen to agree with that.

My view is that we strengthen this country by having more personal responsibility, by having fewer programs that work better, that are efficient, that, in the case of welfare, are designed to help people who need help, but to help them back into a position to help themselves, not as a permanent establishment.

We have had 40 years where we just generally added to the social programs. If they did not work quite right, we put some more money in them. Now we have an opportunity to examine some of these programs, to see, indeed, that they are accomplishing the purposes for which they were established; to see, indeed, if they are efficient in terms of delivering the services that we pay for; to consider if there is a better way to do it.

This is, after all, a Union of States, and the basic governing unit are the States. They come together in the federation, and the more things, in my view, that the States can do, being closer to the people, the more likely they are to be effective.

So there is a different point of view about that. The President promised a 5-year balanced budget as a candidate 3 years ago. Of course, that has not happened. What did happen, however, was the largest tax increase in the history of this country that still left us with a deficit.

Voters rejected the proposal last year, of course, for the Government takeover of health care.

So where are we now? We have to have a budget that really means something. The President's first budget this year was rejected 99 to zip in this place. The budget that followed was touted as a balanced budget, but CBO indicated that it will be $200 billion over at the end of the 10-year period and would never balance.

There has to be a little pain in balancing, and it has to be real cuts. It is tough. It is where we are. We have to really come to the snubbing post and say are we going to commit ourselves to doing it and the time is now.

I hope that we get some support and cooperation from the White House and the other side of the aisle. I do not suggest everyone is going to agree. There are, obviously, lots of points of disagreement in how you do this, but the point is that we have to do it.

We have to save Medicare. If you like Medicare, if you want to have a health care program for the elderly, you have to change it. You cannot let it continue to grow at 10 percent a year, unless you want to double the contribution that is made to Social Security for part A. That is a fact.

I am a little concerned that as we move toward these decisions in the public arena, making public policy, that we are moving more and more toward sort of merchandising, towards the idea of using fright tactics instead of facts.

I picked up something in the Denver paper the other day on my way back. The Denver paper is not exactly a conservative bulletin, but it asserted the allegation under the Clean Water Act that we are going to dump arsenic in the water supply. Of course we are not going to dump arsenic in the water supply. Those are the kind of things that are being talked about as distortions, and they do not really come to the question of what we do to have a responsible Government, to be able to finance the kinds of programs that really are meaningful over time.

So, Mr. President, I say, again, that we are approaching and involved in, and it is a treat for you and me and my associate from Minnesota in our first year here to be a part of the first time to have a real opportunity to balance the budget, and we have that. I certainly hope our associates in the Senate will cause that to happen.

Mr. President, I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

A MESSAGE OF HOPE

Mr. INHOFE. Mr. President, I have been told, and we hear over and over again, that we have lost the war on words on the Republican side and that this, what has now become known as the "big lie" around the country, is selling; that people are buying the idea that the Republicans are cutting Medicare and giving tax credits and tax relief for the very wealthy.

Of course, this just is not true. I come here with a message of hope this morning, because I really believe that the American people will catch on. We are going to go through the same thing we went through a couple years ago when they were talking about socializing medicine. I am not nearly as distressed as other people are because we have time, time works in our favor, we have logic on our side, and we are seeing some things happening right now that I get really quite excited about.

The other day, I picked up an editorial that was in the Washington Post. Mr. President, we are talking about the Washington Post now. This is not the Limbaugh Letter and this is not the Human Events, this is the Washington Post. Generally, the Washington Post is more liberal on their editorial outlook. If anything, they are more on the Democratic side than the Republican side.

The editorial is called "Medagogues." This is really a kind of neat article. The first paragraph says—I will quote it:

> Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of conducting a campaign based on distortion and fear * * * They're right; that's precisely what the Democrats are doing—it's pretty much all they're doing—and it's—

A crummy idea.

I ask unanimous consent to have this editorial, entitled "Medagogues," printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MEDAGOGUES

> Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of conducting a campaign based on distortion and fear to block the cuts in projected Medicare spending that are the core of the Republican effort to balance the budget in the next seven years. They're right; that's precisely what the Democrats are doing—it's pretty much all they're doing—and it's crummy stuff.
>
> There's plenty to be said about the proposals the Republicans are making; there's a legitimate debate to be had about what ought to be the future of Medicare and federal aid to the elderly generally. But that's not what the Democrats are engaged in. They're engaged in demagoguery, big time. And it's wrong—as wrong on their part now as it was a year ago when other people did it to them on some of the same health care issues. Then, they were the ones who indignantly complained.
>
> Medicare and Medicaid costs have got to be controlled, as do health care costs in the economy generally. The federal programs represent a double whammy, because they, more than any other factor, account for the budget deficits projected for the years ahead. They are therefore driving up interest costs even as they continue to rise powerfully themselves. But figuring out how to contain them is enormously difficult. More than a fourth of the population depends on the programs for health care; hospitals and other health care institutions depend on them for income; and you cut their costs with care. Politically, Medicare is especially hard to deal with because the elderly—and their children who must help care for them to the extent the government doesn't—are so potent a voting bloc.
>
> The congressional Republicans have confounded the skeptics who said they would never attack a program benefiting the broad middle class. They have come up with a plan to cut projected Medicare costs by (depending on whose estimates you believe) anywhere from $190 billion to $270 billion over the seven-year period. It's true that they're also proposing a large and indiscriminate tax cut that is a bad idea and that the Medicare cuts would indirectly help to finance. And it's true that their cost-cutting plan would do—in our judgment—some harm as well as good.
>
> But they have a plan. Enough is known about it to say it's credible; it's gutsy and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What the Democrats have instead is a lot of expostulation, TV ads and scare talk. The fight is about "what's going to happen to the senior citizens in this country," Dick Gephardt said yesterday. "The rural hospitals. The community health centers. The teaching hospitals * * *" The Republicans "are going to decimate [Medicare] for a tax break for the wealthiest people, take it right out of the pockets of senior citizens * * *." The American people "don't want to lose their Medicare. They don't want Medicare costs to be increased by $1,000 a person. They don't want to lose the choice of their doctor."
>
> But there isn't any evidence that they would "lose their Medicare" or lose their choice of doctor under the Republican plan. If the program isn't to become less generous over time, how do the Democrats propose to finance it and continue as well to finance the rest of the federal activities they espouse? That's the question. You listen in vain for a real response. It's irresponsible.

Mr. INHOFE. Mr. President, this is what is going on around the country. I just feel very strongly that the people are not willing to buy this.

I wish I had a blowup of it, but there is a cartoon that has been sent out, I guess, into all the districts by the Democrat senatorial committee that depicts us as individuals who are trying to cut taxes for the superrich and we are going to be cutting Medicare. The things are just outrageous. It says: "Inhofe feasts on tax cuts for the privilege while children go to bed hungry."

This is something that is, in my opinion, so extreme that the American people are not going to buy it.

It was not long ago, just a little over a year ago, that the Democrats were trying at that time to sell to the American people a program where the Government would run the health care system and discard a health delivery system that has been the most successful system in the history of all nations, of all mankind, and it was one to adopt a program that was similar to what they have in Canada, or the age-old failure in Great Britain or the Scandinavian countries; and that is, all presume that the Government can run things better than the private sector.

We were all so distressed at that time. Keep in mind this is just a year and a half ago. Even the American Medical Association bought a full-page ad in the Wall Street Journal and said they were throwing in the towel, raising the white flag, "We surrender." For a few crumbs, they were willing to give up this system and take Hillary's health care system, and that was only a year and a half ago.

I had an experience a couple weeks ago that drove home to me what a great system we have now. I have a close friend, Mr. President. His name is Dr. John Campbell. He is an ear, nose, and throat surgeon in Tulsa, OK, one that has a very, very fine reputation among his peers and nationwide. I was talking to him and shared with him in casual conversation, about 20 years ago, that I lost my sense of smell. He said, "Come around sometime and I will examine you."

I went in and he said, "You need to have surgery." It is called endoscopic nasal surgery. It is a really yucky thing to talk about. But nonetheless, this is 2 weeks ago. Today, I am walking around and I have characterized this, Mr. President, as the most significant non-Christian experience that I have had or change in my life. I now have had this restored, and I have a sense of smell. This could not have happened in any other country, where you have a choice of practitioners to go to, you have the state of the art and a degree of professionalism that none of the other countries have. It happened to me.

Now, a year and a half ago, we were willing to give that up. And now, if you surveyed the American people, they know that we are making changes, that we need to do something about medical malpractice. They know we are going to come up with medical savings accounts and improve the system we have now. But the Government is not going to take it over.

Well, this is what we are going through right now. By the way, this is, I think, unprecedented for the Washington Post to do. They came out with another editorial, and this was on September 25, called "Medagogues, Cont'd." I will read the last two sentences:

> The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

Again, that is what the Washington Post said.

I ask unanimous consent that at this point this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 25, 1995]

MEDAGOGUES, CONT'D

We print today a letter from House minority leader Richard Gephardt, taking exception to an editorial that accused the Democrats of demagoguing on Medicare. The letter itself seems to us to be more of the same. It tells you just about everything the Democrats think about Medicare except how to cut the cost. That aspect of the subject it puts largely out of bounds, on grounds that Medicare is "an insurance program, not a welfare program," and "to slash the program to balance the budget" or presumably for any purpose other than to shore up the trust fund is "not just a threat to * * * seniors, families, hospitals" etc. but "a violation of a sacred trust."

That's bullfeathers, and Mr. Gephardt knows it. Congress has been sticking the budget knife to Medicare on a regular basis for years. Billions of dollars have been cut from the program; both parties have voted for the cutting. Most years the cuts have had nothing to do with the trust funds, which, despite all the rhetoric, both parties understand to be little more than accounting devices and possible warning lights as to program costs. Rather, the goal has been to reduce the deficit. It made sense to turn to Medicare because Medicare is a major part of the problem. It and Medicaid together are now a sixth of the budget and a fourth of all spending for other than interest and defense. If nothing is done those shares are going to rise, particularly as the baby-boomers begin to retire early in the next century.

There are only four choices, none of them pleasant. Congress can let the health care programs continue to drive up the deficit, or it can let them continue to crowd out other programs or it can pay for them with higher taxes. Or it can cut them back.

The Republicans want to cut Medicare. It is a gutsy step. This is not just a middle-class entitlement; the entire society looks to the program, and earlier in the year a lot of the smart money said the Republicans would never take it on. They have. Mr. Gephardt is right that a lot of their plan is still gauzy. It is not yet clear how tough it will finally be; on alternate days you hear it criticized on grounds that it seeks to cut too much from the program and on grounds that it won't cut all it seeks. Maybe both will turn out to be true; we have no doubt the plan will turn out to have other flaws as well.

They have nonetheless—in our judgment—stepped up to the issue. They have taken a huge political risk just in calling for the cuts they have. What the Democrats have done in turn is confirm the risk. The Republicans are going to take away your Medicare. That's their only message. They have no plan. Mr. Gephardt says they can't offer one because the Republicans would simply pocket the money to finance their tax cut. It's the perfect defense; the Democrats can't do the right thing because the Republicans would then do the wrong one. It's absolutely the case that there ought not be a tax cut, and certainly not the indiscriminate cut the Republicans propose. But that has nothing to do with Medicare. The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

Mr. INHOFE. Finally, Mr. President, I feel confident that the American people are not going to buy into this lie. I know it is a very short message. I know the Democrats are rejoicing. They think they fooled the American people into thinking that the Republicans are going to cut Medicare in order to have tax cuts. There is no connection, as far as tax cuts are concerned.

I hope that anyone in America that is looking at that and saying "we do not want tax cuts" will stop and remember what happened in 1993. In 1993, President Clinton came out with the largest single tax increase in the history of public finance in America or anyplace in the world. These are not the words of conservative Republican JIM INHOFE. These are the words of a Democrat on the floor of the U.S. Senate.

I suggest to you that anybody who was opposed to that major tax increase that we did not need in 1993 ought to be supporting a tax cut. All we are trying to do is repeal a lot of the damage that was done to the American people in 1993. We may not be able to get by with this, until we change the personality in the White House. Nonetheless, we should not connect what we are trying to do to save Medicare with the fact that we would like to have tax relief for the American people—not the superrich, we are talking about the American people and child deductions and that sort of thing.

I feel confident that we are going to be able to sell that message because it is right and honest. We are getting more and more support around the country from liberal editorial boards who are saying: "That is enough; we are not going to perpetrate a lie on the American people such as the Democrat leadership is trying to perform."

You know, it was Winston Churchill who said, "Truth is incontrovertible. Panic may rescind it, ignorance may deride it, malice may destroy it, but there it is."

I think we will find truth and truth will prevail.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

SECURITY—AT ANY COST?

Mr. GRAMS. Mr. President, I want to talk a little this afternoon not so much about taxes but taxpayers' money and about security.

Mr. President, 1600 Pennsylvania Avenue is certainly the most famous residential street address in America. It is, of course, the address of the White House—the crown jewel in a city that attracts 15 million visitors every year.

Part of the excitement for White House guests is discovering that their President lives right alongside a busy street, just like many of them do, that his house has an address, just like theirs does. The mail carrier really does deliver letters each day to 1600 Pennsylvania Avenue, just exactly as it happens at every other home, in every other town in America.

The White House is called the People's House because of its close relationship with the American people. It is a familiar place where visitors instantly feel at home.

The city has certainly grown around them, but Pennsylvania Avenue and the White House have actually changed little since 1791, when George Washington gave his approval to Pierre L'Enfant's magnificent city plan. The bold stretch of Pennsylvania Avenue that shoots from the Capitol to the White House links the executive branch to the legislative, physically and metaphorically.

By the early 1800's, Pennsylvania Avenue had become a busy thoroughfare, bringing people closer to the White House, and closer to their Government.

Pennsylvania Avenue in front of the White House was a natural place to hold the official ceremonies of a young nation. From there, President Lincoln reviewed troops heading off to battle in 1861. Later, dignitaries would gather on the avenue for inaugural parades.

People who were lost and looking for directions used to pull their carriages up to the front door of the White House to ask for help. By the middle of this century, it was station wagons and tour buses that made their way past the Executive Mansion. Families on vacation, eager for a close-up look at the home of the President, would travel the same route their ancestors might have traveled.

When ordinary citizens could drive past the White House or walk past its gate, well, that said something special about the unique openness that exists between the people and their President.

By 1995, Pennsylvania Avenue—the Main Street of America—had grown up. Over 80 feet wide, the modern, seven-lane thoroughfare was being used by more than 26,000 vehicles every day in the three-block stretch fronting the White House That is, until May 20 of this year, when all traffic on Pennsylvania Avenue in front of the White House came to a halt. In the wake of the tragic bombing in Oklahoma City, and citing a security risk for the President, the Treasury Department shut down three blocks of Pennsylvania Avenue. For the first time in the 195-year-history of the Executive Mansion, the people are no longer allowed to drive past the people's house.

The Secret Service says the street is not actually closed in front of the White House. In the Washington-speak that infects so many here, the roadway is merely restricted to vehicular traffic. Even the President, when he gave the order to close Pennsylvania Avenue, said the decision would not change very much except the traffic patterns in Washington. But a great deal more than that has changed. If you want to experience intense security, try driving to the White House—even as an invited guest, with permission to park on the grounds. A bunker mentality has taken hold.

Massive concrete barriers block Pennsylvania Avenue, keeping out unwanted traffic. The fortress-like effect is compounded by dozens of concrete posts inset into the White House sidewalk.

Police cruisers patrol every intersection.

Vans—engines running, manned by officers with dogs—wait in the parking areas.

Uniformed Secret Service officers guard their new security stations, circulate among the tourists and patrol the White House lawn.

Motorcycle officers and even officers on bicycles are there, too.

If you look carefully, you will see figures on the White House roof itself, binoculars in hand.

Drive into a parking area and you are stopped by armed officers who ask if anyone has given you explosives to carry.

You are told to pull forward, where you are met by another officer, who asks to check your trunk as he puts his bomb-sniffing dog through its paces.

Mr. President, I think it is safe to say that very few visitors feel at home these days at the White House. The openness is gone. The closeness is gone. It has all been replaced with intimidation and fear. The place is secure now—secure as a fortress—but what have we sacrificed for that security?

The cost of trading security for freedom cannot be calculated mathematically, but the cost can indeed be measured in three ways.

First, the knee-jerk closing of a major artery such as Pennsylvania Avenue has had a devastating financial cost for the District of Columbia and its businesses, its commuters, its tourists, its residents. With the avenue closed for three blocks, and several surrounding streets blocked off as well, the people who live, work, and visit here and give life to this city are beginning to feel choked off from it. Nearby businesses and offices are no longer as accessible to employees and clients. Traffic hassles compound the problem. A great deal of parking space has been eliminated. And most troubling is the fact that the President ordered the closing of Pennsylvania Avenue, and the Treasury Department carried it out, without any consultation with the District, without any direct public input from the people this action would most disrupt. Add up the lost parking revenue, the cost of changing street signs and signals, higher Metrobus subsidies, and police overtime, and as of June 30 of this year, the District estimated that closing Pennsylvania Avenue in front of the White House had cost nearly $750,000. No one is willing to guess how high that figure might be today.

And that does not begin to take into account the other indirect costs of the closing. How has this affected tour bus operators? They can no longer drive their customers—many of whom are strapped for time, or unable to walk the extra three or four blocks—to drive past the White House.

How has this affected the public bus system? In order to provide the same services it offered before the Pennsylvania Avenue shutdown, transit officials estimate they will have to spend up to $200,000 more every year by adding new buses and new drivers.

How has this affected local businesses and the customers who park nearby? That impact has yet to be calculated.

Mr. President, the people who depend on open access to Pennsylvania Avenue for their livelihoods say they have accepted the present closure, but they are not going along with the idea that the avenue must be blockaded forever. That case has simply not been made, they say. I agree.

The second measure of the cost of this closing is the direct hit it means for the taxpayers. The Federal Government has since repaid the District for some of the $750,000 in costs but, of course, that means the taxpayers have once again been handed the bill. And there are more bills to come.

At an open house today at the White House Visitor Center, the National Park Service is soliciting public input into the future of this vital stretch of Pennsylvania Avenue. They have devised what they call an "interim beautification plan" for the 1,600-foot strip of the avenue between Lafayette Park and the White House. It involves replacing large sections of the asphalt with grass, replacing the police cruisers at each end of the avenue with guard booths equipped with steel barricades, and replacing the old concrete barriers with new concrete barriers disguised as planters.

"Beautification," if that is what you want to call it, does not come cheaply. Implementing this plan will cost the taxpayers an additional $1.3 million, and it is only temporary. The proposed permanent, and certainly more expensive, plan for the site will be put in place just a couple of years from now.

Most Americans will not have the opportunity to visit the White House Visitor Center today to offer their comments. Most will not even know that the future of Pennsylvania Avenue is under discussion. But if they were here, I know they would have strong feelings they would want to share about the Government's plans to limit public access to the White House.

And that is the third way to measure the price we pay when we trade security for freedom: by calculating the high cost of Washington's paranoia on the national psyche.

Mr. President, all Americans are deeply concerned about the safety of their President. The security measures used to protect him must be well thought out, appropriate, and thorough. I do not question the desire to afford him every ounce of security we can muster, but I do question whether we can satisfy that desire without sacrificing the people's freedoms. The balance between security and freedom has been tipped too far in favor of security.

Mr. Mark McCurry, the President's spokesman, says the American people "will have greater access to the front of the White House as a result of some of the changes they want to make." But that just is not so. How can we cut off traffic from a historic stretch of Pennsylvania Avenue and claim we are improving access?

Once the ball starts rolling, where does it stop? Already, the drastic security measures undertaken on Pennsylvania Avenue have set a precedent and are being mirrored here on Capitol Hill. Access to two streets on the Senate side of the Capitol have been shut off. Parking has been eliminated or restricted in many places. Security at the Capitol itself has been tightened dramatically. Officials in other Federal buildings are asking that parking meters be removed from their sidewalks, too.

Where does it end? How much of Washington, DC, are we going to have to rope off before the public figures out we simply do not want them here? As tragic as it sounds, that is the message we are sending to America.

Mr. President, on behalf of the American people who are not here to stand up for themselves, I ask my colleagues to join me in denouncing the assault on our freedoms being undertaken on Pennsylvania Avenue. President Clinton has gone too far, but it is not too late to halt his efforts to close off the people's house on America's Main Street from the people themselves.

I urge that we take action now, before a single spadeful of earth is turned.

In Le Roy, MN, population 900, the town's weekly newspaper reflected recently on Washington's current obsession with security. I would like to read some of it:

> "We also wonder about the cost of the security around the Nation's capitol and if this much security is truly needed," wrote Al Evans in the Le Roy Independent.

> We are sure any midwesterner visiting there would question this. Perhaps we in this area of the country are too trusting, but there are limits to security measures.

The folks in Le Roy, MN, understand that closed streets do not equate with an open democracy. Why do not the Washington bureaucrats and politicians get it?

For 195 years, the address 1600 Pennsylvania Avenue has been a symbol of a government accessible to the people. Yet our government of the people, by the people, and for the people is slowly becoming a government just a little farther away from the people, too.

It is time we stood up and said "that is enough."

I yield the floor.

THE BUDGET

Mr. ABRAHAM. Mr. President, I will just take a few minutes of the Senate's time to comment on the set of issues that we will be spending much time on over the weeks ahead, those specifically related to our budget, the reconciliation legislation, which will also include legislation to reduce the tax burden on Americans, and the whole issue that surrounds that concerning the economy of our country.

As I traveled throughout my State during last year's campaign and as I have traveled since that campaign, I have heard Americans and Michiganites in particular tell me two things. Both of the things they have told me I believe are included in and really are the centerpieces of the budget that we are working to achieve here in the U.S. Senate.

The first thing they tell us is that they want a budget that is in balance. Americans and people in my State are frustrated by the fact that the U.S. Congress has gone a quarter of a century without bringing the budget into balance. They have to do that in their families. Most of our States and our local communities have to balance their budgets. The American people are frustrated when Washington cannot do the same thing, when we cannot bring ourselves to establish priorities, to set an agenda that allows us to spend no more than we take in.

People in my State also want a budget that is balanced and that is balanced legitimately. They are tired of fancy bookkeeping in Washington, bookkeeping which allows us to think we are doing better than we really are. That is why, I think, many people in my State applauded the President of the United States when he came to Congress not too long ago and, with bipartisan encouragement, said that we should use the statistics and the revenue estimates and the budget figures of the Congressional Budget Office at both ends of Pennsylvania Avenue to make determinations as to where our Federal Government's deficit was.

Interestingly, of course, we now have a slight change in direction here in Washington. Here in the Congress, we have stuck to the ideal of balancing the budget and we have used legitimate statistics compiled by the Congressional Budget Office in calculating our budget to make sure it would be in balance based on the accurate readings of the CBO.

Unfortunately, now, as the actual rubber hits the road, at the other end of Pennsylvania Avenue, we have a detour. There what we see is a diversion away from the use of CBO statistics, a diversion away from the idea of using the same budgeting calculations that are used on Capitol Hill, and instead a throwback to days gone by when statistics that are used in rosy scenarios, to balance the budget not with tough choices and setting priorities, but rather making unrealistic estimates as to the economy's growth and unrealistic estimates as to the needs for various promises and a variety of things allowing to balance the budget through fancy bookkeeping.

I have to ask today, Mr. President, why has this occurred? Why have we moved backward, and why has the White House chosen this course of action? Most people know the answer is simple. Without making those kinds of calculations that only can be made inside the Office of Management and Budget, tough choices would have to be made. Politically unpopular choices would have to be made.

I ask another question today as well: Where was the balanced budget fervor in the White House earlier this year? Why has it come about so late in the game? Again, I suggest that it is more politics than it is public policy objectives.

Indeed, I sit on the Budget Committee, and earlier this year, in the spring, we had several representatives of the administration come before us to discuss the President's budget. When they did, of course, that original budget was not in balance. It did not project a balance in years 2, 3, 4, 5, 6, or 7.

I asked, did you ever go through the exercise within the administration of coming up with a balanced budget or a budget that would reach balance in 7 years, recognizing that you might have done it, and concluded, for whatever reason, not to offer it because you did not want to establish the priorities that would be required to balance the budget? To my surprise, I was told that no one had ever gone through the exercise. This is as recently as the spring and, indeed, the budget we had been offered by the White House, by the administration, was the only budget that had been put together.

It makes me very suspicious, now, as we come to the end of this process, that suddenly we are told there is a budget, suddenly we are told there is a commitment to a balanced budget, and suddenly we are told the CBO numbers are no longer the ones that will be used to attain that budget. It leads me to believe that we are basically being told these things as we come upon an election year in which a central part of the debate in America will be whether or not the American Government should spend no more money than it takes in.

Balance the budget and do it in a way that is credible and legitimate, is one thing I hear in Michigan. The other thing I hear in my State is that people want to be able to keep more of what they earn and that, in particular, the middle-class families of my State want to be able to keep more of what they earn. Here, in Washington, inside the beltway, in many of our committees and on the floor of the Senate itself as well as on the House side of the Capitol Building, we are told by people who purport to represent constituencies back in their States that there is no demand for reductions in taxes in America, that this desire to reduce taxes is somehow a myth created by people on our side of the political aisle for whatever purpose, I guess, happens to be convenient at the time.

I just want to know what constituencies those who claim Americans do not want a tax cut represent, because I cannot go to any part of my State without being told by people how hard it is to make ends meet in America, and in Michigan today. What people tell me is not that they wish somehow Government would intrude on their job site or their business or their community and start dictating what salaries they should earn. They do not tell me that. They do not tell me they want to see Washington begin to create some kind of central economy management system here inside the beltway. What they tell me is, if you will just let me keep a few more dollars that I earn in my paycheck, I would feel a lot better.

It is interesting to me to hear people tell us they do not hear any cries back in their State for tax relief when, at the same time, many of the very same Members of Congress come to the floor, bringing charts with them, to talk about the so-called middle-class squeeze that middle-class, hard-working, average American families are feeling today. Why is that middle-class squeeze being felt? The answer is quite simple. It is because American families—hard-working families, where people go out to work every day, and in some cases where more than one person is in the work force, and they work very hard—find at the end of the week or the end of the quarter or the end of the month they do not have as much money left after withholding and the payment of taxes as they need to make ends meet.

So, I think it is very disingenuous to, on the one hand, decry the fate of the middle class because of the difficult time middle-class Americans are having making ends meet and at the same time claim middle-class families do not want a tax cut. The fact is, if we reduce the taxes on families in this country there will be less of a squeeze, in particular less of a squeeze on the middle class. In my judgment, those are simply mutually exclusive positions. I have a very hard time believing that in the constituencies of other Members of this body or in the House there is not the same yearning for an opportunity to attain the American dream, more chance of people keeping what they earn, that I hear from the constituents that I represent.

Here in the Senate we are trying. We tried during the budget resolution debates and we will try again in the next few weeks to deliver on commitments we made to our constituents from one end of this country to the other, our commitments to bring the budget into balance and to do so with a legitimate, credible budget and at the same time allow hard-working, middle-class families to keep more of what they earn.

The alternative to that is business as usual. The alternative to that is more fancy, funny bookkeeping. The alternative to that is big Government in Washington calling more shots, making more decisions that affect the lives of our families.

So, as the debate proceeds, I hope, as people hear these arguments that we cannot move to a balanced budget or that we cannot do it in 7 years or we cannot have a tax cut, they will reflect on the fact that the people making those arguments are the same people who have tended to be in charge for the last 40 years here in Washington as the budget deficits have increased, as the Federal debt has increased, as taxes have increased, and as the middle class has felt the corresponding squeeze that comes about when too many of the dollars of hard-working Americans are sent to Washington to fulfill the priorities of somebody else.

I think if one reflects on that debate, they will conclude that that budget which we passed here in the Senate earlier this year and that budget we are going to try to now bring to conclusion in the weeks ahead, puts us on the right path to achieving not only our objective of making sure our economy is strong, but achieving the other goals of balancing the budget credibly and reducing the tax burden on hard-working families.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

A BALANCED BUDGET

Mr. COVERDELL. Mr. President, I rise in support of the long, arduous march, 32 years long, to balance the budget of the United States.

This is a most historic period in American history. On or about October 24, this Congress, the House and the Senate, will come head to head with the decision to join with America in its call for properly managing our financial affairs.

What we have here is a classical contest between those who come from the country arguing that Washington should stop doing business the way it has been and those who believe that Washington should continue just as it has been. Look at the essential questions that will be settled. In the case of the budget, the new Congress, the majority, is arguing that the budget should be balanced and it should be balanced within 7 years.

I read from Newsweek magazine the author Joe Klein, who talks about the chief spokesperson for the status quo, in name, the President of the United States. He says:

> The sloppy, hyperactive wonkiness that defined Clinton's first 2 years in office has been supplanted by a sleek, tactical cunning. He has traded activism for passivism. He gives the appearance of taking stands—for some sort of tax cut, some sort of welfare reform, some sort of balanced budget—but these are ploys, mirages; they exist only to undermine positions taken by the Republicans.

A fundamental goal of this vote on October 24 will be to balance the budget. The President promised a balanced budget in 5 years when he ran for President. He forgot the promise. He then said he would not offer a budget, leave it to the Republicans. He then offered a budget that was unbalanced and received no votes when it was put before the Senate. It was 99 to zero. He then said he would give us a balanced budget within 10 years. But the Congressional Budget Office and all economists know that is not so; it does not balance in 5 years, 7 years, 10 years, or any years. The status quo or change; balance the budgets or leave them spending new debt and deficits.

Second, tax relief. I read, Mr. President, from today's Washington Times—and I am quoting the President:

> "It might surprise you to know that I think I raised [taxes] too much, too."

President Clinton said last night he thinks he raised taxes too much in his first year in office. Fine. We are trying to refund that tax increase. His tax increase, the largest in American history, was about $250 billion—status quo—tax more and spend more. We are proposing to lower taxes $245 billion—change, lower taxes on the working family, lower taxes on American business. Change or status quo.

We say in response to the Medicare trustees that Medicare must be saved or it will go bankrupt in 6 years. We have offered a good plan. It saves Medicare for current beneficiaries and those yet to come. It is reasonable and does what the country needs to have done.

What does the Democrat plan do? First of all, it is 21 pages. It is not a plan. The Congressional Budget Office cannot score it because it does not have enough detail. At best, if it were so and it were a plan, which it is not, it would push the solvency out 24 months. Is that what the beneficiaries are looking for, 24 months of a reprieve, or are they looking for us to take this program and make it solid and solvent and something forever American family?

Status quo—just tinker with it, or change it and make it work?

Fourth, welfare reform: On October 24, if those votes prevail, welfare as we know it today will never be the same. We are saying that was a failed program. All America knows this. So we are changing it.

Who are the adversaries? Who wanted it left the same? Who has told the country we ought not to change it? It is the other side of the aisle.

So on these four great issues:

Balancing the budget: We stand with America, who says, "Balance it." The President says, "Stay with the status quo."

Medicare: We say, "Save it, change it, make it plausible, and reach solvency for 10 to 20 years." What do they say? "Keep it the way it is, tinker with it 24 months."

Tax relief: "Well, I raised taxes too much." We are saying, "Fine. Reduce them. Lower the burden on the working families so that the family can care for itself."

And welfare: "Change it." "No, leave it the same."

Mr. President, this is probably one of the most historical votes in the history of the Congress. That question is, are we going to take the changes that America is asking for and respond to them and do it, or are we going to defend Washington and three decades of bureaucracy, tax America, spend America, and leave it the same? That is the fulcrum. That is the question.

I hope every American is riveted on the votes that are cast and what they stand for. Change it. A new way—go into the new century ready to do it, an American century. Or the status quo that has brought us almost to our knees.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I understand that the time under our special order has expired.

I want to thank the distinguished Senator from Georgia for his remarks and also those other Senators who have spoken so eloquently and convincingly this afternoon on the subject of the importance of our reconciliation process, balancing the budget, and ushering in a new era of fiscal responsibility. That is what we are determined to achieve, and with the support of Senators we will achieve that and make this a truly new day for America.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, am I correct that the previously agreed upon agenda gives us 1 hour?

The PRESIDING OFFICER. The Senator has all the time he needs between now and 2 o'clock.

Mr. DORGAN. I thank the President for that advice.

MEDICARE AND TAX CUTS

Mr. DORGAN. Mr. President, we have heard a generous bit of discussion the last couple of days on the floor of the Senate about Medicare by people on the other side of the aisle. I must say the consistency with which the assertions are made on the floor of the Senate about Medicare reminds me of the consistency yesterday by the folks who came into this Chamber and cast votes on term limits. It was very interesting to see people who have served here 30 years cast their votes calling for term limits; people here 20 years say, "Well, we are in favor of term limits." I saw one fellow who has been here 12 years vote for term limits and walk out of the Chamber. And, of course, I know he just filed for reelection for the next term.

This is the group that says, "Stop me before I run again." It is the same consistency of thought that allows them to make these kind of representations on Medicare and taxes and their budget, or lack of consistency, I might say.

They say, "We are not cutting Medicare." What are people saying? Why would they say we are cutting Medicare? The fact is, we know what it is going to cost to provide a Medicare Program for the next 7 years. Those costs are estimated.

The majority party is saying we want to provide $270 billion less than it is going to cost. That is a cut. The senior citizens are going to pay more and get less. That is a cut. Oh, you can proclaim all you want that it is not a cut. But the folks who pay more for less health care is going to know it is a cut.

I thought, rather than have a Democrat who will be viewed as someone cowered by partisanship making the point, I would have a Republican make the point so that we are not going to argue about whether or not this is a cut or whether it is fair. Let me have Kevin Phillips, a Republican political analyst, make the point. He made this not too long ago, about a week or 2 ago on public radio.

He said:

> Remember, at the same time as the Republicans proposed to reduce Medicare spending by $270 billion over 7 years, they want to cut taxes for corporations, investors and affluent families by $245 billion over the same period. This is no coincidence.

That is a Republican who says that.

Kevin Phillips, a Republican analyst, responds to these folks who have treated us to 2 hours now in 2 days of protest that they are not doing what they are really doing, says:

> Today's Republicans see Federal Medicare outlays to old people as a treasure chest of gold for partial redirection in their favorite directions; towards tax cuts for deserving corporations, families, and individuals.

Kevin Phillips, a Republican, says:

> The revolutionary ideology driving the new Republican Medicare proposal is also simple. Cut middle-class programs as much as possible and give the money back to the private sector business, finance and high-income taxpayers.

Finally, not a Democrat, Kevin Phillips, a Republican, responds to the 2 hours in 2 days of protests from people who say they are not doing what they are doing, says:

> Let's be blunt. If the Republican Medicare reform proposal was a movie, its most appropriate title would be 'Health Fraud II.'

This debate is about choices, and do not lament the fact that we do not agree. The debate is healthy. It is what the democratic system is about—different ideas, and seeking from those different sets of ideas the best of those ideas, but which have the worst of the priorities in this Chamber these days. Those priorities say let us kick 55,000 kids off the Head Start Program, and every single one of those kids has a name and some place in their chest they are hoping they get a start, hoping they get a decent chance. But there is not enough money for 55,000 Head Start kids. There is not enough money to send kids to college, which is going to make it tough for families to send their kids to college because we do not have enough money. There is just not enough money for education and not enough money for health care. We cannot afford health care for the sick and the old. So we have to make some adjustments there.

But there is enough money for—what? B–2 bombers nobody ordered—20 of them, $30 billion. Nobody wanted them. Nobody ordered them. The Defense Department did not ask for them. But they say we want to buy 20 anyway.

There is enough for a star wars program that nobody asked for. Enough for F–16's nobody ordered; F–15's nobody asked for; two amphibious ships for $2 billion this country does not need; and, yes, even $60 million for blimps that was written into the Defense budget. Who wrote it in? I could not find out. There were no hearings, no thought, and no discussion. Just buy some blimps. We cannot afford Head Start for kids. But we can buy blimps, the *Hindenburg* strategy of American defense, I guess.

New ideas? No, no. Herbert Hoover with the shoeshine and a haircut; nothing new about this. This is not a new set of ideas, or a new direction, or a new policy. It is: Let us decide that the rich have too little and the poor have too much.

Kevin Phillips, a Republican, says this: Cut middle-class programs as much as possible and give the money back to private sector business, finance, and high-income taxpayers. There is nothing new about that. But it is not the right priority for this country. We ought to tighten our belt, and we ought to do it soon.

All of us believe that we ought to balance the budget, and we ought to do it the right way. All of us believe that you ought to invest for the future in this country. All of us believe the right investment will produce results for America.

I do not believe any of us really think that this set of priorities makes sense for this country's future—B-2 bombers, star wars, blimps, ships, submarines, and airplanes that nobody ordered, nobody asked for, and nobody wanted; $7 billion more pumped into the Defense appropriations bill that nobody asked for. And then we say we are sorry, Timmy, or Tommy or Ruth or Mary; you are 4 years old and poor and want a head start, you want an opportunity. We are sorry; America cannot afford you.

I wish to make one final point, and then I wish to yield to my friend from New Mexico. I was at an airport on Saturday, and a woman asked if she could visit with me as I walked through the airport. I said sure. She was a woman in her late seventies, and she began very quietly because she did not want anybody to hear. And as she began to speak, her chin began to quiver and she, I could tell, was going to have trouble holding back tears. And tears filled her eyes, and here is what she said to me. She said: My husband's in a nursing home, been there 3 years. We have a very small farm. I have now sold most of it to pay for his nursing home care. She said the problem is, I do not have any more money except we have got the home place, the house, and I wish to stay in my house. I do not want to have to sell my house. Her eyes were filled with tears. She says: I am not asking for favors. We have never asked anybody for anything. We have never been on the end of a handout. We have always made our own way. But this woman, in her late seventies, with tears in her eyes and her chin quivering, says: All I wish to do is be able to live in my house.

The fact is all of these people are victims of policies that say we ought to buy B-2 bombers and star wars instead of helping a 78-year-old woman stay in her home, instead of deciding we should not drive that woman into the poorhouse so that her husband can stay in a nursing home. All of these people, that woman, a young 4-year old kid, all of them have names. Senior citizens, Head Start kids, family farmers who are going to lose the farm, all of them have names. Those are the victims of bad choices in budget priorities. It is why, as we debate this, we have to think through what is good for our country, what advances America's economic interests. Is it just making sure those who have a lot get more? Or is it deciding, yes, the investors are important; yes, people who have done well and are successful are important to this country.

There is nothing wrong with that, no dispute about that. But there are others with needs in America that are important as well. Addressing those needs sometimes represents an enormous investment. It breeds enormous returns for our future. That is what this debate is about. And the outcome of this debate will determine what life is going to be like for that older woman, who cries because she wants to keep her home, or for some young child who deserves a start in the Head Start Program.

Mr. President, I yield 8 minutes to the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes the Senator from New Mexico.

MEDICARE AND MEDICAID

Mr. BINGAMAN. I thank the Chair. I appreciate that time to speak about some of what is going on in Congress. There is a lot going on, but I wish to speak particularly about the Medicare and Medicaid proposals that we are going to have to vote on in the near future.

Mr. President, 30 years ago, when President Johnson signed into law the Medicare legislation, which really did establish a contract with the people of this country, New Mexico was very proud at that time because one of our great statesmen, Senator Clinton Anderson, was standing with President Johnson there in Missouri at the time that legislation was signed.

As many who have studied American history may recall, the legislation that enacted Medicare was called the King-Anderson bill, and Anderson, of course, was the Senate sponsor of that legislation, and very proudly so.

Since that historic day in the summer of 1965, the Medicare Program has made health care a reality for thousands of people throughout this country and, of course, thousands in New Mexico. It has been the lifeblood of many of my State's rural hospitals and rural health care providers. Today, the program is at a serious risk, and I am not at all confident that the contract that President Johnson and Senator Anderson then had worked out and fought for will survive in the same form that they enacted it.

The Republican majority here in Congress is proposing to reduce Federal resources for health care in this year's budget by $450 billion from Medicare and Medicaid. That will occur, of course, over the next 7 years. In New Mexico, the result clearly will be less health care for poor children and a greater financial burden on seniors and families who attempt to care for seniors.

Today, there are some 300,000 New Mexicans who depend upon Medicaid for health care, and 60 percent of those 300,000—180,000, roughly—are poor children. I think that is a fact on which many have not focused in this debate, particularly on Medicaid. A significant majority of the people who are beneficiaries of Medicaid are poor children. That is certainly true in my State.

Under legislation that has been proposed by the Republican majority in the House and the Senate, many of these children are bound to go with less health care available to them. Both the House and Senate bills call for major reductions in Medicaid funds to my State, New Mexico. In the House bill, the reductions in funding for New Mexico will exceed $900 million over the next 7 years, almost $1 billion. In the Senate bill, the reductions will exceed $600 million. The Federal Department of Health and Human Services predicts that the loss in funding will cause our State, New Mexico, to reduce the number of people being served by Medicaid by 19 percent.

Now, if 19 percent of the 180,000 children presently served are dropped from the program, then more than 34,000 poor New Mexico children who today are covered by Medicaid will not be covered by Medicaid in the future.

Some may argue that this will never happen; that the State will make up the difference; that any shortfall in funds will be made up by our State legislature and/or Governor. If that is true, I guess my question is, why is my State joining with 23 other States in sending a letter protesting the overly prescriptive and onerous provisions that are contained in the Senate bill, specifically the requirements that States provide health care for below-poverty-line pregnant women and children up to age 12.

Mr. President, under the current Medicaid Program, our State is required to provide service to these vulnerable individuals, and my question is, why do we not just continue with that requirement? According to the Governors' letter, which I referred to earlier, continuing with that requirement could potentially lead to a huge cost shift to the States and the States want the flexibility to avoid that cost shift and thereby reduce the benefits to that vulnerable group.

In New Mexico, more than 212,000 seniors and children and adults with disabilities currently depend upon Medicare in addition to those who depend upon Medicaid, and by the year 2002 more than 257,000 New Mexicans are anticipated to be eligible for the program. More than 210,000 of those will be seniors.

What do these program cuts that are contained in the legislation we are going to vote on this next week mean to seniors? According to the American Association of Retired Persons study of this issue, the average Medicare beneficiary in my State will pay a minimum of $2,000 more in higher deductibles, higher copays, and there are many services that will not be covered. It also means a raising of the eligibility age from 65 to 67 beginning in the year 2003.

Mr. President, a cost shift of this type and this size is especially tough on New Mexico seniors and their families because so many of those in my State who are seniors live at or near poverty. One in every five New Mexicans, including about 26,000 seniors, lives in poverty in my State. Many of the State's seniors are barely making ends meet today.

The question is, how can poor, elderly New Mexicans possibly come up with the additional resources, this additional $2,000 that it is anticipated they will have to come up with? Medicaid currently pays for $188 million of nursing home care in New Mexico annually. I heard the Senator from North Dakota speak about the woman who had a husband in a nursing home.

We have many people in nursing homes in my State, and they benefit substantially from the payments that Medicaid makes. Through the Medicaid Program the State typically picks up the extra cost where Medicaid falls off. But to do so, under the cuts that are proposed, the State must raise additional revenue. And it would be substantial additional revenue, this $188 million that I referred to earlier. That would be in addition to the $600 to $900 million shortfall which also would have to be made up if services were to continue as they presently are.

If New Mexico will not or cannot raise the revenue needed to keep the safety net in place without Federal assistance for these 300,000 current beneficiaries, the results are very clear, Mr. President. Thousands of seniors and children in my State will be denied adequate health care in the future.

The arguments for these cuts are well known by all of us. Proponents say the cuts are necessary to get us to a balanced budget. But if a balanced budget is the goal, then my question is, why here today at this very moment do we have a committee marking up a bill to cut taxes in this country by $245 billion over this same period? If a balanced budget is the goal, and poor children and seniors have to do without health care in order to meet that goal, then why cannot the Congress also limit spending for the Pentagon to the amount that the Pentagon requested?

All of New Mexico's shortfall, every single dollar of New Mexico's shortfall in Federal funds for health care could be offset by foregoing one of the additional B-2 bombers that the Republican Congress insists on ordering.

So this debate, in my view, is not about whether we should reduce expenditures on health care. Clearly, we need to make some reductions. And we will do that. The debate is how deep those cuts will be, where the greatest burden of this deficit reduction will fall, what the priorities of this Nation are. These priorities should include maintaining decent health care for the most vulnerable in our society. The proposal that is being presented to us this next week does not provide for that.

Mr. President, I appreciate the opportunity to speak. And I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. DORGAN. I yield 7 minutes to the Senator from West Virginia.

OBJECTION TO FINANCE COMMITTEE MEETING

Mr. ROCKEFELLER. I thank the distinguished presiding officer and the distinguished Senator from North Dakota.

Mr. President, crowds are gathering to watch a train wreck. It is going to be a budget wreck. And it is going to be a horrible, horrible pileup. Maybe that ghoulish fascination about what is ahead is, in fact, distracting us, diverting us from the daily bashing that vulnerable Americans are taking every single day in the actions of this Congress.

But today, weeks before that big crash, I have seen enough. Speaking for this Senator, the junior Senator from West Virginia, I have seen enough. I have been fighting, offering amendments, voting no, but today I object. I object to all of it, to taking one more step, to letting the latest injury go unanswered.

I have put in an objection to the Senate Finance Committee's meeting. And as a result of my objection, they cannot meet after the hour of 2. And I will do that every day, and I will do that all the way through the reconciliation process until a particular part involving old coal miners is removed from the bill the Senate Finance Committee is now working on.

This new Republican leadership will go to any length to seize the crown jewel of their contract. And that is to ring out $245 billion in new tax breaks for a privileged few. But at what cost? At whose expense? Every day their answer becomes more savage. Pilfering school lunch moneys, turning 4-year-olds away from Head Start classes, eliminating standards for screening and testing for childhood diseases.

Where does it end? Not there. Brick by brick, they are tearing down the Medicare Program, the efficient, effective, popular insurance program that protects senior citizens from poverty—which they once knew—and pain, turning their backs on the elderly and in nursing homes; allowing again—as we cut out almost 10 years ago—patients in nursing homes who were considered to be disruptive to be tethered down, tied down, or drugged into passivity. That will now be legal. And it will be done. Doubling the cost of health insurance for the most fragile amongst us. Had enough?

Sticking students with higher loan fees, squeezing out job training opportunities, cutting the number of college loans, opening a loophole to drop the disabled from health coverage. Senator CHAFEE and I did that. It passed the Senate Finance Committee 17 to 3. Pregnant women, children 12 years and younger, and the disabled. And unilaterally it was dropped. And then at the last moment, because some of us came to the floor of the U.S. Senate to expose that ruse, it was put back in, sort of, by saying, "Let the States set the standards."

Charging families more to care for their mentally ill or retarded children. Closing the doors on more than half of our special ed classrooms. How much more could they want? Mugging the working poor with a $43 billion tax hike.

What do I mean by that? The earned-income tax credit being cut by $43 billion. Those are people who are living out America's dream, working without health insurance, all of them virtually, but working, refusing to go on welfare, many of them making less money than if they were on welfare, and their kids not getting Medicaid, health care coverage to boot. But they are doing it because they want to work.

So we talk about honoring work in America. And then we turn around and cut those who are at the very bottom edge of the working poor, a $43 billion tax increase for them, money which they earned which they will now not get to keep because we are changing the rules on them.

We are turning off the heat, Mr. President. We are turning off the heat, quite literally, taking away money from remedial reading and writing for poor children. Are they done yet? No. Not quite.

Today a new provision to unravel the health benefits for retired coal miners and their widows has been added to this long list of atrocities. It is a small group, Mr. President, only 92,000 individuals in all 50 States. A small group, I admit that; the average age, 76 years old. Most worked in the mines for decades back in the 1940's, 1950's, and 1960's.

They had to work in 3-foot crawl spaces in ice water. They did the hard work, pick and shovel. And now we want to take away their health insurance. It is being done in the Senate Finance Committee. These were the people that fueled the economic growth and the prosperity of our country. These days I meet these miners that I am talking about in their homes in West Virginia. Many struggle to walk.

Mr. President, if I could only describe to you what it is for an older miner, attached to oxygen, with black lung, with all kinds of problems of breathing, taking a fistful of pills a day. Just a simple act, to watch that miner try to get up out of his chair and then to walk very, very slowly across the room to the television set to change the channel or to turn the set on or off, and then very slowly come back, fall back into that chair—almost a day's journey is the physical impact of that.

These are the people we are talking about. Old people, ravaged by the only work that they possibly could have done, because of where they grew up and what work was available. Pills for blood pressure, for constant joint pain. They do not have much. They never earned a lot. There are no big pensions.

But these miners, Mr. President, traded wages every year. They traded wages that they got for digging coal to get health insurance security, because to the miner, health insurance is more significant in the long term than the wages of the pension. But they wanted the health insurance in their old age, to earn coverage for their wives, too often widowed too early. They sacrificed for the guarantee of coverage, a guarantee that was sealed by this Government in law and which was promised to them by President Harry S. Truman, the U.S. Government, and which we, in a bipartisan way, passed into law in something called the Coal Act back in 1952, which is in the process of being repealed by the Republican majority.

These benefits, Mr. President, were guaranteed by a promise made by that President 50 years ago. So what is a contract worth? They ask; I ask. These coal miners escaped floods, they escaped roof falls, they escaped explosions, they escaped the ravages of black lung. They still survive, a few of them, across this country, 92,000. But they may not survive this Republican Congress, and I am sad to say there is probably more to come.

But for me, I have seen enough. Every person has a line, a line in the sand. Every one of my colleagues has a line. For me, the line is these old miners. I cannot, I will not, go back to West Virginia without knowing that I did everything—everything—to stop this cruelty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROCKEFELLER. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, no amount of procedural pain or legislative suffering that I, as a Senator, rightfully can impose—and will—could possibly offset the pain and the suffering being imposed on so many fragile people by the measures being rammed through the Senate Finance Committee and this Congress.

I recognize that the powerful interests who will benefit from these harsh measures will probably win and these coal miners will probably be cut off. But I want to make it hard, and I have the right to make it hard, and I have the moral obligation to make it hard for anybody to do that. I only wish I could make it as hard for them as they intend to make it—we in the Congress, that is—for the children and the seniors and the students and the disabled and the poor working families and those old coal miners. That is my line in the sand. I fully object to what this Congress is doing.

I thank the Chair. I thank the Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield 5 minutes to the Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

BALANCING THE BUDGET

Mr. SIMON. Mr. President, I thank my colleague from North Dakota for yielding to me.

Senator BOXER, whose work I have come to appreciate more and more in this body, and I had a press conference in which we had some senior citizens and some students, senior citizens talking about the need for student aid, students talking about how we have to protect our grandparents. The reality is this should not be a partisan fight.

I am sure the Presiding Officer has heard me mention before we have become excessively partisan. It is one of the changes that has happened in my years in Congress, and it is not a good change. I think, frankly, the Republican Party is going to get hurt somewhat in the course of all this. But there is too much partisanship in all of this. I do not believe it makes sense when we have huge deficits—and the Washington Post had an editorial about this this morning—to be saying we are going to have a tax cut.

It is like saying you are having a New Year's resolution of going on a diet, and you are going to start it off by having a great big dessert. That is what we are doing now. We are going to balance the budget, but we are going to have a $245 billion tax cut.

If we want to use that $245 billion for reducing the deficit, I would understand that. But that is not what is happening, and I do not think there is any question about what we are going to impose on seniors. Also—and it has not received as much attention as Medicare has—Medicaid is also going to really be hurt. Who receives Medicaid? The majority of those who receive it are children, poor children—24 percent of our young people live in poverty—and senior citizens, those who are in nursing homes. They are basically the primary recipients.

But it is part of a pattern of not being as responsive as we should be. Let me just tie in with what those grandparents said out in front of the Capitol just a few minutes ago at the press conference on student aid.

The Presiding Officer will forgive me to say he is old enough, along with me, to remember the GI bill. It is interesting how the GI bill emerged. The GI bill, which we look back to with great pride and say what a great thing it was for our country, was a matter of controversy. There were those who said we ought to give a cash bonus to veterans, and the American Legion, to their great credit, said we ought to have the GI bill which will provide education to veterans. That was the fight.

Today we have almost a similar fight. Cash bonus—we do not call it a cash bonus, we call it a tax cut. Like the cash bonus, it will be frittered away and will not do much for our country. But if we put money into student aid, we are going to do something for our country.

Direct lending is under attack, and this is not a Democratic program. TOM PETRI, a Republican from Wisconsin, was the first one to suggest it. My colleague, Senator Dave Durenberger, was a cosponsor with me of direct lending when it was introduced. Senator David Durenberger has properly said, in regard to the role of banks and the guarantee agencies, "This is not free enterprise, it is a free lunch." That is why the banks and the guarantee agencies are fighting for this.

The commission that looked into how we ought to have student aid, headed by our former Republican colleague Senator Paula Hawkins, recommended direct lending. Larry Lindsey, a Bush appointee to the Federal Reserve Board, has said we should have direct lending, it makes more sense, in a letter to our colleague, Senator SPENCER ABRAHAM.

We have to be looking out for the interest of the young and the old, for everyone in our society. We have to reach out. And I hope we use some common sense. We are going to be in this battle the middle of next week. And to say we are going to have tax cuts for people at the same time we deprive elderly and students of the help that they need, I do not think is in the national interest.

I simply ask the Presiding Officer—and I know he cannot answer this from the chair—I have not yet had one person with an income over $100,000 come up to me and say, "I ought to have a tax cut." I have had a lot of people come to me and say, "We should not be cutting back on Medicare, we should not be cutting back on Medicaid, we should not be cutting back to assistance to students." Those are the choices that we have, and I hope we do the responsible thing here.

Mr. DORGAN. Mr. President, I yield 5 minutes to the Senator from Washington, Senator MURRAY.

The PRESIDING OFFICER. The Chair recognizes the Senator from the State of Washington.

CUTS IN MEDICARE AND MEDICAID

Mrs. MURRAY. Mr. President, I come to the floor today to join my colleagues in exposing to the light of day the real lasting affects of the deep, reckless cuts in Medicare and Medicaid that are being rushed through this Congress. I want to focus specifically on the massive proposed scaling back of Medicaid and how it completely ignores the values of average, middle-income families today.

Let me focus for a minute on one of the hidden surprises in the Medicaid block grant proposal—one that is going to devastate the so-called sandwich generation—my generation. The sandwich generation is those of us who are raising our kids at home, and who are also responsible for the health and safety of our aging parents.

Today, under current Medicaid laws that have been in effect since 1965, adult children are not held legally or financially liable for their parents' health care. If the parents' health deteriorates and they enter a nursing home, Medicaid helps with the costs if they personally meet financial requirements.

Republicans, however, today are proposing to repeal this protection, which will allow States to go after the life savings of adult children before Medicaid kicks in for their parents. In fact, if this law is repealed, working families in 29 States will immediately be subject to State laws requiring them to bear astronomical long-term care costs now covered by Medicaid.

What does this mean in pocketbook terms? Caring for an elder in a nursing home costs an average of $36,000 to $40,000 a year. By the way, the cost of caring for a medically fragile child on a ventilator can easily cost as much as $86,000 a year, or more.

This could be catastrophic to the average family budget. It is prejudicial, and it is unfair. Let us not forget, these are families already under stress trying to put food on the table, paying for their childrens' education, and trying to save for their own retirement.

Some of these 29 States whose laws will go into effect if Medicaid is rolled back have general duty-to-support laws. These laws assume that since parents take care of children, children must later take care of the costs of their parents. Other States require reimbursement of nursing home and goods and services, similar to child support laws. Some States will actually impose criminal penalties for adults who do not contribute to the cost of their parent or family member in a nursing home.

This means that working families will have to make new choices. They will have to choose between allowing their mom to be cared for in a facility where she will have access to medical attention and assistance, or quitting a job to take care of her at home.

They will have to choose between paying for one family member's medical costs, or for the cost of another family member's education. Or paying for groceries. Or saving for retirement.

Working families should not be forced to make such untenable choices. No one wants to make choices between the future of their own children, and the health of their parents. They should not have to.

So why are these cuts being suggested? We have no crisis, financial or otherwise, that could merit these draconian measures. Any money that may be needed to continue our commitment to Medicare is not an issue with Medicaid. Under the guise of saving money, this cut will actually pit our citizens against one another.

There are 36 million financially strapped Americans on Medicaid: 4 million elderly Americans, 6 million disabled Americans, 8 million American women, and most important, 18 million American children.

Under the Republican proposal, over the next 7 years nearly one in every four Medicaid recipients will lose their coverage. Who will suffer when our State governments run out of money?

Who will be turned down for benefits? An elderly woman waiting for vital nursing assistance? A disabled adult needing new sterile suction tubes for a ventilator? A medically fragile child whose body needs an essential mineral or amino acid to process food?

I can tell you this; I would not want to be the one making that choice.

This is real. It is going to be felt by real families, with real problems in my State and across this Nation.

I got a letter recently from a mother who is scared about how this assault on Medicaid might affect her son Patrick, who is a 45-year-old man with infantile autism, which among other things, means that he has no verbal language. During Patrick's early life, no insurance company would cover the costs of his treatment or therapy, so it was no surprise that by age 16 he had deteriorated to the point where he was also afflicted with epileptic seizures.

When Patrick's parents finally learned, on their own, that their son qualified for Medicaid coupons when he was 22, Patrick's life changed. He could receive treatment at any doctor, dentist, or pharmacy he needed to see, even though his parents sometimes had to remind people who tried to refuse the coupons that the medical schools they had attended had received Medicaid funding.

Today, Patrick lives freely in the community, in his mother's words "only because of the federally mandated program, Medicaid." Republicans in Congress would make Patrick and his family compete at the State level against pregnant mothers, severely mentally ill teenagers, elderly stroke victims in nursing homes, and medically fragile infants. All to be able to provide a tax break no one wants, to people who do not need it.

This is nothing more than the legislative pursuit of political dogma, without regard for the consequences to real people.

The core principals in these proposals are all wrong. This is not the America I grew up in, the country I believe cares about all of its citizens, no matter who they are or where they come from, or how much they are worth in financial terms.

Let us look at the real problem. If this Congress is serious, it will focus on the $89 billion financial hole in Medicare, and will find a way to make these programs work better for families. We cannot just toss people on the street and hope things turn out OK.

We hear so much about family values today. Well, I agree: it is time to start valuing our families. It is time to recognize that many many families are struggling today. Their real needs are family-wage jobs and economic security, a good education for their kids and health care that is affordable.

These draconian cuts, so hastily thrown together, will only increase economic insecurity of American families. I hope this Congress will have the integrity and the intelligence to stop these unnecessary cuts now, before it is too late.

Mr. DORGAN. Mr. President, I appreciate the comments by Senator MURRAY from the State of Washington. She says it well and says it with feeling. I suppose some would say that we are hopelessly old-fashioned when we think that there are certain virtues in our country, the virtue of helping someone who needs help, extending a hand to those who are down and out, caring about kids. There are certain virtues that are important, that ought to be at the front of the agenda, at the top of the list.

I come from a town of about 300 people, and if you were to devise some sort of fiscal policy or budget for my hometown and say, look, I have an idea for this town, and here is my idea. Our town has 300 people in it. What I am going to do is I am going to make a stop at some of the poorest homes in our town, where people do not have much, and I am going to ask them to tighten their belts and take away a little of what they have. I am going to stop at the homes where people are trying to send their kids to college and say: You know what I want to do for you? I want to make it more expensive to send your kids to school.

I want to stop at the middle-income working families' homes, who have parents in nursing homes, whose assets are exhausted and gone and say: We are going to make a deal for you. You are going to have to pay more to have your parents in nursing homes.

I am going to stop at a home where a low-income single mother has a child in Head Start and say, "By the way, your little Timmy, age 4, his name comes up on our list of 55,000 kids that we cannot afford to have in the Head Start Program."

Then in our travels around this small town of 300 people, we will say, well, we have been to all the neighborhoods and told those folks what they have to sacrifice. We will stop by the wealthiest families in town and give them the good news.

Know what the good news is we will say to the wealthiest folks in town? "We will give you a big tax cut." Do you know why? "Because you are successful, you are investors and you deserve it."

Now, it is true we will not even bother to tell you we have been driving around town all day telling the poorer folks and the middle-income families how much they have to give, but we are delighted to stop at your house because we will give you a big tax cut. We think so much of you, we think so much of what you do we want you to have more.

I am saying that sense of priorities does not make sense to me. It is out of step. This is all about priorities and choices.

Frankly, I wish it were not partisan. For 10 months we have heard people stand on the floor saying we are the ones that do not care about a balanced budget. Nonsense. We are the ones that do not care about putting this country's fiscal house in order. Rubbish. For 2 days, an hour a day we have heard people stand up and say we are the ones that could not have a plan. Baloney.

Of course, we have a plan. We do not have a plan like this. We have a plan that balances the budget and does it the right way with the right priorities.

Here is a letter dated today by the head of the Congressional Budget Office, and it is "Chapter 2 in Budget Fraud": This says, from the head of the Budget Office, June O'Neill, Director, "The CBO projects that the enactment of the reconciliation legislation submitted to the Budget Committee would produce a small budget surplus in the year 2002."

Oh, really? A small budget surplus? Well, what it will produce is $110 billion deficit. This is budget fraud. I have sent a letter to the Director of the CBO just now, and I am hoping to get an answer either today or in the morning that says, by the way, if you construct a letter like this following the law and not misusing Social Security funds, what is the deficit in 2002?

The answer, if the Director of the Congressional Budget Office gives me an honest answer, is that the deficit in the year 2002 with this set of plans or these priorities will be $110 billion deficit in the year 2002.

Now, we want to see some honesty in budgeting. I yield to the Senator from South Dakota, the minority leader, who has come to the floor and wants to make a presentation on these priorities.

PRIORITIES

Mr. DASCHLE. I thank the Chair and the distinguished Senator from North Dakota for his eloquence and his leadership on this issue. He has spoken as passionately as I have seen him speak on an issue he cares deeply about, and I am very grateful to him for the many occasions where he has come to the floor to speak out as strongly as he has again this afternoon.

Mr. President, this is an unusual week. I hope that everyone can fully appreciate the magnitude of what will happen this week. As we speak, the Senate Finance Committee is meeting to discuss just how we will divide up the $245 billion in tax cuts that we have been talking about now for several months.

They are expected to complete their work tomorrow. Ironically, tomorrow is the very day the House of Representatives will take up a proposal to cut $270 billion from Medicare in an effort to pay for it.

So you have the interesting and very ironic juxtaposition of the Senate Finance Committee voting to cut $245 billion today and tomorrow, and the House voting simultaneously to pay for it by cutting $270 billion in Medicare and ultimately $187 billion in Medicaid, to ensure that we have enough left over.

We are deeply concerned, Mr. President, on the ramifications that all of this has; concern for a lot of reasons. Let me mention just four.

First, we are deeply concerned, and I could bring back all of the rhetoric we heard last year during the health care debate about closed-door decisionmaking, rhetoric we heard about the concerns raised by many that we did not have an opportunity to discuss in open and public debate all of the very significant and far-reaching ramifications of the decisions being made.

Lo and behold, over the last several days, that is exactly what has happened with regard to this tax package. Decisions were made, deals were cut, long-term ramifications considered and explained away without one opportunity for Democrats to be consulted or to participate. That is wrong. Closed-door decisionmaking, Mr. President, is wrong under any circumstances, and it is wrong in this case.

We just saw evidence in the last couple of weeks about what kind of deals can be cut behind closed doors, as doctors went in to speak to the Speaker and came out smiling because of the new opportunities they have to avoid responsibility in making the cuts on Medicare; avoid having to come under the scrutiny of those who would ferret out waste and abuse in the Medicare Program.

The Speaker made an announcement a couple of days later that he will go after murderers first and he will talk later about what problems there may be with fraud and abuse in the Medicare system, because we may not have enough prison cells.

Mr. President, that is wrong. If that is what results in closed-door deals, it is doubly wrong.

We are equally concerned about the budgetary effect. Everybody has come to the floor, time and again, to talk about what it is we are trying to do with this reconciliation package, what we are trying to do, going all the way back to the budget debate last spring and how important it was we did everything possible to ensure that we reach that 2002 target day.

What do we find? Republicans have a choice between a tax cut which exacerbates the problem by $93 billion according to CBO and not achieving all of the goals that we want, or having a tax cut and doing all that Republicans have proposed we do with regard to providing this largess to those who do not need it.

What do we find? Almost to a person, our Republican colleagues now suggest that it is important to pass this tax cut, regardless of the deficit ramifications. The $93 billion somehow is explained away. The $93 billion will not be explained away, Mr. President, and we have to address that issue before we resolve this reconciliation matter.

Third, as we have said time and again, it is the distribution of benefits that disturbs us a great deal. Providing huge tax cuts to millionaires and requiring working families with incomes of less than $30,000 to pay more is just wrong. It is wrong, and that distribution is something that we will be dealing a lot more with in the coming days and weeks.

How is it we can possibly ask working families to pay more, and turning around and giving those who have so much yet another handout in the form of tax benefits?

Perhaps the most troubling of all the aspects, Mr. President, is the degree to which Medicare is being cut to accomplish this in the first place. A Medicare cut of $270 billion, $187 billion in Medicaid, all in this ruse that somehow it is those resources that will be used only for deficit reduction, when we know full well that $270 billion is going to be used for the tax cut that has nothing to do with taking further out whatever solvency we can in the trust fund.

Bruce Vladeck said in an October 11 letter to Congressman SAM GIBBONS:

> The cumulative effect of the Medicare Part A HI reductions included in H.R. 2425 for FY 1996–FY 2002, offset by the cost of repealing the OBRA'93 provision, would reduce Part A expenditures by approximately $93.4 billion. Based on estimates from the Health Care Financing Administration's actuaries, the resulting year-by-year "net" Medicare Part A savings would extend the life of the HI Trust Fund through the third quarter of calendar year 2006. This estimate is based on the intermediate set of assumptions in the 1995 Trustees Report.

Mr. President, that says it as clearly as anyone can say it. While the Republican proposal would cut $270 billion, the effect that it will have on the trust fund is the same effect as the Democratic plan which cuts at 89.

I do not think anyone should be misled about the real motivations and the real desire on the part of Republicans, understandably, to find a way to pay for the tax cut in the first place.

The real impact to real people is what we ought to be concerned about. The distinguished Senator from North Dakota said it so well. They are the most vulnerable. They are the people whose faces we must remember as we make these very important decisions—disabled people, elderly people, children, people who will be left out simply because we failed to appreciate the magnitude of the personal impact that these decisions will have on them.

I do not think a soul in the country voted last year to cut Medicaid benefits to those who are disabled so we could give a tax cut to those who do not need it. That is wrong. That set of priorities must be turned around, and over the course of the next several days we will do our level best to ensure that people fully appreciate the repercussions and ramifications of what some on the other side are prepared to do.

With that, I yield the floor.

TRIBUTE TO JOE ALLEN AZBELL

Mr. HEFLIN. Mr. President, Joe Allen Azbell—author, journalist, and adviser to Presidents and Governors—passed away on September 30 after a lengthy illness. He was city editor of the Montgomery Advertiser newspaper, a columnist for the Montgomery Independent, and the author of three books.

While his formal education ended with the fifth grade, Joe's accomplishments are truly historic. He is credited with helping make the Montgomery bus boycott possible. Joining the staff of the Advertiser in 1947, within 5 years he had become one of the youngest city editors in the South. In December 1955, he ran a front-page story on the impending bus boycott. The Reverend Martin Luther King, Jr., once remarked that the boycott might never have occurred without this pivotal article.

Born during the Great Depression in a small Texas dustbowl town, Joe Azbell ran away from home at the age of 12 because his parents did not allow him to read books, and his thirst for knowledge could not be quenched. He hid in small-town libraries, figuring that the truant police would not look for him there. During World War II, he joined the Army Air Corps and began his career in journalism.

Joe served as an adviser to every Alabama Governor going back to Gordon Persons. He was especially close to George Wallace, for whom he wrote speeches during his Presidential campaign. He supposedly came up with the political slogan "Send them a message" for the campaign. John Chancellor of NBC called it the best political slogan of this century. He was also an adviser to every American President from Lyndon Johnson to George Bush.

Much of the success Joe Azbell enjoyed over the years was due to his colorful personality and gift for getting along with all types of people. He had a genuine interest in people and thoroughly enjoyed getting to know them and talking to them. Likewise, people responded to his charm, humor, and honesty.

Joe will be sorely missed by those who knew him both personally or only through his excellent reporting and commentary. I extend my sincerest condolences to his family in the wake of their tremendous loss.

TRIBUTE TO WILLIAM ORR GRAHAM

Mr. HEFLIN. Mr. President, Mr. William Orr "Bill" Graham passed away on September 28 after an extended illness. The Morgan County, AL, native was founder and owner of Graham & Son Piano House and was active in his community and in State politics for many years.

Bill Graham attended Auburn University. He once received the Florence Civitan Club's Book of Golden Deeds Award for outstanding community service. He was a charter member of the Florence Chamber of Commerce, president of the North Tennessee Valley Council of the Boy Scouts of America and was an organizer of the Camp Westmoreland Boy Scout Camp and the Kiwanis high school Key Clubs.

Bill was elected by the people of the Eighth Congressional District to serve on the State Democratic executive committee. He was also a member of the Alabama Industrial Development Board. He organized the talent contest at the North Alabama State Fair, was youth talent director of the MidSouth Fair in Memphis, a talent scout for the Ted Mack Amateur Hour, and was instrumental in securing college scholarships for many deserving youth in the Shoals area.

In addition, Bill was talent coordinator for the Cerebral Palsy Telethon for many years, past president of the Gilbert School PTA, chairman of the administrative board of North Wood Methodist Church, and aide-de-camp to the battalion commander of the Alabama State National Guard. He was also part of the management of the Birmingham Barons baseball team.

William O. Graham was truly an outstanding community leader who gave of himself in many years over his long life. He will be sorely missed. I extend my sincerest condolences to his family in the wake of their loss.

TRIBUTE TO LEWIS E. McCRAY

Mr. HEFLIN. Mr. President, longtime West Alabama Planning and Development Council Executive Director Lewis E. McCray has announced his plans to retire at the end of this year. He has held the executive director position since October 1, 1967, when he became the first paid director of the council. When he was hired, the agency was known as the Tuscaloosa Area Council of Local Governments and its members consisted of Tuscaloosa County and the cities of Tuscaloosa and Northport. Initially, the agency was funded through a program of the U.S. Department of Housing and Urban Development.

Under Lewis McCray's outstanding leadership, the agency has grown to a membership of 7 counties and 34 municipalities. Due to its expanded membership, its name was changed to the West Alabama Planning and Development Council in 1971. It has been designated an Economic Development District, Local Development District, Metropolitan Planning Organization, and an Area Agency on Aging. The Council also administers the Title V Senior AIDES Program and Community Development Block Grants and provides technical assistance to local governments.

Mr. McCray has been active in many civic and professional organizations. His professional affiliations currently include his service as president of the Alabama Association of Regional Councils, member of the board of directors of the National Association of Development Organizations, member of the National Association of Regional Councils, the Chamber of Commerce of West Alabama, the Tuscaloosa County Industrial Development Authority, and the Tuscaloosa Convention and Visitors Bureau.

He is a native of Hale County, AL, and was educated in the public schools of Moundville and at the University of Alabama. Before being named executive director of the council, he taught business law and accounting at Shelton State Community College. He also served as the executive assistant to the late U.S. Congressman Armistead Selden.

I congratulate and commend Lewis McCray for an outstanding career and for all he has done to benefit his community, region, and State. I wish him all the best for a long, happy, and healthy retirement.

THE REVEREND H. KENNETH DUTILLE, JR.

Mr. COHEN. Mr. President, as we all know, the Senate can impose tremendous demands on its Members as we grapple with the difficult decisions facing this body and this Nation. It is no surprise then, that the Senate begins each of its sessions with a prayer delivered by a distinguished religious leader.

Earlier today, that spiritual leadership came from the Reverend Kenneth Dutille, Jr., of the First Baptist Church in Bath, ME. Reverend Dutille is truly dedicated to his work, his congregation and his community, and I am very pleased that he was selected to be one of two guest Chaplains we will have this month.

The distinction is deserved, for Reverend Dutille visits us with many accomplishments. He is a graduate of Baptist Bible College in Springfield, MO, and the University of Maine. He holds a masters degree from the California Graduate School of Theology. In his many travels, educational and otherwise, he has preached in over 200 churches in New England alone.

It is praticularly fitting that Reverend Dutille lead the Senate's invocation today because he brings with him an understanding of some of the demands and pressures on those in public life. He is a selectman in his town of Richmond and was a candidate for the Maine State Legislature in 1994.

Reverend Dutille also knows the strains and joys of a successful life as a small business owner, running the Good News Book Shop in Brunswick. Just recently, he added a book of his own to the shelves, "Images of America: Lewiston and Auburn."

As evidenced by Reverend Dutille's invocation this morning, he is an asset to his congregation and his community. His accomplishments, boundless energy, and exemplary service make him an excellent choice as the guest Chaplain.

Again, I am very pleased to have Reverend Dutille, his wife Patricia, and his daughter Melissa with us here today. I'm sure I speak for all of my colleagues in extending a very warm welcome on this special day.

Mr. HELMS. Mr. President, I ask unanimous consent to proceed for 60 seconds.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

Mr. HELMS. Mr. President, before the Senate proceeds to vote on the cloture motion on the substitute to H.R. 927, the Cuban Liberty and Democratic Solidarity Act, I state for the record that if cloture is invoked, it is my intention to seek recognition and to lay before the Senate amendment No. 2936, the Libertad Act, with titles I and II only.

I thank the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, if I could use a little bit of my leader time?

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLOTURE VOTE

Mr. DOLE. Mr. President, I understand why the chairman made the decision to delete title III from the Cuban Liberty and Democratic Solidarity Act. A determined minority—at the urging of the White House—was able to prevent action on the legislation. Mr. President, 94 percent of Republicans voted to invoke cloture, and 17 percent of Democrats voted for cloture. I commend the Members of both sides of the aisle willing to bring debate on this measure to a close. I know for the Democrats it is not easy to stand up to the kind of White House blitz that has occurred.

Once again, the White House says one thing and does another. The White House talks about toughening the embargo on Cuba, and then works to undermine the sanction Castro fears most. The White House says it wants bipartisanship in foreign policy—in fact they are pleading with us on Bosnia—and then uses partisan arguments to derail this legislation. Policy toward Castro's Cuba has been a perfect example of three decades of bipartisan cooperation. In the House, 67 Democrats supported a tougher version of this legislation. Nine Senate Democrats support cloture, and I expect many more would without the kind of pressure coming from 1600 Pennsylvania Avenue. Let there be no mistake—White House inflexibility has forced the change made today.

As I said last week, the Dole-Helms amendment—we already made 10 changes to address administration concerns. We were willing to make more to address issues raised in this debate—raising the threshold for legal action from $50,000 to $100,000 for example, or extending the effective date from 6 months to 2 years after enactment. These are changes that will presumably be considered in conference on H.R. 927.

I supported title III as drafted in the Dole-Helms substitute. Yes, it does give a new right of legal action that could bring more suits before American courts. But if clogging up the court system is a concern of the White House or of opponents of this bill, I call on them to join with me to enact comprehensive tort reform. Opponents of this bill say title III would create a right for Cuban-Americans not enjoyed by Polish-Americans. They are right. And there is one critical distinction—today, Poland is free while Cuba suffers under the boot of Castro's repression.

That is what it really comes down to—the Cuban people continue to suffer while Castro searches for ways to finance his dictatorship. There are legitimate differences over the best way to bring democratic change to Cuba but we should be very clear about one thing: It is the chilling effect on investment in Cuba caused by the provisions of title III that worries Fidel Castro the most.

I expect the Senate to conclude action relatively quickly on this legislation. The international embargo on Cuba will be strengthened, and important provisions for the eventual transition to democracy will be enacted. I remain hopeful—and I say this in a spirit of bipartisanship; we had it work in some other areas, not as many as we should—that we can continue to work out a solution to the issue of property stolen by Fidel Castro so that is acceptable to at least 60 Senators.

Again, I commend my colleagues on this side and the others on the other side, and I hope, now that title III has been deleted, we could have an overwhelming vote for cloture, let us go to conference, let us work in a reasonable way—with the White House, if they would like to. I am certain the Senator from North Carolina would be willing to do that.

Mr. HELMS. Hear, hear.

Mr. DODD. I ask unanimous consent I be able to address Senate for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I thank my colleague from North Carolina. I intend to vote for cloture as a result of the amendments he has made.

Let me say to my colleagues, this title III had virtually nothing to do with Cuba and an awful lot to do with our own claims process in this country. While Poland may be free today, Vietnam and the Peoples Republic of China are not. That would create unique distinctions for those of Cuban nationality. While I have great sympathy for them, in terms of their right to bring actions for expropriated property, this would create an egregious raid on the Treasury, in my view.

My hope would be the House would adopt the Senate language, in the absence of title III and other provisions, so that we would be able to move forward and send this bill to the President for his signature.

So I support cloture and urge my colleagues to do so, that we then might consider other amendments on this legislation and move forward with the bill.

But our objections, those of us who did object to this, had little or nothing to do with White House pressure, but rather our own examination of the bill and our recognizing the problems associated with title III—as I said a moment ago, an egregious raid on the Treasury of the United States.

The PRESIDING OFFICER. The time of the Senator has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 927, which the clerk report will report.

The assistant legislative clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

Ashcroft amendment No. 2915 (to amendment No. 2898), to express the sense of the Senate regarding consideration of a constitutional amendment to limit congressional terms.

The Senate resumed the consideration of the bill.

CLOTURE MOTION

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the quorum call under rule XXII, has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 2898 to H.R. 927, the Cuban Liberty and Democratic Solidarity Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 491 Leg.]

YEAS—98

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—1

Moseley-Braun

The PRESIDING OFFICER. On this vote the yeas are 98, the nays are zero. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Chair announces that amendment 2915 is nongermane and therefore falls.

The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 2936 TO AMENDMENT NO. 2898

(Purpose: To strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes)

Mr. HELMS. Mr. President, I lay before the Senate amendment No. 2936 which includes title I and title II of the Libertad Act only. I ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2936 to amendment No. 2898.

Mr. HELMS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HELMS. Mr. President, title I of the Libertad Act strengthens sanctions against the Castro government. Some of the principal provisions of that title include: urging the President to seek an international embargo against the Castro dictatorship; authorizing the President to support democracy-building efforts in Cuba and to help the victims of Castro's repression; prohibiting financing to any person to finance transactions involving U.S. property confiscated by the Cuban Government; and ensuring that U.S. foreign aid to former Soviet states is not being used to subsidize Castro's regime.

Title II of the Libertad Act lays out a proactive strategy to support Cuba's transition to a democratically elected government. The provisions of title II include instructing the President to develop a plan for providing support to the Cuban people during a transition to a democratically elected government. This title also authorizes assistance to meet the emergency and basic humanitarian needs of the Cuban people during the transition period; and it gives the President flexibility to suspend the economic embargo during a transition and to terminate the embargo once a democratically elected government is in office in Cuba.

Mr. President, the Libertad bill sends a clear message to the Cuban people, and to other nations, that the United States will not do business with Castro's dictatorship.

Mr. President, I strongly urge Senators to support this legislation. I believe that enactment of the Libertad Act will help bring about Castro's departure from power, making Cuba free and democratic. The people of Cuba deserve freedom, and we must not desert them now.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in strong support of this legislation. Like many of our colleagues, I am profoundly disappointed that title III of this bill will be dropped today. I am disappointed that we could not get the 60 votes we need to break a filibuster by those who are not willing to tighten the noose tighter around Fidel Castro's neck.

It would be one of the great tragedies of history if the tidal wave of freedom that has covered the planet in the last 5 years were allowed to subside before it drowned Fidel Castro.

My basic objective here today, Mr. President, is to pass the Helms bill and go to conference, and then in conference bring back the title III provisions, the provisions which will deny

Castro the ability to entice foreign private investment to prolong his life as dictator in Cuba which would prolong the misery of the Cuban people.

I believe that the bill that is now before us is an improvement over our current situation. It does strengthen the embargo. It does set up a procedure whereby we make it more difficult for Castro's Cuba to get funding through the United Nations or the world financial organizations. The bill gives us the ability to link our aid to Russia's actions as they relate to Cuba, both in Russia's trade relationship and in their intelligence gathering. So I think the Helms bill, as it now is before the Senate, is an improvement on current law. What remains of that bill does not do the job the original bill did. We are all disappointed that we could not break the filibuster on that bill.

Yet, I am supportive of the remaining Helms provisions. I want to see them adopted. I want to see us go to conference. I want to put title III back in the bill and bring it back to the Senate and fight for its passage. I think it would be a great tragedy for our country, it would be a great tragedy for everything we stand for in the world, it would be a great tragedy for the Cuban people, if we do not do everything in our power to get rid of Fidel Castro.

The original Helms-Burton bill was an important step in the right direction. I am for that bill. I intend to continue to fight for it. I urge my colleagues to support this measure today so that we can go to conference and get back the original bill.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I ask unanimous consent that I may be allowed to proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

TRIBUTE TO THOMAS J. DODD

Mr. LIEBERMAN. Mr. President, I want to speak with my colleagues today about a remarkable and really historic event that occurred in my State of Connecticut this past Sunday, October 15, when the University of Connecticut dedicated the Thomas J. Dodd Research Center, associated with the University of Connecticut library. It is a center named, obviously, for the great former Senator from the State of Connecticut, father of my colleague and dear friend, the current Senator CHRIS DODD.

It was a spectacular day, a beautiful fall day in Connecticut, but obviously it was more than the weather that distinguished the day.

What happened really was a fitting tribute, that will go on through the years and decades ahead, to Senator Tom Dodd and the remarkable record of achievement that he built here in the U.S. Senate where he served from 1958 to 1970 and in the years before then. The events began with a dedication at the library site itself and then proceeded to the Gampel Pavilion where it looked to me like 8,000 or 9,000 people packed in to hear the President of the United States, President Clinton, deliver the first in a lecture series that will emanate from the Thomas Dodd Research Center, in this case specifically focused on the Nuremberg trials, 50 years after, because Senator Tom Dodd was a prosecutor there.

Mr. President, Tom Dodd, as President Clinton said, spent his life in the service of his country. He trained as a lawyer, served as an FBI agent, then as a lawyer for the U.S. Government. He was, throughout his career, a great fighter for freedom, for human rights. And it is to the study of human rights that this research center will be committed.

Senator Dodd fought the tyranny of racism as an attorney prosecuting civil rights cases in the 1930's, which was a long time before most other Americans thought about the idea of civil rights.

And throughout his time here in the Senate, and before in the House, he was a great fighter against the tyranny of communism, one of the great, principal, fervent anti-Communists of the cold war period who put us as a nation on a course to understand that the cold war was not, as some historical revisionists would have us believe, just a kind of tug of war between two great powers—the United States and Russia—but a conflict of ideas, a continuation of the struggle between good and evil, between freedom and tyranny. That is, in its way, the history of our species on this Earth.

Senator Tom Dodd understood that the battle against communism, the cold war, was part of that struggle of good against evil.

His passion for justice, his hatred of oppression, his understanding that human rights began with the vision that every individual is sacred because God created that individual, his understanding that we had to strive to establish the rule of law to protect human rights and to promote justice was expressed magnificently, brilliantly in his work as an executive trial counsel at the Nuremberg War Crimes Tribunal after the war.

A film was shown of some of Tom Dodd's appearances at the Nuremberg trial. It was riveting. He was brilliant and compelling, and in that extraordinary human historic experience, coming out of the devastation and lawlessness of the Holocaust, established the principle of justice through law.

Senator CHRIS DODD, who spoke that day, reminded us that one of the remarkable achievements of the Nuremberg trial was not just those who were guilty, who were convicted and severely punished, but that three people were actually acquitted at Nuremberg; and that, in its way, is a testament to the rule of law and justice as well.

A beautiful building, 50,000 square feet, a repository of historic papers—Senator DODD's and others—a living legacy that will go on, from generation to generation, bringing scholars there to study, to write and to be reminded of the centerpiece of the career of Senator Tom Dodd, which was the struggle for human rights and justice through law and the need to continue to fight that battle.

Mr. President, the day on Sunday was a day in which we dedicated a building, but it was also a day in which I think Connecticut was struck and riveted by what was happening to bring the building about. It was truly an expression of devotion of a son to his father, an expression of the love of CHRIS DODD and his brothers and sisters for their father and their commitment to honor his memory. As I had the opportunity to say on Sunday in Connecticut, as beautiful a fulfillment as I have ever seen of the Biblical commandment, honor one's father and mother, and the Dodd family did it with dignity and with purpose befitting their father, Tom Dodd, on Sunday in Connecticut.

But, of course, the truly significant way and the ongoing way in which my colleague from Connecticut and dear friend, CHRIS DODD, honors the memory of his father is by the extraordinary quality of his service in this body by his personal fight for human rights throughout the world and at home, and particularly at home for the rights of children, understanding and reminding each of us, as Senator CHRIS DODD has so often on this floor, that a child who is without adequate food, without adequate shelter, without adequate parentage, without decent health care, without safety and protection from crime and abuse, suffers in that child's way, as much as people who are forced to live under tyranny, and in that sense, is deprived of human rights as well.

It struck me, and I know my colleagues on the floor, knowing and loving Senator CHRIS DODD as I do, will share the thought that I had on Sunday, which was, as we thought about Nuremberg and we thought about the Second World War and the films were there of the Holocaust and the genocide, that our colleague and friend, Senator CHRIS DODD, in his service, in his life, is the diametric opposite of the evils that were portrayed and lived and suffered through in the Second World War; really a person without bias, a person of great warmth and compassion, a person of openness to all and a person who really in his life carries on the legacy that his father left.

It was a spectacular day which had great meaning for the Dodd family, which truly honored the memory of Senator Thomas Dodd, which the President graced with a magnificent speech, talking as the President did about the record of Senator Tom Dodd, but also bringing it to bear on the acts of genocide that have occurred in the former Yugoslavia, on the importance of the war crimes tribunal that is now going on in The Hague directed to the war crimes that have been committed in the former Yugoslavia. And, finally, the President expressed support for the idea of a permanent court of international justice, a permanent court operating perhaps through the United Nations, emanating out of the United Nations, which could stand as witness and deterrent, as Senator Dodd did at Nuremberg, to prosecute those who violate accepted rules of international justice and fairness.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of President Clinton's remarks at the University of Connecticut dedication of the Thomas J. Dodd Research Center on Sunday, as well as several articles from the Connecticut press, the Hartford Courant in particular, about the life and service of Senator Tom Dodd and what it means to each of us today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF PRESIDENT CLINTON'S REMARKS AT DEDICATION OF THOMAS J. DODD RESEARCH CENTER, OCTOBER 15, 1995

Thank you very much, President Hartley, Governor Rowland, Senator Lieberman, members of Congress, and distinguished United States senators and former senators who have come today; Chairman Rome, members of the Diplomatic Corps; to all of you who have done anything to make this great day come to pass; to my friend and former colleague, Governor O'Neill, and most of all, to Senator Dodd, Ambassador Dodd, and the Dodd family: I am delighted to be here.

I have so many thoughts now. I can't help mentioning one—since President Hartley mentioned the day we had your magnificent women's basketball team there, we also had the UCLA men's team there. You may not remember who UCLA defeated for the national championship—(laughter)—but I do remember that UCONN defeated the University of Tennessee. And that made my life with Al Gore much more bearable. (Laughter.) So I was doubly pleased when UCONN won the national championship. (Applause.)

I also did not know until it was stated here at the outset of this ceremony that no sitting President had the privilege of coming to the University of Connecticut before, but they don't know what they missed. I'm glad to be the first, and I know I won't be the last. (Applause.)

I also want to pay a special public tribute to the Dodd family for their work on this enterprise, and for their devotion to each other and the memory of Senator Thomas Dodd. If, as so many of us believe, this country rests in the end upon its devotion to freedom and liberty and democracy, and upon the strength of its families, you could hardly find a better example than the Dodd family, not only for their devotion to liberty and democracy, but also for their devotion to family and to the memory of Senator Tom Dodd. It has deeply moved all of us, and we thank you for your example. (Applause.)

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[From the Hartford (CT) Courant, Oct. 12, 1995]

FROM FATHER TO SON, DODD NAME PASSED ALONG IN SENATE

(By David Lightman)

WASHINGTON.—It was not that Chris Dodd didn't love running the Stamford campaign for his father's 1970 U.S. Senate bid.

In fact, the task fit him. He was 26 and full of energy and ideas for his first formal brush with elective politics. He loved people, loved the political arena, loved everything about it.

But the campaign was sputtering, and even a rookie could understand why. Three years earlier, Sen. Thomas Dodd, D-Conn., had become only the seventh person in history to be censured by the U.S. Senate. And now the censure—for improper use of campaign funds—hung like an anvil around the neck of the candidate.

Of course, what everyone, including young Dodd, could see coming, happened. And when the Election Day mauling was over, he drove back to the family's Old Lyme home, crushed. He thought he had let down the father he respected and loved so much.

But Daddy, as Chris Dodd called his father, was not scowling. "He poured a glass of Dewar's scotch," recalled Chris Dodd, "and thanked me for putting in the time."

His father's grace in defeat—rather than his triumphs at the top—helped convince Chris Dodd that politics was an honorable profession. And the son, now Sen. Christopher J. Dodd, D-Conn., has dedicated at least part of his own career to ensuring that his father is remembered as an honorable politician.

"Sometimes, I think almost everything Chris Dodd does down here is meant to vindicate his father," said Sen. Daniel K. Inouye, D-Hawaii, who served in the Senate with both Dodds.

He has taken up some of the issues his father held dear, such as foreign policy and children's welfare.

He has kept his father's memory alive in the Senate chambers. Chris Dodd sits behind his father's desk and keeps his father's barrel-back, wood-and-leather chair in his office. A huge illuminated portrait of Thomas Dodd looks down on visitors to the office's conference room.

And he has worked quietly to rehabilitate the Dodd name. The very presence of Chris Dodd in the U.S. Senate is daily testimony to the success of that effort. And Sunday's dedication of the Thomas J. Dodd Research Center at the University of Connecticut is his monument.

The Dodd family helped raise over $1 million for programs at the center, which will house the senior Dodd's political papers, along with other archival material.

The four-day conference that coincides with the center's dedication will focus on the legacy of the Nuremberg trials. Thomas Dodd's year as a Nuremberg prosecutor was "the seminal event in my father's professional life," Chris Dodd said.

"I had given thought over the years to what would be a fitting memorial," the younger Dodd said. "We'd thought of a road or a bridge or a park, but I didn't like the idea of people driving over his name.

"This is a research center at the flagship university in our state, just a few short miles from where he was raised. There's a lot of symbolism to it. My father would have loved this," he said.

SHIELDED FROM CENSURE

Chris Dodd said he has been able to maintain his love of politics, while many in his family have not, because he was not a witness to his father's humiliation. After graduating from Providence College in 1966, the younger Dodd joined the Peace Corps and went to the Dominican Republic.

He was there when his father became the first caught by an ethical system that was undergoing profound changes in the 1960s. Stung by charges that Secretary of the Senate Bobby Baker used his office to help his business, the Senate set up an Ethics Committee in 1964.

The Dodd case would be its first mission. In February 1966, a month after columnists Drew Pearson and Jack Anderson began writing articles accusing Dodd of using campaign money for personal expenses, Dodd asked the new committee to look into the complaints.

The committee held hearings in the summer of 1966 and continued them the next year. Dodd testified that money raised at testimonial dinners were "to be spent at the discretion of the recipient." In response to a complaint that he helped a Chicago public relations representative gain favor with the West German government, Dodd said he was simply an errand boy for the executive.

The committee recommended he be censured on two counts—using campaign money for personal expenses and billing trips to both the Senate and to private organizations.

The Senate would not censure him on the second charge; it agreed to strike it, 51-45. But it did vote 92-5 to censure him on the first charge, with only Sens. Abraham A. Ribicoff, D-Conn.; John Tower, R-Texas; Russell Long, D-La; Strom Thurmond, R-S.C.; and Dodd himself opposing the resolution.

It was a stunning setback for a politician who just three years earlier was being seriously considered by President Johnson for the vice presidency.

Chris Dodd received newspaper clippings, sent by family and friends, about his father's ordeal, but he did not live through it directly. He did not have to endure the daily batterings from Pearson and Anderson, or read about the march of Connecticut figures to the Ethics Committee in 1967 to testify about his father, or hear his father's May 15, 1967, radio speech to the people of Connecticut in which he called his pending censure "a strange coming together of hateful and vengeful interests."

"They may have been trying to shield me," Chris Dodd said of his family. "I was living in a vacuum."

By the time he returned to the United States on Christmas Eve 1968, U.S. politics involved other topics.

Despite the Senate's resounding verdict, Thomas Dodd continued to serve, maintaining his seniority and chairmanship of the juvenvile delinquency subcommittee and vice chairmanship of the internal security subcommittee. In 1968, he saw Congress pass the gun control legislation he had championed for years, albeit a watered-down version of what he had sought.

He lost his seat in 1970, largely because of the censure. Lowell P. Weicker, Jr., then a

U.S. representative from southwestern Connecticut, won with 41 percent of the vote. Democrat Joseph Duffey got 34 percent, and Dodd was third with 24.5 percent.

When Thomas Dodd died in May 1971, four months after leaving the Senate, the rehabilitation of the Dodd name began in earnest.

Senators offered tributes on the floor. Sen. James Allen, D-Ala., recalled how, "He fought unceasingly against crime, juvenile delinquency and drug addiction." Sen. James Buckley, Conservative-N.Y., called him "an eminent analyst of Cold War strategy."

In February 1972, Ribicoff asked the Senate to give its unanimous consent to printing colleagues' eulogies in a special book, a memorial to Thomas Dodd. That book is available today in the U.S. Senate library.

WINNING AS A DODD

But restoration of the Dodd name has come more from his son's political success than his colleagues' flowery words.

Thomas Dodd did not urge his children to become involved in politics—"We were never asked to pose for pictures," recalled Chris Dodd—but the son could not help notice all the excitement his father's work was generating.

Chris Dodd was a teenager when his father was elected to the Senate in 1958. "He was working all the time, and at night he'd most likely be at some function or another." Chris Dodd said, "But when he'd come to the house, you'd be aware of his arrival. Dogs would bark, people would get excited. He may not have been home for dinner at 5:30, but bonds were forged in different ways."

The younger Dodd liked the idea of going into politics, but it was not a burning ambition. "I knew enough to know that was not the kind of ambition you should have, that becoming a member of Congress is something you don't always control," he said.

Chris Dodd did not make the classic young man's political moves. He moved to North Stonington, hardly a hotbed of Democratic activity. He joined a law firm that did not encourage people to run for office. And he lived in a congressional district represented by Robert H. Steele Jr., a Republican who at the time looked like he could hold the seat until the 21st century.

Still, Chris Dodd ran for the House of Representatives in 1974, an election held three months after President Nixon resigned in the wake of the Watergate scandal. Even though it was a good time for Democrats, "A lot of people told me I could never get elected with the Dodd name," Chris Dodd recalled. He did, of course, "and then people told me it was because of the Dodd name," he said.

Inouye viewed the son as a man on a mission.

Chris Dodd's style, his choice of issues, his way of dealing with people is all meant to convey the idea that his father was a person of honor and Chris is here to remind you of that, said Inouye and others.

Though he was only 36 when he joined the Senate in 1981, he quickly befriended some of his father's colleagues, including Inouye and Sens. Ernest F. Hollings, D-S.C.; Robert C. Byrd, D-W.Va; and Edward M. Kennedy, D-Mass.

And he didn't forget one of his father's few supporters during the censure vote. Chris Dodd was one of only three Democratic senators to back John Tower's controversial and unsuccessful nomination as secretary of defense in 1989.

"Their presence on the Senate floor is very similar," said Inouye. "When I look at Chris Dodd and close my eyes, I can imagine Tom Dodd speaking."

Kennedy also notices a similarity in how the two men put together legislation. Chris Dodd makes a habit of visiting Connecticut high schools to talk to youngsters, particularly about the problems of weapons in schools. Then he returns to Washington and uses anecdotes to help him push for a bill.

Thomas Dodd would do the same kind of thing. "He'd get in his car and, go around Maryland and Virginia and go to gun shops," Kennedy recalled. "He would find out what was happening and then translate that into legislation.

"When Tom Dodd or Chris Dodd wanted something, they were bulldogs," Kennedy said.

There are, however, important differences between the two. One of them is their relationship with the Kennedys.

Chris Dodd is viewed as Kennedy's best friend in the Senate. Thomas Dodd, on the other hand, was one of the few prominent New England officeholders to endorse then-Senate Majority Leader Lyndon B. Johnson over then-Sen. John F. Kennedy in the 1960 battle for the Democratic presidential nomination.

There are personality differences as well. "Tom Dodd was more reserved; Chris is more of a glad-hander," said Thurmond, who was a Democrat when Tom Dodd arrived in the Senate.

Hollings put it more bluntly. "Christopher has a much more engaging personality," he said.

And Chris Dodd is much more of an insider than Thomas Dodd ever was. In 1963, the elder Dodd blasted Senate Majority Leader Mike Mansfield, D-Mont., on the Senate floor.

Chris Dodd, on the other hand, competed for the job of Senate Democratic leader last year and lost, even after a late start, by only one vote. A month later, he became President Clinton's hand-picked choice as Democratic National Committee general chairman.

LIKING THE LINKAGE

The father and son have taken up some of the same issues. Chris Dodd likes to draw a line between his father's work in the 1930s with the National Youth Administration, a Depression-era agency that helped children from poor families get education and employment training, and his own work today.

Chris Dodd chaired the Senate's subcommittee on children, families, drugs and alcoholism until Republicans won the Senate in 1994. He remains the Senate's leading voice on children's issues, most recently brokering a compromise to the welfare reform bill that will mean $8 billion in extra money for child-care programs during the next five years.

"I can see him moving bills like that," said Chris Dodd. "I'd like to think he'd be more supportive than not of what I do, very proud."

In foreign policy, Chris Dodd was able to see finished something his father had helped start.

In 1950, Thomas Dodd, then a member of a special American Bar Association committee, had urged members of the Senate Foreign Relations Committee to approve a treaty establishing penalties for genocide.

Yet the Senate for years refused to ratify the treaty, some senators fearing the U.S. sovereignty would be compromised.

The son battled hard for his father's cause. In 1984, Chris Dodd, who like his father served on the Senate Foreign Relations Committee, quoted on the Senate floor his father's words from two decades earlier: "For me, the genocide convention has a special personal meaning because as executive trial counsel at Nuremberg I had spread before me, in nightmarish detail, the whole incredible story of Nazi barbarism."

Two years later, as the Senate debated the treaty again, Sen. William Proxmire, D-Wis., recalled the senior Dodd's commitment. "Tom Dodd, the father of Sen. Chris Dodd, contributed a special zeal to this effort," he said. "It was his opinion that had it [the treaty] been in existence when Hitler first came to power the tragic events of his regime might have been prevented."

Finally, in 1986, as the Cold War wound down, the Senate approved the treaty.

Father and son, however, were not always in sync, particularly on foreign policy.

Thomas Dodd was a relentless anti-Communist from his Nuremberg days. Though representatives from the Soviet Union were part of the tribunal, his dealings with them made him think they were capable of the same kinds of horrors as the Nazis.

They are "probably doing this same sort of thing behind the Iron Curtain now," he said in his 1950 testimony, "Russia in its plan, as I see it, wishes to influence people all over the world."

While many Democrats were urging the United States to pull troops out of Vietnam in the late 1960s, Thomas Dodd remained staunchly behind the war effort.

By contrast, his son, though no rabid antiwar activist, came to oppose the Vietnam War in 1968, and served in the U.S. Army Reserve to avoid being sent to Vietnam.

In the Senate, Chris Dodd opposed the Reagan administration's efforts to provide military aid to "freedom fighters" trying to unseat the democratically elected and socialist government of Nicaragua. He pushed hard for economic aid to address fundamental economic problems in the Caribbean and Central America.

But the son warned that the differences between father and son should not be overstated. They are of two different eras, but share the same values and thoughts, he said.

"I have a lot of affection and admiration for my father," said Chris Dodd. "I like the tradition. I like the linkage."

[From the Hartford Courant, Oct. 8, 1995]

TOM DODD'S LETTERS OPEN NEW WINDOW INTO HISTORY

(By Mark Pazniokas)

A half-century ago, amid the rubble of a vanquished Germany, the victorious Allies put Nazi leaders on trial for crimes against peace and humanity.

The Reich's unspeakable atrocities were laid bare in a dozen trials and hundreds of convictions. But the Nuremberg trials had an even more noble aspiration: to make international law a force for peace.

Beginning today, The Courant will explore the meaning of the trials and their ambiguous legacy in a four-part series. Next week, the University of Connecticut will commemorate the 50th anniversary by dedicating the Thomas J. Dodd Research Center and holding a conference on human rights and the rule of law.

Horror fills the yellowed letter, written long ago in a bombed out hotel. It is dated Aug. 14, 1945, the day after a wide-eyed Thomas J. Dodd arrived in Nuremberg, Germany, to prosecute the Nazis.

Three months after V-E Day, the stench of death still hung heavy in the summer air. An estimated 20,000 dead lay entombed in the rubble of the old city, where legions had rallied for Hitler before the war.

Half the population of 400,000 fled before the Americans took the city in April. Many of those who stayed now slept in cellars, emerging each morning like mice to forage in the dusty ruins.

"Grace, my dearest one," Dodd wrote to his wife, safe at home in Connecticut with their five children, the youngest being the 14-month-old Christopher. "Here I am in the dead city of Nuremberg."

So began an unbroken stream of letters that Tom Dodd, then a 38-year-old government lawyer abroad for the first time, would write daily from Nuremberg until sailing home in October 1946.

The collection remained unseen outside the Dodd family until last month, when Sen. Christopher J. Dodd granted The Courant access for stories marking the 50th anniversary of the first Nuremberg war-crimes trial.

Nuremberg was the real "trial of the century," a yearlong dissection of how the Nazis murdered millions and pillaged a continent.

Twenty-one men stood trial before an unprecedented International Military Tribunal, which the four Allied powers created to mete out justice and compile an incontrovertible record of Nazi outrages. Architects of the tribunal also had a higher hope: to set an international standard for judging war crimes.

Tom Dodd returned home a hero from Nuremberg, poised for a political career that would make him a congressman, a senator and a national figure opposed to communism, which he viewed as the moral equivalent of Nazism.

But the letters to his wife show a man who was at a crossroads at Nuremberg, bedeviled by doubts about his career and even his continued participation in what he knew was a historic trial.

Hopes of entering politics seemed to be slipping away. He told his wife in one pessimistic letter that the future belonged to the men who spent the war in uniform. Dodd had been a federal prosecutor during the war.

Dodd's children long had viewed the letters as his private notes to their mother. She supported their father through his many triumphs and, in 1967, his censure by the Senate for misusing campaign funds. The Dodds died within 20 months of each other: Tom in May 1971, months after losing his Senate seat; Grace in January 1973.

"Many of them," Chris Dodd said recently of his father's Nuremberg letters, "are what I would consider to be love letters."

They are full of tender references to "that day in St. Paul." Tom Dodd and Grace Murphy married May 19, 1934, in St. Paul, Minn., where he was assigned as an FBI agent.

Most are written by hand in a flowing script, in ink when available, in pencil when necessary. They are conversations between the sometimes-crusty prosecutor and his "dearest Grace."

"I am not conscious of proper grammatical construction or of word choice or any formality," he told Grace. "I am on the sofa and I am talking to you and I'll be darned if I will pick my words like a parson preparing a sermon."

FROM NORWICH TO LONDON

Tom and Grace Dodd made their goodbyes before dawn at Union Station in Washington, D.C., on July 27, 1946. Dodd had been recruited from the U.S. attorney general's staff for the United Nations War Crimes Commission.

"You made a memorable picture for me as I gazed out the taxicab window until the dimness of the dawn light blotted your loveliness out," Dodd wrote her from London, his first stop in Europe.

He one day would become a foreign policy expert, relied upon by Lyndon B. Johnson, but in 1945 he was small-town Connecticut. He was born in Norwich and lived in Lebanon, a part of the state that had more cows than people.

His letter from London is enthusiastic travelogue, full of details about his flight aboard a military transport that hopscotched from Washington to Newfoundland to Prestwick, Scotland, where he caught another flight to London.

Trans-Atlantic air travel was still a novelty, and Dodd stayed up most of the night chatting with a crewman, who regaled him with tales of planes lost without a trace in the North Atlantic.

At first light, Dodd wrote gratefully, "The sun came up beautifully about 4:30 a.m. London time."

Dodd had graduated from Yale Law School in 1933, an Irish-Catholic at a blue-blooded institution. He was president of the Yale Democratic Club and organizer of "the Flying Wedge," a cadre that passionately defended Franklin D. Roosevelt's New Deal.

He spent a year as an FBI agent, chasing John Dillinger through the Midwest; served for a time as director of the National Youth Administration in Connecticut; then tried civil rights cases for the Justice Department. During the war, he prosecuted spies and profiteers.

He cut an impressive figure. His hair, prematurely going gray, was brushed straight back. He had piercing eyes and thick, dark eyebrows, a ringing speaking voice and the same sarcastic wit later shown by Christopher, the son who would follow him onto the national political stage.

In London, Dodd felt humbled by the war-weary populace.

"They stared at the cab from eyes that I could not meet, attired in clothing that made me wince," Dodd wrote. "I really feel ashamed when these people stare—for they recognize an American by the quality of his clothing."

Of course, he had seen nothing yet. In a few months, Dodd would be numb to the horror of war and complain about being bored by the confession of a man who murdered 1½ million people at Auschwitz.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I have a consent agreement which has been cleared by both sides.

I ask unanimous consent that when the Senate resumes H.R. 927, the following amendments be the only amendments in order postcloture: Helms amendment No. 2936; Bradley amendment No. 2930 or 2931; Dodd amendment No. 2906; Dodd amendment No. 2908; Simon amendment No. 2934.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that all listed amendments be considered second-degree amendments to Helms amendment No. 2936.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate we believe we can have debate on the Simon amendment yet this afternoon. I understand the Senator from North Carolina will offer an amendment which will be accepted on behalf of Senator BRADLEY. That will leave the Helms amendment and the two Dodd amendments.

We are hoping to start at 10:30 tomorrow morning on the bill and recognize Senator DODD, with, if there is not a time agreement, a short period of debate. We are trying to accommodate Senator DODD's schedule, so I hope he will accommodate ours tomorrow.

I want to congratulate the Senator from North Carolina. I regret we were one vote short, 59 to 36. So it was necessary, as the chairman has indicated, to delete title III.

It is the hope of everyone when we get into conference we can work out some consensus so we can come back with a conference report and pick up that additional vote and maybe more.

It seems to me there are good points to this bill. The strength of this bill was title III, and we will revisit it. There will be some version of it in the conference report. Again, I think the chairman is to be commended. We will go to conference and see what happens.

Also, it is my hope tomorrow—I discussed this briefly with Senator KERRY from Massachusetts—that we could move to the State Department reorganization bill. They indicate they will make an offer to Senator HELMS this afternoon.

Mr. HELMS. That is correct.

Mr. DOLE. If that is acceptable under a 4-hour time agreement, we can complete action on that, too.

After the debate on the Simon amendment, and anything else being done with reference to this, I think it is my intention to recess so the Senate Finance Committee can meet and complete its work, because they may be going late into the evening.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished majority leader, and I share his regret that we had to go through all of this. Sometimes it is absolutely essential that we do. I have no hard feelings toward anybody about it. I just wish we could have moved along a little more rapidly. I appreciate all the help the majority leader has given.

AMENDMENT NO. 2930 TO AMENDMENT NO. 2936

(Purpose: To make limited exceptions to restrictions on assistance for the independent states of the former Soviet Union imposed by the bill)

Mr. HELMS. Mr. President, I send an amendment to the desk on behalf of Senator BRADLEY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. BRADLEY, proposes an amendment numbered 2930 to amendment No. 2936.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, strike line 1 and all that follows through line 14 on page 16 and insert in lieu thereof the following:

"(5) except for assistance under the secondary school exchange program administered by the United States Information Agency, for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498(k)(3)) with, the Government of Cuba, or".

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national.".

"(4) CUBAN GOVERNMENT.—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code.".

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term appropriate congressional committees, includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform and rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160)".

Mr. BRADLEY. Mr. President, I have sent an amendment to the desk to ensure that high school exchanges with students from the New Independent States of the former Soviet Union will continue to build bridges between our country and theirs. In essence, this amendment exempts the high school exchange program from the operation of section 107 of this bill, which would otherwise allow such programs to cut off if an NIS country engages in certain activity enumerated in that section.

This program is unique. It calls for a personal involvement that other aid programs do not demand of Americans. It not only benefits the newly independent states, but it benefits Americans as well. Host families and American students learn from having foreign students in their homes and classrooms. Americans studying in Kiev, St. Petersburg, Vilnius, and Almaty are witnessing first hand the new frontiers of democracy and they return home with a better understanding of the people of those nations.

Since 1993, over 12,000 high school students from the New Independent States have visited the United States to live with American families and study in this country. As their home countries of Armenia, Russia, Ukraine, Kazakhstan, and the other NIS countries are making the transition to post-Soviet societies, these students come to our country eager to learn about the privileges and opportunities that come with living in a democracy and free market economy.

This program plays a tremendously important role in our relationship with the newly independent states. It allows these young students to experience life in a multicultural, market-based democracy. It forges connections between the people of this country and theirs, which will continue as these future leaders take back to their home countries a new perspective on the world and valuable, lasting bonds. But the impact of the exchanges goes beyond those students who are actually chosen to participate in the program. There is a ripple effect, as these students share their experiences with their families, friends, and fellow students back home.

This unique program accords tremendous benefits and for that reason, it must be allowed to continue.

Mr. HELMS. Mr. President, I strongly support the secondary exchange programs in the Bradley amendment. These semester and academic year programs are one of the more successful assistance programs we have with the new Independent States of the former Soviet Union. The Senator's amendment is in keeping with the spirit and intent of the Russia sections of the Libertad bill. I am prepared to accept the amendment exempting this program from the Libertad bill's restrictions on aid to the former Soviet States.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2930) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

WE MUST END THE CYCLE OF VIOLENCE IN AMERICA AND MAKE EVERY HOME SAFE

Mr. WELLSTONE. Mr. President, I know we are about to go into recess, and I thank my colleagues for their graciousness. I appreciate this time. I come before the Senate to underscore my commitment to ending domestic violence in America. As I have said on the floor before, every time a person in my State of Minnesota dies at the hand of an abuser, I will make sure that their story becomes a part of the CONGRESSIONAL RECORD.

As my colleagues know, October is Domestic Violence Awareness Month. It is a month that is designated to raise awareness about domestic violence. In addition, the YWCA has designated this week as their call for a "Week Without Violence." Today, in particular, their efforts will focus on confronting violence against women. So, Mr. President, it is for this reason that I have chosen this special day to come to the floor of the Senate to make this statement.

It is with some sadness, pain, and anger that I will read the names of five Minnesota women and one Minnesota child who were apparently killed at the hands of someone they knew. The circumstances are described in the record compiled by the Minnesota Coalition for Battered Women. Mr. President, I must state at the onset that none of the people charged in these murders has been convicted yet. Therefore, I will not use the victims' real names.

I come to the floor of the Senate to describe these cases so that we will remember how deeply this violence scars our society. And most importantly, as a reaffirmation of any commitment—and I hope the commitment of all of my colleagues, Democrats and Republicans alike—to work toward ending the cycle of violence. Indeed, Mr. President, if we are ever going to stop the violence in our communities, in our workplaces, and in our streets, we are going to have to begin by stopping violence in our homes.

Mr. President, domestic violence continues to be the single most significant cause of injury to women in the United States of America. Yet, this violence knows no boundaries of age, or gender, or race, or geography, or income, or education. The violence goes on year after year and generation after generation. A study by the Office of Juvenile Justice and Delinquency Prevention at the Department of Justice found that mistreated youngsters who grow up in violent homes were twice as likely to commit brutal crimes as were children from nonviolent homes. Not surprising. If you grow up in brutal circumstances, that can very well make you brutal.

In Minnesota, in 1994, at least 19 women and 7 children were brutally killed by a spouse, a former partner, or someone they knew. So it is with pain, but also with great determination, I ask that we honor the memory of individuals who apparently died as a result of domestic violence. We should be mindful of the fact that these women could be your friends, they could be your neighbors, they could be your coworkers, they could be your sisters, they could be your mothers, they could be your wives.

It is from my heart that I ask that we end this kind of violence, that we do everything we can to end this kind of violence that has such a painful cost for individuals, their families, and their communities.

Individuals: Sue, 31. A sheriff's deputy found the bodies of her and her ex-husband in a bed in their home. Authorities had no doubt the homicides were murder-suicide, and believe her ex-husband shot her as she slept, and then shot himself. Both were wearing nightclothes, and a single-shot, 12-gauge shotgun was found by the side of the bed.

Joyce, age 27. She and her boyfriend were found dead in the apartment they shared. The police said that the boyfriend apparently shot her and then turned the gun on himself. A shotgun was found near the bodies.

Marie, 30. She was found dead from stab wounds. Her husband was arrested and charged with second-degree murder.

Deborah, age 51. She was found buried in a wilderness area. Her son was charged with first-degree murder in the strangulation death of his mother. He admitted to killing her because she did not like his girlfriend. He said he strangled his mother with the power cord of his radio, and then put her body in the trunk of the car and drove to the wilderness area and buried her.

Carol, age 40. Her 6-year-old son reported that she and her boyfriend were seated on the couch and fighting. Her boyfriend had a rifle pointed at her head and told her he would kill her if she contacted the police. She then reportedly said, "Go ahead." And her son said he then heard two shots. The boyfriend has been charged with second-degree murder.

Anne, age 3. She died after being stabbed in the head. Her stepfather has been charged with first-degree murder in her death and attempted murder and second-degree assault in the stabbing of his wife. The details of her death are too gruesome to talk about on the floor of the Senate.

Mr. President, these are the recent cases of victims only in Minnesota, and only those that have been documented and well-publicized. Looking at the national statistics, I know there must be many more cases that go unreported.

An American Medical Association report cites some horrifying statistics: Nearly one quarter of the women in the United States of America—more than 12 million—will be abused by a current or former partner sometime during their lives—one quarter of the women in the United States of America; 47 percent of husbands who beat their wives do so three or more times a year; according to FBI statistics, at least 30 percent of murdered women are killed by their intimate male partner; every 13 seconds, a child in the United States of America is reported abused or neglected; and more than three children—more than three children—die each day in the United States as a result of abuse or neglect.

Mr. President, we can no longer stand by and say it is someone else's problem. What are we waiting for? Too many have spoken with their voices and with their lives, and this violence must end.

Last year, the Congress passed new laws to protect victims and to prevent violence. Senator BIDEN has taken a major leadership role in helping to pass the Violence Against Women Act.

The first comprehensive piece of legislation on the subject of violence against women was milestone legislation for this Congress and for this Nation. We all must continue to fight any efforts to weaken the crime bill, including efforts to scale back the Violence Against Women Act or the funding for it.

Mr. President, domestic violence is also a critical issue to me when we talk about reforming the welfare system.

I said on the floor before, it took Monica Seles 2 years to play tennis again after being stabbed. Can you imagine what it would be like if you were beaten over and over and over again?

We must make sure that States have the option to give exemptions to women who have been beaten or children who have experienced this. They may not be able to work in 2 years. The last thing you want to do is cut them off of assistance and give them no other choice but to go back into very dangerous homes.

There is much to be done. We must be a voice for the victims; the women, the men, and the children who live in fear every moment of their lives, never knowing when the abuse will come or how lethal the next attack will be.

We must be unrelenting in our campaign to say as Senators what my wife Sheila says wherever she goes in Minnesota: We will not tolerate the violence; we will not ignore the violence; and we will no longer say it is someone else's responsibility.

I urge all of my colleagues to work with the survivors, the advocates, the medical professionals, the justice systems in our States, and to support full community funding and full community involvement in ending this violence. I urge my colleagues to work with passion and conviction to make this a priority of our work in the U.S. Senate. We must do everything we can to make homes the safest places that they can be.

I yield the floor. I thank my colleague from North Carolina for giving me this opportunity.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2934 TO AMENDMENT NO. 2936

Mr. SIMON. Mr. President, my staff is on the way with an amendment. Let me describe the amendment and tell you what it is and say why I think it is important we pass the amendment.

It is an amendment that in terms of philosophy I think my friend and colleague from North Carolina—and he is my friend—I think that in terms of philosophy he would agree to whether or not he agrees with this particular amendment.

I believe American citizens ought to have the freedom to travel wherever they want with no barrier from our Government unless an American citizen is at risk. That is a different situation than we face right now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I call up amendment numbered 2934.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2934 to amendment No. 2936.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in the October 17, 1995, RECORD under "Amendments Submitted.")

AMENDMENT NO. 2934, AS MODIFIED

The PRESIDING OFFICER. Does the Senator wish to modify his amendment?

Mr. SIMON. Mr. President, I ask unanimous consent to modify the amendment with the modification I have at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the appropriate place insert:

SEC. . TRAVEL TO CUBA.

(1) FREEDOM TO TRAVEL TO CUBA FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—Notwithstanding any other provision of law, the President shall not restrict travel to Cuba by United States citizens or legal residents, except in the event that armed hostilities between Cuba and the United States are in progress, or where such travel presents an imminent danger to the public health or the physical safety of United States travelers.

(2) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraphs:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, any of the following transactions incident to travel to or from Cuba by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from Cuba, including the importation into Cuba or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel to or maintenance within Cuba, including the payment of living expenses and the acquisition of goods and services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to or within Cuba.

"(D) Any transactions ordinarily incident to non-scheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into Cuba except accompanied baggage.

"(E) Normal banking transactions incident to the foregoing, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in Cuba other than those items described in paragraph (4)."

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, travel to Cuba incident to

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, U.S. Code."

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which may not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With the Enemy Act."

(4) APPLICABILITY.—The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b) (5) or (6) of the Trading With the Enemy Act (as added by this Act) may not be regulated or prohibited.

Mr. SIMON. Mr. President, as I indicated, I think part of free speech is that we do not just get the Government line on anything. I do not care what it is—popular, unpopular. That means that we ought to have the freedom to travel where there is no risk.

That includes unpopular countries. That includes China. I happen to be one of those, along with the Senator from North Carolina who is very critical of the human rights record of the Chinese Government, but I defend the right of American citizens to travel.

I defend the right of American citizens if there is no risk to travel to Iran or Iraq. It does not mean I approve of any of those governments. The same for Cuba.

The leader of Cuba has probably the worst human rights record of any leader in this hemisphere. There is no question about that.

There are two questions. One, do you change policy by restricting travel, or do you change policy by permitting travel? That is one question. The second question is, is this a first amendment right or is it in the spirit of the first amendment?

On the first question, whether it can change and modify the government there, I recognize that people who are sincere can disagree. We faced this same debate with the Soviet Union. There were those who for a time said Americans should not travel to the Soviet Union because you simply encourage that Government by giving them hard currency. Others said—and it turned out to be right—we ought to travel there so we can expose more people to our point of view.

Virtually every other government in the world—the British, the French, the Canadians—in fact, when I say "virtually," I think we are alone and the Senator from North Carolina can correct me, I think we are alone among the nations of the world in not permitting travel to Cuba.

Israel was the only nation that voted with us in the United Nations but Israel is putting in investment in Cuba.

I just think our isolation here just does not make sense. The reality is, American citizens do travel to Cuba today. Now, they go by way of Canada or Mexico, but not one American citizen has been arrested for it. Not one American citizen has been fined. Not one American citizen to my knowledge has had his or her passport taken away.

I think our policy just does not make sense. Americans ought to have the liberty, the freedom, to travel to Cuba unless there is a physical risk.

Now, if there is a danger that someone is going to be taken as a captive there, or something like that, that is different. The southern part of Lebanon, for example, would not be safe for Americans. I understand that. But I think we ought to be free to travel there, and that goes for any dictatorship anywhere. I think it is a way of promoting freedom. I think it is also a basic freedom that American citizens ought to have.

That is basically my argument. In terms of philosophy, my guess is the Senator from North Carolina would agree with me. In terms of its specific application to Cuba, he may not.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, before I make comments about the amendment of the Senator, let me ask if he is aware of the effort by the majority and minority leader to achieve a time for the Finance Committee to meet? There is an objection to the committee meeting while the Senate is in session.

Mr. SIMON. I am not trying to prolong that. I am willing to recess at this point. I was told by my staff what the majority leader preferred.

Mr. HELMS. I wanted to be sure that the Senator knew that. I do not want to interrupt the Senator's delivery or his argument at all.

Will the Senator be willing to enter into a time agreement for this afternoon, provided both sides have 10 minutes each in the morning?

Mr. SIMON. That will be perfectly acceptable to me.

Mr. HELMS. Very well, how much more time this afternoon?

Mr. SIMON. I, frankly, have presented the cause. It is not complicated. So I am willing to yield to my colleague. I probably would like 2 minutes to respond to whatever he might have to say, and then we could recess and each have 10 minutes tomorrow morning.

Mr. HELMS. Mr. President, the distinguished Senator from Illinois, my friend and my neighbor in the Dirksen Building, is always cooperative. If I say anything to excite him about his amendment, he will be entitled to take as much time as he needs to reply to me.

I do not agree with the amendment, and I hope it will not be accepted. But let me say this, Mr. President, I never have any question about the good intent of the Senator from Illinois on any issue, including this one. He sincerely believes the flow of American citizens to Cuba will promote positive change in Cuban society. But, in the context of Fidel Castro's regime, in my judgment, the belief that tourism will change Castro's tyranny cannot be supported by the facts. Here is why.

I say, with all friendliness, the loudest advocate of the Senator's amendment would be Fidel Castro, because he is trying to lure tourists into Cuba so they will bring hard cash which he could use to buy a little bit more time for his regime.

As a matter of fact, for years Mr. Castro has lured Europeans, Canadians, Mexicans, and others to Cuba. But from the beginning, Castro typically set up a structure to isolate foreign tourists and tourist facilities from the larger Cuban population. As a matter of fact, some of the major newspapers in this country and elsewhere refer to this system of Mr. Castro's as "tourist apartheid."

What has been Mr. Castro's purpose in promoting tourism? It has not been to improve the lives or freedoms of the Cuban people. Tourists visiting Cuba have access to food, shelter, and recreation not available to the poor Cuban people themselves. But this does not bother Fidel Castro and his cronies. Mr. Castro tolerates the tourist trade because he needs, as I said earlier, the hard cash—the hard currency generated by tourism to subsidize his corrupt regime.

Even the employment generated by tourism supports the regime. Here is how that works. The Cuban Government, that is to say Castro's officials, decide who will work in the tourist resorts. Nobody else need apply. With the Cuban State economic sector collapsing, jobs are becoming more and more scarce in Cuba and working in a tourist area becomes leverage that Castro uses as people struggle to find work in order to feed and care for their families.

There is another tragic phenomenon that has emerged from Castro's efforts to attract foreign tourists. It is called sex tourism. More and more, Cuban women, some little girls as young as 14 years of age, are prostituting themselves because they cannot find any other way to feed themselves and their families. An Italian travel magazine recently identified Cuba as the "paradise of sexual tourism," ranking it above Thailand and Brazil as the place to go for what the magazine called "erotic tourism." This is just one of the perverted legacies of the Castro revolution.

The free flow of American citizens to Cuba would be no more effective in reforming Castro's regime than has been the flow of Canadian, European, and Latin American tourists up to now. And lifting the travel restrictions, I say to my friend with all due respect, will not—will not—expedite Castro's departure. Rather, it will help keep Castro in power by giving him badly need hard currency.

The Treasury Department rules now allow for travel by journalists and by people engaged in educational or religious activities, as well as travel for humanitarian reasons, including permission to travel for those accompanying humanitarian donations to the Cuban people and individuals traveling in connection with recognized human rights organizations.

Restrictions on the right to travel are within the bounds of the Constitution. Twice the United States Supreme Court has heard challenges to the rules governing travel to Cuba. Every time, the Court has upheld the regulations, holding that the right to international travel is not without limitations when the restrictions are connected with the national security interests of the United States. In the case of Cuba, it is in our national interest to deny Fidel Castro the hard currency that would be brought in by tourism.

If the amendment of my friend is approved, the result would be to limit the President's ability to restrict travel. There are, in my judgment—and I say this with respect to my friend—there are valid national security reasons why travel to Cuba should be regulated. Approval of this amendment will serve to give hope to Castro, and that is why I must oppose it.

Mr. President, I ask unanimous consent that two articles from the Miami Herald, one on April 24, 1995, and one on February 28, 1995, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Feb. 28, 1995]

ITALIAN MAGAZINE RANKS CUBA AS A SEXUAL PARADISE

The Italian travel magazine Viaggiare has named Cuba the "paradise of sexual tourism" after an informal survey of journalists, travelers and tour operators.

Cuba obtained 23 points out of a possible 30, higher than Thailand and Brazil, each of which scored 21 points, and the Dominican Republic, which had 20 points, the magazine said in a special section in its March edition devoted to "erotic tourism" worldwide.

"We suggest staying in the cottages of the Hotel Comodoro . . . where it will be much easier to retire in sweet company," the magazine says. It also suggests that readers walk along Fifth Street in Varadero beach, "where you can easily find jineteras, the local prostitutes."

Cuba, which has said tourism will soon surpass sugar exports as its largest source of hard currency, has its largest European clientele in Italy.

NEED FOR TOURISTS' DOLLARS FUELING CUBA PROSTITUTION

(By Lizette Alvarez)

The young woman takes a drag on her cigarette and slides off her slippers. The rickety wooden chair she sits on wobbles. A bare light bulb dangles above.

"Some I like, some I don't like," she said, a touch of regret frosting her words, "But I'm not with them for love. I'm with them out of necessity."

In Cuba, prostitution has become a tourist trade like any other, only it pays better. Young women cluster outside the Riviera Hotel, home to a trendy salsa club. They sit in fashionable restaurants. They amble down the Malecon, flagging down tourist cars, advertising their availability with tight ultrashort skirts.

The Italian magazine Viaggiare recently raved about Cuba as a sexual playground for tourists. The island—which closely controls the spread of AIDS—ranked first in the magazine's sex-destination survey, surpassing even brothel hot spots like Thailand and Brazil.

For a country that took great pride in stomping out prostitution after the 1959 revolution, it's a distinction the government could do without.

Vilma Espin, head of the Cuban Federation of Women and estranged wife of Raul Castro, recently railed against prostitutes in Cuba, calling them a "great embarrassment" to the country. She blames a shortage of morals, not money, for the booming sex trade, as does her brother-in-law, President Fidel Castro.

Her speech, widely publicized in Cuba, did not sit well with the island's women, who skewered Espin for sidestepping reality. One Havana woman argued that prostitution in Cuba today is much more disturbing than it was prior to 1959 because it is more blatant.

"This prostitution did not exist before," said the Havana woman. "You didn't have professionals—engineers, architects—prostituting themselves . . . The revolution has created this. And now Vilma Espin stands on the stage with her Christian Dior dress."

A few days after the speech, the young hooker seated in this two-room apartment smirks at Espin's words. Nobody believes that a morality breakdown is driving Cuba's flourishing prostitution trade, she said.

Among most people here there is no rousing condemnation, only an implicit understanding. You do what you must.

"There are other ways to survive in this country," she admitted. "But they are too difficult. And I have my son and my mother to think about."

Prostitutes, who generally work for themselves, are routinely fined by police for "sexual contact" and are detained for a spell. But in reality, prostitution is a game, a nod, and a wink and a handshake—between client, hooker, and government workers.

Finding a hooker is not difficult. Hookers linger outside hotels and inside expensive restaurants. The clients wine and dine them and the women stay with them during the length of the trip, a week or so. When the men go home, they leave behind $50 or $100.

"Usually you don't ask for money up front," the young woman said. "It's up to them. Sometimes they don't leave you anything."

The whole arrangement is based on a series of bribes. To get a jinetera, as they are dubbed, up to a hotel room, a tourist slips $20 to the guard on duty and another few dollars to the elevator operator, the two people who see everyone's comings and goings.

Some prostitutes fear their newfound international notoriety could trigger a crackdown. That is not likely to happen as long as the economic crisis shaking the country persists. Even tourism officials say there is not a lot that can be done.

"We have to find a way so that Cuban women can find other ways to live," said Orlando Rangel, a tourism official.

But for women along the Malecon that's wistful thinking.

"This isn't ever going to change," the prostitute said. "Since I was 14 I was told it was going to change, but every day the only thing I see more of is need."

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I will be very brief in response to my friend.

I could buy his arguments on assisting with hard cash if there was any consistency to our policy. We do not follow that in China. The Senator from North Carolina and I agree, we do not like the government that is in charge in China. We do not follow that in North Korea. We are in agreement, we do not like the Government of North Korea. You can list a number of nations and, in terms of security, frankly, Cuba is less of a long-term threat than China is, for example, in terms of security. So I think that argument simply is not valid.

The second basic thrust is, somehow we can isolate Castro. That has been our policy for the last few decades and, obviously, it has not worked.

I think it makes much more sense to try to open up Cuba and to also keep in mind that, if tomorrow Fidel Castro should die of a heart attack or something happen to him, we ought to be preparing the ground so the successor government is a free government, is a democracy. That is in our interest. That is in the interest of the people of Cuba.

Under the present law, theoretically—I say theoretically because any American who wants to get around this can do it very easily by giving some money to a Mexican airline or a Canadian airline, and a great many other countries. But you cannot travel directly from the United States to there, and people who have relatives cannot visit the relatives. And human rights organizations, like Amnesty International, which would go there and be critical of the Castro record on human rights—which is not a good record—are not permitted to do so.

I think we would be much better off if we said to Americans that—unless you have a physical threat—Americans can travel wherever they want so that we do not have to follow some Government line in terms of how we get information. I think it is a basic freedom that we ought to have as Americans.

I hope the amendment can be adopted. I do not want to prolong this. I know the Finance Committee wants to meet. I yield to my friend from North Carolina.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, again, every time I get into a debate with Paul SIMON it is like a fraternity meeting. We are such close personal friends even though we frequently disagree.

I say to the Senator that the policy against Cuba is working. Castro is on the ropes. And he wants the hard currency that tourism brings in because that will give him a few more days, and a few more weeks, or whatever. As far as a heart attack that he may have, I will not say that I want anybody to have a heart attack. But I want him to get off the backs of the Cuban people as quickly as possible, and I know the Senator from Illinois does, too.

The infusion of hard currency is the only thing that is going to save Castro now. He needs that money, and that is the reason he is selling off real estate which does not belong to Castro's government any more than that table does. But he is selling this property off nevertheless. He is frantic to get hard currency. That is the reason he wants very much to have the tourism.

And the proximity of Cuba—how many times have we said this Communist country is 90 miles off our shore? That is precisely the point. You cannot make a case about China and North Korea because they are so far away that the number of United States tourists are relatively minimal because many Americans cannot afford to travel there.

I say to the Senator with all due respect that I just cannot agree with the amendment. That is my last word.

Mr. SIMON. Mr. President, believe it or not, I will take just 1 more minute. When you say Castro is on his last ropes, I heard that 5 years ago. I heard that 10 years ago. I heard that 15 years ago. I heard it 20 years ago, and so forth.

Mr. HELMS. If the Senator will yield.

Mr. SIMON. I yield.

Mr. HELMS. I thank the Senator. I have already violated my last word stipulation. But back then they had an infusion of cash from the Soviet Union which no longer exists.

Mr. SIMON. That is true. But today they have an infusion of British, French, and other investments that they did not have then.

Let me just say—because the Senator mentioned North Korea—that the place in the world today where you have more troops facing each other across a border where there is no contact with the other side is Korea. I do not remember the number, but I think we have about 140,000 troops in South Korea; American troops. I think you could use the argument we should not be propping this Government that might be a threat to American troops. But we do not, and we believe—and I think this is correct—maybe we can have an influence on that Government of North Korea which, believe it or not, is even harsher than the government of Castro.

But I respect my colleague from North Carolina. This is an area where we simply have a disagreement.

I yield the floor.

Mr. HELMS. I thank the Senator.

Mr. President, I ask unanimous consent that prior to the vote on the Simon amendment tomorrow there be 20 minutes equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, I say that the Senate will recess shortly—within 5 minutes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

SAMMY HOWARD, MAYOR OF PHENIX CITY, ALABAMA

Mr. HEFLIN. Mr. President, I rise today to congratulate Sammy Howard for his recent election as the new mayor of Phenix City, AL, a vibrant community in the east-central part of the State. Still widely called "Coach" Howard since he was a high school football coach for so many years, Sammy most recently was a highly successful banker in Phenix City. As a coach, he led his teams to 113 victories out of a total of 140 games.

I ask unanimous consent that the text of an article which appeared in the Columbus, GA, Ledger-Enquirer on the life and career of Sammy Howard be printed in the RECORD after my remarks. It tells about his odyssey from student athlete to coach to banker to mayor.

I wish "Coach" Howard all the best as he takes over the reins of government in Phenix City.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Columbus (GA), Ledger-Enquirer, Sept. 11, 1995]

PHENIX CITY MAYOR-ELECT NOT IN GAME FOR SELF

(By Richard Hyatt)

Nina Jo Keel had her rules. You made a speech in class or you failed. But there was something about that shy kid who nervously told her he would have to take an "F," that he couldn't get up in front of his friends and do that. Bending her own rule, she let him make his speech in private so he could escape with a "D."

Forty years after she taught speech at Central High School, she would watch the 6 o'clock news and mentally get out her red pencil. Her health wasn't good and the boys she taught had turned into men, but in her heart, they were still her students and she was still their teacher. That's why she picked up the telephone and called that 10th-grader who had become a successful Phenix City banker.

"She finally taught me how to say amphitheater," Sammy Howard said.

She died several months ago, so Nina Jo Keel never got to see that frightened high school kid become Mayor-elect of Phenix City. He couldn't make a speech in class, but next month he will become the spokesman for the community in which he grew up.

Never did anyone forecast that Curtis Samuel Howard Jr. would ever be called mayor. He was a football player, then a coach, and in a universe the size of Phenix City, there are no higher callings. It's been 17 years since he blew a whistle or covered a blackboard in X's and O's and yet he can't escape the game that paid for his education.

"Some people still look at me as coach," Howard said. "I saw a former player in the bank the other day and he called me Coach Howard. They don't call me mister and they can't bring themselves to call me Sammy. I'll always be the coach."

The traits of a player and coach are as close to him as debits and credits. He has used them to build a banking career and he talks about the need for teamwork in making the city operate effectively. There are a few football trappings in his office, including a mint-condition ticket to the 1951 Auburn-Alabama game, the season the two schools renewed their rivalry.

Growing up, some of those traits were not so attractive.

"I've always been driven by a desire to win," Howard said. "That almost got me barred from Little League. I'd get mad at the other kids if they made an error. Chuck Roberts, with the Housing Authority, was my coach. He talked to me and said I couldn't chase the other players around the field when I got mad."

Red Howard, his late father, was also a competitor. In 1919, he scored Auburn's only touchdown in a victory over Georgia. He was the manager of the Frederick Douglas housing complex in Phenix City. He also had a temper.

"Sammy and I were double-dating one time and we borrowed Mr. Howard's 1953 Pontiac coupe. We had a flat tire and we jacked up the fender instead of the bumper. Mr. Howard had some choice words for us," said Pat Thornton, a Central High classmate who is plant manager of Brumlow Mills in Calhoun, Ga.

The Howard family lived on Dillingham Street, not far from the bridge into Columbus and not far from many of the gambling joints that—like it or not—are so much a part of the community's history.

"We were just a few blocks away, but you know, we never felt scared. We never even locked our doors," Howard said.

But when he started playing football, he soon learned that being from Phenix City was a stigma in the eyes of God-fearing people who had heard the Sin City reputation.

"This is still an issue. This problem won't go away in my lifetime. We still have that reputation," Howard said.

The Central team he played on was a talented group. They went 6-1-3, including a victory over Sidney Lanier, ending that Montgomery school's 19-game victory streak. Howard ran back a kickoff 95 yards. But his classmates talk about one he didn't score. That one came with 20 seconds to play against Columbus High. Central was seeking a third straight Bi-City championship. Howard had scored twice and apparently scored a third touchdown that would have meant a victory.

It was called back because of a penalty.

"It was better to complain about the call because if you admitted the call was right people would want to know who was guilty. They would have run him out of town," Howard said.

He was captain of the football team, vice president of the senior class and an All-Bi-City player. He was even voted the cutest male graduate. Only he wasn't cute enough to get a college football scholarship.

"Bill Bush and I went 400 miles for a tryout at Southwest Mississippi Junior College in Summit, Mississippi. We had to make it. We didn't have the money to get back home," he said.

In his second year, he was an All-American halfback on a team that was undefeated. He even married the homecoming queen.

Those two years were important to Howard. He was away from home. He found there was more to life than football. That was a painful lesson. He had to overcome two concussions and a broken nose his first year in Mississippi.

His play grabbed the attention of major college coaches. Even though he had grown up as one of the few confessed Auburn fans in Phenix City, a few minutes alone with Bear Bryant changed all that. At Alabama, his injuries continued to mount so he played very little. Three decades later, he is reminded of those injuries.

"I had my neck operated on a few years ago and the surgeon said I had either been in a bad car wreck or else I got one lick too many playing football."

Coaches and teachers had played an important role in his life, so he decided to become a high school coach. Red Jenkins, his junior college coach, had become head coach in Yazoo City, Miss., and he offered Howard a job as a junior high coach.

His career almost ended after a single game.

His team played a terrible first half and he took them to the end zone where he pitched a fit, throwing his clipboard and using locker room language, with the heat of his tirade directed at a single player.

The next day he was summoned to the superintendent's office and when he arrived the room was filled with a number of proper ladies. They were horrified at his behavior. He was in trouble until the superintendent asked the only woman who hadn't spoken what she thought.

"What did you say to that boy?" she asked the young coach who didn't want to repeat his words.

"I said something I shouldn't," he said.

"What did you say?" she said again.

He sheepishly repeated the word.

"That's exactly what I would have called him," she said.

The woman was Mrs. Jerry Clower. Her husband was a fertilizer salesman then. Their son was a football player like his dad, who had played at Mississippi State. They were staunch Baptists and became staunch friends to Howard, who two years later became head coach.

Clower, a member of the Grand Ole Opry, is now a legendary comedian who gets paid for telling the stories he has always told.

"I thank my God for every rememberance of Sammy Howard. In 1969, he took 30 little boys and won a state championship. They played against teams from Jackson that would dress out 100 players and they won every game," Clower said.

Clower, who offered the pre-game prayer before every game, talked about Howard's decency and how he was real, not a phony. It was a difficult time in Yazoo City. During Christmas break, federal judges ruled that after the holiday they would be only one school in town. Desegregation came abruptly.

One of the students who came from the black school was Mike Espy, who became a congressman from Mississippi and, most recently, Secretary of Agriculture. He was president of the student body at his school and the adults were quibbling over who would be president at the new school.

"I was impressed," Howard said. "He said he thought the white student ought to be president—as long as they promised that the following year a black student would have the job."

Clower was impressed with Howard.

"My son played every minute under Sammy Howard. He so loved him that he wanted to be a coach like Sammy Howard. Right now, he is coaching in Gulfport, Mississippi," Clower said.

Wanting a challenge and wanting to be nearer home after the death of his father, Howard became football coach at Hardaway High in Columbus, a program that the previous year did not produce a single victory. He made progress, but in three years took a different challenge.

In 1973, he moved home to Phenix City, becoming head coach at Glenwood School, at the time a fast-growing private school. He was there five years. He became principal as well as coach and in his final year won a state title. He left coaching with 113 victories in 140 games.

He joined F&M Bank as a trainee in 1978 and in two years was made president. Through evolution, that bank became part of the Synovus family and Howard its president. Jimmy Yancey, former president of CB&T in Columbus, is now his boss at Synovus. Yancey said it isn't unusual for someone with a coaching background to be successful as a banker.

"It obviously has to do with leadership and Sammy showed that as a high school coach. He gets along with people and he deals with people. Those things are more important than a technical knowledge of banking. He inspires people to rally around him and Phenix City is fortunate that he wanted to be its mayor," Yancey said.

Howard was among a group of leaders shopping for a candidate. Everybody said no. Finally, Jerry Holly, a rival banker, turned to Howard and asked why he didn't run.

Judy Howard was one reason. She had been the wife of a coach, so she had sat in the stands and heard her husband ridiculed and criticized. As the wife of a mayor, she would face similar taunts. So will Howard.

"The mayor is the most visible of any elected official. You're always there. I'm going to the Central game and I'll bet 20 people will ask me about being mayor. Coaching prepares you for this," he said.

Forty-seven of his 56 years have been spent in this community, so he thinks he knows its needs. He talks about the need to bridge the gap between north and south Phenix City and he has set three goals:

To improve the appearance of downtown Phenix City.

To improve the city's infrastructure, such as roads and sewers.

To narrow the scope on what kind of industry the community will seek.

These things are challenges.

"We are a city of 30,000 with the tax base of a town of 15,000," he said. "If we were a city sitting alone like Eufaula it would be different. But we aren't. Our people do so much of their shopping in Columbus."

Working for a Columbus organization, he believes the friction between the two towns is vanishing. "The problem isn't between the cities, it's between the states," he said.

Howard said yes to becoming mayor—no one ran against him—because of the needs in the business community and because of the life this city has given him.

"That sounds like the politically correct thing to say but I mean it," he said. "I didn't need this job. I didn't need the recognition. I've had more of that than I deserve in a lifetime. I won't be out there for myself. I'll be out there for Phenix City."

Just like a coach who wants to win.

"I see that as a plus in being mayor because we will be in a quest for a championship. I guess if I ever lose that desire it'll be time to quit."

HAL SELF SELECTED FOR ALABAMA SPORTS HALL OF FAME

Mr. HEFLIN. Mr. President, I rise today to congratulate Hal Self, who was recently selected as one of the 6 new inductees into the Alabama Sports Hall of Fame for 1996. He was an outstanding football player at the University of Alabama and later revived the football program at Florence State College, now the University of North Alabama. Due to his leadership and dedication, football at North Alabama has emerged as one of the very best small college programs in the entire nation, having claimed the national championship in 1993 and 1994.

Sports has always run through the veins of Hal Self. He was a standout in football, basketball, and baseball at Decatur High School before entering the University of Alabama in 1941. He quarterbacked the Crimson Tide teams in 1941, 1942, 1944, and 1945, leading his troops to all four of the major post-season bowls at that time—Cotton, Orange, Sugar, and Rose.

He went into coaching after college, serving for 2 years at Athens High, where he went 15–5. In 1949, he began restoring the football program at Florence State and coached there for 21 years, compiling a 110–81–8 record, often playing against much larger schools with older and more established programs.

In 1969, he gave up coaching for the athletic director's post, serving there for 2 years. He stayed on as a full professor in the University of North Alabama physical education department until he retired in 1984.

I ask unanimous consent that the text of a recent article on Hal Self appearing in the Huntsville Times be printed in the RECORD after my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HAL SELF GETS TOP SPORTS HONOR

(By John Pruett)

Hal Self, who grew up in Decatur, went on to football fame at the University of Alabama and later resurrected the football program at Florence State College, has been selected as one of the six new members of the 1996 class of the Alabama Sports Hall of Fame.

Self joins a six-man group that includes former Auburn football star Bo Jackson, the 1995 Heisman Trophy winner; former Alabama, basketball player Leon Douglas; former Auburn Olympian Harvey Glance, now Auburn's head track coach; former Alabama High School Athletic Association executive director Herman "Bubba" Scott; and Jacksonville State's former one-armed football star, Jodie Connell.

Self and the others will be inducted into the ASHOF on Saturday, Feb. 24, at the Birmingham-Jefferson Civic Center.

"This, in my opinion, is the ultimate honor for anyone who was ever involved in sports in the state of Alabama," Self told The Huntsville Times over the weekend from his home in Florence, where he lives in retirement. "I'm deeply honored and humbled by the whole thing. What it does is put you up there with the best."

Self grew up as a football, basketball and baseball star at Decatur High School, where he played for legendary coach Shorty Ogle. He was the quarterback in Ogle's Notre Dame Box, the same offense that Self found when he went to Alabama on a football scholarship in 1941.

Self had several other scholarship offers and almost went to Howard College, but was persuaded to attend Alabama by Crimson Tide assistant coach Paul Burnham.

"Alabama had a whale of a football team when I got down there," Self said. "The morale was great and Coach Frank Thomas was in his prime. We had some terrific players, guys like Holt Rast at end and Taterhead Nelson at tailback, both All-Americans."

Self played on the freshman team in 1941 and was redshirted the following season. Alabama did not have a football team in 1943 because of World War II, but Self was a starter in 1944 and became one of the top players in the Southeastern Conference in 1945, when he won the coveted Jacobs Blocking Trophy.

He played in Alabama's 29–26 loss to Duke in the Jan. 1, 1945 Sugar Bowl and scored two touchdowns in the Tide's last Rose Bowl appearance, a 34–14 romp over Southern California in 1946. Self scored two touchdowns against the Trojans in the final college game.

"Those were two games to remember," Self said. "Grantland Rice called the Duke game 'the greatest bowl game ever played.' The Rose Bowl was of those special memories. Nobody gave us a chance, but it was never a game, really. Harry Gilmer just went to work and they couldn't handle him. We finally cleared the bench. Late in the game, Coach Thomas turned to Nick Terlizzi, who had a cast on his leg, and said, 'Nick, you want to tell your kids some day that you played in the Rose Bowl?' Nick said sure, and he went limping into the game, wearing that cast."

At 24, Self was hired as head coach at Athens High School, where he compiled a 15–5 record. Two years later, Florence State president Ed Norton hired Self to take over the long-dormant athletic program at what would later become the University of North Alabama. For the next 21 years, Self and his lone assistant, George "Bull" Weeks, built a first-rate small college football program with limited scholarship funds. The Lions were 110–81–8 during the Self regime, which ended in 1969 when he stepped down to become the school's athletic director.

Self moved into the UNA physical education department two years later and stayed on as a full professor until his retirement in 1984.

"The thing I treasure most about my years at Florence is that in 21 years, we never had a player who participated for four years that didn't get a degree to go with it," Self said. "That, and the fact that we had more than 100 of our boys who went on to become coaches."

TRIBUTE TO JAMES M. JONES

Mr. HEFLIN. Mr. President, I rise today to commend and congratulate James M. Jones, who recently retired from his position as the clerk of court for the U.S. Bankruptcy Court for the Middle District of Alabama. Mr. Jones served with the bankruptcy court for nearly 30 years, from September 1966 through his retirement effective September 1 of this year.

James began his career as an insurance manager in 1954. After 12 years in the field, he found his true calling as a member of the judicial staff of the U.S. Bankruptcy Court, eventually rising to become clerk of the court for the middle district. He served there for 16 years with distinction, dedication, and consummate professionalism. He was an active member of the National Conference of Bankruptcy Clerks [NCBC], assisting in the incorporation of the organization and in the writing of its original bylaws. He later chaired and served on numerous committees of NCBC, and has been a featured speaker at numerous organizational meetings and seminars on the issue of bankruptcy.

James Jones was born June 30, 1930 in Morgan County, AL to James D. and Dora Kilpatrick Jones. In 1950, he married Janene Hocutt, with whom he had four children—Sharon, Steve, Craig, and Lyn. He was educated at Auburn University and Jones Law School in Montgomery. He served in the U.S. Army during the Korean war, and represented the First Army as an observer to the second atomic bomb test at Yucca Flat, NV in 1951.

I extend my very best to James and his family as he embarks on his well-deserved retirement. I hope it is as long, healthy, and productive as his career has been.

TRIBUTE TO DR. TOM VAUGHAN

Mr. HEFLIN. Mr. President, I want to take a few moments to commend and congratulate Dr. John Thomas "Tom" Vaughan, who retired from his position as dean of the College of Veterinary Medicine at Auburn University last month. The fifth dean in the history of veterinary medicine at Auburn, he served from June 1977 until September 1995.

A Tuskegee, AL, native, Dr. Vaughan graduated with honors from Auburn's College of Veterinary Medicine in 1955. His affiliation with the field of veterinary medicine as a student, faculty member, department chair, and dean spanned an incredible 42 years.

As dean, Dr. Vaughan successfully led the college through numerous challenges. Despite major fiscal limitations, his leadership inspired dynamic instructional changes which made Auburn an internationally recognized institution in animal welfare and computerized teaching. He stimulated plans for curriculum alterations to coincide with the changes inherent to the field. As chairperson of the Auburn University Core Curriculum Commission, his was a pivotal voice in initiatives which led to the school's enhanced overall academic reputation.

Dr. Vaughan's strategic vision including the expansion of career opportunities for veterinarians in clinical practice, corporate enterprises, research projects, and in government agencies. He was committed to the Extension Service, agribusiness, and public health. His work has benefitted the public greatly through improvements in the food animal industry, research on diseases and pathology common to animals and people, expansion of graduate programs, and the training of quality veterinarians from all segments of society.

Dr. Vaughan served in several capacities on behalf of the National Association of State Universities and Land-grant Colleges. He chaired its Commission on Veterinary Medicine and served on its Commission on Food, Environment, and Renewable Resources. He is a former president of both the American College of Veterinary Surgeons and the American Association of Equine Practitioners.

He authored a total of 22 chapters in various veterinary textbooks, wrote numerous professional journal articles, and coauthored two books. He was selected as the Alabama Veterinary Medical Association's Veterinarian of the Year in 1985. Just last year, he received the Distinguished Service Award from the prestigious Tennessee Walking Horse Breeders and Exhibitors' Association. At Auburn University, Dr. Vaughan was an enthusiastic member of the John and Mary Franklin Foundation Lectures Committee and also a member of the University Senate.

Dr. Tom Vaughan's outstanding leadership and total dedication to his field have contributed directly in innumerable ways to the distinguished service of many graduates of Auburn's veterinary school, one of the oldest in the nation. He has established benchmarks of service and excellence that will inspire and sustain his colleagues, as well as challenge the profession for many years into the next century.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 629. An act to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado.

H.R. 1026. An act to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office".

H.R. 1606. An act to designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building".

H.R. 1715. An act respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

H.R. 1743. An act to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes.

H.R. 2070. An act to provide for the distribution within the United States of the United States Information Agency film entitled "Fragile Ring of Life".

H.R. 2353. An act to amend title 38, United States Code, to extend certain expiring authorities of the Department of Veterans Affairs relating to delivery of health and medical care, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker signed the following enrolled bill:

H.R. 1976. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 629. An act to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado; to the Committee on Energy and Natural Resources.

H.R. 1743. An act to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes; to the Committee on the Environment and Public Works.

H.R. 2070. An act to provide for the distribution within the United States of the United States Information Agency film entitled "Fragile Ring of Life"; to the Committee on Foreign Relations.

H.R. 2353. An act to amend title 38, United States Code, to extend certain expiring authorities of the Department of Veterans Affairs relating to delivery of health and medical care, and for other purposes; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

S. 1322. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 1328. A bill to amend the commencement dates of certain temporary Federal judgeships.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1715. An act respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1516. A communication from the Director the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the annual Federal Financial Management Report and Five-Year Plan; to the Committee on Governmental Affairs.

EC-1517. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of the Department of Human Services' Foster Care Reimbursement Efforts"; to the Committee on Governmental Affairs.

EC-1518. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Financial Review of the District of Columbia's Drug Asset Forfeiture Program"; to the Committee on Governmental Affairs.

EC-1519. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of the District of Columbia's Recycling Program"; to the Committee on Governmental Affairs.

EC-1520. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report entitled, "To Assure the Free Appropriate Public Education of All Children with Disabilities"; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-358. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-359. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-360. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-361. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-362. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-363. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-364. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-365. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-366. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-367. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-368. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-369. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-370. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-371. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-372. A petition from a citizen of the State of Georgia for a redress of grievance; to the Committee on the Judiciary.

POM-373. A petition from a citizen of the State of Nebraska for a redress of grievance; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN:

S. 1330. A bill to make available without fiscal year limitation the offsetting collections of the Federal Communications Commission for electromagnetic spectrum auctions; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1331. A bill to adjust and make uniform the dollar amounts used in title 18 to distinguish between grades of offenses, and for other purposes; to the Committee on the Judiciary.

S. 1331. A bill to clarify the application of certain Federal criminal laws to territories, possessions, and commonwealths, and for other purposes; to the Committee on the Judiciary.

S. 1333. A bill to provide for a reduction of sentence for providing useful investigative information, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 1334. A bill to amend chapter 28 of title 35, United States Code, to provide for noninfringing uses of patents on medical and surgical procedures; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 1330. A bill to make available without fiscal year limitation the offsetting collections of the Federal Communications Commission for electromagnetic spectrum auctions; to the Committee on Commerce, Science, and Transportation.

THE SPECTRUM AUCTION OFFSETTING COLLECTION AVAILABILITY ACT

• Mr. McCAIN. Mr. President, today I am introducing the Spectrum Auction Offsetting Collection Availability Act. This bill is simple and would save a fiscal problem currently being faced by the Federal Communications Commission [FCC].

The FCC currently must expend funds in order to conduct spectrum auctions. When such auctions occur, the Commission is authorized to retain from the auction proceeds to offset the overhead costs of conducting the auction. This plan is logical and clearly benefits all concerned—especially the taxpayers.

However, it has been brought to my attention that when an auction is conducted late in the fiscal year, and the revenues come in too late to be expended during that fiscal year, the Commission does not have the authority to use the funds collected. This creates an unintentional monetary crisis at the collected. This creates an unintentional monetary crisis at the FCC. Clearly, the FCC should be able to keep this money for more than 1 year in order to support spectrum auctions.

Currently there is much debate as to whether we should cut the FCC's funding or not. That is a debate for another day and quick passage of this bill should not be interpreted by any as an indication as to a Member's view on overall FCC funding levels. This bill simply allows the FCC to continue to conduct its auctions in a manner that does not require the use of appropriated funds.

Similar language has already been added to both H.R. 1869, the FCC Authorization Act of 1995, and the proposed House reconciliation bill. It is not controversial and makes common sense.

I would hope that it would be passed by the Senate in the very near future or that it could be added to the first appropriate legislative vehicle moving on the Senate floor. I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spectrum Auction Offsetting Collection Availability Act".

SEC. 2. AVAILABILITY OF FUNDS FROM SPECTRUM AUCTIONS.

Section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) is amended by inserting after the second sentence the following new sentence: "Such offsetting collections shall remain available until expended.".•

By Mr. HATCH:

S. 1331. A bill to adjust and make uniform the dollar amounts used in title 18 to distinguish between grades of offenses, and for other purposes; to the Committee on the Judiciary.

TITLE 18 UNIFORMITY ACT OF 1995

Mr. HATCH. Mr. President, I rise today to introduce the Title 18 Uniformity Act of 1995 and urge my colleagues' support for this bill.

This bill makes technical adjustments to make uniform the dollar amounts used in title 18 to distinguish between grades of offenses.

This bill raises the dollar threshold that triggers more severe punishment of certain unlawful acts. This change allows the punishment to better fit the crime by raising the threshold to a reasonable level before the extended imprisonment option becomes effective. This bill furthers our interest in applying equal justice and better utilization of incarceration space. I urge its passage.

By Mr. HATCH:

S. 1332. A bill to clarify the application of certain Federal criminal laws to territories, possessions, and commonwealths, and for other purposes; to the Committee on the Judiciary.

THE POSSESSIONS AND TERRITORIES CRIMINAL LAW CLARIFICATION ACT OF 1995

Mr. HATCH. Mr. President, I rise today to introduce the Possessions and Territories Criminal Law Clarification Act.

This law, which is purely technical in nature, is needed to clarify an ambiguity in a number of Federal statutes as to their coverage of crimes occurring in the territories, possessions, and commonwealths of the United States. This ambiguity arises because these statutes contain references to State law, without any indication of whether they are to be applied to territories or other entities which are not States.

My bill would clarify that these ambiguous Federal criminal statutes apply to the territories, possessions, and commonwealths of the United States, as well as to the 50 States. I ask my colleagues to support this legislation, and urge its swift approval.

By Mr. HATCH:

S. 1333. A bill to provide for a reduction of sentence for providing useful investigative information, and for other purposes; to the Committee on the Judiciary.

THE SUBSTANTIAL ASSISTANCE CLARIFICATION AMENDMENT ACT OF 1995

Mr. HATCH. Mr. President, I rise today to introduce the Substantial Assistance Clarification Amendment Act of 1995. This amendment to Federal sentencing procedures clarifies the procedures by which the Government may move that the court sentence a defendant below a statutory minimum sentence based on the defendant's cooperation with the Government.

My bill removes the requirement that a substantial assistance reduction be based on information relating to a particular person being investigated or prosecuted. Instead, under my bill, such a reduction could be given in exchange for substantial assistance in the investigation or prosecution of any offense, even if the defendant is unaware of the specific person or persons involved.

My bill will assist Federal prosecutors in their task of bringing criminals to justice by giving them additional leverage with which to uncover needed evidence. It will also provide incentives to defendants to come clean, and mitigate their crimes by cooperating with the prosecution.

This bill does nothing to lessen the punishment for truly culpable defendants who deserve the full measure of punishment the law provides. It simply strengthens a tool in the prosecution's toolbox. It furthers the interests of justice, and I urge its passage.

By Mr. FRIST:

S. 1334. A bill to amend chapter 28 of title 35, United States Code, to provide for noninfringing uses of patents on medical and surgical procedures; to the Committee on the Judiciary.

THE MEDICAL PROCEDURES INNOVATION AND AFFORDABILITY ACT

• Mr. FRIST. Mr. President, I rise today to introduce legislation that will address what I believe is a growing problem in the medical community. It may come as a surprise to my colleagues in the Senate, to health care consumers, and even to some physicians, that the U.S. Patent and Trademark Office issues patents for purely medical procedures.

Most physicians are unaware that patents can be issued for medical procedures, and even if they were, few would seek to limit the ability of other physicians to use the most up-to-date and effective procedures in providing health care. Yet, an alarming trend of obtaining and enforcing medical procedure patents is on the rise in the medical community, and I strongly believe that a legislative solution is necessary.

Mr. President, for most of our history, advancements in medical procedures, independent of a new medical device or pharmaceutical, were not considered patentable. In 1954, the Patent Office reversed its prior rulings and issued a decision which has been interpreted to provide broad authority for the issuance of medical method patents. The increasing incidence of the issuance of these patents is in conflict with broader health policy goals.

Mr. President, advances in health care are encouraged and fostered in an atmosphere where professionals share their research and publish the results of their work. Physician specialties conduct annual meetings to discuss the latest techniques, and important discoveries are published and subject to the critical peer review process. There is simply an element of unfairness if doctors are allowed to claim ownership of procedures which were developed based on years of cooperative clinical experience and research.

A recent lawsuit, and increasing demand for the payment of royalties on patented medical procedures, has caused a growing concern that the issuance of medical method patents will increase the cost of health care, and quite possibly, keep physicians from providing the best treatment available. For example, in 1993, Dr. Samuel Pallin, an Arizona ophthalmic surgeon, sued Dr. Jack Singer, a Dartmouth Medical School professor of ophthalmology, for patent infringement involving a technique for stitchless cataract surgery. Dr. Pallin sought a patent on the technique, even though many ophthalmic surgeons, including Dartmouth's Dr. Singer, were using this technique before Dr. Pallin sought his patent.

And this is not an isolated example. Medical method patents issued in recent months include patents relating to implanting a knee prosthesis, closing an incision in muscle tissue, calculating the risk of coronary heart disease, using donor plasma for ear infections, diagnosing Alzheimer's disease, treating rheumatoid arthritis, performing laser surgery without damaging nearby tissue, treating bone disorders, treating aneurysms, and the list goes on and on. Obviously, doctors and others have begun to realize that if the practice of granting and enforcing medical method patents continues to spiral, they must protect themselves by seeking patents on procedures they use. That prospect is frightening.

Mr. President, the practice of enforcing medical patents against physicians and other health care providers has profoundly negative implications for the entire health care field. And that is why I am introducing legislation that would provide an exception from the definition of patent infringement for medical and surgical procedures. With this approach, physicians and others will still be entitled to seek and obtain a medical method patent, but there will be no infringement if the procedure is used by other physicians or other licensed health care practitioners. And because the legislation does not impose a ban on the issuance of medical method patents, there should be no concern that the legislation would prohibit biotechnology companies from enforcing their patent rights against commercial users with respect to any patentable advancements in areas such as gene therapy, cell therapy, or with respect to new uses for well-known drugs. Additionally, Mr. President, there is an explicit exemption for the commercial manufacture of drugs, medical devices and any other products regulated by the Food and Drug Administration, which should also provide substantial protection for the biotechnology industry.

Mr. President, more than 80 nations, including Japan, Germany, Great Britain, and France, prohibit the issuance of medical method patents. Increased enforcement of medical method patents will increase health care costs, limit access to quality health care, and ultimately put patient privacy at risk. The legislation I am introducing will limit the enforcement of medical method patents against physicians, while preserving the rights of the biotechnology industry. I believe this legislation is both balanced and necessary, and I urge my colleagues to support its passage.●

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. GRASSLEY, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1027

At the request of Mr. BROWN, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1027, a bill to eliminate the quota and price support programs for peanuts, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

AMENDMENTS SUBMITTED

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

HELMS AMENDMENT NO. 2938

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes; as follows:

At the end, add the following:

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(I) and (B)(ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, an action may be brought under Title III by a United States national only where the amount in controversy exceeds $100,000, exclusive of costs, attorneys' fees, and exclusive of interest under sections 302(a)(I)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, a United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this Title.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the case of any action brought under this Title by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this Title.

( ) Notwithstanding any other provision of this Act, any provisions in this Act related to the import of sugar or sugar products shall be deemed "sense of the Congress" language.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold a hearing on S. 1327, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian community and the city of Scottsdale, AZ. The hearing will take place on Thursday, October 26, 1995, beginning at 9:30 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet twice during the Wednesday, October 18, 1995, session of the Senate for the purpose of conducting an oversight hearing on the Amateur Sports Act and a hearing on S. 1043, the Natural Disaster Protection and Insurance Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 18, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 18, 1995, at 10 a.m. to hold a hearing on the Omnibus Property Rights Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on emerging infections, during the session of the Senate on Wednesday, October 18, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HELMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 18, 1995, at 2 p.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. HELMS. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Wednesday, October 18, 1995, at 10 a.m., in room 628 of the Dirksen Senate Office Building. The hearing will discuss quality of care in nursing homes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT INFORMATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology and Government Information of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Wednesday, October 18, 1995, at 11 a.m., in Senate Hart room 216, on the Ruby Ridge incident.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ABDICATING ON THE CASE FOR ENDOWMENTS

• Mrs. HUTCHISON. Mr. President, I rise to invite the attention of the Senate to an article in the October 2 edition of the Washington Times entitled "Abdicating on the Case for the Endowments." The author is Leonard Garment, a Washington lawyer who has followed the issue of Federal funding of the arts and humanities since he worked as White House counsel to President Richard Nixon.

"That soft gurgling you hear," writes Mr. Garment, "is the sound of the National Endowments for the Arts and Humanities being slowly strangled to death."

In the article, Mr. Garment lists the abuses of the public trust that, in his words, "denigrate the values of millions of taxpaying Americans." The notorious Andres Serrano project. The panels that judge projects by ideological litmus tests and fund the politically correct. The wheelbarrows full of money dumped into frivolous whimsies.

He concludes that the solution is not to throw the baby out with the bathwater—to risk weakening America's cultural treasures because of these abuses. Rather, he advocates a clean break with the past. He would disassemble and rebuild them from the ground up.

"Such reforms," he writes "are not only possible but already on the congressional table—in the form of a bill, jointly introduced by Senators Kay Bailey Hutchison of Texas and Robert Bennett of Utah, that addresses every one of these issues."

I am gratified that a man of Mr. Garment's stature and experience supports our bill. I recommend this excellent article to my colleagues, and I ask that it be printed in the RECORD.

The article follows:

[From the Washington Times, Oct. 2, 1995]

ABDICATING ON THE CASE FOR THE ENDOWMENTS

(By Leonard Garment)

That soft gurgling you hear is the sound of the National Endowments for the Arts and Humanities being slowly strangled to death. The House of Representatives has voted to fund the endowments at drastically reduced levels and take them out entirely in two years. The Senate, while not imposing a similar deadline, has also slashed the endowments' money.

Yet most fans of the endowments are walking around with "What, me worry?" smiles on their faces. Since they survived, they think their arguments worked and that they can just keep making these arguments again and again until their opponents' fervor cools. Then it will be business as usual.

I fear the endowment enthusiast overestimate the stamina of their friends and underestimate the resentment of their adversaries, in Congress and out. The editorial stalwarts at The Washington Post, for example seem to have quietly tiptoed out of the current debate, leaving it to Jonathan Yardley, The Post's senior book reviewer and distinguished social commentator—a man with cast-iron convictions, by the way—to call for an end to the Endowments (Aug. 28, Sept. 10, Sept. 25). During this barrage, the Post gave "Taking Exception" time to a wearily hackneyed defense of the humanities endowment by one of its senior officials (Sept. 19). Jane Alexander, chairman of the National Endowment for the Arts, the lead horse of the cultural troika, appears to have taken a sabbatical powder from public advocacy, apparently content to let matters rock along without risking a misstep that might upset the congressional stay of execution.

The national endowments are making a miserable mistake in thus defaulting on the attacks against them, letting the once-splendid arts and humanities enterprise fade slowly into history with little more than befuddled whimpers of support. This is a pity, since every legitimate objection made by those who want to pull the plug on the endowments can be answered. What has been missing, as usual, is the creative intelligence and the legislative will necessary to do so.

After 30 years of reasonably close observation of the spasms of congressional support and hostility toward the endowments, it seems to me that the current mixture of indifference and resentment, reflecting the powerful conservative political tide, involves five major categories of complaint. First, it is said that the endowments have supported artistic and humanities projects that denigrate the values of millions of taxpaying Americans. Robert Mapplethorpe, Andres Serrano, Annie Sprinkle and Her Magnificent Speculum, blah, blah, blah. All true. However these unpleasant projects came to be funded, the relevant fact is that they should not have been. But the chance of such mistakes in the future can be reduced to near-zero if the endowments are prohibited from awarding grants, subgrants or fellowships to individuals. These personal subventions have been the main instruments of the corrosive damage inflicted on the endowments.

Next, the endowments are called mutual back-scratching societies that use their hundreds of so-called "peer panels" to support highly personal and ideological judgements about art and scholarship. True again. But this need not be if we eliminate the large array of narrow and manipulable peer panels and create a small number of cross-disciplinary advisory groups, less vulnerable to parochialism and conflict of interest, to advise the endowment leadership on the distribution of endowment resources. The arts and humanities are too important to be left to artists and humanities—who are intensely concerned, and understandably so, with self-expression, not with safeguarding cultural institutions from political harm. Individual grants and fellowships are a fine idea but quintessentially the business of private foundations and corporate or individual donors. And I refuse to believe that an artist or scholar who has something important to say will pack up his palette or PC if he or she is not paid in advance. Just try making the argument for the necessity of individual grants to the hordes of young writers, painters and musicians who work without complaint at part-time jobs to support their particular muses.

Third, critics contend that the endowments are used by federal arts bureaucracies as instruments for their own private agendas. Also true. To the extent that the law permits, we should clear out these long-timers—who think they, not the taxpayers, own the endowments. We should make the rest accountable to a council subject to Senate confirmation as well. The council should be composed of mature persons required by law to be genuinely "learned in the arts and humanities." Even allowing for the occasional political hack who will slide through, such a council would be very difficult for bureaucracies to roll.

Front and center for years now, the big complaint is that the endowments try to be all things to all constituencies rather than acting out of their own sense of national cultural mission. For this grievance Congress has a remedy at hand. It can establish by law that the endowments will support only American cultural institutions whose weakening or destruction would mean the loss of irreplaceable treasures. These institutions—there are not that many—would be selected by the national council and would be the nation's indisputable best: The great museums, symphony orchestras, jazz ensembles, art schools, performing arts centers, ballet, operas and theater companies. In short, they would be the emblems of the honor that America gives to its major cultural institutions and of the importance it ascribes to them as instruments of aesthetic education. Congress also can (and should) stipulate that a substantial part of the federal arts and humanities budgets will be distributed, by formula, to states and local governments for the support of local equivalents of the national treasures, mandating substantial community outreach as a condition of the award of public support. This money would also be subject to a categorical ban on individual grants.

Finally, the endowments are said to be overloaded with administrative costs and redundancies in areas, such as film production, already supported by the Corporation for Public Broadcasting and the Public

Broadcasting System. A final "true." To solve this problem, the two endowments (and the Institute for Museum Services) should be consolidated into a single endowment under unified leadership, with a presiding chairman and three deputies for the arts, humanities and museum services components. This merger would save millions of dollars, and each of the constituent organizations would benefit immensely from the enhanced cross-disciplinary scrutiny. The humanities section of the new endowment could be constructively pared by at least a third of its present budget with that money redistributed to meet large and urgent arts and museum services needs. (Thumb through the annual NEH catalogue of humanities grants; if you can explain 10 percent of these mystifying projects, you should be the next dean of Harvard College.)

Such reforms are not only possible but already on the congressional table—in the form of a bill, jointly introduced by Sens. Kay Bailey Hutchison of Texas and Robert Bennett of Utah, that addresses every one of these issues. It would be a shame if partisans of the endowments ignored this bill and thus missed the opportunity to anticipate and block the future proposals that will otherwise lead inevitably to the evisceration of the endowments. It may be too late in the budget cycle to consider structural reforms" right now; but reauthorization or deauthorization time will soon roll around and a deep breath and a careful look at the history and future structure of the endowments will be in order.

The national endowments are powerful symbols of an American commitment to the support and dissemination of the arts and humanities at a time when a horrifying junk culture pervades our public spaces. Even aside from this concern, abandoning the endowments would be a shabby act, utterly unworthy of a great nation. Their massive 30-year contribution to American culture dwarfs their mistakes. They furnish unequaled cognitive tools for early education for the children of what will be the largest and most complex multi-cultural nation in the world.

Ways and means can be debated; what I believe unarguable is that the endowments should not be destroyed—slowly, swiftly or at all—simply because aggressive cultural predators and self-indulgent members of the federal bureaucracy have occasionally corrupted the work of the agencies over the past three decades. And if these persons and organizations now hope to stave off reform, believing responsible defenders of the endowments will simply go away, those of us who care for the arts and humanities and understand their importance should not let them get away with it.●

THE BAD DEBT BOX SCORE

Mr. HELMS. While we are waiting, Mr. President, let me mention that since February 1992, I have each day the Senate has been in session reported to the Senate the exact total of the Federal debt as of the day before the close of business, or in the case of Mondays the previous Friday. I call it the bad news about the Federal debt, and today's news about the Federal debt is pretty bad.

Before we have "another go," as the British put it, with our little pop quiz that I so often have, I hope Senators will remember one question, one answer, about this $5 trillion debt that the Congress of the United States has run up for future generations to pay off. That one question on my pop quiz is: How many millions of dollars would it take to add up to $1 trillion?

While anybody within earshot is thinking about that, I would suggest that we bear in mind that it was the U.S. Congress, where I work—here and the House of Represenatives on the other side—that ran up this Federal debt that now exceeds $4.9 trillion. We are going to hit $5 trillion before this year is out. And these young people who are serving as pages, their generation and generations following them, will be struggling to pay off the debt. Every day that we fail to balance the Federal budget runs the debt up further.

All right, what about the total Federal debt as of the close of business yesterday, October 17? The total Federal debt down to the penny stood at $4,968,953,453,657.73. Now, this figure is not far from $5 trillion.

Another depressing figure discloses that on a per capita basis, assuming that every man, woman, and child would accept and pay off somehow his or her share of the debt—and we know that only about half of the people, men, women, and children, will in fact pay any taxes at all, but if everybody had a share and paid it off, it would amount to $18,862.23 per man, woman, and child.

Now, then, remember the question that I asked in my little pop quiz? How many million in $1 trillion? There are 1 million million in $1 trillion. That gives you some idea of the enormity of the debt and the enormity of the irresponsibility of the Congress during the past generation or more.

I suggest the absence of a quorum, awaiting wrap-up information.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. For the final time this afternoon, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

BILL READ FOR THE FIRST TIME—H.R. 1715

Mr. HELMS. Now, Mr. President, I will inquire of the Chair if H.R. 1715 has arrived from the House of Representatives?

The PRESIDING OFFICER. It has. It will be read for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 1715) respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

Mr. HELMS. Mr. President, I am going to object to my own request since there is no Democrat on the floor. I am going to do their job for them in this instance.

I now ask for its second reading. And I object to my request.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. So the bill will remain at the desk and be read a second time following the next adjournment of the Senate; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. All right.

ORDERS FOR TOMORROW

Mr. HELMS. Now, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m., tomorrow, Thursday, October 19, 1995, and that following the prayer, the Journal of proceedings be deemed approved to date, that the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 10:30 a.m., with Senators to speak for up to 5 minutes each, with the exception of two Senators: Senator KASSEBAUM 10 minutes and Senator DORGAN 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, I further ask unanimous consent that at 10:30 a.m., tomorrow, the Senate resume consideration of H.R. 927, the Cuba Libertad bill, and that at that time Senator DODD be recognized to offer his two amendments that remain in order under a previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

PROGRAM

Mr. HELMS. Mr. President, for the information of all Senators, it is the hope of the leadership that the Senate may complete action on H.R. 927 by 12 noon, or thereabouts, tomorrow; therefore, votes can be expected to occur prior to 12 noon tomorrow.

So I ask unanimous consent that the vote occur on or in relation to the Simon amendment numbered 2934, Thursday, October 19, at a time to be determined by the majority leader, after consultation with the Democratic leader, following 20 minutes of debate to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Following the disposition of H.R. 927, it is the hope of the leader that the

Senate may consider the State Department reorganization bill, if the manager's amendment can be worked out by that time.

Now then, the NASA authorization is a probability in terms of consideration tomorrow.

Therefore, additional votes can be expected following the disposition of H.R. 927.

Also, all Senators should be on notice that the majority leader intends to turn to the Labor-HHS appropriations bill on Friday of this week.

ORDER FOR RECESS

Mr. HELMS. Mr. President, following the remarks of the majority leader, if there be no further business to come before the Senate at that time, I ask unanimous consent that the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I understand that we are on automatic pilot. When I finish, we will go out?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I will say, the Senate Finance Committee will resume markup of the $245 billion tax reduction bill. I am not certain precisely when that will be. I think somewhere around 5 o'clock. The chairman, Senator ROTH, will be in contact with the committee members.

Mr. DOLE. Mr. President, Washington can be a scary place sometimes and pretty scary around the time of Halloween. But yesterday's announcement from Treasury Secretary Robert Rubin about expiration of the debt ceiling on October 31 brings Halloween scare tactics to a whole new level.

I was dismayed to see the administration resort to this sort of game-playing on the debt ceiling and the budget situation. And I am sure many in the financial community were as dismayed as I was.

Mr. President, investors around the world are watching our performance here in Washington and they are particularly watching how we Republicans are handling the Nation's financial situation.

So far the reaction has been very positive. Look at U.S. long-term interest rates, a key sign of investor confidence in the U.S. economy. The bond market has been strong and the rates have been steadily declining as the financial community sees our determination as a Republican Congress to finally deal with the problem of the Federal budget deficit once and for all.

Last December—right after the Republicans swept the 1994 congressional elections—the interest rates on 30-year bonds began their decline from 8.0 percent to 6.29 percent today. The interest rate on long-term bonds has declined steadily since this spring when we passed our budget resolution to get on a path to a balanced budget by the year 2002. It is our actions as a Republican Congress that have spurred confidence in our country's future economic security.

Today we find ourselves in the ironic situation of a Secretary of the Treasury—the U.S. Government official with the primary responsibility of promoting confidence in the economy—actually trying to disrupt the financial markets.

Secretary Rubin has politicized this debate. His actions yesterday to reduce normal, previously scheduled borrowing next week can only be interpreted as designed to disrupt the market. No Secretary of the Treasury should try to be destabilizing our financial markets.

As Secretary Rubin said in his letter—about the only sentence in it I agreed with—"This is no way for a great Nation to conduct its financial affairs."

I hope that no one will be fooled by these Halloween scare tactics from the administration. In fact, even after yesterday's announcement the bond market was strong. The American people want us to do the job of getting the deficit under control.

Mr. President, no one wants a default. And scare tactics are no way to prevent such a default. I can guarantee that we in the Congress will work hard to see to it that there is no default by the U.S. Government on its obligations.

But make no mistake: We will not retreat in our battle to end the stranglehold that the Federal deficit has on future generations of Americans. This is the year to do the heavy lifting necessary to get our Nation's financial house in order and I trust the administration will choose to be helpful in the serious work ahead of us in the coming weeks.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, I move the Senate stand in recess under the previous order.

The motion was agreed to, and the Senate, at 3:54 p.m., recessed until Thursday, October 19, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 18, 1995:

THE JUDICIARY

NINA GERSHON, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE LEONARD D. WEXLER, RETIRED.

BARBARA S. JONES, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE KENNETH CONBOY, RESIGNED.

JOHN THOMAS MARTEN, OF KANSAS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF KANSAS VICE PATRICK F. KELLY, RETIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, October 18, 1995*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When we contemplate our lives and all the events that mark our time and all the feelings that make us human and all the hopes that move us forward, we pray, almighty God, that we forget not that You are the Creator of all and the Author of the Book of Life. As we meditate on our lives with all the joys and sorrows and opportunities, allow us never to overlook that our blessings are from above and that we ought respond to those blessings with prayer, praise, and thanksgiving. Bless every person this day, O gracious One, that what we do and say and think will be to Your glory and of service to people whatever their need. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from North Carolina [Mr. JONES] will come forward and lead the House in the Pledge of Allegiance.

Mr. JONES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be fifteen 1-minutes on each side.

STOP SCARE TACTICS

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, the Republican majority is working hard to do what is right for all Americans—save Medicare from bankruptcy. And let us get one issue straight right from the start—accusations by Democrats here in Congress that we are cutting Medicare are absolute nonsense—baloney—we are increasing spending per senior; from $4,800 to $6,700.

Republicans have come up with a plan to ensure Medicare's solvency through the next generation not just through the next election. Our plan will increase benefits, offer more choice to seniors, and attack the waste and fraud in the system. Our plan offers real solutions to the real problems facing Medicare today.

I urge my Democrat colleagues to stop the scare tactics, stop listening to the special interest groups, stop playing politics and do what you know is the responsible thing to do: Save Medicare now.

DEFEAT MEDICAID REFORM BILL

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, to reform means to make things better. The Republicans Medicaid bill, under the guise of reform, is a hypocrisy that not only makes things worse, but violates many principles Republicans claim to represent.

Republicans claim they support children yet they voted to deny poor children guaranteed health services.

Republicans claim they protect unborn children, yet they voted to revoke access to prenatal care for poor women. Even though every dollar spent on prenatal care saves $3 in future health care costs.

Republicans claim they want to help people get off welfare, yet they voted to deny health care coverage to women and their children during their first year of work even though one of the main reasons women leave work and go back on welfare is the lack of health coverage for their sick children.

Under the guise of reform, Republicans are forcing women to choose between work and the health of their children, and they are unraveling the Nation's health safety net for the poor and the elderly.

We must defeat the so-called Medicaid reform bill.

MEDICARE PRESERVATION ACT PRESERVES MEDICARE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, there are currently a lot of scare tactics permeating the media regarding Medicare. To me, the most frightening scenario would be if Congress and the President do nothing, Medicare will go broke in 7 years. If the program becomes insolvent, the Government can not pay the health care bills of millions of retirees.

The standard bearers of the status quo are suggesting that Medicare be saved only for the next election not the next generation. They have placed politics ahead of sound policy and they clearly care more about voters than the current and future retirees. Their so-called plan was thrown together only after the media called their bluff and exposed their demagoguery.

Our plan, the Medicare Preservation Act, preserves traditional Medicare for any retiree who wants it. Let me say that another way. Anyone who prefers the current Medicare system may keep it. Others will have the right to choose health care plans the way everyone else does.

What can be wrong with that?

VOTE TO SAVE MEDICARE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, you just cannot run from the truth.

As the Republicans try to hide that they want to take health care from our seniors for a tax giveaway to the wealthy, their justifications are becoming laughable.

I think the silliest one is this:

This isn't a cut in Medicare. We are only slowing the growth.

Let me explain the Republican definition of slowing growth:

Say I own a cruise ship, and it seats 100 passengers. It only makes sense that I would have 100 life preservers.

Now, say I build a bigger boat. One that seats 150 people.

If I say to my passengers I am only going to have 125 life preservers, but don't worry—that's not a cut, I'm only slowing the growth of life preservers—I do not think that is going to help the 25 people who drown when my boat crashes.

Well, my friends, Medicare is a life preserver for our seniors.

One that protects them when they are sick, one that saves them when they are ill. One they have paid for and earned and deserve.

This week, we have a chance to keep all the life preservers on board.

Vote to save Medicare.

FACTS ABOUT MEDICARE REFORM

(Mr. HAYWORTH asked and was given permission to address the House

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, we have heard a lot of wild accusations and some very interesting and creative, if not altogether truthful, analogies. My dear friend from Illinois brought up perhaps the strangest I have heard today.

Let us get away from this, and let us talk fact. Let us get away from the mythical mathematics of Washington, DC.

Fact No. 1: Medicare spending per beneficiary increases from $4,800 this year to $6,700 in the year 2002. That is an increase of almost $2,000. That is reality. That is real math.

Fact No. 2: We provide choice to seniors through Medicare Plus. Only the guardians of the old order who put their trust not on individual initiative but an overgrown, gigantic Federal bureaucracy dictating to the American people would say otherwise. The fact is we provide choice, even if seniors want to keep the program they have intact and make no change. That is why it is Medicare Plus. That is why it is good for the American Nation. That is why it will pass in this body later this week.

MEDICARE: DO NOT SURRENDER OUR COMMITMENT

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, it is ironic I follow my colleague from Arizona.

I rise today to present 5,000 signatures from people in the congressional district that I represent and the surrounding community in Texas. On Monday I visited a senior citizens center and was presented these petitions and signatures from senior citizens and working families. They signed their names to these petitions because they are concerned about the broad cut and the extreme reversal of Medicare that is going to be voted on tomorrow in this House.

In the 30 years since enactment of Medicare, we transformed what it means to be old in this country. We have lifted our senior citizens out of poverty and restored their health and their dignity. Never again will seniors have to choose between food on the table and Medicare or health care, until tomorrow, because what we see today from the Speaker and the Republican majority is the surrender of that commitment between our Government and our seniors, because the majority feels it is so important to fulfill their campaign promise to provide a $245-billion tax cut and cut Medicare $270 billion.

These petitions are from 5,000 hardworking Texans, and I hope we remember that tomorrow.

SAVE MEDICARE FOR FUTURE GENERATIONS

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, through the years, the cost to seniors has increased as the costs of the program has increased—but the Medicare benefit package still reflects 1965-style medicine. And seniors simply are not getting the options that other Americans are receiving. Seniors are now spending, on average, 21 percent of their annual income on health care-related expenses.

Our Medicare plan provides health security for today's and tomorrow's seniors. Medicare Plus will allow seniors to choose from several plans. Basically, seniors can stay in the traditional fee-for-service Medicare, or they can exercise the right to choose a plan that better serves their needs—everything from eyeglasses to dental care.

Each plan must offer as good a benefit package as Medicare currently offers. The proposal attacks waste and fraud through an incentive program for seniors. This plan is necessary.

We must do something to equate the system for seniors while ensuring its stability for future generations.

MAKE MEDICARE THE GIFT THAT KEEPS ON GIVING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I believe the Republican plan on Medicare goes too far. But I do not agree with the political strategy of the Democratic Party. I do not believe the Republicans are two-headed monsters that want to destroy Medicare.

Medicare is broken. It needs fixing. The sad fact is the Democrats, we the Democrats, had control, and we did not fix it.

Making NEWT GINGRICH and the Republican Party into Darth Vaders may be good Democrat strategy, but it is bad public policy for America. It is divisive. It is irresponsible in an America that is already divided.

Let us get beyond the spin to win. Let us fix Medicare so it, in fact, can be a gift that keeps on giving for our parents and grandparents, and let us get off the politics.

PRESIDENT THINKS TAXES WERE RAISED TOO MUCH

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, yesterday the President said in Houston at a fundraiser that, "A lot of people in the audience are still mad about my budget," that he pushed through in 1993, "and they think I raised their taxes too much."

Now, listen carefully to this: The President said, "It might surprise you to know that I think I raised taxes too much," the President of the United States making an admission that he raised taxes too much.

Think about that, Democrats, those that voted for it. That is why we have a new Republican majority in Congress. That is why our new majority promised the American people that we would roll back some of these taxes, these huge tax increases that the President pushed in 1993 that he now thinks are a mistake.

This fall we will give every middle-class family a $500-per-child tax credit, provide tax relief for seniors and help create more jobs and more opportunity.

Mr. Speaker, the President may say his tax increases were a mistake. The Republican Congress is going to do something about it.

BACK DOOR DEALS ON MEDICARE

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, let me tell you how Republicans write Medicare legislation.

When wealthy doctors are dissatisfied with how the Medicare bill will affect them—they negotiate a back door deal with Republicans and suddenly—they get a deal worth millions and do not have to share the burden of the $270 billion cut with seniors.

When HMO's want to make more money—they make a back door deal with Republicans and suddenly Medicare legislation includes provisions that will force thousands of seniors into managed care plans.

Yet, when seniors wanted to come out in the open to discuss their concerns about Medicare—they got no back door deals, they got arrested.

Mr. Speaker, this is no way to write policies. Medicare reform should help people get better—not worse.

□ 1015

CONGRESS MUST TAKE ACTION TO PRESERVE MEDICARE

(Mr. METCALF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. METCALF. Mr. Speaker, Medicare will be bankrupt by 2002. Faced with this crisis, of course, we will take action to protect and preserve Medicare. But keep in mind the far more serious problem. Unless we balance the budget, the United States will go bankrupt.

Look at the facts. We owe $5 trillion in debt. Interest will soon pass defense as the largest expenditure. It does not count hundreds of billions of dollars borrowed from Social Security. It does not count a couple of trillion more in liability from pensions and retirements.

The overspending of previous Congresses has been destroying the American dream for our children. If we really care for the future of our children, we will balance the budget now.

GET TOUGH ON MEDICARE FRAUD

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, for those who would rip off the American taxpayer through Medicare fraud, the Republicans have an answer. The answer, through their pay more, get less plan, is an unusual solution: Let us get soft on fraud, unilaterally disarm law enforcement, and legalize conduct illegal today.

Mr. Speaker, Medicare fraud results not from old folks pretending to be sick, but from health care providers pretending to treat them. In this plan, instead of helping law enforcement, the Republicans actually change the law to make it more difficult to prove fraud. They not only cut Medicare by $270 billion, they proceed to cut the moneys that are dedicated to law enforcement. But for those who rely on kickbacks from unnecessary care, they say, well, we will change the law to make it easier to take a kickback.

Today, in the Washington Times, under an article entitled "Republican Medicare bill seems to favor fraud," they point out that this change alone will cost the American taxpayers $1.1 billion in this Republican profraud, antisenior Medicare bill.

THE ST. LUCIE RIVER INITIATIVE

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, today it is very prophetic that I rise to discuss the St. Lucie River Initiative that is occurring in one of our counties in Florida. We are being inundated by water due to many recent rainfalls. I would like Members, particularly those in the Florida delegation, to welcome the members of the St. Lucie River Initiative.

Mr. Speaker, we have one of the most beautiful, pristine waterways in Florida. The Army Corps of Engineers started in 1915, and completed in 1963, a series of canals that have changed the water flow patterns in our State. We have to save the Everglades and Florida Bay, but we must save the St. Lucie River and Indian River Lagoon for future generations.

There is a solution. It involves acquiring land, storing fresh valuable water on that land, and preventing the water from running to the tide and polluting these estuaries and the St. Lucie River. So I ask Members from Florida again to welcome the St. Lucie River Initiative group into their office. Listen to the facts they present, because I think we have a solution before us that can save our valuable resource, the Florida waterways.

DISCREPANCY IN MANDATORY MINIMUM SENTENCING

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, this chamber is accustomed to numbers. We are told the numbers do not lie. Statistics are nonpartisan. Percentages are unbiased. Mr. Speaker, I rise this morning to bring you numbers that are biased—100 to 1. That is the discrepancy in mandatory minimum sentencing for crack cocaine to powder cocaine offenses. One hundred to one is an immense disparity. Worse, 100 to 1 is an unjustified disparity. And still worse, Mr. Speaker, 100 to 1 is a disparity that disproportionately targets the urban African-American community. This 100-to-1 discrepancy is discriminatory on its face.

The U.S. Sentencing Commission, along with Federal judges and civil rights groups, has recommended an elimination of the 100-to-1 disparity, but today this Chamber may choose to reject that recommendation. Why? Is powder cocaine one-hundredth less deadly than crack? Does powder cocaine cause one-hundredth the violence that crack does? Or perhaps, have the misperceptions surrounding the communities in which one finds these drugs, affected the fairness of our laws?

Drug trafficking is an abhorrent crime, Mr. Speaker, and should be dealt with harshly. But the numbers do not lie. One hundred to one is discriminatory. If we choose to mete out justice as a nation, Mr. Speaker, we must first ensure our laws are just.

VOTE AGAINST CROATIAN-AMERICAN ENTERPRISE FUND APPROPRIATIONS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, the conference on foreign operations appropriations is scheduled for next week. One of the areas of discussion between the two bills is a $12 million appropriation for the Croatian-American Enterprise Fund.

Mr. Speaker, let me read you some excerpts from a recent human rights report by monitors from the European Union who investigated human rights atrocities in the Krajina region of Croatia, which was recently liberated from Serb occupation:

> After Operation Storm * * * the area was largely devastated. Killings and harassments of civilians have been observed. Looting of virtually all houses took place and houses were burnt to the ground long after fighting had stopped.
>
> On August 11, an ECMM team from Knin found the body of an old man, shot in the head and in the right side * * * as late as September 11, ECMM Knin found two elderly women recently shot through their head * * * Reports of killing are numerous * * * at some point newly killed Serbs were found at a rate of six per day. The most common murder method is shots in the back of the head or slit throat.

These reports came in weeks after the fighting has stopped. Many Serbs fled the Krajina but those that remained were for the most part elderly.

On September 30, the Washington Post reported:

> That evening [August 25] human rights officials returned to Grubrori and found the bodies of two elderly men. One was on the floor of his bedroom in his pajamas with a bullet in the back of the head * * * the other was discovered in a field with his throat slashed. The next day, monitors found the body of a 90-year-old women who had been burned alive in her house.

Mr. Speaker, these kinds of atrocities could not have occurred without some kind of tacit approval from some elements of the government of Zagreb. I am not saying the orders came from Zagreb, but the Croatian Government should have known these kinds of things were going to take place and taken steps to prevent them.

As Congress is asked to make tough choices about development assistance and funding for the poorest of the poor, is it right for Congress to appropriate $12 million for the Croatian-American Enterprise Fund in light of these recent atrocities?

The answer is no. Congress would not only be turning our backs on genocide, we would be approving it.

SENIORS SHOULD BE HEARD, NOT ARRESTED

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, here I have hundreds of questionnaires that my constituents signed opposing drastic Medicare cuts. Oh, did I say cut? I meant gut. The Republican plan will actually gut the Medicare Program.

And now, to make matters worse, Republicans are trying to gag America's seniors. When a small group of senior citizens protested the Commerce Committee voting on a Medicare bill without having one hearing on it, they were arrested.

I do not believe that these seniors should be gagged. Shame on my Republican colleagues for shutting out seniors from Congress—the People's House. As a Democrat who believes in the Democratic process, I believe those seniors deserve to be heard from, and not arrested.

Thousands of my constituents have told me that they are outraged at the Republicans' reverse Robin Hood tactics, stealing from the working people and giving tax breaks to the wealthy.

WHITE HOUSE WEATHER VANE CHANGES DIRECTION

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, "Oh, ain't it funky now." Those immortal and prophetic words are written and sung by that Godfather of Soul, James Brown, from his classic hit, "Ain't It Funky, Part 2." Surely these words must have been the inspiration of the Clinton reelection theme when they came up with the motto "Get the Funk Out of America." And I never knew funk was a big problem out there. It has not shown up in any of my polling data.

But we always knew that the Clinton administration marches to the beat of a different drummer. And, as SONNY BONO might say, last night the beat goes on, because, in an apparent complete reversal, Mr. Clinton said at a Democrat fundraiser, of all places, that there are a lot of people still mad about his huge, largest tax increase in the history of America. He said, "It might surprise you to know that I think I raised taxes too much too."

So now, Mr. Speaker, we have the President once again noticing that the White House weather vane has changed directions, and he is going to get behind the middle class tax cut. Hallelujah, another campaign promise he is going to be forced to keep.

Mr. Speaker, I welcome the President in supporting the middle class tax cut.

MEDICARE POLITICS

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, 1 week has passed since 15 senior citizens were hauled out of the Committee on Commerce for daring to ask how the 30-year-old promise of Medicare was going to be kept. The reason for their question was in view of the Republican attempt to rape, ravage, and pillage that system to the tune of $270 billion to offset tax cuts for the wealthy, and they were upset about the fact that the legislation before us had had no hearings.

Still, the image of those wheelchair-bound individuals being handcuffed and loaded into paddy wagons and police cars will long linger with those of us who were there. Some of them were veterans who had fought for our rights to be heard. They were being told "You are too old; get out of here." Others were mothers and grandmothers. They were being told "You are too old; get out of here. You are not important anymore."

Let us get the facts straight. In 1965, 93 percent of the Republicans voted against Medicare. In 1993, not one Republican put up a vote for COBRA 93: which propped up Medicare and cut the deficit by 40 percent. Now, in 1995, we are arresting our seniors for being concerned about that promise made 30 years ago.

REFORMING MEDICARE

(Mr. GILCHREST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILCHREST. Mr. Speaker, I would like to make a comment about Medicare and the proposal that are going to be up this week for a vote on the House floor. After reading the material and understanding that the long-term sustainability of Medicare as it stands right now is not in good condition, what we need to do to protect seniors right now and protect those people that will move into that category in the very near future is to reform Medicare so it is sustainable over the long haul.

In order to do that, we have to reduce the amount of cost to each senior citizen. We have to slow down the rate of growth for Medicare from about 10 percent to about 5 percent. We have to protect Medicare part A. These reforms do that. We have to protect Medicare part B. These reforms do that. We have to give seniors more options, more health care, and better quality health care. These reforms do that.

Mr. Speaker, I urge my colleagues, when the vote comes up on Thursday to vote for the reforms.

CONGRATULATIONS TO THE CLEVELAND INDIANS, 1995 AMERICAN LEAGUE CHAMPIONS

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, I rise today to offer my congratulations to the greatest baseball team in America, the Cleveland Indians. Last night, the Indians captured the American League Pennant with a 4-to-0 victory over the Seattle Mariners. Armed with the best record in the major leagues, the Indians now march boldly forward to the World Series.

On behalf of the residents of the greatest city in America, I take pride in expressing our congratulations to the Cleveland Indians, including Mike Hargrove and his excellent coaching staff, the team's general manager, John Hart, and team owner, Dick Jacobs. We also extend congratulations to the Cleveland Indians spectacular pitching staff including Dennis Martinez, and the series most valuable player, pitcher Orel Hershiser. The Cleveland Indians have demonstrated an excellence in teamwork and determination to make the dream of a world championship a reality.

When the World Series opens in Atlanta on Saturday, the Cleveland Indians will be making their first appearance since 1954, a period of 41 years. Our hearts are with the team and we will be cheering them on to victory over another great team, the Atlanta Braves.

THE REAL DEAL ON MEDICARE

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, this week we will have on the floor of the House so-called Medicare reform. All the American people are basically asking for is straight talk, true numbers, and the real deal.

The real deal is this: According to the Medicare trustees, we do need to make some adjustments in Medicare. How much? We need to make about $90 billion in adjustments so that we can ensure the solvency of the trust fund for about 10 years, for the next 10 years.

The Democrats say well, that will only cost $90 billion. So why do the Republicans say that costs $270 billion? Why are they taking $270 billion out of the Medicare Program? They do not get any greater solvency. According to the CBO, they will only assure solvency for another 10 years, just as we do. So what happens to the rest of that money? It does not go into the Medicare trust fund. Instead, it goes to pay for tax breaks for the very wealthy.

Mr. Speaker, those are the facts. We need to make an adjustment. An adjustment costs about $90 billion. The Democrats are willing to make that $90 billion adjustment. Why do we need the rest of the money? It does not go to the Medicare trust fund; it goes to the very wealthy.

THE COST OF SAVING MEDICARE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, the basic lack of reality of what the Republicans are saying was addressed by my colleague a moment ago. The trustees tell us that $90 billion is what is necessary to fix the Medicare trust fund for long-term solvency. The Republicans take $270 billion, and they claim this is offered to save Medicare. If they were really honest about this, they would say, OK, we will reduce our tax cut from $245 to $155 billion and take that $90 billion and give it to the Medicare trust fund.

But they are not honest about it. When the gentleman from New York [Mr. RANGEL] offered that amendment in the Committee on Ways and Means, he was ruled out of order. We have already been told it will be ruled out of order if we were to offer it on the House floor tomorrow, because the Republicans are afraid to confront the reality and to let us show the American people what they really are talking about. They want the entire money for a tax cut for the rich and they do not dare say let us cut the tax cut and give $90 billion to Medicare.

☐ 1030

MEDICARE ONLY NEEDS A $90 BILLION CUT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, as the House gets ready to vote on the Medicare proposals coming from the Republicans and the Committee on Ways and Means, it has become crystal clear what exactly is taking place now. It has become very clear you do not need to cut $270 billion from Medicare to preserve it to the year 2006. We now see that that can be done for somewhere in the range of $90 billion.

So what is it that is happening to the other $170 billion that the Republicans are taking out of Medicare? What has become clear is this is the means by which they can provide the tax cut, the predominant benefits of which go to the wealthiest people in this country, and still balance the budget. They cannot afford a tax cut. This country cannot afford a tax cut. We can only make room for that tax cut if we take an additional $170 billion out of Medicare. That is unconscionable and it is wrong and it should be rejected.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTES RULE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, the Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. BUNNING). Is there objection to the request of the gentleman from Maryland?

There was no objection.

FISHERY CONSERVATION AND MANAGEMENT AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to the order of the House of Monday, September 18, 1995, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 39.

☐ 1033

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 39) to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management with Mr. BUNNING (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, September 18, 1995, all time for general debate had expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by sections and pursuant to the order of the House of Monday, September 18, 1995, each section shall be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishery Conservation and Management Amendments of 1995".

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. AMENDMENT OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 3. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is amended—

(1) in paragraph (2)—

(A) by striking "and (B)" and inserting "(B)"; and

(B) by inserting before the period at the end the following: ", and (C) losses of essential fishery habitat can diminish the ability of stocks of fish to survive";

(2) in paragraph (6) by inserting after "to insure conservation," the following: "to provide long-term conservation of essential fishery habitat,"; and

(3) by adding at the end the following:

"(9) Continuing loss of essential fishery habitat poses a long-term threat to the viability of commercial and recreational fisheries of the United States. To conserve and manage the fishery resources of the United States, increased attention must be given to the protection of this habitat.".

(b) PURPOSES.—Section 2(b) (16 U.S.C. 1801(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following:

"(7) to promote the conservation of essential fishery habitat in the review of projects that affect essential fishery habitat; and

"(8) to ensure that conservation and management decisions with respect to the Nation's fishery resources are made in a fair and equitable manner.".

(c) POLICY.—Section 2(c)(3) (16 U.S.C. 1801(c)(3)) is amended by inserting after "practical measures that" the following: "minimize bycatch and".

SEC. 4. DEFINITIONS.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 66), section 301(b) of that Act (adding a definition of the term "special areas") shall take effect on the date of the enactment of this Act.

(b) NEW AMENDMENTS.—Section 3 (16 U.S.C. 1802) is amended—

(1) in paragraph (4)—

(A) by striking "COLENTERATA" from the heading of the list of corals and inserting "CNIDARIA"; and

(B) in the list appearing under the heading "CRUSTACEA", by striking "Deep-sea Red Crab—Geryon quinquedens" and inserting "Deep-sea Red Crab—Chaceon quinquedens";

(2) in paragraph (16) by striking "of one and one-half miles" and inserting "of two and one-half kilometers";

(3) in paragraph (17) by striking "Pacific Marine Fisheries Commission" and inserting "Pacific States Marine Fisheries Commission";

(4) by amending paragraph (21) to read as follows:

"(21) The term 'optimum', with respect to yield from a fishery, means the amount of fish—

"(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

"(B)(i) which, subject to clause (ii), is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor; or

"(ii) which, in the case of a fishery which has been classified by the Secretary as overfished, is prescribed as such on the basis of the maximum sustainable yield as reduced to allow for the rebuilding of the fishery to a level consistent with producing maximum sustainable yield on a continuing basis.";

(5) in paragraph (31) (as redesignated by the amendments made effective by subsection (a) of this section) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented" and inserting "regulated under this Act"; and

(6) by adding at the end the following:

"(34) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including economic discards and regulatory discards.

"(35) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by the fishing vessel which harvested them because they are of an undesirable size, sex, or quality, or for other economic reasons.

"(36) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.

"(37) The term 'essential fishery habitat' means those waters necessary to fish for spawning, breeding, or growth to maturity.

"(38) The term 'overfishing' means a level or rate of fishing mortality that jeopardizes the ability of a stock of fish to produce maximum sustainable yield on a continuing basis.

"(39) The term 'rebuilding program' means those conservation and management measures necessary to restore the ability of a stock of fish to produce maximum sustainable yield on a continuing basis.

"(40) The term 'total allowable catch' means the total amount of fish in a fishery that may be harvested in a fishing season, as established in accordance with a fishery management plan for the fishery.".

SEC. 5. FOREIGN FISHING.

(a) TRANSSHIPMENT PERMITS.—

(1) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)) is amended to read as follows:

"(1) is authorized under subsection (b) or (c) or under a permit issued under section 204(d);".

(2) AUTHORITY TO ISSUE TRANSSHIPMENT PERMITS.—Section 204 (16 U.S.C. 1824) is amended by adding at the end the following:

"(d) TRANSSHIPMENT PERMITS.—

"(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish products at sea from a point within the boundaries of any State or the exclusive economic zone to a point outside the United States to any person who—

"(A) submits an application which is approved by the Secretary under paragraph (3); and

"(B) pays a fee imposed under paragraph (7).

"(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any interested State.

"(3) APPROVAL OF APPLICATION.—The Secretary may approve an application for a permit under this section if the Secretary determines that—

"(A) the transportation of fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

"(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

"(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

"(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

"(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

"(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

"(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions which shall be complied with by the owner and operator of the vessel for which the permit is issued. The conditions and restrictions shall include the requirements, regulations, and restrictions set forth in subsection (b)(7).

"(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit.".

(b) FOREIGN FISHING FOR ATLANTIC MACKEREL AND ATLANTIC HERRING.—

(1) RESTRICTION ON ALLOCATIONS.—Section 201(e)(1)(A) (16 U.S.C. 1821(e)(1)(A)) is amended by adding at the end the following new sentence: "No allocation may be made for a fishery that is not subject to a fishery management plan prepared under section 303.".

(2) COUNCIL RECOMMENDATION REQUIRED TO APPROVE APPLICATION.—Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(A) in subparagraph (A) by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(B) by adding at the end the following new subparagraph:

"(C)(i) The Secretary may not approve an application which proposes harvest of Atlantic mackerel or Atlantic herring by one or more foreign fishing vessels unless the appropriate Council has recommended that the Secretary approve the portion of the application making that proposal and the Secretary includes the appropriate conditions and restrictions recommended by the Council.

"(ii) For purposes of this subparagraph, the term 'appropriate Council' means the Mid-Atlantic Fishery Management Council with respect to Atlantic mackerel and the New England Fishery Management Council with respect to Atlantic herring.".

(c) PERIOD FOR CONGRESSIONAL REVIEW OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) in subsection (a) by striking "60 calendar days of continuous session of the Congress" and inserting "120 calendar days (excluding any days in a period for which the Congress is adjourned sine die)";

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

(d) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 201(e)(1)(E)(iv) (16 U.S.C. 1821(e)(1)(E)(iv)) is amended by inserting "or special areas" after "the exclusive economic zone".

(2) APPLICATION.—The amendment made by paragraph (1) shall take effect on the date it would take effect if it were enacted by section 301(d)(2) of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 63).

SEC. 6. LARGE-SCALE DRIFT NET FISHING.

Section 206(e) (16 U.S.C. 1826(e)) is amended to read as follows:

"(e) REPORT.—Not later than March 17th of each year, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a list of those nations whose nationals or vessels conduct, and of those nations that authorize their nationals to conduct, large-scale drift net fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale drift net fishing to which the United States is a party or otherwise subscribes.".

SEC. 7. NATIONAL STANDARD FOR FISHERY CONSERVATION AND MANAGEMENT TO MINIMIZE BYCATCH.

Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end the following:

"(8) Conservation and management measures shall, to the maximum extent practicable, minimize bycatch.".

SEC. 8. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) MEMBERSHIP OF NORTH CAROLINA ON MID-ATLANTIC FISHERY MANAGEMENT COUNCIL.—Section 302(a)(2) (16 U.S.C. 1852(a)(2)) is amended—

(1) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(2) by striking "19" and inserting "21"; and

(3) by striking "12" and inserting "13".

(b) VOTING MEMBERS, GENERALLY.—Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) in paragraph (2)(B) in the first sentence by inserting before the period the following: ", and of other individuals selected for their fisheries expertise as demonstrated by their academic training, marine conservation advocacy, consumer advocacy, or other affiliation with nonuser groups"; and

(2) by adding at the end the following new paragraph:

"(6) The Secretary shall remove any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the member violates section 307(1)(O).".

(c) COMPENSATION.—

(1) AMENDMENT.—Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(A) by striking "each Council," and inserting "each Council who are required to be appointed by the Secretary and"; and

(B) by striking "shall, until January 1, 1992," and all that follows through "GS–16" and inserting the following: "shall receive compensation at a daily rate equivalent to the lowest rate of pay payable for GS–15,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall take effect on January 1, 1996.

(d) TRANSACTION OF BUSINESS.—Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a roll call vote

on any matter before the Council. The official minutes required under subsection (j)(2)(E) and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.".

(e) COMMUNICATIONS WITH FEDERAL AGENCIES REGARDING ESSENTIAL AND OTHER FISHERY HABITAT.—Section 302(i) (16 U.S.C. 1852(i)) is amended—

(1) in paragraph (1), by striking "and" after the semicolon at the end of subparagraph (A) and striking the period at the end of subparagraph (B) and inserting "; and";

(2) by adding at the end of paragraph (1) the following:

"(C) shall notify the Secretary regarding, and may comment on and make recommendations to any State or Federal agency concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may have a detrimental effect on the essential fishery habitat of a fishery under the authority of the Council."; and

(3) by amending paragraph (2) to read as follows:

"(2) Within 15 days after receiving a comment or recommendation under paragraph (1) from a Council regarding the effects of an activity on essential fishery habitat, a Federal agency shall provide to the Council a detailed response in writing. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Council, the Federal agency shall explain its reasons for not following the recommendations.".

(h) PROCEDURAL MATTERS.—Section 302(j)(2) (16 U.S.C. 1852(j)(2)) is amended—

(1) by striking "guidelines" in the matter preceding subparagraph (A) and inserting "shall";

(2) in subparagraph (C), by inserting after "fishery)" the following: "sufficiently in advance of the meeting to allow meaningful public participation in the meeting,";

(3) by adding at the end of subparagraph (D) the following: "The written statement or oral testimony shall include a brief description of the background and interests of the person on the subject of the written statement or oral testimony.";

(4) by amending subparagraph (E) to read as follows:

"(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction."; and

(5) by adding at the end the following:

"(G) A Council member may add an item to the agenda of a meeting of a Council or of a committee or advisory panel of a Council by presenting to the Chairman of the Council, committee, or panel, at least 21 days before the date of the meeting, a written description of the item signed by 2 or more voting members of the Council.".

(i) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) in the heading by inserting "AND RECUSAL" before the period;

(2) in paragraph (1)—

(A) in subparagraph (A) by inserting "or" after the semicolon at the end;

(B) in subparagraph (B) by striking "; or" at the end and inserting a period; and

(C) by striking subparagraph (C);

(3) in paragraph (3)(B) by striking "or (C)";

(4) in paragraph (5)—

(A) in subparagraph (A) by striking "and" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) be kept on file by the Secretary for use in reviewing Council actions and made available by the Secretary for public inspection at reasonable hours.";

(5) in paragraph (6) by striking "or (C)";

(6) in paragraph (7) by striking "or (C)"; and

(7) by adding at the end the following:

"(8) The Secretary, in consultation with the Councils, and by not later than 1 year after the date of the enactment of the Fishery Conservation and Management Amendments of 1995, shall establish rules which prohibit an affected individual from voting on a matter in which the individual or any other person described in paragraph (2) with respect to the individual has an interest that would be significantly affected. The rules may include provisions which take into account the differences in fisheries.

"(9) A voting member of a Council shall recuse himself or herself from voting if—

"(A) voting by the member would violate the rules established under paragraph (8); or

"(B) the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under paragraph (10)(C)(ii)) determines under paragraph (10) that voting by the member would violate the rules established under paragraph (8).

"(10)(A) Before any vote held by a Council on any matter, a voting member of the Council may, at a meeting of the Council, request the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under subparagraph (C)(ii)) to determine whether voting on the matter by the member, or by any other member of the Council, would violate the rules established under paragraph (8).

"(B) Upon a request under subparagraph (A) regarding voting on a matter by a member—

"(i) the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under subparagraph (C)(ii)) shall determine and state whether the voting would violate the rules established under paragraph (8), at the meeting at which the request is made; and

"(ii) no vote on the matter may be held by the Council before the determination and statement are made.

"(C) The General Counsel of the National Oceanic and Atmospheric Administration shall—

"(i) attend each meeting of a Council; or

"(ii) designate an individual to attend each meeting of a Council for purposes of this paragraph.

"(11) For the purposes of this subsection, the term 'an interest that would be significantly affected' means a personal financial interest which would be augmented by voting on the matter and which would only be shared by a minority of other persons within the same industry sector or gear group whose activity would be directly affected by a Council's action.".

(j) CONFORMING AMENDMENT.—Section 302(k)(1)(A) (16 U.S.C. 1852(k)(1)(A)) is amended to read as follows:

"(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) or is designated by the Governor of a State under subsection (b)(1)(A) and is not an employee of the State; or".

SEC. 9. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—

(1) NEW REQUIREMENTS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(A) in paragraph (5) by striking "and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors," and inserting the following: "the amount and species of bycatch taken on board a fishing vessel based on a standardized reporting methodology established by the Council for that fishery, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;";

(B) by amending paragraph (7) to read as follows:

"(7) include a description of essential fishery habitat for a fishery based on the guidelines established by the Secretary under section 304(h)(1);";

(C) in paragraph (8) by striking "and" after the semicolon at the end;

(D) in paragraph (9) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(10) include a measurable and objective determination of what constitutes overfishing in that fishery, and a rebuilding program in the case of a plan for any fishery which the Council or the Secretary has determined is overfished;

"(11) include conservation and management measures necessary to minimize bycatch to the maximum extent practicable;

"(12) to the extent practicable, minimize mortality caused by economic discards and regulatory discards in the fishery;

"(13) take into account the safety of human life at sea; and

"(14) in the case of any plan which under subsection (b)(8) requires that observers be carried on board vessels—

"(A) be fair and equitable to all fishing vessels and fish processing vessels, that are vessels of the United States and participate in fisheries covered by the plan;

"(B) be consistent with other applicable laws;

"(C) take into consideration the operating requirements of the fishery and the safety of observers and fishermen; and

"(D) establish a system of fees to pay the costs of the observer program.".

(2) AMENDMENT OF PLANS.—Not later than 18 months after the date of enactment of this Act, each Regional Fishery Management Council established under the Magnuson Fishery Conservation and Management Act shall submit to the Secretary of Commerce an amendment to each fishery management plan in effect under that Act to comply with the amendments made by paragraph (1).

(3) FISH WEIGHING.—By January 1, 1997, the North Pacific Fishery Management Council shall require all fish processors that process fish species under the management of the Council to weigh those fish to ensure an accurate measurement of the total harvest of each species.

(b) AMENDMENTS RELATING TO DISCRETIONARY PROVISIONS, GENERALLY.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) in paragraph (8) in the matter preceding the first semicolon, by striking "require that observers" and inserting "require that one or more observers";

(2) in paragraph (9) by striking "and" after the semicolon;

(3) by redesignating paragraph (10) as paragraph (15); and

(4) by inserting after paragraph (9) the following:

"(10) assess and specify the effect which conservation and management measures of the plan will have on stocks of fish in the ecosystem of the fishery which are not part of the fishery;

"(11) include incentives and harvest preferences within fishing gear groups to promote the avoidance of bycatch;

"(12) specify gear types allowed to be used in the fishery and establish a process for evaluating new gear technology that is proposed to be used in the fishery;

"(13) reserve a portion of the allowable biological catch of the fishery for use for scientific research purposes;

"(14) establish conservation and management measures necessary to minimize, to the extent practicable, adverse impacts on essential fishery habitat described in the plan under subsection (a)(7) caused by fishing; and".

(c) Requirement To Submit Fishery Impact Statements to Affected States and the Congress.—Section 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853), as amended by section 16(b), is further amended by adding at the end the following new subsection:

"(h) Submission of Fishery Impact Statements to Interested States and the Congress.—Not later than the date a fishery management plan prepared by a Council or the Secretary takes effect under section 304, the Council or the Secretary, respectively, shall submit the fishery impact statement required in the plan under subsection (a)(9) to—

"(1) the Governor of each State that might be affected by the plan, who may use information in the statement to assist persons in applying for loans and grants for economic relief; and

"(2) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 10. AMENDMENTS RELATING TO MISCELLANEOUS DUTIES OF SECRETARY.

(a) Safety at Sea.—Section 304(a)(2)(C) (16 U.S.C. 1854(a)(2)(C)) is amended by striking "to fishery access" and all that follows through the period and inserting "with respect to the provisions of sections 303(a)(6) and (13).".

(b) Highly Migratory Species.—Section 304(f) (16 U.S.C. 1854(f)) is amended—

(1) by striking the subsection heading and inserting the following: "Fisheries Under Authority of More Than One Council.—";

(2) in paragraph (3)(C)(ii) by inserting before the semicolon the following: "and the plan development team established under paragraph (4)";

(3) in paragraph (3)(E), strike "allocation or quota" each place it appears and insert "allocation, quota, or fishing mortality level";

(4) in paragraph (3)(F)(ii) by inserting "and the plan development team established under paragraph (4)" before the semicolon;

(5) by adding at the end the following:

"(4)(A) The Secretary shall establish a plan development team for each highly migratory species fishery over which the Secretary has authority under paragraph (3)(A), to advise the Secretary on and participate in the development of each fishery management plan or amendment to a plan for the fishery under this subsection.

"(B) The plan development team shall—

"(i) consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and from other interested persons;

"(ii) be balanced in its representation of commercial, recreational, and other interests; and

"(iii) participate in all aspects of the development of the plan or amendment.

"(C) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any plan development team established under this paragraph."; and

(6) in paragraph (3)(D) by striking clauses (ii) and (iii) and inserting the following:

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose;

"(iii) promote international conservation;

"(iv) minimize the establishment of regulations that require the discarding of Atlantic highly migratory species which cannot be returned to the sea alive; and

"(v) promote the implementation of scientific research programs that include to the extent practicable, the tag, and release of Atlantic highly migratory species.".

(c) Limited Access.—Section 304(c)(3) (16 U.S.C. 1854(c)(3)) is amended by inserting "or advisory committee appointed under laws implementing relevant international fishery agreements to which the United States is a party" before the period at the end.

(d) Incidental Harvest Research.—Section 304(g) (16 U.S.C. 1854(g)) is amended—

(1) in paragraph (1) by striking "3-year";

(2) by striking paragraph (4) and inserting the following:

"(4) No later than 12 months after the enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall, in cooperation with affected interests and based upon the best scientific information available, complete a program to—

"(A) develop technological devices and other changes in fishing operations to minimize the incidental mortality of nontargeted fishery resources in the course of shrimp trawl activity to the extent practicable from the level of mortality at the date of enactment of the Fishery Conservation and Management Amendments of 1990;

"(B) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

"(C) assess whether it is practicable to utilize those nontargeted fishery resources which are not avoidable.";

(3) in paragraph (6)(B) by striking "April 1, 1994" and inserting "the submission under paragraph (5) of the detailed report on the program described in paragraph (4)"; and

(4) by adding at the end the following new paragraph:

"(7) Any measure implemented under this Act to reduce the incidental mortality of nontargeted fishery resources in the course of shrimp trawl fishing shall apply to such fishing throughout the range of the nontargeted fishery resource concerned.".

(e) Essential Fishery Habitat; Overfishing.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

"(h) Actions by the Secretary on Essential Fishery Habitat.—(1) Within one year after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall—

"(A) establish guidelines to assist the Councils in the description of essential fishery habitat in fishery management plans; and

"(B) establish a schedule for the amendment of fishery management plans to describe essential fish habitats.

"(2) The Secretary, in cooperation with the Secretary of the Interior, shall identify the essential fishery habitat for each fishery for which a fishery management plan is in effect. The identification shall be based on the description of essential fishery habitat contained in the plan.

"(3) Each Federal agency shall consult with the Secretary with respect to any action proposed to be authorized, funded, or carried out by such agency that the head of the agency has reason to believe, or the Secretary believes, may result in the destruction or adverse modification of any essential fishery habitat identified by the Secretary under paragraph (2). If the Secretary finds that the proposed action would result in destruction or adverse modifications of such essential fishery habitat, the Secretary shall comment on and make recommendations to the agency concerning that action.

"(4) Within 15 days after receiving recommendations from the Secretary under paragraph (3) with respect to a proposed action, the head of a Federal agency shall provide a detailed, written response to the Secretary which describes the measures proposed by the agency to avoid, mitigate, or offset the adverse impact of the proposed action on the essential fishery habitat. In the case of a response that is inconsistent with the recommendation of the Secretary, the agency shall explain its reasons for not following the recommendations.

"(5) The Secretary shall review programs administered by the Department of Commerce to ensure that any relevant programs further the conservation and enhancement of essential fishery habitat identified by the Secretary under paragraph (2). The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fishery habitat identified by the Secretary under paragraph (2).

"(6) Nothing in this subsection shall have the effect of amending or repealing any other law or regulation or modifying any other responsibility of a Federal agency with respect to fisheries habitat.

"(i) Action by the Secretary on Overfishing.—(1) In addition to the authority granted to the Secretary under subsection (c), if the Secretary finds at any time that overfishing is occurring or has occurred in any fishery, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to establish a rebuilding program for the fishery. The Secretary shall publish each notice under this paragraph in the Federal Register.

"(2) If the Council does not submit to the Secretary before the end of the 1-year period beginning on the date of notification under paragraph (1) a fishery management plan, or an amendment to the appropriate existing fishery management plan, which is intended to address overfishing in the fishery and to establish any necessary rebuilding program, then the Secretary shall within 9 months after the end of that period prepare under subsection (c) a fishery management plan, or an amendment to an existing management plan, to end overfishing in the fishery and to establish any necessary rebuilding program.

"(3) If the Secretary finds that overfishing is occurring in any fishery for which a fishery management plan prepared by the Secretary is in effect, the Secretary shall—

"(A) within 1 year act under subsection (c) to amend the plan to end overfishing in the fishery and to establish any necessary rebuilding program; and

"(B) in the case of a highly migratory species fishery, pursue international rebuilding programs.

"(4) Any rebuilding program under this subsection shall specify the time period within which the fishery is expected to be rebuilt. The time period shall be as short as possible, taking into account the biology and natural variability of the stock of fish, other environmental factors or conditions which would affect the rebuilding program, and the needs of the fishing industry. The time period may not exceed 10 years, except in cases where the biology of the stock of fish or other environmental factors dictates otherwise.

"(5) If the Secretary finds that the action of any Federal agency has caused or contributed to the decline of a fishery below maximum sustainable yield, the Secretary shall notify the *agency of the Secretary's finding and recommend steps that can be taken by the agency to reverse that decline.*

''(6)(A) The Secretary shall review the progress of any rebuilding program required under this subsection beginning in the third year in which the plan is in effect, and annually thereafter.

''(B) If the Secretary finds as a result of the review that the rebuilding program is not meeting its specified goals due to reasons related to the reproductive capacity, productivity, life span, or natural variability of the fish species concerned or other environmental conditions or factors beyond the control of the rebuilding program, the Secretary shall—

''(i) reassess the goals of the program;

''(ii) determine, based on the best available scientific information, whether revision to the program is needed; and

''(iii) if the Secretary determines under clause (ii) that such revisions are needed, direct the Council that established the program to make revisions to the program, or in the case of a program established by the Secretary, make such revisions.

''(C) If the Secretary finds as a result of the review that the rebuilding program is not meeting its specified goals for reasons other than those described in subparagraph (B), the Secretary shall direct the Council that established the program to make revisions to the program, or in the case of a program established by the Secretary, make such revisions.

''(7)(A) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographic area of authority and identify those fisheries that are approaching a condition of being overfished.

''(B) For each fishery that is subject to a fishery management plan, the status of the fishery shall be determined for purposes of subparagraph (A) in accordance with the determination of what constitutes overfishing in the fishery included in the plan under section 303(a)(10).

''(C) The Secretary shall identify a fishery under subparagraph (A) as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary determines that the fishery is likely to become overfished within 2 years.

''(D) For any fishery that the Secretary identifies under subparagraph (A) as approaching the condition of being overfished, the report shall—

''(i) estimate the time frame within which the fishery will reach that condition; and

''(ii) make specific recommendations to the appropriate Council regarding actions that should be taken to prevent that condition from being reached.''.

(f) ACTION ON CERTAIN IMPLEMENTING REGULATIONS PROPOSED BY COUNCILS.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

''(j) ACTION ON COVERED IMPLEMENTING REGULATIONS PROPOSED BY A COUNCIL.—(1) After the receipt date of a covered implementing regulation submitted by a Council, the Secretary shall—

''(A) immediately commence a review of the covered implementing regulation to determine whether it is consistent with the fishery management plan it would implement, the national standards, the other provisions of this Act, and any other applicable law; and

''(B) immediately publish the covered implementing regulation in the Federal Register and provide a period of not less than 15 days and not more than 45 days for the submission of comments by the public.

''(2) Not later than 75 days after the receipt date of a covered implementing regulation submitted by a Council, the Secretary shall—

''(A) publish a final regulation on the subject matter of the covered implementing regulation; or

''(B) decline to publish a final regulation.

The Secretary shall provide to the Council in writing an explanation of the reasons for the Secretary's action.

''(3) For the purposes of this subsection, the term—

''(A) 'receipt date' means the 5th day after the day on which a Council submits to the Secretary a covered implementing regulation that the Council characterizes as a final covered implementing regulation; and

''(B) 'covered implementing regulation'—

''(i) means a proposed amendment to existing regulations implementing a fishery management plan in effect under this Act, which does not have the effect of amending the plan; and

''(ii) does not include any proposed regulation submitted with a plan or amendment to a plan under section 303(c).''.

(g) PACIFIC REGION STOCK ASSESSMENT.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

''(k) PACIFIC REGION STOCK ASSESSMENT.—(1) Not later than 120 days after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall, in consultation with the Pacific Fishery Management Council and the States of California, Oregon, and Washington, establish a Pacific Region Scientific Review Group (in this subsection referred to as the 'Group') consisting of representatives of the National Marine Fisheries Service, each of the States of California, Oregon, and Washington, universities located in those States, commercial and recreational fishermen and shore-based processors located in those States, and environmental organizations. Individuals appointed to serve on the Group shall be selected from among individuals who are knowledgeable or experienced in the harvesting, processing, biology, or ecology of the fish stocks of fish that are managed under the Pacific Fisheries Management Council Pacific Coast Groundfish Plan (in this subsection referred to as the 'covered Pacific stocks').

''(2) Not later than 180 days after the date of establishment of the Group, the Group shall transmit to the Secretary a research plan of at least 3 years duration to assess the status of the covered Pacific stocks, including the abundance, location, and species, age, and gender composition of those stocks. The plan shall provide for the use of private vessels to conduct stock surveys.

''(3) Immediately upon receiving the plan transmitted under paragraph (2), the Secretary shall take action necessary to carry out the plan, including, subject to the availability of appropriations, chartering private vessels, arranging for the deployment of scientists on those vessels (including the payment of increased insurance costs to vessel owners), and obtaining the assistance of shore-based fish processors.

''(4) The Secretary may offset the cost of carrying out the plan by entering into agreements with vessel owners or shore-based fish processors to provide vessel owners or shore-based fish processors with a portion of the total allowable catch reserved for research purposes under section 303(b).''.

SEC. 11. EMERGENCY ACTIONS.

Section 305(c) (16 U.S.C. 1855(c)) is amended—

(1) in paragraph (2)(A), by inserting ''under section 302(b)(1)(A) and (C)'' after ''voting members'';

(2) by amending paragraph (3)(B) to read as follows:

''(B) shall remain in effect for not more than 180 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council and after notice and an opportunity for submission of comments by the public, be effective for 1 additional period of not more than 180 days; and''; and

(3) by adding at the end the following:

''(4) The Secretary may promulgate emergency regulations under this subsection to protect the public health. Notwithstanding paragraph (3), regulations promulgated under this paragraph shall remain in effect until withdrawn by the Secretary. The Secretary shall promptly withdraw regulations under this paragraph when the circumstances requiring the regulations no longer exist. The Secretary shall provide an opportunity for submission of comments by the public after regulations are promulgated under this paragraph.

''(5) An emergency regulation promulgated under this subsection that closes an area to fishing shall not remain in effect for an additional period under paragraph (3)(B) unless before the beginning of the additional period the Council having jurisdiction over the area, in conjunction with the Secretary, publishes a report on the status of the fishery in the area that includes an analysis of the costs and benefits of the closure.''.

SEC. 12. STATE JURISDICTION.

(a) REPORTS.—Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(3) by adding at the end the following:

''(C) the owner or operator of the vessel submits to the appropriate Council and the Secretary, in a manner prescribed by the Secretary, periodic reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested.''.

(b) STATE AUTHORITY.—Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

''(3) For any fishery occurring off the coasts of Alaska for which there is no Federal fishery management plan approved and implemented pursuant to this Act, or pursuant to delegation to a State in a fishery management plan, a State may enforce its laws or regulations pertaining to the taking of fish in the exclusive economic zone off that State or the landing of fish caught in the exclusive economic zone providing there is a legitimate State interest in the conservation and management of that fishery, until a Federal fishery management plan is implemented. Fisheries currently managed pursuant to a Federal fishery management plan shall not be removed from Federal management and placed under State authority without the unanimous consent (except for the Regional Director of the National Marine Fisheries Service) of the Council which developed the fishery management plan.''.

SEC. 13. PROHIBITED ACTS.

(a) PROHIBITION ON DAMAGING GEAR.—Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended by striking ''to knowingly steal, or without authorization, to'' and inserting ''to steal, or to negligently''.

(b) FAILURE TO DISCLOSE FINANCIAL INFORMATION.—Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (M);

(2) by striking the period at the end of subparagraph (N) and inserting ''; or''; and

(3) by adding at the end the following:

''(O) to knowingly and willfully fail to disclose or falsely disclose any financial interest as required under section 302(k) or to knowingly violate any rule established under section 302(k)(8).''.

(c) PROHIBITED FISHING.—

(1) IN GENERAL.—Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended to read as follows:

"(B) in fishing, except recreational fishing permitted under section 201(j), within the exclusive economic zone or within the special areas, or for any anadromous species or Continental Shelf fishery resources beyond such zone or areas, or in fishing consisting of transporting fish products from a point within the boundaries of any State or the exclusive economic zone or the special areas, unless such fishing is authorized under, and conducted in accordance with, a valid and applicable permit issued under section 204, except that this subparagraph shall not apply to fishing within the special areas before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States; or".

(2) Conforming Amendment.—Section 301(h)(2)(A) of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 64), is repealed.

SEC. 14. HAROLD SPARCK BERING SEA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Section 313 (16 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(f) Bering Sea Community Development Quota Program.—(1) The North Pacific Fishery Management Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to western Alaska communities that participate in the program.

"(2) To be eligible to participate in the western Alaska community development quota program under paragraph (1), a community must—

"(A) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

"(B) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

"(C) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

"(D) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act to be a Native village;

"(E) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea and Aleutian Islands management area; and

"(F) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.".

SEC. 15. OBSERVERS.

Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

"SEC. 315. RIGHTS OF OBSERVERS.

"(a) Civil Action.—An observer on a vessel (or the observer's personal representative) under the requirements of this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under any law of the United States for that illness, disability for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

"(b) Exception.—Subsection (a) does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.".

SEC. 16. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.

(a) Authority To Establish Individual Quota Systems.—Section 303(b)(6) (16 U.S.C. 1853(b)(6)) is amended to read as follows:

"(6) establish a limited access system for the fishery in order to achieve optimum yields, if—

"(A) in developing such system, the Councils and the Secretary take into account—

"(i) the need to promote conservation;

"(ii) present participation in the fishery,

"(iii) historical fishing practices in, and dependence on, the fishery,

"(iv) the economics of the fishery,

"(v) the capability of fishing vessels used in the fishery to engage in other fisheries,

"(vi) the cultural and social framework relevant to the fishery and local coastal communities, and

"(vii) any other relevant considerations; and

"(B) in the case of such a system that provides for the allocation and issuance of individual quotas (as that term is defined in subsection (g)), the plan complies with subsection (g).".

(b) Requirements.—Section 303 is further amended by adding at the end the following new subsection:

"(g) Special Provisions for Individual Quota Systems.—(1) A fishery management plan which establishes an individual quota system for a fishery—

"(A) shall provide for administration of the system by the Secretary in accordance with the terms of the plan;

"(B) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested;

"(C) shall include provisions which establish procedures and requirements for each Council having authority over the fishery, for—

"(i) reviewing and revising the terms of the plan that establish the system; and

"(ii) renewing, reallocating, and reissuing individual quotas if determined appropriate by each Council;

"(D) shall include provisions to—

"(i) provide for fair and equitable allocation of individual quotas under the system, and minimize negative social and economic impacts of the system on local coastal communities;

"(ii) ensure adequate enforcement of the system, including the use of observers where appropriate; and

"(iii) provide for monitoring the temporary or permanent transfer of individual quotas under the system; and

"(E) include provisions that prevent any person from acquiring an excessive share of individual quotas issued for a fishery.

"(2) An individual quota issued under an individual quota system established by a fishery management plan—

"(A) shall be considered a grant, to the holder of the individual quota, of permission to engage in activities permitted by the individual quota;

"(B) may be revoked or limited at any time by the Secretary or the Council having authority over the fishery for which it is issued, if necessary for the conservation and management of the fishery (including as a result of a violation of this Act or any regulation prescribed under this Act);

"(C) if revoked or limited by the Secretary or a Council, shall not confer any right of compensation to the holder of the individual quota;

"(D) may be received, held, or transferred in accordance with regulations prescribed by the Secretary under this Act;

"(E) shall, except in the case of an individual quota allocated under an individual quota system established before the date of enactment of the Fishery Conservation and Management Amendments of 1995, expire not later than 7 years after the date it is issued, in accordance with the terms of the fishery management plan; and

"(F) upon expiration under subparagraph (E), may be renewed, reallocated, or reissued if determined appropriate by each Council having authority over the fishery.

"(3)(A) Except as provided in subparagraphs (B) and (C), any fishery management plan that establishes an individual quota system for a fishery may authorize individual quotas to be held by or issued under the system to fishing vessel owners, fishermen, crew members, other persons as specified by the Council, and United States fish processors.

"(B) An individual who is not a citizen of the United States may not hold an individual quota issued under a fishery management plan.

"(C) A Federal agency or official may not hold, administer, or reallocate an individual quota issued under a fishery management plan, other than the Secretary and the Council having authority over the fishery for which the individual quota is issued.

"(4) Any fishery management plan that establishes an individual quota system for a fishery may include provisions that—

"(A) allocate individual quotas under the system among categories of vessels; and

"(B) provide a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, or crewmembers who do not hold or qualify for individual quotas.

"(5) An individual quota system established for a fishery may be limited or terminated at any time by the Secretary or through a fishery management plan or amendment developed by the Council having authority over the fishery for which it is established, if necessary for the conservation and management of the fishery.

"(6) As used in this subsection:

"(A) The term 'individual quota system' means a system that limits access to a fishery in order to achieve optimum yields, through the allocation and issuance of individual quotas.

"(B) The term 'individual quota' means a grant of permission to harvest or process a quantity of fish in a fishery, during each fishing season for which the permission is granted, equal to a stated percentage of the total allowable catch for the fishery.".

(c) Fees.—Section 304(d) is amended—

(1) by inserting "(1)" before "The Secretary shall"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding paragraph (1), the Secretary shall collect from a person that holds or transfers an individual quota issued under a limited access system established under section 303(b)(6) fees established by the Secretary in accordance with this section and section 9701(b) of title 31, United States Code.

"(B) The fees required to be established and collected by the Secretary under this paragraph are the following:

"(i) An initial allocation fee in an amount, determined by the Secretary, equal to 1 percent of the value of fish authorized to be harvested in one year under an individual quota, which shall be collected from the person to whom the individual quota is first issued.

"(ii) An annual fee in an amount, determined by the Secretary, not to exceed 4 percent of the value of fish authorized to be harvested each year under an individual quota share, which shall be collected from the holder of the individual quota share.

"(iii) A transfer fee in an amount, determined by the Secretary, equal to 1 percent of the value of fish authorized to be harvested each year under an individual quota share, which shall be collected from a person who permanently transfers the individual quota share to another person.

"(C) In determining the amount of a fee under this paragraph, the Secretary shall ensure that the amount is commensurate with the cost of managing the fishery with respect to which the fee is collected, including reasonable costs for salaries, data analysis, and other costs directly related to fishery management and enforcement.

"(D) The Secretary, in consultation with the Councils, shall promulgate regulations prescribing the method of determining under this paragraph the value of fish authorized to be taken under an individual quota share, the amount of fees, and the method of collecting fees.

"(E) Fees collected under this paragraph from holders of individual quotas in a fishery shall be an offsetting collection and shall be available to the Secretary only for the purposes of administering and implementing this Act with respect to that fishery.

"(F) The Secretary may not assess or collect any fee under this paragraph with respect to an individual quota system established before the date of enactment of the Fishery Conservation and Management Amendments of 1995, during the 5-year period beginning on that date of enactment.".

(d) APPROVAL OF FISHERY MANAGEMENT PLANS ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section 304 (16 U.S.C. 1854) is further amended by adding after subsection (k) (as added by section 10 of this Act) the following new subsection:

"(l) ACTION ON LIMITED ACCESS SYSTEMS.—(1) In addition to the other requirements of this Act, the Secretary may not approve a fishery management plan that establishes a limited access system that provides for the allocation of individual quotas (in this subsection referred to as an 'individual quota system') unless the plan complies with section 303(g).

"(2) Within 1 year after receipt of recommendations from the review panel established under paragraph (3), the Secretary shall issue regulations which establish requirements for establishing an individual quota system. The regulations shall be developed in accordance with the recommendations. The regulations shall—

"(A) specify factors that shall be considered by a Council in determining whether a fishery should be managed under an individual quota system;

"(B) ensure that any individual quota system is consistent with the requirements of sections 303(b) and 303(g), and require the collection of fees in accordance with subsection (d)(2);

"(C) provide for appropriate penalties for violations of individual quotas systems, including the revocation of individual quotas for such violations;

"(D) include recommendations for potential management options related to individual quotas, including the authorization of individual quotas that may not be transferred by the holder, and the use of leases or auctions by the Federal Government in the establishment or allocation of individual quotas; and

"(E) establish a central lien registry system for the identification, perfection, and determination of lien priorities, and nonjudicial foreclosure of encumbrances, on individual quotas.

"(3)(A) Not later than 6 months after the date of the enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall establish a review panel to evaluate fishery management plans in effect under this Act that establish a system for limiting access to a fishery, including individual quota systems, and other limited access systems, with particular attention to—

"(i) the success of the systems in conserving and managing fisheries;

"(ii) the costs of implementing and enforcing the systems;

"(iii) the economic effects of the systems on local communities; and

"(iv) the use of limited access systems under which individual quotas may not be transferred by the holder, and the use of leases or auctions in the establishment or allocation of individual quota shares.

"(B) The review panel shall consist of—

"(i) the Secretary or a designee of the Secretary;

"(ii) a representative of each Council, selected by the Council;

"(iii) 3 representatives of the commercial fishing and processing industry; and

"(iv) one at large representative who is selected by reason of occupational or other experience, scientific expertise, or training, and who is knowledgeable regarding the conservation and management or the commercial or recreational harvest of fishery resources.

"(C) Based on the evaluation required under subparagraph (A), the review panel shall, by September 30, 1997, submit recommendations—

"(i) to the Councils and the Secretary with respect to the revision of individual quota systems that were established under this Act prior to June 1, 1995; and

"(ii) to the Secretary for the development of the regulations required under paragraph (2).".

(e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYSTEMS PENDING REGULATIONS.—

(1) RESTRICTION.—The Secretary of Commerce may not approve any covered quota system plan, and no covered quota system plan shall take effect, under title III of the Magnuson Fishery Conservation and Management Act before the effective date of regulations issued by the Secretary under section 304(l) of that Act, as added by subsection (d).

(2) COVERED QUOTA SYSTEM PLAN DEFINED.—In this subsection, the term "covered quota system plan" means a fishery management plan or amendment to a fishery management plan, that—

(A) proposes establishment of an individual quota system (as that term is used in section 303 of the Magnuson Fishery Conservation and Management Act, as amended by subsection (a) of this section); and

(B) is submitted to the Secretary after May 1, 1995.

SEC. 17. FISHING CAPACITY REDUCTION PROGRAMS.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is further amended by adding after section 315 (as added by section 15 of this Act) the following new section:

"SEC. 316. FISHING CAPACITY REDUCTION PROGRAMS.

"(a) AUTHORITY TO CONDUCT PROGRAM.—The Secretary, with the concurrence of the Council having authority over a fishery, may conduct a voluntary fishing capacity reduction program for a fishery in accordance with this section, if—

"(1) the Secretary—

"(A) determines that the program is necessary for rebuilding, preventing overfishing, or generally improving conservation and management of the fishery; or

"(B) is requested to do so by the Council with authority over the fishery; and

"(2) there is in effect under section 304 a fishery management plan that—

"(A) limits access to the fishery through a Federal fishing permit required by a limited access system established under section 303(b)(6); and

"(B) prevents the replacement of fishing capacity eliminated by the program through—

"(i) a moratorium on the issuance of new Federal fishing permits for the duration of the repayment period; and

"(ii) restrictions on fishing vessel capacity upgrading.

"(b) PROGRAM REQUIREMENTS.—Under a fishing capacity reduction program conducted under this section for a fishery, the Secretary shall—

"(1) seek to permanently reduce the maximum effective fishing capacity at the least cost and in the shortest period of time through the removal of vessels and permits from the fishery;

"(2) make payments to—

"(A) scrap or otherwise render permanently unusable for fishing in the United States, vessels that operate in the fishery; and

"(B) acquire the Federal fishing permits that authorize participation in the fishery;

"(3) provide for the funding of those payments by persons that participate in the fishery, by establishing and imposing fees on holders of Federal fishing permits under this Act that authorize that participation;

"(4) establish criteria for determining the types of vessels and permits which are eligible to participate in the program, that—

"(A) assess vessel impact on the fishery;

"(B) minimize program costs; and

"(C) take into consideration—

"(i) previous fishing capacity reduction programs; and

"(ii) the characteristics of the fishery;

"(5) establish procedures for determining the amount of payments under paragraph (1); and

"(6) identify sources of funding for the program in addition to the amounts referred to in subsection (f)(2)(A), (B), (C), and (D).

"(c) PAYMENTS.—

"(1) IN GENERAL.—As part of a fishing capacity reduction program under this section, and subject to paragraph (2) the Secretary shall make payments under subsection (b)(2).

"(2) ESTABLISHMENT OF FEE REQUIRED.—The Secretary may not make any payment under paragraph (1) for a fishery unless there is in effect for the fishery a fee under subsection (d).

"(3) LIMITATION ON TOTAL AMOUNT OF PAYMENTS FOR FISHERY.—The total amount of payments under paragraph (1) for a fishery may not exceed the total amount the Secretary projects will be deposited into the Fund from fees that apply to the fishery under subsection (d).

"(d) FEES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, with the concurrence of a majority of the voting members of a Council having authority over a fishery for which a fishing capacity reduction program is conducted under this section, may establish an annual fee on holders of Federal fishing permits authorizing participation in the fishery.

"(2) AMOUNT OF FEE.—The amount of a fee established under this subsection for a fishery described in paragraph (1)—

"(A) shall be adequate to ensure that the total amount collected in the form of the fee will not be less than the amount the Secretary determines is necessary for payments under subsection (b)(2) to reduce fishing capacity in the fishery to a level that will ensure the long-term health of the fishery;

"(B) shall be based on—

"(i) the value of the fishery;

"(ii) the projected number of participants in the fishery;

"(iii) the projected catch in the fishery; and

"(iv) the direct costs of implementing a fishing capacity reduction program under this section for the fishery; and

"(C) may not exceed, for any permit holder, 5 percent of the value of fish harvested under the permit each year.

"(3) EFFECTIVE PERIOD.—A fee under this subsection may not be in effect for more than 15 years.

"(4) USE OF AMOUNTS RECEIVED.—Amounts received by the United States as fees under this subsection—

"(A) shall be deposited into the Fund; and

"(B) may not be used to pay any administrative overhead or other costs not directly incurred in implementing this section with respect to the fishery.

"(e) ADVISORY PANELS.—

"(1) IN GENERAL.—The Secretary shall establish for each fishery for which a fishing capacity reduction program is conducted under this section an advisory panel to advise the Secretary regarding that program.

"(2) MEMBERSHIP.—Each advisory panel under this subsection shall consist of individuals appointed by the Secretary and shall include representatives of—

"(A) the Department of Commerce,

"(B) Councils having authority over fisheries for which the panel is established,

"(C) appropriate sectors of the fishing industry affected by fishing capacity reduction programs under this sections, and

"(D) appropriate States affected by such programs.

"(f) FISHERIES CONSERVATION AND RESTORATION FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall be known as the Fisheries Conservation and Restoration Fund (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

"(A) amounts appropriated under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)(A)), popularly known as the Saltonstall-Kennedy Act;

"(B) amounts paid to the United States Government as fees established under subsection (d);

"(C) any other amounts appropriated for fisheries disaster that the Secretary determines should be used for fishing capacity reduction programs under this section; and

"(D) any other amounts appropriated for making payments under subsection (b)(2).

"(3) AVAILABILITY.—

"(A) IN GENERAL.—Amounts in the Fund shall be available to the Secretary without fiscal year limitation for making payments under subsection (b)(2).

"(B) MANAGEMENT OF UNNEEDED BALANCE.—Amounts in the Fund that are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(g) EXPIRATION OF ACQUIRED PERMITS.—Permits acquired by the Secretary under subsection (b)(2)(B)—

"(1) shall not be effective after the date of that acquisition; and

"(2) may not be reissued or replaced.".

(b) USE OF AMOUNTS TRANSFERRED UNDER SALTONSTALL-KENNEDY ACT.—Section 2(b)(1) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)), popularly known as the Saltonstall-Kennedy Act, is amended in subparagraph (A) by striking "and" after the semicolon at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; and", and by adding at the end the following new clause:

"(iv) to fund fishing capacity reduction programs under section 316 of the Magnuson Fishery Conservation and Management Act, by depositing a portion of amounts transferred into the Fisheries Conservation and Restoration Fund established by that section; and".

SEC. 18. CONSIDERATION OF ABILITY TO PAY PENALTIES.

Section 308(a) (16 U.S.C. 1858(a)) is amended—

(1) in the last sentence by striking "ability to pay,"; and

(2) by adding at the end the following new sentence: "In assessing such penalty, the Secretary may also consider facts relating to the ability of the violator to pay that are established by the violator in a timely manner.".

SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Title IV (90 Stat. 359–361) is amended to read as follows:

"TITLE IV—MISCELLANEOUS PROVISIONS

"SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary, for carrying out this Act, the following:

"(1) $114,000,000 for fiscal year 1996.
"(2) $118,000,000 for fiscal year 1997.
"(3) $122,000,000 for fiscal year 1998.
"(4) $126,000,000 for fiscal year 1999.
"(5) $130,000,000 for fiscal year 2000.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by striking the items relating to title IV (including the items relating to the sections in that title) and inserting the following:

"TITLE IV—MISCELLANEOUS PROVISIONS

"Sec. 401. Authorization of appropriations.".

SEC. 20. TECHNICAL CORRECTIONS.

(a) CORRECTION.—Section 304 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 65), is repealed.

(b) CONFORMING AMENDMENT.—Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

"(15) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.".

SEC. 21. CLERICAL AMENDMENTS.

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended by striking "Committee on Merchant Marine and Fisheries" each place it appears and inserting "Committee on Resources".

SEC. 22. PROVISIONS RELATING TO GULF OF MEXICO.

(a) FISHERY ASSESSMENTS.—Section 304(e) (16 U.S.C. 1854(e)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall develop and implement a systematic program for the assessment and annual reporting to the public of the status of fisheries in the Gulf of Mexico subject to management under this Act. Such program shall—

"(A) provide for the use of peer-review panels consisting of independent and external experts;

"(B) not exclude peer-reviewers merely because they represent entities that may have an interest or potential interest in the outcome, if that interest is fully disclosed to the Secretary;

"(C) provide opportunity to become part of a peer-review panel at a minimum by soliciting nominations through the Federal Register; and

"(D) ensure that all comment and opinions of such peer-review panels are made available to the public.".

(b) FISHERY MONITORING.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

"(m) FISHERY MONITORING.—(1) The Secretary shall develop a plan for the Gulf of Mexico region to collect, assess, and report statistics concerning the fisheries in each such region.

"(2) The plan under this subsection shall—

"(A) provide fishery managers and the public with timely and accurate information concerning harvests and fishing effort;

"(B) minimize paperwork and regulatory burdens on fishermen and fish buyers;

"(C) minimize costs to Federal and State agencies;

"(D) avoid duplication and inconsistencies in the collection, assessment, and reporting of fishery statistics; and

"(E) ensure the confidentiality of information.

"(3) The Secretary shall ensure that fishermen, fish buyers, and other individuals potentially impacted by the plan required under this subsection are actively involved in all stages of the development of such plan and that appropriate fishery management agencies are consulted.

"(4) No later than 9 months after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall publish notice of a proposed plan required under this subsection and provide the public with a reasonable opportunity to comment on such proposed plan. The Secretary shall consider such comments before submitting the plan under paragraph (5).

"(5) No later than one year after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall submit a final plan under this subsection to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

(c) GULF OF MEXICO RED SNAPPER STOCK MANAGEMENT STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall have an independent analysis conducted that will evaluate—

(A) the methods, data, and models used to assess the status of Gulf of Mexico red snapper stock assessments;

(B) the effectiveness of the fishery management plan in effect under the Magnuson Fishery Conservation and Management Act that applies to Gulf of Mexico red snapper, in terms of the appropriateness of the management goal and time frame given the available biological data; and

(C) regulations in effect under that Act that apply to Gulf of Mexico red snapper, in the terms of the effectiveness of fairly controlling fishing mortality.

(2) STUDY REQUIREMENTS.—The study shall—

(A) assess all alternatives that could provide a more balanced and practical approach to managing the red snapper fishery in the Gulf of Mexico;

(B) involve commercial and recreational fishermen from the Gulf of Mexico in the collection of data and information and in the development of an accurate assessment plan; and

(C) be completed and reported to the Congress and the Gulf of Mexico Fishery Management Council within 1 year after the date of the enactment of this Act.

(3) USE OF REPORT.—It is expected for the report on the study under this subsection to be used as the foundation for any future management of red snapper in the Gulf of Mexico by the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service (or both). It is also expected that the Council will suspend the implementation of any individual fishing quota plan for red snapper in the Gulf

of Mexico until the study is completed and until the Secretary of Commerce has completed standards or guidelines.

(4) LIMITED IMMUNITY.—Individuals providing credible information to receive the most accurate assessments shall not be subject to any catch reporting violations.

SEC. 23. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determination of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term "bycatch" has the meaning given that term in section 3(34) of the Magnuson Fishery Conservation and Management Act, as amended by section 4 of this Act.

The CHAIRMAN pro tempore. Are there any amendments to the Committee amendment in the nature of a substitute?

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska:

Page 33, line 3, strike "environmental factors" and insert "environmental conditions or factors beyond the control of the rebuilding program".

Page 50, line 10, strike "yields" and insert "yield".

Page 58, line 24, strike "paragraph (1)" and insert "subsection (c)".

Page 59, line 7, insert a comma after "paragraph (2)".

Page 22, line 17, insert "and" after the semicolon.

Page 22, beginning at line 20, strike the semicolon and all that follows through "program" at line 22.

Page 23, line 21, strike "(15)" and insert "(16)".

Page 24, line 17, strike "and" and all that follows through the end of the line.

Page 24, after line 17, insert the following new paragraph:

"(15) in the case of any plan which under subsection (b)(8) requires that observers be carried on board vessels, establish a system of fees, not to exceed the actual costs of the observer program, to pay the costs of the program; and".

Page 23, line 8, after "processors" insert "and fish processing vessels (as that term is defined in chapter 21 of title 46, United States Code)".

Page 49, beginning at line 7, strike "other persons as specified by the Council,".

Page 37, line 17, strike "shore-based" and insert "United States fish".

Page 38, line 10, strike "plan, including," and insert "plan and report such actions to the Committee on Resources of the House of Representatives. The Secretary shall implement the plan,".

Page 38, line 11, after "appropriations," insert "by".

Page 38, line 14, strike "shore-based" and insert "United States".

Page 38, lines 18 and 19, strike "shore-based" each place it appears and insert "United States".

Page 38, beginning at line 19, strike "total allowable catch" and insert "allowable biological catch".

Page 47, line 16, after "appropriate" insert "at a level of coverage that should yield statistically significant results, except that on a fish processing vessel at sea observers, shall be required as necessary to ensure monitoring of fishing activities 24 hours each day".

Page 41, strike lines 12 through 15 and insert the following:

(a) PROHIBITION ON REMOVING, DAMAGING, TAMPERING WITH, OR MOVING FISHING GEAR AND FISH.—

(1) PROHIBITION.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(A) by redesignating subparagraphs (L), (M), and (N) in order as subparagraphs (M), (N), and (O); and

(B) by striking subparagraph (K) and inserting the following:

"(K) to steal or to knowingly and without authorization to remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is located in the exclusive economic zone or special areas; or

"(ii) fish contained in such fishing gear;

"(L) to negligently damage, remove, or move, or to attempt to do any of the foregoing with respect to—

"(i) fishing gear that is owned by another person and located in the exclusive economic zone; or

"(ii) fish contained in such fishing gear;".

(2) CONFORMING AMENDMENTS.—Section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859) is amended—

(A) in paragraph (1) by striking "or (L)" and inserting "(K), or (M)"; and

(B) in subsection (b) by striking "section 307(1)(L)" and inserting "section 307(1)(M)".

Page 41, line 19, strike "(M)" and insert "(N) (as redesignated by subsection (a)(1)(A) of this section)".

Page 41, line 21, strike "(N)" and insert" "(O) (as redesignated by subsection (a)(1)(A) of this section)".

Page 41, line 23, strike "(O)" and insert "(P)".

Page 13, line 25, strike "307(1)(O)" and insert "307(1)(P)".

Page 65, after the quoted material following line 8, insert the following new subsection:

(c) AUTHORIZATION OF APPROPRIATIONS FOR NOAA MARINE FISHERY PROGRAMS.—The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) in section 2(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", $47,000,000 for fiscal year 1996, $48,645,000 for fiscal year 1997, $50,347,575 for fiscal year 1998, $52,109,740 for fiscal year 1999, and $53,933,580 for fiscal year 2000";

(2) in section 3(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", $27,400,000 for fiscal year 1996, $28,359,000 for fiscal year 1997, $29,351,565 for fiscal year 1998, $30,378,869 for fiscal year 1999, and $31,442,129 for fiscal year 2000";

(3) in section 4(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", $17,300,000 for fiscal year 1996, $17,905,500 for fiscal year 1997, $18,532,192 for fiscal year 1998, $19,180,818 for fiscal year 1999, and $19,852,146 for fiscal year 2000"; and

(4) in section 2(e)—

(A) by striking "1992 and 1993" and inserting "1996 and 1997";

(B) by striking "establish" and inserting "operate";

(C) by striking "306" and inserting "307"; and

(D) by striking "1991" and inserting "1992".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, this en bloc amendment has been developed on a bipartisan basis and has the support of the minority leaders of the Resources Committee.

During the Resources Committee markup of this bill, several Members wanted to offer amendments but withdrew them to allow time for compromises to be drafted. This en bloc amendment includes these compromises and makes technical amendments to the bill as reported.

This amendment contains technical fixes which include a clarification in the weighing provision of the bill and correction of the placement of language addressing observer coverage.

The amendment also contains language agreed upon by myself and other Members including: corrections to the Pacific Region Stock Assessment section; additions to the use of observers in ITQ systems; and changes to the Prohibited Acts section of the bill.

I appreciate all the hard work by Members and their staffs in reaching agreement on the language in the en bloc amendment. I support this amendment and would urge my colleagues to also support it.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Alaska [Mr. YOUNG].

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 69, after line 8, insert the following new subsection:

(c) RESOURCE ASSESSMENT.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

"(n) RESOURCE ASSESSMENTS.—(1) Notwithstanding any other provision of this Act, the Secretary shall, wherever practicable, subject to the availability of appropriations, and when the arrangement will yield statistically reliable results, rely on the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States. The Secretary shall determine whether this arrangement will yield statistically reliable results.

"(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

"(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage; and

"(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide the compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable biological catch of the surveyed fishery that is reserved for research purposes under section 303(b).

"(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation through the use of the authority provided in this subsection.".

Page 69, line 9, strike "(c)" and insert "(d)".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, during the full committee markup of this bill, we added a provision which will allow the Councils to set aside a portion of the allowable biological catch to be used for research purposes. This is clearly a discretionary provision and not mandatory.

For the Pacific region, we have also allowed the Secretary to contract with private vessels to conduct research and stock assessment work using the portion of the harvest set aside for research purposes. The vessels would then be able to sell the catch to offset the cost of doing the research.

My amendment takes this one step further. It allows the Secretary to contract with private vessels to perform research functions, now carried out by the National Oceanic and Atmospheric Administration [NOAA], in areas other than just the Pacific region.

It will provide more up-to-date research and stock assessment data by contracting vessels to do the work on a yearly basis. At this time, stock assessment work is done approximately every 3 years by NOAA research vessels.

Currently, the National Marine Fisheries Service uses this exact arrangement in the Gulf of Alaska. Survey work is presently being done for black cod stocks and the survey vessels lands their catch to offset the cost of doing the research. For some reason, the National Marine Fisheries Service feels that it does not have the authority to allow this type of arrangement to take place in other areas.

I believe this amendment will give us better stock assessment data, will provide fisheries managers with more up-to-date information, will allow private vessels to bid on doing the research work and will allow the catch to be landed to offset the cost of doing the research, thereby reducing the cost to the Federal Government of doing the research.

This language includes several suggestions made by National Marine Fisheries Service and is a discretionary provision. I think this is a good step in better fisheries management and urge my colleagues to support the amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the gentleman's efforts to develop new methods of fisheries stock assessment. In this time of declining budgets, the use of fishing vessels may provide a very viable alternative to research vessels that could enable us to collect more timely data and hopefully provide some more opportunity for fishermen.

I do have some concerns with the details of this proposal, as I think the gentleman knows, particularly the authority to allow fishermen to harvest fish outside of and beyond the research surveys in order to cover their costs. This might be difficult to enforce, and I wonder whether we are encouraging fishing in excess of the total allowable catch levels.

I will not oppose the amendment, because I think the premise is a sound one, but I would ask the gentleman if we could continue to work on this issue to iron out these concerns before we go to conference?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, as the gentleman well knows, when this legislation passes the House, the Senate has not passed theirs. You will be on the conference, sitting beside me as we have done all these years, and I will continue to work with the gentleman, because you do raise a valid point.

The attempt here is to allow what is already being done in other areas where we are being told that they do not think they have the authority. This is really a request by the National Marine Fisheries Institute.

Mr. STUDDS. Mr. Chairman, I support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 43, after line 2, insert the following new subsection:

(d) RESTRICTION ON SALE OF LOBSTERS.—Section 307(1)(J)(i) (16 U.S.C. 1557(1)(J)(i)) is amended—

(1) by striking "plan," and inserting "plan"; and

(2) by inserting before the semicolon the following: ", or in the absence of both such plans is smaller than the minimum possession size in effect at the time under the Atlantic States Marine Fisheries Commission's American Lobster Fishery Management Plan".

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, my amendment is very straightforward. Under current law, the sale, shipment, and transport of American lobsters smaller than the minimum size established in the Federal American Lobster Fishery Management Plan is prohibited.

Recently, the National Marine Fisheries Service has indicated that this plan might be withdrawn. If it is, the prohibition on the sale and shipment of undersized lobsters would no longer be in effect and our market would be flooded with undersized lobsters. This would have serious implications for the resource and the industry.

This amendment would ensure that the prohibition would remain in effect by allowing the minimum size established by the Atlantic States Marine Fisheries Commission to serve as the baseline in the absence of a Federal plan.

It is supported by the industry, and I hope Members can support it here today.

The administration has seen this amendment and has no objection to it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, my friend from Massachusetts has the foresight to be proactive instead of reactive.

It is my understanding that the National Marine Fisheries Service has indicated that the current Fishery Management Plan for lobster may be withdrawn. If this does occur, it would mean that the current restrictions on the sale and transportation of undersized lobster would no longer be in effect.

Current law prohibits the sale, shipment, and transport of American lobsters smaller than the minimum size established in the Federal American Lobster Fishery Management Plan.

The gentleman's amendment provides the necessary measures to ensure that the current restrictions are not removed, by allowing the minimum size established by the Atlantic States Marine Fisheries Commission to serve as a baseline in the absence of a Federal Fishery Management Plan.

I support the gentleman's amendment and urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 47, line 13, insert "and" after the semicolon.

Page 47, strike lines 17 through 19.

Page 48, line 13, strike ", held, or transferred" and insert "and held".

Page 50, after line 6, insert the following:

"(6) Any individual quota system established for a fishery after the date of enactment of the Fishery Conservation and Management Amendments of 1995—

"(A) shall not allow individual quotas shares under the system to be sold, transferred, or leased;

"(B) shall prohibit a person from holding an individual quota share under the system unless the person participates in the fishery for which the individual quota share is issued; and

"(C) shall require that if any person that holds an individual quota share under the system does not engage in fishing under the individual quota share for 3 or more years in any period of 5 consecutive years, the individual quota share shall revert to the Secretary and shall be reallocated under the system to qualified participants in the fishery in a fair and equitable manner and in accordance with the following priorities:

"(i) As the first priority, to persons who have participated in the fishery but have not received any individual quota shares under the system, or have received individual quota shares under the system in an amount insufficient to allow participation in the fishery.

"(ii) As the second priority, to persons who desire to enter the fishery.

"(iii) As the third priority, to persons who participate in the fishery and hold individual quota shares sufficient to permit that participation.

"(7) In reallocating individual quota shares under paragraph (6)(C)(iii), the Secretary may utilize a royalty auction or other comparable bidding process.

"(8) The Secretary may suspend the applicability of paragraph (6) for individuals on a case-by-case basis due to death, disablement, undue hardship, or in any case in which fishing is prohibited by the Secretary or the Council.

Page 50, line 7, strike "(6)" and insert "(9)".

Page 50, line 23, strike "or transfers".

Page 51, strike lines 16 through 21.

Page 54, line 20, strike "the use of limited access systems under which individual quotas may not be transferred by the holder, and".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is fairly straightforward. What it would do for new ITQ's is allow those portions of the quotas that are not utilized to be reallocated to other fishing interests, to, in many cases, fishermen that have worked these fishing grounds for many, many years, and the crews of the boats, to allow them to participate in the fisheries of their historical position, and fishing of those grounds should not the full quota be used.

This amendment would only pertain to future ITQ's and not to those that have already been granted by the Government. I also think it makes sure that the public resources are continued to be used and widely dispersed for those who have historically been involved in the utilization of those resources, in this case the fisheries, and I would hope the committee would accept the amendment.

My amendment is intended to prevent the giveaway of yet another public resource—our fisheries—as a form of corporate welfare.

ITQ's are a new fisheries management tool where specific quotas are allocated to individual fishermen or corporations based on formulas established by fisheries management councils made up of industry representatives that in many cases will reap the benefits of the formula they establish.

These quotas, which are allocated for free, can then be brought and sold, taking a public resource and turning it into a private commodity.

The chairman's bill has taken some important steps to address the inequities of ITQ's, including a limit on the term of quota allocation and the assessment of a nominal fee of 1 percent if the quota is sold, but it doesn't go far enough however and still results in hundreds of millions of dollars in windfall profits for big, industrial fishing corporations who will receive these quotas shares for free.

My amendment simply eliminates the ability to sell or lease your privilege to harvest a public resource. If you do not use it, it reverts to the Government to be reallocated to individuals wishing to enter the fishery or those who need more quota to make their shares economically viable.

Why is this amendment necessary? Here are just a few reasons.

In the North Pacific halibut/black cod fishery ITQ program that was implemented this year, 40 boat owners received quota shares worth more than $100 million for free. Crew members and skippers, many of whom had years of participation in the fishery, received nothing.

Anyone not lucky enough to receive an initial allocation will have to buy shares from those recipients who got their shares for free. According to some quota brokers in Alaska, those shares are already selling for as much as five to eight times the actual value of the fish they permit you to harvest.

Now the push is on by National Marine Fisheries Service and the large industrial fishing fleets to impose ITQ's in the North Pacific groundfish fishery, the largest dollar fishery in the United States, worth more than a billion dollars at the dock last year.

The reason: After opposing plans to restrict access and control overcapitalization, too many factory trawlers entered the fishery in the late 1980's, ensuring that none of the boats could remain competitive. Now they want us to give them our fish—a public resource—to enable them to make the best of some very bad investments.

Depending on the allocation formula that is adopted, Tyson Seafoods could receive quota shares worth hundreds of millions of dollars for free and then turn around and sell them.

Proponents of quota systems tout their advantages. Allowing holders to fish when they want instead of in a derby fashion, they can produce higher quality product, spread out their season, and stay at the dock when the weather is bad. All of these advantages will still hold true.

But what does not merit nor does it require, the flatout giveaway of a public resource with no benefits to the taxpayers. Why does a corporation like Tyson—with $5 billion in annual revenues—need to receive a $200 million subsidy from the taxpayers? Because they made a bad investment of $230 million in 1993, buying Arctic Alaska, when the fishery was already overcapitalized, and now they want a bailout at the expense of the taxpayer.

This is just another form of corporate welfare paid for with taxpayers' resources.

My amendment would ensure that the giveaway of a public resource would be prevented; that big fishing corporations would not profit at the taxpayers expense; and the stewardship of our fisheries remains in the public trust where it belongs.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the gentleman's amendment to eliminate transferability of individual quota shares. While I do not like the ITQ's, I want everybody to understand, I have supported and continue to support the regional councils in their role as managers of our Nation's fishery resources.

In fact, the gentleman from California, I am going to tell him now, I had an amendment to his amendment, and I probably will not offer it, because my worthwhile staff reminded me I have always said not to interfere with the council's role in this. But this is a good amendment.

ITQ's have been very controversial both in practice and from a policy perspective. One aspect that has caused a great deal of concern is the recipients of ITQ shares receive a windfall by being the only users of a public resource.

I believe this amendment addresses the concern that fishermen are receiving windfall profits by selling their ITQ shares, while the general public receives nothing from the allocation of this public resource.

I have heard from many fishermen that ITQ's give a few individuals a local on a public resource. The gentlemen's amendment makes sure that those who receive shares must fish them or lose them. If the shares are not fished by the fisherman for 3 or more years, they would revert back to the Secretary, who would then reallocate the share through an auction or other comparable bidding process. This reallocation will allow those who did not get an adequate share, or those who have fished, but did not qualify for shares, to bid on shares.

This amendment eliminates the incentive to enact ITQ systems rather than other limited access options, because some fishermen believe they will reap a monetary windfall from the quota shares they receive.

I want to again stress one of the biggest problems is the possibility of the acquisition of shares by, may I say those that may not be totally 100 percent American, and in controlling what I fought to do with the gentleman from Massachusetts [Mr. STUDDS] in 1976, and that was to Americanize our fleet and to protect our stock and to have a sustained yield. What we find in many areas around the Nation is this is not occurring.

So this really is, with the original language in the bill, a further attempt to make sure that we are looking at the management concept of the fisheries and not just a monetary concept of the fisheries.

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Now, I am all in favor of everybody making large profits. I am all in favor of everybody making a return on their investments. But, I am not in favor of a locked system. And the ITQ's do create a locked system.

Now, if I understood the gentleman correctly, we are only talking about prospective ITQ's, not those that have already been issued. Because one of the things that I have resented in this Congress is that sometimes we become retroactive in tax laws and other laws and people that try to follow the laws that Congress has passed find themselves caught in an untenable position.

Mr. Chairman, I do support the gentleman's amendment. I think it is a correct one to further make sure that we have the management tools that are necessary for the fisheries and they are not depleted to the point they were prior to 1976.

The CHAIRMAN pro tempore (Mr. BUNNING). The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. FARR

Mr. FARR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FARR: Page 21, line 13, before the first semicolon insert the following: "and conservation and management measures necessary to minimize, to the extent practicable, adverse impacts on that habitat caused by fishing".

Page 23, line 21, strike "(15)" and insert "(14)".

Page 24, line 12, strike the semicolon and insert "; and'.".

Page 24, strike lines 13 through 17.

Mr. FARR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR. Mr. Chairman, first of all, I want to thank the gentleman from Alaska [Mr. YOUNG] for dedicating his service here in Congress to revising this trend and introducing H.R. 39 to help preserve our fisheries for fishers and fish eaters for many generations to come.

However, there is a flaw in the bill. It was made in committee after its original introduction by the gentleman from Alaska, and my amendment corrects that flaw and brings it back to the way it was first presented to the committee.

Mr. Chairman, in essence what is happening with many of our fishery stocks in America in our offshore waters is that the habitat of those fishing stocks are being destroyed and there is no requirement for the councils that manage these fish stocks to look into habitat protection for fish stock protection.

Indeed, in my district alone, the famous Monterey area which people know about because of Steinbeck's writing about the sardine industry, we lost 30,000 jobs in California. We have an industry, the Monterey sardine industry once supported Cannery Row and it died out 50 years ago because of overfishing.

California alone has lost 30,000 jobs since 1978. In a recent report by Governor Wilson on the future of California's ocean resources says that the total California catch declined 18 percent between 1991 and 1992. These losses forced the Governor to declare a state of emergency in 1994 for California's north coast fishing communities. True, California has had a bumper salmon season, but this does not make up for years of decline.

My amendment does one simple thing. It simply requires the regional fishery management councils to include measures to minimize, to the extent practicable, fishing impact on fish habitat. We all know too well that healthy fisheries depend on healthy habitat. Fishery biologists and other scientists point out the loss of wetland and river habitat as the major cause for decline in many commercial fisheries.

Mr. Chairman, H.R. 39 will help address this problem, helping to slow some of the inland harm to commercial fisheries. But the fishing industry itself has a part to play in protecting the fish habitat.

The way the bill is currently drafted, it says that the councils may take steps to minimize impacts on fishing habitats. This is essentially the same as current law which, while it does not mention the subject, would still allow councils to take steps if they chose to.

The problem is that the councils have done nothing to address this under current law. Since they are not required and they will not be required, there is no indication they will address the problem at all. Thus, the councils could go on ignoring fish habitat issues under this bill.

Mr. Chairman, my amendment would fix this problem by requiring conservation measures necessary to minimize, to the extent practicable, adverse impacts on the impact of habitat caused by fishing.

It would require the councils to look for ways to minimize the impacts that fishing gear and fishing practices have on the habitat. This might include time or area closures or restrictions of particular types of gear.

If the councils find that such measures are practical, my amendment would require the councils to include them in their plans. Contrary to what my colleagues might hear, my amendment will not allow any lawsuits because the Magnuson Act, and H.R. 39, do not include citizen suit provisions. Thus, my amendment would provide no basis for lawsuits; certainly, no more basis than any other mandatory provisions in H.R. 39.

Contrary to what my colleagues might hear, my amendment would not give one kind of fisherman a weapon to reallocate fishing shares, because the Magnuson Act requires the councils to allocate fish access to fisheries in a fair and equitable manner.

Finally, it may look like environmental interests are driving this amendment, but there is clearly an environmental component to it. Even if the fish habitat impacts raise no environmental concerns, economics would still argue for my amendment. The decline of a fishery because of fish habitat loss helps kill jobs, helps kill coastal economies and consumer choice.

Mr. Chairman, I am offering my amendment because it has broad support from people who make their living catching fish, including such organizations as the Pacific Coast Federation of Fishermen; the Golden Gate Fisherman's Association; the North Pacific Fisheries Association; the Alaskan Marine Conservation Council; the Unalaska Native Fisherman's Association; the New Jersey Alliance to Save Fisheries; King and Sons, Inc., the largest shipper of American lobsters in the world; Trout Unlimited; the Maine Lobsters Association; the Maine Fish Conservation Network; and the Center for Marine Conservation.

Mr. Chairman, I believe that councils should be required to take those practical steps needed to minimize the impacts. I ask for an aye vote on my amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after the great and kind compliments the gentleman from California has given to me, which are rare and far between on this floor of the House, it is unpleasant for me to rise in opposition to the amendment.

Mr. Chairman, I do understand the gentleman's concerns about protecting fishing habitat from the potential adverse impacts of fishing gear, but I am also concerned about the possible unintended results of the gentleman's amendment.

The Regional Fishery Management Councils, and by the way, none of them when we had our hearings, we had over 14 hearings in the last 4 years, none of them ever spoke in favor of this amendment. I want everybody to remember, the councils do not favor this amendment. Other interest groups may, but not the councils.

The Regional Fisheries Management Councils currently have the ability to reduce adverse impacts that fishing gear may have on fishery habitat. Some councils have already taken steps to reduce the effects on habitat by closing off breeding and nursery areas during certain times of the year.

While the language of H.R. 39 is discretionary, it sends a direct message to the councils that this is an important issue. It recommends that if steps have not already been taken to address this problem, the councils should take the necessary steps to correct any adverse effects that fishing may be having on essential fishery habitat under the council's jurisdiction.

Mr. Chairman, I am concerned that moving this language to the mandatory requirements section of the act will require councils to restrict certain types of gear. It could potentially heighten gear conflicts in fisheries where councils have already taken appropriate steps to minimize the impact on the habitat.

And for those who are not aware of the fishing industry, this is a very competitive industry. There is little what I call comradeship between a troller, a purse seiner, a gill netter, or a hand troller. All of them are seeking part of this. And when we put the council into a decisionmaking factor of choosing one gear over another gear, when it may not be appropriate. In fact the gentleman said there could be no lawsuits. There is a reality that one group could sue the Secretary of Commerce, not the council but the Secretary of Commerce saying that another type of gear could be adversely impacting the habitat, thus gaining a bigger share of the fish.

So I would suggest this just drives a bigger wedge between the gear groups and causes a tremendous problem with the council. The habitat is important and we have already suggested in the bill that they do take this and do promote habitat protection. But let us not make it mandatory, where there may be another way that they can protect the habitat and avoid the conflicts which would arise between the different gear groups and thus diluting the role of the council.

Mr. Chairman, I do stress this. Only through the councils can this Magnuson Act work. Only through the councils can we truly manage this system. There are those under this administration and the past administration, so it is not partisan, that want to centralize the control of all fisheries here in Washington, DC.

Think about that a moment. They want to bring it here, take it away from the councils, because they happen to think that they have more brains here in Washington, DC, than anybody else. We all know that is wrong. If my colleagues do not know it, I do not know where they have been.

Mr. Chairman, it was set at the 1976 level to make sure that the councils do their work. In some cases, the councils have not worked and we have addressed that issue in this bill and will continue to address it. But it is important that we allow the councils to make these decisions. It is necessary to make sure it is a working unit. When it is mandatory, we are taking away the council's opportunities to function.

Mr. Chairman, I do oppose the amendment.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, in the original bill of the gentleman from Alaska, there was this language. And, in fact, it was not even as weak as perhaps my amendment is, because my amendment says "to the extent practicable."

The problem that I think the gentleman recognizes is there is only one body that really can deal with it and has the total jurisdiction and that is the councils.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I will tell the gentleman, I put it in the bill understanding what he was trying to do, but removed it after hearing from the councils. That is why we have the hearing process and the input from the general public. That is why there was no outcry for this amendment at any time during the hearings.

Mr. Chairman, we had a broad spectrum of people interested in this legislation. This has been on the burner for 4 years. I am going to suggest respectfully that I followed the train of thought of the gentleman from California [Mr. FARR] when I introduced the bill originally. But after hearing the councils and other members of the public say this would be detrimental and driving us apart, I made it discretionary and not mandatory. That is the reason.

Mr. FARR. Mr. Chairman, if the gentleman would continue to yield, I think you have just pinpointed the exact difficulty: That nobody wants to deal with this issue. They have had the ability; it is permissible in law; they could have dealt with it if they wanted to.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, they could have dealt with it and have not. We have to, as lawmakers, make that responsible decision to say that this is important enough that they have to deal with it where it is practicable to deal with it.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, the difference is the councils in many cases have already acted. With the language that is in the bill now, it is really an awakening call for the councils. We will be revisiting this if they do not.

Mr. Chairman, I believe that they do see the importance of this and we do have the backing of the councils. But we have to allow the councils the discretion or we end up being the total managers of the fisheries and that would be a disaster for the fisheries.

The fisheries are very competitive and very monetarily important for certain interest groups and we do not want this Congress to be involved, but should allow the councils to be the ones with the discretion.

Mr. Chairman, I do urge the defeat of the amendment.

Mr. STUDDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, people may wonder, since the gentleman from Alaska [Mr. YOUNG] and I invariably agree on virtually all matters relating to fisheries, how I could conceivably find myself in a different position. I do not, really, since the gentleman has taken three different positions in the course of this debate. I am going to be with him the first time he was there.

Mr. Chairman, the original draft of the bill, as the gentleman from California indicated, contained the language of the bill drafted by the gentleman from Alaska and myself that he now seeks to reinstate. That aroused some controversy during the committee markup and the gentleman from Alaska, in his usual statesmanlike way, offered a compromise which added the phrase "to the extent practicable" to the amendment. I thought that was a pretty good idea too, although it did weaken it to some extent. Then, even that was removed and it is totally discretionary for the councils.

There is nothing in this language that speaks to any conflict or any controversy between gear types. The language in question simply directs the council, when they are developing a plan, to consider conservation of management measures necessary to minimize to the extent practicable, a very large loophole, adverse impacts on that habitat caused by fishing.

Mr. Chairman, it is very difficult to see how that language on its face could be the source of a great deal of controversy. I would think it would be almost inarguable that we would want councils, in the course of developing plans, to consider ways to minimize to the extent practicable adverse impacts on fishery habitat, for very obvious, and it seems to me, self-evident reasons.

Mr. Chairman, I think the gentleman from Alaska was entirely correct when he put this in his initial version. I think he was bending, in the way we must around here occasionally, to circumstance when he agreed to its slight weakening with the addition of the phrase "to the extent practicable."

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But I do think to remove this from a requirement for the council's consideration and place it, as the bill now does as simply discretionary, our very sad history here indicates, probably, councils probably will not do it. So I agree with the first two positions of the gentleman from Alaska and the current position of the gentleman from California, and urge support of the amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to extend my compliments to the chairman of the full committee for coming up with a bill that goes a long way in protecting a huge natural resource and a very strong part of the U.S. economy, and that is the fishing industry.

I also rise in support of the amendment offered by the gentleman from California, and I think because of several reasons that this body ought to vote for that amendment.

First, it was in the original bill. I think the idea of this provision being in the original bill was to give the councils some discretion to place an emphasis on one of the most important aspects and parts of the fishing industry, and that is habitat, where these fish spawn. They have the discretion; to the extent practicable, they can use this in the formulation of their plan.

One striking detail, or one striking fact, shows the necessity, in my judgment, of this amendment, and that is you could stop fishing today. You could stop all fishing in the coastal areas and still lose 75 percent of the commercially valuable fish to habitat loss. Now, this does, to be honest, involve some of the recommendations and some of the insights into gear types between different competing fishermen. But the emphasis here is to protect habitat laws, and the emphasis needed for the council to use this discretion is overpowering.

To lose 75 percent of the commercial fish because of habitat loss is a striking fact. We also see problems with water quality being degraded by a whole range of sources. In any one given year in this country, actually in any one given day, one-third of the shellfish beds throughout this country are closed because of problems with habitat.

So the bill has gone a long way to protecting the fishing industry in this country.

I think we should stick with the original language, including "to the extend practicable" from the gentleman from California, and I urge a "yes" vote on the amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Let me try to set the record straight.

The current law has this language in the discretionary section. Current law is that the ability of the agency is discretionary in this area.

The gentleman's amendment would change current law to make this requirement mandatory upon the agency in every fisheries plan. Now, why is that a bad idea? It is a bad idea for a number of reasons. We are in the throes today of an attempt to reform our Superfund laws because of the fact that when we originally wrote the Superfund laws, we created such a litigation problem that the law has wasted billions of dollars on litigation. Everyone sues, everyone complains, everyone challenges each other under that law.

Please, let us not make that same mistake in this important act.

The amendment offered by the gentleman putting this language into the mandatory section invites those kinds of lawsuits. By whom? Who is going to file a lawsuit if this language is put under the mandatory section? I will tell you who: competing gear types. If there are two kinds of fisheries out there, one which has an allocation that it does not think is fair, another which has an allocation it would like to get, you can bet there would be a lawsuit filed on this particular mandatory section, and the two gear types will be in litigation over this bill.

But let me tell you of an even more important reason why this should not, this amendment, should not be adopted. Current law is working very well. Anyone who tries to say current law is not working well has simply not observed the facts. The facts are that the councils do have the authority today and use that authority where essentially important to restrict damaging gear types in their management plans. They have the authority and have used it to protect sensitive habitat areas such as nurseries and hatcheries from fishing types. They have that authority. They use it.

For us to change the law to make it mandatory simply invites someone to test whether or not they have used their authority correctly or incorrectly in court every time a council moves.

I live on the gulf coast, as do many of the members of our committee live near the coastal areas. We have an important fisheries—25 percent of all the commercial fish landings in America come off the coast of Louisiana. We have incredible nursing grounds. We understand that relationship. Our councils work, in fact, to restrict fishing and fishing gear types when, in fact, there is good evidence those fishing stocks are in any kind of difficulty. They use the discretionary features of this law quite well. We complain sometimes about the science they use, but the fact is that councils are working quite well.

For those of you who want to change the law, and that is what this amendment does, for those of you who want to change this law to make this mandatory, will mean from now on every time our council makes a decision in Louisiana waters, you can bet there will be a lawsuit filed from some other fishermen in some other States. There is a great contest for some of these species. Red snapper, for example, is a very desirable species. It is one that is regulated by the councils. The Florida fishermen used to be in Louisiana waters in droves until the council took some actions to regulate the kind of fishing that occurred in the red snapper industry. You can bet that if there is a mandatory feature in this act, the moment the council moves to do anything in that fishery in Louisiana waters that does not please the Florida fishermen, there will be a lawsuit filed. If they do not do something that somebody else wants them to do under this mandatory section, there will be a lawsuit filed. There will be lawsuits like Superfund lawsuits coming out of our ears, and the bottom line is that this fisheries councils system will begin to do what our Superfund has done: waste money in courts, encourage gear fights and wars, encourage fights between States when right now we are trying to cooperate across State boundaries on the outer continental shelf and will, in fact, destroy what is currently a good and discretionary feature of the law that is working quite well.

I urge Members not to change it.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. I would like to ask the gentleman from Louisiana a couple of questions. If we were debating this issue in 1901, then I would agree that all of this discretion is fine.

Mr. TAUZIN. I thought the gentleman had a question.

Mr. GILCHREST. But in 1995, my question is, considering the gear type we have in 1995, considering the number of fishermen that are out there, considering the number of boats out there, considering all of the technologies——

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. GILCHREST. If the gentleman will yield further, considering that we have sonar finders, hydraulic gear, spotter planes, onboard processing equipment, satellite communications systems, considering all of this out here now, taking fewer fish with more fishermen, should there not be some emphasis, and that is what this amendment does, it places emphasis on the discretion of the management councils, which I do not think have done that up to this point.

Mr. TAUZIN. Let me try to answer, yes, indeed, there are many more gear types out there. But if you make this feature a mandatory portion of the law, every one of those new and inventive gear types will be suing to ensure they get a better allotment out of the fisheries plan than the other plan and suing on the basis that council did not follow the mandates of the law now in this area.

Currently, the councils have discretion. They can do everything you want them to do in this amendment, and they can do it without all the lawsuits.

What you are going to do is have a multiplicity of lawsuits. You will have gear wars going on, which we cannot afford. Give these councils the tools without mandating them into lawsuits is what the current law does, and I urge you not to change it.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. FARR. As you know, the councils now set very controversial issues, and, as you know, in this piece of legislation they can include conservation and management measures necessary to minimize by-catch, that is, the TED's used in Louisiana waters. Those are very controversial. There has never been a lawsuit on that.

Mr. TAUZIN. Reclaiming my time, sir, the TED's are not a by-catch issue. The TED's are an endangered species issue, and that kind of confusion has caused more trouble on our debates on this bill than has helped. I want to straighten that out. This is not a TED's issue. This is not a TED's issue. This is a question of whether or not this feature of the law, which is discretionary, is going to become a mandatory feature in this area, and I urge you not to make it mandatory, because you will have gear wars and litigation unending in this area, where currently the administration and the agencies have the discretion to do the right thing when they need to do it.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. FARR. My concern is I think you are using the fear tactic of lawsuits. There have never been lawsuits filed. We make some very controversial issues on this.

Mr. TAUZIN. The reason there are no lawsuits filed is no mandatory provision in the law. I cannot file a lawsuit today to tell the agency it must do something the law said it did not have to do. The reason there is no lawsuit from one gear type to the other is because we do not have your amendment. With your amendment, I can guarantee there will be wars, litigation, many more lawsuits. If you do not believe it, talk to the folks who operate all the gear. They complain every day about their allotments.

They think their type of fishing ought to be the best one, the one that gets the most allotment. There will be lawsuits every day in that case. You will be in lawsuits and your friends on the environmental side trying to stop the fisheries completely, and saying the agency should have had a habitat plan that locked it up. There will be lawsuits from every side of this issue, and I suggest to you that is the last thing that we need. We need more help and cooperation, less lawsuits.

Mr. UNDERWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from California.

Mr. FARR. I thank the gentleman for yielding.

I want to point out a couple of issues here. One is, this makes it possible, to the extent practicable, to regulate. It is also a bill that is very much supported by the fishery groups, by the people making their living in the water. They understand there is this controversy going on, and they need to have a forum where that controversy can be resolved.

I agree with the chairman we do not want this resolved in Washington. That is why we are delegating the responsibility to the commission so that they can resolve it on a case-by-case basis on the issues, on the fish that they are responsible in law to regulate.

This bill makes the inclusion of the issue that the gentleman from Louisiana [Mr. TAUZIN] just brought up, the by-catch measures, mandatory. That is going to be as controversial as anything in the bill.

Indeed, if you are worried about issues raising for lawsuits, that one you could argue is even more so than what I am trying to do.

I urge these Members to take a look at those that are sponsoring this amendment, a broad range of fishery groups on both the East Coast, the West Coast, and fishery groups that make their living at the sea, and they want this conflict of the sea resolved. We think this is the best way to do it.

I ask for an "aye" vote on the amendment.

Mrs. SMITH of Washington. Mr. Chairman, I rise in support of the Metcalf amendment to H.R. 39.

The halibut and sablefish individual transferable quota [ITQ] for fishermen in the North Pacific is a product of nearly a decade of work.

This ITQ program went into effect earlier this year and has been very successful. This ITQ was necessary because the race for the fish in the North Pacific was becoming extremely dangerous. In fact, between the years 1991 and 1993, there were 216 search and rescue efforts in the halibut fishery alone.

Because of the safety issue and the years it took to develop the plan, it would be patently unfair to change the rules for the halibut and sablefish ITQ in the middle of the game.

I would like to commend the Fishing Vessels Owners' Association and the Deep Sea Fisherman's Union for their diligence in clarifying the intent of this legislation for Washington State fishermen.

I strongly urge my colleagues to support the Metcalf amendment.

Ms. FURSE. Mr. Chairman, I rise to support my friend from California's amendment.

Commercial fishing is one of the Nation's oldest industries. It contributes $111 billion annually to our national economy and creates jobs for 1½ million Americans. Obviously, to maintain a healthy and viable fishing industry, we must protect the habitat in which these valuable fish live.

H.R. 39 currently contains language requiring that fishery plans address the problem of habitat degradation. But it fails to include one significant cause of habitat damage—damage caused by fishing itself. Fishing gear such as trawl nets that are dragged along the bottom of the ocean floor can have a very significant impact on the productivity of essential fishery habitat.

The Farr amendment would improve upon H.R. 39's habitat protection provisions by fixing this shortcoming.

If we're going to look at other sources of habitat degradation, it is only fair that we also require the fishing industry to make sure it's not also contributing to the problem. Anything less would be hypocritical.

The fishing industry recognizes this and supports the Farr amendment. In particular, the fishermen and women of the west coast have endorsed this amendment. The Pacific Coast Federation of Fishermen's Associations says—and I quote:

Habitat loss is the single most important threat to the health and productivity of this nation's fisheries. Everyone must do their share to restore that habitat to full productivity—including the fishing industry—and to protect essential fishery habitat whenever possible.

I urge my colleagues to join me in voting "yes" for this sensible and necessary amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FARR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FARR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 162, not voting 19, as follows:

[Roll No. 717]

AYES—251

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker (CA)
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Burr
Canady
Castle
Chrysler
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cunningham
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Heineman
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hoyer
Hutchinson
Inglis
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Kleczka
Klink
Klug
LaFalce
LaHood
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Neal
Neumann
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Reed
Regula
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Souder
Spratt
Stark
Stokes
Studds
Stupak
Talent
Tanner
Taylor (NC)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Woolsey
Wyden
Yates
Young (FL)
Zimmer

NOES—162

Allard
Armey
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bevill
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cubin
Danner
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Fields (TX)
Fowler
Frank (MA)
Franks (CT)
Frisa
Funderburk
Gallegly
Gekas
Geren
Goodling
Graham
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hoke
Hostettler
Houghton
Hunter
Hyde
Istook
Jacobs
Johnson, Sam
Jones
Kim
King
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Molinari
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Pickett
Pombo
Quillen
Radanovich
Rangel
Riggs
Roberts
Rogers
Rohrabacher
Royce
Saxton
Schaefer
Schiff
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Tate
Tauzin
Taylor (MS)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Vucanovich
Waldholtz
Watts (OK)
Weldon (FL)
Wicker
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—19

Archer
Barton
Bateman
Cardin
Chapman
Clay
Collins (MI)
Fields (LA)
Gibbons
Jefferson
Mfume
Oberstar
Peterson (MN)
Pomeroy
Scarborough
Tejeda
Tucker
Volkmer
Wynn

☐ 1133

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Scarborough against.

Mr. SAM JOHNSON of Texas and Mrs. FOWLER changed their vote from "aye" to "no."

Messrs. BALDACCI, HEFLEY, TALENT, WELLER, GUNDERSON, and ENGLISH of Pennsylvania changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Speaker, I regret that I was not present for Rollcall No. 717, the Farr fish habitat amendment. At the time of the vote, I was meeting with Gen. Ronald Fogelman, Chief of Staff for the U.S. Air Force, at the Pentagon regarding the Minot Air Force Base. Had I been present, I would have voted "yes."

The CHAIRMAN pro tempore (Mr. BUNNING of Kentucky). Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. METCALF

Mr. METCALF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. METCALF: Page 48, line 4, after "time" insert ", in accordance with the terms of the plan and regulations issued by the Secretary,".

Page 50, strike lines 1 through 6 and insert the following:

"(5)(A) An individual quota system established for a fishery may be limited or terminated at any time if necessary for the conservation and management of the fishery, by—

"(i) the Council which has authority over the fishery for which the system is established, through a fishery management plan or amendment; or

"(ii) the Secretary, in the case of any individual quota system established by a fishery management plan developed by the Secretary.

"(B) This paragraph does not diminish the authority of the Secretary under any other provision of this Act.

Page 55, beginning at line 12, strike "1997, submit recommendations—" and insert "1997—".

Page 55, line 14, after "(i)" insert "submit comments".

Page 55, line 18, after "(ii)" insert "submit recommendations".

Page 47, line 11, strike ", and" and insert a semicolon.

Page 47, line 12, insert "(ii)" before the text appearing on that line, and move the left margin of that line 2 ems to the right.

Page 47, line 14, strike "(ii)" and insert "(iii)".

Page 47, line 17, strike "(iii)" and insert "(iv)".

Page 50, line 7, strike "(6)" and insert "(7)".

Page 50, after line 6, insert the following new paragraph:

"(6) This subsection does not require a Council or the Secretary to amend a fishery management plan in order to comply with paragraph (1)(D)(i) or (ii) with respect to an individual quota system, if the plan (or an amendment to the plan) established the individual quota system before the date of enactment of the Fishery Conservation and Management Amendments of 1995.

Mr. METCALF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. METCALF. Mr. Chairman, this amendment is a narrow one. It does not address the issue of how the new guidelines will affect future individual programs. The amendment addresses only existing individual programs, and it addresses them in only one way. It provides that the existing programs would not be required to be revised in order to minimize the effects on local coastal communities.

In considering the amendment, it is also important to know that existing law already requires that the interests of coastal communities be considered in the development of individual quota systems. The development of those systems also must take into consideration an array of other interests.

The individual fishing quota plan for the halibut and sablefish fisheries of the Bering Sea and Gulf of Alaska, in particular, took 10 long years to be developed. Hundreds of members of the public, including those from local coastal communities, gave testimony before the North Pacific Fishery Management Council in scores of meetings held in many Alaskan towns and in Seattle, WA.

The plan was subjected to close analysis in an environmental impact statement and regulatory flexibility analysis, which were reviewed by the public, the Council, and the Department of Commerce. The Secretary of Commerce approved the program after full opportunity for public comment on the plan and the regulations to implement it. The formal administrative record for the program is 10 feet high.

While features of the plan should be more than sufficient to comply with the new guideline requiring that impacts on communities be minimized, some Commerce Department official or Federal judge might decide otherwise. That could result in an elaborate and costly reconsideration of the program. At the end of the revision process, the public and the fisheries managers could find themselves confronted with another stack of administrative papers 10 feet high.

If the North Pacific Council and the Secretary wish to revisit the issue of coastal communities, that is their prerogative under prevailing law. My amendment simply makes it clear that the system should not be required to be revised due to a possible interpretation of a single new guideline in H.R. 39.

I urge my colleagues to agree to my amendment.

Ms. DUNN of Washington. Mr. Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentlewoman from Washington.

Ms. DUNN of Washington. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Washington [Mr. METCALF]. This is a fairness amendment. I ask my colleagues to support it.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the gentleman's amendment. The gentleman has been working very diligently and hard with me to try to resolve our differences. It was never my intention that the new individual quota system guidelines developed and incorporated in this bill cause a major disruption to already existing ITQ's. I mentioned that to the gentleman from California [Mr. MILLER] and the gentleman from Massachusetts [Mr. STUDDS] a moment ago.

The gentleman is well aware of my general opposition to ITQ's, but I also stated I do not want Congress to overturn any plans implemented already or taken advantage of by those people that follow the present law.

This amendment clarifies the authority of the Secretary of Commerce in regard to amending or limiting fishery management plans. It also clarifies that this legislation will nct cause a reallocation of already issued quota shares. It does, however, allow the Councils to make revisions to existing ITQ plans, which is consistent with the Council's current authority.

Mr. Chairman, I urge the adoption of the amendment.

Mr. STUDDS. Mr. Chairman, I rise in brief, muffled opposition to the amendment.

Mr. Chairman, in the past we have always required existing fishery management plans to be amended to comply with any new requirements of the act. I think to start exempting plans or particular aspects of plans from new requirements, as this amendment would do, would set an unfortunate precedent that I myself cannot support, although I recognize the realities of the situation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington [Mr. METCALF].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. UNDERWOOD

Mr. UNDERWOOD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UNDERWOOD: Designate the existing text as title I, and at the end of the bill add the following new title:

TITLE II—INSULAR AREAS

SEC. 201. SHORT TITLE.

This title may be cited as the "Pacific Insular Areas Fisheries Empowerment Act of 1995".

SEC. 202. FINDINGS AND POLICY.

(a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is further amended by adding at the end the following:

"(10) The Pacific Insular Areas of the United States contain a unique historical, cultural, legal, political, and geographic circumstance, including the importance of fisheries resources to their economic growth.".

(b) POLICY.—Section 2(c) (16 U.S.C. 1801) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "' and"; and

(3) by adding at the end the following new paragraph:

"(7) to assure that the fishery resources adjacent to Pacific Insular Areas, including those within the exclusive economic zone of such areas and any Continental Shelf fishery resources of such areas, be explored, exploited, conserved, and managed for the benefit of the people of each such areas.".

SEC. 203. DEFINITIONS.

Section 3 (16 U.S.C. 1802), as amended by section 4 of this Act, is further amended by redesignating paragraphs (39) and (40) as paragraphs (40) and (41), respectively, and by inserting after paragraph (38) the following new paragraph:

"(39) The term 'Pacific Insular Area' means American Samoa, Guam, or the Northern Mariana Islands.".

SEC. 204. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY FOR FOREIGN FISHING UNDER A PACIFIC INSULAR AREA AGREEMENT.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)), as amended by title I of this Act, is further amended by inserting "or (e)" after "section 204(d)".

(b) AUTHORITY TO ENTER INTO A PACIFIC INSULAR AREAS AGREEMENT.—Section 202(c)(2) (16 U.S.C. 1822(c)(2)) is amended by inserting before the period at the end the following: "or section 204(e)".

(c) PACIFIC INSULAR AREA AGREEMENTS.—Section 204 (26 U.S.C. 1824), as amended by section 5 of this Act, is further amended by adding at the end the following:

"(e) PACIFIC INSULAR AREAS.—After consultation with or at the request of the Governor of a Pacific Insular Area, the Secretary of State, in concurrence with the Secretary and the appropriate Council, may negotiate and enter into a Pacific Insular Area Fishery Agreement (in this subsection referred to as a 'PIAFA') to authorize foreign fishing within the exclusive economic zone adjacent to such Pacific Insular Area or for Continental Shelf fishery resources beyond such zone.

"(2)(A) Fees pursuant to a PIAFA shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section.

"(B) The Secretary of Commerce, in consultation with the Governor of the Pacific Island Insular Area, may establish, by regulation, the level of fees which may be charged pursuant to a PIAFA. The amount of fees may exceed administrative costs and shall be reasonable, fair, and equitable to all participants in the fisheries.

"(C) amounts received by the United States as fees under this paragraph shall be deposited in the general fund of the Treasury and shall be used, as provided in appropriations Act, for fishery conservation and management purposes in waters adjacent to the Pacific Insular Area with respect to which the fees are paid.

"(3) A PIAFA shall become effective according to the procedures of section 203.

"(4) The Secretary of State may not negotiate a PIAFA with a country that is in violation of a governing international fishery agreement in effect under this Act.

"(5) This subsection shall not be considered to supersede any governing international fishery agreement in effect under this Act.".

SEC. 205. ENFORCEMENT.

Section 311 (16 U.S.C. 1861) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT IN THE INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas shall, to the greatest extent practicable, support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.".

SEC. 206. CONFORMING AMENDMENTS.

(a) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "204 (b) or (c)" and inserting "204 (b), (c), or (e)".

(b) Section 311(g)(1) (16 U.S.C. 1861(g)(1)) is amended by inserting after the citation "201 (b) or (c)" the words "or section 204(d)".

Mr. UNDERWOOD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, my amendment would allow the U.S. Territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to responsibly develop an important natural resource and to receive the benefits of that development. I want to reiterate the policy statement in section 202(b) of my amendment, that it is Congress' intent to:

> assure that the fishery resources adjacent to Pacific Insular Areas, including within the exclusive economic zone of such areas and any Continental Shelf fishery resources of such areas, be explored, exploited, conserved, and managed for the benefit of the people of each such areas.

My amendment authorizes fisheries development in the exclusive economic zone adjacent to the Pacific territories through Pacific Insular Area Fisheries Agreements. These agreements would be entered into by the Secretary of State in consultation with the Secretary of Commerce, the Western Pacific Regional Fishery Management Council, and the Governor of the affected U.S. territory. Under my amendment, permits and licensing fees levied on foreign vessels would be used by the participating U.S. territory for fisheries conservation and management purposes in the waters adjacent to the affected insular area. It is also our intent that the schedule of fees, and the portion of fees to be received by each participating territory when there is an overlap of interests, would be developed in joint consultation by the Governors of Guam, American Samoa, the Northern Mariana Islands, and the Western Pacific Regional Fishery Management Council.

Under current law, any economic benefit from licensing fishing vessels would not accrue directly to the territories. Violations of the exclusive economic zone surrounding the territories by foreign fishing vessels are common. In fact, in the same week the House Committee on Resources considered the Magnuson Act, two Japanese vessels were seized by the U.S. Coast Guard in waters adjacent to Guam for illegal fishing.

Mr. Chairman, I should also point out that the Magnuson Act does not allow displacement of domestic fishermen by foreign fishermen.

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Foreign vessels would be licensed only for the portion of the allowable catch that is not harvested by domestic fishermen. An important benefit of my amendment would be the increased incentive for foreign fleets to self-regulate foreign fishing in these areas.

Those licensed to fish in our waters would have an interest in reporting those vessels that are fishing illegally. A database would be developed that would help us gauge the true potential of our fishing resources and this information would help us to develop a domestic fishing industry in the Pacific territories.

My amendment is modeled on draft legislation developed by the joint Federal-insular area fisheries working group and endorsed by the Western Pacific Regional Fishery Management Council. Participating in that working group were territorial governors and the Departments of Interior, Commerce, and State.

Mr. Chairman, this amendment is the product of the collaborative efforts of the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources, the gentleman from Massachusetts [Mr. STUDDS], and their staffs. In addition, the Western Pacific Regional Fishery Management Council worked with us and supported our efforts.

The people of the Pacific have responsibly managed their resources for thousands of years. This amendment gives us a valuable tool to develop our fishing resources and contribute to the development of the island economies of the Pacific insular areas.

Mr. Chairman, I again thank the gentleman from Alaska [Mr. YOUNG], the gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS] for their interest and support of Pacific territories and I urge our colleagues to vote in favor of this amendment.

But as my experience in the crafting of this amendment, and in fishing in the past, has borne out, we do not catch everything we want, and sometimes we get things we do not want, but we are happy we went fishing anyway.

Mr. Chairman, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the last word. I rise today in strong support of the Underwood amendment, the Pacific Insular Areas Fisheries Empowerment Act of 1995.

Mr. Chairman, the U.S. insular areas have been under fire lately. Early this year, the delegates from the territories and the District of Columbia had their symbolic votes on the floor of the House taken away. Included in the future agenda is a plan to take away the tax coverovers currently in existence, and the possessions tax credit is on the chopping block as part of the budget reconciliation package in both the House and Senate.

It is clearly time for the leaders in the insular areas to be more resourceful in attracting new business and new forms of revenue. The Pacific Insular Areas Fisheries Empowerment Act of 1995 is one step in that direction.

As has already been stated, in coordination with the U.S. Government, this provision will enable the Pacific U.S. insular areas to charge fees to foreign fishing vessels which wish to fish in the exclusive economic zones surrounding these insular areas.

The U.S. Government does not incur any additional expense because of this change in the law, but the insular areas benefit through increased revenue, and the anticipated assistance of permit holders in reporting violations of fishing rights in the local EEZ's. Any revenues collected must be used for fishery conservation and management purposes in waters adjacent to the insular areas. This is a true win-win scenario for all involved.

It is my understanding that the administration supports this provision.

I want to thank Congressman UNDERWOOD for taking the lead on this issue and crafting legislative language acceptable to the leadership in the insular areas, the majority in the House, and the administration. I also want to thank Chairman YOUNG, Chairman SAXTON, and Congressmen MILLER and STUDDS, the senior Democratic members on the relevant committee and subcommittee for their support of this provision.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the two gentlemen who have been speaking previously. We have worked very hard on this legislation. Frankly, I am pleased with the efforts that have been put forth.

Mr. Chairman, I believe it is important to get these Pacific insular areas involved in conservation and management of the fisheries resources off of their coasts.

Foreign vessels have been reported to be fishing illegally in the 200-mile Exclusive Economic Zone off the coast of these insular areas and they are part of our great United States. Frankly, when the gentleman from Guam [Mr. UNDERWOOD] walked in a while ago, I asked the gentleman to vote with me, and forgot he had lost his vote; both of the gentlemen. This is one time that I would frankly like to have the gentlemen's votes.

Mr. Chairman, I again support this amendment as it has been proposed and compliment the two gentlemen.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would like to join in commending the gentleman from Guam [Mr. UNDERWOOD]. This is important to the insular areas and I am delighted that it could be worked out.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I urge the passage of the amendment.

The Chairman pro tempore (Mr. BUNNING). The question is on the amendment offered by the gentleman from Guam [Mr. UNDERWOOD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK of Massachusetts: Page 50, line 17, strike "(c) FEES." and all that follows through Page 52, line 18, and renumber paragraphs accordingly.

Mr. FRANK of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, this amendment becomes, I think, even more logical with the adoption of the amendment of the gentleman from California [Mr. MILLER]. What we have here is the establishment of the individual quota system. It has been the individual transferable quota, but I guess it is no longer that, thanks to the gentleman from California.

Mr. Chairman, what this does is mandate in the bill before us that the Secretary impose fees on the fishermen who receive these individual quotas, not simply to recover the cost to the Government of administering it, but as a revenue raiser.

Now, the law, without this bill, gives the authorities the ability to recover any costs. So, fees imposed for the purposes of cost recovery will not be affected by my amendment.

The policy question is: Should we go to the fishermen who are receiving these individual quotas and make them pay revenues that will help support other parts of the Government?

It is true that from one perspective the individual quotas are a benefit. They are a benefit compared to the people that do not have individual quotas. But they are a reflection of the restrictions we have imposed for conservation purposes. In other words, it is looking at only half the picture to say, "Oh, there are these people and they get the quota and they can fish and other people cannot."

Mr. Chairman, I think we all agree that the people involved would rather not have the quotas. They would rather there not be such a system. They would rather simply be able to fish. The individual quotas come in as part of a very restrictive scheme. Restrictions are required, we can debate exactly how much, because of conservation.

But what we have is this situation: Fishermen today, compared to some time ago, are being significantly restricted in what they can catch. That is mandated by the needs of conservation. To logically organize this restrictive system, we are giving individual quotas. The question is, should these fishermen who represent an industry that is already being hit by economic problems, an industry that is already being put upon, should they then, as they are being told they can fish less, have to pay more? Should they pay an additional tax?

So, Mr. Chairman, saying to people that have individual quotas, "You are lucky," remember, these are people who would rather not have the quota. Telling them they are lucky is like the people who told George Orwell, who fought in the Spanish Civil War and was shot in the neck and when he got out of the hospital some people said to him, "You are a lucky person, because you were shot in the neck and recovered." And he said, "Well, I have to think that all the people who were never shot in the neck in the first place are even luckier than I am." To tell the people who have individual quotas that they are lucky, I think that they would say, "You know who is even luckier? The people who are allowed to go about their businesses and their lines of work without these restrictions."

Individual quotas are not a benefit. They are an effort to make a restrictive regime more manageable. To go to the people who have received this restrictive regime, the people in the fishing industry, and say to them as part of what they are getting in terms of restrictions, we are going to make them pay for the cost of administering their system, not simply what it cost the Government, this goes beyond recovery.

But we are going to make some money off the fact of their restrictions. We are going to impose this restrictive regime which individual quota is a part of on them, and as part of that we are going to make a profit. We, the Government, because we are going to mandate that a fee be charged.

Mr. Chairman, in the prior situation, if they could sell the quota, then I think they should have to make a percentage payment to the Government. I was going to have my amendment reflect that and if we still had the quota as a salable item, like taxi medallions, yes, the Government should get a share of that. But thanks to the gentleman from California [Mr. MILLER], the quotas are not transferable.

So, Mr. Chairman, what we are talking about is in this restrictive regime, we are saying to fishermen that they cannot fish as much as they used to. They are under restrictions. But in consequence of our not driving them totally out of business, in recognition of the fact that we are going to let them fish some, although less than they used to, we are going to make them pay a fee not simply to administer this, but for the Government to make a profit off of it.

Mr. Chairman, I think that is inappropriate and, therefore, my amendment leaves everything else in this bill in place, but it says to the fisherman who was not driven out of business entirely, but instead restricted, he will not be required to pay a fee over and above what it costs us to administer this. We are not going to make any money off of him.

Mr. Chairman, I hope my amendment is adopted.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly but strongly rise in opposition to the amendment of the gentleman from Massachusetts [Mr. FRANK]. No. 1, this is relatively a new amendment. We just received it today.

No. 2, the amendment would strike in this language the Secretary's ability to charge fees for the management and implementation and enforcement costs of the individual transferral quota system. And for those Members that might be watching this program in their offices, the IDQ's or IFQ's really are a license restriction, like a liquor license. Merchants cannot sell liquor within a certain area or in competition within another area. This gives an exclusive right of a public resource to a fisherman; a boat, a captain, or a fisherman.

All we are asking in this is a minimal fee to help pay the costs of applying this application of IFQ's and IDQ's to these individuals.

Now, as far as saying they are going to catch less, that is not necessarily true. In fact, the quota for the catch is now dispersed among those that got the IDQ's and not the overall general public. In fact, they will probably catch more fish instead of less fish.

But what we are saying is if this costs the Federal Government money to give exclusive rights to that public resource, then that person who receives those exclusive rights ought to be able to, and willing to. By the way, in the committee hearings, most—I would say

99 percent—of those that are affected by the IDQ's, supported the concept of paying a minimal fee to implement the act. I want to stress that.

Mr. Chairman, this gives the chance for the Government to recover some of the costs of implementing the IDQ's and IFQ's. It also, in fact, is supported by those that get and have been issued these quotas.

May I say it is only for the quotas that have been issued today and not retroactive and not prospectively in the future. I am going to suggest that if we were to take this away, if my colleagues believe in a free lunch, then they would vote for this amendment. If they believe, as those people receiving the IFQ's and IDQ's, that they ought to participate in the program and pay for the cost, they will defeat the amendment.

Mr. FRANK Of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I may have misunderstood it, but as I read the language, the existing statute, which I had understood was not being amended, gives the Secretary the right to recover the cost of administering the system. And as I read this, it seemed that the fee being mandated here could go beyond that, that that linkage was being weakened.

If the understanding is that they are not to charge any more than the cost of administering, that is one thing. But it did seem to me that 4 percent of the value of the fish, that would be a pretty expensive permitting process.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, in determining the amount of fee under this paragraph, the Secretary shall ensure the amount is commensurate with the cost of managing the fisheries with respect to the way the fee is collected, including reasonable cost for salaries and data analysis and other costs directly related to fishery management and enforcement.

Mr. Chairman, I am, frankly, not a lawyer, and the gentleman from Massachusetts is, but if there was an exorbitant amount of fee and the money was given to the Treasury, the Secretary would be open to a lawsuit.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman would continue to yield, there is a difference. The existing law says the level of fees charged under this subsection shall not exceed the administrative fees in covering the permits. The language the gentleman just read allows the fee on the individual quota to include other costs directly related to fishery management and enforcement far beyond whatever you get for the license.

Mr. YOUNG of Alaska. Mr. Chairman, again reclaiming my time, I do not believe it does that. What we have attempted to do, and may I stress the fact again that this person the IDQ has been given to by the council, and all of this helps pay for the cost of the administration of that program. That is all it does. And no more money goes to the general Treasury and there is no more added cost.

Mr. Chairman, we are not going to balance the deficit on this. I truthfully think that if we are going to talk on this floor about mining royalties, about below-cost timber sales, about all the other good things, then we ought to be considering if we give someone an exclusive right. Now remember, I am not talking about all the fishing fleet. I am talking about the exclusive right, exclusive to catch that fish. He excludes everyone else; then he has told us that he would be willing to pay a share to manage this program.

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I have heard no objection from this. This is why I am surprised at the amendment, frankly.

In the hearings we heard none. I can ask the gentleman from Massachusetts, the gentleman from California, the gentleman from Connecticut [Mr. GEJDENSON]—whom I am reluctant to ask anything—but if, in reality, did they hear at any time, and I yield to the gentleman from Connecticut, being that I mentioned his name, I will yield to the gentleman from Connecticut.

Mr. GEJDENSON. I was almost about to agree with the gentleman. But I may still agree with you. I would say, no matter what the issue at hand is, though, on the fisheries, the magnitude of how much the taxpayers get ripped off in mining and in timber still outweighs anything involved in this issue; it is wrong to even bring it in.

Mr. YOUNG of Alaska. Reclaiming my time, I do not want to hear speech A.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I will be nicer. Maybe the difference is not as great as we think.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(At the request of Mr. FRANK of Massachusetts, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. If the gentleman will yield further, I have heard complaints. The complaints have been from people who say, frankly, at least in my area, these are part of a restrictive regime which is mandated by conservation, and they do not want to have to pay for more than the cost of administering the system, and I would say to the gentleman, as I read the language on 51 and 52, there is a difference in the current law. If he tells me that is not all that intentional, maybe we can narrow this. That is, if we are talking about a fee that is to cover essentially the cost of the individual quota system, that is one thing. If the gentleman is saying to me it was not intended, this would go to broader enforcement, because it does say fishery management enforcement—but that it would not deal with matters—you could not charge a fee for matters unrelated to the administration of the quota system; that includes people overfishing.

Mr. YOUNG of Alaska. Reclaiming my time, this goes just for not only issuing the permit but enforcing the permit and all the paperwork. Just one set of IDQ's costs the Government 3 million taxpayer dollars. I never heard anybody object to participating—we are talking about a very small fee here—participating because they have an exclusive right; and, you know, I am still a little bit befuddled here by where this pressure is coming from to eliminate the Secretary's right to collect a fee.

Mr. FRANK of Massachusetts. I will explain it. It came from people who read it, as I read it, and I did not read that language as restrictively as the gentleman has interpreted it, and with the understanding that it is not intended to be more than cost recovery for the actual administration and enforcement of this system, I would withdraw the amendment if I got unanimous consent and ask the gentleman to be able to work with him if we got to conference. I would urge that.

Mr. YOUNG of Alaska. We will continue to work with the gentleman, because that is intent of the amendment.

Mr. FRANK of Massachusetts. If the gentleman would yield further, I would ask if we could agree we could try to work out language to make it exactly clear so there is no ambiguity and other people would not get the same misimpression I have gotten. We would not have a problem.

Mr. YOUNG of Alaska. We will work with the gentleman as I have always worked with the gentleman.

Mr. FRANK of Massachusetts. Yes, the gentleman has.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMENDMENT OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILCHREST: Page 4, strike line 19 and all that follows through page 5, line 14, and insert the following:

(4) by amending paragraph (21) to read as follows:

"(21) The term 'optimum', when used in reference to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by an relevant, social, economic, or ecological factor, and

"(C) in the case of an overfished fishery resource, provides for rebuilding of the resource to a level consistent with providing the maximum sustainable yield from the resource.";

Mr. GILCHREST (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GILCHREST. Mr. Chairman, as children, many of us heard the story of the goose that laid the golden egg and the folly of the man who killed the goose to eat it. The same principle applies to marine fisheries.

Every year, each fishery provides us with a harvest of fish for our consumption and recreation. But each species must maintain a certain population in order to reproduce and maintain the stock, and if we overfish the stock, we impair the ability of the resource to renew itself.

The collapse of the New England fishery is an example of what happens when we exceed the maximum sustainable yield of a fishery. They deep fry the goose that laid the golden egg.

Our constituents have had to pay millions of dollars to bail out fishermen who lost their livelihood as a result of the failure to manage the resource. Current law allows fishery management councils to allow a stock to be overfished for short-term social or economic reasons. This was one of the main contributors to the collapse of the New England ground fishery.

The bill before us, while good in many ways, does not change the tragic flaw in the Magnuson Act, leaving open the possibility other fisheries will collapse in the future, requiring more bailouts. The principle is simple: In order for a fish stock to replenish itself, a certain base population must be maintained, and in order to maintain that population, a cap must be placed on the number of fish which can be caught. This limit is called the maximum sustainable yield for the fishery.

The way this works is similar to principal and interest in a savings account. As long as we only spend the interest in our savings account, the principal will perpetually replace that interest for us. If we spend down the principal investment, then we impede our ability to get future investment and future interest.

The amendment essentially says we can only catch that portion of the fish that represents interest. This is called the maximum sustainable yield. Without touching the principal, fish, that being the critical population necessary to replenish the stock year after year, we will continue to have fish.

I should emphasize this is not a new concept. We have been calculating maximum sustainable yield for fisheries for many years. The unfortunate fact, however, is that many fishery management councils simply choose to exceed MSY to serve short-term economic interests. I realize most people believe this is an environmental amendment, and I agree to a certain extent it is. Even if overfishing had no environmental impact at all, economics would still argue for this amendment.

Overfishing leads to unemployment, shortages of certain seafood and, in many cases, taxpayer bailouts for fishermen who lose their jobs because there are no more fish.

You do not have to care about the environment to oppose mismanagement of a publicly owned resource.

Some opponents of this amendment will claim that it will prevent fishery management councils from allowing overfishing of so-called trash fish that threaten populations of commercial fish. This argument is its own species of trash fish, and that is, it is a red herring. It is true two fisheries have called for fishing down two species, the arrowtooth flounder and Atlantic mackerel. Both of these species could be fished at several times their current rate without violating the provisions of this amendment.

This amendment will not prevent fisheries from reducing populations of trash fish which threaten commercial fish populations.

We have two choices here: We can manage and preserve the resource, or we can exploit the resource and lose it. I want to call your attention, if the camera can just look at this so people can see this back in their offices, take a look at this chart. In 1900, the number of fishermen compared to the number of fish. Now, 1995, look at the number of fish compared to the number of fishermen, and include the following, there are sonar finders on each one of these ships, there is hydraulic gear, spotter planes, there is onboard processing equipment, there are satellite communications systems. We went in 1900 from this to 1995 to this.

There has to be some sense of a management tool to preserve the stock so we can preserve the fisheries.

Now, there is a bright spot in all of this. There is a bright spot. In the mid-Atlantic region, striped bass or rockfish in 1985 was commercially extinct. When we injected some reasoned management in this to prevent overfishing, 1995, with some sense in the management, the rockfish, striped bass, are fully recovered. This would not have happened if we did not inject some science to prevent overfishing.

If we want to preserve the fishing industry, I encourage you to adopt my amendment.

Ms. FURSE. Mr. Chairman, I rise in strong support of the Gilchrest amendment. It is a commonsense amendment. It has been endorsed by the Pacific Coast Federation of Fishermen's Associations. That is the Nation's largest organization of commercial fishermen and women who fish the west coast.

I really want to compliment my colleague for introducing this very, very sensible amendment, and I urge that my colleagues support it.

Mr. Chairman, I rise in strong support of the Gilchrest amendment.

This is a commonsense amendment.

It does not take a rocket scientist to figure out that if we catch more fish than are produced in a given year then we will decrease that fish population. And if we continue to do this year after year, we may deplete that species to levels so low that we cannot harvest them at all. If there is no fish to catch, then the fishermen and women who rely on those fish for their livelihood cannot make a living, cannot pay their bills, and cannot feed their families.

If we want to prevent this overfishing that leads to economic tragedy for our fishing communities, then we need to harvest within the biological limits of the fish population. It is that simple.

The Gilchrest amendment would ensure the long-term sustainability of the U.S. fishing industry by changing how annual fish quotas are calculated so that they never exceed the biological limits of the fish population being harvested. In this way we can prevent overfishing before it happens and causes economic disruption to fishing communities.

This amendment has been endorsed by the Pacific Coast Federation of Fishermen's Associations, which is the Nation's largest organization of commercial fishermen and women on the west coast.

It is not often that an industry comes to Congress and asks for stronger regulations, yet fishermen and women are calling upon us to pass this amendment to protect the long-term viability of their livelihood. Who are we to deny this request to assist them in better managing their economically vital industry?

I strongly urge my colleagues to support this well thought out and commonsense amendment.

Mr. GILCHREST. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Maryland.

Mr. GILCHREST. I thank the gentlewoman for yielding.

What I would like to do is just give a demonstration of what overfishing is. If you look at this chart up here—sustainable fishing—you can only take what the fish can make. I am going to show you what a sustainable fishing management plan does.

If you look at the green fish up here, this is considered that catch. If you look down here, you see breeding and juveniles. These are the fish that actually have the potential to reproduce themselves. Sometimes fish have to be 9 years old before they can reproduce. Sometimes they have to be older than that.

A sustainable fishery plan works as follows. Just watch this. You take the catch. You look down here, those 10 fish can be replaced with the number of spawning fish at the bottom. This is like being back in a classroom. Now they are replaced. What we can do down here, there are still a number of fish that can grow and respawn. That is a fishery management plan that brought the rockfish or the striped bass back in the mid-Atlantic States.

I am going to show you what happens if you do not have a management plan. You exceed maximum sustainable yield. You take more of the spawning in the catch than can be replaced.

When you do down that far, the only thing that can be replaced are now three. The next year, since fishermen are used to catching what they have caught the previous year, you are going to go further down into the breeding population, into the juvenile population, and what you have is a fishery that collapses. We have seen it in New England. We have seen in the Gulf of Mexico. We have seen it around the coastal areas of the United States.

The United States has more coastal fisheries waters than any country in the entire world, but unfortunately, because occasionally there has been mismanagement, we are a net importer of fish. If we want to sustain the fishing industry, which is worth billions of dollars, if we want to sustain fishermen who need to support their families, I will give you an example: In 1986, in the Gulf of Mexico, the average wage for a fisherman was $39,000. Now, 1995, the average wage for a fisherman in the Gulf of Mexico is $29,000. That is because they expend much more time trying to catch fewer fish.

I encourage you, let us put some sense back into the management of one of the greatest laws this country has had, the Magnuson Act. I urge we include some science, we include some data to relieve the burden of the management councils from making these decisions. They receive this information from the National Marine Fishery Service, from the scientific statistical committee, from an advisory panel. They get this information. Let them use this information. They can allocate the amount of time you will be out there fishing. They can allocate the number of fishermen. They can allocate the months of the year that you do it.

Unless we manage the fisheries wisely, we are going to lose the fisheries in this country.

I urge adoption of my amendment.

Ms. FURSE. Reclaiming my time, I just want to thank the gentleman for certainly the most colorful and interesting dissertation on reproduction I have seen on the House floor.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

I am hard-pressed to compete with show-and-tell on television. That is one of the things that is wrong with our Congress today. It was well done.

But there is more to legislation than a show-and-tell program for those that promote one side of the issue. This issue was voted for in committee and thoroughly defeated. No one spoke in favor of this in the committee. Every council, the North Pacific, Pacific council, mid-Atlantic council, South Atlantic council, and the gulf council spoke against this amendment, and yet this body and the audiences exposed to a very good presentation, but it is not scientific. The issuer of setting optimum yield [OY], maximum sustainable yield, [MYSY], is a complicated one that fisheries management has been arguing about for years. It is not an easy issue. It is just not a little display with red fish and green fish and little fish and big fish.

If you believe in science, the scientists oppose this amendment. Yes, they do. There are some conservation groups or so-called preservation groups or antifishing groups that do support it.

□ 1215

Unfortunately, the thing that bothers me the most is that under this legislation, this amendment, the council will now be required to address those stocks which are overfished and institute a rebuilding of those stocks, including saber tooth flounder, which kill everything else that flows and grows in the ocean. And they may be God's creatures, but there are other creatures out there that in fact are the prey of the saber tooth flounder. And yet we are in the business of saying we are going to have sustained yield for all those fish that spawn and all those fish that we consume and all those fish that support the fishermen in the communities. We are also asking the council to manage them well enough where they have a sustainable yield, but under this amendment those which prey upon that other than the fish themselves, which in reality would be devouring those little fishes at the bottom of the scale.

Now, those that do not believe that man should be involved in this management program, I would vote for the amendment, too; if we want to exclude everybody out of it, including the fishermen, then I would vote for the amendment, too.

But I can suggest respectfully we have made great progress with the councils today. We are managing our fish much better. By the way, this is relatively a new law in the scope of time, 1976. And why did we pass this law? Because the foreign fleets literally were raping our seas and our fish and leaving nothing back but the carnage that they created.

This Congress finally decided we should Americanize our fleet. I tell you, we did make some mistakes, because we were unprepared to manage it. But every council, every region, the National Fishery Institute, and all the scientists that I know directly involved with this, oppose this amendment.

Again, I cannot compete with someone who is a professor who presents a very nice and simple explanation. But if you believe in the committee process and the testimony before the committees, one of my biggest disappointments in this body has been the lack of listening to those who testify and allowing amendments to come to this floor with really no backing or justification for them, other than to be interest-special to be presented to this Congress; and because it has the pizazz, people vote for it. I understand that. We just went through one of those votes. It is easy. But the credibility of the legislation as we write a law is diminished when this type of event occurs.

Again, let me stress: every council, the National Marines Institute, Fishery Institute, everybody involved directly opposes this amendment.

Now, if the committee process means nothing, vote for the gentleman from Maryland's amendment. If you believe man should not be involved with the management, vote for the gentleman from Maryland's amendment, and everybody will be happy. But if you believe in the process of science, the process of the councils, and the committee process, you will vote no on this amendment.

The gentleman is well intended; his intentions are honorable. The gentleman made a great presentation, and I compliment him. But this is a bad amendment and it should be rejected.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, again, I want to compliment the gentleman from Alaska, Chairman YOUNG, for bringing this measure to the floor, but I also want to talk for a moment just about why it is essential that we adopt amendments like this and the one we just adopted.

Since 1976, the United States has had exclusive jurisdiction over the, out to 200 miles, what we call the exclusive economic zone. That means that all of the activities, whether they be mining or fishing, sports or commercial, are regulated within that zone.

We are the only elected body that has responsibility for that, because all of that property is under public ownership. I think that the big debate on this whole bill is how we move forward in the 21st century being able to sustain a very vital activity which is labor intensive, and for every coastal community in the United States that has been historically the reason for that community existing, and that is its offshore fisheries.

We have seen, and, as I said before, I represent the Monterey Bay area, which was once the sardine capital of the world. We lost all that. The canneries shut down. We had massive unemployment. The fishermen stopped fishing. It was a really depressed area.

Why did it happen? It was because nobody took account of what was in balance, of trying to keep the fisheries in balance. What this amendment is all about is it essentially is a statement by those of us, Members of the U.S. Congress, who have taken the oath of office to manage these resources in a practical, reasonable manner, so that they are indeed this word that we use all the time now, sustainable, so that future generations can go out there and fish as well.

We have to manage it. The debate is on how you manage it. We have given that responsibility to these fishery councils. Do they manage every kind of fishery in the ocean? No. Do they get into certain commercial fisheries? Yes. Why do we have those councils? Because we need to have some local forum, where the debate about that particular fishery can be held and rules can be set. The season can be set, limited entry, if that is the issue, can be set, in a way in which we have been able to delegate the responsibility for looking at that fishery.

What these amendments are all about is giving that council a little bit more authority, saying look beyond just the fishery at hand, the ability for us to make money on a catch this year. Let us look at trying to sustain this over a period of time; and, indeed, if you are disturbing the hatchery, the very thing that is providing the commercial catch, you are going to wipe out that fishery.

As the gentleman from Maryland [Mr. GILCHREST] said, our Nation has jurisdiction over more ocean territory than any other country in the world, and is now a net importer of fish because we have lost so many of our fisheries. This importing of fish is essentially creating additional Federal trade debt.

So these amendments I think are very responsible amendments. We are the only ones in the United States, the only elected officials, that can deal with this issue, because we have exclusive jurisdiction over the economic zone of the oceans out to 200 miles, and these councils are wisely, as this bill states, the responsibility for managing those zones for a particular type of fishery.

I think if these councils have enough responsibility and enough jurisdiction to do it wisely, indeed, we can sustain these fisheries for generations to come. The fishermen that are there today and the fisherwomen there today, their generations and their grandchildren can go into that industry.

If we do not protect these fisheries, they are going to be a one-time wipe out and nobody will be employed, and the processors will be shut down, the truckers will be shut down, and the commercial activity of fishing will be lost. That would be senseless, for the U.S. Congress until 1995 to wipe out one of America's most effective and historic industries.

So I urge an "aye" vote on this amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not a simple question. I represent that area of the country probably most sadly impacted by the failure of inability of a council to wisely and effectively manage a resource, in the case of the New England ground fishery. We have seen, to our great pain, what happens when the loophole provided in the current statute allowing maximum yield to be exceeded for economic and social reasons is taken advantage of. It is something I think we need to think carefully about.

First of all, I want to thank the gentleman from Alaska [Mr. YOUNG], our chairman, for allowing a modification in the original text which is now in the bill in the case of an overfished fishery. The gentleman agreed with us in the case of a fishery that has already been overfished and depleted, that we ought under no circumstances allow the maximum yield be exceeded. I thank the gentleman, and I concur with him.

The question occurs and is raised by the gentleman from Maryland as to whether we need to go further, whether there ought to be any circumstances or in any fishery for any reason where we would allow the maximum yield to be exceeded.

Now, the gentleman, in referring to his either saber tooth or saw tooth or arrow head flounder—I forget which flounder—it is, is making, as I understand it, essentially an ecological argument; that there may be cases, given the balance or imbalance of the stocks in the sea, when the maximum yield of one or more stocks should be exceeded for ecological reasons.

I am not a scientist, but I would concede to the gentleman that may be the case; and, if it is the case, we probably should allow for that with the best science we have, knowing—as the gentleman knows, as I do—that our science in these matters is at best imprecise. Unfortunately, we are cutting back on resources given to this research, which is sad, but another question.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. One of the problems we have though, if we in fact fish the saber tooth flounder, or arrow tooth flounder, or whatever it is—and by the way, for the audience listening, it looks like an ordinary flounder, but it has the worst set of teeth you can imagine. You cannot catch one because it cuts the line and everything else. If we try to fish them down, there would be a lawsuit contrary to saying you are doing it for economic purposes because you are saving the salmon and cod and halibut.

Now, there is our catch-22. That is why, when we make things mandatory, we do mess up the soup. I am very concerned about that. It is, by the way, an ecology-type question. But the gentleman sees what I am saying. If I fish down the arrow tooth flounder—supposedly to provide more halibut, cod, or whatever else is available—then I can be—in fact—accused, or the council can be—of fishing for economic purposes.

Mr. STUDDS. Mr. Chairman, reclaiming my time, I do not think we are disagreeing on this matter. By the way, I would not wish upon the gentleman the maximum yield of the arrow tooth flounder. I think we are only taking 10 percent of it at the moment. God knows what we would do with the other 90 percent.

But, let me say, the current law, as the gentleman knows—and it is repeated in part in this bill—with regard to maximum sustainable yield, says "as modified by any relevant economic, social, or ecological factor."

I am not disagreeing with the gentleman with regard to ecological factors, whether it is the arrow tooth or any other flounder. We may in fact have a situation in New England that is somewhat analogous to that. We may, in the depletion of the traditional ground fish stocks—the cod, flounder, and haddock—have a disproportionately large and unnatural amount of, say, dog fish or skate or mackerel or something, which may be related to the fact that our human effort deleted the traditional commercial stocks. It may be, I do not know, but it may be we want to overharvest, if you will, the current supply of the new species in order to restore what was some semblance of the natural balance over time. That may be. And if it is, it is an ecological factor that the scientists need to take into account.

What I suggest to the gentleman is, conceding that, maybe the lesson we should draw from the tragedy in New England is we ought not to allow this maximum yield to be exceeded for economic or social reasons. That is where we made our fundamental mistake in New England.

I grant the gentleman, there might be a case to be made for ecological variation. But it would seem to me what we experienced in New England, to our horror, would say to us we ought not to allow the maximum yield to be exceeded for economic or for social reasons on the grounds that, you know, we have got to pay the mortgage next month or the next year, and the hell with the next decade or next century.

That is what got us where we are. That is the kind of shortsightedness that so damaged our ground fishery and, I think, bodes so ill for fisheries elsewhere.

So all I am saying to the gentleman is while I support this amendment as it is currently written, in the amendment, the unlikely event, that the gentleman from Maryland were not to succeed in prevailing upon the body with his wisdom, I would suggest we support this.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. STUDDS] has expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. STUDDS was allowed to proceed for 2 additional minutes.)

Mr. STUDDS. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding.

Just a comment very quickly to the chairman of the full committee, and also, I would say, the ranking member of the full committee, the gentleman from Massachusetts [Mr. STUDDS]. These two gentlemen probably know more about fishing than anybody else in this Congress. I also want to compliment the gentleman from Alaska for dealing with this issue to protect the fishing industry.

Just a couple of quick comments about my amendment and how it would impact arrow tooth flounder. Right now, the allowable catch for arrow tooth flounder is 312,000 tons. What is being caught right now is 45,000 tons. So we can continue to catch a huge amount. I am not sure what you would do with it, but you can catch a huge amount more, and not come close to maximum sustainable yield.

I see the gentleman from Massachusetts—the other gentleman from Massachusetts—who has an issue with Atlantic mackerel; the allowable catch for Atlantic mackerel is 850,000 metric tons. What is actually harvested right now is 12,500 metric tons. So that means you could increase both of these enormously without impacting the yield of this particular species.

What you need to do to catch more mackerel or more arrow tooth flounder is to find a market for it. But my amendment does not impact in any way the complexity of the ecology of the fisheries.

□ 1230

I also want to make one other comment about the number of organizations and people that are supporting this amendment. I have three pages of organizations, from fisheries institutes, from fishermen, from scientists, and so on.

Mr. STUDDS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, as I say, while I do intend to support the gentleman's amendment and I hope that it prevails, I would really ask that all Members look carefully at what we have just gone through and are still going through and will be going through, unfortunately, for a good many years to come in New England. I think we are paying a heavy price for having allowed ourselves the luxury of modifying that yield for economic and social reasons.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to reluctantly oppose the gentleman's amendment, and I understand the arguments both he and my colleague from Massachusetts have been making.

I think if we went back in time, perhaps 20 or 25 years, I would have no trouble supporting this amendment at all. But now we are in a situation where, as the gentleman from Massachusetts [Mr. STUDDS] pointed out, in the past, the yield for certain ground fishes off the coast of New England were altered for reasons that may be very arbitrary. However, those stocks are now depleted.

Mr. Chairman, the gentleman from Maryland makes the point that mackerel, an underutilized species, could be caught in a significantly greater numbers. I look at our role as trying to restore the balance to the fishing stocks somewhere close to where they were before. If we continue where we are now, we have very low numbers of ground fish, we have very high numbers of what are called underutilized species. Those species prey upon the young ground fish we say we are trying to restore.

So, Mr. Chairman, this amendment, the effect of it now would actually make it more difficult to restore those ground fish stocks. I think the intent of the gentleman is positive. Again, if this had been proposed maybe 20 years ago I think I would support it.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. TORKILDSEN. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, as far as Atlantic mackerel is concerned, we could catch 60 times more than we are catching now under my amendment. I do not think my amendment would prevent catching this particular mackerel to raise the stock of the ground fish.

Mr. TORKILDSEN. Mr. Chairman, the point on mackerel, on herring, and other underutilized species is that, literally, we have to, if you will, substantially increase the catch if we are going to quickly see the restoration of ground fish.

Now, the gentleman knows, because we have talked about this before, that there really is not a huge market for mackerel in the United States right now. There are efforts under way, some in Massachusetts, some in other States, to create markets for that. But even if the markets are not there, if we are serious about restoring our ground fish, we will have to look at what creatures in the environment are preying upon their young. Right now some underutilized species are in exactly that circumstance.

So, Mr. Chairman, I do rise to reluctantly oppose the gentleman's statement. I would hope we could work out some language to take in specific considerations; but in those areas where the environment is not in balance, I think we have to make exceptions. The amendment does not make exceptions that I think are adequate to restore the ground fish off the coast of New England; therefore, I do have to oppose the amendment.

The CHAIRMAN pro tempore (Mr. BUNNING of Kentucky). The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GILCHREST. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 113, not voting 15, as follows:

[Roll No. 718]

AYES—304

Abercrombie
Ackerman
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Burr
Camp
Canady
Cardin
Castle
Chabot
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cremeans
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Heineman
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski

Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Taylor (MS)
Thompson
Thornton
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—113

Allard
Archer
Baker (LA)
Ballenger
Barr
Bateman
Bliley
Blute
Boehner
Bonilla
Bono
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Chambliss
Chenoweth
Coble
Coburn
Combest
Cooley
Crane
Crapo
Cubin
de la Garza
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Fields (TX)
Flanagan
Frank (MA)
Franks (CT)
Frisa
Funderburk
Hall (TX)
Hancock
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hostettler
Hutchinson
Istook
Johnson, Sam
Jones
Kaptur
Kim
Knollenberg
Largent
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Martinez
McCollum
McCrery
McInnis
McKeon
Metcalf
Mica
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Orton
Packard
Paxon
Peterson (FL)
Pombo
Quillen
Radanovich
Roberts
Rogers
Rose
Schaefer
Shadegg
Shuster
Smith (WA)
Solomon
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Torkildsen
Vucanovich
Wicker
Wolf
Young (AK)
Zeliff

NOT VOTING—15

Chapman
Collins (IL)
Durbin
Fields (LA)
Johnston
Kasich
McIntosh
Mfume
Parker
Riggs
Scarborough
Smith (MI)
Tejeda
Tucker
Wilson

☐ 1253

Messrs. HUTCHINSON, ROBERTS, and DOOLITTLE changed their vote from "aye" to "no."

Messrs. KLINK, BREWSTER, and DEAL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BUNNING). Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) IN GENERAL.—Title IV, as amended by section 19, is further amended by adding at the end the following new section.

SEC. 402. SENSE OF CONGRESS; NOTICE TO RECIPIENTS OF ASSISTANCE.

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.".

Mr. TRAFICANT. Mr. Chairman, this is a buy-American amendment that would, in fact, apply to the funds appropriated under this act. It has the support, from what I understand, of the chairman and the ranking Democrat.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I think the gentleman makes a great presentation of this buy-American amendment. He has been the leader in buy-American. He is so pro-American that I will accept this amendment with open arms and embrace it and congratulate the gentleman.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, me too.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, this does not mean that we have to buy and eat American fish. There is a whole lot more to it.

Mr. Chairman, I ask for an "aye" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goss: Page 29, line 3, add "and" after the semicolon.

Page 29, strike lines 4 through 7 (and redesignate the subsequent paragraph accordingly).

Mr. GOSS. Mr. Chairman, this amendment simply strikes one paragraph from the bill—language added to H.R. 39 during consideration by the Resources Committee. The provision I am seeking to remove bars two regional fishery management councils—the Gulf of Mexico and the South Atlantic—from taking any actions to reduce shrimp bycatch for another year. "Bycatch" in this case refers to the finfish, turtles, marine mammals, and any other non-shrimp sea creatures that are caught and killed by shrimpers. Put plainly: Bycatch is waste, pure and simple—the fish, turtles, sharks, and so forth are caught in the nets, die, and are discarded. How much of these resources are wasted under current practices? The National Marine Fisheries Service states that in the South Atlantic, shrimp make up a mere 20 percent of a shrimper's typical harvest—and in the Gulf of Mexico that figure drops to just 16 percent, meaning that over 80 percent of the average haul is wasted. For every 1 pound of shrimp caught in the gulf, more than 4 pounds of finfish alone are killed and discarded. Congress and NMFS have recognized that this level of bycatch can cause serious environmental and economic problems.

On the economic front, the tremendous waste of finfish hits two Florida industries hard. It hits commercial fishermen who rely on healthy stocks of finfish like the red snapper in order to make a living. These stocks have been heavily depleted by shrimping nets and according to NMFS, "This source of mortality would have to be significantly reduced in order to rebuild red snapper stocks within the time frame established by the Gulf of Mexico Fishery Management Council without halting all directed commercial and recreational red snapper fisheries."

Other commercial finfish stocks are also threatened. Another industry important to Florida is recreational fishing. Former President Bush and millions of others enjoy Florida's coastal waters for the excellent sport fishing opportunities. But the stocks of gamefish are dwindling—in some part due to bycatch by shrimp trawlers—and we in Florida cannot afford to lose this resource.

On the environmental front, the decline of fish stocks overall has a negative impact on the entire food chain and could potentially throw the whole system out of balance. In addition, endangered sea turtles have historically been caught and killed in shrimp nets. While efforts in the gulf—specifically the use of turtle excluder devices—have reduced the take of these creatures, the death rate has climbed this year, and it is clear that more could be done to reduce turtle deaths.

Again, in the State of Florida this is a fairness issue: Residents of Florida's coastal communities have imposed strict limits on the size, location, and lighting of houses—partly in an effort to help the endangered sea turtles. These measures won't make a difference without the cooperation of those who share the gulf's resources, including the shrimpers.

Mr. Chairman, others will argue that allowing this exemption for the shrimpers in the South Atlantic and Gulf of Mexico is unfair because it puts their own fishermen at a disadvantage—but I will leave that to them. I am here as a gulf coast Member, representing Southwest Florida. And the message from my district is very clear—don't waste more time and money on studies of this problem. Since 1990 we've spent some $7.5 million on studies—all the while delaying action. The time has come to move forward and allow the fishery management councils to do their jobs. I would ask my colleagues to support my amendment which allows councils opportunity to get on with the job of reducing unnecessary and significant bycatch waste.

□ 1300

Ms. FURSE. Mr. Chairman, I rise in favor of the amendment. I am a cosponsor of the amendment.

This amendment will just ensure that all fisheries in this country are treated equally. That is only fair. Americans hate waste, and in the fishing industry waste is called bycatch. This bycatch means fish that are thrown away—caught and killed—because they are the wrong type of fish or they are the wrong size. The bycatch totals 27 million metric tons each year; that is 25 percent of all the fish we catch.

Now, H.R. 39 currently contains several important provisions to try and reduce the problem of bycatch. These measures apply to all fisheries along the U.S. coasts except one: the shrimp trawl fishery in the Gulf of Mexico and South Atlantic. An amendment was added in the markup that will let these shrimpers continue to fish the way they do today.

Now, every other fisher man and fisher woman in the United States is working to fish more cleanly. Why this special treatment? Why this loophole? What makes this loophole even more unfair is that the gulf fishery has the worst bycatch rate of any fishery in the United States. More than 80 percent of all fish are thrown back dead or dying.

Now, the Goss-Furse amendment will make the shrimp fishery follow the rules of every other fishery in the United States. I have brought with me today a photo of a typical shrimp trawl harvest, this one. You will note that, although the target fishery is shrimp, the net is full of many other finfish and invertebrate species.

To further illustrate this, I have brought along a chart of an average 60-pound harvest from a shrimp trawl fisher. This is what they would catch in an hour. These numbers come from a very recent report which we paid for, that was asked for by Congress of the National Marine Fisheries Service.

As you can see in this chart, shrimp make up only 16 percent of the weight of the catch. Commercially and recreationally important finfish are thrown away; 68 percent of the catch is thrown away. In other words, for every pound of shrimp that is caught and kept, 4.3 pounds of fish are wasted.

Now, this waste practice has resulted in 1 billion pounds of fish, and the marine life wasted on the Gulf of Mexico is about 1 billion pounds.

Now, this third chart I have brought along shows that the 600 million pounds of commercially and recreationally harvested finfish that are wasted annually include 13 billion Atlantic croaker, 35 million red snapper—a great fish food—and more than 5 million Spanish and king mackerel. This is fish that sports men and women and commercial fishers would love to catch and we would all like to eat.

I ask my colleagues, where is the fairness in asking the fisher men and women of the West Coast, the companies of Alaska and New England to all pitch in and do their fair share while a single fishery is allowed to waste and plunder a viable resource?

Now, it is very important to point out to my colleagues that the Gulf and the South Atlantic fishery council is made up of local fishermen, regional fishermen. They want to move forward and do the right thing. Yet we are about to pass a law that would prevent them from cleaning up the fishery. That is not States rights. We need to allow these fishery councils to do their job.

We certainly do not need another report. As my colleague points out, we have already spent $7 million on a shrimp bycatch trawl report. We know there is a problem. It is a huge problem. We do not need to wait. If we are serious about Government that makes common sense, we must oppose the loophole. We must support the Goss-Furse amendment.

Simply, this amendment would make all the fisher men and fisher women in this country follow the same rules. It is fair. It is a good idea. I urge my colleagues to vote "yes" on the Goss-Furse amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is not about turtle excluder devices, but it is just like the turtle excluder device process. This issue involves another device which the agency and the Federal Government have invented called a fish excluder device. A fish excluder device, or FED, is what the agency wants to compel shrimp fishermen in the Gulf of Mexico to carry in their shrimp nets. They are already carrying a TED, a turtle excluder device. Now they want them to carry a new invention: a fish excluder device.

The language the committee adopted said hold off a second. Let us give this thing a year. Why do we not do what the House voted on earlier this year? Why do we not subject this fish excluder device to the new test of peer review by scientists outside the agency and examination of what other devices or what other techniques can best avoid the bycatch problem in the fisheries of shrimp in the Gulf of Mexico? A cost-benefit analysis called for in the regulatory reform bill that passed this House is over, waiting for action, in the Senate right now.

But, no, this amendment says, go ahead, do not worry about whether it is cost-benefit effective. Do not worry about whether there may be better ways to deal with the bycatch issue than requiring fishermen to carry another device in their shrimp nets. Just go ahead and impose this fish excluder device on the shrimp fishing industry, just like we imposed the turtle excluder device on the shrimp fishing industry in years past.

So the two are somewhat related. The two are very related. This House voted overwhelmingly to change the rules by which the agency regulates in this area. What did we say? We said, look, before you impose a recovery plan or a management plan like a fish excluder device, look at all the alternatives available. Look at the ones which work without putting people out of business. Look at the ones which will get you the same results without forcing someone to sell their shrimp boat or to give it up because they cannot pay the payments on the mortgage.

Look for all the ways to solve these problems before we impose a Government-inspired new device upon the industry without any consultation in terms of alternatives and good scientific evaluation of whether this new device is going to help or hurt. But, no, this amendment comes in and says, let us go forward. Let us rush this fish excluder device, put it out, force it on the industry, whether or not it makes good sense, whether or not it meets the cost-benefit analysis of the bill that is awaiting action.

Why the rush? I will tell you why the rush. The rush is on to do this regulation—impose this new device—because they are afraid that the Senate just might one day pass our regulatory reform bill. And the government agency that is trying to impose this new device just might have to subject it to the kind of review that agency regulations ought to be subject to—the kind of review that includes a wide range of discussions of what might work in bycatch and a wide-ranging discussion of what the cost-benefit analysis of this new requirement is.

Let me give my colleagues quickly a summary of the results on the TED's. Yes, we have a 98 percent compliance rate with the TED's in the Gulf of Mexico today, a 98 percent compliance rate. Unfortunately, 25,000 fishing families have now been reduced to 12,000 fishing families. We held a task force hearing in my district to talk to some of those fishermen who were left, the ones who are still surviving.

What they have told us without exception is, if you let the Government impose a new device like a fish excluder device on it—without examining the cost-benefit relationships, without working with us to reduce bycatch or to utilize bycatch more efficiently—if you do not work with us, the rest of us are gone in short order.

Now, there are Members in this House who would just as soon see the commercial shrimp fishing industry gone. There are Members in this House who would be satisfied for America to live on imported shrimp and not have a shrimp industry in America. There are Members in this House who do not much care about whether there is a gulf fisheries shrimp industry alive or not. But there are 12,000 families in my district who still support themselves by fishing shrimp, supplying it to the American household. There are 12,000 families asking us to do a simple thing: Ask the agencies not to impose this device until we have had a chance for the new regulatory reform bill to pass and to go into effect.

Why the rush? The rush is on because the environmentalists want to see this FED imposed. They want to see an end to the shrimp fishing industry. That is what this is all about. If Members want to please them, if we want to throw a vote to them again today, then vote for this amendment. But if we want to see the end of shrimp fisheries in the Gulf of Mexico, that is what we will be accomplishing. I urge Members not to adopt this amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on behalf of the gentleman from Louisiana, as a Member from Maryland, I will do everything in my power to sustain and to continue the livelihood of those families that are engaged in these shrimp fisheries in the Gulf of Mexico. I think the last thing I and Members of this committee want to do is to eliminate that particular industry. The last thing we want to do is to import more shrimp rather than to use our domestic shrimp, and the last thing we want to do is to impose burdensome gear types that are unworkable.

I want to make a couple of points. The gentleman was talking about rush to judgment on using different gear types, on reducing bycatch. There was a study that cost well over $1.7 million. That study has been going on for 5 years.

□ 1315

The study is ready to be implemented, and the gulf council, the South Atlantic council are gearing up to implement the study that was approved by a full range of groups, including a number of fishermen. So the last thing we want to do is to put people out of business. We are not rushing to judgment. This study has been completed, and it is ready to go.

What the gentleman from Louisiana wants to do is postpone it yet another year. I am not sure the ecology of the fishing industry in the Gulf of Mexico or the South Atlantic can wait that long.

Bycatch and waste are currently the greatest threat to the commercial fishing industry. Fishery managers around the country are faced with the problem of how to reallocate what is thrown overboard toward a more beneficial use. A fish that is caught and thrown back dead does not add anything to the economy. It does not put food on the table. It does not keep the shrimp fishery families in business, and it will certainly not produce generations of fish that will yield economic benefit in the future.

Discards represent 80 percent of what the gulf shrimp fishing industry pulls in over the side. Throwing away 80 percent of what they catch; we cannot sustain that. Something has to be changed.

As this Congress endeavors to find ways to diminish a staggering Federal deficit, as we contemplate the exploitation of some of our most fragile natural resources to address that, I find it absolutely unconscionable that we will allow this sort of waste to continue as we try to stretch taxpayers' dollars to assist communities in New England that once relied on the collapsed Georges Bank stocks. It is astounding that we prevent these two councils—South Atlantic council and gulf council—from managing the stocks under their jurisdiction to prevent a similar catastrophe for red snapper fishermen and so on.

Fishery managers in this country are charged with the duty of managing marine resources to the maximum benefit of this Nation. We do not want to interfere with the fishing industry in the Gulf of Mexico, but I do not think Washington, DC, should tell the gulf council—that is deciding to implement some of the advice of this 4- or 5-year-long study—and the South Atlantic council—that is ready to implement some of the recommendations—I do not think we here in Congress should, at the last minute—which is what is happening—deny those councils the right to do that. It does not necessarily mean in all cases a FED, a fish excluder device. It does not necessarily mean the FEDs are going to be implemented in all of the ships.

My last point: we waste, just in that area of our coastal waters alone—try to imagine 50,000 10-ton garbage trucks. That is how many fish are wasted each and every year. We cannot afford to continue that waste. While we are wasting fish, even though we have more territory than any other nation in this world as far as the ocean is concerned, we are a net importer of fish.

This is a study that has taken 5 years. It is a study that has cost $7.4 million. It is a study that the gulf council and South Atlantic council are willing and ready and gearing up to implement, and I do not think we, as a Congress, in the last minute should deny them that right.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I thank the gentleman for yielding.

Does your bill require or—well, let us back up a little bit—I think you made a statement about what percentage of the shrimp that is consumed in America comes from overseas. What percentage is that?

Mr. GILCHREST. I made a comment about the percentage of fish caught and percentage wasted. When I said we are a net importer of fish, I did not include a percentage of any particular species of fish.

Mr. TAYLOR of Mississippi. We are directing this amendment at the gulf fishing fleet. I would like to remind this body well over 80, and probably closer to 90, percent of all shrimp eaten in America is imported now. Much of it comes from communist China.

What you are asking this body to do is put yet one more mandate on the American fleet that is only about now 15 percent of the total that is consumed here, while not putting a similar mandate on the Chinese, on the Mexicans, on the Koreans.

Mr. GILCHREST. Reclaiming my time, what we want to do is sustain.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Florida [Mr. GOSS].

This amendment, in my opinion, would allow the premature imposition of potentially devastating regulations on the Texas shrimping industry. Texas shrimpers represent a $6 million trade employing 30,000 men and women on a total of 2,400 trawlers.

By cutting short a comprehensive review of bycatch reduction devices, this amendment threatens the livelihood of an entire industry. Instead of relying on sound science, this amendment, in my opinion, is based on speculation, incomplete information, and bureaucratic inertia.

As originally written, this program was to be a cooperative effort between the Federal Government and the affected industries. Unfortunately, the Government appears to have already made up its mind and is now threatening to leave the industry research unfunded. These studies, which would end should this amendment be adopted, are producing information which directly contradicts the regulatory tilt of the National Marine Fisheries Service's findings.

For example, take some of the early data from a study by the Gulf and South Atlantic Fisheries Foundation authorized under this program. This information indicates that the finfish bycatch is not as severe as once thought. Rather than 15 pounds of finfish bycatch per pound of shrimp, as originally estimated by the NMFS, the foundation study indicates that, in reality, this ratio is closer to 2 to 3 pounds.

Did the NMFS change their study to reflect this information? No. They continued to press for an increase in regulation despite scientific evidence to the contrary.

Another disturbing item is the lack of direct side-by-side testing of these devices. The Gulf and South Atlantic Fisheries Foundation petitioned the NMFS to allow the basic tests, towing a naked net without bycatch reduction devices, while simultaneously towing another equipped to free nontarget species. One would think that a direct comparison would be the easiest way to evaluate the performance of these devices. Yet the NMFS refused to allow the test, citing the chance that turtles might be caught. You talk about a catch-22.

We need these devices to save the species, but because you might catch one, we cannot perform the test to see if they work. It is ironic that measures designed to save these animals may not have any actual impact because we have decided not to test them thoroughly.

It appears that this amendment would put the cart before the horse. While the goals of this amendment are commendable, it recklessly curtails the only source of accurate science-based information available. Acting without such information would be both a mistake and a disaster.

The fishing industry is just asking that we allow 1 year to get this one right. Presently, both the regional councils and the NMFS are poised to start a new round of regulation based on incomplete data and misguided science. Where have you heard that before? They know the study will be completed by June. Would it not be best for all involved—the finfish, the shrimping industry, the American people—to make sure that these devices work? Let us not be in a rush to regulate.

I urge you to vote "no" on the Goss amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to, and I will not, question the motives of people who are in favor of this amendment. I am sure they are well-intended. But I do not think they have taken the time to think out what they are doing.

As I mentioned to my friend, the gentleman from Maryland [Mr. GILCHREST], something in the nature between 80 and 90 percent of all the shrimp that are eaten in this country are imported anyway. So what you are doing is putting another mandate on the American fisherman, who has seen his percentage of the shrimp sales in this country shrink from about 90 percent just 15 years ago down to 10 percent right now. They are at the mercy of the shrimp that are dumped on the market by the Red Chinese, the Indians, the Ecuadorans, the Mexicans, and other places. They are already at the mercy of them as far as price, because 10 percent of the market does not dictate the market price: 90 percent of the market does.

They already are in the only nation in the world that has to pull the turtle excluder device. I have visited several other countries as a result of my work on the Committee on National Security. It almost always takes me out over the water. Invariably, I get a chance to look at other people's fishing vessels. In Panama, I have never seen a TED. In Colombia, I have never seen a TED. Other places I have visited around the world, not one TED. Yet our Nation allows these shrimp to come into our country and gives those people an advantage over our fishermen, who are living by the rules.

I also think I have a little advantage over some of the proponents of this bill. I have been on shrimp boats. I own a shrimp trawl and I can tell those of you who are in favor of marine mammals: you ought to know most of these fish that are caught, that are tossed overboard, that are dying are eaten by porpoises. What the porpoises do not eat, the sea gulls eat. They are not wasted. A lot are kept for bait by commercial crabbers.

The science behind this, they would have you believe, the statement of the gentleman from Maryland [Mr. GILCHREST] would have you believe they are literally dumped overboard like garbage. They become an important part of the marine ecosystem. Thousands upon thousands of sea gulls flock to the Mississippi Gulf Coast in time for shrimp season every year.

What happens if you no longer allow this? They are going to die. So for those of you concerned about messing up the ecosystem, you are the ones who are going to mess up the ecosystem by passing this ill-advised piece of legislation.

But lastly, I just want to make a point of fairness. Is it really fair to put one more mandate on the American fisherman, who is already barely surviving, who does not dictate the price for his product, that comes from Red China, comes from India, Ecuador? Is it really fair to make him do one more thing that you will not ask our foreign competitors to do? My answer to that is "no," it is not fair.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Is there a law right now that requires that imported shrimp caught in other countries brought into America, in competition with shrimp produced here in America to abide by any of these regulations?

Mr. TAYLOR of Mississippi. I say to the gentleman from Louisiana [Mr. TAUZIN] there is such a law. As we both know, the Commerce Department, for political reasons—not wanting to offend our friends and allies we have bases with overseas,—does not enforce it. I can assure you it is not being enforced in Panama.

Mr. TAUZIN. The other nations, in fact, are free to import into this country without complying with the same requirements that puts our fishermen at great disadvantage?

Mr. TAYLOR of Mississippi. It is very much my NAFTA argument all over again. We are putting rules on Americans that we are not willing to put on our trading partners.

Ms. FURSE. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentlewoman from Oregon.

Ms. FURSE. Is it not true that every fishery in this country has to abide by bycatch rules—the Alaska fishermen, the Northwest fishermen, the North Atlantic fishermen? What this amendment does is says there is one rule for all fisheries, and that the people who set the requirements are those local councils.

Now, we understand that the Gulf of Mexico and the South Atlantic council, made up of citizens in the fishing industry, are ready to implement the bycatch regulations. Our amendment says merely that all fishermen have to hold by the same rules which are set by these regional councils of fishermen, made up of fishermen. We just say it is not fair that Alaska fishermen and

North Atlantic fishermen and Oregon and Washington fishermen have to be held by rules, but this one fishery has been allowed by an amendment in the bill to be exempt from these rules. This is a fairness issue, I say to the gentleman from Mississippi [Mr. TAYLOR]. This is an issue that fishermen are ready to put some time and attention to, and now why should one fisherman be exempt?

The CHAIRMAN pro tempore (Mr. GILLMOR). The time of the gentleman from Mississippi [Mr. TAYLOR] has expired.

(By unanimous consent, Mr. TAYLOR of Mississippi was allowed to proceed for 2 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, the gentlewoman raises an excellent question. I say to the gentlewoman from Oregon [Ms. FURSE], you are speaking fairness, and you are asking for universal implementation of the law.

□ 1330

But the truth of the matter is, the only people who would have to implement this law will be Americans. Foreign competitors will not implement this law. The foreign competitors have not implemented the TED law. The American shrimpers have suffered as a result of that.

This is yet another good idea that has not been perfected, much like the TED's where the Federal Government spent $4 million trying to perfect a turtle excluder device which to this day does not work properly. Now we are putting one more mandate on these fishermen.

Getting back to what was said, it is simply not fair to ask the American fisherman to do this if his foreign competitor will not.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have no intention of prolonging this debate. I do want to put one thing in perspective, if I may.

I think the gentleman from Florida and the gentlewoman from Oregon are entirely correct, and I commend the gentleman from Louisiana, who is certainly one of our most skillful parliamentarians and has been extraordinarily successful in battling for the interests of his constituencies as he sees them. I would remind Members how successful the gentleman has been.

There has been some suggestion here we are singling out the gulf shrimp fishermen for unfair treatment. Quite the reverse is true. The gentleman from Louisiana has been successful in singling them out for uniquely special treatment under the law, unlike that available to anybody else, any other fishery in the country.

Five years ago, the gentleman successfully wrote into law an exemption for the gulf fisheries specifically so a 3-year study could take place. The 3-year study took place. The gentleman then extended the extension for the gulf fishery another 3 months, which I guess is all we would give him, until April 1994.

The important thing is, not only have there been special exemptions for this fishery and this fishery alone, but since April 1994—which is almost a year and a half ago—there have been no such exemptions and there have been no regulations promulgated by the Councils. So nobody apparently is in a real big rush to do anything.

I would also remind Members that in the event that any regulation were promulgated, it would not be by the Secretary of Commerce or anybody in Washington; it would be by the Fishery Management Councils in the region.

To put a little more in context: If I may, the bill before us, which the gentleman from Alaska and others have worked so hard on, makes some very major progress in strengthening the fundamental act. One of the most important pieces of that progress is to strengthen the provisions dealing with bycatch.

The worst bycatch problem by far in this country is precisely in the fishery we are now discussing. At a time when we are ratcheting down in the bycatch in every other fishery in the land—in Alaska, in New England, and everywhere else, which is going to cause pain everywhere else—once again those who speak for the gulf fishery are in here asking for special treatment and special exemptions from this, as they have done so successfully for over 5 years now.

I love shrimp. I love the fishery. I stand with the gentleman and all others in defense of the fishery. But so far as I know, there are orders for gulf fishing boats in the shrimp fishery. I realize there is an imbalance in terms of imports, but I do not think you have trouble selling what you catch.

But even that is really extraneous to what is here. The question is, with the new national standards, trying to get at one of the worse problems we have, not just in Louisiana or the gulf, but everywhere, which is bycatch and wasted biomass and food, once again that region of the country which has the worst problem and which is the only region that has exempted itself from a law which applies to everybody else in the country for 5 years, is once again asking for special exemption for them and for them alone.

I think on the grounds of fairness, we should stand behind the gentleman from Florida and the gentlewoman from Oregon and say no, we are going to treat all regions of the Nation equally.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman has pleaded that we not treat one area different from the other. Would the gentleman tell me whether these turtles are found in the waters of Massachusetts and whether the waters of Massachusetts are covered by the TED's regulation?

The answer is they are found, and you are not covered by the TED's regulation. They stop at the Carolinas. The answer is these regulations do not apply to the gentleman's region. They have been very specially applied to our region.

Mr. STUDDS. Mr. Chairman, reclaiming my time, we are not talking about TED's, as these gentlemen have pointed out.

Mr. TAUZIN. Mr. Chairman, if the gentleman will continue to yield, the gentleman has made a very complimentary statement that this gentleman has done a great job of exempting his region from coverage by the regulation. I am covered by the TED's.

The region in Massachusetts where turtles are found is not covered by the TED regulation. I wonder why? I wonder how that happened? Perhaps I should compliment the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, reclaiming my time, the gentleman quite accurately pointed out that we are not talking about TED's. There is no reference to that in here. I am also informed, to my utter astonishment and delight, that New England shrimp fishermen do pull TED's, or FED's.

Mr. TAUZIN. If the gentleman will yield further, would the gentleman confirm for me that the TED regulation stops at the Carolinas?

Mr. STUDDS. I believe that is correct. It is also irrelevant. The gentleman was quite correct in pointing out we are not talking about that. At least we were not until the gentleman chose to.

Mr. TAUZIN. Will the gentleman yield?

Mr. STUDDS. I do not know.

Mr. TAUZIN. Think about it.

Mr. STUDDS. I will think about it.

Mr. TAUZIN. I would like to compliment the gentleman from Massachusetts.

Mr. STUDDS. In that case, I will certainly yield.

Mr. TAUZIN. Mr. Chairman, I would like to compliment the gentleman from Massachusetts for doing such a great job of making sure the TED's regulation stopped at the Carolinas, since he has done such a great job of complimenting me.

Mr. STUDDS. Mr. Chairman, reclaiming my time, I thank the gentleman for his absolutely pungent and totally irrelevant observation.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

I will submit my statement for the RECORD in opposition to the Goss amendment. I also suggest respectfully there will probably be another amendment offered at a later time that I hope everyone sees the wisdom of voting for.

I have watched this Congress in the light of supposedly protecting, which I support, but also supposedly in making sure that all species are protected, which is well and good.

But we have driven our tuna fleet overseas. When I first came to Congress we had 212 tuna boats. We have three left. They are catching tuna; I do not see any shortage of tuna, but without any regard to what we said had to be done in our waters or with our American fleet.

We are doing the same thing with the shrimp fleet. If, in fact, what the gentleman from Florida [Mr. GOSS] and the gentlewoman from Oregon [Ms. FURSE] mention is a fact—and I will not dispute what they say, if in fact that is occurring, that should apply to every country that we import those type fishes from, and then let the Americans, like I say, eat bread, otherwise have no shrimp. That is what it boils down to.

I do not think it is fair to pick out just my shrimpers or somebody else's shrimpers. If what they are doing is supposedly biologically wrong, that should apply to India, China, Ecuador, or Mexico. This whole thing started over the turtle. It always bothered me when I would go to Mexico and see people eating turtle eggs, and eating and drinking turtle oil for certain medicinal purposes, and having turtle boots, and our fishermen are saying no, you have to drag a TED. I do not think that is fair, nor is it equitable or correct environmentally.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me point out what the gentleman's amendment will delete from the bill—and I call the attention of the gentleman from Massachusetts to this particularly. They will delete the section that says any measure implemented under this act to reduce incidental mortality of nontargeted fisheries or sources shall apply to such fishing throughout the range of the nontargeted fishing resource concerned.

In short, we are trying to make sure when these regulations do go into effect, they cover everybody, not just a selected area.

Second, let me point out that our amendment adopted by the committee did not create an exemption for the gulf. It did not. It simply said that before the regulations were put in place, that several things had to occur: First, that a cost-benefit analysis under our regulatory reform had to occur; second, that technological devices and other changes in fishing operations to minimize bycatch should be examined so that all options are open to the fisheries councils in the various regions; and third, whether it was practicable to utilize nontargeted fisheries resources which were unavoidably caught; in short, to do the complete work.

You heard the gentleman from Texas [Mr. DELAY] point out that the agency refused to allow a side-by-side test to find out what really worked and what did not work. This business of going forward without the full science, without a cost-benefit analysis, without an evaluation of what else might work, so we do not impose these mandates on our fisheries that are not imposed on other countries that import to America, is wrong. We ought to tell the agency, do it right, if you are going to do it. We ought to tell the agency when you do it, when you require it, require it across the whole range. Do not stop at North Carolina. If the fish are getting caught in the gulf waters and in the waters off Massachusetts, and you have to have this device, make sure it is applied all over the range of those fisheries, not just some of it.

But most importantly, this is not an exemption which the amendment tries to strike. It is simply a requirement that the agency follow the rules we adopted in the House; cost-benefit analysis, alternative resource recovery devices, good science behind the study before you promulgate another device, and fair treatment for Americans who are trying to earn their living and produce food and fiber for this Nation.

Now, if that is not a correct plea, then what is? Should we not ask the agency to follow the rules we adopted this year? Why this rush to judgment? I suggest to you they want to rush it out because they are not prepared to defend it under the new rules, and they know they cannot defend it under the new rules. They want to rush it out, impose it, and then we are stuck with it, the way we have been stuck with a lot of other Federal regulations that do not make good sense.

The gentleman from Alaska has asked us to pay attention. If this amendment is adopted, there will be an amendment to follow it. Please pay attention to the next amendment, if this one should, by all worst reasons, get adopted.

The next amendment says we ought not treat our Americans differently than we do others. Watch for that one when it comes. We ought to at least do that.

We ought to defeat this amendment, make sure good science and proper evaluation of these devices occurs before we go forward.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would just like to clarify what the amendment before us does and does not do. I believe the gentleman from Louisiana suggested that it strikes lines 10 through 14 on page 29, which says it shall apply throughout the range of nontargeted fishery resources.

It does not strike that unless I have the wrong amendment. It strikes lines 4 through 7 and those four lines only.

Mr. TAUZIN. Mr. Chairman, what the gentleman says is correct.

Mr. STUDDS. The gentleman's last oratorical flurry was based on that assumption.

Mr. TAUZIN. Mr. Chairman, if the gentleman will yield, the gentleman's last oratorical flurry was in answer to the gentleman's very complimentary words that we have exempted our region. We have not. We have not exempted our region.

We have simply said get the scientific work done and make sure it does apply. If you are not striking to make sure it does not apply to everything, I am grateful; but you ought to get it done right so your fisheries and my fisheries have the same good science making these determinations, not some science that says, as the gentleman from Texas [Mr. DELAY], pointed out, we are not going to test everything. We just want to impose this Federal excluder device, this FED, on everybody, without ever checking out to see if there is a better way to do things.

Mr. ORTIZ. Mr. Chairman, I rise in opposition to the Goss-Furse amendment. This amendment would require premature, costly regulation to be imposed on the shrimp fishery before a comprehensive review of the best scientific data is available. A study being coordinated by the Gulf and South Atlantic Fisheries Foundation is currently evaluating the best methods of reducing bycatch. This study is expected to be completed in June 1996.

Without the results of this study, the shrimping industry will be subjected to mandatory bycatch reduction devices without the benefit of the best data available to make this decision. This results in lower catches and more expense to an industry which is working to be resource conscious.

Let's not advocate needless regulations which will only damage the shrimping industry in south Texas. We need meaningful research with representation and input from all interested and affected parties to come up with some solutions and achieve their intended result without decimating a once-proud industry.

Vote "no" on the Goss-Furse amendment.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. FURSE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, noes 129, not voting 9, as follows:

[Roll No. 719]

AYES—294

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Blute
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Buyer
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cremeans
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Heineman
Herger
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tate
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—129

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bateman
Bereuter
Bilbray
Bliley
Bonilla
Brewster
Browder
Bunning
Burr
Burton
Callahan
Calvert
Chenoweth
Christensen
Coble
Coburn
Combest
Cooley
Crane
Crapo
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Edwards
Emerson
Ensign
Everett
Fields (TX)
Fowler
Franks (CT)
Frisa
Funderburk
Gonzalez
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hilleary
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson, Sam
Jones
Kim
Knollenberg
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
Lucas
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Montgomery
Myers
Myrick
Neumann
Norwood
Nussle
Ortiz
Parker
Paxon
Peterson (FL)
Pickett
Pombo
Radanovich
Regula
Riggs
Roberts
Rogers
Rose
Royce
Salmon
Sanford
Scarborough
Shadegg
Shuster
Skelton
Smith (TX)
Solomon
Spence
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Vucanovich
Watts (OK)
White
Young (AK)
Zeliff

NOT VOTING—9

Brown (CA)
Chapman
Fields (LA)
Mfume
Sisisky
Tejeda
Tucker
Volkmer
Wilson

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Messrs. SKELTON, THOMPSON, PAXON, HALL of Texas, SMITH of Texas, and BURTON of Indiana changed their vote from "aye" to "no."

Messrs. CHAMBLISS, RANGEL, TOWNS, WELLER, PAYNE of New Jersey, MANZULLO, JEFFERSON, OWENS, and FLANAGAN, Ms. BROWN of Florida, and Ms. McKINNEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 5, after line 14, insert the following: "and (D) which provides employment opportunities and economic benefits through the sustained participation of local community-based fleets and the coastal communities which those fleets support.".

Page 7, line 2, strike the closing quotation marks and second period, and after line 2 insert the following:

"(41) The term 'efficiency' with respect to the utilization of fishery resources means fishing which—

"(A) yields the greatest economic value of the fishery with the minimum practicable amount of bycatch, and

"(B) provides the maximum economic opportunity for, and participation of, local community-based fleets and the coastal communities which those fleets support.".

Page 22, at line 8 strike "and", and at line 22 strike "program" and all that follows through the end of the line and insert "program; and".

Page 22, after line 22, insert the following:

"(15) take into account the historic participation of local community-based fleets and the coastal communities which those fleets support, and provide for the sustained participation of those fleets and communities.".

Page 38, after line 20, insert the following:

(h) ECONOMIC ANALYSIS.—Section 304 (16 U.S.C. 1854) is further amended by adding after subsection (m) (as added by section 22(b) of this Act) the following new subsection:

"(n) ECONOMIC ANALYSIS.—In performing any economic analysis of a plan, amendment, or regulation proposed under this Act, the Secretary or a Council, as appropriate, shall consider the costs and benefits which accrue to local community-based fleets and the coastal communities they support.".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is simple and straightforward. What it seeks to ensure is that local, community-based fishing fleets continue as a valuable sector of our fishing industry. It requires that in the consideration of optimum and efficient use of resources, that we understand the overall benefit to this Nation of the sustained participation of our coastal fleets and our coastal communities and the families that are involved in the business of fishing.

Mr. Chairman, it seeks to recognize, as we all should, that very often a fishing boat represents a small business. It represents an individual, or in many cases a husband and wife or two brothers, providing for their families, or fathers and sons, who are engaged in the small business of fishing.

Mr. Chairman, this is an amendment that tries to make that compatible with the decisions that the councils have to make about the sustainability of the resources and takes into account the economic impacts on communities and on coastal fleets. I think it is a good amendment and I would hope that the committee could support it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would suggest that if I knew the gentleman from California [Mr. MILLER] was going to be so cooperative and so understanding on issues of fisheries, he should have joined our committee many, many years ago.

The gentleman from Massachusetts [Mr. STUDDS] and I have had a great working relationship concerning the seas. We have worked, I believe, although we had our discussions about to which degree we can go, but we have always sought to protect the species, provide the species, and make sure that the American fisherman does exist.

Mr. Chairman, the gentleman from California has offered an amendment that has great merit. Again, I want to compliment the gentleman. One of my biggest fears over the years is after we Americanize the fleet, through no fault of the fishermen themselves, those that had the great, deep pockets from overseas, and other areas, would have the possibility of obtaining total control of the fisheries and thus we would have avoided what we were seeking to begin with, and that is an Americanized-type fishery, especially with the communities that live along the coast.

So, I do compliment the gentleman and would suggest respectfully that he look forward to the future when we have this continued cooperation regardless of who sits in the chair. Regardless of what happens, that we work together on these important issues.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I cannot resist the observation that it is certainly not my fault that the gentleman from California has had to engage in a crash course in the fisheries.

Mr. YOUNG of Alaska. That is true.

Mr. STUDDS. Mr. Chairman, let me also join the gentleman from Alaska in his assessment of the amendment of the gentleman from California [Mr. MILLER]. I know that the gentleman from Alaska shares the same vision with regard to how we would like to see the future of this industry develop.

Mr. Chairman, we need more fishermen, not necessarily more boats. We need smaller vessels. We need vessels run by those who own them. We need, if anything, possibly and ironically, a less rather than a more efficient fishery in many respects.

Mr. Chairman, I commend the gentleman from Alaska. I commend the gentleman from California and anyone else who ought to be commended.

Mr. YOUNG of Alaska. Mr. Chairman, I urge support of the amendment.

Ms. FURSE. I rise in strong support of the Miller of California amendment.

The small coastal communities that line much of our Nation's perimeter—including my district in northwest Oregon—are often economically dependent upon the bounty of the fishery resources that lie off their shores. Many of them have fleets of small, family-owned boats that bring back their marine harvest to be processed onshore. In this way, they multiply the economic benefit of their catch by generating additional jobs and marketable products in their communities—unlike the mammoth factory trawlers that process their huge catches at sea and take it to distant ports. These small boat fleets and coastal communities suffer the most as fisheries become overcapitalized and overfished.

The Miller amendment will help protect these coastal communities and small boat fleets by making sure their fate is considered when fishing rules and regulations are adopted by the regional councils.

The Pacific Coast Federation of Fishermen's Associations, which is the Nation's largest trade association of commercial fishermen and women on the west coast, endorses this amendment because they see it as vital to protect the economic health of America's family fishing operations and keep coastal communities economically afloat.

I urge my colleagues to join me and the family fishermen and women in supporting the Miller amendment.

The CHAIRMAN pro tempore. The question is on the amendment of the gentleman from California [Mr. MILLER].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. RIGGS] for the purpose of a colloquy.

Mr. RIGGS. Mr. Chairman, first of all, I want to thank the chairman of the committee and the ranking member for their work on this bill. As a Representative of a coastal district, in fact, I represent more coastline than any member of the California delegation.

Mr. Chairman, I appreciate the difficulties and complexities the gentleman from Alaska has faced in crafting legislation to balance such diverse and complicated and sometimes competing fishing interests. I believe, however, there is still one aspect of the legislation which should be clarified, hence my colloquy now.

As the gentleman knows, the law currently permits fishermen to avoid regulation in the absence of a fishery management plan by fishing exclusively in Federal waters, then delivering their catch to a coastal State or nation without landing laws addressing that particular species of fish.

Mr. Chairman, there are a number of smaller fisheries along the west coast, such as pink shrimp, thresher shark, and dungeness crab, which are not now covered by a fishery management plan. I have been informed that the Pacific Fishery Management Council and the National Marine Fisheries Service simply do not have the resources to develop and implement fishery management plans for these fisheries. Much of the fishing activity occurs in State waters, but there is fishing activity on the same stocks in the exclusive economic zone as well.

These States efforts to control and manage these smaller fisheries are being frustrated by their inability to extend these regulations to the exclusive economic zone.

The language currently found in the Magnuson Act would allow nonresident fishermen to harvest fishery resources and deliver them to Canada or Mexico, or to forum shop between conflicting State landing laws on the west coast. Such action is in direct defiance of the efforts of our States to implement conservation and management regimes in the absence of Federal management.

At a time when the Congress is asking the States to assume a greater share of the burden in managing public resources, we need to let the States fill the conservation and management vacuum caused by insufficient Federal management funds.

Again, Mr. Chairman, as a Member of Congress from a west coast State with coastal constituencies, I respectfully ask that the gentleman from Alaska [Mr. YOUNG] and his able staff work to find a balanced and agreeable solution that will ensure these stocks not covered by a Federal fishery management plan can be protected from overharvesting.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I commend my colleague for his tenacity on this issue. At every point in the reauthorization of this act, he has shown his commitment by continually pushing me and the members of the committee on this matter.

Mr. Chairman, in response to the specific questions of the gentleman from California, I assure the gentleman I will make it a priority of the committee to find a solution that will adquately protect those stocks not covered by a fishery management plan from overharvest.

Mr. Chairman, may I suggest to the gentleman this has been one of my goals. The gentleman is absolutely correct that many areas; for other reasons have not had a fishing plan that would cover them; consequently I think they are being overfished and we will address this issue. Probably in conference, by the way.

Mr. RIGGS. Mr. Chairman, if the gentleman would continue to yield, I thank the gentleman from Alaska and look forward to working with him.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer an amendment.

The Clerk read the following:

Amendment offered by Mr. HAYES: At the end of title I of the bill, add the following new section:

"SEC.—PROHIBITION.

"No fish may be introduced into interstate commerce of the United States unless the

Secretary of Commerce certifies that the country of origin of the fish has implemented and is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry.".

Mr. HAYES. Mr. Chairman, I rise to explain and support the amendment.

Mr. Chairman, in the previous debate on a prior vote on an amendment, we had a resolution of a confrontation of whether certain environmental goals were so important as to perhaps interfere with those who are trying to make a living.

I think as a society, the reflection of that vote was, with a combination of concerns of sports fishermen, combination with that of concerns of environmentalists, that that is a decision that we as a country would make.

Mr. Chairman, what I have done with this amendment is to simply say let us do not disguise who we are talking about when we say this country's commercial fishermen or fishing industry. To the place I come from, they are not an industry and they are not commercial, in the sense of a large corporate existence. They are small families of people who are able to send their kids through school because they get up early in the morning and bring home nets late in the evenings.

They live in a world of regulatory schemes, almost none of which are easily comprehended if you are of the highest educational level. Instead, more often than not, they are the families whose kids never have quite too few dollars to be able to get a Federal grant for educational assistance, and who make a little too much to receive any of our generous Government programs. Who make enough to support their family, but not an additional amount to pay for tuition.

□ 1415

They do not like Feds. They did not like them before they heard the word this afternoon and for good reason. They feel that they are always the ones who are the last to be recognized unless we are sending 20,000 kids into Bosnia, in which case they will be the first people to get the notice in the mail.

So what I have done is simply this, I have said that if we are going to have these environmental goals recognized, if we are going to recognize the commercial fishing industry at all, then let us implement a fairness that simply says, you cannot bring the product into this country from places where they do not care about these rules and where they are supporting their people who are trying to scratch out a living fishing. Let us not do that at the expense of our own people. Let us make it fair.

It is my understanding that this is not a matter that is opposed.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I know exactly what the gentleman wants to do. I frankly do not have any objection to it. I suspect this was drafted hastily. I want to suggest, although I am not sure precisely how to improve it, the way it reads now is that no fish may be introduced into the United States unless, I am skipping here, the country of origin of the fish has implemented and is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry. That is the totality of the fishing industry of the country.

I assume what the gentleman intends, and I do not quite know how to say this, is that requiring devices on that country's fishing industry and fisheries where such devices would be appropriate and analogous to U.S. requirements or something like that. I hope the gentleman does not mean to suggest that the entire fishery, all fisheries have to have them whether they need it or not.

Mr. HAYES. Why do we not say this, is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry in the manner in which such laws or regulations would be enforced in the United States.

Mr. STUDDS. Mr. Chairman, if the gentleman will continue to yield, that is exactly the kind of thing I am suggesting.

Mr. HAYES. Mr. Chairman, I would have no objection to adding that.

Mr. STUDDS. I assume that is the gentleman's intent.

Mr. HAYES. Mr. Chairman, that is correct.

Mr. STUDDS. That may not be the perfect wording but it is closer than this.

Mr. HAYES. I have no objection to that perfecting language.

MODIFICATION OF AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I ask unanimous consent that the amendment be modified.

The CHAIRMAN pro tempore (Mr. COMBEST). The clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. HAYES: At the end of the matter proposed to be inserted by the amendment, before the period, add the following: "in the manner in which these laws are enforced in the United States".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman. I simply want to rise in support of the amendment and also indicate that the amendment as drafted could mean that not only are these devices going to be required on other countries that are required on our fishermen, but they are going to be enforced the same way they are enforced on our fishermen. We have a similar law of TED's right now that is not enforced in Mexico, not enforced in other countries. That is wrong. If this is such a great thing that has to be foisted on the industry with or without cost-benefit analysis, we want to make sure it is enforced on other countries equally as it is enforced on fishermen in our country.

Mr. HAYES. Mr. Chairman, I would make the further observation that the existing provision was circumvented by a letter from the Secretary of Commerce involving TED's because the country of origin was deemed to be one of low economic standards. While the gentleman and I represent districts in America whose median family incomes are well below the national average, we would like to make it clear in this debate, we are talking about any country, any place under any economic circumstances.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to compliment the gentleman from Louisiana and the gentleman from Massachusetts and the other gentleman from Louisiana. This is an example of what should have been implemented in this Congress many, many years ago. We would not have the trade deficit we have today if we were to do so. But I will say, my favorite individual groups—interest groups, preservationists, and I could call them a whole lot of other things—somehow think that the so-called environmental movement only has to reside in the United States. We can clean all the air up; we can clean all the water up and save all the fish and all the furry animals and everything else. But we also buy from overseas.

I just mentioned the turtles in a previous statement. You could go right down—I think you can go right down now to Mexico and buy turtle soup, turtle oil, turtle leather; yet our shrimp fishermen are penalized.

I can go into the clothing industry and all the other industries, which most of my colleagues should be aware of that do not meet our standards but we buy it from abroad. We wonder why we have lost our jobs and why we have lost our other industries. We have lost 500,000 jobs in the oil industry overseas, supposedly to protect the environment of the United States. We lost our timber jobs to protect the spotted owl. Now we are buying timber from Canada, cutting the rain forests in South America. And we are continually not recognizing this environment is a one-world operation.

We cannot have it on one end and say we are going to be pure on this end and dip this hand into the mud. That is what we have been doing.

This amendment is an attempt to bring to light the unfairness of allowing and requiring our small, little tiny remaining industry in the fishing field to meet requirements supposedly for an interest group and not requiring them someplace else.

The gentleman from Louisiana has done an excellent job in presenting this amendment. The only thing I have any reservations about is, will the Secretary of Commerce enforce the law? I want to suggest to this body, I have watched now six administrations, four Republican, two Democrat—I have watched department heads, undersecretaries, and secretaries thumb their nose at the Congress.

I have said before, I will say it again: We ought to in fact cite them for contempt when they do not implement the law passed by this Congress. If we believe we are coequal branches of the Government, when we make the laws, they are to implement them. And when they ignore us, they are wrong. That is why we do not have a great deal of faith in this government by the general public.

I am not going to always agree to what this Congress does. Many times my friend from Massachusetts will support something that is totally way out on the left side. I will support something way out on the right side, but that is the system. But when there is finally a law passed and the President signs it, then to have one of the agency heads say we are not going to do it because it might interfere or hurt someone's feeling overseas, that is wrong.

I think this body has a responsibility to cite those agencies and those people responsible for contempt when they do so.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I was just getting into the gentleman's vision speech. It is very compelling.

I believe there are no further amendments left to the bill. Members should know that we are virtually at the end of this debate.

I just had to take a second to reflect, I was sitting here in my mind seeing the gentleman and myself and a handful of others standing here in 1976, when we enacted this statute in the first instance. Since then, as Members know, the Senate has seen fit—in a subsequent Congress, to actually rename—to name the statute after one of its former Members, which is a remarkable act that only the upper Chamber could contemplate, I suspect.

I have no idea whether either the gentleman or I will live long enough to see the next reauthorization of this statute. And since there is always a chance that neither he nor I will be here on that occasion, is the gentleman contemplating as a final amendment here what I have suggested so many times: renaming it once again so the Senate will understand, once and for all, this should be the Young-Studds Act?

Mr. YOUNG of Alaska. Mr. Chairman, I have not considered that, although I do think we deserve the merit for this bill probably more so than the one it is named after. I do say this with respect. The gentleman and I put the work in on this bill. The gentleman was chairman of the subcommittee. It came through his committee. Unfortunately, history has a way; those that are still available are never remembered in good light. So after we leave, we will not know whether to rename the bill.

Mr. STUDDS. That was supposed to be lighthearted, not egotistical. The name, if we think about it, has a certain ring to it, which I think might last longer than both of us. May I also say, the gentleman does not look as old as he must be, given how long ago we were here.

Mr. YOUNG of Alaska. Mr. Chairman, I want to thank the staff members that have worked on this—and not individually by name, but each one of them knows how much has been put into it. This legislation will go, in fact, over to the Senate side, and we will go to conference. But the ultimate goal of everyone in this room is to make sure that our fishermen and our fish can coexist for future generations.

This is a good and well-balanced bill. It should and will become law. It is time that this Congress acts in a positive fashion.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Let me begin by complimenting my colleague, the gentleman from Louisiana [Mr. HAYES], for his amendment. It is the right thing to do.

But as my colleague, the gentleman from Alaska [Mr. YOUNG], pointed out, we will be counting on the Department of Commerce to enforce it. History has shown—for all of the reasons that he has named, in addition to political treaties, in addition to bases in different places, in addition to mutual alliances—it probably will not be enforced.

So what the net effect will be is that we will have put another unfunded mandate on the American fishermen that his foreign competitors will not have to have. I am going to vote for the Hayes amendment. I am going to pray that the Department of Commerce will enforce it. But I can tell Members this: They are not. Therefore, I am going to vote against this whole bill, because it is just one more example of Washington not being fair to our folks.

One of the reasons for the big change last November is the people got sick and tired of us not being fair to them. So I will encourage Members to vote for the Hayes amendment. I will encourage the Secretary of Commerce for once to stand up for the American people, the people who pay his salary. I also encourage Members to vote against the bill because it is not being fair to the American shrimper.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES], as modified.

The amendment, as modified, was agreed to.

Mrs. SMITH of Washington. Mr. Chairman, I join my colleague Congressman RIGGS in his concerns with the lack of management authority outside the jurisdiction of State waters.

I have been working with the Columbia River Crab Fisherman Association and the Columbia River Crab Fisherman's Association on this very important issue. I cannot emphasize enough the importance of fishing and crabbing to the small communities in Pacific and Gray Harbor Counties.

Certain fisheries such as dungeness crab, scallops, and thresher shark are not covered by a Federal Fishery Management Plan. States lack the authority to manage these fisheries while the Pacific Fishery Management Council and the National Marine Fisheries Service lack the resources to manage them.

In the absence of management and conservation authority, these fisheries can easily be exploited by fisherman fishing exclusively in the EEZ and then landing the product in State or foreign nation without landing laws addressing that species of fish.

The bill as currently written grants authority to manage in the EEZ in Alaska. I appreciate the commitment by Chairman YOUNG to give serious consideration to extending this authority to other States.

Ms. PELOSI. Mr. Chairman, I rise today to express my support for the amendment offered by Mr. GILCHREST to H.R. 39, legislation to reauthorize the Magnuson Act.

Since it was originally enacted, the Magnuson Act has been the premier legislative tool for ocean fisheries management.

This bipartisan reauthorization bill goes a long way to address the problems associated with overfishing, bycatch and waste of fish, and fish habitat protection. However, we need to further strengthen the bill.

The amendment offered by the gentleman from Maryland reinforces the bill's overfishing provisions by redefining optimum yield. Currently, more than 40 percent of our Nation's fish species are overfished.

The Gilchrest amendment proposes a new definition of optimum yield so that short-term social and economic factors would not take precedence over long-term social, economic, and ecological health.

Marine fisheries are one of our country's greatest and most valuable natural resources and they must be conserved for long-term economic and ecological sustainability. The Gilchrest amendment shares this goal.

I urge my colleagues to strengthen the Magnuson Act by supporting the Gilchrest amendment.

Mr. ZELIFF. Mr. Chairman, I rise today to urge my colleagues to support the fine work of the Resources Committee and Chairman

YOUNG and support H.R. 39, the reauthorization of the Magnuson Act.

This issue is of tremendous importance to the fishermen along the seacoast of New Hampshire, and I am pleased that I have had an opportunity to work with the Resources Committee and Chairmen YOUNG and SAXTON to address a particular concern of mine. The problem of gear conflict, or acts—either intentional or not—that destroy gear such as nets and lobster pots, is an increasingly serious problem for fishermen in the Northeast, who are already suffering these days.

After working for several months with Chairman SAXTON and Chairman YOUNG, we were able to work out language that addresses the problem of gear conflict, and I have no doubt that this provision will be of tremendous assistance to our fishermen in New Hampshire and the entire Northeast.

Prior to discussing the amendment, however, I wish to provide a bit of background information and set the stage as to why this language is necessary.

First of all, fisherman's gear can be loosely defined as the tools he, or she, uses to catch fish. Gear could be fixed gill nets, lobster pots, or nets dragged behind large trawlers that catch everything in their path. The fishing industry in New Hampshire consists primarily of gill net fishermen who leave a number of nets attached to a secured line in the ocean and check on those nets periodically every few days or so.

The simplest example of a gear conflict would be to envision a large boat dragging a net behind it navigating through an area where gill nets are located. The gill nets are caught up in the trawler's net and are destroyed. The same situation occurs when a trawler passes through an area of lobster pots. The pots are either destroyed or entangled in the nets and pulled from the ocean.

The gear conflict problem is exacerbated in the New England area by the recent closing of fishing grounds off the east coast which were traditionally fished by large trawling vessels. Predictably, the large trawlers, in search of new areas to fish, have moved inshore and are now competing for fish in areas traditionally fished by gill-netters and small lobster fishermen. As NMFS and the New England Fishery Management Council review even more restrictive measures to further limit traditional fishing areas, there will be fewer and fewer areas to fish and that such reductions will lead to a greater concentration of fishing vessels and more gear conflict.

In a report provided to the New England Fishery Management Council, in the period between November 1992 and January 1995, there were 73 gear conflict incidents reported to the Portsmouth, NH, NMFS Office of Enforcement. Primarily, these incidents were between large trawling vessels and small gill-net or lobster fishermen. Based on discussions with fishermen and fishery officials, it is apparent that the actual number of such incidents may be twice what is reported.

The economic costs to the small boats whose gear is being destroyed is staggering. The gear lost in the period referenced above had a value of $130,000, costing individual vessel owners anywhere from $1,700 to $23,000 to replace the gear. In light of the fact that most small fishermen, like many other small businesses throughout the country, are struggling to survive and face increasing Government regulation, losing gear can prove to be an economic burden that is simply too difficult to bear.

The Magnuson Act, as currently written, requires that, to hold an alleged perpetrator of a great conflict liable, NOAA General Counsel must prove that an individual knowingly destroyed gear. It has been very difficult for NOAA to prove an individual's state of mind or that he acted with intent. Therefore, many gear conflict cases are left unpunished.

The language I worked out with the Resources Committee includes a two-tier system to address NOAA's dilemma. First, this system sets a negligence standard as its base, meaning that if NOAA could prove that a vessel is simply negligent then NOAA could hold a vessel civilly liable for the gear conflict. This tier would carry a fairly wide range of penalties so that NOAA could implement a small penalty in the event that a conflict was truly accidental. However, in the event that a vessel continually—or intentionally—is involved in gear conflict situations, NOAA would have the opportunity to severely penalize repeat offenders.

It is the second tier that would be used in the most egregious cases wherein NOAA had sufficient evidence to prove that a vessel consciously and with intent destroyed another fisherman's gear. This tier would carry the opportunity for NOAA to criminally prosecute the vessel responsible for the gear conflict.

It is absolutely essential that we in Congress give the fishery enforcement community the tools it needs to protect the small commercial fishermen working off the coasts of our great Nation. On the mainland, any individual who consciously destroys the tools necessary for an individual's small business to operate would be severely treated. I believe, and I am sure the small boat fishermen in New Hampshire and nationwide would agree, that if NOAA can prove an individual consciously destroyed another person's tools of livelihood, that person should be considered a criminal.

The fact is, as the Government continues to decrease the areas where fishermen are allowed to fish, more and more vessels are going to be concentrated into smaller areas. If we don't act now to develop language which will deter conflicts, many small boat fishermen will simply be wiped out. Worse yet, if we don't act, fishermen will take it upon themselves to protect their own gear, inevitably leading to the kind of standoff I outlined earlier. I am hopeful that my colleagues will not allow this to happen.

We are an anticrime Congress. We are a Congress that believes in protecting small business. I believe that this legislation does both. I urge my colleagues to support H.R. 39.

Ms. PELOSI. Mr. Chairman, I rise today to express my strong support for the amendment offered by Mr. MILLER to H.R. 39. This important amendment will help maintain the economic viability of family fishing operations throughout the United States, and by doing so, help keep our coastal, community-based fishing fleets alive.

The Miller amendment to H.R. 39 requires fishery management plans to consider historic participation and the needs of coastal fleets and the communities they support.

When the Magnuson Act became law in 1976, its chief goal was to develop U.S. fishing capacity and to promote efficient use of our fisheries. Since then, fisheries management plans have favored larger boats with huge capacities at the expense of smaller, family-run operations.

By requiring that fishery management plans consider the participation and needs of smaller operations, we will ensure a diversified fleet throughout our country which maximizes jobs, provides greater economic benefits to our communities, and results in less waste and lower capital costs.

I am proud to represent a congressional district with a long history of active family fishing operations. Each year, millions of visitors to northern California enjoy the fruits of the sea which are a result of long hours and hard work. This amendment supports these family operations and ensures that their sector of the coastal fishing economy will be strengthened.

I urge my colleagues to support the Miller amendment and vote "yes" on H.R. 39.

Ms. DUNN of Washington. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Washington State. While the amendment is narrow in nature, it addresses one of the most important developments in fishery management in the last decade.

The Individual Fishing Quota [IFQ] system that is being used by the halibut and sablefish fisheries did not come about overnight, it took many years. The real challenge of fishing management has been to conserve limited resources in the face of large fishing fleets and improved fishing gear.

To prevent overfishing of the halibut resource, Federal officials began cutting back on fishing times. A season that started at 6 months in the 1980's was reduced to 4 and then to 2 and finally down to two 24-hour openings a year. These so-called derby days created misery and havoc in the overcapitalized fishery. The same situation was developing for the sablefish fisheries. When you have 2 days to fish you end up going to sea no matter what the conditions—or starve. Fishermen were working in a "damned if you do, damned if you don't" environment.

An example of this was the September 1994 opening. In the Yakutat fishing grounds near Petersburg, AK, a storm system that was an offshoot of a typhoon was just beginning to hit when the fishery opened. By the time the 48-hour opening was over, four boats had gone down, one of them taking the skipper with it.

With the introduction of IFQ's, halibut fishermen do not have to risk their lives deciding between fishing and typhoons and there are other major benefits. They will be able to schedule their trips to optimize the markets, eliminate conflicts with other fisheries, and could possibly reduce their bycatch.

Investigation of alternative management regimes began in the late 1970's and continued throughout the 1980's. In a series of public meetings and workshops, fishermen, market experts, and other members of the industry and public made suggestions, and systems from around the world including transferable quota programs were analyzed. Finally, in 1991, after closely reviewing open access fisheries, license limitations, allotments, and combinations of these programs, the North Pacific

Fishery Management Council recommended the IFQ program to the Secretary of Commerce. After public comments on a proposed rule, the final rule was published in 1993. The program was finally implemented this year.

The IFQ program is new to Alaska. It is new to the halibut and sablefish fisheries and new to the fishermen and women who make their living from these resources. With any new idea there is growth and change as the concepts are discussed by regional councils, fishermen, processors, biologists, and enforcement personnel. The program is "in progress" and cooperation is needed from everyone involved for this program to be successful.

The new management regime is bringing increased safety, protection of the target species, while encouraging the conservation of these stocks for the benefit of the present and future generations.

And for all of these reasons, Mr. Speaker, I rise in support of the Metcalf amendment to ensure the continuation of the Individual Fishing Quota program.

The CHAIRMAN pro tempore. Are there further amendments to the bill.

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Pursuant to the order of the House of September 18, 1995, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. COMBEST, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 39) to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management, pursuant to the order of the House of September 18, 1995, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Pursuant to the order of the House of September 18, 1995, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 37, not voting 7, as follows:

[Roll No. 720]

YEAS—388

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Baesler
Baker (CA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Taylor (NC)
Thomas
Thornberry
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—37

Bachus
Baker (LA)
Callahan
Cooley
de la Garza
Dicks
Dornan
Dunn
Everett
Hancock
Hastings (WA)
Hayes
Laughlin
Lincoln
Livingston
McCrery
McDermott
McIntosh
Metcalf
Montgomery
Nethercutt
Neumann
Ortiz
Parker
Pombo
Scarborough
Smith (WA)
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (MS)
Thompson
Thornton
Tiahrt
White

NOT VOTING—7

Chapman
Fields (LA)
Flake
Mfume
Tejeda
Tucker
Volkmer

☐ 1449

Messrs. EVERETT, LAUGHLIN, NETHERCUTT, DE LA GARZA, and McCRERY changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 39, FISHERY CONSERVATION AND MANAGEMENT AMENDMENTS OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 39, the Clerk be authorized to make such technical and conforming changes as are necessary to reflect the actions of the House on the bill just passed.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Alaska?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2076), making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. MOLLOHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2076 be instructed to insist on the House position regarding the salaries and expenses of the Securities and Exchange Commission.

The SPEAKER pro tempore. Under the rule, the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion urges the House conferees to insist on the House position regarding the level of appropriations and the allowable level of fees collected by the Securities and Exchange Commission.

The House bill, Mr. Speaker, provides for a total appropriation of $103 million. This level provides for the commission to operate at their fiscal year 1995 funding level after the collection of fees totaling $184 million plus an approximate $10 million carryover.

Mr. Speaker, the Senate bill appropriates a total of $135 million, while allowing for the collection of only $123 million in fees. This means, in plain terms, that the Senate bill spends $32 million more than the House bill while at the same time it cuts the commission's operating level.

I was suggesting this anomaly that the Senate appropriates more money than the House does but reduces the fee collection, which means, in plain terms, that the Senate spends $32 million more than the House bill but at the same time it cuts the commission's operating level by approximately 10 percent. There are substantive reasons why I oppose cutting the SEC's operating level, which I will discuss in a moment.

But the Senate bill makes absolutely no sense from a fiscal standpoint. It provides $32 million higher spending levels to get a 10-percent cut in operations. It is not good fiscal policy.

Mr. Speaker, the cuts to the SEC's operating level mean fewer investigations. It means delays in the review of legal disputes. They mean a lessened ability for the SEC to pursue fraud, and it means less of an ability to prosecute fraud when fraud is found. This would come at a time when American financial markets are expanding and the potential for fraud increases along with that expansion.

There is no evidence that the incidence of fraud is decreasing. In fact, with the increasing complexity of financial deals and the instruments used to consummate these transactions, the SEC's missions are more and more vital.

In addition, the Senate bill abolishes the SEC's office of investor education and assistance. This office is the only place where individual investors can get their complaints resolved without resorting to litigation. The steady rise in the stock market is due, in part, to the fact of an increasing number of individual investors placing their funds there. Do we really want to eliminate the only Government entity that offers these investors the ability to have their complaints resolved without costly court action?

Part of the reason for the Senate action is given that it is based upon this notion that the States should perform this task, that the States should take over part of this responsibility. That is simply not practical in this context, and it is yet another example of piling additional responsibilities on States and not funding those responsibilities.

Mr. Speaker, protecting the stability and the integrity of the American financial markets is of paramount importance. I do not think that the Members of the other body were fully aware of the impacts of their action when this bill was passed in a rather chaotic moment just before the last recess.

Mr. Speaker, I believe that the chairman of the subcommittee is prepared to accept the motion. I have discussed it with him.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

I will be brief. I have no objection to this motion to instruct the conferees, to insist on the House position on the Securities and Exchange Commission. I believe it will help resolve this issue in conference.

The House position maintains overall funding for the SEC at the fiscal 1995 level, $297 million, instead of a 10-percent cut as proposed by the Senate. The House maintains the current fee structure while the Senate reduces fees. As a result, the Senate appropriates $31.5 million more than the House and yet reduces overall funding by 10 percent.

In short, the Senate bill pays more to get less.

The House position, on the other hand, is a bipartisan position that has resulted from extensive cooperation among the Committee on Commerce, the Committee on Ways and Means, and the Committee on Appropriations. It represents a coordinated approach to sustain the SEC while gradually reducing reliance on fees.

The House approach was most recently endorsed by the Washington Post in an editorial last Sunday.

So I will support the motion offered by the gentleman, my colleague, and I would urge its adoption.

Mr. MOLLOHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ROGERS, KOLBE, TAYLOR of North Carolina, REGULA, FORBES, LIVINGSTON, MOLLOHAN, SKAGGS, DIXON, and OBEY.

There was no objection.

□ 1500

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 2076, the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florda. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2126, Department of Defense Appropriations Act, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a further conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2126, be instructed to reduce within the scope of conference total spending by $3 billion compared to the amount provided in the House bill to be derived from deleting funds for low priority "Procurement", Research, Development, Test, and Evaluation" and other projects contained in the House or Senate bills that were not included in the President's Budget: *Provided*, That the conferees shall not reduce military pay or Operation and Maintenance readiness activities below the levels provided in the House bill.

The SPEAKER pro tempore. Under the rule, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Florida [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion to instruct conferees is fairly straightforward. It simply asks the conferees to delete $3 billion worth of pork which the conferees placed into this bill.

Every Member who has told his or her constituents that they want to change business as usual in Congress ought to enthusiastically support this motion. It simply instructs conferees to bring back a new conference report that cuts $3 billion in pork projects that do not affect readiness and do not affect military pay or operation and maintenance when they bring the bill back to the House.

The motion is very simple. It would save $3 billion. As Everett Dirksen used to say, "That is real money."

Mr. Speaker, I think it would be useful to review a little recent history to put all of this into context. Earlier this year we heard an awful lot of scare talk about how it was vital to our national interests to add another $7 billion to the Pentagon's quarter of a trillion dollar budget request in order to protect the readiness of our Armed Forces. Who could be against that?

The House leadership told us that this $7 billion was so essential and of such high priority that it had to be done, even if in the process it required other areas of the budget to apply draconian reductions to America's senior citizens, to working families, to workers who needed training, to America's kids. As a result, over the last 3 months, this Congress has produced one of the meanest and most extreme budget proposals that has been produced in the history of the Congress, to pay for more military spending and to provide huge tax cuts, over 50 percent of which go to the wealthiest people in our society.

Compassion for the sick and elderly has been thrown out the window; concern for clean drinking water and clean air has evidently evaporated; investments in the education of our children and in job training for workers tossed out of work have been severely savaged; summer jobs for lots of kids in this society have been eliminated; cops are being taken off the street as fast as they were put on it last year; and what are we getting for all of this sacrifice in the military budget?

Well, that question was answered several weeks ago when the first Defense appropriations conference report, which this House voted down, correctly, was first produced. That gives us a clear picture of what the new leadership of this Congress feels is the top priority. The headline that should have accompanied the conference report on that bill is "Pork Replaces Readiness."

Now, where did that $7 billion go? It did not go to the troops. The critical readiness account in the conference report operation and maintenance was actually lower than it was in the Clinton budget by nearly half a billion dollars, after you take out non-DOD items, like the $300 million in Coast Guard funding that comes under the Transportation bill, the $260 million in inflation cuts which should have been credited to both the President's budget as well as the House budget, because it is merely an estimate, and $650 million in contingency financing.

So in real, practical terms, the operation and maintenance account is half a billion dollars lower, not higher, than President Clinton's budget was. Yet the bill produced by this committee put the entire $7 billion into pet procurement projects that the Pentagon did not even ask for and says they do not need right now.

If you do not believe me, if you do not believe a Wisconsin progressive, then why not take the word of a pro-defense conservative Republican Senator. I have a letter from Senator MCCAIN which every one of us has received, and that letter lists some 100 projects, some 100 pieces of pork, which in his estimate, by conservative standards, will cost the taxpayers $4.1 billion in unnecessary spending. That does not even count the unnecessary funding for star wars and two extra $1 billion ships.

My motion does not go nearly as far as Senator MCCAIN suggested that we go. It simply says cut $3 billion, rather than the $4.1 billion that the Senator identified.

Mr. Speaker, if Members are against pork, they ought to vote for this motion. If they are against corporate welfare, they ought to vote for this motion. If Members are for deficit reduction, they ought to vote for this motion. If anybody wants to see the list that the good Senator provided us, I am more than willing to show, and we have got some additional projects as well which we are willing to talk to people about, including projects put in these bills by some people who on Tuesday will talk about how much they are saving the taxpayer in the defense bill and then on Thursday will slip in extra items that raise the cost of everything from Navy construction projects to you name it.

Mr. Speaker, I reserve the balance of my time and urge every Member to read what the good Senator has said about the unnecessary pork items in this bill before you vote on this motion.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would start by saying here we go again. The House overwhelmingly defeated an attempt to reduce the House bill when it was on the floor in its initial stages. This is a rehashing of the same approach. The conference report did reduce the House bill. We expect that the conference report numbers would be about the same, but let me tell you where they are.

If we were to accept the Obey motion to instruct and if it were to prevail, this bill for fiscal year 1996 would be $2.6 billion less than the defense bill that was signed into law last year, which would mean the 12th year in a row that our investment in our national security has been reduced. It would result in a defense appropriations bill which would be $5.2 billion less than the House-passed defense authorization bill.

So we are talking about a very fiscally conservative defense bill. What we are trying to do, we are trying to change the direction. Our defense establishment has already been reduced by 1.2 million personnel. At the same time, the President, the Commander in Chief, is sending U.S. troops around the world. If anybody is paying any attention at all, they know that the President intends to send 20,000 to 25,000 more American troops to Bosnia. To do what? To keep the peace? They do not call this peacekeeping forces anymore. Now they call it the implementation force. They are supposedly going with full combat gear and heavy equipment.

My attitude is if the U.S. troops are going to be deployed to a hostile situation, that is the way they ought to go. But if they are going like that, that means there is no peace to keep. It means they are there to implement the peace. According to the news media this morning, the President has no intention of coming to the Congress to get any approval on the part of the Congress for this deployment of U.S. troops. I say that is wrong, Mr. President. The Congress has not only a right, but an obligation to be involved in these kind of decisions.

Now, what type of programs would we have to eliminate if the gentleman from Wisconsin [Mr. OBEY] were successful? What are the low priority, unrequested additions?

First, let me speak to the issue of what is unrequested. Everyone who knows what is going on in this business, in the Congress and outside the Congress, at the Pentagon, at the White House, understands that the President sets a budget number. Regardless of what the Department of Defense, the Army and the Navy and the Air Force and the Marine Corps, what they think they need to accomplish their missions, they have to work within that political number set by the President.

We tried to do our work a little differently. We had in the war fighters, not the political Pentagon but the people who have to perform the missions, who have to go to places like Bosnia or who went to Somalia or Desert Storm, to find out what their needs are. We came up with quite a list. I know that the gentleman who preceded me does not like it when I bring out this scroll, and I will not roll it out again, but this scroll contains hundreds of items that the Army and the Navy and the Air Force and the Marine Corps have identified as critical issues for them, but they could not get them in the budget because the number was not there.

We are trying to turn that corner. We are trying to change the direction of 11 years of reduction, year after year, in our national defense activities, and that is what is on this scroll. We have tried to provide some of those. They are on the list.

Let me speak to what some of those are. What are the unrequested adds? I hope the Members will pay attention to this, because almost every Member in this Chamber has written to me or spoken to me about this issue: $100 million that we added to this bill for breast cancer treatment and research for those women who serve in the military and the spouses of the men who serve in the military who may at one time or another have to deal with the issue of breast cancer.

We were asked to provide $300 million for the military, the military activities, of the U.S. Coast Guard. While they do not come under our jurisdiction for their total funding, they are a military organization, and they are essential to our Nation's security. So we added $300 million for the Coast Guard.

We added $322 million for barracks renovation, because some of the conditions of some of the barracks that our soldiers have to live in are pathetic. We are trying to correct that.

We provided additional money for the Guard and Reserve equipment, because the Guard and Reserve, as we have reduced the end strength of our Armed Forces, the Guard and Reserve become extremely more important. Secretary Perry told us just a few days ago that when the troops go to Bosnia there will be Guard and Reserve units that will go with those troops that go to Bosnia.

□ 1515

So they need to be properly equipped. And we tried to bring them up to date by modernizing their equipment.

And, yes, the gentleman from Wisconsin [Mr. OBEY] does not like this one at all, but we did provide extra money for ballistic missile defense.

I remember going to Saudi Arabia during Operation Desert Storm with the gentleman from Pennsylvania, JACK MURTHA, who was then chairman of this subcommittee, and shortly after we returned from that war zone we learned that a Scud missile had killed a large number of Pennsylvania National Guardsmen who were asleep in their barracks because our missile defense was not as good as it ought to be. It is still not, and we are trying to improve that.

Mr. Speaker, we want to make sure when our troops are deployed and they go to sleep in their barracks behind the war zone that they ought to be provided some protection against a Scud type missile or an incoming ballistic missile.

We provided some extra money for trucks. I visited some army bases just recently and I saw trucks that were in service in the Army when President Truman was President of the United States. It costs more to keep them up than it does to replace them, so we are trying to replace some of those World War II vintage trucks.

Mr. Speaker, I do not know how many of us remember General Schwarzkopf's comments when he came back from Desert Storm as a conquering hero, but he made the point to our subcommittee and to anybody that would listen that without the trucks that he had, that incidentally the Pentagon had never asked for but Congress provided, without those trucks he could never have prosecuted that war to the extent that he did.

Mr. Speaker, we had a $400 million shortfall in ammunition. Ammunition. We provided extra money for ammunition.

Something else we did that was an initiative of our subcommittee. There is an ongoing operation in Iraq to deny access to the skies of the Iraqi fighter pilots. That is ongoing. We added $650 million to pay for that operation.

The way it has always been done in the past, Mr. Speaker, the President just goes ahead, he deploys the troops, and at the end of the year we have to come up with a supplemental to pay for that. We knew how much this operation was going to cost and so we provided the $650 million over and above the President's request to pay for that operation. And if we did not do that, what happens? They have to borrow it from their training accounts.

Mr. Speaker, I would like to now move on to the subject of Bosnia because that is exactly what is happening today. The operation in Bosnia, before any additional deployment, is going to cost over $300 million this fiscal year. That money is being borrowed from their training accounts; and, as the Bosnian situation develops and grows more serious and more expensive, the moneys are going to be borrowed from training, from readiness, from operations and maintenance. We took a first step toward correcting some of that problem here with this money for the unbudgeted contingencies.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Washington, who happens to be a distinguished member of our subcommittee.

Mr. DICKS. Mr. Speaker, I wanted to take a minute here to join the gentleman in urging the House to vote against this instruction.

I have great respect for the gentleman from Wisconsin. He has been a good friend of mine for many years, and I understand his point of view. And many of us on the Democratic side of the aisle have difficulty with the budget priorities that are being presented to us in the reconciliation package and in the appropriations bills. But as someone who has served on this subcommittee for 17 years, I would like to remind my colleagues that we have reduced defense spending since 1985.

Mr. Speaker, if we took this year's budget and put it back into 1985 dollars, it would be about $350 billion. That was kind of the high point of the Reagan defense buildup. Since then we have cut that budget from $350 billion down to $250. Now, show me any other area of Government where we have made those kinds of cuts. It is about a 37-percent reduction in real terms.

I would also point out that that 1985 budget defense spending included about $135 billion for procurement. That procurement budget has now been cut down to $41 billion a year, a 70-percent reduction, which, I think, is going to be the next major problem that we face in the defense area.

Mr. Speaker, people talk about readiness. We are spending a lot of money on readiness. Where we are not spending the money properly, in my judgment, is in procuring the new weapon systems to replace the equipment that we have in each of our services. I think that this $3 billion cut, coming at a time when this administration is going to be asking us to come up with money for Bosnia on top of it, would be a serious mistake in judgment.

I would support my chairman here. I think we have to support what the committee did on a very bipartisan basis. Yes, we can look at Senator McCAIN's list. I do not like a lot of the things that were in there, but I would point out that most of them came from the other body. We go into those conferences and we have to deal with these issues, and the ones that the chairman has pointed out are very important and he has done his level best to keep the bill as free of unnecessary spending as he can. And yet we are doing some things in the health area, like breast cancer, which I think, overwhelmingly, the House and the country would support.

So, Mr. Speaker, I hope we can resist this motion to instruct and remember the context. We have already cut defense way back. We have cut force structure by a third. We have a much smaller military today than we did just a few years ago, and it is the one area in Government where we have really made, over a substantial period of time, real reductions. At this point I think we have to level that off or we are going to do considerable damage to the readiness and the ability of this country to defend itself.

I appreciate the chairman yielding.

Mr. YOUNG of Florida, Mr. Speaker, I thank the gentleman for his comments, and I reserve the balance of my time.

Mr. Speaker, may I inquire how much time is remaining on each side?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Wisconsin [Mr. OBEY] has 23 minutes remaining, and the gentleman from Florida [Mr. YOUNG] has 18 minutes remaining.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume, and note that the gentleman from Florida has indicated that in my remarks I am doing nothing but rehashing old arguments. That is absolutely correct, and I intend to rehash those arguments again and again and again and again and again until people stop listening to bafflegab and start facing some true facts.

We have heard about the draconian reductions in the U.S. military budget. My question is: In comparison to what? This chart shows a red bar representing the Russian military budget since the Soviet Union collapsed, and the blue bar is representing the United States budget since that time. This shows the comparative reductions in military spending by the Soviet Union and the United States.

As we can see by the rapid decline in the red bars, the Russians have reduced their military spending since the Berlin Wall fell by about 70 percent. The United States, represented by these blue bars, has reduced our military budget by about 10 percent over that same time period.

Now, Mr. Chairman, I would suggest this hardly indicates that somebody is going to get you. It hardly indicates that we are about to be swarmed over by the red hordes or any other hordes in the world.

This chart shows how our military budget compares to that of all our potential adversaries. If we take Russia, if we take China, if we take Syria, Iraq, Iran, Libya, North Korea, Cuba—that military powerhouse, Cuba—if we take them all and add them together and compare them to what the United States spends in the rest of the pie chart, we spend about 2½ times as much as all of our potential adversaries put together.

Mr. Speaker, third point. We take the good old B-2. We are only buying twice as many B-2's as the Pentagon asked for at a cost of $1.2 billion a crack. Just the cost of one of those airplanes would pay the tuition for every single undergraduate student at the University of Wisconsin for the next 12 years. That puts it in perspective. Just two B-2 bombers.

If we just decided not to spend the money for those two B-2 bombers, we could restore $1.2 billion in cuts for education; we could provide $1 billion for home heating help that has been cut out of the budget, to help 6 million households; we could provide summer jobs for 300,000 kids, all with just what we are going to spend to buy two of those B-2 bombers.

This committee, however, in its infinite wisdom, says "Oh, oh, oh, we have to buy them, baby, because somebody wants them." The gentleman from Florida says that there are other items that some people in the Pentagon would like. Well, then, I suggest that they ought to get those items through the Pentagon's process, because right now the Pentagon itself has turned down the items that I am trying to eliminate in this bill.

Now, Mr. Speaker, I am not a bit surprised there is some general or some admiral who will come to us and whisper behind us and say: "Hey, I have to have this. Really would like this." Of course, they do. Have any of us ever met a bureaucrat in any profession, military or otherwise, who did not have his hand out for something that he would like that the country cannot afford? Wake up, fellas. Wake up.

Mr. Speaker, the gentleman talks about what General Schwarzkopf said about the need for some equipment. The general I prefer to listen to in this case is named Eisenhower, and he warned us a long time ago of the pernicious effect on the ability of this Congress to control spending that is created when we have the huge military industrial complex that goes to work and decides that they are going to build a weapon system by putting projects in 48 of the 50 States so that they create pressure on virtually every single congressional delegation to vote for something even though it is not needed.

Mr. Speaker, having said all that, I want to say that is not what is at issue here today. What is at issue here today is whether or not we are going to take over $4 billion in pork. Capital P-O-R-K, pork. If we are going to take $4 billion in pork and knock out three-quarters of it. I am not even asking that we knock it all out. You can keep your favorite items. We can get together and decide how we are going to divvy up the rest but knock out three-quarters of, not what I say is pork, but what Senator McCAIN says is pork. And the last time I looked, he is not exactly a left wing antidefenser.

So, Mr. Speaker, I would suggest that we keep this in perspective and remember that this amendment does not attack the defense of the country and it does not attack the military preparedness of the country. All it says is, "Boys and girls, take three-quarters of the pork out of the bill." That is all it says. It does not even single out which items should be taken out. It leaves it up to the committee and their great expertise.

Mr. Speaker, I would urge Members to vote for the motion to recommit.

☐ 1530

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. MURTHA], the ranking minority member on the subcommittee and a former chairman.

Mr. MURTHA. Mr. Speaker, let me talk about some of the comments that the ranking member of the full committee made and the concern I have about passing instructions to reduce the amount of money available to the Defense Department.

When I was just over in Bosnia over the weekend, I found that they are using some of the money from the next quarter already and we are trying to sort out exactly how the money should be spent. Now, what we have done this year is try to make adjustments in the various programs that the Defense Department has asked for. For instance, over the years, we have put language in the bill, or we have put a number of programs in the bill that have been absolutely essential to the national security of this country.

Mr. Speaker, I remember well, probably 15 years ago, when a number of us offered an amendment to put SL–7's in. The Navy did not want it. The Defense Department did not want it. It took us 2 or 3 years before we could get that legislation through. As a matter of fact, we passed the legislation and in the Gulf war, it was essential, since 95 percent of the materiel that was sent over to Saudi Arabia went by ship, much of it went by these SL–7's, which are large cargo-carrying vessels.

We do adjust what the Defense Department asks for. That is our job. Our job is to try and set the priorities for the Defense Department. Now, we are going to go back to conference. We are going to look at all the things, the adjustments that the Members have asked for, the concern that they have about the various issues, and if I remember on the floor, there was an amendment to reduce defense in the initial phase, before the conference, by 5 percent, by 3 percent. Both of those were defeated substantially.

I believe we have the right mix. I have talked to a number of people in the Defense Department, and they think we have the right mix. I disagree with the gentleman from Wisconsin who said that the members in the military are looking for a handout. I believe very strongly that they serve with dedication. They try to get the most for their money. They do not ask for money unless they feel they need it. They feel that it is essential that our troops be prepared for the type action they may be sent into.

We have got a concern about the deployment to Bosnia. We want to make sure that any troops that are sent there are prepared. We want to make sure they have the most modern weapons possible. We made the decision on the B–2. The House made the decision on the B–2; made the decision that we need that modern weapons system in order to save money in the long run.

Mr. Speaker, I was the one that offered, years ago, an amendment to jump over the B–1 and go to the B–2, because I felt the B–1 was obsolete at that time. It was defeated on the floor of the House. I accepted the fact that it was defeated on the floor of the House, and I predicted that it would be very difficult for us to build a number of B–2's, but we are now in a position where we found the money to fund the B–2. We cut intelligence. We found that there was extra money that had not been used and could not be used and was not obligated in the intelligence sector that we could put into this issue.

One of the major weaknesses in the Navy Department right now is the fact they have not bought the modern airplanes. We are not going to have airplanes that are stealthy. Our airplanes are slower than they were in Vietnam. Even though some of them are modern, an awful lot of them—the bombers in particular—are not only not modern, but they are antiquated and very susceptible to ground fire. So, we are now in the process of trying to upgrade the Navy Department.

The B–2 plays a part in that. The military leaders themselves feel that the F–22 is an essential part of the defense of this great country. If we allow this equipment to become antiquated, we become vulnerable and we start to lose lives. We found 50 years ago that 50 percent of the aircraft were deadlined because of the lack of spare parts. We have tried to take care of that. We have tried to reach the delicate balance of continued research and development, spare parts and readiness.

Mr. Speaker, we sat in hearings for 5 months. Hours and hours of hearings, trying to make sure we made the right decisions. This bill came out of committee, adjusted between the House and the Senate, with what we felt was something that the White House could sign.

Mr. Speaker, I predict that this bill, with a very minimal change, will be signed by the White House at some point. We will have to make some changes, but I would urge the Members to defeat the motion to instruct by the gentleman from Wisconsin and let us go to conference and work it out.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, we have heard, "Oh, we cannot cut this bill because we are going to endanger items important to national security."

Mr. Speaker, if my colleagues would take a look at Senator MCCAIN's list: Electric vehicles research, brown tree snake research, wastewater treatment plan for a community, a small business development center for another community, national solar observatory, a natural gas boiler demonstration project, Mississippi resource development center. That hardly sounds to me like these are crucial defense items.

Mr. Speaker, I could name a lot more, and will, if pressed. But it just seems to me that, as I said earlier, I am not even insisting that we take the Senator's full $4 billion list of pork. I am suggesting that we ought to take three-quarters of it and take it out of the bill.

Mr. Speaker, I would make another point. What I said, and my colleagues can go back and check the record, what I said was that there is not a bureaucrat, be they in the military or elsewhere, who does not have his hand out for something that the country cannot afford. I stand by that statement. I have too much experience around here to know anything other than that.

Mr. Speaker, those bureaucrats come into our offices every day from the military, from universities, from you name it. There is not an agency of this government that does not have its hand out for something, trying to get around the budget limitations put on that agency by the President of the United States and the Office of Management and Budget.

Mr. Speaker, I would make another point. The gentleman from Florida [Mr. YOUNG] says, Well, you know, we are going to have future contingencies that we have to pay for. I would be willing to buy an amendment right here and now which takes $3 billion out of the pork and put it right into the contingency fund. If the gentleman wants to offer that, I would be happy to accept it and start over with the motion to recommit.

So, let us not kid ourselves that this money is here for contingencies. This money is here because there has been a political accommodation reached to try to fund projects which the Pentagon says are not necessary. I do not suggest that the Pentagon in all cases is right. I think the gentleman from Pennsylvania is perfectly correct. That there are some instances in which we need to exceed what any agency asks for, and we have heard a number of those cases made during the Iraqi war, for instance. I agree with that observation.

That is why this amendment does not call for the elimination of all pork. It does call for the elimination of three-quarters of it, because that is the only way I know how, that is the only way I know how to break up the insider dealing, which otherwise is going to prevent us from really forcing the tough questions.

Because as all of my colleagues know, the great hidden secret in our military budget is that while in the 7-year period overall, this budget that the Congress has produced would spend more than the President, after the seventh year, it spends less than the President is suggesting. The fact is that there is no way we are going to be able to keep to that outyear glidepath to take us down to those lower numbers unless we start eliminating some of the waste up front, right now.

Mr. Speaker, we are going to be on this floor tomorrow and we are going to be asked to cut Medicare benefits. We are going to be asked next week to gut the protection of the middle-class families when one in their family has to go to a nursing home. We are going to be asked to take major reductions in education, 30 to 40 percent reductions in job training, but we are being told that we cannot afford to cut this $3 billion in pork? Baloney.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, first, let me applaud anyone who wants to save money in this body. But there are bigger issues at stake on this measure.

Mr. Speaker, I am a member of the Committee on National Security and today Secretary of State Christopher came before the committee and said it was his opinion that he could commit 25,000 American troops to the most dangerous place in the world without congressional approval.

If my colleagues happen to have read the Constitution, article I, section 8 gives that responsibility to send young Americans off to war solely to the Congress.

And this is a war. They would be sent in, allegedly, as peacekeepers to a part of the world where the best-armed people consider us to be their enemies, because we have bombed them repeatedly in the last month or so.

This body, led by the gentleman from Pennsylvania [Mr. MURTHA] with the help of the entire body, passed a measure that would prohibit the President from spending funds on ground forces in that portion of the world without congressional authority. That is our job. We cannot run away from it.

One of the reasons that the majority defeated the defense appropriations bill conference report was because that language had been removed after the House voted for it unanimously. Mr. Speaker, the gentleman from Florida [Mr. YOUNG] is the chairman of that subcommittee. I would like to know what the gentleman's feelings are going to be entering this conference as far as trying to put that language back into the bill, because as the gentleman knows, under the rules of the House there will be very few avenues for a Member of the House to vote on this issue.

Mr. Speaker, I think the House has spoken on this, and I think it is very important that we stick to the efforts of the gentleman from Wisconsin [Mr. NEUMANN], the gentleman from Pennsylvania [Mr. MURTHA], and the many others who passed that amendment unanimously.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I appreciate the comments the gentleman has made and I know of the gentleman's strong interest.

Mr. Speaker, I have to say that I could not agree with him more with the issue that he raises dealing with the President sending United States troops to Bosnia. As a matter of fact, in the bill that I presented as the chairman's mark to the subcommittee, I had 5 pages of language dealing with the issue of Bosnia and the President's obligation to deal with the Congress on the issue.

On the House floor, the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Pennsylvania [Mr. MURTHA] worked together to make that language even stronger. We attempted to keep that language in the conference. It was very difficult.

Mr. Speaker, in the last week the gentleman from Pennsylvania [Mr. MURTHA] and I have both met with Secretary Perry and Ambassador Holbrooke. We discussed this issue and I asked the Secretary if the President still intended to come to the Congress to get approval before sending troops to Bosnia. His response was, "Yes." And I said, "Well, in what form would that consultation or that approval take?" And Mr. Perry's response was, "I don't know. That's the President's call."

But I agree with the gentleman that American troops should not be sent into hostile situations without the consent of the Congress. If the President is willing to come to Congress and get that approval, that is one thing. But if he is not, then Congress has to do what it can with the purse strings.

Mr. Speaker, I would assure the gentleman that we intend to make sure that that happens.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming what time I have left, there has been a tradition, there has been a tendency of Presidents in both parties to commit American forces and then, once those young men are in harm's way, then come to Congress and ask for the money.

My colleagues know the position that puts us in. Then we are voting against the troops in the field and we know we cannot do that. That is why I think it is so important. That this body speak today and speak now on this issue that this is a congressional decision that we will not run away from. That we want to make this decision before the first American is put in harm's way in the former Yugoslavia.

☐ 1545

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, all of us on the subcommittee have the same concern that the gentleman does. As the gentleman knows, I just came back, from Sarajevo. We stayed overnight there, not intentionally, but could not get out because the last flight was canceled because of the activity—we might define it as activity—going on around Sarajevo.

I have a great concern about putting troops in, and for 3 or 4 years we have been working in the subcommittee trying to convince the administration that, before they make humanitarian deployments, they must come and get authorization from Congress. Now, why do I say humanitarian deployment? I do not think a deployment to Sarajevo or to Bosnia is a national security issue. I believe it is a humanitarian deployment.

On the other hand, I think they are only 20 percent of the way. I do not think that they have come close to settling the problem. What I said in talking to the chief of staff of the White House and talking to Secretary Perry and the gentleman from Florida [Mr. YOUNG], we have agreed that we think they have to have ironclad assurances from all the participants before any Americans are sent in. And Holbrooke is the one that said they are only 20 percent of the way. So they have got 80 percent to go. They are a long way off. I think in conference we can deal with this as we see it developing.

I doubt very much if we will see an agreement before the first of the year. The gentleman from Wisconsin just mentioned to me, will they get them in before the weather gets bad? To me, it is more important that we get an agreement, which is enforceable with robust rules of engagement, with a robust force agreement, with the participants saying, the United States or the NATO allies can enforce this agreement, rather than have them come to an agreement which is a compromise and a danger to American forces.

So we are a long way from agreeing to this. I think in conference, I hope we work something out that would be acceptable and yet agreeable to the Congress.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida [Mr. YOUNG] has 9 minutes remaining, and the gentleman from Wisconsin [Mr. OBEY] has 10 minutes remaining.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have to say that my good friend, Mr. OBEY, and I have had many differences on the floor, but we have remained friends throughout those differences.

I was a little offended when I thought the gentleman was trying to compare soldiers in the field to bureaucrats with their hands out. Soldiers in the field are in harm's way. They need the best training they can get. They need the best equipment they can get. They need the best technology they can get to accomplish the mission, No. 1, and to give themselves a little protection, No. 2.

I see nothing wrong with that at all; to the contrary, I support that strongly. I would reaffirm a commitment I have made many, many times. I would never vote to send an American into a combat situation unless I knew that I had done everything that I possibly could to provide the best training and the best technology and the best equipment possible to accomplish the mission and, yes, give them a little protection at the same time.

So I cannot compare those folks to bureaucrats with their hands out, in the words of the gentleman from Wisconsin [Mr. OBEY].

There are some bureaucratic requests that were made. We are talking about what was requested by the administration and what was not. Let me tell Members some of the things that were requested by the administration that we did not do. We did not do, for example, the funding for the Russian conversion projects to convert their defense industry to supposedly nondefense industry. But let the record show that they were actually using our money to convert their defense industry to a different type of Russian defense industry.

The gentleman from Wisconsin [Mr. OBEY] talked about the B-2. The Pentagon did not want it. We know the B-2 is an expensive program. It was not in the President's budget. The *Seawolf* is another expensive program, but it was in the President's budget. They are both fairly important.

I remember the battle some years ago about the F-117. The arguments were, well, the Air Force did not request the F-117. The Pentagon did not ask for it. Why should we complete the program? But the Congress decided to complete the program. Congress prevailed. Who knows better than Saddam Hussein how effective the F-117 is because those airplanes flew over Baghdad at night, caused severe damage to Saddam's ability to conduct his war. They were never seen by the enemy because it was a good weapon. The Pentagon did not ask for the funds to complete that program but we did it anyway. Congress decided that it was a good program.

I have looked at the list that the Senator, that the gentleman from Wisconsin [Mr. OBEY] has talked about. I saw the list. I added the items up. If we took everything out of this bill that is on the list presented by the Senator, it would only come to about two-thirds of what Mr. OBEY wants to reduce.

What would some of those things be if we took out the list that the Senator sent over? Well, I mentioned the breast cancer program of $100 million. He thinks that is pork. Ask a woman that has had breast cancer or someone in their family that ever had breast cancer or who has a suspicion of breast cancer, ask them if they think the $100 million for breast cancer is pork. I think we would find the answer is definitely not.

What about all the soldiers and the sailors and the airmen, the male members of the military? There is money in here for prostate cancer research. That is on the Senator's list. He would take that out. What about head injury research? That is on the Senator's list. He would take that out. What about AIDS research, unfortunately a growing problem in the military? We need to do something about that. The Senator's list would take that out.

What about the Coast Guard, whether we are dealing with drug interdiction, whether we are dealing with search and rescue, whether we are dealing with Cubans and Haitians leaving their homelands to come to the United States? That is all in the interest of the United States. That money is on the Senator's list to take out.

I say to my colleagues that the Senator's list is really mushy. The Senator's list may have a few things in here that would not have to be there, but, for the most part, the list is not a very accurate list as to what is pork and what is not pork.

Our defense program has been reduced for 11 straight years. Defense manpower is down by over 1.2 million personnel. At the same time, the President is sending U.S. troops anywhere he desires without the approval of the Congress.

The Obey amendment would like to deal with procurement funding. Procurement funding, that is the technology and the equipment that I talked about to let the soldiers accomplish their mission and protect themselves at the same time. Procurement funding is 70 percent less in this bill than the procurement level of 10 years ago. This is a pretty good defense bill. I say to the Members on my side of the aisle, it meets the obligation that we made in our Contract With America to change the direction of our national defense, to move away from a hollow force, to be prepared in the event the President decides to send Americans into harm's way. That is what this bill does.

This is a pretty good bill. Mr. Speaker, I ask that Members defeat the Obey motion to instruct and allow us to get to conference and deal with the issues that we have to deal with.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] has 10 minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, on the assumption that sometimes we need to repeat things about 50 times before Members hear what it is that is being said, I am going to repeat an argument I made 10 minutes ago. Before Members get all hot and bothered about the military threat facing the United States, let us compare military spending worldwide.

This chart shows: this piece which represents all of the military spending by all of our potential adversaries put together, including Russia, China, and all of the popgun powers of the world, that compares to the United States military expenditures which are about 2½ times as much. Not included in this chart is the money spent by our European allies on military spending. Does anybody really think that we are at the edge of Armageddon with this kind of distribution of spending?

When our principal military adversary—Russia, represented by these red bars—has reduced its military spending by 70 percent, while we have reduced ours only by 10 percent, represented by the blue bars, does anybody think there is not any room at all to save a dime or a dollar? I would suggest that is a pretty good margin for error.

Now, the gentleman refers to some items listed on Senator MCCAIN's list and says we should not cut them. Don't! Keep them! But I do ask, why should we be funding wastewater treatment plants in Hawaii? Why should we in my own State be providing money for a cleanup of a site which the Pentagon itself says there is no Pentagon liability for? Why should we be doing that? We did not do it in the House bill. Why is that being done?

Why are we providing for the expenditure of $20 million worth of improvements to a federally owned educational facility prior to transferring that facility to local educational agencies? I know nothing about that project. But I can tell Members one thing. I would sure like to get that deal in my district, have the Feds spend $20 million on a project and then turn it over to my local school people. Not a bad deal, baby, if you can get it. Not bad at all.

Or, for instance, the committee prohibits the downsizing or the disestablishing of the 53d Weather Reconnaissance Squadron. I do not know if that is a good idea or not, but it costs additional money. It prohibits the use of Edwards Air Force Base as the interim air head for the national training center, in another pork fight between members. I do not know which side is right, but the decision the committee made costs the most money.

I suppose I would not be here today doing this if it were not for the vote that the majority is going to ram down our throats tomorrow on Medicare. Tomorrow we are going to be standing here, and the majority party is going to be demanding that we cut $270 billion out of Medicare to provide a $245 billion tax cut, most of which will go to people who make over $100 thousand smackeroos a year. I think that is unfair. I think that is immoral.

Yet, we are being told that we ought to further the squeeze on the appropriations side of the budget, on domestic programs. In fact we had to make $7 billion in additional reductions in education, in job training, in environmental protection, in agriculture, in natural resources protection in order to free up this $7 billion for the Pentagon. Then what is it spent on? Is it spent on readiness? No.

As I said earlier, this bill, when we compare real dollars to real dollars and get the categorizations right, this bill spends half a billion dollars less on readiness than President Clinton's own budget.

All of my colleagues know that the B-2 would not stand a chance of a snowball in we-know-where of surviving a vote on this floor if the contractor had not spread those contracts out to so many subcontractors that we have over 40 States who are going to get a little bennie from that B-2 project.

☐ 1600

In addition, Mr. Speaker, when we take a look at what that baby costs—1 billion 200 million bucks a crack—and then we remind ourselves that the Pentagon did not even ask for it, that this committee is choosing to buy twice as many of those planes as the Pentagon wants! I would suggest to my colleagues, given this picture, and given this picture, there is a little room for cutting.

So I repeat: All this motion to instruct says, without singling out any single item, all it says is let us take three-quarters of the pork which was listed by Senator McCain in his letter. Let us assume he is wrong on 25 percent of it and cut out the rest. The committee can choose which items get cut. That is all this motion says.

Mr. Speaker, I want to see how many people on this floor are going to vote today to preserve $3 billion in pork in the military budget and then tomorrow are going to vote to stick it to the old folks. I want to see how many of my colleagues really have that much guts.

Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LaHood). The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 134, nays 290, not voting 8, as follows:

[Roll No. 721]

YEAS—134

Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Blute
Bonior
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
Dellums
Deutsch
Dingell
Doggett
Duncan
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Foglietta
Ford
Fox
Frank (MA)
Furse
Ganske
Gephardt
Gordon
Green
Gutierrez
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnston
Kaptur
Kennedy (MA)
Kildee
Kleczka
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martini
McCarthy
McDermott
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Minge
Moakley
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Petri
Pomeroy
Poshard
Ramstad
Rangel
Reed
Riggs
Rivers
Roemer
Roth
Roukema
Roybal-Allard
Rush
Sanders
Sawyer
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thurman
Towns
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—290

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manton
Manzullo
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Regula
Richardson
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Royce
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Chapman
Fields (LA)
Flake
Hilliard
Houghton
Tejeda
Tucker
Volkmer

☐ 1622

Mr. QUINN and Mr. HASTINGS of Florida changed their vote from "yea" to "nay."

Messrs. SHAYS, MOAKLEY, and GANSKE changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LaHood). Without objection, the Chair appoints the following conferees: Messrs: Young of Florida, McDade, Livingston, Lewis of California, Skeen, Hobson, Bonilla, Nethercutt, Istook, Murtha, Dicks, Wilson, Hefner, Sabo, and Obey.

MOTION TO CLOSE CONFERENCE WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Young of Florida moves, pursuant to rule XXVIII (28), clause 6(a) of the House Rules, that the conference meetings between the House and the Senate on the bill, H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, be closed to the public at such times as classified national security information is under consideration; provided, however, that any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. YOUNG].

Pursuant to clause 6 of rule XXVIII, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 418, nays 3, not voting 11, as follows:

[Roll No. 722]

YEAS—418

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—3

Chenoweth
DeFazio
Stark

NOT VOTING—11

Browder
Chapman
Dooley
Fields (LA)
Flake
Gephardt
Hilliard
Rangel
Tejeda
Tucker
Volkmer

☐ 1642

So the motion was agreed to.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the following Members be the conferees on the part of the Senate to the bill (H.R. 4) "An Act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence": Mr. ROTH, Mr. DOLE, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MOYNIHAN, Mr. BRADLEY, Mr. PRYOR, and Mr. BREAUX. From the Committee on Labor and Human Resources for the consideration of title VI and any additional items within their jurisdiction including the Child Abuse and Protection Act title; Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. KENNEDY, Mr. DODD, and Ms. MIKULSKI. From the Committee on Agriculture, Nutrition, and Forestry; Mr. LUGAR, Mr. DOLE, Mr. HELMS, Mr. LEAHY, and Mr. PRYOR.

The message also announced that the Senate agrees to the amendment of the House to the resolution (S. Con. Res. 27) "Concurrent resolution correcting the enrollment of H.R. 402".

DISAPPROVAL OF CERTAIN SENTENCING GUIDELINE AMENDMENTS

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 237 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 237

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2259) to disapprove certain sentencing guideline amendments. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(2)(B) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of S. 1254, as passed by the Senate, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. The bill, as amended, shall be considered as read. No further amendment shall be in order except the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, which may be offered only by Representative Conyers of Michigan or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 2259, it shall be in order to take from the Speaker's table the bill S. 1254 and to consider the Senate bill in the House. All points of order against the Senate bill and against it consideration are waived. It shall be in order to move to strike all after the enacting clause of the

Senate bill and to insert in lieu thereof the provisions of H.R. 2259 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 1254 and request a conference with the Senate thereon.

□ 1645

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio [Mr. HALL], my good friend, pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 237 provides for the orderly and expedited consideration of H.R. 2259, legislation reported from the Judiciary Committee to disapprove certain sentencing guidelines proposed by the U.S. Sentencing Commission.

Specifically, the rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives clause 2(l)(2)(B) of rule XI, which requires the inclusion in committee reports of rollcall votes, against consideration of the bill. It also provides for the adoption in the House and in the Committee of the Whole of an amendment in the nature of a substitute, consisting of the text of the Senate-passed bill, S. 1254.

The rule provides that the bill, as amended, shall be considered as the original bill for the purpose of amendment, and shall be considered as read.

The rule makes in order an amendment in the nature of a substitute which may be offered by Representative CONYERS or his designee. That amendment, if offered, shall be considered as read, shall be debatable for 1 hour, and shall not be subject to amendment. As is the right of the minority, the rule also permits one motion to recommit the bill, with or without instructions.

The rule further provides that after passage of the House bill, it will be in order to consider the Senate bill, and all points of order against the Senate bill, and all points of order against the Senate bill and against its consideration are waived.

Under the rule, it will be in order to move to strike the text of the Senate bill and insert the House-passed text, and all points of order against such a motion are waived. Finally, the rule provides that if the motion is adopted and the Senate bill is passed, then it will be in order to move that the House request a conference with the Senate.

Mr. Speaker, the underlying legislation which this rule makes in order, H.R. 2259, responds to the strong opposition expressed by America's law enforcement community to recent recommendations made by the U.S. Sentencing Commission which would result in reduced sentences for certain crack cocaine-related and money laundering offenses.

The House is compelled to act on this disapproval measure in a timely manner because the Commission's recommendations in these two areas will take effect automatically unless Congress intervenes before November 1.

The other body has already passed substantially similar legislation. Under this structured rule, the House will still have the opportunity to debate outstanding concerns about this legislation, while also minimizing the need for the lengthy conference process.

Mr. Speaker, as a former judge and prosecutor, I witnessed firsthand many cases which involved drug-related offenses. More than I would like to remember. I certainly sympathize with the concerns expressed by Representative CONYERS, and others who testified before the Rules Committee yesterday, about the disparity in sentences involving different forms of cocaine and its relationship to the African-American community. In fact, I wholeheartedly agree with one of my Rules Committee colleagues who commented yesterday that neither the status quo, nor the proposed solution, is acceptable.

I am confident, however, that this legislation moves the debate in the right direction by giving the Commission time to consider other sentencing options for cocaine-related offenses, while signalling our firm resolve that drug-related and money laundering offenses will not go unpunished.

The war on drugs is clearly far from over. We owe it to our citizens and especially to our young people, whether they live in the inner cities or in more affluent suburban neighborhoods, to teach them that drug use is a certain path to self-destruction.

As the committee report on H.R. 2259 points out, witnesses at the Crime Subcommittee's hearing on crack cocaine acknowledged important differences between crack and powder cocaine. For example, crack is more addictive than powder cocaine; it accounts for more emergency room visits; it is more popular among juveniles; it has a greater likelihood of being associated with violence; crack dealers have more extensive criminal records than other drug dealers and they tend to use young people to distribute the drug at a greater rate. In short, the hearing evidence overwhelmingly demonstrated significant distinctions between crack and powder cocaine.

While the evidence clearly indicates the differences between crack and powder cocaine which may warrant differences in sentences, the committee notes that the current 100-to-1 quantity ratio used to evaluate the severity of crimes involving either powder or crack cocaine is not the appropriate ratio. I agree that the goal must ultimately be to ensure that the uniquely harmful nature of crack is reflected in sentencing policy, while also upholding the basic principles of equity in our criminal code.

Our colleagues should also note that if the Commission's guidelines were to go into effect without Congress lowering the current statutory mandatory minimums, it would create gross sentencing disparities. Sentences just below the statutory minimum would be drastically reduced, but mandatory minimums would remain much higher.

For example, an offender convicted of distributing 5 grams of crack would, under the statutory mandatory minimum penalty, face a mandatory prison term of 5 years.

However, an offender convicted of distributing 4.9 grams of crack could, under the Commission's guidelines, receive a sentence within a range of 0 to 6 months of imprisonment. Just traces, means the difference between days of incarceration and years of incarceration.

I am also pleased to note that the administration supports the bill's intent with regard to penalties for trafficking, as well as the section related to money laundering offenses.

The Commission's money laundering amendment would deprive prosecutors of an important law enforcement tool used in attacking criminal enterprises that engage in a wide variety of illegal activities, and whose very existence depends on their ability to deposit and launder the proceeds from these activities. Stiff sentences, which treat the act of money laundering itself as a serious offense, should be preserved.

In closing, Mr. Speaker, let me reassure Members that the debate on how best to close the sentencing disparity in cocaine-related cases will not come to an end with passage of this legislation. In fact, the debate is certain to continue as the Commission fulfills the mandate included in H.R. 2259 too examine additional alternatives to current proposals.

This is a fair and balanced rule, Mr. Speaker, which will allow Members to debate the basic question of whether the distinction between different forms of cocaine and their impact on society should warrant differing sentences.

It also provides the minority with two separate opportunities to amend the base legislation. First, through a complete substitute, if offered by Representative CONYERS or a designee; and second, through a motion to recommit which, if offered with instructions, can include almost any amendment as long as it is consistent with the rules of the House.

Mr. Speaker, this rule was reported by the Rules Committee by voice vote, as was the underlying legislation, and I strongly urge its adoption by the House today.

Mr. Speaker, I include the following material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of October 17, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	51	73
Modified Closed[3]	49	47	16	23
Closed[4]	9	9	3	4
Total	104	100	70	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of October 17, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: Voice Vote (10/11/95)
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 237 is a modified closed rule which will allow consideration of H.R. 2259, a bill to disapprove sentencing guidelines amendments scheduled to take effect November 1, 1995, unless Congress intervenes. Some of these guidelines relate to the sale and possession of crack cocaine and cocaine powder, and money laundering.

As my colleague from Ohio, Ms. PRYCE, has ably described, this rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Under this modified closed rule, the ranking minority member of the Committee on the Judiciary, or his designee, may offer an amendment in the nature of a substitute. No other amendments may be offered.

I am disappointed that the Rules Committee did not grant an open rule. I believe that a full and open discussion about the sentencing guidelines is the best way to consider this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, the vast majority of the speakers who will be following me are African Americans, and some Members are going to come to the conclusion that the issue we will be discussing today is a race issue. It really is not. It is a fairness issue, and to vote to support the Sentencing Commission is not a matter of whether you are tough on crime or whether you support law and order issues. It is really a matter of whether you are willing to do the right thing, the fair thing. It goes to the heart of what is on America's mind today: the different perceptions between the black and white communities within America as to the integrity of our judicial system.

Why should a person with a high income, who might get caught with $200 of powdered cocaine in their fancy automobile—and more likely—in an affluent neighborhood—why should they have, in the first place, less chance of being caught; and, in the second place, much less chance of getting a severe penalty than a young child, really, holding a $20 piece of crack cocaine in a drug-infested neighborhood?

But the reality is that we created this system of disparity. All I want is what the Sentencing Commission wants, which is equal justice under the law, and the fact is we do not have that today, because at the time there was a rage about crack cocaine. So we imposed mandatory penalties on crack cocaine that do not apply to powder cocaine.

But it is the affluent who buy the powder cocaine, who have much more choice within their lives, and it is the young, poor children and youth of low-income neighborhoods, whether they be black or white or Hispanic, who are much more likely to have crack cocaine in their possession, and they are the ones that the criminal justice slams and puts them away for much of their productive lives. If you are going to do that, do that to the affluent people as well, the people who have much more choice in their lives, who are paying much more for their cocaine habit and have less excuse.

I urge my colleagues to support the Sentencing Commission to do what is fair and right and to start the healing process within our great country.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

□ 1700

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for yielding me this time and for his kindness and leadership.

Mr. Speaker, I think the real issue is the role of this Congress. How do we stop drug addiction and drug abuse, and how do we explain to the American people the travesty of our acts today? Disapproving a report regarding reforming of a system that racially discriminates against some defendants versus other defendants who commit the same drug related crime. That is what is happening on the Republican side of the aisle.

The U.S. Sentencing Commission is not a biased body. It is comprised of prosecutors and judges from around this Nation. It is not an organization that is in the hip pocket of some inner city or some local urban gang.

But what the U.S. Sentencing Commission came to tell the Committee on the Judiciary was that this Nation has a problem. Our Federal judges are forced to be unfair with this cruel sentencing structure. The courts are unable to make decisions that do punish but do not sentence certain races of people more extreme than any other.

It also ties the hands of Federal courts to cure drug-addicted defendants through fair treatment programs.

It is clear that we all abhor the use of drugs, crack, and powder cocaine; but we also support the Constitution and fairness and equality for all. This report clearly speaks to the question of fairness, and I, like the gentleman from Ohio [Mr. HALL], wish there were an open rule so we could be fair and, for instance, increase the time served for those possessing cocaine.

We are not going to be fair. We are going to continue to send those living on street corners in inner-city America to their death by way of incarceration for 5 years and 10 years and 35 years, and then those who are in Beverly Hills or somewhere else possessing cocaine can get away with 6 months or less.

Let us be fair. That is what we need.

Ms. PRYCE. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding this time.

Mr. Speaker, I think the debate we are going to see quite a bit of this afternoon—about drugs and powder versus crack cocaine—is a very important one to have right now, because there is a lot of misunderstanding. There is a misunderstanding about what this rule and the bill that is going to ensure does or does not do.

We are dealing with 27 recommendations of the Sentencing Commission to change the guidelines on a whole range of sentences the Commission made last May, I guess it was, now. Two of those recommendations we are suggesting we disapprove, and we have until November 1—Congress does—to do that. Those two recommendations deal with questions of lowering the amount of the penalty for crack cocaine possession and for trafficking, and the other one deals with money laundering.

On the crack cocaine side, drawing all of the debate here in the rules discussion, we are talking about something that is probably not even well understood even then, because there is a fundamental difference between crack and powder cocaine and its treatment in the law that the Sentencing Commission can have nothing to do with.

The fact of the matter is we have minimum mandatory sentences for the crack crystal form of cocaine, which is the most deadly, most addictive, most dangerous, most widely used, and the one we want to get at the most. The penalty for that is a 5-year minimum mandatory sentence for even the simple possession of five grams of that. It takes 500 grams of powder to get the same 5-year minimum mandatory sentence.

There is a real reason for that distinction in history. We are not out here debating that today. We can debate it, but we are not in any format to change it, because the Sentencing Commission can only address that which is below 5 grams or below 500 grams. Their changes actually would create a greater disparity for that reason. They have proposed changes for those who possess 4.9 grams and under, but they do nothing for anybody who possesses 5 grams—one-tenth of a gram greater.

What we are dealing with as well is the truth of the matter: that when you talk about crack—as opposed to powder—you are talking about something that is always dealt in in small quantities. So when somebody has 5 grams of crack, they are probably a trafficker. There is a presumption in the law, for the most part, that they are. Maybe we do not need the possession penalty at all, because a prosecutor quite probably could go into court and prove trafficking on simply 5 grams of crack cocaine being possessed by somebody, as well as a lesser quantity probably than 500 grams on powder.

But the issue is, do we today want to disavow the Sentencing Commission guidelines and send it back to them to try to work through a better guideline, while we look at maybe concerns we have over these minimum mandatories, which we have a right to do separately, and in the Subcommittee on Crime we may well do over the next year.

In the meantime, let the Sentencing Commission work again to find a way out of the problem it created. It created a problem in this area because it is only addressing those underneath the 5-gram level and under 500 grams in the case of the powder cocaine.

I would suggest the prudent thing to do is to follow what this rule does today: allow us, by virtue of enacting this rule, to adopt the Senate provisions, which are refined over what came out of the Committee on the Judiciary in the House in the sense that it recommends that we send this back to the Sentencing Commission and orders them in essence to produce certain results following broad guidelines that we give them in their own realm where they have jurisdiction. Then let the rule of the House and the way we normally work things through the committee structure deal with the other concerns being expressed today.

We really do have a problem with crack cocaine. It is really dangerous stuff. We have had testimony from the police chief and the chief prosecutor as well as the chief trial judge in the District of Columbia, who are all African-Americans, that they do not want to see us make the actual equalization between the punishments for crack and powder. They see a need—as most prosecutors and other people do, whether they are black or white—to keep a distinction. I just urge that consideration.

Mr. HALL of Ohio. Mr. Speaker, I yield 8 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman from Texas for yielding me this time to debate on the rule.

Mr. Speaker, I rise in opposition to the rule. I am opposed to the rule because the rule does not give sufficient time to debate this important issue. Of course, I guess I should not be surprised—if we are talking about debating the Medicare bill for 1 or 2 or 3 hours tomorrow—that we are giving only a small amount of time to this issue. But I do think that my colleagues need to understand what this debate is about and why it is important.

I start by making reference to 2 days ago. Two things significant happened 2 days ago: First of all, the President of the United States addressed this Nation about the issue of race relations in this country. Here is what he said, part of what he said:

> And blacks are right to think something is terribly wrong when African-American men are many more times likely to be victims of homicide than any other group in this country; when there are more African-American men in our corrections system than in our colleges; when almost one in three African-American men in their twenties are either in jail, on parole, or otherwise under the supervision of the criminal system. Nearly one in three, and that is a disproportionate percentage in comparison to the percentage of blacks who use drugs in our society. Now, I would like for every white person here in America to take a moment to think how he or she would feel if one in three white men were in similar circumstances. We are at a dire position in this country insofar as the number of black men incarcerated or in the prison system is concerned.

On the same day, on Monday, 1 million black men stood up and came to this Nation's Capitol and said we want to take responsibility for our families and our communities and what is going on in our communities, and all we are asking from this Congress is fairness. This is an introspective look at ourselves, and all we want is fairness.

Now, there is not anybody going to come on this floor today—we heard Ms. PRYCE say, when she talked about the rule, we have heard everybody who gets up on this floor today on this issue—who is going to submit that the disparity that exists in the sentencing between crack cocaine and powder cocaine is a fair disparity. There is nobody who is going to come in here and argue that. So what this issue is about, as the gentleman from Virginia [Mr. MORAN] has indicated, is fairness. It is about fairness.

Crack cocaine and powder cocaine are two forms of the same drug. They are cocaine. Crack cocaine is 30 minutes of baking of powder cocaine. That is all it is. You put it in an oven and it comes out the other end crack cocaine. Yet 5 grams of crack cocaine will get you a mandatory minimum penalty, whereas 500 grams of powder cocaine will get you a similar penalty. If somebody is convicted of selling $225 worth of crack cocaine, they get the same penalty as somebody get who sells $50,000 worth of powder cocaine.

Crack cocaine is the only drug that we have subject to a mandatory minimum sentence. Now, I am not going to stand here and argue that crack cocaine is not a serious drug, but it is no more serious than heroin. There is no mandatory minimum for heroin. It is no more serious than LSD. There is no mandatory minimum for LSD. Methamphetamines, you name it, there is no other drug that has a mandatory minimum. And yet we have singled out crack cocaine for a 5-year mandatory minimum.

Why? I do not know. They said because it was a dangerous drug. But is not heroin a dangerous drug? Is not powdered cocaine a dangerous drug? Is not LSD a dangerous drug? So how could we discriminate in that way?

What is the impact of that discrimination? Poor young kids who can only afford crack go to jail. Rich young kids who can afford powder cocaine go home and sleep in their own beds at night.

Then people ask, why are one in three black persons—who happen to be the poorest people—in jail, when that is not the case for white young people? Why are there more black teenagers or college-age kids in jail than there are in college?

This is a fairness issue, my friends, and this bill does not even put any time limitation for the Sentencing Commission to report back. I tried to correct that by offering an amendment, and the Committee on Rules said no, we will not even let you put a time limitation. We are going to discuss this to death. Let the Sentencing Commission go back and study it for 10 years so we do not have to deal with it in the Congress of the United States.

That is what this is all about. Justice delayed is justice denied, and we are delaying and denying justice to the very people who need it in our society.

□ 1715

Ms. PRYCE. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding me time. I just wanted to respond. I respect my good friend from North Carolina a great deal, but one thing which he said is, I think, a mistake, and I suspect he does not realize it.

The Sentencing Commission has to report back next May. They report every May, and we are asking them to send this back to us the next time they get the chance, and that is in the language of the bill as adopted.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I would say to the gentleman there is absolutely nothing in this bill that says the Sentencing Commission must report back by next May. The Sentencing Commission might report back by next May on some other issue, but there is no requirement in this bill that requires it.

Mr. MCCOLLUM. Mr. Speaker, reclaiming my time, I would simply say they do report back next May.

Mr. HALL. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, the present law, as has already been stated, finds that five grams of crack will get you 5 years mandatory minimum. That is a couple hundred dollars worth. Five hundred grams of powder is what you have to sell to get the same amount of time. That is tens of thousands of dollars.

The facts we have found are that 95 percent of those convicted for crack are black or Hispanic, although the majority of users are white. For powder, 75 percent of those convicted of powder cocaine offenses are white.

The Sentencing Commission equalized the base sentence for both of those offenses with enhancements. You will get extra time after the base if a firearm is used, violence, death, if juveniles are used, if there is a prior record, depending on an individual's role in the enterprise, whether or not they are near schools, if other crimes are involved. The way crack is distributed generally will get more enhancements. But they will be getting a higher sentence because of what they did, not because of their race.

We have the Commission to get the sentencing policy out of politics and into reason. In fact, over 500 prior recommendations have been made. None have been rejected.

The evidence we have seen in drug courts, Mr. Speaker, is that it makes more sense to have users of drugs treated by drug treatment rather than go to jail anyway. When we had drug courts consider, we found those we sent to prison would have a recidivism rate of 68 percent, whereas those sent to treatment would have a recidivism rate of 11 percent.

Mr. Speaker, by having this mandatory minimum for those who are guilty of possession only of a couple of hundred dollars worth of crack, we will have more crime and spend more money and lock up a group that is 95-percent black or Hispanic.

So we have the rule. The rule does not allow an amendment for the money-laundering part. We had no hearings on that, so we do not know what that is about and no amendment has been ruled in order. There is no date for the reporting back for the Sentencing Commission, other than their normal reporting back. There is, Mr. Speaker, a report from the Justice Department, but not the Sentencing Commission.

We have recommended in this legislation that they study this issue for another year. Mr. Speaker, last year we told them to study it. They studied it and they came back and told us that it was wrong to have the disparity.

I hope that we will reject the rule and reject the bill.

Ms. PRYCE. Mr. Speaker, I yield 7 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding me this time. I was sitting in my office and listening to some of the debate. The gentleman from South Carolina was speaking as I walked out the door, and suggestions were being made that there was some racist motivation behind the question of minimum mandatory sentencing for crack cocaine and possession thereof. And also, the question was raised as to how did this ever get into the law.

Well, Mr. Speaker, I want to tell the gentleman how it got into the law. It was an amendment I put into the law, and I put it in when I was on the Judiciary Committee. At that time I felt that it was a very important provision to be in the law. There was no racist motivation whatsoever in putting that in the law.

It was about in 1986, right about then. I was on the Judiciary Committee. Crack cocaine was almost a recent phenomenon, but it was growing like Topsy. This was something back in 1981 or 1980, back when I was mayor of Fort Lauderdale, when a crack was a thing in the sidewalk. We knew nothing about crack cocaine. This came in in the early 1980's, and we found the instant addictive nature of this substance was absolutely debilitating.

We also found that where it was being used most and where it was creating its worst problems were in minority areas because of the cheapness of it. We found this was an area that was being unfairly, unconscionably impacted by cocaine—crack cocaine—as it is even today.

So I would say to the gentleman from South Carolina that it was because of concern for what this was doing in minority neighborhoods, how it was tearing up these neighborhoods; and it has. The gentleman well knows this from his own background. The problem that we have in the inner cities—particularly in minority areas right now, the crime and all of this—is that the drug problem in this country has absolutely torn these neighborhoods apart.

What did seem to be the best thing to do? The best thing to do was to go after the dealers. We set quantities we felt would qualify people as dealers, not users but dealers, people who were going in and exploiting the poor people and stealing their lives and their future by selling them crack cocaine.

There was no racist motivation at all. As a matter of fact, it was a question of trying to save the minority neighborhoods from this awful curse that had gone all across this country, and it is not only confined to the minority areas. I will not suggest that. But it seemed that was where it was having its biggest impact, and this is where we had to go after the problem, and this is why we did it.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, first of all, I would say to the gentleman that I am from North Carolina. We take those distinctions pretty seriously in my part of the country.

Mr. SHAW. I apologize.

Mr. WATT of North Carolina. Some of my best friends do live in South Carolina.

Mr. SHAW. I hope one day to have a home in your State.

Mr. WATT of North Carolina. Mr. Speaker, I want to assure the gentleman, whose integrity and honesty has preceded me in this body. I have heard about the gentleman's integrity, and I have never suggested that the motivation 10 years ago, or whenever this was put into the law, was a racist motivation. However, the impact of this law has been very, very, very substantially racist in its impact. To defend a provision in the law 10 years later, based on knowledge that the gentleman did or did not have 10 years ago, is something that I would hope that the gentleman would not do.

I agree that 10 years ago the gentleman did not have knowledge about crack. But the information that has been submitted to the Committee on the Judiciary now suggests that the gentleman happened to have been wrong about a lot of the assumptions that the gentleman was making; that this drug was more addictive than powder cocaine. Both of those drugs are addictive.

And, Mr. Speaker, to the extent that the drug is accompanied by violence or other surrounding things, they are socioeconomic things, and the Sentencing Commission's recommendations would take where there was violence or enhancing the penalty where children were involved.

So notwithstanding the fact that your motives were good 10 years ago, the fact is that now hindsight is a lot better than foresight. And I am not questioning the gentleman's foresight. I am not questioning the gentleman's motivation in putting this into the law at the time he did. But we now know better, and we should not just stand up and say, OK, we made a mistake 10 years ago, so let us prolong the mistake and make it again.

Mr. SHAW. Mr. Speaker, reclaiming my time, I thank the gentleman from North Carolina for clearing that up, and I will be sure not to make that mistake again.

I would go back to the point that what we were after was dealers. We were not after users on minimum mandatory. And the gentleman made the statement in his remarks earlier as to why did we not go after heroin and some of those other drugs. Heroin use back in 1986 had fallen way down, and we did have certain information about crack cocaine, and it really scared us very much about what would happen to our neighborhoods.

Mr. WATT of North Carolina. Mr. Speaker, if the gentleman will yield further, that is the point I am asserting to this body.

I do not argue with the facts that were available 10 years ago or whenever it occurred. Len Bias had just died. There were a lot of facts that would have justified our making that assumption. But two wrongs, as my mama used to tell me, do not make a right; and we can correct that wrong now if we will do it. If we will have the courage to do what is just now, not 10 years ago.

Mr. SHAW. Mr. Speaker, reclaiming my time, I would close by just saying to the gentleman that the inner-city neighborhoods—the poor minority neighborhoods—are the most fragile in the entire country. They are the ones that have to be protected. They are the ones where we have to rid the neighborhood of the drug dealers. I think we must all work together to see this does not happen.

Mr. McCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Speaker, I just want to make the point—as much as I wish it were changed, as the gentleman from North Carolina is suggesting—I see in the crime subcommittee the same statistics today as when the law was passed.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], the former chairman and now the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I am very glad my friend, the gentleman from Florida [Mr. SHAW], is still on the floor, because there are two points that I would like to make that are very important here.

First of all, we appreciate his concern for our neighborhoods that are ravaged with drugs. The gentleman referred to the minority community. We now have 40 African-American Members, men and women, in the Congress that are, with all due respect, as concerned as he is—if not more so—about the pernicious effects of drugs in our community. We welcome the gentleman to this concern that we all mutually have, and now we invite him to listen carefully to the points that we are making.

The first one has already been made, and it is that there is no accusation of a racist motive when this disparity was first brought into the law. But the second one is much more important, and that is that we can now correct what has now been proven to be a disparity that turns on race and economic ability.

In other words, what has happened in the sentencing disparity is that more and more African-Americans and Hispanics, minorities in poorer neighborhoods, have been deliberately targeted. That has increased the incarceration rate.

Another study that I would refer you to shows now that the number of young African-American males caught in the criminal justice process is not one out of four but is now one out of three. One of the main reasons is this disparity.

And so it would seem from the gentleman's comments that I could invite him to join us in my amendment that merely ends the disparity of 100 to 1.

□ 1730

We will now make the possession part, and that is what you complained of, and that is what we complained of. We are not talking about sale or trafficking. We are talking only about possession. We should understand here that this debate and the amendment that will follow deals only with possession. People who have never committed an offense, never been incarcerated, have no record, and are yet being sentenced to 5 years for mere possession. Would that amendment have some appeal to the gentleman from Florida under these circumstances?

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would like to say to my friend from Michigan that I always listen to him, sometimes voluntarily, sometimes not voluntarily, but I have certainly listened to the remarks that he has just made. And I would say to the gentleman that we are not talking about mere possession here.

Before reaching the minimum mandatory sentencing guidelines, for the law now, one has to have over 5 grams of crack cocaine. That qualifies them as a trafficker, not a casual user. And if the gentleman does not believe that qualifies them as a trafficker, I would suggest that he might want to argue that further within the committee to change the level, the committee on which the gentleman is the ranking Democrat member.

But I would say to the gentleman that we need to go after drug traffickers of all these drugs that are destroying the future of the young Americans, and that is exactly what this crack cocaine continues to do.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strong opposition to this resolution of disapproval. The Congress has no business overriding the expertise of the U.S. Sentencing Commission. Crack cocaine mandatory minimums make a mockery of justice. Yes, this is a fairness issue and, yes, whether we like it or not, it is a race issue.

The U.S. Sentencing Commission was designed to take the politics out of criminal sentencing, to be bipartisan. Yet its judgment, based on years of experience and a responsibility to justice, is being summarily rejected in this bill.

Mr. Speaker, Federal sentences for crack are 100 times greater, 100 times greater, than those for powder cocaine. The implications of this disparity are severe. Yes, this is a fairness issue and, whether my colleagues like it or not, it is a race issue. Young white males are not filling up those jails. Let me tell my colleagues, that statistic that was given of young black males between the ages of 20 and 29, one of three in our communities are in the criminal justice system.

We do not like drugs. We do not want drugs. We want to prosecute people who traffic, but we do not want to take a silly young man who happens to get a crack or two pieces of crack and put him in jail. They could get 10 years mandatory minimums under this law that we are operating under now.

Members know it is wrong. The Sentencing Commission knows that it is wrong. They want to correct it. What are we doing? Why do we not let their work go into effect? It does not make good sense.

Further, let me tell my colleagues what is happening. Minorities represented an average of 96 percent of those prosecuted for crack cocaine nationally in Federal courts from 1992 to 1994. This is a fairness issue, sir, and it is a race issue.

I do not know why we have taken the time of this House to try to overrule the Sentencing Commission, who spends hours, who have all of the data, all of the statistics.

Mr. Speaker, we had a march out there just the other day. We had a march with 1 million black men who came to this city, and they said,

> We are going to take responsibility but we want a little fairness in the system. We want you to know that we cannot continue to live, we cannot continue to live in a system that disregards us, that marginalizes us, a system that is not fair, that is not equal.

Did Members not hear them? Did Members not see them? Why do Members persist in this kind of unfairness? I am telling my colleagues, we need do nothing but let the Sentencing Commission's recommendations go into effect.

I want to tell my colleagues those young men said, "We are going to take responsibility, we are going to help clean up our communities, but we need you to give us some help." Let us be fair. Let us stop sending young black and Latino males off to jail at 18 and 19 years old to give 5 and 10 years of their lives and never be rehabilitated.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would say to the gentlewoman from California, who would not yield to me, that she is talking about these innocent young blacks with just a few things in their pocket. We are talking about 20 to 50 doses. Nobody walks around with that unless they are selling and unless they are trafficking, and those are the ones we are after.

I do not know how it is in California, but I can tell you that in Dade County, in Broward County, and Palm Beach County that I represent, and as a matter of fact right here in this Nation's Capital in the minority areas, they are saying come in and arrest the drug traffickers, get them out of our neighborhood. Put them in jail and throw the key away.

That is the voice of America. That is the voice of the minorities in the areas that are responsible who want to get their areas up out of poverty, get out of the gutter, get the problems out of their neighborhoods and get the crimes out of the streets so again they can walk their streets and sit on their front porch and they can enjoy life.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, let me say to the gentleman, that I believe that he is sincere, but I want him to know that the gentleman does not love my community more than I do. The gentleman does not care about it more than I do.

Mr. Speaker, I care about those who are hungry. I care about the young people who are not going to be able to work because of the policies of the other sides of the aisle. I care about the babies. I care about the welfare mothers, and I want real welfare reform.

So, Mr. Speaker, I do not want the gentleman to ever believe that he cares more about my community than I do. I do not want the gentleman to think that somehow his policies and his beliefs are right for my community. I would like the gentleman to ask me sometime, and ask us sometimes, those who work in those communities.

Mr. Speaker, I tell the gentleman, no black leader has said to him: Lock up our kids and have this disparity in law. Nobody said that to the gentleman.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, it has been well-demonstrated and well-said here today that there is a disparity in the way African-Americans are treated and the way other Americans are treated, particularly minorities, when it comes to cocaine and crack cocaine.

The facts have been revealed to us. The figures have been revealed to us. So what more do we need? What we see here is a study and what keeps this country in a turmoil is when we do not look at the facts and the impact of the facts on the people we all represent.

Mr. Speaker, I think each of us saw the 1 million black men who were here the day before yesterday. They are crying out for fairness. That is all they are asking for. Fairness. So, that if someone uses crack, they will get a sentencing. If someone uses cocaine, they will get a sentencing. That there will not be a disparity just because one is convicted of crack cocaine and the other one is using cocaine.

Mr. Speaker, that is all that is being asked for here. When we usurp the sentencing guidelines, that means that we are saying that they do not know what they are doing. They have not studied this situation. Here we come in Congress and do some micromanaging from here, when we have not tested any of these theories.

Let me tell my colleagues something. Minorities represent, and not only African-Americans but other minorities, represent—our jails are full of them. This is the newest industry we have. I say to my colleagues, go down there. They will see the jails. They are full. Know why? An average of 96 percent of those prosecuted for crack cocaine in Federal courts from 1992 to 1994 were African-Americans and minorities. These are facts. And that is all we are saying today. Why not do this?

Mr. Speaker, I want this particular rule or resolution killed, because it needs to be. I do not think it is bipartisan. It is just a matter of saying we want to be fair. We want to treat all Americans the same. We should not have a different yardstick; one for crack cocaine and one for cocaine. One yardstick for all with liberty and justice for all. That is all we ask.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, I am going to surprise everyone. I am a conservative Republican on law and order. I am for "Three Strikes, You're Out," and I am for this particular motion that is being made by the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, we did not address this problem. We did not attempt to straighten out money laundering when people did not launder money. We have a perception that we do not want to be to the left of anybody. We are tough on crime. We are tougher on crime than my colleagues on the other side of the aisle are.

Mr. Speaker, their perception is because we have a 100-to-1 ratio in weight between rock cocaine and powder cocaine, that this is a race issue; just because 96 percent of the people arrested under rock cocaine are black. Imagine that.

Mr. Speaker, we did not lock the Sentencing Commission, which is housed in the Department of Justice and staffed by the Department of Justice, in the room with the Justice Department so they could come over here and play each other against each other. We do not know these folks. They are too lenient; we are really tough.

They know and they both admit these ratios are wrong. And the black people feel like they are being picked on. Why? I would say to the gentleman from Florida [Mr. SHAW], because it is 10 doses versus 5,000 doses in my white suburbia.

Mr. Speaker, I do not know why they feel they are being picked on, just because if someone is arrested with 10 doses, they are presumed to be a pusher and they have to have 5,000 doses of my powder to be a pusher. They get 5 automatic years, with the judge not able to say this guy has never been arrested before.

Mr. Speaker, in money laundering it is even more egregious. If a person wants to steal poker chips from their employer, because they work for Harrah's, they should be convicted of stealing. That is 18 months. When they go to cash that in, that is money laundering. They don't hide it. They do not change their name. They cash the chips in. Forty-six months.

If one of my colleagues takes a bribe from a Federal Bureau of Investigation agent who works long and hard and spends months to set them up and says, "Thank you for your vote on the B-2 bomber. Here is a check. We want to see you come back." If my colleagues do not stop them and say, "Wait a minute. There is no connection between my vote and your check," because they have known they are being set up, they get 18 months for taking the bad check.

They get 46 months for depositing it in their own name, reporting it in the FEC, paying State income tax and Federal income tax, if it were an honorarium, prior to their being gone, or if it is a campaign fund. It is money laundering.

They did not commit money laundering. But, they need this tool in order to get them to cop to the other, because they do not think they took that check in bad faith from Lockheed, or whoever the lobbyist is, because that member believes in the B-2 bomber. It is built in California and I will walk over coals to support it. But if my colleagues do not correct that man when he hands them a check and innocently says, "This is because you voted for the B-2 bomber," they are going to jail. But not for stealing or bribery. They going for money laundering.

The Commission is right. A stopped clock is right twice a day. The Clinton administration is right twice a day. Mr. Speaker, I say to the gentleman from Florida [Mr. MCCOLLUM], we should lock up the Sentencing Commission and the Department of Justice in a room and make them tell us what is the correct ratio for crack cocaine? What is money laundering, if it is not depositing a check? Let us address these problems.

Mr. Speaker, I am going to vote to vote with these folks, because they are dead right.

Mr. Speaker, the bill under consideration, H.R. 2259, would overturn the sentencing guideline recommendations of the U.S. Sentencing Commission concerning penalties for money laundering and crack cocaine. The rationale for this legislation is that we have to be tough on criminals, and that any reduction in sentencing for these specific crimes sends the wrong signal to those who participate in these illegal activities.

I understand this very real concern, and it is one that I share. I have been in public office for 15 years, during which I have been at the forefront of the fight against crime. From truth in sentencing to three strikes, you're out, my legislative history is clear: We must have zero tolerance for criminal activity.

At the same time, we must be sure that our penalties are just and our justice system itself is fair. And that's why I'm opposing H.R. 2259 today. The bipartisan Sentencing Commission has called for reform of the mandatory sentencing guidelines for money laundering. The Commission does not want to reduce sentences for drug kingpins or major fraud operations. The Commission has recommended making sentences for money laundering in keeping with the gravity of the crime. In fact, sophisticated fraud would receive more serious punishment than under current law.

But the Commission does call for less severe mandatory sentences on those who have engaged in less serious fraudulent activity. For example, in the case of United States versus Manarite, a defendant who skimmed casino chips was convicted of money laundering for cashing in the chips at the casino. In another instance, United States versus LeBlanc, a bookmaker who accepted checks in payment for gambling debts was convicted of money laundering for negotiating the checks.

Yes, theft is a criminal action that deserves punishment—yet for the law to view depositing ill-gotten gains into a bank account as money laundering is silly. These minor-league crimes are simply not on par with sophisticated operations in which millions of dollars are laundered through the banking system. Due to mandatory minimum sentencing, such minor offenders are filling our Federal prisons—prisons now crowded beyond capacity.

In a word, the hands of Federal judges are tied—they are compelled to send low-level crooks to jail with violent, dangerous offenders. When a convicted rapist is spending less time in jail than a bank teller who took $1,500 and deposited it into a bank account, something is obviously wrong.

The Sentencing Commission—a bipartisan group of Republicans and Democrats—is calling for stiffer penalties on those who engage in sophisticated money laundering schemes. But the Commission also wants to give judges greater discretion in the sentencing of minor offenders. This is not softness on crime—it fits in perfectly with the conservative philosophy of cracking down on thugs while at the same time avoiding the micromanagement of the criminal justice system at the Federal level.

Mr. Speaker, I strongly urge a "no" vote on H.R. 2259. This is a matter of justice and of true federalism—letting local judges decide how best to punish wrong-doers. In our zeal to fight crime, let's not trample on the prerogatives of State and municipal authorities. Let's fight crime—not common sense.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, it is idiotic for us to have a disparity in these ratios for powder cocaine or crack. In fact, I would say to the gentleman from Florida [Mr. SHAW] and the gentleman from Florida [Mr. MCCOLLUM], one has to have powder cocaine in order to make crack cocaine.

□ 1745

The reality is that the people who have the powder cocaine are directly responsible for the creation of the crack cocaine. So, if one wanted to root out the evil and punish it, one would create the disparity in the reverse.

Now, what we have here is a situation where I think that most people in this country can recognize that on one hand we have most of the people arrested for crack happen to be white, but most of the people who are convicted and serving these mandatory minimums happen to be black. There is a problem right there. We have had a number of studies that show in every case the sentencing for crimes in our country is racially influenced and more severe. Every time the crime is the same, there is a differential in the sentencing. So, unfortunately it falls upon people in minority communities to bear the brunt of that.

One does not have to recognize that. But I think that the American people can see the sheet being pulled away from what is a racist implementation of the criminal justice system in this country, and we shall reap what we sow. People who serve on juries are right not to feel comfortable with our criminal justice system, not to feel as though it is balanced. What do we create when we send a kid away or a young adult for 5 years in jail? Are we educating them while they are in jail? Are we giving them drug treatment while they are in jail? Are we doing anything for them? No. In fact, proposals from this side of the aisle want to make that 5 years the roughest 5 years of their life.

Then I would suggest that we reap what we sow. They will return to these same communities, having learned nothing other than how to be hardened criminals when they were, in fact, just innocent victims of the allowance of our Government to allow these drugs to flow into these communities from the beginning. The coca leaf is not grown here. We do not see a lot of African-American young people from Philadelphia or Watts flying these fancy airplanes or speedboats across the ocean bringing this cocaine in here. To have a disparity in which we make crack more evil than powder cocaine, when one needs the powder to make the crack, is asinine.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, 48 hours ago this Nation, perhaps the world, was galvanized by the resolve that has never happened before publicly in our community. A million African-American males came together to pledge to restore and fight for family values, to build up their neighborhoods, to fight crime, to root out evil and wrongdoing. Now, 2 days later, we come here to reexamine whether we will deal with this moment of fairness in terms of crack and powder disparity in sentencing.

Please listen to the members of the Congressional Black Caucus and their friends that bring us not expert testimony, but they live in, represent, have grown up with, are a part of the communities that are being wracked by this unfair sentencing.

I want to deal with one problem that the gentleman from Florida has raised in which he has cavalierly said time and time again that, if you have 5 grams of crack, it is presumed that you are a dealer. A gram is one-thirtieth of an ounce. You have to prove that you are a dealer. If you are arrested for possession, possession is possession. Trafficking is a different crime entirely.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule will allow Members, as they have been doing for the last hour, to debate the basic question of whether the distinction between different forms of cocaine and their impact on society should warrant different sentences. I urge passage of this rule. It will allow Members of different opinions on this very important issue to debate them fully.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 237 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2259.

□ 1750

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2259) to disapprove certain sentencing guideline amendments, with Mr. BEREUTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. McCOLLUM] and the gentleman from Michigan [Mr. CONYERS] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, each year, the Sentencing Commission amends its sentencing guidelines with the aim of promoting more consistent Federal sentencing policy. The Commission is to follow Congress' lead as Congress—not the Sentencing Commission—sets sentencing policy. The Commission's congressionally established mandate is to fill in the gaps in Federal sentences.

This year, the Commission sent up 27 proposed amendments to the guidelines for congressional review. H.R. 2259 would prevent 2 of them—amendments 5 and 18—from taking effect. Amendment 5 would dramatically reduce crack penalties, by treating crack cocaine the same as powder cocaine. Amendment 18 would dramatically reduce money laundering penalties. H.R. 2259 keeps the penalties where they currently are.

Mr. Chairman, H.R. 2259 is the right thing to do. It preserves the current penalties for crack cocaine traffickers and white collar money launderers. It continues the congressionally established policy of treating crack cocaine and powder cocaine differently, by refusing to lower the crack trafficking penalties. And it avoids allowing the Sentencing Commission to lower guideline sentences so substantially that our Federal sentencing policy would be plagued with severe sentencing disparities for similar crimes.

The evidence is clear: Crack and power cocaine are different, and should be punished accordingly: crack is more addictive than powder cocaine; it accounts for more emergency room visits; it is most popular among juveniles; it has a greater likelihood of being associated with violence; and crack dealers have more extensive criminal records than other drug dealers and make greater use of young people in distributing crack. Congress is right to maintain the current stiff sentences for crack trafficking.

As I stated when the Judiciary Committee considered the bill in September, the current distinction between crack and powder cocaine offenses may not be perfect. When Congress established these penalties in 1986 and 1988, we attempted to set punishments that fit the crimes and that sent the unmistakable message that drug trafficking will simply not be tolerated. To that end, Congress established a 100 to 1 quantity ratio that provides mandatory minimum sentences for offenses involving 5 grams or more of crack cocaine and 500 grams or more of powder cocaine. Such actions are always subject to occasional review and I for one am certainly willing to consider alternative proposals. Indeed, this bill requires the Sentencing Commission to recommend an adjustment to the quantity ratio. It may be that Congress will want to change the 100 to 1 quantity ratio by increasing the penalties for powder cocaine. But I am unwilling to retreat in the attack on drug traffickers by sending a message to crack dealers that Congress is softening its stance regarding the acceptability of their behavior. Our goal must ultimately be to ensure that the uniquely harmful nature of crack is reflected in sentencing policy and, at the same time, uphold basic principles of equity in the United States Code.

In June 1995, the House Crime Subcommittee heard dramatic testimony from the police chief, the U.S. attorney, and the chief judge in the District of Columbia about how crack has devastated the Nation's Capital. They warned us in unmistakable terms not to reduce crack penalties to those of powder offenses because of the more destructive nature of the crack market. As we debate this bill today, we must all remember the following fact: No one is more opposed to reducing the crack cocaine sentences than those who have been devastated by the scourge of crack trafficking and the violence and death that it brings. Ultimately, H.R. 2259 is about whether or not this Congress has the courage to continue to fight the war on drugs by being tough on those who traffic in death.

H.R. 2259 responds to the overwhelming opposition expressed by America's law enforcement community to the Sentencing Commission's crack proposal. The Justice Department strongly opposes the Commission's crack amendment because tough crack cocaine penalties are vital tools for Federal prosecutors who are attempting to uproot deadly drug trafficking organizations.

H.R. 2259 also prevents the Commission's recommendations concerning the possession of crack cocaine from taking effect. The Commission's recommendation would treat the possession of crack in the same manner as simple possession of powder cocaine. This would be a mistake. The crack possession offense is not used by prosecutors for mere simple possession cases. The possession of even relatively small amounts of crack is frequently inseparable from the trafficking of crack. The crack trafficking trade is unique, and generally involves trafficking in much smaller quantities of crack than in the powder cocaine trade. An offender caught with 5 grams or more of crack, as provided under the statute, can be reasonably presumed to be engaged in trafficking even though the quantity possessed is relatively small; furthermore, it is the street level dealers who are the only ones visible to law enforcement and who can lead to the arrest of larger traffickers.

The Crime Subcommittee is aware that the Commission's amendment No. 8 will change the methodology used to calculate the weight of marijuana plants. The Crime Subcommittee will be carefully following the implementation of this amendment to ensure that it in no way represents a step backward in the war on drugs. I would like to thank my friend from Oregon, Mr. BUNN, for his assistance in ensuring that amendment No. 8 does not undermine our counterdrug efforts. Any retreat at this time in our battle against the evil of illegal drugs, and in particular crack cocaine, would be a mistake this Congress would long regret. Congress must not lose its resolve.

H.R. 2259 would also prevent the Commission's amendment No. 18 regarding the money laundering amendment from taking effect. The Commission's money laundering amendment would substantially reduce the base offense level in the sentencing guidelines for money laundering activities of all types. The Commission's amendment then proposes that certain enhancements corresponding to specific offenses be added to the base offense level. Even with the proposed enhancements, however, the amendment would significantly reduce the sentences for various serious offenses, including arms violations, and murder for hire.

The Commission's amendment defines a category of offenses to be less serious when the offense that underlies the money laundering activity is closely associated with the money laundering activity itself. These offenses would receive a base offense level corresponding to the underlying crime only, and receive no enhanced sentence for the money laundering activity itself. Such a proposal is troubling because it fails to provide at least some additional punishment for the money laundering activity itself.

Under amendment 18 a wide range of money laundering cases of varying severity would receive reduced sentences. For example, laundering $100,000 or more of fraud proceeds so as to conceal the source would be reduced from a range of 27 to 46 months to a range of 21 to 27 months.

It is clear that the current money laundering guidelines can be improved. There are undoubtedly cases where money laundering sentences have appeared to be disproportionate to the underlying crime. Starting in November, I intend to work with Members of both parties, the Senate, the Justice Department, and the Sentencing Commission to develop a sensible amendment to the money laundering guidelines. Such a change must address the problem of overly harsh penalties for receipt and deposit cases where the money laundering activity is minimal, while avoiding the sweeping across-the-board reductions that the Commission's amendment would produce. At the same time, we must not lower the sentences for significant money laundering.

At a time when organized criminal enterprises are growing and expanding their operations, we must not support a proposal that would substantially reduce the sentence for so many criminal activities, even serious ones.

H.R. 2259 also requires the Sentencing Commission to submit to Congress recommendations proposing revision of the sentencing guidelines and the statutes that deal with crack cocaine and powder cocaine sentences. The bill further requires the Justice Department to submit to the Senate and House Judiciary Committees, not later than May 1, 1996, a report on the charging and plea practices of Federal prosecutors with respect to money laundering. I support these requirements. However, I want to make an important point about the language of the bill that calls for the Commission's recommendations for a revised drug quantity ratio. The recommendations called for in section 2(a) (1) and (2) should not be understood to be an invitation for the Commission to recommend again, as they did this year, that the drug quantity ration be changed to a ratio of 1 to 1. Such a ratio, even with penalty enhancements, fails to reflect the many substantial differences between crack cocaine and powder cocaine.

Mr. Chairman, H.R. 2259 is an important piece of legislation. It will ensure that Federal law enforcement continues to have the tools necessary for combating drug trafficking and money laundering. This is no time for Congress to back off the war on drugs.

□ 1800

I think it is very important at this point in time we realize that November 1 is a deadline looming. If we do not adopt this bill today before us, and send it over to the other body, and get it enacted into law and signed by the President, these 2 provisions, the 2 out of the 27 that we do not agree with, will become law automatically and be the new sentencing guidelines on November 1. So the deadline is to act now. It will be nice to correct things around the edges where we see the problems, but we need more time to work on those. The best course of action is to adopt this bill, send the matter of these two issues of crack cocaine and money laundering back to the Sentencing Commission, get them to report back to us, get the Justice Department to issue a report, and next year make the changes that are more responsible than those contained in the two amendments we disapprove today.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I point out to the gentleman from Florida [Mr. MCCOLLUM], my good friend with whom I have worked on Committee on the Judiciary across the years, that sending this bill back is the best way to dodge the issue. The one thing we do not want to do is, after the Sentencing Commission has taken years of studying this, to tell them to go back and study it some more. That is what they have done.

Mr. Chairman, what we need to do is give it to them one way or the other, and now is the moment to correct the disparity between crack cocaine and powdered cocaine. Let us do it today.

Mr. Chairman, I yield 5½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I hope very much that we reject this rejection of the Sentencing Commission.

Many Members of this body have a speech in which they talk about our efforts to fight poverty, our efforts to house people, our efforts to defeat hunger, and they say we spend all this money and it has not worked. They point to gross statistics that say, "Gee, there are still poor people, there is still bad housing." Mr. Chairman, I do not think much of that method of argumentation, but I also would expect them at least to be consistent in applying it because, if we want to look at an area where a policy that has cost an awful lot of money does not on its face appear to have worked, let us look at the policy of trying to combat drug abuse by locking up for long periods of time people who have committed no violent crime, have taken nothing from anybody by force, have struck no one, have attacked physically no one, and are at most very, very low-level, bottom-of-the-chain members of drug sales or may not be sellers at all. They may simply be users, and they may, by that, be users who share with one or two other people.

Mr. Chairman, what we have is a policy which has locked up large numbers of mostly young men for very long periods of time, and it has not worked very well. I know it is popular, and I have to say one of the things that is the oddest I have heard in this debate is Members who say, "Let's have the courage to reject the Sentencing Commission, let's have the courage to continue to lock these people up for many, many years." I cannot think of anything that takes less courage in America today than the perpetuation of this policy.

I think courage is, "Let's think about it." But we are not simply talking here about what I think is a mistaken policy of locking up nonviolent violators of the drug law for very long periods of time, as dumb and as wasteful as I think that is. That is a policy I cannot change right now.

We are talking about one particular aspect of this which says given that we are going to lock up these mostly young men who have done no violent crime against anybody and who have not been caught selling anything, because then they would be charged differently, but who are holding, what, almost a quarter of an ounce or a half an ounce, that we will treat them very harshly, but we will do it in a way which, and let us be very clear, no one has called into question the premise here. The sentencing disparity is overwhelmingly objectively a racist one.

Now maybe my colleagues think it is justified, but no one has denied that the effect of the policy is to treat young black men much more harshly for the possession of a given quantity of this substance of cocaine in this form than others. I can think of no policy which we have which in fact ends up so racially distorted, and I have to say I have had people on the other side say, "Well, it is because we care about these communities."

Mr. Chairman, I am one who believes that elections are meaningful in this country. I am skeptical when I hear large numbers of voters complain about the actions of this Congress because they sent us here. No one parachuted into this dome, no one got appointed here, and I believe that people on the whole elect people who represent them.

So when, and I have to say this to the overwhelming white majority of which I am a part in this House, when our African-American colleagues come here in large numbers and plead with us to allow a nonpartisan body of experts to change this racially disparate policy, it is a march to this floor of our African-American colleagues who are pleading with us to alleviate the most racially unfair policy in America, and, please, even if my colleagues disagree, do not tell them, "Oh, this is in the interest of your community, this is what the people you represent really want." I believe that we do not stay in this place very long if we do not reflect the people who sent us here, and when we have this extraordinary expression from the wide spectrum of opinion we often get within the Congressional Black Caucus saying we are doing a terrible disservice to this Nation and to these young people when we perpetuate this racially disparate situation, then it seems to me people ought to listen.

We have talked about the racial problems reflected in the verdict of O.J. Simpson. Many Members here, and let us be honest, many Members here were disappointed that a march led by Louis Farrakhan got such enthusiasm. I ask, "Why do you think it is happening? Why do you have this great disparity?" It is partly because of the kinds of policies we have here. Can we really be so sure about maintaining this disparity in sentencing in the face of the Sentencing Commission's argument, even if my colleagues think that maybe they can make some technical justification because of the chemistry of the powder versus the chemistry of the crack? Is it worth perpetuating the anger, and the anguish, and the sense of manifest unfairness that it brings? I do not see how anyone in good faith can argue that we, as a Nation, are well served by maintaining this.

Mr. Chairman, no one is talking about letting people walk. No one is talking about letting people off the hook. We are asking for a recognition of a very grave racial injustice.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. BRYANT], a member of the committee.

Mr. BRYANT of Tennessee. Mr. Chairman, I rise in support of H.R. 2259. This bill disapproves of 2 of 27 proposed amendments to U.S. Sentencing Commission Guidelines. Those two proposals pertain to cocaine sentencing and money laundering.

This legislation is necessary in order to keep these recommendations from taking effect on November 1, so we must act now.

On first glance it may sound sensible to have the same penalties for crack and powdered cocaine, but the difference between the two types of substances justifies the greater penalties for crack.

Mr. Chairman, the Subcommittee on Crime, of which I am a member, and many of those people speaking tonight are on that committee, heard testimony from the Sentencing Commissioner who wrote the minority report, and from an Assistant Attorney General in the Department of Justice who, among others, recommended our regarding this present differential between crack and powder. Now their testimony was in favor of keeping stronger penalties for crack cocaine. It was compelling. Crack cocaine offenses should be punished severely because of the threat it poses to society and, in particular, the communities in which it is used and sold. Crack cocaine is more psychologically addicting than powdered cocaine and more likely to lead to drug dependence. It produces a more intense high and, thereafter, produces a quicker and sharper drop from this intense high. Crack cocaine accounts for many more emergency room visits than powdered cocaine, and importantly crack is cheap. It is popular among teenagers, and it is most likely to be associated with violent crimes, burglaries, carjackings, drive-by shootings, whatever.

Let there be no mistake about it: Crack cocaine threatens our society's future. Because crack is cheap, its market is easy to get into.

One study has found "* * * that crack distribution lacks a set of highly centralized or formally organized distribution syndicates. It relies heavily on the 'low end' dealer [and] users [who] * * * occupy a shadowy ground between dealing and consuming."

Crack is cheap and it is widely available, and, because of its popularity among teenagers and its close association with violence, crack directly threatens our next generation.

My colleagues, we have a duty as a civilization, as a lawful society, to do all that we can to fight this threat and to try to protect our young people of all races. That is why I do not understand this argument of race, this objection to the current crack-powder ratio, that it unduly punishes blacks.

In a recent speech on The Mall, and I think it has been referenced already, the Reverend Jesse Jackson stated that, and I quote:

> Why are there so many blacks in jail? Is it behavior or is it the rules? Let me talk about the rules here. Five grams of crack cocaine, five years mandatory. Five hundred grams of powdered cocaine, you get probation.

Mr. Jackson then went on to charge, and again, I quote:

> That's wrong; it's immoral; it's unfair; it's racist; it's ungodly; it must change.

Some of my distinguished colleagues on the other side of the aisle seem to use the same argument, and I have a great deal of respect for their intelligence, and their honesty, their integrity, and their position in this. I just disagree with them. I do not think this is racial.

It is my hope that as a legislative body, we, as representatives of the millions of Americans who sent us here to protect them from the hopelessness of the American drug culture and the rampant violence which results from it, can look above and beyond these charges leveled by Mr. Jackson and others with a sense of purpose and reason.

Make no mistake about it though. Our penal system must not begin to be tailored around race, socioeconomic status, or anything else for that matter. We do not need prosecution by quota. We need to crack down on crack cocaine.

My colleagues, do not be misled by the weightless argument by the time-honored issue of race concerning crack and powder cocaine. As a former prosecutor, U.S. attorney, I learned that we must prosecute the crimes regardless of the neighborhood in which they occur. Can we turn our backs on the many inner-city areas where crack is an epidemic, killing its youth who are the victims? Are the victims of the crack-associated crime any less deserving of the full weight and support of the prosecution and our law simply because those victims are black? No. Penalties must continue to be consistent with the nature of the crime without regard to outside factors which have no bearing on the commission of that crime.

Indeed, let us not forget that the sentencing Commission reported that in regard to the penalty differences between crack and powder cocaine, and I quote, "The penalties apply equally to similar defendants regardless of race."

This is what the Sentencing Commission said:

> No, it is not the rules. Blacks are not in jail because the system treats them differently than anybody else. These blacks in jail are there because they were dealing with one of America's most dangerous drugs that is plaguing our society.

This is important to me. I could go on, but let me try to summarize what I am saying here.

The fact that the penalties apply equally to each and every American, regardless of their race, is the essential point to keep in mind. If the Members of this body have a problem with equal treatment under the law, then they should voice that concern. But there really is no such concern, because the current penalties do in fact treat everyone the same.

Mr. Chairman, let me finish, and, if I have time, I would like to yield to the gentlewoman from Colorado [Mrs. SCHROEDER], but I do want to make this final point in conclusion. Congress may later decide to modify the quantity ratio of crack cocaine and powdered cocaine, and I trust that we will retain substantially more severe penalties for crack offenses. However, H.R. 2259 is not the vehicle for changing the quantity ratio.

I urge my colleagues to pass this legislation, disapprove these two of the Sentencing Commission recommendations, and allow the Committee on the Judiciary to revisit the quantity-ratio issues through a reasonable process.

□ 1815

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. WATT], a Member who has concentrated his efforts on this activity.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I guess I have to eat my words now, because I thought nobody was going to come to this floor and say that what we are doing is fair. The gentleman from Tennessee [Mr. BRYANT] has said it and he said it with a straight face. I just find that absolutely unbelievable.

Mr. Chairman, my colleagues have to understand what is going on here. Crack cocaine and powder cocaine are both cocaine. Crack cocaine happens to be used by poor people who are predominantly black people because it is cheap. Powder cocaine happens to be used by white people who happen to be richer, and as a consequence, you get this disparity in the application of the law.

Mr. Chairman, I said in an earlier debate here on the floor, I made a mistake; I said that it is 30 minutes to get from powder cocaine to crack cocaine. I was corrected. It is actually 10 minutes. I am told that if you put a tablespoon of baking soda with powder cocaine and you put it in a microwave and bake it for 10 minutes, that converts it to crack cocaine. You cannot get to crack cocaine without going through powder cocaine. So how we can justify a greater penalty for crack cocaine than for powder cocaine I just simply do not understand.

So, then you presume that if somebody has 5 grams of crack cocaine, they are dealing in cocaine. Five hundred grams of powder cocaine is necessary before you get to that same presumption. Five grams of crack cocaine produces 10 doses. Five hundred grams of powder cocaine produces 5,000 doses. Five grams of crack costs $225. Five hundred grams of powder cocaine costs $50,000. So what do we end up with? The rich guys have to have $50,000 worth of this substance, 500 grams of it, to even think about getting the same sentence that the poor person has.

The gentleman says that is fair? There is no way that we can assert to the American people that that is fair. There is no way that I can assert to my community, to the black community, to the black residents that live throughout America and who live in my congressional district that that is fair. If I cannot assert to them that the laws are fair, then I cannot assert to them that they have to abide by them. Fairness is the basis of every law, or should be.

Mr. Chairman, we cannot say to black people in the country, you deserve to go to jail for something that white people do not go to jail for. It is unfair, it is outrageous, it is despicable, that we would sit here on this floor of Congress, 2 days after the President has talked about fairness, 2 days after a milion people have come here and begged for fairness, and we say, let us go do business as usual, let us keep this in effect while we study it some more.

We have been studying this issue for a long, long time, and it is time for us to deal with it and deal with it in a way that is fair to the American people and to our communities.

Mr. CONYERS. Mr. Chairman, I yield 3½ minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2259. This debate has begun to touch on an issue which is broader than we can possibly cover today, and that is disparate representation in the criminal justice system of the races. We all know that there is a disparate number of African-Americans in prison and other custody today than of non-African-Americans. That does not mean that African-Americans are a majority, but they are represented in the criminal justice system more frequently than their percentage in the population. I personally believe that occurs for a number of reasons.

For example, law enforcement is oriented toward street crimes. The fact of the matter is, less educated criminals tend to commit street crimes, whereas more educated criminals tend to commit the more sophisticated crimes, like fraud and embezzlement. In fact, with respect, I think many Americans may not know that when they hear about the crime rate, it does not include every crime. Only street crimes are counted. Murder, rape, robbery, aggravated assault, burglary, larceny, auto theft, and arson. If anyone commits any one of those crimes, then the crime rate goes up. If someone commits a sophisticated crime like embezzlement, the crime rate does not go up.

Now, I think that that kind of approach will have a disparate impact. However, I do not think the solution is to prosecute fewer burglary or arson or larceny cases. I think the solution is to prosecute more fraud and embezzlement cases and the like which are generally committed by otherwise middle class, probably non-African-American individuals.

That is how I feel about this particular debate. I think a number of arguments have been made that crack cocaine in fact is worse for a number of reasons than powder cocaine. For example, in my own community of Albuquerque, NM, tragically, just a short time ago, a young child, under 2 years old, virtually a baby, died from eating crack cocaine that was available in the house where the baby was. I suppose this could happen ultimately with any drug, but it happened with crack.

Mr. Chairman, I wanted to make the point that if disparity is the issue, and if fairness is the issue, and there really is not a logical reason to distinguish crack cocaine from powder cocaine, then there is another solution, which is raise the penalty on powder cocaine. I think to be reducing drug penalties is to send the exact wrong message to the Nation at this time.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say, we heard this before at the Committee on the Judiciary, our colleague from Virginia, Mr. SCOTT, tried to offer an amendment to do what the gentleman said, to raise the powdered penalty, and a Republican made a point of order and was ruled out of order. The majority carefully drew this bill so that any effort to raise the penalty for powder would be out of order. So the gentleman says that, but we are presented with the situation where no one can do it.

Mr. SCHIFF. Mr. Chairman, reclaiming my time, this particular bill came before us according to the law to accept or reject specific recommendations from the sentencing guidelines commission, and that amendment, if even seriously made, was out of order at that time.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will yield further, why did the gentleman put out such a bill?

Mr. SCHIFF. Mr. Chairman, it is my time.

I am saying that I am willing to pursue the idea further about whether there is a legitimate difference between crack and powder cocaine, and if there is not, I will support a bill, a separate bill on this floor to raise the penalty for powder cocaine. If we raise the penalties, there is no disparity and no unfairness, as the other side has argued.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, Members on the other side have said at the committee and here: well, the answer is to raise, if you think the disparity is unfair, the penalty for powder. Some of us do not think that is the answer, but let us be very clear. Neither do they. Because I never saw people with a worse case of the gonnas. They are gonna do it, but they do not do it.

Nobody on that side has put out such a bill. They have put this bill before us in a way that makes it out of order. So for people to try to argue that the real way to deal with disparity is to raise the penalty for powder and then do nothing to accomplish that, they are rebuking that argument.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], the ranking member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me this time, and I thank him for his statement on this.

Mr. Chairman, I came to talk about Judge Lyle Strom. Judge Lyle Strom was appointed by President Reagan. He is the chief judge of the U.S. District Court in Nebraska, not a State known for a lot of radicals. They look like they have great common sense out in Nebraska, especially a Reagan appointee.

Well, let me tell you about Judge Lyle Strom. This brave judge has stood up and become the first Federal judge to refuse to impose a mandatory minimum sentence in a crack case, because he thought it was totally unfair, as did the Sentencing Commission who has studied this and is saying it is totally unfair.

Mr. Chairman, crack cocaine is minutes away from being powder cocaine.

What you are really doing by protecting powder cocaine, which is what the other side is really doing, I think here today, is that they are protecting the entrepreneurs. They take the powder cocaine and cook it up and can sell it. Oh, well, we do not want to get the big guys. We want to get the little guys at the end of the line, and we have a disparity of 100 to 1. We are not talking a little disparity. It is a 100 to 1 disparity that we are talking about here when we look at the differences in the sentencing.

Now, Mr. Chairman, it seems to me that when you look at people like the judge who is head of the court in Nebraska, and when you look at the Sentencing Commission, which is not a radical bunch of people, they are saying to us that if we want this justice system to be considered fair and equal, and if we are going to sew up the holes in Miss Justice's blindfold so she is not peaking out to see whether this is a little entrepreneur that has powder and is going to make it into a lot of things, and who knows, it could be healthful later on, then we really need to act on what they are saying rather than throw what they are saying aside.

I really find it amazing that people are coming here and saying, oh, no, this is fair, this is fine, and then the gentleman from Massachusetts [Mr. FRANK] just pointed out that the other things that are being said on this floor are also untrue, and that is that if you really think you ought to raise powder cocaine up, then raise it up. Who is stopping you from doing it? However, every time that is tried, no, they have a reason for not doing that, either.

Mr. Chairman, it is absolutely no wonder that people think this is unfair, because it is unfair. Every objective soul that has really looked at this, including 8 of the 10 witnesses that appeared in front of the subcommittee and testified on this, and I tell you, it is the other side who called them, 8 of the 10 witnesses, when polled, disagreed with this bill. They were called to testify on this bill and they did not think that we should do this bill. They thought we should introduce fairness into our legal system. What a radical concept, that this 100 to 1 ratio was unfair, and that if we could not figure out that the root cause of crack cocaine was power and we were going to insist on protecting powder possession, but going after crack possession, we really look like we got it all backward.

I would say that 8 out of 10, when they are called by the people trying to push the bill and could not get a better vote than that, is enough to say we all ought to sit up and take notice and we ought to listen to the many, many fair and objective people who have studied this and say we should move forward. Otherwise, we are never, never going to be able to look African-Americans in this country in the eye and say we are treating them fairly, because we are not, and we better deal with it. Mr. Chairman, if my colleagues vote for this bill tonight, they are not treating them fairly, and they are allowing this injustice to continue.

□ 1830

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT], a former law enforcement officer.

Mr. TRAFICANT. Mr. Chairman, I do not believe the Republicans are trying to be unfair; I just believe they are wrong.

Cocaine is listed under Federal law as a narcotic. Cocaine is, in fact, a central nervous system stimulant. To really look at the severity of the abuse of drugs in our country, we have to understand, and Congress does not even understand the phenomenon. As a result, our laws are all screwed up.

Show me an abuser of a central nervous system stimulant such as methamphetamine administered intravenously and I will show you someone as strung out and as dangerous as a crack cocaine abuser. Cocaine is imported, not crack. Cocaine and crack cannot be separated.

The right thing to do would be to treat both of these lethal drugs under the same mode. The problem that we have out in society today is we misidentify drugs, we confuse the scene, and we have so many powerful burdens and powerful penalties that no one really understands it.

I tell my colleagues the truth. Working in the field for 11 years, I worry about that youngster getting ahold of cocaine, mixing it with heroin, with that speed ball; and after a while they will throw the cocaine away, and they will be strung out on the street corner, be the toughest person to rehabilitate. There is no rehabilitation. These youngsters have never been anywhere.

Let me make this statement. To treat crack differently than cocaine has no defensible merit and no argument on this floor, none whatsoever for any professional who understands it.

Vince Lombardi was loved by all, the great Hall of Famer. Willie Davis was asked, "Why do you love Vince Lombardi so much?" He said, "I love him because he treated us all alike, like dogs, but all alike."

Let me tell Members something. The kids on the streets have crack because they want to get them strung out as fast as possible, but we should not treat these drugs differently. They are one and the same, my friends, and we are wrong if we do that.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, 5 grams of crack, 10 doses, a couple of hundred dollars worth, 5 years mandatory minimum; 500 grams of powder, 5,000 doses, tens of thousands of dollars to get the same penalty. In fact, possessing the 10 doses only gets a person more time than distributing tens of thousands of dollars worth of powder cocaine.

Ninety-five percent of those convicted for crack offenses are black and Hispanic. Seventy-five percent of those convicted of powder offenses are white. The Commission decided to equalize the base sentence with enhancement. Some say that crack dealers ought to get more because of the nature of the distribution. The enhancements will take that into consideration. Because you will get more time if you have a firearm, violence or death, juveniles, prior prison records, near schools, leadership role in the enterprise, other crimes, the sentencing will be based on the crime and based on an objective determination, not because the group happens to be 95 percent black.

Mr. Chairman, the reason that we have a Commission is to take the politics out of the sentencing. Over 500 prior sentence changes have been made. None have been rejected. They can consider the evidence.

For example, the evidence in possession is that there is a 68-percent recidivism rate for those that go to prison, 11 percent recidivism rate for those who get treatment. So we spend more money, end up with more crime if we send people to prison for simple possession. The Commission can act intelligently and make that decision without regard to the political implications.

The reason for the Commission is to put things in perspective, Mr. Chairman. Five-year mandatory minimum for users and small-time street dealers with a couple of hundred dollars worth, 95 percent black and Hispanic. Street dealers will be replaced as soon as they get arrested. Those distributing tens of thousands of dollars of uncooked crack or pre-crack or powder can get probation, a group 75 percent white. The Commission can treat large-scale dealers of tens of thousands of dollars of uncooked crack more seriously than street dealers or simple possession without regard to political implications.

This bill rejects the intelligent, nonpolitical analysis of the Commission in an unprecedented act. The bill suggests that we should go back, to send the issue back to the Sentencing Commission to study it. Yet there is no date for the end of the study. And there is nothing to study.

Because they told us what they thought. They told us that there is an unjustified disparity with racial overtones. We should defeat the bill, let the nonpolitical Sentencing Commission recommendations become law. It is the fair thing to do.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR], a member of the committee.

Mr. BARR. Mr. Chairman, I think the distinguished gentleman from Florida [Mr. McCOLLUM], the chairman of the Subcommittee on Crime and Criminal Justice, for yielding me the time.

Mr. Chairman, this really has to be one of the most bizarre debates that I have witnessed in the 10 months that I have had the honor of serving in this Congress of the United States. I was just reminded of how bizarre it is listening to one of the proponents of the sentencing guideline recommendations, the sentencing commission recommendations talk about us protecting powdered cocaine users. That is bizarre.

Then we have people saying there is absolutely no difference whatsoever between powdered cocaine and crack cocaine when there are in fact substantial differences, in terms of the effect it has on the person, how quickly it has that effect on that person and how much more deeply and quickly addictive crack cocaine is than powdered cocaine. Yes, they come from the same base; yes, they are chemically similar, but in their effects they are very, very different and the crack cocaine is much more dangerous.

I am also reminded in this debate, Mr. Chairman, about how out of touch Members on the other side are from the real world. The real world, Mr. Chairman, is a world that I have visited, have worked in and talked with people in when I had the honor of serving as the United States attorney for the Northern District of Georgia. Not simply content with staying in the Federal Building or in the United States courthouses, myself and police officers and Federal agents and assistant United States attorneys regularly went out into the community to determine are, in fact, our priorities the priorities of the people who want to be protected from drug dealers, murderers and thieves in their communities.

In many of those visits, Mr. Chairman, I had the opportunity to talk with men and women and mothers and fathers in housing projects, many of them in Atlanta where we have some of the oldest and poorest housing projects in the country, many of them populated not exclusively but in terms of the number of people predominantly by black families, and in talking with those mothers and those fathers and those children and those brothers and sisters, they do not share the belief of our colleagues on the other side.

They told me than, they tell us now, they tell law enforcement officers now, I do not care whether that person is black or white who is dealing death in the form of crack cocaine, I do not care whether that person who murders people either deliberately or inadvertently by drive-by shootings because they are high on crack cocaine or because they think that person may have snitched on them, they want those people off the streets. They want them off the streets and they deserve to have this Congress heed that cry and not be diverted, not be drawn off target by specious arguments, absolutely specious arguments that we are hearing from the other side that simply because we want to punish very strongly, very strictly and hopefully very swiftly people that deal in a very, very addictive, very dangerous mind-altering drug such as crack cocaine, that we think because much smaller quantities can result and are used in fact for trafficking and distribution than larger quantities of powdered cocaine, that those people ought to be punished more because it is those people who are going into the housing projects where our black youth are being killed and those mothers particularly tell me. They told me this when I was United States attorney, they tell me now as a Representative in the United States Congress, "Get those people off the streets and put them away for a long period of time."

That is the real world. Those are the real arguments. In fact, Mr. Chairman, those are also the arguments of this administration. The Clinton administration came to the Congress of the United States and they said, yes, we may argue that there has to be or perhaps might be some different equation we use but even this administration recognizes that there is in fact a difference, a very big difference between the effects of crack cocaine and powdered cocaine and it is appropriately and has been appropriately for going on a decade now reflected in the difference in sentencing because it reflects differences in the real world use and effect of these drugs.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I appreciate what the gentleman from Georgia just said, but when you go into white houses and white neighborhoods, they want white dealers put away, that sell it to white people. But they do not say put them away for a longer period of time than black people, or put black people away for a longer period of time than white people. It is a crime problem.

You know what cocaine does in the suburbs? People shoot people in the suburbs. They beat their children. They beat their spouses. They screw up their businesses. They leave home. They have dissolutions of families, of marriages and children are left and are wards of the State.

It is the same drug. It is the same scourge on communities. The suggestion that somehow because black people believe in law enforcement and do not like people selling drugs in the streets that that means they are for the unequal treatment of people is crazy, is absolutely crazy. We ought to deal with this as it is.

You have a little luxury because you come through parts of my district and pick it up in your BMW and go to a home where a cop would not go unless you called them and you get the luxury of using it and dealing it, you get a different penalty.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I thank my friend, the gentleman from Michigan [Mr. CONYERS], for yielding me the time.

Mr. Chairman, let me tell this to my colleague from Georgia. I live in my district. I live in the city of Atlanta. I know the people of Atlanta. I have visited and stayed overnight on more than one occasion in the projects. I served on the city council in that city for almost 6 years, served on the public safety committee. I know the police department of that city.

This amendment is about fairness, equality and justice. It is about treating our poor and minorities the same way we treat others in our society.

Chemically, crack and powder cocaine are the same drug. They are the same in every way but one. Poor people use crack. People of color use crack. People who use crack go to jail.

On the other hand, more affluent people use powdered cocaine; and when they are caught and arrested and prosecuted, they often go free or get lighter sentences than those who use crack cocaine. This is not only wrong, it is unjust, and it should not be.

These are the facts. The way the law is designed, it sends poor people to jail. It sends people of color to jail. This is not justice. This law is not right. It is not fair.

My colleagues, cocaine is cocaine. Breaking the law is breaking the law. It is time to stop discriminating against the poor and people of color. It is time to treat poor people the same way we treat the rich. It is time to treat each and every person who uses cocaine the same.

The Conyers amendment will go a long way to restoring fairness to our justice system. It will restore faith and confidence. As recent events have shown, many of our citizens see two different judicial systems. They see different laws for different people. They see statutes that discriminate and a system that does not treat all people equally under the law. That is not the American way. That is wrong. It is dead wrong, and it must be changed. We have an opportunity tonight to change it.

I urge my colleagues to support justice, equality, fairness and integrity. Support the Conyers amendment.

□ 1845

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, it seems to me that cocaine is all bad and it should all be strongly discouraged, crack or powder.

The issue should not be the lowering of standards to conform with another but perhaps the raising of one standard to bring them all up to equal status. So I rise today in strong support of disapproving certain drug sentencing guidelines as recommended by the Sentencing Commission.

I think that fighting our Nation's war on drugs has got to be swift and sure. By accepting a rollback in punishment for crack cocaine offenses, we would be sending precisely the wrong message. That is why I introduced legislation in this Chamber to block the Commission's recommendations.

According to the Federal Bureau of Investigation bulletin of a mere 5 months ago:

> The sentencing tables used in drug cases base punishments on the type and amount of the drug as well as the criminal history of the defendant. Offenses involving crack cocaine receive substantially higher sentences than those dealing with cocaine in its powdered form due to crack's higher addictive qualities.

We cannot play ostrich by sticking our heads in the sand and thinking America's drug problem is simply going to solve itself and go away. Our constituents expect us to stand up for them and to make their, our, neighborhoods safer. By disapproving the Sentencing Commission's recommendations, we will be doing that.

Let us look at the facts. Drug trends prove the need for stiff punishment. There is no question about that. The sale, the manufacture, the possession of cocaine, according to the Federal arrest rates, has skyrocketed in this last decade alone.

In addition, the number of Federal cocaine seizures has jumped from nearly 8,000 kilograms in 1983 to more than 78,000 in 1992, and according to the Justice Department's uniform crime reports for 1993, nearly 2 out of every 3 people arrested for selling and manufacturing drugs was in the heroin or cocaine and their derivatives category, while almost half of everyone arrested for drug possession fell into that same category.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to say that H.R. 2259 absolutely needs to be rejected. It flies in the face of what we consider to be the notion of equality under the law.

It is interesting that my colleague, the gentleman from Georgia [Mr. BARR], can talk about how he has traveled the highways and byways of inner-city Atlanta. But let me say to you that it is all in the asker of the question as to what the responder says. I asked the same question in neighborhoods that I grew up in, and I asked a group of African-American ministers, "How many of you enjoy your community using drugs? Would you raise your hands?" I got no takers. But then I asked the fairness question: "How many of you understand that those who sell crack get 100 times more sentencing than those who sell cocaine?" Shock came across their faces because they really understand the needs of their members day after day after day. They are in the homes of crying mothers who say, "He simply wanted to have a job." They are in the homes of crying families who say, "Where is the treatment facility for those who are addicted?" That is what the question becomes.

Then we want to reject the language of a sentencing commission that is bipartisan, which, if I might simply read on page 105 in a report from the U.S. Sentencing Commission, February 1995, "Cocaine and Federal Sentencing Policy," and it says, "Thus, the media and public fears of a direct causal relationship between crack and other crimes do not seem to be confirmed by empirical data."

What is the Congress talking about? By this action today this Congress is unfairly saying "Throw them in the jailhouse and throw the key away." Ninety-five percent of them are minorities. Throw equality under the law out the window.

I abhor drugs. But what I am saying to you is you are not fixing something. You are destroying a community, and then we find out in this same report, on page 105, that the members of inner-city communities are not cocaine or heroin abusers or criminals. Basically, factors such as prospects of employment in the crack trade for young persons who most likely will be unemployed are the key to getting them out on the street selling drugs. Where are the real jobs to solve this problem?

Where are the solutions from my colleagues, the Republicans, on job creation, on job training?

I am going on the record, I do not want to see drugs proliferating in our communities across this Nation. But as a member of the Committee on the Judiciary, understanding the Constitution, equal protection under the law, I think it is atrocious that we stand here today, rejecting a bipartisan commission that simply says equalize the sentencing, and likewise documents that other crimes do not necessarily come out of crack usage.

What we need are jobs in our communities, treatment in our communities. This is an abomination. Let us stop the abomination. Let us not support H.R. 2259 and support the Conyers substitute which affirms the fair U.S. Sentencing Commission's recommendation. The Commission's recommendations help stop crime. This Republican legislation destroys lives.

Ms. JACKSON-LEE. Mr. Chairman, I must rise in opposition to S. 1254, which has been made in order as original text for the bill to disapprove sentencing guidelines that would equalize the sentencing for the sale and possession of powder and crack cocaine.

The current sentencing guidelines are an affront to our professed notion of equality under the law. There is a 100-to-1 disparity in sentencing for offenses concerning crack cocaine versus powder cocaine. If an individual possesses 5 grams of crack cocaine, he is subject to a mandatory minimum sentence of 5 years. Whereas an individual who possesses 500 grams of powder cocaine is subject to a maximum sentence of 1 year. This is patently unfair.

Moreover, the racial disparity in sentencing of crack cocaine offenders is unacceptable.

The statistics show that 88 percent of the convictions for crack cocaine are against African-Americans. In the city of Los Angeles, no white American has been convicted of a crack cocaine offense since 1986. Despite this evidence of racial disparity around the country with respect to cocaine sentencing, this bill would destroy the opportunity to reduce such disparity and make our criminal justice system more equitable.

The recommendations of the Sentencing Commission are sound and the result of significant research and deliberation. This commission is comprised of a distinguished group of men and women who have reviewed a significant amount of data and heard testimony from interested parties on this critical matter. Some proponents of this bill are using stories and anecdotes from a few members of the law enforcement community that crack cocaine offenders should be subject to such harsh sentencing.

The commission voted 5 to 4 in approving the new sentencing guidelines. All of the commissioners, however, agree that the current sentencing disparity between offenses for crack cocaine and powder cocaine is too high.

A rejection of this bill would be a perfect opportunity for Congress to help all Americans have a greater confidence in our Criminal Justice System. In the Subcommittee on Crime and in the full Judiciary Committee, we had an opportunity to vote on amendments that would accept the recommendations of the U.S. Sentencing Commission but that would lead toward some reduction in this disparity. However, those amendments were defeated on a party line basis. Some Members may argue that this bill, S. 1254, is a better bill than the bill that was reported out of the Judiciary Committee. This bill is still bad public policy.

Let us use this opportunity to restore a sense of fairness in the Criminal Justice System. It is not a matter of being tough on crime but a matter of whether our Judicial System will have any credibility by millions of Americans.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. Mr. Chairman, this is the third time now that I have, with patience, listened to the debate of my colleagues from both sides.

I do rise in support of H.R. 2259 to disapprove the recommendations made by the U.S. Sentencing Commission regarding crack cocaine and money laundering.

Despite what we hear from the opponents of this bill, the legislation is about being tough in the war against drugs. It is about standing up for our children's right to grow up drug-free and be saved from the scourge of drug abuse that has ruined so many young lives.

I applaud the courage of the chairman, the gentleman from Florida [Mr. McCOLLUM], for moving forward with this legislation in the face of some of the allegations we hear tonight. He does so out of concern for all of America's children.

The U.S. Sentencing Commission has recommended equalizing these penalties for distribution of the cocaine and crack cocaine, and I believe that it is simply wrong.

Although the same drug, crack cocaine possesses the greater risk to society due to its increased addictiveness, the manner in which it is marketed, and the increased association with violence. Our sentencing policies must reflect the inherent differences, not be race-based, sex-based, or national origin-based. The Sentencing Commission-proposed changes do not do this.

The powder cocaine, due to price, is generally used by the more affluent. One of the most distressing things about crack is it is cheap and inexpensive. Of these using cocaine, crack was the more popular among 12-to-17-year-olds than among any other age group. Crack is highly addictive and is available to our children for little more than lunch money. The other harms associated with crack are an increase of violent crime, destructive to the entire neighborhoods, to the child, and to domestic abuse. Our sentencing policies must reflect these greater harms to society.

The target of these sentencing guidelines is the dealers of crack cocaine. Under current policies, a mid-level dealer who distributes 50 grams of crack would trigger a 10-year sentence. Under the proposed changes by the Sentencing Commission, this same dealer would only face a 12-to-18-month sentence. This is too short of a time for someone responsible for selling up to 500, 500 crack transactions that devastate 500 potential lives.

In closing, let me leave with my colleagues the words of someone on the front lines fighting the war on drugs. I recently received a letter from the Marion County prosecutor in Indianapolis. He writes and says,

> I simply cannot understand why the United States Sentencing Commission would consider lightening the penalties for crack cocaine distribution relative to other narcotic drugs. To do so would be a serious mistake and would more than likely lead to even fewer meaningful prosecutions of crack cocaine dealers in Federal court.

I must make one other comment, and that is it is not justice nor equality to base criminal prosecutions based through the dimension of color, sex, or national origin. If we take the arguments that I have listened to here tonight, and let us look at it from the other perspective and say if white-collar crime, that there are more whites in America that commit bank fraud, in a racial disparity of 1000 to 1, should we then reduce the penalties? If we then look at sex and say that how many, if there are greater men that commit battery against spouses, should we have lesser penalties against the men? If we look to the dimension of national origin and say that because there are more illegal aliens from Mexico versus Canada, that therefore we should not be harsh on illegal aliens from Mexico?

The penalties of crime should not be based due to the dimension of color, sex, or national origin, period, and I support the efforts of the gentleman from Florida [Mr. McCOLLUM].

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume, to point out to my colleague on the Committee on the Judiciary that, first of all, my substitute does not include dealers, trafficking. It only deals with possession.

Second, the majority of crack users in America are not African-Americans. They are white.

Mr. Chairman, I yield the remainder of my time to the distinguished gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I rise in opposition to this bill and in support of the Conyers substitute.

The distinguished jurist, Judge Learned Hand on one occasion stated, "If we are to keep our democracy, there must be one commandment, Thou shalt not ration justice."

Indeed, this Nation is the leading democracy in the world because we labor to ensure that our citizens are governed by one standard of justice—equal under law, according to the inscription above the U.S. Supreme Court Building.

It troubles me that this bill seeks to disapprove the proposed sentencing guidelines regarding crack cocaine.

The question is why?

Do the recommendations of the Sentencing Commission create a dual standard of justice?

The answer is "no."

In fact, the recommendation of the Sentencing Commission is to create a single standard for all cocaine offenses—whether the offense involves powder or crack cocaine.

That, it seems to me, meets the mandate of equal justice.

Do the recommendations of the Sentencing Commission call for a change in sentencing for cocaine offenses?

Again, the answer is "no."

The recommendations simply provide for cocaine offenses involving crack to be equal to those involving powder cocaine—the penalty for both will be the same, and the penalty for powder cocaine remains unchanged.

Mr. Chairman, let us not forget that the 1994 crime bill directed the Sentencing Commission to examine the disparity between sentencing for crack cocaine and powder cocaine offenses.

The Commission followed that directive, and made 27 recommendations on May 1, 1995, including recommendations to equalize the penalties for crack and powder cocaine.

The Commission did what Congress told them to do.

Now—because the Commission did not do what some would have preferred that they do—we are faced with an effort to undo what they did.

The Sentencing Commission is composed of judges and lawyers and others, expert in the field of sentencing.

They conducted their business within the administrative authority given them by an act of Congress.

No proponent of this bill has argued that the Commission acted without authority.

They stayed within the banks of the law that created them.

Why then do some now seek to negate the legitimate actions of the Sentencing Commission?

Why are some willing to accept a dual standard of justice in our law enforcement system?

Why are some willing to allow minority citizens, low income citizens, to bear a stricter sentencing burden than nonminorities bear—for the same offense?

Why are some willing to overlook the fact that African-Americans account for almost 90 percent of those convicted of Federal crack cocaine charges?

Those are the questions, Mr. Chairman, and they are compelling.

I hope we will get some honest answers.

Then, let us reject this ill-advised, constitutionally awkward legislation.

Mr. McCOLLUM. Mr. Chairman, I will conclude by making a couple of points. First of all, what we are all about here tonight in this bill is to disavow two of the Sentencing Commission recommendations, one of them dealing with money laundering, that has hardly been discussed. Clearly, we need to veto that. We do not want it to go into effect. It would dramatically reduce the penalties for money laundering in this country. We may need to revise them a little bit, but not as dramatically as they have done.

Second, this question of revising the issue of disparity, difference, if you will, between the quantities of crack and the quantities of powder that trigger mandatory minimum sentencing and sentencing guidelines; we cannot change the minimum mandatory here tonight. That is not what it is about.

For 5 grams of crack, the minimum mandatory is going to remain equal to 500 grams of powder. We can debate that for a long time to come. But that is the case.

By failing to enact this tonight, we will let the Sentencing Commission guidelines go into effect that I think would be far worse than what we have today because there would be even greater disparity in the crack sentencing proposition. I am sure we will get a chance to debate it in a few minutes.

The decision of the Sentencing Commission was 5-to-4. It was very close on this issue for a lot of the reasons we have been debating tonight, and I look forward in a few moments to the debate on the amendment the gentleman from Michigan is going to offer, because we can discuss then how possession indeed in this case is the same as trafficking.

Mr. MFUME. Mr. Chairman, today we vote on legislation which would disapprove the U.S. Sentencing Commission's guideline amendments regarding the disparity between crack and powder cocaine sentences.

When Congress created the Sentencing Commission in 1984, it entrusted an independent body with the difficult task of establishing and making recommendations regarding guidelines for Federal crimes. During deliberations on last year's crime bill, Congress directed the Sentencing Commission to study the sentencing disparity in cocaine.

Under current law, individuals who are convicted of crack cocaine offenses are subject to penalties that are 100 times more severe than those convicted of powder cocaine offenses. In other words, a defendant who sells 5 grams of crack cocaine will receive the same 5-year mandatory minimum sentence as a defendant who sells 500 grams of powdered cocaine. In addition, possession of 5 grams of crack results in the imposition of the 5-year penalty, but possession of 5 grams of powdered cocaine will only result in a 1-year maximum sentence.

Earlier this year, the Commission produced a report in which it strongly supported the elimination of the current 100 to 1 ratio. Despite an indepth study that took into consideration empirical and scientific data, this House now seeks to dismiss the Commission's recommendations and thereby allow the sentencing disparity to continue. Passage of this bill would mark the first time that the Congress has rejected the guideline amendments proposed by the Sentencing Commission.

Americans have looked upon the judicial system with increasing mistrust partly in light of the controversy surrounding the disparity in sentencing involving cocaine. The findings of the Commission indicate that African-Americans accounted for 88.3 percent of Federal crack cocaine trafficking convictions in 1993, Hispanics 7.1 percent, and whites 4.1 percent. The low cost of crack cocaine makes it the drug of choice for poorer Americans, many of whom are African-American. The Commission found that "the high percentage of blacks convicted of crack cocaine offenses is a matter of great concern . . . Penalties clearly must be neutral on their face and by design." The presence of such a racial disparity calls into question the integrity of a judicial system that premises itself on fairness.

The harshness of the penalty ratio has been shown to be unfairly focused upon low-level drug dealers and addicts rather than cartels, smugglers, and large-scale traffickers who deal in powder cocaine before it is converted into crack for sale at the street level.

These problems are further aggravated by law enforcement practices wherein minority areas are targeted. Earlier this year, a Federal appeals court dismissed a case against four African-Americans accused of selling crack because the Government refused to provide evidence that might determine if the defendants had been unfairly targeted. Joining the majority opinion, Justice Stephen Reinhardt stated that the statistics compiled by the Federal public defender's office raised "a strong inference of invidious discrimination" against minorities.

Conversely, not a single white has been convicted of a crack cocaine offense in Federal courts serving Los Angeles and its surrounding counties since Congress enacted its mandatory sentences for crack dealers in 1986. Rather, these defendants are prosecuted in State courts where sentences are far less. In their dissenting opinion, Democrats on the Committee on the Judiciary properly expressed concern in stating that "the existence of such a facially flawed sentencing scheme undermines the credibility of our entire system of Federal laws and might invite discriminatory behavior by Federal law enforcement personnel."

According to research conducted by the Sentencing Commission, mandatory minimum penalties for powder and crack cocaine have not been uniformly applied. This is due in large part to lower State penalties for crack. Thus the decision to prosecute in Federal rather than State court can have a tremendous impact on an individual sentence. As such, the choice of forum is a significant factor in determining sentence length.

The problems that have arisen with the current cocaine sentencing disparity highlight the basic problem with mandatory minimum sentencing laws. These laws were designed as an added crime deterrent and were intended to reduce sentencing disparity by eliminating the discretion that judges and parole boards exercise. However, mandatory minimum sentences prevent judges from making the time fit the crime.

In conclusion, Mr. Speaker, I ask my colleagues to oppose this bill and support the findings of the U.S. Sentencing Commission which examined this issue closely and opposed the current penalty scheme.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2259, a bill that disapproves of the sentencing guideline amendments. Let me state from the beginning that I recognize the challenge we face in curbing drug abuse in our Nation. In fact, I have been a longstanding advocate for strong congressional action to reduce and prevent the scourge of drug abuse and addiction from our Nation's communities. Nonetheless, I cannot support this measure before us today because it creates two brands of justice, one white and one black.

H.R. 2259, disapproves of the U.S. Sentencing Commission's proposed sentencing guideline amendments regarding crack cocaine and money laundering. The 1994 crime bill directed the U.S. Sentencing Commission to examine the disparity between sentencing for crack cocaine and powder cocaine offenses. On May 1, 1995, the Commission made 27 recommendations, including recommendations to equalize the penalties for crack and powder cocaine. The action proposed in this legislation will short-circuit the recommendations of the acknowledged experts in this field, the U.S. Sentencing Commission.

While the most recent FBI uniform crime report states that, since 1989, the number of crimes per 100,000 inhabitants is down 4 percent, the African-American community has increasingly become the target of the criminal justice system. A Washington-based advocacy group, known as the "Sentencing Project," confirmed this fact when it reported that a shocking one-third or 32.2 percent of young black men in the age group 20–29 is in prison, jail probation or on parole. In contrast, white males of the same age group are incarcerated at a rate that is only 6.7 percent.

As the Nation experiences a slight overall decline in the crime rate, 5,300 black men of every 100,000 in the United States are in prison or jail. This compares to an overall rate of 500 per 100,000 for the general population, and is nearly five times the rate which black men were imprisoned in the apartheid era of South Africa. America is now the biggest incarcerator in the world and spends approximately $6 billion per year to incarcerate black men. The number of African-American males under criminal justice control, 827,440, exceeds the number enrolled in higher education.

When we examine why African-Americans are increasingly being targeted for punishment by the justice system, one factor stands out as a primary contributor—the mandatory minimum sentences associated with crack cocaine offenses. The evidence clearly establishes a disparity under current law in sentencing between crack cocaine and powder cocaine. Those persons convicted of crack possession receive a mandatory prison term of 5 years by possessing only one-hundredth of the quantity of cocaine as those charged with powder cocaine possession.

The U.S. Sentencing Commission found that blacks accounted for 84.5 percent of Federal crack convictions in 1993. Because of this and other unbalanced drug control laws, the number of incarcerated drug offenders has risen by 510 percent from 1983 to 1993. In addition, the number of African-American women incarcerated in State prisons for drug offenses increased a staggering 828 percent from 1986 to 1991. Clearly, the African-American community has been disproportionately represented in this dramatic increase that is the direct result of the crack mandatory minimums.

Mr. Chairman, the time has come for the Congress to have the courage to do the right thing, end this racist and unfair targeting of African-Americans for punishment. The time has come for all of us to take this small step in favor of justice and equality for all Americans. I urge my colleagues to vote against this bill.

Mr. STUPAK. Mr. Chairman, I rise today to express my support of H.R. 2259.

As my colleagues may know, on July 19, I introduced H.R. 2073, legislation similar to H.R. 2259 and S. 1254. We need to remain tough on crime, and my legislation and the bill being considered today represent a commitment against drug abuse and drug traffickers. The scourge that crack cocaine brings to communities all across America must be stopped, and the proposal by the U.S. Sentencing Commission to change Federal sentencing guidelines pertaining to crack cocaine was, quite simply, wrong and wholly inappropriate.

As a former law enforcement officer, I fully understand the overwhelming need to prevent the Sentencing Commission's proposal from being implemented. The guidelines, if allowed to become law in just 2 weeks, would mean that some offenses that are now subject to 5- to 10-year mandatory prison sentences could potentially result in sentences involving no required prison term at all. This is the completely wrong message to be sending out to traffickers and users of crack cocaine.

A major part of our effort to fight crime and defeat criminals rests with punishing those dealing drugs, the pushers and traffickers who have inflicted tremendous harm on literally thousands of individuals, tremendous harm on families all across America, and tremendous harm on communities and neighborhoods in our own congressional districts.

There are some who point to the apparent disparity in sentences for crack cocaine as opposed to powder cocaine. I actually believe that there should be an adjustment in these respective sentences, but I prefer to see an increase in the penalties for powder cocaine, instead of lowering the penalties for crack cocaine, as the Sentencing Commission has proposed.

Mr. Chairman, this response to the guidelines proposed by the Sentencing Commission is responsible and fair. Most of all, this legislation represents our continued commitment to combatting drug abuse and stopping those who wish to destroy the lives of thousands of our fellow citizens.

Mr. RUSH. Mr. Chairman, I rise today in support of the Conyers substitute. It is ironic that we are in the House of Representatives to consider a proposal that is the opposite of our concept of justice and fair play. The scales of justice must be balanced. Yet, this measure seeks to arbitrarily place a greater value on possession of crack cocaine over powdered cocaine. During this evening's dialog, I have heard many speaker's argue that crack cocaine is more devastating to our community than powder cocaine. To this I say—a rose by any other name still has thorns.

The distinguished manager for the Republican majority has argued that this measure is color blind. I dare say, it is anything but that. Such an assertion is confounding in light of the fact that it is now common knowledge that one in three African-American males is in some way impacted by the judicial system. This fact alone makes it clear that African-Americans will be disproportionately affected. This is anything but color blindness.

What is the motivation behind this measure? Is it to get tough on crime by locking them up and throwing away the key by any means necessary? Or, is there a conspiracy among the Republican majority to incarcerate as many African-American males as possible?

This bill is nothing more than a narrow minded effort to ostracize those who already bear the brunt of the injustices within our judicial system.

We must combat crime. We must make our streets safer for our families. However, this must not be done at the expense of individuals who some have an embedded fear, if not hate for. If in fact the Republican majority wants to establish a color blind society, as it professes, it is dishonesty, if not intellectual heresy, to introduce a bill such as this. This bill is blatantly biased, it is not based on sound legal rationale, and is direct in contradiction with our standards of justice.

Mr. SANDERS. Mr. Chairman, I am outraged that we are not given the option to support both fairness in our criminal justice system and a strong stance against crime and illegal drugs. The issue here is extremely important. There is no excuse for a young man in the ghetto to be arrested for crack cocaine possession and get 5 years in prison when the more affluent powder cocaine user risks only 1 year in jail. The simple fact is that the poor and the black minority are treated unfairly under current sentencing guidelines.

Don't get me wrong. This Congressman thinks that drugs are a scourge on America and I strongly believe we must fight cocaine use in any form. We should be addressing the fairness issue by raising the punishment for powder cocaine, not lowering the sentence for crack offenses. I am deeply disturbed that this was not given as an option today.

I come from an almost all white State and I know that the people of Vermont want tough law enforcement and tough penalties against drug dealers. But they do not believe that a white cocaine user should be treated far more leniently than a black cocaine user. And that is what the issue is here today. The criminal justice system must be fair and unbiased or it is simply not just.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of S. 1254, as passed by the Senate, is adopted, and the bill, as amended, is considered as an original bill for the purpose of further amendment, and is considered read.

The text of the amendment in the nature of a substitute consisting of the text of S. 1254 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offense in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the judiciary Committees comments on the study prepared by the Department of Justice.

No further amendment is in order except the amendment in the nature of a substitute printed in House Report 104–279, which may be offered only by the gentleman from Michigan [Mr. CONYERS] or his designee, is considered read, is debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

It is now in order to consider the amendment printed in House Report 104–279.

□ 1900

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CONYERS: Strike all after the enacting clause and insert the following:

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 (except to the extent they amend section 2D2.1) of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

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(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(d) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28, United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. MCCOLLUM. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I offer a very simple substitute to the Senate bill that we are dealing with this evening. I offer my amendment as a substitute to the language in S. 1254. My bill is exactly the same in the language as S. 1254 in every respect, except that it deletes the section disapproving the Sentencing Commission's recommendation that the penalties for crack cocaine and powder cocaine be equalized.

To make it clear, we are now dealing with my substitute amendment. I urge that it be carefully considered.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the gentleman is sincere in what he wants to do, and I know that there is considerable concern about the difference between the quantities that are involved in the possession offense for crack and the quantities involved with respect to powder. That has really been the discussion through the general debate and some of the rule debate this evening.

My own judgment personally is the Sentencing Commission ultimately should come back both for trafficking and possession with something that closes that gap, but does not go to the 1 to 1 ratio, that does not completely eliminate it, which is what the gentleman would do with regard to the so-called possession offense.

But one point really needs to be made. When we are dealing with 5 grams of crack, which is what we are talking about tonight, we are dealing with 20 to 50 doses at least of crack. We are not really dealing with possession in the simple sense of mere use. We are dealing with a dealer.

When somebody is out on that street and he has 5 grams in his possession, he does not have it there for the purposes of consuming it or using it. He has it there because he is out there to sell it, to make money, to traffic in it. That is the common amount, and a very sizeable amount that is used by those who are out there selling it.

If you want to look at how this all takes place, the Colombian cartel, for example, sends the powdered cocaine to New York or Chicago or San Francisco or Atlanta or wherever. They probably have somebody here, maybe legally or illegally, who is a Colombian, part of the Colombian mafia, if you will, and they divide up that powder. And they, more likely than not, are the one that converts it to crack in a large warehousing operation, not a little operation where we are going to take a spoon and put it in the microwave, although you can do that and get results.

The truth is, they make very large quantities of crack, and they get their folks out there in New York or Atlanta or Jacksonville or Miami or wherever, that distribute or sell this crack in these doses of about 20 to 50, in that kind of quantity. So 5 grams is a very common amount for a major crack distribution ring member to be carrying around.

Prosecutors do not prove their case on proving a sale. It is very difficult to do. Even when you are dealing with the large powder Colombian cartel members, in proving huge quantities, it is usually proved by circumstantial evidence of proving they have had this huge quantity, and inferring from that or having the jury infer from that that indeed, there is a trafficking going on here.

Occasionally they are fortunate enough to be able to prove by some technical method that money transferred or occurred. If we take away from the law the sentencing distinctions on the possession of 5 grams of crack, as the gentleman from Michigan wants to do, we have undermined the Federal prosecutors in doing any kind of effort to prosecute effectively those who are the dealers for the most part in the United States. They may still be able to catch occasionally one of the

Colombian cartel members or one of his honchos from Colombia sitting up in the big cheese of New York, but they are not going to be able to deal with street crime effectively at all anymore. I want all Members to understand what the gentleman is proposing is a dramatic reduction in the sentencing for those who are dealers in crack.

Now, one other point needs to be made, and that is that because we are dealing with what the Sentencing Commission can do, if literally it is 5 grams of crack that we are talking about, then in that situation the minimum mandatory sentence is not going to be altered by anything we do tonight. The Sentencing Commission has no power over that. It is not before us tonight. The Congress would have to go in and alter it. It is a minimum mandatory sentence, as is the 500-gram minimum mandatory sentence for powder. That disparity that so many are talking about will remain on the books tonight, no matter what we do.

What we will do is to have the strange anomaly, if we were to adopt the gentleman's amendment, of having somebody dealing in 4.9 grams of crack being able to get a very much lower sentence than the minimum mandatory sentence for the 5 gram dealer.

Do not believe there are not going to be a lot of people out there trying to weigh cocaine very carefully to be sure they are only carrying around 4.8 or 4.9 grams and not 5, because they are going to get a huge difference in the sentence they could get in the Federal courts for this particular situation.

In addition to that, you are going to mess up the chain reaction the prosecutors need. They need to grab that guy who is the dealer on the street. They do not care about the user. If you look at the thousands, and there are thousands of those locked up who are dealers on the streets in Federal prisons today, we are not talking about hundreds of thousands, but several thousand, most of them, 99 percent of them are not there for any use. They are there because they are a dealer, and they are there because they did not cooperate in helping getting the bigger guy who actually provided them with the stuff.

This is an important leverage tool for our prosecutors, the ability to prosecute the 5 grams of crack, the street dealer with this 20 to 50 doses in his pocket out there, and threaten him, even if we do not actually put him in jail, with the fact that he can go there for a long period of time.

A few of them decide that they are not going to squeal, and they are not going to tell who the other person is upstairs, and they do wind up serving their sentences, perhaps longer than maybe some others might like to see happen. But we cannot relent now in the war against drugs at the street level and expect to be able to be successful in any way if we adopt the Conyers amendment. It is not an appropriate amendment to adopt tonight.

I would also make one or two other points while I am up here about the racist question. I have heard it debated ad nauseam and I understand the sincerity of those making it, but let me suggest to you that the fact that there are more blacks in jail, whether it is for this reason or a lot of other reasons, and they are there for a lot of other reasons, whether there are more blacks on death row, which we have debated out here when we debated the death penalty, proportionate to their population numbers and ratios to the whites or other races in our society, or in the case of the crack cocaine issue, it is not racist that they are there. It is not, in my judgment, at all racist.

If you think about those words, the idea of racism implies prejudice. It implies that we in Congress or those in law enforcement are out there intentionally attempting to put somebody in jail because of the color of their skin or to make them serve a longer sentence. That is not so. What we are talking about is the truth of the matter, is that for better or worse, many African-Americans, especially these juveniles who do not have the jobs that have been discussed out there tonight as well, who for a variety of root causes, welfare, and so forth, look to the way of crime, particularly dealing in crack, as a way to make money. They are naturally going to be the ones that are most often caught up in it, but it does not mean the fact that we are equally applying the laws, which we are, to whites and blacks and Asians and Hispanics and everybody else, that the law is racist or that the end result is racist. It is not, It is not.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, let me give the gentleman a fact, and tell me whether or not this is racist. In Los Angeles, the U.S. district court prosecuted no whites, none, for crack offenses between 1988 and 1994. This is despite the fact that two-thirds of those who have tried crack are white, and over one-half of crack's regular users are white. I will give you that fact again. None. Not one white in the U.S. district court in Los Angeles was prosecuted for crack offenses between 1988 and 1994. Check it out.

Mr. McCOLLUM. Mr. Chairman, if I can reclaim my time, I will check it out. I would suggest to the gentlewoman, unless there is an extraordinarily good reason why, that perhaps the prosecutor you just named may himself have been in some way prejudiced or biased. That is the implication you have given. But the statistics alone do not prove racism, just as they do not prove disparate impact. Statistics do not prove it. They suggest we ought to look into it. I would not question we should look into it. But by and large, the truth of the matter is, if we are applying it equally, the law itself is not racist.

Perhaps an individual prosecutor might be racist. I believe though that the issue tonight does not have bearing on directly, though we are concerned about it, with what an individual prosecutor might do, but rather what are the guidelines that we are giving them? What are the guidelines of the law, what are the guidelines of the Sentencing Commission, what are the guidelines of the Department of Justice. We can then go back and should go back in our committee work and in our jobs as Members of this Congress and as the executive branch in its role in the Department of Justice in ferreting out racial bias and discrimination and improper processing.

If it is a U.S. attorney that does something improper and discriminatory in nature, he ought to be disciplined. We should take advantage of making sure that happens. But the law itself, which is what we are dealing with tonight, should be colorblind, and it is colorblind in this regard.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, would my colleague, the chairman of the committee, remember, we do not have to checkout the statement of the gentlewoman from California [Ms. WATERS]. I brought that before the Subcommittee on Crime's attention months ago. This is not something we ought to have to check out.

The second thing I would like my friend from Florida to remember is that, and he has repeatedly said this during this debate, 5 grams possession of cocaine or crack is no presumption that they are selling. Sale and trafficking is a completely different crime. So the gentleman should remember that there is no way that the gentleman can presume that someone that has 5 grams of anything is indeed dealing in sale. That turns on the facts and the evidence in the court. If the prosecutor finds someone selling, he will prosecute for sale.

Now, Mr. Chairman, we are going to be working on this subject of crime and race for the rest of our career, I would say to the gentleman from Florida [Mr. McCOLLUM], so we do not want to get off into space tonight on it. What I want the gentleman to know, and perhaps we will have to deal with this more carefully in our committee, is that African-Americans by more than one study are more likely to be arrested, more likely to be charged with more offenses, more likely to be prosecuted, more likely to receive heavier sentences, more likely to go to death row. That is because of the racial injustice in the criminal justice system.

Please remember this as we proceed on into other related subjects about race and the criminal justice system.

Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. PAYNE], who serves now as the current chairman of the Congressional Black Caucus.

Mr. PAYNE of New Jersey. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as chairman of the Congressional Black Caucus, I rise in strong opposition to this outrageous attempt to thwart the recommendations of the Sentencing Commission and I rise in strong support of the Conyers amendment. The sentencing guidelines are an effort to restore some degree of fairness to our criminal justice system by addressing the enormous disparities that exist between the penalties for crack cocaine and those for powder cocaine.

Mr. Chairman, the Sentencing Project, a national nonprofit group, recently noted that while African-Americans constitute 13 percent of all monthly drug users, they represent 35 percent of arrests for drug possession, 55 percent of convictions and 74 percent of prison sentences. One of the primary reasons we have experienced a rise in minority incarcerations is the imbalance in our national drug policy not an increase in crime.

Is this equal justice under the law—to say that if you can afford powdered cocaine you will be given preferential treatment in the courts? I don't think any fair-minded American supports this blatant inequity in our system.

Our drug policy has become a tale of two cities, or, more accurately, a tale of two classes—rich and poor.

Mr. Chairman, it was the U.S. Congress which created the Sentencing Commission in 1984 to allow criminal justice professionals to establish sentencing guidelines for Federal crimes. Now, Congress has decided that they don't like the decision that the Commission has made, after careful study and analysis, to equalize the penalties for crack and powder cocaine. The Commission specifically noted that "blacks comprise the largest percentage of those affected by the penalties associated with crack cocaine."

As some of my colleagues have pointed out, the Million Man March this past Monday highlighted the importance of racial justice as we work to rid our communities of drugs and violence and to restore hope to Americans who have been living too long with no hope and little faith in our system of justice. Restore fairness and equity to our criminal justice system—oppose this attempt to disapprove the Sentencing Commission recommendations and support the Conyers amendment.

□ 1915

Mr. MCCOLLUM. Mr. Chairman, I yield myself 1½ minutes.

I just wanted to make a response to the gentleman from Michigan in particular, my good friend who is the ranking member on the minority side of the full committee. I certainly recognize, as he suggests, that we do have to deal, as a committee, and the subcommittee on crime particularly, with the potential for racial bias and concerns in law enforcement and in our judiciary. And I am willing and ready to do that.

But, Mr. Chairman, the issue tonight is really not over that, it is over the law. The cold hard law that is going to be applied to whites and blacks and everybody else. Whether or not it is applied equally by individuals who are in the system is another separate matter. We are talking now about the actual guidelines, the sentence guidelines.

I, for one, and I think a lot of us who do believe in fairness and equity, do not want to reduce the penalties for crack cocaine. We do not want to do it. We might consider later on, and hope the Sentencing Commission does some leveling of the process of disparity that has been discussed by raising perhaps the powder, but the way to deal with it is to send this back to the Sentencing Commission tonight, not attach an amendment that dramatically lowers these penalties.

Where there is a problem with bias in the system, let us work to get it out of the system. The bias is not in the sentencing, it is not in that part of the law. The bias is in, if it is there, in the individuals and how they are enforcing the law.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds to continue the dialog with the chairman of the subcommittee.

As the gentleman knows, this is a disparity that comes about because one community uses one drug and that this drug has been pinpointed by law enforcement officers and the arrest rate has gone up astronomically.

As the gentleman also knows, the rate of usage of even crack is exceeded in the white community and there is no 95 percent conviction rate for that same drug.

Mr. Chairman, I yield 3 minutes to the gentleman from New York, Reverend FLAKE.

Mr. FLAKE. Mr. Chairman, some of us who stand on this floor tonight have been put in a very untenable position by persons who indicate that periodically they have an opportunity to go into these communities and they make a determination on what is best for the persons in that community by the basis of those periodic trips.

I stand tonight, Mr. Chairman, as a person who lives in such a community as they visit, a community where I also happen to pastor a church of some 8,300 members. I think I am in a position to do a pretty good job of judging that which is imperative for a change in the quality of life there.

Let me make it very clear that the position that some of us are put in to night is to give the appearance that we do not want to see drugs dealt with harshly. Let us make sure that it is understood that that is not the case. What we do want is fairness. We want equality. We want justice. The reality is we have seen too many of our young men become the fodder for the development of the growing criminal justice enterprise in this Nation. Too many young people with promise and prospects and possibilities have been cut short largely because our laws are not justifiable.

Over the last several weeks we have come face-to-face with the reality that the Commission report was in fact not only projective but has become reality, in that we do have two societies with two views on almost everything. And undergirding most of those views is the reality of race.

I cannot imagine that we in the U.S. House of Representatives cannot see that differential. We react very violently. We react in such ways to declare. We cannot imagine how people could possibly react to decisions they see in society based on what they perceive to be the evidence. It is because of circumstances like those that we face today, Mr. Chairman, circumstances where there is a class of people who believe that they are being dumped on by the very system that has a responsibility to protect them, a system that has a responsibility to deal fairly, not on the basis of misperceptions, not on the basis of stereotypes, not on the basis of anecdotal evidence that has no real support.

Indeed, Mr. Chairman, in this case, persons were put on a commission. They had an obligation to look at all sides of an issue. They looked and what they discovered was a disparity. It seems to me that the Congress ought to accept that recommendation. They ought to understand that what all people in this Nation want, regardless of their color, is to make sure that in our laws there is justice.

They will see no justice in what we do tonight, and we will wonder the next time there is a march, whether it is a million men or whether it is 400,000 does not matter, why are they marching? Why are they demanding so much? What do they want? What they want is justice. What they want is a system that is fair.

Mr. Chairman, if we cannot raise the standards as it relates to crack, we cannot raise the standard as it relates to heroin, then we ought to at least find a way to make it equal. It ought not to be based on race, and it is, whether we say it or not.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I thank the gentleman from Florida for yielding me time.

I just want to follow up on some of the comments being made tonight and continue the reference to these statutes and penalties being race-based and basing that primarily on statistical data of sheer numbers of people in the penitentiary. As most people who have worked in this industry and who have been involved in the prosecution and investigation of these types of cases understand, the typical drug scheme out of Colombia, or wherever, is somewhat an upside-down pyramid, where we have the source country sending out drugs. And as they go further away from Colombia and enter into the United States, and further into the central United States, they are distributed to more and more people, again, much like an upside-down pyramid, to the point that they begin to reach the streets and reach the communities.

They are readily available, because they are easily hid. We are talking about small rocks here. Because they are very cheap, they are very accessible to our young people, our teenagers, people who do not have a lot of money to spend, people who will very oftentimes commit acts of violence to get the money to purchase these. And primarily because these drugs are extremely addictive, I question those people that stand up and say that they are the same thing.

Mr. Chairman, that process of cooking that cocaine makes a tremendous difference on that crack. I think the evidence clearly shows that crack cocaine, as I have mentioned before, is not only more addictive but it causes a more intense addiction, a more intense high, as well as a more intense drop off of that high, which creates the addiction. Again, they may be the same thing beginning and end, but that process which results in the crack cocaine makes a dramatic difference to the users, and I cite those statistics of the sheer numbers of people who use those.

Because of that, Mr. Chairman, we cannot ignore this problem that is sweeping our communities. If we do, as has been alluded to by the gentleman from Georgia [Mr. BARR] and so many other people, what do we tell these people who come up and rise up in the communities, the mothers of these children, that we would like to choose to ignore at this point; that we are not going to prosecute these cases; that we are working under some sort of quota system because so many blacks at that level in this upside-down pyramid are in prison?

That is not the way our system works. In fairness and equality, we have to prosecute all those cases. It may be at some point in the future this ratio of 100 to 1 is too high and that we will have to revisit this. But I think most of us would agree we do not want to lessen the penalties for cocaine but rather increase those at the appropriate time.

I, for one, Mr. Chairman, and I think the gentleman from Florida [Mr. McCOLLUM], the committee chairman, has indicated he shares that same desire of perhaps bringing those ratios closer together, but let us not send the wrong message to our society by lessening penalties for crack cocaine.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Chairman, this amendment exposes the bill for what it is. Ten doses of crack, about a couple hundred dollars' worth, possession only, 5 years mandatory minimum. No amount of possession of uncooked crack, that is powder, can get an individual a mandatory minimum. In fact, it takes almost $50,000 worth of cocaine for conviction of distribution to get the 5 years mandatory minimum.

So we have the situation where we can catch someone distributing 20,000 dollars' worth of powder, they get probation; and the person caught with a couple hundred dollars' worth of possession only, crack cocaine, gets a 5-year mandatory minimum.

Mr. Chairman, 95 percent of those who are charged with crack offenses are black or Hispanic, 75 percent of those charged with powder offenses are white. This amendment addresses possession only.

We have heard, through evidence in drug courts, that the best way to deal with nonviolent, low level, first offense, possession only drug offenders is through treatment. If we send them to jail we can expect a recidivism rate of 68 percent, which would cost us, at 5 years, $25,000 a year, it costs us $125,000. If we give them treatment, an 11-percent recidivism, an 80-percent drop, at $1,600 in cost, that is less than 2 percent of what it took to send them to prison.

So if we lock up a group, virtually all black and Hispanic, it will cost us more and we will end up with more crime. That does not make sense.

Mr. Chairman, we do not have a mandatory jail sentence for any drug possession charge other than crack, for which virtually all the defendants are black and Hispanic. Not uncooked crack, that is powder, not heroin, PCP, LSD. Nothing for possession only. The 5-year mandatory minimum for possession of crack costs more, results in more crime, and locks up minorities. That is why the Commission voted to change it.

Mr. Chairman, we have never rejected a Commission recommendation. At least let the recommendations as far as possession of crack go forward. Vote "yes" on the Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, we have been before this body this evening pointing out the disparity, pointing out the inequality, pointing out the injustice of the system as it operates now. I am surprised at much of the rhetoric and all of these so-called conversations that my friends on the other side of the aisle have been having in minority communities.

□ 1930

I am glad to know that my colleagues are going there. I am glad to know that they are communicating. But let me tell my colleagues what the mothers in my community say where I live.

They say: Ms. WATERS, why do they not get the big drug dealers? What is this business under Bush that stopped resources going to interdiction? Why is it large amounts of drugs keep flowing into inner cities? Where do they come from and why do not they get the real criminals, Ms. WATERS, why is it 19-year-olds, who are just stupid? They are not drug dealers; 19-year-olds who wander out into the community and get a few rock crack cocaine. Why is it they end up in the Federal system? Why is it they end up with these 5-year minimum mandatory, up to 10 years mandatory sentences? Why can you not get the big guys?

They say: We believe there is a conspiracy. This is what mothers in these communities say. We believe there is a conspiracy against our children and against our communities. They do not understand it when policymakers get up and say, Oh, it is not interdiction that we should be concerned about. As long as there is a desire for drugs, they are going to continue to flow and what we have got to do is just concentrate on telling them, Just say no.

They say: Ms. WATERS, we do not understand that and we do not know why a first-time offender, who happens to be black or Latino, ends up with a 5-year sentence. And why is the Federal Government targeting our communities? They are targeting our communities and they are not targeting white communities who are the major drug abusers. They are targeting our communities from the Federal level. Thus, our kids go into the Federal system and the whites, who are drug abusers and traffickers, go into the State systems. They get off with their fancy lawyers with probation, with 1 year, with no time, and our kids are locked up.

Mr. Chairman, for those of my colleagues who say, Well, we know it is unfair, but just keep letting it go on for a while and we will take a look at it, are they out of their minds? How can they stand on the floor of Congress pretending to support a Constitution and a democracy and say, "We know it is not fair, but just let it continue and we may take another look at it"?

When I give them the facts and they know them to be true, and I will say it again. In Los Angeles, the U.S. District Court prosecuted no whites, none, for crack offenses between 1988 and 1994. And my colleagues tell me that they think it may be applied unequally? This is despite the fact that two-thirds of those who have tried crack are white and over one-half of crack regular users are white. This is a fairness issue and it is a race issue.

Mr. Chairman, I do not care how they try and paint it. I do not care what they say. This is patently unfair. It is blatant and my colleagues ought to be ashamed of themselves. It is racist, because their little white sons are not getting caught up in the system. They are not targeted. Our children are.

Mr. Chairman, they are going into the Federal system with mandatory sentences and it is a race issue. It is a racist policy.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR], a member of the committee.

Mr. BARR. Mr. Chairman, do my colleagues on the other side of the aisle know what they all are applauding? They are applauding going lenient on people who traffic in death in their communities. In their communities in Los Angeles and in Georgia and all across the country.

Mr. Chairman, if it is so improper, it is so outrageous for this Congress to be debating whether to disapprove proposals, and that is all the Sentencing Commission's amendments are, is proposals, if it is so outrageous as these folk on the other side of the aisle would have the country believe, to be debating whether or not we, as representatives of the people, believe that these guidelines are in fact appropriate or not appropriate, then I am tempted, I will not ask, but I am tempted to ask many on the other side of the aisle who were here a decade ago when the Sentencing Reform Act was passed that gave rise to the mechanism that brings us here this evening, why they in fact voted for that. Why the Congress a decade ago voted for that, when in fact the law itself provides for this review mechanism itself.

Mr. Chairman, the law passed by previous Congresses, in which they were in a majority, passed a Sentencing Reform Act that set up the Sentencing Commission and set up the mechanism that says in each and every instance when these amendments are proposed by the Sentencing Commission, that they shall in fact be reviewed or either adopted or rejected by the Congress of the United States.

That is, in fact, Mr. Chairman, very appropriate, lawful, and clearly contemplated by them when this law was passed. The mechanism that brings us here this evening. And it is extremely disingenuous for those very people to now say, we should not be passing judgment on the Sentencing Commission. After all, they were set up by statute. The same statute said explicitly that we should pass judgment on these.

In fact, Mr. Chairman, the mechanisms and the penalties we are debating here tonight reflect reality. Not what is going on on the other side of the aisle, but reality in the real world.

In the real world, Mr. Chairman, crack cocaine kills people. It kills people quicker than powdered cocaine. It creates a more intense, more serious, and much more rapid high in much less quantities than powdered cocaine. It is reflective of those proven scientific facts, Mr. Chairman, that have led prosecutors utilizing these statutes, adopted previously by the Sentencing Commission, to say to drug dealers, drug traffickers, those who possess more than 5 grams of crack cocaine, which is a significant quantity of crack cocaine. It might not be a significant quantity of marijuana or powdered cocaine to the same extent, but it is a significant quantity. It is, in fact, these quantities that deal the death in the communities by people that they wish to protect here this evening.

In fact, Mr. Chairman it provides law enforcement an important tool. Law enforcement goes where the crack cocaine is. They do not make it up. They go where the crack cocaine is being distributed and is being trafficked. These sentencing guidelines with the mandatory minimums, Mr. Chairman, give them essential tools, very essential tools to root out these dealers and runners who operate in broad daylight. It gives our law enforcement officials, Mr. Chairman, in many instances the only vehicle that will take them from those daylight sales of those quantities. They may appear small, but they are numerous, they are frequent and they are dangerous, to get them inside to the distributors, the top level distributors, which, in fact, Mr. Chairman, we as Federal prosecutors, deal with. We do prosecute top-level drug traffickers through Organized Crime Drug Enforcement Task Forces and other task forces across the country.

So, Mr. Chairman, I am not going to stand here and listen to the demagoguery on the other side saying that we do not prosecute these cases. We do prosecute them. They are being prosecuted and let us not let up now.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS]

Mr. HASTINGS of Florida. Mr. Chairman, I would ask the gentleman from Georgia [Mr. BARR] to be responsive to a question that I would like to put to him, if he would.

Mr. Chairman, I heard the gentleman from Georgia say that this gives law enforcement a tool for the purpose of being able to get inside the larger portions of the operation. I gather that to be the essence of what you said. You were a prosecutor and I was a judge. Name me one crack case that led to a Colombian drug dealer being put in jail. Name one.

Mr. BARR of Georgia. How about Operation Polar Cap, Judge?

Mr. HASTINGS of Florida. Operation Polar Cap did not start with a crack cocaine operation whatsoever.

Mr. BARR of Georgia. It dealt in crack cocaine.

Mr. HASTINGS of Florida. You said that street dealers lead to that kind of tool. You know doggone well that is not true.

Mr. BARR of Georgia. I am not going to be lectured here by you. We are dealing with the real world, Mr. Chairman.

Mr. HASTINGS of Florida. What real world are you talking about?

Mr. BARR of Georgia. The real world that you are not operating in any longer, Judge.

Mr. HASTINGS of Florida. When you stand there and give forth with pontification as if you were God, we live these circumstances every day of our lives. You have not lived there and don't you dare come forward in that manner.

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman from Florida did control the time. The committee will follow proper procedural order here.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I want to be measured in my response, because this is an issue that is of utmost importance because it deals with fairness. And some of our perceptions of fairness are different than other folks' perception of fairness.

But I just want to appeal to my colleagues, and anybody who is listening, to understand what we are talking about. Five grams. That is what I have got in my hand here. That will get you 5 years in prison. Take this and multiply it times 100 of powder cocaine and you still will not get 5 years in prison. This is 5 grams.

Now, if anybody can say to me that that is fair, whether you live on the white side of town or the black side of town, on this side of the tracks or that side of the tracks, if the gentleman from Georgia [Mr. BARR] can stand up with a straight face and say that that is fair, if he can sleep with himself at night, that is fine. I do not have a problem with that.

But my colleagues ought to know that my constituents do not think that that is fair. It is not about being soft on crime. It is not about condoning drugs. It is not about wanting drugs in our communities. It is about being able to look our children in the face and say: There is fairness in our system of justice. There is fairness in our laws.

That is what this debate is about. My colleagues can say that it is about let us study it again until next year. They can say it is about trying to protect us from ourselves in our communities, and we do not know what is good for our own communities. They can stand up and lecture us about what is good in our communities.

They can say that it ain't about race. They can say that we ought to make the judgment today, based on what we thought was the case 10 years ago when this law was passed. But they ought not be able to go home tonight and look at themselves in the mirror and say that that is fair, because they know it ain't.

The American people know that it is not. And the people who gathered out here on this Mall several days ago know that it is not fair. My colleagues are asking them to have respect for a system of justice that they know, and we know, and they know is not fair.

When they do not have respect for that system of justice, we cannot be responsible for them. My colleagues want us to be responsible, and we try to be responsible. But in order to be responsible, my friends, we must have equity and fairness in the system.

So, I do not want to belabor this. My friends can pass the buck. They can say we will deal with it next year. But the reason we set up the Sentencing Commission and gave them this authority was to come back with tough decisions and recommendations just like this. And when we draw it back into the political process and politicize these issues of fairness, that we tried to take the politics out of, so that we can go back and say I was tough on crime, I was tough on drugs, my colleagues have got to understand that there is an issue of fairness that everybody knows exists. And if they are not fair, it is going to come back to bite them and they can count on it.

□ 1945

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

I have here from the sentencing project, which did a study called "Young Black Americans and the Criminal Justice System Five Years Later." They end their summary of that report with a chart showing the percentages of African-Americans in the population among the monthly drug users, what percentage they constitute of drug arrests, of drug convictions and prison sentences. Here I think, I say to my colleagues, is where we can get an idea about the unfairness of the system without any doubt whatsoever.

The first chart, the first bar is of the U.S. population of African-Americans by percentage, 12 percent. The next bar is monthly drug users who are African-Americans, 13 percent. The third bar is drug arrests, African-Americans arrested for drug use, 35 percent of all those arrested. But 13 percent are drug users, 35 percent arrested.

The next bar is drug convictions, 55 percent. And the last bar is prison sentences, 74 percent.

So from 12 percent of the population, to 13 percent of the monthly drug users, to 35 percent of the drug arrests, to 55 percent of the drug convictions, to 74 percent of the prison sentences, it seems to me a good time this evening, Mr. Chairman, for the Subcommittee on Crime of the House Committee on the Judiciary, that we begin to plan for an investigation into the relationships between race and the criminal justice system.

Now, we have done that in a couple of important respects this year. I would like all of our colleagues to know about what the gentleman has done in that regard, because we are having hearings on the militia in America very soon, next month. That was a result of the gentleman's cooperation and the gentleman from Illinois [Mr. HYDE], the chairman, that we would look into these militia, also these other organizations, the skinheads, the Aryan Nations and other sorts of groups.

I have been trying to get that investigation and hearing for many years. We now have another request in to the chairman, not unrelated to this subject, about investigating police activity in America now that we have found that, in Philadelphia, police have been planting drugs, planting evidence to the extent that they have spoiled hundreds of cases pending and that have occurred in the criminal justice system in that city.

We know about the Fuhrman tapes, 12 hours of tapes that recount an incredible amount of intentional lawbreaking not only on the part of former Detective Fuhrman but that was endemic throughout the police department in which he served for many years.

We have complaints coming from as close in as Maryland, as far as New York. New Orleans has been a problem that the Department of Justice has been investigating with a long list of others.

So what we are talking about, and I think we are having an intelligent discussion on it, is race and crime and the criminal justice system. Tonight we focus 48 hours after a million people have visited the Capital. We are now focusing on one item of this huge, complex, difficult-in-America subject to discuss.

I commend the gentleman for the way he has been forthcoming across the months, the gentleman from Florida [Mr. MCCOLLUM]. I know that the gentleman indeed has some reservation about this disparity. The gentleman does not support the sentencing commission, but I do. Most of the Members, I think, in this Congress, after having listened to this debate tonight, will support the substitute that I make to the Senate bill merely to bring into focus one of two recommendations that the gentleman has sought to have rejected by the sentencing commission.

Please, let us give it a shot. It does not change the statutory, mandatory offenses, as the gentleman well knows, but it is the beginning step. It is the beginning step toward undoing this mischief that creates 95 percent of the crack cocaine prosecutions being brought to African-American and Hispanic citizens.

Please join us in this effort. It will not break the bank. It will not change the problems in the criminal justice law. It will not end racism in America. But it will be one small but all-important step toward us making this a better place to live. It will restore some confidence that is badly needed in the system.

I urge the gentleman to give it his utmost consideration. I hope that all of the Members of this House that have heard this debate will come in and vote freely and fairly about whether or not this disparity between powder and crack should be eliminated this night in this place on this vote.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would observe that the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM], has 11½ minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, it is an honor to follow such speakers as my distinguished colleagues from the other side of the aisle, my colleagues on the Committee on the Judiciary, the ranking member, the gentleman from Michigan [Mr. CONYERS], the gentleman from Virginia [Mr. SCOTT], and the gentleman from North Carolina [Mr. WATT], who always give serious, measured, well-reasoned debate to any issue that they deal with and to which, while I may disagree with them many of the times, I always try very hard to listen and understand and follow their logic, which is always there. But I think we just have oftentimes philosophical differences, recognizing the same problem out there but just having different ways to get to the solving of those problems.

My colleague from North Carolina held up five packets of sugar as an example of how little amount we are talking about here. But if we were not talking about sugar but rather five packages of rock cocaine and how that would translate in the real world, how much havoc would that wreak, how many lives that would destroy, how much hope that would destroy, I think we would all be shocked at how much addiction that small amount, that small quantity can cause. I think this Congress recognized that 10 years ago and has consistently recognized that over the last 10 years, up to this point.

The laws mentioned that no prosecution of any particular race, color or creed, these laws apply to all. They are equal laws for all people. It may be, if I am hearing from the other side, they are being applied maybe not uniformly. It may be we need more investigators and officers to go out there and ferret out all of the people that are using crack cocaine. But I can tell Members, in the inner city, for all those reasons I have mentioned in the past, how cheap it is, how easy it is hidden, how addictive it is, what a high it can cause. The concentration consistently seems to be in minority areas in the city.

I know from personal experience that is where the law enforcement officers tend to go, where the crime, where the majority of the crime is. They go out to the highways, interstates to catch the speeders. There are people speeding elsewhere, but most speed there, so they are going to be out there where most of these crimes are committed.

Yes, there are substantially higher drug dealers caught. We seem to focus on the crack cocaine, the street dealers, but they are used to build bigger cases, the gentleman from Georgia [Mr. BARR] mentioned. While it may not cause the downfall of the Colombian kingpin, I can assure Members that these people have been used to make bigger and bigger cases, as we go up that or back up the other side of that inverted pyramid and cause other cases to be made over the years.

The people are being prosecuted for powder cocaine as well as crack cocaine. We are having some success there, but we have got a long way to go. Again I urge my colleagues not to water down these penalties, not to send the wrong message, not only to our young people but to those drug dealers out there that we are lessening that deterrent for drug dealing.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has the right to close, and the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

One reminder about the substitute that is before us, it is dealing with crack possession only, not trafficking, not people working in the underworld. Small amounts of crack, 5 grams, about one-sixth of an ounce is all that is involved.

We implore Members to consider this substitute favorably, which comports with the recommendations of the Sentencing Commission, which we, in fact, created a number of years back. It is a small but very, very important step forward. We hope that with this debate we have illuminated the minds of many of our colleagues who may have been wondering just what this was really all about.

Support my substitute amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to tell the gentleman from Michigan, as he well knows, that I respect him and his suggestion with regard to our working together and continuing to work together on trying to resolve matters that involve the problems of the criminal justice system, including those problems where there may be bias or discrimination, those continued relationships will go on. And we will have hearings that indeed will examine those types of problems, particularly when they involve Federal law enforcement officers and which are under our jurisdiction.

With respect to those matters that I think he alluded to a few moments ago, involving some of the State officers, it may well be that is more appropriate in another subcommittee of the Committee on the Judiciary, the Subcommittee on the Constitution, but I am willing to work with him on all levels about all of that.

Also he probably is well aware that yesterday I joined some of his colleagues on that side of the aisle and some of mine on this side in both races in an effort to encourage the President to form a new Kerner Commission to examine the problems of racial tensions in this country. I personally think it is time we do that again. I think some of the misunderstandings would be helped by a dialog that that commission would represent.

But I think tonight the discourse we have had reflects some divisions of opinion over what is indeed the nature of the subject of criminal justice and sentencing and what is indeed the law and what is impartial and what is cold about it and what should be equal to everybody and what may indeed be perceived as prejudicial or biased or in some way, as someone put it awhile ago, I think the gentleman from North Carolina, unfair.

It is my considered judgment, in all honesty, that the sentencing guidelines that we are wanting to retain and would otherwise be disturbed by the Sentencing Commission if we do not reject the guidelines or if we were to adopt the gentleman's amendment, I believe those underlying guidelines are fundamentally fair. There may be an appropriate time in the future to raise the punishment for powder cocaine to a higher level. But I believe there is nothing about it that is unfair or racially motivated or biased in any way to say, as I do and many of my colleagues, that we want to keep the punishment for crack cocaine and dealing in crack cocaine at the level it is now.

□ 2000

Send that message. Have a mandatory sentence for 5 grams of crack cocaine. That message needs to be out there on the street, and we need to give law enforcement at the Federal level every tool it can have to get crack and cocaine off the streets. I do not want to lower it, and tonight my colleague's amendment, if it were adopted, make no mistake about it, would lower the amount of the punishment for the trafficking in 5 grams or so of crack cocaine, which is 20 to 50 doses, which is the street dealer, which is the runner who is out there who, as a couple of folks on my side have pointed out earlier this evening, is the person we see every day as a police officer on the street, the one we can go after, and the one we can get, and the one who leads on, hopefully, in cases to larger dealers. It is that person who is selling that crack not just in the ghetto, but in the schools of our country, in the schools that are inhabited by all races of all colors and all nationalities, exposing our youth to the death that crack and cocaine do imply and do occur at times, and while I can be sympathetic to the concerns that there are more blacks in jail today because of dealing at this level in crack cocaine, I am sympathetic because of the fact that I know that they come from problem families because their youths oftentimes are starting into this effort at the ages of 10, 12, 14, not 19 as somebody said earlier, but very young ages to deal maybe because of poverty, maybe because they got involved in a gang, maybe because they do not have the right education. Who knows the reason? But they are there because they dealt in the cocaine at the time. They are not there because of the problems that created the environment out of which they came, and, while I would like to deal with that environment, and I will be glad to work with those on the other side of the aisle as well, as those on my side, to deal with it, the place and the time is not tonight. It is not in dealing with the question of sentencing guidelines.

What we are here about tonight is simple. We are here tonight to say that 25 of the 27 recommended amendments of the Sentencing Commission be allowed to go into effect, but we are here tonight to reject two of them, two of them to lower the punishments dramatically for money laundering and crack cocaine, and I, for one, believe that those are simple, straightforward messages. We do not have the opportunity tonight to eliminate, or reduce, or mitigate minimum mandatory sentences for crack cocaine or anything else. We are simply here to reject or accept the question with regard to the recommendations of the Sentencing Commission, and with respect to the crack cocaine issue and the gentleman's specific concerns as are addressed in the Conyers amendment, we are dealing with a recommendation that came to us split 5-to-4. The minority, four, fought strongly against, and we are here tonight dealing with a matter where we have heard from law enforcement of all levels, of all races, of all colors, telling us that they believe there should be a distinction between powder and crack, that crack is more dangerous. We have heard the experts. They told my subcommittee that it is more addictive, it does lead to more problems, it is the major problem, and we do need to keep differences, and we are here tonight to send this back to the Sentencing Commission and say, "Look, there may be some mitigation you want to do. Go look at it again, but don't bring us back a 1-to-1 ratio between crack and powder. We want to see something different."

The gentleman from Michigan's amendment would go to an absolute 1-to-1 ratio between powder and crack tonight. It would reduce substantially the amount of punishment for crack dealers. It does not increase the powder. it is not permitted tonight under the rules. It is, make no mistake about it, if adopted, a reduction, a dramatic reduction, in the punishment for crack cocaine dealing in this country as we know it.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I would ask the gentleman about the Conyers amendment itself; it just deals with possession. It does not do anything dealing with distribution, dealing. It discourages all of that.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, it deals with possession of 5 grams or so of crack, and it is that possession—not use, not consumption—that we are concerned about. It is that possession which is in fact dealing. It is trafficking.

If I can retain my time, I say to the gentleman, you do not possess 5 grams of crack, which is 20 to 50 doses, for your personal consumption. That is the normal routine street-dealer amount that it's cut up in and divided and sold in. This is a dealer, and it is the way prosecutors prove their case. They don't have the ability to prove the actual cash transactions in most instances. That is true of the bigger transactions, as well as the smaller transactions, so we are dealing now with the possession question, but a possession question concerning trafficking, not simple use.

So, let us make no mistake about it. If we take this tool away from our Federal prosecutors, we are not going to be allowing them to do their job, we are not going to get crack dealing off the streets, and we are not going to get the major prosecutions that we want to have.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Subcommittee Chairman on Crime, ask any prosecutor. Five grams of possession is possession. Trafficking—sale—is a different crime, and, if there is evidence for that, that is what the charge will be. Please do not muddy the waters as we conclude this debate.

Mr. McCOLLUM. Reclaiming my time, I would suggest that the muddied waters are there because the reality of prosecution is that in this area of the law in dealing with crack we are talking about distributors, we are talking about possession of large quantities, dealing quantities. That in and of itself is proof of dealership, and that is the way cases are made. We are tonight talking about something very significant and very important that would, if adopted—the Conyers amendment—destroy the underlying prosecutions of crack dealers on the streets of this country.

Mr. Chairman, I urge a "no" vote.

The CHAIRMAN pro tempore (Mr. BEREUTER). The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 98, noes 316, not voting 18, as follows:

[Roll No. 723]

AYES—98

Abercrombie
Andrews
Baker (CA)
Becerra
Beilenson
Berman
Bevill
Bishop
Bonior
Browder
Brown (FL)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
DeFazio
Dellums
Dingell
Dixon
Engel
Ensign
Evans
Farr
Fattah
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Gibbons
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Horn
Jackson-Lee
Jefferson
Johnson, E. B.
Kennedy (MA)
LaFalce
Lantos
Lewis (GA)
Lofgren
Martinez
Matsui
McCarthy
McDade
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mink
Moakley
Moran
Morella
Murtha
Nadler
Olver
Orton
Owens
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Stokes
Thompson
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Woolsey
Wynn
Yates

NOES—316

Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pallone
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen

Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (PA)
Weller
Wicker
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Bateman
Boucher
Brown (CA)
Chapman
Fields (LA)
Furse
Harman
Rangel
Spence
Stark
Studds
Tejeda
Tucker
Volkmer
Weldon (FL)
White
Whitfield
Wilson

□ 2025

Ms. ESHOO, Mr. BARRETT of Wisconsin, and Mr. OBERSTAR changed their vote from "aye" to "no."

Mr. CONDIT changed his vote from "no" to "aye."

So the amendment in the nature of a substitute is rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. No further amendments are in order.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WALKER) having assumed the chair, Mr. BEREUTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2259) to disapprove certain sentencing guideline amendments, pursuant to House Resolution 237 he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WATT of North Carolina. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WATT of North Carolina moves to recommit the bill H.R. 2259 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 2(a)(1), strike "The United States" where it appears immediately after "IN GENERAL.—" and insert "Not later than March 1, 1996, the United States".

□ 2030

Mr. WATT of North Carolina. Mr. Speaker, it is quite obvious from the last vote that the Members of this body wish to have this matter studied further and have a recommendation made back by the Sentencing Commission. But there is an oversight in this bill and the motion to recommit simply would correct that oversight. That oversight is to specify a date by which the Sentencing Commission would report back to the Congress. The motion to recommit would simply set March 1, 1996, as that date.

The gentleman from Virginia [Mr. SCOTT] is a co-offeror of this motion to recommit and I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, we have never before rejected a recommendation of the Sentencing Commission although we have had 500 or so opportunities. We are going to send this back to the Commission to study. They have already studied it. They said the disparity between crack cocaine and powdered cocaine sentencing is not justified and that there are severe racial implications. The purpose of the Commission is to take the politics out of sentencing.

This bill makes no sense because it gives a person convicted of possession of only a couple of hundred dollars' worth of crack cocaine, 95 percent of that group are black or Hispanic, they give them a tougher sentence than those who are caught distributing tens of thousands of dollars' worth of powdered cocaine, 75 percent happen to be white. The Commission eliminated this disparity after due deliberation and if we are going to tell them to reconsider, we ought to at least give them a date certain by which they ought to report. I stand in support of the motion to recommit.

Mr. WATT of North Carolina. I thank the gentleman from Virginia [Mr. SCOTT].

Mr. Speaker, this is really not a controversial motion to recommit. All it does is specify the date by which the Sentencing Commission is to report back to this Congress.

The gentleman from Florida [Mr. MCCOLLUM], the chairman of the subcommittee, conceded during the general debate on this bill that he thought there was a date specified in the bill by which we would expect the Sentencing Commission to report back. In fact, there is no date specified in this bill as to when the Sentencing Commission will report back. The Sentencing Commission has already studied this issue at some length. Everybody knows that there is a major unfairness and disparity in the sentencing, and we need to correct that disparity as quickly as we can possibly correct it if there is going to be any faith in our justice system.

I would ask my colleagues to support the motion to recommit for that purpose.

Mr. MCCOLLUM. Mr. Speaker, I rise in opposition to the motion to recommit.

I recognize the gentleman's sincerity in wanting to put a technical date in here for reporting time for the Sentencing Commission, but I do not believe that is necessary, and I think it could be counterproductive. I will tell why.

First of all, the Sentencing Commission will regularly, in due course, report May 1 of next year; and I believe that it is very inherent and implicit if not explicit in what we are sending out today that we want them to report back on that date, when they routinely do anyway, with some new suggestions in the two areas that we are disapproving, which are the reductions of the amount of time in money laundering and the amount of time in crack cocaine.

We are saying today to them by rejecting their two recommendations that what they have done is simply too severe. They have dramatic reductions in the punishments both in money laundering across the board and in crack cocaine trafficking and dealing.

Second, and I think this is really the most important part of this, the gentleman has come back with not the May 1 date but a March 1 date; and a date at all like this being put into the bill by this motion to recommit would be different from what the other body has done. They have already passed exactly what we have done, and we have a deadline of November 1, just 12 days from now, to reject the Sentencing Commission's recommendations or they go into effective law.

We do not have a lot of time for the other body to mess around or to have a conference, and I do not think that the concern over the reporting date merits the problematic issue that would result in our having the potential for this whole thing to go down because the other body did not timely act or we did not get together.

The Sentencing Commission will report in due course May 1 of next year. We directed them by explicit language in this bill that they are to come back to us on the issues of the crack cocaine and the issue of the money laundering.

I urge a "no" vote on this motion to recommit.

The SPEAKER pro tempore (Mr. WALKER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 149, noes 266, not voting 17, as follows:

[Roll No. 724]

AYES—149

Abercrombie
Andrews
Bachus
Baesler
Baker (CA)
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Duncan
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McCarthy
McDade
McDermott
McKinney
Meehan
Meek
Mfume
Miller (CA)
Minge
Mink
Moakley
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stenholm
Stokes
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Woolsey
Wynn
Yates

NOES—266

Ackerman
Allard
Archer
Armey
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Bateman
Berman
Boucher
Chapman
Fields (LA)
Furse
Harman
Rangel
Royce
Smith (MI)
Spence
Stark
Studds
Tejeda
Tucker
Volkmer
Wilson

□ 2053

Mr. HORN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 332, noes 83, not voting 17, as follows:

[Roll No. 725]

AYES—332

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murtha

Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—83

Abercrombie
Baker (CA)
Becerra
Beilenson
Bishop
Bonior
Brown (CA)
Brown (FL)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dingell
Dixon
Doolittle
Engel
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Hall (OH)
Hastings (FL)
Hilliard
Jackson-Lee
Jefferson
Johnson, E. B.
Kennedy (MA)
Kim
Lewis (CA)
Lewis (GA)
Lofgren
Martinez
McCarthy
McDade
McDermott
Meek
Mfume
Miller (CA)
Mink
Moran
Morella
Nadler
Oberstar
Olver
Owens
Packard
Payne (NJ)
Pelosi
Pombo
Rohrabacher
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Stockman
Stokes
Thompson
Torres
Towns
Traficant
Velazquez
Vento
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Wynn
Yates

NOT VOTING—17

Bateman
Berman
Boucher
Chapman
Fields (LA)
Furse
Harman
McKinney
Rangel
Royce
Spence
Stark
Studds
Tejeda
Tucker
Volkmer
Wilson

□ 2104

The Clerk announced the following pair:

On this vote:

Ms. Harman for, with Mr. Berman against.

Mrs. THURMAN changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. McCOLLUM. Mr. Speaker, pursuant to the provisions of House Resolution 237, I call up from the Speaker's table the Senate bill (S. 1254) to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 1254 is as follows:

S. 1254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine.

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

The SPEAKER pro tempore (Mr. WALKER). The gentleman from Florida [Mr. McCOLLUM] is recognized for 1 hour.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

This bill is the companion Senate bill that is referred to in the rule of the bill we just adopted. I ask for its adoption.

Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2259) was laid on the table.

PERSONAL EXPLANATION

Ms. McKINNEY. Mr. Speaker, I was not recorded on rollcall vote No. 725. I would like the RECORD to show had I been recorded I would have voted "no".

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I would like to take a minute to inform the Members that there will be no more votes tonight. We will begin to proceed with special orders.

In a minute I will be asking unanimous consent to convene the House at 9 a.m. tomorrow. This is an agreement we have made with the minority so that the Members would expect then the House to convene at 9 a.m. We would then proceed to have fifteen 1-minutes on each side of the aisle and them begin consideration of the rule for the health care bill.

Mr. Speaker, we would expect the first vote to come sometime between 10:30 and 10:45 tomorrow morning.

HOUR OF MEETING TOMORROW

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, Thursday, October 19, 1995.

The SPEAKER pro tempore. (Mr. BUNN of Oregon). Is there objection to the request of the gentleman from Texas?

There was objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEDICARE BILL SACRIFICES SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BEVILL] is recognized for 5 minutes.

Mr. BEVILL. Mr. Speaker, I rise in strong opposition to the so-called Medicare Preservation Act, which this House will vote on tomorrow. This bill does not preserve Medicare. It preserves the high cost of health care and sacrifices our senior citizens.

Seniors will be asked to pay more out-of-pocket for their health care needs if this legislation is enacted. And, what is the justification for that? It's not so save Medicare from bankruptcy. Only $90 billion of the proposed $270 billion in Medicare cuts is needed to keep the program solvent for the next 10 years.

The seniors are being asked to pay more so that the wealthy in this country can get a tax break. That's what this legislation is all about. It's not about preserving Medicare. It's about giving the Nation's wealthiest people a tax break at the expense of 37 million American senior citizens and their families.

This legislation will impact more than one in every six people in my Fourth Congressional District in Alabama who depend on Medicare. This bill jeopardizes the quality of their health care, the affordability of their health care and their choice of doctors. That's the last thing they need or want.

Most people would agree that changes are needed to ensure the long-term survival of Medicare. In fact, Congress already has performed minor surgery on the Medicare program nine times when changes were needed.

But, this plan calls for major surgery on Medicare when there is no emergency. I think Congress needs to wait until after the Presidential election and then perform minor surgery to keep Medicare fiscally sound. We shouldn't do it when there is no immediate need and we certainly shouldn't do it in the middle of presidential politics.

We must continue to fight waste, fraud and abuse in the Medicare program. We must tighten enforcement of laws we already have on the books. And, any savings ought to go back into the program itself.

If there is so much concern about the viability of Medicare into the 21st century, let's use any savings to make the program better. Medicare savings certainly should not be used to further reduce taxes for the big corporations and the high income people.

This legislation represents an attempt to balance the budget on the backs of senior citizens. The cuts to Medicare account for 30 percent of all the proposed spending reductions for the next 7 years. Is this fair?

Is it fair to jeopardize the quality of care available to the elderly under Medicare, their choices of doctors and hospitals, and most importantly, their ability to pay for health care services? I submit that it is not fair.

We do not need to rush forward with an ill-conceived plan just so we can give wealthy people a tax break.

Any changes in Medicare need to be carefully crafted, well-thought-out and publicly debated. Congress should examine all the options for strengthening the Medicare program and devise a plan to achieve savings without penalizing senior citizens.

Instead, this House will vote tomorrow on a plan to unfairly cut $270 billion from Medicare to pay for a $245 billion tax cut for the wealthy. If this plan passes, seniors will pay more and get less.

I will vote against unfair cuts in Medicare. I will vote to ensure that the Nation's senior citizens have quality, choice and affordability when it comes to their medical care.

□ 2115

LISTEN TO THE PEOPLE OF PENNSYLVANIA—VOTE NO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. BORSKI] is recognized for 5 minutes.

Mr. BORSKI. Mr. Speaker, I rise in strong opposition to the Republican plan to cut Medicare by $270 billion while at the same time giving a $245 billion tax break to wealthiest Americans.

Mr. Speaker, it is my honor to represent the 3rd District in the Commonwealth of Pennsylvania, the 20th oldest district in the United States. Pennsylvania is the 2nd oldest State in the United States of America. One out of every 6 residents in the Commonwealth of Pennsylvania is a Medicare recipient. One out of every 7 Pennsylvanians is on Medicaid. One out of every 3 Pennsylvanians who enter the hospital use Medicare. Four hundred thousand people in the city of Philadelphia are on Medicaid. The combination of Medicare and Medicaid cuts would be devastating not only to senior citizens but also to the health care providers in the city of Philadelphia.

Let me give you one example. In my district in the city of Philadelphia 88 percent of the people who enter the Episcopal Hospital are on Medicare or Medicaid. Mr. Speaker, I do not know how the Episcopal Hospital can survive. Several other hospitals in my district and in the city are also on the critical list. In the 3rd District, my district, we could lose 6,000 health care workers in the 3rd District alone. The city of Philadelphia may well lose over 25,000 jobs. The impact of the Medicare cuts on seniors is they will pay more, and receive less care, and get less choice. Hospitals and communities everywhere will be devastated.

Mr. Speaker, that is the bad news. Unfortunately there is no good news. But there is worse news. We all know that Medicare is for the elderly, and we all know that Medicaid is for the least fortunate among us. But what people do not know is that Medicaid covers long-term-care costs. Sixty-five percent of the nursing home care in Pennsylvania is paid for by Medicaid. This safety net is gone. Spousal impoverishment protection is gone. What will happen to these seniors who have spent their lifetime savings once they are forced to enter a nursing home?

Mr. Speaker, in the last several weeks I have traveled throughout my district talking to as many people as was humanly possible. Thousands of people in my district have sent in questionnaires. Thousands of people have written letters to our office. Our phones are ringing off the hook. People do not want Medicare cuts of $270 billion and tax breaks of $245 billion at the same time.

Mr. Speaker, tomorrow we will take up one of the most important measures in my tenure in this Congress. I intend to vote no on the $270 billion cuts in Medicare, and I urge my colleagues to also vote no.

THE MILLION MAN MARCH AND THE O.J. SIMPSON TRIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, yesterday I indicated that on Thursday, tomorrow, I would do a special order for 60 minutes on the whole tragedy surrounding the O. J. Simpson double murder, the trial, the verdict. Mr. Speaker, I have not only a very astute and politically active wife, but five grown children, the first who will soon turn 40, and the other four are all in their middle to late thirties. To a daughter and to a son, three daughters, two sons, they said, "Dad, talk about the march, the gathering of 400,000 people on The Mall. Explain why you went. Talk about race relations in America, and only use the O. J. Simpson tragedy in passing reference."

So, Mr. Speaker, I think I will do that and take that advice of my grown children tomorrow.

I did want to mention that probably was a short count. I have been to many gatherings on The Mall, 200,000 with Martin Luther King, one of the proudest days of my life to join that true march. I have often seen it when it was 300,000, 400,000. I came to one of the ugliest Vietnam demonstrations of all time with hundreds of arrests and trashing of the city. They claim that was about 600,000.

Mr. Speaker, if that was 600,000, then I think yesterday was a half a million. I mean Monday was half a million or 600,000.

Be that as it may, I started at the Lincoln Memorial, right where I had sat in the third row when Dr. King gave his stirring 19-minute speech. He had only been allocated 7, but it was certainly a stirring 19, and it took me about 3 hours to wend my way in a serpentine pattern all the way up to the grandstand at the west front of our Capitol. It was a beautiful day with more fathers and sons together than I had seen in many years in this city, until I got up near the front. Then you could pick up the feeling of Mussolini, people in fake uniforms, people with glazed looks, security guards, and a man who if he had quit at 19 minutes and taken the part about protecting the innocence of children in all of our communities and the condemnation of young artists shucking corn to sell it to a degenerate society, and to stop throwing their talent back in God's face, Mr. Farrakhan might have ended up a winner. But the other 2 hours was discombobulated garbage, and some of it still hinting at hatred and division in our country.

While all this was going on and while I was speaking yesterday, O. J. Simpson is beginning his rehabilitation, playing golf yesterday at a white country club in Florida, signing autographs for stupid young women who, I guess, missed the signature John Wayne Gacy or the Boston Strangler, and I hope that people will look in their newsmagazines from last week and look at another victim of this double murder, O. J. Simpson's son Jason. This is not a son celebrating a "not guilty" verdict, as the mom rightfully would do, and the sisters and the daughters would do. This is a son with a broken heart who knows that his dad committed a double murder and has put a cloud over his whole family, not to mention innocent little Justin and Sydney, and to keep coming in our face the way O. J. is, a Republican millionaire who, I repeat, told the gentleman from California [Mr. DREIER] here that he voted for George Bush. That would be a jury of his peers, the 8 millionaires out of the 10 of us. I am not one of them in the Senate. I am in the Presidential conquest.

Mr. Speaker, I yield to a distinguished lawyer, the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I welcome the gentleman's expression on the feelings that he has had. That is what this country represents. But I am disturbed at the gentleman from California's attempt to characterize what has captured the hearts and minds of many in the African-American community, the question of equal justice, the question of the ability to be treated with equal justice under the law and to address their grievances, which I think the march Monday reflected; and I am, however, glad the gentleman noted the bonding, of fathers and the sons, black men from all walks of life. That was the real story of last Monday.

I did not have the opportunity to hear your comments yesterday. Actually, I am involved in a fight to save Medicare right now. However, I would hope we applaud those that you see the value in American citizens peacefully protesting and recommitting their lives to a better way of life.

And as to the O.J. trial, which this is not a time to debate, I hope that we can applaud the fact that the judicial system was in place because otherwise we would have anarchy. I am just hoping that we can put the definition of what happened both Monday and at the conclusion of the O.J. Simpson trial, in context, no matter what one's opinions may be about the laws that govern this country—the right to a peaceful protest and the right to a trial by jury worked.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. DORNAN. Mr. Speaker, could I ask, and if anybody wants to object, I certainly understand—that the gentlewoman from Texas [Ms. JACKSON-LEE] have 5 minutes out of order?

The SPEAKER pro tempore. That unanimous-consent request is out of order during the special orders.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from California for having yielded to me.

Mr. DORNAN. Courtesy of half a second then, Mr. Speaker?

I would hope, Mr. Speaker, we could have an hour discussion, every Member of this House, on the O.J. Simpson trial, because most Americans think the justice system broke down, that he was as guilty as sin.

Ms. JACKSON-LEE. That would be worthy. I think the American people need to hear both sides of the story.

Mr. DORNAN. I agree.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. To clarify, the gentleman from California [Mr. DORNAN] may not make a unanimous-consent request to extend time under 5-minute special orders.

WHY SO LITTLE TIME FOR DEBATE ON THE MOST IMPORTANT VOTE IN OUR CAREERS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I think many Members feel, as the gentleman from Pennsylvania [Mr. BORSKI] indicated just a few minutes ago, that the vote tomorrow will probably be the most important vote that we have cast in our career; certainly in my 17 years it qualifies.

Mr. Speaker, when we began this session of Congress, there were great protestations about past abuses, closed rules that did not permit open debate, and amendments of all sorts from all across the spectrum here to be offered. We talked a lot about open meetings. To quote Woodrow Wilson, it was all going to be open covenants openly arrived at. This was going to be a new era.

Mr. Speaker, I regret to tell you that what is happening to this most fundamental piece of legislation that all of us feel is so impactful on 40 million Americans in the Committee on Rules at the moment is a travesty. There are people who have yet to commit to vote for this legislation being offered by the Republicans who are angling for a little amendment that hopefully the Speaker will unilaterally without any congressional committee approval insert into an amendment offered by somebody when we get to the floor, probably the manager of the bill. Those people up there who have yet to commit to vote for this on the Republican side are struggling to get some cover so that they can vote for a piece of legislation that will be terribly destructive, not just to senior citizens, not just to rural and urban communities, but to the fabric of American life and the quality of our health care. It is a travesty because most Members who are not about to vote for something like this are going to be excluded from the process. They are not going to be put in a position to have the opportunity to offer a rule that would, for example, cut this from a $270 billion hit over the next 7 years, far more than the trustees would indicate is necessary, to something like $90 billion. We are not going to be able to repair the damage that this bill will do because we are being shut out of the process.

I know people have heard it, they are probably sick of it, but 28 days of hearings on Whitewater, 10 on Waco, 8 on Ruby Ridge. I do not mean to say these are not important issues, but it tells you something. We had 1 day of hearings in the Committee on Ways and Means, none in the Committee on Commerce, and now not a week of debate on this issue, something far less: 3 hours of general debate. Why? Because people do not want to talk about what is about to happen. Republicans offering this legislation do not really want the American people to fully comprehend the impact it is going to have on them. Otherwise we would spend a week and take 8 hours a day extolling the virtues of this legislation.

Mr. Speaker, I asked today in the Committee on Rules that we have 20 hours. I would be happy with 10. I would now take 5 based on what I expect. It is the antithesis of what we were told this Congress was going to be about when we kicked off in January and took up the vaunted Contract on America.

□ 2130

It is a great frustration to anyone who appreciates the legislative process, who thinks that, regardless of the outcome of these issues, we ought to have a full debate. We ought to be able to exchange words and language in amendment form, just as we do in committee.

The committees attempted to make some changes. Those changes were unilaterally and uniformly rejected by Republican majorities. But that does not mean that those of us who are not on those committees are shut out of the process. We ought to be able to have some of those key debates right here on the floor, not have just one alternative made in order, not the ability at all to deal with the intricacies of Medicare, a program that probably more than anything but Social Security is the hallmark of what American government is all about, what means the most to the American people.

So I am just here today to kind of let out a protest on process. I will have more to say, as many of my colleagues will, about the inherent weaknesses in this approach, this budget-driven, tax-cut-justified approach. It is not, however, my purpose today.

I am simply here to say that, from my perspective, this treatment of what is the centerpiece of the Republicans' effort to radically change the course of this country is being treated so cavalierly as to require protest by all of us simply because of the nature of the process in which it is being considered.

I hope the Committee on Rules, before it finishes tonight, will hear our words, will make in order a number of amendments and will allow for the real debate that this radical legislation demands. I doubt if we will be satisfied by their ultimate decision.

CLEVELAND TOPS SEATTLE FOR AMERICAN LEAGUE PENNANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I made a friendly agreement with the gentleman from Ohio [Mr. HOKE] of Cleveland, regarding the recent battle between the Seattle Mariners and the tribe from Cleveland. I was really looking forward to using some of that genuine Cleveland slab steel that he promised as part of this to rebuild my 500-foot seawall at our home in Langley. Unfortunately, the Mariners were unable to pull out one more miracle finish in game six last night.

I really have to hand it to the Cleveland Indians. They played a tremendous series. Their pitching was outstanding. I wish them the best in the World Series.

Also, I know that the gentleman from Ohio will enjoy the salmon and the apples from the great State of Washington.

Even in defeat, the Seattle Mariners proved to be a team of character and unmatched resilience. Time after time they came back from what seemed to be a hopeless situation. Whether it was Randy Johnson striking out the side to preserve a win or Edgar Martinez hitting a grand slam to win the game, we are proud of them.

Mr. Speaker, we in Congress can learn a lot from both of those teams. Hard work, perseverance, and teamwork are the key to success. We need all the help possible in the weeks to come in our drive to balance the budget.

Again, congratulations to the Seattle Mariners for an amazing season and good luck to the Cleveland Indians in the World Series.

Mr. HOKE. Mr. Speaker, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, first of all, I would like to express my gratitude as well as sympathy to the gentleman from Washington. Of course, it is easy to be magnanimous in victory, but I must say you really are a gentleman, and I appreciate the kind words with respect to our prospects in the World Series.

I have to tell the gentleman that this is a particularly special time for anybody from Cleveland. We have been in the wilderness a long, long time, and as you all know, as you well know, the last time we were in the World Series was also the last time that the Republican party was able to take over this Congress. I think that was in 1952 when we won the Congress.

Now, the other thing that most people do not know is that in 1948 we also won the World Series when we controlled the Congress, the Republicans did, and the Indians went to the series then with the Braves again. Not the Atlanta Braves, of course, but at that time the Boston Braves. It was the Boston Braves at the time, and we won that series four games to two.

So I think that those things are extremely good omens for the Indians in this World Series.

By the way, I wanted to make sure that the gentleman from Washington, we remember what the Indians looked like here with the logo, and of course, as I understand it, people are going pretty crazy in Cleveland right now, as you can imagine, after 40 years of drought.

I wanted to say one other thing if I might on the gentleman's time, and that is that I spoke with the distinguished Speaker of the House of Representatives, the gentleman from Georgia [Mr. GINGRICH], who of course represents a part of the great city of Atlanta with whom the mighty Indians of Cleveland will be battling and what is undoubtedly going to be dubbed the most politically incorrect series of this century with the Atlanta Braves going against the Cleveland Indians.

But I have made a proposal to Mr. GINGRICH which he has accepted. He is not able to be here tonight, I have been informed, because he is trying to solve the last bits of the Medicare bill, but I made the following wager and that is that I have a beautiful tie that has Cleveland Indians on it, and he has agreed that if the Indians win he will wear that tie for an entire day that this House is in session, and he will also make a contribution of whatever special foods they have, hopefully Vidalia onions and peaches from the great State of Georgia, to a hunger center of my choice in Cleveland.

If the Braves win, I will wear a Braves tie and also make a contribution of a slew of frozen pirogies to be sent down to a hunger center in Atlanta.

I appreciate the Speaker accepting the wager.

I really do appreciate the kind words of the gentleman from Washington [Mr. METCALF]. I am looking forward to that smoked salmon, I have to tell you, and I am sorry that the season was curtailed for the great Mariners, but it could not be better for the Indians.

Mr. METCALF. I thank the gentleman, and I might comment that I would have presented their logo even without the banner, but I do appreciate the banner.

AMERICA'S VOICE MUST BE HEARD ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the voice of the American people must be heard. Their cries and pleas cannot be ignored by those of us in Congress. We must heed their call.

I received petitions from my congressional district—hundreds and hundreds of missives from my constituents on the issue of Medicare. Here are their voices—listen to all of them—"Without Medicare, I won't have anything" said one elderly woman. "Do not cut Medicare * * * it is all that I have" wrote another senior citizen.

Did the Congress, created by the Founding Fathers to be a deliberative body as it creates legislation, deliberate this issue with all due respect. Indeed, I say not. The majority insured that this governing body devoted all of a single day to this issue—integral to the health and welfare of our Nation.

The 1-day hearing conducted by the majority was to discuss their proposal to cut the Medicare Program by $270 billion.

That cut is roughly three times higher than any previous plan. My colleagues, before America or this Congress buys into the proposal to cut Medicare, there are many questions that should be asked and that must be answered.

We must ask, how they expect poor seniors, those on fixed income, to pay for the increases they must bear?

Will Medicare beneficiaries be able to choose their own doctors? True freedom and choice for seniors does not exist under the Medicare Preservation Act.

Where will the $90 billion in unspecified savings come from?

How will hospital closings be prevented, especially in rural communities?

Why is it that none of the funds from the increased Medicare premiums will be contributed to the Medicare trust fund? Where is it going—I know the answer and so should the American people—to pay for your imprudent tax cut.

Why is it necessary to insist on a tax break for the wealthy, while cutting Medicare for those least able to absorb those cuts—the elderly, the sick, and the disabled?

These and others are important questions, my colleagues.

They deserve frank answers.

The majority should not rush this legislation to the floor as part of their speeding train. We need to have more bipartisan support to protect Medicare as well as Medicaid.

We cannot ignore the impact of this $270 billion cut upon the heart and soul of our Nation—rural areas.

Citizens of rural America will certainly be jolted by these unnecessary cuts, since their incomes are 33 percent, yes one third, lower than their urban counterparts.

One third less money for everything, including health care.

Did you also know that our elderly citizens, they are 60 percent more likely to live in poverty if they live in rural areas—60 percent.

Through the Medicare Preservation Act, Medicare funds for rural Americans will be cut by at least $58 billion dollars.

That is $58 billion less for our rural health care facilities and providers. If this atrocity comes to pass, we are certain to lose more rural hospitals than we already have. I have been there, have you? I served as the chair of the Warren County Board of Commissioners, my home county, when we had to close our county hospital. Citizens of Warren County now have to drive outside the county to seek hospital care.

Twenty-five percent of rural hospitals already operate at a loss, and that is because Medicare and Medicaid alone account for almost 60 percent of the average hospital's net patient revenue. Can you imagine the havoc that these cuts will wreak upon rural areas. More hospitals are sure to go under; need there be more counties like Warren?

I cannot in good conscience believe that the bulk of the American people support the majority's plan to cut Medicare and Medicaid.

The $270 billion cut translates into at least $45 billion dollars less for the health care for impoverished, disabled, or elderly Americans in rural areas. For Pitt County Memorial Hospital, one of the finest university medical schools in rural areas, this cut translates into a $621 million dollar loss from 1996 to 2002—$621 million dollars less of needed medical care. For Nash General Hospital, $234 billion dollars less in the same time period. For the Craven Regional Medical Center, $211 billion less, and I could go on and on and on. I think you get my point. And I know that the senior citizens of my district as well as the Nation hear me. Mr. Speaker why can't we hear the pain of these proposed cuts. I will vote against this mean-spirited legislation.

AMA WRITING KEY PORTIONS OF MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, cynicism toward our political process received another boost last week, as the American Medical Association [AMA] received key concessions in return for endorsing the Republican's plan to reduce Medicare spending by $270 billion. In return for their support, the AMA is being allowed to write key portions of this plan, molding the cuts with their own best interests in mind.

The question is, Do they have the interests of senior citizens at heart? The answer, Mr. Speaker, sadly, is no.

I have over 15,000 petitions from the senior citizens of my district opposed to the drastic cuts in Medicare. Every day I have dozens more calling my office asking me if they can sign a petition. "How can I help, can I circulate more petitions?" they ask. They tell me of hundreds of seniors who have not yet had a chance to have their voices heard, but who are very afraid and confused by the Republican Medicare proposal.

What started out as a need to shore up Medicare, so as to keep our sacred contract with seniors, has turned into a raid to fund a $245 billion tax cut for America's wealthiest citizens. The Republicans wave a report by the Medicare trustees saying the system is headed toward bankruptcy. But nine times in the past, we have faced the threat of the trust fund going bankrupt and have dealt with it as it should be dealt with now—without fanfare and without partisan propagandizing. The report says only $90 billion is needed to insure the solvency of the trust fund, but the Republicans insist on cutting $270 billion to pay for their tax cut.

To pay for this tax cut, Medicare recipients will pay more, but they will get less in return. By the year 2002, $1,700 less will be spent on each beneficiary. However, deductibles will be doubled and premiums will skyrocket. Seniors will pay an average of $3,300 more over 7 years and will be herded into managed care, forced to give up their own doctors. Simply said, seniors will be paying more for less.

I recently sent a letter to the presidents of the various hospitals in my district, asking them to analyze the impact of the Republican proposals for Medicare. The president of MacNeal Hospital in Berwyn, IL writes, "The reductions, as proposed, if implemented, could force MacNeal Hospital to close. Over the 7 year period from fiscal years 1996 through 2002, Medicare reimbursements would decrease by $92 million. As an employer, it would result in the direct loss of 3,000 jobs. Needed access for the people of your district to high-quality low-cost healthcare would obviously be dramatically and negatively affected."

The president of West Suburban Hospital in Oak Park, IL wrote an emotionally moving letter. "None of the news I have heard sounds encouraging. In fact, the question is not how will we serve patients in spite of funding shortfalls, but how will we serve them at all."

According to figures from the American Hospital Association, this plan will result in a reduction in reimbursement to hospitals in metropolitan Chicago totaling $2,830,000,000 in fiscal years 1996 to 2002. Clearly, the Republicans, Medicare proposal will hurt not only the elderly, but hospitals too, which will cause cost shifting to the private payer.

A respected Chicago newspaper columnist recently noted the quiet silence of senior citizens on this proposal. Given the partisan rhetoric and the cynicism, it is no surprise that many are not vocally taking sides. But with these petitions, thousands have quietly sent me a message that this is too much change, much too fast.

968 pages of a bill to amend title 18 of Social Security Act to preserve and reform the Medicare Program were delivered to me this morning. But these 968 pages are not intended to preserve and reform the Medicare Program. Rather, they are intended to destroy Medicare's security blanket for our seniors, and radically replace it with an untried system.

Mr. Speaker, Medicare was signed into law 30 years ago as a sacred commitment with the elderly of America. I will not break that commitment. I do not want to see the elderly have to choose between paying their doctor's bills and their utility or grocery bills. Republicans are big on contracts these days. Let's keep our contract with seniors and preserve the Medicare system. I urge my colleagues to oppose H.R. 2425.

□ 2145

GOP PLAN WILL SAVE, STRENGTHEN, AND SIMPLIFY MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Idaho [Mrs. CHENOWETH] is recognized for 5 minutes.

Mrs. CHENOWETH. Mr. Speaker, tomorrow the House of Representatives will take a giant step toward putting Medicare back on sound fiscal footing and giving our seniors the same choices enjoyed by Federal employees, including Members of Congress, and citizens in the private sector when it passes the Medicare Preservation Act of 1995 [MPA]. The goal of the MPA is to preserve Medicare for current beneficiaries, protect it for future generations, and strengthen it through reforms that have been tested and proven in the private sector.

On April 3, 1995, the Medicare trustees, including three members of President Clinton's cabinet, issued the following warning: Medicare begins going bankrupt next year and unless prompt and decisive action is taken, Medicare will be completely out of money by 2002.

There is no reason to doubt the accuracy of the report or its conclusion. I urge you to obtain an official summary from my office (356-2010) and judge for yourself.

The bottomline is that if Medicare is not reformed, either seniors will be forced to accept sharply curtailed medical services or working Americans will be forced to pay sharply increased payroll taxes, estimated by the Heritage Foundation to cost the average Idaho household an additional $1,200 per year.

Under the MPA, total Medicare spending will increase 54 percent, from $161 billion in 1995 to $274 billion in 2002. On an annual per beneficiary basis, average spending will increase from $4,800 today to more than $6,700 in 2002. Obviously, not only is Medicare not being cut but at an average of about 6.5 percent per year, it will grow faster than the current 3.2 percent rate of private sector medical inflation and more than fast enough to accommodate all new entrants into the system. Only in the bizarre and convoluted world of Washington bookkeeping and partisan bickering can such an indisputable spending increase be called a cut.

The MPA will give seniors the right to choose from these:

First, if they want to, seniors can stay with the current Medicare system—exactly as it is today. And if they choose another option and decide later that they want to return to traditional Medicare, they can do that, too. No senior citizen will be forced to give up his or her current Medicare coverage, switch doctors, or be forced into a plan they don't want.

Second, seniors can opt for managed care and join a health maintenance organization [HMO], in which beneficiaries agree to receive their medical care from a defined pool of providers in exchange for lower out-of-pocket expenses and broader coverage, which could include prescription drugs, dental care, and eyewear. Many seniors, particularly those whose private physicians are already associated with the HMO they choose, will find this an attractive alternative.

Third, seniors can opt for a medical savings account [MSA] plan, which uses the beneficiary's Medicare stipend to fund both catastrophic health insurance plus an MSA, out of which seniors would pay for routine medical needs. Seniors choosing this plan would have complete control over the money they spend on medical care and any money left over in the MSA at the end of the year would belong to the senior, not the insurance company or the Government.

Fourth, seniors can join provider service networks, similar to HMO's, that are organized by doctors and hospitals themselves.

The Medicare Preservation Act also aggressively attacks the waste, fraud, and abuse that has contributed so much to Medicare's rising costs. Incredibly, the Congressional Budget Office has estimated that as much as 20 percent of Medicare spending is fraudulent.

The MPA requires the Department of Health and Human Services to identify and eliminate these huge losses, including financially rewarding Medicare recipients who report abuses. It makes doctors and hospitals accountable for their actions and imposes stiff new penalties on anyone caught defrauding Medicare.

Another important point is that the portion of Medicare part B costs paid by seniors through premiums, currently 31.5 percent, will not change. Over the past 7 years, part B premiums have nearly doubled, rising from $24.80 in 1988 to $46.10 today. Current law, the MPA, and the president's plan all assume similar increases over the next 7 years.

Let me also emphasize that every additional premium paid by Medicare recipients will go directly to Medicare part B, not, as you may have heard, to pay for middle-class tax relief. It can't. It's impossible. It's illegal. Premiums and payroll taxes paid into the Medicare trust funds can only be used for the Medicare Program.

Finally, the wealthiest 2.9 percent of seniors, those single taxpayers with incomes above $75,000 and couples with incomes above $125,000, will be required to pay higher part B premiums.

That is the Republican plan. It is innovative, responsible, and cost-effective. Unfortunately, the congressional minority and the president have embarked on a partisan mediscare campaign meant to frighten and exploit seniors for political gain. It appears they have their sights set more on the next election than the next generation. Not only is that bad policy, it's also bad politics.

One of the major factors in last November's electoral sweep was that Americans want Representatives who aren't afraid to tackle the tough issues. With our Medicare preservation plan, we have shown that we are willing to do exactly that.

This plan ends a decade-long habit of applying only band-aid solutions to Medicare's fiscal woes. It uses common sense and market forces to save Medicare and bring the program into the 21st century, giving seniors more choices and better care at lower costs. But just as important, it is one more confirmation that the era of politics as usual is over.

A DEMOCRATIC VIEW OF REPUBLICAN MEDICARE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, they are back in the back room again. The last time the Republicans went in the back room, the AMA got a fat check and the seniors got left out in the cold.

I do not know how the previous speaker could define what was in the bill because it is my understanding that at this point there is no bill, that the Republican leadership is somewhere in this institution huddled away in a back room of the Committee on Rules trying to write a new bill to buy enough votes to get it on the floor and pass it tomorrow.

What are they trying to achieve? Well, if you think that the Republicans, who have opposed Medicare from its inception, have been opposed to it at every step of the process, are really trying to save it, then you can agree that they are trying to save it. But if you listen to the majority leader of the House, the gentleman from Texas [Mr. ARMEY], you will find out what they really want to do. He says if he had his way, he would not have to be part of Medicare. If you are not part of Medicare, it means seniors get to go out and choose their own program.

My father is 84 years old. Last year he had a heart attack and a stroke and a hernia operation and we are going to give him a check not enough to buy any private health care plan after he has paid for decades into the program, and wish him good luck to buy a plan in the private sector. People in their mid 40's and 50's cannot buy health care on their own. The chances of senior citizens having that freedom means that they will not be covered by health care. Mr. DOLE, the majority leader, voted against health care when it came before him when he was in Congress the first time.

If this was an honest debate, most of the people on the other side of the aisle would say they do not believe government ought to be guaranteeing health care to anybody and not even seniors, and they would be for ending the program. But rather than that, they want to bankrupt and destroy the program through subversion.

Let us ask the fundamental question. They keep quoting that the trustees said there was a problem. Indeed, the trustees did say there was a problem, and if they would bother to listen to those trustees for the other half of the sentence, the trustees will tell you that it is an $89 billion problem. How do you get from $89 billion to $270 billion in cuts? It is because you want a $245 billion tax cut.

Let us take a look at how you manage a society, how you manage a business, how would you take care of your family? Because we remember the contract that was signed on the back side of the Capitol. The contract was they were going to protect family. We now know what family it is. It is the GOPAC contributor's family. If you make $350,000, the Republican budget says that you need a $20,000 tax cut. If you live on Social Security, they say you need to spend another $1,000 and get less coverage in your Medicare.

Is that what government is supposed to be all about? Are we supposed to come here and make it more difficult for the people who fought World War II, who saved democracy for this country and the world, and as they come to the point where they need health care coverage, which we guaranteed them, that you are going to pull the rug out from under them?

Oh, yes, you are going to give them choices. You can have a medical savings account. I know a lot of seniors that can save up $26,000 to $30,000 for a 1- or 2-day visit to the hospital. If you are in the $350,000 category, yes, you can have a medical savings account. If you are living on Social Security and even a small pension, that savings account does not do anything for you. This is about taking from the needy to pay for the greedy. The honest debate here is where should this society go? This society needs to go by providing for senior citizens.

The debate here is very simple. Is this society going to take care of the needs of the greedy, those who can afford to contribute to GOPAC, those who make $350,000 a year? Are we going to go back in the back rooms as the Republicans are back there tonight trying to buy a few more votes?

Last time it was the AMA at the cost of the seniors. My doctors do not want that deal. My hospitals do not want a deal that will leave seniors further out in the cold. They want to have a health care system that protects seniors and working men and women in this country.

□ 2200

REQUEST FOR PERMISSION TO ADDRESS THE HOUSE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. Speaker, if the gentleman will yield, I will yield back when my time comes to repay him.

Mr. GENE GREEN of Texas. Mr. Speaker, I know there was an objection for a Member, and I hope that we do not see that because there was an agreement earlier tonight. But I would hope we would be able to proceed with the order.

If the gentleman would like to have someone to stand up over there and ask to speak now, I will wait my turn.

PARLIAMENTARY INQUIRY

Mr. KINGSTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Will the gentleman from Texas, Mr. GENE GREEN, yield for the purpose of a parliamentary inquiry?

It does count against his time. Will the gentleman yield for the purpose of a parliamentary inquiry?

Mr. GENE GREEN of Texas. Mr. Speaker, we need to go ahead and go forward with it because I have 5 minutes on Medicare, and it is a concern. I would be more than happy to sit back down, if the Speaker would like to recognize a Member from the other side because I think the objection has been withdrawn.

Mr. KINGSTON. Mr. Speaker, I ask unanimous consent the gentleman yield back his time without having it charged against him in the name of decorum so we can go back and forth.

The SPEAKER pro tempore. Without objection, the special order of the gentleman from Texas, Mr. GENE GREEN, is vacated without prejudice.

There was no objection.

REPUBLICAN MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, tomorrow is an historic day. It is exciting, the plan that we are going to present on Medicare tomorrow. I am proud of the plan that we are going to present to the American people tomorrow and we will vote and pass it tomorrow. And all we are hearing from the other side is fear and scare tactics. That is sad.

For the seniors of this country, it is one of the most important issues we are facing, and all we are hearing is scare tactics and fear and, oh, my gosh, the sky is falling, the Chicken Little story. This is not the case. We have a good plan with which we all agree on so many things.

There are a lot of things we agree with on this plan. We agree, for example, that Medicare is so important that we have to do something to save it. We agree that it is going bankrupt. It is the Clinton trustees that say it is going bankrupt. We agree that next year for the first time in the history of the plan, less money is coming in than is going out. And in 7 years, the total fund is bankrupt, the part A fund. So there is no disputing that fact. We agree there.

We should agree that we do not want a Band-Aid approach, that we really want to fix the problem because the problem gets really bad in the year 2010 when the baby boomers come along. In year 2010, which is 65 years after World War II, is when the whole thing explodes. And all we are going to do is a Band-Aid approach and putting it off to another day, a major problem when the rest of us start retiring.

I think we should agree that we need to fix the plan and start working on the baby boomer problem. And we should agree on choice. What is wrong with choice? As a Federal employee, all Federal employees have a choice of plans. And all they are doing over there is to ridicule the idea that seniors should have a right to choose. I have a right to choose. Every Member has a right to choose. Every member of the Department of Commerce has a right to choose. Everybody in the Department of Agriculture has a right to choose. Why should not seniors have a right to choose?

Not only do they have a right to choose, they get to stay in the plan they are in right now. They do not have to leave that plan. They keep that plan. But why not let them have a choice? If they want to choose the medical savings account, that is their right to choose. Nothing wrong with that. Why ridicule the idea that some seniors may want a medical savings account?

Why not allow local hospitals and local doctors to go together to form their own plan? Why not allow them, give a choice. Health care is a local issue. Why not allow the groups to work together?

Why not allow HMO's and managed care programs to be offered to seniors. I do not have them in my area very much. What is wrong with giving them the right to choose? Why fight the right to choose idea? It makes no sense.

Our plan has tough waste, fraud and abuse. Who can disagree with fighting waste, fraud and abuse? They cannot get mad at us that we are not increasing copayments and we are not increasing deductibles. What is wrong with that? You have to agree with us on that.

All they want to do is start these scare tactics. They say, we are cutting Medicare by $270 billion. Let us get the facts straight.

Over the next 7 years we are going to have an additional $354 billion to spend on Medicare. Let us divide that up by the number of people on Medicare. We are spending $4,800 per person on Medicare today. We are spending $6,700 per person on Medicare in 7 years. Now, to me it does not take remedial math, it does not take a Ph.D. in statistics to understand that going from $4,800 to $6,700 is an increase. It is not a cut. We are increasing spending by $354 billion over 7 years.

Where does this idea of getting beat up on the cut come from? That is fear tactics; that is trying to scare the seniors. And that is wrong.

And then we start talking about tax cuts. What is wrong with the tax cut? It is a totally separate issue. What happens if we have no tax cuts? We get rid of all the tax cuts? What happens to Medicare? It is bankrupt in 7 years. It has no impact on it.

Medicare part A is a trust fund. The only money going in is a payroll tax and the only money going out is to pay for part A. So it has nothing to do with income taxes. So if we have no tax cut at all, it still goes bankrupt. So that is a phony issue.

Let us debate the tax cut on its own merits. And it really is a tax cut for working families in this country.

Now we talk about the hearings. We have had 38 hearings and we have listened to the American people.

I think in 5 years we are going to reflect back and say, we made a great decision tomorrow to reform Medicare.

MORE ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, and without objection, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

There was no objection.

Mr. GENE GREEN of Texas. Mr. Speaker, let me answer my colleague's concern about the right to choose. Seniors have the best right to choose today. They can choose whatever doctor and hospital they want to. But under the plan that is going to pass tomorrow they will not have that right because they will be priced out of the market.

The cuts we have talked about. They discussed the cuts. Well, it is a cut because, if we have a growing senior population by the year 2002, and they are saying, they do not grow as fast with the improvements in that plan, then we are going to diminish the ability of seniors to be able to have access to health care.

That is what they cannot explain. Let us get down to the basics though. We will vote on a $270 billion slowing of the growth for the year 2002 to pay for a $245 billion tax cut. I have heard this for months that we paid for that in the spring. We have not paid for anything since the spring. There has not been one appropriations bill passed here. The one that passed was vetoed by the President. They are going to use $245 billion over the next 7 years to balance off the cuts in Medicare growth, because there are seniors who are going to grow into it.

My dad is 80 years old. He is the growth in Medicare because he is going to need it next year. I hope he needs it in 2002. But they are not planning for it because they want to pay for a tax cut now to pay for political promises. On Monday I visited a senior citizens center in Jacinto City, TX, just outside of Houston. I was presented over 5,000 petitions that I left here this morning on the House floor from senior citizens, working families across my district. This signed their names because they are very concerned about the broad and extreme cuts that the Republicans are talking about that we are going to vote on tomorrow.

The cuts, $270 billion, in it only fixes Medicare to the year 2006. Up until last week they were saying they wanted to fix it to the next election. Well, our next election is long before 2006. They want to cut $270 billion when we only need $89 billion to fix it to the same year. Their numbers do not add up. That is their problem. They do not add up to the year 2002 because they are taking $245 billion as a tax cut.

In the 30 years that we have had Medicare, it was a Democratic Congress overcoming Republican opposition to enact Medicare. It has been saved eight times in the past 30 years, and hopefully we will save it again for the senior citizens, that is, until tomorrow, when we vote on the Republican Medicare reform proposal.

That is a surrender of the commitment that our government made with senior citizens in 1965. The majority feels it is so important to fulfill their campaign promise of a tax cut that busts our budget. They talk about they want a balanced budget. I want one, too, but let us get our financial house in order before we worry about $245 billion in tax cuts and throwing families back to the Dark Ages where seniors have to decide whether they want to pay for rent, utilities, food, or health care.

The worst part of their bill is that, rather than the fact that the Medicare is being cut $270 billion, again, it is to pay for that $245 billion tax cut. That is the outrage that people are saying. That is why they wanted to run this through with only one hearing in the House and arresting seniors who came over to testify. This plan had a lot less than the President's health care plan that most of the other side opposed. So I would hope that we would deal with it.

Tonight there is a vigil out on our Capitol steps by seniors who are raising their voice in opposition. I would hope that 30 years from now, when we celebrate the 60th anniversary of Medicare, it will be because we voted this down tomorrow. If we do not vote it down, then the President will veto it, and next year the voters in our country will recognize who is really concerned about health care for seniors.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. BROWN], from Cleveland, which is now the American League champion.

Mr. BROWN of Ohio. Mr. Speaker, I have had lots of town meetings in my district. I hear the anger from senior citizens and from their families about the $270 billion in Medicare cuts in order to pay for tax breaks for the wealthy and about the Republicans idea to give people the right to choose health care plans but take away their right to choose a doctor.

What I am also hearing from senior citizens is they are particularly concerned about fraud in Medicare. The inspector general said that as much as $200 billion, as much as $200 billion of fraud over the next 7 years in the Medicare plan. Yet the Republicans, bill actually promotes fraud, waste, and abuse. The New York Times had an editorial called Bribes for Doctors talking about the midnight deal, that the Speaker's deal made Medicare substantially worse.

It is clear that as bad as the fraud is, it does not make sense to give tax breaks to the wealthy of $245 billion while you are cutting Medicare $270 billion and taking away the ability of government to fight fraud and investigate and prosecute fraud.

MEDICARE OVERHAUL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GREENWOOD] is recognized for 5 minutes.

Mr. GREENWOOD. Mr. Speaker, earlier this evening the gentleman from California, Mr. FAZIO, made the statement that the Republicans do not want Americans to fully understand our Medicare reform bill. I would like to challenge that assertion because in fact it has been our experience and my personal experience that what we need to do is precisely make sure that Americans, particularly America's senior citizens, understand our Medicare present reform bill. When they do, they like it. And they like it very much.

That has been my experience. It was my experience this evening. I had a letter that one of my staff members placed on my desk from a 70-year-old gentleman in my district that was very upset. He had been listening to my friends on this side of the aisle. He said he was having a hard time sleeping because he and his wife had been in and out of hospital. He heard we were going to take his Medicare away. So I said to him, let us go through it one step at a time. And I said, do you like your Medicare just as it is? He said, yes, I am very happy with it.

I said, well, under our plan, you will keep your fee-for-service Medicare just as it is. And you and your wife will be able to go into the hospital and go to the doctors next year and the year after that and the year after that just as you have been now. In fact we are going to make sure that the system is there for you.

I said, we are not going to raise your deductibles. Oh, you are not? No, we are not. We are not going to raise your co-pays. You are not? I heard them say that you are. Well, we are not. What are you going to raise? Are you going to raise the portion that I pay for my part B? I said, no, we are not going to raise the portion that you pay. You pay 31.5 percent now. And you will pay 31.5 percent next year. And your friends and neighbors will pick up the other 68.5 percent next year just as they have this year.

I said that 31.5 percent is going to go up a little bit just as it did last year, the year before that. But your COLA's, your Social Security COLA will go up by even more than that, so your Social Security check that you receive next January will be bigger than the Social Security check that you are receiving now and will receive through the end of the this year. So you are going to have more money in your pocket at the end of the day next year, when this plan takes effect, and exactly the same health care that you chose now.

We find that, when we go to focus groups, when we go to town meetings and we explain in detail this plan, the senior citizens thank us. They like it. They have nothing to fear and they know it. And if they do not know it now, they certainly will know it once the President signs the bill and it goes into effect.

Let me talk about some of the disinformation that has been difficult for us to deal with.

□ 2215

Members of the minority party have stood up all night, and they stood up for weeks and weeks and weeks, and talked about Medicare cuts, and, as we have said over and over again, no one is going to cut Medicare. We are going to increase the expenditures per capita on Medicare beneficiaries by 40 percent over the next 7 years. That is a whopping increase, it is a generous increase, and it is more than enough money to restore and preserve the system and continue the same benefits package.

So we do want Americans to understand that because when Americans understand that and they understand that we are going to spend more on them in each of the next 7 years, and not less, they are comforted, and they need to be comforted because they have been told a lot of falsehoods.

We have heard people say from the other side that we are going to take away. One of the gentlewomen from the other side of the aisle said, "cutting health care," cutting health care as if a single senior citizen in this country would not have access to exactly the same health care services when our plan is in effect as it is now. Simply not true. Every senior citizen in this country will be able to stay in the fee-for-service program and get precisely the same health care benefit next year as they do this year.

Now, that is an indisputable fact that is not even subject to debate, and yet I hear Members from the other side of the aisle over and over again talk about cutting health care. I walked past the sort of ginned-up candlelight vigil outside the Capitol tonight, and I heard the minority leader of this House, the gentleman from Missouri [Mr. GEPHARDT], talk about Republicans doing away with Medicare, and I shook my head. I shook my head and thought how could a Member of the U.S. Congress utter those words knowing deep in his heart that no one in this body would ever contemplate for a moment doing that. Certainly, this Member, whose mother and father he deeply loves and whose mother and father are Medicare recipients, would never do anything to reduce their package, their benefits. We have heard over and over again the talk about forcing seniors into managed care, forcing seniors into managed care. We do not do that. What we do is we preserve the system. We preserve it not only for this generation but the next, and I hope we all vote for it tomorrow.

VOTE "NO" ON THE REPUBLICAN PLAN TO RAPE MEDICARE

The SPEAKER pro tempore (Mr. BUNN of Georgia). Under a previous order of the House, the gentleman from Pennsylvania [Mr. KLINK] is recognized for 5 minutes.

Mr. KLINK. Mr. Speaker, there was a song back in the early 1970's by Janis Joplin, and the previous speaker, my colleague from Pennsylvania, kind of reminded me of it. I would like to change the words, and that is she said, "Freedom is just another word for nothing left to lose." I think it is freedom is just another word for being forced to choose, and that is what the Republican Medicare plan is about. Senior citizens will be forced to choose whether or not they want to follow their doctor. That is as the Republican fail-safe, and he is right. If people want to stay in traditional Medicare as they have it today, they will be able to do it, but they may find out that their doctor does not do it because the fail-safe plan the Republicans have built into Medicare is going to squeeze the traditional medical fee for service, and so you may have to choose whether or not you stay with your doctor or whether you follow that doctor who decides to go out and get involved in HMO's or managed-care systems.

So freedom to choose is being forced to choose, to have to choose whether you want to stay with your Medicare system as it is now or you want to stay with your doctor if that doctor decides to sever himself from the system.

This Congress began the 104th Congress with very loud chanting of a Contract With America. Medicare, Mr. Speaker, is a Contract with America. It is a contract that was made 30 years ago at a time when one in three senior citizens in this Nation lived in poverty, when it was common for senior citizens to have to decide whether they were going to heat, whether they were going to eat, buy medicine, or pay the rent. It was a common problem prior to Medicare for the children of those senior citizens to have to decide what they would do with their assets, how much they would spend or how much they would sell off if mom or dad got sick. This is the 1930's, and 1940's, and 1950's, prior to Medicare that the Republican plan wants to take us back to. This is the $270 billion that they want to cut, $270 billion they want to cut, and, yes, dollars are fungible. These dollars are not going into, this $270 billion that we are cutting from growth of the program, is not going to prop up Social Security. It is not going to prop up Medicare. Dollars being fungible, it is going to pay for that $245 billion tax cut.

Now, I know that my colleagues on the other side say we are not cutting, we are not cutting. We are slowing the increase. The question is this:

Will seniors get less? Yes. Will seniors pay more? Yes. They are going to pay more and get less. That is a cut. Will the part B premium double over 7 years from $46.10 now to over $90? Yes, that part B premium will be doubling. Will it go back to prop up the part A that the trustees' report deals with and that seniors are upset with? No, it will not be used to prop up part A. Did one Republican vote for the Omnibus Budget Reconciliation Act of 1993 that at that time saved Medicare? Not one, not in this body and not in the other body, and that was in 1993 when we were told the same thing that we are being told now, that we have to make adjustments on Medicare. Not one Republican vote went up to save Medicare in 1993. Yet, now they have got all their concerns, and in fact how many Republicans voted for Medicare back in 1965 when it went into law? The fact of the matter is 93 percent of them voted against it.

The majority leader takes to the well of the House and says in a free country he would have no part of Medicare, and yet we hear Member after Member stand up saying, Trust us, trust us. We want to save Medicare. We are all for it now.

I say to my colleagues on the other side of the aisle, Your actions speak much louder than your words and speak many more volumes than your words, that in fact it is evident to us that you have not ever supported Medicare and you are not supporting Medicare now.

This whole idea of a Medicare savings account, what a joke it is. Senior citizens in my district, very poor to moderate income in coal-mining and steel towns of southwestern Pennsylvania, many of my seniors live only on Social Security, and I know Social Security was not intended to be the sole support of people in their final years, but a point of fact: For many it is. Those people cannot afford to plow in thousands of dollars that they would spend in a few moments of having major health problems. They cannot afford it, and in fact I heard from a lady just several weeks ago who said to me, "Congressman KLINK, the fact of the matter is that after I pay the expenses that I have to pay, my rent, my utility bills, I've got $87 that's for food, that's for everything that I am going to spend for the rest of the time I'm here."

Medicare savings accounts will not help people like that. Vote no on the Republican plan to rape Medicare.

REPUBLICAN PLAN BRINGS HEALTH CARE INTO THE NINETIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, you know we all elected 435 Members of this body on certain campaign promises and representations, and, you know, some of it is campaign rhetoric and some of it is not, some of it is righteous indignation, and some of it is accurate, some of it is not. But when you get elected, we know you do have to do the hard job of governing, and some of the job is very, very difficult, some of the decisions that you have to make.

Now one of the things that we as the new majority were faced with this year was the bankruptcy of Medicare, and that is from the chart right here where the trustees, the Medicare trust fund, said that the plan is going to go bankrupt in 7 years. We got to deal with that. We cannot hide our heads in the sand.

Now just think what would happen in a good bipartisan effort if the best ideas of the Democrat Party, the best ideas of the Republican Party, came together and said, By golly, this is—these are our moms and dads. We got to come together and save this.

You know it is very difficult to get some things established in this town, or some things passed, when you have a whole group of special interest organizations out on both sides of the aisle convincing constituencies that the sky is falling. If the Republican plan goes through, or if the Democrat plan goes through, send me your $25 check to prevent this horrible thing from happening, and yet, you know, I would think inside this body of the 435 of us would maybe be above that kind of foolishness, that we would say, you know, maybe there is something to be said for what the Democrats are saying, and maybe there is something to be said for what the Republicans are saying, and just maybe we can get our ideas together and do the best for both instead of all this that, oh, you are going to cut, you are going to throw senior citizens out on the street, you are going to do this, you are going to do that.

You know, I heard a speaker earlier tonight say we voted against the Clinton plan and we should not have voted for it. It added countless new bureaucracies and agencies in the health care system that clearly had rationing, and there were not choices of physicians. You know here is a plan that allows choice of physicians.

Now you know the Washington Post, which as my Democrat colleagues would say certainly is not exactly the Republican, you know, GOPAC brochure; you know what do they say about the Republican plan? They are saying that they are being responsible, this is credible, it is innovative, it addresses a genuine problem. That is what the Republican plan says.

Now you know, on you folks, it says what the Democrats do and it is scare tactics—demagogery—and it is wrong.

Now I do not believe that every member of the Democrat Party is wrong and doing scare tactics, but I would say there is a good number of you doing that, and it is kind of—I will be glad to yield to my friend from Miami who is above this and I hope would not be described by the Washington Post.

Mr. DEUTSCH. Actually could I have the last poster, please? The previous one you cite the——

Mr. KINGSTON. Reclaiming my time back, I am on this poster now, and, when we get to your plan, I will give you that poster——

Mr. DEUTSCH. Does the gentleman yield for 1 second?

Mr. KINGSTON. One second.

Mr. DEUTSCH. You know you had a quote from the trustee report, up on the last poster, and would the gentleman agree with the trustee report which does not call for $270 billion in cuts?

Mr. KINGSTON. Now let me reclaim my time. As the learned gentleman from Miami knows, that they did not stipulate it. Now you guys came up with this $89 million kind of a late hit. I am sure——

Mr. DEUTSCH. Eighty-nine billion.

Mr. KINGSTON. Eighty-nine billion. I am sure they would hold it up and say what are we going to do? You know we got to get off the book deal on GINGRICH, come up with a plan this year. Well, you know, here is a program for us. We are going to go ahead and jump on Medicare.

You know, to my friend, the distinguished lawyer, I want you on the team. You have a lot to offer, and I am sure that with all the intelligent men and women on your side of the aisle and on our side of the aisle we could do what is right for mom and dad. We can give them that choice of physician. We can give them the plan that is going to be there tomorrow. We can let them have the same choices we have when we go into our insurance situation, and we would not have to tell them, you stay with that 1964 Blue Cross plan that we designed for you because you are not driving that 1964 Chevrolet Biscayne any more. We want to bring you into the nineties on health care.

That is what we are trying to do, and I think itself so irresponsible for us, and it is really just tacky, and it is not what we are sent here to do, is to say, oh, look what's happening. This is a tax cut for the wealthy and so forth. So I will be glad to yield to my friend when I get some time later on.

□ 2230

SENTIMENT AGAINST REPUBLICAN MEDICARE PLAN RUNS HIGH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, if we want to deal with the war of the newspaper clippings, let me read a few headlines: "House GOP Medicare Bill Wins Over Doctors with Hidden Enticements, Promise of Profits," "Keep Nursing Homes Standard," "GOP Medicare Bill Seems to Favor Fraud."

Washington Times, not a liberal newspaper in this town: "Ride for Doctors," "Beneath the Surface, the Health Care Plan is Offering Booms," "GOP Changes May Be Worth Hundreds of Millions to Doctors and Hospitals."

Let us see what else we have here. "Bills Would Relax Federal Controls on Nursing Homes."

So, let us deal with it. There are lots of newspaper articles and lots of commentary about the Republican plan.

Mr. Speaker, tomorrow we will vote and the Congress will vote to cut $270 billion in Medicare to pay for a $245 billion tax cut for the wealthy. I will vote against it. I will vote against it, because the people that I represent have asked me to vote against it. My constituents have sent me petitions, they have called my office, they have written heartbreaking letters, all to tell me to vote against the Republican pay-more-get-less plan.

I want to share some of their thoughts and feelings here tonight. Let me hold up this stack of Medicare questionnaires that have been collected throughout Connecticut's third district by wonderful senior volunteers.

The question put to my constituents was, would you support a plan to cut Medicare in order to finance a tax cut? The overwhelming response was no. In fact, more than 12,000 petitions were collected by our Medicare team captains in a little over 5 weeks. That is 12,000 signatures opposing the Medicare cuts.

The sentiment against the Medicare cuts runs high. Let me read a letter from Helen Patent of New Haven, CT, because I think that she speaks for so many seniors.

She writes, and I quote, "I am very, very upset that Congress wants to put such devastating cuts in Medicare and Medicaid programs. There are so many people that rely desperately on these programs. My husband and I are both very dependent on Medicare. After raising seven children, my husband is retired. We both have had triple bypasses within the past six years and have tremendous hospital, doctor and medical bills. Without the help of Medicare, we would have lost our house and all that we have worked so hard for. Please preserve our Nation's health care system to ensure that every individual has the right to health care now and in the future."

I say thank you kindly to Helen Patent for her letter. Helen and seniors like her all across this country depend on Medicare. They know that it works, and they do not want this Congress to destroy Medicare.

It is time for Congress to put the public interests before the special interests. Read the headline on this article.

But that is not what we have seen in this body when it comes to Medicare. In fact, in the last week, two groups came to Washington because they had concerns about the GOP Medicare bill. Members of one group were treated to a closed-door meeting with the Speaker; and members of the other group, they got arrested.

The first group was the American Medical Association. The AMA got a back-room deal worth billions of dollars.

The second group was the National Council for Senior Citizens. The National Council and the 15 seniors got a trip to jail. They closed the light in the hearing room, they put handcuffs on these senior citizens, they put them in the car, in the wagon, and they took them downtown to be arrested, and they held them for 2 hours. Yes, indeed, they did.

What was the crime of these seniors? They came to the people's House. That is where we are. We are in the people's House. They came here to ask questions about a Medicare bill that affects their lives every single day. They wanted to participate in our democracy.

Mr. Speaker, we serve at their pleasure. That is what we do, is to bring their voices here. They wanted to see the details of a proposal that has such a deep impact on their life.

Medicare cuts are not an abstract issue to American seniors, and these cuts mean pain for our Nations seniors.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2425, MEDICARE PRESERVATION ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–282) on the resolution (H. Res. 238) providing for consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program, which was referred to the House Calendar and ordered to be printed.

DEMOCRATS' FAIRY TALES REQUIRE A RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. LINDER] is recognized for 5 minutes.

Mr. LINDER. Mr. Speaker, I really did not come intending to speak on this, but I have heard so many fairy tales in the last 20 minutes that I thought it was worth responding.

Mr. Speaker, those poor seniors that came to the Committee on Commerce seeking information, only seeking information, made a phone call before they came to the police department in Washington, DC and said, what must we do to get arrested? They did it, and they were arrested. They were immediately released. That is a fact, and they were sent on their way because they in fact did disrupt a committee hearing.

We have heard a lot about doctors' hidden enticements in favor of fraud. Indeed, we even saw a previous speaker, who had an ad up, or an editorial up that headlined, Bribes for Doctors. I happen to be the only person in this room tonight that was actually in the room when that discussion was held.

Doctors are given back, over 7 years in prospective revenue to doctors, $26.1 billion. The original conversion factor that the House provided for them, which I believe is $24.60, was changed to the Senate conversion factor of $35.42, and that difference is $300 million. The House decided to agree with the Senate in terms of the conversion factor.

That is what they call a bribe. That is hardly what the National Council of Senior Citizens would argue that they got, those very seniors who came seeking information, which was 70-some million dollars.

Ninety percent of their entire operating budget comes from the, taxpayer to come and lobby the taxpayer. In point of fact, the Republican proposal for saving Medicare has no cuts to beneficiaries. None. Every single beneficiary can choose to stay in the same, system at the same service, at their same doctors.

Mr. Speaker, we do reduce revenues to providers, both hospitals and physicians, although we reduce it less than the Clinton proposal and the Democrat proposal. We do provide major—major—fraud, bribery, kickback, false filing, false swearing, major fraud provisions and we believe that, between the provider reductions, the hospital reductions, and the fraud provisions—plus those seniors who choose to opt out of current Medicare and into a Medisave account, into a high deductible and private insurance account with a medical savings account—we think, and the Congressional Budget Office believes, that 25 percent will opt out.

The Congressional Budget Office tells us that with those opting out and the savings to providers and fraud, we will save $270 billion. We are delighted with that. None of that constitutes a reduction of a single dime in terms of a provider benefit.

On part B there are some things that are slightly different. Part B is the doctor portion to pay for doctor visits. Currently the law says they pay $46 per month. It is a tax, really, off their Social Security benefit of $46 a month for part B. That constitutes them paying—our seniors paying—roughly 31.5 percent of the cost of their part B. We propose to keep it there.

Most of the seniors that I talk to are not proud of the fact that their grandchildren are paying 68.5 percent of their benefit, but that is something that has been established here over the last year in the formula. The Republicans intend to keep it there, at 68.5 percent subsidy of seniors part B. We know that costs go up with increasing seniors and with inflation, and so the typical senior is going to expect to raise their part B contribution; that 31.5 percent that they choose to pay is going to raise about $7 a month over 7 years. In fact, the Democrat plan goes up nearly as fast, but from a lower base.

Mr. Speaker, it is time for us to understand that most of America now agrees with us that Medicare is going to be bankrupt in 7 years if we do not make changes. This year, this year, for the first time—we will be giving to you to spend more money, on part A than we bring in.

Now, it is true, it is true that Medicare has been said to be running out of money in the past, several times in the past, and sometimes in the past running out of money in shorter than 7 years. The Democrats' proposal was to raise taxes on our children and grandchildren 23 times in 27 years. We propose not to do that.

REPUBLICAN MEDICARE PLAN WILL DESTROY MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. NADLER] is recognized for 5 minutes.

Mr. NADLER. Mr. Speaker, before a Democratic Congress against almost total Republican opposition enacted Medicare into law in 1965, one out of every two senior citizens had no health care coverage at all. Today, with Medicare, 99 percent of senior citizens have health security. The drastic cuts the Republicans propose in Medicare, $270 billion, would savage the Medicare Program.

The Republican Medicare bill will make older Americans pay more and get less, not to prevent Medicare from going bankrupt as they falsely claim, but to finance a huge tax cut, $245 billion, for the very wealthiest Americans.

The Republican plan will, among other things, according to the Washington Times, so increase the Government's burden of proof in prosecuting Medicare fraud that the Government would lose about one-quarter of what it recovers from the crooks and the cheats today.

The Republican plan will increase out-of-pocket costs for all seniors. It will double premiums and increase deductibles. It will reduce reimbursement rates to doctors and other health care providers so much as to drive many doctors out of the Medicare system and endanger the quality of care provided to seniors. Altogether, the Republican bill would cost the average beneficiary at least $2,825 in premium and co-payment increases over 7 years, and the average couple at least $5,650.

Americans must know the truth: that the Republican Medicare cuts will go straight into the Republicans' tax cut for the wealthiest Americans.

The Medicare trustees tell us Medicare needs $90 billion, not $270 billion, to remain solvent. The Republicans tell us we have ample funds to balance the budget in 7 years, and still pay for a $245 billion tax cut. If the Republicans are not lying to the American people, if their purpose is, as they say, to save Medicare, why not simply reduce the size of their tax cut for the wealthy by $90 billion and place the revenues saved in the Medicare Trust Fund? There is no need to force seniors to leave the doctors they know and to join unfamiliar managed care plans. There is no need to double part B premiums. There is no need to increase copayments and deductibles by thousands of dollars.

Mr. Speaker, to our Republican colleagues we say, simply take $90 billion from your tax cut for the wealthy and put it into the Medicare Trust Fund. You will still have a $155 billion tax cut for your wealthy friends and contributors. Is that not enough? Or is the full $245 billion gift to the very rich so important that you must destroy Medicare in order to save it?

The New York Times recently published an article detailing some individual cases, where even with the help of Medicare, medical costs are already devastating the financial stability of many seniors. Take, for example, Susie Meabe, a 78-year-old woman from Florida. The Times reports, "Out of the $6,600 she gets in Social Security a year, she pays $1,116 for supplemental insurance, $553 for Medicare, and $1,000 for prescriptions. She is left with $328 a month to pay her rent and to live on."

How can the thousands of seniors like Mrs. Meabe be asked to finance a tax break for the very wealthiest Americans?

Here are just some of the many thousands of letters I have received from my constituents opposing these cuts, and there are very many stories of people who cannot possibly imagine being asked to pay more.

Mr. Speaker, this bill is a sneak attack on Medicare. The Republicans did not campaign last year on a platform of savaging Medicare. They did not tell the voters they would double Medicare premiums and increase copayments and cut Medicare by $270 billion. Then they kept their bill secret until last week, in the hope that the American people will not find all of the jokers hidden in the fine print until it is too late, until the bill is passed, the deed is done, the money for the $20,000 tax cut for people making $300,000 a year is provided.

□ 2245

Mr. Speaker, the American people know how to react and deal with sneak attacks. We have endured sneak attacks before. Admiral Yamamoto is reported to have said on December 7, 1941, after he received the congratulations of his subordinates for the successful sneak attack on Pearl Harbor, "Gentlemen, I fear we have awakened a sleeping giant and filled him with a terrible resolve."

If this sneak attack on Medicare passes tomorrow, the American people will again be filled with a terrible resolve and they will know how to repay the attackers.

RENEWING MEDICARE COMMITMENT

The SPEAKER pro tempore (Mr. BUNN of Oregon). Under a previous order of the House, the gentleman from Oklahoma [Mr. WATTS] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. WATTS of Oklahoma. I yield to the gentleman from Georgia.

Mr. KINGSTON. We are trying to elevate this debate and I just heard that the Republican Medicare plan is the same as the Japanese attack on Pearl Harbor. I really believe you owe my father, a World War II veteran, and most Medicare recipients an apology for such a statement. I am offended by it. I think the veterans of America are offended by that.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. WATTS of Oklahoma. No, I will not yield, Mr. Speaker. I have only got 5 minutes and I have got to get up in the morning, so I want to get my 5 minutes out of the way.

Mr. Speaker, I believe the people of the Fourth District of Oklahoma sent me here to Washington to work for what I believe in and talk about what I believe and since coming to Washington in January, I think that I have been doing just that. But tonight I would like to change pace and talk for a moment about what I do not believe.

First, I do not believe that there is a single Member of this body who does not understand how important Medicare is to his or her older constituents.

Second, I do not believe there is a single Member of this body who does not understand that the Medicare system is going to run out of money if serious reforms are not enacted.

Finally, I do not believe there is a single Member of this body who would craft a bill to cast a vote that places the health care of America's senior citizens in jeopardy.

In 1965, the 89th Congress made a commitment to older Americans when it enacted the Medicare Program. At that time, health care for the elderly became part of our Nation's basic social contract with her citizens.

Today, with Medicare facing bankruptcy, that commitment is in serious jeopardy. Tomorrow we have the opportunity to do something about that. We have the opportunity to renew our commitment to older Americans and an opportunity to revive a Medicare Program that is seriously in danger of default.

The plan to save Medicare that will be considered on the floor of the House tomorrow is a responsible and desperately needed measure that addresses the serious financial problems facing the Medicare Program.

The rhetoric has run high here in the Chamber on the subject of Medicare but I ask the American people to stop and think for a moment. Every single Member who has worked on drafting these reforms and every single Member who supports these reforms has constituents, family, and friends who will be affected by the actions that we take.

I have heard Members in this Chamber say the reforms that we are proposing will be cataclysmic for our constituents. I have heard these reforms will be a monumental failure. I have heard these reforms will destroy the medical care system that we have put in place for our Nation's senior citizens.

I do not believe it, Mr. Speaker. I do not believe it, because it simply is not true. The Members who support these much needed reforms represent tens of millions of senior citizens who vote, who work on our campaigns, who trust us to do what is right. More than that, many of these golden-agers are our parents. Each of us takes that trust very seriously. That is why we have crafted a bill that guarantees that older Americans will have a viable and secure Medicare Program now and in the future.

Furthermore, we also have to work to preserve Medicare to the next generation, those baby boomers who are currently watching this debate and will fund this program until their retirement. It makes no sense to do otherwise.

I urge my colleagues to support the plan to save Medicare and maintain the contract we signed 30 years ago with America's senior citizens.

VOTE AGAINST REPUBLICAN MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I urge my colleagues to vote against the Medicare bill tomorrow.

I am a senior citizen. I understand the issues in this bill, and I want to say to you, much of it is mendacity, in that what has happened here is that the senior citizens of this country are being sold a bill of goods and it is not right. Do not think that they are crazy. They are sophisticated. They understand that they are not getting full treatment here. They understand that they will not be able to get the high quality of care that they are getting now.

We could not bring a chart in front of every one of them here and prove to them that they are going to get the same quality of care when this bill passes, if it does, that they are getting now. So they know better.

The so-called Medicare Preservation Act of 1995 raises more questions than it answers. The Republican plan is really not tough on waste, fraud, and abuse because first of all it fails to really criminalize waste and fraud in the bill, and it does not give the high quality of care that I just talked about.

The burden of proof should not be placed on the Government, but it is in this bill. In terms of knowing why the Republican leadership raises premiums for the elderly at the same time that it makes it easier to rip off the Medicare system, I cannot understand.

One of their own Members here in this article from the Washington Times, a Republican ex-prosecutor upset by handling of the program's abuse, and I quote, he said here that "I support the GOP Medicare reform generally but the fraud and abuse provisions are woefully inadequate. It fails to criminalize Medicare fraud, it raises the threshold of proof necessary to convict a doctor, hospital or other care providers under Federal anti-kickback statutes."

It is important that we know, that seniors know what is going on, they are aware of these things and we must be sure to keep saying it.

My constituents want to know why the Republican leadership bill will cut Medicare payments to hospitals that serve the poor. For years and years I worked in the Florida legislature to be sure that a proportionate share was given to those hospitals who serve the poor.

My constituents want to know why the Republican leadership is cutting Medicare by $270 billion so that there can be a $245 billion tax cut. Let me tell you how the Republican leadership plans to increase Medicare premiums will affect a constituent who wrote to me last month. She is 69 years old and her husband is 67. Their monthly income is $811 from Social Security. She pays a rent of $475, utilities of $150, and insurance of $98. That leaves the couple $88 a month in cash along with $96 in food stamps for everything—else, for food, for clothing and for all medical expenses—that they have to pay out of their own pocket. She has cancer and her husband has diabetes and cancer. The Republican leadership bill says, that the part B Medicare premium which under current law would be $43 per month, next year will rise to $54 a month— next year—and continue to rise until it reaches $87 a month 7 years from now.

How is my constituent going to pay that? An extra $11 a month next year may not seem like a lot of money to the people getting those big tax cuts but let me tell you: It is a lot of money to an elderly person. If you do not believe it, just talk to them, that has only $88 a month for food, clothing, and prescription drugs.

Why does the Republican leadership want to raise Medicare premiums at the same time it is retreating in the war against Medicare fraud and abuse? That is what my constituents want to know. One of them called my attention to a recent report by Citizens Against Government Waste, an organization that has 600,000 members. The report is called Medicare Fraud: Tales from the Gypped. This report gives examples of Medicare fraud from all parts of the country.

Why is it we do not strengthen these laws instead of weakening them as Republicans do in this bill? FBI Director Louis Freeh has testified that cocaine distributors in southern Florida are turning to Medicare fraud. We need to strengthen that in the Republican bill instead of weakening it. It is so important that you realize that senior citizens in Florida and in other States must be given an opportunity for quality care: not a three-tiered level of care but one level of care that everyone can make their quality of lives much better.

I could go on and on, Mr. Speaker, but there is an epidemic in this country of people who want to beat the system. Why should we make it better? Why should the Republican leadership do this?

There are a majority of Republicans who voted against Medicare, Mr. Speaker. Why is it now they are such proponents of Medicare? We should kill this bill tomorrow, Mr. Speaker.

PRESERVING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my friend and colleague, the gentlewoman from Florida, bemoan what she feels to be inadequacies in the new majority's plan for Medicare reform.

Let me point out to the gentlewoman and, indeed, other members of the minority who may share her concerns that this majority is listening. As a matter of fact, the gentleman from New Mexico [Mr. SCHIFF] will offer an amendment tomorrow, I think more than symbolic, I think symptomatic of the fact that we address that we have a serious problem here and we are looking for legitimate ways to solve it. So be on the lookout.

Mr. Speaker, I trust the gentlewoman from Florida will join us, as will many of her colleagues on the other side, to vote for a responsible amendment to add even more fraud and waste abuse prevention.

Let us tell you what the plan is doing right now even without the Schiff amendment. Here is what we are doing in the plan to strengthen Federal efforts to combat waste, fraud, and abuse in the Medicare Program.

First of all, we are providing monetary incentives for individuals who report a violation that results in savings to the program. Second, we are doubling sanctions for filing false claims or committing fraud. Third, we are authorizing direct spending from Medicare trust funds for the OHS Inspector General.

Again, let us address the fact that we will deal with waste, fraud, and abuse. Some steps are taken, even more steps will be forthcoming tomorrow in the amendment offered by the gentleman from New Mexico [Mr. SCHIFF].

It has been interesting to hear some of the debate tonight. While good people can from time to time disagree, and ofttimes we do in this Chamber—as is our right, being American citizens—I did listen with interest to one of the Members compare this with the Japanese attack on Pearl Harbor. That has no place in this debate. That has no place whatsoever.

The gentlewoman from Florida used the term "mendacity" to talk about the new majority's plan. Mendacity, to those building word power—the gentleman from Ohio went and checked the dictionary—and it refers to deceit or lies.

The facts speak for themselves. The Medicare trustees' report issued by a bipartisan group said the Medicare trust fund goes broke in 7 years if we do not move to solve the problem.

Mr. Speaker, one of my friends from Pennsylvania pointed out that when this Medicare bill was passed in 1965, only 7 percent of the then-minority party, the Republican Party, voted for Medicare. I guess we could play historical one-upmanship. I guess we could come in and say, which party controlled the Congress when the slaves were freed, which party controlled the Congress when women were given the right to vote. In both instances, the Republican Party controlled this Chamber.

But we are not here to play historical one-upmanship. For the question is not who created a program; the question is, who is willing to step forward to protect, preserve, and defend a program? The fact is, we have to move now deliberately to save this program. Band-Aid approaches will not work.

I do champion the fact that at long last our friends on the other side have offered a plan. One newspaper analysis called it "a deathbed conversion." After months of saying, "Do not do anything, things are going fine, do not change the system, then, suddenly, in the last nanosecond of the 11th hour, the new minority steps forward and says, "Well, yeah, there has got to be a change, but not too much of a change."

When the canard that failed to work, that these savings were somehow going to tax breaks, when that canard failed to sink in with the American people, then they said, "Well, we have to look for a plan." It is a plan, regrettably, symptomatic of the politics of the past, for what it calls for is a Band-Aid approach.

Let us get through the next election and maybe, if we are lucky, a few years beyond that. Believe me, when it comes to electoral health, I think everyone's impulse would be, gee, if we did not have to deal with the problem, we would not want to, but the fact is we are elected to govern. It is our responsibility to save this program, reasonably, rationally. We passed a budget plan. We took care of the tax cuts way back in March. We have paid for the tax breaks. Even if the budget were balanced tomorrow, we would still have this problem with Medicare.

Mr. Speaker, friends on the other side, we may disagree. But it is incumbent on all of us to look to preserve a program for the future, and Medicare Plus does that and more. It offers choice. It offers freedom to the American people to choose the doctor they want and the health care plan they want. That is why I urge my colleagues to join with us in a bipartisan fashion to reform Medicare in the years to come.

AGAINST THE MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, tomorrow the House will consider the Republican bill to dismantle Medicare. We should be not at all surprised, because 93 percent of Republicans voted against Medicare when it was created in 1965. Even the Republican leader in the other branch, the Presidential candidate, BOB DOLE, cast one of those no votes.

□ 2300

Republicans have waited 30 years for their chance to dismantle Medicare. So who is backing them in this effort? Well, first off, private insurance companies are thrilled because they stand to make billions of dollars. It is insane to turn over billions of Medicare dollars, tax dollars, to insurance companies who will waste about 25 cents of every Medicare dollar on profits and administrative costs, when the current Medicare system only spends about 3 cents of every dollar on administrative costs. That takes senior citizens' health care dollars and gives them to insurance company profits.

Who else is with the Republicans? Well, the American Medical Association. By the way, they also opposed Medicare when it was created. But the October 12 headline in the Wall Street Journal tells the whole story there, and I quote, "House GOP Medicare bill wins over doctors with hidden enticements, promises of profits."

Republicans are not talking about comprehensive health care reform this year. They are cutting $270 billion out of the Medicare budget to pay for a $245 billion tax cut package. More than half of the tax cuts go to persons who make over $100,000—hardly people who are needy—while 75 percent of the seniors covered by Medicare live on less than $24,000 a year, and they are going to be the losers.

The Republicans are going to rob middle- and low-income seniors of their choice of doctors, access to hospitals, and high-quality health care to give tax cuts to a handful of wealthy Americans. It is unconscionable.

The Republican bill is bad legislation. The Republicans know it cannot stand up to scrutiny. That is why they are making a mockery of the legislative process. No opportunity for comment from the 37 million affected Americans and they will ram this through the House in just a few short hours of debate. That is why I held Medicare forums in my district: so my constituents could be heard. And I did hear from seniors, their family members, hospitals, doctors, nurses, home care providers; and these wonderful people shined a very bright light on why the Republicans need to gag the public in order to ram their bill through.

Let me tell you what people have to say. Two working women with mothers in their 80's told me their mothers receive home nursing care covered by Medicare. This care allows their mothers to remain in their homes. Without this care these working women would either have to quit their jobs and become nurses or spend every penny they have to pay for a nursing home. It is not small change, because nursing home care averages about $40,000 a year.

Doctors told me that these cuts will force them to make unethical choices every day. Doctors will have the technology to alleviate pain or improve the quality of life but they will not have the money to use it. It is called rationing, and doctors will be forced to do it every day.

To their credit, the Massachusetts Medical Society has broken ranks with the AMA and does not support this bill. And the director of elder services in Berkshire County shared the following story with me and the one I want to leave you with.

In Ashley Falls, Phil and Agnes are waging a battle with her advanced Parkinson's disease. Both are determined to stay together at home, but her current care needs demand so much of Phil. Her disease prevents any movement. Through the VNA, Agnes' Medicare provided home health care aides once each day and physical therapy twice each week. Elder services provides respite for Phil twice a week. A home health care aide cares for Agnes so Phil can shop and run errands and maybe even go to the doctor himself. Medicare does not cover it all. Phil does feeding, toileting, and dressing for Agnes as well as laundry, cooking, and cleaning, but assistance the Medicare-funded aide gives daily makes this huge task doable. There are no children to help.

I do not know, but how do the Republicans think this couple is going to manage? The truth is, they are not thinking about the human consequences of this enormous Medicare cut. The truth is they just do not care what happens to Agnes and Phil. And for those reasons, I intend to vote tomorrow against their bill.

SENIORS NEED NOT BE SCARED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. SMITH] is recognized for 5 minutes.

Mrs. SMITH of Washington. Mr. Speaker, I have been listening tonight and listening to some of the statements I have heard. And I have worked with the elderly for years, chaired the long-term care committee in our State, have worked in the nursing homes and delivered meals to the elderly in their homes. And tonight I think there is a whole lot of calls that need to be made into our districts from 430-plus legislators telling these people the truth. We can argue over the future. We can argue over our assumptions, but we have to tell them the truth.

When I heard tonight a quote from an older lady saying, and this was from the lady from North Carolina, from a person in her district, she said, without Medicare I will have nothing. I pictured faces that I know.

I hope that the woman from North Carolina assured her there was nothing before Congress that took away her medical care, because what I could picture is them listening to all of this and believing their medical bills are not going to be paid next month or next year or the next year. And I think the important thing is that we all tell them, please, do not be frightened. We are trying to save this system. And it is important that you know you do not have to be frightened. Because you see, what you are saying by not calling them and telling them we are talking about systems, we are not talking about tomorrow for you, what you are doing is you are scaring them. And you need to tell them they do not have to worry. If you do anything less than that, you are using the elderly for your political gain, whether you are Republican or Democrat. And that is so shameful to these vulnerable people, sitting in their homes listening to TV night after night, listening to this.

I also heard earlier, we are going to dismantle Medicare. No. That is not true. No matter who says it. No matter who is listening, that is not true. The good thing that happens with untruths is the future proves them out. If after this vote next month you find out by a letter in the mail, a proclamation in the newspaper, that Medicare has been dismantled, then you know tonight what was said here was true. But you will find next month, time is going to show that is not true.

If next month all of a sudden you are required to have a great co-pay or you are forced into some system you do not want, then you will know what was said tonight is true. But let me tell you what you are going to find.

No one should be frightened, if you are sitting in your home, if you are just not sure, do not be frightened. The trustees report in February frightened me. I was a new legislator. I had got that Presidential report from his trustees when it said Medicare was going to be bankrupt. And I thought, I have heard every so many years Medicare is going to go bankrupt and I do not agree with it. I cannot believe it. The Federal Government has a lot of money and they will make it work. So I started going through it on a flight home. Takes me about 7 hours to fly home to the west coast.

When I got done with the actuaries, and I do know how to read these reports, I found out it was true. The amount of imbalance is not sure. It is hard to tell how long I will live and how much we will take out of it or what health care costs will be, but for sure it is not stable. Some say it is, $100 billion, some say $200 billion. It is just not stable.

One thing that is for sure is middle of next year we start draining that trust fund, the money we have put in, and we take more money out than goes in. We know that for sure. But I resolved, when I read that report, that I was going to join an effort that would stabilize it, secure it, and then I found out something else. You cannot secure it after 15 years. I am 45. When I hit Medicare, I am with the baby boomers. I blow it up.

There are two-to-one, my two, I have six grandkids and I have enough. Some people do not have enough. And they cannot sustain the number of elderly that will be on it. But for right now, I want to make a commitment.

I will tell you, do not worry. It is going to be stabilized and this is a responsible approach tomorrow. And you will have Medicare tomorrow, next week, and next year.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I yield to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, again, I appreciate it because I have asked four times for my colleagues on the other side to yield for a specific question.

In response to statements that were made from four different of my Republican colleagues, I think it is symptomatic that they refuse to yield, that they refuse to engage in a dialog on this issue because the truth is, the truth is on our side. It is the old maxim: When the truth is on your side and you have the facts, that is what you argue. When the law is on your side, that is what you argue. And when you have nothing, all you do is argue.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. BUNN of Oregon). The gentleman from New Jersey [Mr. PALLONE] controls the time.

Mr. DEUTSCH. Mr. Speaker, if we can focus in on this chart, the facts are that in the 30 years of the Medicare system, for 12 of those 30 years there was less of an actuarial life than there is today; less than 7 years, 12 of the 30 years. This is not a crisis that all of a sudden erupted. That is the nature of insurance programs.

Contrary to what my colleagues have said, we took some tough votes in my first year in the Congress. We took a tough vote to change some of the actuarial problems in the system. We can do that again. But we are choosing not to. This program that is going to pass this House tomorrow has nothing to do with saving Medicare. It is a flat-out lie. The $270 billion number is a flat-out lie. That has nothing to do with the trustee report.

Mr. HOKE. Mr. Speaker, will the gentleman yield?

Mr. DEUTSCH. Mr. Speaker, no, I will not yield.

What the Republican plan is doing is creating a false choice for Medicare beneficiaries throughout this country. What they are doing essentially is a false choice because if the Medicare reimbursement, traditional Medicare, becomes so low—and balanced billing is eliminated—which it will be, which will allow physicians to charge whatever they want, where today they cannot and protect senior citizens—over 30 million Americans—when that changes, seniors will be forced into HMO's, not by choice. It will be a false choice. They will be forced into HMO's.

Let me just conclude that seniors in this country believe that Republicans want to save Medicare probably as much as the Jewish community in this country believes that Farrakhan should be the head of the Jewish Federation. It is just not a reality. I think this chart and the outright distortions that have been made on this floor this evening and will be made tomorrow, the numbers speak for themselves.

I thank the gentleman for yielding time.

Mr. PALLONE. Mr. Speaker, let me point out that one of the major trustees, Secretary of Treasury Rubin, when he sent a letter to the gentleman from Missouri [Mr. GEPHARDT] on September 21, 1995, he said in the letter, simply said, "No Member of Congress should vote for the $270 billion of Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis."

□ 2315

Basically what is happening here, and I will say it again, is that this level of cuts—$270 billion—is needed to pay for the $245 billion tax cut for the wealthy that the Republicans are going to propose next week. Our offices and my office have been flooded with calls and letters from senior citizens protesting these cuts. I know one of the previous speakers said that seniors should not be scared. They should be scared because this is going to devastate the Medicare Program, and if I could just point out, I mean I have been getting hundreds, if not thousands, of letters. Here are just some of them from my constituents complaining and concerned about these Medicare cuts the Republicans are proposing.

Mr. Speaker, I do not have a lot of time, but I just want to point out one thing that I think is really important here tonight and for tomorrow when we take the vote on this bill. These cuts in the Medicare Program, what they are going to do is squeeze Medicare so much that we will no longer be able to provide quality health care in this country for senior citizens, and the squeeze, the loss of money in the Medicare Program, is going to hurt the health care system across the board in New Jersey. We will see hospitals close. We will see services cut from hospitals and other providers because there is going to be so little money available to the Medicare system.

The reason I mention that is because today in the State legislature in the State of New Jersey in Trenton a number of the Democratic legislators took to the floor and pointed out that because of all the cuts that the Republicans are making in Medicare what is going to happen in New Jersey and probably in a lot of other States in this country is that States are going to have to raise taxes to make up for the loss in Medicare funds that we are imposing here, and that is simply not fair. It is simply not fair to the citizens of New Jersey and to a lot of other people around this country when we see this Medicare Program deteriorate and States having to make up for the funding loss.

MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HASTINGS] is recognized for 5 minutes.

Mr. HASTINGS of Florida. Mr. Speaker, as the Republicans in Congress move toward their goal of reducing the Federal deficit at any cost, they are about to approve deep, unprecedented cuts in the financing and delivery of health care to our Nation's elderly and poor. These cuts will be far deeper, and have far greater consequences than the proposed cuts in almost any other part of the budget, totaling $270 billion over 7 years while financing a tax break for the wealthy.

Since 1965, the Federal Government has provided a minimum standard of health care for all eligible citizens through the Medicare Program. Republicans in both the House and Senate want to end this national commitment by terminating the individual Federal entitlement to Medicare coverage. In my State of Florida, 2.6-million-plus older Americans will find that their health security is threatened by the GOP proposal. In fact, over the next 7 years, Florida stands to lose $28 billion from Medicare.

Mr. Speaker, I represent seven counties which cover central and south Florida. I am concerned that these draconian cuts will overwhelm my district, and the Nation. In Dade County alone, $4.8 billion in Medicare funding would be lost over a 7-year period. What does this meaning for recipients? It means that each of Dade's 285,900 beneficiaries who want to stay with the current fee-for-service Medicare Program would face an average of $5,575 in additional out-of-pocket costs over 7 years. For a couple, that figure rises to $11,150 over the same 7-year period. Obviously seven is not a lucky number for Floridians. In fact, I don't think there are any lucky numbers in this debate except, of course, the $245 billion tax cut for the wealthy.

You see, Mr. Speaker, regardless of their income or health, senior citizens who depend on Medicare will see their out-of-pocket-costs increase. This is pure egalitarianism. And in health care, there really is no such thing. No two people have exactly the same needs or need exactly the same care. The GOP proposal does not take into consideration particular merits, efficiencies, or needs of the recipients. Each senior will receive an equal share—each of which is underfunded. The majority in Congress wants to give our seniors a voucher and let them shop around. But how appealing is a market of lower reimbursement fees, higher premiums, and reduced benefits?

Perhaps we, as a nation, should be looking at needs of people instead of numbers of dollars. The bottom line should not only apply to reductions, it should also reflect the effectiveness and efficacy of our seniors' needs. Mr. Speaker, Congress should eschew expensive and frequently ineffective efforts to rescue Medicare. But I'm not at all sure that turning Medicare over to the private insurance industry is the answer. Contrary to the majority's belief in the private sector, all that glitters is not gold. And frankly, if this proposal is implemented, I'm afraid of how quickly our golden years will turn black.

Republican cuts in Medicaid are equally disheartening. The formula used to develop the Republican plan is soaked in demographic denial—it ignores Florida's status as a growth State. Under the Republican proposal, the annual Medicaid growth rate would be capped at a percentage far below what the State would need to take care of its underserved and unserved population. The consequences of block granting Medicaid are bleak, with the combined effects being forced hospital closings and uninsured Floridians. Even worse, the determining formula is based on outdated figures which penalize growth States. Thus, in Florida, the total number of individuals on Medicaid will grow by 10 to 12 percent a year. However, the Republican proposal will only allow Medicaid to grow at a rate 6 percent—about half the current 10 percent growth rate. Governor Chiles understands that cuts of this magnitude would harm Florida and agrees that block granting Medicaid under this formula is a terrible idea.

I strongly support efforts to improve efficiency, provide greater program flexibility and cost containment in Medicare and Medicaid proposals. However, a reasoned path toward these reforms is necessary and the Republican proposal to cut Medicare and Medicaid in order to cut taxes for affluent Americans is seriously flawed. So-called reform of this magnitude merits caution, careful debate, and deliberation. Let's not misdiagnose the financing and delivery of health care services to our Nation's elderly, disabled, and poor. The current proposal to block grant Medicaid and cap Medicare reimbursement will devastate millions of vulnerable Americans who look to the Federal Government to honor its long time commitment to public safety, security, and well-being.

WE ARE GOING TO FIX MEDICARE TOMORROW

The SPEAKER pro tempore (Mr. BUNN of Georgia). Under a previous order of the House, the gentleman from Michigan [Mr. CHRYSLER] is recognized for 5 minutes.

Mr. CHRYSLER. Mr. Speaker, the trustees' report clearly does say—and you can read it in it—that there is $140 billion that is needed for part A and $140 billion that is needed for part B. That is $280 billion. Those are the trustee numbers.

Now to come up with an irresponsible number of $90 billion, which has been done for the last nine times, in order to save Medicare is, in fact, just enough to save Medicare for the next election; which has been what has been going on for the last nine times and usually raising taxes to save it for those last nine times; and so Members ask why are we doing this so fast? Well, the trustees' report also says that we are going to start spending $1 billion more than what we take in next year. That means starting October 1 of, in fact, this year.

And they also say we have only had one hearing on this. Now I know of 38 hearings that we have had in the House, 18 of them in the Committee on Ways and Means. I have testified personally at three of those hearings, and in fact I remember there were at least two of those hearings out on the lawn by the people from the other side of the aisle.

One billion dollars more than what we take in next year and totally bankrupt by the year 2002. That is why we need to save, and protect, and preserve Medicare, and it is absolutely irresponsible not to put forward a plan to do that. And only in Washington, DC, will they call a $1,900 increase a 40-percent increase; going from $4,800 to $6,700, clearly that is an increase; only in Washington, DC will they call that a cut.

Now my dad used to say to me that liars have short legs, which simply means you cannot outrun the truth, and the truth will prevail.

Now you can keep your Medicare System under the better Medicare System just exactly as it is with no increase in co-pays, no increase in deductibles, and no increase in premiums. But let me tell you what the Medicare System is. It is a 1964 Blue Cross plan that has been codified into law, and senior citizens deserve better. Certainly they deserve better than the 30-year-old health program. They deserve choice: choices like managed-care-type systems, choices such as point-of-service, choices such as medical savings accounts, which is a free-market solution to the health care program in this country and puts the consumer back in the loop, which is what has been missing all of these years from health care. It has been too long that insurance companies and doctors and hospitals have been telling us what is reasonable and customary for health care, and it is time that we had the consumer back in this health care process, this health care equation.

Someone said that the seniors had choice when they have the Medicare System. Well, certainly they can still have their Medicare System, but more and more doctors are opting out of that Medicare System as it has been created in the past. What kind of a choice is that?

We also do need to do something with the waste, fraud, and abuse. Forty-four billion dollars of waste, fraud, and abuse, and this better Medicare System in fact addresses that issue.

We also appoint a commission to study the long-term solutions for the Medicare System when the baby-boomers come into this system beyond the next 7 years.

And now, there has also been a lot said about tax cuts. First thing we have to understand: that we are talking about the people's money, not the Government's money, and what we are saying is that, if you have two children, that is a thousand dollars that we want you to keep—hold onto it, keep it in your pocket, do not send it to Washington. This is not money we have in Washington that we are going to send back to someone because, if you keep it, you will always make a better decision how to spend it, a much better decision than government, and also 77 percent of the tax cuts that we are talking about are for people that earn less than $75,000 a year; and it would not matter whether we had a balanced budget or not, we would still have to fix Medicare, and that is what we are going to do tomorrow when we vote to pass the better Medicare System.

MEDICARE REFORM LEGISLATION BENEFITING INSURANCE COMPANIES, NOT OUR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, tonight I rise to amplify the voices of my constituents in two ways. First of all, I am delivering 10,783 petitions gathered by community leaders in my district in opposition to the Republican Medicare legislation. These petitions say yes to Medicare and no to the $270 billion Republican cut in the Medicare Program in order to pay for tax cuts for corporations and the wealthiest of Americans.

In addition to that, Mr. Speaker, I have a letter from one of my constituents who is a physician who very eloquently and clearly presents the case for many physicians who oppose the actions of the AMA.

I have had serious objections to the substance of the Republican proposal and the process. By blanking out statements from my constituents and giving access to the AMA, I think a disservice was paid to the Americans who depend on Medicare. I was particularly appalled by the waltzing in of the AMA and the golden handshake they received, as opposed to the handcuffs the senior citizens received when they tried to make their concerns known.

My constituent, Dr. Levine, says as follows, and in the interests of time, Mr. Speaker, I will place this entire letter in the RECORD.

The letter referred to is as follows:

SEPTEMBER 27, 1995.

FAX memo to: Congressperson NANCY PELOSI.

Re Medicare "reform" legislation.

DEAR CONGRESSPERSON PELOSI. I am extremely concerned as the current Republican-initiated Medicare reform package goes through Congress, and I wanted to send you this letter in order to give you my perspective on the proposed legislation as a practicing physician in your district.

I have received literature recently from the AMA urging my support of the package, because they believe it to be "doctor friendly." Certainly, certain portions of the proposed legislation, such as long-overdue antitrust reforms, etc., appear to be doctor-friendly. But I believe that these colleagues of mine in organized medicine are fundamentally in error. Their error derives from the relative lack of many officials in organized medicine with actual experience with for-profit managed care. If these colleagues of mine were sufficiently so experienced, they would see the Republican proposals for what they really are—a scheme for forcing virtually all Medicare recipients into managed care.

I am not saying that managed care in principle is bad: I would be the first to agree that many of its goals in principle are wonderful. But let me share with you the reality of managed care in actual practice. First, insurance companies in California have been making a transition to for-profit managed care plans. This is because the profits they derive from these products are enormous. Basically, what managed care boils down to in practice is that the insurance company evades the basic job of an insurance company, which is assuming risk. Rather, in managed care, the insurance company simply skims off a healthy percentage of the premium dollar up front, and shifts all the financial risk of providing health care to the physicians and hospitals with which they contract. The insurance company has no downside financial risk, and in California organizations such as "Wellpoint," into which Blue Cross would like to convert all of its business, acknowledge that as much as ⅓ of the premium dollar goes to "administration" rather than patient care.

Faced with a diminishing piece of the premium dollar pie, physicians and hospitals dependent upon managed care dollars for survival are constrained to deny care to those in need. Primary care physicians are compensated by "capitation," meaning that they receive only a fixed monthly fee for caring for each patient. This fact has resulted in California in a lot more medicine being practiced by telephone. In addition, in many plans, a significant percentage of the primary care physician's capitation payment is withheld, with all or a portion of the sum returned to the physician at year's end, depending upon the "loss experience" of the group. And what "loss experience" means is simply that the more patients referred for tests, consultations, surgery, etc., the greater the loss experience. So there are powerful financial incentives built into the system for primary care physicians who act as "gatekeepers" for referrals, to deny care. In addition, managed care bureaucracies keep track of each primary care physician's financial track record, and have the right to terminate a physician whose loss experience is not to their liking. Managed care organizations are under no legal obligation to inform consumers of these facts when giving them a sales pitch to join an HMO. And if you look at the situation here in California, insurance companies have been aggressively advertising Medicare HMO products with offers that seem too good to be true. But in the end, in practice, what for-profit managed care organizations really do is to siphon money away from medical care, and redirect those dollars into multimillion dollar CEO compensation packages and huge bureaucracies. Do Medicare HMO's save the Federal Government any money over the existing system? Look for any proof of that; there isn't any.

When I look at the Republican proposals for Medicare reform, what I see first is that the deductible will be made so large as to make the overwhelming majority of Medicare recipients join for-profit HMO's who promise them a "no-deductible" plan. The business of other options such as medical savings accounts, etc. will never amount to anything in reality. I cannot understand why my buddies in the AMA cannot see that. If the California experience with HMO's is any indicator, there will be a merger and acquisition frenzy as larger HMO's swallow up smaller ones. More and more dollars will be spent on these mergers rather than patient care (When, for example, Health Net and Qual-Med merged, certain members of their respective boards of directors shared $110,000,000 in stock and cash "compensation"). What will result is an oligopoly of three or four huge insurance companies controlling all medical care. And the primary factor determining success or failure in any competition in this marketplace will not be quality of care, but simply the profit picture of the company, which is inversely related to expenditures on patient care.

It is for these among other reasons that I am highly wary of the Republican plan. I strongly suspect that the Republicans are primarily doing the bidding of a few huge insurance companies who plan to be the major players in the Medicare marketplace once it is "privatized."

From this perspective, I am also highly suspicious of the provision in the proposed legislation to limit noneconomic malpractice litigation awards. This may surprise you, coming as it does from a physician. But according to my malpractice insuror, in California the largest growth area in medical malpractice suits is in litigation against the formerly-low-risk-specialty of primary care for failure to timely diagnose and refer to specialists. Does this mean that managed care is changing practice patterns in primary care as regards the timeliness in which patients are referred for specialty care? I don't think that it takes a brain surgeon to figure that one out! Lawsuits filed against physicians are inevitably filed against the HMO's as well, and particularly after the 75+ million dollar judgment against Health Net in the marrow transplant denial malpractice case, the HMO's are quite aware that they have become the "deep pockets." From this perspective, I view such malpractice reform as contained in the Republican proposals primarily as a license for HMO's to be negligent, confident in the notion that a maximum $250,000 liability in almost all cases represents a relatively small cost of doing business. As more and more doctors become virtual employees of for-profit HMO's, they will realize that malpractice reform was primarily meant to benefit their employers!

Right now Medicare works well, returning a high percentage of dollars spent in actual benefits to recipients. The increased spending on Medicare is primarily a function of the aging of the population and the fact that advances in medicine have made possible the successful treatment of many conditions not amenable to such treatment in 1964. While I would agree that the system requires reform, I would caution you that the Republican plan is simply a scheme for diverting billions of Federal dollars earmarked for Medicare recipients into the hands of a few at the expense of many. If you are unsure of this, just try to introduce some elements into the legislation that would insure that a certain percentage of Medicare dollars are to be spent on patient care, and not diverted by profiteering insurance giants. You will find that your Republican colleagues will be spouting all kinds of pure garbage in defense of their true benefactors, who would love to be an unregulated industry!

Sincerely,

MARC A. LEVINA, M.D.

Mr. Speaker, I now yield to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. During the August recess I conducted 14 town meetings where I talked to over 3,000 of my constituents, and we in Florida understand that the $270 billion that the Republicans are cutting out of the Medicare budget to save it, we understand just what kind of savings that is, and in fact the 10 years I served in the Florida House we had a saying for it: That dog don't hunt.

Now I have a contract that I signed yesterday in Orlando, and I signed it with the people of the Third Congressional District, but let me be clear. I signed it with the people of Florida and the seniors of the United States, and my commitment is to them. We do not like that reverse Robin Hood that has been going on since the 104th have taken over. You know what I mean: robbing from the poor and working people to give a tax break to the rich; and I know that you all do not like that word "cut." Well, I have got a better word for you. Try "gut." You are gutting the program.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for her remarks, and I ask our colleagues to vote "yes" for Medicare and "no" for tax cuts.

THE FACTS OF THE REPUBLICAN MEDICARE PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, the fact of the matter is, Mr. Speaker, despite the comments you may have heard tonight from others on the House floor, Republicans do care—care so much for seniors, that we, in fact, passed on the House floor earlier this year rescinding of the 1993 tax on Social Security. We now have legislation we have adopted here in the House which will allow seniors under 70 to make more funds than the $11,280 they have been capped at, without having deductions from their Social Security.

Now let us look at perspective when it comes to Medicare discussion about how we got to this point. It was the President's trustees working with others who came out with a report in April which said that Medicare, if nothing happens with the program, will go bankrupt by the year 2002. You may say, well, how did we get to this point with health care going up 4 percent a year and Medicare going up about 10 or 11 percent a year? How did we get to that point? Well, the facts are we got to this point because we have $30 billion a year in fraud, abuse, and waste. We also have 12 percent of the costs of Medicare just going to paperwork.

So you say to yourselves, What's the solution? The solution is we cannot do nothing. We have to make sure the system is solvent and we have access to quality health care for our seniors. So what we have to consider is a program which would give seniors choice: continue their fee for services, if that is what they would like; the managed-care option, if they would like to have that, which would include such items as pharmaceuticals or dentures, eyeglasses, hearing aids. Also we have the possibility of the Medisave account whereby each subscriber now would get $4,800 toward their health care costs. If they do not use it all, keep the funds they do not use or roll it over until the following year.

□ 2330

One of the biggest problems has been the fraud, abuse, and waste. Under legislation which has been introduced by the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Connecticut [Mr. SHAYS], the penalties for fraud, abuse, and waste will be increased.

For the first time in the history of the Congress, we have had crime of health care fraud as an offense of the Federal Government, a 10-year maximum jail sentence. The provisions of the bill would in fact define the crime of illegal remuneration with respect to health care benefit programs. It would define the crime of willful obstruction of criminal investigations of health care offenses and would, for the first time, make sure that we get a coordinated effort of the Federal Government in stopping the fraud, abuse and waste.

If we can attack that particular problem, we will find that Medicare will be strong, it will be solvent, and it will be here for generations to come.

COMMONSENSE MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. STUPAK] is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, what I would like to do, I am on the Committee on Commerce and will be on the floor most of the day tomorrow arguing Medicare. I can go on all night about the inequities in the Republican plan, but what I would like to do tonight is submit my statement for the RECORD, and yield the balance of my time to the gentlewoman from Florida [Mrs. THURMAN].

Mr. Speaker, I include my statement for the RECORD as follows:

Mr. Speaker, a week ago, I introduced the Common Sense Medicare Reform. the new majority in Congress claims that it is necessary to cut $270 billion in order to save the Medicare Program. This is simply ludicrous. The Medicare trustees say that the Federal Government must devote $89 billion—not $270 billion. What's really going on here is the majority is attempting to steal $270 billion from the Medicare trust fund in order to keep its campaign promise by giving a $245 billion tax cut to the wealthiest 1 percent of Americans.

Actually, the Medicare trustees say that the Federal Government must devote $89 billion—not $270 billion—to save Medicare from bankruptcy. There must be changes and adjustments to Medicare, but it's irresponsible to gut a program which 37 million senior citizens depend on for health care coverage. My legislation takes the best ideas from the Republican proposal and the Democratic plan to improve the Medicare Program in a bipartisan manner.

The first thing we must do to save Medicare is to aggressively fight waste, fraud, and abuse in the Medicare Program. Ten cents of every dollar spent on Medicare is consumed by fraud and waste. Some health care providers charge the Medicare Program many times more than what these goods and services would cost on the open market. For example, Medicare rents, you can't buy it, but rent pressure reducing mattresses for approximately $650.00 per month and comparable alternate pressure reducing mattresses can be purchased for $168.95. Foam rubber egg shell mattresses can be purchased for $19.95, yet Medicare pays $29.95. The Medicare Program pays $280 for oxygen concentrate, while the Veterans Administration, another Federal agency, pays only $123 for the exact same product. Savings from the oxygen concentrate alone could save us $4.2 billion over 5 years. These three examples alone demonstrate how billions of dollars are robbed from the Medicare trust fund.

We can find the money we need to save Medicare. In 1994, more than $8 billion was recovered in fraud and waste by Medicare providers, and it is expected that $10 billion will be recovered in 1995. We can save $93.5 billion over the next 7 years by actively detecting and prosecuting waste, fraud, and abuse, and this amount is more than enough to save Medicare according to the trustees' report.

The Republican Medicare bill proposes to legalizes fraud committed by health care providers by making it more difficult to prove fraud and to recover Medicare funds. Conversely, my bill provides more and better tools to fight Medicare fraud by increasing the powers available to law enforcement. It will strengthen civil penalties for kickbacks, provide grand jury investigations, and increase subpoena authority. Both the OIG and the Justice Department endorse the fraud-fighting tools that are contained in my bill.

Currently, any money saved from Medicare is returned to the U.S. Treasury. My legislation requires that any funds recovered through cuts or savings be automatically returned to the Medicare trust fund. Your Medicare money should not go to the U.S. Treasury to pay for tax cuts for the wealthiest Americans and large corporations—it should be used to save Medicare.

I firmly believe that before we gut Medicare and implement radical and untried managed care programs, we should test the feasibility of these new programs on a voluntary basis. I propose that we look at managed care programs and health care service networks on a 5-year trial basis. We must make sure that such pilot programs will save money, provide quality care, and prolong the life of Medicare while giving seniors greater health care benefits and choices. Programs such as provider sponsor organizations [PSO's] and provider sponsor networks [PSN's] may be particularly useful and effective in rural areas. In northern Michigan, we are on the cutting edge of providing maximum benefit for our health dollar through cooperative efforts. I won't gamble with your health care. Let's make sure that the proposed changes improve Medicare, rather than destroy it.

My legislation also directs that a Baby Boomer Commission be appointed to study alternatives for the best way to address the large influx of recipients who will be eligible for Medicare beginning in the year 2010. The Commission will work with Medicare trustees to ensure there will be funds available to provide health care coverage for the baby boomer population. In addition, the Commission will hold public hearings all across the country so you will have input on any proposed Medicare changes.

Lastly, I advocate the use of a single-page Medicare claim form to increase administrative efficiency. We can simplify the Medicare system for beneficiaries and providers, while saving money from increased efficiency and cutting down on fraud.

People should not have to pay more money to receive less coverage and lose their choice of doctors. The Republican majority should not raid the Medicare trust fund to give tax cuts to the wealthiest Americans and multinational corporations. Instead of stealing money from the Medicare System, we need to put money back into the system to keep it solvent for current and future recipients. Let's not gamble with the health of our senior citizens.

You can see why the Republican majority refuses to make my bill in order because it is common sense.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, I want to do this from a different standpoint of looking at what I think is going to happen to Florida residents. First of all, I want Florida residents to understand that they are looking at the $38 billion cut between Medicaid and Medicare, and this is to pay for a tax cut for the very wealthy.

Mr. Speaker, Florida stands to lose more than $38 billion in Federal funds under the Republican plan to cut Medicare and Medicaid to finance a tax cut for the wealthy.

Now, I would like to introduce you to a wonderful couple from my district who worked hard all their lives and looked forward to retirement.

But, like many elderly, they fell ill. While the wife struggles with illness herself, she has had to care for her sick husband.

Recently, she came to me for assistance. It seems no one could help her secure a place in a nursing home for her husband. Thankfully, we were able to do that for them. But I worry about how this family will be impacted by the cuts in Medicare and Medicaid.

First, under the Republican Medicare cuts, the ill wife will lose the security of her Medicare coverage. Yes, the Republicans are promising choice to my constituents.

But the truth is, should my constituent want to stay in her current fee-for-service plan with her trusted doctor, she will be forced to pay over $1,000 a year in premiums by the year 2002.

How can a plan promising choice produce such terrible results? It is because of what the Republicans are not telling seniors.

The Republicans offered concessions to doctors, at the expense of the seniors, by allowing the creation of provider service networks. The Republicans have encouraged doctors to form their own managed care plans.

Knowing the benefits the doctors will get from these networks, how can anyone believe that there will be providers left for seniors in the fee-for-service plan?

The Republicans say there will be no cut in services, but if you cap spending for services at below the growth in private sector health plans, seniors will have to pay more. To me, that is a cut.

Make no mistake, seniors will pay more. The so-called failsafe provision looks back at the program to make sure spending targets are met. If not, payments to providers in the fee-for-service sector would be automatically reduced—but not in the Medicareplus plans.

If the Medicareplus plans don't produce the savings the Republicans promise—and we all know they will not—then the fee-for-service sector will suffer.

The promise to maintain the current Medicare option for seniors who want it is just a sham.

My constituent on a limited income is now forced into a HMO, if an HMO thinks it is profitable to come into her region. Republicans have left it up to the HMO's to decide where they choose to offer services.

There is no requirement that they serve us all. But, let us say an HMO comes to our region. My constituent is forced to leave her doctor for the plan's doctor—now that's some choice. But what if she doesn't like the plan's doctor or the coverage the plan offers?

The Republicans promise her she can come back to Medicare. Even if we pretend that Medicare would still look like she remembered it, there is no guarantee—none at all—that her Medigap insurance has to take her back.

This is a crucial issue that every senior in the country needs to understand. There is no choice. Once you enter an HMO you have absolutely no guarantee that you can return to the same level of coverage you currently enjoy in Medicare. Absolutely none.

I have painted a picture of a woman with little choice—this is a portrait of Medicare under the Republicans. But, sadly, it gets worse.

Let's talk about her husband. She finds security in knowing that he is well-cared for in a nursing home. But under the Republican plan, the Federal standards for nursing home protection will be erased. And, if he were dependent on Medicaid, as nearly two-thirds of nursing home residents are, his wife might be forced to sell their home to keep him there.

The Republicans remove the restrictions on spousal impoverishment. They allow States to decide whether the spouse's income and home can be assumed for payment of nursing home care.

Let us suppose our State does the right thing and protects the spouse from having her home and wages attached.

Now our State becomes a safe haven for seniors in need of long-term care. By opposing 24 Governors who don't want Federal rules preventing spousal impoverishment, our State would stand tall.

But in the Republicans' plan, there is always a cost for doing the right thing. If we do the right thing, and seniors come to our State in even greater numbers to benefit from our protections, we will have more people to serve.

However, our block grant numbers under the new Medicaid formula will not increase. States who go after spouses and families and scare seniors away get to reap the benefits of their block grant. Floridians suffer.

The picture for my constituents is not pretty. And I am saddened to have to deliver this message to Florida's seniors. But I won't have to if we work to expose the closed-door dealings of the Republican leadership and we bring out into the open the severity of these cuts. We must defeat these cuts for the health and security for our seniors.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, unlike the gentlewoman who just spoke from Florida, I support our Medicare reform proposal.

Mr. Speaker, we have heard a lot of use of the cut word. I recently had a very interesting conversation with a hospital administrator from my district who said, you are going to be cutting Medicare. We got to talking a little bit, and it seemed that his budget was about $100 million, and $65 million of that came out of Medicare. I asked him, were we going to reduce your amount coming from Medicare? No.

Mr. Speaker, the truth is, under the administration's proposal, the growth to that particular hospital in Medicare over 7 years was going to be 100 percent, that that hospital would end up getting about $130 million, and we are talking about reducing the increase to that hospital from $65 million to about $100 million over the next 7 years.

I ran on one of my platform issues being that we will never, ever be able to rein in out-of-control growth in so many of these Federal programs if we continue to call reductions in the rate of growth of a program a cut. If we are going to say a 10 percent per year increase is our base line and if you are going to lower that to 6 percent per year, that is a cut. We will never restore solvency to the Medicare Program, we will never restore solvency to Washington, DC, and we will end up in bankruptcy.

Prior to coming to this House, I was a practicing physician. Indeed, 50 percent, a half, of the people that I took care of as a doctor were Medicare patients. Indeed, I continue to see patients when time allows when I go back to my district, many of whom are senior citizens. Though 50 percent of my patients were Medicare patients, only about 45 percent of my revenue came from those. Because, you see, Medicare reimburses lower than the private sector.

But even though Medicare reimburses lower than the private sector, the rate of growth in the private sector is substantially less. Indeed, I was part of the committees that got together and drew up this Medicare plan, and one of the most amazing things we found out was that in some of these programs in the private sector they are actually reducing their premium.

You have a situation where you have health care plans in southern California where they are lowering by 1.5 percent the charges to the companies in those areas, and we have here a government-run plan that is steaming along at 10.5 percent, and we have a Medicare plan that the Medicare trustees are telling us is going to be bankrupt. So we have come up with a proposal.

There have been a number of outrageous, outlandish, inaccurate claims made by the opposition tonight. One of them is tat we are doing this is Medicare to pay for tax cuts for the rich.

Well, let me tell you about our tax program. It is a $500 per child tax reduction for families with kids. I do not know how that translates into a tax cut for the rich. We paid this spring for every single penny in those tax reductions to those working families by reducing discretionary spending.

All of the money in this plan goes to maintain the solvency of the Medicare plan. It is going to be insolvent. The administration, the Democrat administration itself has told us it is going to be insolvent.

Now, I am getting a lot of phone calls from seniors in my district, and I think they are great phone calls. A lot of them have been drummed up by AARP, and I have to say I think this is wonderful that we are having this debate, it is wonderful we are having this dialog.

One of the questions I get asked is, are you going to increase my copay? It is currently at 20 percent. Medicare pays 80 percent. I hear that you are going to increase the copay. The answer to that is in this House bill we are going to vote on tomorrow, no, we are not going to do that.

Another thing that I have seniors calling me about, they are asking me, are you going to increase the deductible? And the answer to that is, again, no. The deductible is going to stay the same. It is going to be $100.

I have seniors calling me and saying, are you going to force me into an HMO? Are you going to restrict my access to physicians' care? And the answer to that, again, is no.

If you want to choose one of these Medicare Plus plans, you can. We are not going to force any seniors into anything they do not want to be in. This is a good plan. It waves Medicare. I recommend that all of my colleagues support it.

FACTS ARE FACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WARD] is recognized for 5 minutes.

Mr. WARD. Mr. Speaker, tomorrow Congress will vote on the Republican plan to cut $270 billion from Medicare to pay for a $245 billion tax cut, and I would hope that the gentleman from Florida would listen to this, because the gentleman from Florida was just saying that that tax cut is just going to the families with children. Well, if that were true, it would not be $245 billion, gentlemen. It is $245 billion because there is a whole range of tax cuts in that proposal.

Fifty-two percent of it is going to the top 12 percent of income earners in this country. One out of eight taxpayers will get the benefit of that.

Mr. Speaker, facts are facts. It is not all the child, the $500 per child. Even in that case, that has not been limited to families who are working to get ahead. It has been given to families way above what it should be.

More importantly, included in that is a reduction in the very programs that help keep people off of welfare, and the $500 is not even going to go to people who are paying that much when all taxes are taken into account, not just income taxes. So it is very disappointing to hear those kinds of words spoken on this floor tonight.

I would like to yield a couple of moments to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, we are meeting tonight at a time when the esteem of Congress and the esteem of American politics is at an all-time low. The spectacle that is about to unfold in this room in the next 24 hours will do everything to increase that cynicism and skepticism.

Mr. Speaker, at about 25 minutes to 11 tonight those watching us probably saw a brief interruption in the proceedings when there was an announcement made that the bill was actually brought forward for the first time. This is a piece of legislation that will affect the health care of over 30 million people. The bill was finished at 25 of 11 tonight.

When most people vote on this tomorrow, I doubt that very many will not have read it. All day long today there were meetings between the Republican leadership and the Republican Members to talk about what they could do to get the 218 votes, and we are going to find out tomorrow what they did, because we have not seen the bill until 25 minutes of 11 tonight.

Mr. Speaker, I would be happy to yield back to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, that brings up a point that I think is worth mentioning. I spoke today at the Committee on Rules seeking an open rule so that we could try to fix some of the things in the bill that need fixing, but we were not given that opportunity. We will not have that open rule.

But it reminds me of how I first saw this bill. Friday night a week ago, a week and a half ago when we were getting ready to go home for a week of time in our districts, that Friday night when it was expected that everybody was gone, that bill was slided under my door, or slid under my door, or as the famous sports announcer would say, slud under my door.

□ 2345

I called the Democratic leader just to make sure I was talking about the right bill. Do you know what? The Democratic leader had not gotten that bill. That was done purposefully, again, after dark, under the door, so that we could not make constructive proposals to fix this bill.

Mr. ANDREWS. We do not know what deals or arrangements were made behind closed doors today, but we do know this. This plan, as it has been presented to us, will result in higher taxes on senior citizens, the choices of many seniors being taken away because they could not afford those higher taxes, layoffs at hospitals around America, and I think eventually higher premiums for those not on Medicare and Medicaid.

This is not the way to do the people's business. There should be more time to look at this. It is ridiculous for us to be voting on a bill that was literally produced at 10:35 p.m. tonight, that will affect the health care of 30 million Americans, will take the vote before 4:00 tomorrow afternoon. That is not the way to do the public's business. That is one of the reasons why the majority changed in the last Congress, and I think it is one of the reasons the majority may change in the next one.

Mr. WARD. I want to share with the Members of this body a letter that I have received just this evening that came in this week from a gentleman in Kentucky in my district. I do not want to share his name because I have not asked his permission, but what he says is he is a senior, he is a Republican and has been all his life. He is willing to pay for it, for Medicare, in order to save it. However, he thinks the Republicans are going too far.

I agree. I urge my colleagues to vote no on the bill tomorrow.

REPUBLICAN GOALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, we all feel very strongly about this issue, whether you are Republicans or Democrats, and we have our disagreements.

We, as Republicans, have three general goals that we intend to pursue during the course of this year and next. One is, we want to get our financial house in order and balance our Federal budget. Our second is, we want to save our trust funds, particularly Medicare. And our third is that we want to transform and change our social, corporate, and farming welfare state into an opportunity society. That is what we want to do.

Addressing primarily the need to save our trust funds, our trust fund is going bankrupt in 7 years. It starts to become insolvent next year.

I know this has happened in the past. When it has happened in the past, we have sought to do it by increasing taxes, primarily in Medicare part A. It is the payroll tax. The last time around, we increased the Social Security tax from 50 percent to 80 percent of income, and that money, $29 billion over the next 7 years, is going into the Medicare part A trust fund.

We have four ways to save the trust fund. We can increase taxes. That is simply not going to happen. We can affect beneficiaries, we can affect providers or we can change this system. We are primarily saving this trust fund by affecting the providers and changing the system.

My colleagues on the other side of the aisle have made up a plan that does not exist which we then have to defend ourselves against and clarify to our constituents.

Our colleagues on the other side say there are increased co-payments, in fact new co-payments. That is simply not true.

Our colleagues on the other side of the aisle say we have invented new deductibles and increased the existing deductibles. That is simply not true.

Our colleagues on the other side of the aisle say that we have increased premiums. We are going to keep premiums at 31.5 percent. The taxpayers will continue to pay 68.5 percent.

We have made one change to the premium. It is surprising that my colleagues on the other side of the aisle do not agree this makes sense. We think the wealthiest should pay more, so we have an affluence test.

If you are single, you start to pay more for Medicare part B. From $75,000 to $100,000 you pay all of Medicare part B premium.

If you are married, from $125,000 to $150,000, you start to pay more. At $150,000, you and your spouse will pay the full Medicare part B premium. That is an increase in the premium only to those who are most wealthy.

I have to tell you, I represent one of the wealthiest parts of the entire country. I have gone to my constituents and said, if you have this kind of income I think you should be paying an increase in the premium.

But it is only the wealthy. So when I hear my colleagues on the other side of the aisle talk about how we want to have tax cuts for the wealthy, somehow they do not want to have the wealthy paying more for Medicare part B. I think they should.

We are not affecting beneficiaries. We are changing the system. How are we changing the system? We are allowing Medicare Plus, we are allowing people to stay in Medicare as they want it now, that typical program, or they can go into any other host of other new programs. They can go into the private sector.

And they can choose to if they want to, but if they do not want to, if they are silent, they do not ask to go into the private sector. They simply remain on Medicare as it exists today, a 1960's system, inefficient, you can choose your own doctor, you can stay there, or you can be attracted over into the private sector and possibly have your premiums reduced, your co-payments reduced, your deductibles reduced and possibly eye care, dental care or prescription drugs. All of those may attract you to leave what you have now. But you can stay. But if you want to pay less, you can get into the private system.

I have heard the reference of saving $270 billion. On Medicare in the next 7 years, we are going to spend $1.6 trillion, as opposed to the last 7 years where we spent $900 billion. We are going to spend over $600 billion more in the next 7 years than we spent in the last 7 years. That is going to doctors. It is going to hospitals. It is going to, candidly, those who run the systems. It will go to a whole host of different people.

We are going to put 54 percent more into the system. We are going to have the individual payment per beneficiary go from $4,800 to $6,700. Only when you spend more and only in Washington when you spend more do people call it a cut. It is not a cut. It is a significant increase.

I just make this last point. As it relates to Medicaid, our colleagues on the other side of the aisle have pointed we need to deal with spousal impoverishment, and we are in our bill. The gentleman from New Mexico [Mr. SCHIFF] has put forward an amendment with me that deals with the criminal statutes. We are going to make it a Federal offense. It is in the rule, a self-enacting rule, and the bill of the gentleman from New Mexico [Mr. SCHIFF] and my amendment will pass, if the rule passes, that will make health care fraud a criminal Federal offense.

A VOTE AGAINST REPUBLICAN MEDICARE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, reflecting the many calls and letters that our office has been getting over the past few months, I am going to be voting no tomorrow against the proposal to cut $270 billion out of the Medicare plan, much of that money to go to a $245 billion tax break essentially for the wealthiest individuals in the country. While I do support the means-testing provisions of part B, I also acknowledge to those who are in the upper income areas, they are going to get far more back in the tax cut than what they ever pay out in part B and they will be the only group so protected under this Medicare plan.

Mr. Speaker, I oppose this for a number of reasons. During my two-day Medicare-A-Van in West Virginia, I learned a lot of things. I learned, for instance, that the first cut by the hospital shows that they will lose roughly $600 million out of this, and this is just the hospital provision alone, and this does not even include the upcoming $4.4 billion Medicaid cut that they are going to get. I learned about the hospitals that derive 60 to 65 percent of their revenues from Medicare and Medicaid. I learned about the 300,000 West Virginia seniors that are going to be affected, that could be paying as much as $1,000 more out of pocket by the end of this 7-year program, by those who will see part B premiums go up and they may lose their low income protection and help in paying for them, those who could be forced into managed care. And, yes, younger families paying more for their loved elder relatives. All of that, Mr. Speaker. On top of that, a last-minute deal with the American Medical Association means that seniors no longer will be protected from doctors who want to charge more than what Medicare permits them to charge presently.

I learned, too, Mr. Speaker, that you have got to look beyond what is being said. When some people say that the trustees make them do it, the trustees said do something about Medicare in 7 years but the trustees also said you can do it with $90 billion, not $270 billion of cuts which are being proposed.

I learned, for instance, Mr. Speaker that when those people say that well, Democrats have not done anything about it, nine times since 1980 have Democrats and Republicans taken bipartisan action to save Medicare. We did it again only 2 years ago with $60 billion of reductions.

Mr. Speaker, the Speaker himself talks about the tax cut being a crown jewel of the Contract With America. Well, Mr. Speaker, this crown jewel is being bought on the installment plan. It is being paid for over 7 years and 100 percent of all senior citizens are paying for a tax cut that basically 1.5 percent of those individuals, those earning over 100,000 will get the benefit of.

This ain't home shopping, it's not cubic zirconium, it's expensive stuff and every senior citizen is going to pay for it. That is why I am voting against a Medicare cut of $270 billion to pay for a tax break of $245 billion.

Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. I thank the gentleman from West Virginia. I applaud his willingness to listen to his constituents. I clearly believe that we have a situation where a picture is worth a thousand words. I would simply say that we are now facing tomorrow, October 19, a day of infamy.

What we faced on October 11, 1995, maybe the Republicans do not understand it but Americans do. You simply look at the face of this woman, a senior citizen being locked up in the People's House, the United States Congress, locked up and taken away. Because she simply wanted to protest $270 billion going for tax cuts to people making up to $500,000. This is worth a thousand words.

Then we ask the question about whether there have been hearings. I have heard 38 hearings and 40 hearings and on and on and on. Let me tell you that tonight 900 some pages came out at 11:25 tonight, 900 some pages of a bill that is supposed to be voted on tomorrow. We have got a number of hearings for Ruby Ridge, for Waco, for White Water. But for putting senior citizens out on the street for their health care, we have got 1 day of hearing. No democracy exists in this Congress. It is a day of infamy. This is the concern we have. It is time to turn the tide.

POINT OF ORDER

Mr. HOKE. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentlewoman will suspend. The point of order will not come out of your time. The gentleman will state his point of order.

Mr. WISE. Mr. Speaker, the clock is ticking.

Mr. HOKE. Mr. Speaker, the point of order is that when there is less than 10 minutes left at the end of the hour, before the suspension of the hearings for the day, then that time is supposed to be split evenly between the minority and the majority.

The SPEAKER pro tempore. The Chair has been very diligent in going back and forth between the majority and the minority throughout the time allotted for special orders.

Mr. HOKE. Mr. Speaker, that is not the point. The point of order is that when there is less than 10 minutes remaining——

Mr. WISE. Mr. Speaker, the point is that the time is going until midnight and it is coming out of our time.

The SPEAKER pro tempore. The gentlewoman's time will be protected.

Mr. HOKE. But when there is less than full time, to be equally divided for 5 minutes on each side, the time must be equally divided on each side.

The SPEAKER pro tempore. The Chair has ruled. We have gone back and forth evenly between the majority and the minority.

Mr. HOKE. Then the time should have expired on that side.

The SPEAKER pro tempore. The time has been shared evenly all evening.

Mr. HOKE. Does that mean you are going to extend beyond the midnight hour?

The SPEAKER pro tempore. No, it does not. On the majority, all requests for the 5-minute time have been used. No other majority Member has requested a 5-minute time slot.

Mr. HOKE. I thank the Speaker.

The SPEAKER pro tempore. The gentlewoman will proceed and her time will be protected.

Ms. JACKSON-LEE. Mr. Speaker, might I conclude simply as I look at this chart, indicating that with the 930-plus-something bill that was just issued tonight, we have 1 day of hearings.

But simply, Mr. Speaker, let me say the Republican plan is going to put at least 1 million citizens in jeopardy of losing Medicare. It is going to cause hospitals around this Nation through the Medicaid cuts to lose some $28 million. Then lastly let me say that what are we doing all this for? Why are we locking up this citizen in the U.S. Capitol? Why do we have this 1 day? To give $19,000 in tax breaks to those making over $500,000 a year, a travesty, a day in infamy. Tomorrow vote "no" against the Republican Medicare plan.

Mr. Speaker, I include the following statement for the RECORD:

Mr. Speaker, if I could find the words, I would tell you exactly how infuriated I am at the legislation by fiat which seems to be taking place within these noble halls. When the Founding Fathers came together and created the Government that we have today, I am positive that they did not intend to have legislation dictated by the whims and desires of a few individuals. As I recall, wasn't that the very cornerstone of the American Revolution?

I am appalled at the backroom, cloak-and-dagger shenanigans which seem to be the rule of the day. When H.R. 2425 was reported out of committee, I am sure that the members who voted in favor of the bill and its amendment thought that what they were voting on was what would be brought to the floor. I am sure that when Democrats and Republicans alike voted to improve this legislation by approving Mr. GANSKE's amendments, which would have made it more difficult for managed care organizations to deny payment services, they were doing what they were elected to do—represent their constituents to the best of their ability. How dare others within this body assume that responsibility for them.

PARTICIPATION

The Republican plan will simply put at least 1 million seniors in jeopardy of losing all health care coverage.

Premiums would increase for all seniors from $46.01 to at least $87 by 2002, which is $26 more than the current law. How many seniors will not be able to afford decent primary care because of this increase?

Deep cuts in reimbursement rates to doctors and hospitals will cause these health providers to turn seniors away—effectively limiting their choice.

The Senate plan also includes higher deductibles and copayments for services such as home health care, lab tests and nursing services.

Seniors will be paying more for less coverage. Medicare payments to beneficiaries will be cut by $1,700 in 2002, forcing spending to grow 33 percent slower than in the private sector. What kind of health care can be bought at such low rates.

Not one penny of the increase in beneficiary premiums will help the part A trust fund—all of the savings will go for a tax cut to give a $19,000 tax cut to those making $500,000.

Medicaid—The average senior citizen has an annual income of $13,000 a year and the elderly poor would lose the protection that Medicaid gives them.

Medicaid—Even if the States are able to absorb half of the proposed reductions in Medicaid funding, the system will still have to cut 8.8 million people off of the Medicaid rolls by 2002. That includes 4.4 million children; 920,000 senior citizens; and 1.4 million disabled children and adults.

SMALL HOSPITALS

Over the 7 years, a typical urban hospital will lose up to $28 million.

These reductions will drastically hurt many small hospitals which depend upon Medicaid and Medicare payments for their survival. If these important hospitals should become an endangered species, people in these neighborhoods may be without ready health care.

VOTE FOR REPUBLICAN MEDICARE PLAN

Mr. HOKE. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WISE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Without objection, the gentleman will be recognized for 30 seconds.

There was no objection.

Mr. HOKE. I thank the Speaker.

Mr. Speaker, it looks like we are batting cleanup here and that the evening is done. I think it is obvious that it is really the people of America that will make the choice as to where the truth has been spoken tonight and what the truth is with this issue. The fact is that the Democrats had 40 years to make the changes that need to be made and they refused to do it. Tomorrow we are going to vote on a plan that is going to save Medicare, it is going to preserve it. It is going to protect it, and it is going to strengthen and improve it. I urge all of my colleagues to join me in voting for that plan tomorrow.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, all time for special orders has expired as it is now midnight. The chair will entertain a motion to adjourn.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. VOLKMER (at the request of Mr. GEPHARDT), after 1:30 p.m. on Wednesday, October 18, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. DOGGETT) to revise and extend their remarks and include extraneous material:

Mr. BEVILL, for 5 minutes, today.

Mr. BORSKI, for 5 minutes, today.

Mr. FAZIO of California, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

Mr. OLVER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. WARD, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. TANNER, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. PAYNE of Virginia, for 5 minutes, today.

Mrs. LINCOLN, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. ORTON, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Mr. PETERSON of Florida, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mr. HASTINGS of Florida, for 5 minutes, today.

Mr. DEUTSCH, for 5 minutes, today.

Mr. JOHNSTON of Florida, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Mr. MARTINEZ, for 5 minutes, today.

Mr. VENTO, for 5 minutes, today.

Mr. REED, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. JONES, for 5 minutes on October 19.

Mr. DUNCAN, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. GREENWOOD, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. LINDER, for 5 minutes, today.

Mr. WATTS of Oklahoma, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

Mrs. SMITH of Washington, for 5 minutes, today.

Mr. LONGLEY, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. CHRYSLER, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. CHENOWETH, for 5 minutes, today.

(The following Member (at his own request to revise and extend his remarks and include extraneous material:)

Mr. MILLER of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOGGETT) and to include extraneous matter:)

Mr. TORRES.

Ms. WOOLSEY.

Mr. COYNE.

Mr. LEVIN.

Ms. KAPTUR.

Mr. JACOBS.

Mr. TOWNS.

Mr. BERMAN.

Mrs. MEEK of Florida.

Ms. ROYBAL-ALLARD.

Mr. RUSH.

Mr. JOHNSON of South Dakota.

Mr. LIPINSKI in two instances.

Mr. PALLONE.

Mr. POSHARD.

Mr. POMEROY.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. PORTMAN.

Mr. DAVIS.

Mr. GILMAN.

Mr. DORNAN.

Mr. KING.

Mr. CRANE.

Mr. WATTS of Oklahoma.

Mr. KIM.

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. YOUNG of Alaska.

Mr. HEINEMAN.

Mr. LATHAM.

Mr. BUNN of Oregon.

Mr. ARCHER.

Mr. GILLMOR.

Mr. FAZIO of California.

Mrs. MEEK of Florida.

Mr. DEFAZIO.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1976. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock midnight), under its previous order, the House adjourned until today, Thursday, October 19, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the speaker's table and referred as follows:

1533. A letter from the Secretary of the Treasury, transmitting a report on the Mint's numismatic public enterprise fund for fiscal year 1994, pursuant to Public Law 102–390, section 221(a) (106 Stat. 1627); to the Committee on Banking and Financial Services.

1534. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled "Acid Deposition Standard Feasibility Study," pursuant to section 404, appendix B of the Clean Air Act, as amended; to the Committee on Commerce.

1535. A letter from the Vice President, American Council of Learned Societies, transmitting the Council's annual report for the year 1993–94, pursuant to 36 U.S.C. 1101(56) and 1103; to the Committee on the Judiciary.

1536. A letter from the Secretary of Transportation, transmitting the Department's report on the functions of the Interstate Commerce Commission, pursuant to Public Law 103–311, section 210(b) (108 Stat. 1689); to the Committee on Transportation and Infrastructure.

1537. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to make a disbursement for an additional program project for purposes of nonproliferation and disarmament fund [NDF] activities, pursuant to Public Law 103–306, title II (108 Stat. 1619); jointly, to the Committees on Appropriations and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEACH: Committee on Banking and Financial Services. H.R. 117. A bill to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwelling units in public housing projects designated for occupancy by elderly families, and for other purposes; with an amendment (Rept. 104–281). Referred to the committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 238. Resolution providing for consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program (Rept. 104–282). Referred to the House Calendar.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 117. A bill to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwelling units in public housing projects designated for occupancy by elderly families, and for other purposes.

H.R. 1114. A bill to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PACKARD:

H.R. 2492. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

By Mr. EMERSON (for himself and Mr. CONDIT):

H.R. 2493. A bill to make modifications to international food aid programs; to the Committee on International Relations, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER (for himself, Mr. LEACH, and Mrs. ROUKEMA):

H.R. 2494. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of bad debt reserves of savings associations which are required to convert into banks, and for other purposes; to the Committee on Ways and Means.

By Mr. BONO (for himself, Mr. CUNNINGHAM, Mr. MCKEON, Mr. GALLEGLY, Mr. LEWIS of California, Mr. ROHRABACHER, Mr. BILBRAY, Mr. MOORHEAD, Mr. THOMAS, Mr. COX, Mr. RIGGS, and Mr. EHRLICH):

H.R. 2495. A bill to expand the authority of the Secretary of Defense to transfer excess personal property of the Department of Defense to support law enforcement activities; to the Committee on National Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUYER (for himself, Mr. BURTON of Indiana, Mr. HAMILTON, Mr. JACOBS, Mr. BEREUTER, and Mr. BRYANT of Tennessee):

H.R. 2496. A bill to amend the wetland conservation provisions of the Food Security Act of 1985 to assist agricultural producers in receiving prompt and fair resolution of complaints alleging producer violations of such provisions and to limit the application of the program ineligibility sanction to the farm on which a violation of such provisions occurs; to the Committee on Agriculture.

By Mr. HOEKSTRA:

H.R. 2497. A bill to amend the National Labor Relations Act; to the Committee on Economic and Educational Opportunities.

By Ms. KAPTUR:

H.R. 2498. A bill to amend section 207 of title 18, United States Code, to further restrict Federal officers and employees from representing or advising foreign entities after leaving Government service; to the Committee on the Judiciary.

By Ms. KAPTUR:

H.R. 2499. A bill to amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OXLEY (for himself, Mr. BLILEY, Mr. SHUSTER, Mr. BOEHLERT, Mr. TAUZIN, Mr. UPTON, Mr. GILLMOR, Mr. ROEMER, Mr. BURR, Mr. HORN, Mr. PARKER, Mr. WAMP, Mr. DUNCAN, Mr. YOUNG of Alaska, Mr. QUINN, Mr. PETRI, Mr. BACHUS, and Mr. CRAPO):

H.R. 2500. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Kentucky:

H.R. 2501. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes; to the Committee on Commerce.

By Mr. SCHUMER (for himself and Mr. ZIMMER):

H.R. 2502. A bill to amend various commodity research and promotion laws to make participation in such programs voluntary; to the Committee on Agriculture.

By Mr. SOLOMON (for himself, Mr. BURTON of Indiana, and Mr. MCINNIS):

H.R. 2503. A bill to clarify the authority of States to regulate national bank insurance activity, to limit the authority of the Comptroller of the Currency to authorize national banks to engage in new insurance activities, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. TAYLOR of North Carolina:

H.R. 2504. A bill to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the U.S. Courthouse located on Otis Street, in Asheville, NC, as the "Veach-Baley Federal Complex"; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska:

H.R. 2505. A bill to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes; to the Committee on Resources.

By Mr. JOHNSON of South Dakota (for himself, Mr. POMEROY, Mr. MINGE, Mr. LEACH, Mr. LIPINSKI, Mr. LIGHTFOOT, Mr. BARRETT of Nebraska, Mr. WATTS of Oklahoma, Mr. GANSKE, Mr. GEPHARDT, Mr. BEREUTER, Mr. COOLEY, Ms. KAPTUR, Mr. WILLIAMS, and Ms. DANNER):

H.R. 2506. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on Agriculture, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KAPTUR:

H.J. Res. 114. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect elections for Federal and State office; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. LATHAM and Ms. RIVERS.

H.R. 172: Ms. JACKSON-LEE.

H.R. 193: Mr. DEFAZIO.

H.R. 359: Mr. HOYER.

H.R. 387: Mr. BILBRAY.

H.R. 394: Mr. BENTSEN and Mrs. MEEK of Florida.

H.R. 534: Mr. WILSON, Mr. PICKETT, Mr. SAWYER, Mr. CLAY, Mr. STOCKMAN, Mr. EHRLICH, and Mr. FRANKS of New Jersey.

H.R. 559: Mrs. MALONEY.

H.R. 580: Ms. BROWN of Florida.

H.R. 582: Mr. LIVINGSTON and Mr. METCALF.

H.R. 733: Mr. MINGE.

H.R. 734: Mr. MINGE.

H.R. 789: Mr. CHRYSLER.

H.R. 862: Mr. FUNDERBURK, Mr. LEWIS of Kentucky, and Mr. COLLINS of Georgia.

H.R. 895: Mr. ANDREWS, Mr. TORRICELLI, Mr. MFUME, Mr. SAXTON, Mr. ROGERS, Mr. EHRLICH, Mr. BALDACCI, and Mr. SMITH of New Jersey.

H.R. 957: Mr. LAHOOD and Mr. FATTAH.

H.R. 963: Ms. KAPTUR.

H.R. 1003: Mr. THORNBERRY.

H.R. 1061: Mr. HUNTER and Mr. BUNN of Oregon.

H.R. 1136: Mr. MARTINEZ and Mr. WAXMAN.

H.R. 1226: Mr. BLUTE.

H.R. 1468: Mr. OBERSTAR.

H.R. 1488: Mr. BLILEY, Mr. MYERS of Indiana, Mr. COMBEST, and Mr. BURTON of Indiana.

H.R. 1661: Mr. CHRISTENSEN, Mr. ANDREWS, Mr. ENGLISH of Pennsylvania, Mr. ROYCE, Mr. FUNDERBURK, Mr. FOX, Mr. DOYLE, Mr. LIVINGSTON, and Mr. MONTGOMERY.

H.R. 1733: Mr. LUTHER.

H.R. 1747: Mr. BONIOR, Mr. DELLUMS, Mr. BLUTE, and Mr. STENHOLM.

H.R. 1756: Mr. ISTOOK.

H.R. 1776: Mr. DIAZ-BALART and Mr. BLUTE.

H.R. 1791: Ms. KAPTUR, Mr. BONIOR, Mr. HANCOCK, Mr. FOX, and Ms. DANNER.

H.R. 1803: Mr. CUNNINGHAM.

H.R. 1856: Mr. RICHARDSON, Ms. HARMAN, Mr. NETHERCUTT, Mr. ENGLISH of Pennsylvania, Mr. ZELIFF, Mr. WOLF, Mr. HILLEARY, Mr. FRAZER, Mr. YOUNG of Alaska, Mr. WAMP, Mr. PARKER, and Mr. COLEMAN.

H.R. 1963: Mr. HORN and Mr. CLINGER.

H.R. 2009: Ms. PRYCE.

H.R. 2144: Mr. CHRYSLER and Mr. MCINTOSH.

H.R. 2146: Mr. KLECZKA.

H.R. 2153: Mr. EVANS.

H.R. 2154: Mr. BURTON of Indiana and Mr. WELLER.

H.R. 2178: Mr. FROST and Mr. SCOTT.

H.R. 2200: Mr. BLILEY, Mr. BUNNING of Kentucky, Mr. JACOBS, Mr. DUNCAN, Mr. TAUZIN, Mr. VOLKMER, Mr. MCINNIS, Mr. QUILLEN, and Mr. MCINTOSH.

H.R. 2230: Mr. LEWIS of California, Mr. POMBO, Mr. RADANOVICH, Mr. WELDON of Florida, Mrs. THURMAN, and Mrs. SEASTRAND.

H.R. 2261: Ms. DELAURO.

H.R. 2265: Mr. CHRYSLER, Mr. PETERSON of Florida, Mr. SISISKY, and Mr. CRAMER.

H.R. 2270: Mr. HAYWORTH, Mr. DORNAN, and Mr. SALMON.

H.R. 2275: Mr. MONTGOMERY and Mr. BARRETT of Nebraska.

H.R. 2285: Mr. HUNTER, Mr. MCHUGH, and Mr. BILBRAY.

H.R. 2326: Mr. EVANS, Mr. BAKER of Louisiana, and Mr. BEILENSON.

H.R. 2337: Mr. SCHIFF.

H.R. 2342: Mr. LARGENT, Mr. THORNTON, and Mr. BREWSTER.

H.R. 2357: Mr. DURBIN, Mr. EWING, and Mr. EVANS.

H.R. 2375: Ms. WOOLSEY and Mr. TORRES.

H.R. 2417: Mr. NEUMANN, Mr. DEAL of Georgia, and Mr. KLUG.

H.R. 2419: Mr. KENNEDY of Massachusetts and Mr. OLVER.

H.R. 2422: Mr. HINCHEY, Mr. STOKES, Mr. FROST, Mr. BROWN of California, Mr. BONIOR, Ms. NORTON, Mr. THOMPSON, Mr. DURBIN, and Mr. WYNN.

H.R. 2443: Ms. SLAUGHTER, Mr. HINCHEY, and Mrs. LOWEY.

H.R. 2444: Mr. HORN, Mr. TORKILDSEN, Mr. WELDON of Pennsylvania, Mr. BOEHLERT, and Mr. GOSS.

H.R. 2463: Mr. COLEMAN and Mrs. THURMAN.

H.R. 2467: Mr. DURBIN.

H.R. 2476: Mr. BROWN of Ohio, Miss COLLINS of Michigan, Mr. HINCHEY, Mr. HOLDEN, and Ms. WOOLSEY.

H.R. 2490: Mr. SHADEGG.

H. Con. Res. 102: Mr. MILLER of California, Ms. PELOSI, Mr. SPRATT, Ms. SLAUGHTER, Mr. BATEMAN, Ms. MCKINNEY, Mr. ENGEL, Mr. ABERCROMBIE, and Mr. BROWN of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2491

OFFERED BY: MR. ANDREWS

AMENDMENT No. 1: Strike section 4002 of the Amendment in the Nature of a Substitute, and redesignate the succeeding sections and conform the table of contents accordingly.

H.R. 2491

OFFERED BY: MR. CLAY

AMENDMENT No. 2: Strike section 4102 which repeals the Service Contract Act of 1965.

H.R. 2491

OFFERED BY: MR. GIBBONS

AMENDMENT No. 3: Strike title XVII (relating to the abolishment of the Department of Commerce).

H.R. 2491

OFFERED BY: MR. WILLIAMS

AMENDMENT No. 4: Strike section 4003 of the Amendment in the Nature of a Substitute, and redesignate the succeeding sections and conform the table of contents accordingly.

H.R. 2491

OFFERED BY: MR. WILLIAMS

AMENDMENT No. 5: Strike section 4004 of the Amendment in the Nature of a Substitute, and redesignate the succeeding sections and conform the table of contents accordingly.

H.R. 2491

OFFERED BY: MR. WILLIAMS

AMENDMENT No. 6: Strike subtitle A of title IV of the Amendment in the Nature of a Substitute, and redesignate the succeeding subtitles and conform the table of contents accordingly.

EXTENSIONS OF REMARKS

THE FLAG DESECRATION AMENDMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. JACOBS. Mr. Speaker, I place in the RECORD a paper written by George Anastaplo, law professor at Loyola University, Chicago.

Professor Anastaplo has more than one academic discipline, including lecturer in the liberal arts at the University of Chicago and Professor Emeritus of political science and of philosophy at Rosary College. This paper was delivered by Professor Anastaplo at the Constitution Day banquet organized by the political science department of the University of Dallas on September 13 of this year, 1995.

ON THE SACRED AND THE PROFANE: THE FLAG DESECRATION AMENDMENT

(By George Anastaplo)

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures and all executive and judicial Officers both of the United States and of the several States, shall be bound by Oath or Affirmation to support the Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."—The Constitution, Article VI.

I

Once upon a time Robert R. McCormick, publisher of the Chicago Tribune, was perhaps the most influential journalist in this country and a leading figure in the conservative wing of the Republican Party, perhaps even as conservative at times as the Politics Department of this University. He was in unquestioned command of the Tribune, then as now one of the greatest newspapers in the United States. So firm was his control that he could even institute unilateral reforms in the spellings of words used in his paper, at least so long as he lived.

One day (I have heard) Colonel McCormick, while presiding over an editorial board meeting at the Tribune Tower on North Michigan Avenue in Chicago, became so incensed with something one State's Legislature had done that he ordered that State's star to be immediately cut out of the American flag in the main lobby of the Tribune Tower. Of course, the Colonel's editors were disturbed by this turn of events, but they knew he was not a man to be contradicted when his passions were aroused.

Still, one of them did venture to wonder out loud, however deferentially, whether there was a law against thus ruling a State out of the Union. (I digress for a moment: There is an ironic touch to this story which probably no one noticed at the time. The Colonel's grandfather, who founded the Tribune, had been a supporter of Abraham Lincoln, *the* champion of keeping all of the States in the Union.) Now back to our story: The Colonel, upon hearing the query about the relevant law, ordered the newspaper's lawyers to be consulted, which was done at once from the conference room while the Tribune board of editors waited.

All of them, including the Colonel, could of course hear the critical question asked from their end of the telephone conversation that followed: "Is there any law against cutting a star out of the Flag?" The senior partner at the other end of the line, who must have suffered considerably at times as one of the Colonel's lawyers, was so agitated by this unexpected question that his shouted response could be heard by everyone in the room: "Oh, for Heaven's sakes, what blasted fool would want to cut a star out of the Flag?!" (His language may have been even stronger than this.) I do not know what happened thereafter either to that lawyer or to the flag in the Tribune lobby at the hands of Colonel McCormick. I do know that this episode can serve to remind us that the Flag can be abused in a variety of ways, most if not all of them well-intentioned.

The Constitution, too, can be abused at times. Particularly notorious have been the decisions by the United States Supreme Court in the pre-Civil War Dred Scott Case, in the post-Civil War pro-segregation cases, and in a century of challenges to Congress's power to regulate commerce among the States. Many today would add to this list the Court's abortion decisions in recent decades.

We should not be surprised that the Supreme Court makes mistakes. We all do, not least when we act through one or another of the branches of our governments. It has always been difficult to determine what should be done about misinterpretations by the Supreme Court. This question includes the issue of what the authority of the Court should be when it reads the Constitution differently from the other two branches of the national government. (Less difficult to determine is what should happen when the Supreme Court's reading of the Constitution differs from the reading by any State government.)

The American people have, at least until quite recently, been reluctant to resort to constitutional amendments in order to correct even obvious judicial misinterpretations of the Constitution. Of the twenty-seven amendments which we have had, only four of them represent efforts to reverse judicial interpretations: the Eleventh Amendment (of 1798) with respect to the judicial power of the United States, the first sentence in the Fourteenth Amendment (of 1868) with respect to a critical Dred Scott ruling, the Sixteenth Amendment (of 1913) with respect to the power of Congress to levy an income tax, and the Twenty-sixth Amendment (of 1971) with respect to eighteen-year-olds suffrage. The attempt to ratify an amendment (proposed in 1921) empowering Congress to regulate child labor proved unnecessary when the Supreme Court reversed itself on this issue. A related, but far more important, reversal came with the Court's eventual recognition of a Congressional commerce power which resurrected the expansive spirit of Chief Justice Marshall with respect to this issue.

During the first decade after the 1973 *Roe* v. *Wade* abortion decision, there was serious talk about a constitutional amendment reaffirming the long-accepted powers of the States to regulate abortions. But it soon became evident that such an amendment could not muster the support it would need either in Congress (two-thirds of each house) or in the States (three-fourths of their legislatures). It has also become evident that no constitutional amendment or law can, in the face of the self-administered abortion-inducing drugs that are becoming available, do much to impede significantly the recourse to abortions by young women. Those of us who are troubled by the abortion epidemic, as well as by the illegitimacy epidemic, in this country should not expect government coercion (direct or indirect) to provide the cures that may be needed. At the root of such problems are influential opinions about the good and the bad, including radical opinions about the sanctity of private property and privacy. The sustained outbreaks of these epidemics in other parts of the world should remind us that neither the Constitution nor the Supreme Court's reading of it is ultimately responsible for these problems in our time.

One consequence of a technology-based nullification of government power to supervise abortion and birth-control measures may be the involuntary liberation of those troubled souls who have long felt, understandably enough, that they should dedicate themselves wholeheartedly to political and social actions (including constitutional amendments) so long as it seemed possible to do something about what they consider terrible deeds. Now these latter-day Abolitionists will have to devote themselves almost exclusively to education and social programs, to persuasion, and perhaps above all to prayer in order to deal responsibly with what they must still consider a desperate situation.

II

Even so, there is something touching in the form that the faith which many have in the Constitution can take; a change in the Constitution, they seem to believe, can cure this or that distressing problem. They do not realize that if the Constitution should come to be readily adapted to changing circumstances it would lose much of its dignity and power. That is, there may well be something to the recent complaint (albeit by a partisan Democratic member of the House of Representatives) that some of her colleagues are treating the Constitution as though it were "a rough draft." (Patricia Schroeder, quoted in Richard E. Cohen, "In Charge of Constitutional Change," The National Journal, June 24, 1995, vol. 27, no. 25.)

It can be instructive as well as troublesome to confront the recent indulgence in attempts at constitutional amendments. In virtually every instance since the 1971 eighteen-year-olds-vote amendment (the Twenty-sixth Amendment), the more strenuously-advocated amendments, if ratified, either would have had no appreciable effect or would have done considerable harm (in addition to the danger of teaching people to treat the Constitution like a mere statute).

The most illustrious thus far of these recent exercises in constitutional frivolity is

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

one that has been enshrined in the Constitution, the Twenty-seventh Amendment "ratified" in 1992, only two hundred and three years after it was originally sent out to the States for ratification by the First Congress. It provides: "No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened." The mode of completing ratification of this amendment, so long after its original submission to the States, was rather dubious. The official acquiescences in this "ratification" reflected an awareness of the popular discontent with Congress at the time. The rule laid down in this amendment is defensible—but it was hardly needed in the light of the general practice of Congress for two centuries now of having its pay increases take effect for the succeeding Congress. Even the Equal Rights Amendment proposed in 1972, which would have served as a grace note for the Constitution, now seems superfluous also. It has been virtually implemented in effect by many statutes and judicial interpretations on behalf of women. Our experience with the proposed Equal Rights Amendment has been somewhat like that with the proposed Child Labor Amendment more than a half century before.

I have suggested that an Abortion Amendment would not "work," even if it could be ratified. The same should be said about the proposed Balanced Budget Amendment. Whether a balanced budget is a good thing for the country depends in part upon circumstances—but it has long been hard for me to see how a constitutional amendment would bring about such balancing. (I have discussed this matter at length in my constitutional commentaries. The best argument for such an amendment that I know is that Senator Paul Simon, who grew up as I did in Southern Illinois, has advocated it.)

So much, at least for the time being, for the amendments that would not work. Then there are the proposed amendments that could "work"—and that we would come to regret in their operations. First, there is a School Prayer Amendment. The Supreme Court may well have been mistaken in its interpretations here and elsewhere of the Religion Clauses of the First Amendment since the Second World War. But, in our present circumstances, legislative or other official battles over the appropriate prayers for school children are not likely to be edifying, especially as demands come to be made for equal time for all kinds of bizarre cults. When Johnny comes home with a heretical prayer he has been taught at school, to say nothing of a blood-curdling Satanic incantation, his parents' enthusiasm for school prayers is likely to be moderated.

Also likely to be moderated is the enthusiasm of citizens for term limitations once they see what happens when Congress (and hence the country) comes to be run by amateurs—or by the bureaucrats and lobbyists upon whom desperate amateurs will have to rely for guidance. It is somewhat reassuring that the Republican leadership of the current Congress has had enough sense to reconsider its 1994 campaign promises with respect to term limitations. This reminds us how maturity and self-interest can sometimes work together for the common good.

III

Somewhat immature and hence irresponsible, however, has been the current leadership's whooping it up for a Flag Desecration Amendment, something that has been advocated as well, at one time or another, by forty-nine of our State legislatures.

How odd it is that we make as much as we do now and then of flag desecration. I am reminded of how some newspapermen in Philadelphia conducted themselves back in, I believe, the 1930s, perhaps about the time that Colonel McCormick was in his prime in Chicago. When things got boring in Philadelphia they stirred up readers by concocting and publishing a letter from a self-proclaimed cat-hater who announced that he had taken to killing trespassing cats and using them to fertilize his tomato garden. This announcement ignited a heated controversy in the "Letters to the Editor" section of the newspaper for weeks thereafter. The more indignant cat-lovers did not notice that their original villain had signed himself McMurder. I have been told that it became an annual exercise for McMurder to stir things up still another time by publishing a letter which said, in effect, "You should see my tomatoes this year!"

Comparable to the bloodthirsty McMurder, I suppose, is the Supreme Court's opinion in the 1989 *Johnson* v. *Texas* flag-burning case. That case which originated with a deplorable political protest by one Gregory Lee Johnson here in Dallas during the 1984 Republican National Convention. The Court divided 5 to 4, with something to be said on each side of this controversy. (It is intriguing that the conservative Justice Scalia supplied one of the voted for Justice Brennan's Opinion for the Court invalidating the State law pursuant to which Mr. Johnson had been convicted.) Still, I should say that certain public acts—like burning flags, conducting street marches, and spending large sums of money on political campaigns—are more than the speech protected by the First Amendment, however much they are intended to support or even to express political sentiments.

Such conduct can be highly provocative and otherwise disruptive—and as such should be subject to regulation by any government properly concerned about tranquility and political propriety. The flag-burner, in any event, should not be surprised by the passions he arouses. (The emotions stirred up are akin to those exhibited in the somewhat demagogic talk we here from time to time about making English the "official language" in this country.)

However well-intentioned those citizens may be who propose amendments to insure balanced budgets, sacrosanct flags, and the like, the effect of such amendments can be that of desecrating the Constitution by defacing it with ill-conceived amendments. For example, the Balanced Budget Amendment proposal currently before Congress is something of an abomination in its draftsmanship. That, at least, is not the principal problem with the current Flag Desecration Amendment proposal, which reads simply "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." An inventory of the difficulties with this proposal can well begin with the observation there heretofore the Constitution has been the only thing held up in the Constitution itself as virtually sacred, with even an oath to support it prescribed by the Framers. Certainly, the Flag was never thus provided for, however unfortunate (if not even insulting and otherwise despicable) certain conduct directed at the Flag may be. One may even wonder whether the way the Flag is promoted at times is contrary to the spirit of the constitutional prohibition of religious tests.

IV

A number of serious problems with various proposed Flag Desecration Amendments have been noticed over the years. But there is one problem that is perhaps the most serious—and it may be revealing of current deficiencies in constitutional interpretation and in political philosophy that it is, so far as I know, never noticed.

That is, the proposed amendment now being considered by Congress virtually implies that all other forms of desecration are to be considered generally immune from any governmental supervision. If this amendment is regarded as truly necessary to authorize legislation prohibiting and punishing flag desecrations, then there can be tacitly immunized all other desecrations that the United States or the States might want to continue to regulate (such as hateful speaking, the vandalizing of cemeteries, cross burnings, or the defacing of other recognized religious symbols). There could be inadvertently confirmed, by the implications of a Flag Desecration Amendment, a long-term tendency in this country to deprive the sacred of all government support and protection. That is, we are in effect told, in effect, by this amendment that unless government is explicitly authorized by the Constitution to prohibit any particular form of desecration, it cannot do anything about it but may act against conduct that, say, injuries another's property or threatens an immediate breach of the peace.

This approach to community life is consistent with the tendency, to which many would-be conservatives are contributing, which threatens to undermine a general respect for government. We hear too much talk these days about what government is doing to us—as if a government is never to be regarded as the means by which we govern ourselves. This is hardly a prudential approach to keeping modern republicanism healthy and useful.

V

One question that the prudent citizen should be asking here is whether there is indeed a serious problem deserving the attention of a constitutional amendment. The House of Representatives has already passed the current Flag Desecration Amendment proposal, 312–120. We now have to hope that the Senate will be sensible.

What is the harm being addressed by such an amendment? Perhaps no more than a dozen flag-burnings a year—in a bad year. Whether it is a bad year depends, in large part, upon the publicity available for flag-burners—and that depends, in turn, upon whether a burning is apt to provoke an indictment and then a prosecution. Thus, one practical effect of the Supreme Court's 1978 decision in *Johnson* versus *Texas* has been to discourage flag-burnings. It is likely, therefore, that if a Flag Desecration Amendment should be ratified there would eventually be more publicized flag-burnings than we have had since 1989.

If, however, nothing is done to amend the Constitution here, things will probably remain as they are now. It should be recognized, by the way, that the deliberate flag-burner these days (even if no law can touch him) does run the risk of being immediately manhandled by the citizens in his vicinity that he dares to offend—and this is probably the way these matters should be left.

It is odd in any event to be as concerned as we can be about something so rare and usually so inconsequential as flag-burning when so much else is permitted to corrupt us unimpeded, beginning with the blatant sexual and violent indulgences portrayed by the mass media. Symptomatic of this deterioration is the headline in this morning's Dallas

Morning News: "TV, movies test sex's appeal to mainstream audiences: As barriers fall, many wonder, what's next?" (By Tom Maurstad and Beth Pinsker, Sept. 17, 1995, p. 1A.) Constitutional government cannot be expected to prosper if our citizen body should be rendered unfit by having its passion and sensibilities twisted out of shape. Once this happens it will not do much good—and indeed may even make matters worse—to rely more and more upon prisons and capital punishment to subject ourselves once again to a proper discipline (especially when, as now, our criminal-justice system is overworked because of a deeply-flawed drugs-control policy). Nor will it do any good, and may make matters worse, to rely more and more upon private arsenals to protect ourselves from the consequences of the degradation of all too many of our fellow citizens.

In critical respects the Pro-Choice people and the Pro-Guns people share a somewhat naive reliance upon extremist self-help principles grounded in uninhibited property rights. This sort of thing is reflected as well in such displays as the shameless advertisements (as in this morning's Parade magazine) by tobacco companies which are designed to trap impressionable youngsters in a deadly addiction (See "Your Basic 3-Piece Suit," Parade Magazine, Sept. 17, 1995, p. 20.) A self-respecting, and self-confident, community should be able to supervise, with a view to the common good, the uses (private as well as public) of all of the property that it makes possible and protects.

VI

Before I conclude these remarks I return, however briefly, to a much-needed lesson in the proper mode of constitutional interpretation. The *Johnson* v. *Texas* decision turned on a reading of the First Amendment. Although I continue to have reservations about that reading, it should be acknowledged that there was something valid in what the majority of the Supreme Court said on that occasion. There is a serious First Amendment problem whenever only a few of many instances of any type of offensive action are selected for prosecution—those few which are accompanied by, or are understood to convey, sentiments particularly disliked by the local prosecutor or by his constituents.

There are lots of offensive things done with the Flag these days, most of them much more serious (if only they are much more pervasive) than what results from a rare flag-burning. We have learned to put up with considerable routine abuse of the Flag, much of it for commercial purposes. (The nearest illustration for us on this campus is what may be seen a few hundred yards away from this hall—a Texas Stadium representation of the Flag with the slogan "Just Do It" defacing it.) This epidemic of flag abuse is rather sad, especially when I remember how we used to cheer the Flag when it appeared in movie theatre newsreels during the Second World War.

Be that as it may, the Congressional proponents of the contemplated Flag Desecration Amendment assure us that it is not intended to repeal the First Amendment. This means that critical freedom-of-speech challenges will be posed whenever prosecutors can be shown to ignore almost all flag desecrations but those accompanied or expressing sentiments they find personally offensive. Equal protection challenges can also be expected to highly selective enforcement of State laws.

Traffic laws, for example, are clearly constitutional. Yet the policeman who stops only those speeders displaying bumper stickers he does not like can expect to have his policy of selective enforcement seriously challenged on several constitutional grounds. The fact that there is a constitutional amendment authorizing a general enforcement policy may not matter. We once had a Prohibition Amendment—but if a prosecutor had enforced prohibition laws only against his political opponents substantial constitutional challenges should have been expected.

All this is aside from the technical problems of what "the flag of the United States" should be taken to mean and how "physical desecration" should be understood. What, for example, can be done with a protester who displays a flag that is canceled like the flags we are accustomed to seeing on postage stamps—or with a protester who burns publicly such a blow-up (but even larger) as I have provided you this evening of canceled flag-decorated postage stamps? Would it matter if the burning was of uncancelled flag-stamp blow-ups? So much then, at least for the time being, for this lesson in constitutional interpretation—and in the limits, as well as the merits, of reliance upon constitutions to cure our ills.

The perspective from which I have attempted to speak on this occasion has been that of the informed and responsible citizen. At times, of course, the responsible citizen can be disheartened, especially as he observes how determined all too many of his no doubt patriotic fellow citizens can be to plunge ahead with amendments that would disfigure if not even derail the Constitution. If things get bad enough, with a constitutional pile-up threatened, the powerless student of such appallingly interesting matters can at least console himself with a story that Lyndon Johnson used to tell:

"There was a fellow in Johnson City who wanted to be a district engineer. To test him, the boss asked what he would do if he saw two trains coming at each other on a single track at 60 miles an hour. The fellow thought about it for a while and said, 'I'd go home and get my brother.'

"'Why would you do that?' The boss asked.

"'My brother ain't even seen a train wreck,' he said."

(Liz Carpenter, ed., "LBJ: Images of a Vibrant Life" [Austin, Texas: The Friends of the LBJ Library, 1973], p. 14) We can wonder whether Mr. Johnson ever consoled himself in turn with at least having had a ringside seat for the train-wreck of a war that he (with perhaps the most patriotic of intentions) stumbled into a Southeast Asia, a questionable war that also contributed both to the disfigurement of the Constitution and to the demoralization of the American people.

VII

I have used the current Flag Desecration Amendment campaign to suggest what the Constitution should mean to us. In this way, at least, even this misguided campaign can be put to salutary use.

Much of what I have said this evening about how the Constitution needs to be treated should have long been apparent to the more mature members of Congress. They should know that a cheap form of patriotism is being indulged in by some of their amendments-hungry colleagues at the risk of desecrating the Constitution itself. All this should remind us of how a disciplined and sensible legislative body operates. For one thing, it keeps certain excesses safely under control in its committees, having learned long ago how public opinion can be misled.

I presume to pay special tribute to one member of the House of Representatives, a Democrat from Indiana (Andrew Jacobs), who tried last January to salvage something from his colleagues' recent stampede by offering to add to the Flag Desecration Amendment the provision that the spending of money for the election of public officials no longer be considered constitutionally-protected speech either. (See 141 CONGRESSIONAL RECORD H176, January 4, 1995.) He reminded us thereby of still another unfortunate First Amendment reading by the Supreme Court, its 1976 ruling in *Buckley* v. *Valeo*. That ruling undermined what Congress had tried to do, a generation ago, to control campaign financing in this country. I continue to believe that the First Amendment should not be understood to keep us from experimenting with reasonable measures to prevent our elections from being bought or from seeming to be bought by excessive expenditures of funds, whether by private persons, by corporations, unions, and other organizations, or by the government itself.

But even the serious mistake by the Supreme Court in the Buckley Case does not warrant a constitutional amendment. Rather Congress should try again and again—and we in turn should all try to help the Court to recognize what it too truly wants to recognize; the true reading of the Constitution.

In this worthy enterprise in civic education, the Politics Department of the University of Dallas should continue to be among the leaders in our country today. You are to be congratulated for celebrating Constitution Day as you do, with both playful festivities and serious talk, reminding us thereby that the Constitution depends upon and ministers to both the high and the low. Such a celebration, you also know, is most meaningful when it can include an examination of what the Constitution does and does not say. It is to such an examination, at least in part, that we have dedicated ourselves on this inspiring occasion.

CENTERFORCE 20TH ANNIVERSARY TRIBUTE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to pay tribute to Centerforce which is celebrating its 20th anniversary of service to hundreds of thousands of families all over California. This unique community-based organization provides both direct and indirect services to prison visitors including children and families of incarcerated parents at 29 centers serving 34 State prisons and 1 youth facility. Over 350,000 visitors benefit from this innovative program each year.

Centerforce is the statewide extension of The House at San Quentin which was established by Seamus Kilty and supported by Catholic Social Services of Marin. It has continuously served prison visitors since 1971. In 1975 Centerforce was envisioned to create a statewide network of visitor centers modeled after The House. Under the leadership of Maureen Fenlon, O.P., the first executive director, and with the cooperation of the local communities, visitor centers were established at each prison so that all families of prisoners could receive basic support services necessary to keep their family together. These services include transportation, child care, refreshments, crisis intervention, prison visitor advocacy, special education programs, summer camps for the children, and simply protection from inclement weather for the traveling families.

Mr. Speaker, Centerforce is a national model of the collaboration we need between government, community organizations, and individuals to nurture and support the family unit especially at times of separation when they are more vulnerable. As we know, every prison inmate is a family member who will be returning to that family in the future. We all value the family as the most essential unit in our society. It takes just a short-term investment in these families, and especially in their children, to keep the family ties strong and thereby lowering the recidivism rate in the long term. I commend Centerforce for the major contribution it has made to the preservation of thousands of families throughout California and our country who have benefited from this visionary, compassionate, yet very down-to-earth program.

Although Centerforce is a statewide organization, I take pride in its accomplishments because it was created and is located in the congressional district I am privileged to represent.

HONORING DR. EDWARD H. BERSOFF

HON. THOMAS M. DAVIS
OF VIRGINIA

HON. FRANK R. WOLF
OF VIRGINIA

HON. JAMES P. MORAN
OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. DAVIS. Mr. Speaker, my colleagues and I rise today to pay tribute to Dr. Edward H. Bersoff who will be honored on October 20, 1995 by the Northern Virginia Community Foundation [NVCF] for all his contributions to improving the quality of life in northern Virginia.

The Northern Virginia Community Foundation is a community endowment that supports the arts, education, health, community improvement, and youth issues. The foundation does not duplicate efforts of existing charitable organizations, but assists ongoing community projects and specific programs of established groups. Contributions are used only for local needs and provide a reserve fund to meet unforeseen critical emergencies. The foundation is managed by a board of directors representing all areas of northern Virginia.

Dr. Edward H. Bersoff, president, CEO, and founder of BTG, Inc., is a pioneer in the technology community. He founded BTG in 1982 and reported a revenue of $156 million in its most recent fiscal year. BTG also employs 650 people, the majority in northern Virginia. Dr. Bersoff is well known in northern Virginia, where he serves as chairman of the Fairfax County Chamber of Commerce and on the information technology advisory group for the Fairfax County government. He was the first chairman of the Northern Virginia Technology Council and chaired the technology work group of the Virginia Economic Recovery Commission. Dr. Bersoff also serves on boards of the Washington Airports Task Force, the Inova Health Care Services Board, and the advisory council of the Minority Business Association of Northern Virginia. In addition, he is past president of the Northern Virginia Community College Educational Foundation and was a member of the board of directors of Virgina's Center for Innovative Technology.

He served on the Navy C3I Subcommittee of the National Security Industrial Association, chairs the Professional Services Council and is a senior member of the Institute for Electrical and Electronics Engineers. Dr. Bersoff is also the director of the Armed Forces Communications and Electronics Association.

A longtime supporter of education, Dr. Bersoff received his A.B., M.S., and Ph.D. degrees in mathematics from New York University and is a graduate of the Harvard Business School Owned/President Management Program. He taught mathematics at Kingsborough Community College in New York, Northeastern and Boston Universities in Massachusetts, and the American University in Washington, DC. He coauthored one of the first textbooks on the technology of Software Configuration Management.

Dr. Bersoff received the 1993 Northern Virginia Technology Council Leadership in Technology Award and was named one of the 1994 Washington Area Entrepreneurs of the Year.

His wife Marilynn is vice president of administration at BTG, Inc.

Mr. Speaker, we know our colleagues join us in honoring Dr. Edward H. Bersoff on his leadership in the technology community and his outstanding accomplishments in northern Virgina.

TRIBUTE TO TOM KERR

HON. WILLIAM J. COYNE
OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. COYNE. Mr. Speaker, I rise today to pay tribute to a man who has been a committed defender of personal freedom and constitutional rights. This dedicated individual, Mr. Tom Kerr, has been an influential leader of the Greater Pittsburgh Chapter of the American Civil Liberties Union for almost 40 years.

Tom Kerr's many years of service will be celebrated in Pittsburgh at a dinner gala on October 25, 1995. He will be honored for his service to the community, for his personal sacrifice and commitment, and for his devotion to civil liberties.

Mr. Kerr helped revive the Pittsburgh chapter of the ACLU in 1956 and served for years as the leader of this organization. From 1964 to 1984, he chaired the Pennsylvania ACLU affiliate and served on the national board of the ACLU. Mr. Kerr once gave up a partnership in a promising private practice rather than give in to pressure from his colleagues to abandon his work with the ACLU. Since then, he has taught at the Duquesne University School of Law and the Graduate School of Industrial Administration of Carnegie Mellon University while working actively for the ACLU. He has also served on the Pittsburgh Human Relations Commission and the Pittsburgh public employees' Personnel Appeals Board. He is still active today as an associate professor at CMU and as a member of the board of the ACLU's Pittsburgh chapter and the ACLU's National Advisory Council.

Mr. Kerr's legal activities on behalf of the ACLU has included cases in support of the civil rights movement, affirmative action, conscientious objectors resisting conscription during the Vietnam war, and union protestors. He has worked tirelessly to challenge the legality of racial- and gender-based discrimination, to guarantee the separation of church and state, and to defend individuals' rights to equal protection and individual privacy. In short, he has been active in many, if not all, of the most contentious and important constitutional issues of our times. More importantly, he has been on the right side of those issues.

I join the Greater Pittsburgh Chapter of the ACLU in celebrating Tom Kerr's commitment to the defense of our precious civil liberties, and in thanking him for his many years of dedicated service to this cause and to the ACLU.

TRIBUTE TO THE CITY OF CLAWSON

HON. SANDER M. LEVIN
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. LEVIN. Mr. Speaker, from October 23–29, 1995, the city of Clawson, MI, will again hold a red ribbon celebration in its continuing effort to eliminate the illegal use of drugs in schools, homes, and places of work.

This year's theme, "Be Healthy and Drug Free," has been imprinted on the red ribbons which will be worn by adults and children as a symbol of their personal commitment to remaining drug free. At the end of the week. Clawson participants in the celebration will sign their ribbons and send them to Congress. I am honored to be the intended recipient of the Clawson ribbons again this year.

The red ribbon celebration encourages the community to address drugs as a serious societal problem and especially to reinforce Clawson youth with the knowledge that their peers are drug free. The campaign, therefore, combats the pressure on school children to experiment with drugs, and demonstrates that illegal drug use is not tolerated by our society.

Mr. Speaker, I applaud the action of the city of Clawson to reduce illegal drug use in schools and in the workplace, and lend my full support to the red ribbon celebration.

TRIBUTE TO BILL BUTLER ON HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to pay tribute to an outstanding citizen of Ohio and a good friend. William E. Butler, chairman of the board of Eaton Corp., will retire from that position this year.

Bill Bulter joined Eaton in 1957 as assistant employee relations manager of the Dyanamatic Division. Over the years, he has been a creative, innovative, and reliable leader in the Cleveland business community. Directing a global corporation with over $6.1 billion in sales is no easy task. Eaton's reputation as a manufacturer of quality engineered products is due in large measure to Bill's dedication and professionalism.

In addition to his tremendous business expertise. Bill has also given nearly four decades to bettering his community. Whether as a member of the board of directors of Cleveland Tomorrow and the Greater Cleveland, or as the 1994 United Way general campaign chairman, Bill has always earned the respect of his peers. I hope he enjoys a retirement that is as fulfilling and rewarding as his career.

Mr. Speaker, I ask my colleagues to join me in congratulating Bill Butler for his numerous achievements over the years, and I wish him and his family all the best in the years ahead.

TRIBUTE TO DR. THOMAS MONTEIRO

HON. EDOLPHUS TOWNS

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. TOWNS. Mr. Speaker, I rise today to recognize the contributions of Dr. Thomas Monteiro. Dr. Monteiro serves as the department head of the Advance Certificate Program in Education Administration and Supervision at Brooklyn College of the City University of New York. He formerly served as the director of the Principal's Center at Brooklyn College.

Dr. Monteiro has worked diligently and passionately to improve educational programs, with a particular emphasis on designing program evaluations for school districts.

This distinguished gentleman graduated from the New York City school system and has received degrees from Winston-Salem State University, Queens College of the City University of New York, and Fordham University.

Active in community and political affairs, Dr. Monteiro served as the former president of the Jamaica, Queens branch of the NAACP. One crowning achievement among many in his life, was being named the recipient of the 1988 Educator of the Year award by the Association of Black Educators in New York City. I am proud to highlight the accomplishments of Dr. Monteiro.

A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, AND FOR OTHER PURPOSES

HON. DON YOUNG

OF ALASKA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce a bill to amend the Alaska Native Claims Settlement Act of 1971 at the request of the Alaska Federation of Natives. This bill is the result of the work of the legislative council of the Alaska Federation of Natives to correct existing technical problems with the Alaska Native Claims Settlement Act [ANCSA]. I am introducing the bill to begin the review process and to receive input of the State of Alaska, various Federal agencies, Native entities, and individuals affected by this bill. I fully expect the input process to refine and expand the legislation, and invite such input.

I expect to work closely with GEORGE MILLER, my ranking minority member to resolve any differences we may have with specific provisions in the bill. Further, we look forward to receiving further suggestions for additions to this package and working with Alaska Senators TED STEVENS and FRANK MURKOWSKI to perfect the package. Ultimately, it is our intention to investigate and resolve controversial provisions which would prevent final passage of this bill.

This bill makes a number of technical changes to ANCSA which addresses issues not anticipated at the time of passage of ANCSA. As the legislation is designed to resolve specific problems, it contains several provisions, and will probably contain more as a result of the hearing and input process. To offer a flavor of the nature of the legislation, a few illustrations are in order.

For example, the bill would reinstate approximately 50,000 acres which were taken away by an Executive order in 1929 to the Elim Native Corp. This provision would reinstate and allow the Elim Native Corp. to receive their land entitlement selections.

Another provision would extend the exemption period from estate and gift tax for stock through its period of inalienability.

Another would amend ANCSA to correct an inconsistency in current Federal law by allowing regional corporations to elect to acquire oil, gas, and coal estates reserved to the Federal Government beneath native allotments surrounded by or adjacent to subsurface lands convey to the corporations pursuant to section 12(a) or (b) of ANCSA.

Mr. Speaker, I offer this bill at this time to begin the process of reviewing each of these important provisions and others which affect Alaskans. I welcome input to add to, subtract from and amend this proposal so that a noncontroversial substitute may be offered at a later date.

CAMPAIGN SPENDING LIMITS

HON. MARCY KAPTUR

OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Ms. KAPTUR. Mr. Speaker, I introduce today a constitutional amendment that would, for the first time, allow Congress and the States to set reasonable limits on campaign expenditures.

This amendment is necessary because campaign spending in our country is out of control. An estimated $540 million was spent on all elections in the United States in 1976—but by 1992, the amount spent had grown to $3 billion. And in the last House and Senate elections, a total of $724 million was spent—up more than 60 percent just since 1990. Candidates and elected officials have become professional beggars.

Our Nation's elected representatives spend too little time doing the people's business, and too much time raising campaign funds. Yet the Supreme Court has ruled, in the case of Buckley versus Valeo, that campaign spending limits are an unconstitutional infringement on political expression. My amendment would change that by making it clear—as similar legislation introduced in the Senate by Senator HOLLINGS would do—that Congress and the States are free to enact reasonable limits on election expenditures.

I had hoped that a constitutional amendment would not be necessary. But campaign finance reform was conspicuously missing from the Republican Contract With America. And despite the Speaker's telegenic handshake with President Clinton in New Hampshire, where he vowed to develop a bipartisan commission to recommend changes to our system of financing campaigns, the Speaker has now backed off this issue.

But this issue is too important to ignore. If passed, my amendment will go a long way toward rebuilding the public trust in our domestic system of government. To ensure that our Government is truly "of the people, for the people, and by the people," we must end the current practice of allowing elections to be bought by the highest bidder.

H.R. 1715

HON. FRED HEINEMAN

OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. HEINEMAN. Mr. Speaker, I rise in strong support of H.R. 1715. The workers' compensation system was established to provide relief to injured employees in exchange for limited liability for the employer. Unfortunately, on March 21, 1990, the Supreme Court, in the case of Adams Fruit versus Barrett, ruled that an employee covered under the Migrant and Seasonal Agricultural Worker Protection Act [MSPA] could collect workers' compensation and still bring a private right of action.

The decision in Adams Fruit places agricultural employers as the only employers in

America who can be sued by their employees as a result of workplace injuries even where they have provided workers' compensation. This is unfair to our farmers, especially in those States where agricultural employers are required to participate in the workers' compensation system.

I am proud to say that I am a cosponsor of H.R. 1715 and strongly support this legislation. When Congress passed MSPA, it did not intend for it to replace the workers' compensation system.

Everyone wants to ensure that migrant and seasonal workers' rights are protected and H.R. 1715 does just that. North Carolina is one of the leading agricultural States in our Nation. Farmers in North Carolina and other States should not be singled out and treated any differently from other employers who provide workers' compensation. H.R. 1715 corrects this inequity. I urge my colleagues to vote "yes" on this bipartisan legislation. Our farmers deserve no less.

ST. MARY'S BICENTENNIAL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. DORNAN. Mr. Speaker, St. Mary's Catholic parish in Old Town Alexandria, VA, is celebrating its 200th anniversary, founded in 1795 when there were a mere 25,000 Catholics in the colonies and only 200 in the State of Virginia.

Col. John Fitzgerald, the mayor of Alexandria and aide-de-camp to George Washington, headed the drive to establish St. Mary's, which is the oldest Catholic parish in the State of Virginia. In 1869, the Sisters of the Holy Cross began St. Mary's School, which today has over 600 students and is still growing.

Today, the Reverend Stanley Krempa serves as pastor for this parish of 3,200 families. The church is just completing a $2 million fund raising campaign that has seen to the restoration of the main church on South Royal Street, and the addition of more classrooms at the school on nearby Green Street.

The bicentennial celebration will close on November 2, 1995, All Souls Day, when the Most Reverend Agostino Cacciavillan, the Apostolic Nuncio from Rome, celebrates a Mass in honor of all deceased parishioners.

Mr. Speaker, I pause to congratulate St. Mary's on their 200th anniversary

PROCTER & GAMBLE RECEIVES 1995 NATIONAL MEDAL OF TECHNOLOGY

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to Procter & Gamble, based in Cincinnati, OH, which was recently named as a recipient of the U.S. Government's 1995 National Medal of Technology.

Procter & Gamble will be recognized at a White House ceremony on October 18, 1995, for creating, developing, and applying advanced technologies to consumer products that have strengthened the economy while helping to improve the quality of life for consumers worldwide. Procter & Gamble has a 160-year history of introducing cutting-edge products on which Americans have come to depend—products such as Ivory soap, Crest toothpaste, and Tide detergent. Because these products are so familiar, we often overlook the advanced research and technology behind their development.

The National Medal of Technology is awarded to innovators and forward-thinking technology companies that have built new industries and fostered U.S. competitiveness. Established in 1980, the medal program is administered by the U.S. Department of Commerce's Technology Administration and the President provides final approval. Since the program's inception, 5 companies, 13 teams, and 57 individuals have been honored.

Mr. Speaker, I am proud to commend Procter & Gamble for this recognition of their excellence and congratulate them for making a difference in the lives of Americans.

TRIBUTE TO MARTHA MOORE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to a special friend and an outstanding citizen of Ohio. On October 23, friends of Martha C. Moore will gather in her beloved Muskingum College in New Concord, OH, to honor her lifelong commitment to American politics, education, and her community.

I had the privilege of working with Martha for many years while I was a member of the Ohio State Senate. Miss Moore was first elected to the Ohio Republican State Central and Executive Committee in 1950 and she currently serves as the committee person from the 18th District. She has previously served as the committee person from the 15th and 17th District. Miss Moore's dedicated work was crucial to Republicans in gaining control of the State senate in 1980.

While serving as a professor of speech at Muskingum College, she helped shape the lives of generations of students through her thoughtful tutelage. In 1986, Miss Moore was awarded the Distinguished Alumni Award from Muskingum College.

Throughout her many years in politics, Martha has demonstrated her deep faith in, and dedication to, upholding the principles of American democracy. The status of the Republican Party in Ohio today has been secured by Martha's dedication and her reputation as a political wizard. Yet, she consistently deflects personal praise, focusing instead on the team effort involved in election campaigns.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know Ohio is a much better place to live because of the dedication and countless hours of service given over the years by Martha.

I ask my colleagues to join me in paying a special tribute to Martha Moore's record of personal accomplishments.

TRIBUTE TO DAVID W. FLEMING

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to David Fleming, my good friend who this year has been chosen by the Anti-Defamation League to receive the distinguished community service award. The ADL could not have made a better choice. David has taken a leadership role in many important areas important to the San Fernando Valley. He truly cares for his community.

It is hard to imagine how David, a senior partner with the prestigious law firm of Latham & Watkins, finds time to take on his many added responsibilities. For example, David is the current president of the board of fire commissioners for the city of Los Angeles as well as the vice chair of the Los Angeles County Children's Planning Council. He has also served on three different county commissions.

David's tireless work for his community reflects his many interests. He has been a member of the board of the Automobile Club of Southern California, Valley Presbyterian Hospital, the Valley Industry and Commerce Association [VICA], the National Council of Christians and Jews and Big Brothers of Greater Los Angeles.

Not surprisingly, David has been the recipient of awards from many sources. He has received the Fernando award, the tree of life award from the Jewish National Fund and, in 1967, he was named "One of California's Five Outstanding Young Men" by the California Jaycees. Many people and organizations have benefited from David's efforts and generosity.

I ask my colleagues to join me today in saluting David Fleming, a man of intellect, compassion, and dedication to his community.

TRIBUTE TO DOLLY RIVERA FOR 50 YEARS OF COMMUNITY SERVICE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. TORRES. Mr. Speaker, I rise today to pay special tribute to Ms. Dolly Rivera. Ms. Rivera has given 50 years of volunteer service to her community. Through the years, she has touched the lives of many with her involvement with groups such as the American Red Cross, Civil Defense, March of Dimes, United Way, Los Angeles County Parks and Recreation, Girl Scouts, Women of the Moose, and Parent Teacher Association.

In 1945, Ms. Rivera joined the Parent Teacher Association [PTA] and began her dedicated service as a volunteer. In the classroom of the Bassett Unified School District, in La Puente, CA, she touched the lives of many students. In 1962, Ms. Rivera was presented with the honorary service award for her work in establishing a dental health program for the children of the La Puente area.

Ms. Rivera's leadership in the community has been demonstrated over the years in her service as president of the Erwin PTA, Bassett High School Parent Teacher Association, and her service as council president three times. In light of this leadership, Ms. Rivera was instrumental in implementing bilingual and multicultural programs for all students.

Through the Women of the Moose, Ms. Rivera has worked to ensure that all students have the opportunity to finance their college education. Under Ms. Rivera's leadership the "C" scholarship was established to provide for this need. Concerned for the safety of our children, in 1980 Ms. Rivera organized Operation Stay in School for Bassett Unified School District. This program addressed the safety concerns of our schools, by enforcing a closed campus. Parents were utilized in supervision of lunch periods and the campus gates. Organizing the efforts of parents, school board members, the superintendent, the sheriffs department and the city council of La Puente proved highly effective in deterring truancies, vandalism, and violence.

Ms. Rivera has done many great things for her community. She has organized a fingerprinting program for the kindergarten students, operates a "Clothes Closet," which benefits needy children and the homeless and collects food and donations to distribute to families in need. Ms. Rivera's compassion also has been extended to the senior citizens in her community. Every Thursday, for many years, Ms. Rivera has delivered food with care to bedridden seniors.

For 27 years, Ms. Rivera also has provided volunteer work with the Girl Scouts of America. She has volunteered as a Girl Scout leader of two troops and has been the first and second vice-president of the El Monte/La Puente Council of Girl Scouts.

Mr. Speaker, I ask my colleagues to join me in saluting this truly inspirational American and a fine citizen, whose community service provides an example to all.

SUPPORT INCLUSION OF REPUBLIC OF CHINA IN THE UNITED NATIONS

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. KING. Mr. Speaker, October 10 marked the 84th anniversary of the founding of the Republic of China. Normally, this day is marked here in Washington by a number of social events. However this year, there is a more important reason for us to recognize the events in China in 1911. As all the world can see, it is only under a democratic system that Taiwan has been able to flourish economically and socially. In fact, over the last decade the Republic of China has become one of the world's leading economic powers.

To help recognize the achievements of America's friends on Taiwan, I urge my colleagues here in the Congress to support the Republic of China's bid to gain membership in the United Nations. Although a member of several international organizations, the Republic of China has been refused a seat in the United Nations. Very simply, the exclusion of the Republic of China is an outrageous denial of a voice on important international issues to the people of a thriving democracy. I know that Representative Benjamin Lu has worked tirelessly for the last year on this matter.

Mr. Speaker, I can think of no better way for this institution to show support for the democratic ideals found in the Republic of China than to support its inclusion in the United Nations.

H.R. 2494, THRIFT CHARTER CONVERSION TAX ACT OF 1995

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. ARCHER. Mr. Speaker, today, I am introducing the Thrift Charter Conversion Tax Act of 1995, with JAMES A. LEACH, the chairman of the Banking and Financial Services Committee, and MARGE ROUKEMA, the chairwoman of the Financial Institutions and Consumer Credit Subcommittee, as original cosponsors. The three of us have worked together to identify and address potential tax consequences raised by the Banking Committee's proposal to require thrifts to convert their charters into bank charters. This bill is a product of our efforts.

Requiring thrifts to convert to banks raises several banking, tax, housing, and accounting policy issues. It is not easy to reconcile these sometimes competing policies. Nonetheless, it is clear that the thrift charter conversion proposal must contain transitional tax relief cushioning the blow to thrifts required to convert to banks. This bill is intended to modify the tax laws to permit the conversion of thrifts to banks, consistent with the policies behind the thrift charter conversion proposal, and in a manner that is fair to the thrifts and consistent with our deficit reduction goals.

The following is a technical explanation of the provisions of the bill.

TECHNICAL EXPLANATION OF THE THRIFT CHARTER CONVERSION TAX ACT OF 1995

1. Repeal "percentage of taxable income" method for the calculation of bad debt deductions by thrift institutions.

PRESENT LAW AND BACKGROUND

Tax treatment of bad debt deductions of savings institutions—reserve methods of accounting for bad debts of thrift institutions

A taxpayer engaged in a trade or business may deduct the amount of any debt that becomes wholly or partially worthless during the year (the "specific charge-off" method). Certain thrift institutions (building and loan associations, mutual savings banks, or cooperative banks) are allowed deductions for bad debts under rules more favorable than those granted to other taxpayers (and more favorable than the rules applicable to other financial institutions). Qualified thrift institutions are eligible to compute deductions for bad debts using either the specific charge-off method or the reserve method of section 593. To qualify for this reserve method, a thrift institution must meet an asset test, requiring that 60 percent of its assets consist of "qualifying assets" (generally cash, government obligations, and loans secured by residential real property). This percentage must be computed at the close of the taxable year, or at the option of the taxpayer, as the annual average of monthly, quarterly, or semiannual computations of similar percentages.

If a thrift institution uses the reserve method of accounting for bad debts, it must establish and maintain a reserve for bad debts, charge actual losses against the reserve, and is allowed a deduction for annual additions to restore the reserve to its proper balance. Under section 593, a thrift institution may elect, each year, to calculate its annual addition to its bad debt reserve under either (1) the "percentage of taxable income" method applicable only to thrift institutions, or (2) the "experience" method also used by small banks.

Under the percentage of taxable income method, a thrift institution generally may claim as a deduction an addition to its bad debt reserve for an amount equal to 8 percent of its taxable income (determined without regard to this deduction and with additional adjustments). Under the experience method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to the greater of: (1) an amount based on its actual average experience for losses in the current and five preceding taxable years, or (2) an amount necessary to restore the reserve to its balance as of the close of the base year. For taxable years beginning before 1988, the "base year" was the last taxable year before the most recent adoption of the experience method (i.e., generally, the last year the taxpayer was on the percentage of taxable income method). Pursuant to a provision contained in the Tax Reform Act of 1986, for taxable years beginning after 1987, the base year is the last taxable year beginning before 1988. The base year amount is reduced to the extent that the taxpayer's loan portfolio decreases. Computing bad debts under a "base year" concept allows a thrift institution to claim a deduction for bad debts for an amount at least equal to the institution's actual losses that were incurred during the taxable year.

Bad debt methods of commercial banks

A small commercial bank (i.e., one with an adjusted basis of assets of $500 million or less) only may use the experience method or the specific charge-off method for purposes of computing its deduction for bad debts. A large commercial bank must use the specific charge-off method. If a small bank becomes a large bank, it must recapture its existing bad debt reserve (i.e., include the amount of the reserve in income) through one of two methods. Under the 4-year recapture method, the bank generally includes 10 percent of the reserve in income in the first taxable year, 20 percent in the second year, 30 percent in the third year, and 40 percent in the fourth year. Alternatively, a bank may elect the cut-off method. Under the cut-off method, the bank neither restores its bad debt reserve to income nor may it deduct actual losses relating to loans held by the bank as of the date of the required change in the method of accounting. Rather, the amount of such losses are charged against and reduce the existing bad debt reserve; any losses in excess of the reserve are deductible.

Recapture of bad debt reserves by thrift institutions

If a thrift institution becomes a commercial bank, or if the institution fails to satisfy the 60-percent qualified asset test, the institution is required to change its method of accounting for bad debts and, under proposed Treasury regulations, is required to recapture its bad debt reserve.[1] The percentage of taxable income portion of the reserve generally is included in income ratably over a 6-taxable year period. The experience method portion of the reserve is not restored to income if the former thrift institution qualified as a small bank. If the former thrift institution is treated as a large bank, the experience method portion of the reserve is restored to income either ratably over a 6-taxable year period, or under the 4-year recapture method described above.

In addition, a thrift institution may be subject to a form of reserve recapture even if the institution continues to qualify for the percentage of taxable income method. Specifically, if a thirft institution distributes to its shareholders an amount in excess of its post-1951 earnings and profits, such excess will be deemed to be distributed from the institution's bad debt reserve and must be restored to income (sec. 593(e)).

Financial accounting treatment of tax reserves of bad debts of thrift institutions

In general, for financial accounting purposes, a corporation must record a deferred tax liability with respect to items that are deductible for tax purposes in a period earlier than they are expensed for book purposes. The deferred tax liability signifies that, although a corporation may be reducing its current tax expense because of the accelerated tax deduction, the corporation will become liable for tax in a future period when the related item is expensed for book purposes (i.e., when the timing item "reverses"). Under the applicable accounting standard (Accounting Principles Board Opinion 23), deferred tax liabilities generally were not required for pre-1988 tax deductions attributable to the bad debt reserve method of thrift institutions because the potential reversal of the bad debt reserve was indefinite (i.e., generally, a reversal would only occur by operation of sec. 593(e), a condition within the control of a thrift institution). However, the establishment of 1987 as a base year by the Tax Reform Act of 1986 increased the likelihood of bad debt reserve reversals with respect to post-1987 additions to the reserve and it is understood that thrift institutions generally have recorded deferred tax liabilities for these additions.

Treatment of thrift institutions under H.R. 2491

H.R. 2491 (the "Thrift Charter Conversion Act of 1995") will require thrift institutions to forego their Federal thrift charters and become either State-chartered thrift institutions or Federally-chartered banks. If a thrift institution becomes a bank, the institution will be subject to recapture of all or a portion of its bad debt reserve under proposed Treasury regulations. It is understood that such recapture will require the institution to immediately record, for financial accounting purposes, a current or deferred tax liability for the amount of recapture taxes for which liabilities previously had not been recorded (generally, with respect to the pre-1988 reserves) regardless of when such recapture taxes are actually paid to the Treasury. It is further understood that the recording of this liability generally will decrease the regulatory capital of the new bank.

DESCRIPTION OF PROPOSAL

The proposal would repeal the section 593 reserve method of accounting for bad debts by thrift institutions, effective for taxable years beginning after 1995. Under the proposal, thrift institutions that qualify as small banks would be allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks would be required to use the specific charge-off method. Thus, the percentage of taxable income method of accounting for bad debts would no longer be available for any institution.

A thrift institution required to change its method of computing reserves for bad debts would treat such change as a change in a method of accounting, initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury. Any section 481(a) adjustment required to be taken into account with respect to such change generally would be taken into account ratably over a 6-taxable year period, beginning with the first taxable year beginning after 1995. For purposes of determining the section 481(a) adjustment of a taxpayer, the balance of the reserve for bad debts with respect to the taxpayer's base year (generally, the balance of the reserve as of the close of the last taxable year beginning before January 1, 1988, adjusted for decreases in the taxpayer's loan portfolio) would not be taken into account. However, the balance of these pre-1988 reserves would continue to be subject to the provisions of present-law section 593(e) (requiring recapture in the case of certain excess distributions to shareholders).

Thus, under the proposal, subject to the special rule described below, a thrift institution that would be treated as a large bank generally would be required to recapture its post-1987 additions to its bad debt reserve, whether such additions are made pursuant to the percentage of taxable income method or the experience method. In addition, subject to the special rule described below, a thrift institution that would qualify as a small bank generally only would be required to recapture its post-1987 additions to its bad debt reserve that were attributable to the use of the percentage of taxable income method during such period. If such small bank would later become a large bank, any amount required to be recaptured under present law would be reduced by the amount of the pre-1988 reserve.

Under a special rule, if the taxpayer meets a "residential loan requirement" for any taxable year, the amount of the section 481(a) adjustment otherwise required to be restored to income would be suspended. A taxpayer would meet the residential loan requirement if for any taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than the average of the principal amount of such loans during the six most recent testing years. A "testing year" means (1) each taxable year ending on or after December 31, 1990, and before January 1, 1996, and (2) each taxable year ending after December 31, 1995, for which the taxpayer met the residential loan would be a loan described in section 7701(a)(19)(C)(v) (generally, loans secured by residential real and church property and mobile homes). The determination of whether a member of controlled group of corporations meet the residential loan requirement would be made on a controlled group basis. A special rule would provide that a taxpayer that calculates its estimated tax installments on an annualized basis would determine whether it meets the residential loan requirement with respect to each such installment. Treasury regulations are expected to provide rules for the application of the residential loan requirement rules in the case of mergers, acquisitions, and other reorganizations of thrift and other institutions.

EFFECTIVE DATE

The proposal would be effective for taxable years beginning after December 31, 1995.

2. Treatment of payments made to the SAIF fund pursuant to H.R. 2491.

PRESENT LAW AND BACKGROUND

In general, a taxpayer is allowed to deduct ordinary and necessary expenses paid or incurred in carrying on a trade business during the taxable year (sec. 162). However, amounts that give rise to a permanent improvement or betterment must be capitalized rather than deducted currently (sec. 263). Whether an expenditure is deductible under section 162 or must be capitalized under section 263 is often a matter of dispute between the IRS and taxpayers and has been the subject of significant litigation. Most recently, in *INDOPCO* v. *Commissioner*, 503 U.S. 79 (1992), the U.S. Supreme Court held that expenditures that give rise to a future benefit must be capitalized. The *INDOPCO* decision overruled a prior U.S. Supreme Court decision that has been interpreted to hold that an expenditure must give rise to an identifiable asset before it is capitalized (*Lincoln Savings* v. *Comm.*, 403 U.S. 345 (1971), relating to additional premiums paid by a thrift institution to the Federal Savings and Loan Insurance Corporation). The scope of the *INDOPCO* decision is uncertain.

H.R. 2491 would require thrift institutions to pay a special assessment to the Saving Association Insurance Fund ("SAIF"). The due date of the payment would be the first business day of January 1996. The SAIF generally is the insurance fund for deposits in thrift institutions. Effective January 1, 1998, the SAIF would be merged with the Bank Insurance Fund ("BIF") (the insurance fund for deposits in banks). Thrift institutions and banks also are required to pay annual premiums to the SAIF and BIF, respectively, based on the amount of their insured deposits. Currently, the premium rate for the SAIF deposits is substantially higher than the premium rate for BIF deposits. After the merger of the SAIF and BIF in 1998, under H.R. 2491, thrift institutions and banks would be subject to the same lower deposit insurance rates generally applicable to banks.

DESCRIPTION OF PROPOSAL

The proposal would provide that the special assessment paid to the SAIF as required by H.R. 2491 would be deductible when paid.

EFFECTIVE DATE

The proposal would be effective upon enactment.

FORSAKING A VALUED BULWARK TO EXTREMISM

HON. JIM BUNN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. BUNN. Mr. Speaker, the Government of Turkey has, for several decades, been one of America's closest allies. They have stood by us throughout the cold war, during Operation Desert Storm, and the crisis in the Balkans. Unfortunately, some in Congress have failed to recognize Turkey's friendship and strategic importance in recent weeks.

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[1] The requirement of the proposed regulations that a thrift institution recapture its bad debt reserves upon a change in the method of its accounting for bad debts is based on Nash v. U.S., 398 U.S. 1 (1970), where the U.S. Supreme Court held that a taxpayer essentially was required to recapture its bad debt reserve when the related accounts receivable were transferred by the taxpayer.

As the Foreign Operation Subcommittee prepares to enter into a conference with the other body, I hope that my fellow conferees will take a moment to read the following editorial, which appeared in today's Washington Times.

This editorial illustrates the danger of basing our foreign policy on ethnic head counts in our districts, instead of the national security concerns of the United States. I sincerely hope that we can pursue a policy of friendship and cooperation with the Government of Turkey, and thereby ensure a long-lasting and mutually beneficial relationship between our two nations.

FORSAKING A VALUED BULWARK TO EXTREMISM

(By Amos Perlmutter)

It's generally acknowledged that Turkey is one of the key, critical strategic states in the Middle East, yet that acknowledgment seems to have escaped the United States in recent times.

Challenged by both internal and external forces, Turkish Prime Minister Tansu Ciller resigned after losing a vote of confidence on Sunday. The future of her Government—Turkey's friendliest to the U.S. in a long time—poses serious challenges to American foreign policy in the Middle East.

As far back as 1954, the United States and Great Britain helped engineer the Northern Tier, a North Asian political bulwark and fortress against the Soviet Union in the depths of the Cold War. The leading elements of the tier then were Turkey, Iran, Pakistan and Iraq, seen as partners to the West in the Cold War against the Soviet Union.

Turkey, which stands between Europe and Asia and controls the Black Sea passage to the Mediterranean did more than its part. It made a real and still vivid contribution to the Korean Way by delivering its legendary tough soldiers, who displayed conspicuous heroism. Turkey today remains a critical member of NATO and stands in key contrast to Iran, Iraq, Syria and the Muslim states of the former Soviet Union.

Given its critical importance and its basically steadfast history, it seems more than passing strange that the United States has never fully acknowledged or rewarded the contributions and importance of Turkey, including its key participation in the Gulf war, by allowing the use of its air space.

Why this casual treatment of Turkey? Some of the explanations for the American failure to recognize the importance of Turkey's strategic role in the Middle East have their roots in the workings of Congress, where the domestic lobbies of Armenia and Greece hold sway in a ferocious battle against Turkish influence. In fact, the specter of Sen. Robert Dole's candidacy bodes no good for Turkey. Mr. Dole, who was horribly wounded in World War II, was saved by the heroic medical efforts of an Armenian physician, a personal fact that appears to have influenced Mr. Dole's policy toward Turkey. Even without Mr. Dole, the Armenian lobby has been very effective in preventing Turkey from gaining the full economic fruits and benefits of the European Economic Community.

The even more powerful Greek lobby has managed to help relegate Turkey's image in the public eye to that of a non-European Muslim and Ottoman state that bears little resemblance to the reality of modern Turkey. In fact, Turkey's civic culture since the Kemalist revolution after World War I is that of a secular state, even if it is, like so many other countries in the region, burdened by the threat of an emerging radical, Islamic and Kurdish opposition.

The problem for Turkey is that it has so far displayed no gift for the kind of lobbying and public proselytizing that is characteristic of the Greek and Armenian efforts. Turkish-Americans are spread throughout the United States and form no cohesive voting or social bloc. The absence of a natural and organized lobby and the challenge presented by the organized Greek and Armenian lobbies have combined to result in a hesitant U.S. support for Turkey, despite its history and its strategic importance, which is greater than Greece.

The persistent complaint is that Turkey is not a real democracy, an argument that can be applied more correctly to the corrupt regime of Prime Minister Andreas Papandreau of Greece, a former sympathizer of the Soviet Union and of anti-American Third World radicals and terrorists. It's true that neither Greece nor Turkey are complete democracies on the order of the United States or Britain, but a good case can be made for Turkey on its substantive political and social culture, which is characterized by a history of civility, an absence of racism and anti-Semitism and a certain steadfastness to allies ever since the collapse of the Ottoman Empire.

It's true that the Ottoman Empire, once called "the Sick Man of Europe" was an abusive and corrupt empire. Yet even then, its system of vilayat rule allowed considerable autonomy and achieved more tolerance for religious groups than other empires of its time.

Today, Turkey is marked for its civility, and is important as a strategic partner. Most of the vestiges of the Ottoman Empire have long since vanished in the wake of the work of the model military reformist Kamal Ataturk, who is the father of modern, secular Turkey. Turkey, in fact, is the only secular Muslim state in the world today, a not unremarkable feat and status.

Turkey ought to be rewarded instead of ignored for its secularization efforts. True, Turkey must find a better way to deal with its Kurdish problem, although its current approach is relatively moderate, compared to the way Iraq treats its Kurdish minority. The Turkish government should probably do its utmost to recognize the Kurds, although not the PKP revolutionary Marxist group, as equal citizens.

Still, the reasons for American disinterest have more to do with domestic American lobbying activities than any real or perceived Turkish failings. It's high time the United States woke up to the strategic and critical importance of Turkey. The easiest way to do that is to imagine Turkey in the hands of fundamentalist Islamic forces. The opposite is true today—Turkey stands as a real and honest bulwark to the forces of radical and fundamentalist Islam.

EXCLUSIVE ECONOMIC ZONE

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. DEFAZIO. Mr. Speaker, I join my colleague from the First District of California, Representative RIGGS, in supporting an extension of State jurisdiction into the exclusive economic zone [EEZ] for the States of Alaska, Washington, Oregon, and California. Certain fisheries, such as Dungeness crab, scallops, and thresher shark are not covered by a Federal fishery management plan [FMP]. States lack the authority to manage these fisheries while the Pacific Fishery Management Council and NMFS lack the resources to manage them. In the absence of management and conservation authority, these fisheries can easily be exploited by fishermen fishing exclusively in the EEZ and then landing the product in a State or foreign nation without landing laws addressing that species of fish. The bill as it is currently written grants authority to manage in the EEZ to Alaska. I am hopeful that similar authority will be granted to Washington, Oregon, and California. I applaud the commitment by Representative YOUNG to work toward resolution of this issue.

WHO WILL NOTICE?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. CRANE. Mr. Speaker, lately there has been a great deal of rhetoric about train wrecks and other analogies to cataclysmic events to describe the impending doom to the Nation's financial markets should the Government shut down if Congress and President Clinton disagree on a Federal budget. I believe that most of the gloom and doom forecasts come from bureaucrats and Democrats who generally overstate the importance of Washington to the rest of the Nation.

As far as I am concerned, the shutdown of nonessential Federal agencies would constitute the fulfillment of my mission as a Member of Congress. However, in the past, the Government has, in fact, shut down temporarily as Congress and the President fought over the details of the funding for the Federal agencies. I suspect that, outside the Capital Beltway, no one noticed when it was shut down.

In a recent Wall Street Journal article, Jim Miller, the former director of the Office of Management and Budget, also argues that no one, even those on Wall Street, will notice if the Federal Government temporarily shuts down during budget negotiations.

As we in Congress continue to convince President Clinton of the necessity to balance the Federal budget, I commend Mr. Miller's article, "Government Shutdown? "See If Anybody Notices"" to my colleagues for reassurance.

[From the Wall Street Journal]

GOVERNMENT SHUTDOWN? 'SEE IF ANYBODY NOTICES'

(By James C. Miller III)

Washington is reaching the end game on the budget. The White House wants Congress to compromise on—read, back off—a budget that simultaneously cuts taxes by $245 billion, pays dollar for dollar for those tax cuts with spending cuts, and balances the books by the year 2002. In a fit of rhetorical overkill, the Clinton administration has warned of a "train wreck" that will shut the government down and shake the financial markets if no agreement is reached by Nov. 15.

In fact, the so-called train wreck would be more of a fender bender. The law is quite clear: There would be no shutdown—only "non-essential services" would be curtailed. The armed forces would stand ready as ever; social security checks would be mailed on time (and the post office would deliver them along with all other mail); air traffic controllers and meat inspectors would stay on the job. The fact is, the government has "shut down" four times in the last 15 years without anyone much noticing. After one such shutdown in 1990, the General Accounting Office asked various government agencies what their number one concern regarding a shut down was, most answered "reduced morale." The IRS mentioned that it was worried about a "loss of public confidence in the agency"!

As for payments to U.S. debt holders, a potential default will be no more than a bump along the road to a balanced budget. In 1987 and 1990, the government hit against the debt ceiling, and we heard the same apocalyptic rhetoric we hear today. In 1985, as Congress and the Reagan administration were busy erecting the Gramm-Rudman-Hollings guillotine, the debt ceiling was reached, and default loomed. Relying on a number of technical fixes, the Treasury Department was able to forestall actual default, but the uncertainty lasted more than a month. Did the market implode? Far from it: Stocks actually staged a rally—taking the S&P index to its then-all-time high. There's a lesson in that earlier experience that holds true today: The value of the debt investors buy depends on the dynamism of the U.S. economy—not the fate of the U.S. government.

As always, in its preference for fear over fact, the Clinton administration is playing fast and loose with the numbers. Take the allegedly increased cost of interest rates if the government does hit the debt ceiling. According to President Clinton's chief economic adviser, Joseph Stiglitz, a rise of one hundredth of one percent—a single basis point—would cost $3.5 billion over seven years. Three things are wrong with that number.

First, it ignores the fact that over $1 trillion of government debt is "owned" by another government agency or entity—money, in effect, that Uncle Sam's right pocket owes his left. Second, Mr. Stiglitz apparently assumes the impossible—namely, that all government debt would re-price immediately—and, third, that it would then carry the new and higher rate for the next seven years. That kind of statistical sleight-of-hand may pass for analysis in the White House, but not on Wall Street.

How can I be sure? I was serving as director of Office of Management and Budget under Ronald Reagan when one of these non-crises happened in 1986. At that time, of course, the roles were reversed. A Democratic Congress was trying to force increased spending and higher taxes on a reluctant Republican president. The Democrats thought Mr. Reagan would "blink first," approve their extravagant spending bills, and be forced to raise taxes to pay for their largess.

Unable to convince them that wasn't going to happen, I found myself in the Oval Office apologizing to the president and saying that I feared the government would be forced to close down.

"Jim, Jim," he said, with that famous smile and a twinkle in his eye, "just settle down. Let's close the place down and see if anybody notices."

Then he went on the radio and said the same thing: If Congress doesn't act responsibly, "I won't have any choice but to shut it down. If they want to put a real budget together by candlelight, it's OK by me." In the end, Congress agreed to take the most offensive measures out of their appropriations bills, and the government engines started back up after a brief pause.

The moral of the story: No one did notice.

Perhaps President Clinton is heartened by Mr. Reagan's example, but there is a profound difference in their positions: President Reagan stood with the American people in their desire to cut wasteful government spending. President Clinton stands against their wishes and for a continuation of the spending status quo.

Congress has the moral high road here, and they shouldn't be afraid of sticking to it. Theoretically, the president could engage in a reckless "firemen first" shutdown strategy. After all, the president has full power to define which services are essential and which are not. If he chose, he could define air traffic controllers as "non-essential" and hope the American people blame Congress for the closure of the nation's airports. Or, when the debt ceiling is reached Nov. 15, he could stop sending out Social Security checks to senior citizens, at least temporarily.

But the public will know that none of these actions is necessary. The law is clear: After debt holders, Social Security and other entitlements get first priority, and there is no good reason why those payments should ever be disrupted. If the president chooses to play politics with entitlements, he and only he will be responsible. If there is a "train wreck," he will be the engineer failing to put the brakes on a runaway spending locomotive. And like one of President Clinton's favorite musicians, the late Jerry Garcia, used to sing, "Casey Jones, you better watch your speed."

MARZIEH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. TOWNS. Mr. Speaker, I ask my colleagues to join me in honoring Marzieh, legendary singer of Iran. The news media has reported the smashing success of Marzieh, grande dame of Iranian music, at her concert in California on September 30. You will recall that Marzieh began her tour of the United States with a brief stop in Washington, where many members, including myself, had the great pleasure of meeting her at a reception and dinner here on the Hill. The sellout crowd of over 3,000 at Hollywood's Pantages Theatre gave her a tremendous welcome and one after another of her songs prompted standing ovations.

Marzieh is, of course, renowned among her people not only for her tremendous talent and career, spanning half a century, but for her commitment to democracy and human rights in her troubled homeland, Iran. The civil rights movement in this country was sustained with freedom songs and songs of praise. Marzieh has brought a new voice for Iran, a voice which has helped to preserve Persian musical traditions, and a voice which now lends itself to the battle for freedom and justice in Iran.

Just as the freedom songs of the 1960's carried the message of the civil rights movement, Marzieh's melodic tones will carry the message of the resistance against the repressive regime in Iran. At 71, Marzieh is already a musical icon, but with her courageous decision last year to leave her oppressed homeland after 15 years of silence and meet with the Iranian Resistance's President-elect, Mrs. Maryam Rajavi, in Paris, she has become much more: A true champion of her people. As Mrs. Rajavi's advisor on the arts and culture, I am sure that Marzieh will play a significant role in reviving the world renowned legacy of Persian art and music.

I send Marzieh my congratulations on her great success on the west coast, and my best wishes on her continuing work on behalf of the National Council of Resistance of Iran.

HONORING THE MONTEBELLO WOMEN'S CLUB

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. TORRES. Mr. Speaker, I rise today in recognition of the Montebello Women's Clubhouse in Montebello, CA, which has recently been given the honor of being listed in the National Register of Historic Places.

The Montebello Women's Club originated in 1885. At that time, the club was primarily an intellectual and cultural organization that served the Montebello community. Not content to meet in their homes, the women's club began to raise funds for the construction of a clubhouse. By 1923 club members had raised enough funds and purchased two lots at the corner of Park Avenue and Los Angeles Street, where the clubhouse stands today.

The Montebello Women's Clubhouse, built in 1925, serves as a social gathering place for residents of the city of Montebello. During the city's formative years, the clubhouse was the only suitable facility for large meetings, banquets, dinners, and dances. As a result, the clubhouse rapidly established itself as the community's primary social and civic gathering place.

The Montebello Women's Clubhouse is a product of the Spanish revival architectural philosophy and an excellent example of this influence which was prevalent during the early 1920's. For the past 70 years, this beautiful Spanish colonial revival social hall has served the Montebello community and been host to Montebello's memorable historic, social, community, and civic events.

Mr. Speaker, it is with pride that I rise to recognize the Montebello Women's Clubhouse on the occasion of being listed in the National Register of Historic Places. I also ask my colleagues to join me in extending our best wishes and congratulations to members of the Montebello Women's Club.

LEGISLATION TO APPOINT A COMMISSION ON MEAT PACKING INDUSTRY

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I am pleased today to introduce legislation that will direct the President to appoint a special commission on the concentration and potentially reduced competition in the meatpacking industry. This legislation is necessary to ensure the existence of open and fair competition in the livestock and meatpacking industry.

Over the last year, livestock producers have faced devastatingly low prices that make it very difficult, if not impossible, to break even, let alone receive a reasonable return on their investment. Last spring, cattle and hog prices fell to levels that could threaten the very survival of our Nation's independent family livestock producers. Farmers and ranchers have questioned whether a free and open market operates in the livestock and meat packing industry, and the issues of packer concentration and market access are at the core of their concerns.

This legislation will require the President to appoint a commission on concentration in the meat packing industry. The commission would be chaired by the Secretary of Agriculture and be comprised of cattle, hog, and lamb producers; experts in antitrust legislation; economists; corporate chief financial officers; and corporate procurement experts. The commission would be charged with achieving the following goals:

First, determine if the upcoming USDA study on concentration in the red meat packing industry represents current market conditions. Producers are concerned that the study is based on outdated information and does not cover critical aspects of the livestock industry. This study was mandated by Congress in the fiscal year 1992 Agricultural appropriations bill. Producers and consumers need to have confidence that the findings of this study will apply to current market conditions.

Second, review the adequacy of current antitrust laws with respect to the livestock industry. Four large packing companies control over 80 percent of the cattle slaughtered in this country. Fifteen years ago this level was only a third as much. Given this amount of market concentration, producers question whether current laws are adequate to ensure free, open, and competitive livestock markets.

Third, make recommendations regarding the adequacy of price discovery in the livestock industry. Producers question whether the regulations governing price discovery in the livestock industry ensure the operation of a free and open market.

Fourth, review the reasons for the large producer to retail price spread. Although producers have been receiving some of the lowest prices in recent history for their livestock, packers and retailers have been enjoying record profits. Both producers and consumers deserve to know the reasons behind this distressing price spread.

Mr. Speaker, I invite you and my colleagues to join me in examining the underlying reasons behind one of the most difficult periods for livestock producers in recent memory. This legislation can accomplish this.

A SALUTE TO THE WINNERS OF ILLINOIS PRESS ASSOCIATION AWARDS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a number of news publications in my district whose efforts to uphold the highest principles of journalism were recently recognized by the Illinois Press Association at its annual awards ceremony.

First place winners in both large and small weekly newspaper divisions cover portions of my district. The Southtown Economist of Chicago was named best large daily newspaper in the State. Press Publications of Elmhurst, IL took first place in the large weekly category and The Regional News of Palos Heights, IL was the winner in the small weekly category. These newspapers also won other numerous awards.

Other first place winners from my district included the Star newspaper of Chicago Heights, IL, which was honored for newspaper design and spot news photography, and The Doings of Hinsdale, IL which was recognized for an indepth report on the teardown of homes in its community.

Mr. Speaker, I congratulate these newspapers and their hard-working journalists on earning these prestigious honors.

IN HONOR OF HUGO PRINCZ

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. PALLONE. Mr. Speaker, I rise today to honor a special man who lives in my district in Highland Park, New Jersey: Mr. Hugo Princz.

Hugo is one of a few American survivors of the Holocaust in Nazi Germany. His family was American, living in Slovakia in 1942 when all were arrested by the Nazis. The SS refused to release the Princz family, which should have been done as part of the Red Cross civilian prisoner exchange, instead the family was interned because it was Jewish.

Hugo's mother, father, and sister were sent to Treblinka death camp and gassed on arrival. He and his brothers were sent to Auschwitz, and worked as slave laborers. Mr. Princz's job was to stack dead bodies for incineration. While in Auschwitz, Hugo's two brothers were killed. By the war's end, Hugo was in Dachau and selected for extermination. He was fortunately saved by the U.S. Army when our soldiers boarded a train carrying Hugo and other prisoners and saw U.S.A. embroidered on his jersey.

After the war, Mr. Princz began what would turn out to be a 50-year struggle with the German Government for reparations—a fight in honor of his family and all of the people who were tortured by the Nazis. In 1955, Germany rejected Mr. Princz's application for its reparations program because his U.S. citizenship made him ineligible under German law. Hugo's struggle continued without success for decades. German legislators refused to accept responsibility for the actions of the Nazis and recognize Mr. Princz and his struggle for survival.

Hugo looked to Congress to assist him in his struggle. What he brought to me and the many Members of Congress who supported him was a just and righteous cause. Hugo's lawyers, William Marks from the firm of Powell, Goldstein, Frazer & Murphy, and Steven Perles should be commended for their work on Hugo's behalf. They worked feverishly with Members of Congress, for little reward, to assist Hugo in his efforts. Finally, on September 19, 1995, the roller coaster ride of Hugo's struggle came to a successful conclusion. The German Government recognized his struggle and provided him with the reparations he was owed.

Mr. Speaker, Hugo Princz is an inspiration to everyone who knows him or has heard him tell his story. He managed to overcome the worst nightmare humanity has ever created. Yet his strength and determination in the face of such strong adversity will remain in the hearts and minds of all who know him, and that will be his legacy.

HAPPY 100TH BIRTHDAY ALF THOMPSON

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. POSHARD. Mr. Speaker, I rise today to wish Mr. Alf Thompson a happy 100th birthday. Alf was born on November 11, 1895, and has lived a truly memorable life.

As a young man, Alf enlisted in the Army, and in 1917 he was sent to the Philippines where he joined the Machinegun Company of the 31st Infantry Regiment in Manila. While in the Philippines Alf became the company clerk, and began to consider applying for an officer's commission.

In 1919 Alf was reassigned to Vladivostok, Siberia. Here he attended the American Expeditionary Force's Officer Candidate School, and upon graduation was selected to lead the 31st Infantry Regiment's Signal Platoon. He was charged with the responsibility of keeping Siberia's only source of coal safe as it was transported on the Trans-Siberian Railroad.

When World War I ended Alf left the Army and began a successful career in private business. When World War II erupted Alf once again when to work for his Nation. He left the private sector and joined the American Red Cross. He went to the Mediterranean to help the soldiers, sailors, and airmen stationed in North Africa, Sicily, and Italy. Years later, when soldiers returned to Illinois from Vietnam, Alf helped organize the State's welcome home program, and when the Vietnam Veteran's Memorial in Washington, DC needed additional monetary support, Alf helped raise the necessary funds.

Mr. Speaker, it is an honor to represent this exceptional man in Congress. I am proud to join with Alf's friends and family to celebrate his 100th birthday, and I wish him many more happy years.

TRIBUTE TO DR. RUTH WU

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to bring to your attention the retirement of Dr. Ruth Wu as the Dean of the School of Health and Human Services at California State University, Los Angeles. Dr. Wu has dedicated her whole career to the education of young people in health careers, particularly nursing. She is a person of great vision and was able to put in place changes in curriculum and program which allowed students to be prepared to meet the needs of a changing society.

An example of her foresight is her dedication and commitment to the establishment of the Edward R. Roybal Institute for Applied Gerontology on the campus of Cal State L.A. Her hard work and perseverance in promoting the Gerontology Institute among the university faculty and administrators resulted in the development of a gerontology program which is multidisciplinary in scope and community based in practice.

Dr. Wu has distinguished herself first in the clinical role as a public health nurse in California, New York, and Michigan (1946–57); then in the faculty role as a pediatric specialist at Henry Ford Community College, Michigan (1958–60), U.C.L.A. (1962–68) and Cal State L.A. (1971–95). Dr. Wu was initially appointed as a visiting associate professor to the Department of Nursing in 1971.

Dr. Wu's expertise in curriculum development and her leadership skills were quickly recognized and she was appointed interim Department Chair 1992–93, and her permanent Department Chair and professor in 1993–94. Her contributions from that point on are primarily in her third area of distinguished service, that of administration. From 1972 to 1982, Dr. Wu served as the Department Chair of Nursing. During those years she offered outstanding leadership in curriculum development, developing at that time one of the most forward thinking nursing curriculums in the country. Her education partnerships with the establishment of the on-site R.N. transfer baccalaureate program offered at LAC-USC Medical Center.

Dr. Wu's contributions to nursing have been recognized both nationally and statewide. In 1981, she became a fellow in the American Academy of Nursing, a very prestigious position. In 1987, she was awarded the Lulu Hassenplug outstanding nurse educator award by the California Nurses Association.

Dr. Wu moved to the school offices in 1982–83, first as the acting Associate Dean of the School of Fine and Applied Arts. In 1983–84, she served as acting Dean of that school. In 1984–85, Dr. Wu became the founding dean of the new school of health and human services, and continued in that role until her retirement in 1995.

The California State University, Los Angeles and its students are losing a great educator.

I urge my colleagues to join me in congratulating Dr. Ruth Wu for a most distinguished and memorable career.

An example of her foresight is her dedication and commitment to the establishment of the Edward R. Roybal Institute for Applied Gerontology on the campus of Cal State L.A. Her hard work and perseverance.

REPRESENTATIVE MEEK HONORS REV. DR. WALTER T. RICHARDSON

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mrs. MEEK of Florida. Mr. Speaker, this weekend Rev. Walter T. Richardson, pastor of Sweet Home Missionary Baptist Church in Perrine, FL, will simultaneously receive a Ph.D. degree in biblical counseling from Trinity Theological Seminary of Newburgh, IN, and celebrate his 12th year as a pastor. I would like to congratulate him on his two great achievements and thank him for the long years of service in the Miami area.

Reverend Richardson has served our community with great energy and success. He sits on the Board of Trustees of Miami Dade Community College and the Board of Directors of the New World School of the Arts. He is a member of the St. Thomas University Human Rights Institute and the Miami Coalition for a Drug Free Community. He has served as president of the West Perrine Christian Assocation, Co-Chair of the board of directors for We Will Rebuild, on the executive committee of the Miami NAACP, and numerous other positions. He has received awards too numerous to mention, but which include the 1993 NAACP Outstanding Service Award, the 1992 Orange Bowl Committee Hurricane Hero Award, the 1991 Thomas Dorsey Award of Excellence, and the 1985 Miami Herald Outstanding Black Achievers Award.

Guided by Reverend Richardson, Sweet Home Missionary Baptist Church is a multicultural, racially integrated congregation consisting of African-Americans, whites, and Hispanics. Serving as pastor for the last 12 years, Reverend Richardson has been responsbile for the growth of the church from a small congregation of 200 to the 1,200 worshippers who currently attend Sweet Home Missionary Baptist Church.

Reverend Richardson's accomplishments in the academic field are as equally impressive. He graduated cum laude from St. Thomas University with a B.A. in religious studies. From St. Thomas, he also earned his master's degree in pastoral ministries. Prior to working toward a Ph.D, Reverend Richardson did graduate work in philosophy at the University of Miami and in theology at Gammon Theological Seminary.

Walter T. Richardson, Reverend, pastor, community servant, and now Doctor, has dedicated over 26 years to the Christian Ministry and to the community around him. He has helped people physically, mentally, and spiritually. He has dedicated his time, efforts, and his life to improving other's lives. I offer Reverend Richardson my sincere congratulations for his acomplishments and my deepest thanks for his long years of dedicated service to our community.

BIRTH OF JENNA MARIE HURKES

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the birth of a baby. Jenna Marie Hurkes was born to MaryAnn and Jerry at 10:57 a.m. on August 25, 1995, weighing 8 pounds and 1 ounce. On an occasion such as this, I join with the members of the Hurkes family in wishing Jenna Marie all the best for the promising future ahead of her.

I am sure that my colleagues join me in congratulating the proud parents, MaryAnn and Jerry, on this most joyous occasion. With their newborn baby, their lives together will no doubt continue to be an adventure. May this blessed addition to their lives bring them much happiness in the years to come.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 19, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 20

10:00 a.m.

Judiciary

To resume hearings to examine the status of religious liberty in the United States.

SD–226

OCTOBER 23

10:00 a.m.

Judiciary

Constitution, Federalism, and Property Rights Subcommittee

To resume hearings to examine the status and future of affirmative action.

SD–226

OCTOBER 24

10:00 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 1101, to make improvements in the operation and administration of the Federal courts.

SD–226

Conferees

On H.R. 1868, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996.

H-140, Capitol

OCTOBER 25

10:00 a.m.

Veterans' Affairs

To hold hearings to examine veterans' employment issues.

SR–418

2:00 p.m.

Select on Intelligence

To hold hearings to examine intelligence's support to law enforcement.

SD–G50

OCTOBER 26

9:00 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings to examine alternatives to Federal forest land management and to compare land management cost and benefits on Federal and State lands.

SD–366

9:30 a.m.

Indian Affairs

To hold hearings on proposed legislation to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, Arizona.

SR–485

Special on Aging

To hold hearings to examine the quality of care in nursing homes.

SD–628

2:00 p.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 231, to modify the boundaries of Walnut Canyon National Monument in the State of Arizona, S. 342, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, S. 364, to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and H.R. 562, to modify the boundaries of Walnut Canyon National Monument in the State of Arizona.

SD–366

OCTOBER 31

10:00 a.m.

Judiciary

To hold hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.

SD–106

NOVEMBER 1

10:00 a.m.

Judiciary

To continue hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.

SD–106

NOVEMBER 7

10:00 a.m.

Indian Affairs

To hold hearings on S. 1159, to establish an American Indian Policy Information Center.

SR–485

NOVEMBER 15

10:00 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 582, to amend United States Code to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding.

SD–226

POSTPONEMENTS

OCTOBER 19

2:00 p.m.

Foreign Relations

Business meeting, to consider pending calendar business.

SD–419

SENATE—*Thursday, October 19, 1995*

(Legislative day of Wednesday, October 18, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, our purpose is to glorify You by serving our Nation. We want to express an energetic earnestness about our work today. Help us to know what You want and then want what we know; to say what we mean, and mean what we say. Give us resoluteness and intentionality. Free us to listen to You so intently that we can speak with intrepidness. Keep us in the battle for truth rather than ego-skirmishes over secondary issues. Make us party to Your plans so we can give leadership to our parties and then help our parties to work together to accomplish Your purposes. Make us one in the earnestness of our patriotism.

Thank You for calling this Senate family to be a caring community in which we share each other's joys and sorrows. Today, we ask for Your strength and comfort for Senator CHARLES ROBB now at the time of the death of his father. Help us all to live today with an assurance that this life is but an inch on the limitless measurement of eternity. In the name of the Resurrection and the Life. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Kansas is recognized.

SCHEDULE

Mrs. KASSEBAUM. Mr. President, today, there will be a period for morning business until the hour of 10:30 a.m. At 10:30, the Senate will resume consideration of H.R. 927, the Cuba sanctions bill, with Senator DODD to be recognized to offer his two amendments. The only remaining amendment in order to the bill is the Simon amendment No. 2934, which has a 20-minute time limitation.

Therefore, it is expected that the Senate will complete action on the bill early this afternoon.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. COATS). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under that previous order, the Senator from Kansas [Mrs. KASSEBAUM] is recognized to speak for up to 10 minutes.

Mr. WELLSTONE. Will the Senator yield for a moment?

Mrs. KASSEBAUM. Yes.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I might be granted 10 minutes to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Kansas is recognized.

STUDENT LOANS AND BUDGET RECONCILIATION

Mrs. KASSEBAUM. Mr. President, the other evening, the majority leader, Senator DOLE, spoke about the opportunities which the GI bill provided to thousands of Americans following World War II. Enactment of the GI bill in 1944 marked the beginning of Federal efforts to open the door to postsecondary education for individuals who would otherwise be unable to attend. Over the past 50 years, the scope and variety of Federal student aid programs have expanded considerably. Today, any student in need of financial help can obtain it.

My reason for addressing the Senate now is to dispel the notion that, somehow, all this will change if Congress enacts student loan changes as part of the budget reconciliation bill. Unfortunately, misconceptions about this legislation are widespread, and I believe it is important to set the record straight.

A few weeks ago, the Senate Committee on Labor and Human Resources reported its portion of this legislation, providing Federal student loan savings of $10.85 billion over 7 years. Because the Federal student loan program is one of the few mandatory spending programs under the jurisdiction of the Labor and Human Resources Committee, it was the only place we had to turn in order to comply with our instruction.

Granted, $10.85 billion is a substantial sum over 7 years. However, to hear some describe our package, one would assume that it spells the end of higher education as we know it. Mr. President, that is simply not the case.

Federal student loan programs were established to assist students and their parents in financing postsecondary education. These programs have been successful in achieving that goal. Approximately $26 billion in loan funds have been made available this year. The figure will grow next year. Even if the Labor Committee package is approved intact, that volume will grow.

The reason is that the savings in this package were achieved without restricting a student's ability to borrow. In short, there is nothing in the package which limits the amount of loan funds available. Loans will continue to be available to all who qualify. There is nothing in the package which limits the ability of a student to qualify for a Federal loan. The rules are exactly the same as they have been.

There is nothing in the package which increases the cost of the loan to a student who is in school. The only direct cost to students included in the package applies to new borrowers after they leave school. At that point, they will continue to be able to defer loan payments for 6 months—the so-called grace period—but the Federal Government will no longer subsidize interest payments during that period of time.

That, I believe, Mr. President, is reasonable. This package was developed with the clear intention of minimizing costs to students. I believe that purpose was accomplished. It is, therefore, particularly disturbing to me that students and their families are being intentionally misled about the impact of the proposed changes. I fear that this misinformation will discourage some students from even exploring postsecondary education, and that, I believe, would be a real tragedy.

I would like to explain briefly how the $10.85 billion in savings is achieved. First of all, about $4 billion of the savings comes from reductions to entities involved in the guaranteed loan program, such as banks and guaranty agencies.

The elimination for new borrowers of the interest subsidy during the 6-month grace period achieves about $2.7 billion in savings over that 7-year period. This change would mean an extra $1.89 a month for an undergraduate who borrows $5,500 in 1 year. At most, it would mean an additional $22.50 a month for a graduate student who has borrowed the $65,000 maximum through his or her college career.

Capping the direct loan program at 20 percent of loan volume produces about

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

$1.5 billion in savings. Additional savings are achieved through the elimination of fees paid to schools and alternative originators for direct loan administration. Whatever one may believe about the merits or demerits of direct lending, the fact remains that the way a loan is delivered has absolutely nothing to do with the ability of students to borrow or with the amounts they may borrow. The terms and conditions of direct loans are identical to those of guaranteed loans. There is no difference to the students at that juncture. To suggest that paring back the direct loan program will deprive students of loan funds or make those funds more expensive is plainly inaccurate. The one advantage, at this point, of direct loans and direct lending is that it makes a loan available immediately.

It does expedite the process of obtaining a loan by a student. As far as any difference in the loans being more expensive, that is certainly not the case.

The package also calls upon postsecondary education institutions to participate in achieving savings by imposing a fee equal to 0.85 percent of the amount of Federal loans made available to their students. This proposal produces about $1.9 billion over 7 years.

Some have argued that these costs will be passed directly on to the students rather than being absorbed through the efficiencies in other school operations. Perhaps that will be the case. Even if the entire cost is passed on to the student, it would amount to an average of $20 to $25 per student per year. That is at the high end. Others would be about $11 to $12 to $13 per year.

Finally, approximately $700 million in savings is achieved by increasing the interest rate and the interest rate cap on parent loans.

When one looks beyond the hype to see the facts, Mr. President, it is clear that this reconciliation package does not spell disaster for secondary education in this country. Blaming a Republican Congress for reducing access to postsecondary education by increasing its costs may be convenient, but it does not explain away the fact that college tuitions have been growing at a rate surpassing inflation for well over a decade. That is what has caused such enormous problems for students and their families, is the escalating cost of college education due to increased tuition.

Figures recently released by the college board show an average tuition increase this year of 6 percent, more than double the inflation rate. Average tuition in fees at a 4-year public institution are $2,860. For a 4-year private institution, these costs average $12,432.

Mr. President, another 6-percent increase in those amounts next year would mean an additional per-student cost ranging from $171 to $745, presenting far more serious problems for students and their families than anything in this reconciliation package.

Federal student aid is simply not going to be able to pick up the slack in such an environment, nor is that a role for which it was intended. That is what I think we need to understand, Mr. President.

There is not anything in the reconciliation package regarding student loans that I suppose we would be comfortable with. On the other hand, it is not the tragedy that is being portrayed. I think it is very important that students and their families understand that.

No one relishes the task of cutting back. It is much easier to build upon the expensive policies that have brought us to our current budget problems in the first place. However, one can prune the branches without killing the tree. It is a disservice to the American taxpayers to suggest otherwise.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous unanimous consent, the Senator from Minnesota is recognized.

Mrs. KASSEBAUM. I wonder if the Senator from Minnesota would yield for a few moments for some unanimous-consent requests.

Mr. WELLSTONE. I am happy to yield to the Senator.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION APPROPRIATIONS AUTHORIZATION, FISCAL YEAR 1996

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 204, S. 1048.

The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows:

A bill (S. 1048) to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and inspector general; and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "NASA" means the National Aeronautics and Space Administration; and

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. HUMAN SPACE FLIGHT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Human Space Flight the following amounts, to become available October 1, 1995:

(1) Space Station, $1,818,800,000.

(2) Russian Cooperation, $129,200,000.

(3) Space Shuttle, $3,031,800,000.

(4) Payload and Utilization Operations, $293,000,000.

SEC. 102. SCIENCE, AERONAUTICS, AND TECHNOLOGY.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Science, Aeronautics, and Technology the following amounts, to become available October 1, 1995:

(1) Space Science, $1,958,900,000, of which $48,700,000 shall be allocated to the Stratospheric Observatory for Infrared Astronomy, $15,000,000 shall be allocated to the Space Infrared Telescope Facility, and $30,000,000 shall be allocated to the New Millennium initiative.

(2) Life and Microgravity Sciences and Applications, $507,000,000, of which $3,000,000 shall be allocated for the construction of an addition to the Microgravity Development Laboratory, Marshall Space Flight Center.

(3) Mission to Planet Earth, $1,360,100,000, of which $17,000,000 shall be allocated to the construction of the Earth Systems Science Building, Goddard Space Flight Center.

(4) Aeronautical Research and Technology, $891,300,000, of which $5,400,000 shall be allocated to the modernization of the Unitary Plan Wind Tunnel Complex, Ames Research Center.

(5) Space Access and Technology, $766,600,000, of which at least $70,000,000 shall be allocated to support a shuttle flight for the Shuttle Imaging Radar-C, of which $5,000,000 shall be used to establish a Rural Technology Transfer and Commercialization Center for the Rocky Mountains and Upper Plains States region, and of which $159,000,000 shall be allocated to the Reusable Launch Vehicle program.

(6) Mission Communications Services, $461,300,000.

(7) Academic Programs, $104,700,000, of which $3,000,000 shall be allocated to support the establishment of an Upper Plains States regional science education and outreach center and of which $1,000,000 shall be allocated to establish a Rural Teacher Resource Center.

SEC. 103. MISSION SUPPORT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Mission Support the following amounts, to become available October 1, 1995:

(1) Safety, Reliability, and Quality Assurance, $37,600,000.

(2) Space Communications Services, $219,400,000.

(3) Research and Program Management, including personnel and related costs, travel, and research operations support, $2,047,800,000.

(4) Construction of Facilities, including land acquisition, $135,000,000, including the following:

(A) Restoration of Flight Systems Research Laboratory, Ames Research Center;

(B) Restoration of chilled water distribution system, Goddard Space Flight Center;

(C) Replace chillers, various buildings, Jet Propulsion Laboratory;

(D) Rehabilitation of electrical distribution system, White Sands Test Facility, Johnson Space Center;

(E) Replace main substation switchgear and circuit breakers, Johnson Space Center;

(F) Replace 15kv load break switches, Kennedy Space Center;

(G) Rehabilitation of Central Air Equipment Building, Lewis Research Center;

(H) Restoration of high pressure air compressor system, Marshall Space Flight Center;

(I) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center;

(J) Restoration of canal lock, Stennis Space Center;

(K) Restoration of primary electrical distribution system, Wallops Flight Facility;

(L) Repair of facilities at various locations, not in excess of $1,500,000 per project;

(M) Rehabilitation and modification of facilities at various locations, not in excess of $1,500,000 per project;

(N) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $1,500,000 per project;

(O) Facility planning and design, not otherwise provided for; and

(P) Environmental compliance and restoration.

SEC. 104. INSPECTOR GENERAL.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Inspector General $17,300,000, to become available October 1, 1995.

SEC. 105. OFFICE OF COMMERCIAL SPACE TRANSPORTATION.

There are authorized to be appropriated to the Office of Commercial Space Transportation of the Department of Transportation $7,000,000, to become available October 1, 1995.

TITLE II—LIMITATIONS AND GENERAL PROVISIONS

SEC. 201. SPACE STATION LIMITATION.

The aggregate amount authorized to be appropriated for Space Station and related activities under sections 101, 102, and 103 shall not exceed $2,100,000,000.

SEC. 202. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Of the amounts appropriated under sections 101 and 102, $6,900,000 are authorized for the Experimental Program to Stimulate Competitive Research in accordance with title III of the National Aeronautics and Space Administration Act, Fiscal Year 1993 (Public Law 102–588; 106 Stat. 5119).

SEC. 203. SPECIAL TECHNOLOGY ENHANCEMENT GRANTS.

(a) IN GENERAL.—

(1) GRANTS.—The Administrator shall make up to 4 special technology enhancement grants to areas or States that have not participated fully in the Administration's aeronautical and space programs in order to enable such areas or States to increase their capabilities in technology development, utilization, and transfer in aeronautics, space science, and related areas. At least one such grant shall be made available to a consortium of States, each one of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

(2) ACTIVITIES.—Grants made under this section shall be available for—

(A) assessment of resources and needs;

(B) development of infrastructure, including incubators and prototype demonstration facilities;

(C) collaborations with industry;

(D) expansion of capabilities in procurement;

(E) development of technology transfer and commercialization support capabilities;

(F) activities to increase participation in the Small Business Innovation Research program and other NASA research, development, and technology utilization and transfer programs;

(G) relevant research of interest to NASA; and

(H) such other activities as the Administrator shall deem appropriate.

(3) SPECIAL CONSIDERATION.—In making grants under this section, the Administrator shall give special consideration to proposals that—

(A) will build upon and expand a developing research and technology base, and

(B) will insure a lasting research and development and technology development and transfer capability.

(b) ELIGIBLE ENTITIES.—Grants under subsection (a)(1) may be made to—

(1) State and local governments;

(2) institutions of higher education; and

(3) organizations with expertise in research and development, technology development, and technology transfer in areas of interest to NASA.

(c) FUNDING OF PROGRAM.—Of the amounts authorized in section 102 for the Space Access and Technology account, $15,000,000 are authorized to be used for grants under subsection (a).

SEC. 204. CLEAR LAKE DEVELOPMENT FACILITY.

The Administrator is authorized to acquire, for no more than $35,000,000, a certain parcel of land, together with existing facilities, located on the site of the property referred to as the Clear Lake Development Facility, Clear Lake, Texas, comprising approximately 13 acres and including a light manufacturing facility, an avionics development facility, and an assembly and test building which shall be modified for use as a neutral buoyancy laboratory in support of human space flight activities.

SEC. 205. YELLOW CREEK FACILITY.

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration (NASA) is authorized to convey, without reimbursement, to the State of Mississippi, all rights, title, and interest of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: Provided, That appropriated funds shall be used to effect this conveyance: Provided further, That $10,000,000 in appropriated funds otherwise available to NASA shall be transferred to the State of Mississippi to be used in the transition of the facility: Provided further, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: Provided further, That in consideration of this conveyance, NASA may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: Provided further, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than 30 days after the date of enactment of this Act.

SEC. 206. RADAR REMOTE SENSING SATELLITES.

(a) FINDINGS.—The Congress finds that—

(1) radar satellites represent one of the most important developments in remote sensing satellite technology in recent years;

(2) the ability of radar satellites to provide high-quality Earth imagery regardless of cloud cover and to provide three-dimensional pictures of the Earth's surface when the satellites are flown in combination dramatically enhance conventional optical remote sensing satellite capabilities and usefulness;

(3) the National Aeronautics and Space Administration has developed a unique background and expertise in developing and operating radar satellites as a result of their activities connected with its radar satellites, Shuttle Imaging Radar (SIR)-A, SIR-B, and SIR-C, which has flown twice on the Space Shuttle;

(4) other nations currently have operational radar satellite systems, including Japan and Western Europe, with other spacefaring nations expected to develop such systems in the near future; and

(5) the development of an operational radar satellite program at NASA featuring free-flying satellites and a related ground system is critical to maintain United States leadership in remote sensing satellite technology and is important to our national security and international competitiveness.

(b) POLICY.—It is the policy of the United States that—

(1) NASA should develop and operate a radar satellite program as soon as practicable;

(2) NASA should build on the experience and knowledge gained from its previous radar endeavors;

(3) NASA should work with other Federal agencies and, as appropriate, with other spacefaring nations, in its radar satellite activities; and

(4) NASA should make maximum use of existing National remote sensing assets such as the Landsat system, activities connected with the Mission to Planet Earth, and the data management facilities of the Department of the Interior in all of its radar satellite activities.

(c) PROGRAM REQUIREMENTS.—NASA shall initiate a program to develop and operate a radar satellite program. The program shall employ the most advanced radar satellite technology currently available. To the maximum extent possible, all of the data processing, dissemination, and archiving functions shall be performed by the Department of the Interior. The program should be planned in such a way that the data from the radar satellite system are converted into a broad range of informational products with research, commercial, and government applications and any other applications that are in the public interest and that such products are distributed over the widest user community that is practicable, including industry, academia, research institutions, local and State governments, and other Federal agencies. The program should coordinate with, and make appropriate use of, other remote sensing satellite programs, such as the Landsat program.

(d) PLAN.—Within 90 days after the enactment of this Act, the Administrator shall submit a detailed plan for implementation of the radar satellite program to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan should include—

(1) the goals and mission of the program;

(2) planned activities for the next 5 years to achieve such goals and mission;

(3) strategies for maximizing the usefulness of the satellite data to the scientific and academic communities, the private sector, all levels of government, and the general public;

(4) concepts for integrating the program with other related NASA activities (such as Mission to Planet Earth), the Landsat program, and other current and emerging remote sensing satellite programs and activities in the Federal Government and all other public and private sectors so that the program complements and strengthens such programs and activities and is not duplicative of these efforts;

(5) concepts developed in consultation with Department of the Interior, for processing, archiving, and disseminating the satellite data using, to the maximum extent possible, existing Federal government programs and assets at the Department of the Interior and other Federal agencies;

(6) targets and timetables for undertaking specific activities and actions within the program;

(7) a 5-year budget profile for the program; and

(8) a comparison between the program and the radar satellite programs of other spacefaring nations, addressing their respective costs, capabilities, and other relevant features.

(e) AUTHORIZATION.—Of the funds authorized in section 102 for the Earth Probes account, the Administrator shall allocate at least $15,000,000 to the radar satellite program to conduct Phase A and Phase B studies.

SEC. 207. STUDY OF THE HYDROLOGY OF THE UPPER MISSOURI RIVER BASIN.

The Administrator shall initiate a project to conduct research on the hydrology of the Upper Missouri River Basin. The project shall be part of the Mission to Planet Earth program and shall employ satellite observations, surface-based radar data, and ground-based hydrological and other scientific measurements to develop quantitative models that address complex atmospheric and surface hydrological processes. The project shall be incorporated into NASA's activities connected with the multi-agency Global Energy and Water Cycle Experiment to understand the interactions between the atmosphere and land surfaces. In implementing the project, NASA shall coordinate and consult with other appropriate federal agencies, including the Department of Commerce, the Department of the Interior, and the National Science Foundation. To the maximum extent possible, NASA shall employ the assistance of universities, local and State governments, industry, and any other appropriate entities from the Upper Missouri River Basin region to carry out this program and the Administrator is authorized to support the project-related work of such entities with grants, technical advice, equipment, in-kind help, and any other type of appropriate assistance. Within 90 days after the enactment of this Act, the Administrator shall submit a plan for the implementation of this project, which shall set forth the goals, project costs, planned activities, and overall strategies for the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. Of the funds authorized in section 102 for Mission to Planet Earth, at least $10,000,000 shall be allocated by the Administrator to the Upper Missouri River Basin project.

SEC. 208. SHUTTLE PRIVATIZATION.

(a) The Administrator is hereby directed to conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that NASA transition towards the privatization of the Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Shuttle is privatized, including, but not limited to, the following issues—

(1) whether the government or the Shuttle contractor should own the Shuttle orbiters and Shuttle ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Shuttle operations, and, if so, under what terms and conditions;

(3) whether commercial payloads should be allowed to be launched on the Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(4) whether NASA and Federal Government payloads should have priority over non-federal government payloads in the Shuttle launch assignments and what policies should be developed to prioritize among payloads generally;

(5) whether the public interest requires that certain Shuttle functions continue to be performed by the Federal Government; and

(6) whether privatization of the Shuttle would produce any significant cost savings and, if so, how much cost savings.

(b) Within 60 days of the enactment of this Act, NASA shall complete the study and shall submit a report on that study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(c) As a transitional step towards Shuttle privatization, NASA shall take all necessary and appropriate actions to consolidate Shuttle contractor activities under one prime contractor and, within 180 days of the enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives on those actions. If NASA has failed to complete such consolidation by the expiration of the 180-day period, the report shall explain the reasons for that failure and describe the steps being taken by NASA to finalize the consolidation as expeditiously as possible.

SEC. 209. USE OF FUNDS FOR CONSTRUCTION.

(a) AUTHORIZED USES.—The Administrator may use funds appropriate for purposes other than those appropriated for—

(1) construction of facilities;

(2) research and program management, excluding research operations support; and

(3) Inspector General,

for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of, existing facilities at any location in support of the purposes for which such funds are appropriated.

(b) LIMITATION.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $750,000, until 30 days have passed after the Administrator has notified the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

SEC. 210. CONSTRUCTION OF FACILITIES.

(a) REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.—If the Administrator determines that—

(1) new developments in the national program of aeronautical and space activities have occurred;

(2) such developments require the use of additional funds for the purpose of construction, expansion, or modification of facilities at any location; and

(3) deferral of such action until the enactment of the next National Aeronautics and Space Administration authorization Act would be inconsistent with the interest of the Nation in aeronautical and space sciences;

the Administrator may use the amounts authorized for construction of facilities pursuant to this Act or previous National Aeronautics and Space Administration authorization Acts for such purposes. The amounts may be used to acquire, construct, convert, rehabilitate, or install temporary or permanent public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. The Administrator may use such amounts for facility consolidations, closures, and demolition required to downsize the NASA physical plant to improve operations and reduce costs.

(c) LIMITATIONS.—

(1) Amounts appropriated for a construction-of-facilities project—

(A) may be varied upward by 10 percent at the discretion of the Administrator; or

(B) may be varied upward by 25 percent to meet unusual cost variations after the expiration of 30 days following a report on the circumstances of such action by the Administrator to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The aggregate amount authorized to be appropriated for construction of facilities shall not be increased as a result of actions authorized under this section.

(2) No amounts may be obligated for a construction-of-facilities project until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a written report describing the nature of the acquisition, construction, conversion, rehabilitation, or installation, its cost, and the reasons therefor.

(d) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

SEC. 211. AVAILABILITY OF APPROPRIATED AMOUNTS.

To the extent provided in appropriations Acts, appropriations authorized under this Act may remain available without fiscal year limitation.

SEC. 212. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate; and

(2) no amount appropriated pursuant to the Act may be used for any program in excess of the amount actually authorized for that particular program, excluding construction-of-facility projects,

unless a period of 30 days has passed after the receipt by such Committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action. NASA shall keep those Committees fully and currently informed with respect to all activities and responsibilities within their jurisdiction. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either such Committee relating to any activity or responsibility.

SEC. 213. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.

Funds appropriated under section 103 may be used for scientific consultations or extraordinary expenses upon the authority of the Administrator, but not to exceed $35,000 .

SEC. 214. REPORTING REQUIREMENTS.

(a) REPORTING PERIOD.—Section 206(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking "January" and inserting "May"; and

(2) by striking "calendar" and inserting "fiscal".

(b) PROTECTION OF COMMERCIALLY VALUABLE INFORMATION.—Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended by adding at the end the following:

"(c)(1) The Administrator may delay, for a period not to exceed 5 years, the unrestricted public disclosure of technical data, related to a competitively sensitive technology, in the possession of, or under the control of, the Administration that has been generated in the performance of experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by, the Administration, if the technical data has significant value in maintaining leadership or competitiveness, in civil and governmental aeronautical and space activities by the United States industrial base.

"(2) The Administrator shall publish biannually in the Federal Register a list of all competitively sensitive technology areas which it believes have a significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities. The list shall be generated after consultation with appropriate Government agencies and a diverse cross section of companies—

"(A) that conduct a significant level of research, development, engineering, and manufacturing in the United States; and

"(B) the majority ownership or control of which is held by United States citizens.

"(3) The Administrator shall provide an opportunity for written objections to the list within a 60-day period after it is published. After the expiration of that 60-day period, and after consideration of all written objections received by the Administrator during that period, NASA shall issue a final list of competitively sensitive technology areas.

"(4) For purposes of this subsection, the term 'technical data' means any recorded information, including computer software, that is or may be directly applicable to the design, engineering, development, production, manufacture, or operation of products or processes that may have significant value in maintaining leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.".

SEC. 215. INDEPENDENT RESEARCH AND DEVELOPMENT.

The Congress finds that it is appropriate for costs contributed by a contractor under a cooperative agreement with the National Aeronautics and Space Administration to be considered as allowable independent research and development costs, for purposes of section 31.205–18 of the Federal Acquisition Regulations if the work performed would have been allowable as contractor independent research and development costs had there been no cooperative agreement. The Administration shall seek a revision to that section of the Federal Acquisition Regulations to reflect the intent of the Congress expressed in the preceding sentence.

SEC. 216. RESTRUCTURING OF THE EARTH OBSERVING SYSTEM DATA AND INFORMATION SYSTEM.

The Administrator is prohibited from restructuring or downscaling the baseline plan for the Earth Observing System Data and Information System in place at the time of the President's budget submission for NASA for fiscal year 1996 unless, 60 days before undertaking such action, the Administrator has submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a written report containing—

(1) a detailed description of the planned agency action;

(2) the reasons and justifications for such action;

(3) an analysis of the cost impact of such action;

(4) an analysis of the impact of the action on the scientific benefits of the program and the effect of the action on the expected applications of the satellite data from the System in such areas as global climate research, land-use planning, state and local government management, mineral exploration, agriculture, forestry, national security, and any other areas that the Administrator deems appropriate;

(5) an analysis of the impact of the action on the United States Global Climate Change Research program and international global climate change research activities; and

(6) an explanation of what measures, if any, are planned by NASA to compensate for any likely reductions in the scientific value and data collection, processing, and distribution capabilities of the System as a result of the action.

TITLE III—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

SEC. 301. AMENDMENT OF TITLE 49.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 302. AMENDMENT OF SECTION 70101.

Section 70101 (relating to findings and purposes) is amended—

(1) by inserting "microgravity research," after "information services," in subsection (a)(3);

(2) by inserting "commercial space transportation services, including in-space transportation activities and" after "providing" in subsection (a)(4);

(3) by striking "commercial launch vehicles" in subsection (a)(5) and inserting "commercial space transportation including commercial launch vehicles, in-space transportation activities, reentry vehicles,";

(4) by striking "launch" in subsection (a)(6) and inserting "launch, in-space transportation, and reentry";

(5) by striking "launches" each place it appears in subsection (a)(7) and inserting "launches, in-space transportation activities, reentries" after ;

(6) by striking "sites and complementary facilities, the providing of launch" in subsection (a)(8) and inserting "sites, in-space transportation control sites, reentry sites, and complementary facilities, the providing of launch, in-space transportation, and reentry";

(7) by inserting "in-space transportation control sites, reentry sites," after "launch sites," in subsection (a)(9);

(8) by striking "launch vehicles" in subsection (b)(2) and inserting "commercial space transportation services, including launch vehicles, in-space transportation activities, reentry vehicles,";

(9) by striking "launch" the first place it appears in subsection (b)(3) and inserting "launch, in-space transportation vehicle, and reentry";

(10) by striking "commercial launch" the second place it appears in subsection (b)(3); and

(11) by inserting "in-space transportation vehicle control facilities, and development of reentry sites" after "facilities," in subsection (b)(4).

SEC. 303. AMENDMENT OF SECTION 70102.

Section 70102 (relating to definitions) is amended—

(1) by inserting "from Earth, including a reentry vehicle and its payload, if any" after "and any payload" in paragraph (3);

(2) by striking "object" the first place it appears in paragraph (8) and inserting "object, including a reentry vehicle and its payload, if any,";

(3) by redesignating paragraphs (9) through (12) as paragraphs (16) through (19), respectively;

(4) by inserting after paragraph (8) the following:

"(9) 'in-space transportation vehicle' means any vehicle designed to operate in space and designed to transport any payload or object substantially intact from one orbit to another orbit.

"(10) 'in-space transportation services' means—

"(A) those activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another;

"(B) the procedures, actions, and activities necessary for conduct of those transportation services; and

"(C) the conduct of transportation services.

"(11) 'in-space transportation control site' means a location from which an in-space transportation vehicle is controlled or operated (as such terms may be defined in any license the Secretary issues or transfers under this chapter).

"(12) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

"(13) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(14) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(15) 'reentry vehicle' means any vehicle designed to return substantially intact from Earth orbit or outer space to Earth.";

(5) by striking "launch" each place it appears in paragraph (18), as redesignated and inserting "launch services, in-space transportation activities, or reentry".

SEC. 304. AMENDMENT OF SECTION 70103.

Section 70103(b) (relating to facilitating commercial launches) is amended—

(1) by striking "LAUNCHES" in the caption and inserting "SPACE ACTIVITIES";

(2) by striking "commercial space launches" in paragraph (1) and inserting "commercial space transportation services"; and

(3) by striking "a space launch" in subsection (b)(2) and inserting "space transportation".

SEC. 305. AMENDMENT OF SECTION 70104.

Section 70104 (relating to restrictions on launches and operations) is amended—

(1) by striking the section caption and inserting the following:

"Restrictions on launches, in-space transportation activities, operations, and reentries";

(2) by striking "site" each place it appears in subsection (a) and inserting "site, an in-space transportation operations site, reentry site, or reenter a reentry vehicle,";

(3) by striking "launch or operation" in subsections (a) (3) and (4) and inserting "launch, in-space transportation activity, or reentry operation";

(4) by striking subsection (b) and inserting the following:

"(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a license under this chapter may launch a payload, operate an in-space transportation vehicle, or reenter a payload only if the payload or vehicle complies with all requirements of the laws of the United States related to launching a payload, operating an in-space transportation vehicle, or reentering a payload.";

(5) by striking the caption of subsection (c) and inserting the following: "(c) PREVENTING LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES.—"; and

(6) by striking "launch" each place it appears in subsection (c) and inserting "launch, in-space transportation activity, or reentry".

SEC. 306. AMENDMENT OF SECTION 70105.

Section 70105 (relating to license applications and requirements) is amended—

(1) by striking "site" in subsection (b)(1) and inserting "site, an in-space transportation control site, or a reentry site or the reentry of a reentry vehicle,"; and

(2) by striking "or operation" and inserting in lieu thereof ", in-space transportation activity, operation, or reentry" in subsection (b)(2)(A).

SEC. 307. AMENDMENT OF SECTION 70106.

Section 70106(a) (relating to monitoring activities general requirements) is amended—

(1) by striking "launch site" and inserting "launch site, in-space transportation control site, or reentry site";

(2) by inserting "in-space transportation vehicle, or reentry vehicle," after "launch vehicle," and

(3) by striking "vehicle." and inserting "vehicle, in-space transportation vehicle, or reentry vehicle.".

SEC. 308. AMENDMENT OF SECTION 70108.

Section 70108 (relating to prohibition, suspension, and end of launches and operation of launch sites) is amended—

(1) by striking the section caption and inserting the following:

"Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites";

and

(2) by striking "site" in subsection (a) and inserting "site, in-space transportation control site, in-space transportation activity, or reentry site, or reentry of a reentry vehicle,"; and

(3) by striking "launch or operation" in subsection (a) and inserting "launch, in-space transportation activity, operation, or reentry".

SEC. 309. AMENDMENT OF SECTION 70109.

(a) CAPTION.—The section caption of section 70109 (relating to preemption of scheduled launches) is amended to read as follows:

"Preemption of scheduled launches, in-space transportation activities, or reentries".

(b) AMENDMENT OF SUBSECTION (a).—Subsection (a) is amended—

(1) by inserting "or reentry" after "ensure that a launch";

(2) by striking "site" in the first sentence and inserting "site, reentry site,";

(3) by inserting "nor shall an in-space transportation activity or operation be preempted," after "launch property," in the first sentence;

(4) by inserting "or reentry date commitment" after "launch date commitment";

(5) by inserting "or reentry" after "obtained for a launch";

(6) by striking "site" in the second sentence and inserting "site, reentry site,";

(7) by striking "services" in the second sentence and inserting "services, or services related to a reentry,";

(8) by inserting "or reentry" after "the scheduled launch"; and

(9) by adding at the end thereof the following: "A licensee or transferee preempted from access to a reentry site does not have to pay the Government agency responsible for the preemption any amount for reentry services attributable only to the scheduled reentry prevented by the preemption.".

(c) AMENDMENT OF SUBSECTION (c).—Subsection (c) is amended by inserting "or reentry" after "prompt launching" in subsection (c).

SEC. 310. AMENDMENT OF SECTION 70110.

Section 70110 (relating to administrative hearings and judicial review) is amended—

(1) by striking "launch" in subsection (a)(2) and inserting "launch, in-space transportation activity, or reentry"; and

(2) by striking "site" in subsection (a)(3)(B) and inserting "site, in-space transportation control site, in-space transportation activity, reentry site, or reentry of a reentry vehicle,".

SEC. 311. AMENDMENT OF SECTION 70111.

Section 70111 (relating to acquiring United States Government property and services) is amended—

(1) by inserting "in-space transportation activities, or reentry services" after "launch services," in subsection (a)(1)(B);

(2) by striking "services" in subsection (a)(2) and inserting "services, in-space transportation activities, or reentry services";

(3) by inserting "or reentry" after "launch" in subsection (a)(2)(A);

(4) by inserting "or reentry" after "launch" the first place it appears in subsection (a)(2)(B);

(5) by striking "launch" each place it appears in subsection (b)(1) and inserting "launch, in-space transportation activity, or reentry";

(6) by striking "services" the first place it appears in subsection (b)(2)(C) and inserting "services, in-space transportation activities or services, or reentry services"; and

(7) by striking subsection (d) and inserting the following:

"(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for any activity involved in producing a launch vehicle, in-space transportation vehicle, or reentry vehicle or its payload for launch, in-space transportation activity, or reentry if the activity was agreed to by the owner or manufacturer of the launch vehicle, in-space transportation vehicle, reentry vehicle, or payload.".

SEC. 312. AMENDMENT OF SECTION 70112.

Section 70112 (relating to liability insurance and financial responsibility requirements) is amended—

(1) by inserting "one reentry, or to the operations of each in-space transportation vehicle" after "launch," in subsection (a)(3);

(2) by inserting "in-space transportation activities, or reentry services," after "launch services," each place it appears in subsections (a)(4) and (b)(2);

(3) by striking "services" in subsection (b)(1) and the third place it appears in subsection (b)(2) and inserting "services, in-space transportation activities, or reentry services,";

(4) by inserting "applicable" after "carried out under the" in subsections (b)(1) and (2);

(5) by striking "Science, Space, and Technology" in subsection (d) and inserting "Science";

(6) by striking "LAUNCHES" in the caption of subsection (e) and inserting "LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES"; AND

(7) by striking "site" in subsection (e) and inserting "site, in-space transportation control site, or control of an in-space transportation vehicle or activity, or reentry site or a reentry".

SEC. 313. AMENDMENT OF SECTION 70113.

Section 70113 (relating to paying claims exceeding liability insurance and financial responsibility requirements) is amended by striking "launch" each place it appears in subsections (a)(1), (d)(1), and (d)(2) and inserting "launch, operation of one in-space transportation vehicle, or one reentry".

SEC. 314. AMENDMENT OF SECTION 70115.

Section 70115(b)(1)(D)(i) (relating to enforcement and penalty general authority) is amended—

(1) by inserting "in-space transportation control site, or reentry site," after "launch site,";

(2) by inserting "in-space transportation vehicle, or reentry vehicle" after "launch vehicle,"; and

(3) by striking "vehicle" the second place it appears and inserting "vehicle, in-space transportation vehicle, or reentry vehicle".

SEC. 315. AMENDMENT OF SECTION 70117.

Section 70117 (relating to relationship to other executive agencies, laws, and international obligations) is amended—

(1) by striking "vehicle or operate a launch site." in subsection (a) and inserting "vehicle, operate a launch site, perform in-space transportation activities or operate an in-space transportation control site or reentry site, or reenter a reentry vehicle.";

(2) by striking "launch" in subsection (d) and inserting "launch, perform an in-space transportation activity, or reentry";

(3) by striking subsections (f) and (g), and inserting the following:

"(f) LAUNCH NOT AN EXPORT OR IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import for purposes of a law controlling exports or imports.

"(g) NONAPPLICATION.—This chapter does not apply to—

"(1) a launch, in-space transportation activity, reentry, operation of a launch vehicle, in-space transportation vehicle, or reentry vehicle, or of a launch site, in-space transportation control site, or reentry site, or other space activity the Government carries out for the Government; or

"(2) planning or policies related to the launch, in-space transportation activity, reentry, or operation.".

SEC. 316. REPORT TO CONGRESS.

Chapter 701 is amended by adding at the end thereof the following new section:

"§70120. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

SEC. 317. AMENDMENT OF TABLE OF SECTIONS.

The table of sections for chapter 701 of title 49, United States Code, is amended—

(1) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, in-space transportation activities, operations, and reentries";

(2) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites";

(3) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches, in-space transportation activities, or reentries";

and

(4) by adding at the end the following new item:

"70120. Report to Congress".

SEC. 318. REGULATIONS.

The Secretary of Transportation shall issue regulations under chapter 701 of title 49, United States Code, that include—

(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

(3) procedures for requesting and obtaining operator licenses for launch and reentry; and

(4) procedures for the application of government indemnification.

SEC. 319. SPACE ADVERTISING.

(a) DEFINITION.—Section 70102, as amended by section 303, is amended by redesignating paragraphs (12) through (19) as (13) through (20), respectively, and by inserting after paragraph (11) the following new paragraph:

"(12) 'obtrusive space advertising' means advertising in outer space that is capable of being recognized by a human being on the surface of the earth without the aid of a telescope or other technological device;".

(b) PROHIBITION.—Chapter 701 is amended by inserting after section 70109 the following new section:

"§70109a. Space advertising

"(a) LICENSING.—Notwithstanding the provisions of this chapter or any other provision of law, the Secretary shall not—

"(1) issue or transfer a license under this chapter; or

"(2) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising.

"(b) LAUNCHING.—No holder of a license under this chapter may launch a payload containing any material to be used for purposes of obtrusive space advertising on or after the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996.

"(c) COMMERCIAL SPACE ADVERTISING.—Nothing in this section shall apply to nonobtrusive commercial space advertising, including advertising on commercial space transportation vehicles, space infrastructure, payloads, space launch facilities, and launch support facilities.".

(c) NEGOTIATION WITH FOREIGN LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for obtrusive space advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for obtrusive space advertising purposes.

(3) As used in this subsection, the term "foreign launching nation" means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 is amended by inserting the following after the item relating to section 70109:

"70109a. Space advertising".

AMENDMENT NO. 2939

(Purpose: To authorize funds for operation of the Upper Midwest Aerospace Consortium, and to clarify authorization)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of Senator PRESSLER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for Mr. PRESSLER, proposed an amendment numbered 2939.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, line 2, after "Center" insert a comma and the following: "and of which $2,000,000 shall be allocated in fiscal year 1996, and such sums as are necessary thereafter, for the operation of the Upper Midwest Aerospace Consortium (UMAC) of institutions in the Upper Great Plains Region for the purpose of making information derived from Mission to Planet Earth data available to the general public".

On page 57, line 18, strike "shall" and insert "is authorized to".

On page 57, line 25, strike "The" and insert "If initiated, the".

On page 58, line 15, strike "Within" and insert "If this project is initiated, then within".

Mr. PRESSLER. Mr. President, I am pleased that today the Senate is considering S. 1048, the NASA Authorization Act for fiscal year 1996, which I introduced as chairman of the Senate Committee on Commerce, Science, and Transportation. Let me also take this opportunity to thank Senator BURNS, who is chairman of our Space Subcommittee, for his fine contributions to this bill and his leadership in space policy matters.

NASA faces two challenges. The first is maintaining America's leadership in aeronautics and space. The second is accomplishing these leadership goals within the confines of a balanced Federal budget. This authorization bill allows NASA to meet both of these challenges.

NASA started out this year with a plan to cut $5 billion over 5 years from its budget. Then, the Senate and House developed budget plans requiring even deeper cuts. In keeping with this new fiscal reality, our bill authorizes a total of $13.8 billion for NASA in Fiscal Year 1996, a 3-percent decrease from the current funding level of $14.26 billion.

Despite the funding cut, the bill manages to support a diverse and forward-looking space program. It authorizes all of NASA's major current programs such as Mission to Planet Earth, space station, space science, and aeronautics and, in almost all cases, at their requested funding levels. At the same time, it prepares NASA for the future by authorizing a number of new starts—including the new reusable launch vehicle technology development program aimed at providing private industry the technology to eventually build a shuttle replacement, and a new radar satellite program to develop and make use of the latest advances in satellite remote sensing technology.

Mr. President, I would now like to make special mention of certain portions of the bill.

I believe Mission to Planet Earth may be NASA's most important and relevant program. The satellite data from Mission to Planet Earth will deliver direct benefits to the taxpayer in contrast to the speculative spinoffs promised by other space activities. For this reason, the bill fully funds this activity at $1.36 billion. Using the latest satellite technology, Mission to Planet Earth will help researchers understand and predict the global climate trends that affect our lives. As a Senator representing a State whose economy is dependent upon agriculture, I have a keen interest in this program's potential to provide detailed data on soil conditions, topography, crops, and other information critical to the farming and ranching community. I also take great pride in the selection of the EROS Data Center in Sioux Falls, SD, as one of the regional data centers that will collect and distribute this satellite data.

If Mission to Planet Earth is to realize its full potential, we must ensure its satellite data are converted to useful information that can be applied to real life problems. Reflecting that thinking, our bill authorizes $10 million for an Upper Missouri River Basin project to support hydrology studies of that flood-plagued region. This project will enable a consortium of regional institutions led by the South Dakota School of Mines and Technology to apply NASA's space-age technology to develop better systems for managing and investigating floods and other natural disasters. I am hopeful NASA will undertake more projects of this type in order to put our country's wealth of scientific knowledge and talent to work for the taxpayers' benefit.

I am pleased with the current direction of the Mission to Planet Earth Program, but, equally significant, so is the scientific community. In September, the National Academy of Sciences released its long-awaited report on the program. The report, which was based on a 10-day workshop featuring the Nation's finest scientists, strongly endorsed the program's goals, missions, and activities. In short, the scientific community formally declared that Mission to Planet Earth is indeed good science.

It is because this program is on the right track that I am deeply concerned about the possibility of NASA taking any imprudent and unnecessary efforts to further restructure the program. Mission to Planet Earth has just completed a restructuring exercise. In my view, further redesigns to the program would only add costs, produce schedule delays, and reduce scientific capabilities. To guard against this occurrence, the bill specifically prohibits NASA from changing the data management component of the program, unless, 60 days before such action, NASA has reported to Congress on the nature and overall impact of the planned changes.

Mr. President, the bill also provides the full $2.1 billion requested funding for space station. However, this authorization should not be interpreted as a ringing endorsement of that program. I am a longstanding supporter of the program, but, in recent years, I have become concerned that it has become too expensive, too complex, and too dependent on the contributions of Russia, the latest station partner.

In a June 1995 report, the General Accounting Office [GAO] estimated the total cost of the design, launch, and operation of the space station will be $94 billion. That is almost seven times the entire annual budget for NASA. Given the history of past missions, it is fair to assume the $94 billion price tag for the program will increase over time. If that happens, we may wake up to find the enormous space station budget has crowded out every other NASA program to become NASA's only mission. Earlier this year, I voted for space station funding, but I may well reconsider my support in the future if the program starts to threaten the balance in our space program.

As important as current space programs are, we also have an obligation to prepare NASA for the future. To that end, the bill supports several new initiatives at NASA to extend its vision into the next century. The bill authorizes a reusable launch vehicle program, which will support NASA's X-33 and X-34 activities to pave the way for the later development by the private sector of a replacement for the shuttle in the next decade.

Employing 1970's technologies and costing $400 million per flight, the shuttle may have outlived its usefulness. However, within today's budget constraints, the Government cannot afford to foot the entire bill for a new multibillion-dollar spacecraft development program. That is why the reusable launch vehicle program—with its emphasis on sharing development costs with industry and its goal of moving our national space transportation system toward privatization—seems a viable concept worth pursuing.

The bill also authorizes the New Millennium initiative to develop new microminiature technologies aimed at reducing the cost and development times for satellites, and provides funding for two infrared astronomy programs to help us better understand the vast universe in which we live.

Mr. President, radar satellites are one of the most important new technologies in satellite remote sensing. In recognition of that, S. 1048 authorizes a new radar satellite program and a third shuttle flight for the shuttle imaging radar "C" satellite. Because radar satellites have the ability to "see" through cloud cover, they will dramatically enhance the capability of America's existing optical-based satellite systems such as Landsat. Japan and Europe already operate radar satellite systems, and Canada is set to deploy one later this year. To maintain our scientific leadership as well as protect our national security, the United States must not get left behind in this critical technology.

In my role as chairman of the Senate Commerce Committee, it has become apparent to me that small city, rural States like my home State of South Dakota are often forgotten in our vast $70 billion Federal science and technology enterprise. That part of America wants to be part of the technological revolution. More importantly, it wants to contribute.

It is in the national interest to strengthen the scientific talent, resources, and infrastructure in our rural States through appropriate research, education, and outreach activities. The bill attempts to accomplish this in several ways. It increases funding for the Experimental Program to Stimulate Competitive Research Program [EPSCOR] from its current level of $4.9 to $6.9 million. NASA's EPSCOR Program, as well as similar programs in six other science agencies, have been instrumental in providing Federal funding for quality academic research in rural States. Our bill also funds a rural teacher resource center, a rural technology transfer and commercialization center, and a regional science education and outreach center for the Plains States region.

Mr. President, I believe NASA is up to the challenge of keeping America preeminent in aeronautics and space despite the intense budget pressure and despite the increasing competition from other spacefaring nations. It is my belief this authorization bill provides NASA with the support it needs to meet that challenge.

I wish to thank my colleagues for their contributions and support and I urge the Senate to pass S. 1048 as amended.

Mr. ROCKEFELLER. Mr. President, I rise today in support of S. 1048, the National Aeronautics and Space Administration Authorization Act, fiscal year 1996. While both the administration and I have some concerns with this bill, it is in general a ringing endorsement of the bipartisan space and aeronautics programs and a strong statement in support of our Nation's future in space.

The bill strongly supports the space station and funds NASA's most important new satellite initiative, Mission to Planet Earth. It authorizes full funding for research on reusable launch vehicles, and supports the important Cassini and Mars Surveyor projects. It also fully authorizes the President's requested funding for aeronautical research and technology, thus continuing the industry-government partnership that is so vital to the long-term strength of our vital aircraft industry.

In addition, the bill requires the NASA Administrator to conduct a study of the feasibility of privatizing the space shuttle—an important step in the on-going debate about how to reduce shuttle costs and bureaucracy without jeopardizing safety or Government requirements. And I am proud that the bill continues the small but very valuable NASA Experimental Program to Stimulate Competitive Research [EPSCOR]. I also support the bill's authorization for the Office of Commercial Space Transportation at the Transportation Department, and the title III amendments that will update the important Commercial Space Launch Act.

Mr. President, the administration does have several concerns about the NASA portions of this bill. The most important concerns the bill's proposed $200 million reduction in shuttle funding. NASA is committed to reducing shuttle costs over time, but the agency is concerned that the assumption that $200 million can be cut in 1 year is unrealistic. The second is the administration's concern about several other cuts the bill makes, including funding cuts for the gravity probe-B satellite project, high-performance computing in the aeronautical program, and a $100 million reduction in the Tracking and Data Relay Satellite System Replenishment Program. Third, the administration also objects to the $123 million in new, unrequested projects authorized by the bill. I believe that these are all important issues, and I will discuss them further with Chairman PRESSLER and Chairman BURNS as S. 1048 moves through the legislative process.

Overall, however, there is much to commend in this bill. I commend Chairman PRESSLER and Chairman BURNS for their dedication to NASA issues and for working with us on this legislation. I support S. 1048 and its strong endorsement of our Nation's space and aeronautical objectives, and I urge our colleagues to join me in voting for it.

Mr. BURNS. Mr. President, today I stand in support of bill, S. 1048, the NASA authorization bill for fiscal year 1996 which I have enthusiastically cosponsored. The bill authorizes a total of $13.8 billion for the agency, a 3-percent decrease from the requested level of $14.26 billion. That funding should allow NASA to continue the important missions already underway such as space station, mission to planet Earth, and the aeronautics and space science programs. It should also prepare NASA for the future by authorizing several new missions, such as an effort to develop a shuttle replacement and a new radar satellite program.

Mr. President, as you know, we are in a budget crisis and NASA deserves a great deal of credit as one of few Federal agencies to respond to it early and responsibly. In 3 years, NASA cut the space shuttle budget from $4 billion to $3.1 billion. It developed a redesign of space station that was $5 billion less expensive than the earlier space station *Freedom* concept. Mission to planet Earth has been reduced from a $17 billion armada of satellites to a $7 billion focused satellite system. Earlier this year, faced with the prospect of deep congressional budget cuts across Government, NASA took the initiative and developed a plan to cut $5 billion in 5 years, without reducing program content.

But NASA did not stop there. This year, it conducted a comprehensive zero-based review of all of its activities and programs to achieve even greater savings. That review looked at a broad range of money-saving measures such as work force reductions, elimination of redundant activities, consolidation of functions, and operating more efficiently. I understand that, within the administration, NASA's efforts are often cited as the model for reinventing Government.

After 3 consecutive years of substantial budget cuts, NASA is now down to the bone. To require additional reductions would force NASA to cancel important space programs, close vital facilities, or lay off essential skilled personnel. That would decimate the Nation's science and technology base. Equally important, it would decimate the morale of the good men and women who have made our space program the subject of movies like "Apollo 13" and inspired thousands of scientists, engineers, and schoolchildren across our country.

It is time to give NASA the support it needs to face the challenges of the future. This NASA authorization bill is designed to do just that.

The bill provides the full $2.1 billion requested level for space station. This program is NASA's most costly, complex, and controversial activity and we are all aware of the many criticisms leveled against it. However, space station is precisely the kind of bold vision that NASA was created to pursue. Space station will enable the United States and the international science community to conduct unique microgravity research and expand our knowledge about humans' ability to live and work in space. If past missions are any indication, the space station will undoubtedly yield breakthroughs in biomedicine and advanced materials. We can probably also expect exciting spinoffs just as past space missions have spawned microelectronics, pacemakers, advance water filtration systems, communications, and many other products and services we now take for granted.

I am a strong station supporter and the funding provided in the bill will keep the program on track for a first element launch in 1997.

The bill also provides full funding for Mission to Planet Earth. Mission to Planet Earth is NASA's $7 billion satellite program aimed at studying how the oceans, land, and atmosphere work as a system in order to understand and predict global climate change. For those of us representing farm States, weather and water are our lifeblood. Mission to Planet Earth promises dramatic improvements in our ability to predict climate change and manage our scarce water resources. If those expectations are met, the program will easily pay for itself in lives and property saved and improved water management.

Mr. President, in my view, one of the most important areas within NASA is aeronautics—the first "A" in NASA. For many years, aeronautics seemed to be reduced to a small "a" status. It always seemed to take a back seat to the higher profile space missions. However, under Dan Goldin's leadership, that is beginning to change and NASA is giving aeronautics the backing it deserves.

To me, the aeronautics research is critical to maintaining U.S. technological leadership and aerospace competitiveness. For instance, the High-Speed Research Program is developing precompetitive technologies in support of supersonic aircraft. It is estimated that the first country to market such an aircraft stands to gain $200 billion in sales and 140,000 new jobs. Similarly, the Advanced Subsonic Technology Program funds research in support of subsonic airplanes—a market that generates 1 million jobs and contributes over $25 billion annually to the U.S. trade balance. These programs are moneymakers and it is in the national interest to give them the support they need. Accordingly, our NASA bill authorizes aeronautics research at the requested level of $891 million for fiscal year 1996.

As a final point, Mr. President, I note that the bill also authorizes a collection of activities and initiatives designed to extend NASA's vision to include our rural States. Our rural States can make an enormous contribution to the civilian space program if only given the chance. For example, in May, Prof. Steve Running of the University of Montana testified before the Science Subcommittee about his efforts to use remote sensing satellite data in forest and crop management. To embrace our rural States in our space program, the bill contains a $2 million increase for the EPSCoR Program, which funds important research in our rural States. It also funds another rural teacher resource center to the existing nine centers, as well as an additional rural technology transfer and commercialization center, to fill in coverage gaps in those two programs.

Mr. President, I believe that this bill provides NASA with the support it requires to continue and build on its important work in space and aeronautics and I urge my colleagues to support this legislation.

Mr. LEVIN. Mr. President, my colleague from Michigan, Senator ABRAHAM and I would like to engage the chairman of the Senate Committee on Commerce, Science, and Transportation in a brief colloquy concerning the treatment of the Consortium for International Earth Sciences Information Network [CIESIN] is S. 1048.

The committee's report suggests that funding for CIESIN should be eliminated since it is,

> . . . an activity which was deemed largely irrelevant to NASA's goals and missions and which has been severely criticized in the past by NASA's Inspector General.

Unfortunately, the committee report's assertion is based on the draft inspector general's [IG] report. The final version of the IG's report states:

> By rescoping CIESIN's mission to include only SEDAC-related activities, NASA now possesses the necessary expertise to manage CIESIN. Because the context within which SEDAC will operate is data management and integration, NASA is more uniquely qualified for this role than any other federal agency.

Further, NASA itself, in a letter from the Associate Administrator for Mission to Planet Earth to the president of CIESIN (July 6, 1995), states:

> The contribution CIESIN has made toward information technology and access to environmental data are highly beneficial to NASA and to society.

There are many more examples which I can provide that directly and factually challenge the committee report's assertion. We would appreciate the chairman's clarification of these statements.

Mr. PRESSLER. I appreciate the remarks of the senior Senator from Michigan and the information he has provided. I understand that the NASA IG's final report does not make any recommendation regarding termination of CIESIN's EOS related activities and finds CIESIN's SEDAC activity well within the goals of the EOS and EOSDIS programs.

Mr. ABRAHAM. Mr. President, I would like to touch on a related subject. During consideration of H.R. 2099, the VA, HUD, and independent agencies appropriations bill for fiscal year 1996, I provided to the distinguished subcommittee chairman, Senator BOND, a brief summary of the value of CIESIN's work for NASA.

CIESIN is one of NASA's nine Distributed Active Archive Centers [DAAC's] supporting the Earth Observing System Data and Information System. CIESIN is the only one that provides integrated socioeconomic data access for the study of the affect society has upon the environment. This is a unique capability and one that NASA officials consider vital to EOS. As the distinguished manager of the bill may know, the Senate's version of H.R. 2099 advises NASA to integrate CIESIN into the EOS plan for 1996.

Obviously, CIESIN's SEDAC activity is hardly irrelevant to NASA's mission and should not be eliminated, as proposed in the committee's report. And, CIESIN's valuable skills and expertise may be of use to NASA in non-SEDAC ares or to other Federal agencies. The House's NASA authorization bill explicitly provides that CIESIN will not be precluded from receiving contracts awarded following a full and open competition and that the rights of any parties under existing contracts shall not be affected. This language would allow CIESIN to compete for NASA or any other Federal agency grants or contracts.

Would the chairman be able to support this non-controversial language?

Mr. PRESSLER. I understand the Senator's point and will certainly work in conference to obtain similar language in the final bill regarding CIESIN's ability to bid on contracts.

Mr. ABRAHAM. I appreciate the Senator's assistance.

Mr. LEVIN. I would also like to add my thanks for the manager's consideration.

Mr. GLENN. Mr. President, I rise to express my serious reservations concerning section 205 of the NASA authorization bill S. 1048. This provision authorizes the conveyance of approximately 1,200 acres of Federal property, including all improvements and any personal property located there to the State of Mississippi. Additionally this provision provides $10 million in transition assistance to the State of Mississippi. Would the distinguished chairman of the Committee, Senator PRESSLER, care to discuss this issue with me?

Mr. PRESSLER. I would be pleased to discuss this issue with my friend from Ohio.

Mr. GLENN. I thank my friend. This provision concerns me because it skirts existing law, namely the Federal Property Act, which governs the process by which the Federal Government disposes of excess property. The Federal Property Act sets up a process designed to ensure that taxpayers—who footed the bill to acquire the property as well as the buildings and personal property associated with it—get the best return on their investment.

Mr. PRESSLER. I agree with the Senator that the Federal Property Act helps ensure that the taxpayers interest are protected.

Mr. GLENN. In particular, the Property Act helps to ensure that we avoid the situation of one agency of Government giving property away, while another agency, unbeknownst to the first, may be trying to acquire similar property. Now, Mr. President, I cannot say that such a situation is happening in this case. We simply cannot say for sure because no screening has taken place. However, we have encountered such situations in the past, and I can assure my colleagues, that in such circumstances, the taxpayer ends up on the short end of the stick.

One of the main purposes of the Federal Property Act is to ensure that, before Federal property is determined to be excess, a screening period occur during which time other Federal agencies have an opportunity to show that they have a compelling need for the property. The General Services Administration, the property management experts in the Federal Government, coordinate this screening. If no Federal agency speaks up during the screening process, then the property is made available to the States and other eligible nonprofit organizations. Can my friend from South Dakota tell me whether or not the Yellow Creek property has undergone my formal, or even informal, screening? If so, what have been the results?

Mr. PRESSLER. No formal screening has occurred. However, NASA contacted the following agencies which it believed could make use of the Yellow Creek facilities: the Department of the Air Force, the Department of the Navy, the Department of the Army, the Department of Energy, and the Environmental Protection Agency. After much discussion between NASA and these parties, none of these agencies indicated that it could make use of this facility.

Mr. GLENN. Would the Senator agree that it is in the best interest of the United States and the taxpayer that some form of informal Federal screening by the General Services Administration be conducted—in an expedited fashion, no more than 30 days—to assure us that other Federal agencies cannot make use of this facility?

Mr. PRESSLER. I agree that such action would be in the best interests of all taxpayers.

Mr. GLENN. Finally I would ask my colleague whether he has an estimate of the market value of the real and personal property which is covered in this section?

Mr. PRESSLER. It is my understanding, based on information from NASA that the breakdown of the market value of the real and personal property at the site is: Land—$3.8 million based on a recent appraisal; fixed assets, buildings—about $10 million in market value because of their uniqueness to rocket manufacture, their completion status, and location; personal property—about $10 to $15 million in market value, some of which is so unique to rocket manufacture that it can only be sold as scrap.

However because of the limited purposes for which the property can be used, these figures may somewhat overestimate the real market value of the property.

Mr. GLENN. I thank my colleague and look forward to working with him to address this issue as this bill moves into conference with the other body.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee substitute, as amended, be agreed to, the bill be deemed to have been read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2939) was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 1048) was deemed read for a third time and passed; as follows:

S. 1048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "NASA" means the National Aeronautics and Space Administration; and

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. HUMAN SPACE FLIGHT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Human Space Flight the following amounts, to become available October 1, 1995:

(1) Space Station, $1,818,800,000.

(2) Russian Cooperation, $129,200,000.

(3) Space Shuttle, $3,031,800,000.

(4) Payload and Utilization Operations, $293,000,000.

SEC. 102. SCIENCE, AERONAUTICS, AND TECHNOLOGY.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Science, Aeronautics, and Technology the following amounts, to become available October 1, 1995:

(1) Space Science, $1,958,900,000, of which $48,700,000 shall be allocated to the Stratospheric Observatory for Infrared Astronomy, $15,000,000 shall be allocated to the Space Infrared Telescope Facility, and $30,000,000 shall be allocated to the New Millennium initiative.

(2) Life and Microgravity Sciences and Applications, $507,000,000, of which $3,000,000 shall be allocated for the construction of an addition to the Microgravity Development Laboratory, Marshall Space Flight Center.

(3) Mission to Planet Earth, $1,360,100,000, of which $17,000,000 shall be allocated to the construction of the Earth Systems Science Building, Goddard Space Flight Center, and of which $2,000,000 shall be allocated in fiscal year 1996, and such sums as are necessary thereafter, for the operation of the Upper Midwest Aerospace Consortium (UMAC) of institutions in the Upper Great Plains Region for the purpose of making information derived from Mission to Planet Earth data available to the general public.

(4) Aeronautical Research and Technology, $891,300,000, of which $5,400,000 shall be allocated to the modernization of the Unitary

Plan Wind Tunnel Complex, Ames Research Center.

(5) Space Access and Technology, $766,600,000, of which at least $70,000,000 shall be allocated to support a shuttle flight for the Shuttle Imaging Radar-C, of which $5,000,000 shall be used to establish a Rural Technology Transfer and Commercialization Center for the Rocky Mountains and Upper Plains States region, and of which $159,000,000 shall be allocated to the Reusable Launch Vehicle program.

(6) Mission Communications Services, $461,300,000.

(7) Academic Programs, $104,700,000, of which $3,000,000 shall be allocated to support the establishment of an Upper Plains States regional science education and outreach center and of which $1,000,000 shall be allocated to establish a Rural Teacher Resource Center.

SEC. 103. MISSION SUPPORT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Mission Support the following amounts, to become available October 1, 1995:

(1) Safety, Reliability, and Quality Assurance, $37,600,000.

(2) Space Communications Services, $219,400,000.

(3) Research and Program Management, including personnel and related costs, travel, and research operations support, $2,047,800,000.

(4) Construction of Facilities, including land acquisition, $135,000,000, including the following:

(A) Restoration of Flight Systems Research Laboratory, Ames Research Center;

(B) Restoration of chilled water distribution system, Goddard Space Flight Center;

(C) Replace chillers, various buildings, Jet Propulsion Laboratory;

(D) Rehabilitation of electrical distribution system, White Sands Test Facility, Johnson Space Center;

(E) Replace main substation switchgear and circuit breakers, Johnson Space Center;

(F) Replace 15kv load break switches, Kennedy Space Center;

(G) Rehabilitation of Central Air Equipment Building, Lewis Research Center;

(H) Restoration of high pressure air compressor system, Marshall Space Flight Center;

(I) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center;

(J) Restoration of canal lock, Stennis Space Center;

(K) Restoration of primary electrical distribution system, Wallops Flight Facility;

(L) Repair of facilities at various locations, not in excess of $1,500,000 per project;

(M) Rehabilitation and modification of facilities at various locations, not in excess of $1,500,000 per project;

(N) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $1,500,000 per project;

(O) Facility planning and design, not otherwise provided for; and

(P) Environmental compliance and restoration.

SEC. 104. INSPECTOR GENERAL.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Inspector General $17,300,000, to become available October 1, 1995.

SEC. 105. OFFICE OF COMMERCIAL SPACE TRANSPORTATION.

There are authorized to be appropriated to the Office of Commercial Space Transportation of the Department of Transportation $7,000,000, to become available October 1, 1995.

TITLE II—LIMITATIONS AND GENERAL PROVISIONS

SEC. 201. SPACE STATION LIMITATION.

The aggregate amount authorized to be appropriated for Space Station and related activities under sections 101, 102, and 103 shall not exceed $2,100,000,000.

SEC. 202. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Of the amounts appropriated under sections 101 and 102, $6,900,000 are authorized for the Experimental Program to Stimulate Competitive Research in accordance with title III of the National Aeronautics and Space Administration Act, Fiscal Year 1993 (Public Law 102–588; 106 Stat. 5119).

SEC. 203. SPECIAL TECHNOLOGY ENHANCEMENT GRANTS.

(a) IN GENERAL.—

(1) GRANTS.—The Administrator shall make up to 4 special technology enhancement grants to areas or States that have not participated fully in the Administration's aeronautical and space programs in order to enable such areas or States to increase their capabilities in technology development, utilization, and transfer in aeronautics, space science, and related areas. At least one such grant shall be made available to a consortium of States, each one of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

(2) ACTIVITIES.—Grants made under this section shall be available for—

(A) assessment of resources and needs;

(B) development of infrastructure, including incubators and prototype demonstration facilities;

(C) collaborations with industry;

(D) expansion of capabilities in procurement;

(E) development of technology transfer and commercialization support capabilities;

(F) activities to increase participation in the Small Business Innovation Research program and other NASA research, development, and technology utilization and transfer programs;

(G) relevant research of interest to NASA; and

(H) such other activities as the Administrator shall deem appropriate.

(3) SPECIAL CONSIDERATION.—In making grants under this section, the Administrator shall give special consideration to proposals that—

(A) will build upon and expand a developing research and technology base, and

(B) will insure a lasting research and development and technology development and transfer capability.

(b) ELIGIBLE ENTITIES.—Grants under subsection (a)(1) may be made to—

(1) State and local governments;

(2) institutions of higher education; and

(3) organizations with expertise in research and development, technology development, and technology transfer in areas of interest to NASA.

(c) FUNDING OF PROGRAM.—Of the amounts authorized in section 102 for the Space Access and Technology account, $15,000,000 are authorized to be used for grants under subsection (a).

SEC. 204. CLEAR LAKE DEVELOPMENT FACILITY.

The Administrator is authorized to acquire, for no more than $35,000,000, a certain parcel of land, together with existing facilities, located on the site of the property referred to as the Clear Lake Development Facility, Clear Lake, Texas, comprising approximately 13 acres and including a light manufacturing facility, an avionics development facility, and an assembly and test building which shall be modified for use as a neutral buoyancy laboratory in support of human space flight activities.

SEC. 205. YELLOW CREEK FACILITY.

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration (NASA) is authorized to convey, without reimbursement, to the State of Mississippi, all rights, title, and interest of the United States of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: *Provided*, That appropriated funds shall be used to effect this conveyance: *Provided further*, That $10,000,000 in appropriated funds otherwise available to NASA shall be transferred to the State of Mississippi to be used in the transition of the facility: *Provided further*, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: *Provided further*, That in consideration of this conveyance, NASA may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: *Provided further*, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than 30 days after the date of enactment of this Act.

SEC. 206. RADAR REMOTE SENSING SATELLITES.

(a) FINDINGS.—The Congress finds that—

(1) radar satellites represent one of the most important developments in remote sensing satellite technology in recent years;

(2) the ability of radar satellites to provide high-quality Earth imagery regardless of cloud cover and to provide three-dimensional pictures of the Earth's surface when the satellites are flown in combination dramatically enhance conventional optical remote sensing satellite capabilities and usefulness;

(3) the National Aeronautics and Space Administration has developed a unique background and expertise in developing and operating radar satellites as a result of their activities connected with its radar satellites, Shuttle Imaging Radar (SIR)-A, SIR-B, and SIR-C, which has flown twice on the Space Shuttle;

(4) other nations currently have operational radar satellite systems, including Japan and Western Europe, with other spacefaring nations expected to develop such systems in the near future; and

(5) the development of an operational radar satellite program at NASA featuring free-flying satellites and a related ground system is critical to maintain United States leadership in remote sensing satellite technology and is important to our national security and international competitiveness.

(b) POLICY.—It is the policy of the United States that—

(1) NASA should develop and operate a radar satellite program as soon as practicable;

(2) NASA should build on the experience and knowledge gained from its previous radar endeavors;

(3) NASA should work with other Federal agencies and, as appropriate, with other

spacefaring nations, in its radar satellite activities; and

(4) NASA should make maximum use of existing National remote sensing assets such as the Landsat system, activities connected with the Mission to Planet Earth, and the data management facilities of the Department of the Interior in all of its radar satellite activities.

(c) PROGRAM REQUIREMENTS.—NASA shall initiate a program to develop and operate a radar satellite program. The program shall employ the most advanced radar satellite technology currently available. To the maximum extent possible, all of the data processing, dissemination, and archiving functions shall be performed by the Department of the Interior. The program should be planned in such a way that the data from the radar satellite system are converted into a broad range of informational products with research, commercial, and government applications and any other applications that are in the public interest and that such products are distributed over the widest user community that is practicable, including industry, academia, research institutions, local and State governments, and other Federal agencies. The program should coordinate with, and make appropriate use of, other remote sensing satellite programs, such as the Landsat program.

(d) PLAN.—Within 90 days after the enactment of this Act, the Administrator shall submit a detailed plan for implementation of the radar satellite program to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan should include—

(1) the goals and mission of the program;

(2) planned activities for the next 5 years to achieve such goals and mission;

(3) strategies for maximizing the usefulness of the satellite data to the scientific and academic communities, the private sector, all levels of government, and the general public;

(4) concepts for integrating the program with other related NASA activities (such as Mission to Planet Earth), the Landsat program, and other current and emerging remote sensing satellite programs and activities in the Federal government and all other public and private sectors so that the program complements and strengthens such programs and activities and is not duplicative of these efforts;

(5) concepts developed in consultation with Department of the Interior, for processing, archiving, and disseminating the satellite data using, to the maximum extent possible, existing Federal government programs and assets at the Department of the Interior and other Federal agencies;

(6) targets and timetables for undertaking specific activities and actions within the program;

(7) a 5-year budget profile for the program; and

(8) a comparison between the program and the radar satellite programs of other spacefaring nations, addressing their respective costs, capabilities, and other relevant features.

(e) AUTHORIZATION.—Of the funds authorized in section 102 for the Earth Probes account, the Administrator shall allocate at least $15,000,000 to the radar satellite program to conduct Phase A and Phase B studies.

SEC. 207. STUDY OF THE HYDROLOGY OF THE UPPER MISSOURI RIVER BASIN.

The Administrator is authorized to initiate a project to conduct research on the hydrology of the Upper Missouri River Basin. The project shall be part of the Mission to Planet Earth program and shall employ satellite observations, surface-based radar data, and ground-based hydrological and other scientific measurements to develop quantitative models that address complex atmospheric and surface hydrological processes. If initiated, the project shall be incorporated into NASA's activities connected with the multiagency Global Energy and Water Cycle Experiment to understand the interactions between the atmosphere and land surfaces. In implementing the project, NASA shall coordinate and consult with other appropriate federal agencies, including the Department of Commerce, the Department of the Interior, and the National Science Foundation. To the maximum extent possible, NASA shall employ the assistance of universities, local and State governments, industry, and any other appropriate entities from the Upper Missouri River Basin region to carry out this program and the Administrator is authorized to support the project-related work of such entities with grants, technical advice, equipment, in-kind help, and any other type of appropriate assistance. If this project is initiated, then within 90 days after the enactment of this Act, the Administrator shall submit a plan for the implementation of this project, which shall set forth the goals, project costs, planned activities, and overall strategies for the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. Of the funds authorized in section 102 for Mission to Planet Earth, at least $10,000,000 shall be allocated by the Administrator to the Upper Missouri River Basin project.

SEC. 208. SHUTTLE PRIVATIZATION.

(a) The Administrator is hereby directed to conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that NASA transition towards the privatization of the Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Shuttle is privatized, including, but not limited to, the following issues—

(1) whether the government or the Shuttle contractor should own the Shuttle orbiters and Shuttle ground facilities;

(2) whether the federal government should indemnify the contractor for any third party liability arising from Shuttle operations, and, if so, under what terms and conditions;

(3) whether commercial payloads should be allowed to be launched on the Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(4) whether NASA and federal government payloads should have priority over non-federal government payloads in the Shuttle launch assignments and what policies should be developed to prioritize among payloads generally;

(5) whether the public interest requires that certain Shuttle functions continue to be performed by the federal government; and

(6) whether privatization of the Shuttle would produce any significant cost savings and, if so, how much cost savings.

(b) Within 60 days of the enactment of this Act, NASA shall complete the study and shall submit a report on that study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(c) As a transitional step towards Shuttle privatization, NASA shall take all necessary and appropriate actions to consolidate Shuttle contractor activities under one prime contractor and, within 180 days of the enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives on those actions. If NASA has failed to complete such consolidation by the expiration of the 180-day period, the report shall explain the reasons for that failure and describe the steps being taken by NASA to finalize the consolidation as expeditiously as possible.

SEC. 209. USE OF FUNDS FOR CONSTRUCTION.

(a) AUTHORIZED USES.—The Administrator may use funds appropriate for purposes other than those appropriated for—

(1) construction of facilities;

(2) research and program management, excluding research operations support; and

(3) Inspector General,

for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of, existing facilities at any location in support of the purposes for which such funds are appropriated.

(b) LIMITATION.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $750,000, until 30 days have passed after the Administrator has notified the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

SEC. 210. CONSTRUCTION OF FACILITIES.

(a) REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.—If the Administrator determines that—

(1) new developments in the national program of aeronautical and space activities have occurred;

(2) such developments require the use of additional funds for the purpose of construction, expansion, or modification of facilities at any location; and

(3) deferral of such action until the enactment of the next National Aeronautics and Space Administration authorization Act would be inconsistent with the interest of the Nation in aeronautical and space sciences;

the Administrator may use the amounts authorized for construction of facilities pursuant to this Act or previous National Aeronautics and Space Administration authorization Acts for such purposes. The amounts may be used to acquire, construct, convert, rehabilitate, or install temporary or permanent public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. The Administrator may use such amounts for facility consolidations, closures, and demolition required to downsize the NASA physical plant to improve operations and reduce costs.

(c) LIMITATIONS.—

(1) Amounts appropriated for a construction-of-facilities project—

(A) may be varied upward by 10 percent at the discretion of the Administrator; or

(B) may be varied upward by 25 percent to meet unusual cost variations after the expiration of 30 days following a report on the circumstances of such action by the Administrator to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The aggregate amount authorized to be appropriated for construction of facilities shall not be increased as a result of actions authorized under this section.

(2) No amounts may be obligated for a construction-of-facilities project until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a written report describing the nature of the acquisition, construction, conversion, rehabilitation, or installation, its cost, and the reasons therefor.

(d) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

SEC. 211. AVAILABILITY OF APPROPRIATED AMOUNTS.

To the extent provided in appropriations Acts, appropriations authorized under this Act may remain available without fiscal year limitation.

SEC. 212. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate; and

(2) no amount appropriated pursuant to the Act may be used for any program in excess of the amount actually authorized for that particular program, excluding construction-of-facility projects,

unless a period of 30 days has passed after the receipt by such Committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action. NASA shall keep those Committees fully and currently informed with respect to all activities and responsibilities within their jurisdiction. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either such Committee relating to any activity or responsibility.

SEC. 213. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.

Funds appropriated under section 103 may be used for scientific consultations or extraordinary expenses upon the authority of the Administrator, but not to exceed $35,000.

SEC. 214. REPORTING REQUIREMENTS.

(a) REPORTING PERIOD.—Section 206(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking "January" and inserting "May"; and

(2) by striking "calendar" and inserting "fiscal".

(b) PROTECTION OF COMMERCIALLY VALUABLE INFORMATION.—Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended by adding at the end the following:

"(c)(1) The Administrator may delay, for a period not to exceed 5 years, the unrestricted public disclosure of technical data, related to a competitively sensitive technology, in the possession of, or under the control of, the Administration that has been generated in the performance of experimental, developmental, or research activities or programs conducted by, or funded in whole or in part by, the Administration, if the technical data has significant value in maintaining leadership or competitiveness, in civil and governmental aeronautical and space activities by the United States industrial base.

"(2) The Administrator shall publish biannually in the Federal Register a list of all competitively sensitive technology areas which it believes have a significant value in maintaining the United States leadership or competitiveness in civil and governmental aeronautical and space activities. The list shall be generated after consultation with appropriate Government agencies and a diverse cross section of companies—

"(A) that conduct a significant level of research, development, engineering, and manufacturing in the United States; and

"(B) the majority ownership or control of which is held by United States citizens.

"(3) The Administrator shall provide an opportunity for written objections to the list within a 60-day period after it is published. After the expiration of that 60-day period, and after consideration of all written objections received by the Administrator during that period, NASA shall issue a final list of competitively sensitive technology areas.

"(4) For purposes of this subsection, the term 'technical data' means any recorded information, including computer software, that is or may be directly applicable to the design, engineering, development, production, manufacture, or operation of products or processes that may have significant value in maintaining leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.".

SEC. 215. INDEPENDENT RESEARCH AND DEVELOPMENT.

The Congress finds that it is appropriate for costs contributed by a contractor under a cooperative agreement with the National Aeronautics and Space Administration to be considered as allowable independent research and development costs, for purposes of section 31.205–18 of the Federal Acquisition Regulations if the work performed would have been allowable as contractor independent research and development costs had there been no cooperative agreement. The Administration shall seek a revision to that section of the Federal Acquisition Regulations to reflect the intent of the Congress expressed in the preceding sentence.

SEC. 216. RESTRUCTURING OF THE EARTH OBSERVING SYSTEM DATA AND INFORMATION SYSTEM.

The Administrator is prohibited from restructuring or downscaling the baseline plan for the Earth Observing System Data and Information System in place at the time of the President's budget submission for NASA for fiscal year 1996 unless, 60 days before undertaking such action, the Administrator has submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a written report containing—

(1) a detailed description of the planned agency action;

(2) the reasons and justifications for such action;

(3) an analysis of the cost impact of such action;

(4) an analysis of the impact of the action on the scientific benefits of the program and the effect of the action on the expected applications of the satellite data from the System in such areas as global climate research, land-use planning, state and local government management, mineral exploration, agriculture, forestry, national security, and any other areas that the Administrator deems appropriate;

(5) an analysis of the impact of the action on the United States Global Climate Change Research program and international global climate change research activities; and

(6) an explanation of what measures, if any, are planned by NASA to compensate for any likely reductions in the scientific value and data collection, processing, and distribution capabilities of the System as a result of the action.

TITLE III—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

SEC. 301. AMENDMENT OF TITLE 49.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 302. AMENDMENT OF SECTION 70101.

Section 70101 (relating to findings and purposes) is amended—

(1) by inserting "microgravity research," after "information services," in subsection (a)(3);

(2) by inserting "commercial space transportation services, including in-space transportation activities and" after "providing" in subsection (a)(4);

(3) by striking "commercial launch vehicles" in subsection (a)(5) and inserting "commercial space transportation including commercial launch vehicles, in-space transportation activities, reentry vehicles,";

(4) by striking "launch" in subsection (a)(6) and inserting "launch, in-space transportation, and reentry";

(5) by striking "launches" each place it appears in subsection (a)(7) and inserting "launches, in-space transportation activities, reentries" after ;

(6) by striking "sites and complementary facilities, the providing of launch" in subsection (a)(8) and inserting "sites, in-space transportation control sites, reentry sites, and complementary facilities, the providing of launch, in-space transportation, and reentry";

(7) by inserting "in-space transportation control sites, reentry sites," after "launch sites," in subsection (a)(9);

(8) by striking "launch vehicles" in subsection (b)(2) and inserting "commercial space transportation services, including launch vehicles, in-space transportation activities, reentry vehicles,";

(9) by striking "launch" the first place it appears in subsection (b)(3) and inserting "launch, in-space transportation vehicle, and reentry";

(10) by striking "commercial launch" the second place it appears in subsection (b)(3); and

(11) by inserting "in-space transportation vehicle control facilities, and development of reentry sites" after "facilities," in subsection (b)(4).

SEC. 303. AMENDMENT OF SECTION 70102.

Section 70102 (relating to definitions) is amended—

(1) by inserting "from Earth, including a reentry vehicle and its payload, if any" after "and any payload" in paragraph (3);

(2) by striking "object" the first place it appears in paragraph (8) and inserting "object, including a reentry vehicle and its payload, if any,";

(3) by redesignating paragraphs (9) through (12) as paragraphs (16) through (19), respectively;

(4) by inserting after paragraph (8) the following:

"(9) 'in-space transportation vehicle' means any vehicle designed to operate in space and designed to transport any payload or object substantially intact from one orbit to another orbit.

"(10) 'in-space transportation services' means—

"(A) those activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another;

"(B) the procedures, actions, and activities necessary for conduct of those transportation services; and

"(C) the conduct of transportation services.

"(11) 'in-space transportation control site' means a location from which an in-space transportation vehicle is controlled or operated (as such terms may be defined in any license the Secretary issues or transfers under this chapter).

"(12) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

"(13) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(14) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(15) 'reentry vehicle' means any vehicle designed to return substantially intact from Earth orbit or outer space to Earth.";

(5) by striking "launch" each place it appears in paragraph (18), as redesignated and inserting "launch services, in-space transportation activities, or reentry".

SEC. 304. AMENDMENT OF SECTION 70103.

Section 70103(b) (relating to facilitating commercial launches) is amended—

(1) by striking "LAUNCHES" in the caption and inserting "SPACE ACTIVITIES";

(2) by striking "commercial space launches" in paragraph (1) and inserting "commercial space transportation services"; and

(3) by striking "a space launch" in subsection (b)(2) and inserting "space transportation".

SEC. 305. AMENDMENT OF SECTION 70104.

Section 70104 (relating to restrictions on launches and operations) is amended—

(1) by striking the section caption and inserting the following:

"Restrictions on launches, in-space transportation activities, operations, and reentries";

(2) by striking "site" each place it appears in subsection (a) and inserting "site, an in-space transportation operations site, reentry site, or reenter a reentry vehicle,";

(3) by striking "launch or operation" in subsections (a) (3) and (4) and inserting "launch, in-space transportation activity, or reentry operation";

(4) by striking subsection (b) and inserting the following:

"(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a license under this chapter may launch a payload, operate an in-space transportation vehicle, or reenter a payload only if the payload or vehicle complies with all requirements of the laws of the United States related to launching a payload, operating an in-space transportation vehicle, or reentering a payload.";

(5) by striking the caption of subsection (c) and inserting the following: "(c) PREVENTING LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES.—"; and

(6) by striking "launch" each place it appears in subsection (c) and inserting "launch, in-space transportation activity, or reentry".

SEC. 306. AMENDMENT OF SECTION 70105.

Section 70105 (relating to license applications and requirements) is amended—

(1) by striking "site" in subsection (b)(1) and inserting "site, an in-space transportation control site, or a reentry site or the reentry of a reentry vehicle,"; and

(2) by striking "or operation" and inserting in lieu thereof ", in-space transportation activity, operation, or reentry" in subsection (b)(2)(A).

SEC. 307. AMENDMENT OF SECTION 70106.

Section 70106(a) (relating to monitoring activities general requirements) is amended—

(1) by striking "launch site" and inserting "launch site, in-space transportation control site, or reentry site";

(2) by inserting "in-space transportation vehicle, or reentry vehicle," after "launch vehicle," and

(3) by striking "vehicle." and inserting "vehicle, in-space transportation vehicle, or reentry vehicle.".

SEC. 308. AMENDMENT OF SECTION 70108.

Section 70108 (relating to prohibition, suspension, and end of launches and operation of launch sites) is amended—

(1) by striking the section caption and inserting the following:

"Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites";

and

(2) by striking "site" in subsection (a) and inserting "site, in-space transportation control site, in-space transportation activity, or reentry site, or reentry of a reentry vehicle,"; and

(3) by striking "launch or operation" in subsection (a) and inserting "launch, in-space transportation activity, operation, or reentry".

SEC. 309. AMENDMENT OF SECTION 70109.

(a) CAPTION.—The section caption of section 70109 (relating to preemption of scheduled launches) is amended to read as follows:

"Preemption of scheduled launches, in-space transportation activities, or reentries".

(b) AMENDMENT OF SUBSECTION (a).—Subsection (a) is amended—

(1) by inserting "or reentry" after "ensure that a launch";

(2) by striking "site" in the first sentence and inserting "site, reentry site,";

(3) by inserting "nor shall an in-space transportation activity or operation be preempted," after "launch property," in the first sentence;

(4) by inserting "or reentry date commitment" after "launch date commitment";

(5) by inserting "or reentry" after "obtained for a launch";

(6) by striking "site" in the second sentence and inserting "site, reentry site,";

(7) by striking "services" in the second sentence and inserting "services, or services related to a reentry,";

(8) by inserting "or reentry" after "the scheduled launch"; and

(9) by adding at the end thereof the following: "A licensee or transferee preempted from access to a reentry site does not have to pay the Government agency responsible for the preemption any amount for reentry services attributable only to the scheduled reentry prevented by the preemption.".

(c) AMENDMENT OF SUBSECTION (c).—Subsection (c) is amended by inserting "or reentry" after "prompt launching" in subsection (c).

SEC. 310. AMENDMENT OF SECTION 70110.

Section 70110 (relating to administrative hearings and judicial review) is amended—

(1) by striking "launch" in subsection (a)(2) and inserting "launch, in-space transportation activity, or reentry"; and

(2) by striking "site" in subsection (a)(3)(B) and inserting "site, in-space transportation control site, in-space transportation activity, reentry site, or reentry of a reentry vehicle,".

SEC. 311. AMENDMENT OF SECTION 70111.

Section 70111 (relating to acquiring United States Government property and services) is amended—

(1) by inserting "in-space transportation activities, or reentry services" after "launch services," in subsection (a)(1)(B);

(2) by striking "services" in subsection (a)(2) and inserting "services, in-space transportation activities, or reentry services";

(3) by inserting "or reentry" after "launch" in subsection (a)(2)(A);

(4) by inserting "or reentry" after "launch" the first place it appears in subsection (a)(2)(B);

(5) by striking "launch" each place it appears in subsection (b)(1) and inserting "launch, in-space transportation activity, or reentry";

(6) by striking "services" the first place it appears in subsection (b)(2)(C) and inserting "services, in-space transportation activities or services, or reentry services"; and

(7) by striking subsection (d) and inserting the following:

"(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for any activity involved in producing a launch vehicle, in-space transportation vehicle, or reentry vehicle or its payload for launch, in-space transportation activity, or reentry if the activity was agreed to by the owner or manufacturer of the launch vehicle, in-space transportation vehicle, reentry vehicle, or payload.".

SEC. 312. AMENDMENT OF SECTION 70112.

Section 70112 (relating to liability insurance and financial responsibility requirements) is amended—

(1) by inserting "one reentry, or to the operations of each in-space transportation vehicle" after "launch," in subsection (a)(3);

(2) by inserting "in-space transportation activities, or reentry services," after "launch services," each place it appears in subsections (a)(4) and (b)(2);

(3) by striking "services" in subsection (b)(1) and the third place it appears in subsection (b)(2) and inserting "services, in-space transportation activities, or reentry services,";

(4) by inserting "applicable" after "carried out under the" in subsections (b)(1) and (2);

(5) by striking "Science, Space, and Technology" in subsection (d) and inserting "Science";

(6) by striking "LAUNCHES" in the caption of subsection (e) and inserting "LAUNCHES, IN-SPACE TRANSPORTATION ACTIVITIES, OR REENTRIES"; and

(7) by striking "site" in subsection (e) and inserting "site, in-space transportation control site, or control of an in-space transportation vehicle or activity, or reentry site or a reentry".

SEC. 313. AMENDMENT OF SECTION 70113.

Section 70113 (relating to paying claims exceeding liability insurance and financial responsibility requirements) is amended by striking "launch" each place it appears in subsections (a)(1), (d)(1), and (d)(2) and inserting "launch, operation of one in-space transportation vehicle, or one reentry".

SEC. 314. AMENDMENT OF SECTION 70115.

Section 70115(b)(1)(D)(i) (relating to enforcement and penalty general authority) is amended—

(1) by inserting "in-space transportation control site, or reentry site," after "launch site,";

(2) by inserting "in-space transportation vehicle, or reentry vehicle" after "launch vehicle,"; and

(3) by striking "vehicle" the second place it appears and inserting "vehicle, in-space transportation vehicle, or reentry vehicle".

SEC. 315. AMENDMENT OF SECTION 70117.

Section 70117 (relating to relationship to other executive agencies, laws, and international obligations) is amended—

(1) by striking "vehicle or operate a launch site." in subsection (a) and inserting "vehicle, operate a launch site, perform in-space transportation activities or operate an in-space transportation control site or reentry site, or reenter a reentry vehicle.";

(2) by striking "launch" in subsection (d) and inserting "launch, perform an in-space transportation activity, or reentry";

(3) by striking subsections (f) and (g), and inserting the following:

"(f) LAUNCH NOT AN EXPORT OR IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import for purposes of a law controlling exports or imports.

"(g) NONAPPLICATION.—This chapter does not apply to—

"(1) a launch, in-space transportation activity, reentry, operation of a launch vehicle, in-space transportation vehicle, or reentry vehicle, or of a launch site, in-space transportation control site, or reentry site, or other space activity the Government carries out for the Government; or

"(2) planning or policies related to the launch, in-space transportation activity, reentry, or operation.".

SEC. 316. REPORT TO CONGRESS.

Chapter 701 is amended by adding at the end thereof the following new section:

"§ 70120. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

SEC. 317. AMENDMENT OF TABLE OF SECTIONS.

The table of sections for chapter 701 of title 49, United States Code, is amended—

(1) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, in-space transportation activities, operations, and reentries.";

(2) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, in-space transportation activities, reentries, or operation of launch sites, in-space transportation control sites, or reentry sites.";

(3) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches, in-space transportation activities, or reentries.";

and

(4) by adding at the end the following new item:

"70120. Report to Congress.".

SEC. 318. REGULATIONS.

The Secretary of Transportation shall issue regulations under chapter 701 of title 49, United States Code, that include—

(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

(3) procedures for requesting and obtaining operator licenses for launch and re-entry; and

(4) procedures for the application of government indemnification.

SEC. 319. SPACE ADVERTISING.

(a) DEFINITION.—Section 70102, as amended by section 303, is amended by redesignating paragraphs (12) through (19) as (13) through (20), respectively, and by inserting after paragraph (11) the following new paragraph:

"(12) 'obtrusive space advertising' means advertising in outer space that is capable of being recognized by a human being on the surface of the earth without the aid of a telescope or other technological device;".

(b) PROHIBITION.—Chapter 701 is amended by inserting after section 70109 the following new section:

"§ 70109a. Space advertising

"(a) LICENSING.—Notwithstanding the provisions of this chapter or any other provision of law, the Secretary shall not—

"(1) issue or transfer a license under this chapter; or

"(2) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising.

"(b) LAUNCHING.—No holder of a license under this chapter may launch a payload containing any material to be used for purposes of obtrusive space advertising on or after the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1996.

"(c) COMMERCIAL SPACE ADVERTISING.—Nothing in this section shall apply to nonobtrusive commercial space advertising, including advertising on commercial space transportation vehicles, space infrastructure, payloads, space launch facilities, and launch support facilities.".

(c) NEGOTIATION WITH FOREIGN LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for obtrusive space advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for obtrusive space advertising purposes.

(3) As used in this subsection, the term "foreign launching nation" means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 is amended by inserting the following after the item relating to section 70109:

"70109a. Space advertising.".

NATIONAL MAMMOGRAPHY DAY

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 177, reported today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 177) to designate October 19, 1995, National Mammography Day.

he PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I am proud to join my colleagues in offering this important resolution to designate October 19, 1995 as "National Mammography Day." I am pleased to support this effort to set aside 1 day in the midst of National Breast Cancer Awareness Month to increase awareness about the best method of reducing the breast cancer mortality rate—early detection by mammography.

This frightening disease has taken the lives of far too many women, including many of my own friends. It is one of the leading killers of women—claiming the lives of more than 46,000 women each year. Breast cancer is a growing public health problem in this Nation, and a great threat to women's health.

We can all agree that more must be done to educate us about the risks, prevention and treatment of breast cancer. I also believe we must be vigilant in supporting continued research on breast cancer, and clear up the mixed messages that women receive about ways to protect themselves from this disease.

But, there is one indisputable fact that is very clear: early detection by mammography saves women's lives. Mammograms can detect 90 to 95 percent of all breast cancers and is the most reliable method of detection. In addition, and perhaps the most tragic feature of this disease—9 out of 10 women could survive breast cancer if detected early and treated properly.

Mr. President, there is no question that education and awareness are some of our best tools for fighting this disease; combined with continued research and treatment breakthroughs. This day is critical in our efforts to win the battle against breast cancer. We owe it to our mothers; our daughters; our sisters; our neighbors and our friends to get the word out—early detection can save your life. And we must not let our efforts diminish; every month should be Breast Cancer Awareness Month.

I would like to thank my colleagues for expressing their commitment to saving women's lives, and for paying particular attention to raising awareness about the importance of mammography. I encourage all of you to support this resolution, and help us protect women from the tragedy of breast cancer.

Mr. BRADLEY. Mr. President, I am very pleased to join my colleagues in recognizing today, October 19, as National Mammography Day.

Today, 500 women will be diagnosed with breast cancer. Most likely, each will be frightened, uncertain about her future, and in search of a treatment that, if it cannot cure her, will at least prolong her life. Each woman's family and friends, co-workers and caregivers, will worry deeply about her.

Today, 150 women will die of breast cancer. Their lives will be ended prematurely. Their families and friends, coworkers and caregivers will be grief-stricken.

Tragically, today's numbers are every day's numbers in our Nation. Listen to the enormity of this disease: one out of nine women will get breast cancer; since 1960 nearly 1 million women have died from this disease. With their deaths, millions of their loved ones, including children and aging parents dependent on them, have suffered as well. We stagger under these numbers, as we search for the causes and the cure.

All women are at risk for breast cancer, with the incidence increasing among older women and the mortality rate higher for African-American women. While other factors that may put women at risk are being thoroughly investigated, we are still ourselves at risk for feeling helpless in the face of this killer.

However, we do have one sure thing to offer to women and today we bring that to national attention. With mammography, we offer the possibility of early detection. Along with breast self-examination, this is one of the best steps women can take for themselves in the fight against breast cancer. And it is the single best service our health care system can make available to all women in this struggle. Offering this service is not enough. We must also assure the quality of the service, especially the equipment used.

Early detection made possible by mammography is wise health care. With early detection we can reduce the mortality rate by one-third. Furthermore, early discovery of the disease allows for less radical and less costly treatments. Equally important, with the provision of mammography, we say to American women that we understand the trauma of this disease and will persist in efforts to triumph over it.

Remembering that these women are our wives, sisters, mothers, daughters, and friends, I am proud to add my voice in recognition of National Mammography Day.

NATIONAL MAMMOGRAPHY DAY

Ms. SNOWE. Mr. President, today, I would like to call attention to a day of critical importance to women across this Nation—National Mammography Day.

America's women are facing a devastating crisis, and its name is breast cancer.

It is a devastating crisis that targets women's lives, their confidence in health care, their work, their friends and their families.

It is a crisis that results in approximately 182,000 new cases of breast cancer being diagnosed each year, and 46,000 deaths.

Breast cancer is a crisis that has become the most common form of cancer and the second leading cause of cancer deaths among American women—an estimated 2.6 million in the United States are living with breast cancer, 1.6 million have been diagnosed, and an estimated 1 million women do not yet know they have breast cancer.

It is a crisis in which one out of eight women in our country will come to develop breast cancer in their lifetimes—a risk that was one out of 14 in 1960. In fact, this year, a new case of breast cancer will be diagnosed every 3 minutes, and a woman will die from breast cancer every 11 minutes.

It is a crisis that has tragically claimed the lives of almost 1 million women of all ages and backgrounds since 1960. This is more than two times the number of all Americans who have died in World War I, World War II, the Korean war, the Vietnam war, and the Persian Gulf war, and 48 percent of these deaths occurred in the past 10 years alone.

Finally, it is a crisis that has become the leading cause of death for women aged 40 to 44, and the leading cause of cancer death in women aged 25 to 54.

But what really hits home for this Senator is the fact that my mother died of breast cancer when I was only 9 years old, as well as the fact that 900 Maine women were diagnosed with breast cancer last year.

This is the most commonly diagnosed cancer among Maine women, and this represents more than 30 percent of all new cancers among women in Maine.

We all know these statistics, we live with them every day of our lives and face them with a growing concern and deepening sorrow, and they are a constant reminder of the work that remains to be done.

But we know that they represent more than just numbers—each number represents the life of a mother, sister, grandmother, aunt, daughter, wife, friend, or co-worker. They are the fabric of our families, our communities, our States and our Nation.

As a former co-chair of the Congressional Caucus for Women's Issues, I have joined other members of that caucus in working diligently to bring the respect and action that is needed to the struggle against breast cancer.

In past years, we have introduced and passed vital legislation to help us win this struggle—and that has included the Women's Health Equity Act, which in 1993 included the National Breast Cancer Strategy Act, which established a National Breast Cancer Commission—an interagency office on breast cancer—and authorizes $300 million for increased breast cancer research at NIH.

The WHEA also contained the Breast and Cervical Cancer Mortality Prevention Act Reauthorization, which provides much-needed grants to States for mammograms and pap-smears for low-income women and was passed by Congress and signed into law in late 1993.

And we also passed the NIH Revitalization Act, which authorized increased funding for clinical research on breast, cervical and other reproductive cancers in women.

But these are just the first steps in our crusade to find a cure for breast cancer and to bring relief and comfort to its victims and their families.

Our fight goes on. We need more funding. We need more research. We need more education and awareness of breast cancer and its causes. We need more understanding. We need more compassion. And we need a cure.

Yet despite these frightening statistics, we know that with early detection and regular screening, a survival rate of over 90 percent can be achieved. Unfortunately, these statistics reveal that not enough women are taking advantage of preventive measures with proven benefits—such as mammograms. In fact, the Director of the National Cancer Institute announced yesterday that "one of the biggest barriers to reducing breast cancer mortality is lack of information."

Given that such a promising survival rate is associated with early detection and treatment, it is essential that we be relentless in our efforts to increase public awareness of this terrible disease. The lives of our mothers, daughters, sisters and friends may well depend on our ability to educate them about the importance of mammograms.

This year, I submitted Senate Concurrent Resolution 8, expressing the sense of Congress on the need for accurate guidelines for breast cancer screening for women ages 40–49. However, on this day, National Mammography Day, there are things we can all do to ensure there are no more victims of breast cancer, but only survivors. Talk to the women in your family and your home States about the importance of breast cancer screening. Tell them to arrange for a physical, including a clinical breast exam. Tell them to schedule a mammogram for themselves or a loved one. Talk to them. Talk to them today. Tell them not to wait.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 177) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 177

Whereas, according to the American Cancer Society, one hundred eighty-two thousand women will be diagnosed with breast cancer in 1995, and forty-six thousand women will die from this disease;

Whereas, in the decade of the 1990's, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly five hundred thousand deaths;

Whereas the risk of breast cancer increases with age, with a woman at age seventy having twice as much of a chance of developing the disease than a woman at age fifty.

Whereas 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers of up to two years or more before regular clinical breast examination or breast self-examination (BSE), saving as many as one-third more lives: Now, therefore, be it

Resolved, That the Senate designate October 19, 1995 as "National Mammography Day." The Senate requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

REFERRAL OF AMTRAK APPROPRIATIONS AUTHORIZATION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Calendar 206, S. 1318, the Amtrak and Local Rail Revitalization Act of 1995, be referred to the Finance Committee solely for the consideration of title 10 of the bill, for not to exceed 15 calendar days; and further, that if the bill has not been reported from the committee after the 15 days, it automatically be discharged and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOSE TAX BREAK LOOPHOLES

Mr. WELLSTONE. Mr. President, today I rise before the Senate to comment on some of the provisions of the legislation to be reported out of the Senate Finance Committee.

I want to start out by asking a simple question: Why are we reducing revenue and investment in Medicare and medical assistance and higher education and other programs, which are critical to communities and people in Minnesota and all across the country, before going after some of the tax breaks for special interests that have been embedded in the tax code for decades?

If we are serious about deficit reduction, it seems to me that all these loopholes and deductions and giveaways ought to also be on the table.

Mr. President, what kind of priorities are these that are reflected in this bill? They are certainly not the priorities of the people I represent, who understand the value of having funding available to take care of elderly people, understand the value of taking care of vulnerable people who are in nursing homes, of boosting kids' chances to go to college, of helping struggling families enter the middle class, of ensuring that elderly people can afford health care, of making sure that children have adequate nutrition. It makes no sense at all, Mr. President.

After days of closed-door meetings, this week Republicans on the committee announced their proposal for a $245 billion tax cut. Taken as a whole, this proposal includes serious reductions and cuts in Medicare and Medicaid and, in addition, includes some enormous new tax breaks for wealthy corporations and others, further worsening our budget crisis.

Mr. President, instead of scaling back billions of dollars in tax breaks, it provides billions for firms with high-powered tax lobbyists and almost nothing for working families.

In fact, by slashing the earned income tax credit for working families by over $42 billion, this legislation will greatly increase the tax burden on millions of citizens throughout the country.

In my State of Minnesota, there will be an increase of taxes for 172,740 Minnesota taxpayers. Mr. President, these are low- and moderate-income families that are trying to work their way into the middle class.

At the same time, the bill makes only a tiny, token effort to partially scale back a few loopholes in the Tax Code. And the proceeds from these modest changes are, in turn, used to subsidize new and much bigger tax breaks precisely for those taxpayers in the Nation who least need them.

For example, it relaxes the alternative minimum tax that was established in 1986. What was the idea back then? The idea was that large and profitable corporations, often multinational corporations, after taking a variety of different deductions and credits and exclusions, still are going to have to pay some minimum tax. It is a part of fairness. Now what we have is a provision to scale that back. That provision ought to be struck from this piece of legislation. It is truly outrageous.

If you ask people in the country, "Do you believe that tax cuts should be a priority while at the same time we are trying to reduce the deficit?" most would say—and the polls bear this out—"No." If you ask people, "Do you believe that tax breaks for large, profitable corporations ought to be expanded rather than scaled back?" virtually every single Minnesotan would say, "No." Even so, that is exactly what the Finance Committee is about the business of doing.

I offered an amendment on the budget resolution earlier this year to require that the Senate Finance Committee close $70 billion of tax loopholes over the next several years. That amendment was defeated. Next week, or the following week when we take up the reconciliation bill, I intend to have specific proposals and amendments on the floor to close tax loopholes, with up-or-down votes.

If we are going to have the deficit reduction, if we are going to pay the interest on the debt—all of which we agree on—there ought to be a standard of fairness. And rather than focusing so much on the cuts in Medicare and medical assistance, rather than focusing on cuts in benefits for veterans, rather than causing great pain for children and the most vulnerable in our country, it seems to me it is not too much to ask that large corporations, wealthy corporations, pay their fair share. That is why we ought to plug some of these narrowly focused tax breaks and loopholes which allow the privileged few to escape paying their fair share, focusing on other people and forcing other people to pay higher taxes to make up the difference. This is a question of fairness. If you are going to have sacrifice, it ought to be equitable sacrifice.

Let me make a point here that is often overlooked. We can spend money just as easily through the Tax Code, through tax breaks, as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a Government check or whether it is a tax break for some special purpose like a subsidy, a credit, a deduction, accelerated depreciation—you name it. Some of these tax expenditures are justified, they ought to be kept. But it does seem to me that, in a time of tight budgets, in a time when we are focusing on deficit reduction, in a time when we are cutting into nutritional programs for children and higher education and health care and environmental protection, why in the world are not the tax subsidies for the large pharmaceutical companies and oil companies and tobacco companies and insurance companies and you name it, why are they not on the table?

Various groups, from all ideological perspectives, from the National Taxpayers Union to the Cato Institute to the Progressive Policy Institute to Citizens for Tax Justice, have prepared a list of tax loopholes and other subsidies which they believe should be eliminated. But, despite the logic of their approach, which is a Minnesota standard of fairness, my colleagues on the other side of the aisle have chosen the path of least political resistance: Slash the programs for the vulnerable elderly, slash the programs for the vulnerable poor, slash the earned-income tax credit, slash the programs for child care, slash the programs for middle-income people. But when it comes to these large, multinational corporate interests who march on Washington every day, the big players, the heavy hitters, people who have the lobbyists, for some reason, we do not ask them to tighten their belts at all.

It is only fair that this be a part of the agenda. So I want to just outline very briefly some of the areas on which I want to focus the attention of my colleagues next week. Let me give but a few examples.

I already talked about the minimum tax. The effort is to scale that back for certain corporations. That's wrong. Everybody ought to pay some minimum tax.

Second, let me talk about expensing for the oil and gas industry. This has been a special break for this industry. They get to expense their oil and gas exploration costs, instead of depreciating them over time. It is an expensive tax benefit for this industry. Why should the oil and gas industry receive special treatment in the Tax Code which is not generally available to other companies and industries? It is a simple question. If we are about the business of deficit reduction, we ought to close this loophole.

Or take section 936, the Puerto Rico tax credit that has been debated in some detail in recent years. The Finance Committee has finally acknowledged there ought to be some change. But what it does is it repeals this over a fairly long period of time, 7 years or so, with generous transition benefits for corporations in the interim period. If we are going to repeal it, I think what we have to do is move as quickly as possible. It simply makes no sense. For those who support a flatter tax or a fairer tax or tax justice and think we ought to make the cuts and ought to do the belt tightening, this ought to be on the table.

Or consider the special exclusion for foreign-earned income that has been in this code for decades. This little gem will cost taxpayers between $8 and $9 billion over the next 5 years. If you are a U.S. citizen living abroad, you get an exclusion of taxation for the first $70,000 you make. You get an exclusion of taxation on the first $70,000 you make. So, if you make $170,000, you do not pay anything on $70,000 of that. Again, let us talk about a standard of fairness and let us make some of these cuts, not just based upon the path of least political resistance, but on the basis of a path of some fairness.

The PRESIDING OFFICER. The Chair will advise the Senator from Minnesota that his 10 minutes have expired.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I have 3 more minutes to conclude my remarks.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. WELLSTONE. Mr. President, there is a provision right now on some of the corporate-owned life insurance that has generated some opposition from the insurance industry and large employers. Frankly, it had been abused. I refer my colleagues to an article by Allan Sloan, "Companies Find a Premium Way To Take an Unjustified Tax Break." He talks about Wal-Mart taking out this insurance on virtually all their employees. The money does not go to their employees as beneficiaries, but Wal-Mart gets to take a deduction on whatever money they put into the insurance for every single employee. Again, we are talking about losing billions of dollars over the years. I am going to be talking about this at some great length when we finally get down to the debate on this reconciliation bill and when we finally get down to the point where the rubber meets the road.

These are about four or five examples. I intend to come to the floor with at least some of these specific provisions. What I am going to be saying to my colleagues is: Look, eliminate them. Because what happens is, when these companies or these citizens who do not need this assistance get these kind of breaks, other citizens end up having to pay more taxes. It is not fair. It is not tax fairness. And, in addition, it is an expenditure of Government money that we can no longer afford. That is what it amounts to.

If we are going to do the deficit reduction, we ought to do it on the basis of a standard of fairness. I ask the question one more time, by way of conclusion today. How come we are focusing so much on the elderly? How come we are focusing so much on the children? How come we are focusing so much on health care? How come we are focusing so much on working families, low- and moderate-income families? How come we are stripping away environmental protection? How come we are stripping away some basic consumer safety provisions that are important to all of the citizens of this country, but at the same time, when it comes to some of this corporate welfare, some of these outrageous breaks that go to some of the largest corporations in America and throughout the world that are just doing fine and can afford to tighten their belts, they are not asked to be a part of the sacrifice?

These votes next week will be a litmus test of whether or not Democrats and Republicans are serious about deficit reduction based upon a standard of fairness. I look forward to the debate.

Mr. President, in the absence of any colleagues here, I ask unanimous consent that morning business be extended for an additional 7 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Without objection, morning business is extended for an additional 7 minutes.

Mr. WELLSTONE. Mr. President, I also want to speak on one other matter that I think is very important to the country.

The PRESIDING OFFICER. The Chair will advise the Senator that his previously granted time has expired. Does the Senator wish additional time?

Mr. WELLSTONE. Mr. President, I ask unanimous consent for an additional 7 minutes to speak as in morning business.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for an additional 7 minutes.

Mr. WELLSTONE. Mr. President, I also rise today to strongly oppose drilling in the Arctic National Wildlife Refuge [ANWR]. This has been an issue that I have been involved in from the time I first came to the Senate. There was a filibuster over ANWR that I led when I was here just a short period of time and now ANWR is back again. The Energy Committee has voted, over the objections of a large bipartisan group of Senators, to open up ANWR for drilling and to use the revenue to meet reconciliation instructions. I note a letter from former President Bush to my distinguished colleague from Alaska, that is on everybody's desk, supporting this.

I am both aware of and respectful of the need to balance the budget. That is why I have stood here on the Senate floor and voted for many spending cuts.

But there are other ways and measures that do not balance the budget at the expense of our natural resources. Unfortunately, though, all I see is big industry, oil companies included, winning big, and our natural resources losing big.

This is poor energy policy, poor environmental policy, and it is politics that in many ways I think is profoundly wrongheaded and even cynical.

First, let me talk about energy policy. The argument is that drilling in ANWR will lessen our reliance on foreign oil, but we do not really know whether there even is oil in ANWR. And if there is, we do not know how much. The latest numbers from the U.S. Geological Survey suggest that it is, at best, 4 million to 5 million barrels. This is equal to 1 year's worth of U.S. oil consumption. That is no long-term solution to energy dependence, and dependence on foreign oil.

Furthermore, there is a mixed message. At the same time proponents of ANWR say that we ought to lessen our dependence on foreign oil, they are pushing to lift the North Slope oil export ban and selling off oil reserves in the Strategic Petroleum Reserve.

I do not see how it is possible to make the argument for drilling in ANWR, at the same time that we are exporting some of our oil. It is just inconsistent, and it is bad energy policy.

The discussion about ANWR supplying jobs is also way off the mark. If you just look at some statistics from the American Council for an Energy Efficient Economy, they estimate that by the year 2010, we could generate 1.1 million jobs, by getting serious about saved energy and efficient energy use, which makes far more sense.

Now, let me talk about environmental policy. The Arctic National Wildlife Refuge is one of this country's greatest treasures. The preservation of this land and its plants and its animals and the way of life they support is vital. ANWR contains the Nation's most significant polar bear denning habitat on land, supports 300,000 snow geese, migratory birds from six continents, and a concentrated porcupine caribou calving ground.

Given all that ANWR has to offer, I am appalled that many of my colleagues are willing to drill in ANWR without the usual procedure of an Environmental Impact Statement as required by current law. I pushed in committee to have such an environmental impact statement but my amendment was defeated. When it was being considered, my colleagues asked me how it would affect scoring. This points to exactly what is going on here: We are selling important environmental protections, and we are mortgaging the environment for a momentary short-run budgetary gain.

Mr. President, finally, let me just make a concluding point. For thousands of years, the Gwich'in people have relied on the porcupine caribou to provide their food and meet their spiritual needs. I have heard them speak very eloquently and directly about what oil drilling in ANWR would do to their way of life. In fact, many of them may have to leave a way of life they have practiced for thousands of years if drilling in ANWR happens.

This is a one-sided battle. People like the Gwich'in want to save the environment. But they are not the big oil companies. They do not have the money. They do not have the lobbyists, and they do not have the lawyers here every day.

I believe, once again, to open up ANWR to oil drilling through the back door of the budgetary process is profoundly mistaken. It is not the basis on which we should make this decision, and I think it would be a huge mistake for this Nation.

Our natural resources are among the most important things we can leave to future generations. Those resources are in our care. Our children and our grandchildren—we keep talking about our children and our grandchildren—deserve more than what this bad energy policy, bad environmental policy, and shortsighted politicking would leave them.

I urge my colleagues to support an amendment to the reconciliation bill to strike the provision opening ANWR to drilling. It is time to get our priorities right, and if we are serious about doing well for our children and our grandchildren, we will make the protection of the environment and the protection of ANWR our very highest priority.

Mr. President, I yield the floor.

SUPPORTING DAY OF CONFRONTING VIOLENCE AGAINST WOMEN

Mr. COVERDELL. Mr. President, I rise in support of observing a Day of Confronting Violence Against Women and this week as a Week Without Violence.

Widely publicized media reports, especially those most recent, have literally seized the attention of the American public and brought to the forefront alarming instances of violence against women. When I learn that three out of four women will be victims of violence at some time in their life, it makes me angry, as it should every Member of the U.S. Senate.

This issue should strike each of us at the heart of our homes and families. Why? Because we are not just talking about numbers and statistics here, we are talking about our mothers, our sisters, and our daughters. We may even be talking about some of our colleagues. When you consider that every 15 seconds a women is battered in America, four women have been cruelly beaten since I began my statement only a minute ago. When every 5 minutes a women is sexually attacked, sadly enough, one woman's life is forever destroyed by the time I conclude my remarks.

In our country, one in every four relationships involve physical abuse. In my home State, I am sad to say, 250,000 women are abused each year. This is why violence against women is an issue very important to me. One of my first acts as Senator was to sign onto Senator DOLE's Violence Against Women Act. Last year two antistalking amendments I offered were adopted by the Senate. They provided for training of criminal justice officials and victims' service providers as well as funding for further research.

Most recently, I am proud to have been a cosponsor of an amendment to the fiscal year 1996 Commerce, State, Justice appropriations bill to target an additional $75 million funding to prevent violence against women—an amendment that was unanimously adopted. It included support of counseling and assistance to victims and witnesses to support them throughout the prosecution process of offenders, funding for safe homes for victims of violence, and improving the database that collects nationwide information on stalkers.

In closing, let me applaud the tireless work of Majority Leader DOLE, Senators HATCH, BIDEN, and SNOWE and many others to bring an end to violence against women in this country. Even though there have been some tragic setbacks recently, we cannot give up hope. We need to continue to support these efforts in the Senate and to support women who are victims of violence.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 927, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

Helms amendment No. 2936 (to amendment No. 2898), to strengthen international sanctions against the Castro government and to support for a free and independent Cuba.

Simon modified amendment No. 2934 (to Amendment No. 2936), to protect the constitutional right of Americans to travel to Cuba.

The Senate resumed consideration of the bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

Mr. DODD. Mr. President, I have a couple of amendments that I would like to offer to the pending legislation. I point out we have already spent, I guess, 4 or 5 days on this bill, and I think people might suggest probably more time than the legislation deserves, but nonetheless it is taking a great deal of time.

What I would like to do, if my colleague and chairman of the Foreign Relations Committee would agree, rather than having separate debates on amendments, I will try to confine my remarks to both amendments—they are related, I would say to my colleague from North Carolina—and then either have back-to-back votes on them or, if he prefers, I could ask unanimous consent that these two amendments be considered as one amendment for the purpose of a single rollcall vote. Either way is fine with me, and I will yield to my colleague for any particular comment he may have on procedurally how we handle it.

Mr. HELMS. Mr. President, I am perfectly willing to have the two amendments voted en bloc. And I would further ask the distinguished Senator from Connecticut if he would be willing to enter into a time agreement?

Mr. DODD. I am happy to, if he wants. I know some of our colleagues have—there is one other amendment pending, the Simon amendment.

Mr. HELMS. Yes.

Mr. DODD. I believe he needs 20 minutes.

Mr. HELMS. There is a time agreement.

Mr. DODD. Of 20 minutes. I would say 40 minutes, and it may not even be that amount of time necessarily.

Mr. HELMS. Forty minutes equally?

Mr. DODD. Yes.

Mr. HELMS. I ask unanimous consent that the time agreement be 40 minutes equally divided—on the two amendments?

Mr. DODD. That is fine.

Mr. HELMS. Very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. DODD. Fine. Mr. President, I will wait to ask for the yeas and nays.

AMENDMENTS NOS. 2906 AND 2908 TO AMENDMENT NO. 2936

Mr. DODD. Mr. President, the amendments are at the desk. They are numbered 2906 and 2908. I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes amendments numbered 2906 and 2908 to amendment No. 2936:

The amendments are as follows:

AMENDMENT NO. 2906

On page 23 of the pending amendment beginning with line 18, strike all through line 21 on page 24.

AMENDMENT NO. 2908

On page 28 of the pending amendment beginning with line 42, strike all through line 32 on page 32.

Mr. DODD. Mr. President, let me explain, both of these amendments are related to title II of this bill.

Let me explain both of these amendments. I should begin by thanking my colleague from North Carolina that we have gotten to this point and that we are considering the bill, having dropped title III of the bill.

I should, before discussing these two amendments, make clear, having read the comments of the distinguished majority leader and others, that title III of the bill will come back in the bill, I guess, or at least there are threats of that when the House and the Senate go to their conference on this legislation. On the assumption that the bill is passed out of the Senate, I would just notify my colleagues that if that is the case and it comes back, we will be back in the same position we were in earlier this week where I strongly objected to title III of the bill and would take appropriate actions if that is the case.

I certainly understand and respect the right of the conferees to have and decide what they are going to decide, but I would have to also put my colleagues on notice that I would use whatever procedural vehicles are available to me as a Member of this body to stop consideration of the legislation if that were to occur.

Mr. President, these two amendments, as I mentioned a moment ago, strike portions of title II of the bill that I think unduly hamper the ability of our country to provide assistance—and let me emphasize this—to a post-Castro government. Title II does not talk about Fidel Castro's government in Cuba today. Title II exclusively talks about the government that comes after Fidel Castro.

So my colleagues who are worried here that they may in some way, if they were to adopt these amendments I am proposing, do something to support Fidel Castro, they have nothing to do with Fidel Castro. The language specifically refers to the post-Castro government. And I want to emphasize that point because I think it sets new ground, that is, the language in the bill, that I think is dangerous, in my view, and precedent setting.

The restrictions, of course, I mentioned are not restrictions on how we relate to the existing government. Rather, they are restrictions on a relationship with a future Cuban Government, a government in transition from dictatorship to democracy. And, Mr. President, this does not make any sense at all to me. Title II of this legislation relates in large measure to what the United States' policy should be toward a post-Castro government.

It states, among other things—I am quoting here:

> It is the policy of the United States to support the self-determination of the Cuban people and to be impartial toward any individual or entity in the selection by the Cuban people of their future government.

That is a beautiful statement. I endorse it 1000 percent. It is exactly the position we ought to have. Let me repeat it again.

> It is the policy of the United States to support the self-determination of the Cuban people and to be impartial toward any individual or entity in the selection by the Cuban people of their future government.

That is exactly the position we ought to have. In fact, if it ended right there I would be standing up here urging all my colleagues to support this. But unfortunately, Mr. President, if you read further on in here, we seem to then contradict the very statement that I have just read to you. And I suspect that many of my colleagues—most would endorse the first statement. However, key provisions of title II belie that statement.

I would urge my colleagues to take a look, if they would, at sections 205, 206, and 207 of title II which set forth a laundry list of conditions and requirements that either must or should be met before the President, our President, the President of the United States, can provide even very limited assistance to help the Cuban people make the very difficult transition from dictatorship to democracy.

These conditions, Mr. President, go on for four pages here, laying out, in some cases, "shall," and what we "must" do.

Section 205:

> (a) A determination . . . that a transition government in Cuba is in power shall not be made unless that government has taken the following actions—(1) legalized all political activity; (2) released all political prisoners . . .

Most of the list I do not have any problem with whatsoever except that it gets to micromanagement in a sense and lays out in great specificity exactly what we are going to require before we provide any assistance to the people of that new government.

Again, I go back, Mr. President, to read, if you will, the statement I read a moment ago when we started talking about it. "The policy of the United States to support the self-determination of the Cuban people and to be impartial toward any individual or entity." Again, we are talking about a post-Castro government here. Presumably, they are getting rid of the dictatorship and moving in the right direction.

Now, I am not suggesting we ought to say we are going to provide help to anybody that becomes a transition government or becomes the new government after Castro. I would oppose just as strongly any suggestion in legislation that we automatically ought to be providing assistance. But I also think it gets rather ridiculous if we lay out four pages, Mr. President, of conditionality here that a government must meet absolutely in many ways if we are going to provide any assistance at all. I am talking about humanitarian assistance to people in transition.

And, in fact, these standards that we have here, as much as I think they have value, and although I think some of the language is a little less than precise, I do not—"legalizing all political activity"—I do not know what "all political activity" means. I do not know what we mean about that in this country. But I am not going to quibble about the individual wording in it, Mr. President. I think there is value in each one of these statements.

But my point is, if we applied these standards to the New Independent States that emerged after the collapse of the Soviet Union, we still would not be providing any assistance to them, and we would not be allowed to under this, if adopted. We need to provide Presidents and Congresses in the future with the flexibility to respond to a transition in Cuba. And to sit down and have a four-page minutia, detail by detail by detail, steps that they have to go through before we can help them, I think just is wrong, wrong headed.

Again, this has nothing to do with Fidel Castro. This title II works on the presumption he is gone, he is out of there. Now, we are talking about a new government.

Mr. President, I just think it is a mistake to be passing legislation that micromanages and goes into such detail. It is not just this President. Maybe people are talking about this administration somehow. No one can say with certainty when the transition is going to occur in Cuba. We all hope it occurs peacefully and occurs soon. But it may very well not be for a year or 2 or 3 or 4 for 5. Who can say?

We have listened to nine Presidents since Dwight Eisenhower talk about the change coming in Cuba. It has not happened yet. Now, again, all of us here, I presume, would like to see it happen quickly. But if it does not happen during this administration but some future administration, including the administration of some of our colleagues who are in this Chamber today, they could face four pages we adopt into law setting out in detail what that government must look like before we can provide assistance to them, despite the fact that we said earlier in the bill that it is the policy of our Government to support the self-determination of the Cuban people and to be impartial, impartial toward any individual or entity in the election by the Cuban people of their future government.

Again, I would not suggest in any way whatsoever, Mr. President, that we ought to write a bill that would say no matter what happens, no matter who follows Fidel Castro, we ought to provide aid to them.

Imagine if I wrote a bill that said that, that whoever comes after Fidel Castro automatically qualifies for U.S. assistance. I would be laughed off the floor of the Senate if I suggested a bill that proposed that idea. And yet, what we are doing here today, in a sense, is just like that. We are saying in effect that "no matter who comes after Fidel Castro, unless you meet these detailed standards, we cannot provide any help to you at all."

I thought the idea was to encourage a transition, to move to democracy, and to then provide the kind of nurturing support to see that that transition occurs. Now, it may not occur exactly as we like.

One of the provisions says you must have free elections within 2 years. I wish it was 6 months. I wish it were the next day. What happens if it is 2½ years and not 2 years, or 2 years, 2 months? It is that kind of detail that is in this bill, Mr. President. That is not smart. That is not wise. That is not prudent. I do not know of any other place where we provided this kind of language.

Imagine the Philippines if we tried that. Imagine if we tried it, as I said, in all of these New Independent Republics that have emerged. Our ability to weigh in and create that kind of transition would have been severely hampered had we been required to meet the standards we are going to be adopting in this legislation if my amendment is not approved.

Now, I do not know, again, how this will come out politically. But I hope my colleagues would look and just read the sections 205, 206, and 207. They go on for some pages. Some require "shall," others "should," in the transition.

Last, and it gets into this same area, the settlement of outstanding U.S. claims. And here the language, Mr. President, is pretty emphatic in the bill.

> No assistance may be provided under the authority of this act to a transition government in Cuba.

And then it goes on for a page or two here talking about how we resolve these outstanding claims.

Mr. President, I hope that happens. I do not think any U.S. citizen who has property confiscated anywhere in the world ought not to be compensated. But we have now 38 countries in the world, including Cuba, where United States citizens' property has been expropriated, and we are in the process of trying to get those individuals compensated for that property.

Some of the countries where that occurs are very strong allies of ours. Germany is one, I point out. We now have diplomatic relations with Vietnam. The list is lengthy, 38 countries.

We never said before we cannot provide any assistance to those countries until those claims and matters are all settled, and yet that is what we do with this legislation. We are saying we cannot provide under this—the language very specifically in section 207, "Settlement of Outstanding U.S. Claims to Confiscated Property in Cuba," section (A), paragraph 1:

> No assistance may be provided—

The assumption is that you are going to set up a mechanism to resolve these claims, again no matter how meritorious they may be, and have that control our foreign policy interests, which would be, I presume, to support the transition to get aid to people to try to establish a presence there and assist that process. To have it totally linked to claims issues, where we do not do that even among our allies around the globe, seems to me to be going too far. It just goes too far.

Again, I realize with everything else going on around here that the attention on something like this may not seem like much to people. I just think it is bad policy, Mr. President, to have this kind of detailed step-by-step requirement that you have to meet and then absolutely hamstring not just this administration, but future administrations, from being able to move intelligently and rapidly to try to shore up a government that will follow Fidel Castro.

Again, I emphasize to my colleagues, none of these provisions has anything to do with the present government in Cuba—not one thing to do with it. It is all about the government that comes afterward. It seems to me we ought to be trying to figure out a way how we can play the most creative role in that transition, to try to move that process toward a democratically elected government as quickly as we can—as quickly as we can. And yet, before we can do that, we now have to go through a series of hoops that will make it very, very difficult for us to respond creatively and imaginatively to a situation that has gone on far too long.

So, Mr. President, I will not dwell on this any longer. I made the point, I hope, and I urge my colleagues to look at these sections of the bill. Some, as I said, are more advisory. Others absolutely demand certain things occur. They can go through and read which is which. It seems to me we ought to stick with the paragraph I read earlier on in my statement, and that is that we provide the kind of flexibility in allowing the Cuban people to determine for themselves what it is that they would like to have as that new government.

We may not decide to support it. It may not meet our standards and we will act accordingly, but the best policy is the one that is included as a preamble to this section, and the preamble to this section is one that every single person in this country, let alone in this body, can support, and that is the policy of the United States to support the self-determination of the Cuban people and be impartial to any selection of the Cuban people as to their government. It is their choice. If they want to make a bad choice, that is their right. We do not have to support it, but that is their right if they so desire.

The idea, then, that we are going to detail in painful minutiae every step that must be met, I think is a mistake. Again, I am not quarreling myself with any provisions here necessarily. There are things I support and I believe make sense. But to spell out as a roadmap what they have to follow in great detail before we can provide any kind of help down there is a mistake, and I urge the adoption of the amendment.

Mr. President, I withhold the remainder of my time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS], is recognized for 20 minutes.

ORDER OF PROCEDURE

Mr. HELMS. Mr. President, the distinguished President of Estonia waits without in the Vice President's Office. I desire to present him to the Senate, and I shall do so, and I shall go and invite him to come in. In the meantime, I suggest the absence of a quorum, the time to be charged to neither side.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY THE PRESIDENT OF ESTONIA, LENNART MERI

Mr. HELMS. Mr. President, I am honored to present to the Senate the President of Estonia, the distinguished Lennart Meri.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes, so that Senators and staff can greet our distinguished guest.

There being no objection, the Senate, at 11:06 a.m., recessed until 11:13 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CAMPBELL).

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. As I understand it, I have 20 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. On the two amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I will not use all that time. I will reserve some. When the Senator from Connecticut is willing, we will yield back what remains of our time.

Mr. President, Senator DODD's amendment proposes to delete from the pending bill any guidance and recommendations to the President from the Congress of the United States as to what constitutes a transition or democratic government in Cuba. I am a little surprised at the thrust of the amendment. But I respect the Senator, although I disagree with him.

The administration has maintained that the President should retain flexibility to deal with the situation in Cuba once a transition begins. So the beginning trouble with this amendment is that it is in conflict not only with the bill itself but with the administration itself.

As the Libertad bill was drafted, we took the administration's concerns into account, and we agreed that any parameters not be "overly rigid," to quote from an administration statement on the House bill. But we also agreed that Congress should speak as to what constitutes sufficient change in Cuba to merit any support or aid from the United States.

So the result is that the pending bill gives the President of the United States, whomever he may be, a great deal of latitude in making the determination required before—before—any United States aid can begin to flow to a new Cuban Government.

I am not aware that the administration has any problems with the way the pending legislation is drafted. But let me be clear about what is in the Libertad bill. The only specific requirement, Mr. President, that a transition government must meet before United States aid is released, is that the Government has legalized political activity, released all political prisoners and allowed for access to Cuban prisons by international human rights organizations. It also stipulates that the Cuban Government must have dissolved the state security and secret police apparatus, and agreed to hold elections within 2 years of taking power and has publicly committed, and is taking steps, to resolve American property claims.

The pending bill contains several additional factors that the President is asked—not required, but asked—to take into account when determining whether a transition or democratic government is in power in Cuba.

Mr. President, Congress offers this type of guidance to the President all the time on various matters. This is not out of the ordinary, nor is it some legislative straitjacket. So that is why I have a little bit of difficulty understanding how anybody could oppose asking, before we give away the United States taxpayers' dollars, that a Cuban Government allow political activity, free political prisoners, dissolve the secret police, and agree to take care of American citizens' property claims. I must ask, what is wrong with that?

As for the property requirements, the President can waive them if he determines that it is in the vital national interest of the United States to do so. This is consistent with existing restrictions on aid to Cuba in section 620(a) of the Foreign Assistance Act.

Now, I find it ironic that Senators would come to the floor, expressing concerns about the Libertad bill, ostensibly in the name of certified property claimants, and then turn around and want to strike a provision that reaffirms the need for Cuba to remedy past wrongs. Whose interest is really being protected by removing this Libertad section? It doesn't appear to be the interests of the property claimants.

It is clearly within Congress' power to set out conditions on providing aid to other nations—we do it all the time. However, the Libertad bill acknowledges that the President will need flexibility in responding to Cuba's political evolution. The language in the Libertad bill represents a balance between these interests and should be retained, and that is why I will move to table the Senator's amendment.

Mr. President, I reserve the remainder of my time, pending Senator DODD's discussion of his other amendment.

I am advised, Mr. President, that Senator DODD has no further comment on his amendments. Is it fair for me to assume that he yields back the remainder of his time? If staff would please inquire of Senator DODD.

Mr. President, while we are waiting, on occasions like this, when important legislation is being considered, I wonder what the reaction of those who come to visit the Senate is with respect to so few Senators being on the floor. The answer to that is that Senators are tied up in committee meetings all over this complex. I, myself, had to get away from a committee meeting to be here to manage this bill and to discuss Senator DODD's amendment.

So I say to our guests that not only do we welcome them, but we beg their understanding that Senators are working; they are just not working here at the moment.

Mr. President, I suggest the absence of a quorum, the time not being charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have been advised—Senator DODD has conveyed to me his desire that his remaining time be yielded back if I yield mine back. I so do.

The PRESIDING OFFICER. All time is yielded back.

Mr. HELMS. Mr. President, I want the Chair to correct me if I am wrong, but there will be one vote on the two Dodd amendments; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I ask unanimous consent that it be in order for me to ask for the yeas and nays en bloc.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Now, Mr. President, that leaves Senator SIMON's amendment on which a time agreement is already in place.

The PRESIDING OFFICER. The Senator is correct.

EXPLANATION OF CHANGE OF VOTE ON CLOTURE

Mr. HEFLIN. Mr. President, when the Senate first voted October 12 on the cloture petition relative to H.R. 927, the Dole-Helms Cuba sanctions bill, I voted no. Like most of my Democratic colleagues and some Republicans, I strongly opposed title III of the bill as written because of its detrimental effect on U.S. Federal courts. Indeed most of our debate over the last few days on the bill has focused on title III's provisions allowing suits to be filed against companies that acquired property confiscated by the Castro regime after it took power in 1959.

This provision of the measure flouted international law, threatened already severely overburdened courts with costly new litigation, and jeopardized our relations with major trading partners who do business with Cuba. If adopted, this provision would have exponentially expanded the pool of persons in the United States seeking compensation from the Cuban Government for their claims. There could be tens or even hundreds of thousands of persons who would be eligible to file such lawsuits.

While no one knows for certain how many lawsuits could have been filed under title III, if even a fraction of those newly eligible did so, it would prove costly to the Federal courts and greatly complicate the tasks of resolving claims and assisting Cuba's economic recovery once the Castro regime is gone.

After that first cloture vote, I discussed these issues during private conversations with several of my colleagues who supported the measure, including Senator HELMS, and by the time of the second vote on October 17, I had obtained assurances that title III would be substantially modified or eliminated entirely. Therefore, I was able to support cloture when the second vote occurred.

I am happy that we were able to reach a compromise on this legislation which allowed the third cloture vote to succeed on a solid bipartisan vote of 98 to 0 after the announcement that title III would be stricken from the bill.

Mr. PELL. Mr. President, I believe all my colleagues agree on the goals of United States policy toward Cuba—promoting a peaceful transition to democracy, economic liberalization, and greater respect for human rights while controlling immigration from Cuba. Where some of us clearly differ, however, is on how we get there. Despite the changes that have been made to the pending legislation, I believe that it continues to take us further away from achieving these goals. I believe, therefore, that this legislation is contrary to U.S. national interests.

We should undertake policy measures to enhance contact with the Cuban people, because that will serve United States national interests; namely, the fostering of the peaceful transition to democracy on that island.

In my view, greater contact with the Cuban people will plant the seeds of change and advance the cause of democracy just as greater exchange with the West helped hasten the fall of communism in Eastern Europe.

I think it is naive to think that the measure before us today is going to succeed in forcing Castro to step aside, where all other pressures have not. However, the measures proposed in this bill do have the serious potential of further worsening the living conditions of the Cuban people and once again making a mass exodus for Miami an attractive option. Taken to its most extreme, this bill could even provoke serious violence on the island.

This legislation is even more problematic than earlier efforts to tighten the screws on Castro. I say this because its implications go well beyond United States-Cuban relations. It alienates our allies and ties the administration's foreign policy hands.

Contact and dialog between Havana and Washington will bring about democracy on the island of Cuba, not isolation and impoverishment. Perhaps if we took that approach, our allies would be more likely to support our policy with respect to Cuba. Today we are virtually alone.

The Helms-Burton bill has gone through a number of changes since it was first introduced. In fact, Senator HELMS' substitute amendment differs in a number of areas from the House-passed bill. However, no version to date resolves the fundamental problem I have with the direction it takes U.S. policy. For these reasons I will vote against this bill and urge my colleagues to do so as well.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, in order to save a little time, my distinguished colleague from North Carolina desires to address the Senate, and he understands that Senator SIMON is on his way to discuss his pending amendment.

I ask that the Senator from North Carolina [Mr. FAIRCLOTH] be recognized for the purpose of addressing the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina [Mr. FAIRCLOTH] is recognized.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to speak in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROMISES TO VOTERS

Mr. FAIRCLOTH. Mr. President, in the closing months of the first session of this 104th Congress, I rise to remind my colleagues of some promises which were made to voters last November.

You may ask why I should be addressing this issue when we have so much work that remains to be done on the budget, but I do so because I am surprised that we have forgotten some fundamental principles about economic growth which we so clearly articulated last year.

Those who embrace these basic truths are now in the majority. The consequence of abandoning that message of hope and opportunity could be profound for the American people.

Many of our colleagues are hard at work trying to balance the Federal budget. This is a necessary and a difficult job. The American people rightly expect us to balance the budget and we must not disappoint them.

In our zeal to put our financial house in order we must not forget why we are doing this in the first place.

I offer this reminder: We are balancing the budget because deficits are a tax on the American people. Today's debt is a tax levied not only on taxpayers, but it is levied on future generations.

We do not usually speak of budget deficits as taxes, but they are. That is very simply what they are. Deficits are taxes.

Who among us would support imposing taxes on our children and grandchildren? Yet every time we vote for deficit spending, we do very simply that.

If the deficit is a tax, then the solution is not an additional tax. The problem is that we are spending money that we do not have on programs we do not need.

The answer is simple. That is, to stop the spending.

Who among us is really convinced that we need to raise taxes to balance a budget? None of us. President Clinton supported the largest tax increase in American history and he now admits that it was wrong.

Yet our national debt continues to grow out of control. While President Clinton has been focused on new ways to take hard-earned money away from the American taxpayers, I believe that we in Congress should focus on ways to drastically decrease spending and allow taxpayers to keep more of their money. The answer is to cut spending.

I regret that I have begun to hear some of my colleagues in both bodies and on both sides of the aisle talk about raising taxes. I regret even more the manner in which they talk about raising them. Just as the deficit is a tax which we do not dare call a tax, a new term, a new euphemism has been invented to hide a new tax increase. The new tax is hiding behind the call to end corporate welfare, a term whose meaning has been distorted.

When the Government levies a tax and then uses that revenue to subsidize certain industries or such activities, it is accurately described as corporate welfare.

Unfortunately, we are now using the term "corporate welfare" to describe instances where we have simply chosen not to levy a tax. In other words, a tax we have not voted on. The corporations of this country are now being called corporate welfare simply because we have not levied the tax.

Have we been here in Washington so long that we have forgotten the difference between a subsidy and a tax? It is not a subsidy to allow a corporation to keep more of the money it has earned so that it can reinvest that money, which creates jobs, pays dividends to all shareholders, including large institutional investors responsible for protecting the pension funds of America.

The Federal Government does not own the American people's money. It does not own their land, their homes or their income. Failure to tax is not corporate welfare.

For us to say we are doing the American people some sort of favor by not taxing some aspect of their livelihood is the very height of political and governmental arrogance. We should not hide behind Washington doublespeak and call it corporate welfare.

It we decide to raise the tax, let us call it what it is—a plain and simple tax increase. Let us not say that we are ending corporate welfare when we are, in fact, raising the taxes on the corporations of America.

I find nothing noble in raising taxes. It misses the point of what we are trying to do in the first place.

I campaigned on spending cuts and tax cuts. Closing certain corporate tax breaks certainly increases taxes. The time to address these tax breaks is when we are engaged in comprehensive tax reform such as a flat tax. Now is not the time to rewrite the corporate Tax Code. Now is not the time to impose an arbitrary retroactive tax increase on companies and, more importantly, on their employees who participate in a corporate-owned life insurance policy purchased after 1987.

The only reason some are discussing tax increases now is because we failed to make serious cuts in Government spending and in corporate subsidies. We failed to downsize, eliminate, or privatize boondoggles such as the Export-Import Bank, the International Trade Administration, and the Overseas Private Investment Corporation.

The CATO Institute has identified more than 125 corporate welfare subsidy programs which cost taxpayers over $85 billion in subsidies this year alone. This is true corporate welfare. These are subsidies which we should be attacking. We need to make clear and distinct the difference between a subsidy and a tax increase. We should not be talking about tax increases until we have eliminated indefensible corporate cash subsidies.

As you know, I strongly support dramatic reform in our Social Security social welfare programs. The worst of these programs simply uses tax dollars to subsidize and promote self-destructive behavior.

In the same way, I oppose corporate welfare which uses tax dollars to subsidize companies in a manner inconsistent with free market principles. Taking money away from individual taxpayers and giving it to businesses is simply wrong, and I support my colleagues on both sides of the aisle who call for an end to that practice.

As we continue our effort to balance the budget, I would hope that we not forget the following:

The deficit is a tax on the American people and on future generations.

To end this tax, we must balance the budget.

Our problem is that we have been spending money that we do not have on programs we do not need.

We need not and should not raise taxes to balance the budget. Raising taxes will not balance the budget. It never has. It only leads to increased spending.

I will not vote for a tax increase, no matter what it is ultimately called.

In ending deficit spending, we are doing the right thing—the honest thing. Let us not stray back into hidden taxes and double-talk about Medicare before we reach our goal of a balanced budget. Let us not give in to the defenders of the status quo whose political bankruptcy has led them to frighten our youth and senior citizens with false and negative rhetoric. I implore my colleagues to abandon the rhetoric of tax increases and embrace spending cuts and tax cuts—to embrace smaller Government and greater individual freedom. As this Congress changes the size and cost of the Federal Government, it is only right that taxpayers share in the dividends. That is why spending cuts, deficit reduction and tax cuts must go hand in hand.

I am a proud cosponsor of legislation to provide tax relief to America's families in the form of a $500 per child credit. I am also a sponsor of a bipartisan bill to provide a capital gains tax cut which we all know is essential and necessary for economic growth and new job creation.

Tax cuts and spending cuts are two ways of putting more money into the hands of America's taxpayers who will invest that money in our children and in our economy and in our country as a whole. Both investments contribute to long-term fiscal responsibility. This is the path to real and sustained deficit reduction. It is what the voters expect and deserve. And, it is what we in Congress owe them.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2934

Mr. SIMON. Mr. President, I see my distinguished colleague and friend, Senator HELMS, on the floor. I think we each have 10 minutes to speak for our sides, in terms of the travel to Cuba debate. If the Parliamentarian gives us his OK, I will be pleased to move ahead and take part of my 10 minutes at this point.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2934 to amendment No. 2936.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD of October 18, 1995.)

Mr. SIMON addressed the Chair.

Mr. HELMS. Will the distinguished Senator yield about 30 seconds for a little housekeeping item?

Mr. SIMON. I will always yield to my colleague from North Carolina.

UNANIMOUS-CONSENT AGREEMENT

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the Simon amendment, which it has just done, No. 2934, under the previous 20-minute time limitation, that following the expiration of that debate, the Senate then proceeded to a vote on or in relation to the Simon amendment, No. 2934; and, further, immediately following that vote, there be 4 minutes of debate, equally divided in the usual form, on the Dodd amendments 2906 and 2908, en bloc; and following that debate, the Senate vote on or in relation to the Dodd amendments, 2906 and 2908, en bloc; and, further, that following that vote, there be 10 minutes of debate equally divided in the usual form, to be immediately followed by a vote on the substitute amendment, to be followed by a vote on passage of H.R. 927, as amended, all without any other intervening debate or action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Senator from Illinois.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

AMENDMENT NO. 2934

Mr. SIMON. Mr. President, this amendment says simply that Americans can use what I think is a constitutional right to travel. We should not restrict travel to any country unless security is threatened, so that American citizens are not subject to simply propaganda from one side or from our Government.

It is interesting that every other country in the world, so far as I know, permits its citizens to travel to Cuba. Only the United States of America does not.

Listen to what President Eisenhower said: "Any limitation on the right to travel can only be tolerated in terms of overriding requirements of our national security."

President Eisenhower was right. The reality is Americans can travel to Cuba, but you have to go to Canada or Mexico or some other country to do it. We do not have the freedom the citizens of every other country in the world have, to travel to Cuba. It just does not make sense.

I will add, the American Association for the Advancement of Science testified before the Senate Judiciary Committee on this question and pointed out that there have been scientific meetings, international scientific meetings held in Cuba, where our scientists have not been able to attend. It just does not make sense.

In one case they were able to attend, but listen to this. In order to attend a meeting of the World Federation of Engineering Organizations, in Havana, beginning on October 17, 1993, they were first denied licenses, and then, "Finally, members were granted licenses but not without long delays and the necessity of submitting themselves to a detailed screening process by Treasury Department officials." All kinds of needless paperwork. And not an American citizen who has gone to Canada or Mexico and traveled to Cuba has been prosecuted, sentenced to prison, or fined. It is just ridiculous, and we look ridiculous in the eyes of the rest of the world.

This limitation on Americans to travel to Cuba does not do one thing in terms of pulling down the Castro regime. There is not a Member of the United States Senate who believes that Castro is doing what he should be doing for the people of Cuba. We do not like his human rights record. But I do not want to impose human rights restrictions on American citizens because he does it in Cuba. So my amendment simply would give American citizens the clear right to travel to Cuba.

Mr. DODD. Mr. President, will my colleague yield?

Mr. SIMON. I yield 2 minutes to the Senator.

Mr. DODD. Just to engage my colleague, I want to commend him for his amendment. What is underlying in this amendment is the notion here that we have to start to get back to the conduct of foreign policy. We are dealing with Cuba as if this were a domestic issue and not a foreign policy issue. If someone can explain to me why it is that we allow unlimited travel to the People's Republic of China, and we allow unlimited travel to Vietnam—even in the case of North Korea, the North Koreans impose restrictions, but we do not impose restrictions. Yet here for the island nation of Cuba, as much as all of us find the Government there reprehensible, I think most of us believe that access and contact between peoples, particularly free people with the people who are living under a dictatorship, has a tremendous impact, or can have a tremendous impact, to say that no one in this country to the one place throughout the entire globe could travel makes no sense at all.

Again, this is not as if we are talking about any other country. Imagine if we offered an amendment here that included the People's Republic of China, just add that one Communist country that engages in human rights violations—I would argue probably far more egregious than what occurs in Cuba, as bad as that may be—if I would offer that amendment to this, it would be resoundingly defeated if we stopped people going to the People's Republic of China today. And people would argue not just in terms of our own financial interests, but I think most realize there is probably a greater likelihood of achieving change there because there are those contacts. Others will argue with that. But here we are singling out one country 90 miles off our shore where an influx of Americans down there might have a very positive impact on encouraging people to engage in the legitimate, political kind of activity that would create the kind of change we would like to see there.

What my colleague is offering here makes eminently good sense. It is the direction we ought to be going in. It is the most effective way to change the Government there. I commend him for this amendment, and I ask him whether or not he would agree with me, if he knows of any other case anywhere else in the world where we apply this.

Mr. SIMON. Absolutely not. It is interesting that it is the same debate that we went through when we had the Soviet Union. Should we let Americans travel there? We finally made the decision that it might open up the Soviet Union if we would let people travel. And that was the right decision, and that is what we are asking for here. Let us make the right decision on Cuba.

Mr. DODD. I point out as well that it is not just that. But Cuban-Americans themselves—first of all, I have said this before, Mr. President. This notion that we are dealing with a monolithic community here is insulting to many Cuban-Americans. They do not like having people stand up here and suggest that every American of Cuban descent or heritage is of totally like mind on these issues. Many feel that they would like to be able to go back and start meeting with their families, working with their families. To go through the charade of traveling to Canada, going to Mexico, engaging in all kinds of subterfuge in order to make contact with their families and support them is not healthy.

I would suggest that if we could make it possible for Cuban-Americans to go back and be with their old neighbors, friends, and family members, that kind of involvement, that kind of contact, that kind of interchange is probably something Fidel Castro worries more about than the adoption of this kind of language. I suspect he may support the language in this bill because it is that kind of contact which he would most worry about jeopardizing the foundations of his dictatorship.

So, again, I applaud my colleague from Illinois for his proposal. I suspect we may not win in these amendments, regretfully, because this is about domestic policy. It is not about foreign policy.

Mr. SIMON. I will simply add that we should make policy based on the national interest, not national passion. With what we are doing, our present policy is the opposite.

I reserve the remainder of my time.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, and I suggest that the time be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess at 12 noon today until 4 p.m. and that at 4 p.m. the Senate proceed to the votes under the previous order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. Mr. President, I again suggest the absence of a quorum on the same basis as the first request was made.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, would the Chair state the time situation?

The PRESIDING OFFICER. The Senator from North Carolina has 8 minutes, and the Senator from Illinois has 2 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, what I am about to say may indicate the widest legislative wing span in history, but the State Department and JESSE HELMS agree on something. Both the State Department and JESSE HELMS oppose the Simon amendment. I do so respectfully—and PAUL SIMON is my friend. We do not agree on everything, but that does not matter. He operates in good faith, and I try to.

Let me say very briefly that during the tenure or parts thereof of eight American Presidents, the United States has pursued a bipartisan policy of isolating Fidel Castro, including restrictions on travel to Cuba. Obviously, the Simon amendment would enthusiastically do away with that restriction.

I mentioned yesterday, and I guess I shall reiterate today, that there are good intentions behind anything that PAUL SIMON does. He is a gentleman. I regret the fact on a personal basis that he has announced that he will not seek reelection next year. But having said that, I just cannot support his amendment. And I cannot fail to urge Senators to vote against it because the result of the Simon amendment will not be the free exchange of ideas that they talk about. The result will be to give Fidel Castro access to new and desperately needed hard currency. On this, the State Department and I absolutely agree.

What Castro has to offer is Cuban beaches. That is it. And allowing Americans to sit on a Cuban beach does not do anything for the Cuban people who are oppressed and from whom we hear daily pleas to enact the Libertad bill. The Cuban people inside of Cuba—and also the Cuban people in exile in the United States and elsewhere—unanimously, as far as I know, favor the pending bill. Tourism, of course, is one of Fidel Castro's most important sources of hard currency, and for years and years Castro has lured foreigners to Cuba. This has not resulted in any liberalizing of his regime. It has instead resulted in less freedom and worse living circumstances for the Cuban people. Old Fidel, he is ugly, and he is blunt, and he is rough, and he is cruel, but he is not dumb. He knows the value of tourism for his regime. As a matter of fact, if he does not get hard cash from tourism and other aspects of operations, down he goes. And that is the point. We want him to go down. We want to be rid of him. We want the Cuban people to be rid of him so that they can establish a democratic government there that they have not had in a long, long time.

Now, back in June, Castro began imposing a 100 percent tariff on all new articles brought into Cuba with a value between $100 and $1,000. And that means, Mr. President, if Castro officials, his cronies, determine that an item being brought into Cuba by a tourist is new, or if it is something that will be left behind when the tourist departs, then Cuba can charge 100 percent of the cost of that item. The tax on tourists benefits nobody but Fidel Castro and his cronies.

Critics of the travel restrictions argue that we should remove them since they are not fully enforced. I recognize that the Treasury Department has encountered some problems in enforcing travel regulations. They probably encounter some problems in enforcing a lot of regulations. The reason for any problem they have in this regard is that currently only criminal penalties can be imposed for violations. The administration supports the enactment of civil penalties as the best means of enforcing existing restrictions, and that is exactly what we do in the Libertad bill. So there goes that wide wingspread again from left to right.

Mr. President, I am going to reserve the remainder of my time because I have one or two other points that I may want to make, but I want there to be enough time for Senator SIMON to make whatever rebuttal he wishes to make.

Mr. SIMON. Mr. President, I think if we can, before we vote—I understand we are going to vote at 4 o'clock.

Mr. HELMS. Yes.

Mr. SIMON. If each of us can have 2 minutes, if that is satisfactory to the Senator from North Carolina, that is satisfactory to me.

Mr. HELMS. Mr. President, that is certainly a fair and reasonable request. I ask unanimous consent that 4 minutes equally divided be provided at 4 o'clock on the Simon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. I would yield back the remainder of my time.

Mr. HELMS. And I yield back the remainder of my time. I see the distinguished majority leader. I am glad to yield to the majority leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I understand the chairman has gotten the consent that we stand in recess at noon until 4 p.m.

I might explain to my colleagues, the purpose of this is so that the Finance Committee can complete action on the tax cut package. They agreed yesterday to have 7 hours and then they would vote. They started at 9 o'clock this morning. We cannot get consent for the Finance Committee to meet while the Senate is in session, so we have no recourse but to let the Finance Committee meet all afternoon. But right now they are moving along at a pretty rapid pace, and they would like to complete action. Hopefully, at 4 o'clock, they could finish and the Senate could come in and, as I understand, there will be three votes and then final passage.

Then after that we will hopefully take up the Labor, HHS appropriations bill or, if there has been any progress, State Department reorganization. I understand there is another meeting, the chairman has another meeting this afternoon at 2 o'clock. So hopefully we can finish action this afternoon on the tax cut package. Chairman ROTH and the ranking member, Senator MOYNIHAN, are trying to get that done by 4 o'clock. That would go to the Budget Committee. It is our hope that next Wednesday we will take up the reconciliation package on the Senate floor, Wednesday and Thursday. In the meantime, we have a number of items on which we hope to complete action.

I would also indicate that we will have, hopefully, next week a Transportation conference report; legislative branch appropriations, a new bill, but it is identical to the one vetoed by the President. That will be available early to midweek; energy and water conference report. That conference is going to convene next Tuesday at 9 o'clock. We hope to finish that day and then take that up. We are trying to get more and more of the appropriations bills to the President. We hope that he would indicate he will sign the bills.

BALANCING THE BUDGET

Mr. DOLE. Mr. President, before we recess, I would like to take a moment to discuss President Clinton's appearance before reporters at the White House this morning.

Republicans have been willing to work with the President in our efforts to finally balance the budget. Regrettably, the President's veto threat today makes us wonder whether he is serious about working with the congressional majority to fulfill the mandate the American people gave us. If anyone needs to think again, in my view it is President Clinton. Rather than continuing his cynical reelection campaign designed to scare the American people, particularly senior citizens, he should show some leadership and work with us to balance the budget, cut taxes for American families, protect Medicare from bankruptcy, and overhaul welfare.

If any plan puts America's elderly at risk, it is the President's plan, which fails to offer any long-term reforms, any choices for seniors, and any real solutions, just sort of a Band-Aid to get us beyond the next election in 1996.

I think it is interesting that the President confessed this week he raised taxes too much in 1993. I think a $265 billion tax increase is a bit too much. It affected senior citizens, people who drive automobiles, subchapter S corporations, a lot of Americans who did not consider themselves rich until the President announced that only the rich pay taxes. But he has learned since 1993 that other people pay these increased taxes, too, who are not rich, when he increased taxes on Social Security, when he increased taxes on gasoline, when he increased taxes on subchapter S corporations, and a number of other people who were not rich.

So I think now that he has confessed he made a mistake on raising taxes, he ought to confess he has made a mistake on not wanting to adopt a balanced budget. He fought us in an effort to pass a constitutional amendment to balance the budget. He convinced six Democrats who voted for a balanced budget last year to vote no this year. We lost by one vote. We had 66. We needed 67.

So it seems to me the President is now saying, well, I raised taxes too much but it was not my fault; Republicans are responsible. Not a single Republican in the House or the Senate voted for the tax increase. I do not understand how he can blame us for that. It was the biggest tax increase in American history. In fact, I think the Senator from New York [Mr. MOYNIHAN] said, no, it was the biggest tax increase in world history, and it probably was.

So I would ask the President today, now that he is feeling in a mood to say he has made mistakes—and we all make mistakes from time to time—we would be happy to have him join us in this budget debate in balancing the budget by the year 2002 and protecting, preserving, strengthening Medicare and overhauling welfare and providing tax cuts for families with children, the very thing that the President proposed, I might add.

About 70 percent of our total tax credit goes to families. They are not rich. On the Senate side we have capped what your total income could be if you are going to be eligible for the tax credit for your children.

So, Mr. President, we agree you raised taxes too much. We agree it hurt the economy. We agree it probably cost a lot of jobs in America. We agree it cost a lot of dislocation, a lot of pain, a lot of suffering. But now that you have confessed to making that mistake, let us not make another mistake. Let us work together. Let us try to balance the budget, Mr. President. Let us try to save Medicare, Mr. President, and try to have a good tax cut for families with children and stimulate the economy with the capital gains rate reduction, and then reform welfare, which the President indicates he supports.

We are prepared. I know the Speaker is prepared. I hope that we might have some cooperation.

I yield the floor. And I think it is 12 o'clock.

RECESS UNTIL 4 P.M.

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the Senate stands in recess until 4 p.m.

Thereupon, at 12 noon, the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. THOMPSON).

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with consideration of the bill.

AMENDMENT NO. 2934

The PRESIDING OFFICER. The pending business is the Simon amendment numbered 2934. There are 4 minutes of debate equally divided.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, our parliamentary situation now I believe is that I have 2 minutes to speak on behalf of my amendment and my colleague from North Carolina has 2 minutes to speak in opposition.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMON. Mr. President, this is a fairly clear and simple issue: Do we follow the advice of people like President Eisenhower who said, "Any limitation on the right to travel can only be tolerated in terms of overriding requirements of our national security."

Americans can travel to North Korea and China. Name the dictatorship anywhere, we can travel there. The one country we cannot: Cuba. Citizens of every other country in the world can travel to Cuba, but Americans cannot do it legally.

Now, we can go by way of Mexico or Canada and violate the law and do it, but that should not be the way we do things around here.

It is very interesting that in the Soviet Union we had this same question: Should we cut them off and isolate them, or should we have American visitors who go there and help to ameliorate their policy? We, fortunately, made the right decision that Americans could travel there. That should be what we do today.

Americans ought to have the right to travel anywhere where there is not a security risk for Americans. That ought to be part of the freedom that every American has.

Mr. President, I know there will be a motion to table. I hope, despite that motion, the amendment will be agreed to.

Mr. HELMS. Mr. President, I said earlier this morning when Senator SIMON and I were on the floor together that this amendment has prompted the widest political legislative extremes in history: The State Department and JESSE HELMS agree it is a very bad amendment.

I believe the distinguished Senator from Florida [Mr. GRAHAM] will move to table.

This amendment undercuts the embargo that has been in effect for eight Presidents. It does not help the Cuban people. Tourism will not change Castro. In fact, it will merely contribute to Castro's economic status a little bit.

I hope that the Senate will vote to table the amendment. I say that with all due respect to my friend and neighbor, PAUL SIMON.

I yield back the balance of my time.

Mr. GRAHAM. If I could use the remaining time of Senator HELMS for the purpose of a couple of points. First, the current Cuban Democracy Act provides for limited travel under controlled circumstances to Cuba by three groups of Americans: those who are traveling for educational, religious, or humanitarian purposes. The President, within the last 2 weeks, has given greater definition to who will fall within those three categories and will receive authorization to travel to Cuba.

The basic prohibition on general travel is a cornerstone of the United States' effort to isolate the dictatorship in Cuba while we were attempting to reach out to the people of Cuba with a hand of friendship. If we were to eliminate this prohibition on travel, we would be pouring dollars into Castro's thin coffers, dollars which would allow him to continue to operate the most repressive state security apparatus left in the world, one which has set new standards for human rights abuses. We would also prop up his regime against the inexorable forces which are leading toward its downfall.

Mr. President, I urge the defeat of this amendment by adopting the motion that I will offer to table the Simon amendment.

The PRESIDING OFFICER. Does the Senator from Illinois wish to use his remaining 25 seconds?

Mr. SIMON. Mr. President, the assistance to Castro in terms of economic terms is almost nil. What this amendment does is give Americans the freedom that citizens in every other country in the world have: To travel to Cuba. I think that ought to be a basic right of Americans—to travel to any country where there is not a security threat.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I move to table the Simon amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Simon amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—73

Abraham
Ashcroft
Bennett
Bond
Bradley
Breaux
Brown
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Exon
Faircloth
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kohl
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—25

Akaka
Baucus
Bingaman
Boxer
Bumpers
Dodd
Dorgan
Feingold
Feinstein
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Leahy
Levin
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Simon
Wellstone

NOT VOTING—1

Biden

So the motion to lay on the table the amendment (No. 2934) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2906 AND 2908

The PRESIDING OFFICER. Under the previous order, the question now occurs on the en bloc consideration of amendments numbered 2906 and 2908 offered by the Senator from Connecticut [Mr. DODD]. Debate is limited to 4 minutes equally divided in the usual form.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, the amendments we are about to vote on, or two amendments which were combined en bloc, deal with the issue of title II of this bill.

Regardless of how anyone feels about the present government in Cuba, title II of this bill does not deal with the Castro government in Cuba. It deals with the next government in Cuba. It says that the next government in Cuba must meet a set of four pages of criteria before we can provide even transitional assistance to the next government in Cuba.

Mr. President, I do not know what the next government in Cuba is going to look like. Hopefully, it will be a democratic government. But it seems to me that we ought not to be conditioning our assistance on some future government in Cuba in this piece of legislation.

Whatever else we may want to do to the Castro government, why would we want to tie the hands of this administration or future administrations when you have a change in Cuba? If we applied the same rules and the same criteria that are located in title II of this bill, we would not be able to provide the transitional assistance to many of the New Independent States that have emerged after the collapse of the Soviet Union.

I urge my colleagues in the next few minutes to just read sections 205 through 208 of this bill. They are four pages of criteria. Whatever else you may feel about Fidel Castro, however you want to change the government in Cuba, do not make it impossible for this administration or the next one to deal effectively with that new government. This amendment strikes those sections of the bill, and I urge adoption of the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield 30 seconds to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment by the Senator from Connecticut. Title II is authored by the only Cuban-American Democrat in the Congress, BOB MENENDEZ of New Jersey. For once, we should be ready when the commander of a Communist dictatorship falls. All this says is when the dictatorship falls, we should have in place emergency relief measures and assistance that will effect the transition from a command economy to a market economy, from a totalitarian state to a democracy. It says for once let us be ready when a Communist dictator falls.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. In that connection, let me read one paragraph from a letter dated today by Congressman MENENDEZ to the distinguished minority leader, Mr. DASCHLE:

> Dear Mr. DASCHLE. As the author of title II of the Helms-Burton Libertad legislation and the only Cuban American Democrat in the Congress, I am writing to urge you to vote against the Dodd amendments which seek to gut title II of the legislation.

I yield the remainder of my time to the distinguished Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Florida.

Mr. GRAHAM. Mr. President, I, too, rise in opposition to the amendments offered by our colleague from Connecticut. This proposal lays out a rational transition from the current authoritarian Communist regime to what we hope will soon be a democratic and marketplace political and economic system in Cuba. It is consistent with the provisions that were contained in the Cuban Democracy Act which was passed by this body by an overwhelming vote in 1993, but it continues the dual track of the United States providing pressure against the regime in Cuba while it opens up to the people of Cuba, including opening up with a clear statement of how we will assist the transition to democracy.

Mr. President, I move to table the amendments of the Senator from Connecticut.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time has expired under the control of the Senator from North Carolina. The Senator from Connecticut has 21 seconds.

Mr. DODD. I yield back my time.

The PRESIDING OFFICER. The time has been yielded back.

The question now occurs on agreeing to the motion to table the amendments numbered 2906 and 2908, en bloc. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senate from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 493 Leg.]

YEAS—64

Abraham
Ashcroft
Bennett
Bond
Bradley
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—34

Akaka
Baucus
Bingaman
Boxer
Bumpers
Byrd
Chafee
Daschle
Dodd
Exon
Feingold
Feinstein
Glenn
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kohl
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Sarbanes
Simon
Wellstone

NOT VOTING—1

Biden

So the motion to lay on the table the amendments (Nos. 2906 and 2908) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. Pending is the Helms amendment.

Mr. DOLE. I ask that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. They have not.

Mr. DOLE. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. How much time is left on the Helms amendment?

The PRESIDING OFFICER. There are 10 minutes of debate on the Helms amendment.

Mr. DOLE. Mr. President, we are about to conclude action on the Cuban Liberty and Democratic Solidarity Act. The Senate has spent a week on this bill. We had three cloture votes. A sustained lobbying campaign by the White House forced Chairman HELMS to delete a significant section of the bill. The Senate will pass the bill today, and the conference will certainly address the issue of stolen property.

I am confident that the House-Senate conference will be able to find a way to prevent Fidel Castro from using foreign investment to prolong his tyranny. That is the issue—do we want to allow the hemisphere's last dictator to replace his lost aid from the Soviet empire with western investment? The Senate will have another chance to address this issue when the conference report comes back.

We should be clear on what is still in this bill. Title I strengthens the international embargo on Cuba. It requires the United States to oppose Cuban membership in international financial institutions. It conditions aid to Russia on an end to support for Cuba. It tightens the restrictions against the importation of Cuban sugar. And it authorizes assistance to the real victims of Castro's repression—the Cuban people.

In the debate, some of the advocates of lifting the embargo have said this bill looks backward, that this bill does not respond to current conditions. Nothing could be further from the truth. Title II of the bill requires the President to look ahead—to look at the inevitable post-Castro period. Title II provides for support for a free and independent Cuba and authorizes suspension for the embargo and other restrictions once a transitional government is in place. Title II also provides incentives for a truly democratic government in Cuba.

So I think the President, the Senate is going to speak loudly today—in support of the Cuban people and in opposition to Fidel Castro. He should know that as he prepares to come to New York for whatever he is going to do at the United Nations. The White House has made its views known. By allowing Fidel Castro to enter the United States, and by vigorously lobbying against this bill, there is no doubt where they stand. Today, the Senate can make its views known, and I urge my colleagues to support the bill.

I thank Senator HELMS for his outstanding work on this issue.

Mr. DODD. Mr. President, I said at the very outset of this debate that when we consider legislation aimed at a foreign country, we ought to ask ourselves two basic questions. Is what is being proposed in the best interest of our Nation, and is it likely to achieve the desired results in the country in question—in this case, Cuba?

I have had grave concerns, Mr. President, about title III of this bill. That section has been taken out. I thank my colleagues for supporting us in that effort. Notwithstanding, however, Mr. President, this changed. The two basic questions I raised at the outset of these remarks remain. In my view, the answer to both of those questions, if one reads this bill carefully, is "no."

It is not in our interest to complicate our relations with the governments of Russia or other New Independent State countries. Yet, provisions of this bill would do just that by linking our assistance to these countries, to their policies toward Cuba. We provide, Mr. President, assistance to Russia, and other of the New Independent States, because we want to see them carry out the kinds of programs that we are funding, because we want to continue to strengthen their still fragile democratic institutions. Conditioning, Mr. President, that assistance on what is going on in Cuba, I think, is counterproductive.

Provisions of this bill ultimately hinge on our arms control treaties with Russia, specifically, on Russian verification of United States compliance. While it is certainly legitimate for the United States to discuss the types of activities that appropriately fall within the scope of verification of arms control treaties, that should be done bilaterally with the Government of Russia, not unilaterally imposed by the Congress in the context of a debate about Cuba.

Other provisions of this bill bar Cuban participation in international financial institutions until after democracy has been established in that country. We all know, Mr. President, the critical roles played by the World Bank and International Monetary Fund in the early days of Russia's transition to democracy. It is foolhardy, Mr. President, to prohibit the IMF and the World Bank from offering their assistance and expertise to a post-Castro government as it grapples with the complicated task of dismantling a command economy.

Mr. President, I have already mentioned those provisions of the bill which my amendment would have sought to strike, provisions that severely limit the flexibility of the United States to respond to the change in Cuba when it comes. This bill could also have the United States spend more money on TV Marti, this time converting from VHF to UHF broadcasting. We all know that TV Marti has been a complete failure. GAO report after GAO report after GAO report has found that it is totally ineffective, that virtually nobody watches it, and that it is a total waste of taxpayer money.

More than just the individual provisions of the bill, Mr. President, the entire thrust of this legislation makes no sense whatsoever. Calling Castro names does not get Cuba any closer to democracy. We have spent a week debating this. It is too long.

Perhaps the only individual who will truly benefit from this debate is Fidel Castro. Once again, we have managed to make him larger than life. Once again, we have given him excuses on why his government has failed and why the Cuban economy is in a shambles. Once again, we will force our allies to come to his defense because they profoundly disagree with our tactics. None of this, Mr. President, makes any sense whatsoever. We all know that to be the case, but frankly, to state it bluntly, because of domestic political considerations, we continue to take actions counterproductive to our own self-interest. I urge defeat of this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from North Carolina has 3 minutes 34 seconds. The Senator from Connecticut has a minute 26 seconds.

Mr. HELMS. Mr. President, passage of the Libertad bill will send a message that Congress wants a tightening of the screws on Fidel Castro.

Castro knows that this bill will expedite his departure from power. Why on Earth would Castro have launched such a huge campaign against this bill if it wasn't harmful to his rule? He knows that the Libertad Act will help set the Cuban people free—free from oppression, free from communism, free from Castro's dictatorship.

As several principal cosponsors of this bill have already stated on this floor, including Senators DOLE and GRAMM, we are going to fight hard—and I mean very hard—to keep the pressure on Castro—and on this administration to work for Castro's removal.

Mr. President, let me say this: Fidel Castro is going to come to New York City this weekend to address the United Nations. Since the State Department has just given Mr. Castro a visa to enter this country, I want to give Mr. Castro an early Christmas gift to be delivered to the people of Cuba—a gift called the Libertad Act, on which we will vote final passage in a moment.

I yield the remainder of my time.

Mr. DODD. Mr. President, I point out that Richard Nixon also gave Fidel Castro a visa to come to this country. That kind of political rhetoric does not advance our cause. He is going to be larger than life when he comes to the United Nations. What we do here today is going to make him a hero when he comes to the United Nations. I regret that. I yield back my time.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2936 by the Senator from North Carolina [Mr. HELMS].

The amendment (No. 2936) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment No. 2898, as amended, offered by the Senator from Kansas [Mr. DOLE].

The amendment (No. 2898), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—74

Abraham
Ashcroft
Baucus
Bennett
Bond
Bradley
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—24

Akaka
Bingaman
Boxer
Bumpers
Byrd
Dodd
Feingold
Feinstein
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kennedy
Leahy
Levin
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Simon
Wellstone

NOT VOTING—1

Biden

So the bill (H.R. 927), as amended, was passed.

[The text of the bill will appear in a future edition of the RECORD.]

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. FORD, the following statement was ordered to be printed in the RECORD.)

• Mr. BIDEN. Mr. President, a serious family emergency in Pennsylvania has required me to leave this afternoon on the spur of the moment. Had I been present, I would have voted against the amendments offered by Senator SIMON and Senator DODD, and in favor of final passage of the bill.•

Mr. KERRY. Mr. President, I do not want my vote for final passage of H.R. 927, the Cuban Liberty and Democratic Solidarity Act to be misunderstood. I was strongly opposed to the centerpiece of the legislation—title III. This title would have altered 45 years of international and domestic law and practice with respect to the resolution of claims resulting from the expropriation of U.S. property abroad. I supported efforts to ensure that that title was deleted from the bill.

I will oppose any conference report that restores this title or adds draconian provisions. I will join with my colleagues in utilizing all parliamentary procedures to ensure that a conference report containing what was title III is not enacted into law.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask, at the request of the Republican leader, unanimous consent that there now be a period for the transaction of routine morning business during which Senators may speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RECONCILIATION

Mr. COCHRAN. Mr. President, I was just looking at a letter that was given to me by the chairman of the Budget Committee, the Honorable Senator from New Mexico [Mr. DOMENICI], advising that the Congressional Budget Office has had an opportunity to review the budget reconciliation package that has been assembled and will be presented to the Senate, we assume during next week. The good news is that the Congressional Budget Office's analysis of the bill as assembled at this point, assuming that the tax bill being reported in the Finance Committee is within the budget reconciliation targets, not only will achieve a balanced budget by the year 2002 but will actually result in a small surplus.

The letter from the Director of the Congressional Budget Office goes into more detail with the analysis that she and her staff have made of this reconciliation package. But I hope that between now and next week, when the Senate will have an opportunity to take up and debate the reconciliation bill, Senators will review these documents and the analysis that has been done, because this is the centerpiece of the effort to achieve the balanced budget by the target that was set in the budget resolution that has passed both Houses and is reflected in the conference report that earlier passed the Congress.

This is the centerpiece, this is the heart and soul of the effort to achieve a balanced budget. And we are about to embark upon a very historic debate for the first time in anybody's memory on a plan to actually achieve an annual operating budget that is in balance, that changes entitlement programs as well as the appropriated bills that have passed the Congress which is about to take place. I hope that we will have an opportunity as we approach that period to talk about some of the changes that we foresee and the resulting influence that it is going to have for good on the fiscal policies of the country, as well as the effect on interest rates, the effect on the general overall economic environment for job creation and business activity, which will be positive and continue to move us in the right direction in terms of economic growth and economic well-being as a nation.

But I congratulate the distinguished chairman of the Budget Committee, Senator DOMENICI, for his good work and his strong leadership in bringing us to this point. We look forward to the debate on the resolution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

RECONCILIATION LEGISLATION

Mr. DORGAN. Thank you, Mr. President. It is a timely opportunity to take the floor to follow my friend from Mississippi.

My friend from Mississippi was quoting from a letter dated October 18 from the CBO signed by Director June O'Neill. It is a letter that says that based on those estimates—referring to estimates in the letter—using the economic and technical assumptions underlying the budget resolution and assuming—this is the way economists talk—the level of discretionary spending specified in that resolution, the CBO projects that enactment of the reconciliation legislation submitted to the Budget Committee would produce a small budget surplus in the year 2002.

The Senator is quite correct about what this letter said. That is dated yesterday.

Let me, however, read a letter dated today signed by the same person, the Director of the Congressional Budget Office, June O'Neill. This is in response to a letter that Senator CONRAD and I wrote to her yesterday saying:

> This is a curious letter you have sent to Congress, saying it is going to produce a surplus. Would you please tell us what the impact of the reconciliation bill will be on this country's fiscal policy? In other words, what kind of surplus or deficit will we have if you follow the law that exists in this country, in fact, the law written by the Senator from South Carolina, Senator Hollings, that says you cannot use Social Security trust funds as revenues to balance the budget?

So we sent the letter to Director O'Neill of the Congressional Budget Office, and here is the letter we received today from the Congressional Budget Office, this afternoon. The letter says in the first paragraph—the same kind of language from economists—"Excluding an estimated off-budget surplus of $108 billion"—translated, it means by and large excluding the Social Security trust fund surplus in 2001 from the calculation—"the CBO would project an on-budget deficit of $98 billion in the year 2002."

Now, I have an 8-year-old son who, when we last went to Toys 'R Us, was fascinated by vanishing ink. We passed this little thing. They sell vanishing ink. He said, "Daddy, how do they do that?" I said

> I do not really know. I know it is simple. It does not cost very much. We could buy it and take it home. But I do not know how they do vanishing ink.

I could tell my son that we do not have to stop at Toys 'R Us. We have folks who have Ph.D.'s that know how to deal with vanishing ink.

Here we have an October 18 letter that says: "You Republicans have asked me, an appointee of the Republicans, how has our plan fared in your eyes?" And you said, "Well, we think you are doing real good. In fact, you have produced a surplus."

We sent a letter to the same person who said:

> But if you do this the right way, if you calculate this the right way and do not take the Social Security trust funds, because you cannot misuse those, those are Social Security trust funds, do not bring them over here in the operating budget, that that is the way you do it, that is the way the law requires that you do it.

Then what happens is the same person 1 day later says, "By the way, in the year 2002 there is not a balanced budget. There is a $98 billion deficit."

Mr. BUMPERS. Will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield.

Mr. BUMPERS. The thing even more perplexing on the point which the Senator from North Dakota raises is this. This is the conference report of the budget bill. Let me read it. It says:

> Section 205 of the conference agreement requires the chairman of the Budget Committee to submit the committee's responses to the first reconciliation instruction to the Congressional Budget Office.

So the committee has to send all of these things to the Congressional Budget Office.

Next sentence, if the Congressional Budget Office "certifies"—this is the operative word—if the Congressional Budget Office certifies that these legislative recommendations will reduce spending by an amount that will lead to a balanced budget by the year 2002, the second reconciliation instruction is triggered.

If you read the letter from the Congressional Budget Office, she does not certify anything; she projects a balanced budget.

Mr. DORGAN. Only yesterday. Today, there is a deficit.

Mr. BUMPERS. But the point is, certification is a certification. You look in the dictionary. It says: "certifies: to be accurate." I could project a balanced budget. But certification and projection are two entirely different words.

I wrote her a letter, and I think the Senator from North Dakota, my colleague, and several others of us sent a letter to her saying:

> When you send this letter over, you should be very careful to make sure that you are absolutely certain that all of this is going to lead to a balanced budget, because you have been instructed not to project but to certify.

Mr. DORGAN. I wonder if the Senator might let me reclaim my time.

Mr. BUMPERS. I would be happy to.

Mr. DORGAN. That is a great point. I want to say Harry Truman—you know, a fine-spoken guy from Independence, MO, could not always follow all of the logic, or at least the presumed logic, by the Congress. He finally says in exasperation:

> For God's sake, give me a one-armed economist. I am so tired of hearing economists saying "on the one hand" and "on the other hand." Give me a one-armed economist.

Here it is. If Harry Truman were here, he would say, This is, on the one hand, yesterday. This plan produces a surplus. But, on the other hand, today, when asked by Senator CONRAD and myself, if you really do it right, the way the law requires, then how does it add up?

Well, on the other hand, this produces a $98 billion deficit in the year 2002.

My son tonight is going to be real excited to hear that you can get this right in the Senate without paying for it—vanishing ink, 24 hours, a new letter, a new projection. This is not a balanced budget. It is a $100 billion deficit in the year 2002.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. CONRAD. Is it not amazing what a day makes?

Yesterday, the American people were told, you enact the Republican plan, you have a balanced budget. You even have a little bit of a surplus. But when we asked the question, yes, but what if you obey the law of the United States, which says you cannot count Social Security surpluses—and, of course, the reason you cannot count Social Security surpluses is because no accountant anywhere would allow you to take the reserve funds, the retirement funds of your people, and throw those into the pot and call it a balanced budget. That is why we have a law that says you cannot count the Social Security surplus. And when you ask the question, what do you do if you obey the law? then the head of the Budget Office comes back and says, including an estimated off-budget surplus of $180 billion, which is the Social Security surpluses, CBO would project an on-budget deficit of $98 billion in 2002—$98 billion. In fact, the Republican plan, in order to balance, takes every penny of Social Security surpluses over the next 7 years—$650 billion. It takes all those Social Security surpluses, throws those into the pot and says, hallelujah, we have a balanced budget.

Well, of course, they do not have a balanced budget. They do not have a balanced budget by the law of the United States. They do not have a balanced budget that any accountant would anywhere certify to in America.

I say to my colleague, is it not interesting the difference a day makes, from a surplus to a massive deficit in the year 2002 under the Republican plan? There is no balanced budget here, just a big fraud.

Mr. HOLLINGS addressed the Chair.

Mr. DORGAN. Mr. President, let me just make one additional comment and yield the floor.

Mr. HOLLINGS. I am sorry.

Mr. DORGAN. We will talk a little bit more about this next week. The only reason we bothered to do this is because some of us yesterday found it not believable, those who held up with great pride this missive from the CBO. We felt if you are going to misuse the Social Security trust funds to the tune of $100 billion in the year 2002, there is a law on the books—and the law was written, incidentally, by the Senator who will speak now, the Senator who is now standing—which says you cannot use the Social Security trust fund.

Why would we do that? Because Social Security trust funds come out of people's paychecks and they are dedicated to go into a trust fund to be used only for one purpose and no other purpose, Social Security. We are creating a surplus because we need it for the future. It is one of the few responsible things we have done in the last 15 years. That surplus under today's budget scheme is now being used as revenue in the operating budget, and that is the basis on which yesterday's letter was issued improperly. Today we say issue it properly and then tell us what the impact is.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

The Senator from South Carolina.

Mr. HOLLINGS. I thank the Chair.

NO BALANCED BUDGET

Mr. HOLLINGS. Mr. President, let me first congratulate the distinguished Senator from North Dakota, Senator DORGAN, and the distinguished Senator from North Dakota, Senator CONRAD. These two gentlemen have been persistent on this issue, and this particular Senator from South Carolina is most grateful because for a long time I have felt a little like a Johnny One Note. I took the floor 2 days ago and now again today to reiterate what Senator DORGAN just said—namely, that the Republican budget is not balanced. A couple weeks ago, when we were passing the State, Justice, Commerce appropriations bill I said that if there were a way to balance the budget without increasing revenues as well as holding the line on spending, I would jump off the Capitol dome.

Let me turn, Mr. President, to the subject raised by these two gentlemen and the response given to their inquiry by the Director of the Congressional Budget Office.

While my distinguished colleague from Mississippi congratulated the chairman of the Budget Committee, I was sorry that I could not join in those congratulations, and I wish to explain in a very dignified way just exactly why.

On July 10, 1990, we voted in the Budget Committee by a vote of 20 to 1 to put the Social Security trust fund off budget—20 yeas, 1 nay. The one nay was the distinguished Senator from Texas, Mr. GRAMM, but the distinguished present chairman of the Budget Committee, Senator DOMENICI, voted for my Social Security preservation amendment.

I ask unanimous consent to include the committee rollcall in the RECORD.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

JULY 10, 1990—HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

Yeas	Nays
Mr. Sasser	Mr. Gramm
Mr. Hollings	
Mr. Johnston	
Mr. Riegle	
Mr. Exon	
Mr. Lautenberg	
Mr. Simon	
Mr. Sanford	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. Dodd	
Mr. Robb	
Mr. Domenici	
Mr. Boschwitz	
Mr. Symms	
Mr. Grassley	
Mr. Kasten	
Mr. Nickles	
Mr. Bond	

Mr. HOLLINGS. I thank the Chair. On October 18, 1990, I toiled alongside the distinguished Senator from Pennsylvania, our late, wonderful Senator and friend, John Heinz. He had been working diligently on this issue as well. He was not on the Budget Committee, but I said to John, if you can get the votes on the Republican side, I think we can really finally fix this problem. It needed fixing because everyone had been playing games.

The truth of the matter is, Mr. President, that beyond using the surpluses in the Social Security trust fund, another $12 billion comes from other trust funds. They use the highway trust fund. They use the airport and airways trust fund, the civil service retirement, the military retirement trust fund. You can go right on down the list. Back in 1990, you could not get anybody's attention talking about these other trust funds, but I said on Social Security I think we have got them.

Mr. President, the vote on October 18, 1990, was 98 to 2.

I ask unanimous consent to have printed in the RECORD the Senate vote on the Hollings-Heinz amendment putting Social Security off budget.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

Subject.—Hollings-Heinz, et al., amendment which excludes the Social Security Trust Funds from the budget deficit calculation, BEGINNING in FY 1991.

YEAS (98)

Democrats (55 or 100%)—Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

Republicans (43 or 96%)—Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, Wilson.

NAYS (2)

Democrats (0 or 0%).

Republicans (2 or 4%)—Armstrong, Wallop.

NOT VOTING (0)

Democrats (0).

Republicans (0).

Mr. HOLLINGS. I thank the distinguished Chair.

And then on November 5, Mr. President, George Bush, President George Bush, signed into law, Public Law 101–508, saying here:

Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

I ask unanimous consent to include in the RECORD at this particular point section 13301 of Public Law 101–508 of the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipt, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, my friends on the other side are well rehearsed in repeating their little drumbeat—balanced budget, balanced budget, balanced budget, balanced budget. But like they say back home: no matter how many times you say it, it doesn't make it so.

Chairman KASICH filed a conference report on June 26, 1995, and on page 3 you will see the word "deficit"—not "balance"—for fiscal 2002, $108.4 billion.

We need to open our eyes. When we started the budget process at the beginning of the year, the distinguished chairman of the committee said that we were going to provide the American people with a down payment. We were not going to balance the budget.

As we marked up the budget, the distinguished chairman of the Budget Committee said, "Now, we require that the reconciliation bill be passed into law before we do any tax cut."

That has been changed, Mr. President. Now we have a different process where we give CBO certain assumptions. We send them over one day and they say we have a $10 billion surplus. We come back the next day and they say you have a $100 billion deficit.

In the Commerce Committee, where I am the ranking member, we are charged with saving $15 billion. Mr. President, $8 billion of our allotment has already been spent on the telecommunications bill. Half of our assigned savings in the Commerce Committee is absolutely false. The same may be true in other committees as well.

It is like Cato's famous couplet, "The politician makes his own little laws and sits attentive to his own applause." Why, heavens above, you will probably be able to say something else tomorrow.

What we are trying to do is to level with the American people. What we are trying to do is cut spending, freeze spending, close loopholes. But you cannot balance the budget, Mr. President, you cannot do it without also increasing revenues. Nobody around here wants to say that, but that is the truth.

I was put to the metal when the distinguished chairman of the Budget Committee, and others, appeared on December 18. Mr. KASICH, Senator DOMENICI, and others, said, "We are going to have three budgets. We don't care what the President has got. We are going to balance the budget without taxes." I went to the budget staff and said, "I'm missing something."

I had worked with Senator Baker on a freeze and back in 1981. Then I got together with Senator GRAMM and Senator Rudman, and we had a freeze and cuts across the board. In 1986 we closed the loopholes with tax reform. Then in 1989 and in 1990 we appeared before the Finance Committee and in the Budget Committee proposing a value-added tax.

We got eight votes in the Budget Committee on that proposal. We got Senator Danforth, Senator Boschwitz and others to work as part of a bipartisan group with truth-in-budgeting.

But now we have a big act going on now. Pressure is being exerted by the House leadership over there, pressuring my friend, the distinguished chairman of the Budget Committee. He should know better than anybody else that this budget we are talking about has no idea of being balanced by the year 2002.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table compiled by my staff using CBO figures at this particular point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET TABLES

[Outlays in billions]

Year	Government budget	Turst funds	Unified deficit	Real deficit	Grosss federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.0	75.7	−149.8	−225.5	2,346.1	195.3
1988	1.064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9

BUDGET TABLES—Continued

[Outlays in billions]

Year	Government budget	Turst funds	Unified deficit	Real deficit	Grosss federal debt	Gross interest
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,518.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimated	1,583.0	121.8	−189.3	−311.1	5,238.0	348.0

Source: CBO's 1995 Economic and Budget Outlook: An Update, August 1995.

	Year 2002 (billion)
1996 Budget: Kasich Conf. Report, p. 3 (deficit)	−$108
1996 Budget Outlays (CBO est.)	1,583
1995 Budget Outlays	1,518
Increase spending	+65
CBO Baseline Assuming Budget Resolution:	
Outlays	$1,874
Revenues	1,884
This Assumes:	
(1) Discretionary Freeze Plus Additional Cuts (in 2002)	−121
(2) Other Spending Cuts (in 2002)	−226
(3) Using SS Trust Fund (in 2002)	−109
Total reductions (in 2002)	−456

Mr. HOLLINGS. Since my time is limited here, let me just point out one thing. The interest costs are growing faster than the cuts. The interest costs on the gross debt are scheduled to total $348 billion for this fiscal year. That is almost $1 billion a day. In addition, over the 7-year period you know how much we use of Social Security, $636 billion. It is not a balanced budget, Mr. President, and it's high time we recognize this fact.

The PRESIDING OFFICER. The Senator from South Carolina's time has expired.

Mr. HOLLINGS. I thank the Chair.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

BALANCING THE BUDGET

Mr. INHOFE. I hope that everyone is watching what is going on right now. I cannot tell you how long many of us have been working on the problem of the deficits in this country. And we are finally to a point where we can do something about it.

It is hard for Americans to understand the obstacles that we are facing. There are those of us who really want to do something, really want to balance the budget, with the obstacles we face, and not just the things that are said that are not true, but the fact that I cannot help but believe there are some people who really do not care that much about balancing the budget.

This goes back a long, long time. I can remember, Mr. President, U.S. Senator Carl Curtis from Nebraska. I saw the Senator from Nebraska a moment ago. I was hoping he would still be here when I talked about his home State. He came up with an idea way back in 1972. Carl Curtis said the only way we are ever going to get a balanced budget amendment to the Constitution is to get something ratified in advance from the States to show that there is enough grassroots support to pass it.

And so he devised this plan. He said, we are going to have the State senates and State legislatures throughout America pass and preratify an amendment to the Constitution so that will give us the power that is necessary and influence necessary to get this thing passed. He came to Oklahoma. I was in the State senate at that time.

I remember back in 1972 the total national debt was something like $200 billion. And I remember a TV ad that they had to try to impress upon people to quantify how much money this really was. They had $100 bills that they stacked up and then finally it was up to the height of the Empire State Building, which was a tall building at that time. That was $200 billion. That was 1972. Well, anyway, I passed a resolution in the State senate of the State of Oklahoma to preratify it even though technically we know that would not work. And so he came in and we talked about it. That is how long we have been working on this.

Now since that time in my own personal life we have had four children. Now they are all grown. Now we have grandchildren.

We talked on the floor of this Senate as to the significance of the discussion that has taken place right now of the fact that we really have an opportunity to make a vote, to take a step that the CBO and everybody else says is going to balance the budget, is going to eliminate the deficit by the year 2002. Many of us would like to do it earlier than that. But we are satisfied in knowing that we cannot continue on the course that we are on.

During the national prayer breakfast that took place in February of this year I had the honor of participating in that and of talking to many groups that came in from foreign countries. One was a gentleman who came in from one of the former Soviet Republics. I cannot recall the name of which one it was at this time. But they just recently found their freedoms in that country.

He asked me a question in front of a group. This is during a national prayer breakfast discussion. He said, "Senator Inhofe, in your country, how much can you keep?"

I said, "No. I don't understand what you are saying."

He said, "How much money can you keep?"

Then after a little while I figured out what he was talking about.

What he was really saying is how much do you have to give the Government in America? He was very proud to announce to us that under their new democracy, under their new freedom, that they are able to keep 20 percent. In other words, in that particular country, they turned around and had to give the government 80 percent of everything they earned on a periodic basis like every month or every 2 months. I do not remember the exact timeframe.

And I thought, my goodness, he is so proud of this freedom. Then we looked at a study that no one has refuted, and no one in this Chamber today will refute it, that if we do not do something to change the course that we are on, that by the time someone who is born today, like my three grandchildren, during the course of their lifetimes, they will have to pay, not 80 percent, but 82 percent of their lifetime income just to support the Federal Government.

Now, that is what we are looking at right now. That is why this is significant. That is why we are at a point we cannot say that we are just going to be business as usual. The elections of 1994 were very specific. They had mandates in those elections. All of the post-election surveys have indicated there are about four areas that people want in this country. First, they want less Government involvement in their lives; second, a stronger national defense; third, punishing criminals; and fourth, which actually came out first, they want to do something about eliminating the deficit, about starting to cut into reducing the debt.

Now, obviously you cannot do that until you stop increasing the deficits. We have a program now, that will accomplish that by the year 2002.

I yesterday took to the floor and talked about some of the new allies that those of us who really want to do something constructive about eliminating the deficit have, some new allies that are coming along. We are seeing right now responsible but liberal editorial boards throughout America are now saying, "Look. We have heard enough of this lie that is being perpetrated by the leadership of the Democrats in both the House and the Senate, trying to draw a connection between tax relief and balancing the budget."

And I suggest to you that the choice is not taking that amount of money that is going to be coming out in tax relief and putting it toward the deficit because we know if we are going to be honest with ourselves all that would do is go to more social programs which this administration wants. They do not want cuts. They do not want freezes. They do not want to control growth. They want to increase the social programs. They want business as usual.

Mr. President, the times are changed now. This is not the way it would have been 2 years ago or 4 years ago or 6 years ago.

Mr. FORD. Mr. President, will the distinguished Senator yield?

Mr. INHOFE. I will not yield yet. We are on a timeframe. There are a couple things I want to cover first. The Senator will have an opportunity to have his 10 minutes.

Mr. FORD. I just want to ask a question.

Mr. INHOFE. With this timeframe we are looking at now, it is so critical that we ignore the demagogs and those who are trying to ignore this problem.

I suggest, as I did yesterday, that one of these newspapers which has always been pro-Democrat, as opposed to Republican, which has been liberal in their editorial policy, the Washington Post, had an editorial just the other day, September 15. This editorial is called "Medagogues." In this editorial, they talk about how the Democrats are trying to draw a relationship between tax relief and balancing the budget.

I suggest that anyone—and it has been suggested in some of these editorials, not this particular one, that if anyone was opposed to the tax increase of the Clinton administration of 1993—this is back when the Democrats controlled the House and the Senate and this was characterized as the largest single tax increase in the history of public finance in America or anyplace in the world, and that was not JIM INHOFE, a conservative Republican talking, that happened to be a Democrat on the floor of the Senate talking, that that was the largest single tax increase in 1993.

What did they do? It was a tax increase on, among other people, the senior citizens, a 50-percent tax increase in Social Security, raising it from 50 to 80 percent. This is something the American people did not want.

So I suggest to you, Mr. President, that if there is anyone out there, including Democrats or Republicans, who opposed that tax increase, they should be for tax relief now. Essentially all we are trying to do is repeal the damage that was done to the American people back in 1993.

"Medagogues" is the name of the editorial:

> What the Democrats have instead is a lot of expostulation, TV ads and scare talk.

They go on and on.

> But there isn't any evidence that they would "lose their Medicare" or lose their choice of doctor under the Republican plan.

This is something that is very critical, because this is an important part of the bill that will be considered.

Ten days later, they came out again, and I think this is the first time probably in the history of the Washington Post that they came out twice on the same subject taking the conservative side of an issue. The last two sentences of this editorial are:

> The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

I want to conclude, because my time is almost up. I have to be very critical of the Democratic Senatorial Campaign Committee. They are flooding the airwaves throughout America with propaganda such as this one that says: "Inhofe Feasts on Tax Cut for the Privileged While Children Go to Bed Hungry."

Just the other day this was sent out to every newspaper in Oklahoma characterizing me as some kind of monster abusing the children, abusing the elderly. All we are trying to do is protect America for the next generation, my grandchildren, which, if we do not do it, will have to spend 82 percent of their lifetime income just to support this monstrous Government.

So, Mr. President, this is what conservatives are going up against. This is the ridicule we have been subjected to. These are the slings and arrows that are happening to us.

I can tell you right now, the American people understand the same as they understood they did not want our health care delivery system turned over to Government, they understand this is the last opportunity we are going to have in America to actually bring this budget under control and, in this case, to eliminate the deficit by the year 2002.

I will conclude by quoting one of my favorite people, Churchill, who said: "Truth is incontrovertible. Panic may rescind it, ignorance may deride it, malice may destroy it, but there it is." And the truth is going to come through. We are going to succeed in this effort. Thank you, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Arkansas.

A TAX INCREASE FOR 50 PERCENT OF AMERICAN PEOPLE

Mr. BUMPERS. Mr. President, I never will forget in 1981 how the wind swept through this Senate and accepted Ronald Reagan's promise that if we just pass this massive tax cut, it would generate so much economic activity and so many taxes that we would balance the budget in 3 years, no more than 4 years. That was $4 trillion ago.

I am happy to report I was 1 of 11 Senators that did not buy that for one instant. And, Mr. President, we are getting the same snake oil with this bill.

I applaud a lot of people on both sides of the aisle who have committed themselves to dealing with the problem the American people have said is No. 1. But there is a time to pass tax cuts, and the time to do it is after we balance the budget, not before.

But having said that, Mr. President, let me add that I would not vote for this tax bill if we had a $300 billion surplus this year. I would not vote for this tax bill if you held a gun to my head, because it betrays every value I hold dear about this Nation. The budget resolution that we passed in June said CBO will certify, not project, certify a balanced budget by the year 2002. And that once they certify it, then the Finance Committee can report out a $245 billion tax cut. The problem with that is not only has CBO not certified, they have only projected, but once this tax bill passes—and it is going to pass, Mr. President, make no mistake about that—but once it passes, the money will be gone and unavailable to help meet unexpected obligations like recessions, wars, trade wars, earthquakes, hurricanes, or floods.

A flood 3 years ago cost somewhere between $10 and $20 billion. We are still paying for Hurricane Hugo, which also cost billions.

But here is the reason I would not vote for the tax bill. Look what it does. It has a capital gains provision: 76.3 percent—think of that, 76.3 percent of the capital gains tax cut which costs almost $50 billion goes to people who make over $100,000 or more. That is about 7 percent of the American people, including every single Member of the U.S. Congress.

You think I am going to vote for a bill that gives 6.4 percent to people who make less than $30,000 a year; 4.6 percent if you make $30,000 to $50,000; 6.1 percent if you make $75,000 to $100,000; and 76 percent to people who make over $100,000? I would not vote for that under any circumstances. Those people do not need a tax cut.

I might also say, my friends in the business community in my State say, "Senator, we don't need a tax cut, we need to get the deficit under control. Balance the budget and then talk about taxes."

What is even worse—talk about betraying our values—CBO said this bill represents a tax increase on 51 percent of the American people. That is how many people in America make less than $30,000 a year—51 percent. They get a tax increase out of this when you consider the cuts in the EITC, student loans, and all the others. At the same time, the richest 1 percent of the people in the country get $20,000 in tax cuts. Think of that, 50 percent of the people on the lowest rung of the ladder get a tax increase, and people making $200,000 a year or more get $20,000.

What has happened to the country? Why do we do things like that? It betrays everything I believe in. During the Depression when I was growing up in a family poor as Job's turkey, we looked to the Government to help us, not hurt us. It was the Government we turned to for sewer systems and water systems and paved streets and rural electrification. Today, we are saying, let them eat cake.

Who wants the tax cut? Seventy percent of the people in this country, in a USA Today poll, said reduce the deficit. One-third as many, 24 percent, said give me a tax cut. There is no clamor for it.

On the earned income tax credit, President Reagan, Majority Leader DOLE, Senator DOMENICI, and many others on the Republican side of the aisle have said that is a wonderful program. So what are we going to do? We are going to cut it.

Mr. President, it is not just the tax bill that is so horrendous about this thing. There are all kinds of things in there. We continue to give away western lands to the biggest corporations in America, the mining corporations. And there is $18 million, over a 7-year period, in here against the mining companies. They get off scot-free—essentially scot-free.

And then there is ANWR. Open up ANWR up on the north slope. That is going to be a tough one, Mr. President. That is going to be debated heavily here, because that is the same thing as an asset sale. When you sell an asset—as any businessman will tell you—that is a one-time bonanza for you. If you put that one-time bonanza into your operating budget, you will be in big trouble the next year.

Mr. President, we are selling our petroleum reserve in Elk Hills, our naval petroleum reserves. We are selling 40 million barrels of oil out of our strategic petroleum reserve. We are selling everything in the world we can lay our hands on, with no thought of what you do for an encore, once you sell those assets. Until a few months ago, Congress could not count the sale of an asset as a revenue raiser. Why? Because counting the revenue from an asset sale fails to show the loss of value of the asset. It was only this year that Congress changed the budget law to allow asset scoring and count it toward balancing the budget. Now that we have changed the scoring process, we are selling everything we can get our hands on and counting that against the deficit.

Let me go back to the earned income tax credit for a moment. The EITC helps reduce the poverty rate. Look at this chart. In 1993, 15.1 percent of the people lived in poverty. By 1994, the poverty rate had dropped to 14.5 percent. And if you consider the actual number of persons living in poverty, it was down almost one million people. So what are we going to do? Cut the earned-income tax credit, even as the program is working. There is the proof.

The other day at this Million Man March, the point was made over and over again that fewer and fewer black people are enrolling in college. So what are we going to do? We are going to cut education funds by 30 percent—the most massive cut in the history of the country in education. It is going to make it much more difficult to get a loan, and then more difficult to pay it off.

We are torpedoing all the programs that are working. Mind you, there are some programs that we need to torpedo, but the EITC and educational loans are not among them. I stood on this floor and I fought the B-2 bomber, I fought the space station, and I fought the super collider. I fought so many fights trying to save money to get spending under control here, and I lost most of them. Do you know why? Because the companies who make those big-ticket items dominate. We are not going to solve our spending problems until we reform campaign financing. The space station is made in 36 States, and that guarantees that it will continue. It is the most horrendous, outrageous waste of money in the history of man, and you cannot stop it. But you can sure stop payments to old people, who depend on Medicare for their health care.

You think of it. A $270 billion cut in Medicare. A $182 billion cut in Medicaid, health care for the poorest of the poor. I ask for 1 additional minute.

Mr. THOMAS. Mr. President, I object. We were set up for 10 minutes.

The PRESIDING OFFICER. Objection has been heard. The Senator has spoken for 10 minutes.

Mr. BUMPERS. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

BALANCING THE BUDGET

Mr. THOMAS. Mr. President, when we have an arrangement to speak for 10 minutes, it seems to me that is what we should do.

I want to talk a little bit about the opportunity and the time that we now have to come to a decision. We have been talking this whole year about budgets, about balanced budgets. We started out in the beginning of the year with a vote on balanced budgets, which lost by one vote. We have worked the whole year long, and now we are down to the place where it begins to count. We are down to where we are going to make a decision as to what we do.

Mr. President, I listened to my colleague on the other side, and I have heard that speech for 25 years. For 25 years, we have not balanced the budget in this place. Every year we have the same litany of reasons why we cannot do that. For the first time in that period of time, we have a dedication to doing it. For the first time, we have a pattern to do that. We can balance the budget.

The real question is, is it reasonable, is it morally and fiscally responsible to go for 25 years without balancing the amount of money you take in with the amount of money you take out? How long could you do that in your family or in your business? We are beginning to have the same repercussions that you would have there—the repercussion being that we have a $5 trillion debt, and we will have to vote on that this month, or early next month; that the interest on that debt will now amount to probably the largest single-line item in the budget. So we hear, year after year, the same litany of reasons why we cannot do this, basically, frankly, from the same people who have been here for 25 years. I do not mean to be critical. It is a tough decision. But people sent us here, this year particularly, to deal with that issue. It is time to do that. We hear the talk about the Reagan years, when we reduced taxes and the promise that it would increase the economy. It did in fact increase the economy markedly. The problem was, we did not reduce or hold down spending. The constitutional responsibility for doing that lies right here in this Congress. Right here. It is our responsibility to do that.

We hear about capital gains tax cuts. These are tax cuts that provide an opportunity for investment to create jobs, that give us a prosperous economy and give us a chance for people to work and take care of their families. That is what that is about. The earned income tax credit. That will continue to grow. It has been the fastest growing program in the entire budget. It started out, I believe, at about $1.5 billion. It has gone to $25 billion in less than 10 years and is scheduled to go to $32 billion. That is a cut? Give me a break. It is not a cut. It is also one of the programs that has been most filled with inconsistencies, and indeed fraud in many cases, payments going to people that did not qualify for them.

So, Mr. President, it is really time that we take a little look at what we are doing here. If we do not balance the budget, what happens? If we do not do something about Medicare, what happens? Medicare in the trust fund, in part A, goes broke in 2002. That is the way it is. So we have to do something about it. A child born today owes $187,000 in interest on the Federal debt.

That is where we are. That is why we have to do something about it. By the year 2015, all of our spending will be on entitlements and the national debt interest. All of our tax revenues will be taken for that reason.

So what do we need to do? Obviously, we need to balance the budget. We need to preserve, protect, and strengthen Medicare. We need to reform welfare. And we need to—to the extent that we can do it after the budget is balanced—reduce the taxes on American families so they can spend more of their own money.

In this proposition, the tax cutting comes after the balanced budget is certified. That is the system. That is the plan that we have here. The benefits include lower interest rates for businesses, for families, and less expensive homes, cars, and student loans. The Senator talked about education. Student loans will be at a lower interest rate. There will be a higher standard of living. Some estimate there will be as many as 6 million more jobs. So we have to do this.

The best opportunity that we have had will be before us in the next 2 weeks. That is what the voters said to us last November. That is their expectation. That is our expectation—those of us, particularly, who have just come this year. We came with the commitment to fundamentally change the direction in which we are going. We came with a commitment to change the things the Senator was talking about—deficits for 25 years. The administration does not have a budget that will give us a balanced budget. The first budget was defeated 99–0. The second was not voted on. By CBO's own estimates, at the end of 10 years, it will still have a $200 billion deficit.

So we can talk about the same things we have talked about forever. We can talk about all the reasons why this cannot be done. We can make excuses. But the real question is, is it fiscally and morally responsible to move toward a balanced budget in 7 years? If the answer is yes, then the opportunity arises before us in this next 2-week period.

Mr. President, I hope that my colleagues will take advantage of this opportunity and that, for the first time in a very long time, we will have changed the course of irresponsible spending and moved into a time of a responsible balanced budget.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

WHY AMERICANS NEED TAX REFORM

Mr. GRAMS. Mr. President, I have been sitting here listening earlier tonight to some of my colleagues on the other side of the aisle talking about the numbers and problems associated with trying to balance this budget over the next 7 years, and while they have been laughing and telling jokes, not just tonight, but for the last 30 years, they have buried the American taxpayer $5 trillion in debt. It would be funny, maybe, if it were not so serious.

They talk about the Social Security trust fund and that Republicans are spending every dime to balance this budget over the next 7 years. But what they fail to tell you is that they have endorsed this same practice for years. In fact, this year alone, the budget that the President of the United States that they passed in 1993 spent every dime of the surplus out of the Social Security trust fund, which, by the way, under law, can only be invested in U.S. securities, backed by the Federal Government. So that money goes to the Treasury, and it has been spent by the Congress ahead of us, by the Democratic majority. It has been spent away. So when they talk about the Republicans using every dime from the Social Security trust fund, they should look at their votes in 1993, as their President tried to mask the deficit in the budget by using those trust fund dollars.

In fact, the deficit touted today by this President of $170 billion actually is using $68 billion of Social Security trust fund money from this year. Otherwise, he would have to report a deficit of about $240 billion. This Congress has inherited the troubles created over the last 30 years. It would have been a lot easier, especially politically, if we could have just continued this huge giveaway. But it would have been at the expense of the next generation. It was time to stand up and look this problem in the face and make some of those tough decisions.

The Democrats talked about the drastic cuts. Just a few moments ago, my good friend from Arkansas talked about fewer dollars for education. Well, these are the first signs of the problems we are facing today because of the last 30 years and the spending spree that this Congress has been on.

The Democrats have pre-spent those dollars that could be used today for education, and if we do not get this budget under control today, next year those problems are even going to be worse, and we are going to be talking about other programs that are not going to have the dollars because they are going to pay interest and other expenses.

So we do have to make some very serious decisions, Mr. President. Otherwise, our next generation, and the generation after, are going to have to pay for the mistakes we have made, and we should not leave them, financially or morally, that way. It is wrong to do that. This is the first good attempt to put a balanced budget in place that is going to make sure that we do not leave our children with our debts.

Mr. President, as we begin debating the tax policy, including a $245 billion tax cut, I believe that the time has come to also begin some serious discussions about how best to reform our badly outdated Tax Code itself.

Since 1913, when Congress first gained the power to impose taxes on income, the Tax Code has been manipulated and expanded so many times by Congress that it has become the greatest barrier between the American people and their Government.

Every segment of society has a reason to complain about the Tax Code. For individuals and families, the cost of complying with the Tax Code too often becomes the difference between making it in America, and just making do.

I have spoken several times on the Senate floor about a young Minnesota family, the Wolstads, who represent the very frustrations felt by millions of Americans when it comes to the topic of taxes.

Natalie Wolstad wrote to me about the enormous tax burden her family is forced to bear, a burden she and her husband did not fully appreciate until they met 1 day with their realtor, and learned they simply could not afford to purchase a new home on their own.

Countless other Minnesota families have sent me letters sharing similar stories of their own.

They were trying to decide, "Where are we spending our money foolishly?" When they finally looked at their pay stubs, they were seeing how much money was being taken from them in taxes.

Yes, the Tax Code is tough on families, and it is equally hard on America's job providers—small businesses and large.

When nearly 2,000 entrepreneurs gathered in Washington this summer for the third White House Conference on Small Business, they came with hundreds of ideas on how to make Government more responsive to the people who create the jobs on Main Street.

Although their suggestions covered an enormous range of concerns, one point generated near-universal agreement: something must be done about the complex and costly Federal tax system.

If Congress is truly serious about answering the calls of help from the American people and reforming the tax system, there are three distinct problems which must be addressed.

First, taxes are too high. That is something President Clinton acknowledged this week, when he admitted that the recordbreaking tax increase he pushed through Congress in 1993 was too much for the American people.

Under the headline in the paper "Tax Rise," "too much," President Clinton concedes. But he did take time to blame the Republicans for it. That is at a time when the Democrats controlled every branch of Government—the House, the Senate, and the White House. I welcome the President's realization, but I wish it had come before he signed the $255 billion tax hike into law.

The first step toward building a better Tax Code is to look at the role of the Federal Government and let the people start keeping more of their own money, which they work for.

After all, it does not belong to the Government in the first place. And who is in a better position to make a family's spending decisions and set their financial priorities—Washington, or the family itself?

Clearly, that responsibility belongs with the family.

We have the opportunity to take that first step in the next few weeks, by passing a $245 billion tax cut which includes the $500 per child tax credit I authored and have fought for over the last 3 years.

I welcome President Clinton's support for tax relief, and urge him to join our efforts. By letting taxpayers keep what is rightfully theirs. we send a strong message that our efforts to balance the budget will always make taxpayers the first priority—not the last.

The second area we must address when discussing reform of the Tax Code is simplification—and simplification must be at the heart of any plan Congress considers.

There is nothing simple about our tax system anymore.

The IRS manages a library of 437 separate tax forms and mails out 8 billion pages of tax instructions every year.

The distinguished House majority leader, Representative ARMEY of Texas, points out that American workers and businesses spent 5.4 billion hours in 1990 just preparing their taxes—more time than it takes to build every car, truck and van manufactured in the United States each year.

This Congress has made shrinkage and simplification its primary goals, and there is nothing that needs it more than our current tax system.

Today's Tax Code may be good business for tax lawyers and accountants, but it is not good policy for the average American taxpayer.

Tax reform must include tax simplification.

The final consideration in building a better Tax Code is making it fairer and more equitable for the taxpayers. Far too often, the current system is not.

The Government continually manipulates the Tax Code—not just to fund Government objectives, but to micromanage the economy and the activities of the taxpayers.

If the Government wants to encourage a particular behavior, it offers a tax benefit.

If it wants to discourage a particular behavior, it sets a tax penalty.

The social engineers have had a field day with the Tax Code. Fairness seems to have been left by the wayside, and families are paying the price.

Look how they have been manipulated through the tax system.

Families, who in 1947 paid just 22 percent of their personal income in the form of taxes, today send nearly 50 cents of every dollar they earn to Federal, State, or local government.

As someone who ran for Congress because of high taxes and what they are doing to this Nation, I am incensed that middle-class American families are being asked to bear the brunt of our enormous tax burden, and then listen to some Senators say that we have to increase taxes more.

In fact, families with children are now the lowest income group in America—below elderly households, below single persons, below couples without children.

In 1950, the average American family sent $1 out of every $50 it earned to Washington—today, the average family sends $1 out of every $4 to feed the Federal Government.

The marriage penalty targets families by taxing them at a higher rate than it does single filers.

And if the dependent exemption had kept up with inflation, it would be more than $8,000 today instead of just over $2,000.

The message we're sending through our tax policy is that families are just not as important today as they were in 1950.

That message must change.

We have the opportunity and responsibility in this Congress to repair the fractured relationship between the Government and its owners—the taxpayers.

It is time we started to talk seriously about cutting taxes, simplifying the system, and making it more equitable.

A recent Forbes magazine cover story called tax reform a "broad political movement, gaining in popularity the way a hurricane gathers force as it heads for land."

The questions we should be asking ourselves are not will we ever break form the past and will we ever have a Tax Code that treats all Americans equitably, but rather when.

Mr. President, the answer to that question is now, and the Senate Finance Committee has taken an enormous step toward reaching that goal with its $245 billion tax cut package.

By cutting taxes for families and job-providers, simplifying the way those taxes are collected, and ensuring a process that's fair, reforming the tax system will go a long way toward making government more accountable to the people.

Washington needs to be reminded that the money it collects is not theirs by right—it is collected for use at the will of the taxpayers. And Congress needs to be reminded daily that it represents the taxpayers.

The success of our efforts to reform the tax system won't be measured solely by how much of their own dollars Congress allows families and job providers to keep. It will also be measured by how equitable the system is, and how the taxpayers fare under it.

If we can successfully accomplish all of that, then we will have heard the message of last November and delivered on the solemn promises we made to the American people.

Mr. President, it is time that we get behind this effort. It is time that we balance the budget and stop passing our deficits on to our children and grandchildren.

Thank you very much. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

BUDGET FANTASY VERSUS REALITY

Mr. KYL. Mr. President, I would like to continue discussing the same subject that the Senator from Wyoming and the Senator from Minnesota have been discussing, and to do so by, first of all, focusing on some of the myths that have been created by the President and by some of his supporters here in the Senate. I am talking about the difference between the budget fantasy and the reality that faces us here today. It is almost an "Alice in Wonderland" exercise where words take on meanings that are only in the eye of the beholder and have no relationship to actual reality.

Frankly, they are the last desperate attempts by proponents of big Government to cling to the status quo, which means more spending, higher taxes, and greater regulation. That is really what this exercise in opposition to a balanced budget and tax cuts is all about.

Many of the Democrats cannot believe, let alone accept, that the American people overwhelmingly rejected their approach to governing in that way in last fall's election. Rather than attempting to fulfill the mandate which the American people gave us, they are now cynically pandering to the mandates while doing everything they can to undermine it.

In this topsy-turvy "Alice in Wonderland" change, the meaning-of-words situation they have created, spending cuts are increases; spending increases are cuts. For example, claiming that a Medicare spending increase of $2,000 per person over the next 7 years is actually a cut when, in fact, it is a $2,000 increase.

Tax cuts, they say, are spending increases. Tax relief for families become tax cuts for the rich. A volunteer in AmeriCorps is actually paid by the taxpayers $20,000, $30,000, or $40,000 a year. Tax payments, the President says, are contributions. Preserving Medicare is slashing Medicare. And, of course, bankrupting Medicare is saving it.

President Clinton is even now so bold as to blame Republicans, not a single one of whom supported his budget in 1993, for forcing him to raise taxes. It is like "the old devil made me do it" skit that we used to see on TV. He says he wishes he had not increased the taxes. I, too, wish he had not increased taxes. But at least our attempt to reduce taxes by $245 billion is a beginning, a partial rollback of this tax increase which he now wishes he had not imposed upon the American people.

Here are some examples of increases that the Democrats claim are cuts.

The Republican Party has said all year that we would not balance the budget at the expense of Social Security. The budget reconciliation bill will not touch Social Security retirement benefits or cost-of-living adjustments, COLA's. Social Security will increase 43 percent, from $336 billion this year to $482 billion 7 years from now.

Medicare—we are going to increase Medicare spending, not cut it. Medicare will grow from $178 billion in 1995 to $274 billion in 2002, a 54-percent increase. Spending per beneficiary will rise from an average of $4,800 today to more than $6,700 in the year 2002, almost a $2,000 increase, as I said before.

Student loans—we have heard a lot about that. Student loan volume will grow from $24 billion in 1995 to $36 billion in the year 2002, a 50-percent increase. The maximum Pell grant will be raised to $2,440 next year, the highest level it has ever been.

By the way, we could send a whole lot more needy kids to school with Pell grants, eight or nine for every single AmeriCorps volunteer that we pay a salary to.

Here are some examples of cuts that the Democrats claim are actually increases.

Defense spending declines from $270 billion in 1995 to $264 billion in 1996. That is $6 billion less. Defense spending is not going up. It is going down.

Here is an example of spending increases that many of the Democrats not only call cuts but claim are tax increases as well. Only in Washington can such distorted logic have any semblance of credibility.

Talking first about the earned income tax credit, we will spend more on the EITC program every year between now and the year 2002. Spending will rise from $19.8 billion in 1995 to $22.8 billion in the year 2002. The maximum credit for families with one child will rise from $2,094 in 1995 to $2,615 in the year 2002. For families with two children, it rises from $3,100 next year to $3,888 in the near 2002, and the examples go on.

The Democrats not only call that a cut, but a tax increase on low-income families. If you are eligible, you get a check from the Government to offset any income tax liability you might have under that program, plus any excess to which you are entitled. Eighty-four percent of the program costs are cash grants. The program is run through the Tax Code because it is more efficient. It requires less bureaucracy. But it is just not possible that you can be hit by a tax increase if you get back all of your tax payments plus more. It cannot be a tax increase.

Here are some examples of tax cuts that they claim are spending increases. They claim that allowing individuals and businesses to keep more of what they earn is a subsidy that is equivalent to direct spending. But as Llewellyn Rockwell, Jr., pointed out in a column in the Washington Times on September 18 of this year, I am quoting:

> A subsidy means the Government is giving money to you that originally belonged to somebody else. Dairy farmers, for example, are subsidized. That means they get money that the tax man extracted from the taxpayers.

"Next word: deduction. That's when you were allowed to count some of your income as off limits to the tax man. You can take a deduction for mortgage interest. A portion of your own money stays in the bank."

Democrats claim the tax relief for families is a tax cut for the rich. The fact is over 70 percent of the tax cuts included in the Finance Committee bill go to families with incomes of less than $75,000 a year.

Let us talk about the AmeriCorps for a moment. The GAO estimated that the program cost nearly $27,000 for each "volunteer," and I put quotation marks around that word "volunteer" since they are paid that salary. In fact, that salary is more than the average American earns in a year. Paying people makes them employees, in my view, not volunteers.

For the average of $20,000 to $30,000 cost per year for each student in AmeriCorps, as I said, eight needy students could get Pell grants at $2,400 apiece. The fact is Americans aged 18 and up volunteer 19.5 billion hours of their time, which is a 50-percent increase in the number of hours since 1981. We do not need to pay people to be volunteers under AmeriCorps.

Another one of these Alice in Wonderland meaning changes is calling taxes contributions. Referring to tax increases he would be proposing, President Clinton, in an address to the public from the Oval Office on February 15, 1993, said:

> We just have to face the fact that to make the changes our country needs more Americans must contribute today so that all Americans can do better tomorrow.

I have an idea, Mr. President. Let us just call these contributions voluntary and we will see how much in the way of contributions are received. There is nothing voluntary about the income tax.

On Medicare, President Clinton says, "The Republican plan would dismantle Medicare as we know it"—the Washington Post, September 16, 1995—despite the fact that six Medicare Board of Trustees, five of whom are Clinton administration appointees, issued a report in April, with which we are all familiar, which stated that "The Medicare Program is clearly unsustainable in its present form and will become insolvent within the next 6 to 11 years."

Mr. President, the reality is clear. Medicare benefits will be cut off completely unless we act now. If Medicare goes bankrupt, which could happen as early as the year 2002, according to the trustees, by law no payments could be made to Medicare beneficiaries for hospital care, doctor services, or any other covered benefit.

Even the Washington Post has condemned the duplicity of those who would oppose solving this Medicare problem. In a lead editorial on September 25, 1995, the Post wrote:

> The Democrats have fabricated the Medicare tax connection because it's useful politically. It allows them to attack and duck responsibility, both at the same time. We think it's wrong.

The editorial, by the way, was entitled, "Medagogues, Cont'd."

It is no wonder, Mr. President, that the American people are frustrated and angry. We need to keep the promise we made to the American people to balance the budget by the year 2002.

The Congressional Budget Office has certified that our budget will do just that. We have abided by the Congressional Budget Office, the agency that the President praised for its accuracy in budget forecasting in 1993. But while we have abided by the CBO's scorekeeping, the same entity the President praised 2 years ago, the President himself has changed the numbers to make his alternative budget balance by the year 2005. He has used the numbers from his own office rather than the Congressional Budget Office. As former CBO Director Robert Reischauer put it, "He lowered the bar and then gracefully jumped over it."

Let me close by saying that it is unfortunate that the President would change the numbers in order to get his budget balanced rather than face the tough realities we have had to face in putting together a budget which we know will balance by the year 2002. I think we owe it to our children and grandchildren to do that, not to hand them the debt that we have accumulated over the years we have been here.

We have a historic opportunity this year. Not since 1969 has Congress had a chance to vote on a balanced budget. And I do not think we can miss this opportunity. It is not just because of the politics of it. It is because of the children and grandchildren who are going to follow us and who do not deserve to have to pay off the debts that we have accumulated.

So I am very hopeful that we can support the budget that will be presented, the reconciliation bill that will be before us next week. I think if we do that the American people will say thank you for keeping the commitment that you made to us in 1994.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

COMMENDATION OF SENATORS

Mr. COCHRAN. Mr. President, let me commend the distinguished Senator from Arizona for his excellent statement and the other Senators who have spoken on our side of the aisle tonight on the subject of the balanced budget process, the reconciliation bill which will be coming before the Senate next week, and the effort that has been made to put together a plan to achieve a balanced budget by the year 2002. This is a plan that is workable. It is defensible in every respect. It shows a new awareness and sense of responsibility for managing the fiscal policy of this country in a more commonsense fashion, getting us to a point where on an annual basis we can operate the Federal Government within a budget that is in balance; that we do not overspend; that our projections are sound and based on reality and facts, not fiction.

So I think the statements that have been made this evening are very persuasive as we approach this point when we will be taking up the reconciliation bill. We have already considered a number of appropriations bills that have reduced spending from last year's levels in accordance with the directions of the budget resolution. So we are well on our way to achieving success in this very ambitious undertaking and very important undertaking.

I thank the Senators who have participated in this special order and am convinced that the American people are going to support our efforts, not just because of the speeches made here but because we are doing the right thing.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business yesterday, Wednesday, October 18, the Federal debt stood at exactly $4,970,326,555,499.77. On a per capita basis, every man, woman, and child in America owes $18,867.44 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a constitutional amendment.

THE ART OF MANAGEMENT IN A NONPROFIT WORLD

Mr. PRESSLER. Mr. President, the global marketplace changes constantly as the economy and consumer preferences fluctuate. To be competitive, businesses must keep pace with marketplace trends. As a result, prestigious business schools across the Nation continuously develop and update new curricula in response to our changing world.

Management practices, in particular, are beginning to depart from traditional business school teachings. After years of educating future business leaders about the art of managing businesses to maximize profits, professional schools are beginning to direct attention toward the management of not-for-profit organizations. Nonprofit groups are growing rapidly, becoming larger and more influential. Consequently, emphasis on the unique skills associated with nonprofit management is becoming increasingly important.

John Whitehead, former U.S. Deputy Secretary of State, renowned entrepreneur, philanthropist, and expert in the world of nonprofit management, is paving the way for scholars to study the art of managing nonprofit organizations. Mr. Whitehead is founder of the John C. Whitehead Fund for Not-for-Profit Management at Harvard Business School. He is dedicated to teaching students about the important role not-for-profit organizations play in a traditionally for-profit business world.

A recent article appeared in the New York Times describing Mr. Whitehead's achievements and his devotion to teaching nonprofit management. This article details Mr. Whitehead's recent contributions to the Harvard Business School and offers a fascinating account of his entrepreneurial ventures. I ask unanimous consent that the text of the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, John Whitehead is a skilled businessman and a generous philanthropist. His contributions to the study of nonprofit management will help those currently running nonprofit organizations and future managers maximize efficiency and attain group goals. Not-for-profit management strategies deserve greater attention both in the academic and business world. I applaud Mr. Whitehead for his dedication to the mission of nonprofit groups and wish him well as he continues to promote better, more-effectively managed nonprofit organizations.

EXHIBIT 1

HOW TO SUCCEED IN NONPROFITS BY REALLY TRYING—HARVARD IS GIVEN $10 MILLION TO TEACH MANAGEMENT SKILLS

(By Karen W. Arenson)

When John Whitehead was co-chairman of Goldman Sachs from 1976 to 1984, it was held up as the epitome of the well-managed Wall Street firm. It made money and it ran smoothly.

Now Mr. Whitehead is trying to bring some of those same management skills to the nonprofit world. In what he calls the third stage of his life, after Goldman Sachs and service as Deputy Secretary of State, he has presided as chairman or president over several venerable institutions, from Harvard-University's Board of Overseers and the Brookings Institution, to the Trustees Council of the National Gallery of Art and the Greater New York Councils/Boy Scouts of America.

But he is not content simply to bring his own management counsel to the boardrooms of a Rolodex of nonprofit organizations. He has a broader aim: to improve the whole art of managing nonprofit organizations. To that end, he is giving $10 million to the Harvard Business School to endow the John C. Whitehead Fund for Not-for-Profit Management.

His goal is to encourage several developments: research in nonprofit management techniques, teaching of these techniques, and more emphasis on training business school students and managers of nonprofit groups.

"I became fascinated by nonprofits," Mr. Whitehead said. "Their reach is much bigger than I realized. One out of every 10 workers in the United States works for a nonprofit. And if you add in the volunteer time, it's even greater."

"But I came to realize that while people who run nonprofits are fully committed, they are not very good managers, and nonprofits are not very well run," Mr. Whitehead said.

Sometimes they are not on the up-and-up either, as Mr. Whitehead has learned the hard way. Earlier this year, after he had planned his gift to Harvard, he and other prominent businessmen were embarrassed to learn that they had foolishly lent their names to the New Era for Philanthropy, a charity based near Philadelphia that was essentially a giant Ponzi scheme. New Era for Philanthropy filed for bankruptcy protection in May, and it and its president, John G. Bennett Jr., have been charged with fraud.

But the more common problem, one he has seen much of since he became involved in the nonprofit world during his years at Goldman Sachs, is a lack of management expertise. That is something he can offer, although he is quick to add: "Just to show that I don't know everything. I went on the board of a regional theater that went out of business." He declines to name the theater.

He describes himself as a sucker for getting involved in nonprofit groups, and said he has a particular affinity for the ones that need help, "not just the big prestigious ones, but some of the little, weak ones." The list, he says in an embarrassed tone, is too long to enumerate, because someone might think he does not have time for so much.

But he is disciplined in his approach, spending the first hour of each day in his

Park Avenue office working on business for AEA Investors Inc., a private investment company of which he is chairman. The rest of the day, sometimes starting with a 7:30 breakfast meeting and going through a late dinner, is devoted to his menagerie of nonprofit institutions.

"He does so many things, but the remarkable thing is that he does it all so effectively," said William Boardman Jr., director of university capital giving at Harvard. "His very special capacity is to focus and not to waste time, and he's very insightful."

Mr. Whitehead has given one other $10 million gift, to Haverford College, "my other first love," where he was an undergraduate and other nonprofit groups say he has been generous.

He described his own philosophy that good citizens need to be generous in both time and money. Having had the "good fortune to make all this money," he said, "I say somewhat facetiously that by giving it back, it will come out even at the end."

When he started discussions with John H. McArthur, dean of the Harvard Business School, a couple of years ago, he discovered that several faculty members there had been talking about doing more on nonprofit management. Mr. Whitehead held out the prospect of a large gift if they could develop a productive plan.

The group did more than plan. Research has begun to build. Courses have been added (elective courses on Social Entrepreneurship and on Field Studies in Social Enterprise). Case studies are being written. An eight-day advanced management program for executives who run nonprofit programs attracted 50 participants last spring (at a subsidized price of $3,000), and another session will be held next year.

Satisfied that the commitment was there, Mr. Whitehead told the school he was ready to make the gift. Even though Mr. McArthur is stepping down today, to be succeeded as dean by Kim Clark, Mr. McArthur has promised the nonprofit initiative would remain a priority, and that he will stay involved with it.

Despite the new attention, it is unlikely that nonprofit management will ever be a main theme for the school. The M.B.A. class of 1996, for example, has only 40 students out of 807 who came out of government, education or nonprofit jobs. Even though 10 percent of the class of 1995 cited working with a nonprofit group as their career goal after graduation, the school sent only 11 students into those fields. "The financial pressures are very high," Mr. Whitehead said.

But Mr. Whitehead said he did not worry that nonprofit management would be a stepchild at the business school. He said the new course on social entrepreneurship was oversubscribed last spring, when more than 10 percent of the second year class signed up for it, instead of the 60 that had originally been set as the limit.

"Usually elective courses start small and build their reputations," Mr. Whitehead said, "But this was very successful. I was just delighted."

He spoke of the growing interest among business students, who know they are likely to serve as directors of nonprofit groups, as he and so many other business executives do now; and the growing recognition that they should know more when they do.

"I believe more of this kind of program, and more scholarship, will help," he said.

That is not to say that Mr. Whitehead sees such programs as curing all ills. He does not think that better education would have stopped the scandal involving the Foundation for New Era Philanthropy.

New Era persuaded sophisticated executives like Mr. Whitehead to funnel money they wanted to contribute to other charities through New Era, saying that it would be matched after six months. The participation of top business leaders like Mr. Whitehead helped attract other donors.

"New Era was a real tragedy," said Mr. Whitehead, who stands to lose up to $1 million in the bankruptcy. "I doubt that a program like this would have lessened the problem. If you have a dishonest guy, there is not much you can do. I hope we will all be able to put it behind us."

Although the management of nonprofit institutions is a relatively new academic specialty, Harvard is by no means the first university to turn its attention to the subject. There are now more than three dozen centers for the study of nonprofit enterprises at universities around the country, from Yale and Duke to the New School for Social Research and the University of San Francisco, and at least a dozen offer some focus on management.

In addition, there is already one other school at Harvard, the John F. Kennedy School of Government, that focuses on nonprofit enterprise, and sends about a third of its graduates into jobs in nonprofit institutions. It even offers the only course on nonprofit management at Harvard.

While the two schools talked about the possibility of a joint program, Mr. Whitehead's money was ultimately directed to the business school.

"They both have a role to play," he said, "My interest is in teaching managers business skills. The Kennedy School teaches them about the policy issues. There is a different kind of emphasis, and there is room for both."

Those connected with the business school program, the Initiative on Social Enterprise, which was established in 1993, concede that there is much to learn before there is a discipline that offers the depth and breadth of business management. They talk of the overlap between the two fields—and the differences. And they talk about building new intellectual capital.

V. Kasturi Rangan, a business school professor who is one of the leaders of the social enterprise initiative, talked about the crossover in his own field of marketing:

"Nonprofit management offers its own challenges, but the trick is to bring the core disciplines into these challenges," he said. "We don't have Marketing 1 for toothpaste, and marketing 2 for computers. marketing is marketing."

He added, however, that nonprofit groups face a dual customer problem that is unique to them, because they need to concern themselves both with the clients who receive their services, and with the donors who pay for the services with their charitable contributions. The usual marketing discipline, coming out of consumers' choices that weigh benefits against costs, doesn't apply when consumers and payers are separate, he said. So a nonprofit group needs to develop special internal measures to know whether its products are appropriate.

It is analysis like this that excites Mr. Whitehead and makes him feel that his money will be well spent.

"This is fun," Mr. Whitehead said. "This is what keeps me going."

JOHN C. WHITEHEAD

Born April 2, 1922, Evanston, Illinois.

Education:

Haverford College, 1943.

M.B.A. with distinction, Harvard Business School, 1947.

Professional life:

Goldman, Sachs & Co., 1947–1984. Securities Industry Association, chairman, 1972–1973. New York Stock Exchange, director, 1982–1984. Deputy Secretary of State, 1985–1989, Harvard University, President of the Board of Overseers, 1989–1991.

Current leadership in these organizations:

AEA Investors Inc. International Rescue Committee. United Nations Association of the U.S.A. Andrew W. Mellon Foundation. International House, Youth for Understanding, The Brookings Institution, and Asia Society. Greater New York Councils/Boy Scouts of America. J. Paul Getty Trust, Rockefeller University, Lincoln Center Theater, and Outward Bound.

TRIBUTE TO SUSAN HOFFMANN

Mr. DOLE. Mr. President, I would like to take a moment to recognize a staffer who has recently left my Topeka, KS office, Susan Hoffmann. Susie was a dedicated member of my staff for almost 8 years and has recently moved on to pursue her career with the Community Bankers Association in Topeka.

Susie is a graduate of my alma mater, Washburn University, and has worked for several years helping the Young Republicans in the State. She was committed to assisting constituents with their concerns about government and they knew Susie was always there to lend a helping hand to a Kansan in need. She made a difference in hundreds of people's lives, because she cared.

Mr. President, I know my staff joins me in wishing Susan Hoffmann the best of luck in her future endeavors.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF DEFERRALS OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT—PM 88

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Foreign Relations, to the Committee on Labor and Human Resources, and to the Committee on Finance.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three deferrals of budgetary resources, totaling $122.8 million.

These deferrals affect the International Security Assistance program, and the Departments of Health and Human Services and State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1995.*

MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following the concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 108. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1594.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. FORBES, Mr. LIVINGSTON, Mr. MOLLOHAN, Mr. SKAGGS, Mr. DIXON, and Mr. OBEY as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. YOUNG of Florida, Mr. MCDADE, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. SKEEN, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. ISTOOK, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. SABO, and Mr. OBEY as managers of the conference on the part of the House.

At 4:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1254. An act to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 39. An act to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management.

ENROLLED BILLS SIGNED

At 6:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 227. An Act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 268. An Act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

MEASURES REFERRED

Pursuant to the order of October 19, 1995, the following bill was referred to the Committee on Finance:

S. 1318. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 39. An act to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1521. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-1522. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the federal sector report on complaints and appeals, and the annual report on the employment of minorities, women, and people with disabilities for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-1523. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, the report on out-of-wedlock childbearing; to the Committee on Labor and Human Resources.

EC-1524. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the Employment Retirement Income Security Act (ERISA) during calendar year 1993; to the Committee on Labor and Human Resources.

EC-1525. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the Office of Workers' Compensation Programs for fiscal year 1994; to the Committee on Labor and Human Resources.

EC-1526. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-1527. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report entitled, "Relative Cost of Shipbuilding" for 1994; to the Committee on Commerce, Science, and Transportation.

EC-1528. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

EC-1529. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of a Presidential determination relative to Military Financing Funds to the Economic Support Fund for El Salvador; to the Committee on Foreign Relations.

EC-1530. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-1531. A communication from the Chairperson of the U.S. Commission on Civil Rights, transmitting, puruant to law, the report entitled, "Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination"; to the Committee on the Judiciary.

EC-1532. A communication from the Chairman of the Federal Elections Commission, transmitting, pursuant to law, communications disclaimer requirements; to the Committee on Rules and Administration.

EC-1533. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, sections 810(2) and 8109(h)(3)(B), United States Code, to delete the references therein to "working drawings" and substitute therefor the words "construction documents," and to further delete the references therein to "preliminary plans" and to substitute therefor the words "design development"; to the Committee on Veterans' Affairs.

EC-1534. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to modify disbursement agreement authority to include residents and interns serving in any Department facility providing hospital care or medical services"; to the Committee on Veterans' Affairs.

EC-1535. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to revise the procedures for providing claimants and their representatives with copies of Board of Veterans' Appeals (Board) decisions and to protect the right of claimants to appoint veterans service organizations as their representative in claims before the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 187. A bill to provide for the safety of journeymen boxers, and for other purposes (Rept. No. 104–159).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1004. A bill to authorize appropriations for the United States Coast Guard, and for other purposes (Rept. No. 104–160).

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 673. A bill to establish a youth development grant program, and for other purposes (Rept. No. 104–161).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects (Rept. No. 104–162).

H.R. 1266. A bill to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes (Rept. No. 104–163).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 177. A resolution to designate October 19, 1995, as "National Mammography Day."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL (for himself, Mr. BENNETT, and Mr. DORGAN):

S. 1335. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 1336. A bill to enable processors of popcorn to develop, finance, and carry out a nationally coordinated program for popcorn promotion, research, consumer information, and industry information, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN:

S. 1337. A bill to amend the Legal Services Corporation Act to limit frivolous lawsuits, and for other purposes; to the Committee on Labor and Human Resources.

S. 1338. A bill to improve the United States Marshals Service, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 1339. A bill to amend title 18, United States Code, to restrict the mail-order sale of body armor; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. KERREY, Mr. CONRAD, Mr. GRASSLEY, Mr. CRAIG, Mr. LEAHY, Mr. DORGAN, Mr. BOND, Mr. PRESSLER, Mrs. MURRAY, Mr. FEINGOLD, Mr. KOHL, Mr. BURNS, and Mr. EXON):

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on the Judiciary.

By Mr. McCAIN (for himself and Mr. KYL):

S. 1341. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, Mr. INOUYE, Mr. WELLSTONE, and Mr. SIMON):

S. 1342. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make loans to refinance loans made to veterans under the Native American Veterans Direct Loan Program; to the Committee on Veterans' Affairs.

By Mr. HELMS:

S. 1343. A bill to amend title XVIII of the Social Security Act to provide that eligible organizations assure out-of-network access; to the Committee on Finance.

By Mr. HEFLIN:

S. 1344. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON (by request):

S. 1345. A bill to amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health-care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FAIRCLOTH:

S. Res. 185. A resolution to express the sense of the Senate regarding repayment of loans to Mexico; to the Committee on Foreign Relations.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 186. A resolution to authorize testimony by Senate employees and representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL (for himself, Mr. BENNETT, and Mr. DORGAN):

S. 1335. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

THE FLAG PROTECTION AND FREE SPEECH ACT OF 1995

• Mr. McCONNELL. Mr. President, on behalf of myself, Senator BENNETT and Senator DORGAN, I am introducing a bill to outlaw the desecration of the American flag.

Flag burning is a despicable act. And we should have zero tolerance for those who deface our flag. Make no mistake about it—I am disgusted by those who desecrate our symbol of freedom, under which so many men and women, including my father, have gone into battle in order to preserve our way of life.

Many patriotic Americans believe that we need a Constitutional amendment to ban flag burning. The Supreme Court has rejected laws which have attempted to ban flag burning, finding such laws to be in conflict with the first amendment's protection of free speech. So, the supporters of the Constitutional amendment argue that the only way to get it done right is to change the Constitution.

Flag burners must be punished for their vile behavior. But the precedent of amending the Bill of Rights is a dangerous one. I fear that if we amend the first amendment this year, soon the fifth amendment's protection of private property rights or the second amendment's protection of the right to bear arms, will be under assault.

So, I have been searching for an alternative which will result in the swift and certain punishment for those who commit the contemptible act of defacing the flag, but leave the first amendment untouched.

This bill achieves those purposes. The deviants who burn the flag do so to provoked or incite patriotic Americans. And, it is well established that fighting words or speech which incites lawlessness is not protected by the first amendment. My bill provides for imprisoning and fining those who damage a flag intending to incite a breach of the peace. It also punishes anyone who steals a flag belonging to the Federal Government or a flag displayed on Federal property.

This bill will get the job done without tampering with the first amendment. There have been well-respected conservative voices who have cautioned against amending the first amendment to ban flag burning, including George Will, Charles Krauthammer, Cal Thomas, Bruce Fein. But perhaps the most compelling words have come from Jim Warner, a patriot and hero who fought in Vietnam and survived more than 5 years of torture and brutality as a prisoner or war:

> We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. [When a] flag in Dallas was burned to protest the nomination of Ronald Reagan, . . . he told us how to spread the idea of freedom when he said that we should turn America into a "city shining on a hill, a light to all nations." Don't be afraid of freedom, it is the best weapon we have.

I hope my colleagues will study this bill and consider it, as we approach the significant debate on a Constitutional amendment to ban flag desecration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection and Free Speech Act of 1995".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the United States Constitution.

(b) PURPOSE.—It is the purpose of this Act to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Incitement; damage or destruction of property involving the flag of the United States

"(a) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and in circumstances where the person knows it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000 or imprisoned not more than 1 year, or both.

"(b) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than 2 years, or both.

"(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than 2 years, or both.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

"(e) DEFINITION.—As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and would be taken to be a flag by the reasonable observer.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following new item:

"700. Incitement; damage or destruction of property involving the flag of the United States.".•

By Mr. LUGAR:

S. 1336. A bill to enable processors of popcorn to develop, finance, and carry out a nationally coordinated program for popcorn promotion, research, consumer information, and industry information, and for other purposes.

THE POPCORN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

• Mr. LUGAR. Mr. President, today I am introducing the Popcorn Research, Promotion and Consumer Information Act which will allow the U.S. Department of Agriculture to issue an order establishing a popcorn promotion program. This will be similar to other agricultural promotion programs for dairy, beef, pork, eggs, and potatoes, to name a few.

Americans consume 17.3 billion quarts of popped popcorn annually, or 68 quarts per person. It is one of the most wholesome and economical foods available to the consumer. My home State of Indiana leads all States in popcorn production, with more than 77,000 acres harvested last year. Following Indiana, major popcorn producing States are Illinois, Nebraska, Ohio, Kansas, Iowa, Missouri, Kentucky, and Michigan.

In the past, the popcorn industry has united to promote and market its product. Total popcorn sales, as a result of these efforts, have grown throughout the past several years, but great potential exists to accelerate this trend with a larger, industry-wide, cooperative effort.

Under a popcorn promotion program, popcorn processors would pay a small assessment on each pound of popcorn marketed. The Secretary of Agriculture would then select a Popcorn Board, made up of representatives from the industry to administer the program, with oversight by USDA. The funds collected would be used for research, promotion and consumer information projects with the goal of increasing consumption of popcorn.

The entire popcorn industry would benefit from a popcorn promotion program. These programs have been extremely successful for other commodities. Furthermore, they operate at no cost to the Federal Government, because all Government expenses are reimbursed from the programs funds. I urge my colleagues to support this self-help agricultural initiative.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Popcorn Promotion, Research, and Consumer Information Act".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this Act are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This Act treats processors equitably. Nothing in this Act—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

SEC. 3. DEFINITIONS.

In this Act (except as otherwise specifically provided):

(1) BOARD.—The term "Board" means the Popcorn Board established under section 5(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term "marketing" means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term "order" means an order issued under section 4.

(8) PERSON.—The term "person" means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term "popcorn" means unpopped popcorn (Zea Mays L), commercially grown in the United States, processed by shelling, cleaning, or drying and introduced into a channel of commerce.

(10) PROCESS.—The term "process" means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term "processor" means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term "promotion" means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term "United States" means all of the States.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the policy described in section 2(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this Act at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 30 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this Act. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any other services. The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to

the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay the expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary except that the costs incurred by the Secretary that may be reimbursed by the Board may not exceed 5 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for domestic popcorn (including Canadian popcorn) in proportion to the amount of assessments collected on popcorn marketed domestically (including Canada); and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this Act or a regulation issued under this Act. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this Act may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this Act and any investigatory or enforcement activity necessary for the implementation of this Act.

(ii) PENALTY.—A person who violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such terms and conditions, consistent with this Act, as are necessary to effectuate this Act, including regulations relating to the assessment of late payment charges.

SEC. 6. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 4(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 4(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct an additional referendum to determine whether processors favor the termination or suspension of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 40 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section, except for the salaries of Government employees associated with conducting a referendum.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who violates paragraph (1) shall be subject to the penalties described in section 5(i)(3)(C)(ii).

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 8.

SEC. 8. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this Act and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this Act would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this Act.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this Act; and

(2) to determine whether any person subject to this Act has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this Act or of an order or regulation issued under this Act.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district in which the person resides or conducts business or wherever the person may be found.

SEC. 10. RELATION TO OTHER PROGRAMS.

Nothing in this Act preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

SEC. 11. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act. Amounts made available under this section may not be used to pay any expense of the Board in administering any provision of an order.•

By Mr. BROWN:

S. 1337. A bill to amend the Legal Services Corporation Act to limit frivolous lawsuits, and for other purposes; to the Committee on Labor and Human Resources.

THE LEGAL SERVICES CORPORATION ACT AMENDMENT ACT OF 1995

• Mr. BROWN. Mr. President, I introduce a bill to bring the Legal Services Corporation in line with the obligations of every other attorney in America; that is, to allow the Legal Services Corporation to be sanctioned when its attorneys bring frivolous or meritless cases.

The Legal Services Corporation was created to provide for the everyday legal needs of the poor. Unfortunately, the LSC has digressed from its original function. Rather than taking care of the day to day needs of American families, the LSC has used its resources to challenge Federal programs, lobby government, and pursue costly class action lawsuits.

In 1974, President Nixon cited three major objectives when he signed legislation to create the Legal Services Corporation. One was "that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canon of Ethics and the high standards of the legal professions." Achieving that goal is precisely what this bill intends to do.

The high standards of the legal professions include adhering to the Federal Rules of Civil Procedure. Rule 11, which applies to all attorneys, allows for sanctions against an attorney for any action designed to cause unnecessary delay or needlessly increase the cost of litigation, or when the plaintiff's action is frivolous or without legal foundation. If the LSC is providing legal services with Federal funds, one would assume it would be subject to these basic rules.

Under current law, however, the Legal Services Corporation is protected from the rule 11 standard. The LSC can only be sanctioned if it is proven that an action was brought solely to harass another party, or that it maliciously abused the legal system. This standard is virtually impossible to prove and therefore lacks any deterrent effect. Furthermore, only actions are sanctionable—the LSC is completely protected from sanctions for baseless motions, pleadings, or other documents.

If the Legal Services Corporation is going to provide federally funded legal services, it should live under the same laws as every other attorney in the United States. When an attorney enters any courtroom in the Nation, advocating a case without merit, he can be sanctioned by the court. It should not be any different for the Legal Services Corporation.

The language of this bill would alter the Legal Services Corporation Act so that it parallels the Federal Rules of Civil Procedure. Specifically, it would allow courts to sanction the LSC according to the standards set forth in rule 11. Under the bill, sanctions would be allowed for any action, motion, pleading or other document that: First, is brought for improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; or second, is frivolous or not warranted by existing law.

This new standard is not designed to preclude or replace rule 11 sanctions against attorneys. Rather, it would provide an additional source of funds to compensate those parties forced to defend against baseless legal actions.

In a society where litigation too often takes the place of negotiation, where the cost of a defense determines the outcome of a case, and where one lawsuit can bankrupt a law-abiding citizen, it is imperative that all parties play on the same legal field, including the Legal Services Corporation.•

By Mr. BROWN:

S. 1338. A bill to improve the U.S. Marshals Service, and for other purposes; to the Committee on the Judiciary.

UNITED STATES MARSHALS SERVICE LEGISLATION

• Mr. BROWN. Mr. President, I introduce a bill to improve the U.S. Marshals Service by eliminating the political appointment of U.S. Marshals.

Since 1789, U.S. Marshals have been appointed by the President and confirmed by the Senate. For nearly 150 years this political appointment process served as the only control Washington had over its primary law enforcers. The distance between the bureaucracy of Washington and the ever expanding Territories of the United States gave U.S. Marshals such as Wyatt Earp and Lloyd Garrison, nearly autonomous control in their jurisdictions.

But the days of the gun-slinging Federal Marshal are long past. Today the executive office of the Marshals Service in Washington calls the shots, trains, and promotes the deputies, and operates under the watchful eye of the Department of Justice and Congress. The one area in which the Service does not have control is over the appointment of U.S. Marshals.

Under the current system, U.S. Marshals are appointed to 4-year terms by the President. Appointees need not have served in the U.S. Marshals Service or even have had previous professional law enforcement experience. In fact, of the 94 U.S. Marshals, only 30 have previously served in the Marshals Service.

According to a 1994 U.S. Marshals Service Reinvention Proposal reported by the Department of Justice, the appointment process has become a burden upon the operations of the Marshals Service. The proposal states that:

> Disagreement between Marshals and headquarters often put career deputies and staff

> in conflicting situations. The Marshals controlled day-to-day assignments while headquarters controlled the deputies' career advancement and duty stations. The traditional independence of the Marshals clashed with the growing central control of headquarters. Headquarters began bypassing the Marshals by establishing program units in the field to oversee witness security, fugitive investigations, asset forfeiture programs, and high level judicial protection activities.

Mr. President, my bill would eliminate some of these problems by putting experienced law enforcement personnel into the office of U.S. Marshal. The bill would require the Attorney General to select U.S. Marshals from the ranks of the Marshals Service rather than from a political party. The U.S. Marshals Service already has an extensive and complex merit based promotion system to evaluate, select and promote the most qualified individuals for positions in every level of service. This bill would extend that type of merit based selection to the office of the U.S. Marshal, so that the most qualified and experienced personnel are in a position to contribute to the U.S. Marshals Service rather than hinder its operations.

Removing the political appointment process from the Marshals Service is not a new idea. The reform debate first began in 1955 when the Commission on Organization of the Executive Branch of the Government recommended an end to the political appointment of U.S. Marshals. During the 104th Congress, the idea took hold in the House of Representatives. Both the House Balanced Budget Task Force and the Budget Committee recommended ending the political appointments. Vice President GORE's National Performance Review also recommended selecting Marshals by merit and estimated a savings of over $36 million.

With such broad based support why are we waiting? The answer lies in the Senate. For the past 150 years the Executive branch has allowed the Senators affiliated with the President's party to select the U.S. Marshals for the judicial districts within their States. Each time the idea of appointing Marshals based on merit was raised, it was quashed in the Senate by those unwilling to relinquish the power of appointment.

Mr. President, if we really are for a leaner, less intrusive, and more effective government, we must begin by promoting the most qualified personnel to the most important positions. Let us take a real step to improve the way government works—let us end the political appointment process for the U.S. Marshals.•

By Mrs. FEINSTEIN:

S. 1339. A bill to amend title 18, United States Code, to restrict the mail-order sale of body armor; to the Committee on the Judiciary.

THE JAMES GUELFF BODY ARMOR ACT OF 1995

• Mrs. FEINSTEIN. Mr. President, I introduce the James Guelff Body Armor Act which would ban the mail order sale of bullet-proof vests to all individuals except law enforcement or public safety officers including paramedics. This legislation would require that the sale, transfer, and receipt of bullet-proof vests to anyone other than a law enforcement or public safety officers be conducted in person. This Act will make it more difficult for criminals to obtain this body armor which hinders law enforcement's ability to disarm and capture them.

For those who may not have heard the story of Officer James Guelff, I would like to provide just a few details about this tragic story.

On November 13, 1994, Officer James Guelff, a 10-year veteran of the San Francisco Police Department, was shot to death in a fire-fight by a heavily armed gunman wearing a bullet-proof vest on a major street corner in the middle of San Francisco.

Captain Richard Cairns was the commanding officer on the scene. Earlier this year, Captain Cairns participated in a roundtable discussion with me about the violence of assault weapons.

This is how Captain Cairns described the scene:

> (The assailant) was firing as fast as you could pull the trigger. He had semi-automatic assault weapons. He had an AK 223 rifle, with 30 round clips. He had a Steyr AUG which is a sophisticated weapon, that he didn't get to. The officers managed to keep him away from that. He had an uzi that jammed, and he had two other semi-automatic pistols, and he had thousands of rounds of ammunition that were in magazines. And they were all in 30-round magazines already. He didn't have to stop and load magazines. We ended up having 104 officers at the scene and he probably had more ammunition than all 104 officers put together. And our officers did run out of ammunition and they got more ammunition from other responding units to try and keep him down. He was finally killed by the SWAT teams that got there, who got above him . . .

Captain Cairns continued:

> He had a bullet proof vest, he had a Kevlar Helmet on and he was hit by our officers twice in the helmet and six times in the vest. He was finally killed by a shot that came through his shoulder and into his chest and killed him. Officer Guelff was hit several times and then killed with a bullet through the left eye out of the assault rifle. Officer Guelff fired off six of his rounds and when he went to re-load—the suspect fired on him and killed him.

That story, simply put, is the reason this legislation is being put forward today.

California is not the only State to experience assailants—including heavily-armed gang members—who are wearing bullet proof vests and other body armor.

In Colorado, a man entered a grocery store where his wife worked, killed her, the store's manager, shot a bystander and then fatally shot a sheriff's sergeant before being physically tackled from behind and brought to the ground. Gunfire from law enforcement was to no avail because of his body armor.

In Long Island, NY, an armed high school student after being pushed out of his girlfriend's house by her father, shot 12 rounds into the house before a sheriff's investigator shot the young man in the shoulder, just avoiding his bullet-proof vest, killing him. The sheriff who shot the gunman commented after the incident that the bullet-proof vest the young man was wearing was " * * * better than anything we've got now, other than what's in the SWAT locker."

How are law enforcement officers to protect the public when the criminals have better body armor than do the police?

States and localities have already begun the effort to control the sale of body armor. The State of Michigan, for instance, has a law which increases the sentence of a criminal who wears body armor during the commission of a crime. And, in Baltimore, MD, the city council reacted quickly and severely to a billboard advertising the sale of bullet-proof vests as "Life Insurance for the 90's" with a 1-800 number printed at the bottom by introducing a city ordinance which bans the sale of bullet-proof vests to anyone unless they have the permission of the police commissioner.

Not only have States and localities begun to control the sale of body armor, at least three Nation-wide stores have already pulled bullet-proof vests from their shelves. Those stores that responded to the requests of law enforcement officials to cease the sale of body armor are The Sharper Image, Wal-Mart and Sam's Club.

There were over 200 rounds of ammunition fired by the gunman that killed Officer James Guelff before other police officers were able to injure the assailant. I cannot say that Officer Guelff would still be alive if this criminal had not been wearing a bullet-proof vest. I imagine, however, that law enforcement would have more easily shot and disabled this gunman if he had not been protected by body armor. I attended Officer Guelff's funeral. Maybe, if these bullet-proof vests were not so accessible, Officer Guelff would be entering his 15th year of service.

At this time, I wish to acknowledge the leadership of Representatives STUPAK and PELOSI who have introduced similar legislation, H.R. 2192, in the House of Representatives. I also ask that following my remarks, my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "James Guelff Body Armor Act of 1995".

SEC. 2. UNLAWFUL MAIL-ORDER SALE OF BODY ARMOR.

Title 18, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 44A—BODY ARMOR

"Sec.
"941. Unlawful act.

"S. 941. Unlawful acts

"(a) Except as provided in subsection (b) of this section, it shall be unlawful for a person to sell or deliver body armor unless the transferee meets in person with the transferor to accomplish the sale, delivery, and receipt of the matter.

"(b) Subsection (a) does not apply to body armor used by law enforcement officers.

"(c) As used in this section—

"(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering whether the product is to be worn alone or is sold as a complement to other products or garments; and

"(2) the term 'law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

"(d) Whoever knowingly violates this section shall be fined under this title or imprisoned not more than two years, or both.".•

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. KERREY, Mr. CONRAD, Mr. GRASSLEY, Mr. CRAIG, Mr. LEAHY, Mr. DORGAN, Mr. BOND, Mr. PRESSLER, Mrs. MURRAY, Mr. FEINGOLD, Mr. KOHL, Mr. BURNS, and Mr. EXON):

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on the Judiciary.

THE LIVESTOCK MARKET REPORT ACT OF 1995

Mr. DASCHLE. Mr. President, today several colleagues and I will introduce the Livestock Concentration Report Act of 1995. This legislation addresses the deep concern of cattle, hog and sheep producers from across the nation that the livestock industry does not operate in a free and open market. The bipartisan support from colleagues from Vermont to Washington is indicative of the importance of this issue.

Livestock producers, especially cattle producers, are receiving the lowest prices in recent memory. Producers can barely make ends meet, let alone make a profit. The farmer's share of the retail beef dollar has also plunged from 63 percent in 1980 to only 40 percent today. Producers face economic ruin at a time when the four largest meat packers in the country control 87 percent of the cattle slaughtered and enjoy record profits.

Our legislation calls for a thorough examination of the livestock markets to ensure they operate in a free and competitive manner. We ask the President to establish a Commission on Concentration in the Livestock Industry. This body will consist of six producers, two antitrust experts, two economists, two corporate financial officers, and two corporate procurement experts. The members will be appointed by the President, and the Commission will be chaired by the Secretary of Agriculture.

The Commission will review the ongoing USDA Study on Concentration in the Red Meat Packing Industry to ensure the results are representative of current market conditions. Producers are concerned that the data in the study is out-of-date and will not provide insight into today's market. Additionally, the Commission will review the adequacy of price discovery in the livestock markets to ensure forward contracting and formula pricing practices do not unduly bias livestock markets. The causes of the wide farm-to-retail price spread will also be examined. The Commission will report its findings within 90 days of the release of the USDA study.

I am very appreciative of Secretary Glickman's support throughout this process. USDA is currently pursuing a case against IBP, Inc., the largest meat packer for alleged anti-competitive procurement practices. The Secretary has made this issue a top priority, and I look forward to working with him on the implementation of this Commission.

This action is crucial for our Nation's livestock producers. Free and open markets are one of the foundations of our Nation and our economy. We as consumers all suffer if markets, especially food markets, do not operate freely. I hope this commission can get to the bottom of the problems that exist in the livestock market and provide answers for us in Congress about the steps we can take to ensure a fair shake for hard-working livestock producers and the Nation's consumers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Livestock Concentration Report Act of 1995".

SEC. 2. APPOINTMENT OF COMMISSION.

Not later than 30 days after the date of the enactment of this Act, the President shall appoint a Commission on Concentration in the Livestock Industry which shall be composed of the Secretary of Agriculture, who shall be the chairperson of the Commission, and 2 members appointed from among individuals in each of the following categories:

(1) Cattle producers.
(2) Hog producers.
(3) Lamb producers.
(4) Experts in antitrust laws.
(5) Economists.
(6) Corporate chief financial officers.
(7) Corporate procurement experts.

SEC. 3. DUTIES OF COMMISSION.

(a) DUTIES.—The Commission on Concentration in the Livestock Industry shall—

(1) determine whether the study of concentration in the red meat packing industry adequately—

(A) examined and identified regional procurement markets for slaughter cattle in the continental United States,

(B) analyzed the effects that slaughter cattle procurement practices, and concentration in the procurement of slaughter cattle, have on the purchasing and pricing of slaughter cattle by beef packers,

(C) examined the use of captive cattle supply arrangements by beef packers and the effects of such arrangements on slaughter cattle markets,

(D) examined the economics of vertical integration and of coordination arrangements in the hog slaughtering and processing industry,

(E) examined the pricing and procurement by hog slaughtering plants operating in the eastern corn belt,

(F) reviewed the pertinent research literature on issues relating to the structure and operation of the meat packing industry, and

(G) represents, for the matters described in subparagraphs (A) through (F), the current situation in the livestock industry compared to the situation of such industry reflected in the data on which such study is based,

(2) review the application of the antitrust laws, and the operation of other Federal laws applicable, with respect to concentration and vertical integration in the procurement and pricing of slaughter cattle and of slaughter hogs by meat packers,

(3) make recommendations regarding whether the laws relating to the operation of the meat packing industry should be modified regarding the concentration, vertical integration, and vertical coordination in such industry,

(4) review the farm-to-retail price spread for livestock during the period beginning on January 1, 1993, and ending on the date the report is submitted under section 4,

(5) review the adequacy of price data obtained by the Department of Agriculture under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622),

(6) make recommendations regarding the adequacy of price discovery in the livestock industry for animals held for market, and

(7) review the lamb industry study completed by the Department of Justice in 1993.

(b) SOLICITATION OF INFORMATION.—For purposes of complying with the requirements of paragraphs (2), (3), and (4) of subsection (a), the Commission on Concentration in the Livestock Industry shall solicit information from all parts of the livestock industry, including livestock producers, livestock marketers, meat packers, meat processors, and retailers.

SEC. 4. REPORT.

(a) SUBMISSION OF REPORT TO THE PRESIDENT.—Not later than 90 days after the study of concentration in the red meat packing industry is submitted to the Congress, the Commission on Concentration in the Livestock Industry shall submit to the President a report summarizing the results of the duties carried out under section 3. Not later than 30 days after the President receives such report, the President shall terminate the Commission.

(b) TRANSMISSION OF REPORT TO THE CONGRESS.—The President shall promptly transmit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a copy of the report the President receives under subsection (a).

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, and

(2) the term "study of concentration in the red meat packing industry" means the study of concentration in the red meat packing industry proposed by the Department of Agriculture in the Federal Register on January 9, 1992 (57 Fed. Reg. 875), and for which funds were appropriated by Public Law 102–142.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, Mr. INOUYE, Mr. WELLSTONE, and Mr. SIMON):

S. 1342. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make loans to refinance loans made to veterans under the Native American Veterans Direct Loan Program; to the Committee on Veterans' Affairs.

THE NATIVE AMERICAN VETERANS DIRECT LOAN PROGRAM

• Mr. AKAKA. Mr. President, today I am introducing legislation to amend section 3762 of title 38, United States Code. Section 3762 was established under the Veterans Home Loan Program Amendments of 1992 and authorizes a 5-year pilot program to provide direct home loans to native American veterans who live on U.S. trust lands. I am pleased that Senators ROCKEFELLER, INOUYE, WELLSTONE, and SIMON are cosponsors of this measure.

My bill would allow the Department of Veterans Affairs [VA] to refinance direct loans made under this unique initiative, known as the Native American Direct Home Loan Program. Under my bill, credit standards for underwriting direct loans to Native American veterans would be the same as those for VA guaranteed loans. The underwriting would be performed by the VA and would allow qualified veterans to refinance existing loans.

The Native American Direct Loan Program was established to ensure that veterans who reside on reservations or other trust lands would have the same access to VA loan benefits enjoyed by other veterans. Under the 5-year pilot program, VA is authorized to provide direct loans of up to $80,000 for most areas of the United States, although higher limits were established for certain high-cost regions.

Until the program was adopted 3 years ago, Native American veterans who lived on trust lands were denied access to traditional VA guaranteed loans. The inability to take title to trust lands in the event of default, cultural misunderstandings, and the generally poor economic conditions that exist on reservations, dissuaded potential lenders from approving mortgages for housing on such lands.

During the guaranty program's half-century of existence, not a single Native American veteran was able to utilize his or her home loan entitlement for housing on trust lands. In contrast, over 13 million other veterans received more than $350 billion in VA guaranties during that period. It was to redress this inequity that Congress enacted Public Law 102–547.

Despite the complexities of creating a program that must address the needs of hundreds of different tribal entities, each with its own cultural, political, and legal systems, VA has successfully entered into agreements to provide direct VA loans to members of 30 tribes and Pacific Island groups, and negotiations are ongoing with approximately 20 more tribes. To date, approximately 45 loans have been closed, 3 of them with American Indians, the balance with Hawaiian Natives and Pacific Islanders. In addition, the VA has a commitment to close 36 more loans, including American Indians residing on allotted lands.

Although the VA has made significant progress in implementing the program, a serious, unanticipated shortcoming has come to light. According to the VA, the Department has no statutory authority to offer refinancing to veterans receiving loans under the program. Thus, native Americans who receive loans under the program cannot take advantage of interest rate reductions to ease their financial burden. This is in stark contrast to other veterans who use the regular guaranty program. In the period between October 1993 and August 1995, for example, the VA refinanced over 25,000 interest reduction loans with a face value of more than $2 billion.

Mr. President, this situation runs contrary to the intent of Congress in enacting the Native American Direct Home Loan Program three years ago. In creating the program, Congress intended to ensure that, to the maximum extent possible, Native American veterans would have the same opportunity as other veterans to achieve the American dream of home ownership. Insofar as refinancing is an important element of other VA home loan programs, it is just and reasonable that veterans who receive benefits under the direct loan program be accorded an opportunity to refinance.

Mr. President, the legislation I am offering today would correct this oversight by providing VA with specific refinancing authority under the direct loan program. My bill also includes a provision for a special fee that would cover all refinancing costs thus making the bill revenue neutral.

Mr. President, I believe this legislation will significantly enhance VA's ability to provide native American veterans with equal access to services and benefits available to other veterans. It would reduce the costs of home ownership for those presently receiving benefits under the program, possibly reducing the risk of default and the costs associated with foreclosure. Perhaps most importantly, it would encourage eligible Native American to come forward to take advantage of the program's benefits.

Thank you, Mr. President. I hope that the measure I am offering today will be supported by colleagues from both sides of the aisle.•

By Mr. HELMS:

S. 1343. A bill to amend title XVIII of the Social Security Act to provide that eligible organizations assure out-of-network access; to the Committee on Finance.

OUT-OF-NETWORK ACCESS LEGISLATION

Mr. HELMS. Mr. President, three summers ago I had a close but fortunate encounter with some remarkable medical doctors in my home town of Raleigh. My heart surgery and the very effective subsequent rehabilitation made it clear that I had been cared for by some of the most capable people in the medical profession.

I was free to choose the surgeon who performed the operation. Senior citizens enrolled in Medicare should have the same choice, and the bill I'm introducing today will enable senior citizens who join HMO's to preserve their right to choose their doctor.

Mr. President most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professional will provide their care and treatment. In reforming Medicare, Congress must make sure that senior citizens can choose their doctors and other medical providers.

One of the many reasons for my having opposed the Clinton health plan was the well founded fear that the American people would have been denied their right to chose their medical care. The enormous bureaucracy of the Clinton plan made that apprehension a certainty—which is why the American people rejected it.

Now, Mr. President, the Senate is considering major reforms to save Medicare, and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt—otherwise the Medicare trust fund will be flat broke when the 21st century rolls around a few years hence.

Americas's senior citizens depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure they will not be forced to give up their right to choose their doctors.

It is vital to their future security that our senior citizens retain this right to choose. The power to choose will place citizens firmly in control of their health care. Their right to choose will encourage efficiency and cut costs without sacrificing quality care and treatment.

Mr. President, all of us know full well that reform of the present Medicare System is imperative. The provisions of the legislation allowing senior citizens to join health maintenance organizations, and other types of managed care plans, will surely lower the costs of operating the vast Medicare System. And citizens who belong to a Medicare-supported HMO may gain coverage for prescription drugs, eyeglasses and hearing aids—coverages not presently provided by Medicare.

Without some moderating legislation, however, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctor.

So, Mr. President, these are the reasons why I am today introducing the Senior Citizens' Health Freedom Act to guarantee all Medicare-eligible Americans who choose to enroll in an HMO the same freedom to choose their doctors that every member of Congress enjoys.

As much as I support the Republican Medicare plan now under discussion, I cannot dismiss my reservations about the absence of doctor choice in the plan as it presently stands.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a longstanding relationship. Should the patient be required to wait for a year's time to change to a plan that will cover the cardiologist that the patient knows and trusts? My bill will enable women being treated for breast cancer to rest assured that they can continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this bill.

We must provide a safety valve to protect seniors who find themselves in that position. A point of service option would enable patients to see physicians and specialists inside and outside the managed care network. If senior citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists. Without such options, however, these senior citizens will be locked into a rigid system which may or may not give them the health care they need from people they most trust to provide it.

Mr. President, we heard from the CBO last February that a built-in point of service feature would not increase the cost of Medicare. In testimony before the Senate Budget Committee, CBO stated that "the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit cost to HMO's or to * * *"

The fastest growing health insurance product is a managed care plan that includes the point of service feature. The marketplace has responded to patient's demand. Requiring HMO's to include point of service is not intrusive, but rather advances a developing trend. In fact, in 1993, 61 percent of all HMO's offered a point of service option.

Building a point of service option into all health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there would be no increase in cost to the HMO. In fact, there could actually be a savings.

Mr. President, according to polls I have seen, patients are willing to pay a little more for the ability to go out of network to be assured of seeing the doctors of their choice. As many as 70 percent of Americans over 50 years old declared in one poll that they would be unwilling to join a Medicare managed plan that denied them the freedom to choose their own physicians.

So the best incentive to get senior citizens to join HMO's is to make sure they can choose their own doctors.

As we prepare to enact this historic revision of the Medicare Program, let us not overlook the steps that are necessary to protect the security of our senior citizens. Let us never deny them the right to take an active part in their health care and treatment.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And with the legislation I introduce today, we can also preserve a basic American freedom to choose.

Mr. President, I ask unanimous consent that the list of patient advocacy groups supporting this bill be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING PATIENT ACCESS TO SPECIALIZED MEDICAL SERVICES UNDER HEALTH CARE REFORM

Allergy and Asthma Network Mothers of Asthmatics, Inc.

American Academy of Allergy and Immunology.

American Academy of Child and Adolescent Psychiatry.

American Academy of Dermatology.

American Academy of Facial Plastic and Reconstructive Surgery.

American Academy of Neurology.

American Academy of Ophthalmology.

American Academy of Orthopaedic Surgeons.

American Academy of Otolaryngology-Head and Neck Surgery.

American Academy of Pain Medicine.

American Academy of Physical Medicine & Rehabilitation.

American Association for Hand Surgery

American Association for the Study of Headache

American Association of Clinical Endocrinologist.

American Association of Clinical Urologists.

American Association of Hip and Knee Surgeons.

American Association of Neurological Surgeons.

American College of Cardiology.

American College of Foot and Ankle Surgeons.

American College of Gastroenterology.

American College of Nuclear Physicians.

American College of Obstetricians & Gynecologists.

American College of Osteopathic Surgeons.

American College of Radiation Oncology.

American College of Radiology.

American College of Rheumatology.

American Diabetes Association.

American EEG Society.

American Gastroenterological Association.

American Lung Association.

American Orthopedic Society for Sports Medicine.

American Pain Society.

American Pediatric Medical Association.

American Psychiatric Association.

American Sleep Disorders Association.

American Society for Dermatologic Surgery.

American Society for Gastrointestinal Endoscopy.

American Society for Surgery of the Hand.

American Society for Anesthesiologists.

American Society for Cataract and Refractive Surgery.

American Society for Clinical Pathologists.

American Society for Dermatology.

American Society for Echocardiography.

American Society for General Surgeons.

American Society for Hematology.

American Society for Nephrology.

American Society for Pediatric Nephrology.

American Society for Plastic and Reconstructive Surgeons, Inc.

American Society for Transplant Physicians.

American Thoracic Society.

American Urological Association.

Amputee Coalition of America.

Arthritis Foundation.

Arthroscopy Association of North America.

Association of Subspecialty Professors.

Asthma & Allergy Foundation of America.

California Access to Specialty Care Coalition.

California Congress of Dermatological Societies.

Congress of Neurological Surgeons.

Cooley's Anemia Foundation.

Cystic Fibrosis Foundation.

Eye Bank Association of America.

Federated Ambulatory Surgery Association.

Joint Council of Allergy and Immunology.

Lupus Foundation of America, Inc.

National Association for the Advancement of Orthotics and Prosthetics.

National Association of Epilepsy Centers.

National Association of Medical Directors of Respiratory Care.

National Foundation for Ectodermal Dysplasias.

National Hemophilia Foundation.

National Kidney Foundation.

National Multiple Sclerosis Society.

National Osteoporosis Foundation.

National Psoriasis Foundation.

Orthopaedic Trauma Association.

Pediatric Orthopedic Society of North America.

Pediatrix Medical Group? Neonatology and Pediatric Intensive Care Specialists.

Renal Physicians Association.

Scoliosis Research Society.

Society for Vascular Surgery.

Society of Cardiovascular & Interventional Radiology.

Society of Gynecologic Oncologists.

Society of Nuclear Medicine.

Society of Thoracic Surgeons.

The Alexander Graham Bell Association for the Deaf, Inc.

The American Society of Dermatophathology.

The Endocrine Society.

The Paget Foundation For Paget's Disease of Bone and Related Disorders.

The TMJ Association, Ltd.

National Committee to Preserve Social Security and Medicare.

By Mr. HEFLIN:

S. 1344. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

JUDICIAL COST-OF-LIVING INCREASES LEGISLATION

Mr. HEFLIN. Mr. President, I am today introducing legislation to address the need of providing annual, automatic cost-of-living increases for the Federal Judiciary. This legislation would achieve two goals. First, it would repeal Section 140 of Public Law 97-42 (28 U.S.C. Sec. 461 note) a provision which was enacted in a continuing appropriation resolution in 1981. Second, it would delink Federal judges from Members of Congress and executive schedule employees of the executive branch with respect to receiving cost of living adjustments and would guarantee that Federal judges would automatically receive such annual adjustments, assuming economic conditions so justified.

Let me share with my colleagues some of the history relating to Section 140, and the reasons why I think it should be repealed. The Federal Salary Act of 1967 established a commission on executive, legislative and judicial salaries, which was popularly referred to as the "Quadrennial Commission." The purpose of this commission was to review executive schedule positions (federal judges, Members of Congress, and high ranking officials in all branches) and to make recommendations on how salaries should be adjusted.

In 1975 Congress enacted the Executive Salary Cost-of-Living Adjustment Act, which provided, for the first time, for annual cost-of-living adjustments for executive schedule officials. This statute was designed to give Federal judges, Members of Congress, and other high-ranking officials the same annual adjustment that was given to other Federal employees. In October 1975, these executive schedule officials received a cost-of-living adjustment; however, from 1977-1981, Congress withheld cost-of-living adjustments for these officials. In the case of *United States v. Will*, 449 US 200 (1980), the Supreme Court issued a ruling which resulted in an increase in the salaries for Federal judges.

Two years later, Congress adopted an appropriation for Fiscal Year 1982, which provided in Section 140 that judges would not automatically receive an increase under the Executive Salary Cost-of-Living Adjustment Act, "except as specifically authorized by act of Congress." The Ethics Reform Act of 1989 restored cost-of-living adjustments and amended the Adjustment Act, to provide for a method of computing annual pay adjustments for Federal judges and other executive schedule employees.

Cost-of-living adjustments were provided for Federal judges in calendar years 1990, 1991, 1992, and 1993. There have been no cost-of-living adjustments for Federal judges in 1994, 1995, nor it would appear in 1996. With regard to 1996, it appears that the Treasury, Postal Service and General Government Appropriations bill will again deny a cost-of-living adjustment for Federal judges since we are proposing to deny ourselves such an adjustment and under current law, adjustments for Federal judges are linked to adjustments for Members of Congress.

Having reviewed this history, it is my belief that Congress should take action to not only repeal Section 140, which currently bars cost-of-living adjustments in pay for Federal judges, except as specifically authorized by Congress, but to also delink such adjustments from those of Members of Congress and other executive schedule employees of the executive branch.

Delinkage will remove Federal judges from the highly charged political atmosphere surrounding cost-of-living adjustments. This legislation does not seek to raise judicial pay, but is in an attempt to avoid a diminution in judicial compensation by allowing salaries to keep pace with increases in the cost of living.

Remember, judges are not like Members of Congress or high ranking executive schedule employees of the executive branch of the Federal Government. Members of Congress come and go, and likewise, executive schedule employees are high ranking political employees such as Cabinet secretaries, deputy secretaries, assistant secretaries, and deputy assistant secretaries, etc. They, too, being short-term employees, come and go from the private sector to the public sector.

Federal judges are different in this regard. They make a lifetime commitment to public service as Federal judges. They should be able to plan their financial futures based on the reasonable expectation that their compensation will at least keep even with annual cost-of-living increases.

I think it is imperative to remove the judicial pay process from the political arena. In the middle of the 1980's, this issue was widely discussed on television talk shows and various news programs, and it was very damaging to attracting top quality individuals to serve as Federal judges. We also know that there were a number of resignations in the Federal judiciary in the 1980's, because it was becoming very difficult to attract top individuals to serve on the Federal bench.

I believe that we must continue to attract and retain judges from all walks of life who have demonstrated superior legal skills whether they have served as State judges, private practitioners, academicians, prosecutors, or public defenders. If we fail to deal with this matter, we will soon attract only those judges who are independently wealthy and do not have to worry about providing for their families on a Federal judiciary salary.

I think this is unwise, and I hope that Congress will have the courage to repeal section 140 of Public Law 97-92 and further delink their cost-of-living adjustments from Members of Congress and executive schedule employees, thereby removing this matter from the political process once and for all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL COST-OF-LIVING INCREASES.

(a) REPEAL OF STATUTORY REQUIREMENT RELATING TO JUDICIAL SALARIES.—Section 140 of the resolution entitled "A Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes.", approved December 15, 1981 (Public Law 97-92; 95 Stat. 1200; 28 U.S.C. 461 note) is repealed.

(b) AUTOMATIC ANNUAL INCREASES.—Section 461(a) of title 28, United States Code, is amended to read as follows:

"(a) Effective on the first day of the first applicable pay period beginning on or after January 1 of each calendar year, each salary rate which is subject to adjustment under this section shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100) equal to the percentage of such salary rate which corresponds to the most recent percentage change in the Employment Cost Index, as determined under section 704(a)(1) of the Ethics Reform Act of 1989.".

By Mr. SIMPSON (by request):

S. 1345. A bill to amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefits programs for veterans; and for other purposes; to the Committee on Veterans' Affairs.

THE DEPARTMENT OF VETERANS AFFAIRS IMPROVEMENT AND REINVENTION ACT OF 1995

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 1345, a bill to reform eligibility for Department of Veterans Affairs health care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated September 12, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the transmittal letter and the enclosed section-by-section analysis of the draft legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Improvement and Reinvention Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE PROGRAMS

PART A—REFORM OF THE HEALTH-CARE ELIGIBILITY SYSTEM

Sec. 101. Definitions.
Sec. 102. Eligibility for health care.
Sec. 103. Exposure related treatment authorities.
Sec. 104. Mental health services and bereavement counseling for family members.
Sec. 105. Consolidation of special authorities pertaining to prosthetic devices, and aids for the blind and aids for the hearing impaired.
Sec. 106. Dental care.
Sec. 107. Home improvements and structural alterations.
Sec. 108. Furnishing medications prescribed by non-VA physicians.
Sec. 109. Furnishing care in community nursing homes.
Sec. 110. Furnishing residential care.
Sec. 111. Expansion of authority to share health-care resources.
Sec. 112. Authorization of Appropriations.
Sec. 113. Conforming amendments.

PART B—ADMINISTRATION OF HEALTH-CARE BENEFITS

Sec. 120. Means test reform.
Sec. 121. VA retention of funds collected from third parties.

TITLE II—BENEFIT PROGRAMS

PART A—LOAN GUARANTY PROGRAM

Sec. 201. Termination of the manufactured housing loan program.
Sec. 202. Loan fees.
Sec. 203. Contracting for portfolio loan services.

PART B—EDUCATION PROGRAMS

Sec. 210. Electronic signatures on documents concerning education benefits for veterans.
Sec. 211. Electronic funds transfer for education benefits payments.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE PROGRAMS

PART A—REFORM OF THE HEALTH CARE ELIGIBILITY SYSTEM

SEC. 101. DEFINITIONS.

Section 1701 is amended by striking out paragraphs numbered (5), (6), (7), (8), and (9) and inserting in lieu thereof the following:

"(5) Then term 'health care' means the most appropriate care and treatment for the patient furnished in the most appropriate setting, as determined by the Secretary, including the provision of such pharmaceuticals, supplies, equipment, devices, appliances and other materials as the Secretary determines to be necessary, and including hospital care, nursing home care, domiciliary care, outpatient care, rehabilitative care, home care, respite care, preventive care, and dental care.

"(6) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

"(7) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

"(8) The term 'domiciliary care' means the furnishing of shelter and food, and includes necessary care and treatment for a disability furnished to a veteran with no adequate means of support, who has been admitted as a resident to a domiciliary facility under the direct jurisdiction of the Secretary.

"(9) The term 'outpatient care' means care and treatment for a disability, and preventive health services, furnished to an individual other than hospital, nursing home, or domiciliary care.

"(10) The term 'rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provides under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

"(11) The term 'home care' means outpatient care, rehabilitative care, and preventive health services furnished to an individual in the individual's home or other place of residence but may not include care or services that any other person or entity has a contractual or legal obligation to provide.

"(12) The term 'residential care' means the provision of room and board and such limited personal care for and supervision of residents as the Secretary determines, in accordance with regulations, are necessary for the health, safety, and welfare of residents, and the term 'community residential-care' means the provision of residential-care in a non-VA facility.

"(13) The term 'respite care' means care furnished on an intermittent basis in a department facility for a limited period to a veteran suffering from a chronic illness, who resides primarily in a private residence when such care will help the veteran to continue residing in such private residence.

"(14) The term 'preventive health services' remans care and treatment furnished to prevent disease or illness including periodic examinations, immunization, patient health education, and such other services as the Secretary determines are necessary to provide effective and economical preventive health care.".

SEC. 102. ELIGIBILITY FOR HEALTH CARE.

Section 1710 is amended to read as follows:

"§1710. Eligibility for health care

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations acts for these purposes, furnish health care which the Secretary determines is needed to any veteran described in clauses (A), (C), and (D) of subsection (c)(1), subject to the priorities set forth in subsection (c) and to section 1715 and excluding care described in subsection (b).

"(2) The Secretary may furnish health care which the Secretary determines is needed to any veteran not described in clauses (A) through (D) of subsection (c)(1).

"(b) Subject to the priorities set forth in subsection (c), the Secretary may furnish nursing home care, respite care, home care, and domiciliary care which the Secretary determines is needed to any veteran.

"(c)(1) To the extent and in the amount provided in advance in appropriations acts for these purposes, the Secretary shall furnish health care under subsections (a) and (b) and sections 1712, 1712A, 1712B, 1714, 1717, 1718, 1719, 1720B, and 1751, in accordance with the following order of priority:

"(A) Veterans (i) who have compensable service-connected disabilities, (ii) who are former prisoners of war, (iii) whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in line of duty, and (iv) who are in receipt of, or who, but for a suspension pursuant to section 1151 (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that the veterans' continuing eligibility for such care is provided for in the judgment or settlement described in section 1151.

"(B) Veterans receiving care under sections 1712, 1712A, 1719, and 1720B.

"(C) Veterans with noncompensable service-connected disabilities, veterans of the Mexican Border period or World War I, and veterans receiving increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound.

"(D) Veterans with attributable income less than the threshold amount specified in section 1722 which is applicable to those veterans, provided they sign a declaration that their net worth, together with that of their spouse and dependent children, if any, does not exceed $50,000, and veterans receiving care under section 1751.

"(E) Veterans with attributable income greater than the threshold amount specified in section 1722 which is applicable to those veterans and veterans who do not sign the declaration described in clause (D).

"(2) The Secretary may, by regulation, establish additional priorities within each priority group established in paragraph (1) of this subsection, as the Secretary determines necessary.

"(d) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

"(e)(1) The Secretary may furnish health care under subsections (a) and (b) of this section to any veteran described in subsection (c)(1)(E) who has attributable income greater than the amount specified in section 1722(a) which is applicable to that veteran, only if the veteran agrees to pay the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

"(A) for hospital care—

"(i) the lesser of the cost of furnishing such care, as determined by the Secretary, or the amount determined under paragraph (3) of this subsection; and

"(ii) $10 for every day the veteran receives hospital care.

"(B) for nursing home care—

"(i) the lesser of the cost of furnishing such care, as determined by the Secretary, or the amount determined under paragraph (3) of this subsection; and

"(ii) $5 for every day the veteran receives nursing home care; and

"(C) for outpatient care, an amount equal to 20 percent of the estimated cost of care, as determined by the Secretary.

"(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(i) of this subsection is—

"(i) the amount of the inpatient Medicare deductible, plus

"(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

"(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B)(i) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

"(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2)(B)(i) of this subsection with respect to such nursing home care until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2)(B)(i) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incure any liability under paragraph (2) of this subsection with respect to such hospital care until—

"(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

"(ii) the end of the 365-day period applicable to the nursing home care for which payment was made.

whichever occurs first.

"(E) A veteran may not be required to make a payment under paragraph (2)(A)(i) or paragraph (2)(B)(i) of this subsection for any days of care in excess of 360 days of care during any 365-calendar-day period.

"(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.".

SEC. 103. EXPOSURE-RELATED TREATMENT AUTHORITIES.

Section 1712 is amended to read as follows:

"§ 1712. Treatment for veterans exposed to certain toxic substances or hazards

"(a) Subject to subsections (b) and (c), and to the extent and in the amount provided in advance in appropriations acts for these purposes, the Secretary shall furnish hospital care and may furnish other health care to—

"(1) a veteran—

"(A) who served on active duty in the Republic of Vietnam during the Vietnam era, and

"(B) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era,

for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure;

"(2) a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure; and

"(3) a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

"(b) Hospital and health care may not be provided under subsection (a) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (1), (2), or (3) of subsection (a) in the case of a veteran described in the applicable paragraph.

"(c) Hospital and health care may not be provided—

"(1) after December 31, 1996, in the case of a veteran described in paragraph (1) of subsection (a); and

"(2) after September 30, 1997, in the case of a veteran described in paragraph (3) of subsection (a).".

SEC. 104. MENTAL HEALTH SERVICES AND BEREAVEMENT COUNSELING FOR FAMILY MEMBERS.

Chapter 17 is amended by adding the following new section:

"§ 1712C. Mental health services and bereavement counseling for family members

"(a) If necessary for the effective treatment and rehabilitation of a patient who is either a veteran or a dependent or survivor receiving care under the last sentence of section 1713(b), the Secretary may furnish the services described in subsection (b) to members of the immediate family of the patient, the patient's legal guardian, or the individual in whose household such patient certifies an intention to live.

"(b) The services referred to in subsection (a) are—

"(1) consultation, professional counseling, and training as necessary in connection with the treatment of any disability of a patient receiving outpatient care for a physical condition;

"(2) mental health services, consultation, professional counseling, and training as necessary in connection with the treatment of a patient receiving hospital care for any disability, or receiving outpatient care for a service-connected mental health condition;

"(3) mental health services, consultation, professional counseling, and training as necessary in connection with the treatment of a patient receiving outpatient care for a non-service-connected mental health condition, but only if the patient's treatment for the mental health condition was begun during a period of hospitalization and the services to the family member, guardian, or other person were commenced prior to the patient's discharge from such period of hospital care.

"(c) The Secretary may furnish counseling services for a limited period to any individual who was a recipient of services under subsection (a) of this section at the time of—

"(1) the unexpected death of the veteran; or

"(2) the death of the veteran while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary,

if the Secretary determines that furnishing such services would be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.".

SEC. 105. CONSOLIDATION OF SPECIAL AUTHORITIES PERTAINING TO PROSTHETIC DEVICES, AIDS FOR THE BLIND, AND AIDS FOR THE HEARING IMPAIRED.

Section 1714 is amended—

(1) by amending the heading to read as follows:

"§ 1714. Prosthetic devices and aids for the blind and hearing impaired";

(2) by designating subsection (b) as subsection (d) and inserting after subsection (a) the following new subsections (b) and (c):

"(b) The Secretary may procure medical equipment, prosthetic devices and similar appliances furnished under section 1710 or subsections (d) and (e) of this section by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.

"(c) The Secretary may repair or replace any prosthetic or orthotic device or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation."; and

(3) by adding at the end the following new subsection (e):

"(e) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.".

SEC. 106. DENTAL CARE.

Section 1715 is amended to read as follows:

"§ 1715. Dental care

"(a) The Secretary may, within the limits of Department facilities, furnish a veteran receiving hospital, nursing home, or domiciliary care in a Department facility with—

"(1) any dental services and treatment, and related dental appliances necessary for continued safe and effective treatment of other disabilities for which the veteran is receiving care in the VA facility; and

"(2) any dental services and treatment for which the veteran is eligible under subsection (b) of this section.

"(b)(1) The Secretary may furnish outpatient dental services and treatment, and related dental appliances under this chapter only for a dental condition or disability—

"(A) which is service-connected and compensable in degree;

"(B) which is service-connected, but not compensable in degree, but only if—

"(i) the dental condition or disability is shown to have been in existence at the time of the veteran's discharge or release from active military, naval, or air service;

"(ii) the veteran had served on active duty for a period of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days immediately before such discharge or release;

"(iii) application for treatment is made within 90 days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within 90 days after the date of such veteran's prior discharge or release from such service, application may be made within 90 days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within 90 days after the date of correction; and

"(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed.

"(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

"(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

"(E) which is a nonservice-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

"(F) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than 90 days is suffering;

"(G) from which a veteran who has a service-connected disability rated as total is suffering; or

"(H) the treatment of which is medically necessary (i) in preparation for hospital admission, or (ii) for a veteran otherwise receiving care or services under this chapter.

"(2) The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days provide to such member a written explanation of the provisions of clause (B) of paragraph (1) of this section and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation).

"(3) The total amount which the Secretary may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Secretary has contracted under clause (1), (2), or (5) of section 1703(a) of this title may not exceed $1,000 unless the Secretary determines, prior to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Department (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.

"(4)(A) Except as provided in subparagraph (B) of this subsection, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of section 1710(a) of this title (other than care for a veteran of the Mexican border period or of World War I, and a veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation or allowance)) and section 1703 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Secretary shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 1703 of this title for contracting with private facilities and in section 1715(a) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Secretary determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Secretary shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Secretary on the effect of the application of the criteria prescribed in section 1715(a) of this title for furnishing incidental dental care to hospitalized veterans.

"(B) A report under subparagraph (A) of this paragraph with respect to a fiscal year is not required if, in the documents submitted by the Secretary to the Congress in justification for the amounts included for Department programs in the President's Budget, the Secretary specifies with respect to contract dental care described in such subparagraph—

"(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

"(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

"(iii) the amount included in such Budget for such care.

"(c) Dental services and related appliances for a dental condition or disability described in paragraph (1)(B) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

"(d) Dental appliances, to be furnished by the Secretary under this section may be procured by the Secretary either by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.".

SEC. 107. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS.

Section 1717 is amended to read as follows:

"§ 1717. Home improvements and structural alterations

"(a) The Secretary may furnish improvements and structural alterations to the home of a veteran if necessary for the effective and economical treatment of a disability of the veteran, but only if the improvements or alterations are necessary to assure the continuation of treatment or to provide the veteran access to the home or to essential lavatory and sanitary facilities.

"(b) The cost of improvements and structural alterations (or the amount of reimbursement therefor) furnished under subsection (a) may not exceed—

"(1) $4,100 if needed—

"(A) for treatment of a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service);

"(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more; and

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section); and

"(2) $1,200 in all other cases.".

SEC. 108. FURNISHING MEDICATIONS PRESCRIBED BY NON-VA PHYSICIANS.

Section 1719 is amended to read as follows:

"§ 1719. Medications prescribed by non-VA physicians; immunization programs

"(a) The Secretary shall, to the extent and in the amount provided in advance in appropriation acts for these purposes, furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of a period of war, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran: provided, that the Secretary shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

"(b) In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Secretary may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Department health care facility. Any such immunization shall be made using vaccine furnished by the Secretary of Health and Human Services at no cost to the Department. For such purpose, notwithstanding any other provision of law, the Secretary of Health and Human Services may provide such vaccine to the Department at no cost. Section 7316 of this title shall apply to claims alleging negligence or malpractice on the part of Department personnel granted immunity under such section.".

SEC. 109. FURNISHING CARE IN COMMUNITY NURSING HOMES.

Section 1720 is amended—

(1) in the heading by striking out the semicolon and all that follows;

(2) in subsection (a)(1)(A)(i), by striking out "hospital care, nursing home care, or domiciliary" and inserting in lieu thereof "health";

(3) by striking out subsection (a) and redesignating subsection (e) as subsection (d); and

(4) by striking out subsection (f).

SEC. 110. FURNISHING RESIDENTIAL CARE.

Section 1730 is amended—

(1) by redesignating subsections (a), (b), (c), (d), and (e) as subsections (b), (c), (d), (e), and (f), respectively;

(2) by inserting the following new subsection (a):

"(a)(1) The Secretary may furnish residential care to a veteran in receipt of hospital care in a VA facility when such care would be an alternative to continued hospital care.

"(2) The Secretary may only furnish care under paragraph (1) of this subsection through contracts with community residential-care facilities—

"(A) when the veteran has no resources to pay for the care, as determined by the Secretary in regulations; and

"(B) for a period not to exceed 90 days during any 12-month period.".

(3) by amending subsection (b), as so redesignated, to read as follows:

"(b) Subject to this section and regulations to be prescribed by the Secretary under this section, the Secretary may assist a veteran who does not meet the requirement set forth in subsection (a)(2)(A) of this section by referring the veteran for placement in, and aiding the veteran in obtaining placement in, a community residential-care facility if—

"(1) at the time of initiating the assistance, the Secretary—

"(A) is furnishing the veteran hospital, domiciliary, nursing home, or outpatient care; or

"(B) has furnished the veteran such care or services within the preceding 12 months; and

"(2) placement of the veteran in a community residential-care facility is appropriate.".

(4) in subsection (c), as so redesignated, by striking out "subsection (a) of" in paragraph (1), and by inserting "community residential-care" before "facility" the first time it appears in paragraph (2);

(5) in subsection (d), as so redesignated, by striking out "(b)" and inserting in lieu thereof "(c)";

(6) in subsection (e), as so redesignated, by striking out "(b)" and inserting in lieu thereof "(c)";

(7) in subsection (f), as so redesignated, by striking out "(b)(2) or (c)(1)" and "(d)" and inserting in lieu thereof "(c)(2) or (d)(1)" and "(e)";

(8) by striking subsection (g)

SEC. 111. EXPANSION OF AUTHORITY TO SHARE HEALTH-CARE RESOURCES.

(a) The text of section 8151 is amended to read as follows:

"It is the purpose of this subchapter to improve the quality of health care provided veterans under this title, by authorizing the Secretary to enter into agreements with health-care providers in order to share health-care resources with, and receive health-care resources from those health care providers, provided there is no diminution of services to veterans. Among other things, it is intended by these means to strengthen the medical programs at Department facilities located in small cities or rural areas that are remote from major medical centers."

(b) Section 8152 is amended—

(1) by striking out paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(2) by amending paragraph (1), as so redesignated, to read as follows:

"(1) The term 'health-care resource' includes health care as that term is defined in paragraph (5) of section 1701, any other health-care service, and any health-care support or administrative resource.".

(3) by adding at the end the following new paragraph (3):

"(3) The term 'health-care providers' includes health-care plans, insurers, organizations, institutions, or any other entity or individual who furnishes any health-care resource.".

(c) Section 8153 is amended—

(1) by amending the heading to read as follows:

"§ 8153. Health-care resource sharing";

(2) by amending paragraph (1) of subsection (a) to read as follows:

"(a)(1) The Secretary may, when the Secretary determines it to be necessary in order to secure health-care resources which otherwise might not be feasibly available, or to effectively utilize health-care resources, make arrangements, by contract or other form of agreement, without regard to any law or regulation pertaining to competitive procedures, for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and non-Department health-care providers.";

(3) in subsection (c), by striking out "hospital care and medical services" and "hospital care or medical services" and inserting in lieu thereof "health care" in both places; and

(4) in subsection (d), by striking out "hospital care and health services" and inserting in lieu thereof "health care".

(5) by striking out subsection (e).

(d) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8153 and inserting in lieu thereof the following:

"8153. Health care resource sharing".

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

Subchapter II of chapter 17 is amended by adding at the end the following new section:

"§ 1720D. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

SEC. 113. CONFORMING AMENDMENTS.

(a) Section 1703 is amended—

(1) by amending the section heading to read as follows:

"§ 1703. Contracts for hospital and outpatient care";

(2) by striking out the words "medical services" wherever they appear and inserting in lieu thereof "outpatient care";

(3) in the first sentence of subsection (a), by striking out "or services" and "or 1712";

(4) by amending paragraph (2) of subsection (a) to read as follows:

"(2) Outpatient care for the treatment of any disability of—

"(A) a veteran with a service-connected disability rated at 50 percent or more;

"(B) a veteran who has been furnished hospital care, nursing home care, or domiciliary care, when reasonably necessary to complete treatment incident to such care for a period up to 12 months after discharge from such care unless the Secretary authorizes a longer period of care after finding that a longer period is required by reason of the disability being treated; or

"(C) a veteran of the Mexican border period or World War I, or a veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance) if the Secretary has determined, based on an examination by a physician employed by the Department (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Department facilities."; and

(5) by amending paragraph (5) of subsection (a) to read as follows:

"(5) Hospital care, or outpatient care for veterans in a State (other than the Commonwealth of Puerto Rico) not contiguous to the contiguous States.".

(6) in paragraph (6) of subsection (a), by striking out "to obviate the need for hospital admission"; and

(7) in paragraph (7) of subsection (a), by striking out "1712(b)(1)(F)" and inserting in lieu thereof "1715(b)(1)(F)".

(b) Section 1704 is repealed.

(c) Section 1711 is amended by striking "medical services" wherever it appears and inserting in lieu thereof "outpatient care".

(d) Section 1712A is amended—

(1) in subsection (b)(1), by striking "1712(a)(5)(B)" and inserting in lieu thereof "1710";

(2) in subsection (b)(2), by striking "1701(6)(B)" and inserting in lieu thereof "1712C"; and

(3) in subsection (e)(1), by striking "sections 1712(a)(1)(B) and" and inserting in lieu thereof "section";

(e) Section 1713 is amended by striking out "medical care" each place it appears and inserting in lieu thereof "health care".

(f) Section 1718 is amended in subsection (e), by striking out "1712(i) of this title" and inserting "1710(c)" in lieu thereof.

(g) Section 1720A is amended—

(1) by striking out "hospital, nursing home, and domiciliary care and medical rehabilitative services" and inserting in lieu thereof "health care"; and

(2) by striking out "1995" and inserting in lieu thereof "1997".

(h) Section 1720B is repealed.

(i) Section 1720D is redesignated as section 1720B.

(j) Section 1724 is amended—

(1) by amending the heading to read as follows:

"§ 1724. Health care abroad";

and

(2) by striking out "medical services" wherever it appears and inserting in lieu thereof "outpatient care".

(k) Section 1727 is amended by striking out "medical services" and inserting in lieu thereof "outpatient care".

(l) Section 1728 is amended by striking out "medical services" and inserting in lieu thereof "outpatient care".

(m) Section 1734 is amended—

(1) by amending the heading to read as follows:

"§ 1734. Health care in the United States";

and

(2) by striking "hospital and nursing home care and medical services" and inserting in lieu thereof "health care".

(n) The table of sections for subchapters I, II, and III and IV at the beginning of chapter 17 is amended to read as follows:

"Subchapter I—General

"Sec.
"1701. Definitions.
"1702. Presumption relating to psychosis.
"1703. Contracts for hospital and outpatient care.

"Subchapter II—Hospital, Nursing Home, or Domiciliary Care and Medical Treatment

"1710. Eligibility for health care.
"1711. Care during examinations and in emergencies.
"1712. Treatment for veterans exposed to certain toxic substances or hazards.
"1712A. Eligibility for readjustment counseling and related mental health services.
"1712B. Counseling for former prisoners of war.
"1712C. Mental health services and bereavement counseling for family members.
"1713. Medical care for survivors and dependents of certain veterans.
"1714. Prosthetic devices and aids for the blind and hearing impaired.
"1715. Dental care.
"1716. Hospital care by other agencies of the United States.
"1717. Home improvements and structural alterations.
"1718. Therapeutic and rehabilitative activities.
"1719. Medications prescribed by non-VA physicians; immunization programs.
"1720. Transfers for nursing home care.
"1720A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.
"1720B. Counseling and treatment for sexual trauma.
"1720C. Noninstitutional alternatives to nursing home care: pilot program.
"1720D. Authorization of Appropriations.

"Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

"1721. Power to make rules and regulations.
"1722. Income thresholds.
"1722A. Copayment for medications.
"1723. Furnishing of clothing.
"1724. Hospital care, medical services, and nursing home care abroad.
"1726. Reimbursement for loss of personal effects by natural disaster.
"1727. Persons eligible under prior law.
"1728. Reimbursement of certain medical expenses.
"1729. Recovery by the United States of the cost of certain care and services.
"1730. Community residential care.

"Subchapter IV—Hospital Care and Medical Treatment for Veterans in the Republic of the Philippines

"1731. Assistance to the Republic of the Philippines.
"1732. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center.
"1733. Supervision of program by the President.
"1734. Health care in the United States.
"1735. Definitions.".

PART B—GENERAL PROGRAM ADMINISTRATION IMPROVEMENTS

SEC. 120. MEANS TEST REFORM.

(a) Section 1722 is amended to read as follows:

§ 1722. Income thresholds

"(a)(1) For purposes of section 1710(c)(1)(D), section 1710(c)(1)(E) and section 1710(e), the income threshold for the calendar year beginning on January 1, 1995, is—

"(A) $20,469 in case of a veteran with no dependents; and

"(B) $24,585 in the case of a veteran with one dependent; plus $1,368 for each additional dependent.

"(2) Effective on January 1, of each year after 1995, the amounts specified in paragraph (1) shall be increased by the percentage by which the maximum rates of pension were increased under section 5312(a) during the preceding calendar year.

"(b) For purposes of this chapter, the term 'attributable income of a veteran' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 1521 of this title would be reduced if such veteran were eligible for pension under that section.

"(c) If a veteran has attributable income greater than the applicable amount specified in subsection (a), but projections of the veteran's income for the current year are that it will be substantially below that amount, then to avoid a hardship to the veteran, the Secretary may deem the veteran to have an attributable income less than the applicable amount specified in subsection (a).

"(d) For the purposes of section 1724(c) of this title, the fact that a veteran is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Secretary,

"shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.".

(b) Section 1722A(a)(3)(B) is amended by inserting "attributable" before "income".

SEC. 121. VA RETENTION OF FUNDS COLLECTED FROM THIRD PARTIES.

(a) Section 1729(g) is amended—

(1) in paragraph (3)(A) by striking "1710(f) of this title for hospital care or nursing home care, under section 1712(f) of this title for medical services" and inserting in lieu thereof "1710(e) of this title for health care".

(2) by amending paragraph (4) to read as follows:

"(4) Not later than January 1 if each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30, the preceding year—

"(A) minus any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3); and

"(B) minus twenty-five percent of that part of such balance that exceeds the baseline in the President's Budget for third party deposits in that fund for that fiscal year, which shall be retained by VA and distributed to VA health care facilities for use in improving the quality of health care provided by those facilities.".

TITLE II—BENEFIT PROGRAMS

PART A—LOAN GUARANTY PROGRAM

SEC. 201. TERMINATION OF MANUFACTURED HOUSING LOAN PROGRAM.

Section 3712 is amended—

(1) by striking out subsection (l) in its entirety;

(2) by redesignating subsection (m) as subsection (l); and

(3) by inserting after subsection (l), as so redesignated, the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, no loan closed after September 30, 1995, may be guaranteed under this section.

"(2) Paragraph (1) of this subsection shall not apply to a loan described in subsection (a)(1)(F) of this section.".

SEC. 202. LOAN FEES.

(a) Section 3729(a)(2) is amended—

(1) by striking out in subparagraph (A) "or for any purpose specified in section 3712 (other than section 3712(a)(1)(F)) of this title";

(2) by striking out in subparagraphs (B) and (C) "(except for a purchase referred to in section 3712(a) of this title)" each place it appears;

(3) by inserting "or" at the end of clause (i) of subparagraph (D);

(4) by striking out clause (ii) of subparagraph (D);

(5) by striking out in clause (iii) of subparagraph (D) "other than a purchase referred to in section 3712 of this title)"; and

(6) by redesignating clause (iii) of subparagraph (D) as clause (ii).

(b) The amendments made by this section shall take effect October 1, 1995.

SEC. 203. CONTRACTING FOR PORTFOLIO LOAN SERVICES.

(a) Subchapter III of chapter 37 is amended by inserting after section 3735 the following new section:

"§ 3736. Portfolio loan servicing

"(a) Notwithstanding the provisions of any other law, the Secretary is authorized to contract with a private entity for the servicing of loans made or acquired by the Secretary under this chapter. The contract may provide for the contractor to retain, as compensation for the work performed under such contract, a portion of the interest collected on such loans. A contract under this subsection may be for a term not in excess of 15 years.

"(b) For purposes of the Federal Credit Reform Act of 1990, the deduction from interest retained by a contractor as authorized by subsection (a) of this section shall be deemed to be a cost of a direct loan or the cost of a loan guarantee, and not an administrative expense.".

(b) The table of sections at the beginning of such chapter is amended by inserting below the item relating to section 3735 the following new item:

"3736. Portfolio loan servicing.".

PART B—EDUCATION PROGRAMS

SEC. 210. ELECTRONIC SIGNATURES ON DOCUMENTS CONCERNING EDUCATION BENEFITS FOR VETERANS.

(a) Section 3674(a)(3) is amended by inserting "(A)" before "Each" and by adding at the end the following new subparagraph (B):

"(B) The Secretary may require that any report or certification required by this subsection be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.".

(b) Section 3680(g) amended—

(1) by inserting "(1)" after the "(g)" at the beginning; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may require that any report or certification required under this section be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.".

(c) Section 3684 is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the Secretary may require that any report or certification required by this section is to be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.".

(d) Section 5101 (a) is amended—

(1) by inserting "(1)" after the "(a)" at the beginning; and

(2) by adding at the end the following new paragraph:

"(2) The secretary is authorized to provide that a claim for education benefits under laws administered by the Department may be submitted to the Department electronically through an electronic terminal, telephone, computer or other electronic means in such manner as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the claimant on the electronic claim submitted by the claimant. Such a digital signature or other electronic designation will be deemed to be the individual claimant's original signature.".

(e) Chapter 53 is amended—

(1) by adding at the end the following new section:

"§ 5320. Verification of education benefits information

"(a) The Department may utilize data electronically provided to the Department by any individual in initially establishing or verifying eligibility or continued eligibility of an individual for education benefits under laws administered by the Department. The data will be in the form prescribed by the Secretary.

"(b) Notwithstanding section 552a(o) and (p) of title 5, the Secretary may suspend, terminate, or reduce payments based on the data described in subsection (a) once the Secretary (1) informs the individual of the data provided electronically, (2) gives the individual an explanation of the procedures to contest such data, and (3) gives notice of the individual's right to appeal the decision in the same manner as applies to other information and findings relating to eligibility for or entitlement to the payment of such benefits."; and

"(2) by amending the table of sections for such chapter by adding at the end the following new item:

"§ 5320. Verification of education benefits information".

SEC. 211. ELECTRONIC FUNDS TRANSFER FOR EDUCATION BENEFITS PAYMENTS.

Section 5120(d) is amended—

(a) by striking out "Notwithstanding" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, and notwithstanding"; and

(b) by adding a the end thereof the following new paragraph:

"(2)(A) Notwithstanding the provisions of section 3680(d)(4) of this title and subsection (a) of this section, the Secretary is authorized to require, pursuant to an agreement with the Secretary of the Treasury under which the Secretary certifies such benefits for payment, that education benefits provided under laws administered by the Department be paid through electronic funds transfer, to include a program combining use of vouchers and federally established electronic benefit transfer accounts or any other electronic funds transfer program designated by the Secretary.

"(B) For purpose of this paragraph, the term "electronic funds transfer" means any transfer of funds, other than a transaction originated by cash, check or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.".

SECTION BY SECTION ANALYSIS

SECTION 101—DEFINITIONS

Section 101 of the draft bill would amend 38 U.S.C. §1701, which defines a number of terms that are important for administering VA health care eligibility laws. The definitions of several terms are revised to make them simpler. In addition to revising definitions, the bill would add definitions of the terms "health care" and "residential care" to section 1701, and transfer definitions of terms into section 1701. For example, the definition of the term respite care is moved from section 1720B.

Definition of health care

The term "health care" is at the heart of the reformed eligibility system established by other provisions of the draft bill. The definition of the term first states that it means the most appropriate care and treatment of the patient, furnished in the most appropriate setting. The definition further states that the term "health care" includes all of the generally accepted modes of health care that VA furnishes to veterans. Thus, the term is defined as including hospital care, nursing home care, domiciliary care, outpatient care, rehabilitative care, home care, respite care, preventive care, and dental care. The definition also states that health care includes pharmaceuticals, supplies, equipment, devices, appliances and other necessary materials. The intent of that language is to include all of the different types of medical equipment, prosthetic and orthotic devices, and other supplies the Department now furnishes to veterans, many of which are included in the current definition of the term "medical services."

Definition of hospital care, nursing home care and outpatient care

Section 1701 would also include specific definitions of the various terms used in the definition of health care. Included are definitions of hospital care, nursing home care, and outpatient care. Each of those three terms are defined simply and it is intended that they carry the same meanings that are commonly understood in the medical community.

Definition of domiciliary care

A new definition of the term "domiciliary care" is added to section 1701. It provides that such care is applicable only to veterans with no adequate means of support. That language is intended to continue in effect one of the eligibility requirements for domiciliary care that is now included in 38 U.S.C. §1710(b).

Definition of rehabilitative care

The definition of the term "rehabilitative care" remains unchanged from existing law.

Definition of home care

The bill would add a definition of the term "home care" to section 1701. The definition intentionally limits home care to health services and does not include health-related services such as homemaker or social support services. The definition also includes language stating that the term does not include care or services that any other person or entity has a contractual or legal obligation to furnish. The purpose of that language is to ensure that VA not be required to furnish home care to a veteran who resides in a board and care facility, a residential care facility, a nursing home, or other institution where the institution has a legal or contractual responsibility to provide the type of care included in home care.

Definition of residential care

The bill would add a definition of the term residential care to section 1701 referring to the new type of residential care which would be authorized in section 1730. The definition is patterned on the definition of the term "community residential-care" that is now included in 38 U.S.C.§1730(f). The term would be defined as the provision of room and board and such limited personal care and supervision of residents as the Secretary determines, in regulations, is needed for the health, safety and welfare of residents. The definition of "community residential-care" now in 1730 would be deleted. In lieu of that, the new definition would provide that community residential care is simply residential care furnished in a non-VA facility.

Definition of respite care and preventive health services

Section 101 would add a definition of the term "respite care" to section 1701 that is essentially the same as the definition of that term now included in 38 U.S.C. §1720B. Section 101 would also revise the definition of preventive health services to make it somewhat shorter and more concise then the existing definition.

SECTION 102—BASIC HEALTH CARE ELIGIBILITY

Section 102 of the draft bill would completely revise 38 U.S.C. §1710. The revised section 1710 would become the basic eligibility provision for most of the conventional health care benefits VA furnishes, including hospital, nursing home, domiciliary, and outpatient care.

Authority to furnish health care

Subsection (a) of the revised section 1710 would provide that the Secretary "shall" furnish certain veterans with needed health care, subject to specified conditions and limitations, and "may" furnish such care to other veterans. Those veterans to whom the Secretary "shall" furnish care, those with so-called mandatory eligibility, would generally be the same as those who currently have mandatory eligibility for VA hospital care under the current 38 U.S.C. §1710(a)(1). Those veterans are commonly referred to as category A veterans, and include veterans having service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the statutorily established income threshold commonly referred to as the means test threshold. Subsection (a)(1) of the revised section 1710 specifically provides that the requirement that the Secretary "shall" furnish health care would not apply to dental care, nursing home care, home care, respite care and domiciliary care. Those veterans to whom the Secretary "may" furnish health care under the bill would be the so-called category C veterans, generally those having no service-connected disabilities who have incomes above the means test income threshold.

Because "health care" is defined in section 1701 as including outpatient care, the revised section 1710 would have the effect of completely eliminating the currently existing requirements that VA furnish outpatient care to many veterans only if it is needed as pre-hospital care, post-hospital care, or to obviate the need for hospital care. Additionally, the changes would permit the Department to furnish needed prosthetic and orthotic devices to any veteran eligible for health care regardless of whether care is furnished on an inpatient or outpatient basis.

Subsection (a) of the revised section 1710 would also make the provision of all health care subject to the prioritization scheme described in subsection (d) of the revised section 1710. Finally, subsection (a) would include language explicitly providing that the Department shall furnish care only to the extent that Congress appropriates funds for that purpose in advance of delivering the care.

Authority to furnish nursing home, domiciliary, respite and home care

Subsection (b) of the revised section 1710 would provide that the Secretary "may" furnish needed nursing home care, home care, respite care, and domiciliary care to any veteran, subject to the limits of available resources, and subject to the same priority scheme described in subsection (d). Under current law, all veterans have so-called discretionary eligibility for nursing home care, and that is unchanged. However, the language making the provision of nursing home, domiciliary, respite and home care subject to available resources, and subject to a priority scheme is new.

Priorities for the purpose of furnishing health care

Subsection (c) of the revised section 1710 would require the Secretary to furnish health care benefits in accordance with specified priorities. The provision would apply to nearly all health-care benefits VA furnishes. Subsection (c) would set up five priority groups. It further provides that the Secretary could, by regulation, establish additional priorities within each statutory priority group.

Priority group one

The first priority group includes veterans with compensable service-connected disabilities and former prisoners of war. In addition, this group includes two smaller categories of veterans, those discharged from the military for a service-related disability, but who for various reasons have not sought service-connection, and those injured as a result of care rendered by VA who are receiving benefits under 38 U.S.C. §1151.

Priority group two

The second priority group includes veterans who receive certain specialty care under one of the following four special treatment authorities.

1. Veterans receiving care for disabilities which may possibly be associated with exposure to herbicides (such as Agent Orange) in Vietnam, to radiation during nuclear weapons testing, or as a result of the bombing of Hiroshima and Nagasaki, Japan, or to environmental hazards or other toxins in the Persian Gulf. A revised section 1712 would be the basic authority for this care.
2. Veterans receiving readjustment counseling. Section 1712A is the basic authority for this care.
3. Veterans receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance, who obtain medication from VA based on prescriptions written by their private physicians. A revised section 1719 would be the authority for the Department to furnish the medication.
4. Veterans receiving sexual trauma counseling. A revised section 1720 would provide authority for this counseling.

Priority group three

The third priority group includes veterans with service-connected disabilities rated 0%, veterans of the Mexican Border period, veterans of World War I, and veterans receiving increased pension based on the need of regular aid and attendance or by reason of being permanently housebound.

Priority group four

The fourth priority group includes nonservice-connected veterans with incomes below the current means test income thresholds who also sign a declaration that their family net worth does not exceed $50,000. The income thresholds are the same as those now in effect, which are set forth in 38 U.S.C. §1722. For calendar year 1995, they are $20,469 for a single veteran, $24,585 for a veteran with one dependent, and $1,368 for each additional dependent. If the veteran's net worth exceeds $50,000, or the veteran refuses to sign a declaration that it is less than that amount, the veteran is included in priority group five described below. This fourth priority group also includes veterans receiving screening, counseling, and treatment for sickle cell anemia under 38 U.S.C. §1751.

Priority group five

The fifth priority group includes nonservice-connected veterans with incomes above the current means test income thresholds. It also includes nonservice-connected veterans with incomes below that level, but who have family net worth in excess of $50,000, or who refuse to sign a declaration that net worth is less than that amount.

Care furnished by other Government entities

Subsection (d) of the revised section 1710 is identical to subsection (g) in the current section 1710, which provides that VA is not obligated to provide care to veterans, such as those who are incarcerated, to whom another governmental entity is legally obligated to furnish care.

Copayments

Subsection (e) of the revised section 1710 retains the currently existing copayment structure with one substantive change. Generally, veterans with incomes above the means test income thresholds must agree to pay copayments amounting to the Medicare deductible for each 90 days of care, and must pay per diem amounts of $10 for each day of hospital care and $5 for each day of nursing home care. The first substantive change has to do with the outpatient care copayment. Currently, veterans required to pay a copayment must pay 20% of the average cost of an outpatient visit. Subsection (e) would change that to provide that veterans pay 20% of the estimated cost of the care. The change would be made to bring copayments more in line with the actual cost of furnishing care.

Furnishing inpatients with dental and outpatient care

Two provisions now included in section 1710(c) would be deleted from the revised section 1710. The first provision permits the Department to furnish dental care to inpatients when needed to continue safe and effective treatment of other disabilities for which the veteran is receiving care. That provision has been simplified and included as subsection (a) of the revised section 1715, which is the section concerned with dental care. The second provision pertains to furnishing outpatient care to inpatients. It has been deleted because it would be unnecessary with the other changes in law the bill would make it simplify eligibility for outpatient care.

SECTION 103—AGENT ORANGE, RADIATION, AND PERSIAN GULF TREATMENT AUTHORITIES

Section 103 would completely revise the current 38 U.S.C. §1712, which now provides the Department with authority to furnish outpatient care. Much of the language in the current section 1712 is unnecessary given the changes in basic eligibility for outpatient care and would be deleted. Language in the current section that must be retained is transferred to other sections in chapter 17. Finally, the so-called Agent Orange, Radiation, and Persian Gulf treatment authorities would be moved from the current section 1710(e) to the revised section 1712.

Deletion of current outpatient eligibility rules

Subsection (a) of the current section 1712 now includes all of the eligibility requirements that pertain to outpatient medical services. Under the proposed eligibility scheme, encompassed in the revised section 1710, which would authorize the Secretary to furnish all needed health care, including outpatient care, there is no need for any of those existing requirements. Accordingly, section 103 of the bill would delete them. The rules in question are those which provide that the Secretary shall furnish outpatient medical services to certain veterans, and may furnish such services to other veterans. They are also the requirements which limit outpatient care in certain cases to that needed as pre-hospital care, post-hospital care, or to obviate the need for hospital care. A priority scheme now set forth in subsection (i) of section 1712 would also be deleted as unnecessary because the proposed new section 1710 includes priority provisions. Finally, the copayment provisions applicable to VA's furnishing outpatient care, now set forth in subsection (f) of section 1712, have been moved to the proposed new subsection (e) of section 1710.

Outpatient dental care requirements

The current section 1712 also includes eligibility requirements which pertain to VA provision of outpatient dental services. The draft bill would make no changes in those requirements. However, the bill would move all of the dental provisions now included in section 1712(b), (c), (d), and (e) to a new section 1715, which would be entitled "Dental care."

Privately prescribed medications and immunizations

Two other provisions included in the current section 1712 would also be retained, but moved to another section. First, subsection (h) of the existing 1712 authorizes the Secretary to fill prescriptions written by non-VA physicians for veterans who are receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance. Second, subsection (j) of the current section 1712 authorizes the Secretary to provide immunizations to veterans as part of national immunization programs administered by the Department of Health and Human Services. The provisions of subsections (h) and (j) would be moved to a new section 1719, which would be entitled "Medications prescribed by non-VA physicians; immunization programs."

Agent Orange, radiation, and Persian Gulf

In place of other provisions deleted or transferred from section 1712, the draft bill would insert in section 1712 provisions now set forth in subsection (e) of section 1710. The provisions provide authority for VA to treat disabilities which may possibly be associated with exposure to herbicides, such as Agent Orange, during service in Vietnam, exposure to ionizing radiation from nuclear testing or in post-War Japan, and exposure to environmental hazards and contaminants in the Persian Gulf area. The provisions would be transferred from the current section 1710, generally without substantive legal change.

The revised section 1712 would, however, extend the time period during which VA would have authority to provide the treatment under that section. Under current law, the Department's authority to provide care for those exposed to herbicides in Vietnam or to ionizing radiation expires on June 30, 1995. The draft bill would extend the herbicide treatment authority through December 31, 1996, and would make the ionizing radiation authority permanent. The Department currently may provide care for those exposed to toxic substances or environmental hazards in the Persian Gulf through December 31, 1995. The draft bill would extend that authority through September 30, 1997.

SECTION 104—MENTAL HEALTH SERVICES AND BEREAVEMENT COUNSELING FOR FAMILIES

Section 104 would add a new section 1712C entitled "Mental health services and bereavement counseling for family members." Under current law, those services are authorized via the definition of medical services. All of the details and limits on the Department's furnishing the services are presently contained in the definitions of "hospital care" and "medical services" in the current section 1701. Those definitions would be revised under this bill, as discussed above, and written much more simply. The content of the old definitions related to mental health services and bereavement counseling for family members is being transferred to the new section. The counseling and other services would be furnished under the new section 1712B, not as a form of health care under the proposed new section 1710. However, there would be no substantive change in existing authority to furnish the services.

SECTION 105—SPECIAL AUTHORITIES RELATED TO FURNISHING PROSTHETIC DEVICES, AND AIDS FOR THE BLIND AND HEARING IMPAIRED

Section 105 would amend 38 U.S.C. §1714, which currently authorizes VA to furnish veterans who receive a prosthetic appliance from VA with proper fitting of the device, and training in it use. It further authorizes guide dogs and devices and appliances for the blind. Section 105 would retain those existing provisions in section 1714, and add other provisions, now located in other parts of chapter 17, to the section. The proposed new section 1714 would not include any authority that does not already exist in chapter 17 of title 38.

Devices for the hearing impaired

Section 1717(c) currently contains authority for VA to furnish devices to assist veterans in overcoming the handicap of deafness. Section 105 would transfer that language to section 1714, where it more logically belongs.

Repair of prosthetic devices

Section 1719 currently authorizes VA to repair or replace prosthetic appliances and other medical equipment and devices damaged by a fall or accident caused by a service-connected disability. Section 105 would transfer that language to section 1714.

Acquisition of prosthetic devices

Language now included in 38 U.S.C. §1712(d), which authorizes the Secretary to purchase or manufacture medical equipment, prosthetic devices, and similar appliances, would be transferred to section 1714.

SECTION 106—DENTAL CARE

Abolition of authority to furnish tobacco

Section 106 would completely revise 38 U.S.C. §1715. Currently, that section authorizes the Secretary to furnish tobacco to veterans receiving hospital or domiciliary care. Because it is Departmental policy that tobacco ordinarily not be used in health-care facilities, section 106 would repeal the authority to furnish tobacco. In its place, section 106 would place in section 1715 all of the eligibility requirements governing VA's provision of dental care, which are now contained in subsection (c) of section 1710, and subsections (b), (c), and (d) of section 1712.

Inpatient dental care

Language currently in subsection (c) of section 1710 permits the Department to furnish dental care to inpatients when needed to continue safe and effective treatment of other disabilities for which the veteran is receiving care. That provision has been simplified and included as subsection (a) of the revised section 1715. Additionally, subsection (a) would authorize the Secretary to furnish inpatients with any other dental care for which they would be eligible to receive on an outpatient basis.

Outpatient dental care

Currently, VA has very detailed eligibility requirements governing the provision of dental care on an outpatient basis. Those requirements are set forth in subsections (b), (c), and (d) of section 1712. Section 106 of this bill would transfer the language now in section 1712 into section 1715, virtually unchanged. No substantive legal changes in the eligibility requirements for outpatient dental care are intended.

SECTION 107—HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS

Deletion of home care provisions

Section 107 would revise 38 U.S.C. §1717. Section 1717 currently authorizes the Department to furnish home health services as a form of outpatient medical services. The section further provides that the department may furnish certain veterans home improvements and structural alterations as a form of home health services. Section 107 would delete the references to home health services.

The language is unnecessary because home health care is included in the new definition of "health care" in the revised section 1701, and such care would be furnished pursuant to section 1710. However, the language regarding the furnishing of home improvements and structural alterations would be retained in section 1717.

Home improvements and structural alterations

The current language in section 1717 pertaining to home improvements and structural alterations would be revised somewhat so that it provides stand alone authority for the improvements and alterations. The improvements and alterations would not be a form of outpatient care, as is now the case. Rather, section 1717 would be the authority for the benefit. All of the existing limits on furnishing home improvements and structural alteration would be retained without change.

Invalid lifts and therapeutic and rehabilitative devices

Section 1717 currently contains authority for furnishing certain veterans with invalid lifts and therapeutic and rehabilitative devices. That authority is now largely duplicative of other authority to furnish the items as a form of medical services. Section 107 would delete the authority as it is unnecessary. The definition of "health care" in the revised section 1701 would include the lifts and devices, and the Secretary's authority to furnish health care would provide authority to furnish such items.

Aids for the hearing impaired

Section 1717(c) currently contains authority to furnish devices to assist veterans in overcoming the handicap of deafness. Section 105 of the draft bill would transfer that authority without change to the proposed new section 1714.

SECTION 108—PRIVATELY PRESCRIBED MEDICATIONS AND IMMUNIZATIONS

Section 108 would completely revise 38 U.S.C. §1719. That section currently authorizes VA to repair or replace prosthetic appliances and other medical equipment and devices damaged by a fall or accident caused by a service-connected disability. Section 105 of the draft bill would transfer that authority to section 1714. In its place, section 108 would insert two authorities now included in section 1712. The first is authority for the Secretary to fill prescriptions written by non-VA physicians for veterans who are receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance. The second is authority for the Secretary to provide immunizations to veterans as part of national immunization programs administered by the Department of Health and Human Services. Those two authorities are currently included in subsections (h) and (j) of section 1712.

SECTION 109—COMMUNITY NURSING HOME CARE

Section 109 would amend 38 U.S.C. §1720, VA's authority to contract for nursing home care. The changes would permit VA to directly admit a nonservice-connected veteran to a contract community nursing home. Under current law, only service-connected veterans may be admitted directly. Additionally, section 109 would delete obsolete language in section 1720 which authorizes VA to furnish veterans with adult day health care. That special authority to furnish adult day health care expired in 1991. More importantly, the definition of the term "health care" which would be added to section 1701 would include adult day health care.

SECTION 110—RESIDENTIAL CARE

Section 110 would revise 38 U.S.C. §1730, which now authorizes a community residential care program under which VA refers veterans to board and care homes that the veterans pay for with their own resources, often VA monetary benefits such as compensation or pension. The draft bill would add a new subsection (a) to section 1730 to authorize VA to furnish such care to certain veterans. The authority to provide the care would be completely discretionary, and quite limited. The Secretary could authorize transfer of a veteran into such care only if the veteran is actually receiving VA hospital care in a VA facility, and the residential care is an alternative to continued hospital care. Moreover, such a transfer could be authorized only when the veteran has no resources to pay for the services. During the period of time that a veteran is receiving residential care, VA officials would be undertaking efforts to assist the veteran in securing alternative funding, such as public assistance, for the care of the veteran. Care would be furnished on a contract basis, and could continue for no more than 90 days in any year.

The amendments made by section 110 would not alter the existing community residential care referral program. Veterans who qualify for that program could not qualify for the proposed new program under which VA pays for the care because they would have alternative arrangements for payment for the care. Thus, they could not meet the eligibility requirements of the new program.

SECTION 111—SHARING HEALTH CARE RESOURCES

Section 111 would amend three sections in chapter 81 of title 38 that authorize VA's program to share health-care resources. The provisions would expand VA's ability to obtain health-care resources to serve the needs of veterans in the changing health care environment. Changes to these sections would facilitate the successful implementation of the reformed eligibility system that other sections of the draft bill would establish. The amendments would allow VA to more easily acquire services for veterans, and would permit VA to provide health care services to other providers in the community when it would be beneficial to both parties, and when there would be no diminution of services to veterans.

Basic sharing authority

Subsection (b) of section 111 would amend 38 U.S.C. §8153, VA's basic sharing authority, to allow VA to share a wider array of resources with a wider array of other care providers than is now the case. It would delete language in that section which lists the different types of providers with whom the Department may share, and in lieu thereof, would authorize sharing with "health care providers." It would also allow VA to share any "health care resource."

Definitions

Section 111(c) would add to 38 U.S.C. §8152, a definition of the term "health-care providers" which would include insurers, health care plans, and any organization, entity, or individual that furnishes health care resources. VA currently lacks authority to share with insurers and with individuals such as physicians or other solo providers. It would also add a definition of "health-care resources." The term would be defined to include health care as defined in section 1701, as well as any other health-care service, and any other health-care support or administrative resource. Under existing law VA is limited to sharing "specialized medical resources."

Finally, section 111(a) would amend 38 U.S.C. §8151, which states the purpose of VA's sharing program, so that it conforms with the changes which would be made by subsections (b) and (c).

SECTION 112—AUTHORIZATION OF APPROPRIATIONS

Section 112 would add a new section 1720D to subchapter II of chapter 17 of title 38, United States Code, authorizing appropriations of such sums as are necessary to carry out the subchapter.

SECTION 113—CONFORMING AMENDMENTS

Section 113 would amend fourteen different sections in chapter 17 to make conforming changes needed as a result of other amendments made by the bill. The section would repeal two currently existing sections. Section 1720B, which authorizes respite care, would be repealed. Respite care would be provided as a form of health care. The bill would also repeal section 1704, which requires VA to submit an annual report on the provision of preventive health services. Finally, the current section 1720D, which authorizes a sexual trauma counseling program, would be redesignated as section 1720B.

SECTION 120—MEANS TEST REFORM

Section 120 would amend 38 U.S.C. §1722 to simplify administration of VA's health care benefits "means test." VA uses the means test to determine both a veteran's priority for receiving VA health care and whether a veteran must agree to pay certain copayments in exchange for care.

Income thresholds

The draft bill would first amend subsection (a) of section 1722. It would abolish use of the term "unable to defray the expenses of necessary care." The subsection would simply state that for purposes of the eligibility provisions and priority provisions of section 1710, certain income thresholds shall apply. The thresholds would be unchanged from those currently in effect for distinguishing between category A (higher priority veterans) and category C (lower priority veterans) veterans. As under existing law, the thresholds would be increased each year by the same percentage that rates of pension are increased.

Net worth

Section 120 of the bill would strike language in the currently existing section 1722(d) which provides for consideration of net worth in making the determination of whether a veteran is unable to defray the cost of care. That language is unnecessary due to language included in the proposed new section 1710(c)(1)(D), and its elimination will make administration of the means test much easier and less costly. The language in section 1710(c)(1)(D) would provide that a nonservice-connected veteran eligible for health care on the basis of low income must sign a declaration that family net worth does not exceed $50,000. If the veteran does not sign such a declaration, that veteran would have lower priority, and would be required to make copayments. The $50,000 figure is used because that is the figure VA now uses under the existing net worth test to trigger a review of a veterans net worth to determine whether a part of net worth should be used to help defray the costs of care.

SECTION 121—VA RETENTION OF THIRD PARTY COLLECTIONS

Third party collections

Section 121 would amend 38 U.S.C. §1729, the section which allows VA to recover the cost of care it provides to veterans from third parties, particularly insurance companies. Under current law, VA returns to the Treasury all amounts that it collects from third parties, less the costs of collection. Each year, the President's Budget anticipates that VA will collect a certain amount, referred to as the baseline. As an incentive to collect even more, section 121 would amend subsection (g) of section 1729 to permit VA to retain 25 percent of the amounts it collects over and above the baseline amount. The provision further provides that VA must use the additional amounts it would retain for improving the quality of health care furnished by VA facilities.

SECTION 201—MANUFACTURED HOUSING LOAN PROGRAM

Section 201 would terminate VA's authority to guarantee a loan for the purchase of a manufactured home. Any such loan closed after September 30, 1995, would not be eligible for guaranty. An exception would be made for a loan to refinance an existing VA guaranteed manufactured loan with a new loan at a lower interest rate. Under existing law, which remains unchanged a veteran may not receive cash under an interest rate reduction refinancing loan.

Section 201 would also repeal the requirement that the Secretary's annual report to the Congress contain information about VA manufactured home loans, and make other technical and conforming amendments.

SECTION 202—LOAN FEES

Section 202 would make technical and conforming amendments, consistent with the termination of the manufactured housing loan program as proposed by section 201 of this bill, to Section 3729 of title 38, United States Code, relating to the fee veterans and other borrowers and assumers pay to VA for housing loans. No change would be made in the amount of existing fees.

These amendments would take effect October 1, 1995.

SECTION 203—CONTRACTING FOR PORTFOLIO LOAN SERVICES

Section 203(a) would add a new section 3736 to title 38, United States Code, which would authorize VA to contract with a private firm to service VA portfolio loans. The term "portfolio loans" includes loans made by VA *e.g.*, in connection with the sale of VA acquired properties, known as "vendee loans," and direct loans to Native American veterans. It also includes guaranteed loans of which VA took an assignment, a procedure commonly referred to as "refunding." VA would permit the contractor to retain a portion of the interest collected on the loans as payment for services rendered. This would permit VA to have the contract bid for "basis points" in a manner similar to servicing contracts used in the private sector.

VA would be permitted to let a servicing contract for up to 15 years. Current Federal contract law generally limits contracts to a 5-year term.

This section would also provide that, for budgeting purposes under the Federal Credit Reform Act of 1990, the cost of a servicing contract authorized by this section would be treated as a cost of the loan or loan guaranty, and not as an administrative expense.

Section 203(b) would make a conforming amendment to the table of sections for chapter 37 of title 38.

SECTION 210—ELECTRONIC SIGNATURES FOR EDUCATION BENEFITS

Section 210 would amend several provisions of title 38, United States Code, to clarify that claimants for VA education benefits, State approving agencies, and schools may transmit documents with their signature electronically to permit VA to award benefits. These electronic documents, submitted in the regular course of business, would be accepted as the legal equivalent of a signed, written, paper document. As such, they could be used to make benefits determinations in an expedited manner with reduced errors.

SECTION 211—ELECTRONIC FUNDS TRANSFER FOR EDUCATION BENEFITS PAYMENTS

Section 211 would amend section 5120(d) of title 38, United States Code, to authorize VA to implement, under an agreement with the Treasury, a system requiring that payment of educational assistance allowances under all education benefits programs administered by VA would be made by electronic funds transfer. The amendment defines "electronic funds transfer" (EFT) to include the various electronic systems and devices prevalent today for such purposes, as distinguished from transactions originated by cash, check, or other paper instrument.

VA would be required to develop a plan for phasing in the conversion from a paper instrument to an EFT system for education benefits payments, and would be given discretionary authority to prescribe regulations needed to implement the EFT system. Such regulations may include authority to modify any provision of the EFT system designated by the Secretary, as well as to waive or modify the system's application in circumstances where it would be impractical.

SECRETARY OF VETERANS AFFAIRS,
Washington, DC, September 12, 1995.
Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: We are transmitting a draft bill, "To amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health-care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes."

In 1993, the Administration, led by Vice President Gore, launched its effort to improve Federal Government operations through the "reinventing government" program. This year, in phase II of that effort, VA examined its basic missions, reviewed its major programs, and developed several exciting initiatives to enable the Department to better serve veterans, and serve them in a cost-effective manner. Several of those initiatives can be implemented only through enactment of legislation. This draft bill would provide the needed changes in law.

HEALTH-CARE ELIGIBILITY REFORM

Perhaps the single most important need in the VA health-care system at this time is the need for reform of the eligibility system. Currently, the process required for a veteran to receive care from VA can be confusing and frustrating. Complicated and irrational statutory eligibility rules sometimes cause absurd outcomes. Existing law discourages VA from effectively managing care, and often promotes the use of expensive and unnecessary inpatient care.

VA designed the eligibility reform proposal in the draft bill to achieve several important objectives.

First, the eligibility system should be one that both the persons seeking care and those providing the care are able to understand.

Second, the eligibility system should ensure that VA is able to furnish patients the most appropriate care and treatment that is medically needed, cost effectively and in the most appropriate setting.

Third, veterans should retain eligibility for those benefits they are now eligible to receive.

Fourth, VA management should gain the flexibility needed to manage the system effectively.

Fifth, the proposal should be budget neutral.

Sixth, the proposal should not create any new and unnecessary bureaucracy.

The draft bill would provide that the Department "shall" furnish a specified core group of veterans with needed "health care." This would include hospital care, outpatient care, disease prevention services, pharmaceuticals, medical equipment, and prosthetic equipment and devices. Persons in the core group would generally be those veterans now commonly referred to as category A veterans: those with service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the current means test income threshold. The Department would retain authority to furnish the core group veterans with other types of health care, including nursing home care. VA would also retain authority to furnish all health care to veterans not included in the core group. The Department would furnish all care in accordance with five priority groups set forth in the bill. Finally, the bill would continue in place the current copayment structure, and would retain, essentially unchanged, the so-called Agent Orange, Radiation, and Persian Gulf treatment authorities.

The most significant change in the proposal would be the complete elimination of the complicated and archaic eligibility rules governing the provision of outpatient care. The bill would also permit wider use of cost-effective preventive health measures, and use of residential care when that would alleviate the need for hospital care. These key features will allow VA to provide the right care at the right place and the right time for the right price.

HEALTH-CARE SHARING

Today's competitive health-care environment demands that all types of service providers cooperate and work together for each to survive. The VA health-care system is an integral part of the larger health-care industry and must be able to work with partners in both the private and public sectors. However, current law imposes undue limitations on VA's ability to obtain needed health-care resources to serve veterans. Similarly, VA is unable to fully share, even when it is mutually advantageous to do so, its resources with others in the community who could benefit from the Department's expertise. To remedy that situation, the draft bill includes provisions to expand VA's ability to share resources with other community health-care providers.

The draft bill would amend existing law to permit the Department to share all types of health-care resources with all types of health-care providers in the community. It would define "health care resource" to include conventional health-care services such as hospital care, nursing home care, outpatient care, rehabilitative care, and preventive care. Additionally, it would include other health-care support or administrative services essential to the operation of a health-care system. The draft bill would also more broadly define the term "health care provider" to include insurers, health-care plans, and health-care management organizations, as well as individuals such as physicians or other solo providers. The expanded sharing authority is essential for the reform of the entire VA health-care system.

VA RETENTION OF INCREASED MEDICAL COLLECTIONS

Current law permits the VA to recover the cost of care it provides to veterans from third parties, particularly insurance companies. Funds collected are turned over to the Treasury. The Department currently does an excellent job of collecting these funds. However, as an additional incentive to VA medical centers to increase collections, the draft bill would authorize the Department to retain a portion of amounts it collects over the amounts anticipated in the budget each year. Providing an incentive such as this is a classic example of how to "reinvent" Government.

TERMINATION OF MANUFACTURED HOME LOAN PROGRAM

The draft bill would repeal the authority for VA to guarantee loans to purchase manufactured homes. The number of veterans obtaining manufactured home loans has declined significantly over the years, from a high of 13,502 in fiscal Year 1983 to only 24 in Fiscal Year 1994. Manufactured home loan foreclosure rates are significantly higher than those for site-built homes. The cumulative foreclosure rate for manufactured home loans is 38.7 percent compared to 5.58 percent for site-built homes. The high foreclosure rates in the manufactured home loan program have adversely affected the financial solvency of the loan guaranty program, and resulted in substantial debts being established against veterans whose loans were liquidated and homes repossessed. Due to this low volume, there is virtually no lender interest in using the VA manufactured home loan program. However, VA is required to maintain expertise in consumer installment finance, which differs in many respect from real estate finance.

This provision will not affect the ability of veterans to obtain VA guaranteed loans to purchase, construct, or improve conventionally-built homes, or refinance existing liens on such homes.

CONTRACTING FOR PORTFOLIO LOAN SERVICING

The draft bill would permit VA to contract for servicing of its loan portfolio in a manner which is consistent with private sector loan servicing. VA believes it is in the best interests of the Government to contract out this function. Several provisions of existing law, however, preclude VA from privatizing this function in the most effective manner.

Current law limits Federal contracts to a term of 5 years. This is too short a term for the servicing of loans that bear a 30-year maturity. The draft bill would permit the servicing contract to have a 15-year term. Second, current law requires a contract servicer to remit immediately to the Government all money collected. The bill would allow the contractor to retain a portion of the loan payments collected as its fee as is customary in the private sector. Finally, the draft bill would clarify the budget treatment of the cost of this contract under the Federal Credit Reform Act of 1990 as a cost of the loan rather than as administrative overhead, which more accurately reflects private sector accounting practices.

ELECTRONIC SIGNATURES AND ELECTRONIC FUNDS TRANSFERS—EDUCATION BENEFITS

In the modern world, information is commonly transmitted electronically. Yet statutes are often slow to catch up with technology. This draft bill would amend various laws to modernize administration of VA's education benefit programs. The bill would clarify that claimants for VA education benefits, State approving agencies, and schools may transmit documents with their signature electronically to permit VA to award benefits. The bill would also authorize VA to implement, under an agreement with the Treasury, a system requiring that payment of educational assistance allowances under all education benefits programs administered by VA would be made by electronic funds transfer.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. Outlay savings in this bill would equal its increase in direct spending, resulting in a net zero PAYGO effect. Thus, considered alone, this bill meets the pay-as-you-go requirement of OBRA.

We are advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to the Congress and its enactment would be in accord with the program of the President.

Sincerely,

JESSE BROWN.•

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 837

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 881

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1163

At the request of Mr. LEAHY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New Hampshire [Mr. SMITH], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1163, a bill to implement the recommendations of the Northern Stewardship Lands Council.

S. 1228

At the request of Mr. SMITH, his name was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. STEVENS], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. WARNER], the Senator from Colorado [Mr. BROWN], the Senator from Alabama [Mr. SHELBY], the Senator from Kansas [Mr. DOLE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Oklahoma [Mr. INHOFE], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. BENNETT], the Senator from Georgia [Mr. COVERDELL], the Senator from Wyoming [Mr. THOMAS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1228, supra.

S. 1280

At the request of Mr. MACK, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1280, a bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50-percent deduction for capital gains, to index the basis of certain assets, and to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence.

S. 1322

At the request of Mr. DOLE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1322, a bill to provide for the relocation of the U.S. Embassy in Israel to Jerusalem, and for other purposes.

S. 1323

At the request of Mr. DOLE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1323, a bill to provide for the relocation of the U.S. Embassy in Israel to Jerusalem, and for other purposes.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

SENATE RESOLUTION 185—TO EXPRESS THE SENSE OF THE SENATE REGARDING REPAYMENT OF LOANS TO MEXICO

Mr. FAIRCLOTH submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 185

Whereas the United States has provided Mexico with approximately $12,500,000,000 in loans to Mexico;

Whereas these loans were not authorized by the United States Congress;

Whereas the taxpayers of the United States should not be responsible for any losses incurred from these loans; and

Whereas certain loans to Mexico will become due and payable on October 30, 1995: Now, therefore, be it

Resolved, That, it is the sense of the Senate that no further loans should be made to Mexico without specific authorization from the United States Congress, and that, all loans made to Mexico should be repaid in full and on time, and that such debts should not be extended, rescheduled, or reduced in any manner.

Mr. FAIRCLOTH. Mr. President, today I am submitting a sense of the Senate regarding Mexico.

From day 1, I have been opposed to the Mexican bailout. It was never the sole responsibility of the United States to help Mexico pay its debtors.

These economic problems were of Mexico's own making, driven by politics, corruption, and poor economic policy.

Nevertheless, the President, without the approval of the Congress, went ahead and loaned $12.5 billion to Mexico.

This was a terrible mistake. We cannot continue to be the world's banker. We cannot continue to loan money to countries that have no intention of repaying it.

I might add that the Clinton administration has proposed the creation of an international bailout fund to deal with future problems like Mexico. I cannot think of a worse idea. Once the Congress establishes a fund—any fund—it will be used. Has money ever been appropriated by the Congress and not used? The answer is no. That is why I have introduced a bill, S. 1222, to stop the creation of this new international bailout fund.

Mr. President, returning to the Mexico issue, I would suggest that the first priority of this Congress and administration should be getting our own economic house in order before we can afford to engage in international bailouts, like Mexico.

This means getting Federal spending under control. I have to wonder if we keep putting ourselves deeper and deeper in debt—who will bail us out.

Mr. President, I firmly believe that the loans to Mexico will never be repaid. The American taxpayer will bear the burden of the Mexico bailout.

I think this is very wrong—and I intended to do everything I can to stop it—starting today.

Mr. President, last week, Mexico repaid $700 million of the nearly $12.5 billion in loans that they owe to the United States. This was a great public relations move for Mexico—but for those that read between the headlines there was something very troubling.

Mexico owes the United States $2 billion on October 30, 1995. Mexico was making payment of $700 million towards that loan.

Instead of paying that loan off in full, however, Mexico apparently intends to have the balance of what is owed by October 30—$1.3 billion—rolled over past that deadline.

This short term swap of $2 billion was extended to Mexico on February 2, 1995. It came due in May, but was rolled over in May for 90 days. It was rolled over in August for another 90 days. Now, its falling due again for a third time.

I think it is time that Mexico pays up—and on time.

Mr. President, for this reason, I am introducing a sense of the Senate that loans to Mexico be paid on time and in full.

The principle needs to be established early on in this relationship that these loans should be repaid in full and repaid on time.

If not, these so called loans will quickly become foreign aid. The Congress did not vote for foreign aid. The American taxpayer cannot afford more foreign aid. And the loans to Mexico shouldn't become foreign aid.

Further, if Mexico can't make this small repayment in full and on time—only $2 billion of the $12.5 billion—how will it ever repay the remaining balance.

The bulk of the United States loans to Mexico don't come due until 1997. They won't be fully repaid until the year 2000. But if Mexico can't repay its short term loans on time—then I do not have any hope that the loans coming due in 1997 through 2000 will ever be repaid.

Mr. President, in conclusion, Mexico made a great public relations move by repaying some of its loans last week. But the real story may be that they will never pay anymore. The real test will come shortly, by October 30 when Mexico should pay the United States $1.3 billion.

We need to be firm. We need to stand our ground now. Mexico must pay the United States back. This is what this sense of the Senate calls for.

SENATE RESOLUTION 186—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas, the defendant in Triangle MLP United Partnership v. United States, No. 95-430C, a civil action pending in the United States Court of Federal Claims, is seeking testimony at a deposition from Charles Stek and Rebecca Wagner, employees of the Senate who are on the staff of Senator Paul S. Sarbanes;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it

Resolved, That Charles Stek, Rebecca Wagner, and any other employee of the Senate from whom testimony may be required are authorized to testify and to produce documents in the case of Triangle MLP United Partnership v. United States, except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is authorized to represent Charles Stek, Rebecca Wagner, and any other employee of the Senate in connection with the testimony authorized by this resolution.

AMENDMENTS SUBMITTED

THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACT FOR FISCAL YEAR 1996

PRESSLER AMENDMENT NO. 2939

Mrs. KASSEBAUM (for Mr. PRESSLER) proposed an amendment to the bill (S. 1048) to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and inspector general; and other purposes.

On page 46, line 2, after "Center" insert a comma and the following: "and of which $2,000,000 shall be allocated in fiscal year 1996, and such sums as are necessary thereafter, for the operation of the Upper Midwest Aerospace Consortium (UMAC) of institutions in the Upper Great Plains Region for the purpose of making information derived from Mission to Planet Earth data available to the general public".

On page 57, line 18, strike "shall" and insert "is authorized to".

On page 57, line 25, strike "The" and insert "If initiated, the".

On page 58, line 15, strike "Within" and insert "If this project is initiated, then within".

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Senate Committee on Small Business will hold a joint hearing with the House Committee on Small Business on "the report of SBA's Chief Counsel of Advocacy on the Cost of Regulations on Small Business" on Tuesday, October 24, 1995, at 10 a.m., in room G50 of the Dirksen Senate Office Building.

For further information, please contact Keith Cole at 224–5175.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, October 26, 1995, at 9:30 a.m., in room 628 of the Dirksen Senate Office Building. The hearing will discuss quality of care in nursing homes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, October 19, 1995 at 9:00 a.m., in SR–332, to consider the nomination of Mr. Michael V. Dunn to be assistant secretary for marketing and regulatory programs and to be a member of the board of directors for the Commodity Credit Corporation, and Mr. John David Carlin to be assistant secretary for congressional relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HELMS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Thursday, October 19, 1995, at 9:00 a.m. on S. 1316, the Safe Drinking Water Act Amendment of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, October 19, 1995, at 9:30 a.m., in room 428A Russell Senate Office Building, to conduct a hearing focusing on revitalizing America's rural and urban communities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 19, 1995, for purpose of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to examine the role of the council on environmental quality in the decision-making and management processes of agencies under the committee's jurisdiction—Department of the Interior, Department of Energy, and U.S. Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND GOVERNMENT INFORMATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology and Government Information of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Thursday, October 19, 1995, at 10:00 a.m., in Senate Hart, room 216, on Ruby Ridge incident.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HEALTH CARE ANTIFRAUD AND ABUSE EFFORTS

● Mr. COHEN. Mr. President, over the last week there has been substantial criticism levied against the health care fraud and abuse provisions contained in the House Medicare and Medicaid reform proposals. Unfortunately, some of the headlines and attacks imply that all Republican Budget Reconciliation legislation is soft on fraud and abuse.

Headlines such as "GOP Medicare Bill Seen to Favor Fraud," and "GOP Plan to Ease Medicare Fraud Rules 'Terrible,' May Go," and "Beneath Surface, Health Care Plan Is Offering Boons" are leading the public to believe that all Republican Medicare proposals are going light on those who are ripping off Medicare while honest Medicare providers and some beneficiaries are being asked to make sacrifices to save Medicare.

As the author of fraud and abuse provisions in the Senate reconciliation bill that was recently marked up by the Finance Committee, I feel that I must set the record straight, at least as it concerns the Senate version.

I commend the Senate Finance Committee and the Senate leadership for its strong commitment to tough antifraud measures. Many law enforcement officials have indicated to me that the Senate bill contains the toughest and most comprehensive—but fair—health care antifraud bills to come out in decades. It pains me to see headlines stating that Republican efforts on health care fraud fall short.

Let me tell you about what my Senate colleagues and I have incorporated in the Senate budget reconciliation bill. My legislation:

Creates an antifraud program to coordinate Federal, State, and local law enforcement efforts to combat fraud and abuse;

Appropriates a mandatory $200 million in fiscal year 1996 for antifraud investigators and auditors with a 15-percent increase every year thereafter for 7 years;

Makes it mandatory for the Secretary of Health and Human Services to exclude individuals from receiving payment from Medicare and Medicaid when convicted of felonies relating to health care fraud and allows the Secretary to exclude individuals convicted of a criminal misdemeanor related to a health care offense;

Sets minimum periods of exclusion from Medicare and Medicaid payments;

Allows the Secretary to exclude individuals who have direct or indirect ownership or control interest of 5 percent or more in an entity—or is an officer or managing employee—if the entity is already excluded from Medicare or Medicaid;

Allows the HHS Secretary to impose intermediate sanctions on a Medicare

HMO if the HMO fails to carry out the contract such as in quality of care areas. These penalties range from $10,000 to $100,000 depending on the violation. Suspension of continued enrollment or payments can also be used as sanctions;

Establishes a national health care fraud and abuse data collection program for reporting final adverse actions against health care providers, suppliers, or practitioners. The information in the data base is required to be available to Federal and State government agencies and health plans according to procedures that the Secretary will set by regulation;

Increases civil monetary penalties from $2,000 to $10,000 for a number of current fraud and abuse violations;

Adds new prohibited practices to the current law for which civil monetary penalties can be assessed such as: incorrect coding; medically unnecessary services; and persons offering remuneration—including waiving coinsurance and deductible amounts—to induce the individual to order from a particular provider or supplier receiving Medicare or Medicaid;

Allows the HHS Secretary to impose civil monetary penalties of up to $10,000 per violation for criminal antikickback violations;

Establishes enhanced fraud and abuse guidelines to enable the provider community to better comprehend antikickback requirements;

Amends the criminal code to include:

A new health care fraud statute;

Forfeiture of property that is obtained from the proceeds traceable to health care fraud;

Injunctive relief on activities related to health care fraud;

Grand jury disclosure for health care fraud proceedings;

Criminal penalties for false statements;

Criminal penalties for obstruction of a criminal investigation;

Criminal penalties for theft or embezzlement;

Criminal penalties for laundering of money used in health care fraud offenses; and

Subpoena authority to the Attorney General for health care fraud cases.

Extends the authority of the State Medicaid fraud units by allowing the units to investigate other Federal fraud abuses at the approval of the relevant Federal agency; and allowing investigation and prosecution in the case of patient abuse in non-Medicaid board and care facilities.

This legislation has received the enthusiastic endorsement of law enforcement and prosecution agencies. At a hearing of the Senate Special Committee on Aging that I chaired this past March, FBI Director Louis Freeh testified:

> The legislation . . . addresses for the first time in a comprehensive way not only the problem, but some of the important solutions which we in law enforcement look to . . . Aspects of the bill—the establishment of a fraud and abuse database, the coordination that would be required in antifraud efforts between the Department of Justice and HHS, the establishment of an antifraud account—are tremendously innovative and helpful tools . . . A straightforward health care fraud statute would simplify prosecution of these cases and greatly enhance the ability of law enforcement to attack this problem.

At that same hearing that I convened on health care fraud and abuse, the HHS Inspector General June Gibbs Brown testified:

> We strongly support the bill . . . which proposes a number of innovative ways to address health care fraud and abuse . . . strengthening existing legal remedies for addressing fraud and abuse, amending current criminal laws, as well as enhancing administrative sanction authorities available to the Department such as civil monetary penalties and program exclusions which would aid in the fight against health care fraud and abuse.

The health care fraud provisions contained in the Senate bill have received endorsements and support from the National Association of Attorneys General and the Medicaid fraud control units. In addition, we worked very closely with the Department of Justice to create a fair, workable proposal that cracks down on fraud while not penalizing honest health care providers.

Once more, the Senate provisions save billions of taxpayers dollars without cutting services or raising taxes. Specifically the antifraud provisions yield over $4 billion in savings.

In addition, many of my colleagues both Republican and Democratic have supported and encouraged this bill for a long time including the majority leader, the chairmen of the Budget Committee, the Banking Committee, the Veterans' Committee, and the Appropriations Committee. I am also pleased to point out that several of my colleagues from the other side of the aisle have cosponsored this antifraud legislation, including Senators PRYOR, NUNN, BRADLEY, GRAHAM, and MOSELEY-BRAUN.

Mr. President, that is why I stand before the Senate today to respond to this onslaught directed at the House provisions. We in the Senate have worked too hard and too long to come up with a strong health care antifraud and abuse bill, that not even the most partisan among us could attack. We must not, Mr. President, let ourselves get wrapped up in the criticism that is being directed at the House provisions.

It is my understanding that the House has made some changes to its earlier proposals in order to toughen its response to health care fraud. Specifically, provisions have been added to toughen criminal sanctions against fraudulent health care providers. While I am very pleased that the House leadership took this step, I still have strong concerns regarding some remaining provisions in the House bill that could severely weaken our efforts to combat health care fraud.

I thank my colleagues for all their longstanding support on this issue and for letting me have the opportunity to set the record straight. •

LUNCH OF STONES

• Mr. LEAHY. Mr. President, today on Capitol Hill a number of religious organizations concerned with hunger in the United States are gathering to highlight what I believe is one of the great injustices being perpetrated in the name of welfare reform in this Congress.

Most of my colleagues, I believe, had the best of intentions when they voted for H.R. 4, the welfare reform package. But I am very concerned with the impact of the final welfare reform package on the nutritional safety net for children, families, and senior citizens. Quite simply, under either the House or Senate versions of this bill, more children will go hungry.

The majority of the savings in the Senate version of welfare reform have come out of nutrition programs, whose main beneficiaries are children. H.R. 4 contains a little bit of reform. But even the Senate version contains a whole lot of cuts—more than $30 billion in total cuts, including more than $20 billion in reduced nutrition benefits to children alone. Less than one-half of 1 percent of the bill's savings come from antifraud provisions, according to CBO estimates. Over half of the savings come from across-the-board cuts, and another 12 percent of the savings come from households with high utility costs.

Under the Senate bill, by 2002, a working-poor family of four supported by a full-time minimum wage worker would lose $324 a year in food stamp benefits from the across-the-board benefit reductions, according to the Center on Budget and Policy Priorities. An elderly SSI recipient, typically a poor woman living alone, would lose $228 a year—that's a 32-percent reduction.

The Senate bill also contains an optional block grant that will allow States to cancel the national nutritional safety net, divert funds away from food, and slash benefits during a recession.

Wrongheaded as it is, however, the Senate version is actually preferable in many ways to the House version of H.R. 4. The House bill repeals school lunches, school breakfasts, WIC, the Child and Adult Care Food Program, and other programs for children. These are among the great success stories of public policy in the 20th century. Conservative House Republicans seem to say, "If it works—but it does not fit our ideology—break it." I am pleased that many moderates of both parties are rebelling against this position.

The House bill would replace real food with junk food in school cafeterias. It would reduce food stamp benefits so they no longer pay for a decent diet. It would end scientifically based nutritional supplements for pregnant women. It would cancel the guarantee of free meals for poor schoolchildren.

This is bad public policy, and it is immoral. If we are going to turn school lunches into junk-food bonanzas and shrivel food stamps down to a meaningless few pennies per meal, we might as well feed our children stones.

Today, the Christian citizens' group Bread for the World and other religious and antihunger groups are gathering on Capitol Hill to ponder Jesus' question in the New Testament (Matthew 7:9): "Is there anyone among you who, if your child asks for bread, will give a stone?" To symbolize this concern, they are holding a "lunch of stones." Members of these groups, which include the Salvation Army, the Second Harvest National Network of Food Banks, Lutheran Social Services, the NETWORK Catholic social justice lobby, and other national religious and charitable leaders, will be visiting offices on Capitol Hill. These groups represent tens of thousands of concerned citizens who donate their time and effort to improving the diet and health of children, families, and senior citizens.

These dedicated citizens and I urge Members of this Congress to protect the national nutritional safety net that Republicans and Democrats together have constructed over the last 25 years. The safety net ensures that, even during recessions and natural disasters, children in need receive food assistance so they do not go hungry. I urge my colleagues to listen carefully to the concerns voiced in the "lunch of stones."

I also want to caution my colleagues against some of the phony arguments being bandied about on this topic. None of these gigantic cuts will reform welfare. And these cuts are not necessary to balance the budget—the President has put forward a plan to balance the budget without such gigantic cuts in nutrition programs. I believe these cuts are, quite simply, mistakes and errors in judgment. Right now there is still time to correct these errors, before more children must go hungry.•

TRIBUTE TO THE HOCKING BROTHERS

• Mr. CRAIG. Mr. President, I rise today to pay tribute to the Hocking brothers from Idaho who served together courageously during World War II.

They were a family of 10 children, 4 girls and 6 boys, and lived in Moore, ID in 1929. In 1935 they moved to Mackay, ID. Mackay was considered home for all of them. Presently, one brother lives in each of the following Idaho cities or towns: Mackay, Arco, Blackfoot, Lewiston, and Deary. All of the brothers who are able are active fishermen and hunters. Two sisters and the oldest are now deceased. The oldest brother Pat Hocking, was not in the service as he had five children and worked at the Naval Gun Rellning Plant in Arco, ID. The remaining five brothers served in one branch or another of the military service.

Jean Hocking was drafted before the war and was stationed for 38 months of continuous service in Kodiak, AK in the U.S. Army Coast Guard Artillery and the U.S. Army Ski Troopers from 1941 to 1945. He was one of the very first men drafted from Custer County. Jean's camp was located on a mountain and everything had to be hauled up the mountain by hand. Jean's commanding officer was so disciplined that Jean did not have even 1 day off while he was there. He was always on alert or patrol. One day they were on patrol skiing down the mountain when Jean's ski tip got stuck in the snow toward the bottom of the mountain that he suffered a broken leg. He was so afraid of his commanding officer that he did not seek treatment and hobbled around on his broken leg. Jean was given a military disability and was in Walter Reed Hospital for 6 months after his discharge.

Clayton Hocking served in the U.S. Army Air Corps 9th Engineering Squadron S.A.C. from 1942 to 1967. He served all over the Pacific and retired as a well-decorated staff sergeant. Clayton received a Phillipine Liberation Medal with one Bronze Service Star, a Good Conduct Medal, a World War II Victory Medal, and an Asiatic Pacific Medal. He is currently in a rest home in Arco, ID.

Frank Hocking served in the U.S. Navy and the U.S. Marines from 1942 to 1945. Frank served both the Navy and the Marines as the Marines had no medical corps. So the Navy furnished the Marines with a Medical Corps. The first place Frank was shipped overseas was to New Caledonia. While there Frank went to town one day. As he was walking down the street, he literally ran into his brother Clayton. Frank had not seen Clayton since joining, and had no idea where Clayton was stationed. Frank and Clayton were able to visit each others camps while there. After leaving New Caledonia, Frank went to New Zealand where he joined the Second Marine Division and trained before the battle of Tarawa. He was on the first wave who landed on Tarawa in the Gilbert Islands of the South Pacific. The Marines were told they had to take the well-fortified Japanese defenses of the island in 6 hours or they wouldn't be able to take it. It took them 4 days to take the island. The battle cost 1,000 Marines lives and 2,300 men were wounded. Japanese losses totaled about 8,500. The taking of the island of Saipan of the Marianas Islands was another major battle. Frank was one of the original two Marine divisions that tried to take the island from the 30,000 Japanese defenders. Frank was on the island from June 15 to July 7 when the remaining Japanese resistance tried the largest suicidal counterattack in the war. The loss of Saipan was so devastating to the Japanese that Prime Minister Tojo Hideki and his entire cabinet resigned after word of the defeat reached them.

Bill Hocking served in the 20th Air Force Division on Guam of the South Pacific from 1944 to 1946. He was the first aerial gunner on a B–17. Later, he became a belly gunner on the B–29's. The most memorable event in Bill's military career happened when three B–29 planes were flying in formation when Bill's B–29 caught on fire. He and the whole crew were forced to bail out into the ocean between Guam and Tokyo. When he bailed out, he just about drowned when he got so tangled in his parachute shroud that he couldn't even upright his one-man life raft. He had to lay there holding on to his upside down raft. When he finally got into the raft, he couldn't see any of the rest of the crew as they were all scattered. One guy in the crew happened to have a whistle and he kept blowing it. They all paddled toward the sound and that is how they all got back together. They were always concerned about sharks so they used shark repellent. The crew was adrift for 3 days before being picked up by the ship. That episode made Bill a member of the Caterpillar Club. A patch was given as special recognition for surviving a bail out.

Glen Hocking served in the 90th Naval Construction Battalion Combat Fleet Action from 1945 to 1946. Glen was 17 years old when he enlisted to follow in his older brothers' footsteps. He was told that his outfit was training to invade Japan. They were on their way to Japan when the bomb dropped on Hiroshima. He saw all the devastation over there. He was there for 9 months occupation duty. Glen came away from service with the Asiatic Pacific Area Campaign Medal and World War II Victory Medal.

These five brothers all came home alive, but still felt the sacrifices of war. Two of their cousins did not make it home. They were killed in the line of duty. This is one of the many family stories that make up the heroism and valor that led the United States and our allies to victory in World War II. The five Hocking brothers fell very blessed and lucky to have all come home. We are very blessed that they and many others were there to serve their country and to fight for democracy and the freedom all Americans hold dearly.•

PUBLIC FORUM IN GREENLEAF, WI, WITH SECRETARY OF AGRICULTURE, DAN GLICKMAN

• Mr. FEINGOLD. Mr. President, on July 31 of this year, in an extraordinary gathering on a 200-acre dairy farm in Greenleaf, WI, 300 farmers, rural business people, and others in the agricultural sector came together to convey to Secretary of Agriculture Dan Glickman the importance of reforming an archaic agricultural program, known as the Federal Milk Marketing Order System. This program, created in the late 1930's has discriminated against the Wisconsin dairy industry for years.

Those who attended this forum represent different segments of our dairy industry which have divergent political views and affiliations, but they all agreed on one fundamental issue—Federal orders must be reformed. For an industry that is made up of individuals whose only shared characteristic is their independence and staunchly self-reliant nature, this type of unanimity is rare. They wanted their message to be heard by one of the few people with the power to make Federal milk marketing orders both consistent with milk markets of the 1990's as well as equitable to all those affected by them.

The current program for regulating the pricing and sale of milk provides higher prices for fluid milk to producers distant from the Upper Midwest. While that scheme might have made sense when Wisconsin was the primary dairy producing State in the United States, but in 1995, it defies logic. This system not only creates an artificial incentive for greater milk production, but has led to increased production of manufactured dairy products driving down prices throughout the Nation and increasing Government surpluses. Federal milk marketing orders are a perfect example of excessive Government regulation creating a system which is completely out of sync with current marketing conditions and which discriminates against Wisconsin and Upper Midwest dairy producers.

Mr. President, Secretary Dan Glickman listened for over an hour to farmers frustrated not only by the existence of this system, but also by its institutional resilience. I commend him for that. It is the first time in a long time that Wisconsin dairy farmers have felt that a Secretary of Agriculture actually cared about what they had to say. Dan Glickman came not to talk to lobbyists, not to talk to politicians and not to talk to Government officials, but to listen to those whose livelihood depends, in part, on the decisions he makes.

This was a unique forum in that average farmers spoke directly to the Secretary. It linked 54 of Wisconsin's 72 counties to the meeting via satellite. While the time did not allow all those who attended to speak, those producers who did represented the diversity of my home State's agricultural sector—dairy, soybeans, corn, wheat, alfalfa, and specialty products such as mink. Each, in turn, talked about what is good and what is bad about our current Federal policies. Primarily, though, they talked about dairy policy.

At the outset of our meeting, the Secretary conceded that discrimination exists within the Federal order program benefiting some regions more than others. In response, he pledged his support to try to change the existing number and administration of current milk marketing orders. He further pledged his support to try to consolidate those orders, make periodic adjustments in price differentials, and to potentially create multiple price-setting base points. While I am not entirely pleased with the Secretary's choice to attempt these changes through the administrative process, I am pleased with his admission that the system is broken.

Mr. President, as the Congress moves toward final action on the budget reconciliation and moves toward the 1995 farm bill, I think it is important that the Secretary heard the message of Wisconsin farmers. I hope that my colleagues will hear that message as well.

Action on these items, the Secretary conceded, will be a challenge in that other regions will fight to maintain their current artificial advantages. Despite the deregulatory rhetoric of many in the 104th Congress, the Secretary's prediction is proving to be true based on recent action by the Senate Committee on Agriculture, Nutrition, and Forestry.

The legislation reported by the Agriculture Committee fails to address needed reform of this system, despite the tremendous budget savings and consumer benefits that could result from such action. That is a disappointment, Mr. President. Instead, Mr. President, the committee chose to take the easy road by cutting support prices, instead of making the difficult choices associated with milk marketing order reform.

And indeed, as the Secretary pointed out at Greenleaf, these are very difficult decisions. They are so difficult that the House of Representatives, unable to reach agreement on reform, is moving on a path toward total deregulation of the dairy industry, including the elimination of Federal milk marketing orders.

Mr. President, total deregulation of the dairy industry, is not my first choice. I would rather work with my colleagues to achieve reasonable and responsible reform of Federal orders. However, for the last 3 years, many dairy farmers in Wisconsin have been telling me that if they cannot get reform, if other regions of the country will not compromise, deregulation would be a farsight better than the raw deal they are getting now.

Mr. President, I want to work with my colleagues during the budget reconciliation process and the farm bill deliberations to reach agreement on Federal orders. However, if others are unwilling to move toward a level playing field, dairy farmers in their States may end up with nothing at all.

Mr. President, in Greenleaf, WI, the Secretary of Agriculture heard loud and clear that Upper Midwest dairy farmers are fed up with the current program that regulates milk markets. I urge my deregulation-minded colleagues to listen to what the Upper Midwest is saying on this issue as well. It is time to do the right thing—reform Federal milk marketing orders or end them.

I want to publicly thank the many people who took part of the day to travel to this small community to make their voices heard to Secretary Glickman. I ask to include the names of the participants at the conclusion of my remarks. I hope the seriousness of the situation experienced by these farmers and their families will be taken into account as these issues are debated in the days and weeks ahead.

PARTICIPANTS IN THE FORUM WITH SECRETARY GLICKMAN AT GREENLEAF, WI, JULY 31, 1995

Mark Mayer, Frank Dillon, Rodney R. Littlefield, Randy Knapp, Kathi Millard, Stephen I. Rishette, Marc A. Schultz, Tim Rehbein, Tom Kruezer, Mary Behm, Sue Beitlich, Betty Plummer, Kevin Larson, Rod Webb, Randy Anderson, Judy Derricks, Kelly Olson, Julie Dokkestul, Bob Oropp, Dwight Swenson, Nolan Anderson, Lee Gross, Roger Johnson.

Kevin Connors, Bob Bjorklund, Gordon Rankin, Dave Williams, Tom Syverod, John Markus, Ralph Rounsville, Alvin Erickson, M. Kopecky, Laura Wind-Norton, Dan Butterbrodt, Russ Dufek, Ken Horton, Randy Cochart, Clifford Duffeck, Mahlon Peterson, Bob Bosold, Sandy Webb, William Dacholm, Joel McNair, Paul Rodriguez.

Dolores Rodriguez, Craig W. VerKuilun, Tom Cochren, Deborah Van Dyk, Linda Leger, Marty Mackers, Shawn W. Pfaff, Arnold Grudey, Duane Tetzloff, Paul Gruber, Tom Badth, Leonard and Betty Wajciehowski, Myron McKinley, Dennis Donohue, Elmer R. Kitzeron, Gerald Van Asten, Orvell A. Debruin, John J. Peters, Connie Seefeldt, Dick Vaitihauer.

Ken Jenks, James Kalkofin, Jim Harris, Rep. Bill VanderLoop, Robert Fryda, Katy Duwe-Fryda, Ray Diederich, Gerlinda Dueholm, Jeremy Herrscher, Len Maurer, Roger Wyse, Stewart Huber, Dick Hauser, Renea Heinrich, Pete Kappelman, Don Norton, Bill Pamperin, Dave Mennig, Jerry Lehman, Brad Brunner, Grant E. Staszak, Reuel Robertson, Jerome Blaska.

Gregory Blaska, Norma Norton, John T. Vinhoefer, Allen Schuh, Steve Pamperin, Jerome Pamperin, Nelda J. Harris, Duane Patz, Tes VanDyke, Fred Huger, Dan Krebsbach, Steve Kellerman, Rudy and Margaret Klug, Ron Hillman, Jim Jolly, John Rouch, Kevin Erb, Jim and Lorraine Shellcox, Paul Krause, Greg Hines, Robert Zimban, Michael Mengar.

Gerald H. Vander Heiden, Gary Anderson, Jon Bechle, Bill Penterman, Tom Davies, Robert Karls, Gary Terlinden, Vicki Wiese, Jim Hunt, James E. Burns, Audrey Sukinger, Tom Walsh, Earl Walsh, Pat Leavenworth, Rama Stoviak, Ron Jones, Dan Natzke, Melvin Blarke, Irv Possin, Mike Rankin, Jay Rudolph, and Harold Epp.●

WORLD POPULATION AWARENESS WEEK

● Ms. SNOWE. Mr. President, I would like to speak briefly this morning on a matter of great importance; namely, world population. World Population Awareness Week will be held this year from October 22–29, and is designed to foster awareness of the environmental, economic, political, and social consequences of rapid worldwide population.

Let us reflect a moment on the implications of the current population growth rate. In 1830, the world's population reached 1 billion. Today, the world's population is nearly 6 billion. Unless something is done, world population in 2020 will reach 8 billion and by 2035 it will reach 12 billion.

Current levels of population growth are unprecedented. This year alone, the world's population will grow by almost 100 million people. This is like adding a new country the size of Nigeria to the world every year, or a city the size of New York City every month. Virtually all this growth takes place in the poorest countries and regions across the world—those who can least afford to accommodate such rapid population growth.

Rapid population growth is one of the world's most serious problems, posing a long-term threat to U.S. national interests in the areas of security, trade, and the environment. There are many developing countries in the world which are finally taking steps to institute the kind of free market reforms that offer them their best hope for long-term sustainable development. But high population growth rates threaten their economic development accomplishments.

Moreover, the environmental implications of such population growth is startling. A child born today can expect by the year 2000 a world where almost one-half of the world's forests will be gone and one-fifth of the world's plant and animal species will be extinct. Ground water supplies are dwindling; rivers and lakes are fouled with pollutants from industries, municipalities, and agriculture. Currently, at least 1.7 billion people, nearly one-third of the planet's population, lack an adequate supply of drinking water. The developing world already produces 45 percent of all gases contributing to global warming.

Rapid population growth, especially when overlaid with sharp social or economic divisions, places great strains on political institutions. To the extent population pressures contribute to weakening economic and political structures, they adversely affect international stability and peace. And this directly affects our own national security interests around the world.

I am very pleased that the theme of World Population Awareness Week this year is gender equality and the implementation of the Cairo Program of Action, which was approved by more than 180 countries, including the United States, at the International Conference on Population and Development last year. This is especially significant because the goals and objectives of the Cairo Program of Action include providing universal access to family planning information, education, and services; as well as eliminating poverty and illiteracy among girls and women who are disproportionately denied access to education, increasing women's employment opportunities, reducing infant mortality, and eliminating all forms of gender discrimination.

Several Governors throughout the United States, from the State of Washington to my home State of Maine, have issued proclamations recognizing World Population Awareness Week. I submit for the RECORD the proclamation of this important event issued by Gov. Angus S. King, Jr., Governor of the State of Maine.

The proclamation follows:

PROCLAMATION

Whereas, world population is currently 5.7 billion and increasing by nearly 100 million each year, with virtually all growth added in the poorest countries and regions—those who can least afford to accommodate current populations let alone massive infusions of humanity; and

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, will three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and, at the same time, have deleterious repercussions for the standard of living in more affluent areas; and

Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources, that was duly approved by 180 nations, including the United States.

Now, therefore, I, Angus S. King, Jr., Governor of the State of Maine, do hereby proclaim October 22–29, 1995 as "World Population Awareness Week" throughout the State of Maine, and urge all citizens to support the purpose and spirit of the Cairo Program of Action, and call upon all governments and private organizations to do their utmost to implement that document, particularly the goals and objectives therein aimed at providing universal access to family planning information, education and services, as well as the elimination of poverty, illiteracy, unemployment, social disintegration and gender discrimination that have been reinforced by the 1995 United Nations International Conference on Social Development and endorsed by 118 world leaders.●

DEDICATION OF THOMAS J. DODD RESEARCH CENTER

● Mr. LIEBERMAN. Mr. President, yesterday I addressed my colleagues about the dedication of the Thomas J. Dodd Research Center at the University of Connecticut this past Sunday, October 15. I asked that remarks made by President Clinton at the dedication be included in the RECORD but, unfortunately, part of that speech was not reprinted.

I ask to have printed in the RECORD the full text of the President's remarks. I also ask that the remarks of my colleague, Senator CHRIS DODD, at the dedication ceremonies also be printed in the RECORD.

The remarks follow:

TRANSCRIPT OF PRESIDENT CLINTON'S REMARKS AT DEDICATION OF THOMAS J. DODD RESEARCH CENTER, OCTOBER 15, 1995

Thank you very much, President Hartley. Governor Rowland, Senator Lieberman, members of Congress, and distinguished United States senators and former senators who have come today; Chairman Rome, members of the Diplomatic Corps; to all of you who have done anything to make this great day come to pass; to my friend and former colleague, Governor O'Neill, and most of all, to Senator Dodd, Ambassador Dodd, and the Dodd family: I am delighted to be here.

I have so many thoughts now. I can't help mentioning one—since President Hartley mentioned the day we had your magnificent women's basketball team there, we also had the UCLA men's team there. You may not remember who UCLA defeated for the national championship—(laughter)—but I do remember that UCONN defeated the University of Tennessee. And that made my life with Al Gore much more bearable. (Laughter.) So I was doubly pleased when UCONN won the national championship. (Applause.)

I also did not know until it was stated here at the outset of this ceremony that no sitting President had the privilege of coming to the University of Connecticut before, but they don't know what they missed. I'm glad to be the first, and I know I won't be the last. (Applause.)

I also want to pay a special public tribute to the Dodd family for their work on this enterprise, and for their devotion to each other and the memory of Senator Thomas Dodd. If, as so many of us believe, this country rests in the end upon its devotion to freedom and liberty and democracy, and upon the strength of its families, you could hardly find a better example than the Dodd family, not only for their devotion to liberty and democracy, but also for their devotion to family and to the memory of Senator Tom Dodd. It has deeply moved all of us, and we thank you for your example. (Applause.)

Tom Dodd spent his life serving America. He demonstrated an extraordinary commitment to the rule of law, beginning with his early days as an FBI agent then federal attorney. He was equally passionate in his opposition to tyranny in all its forms. He fought the tyranny of racism, prosecuting civil rights cases in the South in the 1930s, long before it was popular anywhere in the United States, and helping to shepherd the landmark Civil Rights of 1964 into law. He fought the tyranny of communism throughout his years in elected office. And while he bowed to none in his devotion to freedom, he also stood bravely against those who wrapped themselves in the flag and turned anti-communism into demagoguery.

Tom Dodd was in so many ways a man ahead of his time. He was passionate about civil rights, three decades before the civil rights movement changed the face of our nation. In the Senate, he pioneered programs to fight delinquency and to give the young people of our country a chance at a good education and a good job. And that is a task, my fellow Americans, we have not yet finished doing. He saw the dangers of guns and drugs on our streets, and he acted to do something about that. Had we done it in his time, we would not have so much work to do in this time.

Tom Dodd's passion for justice and his hatred of oppression came together, as all of you know, most powerfully when he served as America's executive trial counsel at the Nuremburg War Crimes Tribunal. It was the pivotal event of his life. He helped to bring justice to bear against those responsible for the Holocaust, for the acts that redefined our understanding of man's capacity for evil. Through that path-breaking work, he and his fellow jurists pushed one step forward the historic effort to bring the crimes of war under the sanction of law.

Senator Dodd left many good works and reminders of his achievement. Some bear his name—the children who have followed in his steps and served the public, who carried forward his ardent support for an American foreign policy that stands for democracy and freedom, who maintain his commitment to social justice, to strong communities and strong families. They have also upheld their father's tradition of loyalty. And as one of the chief beneficiaries of that lesson, let me say that I am grateful for it, and again, grateful for its expression in this remarkable project which will help the people of Connecticut and the United States to understand their history.

I am delighted that this center will bear the Dodd name because it is fitting that a library, a place that keeps and honors books and records, will honor Tom Dodd's service, his passion for justice and his hatred of tyranny. Where books are preserved, studied and revered, human beings will also be treated with respect and dignity, and liberty will be strengthened.

Dedicating this research center today, we remember that when the Nazis came to power, one of the very first things they did was burn books they deemed subversive. The road to tyranny, we must never forget, begins with the destruction of the truth.

In the darkest days of the war, President Roosevelt, with those awful bonfires fresh in his memory, reflected upon how the free pursuit of knowledge protects our liberty. And he put it well when he called books "the weapons for man's freedom." I am glad that Tom Dodd will be remembered here, in this place, in this building, with this center, in the state he loved, with the very best arsenal for the freedom he fought to defend his entire life.

Thank you very much. (Applause.)

REMARKS OF SENATOR CHRISTOPHER J. DODD

Mr. President, Governor Rowland, President Hartley, colleagues distinguished guests, members of my family, friends: On behalf of my family—allow me to express my thanks to you, Mr. President, for your presence here today. You honor my father, my family, my State and our University. You are the first sitting American President to ever visit this University in the 114 year history of this institution, we are grateful.

We are grateful as well to those of you with whom my father worked over the years—his colleagues—his staff—his constituency and friends for being here to join with us in the celebration of his life of public service.

For nearly 40 years my father served his State and Nation. It was a full life—a life of engagement with the great issues of his time.

We are here to dedicate a new home for his papers and artifacts of the past. In so doing, we preserve delicate fragments of history which this and future generations should find instructive.

We are also here today to remember the achievements of those who came before us—who made and recorded the history on which our present world is built. My father is one such person. Today we commemorate—and celebrate—his faith, his love of country, and his life of service.

Today we recall not only my father's accomplishments, but the achievements of his generation. It is now 50 years since the end of World War II, a war which tore apart a western civilization. It is 50 years since thousands of young Americans fought and died to defend tyranny. It is 50 years since the effort to rebuild that civilization began with the Nuremberg Trials—truly the trial of the century.

Many recall the stern justice rendered at Nuremberg against those who committed the atrocities of Nazism. But we should also remember that 3 of the accused at Nuremberg were acquitted. In those verdicts of acquittal, as well as in the verdicts of guilt, the United States and her allies helped to reassure the world that justice could, indeed, would prevail over evil and chaos.

After Nuremberg, my father's generation rebuilt Europe and Asia. The Marshall Plan, NATO, the United Nations—these were extraordinary acts of collective sacrifice, vision, and political courage in the fact of significant opposition here at home.

In remembering the achievements of that generation, it is fitting that we here today are joined by President Bill Clinton. In 1995, President Clinton has not forgotten the lessons of 1945.

Like my father's generation, Mr. President, you understand that no nation which proclaims the virtue of freedom can ignore the deprivation of others.

Mr. President, you understand that though the Soviet Empire no longer threatens our world, the job of securing the peace is still far from complete.

Over the past 2½ years you have demonstrated over and over and over again the role we must play in the cause of freedom and justice.

Ireland, Haiti, the Middle East, Asia, Latin America, and most recently, in Bosnia, have profitted from our principled, patient insistence that all men and women have a right to shape their own destiny.

At the same time, there remain many parts of the world that still desperately need our engagement and example.

Abroad and at home, you Mr. President, carry within your heart the same wise and generous spirit that guided the generation of my father. You have proven yourself to be a worthy inheritor of their unbending faith in a future where people can live not in fear but with hope. For that, Mr. President, you have earned our everlasting gratitude.

On behalf of the Dodd family, the University of Connecticut, and our Constitution State, we thank you for honoring us with your presence.•

TRIBUTE TO JOHNETTA MARSHALL

• **Mr. McCONNELL.** Mr. President, I rise today to pay tribute to a Kentuckian who for many years has displayed a great deal of courage in standing up for what she believes. Louisville native Ms. Johnetta Marshall has traveled the world to fight for the rights of others, and now she's being recognized here at home as the new president of the National Older Women's League, a not-for-profit organization that promotes health, housing, and Social Security issues for women over the age of 50.

Recently, Ms. Marshall traveled to China to march for equality of the sexes at the United Nation's Fourth World Conference of Women. While that trip ended peacefully, some of her journeys have taken a violent turn. One such incident occurred in the Deep South in the late 1950's when Ms. Marshall was pelted with rocks while marching for civil rights. She recently recounted in a story for Louisville's Courier-Journal, that while in Meridian, Mississippi, "we had to go in the back way at hotels and ride the freight elevator. They made us a dining room in the bedroom rather than have us eat with the rest of the guests." While this kind of treatment may have disparaged some, it gave Ms. Marshall a reason to continue her fight for civil rights.

One of the highlights of Ms. Marshall's career came in March of this year, when she was named president of the Older Women's League. Marshall, who served as a member of the board of directors for 6 years, is truly dedicated to the cause and she hopes to put the organization in the public spotlight during her tenure as president. The executive director of the Older Women's League, Deborah Briceland-Betts, says members of the group are delighted that Marshall is now leading them. And they hope she will continue her extraordinary commitment to find creative and effective ways to improve the lives of midlife and older women and their families.

Not only is Ms. Marshall a national leader in the fights for the rights of others, she also worked on behalf of interests in the Bluegrass State. For nearly 20 years, Ms. Marshall was executive director of Louisville's Opportunities Industrialization Centers, Inc., which was responsible for training welfare recipients for jobs. She also served as regional coordinator of the Prichard Committee for Academic Excellence in Lexington, and during that time she worked hard to promote education reform. She was also the director of Senior Services, Inc., executive director of Kentucky's Opportunities Industrialization Center, past president of the Louisville Section of the National Council of Negro Women, and was the first African American woman chair of the March of Dimes' Kentuckiana chapter. And in the 1960's and 1970's, she investigated racism in Ohio, Tennessee, and Kentucky as a member of the Presbyterian Church task force.

As you can tell from her list of accomplishments, Ms. Marshall has had a long and distinguished career, and it does not look like it will slow down anytime soon. Even with the demanding pace of her public advocacy, she still always found time for her real love, her six children whom she successfully raised as a single mother.

Mr. President, I ask my colleagues to join me in paying tribute to this outstanding Kentuckian. I also ask that an article from the October 10 Courier-Journal be printed in the RECORD.

The article follows:

[From the Courier-Journal, Louisville, KY, Oct. 10, 1995]

A PIONEERING SPIRIT—LOUISVILLE NATIVE HAS MARCHED IN THE SOUTH AND IN CHINA FOR RIGHTS OF OTHERS

(By Lawrence Muhammad)

Johnetta Marshall won't tell her age but "pioneer" is definitely a title that fits her.

The Louisville native was pelted with rocks while marching for civil rights in the Deep South in the late 1950s and early '60s. More recently, she marched for sex equality under the watchful eyes of government police at the United Nation's Fourth World Conference of Women in China.

In the '60s, in Meridian, Miss., she recalled, "we had to go in the back way at hotels and ride the freight elevator. They made us a dining room in the bedroom rather than have us eat with the rest of the guests."

Decades later, Marshall attended the China conference as the new president of the Washington, D.C.-based Older Women's League. Carrying a banner and chanting, she and other conferees marched onto the conference grounds and into workshops.

Although no one in her group had trouble with Chinese authorities, she said, "there were people with video cameras. . . . We wanted them to see the banner. But there was no harassment."

Marshall, who lives in Jeffersontown, was named president of the Older Women's League in March. It's a nationwide, not-for-profit organization that promotes health, housing and Social Security issues for women over the age of 50.

The appointment caps a career of distinguished service.

For nearly 20 years until it closed in 1988, Marshall was executive director of Louisville's Opportunities Industrialization Centers Inc., once a nationwide non-profit group with headquarters in Philadelphia that trained welfare recipients for jobs.

She was also the first chairman of the Kentucky Minority AIDS Council.

Sam Robinson, president of the Lincoln Foundation and also a founding member of the AIDS council, recalled suggesting Marshall to the group because of her work with the National Council of Negro Women and the National Association for the Advancement of Colored People. "And when we were ready to elect officers, everybody looked to her for leadership," Robinson said.

Lead she has, also serving stints as a Presbyterian Church organizer, propagating racial fairness among Southern members during the 1960s and '70s; as director of Senior Services Inc. in Louisville; as past president of the National Council of Negro Women's Louisville section; and as the first African-American woman to chair the March of Dimes' Kentuckiana chapter, among other posts.

Last month in China, Marshall led a 32-member delegation to the Non-governmental Organizations Forum on Women in Huairou. It was an unofficial gathering held in conjunction with the U.N. conference in Beijing.

Marshall and her group, co-sponsored by the American Society on Aging, met officials of the China National Committee on Aging and China Research Center on Aging and toured hospitals and welfare homes for the elderly. It was an effort to promote concerns of older women that past world forums had inadequately addressed, Marshall said.

For example, women over 65 are disproportionately poor, spend more on home repairs, more frequently develop breast cancer and suffer more chronic ailments than older men, according to an Older Women's League study done in 1993.

The study also showed 60 percent of married women are widowed and living alone by 75, and 30 percent require home care, double the percentage for men.

"Back in the civil-rights days, women were suffering, and there have been some improvements, but not enough," Marshall said. "Women can work side by side with men, and maybe have better skills, but men get more pay. And if you happen to be an older women, you are counted out completely."

Marshall clearly would not be counted out. Leading the local Opportunities Industrialization Center, she smashed the gender barrier in the early 1980s to head the group's executive directors association, a male-dominated network of about 85 OIC insiders.

"For Johnetta to run for that position, and win it, was akin to Shannon Faulkner entering The Citadel," said Gene Blue, president of the Phoenix, Ariz., OIC. "She became a spokes-person who accompanied the founder, Dr. Leon Sullivan, at congressional hearings. She had to overcome significant male egos to preside over all these dudes at meetings and workshops, which usually got loud and emotional."

Blue recalled one particular meeting, where "one of the most vociferous, a senior executive from a major city, had the floor and was waxing eloquent. Finally Johnetta, without even raising her voice, said firmly, 'OK, that's enough. Sit down.' Now, it took most of us by surprise that she would tell this guy to shut up. But she did, and he sat down."

Marshall is widely know as a nurturer too. She grew up in Louisville's Limerick neighborhood, daughter of concrete finisher John Marshall who died when she was 10, and Emma Marshall, who supported the family with domestic work. Marshall had wanted to be a surgeon, but being black and female in the segregated 1930s and '40s, it was difficult to aspire to so lofty a vocation.

A divorcee, she raised six children on her own, has four grandchildren and two great-grandchildren. The fruits of her labors are plentiful among her children: Samuel is a San Francisco stockbroker; Charles, a geriatric doctor in Los Angeles; and John, a supervisor of correctional officers in Los Angeles County, Glenna is a Louisville graphic artist; Marilyn, a bookkeeper in Atlanta; and Jo, a computer systems engineer in Louisville.

Marshall also served as a role model for scores of other people's children at the Presbyterian Community Center at 760 S. Hancock St.

"She'd ask questions like, 'How are you doing at home? How are you doing at school?'" said Ernest "Camp" Edwards, 63, an associate executive presbyter for the Presbytery of Louisville. "I was sort of mischievous, throwing stuff on the floor and blaming somebody else, so she always preached that I should be accountable for my own behavior and not blame others.

"That really stuck with me over the years," Edwards said. "She has a kind of presence and talks to you so that it makes a difference. I'm a social worker by profession, and, because of her, I decided to work with people. She was a 'significant other.' and I decided I could be a significant other."

Charles Hammond, the 52-year-old mayor of Fairfield, Calif., first met Marshall at the community center when he was 14. It was "where we virtually lived after we got out of school, and she was one of our youth directors. They basically kicked our behinds and kept us in line. We'd have our dances and she'd give us rules—no cursing, no smoking, treat the ladies like ladies * * * But she always had time for us. There was never a question that went unanswered. And that's what we admired about her. Seven days a week, any time you looked around, there she was, just like our mothers."

JOHNETTA MARSHALL'S ADVICE FOR SINGLE MOMS

Johnetta Marshall successfully raised six children along. Some now have families of their own, and all pursue rewarding careers.

"It wasn't easy then," said Marshall, "and even though women have more advantages now, it is lots more difficult."

She offered this advice for today's single mothers: "Recognize that you are only one person, that you can never by a mother and a father. Just be the best role model you can.

"As the mother, you instill in your children some ideals by the way you live. Always be honest and frank with the children. Don't let them think you can give them the moon when you can only give them a piece of the earth.

"And don't give up. You can do it."

ABOUT THE OLDER WOMEN'S LEAGUE

Founded in 1980, the Washington, D.C.-based Older Women's League promotes issues of health care, Social Security and housing for women over 50.

There are 20,000 members nationwide and chapters in every state.

Annual dues start at $15; sterling, silver and platinum memberships also are available.•

NATIONAL SCHOOL LUNCH WEEK

•Mr. LEAHY. Mr. President, in honor of National School Lunch Week I want to talk about one of the great public policy success stories of this century—the National School Lunch Program. Passed by Congress and established by President Truman in 1946, this program by law has the mission "to safeguard the health and well-being of the Nation's children." By fighting hunger and promoting good nutrition among children, we can help them grow and mature into healthy, productive adults.

The program has been a resounding success in meeting this mission. Any parent or teacher can tell you that a hungry child cannot learn. More and more scientific evidence has made it clear that hunger and malnutrition can undermine a child's progress in school. Hunger remains a serious problem in this country, and school meals are an important part of the effort to fight it.

Today, the National School Lunch Program serves over 25 million students in 92,000 schools across the country. More than 90 percent of all public schools participate in the program. For almost 50 years, it has provided complete and nourishing meals to children, nearly half of them from low-income families. The school lunch program has reduced malnutrition and improved the health and well-being of children.

Since 1946, we have learned a great deal about the relationship between diet and health. We have learned that it is not enough to provide children with calories. They need the right kinds of food to keep them healthy. Too much fat, saturated fat, cholesterol, and sodium can increase the risk of heart disease and some forms of cancer. Low-income and minority groups are at greatest risk for those problems. Those risks begin in childhood. Good eating habits established in childhood are critical to staying healthy throughout one's life. I am very proud of the bipartisan legislation we passed last year to improve the nutritional content of school meals.

Mr. President, let me sum up by reiterating how important these programs have been, and how important they are today. Just as they were 50 years ago, school meals remain a critical part of this country's effort to promote our most precious resource—the health and well-being of our children. We have worked hard to build a program that is ready to meet its statutory health mission well into the 21st century. As we consider proposals to block-grant or cut these programs, let us not forget how successful they have been in the past and how important it is to maintain them at the Federal level to fulfill our national responsibility to fight hunger and promote good nutrition.•

MEREDITH MILLER

• Mr. GRAHAM. Mr. President, I would like to articulate my deep sorrow as this week marks the anniversary of the senseless murder of Meredith Miller.

Meredith, a native of Tampa, FL, graduated with honors from Princeton University where she majored in political science. After her graduation she came to Washington to further her studies at George Washington University and to work on the issues pertaining to women. On October 17, 1994, after returning from a study group, Meredith became the victim of a carjacking.

The dream that Meredith held so dearly was to make a difference in the lives of others. Her fellow students at George Washington University would like Meredith's parents in Tampa to know that Meredith did make a difference in the lives of those fortunate enough to have known her and that their thoughts and prayers are with them today and always. Her friends miss her and learned much from her special outlook on life. She will always remain a vital part of their lives, in spirit.

Mr. President, today let us not forget the contributions Meredith Miller made in her short time here with us, and let us be diligent in our efforts to find a solution to the ever-growing number of senseless violent crimes.•

ROGER WILLIAMS NATIONAL MEMORIAL CELEBRATES 30TH ANNIVERSARY

• Mr. PELL. Mr. President, I rise to share with my colleagues the happy news that the Roger Williams National Memorial is celebrating the 30th anniversary of its authorization.

I want to take this chance to tell you about Roger Williams, a Founding Father that you will not encounter here, except in the rotunda of the Capitol. He was the founder of Rhode Island and a champion of Democracy and religious liberty.

There is no national memorial to Roger Williams here, unlike the monuments to other national heroes like Washington, Jefferson, and Lincoln. Our national memorial is in Rhode Island, where he lived and left us a philosophical legacy of incomparable worth.

Roger Williams was banished for his beliefs from the Massachusetts Bay Colony in 1635, but survived both banishment and subsequent efforts to take over the settlement he named Providence.

"The air of the country is sharp," Roger Williams said of Providence, "the rocks many, the trees innumerable, the grass little, the winter cold, the summer hot, the gnats in summer biting, the wolves at night howling."

Thirteen householders in the population of 32 in the first year formed the first genuine democracy—also the first church-divorced and conscience-free community—in modern history.

I cannot emphasize enough how unique and utopian the vision of Roger Williams was in the midst of the 17th century. He was almost alone in believing that all citizens should be free to worship as their conscience dictated.

Roger Williams was a determined and dedicated man. In 1672, when he was nearly 70, he rowed all day to reach Newport for a 4-day debate with three Quaker orators. Both his settlement and his ideas have survived and prospered.

For most of his life, Roger Williams was a deeply religious man. Even without a church to call his own, his ideas flourished in Providence and remain alive today.

Documents, such as our Bill of Rights and Declaration of Independence can be traced directly back to the hardfought freedoms earned by Roger Williams and his followers.

I encourage my colleagues to visit the statue of Roger Williams in the Rotunda of the Capitol. When you do, remember that even the principles of democracy and religious liberty did not come easily. Roger Williams gave them form and substance more than 350 years ago.

These principles also founded the basis of our belief that all people are created with equal rights and should not be denied opportunities to succeed because of their race, gender, or religion.

I sponsored the Senate legislation that authorized the creation of the Roger Williams National Memorial and I have watched it take shape on the site of his original settlement in Providence, RI.

This anniversary comes at an important time. One purpose of the memorial is to emphasize the linked principles of tolerance and freedom. As recent events have demonstrated, we need to focus on these principles.

I am delighted to share with my colleagues today the news that the National Park Service is planning new initiatives to strengthen the impact of the Roger Williams National Memorial and its vital message.

If you have any doubts about the significance of Roger Williams in our history, consider how his philosophy has resonated through our other Founding Fathers and found its way into our most sacred documents.

Just a few examples, culled from his writings, should help to sound his call for freedom:

"The sovereign, original, and foundation of civil power lies in the People."—The Bloody Tenent of Persecution for Conscience Discussed (1644).

"The civil state is humbly to be implored to provide in their high wisdom for security of all the respective consciences."—The Hireling Ministry None of Christs

"No person in this colony shall be molested or questioned for the matters of his conscience to God, so he be loyal and keep the civil peace."—Letter to Major John Mason (1670)

"And having in a sence of God's merciful providence unto me in my distresse called the place Providence, I desired it might be a shelter for persons distressed for conscience."—Early Records of Providence

We owe a tremendous debt to Roger Williams as the first champion of true religious freedom and for translating principles of democracy and tolerance from concepts into substance.•

SPECIAL INTERESTS HIT STUDENT LOANS

• Mr. SIMON. Mr. President, Roger Flaherty, now an editor at the Chicago Sun-Times, has followed the Federal student loan program for a number of years. I would urge my colleagues to consider what he has to say about the role of special interests in the current budget debate.

I ask that an article that appeared in the Chicago Sun-Times on September 27, 1995, be printed in the RECORD.

The article follows:

[From the Chicago Sun-Times, Sept. 27, 1995]

SPECIAL INTERESTS HIT DIRECT LOAN PROGRAM HEAD-ON

(By Roger Flaherty)

When I was younger, I walked side by side one day with Wilbur Mills, the Arkansas Democrat then always described as "chairman of the powerful House Ways and Means Committee," asking about tax reform. In a moment of candor, he said, "If you want to reform the tax system, you've got to end all deductions."

Why not do it? I asked. Mills responded with a dismissive look—sort of sneer and condescension—and turned to another reporter. So I learned that Washington people don't do as they think or say. We should keep that in mind as the Congress plows into a fall agenda that promises more moves to "get government off our backs."

Like tax deductions, government-run programs are bad until they are good for you or your friends. You usually hear this truism about defense contracts and farm subsidies.

But there's one I've observed closely in recent years—the student loan program. Several years ago, along with Sun-Times reporter Leon Pitt, I uncovered enormous abuses by for-profit trade schools that were using student loans like government vouchers they could squander any way they chose. They enrolled students into programs they were unable to complete or that were so poor in quality as to be useless. When students dropped out, within hours sometimes, the schools kept the loan money in violation of the law. The United States was being defrauded of billions of dollars.

But when reformers tried to tighten loan rules, school industry lobbyists fought them, arguing the reforms were an assault on free enterprise. It was a strange argument, considering that these schools generally received more than 90 percent of their income from government loans and grants.

Well, that odd assertion is again being made in Congress, where conservative Republicans under the guise of getting government off our backs are attacking the direct student loan program. The program, which is scheduled to be phased in over several years, operates successfully at several Illinois institutions, including the University of Illinois. The program allows loans to be made directly from the federal treasury through college financial aid offices.

This is bad, congressional opponents say, because it furthers big government and hurts business. How ingenuous can you get? Under the old loan system still being used by most schools, a student applies to a bank for a loan. Checking his or her qualifications is a loan guarantee agency, commonly run by state governments, but also by private enterprise. The agencies then issue a guarantee of repayment to the banks. The federal government pays banks subsidies to forgive part of the interest payments and pays fees to the guarantee agencies for their services.

If a student defaults on a loan, the bank is reimbursed—making student loans the safest loans a bank can make. Loan guarantee agencies are paid fees to hound defaulters. Is this not big government? Can this be free enterprise?

There's more. The old system created a secondary loan business, including the huge public-private Sallie Mae association based in Washington, and smaller ones, like one operated by the Illinois Student Assistance Commission. These groups make money by buying loans from banks and packaging them in large blocks for resale. They were created by Congress and the states to free money for more student loans, but as was said of some missionaries to Hawaii, Sallie Mae and its emulators came to do good and ended up doing well. They are big businesses with highly paid executives.

The direct loan program, a plan advanced by Sen. Paul Simon (D-IL–Makanda), eliminated this entire pyramid. No government subsidy or risk-free lending for banks, no government payments to loan-guarantee agencies, no Sallie Maes with executives paid from profits extracted from government loan subsidies.

But odds are increasing that Congress this fall will stop the direct loan program in its tracks, led by the same people who claim they are trying to get government off our backs. And so far, it seems to be going down like a cold, sweet Coke on a hot summer's day.●

NATIONAL RIGHT TO WORK ACT

● Mr. BURNS. Mr. President, I am pleased to add my name as a cosponsor to S. 581, the National Right to Work Act. As a strong supporter of the right to work, I feel this legislation is vital.

We have spent the first part of this Congress fighting for freedom—the freedom from Government intervention, the freedom of speech, the freedom to choose your health care and even the freedom to succeed. This bill, though it does not add a single letter to Federal law, guarantees the freedom to work free of union imposition.

Why is this important? Americans have always been independent. No matter where they came from, they came to America to see their hard work pay off. And they are not afraid of hard work. This is especially true of Montanans.

But when a worker is forced to pay union dues in order to get a job or keep a job, they have lost part of their freedom. They may get some benefits from joining a union—I am not saying there is no role for unions here—but they lose the freedom to choose.

Mr. President, Congress created the law which allows union officials to force dues in any State back in 1935. Now we need to correct that. All we need to do is to repeal that portion of the National Labor Relations Act [NLRA] which authorizes the imposition of forced union dues contracts on employees.

Nearly every poll taken on this issue over the last few decades has shown that about 8 out of 10 Americans are opposed to forcing workers to pay union dues. It is tough to get 8 out of 10 Americans to agree on anything. I think this is a call for action.

And if you look at job creation in States that have implemented right to work laws, it is hard to ignore the results. Hundreds of thousands of manufacturing jobs have been created in right-to-work States. And in forced-unionism States, hundreds of thousands of jobs have been lost.

I have supported this bill in the past and I truly believe that this is the year to finally make this change. Working men and women in Montana want the freedom to work and they are not alone. I urge my colleagues to listen to what their constituents are saying as well. If you do, you will feel compelled to join me and the other cosponsors in supporting the National Right to Work Act.●

THE IMPORTANCE OF CONTINUED FEDERAL SUPPORT FOR AMERICORPS

● Mr. PELL. Mr. President, this month marks the start of a new class of AmeriCorps members who are dedicated to serving this Nation. As AmeriCorps celebrates its first successful year and the new class begins its service, I would like to take this opportunity to reiterate my support for continued Federal funding of this important national service initiative.

Over the past year, 20,000 AmeriCorps members worked in schools, hospitals, national parks, and law enforcement organizations to meet the most crucial needs of individual communities. AmeriCorps clearly helps to provide a more promising future for Americans by expanding educational opportunities for the young while simultaneously improving the public services in hundreds of communities.

In my own State of Rhode Island, AmeriCorps has been particularly successful due to the efforts of Lawrence K. Fish, chairman of the Rhode Island Commission for National and Community Service. Mr. Fish challenged higher education institutions in Rhode Island to grant scholarships to AmeriCorps members. Many of our colleges and universities answered Mr. Fish's challenge and have begun lending their support in the form of college scholarships. His endeavor to expand AmeriCorps has offered more students access to an otherwise unaffordable education. Mr. Fish's exemplary work in Rhode Island serves as the quintessential example of building the natural bridge between public service and educational opportunities. In this regard, I ask that an opinion editorial by Lawrence Fish from the Providence Journal of October 11 be printed in the RECORD.

The editorial follows:

[From the Providence (RI) Journal, Oct. 11, 1995]

THE CHALLENGE OF AMERICORPS

(By Lawrence K. Fish)

Not surprisingly, the debate in Washington over continued funding of the Corporation for National Service has become laser-focused on the politics of embarrassing President Clinton, and not on the people for whom AmeriCorps has been a ringing success.

And the reason is not surprising. It is that Washington, to the frustration of just about everyone outside the District of Columbia, just can't resist playing an inside-the-Beltway version of Gotcha! From the politicians to the pundits to the press, the emphasis remains on the politics of issues, not on the substance of issues or their impact on real people.

For whom has AmeriCorps been successful? It's been a success here in Rhode Island to the 250 AmeriCorps members who have signed up for this domestic Peace Corps and whose efforts, mostly in education, have made better, dramatically better, the lives of thousands of our neighbors. Giver and receiver have been enriched by the effort, and for that, Rhode Island is a better place.

Let me try to explain why AmeriCorps' success here in Rhode Island ought to serve as a model for programs in the 49 other states, and why that success and our promise for the future stand as far more compelling points in the debate than political one-upmanship.

AmeriCorps members have served in cities and towns from Woonsocket to Newport, bringing with them a wealth of desire, experience and cultural diversity. They have gotten results—good results that are measurable. You can see the results on paper and you can see them on the faces of children getting their first "A's" and in adults reading for the first time.

Rhode Island's AmeriCorps program has been very successful—and has been recognized as such. For the second straight year, after a very competitive process that pitted us against 49 other states, we received more AmeriCorps funding on a per capita basis than any other state. In this our second year Rhode Island will field 250 AmeriCorps members in eight programs that will touch the lives of thousands of our neighbors. Once again, they will work predominantly in education, because that's where many believe the greatest need is.

Linking public service and education, we approached the leaders of the state's colleges, universities and technical schools to see if they would accept our AmeriCorps challenge to inaugurate a public-private partnership from which they will get the lessons of service and commitment from AmeriCorps veterans and to which they will provide a quality education.

The Rev. Philip Smith of Providence College was the first to meet the challenge, and Vartan Gregorian of Brown was close behind. They were followed almost immediately by our other higher-education leaders—Bob Carothers of URI, Sister Therese Antone of Salve Regina, Bill Trueheart of Bryant, Roger Mandle of RISD, Jack Yena of Johnson and Wales and Ed Liston of CCRI. I mention them to dramatize that AmeriCorps runs cost-effective, successful, nonpartisan programs.

I accompanied the presidents of seven of the state's public and private colleges and universities to Washington for meetings on Capitol Hill and in the White House. There we outlined the Rhode Island Challenge to Higher Education, a challenge to provide scholarships to AmeriCorps members that complement the stipends they receive for their year of service. The result is a win/win for both sides: Higher education gets the kind of committed students who are potential campus leaders; and AmeriCorps members pass through another gateway to opportunity.

The foundation for the Rhode Island Challenge to Higher Education was laid a year ago. Rhode Island's bipartisan congressional delegation, each member of which played a role in the passage of the legislation that brought about AmeriCorps, joined other dignitaries at Slater Junior High School in Pawtucket in AmeriCorps's debut. The setting, a junior high school in the heart of one of our older, struggling cities, provided a fitting backdrop for the Rhode Island AmeriCorps members and the educational programs they would serve.

In the year since, AmeriCorps members have farmed out across the state, serving as teachers' assistants in public schools, tutors in after-school mentoring programs, and teaching English as a Second Language and GED classes to adults. And they've had an impact, all because they are 100 percent behind keeping their end of a bargain to make AmeriCorps work the way in which Congress and the President intended.

Rhode Islanders would have been proud to have joined me and some of the presidents in the White House Cabinet Room recently when we introduced the Rhode Island Challenge to Higher Education to President Clinton. From the smallest state to the other 49 came the challenge for their colleges and universities to match our commitment of scholarships to AmeriCorps members.

Our hope, and that of AmeriCorps members around the country and others committed to public service, is that our Challenge to Higher Education can help overcome the cynicism that has come to mark the debate in Washington.●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, first, I indicate there will be no further votes this evening.

AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 186, submitted earlier by Senator DOLE and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 186) to authorize testimony by Senate employees and representation by Senate legal counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, the U.S. Government is the defendant in a pending case in the U.S. Court of Federal Claims arising out of a dispute with a private real estate developer over the Government's procurement to lease a new headquarters building for the Securities and Exchange Commission. The plaintiff developer responded to the Government's request for proposals by offering to build the SEC a new headquarters building in Silver Spring, MD. The plaintiff alleges in this lawsuit that the Government violated procurement law in connection with the SEC headquarters procurement.

The Government has determined that the group of individuals who may have relevant information about this case includes two employees on Senator SARBANES' staff. In addition to his interest in this matter arising out of the SEC's potential selection of a site in Maryland for its headquarters building, Senator SARBANES is the ranking minority member of the Committee on Banking, Housing, and Urban Affairs, which has oversight jurisdiction over the SEC.

Senator SARBANES would like the Senate to authorize the employees in his office to testify in response to the Government's request. This resolution would authorize them to testify with representation by the Senate legal counsel.

Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the preamble is agreed to.

So the resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 186

Whereas, the defendant in *Triangle MLP United Partnership* v. *United States*, No. 95-430C, a civil action pending in the United States Court of Federal Claims, is seeking testimony at a deposition from Charles Stek and Rebecca Wagner, employees of the Senate who are on the staff of Senator Paul S. Sarbanes;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288B(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it

Resolved, That Charles Stek, Rebecca Wagner, and any other employee of the Senate from whom testimony may be required are authorized to testify and to produce documents in the case of *Triangle MLP United Partnership* v. *United States*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Charles Stek, Rebecca Wagner, and any other employee of the Senate in connection with the testimony authorized by this resolution.

FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 197, S. 868.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 868) to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 868) was deemed read the third time and passed, as follows:

S. 868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Emergency Leave Transfer Act of 1995".

SEC. 2. (a) Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following new subchapter:

"SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

"§ 6391. Authority for leave transfer program in disasters and emergencies.

"(a) For the purpose of this section—

"(1) 'employee' means an employee as defined in section 6331(1); and

"(2) 'agency' means an Executive agency.

"(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

"(c) The Office of Personnel Management shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient's credit must be exhausted before any transferred annual leave may be used.

"(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office of Personnel Management, donate annual leave to the emergency leave transfer program established under subsection (b).

"(e) Except to the extent that the Office of Personnel Management may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

"(f) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section.".

(b) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

"6391. Authority for leave transfer program in disasters and emergencies".

SEC. 3. The amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

TIED AID CREDIT PROGRAM REAUTHORIZATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 203, S. 1309.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1309) to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1309) was deemed read the third time and passed, as follows:

S. 1309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIED AID CREDIT PROGRAM.

(a) TIED AID CREDIT FUND.—Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking "the September 30, 1995" and inserting "September 30, 1997".

(b) AUTHORIZATION.—Section 10(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended by striking "1993, 1994, and 1995" and inserting "1996 and 1997".

SEC. 2. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT.

Notwithstanding section 4701(a)(1)(A) of title 5, United States Code, the Export-Import Bank of the United States may conduct a demonstration project in accordance with section 4703 of such title.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 2126, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2126) entitled "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes", and ask a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Young of Florida, Mr. McDade, Mr. Livingston, Mr. Lewis of California, Mr. Skeen, Mr. Hobson, Mr. Bonilla, Mr. Nethercutt, Mr. Istook, Mr. Murtha, Mr. Dicks, Mr. Wilson, Mr. Hefner, Mr. Sabo, and Mr. Obey be the managers of the conference on the part of the House.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate agree to a request for a further conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. BENNETT) appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. MACK, Mr. SHELBY, Mr. GREGG, Mr. HATFIELD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. HARKIN conferees on the part of the Senate.

APPOINTMENT OF CONFEREES—H.R. 1617

The PRESIDING OFFICER. Pursuant to the order of October 11, 1995, the Chair appoints the following Senators to serve as conferees on the part of the Senate on H.R. 1617, a bill to consolidate and reform workforce development and literary programs.

The PRESIDING OFFICER (Mr. BENNETT) appointed Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, and Mr. WELLSTONE conferees on the part of the Senate.

ORDER FOR FRIDAY, OCTOBER 20, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, October 20, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of the following: Senator WARNER, 10 minutes; Senator BAUCUS, 10 minutes; Senator KERREY, 20 minutes. So there will be an additional 40 minutes for those who would like to participate in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. For the information of all Senators, at 10:30 it will be the majority leader's intention to turn to Calendar No. 207, S. 1322, regarding the relocation of the Embassy in Israel to Jerusalem. Votes could occur in connection with that bill and the Senate could be asked to turn to the State Department reorganization if the managers' amendment could be agreed to. Therefore votes can be expected to occur.

NEGOTIATIONS WITH THE PRESIDENT

Mr. DOLE. Mr. President, I will just make one brief statement before we recess. I will just say this.

I think, for the first time, the President of the United States, President Clinton, indicated today that he was prepared to negotiate with the leaders of the Congress concerning a balanced budget in 7 years. It is the first time he suggested 7 years. He also mentioned capital gains, taxes, and other matters. That may be the beginning, at least a glimmer of hope that we might be able to come together in some negotiation with the President of the United States, myself, and the Speaker of the House, Speaker GINGRICH. And I hope that is a sincere offer by the President of the United States, that we can properly pursue it at the appropriate time.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:11 p.m., recessed until Friday, October 20, 1995, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate October 19, 1995:

DEPARTMENT OF DEFENSE

AUTHUR L. MONEY, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE CLARK G. FIESTER.

HOUSE OF REPRESENTATIVES—*Thursday, October 19, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. LAHOOD].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 19, 1995.

I hereby designate the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that peace will reign in our world and we specially pray that peace will reign in our hearts. We are grateful that even in lives that know the tension between the ideals of the mind and the reality of an imperfect world there can be a sense of calm, and even with great responsibilities that seem to overwhelm there can be serenity. Grant to all Your people, O God, the gift of peace and calm and serenity, this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Pledge of Allegiance will be led by the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There will be fifteen 1-minutes on each side.

IT IS TIME TO UPDATE MEDICARE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today is a historic day. Today, the House will move to preserve and protect Medicare.

Thirty years ago, on a closed rule, Congress passed a 1960's Blue Cross-Blue Shield health care plan called Medicare. Health care has progressed 30 years. It has improved. Now it is time to bring Medicare up to date.

If we do not, it is going to go broke. The only way to sustain the cumbersome system is to raise payroll taxes $123 billion.

The Republican plan will preserve and protect Medicare and offer some options. If seniors do nothing, they will stay on Medicare. They can also select Medicare Plus to expand their coverage through a health managed care plan. They can select a medical savings plan to reward them for having a healthy lifestyle, or they can select the health care plan they had while working under an employer if he chooses to offer it.

Those who oppose updating Medicare are the same folks who said schoolchildren would be starving this year. It was reported last night they said if we passed this plan, one-fourth of the hospitals in America will close.

Well the schoolchildren are not starving, and the hospitals will not close.

I urge my colleagues to preserve and protect Medicare. Live long and prosper.

WITH MALICE TOWARD NONE, WITH CHARITY FOR ALL

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, today is a historic day. A day that House Republicans, to fulfill their unsatiable desire to give a tax cut to their wealthiest contributors, will try to slash Medicare by $300 billion.

We Democrats remember historic days. We remember when 30 years ago Lyndon Johnson and Harry Truman stood together and said, "the time has come to guarantee health care for all of our seniors."

We feel as much pride in that day as Republicans should feel shame on this day. So maybe it is time for them to remember their history too. In 1865, facing a challenge far greater than rising Medicare costs, our greatest President—a Republican President—stated that we would heal our Nation's wounds "with malice toward none, with charity for all."

I say to my colleagues in the majority—slashing $300 billion from seniors' health care for a tax giveaway to your rich friends is malice, pure and simple. With malice toward none, with charity for all. How empty and distant those words seem to the party of Abraham Lincoln today.

REFORMING MEDICARE FOR THE BETTER

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my good friend from Illinois who preceded me here in the well. He quoted Abraham Lincoln accurately. But he misapplied the quote, for rather being malicious and mean-spirited, the only mantra the guardians of the old order can offer, instead what we are doing today is embodying the spirit of America.

Because we are saying to America's seniors, you deserve to have a choice in health care. You do not need to be cut off magically at age 65 to a one-size-fits-all plan. We believe you have the right to determine the health care you should have, and if you want to keep Medicare as it exists now, then you have the right to keep that as well.

But the senseless mantra that we are making changes in Medicare for tax breaks for the wealthy is patently false and, Mr. Speaker, even malicious.

How sad it is; it is symptomatic of the new minority, folks who have no vision for the future, would only apply a Band-Aid and only came up with a plan in the final nanosecond of the 11th hour, instead of dealing responsibly.

Friends, join us. Let us reform Medicare for the better.

MEDICARE AND MANAGED CARE

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, today is the day, today is the day that the Republican majority will pass historic cuts to the Medicare Program. Today is the day that they will cut $270 billion out of the Medicare Program. Today is the day that they will begin to raise premiums and deductibles for people, like Herb McCulloch, who lives on $240 a month

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and they are going to ask him to come up with an additional $100 a month in out-of-pocket expenses.

Why are they doing this? Because they want to pass a $245 billion tax cut. Better than 52 percent of that tax cut is going to go to individuals and families earning $100,000 or more.

Mr. Speaker, ladies and gentlemen of the House, their solution is to put elderly into managed care programs, managed care. You know what it means. It means managed to deny care to the very senior citizens they propose to protect.

It is not fair. It is not right. As Democrats, we are going to say "no."

Today Republicans should be ashamed of themselves.

TODAY WE VOTE TO SAVE MEDICARE

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, today is the day we vote to save, protect, and preserve Medicare. Today is the day we show the seniors that we care about them and their future.

The Medicare Preservation Act is an honest, realistic, up-front bill, that provides real reform for our current Medicare system. It will ensure that seniors have the right to stay in their present Medicare plan, but will also offer choices to those looking for a change.

The Medicare Preservation Act attacks waste, fraud, and abuse in order to provide real accountability for the taxpayers dollars.

Yes, Mr. Speaker, today is the day we vote to save Medicare for the next generation. I urge all my colleagues to vote "yes" on the Medicare Preservation Act.

TROOPS TO BOSNIA WITHOUT CONGRESSIONAL CONSENT?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, once again, a President says he can send troops into a war zone without the consent of the Congress.

What is the surprise here? Think about it. The Congress of the United States has time after time allowed the Presidents of the United States to usurp the constitutional power of the people. Turn the other cheek, and now the President is just simply going ahead and servicing all the cheeks he can in Congress.

The bottom line is this: I do not know how you feel about Bosnia, Members, but I say not one American soldier shall be sent to Bosnia without a vote of the Congress. That is not the old-fashioned way. That is the constitutional way.

If we continue to let Presidents take the Constitution and mold it like clay in their hands, we are gong to find ourselves in one hell of a bloody war.

WE ARE IMPROVING MEDICARE

(Mr. GILCHREST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILCHREST. Mr. Speaker, all those who are listening in the House Chamber this morning, and if there are any people over the age of 65 listening on their televisions at home, the vote that we will take today will not take any benefits to Medicare away.

The existing program of Medicare, if it is not reformed, is not sustainable. We are going to take a vote that will reform Medicare in a manner that, if any senior citizen wants to keep the existing program the way it is, they can choose to do so. If any senior citizen wants to choose another form of health care or another health care carrier, the amount of money that they put in and the Federal Government puts into their Medicare Program as an individual can be transferred to that contracting health care carrier.

The point is we are going to make Medicare better for senior citizens.

A FALSE CHOICE

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, we are here today because my Republican colleagues want to destroy Medicare, and their premise is that Medicare will be bankrupt in 7 years.

What I have here is a chart that points out a fact, which is that in the 30 years of Medicare's existence, the actuarial life of Medicare was less than 7 years. This is not unprecedented. It is a flatout lie that my Republican colleagues have been stating about the unprecedented nature of the 7-year actuarial life.

The $270 billion in cuts, as my Republican colleagues have been talking about, is also a flatout lie. The trustee report calls for a far less number in terms of what would make actuarial sense for the Medicare system.

The choice that my Republican colleagues have been talking about is a false choice. Everyone in this Chamber, everyone in America knows what the agenda is. The agenda is to force people into substandard HMO's because the reimbursement level in a traditional Medicare will be so low.

Just because people are old in this country does not mean they are stupid. The American people will not believe what the Republicans are doing.

HEALTH CARE CHOICES FOR OUR SENIOR CITIZENS

(Mr. LONGLEY asked and was given permission to address the House for 1 minute.)

Mr. LONGLEY. Mr. Speaker, I am tired of the nonsense we have been listening to.

There are three very simple truths about what the House is going to act on today, and, first, as the minority party appears to forget, this is a program, Medicare is a program that is paid for by taxes on the wages of working people and by seniors through their premiums.

We owe it to them to see that this money is used wisely and effectively, No. 1.

No. 2, any senior who is currently in the Medicare Program is going to be guaranteed the right to stay in the Medicare Program as it is if that is what they choose to do. There will be no increase in copayment, no increase in deductible, and the premium rate will be maintained at the 70 percent paid for by the Government rate, 30 percent paid for by seniors.

Third, we are going to allow those seniors who wish to make choices about their health care. What a radical idea, that we would allow people to choose the health care program that might be best for them.

Shame on the minority for failing to understand these principles.

MEDICARE AND MEDICAID

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. VELÁZQUEZ. Mr. Speaker, today I rise to take strong exception to the right wing attack on Medicare. The drastic and mean spirited cuts Republicans propose will devastate the health care system and severely jeopardize access to health care for the elderly in my district and around the Nation.

Lets be clear about what is going on here. Republicans want to cut Medicare not to save the trust fund but to finance back door deals with wealthy doctors, special interest groups, and rich corporations.

The issue of whether we should slash Medicare is simply a question of values. Are we going to bankrupt the elderly? Are we going to kick seniors out of nursing homes in order to finance a tax break for the rich?

I believe that to do so would be immoral, unfair, and just plain cruel.

Mr. Speaker, here is a letter that a Republican constituent wrote to me. She said:

> Cuts in Medicare will be devastating and these cuts are unacceptable. We the people, put the Republicans where they are today and we will be sure to take them out if we are not represented.

I include the entire letter for the RECORD.

OCTOBER 17, 1995.

Re Republican Medicare Bill.

DEAR CONGRESSMAN: I cannot even begin to put into words the seriousness of the repercussions of this proposal.

The effect of this bill will be devastating to my local hospital and nursing home.

The projected loss of future revenues for my local facility and nursing home seems incomprehensible to me: $14.2 million over 7 years! In addition, the projected loss of jobs in this area being at 3,500 is not tolerable.

This program will shift enormous funding to me a property owner in Wyoming County because the hospital is county-owned. The tax burden will increase an estimated 28 percent. This is not acceptable.

This legislation threatens the survival of my hospital and the future jobs of my neighbors. I understand the Speaker of the House needs to retain his parties support but we, the people, put the Republicans where they are today and will be sure to take them out if we, the voters, are not represented.

CYNTHIA TINKER,
Warsaw, NY.

PRESERVE AND PROTECT MEDICARE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, not since Mother's Day have Democrat mommas across America gotten so much attention.

But what are Democrats' sons and daughters telling them? It is a nostalgic piece of Chicken Little, "The Sky Is Falling." Yes, with creativity of Steven Spielberg, they are storytelling.

They should remember this one: Two mothers, two women were fighting over the same baby. The wise King Solomon pulled out a sword and said, "Cut the child in half." One would-be mother said, "Fine." The other one said, "No, never." Love is stronger. Love of a parent deserves love of a child.

☐ 0915

What a different bill we would have today if the Democrats would follow the example of love. The love of a Mother Theresa rather than the terror of a Stephen King. If the Democrats criticism energy were spent coming to the table rather than launching grenades at those who sit at the table, what a better bill we would have. It is time to put love of parents and love of seniors above love of politics and partisanship.

Mr. Speaker, let us do the right think to do: Reform, protect, and preserve Medicare.

PAY MORE, GET LESS PLAN

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, let me take the gentleman to a little different part of his Bible. There is a part called honor thy father and thy mother, and I do not find anything honorable about this Republican pay more, get less plan. That is what it is.

Of course, not everybody is unhappy with it. You see, while it gives a swift kick to seniors, those who bought into the plan get a mighty big kickback. Even the Republicans' own staffers say yes, taxpayers are going to have to fork over an extra $1 billion because of the repeal and weakening of antikickback provisions in this bill. The pharmaceutical companies settled for only $100 billion by the Republican plan to repeal the discount for pharmaceuticals at public hospitals.

Yes, it is very difficult for the Republicans to talk about being antifraud when there is so much fraud in this plan. We only need to turn to this morning's newspaper to see that they are saying House Republicans today open literally a vote trading bazaar. Speaker NEWT GINGRICH cheerfully described the bargaining as "a little bit like Christmas shopping." Well, there are a lot of mothers and fathers in America who have nothing to be cheerful about and much to worry about when it comes Christmas shopping time.

H.R. 2425 PROTECTS MEDICARE

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, I have been hearing a lot of conversations the past several years, but I am 66 years old. Here is my Medicare card. I am voluntarily leaving the Congress at the end of this term, and I frankly have a very vested interest in the preservation of Medicare. I want the choice for my future medical care given to me in this Medicare bill.

This bill is good for senior citizens, it is good for the working people who are paying the payroll taxes to guarantee the Medicare, to pay for Medicare. It preserves, protects, and it saves Medicare. Within a year from now, I guess I will be full time on the Medicare bill, after I leave the Congress.

SYMBOLISM SPEAKS LOUDER THAN RHETORIC

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, as we head down a road as historical as the one that we are encountering today, symbolism becomes very important. It is an important symbol as we note that exactly the same moment that we are debating and voting on a $270 billion cut in Medicare in the other Chamber, the House Committee on Banking and Financial Services is debating and voting out a $245 billion tax giveaway by the Republicans.

Our Republicans say one has nothing to do with the other. But the symbolism of the moment is they take place at exactly the same time in both Houses of this great Congress. There is no quid pro quo, no tit for tat. I think the symbolism speaks otherwise.

It is also important to note that another new version of this bill came out of the Committee on Rules last night that no Member of the House has had an opportunity to read the 900-plus pages. By the way, we started a few days ago with a bill that was 421 pages, it grew and grew until finally now 10 days later it is almost 1,000 pages, and not one hearing has been held on any version of this legislation.

Ladies and gentlemen, symbolism speaks louder than the Republican rhetoric.

FACT OVER FICTION

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, they shall not bear false witness—that is what the Democrats have been doing on this Medicare issue. Republicans have a plan to save Medicare. Republicans have a good plan to save Medicare. We want America to see our plan. We aren't afraid to show the American people what we're trying to do, because what we are doing is saving the single most important entitlement program in society today. Let's look at the facts.

Premiums are going up. They are going up $7 so that we can increase spending per beneficiary by $1,900.

The tax cuts that Democrats say we're giving to the rich to fund these reforms were passed last spring. They have nothing to do with preserving Medicare.

If you don't want to switch plans or service you do not have to. The Republican plan does not require you to change anything unless you want to.

Finally, for Democrats to decry that some kind of a backroom deal was made by Republicans to satisfy certain interest groups is absolutely absurd. What's happening is people are finally starting to really look at our plan and they're starting to realize that it's a good plan and that scares the heck out of Democrats.

A DAY OF INFAMY

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Days of infamy. October 12, we lock up seniors in America. October 19, today, Republicans have 900 pages to trash Medicare. Premiums for all seniors will rise at least $87 by 2002; hospitals will close; Medicare benefits for beneficiaries will go up $1,700; and, yes, you will get your $270 billion for a tax cut.

What a day of infamy. How sad. And when we want to talk about scriptures, let me tell you about a scripture. The story goes in the New Testament that the Lord asked a question, and the lawyer responded as he asked the question, "Lord, when did I deny you?" And he did not realize that he denied him when he ignored seniors in America, the senior from Houston, TX, that says "I do not believe the drastic cuts in Medicaid and Medicare should take place for the tax breaks for the privileged. I can't hardly write, my finger is so sore, and my husband has 2 ulcers on his leg."

These are the letters, time and time again, that I have gotten from my seniors who say stop trashing Medicare and let us make something happen for all Americans.

ONLY IN WASHINGTON IS AN INCREASE A CUT

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, it is really sad that we have try to reinforce the public's perception of lack of trust in Washington with the MediScare tactics. Only in Washington could a 42- to 45-percent increase be called a cut.

Now, my colleagues on the other side of the aisle may say that may be working with words and may be working with numbers. Per person we are talking about going from $4,800 to $6,700, a $1,900 increase.

Now, any senior knows if their insurance company told them "We are going to increase your rates by $1,900, and that is a cut, a slashing of your rates," the senior would say, "You are crazy."

If you want to know a special interest group that is driving this Member, my seniors from AARP, 20 members have been advising me on this item. Their advice is why do we allow more than the rate of inflation? We are proposing twice the rate of inflation, Mr. Speaker. Twice the rate of inflation is what our projections are.

AN OUTRAGEOUS PIECE OF LEGISLATION

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this is the most outrageous thing I have seen in my 33 years here in the House. Yes, I am talking to you. Nobody has ever seen the bill that we will be voting on in 3 hours. Nobody has ever seen the bill we will be voting on in 3 hours.

The bill we will be voting on is not the bill that came from the Committee on Ways and Means, not the bill that came out of the Committee on Commerce. It is some bill adopted somewhere in this Congress by a group of people whose faces and names are unknown. Nobody knows what is in that bill.

I know why it is being adopted. It is being adopted for one simple reason: GOP, get old people, and use the money you get from them to pay for a tax cut for your wealthy contributors.

This is an outrage.

MEDAGOGUERY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I have enjoyed the Biblical quotations throughout the morning, but there have also been a number of quotations from the media. My friend from Texas focused on an article that appeared in today's paper, and, frankly, while we do not on this side regularly champion the Washington Post, I believe that the Washington Post described so much of what we have heard over the past few minutes on the other side of the aisle, because they have observed the debate over the past several months. They said the rhetoric which has come from the Democrats is nothing but medugoguery. That is the Washington Post editorialization of what we have been hearing.

We as Republicans have stepped up to the plate. Another article that appeared, Adam Clymer in yesterday's New York Times acknowledged that in the past the Democrats have tried to avoid tough votes.

We as Republicans have acknowledged that when Robert Reich, Bob Rubin, Donna Shalala, and the other members of the board of trustees from this administration signed that report saying that within 7 years the system will be bankrupt, we had to do something. We Republicans are stepping up to the plate and doing it. Let us address this in a bipartisan way.

MEDICARE CUTS WILL HURT SENIORS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GENE GREEN of Texas. Mr. Speaker, Congress will vote today on the Republican plan to cut the $270 billion in Medicare to pay for that $245 billion, and my colleague from California, they are stepping up to the plate, but they are being greedy. Even though the Medicare trustees, as the gentleman said, said we need to deal with Medicare, they only said we needed to deal with it for $89 billion and not $270 billion.

Speaker GINGRICH's Medicare plan takes three times as much to pay for that tax cut of $245 billion. The simple truth is that they do not need the $270 billion from Medicare to make the program healthy. They are cutting Medicare to pay for the tax breaks.

Do not be fooled. Seniors will be hurt by Speaker GINGRICH's plan. Number one, premiums will double, forcing many seniors to choose between their choice of health care and other living essentials. The choice of doctors will be limited.

Earlier this year my Republican colleagues talked about the Washington Post editorial. Before they vote today, I hope they would read today's editorial, where it talks about what they say, "Who Pays if Medicare Is Cut?"

I include that editorial for the RECORD.

[From the Washington Post, Oct. 19, 1995]

WHO PAYS IF MEDICARE IS CUT?

The great question—you could say gamble—with regard to the Republican plan to reform Medicare is whether it will it succeed in fostering competition that will drive down the cost of care, or will simply shift some large part of the cost from the government back to recipients, thereby creating a much more limited program—a half-Medicare. No one knows the answer. What the House and Senate are being asked to do in considering their respective versions of the plan in the next two weeks is to choose between risks. One is the risk of not acting to curb the enormous projected cost of the program, which threatens over time to break the bank—and which the Republicans are right to have taken seriously and sought to address. The other is the risk of shifting too much cost to lower-income elderly and disabled people who can't bear it and who may therefore be left without the care that they both need and currently have.

The Republicans have argued that the cuts they propose would fall mainly on hospitals, doctors and other providers, and only to a lesser degree on Medicare recipients themselves. But it isn't certain that this is how it would work out. The government itself would pay the providers less. But the plan then also makes it possible for the providers to recover if they want by charging the recipients more. The insurers and providers with whom the recipients would deal would not be required to absorb the cuts. Rather, to the extent that competitive pressures permitted, they would be free in various ways to pass them on; the recipients then would have to absorb them.

Our own sense is that, as the bills are written, this risk is too great. That's particularly the case because the Republicans would decimate Medicaid, the backstop program for the needy elderly and disabled. The house the Republicans are building has plenty of roof over cost but not enough floor under care. Much has been made in recent days of the deals that House Speaker Newt Gingrich is said to have struck with the American Medical Association and other provider groups to ensure their support for the plan. The assorted deals are small potatoes compared with this structural defect in the plan. It has to be fixed to make the plan worth passing.

The plan has, while we're at it, one other provision that would cost billions of dollars while serving no good purpose and ought to be killed outright. We have in mind the medical savings accounts the proposal would permit. Instead of paying a recipient's bills or giving the recipient a fixed amount to help buy an insurance policy or enroll in a managed care plan, the government would put that amount in a savings account in the person's name, partly to buy a high-deductible, so-called catastrophic insurance policy, the rest to be used for other purposes. After a certain amount had accumulated, if the recipient didn't need or want to use the money for health care he could use it to take a vacation, buy a boat—you name it.

Healthy and better-off people who could afford the risk would be drawn to this. The government would be putting more in their accounts per year than they currently take from Medicare, thus adding to costs and leaving less to care for the sick and less well-off. It's a skimming operation, and it ought to be dropped without a second thought.

SOLVE MEDICARE PROBLEMS IN A BIPARTISAN WAY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, the Medicare trustees have told us that Medicare is going bankrupt. Let me quote from their own words: "We strongly recommend that the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis."

This is a quote from the Medicare trustees. Six of them, four of them appointed by President Clinton, three of them Cabinet-level positions. We believe that their recommendation should be followed, and we are doing that.

We really need to address the Medicare crisis. Please join us in addressing that crisis. Please stop medagoguery. Please join in the discussion which is now just beginning. The passage of this bill today is just one of a number of steps in which this bill can be modified so that it becomes ever a better and better bill. Please join us in solving this problem for senior citizens.

Mr. Speaker, I think it is morally reprehensible to frighten senior citizens for political agendas.

VOTE "NO" ON MEDICARE BILL

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, I rise in strong opposition to the Medicare Pilfering Act of 1995 that the Republicans are bringing to the floor today.

The Republicans think they can fool the American people by dressing this bill up in Orwellian language and calling it the Medicare Preservation Act of 1995.

But the American people have caught on that they really are pilfering Medicare to pay for a tax cut for the rich.

Under the Republican plan, you reduce Medicare spending by $270 billion and you only extend the life of the Medicare hospitalization trust fund to the year 2006. Under the Democratic alternative, you reduce Medicare spending by $90 billion and you also extend the trust fund to the year 2006. Even the Republican staff of the Ways and Means Committee admit that the two bills achieve the very same goal.

So what is going on here? If cutting $90 billion and cutting $270 billion achieve the same goal, why do the Republicans insist on cutting Medicare by $270 billion and what happens to the $180 billion difference?

The answer is that it is being used to pay for those $245 billion in tax cuts that we do not need and cannot afford. No matter how the Republicans disguise it, there is no escaping the fact that they are cutting Medicare to pay for tax cuts.

That is irresponsible. That is wrong. That is unfair to America's senior citizens. Vote "no" on the Medicare Pilfering Act of 1995.

JUST THE FACTS ON MEDICARE

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, Sergeant Joe Friday used to say "Just the facts, ma'am." Well, here are just the facts on Medicare.

Fact: According to Clinton trustees, Medicare is going bankrupt in 7 years and Congress should do something this year to avert this disaster.

Fact: The Medicare Preservation Act will save the Medicare system, while giving choice to seniors that they have asked for time and time again.

Fact: No senior will be forced into an HMO. HMO's are simply an option for seniors, as is traditional Medicare, medical savings accounts, and provider sponsored networks.

Fact: The Medicare Preservation Act increases individual benefits for seniors from $4,800 per year today to $6,700 per year in 2002.

Fact: By law, Medicare savings can be used only to save Medicare.

Fact: The Medicare debate has become a game of who are you going to believe: Those across the aisle who knew about the impending bankruptcy for years and did nothing? Or those who have taken the challenge and made the promise to save Medicare from an untimely death. These are just the facts.

□ 0930

DO NOT TRADE HEALTH CARE FOR TAX CUTS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today is the day that the Republicans trade the health care of our seniors for tax cuts for the wealthy. Today is the day that the Republicans take on the best health care system in the world, the least expensive health care system in the world, in terms of overhead, and the most comprehensive health care system in the world for senior citizens, and today they trade that in for tax cuts to the wealthy.

Mr. Speaker, they do so by taking away benefits that seniors have. They do so by making sure that seniors will not be able to pay and to purchase the same health care levels and benefits that they have today 5 years from today. They will not be able to arrange for the same level of health care. And so we leave our seniors stranded so that we can provide tax cuts and capital gains cuts to the wealthiest individuals in this country.

One of my seniors from Pittsburg, CA wrote and said, "Congress must understand we seniors built this country and we deserve better. You should not do this to us."

MANAGED CARE WORKS IN MEDICARE

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, perhaps we will have to wait a year or two until our friends on the other side of the aisle come over to our way of thinking. Similarly, we are now hearing that President Clinton is saying that the 1993 tax increase was wrong and not the right thing to do and perhaps too large. Yet we heard from Members on the other side how important that was, and now President Clinton has come over to our way of thinking.

I think our colleagues on the other side will come over to our way of thinking on Medicare because we need to save this important program. Under the Republican plan Medicare will grow by $86 billion over the next 7 years and we will institute reforms that are already working in the private sector.

In my home district of Worcester County, MA, 60 percent of my constituents are already in managed care. It works, it provides quality care for seniors under Medicare right now, and it can be used to reform our health care system and reduce the devastating rate of increase we are now seeing.

Mr. Speaker, pass this bill. It is the right thing to do for America.

A LITTLE EARLY CHRISTMAS SHOPPING

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, it was like a carnival yesterday here in the House. Step right up, step right up, called Barker NEWT GINGRICH as he called in the special interests for their cut of the pie in an effort to save this devastating Medicare program.

In fact, the Speaker said it was "a little like Christmas shopping", as the GOP started selling off parts of the Medicare package to special interests.

For everyone else Christmas shopping starts the day after Thanksgiving, but for the AMA, the pharmaceutical companies, the nursing home operators, Christmas shopping started this week. They got their goodies while the average senior paid: No reimbursement for nausea medicine after chemotherapy. Increases in copayments for loved ones in nursing homes.

How is that going to devastate families throughout America?

Well, the GOP should know something. Yes, they can make a lot of deals and do a lot of trading to save a bad package. They will win the vote, but they will lose the war.

SENIORS WILL HAVE CHOICES

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, the demagoguery that has developed over this issue is truly shameless. Let us get a couple of facts straight first.

No. 1, one of the things that each and every Medicare beneficiary has the right to choose is to stay in the program exactly as it is today, precisely as it is today, with no increases in copayments, my friend, the gentleman from New York [Mr. SCHUMER], with no increases in deductibles, with the same program, 31½ percent, no increase in the percentage of the part B premium. They will have the right to choose that.

They will also have the right to other choices, the same kind of choices that we have in this U.S. Congress, that every Federal employee has, and that people in the private sector have got. But if we want to see the depths, the shameless depths to which the demagoguery and the rhetoric has gone to in this debate, last night I was on the floor and the bill was compared by the gentleman from New York to the attack by the Japanese on Pearl Harbor. Our bringing forward this bill was compared to the Japanese attack on Pearl Harbor. How does the gentleman from Florida feel about that?

WOLVES IN SHEEP'S CLOTHING

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we have heard of wolves in sheep's clothing, and today that is what we see. Today we see all sorts of people from the other side of the aisle parade down here and say trust the party that fought tooth and nail not to have Medicare 30 years ago, but trust them now. Trust the party who had seniors arrested last week in this body when they tried to ask questions. Trust the party who has this 961 harmless page bill that none of them could pass a test on and they have had no hearings on, but trust them.

There is nothing harmful in here. Trust the party whose leader, Speaker GINGRICH says the main thing coming out of the session will be the tax cut for the rich. That is the crown jewel of this whole session and the seniors are going to get the gruel that is what we are doing today. The rich get the jewel, they get the gruel, but they keep saying trust their party and listen to the trustees. That is wrong.

MEDICARE NEEDS INTELLIGENT CHANGE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, I believe it was G.K. Chesterton who said, "I still believe in liberalism, but, oh, there was a time when I believed in liberals."

The liberals today are losing their mind over losing control over the people's health care. It is not so much how much we spend, it is who decides. The Republicans want to give that decision to the people who use the health care. Let them have the same choices that we have in health care. Do you want to opt out of the 1965 style Blue Cross program? Even Blue Cross does not provide that kind of health care delivery system anymore, but we have locked our seniors into a 30-year-old system from which they cannot escape.

Do we want seniors to have the choices that we have? High deductible medical savings accounts, a managed care system, to stay with their current health care system? The old 30-year-old program does not allow any choices and it gives us a health care system that is increasing in cost at three times the rate of inflation. We cannot sustain that, our seniors do not want to try to sustain that, we need to fix it.

PROPOSED CUTS IN MEDICARE WILL HURT SENIORS

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, there is no excuse for a $270-billion cut in Medicare when the Republican leadership is simultaneously providing huge tax breaks for the rich, is building more B-2 bombers, and is maintaining $125 billion in corporate welfare.

In my State, these cuts will result in over 80,000 elderly and disabled Vermonters paying higher premiums for a weakened Medicare system. As a result of the Republican plan, Medicare part B premiums will rise by $312 in the year 2002.

Mr. Speaker, not only will seniors be paying more for a weakened system, but throughout our country and in rural States like Vermont our rural hospitals will be endangered. Fifty-five percent of the revenue that comes into our hospitals come from Medicare and Medicaid, and many of them will not be able to sustain these cuts.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. LINDER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

Committee on Agriculture, Committee on Commerce, Committee on Government Reform and Oversight, Committee on International Relations, Committee on the Judiciary, Committee on Resources, Committee on Science, Committee on Small Business, and Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Georgia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2425, MEDICARE PRESERVATION ACT OF 1995

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 238 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 238

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and amendments specified in this resolution and shall not exceed three hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on Ways and Means and the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of H.R. 2485, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment shall be in order except the amendment in the nature of a substitute printed in the Congressional Record and number 2 pursuant to clause 6 of rule XXIII, which may be offered only by the minority leader or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against that amendment in the nature of a substitute are waived. After a motion that the Committee rise has been rejected on a day, the Chair may entertain another such motion on that day only if offered by the chairman of the Committee on Ways and Means, the chairman of the Committee on Commerce, or the majority leader, or a designee of any of them. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions. The motion to recommit may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 238 is a modified closed rule that waives all points of order against H.R. 2425, the Medicare Preservation Act of 1995 and provides for consideration of this historic legislation. The rule allows for 3 hours of general debate to be equally divided between the chairmen and ranking minority members of the Committees on Ways and Means and Commerce. Following the 3 hours of general debate, the rule makes in order as an original bill for the purpose of amendment, the amendment in the nature of a substitute consisting of the text of H.R. 2485, as modified by the amendment printed in the Rules Committee report.

The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the 5-minute rule, and the bill shall be considered as read. All points of order against the provisions of the bill, as amended, are waived.

The rule provides for consideration of an amendment in the nature of a substitute numbered 2 printed in the CONGRESSIONAL RECORD, if offered by the minority leader or his designee. All points of order are waived against this amendment. The amendment is considered as read, is not subject to amendment, and is debatable for 1 hour divided between a proponent and an opponent of the amendment.

The rule provides that after a motion to rise has been rejected on any day, another motion to rise may only be offered by the chairman of the Committees on Ways and Means or Commerce, or by the majority leader, or a designee of either one of them. It also provides that the provisions of clause 5(c) of rule XXI shall not apply to votes on this bill, amendments, or the conference report for this bill. I expect that we will witness many eloquent speeches—pro and con—during today's debate, and these two provisions are simply designed to limit some common dilatory motions that may unnecessarily delay the consideration of this bill.

Finally, this resolution provides one motion to recommit, with or without instructions, as is the right of the minority. If the motion to recommit does contain instructions, the rule provides that the motion may only be offered by the minority leader or his designee.

Mr. Speaker, in about an hour, we will all participate in a historic event that will lead us to consider a bill that will almost immediately benefit millions of seniors, and eventually, millions of Americans who will one day look to Medicare for health care service. I am honored to carry to the House floor a rule that presents our monumental proposal to save Medicare.

The fight to save Medicare began in earnest on April 3 of this year when the Medicare Board of Trustees that oversees the Medicare trust fund reported to Congress that the Medicare trust fund would begin to decline next year and would be completely bankrupt by the year 2002. The alarm to take drastic and immediate action to save the program has created an atmosphere that is both exciting and anxious for Medicare beneficiaries.

While many have stood on the sidelines of the debate and pointed fingers of blame, we have accepted the trustee's challenge to rescue Medicare. The resolution crafted by the Rules Committees will bring to the House floor the Medicare Preservation Act—a bill that I believe is bold enough to preserve Medicare for another generation.

As I previously stated, House Resolution 238 is a narrow rule allowing both sides of the aisle an opportunity to present the case that their proposal will protect Medicare for a generation of Americans. Ours is a carefully balanced bill that is the result of thousands of hours of work by Members of this House. This rule will preserve that delicate balance, and it is common practice for most bills coming out of the Ways and Means Committee to be considered under closed or modified closed rules. It is important to note that the original legislation creating the Medicare program for millions of Americans was considered under a closed rule in 1965.

Before I lay out some of the general provisions of the act, I want to discuss two specific provisions included in this rule. First, the rule provides language to ensure that all areas of the country receive equitable funding through amendments to the capitation rate formula. While funding will be distributed based upon historical costs and changing populations, the rule provides that certain minimum funding levels will be maintained. The formula guarantees that historically low-cost areas will not be penalized because of their cost effectiveness.

Second, the rule adds additional language to attack fraud and abuse in Medicare. The current Medicare system is so infected with fraud, abuse, and misuse that it wastes billions of dollars each year. I doubt that any Member of Congress has not had at least one constituent at a town hall meeting or other event to show the Member an example of a fraudulent or erroneous Medicare billing. My own mother has received three such billings in the last couple of years, and I am convinced that she is not the only one who has encountered this problem. Therefore, in addition to the antifraud provisions in the base text of this bill, this rule defines several new Federal health care crimes and defines penalties of up to 20 years in prison for violations of these laws, laws focusing on fraud, bribery, theft, embezzlement, and kickbacks. This provision covering doctors and hospitals engaging in this deceit deserves to be part of the bill, and this rule provides for its inclusion in the reform package.

In addition to fighting fraud, this bill will reduce reimbursement rates for doctors and hospitals and provide seniors with more choices for health care delivery. To achieve these goals, the Medicare Preservation Act adds two new programs to the current Medicare program—MedicarePlus and Medisave. Through MedicarePlus, some citizens will decide to choose a plan that offers fixed rates, and covers prescription drugs, and even eyeglasses. Increasingly, Americans have stated that they appreciate their managed care program, and would stay in it. This bill affords them the opportunity to choose managed care. Those who opt for medical savings accounts through Medisave would be completely in control of their own health spending. All of these changes will assure that we secure the Medicare promise we made to our seniors.

We have to be clear: No benefit will be cut. You can keep your doctor and you have the option to choose any other doctor. There will be no coercion into any specific program. In fact, if a senior chooses a MedicarePlus program or chooses Medisave and then becomes dissatisfied, the bill states that the senior can always move back to the current Medicare system. We expect a very high degree of satisfaction, however, as the Congressional Budget Office has concluded that about 25 percent of seniors will take advantage of these new programs in the first few years. Over and over again, Americans have shown that they make wise choices, and this plan gives our seniors that opportunity.

Medicare is a 1965 Blue Cross/Blue Shield program in which costs have simply grown out of control. For example, when the program began, the Government subsidized 50 percent of the part B premium. Yet today, the subsidy that our children and grandchildren must pay has grown to 68.5 percent. Only the greediest of the elderly, none of whom I know, would ask their grandchildren to shoulder more of this burden. Therefore, we freeze the subsidy at this level. Despite cries from the other side that we are doubling premiums, the fact is that this proposal will simply raise the part B premium about $7 a month by year 7 of this plan. The $7 is a small price to pay to preserve both the future of Medicare and the future of our grandchildren.

As I have stated before, the most extraordinary development has come in those nations that have put their trust in the power and potential of the marketplace. Market forces have modernized every other segment of our society, and I am certain that they will have the effect of improving quality and decreasing costs when applied to government health care. Without a doubt, H.R. 2425 will provide seniors with more choices and result in tremendous benefits to future generations of American seniors. We fulfill our promise to our citizens with this bill.

The resolution that was favorably reported out of the Rules Committee is a fair rule that will allow for careful consideration of the Republican proposal to save Medicare and a minority substitute bill. I urge my colleagues to support the rule so that we may proceed with consideration of the merits of this extraordinarily important legislation.

☐ 0945

Mr. Speaker, I submit the following for inclusion in the CONGRESSIONAL RECORD.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of October 18, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	51	72
Modified Closed[3]	49	47	17	24
Closed[4]	9	9	3	4
Total	104	100	71	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of October 18, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of October 18, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

CORRECTION OF VOTES IN COMMITTEE REPORT—OCTOBER 19, 1995

The Rules Committee's report, House Report 104–282 on House Resolution 238, the rule for the consideration of H.R. 2425, the Medicare Preservation Act of 1995, contains four erroneous rollcall votes.

Below is a correct version of those votes. The corrected votes for Rollcall Nos. 178, 189, 202, and 203 are as follows:

COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below. For a summary of the amendments moved to be made in order, see section following the rollcall votes.

RULES COMMITTEE ROLLCALL NO. 178

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Moakley.

Summary of Motion: Make in order amendment by Representative Rangel.

Results: Rejected, 4 to 9.

Vote by Member	Yea	Nay	Present
QUILLEN		X	
DREIER		X	
GOSS		X	
LINDER		X	
PRYCE		X	
DIAZ-BALART		X	
McINNIS		X	
WALDHOLTZ		X	
MOAKLEY	X		
BEILENSON	X		
FROST	X		
HALL	X		
SOLOMON		X	

RULES COMMITTEE ROLLCALL NO. 189

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Beilenson.

Summary of Motion: Make in order amendment by Representative Ganske.

Results: Rejected, 4 to 9.

Vote by Member	Yea	Nay	Present
QUILLEN		X	
DREIER		X	
GOSS		X	
LINDER		X	
PRYCE		X	
DIAZ-BALART		X	
McINNIS		X	
WALDHOLTZ		X	
MOAKLEY	X		
BEILENSON	X		
FROST	X		
HALL	X		
SOLOMON		X	

RULES COMMITTEE ROLLCALL NO. 202

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Solomon.

Summary of Motion: Add provision to rule ordering yeas and nays on passage of bill and suspending application of clause 5(c) of rule XXI to votes on passage of bill, amendments thereto, and conference reports thereon.

Results: Adopted, 9 to 3.

Vote by Member	Yea	Nay	Present
QUILLEN	X		
DREIER	X		
GOSS	X		
LINDER	X		
PRYCE	X		
DIAZ-BALART	X		
McINNIS	X		
WALDHOLTZ	X		
MOAKLEY		X	
BEILENSON		X	
FROST			
HALL		X	
SOLOMON	X		

RULES COMMITTEE ROLLCALL NO. 203

Date: October 18, 1995.

Measure: H.R. 2425, the Medicare Preservation Act of 1995.

Motion By: Mr. Quillen.

Summary of Motion: Order rule reported.

Results: Adopted, 9 to 3.

Vote by Member	Yea	Nay	Present
QUILLEN	X		
DREIER	X		
GOSS	X		
LINDER	X		
PRYCE	X		
DIAZ-BALART	X		
McINNIS	X		
WALDHOLTZ	X		
MOAKLEY		X	
BEILENSON		X	
FROST			
HALL		X	
SOLOMON	X		

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). It is the prerogative of the Chair to welcome back the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Committee on Rules. The gentleman from Massachusetts is recognized for 30 minutes.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER], my dear friend, for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I am very honored to be back at the leadership table today doing my part on behalf of every American who does not want their Medicare benefits cut to pay for the tax cuts for the very, very rich.

Mr. Speaker, I heard 7 hours of testimony in the Committee on Rules yesterday and I still cannot understand why anyone on Earth would propose such a horrible, horrible idea.

Mr. Speaker, 40 million elderly Americans rely on Medicare, but my Republican colleagues still insist on using Medicare as a slush fund for tax breaks. I can tell my colleagues that I was not sent to Congress to do that.

Mr. Speaker, I want to make something very clear. This bill will hurt. This bill will hurt and it means that senior citizens' premiums increase about $400, but they will have to give up their own private doctors.

Where I come from, if you pay more, you should get more. But not today, Mr. Speaker. This bill takes health benefits from Grandma, from Grandpa, and hands them over to the richest Americans in the forms of a nice, big, juicy, fat tax break.

Republicans are not cutting Medicare to save it. Republicans are not cutting Medicare to protect senior citizens. Republicans are cutting Medicare to fill that big, big hole left in our Nation's wallet after their tax break for the very rich.

Mr. Speaker, at a time when we should be immunizing more of our children, at a time when we should be training more of our health workers, at a time when we should be working together to make this country as competitive and caring as it can be, this bill leaves thousands and thousands of senior citizens out in the cold.

Mr. Speaker, this will cripple our fine medical schools, our outstanding teaching hospitals, our research facilities, and the health of the entire country will ultimately suffer.

Mr. Speaker, senior citizens need their health care a lot more than the very, very rich need another tax break. Take it from me, Mr. Speaker, senior citizens need their health care a lot more than the very, very rich need other things.

Mr. Speaker, this bill is wrong. It is wrong. It is wrong. So, I ask my colleague to defeat the previous question and oppose this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me take a moment to welcome back my colleague, the gentleman from Massachusetts [Mr. MOAKLEY]. Mr. Speaker, I would say to the gentleman that he has not changed a bit, and it is a pleasure to have him back here.

Mr. Speaker, let me also take a moment to thank the gentleman from Georgia [Mr. LINDER], who is managing this rule, and the other members of the Committee on Rules, for supporting this rule. Because, by voting for this rule, my colleagues are voting to give greater equity to the rural hospitals in America. That means more money to rural hospitals because they are so pressed right now for financial assistance: This rule will go a long way toward helping them. So, I thank the Committee on Rules for supporting it.

Mr. Speaker, last month I turned 65 years of age and am now a contributing member of the Medicare system. On behalf of myself and my constituents, I want to thank the gentleman from Texas [Mr. ARCHER], the gentleman from Virginia [Mr. BLILEY], and other members of their committees for this bill, which not only saves the existing system from bankruptcy, but guarantees there will be Medicare protection for the elderly for many years to come with no "Band-Aid fix" as is usually the case, here in Congress.

Mr. Speaker, I have been hearing from several different groups of people who are legitimately concerned about how this reform affects them. First, there is a group already retired on Medicare. They can stay in the system exactly as they are or they can buy another private health policy and Medicare will give them up to $4,800 to help pay for it. That is important for those people on Medicare today to know.

Second, there is a group ready to retire that has no current insurance. They can retire, join the existing Medicare Program, or they can choose a private health plan and Medicare will give them $4,800 to pay for it.

Then there is a group, and I think this is a group that I represent back home because they are working Americans. They work for firms like GE and IBM, International Paper Co. or the State of New York or local government. They have health coverage through their employer.

Under this new plan, they can retire tomorrow, either join the current Medicare Program or they can continue the policy they have now with their current employer and Medicare will contribute up to $4,800 to help pay for it. That gives great relief to those people.

Last, there is a group of small businessmen, like farmers, and I represent maybe the 20th largest dairy producing district in America, who currently buy a Blue Cross-Blue Shield plan or a private plan, but when they retire tomorrow their income goes down and they no longer can afford the same policy. Mr. Speaker, under this plan they can either:

One, join the existing Medicare Program as it is today or, two, continue to buy the health policy they have today and Medicare will contribute up to $4,800 toward the cost of that policy.

Mr. Speaker, last weekend I sat home and I randomly called over 100 constituents from all of these categories I mentioned above and you know what? After I explained this new program, without using terms like Medisave, Medigap, or MedicarePlus, when I explained it to them in layman's language, almost every one of them said they were relieved and they thanked me for what we are doing to save Medicare today.

So, on behalf of my constituents, I want to thank the two committees for the great job that they have done. They really are saving this system for the elderly for years to come.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. FROST], an outstanding member of the Committee on Rules.

Mr. FROST. Mr. Speaker, at 10 o'clock last night the Committee on Rules was called back into session to rewrite this rule. Now, what was going on? The Republicans are desperate to find votes to promote their $245 billion tax cut for the wealthy.

Look in today's New York Times. "For Republicans in the House, a Frantic Vote Trading Bazaar," and I want to quote from this.

> Today the office of Speaker Newt Gingrich became a kind of bazaar as lawmakers trouped in seeking concessions and Mr. Gingrich tried to please them. The bargaining was a little like Christmas shopping, as Republican lawmakers searched for gifts. To help pay for the sweeteners for the rural lawmakers, this is what they did. They decided not to expand Medicare coverage of chiropractor services and not to pay for drugs needed to combat nausea caused by certain anticancer drugs.

□ 1000

A bazaar, a trading session, simply to be able to find enough votes to put through this plan, to cut Medicare by $270 billion.

PARLIAMENTARY INQUIRY

Mr. MCDERMOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state his parliamentary inquiry.

Mr. MCDERMOTT. Since we had no hearings in the Committee on Ways and Means, I want to clarify what document we are dealing with.

Mr. LINDER. Mr. Speaker, that is not that parliamentary inquiry.

Mr. MCDERMOTT. Wait and listen to my parliamentary inquiry.

We had a bill introduced, H.R. 2425, in the committee. Then we had a substitute of 435 pages that was dropped on us the day of the first meeting.

Mr. LINDER. Point of order.

Mr. MCDERMOTT. Then we have a bill identified as Union Calendar 145, H.R. 2425, which is 900 pages——

Mr. LINDER. Point of order.

Mr. MCDERMOTT. Which is 900 pages, which has never had a hearing, and now we have H.R. 2485. Are there any other——

The SPEAKER pro tempore. The gentleman from Washington will suspend.

Mr. MCDERMOTT. Are there any other changes before us——

The SPEAKER pro tempore. The gentleman from Washington will suspend.

The gentleman from Georgia will state his point of order.

POINT OF ORDER

Mr. LINDER. Point of order. Is that a parliamentary inquiry or a speech?

Mr. MCDERMOTT. I think asking the Chair what we are considering is basically a parliamentary inquiry. We are out here as a parliament to deal with law. The question is, What we are dealing with?

The SPEAKER pro tempore. The Chair will read from the rule:

> An amendment in the nature of a substitute consisting of the text of H.R. 2485, modified by the amendment printed in the

report of the committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the committee of the whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the 5-minute rule.

Mr. MCDERMOTT. Can the Chair tell us, are there any changes between the H.R. 2425, which came out of the committees, and H.R. 2485, which was used in the Committee on Rules last night?

The SPEAKER pro tempore. The Chair cannot further respond.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Could the Chair tell us which of the documents that have been coming forth so profusely is to be used today for consideration of the legislation?

The SPEAKER pro tempore. The response from the Chair is that the Chair has just ruled on that.

The gentleman from Georgia is recognized.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Ohio [Ms. PRYCE], our colleague on the Committee on Rules.

Ms. PRYCE. Mr. Speaker, this is a historic day in the House of Representatives, and I am pleased to rise in strong support of this rule for the Medicare Preservation Act.

Throughout the past year, we have made every effort to alert the American people, and seniors in particular, that we are facing a serious crisis.

Medicare is growing at an unsustainable rate, and retirement of the baby boomers is just around the corner. Unless decisive action is taken now, the Medicare system will collapse. With the health of 34 million senior citizens at stake, we can't delay any longer. The time has come for Congress to act responsibly and courageously, in the face of all the rhetoric and politics as usual.

After months of congressional hearings and meetings with senior citizens, doctors, hospitals, and health care experts, Congress has crafted a plan that will prevent Medicare's bankruptcy and give seniors the peace of mind they deserve as they look forward to their retirement years.

Our committees have developed a serious response to the Medicare crisis, one which not only promises solvency of the program, but offers seniors the right to choose their health care plan, including the right to stay in the traditional Medicare system.

What this plan is about is change, and change long overdue. The current Medicare program is a 1965 Blue Cross/Blue Shield health care plan codified into law. But just like stereos, computers, or cars, health care plans have seen a lot of innovation in the last 30 years.

Here and now in 1995, you can still drive a 1965 Chevy, but there are a lot of new models out there with cruise control, air bags, and automatic locks. For the first time in 30 years, this proposal gives seniors the opportunity to choose a newer model, but we're also saying, if you want to keep your 1965 plan, if you want to keep on driving your favorite 1965 Chevy, that's all right—it's now your decision, not the Government's.

This plan is honest and sincere. There is no hidden agenda. It's all there, up front, in black and white for the American people to see—no fine print, nothing between the lines.

Our plan will simplify and strengthen Medicare, while finally giving seniors the same choices we all have.

Saving Medicare is not just a slogan or a political strategy. Rather, it is a moral obligation to our seniors and to future generations. We are committed to this challenge, and with this rule and the bill it makes in order, we are keeping our promise to the American people to put Medicare on a sound financial footing.

Mr. Speaker, let us save Medicare. I urge my colleagues to support this fair rule and to bring this country Medicare that is guaranteed to survive.

POINT OF ORDER

Mr. GIBBONS. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair does not need to entertain that at this point.

Mr. GIBBONS. When will the Chair entertain such a motion? There is obviously not a quorum present, Mr. Speaker.

Mr. Speaker, you know, you are the Speaker pro tempore. The Speaker is off selling books somewhere today. There is obviously a quorum not present. Any camera can see a quorum is not present. Why can I not make a point of order if a quorum is not present?

The SPEAKER pro tempore. Under rule XV, clause 6(e) the Chair cannot entertain such a point of order during debate.

The gentleman from Massachusetts [Mr. MOAKLEY] has 26 minutes remaining and is recognized.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking minority member of the Committee on Ways and Means, who has done an outstanding job trying to keep the priorities of the Congress going in the right direction.

Mr. GIBBONS. Mr. Speaker, I have seen a lot of outrages in my 33 years, but this tops it all. I will not compare it to the attack on Pearl Harbor. I was in the Army in the attack on Pearl Harbor. It was not a joke. I lost a lot of friends and a lot of colleagues. But this is a stealth attack of terrible proportions.

Mr. Speaker, there is only one reason that we are having this gag rule today. Yesterday, the Republicans spent 4 hours on shrimp, 4 hours on shrimp. Today we are spending 3 hours on 40 million people's benefits, $270 billion. Now, that is the Republican priority in this Congress: 4 hours on shrimp, 3 hours on Medicare.

There is obviously not a quorum present. I do not know where the Members are. I wish they were here because what we have to say is important.

I want to try to follow up what was just said here about the razzle dazzle that is going on about these bills. This is the bill that was finally reported by the Committee on Ways and Means after two or three substitutes by the chairman. It is not worth a hoot. It is 900-and-some pages long and had already been discarded. This is the bill that was adopted by the Committee on Rules last night. It was referred to the Committee on Ways and Means. It was referred to the Committee on Commerce. It never saw the light of day in either one of those committees, but yet it was reported by the Committee on Rules. It is 471 pages long. The other one is 900 pages long.

Then we are adopting a rule here today that makes two more changes. Now I am told by staff that there are 17 changes in this bill that have never been considered by any committee in this Congress. Nobody has ever seen them. This is Newt's bargaining package. This is what he bought his Republican votes on.

Then, to add insult to injury, there are two more amendments to this bill, that has never been read by anybody, in this rule that we are adopting today.

I have seen a lot of razzle dazzle, I say to the gentleman from New York [Mr. SOLOMON] in this Congress in 33 years, but you and your Committee on Rules and NEWT GINGRICH top it all.

For what purpose? For one purpose only: To get old people to take $270 billion out of their pockets and give it to your rich contributors.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. No. You cut us off. You did not give us any time. NEWT GINGRICH did not give us any time to debate here. Why should I yield to you?

Mr. SOLOMON. Well, you are still my friend.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the outstanding gentleman from Michigan [Mr. DINGELL], the ranking minority member of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, this is a bad rule and a bad bill. I urge my colleagues to defeat the previous question, to defeat the rule and defeat the bill.

The process here has been an abomination. It has been an insult to the

American people. There have been no hearings on this bill. There have been constant changes in its language. There have been constant backroom deals cut to benefit special interests.

Committee amendments have been disappearing from the final text, and now a gag rule is before us permitting only one amendment.

Republicans say we need this bill to save Medicare. Do not believe it. There is only one reason that this bill is required, and that is to provide tax cuts for the rich, financed at the expense of senior citizens and Medicare recipients.

The committee never had a minute's hearings on this legislation. No committee did.

The bill has undergone constant changes. We have Democratic substitutes here which will not have an opportunity to be considered. There are proposals in this bill that have been sneaked in in the dark of night, and no Member knows what they might contain.

I urge rejection of this gag rule.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DOGGETT. Under this rule, as it is proposed, is the new rule of the House requiring a three-fifths' vote on tax increases before any tax increase can go into effect, is that rule being suspended under this rule so that this will be a tax increase that does not comply with the new rules of the House?

I realize it is to provide tax cuts, but does it not have a tax increase?

The SPEAKER pro tempore. The Chair would refer the gentleman from Texas to the last sentence of the rule.

Mr. DOGGETT. Does that permit a suspension of the three-fifths rule to allow a tax increase to go into effect without a three-fifths' vote?

The SPEAKER pro tempore. That is the rule being waived relating to income tax rate increases.

Mr. DOGGETT. I thank the Chair very much.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], who has worked very diligently on this matter.

Mr. CONYERS. Mr. Speaker, we come here on a rule that handles the issues that fall within the jurisdiction of the Committee on the Judiciary that are the most important economic matters in this Congress, massive antitrust exemptions that will allow doctors to fix and inhibit the prices of their competitors, radical medical malpractice and product liability changes for the first time that will intrude on the States' rights to protect their citizens against negligence, wholesale rewrites of the antifraud laws that will make it almost impossible to prosecute Medicare fraud committee by doctors, and yet we have had no debate on any of these matters.

The chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], cut off debate in that committee, saying the Committee on the Judiciary would resolve them. The chairman of the Committee on the Judiciary has never held hearings on this, and Speaker GINGRICH discharged the Committee on the Judiciary from consideration.

Ten days on Waco in Committee on the Judiciary, 8 days on immigration, no days on Medicare fraud.

I rise in strong opposition to this outrageous rule.

Later today this House will be considering one of the most far-reaching and punitive pieces of legislation in the history of this Nation. The bill has been negotiated behind closed doors directly with special interests and only peeks its head above water occasionally, only to be changed and revised through massive and complex substitutes further tailored to suit the needs of powerful special interests.

And today our right to debate the merits of this legislation has been all but eliminated. Why should we expect to have any sort of meaningful public debate—we all know the only place this bill can be debated is behind closed doors with the AMA and other special interests. The Republicans are in such a rush to go home to explain this sellout to their constituents, they didn't have time to allow for a meaningful debate on the actual legislation.

The issues which fall within the jurisdiction of the Judiciary Committee rank among the most important economic matters we will see this Congress: Massive new antitrust exemptions that will allow doctors to fix prices inhibit their competitors; radical medical malpractice and product liability changes that will for the first time ever intrude on the States' rights to protect their citizens against negligence; and wholesale rewrites of our antifraud laws that will make it almost impossible to prosecute Medicare fraud committed by doctors.

Amazingly, we in the Congress will go through this process having had no debate whatsoever on the merits of these broad-ranging proposals. When the antitrust and malpractice issues were raised in the Ways and Means Committee, Chairman ARCHER cut off debate by saying that the Judiciary Committee would resolve them. Yet Chairman HYDE refused to hold a hearing or a markup, Speaker GINGRICH discharged the committee from consideration, and the Rules Committee ruled all of our amendments out of order. We've held 10 days of hearings on Waco, 8 days of markup on immigration, and no hearings or markup on the antitrust, medical malpractice, and antifraud provisions in the Medicare bill.

So we have the absurd situation where the only group which is permitted to write and debate important changes to the antitrust, medical malpractice, and antifraud laws are the special interests—not the Congress. Now I know why the majority keeps putting off gift and lobby reform. Obviously they needed to finish this bill—the largest legislative giveaway of all time—before they can even consider lobbying reform.

I urge the Members to defeat this rule and restore a level of sanity and reasonableness back into the legislative process.

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Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL], a real fine Member who has lived firsthand with this very, very terrible situation that we see in some of the nursing homes in the State of New York.

Mr. RANGEL. Mr. Speaker, there comes a point where shame has to be an issue that has to be discussed. No one knows better than I how important a campaign promise is, and I recognize when you promise $245 billion to those who support the goals and aims of the Republican Party, that you must keep that promise.

The question is, have you no shame in how far you go to raise the money? Student loans, school lunches, housing for the poor. And now we are talking about the crown jewel. The crown jewel is not $245 billion in tax cuts. The crown jewel is aged Americans, those who raised their families and their grandchildren, those that believed in the American dream, those that thought if they took care of their's, that our country would take care of them.

I know, Republicans have fought Medicare from the inception. Every time it comes up, you have always been there, always been there, to vote it down. And here you come again, where hospitals that service the poorest of the poor, in the rural areas, in the inner-cities, where they have no support system, there you are reducing the benefits.

People get up here time and time again saying that is just not so. Well, why do you not go to the hospital people and ask them why they believe you are destroying them? Why do you not go to those in the nursing homes and ask why they are so frightened? And why are we not able to say that there is nothing wrong with that trust fund that $90 billion would not take care of?

If you are so concerned about the Medicare bill, and this will be new to my Republican majority friends, it would be brand new, it would be making history, that you were concerned about the Medicare bill, all you have to do is cut your tax bill by $90 billion, throw it over there and fix the trust fund, and set up a commission to do the rest.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT] the friend of labor, the friend of the elderly.

Mr. TRAFICANT. Mr. Speaker, I oppose the rule; another choice should have been put in order. I will oppose the bill; it is simply not the best. But I do not agree with the politics being played here today, the spin to win, regardless of the consequences. Depicting

Newt Gingrich as Darth Vader and Republicans as two-headed monsters may seem to be good democratic politics, but it is bad public policy for America.

Congress spends too much time on motive and not enough time on substance. The important issue today is not whether Republicans win or the Democrats win. Medicare should be fixed. Medicare is in trouble, and I believe that we should address that issue.

I oppose the bill. It is simply not the best we could fashion.

PARLIAMENTARY INQUIRY

Mr. SKAGGS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LaHood). The gentleman will state it.

Mr. SKAGGS. Mr. Speaker, looking at the last sentence on page 3 of the rule, the waiver of clause 5 of rule XXI, am I correct that this is the provision that requires three-fifths of the Members to approve any tax increase on final passage?

The SPEAKER pro tempore. The gentleman is correct about an income tax rate increase.

Mr. SKAGGS. Mr. Speaker, what is the reason that this provision is in the resume, if the Chair could respond?

The SPEAKER pro tempore. The Chair cannot speculate on that.

Mr. SKAGGS. Mr. Speaker, presumably it must be because there is a tax rate increase in the bill. Otherwise, there would be no point in having this waiver.

The SPEAKER pro tempore. The Chair will point out again that the provision is in the rule, as has been read.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. Payne].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in strong opposition to this rule, because all year long, every time that someone from this side of the aisle has come down to criticize or even talk about the Republican plan, we were met with the same response: "Where is your Medicare plan," they said, "and what will you do to save Medicare?"

Well, Mr. Speaker, those of us from the Democratic Conservative Coalition came up with a plan to protect Medicare and the 37 million people it serves. What was the response of the Republican majority? They gagged us. The Committee on Rules will not even permit our plan to be heard on this floor today.

Let me tell my colleagues what they are missing. We put together a Medicare reform plan that is not driven by a promise to cut taxes, but by the need to create efficiency, choice, and personal responsibility. The coalition's plan is a solid, middle-ground plan. It combines long-term structural reforms with reasonable cost savings to ensure Medicare's long-term solvency. Our Medicare reform plan provides $100 billion more for Medicare than does the Republican plan in the next 7 years.

There are four other good reasons why we should hear this plan today. The coalition's plan contains substantive Medicare reforms designed to promote efficiency and fairness. It contains provisions to protect beneficiaries. It does more to protect our rural hospitals than does the Republican plan. Finally, we meet our obligation to ensure the solvency of the Medicare Program.

For 30 years, Medicare has served the elderly and disabled of this country. Because of Medicare, many fewer older Americans live in poverty today than 30 years ago, and all have a better quality of life because of Medicare.

We need to be thoughtful and deliberative in our approach to Medicare reform, and that is what our coalition bill does. It is a travesty that this bill will not be heard on this floor today, and I urge a "no" vote on this rule.

Mr. LINDER. Mr. Speaker, I am pleased to yield for the purpose of debate only 3 minutes to the gentleman from Florida [Mr. Goss], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my friend from Georgia [Mr. Linder], for yielding and congratulate him for a marvelous job in managing this rule.

Mr. Speaker, the quality and the quantity of debate we had all day yesterday in the Rules Committee underscores the importance of the Medicare Program and the high level of interest it holds for all Members. This rule is fair and reasonable. By way of comparison, when the Medicare Program was first created 30 years ago, there were no amendments allowed, other than technical changes proposed by the Ways and Means Committee. Today's rule allows the minority two opportunities to present alternative reform plans—so let's cut out this nonsense about process.

Mr. Speaker, the history of this moment should not be lost on us. We have a bedrock program that affects the most personal aspect of the lives of tens of millions of Americans—but we all know Medicare part A is a health care program that is headed over the cliff to oblivion of bankruptcy in a few short years. The Republican majority, well aware of the risks of losing the rhetorical war to the scaremongers, nonetheless has stepped up to our commitment to preserve, protect, and improve Medicare. We offer opportunity for more choice, more access, less cost. Repeatedly newspapers like the Washington Post and the New York Times have commended us for taking on this tough challenge. As yesterday's New York Times made clear, we are not ducking our responsibility of governance. We are not employing an oft-used technique of the Democrats in packaging this vote within a larger bill to shield Members from the so-called tough votes. We are going to pass this bill because our constituents want us to save the Medicare program, not just for today's seniors, but for their children and their grandchildren. That's the moral imperative we have before us. And I think, as Americans listen carefully to the details of what this legislation does they'll like what they hear. That's what polls show. They'll find that the scare tactics have been overblown and misleading—"medabobury" as the Washington Post calls it. Choose our plan. Under our plan seniors who are happy with the current system can keep what they have now. Those who think they can get a better program from a health maintenance organization or a medical savings account, will have those options to choose from. Despite some claims to the contrary, we are tackling the major problems of fraud and abuse, which, by the way, are among the biggest complaints seniors have about the Medicare program. This bill provides incentives for seniors to report fraud and it doubles the penalties on those who cheat the system. And we have seen to it that this rule takes us even further, incorporating critical antifraud and abuse proposals drafted by our colleague, former prosecutor Steve Schiff. The Schiff language beefs up enforcement, increases civil penalties and fines, and, most importantly, establishes health care fraud as a Federal felony. Mr. Speaker, I served as a member of the Kerrey Commission on Entitlement Reform. We grappled with the fact that doing nothing means disaster for Medicare and all entitlements. Today we step up to our responsibility and offer positive action to avert that crisis. I hope my colleagues will join me in doing the right thing for Medicare, for America.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. Doggett] who has a presentation.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, you know, unless you are a special interest with a swarm of lobbyists, you have very little to smile about with reference to this Republican pay-more, get-less plan. But I think I have found something to give you a smile with. It is a painting that I think captures it all. It captures the raw truth of this Republican plan, a painting by a great American artist, William Harnett, known for the remarkable precision of his painting, who gave in this particular painting a meticulous examination of the physical reality of a lowly object. It is called "Plucked Clean," and that is what is happening to American seniors. A chicken carcass against the wall, plucked clean.

I do not suggest that the Republicans were chicken about hiding this plan. If you has a plan this sorry, you would hide it too. What I am concerned about and why I think "Plucked Clean" summarizes this plan is that seniors are being plucked clean, a feather today, a feather here, really all about destroying the Medicare system.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I rise in support of this rule. I want to thank and acknowledge the Committee on Rules for making as a part of this rule my proposed amendment to strengthen the prosecution of health care fraud as part of the rule that will be enacted with the adoption of the rule.

The language that I offered in my amendment is not new language. It can be found as part of H.R. 2326, a bill I developed with the gentleman from Connecticut [Mr. SHAYS], chairman of the Subcommittee on Human Resources of the Committee on Government Reform and Oversight.

This bill, which deals with health care fraud, has bipartisan cosponsorship. This provision builds on the provisions already included by the gentleman from California, Chairman THOMAS, in the first draft of the Medicare bill, which includes provisions such as a trust fund to help support additional investigations and prosecutions of health care providers.

My amendment in particular would first make health care fraud a crime, regardless of whether through fraud, embezzlement, false statements, or bribery and kickbacks.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, my voice may be lost here in the roaring sea of petty, partisan politics, but I think the American people need to know that in this discussion and in this argument, they are the ones that are being forgotten.

It has been said, "Be careful what you ask for, for you may get it." The Republicans asked us to give them an alternative to their plan to cut $270 billion from Medicare. The Conservative Democratic Coalition delivered. We gave them a plan that will guarantee Medicare solvency and balance the budget by 2002. Our plan will reduce Medicare by $100 billion less than the Republican plan.

Now that we have given them what they have asked for, they will not give House Members the chance to vote on our plan. The coalition's plan is more reasonable and fair to strengthen Medicare than the two plans that will be voted on here today.

I like the way my colleague from Minnesota, Mr. SABO, explained it. It bears repeating. If our plan was ruled in order, House Members would have three choices. No. 1, vote for $90 billion in cuts to ensure solvency until 2006, but do nothing to balance the budget. No. 2, vote for the coalition's plan to ensure solvency of Medicare for future generations, while balancing the budget by 2002. That will reduce Medicare by $100 billion less than the Republican plan. Or, No. 3, vote for the Republican plan to cut $270 billion from Medicare, paying for a tax cut, while balancing the budget by 2002.

The first option does not cut enough to really take care of the problem. The third option cuts too much, digging into the pockets of senior citizens and rural health care providers and hospitals.

The second option, however, the coalition's plan, is the solution between the two extremes, what the American people are looking for. Republicans leaders asked us not to criticize unless we could offer a better plan, and we did.

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Now they will not allow us to bring our plan to the floor for a vote, and I suspect that might be because ours is the most reasonable plan and it would probably get the most votes. But the senior citizens in the first district of Arkansas and the young people who will be on Medicare in the future have asked us to quit playing petty politics and do the right thing. I hope we can.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I urge my colleagues to vote no against this rule. First of all, in the Committee on Commerce we were given a bill that was 420 some pages, and then the next day we saw a bill that was 430 some pages, then we were given a bill that was 470 some pages, when we arrived here this week we got a bill that was over 900 pages, and now we have a bill that is, again, almost a thousand pages and on none of these bills did we have a chance to have a hearing. No hearings on this.

No Members know what it is they are going to be voting on today because they have not had a chance to read it. This rule and the strict limit of debate are designed simply to push through a hysterical bill, not historic but hysterical bill, that will not stand up to the light of day, that will not stand up to public debate, that will not stand up to scrutiny, that will not stand up to an open amendment process.

Mr. Speaker, this process is very simply designed to pass a horrendous piece of legislation in time to make the 6 o'clock news tonight.

I think the symbolism of this was not lost when last week as 15 senior citizens came into our committee and tried to inquire as to why there were no hearings they were led away. They were handcuffed and the lights were turned off. Indeed, this whole system has been done in the dark.

Mr. LINDER. Mr. Speaker, may I inquire as to how much time remains?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia [Mr. LINDER] has 9½ minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 12 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this rule and in strong opposition to this bill which will cut $270 billion from Medicare to pay for a tax cut to the wealthy. This bill is a bad deal for seniors. It means seniors will see their premiums increase and their benefits decrease. For seniors this plan should be called the pay-more-get-less plan.

It is a good deal for the special interests. Last week NEWT GINGRICH bought off the doctors' lobby with a $3 billion back-room deal. Under this plan, seniors, on fixed incomes, will pay more while doctors with a 6-figure incomes will make more.

Mr. Speaker, 30 years ago another Congress made a pact with our seniors, it said never again would they have to worry that one accident or one illness will wipe out their life's savings. This Congress has no right to break that sacred pact. Vote no on a $270 billion Medicare cut to pay for a $245 billion tax break.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Speaker, I hope that the American people are listening to what the Members of the coalition are saying today because the political parties in Washington are not listening. They are, once again, putting bills on the floor to achieve their partisan political ends. The coalition has a bill that is going to fix the Medicare System and do it in the right way, and we are not even going to be allowed to have a vote on that bill on the floor of the House today, and I think it is an outrage.

I give credit to my Democratic colleagues. They put a bill together that fixes the part A problem with Medicare. The problem is they have ignored the problem in the part B part of the system. Frankly, we think it needs to be fixed if we are to have a sustainable situation here that will not come back to haunt us within our hospital system and within the senior citizens.

On the other side, the Republicans have put together a bill that goes further than we think they can sustain. We do not think what they have in this bill is achievable, and, frankly, they have this hundred billion dollars extra in this bill so they can pay for the tax cut which Members of the coalition, by the way, support. We just think it should be put off until after we get the budget balanced, and we think this is where the American people are as well.

Mr. Speaker, our bill, as I said, picks up the fixes to part A, but we also do the fixes that need to be made in part

B, and we also do the things that need to be done to make the rural health part of the system work. Yesterday the Republicans made an attempt to fix the rural health part of the bill and what they found out happened, as some of their Members are telling me, is they will have hospitals in their district that will have money taken away from them to pay for other hospitals in their district. One of those Members said 25 of his counties will lose, 22 are going to gain.

Mr. Speaker, that is no kind of fix. The reason they are in this problem is they have rates of growth in their bill that are too low, that is not realistic, and that is why they cannot make this work. We think it is really an outrage, one more time, that we have two extreme positions, that are not the right positions, and we will not have the opportunity to vote on the right position until next week. We urge the defeat of this rule.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, today we are going to have a historic debate and vote on one of the most important issues facing senior citizens and that is Medicare. We have been debating the issue for 3 years and now we are finally going to have a chance to really make good reforms in the program.

We have a good program. I am proud of this program. It is a good program for our senior citizens. We agree with so many things that our colleagues on the other side are talking about. We agree Medicare is going bankrupt and we need to save it. Where we disagree is we do not want to have just a Band-Aid to fix it for a year or so, we want to fix it before the baby bommers retire in the year 2010.

We want to give choices. And it is amazing why the people on the other side are opposed to choices. We have choice as a Member of Congress. Every year we get to have a choice of plans, just like all other Federal employees. We are in the same plan with the Department of Agriculture employees and Department of Commerce and such. We get to choose. What is wrong with choice? What is wrong with giving people the right to choose?

Mr. Speaker, we are going to give people the right to stay in the plan now. My 86-year-old mother will not change, and there is no reason to make her change. People can stay in the current plan. Those that want to choose a medical savings account, great, let them choose it. Those that want to go in managed care, great, let them choose it.

Why not let local doctors and local hospitals who deliver the care to their local communities offer their own program? What is wrong with that? Why deny choice? Why is this one-size-fits-all in Washington the rule that has to be kept? Why not give choice?

We are increasing spending every year. We talk about $270 billion in cuts. Let us look at how much we are increasing it. Whether the glass is half full or half empty, we are increasing spending on Medicare because we will have an additional $354 billion to spend over the next 7 years. That goes from $4,800 to $6,700. That is an increase.

Mr. Speaker, we have a good bill that is going to make Medicare a better program for our seniors.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, America has reason to be concerned. They call it Mediscare, we call it Medicare.

They want to cut corners, we want to cut sickness.

They believe Government should not carry the disabled, we believe the disabled can carry themselves—if given a chance.

They want those with money to get more wealth, we want those without money to have an equal chance—at health.

They refuse to hear those who disagree with them, we want decisions to be made with all the facts. And, we want to know what's in that 1,000-page bill.

They want to tighten the belt and strangle our senior citizens and their families, we want enough room to include everyone, especially those in need.

For themselves, they want hospitals just moments away, for many in rural America, we simply want hospitals.

They say Medicare cuts are not funding the tax cut, we ask, What is?

Mr. Speaker, the voice of the American people was not heard before the committees of Congress when they briefly considered these radical changes in the Medicare Program.

The majority conducted a 1-day hearing on their proposal to cut the Medicare Program by $270 billion.

And, when those most directly affected by these cuts came to Congress to raise their voices of appeal—they were not heard—they were forced to raise their hands so that they could be handcuffed and arrested.

Perhaps that is because they want us to ignore the impact of this $270 billion cut upon the heart and soul of our Nation—rural America.

This bill makes the most sweeping changes in the Medicare Program since it was first created more than 30 years ago.

Citizens of rural America have incomes that are 33 percent—yes, one-third—lower than their urban counterparts.

The elderly who live in rural areas are 60 percent more likely to live in poverty—60 percent.

Through this Medicare Preservation Act, Medicare funds for rural Americans will be cut by at least $58 billion.

The $270 billion cut translates into at least $45 billion less for the health care for impoverished, disabled, or elderly Americans in rural areas—and translates into $70 billion less for hospitals.

For Pitt County Memorial Hospital, one of the finest university medical centers in rural areas, this cut translates into a $621 million loss—$621 million less for needed medical care.

For Nash General Hospital, $234 billion less in the same time period.

For the Craven Regional Medical Center, $211 billion less—and I could go on and on and on.

The bill cuts $54.5 billion from payments to health care providers.

Twenty-five percent of rural hospitals already operate at a loss, and that is because Medicare alone accounts for almost 40 percent of the average hospital's net patient revenue.

This bill, that is thicker than Webster's dictionary, cuts funding for teaching hospitals, reduces payments for nursing homes—and, fails to dedicate most of the cuts to the Medicare trust fund.

Can you imagine the devastation that these cuts will cause to rural areas?

Hospitals are certain to close—doctors will become scarce—rural Americans will go without health care.

We call it Medicare, they call it Mediscare. Mr. Speaker, America has reason to fear.

Mr. LINDER. Mr. Speaker, may I inquire as to the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] has 7½ minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 8 minutes remaining.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me time, and I just wanted to say that I oppose the Medicare bill described by the Democrats. It is an outrageous bill as described by the Democrats, but that is not our bill.

Democrats are saying, regretfully, we want copayments. We do not want copayments. There are no copayments. They say we want deductibles. There are no increases in deductibles. They say we increased the premium, and the premium stays at 31½ percent. The taxpayer will continue to pay 68½ percent.

Mr. Speaker, we have three main goals as this Republican majority. We want to get the financial house in order and balance our budget. We want to save our trust funds. We want to protect, preserve, and strengthen them. And we want to transform this social corporate farming welfare state into an opportunity society. We are going to do that, but we must save our trust fund, it is going bankrupt, and we will.

How do we do it? No new taxes. We do not affect beneficiaries. We affect providers and we change the system. We are transforming the system, allowing people to keep what they have or we are allowing them to get into private care. We are giving them choice. We are allowing them to have the same kind of health care that we as Federal employees have. We are giving them the choice they asked for.

Mr. Speaker, we are doing it without cutting the program. We are increasing it. We are going to spend $600 billion more of new money. Not $300 billion, $600 billion more. It will go from $4800 per beneficiary to $6700 per beneficiary. Only in Washington when we spend 50 percent more do people call it a cut.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN], a distinguished member of the Committee on Appropriations.

Mr. DURBIN. Mr. Speaker, for those who cannot stay tuned to this expensive debate today, because of the Republican rule we have 3 hours to debate a $270 billion cut in Medicare. That is a billion and a half a minute. If people cannot stay tuned, I will tell them what will happen.

The Democrats who created Medicare will lose today. The Republicans, under the gentleman from Georgia [Mr. GINGRICH], will ram through a $270 billion cut that will increase premiums for seniors to the tune of $400 a year and it will end up giving the wealthiest 1 percent in America a $19,000 annual tax break.

But do not lose heart. Seniors may be glum tonight, the special interests will be dancing in Washington, but we are counting on the President of the United States to veto this monstrosity, to bring us back to the table for a bipartisan, common sense approach to really save Medicare.

Mr. Speaker, the real winners not only have to be seniors and their families, we have to tell the special interests to get out of the business of wrecking Medicare, get out of the business of tax breaks for the wealthy. Let us make Medicare a solid system. Let us not make it a piggy bank for the wealthy.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in strong support of this rule and the Medicare Preservation Act to save Medicare from bankruptcy, preserve it for the current retirees and protect it for the future.

Now we have heard so much demagoguery medigoguery from the other side of the aisle on this bill for the past 6 months, and it would take weeks to answer every erroneous charge and accusation. I would like to focus on one particularly disingenuous argument we have heard constantly and it is that the Medicare trustees have said that saving Medicare will require only $89 billion in savings.

First, the Medicare trustees in their report did not recommend a specific savings level necessary to prevent Medicare from becoming insolvent. Their only conclusion was that the plan was going bankrupt and that swift and decisive action should be taken to save it.

Second, the $89 billion the Democrats talk about would amount to nothing more than another in a long line of band-aid solutions that would only get us through the next election, when we should be worried about getting us through well into the next century. Remember, the baby boomers begin retiring in about 2008–2010. If we don't take strong and decisive measures now, Medicare would be seriously jeopardized by then.

Third, the $89 billion figure was proposed by one Medicare trustee, Robert Rubin, the Secretary of the Treasury. My question is this. If $89 billion in savings is all that is needed to save Medicare, why didn't Rubin tell President Clinton, whose proposal called for $190 billion in savings? Clinton is Rubin's boss, isn't he? He's also one of Clinton's Medicare trustees. So why didn't he just walk across the street and tell the President?

The reason is politics. The $89 billion being bandied about by the medigogues on the other side of the aisle is a political calculation, not an actuarial one. It is rooted in Presidential politics, not economic reality.

□ 1045

I guess nobody expected anybody in this Congress to read the report that was prepared for the Congress. I guess the Democrats, while they controlled the Congress, never bothered to read the report.

Mr. Speaker, we are going to move forward to save Medicare on our own, if the other side refuses to be constructive.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to the rule because I object to the limitation it places on debate.

Mr. Speaker, in order to keep the American people in the dark, the Republican leadership has demanded a closed process which stifles debate and shuts out the voices of those affected by this legislation.

Mr. Speaker, I oppose the rule because of the process, but also because of the substance of the legislation. The Republican proposal assaults the quality, security, affordability, and accessibility of health care to our seniors.

This legislation is not legitimate, because it has not been subject to a period of public comment. It is not responsible, because it imposes higher cost and benefit cuts for America's seniors to give a $270 billion tax break to America's wealthiest. This is a sad day in America, because the Republican leadership is undermining the dignity of our seniors, undermining the quality of our health care, and undermining the greatness of our country.

Mr. Speaker, I urge our colleagues to vote "no" on the rule, to vote "no" on the bill. I urge our colleagues to support Medicare, yes; tax cuts no.

Mr. LINDER. Mr. Speaker, may I inquire as to the time?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia [Mr. LINDER] has 4 minutes remaining and the gentleman from California [Mr. BEILENSON] has 6 minutes remaining.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, I have a chart here that I think is very important for the American people to see as this debate begins. Remember, we all want to make sure that Medicare stays safe and sound, just as we have done almost every year since 1970.

Mr. Speaker, we are seeing a study that says Medicare going to need some help, but it does not need $270 billion of help. The reason they have to do $270 billion on this side of the aisle is to keep the promises they have made for tax cuts, half of which go to the top one-eighth of income earners in this country.

Mr. Speaker, this chart shows that people who are making more than $100,000 a year are going to get 52 percent. Over half of the tax breaks that they are instituting this year will go to people earning over $100,000. Today, the Wall Street Journal said, "Tax analysis shows GOP package would mean increases for half of taxpayers." They are increasing taxes on the poor, and the working poor, and lowering them on the wealthy. It is not right.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, part of the October assault of the Republicans on Medicare is on Medicare fraud and abuse. Last night, they put into the bill, last night, five or six pages. I want my colleagues to know it is a smoke screen.

Mr. Speaker, the conduct that is covered in this bill is already covered under Federal law. They are weakening Federal law. The inspector general says, "Crippling." Justice Department says, "Seriously undercutting." They cannot cover up this assault on our battle against fraud and abuse in Medicare.

Mr. Speaker, to my colleagues on the other side of the aisle I say, Shame on you.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. BEILENSON. Mr. Speaker, I oppose this rule and the bill representing the Medicare portion of the 1995 budget reconciliation legislation that it makes in order.

The modified closed rule we are considering today is totally inadequate for the consideration of one of the most important bills we will be asked to vote on this year. If enacted, the Medicare portion of the reconciliation legislation will have a profound impact on the lives of nearly 40 million elderly and disabled citizens—Americans who are among the most vulnerable members of our society.

This major and complicated piece of legislation deserves, if not an entirely open rule, certainly one that allows far more time for debate and that makes many more amendments in order than the rule before us permits.

We urged in the strongest possible terms that the majority on the Rules Committee approve a more open rule for H.R. 2425, so that the fullest possible debate could be held on its provisions and on their enormously serious consequences.

Unfortunately, we were unsuccessful, and we are faced now with a rule that severely limits debate and shuts a great many members out of the amendment process entirely.

Mr. Speaker, the Rules Committee heard yesterday from at least 40 members—Republican, Democratic, and independent—of the House, most of whom came before us to ask that their proposed amendments to H.R. 2425 be made in order.

At least some of those amendments deserve to be debated and voted on by the full House. They are reasonable proposals; they were offered by sensible and thoughtful Members of this body who obviously have given their suggestions a great deal of thought.

Instead, the rule we are considering denied 14 members of the Democratic caucus and 5 Republican members the right to offer their amendments today. At the very least, we felt that the majority on the Rules Committee would have made in order the very reasonable and thoughtful amendments proposed by several Republicans.

This is a list of the Republican amendments that we will be unable to vote on today, and which certainly deserve consideration:

The gentleman from Iowa [Mr. GANSKE] requested that three amendments be made in order. Two of them are aimed at curbing potential abuses by HMO's, an issue that was central to last year's debate on health care reform and should be of as much concern to our Republican colleagues this year.

The first amendment would require that physicians, rather than nonmedical personnel, review denials of care. The second would make it more difficult for HMO's to retroactively deny payment for care in emergency situations. These two were approved by the Commerce Committee but were not included in the Archer-Bliley compromise that is being made in order as the original text.

The third Ganske amendment would provide a minimum floor in the adjusted average per capita cost of 85 percent of the national average and then provide for differential updates to close the gap.

The gentleman from Connecticut [Mr. SHAYS] requested that his amendment dealing with Medicare fraud and abuse be made in order. That amendment would add important antifraud prevention measures to H.R. 2425 by improving coordination between Federal and State antifraud efforts; improving Federal criminal law to better address health care fraud; and improving administrative procedures, especially those to keep providers previously barred from participating in Medicare. There is obviously a good deal of support for strengthening the provisions in the bill to combat waste, fraud and abuse; this comprehensive amendment should have been made in order so that Members could decide if its provisions are necessary to protect and strengthen the Medicare Program.

The gentleman from Massachusetts [Mr. TORKILDSEN] asked that his amendment be in order allowing all States to see their Medicare funding increase at the national average, instead of the proposal in the bill that has different growth rates for different States. He argued that a uniform rate of increase is essential so that some States do not have to bear far more of the national burden in cuts than other States.

The gentleman from Michigan [Mr. CAMP] asked that the House be allowed to vote on his amendment exempting from the medical malpractice liability cap those instances in which medical treatment was intentionally withheld.

Mr. Speaker, the Democratic amendments should also have been in order.

They sought to allow Members to vote on cuts in Medicare that would have ensured its solvency, but would not have been so great as the Republican plan that uses cuts in Medicare to help pay for tax Increases for the wealthiest Americans.

They sought to strengthen fraud and abuse provisions that the bill weakens unacceptably.

They sought to add new preventative benefits such as mammography, colorectal screening, and diabetes screening.

They sought to reinstate the clinical laboratory regulations, the nursing home reform standards, the ban on physician self-referral, and to remove the serious exemptions from antitrust laws for physicians forming managed care groups.

These are only a few of the very serious issues that Members should have been allowed to vote on today.

Mr. Speaker, H.R. 2425 is the single largest part of the massive budget reconciliation plan; it cuts Medicare far beyond what is necessary to safeguard the Medicare trust fund.

It would not only impose new and heavy financial burdens on the elderly, but it would also irresponsibly relax Federal regulation of doctors and the operations of their practices. The concessions that loosen or repeal Federal regulations that are in the bill to win the support of the American Medical Association are far too extreme; no one argues that Federal regulation that is too complex and burdensome should not be rectified, but the legislation before us uses reported excesses as an excuse to do away with Federal oversight almost entirely.

The provisions that severely weaken Federal laws prohibiting kickbacks and fraud and abuse and that allow doctors to refer patients to companies in which they have a financial interest—a practice now forbidden—would undermine consumer protections and could harm public health, especially when combined with other provisions in the bill that end Federal standards for nursing homes and make it more difficult for victims of malpractice to collect large judgments.

Mr. Speaker, we should be concerned that this complex bill relaxes or repeals many laws that were originally adopted in response to abuses that prompted public outrage. And even though the bill is promoted as being written to control the costs of Medicare, many of its proposals—including those weakening fraud sanctions—would actually increase the costs.

There are many other worrisome provisions in this bill. For example, in a little noticed provision, the bill would reimburse private hospitals for some local taxes, a provision that in effect takes money from hospitals that serve disproportionate numbers of the poor and uninsured and gives it to hospitals whose main purpose is to make a profit.

Mr. Speaker, this bill makes the most profound changes in the Medicare Program since its inception. It is a shame that the majority is allowing this bill to be rushed through without adequate time or amendment and without a complete understanding by Members of the House or the public of the seriousness and complexity of the changes this bill is proposing.

This rule should be defeated so that we can consider a wider range of amendments to this major bill. If it is not, the bill itself should be defeated—in its present form it will severely damage a system on which 40 million elderly and disabled Americans rely. It does not deserve our support.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I come to the floor today to ask my colleagues to vote against this rule.

Mr. Speaker, I want to begin by saying shame on the Republican leadership who control the Committee on Rules for not allowing the coalition to offer their $170 billion plan to save Medicaid; and dollar-for-dollar plan that would save Medicaid, as their trustees asked us to do; would allow military retirees to take their Medicaid money to military hospitals and have the much needed care.

Mr. Speaker, I also want to say shame on the Democratic leadership for not allowing the coalition to offer their plan as the Democratic alternative in the motion to recommit. This body is about finding fairness for the American people. It is not about catering to the Republicans' special interests or the Democrats, special interests. It is doing what is right for the American people.

The Republicans promised open rules, and yet they are depriving us of the opportunity to offer a very good plan that was put together. They claim to be for fairness, and yet the fairest plan of all, one that would solve the problem, will not see the light of day because they do not want a better alternative to come to the floor, because both groups are afraid it would pass.

Mr. Speaker, I would like to point out that several members of the Committee on Rules that voted to deny the coalition the plan to bring Medicare subvention to the floor, the gentleman from New York [Mr. SOLOMON], the gentleman from Georgia [Mr. LINDER], the gentlewoman from Ohio [Ms. PRYCE], the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from Colorado [Mr. MCINNIS], the gentleman from Texas [Mr. FROST], and the gentleman from Ohio [Mr. HALL], are all cosponsors of the bill to fix Medicare subvention. Yet those seven Members, a majority of the Committee on Rules, would not let this important measure as a part of the coalition budget, come to the floor.

Mr. Speaker, I say to these colleagues, "Shame on all of you all."

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER], a colleague on the Committee on Rules.

Mr. DREIER. Mr. Speaker, the world has changed since 1965. Back in 1965, we saw the automobile industry in a great deal of difficulty. It was world competition which played a role in bringing about the changes that we have seen. The companies that produced those automobiles back in 1965 have gone through tremendous managerial changes.

We need to recognize that it is a new day. And thank heavens, this new majority has stepped up to the plate and decided to bring this very important system into the 21st century.

We are doing it under a very unique process. Thirty years ago, April 7, 1965, when this measure came to the floor, it came under a completely closed rule. A completely closed rule which did not allow any amendments, any substitute, any motion to recommit.

Today, as we look and seek to protect, strengthen, and preserve Medicare, what are we doing? We are providing the opportunity for alternatives to be met. We are doing it in a bipartisan way. In a bipartisan way we came to the conclusion that we should deal with this language that addresses the issue of fraud. We have done it very effectively. We did it last night up in the Committee on Rules.

I also believe that we need to recognize that the rhetoric that we have heard from so many of my very good friends on the other side of the aisle has been correctly described by the Washington Post as nothing more than Medigoguery.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. DREIER. Mr. Speaker, I have only a limited amount of time.

Mr. GIBBONS. Mr. Speaker, the gentleman is the one who imposed the time limit by this rule.

Mr. LINDER. Regular order.

Mr. DREIER. Mr. Speaker, I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I want to correct what the gentleman from California said. The Republicans got a motion to recommit in 1965. The motion to recommit gutted Social Security, and every Republican but 10 voted for it.

Mr. DREIER. Mr. Speaker, reclaiming my time, as my friend has made it very clear, I was not here. The gentleman from Florida was here then, but there was not a substitute that was offered.

Mr. Speaker, this rule is much more open than the rule that considered Medicare in 1965. I urge an aye vote on this very fair rule, and recognition that stepping up to the plate and dealing with a serious problem that President Clinton has acknowledged is something that the majority of this Congress is willing to do.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON], a Nobel Prize candidate.

Mr. RICHARDSON. Mr. Speaker, 30 years ago, the Congress covered itself with glory by passing the Medicare Program, which provided health coverage for millions of Americans.

Mr. Speaker, today in this Chamber we are presiding over the decimating of Medicare. If this monstrosity becomes law, Medicare will end as we know it today, America, is this what you voted for last November?

Maybe my colleagues on the other side will win the vote today, and maybe they will win the vote in the corridors of the AMA and other Gucci lobbyists on K Street, but they will lose the vote in the hearts and minds of ordinary Americans.

Mr. Speaker, we are ramming through this bill at 100 miles an hour with no hearings, 3 hours of debate, for a drastic overhaul of the system that affects 40 million Americans.

Does the Republican leadership think that nobody is going to notice? Mr. Speaker, this is a bad bill. It should go down.

Mr. Speaker, I have two words to describe this rule—bate and switch.

Three times I have received a copy of this bill only to walk into a committee meeting the next day and find a new bill.

In fact, yesterday afternoon at 4 p.m., we saw for the first time the bill we are now debating.

Cuts in Medicare will directly affect 37 million Americans.

For an issue so important to America—this rule allows only 4 hours of debate.

This rule is about a bill which cuts $270 billion to provide for a tax cut for the wealthy.

Yet, the latest polls show that 83 percent of Americans do not want to cut Medicare to provide for a tax break for the wealthy.

We are also told that this bill is about giving seniors a choice. But, as far as I can tell the only choice seniors will have is to pay more or give up their doctor.

Yesterday, I asked to offer two amendments that would have strengthened this bill and cost Medicare nothing.

The House will not even have the chance to consider my amendments under this rule.

It is not just unfair to run the peoples House this way—it is undemocratic.

I urge my colleagues to vote "no" on the previous question and vote "no" on this rule.

Mr. LINDER. Mr. Speaker, I reserve the right to close.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Massachusetts has 1½ minutes remaining, and the gentleman from Georgia reserves the balance of his time to close.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, what strange version of democracy is this? We have a program that affects the lives, directly, of 40 million Americans, affects the lives of their children or their parents or their grandparents, a tremendously important program, and without any hearings on the final version of this legislation, this House is going to be forced to move forward with 3 hours of debate.

Mr. Speaker, we spent about 10 times as much on the Waco hearings as we are going to spend on Medicare for every American.

Medicare has problems. Yes. Does this bill address those problems? No. Is it a thoughtful approach? No. Is it something that will stabilize Medicare into the next century and anticipate the retirement of the baby boom? Absolutely not.

Mr. Speaker, it is purely budget- and politics-driven. Medicare does have a problem. It has a $90 billion shortfall over a 7-year period. They are taking $273 billion to fix a $90 billion problem.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that Members have heard the debate. They say a person convinced against his will is of the same opinion still, but I hope that despite that old adage that some people will pay attention to the debate and have a change of mind.

Mr. Speaker, I urge a no on the previous question. If the previous question is defeated, I will offer an amendment to the rule.

Mr. Speaker, I will insert in the RECORD the text of my amendment. The amendment would do two things. First, it would strike the provision and waive the three-fifths vote requirement on any measure with a Federal income tax rate increase; and, second, Mr. Speaker, will make in order the Rangel amendment to make Medicare solvent by an across-the-board limit on tax cuts for the wealthy.

Mr. Speaker, I submit the following for inclusion in the RECORD.

AMENDMENT TO H. RES. 238

On page 3, lines 18-20, strike "Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon."

On page 2, line 25, strike "." and add "and the amendment in the nature of a substitute printed in the Congressional Record and numbered 3 pursuant to clause 6 of rule XXIII, which may be considered any rule of the House to the contrary notwithstanding, to be offered only by Representative Rangel of New York or his designee, which shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment."

On page 3, line 1, strike "that amendment in the nature of a substitute" and insert "the amendments in the nature of a substitute made in order under this resolution".

Mr. Speaker, I urge a "no" vote on the previous question.

□ 1100

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I would like to emphasize again the quote or the comment made on this floor by the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN said Democrats are going to lose today. They are indeed. They are going to lose control of a program that they began and have held control over and has grown entirely out of control. They are going to lose control over the lives and choices of seniors in health care, and they are going to lose control over money of future generations to pay for it.

We have heard a lot of florid prose today, not to say lurid prose. The gentleman from New Mexico said, we are decimating Medicare. To decimate means to reduce by one-tenth. We are actually increasing Medicare spending over the next 7 years to $1.6 trillion. It was $924 billion over the last 7 years. That is hardly to decimate to reduce by one-tenth.

Much reference has been made to the rule regarding a 60 percent vote for increases in tax rates. There is no increase in tax rates in this bill. There are no increases in taxes in this bill. But those of us in the majority wondered if some on the minority would call the part B premium a tax and call it an increase. It has been called a premium for 30 years. But it is no doubt that somebody would begin to call it a tax in the debate today and take up another hour of time defending it.

We have heard that Republicans have never supported Medicare. Yet when it passed 30 years ago, it passed 313 to 115 with nearly half of the Republicans in this House voting yes.

We heard in the Committee on Rules yesterday by the gentleman from California [Mr. STARK], that in 8 of the last 9 years or 9 of the last 10 years, I forget which number he gave us, that bipartisan bills have been introduced, Republicans and Democrats, to change reimbursement rates to attempt to strengthen Medicare. It has not worked. It is growing out of control.

In closing, let me give Members one more quote that I support from a Democrat. Just 2 years ago it was said, "Today Medicaid and Medicare are going up at three times the rate of inflation. We propose to let it go up another two times the rate of inflation. This is not a Medicare or Medicaid cut."

That Democrat was Mr. Clinton on October 5, 1993.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 231, nays 194, not voting 7 as follows:

[Roll No. 726]

YEAS—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—194

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner

Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Cox
Crane
Fields (LA)
Flake
Martinez
Tejeda
Tucker

□ 1123

Mr. TOWNS changed his vote from "yea" to "nay."

Mr. SHUSTER and Mrs. MORELLA changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 192, not voting 13, as follows:

[Roll No. 727]

AYES—227

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—13

Crane
Fields (LA)
Flake
Johnson (CT)
Lazio
Martinez
Morella
Payne (VA)
Roth
Tejeda
Tucker
Waters
Williams

□ 1131

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PAYNE of Virginia. Mr. Speaker, during rollcall vote No. 727 on House Resolution 238 I was unavoidably detained. Had I been present I would have voted "no."

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, on rollcall No. 727 I was in a meeting on the agriculture trade provisions, but had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 727 I was inadvertently detained, but had I been present, I would have voted "yes."

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2425.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

MEDICARE PRESERVATION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 238 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2425.

□ 1132

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. ARCHER] will be recognized for 45 minutes, the gentleman from

Florida [Mr. GIBBONS] will be recognized for 45 minutes, the gentleman from Virginia [Mr. BLILEY] will be recognized for 45 minutes, and the gentleman from Michigan [Mr. DINGELL] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today marks a great and historic occasion. With the action we are about to take, we will perform lifesaving legislative surgery on our Nation's vital Medicare Program.

In just 74 days, for the first time in the 30-year history of Medicare, the Government will begin a year in which it spends more Medicare money than it takes in. I repeat, this has never happened before.

That is why the action we are taking today is so very important.

This bill saves Medicare for seniors. It preserves Medicare for 50-year-olds, and it tells young voters to have faith in their Government. We Republicans have long-term solutions, and we are determined to protect Medicare for them, too, without raising their taxes.

Our bill is innovative, bold, and visionary. It is long term. When it comes to a program as important as Medicare, nothing else is acceptable.

Under our bill, seniors will have the right to freely choose the Medicare plan that best suits their needs, including staying in the present fee for service system, and to keep their own doctor, keep their own hospital, and keep their own plan, if that is their preference. It is their choice to make, and no one in government will force that choice.

For the first time, Medicare will give seniors access to the same kind of health care plans that are available in the private sector, many of which include benefits that are not currently available under Medicare.

We also have to ask, why should not seniors have the same choices like Congressman do? Under Medicare-plus, they will. And to make certain our solution is long term, we protect the savings, thanks to a proposal of the gentleman from Pennsylvania [Mr. ENGLISH], language in this bill guarantees that the savings cannot be used for tax cuts.

The Democrats know that we paid for our tax cuts, more than paid for them, last spring, before we ever got into Medicare. This bill is about saving Medicare for Medicare's sake.

Our bill powerfully and effectively cracks down on fraud and abuse. It rewards seniors who discover fraudulent practices. It doubles civil penalties and creates new criminal penalties against those who commit fraud.

As I mentioned earlier, our solution is long term. It saves Medicare for the next generation. This contrasts with the Democrats' quick fix approach, a Band-Aid approach, designed to save themselves for the next election.

Mr. Chairman, I believe that not only will this bill be historic, so, too, will this Congress. We are the first group of lawmakers to directly challenge the conventional political wisdom that it is not politically possible to fix America's explosive entitlement programs, which threaten to bankrupt our Nation and the future of our children.

The Democrats who ran Congress for 40 years refused to confront the Nation's long-term problems, other than by raising taxes. Republicans are proving today that we can and will solve our Nation's most difficult problems, and I predict the American people will be thankful that we did.

Mr. Chairman, long-term programs must be fair for all generations. I am proud to author this bill, not just as a Member of Congress, but as a Medicare beneficiary myself and as a parent and a grandparent. What we do today is historic. It is wise, it is just, and, most importantly, it saves, preserves, and protects Medicare.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is, I agree with the gentleman from Texas [Mr. ARCHER], truly an historic day. Unfortunately, it is another day in infamy for 40 million Americans who depend upon Medicare for their health care. These 40 million Americans will in a few years, if this bill becomes law, be herded into managed care, where instead of getting a doctor when they need help, they will get a gatekeeper, and the money saved by all of that will be used to pay for an unconscionable tax cut. That is the simple issue that we are deciding here today.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. STARK], the ranking member on the Subcommittee on Health of the Committee Ways and Means.

Mr. STARK. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, Medicare is one of the finest achievements of the U.S. Government, and for 30 years, hundreds of millions of seniors have been provided quality health care at a reasonable cost, in an efficient manner, under the guidance of the Federal Government.

Now one Republican, in a messianic grab for power, seeks to destroy Medicare. With reckless disregard for the seniors, these leaders on the Republican side bribed the American Medical Association with a $300 million pay raise. The seniors are paying for that $300 million bribe to the doctors by being denied cancer treatment in mammograms and colorectal screening.

The same Republicans, on the same day the bribe was given, voted to cut cancer screening for seniors, to repay political contributors of over $1 million by the Golden Rule Insurance Co. alone. Medical savings accounts have been delivered. They cost $3 billion. Who pays for them? The seniors, by having their part B premiums doubled.

Seniors are denied the free choice under the Republican bill of doctors and are forced to join managed care plans run by the likes of Prudential Insurance Co., a company convicted of defrauding its customers of over $3 billion. Why should we vote to have our parents' health care entrusted to crooks like Prudential Insurance Co., just so the same rich executives who run that company can share in $245 billion in tax cuts? It is immoral, it is un-American.

It is what the Republicans are doing, unknowingly, at the direction of one person. Not a person on that side of the aisle knows what is in this bill. No subcommittee ever met to consider the bill. It was written by one person in the bowels of this Capital to destroy Medicare, and that is what they are doing. This same leader destroys any protection from fraud and abuse and shoddy care in nursing homes, all in the name of less government.

Every congressional district in this country under this Republican plan will see hospital payments cut by an average of $300 million. Go home and tell your hospital administrator that for the next 7 years they get $300 million less. Ask they which emergency room they are gong to close, which senior citizen they are going to deny care.

Unfortunately, nothing is so likely to sway the Republicans as honesty and decency. But these cuts they propose will hurt, and hurt badly, real people. Hard-working Americans, who paid into Medicare for years will not get community health care centers, they will not get safety net systems to provide them Medicare.

For 30 years we have working successfully to uphold the one true Contract with America, and that is Medicare. We have not and will not agree to breaking that contract in order to finance Republican tax cuts for the wealthiest Americans. We must do everything to defeat this reckless Republican plan. I urge a "no" vote.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we begin this historic debate on the Medicare Preservation Act, I would like to lay a few principles on the table: The first is that no one in this Chamber should dare suggest that they love their parent or grandparent any more than anybody else in this Chamber. As I speak today, my mother, 77 years old last week, twice a cancer survivor, is laying in a hospital bed in room 219 of Thibodaux General Hospital in my hometown. She is doing fine. My sisters are with her, and I speak to her every hour. She is on Medicare, one of the prime beneficiaries in this country of a great system. To suggest that anyone in this room does not love their parents enough to sustain that system is simply wrong. We can do better than that in this debate.

□ 1145

The second principle I would like to lay down is, we all agree the Medicare trust fund will begin running out of money next year and run out of money in 7 years unless we do as the trustees suggest; fundamentally change the system to keep it out of bankruptcy, to preserve it for my mother and your parents and grandparents.

Now, we differ on how to accomplish that. We should debate those differences and not challenge each other's motives here. Our differences are simple. We believe, as President Clinton believes, and as he has said, "Medicare and Medicaid are going up at three times the rate of inflation". We propose to let it go up at two times the rate of inflation. That is not a Medicare or Medicaid cut.

Mr. Chairman, when we hear all this business about cuts, let me caution Members that that is not what is going on. We are talking about increases in Medicare and a reduction in the rate of growth.

We believe as the President does, that we have to substantially cut back the waste, the fraud, and the inefficient spending in Medicare to save it.

Second, we believe seniors should have the choice to stay in Medicare, and our plan lets them stay. To choose Medicare, to choose their own doctor, choose their own hospital, or, if they want to, like my mother, remain in the system. Our plan allows that. We also believe seniors should have the same choices we Members have, other options, and that is what our plan provides.

Mr. Chairman, I urge a "yes" vote on this good bill.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Thirty years ago this year I had the privilege of sitting in the Chair and presiding over the House when we passed Medicare into law. This is the gavel I used. Before that time better than half of Americans had no health insurance if they were senior citizens. Today, 99½ percent of American senior citizens are covered by health insurance.

What is going to happen today is that this body, under a gag rule, is going to vote to cut the benefits of senior citizens, to reduce their choice of doctors, to cut money for fraud enforcement, and to weaken the laws against fraud. And the Justice Department and the inspector general of the Department of Health and Human Services say so. It is going to force people into HMO's. We will close hospitals today, especially rural hospitals.

Mr. Chairman, this is because the House is preparing to honor a Republican commitment to cut $245 billion in taxes for the rich and to cut Medicare $270 billion. Without that cut of $270 billion in Medicare, the tax cut is not possible.

This bill will reduce protection for nursing home patients. It was crafted by an abundance of sneaky, unreported, backroom deals. The bill is over 300 pages long. It has grown like fungus, and each of those growths represents a significant benefit to special interests. Last night the bill was changed after the House adjourned.

Mr. Chairman, no one knows what is in this bill because no hearings have been held upon it. I urge my colleagues to reject the bill.

Mr. Chairman, I include for the RECORD my full statement.

Mr. Chairman, many years ago, a clever songwriter offered advice this House would do well to heed: "Fools rush in where wise men fear to go."

The process by which we have reached this point is foolish in every sense. Without a single hearing devoted to the contents of this bill, Republicans ask America's seniors to stand like deer in the headlights, transfixed by the notion of fixing the Medicare program. They expect senior citizens to accept without question or complaint the absurd declaration that unless we destroy the Medicare program now, it will destroy itself.

Nothing could be further from the truth. I say to my Republican colleagues that it's this simple: Drop your tax cut for the rich, and none of these Medicare cuts will be necessary.

This debate occurs, appropriately, in October, the month of Halloween. This is the time for walking around in costumes and masks. This Medicare bill has been costumed by the Republicans in the cloak of Medicare preservation. But after today's trick or treat is over, after the mask comes off, Medicare beneficiaries will understand that the only reason the Republicans have to cut $270 billion from the Medicare program is to provide for a tax break for their rich friends who don't need it.

This Republican bill will cost seniors more money. It will reduce their choice of doctors. It will jeopardize the quality of the health care system. It will compound, not correct, the problems waste, fraud, and abuse. And if this bill passes, my friends, the AMA's members will need that tax cut to shelter all their additional income from the extra money stuck in this bill for them in some backroom deal for which they sold their support.

This is the same AMA, I remind the seniors out there, that opposed the creation of Medicare in the first place. Socialized medicine, they called it. But now that they have their snouts in the public trough, they just want more and more and more. For seniors, that means less and less and less.

Mr. Chairman, the American people will hear more throughout the day about the defects in this legislation. I urge my colleagues to oppose this bill. It took 30 years for us to create and build the Medicare system; let's not take just a few hours to destroy it.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are going to hear a lot of misinformation presented in this debate, and I would challenge my Democrat friends to begin to list the benefit cuts that are made in this package from what are currently available under Medicare, because there are none.

Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a respected member of the committee.

Mr. BUNNING of Kentucky. Mr. Chairman, I rise in support of the Medicare Preservation Act. It's a good bill. It preserves Medicare—it strengthens Medicare.

It keeps Medicare from going Bankrupt. And best of all it gives senior citizens more options—more choices.

I think you will all agree that Members of the U.S. Congress have a good health care system.

We get a booklet every year that lists the options available to us—insurance plans or PPOS and HMOS. We get a wide range of choices. We can pick a plan that suits our needs and our family's needs. It's a good deal.

I have enrolled in a PPO. I still get to see my family doctor—my gatekeeper. I show him this card—and my office visit only costs me $10. And I have this other card that I can take to the drug store and pick up my prescription medicine and no matter how much it costs, I only pay $10.

It's a good deal.

This Medicare reform bill that we are considering today gives the senior citizens of our country the same kind of options that Members of Congress now have. It will give them the same kind of choices we have.

That's the beauty of this bill. We save Medicare. We strengthen Medicare and on top of it all, we make Medicare better.

We are going to hear a lot of outrageous rhetoric about how we are slashing benefits—that's hogwash. It's political hogwash. And I, for one, think that this program is too important to play political games with.

This bill is a good bill—it gives senior citizens the same kind of health care that Members of Congress enjoy now. That's a good deal.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume to answer the gentleman from Texas' challenge.

I am sure the gentleman is familiar with his bill. He knows there is a fail-safe device in there. The impact of the fail-safe device is to require the Secretary of Health and Human Services to make cuts only in the fee-for-service program an undesignated amount of money in order to balance the Federal budget. There is no way that the Secretary of Health and Human Services can make that kind of cut and preserve fee-for-service type service for people who elect it.

Mr. Chairman, that is the fraud in the gentleman's bill. One of the many frauds in his bill. And it will drive all seniors into a gatekeeper operation under managed care.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I speak today as a woman who has served on the Ways and Means Committee for over a decade. During that time, I have taken a number of tough votes to protect Medicare's solvency—and today, I am again willing to vote to protect Medicare and its future. However, my experience tells me that a $90 billion problem does not demand a $270 billion solution—so I know the reductions in the majority's bill are too deep and too damaging to Medicare.

Let me raise two specific reasons why this legislation would hurt senior citizens.

First, the bill would limit the amount Medicare pays for beneficiaries. The bill's hard cap on payments would not keep pace with medical inflation, and would therefore create a growing disparity between what health services cost and what Medicare would pay. This disparity would certainly undercut the quality of care under Medicare and force seniors into a terrible choice: Either pay more to make up the difference or settle for second-rate health care. Seniors should not be discriminated against in this way.

Second, proponents of the bill claim that people on Medicare will have new choices while retaining their right to stay in traditional Medicare. I support providing additional choices, but choice for some should not ruin the only choice for others—traditional Medicare.

Under the majority's bill, some seniors would pay the price for the choices made by others. This puts a new spin on the carrot-and-stick approach: Under this bill, when healthier seniors choose the carrot, sicker seniors get the stick.

For example, when younger, healthier seniors leave traditional Medicare by selecting a medical savings account, that will leave older, sicker seniors behind in traditional Medicare to face rising costs. As a result, these higher costs would trigger the so-called failsafe cuts, further reducing payments to doctors and hospitals in traditional Medicare. The obvious consequence would be fewer and fewer quality providers for seniors remaining in traditional fee-for-service Medicare.

Some might reply that a well-designed risk adjuster would address this problem of adverse selection. But the simple truth is: We do not currently have, nor does this bill propose, such a risk adjuster—and anyone who understands this issue, which is always present in insurance decisions, knows how hard it would be and has been to design one.

If we are going to tell seniors they can stay in traditional Medicare, then we have an obligation to ensure that it is a real option, and not just a false promise. This bill fails that test.

The majority often implies that seniors will barely notice the reductions, since so much of their bill's savings would be achieved by cutting fraud and by providing seniors more health care options. But the truth is that almost all of the bill's savings come from cutting payments to providers and increasing beneficiaries' premiums. In fact, the Congressional Budget Office [CBO] has said that only 1 percent of the bill's savings come from reducing fraud, and that only 2 or 3 percent of the bill's savings come from providing seniors new choices. More than 95 percent of the savings will come in ways that will be all too evident to America's seniors. The Medicare they know will be no more.

Mr. Chairman, the American people want to keep Medicare solvent. I do too. That is why I am voting for $90 billion to save Medicare. But $270 billion in Medicare reductions is ludicrous. It should not happen, and it will wreck Medicare as we know it.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to point out for the RECORD that no speaker has pointed to any benefit cuts. In fact, our bill guarantees all Medicare benefits, for future retirees as well as for current retirees, an increase of spending per retiree of $2,000 over the 7 years, which is just as much as we increased spending over the last 7 years. Thus, absolutely guaranteeing the benefits will be there for America's seniors.

Mr. GREENWOOD. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. BURR], a fine new freshman Member of the House who has contributed significantly to the bill.

Mr. BURR. Mr. Chairman, I came to Congress because I believed that there were many things in this country that just did not work like they were designed. Medicare is one of them. For once, it is time for us to stand up to the Federal Government bureaucrats who believe that they can do no wrong.

In my opinion, Medicare is a perfect example of good intentions choked by a bureaucracy unable to address the changing needs of a vital program. It is long past time that we inject the wisdom of the private sector, which has created products that work, into a health care blueprint for seniors in America.

It is time to offer choice to Medicare beneficiaries which allow and encourage them to spend their health-care dollars in a way that best fits their health needs.

It is time we allow our parents the ability to choose their coverage while maintaining the security of the current system for those who need it.

Call me crazy, Mr. Chairman, but for decades we have delayed, ignored, and tinkered with Medicare while my parents and 36 million other Americans have seen their health care costs rise and consume 21 percent of their disposable income.

Mr. Chairman, when I joined with Members of the 104th Congress in a genuine effort to reform Medicare and preserve it for the next generation, I made a deal with myself. I pledged that I would not support a plan that I could not sit down with my parents and explain.

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Well, I have explained it, and, Mr. Chairman, I am here today to say that we owe it to the American seniors to pass this preservation act.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, the gentlewoman from Connecticut said there are no cuts in this bill. I would direct the attention of the gentlewoman to page 275 in PPS hospitals, which shows that for 1996, which started 18 days ago, fiscal year 1996, there is a 15-percent cut for hospitals. That 15 percent will not only affect seniors, but the whole population that is served by those hospitals.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, what we are going to do today, if the Republicans get their way, is a travesty, it is irresponsible, and it is wrong. Thirty-seven million Americans depend on Medicare. They want a program that let them see their own doctor and protects them from financial ruin when they get sick.

Mr. Chairman, they do not want us to gamble with Medicare. They do not want us to go along with what some health-care theorist thinks might make them more cost-conscious consumers. They already watch their dollars. They pay enough in premiums and coinsurance, and most Medicare recipients live on less than $25,000 a year.

Most of all, they do not want us to balance the budget on the backs of Medicare recipients. They do not want us to cut Medicare so we can cut taxes.

The supporters of this bill are not telling us some facts. First of all, not only will Medicare beneficiaries pay higher premiums to hold on to part B, but the bill will allow doctors and hospitals to charge the patients more money directly over and above what they get now paid from the Medicare fund. That is something they cannot do at the present time.

Second, this will take away the choice of doctors and will herd people into managed care plans. That is not a bad choice if you want an HMO, but that should not be your only choice.

Third, this bill is going to jeopardize the quality of care for everyone, when hospitals and emergency rooms are forced to close, when medical research hospitals are starved of funding.

Mr. Chairman, this is a bad bill. It has not been thought through and we ought not take a chance with a program that is so important to so many Americans.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. THOMAS] chairman of the Health Subcommittee of the Committee on Ways and Means, a gentleman who has contributed so much in the development of this plan.

Mr. THOMAS. Mr. Chairman, we are going to respond every time someone makes a misstatement, and the misstatement was that we are cutting the hospital updates. We are not cutting; we are slowing the growth.

Mr. Chairman, the gentleman from Louisiana talked about "slowing the growth" in a statement from the President. Here are the updates according to the CBO numbers. As any Member can see, every year the hospital reimbursement goes up. That is slowing the growth. That is not a cut.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS], a member of the Committee on Ways and Means.

Mr. COLLINS of Georgia. Mr. Chairman, there is an old saying: Temptation will beat your door down, but opportunity will knock only once.

Today the Democrats offer temptation: To extend Medicare until 2006. But the Republicans offer an opportunity to extend Medicare to 2012 and beyond.

The real difference between temptation and opportunity is that the Democrat temptation sets the stage for another tax increase by the year 2006. Their plan will leave the Medicare trust fund underfunded by $309 billion—just when those Medicare funds will be needed by the World War II generation.

But Mr. Chairman, this is nothing new—this has been the pattern of Congress over the last 31 years, since Medicare was created.

Congress has either increased the rate or changed the income base 23 times in 31 years in order to keep the Medicare program running.

The temptation the Democrats offer today continues that history and ensures that taxes will again have to be raised in order to continue Medicare.

Mr. Chairman, what happens when payroll taxes are increased?

Seniors know. Seniors know their children and grandchildren will have less income for their families; the cost of consumer goods and services will increase; and we are less competitive in the world market.

Mr. Chairman, when our Medicare seniors, who are on a fixed income, go to the doctor, the grocery store, or pay utilities, the cost of each of these services will reflect the increase in payroll taxes.

The Democrat temptation to Medicare reform repeats the mistakes of the past.

The Medicare Preservation Act is the best of the two options.

It addresses concerns about excessive charges for health care, addresses waste, fraud, and abuse of precious Medicare dollars, and ensures that Medicare will be solvent until 2012 and beyond.

The Medicare Preservation Act requires that we look ahead and anticipate the World War II generation; and we will study the changes to make sure it is working like it's supposed to.

It does all this by changing the Medicare process, without a tax increase.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, Medicare is going to lose $18 billion this year from waste, fraud, and abuse. That is $50 million a day, $2 million an hour, $3,000 dollars a minute. Since the debate began at 9 o'clock this morning, Medicare has lost $6 million due to waste, fraud, and abuse.

Mr. Chairman, the bill before us has the toughest penalties ever presented to the Congress on waste, fraud, and abuse. For the first time we have a definition of Federal health care fraud.

Mr. Chairman, I want to read that very quickly:

> Whoever, having devised or intending to devise a scheme or artifice, commits or attempts to commit an act in furtherance of or for the purpose of executing such scheme or artifice to defraud any health care benefit program; or to obtain, by means of fault or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

That is the definition. They can be fined and imprisoned for up to 10 years. If the fraud results in bodily harm, they can be imprisoned for up to 20 years. If the fraud results in death, they can be imprisoned for life.

Mr. Chairman, that is tough. If they make a false statement, they can be imprisoned for 5 years. That is currently a misdemeanor. If they try to embezzle or steal money, they can be in prison for up to 10 years. If they try to bribe or engage in graft, they can be in prison for up to 15 years.

Mr. Chairman, I could go on and on, but this bill has the toughest waste, fraud, and abuse penalties ever presented to this Congress. I urge my colleagues to vote for it.

Mr. DINGELL. Mr. Chairman, I yield 90 seconds to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, the last gentleman spoke about fraud in this bill. I agree with the gentleman. It is a fraud to have this bill.

Mr. Chairman, if you take a look at it, this GOP bill, what the Republicans have done, they have legalized fraud in this bill. They have raised the legal standard that is required of law enforcement to crack down on fraud, waste, and abuse. They have raised the legal standard in which HCFA and OIG can recover proceeds, money stolen from the trust fund.

Mr. Chairman, the GOP bill makes it harder to detect fraud; makes it harder to prosecute fraud; makes it harder to recover. Even CBO, that the gentleman from California [Mr. THOMAS] has quoted from, says the fraud provisions will only get us $2 billion over 7 years.

Mr. Chairman, they do not even find any fraud in this bill until 1998. They cannot find any. I can tell my colleagues that with oxygen concentrates, we can recover $4.2 billion in 5 years just by using the same formula the Veterans Administration uses. But my colleagues on the other side do not accept those things.

Mr. Chairman, there is no fraud-fighting elements in this bill. The Department of Justice is against it. The Office of Inspector General is against it. They have all come out against these so-called fraud and abuse sections. Take the charts from CBO and take the time line that has been created. Mr. Chairman, $2 billion is all they recover.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health.

Mr. THOMAS. Mr. Chairman, we are talking about fraud and abuse. What my colleagues should do is look at the bill.

Mr. Chairman, this bill, as the gentleman from Texas [Mr. BARTON] correctly pointed out, does more than any other provision ever in the history of Medicare.

Fraud: We find it. We utilize 37 million Americans with not only a toll-free number, but a whistleblower reward structure by the Secretary. We require, it is not required now, an explanation of what goes on, so recipients will know what has been done to them.

Mr. Chairman, we have a Medicare Integrity Program. We utilize the newest technology to go after fraud. We have a corporate whistleblower program. We double the civil penalties. We have criminal penalties. We have expulsion from all Federal programs if providers are found to be violators.

Mr. Chairman, we increase the enforcement with bucks put in by the Shaw-Gibbons amendment for more enforcement officials. Lastly, and most importantly, we define in a way so that people will know what they can or cannot do. It is clear. It is responsible. Fraud: we find it, we fight it, and we fix it.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, clearly the issue of fraud and abuse is a sensitive nerve on the majority side, and it should be.

Mr. Chairman, the Inspector General and the Justice Department have said my colleagues on the other side are going to cripple efforts under Medicare, and they are.

The Republican side called these efforts to weaken the fraud statute salacious. It is. What they inserted last night was a provision that does not touch their weakening of the fraud and abuse provisions. They have weakened them, and they have told Members maybe they will fix them later.

Why did they do this? And nothing they did last night can cover it up. What they did last night may be a small step forward in some areas, but it is five steps backward in terms of fighting fraud and abuse against Medicare. That is what they have done and it is shameful.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, this is quite simply a choice about two different headlines.

January 1, 2002. "Medicare Bankrupt. Seniors Devastated. Hospitals to close. Safety net Destroyed."

Or October 20, 1995. "Medicare Saved. Federal government delivers on its promise to seniors."

Which headlines would you prefer to see. Now which headline do you think I want my mom to see who's now living in Wisconsin who's 78 years old?

If we do not save Medicare today the President's own Medicare trustees say the Medicare trust fund will be tapped out in 7 years. There will be nothing left. Zero. Zippo.

Oh sure there is another way to fix it. To raise taxes. To pump more into a bureaucratic, Washington system whose losses are twice the private sector. The President admitted the other day he made a mistake raising taxes last year. No fooling.

What kind of tax increases will it take to save Medicare—how about another 1.3 percent payroll tax—$585 a year for someone making $45,000 a year. Now that is just in the next few years.

But as the shortfall gets worse we would have to raise the taxes again—nearly double the current rate—meaning an increase of $1,584 a year for that worker making $45,000.

The impact on small businesses is absolutely devastating—the Chamber of Commerce says a small business with 25 workers—mail in another $13,000 in tax payments. How do most businesses react to tax increases, they cut jobs, raise prices—and that means 3 million jobs vanish.

Fix Medicare today—give seniors options, live up to the promise. Listen to the President's own death bed conversation about raising taxes. Which headline do you prefer? Medicare thrives, or Medicare dies. Not too tough a choice is it?

Mr. Chairman, the choice is easy. One headline or the other: "Medicare Thrives" or "Medicare Dies".

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Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PALLONE], chairman of the Democratic Health Care Task Force.

Mr. PALLONE. Mr. Chairman, I want to make a plea to my colleagues on the other side of the aisle to oppose this ill-conceived Medicare plan. The Republican leadership proposal, as we know, will cut $270 billion out of Medicare to pay for $245 billion in tax cuts mostly for the wealthy.

It is not necessary to make these cuts in order to keep Medicare solvent. The Medicare trustees have told us that Speaker GINGRICH's cuts had three times any estimate of what is needed to make Medicare solvent. Mr. Chairman, seniors are going to be forced to pay more to get less under the Gingrich proposal. Part B premiums will double without a penny of that increase going back into the part A Medicare hospital trust fund.

Seniors will ultimately be forced into HMO's and have to give up their own doctors because the Republican proposal puts money into HMO's at the expense of the traditional Medicare system.

My colleagues, the Republican plan will destroy America's high quality health care system because hospitals and other health care providers will be so squeezed for Medicare dollars that they will be forced to close or significantly cut back on their services.

None of this would be necessary if Speaker GINGRICH were not insisting on a big tax break for the wealthy. I know that at least half of my Republican colleagues from the State of New Jersey have already indicated that they are voting no on this terrible bill. I would ask all of my colleagues on the other side to heed the words of three Republican State legislators from the Jersey Shore who wrote to my New Jersey colleagues in the House this week and urged support for the Gibbons-Dingell substitute.

They said, and I quote:

> Alternative proposals have been offered that would maintain the solvency of the part A and part B trust funds until the year 2006. This $90 billion compromise package would provide a decade for Congress and the White House to achieve a well-planned and balanced proposal to resolve Medicare's financial problems.
>
> We feel very strongly that a rush to judgment on this issue is bad public policy. America should not turn its back on our parents and grandparents.

Mr. Chairman, I include for the RECORD this letter from my fellow Republican State legislators in New Jersey urging opposition to this.

STATE OF NEW JERSEY,
9TH DISTRICT LEGISLATIVE OFFICES,
Forked River, NJ, October 13, 1995.

Re Medicare.

To: Hon. Christopher H. Smith, Hon. Robert E. Andrews, Hon. Marge Roukema, Hon. Robert D. Franks, Hon. Robert G. Torricelli, Hon. Rodney P. Frelinghuysen, Hon. Robert Menendez, Hon. H. James Saxton, Hon. Frank A. LoBiondo, Hon. Frank Pallone, Jr., Hon. William J. Martini, Hon. Donald M. Payne, and Hon. Richard A. Zimmer.

DEAR HOUSE MEMBERS: It is our understanding the House Ways and Means Committee has voted 22–14 to send the Medicare reform package to the House floor next week.

Our 9th District Delegation, which represents the largest Senior Citizen population in New Jersey in Ocean, Burlington and Atlantic counties, issued a letter on September 22, 1995 to House Speaker Newt Gingrich and Senate Majority Leader Bob Dole, urging them to scrap this plan.

Copies of our correspondence to Speaker Gingrich and Senator Dole were conveyed to New Jersey's Congressional Delegation. For your convenience, a second copy of this appeal is enclosed.

Please allow our Delegation this opportunity to reiterate our profound concerns about these cuts in Medicare services for our elderly.

As you are aware, alternative proposals have been offered that would maintain the solvency of the Part A and Part B trust funds until 2006. This $90 billion compromise package would provide a decade for Congress and the While House to achieve a well-planned and balanced proposal to resolve Medicare's financial problems. This compromise would also provide the opportunity for a bipartisan consensus.

Our Delegation is genuinely sensitive to the difficult decision you face and have had our own feet roasted by the hot coals of Leadership. We feel very strongly that a rush to judgment on this issue is bad public policy. America must never turn its back on our parents and grandparents.

We, respectfully, urge New Jersey's House Members to oppose this $270 billion Medicare cut. Your leadership, in targeting Medicare fraud, the staggering costs of health care and in building a bridge to the future with the alternative proposals set forth by Rep. Sam Gibbons that will provide the chance for Congress to seek a consensus solution to preserve Medicare for our parents and grandparents.

Thank you for your thoughtful attention to this appeal on behalf of the Senior Citizens of Ocean, Burlington and Atlantic counties.

Sincerely,

LEONARD T. CONNORS, JR.,
Senator—9th District.

JEFFREY W. MORAN,
Assemblyman—9th District.
CHRISTOPHER J. CONNORS,
Assemblyman—9th District.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to take the time to remind Members that it is not appropriate to wear or display badges while engaging in debate.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. McCRERY], a valuable member of the Subcommittee on Health.

Mr. McCRERY. Mr. Chairman, as this chart shows, spending on the Medicare system has skyrocketed since 1970. Here we are today and Members can see, if nothing is done, it goes off the chart.

In 1970, Medicare spent about $8 billion; in 1994, Medicare spending was about $165 billion. That is an increase of almost 2,100 percent in just 14 years. In the part B side alone, growth rates have been so rapid that outlays of the program have increased 40 percent per enrollee just in the past 5 years. More alarming is that Medicare spending is projected to explode to over $350 billion in 2002. Clearly, this is an unsustainable trend and one that neither seniors nor younger Americans working to support themselves and their families can be asked to underwrite.

The financial crisis in the Medicare program is not a short-term cash flow problem, as the Democrats would like the American people to believe. The trustees of the Medicare trust fund, three of whom are President Clinton's own Cabinet members, said in their report on the HI, or part A, trust fund, "The trust fund fails to meet the trustee's test of long range close actuarial balance by an extremely wide margin." Further, the same trustees said in their report on the SMI trust fund, the part B trust fund, "while in balance on an annual basis, shows a rate of growth of costs which is clearly unsustainable."

The public trustees of the Medicare program were very clear when they said, "The Medicare Program is clearly unsustainable in its present form."

The Democrats in the past have ignored the long-range spending problem of the Medicare Program. Their solution has been to continually raise taxes on working Americans, and that is still their solution.

In the years since the enactment of Medicare, the maximum taxable amount has been raised 23 times. Two years ago, the Congress, then controlled by Democrats, raised taxes, Medicare taxes again. All that did was just put another financial burden on the taxpayers and put off the financial crisis in the trust fund for just a few months. Clearly, raising taxes yet again on the American people is not the answer.

The Medicare Preservation Act, on the other hand, addresses the out-of-control spending in the Medicare Program by opening up the private health care market to the senior population. By harnessing some of the innovative cost effective and high quality private sector health care delivery options, Medicare beneficiaries will not only have a choice in their health care coverage for the first time, but the Government will also be able to rein in out-of-control Medicare spending. It is a win/win situation.

The Republican plan provides security for not only today's seniors but also lays the groundwork for the retirement of my generation, and it does it without increasing the tax burden on working people.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to begin by yielding to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, the previous speaker, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Louisiana [Mr. McCRERY], will lose $158 million over the next 7 years under the Gingrich Medicare cut plan.

Mr. KLINK. Mr. Chairman, I thank the gentleman for that input. Here is the chart which actually shows the reduction in Medicare spending per beneficiary under the House Republican plan. I have to get this straight. When is a cut not a cut?

Last year when we were trying to do health care, every Republican on the Committee on Ways and Means signed a letter which said, "the additional massive cuts in reimbursement to providers proposed in this bill"—the Clinton bill—"will reduce the quality of care for the Nation's elderly." That was $168 billion versus $70 billion now.

The current chairman of the Committee on Ways and Means made the statement, "I just don't believe that the quality of care and availability of care can survive these additional cuts." Now they are saying that these are not cuts. It is cuts in the rate of growth. Were you lying to us now or are you lying to us then?

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

I resent the fact that the gentleman implied that I have lied. No. 1, that does not belong on this floor. But the gentleman, as usual, has not given the factual information.

The plan that I made those comments on cut $490 billion out of Medicare and Medicaid. Without transforming Medicare, without giving other options, without including true savings in the cost drivers. That was a totally different time, a totally different program. But it cuts $490 billion out of Medicare and Medicaid.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong opposition to the Republican Medicare plan. I rise to tell you there is another way, a better way. We Democrats have a plan. We save the Medicare trust fund, and we do it without hurting the poor, the sick, and the elderly.

How can we do it? We can do it because we do not pay for tax breaks for the rich. There is only so much money—you can either use it to help the sick and the elderly or you can give it to the rich. My Republican colleagues may say whatever they wish, but the truth is that these very large—these huge Medicare cuts are needed to pay for their tax breaks for the rich.

The Republicans say they want to help Medicare. But what they do is different. Thirty years ago, the Democrats created Medicare and the Republicans voted against it.

Two years ago, Democrats passed a bill that helped the Medicare trust fund. Every Republican voted no.

Earlier this year, the Republicans took $87 billion from the Medicare trust fund. Today, they want to cut an additional $270 billion.

They voted against Medicare 30 years ago, and they are voting against it again today. My colleagues, actions speak louder than words, and the Republican actions are loud and clear.

The Republicans did not want Medicare 30 years ago and they want to dismantle it now.

I do not believe that we must destroy Medicare to save it. Democrats do not raise premiums for seniors. Democrats ensure that Medicare is there for our families, for our children, for our grandchildren, and their children.

Under their plan, the Republicans eliminate nursing home standards. Poor seniors lose help for copayments and deductibles.

Under the Republican plan, the rich get tax cuts, and our Nation's elderly and hard-working families get higher Medicare bills. It's a scam, a sham, and a shame. I know it. You know it. Now the American people know it.

Mr. Chairman, on this day, October 19, let the word go forth from this place into every State, every city, every town, every village, every hamlet that it was the Republicans who voted to cut Medicare—they voted to cut Medicare by $270 billion in order to give a $245 billion tax break to the wealthy. The Republican plan is too much, too radical, too extreme.

We have more than a legislative responsibility to oppose this Republican plan. We have a mandate, a mission, and a moral obligation to protect Medicare.

This vote—this debate is about something much bigger than one vote. It is bigger than one bill. It is about two contracts, the Republican contact with the rich, and the Democratic contract with the American people—Medicare. Medicare is a contract—a sacred trust with our Nation's seniors and our Nation's hard-working families.

My fellow Americans, remember—it was the Democrats who found the courage and the strength to provide health care to our seniors, and it is the Democrats who will preserve it for unborn generations.

We must not and will not break the contract with America's seniors and families. I urge my colleagues to support the Democratic alternative and oppose the Republican plan to cut Medicare.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the facts have already been presented to this committee. Medicare increases per beneficiary go from $4,800 to $6,700 per year. The total aggregate increase in medical expenditures increases $1.4 trillion under our plan over the next 7 years. But only in Washington can an increase be called a cut.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, earlier this year we got some very bad news for Americans and senior citizens. The trustees of the Medicare funds told us that under all sets of assumptions the fund goes bankrupt, and it goes bankrupt in 7 years. Taking our responsibility very seriously, we Republicans went to work.

We gathered with senior citizens, with experts from around the country, and we said, what can we do? Is there any good news? Can we fix the situation? We found good news. We found that health insurance costs for working people, not retired people, were going down. Inflation rates at 10.5 percent in Medicare are killing it.

□ 1230

The private sector using intelligent new programs have brought the inflation rate down below to virtually zero. We said the good news is this. We can preserve Medicare, we can preserve fee-for-service options for everyone who wants to stay that way, but we have new and exciting options.

Mr. Chairman, my mother and father have chosen the managed-care option. They love it. They save $1,000 a year each because they no longer buy MediGap insurance. They have new prescription drug benefits. They get all of the referrals they want. They are delighted.

This plan is very straightforward. We preserve fee-for-service, we increase the per beneficiary expenditure from $4,800 a year to $6,700 a year, and for those seniors who want new choices, we have excellent new choices in managed care. This is a spectacular bill. Americans will be proud of it. Senior citizens love it. Vote "yes."

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, our Nation needs——

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I wish to inform the gentleman that in the district of the gentleman from Pennsylvania [Mr. GREENWOOD] there will be $128 cut from hospitals over the next 7 years.

Mr. WYDEN. Mr. Chairman, our Nation needs bipartisan reform of Medicare, but instead today's bill will deliver a nationwide Medicare migraine. Instead of listening to our seniors, and our families, and to the inspector general, this is a cut first, ask questions later Medicare initiative, and the fraud section is a metaphor for the whole bill. Instead of legislation to protect seniors and taxpayers, it protects the crooks and the thieves. Instead of improving access to health care, it provides a freeway to fraud, and, my colleagues, think of the words of the nonpartisan fraud-buster at the Office of the Inspector General who said that this bill will cripple, it will cripple, efforts to bring justice.

Let me tell my colleagues it is possible to develop 21st century Medicare that works for seniors and taxpayers. Reject this bill and come with me to Oregon because I will show each of you programs that protect seniors, hold down costs, and insure that we have a path to the 21st century. We can do this job right. We can do it in a bipartisan way. But let us listen to our seniors and our taxpayers.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding this time to me.

• I have here a list of words that I am told the Republicans were asked to use in this debate, words like historic, successful, saves. Well, there was a historic event 30 years ago. The Democrats in this House passed Medicare. Not one Republican voted for it.

Successful? Well, yes. This bill successfully guts Medicare.

Saves? Well, yes. This bill saves the promised tax breaks for the rich.

Mr. Chairman, also on this list it says we should say the Democrats are scaring 85-year-olds. Mr. Chairman, as a member of the committee, I know that it was the Republicans who ordered the arrest of 85-year-olds who came to the committee. They came there. They came to ask the committee what is going to happen to our Medicare protection. They were Americans. It is a disgrace that they were arrested.

I think there is a word that is not on this list, Mr. Chairman, and that word is shame.

Mr. BLILEY. Mr. Chairman, I yield myself 30 seconds to respond.

Mr. Chairman, the rules of this House are explicit. The chairman of any committee is required to preserve order, and when citizens of any persuasion, any age, come in, refuse to obey the orders of this House, the chairman has no choice but to have them escorted out of the room.

Mr. Chairman, that is exactly what happened in the Committee on Commerce, and that is what we had to do regrettably, but that is the truth.

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I love my dear friend from Virginia, but I notice he did nothing when a bunch of people came in and dumped bags of mail from dead men, from people who were not supporting the legislation in question, and some of which were addressed "contributor." Our Republican colleagues have a great sensitivity about the senior citizens, but none whatsoever about rascality by high-paid lobbyists.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the organization that disrupted that meeting, I would like the RECORD to show, 96 percent of those funds come from the public treasury. The person who was the ringleader was a paid staff person.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I will use the word "shame." Shame on those politicians who over the years, not just now, use scare tactics and misinformation to frighten our senior citizens all in the interests of getting votes through fear. These actions are unconscionable.

Only the most affluent retirees are having their part B premiums raised substantially. We are not raising Medicare copayments or deductibles. We will not be reducing services or benefits—our legislation ensures that the core services in the current Medicare Program will be retained and must be offered to all beneficiaries.

I also want to make it clear that no one will be forced into HMO's. If Medicare beneficiaries wish to keep the current fee-for-service benefit where they have complete choice of their doctor, they will be permitted to do so. If beneficiaries want to enroll in an HMO which might include additional health benefits, or some other Medicare-plus plan, they can do so. It will be their choice. Under our proposal, coverage will be assured to all senior citizens, regardless of prior health history or age.

From the beginning of this effort, I have insisted that protecting beneficiaries was an essential part of any Medicare report effort. I represent a congressional district that has one of the highest percentages of senior citizens in the country. I also worked for years as an attorney and a community volunteer with many retirees. Recently, I myself, reached Medicare age.

This bill is the product of listening and learning. It is a product of many discussions with people who had real life, day to day experiences with the Medicare Program. It protects our current beneficiaries while ensuring that Medicare will exist for future beneficiaries.

In a recent Washington Post article, Robert Samuelson said it well when he stated that "Republicans occupy the high moral ground and the low political ground. They have raised critical questions at the risk of political suicide."

And, knowing that, Republicans still believe it is our responsibility to show pure guts and courage to save Medicare for our seniors, their children, and grandchildren. We have taken on the task of protecting and preserving Medicare because it is our moral responsibility, not because of political necessity. We have taken the higher ground and this is ground that I am proud to stand on.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT] and I ask him if he would yield back to me 15 seconds.

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I just want to comment on the statement made by the previous gentleman. He claimed we are not cutting benefits, we are not going to make people pay for benefits for their health care. How are we getting $270 billion in Medicare cuts and the AMA supports the bill? Something just does not add up.

Mr. BRYANT of Texas. Mr. Chairman, the gentleman's logic is impeccable. I would point out that the losses to hospitals in and around the district of the gentleman from Florida [Mr. BILIRAKIS] are going to be $210 million over the next 7 years, and my colleague says there are no cuts. His folks are going to feel them.

The fact of the matter is, Mr. BILIRAKIS, as chairman of the Subcommittee on Health, my colleague and his Republican friends ought to be working on the fact that health care costs are rising. Instead my colleague is working on cutting health care insurance that elderly people use to cope with health care costs. That is the problem.

The fact of the matter is it is not a secret that my colleague's party philosophically does not believe Medicare is the appropriate role of government, and yet he comes in here and tells us they are not cutting it. Mr. Chairman, my colleague has gotten power, and now he is cutting it. He boasts throughout the land he is cutting government, but today, as he takes $270 billion out of the program that insures the health needs of seniors, he says he is not cutting it.

Only in Washington would anybody believe that, Mr. ARCHER.

I would point out that with regard to these cuts, Mr. Chairman, the gentleman from Texas [Mr. ARCHER] and I are pretty much both in the same situation. In Harris County, TX, we are talking about $2.4 billion in cuts between 1996 and the year 2002 according to the Health Care Finance Administration.

Now my colleagues asked for facts, There is facts. Dallas County, $1.6 billion in cuts between 1996 and the year 2002. Why? To pay for tax cuts for wealthy people out of the hides of elderly people who are not going to be able to pay their medical bills because they have cut their insurance.

Mr. ARCHER. Mr. Chairman, I yield myself such times as I may consume very simply to say that once again we are back into the same rhetoric. There will be increases for hospitals across this country. Those increases have already been demonstrated by the facts.

Only in Washington can a Member of Congress stand up and call increases a cut.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP], a respected member of the committee.

Mr. CAMP. Mr. Chairman, I thank the distinguished gentleman from Texas [Mr. ARCHER] for yielding this time to me, and I rise today in support of the Medicare Preservation Act because it officially ends the policy of just raise taxes.

Mr. Chairman, some who oppose our program have called it extreme. What is extreme is that year after year the Democrat's answer to the Medicare crisis has been to raise taxes. Almost every year, Democrats dug deeper into the pockets of working Americans just to get through the next election. And in 1993, they even raised taxes on seniors citizens.

Nine times, since 1965, the Medicare Board of Trustees has stated that Medicare was in severe financial trouble and needed reform. What was the Democrats answer? Raise taxes. Just throw more money at it to get through the next election.

Since 1965, Democrats raised the payroll tax on working Americans eight times, over 450 percent. They raised the earnings subject to tax for Medicare 10 times, an increase of over 2000 percent. Then they raised taxes on Federal and State employees, and, when they still needed more, in 1993, they raised taxes on American seniors who had already paid their fair share into the program. Now, a senior earning just $34,000 pays not half of their Social Security in taxes but 85 percent. And now even the President admits taxes were raised too much in 1993.

Mr. Chairman, that is extreme.

Could we put the Medicare crisis off a few years if we raise taxes again? Sure we could.

Could we avoid the vicious attacks by special interest groups if we didn't reform the system? Sure.

But we are not going to do that. We are going to preserve, protect and strengthen Medicare not to get through the next election, but for the next generation. We will ensure the solvency of this program. We will increase benefits. We will maintain the current premium rate and for the first time in the history of Medicare, we will give seniors the right to choose the health care plan that best suits their health needs.

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I would like to have a colloquy, if I could, with the gentleman from Pennsylvania. Both he and I have worked hard in our districts getting the message out how important it is to look at this program because it is going bankrupt, and we want to offer them choices, much like the choices that the gentleman and I have. Perhaps many Members do not know that a large number of the Federal employees are retired and they have choices, HMO's, PPO's, and all these other things. Let us talk, for example, about a widow whose $600-a-month pension is too low to pay for this expensive part C medigap insurance and whose biggest problem is that she cannot afford the deductible portion of her doctor's bill.

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So what happens, she does not go to take care of herself. Now, what would we have under this program with our HMO's and PPO's and the PSN's? I mean, even a $5 doctor bill is something that she would be concerned about. You might want to amplify on that.

Mr. GREENWOOD. If the gentleman will yield, the option that would be very attractive for the constituent in your district that you just have described would be a managed care option. Most of the managed care companies have told us that, and they are already doing this in many areas of the country, that they will offer managed care plans in which there is no requirement whatsoever to pay Medigap insurance. So that $1,000 a year that she may be paying now toward her Medigap insurance would disappear. Suddenly she would gain new benefits. She would probably gain a prescription drug benefit. She may get an improved dental or vision benefit. She would no longer have that out-of-pocket cost at all and still be able to go to her doctors within her network whenever she chooses. She would, I think, would welcome this change very much and be far better off and have more money left over in her budget at the end of each month.

Mr. STEARNS. Is it not a point of fact that all the people in this room have the Federal employee health benefit program, and is it not a point of fact that people on this side are in HMO's, in fact, there are Members of Congress who have retired who are in health management organizations and they are not picketing and screaming and worried? Because actually what we are trying to do is develop a program for Medicare that is much like the First Lady and the President has and all of us have, which basically says that health management organizations might work for some people. It should be a choice, and surely if it is good enough for Members of Congress, these same choices should be available for the seniors. So I think that is what you are saying for this particular woman in Florida who is on a very small pension every month. This would be a possible choice for her. You might want to just amplify on that, because I know you have toured, like I have, many health maintenance organizations, talked to the seniors, and for some of them they are very happy.

There are people that have high monthly drug costs, and the HMO is paying for that, and it is paying for their deductible. So that surely that is an approach we should not rule out by keeping the one warehouse, one-size-fits-all program we now have. Surely moving it to what we have in the Federal employee health benefits program is a step forward.

Mr. GREENWOOD. The fact of the matter is 9 percent of seniors in this country already have chosen the option of receiving their Medicare benefits through managed care. That number is growing rapidly because you know how seniors will get together and talk and compare notes, and when one learns from the other that they have a new prescription drug program benefit, they say, "How do I get that," and they make the choice.

One of the things about this debate that has been interesting to me is you and I and Members of this side of the aisle know our friends on the other side of the aisle will spend all day, as they have spent the last 6 or 7 months, scaring senior citizens that all of these terrible things are going to befall them.

The fact of the matter is that we are confident today, we are confident because we know when the political dust settles, when this plan is finally signed into law, that the senior citizens will then, beginning in January, have these new options. They will see, my goodness, their copays did not go up, deductibles did not go up, their Social Security check, even with part B deduction, is bigger than it was this year. They will then thank us. Once this debate is over, we think we will be able to say we told you so.

Mr. STEARNS. Is it not also true, if they want to remain in Medicare as it is right now, they can still do that? They still have that choice?

Mr. GREENWOOD. Absolutely. That is the beauty part. We have made certain from day one there is the fee-for-service option will always be available to every single senior citizen in America that wants to keep it. Those that may be a little too old for change, do not like to change, can keep their fee-for-service and enjoy the kind of Medicare that they have grown to enjoy these past years.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds.

I know the two gentlemen who just had this colloquy on the floor are sincere. But last year I checked all of the Medicare policies of every Member in Congress here. Ninety-nine percent of us have fee-for-service. Ninety-nine percent of us have fee-for-service, and all of those, all of those that have fee-for-service have abortion benefits in our medical care policies. You know, those are in the records of the House. Go check them.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. Mr. Chairman, is it against the rules to wear slogans, buttons, while addressing the Committee of the Whole, and did the Chairman not already indicate what the rules are?

The CHAIRMAN. The gentleman is correct.

Mr. STUPAK. Mr. Chairman, I yield 90 seconds to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Chairman, at the outset, I yield to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I just wanted to point out the last speaker in the well down here, the gentleman from Florida [Mr. STEARNS], his district will lose $154 million over the next 7 years if this Republican plan goes through, just to give a tax break to the rich.

I am more concerned about the State of Michigan where the gentleman from Michigan [Mr. CAMP] spoke in which in his district the hospitals will lose $125 million between now and 2002 just to pay for this tax break for the rich. Being from Michigan, I am very concerned about that.

Mr. MANTON. Mr. Chairman, I rise in strong opposition to this draconian plan to slash $270 billion from Medicare. This so-called Medicare preservation plan will seriously threaten the integrity of the program and inflict undue pain on America's elderly.

Under this bill, the elderly will suffer an increase in their premiums and a decrease in the quality of their health care services. Quite simply, you are asking seniors to pay a lot more, but expect a lot less.

And last night, Mr. Chairman, in one final act of cruelty, the majority included a provision to deny anti-nausea drugs for chemotherapy patients. How can you possibly justify denying basic dignity and comfort to those in the twilight of their life, who are fighting for that very life.

Speaking out against this outrageous proposal is not a matter of demagoguery, its a matter of duty. Duty to the senior citizens we represent.

Oppose this legislation.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. McCRERY].

Mr. McCRERY. Mr. Chairman, the gentleman stated something that is just incorrect, and it has been stated in the media some. We are not denying payments for anti-nausea drugs for cancer patients. The fact is that we will continue to pay for the intravenous drug that people, the cancer patients, use to fight nausea.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I yield to the gentleman from New York [Mr. PAXON] for a question.

Mr. PAXON. Mr. Chairman, I have many constituents back in western New York, in the Buffalo and Rochester, Finger Lakes areas, that are concerned about catastrophic costs in health care. How would medical savings accounts help those with recurring health problems pay for these catastrophic expenses?

Mr. GREENWOOD. The medical savings account is a new component of Medicare that we have included in this reform. Those seniors who choose it would have deposited into their medical savings account a number of dollars that would average about $5,000 across the Nation; the first portion of that deposit would be used to buy catastrophic or major medical insurance that would cover them above he deductible. Then the senior gets to use what is left in the account for his or her medical benefits, go to whatever doctor or hospital he or she wants. Once the deductible is reached, then in a year in which that particular individual has high costs, then the medical, the catastrophic, coverage would kick in and they would have no more out-of-pocket costs whatsoever.

In a year in which she was particularly healthy, managed her costs and did not go to a doctor very often, she would be able to keep the balance in the medical savings account. It is a good opportunity for savings for those seniors.

Mr. PAXON. I would make a comment. My parents are both retired. Both have had catastrophic health care concerns. Of course, this would be very important to them.

I also want to make the point Medicare is important to them today, too. They want to see Medicare protected and strengthened. It is their health care needs. It concerns me deeply. If their Medicare is not safe and secure, they have to turn to the family to help. We want to make certain for them and all of the constituents this plan is preserved and protected for the coming years.

Mr. FRISA. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from New York.

Mr. FRISA. Mr. Chairman, I just wanted to, if we could, because this is such a serious issue, it is an important one for our senior citizens. My folks are both retired and are counting on Medicare being there throughout their retirement, and they are happy that we are taking the opportunity to make Medicare safe and sound and better for all of us.

So I would like to ask the gentleman, are there going to be increased funds for seniors under the Republican plan?

Mr. GREENWOOD. Well, of course, there are. Despite all of the rhetoric to the contrary, we are actually taking, right now, we are spending on average $4,800 per each beneficiary in the Medicare Program. Our plan increases that about 5 percent each year for a 40-percent increase over the next 7 years. So 7 years from now we will be spending $6,700 for beneficiaries. It is a huge increase.

What we are doing is bringing down the unsustainable inflation rate which is bankrupting the system.

Mr. FRISA. In other words, and I think this is very important, despite the rhetoric, it is really not truthful. We are saying the average senior citizen will be getting an extra 100 $20-bills spent on their medical behalf. So there is more money being spent for senior citizens under the Republican plan.

It is absolutely incredible, I think you would agree, that my colleagues on the other side of the aisle are trying to say that 100 additional $20-bills for our senior citizens is a cut. It is absolutely incredible.

I thank the gentleman for explaining that and making it clear to the American people and, most importantly, to our senior citizens that the Republicans, by providing a $2,000-per-beneficiary increase is what is going to save Medicare for our seniors so they can feel that it is safe and sound and better for them.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, you know, sometimes we can make complicated issues simple. If we are saving $270 billion and there are 37.6 million beneficiaries, this is what it is going to cost each Medicare beneficiary in America, whether in terms of direct out-of-pocket expenses or not.

There is another chart which I think is probably the best chart and the clearest and most factual, and if we can focus in on this so people watching can see, my Republican colleagues have said we have to do something, there is this incredible crisis, the trust fund is gong to go bankrupt in 7 years.

Well, the Medicare Program has existed for 30 years. Twelve of those thirty years there was a shorter life expectancy than 7 years that exists today, and we did incremental changes. We fixed it.

It is a flat-out lie that this is unprecedented. It is a flat-out lie that $270 billion needs to be cut. It is a flat-out lie that choice will be available for Medicare beneficiaries.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in opposition to the Republican Medicare reform plan and ask my colleagues to support the Dingell-Gibbons substitute.

Mr. Chairman, when President Lyndon Johnson began the Medicare Program in 1965, less than half of all seniors had health insurance. It was understood that the elderly had declining resources, costly health care needs, and few insurers willing to sell them coverage. Since its creation, the Medicare Program has been a great success. Today, 99 percent of senior citizens and a substantial proportion of the disabled are covered by Medicare. It has contributed to reducing poverty among the elderly and causing the life expectancy rate in America to exceed that of every country in the world except Japan. Medicare is fulfilling its mission.

Let me review briefly the two areas of the Medicare Program. Part A of Medicare is financed by the hospital insurance trust fund, which comes primarily from the hospital insurance or Medicare payroll tax contributions paid by employers, employees, and self-employed individuals. Medicare part A will pay for inpatient hospital care, skilled nursing facilities, home health care, and hospice services. It is the trust fund of part A which the Medicare trustees say is "severely out of financial balance" and must receive "prompt, effective, and decisive action" from Congress to restore the stability of the program.

The second aspect of the Medicare Program is part B, the supplementary medical insurance trust fund. Part B is optional, and primarily finances physician and hospital outpatient services. Part B is financed by premium payments from enrollees and by general revenue funds from the Federal Government. The part B premium is currently $46.10 monthly or 31.5 percent of total costs of Medicare, and the budget of 1993 would bring the premium down to 25 percent of total costs from 1996 to 1998. Beneficiaries are responsible for an annual deductible of $100 and coinsurance, usually a 20-percent copayment. The part B trust fund is not in financial crisis, though only because it is financed partially by the general fund which is experiencing runaway health care costs and driving up the deficit of the U.S. Government.

Let me be clear that I do not believe Medicare is out of control or too generous as some have stated. In truth, Medicare pays only 45 percent of the Nation's health care bill for the elderly, and it is less generous than 85 percent of private health insurance plans.

The problems we are facing with Medicare today are primarily external, not internal. Though some problems do exist internally such as fraud and abuse, most of the factors which bring us to the present crisis are external. Let me share a few with you.

First, the primary threat to Medicare is its rising costs which are consequently driving up the Federal deficit at alarming rates. The ability of any reform proposal must be measured by the following yardstick if we are to balance the budget and get our financial house in order: Does the reform measure control the costs of Medicare? Over the past 20 years the cost of the Medicare Program has increased an average of 15 percent a year. In this year alone, Medicare will account for 11.6 percent of all Federal spending. This will rise to 18.5 percent by 2005 if costs are not controlled.

Another factor which threatens the future of Medicare is the growing number of senior citizens in America. The Baby Boomers will begin retiring shortly after 2010, and recent years have seen a dramatic increase in life expectancy. During the 30-year period from 1990 to 2020, the growth rate of the senior citizen population will be double the growth rate of the total U.S. population. This means that those receiving Medicare benefits will outnumber those employees and employers paying into Medicare.

Among other contributors to the rising cost of Medicare are the high cost of advanced medical technologies, the rapid increase in procedures by doctors after a fee schedule was imposed by Medicare, the fee-for-service arrangement which gives no cost-saving incentives to providers or patients, and the rise of Medicare fraud and abuse. All these factors, some of which I applaud such as life expectancy and miraculous technology, have brought us to this present moment of crisis.

Before looking at the specific proposals to reform Medicare, I wish to suggest the values which I believe should drive any attempt at reform. I believe you will agree with me. These values are:

First, ensuring that every dollar saved from Medicare goes directly toward strengthening the part A trust fund and eliminating the Federal deficit;

Second, making the trust fund sound for the short term and the long term;

Third, protecting beneficiaries from dramatically increased costs and reduced access to care;

Fourth, improving patient choice without coercion or compromising the quality of care;

Fifth, reasonable sacrifice by all while ensuring the quality and viability of provider services for all Americans.

Let us now turn to a quick overview of the two major proposals now before the Congress, one from each party. First, let's look at the Republican plan to reform Medicare.

The Republicans, in their noble effort to balance the Federal budget and reduce the deficit, agreed to a fiscal year 1996 budget resolution which would reduce the rate of increase in Medicare spending by $270 billion by the year 2002, bringing its rate of growth down from its current 10 percent a year to about 6 percent a year.

The most important innovation in the Republican proposal is a feature which would allow Medicare beneficiaries to opt for a wide range of privately run health plans, with the Government paying the premium. The plan would provide an incentive for beneficiaries to choose an option that is less costly, such as managed care or preferred provider groups, while allowing those who want to stay in the traditional fee-for-service style Medicare Program to do so. However, the Republican plan would force many low-income seniors out of the traditional program because of the high cost of staying in the fee-for-service as compared to other options. The Dingell-Gibbons substitute, which I will support today, allows seniors to move into managed care and rewards this cost-saving sacrifice without punishing those who wish to stay in traditional fee-for-service programs.

Another set of cost-saving provisions in the Republican plan would reduce the growth of fees paid to hospitals, doctors, and other care providers by an estimated $110 billion over 7 years. The Democratic and Republican plans both rely heavily on reductions in the increase of payments to providers, but the Republican plan also contains a look back provision which I oppose that would balance the budget on the backs of providers if the projected cost savings are not realized. This will only mean that doctors and hospitals will begin turning down Medicare patients, leading to a national health care travesty.

Both Democratic and Republican plans also contain provisions to eliminate excessive fraud and abuse within the Medicare Program. The Congressional Budget Office estimates that at least $20 billion could be saved over 7 years by reducing fraud and abuse in the Medicare Program. I believe it is wrong to raise premiums for seniors until the cheats and ripoff artists are weeded out of Medicare. The Democratic plan makes significant headway toward reducing fraud, but the Republican plan will repeal existing statutes that keep doctors from preying on their patients for their own financial self-interests.

These measures, and others, are slated to ensure the viability of the Medicare part A trust fund. Let us turn to part B for a moment. I remind you that the primary reason to reform part B is to reduce the growth in the Federal deficit, not to build up the part A trust fund which receives its revenues from elsewhere. The Republicans choose to deal with the rising cost of part B by keeping the part B premium at 31.5 percent of total cost rather than at 25 percent as now planned. This means a doubling of Medicare part B premiums by 2002, increasing from $46.10 now to approximately $104 in 2002. While I do not oppose a sensible increase in premiums, I believe this increase is out of reach for many low-income seniors. I support the Democratic plan which would permanently maintain premiums at 25 percent of total cost.

As you can see, many of the aims and methods are the same in the two plans. But the details differ at significant points, particularly with regard to how much of the burden seniors are asked to bear.

I would like to sum up the Medicare debate as I see it. First, I support many of the reforms both sides support including incentives for entering managed care, slowing the increase in provider payments, and eliminating fraud and abuse. These are all contained in the Democratic substitute which I am supporting.

Let me share with you my disagreements with both plans, Democratic and Republican. Too often Democrats have sat on the sidelines this year while the Super Bowl is being played on the field—we have offered more critique than solutions. While this may be a good political stunt, it is not responsible nor respectful of our Nation's senior citizens or our children who will bear the cost of the Medicare Program if we do nothing. But I have not been content to sit on the sidelines. Before this debate even began, I stepped out in support of health care reform bill this year that would have made many of the adjustments we are now discussing. Even today, I would have preferred to have voted for the coalition substitute which would have dealt with part A and part B. But the Republicans in the Rules Committee would not allow this bill to come to the House floor for a vote. So, today I will choose between the better of two evils and support the Democratic substitute.

I sharply disagree with Republicans at one major point. Earlier this year, the Republicans voted for a $245 billion tax cut which gives over 50 percent of the cut to those who make over $100,000 a year. It is any wonder then that Republicans now need to save $270 billion from the Medicare Program to pay for these tax cuts. I believe a tax cut of this magnitude at this time is irresponsible, especially when the majority of the tax cut goes to wealthy Americans. This translates into the outrageous premium and deductible increases Republicans now propose.

The seniors in my district are telling me, "Congressman, I don't mind sacrificing some benefits and bearing some of the financial burden of the Medicare Program to ensure the viability of the trust fund. But it seems to me that the Republicans are asking us to bear most of the burden for this reform, and it is not fair." I've been hearing a lot of people at home saying that they are beginning to think that GOP stands for Get the Old People party. I am not so sure they are wrong.

The Greek word for crisis is krisis. The Greeks used this word to point to a critical moment in time when the road ahead would either mean a time of devastation or a time of great opportunity. This is a time of krisis. The decisions Congress make at this time will mean a future of prosperity and health security for all Americans, or it will mean a bleak future of prosperity and health care for only the privileged few. I believe this is the time of great opportunity, and together we will forge out a Medicare Program that will provide the best health care for our Nation's elderly for decades to come.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, the previous speaker indicated we are going to be giving all of this cash to senior citizens under the Republican plan.

What he did not tell the seniors that are watching today is we are going to double your premiums in part B; all right. The Senate provisions provides more copays, more out-of-pocket-expenses.

Seniors, this is what you are getting: Nothing.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, the Massachusetts Hospital Association and the gentleman from Massachusetts [Mr. TORKILDSEN] have rejected the Republican Medicare bill. The MHA says the spending reductions in these proposals are too fast, too deep, and would jeopardize the ability of Massachusetts hospitals to provide quality health care to patients and communities.

Health care in Massachusetts is world-class. When Raisa Gorbachev and Elizabeth Dole, and as I learned yesterday, when Chairman SOLOMON, of the Committee on Rules, all were ill, they came to Massachusetts.

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If the Medicare bill was a good bill, would not the Massachusetts teaching hospitals, with the renowned reputation that they have earned over many years, take the lead and endorse the bill? We trust these hospitals with our lives. We should also trust their assessment of the Republican Medicare bill.

The Gingrich Medicare cuts are simply too large for hospitals to absorb. Cuts of this magnitude will damage the quality of health care in America, especially for senior citizens and future generations. We should be investing, and not cutting research and education.

These outlandish cuts to hospitals will cause massive job loss across this country. The people hurt most by these cuts will be the hard working men and women of America, all so that a tax cut can be given to wealthy Americans who have not even asked for it. It is just not right.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from New York [Mr. PAXON] will lose $64 million over the next several years to give tax breaks to the wealthy. Under the Gingrich Medicare plan, the district of the gentleman from New York [Mr. FRISA] will lose $262 million, again to give tax breaks to the wealthiest people in this country that do not need it.

Mr. RICHARDSON. Mr. Chairman, reclaiming my time, I want to talk about the effect of this plan on rural hospitals. That is what I represent. On Indian reservations throughout the State of New Mexico and many States in this country, rural health care will be devastated. Rural hospitals will close under this plan. In no way are they going to get more funds and resources.

Now, this is according to the American Hospital Association. The typical rural hospital will lose $5 million in Medicare funding over 7 years, and that means many of them are going to close. In my own district, the average senior lives on $800 a month, and paying $92 a month in premiums and unlimited out-of-pocket expenses is going to be devastating.

Rural Medicare patients are going to lose access to doctors. America's rural areas are going to need at least 5,000 more primary care physicians to have the same access to those that accept Medicare. The American Medical Association says cuts in Medicare are so severe they will unquestionably cause some rural physicians to leave Medicare.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman yielding time.

Mr. Chairman, we have listened to the Republicans talk over and over about what a great plan this is, how it expands choice. The fact is senior citizens in this country now have full choice with Medicare. Yes, under the Gingrich plan seniors will have their choice of a plan, but they lose their choice of doctor.

The Gingrich plan gives physicians financial incentives, the New York Times calls it "bribes for doctors," to move out of traditional fee-for-service into HMO's. Medicare beneficiaries therefore will be pushed out of traditional fee-for-service and forced into HMO's, forced into managed care.

This is purely and simply a political payoff to big insurance companies. We know it, NEWT GINGRICH knows it, the Republicans know it, and the American people know it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], a respected member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Chairman, there is a lot of emotion in this issue, and I can understand it. It is a very important issue. I always think of what Wilbur Mills said, that there are probably more votes changed in the House Chapel than there are on the House floor.

I am not going to try to convince anybody, but I am just going to tell you where I am coming from. The gentleman from Ohio [Mr. BROWN] has thrown around a lot of numbers is terms of how many cuts will be in people's hospitals. I would question those numbers. I have seen those numbers myself as far as my own district is concerned and I question the authenticity of them.

Second, I think the issue is are we going to face up to this thing or not? Everybody agrees we should. The President agrees, the Democrats agree, the Republicans agree. How are we going to do it? It is a matter in terms of timing and numbers.

Also, there always is a better way. I can devise a better way. I am not sure this plan is exactly the way I want, but it is a good plan.

The next point is that there are no eternal fixes for the Medicare problem. We never can go asleep. We are always going to have to be on top of this thing. The question is are we going to have a short-term or longer term approach to this thing.

Let me talk a little bit about cuts. If I spend $1 today and I spend 90 cents 7 years from now, that is a cut. If I spend $1 today and I spend $1.45 7 years from now, that is not a cut. Those are the relationships we are talking about.

Let me talk a little bit about taxes. I did not vote for a tax cut. I did not think it was appropriate, I did not think it was the right timing. However, the Republican Party has felt that is important, the President has felt that is important, the gentleman from Missouri [Mr. GEPHARDT], the minority leader, has felt that is important. It is a fact we deal with everyday. Why can we not get together; why can we not, if our philosophy is the same, do something which is important as far as this overall Medicare issue is concerned?

Mr. GIBBONS. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from New York [Mr. HOUGHTON] mentioned he has other figures and he did not believe these figures. Under the Gingrich Medicare plan, the hospitals in and around the gentleman's district, my friend from New York, will lose $167 million over the next 7 years.

I would ask if he would come back in the well and perhaps tell us what the numbers he has that are different from the numbers that we have been recounting, because we have heard no debate or no questioning of those numbers.

Mr. JACOBS. Mr. Chairman, reclaiming my time, speaking of numbers, the proponents of this measure cite approvingly the trustees' report that there will be a shortfall in the next 7 years in Medicare part A, and that is the truth. But it is not all the truth.

The rest of the trustees' report states how much that shortfall is, $90 billion. So if you accept approvingly the one part, you should accept approvingly the other; $90 billion is considerably less than $270 billion. I wonder anyone remembers the city of Bentre in Vietnam. That is the one that was wiped out, every lock, stock, horse carriage, human being, and building, the Army major declaring it became necessary to destroy it in order to save it.

My father used to say that in politics you can get people to eat the pudding, but you cannot get them to read the recipe. Today we are talking the recipe. We will see how the pudding tastes.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, today the Gingrich Republicans are being encouraged to use certain words, probably put together by some PR agency or PR person, to describe their Medicare plan, words like "historic, serious, and long-term."

Well, in some ways, I could not agree with them more. Their plan is historic because it marks the end of a 30-year commitment to provide our seniors with health care. It is serious. It is radical surgery, because it places the lives and well-being of 37 million Americans at risk. And it is long-term because it will tear holes in our social safety net that will remain for many years to come.

It "saves, preserves, and protects," not Medicare, but $245 billion in tax breaks that no one is asking for. It "protects the right to stay with your doctor," but only if you are able to pay more for the privilege. It "protects the right to choose," only if your choices are slim and none. It is "responsible," but only if you are a member of the AMA. It is "innovative and bold," inasmuch as it breaks new ground for being cruel to seniors. It is "the right thing to do," but only if your parents did not raise you to know any better.

Mr. Chairman, the Republican Medicare plan is all these words and one more, disgraceful, and I urge my colleagues to defeat it so that we can go on and make America a stronger, better, and more gentle Nation.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, like the gentleman from New York [Mr. HOUGHTON], I wish that this debate would be about substance and we could actually talk about what is going to happen. We can argue about $90 billion or $270 billion, but the real issue here is what is happening to the health security of senior citizens.

Right now, senior citizens in this country get enough money to buy a program that covers what they need. And the Republicans are saying that in the first year, 1996, in the dark bar, we are going to give them enough to buy exactly what they have today. By the year 2000, you can see that the dark bar does not go as high as the CBO says an equivalent health plan is going to cost. The difference is $1,100. That is the national average.

Now, if you are from California and watching this, you are going to need another $1,200. If you are from New York, you are going to need another $1,100. If you are from Texas, you are only going to need $994. Ask yourself where those senior citizens are going to come up with that extra $1,100 to buy the same thing they have today.

Every time the Republicans use the word, "choice," listen to that and say to yourself "voucher." They are putting my father and my mother, my father 90, my mother 86, and everybody else's grandparents and parents, out on the street with a voucher. They call it choice. We are going to let you choose anything you want. But if you do not have the money, if that voucher only buys 75 percent of what it buys today, who will make it up? The kids will make it up.

This is the hidden agenda here. They are shoving that $1,000, they will not say it is cuts and I will not say it is cuts, they are shoving that additional $1,000 into their kids.

If you happen to be out there watching this or if Members are on this floor and happen to have a kid in college, you know what tuition does to you. To have your parents show up at the same time and say, "well, I cannot afford it. It is not paid for by my health insurance," for the first time in 30 years, people my age, 58 and down, are going to have to think about how they make up that difference for their parents.

One can talk about $90 billion and actuarials and all the rest of this stuff. There is 96 pages of things where they give away to doctors. As a doctor, I am ashamed by the kind of deal they came in and cut. When we are cutting money from senior citizens and putting them at risk like this, for doctors to come in and negotiate for another $500 million, is a shame. There is no reason to do that.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. WHITE].

Mr. WHITE. Mr. Chairman, I would like to say, first of all, that the explanation we just heard from my colleague from the Seattle area, who I have a great deal of affection and respect for, is exactly the kind of thinking that got us in this mess in the first place. We have been doing this for 30 years, and the fact is it is a self-fulfilling prophecy.

If the Government tells you the cost of medical care is going to go up 10 percent every year, you can be sure that it will, because people who are buying health care or selling health care to the Government are going to spend every nickel their customer tells them they are going to spend the next year.

The fact is we have to exercise some control at the Federal Government level to control these costs. Otherwise, they will be out of control forever and that is the reason we find ourselves in this situation. We have to fix this program. Otherwise, it is going to go bankrupt.

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I want to say one other word about the Seattle area because it is very important. Seattle is an urban community and yet it is one of the healthiest communities in the Nation. It is also one where we have one of the most efficient health care systems in the Nation.

Why is that, Mr. Chairman? It is because in Seattle we essentially invented the managed care program. Under managed care individuals get to sign up in a program that looks out for your health over the long-term basis. Instead of trying to cure diseases as they come up, it actually prevents individuals from getting sick in the first place. A lot of people in the Seattle area have found that to be a good idea.

One of the great things about this bill is that it tries to do for the rest of the Nation what we have done very successfully in Seattle by having the option to take managed care instead of the fee-for-service program. We have been able to keep the costs down across the board, and that is what this bill will do for the entire country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Ohio [Mr. PORTMAN], another respected member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

We have heard a lot today from the other side of the aisle about how the increases in spending in our Medicare plan will not keep up with the private sector growth. We just heard from the gentleman from Washington [Mr. MCDERMOTT]. I wish his chart were still up. Maybe it can be put up again. It might be useful to have it. It is just not accurate. It is not accurate.

The charts we just saw from the gentleman compares apples to oranges. It is full of unknowns. It is full of false assumptions. Let me give Members a couple.

First of all, the Medicare figures are per beneficiary. The private sector figures are not per beneficiary. How can we compare those two? The private sector figures are, thus, inflated.

Second, the Medicare figures the Democrats use do not include a lot of other costs, including administrative costs. It is comparing apples to oranges.

Here is a better chart that illustrates clearly what the gentleman from New York [Mr. HOUGHTON] and others have been trying to explain, which is that under this bill before us Medicare spending actually goes up. Guess what? It actually keeps pace with the private sector. It will be higher than the private sector 7 years from now as it is today.

This chart compares apples to apples. It compares what employers will pay per employee for health care in the private sector to what the government will pay per beneficiary under the Medicare Preservation Act. It clearly shows that, even when we assume a growth rate of 7 percent, as the gentleman from Washington did, Medicare will still pay more in each year through the year 2002 than we pay in the private sector. In fact, that 7 percent private sector health care figure is inflated.

I will give Members a couple of reasons it is. First, the private health care cost increases have been far lower over recent years than 7 percent. The administration's own Department of Labor tells us last year health care costs were nationally about 4.5 percent.

Mr. Chairman, we have seen reports recently, including a story in the Washington Post of just a couple weeks ago, which indicates that recent surveys, comprehensive surveys have shown us that for the first time in 10 years health care costs nationally are below inflation.

All this, incidentally, was included in a recent CBO report that I would encourage everyone to read. The point is that the private sector numbers are nowhere near that 7 percent. But even when we include the 7 percent numbers, the Medicare spending continues to be higher than the private sector spending.

This is a generous program, folks. What we have come up with is a very generous plan. It is a responsible approach to a very real problem. I would encourage all Members to support the Republican plan.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, the question before us today is simple. Do we give seniors more choices or do we choose, do we choose, to let Medicare go bankrupt without any choices for anybody at all?

Under the Republican plan to save Medicare, seniors get more choices. One new choice, for instance, that is not offered today is preferred provider organizations. Many Americans are familiar with this option. In fact, it is available under the congressional medical insurance plan.

Mr. Chairman, under a preferred provider organization or PPO, seniors are part of a managed care plan but they can see any doctor they want, even a doctor outside the network through a point of service arrangement. That means if my father, who lives in Illinois, wants to see a cataract specialist at the Mayo Clinic, he would be able to do that and still receive his health care coverage.

All I want to emphasize is one important point; that under the Republican plan PPO's are required to take any senior who wants to sign up. If an individual happens to be diagnosed with cancer and wants to enroll in a PPO offered in their area, they have that option under this bill. Nobody can keep them out. They have to accept all comers.

Under the current Medicare system, PPO's are not available. Under the Medicare reform plan, PPO's are an option under this plan.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, we seem to have a debate over what is a cut. My constituents define it this way. If they are asked to pay more to get the same benefits, it is a cut. If they are receiving moneys that will not buy the same amount of service 7 years from now, and they are expected to put more money in their pocket in order to pay for those services, it is a cut.

The chart shown by the gentleman from Ohio [Mr. PORTMAN] shows what the per cost is per person. Yes, it costs less to provide for people under 65 than over 65, because people over 65 use more health care. This bill is a cut.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend for yielding me time, and I offer my condolences to my friend from Washington State about the Seattle Mariners.

More importantly, Mr. Chairman, I offer my condolences to the elderly in his district who will suffer some $31 million in cuts in services to them; and to the gentleman from Ohio [Mr. PORTMAN], in his district, $67 million in the next 7 years will be taken from the elderly in the Cincinnati area; and the gentleman from Illinois [Mr. HASTERT], in his district, some $143 million will be taken from the elderly in that area.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

(Mr. RAHALL asked and was given permission to revise and extend his remarks.)

Mr. RAHALL. Mr. Chairman, I rise in opposition to the so-called Republican Medicare plan.

Mr. Chairman, I rise today in total opposition to the so-called Medicare reform bill before the House.

Mr. Chairman, H.R. 2425 is a little bit like topsy—it grows, and grows and grows. The bill before us is nearly 1,000 pages long—and few of us have had a chance to read it, much less understand it. But from what we've heard since the secrecy on details of the Republican plan was lifted, it's enough to put fear and trembling in the hearts of every senior citizen in the United States for decades to come.

Mr. Chairman, 380,239 of Americans on Medicare live in the State of West Virginia—my State. How many of them will be disenfranchised, when they lose $1.5 billion and more in Medicare payments under this bill? How many will become more seriously ill, or even die, as a result of denied health services under Medicare? The Republicans say: They don't know, and they don't care—all they know is they need to find $245 billion in a hurry, and Medicare is one of the biggest piggy banks around.

Mostly, what we don't understand is why it is necessary to take these drastic actions in a program that is not insolvent, and according to the trustees report, wasn't in danger of becoming insolvent for another 7 years? This 7-year window gives us plenty of time to work out ways in which to keep the program solvent as we have done since 1970 when the first trustees report came out—giving us only a 2-year window in which to bring solvency back to Medicare. For every year since, Congress has responded to the trustees report, and has never failed to assure continued solvency for Medicare.

The Medicare actuaries have stated, over and over again, that in order to bring solvency back to the Medicare Program now, we need only cut $89 billion from the program. Why then the unprecedented, frightening cut of three times that amount?

H.R. 2425 calls for a cut of $270 billion in the program, supposedly in order to save it. Save it for whom? We believe, based on the evidence before us, that this $270 billion is necessary so that Republicans can award tax cuts for those who don't need it—and most wouldn't even want it if it disenfranchised the elderly.

This bill, if allowed to pass, will increase senior's Medicare premiums from today's $46 a month to more than $90 a month by 2002. It will force seniors off their current fee for service plan into managed care plans, where they will have no choice of physician or hospital. Under managed care, seniors will be unable to call 911 for an ambulance in an emergency—not unless someone somewhere in a new managed care bureaucracy preapproves the emergency.

Emergencies don't often happen during office hours where the preapproval comes from—and in my experience, when a person has an emergency, they are not inclined to call a business office for preapproval—they are more than prone to calling 911. Not allowed under this Medicare reform proposal. If a senior goes to the emergency room or calls an ambulance without managed care preapproval—even if it turns out to be a costly heart attack—that senior will be presented a bill for those costs—and required to pay them out of their own pockets.

If a senior needs home care which, today, costs seniors nothing in copayments under Medicare, that senior will in the future be forced to pay 20 percent of home care costs. Pretty tough on seniors on low, fixed incomes who are already struggling with decisions about whether to heat, or eat—or whether they can pay for their prescription drugs and still buy groceries.

And for those seniors not yet old enough for Medicare coverage—not yet 65 years of age—it gets worse—for in future they will have to wait a little longer—until they are age 67.

Mr. Chairman, let me repeat that, the Medicare cuts for my State of West Virginia will be more than $1.5 billion. Currently, West Virginia's 380,239 seniors who are enrolled in Medicare live predominantly in rural areas—54 percent of them. By living in rural areas, they are already limited with respect to access to health care providers of facilities. Cuts in Medicare reimbursement to hospitals located in rural areas is expected to cause many of them to close—further limiting rural West Virginia seniors' access to hospital care.

Seniors in West Virginia can expect to pay from $535 to over $1,000 in additional out of pocket expenses for less coverage and fewer services than they get from Medicare today. The current deductible is expected to go from the current $100 to $150 next year, and above $150 between now and 2002.

My West Virginia seniors can't afford additional premiums, additional deductibles, additional costs of 20 percent for home care, or to lose access to their own physician, hospital, and emergency response ambulances.

I am appalled at the mean-spiritedness of H.R. 2425, Mr. Chairman. I am appalled that anyone would treat our seniors as tiresome old people not important enough for their Government to champion their health care needs. These seniors have lived and worked long, hard lives, giving to society at large, to their own communities, end up being tossed out of their health care system—too poor and too disenfranchised to have their Government look after their health needs.

Mr. Chairman, we may not have the votes to defeat this measure, but we can and we will continue to tell our seniors that the $270 billion cut wasn't necessary—because the Medicare trustees stated plainly that only about $89 billion would be necessary to ensure its solvency for the next decade—at least to 2006.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I want to thank the gentleman for yielding me time.

Mr. Chairman, it was bad enough that Republicans last year voted unanimously to reject legislation providing Americans with the health security that every other advanced Nation in the world provides to its citizens, leaving 41 million of our fellow citizens without health care. This year the Republicans want to cut $182 billion out of Medicaid with a big, big chunk of those savings coming from disproportionate share payments under that program. And now Republicans want to cut Medicare so that hospitals cannot keep their doors open.

Mr. Chairman, let me ask the Republicans how on Earth they expect these hospitals to survive. On air? How do they think they will be able to continue to provide services to 41 million uninsured Americans if they cut off all sources of support for them. These hospitals are already in serious financial trouble before all of these additional costs even hit them. They have the lowest margins of revenue over costs of any type of hospital, a full 25 percent below the average. They have the highest number of hospitals of any type with overall negative margins. They have physical plants which average more than 25 years in asset age as compared to 7 years for other hospitals.

Mr. Chairman, cutting these hospitals is the last place we should consider rather than the first place we should consider.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from the State of Washington [Ms. DUNN], a respected member of the Committee on Ways and Means.

Ms. DUNN of Washington. Mr. Chairman, like many seniors in my district, my own parents sometimes have been frightened by the rhetoric that has been generated in this debate. I rise today to clear away some of that emotionalism, perhaps to set the record straight, and to reassure my parents in Bellevue, WA, and seniors around the country.

Mr. Chairman, if I we able to speak to them for a few minutes today this is what I would tell them:

> Mother and Dad, our Medicare plan will preserve your right to stay in the current Medicare. You can stay in the system just as it is, if you want to. That is a fact. You can also choose one of the new options, every one of which will be very clearly explained to you. But the truth is that nobody will be forced out of traditional Medicare. If you wish to remain in traditional Medicare, fee-for-service, traditional service, if you want to keep your current doctor with no change to a doctor you do not know or do not want, you can do that. That is a guarantee, and the Federal Government will continue to provide two-thirds of your part B premiums. There will be no increase in your copayments, there will be no increase in your deductibles and there will be no decrease in your benefits.

Mr. Chairman. I also want to assure seniors that nobody will be forced into HMOs or forced to go to a doctor that they do not know. Managed care is just one of several options we provide in our Medicare Preservation Act.

Over the past several months, I have talked to constituents who deal with the Medicare system every single day. Throughout those talks I have been guided by several principles that my folks and seniors around the country are looking for in Medicare reform. They want Medicare saved for their children and for their grandchildren. They want the problem solved, not just postponed, and they want to choose for themselves among the plans and the doctors they know. This is my promise, my commitment to the seniors of today.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Chairman, I strongly oppose this economically bankrupt proposal that will damage seniors and children.

Today, the House is considering the so-called Medicare Preservation Act. Naming it does not make it so. We could just as well call this legislation the End of Medicare as We Know It Act.

One of my favorite stories about Joseph Stalin relates to his manipulative use of labels. He designated the Soviet satellites of Eastern Europe "People's Democracies." The label did not make these enslaved countries either democratic or popular.

When the Soviet-dominated international Communist movement wanted a snappy title for its newspaper, Stalin came up with a real show-stopper. The newspaper was called: For a Lasting Peace, For a People's Democracy. The strategy was simple—make capitalists mouth a Communist political slogan when they quoted the newspaper. The Soviet Union and its affiliated Communist parties were hardly committed to peace or democracy, but the slogan got considerable mileage.

Today, Mr. Chairman, we have the same type of subterfuge being carried out by the majority in this body. They have given this economic monstrosity a politically correct title, "The Medicare Preservation Act of 1995". This legislation will neither preserve nor protect Medicare. It will simply strip away benefits to America's most vulnerable and voiceless citizens of our country in order to pay for an outrageously large tax break for the wealthiest individuals.

I have several names to propose for the legislation that we are considering today, Mr. Chairman.

First of all, this could be called "The Robin Hood in Reverse Act of 1995." It clearly deserves that title. It robs the poor to give to the rich. A $270 billion cut is unnecessary to save Medicare. Democratic alternatives—the one we are permitted to consider today as well as others that should be considered—would keep Medicare solvent without imposing a huge burden on our senior citizens. The reason we have this economically irresponsible legislation is so the Republicans can offer a $245 billion tax cut to the wealthy.

Second, we could call this legislation Bash the Seniors Act of 1995. Premiums for our senior citizens will increase by some $400. Since a third of all seniors barely get by on their monthly Social Security checks, this Republican legislation will force seniors to choose between health care and food, or between health care and heat, or between health care and rent.

Third, we could logically call this The Them That Has Gets Even More Act of 1995. While our low-income seniors—those in the sunset of their lives—will be forced to dig deeper in their meager resources. Meanwhile, those earning over $100,000 a year will receive half of the Republican tax break. Furthermore the wealthiest 1 percent of Americans will get an average tax break of $19,000. Those who need this tax break least are the ones who get the most, while costs for our seniors are increased.

Mr. Chairman, I could continue with a number of other titles for this legislation, all of which would more accurately describe the impact of this ill-named, ill-conceived, ill-considered sell out of our senior citizens for the benefit of special interests.

My point is clear. This is poor legislation. It should be rejected. I urge my colleagues to repudiate this ill-named bill.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, I just want to explain, so that everybody understands, why this is such an extreme proposal.

The gentleman from Washington [Mr. MCDERMOTT] referred to this chart. And what it does is to show how the projected or the capped expenditures on Medicare are below the projected rate of inflation. Now, those numbers do not come from the gentleman from Washington. They do not come from Democrats. They come from CBO, which is essentially controlled by the Republicans. And there is nothing that the gentleman from Ohio [Mr. PORTMAN], or anybody else can say that changes that.

Mr. Chairman, this resolution assumes an inflation rate under 4.9 percent. Under 5 percent—4.9. The CBO figure is 7.1. And that is why, as the gentleman from Washington [Mr. MCDERMOTT] says, we end up with this gap of $1,000 per beneficiary in the year 2002.

The gentlewoman from Connecticut [Mrs. JOHNSON] asked where are the changes in benefits? The answer is, as the gentleman from Washington [Mr. MCDERMOTT] said, when we have a $1,000 shortfall, something has to give. And who is going to give are hospitals who are underfunded, who are, in turn, going to either shift it to the private sector, or are going to close emergency rooms, or who will have to cut benefits. That is the problem.

Now, Mr. Chairman, I want us to refer to history. My friend, the gentleman from Texas [Mr. ARCHER], does not like me to quote his previous statement. I understand that. "Make no mistake about it," he said just a year ago, "for the elderly in this country, these cuts are going to devastate their program under Medicare."

Our Medicare cuts in the resolution about which he was talking were $168 billion, and most of that was plowed back into the Medicare System. Here we have a proposal for $270 billion, and what they are saying is it is going to save Medicare. We need to save Medicare from the Republican majority of the House of Representatives.

Mr. Chairman, I want to read from the gentleman's minority views, if the gentleman does not like my reference to his words.

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This is the minority views about our Medicare proposal, which is much less and most of it plowed back into the system. And I quote,

> For more than a decade, Congress has cut back on payments to doctors and hospitals until they no longer cover the costs for Medicare patients, and the additional massive cuts in reimbursement to providers proposed in this bill will reduce the quality of care for the Nation's elderly.

Mr. Chairman, will reduce the quality of care, the gentleman was saying, for the Nation's elderly. There will be no place else to shift.

I do not expect the Republicans to eat their words in public, but we are not going to let them gobble up Medicare on this day, October 1995.

Mr. ARCHER. Mr. Chairman, it is sad that we have to replow this ground. The gentleman from Michigan [Mr. LEVIN] misspoke. The gentleman knows it.

Mr. Chairman, we were not dealing with a Government takeover of the entire health care system in this country. My remarks, and our minority views, were directed toward that. But as a part of that overall health care program, CBO scored the cuts in Medicare and Medicaid at $490 billion. That was intolerable. It was intolerable, particularly independent of any transformation of Medicare to make it more efficient.

So once again, Mr. Chairman, the gentleman has taken this completely out of context.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, let me read some of the gentleman's specific words a year ago. "Make no mistake about it. For the elderly in this country, these cuts are going to devastate their program under Medicare."

Mr. Chairman, the gentleman from Texas [Mr. ARCHER] is moving in a 180-degree different direction. The reason for it is because my colleagues on the other side have got a $245 billion tax cut for very wealthy families, and they have to find a way to pay for it, and it is on the backs of the seniors of this country. That is not fair.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Chairman, I know this debate must be very difficult on our seniors trying to determine what is fact and what is not. It is particularly difficult with so much misinformation coming out on this floor. But before the gentleman from Ohio [Mr. BROWN] has an opportunity to talk about the hospitals in the 10th District of Georgia, I want the gentleman to know that those hospitals are having increased funding each year over the next 7 years. I would like for the gentleman to also know that for the first time in history of this Government, we are giving the hospitals the opportunity to lower their cots by repealing very, very difficult and expensive rules and regulations, tort reform, and antitrust legislation.

Mr. Chairman, giving senior Americans the option to choose from among the many new health care plans is the absolute key to saving Medicare. I want to talk just about one of those options: Provider Sponsored Networks, PSN's.

Mr. Chairman, I have a message to my mother-in-law: If you like traditional Medicare, you can continue to choose it just like you have it today. Part A, part B, Medigap; you can keep it just like you have got it, if you would like to do that. But, I would like for you to consider one of these excellent choices known as Provider Sponsored Networks.

Mr. Chairman, they are locally organized care networks formed by doctors and hospitals. They will provide coordinated care that allow the providers to achieve the efficiencies and cost controls that have been forbidden by laws in years past.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, let me just point out that under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Georgia [Mr. NORWOOD] would lose $232 million over the next 7 years to pay for the program and tax cuts for the very rich in this country.

Mr. GIBBONS. Mr. Chairman, I would yield myself 30 seconds to respond to the gentleman.

Mr. Chairman, I would respond to the gentleman that he better tell his mother-in-law the whole truth. There will not be any fee-for-service, because under the Archer bill, the Gingrich bill, it will be abolished, because the Secretary of Health and Human Services must take all the cuts in this bill out of fee-for-service. So, she may look for it, but it just will not be there.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, not since the feudal days of lords and serfs has such an effective system of transfer of wealth from the poor and giving it to the rich been enacted.

Mr. Chairman, the trustees of Medicare said that part A is $90 billion in arrears over the next 10 years. The Democratic substitute solves that problem. The Republican substitute solves that problem and then takes out an additional $180 billion more than is needed.

Now, listen to this. Of the 37 million Americans on Medicare, 11 million of them are widows living on an income of $8,000 a year or less. Under the Republican proposal, those 11 million widows, by the year 2002, each year will have their Medicare part B premiums go up $300 to $400 a year.

Mr. Chairman, in that same year, those who make more than $350,000 a year will get a $19,000 tax break. It takes 60 widows paying $300 to $400 a year more to give a tax break into the pockets of the wealthy making $350,000 a year.

Mr. Chairman, under the Republican plan, the rich get rich and the poor get poorer, and that is wrong. Just plain wrong. We have a better country than that.

There is no uniform sacrifice here. The contract with the country club that the Republicans signed a year ago on the steps of the Capitol requires the poor in this country to be tipped upside down. GOP used to stand for "Grand Old Party." Today, it stands for "Get Old People."

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, we have heard today about many of the improvements that this bill makes to the Medicare Program. Foremost among these is what we call the seamless web. Today, millions of retirees are forced by rigid and antiquated Medicare rules to disenroll from their employer's health plan—even if the coverage they receive was better than that provided by Medicare. Just because you retire shouldn't mean that you have to give up the coverage you're used to—but today, that's the case. Under the bill, your 65th birthday doesn't have to be the day you give up your association or employer coverage. This bill frees retirees from this unreasonable and counterproductive requirement. Under our plan, retirees can remain in their preretirement health plan, so long as it meets important Medicare standards. In fact, this bill allows members of associations and labor unions to maintain their current coverage even after they retire. Why do we feel it is so important to create this seamless web? Because Medicare should create opportunities—not obstacles—to better health care coverage and greater senior satisfaction.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I wanted to point out that under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Ohio [Mr. OXLEY] will lose $144 million over the next 7 years.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, today if an elderly American wants quality health care, all they need is this. Even if they are not an American hero, like the gentleman from Florida [Mr. GIBBONS] who has this Medicare card, they are going to get quality health care the way seniors have for the last three decades.

But, Mr. Chairman, after Speaker GINGRICH and his cohorts finish today paying for their tax cut to the rich, this is the plan that they will have. This is the new Medicare maze that our Republican colleagues present. They have got one bureaucracy after another.

Mr. Chairman, we have a lot of new commissions. A baby boom commission. We have got boxes. We have got arrows. We have got quite a new organization of the health care system that for those seniors who could not decide today whether they were getting a cut or increase are going to need to go back from their retirement to get a doctorate to figure out how they are going to get health care.

Mr. Chairman, there is one thing that is certain: These red arrows coming from the plan to pay for a tax cut for the wealthy, out of the hide of the seniors of this country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON, a true American hero, a respected member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Chairman, unlike my friend, the gentleman from Texas [Mr. DOGGETT], we are not interested in the next election; we are interested in the future of America.

Mr. Chairman, Republicans have faced the challenge head on. We have addressed a broken system. Instead of scaring seniors and ignoring the problem, we have worked with seniors and produced a solution. Most importantly, we have not allowed Democrat scare tactics and politics as usual to keep us from doing what is right for America.

Mr. Chairman, I plan to choose a medical savings account. I just turned 65, and now I do have a Medicare card. I am thankful that this bill will allow me to get out of the inefficient system of 1965 and into a program and choose an option that is better suited for me 30 years later in 1995.

Mr. Chairman, with a medical savings option, I will get a high-deductible insurance policy and a cash deposit in a medical savings account to cover a significant portion of the deductible. There are no copayments. I am empowered to make my own decisions concerning my health care without the interference of a middle man. I can be a cost-conscious consumer and, with others, fundamentally empower and change the health care delivery systems in America.

The accounts are available for all qualified medical expenses; a great advantage over the current system. There are many other options, but no one is going to be forced into any particular plan. In the true American spirit, we know that people want different choices and this bill makes those choices available.

Mr. Chairman, this is a vote to save Medicare and give seniors a choice.

Mr. BILIRAKIS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, I wanted to take a few moments to highlight one of the innovative additions to the Medicare system in H.R. 2425: the incentive it provides for citizens to expose and attack Medicare fraud and abuse. I am also pleased by the legislation's measures that implement stiff new criminal penalties. For those convicted of Federal health care fraud, embezzlement or false billings, the legislation provides for up to 10 years in prison. There is no limit placed on the penalty's prison term if such a criminal violation should result in bodily injury.

Until now, Medicare beneficiaries have participated in a system that simply did not provide adequate enforcement mechanisms or adequate civil or criminal penalties. Without these, we have lacked an effective deterrent to waste. Fraud and abuse continues to rob the system and the taxpayers that finance it.

The Medicare Preservation Act, through innovative and focused task forces, financial incentives that empower seniors, and stronger criminal and civil penalties, unequivocally acknowledges and addresses these problems. The current Medicare system is losing 10 cents on the dollar to waste, fraud, and abuse—$50 million every day that could have and should be used for patient care. Let the word go out to those who would bilk the Medicare system—once this bill is passed, enforcement is innovative and it is real. Barney Fife has his walking papers, and the terminator is on the job.

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Mr. DINGELL. Mr. Chairman, could we have a recapitulation of the time?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 17 minutes remaining, the gentleman from Florida [Mr. GIBBONS] has 17 minutes remaining, the gentleman from Florida [Mr. BILIRAKIS] for the gentleman from Virginia [Mr. BLILEY] has 18 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 18½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, I thank the gentleman for yielding time to me.

The people of the First District of Arkansas sent me here to put people above politics. Unfortunately, here today we have got both sides who really seem more interested in making campaign commercials rather than good policy. One cuts too much and the other does not do enough.

What the American people do not know is that there is a proposal out there that we have not been allowed to bring to the floor that actually makes good common sense, reasonable policy. The Republican bill will close the doors of rural hospitals. The Republican bill will penalize the rural areas by cutting fee-for-service, when we cannot afford managed care without infrastructure. The Republican bill will dig into the pockets of senior citizens. The Democratic bill has missed the opportunities to restore complete dignity and solvency of Medicare while balancing the budget.

I came here to preserve the dignity of senior citizens who depend on Medicare and to restore the faith of the young people who are paying now into the system but will not use this program for decades. This is not the democratic process that I learned in civics class, and it is no wonder that the American people are frustrated.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, I rise in support of H.R. 2425, the Medicare Preservation Act. I did not, however, arrive at my decision to support the bill easily or without hesitation. As someone who represents a very rural district with an aged population, I am keenly aware of the importance of Medicare in meeting the health care needs of older Americans.

Last spring, the Board of Trustees for the Medicare Trust Fund warned in its 1995 annual report that the hospital insurance, part A portion of the Medicare Trust Fund will start going bankrupt beginning as early as next year and will run out of money by 2002. The Board of Trustees for the Medicare Trust Fund, which is a bi-partisan panel that includes three of President Clinton's Cabinet secretaries, state clearly in the report that the Federal Government has no authority to pay hospital bills if funds in the part A trust fund are depleted. What is more, the Medicare part B trust fund, which pays for physician and outpatient services, is also in financial trouble and needs to be addressed. Without significant reform, part B expenses are projected to double by 2002.

The reason for the imbalance between what Medicare takes in and what it pays out is that the Medicare Program is growing at an unsustainable rate of 10.5 percent, more than twice the rate of increase for private health care spending, which is 4.4 percent. Controlling this excessive growth rate is the necessary, responsible, and moral thing to do.

When I learned of Medicare's financial outlook, I conducted a survey of the Pennsylvanians I represent. By an overwhelming number, my constituents agree that Congress should act promptly to preserve and protect this vital insurance program, which serves nearly 36 million Americans, but should do so in a responsible manner that goes after fraud and abuse and addresses rural concerns. Mr. Chairman, I believe that this legislation, though it is not any easy fix, achieves these crucial goals while ensuring that Medicare will be preserved for future generations.

First, I want to clarify the impact this legislation will have on seniors. Beneficiaries will see no increase in their copayments or deductibles and will continue to pay 31.5 percent of the part B premium, as they do today. In fact, out-of-pocket costs for seniors will be just $4 more each month in 2002 than under President Clinton's plan. And Medicare will be preserved for the next generation, not just for the next election.

Despite all the rhetoric during this debate that Republicans are cutting Medicare, spending per beneficiary will increase from $4,800 next year to $6,700 in 2002 under H.R. 2425. Furthermore, we have spent $844 billion on Medicare over the past 7 years, and under this legislation we will spend $1.6 trillion over the next 7 years—an increase of $742 billion. Only in Washington can a spending increase be called a cut.

What is more, seniors will be offered more choices of health care plans, in addition to traditional Medicare. Under the bill, a MedicarePlus program will be established to allow beneficiaries to enroll in a range of private or employer-based health plans, including managed-care plans, traditional fee-for-service plans, high deductible insurance/medical savings accounts, or so-called provider-sponsored networks [PSN's] formed by health care providers. In some cases, these plans could mean more or better benefits for seniors, such as free eyeglasses or prescription drug benefits. However, none will be forced to change plans or change doctors under the bill. These fundamental reforms will not only provide beneficiaries with a broader range of health care choices but will also strengthen the existing Medicare Program.

I am very encouraged by other provisions in the bill as well. H.R. 2425 will reform medical malpractice law by establishing uniform standards for health care liability actions and capping non-economic damages at $250,000 in a particular case. The bill also establishes a commission to recommend long-term structural changes to preserve and protect Medicare when the Baby Boom generation begins retiring in 2010. Finally, this legislation contains a lock-box mechanism that places all savings from part B into a Medicare preservation trust fund and prohibits any transfers to pay for future tax cuts.

Throughout the debate, I have heard a lot of misinformation that Republicans are trying to push Medicare reforms through Congress without sufficient hearings. That is simply not true. The Medicare Preservation Act is the culmination of months of hearings by the House Committees on Ways and Means and Commerce, who have jurisdiction over the Medicare Program. Altogether, these committees held nearly 30 hearings throughout the summer and into the fall to find ways to control Medicare's unsustainable growth rate, make the program more efficient, and offer seniors more choices in the type of coverage they receive.

During that time, I, too, have been studying this issue and actively seeking feedback from my constituents. In addition to the thousands of survey forms, letters and phone calls on Medicare I have received from constituents, I have visited senior centers and met with hospital administrators in my area of Pennsylvania to discuss proposals to preserve and protect the Medicare Program. Here in Washington, I have met with the House Rural Health Care Task Force to discuss the impact of Medicare reform proposals on rural areas, and I have heard regularly from such organizations as the Hospital Association of Pennsylvania, the American Association of Retired Persons [AARP], and the Seniors Coalition.

One key aspect of the Medicare Preservation Act that I particularly want to make note of is the bill's provisions combating fraud and abuse. The Government Reform and Oversight Committee, which I chair, has held a series of hearings to examine the problem of waste and fraud in the Medicare and Medicaid programs. As I learned at the hearings, the General Accounting Office [GAO] estimates that these programs will lose approximately $26 billion this year alone to fraudulent activities. Without question, waste, fraud, and abuse drive up the cost of these programs and make it increasingly difficult not only for Medicare beneficiaries, but for all individuals to afford quality health care.

As a result of these hearings, I helped introduce legislation to crack down on the problem of waste and fraud in the Medicare and Medicaid programs. This legislation, the Health Care Fraud and Abuse Prevention Act, H.R. 2326, contains substantive measures that will serve as a valuable deterrent against health care fraud.

The Medicare Preservation Act strengthens Federal efforts to combat fraud and abuse in the Medicare program by creating new criminal penalties for those who fraudulently abuse the Medicare program, providing monetary incentives for individuals who report a violation that results in savings in the program, doubling sanctions for filing false claims or committing fraud, and authorizing funding to bolster the Health and Human Services Inspector General's anti-fraud efforts and payment safeguard activities.

I am very pleased that the Medicare Preservation Act addresses this serious issue and incorporates some of the tough, anti-fraud provisions contained in the Health Care Fraud and Abuse Prevention Act. Indeed, these anti-fraud measures are long overdue and will create significant savings in the Medicare program. Furthermore, I pledge to continue working with my colleagues on the Government Reform and Oversight Committee to carry on the effort to crack down on health care fraud and abuse.

Another area of the legislation that has been of particular concern to me throughout this process—along with my colleagues on the Rural Health Care Task Force—is Medicare's payment rate to Medicare contractors, known as the average adjusted per capita cost [AAPCC] rate. One of the primary structural reforms contained in the Medicare Preservation Act is the establishment of Medicare-plus organizations.

The AAPCC is based on a complex formula which determines Medicare's payment rate to certain types of plans that will be offered under the Medicare-plus program, specifically, health maintenance organizations [HMOs], provider-sponsored networks, and medical savings accounts. However, because the AAPCC formula is tied to Medicare utilization, which is typically lower in rural areas, wide geographic disparities have arisen between rural and urban communities. This variation makes it economically impossible for Medicare to offer choices to beneficiaries in many rural areas.

Five counties in my part of Pennsylvania have payment rates that are below the national average, which directly impacts the ability of HMOs and PSNs to operate in these counties. Although the bill, as originally drafted, made adjustments that began to correct the disparity, the changes did not go far enough and would have failed to lift payment rates to a sufficient level.

Fortunately, after much deliberation with the Republican leadership and the drafters of the bill, my colleagues on the Rural Health Care Task Force and I were successful in negotiating substantive improvements to the AAPCC formula. I feel confident these changes will put my district on a more level playing field with urban areas and will ensure that rural America won't be left behind. Rural America should be allowed to participate in the new range of choices that will be created under the Medicare Preservation Act and be part of the 21st Century Government.

Despite this positive change, there are still areas in the bill that I feel could be improved, including the level of hospital reimbursements—namely the Prospective Payment System update factor, disproportionate share payments, and inpatient capital, the timing of Graduate Medical Education Trust Fund payments to academic health centers, and the treatment of ancillary services provided in skilled nursing facilities, which, under the bill, will be subject to routine service costs.

In the end, I remain strongly supportive of the fundamental goal of saving Medicare for current and future beneficiaries; we simply cannot afford to do nothing. The Medicare Preservation Act ensures the solvency of the Medicare system without jeopardizing the medical coverage seniors need and addresses Medicare's long-term solvency by putting the structural changes in place that will enable Congress to address the "Baby Boom" generation's entrance into retirement. I firmly believe that the Medicare Preservation Act is the only plan that will accomplish these goals.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD], another respected member of the Committee on Way and Means.

Mr. RAMSTAD. Mr. Chairman, I rise today in strong support of freedom of choice for America's seniors in their health plans. Why should not America's seniors have the same choice in health care plans as every other American? All of us know that most Americans secure their health care coverage through their employers. They have a vast variety of health plans from which to choose. How many choices do America's seniors have under Medicare? Only two: fee-for-service and traditional HMOs.

Now, with all respect to my friends from Massachusetts, no Sate is more advanced in their innovative health care, quality of health care and innovative health care choices than the good State of Minnesota. Minnesotans have a vast array of health care choices, ranging from traditional indemnity plans, to points of service plans, to HMOs. It is reasonable to expect then that seniors in Minnesota would have a similar range of choices. But how many choices to Minnesota's seniors have under Medicare? Only two: fee-for-service or traditional HMOs.

I have heard from countless seniors who want the opportunity to choose their own health plan. These seniors are fully capable of choosing from a variety of health plans to get the coverage that best fits their needs. Mr. Chairman, the seniors of America deserve nothing less than freedom of choice. We have heard today from opponents of saving Medicare, of this legislation here today to give seniors choices, that seniors will be forced to join HMOs. Nonsense. Under our bill, what happens to seniors is they can remain in the current fee-for-service system.

Mr. Chairman, we have also heard that benefits offered to enrollees in Medicare Plus plans would not compare favorably to those in traditional fee-for-service plans. That is also nonsense. The same benefits or better benefits will be available for seniors.

Vote for freedom of choice. Vote for the Medicare Preservation Act.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in opposition to the Republican plan.

Mr. Chairman, I rise to oppose this legislation. The Republican Medicare reform bill will undoubtedly be adopted by this body today, but I strongly believe that the policy decisions that are reflected in this legislation are unnecessarily harsh, unprincipled, and unwise.

The $270 billion in Medicare cuts contained in this legislation are not necessary to keep the Medicare trust fund solvent for the next 10 years. In fact, less than $100 billion in cuts are needed to meet that goal. Significant long-term changes will be necessary in order to address the impact that the baby boom generation will have on the Medicare system, but such major changes should be addressed in a more thorough, thoughtful manner than that which has characterized the process by which this legislation was developed.

I believe that the so-called Medicare Preservation Act is unprincipled because its primary goal is not, in fact, the preservation of the Medicare system. The real objective of this legislation is clearly to produce savings in order to balance the budget and finance the Republican tax cut. If anyone doubts that, they should carefully consider the fact that the proposal to cut $370 billion out of Medicare grew out of Republican efforts to pay for the Contract With America's tax cuts—not the Republicans' concern over the future of this vital program.

I believe that this legislation is unwise because it ignores much of our past experience with the Nation's health care system. For example this legislation would repeal Federal nursing home standards that were enacted in 1987. These standards were not established on some whim; they were adopted in response to reports of unacceptable conditions in nursing homes across the country. It is reasonable to assume that absent these standards, such conditions will return. Another example is the repeal of the ban on physician referrals to labs in which they have financial interests. Such referrals increased Medicare costs unnecessarily prior to the imposition of the ban, and there is little reason to believe that lifting the ban now will have some other effect. Finally, while the legislation contains a useful provision that allows physicians to establish organizations to compete for business with HMOs, the bill exempts these physician-sponsored organizations from the State licensing requirements that other health care providers have to meet, and it exempts them from the balance billing restrictions that apply to other providers. State licensing protects the quality of care that patients receive, and balance bill restrictions ensure that patients benefit from the purchasing power wielded by the Federal Government. Exempting physician-sponsored organizations from these requirements is unwise because it creates an uneven playing field for different competing providers—and because it could allow inadequate regulation of an industry with tremendous potential for fraud and abuse.

Every member of Congress understands that Medicare must be reformed in order to keep program costs under control. Where Democrats disagree with the Republican majority is on what reforms are necessary to keep Medicare solvent, and on whether Medicare beneficiaries should be forced to bear the triple burden of Medicare reform, balancing the Federal budget, and paying for a tax cut for the affluent as well. I urge my colleagues to vote this proposal down, and to work on a bipartisan solution to the problems confronting Medicare.

Mr. DINGELL. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman and rise in opposition to this Republican plan under which the seniors in our community alone will lose over $377 million over the next 7 years.

I rise today in opposition to the bill before us and to raise serious concerns with the manner in which H.R. 2425, the Medicare Preservation Act, has been railroaded through the House of Representatives. Literally millions of citizens in our country depend on Medicare as their lifeline. These 36 million older and disabled people receive medical insurance through this program. Congress must proceed carefully before taking any action that will affect the lives and futures of millions of our families and their loved ones. Cutting $270 billion from Medicare and then transferring that money for tax cuts to the rich is absolutely wrong.

TIMING

On Friday, September 29, legislation was officially introduced to reform Medicare. What did the leadership of the House do next? Did it hold comprehensive hearings on the most sweeping changes to Medicare since its inception 30 years ago? No—they allowed only 1 day of hearings before their bill was distributed to Members and left town, only to return on October 9 and proceed with marking up the bill. No senior citizens were even invited to testify.

The committees marked up around the clock until Wednesday October 11. Mr. Chairman, the legislative process used to move this bill has been a disgrace. This Congress has spent 48 days holding hearings on Whitewater, Ruby Ridge—we even spent an afternoon debating snails—but they could not manage to hold more than 1 day of hearings on Medicare.

The very people who will be most affected by these cuts, our Nation's seniors, have been subject to arrest and silenced as the leadership rushed this bill through committees. Could we not have allowed just 1 day to hear their concerns? With $136 billion in the current Medicare part A trust fund there are funds to meet obligations for 7 years. We know we must act, but why the rush?

Members, especially those not on the committees of jurisdiction such as myself, have been given very little time to review these sweeping changes. This is not the way to legislate. We have disenfranchised the American public by not allowing their elected representatives to do their job—to analyze and make an informed vote on Medicare reform. And the American people have been barred from testifying, and senior citizens in the hearing room were even arrested.

REPUBLICAN PLAN AND TAX CUTS

Mr. Chairman, this past weekend I met with our community's health advisory group, a bipartisan group of citizens from my district representing health professions, businesses, labor, retirees, insurance, hospitals, and all health professions. The group was charged with analyzing the Medicare trustees report and the Medicare Preservation Act.

The consensus of the group was that these Medicare cuts are draconian. Any changes in Medicare should be used only for the preservation of Medicare and should not be used to provide a tax cut for the wealthy. Our health advisory group stated that they would not operate a business the way this bill has been considered and that the Congress is making too many changes too fast. The members of the group also stated emphatically that this is absolutely the wrong time to be discussing a tax cut whose beneficiaries are primarily the wealthier among us, with those in upper incomes emphasizing that it is right that they pay their fair share.

Our health advisory group suggests a short-term solution must address waste, fraud, and abuse, spiraling health costs of prescription drugs, labs, equipment, doctor and hospital fees, home health care, vision and dental care, and durable medical equipment. New ways to fix the long-term financing of Medicare must also be explored including the high cost of pharmaceuticals and private insurance. Research and development of drugs is a cost of doing business and should not be passed on the consumers in the form of higher prescription drug prices. A national commission must be set up for this purpose of developing a long-term solvency plan for the Medicare Program beyond 2010.

The trustees report has been cited as the reason reform is needed. I agree. Medicare is facing a short-term financing crisis in the part A hospital insurance [HI] trust fund which we must solve this year and a long-term crisis which needs much more careful consideration. However the plan before us cuts $270 billion from Medicare when the trustees only call for $90 billion in savings. In addition, the plan before us doubles part B premiums and we all know that not one dime of that money will go to the HI trust fund cited in the trustees report. Where is all this money going? To a balanced budget? No. It is being used to pay for a $245 billion tax cut for the privileged few in our society.

I cannot and will not vote for a bill which provides a tax cut to the wealthy on the backs of our senior citizens.

FRAUD AND ABUSE

As I visit the senior centers of my district one message resonates. It is time to cut fraud and abuse. Find your savings by hiring more investigators to crack down on the crooks in the system, do not make cuts at the expense of seniors. Isn't it ironic that the majority passed legislation earlier this year that would eliminate 72 fraud and abuse inspectors at HHS Office of the Inspector General. The plan before us actually weakens the ability of HHS to detect waste, fraud, and abuse. In fact, the HHS Inspector General June Gibbs Brown states that this bill would:

Make the existing civil monetary penalty and antikickback laws considerably more lenient and place an insurmountable burden of proof on the Government to punish illegal kickbacks;

Relieve providers of the legal duty to use reasonable diligence for insuring that the claims they submit to Medicare and Medicaid are true and accurate;

Create new exemptions to the law which could be exploited by those who wish to pay rewards or incentives to physicians for the referral of patients; and divert to private contractors scare resources currently devoted to law enforcement against fraud and abuse.

In conclusion, let us take our time and truly study the changes that are needed to provide both long-and short-term solutions to our system of Medicare financing. Let me quote from the book "Intensive Care", "The health care system in the U.S. is far too complicated for anyone or any group to claim that a single reform plan is the solution to the crisis. Rather than taking a huge first step with a new untested system, wouldn't it make sense to pilot test a number of proposals? This is the only reasonable method to determine what works and what doesn't work. The danger with scrapping any old system of any kind is that a new system may not be any better."

Mr. Chairman, let us heed this advice. Send this bill back to the committees of jurisdiction and let us do this reform in a reasoned, bipartisan manner.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS] who is the ranking Democrat on the Committee on the Judiciary, which, unfortunately, waived all chances of participating in this debate today through its chairman's actions.

Mr. CONYERS. Mr. Chairman, before I talk about the antifraud and antitrust provisions, let me point out that the medical malpractice provisions in this bill for the first time tells the States that the Big Brother Federal Government is going to preempt them in the area of medical malpractice, and the provisions are a gift for the irresponsible and the reckless.

Take the case of Mr. King, who recently lost the wrong leg in an amputation in one of the worst medical malpractice cases in recent times. He would have been forced to face an absolute cap on pain and suffering at $250,000 even though he could face excruciating pain and suffering for every day for the remainder of his life. Yet a CEO who could not perform his job because of the same exact injury would face no such cap.

Similarly, with this bill the House Republican leadership is saying that the woman who loses her reproductive capacity as a result of medical malpractice would have her damages capped at $250,000. Does anyone here believe that a woman's reproductive capacity is worth a mere $250,000?

Now, on antitrust and fraud, there is more. Under the False Claims Act that allowed whistleblowers to sue for those who defraud taxpayers, we gutted, it has been taken out by the Republicans. That provision has returned $1 billion to the Government in savings from fraud, waste, and abuse, $1 billion. This bill will gut that law.

I am saying to my colleagues, do not be fooled by this phony new health care. The Committee on the Judiciary has not had a second's worth of hearings on any of these antitrust, antifraud provisions.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, like many of my colleagues, I held meetings with my constituents this summer about Medicare. The No. 1 complaint that most senior citizens had was the amount of money that was being spent for services that were not rendered, for overcharges for drugs and supplies, and for general waste. They are angry, and well they should be, when they see Medicare paying $2 for an aspirin, $12 for a box of Kleenex, and thousands of dollars for services that were unnecessary or never delivered.

We must stop these abuses of the status quo. They are costing at least 10 cents out of every Medicare dollar, $50 million a day, that will amount to $1.3 trillion over the next 7 years.

Can we do better than that? Of course we can, if we let our senior citizens have a part in pointing out these abuses. They know better than a government bureaucrat what services and supplies they receive. They are tired of being told not to worry about the fraud since Medicare is paying for it. They know, even if some in government don't, that it is their tax money that is being wasted.

This bill gives Medicare recipients a voice in the process. These are men and women who lived through the Depression, fought in the World Wars, and built this Nation by hard work and sacrifice. If they are empowered rather than victimized, they will help eliminate the thieves and con artists who cheat Medicare out of $50 million every day.

Let us pass this bill and stop this outrage.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

The gentleman just does not know what he is talking about. We pay hospitals based on a capitated basis. We do not pay hospitals for all that foolishness that the gentleman just read off. I do not know where he got that information.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, it is very clear that there are those who wish to try to defend the status quo. We are here to change the status quo and do something about these problems.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Georgia [Mr. DEAL] will lose approximately $159 million over the next 7 years.

Last week, in the Committee on Commerce, the Republicans delivered thousands of bogus letters. The seniors of my district and my State requested that I deliver a symbol of their true feelings regarding the Republican Medicare plan, a cut of pure grade bologna.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Chairman, I rise in strong support of the Medicare Preservation Act. This well thought-out package takes an important step towards ensuring the solvency of Medicare for today's beneficiaries and for generations to come.

In addition to the numerous hearings the Ways and Means and Commerce Committees held on saving Medicare, we all got an earful of advice during our respective town meetings. At my town meetings, many good suggestions were put forward. However, more than anything else, seniors asked that we vigorously attack the waste, fraud, and abuse that now plagues the system.

Senior citizens I have talked with routinely witness overbilling and needless tests. "Don't worry," some say. "Medicare will pay it." Unfortunately, seniors know it is they, their children and grandchildren who really foot the bill.

There are many steps the Medicare Preservation Act takes to combat waste, fraud, and abuse. None is more basic and makes more sense than simply doubling the monetary fines for defrauding the system. The money collected through these fines will be immediately recommitted to pursue additional anti-fraud efforts.

Mr. Chairman, this legislation will literally save Medicare from ruin. Rooting out the waste, fraud, and abuse is an important piece of the overall package. I urge all of my colleagues to join this important effort.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 2425, the "Get Old People, Gingrich Republican, Put The Hurt on Seniors, Medicare Destruction Act of 1995." This bill is nothing more than a mean-spirited attempt by the majority to destroy the basic health care rights all older Americans now enjoy in order to give tax breaks to their wealthy, big business, special interest buddies. Never in all my time in Congress have I witnessed a greater legislative travesty than the ill-conceived proposal we have before us today.

To begin with, the rule we just considered stifles any amount of reasonable debate on this legislation. For instance, with the exception of pap smear testing, this bill eliminates quality assurance guarantees that are now in place for patients who have diagnostic or other types of testing done in their doctor's office laboratories.

It probably should not be surprising that the Republican Medicare proposal—which bends so close to special interests and tilts so far from the best interests of America's senior citizens—would eliminate requirements for quality and accuracy of laboratory tests. This, like the Republicans' blatant and cruel elimination of national standards for nursing homes, is one more way of saying to the ill, the infirmed and the aged: you're on your own—good luck!

Where is the rationale for eliminating quality standards for cholesterol tests, colon and prostate cancer screening, needle biopsies to detect precancerous conditions, glucose monitoring and so on? There isn't any!

Equally disturbing is the fact that this Republican bill places a seven-year freeze on Medicare payments to providers of durable medical equipment such as wheel chairs, electric beds, walkers and, yes, even oxygen. Now this freeze is at a time when more and more Americans are aging and the need will be greater.

This freeze will cause severe disruptions in the health care and quality of life for sick and/or infirmed Americans who need their wheelchairs and walkers to get around more easily, electrical beds to rest comfortably and oxygen to breath effectively. By putting a freeze on oxygen, the Republicans are literally taking the breath of life out of the bodies of old folk. Only God has that right.

Mr. Chairman, I heard a Member a few minutes ago say that he was glad that he had made 65 and qualifies for Medicare. A lot of people qualify for Medicare who do not make $133,000 a year, as he does. And not only that, people who use facilities like wheelchairs and the like were among those who are thrown out of the committee by the Republican side in the Committee on Commerce: Julia Searles, 75; Joseph Rourke, 90 years old; Theresa McKenna, 68 years old; Bert Seidman, Loretta Adkins, Cecelia Banks, Doretha Beverly, Barbara Greenwell, Gladys Lyles, Roberta Saxton, Annie Earl, Marie Roots, Lilly Valentine, Gertrude Snead, Ruth Thorn, Edna Custis, all over age 69 who do not make $133,000 a year.

Mr. Chairman, the 7-year freeze on DME payments once again demonstrates the lengths to which the Republicans have been driven by adopting an arbitrary cut of $270 billion in Medicare so that they finance a tax cut for the rich.

In an attempt to protect these Medicare beneficiaries, I attempted to offer amendments to restore these provisions. Unfortunately, the Republicans would not let me.

Let me also address the blatantly undemocratic process by which this proposal, which will directly impact the health and well-being of 37 million older Americans and nearly every family in the Nation, has been brought forth. Not one public hearing has been held in which the legislative specifics of the drastic Medicare changes we are about to act on were in plain view. This is appalling and flies in the face of the legislative process.

After flagrantly spending the taxpayer's time and money without a second thought to conduct 28 days of hearings on Whitewater, 10 days of hearings on Waco, and 8 days of hearings on Ruby Ridge, it is crystal clear that the Republican party has put partisan politics above the public interest.

The fact that Democrats had to convene hearings on the lawn of the Capitol in order to provide a public forum to examine the GOP plan is compelling evidence, in and of itself, that the Speaker and his troops know that their proposals cannot stand up to public scrutiny. Moreover, it speaks volumes to the enormous disconnect that exists between the Republican party and the rights and needs of older Americans today.

Such a disconnect became extremely apparent on October 11, when 13 seniors, some of whom were over 90 years old and relegated to wheel chairs, came to ask questions about the Republican Medicare proposal prior to markup by the Commerce Committee. They were promptly arrested and hauled off to jail at the direction of the committee chairman!

During the Democratic "lawn" hearings, however, we helped answer the question, just what does the Republican Medicare proposal do? It charges seniors more for medical care, medicine, wheelchairs and medical devices. It forces seniors to abandon their own doctors for some uncharted course through the HMO system. It takes $270 billion in Medicare funding away from seniors, doctors, and hospitals all to pay for tax cuts for the wealthy. In short, it devastates the health care program upon which so many millions of Americans have come to rely.

Among the many witnesses were several of my constituents from Chicago who testified about the devastating consequences of the GOP so-called reforms.

Dr. William Troyer, director of External Services for the University of Illinois at Chicago Medical Center, an academic health center which houses the Nation's largest medical school and serves thousands of 7th District residents, gave a bleak view of the future under Republican Medicare changes. To quote Dr. Troyer, "a gradual weakening and eventual demise" of UIC Medical Center will result from the more than $7 billion in cuts to direct and indirect medical education funding proposed by the GOP.

Following Dr. Troyer, Mr. Lacy Thomas, chief financial officer of the Cook County Bureau of Health Services, was equally dismal in his predictions. As a safety net provider for the disadvantaged and underserved in Chicago, the Bureau will be unable to deliver basic care for this population due to the total elimination of assistance to non-U.S. medical graduates—graduates which comprise nearly 40 percent of Chicago Medical Society physicians. In addition, $8 billion in reductions for disproportionate share payments to hospitals serving the indigent, such as Cook County, will only serve to exacerbate the pain felt by these patients.

Yet, I believe the most compelling testimony came from Ms. Irene Nelson, a senior from Chicago, who spoke eloquently regarding her fears of the Republican Medicare cuts. She stated,

> It is obvious to me that the people who are making these decisions are completely out of touch with the daily struggles of senior citizens like me. I wonder if any of these people have ever been forced to decide between eating, heating, and paying that outstanding medical. I doubt it very much! But that is what I, and many other seniors out there, will be forced to do if the Republicans are allowed to cut Medicare.

Mr. Chairman, it is of extreme importance that the American people are provided with this information on the Republican plan to gut Medicare in the dark of night and leave our Nation's seniors holding the bag.

After promising to balance the Federal budget in 7 years, increase military spending, and provide hefty tax cuts to the richest Americans in the country, the GOP is looking for a magic potion to fund these big promises.

Unfortunately, the Republicans seem to think Medicare is going to be the cure-all. In pushing a package of the deepest Medicare cuts in the program's 30-year history, $270 billion, the GOP wants to immediately increase the cost of Medicare to the average senior citizen by nearly $1,000, and force many to give up their own doctors.

This is bad policymaking and bad medicine for senior citizens.

In my State of Illinois, the proposed cuts will eliminate health care coverage outright for more than 58,000 individuals with disabilities over the next 7 years. In addition, 23,000 senior citizens will lose coverage.

Out-of-pocket costs will increase by an average of $3,500 over the next 7 years for each of Illinois' 1.62 million Medicare recipients. Further, Illinois will be denied $6.2 billion in Federal health care assistance over the next 7 years.

I am outraged at the efforts of the GOP to gut this essential program for no reason other than to pay for $245 billion in tax cuts for the rich. It is unnecessary, it is outrageous, it is wrong.

As the saying goes, "You can fool some people some of the time, but you can't fool all the people all of the time." The vast majority of the American people are not fooled Mr. Chairman. Pass these Medicare cuts and you will discover that cold, hard fact pretty darn quick.

I urge my colleagues to vote "no" on H.R. 2425. Let's not take the "care" out of Medicare.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a respected member of the Committee on Ways and Means, the chairman of the Subcommittee on Human Resources.

Mr. SHAW. Mr. Chairman, I rise today in support of the Medicare Preservation Act, and to deliver to this legislative body a message from my senior constituents in south Florida. Stop the fraudulent and abusive practices against the Medicare system. Do something about it, and just stop it.

On September 6, I mailed a letter to all of my constituents who qualify for Medicare which explained the problems that face the Medicare program. In this letter I asked for their input on how to preserve the system. To my surprise, over 90 percent of those who responded said that Congress must stop the fraud and abuse that they feel is widespread. Just listen to what is going on out there.

On September 22, I received a letter from Mrs. Jack Barnett, whose husband at one time was the chief of surgery at his hospital in New Jersey. Today Dr. Barnett is an invalid living with his wife in Hollywood, FL. Mrs. Barnett noticed last year that they were receiving billing statements for feeding tubes which Dr. Barnett never used. The company charging for these services received $2,765, $3,870, and $4,411 from Medicare. Mrs. Barnett asked her husband's nurse if she had ever seen anything like this before, and when the nurse saw the name of the company, she stated that two of her other patients were billed for the same thing by the same company.

Mrs. Audrey Vitolo of Deerfield Beach, FL was charged $600 for a simple blood test. Medicare paid the bill. She told me she felt victimized.

Mr. Ted Murphy of Fort Lauderdale, FL, was charged $10,000 for a simple operation on his eye lid. Even though this was an outpatient procedure, Medicare paid the bill. He told me that he complained to the hospital, but no action was taken.

Mr. Chairman, I want my constituents to know that their message came through loud and clear, and that Congress today is taking serious steps to stop fraud and abuse.

This Medicare bill will make it a Federal offense to engage in fraud, theft, embezzlement, false statement, bribery, graft, and illegal remunerations, including kickbacks. Civil penalties have been doubled and incentives have been added to encourage people to report cases of fraud and abuse.

First, the Secretary of the Department of Health and Human Services will be required to alert beneficiaries of instances of fraud and abuse against the program. A toll-free number will be established to report cases of fraud and abuse. Also, at the request of any person, the Secretary will publish a special fraud alert, which notifies the public of practices that are suspect.

Second, a beneficiary incentive program will be established where individuals who report cases of fraud and abuse can share the amount collected against those who are fined. Just think of the power of this provision, Mr. Chairman. There are currently 37 million Americans in the Medicare program. This means there are 37 million potential private attorney generals to help stop fraudulent and abusive practices. I know this will please many of my constituents, especially the Simons of Hallandale, FL, who wrote to me recently to inform me that they saved Medicare $4,000 by reporting suspect billing practices of their doctor.

Third, under this legislation, direct spending for Medicare-related activities of the inspector general of the Department of Health and Human Services will significantly increase. These activities include: First, prosecuting Medicare-related matters through criminal, civil, and administrative proceeding; second, conducting investigations relating to the Medicare program; third, performing financial and performance audits of programs and operations relating to the Medicare program; fourth, performing inspections and other evaluations relating to the Medicare program; and fifth, conducting provider and consumer education activities regarding Medicare fraud and abuse.

I want to stress to my constituents that this legislation is not a paper tiger. This bill provides serious money to stop fraud and abuse: At least $430 million in 1996; $490 million in 1997; $550 million in 1998; $620 million in 1999; $670 million in the year 2000; $690 million in 2001; and $710 million in 2002. This is a serious financial commitment that the Congressional Budget Office said will save Medicare money.

Finally, this bill establishes a health care anti-fraud task force. This task force will be a coordinated effort by the Department of Justice to prosecute health care fraud offenses.

Mr. Chairman, the Medicare Preservation Act is the toughest, most serious attempt this Congress has ever taken to stop fraud and abuse in the Medicare program. I am proud to have contributed to the effort to address the issue of fraud and abuse, and I know when my constituents learn of their new rights under the Medicare program, they will be proud of this Congress too. I urge my colleagues to vote for this most important legislation. Vote to preserve and strengthen Medicare.

□ 1400

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, today, Congress is debating cuts to the Medicare program.

As the post-war generation ages and their parents outlive all previous generations, we are facing the largest elderly population in our Nation's history and, therefore, the largest Medicare beneficiary population. Our national policies must reflect this changing reality. As we seek ways to balance the Federal budget, we must also continue investing in our Nation's future—including ensuring that both current and future retirees will have the resources they need to survive.

However, the Republican Medicare proposal would cut benefits for current retirees, those who no longer have the opportunity to prepare for their retirement, in order to increase discretionary spending for current working age people. This type of policy perpetuates the generation battle for my pot of money. Instead, we need to work together to find ways to reduce the deficit, ensure the stability of Medicare, and invest in the future.

We also have to learn from our history. As a nation, America cannot afford to return to the bad old days before the Medicare program was created. Medicare has helped secure our Nation's seniors against the threat of poverty and has limited the high costs of emergency and non-insured health care. Medicare has allowed our Nation's elderly to take care of their own health needs, regain self-respect, and, in turn, remain active members of society.

I support efforts that enable us to extend the life of the Medicare program which has been so important to the health of many older Americans. That is why I have supported the Democratic alternative which ensures the solvency of the Medicare trust fund through 2006—the same as the Republican proposal—without making harmful and excessive cuts to the Medicare program.

The American health care system, despite its shortcomings, is the envy of the world. Medicare has opened the door for many Americans to quality health care. The Republican proposal will undermine the graduate medical education program, and hurt urban and rural hospitals which are already struggling to remain open. Finally, the Republican proposal will mean that premiums will double in 7 years, meaning that for the poorest of the elderly, health care will continue to absorb more and more of their living costs.

The Republican Medicare bill is simply bad policy. It pits one generation against another, rich against poor, Democrats against Republicans. The Republican Medicare bill does not invest in our future, nor does it help current retirees.

I urge my colleagues to vote against this bill.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. PASTOR].

Mr. PASTOR. Mr. Chairman, as we consider this sweeping piece of legislation today, let us at least make an attempt to honestly describe what is being proposed. To begin, we are reducing Medicare payments to hospitals and doctors. Secondly, we are increasing the premiums paid by beneficiaries. And, although we are considering some modest changes in how health services will be provided, the fact that Medicare payments are being cut and premiums are being increased remain the most salient features of the legislation. This is what most alarms me about this proposal.

While the public is being told we need to make these changes in order to save the system, the fact of the matter is that the proposed cuts far exceed the amount needed. It is part A of Medicare which is scheduled to become insolvent by the year 2002 and its $90 billion which is needed to avoid this catastrophe. Yet, the combined cuts in payments to doctors and hospitals surpasses this figure. More startling is the fact the premium increases, which have nothing to do with keeping part A of Medicare solvent, will further reduce Medicare costs. The combined cuts, premium increases, and other changes to the system will reduce Medicare by $270 billion over 7 years. This leaves a large gap of $180 billion.

Even a simple examination of this proposal yields numerous questions. Why are we proposing to wreck havoc in rural America by jeopardizing the delivery of health care there; Why are we proposing to increase premiums for beneficiaries, many of whom will only be able to make these payments through great personal sacrifice; and, why are we moving to undermine public hospitals?

There are only two answers that are readily discernible. One is that excessive Medicare cuts facilitate a cut in taxes further down the road; the other is that these cuts could allow the budget deficit to be reduced by some factor. While I could support both tax and budget reductions, I cannot support such an effort under these circumstances. Why would we want to jeopardize the welfare of our senior citizens to either give more money to wealthier individuals or to reduce a budget deficit? Are there not more equitable approaches we could follow to achieve these goals?

I would propose that, foremost, we consider sacrosanct the welfare of those who have made significant, lifetime contributions to this nation. Whatever approach we use to stimulate investment in this country should not be done on the backs of our senior citizens. Our budget deficit is real. Yet how can we in good conscience engage in this wholesale attack against senior citizens when other, more measured alternatives remain at our disposal? Let us make an honest effort to address our budget deficit problem without strangling our most vulnerable citizens. And, let us consider policies which stimulate economic activity without exacerbating our deficit.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, due to the concerns I have regarding the future of our rural health care system and the people who depend on those facilities, I rise in strong opposition to the bill, H.R. 2425.

It is difficult to misread the conclusions contained in the report of the Entitlement Reform Commission, which states that without fundamental change, our entire Federal budget will be consumed by entitlements and interest on the debt by the year 2012. That means none of the tax money sent to Washington will be available for national defense, our transportation system, education, law enforcement, science or space, national parks or any of the other functions of government which operate with discretionary funds. It will all be committed to interest on the debt and entitlement spending.

Doing nothing is not an option. But doing the wrong thing is no better. Today we face a trio of choices concerning the future of Medicare and our prospects for balancing the budget.

The Board of Trustees of the Medicare Hospital Insurance Trust Fund indicate that we have traditionally maintained a 10- to 12-year balance in the fund, and, currently, we are only 6 years from going broke. We are obligated to take action to ensure the solvency of the fund.

By most estimates, we could control the growth of Medicare spending over the next 7 years by about $90 billion and protect the integrity of the fund by extending its balance to 10 years solvency. But that course ignores the fundamental problem that entitlement spending must be further contained if we are going to meet our balanced budget goal.

Our second option, which I have voted for and will continue to support, is to control Medicare growth by $170 billion over the next 7 years. That would secure the trust fund and contribute the necessary cost controls which, when combined with the rest of the coalition budget, would bring us to balance in 7 years. We must do both of those things—preserve Medicare for our seniors, and balance the budget on behalf of future generations of our sons and daughters.

The third option, which is before us today, takes $270 billion out of the Medicare Program. It will stabilize the trust fund and put us on a 7-year path toward a balanced budget. But it also takes $100 billion more out of Medicare than is necessary to achieve financial solvency of the Medicare trust fund and to balance the budget. This additional $100 billion, coming directly from Medicare, will be used to help finance a $245 billion tax cut for some of the wealthiest people in America.

As Cochair of the Rural Health Care Coalition, I have long been concerned with preserving an adequate and affordable health care system for people in rural areas such as the 19th district of Illinois, which I am privileged to represent. The approach being advanced today encourages health maintenance organizations to provide Medicare services, an approach which may work well in urban areas but will never adequately serve the rural people of this country. Why would a health care provider establish a system in a rural area where the monthly payment is approximately $300 when it receives nearly $500 for providing similar services in a more urban area?

This week, the Illinois Hospital and HealthSystems Association wrote me a letter which states:

> IHHA continues to be strongly opposed to the magnitude of Medicare reductions that are contained in this proposal. The House measure calls for approximately $76 billion in Medicare reductions to be achieved by reducing payments to hospitals. Of this total, reductions to Illinois hospitals would be $3.5 billion. For the hospitals in your district, the reductions amount to $119 million.

As the specifics of this proposal became clear, I traveled my district to listen to the people who run the hospitals and clinics and the patients who depend on them to maintain their quality of life. One after another, hospital administrators in my district told me of the hundreds of thousands of dollars they would lose under this plan. Rural hospitals are valuable not only for their vital health care services, but for providing some of the best paying jobs in our communities. They cannot be allowed to dry up and blow away, leaving people wanting for medical care.

Mr. Chairman, we cannot continue the Medicare System as it presently exists which today stands near bankruptcy. We should and must consider asking seniors who are financially secure to pay more for their share of the Medicare Program. I am on record supporting a bill which would means test Medicare premiums for higher income individuals to make the system more fair.

We cannot simply make the short term fix to sustain the trust fund. It is equally irresponsible to cut the Medicare Program to pay for a tax cut which Republican analysts admit will add $95 billion to the national debt. Both courses of action are wrong.

Let us come together as a deliberative body to secure the trust fund, balance the budget, and put our country in a position to care for its people and compete in the international marketplace in the coming century. We can do better for all generations of Americans, and I stand ready to work with anyone of any party to make better choices than the one before us today.

It is unfortunate that the leadership of both parties will not allow the moderate Democrat proposal to come forward on this floor for a vote. This proposal is the best option available because it accomplishes both a balanced budget and a fiscally sound Medicare trust fund, but does not overreach by downsizing Medicare another $100 billion for fund a tax cut which is unnecessary.

My hope will be that this sensible approach to fiscal responsibility will be allowed next week in the reconciliation bill and that eventually this Congress will achieve the middle ground that is necessary to solve these problems.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZAK. Mr. Chairman, last year the Democrats had a proposal to extend the solvency of Medicare by cutting $168 billion in the program. The speaker who just addressed us from Florida indicated to the committee at that time, "We have here in this bill the seeds of destruction of Medicare. Let's not destroy a health care program in this country that we know works well and that our seniors are depending on it." Now he comes to the floor supporting a bill cutting $270 billion.

Mr. Chairman, I guess those seeds have germinated.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, we are hearing about this bill cutting waste, fraud, and abuse. It is odd that the GAO, the Department of Justice, and the HHS Office of Inspector General all have very grave concerns about what this bill does to provisions in the Medicare bill that would allow them to do law enforcement. In fact, if my colleagues like waste, fraud, and abuse, which we all agree now account for about 10 percent of all that is spent on Medicare and Medicaid, my colleagues are going to love this bill because it makes the health care waste fraud a growth industry and a new way of life for a lot of Willie Suttons.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I rise in strong support of H.R. 2425, the Medicare Preservation Act of 1995.

Mr. Chairman, there is no question that reform of the Medicare Program is imperative if it is to survive. But its mere survival is not the goal of this legislation: What we seek is to preserve Medicare by keeping it solvent while strengthening and improving the coverage and options it provides to this Nation's elderly. We must not squander this opportunity to deal comprehensively with the multitude of issues which bear on the efficient delivery of health care in this country.

As the chairman of the Committee on the Judiciary, I would like to point out some particularly important provisions contained in this bill that fall within our Committee's jurisdiction. Specifically, the bill contains provisions designed to facilitate the operation of the revised Medicare Program—notably, health care liability reform, antitrust relief for provider service networks, and an antitrust exemption for medical self-policing entities. The combined effect of these changes will provide a fertile environment for the delivery of Medicare services in a manner which maximizes consumer choice. Liability reform will generally decrease the cost of providing health care services, and eliminate many of the frivolous lawsuits which are clogging our courts. Antitrust relief for provider service networks, or PSN's, will increase competition for contracts under the Medicare system, thereby increasing choice and decreasing costs. Providing an antitrust exemption to medical self-regulatory entities will encourage physicians and hospitals to police themselves, and will contribute to a reduction in malpractice, fraud, and abuse.

HEALTH CARE LIABILITY REFORM

Our health care system is clearly being burdened by a number of cost-based pressures. One of these costs is the threat of liability suits facing medical practitioners and health care providers and the large dollar amounts they are forced to spend to protect themselves against these legal actions.

The average physician has a 40-percent chance of being sued at some time in his or her career. This increases to 52 percent for surgeons and to 78 percent obstetricians. The estimate is that medical malpractice premiums now total $10 billion annually. The average annual medical premium for a doctor specializing in obstetrics in some urban areas now exceeds $100,000 a year.

Many liability cases brought against doctors are frivolous. In fact, two out of three medical liability claims are closed without any payment to the claimant, but only after large legal and administrative fees have already been incurred.

Further, the increasing insurance premiums for malpractice coverage represent only a part of this problem. The estimates are that the costs of defensive medicine run from $20 to $25 billion a year.

Numerous other entities in addition to doctors and hospitals such as pharmaceutical manufacturers and those that manufacture medical devices or provide blood or tissue services are also impacted by the same liability concerns. Finally, as we move more and more into a managed care system, the scope of third-party liability is also a matter of increasing concern.

There is no question but that our health care system is seriously burdened by both the threat, and the reality, of liability suits facing medical practitioners and health care providers. The Health Care Liability Reform legislation that is included in this bill will solve this serious national problem.

EASING OF ANTITRUST BARRIERS FOR PHYSICIAN SERVICE NETWORKS

Provider service networks—those composed of doctors, hospitals, and other entities who actually deliver health care services—are potentially vigorous competitors for Medicare beneficiaries. The benefits to the Medicare Program of their participation would be lower costs and higher quality of care than in non-provider sponsored health plans. Costs would be lower because contracting with a PSN instead of an insurer could eliminate a layer of profit and overhead. Quality would be higher because providers, and particularly physicians, would have direct control over medical decision-making. Arguably, physicians and other providers are better qualified than insurers to strike the balance between conserving costs and meeting the needs of the patient.

There are obstacles, however, to the formation of PSN's. One of the most serious is the application of the antitrust laws to such groups in a manner which does not allow the network to engage in joint pricing agreements, regardless of whether its effect on competition is positive rather than negative.

Antitrust law prohibits agreements among competitors that fix prices or allocate markets. Such agreements are per se illegal. Where competitors economically integrate in a joint venture, however, agreements on prices or other terms of competition that are reasonably necessary to accomplish to procompetitive benefits of the integration are not necessarily unlawful. Price setting conduct by these joint ventures should be evaluated under the rule of reason, that is, on the basis of its reasonableness, taking into account all relevant factors affecting competition.

Current Department of Justice-Federal Trade Commission guidelines require that a physician group share substantial financial risk before being considered a joint venture and thus eligible for rule of reason analysis. Their definition of substantial financial risk is too rigid, thereby eliminating from the market PSN's which would provide an expanded set of consumer choices and increase competition in the market for health care services.

The proposed legislation overcomes this barrier by mandating that the conduct of an organization meeting the criteria of a provider service network be judged under the rule of reason. The result will be to permit a case by case determination as to whether the conduct of that PSN would be procompetitive, and thus permissible under the antitrust laws. It is important to understand, however, that this is not an exemption from the antitrust laws. In no event would providers be allowed to set prices or control markets so as to injure competition.

Only an organization meeting specified criteria would qualify for this more liberal, rule of reason consideration. The network must have in place written programs for quality assurance, utilization review, coordination of care, and resolution of patient grievances and complaints. It must contract as a group, and mandate that all providers forming part of the group be accountable for provision of the services for which the organization has contracted.

ANTITRUST EXEMPTION FOR MEDICAL SELF-REGULATORY ENTITIES

Standard setting is a cooperative activity engaged in by the providers of health care services in this country. Those entities have a long history of protecting the public with standards for medical education, professional ethics, and specialty certification. These activities have increasingly been challenged under the antitrust laws in recent years, typically by those who fail to meet the standards. Congress attempted to address this problem with the Health Care Quality Improvement Act of 1986, 42 U.S.C. § 11101 et seq., which provided antitrust protection for peer review actions conducted in good faith. While beneficial, this law shifted the debate in antitrust litigation over peer review to whether the participants acted in good faith and has not served to stem the tide of antitrust law suits.

The medical self-regulatory entity exemption included in our legislation would bar antitrust suits against medical self-regulatory entities that develop or enforce medical standards. This would include activities such as accreditation of health care providers and medical education programs and institutions, technology assessment and risk management, development and implementation of practice guidelines and parameters, and official peer review proceedings. The exemption would cover suits against individual members of the groups which undertake these activities as well as the organizational entity on whose behalf they act.

The scope of this antitrust protection is not absolute, however, Activities by a medical self-regulatory body that are conducted for purposes of financial gain or which would interfere with the provision of health care services of a provider who is not a member of the profession that sets the standard would not be covered or exempted by this legislation.

Mr. Chairman, H.R. 2425 represents a historic step forward in improving the delivery of health care in America. It deserves the support of every Member of this body.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I say to the gentleman, great statement. The gentleman's district loses in hospital fees $260 million. The legal news points out doctors mop up on medical malpractice reform, and you have not had 1 minute's hearing on medical malpractice reform. The Judiciary Committee was cut out.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Chairman, make no mistake about it. What we are doing here today is applying a $270 billion meat-ax approach to a $90 billion problem merely to pay for a $245 billion tax cut for the wealthy.

Let me say that I know my colleagues want to help their rich friends, but let me say to the Republicans, Please find another way to help your friends. Do not do it on the backs of senior citizens, those that have worked all their lives to come to this point now and to be told we are going to cut, cut, cut, cut.

Let me just talk about two lies here very quickly. No. 1 is that we are going to go after fraud and abuse. My colleagues are not going after fraud and abuse; they are cutting half of the people that is supposed to go find fraud and abuse. How are they going after it if they eliminate half of the people that are supposed to look for it? And the last one is choice. The biggest lie of all is choice. If they do not have the resources, they have no choice.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Like so many of my friends here, Mr. Chairman, I am sick and tired of these Republicans being beat up on really. Most of the chairmen and certainly the committee people have nothing to do with this. Someone told them that they had to find a $245 billion tax cut. Do my colleagues think these people, kind and gentle as they are, will be going after housing, and job training, and lunch programs? No, it is not their fault.

And let us get another thing straight about this $270 billion cut. It is a savings; do my colleagues not get it? What it means is that, as we find U.S. population growing and people getting older, and becoming more ill, and having to see more doctors and more hospitals, we are going to give them some more money. So who the heck is saying that they are not giving more? What they are not doing is taking care of those older people the way they should be taken care of because they have decided to legislate the rate of inflation.

Now another thing which we have to understand is that we want to save money by taking these old folks off of this fee-for-service, seeing their own doctor business. Cannot my colleagues not understand that? We have these private organizations. They meet every month. Most of them are Republican, but what has that got to do with it? When they are there, they do not have meetings asking how many lives did we save. They want to know many bucks did we make. Now the quicker we get people off of these expensive doctors, because now it is costing us $3 billion more, these doctors are a lot of money, as my colleagues know; ask them, they can tell us how much they want; and get them on these programs where we can ration the care, then it is not really cutting services. It is not really cutting money, it is cutting the services, and so do not call that a cut.

Now some may say, Well, how are these old people going to shop around, feeble as they are in wheelchairs, and find one of these for-profit organizations to give them care? My Democratic friends, I want them to know they can stay in the program they are in. They can stay there, and it is discriminatory if one of these for-profits do not let them in.

Now there is a problem. There is nothing in the law that says these for-profits have to go in communities where there is sick people. There is nothing in here that says they have to go to the rural areas, there is nothing in here that says they have to go to the inner city, and why should they? They are in the business of making money. There are sick people in these communities, and we have to avoid it, but the meanest thing of all, my Republican friends, and I wish they could help me to explain this, is that for years we have known when one works and they have no insurance, when someone is poor and they have no coverage, they go to the public hospitals. I ask, why did you hit them so hard? Mr. Chairman, that is where people have no place else to go.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], chairman of the Subcommittee on Oversight of the Committee on Ways and Means who has given so much of her time and her knowledge in developing this plan.

Mrs. JOHNSON of Connecticut. Mr. Chairman, the goal of this bill is very simple. It is to preserve Medicare for current retirees and for future retirees. Why do we want to do this? Because the twin pillars of retirement security for American seniors are Social Security and Medicare, and believe me, when the Trustees of Medicare say next year they are going to pay out more money than they are going to take in and in 5 years after that they are going to use up all their savings and be broke, I think that is a crisis. I think that is a problem. I think delaying addressing that problem is going to make it harder, not easier.

So I am proud to support a bill that says simply we have a crisis, that to preserve Medicare we have to fix it, and we can do it. It is actually not very hard. It means reducing the rate of growth in Medicare from 10 percent down to 6.5 percent.

Why do we think we can do this? Because the private sector has already reduced the rate of health care cost growth to 3 percent. We can preserve Medicare by reducing its growth rate to twice that of the private sector. We can do that, and we can do that in a way that opens up new opportunities for seniors because Medicare is an old-fashioned program that does not provide prescription drugs nor cover prevention, all of which can save money.

Right in Boston today we have two plans open to Medicare seniors offering all Medicare services, prescription drugs, and a number of other services, for zero premium. That is a zero-premium choice.

□ 1415

That means for the same dollar we are investing into Medicare, these folks in Boston, our senior citizens, are going to get choices that buy better than Medicare benefits. That is what this is all about. It is about controlling costs in Medicare by opening up to seniors the kinds of plans that in the private sector have preserved benefits and reduce the rate of medical inflation in this country.

And how do we get the $270 billion? This is how we get it. We reduce the rate of growth in hospital reimbursement rates and doctor reimbursement rates so they go up 6.5 percent instead of 10 percent. You Democrats keep jumping up and saying "We are cutting funding to hospitals". Mr. Chairman, I ask Members to ask their kids if they can pay more than the 19 percent of payroll that they are now paying for Social Security and Medicare so we can let those hospitals grow at 10 percent instead of 6.5 percent. Ask them that. They will tell us they cannot afford it.

Yes, we can guarantee Medicare to our seniors by slowing the rate of growth in reimbursements to hospitals and physicians, and by getting tough on fraud and abuse. Incidentally, if the Members on that side of the aisle do not like our fraud and abuse provisions, why didn't they propose tougher laws when they were in the majority for 40 years?

We get $2 billion more in revenues from our fraud and abuse provisions because we are tougher than we have been in the past. So, the $270 billion comes from slowing the rate of growth in reimbursements to doctors and hospitals, cracking down on fraud and abuse and, yes, requiring seniors to continue paying premiums to cover 31 percent, just what they are paying today, and, though the Members on that side never mentioned it, in our plan requiring rich seniors to pay more. We are proud of our plan. It preserves Medicare and protects seniors.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute and 30 seconds to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, who do the Republicans think they are, the Oracle of Adelphi? They have just put a bill together where they arbitrarily set interest? They look forward to the year 2002, and they have said how much money people are going to make. They have set the inflationary rate. Who are they, the Oracle? They cannot do that.

What they have done here by setting those unofficial rates, they have cheated the senior citizens of this country. My Medicare card is shivering in my pocket when I sit here and listen to some of this, because what they are doing is fooling the senior citizens. They say to me, "Don't scare them." I need to scare them and say, "Look out, it is coming." I ask the Members, would they know a hurricane is coming and not do anything about it?

I am saying, and all over this country I will continue to say that they are not telling the full truth to these senior citizens. Mr. Chairman, the honorable gentleman from Pennsylvania [Mr. GREENWOOD] this morning said, and also my sister here who is a health care expert, bringing down the inflation rate. Who told them they can do that? They do not know what is going to happen. I rebut that stand very much, because they cannot do that.

I can tell Members how many of them are going to be hurting when they get back home. People back home do not know they are up here pontificating. They do not know that. But when they get back there and they look at how their hospitals are going broke, they are going to come to them and say, "What gives here? How can you be the Oracle at Delphi?"

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, many of the people of this country sent new representatives to this Congress, representatives that have a basis of experience.

As a practicing physician who continues to care for Medicare patients and Medicaid patients, whose practice was made of a majority of Medicaid and Medicare patients, I have truthfully and honestly looked at this bill. This bill is going to save Medicare. It is not perfect, but it does the things that we need to do to preserve this program. To do otherwise, to put a band-aid on it, is wrong.

I want to share with the Members for a moment what happened and what we have done by changing some of the system. Not long ago, in the late 1980s, a program called the Clinical Laboratory Improvement Act was introduced. The effect of the act is that you can have a pregnancy test at home using technology today that the Federal Government says your doctor is not capable of using unless approved by the Government.

As a result of that, what we see is that 30 percent of the doctors, and mainly in rural America, are still testing, 54 percent of the doctors stopped some form of testing because of this law. Seven percent dropped tests for other reasons, and 9 percent of the rural doctors in this country quit testing completely.

The fact is we had a well-intentioned plan. There were problems with pap smears in this country, but there were not that kind of problems. Now what we do is we have patients paying two and three times for the same testing, waiting 2 and 3 days to get the same results back. CLIA was well-intended. It has now been changed. We will have quality because we are going to trust our caregivers to give us quality.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would ask the gentleman, how many 65-year-old older women in his district were pregnant last year? How many 65-year-old women, older women, were pregnant in his district last year?

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just wanted to say that under the Gingrich Medicare plan, medical providers and hospitals around the district of the gentlewomen from Connecticut [Mrs. JOHNSON], and she spoke just a few moments ago, are going to lose $129 million over the next 7 years. That is what I call choice under the Gingrich Medicare programs. The doctors and hospitals are going to lose $152 million. That is choice.

Janis Joplin, if she were alive, would say freedom is just another word for being forced to choose between your doctor, who will leave the traditional Medicare plan, and whatever else you are going to do.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland.

The CHAIRMAN. The gentleman from Maryland [Mr. HOYER] is recognized for 2 minutes.

Mr. HOYER. Mr. Chairman, we had the opportunity to see a tape from a consultant to a Republican meeting. The consultant said "Use soothing words for your radical change. Tell them you are saving Medicare. Tell them you are giving them choices. Express moderation in your radicalism and swear that the $270 billion cut in Medicare has nothing to do with the $245 billion cut in taxes," and hope that the public is lulled into apathy.

So we hear on this floor talk by our Republican colleagues of preserving and reforming a health care system that 93 percent of them opposed in 1965. Beware, the wolf in sheep's clothing. Beware those who want to save that which they eschew. Beware those who want to come from the majority party in Washington and help you.

Mr. Chairman, if we pass this bill today, before too long Medicare for millions and millions of Americans will become Medigone. Oppose this Republican medical killing proposal.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, not too long ago I got a call from a senior citizen in my county about the fact that she was billed for two mammograms. When she confronted the billing agent on it, they assured her that she was wrong and she was just a senior, just a senior and did not understand. The mistake is the seniors understand. This women pointed out that it was physically impossible for her to have two mammograms, because she had had surgery 2 years before, and when this billing agent found out about their mistake, the comment was "Well, it is not your money, ma'am. Why are you worried about it?"

For too long, people have been saying to the seniors "It is not your money, do not worry about it." The seniors care. In this bill, we are going to fight fraud by creating a neighborhood watch strategy for fighting Medicare fraud. We are going to allow the seniors to participate, not only in choosing their program for their health care, but also participate in fighting fraud.

Mr. Chairman, I strongly support this concept, because I think if we really want to be serious about fighting fraud, then have the guts to allow the seniors to participate in these programs and approve this bill.

Mr. Chairman, I rise in opposition to the Medicare package before us today.

The Republicans have proposed cutting $270 billion out of the Medicare system.

They did not choose $270 billion because it is needed to save the trust fund, or because there is $270 billion worth of waste, fraud, and abuse in the system, or because cutting $270 billion will improve seniors' health.

They chose $270 billion because they have a huge fiscal hole to fill—a hole created by an unnecessary and irresponsible tax cut for the wealthy.

The Republicans have committed to balancing the budget, increasing spending on defense, and cutting taxes.

If revenues are going down by $245 billion, and you're going to balance the budget, you've got to raid the bank somewhere else.

That somewhere else is Medicare.

The Republican plan is not driven by a desire to save Medicare.

Ninety-three percent of Republicans voted against the Medicare Program at its creation.

Ninety-nine percent of House Republicans voted to cut more than $280 billion out of the program in 1995.

This Republican plan is a stake in the heart of the medical insurance program 37 million seniors from all walks of life rely on for their health security.

The Republican plan will increase charges to seniors with an average income of $13,000 per year so that people with incomes of $350,000 per year can get a $20,000 dollar tax cut.

I don't think that's fair, and I don't believe it's right.

The Republican plan will undermine Medicare in other ways as well.

Medicare-plus programs will be allowed to cherry-pick low risk seniors, leaving traditional Medicare subject to the higher costs of adverse selection.

The plan creates incentives for doctors and hospitals to leave traditional Medicare for Medicare-plus options that permit them to charge seniors higher fees—creating the probability that seniors who cannot afford higher Medicare-plus charges will be unable to find doctors and hospitals willing to treat them.

And, the plan actually weakened sanctions against waste, fraud and abuse.

I believe that we need to take steps to fix what's broken with Medicare.

We must crack down on the waste, fraud, and abuse.

I know that seniors are willing to bear their fair share of the costs of balancing the Federal budget for our children and grandchildren.

But this debate is not about fixing what's wrong.

It's not about changing the parts of Medicare that don't make sense.

It's about charging seniors more for health care.

It's about giving seniors less for their Medicare dollars.

And it's about filling the tax cut hole.

I urge my colleagues to vote "no" on the Republican Medicare plan.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Chairman, I would ask the Chair, what are the rules in terms of sloganeering, buttons worn on the floor when participating in debate?

The CHAIRMAN. The Chair has already stated that wearing badges on the floor while participating in debate is against the rules of the House.

Mr. DINGELL. Mr. Chairman, I will take it off, and I will be delighted to give it to the gentleman from California. It will benefit him highly.

Mr. Chairman, I yield 15 seconds to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just wanted to point out that under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from California, [Mr. BILBRAY] will lose $345 million over the next 7 years in order to pay for a tax cut for the rich.

Mr. DINGELL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I oppose the bill.

Mr. Chairman, I rise today on behalf of the thousands of senior citizens, parents, children, women, hospitals, doctors, nurses, health-care providers, and workers who live in my district and have written to me, talked to me and pleaded with Congress to stop these ill-conceived cuts to Medicare.

Thirty years ago the Congress made a promise to the American people. That promise was a bold commitment to entitle older Americans, poor children, families, and the disabled to health coverage through the Medicaid and Medicare programs. Today, our new Republican leaders are turning their backs on that promise.

Why? The facts are that they cut Medicare so deep to pay for their tax breaks. American seniors will be forced to pay more out of their pockets, will have less choice in selecting their own doctor and will receive a lower quality of service, so that the Republicans can use savings for a tax cut.

None of the $270 billion that the Republicans are cutting out of the Medicare Program will go back into the Medicare trust fund—not 1 cent. It will all go back into the general Treasury. The Republican lockbox is a gimmick. It does not change the fact that the cuts are there to be counted in determining whether the budget is balanced and you can't give those tax breaks, and balance the budget—not without cuts. Did the Republicans cut defense to pay for their tax break? No, they cut Medicare and Medicaid.

The Medicare trustees say that the proposed cuts are more than three times greater than the $89 billion recommended to keep the Medicare trust fund solvent. It doesn't take a Ph.D. in mathematics to figure out that the $270 billion in Medicare cuts will cover the cost of the $245 billion tax break.

When I came to Congress in January as a freshman Member of Congress, I expected Congress to take care in passing laws. Not in this Congress. The Medicare cuts that are before the House today got one day of hearings—1 day. And, the committee members didn't even have the real bill in front of them before the hearing started. Today we have 1 day of debate, with no amendments allowed, on the basic health care program relied on by millions of Americans. We spent all of yesterday on the floor of the House talking about fish—seems to me we could have waited to deal with fish and used at least part of that time to deliberate on the fate of American's seniors.

The impact on the State of California will be large. California will lose $27.5 billion in Medicare funding over 7 years. California will lose $816 million next year alone and the losses will only increase as each year passes. The combined potential loss in Federal health care spending in California over 7 years will be at least $44.1 billion. In 1996 California will lose $1.5 billion in Federal health care spending and the loss per year will increase every year after 1996 reaching a whopping loss of $12.1 billion in 2002. To put this in perspective, the State of California's entire budget for this fiscal year was $42 billion. The personal cost for Seniors in my State will be high. They can expect their premiums to double by the year 2002. Let me repeat that: California seniors will pay double what they are paying now in just 6 short years. And Medicare spending per beneficiary will be cut by $1,700 by the year 2002.

In my district in Santa Clara County, CA the effects of these cuts will be profound. By the year 2002, Santa Clara County's Medicare loss will be $1.2 billion. Next year alone, Santa Clara will lose $33.4 million in Federal Medicare money. I was a Santa Clara County supervisor for 14 years and I can tell you from experience the ramifications of these cuts will be far-reaching. Counties and hospitals will be forced to thin the health care soup. Costs will be shifted and care will jeopardized. Patients in other insurance programs will feel it—their costs are likely to go up or coverage down.

I have received letters from both private and public hospitals in my district that tell me they do not know how they will be able to cover the Medicare losses. Public hospitals form the backbone of the safety net in most counties. They provide substantial amounts of care to low-income populations and the uninsured. They rely heavily on Medicaid and Medicare to pay for that care. These hospitals also provide a wide range of regional and community services that are often not otherwise available, such as trauma care, children's specialty services, spinal cord injury rehabilitation, and burn care. Medicaid and Medicare ensure that these hospitals remain financially viable to provide these much needed services. In California the number of people who rely on public hospitals is growing. And, growing along with it at an even more alarming rate is the number of uninsured people.

While the financial side of these cuts is important, the human question of serving people in need is paramount. On behalf of all of those people who live in the 16th District of California who have taken the time to write, to call and to speak up against these cuts, I ask my colleagues here in Congress, not to turn your back on this American promise. Don't turn your back on America's seniors and uninsured. It isn't too late to say: "This goes too far."

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Chairman, I have just completed, 7 weeks ago, an operation for rectal cancer. I was able to afford the prescreening of that, even though I am on Medicare, but I found out today that it is not even included in this bill. How can we be uncompassionate for people who cannot afford to get these examinations? It just seems to me that that is one of the things that should be included. Mr. Chairman, I do not need 30 seconds more to say that I do not believe in attacking, and doing this from the Democrats or Republicans, but just from utter compassion for people, I promise the Members, to get that examination, they do not have to worry about fraud and abuse then. Nobody will ask and beg for that examination, I promise that. But for goodness sakes, care about people who do need that examination.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. CRANE], chairman of the Subcommittee on Trade of the the Committee on Ways and Means.

Mr. CRANE. Mr. Chairman, there was an interesting cartoon in yesterday's newspaper that perhaps not everybody in our listening or viewing audience saw. It had this patient lying in bed in a hospital on a life support system, and at the foot of the bed he was identified as Medicare, and there were two Republican elephants there that were dressed in doctor's attire and they said, "He needs immediate surgery to survive," and the nurse was behind the two elephants and she was standing in front of the Jackass and a man who occupies the other end of Pennsylvania Avenue, and said "No, no, the family insists, no surgery. They believe in faith healing." I think it pretty well describes so much of the rhetoric that has been going on here in this debate. We got from the administration's trustees the death sentence. They handed down the death sentence on the fate of Medicare.

□ 1430

It required some kind of immediate attention. Now, to be sure, we could have enacted blood transfusions out of my children and my grandchildren by tripling their taxes as a way of addressing this problem. But there are more efficient ways and ways that employ certain options that have been prevalent in the private sector all along, and that is guaranteeing people more choice and more control over their own medical coverage.

The fact of the matter is I am confident that the Republican approach can address this problem and simultaneously hold those escalating costs on an annual basis to just a little more than 2 percent than the escalating costs in the private sector. That is not too much to expect.

The fact of the matter is this is long overdue legislation. It is a shame we waited until the 11th hour to finally take a look at it, but I support H.R. 2425. I urge all of you too.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I rise in opposition to this legislation.,

Mr. Chairman, today the Republican Party takes on the onus for dismantling Medicare, the health care guarantee within Social Security.

And you can bet the Republican Party has its sights on dismantling Social Security as well.

And to what end? To create a comprehensive health care system which 80 percent of Americans want? No.

To serve extremists in the Republican Party.

To serve the insurance companies and the American Medical Association.

The Republican Party in cutting $270 billion from health care for American retirees to give $245 billion in tax cuts.

More than half of the tax cut goes to fat cats already making over $100,000 per year—while 75 percent of the people taking Medicare cuts to pay for that tax cut live on less than $20,000 per year.

The Republican Party is taking health care dollars from low- and middle-income retired Americans to give billions to insurance companies and the already wealthy.

You can bet Americans will remember next November.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I rise in strong opposition to the scam on the senior citizens of America.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I rise in opposition to this bill.

Mr. Chairman, I rise today in strong opposition to the Medicare Preservation Act of 1995 (H.R. 2425), a bill which cuts $270 billion from the Medicare Program over the next 7 years. This bill would make these cuts by substantially increasing out-of-pocket costs for beneficiaries and reducing the payments to health care providers, which has serious implications for the quality of care our seniors deserve.

Under this bill, beneficiaries face a retirement plagued by higher health costs. The bill permanently increases the beneficiary's portion of the Medicare part B premium to 31.5 percent, resulting in a $48 billion increase in costs over 7 years.

Hospitals and other health care institutions, already facing severe budget constraints, would face a $70 billion cut in Medicare payments. Roughly half would come from a reduction in the inflation adjustment received by hospitals. Skilled nursing facilities would find themselves $10 billion poorer. Hospitals which treat a disproportionate share of low-income beneficiaries get their funding cut twice. One cut will come from the inflation adjustment and another cut will come from a reduction in funds from the disproportionate share program [DSH] by $9 billion.

Health care providers participating in traditional Medicare would face an extra hit from the so-called fail-safe provision. This provision would require the Secretary of Health and Human Services to further reduce payments to doctors and hospitals if Medicare spending exceeds the targets for a given year.

These reductions would apply only to traditional Medicare and are estimated to result in an additional $31 billion in cuts. The fail-safe provisions clearly demonstrate the bias against the traditional Medicare fee-for-service system, on which the vast majority of beneficiaries now rely.

Until very recently, doctors would have faced nearly $55 billion in cuts. However, the Republicans made a last minute change in calculating payments to physicians to secure the endorsement of their bill from the American Medical Association [AMA].

Another enticement for doctors is the bill's arbitrary limits on the recovery of damages in malpractice suits. Such a provision has nothing to do with Medicare and does not belong in the measure. It is shameful that the GOP would commingle the cost of delivering health care with tort reform.

We know that Medicare's insolvency must be addressed. We also know that it is not necessary to do so by cutting $270 billion from the program. Treasury Secretary Robert Rubin—one of the Medicare trustees—wrote to Speaker GINGRICH to let him know that $270 billion in cuts are not necessary to keep the program solvent. Also, the Republicans have admitted that their bill will only keep Medicare solvent until 2006. That is the same length of time that the Democratic alternative, which cuts only $90 billion, would keep Medicare solvent.

Why are the Republicans recommending these Medicare cuts? Because they need to find $245 billion to pay for their tax cut proposal—most of which benefits corporations and higher income Americans.

The American people want a different approach—one which ensures Medicare's solvency but without jeopardizing the quality of care that Medicare beneficiaries currently receive. The alternative offered by Democrats on the Ways and Means Committee would make smaller reductions in the Medicare Program without raising premiums. However, the alternative was rejected by the Ways and Means Committee Republicans.

It is ironic that the Republicans named their bill the Medicare Preservation Act. It should be renamed the Medicare Devastation Act. This bill jeopardizes the health care of beneficiaries and places a heavy burden on health care providers. We should not be making deep cuts in Medicare to pay for tax cuts. America's seniors deserve better.

Vote "no" on the Medicare Preservation Act.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, under the Gingrich Medicare plan, the hospitals in and around the district of the gentleman from Illinois [Mr. CRANE], who spoke earlier, will lose about $67 million over the next 7 years.

Mr. Chairman, I have been receiving calls all afternoon in my office with this debate being heard throughout America. People are saying: "Please, do not vote for the Gingrich Medicare plan."

I am not going to vote for that plan today. I want my constituents to know that.

In my district alone, I say to the gentleman from Texas [Mr. ARCHER], hospitals in my area will lose $457 million over the next 7 years. There are clear winners and losers in this Gingrich Medicare plan. The losers are the elderly and the hospitals throughout America.

Those winners are the health insurance industry, and naturally we know those who will receive the huge tax breaks.

There will be a substitute that will come soon to this bill that Democrats will bring solvency to the Medicare plan only with $90 billion, and not the $270 billion under the Gingrich plan.

Mr. BLILEY. Mr. Chairman, could I inquire how much time remains?

The CHAIRMAN. The gentleman from Texas has 8 minutes remaining, the gentleman from Florida has 8½ minutes remaining, the gentleman from Virginia [Mr. BLILEY] has 10 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 9¼ minutes remaining.

Mr. BLILEY. Mr. Chairman, do I have the right to close for the Committee on Commerce?

The CHAIRMAN. The gentleman from Virginia is reserving the right to close.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, in the 103d Congress, all parties involved in the delivery of health care services as well as those receiving care recognized that change was in order. However, the public said "no" to the radical government takeover Clinton plan and "yes" to a market-driven system.

Now in the 104th Congress, we are attempting to address the unacceptable double-digit growth of Medicare which would lead to its bankruptcy. Our plan provides health care security for today and tomorrow's seniors. It does so without increasing the tax burden on families and without increasing copays or deductibles for seniors.

Like in the general population, Mr. Chairman, Medicare-plus will allow seniors to choose from a variety of plans. If seniors would like to stay in the traditional Medicare plan, they can. Our plan will help end waste, fraud, and abuse in our current system. It offers regulatory relief to help curb the growth of health care costs.

We also protect the quality of health care for the future by protecting and strengthening our teaching hospitals. It should be noted, Mr. Chairman, that better managing the services would not mean lesser services. It would mean doing things better and smarter.

We have incentives in our plan to encourage all involved in Medicare to play a role in better managing each dollar spent on health care.

The Democrats would like to give the public the impression that they have the market cornered on compassion. Oh, how wrong. Oh, how wrong.

A variety of plans will give us competition and will thus increase the likelihood of a more efficient system.

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds.

I note for the record that, under the Gingrich Medicare plan, hospitals in and around the district of my good friend, the gentleman from Connecticut [Mr. FRANKS], in Waterbury, CT, will lose $211.8 million over the next 7 years so the rich can get a tax cut.

Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I just came to say we now know what this is all about. The Speaker said the crown jewel is going to be the tax cut, the tax cut for the parade of millionaires we have seen going in and out of his office recouping what they have invested in GOPAC and everything else.

As I hear people from this side of the aisle coming down and saying, "Trust us, we are so compassionate," the reason we do not trust you is that you were not for this program to begin with. You waved the trustees' report around as to why you had to cut this, not the tax cut, but the trustees. But you will not wave your 961-page bill past the trustees to see if they fixed it. No; no; no.

We fix it as much as you fix it. We do what they do about fixing. You go on to raid it. You do not really like that. You do not really like people pointing that out.

You also turn on the fraud faucet, as the Attorney General said. That is why we do not trust you, and that is why this is a tragic day because you are unraveling social Medicare as we know it and Medicaid as we know it, and you know it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], another respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Chairman, 30 years ago Medicare, when it was started, was estimated to cost, in 1995, $9 billion. The people who were operating the Government back then miscalculated a little bit. Today it costs $178 billion, a $169 billion miscalculation, a miscalculation that has caused an incredible stress upon the system, a miscalculation that the Medicare trustees said would bankrupt the system in the year 2002, and that we were given the choice of whether we should let it go bankrupt or whether we should try to save it.

Since working on this plan for the last 8 months, I am proud to say this plan is going to offer a lot of choices. It is going to offer choices to my 84-year-old grandmother. It is going to offer choices to my soon-to-be 65-year-old father. It is going to give him the opportunity, as he lives in rural America, to get into a medical savings account. It is also going to give him the opportunity and choice to get into a provider-sponsored network.

He thinks he can manage his money better than the Federal Government can.

I am proud this plan is going to save Medicare for whose who want to remain in the current Medicare system and offer choices for those who want to get into new Medicare, Medicare-plus. This is a good plan.

I urge strong support for passage of the Medicare Preservation Act.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, this sign says it all. Shame on NEWT GINGRICH and the Republicans for what they are doing to senior citizens in this country. Shame on them for what they are doing to people who have worked hard all of their lives.

At least our Republican colleagues have been somewhat consistent. This bill came out of the Committee on Ways and Means. They certainly found many ways to be mean to senior citizens in this country.

Our colleagues talk about choice, our Republican colleagues. The only choice senior citizens are going to have under this legislation is whether or not to buy dog food to eat because that is all they will be able to afford after they get through paying for health care under this bill.

Shame, this bill ought to be rejected.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. FIELDS].

Mr. Chairman, when most Americans who are in managed care plans go to the doctor, it costs $10. However, Medicare recipients, such as my mother and grandmother, pay the first $100 and then 20 percent of the remainder. When most Americans go to the hospital, they pay $35 a day. Seniors, on the other hand, pay a $716 deductible for the first 60 days and then $179 for every day afterwards. That is because while most Americans have a choice, seniors, choices are made for them by Washington bureaucrats.

So after months of hearings and careful study, we will vote today on legislation that will not only ensure the long-term fiscal health of Medicare, but also create choice by providing options for senior citizens. This bill moves the decision-making down the Potomac River, outside of the beltway and into the hands of people like my mother and my grandmother.

The Medicare Preservation Act of 1995 offers seniors the opportunity to continue participating in the existing "fee for service" system, if they want to. However, it will give them much greater choice. Seniors will have the chance to opt into HMO's or to buy private health insurance policies.

They will be able to select the medical system that best suits their needs; that saves them money; that provides the most benefits for the lowest cost.

This bill creates tax-free "medisave" accounts that provide seniors incentives to shop around for the most cost-effective care and to reward seniors who maintain healthy habits. This bill will also help retirees maintain previously held employer-provided health coverage.

Finally, according to one study, if Medicare is not reformed soon, the average increase in cost per household, in my district alone, initially will be $1,541. Therefore, I urge my colleagues to pass H.R. 2425 because under this bill, seniors, like my mother and grandmother, are winners.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, Members of the House, it is a good thing my colleague, the gentleman from Texas [Mr. FIELDS], has hospitals that charge $35 a day, because they are going to lose $102 million, and so that is about all they are going to be able to provide is $35 worth of service.

Mr. Chairman, and Members of the House, today the Gingrich Republicans snatched from the elderly of this country the finest health care system in the world, the most comprehensive health care system in the world, that gives the finest quality of health care in the world, and they do so not to strengthen that system, not to preserve that system, they do so simply to snatch over $200 million in excess cuts to provide a tax cut to the wealthiest.

This day is the day that a system that has been built up to provide security and protection for America's elderly, for the people who built this Nation and fought its wars, this is the day we start to shred that system, and in a matter of years it will not be whether they force you out of the system, there will be no system that people have come to expect in this country.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, I hope my New Jersey Republican colleagues will remember that not only will we be hurting New Jersey senior citizens who will pay $1,000 for the privilege of getting less but we will lose $14 billion, $7 billion from Medicare, $7 billion from Medicaid. That is not right. It is wrong. It is not necessary, and there is not one New Jersey Representative who can stand on this floor and in good conscience vote for this package. This is not the Medicare Preservation Act. It is the Medicare Destruction Act, and New Jersey is one of the prime targets.

Mr. Chairman, I rise today in strong opposition to devastating Medicare. Common sense dictates that taking $270 billion out of your account—and telling you that you will be better off—just does not make sense. If this bill passes, it will hurt Americans of all ages. Seniors will be hurt because they will have less choice in their health care. They will be hurt because they will pay over $1,000 more by the year 2002. To remain in Medicare as they know it, they will be forced to pay substantially higher prices than they do today. Their children will be hurt because they will be expected to step in and help their older parents meet these rising Medicare and nursing home expenses, at the same time they're trying to send their kids to school.

If this bill passes, our hospitals will be severely impacted. I hope my New Jersey colleagues remember that Medicare provides 45 percent of all hospital revenues—76 of our New Jersey hospitals will be on a critical list.

Many of those hospitals receive over 65 percent of their revenue from Medicare; and, if this bill passes, they may be forced to consolidate, offer fewer services, or even close. Any of those options adversely impact everyone in the community; not just seniors. And everyone will suffer because of the reduced health care delivery systems available to them.

This bill is not a Medicare Preservation Act. It's the Medicare Destruction Act. Thirty years ago, 93 percent of all Republicans voted against Medicare—trying to kill it before it was born—now they're trying to kill it again. The $452 billion savings attained at the expense of our older Americans, our poor women and children and even the working children of senior citizens will be used to pay for a $245 billion tax cut which benefits a minority of wealthy Americans. It is not fair, it is not right, it is not necessary. We should vote "no."

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Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, this Republican Medicare bill is a direct assault upon hospitals across America. The bill includes the largest cuts in the history of Medicare, and do not kid yourself, they are aimed at our hospitals.

Do not be fooled by this rhetoric. The Gingrich Medicare bill does much more than tinker around the edges with the way hospitals are reimbursed. These Republican Medicare cuts jeopardize the ability of hospitals to continue to provide quality care.

Republicans say that the cuts to hospitals included within this bill are just reductions in growth. This is simply not true. The Republican Medicare bill will bring real pain to many hospitals across America. This bill could include outright cuts to many hospitals, hospitals that are already vulnerable and in difficult financial situations.

We have the luxury in this Congress today of looking at Medicare in a vacuum. Hospitals do not have this luxury. When drastic cuts to Medicare disproportionate share and teaching hospitals are coupled with outlandish Medicaid cuts that are coming, our Nation's hospitals are going to be left out to dry. Public hospitals, community hospitals, and old urban hospitals, disproportionate share hospitals and teaching hospitals, they simply cannot absorb the cuts of this magnitude, as Republicans naively suggest.

The Medicare bill will damage the quality of care that our hospitals enjoy. It is that simple. Vote against this ill-conceived, unwarranted, and unwise attack.

Mr. ARCHER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, a great deal of information has been presented today. Some numbers have been called cuts, some have been called increases. I think it is important that we focus on why this difference occurs.

The hospitals will get an increase in every year under our plan, compared to the previous year, but the Democrats call those cuts, because they are using the CBO projections that assume that health care costs are going to go up at over 10 percent per year. That projection is unsustainable. We all know that.

But if we take anything off of that unsustainable increase, they call it a cut. If we increase above today's level of expenditure and above the rate of inflation, they still call that a cut. As I have said earlier, only in Washington is an increase, because of this phony projection, called a cut. We are not cutting hospitals, we are increasing them at a slower rate.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, it is a sad day that the House is about to pass this crown jewel of the contract which slashes $270 billion from Medicare in order to pay for a budget busting $245 billion tax cut.

The bill that is about to be passed by Speaker GINGRICH and the Republican majority will add hundreds of dollars every year to seniors' out-of-pocket medical costs and force seniors to give up their life-long doctors, without saving Medicare past the year 2006 and without cutting, in fact increasing the problems, of fraud, abuse, and waste.

This bill is about as much designed to save Medicare as the grim reap is designed to bring happiness to our lives.

Mr. Chairman, I urge everyone to continue this fight. The decision today is just round one. The Democrats will continue to fight this extreme bill if it is enacted. The senior citizens in my district and around our country deserve better. I hope the Senate will change it. If not, I pray the President will veto it.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. UPTON] who was so helpful in helping us revise the AAPC formula.

Mr. UPTON. Mr. Chairman, days like today we need to think about the reasons why we are here. Are we here to talk about problems or are we here to solve them? The current Medicare Program today is going bankrupt. You know that, and we know that. Can you imagine the answer to the question in the next decade if today we shirk our responsibility from saving Medicare from going bankrupt, what seniors will say about this Congress? "What the hell happened when you all saw the writing on the wall? What did you do?"

Two years ago there was a lot of talk about the Clinton health care plan, and the more that folks heard about it, the more they did not like it, and it never even came up for a vote. Today, as I have met with hundreds and hundreds of seniors and many of my providers, I realize that the more folks understand this bill, knowing that the alternative is either doubling the FICA tax or letting Medicare go belly up, the more they like the idea of themselves choosing the plan that fits their needs best. The right to choose, with knowledge that they can keep Medicare the way they have it now, without a reduction in benefits, will always remain as an option.

Mr. Chairman, I do not ever want to look in the eyes of one of my seniors and say "Medicare went bankrupt on my watch."

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds to note that the hospitals of my friend, the gentleman from Michigan [Mr. UPTON], under the Republican bill will lose $211 million over the next 7 years so we can give a tax cut to the rich.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I sat through a number of hearings with the gentleman from Texas [Mr. ARCHER] and heard him make the same speech. I have listened to him all day make the same speech. He says there are not any cuts in his bill. I do not know which one it is in, the one he introduced the other day of the one he introduced last night, but the CBO just gave a scoring table on his bill, whichever one it is, and says it cuts $270 billion. Now, somebody is stretching the truth.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, everybody in this Chamber cares deeply about the health care of our senior citizens. Prior to last November, I was a doctor taking care of Medicare patients, and I too am especially concerned about this issue. Which is why I am going to support the Medicare Preservation Act.

Mr. Chairman, for many years the Health Care Financing Administration has been tightening the tourniquet on health care by price controls, and bureaucratic paperwork, and regulations. If we do nothing substantive and structural, then you will see much more of the same, and no longterm solution to explosive costs. A tourniquet too tight can cause gangrene.

This bill makes an honest effort to provide structural changes that will allow seniors to choose options in which they will be able to make decisions, in consultation with their doctor, about their health care, rather than having that decision made by a faceless Government bureaucrat.

The question, Mr. Chairman, is not whether decisions are going to have to be made, the question is who is going to make that choice—the Government or the patient?

I have devoted a great deal of thought to this bill and I have studied and read it. This bill is not exactly the way I would have written it, but many thoughtful people have worked on this bill and I hasten to add that I am under no illusion that my solutions are the only way to achieve a good end.

However this bill does have provisions in it for patient protections that I have worked with many Members on, it does start to address the inequity in geographic variations of reimbursement that exist under the current system, it does offer choices to Medicare recipients that they don't currently have, and it is much better than the fiscal band-aid that has been proposed by my Democratic colleagues across the aisle.

Mr. Chairman, I want my former patients and, now my senior citizen constituents, to have good health care. Our final vote on this measure will probably be after a Presidential veto and then an agreement between the President and Congress. If at that time, I am not happy with a plan that protects our senior citizens' health care then I will vote accordingly. Unfortunately, I don't have a crystal ball. For today, I vote for the bill because it is moving in the right direction.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, the preceding speaker talked about the decisions that have to be made and who will make those decisions. I would submit if people are herded into HMO's because they really have no other choice, because they cannot afford anything else, the decisions will be made by a bureaucrat in an HMO that wants to maximize the profit for the HMO. That is not the way the decisions for health care should be made in this country.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, the previous speaker, the gentleman from Iowa [Mr. GANSKE], my friend on the Committee on Commerce, his hospitals in and around his district will lose $241 million over the next 7 years because of the Gingrich Medicare cuts.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, Hubert Humphrey remarked in 1977:

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped.

Mr. Chairman, this Republican controlled House miserably fails that moral test. I stand here in this Chamber ashamed, ashamed that my Republican colleagues are trading, trading the health security of our Nation's elderly for a tax break for the rich.

They talk about attacking fraud and abuse in the system, but it is bogus, for the Republican plan turns back the clock on statutes to combat fraud and abuse. They repeal the laws that prohibits fraudulent practices, like prohibitions on doctors who refer patients to providers that they or a family member personally profit from.

The Washington Post says it best, "Gingrich Places Low Priority on Medicare Crooks."

Mr. GIBBONS. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I know since there are no cuts in this bill and everything is an increase, I know the gentleman from Texas [Mr. ARCHER], will be sad to learn that the Texas Medical Center in Houston will lose $500 million, $500 million.

Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, let me correct some of the misstatements that have been made by my colleagues on the other side of the aisle.

First, it has been said that our beneficiaries will not have to pay anymore because we are just continuing the current law. That is not correct. According to the Congressional Budget Office, "It would increase the portion of costs borne by beneficiaries through premiums relative to current law."

Under the bill before us, the premium increase goes up to $87 a month for part B. Under the bill that we will be bringing forward as a substitute, it is $30 a month less. That is $360 a year. For seniors who on average have a modest income, that is a lot of money.

Second, CBO has estimated seniors will have to pay an extra $1,000 a year in order to be able to maintain the same benefits. When it costs you more to maintain the same benefits, it is a cut.

Let me quote finally from the Washington Post. You have quoted the Washington Post before the plan was unveiled. The Washington Post said, "It is not clear that Government contributions would any longer even pay for basic insurance."

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Chairman, I rise in opposition to this unfair, hastily put together legislation.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to the Republican proposal.

For more than 30 years, the Medicare and Medicaid programs have exemplified our national commitment to care for seniors, disabled Americans, and low-income Americans. In essence, it is the tangible evidence that, in the most affluent and productive country in the world, we would not let millions of Americans suffer because they were too old, too poor, or too ill to fend for themselves, Because of our investments in Medicare and Medicaid, we have also created the most sophisticated and highest quality health care system in the world.

But today, Republicans will begin their all-out assault on these programs by cutting the Medicare program by $270 billion. These cuts represent the most sweeping changes in the Medicare program since its establishment in 1965. And let me be clear, these cuts are not about reforming the Medicare program—it is about tax cuts for wealthy Americans and an arbitrary march to a seven year deficit reduction target. These cuts are three times more than any estimate of what is necessary to make Medicare solvent.

Treasury Secretary Robert Rubin, managing trustee of the Medicare Trust Fund, has recently stated that "no member of Congress should vote for the $270 billion in cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect".

Here is why the Republican cuts in Medicare are not about reforming the system and are about paying for a tax cut for the rich and a forced march to deficit reduction. The Medicare Part A Trust Fund is not faced with an unprecedented and immediate crisis. The trustees are required by law to report each year on the status of the Part A Trust. The trustees have on eight previous occasions warned that the Trust Fund would be insolvent within seven years. On each of these occasions, the Congress and the president—without alarmist predictions of collapse—took appropriate action to protect the fund.

Republican proposals go far beyond the Part A Trust Fund and also reach into the Part B Trust Fund. Their plan calls for about $170 billion in cuts to Part A of Medicare, which funds hospitalization, and about $100 billion in cuts to Part B, which pays for doctor visits and ancillary services. The Part A Trust is financed by employer and employee contributions, and "savings" will be retained by the Trust. However, since the federal deficit is calculated by including the surplus of the Part A Trust, these savings will be used to fund the tax cut and mask deficits in other public accounts. Part B is funded by premiums paid by the elderly and the Treasury. Savings here will directly rebound to tax cuts and deficit reduction.

And the cuts we will vote on today are not only about senior citizens paying more for less health care; the cuts are also about straining the intergenerational benefit of the Medicare program. When Congress passed the Medicare program in 1965, we assured working families that they would not have to choose between investing in their children and caring for their elderly parents when they became old and frail. I have heard from many middle-aged working parents in my district who are afraid of what these Medicare cuts will mean for their families—How will they find the means to ensure that their parents receive quality health care in their old age? How will they choose between their parents and their children? Surely this is not reform.

This bill also repeals the current prohibition against physician self-referral. These laws provide vital protections for consumers. It has been well documented that physician self-referral leads to excessive utilization, fraud and abuse, and drives up the cost of health care. The Congressional Budget Office estimates that these changes to the physician self-referral laws will cost Medicare an additional $400 million over the next 7 years—$400 million in patient abuse in overtesting and overreferring!

Republicans claim that this bill will give seniors more choices. However, the real truth is that the Republicans will squeeze down so hard on payments to health plans that beneficiaries are likely to pay higher premiums to get the same or fewer benefits. That is not what I would characterize as more choices.

This bill also represents the possible dismantling of my state's medical education infrastructure. As a result of the proposed cuts in the Medicare program, Rhode Island alone will lose $20 million (10%) of its medical education budget each year. This bill does nothing to rationalize the graduate medication education system financed through Medicare; rather, it simply guts GME which will translate into a reduction in the quality of health care and reduced access for many citizens as teaching hospitals close and downsize.

The Republican proposal that this House will vote on today will increase costs for health coverage for seniors, reduce quality and access, and burden working parents. But most importantly, this bill represents nothing less than a betrayal of the trust of the people of this country and a reversal of a generation of guaranteed health care for the elderly.

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Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. Mr. Chairman, the Gingrich Medicare plan will have a devastating effect on health care for citizens in Pennsylvania. I spent the summer talking to my hospital administrators and they tell me that currently they are reimbursed $1.01 for every dollar of services they provide to a Medicare patient. Under the Gingrich plan they will be reimbursed $.88 for every dollar of services they provide.

There are two choices that our hospitals are going to be left with: Cost shift on to employers and working families who are paying premiums, or reduce services for senior citizens. This plan is unacceptable.

Mr. Chairman, the American people cannot be fooled. The American people know that the Medicare trustees have called for $90 billion to make the system solvent to the year 2006. The Democratic plan does that. And the American people also know that the Republican plan only puts in $90 billion to make the plan solvent to 2006, and the rest of the money is being used for a tax break and to balance the budget on the backs of senior citizens. That is wrong.

Mr. GIBBONS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I apologize to everyone that this debate has been so hurried, but it is not my fault. Mr. GINGRICH prescribed the time we would have on this debate. Yesterday he gave the House 4 hours to talk about shrimp. Yesterday, Mr. GINGRICH gave the House 4 hours to talk about shrimp. Today he gave us 3 hours to talk about the benefits of 40 million Americans, the most fragile of our Americans, too, by the way. So much for Republican priorities and for Mr. GINGRICH's concern about people versus shrimp.

Mr. Chairman, this is a horrible piece of legislation. We know most of the Medicare people are not sick. Ninety percent of them are not sick. We only spend about $1,300 apiece on them. The Republican bill takes all that money, gives it to the insurance companies, the medical savings accounts, and leaves Medicare with all of the sick people. It will ruin Medicare as it now is.

Mr. DINGELL. Mr. Chairman, may I discuss how many speakers we have remaining. I know the gentleman from Texas has said he has one, the gentleman from Virginia has indicated he has one, and I am not certain how many my good friend from Florida has.

Mr. GIBBONS. I have one more, Mr. Chairman; it is for the minority leader, and I will yield him the balance of my time.

Mr. DINGELL. Mr. Chairman, I have a similar situation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, I rise today in opposition to the Medicare Preservation Act. For the 30 years since it was signed into law, Medicare has been the primary source of health care coverage for Americans 65 and older. Today, I fear, we are going to put the security of our seniors' health care in jeopardy.

This bill cuts $270 billion out of the Medicare Program over 7 years. Two hundred and seventy billion dollars can only come from one of two places: Cuts to seniors or cuts to providers. Either way, my district loses. People lose. Mr. Chairman, I held Medicare forums with each of the hospitals in my district. All of them, without exception, said $270 billion cuts would be disastrous to their facilities. At least two hospitals will close. A hospital in East St. Louis is the only health facility in the area that provides obstetric care. What will happen if there is no where in the city to deliver babies? The hospitals in the 12th District of Illinois have already streamlined operations. They have cut staff and services. They feel additional cuts will be so detrimental to services, they would rather close than compromise quality of care. Is this what we've come to—forcing hospitals to close and threatening the health and safety of entire communities to pay for a tax cut?

If $270 billion does not come from providers, seniors are going to feel the burden of "slowing the growth in Medicare spending." Haven't we asked enough of our senior citizens? Mr. Chairman, I support a balanced budget. In fact, I voted for the balanced budget constitutional amendment. However, if we are serious about balancing our budget, we should not be talking about a huge tax cut which clearly is going to benefit the very wealthy in our society.

If we are serious about reforming Medicare, we should be engaging in open debate about how to keep Medicare solvent into the next century. It is hypocrisy to call for a $245 billion tax break while cutting Medicare by $270 billion. Granted, there are major problems with the Medicare Program. However, Medicare is no closer to going broke than it has been the nine times in the past that we have faced similar solvency issues. Medicare will be at a zero balance in 2002, with a debt the following year, if adjustments are not made. However, the President's Medicare Board of Trustees shows that only $79 billion is needed to keep the trust fund solvent. That means we are looking at $181 billion in unnecessary cuts. That $181 billion could go a long way in protecting seniors from increased premiums or cuts in services.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, today we are discussing only the Medicare bill. We talked about it in terms of the relationship to the tax bill that is coming up next week. I want to mention the relationship between Medicare and Medicaid, which is coming up next week.

Mr. Chairman, we have no program to protect seniors when they become so frail that they require nursing home care. We have relied on Medicaid to take care of that. But next week the Medicaid program is going to be repealed and there will be no guarantee of a person in a nursing home getting coverage after they spend every cent they own. There will be no protection for the spouse of that nursing home resident or the children of that nursing home resident or the lien to be put on the home.

There will be no protection in the standards of care that will be given in that nursing home because all of that law has been repealed under the bill passed out of the Committee on Commerce.

Mr. Chairman, we should not think of Medicare alone, we should think of it in the context of the tax cut the money from Medicare will pay for and the other undercutting of services for the elderly under Medicaid.

Mr. GIBBONS. Mr. Chairman, may I inquire of the Chair how much time I have officially remaining?

The gentleman from Florida [Mr. GIBBONS] has 2¼ minutes remaining, the gentleman from Texas [Mr. ARCHER] has 5 minutes remaining, the gentleman from Virginia [Mr. BLILEY] has 3 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 2½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I note we have, I think on this side, about 2½ minutes each, something like about 4, 4½ minutes, but my good friends over there have 8 minutes.

Mr. ARCHER. Mr. Chairman, my understanding of the agreement is they will reduce their time to one speaker, we will then use our last speaker, their speaker will then speak, and then the gentleman from Virginia [Mr. BLILEY] will close.

The CHAIRMAN. Is that the understanding of the gentleman from Michigan?

Mr. DINGELL. Mr. Chairman, I am not quite sure I understand what was said. I note they have 8 minutes over there and we have something like 4.

The CHAIRMAN. My understanding is the gentleman from Texas [Mr. ARCHER] will yield his 5 minutes to his speaker, then the gentleman from Michigan [Mr. DINGELL] and the gentleman from Florida [Mr. GIBBONS] will each yield their 2-plus minutes to the minority leader, and then the closing debate will be by the gentleman from Virginia [Mr. BLILEY].

The gentleman from Texas [Mr. ARCHER] is recognized.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS], chairman of the Health Subcommittee of the Committee on Ways and Means, a gentleman who has contributed massively in the development of this plan.

Mr. THOMAS. First of all, I want to thank my colleagues, Mr. Chairman, for allowing me to be part of a majority that has rejected politics as usual. What we have heard today from the minority was a lot of sloganeering, figurative and literal baloney, and that what we propose to do is, in fact, bold and innovative. And I think those are appropriate words, but I also believe it is radical.

Mr. Chairman, what we propose to do is to not follow the politics as usual solution. What is the politics as usual solution? Fix Medicare until the next election.

When the Democrats were in the majority that is exactly what they did. In the last 10 years, between 1985 and today, the Democrats fixed Medicare over and over again. Six times the Democrats either raised the payroll tax or raised wages subject to the payroll tax. That is how they fixed Medicare. And in 1993, they even blew the lid off of wages. There is no limit to the payroll tax being applied to wages today thanks to the solutions offered by the former majority. This new majority will not buy that approach. Quick fixes are out. Real solutions are in.

Mr. Chairman, this is a quote from President Clinton, and it is up there because I, frankly, admire that he had the guts to say it. I counted over 100 times the Democrats went to the well and said cut. Is it because they just do not get it or is it because this is more of the demagoguery and the sloganeering? Even the President of the United States admits that when we slow the growth of Medicare, we do not cut it, we slow the growth of Medicare.

Mr. Chairman, what we do is slow the growth of Medicare. That is how we make the savings. We do not stay at a 10½-percent increase because it will go bankrupt if we do. Hospital spending goes up under our program. It does not go up as fast as it was going to go up, but $652 billion will be spent between now and 2002 on hospitals.

Physicians: Payments to physicians go up every year. Not a cut, but a reduction in growth. In fact, over those 7 years, more than $315 billion will be paid for physician services under the Medicare program proposed by the Republicans, and every year those payments grow larger.

Mr. Chairman, in home health care, the same thing. Every year the payments go up. More than $150 billion over the next 7 years. And every year the payment to the home health care industry will go up. We are not making cuts, folks, we are slowing the growth.

Mr. Chairman, there has been a lot said about changes, and frankly, this is one of the more exciting parts about the Republican program. What we are doing is opening up the Medicare program to the choices available to more and more Americans today. The Medicare savings accounts, the provider sponsored organizations, the seamless coverage that has been discussed will be available so that individuals can go from the workplace to the rocking chair and not have to change or look for a new kind of a health care program. The coordinated health care programs will be expanded and improved.

This is what we will get under the Republican program to preserve Medicare. This is what is offered now. This is what seniors will have available: Prescription drugs, routine physicals, the cancer physical that was discussed. Seniors will have available eye exams, lenses, ear exams, hearing aids, and dental coverage. That is available today and it will be available under the new program.

Mr. Chairman, let us talk about eliminating fraud and abuse. We find it. We double the civil penalties. We establish new criminal penalties, and, more important, we have already passed medical malpractice. We did that in March.

Here is the bottom line. What do we get for the money out of the Republican program? A sound program until 2010. We are in the black, or the blue, if you will, until 2010. The Republican program gets us clear to the baby boomer generation. The Democratic program has a $300 billion deficit in the same time.

Mr. Chairman, let us focus on seniors, but let us remember people who are paying their taxes now want a program as well. The Republican program preserves, protects, and makes sure that Medicare is available for those who pay the bills today.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Missouri, [Mr. GEPHARDT], the minority leader.

Mr. GIBBONS. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], and say that he has, for years, toiled on this problem. He was a member of the Health Subcommittee of the Committee on Ways and Means, and I can personally remember his long and effective work on this program.

Mr. GEPHARDT. Mr. Chairman, I want to first congratulate the ranking member of the Committee on Ways and Means and of the Committee on Commerce and their colleagues on the committees for the great work that they have done in working on this issue. But I rise today with sadness and almost disbelief of what I am afraid is about to happen to what I believe to be the most important program, the most important help that the people of our country have enjoyed now for over 30 years.

I say to the Members that this is the kind of vote that comes once in a generation, maybe once in a career, about the very future of one of the most important efforts that our country has ever made.

Mr. Chairman, the cuts, the changes, the modifications that are called for in Medicare, and Medicaid next week, are the largest changes in these great health care programs that have ever been called for, by far. If they were being made because they were necessary to balance the budget, that would be one thing; if they were being made to save Medicare, that would be another thing; but, in my opinion, if we look at these changes and then we look at the amounts of money that are projected to be saved and then we look at the tax break, which is included in the very same budget, no matter how people may try to separate the issues, we will see that the reason for these deep, severe, damaging cuts in Medicare are to pay for a tax break for the wealthiest Americans.

Mr. Chairman, I would ask us to just imagine, just think in our minds of two individuals, two families, if you will. Think first of a frail 85-year-old woman, who, undoubtedly, lives in your district, and I know lives in mine.

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Think of an 85-year-old who today lives on their Social Security, maybe $7,000, $8,000, $9,000 a year. That is all the income they have. My colleagues on the other side may not think that $45 a month is a big deal out of their Social Security check to pay the increased premium, but to them, they are already counting every penny, every month, in order to get by.

Mr. Chairman, I have met seniors who have a $3,000 prescription drug bill now that comes out of that $9,000 a year. They are counting every penny every month. The change that is being called for here will ask them to pay $40 or $45 additional a month that will come out of their Social Security check. Tell them that this is not a big deal.

It would be one thing if that were to balance the budget or to save Medicare. But think about the other person. The family making $500,000 a year that, for the Republican tax break, will get over $19,000 a year in the tax break. It is wrong by anybody's light to take $400 a year from somebody who is 85 and frail and living on 9 grand a year and give it to somebody who is making a half a million dollars a year. That is precisely what this budget is calling for.

Mr. Chairman, that is not all. When we make cuts this deep in Medicare and Medicaid, we close 25 percent of the health facilities in this country. The ones that will be closed are the ones we can least afford to close; the ones in the inner city, the ones in the rural areas where people already have a lack of health care facilities.

Yes, medical education will be affected. Medicare and Medicaid now pay over 60 percent of the costs of medical education. In an intensely competitive world, private health insurance will pay less and less and less of medical education. So, the Government is the only entity that will do this.

Mr. Chairman, I have told this story many times. My son was diagnosed with terminal cancer in 1972 at the age of 2. We were devastated. The next morning, a young resident showed up bright-eyed and bushy-tailed at 7 o'clock in the morning. He met my wife and I, and he said:

> I know you are devastated, but I stayed up half the night on the computer and I found a therapy that I think might, do not get your hopes up, but it might save his life. We are going to try.

Let me tell my colleagues something. That day we needed that doctor and we needed those ideas. We needed good medical education. We needed the quality of this health care system. And I am telling my colleagues today, if these cuts are made this deeply, the medical education that has been the bright light of this health care system through our entire lives will be ripped apart.

Mr. Chairman, I say to the ladies and the gentleman of the House, this vote is a vote of conscience. It is a vote of values. It is a vote of what is right and wrong. And I ask my colleagues before they deliver this vote today, to examine their consequences, because if we do what is wrong instead of what is right, in the days ahead every time you face a senior citizen who is trying to scrape it out on $8,000 or $9,000 a year, my colleagues are going to know that they voted to make life harder for them.

Every time my colleagues pass a health clinic or a rural hospital that has been closed, they are going to turn their back on that. And every time they meet somebody's family who had somebody who died because of the lack of medical education, they will know we did the wrong thing.

Mr. Chairman, I say to my colleagues, do the right thing today and refuse to go along with this program which is not being done for the right reasons, but for the wrong.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of the Medicare Preservation Act of 1995.

This historic legislation will preserve, protect, and strengthen this vital lifeline to our senior citizens.

Mr. Chairman, today we are voting on a realistic solution to a crisis situation. America's seniors, families, doctors, and employers all agree that Medicare is broken and this legislation fixes it.

By saving Medicare from bankruptcy, we ensure that the program will be there to serve the health needs of seniors. We are giving seniors the choice in selecting the best health care plan for their needs, including the right to keep the same Medicare coverage and doctors they have now. Finally, we are guaranteeing Medicare's solvency well into the next century so that the program can serve future generations of seniors.

Contrary to all of the talk about cuts in Medicare, spending per person will actually increase by nearly $2,000—from $4,800 today to $6,700 in 2002. Total Medicare spending increases by 54 percent from $178 billion this year to $274 billion in 2002. Leave it to the big spenders here in Washington to call such increases cuts.

Choice is a key part of this Medicare legislation. Those who want to stay with their current Medicare plan can do so. No one will be forced to change coverage or doctors.

Seniors will have the option to choose from additional health care plans under Medicare-plus. Options will include coordinated care plans, a physician service organization, or a MediSave account.

These plans are required to offer at least as good a benefit package as Medicare does now. Some of these new plans actually offer more benefits, such as prescription drug and eyeglass coverage which are not available under Medicare. They also can reduce out-of-pocket costs and eliminate the need for MediGap insurance that costs $750 to $1,200 a year.

Today, seniors pay 31.5 percent of part B costs and taxpayers pay the remaining 68.5 percent. That rate will not change. Premiums, therefore, will go up only because the cost of the program rises. The only exception will be for affluent seniors who will be asked to pay more.

By 2002, part B premiums will be $87 per month instead of the $46.10 per month today. Under President Clinton's budget, which does not offer a plan to preserve Medicare, monthly premiums would increase to $83 per month. That is only a $4 a month difference—which is not too much to pay to help save the Medicare Program.

The bill provides fair but limited increases in spending on hospital and doctor services. Health care providers will have to manage under funding limits and compete in the marketplace on the basis of price and quality.

There will be a Medicare preservation trust fund created within the part B Medicare Program to ensure that senior's premiums go to save Medicare and are not used for other purposes such as tax cuts.

Mr. Chairman, we must not miss this opportunity to offer security for seniors and save Medicare for the next generation. I urge my colleagues to vote in favor of the Medicare Preservation Act.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, for the 6 months that have followed the Medicare trustee's report, we have held a national debate on the question of how best to save Medicare from bankruptcy. We took the trustee's report to the American people and we asked them for their best advice. We listened. We listened to our friends and neighbors in thousands of town hall meetings from coast to coast.

We listened in 40 congressional hearings this summer, 10 of them in my committee alone; more hearings in my committee on Medicare than the other side held in the last 6 years combined. We heard 70 witnesses who gave thousands of pages of testimony. We listened to the views of Americans of every political stripe.

We did a computerized search of articles on Medicare, just since the beginning of the year. There were more than 11,000 articles on Medicare this year in the major newspapers alone.

We listened and we learned. We learned that as good a program as Medicare is, as important as this program has become to America's seniors, there is still plenty of room for improvement.

We learned from health care managers in the private sector how new managed care options can help hold down costs and give beneficiaries better quality care. We learned from experts in health planning about the value of medical savings accounts.

Throughout the process, there emerged a national consensus that Medicare can indeed be preserved. In fact, that it can be improved considerably in the process. But, something else happened as well, because during this 6 months, America has seen the difference between the two major political parties.

Mr. Chairman, while we were risking our careers to save Medicare, our opponents were frightening senior citizens. We developed a plan to save Medicare. They pulled neckties and broke glasses and stormed out of congressional hearings.

Last week in my committee, they used senior citizens as props to disrupt a plan to save Medicare for 37 million Americans. Today, as we discussed our plan, they have given us 3 hours of excuses, 3 hours of politics, 3 hours of hysterics.

Mr. Chairman, I would say: There you have it, America. In 3 very revealing hours, the crystallization of the differences between us. On the one hand, political courage, accountability, leadership in solving a crisis. On the other hand, excuses, distortions, overstatements, misstatements, fear.

Mr. Chairman, I used to be a Democrat. It is sad for me to see a once-great political party reduced to this.

Mr. EVANS. Mr. Chairman, do not let anyone fool you. This proposal is not about saving Medicare, it is about giving tax breaks to businesses and wealthy Americans.

It pays for a $245 billion tax break for the rich by breaking seniors backs. It makes health care less accessible and more expensive. It will close hospitals and other health facilities. And it will cost thousands of Americans their jobs.

The Republican proposal cuts $270 billion from Medicare and deprives millions of seniors health care when they need it the most.

It will force our parents and grandparents to choose between medical care, food, and shelter. It will force hospitals and providers around the Nation to curtail services or close for good.

It will roll back efforts to crack down on waste, fraud, and abuse. It will lead to lower the quality of care, increase patient abuse, and cost the Medicare program over $1 billion.

These cuts are cruel. The deficit should not be lowered at the expense of the elderly. Seniors should not have to suffer in order to give tax breaks to the rich.

For over 30 years, Medicare has protected the health and financial security of millions of Americans. These men and women did not work for decades and pay their taxes just to have the rug pulled out from under them as they prepared to retire. The Republican proposal would do just that. It would decrease the value of seniors' savings and seriously drop their quality of life.

Seniors deserve more respect than this. They should be able to enjoy their later years. They should not worry about whether they can afford health care.

Thousands of my constituents have told me to oppose the Republican proposal. They do not want to pay more for less. They do not want to give a $245 billion tax cut to wealthy Americans. They know that this proposal will hurt them, their families, and the country.

I oppose this bill and ask you to do so as well.

Mr. DICKS. Mr. Chairman, I strongly oppose H.R. 2425, Medicare legislation which I fear will hurt far too many Americans—literally making senior citizens less healthy and less financially well off than they are today under the current Medicare program.

Over the years here in the House, I have found that it is necessary to put major legislation like this into better focus by concentrating on how it will impact those people who will be affected. By cutting $270 billion from Medicare, this bill will hurt many of the people I have come to know representing the 6th District of Washington State.

And like most Americans, this drastic cut in Medicare spending will affect my family. My parents have been retired for years, still living in my hometown of Bremerton. And like most Americans their age, they depend on Medicare to live a healthy and productive retirement. But because they are middle class—like most people in the district I represent and throughout America—the large increase in out-of-pocket costs will lower their living standard, I cannot help but take it personally that the Republican majorities in Congress want to lower my parents' living standard in order to pay for a huge tax cut that is really not necessary.

Over and over today we have heard the false charge that those of us who vote against this legislation are against Medicare reform. That is not true. I support the Democratic alternative plan, which shores up Medicare's financial health without increasing costs for beneficiaries. This Democratic alternative cuts Medicare spending by just one-third of the GOP's $270 billion of cuts. The simple fact is that the House leadership needs the whole $270 billion in Medicare cuts in order to pay for their huge tax cut.

As we here in Congress ask the American people to roll up their sleeves for deficit reduction, it is absolutely unfair to make middle-class retirees on Medicare pay for this tax cut. For that reason, I oppose this Medicare legislation.

Mr. STOKES. Mr. Chairman, today, the House is debating H.R. 2425, the Medicare Preservation Act of 1995. I am strongly opposed to H.R. 2425, and I plan to vote for its defeat. In my opinion, the legislation represents a full attack on the health of our Nation's elderly population.

H.R. 2425 slashes $270 billion from health care services for the elderly. We know that to achieve this enormous reduction, health care premiums for seniors will double. Also removed from the bill are limitations on the amount that doctors and hospitals can charge patients. I am also opposed to the bill because it opens the door for fraud and abuse. Current provisions that are designed to prevent kickbacks and provide accurate billing are repealed. This provision alone will cost American citizens over $1 billion.

Mr. Speaker, the enactment of H.R. 2425, the Medicare Preservation Act of 1995, would be devastating to seniors throughout America. In my home State of Ohio, 1.6 million Medicare beneficiaries would suffer from reduced benefits and a lower quality of life. Earlier today, while our Republican colleagues were pushing to gut the Medicare program, a nonprofit research organization, Speak Out! USA, sponsored a special Medicare hearing with testimony from all 50 States. I was honored to attend this important hearing where Medicare beneficiaries and their families testified about their experience with Medicare and concerns about proposed cuts in the program.

Mr. Chairman, I applaud Speak Out! USA for putting a human face on the Medicare debate. It would be impossible to hear from senior citizens who have real life experience with Medicare and then enter this Chamber and vote to demolish the program. One of the witnesses at the Speak Out! USA hearing was Bishop Marvin Johnson, a resident of my congressional district. Bishop Johnson is a minister of the Good Sheppard Divine Spiritual Temple in Cleveland. He is confined to a wheelchair and began receiving Medicare disability payments for diabetic ulcers on his feet in 1992. Bishop Johnson's testimony was very moving and to the point. It served as an important reminder of the people we are pledged to represent as Members of this body. As we debate the Medicare issue, I want to share his testimony with my colleagues.

TESTIMONY OF BISHOP MARVIN JOHNSON, GOOD SHEPARD DIVINE SPIRITUAL TEMPLE

SPEAK OUT! USA SPECIAL HEARING ON MEDICARE

I would be on the streets if it were not for Medicare. I pay for my own medication from my Social Security check. I don't have family to help me. My diabetic condition keeps me from working and I am forced to live on full-time disability. I came to Washington to tell our elected officials to save the Medicare Program. If the Nation's poor don't have Medicare, many people will not be able to go to the hospital when they are sick. Without Medicare, I would not be able to buy insurance for myself.

Through the Medicare Program, I receive quality care from the Visiting Nurse Association. If the Medicare Program is gutted, I have nowhere to turn for health care.

Mr. ACKERMAN. Mr. Chairman, it is not quite Halloween but the majority is already playing trick or trick.

In the spirit of the season, the Republicans are about to commit the Medicare massacre. My colleagues on the other side would have us believe that Medicare is in some unprecedented state of crisis and that without their meat cleavers and chain saws the program will cease to exist.

In fact, most of their bill's Medicare cuts will not be dedicated to the so-called trust fund crisis, not one penny of the cuts the bill makes in Medicare part B, and not one penny of the increases in part B premiums paid by beneficiaries will go into the trust fund—the only part of Medicare that needs propping up.

The trick, Mr. Chairman, is that the bill will force seniors and doctors out of fee-for-service medicine by arbitrarily limiting the growth in Medicare, as people live longer, not for reasons of health care policy, but simply to meet budget targets. In addition, the bill's failsafe mechanism, this gimmick that automatically reduces payments if the targets are not met, only cuts from the fee-for-service portion of Medicare, not from the HMO's.

The bill also allows doctors, for the first time, to "balance bill" senior citizens for the difference between what Medicare pays and the providers' actual costs.

The other trick, according to our Republican colleagues, is that they are protecting the solvency of Medicare for future generations. But as we all know, the bill cuts three times the amount the Medicare trustees say is necessary.

In reality, the Republican bill extends the solvency of the trust fund until 2006. Precisely where we would be if we adopted the trustees', and not the Republicans' level of cuts.

Mr. Chairman, the trick under the Republican Medicare plan is that seniors will pay more and get less. The treat—I guess will have to wait until next year.

Mr. VENTO. Mr. Chairman, I rise today in opposition to H.R. 2425, a bill which will radically change the nature of health care in the United States, decimating seniors' health care security.

Medicare is one of our Nation's most successful programs. It was established over 30 years ago as a national commitment to assuring seniors health care coverage. Before it was enacted in 1965, only 46 percent of seniors had health coverage. Today 99 percent of seniors are assured of access to health care. Medicare is an intergenerational contract between working Americans and seniors, and it represents a commitment from our Federal Government that seniors should not have to choose between buying food or going to the doctor.

Medicare has served America's senior citizens well for 30 years. Most seniors are not well off. Under Medicare, seniors have complete freedom to select the health care plan of their choice, with guaranteed coverage. Now Republicans want to slash Medicare. They say that they are doing this to save the Medicare trust fund. Well, Medicare is in danger, because the Republicans are in control. The changes they are proposing are going to cost Medicare three times what is needed to extend the trust fund solvency to the year 2006. The trustees of the Medicare trust fund have stated that it would take approximately $90 billion to shore up the Medicare system for 10 years, but Republicans want to cut $270 billion to achieve the same objective. Ironically, the Democratic plan offered during Committee consideration of this bill actually extends the trust fund solvency to the same year, 2006, as the Republican plan, while only cutting about $90 billion. The truth is that Republicans are searching for a way to finance their budget priorities, and are using Medicare cuts as a cash honey pot to pay for a $245 billion tax break for wealthier people and increased military spending, not for helping the Medicare trust fund or the American health care system.

We all know that some improvements need to be made in the Medicare Program. After all, the health care laws have been constantly evolving for decades. For instance, I hear from seniors all of the time about the high cost of prescription drugs. A sound outpatient prescription drug benefit should be part of Medicare. Certainly we need to crack down on fraud and abuse within the system so that crucial health care dollars aren't going down the drain. Ironically, however, the Republicans cut money for inspectors of waste, fraud and abuse in the fiscal year 1996 appropriations bill, and this Medicare bill will make it more difficult to curb fraud and abuse by changing the standard for making sure Medicare claims are accurate, and repealing the 1987 laws governing nursing homes.

In the process of bleeding the Medicare trust fund, the Republican scheme is going to destroy seniors' health care security. Under this bill, overall Medicare spending will be cut by $6,795 per senior over the next 7 years, meaning that in 2002 there will be $1,747 less in Medicare dollars per senior in that year itself.

This Republican Medicare cut scheme will increase seniors' monthly premiums by $53.5 billion over 7 years—this means an individual senior will pay approximately $490 more per year in premiums by 2002. This amount will be doubled for married couples. This is a lot of money considering that 80 percent of Medicare beneficiaries earn less than $25,000 a year, and none of the premiums go into the Medicare trust fund, but are a part of the general revenue bottom line instead. Once again this illustrates the true impact of the GOP efforts—financing their priority which is a tax break for the wealthy.

The Republicans are going to cut $150 billion from payments to providers. There is not one hospital in this country that won't be affected by this drastic cut. This, combined with the proposed Medicaid cuts in the GOP budget plan, mean that hospitals will be forced to shut down, or try to make up the difference in cost by increasing and shifting health care costs onto Americans of all ages. Hospitals may well start to turn away Medicare and Medicaid patients, just as some physicians do already today.

Another disturbing part of the Republican proposal is the "look back" proposal where Republicans say they will make unspecified cuts in the future. When Republicans say "look back" seniors should "look out." The GOP's so-called safety valve provides compliance with their scheme to cut Medicare, but no safety, no security, and no health care for Medicare recipients.

Provisions of the Republican scheme will fundamentally restructure Medicare, shifting seniors out of fee-for-service care by putting resources into other untried and untested forms of care such as medical savings accounts and provider-sponsored organizations, therefore making traditional fee-for-service care so prohibitively expensive for most seniors as to eliminate the option. Ironically, the new medical savings accounts will actually cost Medicare money, with estimates ranging to $15 billion over 7 years, as more trust funds are passed out to healthy seniors who may not even need medical care, draining the funds which cost taxpayers billions. Provider-sponsored organizations will be exempt from State financial and consumer protection requirements, which insurers and HMOs have to comply with, meaning that provider-sponsored organizations will not be put on a level playing field with these other providers. This is a prescription for problems, not health care policy.

We also need to look at what Republicans are doing for Medicaid, the companion health care program which helps so many seniors get access to nursing home care. They are going to turn over complete control of this program to the States, stripping away mandates that guarantee coverage to children, the elderly, and the disabled. The Republican Medicaid scheme cuts the program by $182 billion in 7 years, a 20-percent reduction, and abolishes the entitlement status and State maintenance of effort. Minnesota was one of the biggest losers in the restructuring of the House Medicaid formula and is going to lose $3.4 billion over the next 7 years under the House plan. This is a cut of over 21 percent.

These changes will affect every person in this Nation, whether indirectly through their health care costs increases due to the rising number of uninsured people, or directly if they have to deal with the cutbacks in their coverage or their parents', spouse's or child's coverage.

The problems we face with health care demand a response, but a long term solution requires more than slashing health care coverage. The need remains not to consider Medicare and Medicaid in a vacuum, but to address the health care system as a whole. The trustees of the Medicare trust fund strongly oppose the Republican plan because the extensive cuts go far beyond program reform or deficit reduction.

What a difference a year makes. Last fall 1994, the Congress was struggling to expand health care to those without Medicare, Medicaid or private coverage. There were over 40 million uninsured Americans from working families then and the number has risen by 1.4 million more in the past year. Today Congress isn't even addressing the issue of those without health care, but pulling back and punching holes in the American health care programs, Medicare and Medicaid, that help people. What a shame and what a disgrace that the modest programs that provide dignity to the elderly and the disabled, and compassion and empathy for those without means, in fact 16 million children, are being bled for priorities that place tax breaks for the wealthy ahead of health care for the needy.

At the Democrats' hearings on the Capitol lawn and at public meetings in Minnesota, I've learned anew from a broad spectrum of people who will be hurt by the GOP policy path. Not only from doctors and hospitals, but from seniors who rely on them for their health care security. One senior at the hearing gave these words of wisdom, "Seniors weren't born yesterday. They know what before you sign any policy, you read the fine print." Well, I urge my colleagues to look at the fine print of the Republican plan and see the bottom line which is that seniors and Americans of all ages are going to pay more for less.

Medicare represents our Nation at it's best. It represents the desire on the part of the people to pull together and care for those who otherwise might not have enough resources to have access to health care. Instead of building upon this success, by responsibility managing Medicare and expanding health care coverage to all Americans, this Republican bill rolls back the progress that has been made. I urge my colleagues to vote against the Republican plan.

Mr. SKAGGS. Mr. Chairman, this Republican Medicare bill is tragic almost any way you look at it. It's tragic because it will make life harder for many older Americans in order to make life easier for a few who are already financially comfortable. And it's tragic because we're missing an opportunity for genuine reform.

Medicare is in need of corrective surgery. This bill instead prescribes amputation.

By any reasonable assessment, Medicare has been a resounding success. Since it was signed into law by President Johnson in 1965, the system has dramatically improved the lives of millions and millions of older Americans and their families.

Before the system was created, over half of all seniors had no health insurance at all, and largely because of that problem, one-third lived in poverty. Today, thanks to Medicare, virtually all seniors have insurance, and less than 13 percent live below the poverty line.

That's hardly the outcome Republicans predicted. In 1965, 93 percent of Republicans in Congress voted against creating the system in the first place, because it was, they said, socialized medicine.

Thirty years later, the Medicare system remains essentially a private, market-oriented system. It's substantially less bureaucratic than the private sector system of health insurance—about 2 percent of Medicare goes toward administrative costs versus anywhere from 6 to 25 percent in the private health insurance market. Every American agrees Medicare must be maintained and must be put on a sound financial footing.

Medicare does face some serious actuarial problems. Medicare costs have been rising along with the skyrocketing cost of all health care. Those cost increases have outpaced revenue increases, so that the part A trust fund, which pays primarily for hospital coverage, needs to be shored up.

According to the Medicare trustees, the Part A trust fund faces a shortfall over the next several years of about $90 billion. Other more pessimistic analyses range up to $130 billion. So, we need to find $90 billion in savings or additional revenue to keep part A solvent.

But it is clear this is not the problem the Republican majority is trying to solve.

No, the Republicans set out to reach two other goals; first, to cut taxes, mostly for the wealthy; and second, to balanced the budget in 7 years. To make this math work, and given other priorities, they close to reduce Medicare spending by $270 billion, or two to three times what's necessary to deal with the Part A trust fund problem.

In other words, the size of the Medicare reductions wasn't driven by the health-care needs of seniors or the fiscal needs of the Medicare trust fund, but by the political agenda of the Republican majority.

In fact, the first Medicare action taken by the Republicans was last spring, in the $354 billion tax cut bill they pushed through. And ironically, it was designed to make Medicare's financial problems worse. How? By draining $36 billion in revenue out of the Medicare Part A trust fund. To offset that action, Republicans now have to make larger cuts in the hospital insurance program than otherwise necessary. These additional cuts will, inevitably, result in a lower quality of care for seniors.

The Republican plan also raises the premiums that help fund Part B of Medicare, which primarily pays doctors' bills. They're also trying hard to get seniors to opt out of the Medicare program altogether. By reducing spending on part B, which is paid for by general tax revenue, the GOP frees more money to funnel into tax breaks for people making over $100,000. And, of course, the savings from those moves won't do a thing for the insolvency problem in part A, which is the illness they're purporting to treat.

It's perfectly clear what's happening. The Republicans need to squeeze money out of the Medicare program to provide a promised $245 billion tax break—the crown jewel of the so-called Contract With America—to some of the wealthiest people and corporations in the country. And, to add insult to injury, the Speaker of the House has been busy cutting backroom deals in a desperate attempt to get this travesty to pass.

First, he bought the AMA's endorsement with concessions they wanted. Then, astoundingly, he decided to loosen the rules on Medicare fraud. Rather than making things tougher on those who cheat the system, and drive up costs, the Speaker will make fraud and abuse easier—just to win the support of powerful interest groups.

Let me stipulate: much more needs to be done to assure the long-term sustainability of Medicare than just fixing the part A trust fund shortfall. We need to ask those beneficiaries who can pay more for their care to do so. We need to tackle the systemic failings in the overall health insurance and to rein in costs.

But these matters ought to be addressed on their merits, and in the context of health care reform generally, not as mere means to the end of a tax cut we can't now afford.

So it is, as my Republican colleagues have claimed, a historic day. Thirty years ago, Republicans voted in large numbers against Medicare. They will do so again today.

Older Americans, who have worked hard, and played by the rules, and paid into the system for a generation, deserve better from us. I urge my colleagues to vote against the bill.

Mr. SERRANO. Mr. Chairman, I rise in strong and determined opposition to H.R. 2425, the Medicare so-called Preservation Act of 1995.

H.R. 2425 is a very bad bill. It comes to the floor after a very flawed process and under artificial time limits imposed by the Republicans to prevent full and free discussion of the issues.

H.R. 2425 is driven by the Republicans' draconian budget, which means it is based on very bad numbers, not on any understanding of health care in this country. It will have far-reaching, negative impacts on most Americans.

H.R. 2425 would cut $270 billion in future Medicare spending. That is three times the size of any previous provision to address the Hospital Insurance Trust Fund's solvency. Yet it will extend the HI Trust Fund's year of exhaustion only to 2006—the same year the Democrats' much more modest proposal, based on the Medicare trustees' recommendations would.

The balance of the $270 billion does nothing to shore up the HI Trust Fund, but, instead, makes possible $245 Billion in unnecessary tax cuts aimed at the wealthiest—more than half the tax break goes to people making over $100 thousands a year.

Seniors would pay twice the current part B premium in 2002, as well as higher deductible and copayments.

Cost growth would be held below the growth in private sector health spending. Seniors who have greater health needs than the working population, would be forced to pay much more, particularly as fewer providers would be willing to accept rock-bottom Medicare reimbursement rates, and protections from balance billing would be repealed. Otherwise, seniors would have to give up their choice of doctors and accept second-class health care in underfunded managed care plans.

Hospitals are already reeling from changes in the health care industry; the hits they would take in reduced payments for graduate medical education, bad debt, disproportionate low-income patient load, and the like, would put many hospitals, particularly the public hospitals that serve the poorest populations and our great teaching hospitals, at great risk of closing.

Special deals for various portions of the health care industry would weaken consumer protections and make it much harder to combat Medicare fraud and abuse, kickbacks, and other anticompetitive behavior.

Meanwhile, medical research and the care provided by specialized institutions such as our children's hospitals are very much at risk.

The process, too, is very bad. Medicare is being rushed to the floor without full consideration by all the committees with jurisdiction. The Judiciary Committee majority actually waived—just gave away—its jurisdiction over crucial changes in medical malpractice, antitrust rules, the False Claims Act, and antikickback penalties. That is just not right.

Nor should the House consider Medicare apart from the rest of reconciliation, just so the Republicans can try to convince the American people that there is no relationship between Medicare cuts and tax cuts for the wealthy.

Under a fair and open process, this House would consider and amend all parts of reconciliation—the inexplicable tax increases on the working poor, the unnecessary tax cuts for the wealthy, the dangerous attack on workers' pension funds, the reckless spending cuts across the budget, as well as the excessive cuts and changes in Medicare and Medicaid—together.

The House should be able to consider the cumulative impacts of all the changes and make necessary adjustments. American's so-called sandwich generation, for instance, as a result of reconciliation, will find themselves pressed harder and harder, helping their parents with higher Medicare premiums and other health care costs while dealing with cuts in their children's student aid.

Because of the close relationship between Medicare and Medicaid, the House should be able to consider—and, where necessary, do something about—the impacts on each of changes in the other as well as the cumulative effects of changes to both.

What will be the combined impact of Medicare and Medicaid cuts on our health system?

A report by Barents Group LLC prepared for the Greater New York Hospital Association estimates that, over 7 years, New York City residents will pay $2 billion in excess part B premiums; and hospitals and long-term-care facilities together will lose more than $24 billion. By 2002, job loss will total 140,000, of which 112,000 will be in health care sector.

The Healthcare Association of New York State estimates that the 16th district will lose over $2 billion and nearly 11,000 health care jobs. Individual hospitals will lose hundreds of millions of dollars.

And what would be the impact on Medicare if a State, given authority to set Medicaid eligibility and coverage and a shrinking pot of Medicaid dollars, decides it cannot afford to fund long-term care? Under the proposed caps on Medicare spending, how will Medicare cover the much more expensive hospitalization that will surely result?

What recourse will seniors have if a State decides not to fully cover the Medicare premiums, deductibles, and copayments of the elderly poor? Their coverage would effectively be ended, and it is unlikely that managed care plans will have sufficient enrollment capacity soon enough or in enough places to meet the needs of all seniors who need low-cost health care.

I believe the House ought to be able to consider situations like this, but separating consideration of Medicare from Medicaid by nearly a week will make it impossible.

Mr. Chairman, there is much more I could say in opposition to this bill, but I will not go on. I simply urge my Republican colleagues to come to their senses and support the Democratic alternative, which extends Medicare's life just as long as H.R. 2425 without all the other harmful baggage. At a minimum, I urge all my colleagues to oppose this dangerous, ill-considered bill.

Mr. EVERETT. Mr. Chairman, I rise today in strong support of the Medicare Preservation Act. Yes, reforming Medicare is intimidating. Yes, maintaining the status quo is easier. Well, my constituents did not send me up here to take the easy way out, but to make hard choices in the best interest of the second district of Alabama and for this country's future.

I believe that there is nothing more abhorrent than using the power of this institution to terrify the elderly, the disabled, and the poor. But, the House Democrats are doing just that. While they are well aware that the Medicare Program is in a state of crisis, they continue to spout fear rhetoric. We all know, and even Democrats cannot deny, that Medicare is growing at over 10 percent every year. In order to sustain this rate of growth. Congress would be forced to cripple working Americans by raising the payroll tax by 44 percent. The only other alternative would be to allow Medicare outlays to reach 100 percent of Federal revenues by the year 2030 and bankrupt the entire country.

The Republican Party has a plan to save, preserve, and improve Medicare for today's beneficiaries and for future generations. The Medicare Preservation Act offers seniors the same cost effective choices for quality health care available to younger Americans, but develops innovative ways to save health care dollars; all while still delivering the best health care to all Americans without cutting a single dollar to beneficiaries. Let me make that clear, regardless of Democrat's demagoguery, there are no cuts in this legislation, Mr. Speaker.

Medicare payments will increase at a high rate of 6.5 percent allowing for a $2,000 increase from the current $4,800 today to $6,700 in 2002, for every single beneficiary. Correct me if I am wrong, but a $2,000 increase is not a cut in any teacher's math class. Currently, Medicare recipients pay 31.5 percent of their Medicare part B premium. Under the MPA, traditional Medicare recipients will continue to pay 31.5 percent of their Medicare part B premium. The MPA does not include changes to the deductible or the co-payment. Again, how can this mean that seniors pay more? The truth of the matter is that because the Medicare Program is a 30-year-old dinosaur, seniors actually pay more money in traditional Medicare for fewer services than their children and grandchildren do in the health care open market.

This historic legislation empowers seniors by offering choices through MedicarePlus coverage which includes coordinated care preferred provider organizations, local union or association policies, HMO's, private fee-for-service, medical saving's accounts, or continuing traditional Medicare. Most of these choices are currently available for every other American. Why should senior citizens continue to get the short end of the stick? The MPA goes a step further and opens the health care playing field to hospital and doctor coordinated organizations who can network to offer direct medical care to beneficiaries saving the cost of a middleman. Since hospitals are burdened with a large portion of the Medicare payment reimbursement savings, creating provider service organizations [PSO's] will allay some of their burden while opening up a whole new choice for direct medical care.

Medical savings account [MSA's] will allow seniors who choose this option to completely control how their Medicare contribution and out-of-pocket money is spent. They will receive their Medicare contribution each year in one sum which will be deposited into their medical savings account. They can then choose a high deductible policy which best fits their needs, maintaining at least 60 percent of the cost of the deductible in their MSA at all times. They can then use the balance of their

MSA for doctor's visits, prescription drugs, eyeglasses or other medical-related expenses. If they are hospitalized the MSA pays for the deductible and then insurance pays for the rest. If money is left over in the MSA at the end of the year, the money belongs to the senior and can be used for any purpose or can be rolled over into the next year's MSA.

MPA not only keeps the Medicare Program healthy into the 21st century, but finally gives seniors the power and choices they deserve. The legislation also includes long awaited liability reforms, strong incentives for combating fraud and abuse, and many other reforms which will only improve the Medicare health care delivery program. The amazing thing about this is that the MPA does not cut a single dollar from a beneficiary check, nor does it ask seniors to pay a single dollar more than they now pay. Again, in simple language, there are not cuts to beneficiaries in this bill, Mr. Speaker.

Mr. Chairman, we must all take the responsibility for protecting and caring for our grandparents and parents and of those disabled either physically, emotionally, or financially. But, we also have a responsibility to our younger taxpayers who are not only future beneficiaries of Medicare, but the future of this country. At this point they are paying 68.5 percent of the Medicare part B premium. Like most seniors, they simply cannot afford to pay more. Private health care organizations have been successful in the last several years at finding savings by actively seeking new and innovative ways to deliver the quality health care that Americans expect and deserve. The Republican Medicare Preservation Act accomplishes this same goal for America's seniors.

In support of the Medicare Preservation Act, I challenge Democrats to quit their scare tactics and join Republicans as we get down to the business of saving Medicare today and protecting and preserving the program into the 21st century.

Mr. GEJDENSEN. Mr. Chairman, I rise today to express my strong opposition to Newt Gingrich's bill to cut the Medicare Program by $270 billion in order to pay for a tax break to the wealthy.

Contrary to their recent pronouncements that the cuts in H.R. 2425 are necessary to save Medicare, it is clear that the Republicans do not want to save the Medicare system. They want to eliminate it. In fact, they have a longstanding record of opposing the program. In 1965, 93 percent of Republicans voted against the bill which established Medicare.

Throughout the years, the trustees have predicted imminent bankruptcy for the program. And, every time, Democrats have taken the steps necessary to keep this pay-as-you-go system solvent. In 1970, the trust fund was supposed to go broke in 1972. In 1972, it was to be bankrupt in 1976. In 1993, the trustees reported that the trust fund would go broke in 1999. However, thanks to reforms in the system enacted as part of the Omnibus Budget Reconciliation Act of 1993 [OBRA #93], the life of Medicare was extended until 2002. OBRA 93 passed the House of Representatives without one Republican vote. Where were Newt Gingrich and his friends then?

Earlier this year, the Medicare trustees reported that the Medicare part A trust fund needed $90 billion in cuts to remain solvent for the next decade. For that reason, I will vote for the Democratic alternative which saves exactly that amount. Nevertheless, Newt Gringrich and his loyal followers in Congress have crafted a bill to cut the program by almost three times the amount necessary. Why?—to pay for tax cut for wealthy Americans.

The Republican plan reduces Medicare spending by $270 billion, but increases beneficiary cost-sharing by $55 billion by raising monthly premiums. Under the proposal, the premium will rise from the current $46.10 to $87 in 2002. These figures are in direct contrast to the alternatives. Under the Democratic alternative, the premium will increase to only $58 in the same year. If current law were continued, the premium would increase to $61.

In addition, the majority's ill-advised proposal will result in seniors losing the ability to choose their own doctors. Proponents of this measure contend that beneficiaries will have unlimited choice, but the bill provides financial and other incentives to entice physicians to accept only MedicarePlus enrollees. Therefore, if a doctor decides to stop participating in the traditional fee-for-service Medicare, his or her patients are essentially left with no choice at all.

In short, the Republicans' priorities are reversed. Their Medicare plan helps the greedy at the expense of the needy. That is simply wrong and I will vote against this shortsighted and punitive legislation. I urge my colleagues to do the same.

Mr. COLLINS of Georgia. Mr. Chairman, over the past several months I have held many townhall meetings for the purpose of listening and learning about Medicare from the people of Georgia's Third Congressional District. I have met with groups of senior citizens, physicians, and hospital administrators to better understand their concerns about the current Medicare insurance program.

I have learned from senior citizens of their fear of losing their Medicare insurance. They have shared with me their concerns about excessive fees charged by doctors and hospitals. They have brought me copies of complicated doctor and hospital bills they have received. They are frustrated with these billing procedures. Our seniors are concerned over excessive charges and fraudulent use of their Medicare insurance money.

I learned of the frustrations of doctors and hospitals that try to provide health care to Medicare patients under intrusive regulations and complicated reimbursement rules that have been forced onto them by past Congresses. They also shared their concerns about excessive testing and the overpracticing of health care due to the fear of lawsuits. Doctors and hospitals are frustrated because they are not allowed to legally discuss the delivery of health care within a community because of antitrust laws.

Mr. Chairman, in simple terms, the people of Georgia's Third District know and understand this Congress must address the problems within the Medicare insurance program such as overcharging, waste, and fraud. They also understand that in 1996, the Medicare insurance trust fund will begin paying out more money than the trust fund collects from payroll taxes deducted from each and every paycheck earned by the working people of this country.

But, Mr. Chairman, I am not the only Member of Congress who has listened and learned. The message I heard from the people of my district can be repeated by almost every Member of this House of Representatives who heard the same concerns in meetings held throughout their districts and out across our great Nation.

As a result of these meetings, the Republican Members of the House of Representatives have written, and now passed, the Medicare Preservation Act [MPA]. The MPA saves Medicare by addressing the very areas of concern voiced by those who depend on Medicare to pay for the cost of their health care.

Mr. Chairman, I read a speech not long ago which was given by the CEO of the Chrysler Corp., Mr. Eaton. In his speech he referred to a period of time some 15 years ago when the Japanese were taking over a large portion of the American automobile market.

The Japanese were beating the domestic automakers in the area of quality and price, very similar to the way the private health care industry is beating today's Government-run Medicare Program in quality and price.

What did the big three U.S. automakers do? They looked at the process of how they were manufacturing cars. They pulled together supervisors, union leaders, consumer groups, dealers, and anyone who they thought might have valuable input in how to change the process of manufacturing.

As a direct result of changing the process, the quality of their products has increased two and one-half times and they are building the same number of cars with half the work force.

Mr. Chairman, the process of Medicare is what the MPA changes.

Let's look first at who will be covered by Medicare under the MPA. Everyone. That's right everyone who receives Medicare today. I will say it again—everyone—each and every individual who is eligible for Medicare today will remain in the Medicare insurance program. Each and every individual who will become eligible for Medicare in the future will be covered under Medicare when they reach the Medicare age. No one—not one senior or disabled person will be mandated to leave the current Medicare insurance program.

Mr. Chairman, the American people are now hearing a great deal of rhetoric about how the Republicans are ending Medicare. Some special interest groups, and even some of our own colleagues in Congress, are engaging in scare tactics and giving false, misleading information about our plan. Well that is just what it is: Rhetoric. The truth is—the Medicare Preservation Act does not and will not end Medicare. In fact Mr. Speaker, the MPA does not cut—I repeat—does not cut Medicare benefits.

Well, if MPA does not cut Medicare, how do we plan to save $270 billion over 7 years at an average of $36.5 billion per year? The answer is we are making the changes our senior citizens requested to make. And by making those changes the taxpayers will spend $270 billion less than will be necessary under the current Medicare insurance program.

Mr. Chairman, we have a choice—either we correct the major problems within the Medicare process or we raise taxes on every working person in the Nation. In the past, raising taxes has been Congress' answer to fixing Medicare. In fact, the payroll tax and the income base have been raised 23 times over the past 31 years to fund runaway cost in the Medicare system.

But raising taxes decreases a family's income, increases the cost of consumer goods and services, and increases the cost of living for everyone, including seniors, who are on Medicare and a fixed income. Rather than raising taxes again, Republicans have chosen to fix Medicare, according to what our senior citizens have requested. Let's take a quick look at some of the changes our seniors have suggested.

First, we are reducing the growth of excessive payments to doctors and hospitals. The Medicare Preservation Act consolidates a clumsy multiple layer reimbursement process which is unfair to general practitioners and very favorable to specialized medicine practitioners. It also simplifies the reimbursement process in a more fair and equitable manner.

The Medicare Preservation Act will simplify hospital bills so those insured by Medicare will better understand the billing process while at the same time reducing the growth of reimbursements for hospital care. One of the real problems with many hospitals is the lack of utilization of the entire facility or low occupancy rates. Yet many hospitals continue to build and add on to their hospital.

Have you ever wondered why? One reason is a part of the Medicare reimbursement for hospital care is based on the capital investment of the hospital. In other words the more the hospital makes capital investment, the more reimbursement they get from Medicare. Well the Medicare Preservation Act will slow down the unnecessary building by reducing the reimbursement based on capital investment. This should have been done many years ago.

Mr. Chairman, back during the late 1970's I served as chairman of the board of commissioners for a rural county in Georgia. The county has a Hill-Burton Hospital and the local government was responsible for keeping the doors open. Our hospital was losing money and had a high account receivable owed to it by Medicare.

As one who was responsible for the people's tax dollars, I paid a visit to the Blue Cross-Blue Shield insurance company and asked why they had not fully reimbursed the hospital for the bills submitted. They looked in the file and said, "we are discounting your bills because you are not charging us enough." I could not believe what I had heard. Our hospital was being penalized by Medicare rules because we were not charging enough for our hospital care. It is no wonder Medicare has had money problems for a long time.

Mr. Chairman, if we are reducing doctor and hospital reimbursements, we also must help them reduce their cost of operation or we may discourage them from serving the Medicare insured. We are reducing their costs by including in the Medicare Preservation Act a provision commonly known as malpractice reform.

Today, doctors and hospitals pay ridiculously high premiums for malpractice insurance and most feel they have to practice defensive medicine to avoid lawsuits. Both the cost of the insurance and the overpracticing of medicine have led to higher costs for health care.

Additionally, the Medicare Preservation Act includes an antitrust provision so doctors and hospitals can legally discuss better ways to deliver health care to a community. It is just plain common sense to allow providers this flexibility.

Another good idea included in the Medicare Preservation Act is to purchase the necessary equipment to better track how much we pay doctors and hospitals for health care delivered to each Medicare insured beneficiary. You would think this would have already been done—it only makes good business sense to keep up with your accounts payable. But at this point nothing surprises me about how the current Medicare insurance program is operated.

Next we heard what folks were saying about waste, fraud, and abuse. Therefore the Medicare Preservation Act includes several provisions to eliminate waste, fraud, and abuse. Provisions such as:

One, requiring the Secretary of Health and Human Services to alert individuals entitled to Medicare of scams aimed at ripping off Medicare and providing a tollfree number to report such scams.

Two, rewarding beneficiaries who report huge illegal charges and rewarding them for good ideas which save Medicare dollars and improves the program. This will be a good incentive for those who are covered by Medicare to help keep down program costs and report fraud and abuse.

Three, a voluntary disclosure program for doctors who may have unintentionally overcharged for Medicare services. There is no such provision in current law.

Fourth, heavy fines on doctors who commit fraud against Medicare.

Five, a Medicare integrity program whereby the Secretary can contract with private concerns to review activities of doctors, audit the cost reports, determine whether Medicare should or should not have paid for services charged, and gives the Secretary the authority to collect overcharges.

Six, establish within the Department of Justice an antifraud task force.

Third, the Medicare Preservation Act establishes a trust fund for medical education. Currently teaching hospitals receive additional reimbursement money to help pay for medical education; again increasing the cost of Medicare.

Fourth, the Medicare Preservation Act establishes a baby boomer commission. This commission will begin now to look ahead for ideas of how to best ensure that Medicare will be there for those Americans born during or after World War II. In the past Congress has waited until a crisis occurs before taking an action. This commission will change that precedent. It is a very needed provision because when the baby boomers reach Medicare age there will only be 2.5 workers per Medicare insured, compared to today where there are 3.3 workers per Medicare recipient.

Fifth, there is a provision requiring a lookback commission to review the Medicare Preservation Act changes and how they are working. This will give Congress an idea of just what effect Medicare reform has on the cost of Medicare and recommendations for any necessary corrections needed to protect benefits.

Mr. Chairman, many of our seniors are worried about whether copayments or their hospital deductible will be increased under the Medicare Preservation Act. The answer is no. I will repeat the answer, no—capital NO—no.

The question has also been asked, will my part B premium increase? The answer is: The part B premium deducted from Social Security checks will remain at the current 31.5-percent level. This is different from the Democrats substitute which would have dropped the part B premium deduction to 25 percent. Under the Medicare Preservation Act, those individuals insured by Medicare who have an annual income of $75,000; and for those couples that earn $125,000, their part B premium will increase gradually to a point they could pay for the whole premium.

Mr. Chairman, there are a lot of misleading comments about what happens to the money saved by passing the Medicare Preservation Act. What will happen to those dollars? First of all the hospital trust fund, which pays for part A Medicare insurance, will continue to collect the payroll taxes needed to sustain itself. Second, the fewer dollars needed to subsidize the part B insurance, less general fund dollars, will be needed to pay for Medicare. Of course, Mr. Speaker, as you know the general fund is already overdrawn by some $5 trillion.

There are the changes to the current Medicare insurance program. However, there are other options for health care which will be available under the Medicare Preservation Act known as MedicarePlus plans. These new MedicarePlus options include: One, provider-sponsored organizations; two, medical savings accounts; and three, health maintenance organizations.

Each new option is a marketplace program. Each option will be completely voluntary. No one insured by Medicare will be required to select one of these options. The success of these options will be determined by the marketplace according to the quality of care provided, and the fees charged for the care provided. If an individual is not satisfied with either the quality of care or the price charged, they will have the ability to go back to the current Medicare system.

Mr. Chairman, the Medicare Preservation Act is a good idea. It is a plan which I fully believe will ensure that Medicare will be there for me 14 years from now when I become eligible for Medicare insurance.

Mr. HORN. Mr. Chairman, we have endured a great deal of campaign rhetoric regarding the Republican tax cut proposal and its alleged affects on the reforms we offer today to Medicare. I would like to refute the well-choreographed Democratic attempt to sideline a valiant effort to save Medicare.

The Republican plan to strengthen and save Medicare has nothing to do with the tax cut proposed for working families. When we passed the revenue bill in the House we had already made the spending cuts to permit a tax reduction. And they know that. There is a gap as wide as the Grand Canyon between what they know and what they say.

Even if the budget were balanced, Medicare would still have to be saved from bankruptcy. The President claims that, "not 1 red cent of the money being paid by seniors will go to the trust fund. It will go to fund a tax cut that is too big." The President is wrong. He ought to read the law. Under current law, premiums and payroll taxes paid into the Medicare trust funds can only be used for the Medicare program. This is true for both the trust fund that pays hospital expenses, part A, and the trust fund that pays physician and other expenses, part B. As the Medicare trustees stated in their April 1995 report: "The assets of the trust fund may not be used for any other purpose."

Now let us address the so-called tax cuts for the rich. The House Budget Committee estimated that 74 percent of the $500-per-child family tax credit will go to families making less than $75,000 per year. The 4.7 million working families earning $25,000 a year and below will no longer pay any Federal income taxes; families earning between $25,000 and $30,000 will have 48 percent of their Federal tax liability wiped out; although families with incomes of $100,000 will only have their Federal taxes reduced by 5 percent.

President Clinton penalized seniors with a retirement income above $34,000 by imposing higher taxes on them in his 1993 tax bill. The Republican Contract with American legislation provides tax relief to senior citizens by phasing out the President's 1993 Social Security benefits tax. We also help seniors who continue to work after turning 65 by raising the earnings limit. If you continue to work and earn more than $11,280 after turning 65, you currently are hit with a tax on your Social Security benefits. I think seniors who desire to work should be encouraged to work, not punished with lost benefits. Our revenue proposal raised this earnings limit from $11,280 to $30,000. Is a senior earning $30,000 rich? I do not think so.

Mr. Chairman, what the naysayers do not want to admit is that the Republican proposal to save Medicare is a viable plan not only for those who currently depend on its services but also for the generations to follow.

Mr. Chairman, 30 years ago as the legislative assistant to Senator Thomas H. Kuchel, the Republican Whip/deputy leader of the Senate, I was part of the working group that met with key Members of the Johnson administration to put together what became known as Medicare. I have been a strong supporter of Medicare over the three decades since that time.

Today, we are preserving, strengthening, and saving Medicare from bankruptcy. We have provided much improved choices for all senior citizens. The result is a much improved Medicare which will meet the needs of the current and future generations of older Americans.

Vote for the Medicare Preservation Act of 1995. History will prove we did the right thing.

Mr. FAZIO of California. Mr. Chairman, we are not talking today about Medicare preservation—we are talking about Medicare decimation. The Republican Medicare proposal flunks the test by which we judge sensible health policy. On all counts, it fails to measure up to the standards that the American people demand and deserve. It reflects not the informed consensus of the millions of seniors who depend on Medicare, but the arbitrary will of a handful of Republican leaders.

Health policy experts agree that this plan will actually end up hurting seniors, not helping them. At the expense of Medicare beneficiaries, primarily seniors on fixed incomes, this Medicare plan lines the pockets of special interests. And the scope of the plan—far exceeding what is necessary to shore-up the Medicare trust fund well into the next century—is a dead-giveaway that the cuts are, in fact, simply a vehicle to finance tax cuts for people who don't need them.

This so-called Medicare Preservation Act isn't about making Medicare more efficient. It's not about working with seniors and health policy experts to craft sensible reforms that guarantee our seniors the safety and security they deserve.

This plan is about one thing. It is about squeezing the people in the middle, and the people who have worked hard and paid into Medicare all their lives, in order to give the people at the top a $19,000 tax break.

The New York Times, in a recent article, explained exactly how the GOP decided to cut $270 billion out of Medicare. It's not pretty. In fact, it's more bad math and good government. Essentially, they set themselves a 7 year timeline for reaching a balanced budget. An admirable goal. But, then they insisted on a $245 billion tax cut. What NEWT GINGRICH called the crown jewel of the Republican agenda, turns out to be a combination of tax credits and tax cuts that help the richest 1 percent. Then, they turned their sights on discretionary spending, squeezing as much as they could out of programs that help kids, families, and the underprivileged.

Left with a $270 billion shortfall, they devised a last-minute plan to squeeze exactly that amount out of Medicare.

Coincidence, conspiracy, or incompetence? Regardless, the true losers are the 37 million seniors who depend on Medicare—the real crown jewel of our 30 year commitment to quality health care.

Just over 3 weeks ago, Democrats here in Congress decided we'd had enough Enough bad math, enough bad policy, enough disregard, on the GOP's part, for open debate and free discussion.

We staged our own series of hearings to evaluate the elements of the Republican proposal. We invited health care providers, Medicare beneficiaries, and health policy experts to present their views in the court of public opinion, right here in the shadow of the Capitol. In some ways, I regret that we had to step outside the convention and custom of the House, and away from a committee system that I respect, to conduct these hearings.

But, as I listened to these witnesses, I felt, at last, that we had begun the real public dialog. In some cases, we heard the views of people who had been shut out of the official debate—shut out of the single day of Republican-led hearings in the Ways and Means Committee.

I have also been listening to seniors in my district, hearing about how this Medicare decimation proposal would be devastating to them. It is estimated that this plan will cost seniors $400 a year more in premiums costs. This may not sound like much to the people who are benefiting from the tax breaks in the overall budget package. But keep in mind that more than half our seniors have no pension income other than a Social Security check and half of these seniors get less than $7,000 a year.

These are not just faceless statistics. Listen to the words of Mary Hopkins, a Medicare recipient who lives in my district in Carmichael, CA.

> My husband's employer went bankrupt, wiping out all his benefits. He now works part time at McDonald's to make ends meet.
>
> I suffer from arthritis, asthma, and a heart condition, so I am taking a lot of medication and see my doctor at least every 3 months.
>
> I am very concerned about how I would pay for any increase in my copayments for Medicare service. There is no room in our budget for any further medical expenses, so we would have to go on welfare. Where are the savings there?

While I believe this plan to cut Medicare will be bad for hundreds of thousands of people like Mary Hopkins, I know it will be even worse for rural residents. My district in northern California encompasses many rural areas and small towns. The fragile economies of rural areas often mean many residents have little or no insurance, making it difficult for these communities to attract and keep doctors and maintain local hospitals.

There is no question that there is an excess of hospital beds in some communities and that some hospitals could be closed. The problem with this plan is that, as a result of these drastic cuts, the wrong hospitals will end up closing. Hospitals in many of the smaller communities in my district are in precarious financial situations, and if they close, there may not be another facility for 75 miles.

When I visited with the head of one of these hospitals in my district his message was clear. Ed Bland of Colusa Hospital said simply, "When you put everyone on a starvation diet, the small and the weak die first."

This Medicare plan, combined with the unprecedented Medicaid cuts that are also proposed, will be a one-two punch to rural residents. Out of the patients the hospitals in my area serve, approximately 43 percent receive Medicare reimbursed service and 17 percent Medicaid reimbursed service. On the average, this means a full 60 percent of the care these hospitals provide is federally financed care.

If these Medicare reductions go into effect, hospitals in my district alone would have $175 million taken out of their budgets over the next 7 years. There is no way you could take that much out of our hospital budgets without harming the quality of patient care these facilities could offer.

What we have before us is a Medicare decimation act—put Medicare on a starvation diet, raise premiums for seniors, drive up their out-of-pocket costs, bankrupt rural hospitals. All of this to give the wealthiest in this country a tax break.

The alternative to today's Medicare decimation act is a sensible, equitable reform plan that does not jeopardize the health and security of millions of seniors and their families.

The Democratic alternative has no premium increases for Medicare beneficiaries, expands choices of providers and plans, adds new preventive benefits, and implements tougher fraud and abuse standards. It reduces Medicare spending by two-thirds less than the Republican plan, only $90 billion, but extends the solvency of the trust fund to the same year as the Republican plan—2006.

Let me reinforce this point—the Democratic alternative would preserve the Medicare trust fund for until 2006. This is the same exact time frame as the Republican's proposal to save Medicare.

Mr. Chairman, I will not support a plan which claims to save Medicare by taking $270 billion out of the program in order to fund $245 billion in tax breaks for the wealthy. I urge my colleagues to join me in rejecting this Medicare decimation act.

Mr. MURTHA. Mr. Chairman, we simply cannot solve Medicare in a partisan manner, and that's why this is the wrong bill, at the wrong time, for the wrong reasons. It's the wrong bill because it increases premiums, reduces coverage and reduces choices for older Americans while closing rural hospitals—as many as half the hospitals in our area would close, according to the Pennsylvania Hospital Association. It's the wrong time because we're not in a crisis situation that demands the drastic steps contained in this legislation—we have time to study the alternatives and develop a bipartisan consensus. And it's the wrong reasons because the savings won't go to the Medicare trust fund, but instead would go toward a tax cut slanted toward the wealthy. Let's separate Medicare from the budget-tax cut issue, and work for legislation which guarantees that older Americans will continue to have access to affordable, quality health care of their choice.

For the last 30 years, Medicare has worked very well—it's enabled senior citizens to get the health care they need without facing financial disaster. The backers of this legislation claim we're in a crisis situation which demands the drastic steps contained in this legislation, but that's simply not true.

This bill does everything senior citizens don't want—it makes health care more expensive, it forces them to go to doctors they don't want, and if they need to go to a hospital, it may risk their lives by forcing them to travel farther, because according to the Pennsylvania Hospital Association, half the hospitals in western Pennsylvania may close if this bill is signed into law. And the legislation doesn't do what everyone, including seniors, feels is necessary—to guarantee the stability of Medicare for more than 10 years.

The supporters of this legislation should stop worrying so much about reaching a certain number for savings and start paying attention to the needs of senior citizens. We should take our time and come up with a bipartisan solution which starts with addressing the waste, fraud, and high administrative costs in the Medicare system. The savings we could get from those areas are enough to stabilize Medicare and avoid the premium increases and limits on care which are going to penalize older Americans.

Medicare is too important to too many people to be lost in political rhetoric. Seniors should feel confident they're receiving the best possible care at a cost they can afford. So let's not throw 30 years of success away in a panic—let's protect Medicare, and not make it a program where only the wealthy can get the best care.

Ms. WOOLSEY. Mr. Chairman, now is the time to stand up for seniors by voting down this plan to raid Medicare to provide tax breaks for wealthy special interests. Instead of continued partisan bickering, we need a bipartisan effort to save Medicare by eliminating the waste and fraud that cost billions each year.

I come to this floor today as the Representative for Sonoma and Marin Counties in California. As I always say to my colleagues, I am so fortunate to represent such a concerned and caring constituency.

For the last several months, I have been speaking to the people in my Congressional District. I have been speaking with senior citizens, with hospital administrators, with physicians, and with working families. Seniors are scared to death because they will have to pay more for less at a time when so many are struggling to get by. And families are scared to death because they do not understand how they will support aging parents and send their kids to college at the same time. The people of Sonoma and Marin Counties have spoken loud and clear: they do not support $270 billion in Medicare cuts in order to pay for $245 billion in tax breaks for wealthy special interests.

The new majority is making the argument that these massive cuts in Medicare are needed to save the system. I agree that Medicare and Medicaid can be improved, and that Congress should vigorously support efforts to make this system better. But I disagree with Speaker GINGRICH that the way to keep Medicare solvent is to operate on it with an axe, instead of a scalpel.

Speaker GINGRICH would like to convince the American public that Medicare is in a sudden crisis. However, concerns about the Medicare Trust Fund are not new. The Medicare Trustees have on eight previous occasions warned that the Trust Fund would be insolvent within 7 years. Each time, Congress responded immediately in a bipartisan way to make the changes necessary to keep Medicare solvent. However, the cuts proposed by Speaker GINGRICH go far beyond what is needed to protect the Medicare Trust Fund. What is more, since the proposed premium increases do not even contribute to the Medicare Trust Fund, it is clear that the new majority is increasing premiums only to pay for a special interest tax giveaway, not to strengthen Medicare.

In other words, the Gingrich Medicare plan is a major cut. According to the non-partisan Congressional Budget Office, the rate of growth in health care spending per person in the private sector over the next 7 years will be 7.9 percent. The Gingrich Medicare plan, however, brings the rate of growth of Medicare spending down to 4.9 percent per beneficiary. This means that the Gingrich plan will not keep up with the pace of inflation and the growing population of older and disabled Americans. As a result, there will be major increases in costs: by the year 2002, seniors will spend $400 more in Medicare premiums. Moreover, seniors may lose their choice of doctor because they will be forced into a Government-mandated managed care plan. In addition, hospitals and emergency rooms will be forced to reduce care and many will close. Some health care experts predict that up to 25 percent of all hospitals could close if Speaker GINGRICH's assault on Medicare becomes law.

But I do support making Medicare stronger. That is why I voted for the Democratic substitute to reform Medicare, and am a cosponsor of H.R. 2476, the Common Sense Medicare Reform Act.

The Democratic substitute saves $90 billion over the next 7 years. It reduces seniors' premiums, while providing coverage for new benefits such as more frequent mammograms, colorectal screenings, Pap smears, and diabetes screening. The Democratic substitute increases seniors' choice of health care coverage, but does not force them to give up their own doctors. Under the Democratic substitute, the Medicare program will be strong and solvent, and seniors will continue to receive high quality care from doctors they know and trust.

I also support the approach taken in the Common Sense Medicare Reform Act, which strengthens Medicare by eliminating real waste, fraud, and abuse in the Medicare system. It will also save the amount needed to keep Medicare solvent for years to come. This bill will give law enforcement more tools to fight Medicare fraud, a crime which harms Medicare and the American taxpayer. And this bill, unlike the new majority's plan, will require that any funds recovered through cuts or savings from waste, fraud, and abuse will be automatically returned to the Medicare Trust Fund—not used to pay for a special interest tax giveaway.

In addition, I would also like to raise my objection to the way that Speaker GINGRICH has conducted the debate on his massive changes to Medicare. As someone who believes in the democratic process, I am outraged that the new majority only allowed for one day of public hearings on this assault on Medicare. As a former Petaluma City Council member, I remember that we talked longer and harder about sidewalk repairs than the House of Representatives has about an issue which affects the health of millions of Americans. This is unfair and undemocratic.

So, I am here to speak out for the people who have been shut out of the democratic process by this new majority. These people should not be silenced, and they should not see their concerns ignored by a Congress bent on pursuing a partisan agenda.

We would all do better if we listened carefully to those we represent. As one man in my district said, "I worked hard all my life, raised ten kids and fought in two wars to live my life in peace. Living on only $801 a month, I need all the help I can get."

To my colleagues on both sides of the aisle, I would like you to remember these words. Think about this man, and the millions of seniors just like him all over America who do not deserve second rate medical care and who do not deserve to have their pockets picked for a special interest tax giveaway. I call on my colleagues to reject this bill, take the tax giveaways off the table, and get on with the bipartisan job of restoring Medicare's solvency by eliminating rampant waste and fraud. Stand up for seniors by voting down this bill.

Mr. BORSKI. Mr. Chairman, I rise today to denounce the majority's plan to cut $270 billion from Medicare and $182 billion from Medicaid over the next 7 years in order to pay for $245 billion in tax breaks for the wealthy. These excessive cuts are unnecessary and harmful to America's senior citizens, working families, and the health care industry.

It is my honor to represent the Third Congressional District in Pennsylvania, the twentieth oldest congressional district in the country. Pennsylvania is the second oldest State in the Nation where one out of six residents is a Medicare recipient and one out of seven is a Medicaid recipient. In the Third Congressional District, approximately 100,000 residents rely on Medicare. Approximately 400,000 people in Philadelphia rely on Medicaid.

Not only will the senior citizens in my district suffer, but all citizens, our health care system, and the entire Philadelphia economy will be endangered by these insidious cuts. Let me give you an example. At the Episcopal Hospital in Philadelphia, 88 percent of the people who enter the hospital are Medicare or Medicaid beneficiaries. If these cuts are approved, I don't know how the Episcopal Hospital will survive. Several other hospitals in my district, in other parts of Philadelphia, and across the State of Pennsylvania, are on the critical list as well. Health care workers—as many as 25,000 in Philadelphia and up to 6,000 in the Third District alone, will be at risk of losing their jobs. Communities will lose their local hospitals when these devastating cuts force them to close their doors. In addition, working families will pay more for their own health care as a result of the cost shifting which will follow these cuts.

But none of this deep, human pain seems to matter to this majority. In Washington, these days, a chill wind blows over our Nation's senior citizens. A lack of compassion fills the air.

The senior citizens in the Third District, and across the Nation, will pay more for their health care, have less choice regarding their doctor, and receive a lower quality of care. Balance billing protection, which prohibits health care providers from charging seniors more than 15 percent above the Medicare reimbursement rate, will be eliminated. Seniors who enroll in HMO's because it has become financially impossible to remain with their family doctor will have no protection against additional charges once they are locked into an HMO. That's the bad news. There is no good news in this Republican plan.

Now, let me tell you the worst news. Everyone knows that Medicare is for our senior citizens and Medicaid is for those who are less fortunate. But, what people across America don't realize is that Medicaid also pays for the long term care costs of senior citizens. In Pennsylvania, 65 percent of all long term care costs are paid for by Medicaid. After our seniors have exhausted the savings they have worked so hard to accumulate over their lifetime, they go on Medicaid to receive the nursing home care they so desperately need. With the costs for a modest nursing home averaging about $4,000 a month, it is easy to understand how typical Philadelphia seniors could easily drain their savings in a short time. After these savings are depleted, Medicaid provides seniors with a safety net. As a result of these cuts, this safety net is now gone. The guarantee that Medicaid will cover Medicare costs for poor senior citizens is now gone. Some laws that enable the Government to stop fraud, waste, and abuse are now gone.

These exorbitant and heartless cuts are not designed to fix or save Medicare. They are being enacted in order to give $245 billion in tax breaks to the country's wealthiest individuals. Despite all the rhetoric from the majority, one fact is clear: The savings from the Medicare cuts will not go back into the Medicare trust fund. They will pay for tax breaks for the wealthy. Our senior citizens on fixed incomes cannot afford these increased costs. The Medicare system can not afford these excessive cuts.

I have traveled my district and asked hundreds and hundreds of my constituents if they support $270 billion in Medicare cuts and $182 billion in Medicaid cuts in order to provide $245 billion in tax breaks for the wealthiest in our country. The answer is always the same—no.

I will vote against this mean-spirited legislation and I urge my colleagues to do the same.

Ms. HARMAN. Mr. Chairman, on behalf of hundreds of seniors in the 36th District of California with whom I met over the course of this debate, I rise in strong opposition to this bill that would decimate Medicare, our most successful Federal program.

For more than 30 years, Medicare has guaranteed health care coverage for seniors—99 percent of whom are now covered—and it has dramatically reduced poverty among seniors, from 33 percent in 1965 before Medicare's creation to 13 percent today.

I have carefully read the Medicare trustees report. I agree that Medicare must be reformed. We must extend the solvency of the part A trust fund and take steps to control Medicare's high rate of growth—10 percent a year—to save Medicare for today's seniors and for generations to come.

Unfortunately, Washington is at it again playing politics. Members from both sides of the aisle have been more concerned with pointing fingers at the other rather than engaging in substantive discussion of real solutions to address the rapidly rising costs of Medicare.

I would like to share with my colleagues what I have learned from my constituents, and tell you some of their personal stories. I have been greatly impressed by their understanding of the changes being proposed and their ideas about how to reform Medicare.

The plan before us is not Medicare reform—it is Medicare destruction. The bill cuts Medicare by $270 billion over 7 years even though the Medicare trustees have stated that cuts of about $90 billion will extend the life of the part A trust fund to 2006.

My constituents have asked: "why does the Gingrich plan cut Medicare by $180 billion more than what the trustees say is necessary?" To them, the reason is clear: To pay for an ill-timed tax cut. They want the focus on saving Medicare and balancing the budget—not on cutting taxes. "We can't afford a tax cut now," wrote Glenda Masek. "And I'm a registered Republican," she added.

Many seniors recognize the financial problems facing Medicare and express a fervent desire for reforms. Some seniors told me they are willing to pay slightly higher premiums and deductibles, as long as the increases are fair. "Some of us can afford to pay a little more," Irwin Gerst acknowledges. "But many seniors are on fixed incomes and so any increases should be minimal and gradual and not used to offset tax cuts."

Like these individuals, I cannot support a proposal that will take money out of the pockets of Medicare beneficiaries who have an average income of $13,000 a year. Under the bill before us beneficiaries' monthly premiums will rise to $87 by 2002, as compared to $61 under current law, and $1,700 less will be spent per beneficiary. These figures translate into higher costs for less care.

Not all my constituents can afford the increases:

One San Pedro senior, Katie Brazerich, pleads: "Please don't cut my Medicare benefits and raise my premiums. Every single dollar is needed to help with my living expenses. There isn't any extra left for me to cut."

"Don't bankrupt us just because we are living longer," comments her neighbor.

"These cuts are cruel," Lillian Watson observes.

Joyce Short, a 75-year-old Westchester resident told me, "I paid into it [Medicare] all my life, and now I need it."

Another, 71-year-old Mary Ford, fears she will be put out in the street. "I have been diagnosed with Lupus and probably will be completely bankrupt if these cutbacks go through. We are the same Americans who went through the Depression."

I support expanding choices for Medicare beneficiaries. While the bill purports to do this, a choice is not a choice when it becomes too expensive and when doctors move elsewhere. What supporters of the so-called choices in this bill do not mention is that under their plan, beneficiaries will no longer have extra billing protection. This means health care providers can charge seniors above what Medicare reimburses for the same services they receive without additional charge under Medicare today. Fear of extra billing will drive seniors out of fee-for-service arrangements.

"I don't want to be forced into an HMO," Virginia Balesteri told me. "And I don't want my children to have to take care of us."

These Americans want the right to choose their doctors. If premiums are such that they cannot afford fee-for-service plans, that choice is effectively taken away.

I have also heard countless stories of waste, fraud, and abuse within the Medicare system. Seniors have told me about receiving bills for services they did not receive. When they questioned the bills, they were told by Medicare administrators that it was easier and cheaper to just pay. "If I ran my business like those Medicare folks," one told me, "I'd be going broke, too."

To counter fraud, one group of seniors in my district has suggested an incentive program for reporting abuses. Others suggested making Medicare billing easier for consumers to understand. They explained that people need to know exactly what the doctors and hospital are charging to make sure that those tests and services were received—and necessary. I agree that legislative change is necessary to crack down on waste, fraud, and abuse, and a bipartisan approach is essential.

Health care reform is essential. But the reform must help seniors, one of our most vulnerable populations. I strongly believe that we can make reforms to Medicare that attack fraud and abuse and which lower costs.

I urge my colleagues to vote against the Medicare Preservation Act, an oxymoron if there ever was one.

Mr. BARCIA. Mr. Chairman, when people reach the age of senior citizens, their biggest concern is their ability to maintain their quality of life. They have worked all their lives. They have sacrificed. Many have served in our Nation's Armed Forces. They are owed a great debt for their years of contribution.

I agree that we need to make responsible reductions in the cost of the Medicare Program. But we also need to make sure that we maintain a viable health care system that provides hospitals, doctors, nurses, and the other support mechanisms that people need when their health demands it. The bill before today just does not do this.

The ability to have access to health care is vital for the elderly. Last year, many of us heard from our senior citizens who were concerned that proposed changes to the health care system would leave them without access to their own doctor, would drive up their premiums, would force them into managed care systems when they did not want them. In my own district, in response to a questionnaire that I sent out last year, 43 percent said the choice of their own doctor was the most important element of health care. This year, nearly 60 percent of my constituents said that they did not want to see HMO's instead of being able to choose any doctor. And by a 2-to-1 margin they said that we should maintain spending on Medicare and Medicaid, not cut it.

The Michigan Health and Hospital Association has written to me claiming that these anticipated cuts in Medicare and Medicaid will probably result in many rural hospitals closing. I have several rural counties. How can I go back to my constituents and say I supported a proposal that meant that their local hospital was likely to close? Where would these people go for treatment, especially in an emergency, when the hospital closed? How many doctors would locate in rural areas where it would be difficult to get to hospitals where they could adequately treat their patients?

Some will say that doctors and patients can go to hospitals in the nearest city. Bay Medical Center in Bay City, one place that would be a likely alternative, tells me that the cuts in Medicare proposed by this bill would mean a loss of $70 million in revenue between now and 2002. That is before we add in the impact of the Medicaid proposals we will consider next week. Bay Medical Center could be in serious jeopardy if these proposals pass. if this hospital were to close, where would my constituents who need assistance go?

Yesterday we spent 4 hours debating shrimp and lobsters. Today we get only 3 hours to debate the future of a health care system for millions of senior citizens and for millions more who will need to make use of that system in the future. We were able to debate thirteen amendments for shrimp and lobsters. Today senior citizens will be restricted to only one. Earlier this year I celebrated passage of new House rules requiring a three-fifths vote to impose any tax increase. If this bill does not raise fees—taxes—for our seniors, why must we waive this provision? We were sent here to do the people's business, not to give greater consideration to shrimp and lobsters, nor to go back on the reforms we made at the first available opportunity.

Mr. Chairman, I cannot support this bill. It jeopardizes health care for our seniors. It does not give them the kind of system they want and deserve. It is being forced through without adequate review, and it breaks our word. Our seniors deserve better. We can and should do better.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in strong opposition to H.R. 2425, legislation designed to reduce Medicare funding by $270 billion over the next 7 years. While I support constructive efforts to stabilize the Medicare part A trust fund and other efforts to promote administrative efficiencies and simplification, the plain fact is that this bill does little to strengthen Medicare and is primarily designed to free up $270 billion in order to finance the cost of the $245 billion tax cut and $60 billion defense pork provisions contained in Speaker GINGRICH's budget reconciliation bill.

Seniors in South Dakota have always been willing to make some adjustments to assist with Federal budget deficit reduction and they realize the need for some health care reforms that will slow down the growth of health care inflation—but they are also wise and experienced enough to know when someone is trying to sell them the Brooklyn Bridge. I have been holding town meetings on the Medicare and Medicaid issue all around South Dakota, and the bipartisan opposition to H.R. 2425 is overwhelming. Seniors want Medicare reforms, but they absolutely do not want wealthy special interests laughing at them all the way to the bank at their expense.

Mr. Chairman, I support alternative legislation which is designed to stabilize the Medicare part A trust fund and does so in a manner which does not raise premiums or reduce benefits to seniors. I cannot and I will not, however, support this misdirected, "Reverse Robin Hood" attack on Medicare and Medicaid.

Mr. FAWELL. Mr. Chairman, I rise in support of H.R. 2425, the Medicare Preservation Act of 1995. In April, the Medicare Board of Trustees concluded in their annual report that "* * * prompt, effective and decisive action is necessary" to avert the projected bankruptcy of Medicare by the year 2002. I am pleased that today House Republicans are fulfilling their commitment to saving Medicare by adopting this legislation.

The Medicare Preservation Act represents a major overhaul of Medicare. The proposal is aimed at preserving, protecting, and strengthening Medicare, while empowering seniors to choose the health care plan that best suits their needs.

The principle behind this legislation is choice. The Medicare Preservation Act contains an important and innovative feature that will give seniors more choice as well as introduce a truly competitive framework, called Medicare-plus. Medicare-plus will give beneficiaries new options to select from a broader array of privately offered plans, with the Government paying the premiums. These plans could include private traditional insurance, HMO's, new physician-hospital network—provider-sponsored organizations—coordinated care, Medisave plans, and limited enrollment plans sponsored by unions or trade associations. Under Medicare-plus, standard Medicare benefits will be retained so that future beneficiaries will be assured that their benefits will not be reduced. Moreover, if a health plan can provide Medicare benefits at less than the Government contribution, the plan can either provide additional benefits or provide a rebate to beneficiaries.

I want to stress the significance of the provider-sponsored organization [PSO] portion of the bill. This area gives recognition to the important competitive aspects of having PSO's as a choice option for Medicare recipients while also according these entities certain Federal protections. In my view, the ability of providers—doctors and hospitals—to offer health services directly to Medicare recipients adds an extremely important new aspect to the pulsating revolution already taking place in the private health care market. In fact, these providers are already offering health services to employees covered under the Employee Retirement Income Security Act [ERISA] covered plans sponsored by employers and unions. Under the PSO option, Medicare enrollees also will have the freedom to choose the doctors and hospitals they think will provide them the best care at the lowest cost. PSO's and similar entities, which continue to drive down the cost of private health care, will be an important element of the solution to containing Medicare health costs and preserving quality health care.

The extension of choice of coverage to members of qualified associations and Taft-Hartley multiemployer plans is also another key element for expanding the choice of Medicare-plus coverage and allowing seniors to continue their care under organizations that they looked to while working. Moreover, I want to stress that the PSO, qualified association, and multiemployer plan options under the bill does not amend or modify the Federal preemption framework under ERISA.

While providing choice in new options for beneficiaries, the bill simultaneously allows any Medicare beneficiary to remain in or return to the current fee-for-service system where they choose their own doctor or hospital. Other priorities of the Medicare Preservation Act include: combating Medicare fraud and abuse by rewarding seniors who discover and report fraud and abuse; increasing the punishment for those engaged in fraud; curtailing malpractice abuse; and, providing regulatory relief to improve efficiency and help stem the growth in health care costs.

Mr. Chairman, I urge my colleagues to recognize the Medicare crisis, and to support the Medicare Preservation Act. Only by acting now, can we preserve, protect, and strengthen Medicare for generations to come.

Mr. WELDON of Pennsylvania. Mr. Chairman, we have heard in this debate on the floor today and over the past few months an unrelenting barrage of denial, disinformation, distortion, and demagoguery from the Democratic Party on the subject of Medicare. That's why it is no wonder so many senior citizens have expressed concerns about this bill.

Denial, because the nonpartisan Medicare Board of Trustees, which includes three members of President Clinton's own Cabinet, issued a report in April stating that the Hospital Insurance trust fund will be able to pay benefits for only about 7 more years. The trustees said that even under the best estimates, if nothing is done, the trust fund will be exhausted by 2002. Yet the Democrats deny there is a problem and say do nothing.

Disinformation, because the Democrats speak falsely of massive cuts in Medicare, when it can plainly be demonstrated that Medicare spending goes up each year under the Medicare Preservation Act, that we will spend almost $2,000 more per Medicare beneficiary by 2002 under this plan, and that there are no cuts.

Distortion, because the Democrats want you to believe that these supposed cuts, which don't exist, will pay for Republican tax cuts for the rich, another figment of the Democrats' imaginations. Yet this bill contains a lock-box provision that puts all savings back into Medicare. Furthermore, the Republican tax cuts for the middle class—including a $500 a year credit per child for working families—has already been paid for by other savings in the Republican budget. We did that months ago. The Democrats choose to ignore that inconvenient fact.

Demagoguery, because Democrats have engaged in a conscious effort to frighten senior citizens, to scare them into thinking someone is trying to take away their benefits. It is absolutely outrageous. They are sending videos to senior centers claiming that this bill will "destroy Medicare, not save it." This prompted the dean of the University of Pennsylvania's Annenberg School of Communications, Kathleen Hall Jamieson, quoted in the Philadelphia Inquirer, to state, "It's inappropriate to target a vulnerable population with that kind of information."

It's far worse than inappropriate. It's offensive to suggest that Republicans don't care about seniors, that we want to harm seniors. My 85-year-old mother relies on Medicare and Medicaid and Social Security and I resent having anyone on the other side suggest that I don't care about my mother. That my party doesn't care about seniors.

Despite the distortions, despite the demagogues, despite the bitterly partisan rhetoric, it is Republicans who are facing up to the problem and taking action to save Medicare. The Medicare Preservation Act does just what its name says. It preserves Medicare for seniors. It saves Medicare for the next generations. It strengthens Medicare for all of us. This bill will attack waste, fraud, and abuse. It will give seniors more health care choices. It does not raise copayments, deductibles, or premium rates. The Medicare Preservation Act ensures that Medicare will be there well into the future.

Mr. Chairman, I urge all my colleagues to join in support of this bill. It is our responsibility to act. We have to step up to the plate. No one else can. We must have the courage to act. Let us do the right thing and save Medicare.

Mrs. CHENOWETH. Mr. Chairman, I rise today to once again remind the American people of who has a plan to save Medicare and who doesn't.

My constituents are understandably concerned over what might happen to Medicare. Instead of putting legislation where their mouths are, opponents of Republican Medicare reforms have done nothing but use inflamed rhetoric to frighten and confuse people. In fact, I've seen some newspapers describe it as "MediScare."

I am happy to point out, however, that one of the newspapers in my district—the Idaho Statesman out of Boise—recently endorsed the Republican Medicare proposal. To quote the Statesman "GOP-sponsored reforms in Congress make a modest beginning at getting Medicare costs under control * * * Without their passage, senior citizens won't have a viable health-care system." I am submitting the Stateman's editorial for the RECORD.

The problem we are facing is this: If we don't act to strengthen Medicare, the benefits available now just won't be there in the future. We must not let politics as usual get in the way of protecting the security that all Americans should have when they retire. We need to keep our eyes on the facts.

I know I couldn't bear to look at my grandchildren and explain to them we had the chance to fix the system in 1995 but didn't.

Let's stop the bickering and pass Medicare reform now.

[From the Idaho Statesman, Oct. 11, 1995]

CONGRESS CAN TRIM MEDICARE

Public health assistance for billionaires is hardly what Americans had in mind for Medicare when it was created 30 years ago. But such unintended consequences are one of the reasons the massive health insurance program is going broke.

GOP-sponsored reforms in Congress make a modest beginning at getting Medicare costs under control. Lawmakers can also set income limits for recipients or have high-income recipients chip in more for their coverage. They also need to allow recipients to pick private plans as an alternative to the traditional Medicare program.

Such reforms are necessary because the current program covers virtually every American, not just the needy. For example, when Boise billionaire J.R. Simplot had hip-replacement surgery last spring, Medicare covered some of the costs. That simply makes no sense to Simplot or anyone else.

Congress also needs to get the paperwork under control. Look at what Vice President Al Gore discovered about just one rule of the Health Care Financing Administration, the agency that directs Medicare and Medicaid.

That one rule generated 11 million forms. Each hospital spend about $22,500 a year filling out those forms—and Medicare is governed by 3,200 pages of federal regulations.

GOP Medicare reforms are scheduled for a vote next week in the House. A similar bill is pending in the Senate. Without their passage, senior citizens won't have a viable health-care system.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to this rule and in opposition to the underlying bill, H.R. 2425.

Democratic Members of Congress and seniors across this Nation continue to ask for free and open debate on the extreme and unnecessary Medicare cuts that are before this body today. They have yet to be heard, let alone answered.

There were 10 hours of debate on the legislation that established the Medicare Program 30 years ago. Today we have half that time on a bill to dismantle it. There were 20 hours of debate earlier this year on legislation to send U.S. aid overseas. Today we have one-fourth of that time to consider ripping $270 billion in health care away from older Americans. Where is the logic?

Last week during markup of H.R. 2425, 13 senior and elderly citizens were led out of the Commerce Committee and arrested just because the committee chairman and his GOP colleagues were unwilling to answer the most basic questions about the consequences of passing the Republican Medicare bill. The rule we have before us on this bill continues this gag order by denying Members on both sides of the aisle the opportunity to participate in a fair and democratic review of H.R. 2425 and to offer amendments to this drastic legislation.

As members of the National Council of Senior Citizens testified before Democrats on the Government Reform and Oversight Committee yesterday, the flame of democracy continues to be smothered by the Gingrich Republicans.

Yesterday I presented testimony on two amendments before the Rules Committee that I believe would improve certain deficiencies of H.R. 2425. My amendments were not made in order. The Rules Committee didn't bother to listen to me, and therefore didn't bother to listen to my senior constituents and hundreds of thousands like them around this country.

My amendments are designed to restore current protections for seniors who have diagnostic tests performed in a doctors' office and to ensure that our elderly continue to have access to durable medical equipment such as wheelchairs, electrical beds, walkers, and oxygen.

My Clinical Laboratory Improvement Act [CLIA] amendment would reinstate quality assurance guarantees for patients who have testing done in physician office laboratories by striking the provision in the bill that eliminates the requirements of CLIA for labs in doctors' offices.

It probably should not be surprising that the Republican Medicare proposal—which bends so close to special interests and tilts so far from the best interests of America's senior citizens—would eliminate requirements for quality and accuracy of laboratory tests. This like the Republicans' blatant and cruel elimination of national standards for nursing homes, is one more way of saying to Medicare beneficiaries: You're on your own—good luck.

What is the rationale for exempting office labs? What is the rationale for exempting one specific test—pap smears—from such labs? If it is critically important for doctors' offices to meet quality standards for pap smears, why shouldn't those same quality standards be met when it comes to cholesterol tests, colon and prostate cancer screening, needle biopsies to detect precancerous conditions, and glucose monitoring?

My second amendment would remove the 7-year freeze on payments for durable medical equipment [DME].

H.R. 2425 will cause severe disruptions for seniors and the elderly who need their oxygen to breathe, electrical beds, wheelchairs and walkers to move about. Without these needed and essential items, seniors and the disabled could be forced into potentially life threatening situations.

Unfortunately Mr. Chairman, the Republican leadership just doesn't care.

I urge all my colleagues to vote "no" on this rule and "no" on the bill.

Mr. KOLBE. Mr. Chairman, today, Congress has a historic opportunity to pass legislation that will allow recipients of Medicare—both present and future—the freedom to choose their doctors, their health plans, and the health care services they decide are appropriate for them. It is time we allow Medicare recipients access to the same choices in health care that the rest of us have. That is the heart and soul of this legislation.

It's become abundantly clear in the last several months that Medicare faces a very real threat of bankruptcy. It is this looming bankruptcy of the trust fund that first alerted the country to the need for extensive changes if we were to save the Medicare system. What won't work is another Band-Aid. Yet, for decades that has been the Democrats' only answer to ensure solvency of the Medicare trust fund. The trustees themselves have told us it needs a systemic fix to be real. This year, once again, the Democrats have proposed the same quick fix solution and have failed to deal honestly with the underlying structural problems of the Medicare system. By simply reducing payments to hospitals and physicians, the Democrats Band-Aid staves off bankruptcy for another 2 or 3 years. This is simply irresponsible; it's what we've done for too long on too many other issues. It's why Medicare faces such a bleak future today.

H.R. 2425 doesn't wait for disaster to wash over us; it takes action now to assure the future security of Medicare for seniors. By providing fundamental changes to the structure of the program, the Medicare Preservation Act will keep Medicare solvent for at least 15 years, until the baby boomer generation begins retiring. We freely acknowledge that another deeper fix will be required then, but this legislation gives us time to see how well free market solutions can work to retain health care costs.

The heart of this legislation is the expansion of Medicare beneficiaries choice of health care options. The private health care market has demonstrated that health care services can be provided in a cost-effective way while maintaining the patient's quality of care. Such care is found in alternative health care systems, such as managed care system, health maintenance organizations, preferred providers organizations and medical savings accounts. Currently, Medicare recipients have not had wide access to these options. With passing of H.R. 2425 Medicare recipients will not have to rely on a system that is a relic of 1965 medicine.

It is unfortunate that my colleagues across the aisle, do not recognize the need for comprehensive reform. Their bill provides no security for seniors who rely on Medicare today, because it extends its life by only a year or two. It provides even less assurances for future seniors who are counting on Medicare to be there for their retirement.

Even if the Medicare trust fund were not facing bankruptcy, this legislation would make sense. It allows Medicare recipients access to the same range of choices in health care that other Americans have. Similar to the Federal Employees Health Benefit Plan, Medicare recipients would receive information each year about different health care providers and plans in their area. And like other Americans, they will be able to choose who provides their health care.

Arizona has been on the forefront in developing a successful managed care market. Over a decade ago, the Arizona Medicaid program, AHCCCS, was established as a managed care system. Now, with an extensive network of HMO's seniors are enrolling in the same system in increasing numbers. They are, by and large, very satisfied with the health care services offered by the competing health plans and have found that some plans offer services outside the required Medicare services, such as eye glasses, lower or no copays for visits and lower prescription drug prices. They can compete on these added services because they hold costs down on basic services.

Then there are medical saving accounts—an option not available now to any Medicare recipient. This option will allow seniors to buy a high deductible, catastrophic policy and pay for out of pocket expenses with the cash from their Medicare payment. If they use health care services prudently, they can even pocket the excess as income. It turns health care consumers into cost-conscious health care purchasers.

Will these options—and there are others—save money and prevent Medicare from going bankrupt? Yes, because private health care is more efficient and consumer driven choices more cost effective than a government administered one-size-fits-all health care program. Medicare costs grew at about 10.5 percent last year. But, in the private sector, large employers actually saw their cost decrease by 1.1 percent. The marketplace can work in health care.

The Medicare Preservation Act addresses another concern of seniors and taxpayers alike by putting in place a systematic program to combat fraud and abuse. As Medicare is designed right now, doctors are paid for procedures whether or not the patient needs it. That means the taxpayer gets ripped off, and the Medicare patient often doesn't get the proper care. By allowing providers and hospitals and insurers to compete for your business, the system will root our fraud and abuse, and will squeeze out waste. Furthermore, seniors who find fraud in their bills will be rewarded with a percentage of the money recovered.

Mr. Chairman, this legislation provides our seniors with health care they can trust and believe in. It is not riddled with burdensome Federal mandates on providers. As a consequence, it allows physicians to do what they do best—provide top quality care for their patients. It is about time we allow seniors to have the same type of health care as the rest of us have. Let's pass this real Medicare reform.

Mr. EDWARDS. I come to the well today because, like many Americans, I am concerned about fate of the Medicare Program.

I cannot support NEWT GINGRICH's plan to cut $270 billion from Medicare while offering a hefty tax break to people making over $200,000. The Gingrich plan cuts Medicare too deeply and hurts senior citizens without really strengthening the program.

I am not willing to sacrifice the quality of health care for senior citizens to pay for NEWT GINGRICH's $20,000 tax break for individuals making over $200,000 a year.

Seniors will pay more and get less. The cost of health care will climb and Medicare benefits won't keep up. Seven years from now senior citizens and health care providers will find themselves in a hole because of a tax cut for the wealthy.

For senior citizens the plan means up to $1,200 in extra out-of-pocket expenses, limits on their choice of doctors and decreases in future benefits.

Central Texas rural hospital administrators have told me their hospitals could close as Medicare payments drop dramatically. Rural hospitals in central Texas have a high percentage of Medicare patients because of our large population of senior citizens. Some hospitals can't keep their doors open with the low level of reimbursement that the Gingrich plan offers.

I oppose the Gingrich Medicare plan because no one really knows what is in it. The 968 page Medicare bill landed on my desk Wednesday night and was being revised today, the same day I am forced to vote on it. Central Texas senior citizens, medical professionals, and taxpayers have no idea what is in the bill.

To railroad legislation through the House that directly affects 37 million senior citizens and their families is absolutely unfair. To pass such legislation before my constituents and American citizens have a chance to review it and express their views is irresponsible.

There is no question that we must reform Medicare to preserve it for future senior citizens. I'm willing to make the tough choices to cut spending, preserving the program, and balance the budget. However, Newt's Medicare plan simply does not pass the fairness test.

Mr. ALLARD. Mr. Chairman, this year Medicare turned 30, and while it has served the country well, it is still running on a 1965 engine.

In the last 30 years, medical procedures and technology have made tremendous advances. Medicare has not. It is out of touch with today's health care system. Medicare is like a 1965 car—it looks nice and elicits nostalgia, but it gets terrible gas mileage and you're never sure how long it will run. Without any reforms, Medicare can run cruise control only until the year 2002 before sputtering out of gas.

Major reforms are needed if Medicare is going to last. First, we have to slow the rate of growth in Medicare spending from 10.5 to 6.5 percent a year. Even with these changes, the average Medicare yearly benefits per person will increase from $4,800 this year to $6,700 by 2002.

The second step calls for major changes that gives senior Americans more flexibility and choices of medical plans to replace the outdated, bureaucratic one-size-fits-all plan designed by Congress 30 years ago.

Medicare recipients should have the same opportunities as other Americans to select the health care options that are best for them. The Federal Government should stop interfering with the relationship between patients and their doctors.

Unlike President Clinton's 1994 health care reform plan, the Medicare Preservation Act will not force anyone to leave the current system, nor will it force seniors into mandatory health alliances. Proposed reforms will offer Medicare beneficiaries more choices and better benefits than they enjoy now.

Let me review carefully the proposed reforms. First, Medicare would continue to be available to any beneficiary, and seniors could keep their current coverage. There would be no change in copayments or deductibles. Premium rates for Medicare part B would remain at 31.5 percent of total costs, which would mean an increase of only $4 a month above what is scheduled to occur under current law.

The only exception would be for wealthy seniors: single seniors making $75,000 a year or senior couples making $125,000 a year would be asked to pay higher part B premiums.

Average spending per beneficiary would increase by $1,900 over the next 7 years. If seniors don't like their current plan, or if they are unable to change plans, they would have options. Seniors who do not make a choice would be enrolled automatically in the traditional Medicare system.

Second, the Medicare Preservation Act would allow beneficiaries to choose several private sector options in a new Medicare Plus plan. Every year, beneficiaries would receive information about the approved plans available in their area. All they would have to do is check off their plan of choice.

Health plans under this MediChoice option would be selected by the seniors, not the Government. Seniors would choose a complete plan with its medical providers in return for more benefits. Unlike the traditional Medicare, they could choose less out-of-pocket expenses for coinsurance and deductibles, outpatient prescriptions drugs, eyeglasses and hearing aids.

A third option would allow seniors to take complete control of their health care with MediSave, a kind of medical savings account. The Government would pay for a catastrophic illness policy. Seniors would draw the remaining balance of their benefits from an account to pay a significant portion of their deductible. The high deductible policy would have no copayments, limiting seniors' out-of-pocket costs.

No one would be denied coverage due to illness or preexisting conditions. Every plan participating in Medicare must take all applicants and allow everyone to stay in a plan as long as they want. Seniors would not only keep their health care, but it would be better and stable for years.

I've heard countless horror stories about waste, fraud, and abuse in the Medicare system. The act would remedy that in part by rewarding recipients who report misuse of traditional Medicare. It also would require private Medicare plans to set up a toll-free phoneline to receive billing complaints. And it would impose strict penalties on anyone who defrauds Medicare. Furthermore, it would compel facilities to give patients cost estimates to guard against later bill padding.

Giving seniors more flexibility and control of their health care is critical. Our seniors' future should be controlled by them, not the Federal Government. Simply fretting about the system will not help Medicare survive into the next century.

When we are engaged in the predictable political wrangling over this important issue, we must never lose sight of our ultimate goal: A health care system that delivers the best possible service to our seniors.

Mrs. FOWLER. Mr. Chairman, in emergency rooms, medical teams frequently have to use what are called heroic measures to resuscitate someone who's dying. This week in Congress, we are trying to rescue our desperately ill Medicare system, and H.R. 2425 is the heroic measure that will save the patient.

H.R. 2425 clamps down on overpayments, fraud, and abuse. It provides new choices for seniors, like medical savings accounts, provider service networks, and private health insurance, but not force them into change.

Some have said that Republicans are cutting Medicare to pay for a tax cut for the rich. Wrong on both counts. The tax cut was paid for long ago—and we are not cutting Medicare. Spending per beneficiary will continue to increase by nearly $2,000 per beneficiary over the next 7 years.

Scare tactics and lies will not save the Medicare system, but working together and passing the Medicare Preservation Act will keep Medicare strong and healthy for us and our children.

Mr. GILMAN. Mr. Chairman, I rise today in support of H.R. 2425, the Medicare Preservation Act. I would like to commend the gentleman from Texas [Mr. ARCHER] for introducing this important measure.

Over the past months, I have heard from many of my constituents concerned about cutting the Medicare program. Unfortunately, there have been a number of mediscare critics misrepresenting the current Medicare reform proposals.

H.R. 2425 overhauls the current Medicare system and slows its growth to achieve a projected $270 billion in savings over 7 years. It limits increases in payments to hospitals—except for rural hospitals—to save over $130 billion to keep the Medicare part A hospital insurance [HI] trust fund solvent until fiscal year 2010. It freezes the part B premium at 31.4 percent of program costs and restructures payments to providers. Additionally, the bill contains a lock-box mechanism that places all savings from part B into a Medicare preservation trust fund and prohibits any transfers to pay for future tax cuts.

In order to clear the record, please bear in mind that H.R. 2425 contains a number of fundamental reforms to provide beneficiaries with a broader range of health care choices and strengthens the existing program.

Specifically, the Medicare reform bill: First, establishes a Medicare plus program that allows beneficiaries to enroll in a range of private or employer-based health plans, including managed care plans, traditional fee-for-service plans, or high deductible insurance/medical savings accounts; second, allows health care providers to establish provider-sponsored organizations that can offer Medicare plus products; third, establishes a Commission to recommend long-term structural changes to preserve and protect Medicare when the baby boom generation begins retiring in 2010; fourth, strengthens Federal efforts to combat fraud and abuse in the Medicare program; fifth, eases or eliminates regulations banning physician self-referrals; sixth, reforms medical malpractice law; seventh, establishes a prospective payment system for home health services; eighth, creates a separate new trust fund, funded from both Medicare and the Federal Treasury, to finance teaching hospitals and graduate medical education programs; and ninth, creates a fail-save budget sequestration mechanism to reduce Medicare fee-for-service spending if budget targets are not met.

It is urgent for Congress to address the Medicare crisis. The administration's Medicare board of trustees reported on April 3 that under current policies, the hospital insurance trust fund—Medicare part A—which pays for inpatient hospital care and other related care for those age 65 and over as well as the long-term disabled, will be bankrupt by the year 2002, unless the system is reformed.

It is, therefore, critically important that Congress and the President take immediate action to preserve, protect, and improve Medicare not only for those who rely on the program now, but for those of us who expect to begin receiving benefits in the years ahead. One thing is certain: doing nothing will guarantee the bankruptcy of the program and will lead to a major health care crisis for millions of senior citizens.

Regrettably, practitioners are promoting mediscare rather than trying to work with the Congress to preserve, protect, and improve Medicare, using the Medicare reform debate as a tool to scare our seniors into believing that Medicare spending will be severely cut. On the contrary, payments made to help seniors will go up, not down. Medicare spending per beneficiary will increase by almost $2,000 from $4,800 to $6,700 over the next 7 years.

Although I support H.R. 2425, I do have reservations about the bill. I feel that this bill does not help my district hospitals from experiencing financial hardship. I hope that as we progress through our efforts to reform the ailing Medicare system, we will further look to find ways to help hospitals that have received unfair reimbursements under the current geographic reclassification regulations.

Mr. Chairman, whenever Americans have faced a crisis, we have come together as a nation to solve our problems. The problems facing Medicare are serious, but can be resolved if we keep an open mind and are all willing to do our part to protect, preserve, and improve Medicare. We must do it for our current recipients and for future generations.

Accordingly, I support H.R. 2425, and urge my colleagues to vote in favor of it.

Mrs. MINK of Hawaii. Mr. Chairman, 30 years ago I had the great privilege of voting for the Medicare program. It has changed the character and quality of life for all seniors over 65 years of age, and has allowed their children to build their lives without the fear of costly illnesses of their parents which could consume all their earnings and savings. The Medicare program has liberated families and allowed the elderly and their children the freedom of knowing that the best health care would be made available. It placed the cost of hospital care in part A on all the working people and their employers by assessing a payroll tax of 1.45 percent on the worker and on the employer. This part A is what the trustees report indicated will be in financial trouble in the year 2002.

Let us understand that the Medicare trustees have reported previously, eight times in fact, that part A hospital care was in fiscal difficulty. And each time the Congress responded and fixed the payment structure for the providers. This trustee's report is no different. The Congress should not rush to a "fix" which will jeopardize the health security that has been guaranteed these past 30 years.

I say "rush to a fix", because that is exactly what has been the process followed by the Republican majority. Without a single day of hearings by either Committees of jurisdiction this bill is being rammed through. No one has read this bill. They could not have, because it was only put into final form late last night.

For all the declamation that the Republicans seek only to "save" Medicare from bankruptcy, why do we have to vote on a bill that has not been read, has not been published for the public to read and comment on, and has not been analyzed? The fine print has been written in secret with various special interest groups, like the American Medical Association.

The process is outrageous. I could not possibly vote for a bill that has not seen the sunshine of public scrutiny.

The Republican strategy is to seize upon the trustees report as though it justifies this radical reversal of guarantees for medical care without even one day of hearings. If the Republican majority truly believe the course of action they are pursuing is good for the system, then they should be willing to allow it to be reviewed, analyzed and objectively studied by all parties affected, and not only a select few.

Second, one of the most serious concerns that I have about the estimated cuts of $270 billion is that it will penalize the poorest and the sickest of our seniors. These brutal cuts are not needed. They are proposed because the Republicans had to come up with "savings" in Federal spending to balance the budget which they are committed to do by the year 2002.

The reason they had to come up with this large cut in spending in Medicare is because the deficit is $245 billion larger than when you started. The increase in the deficit by $245 billion is due to your tax cuts by this amount. If you cut taxes by $245 billion, obviously you have that much less revenues, that much more deficit, and that much more red ink.

In order to cover this loss of revenue the Republican majority had to find programs that they could cut in order to have a balanced budget by the year 2002. They cut here, and they cut there, but nowhere were there funds to cover this enormous tax revenue giveaway. And so their budget ax turned to Medicare. It was not to save the solvency of Medicare. It was to meet the goal of balancing the budget by the year 2002. Let no one fool you into thinking that this cut of $270 billion in Medicare is needed to "save" Medicare from bankruptcy. This Medicare cut is to balance the budget deficit because of tax giveaways of $245 billion, more than half of which go to persons who have taxable incomes in excess of $100,000.

If the Republican tax plan did not have these $245 billion of tax cuts, the budget would have a $245 billion surplus. If the budget had a $245 billion surplus there would not be any need to cut Medicare.

The connection between the tax cut for the very wealthy people and the cuts in Medicare funding are directly related. Without the former, there would not need to be the latter.

Third, last year when we were debating the Universal Health Care plan for all Americans, we all knew that with rising health care costs it was imperative that we act to rein in these costs. This was the central motivation for the President's initiative. We held months of hearings in three committees on these proposals. It was fully debated. It failed to pass. No one can say that Democrats were blind to the need for reform, the need for change, and the need to cut costs of medical care. We are recorded in favor of health care reform. But not a reform bill that was written in the dark, in secret, without any of us really knowing what the impact will be on our elderly, on our existing health care providers, and on the quality of health care.

Fourth, the real cost savings in Medicare is in routing out fraud and abuse. This is the place for the Federal Government to move in and crack down on the abuse. It has been noted that we could save $80 billion over a 7-year period if we installed tougher rules and regulations to rout out fraud and abuse. Instead we are now advised by the Justice Department that indeed the Republican bill will make it easier to commit fraud and get away with it. How do we know? No one saw the bill to read it until last night. Most of us only saw the bill this morning.

Why are the majority Members of this House afraid to have their ideas aired in the open and subject to public scrutiny?

Fifth, I am very concerned that the rural hospitals and clinics in my district will be forced to close. Why can't we have full hearings before this catastrophe occurs? I represent rural communities for whom life and death depends on the ability of these health facilities to survive.

Sixth, in 1993 the Congress passed a law that said that the cost of Medicare part B, doctors and laboratory services, would be paid by enrollees at the rate of 25 percent of the costs of the program. The Federal Government paid 75 percent of the cost of part B. The Republican bill before us today raises this premium charge paid by the enrollee to 31.5 percent of the total cost. Without cost controls, this means that the amount of money that the enrollee has to pay will rise astronomically. If the cost of doctor's care rises, the 31.5 percent that has to be paid by the enrollee must also rise. The failure of the Republican plan is that it does nothing to curb the rising costs of health care.

Seventh, the Republicans like to argue that they are not cutting funding only reducing the percentage of increase. In point of fact the Republican plan restricts the growth rate to 4.9 percent whereas the private sector estimates the growth rate of costs of health care at 7.1 percent. That is the major source of cuts. Any time your family budget has a 2.2-percent shortfall of earnings you know that you will have to cut how you spend. Accordingly under the restrictions of only 4.9 percent growth in Medicare costs, there is no other conclusion to be reached than that benefits will have to be cut and that the restrictions will shrink the reimbursements to providers and many Medicare beneficiaries will find themselves without any provider at all. This unrealistic restriction of the rate of growth is the real culprit. More people are going to reach 65 years of age. Health care costs are going to rise. A cap on the costs means benefits will have to be cut.

Eighth, as these changes are being made, the possibility that the quality of health care will be lowered is great. There will be less safeguards. Even under this cloud, the Republican plan enacts limits of liability for negligent and faulty medical care. Remember that patient who went into the operating room expecting that his left leg would be amputated, and woke up in his room with his good right leg gone. His left leg was so badly infected that it too had to be amputated, leaving him without any legs at all. Do you honestly think that having this doctor and hospital pay him $250,000 is adequate compensation for his loss? He is elderly and has no economic losses which could be used to treble his award. This bill has a $250,000 liability limit. This is unfair to the public. It is another reason I cannot vote for this bill.

From the mail I have received, there are a myriad of other provisions in this bill, that require further review. I cannot answer the question posed. No one can. It would be irresponsible to vote for this bill.

This is a day the Republican majority will have to answer for in the years ahead. As the tragic consequences enfold over the next 7 years, seniors will die before their time, and as rural hospitals close all persons living in those areas will die before their time. This is not a historic day. It is a sad day in the history of America.

Mr. EMERSON. Mr. Chairman, the choice before Congress today is clear. We can act now to preserve and strengthen Medicare as the President's own Medicare Trustees recommend, or we can do nothing and let Medicare go bankrupt in less than 7 years. Clearly, it would be the height of irresponsibility to let Medicare go broke. We have an absolute obligation to America's senior citizens to save Medicare, and I am pleased that Congress is working to do just that.

The Medicare Preservation Act will save Medicare without cutting benefits or increasing seniors' out-of-pocket costs. This year, Medicare per beneficiary spending averages about $4,800. This amount will increase to $6,700 per beneficiary under our plan.

Much has been made in this debate about process. I believe the Medicare Preservation Act is a good example of what the legislative process is all about—taking a bill and making it better.

For example, after meetings and discussions with the leadership, we have secured important rural funding changes to better serve rural citizens. As a senior member of the Rural Health Care Coalition, I am pleased that this Medicare reform package will significantly boost Medicare reimbursement rates to rural counties, like those in Southern Missouri. We all know that rural America faces unique health care challenges, and our plan responds by changing a Medicare reimbursement formula to attract more doctors and health care provider options to rural areas. Much work remains to be done to improve health care quality and access in rural regions, and our Medicare preservation plan is a leap in the right direction. I look forward to working with the Senate to see that the legislative process continues to move the plan to save Medicare forward.

The Medicare Prevention Act also gets tough on abuse, fraud and waste in the Medicare program. Seniors who report a verifiable incident of abuse, fraud or waste will receive a financial reward. Criminal and civil penalties will also be strengthened for anyone caught defrauding Medicare. Cleaning up the program is one of the best ways to save Medicare without cutting benefits.

The Medicare Preservation Act lives up to the obligation we in Congress owe to America's seniors. We have a non-negotiable responsibility to ensure that Medicare meets the health care needs of seniors who have worked hard all of their lives and contributed their share for health security. Our plan preserves, protects and strengthens Medicare for the next generation, as opposed to the President and his liberal allies in Congress, who offer a disingenuous press release to Band-Aid Medicare until the next election.

Mr. OWENS. Mr. Chairman, this bill takes us back to a time when the elderly expected to live in poverty sooner or later because of mounting health care bills they could ill afford to pay. Thirty years ago, with the swipe of a pen, President Johnson erased such fears of impoverishment, working with a Democratic Congress to overcome a hostile Republican minority. Our Government made a solemn promise to our senior citizens back then, but now the new Republican majority is proposing to break that contract with our seniors and make them live in fear once again.

The $270 billion that the Republicans propose to cut from Medicare will buy them their $245 billion tax cut for the rich, $51 billion of which will go directly into the coffers of large corporations. It is sad that the Republicans' priorities are so upside down. If they were to reduce corporate subsidies by the same percentage as the budget as a whole, as called for in the budget resolution, they would need to take $122 billion over 7 years from the pockets of the Fortune 500 fat cats freeloaders. Obviously, that won't happen.

Instead, America's seniors will pay $400 more in premiums each year by the year 2002. My home State of New York will lose $25 billion—$650 million from my district alone. And these figures don't even begin to tell the horror story that will result from the Medicaid cuts the Republicans will inflict upon the American people next week. Those cuts will be neatly buried in the budget reconciliation package, as the Grand Old Party removes the final shreds of dignity that the poorest of the poor have left.

Deep cuts in Medicare will expel seniors out of nursing homes or bankrupt their families who will have to pay for $40,000 a year nursing home bills . Not only will seniors be forced to pay more money for fewer services, they also will have to give up their own doctors as they are herded into HMO's. Finally, many hospital officials have predicted that up to 25 percent of all hospitals could close their doors because of these Republican Medicare cutbacks.

Mr. Chairman, I am submitting for the record a chart showing the billions of dollars that hospitals, nursing homes, and home health care agencies in my district will lose so that my constituents can see the negative impact that Republican Medicare and Medicaid cuts will have on the quality of health care services they receive.

PRELIMINARY ANALYSIS OF THE HOUSE AND SENATE MEDICARE REFORM PROPOSAL ON NEW YORK STATE

[7-YEAR IMPACT 1996 TO 2002—LOSSES IN $MILLIONS]

District	Representative	Type of facility	Facility name	Medicaid-Federal funds		Medicare		
				House	Senate	House	Senate	Budget cap/ lookback
11	Major R. Owens	Hospitals	Catholic medical center (St. Mary's of Brooklyn division)	$122.9	$136.3	$31.0	$32.7	$6.1 to $16.2
			HHC (Kings County Hospital Center)	376.5	429.1	59.5	50.0	5.3 to 14.0
			Interfaith Medical Center (All Divisions)	114.6	142.6	71.9	56.5	8.5 to 22.5
			Kingsbrook Jewish Medical Center	44.6	38.1	74.4	57.7	10.7 to 28.4
			University Hospital of Brooklyn	79.5	77.0	93.1	71.9	11.4 to 30.4
		Nursing homes [1]	Carlton Nursing Home Inc	8.2	6.4			
			Caton Park Nursing Home	6.8	5.3			
			Center for Nursing & Rehabilitation Inc	24.2	18.7			
			Dover Nursing Home	2.3	1.7			
			Flatbush Manor Care Center	12.7	9.8			
			Madonna Residence	17.3	13.3			
			Marcus Garvey Nursing Home Company Inc	18.4	14.2			
			NY Congregational Home for the Aged	4.1	3.1			
			Oxford Nursing Home	12.8	9.9			
			Prospect Park Nursing Home	11.4	8.8			
			Rutland Nursing Home Co. Inc	47.9	37.1			
		Certified home health [1]	Interfaith Med Ctr/Jewish Hosp Med Ctr of Brooklyn Home Care Dept	1.0	0.8			
			Kingsbrook Jewish Medical Center Home Care Department	2.9	2.3			
			St. Mary's Hospital of Brooklyn Inc. Home Care Department	17.0	13.1			
			The Brooklyn Hospital Center Home Health Services Division	3.2	2.5			
			Visiting Nurse Association of Brooklyn, Inc	15.3	11.8			
		Long term home health [1]	St. Mary's Hospital of Brooklyn	11.0	8.5			
			Visiting Nurse Association of Brooklyn Inc	15.4	11.9			

[1] Insufficient Medicare data to estimate facility-and agency-specific impacts.

Mr. HEINEMAN. Mr. Chairman, I rise today as a 65-year-old citizen on Medicare. I speak not only for myself today, but I speak for the millions of seniors in our country who depend on Medicare. I also speak for my children and grandchildren who will one day need a financially sound Medicare system.

Mr. Chairman, as a senior citizen I have been very disturbed by all the rhetoric, scare tactics and fear which have been injected into the Medicare debate. People who use these negative tactics are wrong. They are not being truthful in addressing the problem we have with Medicare. It is a simple fact. In 7 years, in the year 2002, the system will go broke unless it is reformed.

The Medicare Preservation Act will save the Medicare Program $270 billion—savings which will go directly into the Medicare Program by law.

The President knows the problem. In 1993, Bill Clinton said, and I quote "I will recommend reducing the growth of spending in Medicare dramatically and in Medicaid. This will not be a cut. Don't let people tell you it is a cut. We simply have to reduce this incredible rate of spending to save the system." I agree with Bill Clinton—he is right.

While the House Democratic leadership offered no plan, our Democratic colleagues in the other body finally put out their version of a plan to reform Medicare. It saves $90 billion. It has one problem—it simply delays the date of bankruptcy for 3 years beyond 2002.

The Medicare Preservation Act will increase per beneficiary spending from $4,800 to $6,700 in 2002. Seniors will stay in the current Medicare system—with no increases in deductibles or copayments—unless they choose MedicarePlus. If a senior chooses MedicarePlus he or she will be able to choose from a variety of plans, with different benefit options. The Medicare Preservation Act also attacks waste, fraud, and abuse and rewards seniors who help weed out fraud.

Let's stop playing politics with Medicare. It is too important for our senior citizens; they deserve better.

I urge my colleagues on both sides of the aisle to reject the rhetoric and start dealing with reality. Vote for H.R. 2425, support our senior citizens and save Medicare.

[From the Raleigh News & Observer, Oct. 16, 1995]

DEMOCRATS HOPE THAT SCARING GRANNY WILL BRING VOTES

(By Rob Christensen)

There's a new soap opera on the tube these days: a political commercial paid for by the Teamsters and aimed at Republican Rep. Fred Heineman.

A middle-aged couple stand in their kitchen, fretting. Hubby says he can't believe how the Republicans want to cut Medicare just to give a tax break to the rich. The Mrs. says she might have to quit her job to take care of Granny if the cuts go through.

Meanwhile, Granny is eavesdropping in the dining room, an anguished look on her face.

The commercial nearly brought tears to my eyes. I wanted to reach out, pat her on the arm and say: "It's all right, Granny. The Democrats will take care of you."

The TV ad is part of a national campaign by the Democratic Party and its allies to portray the Republicans in Congress as a group of cold-hearted rich folks who want to deny the elderly crutches and walkers so they can buy a nicer Mercedes.

The reason for the Democratic public relations blitz is a GOP plan making its way through Congress to reduce projected spending for Medicare by $270 billion during the next seven years.

At a forum at Durham's Preiss-Steele Place the other day, the Democratic Party rolled out some of its biggest guns to attack the Republican Medicare plan.

"Insane," Dick Gephardt, the House Democratic leader, said of the GOP Medicare proposal. "A tax cut for the wealthy," said Rep. Eva Clayton. "Extreme cuts," said Rep. Mel Watt.

To put a nice face on the Democratic attacks, let's call it political hyperbole. It's a good example of why Congress finds it so difficult to balance the federal budget and reduce the huge debt.

What the Democrats fail to mention is that the Republican plan proposes to INCREASE Medicare, not cut it.

The GOP plans calls for a slowing of Medicare's annual growth from 10 percent per year to 6.4 percent.

In 1994, we spent $160 billion on Medicare. If left unchanged, annual Medicare costs are projected to rise to $345 billion by 2002. Under the GOP plan, Medicare spending would increase to $247 billion per year by 2002, an INCREASE of 54 percent.

Of the $270 billion in Medicare growth reductions in the GOP plan, about $200 billion is designed to limit the growth in payments to hospitals and doctors.

That's not to say the Republican plan won't cause pain. It will lead to higher premiums, less choice in doctors and other new restrictions on coverage. It could cause hospitals heavily dependent on Medicare and Medicaid to close—especially the hospitals serving the poor in inner cities or rural areas.

But some pain is necessary if we are to stem the tide of red ink and to prevent the Medicare program from growing broke.

Nearly every serious examination of the federal budget deficit has concluded that we must slow the growth of the huge entitlement programs such as Social Security and Medicare.

People are living longer. Medicine and medical treatment is becoming more expensive. In 1965, 14 percent of the federal budget went for Social Security and Medicare. Today, it's more than one-third.

If you rule out a tax increase, the only realistic way to balance the budget is to slow the tremendous growth in such entitlement programs as Medicare, Medicaid and Social Security, said Dick Stubbing, a public policy professor at Duke University and a federal budget expert.

Scaring Granny has always been a political winner for the Democrats.

Much of the public has never trusted the Republicans to protect social programs. Social Security and Medicare were passed by Democratic liberals—under the leadership of Franklin Roosevelt and Lyndon Johnson—over the opposition of conservative Republicans who decried such programs as socialism. According to a recent Times-Mirror poll, 45 percent of those surveyed trusted the Democrats to reform the Medicare program, while 32 percent trusted the Republicans.

"Some who are pushing for current Medicare plan are of the same view as those who fought the creation of Medicare in 1965 and in 1995 are trying to deny the comforts our senior citizens," Clayton told the Preiss-Steele residents in Durham. "Should they be trusted? I think not."

The Democrats are trying to tie Medicare growth cutbacks to $245 billion in tax cuts the Republicans are pushing. But the proposed tax cuts, which would be like pouring gasoline on the roaring fire of the federal debt, are a separate issue.

Of course, the Democrats did not invent political demagoguery. Most recently, the Republicans did their part to scare the elderly and everyone else when they distorted the Clinton administration's health care proposal.

But for the moment, it's the Republicans who are trying to do right—and the Democrats who are trying to scare Granny.

[From the Herald-Sun, Oct. 17, 1995]

Give GOP Credit For Ideas

However much one might quibble with the way the GOP in Congress is bearing down on the Federal deficit, this must be said: At least somebody in Washington is trying to lasso those dollar-gorging entitlement programs.

Everybody knows that entitlements—Social Security, Medicare, Medicaid and so on—are the arch stones of a balanced budget. Unless these programs are brought under control, they will literally bankrupt the United States. It's that simple, and it's that serious.

Democrats on Capitol Hill do the country and themselves a disservice by running around and screaming that the GOP in effect plans to cast the elderly loose on ice floes. Fling that $270 billion "cut" in Medicare spending over the next seven years out to a chapter of the AARP, and the gasps will come on cue.

In fact, even under the GOP plan, federal outlays for Medicare and Medicaid are expected to rise through the year 2002. However, the rate of increase will be slowed, and that's where much of the projected $270 billion in savings will come from.

Somehow, this part of the GOP plan never gets beyond the Democrats' gatekeepers.

This is not to say, though, that the GOP plan is above criticism. Converting Medicaid into a block-grant program for the states is a risky venture, especially for poor states. If the block grant money runs out, the states will have to come up with the balance—not an easy thing to do in North Carolina, Maine, Mississippi, New Mexico and other low-wage states.

Furthermore, the GOP plan scraps an important law that prohibits physicians from "double dipping" their patients. Double-dipping occurs when a physician charges patients for blood work and other tests done at a laboratory in which the physician has a financial stake. The law came about a few years ago in response to widespread abuses in such arrangements, but the GOP promised last week to toss it out in return for the American Medical Association's endorsement of the reform plan.

If the Democrats have a straight-flying arrow in their quiver, it's their criticism of the GOP's proposed $245 billion tax cut. The leadership of both houses of Congress has signed off on the cut. Reducing entitlement spending while cutting taxes has all the flavor of guns and butter. It would be far better to get a grip on entitlement programs, then go for tax cuts.

As we said, quibbles. The GOP seized the initiative in this struggle a year ago, and seems likely to keep it. The Democrats—yes, there are some still left in Congress—have only themselves to blame for their impotence.

Mr. HILLEARY. Mr. Chairman I rise in support of H.R. 2425—the Medicare Preservation Act and encourage my colleagues to do the same. This issue is so important to so many people, it should be above partisan politics, misinformation, and lies.

Throughout this autumn's important debate on how to save Medicare from bankruptcy, opponents of the Republican plan have used one—and only one—argument against the plan: The Republicans are cutting Medicare to pay for tax cuts for the rich. This is the same hollow rhetoric, based on class envy, that was soundly rejected at the polls in last year's historic elections. And of course, this year's rhetoric is just as untrue as it has been in previous years.

This issue is so important to so many people, it should be above partisan politics, misinformation, and lies. But because the American people deserve to know what's really going on, it has become necessary for Republicans to respond to these false claims.

Let's analyze the sole argument Democrat critics have used in this debate: The Republicans are cutting Medicare to pay for tax cuts for the rich. There are three distinct parts to this statement, and all three of them are completely false. In this World Series season, they hope to convert these pitches into a home run, but all they do is strike out. Big Time.

Pitch 1: "The Republicans are cutting Medicare . . ." This is simply not true. Any way you slice it, more money will be spent on Medicare every single year. If Republican reforms are enacted, overall spending will rise from $161 billion this year to $274 billion in 2002. The average Medicare recipient will receive $4,800 in benefits this year, and the average recipient will receive $6,700 7 years from now.

What Republicans are doing is containing the current growth rate of 10.5 percent, which is unsustainable and will bankrupt the Medicare system in 7 years. The good news is that we can save the program from bankruptcy by limiting growth to approximately 6 percent a year. This comes to roughly a 40 percent increase over the next 7 years. Only in Washington is a 40-percent spending increase considered a cut. Strike One.

Pitch 2: ". . . to pay for tax cuts . . ." The fact is that every red cent of Medicare savings will go directly to the Medicare trust fund, and not one penny will go to pay for tax cuts of any kind. To make this perfectly clear, the Ways and Means Committee adopted a lockbox amendment which specifically states that all Medicare savings must be used to make the system solvent, and not to pay for tax cuts. There is absolutely no link between Republican efforts to save Medicare and to lower taxes.

The House passed its tax reform bill last spring, and every one of those cuts were paid for at the time by cutting wasteful spending in other areas. Also, even if the budget were already balanced, and the tax burden were at an acceptable level, Medicare would still have to be saved from bankruptcy. In other words, the Medicare trust fund would be broke in 7 years no matter what kind of income tax policy we have. Strike Two.

Pitch 3: ". . . for the rich." By now, it should be clear that Republicans are not cutting Medicare, and that Medicare reform is unrelated to tax reform. The third piece of misinformation in the Democrats' one-sentence Medicare strategy is that our tax reform package is geared toward the wealthy.

The truth is that if the House-passed tax reform bill becomes law, the rich will pay a larger share of taxes. According to the Joint Economic Committee, the richest 10 percent will pay 48.6 percent of all taxes—up from the current 46.6 percent. Moreover, the top 1 percent will pay 18.2 percent—up from the currently 18 percent.

The idea that the Republican tax reform bill unfairly benefits the rich is simply ridiculous. The centerpiece of our package is the $500-per-child tax credit, of which 74 percent of the credit will go to families which make less than $75,000 a year. This credit also means that families earning less than $25,000 will not pay any Federal taxes, and those earning $30,000 will see a 48 percent Federal tax cut.

Other aspects of our tax package include a capital gains tax cut—77 percent of beneficiaries will be families that earn less than $75,000, a repeal of President Clinton's tax on Social Security benefits, and an adoption tax credit to families making less than $60,000 a year.

Obviously, any claim that Republican middle class tax cuts are aimed at the rich is inaccurate to say the least. Moreover, if the Republican Medicare reform plan is passed, the wealthiest seniors will have to pay a greater percentage of their Medicare premiums, while middle income recipients will pay the same share—31.5 percent—that they are paying now. Strike Three. This last false claim completes the strikeout in the Democrats' attempt to hit a home run with ideas they should have retired years ago.

Perhaps the most destructive result of spreading false information and using class warfare tactics is that they purposely divide Americans at a time when we need to try to bring people back together. Instead of spreading misinformation and envy, we should be having an honest debate about how we can make all Americans healthier and more financially stable in their old age. Anything less is just plain wrong, and I hope that the Clinton Democrats decide to put aside their class warfare and join us in an honest debate very soon. I believe this bill is a step in the right direction and I'm proud to support it.

Mr. BUNNING. Mr. Chairman, I rise in support of the Medicare Preservation Act. It's a good bill.

It preserves Medicare—it strengthens Medicare.

It keeps Medicare from going bankrupt. And best of all it gives senior citizens more options—more choices.

I think you will all agree that Members of the U.S. Congress have a pretty good health care system.

We get a booklet every year that lists the options available to us—insurance plans or PPO's and HMO's. We get a wide range of choices. We can pick a plan that suits our needs and our family's needs. It's a pretty good deal.

I have enrolled in a PPO. I still get to see my family doctor. I show him this card and my office visit only costs me $10. And I have this other card that I can take to the drug store and pick up my prescription medicine and no matter how much it costs, I only pay $10.

It's a pretty good deal.

This Medicare reform bill that we are considering today gives the senior citizens of our country the same kind of options that Members of Congress now have. It will give them the same kind of choices we have.

That's the beauty of this bill. We save Medicare. We strengthen Medicare and on top of it all, we make Medicare better.

We are going to hear a lot of outrageous rhetoric about how we are slashing benefits. That's hogwash. It's political hogwash. And I, for one, think that this program is a little too important to play political games with.

This bill is a good bill. It gives senior citizens the same kind of health care that Members of Congress enjoy now. That's a pretty good deal for everybody.

We don't cut benefits for senior citizens. Our bill doesn't increase copayments. It doesn't increase deductibles.

It increases the average amount of money that Medicare spends on every beneficiary by nearly $2,000 over the next 7 years.

Sure we slow the growth rate. If we don't slow the growth rate of Medicare spending, Medicare will bounce over the cliff to bankruptcy in just a few years.

Ten percent growth rates simply cannot be sustained. Everybody knows that. And our bill slows the growth rate to 6½ percent. But that is still growth. It is not a cut.

It is not a cut because we slow the rate of growth in Medicare spending by providing more choices, not by cutting benefits.

By providing more options—more choices—we introduce competition into Medicare. We put private sector ideas to work. We inject the free enterprise system into the Medicare system. It will make it more efficient and more cost-effective.

At the same time, if someone is happy with Medicare just the way it is; if someone is a little nervous about trying something new; if they are happy with the traditional fee for service and don't want to change, they can keep their existing Medicare plan.

Our bill doesn't force anybody to change. It doesn't force anyone to join an HMO if they don't want to. It doesn't force them to change doctors or hospitals or anything. Anyone who likes Medicare just the way it is can keep going along just like they have been.

People like this—people who don't want to change Medicare—should like this bill too. It preserves Medicare and traditional fee for service for them. It keeps Medicare from going bankrupt.

We are not in a situation where we can stick our heads in the sand and say don't change anything, don't touch Medicare. If we do nothing, Medicare will go bankrupt in 7 years.

President Clinton's appointees who serve as trustees to the Medicare trust fund have told us that we need to make changes to keep the program solvent. We can't do nothing. Medicare is far too important to too many people.

The Democrats in Congress want to stick their heads in the sand. The President wants to stick his head in the sand. They know full well that we are doing the right thing. They know full well that Medicare needs fixing. But they would rather play political games.

They know they can win political points by crying wolf, by saying that Republicans are cutting Medicare to pay for tax cuts for the rich. They know it isn't true but they know they can win points by scaring people who are dependent on Medicare.

Republicans knew there were political risks when we took on this task. We knew it was dangerous politically to tackle Medicare's problems. It would have been much easier for us to pretend—like the President—that Medicare wasn't in that bad of shape.

It would have been much easier and safer politically to slap a band-aid on Medicare like the President wanted to do.

But we didn't take the easy way out. Republicans in Congress stepped up to the responsibility of leadership and did the right thing. We didn't dodge the issue. And we ended up with a bill that I think is about as good as possible.

It might not be perfect. It makes sweeping changes in a huge program and deals with a ton of complex issues. And we might have to go back in next year or the year after and fine tune it. But this bill provides a good basic foundation for the long term financial health of our Medicare Program.

It preserves Medicare. It strengthens Medicare. It gives senior citizens the same kind of choices in health care that Members of Congress have. And it makes Medicare more efficient and more cost-effective.

I urge my colleagues to support and pass this bill. And I urge the President to quit playing politics with the health care of our senior citizens and sign this bill when it reaches his desk.

Ms. SLAUGHTER. Mr. Chairman, I am very concerned that we are being forced to vote on this measure—which if enacted would be devastating to the health and well-being of our seniors—without adequate time for the American public or the Members of this House to study the bill and learn exactly how the 37 million people covered by Medicare will be affected. Such drastic changes to a system as massive and crucial as Medicare cannot be responsibly considered with just 3 hours of floor debate.

We will don't fully understand the consequences of what this bill will do, but what little we do know is looking pretty bad. In addition to doubling senior's Medicare payments, forcing seniors to give up their long-time doctors and shutting millions of infirm Americans out of nursing homes, there are some little known provisions that seriously and negatively affect the health and well-being of our seniors.

Take, for example, the bill's provisions to ease the ban on physician self-referrals—that is, doctors who refer Medicare patients to labs in which they have a financial stake. We have long know that this is a situation that is ripe for abuse. In fact, the HH's Office of Inspector General found that patients of referring physicians who owned or invested in independent clinical labs received 45 percent more services than all other Medicare patients in general. And the Consumer Federation of America found that doctors with a financial interest in labs ordered 34 percent to 95 percent more tests than other physicians. And the New England Journal of Medicine reported that doctors who owned imaging devices—like MRI's, for example—ordered imaging tests four times more often than doctors who did not.

That's why regulations have been implemented to prohibit doctors from sending patients for tests and services from which the doctor would profit. The Congressional Budget Office has estimated that easing this ban on self-referrals will add another $1.1 billion to the cost of Medicare, through excessive and unnecessary testing and services.

Another provision of this bill that deserves a lot more study and discussion is the section which would eliminate most Federal regulation of medical laboratories located in doctors' offices. These regulations came about after Congress heard horror stories of patients suffering and dying as a result of inaccurate lab tests. Most serious were the women who died from cervical cancer—a disease that is almost always curable if caught early—because their Pap smear test were misread.

The fight against waste, fraud and abuse has earned bipartisan support throughout recent debates on health care financing. But, cutting vital regulations without giving serious consideration to the affect on the health and well-being of millions of our citizens is irresponsible.

Mr. Chairman, it is ludicrous to rush this enormous and far-reaching legislation through the House in the hopes that the public won't be quick enough to figure out what's in it. I urge all my colleagues, in the name of the 37 million senior citizens we represent, to reject this course of action, and vote against this bill.

Mr. BALLENGER. Mr. Chairman, I rise today to express my support for H.R. 2425, the Medicare Preservation Act. Furthermore, I rise to thank the Members who understood the urgency of the Medicare Board of Trustees report showing that trust fund reserves will be fully depleted by 2002 and created a plan to save it. Unfortunately, President Clinton has been content to do nothing. I think the message is clear folks—Medicare is going broke and the Republican leadership has undertaken the task of saving it.

The Republican plan, the Medicare Preservation Act, will not take away Medicare but rather will protect, preserve, and strengthen it. We are not cutting Medicare, instead, we are allowing Medicare to grow at about 6 percent. Under the Republican budget, spending per beneficiary will increase from $4,800 to $6,700 over the next 7 years. You will get to keep your current doctors, and the Government won't force you into any plan that you don't want to be in. This is your right—to a choice of doctors, of plans, and to a system that's secure for current and future retirees. Each year Medicare beneficiaries will receive a form from the Government that lists available plans—traditional Medicare, managed care organizations, new groups known as provider sponsored networks that will be set up by doctors and hospitals, and medical savings accounts, where you purchase a high-deductible policy and the Government deposits money to cover that deductible in an interest-bearing account. If you do nothing, you're automatically enrolled in traditional Medicare. If you want another plan, that's up to you.

Furthermore, to accumulate more savings, the GOP plan would eventually end the subsidy that goes to wealthy seniors who choose to remain in the traditional Medicare Program. Wealthy beneficiaries—single people earning more than $75,000 a year and couples earning more than $150,000 a year—would pay the total cost of their premiums for the doctor portion of Medicare part B. Projected savings would be approximately $10 billion.

Our plan also combats fraud and abuse. As Medicare is designed right now, doctors are paid for procedures whether or not the patient needs them. That means the taxpayers get ripped off, and the Medicare patient doesn't get the best care. By allowing providers, hospitals, and insurers to compete for your business, the system will root out fraud and abuse and will squeeze out the waste. Seniors who find fraud in their bills will be rewarded with a percentage of the money recovered. In addition, regulatory relief would allow hospitals serving the same geographical areas to jointly plan to provide services and facilities, which they are currently precluded from doing by antitrust laws. The intent is to prevent a duplication of expensive machines and services and to remove the costly use of an insurance company or managed care organization as an intermediary. This would help beneficiaries in rural areas where there are few managed care groups.

I urge all Members to support the Medicare Preservation Act. With the support of the American Medical Association [AMA], the Seniors Coalition, U.S. Chamber of Commerce, the National Taxpayers Union, and millions of seniors, we are providing Medicare for future generations.

Mr. COLEMAN. Mr. Chairman, I am privileged to represent El Paso, TX, a community of approximately 600,000 people. Of this amount, almost 60,000 people receive Medicare. In other words, 10 percent of El Paso's population is on Medicare. That is a significant number. These are significant cuts.

I regret that the majority has not scheduled more time for hearings nor the ability to review the plan. The Democratic leadership has been forced to schedule additional days of hearings on the only space provided to us, the lawn of the Capitol, so that the American people can have a chance to participate in the process that will affect 37 million of them.

In fact, this back room dealing on the Medicare plan has gone so far as to force senior citizens to stage protests in the Commerce Committee and be arrested by the Capitol Police. Also, in an article titled "Bribes for Doctors" the New York Times points out that Speaker GINGRICH "brought the American Medical Association behind his Medicare reform program last week by handing out three concessions." These concessions were not given in the light of day after debate. No, they were given in a last-minute desperate secret attempt to rein the AMA in.

I have had over 500 constituents writing or calling to urge me to oppose these cuts. One constituent writes:

> My wish is that the Democratic Party would hammer on the fact that President Clinton wanted health care reform 2 years ago. . . . The Republican Party bombarded the air waves stating that if it was not broken, don't fix it. It's ironic that the moment the Republicans came into office, health [care] had deteriorated so quickly, that now, the Republicans are the only solution to Medicare.

I could not agree more. Not only has the Republican Party opposed the original drafting of this legislation, but they have continued to be antagonistic toward its existence for years. Now after providing only an outline, we are supposed to realistically debate the Republican effort to save Medicare in one day? I have the same trouble believing this as my constituent does.

However, I will limit my comments to the minor details I am aware of regarding this plan.

PART B PREMIUMS

First and foremost is my problem with the increase in part B premiums. The plan calls for a continuation of the 31-percent premium instead of dropping the level to 25 percent as current law now dictates. This allows for an increase of almost $700 a year by 2002.

Not one penny of this increase will go toward the part A trust fund. This increase will only go toward the general fund and can be used to balance the budget while giving a $245-billion tax cut to the wealthy.

CHOICE

The outline states that it offers a choice to seniors in the type of health care organization they would like to become a part of without limiting their ability to stay in the traditional Medicare program.

However, the different choices available to seniors have not been subjected to a test to determine if they will save any money. And plans such as medical savings accounts and HMO's are only viable options for wealthy and relatively healthy senior citizens. Therefore, these options are only available to the few seniors who fit that description.

WASTE, FRAUD, AND ABUSE

Waste, fraud, and abuse is the single biggest concern of my constituency regarding Medicare. I have spoken to many El Pasoans and, by far, the largest complaint regarding Medicare I have heard is "Stop the waste and fraud and you will find the money to support Medicare."

The Republican plan offers only three minor initiatives, a hotline, making nursing facilities provide cost estimates, and stiffer penalties for those found guilty of fraud.

Again, there is no estimate on how much these programs will actually save and these measures are not comprehensive enough to deal with the entrenched problem of fraud and abuse throughout the system.

EFFECT ON HOSPITALS AND PROVIDERS

The plan also contains significant changes in assistance to health care providers. I had previously sent a letter to El Paso hospitals outlining the possible changes that might occur under this plan and asked them to illustrate how these changes might affect the day-to-day functioning of their hospitals. I would like to illustrate the destructive change this plan would have by reading one of those letters:

> Expected Effects to . . . as a Result of Medicare and Medicaid Reductions:
>
> Staffing:

If funding is not available, . . . would face the very real possibility of staff reduction by as much as 992 positions during the 7 year period. We would lose $31,982,080 over the next 7-year period for the El Paso economy.

Clinics:

Our clinics currently operate five days a week. The reductions would force a 50% cutback in operations to 2.5 days a week.

Reduction in Services.

The hospital district's mandate is to care for indigent patients and we do not believe that we could eliminate basic services. A reduction in both Medicare and Medicaid dollars would lead to a rationing of resources that would be manifested in a number of ways:

1. Eliminate Level One Trauma Services;
2. Reduction of Pharmacy, Physical Therapy and all other outpatient services;
3. Frequent delays in all inpatient services throughout every area of care.
4. Elimination of elective cases in the operating room and reserving the operating room for emergencies only. This would lead to less funding support to the rest of the hospital and create a greater need for tax payor [sic] support.
5. Our current funding for Physician Service totaling $5,000,000 could be reduced by as much as 50% causing us to care for mainly indigent care patients.
6. Residency Programs: Our current funding of 148 residents would be reduced by as much as 60% or to only 59 residents. This sets the pattern for future physician shortages.

The above possibilities could eliminate all funded patients, putting greater risk on the tax base. All planned admissions could be delayed and the hospital could become one giant emergency room and triage hospital.

This is just one example of the type of destructive impact this plan would have on our community. I have received similar letters from all the other hospitals in El Paso.

MEANS TESTING

The plan also proposes to charge seniors with incomes over $75,000 for individuals and $150,000 for couples higher premiums. Again, these premiums will not put one penny in the part A trust fund. However, this revenue will go directly into the general fund. Means testing in this form is unnecessary.

FAIL SAFE PROVISION

The entire Republican budget plan rests on their ability to provide $270 billion in savings from the Medicare Program. However, the plan falls short of these savings by $90 billion. Yesterday, NEWT GINGRICH said he was afraid that his own CBO would substantially underscore the savings he believed could be accomplished by using HMO's and other provider plans.

If the CBO cannot come up with the magic numbers Speaker GINGRICH wants, where do you think they will come from? From the 37 million beneficiaries that Medicare now serves.

Aware that this plan may not total the $270 billion, it includes a fail safe provision that will allow future bureaucrats to make additional costs.

This hidden provision subjects beneficiaries to unknown future liability. If future decisions expose health care providers to additional cuts, they may pass the cost directly to the beneficiary or drop out of the program altogether. This would mean that even after paying more money for less services this year, seniors would be asked to do the sacrifice again, sometime in the next seven years, to achieve the same savings the original plan proposed and have a choice of much fewer providers.

This plan is the wrong way to achieve the savings that Medicare needs. This plan allows the Republicans to attempt to balance the budget while giving a huge tax break to the most wealthy Americans on the backs of senior citizens and the disabled. It is wrong.

Mr. BEREUTER. Mr. Chairman, this Member is pleased that the leadership has agreed to improve the AAPCC formula used to determine county capitation payments for the MedicarePlus program. This change is critically important and will ensure that rural Americans have the same access to the options in the MedicarePlus program as citizens in urban areas.

This change will greatly improve the health care options in rural areas by creating a formula floor of $300 per month the first year for all counties now below that level. It would rise to at least $320 the next year. Almost all counties in Nebraska fall in this category. In fact, in the 1st Congressional District of Nebraska, 21 out of 25 counties, including Lancaster County, will benefit because they are now well under the $300 county capitation rate.

This change also rectified the problem experienced in some metropolitan areas such as Seattle and Minneapolis whose medical communities are more efficient providers of health care than other urban areas.

Mr. Chairman, since this improvement was made in the bill, this Member is pleased to support it.

Ms. BROWN of Florida. Mr. Chairman, the House of Representatives is the People's House. We were sent here to Congress with a mission: to serve the people. As Members of Congress, we should be listening to our constituents and voting against proposals that will devastate our seniors.

Here I have hundreds of questionnaires that my constituents signed opposing drastic Medicare cuts. During the break, I met with over 3,000 of my constituents at 14 town meetings and they told me they are appalled at the Republican plan to cut Medicare. Oh, did I say CUT? I meant GUT.

Mr. Chairman, the Republican Leadership is unhappy about us using the word CUT to describe the Republicans' Medicare plan. Okay, fine. Maybe CUT is not quite the right word. Well how about G-U-T? How do you like the word GUT? The fact is that Republicans want to destroy Medicare's security and leave our seniors stranded to fend for themselves. They say they are "saving" Medicare.

Well, I come from Florida where I served for 10 years in the Florida House. In Florida we have a saying for that kind of thing, "That dog won't hunt."

Thousands of my constituents have told me that they are outraged at the Republicans' reverse Robin Hood tactics, stealing from the working people and giving tax breaks to the wealthy. As we say in Florida, "That dog won't hunt."

Two days ago, I spoke to the National Council of Senior Citizens, who have been leading the fight against drastic cuts in Medicare. NCSC has shown great courage and true leadership in this fight and I want to say to them: Thank you. Thank you for your work. Thank you for your bravery. And thank you for your commitment to seniors.

Recently in Washington, NCSC led a rally against Republican Medicare cuts by rolling out a giant Trojan Horse representing Republicans' empty promises on Medicare.

And last week, seniors from NCSC came to Congress to protest the fact that the Commerce Committee was voting on a Medicare bill without having one hearing on it. For that, they were arrested?

Shame on my Republican colleagues for shutting out seniors from Congress—the People's House. As a Democrat who believes in the Democratic process, I believe those seniors deserve to be heard, and not arrested.

Seniors are the ones who made this country great, and we owe it to them to protect their health care. We should be celebrating and embracing our seniors, not stabbing them in the back by taking away their health care.

Mr. KIM. Mr. Chairman, I rise today in support of the Republican plan to save Medicare.

I think everyone would agree that the Medicare program has been an enormous success over the past 30 years. Because of Medicare, millions of senior citizens have gained access to the health care that they otherwise wouldn't have been unable to afford. But trouble looms just over the horizon for Medicare. As many people have heard by now, the Medicare trustees recently warned that the Medicare trust fund is going to be broke by 2002. That would be a catastrophe: If the Medicare trust fund is exhausted, the program cannot legally continue to provide benefits to senior citizens—leaving millions of seniors without needed health care.

In response, Republicans have put forth a dramatic plan to save Medicare from bankruptcy. Unfortunately, many of my Democratic colleagues are skeptical of the need for reform. "We agree the system is in trouble," my colleagues argue, "but the Medicare trust fund has faced bankruptcy before and the program has survived. Why do we have to make sure dramatic changes now?"

The answer is simple: The current Medicare crisis is of such magnitude that it demands a long-term, comprehensive reform of the system.

In the past, Congress has always dealt with Medicare's financial problems with short-term, quick fixes. Several times over the past two decades, Congress has tinkered with Medicare to shore up the financial problems in the program. Usually, these short term solutions involved raising payroll taxes, cutting payments to providers, or raising premiums and copayments for seniors. And these quick fixes worked, at least temporarily. After each one, Medicare was able to limp along for a few more years, until the program had to be "fixed" again.

But the day of reckoning has arrived for Medicare. For the first time in the program's history, the costs of Medicare are growing so rapidly that no amount of "tinkering" can make up the difference. If Congress does nothing, Medicare spending will nearly double by 2002—growing from $160 billion today to $318 billion in just 7 years. And that's before the first wave of baby boomers starts to draw benefits from Medicare. If left unchecked, such astronomical growth will swamp the Medicare program and add trillions of dollars to the national debt.

Why is Medicare growing so fast? The main problem is that the current Medicare program simply does not deliver health care cost effectively. While innovations in the private health care market have had some success in controlling health care costs, costs in the government-run Medicare program have continued to skyrocket. For example, while large private insurers cut their health care costs by 1.1 percent last year, Medicare costs grew by more than 10 percent. Of course, these results should not be shocking: Should we really be surprised that a government-run program such as Medicare is characterized by rampant inefficiency and skyrocketing costs? I think not.

To put it simply, Medicare is a 1960's government insurance program that simply does not meet the demands of providing health care in the 1990's. The system needs fundamental reform in order to survive.

That is why Republicans are proposing the "Medicare Preservation Act". Our proposal is an attempt to save the Medicare system from bankruptcy by making the program more efficient and cost effective. In doing so, it would reduce the growth of Medicare by $270 billion over the next 7 years?

So how does our plan reduce the growth of Medicare?

The plan starts by declaring war on Medicare waste and fraud. Among other things, the plan dramatically increases penalties for fraud, provides funds for new computer technology that can identify fraudulent activities, and sets up procedures for giving cash rewards to seniors who report abuse in the Medicare program. The plan also implements malpractice reform to eliminate frivolous lawsuits which drive up costs for everyone in the system. Finally, our proposal reforms how Medicare pays doctors and hospitals to make sure that health care providers don't order extra tests or unnecessary procedures simply for financial gain.

The plan also asks doctors, hospitals and seniors each to contribute a little toward saving the program. For example, doctors and hospitals will continue to see their Medicare payments grow—but not as fast as they would under current law. Seniors will be asked to pay a little more Part B premiums. Note that even with these premium increases, seniors will continue to only pay about one-third of the cost of Part B—and taxpayers will continue to subsidize two-thirds of the cost. I think this is fair—we cannot force working families, many of whom can't afford health insurance themselves, to increase their subsidy of the Part B program.

But our proposal goes much further than just attacking waste and limiting the growth of payments to doctors and hospitals. The core of the Republican proposal is a truly revolutionary idea: Let seniors have the same health insurance choices that their children and grandchildren have.

Under our plan seniors would have three options: First, join a private health insurance plan and have Medicare pay the premiums; Second, use Medicare dollars to purchase a high-deductible health plan and have savings placed in a medical savings account. or Third, stay in the current system. So, for example, if you like the health plan you have at work, you can keep it when you retire—and Medicare will pay the premiums. If you want to join another private insurance plan, you can—without being excluded for preexisting conditions. And if you want to stay in the current government-run Medicare system, you can do that, too. The idea is that, by allowing seniors to join more efficient private insurance plans, we can save money and give seniors more health care options at the same time.

In short, the Republican proposal is a fundamental departure from past attempts to reform Medicare. Instead of trying to squeeze more money out the current system, we are proposing to change the system so that it can provide the same benefits for less money. And don't forget: Republicans are not proposing to cut Medicare—under our plan, benefits will still grow from $4,700 per person today to $6,700 per person in 2002.

Unfortunately, opponents of our plan reject the kind of fundamental reform Republicans are proposing. They want to tinker with the system some more—maybe push Medicare's bankruptcy back a couple of years. The problem is, under this approach, we will be right back here in a few years, arguing over these same issues. Except, by then, the deficit will have grown substantially, the Medicare trust fund will be in even worse shape, and—most importantly—the baby boom generation will be that much closer to retirement. In fact, a recent study estimated that the Medicare reform plan offered by the Democrats would leave Medicare $300 billion dollars in debt just as we have to start paying for the baby boomers. To me, that's irresponsible.

Finally, I want to respond to my Democratic colleagues who accuse Republicans of cutting Medicare to provide a "tax cut for the rich". I am here to tell you that nothing could be farther from the truth. The fact, is Republicans have already passed more than enough spending cuts than are needed to pay for our proposed tax cut. The Republican budget resolution—passed last April—contains $622 billion in non-Medicare spending cuts. That is two-and-a-half times the amount of spending cuts needed to pay for tax cuts. And let's look at the tax cuts themselves: Is a $500 per-child tax credit a tax cut for the rich? Is a $500 tax credit for the care of an elderly relative a tax cut for the rich? Is cutting taxes on IRA withdrawals or the sale of a home a tax cut for the rich? I think not.

So let's end this partisan bickering. We must act now to save Medicare—while there is still time to engage in rational, thoughtful reform of the Medicare system. By making the system work more cost-effectively, we can preserve, strengthen and simplify Medicare—and make sure current and future generations of seniors will have access to this vital program. For these reason, I urge my colleagues to support the Republican plan to save Medicare.

Mr. PORTMAN. Mr. Chairman, Medicare's problems are now well known. The question is whether official Washington has the courage and foresight to fix them. If the partisan bickering continues and nothing is done, the Federal program providing health care insurance for roughly 33 million seniors and 4 million disabled Americans won't be there for anyone.

We know that skyrocketing medical costs, an aging population and a decline in the ratio of workers paying into the system have placed Medicare in dire financial straits. We know about the alarming Medicare Trustees' report—the Part A Trust Fund—which covers hospital, skilled nursing and home health services—starts paying out more than it takes in next year and goes broke 6 years later. We also know that Medicare offers limited choices to beneficiaries, is rife with fraud and abuse and, typical and entitlement programs, lacks a cost control mechanism. Such cost increases are simply unsustainable in a program that now accounts for over 11 percent of the Federal budget. This has led to annual cost increases in excess of 10 percent, at least twice as high as private health care costs.

With all of this knowledge and after more than two dozen public hearings and hundreds of town hall meetings, comprehensive Medicare reform legislation was introduced in the House at the end of September. Democrats have dismissed the plan as a mere means for paying for Republican-sponsored tax cuts. This misses the point. The tax relief has already been paid for with spending cuts and has nothing to do with Medicare reform. Republicans, in turn, are too defensive about the politically sensitive task of curbing entitlement spending. Both sides need to be honest about the facts, get down to work on the serious challenge before them, and stop the political gamesmanship. Here's what the proposal just introduced does and doesn't do.

It does allow beneficiaries to keep their current coverage. If someone is currently enrolled in the traditional fee-for-service plan—which over 90 percent of beneficiaries are—by doing nothing that plan is continued. But many will want to change. The innovative aspect of the proposal is that it offers seniors choices until now only available in the private sector—coordinated care, Medical Savings Accounts and provider-sponsored networks, to name a few—and sufficient information to make good choices.

Some may opt for coordinated care to reduce out-of-pocket costs or obtain prescription drugs, eyeglasses or other coverage currently excluded under Medicare. Others may want to take advantage of a Medicare Savings Account where beneficiaries can purchase a high deductible, low-cost insurance policy and the government deposits money that would have gone toward more traditional Medicare benefits into an interest bearing account that can be withdrawn tax-free to cover medical expenses.

Contrary to the heated rhetoric, Medicare is not being "cut"; spending per beneficiary will actually increase under the proposal from about $4,800 in 1996 to $6,700 in 2002. Granted, that is not as steep an increase as currently projected, but it remains a generous program. Moreover, despite claims from the plan's critics, the House proposal does not increase copayments or deductibles. Premiums will increase in absolute numbers under the House GOP plan, a bit more than they would under current law. This is because the proposal locks in today's premium of 31.5 percent of the cost of Part B services (doctors visits, lab work, etc. . . .), rather than having the percentage paid by beneficiaries decrease (and the percentage of the public subsidy increase) as it would under current law. As a result, instead of paying $61 a month seven years from now as would be the case under current law, the amount would be approximately $87 a month. This reflects the fact that health care costs will go up in that time period. Most seniors I talk to are willing to see this kind of increase if it is part of getting the system on its feet.

Only those better off (individuals with incomes over $75,000 and couples with incomes over $125,000) will pay a higher percentage of Part B premium costs. Again and again in my town meetings and discussions with seniors, I've been impressed with the willingness of people to pay a little more if it helps put Medicare back on its feet.

The proposal also tackles fraud and abuse. Seniors in my District and around the country have offered innovative ideas to curb the fraud and abuse that adds billions of dollars in health care costs each year. The proposal rewards seniors who report fraud to the government and the government, in turn, increases penalties for those who defraud the system.

Those who have taken a hard look at the benefits of increased choice and competition believe that health care delivery can be improved and costs reduced. In conjunction with affluence testing and reduced fraud and abuse, many believe that savings will be generated adequate to keep the program solvent at least until the baby boom generation begins to retire. But they may be wrong. That's why the current plan also builds in a "failsafe" mechanism, under which government payments to providers will be reduced if targets are not met.

Is this plan perfect? No. It surely can be improved and there ought to be a bipartisan effort to do so. But it's the only plan out there that seriously addresses Medicare's financial troubles. For the 37 million Americans in the system and those millions more in years to come, let's hope Congress and the White House can get beyond the rhetoric and work together to produce a responsible plan that saves this vital system. And, in the process, let's hope both sides can be more honest with the American public about how that's achieved.

I urge my colleagues to support this legislation as a responsible approach to a very real problem.

Mr. FOGLIETTA. Mr. Chairman, there has been a lot of talk this year about contracts. First, there was the Contract With America. Or as they call it in my neighborhood in south Philadelphia, the contract on America. There is the contract with the American family.

Now I studied contracts in law school. A contract is not a very complicated thing: you agree to do something for me and I will do something for you.

As we vote on this bill today, let us all think about what our parents did for us and for America. The generations of parents who stand at risk because of this legislation gave decades of their lives at work to raise us, feed us, clothe us, to educate us.

They fought the Second World War for us, they saved the world from an enemy so evil it is unthinkable to consider what would have happened without them, our parents.

After World War II, men and women in this Chamber did a profound thing. They created a way for our parents to live out their lives in security, in peace, and in health.

The created the Social Security and Medicare systems.

These programs represent a covenant among generations. But now we are tearing up that contract.

They are tearing up that contract when they raise premiums on elderly Medicare recipients who just cannot afford it, and next week they propose to cut Medicare to the bone to pay for a tax cut for the wealthiest Americans.

They are tearing up the contract by pushing people too hard into a system that will take their choice away.

They are tearing up that contract with huge cuts to hospitals and doctors and that slam the door on access.

These are senior citizens who have held up their end of the contract. We have to keep our part of the bargain. I urge my colleagues to oppose this bill and support the Gibbons-Dingell substitute.

Mr. CASTLE. Mr. Chairman, I rise in support of the Medicare Preservation Act. This is a realistic proposal which addresses the serious problem of Medicare's pending bankruptcy. For the last 6 months, I've traveled throughout Delaware, held town meetings, and visited with senior centers to talk about this important program, which provides health care for roughly 100,000 aged and disabled Delawareans. Delawareans want to know that this critical program will be there for them in the future. They recognize that the Government cannot afford to continue the Medicare Program as it currently exists.

Medicare, created in 1965, is comprised of two parts, part A and part B, which provide hospital coverage and doctor coverage for 99 percent of all older Americans. President Clinton's Medicare trustees have clearly and succinctly stated that the program is in financial dire straits. Why? The Medicare Program grew at a rate of 10.5 percent last year—three times that of inflation and twice as much as private sector medical costs. Further, the General Accounting Office [GAO] has estimated that as much as $44 billion a year is wasted on Medicare and Medicaid fraud, and about 30 cents of every dollar is wasted or lost due to mismanagement by a Federal agency.

Thirty-seven million people depend on the Medicare Program, and it is frustrating to see the program politicized. No one—not Democrats, not Republicans—invented Medicare's financial crisis. The program has been heading toward bankruptcy for years. During the last Congress, President Clinton created a bipartisan Commission on Entitlement and Tax Reform, on which I was selected to serve, to try to transcend politics and address entitlement programs in a responsible, bipartisan manner.

In forming the Commission, President Clinton said, "This Commission will be asked to grapple with real issues of entitlement reforms. * * * This panel, I expect, will ask and answer the tough questions * * *. Many regard this as a thankless task. It will not be thankless if it gives us a strong and secure and healthy American economy and society moving into the 21st Century." While the final report to the President did not endorse specific proposals to reform entitlement programs, it stated "We must act promptly to address this imbalance between the government's promises and its ability to pay." However, no further action was taken by the Democratic leadership in Congress or the President.

In contrast, Republican leadership in Congress has bravely confronted the issue, refusing to be thrown off track by those who are trying to turn Medicare reform into a political hot button. The Republican proposal recognizes that we simply must control the program's spiraling growth rate to guarantee that the program is maintained well into the future. The proposal does not bow to the political pressure of those who want a feel-good proposal that only scratches the surface of reform in order to provide a quick fix until after the next election.

Having said that, I think it would be naive to throw unconditional support behind any proposal that modernizes a 30-year program. Reforming Medicare is complicated business, and we do not have crystal balls allowing us to predict perfectly the outcome of these bold reforms. I do have some reservations about the proposal. For example, I am concerned about the potential impact of the "look back" provision that allows additional savings to come from doctor and hospital reimbursement rates if the amount of savings predicted under the bill do not measure up. I want to ensure that nursing homes continue to be a safe place for our seniors. I want to ensure that some of the deregulatory provisions in the bill don't ultimately increase costs, like those relating to physician self-referral.

Given the stakes here, however, the good cannot be set aside while we try to achieve the perfect. In its entirety, the proposal is realistic, sensible, and fair. The proposal saves Medicare from bankruptcy and recognizes that dramatic changes must be made and new options must be provided to this important program.

Next year, the Federal Government starts spending more on Medicare than it takes in and in 6 short years, the Medicare Program is insolvent. Under the Republican plan, Medicare is preserved until 2010, benefits will continue to grow and patient choice is not only maintained, it is expanded. Older Americans receiving Medicare can stay in the current system, with their current doctor, without having to choose another health care plan. Or, they can choose a private sector plan that offers more benefits, like prescription drugs or eyeglasses or put their funds into a medical savings account.

Under the Republican plan, there are no cuts in spending—spending goes up 40 percent over 7 years, with per beneficiary spending increasing from $4,800 today to $6,700 in 2002; there is no increase in Medicare copayments; there is no increase in Medicare deductibles; and there is no change in the current rate of Medicare premiums. Today and tomorrow, premiums are 31.5 percent of Medicare part B costs. They will continue to be calculated that way.

In addition, the bill cracks down on waste, fraud, and abuse that pervades the current system, enacts tough malpractice reforms to end runaway spending and frivolous lawsuits, and allows doctors and hospitals to join hands in providing health care in a provider network arrangement. Lastly, the Medicare Preservation Act clearly states that the savings from slowing Medicare's growth rate must go back into the health care system in a lock box and cannot be used for any other purpose.

Enacting a bold Medicare preservation plan is not only absolutely necessary; it is the responsible action and the least we can do for the 37 million Americans who depend upon Medicare now and for the millions of Americans who will depend upon Medicare in the future.

Mrs. THURMAN. Mr. Chairman, I rise today to express my opposition to the Republican plan to cut Medicare to finance a $245 billion tax cut for the wealthy. Under the Republican plan, Florida will lose $28 billion from Medicare. As a result, my constituents will play higher premiums, face uncertainty about their ability to stay with trusted doctors, and lose their sense of health care security.

Republicans have promised a utopian world of free choice and complete access to services. But, there is no choice when cuts in the fee-for-service program force seniors into health maintenance organizations. And there is no quality service when our health care system for the elderly is cut to free up money for tax cuts. Paying more for the same service is a cut, and the Republicans know it.

We need to stand up for the seniors of America. Seniors were forcibly silenced during the so-called debate on this issue in committee. When we tried to expose the Republicans plan for what it is, we were shut out of hearings and forced to meet on the Capitol lawn. It is our obligation, as representatives of all citizens, including the most vulnerable, to speak out and vote against these drastic cuts.

Mr. LATHAM. Mr. Chairman, I rise to support the Medicare Preservation Act.

Medicare has successfully provided basic health care for our Nation's senior citizens. However, the Medicare Program is sick, very sick. According to President Clinton's own advisors, the Medicare system will face bankruptcy in the next decade if fundamental reforms do not take place. If the program goes broke, seniors will lose their Medicare hospital coverage.

During the Medicare reform debate, I have worked to ensure that four goals are achieved. First, the long-term integrity of the Medicare system must be preserved for present and future retirees. Second, lower-income seniors must be protected from cost increases that they cannot afford. Third, Medicare reforms should provide more competition and consumer choice, not more Government control. And finally, the huge reimbursement discrepancy between rural and urban counties must be fairly adjusted. I am proud to say that the Medicare Preservation Act meets these goals.

The Medicare Preservation Act will ensure that every Medicare recipient will continue to receive affordable, high quality health care now and in the future. Medicare spending will increase from $4,800 to $6,700 per person over the next 7 years. Seniors will have more health care options including traditional fee-for-service Medicare, managed care plans, and medical savings accounts. Finally, the increase in per capita payments for rural counties will ensure that seniors who live in rural communities will have the same health care options as their friends in urban areas.

The Medicare Preservation Act strengthens Medicare for the 21st century. I strongly urge my colleagues to support passage of the H.R. 2425.

Mr. KLECZKA. Mr. Chairman, today the new Republican majority has demonstrated that their position on Medicare has not changed in 30 years. In 1965, Democrats enacted the Medicare Program amidst Republican opposition. and today, despite the overwhelming success of this program, Republicans have voted to undermine it. I am not surprised that the GOP has voted to make unprecedented cuts in this critical health care program, after all, they have never consistently supported Medicare. But to take $270 billion out of a program that protects senior citizens in order to pay for tax cuts and to balance the budget—this is simply extreme.

Republicans claim these cuts are to strengthen the trust fund, which according to the Medicare trustees is expected to become insolvent 7 years from now, in 2002. But in the last 20 years the trustees have projected that the fund would be insolvent in 7 years or less at least nine times. In fact, just last year, the trust fund was projected to become insolvent in the year 2001—7 years out. Yet my Republican colleagues said nothing. In fact, the only provision proposed to date by the Republican majority that has a measurable impact on the trust fund actually takes more than $87 billion out of the fund over the next 10 years. For 30 years it has been up to the Democrats to protect and preserve Medicare. It looks as if it will be up to us for the next 30 as well.

In their new found concern about the Medicare trust fund, the GOP plan cuts the program by $270 billion over 7 years. And their plan does extend the life of the trust fund to the year 2006. However, what they don't tell you is that the Medicare actuaries estimate that only $90 billion is needed to extend the trust fund to that year. What are they doing with the balance of the money? They are using it to pay for tax cuts and deficit reduction.

In contrast, the Democrats have introduced alternative plans that achieve the same level of solvency that the Republican plan achieves, but at only a third of the cost. These proposals reduce Medicare expenditures by only $90 billion over 7 years and still assure that the trust fund remains solvent for the next 10 years. Because every penny of this $90 billion is targeted to the trust fund, we are able to strengthen the fund without weakening the program for current beneficiaries.

The Democratic substitute contains a series of responsible reforms combined with modest improvements that put beneficiaries first. This alternative does not increase premiums, copayments or deductibles. In fact, the plan even eliminates excessive copayments that beneficiaries currently pay for hospital outpatient services. Moreover, Medicare's current limits on balance billing are retained, essential protections for Medicare beneficiaries in nursing homes are preserved, and tough laws against fraud and abuse remain on the books.

The Democratic bill updates Medicare benefits to prevent cancer and complications from diabetes including colorectal screening, pap smears, pelvic examinations, and increased coverage of breast cancer screening. Also, payment would be authorized for diabetes outpatient self-management services and for blood-testing strips for individuals with diabetes.

Our plan also offers expanded choice of providers and plans, permitting beneficiaries to enroll in preferred provider organizations [PPO], point-of-service [POS] plans and provider service organizations in addition to the current fee-for-service and HMO options. But unlike the Republican bill, our reform proposal also ensures that these new options are real choices. Plans must honor limits on balanced billing and they are paid adequately in order to shield beneficiaries from additional out-of-pocket costs.

Certainly, efforts to control spending require that some limits be placed on reimbursements to all providers, including physicians. Since the American Medical Association has been so supportive of the GOP plan, the Democratic alternative largely mirrors the Republican proposal with respect to payment reforms. Special caution is taken with reductions in payments to hospitals. Excessive cuts in hospitals, like those proposed by the majority, could be counter productive, negatively affecting the quality of care, reducing access to care and resulting in higher costs for the private sector. The alternative plan includes reasonable reductions in hospital payments but also safeguards hospitals that serve the uninsured in rural and urban areas.

I urge my Republican colleagues to stop marching blindly for just one moment to consider this worthy, thoughtful alternative. If your goal is to preserve the trust fund, this alternative plan accomplishes that goal. If you want to strengthen the Medicare program and bring it into the twentieth century, this plan gets there. If instead, you wish to pursue this scorched earth policy in order to balance the budget and pay for tax cuts, then you have that option before you today. But at least stop long enough to think about what it is that you want to achieve.

It dismays me that we have come this far in the process and are left with a Republican plan or the Democratic alternative. It did not have to come down to this. Democrats on the Ways and Means Committee and on the Commerce Committee attempted to work with Republicans to add these protections included in the Democratic alternative to the Republican plan and to improve the GOP proposal. Ways and Means Democrats offered more than 35 constructive amendments to the Republican bill. Of these, only four were accepted by the Republican majority.

Today we will not have the opportunity to present constructive amendments because the rule is closed. But they cannot hide from their agenda. Republicans on the Ways and Means Committee voted in lockstep to reject an amendment to extend basic consumer protections to Medicare beneficiaries who choose managed care plans. They opposed an amendment, offered by myself, to safeguard beneficiaries from a practice called balance billing in which the patient is expected to pay the difference between what the doctor charges and what Medicare pays. Republican members voted against an amendment that would have restored funding for inner city and rural hospitals who serve the uninsured, and rejected an amendment to retain the current standards for nursing homes. They also voted against amendments to increase screening for breast and cervical cancer, rejected amendments to provide coverage for colorectal and prostate cancer screening, and turned back an amendment to provide better coverage for diabetics.

These are just some of the proposals on which the Republicans have gone on record. But today is the day to keep score. Today we each have a choice—to support senior citizens or to support tax cuts for wealthy Americans. I urge my colleagues to not take lightly this decision.

Mr. MFUME. Mr. Chairman, I rise today in opposition to H.R. 2425, the Medicare Preservation Act. This bill makes the most sweeping changes in the Medicare Program since its establishment in 1965. Since assuming control of Congress this January, House and Senate Republicans have been pushing for passage of the deepest package of Medicare cuts in the program's 30-year history. These changes will increase the cost of Medicare to the average senior citizen by nearly $1,000 and force many to give up their own doctors. According to the American Association of Retired Persons, the Republican Medicare cuts would be "the end of Medicare as we know it."

There is much in the bill that concerns me and my constituents. However, the provisions of this bill to change nursing home standards have raised the ire of many others. H.R. 2425 repeals current federal standards for nursing homes participating in the Medicare Program and replaces them with a requirement that nursing homes be State certified.

Many of my elderly constituents and their families recall the days when some nursing homes were little more than abusive prisons for America's seniors. They are not impressed by this so-called preservation effort.

Why the assault on Medicare? Why propose deep and potentially devastating cuts in a program that is a contract between Government and seniors who have paid into the program all their lives? Some Republicans will say that they are trying to save the program from bankruptcy. Others will say they need to raid Medicare to balance the budget (although at the same time they are proposing huge tax breaks for the wealthiest Americans). What are the real answers?

In understanding this latest attack on Medicare, I believe it is important to look beyond the latest conservative rhetoric about Medicare and examine the record instead. The fact is, since the 1950's, the GOP has consistently opposed even the creation of Medicare. Many of the party's prominent leaders voted against Medicare when it was first established in 1965. And current party leaders have repeatedly attacked Medicare and Social Security.

If the Republican Party had been in the majority in 1965, Medicare simply would not exist. A full 93 percent of House Republicans voted against Medicare when it was introduced. In fact, the Republicans voted overwhelmingly against the creation of Medicare on three other occasions in the early 1960's.

Their arguments were extreme then and they're extreme now. In 1965 they called Medicare "socialized medicine" and claimed it would "impair the quality of health care, retard the advancement of medicine and displace private insurance." Nevertheless, Medicare passed, and for many years was widely hailed, even by Republicans, as a triumph of government.

Despite the doomsday predictions 30 years ago, Medicare has dramatically improved the health and welfare of American seniors and ensured that the elderly will never again have to choose between health care and food or rent.

Ironically, one of the reasons we even have a debate about reforming Medicare is because of its profound success. Americans are living longer and more productive lives. That means many more reach an age where greater health problems can emerge. We should not use the success of Medicare as a reason to recklessly cut the program.

The Medicare Preservation Act being voted on today does not preserve Medicare. Rather, it will violate the compact made with American's elderly over 30 years ago. This bill will push patients into managed care; provide obstacles for Medicare beneficiaries to find a physician willing to provide them care because of lower reimbursement rates; double Part B premiums for seniors living on a fixed income by the year 2002; close inner-city and rural hospitals which are already on the brink of bankruptcy and give a few bad doctors an open license to provide shoddy treatment since patients would no longer be able to rely on the court system for redress. Additionally this bill would repeal balance billing requirements for some categories of beneficiaries; encourage doctors to perform unnecessary tests—increasing overall health care costs—and allow them to refer patients to facilities they have a financial stake in; and increase costs by allowing healthier, younger seniors to opt out of Medicare through Medical Savings Accounts while leaving sicker and older patients in traditional Medicare.

The Republican cuts in Medicare are misguided and faulty. They go way beyond what is reasonable or necessary to maintain the solvency of the program. And when you strip away the rhetoric, all that remains is a huge tax break for the wealthy. They need a way to pay for their trickle-down tax break, and they believe they can pull it out of the pockets of struggling seniors. America's seniors were told that their deepest beliefs in fairness, personal responsibility, social duty and contribution to society would be rewarded if they trusted Congress with their health care. Now Congress is using Medicare cuts to pay for a tax break for the wealthy.

Despite the feel-good rhetoric, the reality is that Medicare has been moved into the bullseye of the GOP target for massive cuts. When you look at the shotgun of this crew and the other targets of the conservatives—student aid, summer jobs, Federal workers—it looks less like responsible budget cutting and more like a drive-by shooting.

Mr. EWING. Mr. Chairman, the Medicare Board of Trustees reported last spring that "The Medicare Trust Fund continues to be severely out of balance and is projected to be exhausted in 7 years." This report was signed by, among others, President Clinton's Secretary of the Treasury, his Secretary of Labor, and his Secretary of Health and Human Services.

Mr. Chairman, I am proud to stand up in support of legislation which will provide a long-term solution to the financial problems in the Medicare Program and guarantee that the program will be available for senor citizens well into the next century. In addition, this legislation will provide senior citizens with more choices in their health care decisions, while guaranteeing that senior citizens in Medicare now may remain in the program and keep their current doctor and hospital if they choose. This bill provides for an increase of Medicare spending from $4,800 per person now to $6,700 per person over the next 7 years, while at the same time guaranteeing the solvency of Medicare. I am proud to support legislation which protects and preserves Medicare without changing Medicare benefits, does not increase deductibles, and does not change co-payments.

I would like to commend the Republican leadership for agreeing to alterations in the legislation which will guarantee a minimum Medicare reimbursement level for rural counties which for years have received substantially less than more populous areas. This agreement will make the Medicare program more fair than it has been for seniors who live in rural America, while at the same time providing an incentive for HMO's and managed care programs to expand their services into rural America. This will provide seniors in rural areas more choice in their health care decisions.

It is extremely unfortunate that some have decided to play politics with Medicare by scaring senior citizens into thinking that their benefits will be cut by this legislation. It is unconscionable. Senior citizens deserve to live with the security that Medicare will continue to be there for them when they need it, and they should not be the subject of partisan politics.

This legislation simply controls the rate of growth of Medicare, which has been growing more than 10 percent every year, much higher than inflation. Spending on the program will continue to increase, only at a more controlled rate. The bill accomplishes this objective by maintaining premiums at the current 31 percent level (rather than decreasing as scheduled), reducing waste and fraud in Medicare, and encouraging managed care without forcing anyone into it.

Senior citizens don't want a band-aid solution to the pending bankruptcy of Medicare. They want a long-term solution which guarantees that Medicare will be there for them. This legislation does just that.

Mr. GALLEGLY. Mr. Chairman, I rise in support of H.R. 2425, the Medicare Preservation Act of 1995.

Mr. Chairman, when the majority in the Congress first took up the challenge of a potentially bankrupt Medicare System as presented by the Board of Trustees, I wanted to ensure that any reforms we initiated achieved two goals: first, the reforms must make the trust fund solvent as far into the future as possible; and second, none of the reforms could result in any degradation of current health services now enjoyed by those covered by the Medicare System.

In the days and weeks leading to today's vote on the Medicare Preservation Act of 1995, literally thousands of constituents contacted me to discuss this legislation and to voice their specific questions/concerns. As I began to research and consider the proposed reforms, their questions became my questions and I realized I could not in good faith cast my vote before I had all the answers.

One of the things they wanted to know was whether the new plan would allow beneficiaries to remain in the traditional Medicare System. The answer, of course, is absolutely. Only Medicare beneficiaries who choose to participate in one of the new MedicarePlus options will change plans.

Some were concerned by reports that the Republican plan was "cutting" Medicare benefits. Was this true? Were we cutting Medicare? The answer was absolutely not. The plan we adopted today significantly increases Medicare spending. Under the Medicare Preservation Act of 1995, average spending per beneficiary in California goes from $5,821 to $8,139 over the next seven years—an increase of more than $2,300.

Many of those who contacted me had been exposed to the false and inflammatory reports that the money we were saving by reforming Medicare would be used toward deficit reduction or tax cuts. In fact, nothing could be further from the truth. Any savings realized through our reform of Medicare must stay in Medicare. Period.

A final concern many seniors expressed to me was whether the quality of the care they currently receive would decline under a reformed Medicare. Well, I can report that—at a bare minimum—seniors under this plan will be guaranteed the same benefits they have now, no matter what specific plan they choose. At the same time, many seniors will be able to select a plan that may offer something they do not currently receive, whether it be prescription drugs, eyeglasses, or better hospital care. The bottom line is that the quality of benefits in all cases will measure up to yesterday's Medicare and, in many cases, will improve.

These were the kinds of things I needed to know before casting my vote today in favor of the Medicare Preservation Act of 1995. Like many of my constituents—and colleagues—I was concerned about the rhetoric and misinformation swirling around this issue prior to the vote. However, once I had the facts at my disposal I saw only one appropriate course. That course was supporting a reformed Medicare System which increases benefits, expands the options to beneficiaries, and is structured in such a way that it will survive far into the future.

H.R. 2425, the Medicare Preservation Act of 1995, accomplishes all of these goals while retaining the essential elements of traditional Medicare. I truly believe that we have done the right thing today in adopting these reforms. We have taken a program that was failing, a program on track to consume itself and we have given it new life. We rose above the scare tactics and sound bites aimed at preventing us from having the courage to do the right thing and we did the right thing.

I am proud to have had a hand in bringing about these badly needed reforms, and I look forward to celebrating the positive impact our action today will have on current and future Medicare beneficiaries.

Mr. HALL of Ohio. Mr. Chairman, today we are debating H.R. 2425, the so-called Medicare Preservation Act. Who can be opposed to preserving a program on which more than 37 million Americans are dependent? Unfortunately, the bill does not live up to its title.

Its supporters claim that unless action is taken, the part A trust fund will be bankrupt in the year 2002. However, all that this bill does is to move the date of insolvency back to the third quarter of 2006 according to actuaries at the Health Care Financing Administration. At what cost?

The part B premium will rise by an estimated 89 percent. Payments to hospitals will be cut, especially to hospitals that provide a disproportional share of care to indigent patients and teaching hospitals, and as a result, many hospitals will be forced to close. Payments for home health care will be reduced which will lead to more people being placed in nursing homes, but payments for nursing homes will also be reduced.

This is a bill to cut $270 billion from the growth of the Medicare Program over the next 7 years, far more than is needed to keep the program solvent. As painful as the cuts in the bill are, the program changes in the bill are even worse.

The bill is predicated on beneficiaries moving into managed care plans such as health maintenance organizations. It also provides for establishing medical savings account plans with high deductibles. These accounts could be used for medical services not currently covered by Medicare. These options are all right for people who are basically healthy, but they will have a devastating impact on those who are not. Plans will vigorously compete for those in the first group; but the others will be left behind in traditional fee-for-service plans. As more and more healthy people leave these traditional plans, premiums will skyrocket, which in turn will increase the exodus.

I believe a compromise Medicare bill can be passed, but in crafting this bill, the majority party did not seek input from this side of the aisle. They did not seek input from the public at large by conducting committee hearings. A small group of Members wrote the bill and changes were made at the behest of certain interest groups. This is not the way to legislate.

Mr. OLVER. Mr. Chairman, today the Republican Party takes on the onus for dismantling Medicare, the health care guarantee within Social Security.

And you can bet the Republican Party has its sights on dismantling Social Security as well.

And to what end? To create a comprehensive health care system which 80 percent of Americans want? No.

To serve extremists in the Republican Party.

To serve the insurance companies and the American Medical Association.

The Republican Party is cutting $270 billion from health care for American retirees to give $245 billion in tax cuts.

More than half of the tax cut goes to fat cats already making over $100,000 per year—while 75 percent of the people taking Medicare cuts to pay for that tax cut live on less than $20,000 per year.

The Republican Party is taking health care dollars from low- and middle-income retired Americans to give billions to insurance companies and the already wealthy.

You can bet Americans will remember next November.

Mr. MILLER of Florida. Mr. Chairman, I would like to insert the following letter, polling results, and testimony on the Medicare Preservation Act by the U.S. Chamber of Commerce into the CONGRESSIONAL RECORD.

U.S. CHAMBER OF COMMERCE,
Washington, DC, October 18, 1995.

Members of the U.S. House of Representatives:

The Chamber urges your support for H.R. 2425, the Medicare Preservation Act. Because of the importance of this issue to our members and the budget reconciliation measure, the Chamber will include this vote in its annual How They Voted vote ratings. For your information, I have included the results of a recent poll taken among Chamber members concerning elements of Medicare reform which reflects overwhelming support for this legislation.

Medicare is clearly in a state of crisis. Over the past five years, the program has grown at a staggering annual rate averaging 10½ percent. Immediately ahead of us is a seismic demographic shift: the ratio of taxpayers to Medicare beneficiaries is declining rapidly—from about four to one today, to only two to one in the next fifty years. The program as currently structured simply cannot survive.

Just as clearly, the failed Medicare reform approaches of the past will fail to measure up to this crisis and will threaten both business and the economy. Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustee's 1995 Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We believe the long-term solution to Medicare's problem is comprehensive reform that increases competition while restraining the growth in spending. Competition will help bring prices down and will provide secure and expanded benefits for seniors. The Medicare Preservation Act is a bold means of securing the solvency of the Medicare Trust Fund and setting Medicare on a secure path for the future.

We urge your support for the Medicare Preservation Act during its consideration on the House floor and throughout debate on the budget reconciliation measure.

Sincerely,

R. BRUCE JOSTEN.

U.S. CHAMBER OF COMMERCE—MEDICARE FAX POLL RESULTS

On October 11, 1995, the U.S. Chamber surveyed 9,700 business, chamber and association members on their attitudes concerning Medicare reform and specific reform elements. Responses to the Chamber survey (nearly 10 percent responded, 68.9% of which employ fewer than 50 workers) indicated strong support for market-oriented Medicare reform comparable to the House and Senate Majority plans for Medicare reform. The complete survey and results are provided below.

Medicare is "severely out of financial balance and the Trustees believe that . . .

prompt, effective and decisive action is necessary."

Medicare reform has become a focal point of the budget debate. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to the system's trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Trustee's Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We need your help. Please review the following questions on Medicare reform and FAX back your answers by close of business October 16.

1. Medicare should be modernized by adopting the market-based strategies private employers and health plans are using successfully to improve health care quality and control costs. These strategies include improving the quality of care provided to enrollees, increasing enrollee choice by expanding health plan options, and reducing the rate of growth of Medicare spending.

Agree, 98.9 percent; Disagree, 0.6 percent.

2. Two competing approaches to Medicare reform have emerged in Congress. One more limited approach addresses the Medicare Part A trust fund, delaying insolvency for an additional two years through $89 billion in Medicare Part A trust fund, delaying insolvency for an additional two years through $89 billion in Medicare savings, primarily from reducing the rate of growth in Medicare payments to providers A second approach is more comprehensive in nature, addressing both Medicare part A (hospital bills) and Part B (doctors bills). Medicare Part A would be protected at least an additional 10 years through $270 billion in Medicare savings achieved through increased competition and reducing the rate of growth in Medicare payments to providers. Which approach would you favor?

Limited, 4.3 percent; Comprehensive, 94.6 percent.

3. Do you favor or oppose the following elements of Medicare reform?

a. Provide seniors choices between competing health plans including existing fee-for-service benefits.

Favor, 97.4 percent; Oppose, 1.6 percent.

b. Contain Medicare spending by increasing competition and reducing the rate of growth in Medicare payments.

Favor, 97.4 percent; Oppose 2.9 percent.

c. Increase managed care options for seniors.

Favor, 93.8 percent; Oppose, 43.3 percent.

d. Provide seniors a medical savings account option.

Favor, 88.2 percent; Oppose, 7.3 percent.

e. Allow provider groups (i.e., doctors and hospitals) to offer health coverage (similar to managed care networks) directly to seniors—a new proposal known as provider sponsored networks or PSNs.

Favor, 91.9 percent; Oppose, 5.7 percent.

f. Require managed care plans to provide out-of-network benefits at a higher cost to the beneficiary.

Favor, 72.4 percent; Oppose, 18.2 percent.

4. For purposes of tabulation: type of organization: Business, 93.2 percent; Chamber, 4.3 percent; Other, 2.0 percent. Approximate number of employees: under 10, 29.4 percent; 10–49, 39.5 percent; 50–99, 12.5 percent; 100–249, 8.6 percent; 250–499, 3.7 percent; 500–4,999, 3.7 percent; 5,000 +, 1.4 percent.

[From the U.S. Chamber of Commerce, Economic Policy Division]

THE MEDICARE CRISIS: THE TAX SOLUTION IS NO SOLUTION

The only solution detailed by the Medicare Board of Trustees for achieving financial balance in Medicare Part A is to raise taxes. Unfortunately, this is no solution at all. Higher taxes will rob working individuals of their hard-won dollars, significantly increase costs on small and large businesses alike and bring the economy to the brink of recession.

The Trustees calculate that balancing the Medicare trust fund for the next 75 years requires us to immediately hike the Medicare payroll tax from 2.90% to 6.42%. While the tax increase may seem to amount to only a few percentage points, it amounts to hundreds of dollars to the typical worker, thousands of dollars to the small business, and billions of dollars for the economy. Analysis by the Economic Policy Division of the U.S. Chamber of Commerce suggests the following impacts on individuals, businesses and the economy:

For a worker making $30,000 a year, total Medicare payroll taxes paid would jump to $1,926 from the current $870.

A small business employing 25 such workers would be liable for an additional $13,200 tax payment per year.

When aggregated across the entire economy, the effect would be to lower real GDP by $179.4 billion within two years and hold GDP about $95 billion lower 10 years later. This amount to a 3.1% decline in GDP in the short run. With economic growth projected to average less than 3% over the next five years, this decline could easily result in a recession.

These results are even more startling when you consider that they represent an optimistic evaluation, not a worst-case scenario.

OVERVIEW OF MEDICARE: WHY REFORM IS NECESSARY

Medicare is a nationwide health insurance program for older Americans and certain disabled persons. It is composed of two parts: Part A, the hospital insurance (HI) program, and Part B, the supplementary medical insurance (SMI) program.

Part A covers expenses for the first sixty days of inpatient care less a deductible ($716 in 1995) for those age 65 and older and for the long-term disabled. It also covers skilled nursing care, home health care and hospice care. The HI program is financed primarily by payroll taxes. Employees and employers each pay 1.45% of taxable earnings, while self-employed persons pay 2.90%. In 1994, the HI earnings caps were eliminated, meaning that the HI tax applies to all payroll earnings.

Part B is a voluntary program which pays for physicians' services, outpatient hospital services, and other medical expenses for persons aged 65 and over and for the long-term disabled. It generally pays 80% of the approved amount for covered services in excess of an annual deductible ($100). About a quarter of the funding comes from monthly premiums ($46.10 in 1995); the remainder comes from general tax revenues and interest.

Medicare is not a means-tested program. That is, income is not a factor in determining an individual's eligibility or, for Part B, premium levels. Age is the primary eligibility criteria, with the program also extending to qualified disabled individuals younger than 65.

Over the years, tax revenues for Medicare Part A have exceeded disbursements, and so the remaining revenues have been credited to the Medicare HI Trust Fund. At the end of 1994, the trust fund held $132.8 billion.

CONCLUSION OF THE TRUSTEES

Each year, trustees of Medicare's Hospital Insurance Trust Fund analyze the current status and the long-term outlook for the trust fund, and their findings are published in an annual report. The 1995 edition, issued in April, demonstrated that the Medicare system is in serious financial trouble. The program's six trustees—four of whom are Clinton appointees (cabinet secretaries Robert Rubin, Robert Reich and Donna Shalala, and commissioner of Social Security, Shirley Chater)—reported the following conclusions:

> Based on the financial projections developed for this report, the Trustees apply an explicit test of short-range financial adequacy. The HI trust fund fails this test by a wide margin. In particular, the trust fund is projected to become insolvent within the next 6 to 11 years . . . (HI Annual Report, pg. 2)
>
> Under the Trustees' intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years (pg. 3)
>
> The program is severely out of financial balance and substantial measures will be required to increase revenues and/or reduce expenditures. (pg. 18)
>
> . . . the HI program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program. (pg. 28)
>
> The Trustees believe that prompt, effective and decisive action is necessary (pg. 28)

The same set of Trustees also oversees the Medicare Part B program. In their 1995 Annual Report, they wrote: "Although the SMI program (Medicare Part B) is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program. . . Growth rates have been so rapid that outlays of the program have increased 53% in the aggregate and 40% per enrollee in the last 5 years." (SMI Annual Report, pg. 3). "The Trustees believe that prompt, effective and decisive action is necessary." (pg. 3)

Obviously, the Trustees believe that the Medicare program deserves our careful, immediate attention. The following pages present the figures that led the Trustees to their conclusions.

WHERE MEDICARE STANDS TODAY

Medicare is a huge federal program. In 1994: Medicare expenditures reached $160 billion, just over half the size of Social Security; Expenditures grew 11.4% from 1993; Eleven cents of every dollar spent by the federal government went to Medicare; Medicare represented one-fifth of total entitlement spending.

Between 1990 and 1994, Medicare grew at a 10.4% average annual rate, almost three times the 3.6% average inflation rate over the same period and twice the 5.1% average annual growth of the economy as a whole.

MEDICARE AND THE FEDERAL BUDGET

Medicare spending must be addressed as part of the solution to balancing the federal budget. That's because spending on federal entitlements—such as Medicare, Medicaid and Social Security—soared 8.4% annually on average between 1990 and 1994. Spending on discretionary, annually appropriated programs—such as defense, education and infrastructure—increased 2.2%, which is less than the rate of inflation. Coming decades will see even more pressure for entitlement growth, as the leading edge of the Baby Boom generation reaches 65 in 2011.

Entitlements are not only the fastest growing portion of the federal budget, they're already its largest component, as shown in the accompanying chart. Just over half of all federal expenditures is spent on entitlements; only a third go to discretionary programs. If we are going to balance the federal budget—and keep it in balance over the long term—entitlement reform must be part of the solution.

WHERE MEDICARE IS HEADED IF WE DO NOTHING

Under current law, Medicare is projected by the Congressional Budget Office to grow at a 10.4% average annual rate over the next seven years. In 2002, the CBO projects Medicare spending will reach $344 billion, claiming almost 16 cents of every dollar spent by the federal government.

Moreover, beginning next year, Medicare HI expenditures will exceed the program's revenues. The HI Trust fund, which at year-end 1994 held $132.8 billion, will have to be tapped to cover the projected $867 million difference.

However, according to the Trustees' Annual Report, this shortfall isn't temporary. Instead, it will balloon to be about seven times larger in 1997, which is just the following year, and more than twenty times larger by 1999. Under assumptions reflecting the most likely demographic and economic trends, 1996 will be the first year of hemorrhage that will deplete the entire trust fund by 2002—just seven years away. The optimistic set of assumptions buys us only a little time, with trust fund depletion projected in 2006. Under the pessimistic scenario, the fund is exhausted as early as 2001. In other words, within the next 6 to 11 years, it's virtually certain that Medicare will be insolvent—unless we take action.

The danger of inaction was made clear last winter when the President's Bipartisan Commission on Entitlement and Tax Reform, chaired by Sen. Bob Kerrey and then-Sen. John Danforth, issued its final report. The focus of the report was to look not years ahead, but decades ahead to assess the impact of federal budget trends. The report is sobering: Under current trends, virtually all federal government revenues are absorbed by entitlement spending and net interest by 2010, as shown in Chart 2. Deficit-financing will be required to cover almost all of the discretionary programs, including defense, health research, the FBI, support for education, and the federal judicial system.

Ten years later, the situation is worse. Growth in entitlements is so explosive that not only would the government have to borrow to pay for discretionary expenses, it would have to borrow funds to pay the lion's share of interest payments on the national debt.

MEDICARE'S IMPACT ON THE PAY STUB

In addition to detailing the projected dissipation of Trust Fund under current law, the Trustees' Report also describes the measures that would be necessary to shore up the trust fund over the next 25, 50 and 75 years. If the expenditure formulas are not altered, then preserving the trust fund can only be done through increases in the payroll tax or additional subsidies from general revenues. Table 1 illustrates the payroll tax increases that would be necessary to balance the trust fund.

CURRENT LAW

Currently, the combined (employee and employer) Medicare tax rate is 2.90%, applied to all payroll earnings. A worker earning $30,000 a year in salary or wages, for instance, is directly taxed 1.45%, or $435 annually, for Medicare Part A, the hospital insurance program. Employers then match that payment with another $435, resulting in $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don't stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums and interest), a portion of the worker's and the firm's general income taxes are also financing Medicare. The Trustees reported that $36.2 billion of general funds were used to pay Medicare Part B claims in 1994.

TABLE 1.—MEDICARE HOSPITAL INSURANCE PAYROLL TAXES

	Current law employee plus employer	To balance the HI trust fund over the next—					
		25 yrs.		50 yrs.		75 yrs.	
		Additional tax	Total HI tax	Additional tax	Total HI tax	Additional tax	Total HI tax
Tax rates (pct.)	2.90	1.33	4.23	2.68	5.58	3.52	6.42
Pct. increase over current law			45.9		92.4		121.4
Payroll earnings:							
$10,000	$290	$133	$423	$268	$558	$352	$642
20,000	580	266	846	536	1,116	704	1,284
30,000	870	399	1,269	804	1,674	1,056	1,926
40,000	1,160	532	1,692	1,072	2,232	1,408	2,568
50,000	1,450	665	2,115	1,340	2,790	1,760	3,210
60,000	1,740	798	2,538	1,608	3,348	2,112	3,852
70,000	2,030	931	2,961	1,876	3,906	2,464	4,494
80,000	2,320	1,064	3,384	2,144	4,464	2,816	5,136
90,000	2,610	1,197	3,807	2,412	5,022	3,168	5,778
100,000	2,900	1,330	4,230	2,680	5,580	3,520	6,420

Source (for all tables): 1995 Annual Report of the Board of Trustees. Medicare Hospital Insurance Trust Fund. Table 1.D3, page 22, Calculations and macroeconomics simulations by the U.S. Chamber of Commerce.

To Balance the Medicare HI Trust Fund for the Next 25 Years (through 2019): According to the Trustees' analysis, the hospital insurance payroll tax would have to rise from 2.90% to 4.23% (a 46% increase) to keep the HI trust fund in balance for the next 25 years. Further, the increase would have to be made immediately and maintained through the entire 25-year period.

For our $30,000/year worker for whom $870 is currently provided to Medicare HI, this increase means an additional tax of $399, bringing total annual hospital insurance payroll taxes to $1,269. And that's before any other federal and state payroll taxes (such as unemployment insurance and Social Security) or federal and state income taxes.

However, even this increase in payroll taxes still leaves the trust fund exhausted in 2019, with the oldest of the baby boomers just shy of reaching their life expectancy. Because of this demographic bulge, balancing the HI trust fund over a longer period would require even higher payroll taxes.

To Balance the Medicare Trust Fund for the Next 50 Years (through 2044): Balancing the trust fund over the next fifty years—a span long enough to see most of the Baby Boomers through their lifetimes—would require virtually doubling the hospital insurance payroll tax from 2.90% to 5.58%. The increase would have to be made immediately and remain permanent through the entire 50-year period. Again, for the worker earning $30,000 a year, the total HI payroll tax rises from $870 to $1,674, an increase of 92.4%.

To Balance the Medicare Trust Fund for the Next 75 Years (through 2069): Balancing the trust fund over the next seventy-five years—roughly through the life expectancy of an individual born this year, and the usual period for long-term fiscal solvency—would require an immediate boost in the Medicare tax rate of 121.4%, from 2.90% to 6.42%. Total HI payroll taxes for a worker earning $30,000 a year would rise from $870 to $1,926.

MEDICARE'S IMPACT ON BUSINESS

Because it's levied on employment levels, not income, the payroll tax due remains the same through both good and bad economic times. This feature accentuates the pain of a downturn on employers, who need to pay the tax regardless of profitability. Consequently, relative to the income tax, a payroll tax can be particularly punishing to start-up firms or companies trying to weather a drop in business.

Table 2 shows the liability for Medicare HI payroll taxes that would be faced by firms of various sizes. Total liability is shown under current law and under the three tax rates computed by the Trustees to bring the HI trust fund in balance over periods of 25, 50 and 75 years.

For instance, a 25-person firm where the average worker earns $20,000 per year is currently liable for a $7,250 tax payment for the Medicare HI program (for their contribution, the workers themselves would be taxed an identical amount). To balance the trust fund over the next 25 years, the combined employee and employer tax rate would have to rise from the current 2.90% to 4.23%. Assuming that the liability continues to be evenly split between the employee and employer, the firm will face an HI payroll tax of about 2.11% per worker. For our 25-person firm, the total HI payroll tax would rise from $7,250 to $10,575 per year.

TABLE 2.—MEDICARE HOSPITAL INSURANCE PAYROLL TAX ANNUAL EMPLOYER TAX LIABILITY

[In dollars]

	Number of employees—						
	5	10	25	50	100	500	1,000
Average salary: $20,000:							
Current law	1,450	2,900	7,250	14,500	29,000	145,000	290,000
To balance Medicare HI over the next:							
25 yrs	2,115	4,230	10,575	21,150	42,300	211,500	423,000
50 yrs	2,790	5,580	13,950	27,900	55,800	279,000	558,000
75 yrs	3,210	6,420	16,050	32,100	64,200	321,000	642,000
Average salary: $30,000:							
Current law	2,175	4,350	10,875	21,750	43,500	217,500	435,000
To balance Medicare HI over the next:							
25 yrs	3,173	6,345	15,862	31,725	63,450	317,250	634,500
50 yrs	4,185	8,370	20,925	41,850	83,700	418,500	837,000
75 yrs	4,815	9,630	24,075	48,150	96,300	481,500	963,000

MEDICARE'S IMPACT ON THE ECONOMY

Raising payroll taxes to keep the Medicare Hospital Insurance trust fund afloat imposes substantial burdens on both workers and firms. To measure what that means for the economy as a whole, we conducted several policy simulations using the highly respected Washington University Macro Model from Laurence H. Meyer & Associates of St. Louis, MO.

The results are striking: The economy would suffer through sharply slower economic growth and higher unemployment in the near term. Over a longer period, the economy is saddled with a permanent loss of production and employment. As shown in Tables 3 and 4, the degree of severity for GDP and employment depends upon the increase in Medicare taxes enacted.

The tables compare each of three alternative tax simulations specified in the Trustees' Annual Report to LHM&A's June 1995 baseline forecast. To demonstrate the policy change working its way through the economy, we display the results for three of the ten years of our simulation: 1997, 2000 and 2004. This gives us snapshots of the short-term, intermediate-term and long-term impacts on economic output and employment. In each case, the imposition of the Medicare payroll tax increase takes place in the fourth quarter of 1995.

TABLE 3.—IMPACT ON GROSS DOMESTIC PRODUCT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Yrs to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, billions of 1987 dollars			Pct difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
25 Yrs	4.23	−68.4	−30.1	−36.1	−1.2	−0.5	−0.5
50 Yrs	5.58	−137.1	−60.5	−72.1	−2.4	−1.0	−1.1
75 Yrs	6.42	−179.4	−79.4	−95.6	−3.16	−1.3	−1.4

As shown in Table 3, if the government imposed the most modest payroll tax increase—enough to keep the Medicare trust fund in balance for the next 25 years—production in the economy would be 1.2%, or almost $70 billion, lower in 1997 than it would have been otherwise. By 2000, the percentage-point gap between the alternative closes to within 0.5% of the baseline level of production, but that distance is maintained even ten years after the tax increase took effect.

The short-term loss in output translates into 1.2 million fewer jobs relative to what we would have had otherwise, as shown in Table 4. While this decline to about 1% of the economy's jobs, moderates over time, the economy appears to have lost over 0.5% of its jobs permanently.

Of course, all of this economic turbulence puts the Medicare HI trust fund in actuarial balance for only the next 25 years. To generate long-term actuarial balance for the full 75-year period, the Medicare payroll tax rate would have to jump from 2.90% to 6.42%, triggering even stronger economic impacts than those described above. Production in the economy would be about 3% lower in 1997 than it would have been otherwise, with the long-term loss in output projected at 1.5%. Over 3 million jobs would be eliminated in 1997 relative to the baseline, with a projected permanent loss of about 1.5% of total employment over the long term.

TABLE 4.—IMPACT ON EMPLOYMENT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Yrs to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
25 Yrs	4.23	−1.2	−0.6	−0.8	−0.9	−0.4	−0.6
50 Yrs	5.58	−2.4	−1.2	−1.6	−1.9	−0.9	−1.2
75 Yrs	6.42	−3.2	−1.5	−2.2	−2.5	−1.2	−1.5

As dramatic as these figures are, there's good reason to believe that they are optimistic estimates. Because the macro model used in these simulations treats the Medicare payroll tax like the Social Security payroll tax, the increases in the tax rates apply only to the first $61,200 earned (in 1995, and rising afterwards). That is, the model is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly greater job loss and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

It is important to note that, even with the set of numbers presented here with its inherent bias toward underestimating the economic impact, we can see that using payroll taxes to balance the Medicare trust fund imposes severe costs on the U.S. economy. These results clearly indicate that the Medicare problem must be solved by fundamental program reform, not tax increases.

Mr. STOKES. Mr. Chairman, I rise in recognition of the Gibbons-Dingell-McDermott substitute to H.R. 2425, the Medicare Preservation Act of 1995. The substitute is consistent with the $90 billion figure which the Medicare actuaries and trustees have determined is needed for Medicare's solvency. The measure is a vivid statement in support of the fact that Medicare can be fixed with three times less than the amount called for by the Republicans. The measure also confirms that fact that our Republican colleagues' measure, H.R. 2425, is truly designed for reconciliation purposes and, in this case, to give a tax cut to the rich, the people who need it the least.

Mr. Chairman, Medicare is critical to the solvency of the American families' budget. Neither seniors nor their families will be able to absorb the increased cost of health care that would result from the Republicans' $270 billion cut in Medicare.

My colleagues, I wish that each of you could have heard our seniors at this morning's "speak out" telling their personal story of what living without Medicare would mean to the quality of their life. Bishop Marvin Johnson, a constituent of mine, told his story. He is a disabled senior suffering from diabetes. The medications which he requires already consume a large portion of his Social Security check. Without Medicare, he would be 1 of the over 41 million uninsured. Bishop Johnson also spoke about how the pain that his fellow seniors suffer just brings tears to his eyes.

Mr. Chairman, it's a sad day when the Republicans pull out all the stops in a concentrated, mean spirited, effort to take away health care coverage from the Nation's seniors.

It is just not right to force seniors on fixed income to pay more for less.

It is not right to deny seniors their choice of provider.

It is just not right to force seniors to have to choose between going to the doctors and buying food; or medicine and housing; or medical equipment and heat.

It is just not right to destroy the quality of life for the Nation's elderly in order to pay for a tax cut for the wealthy.

Mr. Chairman, the Republicans sneak attack on seniors is just wrong. Seniors have not even been allowed the opportunity to examine the Republicans' proposal or to present their concerns with respect to this massive life threatening legislative measure.

In fact, we meet here today against a backdrop of no hearings at all, having been held on the over 400 page Republican proposal, H.R. 2425. The Republican proposal more than doubled in size just since last night—over 500 pages of provisions were added. Yet, we are voting on the measure here today.

The size of the Republican document itself is an indication of the magnitude of the health care coverage that H.R. 2425 would take away from seniors. Citizens who have worked long and hard for the betterment of their country, to provide for their families, and to be able to put a little something away for a secure retirement, should not be used as the Republicans' pawn.

The American people must not tolerate the Republicans blatant disregard for the health care needs of the elderly. Their assault on the elderly is unconscionable and inhumane.

Mr. Chairman, when President Johnson signed the Medicare Program into law, he stated: "No longer will older Americans be denied the healing miracle of modern medicine; no longer will illness crush and destroy the savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years; and, no longer will this Nation refuse the hand of justice to those who have given a lifetime of service and wisdom and labor to the progress of this progressive country."

Mr. Chairman, I ask my colleagues to join me in ensuring the stability of America's families. Vote "no" to H.R. 2425, the Republicans raid on Medicare.

Mr. ABERCROMBIE. Mr. Chairman, last year Republicans in Congress blocked efforts to pass legislation that would have guaranteed health care to all Americans. Now Republicans propose a bill, H.R. 2425, which guts the health care safety net for older Americans. Medicare is our contract with American families, illustrating our commitment to enabling seniors to live in dignity and independence. H.R. 2425 is a direct attack on this contract and reneges on our commitment to older Americans, leaving them to face the high cost of health care alone at a time when they are at their most vulnerable.

H.R. 2425 cuts the Medicare Program by $270 billion over the next 7 years. The Republicans in Congress state that these cuts are necessary to save the Medicare Program, but the cuts are far too deep and would create increased uncertainty and instability. The Medicare Trustees' Report states that Medicare will become insolvent in 2002, a fact that we must seriously address. However, by reducing Medicare funding by $90 billion, we can assure the Medicare trust fund's viability through 2006. H.R. 2425, despite the massive $270 billion cut, would still only assure Medicare solvency through 2006—the same year.

Instead of saving Medicare, Republicans are more interested in providing a $245 billion taxgiveaway for the wealthiest Americans. Clearly, without the tax break, a smaller and more reasonable reduction in Medicare spending would be possible. However, Republicans refuse to acknowledge the recklessness of their actions and insist on maintaining a tax windfall for their wealthy friends. My commitment, I can assure you, remains with senior citizens, not these fat cat contributors and I intend to oppose H.R. 2425.

The Democrat's substitute, addresses the real issues facing Medicare. By reducing funding by $90 billion over the next 7 years, we will shore up the Medicare trust fund through 2006. This gives us more than a decade to work on significant and sensible reforms to assure Medicare will always be there for those who need it. In addition, a major component of the Democratic proposal would combat fraud and abuse which costs Medicare $18 billion each year. The Republican plan does not adequately address this issue and in fact makes it easier for fraud to go undetected.

I prevail upon my colleagues to stand up for America's senior citizens. Vote against H.R. 2425. Do not abandon your commitment to their health and security in old age.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today in strong opposition to the Medicare Preservation Act of 1995, H.R. 2425.

The Republican leadership is constantly saying "trust us" when it comes to deep cuts in Medicare. Yet, the Republicans can't even keep their word about hearings, and we're supposed to trust them about what they have in store for our doctors, our hospitals, and our senior citizens.

Republicans are cutting Medicare to pay for tax cuts for the rich and special interests. They can call it whatever they like, but it's still a cut and it will be paid for by one of our most vulnerable populations, seniors.

The bill makes the most sweeping changes in the Medicare Program since its establishment in 1965. For 30 years, Medicare has helped to assure that older and disabled Americans get the health care they need, while lessening the burden on families who might otherwise be responsible for paying the medical bills of ailing parents and grandparents.

Under the Medicare Preservation Act of 1995, the elderly will be forced to make choices between paying for health care and paying their heating bills. Hospitals, dependent on Medicare revenue will be forced to significantly cut back service or close altogether, leaving countless rural residents miles from health care facilities. Community economies will falter as hospitals close, laying off workers and making it more difficult to attract new economic development.

Do I want to improve Medicare? Yes. Should we continue to look for efficiencies in this program? By all means. But not at the expense of unnecessary increased costs, fewer benefits, loss of choices, and lower quality medical care for our senior citizens and for disabled people to whom we made the promise of Medicare 30 years ago.

Ms. WOOLSEY. Mr. Chairman, now is the time to stand up for seniors by voting down this plan to raid Medicare to provide tax breaks for wealthy special interests. Instead of continued partisan bickering, we need a bipartisan effort to save Medicare by eliminating the waste and fraud that cost billions each year.

I come to this floor today as the Representative for Sonoma and Marin Counties in California. As I always say to my colleagues, I am so fortunate to represent such a concerned and caring constituency.

For the last several months, I have been speaking to the people in my Congressional District. I have been speaking with senior citizens, with hospital administrators, with physicians, and with working families. Seniors are scared to death because they will have to pay more for less at a time when so many are struggling to get by. And families are scared to death because they do not understand how they will support aging parents and send their kids to college at the same time. The people of Sonoma and Marin Counties have spoken loud and clear: they do not support $270 billion in Medicare cuts in order to pay for $245 billion in tax breaks.

The new majority is making the argument that these massive cuts in Medicare are needed to save the system. I agree that Medicare and Medicaid can be improved, and that Congress should vigorously support efforts to make this system better. But I disagree with Speaker Gingrich that the way to keep Medicare solvent is to operate on it with an axe, instead of a scalpel.

Speaker Gingrich would like to convince the American public that Medicare is in a sudden crisis. However, concerns about the Medicare Trust Fund are not new. The Medicare Trustees have on eight previous occasions warned that the Trust Fund would be insolvent within 7 years. Each time, Congress responded immediately in a bipartisan way to make the changes necessary to keep Medicare solvent. However, the cuts proposed by Speaker Gingrich go far beyond what is needed to protect the Medicare Trust Fund. What is more, since the proposed premium increases do not even contribute to the Medicare Trust Fund, it is clear that the new majority is increasing premiums only to pay for a special interest tax giveaway, not to strengthen Medicare.

In other words, the Gingrich Medicare plan is a major cut. According to the non-partisan Congressional Budget Office, the rate of growth in health care spending per person in the private sector over the next 7 years will be 7.9 percent. The Gingrich Medicare plan, however, brings the rate of growth of Medicare spending down to 4.9 percent per beneficiary. This means that the Gingrich plan will not keep up with the pace of inflation and the growing population of older and disabled Americans. As a result, there will be major increases in costs: by the year 2002, seniors will spend $400 more in Medicare premiums. Moreover, seniors may lose their choice of doctor because they will be forced into a government-mandated managed care plan. In addition, hospitals and emergency rooms will be forced to reduce care and and many will close. Some health care experts predict that up to 25 percent of all hospitals could close if Speaker GINGRICH's assault on Medicare becomes law.

But I do support making Medicare stronger. That is why I voted for the Democratic substitute to reform Medicare, and am a cosponsor of H.R. 2476, the Common Sense Medicare Reform Act.

The Democratic substitute saves $90 billion over the next 7 years. It reduces seniors' premiums, while providing coverage for new benefits such as more frequent mammograms, colorectal screenings, Pap smears and diabetes screening. The Democratic substitute increases seniors' choices of health care coverage, but does not force them to give up their own doctors. Under the Democratic substitute, the Medicare program will be strong and solvent, and seniors will continue to receive high quality care from doctors they know and trust.

I also support the approach taken in the Common Sense Medicare Reform Act, which strengthens Medicare by eliminating real waste, fraud, and abuse in the Medicare system. It will also save the amount needed to keep Medicare solvent for years to come. This bill will give law enforcement more tools to fight Medicare fraud, a crime which harms Medicare and the American taxpayer. And this bill, unlike the new majority's plan, will require that any funds recovered through cuts or savings from waste, fraud, and abuse will be automatically returned to the Medicare Trust Fund—not used to pay for a special interest tax giveaway.

In addition, I would also like to raise my objection to the way that Speaker GINGRICH has conducted the debate on his massive changes to Medicare. As someone who believes in the Democratic process, I am outraged that the new majority only allowed for one day of public hearings on this assault on Medicare. As a former Petaluma City Council member, I remember that we talked longer and harder about sidewalk repairs than the House of Representatives has about an issue which affects the health of millions of Americans. This is unfair and undemocratic!

So, I am here to speak out for the people who have been shut out of the Democratic process by this new majority. These people should not be silenced, and they should not see their concerns ignored by a Congress bent on pursuing a partisan agenda.

We would all do better if we listened carefully to those we represent. As one man in my district said,

> I worked hard all my life, raised ten kids and fought in two wars to live my life in peace. Living on only $801 a month, I need all the help I can get.

To my colleagues on both sides of the aisle, I would like you to remember these words. Think about this man, and the millions of seniors just like him all over America who do not deserve second rate medical care and who do not deserve to have their pockets picked for a special interest tax giveaway. I call on my colleagues to reject this bill, take the tax giveaways off the table, and get on with the bipartisan job of restoring Medicare's solvency by eliminating rampant waste and fraud. Stand up for seniors by voting down this bill.

Mr. WATT of North Carolina. Mr. Chairman, I rise today in strong opposition to H.R. 2425, the Medicare Preservation Act, which proposes to cut Medicare by $270 billion over 7 years. These drastic cuts are the largest cuts ever proposed for the Medicare Program and will have a devastating impact on 999,000 North Carolinians who rely on Medicare to help pay for their Medical bills.

These cuts in Medicare are real. More than $2 billion will be lost in the 10 counties in my congressional district. The average Medicare beneficiary in North Carolina will see their out-of-pocket costs increase by an average of $2,400 in 2002. How can we expect senior citizens who have worked and paid taxes all their lives and now live on fixed-incomes to afford the additional out-of-pocket costs associated with this cut? This Medicare plan will raise the average premium for North Carolinians by $18 per year and it may even force many of them to give up their doctor. Those are not choices, those are mandates.

The cuts in Medicare are greatly magnified by the proposal to cut Medicaid by $182 billion over 7 years. The impact on North Carolina will be severe. Eight States including North Carolina will bear almost half of the $182 billion in Medicaid cuts. North Carolina will lost $8.5 billion over 7 years. This proposal, which we will consider on the House floor next week, amounts to a 40 percent overall cut from what North Carolina would receive under current levels. This is not shared sacrifice. This is an assault on the people of North Carolina. These cuts will be difficult to justify to over 490,000 children in North Carolina who are on Medicaid.

While proposing these drastic cuts to Medicare, Republicans also want to provide a $245 billion tax cut which is designed to disproportionately benefit the rich. In order to pay for the tax cut, Republicans are cutting Medicare by three times the amount that is necessary to keep the Medicare Trust Fund solvent through the year 2002. While I agree with some of my colleagues who argue that we need to balance the budget, I do not agree with those who argue that we can balance the budget and give a tax beak to the rich. The first priority of Congress should be to balance the budget and eliminate the Federal deficit, not cut Medicare to pay for a tax cut. We simply cannot afford to finance a tax cut on the backs of the elderly and the poor.

This bill punishes and jeopardizes the health of our most vulnerable children, the elderly and the poor. This bill does nor save Medicare, it dismantles it. I urge all my colleagues to reject this shameful bill and to support the Gibbons-Dingell Substitute.

Ms. ESHOO. Mr. Chairman, I rise in support of Representative ORTON's substitute budget, offered on behalf of the Democrats. It is a positive alternative.

It is critical that we balance our budget—particularly for future generations. This plan does that without gutting Medicare, without eliminating Medicaid, without cutting student loans and without adding provisions that threaten our environment. This budget creates solid footing for this Nation's economy. It doesn't ask our children and elderly to go without medical care so that wealthy individuals can receive a $245 billion tax cut.

Unlike the Republican budget plan, this substitute protects health insurance for the poor and the elderly. First, it increases preventive benefits for the elderly. At the same time, it ensures that the monthly Medicare premium paid by beneficiaries does not increase. The Republicans, under their budget, ask seniors to pay more in monthly premiums. The Orton substitute continues paying premiums and deductibles for low-income Medicare recipients. The Republican plan does not. This substitute budget maintains Medicaid as an entitlement program so that children and pregnant women are guaranteed access to health care coverage. The Republicans abolish Medicaid as an entitlement, tearing away guaranteed health insurance for two out of every five of our Nation's children. Restricting Medicaid benefits will add to the already high number of uninsured individuals.

The Republican budget cuts student loans. Education programs, particularly, student loans would be preserved under this budget. Education is the essential foundation on which we continue to build the future of our Nation.

Finally, this substitute plan protects and tightens the earned income tax credit [EITC]. Under the Republican budget, childless couples and senior citizens who work would no longer receive this credit. It seems ironic that Republicans want to eliminate and limit a credit that rewards working individuals. The EITC has been supported by Republican and Democratic Presidents and previous Congresses.

This substitute balances the budget in 7 years without attacking families, children, students or senior citizens. It protects health care, preserve educational assistance and continues economic help to the needy. Most important, this plan does not include a huge tax break—that most individuals don't want or need. This substitute disciplines spending and that discipline will ultimately add to America's competitiveness in a global economy and keep faith with our citizens now and into our future.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN (Mr. LINDER). All time for general debate has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 2485, modified by the amendment printed in House Report 104–282, is adopted and the bill, as amended, is considered as an original bill for the purpose of further amendment and is considered read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to reform the medicare program, in order to preserve and protect the financial stability of the program.

TITLE XV—MEDICARE

SEC. 15000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(d) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 15000. Short title of title; amendments and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 15001. Increasing choice under medicare.
Sec. 15002. MedicarePlus program.

"PART C—PROVISIONS RELATING TO MEDICAREPLUS

"Sec. 1851. Requirements for MedicarePlus organizations; high deductible/medisave products.
"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to MedicarePlus organizations.
"Sec. 1856. Establishment of standards for MedicarePlus organizations and products.
"Sec. 1857. MedicarePlus certification.
"Sec. 1858. Contracts with MedicarePlus organizations."
Sec. 15003. Duplication and coordination of medicare-related products.
Sec. 15004. Transitional rules for current medicare HMO program.

PART 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 15011. MedicarePlus MSA's.
Sec. 15012. Certain rebates excluded from gross income.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

Sec. 15021. Application of antitrust rule of reason to provider service networks.

PART 4—COMMISSIONS

Sec. 15031. Medicare Payment Review Commission.
Sec. 15032. Commission on the Effect of the Baby Boom Generation on the Medicare Program.
Sec. 15033. Change in appointment of Administrator of HCFA.

PART 5—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 15041. Treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Preventing Fraud and Abuse

PART 1—GENERAL PROVISIONS

Sec. 15101. Increasing awareness of fraud and abuse.
Sec. 15102. Beneficiary incentive programs.
Sec. 15103. Intermediate sanctions for medicare health maintenance organizations.
Sec. 15104. Voluntary disclosure program.
Sec. 15105. Revisions to current sanctions.
Sec. 15106. Direct spending for anti-fraud activities under medicare.
Sec. 15107. Permitting carriers to carry out prior authorization for certain items of durable medical equipment.
Sec. 15108. National Health Care Anti-Fraud Task Force.
Sec. 15109. Study of adequacy of private quality assurance programs.
Sec. 15110. Penalty for false certification for home health services.
Sec. 15111. Pilot projects.

PART 2—REVISIONS TO CRIMINAL LAW

Sec. 15121. Definition of Federal health care offense.
Sec. 15122. Health care fraud.
Sec. 15123. Theft or embezzlement.
Sec. 15124. False statements.
Sec. 15125. Bribery and graft.
Sec. 15126. Illegal remuneration with respect to health care benefit programs.
Sec. 15127. Obstruction of criminal investigations of health care offenses.
Sec. 15128. Civil penalties for violations of Federal health care offenses.
Sec. 15129. Injunctive relief relating to health care offenses.
Sec. 15130. Authorized investigative demand procedures.
Sec. 15131. Grand jury disclosure.
Sec. 15132. Miscellaneous amendments to title 18, United States Code.

Subtitle C—Regulatory Relief

PART 1—PHYSICIAN OWNERSHIP REFERRAL REFORM

Sec. 15201. Repeal of prohibitions based on compensation arrangements.
Sec. 15202. Revision of designated health services subject to prohibition.
Sec. 15203. Delay in implementation until promulgation of regulations.
Sec. 15204. Exceptions to prohibition.
Sec. 15205. Repeal of reporting requirements.
Sec. 15206. Preemption of State law.
Sec. 15207. Effective date.

PART 2—OTHER MEDICARE REGULATORY RELIEF

Sec. 15211. Repeal of Medicare and Medicaid Coverage Data Bank.
Sec. 15212. Clarification of level of intent required for imposition of sanctions.
Sec. 15213. Additional exception to anti-kickback penalties for managed care arrangements.
Sec. 15214. Solicitation and publication of modifications to existing safe harbors and new safe harbors.
Sec. 15215. Issuance of advisory opinions under title XI.
Sec. 15216. Prior notice of changes in billing and claims processing requirements for physicians' services.

PART 3—PROMOTING PHYSICIAN SELF-POLICING

Sec. 15221. Exemption from antitrust laws for certain activities of medical self-regulatory entities.

Subtitle D—Medical Liability Reform

PART 1—GENERAL PROVISIONS

Sec. 15301. Federal reform of health care liability actions.
Sec. 15302. Definitions.
Sec. 15303. Effective date.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 15311. Statute of limitations.
Sec. 15312. Calculation and payment of damages.
Sec. 15313. Alternative dispute resolution.

Subtitle E—Teaching Hospitals and Graduate Medical Education

PART 1—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

Sec. 15401. Establishment of Fund; payments to teaching hospitals.

"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"Sec. 2201. Establishment of Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"Sec. 2211. Formula payments to teaching hospitals.

"Subpart 2—Amount Relating to Indirect Costs of Graduate Medical Education

"Sec. 2221. Determination of amount relating to indirect costs.
"Sec. 2222. Indirect costs; special rules regarding determination of hospital-specific percentage.
"Sec. 2223. Indirect costs; alternative payments regarding teaching hospitals in certain States.

"Subpart 3—Amount Relating to Direct Costs of Graduate Medical Education

"Sec. 2231. Determination of amount relating to direct costs.
"Sec. 2232. Direct costs; special rules regarding determination of hospital-specific percentage.
"Sec. 2233. Direct costs; authority for payments to consortia of providers.
"Sec. 2234. Direct costs; alternative payments regarding teaching hospitals in certain States.

"Subpart 4—General Provisions

"Sec. 2241. Adjustments in payment amounts."

PART 2—AMENDMENTS TO MEDICARE PROGRAM

Sec. 15411. Transfers to Teaching Hospital and Graduate Medical Education Trust Fund.
Sec. 15412. Modification in payment policies regarding graduate medical education.

Part 3—Reform of Federal Policies Regarding Teaching Hospitals and Graduate Medical Education

Sec. 15421. Establishment of advisory panel for recommending policies.

"Part C—Other Matters

"Sec. 2251. Advisory Panel on Reform in Financing of Teaching Hospitals and Graduate Medical Education."

Subtitle F—Provisions Relating to Medicare Part A

Part 1—Hospitals

subpart a—general provisions relating to hospitals

Sec. 15501. Reductions in inflation updates for PPS hospitals.
Sec. 15502. Reductions in disproportionate share payment adjustments.
Sec. 15503. Payments for capital-related costs for inpatient hospital services.
Sec. 15504. Reduction in adjustment for indirect medical education.
Sec. 15505. Treatment of PPS-exempt hospitals.
Sec. 15506. Reduction in payments to hospitals for enrollees' bad debts.
Sec. 15507. Permanent extension of hemophilia pass-through.
Sec. 15508. Conforming amendment to certification of Christian Science providers.

subpart b—provisions relating to rural hospitals

Sec. 15511. Sole community hospitals.
Sec. 15512. Clarification of treatment of EAC and RPC hospitals.
Sec. 15513. Establishment of rural emergency access care hospitals.
Sec. 15514. Classification of rural referral centers.
Sec. 15515. Floor on area wage index.

Part 2—Payments to Skilled Nursing Facilities

Sec. 15521. Payments for routine service costs.
Sec. 15522. Incentives for cost effective management of covered non-routine services.
Sec. 15523. Payments for routine service costs.
Sec. 15524. Reductions in payment for capital-related costs.
Sec. 15525. Treatment of items and services paid for under part B.
Sec. 15526. Certification of facilities meeting revised nursing home reform standards.
Sec. 15527. Medical review process.
Sec. 15528. Report by Medicare Payment Review Commission.
Sec. 15529. Effective date.

Part 3—Clarification of Credits to Part A Trust Fund

Sec. 15531. Clarification of amount of taxes credited to Federal Hospital Insurance Trust Fund.

Subtitle G—Provisions Relating to Medicare Part B

Part 1—Payment Reforms

Sec. 15601. Payments for physicians' services.
Sec. 15602. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 15603. Payments for durable medical equipment.
Sec. 15604. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 15605. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 15606. Freeze in payments for ambulatory surgical center services.
Sec. 15607. Rural emergency access care hospitals.
Sec. 15608. Ensuring payment for physician and nurse for jointly furnished anesthesia services.
Sec. 15609. Statewide fee schedule area for physicians' services.
Sec. 15609A. Establishment of fee schedule for ambulance services.
Sec. 15609B. Standards for physical therapy services furnished by physicians.

Part 2—Part B Premium

Sec. 15611. Extension of part B premium.
Sec. 15612. Income-related reduction in medicare subsidy.

Part 3—Administration and Billing of Laboratory Services

Sec. 15621. Administrative simplification for laboratory services.
Sec. 15622. Restrictions on direct billing for laboratory services.

Part 4—Quality Standards for Durable Medical Equipment

Sec. 15631. Recommendations for quality standards for durable medicare equipment.

Subtitle H—Provisions Relating to Medicare Parts A and B

Part 1—Payment for Home Health Services

Sec. 15701. Payment for home health services.
Sec. 15702. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 15703. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.
Sec. 15704. Report on recommendations for payments and certification for home health services of Christian Science providers.
Sec. 15705. Extension of period of home health agency certification.

Part 2—Medicare Secondary Payer Improvements

Sec. 15711. Extension and expansion of existing requirements.
Sec. 15712. Improvements in recovery of payments.
Sec. 15713. Prohibiting retroactive application of policy regarding ESRD beneficiaries enrolled in primary plans.

Part 3—Failsafe

Sec. 15721. Failsafe budget mechanism.

Part 4—Administrative Simplification

Sec. 15731. Standards for medicare information transactions and data elements.

Part 5—Other Provisions Relating to Parts A and B

Sec. 15741. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 15742. Additional exclusion from coverage.
Sec. 15743. Competitive bidding for certain items and services.
Sec. 15744. Disclosure of criminal convictions relating to provision of home health services.
Sec. 15745. Requiring renal dialysis facilities to make services available on a 24-hour basis.

Subtitle I—Clinical Laboratories

Sec. 15801. Exemption of physician office laboratories.

Subtitle J—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 15901. Establishment of Medicare Growth Reduction Trust Fund for Part B savings.

Subtitle A—MedicarePlus Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Subtitle A, Part 1

SEC. 15001. INCREASING CHOICE UNDER MEDICARE.

(a) In General.—Title XVIII is amended by inserting after section 1804 the following new section:

"providing for choice of coverage

"Sec. 1805. (a) Choice of Coverage.—

"(1) In general.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) Through fee-for-service system.—Through the provisions of parts A and B.

"(B) Through a medicareplus product.—Through a MedicarePlus product (as defined in paragraph (2)), which may be—

"(i) a high deductible/medisave product (and a contribution into a MedicarePlus medical savings account (MSA)),

"(ii) a product offered by a provider-sponsored organization,

"(iii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

"(iv) a product providing for benefits on a fee-for-service or other basis.

"(2) Medicareplus product defined.—For purposes of this section and part C, the term 'MedicarePlus product' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

"(3) Terminology relating to options.—For purposes of this section and part C—

"(A) Non-medicareplus option.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-MedicarePlus option'.

"(B) Medicareplus option.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a MedicarePlus product is considered to have elected the 'MedicarePlus option' for that product.

"(b) Special Rules.—

"(1) Residence requirement.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus product offered by a MedicarePlus organization only if the organization in relation to the product serves the geographic area in which the individual resides.

"(2) Affiliation requirements for certain products.—

"(A) In general.—Subject to subparagraph (B), an individual is eligible to elect a MedicarePlus product offered by a limited enrollment MedicarePlus organization (as defined in section 1852(c)(4)(E)) only if—

"(i) the individual is eligible under section 1852(c)(4) to make such election, and

"(ii) in the case of a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a MedicarePlus product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

"(B) No reelection after disenrollment for certain products.—An individual is not eligible to elect a MedicarePlus product offered by a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor if the individual previously had elected a MedicarePlus product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

"(3) Special rule for certain annuitants.—An individual is not eligible to elect a high deductible/medisave product if the individual is entitled to benefits under chapter 89 of title 5, United States Code, as an annuitant or spouse of an annuitant.

"(c) Process for Exercising Choice.—

"(1) In general.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) Expedited implementation.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for MedicarePlus products in an area as soon as such products become available in that area.

"(3) Coordination through MedicarePlus organizations.—

"(A) Enrollment.—Such process shall permit an individual who wishes to elect a MedicarePlus product offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) Disenrollment.—Such process shall permit an individual, who has elected a MedicarePlus product offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) Default.—

"(A) Initial election.—

"(i) In general.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-MedicarePlus option.

"(ii) Seamless continuation of coverage.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate MedicarePlus product offered by the organization.

"(B) Continuing periods.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a MedicarePlus product is discontinued, if the individual had elected such product at the time of the discontinuation.

"(5) Agreements with Commissioner of Social Security to promote efficient administration.—In order to promote the efficient administration of this section and the MedicarePlus program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in MedicarePlus products under this section.

"(d) Provision of Beneficiary Information to Promote Informed Choice.—

"(1) In general.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the MedicarePlus option during the initial election period described in subsection (e)(1).

"(2) Use of nonfederal entities.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(3) Specific activities.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which MedicarePlus products are offered:

"(A) Information booklet.—

"(i) In general.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the MedicarePlus option under this section during coverage election periods.

"(ii) Information included.—The booklet shall include information presented in plain English and in a standardized format regarding—

"(I) the benefits (including cost-sharing) and premiums for the various MedicarePlus products in the areas involved;

"(II) the quality of such products, including consumer satisfaction information; and

"(III) rights and responsibilities of medicare beneficiaries under such products.

"(iii) Periodic updating.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of MedicarePlus products and the benefits and premiums for such products.

"(B) Toll-free number.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of part C.

"(C) General information in medicare handbook.—The Secretary shall include information about the MedicarePlus option provided under this section in the annual notice of medicare benefits under section 1804.

"(e) Coverage Election Periods.—

"(1) Initial choice upon eligibility to make election.—

"(A) In general.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

"(B) Transition period defined.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a MedicarePlus product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) During transition period.—Subject to paragraph (6)—

"(A) Continuous open enrollment into a medicare-plus option.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-MedicarePlus option may change such election to a MedicarePlus option at any time.

"(B) Open disenrollment before end of transition period.—

"(i) In general.—During the transition period, an individual who has elected a MedicarePlus option for a MedicarePlus product may change such election to another MedicarePlus product or to the non-MedicarePlus option.

"(ii) Special rule.—During the transition period, an individual who has elected a high deductible/medisave product may not change such election to a MedicarePlus product that is not a high deductible/medisave product unless the individual has had such election in effect for 12 months.

"(3) Annual, coordinated election period.—

"(A) In general.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

"(B) Annual, coordinated election period.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MedicarePlus health fair during October, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect MedicarePlus products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) Special 90-day disenrollment option.—

"(A) In general.—In the case of the first time an individual elects a MedicarePlus option (other than a high deductible/medisave product) under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the MedicarePlus product under such option becomes effective.

"(B) Effect of discontinuation of election.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-MedicarePlus option.

"(5) Special election periods.—An individual may discontinue an election of a MedicarePlus product offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

"(B) in the case of an individual who has elected a MedicarePlus product offered by a MedicarePlus organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(6) SPECIAL RULE FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS.—Notwithstanding the previous provisions of this subsection, an individual may elect a high deductible/medisave product only during an annual, coordinated election period described in paragraph (3)(B) or during the month of October, 1996.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible/medisave product shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) EFFECT OF ELECTION OF MEDICAREPLUS OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a MedicarePlus organization under section 1858(a) with respect to an individual electing a MedicarePlus product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(h) ADMINISTRATION.—

"(1) IN GENERAL.—This part and sections 1805 and 1876 shall be administered through an operating division (A) that is established or identified by the Secretary in the Department of Health and Human Services, (B) that is separate from the Health Care Financing Administration, and (C) the primary function of which is the administration of this part and such sections. The director of such division shall be of equal pay and rank to that of the individual responsible for overall administration of parts A and B.

"(2) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the operating division referred to in paragraph (1) as are used in the administration of section 1876 and as may be required to implement the provisions referred to in such paragraph promptly and efficiently.".

SEC. 15002. MEDICAREPLUS PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICAREPLUS

"REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; HIGH DEDUCTIBLE/MEDISAVE PRODUCTS

"SEC. 1851. (a) MEDICAREPLUS ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'MedicarePlus organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

"(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—A MedicarePlus organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus product.

"(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor (as defined in section 1852(c)(4)).

"(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a provider-sponsored organization (as defined in section 1854(a)) except to the extent provided under section 1857(c).

"(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a qualified association (as defined in section 1852(c)(4)(C)).

"(c) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(d) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a MedicarePlus organization that is a union sponsor (as defined in section 1852(c)(4)(A)), Taft-Hartley sponsor (as defined in section 1852(c)(4)(B)), a qualified association (as defined in section 1852(c)(4)(C)), this subsection shall not apply with respect to MedicarePlus products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(e) PROVISION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—Each MedicarePlus organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of MedicarePlus products offered by the organization.

"(2) TREATMENT OF UNION AND TAFT-HARTLEY SPONSORS.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to MedicarePlus products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(f) HIGH DEDUCTIBLE/MEDISAVE PRODUCT DEFINED.—

"(1) IN GENERAL.—In this part, the term 'high deductible/medisave product' means a MedicarePlus product that—

"(A) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the product) equal to the amount of a deductible (described in paragraph (2));

"(B) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

"(C) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in subparagraph (A) in the year, for a level of reimbursement that is not less than—

"(i) 100 percent of such expenses, or

"(ii) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less. Such term does not include the MedicarePlus MSA itself or any contribution into such account.

"(2) DEDUCTIBLE.—The amount of deductible under a high deductible/medisave product—

"(A) for contract year 1997 shall be not more than $10,000; and

"(B) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this paragraph increased by the national average per capita growth rate under section 1855(c)(3) for the year.

If the amount of the deductible under subparagraph (B) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(g) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1998:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"(h) MEDIGRANT DEMONSTRATION PROJECTS.—The Secretary shall provide, in at least 10 States, for demonstration projects which would permit MediGrant programs under title XXI to be treated as MedicarePlus organizations under this part for individuals who are qualified to elect the MedicarePlus option and who eligible to receive medical assistance under the MediGrant program, for the purpose of demonstrating the delivery of primary, acute, and long-term care through an integrated delivery network which emphasizes noninstitutional care.

"REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

"SEC. 1852. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—Except as provided in section 1851(f)(1) with respect to high deductible/medisave products, each MedicarePlus product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

"(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(3) SATISFACTION OF REQUIREMENT.—A MedicarePlus product (other than a high deductible/medisave product) offered by a MedicarePlus organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) NON-MEDICAREPLUS LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-MedicarePlus option.

"(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-MedicarePlus option) of the payment rate provided under the contract.

"(b) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(c) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under section 1805 with respect to a MedicarePlus product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

"(A) first to such individuals as have elected the product at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under section 1805 for a MedicarePlus product it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under section 1805 with respect to a MedicarePlus product it offers if—

"(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-MedicarePlus option (as defined in section 1805(a)(3)(A)).

"(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each MedicarePlus organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICAREPLUS ORGANIZATIONS.—

"(A) UNIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for MedicarePlus products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(B) TAFT-HARTLEY SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for MedicarePlus products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

"(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(C) QUALIFIED ASSOCIATIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a MedicarePlus product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

"(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

"(II) does not exist solely or principally for the purpose of selling insurance, and

"(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) LIMITED ENROLLMENT MEDICAREPLUS ORGANIZATION.—In this part and section 1805, the term 'limited enrollment MedicarePlus organization' means a MedicarePlus organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

"(F) EMPLOYER, ETC.—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(d) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premiums for coverage under each MedicarePlus product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

"(B) the enrollment capacity in relation to the product in each such area.

"(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a MedicarePlus organization for a MedicarePlus product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

"(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

"(B)(i) 1/12 of the annual MedicarePlus capitation rate specified in section 1855(b)(2) for the area and period involved, or (ii) in the case of a high deductible/medisave product, the monthly adjusted MedicarePlus capitation rate specified in section 1855(b)(1) for the individual and period involved.

"(3) UNIFORM PREMIUM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the premiums charged by a MedicarePlus organization under this part may not vary among individuals who reside in the same payment area.

"(B) EXCEPTION FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS.—A MedicarePlus organization shall establish premiums for any high deductible/medisave product it offers in a payment area based on each of the risk adjustment categories established for purposes of determining the amount of the payment to MedicarePlus organizations under section 1855(b)(1) and using the identical demographic and other adjustments among such categories as are used for such purposes.

"(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus product for failure to make premium payments only in accordance with subsection (c)(3)(B).

"(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a MedicarePlus organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization.

"(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in a total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

"(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) NO APPLICATION TO HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—Subparagraph (A) shall not apply to a high deductible/medisave product.

"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(3) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

"(f) Rules Regarding Physician Participation.—

"(1) Procedures.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus products offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) Consultation in medical policies.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) Limitations on physician incentive plans.—

"(A) In general.—Each MedicarePlus organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) Physician incentive plan defined.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) Limitation on provider indemnification.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee under this part for any damage caused to the enrollee by the organization's denial of medically necessary care.

"(5) Exception for certain fee-for-service plans.—The previous provisions of this subsection shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(g) Provision of Information.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

"(h) Coordinated Acute and Long-term Care Benefits Under a MedicarePlus Product.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its MediGrant program under title XXI with those provided under a MedicarePlus product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

"(i) Transitional File and Use for Certain Requirements.—

"(1) In general.—In the case of a MedicarePlus product proposed to be offered before the end of the transition period (as defined in section 1805(e)(1)(B)), by a MedicarePlus organization described in section 1851(g)(3) or by a MedicarePlus organization with a contract in effect under section 1858, if the organization submits complete information to the Secretary regarding the product demonstrating that the product meets the requirements and standards under subsections (a), (d), and (e) (relating to benefits and premiums), the product shall be deemed as meeting such requirements and standards under such subsections unless the Secretary disapproves the product within 60 days after the date of submission of the complete information.

"(2) Construction.—Nothing in paragraph (1) shall be construed as waiving the requirement of a contract under section 1858 or waiving requirements and standards not referred to in paragraph (1).

"PATIENT PROTECTION STANDARDS

"Sec. 1853. (a) Disclosure to Enrollees.—A MedicarePlus organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each MedicarePlus product it offers:

"(1) Benefits under the MedicarePlus product offered, including exclusions from coverage and, if it is a high deductible/medisave product, a comparison of benefits under such a product with benefits under other MedicarePlus products.

"(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(3) Potential liability for cost-sharing for out-of-network services.

"(4) The number, mix, and distribution of participating providers.

"(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

"(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

"(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

"(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

"(b) Access to Services.—

"(1) In general.—A MedicarePlus organization offering a MedicarePlus product may restrict the providers from whom the benefits under the product are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

"(D) coverage is provided for emergency services (as defined in paragraph (4)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) Minimum payment levels where providing point-of-service coverage.—If a MedicarePlus product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 40 percent) of the lesser of—

"(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

"(B) the amount charged by the entity furnishing such items and services.

"(3) Protection of enrollees for certain emergency services.—

"(A) Participating providers.—In the case of emergency services described in subparagraph (C) which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a MedicarePlus organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) EMERGENCY SERVICES DESCRIBED.—The emergency services described in this subparagraph are emergency services which are furnished to an enrollee of a MedicarePlus organization under this part by a physician or provider of services that is not under a contract with the organization.

"(D) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this paragraph shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(A) are furnished by an appropriate source other than the organization,

"(B) are needed immediately because of an injury or sudden illness, and

"(C) are needed because the time required to reach the organization's providers or suppliers would have meant risk of serious damage to the patient's health.

"(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(d) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluates the continuity and coordination of care that enrollees receive;

"(F) has mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establishes or alters practice parameters;

"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) is evaluated on an ongoing basis as to its effectiveness; and

"(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

"(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

"(e) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(f) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

"(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus products.

"(4) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

"(g) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—Each MedicarePlus organization may not distribute marketing materials unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a MedicarePlus product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards in relation to MedicarePlus products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

"PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1854. (a) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity that (in accordance with standards established under subsection (b)) is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary under such standards) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) PROCESS FOR ESTABLISHING STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—For process of establishing of standards for provider-sponsored organizations, see section 1856(c).

"(c) PROCESS FOR STATE CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS.—For process of State certification of provider-sponsored organizations, see section 1857(c).

"(d) PREEMPTION OF STATE INSURANCE LICENSING REQUIREMENTS.—

"(1) IN GENERAL.—This section supersedes any State law which—

"(A) requires that a provider-sponsored organization meet requirements for insurers of health services or health maintenance organizations doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency, or

"(B) imposes requirements that would have the effect of prohibiting the organization from complying with the applicable requirements of this part,

insofar as such the law applies to individuals enrolled with the organization under this part.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides standards or requirements, or provides for enforcement thereof, so as to meet the requirements of section 1857(c)(2) with respect to approval by the Secretary of State certification requirements thereunder.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1855. (a) PAYMENTS.—

"(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each MedicarePlus organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted MedicarePlus capitation rate (as provided under subsection (b)) with respect to that individual for that area.

"(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each payment area for the year, and

"(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

"(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(b) MONTHLY ADJUSTED MEDICAREPLUS CAPITATION RATE.—

"(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted MedicarePlus capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual MedicarePlus capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

"(2) ANNUAL MEDICAREPLUS CAPITATION RATES.—For purposes of this section, the annual MedicarePlus capitation rate for a payment area for a year is equal to the annual MedicarePlus capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

"(3) PAYMENT AREA DEFINED.—In this section, the term 'payment area' means a county (or equivalent area specified by the Secretary), except that in the case of the population group described in paragraph (5)(C), the payment area shall be each State.

"(4) CLASSES.—

"(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

"(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

"(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

"(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

"(c) PER CAPITA GROWTH RATES.—

"(1) FOR 1996.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

"(i) LOWEST SERVICE UTILIZATION COHORT.—For areas assigned to the lowest service utilization cohort, 9.0 percent plus the additional percent provided under subparagraph (B)(ii).

"(ii) LOWER SERVICE UTILIZATION COHORT.—For areas assigned to the lower service utilization cohort, 8.0 percent.

"(iii) MEDIAN SERVICE UTILIZATION COHORT.—For areas assigned to the median service utilization cohort, 5.1 percent.

"(iv) HIGHER SERVICE UTILIZATION COHORT.—For areas assigned to the higher service utilization cohort, 4.7 percent.

"(v) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 4.0 percent.

"(B) BUDGET NEUTRAL ADJUSTMENT.—In order to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996, the Secretary shall adjust the per capita growth rates for payment areas as follows:

"(i) INCREASE UP TO FLOOR.—First, such additional percent increase as may be necessary to assure that the annual MedicarePlus capitation rate for each payment area is at least 12 times $300 for 1996.

"(ii) RESIDUAL INCREASE TO LOWEST SERVICE UTILIZATION COHORT.—Next, for payment areas assigned to the lowest service utilization cohort, such additional percent increase as will assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate. The increase under this clause may apply to a payment area described in clause (i) and shall be applied after the increase provided under such clause.

"(2) FOR SUBSEQUENT YEARS.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraphs (B) and (C), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

"(i) MEDIAN SERVICE UTILIZATION COHORT SET AT NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the median service utilization cohort for the year shall be the national average per capita growth rate for the year (as specified under paragraph (3)), subject to subparagraph (C).

"(ii) HIGHEST SERVICE UTILIZATION COHORT SET AT 75 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 75 percent of the national average per capita growth rate for the year.

"(iii) LOWEST SERVICE UTILIZATION COHORT SET AT 187.5 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the lowest service utilization cohort for the year shall be 187.5 percent of the national average per capita growth rate for the year, subject to subparagraph (C).

"(iv) LOWER SERVICE UTILIZATION COHORT SET AT 150 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—

"(I) IN GENERAL.—Subject to subclause (II), the per capita growth rate for areas assigned to the lower service utilization cohort for the year shall be 150 percent of the national average per capita growth rate for the year.

"(II) ADJUSTMENT.—If the Secretary has established under clause (v) the per capita growth rate for areas assigned to the higher service utilization cohort for the year at 75 percent of the national average per capita growth rate, the Secretary may provide for a reduced per capita growth rate under subclause (I) to the extent necessary to comply with subparagraph (B).

"(v) HIGHER SERVICE UTILIZATION COHORT.—The per capita growth rate for areas assigned to the higher service utilization cohort for the year shall be such percent (not less than 75 percent) of the national average per capita growth rate, as the Secretary may determine consistent with subparagraph (B).

"(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) (before the application of subparagraph (C)) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

"(C) FINAL ADJUSTMENT OF GROWTH RATES.—After computing per capita growth rates under the previous provisions of this paragraph for a year, the Secretary shall—

"(i) reduce the per capita growth rate for areas assigned to the median service utilization cohort by the ratio of .1 to 5.3;

"(ii) if the year is 1997, increase per capita growth rates for payment areas to the extent necessary to assure that the annual MedicarePlus capitation rate for each payment area for such year is at least 12 times $320; and

"(iii) adjust (consistent with clause (ii)) the per capita growth rate for areas assigned to the lowest service utilization cohort by such proportion as the Secretary determines will result in no net increase in outlays resulting from the application of this subparagraph for the year involved."; and

"(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

"(A) 1996 is 5.3 percent,

"(B) 1997 is 3.8 percent,

"(C) 1998 is 4.6 percent,

"(D) 1999 is 4.3 percent,

"(E) 2000 is 3.8 percent,

"(F) 2001 is 5.5 percent,

"(G) 2002 is 5.6 percent, and

"(H) each subsequent year is 5.0 percent.

"(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

"(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

"(A) LOWEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than .80 shall be assigned to the lowest service utilization cohort.

"(B) LOWER SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least .80 but less than .90 shall be assigned to the lower service utilization cohort.

"(C) MEDIAN SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least .90 but less than 1.10 shall be assigned to the median service utilization cohort.

"(D) HIGHER SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.10 but less than 1.20 shall be assigned to the higher service utilization cohort.

"(E) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

"(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

"(A) the annual MedicarePlus capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

"(B) the input-price-adjusted annual national MedicarePlus capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

"(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

"(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national MedicarePlus capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

"(i) the national standardized MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED MEDICAREPLUS CAPITATION RATE.—In this paragraph, the 'national standardized MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all payment areas) of the product of (I) the annual MedicarePlus capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(e) PAYMENT PROCESS.—

"(1) IN GENERAL.—Subject to subsection (f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a MedicarePlus organization under this part.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

"(f) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—

"(1) IN GENERAL.—In the case of an individual who has elected a high deductible/medisave product, notwithstanding the preceding provisions of this section—

"(A) the amount of the payment to the MedicarePlus organization offering the high deductible/medisave product shall not exceed the premium for the product, and

"(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible/medisave product, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 137(b) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible/medisave product effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(g) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization, and payments to a MedicarePlus MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a MedicarePlus product offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus product or Non-MedicarePlus option (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a MedicarePlus organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"ESTABLISHMENT OF STANDARDS FOR MEDICARE-PLUS ORGANIZATIONS AND PRODUCTS

"SEC. 1856. (a) STANDARDS APPLICABLE TO STATE-REGULATED ORGANIZATIONS AND PRODUCTS.—

"(1) RECOMMENDATIONS OF NAIC.—The Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of the Medicare Preservation Act of 1995, proposed standards consistent with the requirements of this part for MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and MedicarePlus products offered by such organizations, except that such proposed standards may relate to MedicarePlus organizations that are qualified associations only with respect to MedicarePlus products offered by them and only if such products are issued by organizations to which section 1851(b)(1) applies.

"(2) REVIEW.—If the Association submits such standards on a timely basis, the Secretary shall review such standards to determine if the standards meet the requirements of the part. The Secretary shall complete the review of the standards not later than 90 days after the date of their submission. The Secretary shall promulgate such proposed standards to apply to organizations and products described in paragraph (1) except to the extent that the Secretary modifies such proposed standards because they do not meet such requirements.

"(3) FAILURE TO SUBMIT.—If the Association does not submit such standards on a timely basis, the Secretary shall promulgate such standards by not later than the date the Secretary would otherwise have been required to promulgate standards under paragraph (2).

"(4) USE OF INTERIM RULES.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1996, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(b) UNION AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIATIONS, AND PRODUCTS.—

"(1) IN GENERAL.—The Secretary shall develop and promulgate by regulation standards consistent with the requirements of this part for union and Taft-Hartley sponsors, for qualified associations, and for MedicarePlus products offered by such organizations (other than MedicarePlus products offered by qualified associations that are issued by organizations to which section 1851(b)(1) applies).

"(2) CONSULTATION WITH LABOR.—The Secretary shall consult with the Secretary of Labor with respect to such standards for such sponsors and products.

"(3) TIMING.—Standards under this subsection shall be promulgated at or about the time standards are promulgated under subsection (a).

"(c) ESTABLISHMENT OF STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards that entities must meet to qualify as provider-sponsored organizations under this part.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of Medicare Preservation Act of 1995.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be September 1, 1996.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than June 1, 1996, regarding the committee's progress on achieving a concensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

"(10) PROCESS FOR APPROVAL OF APPLICATIONS FOR CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification as provider-sponsored organizations under this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.

"(B) CIRCULATION OF PROPOSED APPLICATION FORM.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering becoming certified as a provider-sponsored organization under this part.

"(d) COORDINATION AMONG FINAL STANDARDS.—In establishing standards (other than on an interim basis) under the previous provisions of this section, the Secretary shall seek to provide for consistency (as appropriate) across the different types of MedicarePlus organizations, in order to promote equitable treatment of different types of organizations and consistent protection for individuals who elect products offered by the different types of MedicarePlus organizations.

"(e) USE OF CURRENT STANDARDS FOR INTERIM STANDARDS.—To the extent practicable and consistent with the requirements of this part, standards established on an interim basis to carry out requirements of this part may be based on currently applicable standards, such as the rules established under section 1876 (as in effect as of the date of the enactment of this section) to carry out analogous provisions of such section or standards established or developed for application in the private health insurance market.

"(f) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(g) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law or regulation with respect to MedicarePlus products which are offered by MedicarePlus organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"MEDICARE-PLUS CERTIFICATION

"SEC. 1857. (a) STATE CERTIFICATION PROCESS FOR STATE-REGULATED ORGANIZATIONS.—

"(1) APPROVAL OF STATE PROCESS.—The Secretary shall approve a MedicarePlus certification and enforcement program established by a State for applying the standards established under section 1856 to MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and MedicarePlus products offered by such organizations if the Secretary determines that the program effectively provides for the application and enforcement of such standards in the State with respect to such organizations and products. Such program shall provide for certification of compliance of MedicarePlus organizations and products with the applicable requirements of this part not less often than once every 3 years.

"(2) EFFECT OF CERTIFICATION UNDER STATE PROCESS.—A MedicarePlus organization and MedicarePlus product offered by such an organization that is certified under such program is considered to have been certified under this subsection with respect to the offering of the product to individuals residing in the State.

"(3) USER FEES.—The State may impose user fees on organizations seeking certification under this subsection in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this paragraph shall be construed as restricting a State's authority to impose premium taxes, other taxes, or other levies.

"(4) REVIEW.—The Secretary periodically shall review State programs approved under paragraph (1) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary finds that a State program no longer so provides, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State program to meet the requirements of paragraph (1). If the Secretary makes a final determination that the State program, after such an opportunity, fails to meet such requirements, the provisions of subsection (b) shall apply to MedicarePlus organizations and products in the State.

"(5) EFFECT OF NO STATE PROGRAM.—Beginning on the date standards are established under section 1856, in the case of organizations and products in States in which a certification program has not been approved and in operation under paragraph (1), the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations) and products of such organizations as meeting such standards.

"(6) PUBLICATION OF LIST OF APPROVED STATE PROGRAMS.—The Secretary shall publish (and periodically update) a list of those State programs which are approved for purposes of this subsection.

"(b) FEDERAL CERTIFICATION PROCESS FOR UNION SPONSORS, TAFT-HARTLEY SPONSORS, AND PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of union sponsors, Taft-Hartley sponsors, and provider-sponsored organizations and MedicarePlus products offered by such sponsors and organizations as meeting the applicable standards established under section 1856.

"(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(3) USE OF STATE LICENSING AND PRIVATE ACCREDITATION PROCESSES.—

"(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that MedicarePlus organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

"(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

"(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(c) CERTIFICATION OF PROVIDER-SPONSORED ORGANIZATIONS BY STATES.—

"(1) IN GENERAL.—The Secretary shall establish a process under which a State may propose to provide for certification of entities as meeting the requirements of this part to be provider-sponsored organizations.

"(2) CONDITIONS FOR APPROVAL.—The Secretary may not approve a State program for certification under paragraph (1) unless the Secretary determines that the certification program applies standards and requirements that are identical to the standards and requirements of this part and the applicable provisions for enforcement of such standards and requirements do not result in a lower level or quality of enforcement than that which is otherwise applicable under this title.

"(d) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a MedicarePlus organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

"(e) QUALIFIED ASSOCIATIONS.—In the case of MedicarePlus products offered by a MedicarePlus organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a MedicarePlus product offered by a MedicarePlus organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one MedicarePlus product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (1) and (2), the Secretary may not enter into a contract under this section with a MedicarePlus organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—Paragraph (1) shall not apply with respect to a contract that relates only to a high deductible/medisave product.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the MedicarePlus organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under a high deductible/medisave account be effective before January 1997 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(e) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(f) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(f)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the

Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(g) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization under this section or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1853(g)," after "1833(s),", and

(B) by inserting ", MedicarePlus organization," after "provider of services", and

(2) by adding at the end the following new paragraph:

"(4) Nothing in this subsection shall be construed to require the provision of information regarding assisted suicide, euthanasia, or mercy killing.".

(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are emergency services (as defined in section 1853(b)(4)) that are covered under this title and are furnished to any individual enrolled under part C with a MedicarePlus organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".

SEC. 15003. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PRODUCTS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—

(1) IN GENERAL.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending clause (i) to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus product under section 1805—

"(I) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) in the case of an individual not electing a MedicarePlus product, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) in the case of an individual electing a MedicarePlus product, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy.";

(B) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(C) by adding at the end the following new clauses:

"(iv) For purposes of this subparagraph a health insurance policy shall be considered to 'duplicate' benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title.

"(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), including a policy (such as a long-term care insurance contract described in section 7702B(b) of the Internal Revenue Code of 1986, as added by the Contract with America Tax Relief Act of 1995 (H.R. 1215)) providing benefits for long-term care, nursing home care, home health care, or community-based care, that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title. For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy during such period, if such policy meets the requirements of clause (iv) or (v).

"(vii) A State may not impose, with respect to the sale or issuance of a policy (or rider) that meets the requirements of this title pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B or enrolled under a MedicarePlus product under part C, any requirement based on the premise that such a policy or rider duplicates health benefits to which the individual is otherwise entitled under this title.".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (B), by inserting "(including any MedicarePlus product)" after "health insurance policies";

(B) in subparagraph (C)—

(i) by striking "with respect to (i)" and inserting "with respect to", and

(ii) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(C) by striking subparagraph (D).

(3) MEDICAREPLUS PRODUCTS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g) (42 U.S.C. 1395ss(g)) is amended by inserting "a MedicarePlus product or" after "and does not include"

(4) REPORT ON DUPLICATION AND COORDINATION OF HEALTH INSURANCE POLICIES THAT ARE NOT MEDICARE SUPPLEMENTAL POLICIES.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report on the advisability and feasibility of restricting the sale to medicare beneficiaries of health insurance policies that duplicate (within the meaning of section 1882(d)(3)(A) of the Social Security Act) other health insurance policies that such a beneficiary may have. In preparing such report, the Secretary shall seek the advice of the National Association of Insurance Commissioners and shall take into account the standards established under section 1807 of the Social Security Act for the electronic coordination of benefits.

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MEDICAREPLUS PRODUCTS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) Notwithstanding the previous provisions of this section, the following provisions shall not apply to a health insurance policy (other than a medicare supplemental policy) provided to an individual who has elected the MedicarePlus option under section 1805:

“(A) Subsections (o)(1), (o)(2), (p)(1)(A)(i), (p)(2), (p)(3), (p)(8), and (p)(9) (insofar as they relate to limitations on benefits or groups of benefits that may be offered).

“(B) Subsection (r) (relating to loss-ratios).

“(2)(A) It is unlawful for a person to sell or issue a policy described in subparagraph (B) to an individual with knowledge that the individual has in effect under section 1805 an election of a high deductible/medisave product.

“(B) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the high deductible/medisave product.”.

SEC. 15004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) Transition From Current Contracts.—

(1) Limitation on new contracts.—

(A) No new risk-sharing contracts after new standards established.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall not enter into any risk-sharing contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for MedicarePlus organizations and products are first established under section 1856(a) of such Act with respect to MedicarePlus organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(B) No new cost reimbursement contracts.—The Secretary shall not enter into any cost reimbursement contract under section 1876 of the Social Security Act beginning for any contract year beginning on or after the date of the enactment of this Act.

(2) Termination of current contracts.—

(A) Risk-sharing contracts.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) Cost reimbursement contracts.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) Conforming Payment Rates.—

(1) Risk-sharing contracts.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(A) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(B) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act. For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

(2) Cost contracts.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under cost reimbursement contracts under section 1876(a) of the Social Security Act shall take into account adjustments in payment amounts made in parts A and B of title XVIII of such Act pursuant to the amendments made by this title.

(c) Elimination of 50:50 Rule.—

(1) In general.—Section 1876 (42 U.S.C. 1395mm) is amended by striking subsection (f).

(2) Conforming amendments.—Section 1876 is further amended—

(A) in subsection (c)(3)(A)(i), by striking “would result in failure to meet the requirements of subsection (f) or”, and

(B) in subsection (i)(1)(C), by striking “(e), and (f)” and inserting “and (e)”.

(3) Effective date.—The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

PART 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

SEC. 15011. MEDICAREPLUS MSA'S.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

“SEC. 137. MEDICAREPLUS MSA'S.

“(a) Exclusion.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under section 1855(f)(1)(B) of the Social Security Act.

“(b) MedicarePlus MSA.—For purposes of this section—

“(1) MedicarePlus MSA.—The term ‘MedicarePlus MSA’ means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

“(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1855(f)(1)(B) of the Social Security Act.

“(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

“(C) No part of the trust assets will be invested in life insurance contracts.

“(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

“(E) The interest of an individual in the balance in his account is nonforfeitable.

“(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

“(2) Qualified medical expenses.—

“(A) In general.—The term ‘qualified medical expenses’ means, with respect to an account holder, amounts paid by such holder—

“(i) for medical care (as defined in section 213(d)) for the account holder, but only to the extent such amounts are not compensated for by insurance or otherwise, or

“(ii) for long-term care insurance for the account holder.

“(B) Health insurance may not be purchased from account.—Subparagraph (A)(i) shall not apply to any payment for insurance.

“(3) Account holder.—The term ‘account holder’ means the individual on whose behalf the MedicarePlus MSA is maintained.

“(4) Certain rules to apply.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

“(c) Tax Treatment of Accounts.—

“(1) In general.—A MedicarePlus MSA is exempt from taxation under this subtitle unless such MSA has ceased to be a MedicarePlus MSA by reason of paragraph (2). Notwithstanding the preceding sentence, any such MSA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

“(2) Account assets treated as distributed in the case of prohibited transactions or account pledged as security for loan.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to MedicarePlus MSA's, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

“(d) Tax Treatment of Distributions.—

“(1) Inclusion of amounts not used for qualified medical expenses.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a MedicarePlus MSA which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a MedicarePlus MSA which is not so used shall be included in the gross income of such holder.

“(2) Penalty for distributions not used for qualified medical expenses if minimum balance not maintained.—

“(A) In general.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

“(i) the amount of such payment or distribution, over

“(ii) the excess (if any) of—

“(I) the fair market value of the assets in the MedicarePlus MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

“(II) an amount equal to 60 percent of the deductible under the high deductible/medisave product covering the account holder as of January 1 of the calendar year in which the taxable year begins.

“(B) Exceptions.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

“(i) becomes disabled within the meaning of section 72(m)(7), or "(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all MedicarePlus MSA's of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

"(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a MedicarePlus MSA for qualified medical expenses shall not be treated as an expense paid for medical care.

"(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

"(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

"(A) IN GENERAL.—In the case of an account holder's interest in a MedicarePlus MSA which is payable to (or for the benefit of) such holder's spouse upon the death of such holder, such MedicarePlus MSA shall be treated as a MedicarePlus MSA of such spouse as of the date of such death.

"(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such MedicarePlus MSA, other than payments attributable to periods before such date,

"(ii) in applying subsection (b)(2) with respect to such MedicarePlus MSA, references to the account holder shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse, and

"(iii) in lieu of applying subsection (d)(2), the rules of section 220(f)(2) shall apply.

"(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account holder's interest in a MedicarePlus MSA which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(A) such account shall cease to be a MedicarePlus MSA as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such holder, in such holder's gross income for last taxable year of such holder.

"(f) REPORTS.—

"(1) IN GENERAL.—The trustee of a MedicarePlus MSA shall make such reports regarding such account to the Secretary and to the account holder with respect to—

"(A) the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

"(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account holder—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations."

(b) EXCLUSION OF MEDICAREPLUS MSA'S FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICAREPLUS MSA'S.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any MedicarePlus MSA (as defined in section 137(b)) included in the gross estate."

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAREPLUS MSA'S.—An individual for whose benefit a MedicarePlus MSA (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a MedicarePlus MSA by reason of the application of section 137(c)(2) to such account."

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d),

"(E) a MedicarePlus MSA described in section 137(b), or

"(F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(d) FAILURE TO PROVIDE REPORTS ON MEDICAREPLUS MSA'S.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

"(B) section 220(h) (relating to medical savings accounts), and

"(C) section 137(f) (relating to MedicarePlus MSA's)."

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. MedicarePlus MSA's.

"Sec. 138. Cross references to other Acts."

(2) The table of sections for part 1 of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions."

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. MedicarePlus MSA's."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 15012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under section 1852(e)(1)(A) of the Social Security Act during the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

SEC. 15021. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS.

(a) RULE OF REASON STANDARD.—In any action under the antitrust laws, or under any State law similar to the antitrust laws—

(1) the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a MedicarePlus PSO product, and

(2) the conduct of any member of such network for the purpose of providing such health care services under such contract to such extent,

shall not be deemed illegal per se. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) HEALTH CARE PROVIDER.—The term "health care provider" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(3) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a MedicarePlus PSO product including services related to the delivery or administration of such service.

(4) MEDICAREPLUS PROGRAM.—The term "MedicarePlus program" means the program under part C of title XVIII of the Social Security Act.

(5) MEDICAREPLUS PSO PRODUCT.—The term "MedicarePlus PSO product" means a MedicarePlus product offered by a provider-sponsored organization under part C of title XVIII of the Social Security Act.

(6) PROVIDER SERVICE NETWORK.—The term "provider service network" means an organization that—

(A) is organized by, operated by, and composed of members who are health care providers and for purposes that include providing health care services,

(B) is funded in part by capital contributions made by the members of such organization,

(C) with respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a MedicarePlus PSO product—

(i) requires all members of such organization who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

(ii) receives the compensation paid for the health care services of such type provided under such contract by such members, and

(iii) provides for the distribution of such compensation,

(D) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in such product, along with internal procedures to correct identified deficiencies relating to such methods and such services,

(E) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a program to monitor and control utilization of health care services provided under such product, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

(F) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in such product, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

(G) has established, consistent with the requirements of the MedicarePlus program for provider-sponsored organizations, a grievance and appeal process for such organization designed to review and promptly resolve beneficiary or patient grievances and complaints.

Such term may include a provider-sponsored organization.

(7) PROVIDER-SPONSORED ORGANIZATION.—The term "provider-sponsored organization" means a MedicarePlus organization under the MedicarePlus program that is a provider-sponsored organization (as defined in section ____ of the Social Security Act).

(8) STATE.—The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(c) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of subsection (a).

PART 4—COMMISSIONS

SEC. 15031. MEDICARE PAYMENT REVIEW COMMISSION.

(a) IN GENERAL.—Title XVIII, as amended by section 15001(a), is amended by inserting after section 1805 the following new section:

"MEDICARE PAYMENT REVIEW COMMISSION

"SEC. 1806. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) GENERAL DUTIES AND REPORTS.—

"(A) IN GENERAL.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.

"(B) ANNUAL REPORTS.—By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(C) ADDITIONAL REPORTS.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matter described in paragraph (2)(G).

"(D) SECRETARIAL RESPONSE IN RULEMAKING.—The Secretary shall respond to recommendations of the Commission in notices of rulemaking proceedings under this title.

"(2) SPECIFIC DUTIES RELATING TO MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C—

"(A) the appropriateness of the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas);

"(B) the appropriateness of the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries;

"(C) the implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the non-MedicarePlus option;

"(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;

"(E) the impact of the MedicarePlus program on access to care for medicare beneficiaries;

"(F) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which MedicarePlus products are made available to individuals residing in the county; and

"(G) other major issues in implementation and further development of the MedicarePlus program.

"(3) SPECIFIC DUTIES RELATING TO THE FAILSAFE BUDGET MECHANISM.—Specifically, the Commission shall review, with respect to the failsafe budget mechanism described in section 1895—

"(A) the appropriateness of the expenditure projections by the Secretary under section 1895(c) for each medicare sector;

"(B) the appropriateness of the growth factors for each sector and the ability to take into account substitution across sectors;

"(C) the appropriateness of the mechanisms for implementing reductions in payment amounts for different sectors, including any adjustments to reflect changes in volume or intensity resulting for any payment reductions;

"(D) the impact of the mechanism on provider participation in parts A and B and in the MedicarePlus program; and

"(E) the appropriateness of the medicare benefit budget (under section 1895(c)(2)(C) of the Social Security Act), particularly for fiscal years after fiscal year 2002.

"(4) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

"(B) payment methodologies; and

"(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

"(5) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(3) CONSIDERATIONS IN INITIAL APPOINTMENT.—To the extent possible, in first appointing members to the Commission the Comptroller General shall consider appointing individuals who (as of the date of the enactment of this section) were serving on the Prospective Payment Assessment Commission or the Physician Payment Review Commission.

"(4) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(6) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information to—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting "Medicare Payment Review Commission".

(iii) Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than March 31, 1996.

(2) TRANSITION.—Effective on a date (not later than 30 days after the date a majority of members of the MPRC have first been appointed, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), and amendments made by subsection (b), are terminated. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

SEC. 15032. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) The most efficient and effective manner of administering the program, including the appropriateness of continuing the application of the failsafe budget mechanism under section 1895 of the Social Security Act for fiscal years after fiscal year 2002 and the appropriate long-term growth rates for contributions electing coverage under MedicarePlus under part C of title XVIII of such Act.

(C) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(D) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(E) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(C) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

SEC. 15033. CHANGE IN APPOINTMENT OF ADMINISTRATOR OF HCFA.

(a) IN GENERAL.—Section 1117 (42 U.S.C. 1317) is amended by striking "President by and with the advice and consent of the Senate" and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to Administrators appointed on or after the date of the enactment of this Act.

PART 5—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 15041. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1854(a)(1) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Preventing Fraud and Abuse

PART 1—GENERAL PROVISIONS

SEC. 15101. INCREASING AWARENESS OF FRAUD AND ABUSE.

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a "special fraud alert" is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in 15214(b); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 15102. BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this subtitle referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 15103. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(ii) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists; and

"(iii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—(A) Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(B) Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 15104. VOLUNTARY DISCLOSURE PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"VOLUNTARY DISCLOSURE OF ACTS OR OMISSIONS

"SEC. 1129. (a) ESTABLISHMENT OF VOLUNTARY DISCLOSURE PROGRAM.—Not later than 3 months after the date of the enactment of this section, the Secretary shall establish a program to encourage individuals and entities to voluntarily disclose to the Secretary information on acts or omissions of the individual or entity which constitute grounds for the imposition of a sanction described in section 1128, 1128A, or 1128B.

"(b) EFFECT OF VOLUNTARY DISCLOSURE.—If an individual or entity voluntarily discloses information with respect to an act or omission to the Secretary under subsection (a), the following rules shall apply:

"(1) The Secretary may waive, reduce, or otherwise mitigate any sanction which would otherwise be applicable to the individual or entity under section 1128, 1128A, or 1128B as a result of the act or omission involved.

"(2) No qui tam action may be brought pursuant to chapter 37 of title 31, United States Code, against the individual or entity with respect to the act or omission involved.".

SEC. 15105. REVISIONS TO CURRENT SANCTIONS.

(a) DOUBLING THE AMOUNT OF CIVIL MONETARY PENALTIES.—The maximum amount of civil monetary penalties specified in section 1128A of the Social Security Act or under title XVIII of such Act (as in effect on the day before the date of the enactment of this Act) shall, effective for violations occurring after the date of the enactment of this Act, be double the amount otherwise provided as of such date.

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION.—Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acts or omissions occurring on or after January 1, 1996.

SEC. 15106. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

"(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

"(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

"(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

"(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

"(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

"(B) fines imposed under section 1128B arising out of a claim under this title, and

"(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

"(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

"(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 1893(g)".

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1893, as added by subsection (a), is amended by adding at the end the following new subsection:

"(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector

General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and conumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

SEC. 15107. PERMITTING CARRIERS TO CARRY OUT PRIOR AUTHORIZATION FOR CERTAIN ITEMS OF DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)), as amended by section 135(b) of the Social Security Act Amendments of 1994, is amended by adding at the end the following new subparagraphs:

"(D) APPLICATION BY CARRIERS.—A carrier may develop (and periodically update) a list of items under subparagraph (A) and a list of suppliers under subparagraph (B) in the same manner as the Secretary may develop (and periodically update) such lists.

"(E) WAIVER OF PUBLICATION REQUIREMENT.—A carrier may make an advance determination under subparagraph (C) with respect to an item or supplier on a list developed by the Secretary or the carrier without regard to whether or not the Secretary has promulgated a regulation with respect to the list, except that the carrier may not make such an advance determination with respect to an item or supplier on a list until the expiration of the 30-day period beginning on the date the Secretary or the carrier places the item or supplier on the list.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Act Amendments of 1994.

SEC. 15108. NATIONAL HEALTH CARE ANTI-FRAUD TASK FORCE.

(a) ESTABLISHMENT.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall establish a national health care anti-fraud task force (in this section referred to as the "task force"). The Attorney General shall establish the task force within 120 days after the date of the enactment of this Act.

(b) COMPOSITION.—The task force shall include representatives of Federal agencies involved in the investigation and prosecution of persons violating laws relating to health care fraud and abuse, including at least one representative from each of the following agencies:

(1) The Department of Justice and the Federal Bureau of Investigation.

(2) The Department of Health and Human Services and the Office of the Inspector General within the Department.

(3) The office in the Department of Defense responsible for administration of the CHAMPUS program.

(4) The Department of Veterans' Affairs.

(5) The United States Postal Inspection Service.

(6) The Internal Revenue Service.

The Attorney General (or the designee of the Attorney General) shall serve as chair of the task force.

(c) DUTIES.—The task force shall coordinate Federal law enforcement activities relating to health care fraud and abuse in order to better control fraud and abuse in the delivery of health care in the United States. Specifically, the task force shall coordinate activities—

(1) in order to assure the effective targeting and investigation of persons who organize, direct, finance, or otherwise knowingly engage in health care fraud, and

(2) in order to assure full and effective cooperation between Federal and State agencies involved in health care fraud investigations.

(d) STAFF.—Each member of the task force who represents an agency shall be responsible for providing for the detail (from the agency) of at least one full-time staff person to staff the task force. Such detail shall be without change in salary, compensation, benefits, and other employment-related matters.

SEC. 15109. STUDY OF ADEQUACY OF PRIVATE QUALITY ASSURANCE PROGRAMS.

(a) IN GENERAL.—The Administrator of the Health Care Financing Administration (acting through the Director of the Office of Research and Demonstrations) shall enter into an agreement with a private entity to conduct a study during the 5-year period beginning on the date of the enactment of this Act of the adequacy of the quality assurance programs and consumer protections used by the MedicarePlus program under part C of title XVIII of the Social Security Act (as inserted by section 15002(a)), and shall include in the study an analysis of the effectiveness of such programs in protecting plan enrollees against the risk of insufficient provision of benefits which may result from utilization controls.

(b) REPORT.—Not later than 6 months after the conclusion of the 5-year period described in subsection (a), the Administrator shall submit a report to Congress on the study conducted under subsection (a).

SEC. 15110. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

SEC. 15111. PILOT PROJECTS.

The Secretary of Health and Human Services shall establish and operate 5 pilot projects (in various geographic regions of the United States) under which the Secretary shall implement innovative approaches to monitor payment claims under the medicare program to detect those claims that are wasteful or fraudulent.

PART 2—REVISIONS TO CRIMINAL LAW

SEC. 15121. DEFINITION OF FEDERAL HEALTH CARE OFFENSE.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 24. Definition of Federal health care offense

"(a) As used in this title, the term 'Federal health care offense' means—

"(1) a violation of, or criminal conspiracy to violate section 226, 227, 669, 1035, 1347, or 1518 of this title;

"(2) a violation of, or criminal conspiracy to violate section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);

"(3) a violation of, or criminal conspiracy to violate section 201, 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program;

"(4) a violation of, or criminal conspiracy to violate section 501 or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 or 29 U.S.C. 1141), if the violation or conspiracy relates to a health care benefit program;

"(5) the commission of, or attempt to commit, an act which constitutes grounds for the imposition of a penalty under section 303 of the Federal Food, Drug, and Cosmetic Act, if the act or attempt relates to a health care benefit program; or

"(6) a violation of, or criminal conspiracy to violate, section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 53), if the violation or conspiracy relates to a health care benefit program.

"(b) As used in this title, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

"24. Definition relating to Federal health care offense defined.".

SEC. 15122. HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever, having devised or intending to devise a scheme or artifice, commits or attempts to commit an act in furtherance of or for the purpose of executing such scheme or artifice—

"(1) to defraud any health care benefit program; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

"(b) As used in this section, the term 'health care benefit program' means any public or private plan or contract under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud."

SEC. 15123. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 669. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 15124. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1035. False statements relating to health care matters.".

SEC. 15125. BRIBERY AND GRAFT.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery and graft in connection with health care

"(a) Whoever—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to a health care official, or offers or promises to give anything of value to any other person, or attempts to violate this subsection, with intent—

"(A) to influence any of the health care official's actions, decisions, or duties relating to a health care benefit program;

"(B) to influence such an official to commit or aid in the committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on a health care benefit program; or

"(C) to induce such an official to engage in any conduct in violation of the lawful duty of such official; or

"(2) being a health care official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection, or attempts to violate this subsection,

shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Whoever—

"(1) otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a health care benefit program, or attempts to violate this subsection; or

"(2) being a health care official, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly, demands, seeks, receives, accepts or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection, or attempts to violate this subsection.

shall be fined under this title, or imprisoned not more than 2 years, or both.

"(c) As used in this section—

"(1) the term 'health care official" means—

"(A) an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any health care benefit program;

"(B) an officer, counsel, agent, or employee, of an organization that provides services under contract to any health care benefit program; or

"(C) an official, employee, or agent of an entity having regulatory authority over any health care benefit program; and

"(2) the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Bribery and graft in connection with health care.".

SEC. 15126. ILLEGAL REMUNERATION WITH RESPECT TO HEALTH CARE BENEFIT PROGRAMS.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 227. Illegal remuneration with respect to health care benefit programs

"(a) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

"(1) in return for referring any individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by any health care benefit program; or

"(2) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part by any health care benefit program, or attempting to do so,

shall be fined under this title or imprisoned for not more than 5 years, or both.

"(b) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly, or covertly, in cash or in kind to any person to induce such person—

"(1) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by any health benefit program; or

"(2) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part by any health benefit program or attempts to do so,

shall be fined under this title or imprisoned for not more than 5 years, or both.

"(c) Subsections (a) and (b) shall not apply to—

"(1) a discount or other reduction in price obtained by a provider of services or other entity under a health care benefit program if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a health care benefit program;

"(2) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services if the amount of the remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals;

"(3) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under a health care benefit program if—

"(A) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a percentage of the value of the purchases made by each such individual or entity under the contract, and

"(B) in the case of an entity that is a provider of services (as defined in section 1861(u) of the Social Security Act, the person discloses (in such form and manner as the Secretary of Health and Human Services requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity;

"(4) a waiver of any coinsurance under part B of title XVIII of the Social Security Act by a federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and

"(5) any payment practice specified by the Secretary of Health and Human Services in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.

“(d) Any person injured in his business or property by reason of a violation of this section or section 226 of this title may sue there for in any appropriate United States district court and shall recover threefold the damages such person sustains and the cost of the suit, including a reasonable attorney's fee.

“(e) As used in this section, ‘health care benefit program’ has the meaning given such term in section 1347(b) of this title.”.

“(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“227. Illegal remuneration with respect to health care benefit programs.”.

(c) CONFORMING AMENDMENT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a—7b) is amended by striking subsection (b).

SEC. 15127. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.

“(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§ 1518. Obstruction of criminal investigations of health care offenses

“(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) As used in this section the term ‘health care offense’ has the meaning given such term in section 24 of this title.

“(c) As used in this section the term ‘criminal investigator’ means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.”.

“(b) “CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

“1518. Obstruction of criminal investigations of health care offenses.”.

SEC. 15128. CIVIL PENALTIES FOR VIOLATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Civil penalties for violations of Federal health care offenses

“The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting a violation of Federal health care offense, as that term is defined in section 24 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation or proceeds which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end the following item:

“1348. Civil penalties for violations of Federal health care offenses.”.

SEC. 15129. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by inserting “or” at the end of subparagraph (B); and

(3) by adding at the end the following:

“(C) committing or about to commit a Federal health care offense (as defined in section 24 of this title).”.

SEC. 15130. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following:

“§ 3486. Authorized investigative demand procedures

“(a) AUTHORIZATION.—(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or the Director of the Federal Bureau of Investigation or their designees may issue in writing and cause to be served a summons compelling the attendance and testimony of witnesses and requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A summons requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

“(2) Investigative demands utilizing an administrative summons are authorized for:

“(A) Any investigation with respect to any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 24 of title 18, United States Code.

“(B) Any investigation, with respect to violations of sections 1073 and 1074 of title 18, United States Code, or in which an individual has been lawfully charged with a Federal offense and such individual is avoiding prosecution or custody or confinement after conviction of such offense or attempt.

“(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service to process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

“(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

“(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

“3486. Authorized investigative demand procedures.”.

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting “or a Federal Bureau of Investigation summons (issued under section 3486 of title 18),” after “subpoena”.

SEC. 15131. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively; and

(2) by inseritng after subsection (b) the following:

“(c) A person who is privy to grand jury information concerning a health care offense—

“(1) received in the course of duty as an attorney for the Government; or

“(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any civil investigation or proceeding related to a Federal health care offense (as defined in section 24 of this title).”.

SEC. 15132. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) LAUNDERING OF MONETARY INSTRUMENTS.—Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end thereof the following:

“(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 24 of title 18, United States Code.”.

(b) ENHANCED PENALTIES.—Section 2326(2) of title 18, United States Code, is amended by striking “sections that—” and inserting “or in the case of a Federal health care offense as that term is defined in section 24 of this title, that—”.

(c) AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code is amended—

(1) by inserting “section 226 (bribery and graft in connection with health care), section 227 (illegal remunerations)” after “section 224 (bribery in sporting contests),”; and

(2) by inserting “section 1347 (health care fraud)” after “section 1344 (relating to bank fraud),”.

(d) DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "sections 226 and 227 (relating to bribery and graft, and illegal remuneration in connection with health care)" after "section 224 (relating to sports bribery),";

(2) by inserting "section 669 (relating to theft or embezzlement in connection with health care)" after "section 664 (relating to embezzlement from pension and welfare funds),"; and

(3) by inserting "section 1347 (relating to health care fraud)" after "section 1344 (relating to financial institution fraud),".

(e) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) The court in imposing sentence on a person convicted of a Federal health care offense as defined in section 24 of this title, shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense.".

(f) REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.—Section 3059(c)(1) of title 18, United States Code, is amended by inserting "or furnishes information unknown to the Government relating to a possible prosecution of a Federal health care offense as defined in section 24 of this title, which results in a conviction" before the period at the end.

Subtitle C—Regulatory Relief

PART 1—PHYSICIAN OWNERSHIP REFERRAL REFORM

SEC. 15201. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and

(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2)—

(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";

(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B))," and inserting "subsection (a)(2),"; and

(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY"; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.".

SEC. 15202. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

"(B) Parenteral and enteral nutrients, equipment, and supplies.

"(C) Magnetic resonance imaging and computerized tomography services.

"(D) Outpatient physical or occupational therapy services.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and

(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".

SEC. 15203. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.

SEC. 15204. EXCEPTIONS TO PROHIBITION.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.".

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 15201(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";

(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";

(3) in subparagraph (A), by inserting "or part C" after "section 1876";

(4) by striking "or" at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

"(F) which is a MedicarePlus organization under part C or which provides or arranges for the provision of health care items or services pursuant to a written agreement between the organization and an individual or entity if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

"(A) that is furnished—

"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(iii) to a patient of a shared facility physician; and

"(B) that is billed by the referring physician or a group practice of which the physician is a member.".

(2) Definitions.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 15201(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

"(1) Shared facility related definitions.—

"(A) Shared facility service.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(B) Shared facility.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) Shared facility physician.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

"(D) Shared facility arrangement.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(e) New Exception for Services Furnished in Communities With No Alternative Providers.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) No alternative providers in area.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".

(f) New Exception for Services Furnished in Ambulatory Surgical Centers.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) Services furnished in ambulatory surgical centers.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".

(g) New Exception for Services Furnished in Renal Dialysis Facilities.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Services furnished in renal dialysis facilities.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".

(h) New Exception for Services Furnished in a Hospice.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) Services furnished by a hospice program.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".

(i) New Exception for Services Furnished in a Comprehensive Outpatient Rehabilitation Facility.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 15201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) Services furnished in a comprehensive outpatient rehabilitation facility.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".

(i) Definition of Referral.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking "an item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 15205. REPEAL OF REPORTING REQUIREMENTS.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (g)(5).

SEC. 15206. PREEMPTION OF STATE LAW.

Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

"(i) Preemption of State Law.—This section preempts State law to the extent State law is inconsistent with this section.".

SEC. 15207. EFFECTIVE DATE.

Except as provided in section 15203(b), the amendments made by this part shall apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments.

PART 2—OTHER MEDICARE REGULATORY RELIEF

SEC. 15211. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) In General.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) Conforming Amendments.—

(1) Medicare.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under—" and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) Medicaid.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "including the use of" and all that follows through "any additional measures".

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) Data matches.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding "; or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 15212. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) Clarification of Level of Knowledge Required for Imposition of Civil Monetary Penalties.—

(1) In general.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) Definition of standard.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) Clarification of Effect and Application of Safe Harbor Exceptions.—For purposes of section 1128B(b)(3) of the Social Security Act, the specification of any payment practice in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Program and Patient Protection Act of 1987 is—

(1) solely for the purpose of adding additional exceptions to the types of conduct which are not subject to an anti-kickback penalty under such section and not for the purpose of limiting the scope of such exceptions; and

(2) for the purpose of prescribing criteria for qualifying for such an exception notwithstanding the intent of the party involved.

(c) Limiting Imposition of Anti-kickback Penalties to Actions With Significant Purpose to Induce Referrals.—Section 1128B(b)(2) (42 U.S.C. 1320a–7b(b)(2)) is amended in the matter preceding subparagraph (A) by striking "to induce" and inserting "for the significant purpose of inducing".

(d) Effective Date.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 15213. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR MANAGED CARE ARRANGEMENTS.

(a) In General.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing services pursuant to a written agreement between the organization and the individual or entity if the organization is a MedicarePlus organization under part C of title XVIII or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 15214. SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.

(a) IN GENERAL.—

(1) SOLICITATIONS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary of Health and Human Services shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(A) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987;

(B) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act; and

(C) special fraud alerts to be issued pursuant to section 15101(c).

(2) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—Not later than 120 days after receiving the proposals described in subparagraphs (A) and (B) of paragraph (1), the Secretary, after considering such proposals in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(3) REPORT.—The Inspector General shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978, describe the proposals received under subparagraphs (A) and (B) of paragraph (1) and explain which proposals were included in the publication described in paragraph (2), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(b) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under subsection (a)(2), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(1) An increase or decrease in access to health care services.

(2) An increase or decrease in the quality of health care services.

(3) An increase or decrease in patient freedom of choice among health care providers.

(4) An increase or decrease in competition among health care providers.

(5) An increase or decrease in the cost to health care programs of the Federal Government.

(6) An increase or decrease in the potential overutilization of health care services.

(7) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

SEC. 15215. ISSUANCE OF ADVISORY OPINIONS UNDER TITLE XI.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by section 15104(a), is amended by inserting after section 1129 the following new section:

''ADVISORY OPINIONS

''SEC. 1130. (a) ISSUANCE OF ADVISORY OPINIONS.—The Secretary shall issue written advisory opinions as provided in this section.

''(b) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

''(1) What constitutes prohibited remuneration within the meaning of section 1128B(b).

''(2) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

''(3) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

''(4) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

''(5) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

''(c) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

''(1) Whether the fair market value shall be, or was paid or received for any goods, services or property.

''(2) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

''(d) EFFECT OF ADVISORY OPINIONS.—

''(1) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

''(2) FAILURE TO SEEK OPINION.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

''(e) REGULATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

''(A) the procedure to be followed by a party applying for an advisory opinion;

''(B) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

''(C) the interval in which the Secretary shall respond;

''(D) the reasonable fee to be charged to the party requesting an advisory opinion; and

''(E) the manner in which advisory opinions will be made available to the public.

''(2) SPECIFIC CONTENTS.—Under the regulations promulgated pursuant to paragraph (1)—

''(A) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

''(B) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests for advisory opinions made on or after January 1, 1996.

SEC. 15216. PRIOR NOTICE OF CHANGES IN BILLING AND CLAIMS PROCESSING REQUIREMENTS FOR PHYSICIANS' SERVICES.

Except as may be specifically provided by Congress, the Secretary of Health and Human Services may not implement any change in the requirements imposed on the billing and processing of claims for payment for physicians' services under part B of the medicare program unless the Secretary notifies the individuals furnishing such services of the change not later than 120 days before the effective date of the change.

PART 3—PROMOTING PHYSICIAN SELF-POLICING

SEC. 15221. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.

(a) EXEMPTION DESCRIBED.—An activity relating to the provision of health care services shall be exempt from the antitrust laws, and any State law similar to the antitrust laws, if the activity is within the safe harbor described in subsection (b).

(b) SAFE HARBOR FOR ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—

(1) IN GENERAL.—The safe harbor referred to in subsection (a) is, subject to paragraph (2), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care services provided to patients.

(2) EXCEPTION.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under paragraph (1) if the activity—

(A) is conducted for purposes of financial gain, or

(B) interferes with the provision of health care services by any health care provider who is not a member of the specific profession which is subject to the authority of the medical self-regulatory entity.

(c) DEFINITIONS.—For purposes of this section:

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition.

(2) HEALTH BENEFIT PLAN.—The term ''health benefit plan'' means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(3) HEALTH CARE SERVICE.—The term ''health care service'' means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(4) MEDICAL SELF-REGULATORY ENTITY.—The term ''medical self-regulatory entity'' means a medical society or association, a specialty board, a recognized accrediting

agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(5) HEALTH CARE PROVIDER.—The term "health care provider" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(6) STANDARD SETTING OR STANDARD ENFORCEMENT ACTIVITIES.—The term "standard setting or standard enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

Subtitle D—Medical Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 15301. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 15302. DEFINITIONS.

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded

against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 15303. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 15311. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 15312. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceed $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 15313. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

Subtitle E—Teaching Hospitals and Graduate Medical Education

PART 1—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

SEC. 15401. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:

"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2201. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts appropriated to the Fund in subsection (d) and subsection (e)(3), amounts transferred to the Fund under section 1886(j), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2211.

"(c) ACCOUNTS IN FUND.—There are established within the Fund the following accounts:

"(1) The Indirect-Costs Medical Education Account.

"(2) The Medicare Direct-Costs Medical Education Account.

"(3) The General Direct-Costs Medical Education Account.

"(d) GENERAL TRANSFERS TO FUND.—

"(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund (effective on the applicable date under paragraph (2)), out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(A) For fiscal year 1997, $1,300,000,000.

"(B) For fiscal year 1998, $1,500,000,000.

"(C) For fiscal year 1999, $2,300,000,000.

"(D) For fiscal year 2000, $3,100,000,000.

"(E) For fiscal year 2001, $3,600,000,000.

"(F) For fiscal year 2002, $4,000,000,000.

"(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—

"(i) the amount appropriated for the preceding fiscal year; and

"(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.

"(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1) (and for purposes of section 2221(a)(1), and subsections (b)(1)(A) and (c)(1)(A) of section 2231), the applicable date for a fiscal year is the first day of the fiscal year, exclusive of Saturdays, Sundays, and Federal holidays.

"(3) ALLOCATION AMONG CERTAIN ACCOUNTS.—Of the amount appropriated in paragraph (1) for a fiscal year—

"(A) there shall be allocated to the Indirect-Costs Medical Education Account the percentage determined under paragraph (4)(B); and

"(B) there shall be allocated to the General Direct-Costs Medical Education Account the percentage determined under paragraph (4)(C).

"(4) DETERMINATION OF PERCENTAGES.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:

"(A) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.

"(B) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.

"(C) The percentage of such total that was constituted by payments under subsection (h) of such section.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1997 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:

"(1) An amount determined under section 2221 (relating to the indirect costs of graduate medical education).

"(2) An amount determined under section 2231 (relating to the direct costs of graduate medical education).

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.

"(c) ADMINISTRATOR OF PROGRAMS.—This part, and the subsequent parts of this title, shall be carried out by the Secretary acting through the Administrator of the Health Care Financing Administration.

"(d) SPECIAL RULES.—

"(1) AUTHORITY REGARDING PAYMENTS TO CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2231:

"(A) The requirement under such subsection to make the payments to teaching hospitals is subject to the authority of the Secretary under section 2233(a) to make payments to qualifying consortia.

"(B) If the Secretary authorizes such a consortium for purposes of section 2233(a), subsections (a) and (b) of this section apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.

"(2) CERTAIN HOSPITALS.—Paragraph (1) of subsection (a) is subject to sections 2222 and 2223 of subpart 2. Paragraph (2) of subsection (a) is subject to sections 2232 through 2234 of subpart 3.

"(e) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—For purposes of this title, the term 'approved medical residency training program' has the meaning given such term in section 1886(h)(5)(A).

"Subpart 2—Amount Relating to Indirect Costs of Graduate Medical Education

"SEC. 2221. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—

"(1) the amount in the Indirect-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(2) the percentage determined for the hospital under subsection (b).

"(b) HOSPITAL-SPECIFIC PERCENTAGE.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the percentage determined under this subsection for a teaching hospital is the mean average of the respective percentages determined under paragraph (3) for each fiscal year of the applicable period (as defined in paragraph (2)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to sections 2222 and 2223.

"(2) APPLICABLE PERIOD REGARDING RELEVANT DATA; FISCAL YEARS 1992 THROUGH 1994.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.

"(3) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(A) the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during the fiscal year involved; to

"(B) the sum of the respective amounts determined under subparagraph (A) for the fiscal year for all teaching hospitals.

"(c) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in subsection (b)(3)(A) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such subsection for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"SEC. 2222. INDIRECT COSTS; SPECIAL RULES REGARDING DETERMINATION OF HOSPITAL-SPECIFIC PERCENTAGE.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(d)(5)(B) were for discharges occurring in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2221(b) to the hospital, except that the percentage under paragraph (2) shall be adjusted in accordance with section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—Subject to paragraph (4), in the case of a teaching hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2221(b) to the hospital, except that the percentage under paragraph (3) shall be adjusted in accordance with section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2221 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2221(b) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"SEC. 2223. INDIRECT COSTS; ALTERNATIVE PAYMENTS REGARDING TEACHING HOSPITALS IN CERTAIN STATES.

"(a) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect, this section applies in lieu of section 2221. For purposes of section 2211(a)(1), the amount determined for such a teaching hospital for a fiscal year is the product of—

"(1) the amount in the Indirect-Costs Medical Education Account for the fiscal year pursuant to the allocation under section 2201(d)(3)(A) for the year; and

"(2) the percentage determined under subsection (b) for the hospital.

"(b) DETERMINATION OF PERCENTAGE.—For purposes of subsection (a)(2):

"(1) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(d)(5)(B) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(2) The percentage determined under this subsection for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2221(b)(1), except that the estimate made by the Secretary under paragraph (1) of this subsection for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2221(b)(3)(A) for such year.

"(c) RULE REGARDING PAYMENTS FROM CERTAIN AMOUNTS.—In the case of a teaching hospital described in subsection (a), this section does not authorize any payment to the hospital from amounts transferred to the Fund under section 1886(j).

"(d) ADJUSTMENT REGARDING PAYMENTS TO OTHER HOSPITALS.—In the case of a fiscal year for which payments pursuant to subsection (a) are made to one or more teaching hospitals, the following applies:

"(1) The Secretary shall determine a percentage equal to the sum of the respective percentages determined for the hospitals under subsection (b).

"(2) The Secretary shall determine an amount equal to the product of—

"(A) the percentage determined under paragraph (1); and

"(B) the amount in the Indirect-Costs Medical Education Account for the fiscal year pursuant to the transfer under section 1886(j)(1).

"(3) The Secretary shall, for each hospital (other than hospitals described in subsection (a)), make payments to the hospital in amounts whose sum for the fiscal year is equal to the product of—

"(A) the amount determined under paragraph (2); and

"(B) the percentage that applies to the hospital for purposes of section 2221(b), except that such percentage shall be adjusted in accordance with the methodology of section 2221(b)(1) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"Subpart 3—Amount Relating to Direct Costs of Graduate Medical Education

"SEC. 2231. DETERMINATION OF AMOUNT RELATING TO DIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

"(1) the amount determined under subsection (b) (relating to the General Direct-Costs Medical Education Account); and

"(2) the amount determined under subsection (c) (relating to the Medicare Direct-Costs Medical Education Account).

"(b) PAYMENT FROM GENERAL ACCOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2).

"(2) HOSPITAL-SPECIFIC PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (B) for each fiscal year of the applicable period (as defined in section 2221(b)(2)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this subparagraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to sections 2232 through 2234.

"(B) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(i) the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning during the fiscal year involved; to

"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(B)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such paragraph make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"(c) PAYMENT FROM MEDICARE ACCOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the Medicare Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2) for the fiscal year.

"(2) HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of paragraph (1)(B), the percentage determined under this subsection for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—

"(A) the estimate made by the Secretary for the hospital for the fiscal year under section 1886(j)(2)(B); to

"(B) the sum of the respective estimates referred to in subparagraph (A) for all teaching hospitals.

"SEC. 2232. DIRECT COSTS; SPECIAL RULES REGARDING DETERMINATION OF HOSPITAL-SPECIFIC PERCENTAGE.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(h) were for the cost reporting period beginning in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, except that the percentage under paragraph (2) shall be adjusted in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—Subject to paragraph (4), in the case of a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, except that the percentage under paragraph (3) shall be adjusted in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2231 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2231(b) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"SEC. 2233. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO CONSORTIA OF PROVIDERS.

"(a) IN GENERAL.—In lieu of making payments to teaching hospitals pursuant to section 2231, the Secretary may make payments under this section to consortia that meet the requirements of subsection (b).

"(b) QUALIFYING CONSORTIUM.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

"(1) The consortium consists of an approved medical residency training program and one or more of the following entities:

"(A) Schools of allopathic medicine or osteopathic medicine.

"(B) Teaching hospitals.

"(C) Other approved medical residency training programs.

"(D) Federally qualified health centers.

"(E) Medical group practices.

"(F) Managed care entities.

"(G) Entities furnishing outpatient services.

"(H) Such other entities as the Secretary determines to be appropriate.

"(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

"(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

"(4) The consortium meets such additional requirements as the Secretary may establish.

"(c) PAYMENTS FROM ACCOUNTS.—

"(1) IN GENERAL.—Subject to subsection (d), the total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

"(1) the aggregate amount determined for the teaching hospitals of the consortium pursuant to paragraph (1) of section 2231(a); and

"(2) an amount determined in accordance with the methodology that applies pursuant to paragraph (2) of such section, except that the estimate used for purposes of subsection (c)(2)(A) of such section shall be the estimate made for the consortium under section 1886(j)(2)(C)(ii).

"(d) LIMITATION ON AGGREGATE TOTAL OF PAYMENTS TO CONSORTIA.—The aggregate total of the amounts paid under subsection (c)(2) to qualifying consortia for a fiscal year may not exceed the sum of—

"(1) the aggregate total of the amounts that would have been paid under section 2231(c) for the fiscal year to the teaching hospitals of the consortia if the hospitals had not been participants in the consortia; and

"(2) an amount equal to 1 percent of the amount that applies under section 2231(c)(1)(A) for the fiscal year (relating to the Medicare Direct-Costs Medical Education Account).

"(e) DEFINITION.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of subsection (b).

"SEC. 2234. DIRECT COSTS; ALTERNATIVE PAYMENTS REGARDING TEACHING HOSPITALS IN CERTAIN STATES.

"(a) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect, this section applies in lieu of section 2231. For purposes of section 2211(a)(2), the amount determined for a teaching hospital for a fiscal year is the product of—

"(1) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d) (once the appropriation under such section is made); and

"(2) the percentage determined under subsection (b) for the hospital.

"(b) DETERMINATION OF PERCENTAGE.—For purposes of subsection (a)(2):

"(1) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(h) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(2) The percentage determined under this subsection for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2231(b)(2)(A), except that the estimate made by the Secretary under paragraph (1) of this subsection for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2231(b)(2)(B)(i) for such year.

"(c) RULE REGARDING PAYMENTS FROM CERTAIN AMOUNTS.—In the case of a teaching hospital described in subsection (a), this section does not authorize any payment to the hospital from amounts transferred to the Fund under section 1886(j).

"Subpart 4—General Provisions

"SEC. 2241. ADJUSTMENTS IN PAYMENT AMOUNTS.

"(a) COLLECTION OF DATA ON ACCURACY OF ESTIMATES.—The Secretary shall collect data on whether the estimates made by the Secretary under section 1886(j) for a fiscal year were substantially accurate.

"(b) ADJUSTMENTS.—If the Secretary determines under subsection (a) that an estimate for a fiscal year was not substantially accurate, the Secretary shall, for the first fiscal year beginning after the Secretary makes the determination—

"(1) make adjustments accordingly in transfers to the Fund under section 1886(j); and

"(2) make adjustments accordingly in the amount of payments to teaching hospitals pursuant to 2231(c) (or, as applicable, to qualifying consortia pursuant to section 2233(c)(2)).".

PART 2—AMENDMENTS TO MEDICARE PROGRAM

SEC. 15411. TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges occurring on or before September 30, 1996, the Secretary shall provide";

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and

(B) by adding at the end the following paragraph:

"(6) LIMITATION.—

"(A) IN GENERAL.—The authority to make payments under this subsection applies only with respect to cost reporting periods ending on or before September 30, 1996, except as provided in subparagraph (B).

"(B) RULE REGARDING PORTION OF LAST COST REPORTING PERIOD.—In the case of a cost reporting period that extends beyond September 30, 1996, payments under this subsection shall be made with respect to such portion of the period as has lapsed as of such date.

"(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and

(3) by adding at the end the following subsection:

"(j) TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—

"(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Indirect-Costs Medical Education Account (under section 2201) an amount determined by the Secretary in accordance with subparagraph (B).

"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1996. For purposes of subparagraph (A), the amount determined under this subparagraph for the fiscal year is the estimate made by the Secretary under the preceding sentence.

"(2) DIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Direct-Costs Medical Education Account (under section 2201) the sum of—

"(i) an amount determined by the Secretary in accordance with subparagraph (B); and

"(ii) as applicable, an amount determined by the Secretary in accordance with subparagraph (C)(ii).

"(B) DETERMINATION OF AMOUNTS.—For each hospital (other than a hospital that is a member of a qualifying consortium referred to in subparagraph (C)), the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods ending on or before September 30, 1996. For purposes of subparagraph (A)(i), the amount determined under this subparagraph for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(C) ESTIMATES REGARDING QUALIFYING CONSORTIA.—If the Secretary elects to authorize one or more qualifying consortia for purposes of section 2233(a), the Secretary shall carry out the following:

"(i) The Secretary shall establish a methodology for making payments to qualifying consortia with respect to the reasonable direct costs of such consortia in carrying out programs of graduate medical education. The methodology shall be the methodology established in subsection (h), modified to the extent necessary to take into account the participation in such programs of entities other than hospitals.

"(ii) For each qualifying consortium, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid to the consortium during the fiscal year if, using the methodology under clause (i), payments had been made to the consortium for the fiscal year as reimbursements with respect to cost reporting periods. For purposes of subparagraph (A)(ii), the amount determined under this clause for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(D) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(3) APPLICABILITY OF CERTAIN AMENDMENTS.—Amendments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimates under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not require any adjustment to amounts paid under subsection (d)(5)(B) or (h) with respect to fiscal year 1996 or any prior fiscal year.

"(4) RELATIONSHIP TO CERTAIN DEMONSTRATION PROJECTS.—In the case of a State for which a demonstration project under section 1814(b)(3) is in effect, the Secretary, in making determinations of the rates of increase under such section, shall include all amounts transferred under this subsection. Such amounts shall be so included to the same extent and in the same manner as amounts determined under subsections (d)(5)(B) and (h) were included in such determination under the provisions of this title in effect on September 30, 1996.".

SEC. 15412. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION.

(a) INDIRECT COSTS OF MEDICAL EDUCATION; APPLICABLE PERCENTAGE.—

(1) MODIFICATION REGARDING 5.6 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) by striking "on or after October 1, 1988," and inserting "on or after October 1, 1999,"; and

(B) by striking "1.89" and inserting "1.38".

(2) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT.—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: "In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.38' is deemed to be '1.48'.".

(3) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "1985" and inserting the following: "1985, but (for discharges occurring after September 30, 1995) not taking into account any reductions in such costs resulting from the amendments made by section 15412(a) of the Medicare Preservation Act of 1995".

(b) DIRECT COSTS OF MEDICAL EDUCATION.—

(1) LIMITATION ON NUMBER OF FULL-TIME-EQUIVALENT RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—

"(i) IN GENERAL.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002, the number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents with respect to the program as of August 1, 1995 (except that this subparagraph applies only to approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine).

"(ii) DISPOSITION OF UNUSED RESIDENCY POSITIONS.—In the case of a cost reporting period to which the limitation under clause (i) applies, if for such a period the number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program is less than the maximum number applicable to the program under such clause, the Secretary may authorize for one or more other approved medical residency training programs offsetting increases in the respective maximum numbers that otherwise would be applicable under such clause to the programs. In authorizing such increases with respect to a cost reporting period, the Secretary shall ensure that the national total of the respective maximum numbers determined under such clause with respect to approved medical residency training programs is not exceeded.".

(2) EXCLUSION OF RESIDENTS AFTER INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C) (42 U.S.C. 1395ww(h)(4)(C)) is amended to read as follows:

"(C) WEIGHTING FACTORS FOR RESIDENTS.—Effective for cost reporting periods beginning on or after October 1, 1997, such rules shall provide that, in the calculation of the number of full-time-equivalent residents in an approved residency program, the weighting factor for a resident who is in the initial residency period (as defined in paragraph (5)(F)) is 1.0 and the weighting factor for a resident who has completed such period is 0.0. (In the case of cost reporting periods beginning before October 1, 1997, the weighting factors that apply in such calculation are the weighting factors that were applicable under this subparagraph on the day before the date of the enactment of the Medicare Preservation Act of 1995.)".

(3) REDUCTIONS IN PAYMENTS FOR ALIEN RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)), as amended by paragraph (1), is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR ALIEN RESIDENTS.—In the case of individuals who are not citizens or nationals of the United States, aliens lawfully admitted to the United States for permanent residence, aliens admitted to the United States as refugees, or citizens of Canada, in the calculation of the number of full-time-equivalent residents in an approved medical residency program, the following rules shall apply with respect to such individuals who are residents in the program:

"(i) For a cost reporting period beginning during fiscal year 1996, for each such individual the Secretary shall apply a weighting factor of .75.

"(ii) For a cost reporting period beginning during fiscal year 1997, for each such individual the Secretary shall apply a weighting factor of .50.

"(iii) For a cost reporting period beginning during fiscal year 1998 or any subsequent fiscal year, for each such individual the Secretary shall apply a weighting factor of .25.".

(4) EFFECTIVE DATE.—Except as provided otherwise in this subsection (or in the amendments made by this subsection), the amendments made by this subsection apply to hospital cost reporting periods beginning on or after October 1, 1995.

PART 3—REFORM OF FEDERAL POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION

SEC. 15421. ESTABLISHMENT OF ADVISORY PANEL FOR RECOMMENDING POLICIES.

Title XXII of the Social Security Act, as added by section 15401, is amended by adding at the end the following part:

"PART C—OTHER MATTERS

"SEC. 2251. ADVISORY PANEL ON REFORM IN FINANCING OF TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

"(a) ESTABLISHMENT.—The Chair of the Medicare Payment Review Commission under section 1806 shall establish a temporary advisory panel to be known as the Advisory Panel on Financing for Teaching Hospitals and Graduate Medical Education (in this section referred to as the 'Panel').

"(b) DUTIES.—The Panel shall develop recommendations on whether and to what extent Federal policies regarding teaching hospitals and graduate medical education should be reformed, including recommendations regarding the following:

"(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education.

"(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII.

"(3) The methodology for making payments for graduate medical education, and the selection of entities to receive the payments. Matters considered under this paragraph shall include the following:

"(A) The methodology under part B for making payments from the Fund, including the use of data from the fiscal years 1992 through 1994, and including the methodology that applies with respect to consolidations and mergers of participants in the program under such part and with respect to the inclusion of additional participants in the program.

"(B) Issues regarding children's hospitals, and approved medical residency training programs in pediatrics.

"(C) Whether and to what extent payments are being made (or should be made) for graduate training in the various nonphysician health professions.

"(4) Federal policies regarding international medical graduates.

"(5) The dependence of schools of medicine on service-generated income.

"(6) The effects of the amendments made by section 15412 of the Medicare Preservation Act of 1995, including adverse effects on teaching hospitals that result from modifications in policies regarding international medical graduates.

"(7) Whether and to what extent the needs of the United States regarding the supply of physicians will change during the 10-year period beginning on October 1, 1995, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

"(8) The appropriate number and mix of residents.

"(c) COMPOSITION.—Not later than three months after being designated as the initial chair of the Medicare Payment Review Commission, the Chair of the Commission shall appoint to the Panel 19 individuals who are not members of the Commission, who are not officers or employees of the United States, and who possess expertise on matters on which the Panel is to make recommendations under subsection (b). Such individuals shall include the following:

"(1) Deans from allopathic and osteopathic schools of medicine.

"(2) Chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs.

"(3) Chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery.

"(4) Individuals with leadership experience from each of the fields of advanced practice nursing, physician assistants, and podiatric medicine.

"(5) Individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States.

"(6) Individuals with expertise on the financing of health care.

"(7) Representatives from health insurance organizations and health plan organizations.

"(d) RELATIONSHIP OF PANEL TO MEDICARE PAYMENT REVIEW COMMISSION.—From amounts appropriated under subsection (n), the Medicare Payment Review Commission shall provide for the Panel such staff and administrative support (including quarters for the Panel) as may be necessary for the Panel to carry out the duties under subsection (b).

"(e) CHAIR.—The Panel shall designate a member of the Panel to serve as the Chair of the Panel.

"(f) MEETINGS.—The Panel shall meet at the call of the Chair or a majority of the members, except that the first meeting of the Panel shall be held not later than three months after the date on which appointments under subsection (c) are completed.

"(g) TERMS.—The term of a member of the Panel is the duration of the Panel.

"(h) VACANCIES.—

"(1) IN GENERAL.—A vacancy in the membership of the Panel does not affect the power of the remaining members to carry out the duties under subsection (b). A vacancy in the membership of the Panel shall be filled in the manner in which the original appointment was made.

"(2) INCOMPLETE TERM.—If a member of the Panel does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(i) COMPENSATION; REIMBURSEMENT OF EXPENSES.—

"(1) COMPENSATION.—Members of the Panel shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS–15.

"(2) REIMBURSEMENT.—Members of the Panel may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Panel.

"(j) CONSULTANTS.—The Panel may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Panel may determine to be useful in carrying out the duties under subsection (b). The Panel may not procure services under this subsection at any rate in excess of the daily equivalent of the maximum annual rate of basic pay payable under the General Schedule for positions above GS–15. Consultants under this subsection may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred for activities carried out on behalf of the Panel pursuant to subsection (b).

"(k) POWERS.—

"(1) IN GENERAL.—For the purpose of carrying out the duties of the Panel under subsection (b), the Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate.

"(2) OBTAINING OFFICIAL INFORMATION.—Upon the request of the Panel, the heads of Federal agencies shall furnish directly to the Panel information necessary for the Panel to carry out the duties under subsection (b).±

"(3) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies.

"(l) REPORTS.—

"(1) FIRST INTERIM REPORT.—Not later than one year after the date of the enactment of the Medicare Preservation Act of 1995, the Panel shall submit to the Congress a report providing the recommendations of the Panel regarding the matters specified in paragraphs (1) through (4) of subsection (b).

"(2) SECOND INTERIM REPORT.—Not later than 2 years after the date of enactment specified in paragraph (1), the Panel shall submit to the Congress a report providing the recommendations of the Panel regarding the matters specified in paragraphs (5) and (6) of subsection (b).

"(3) FINAL REPORT.—Not later than 3 years after the date of enactment specified in paragraph (1), the Panel shall submit to the Congress a final report providing the recommendations of the Panel under subsection (b).

"(m) DURATION.—The Panel terminates upon the expiration of the 180-day period beginning on the date on which the final report under subsection (l)(3) is submitted to the Congress.

"(n) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 1999.

"(2) LIMITATION.—The authorization of appropriations established in paragraph (1) is effective only with respect to appropriations made from allocations under section 302(b) of the Congressional Budget Act of 1974—

"(A) for the Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations of the House of Representatives, in the case of any bill, resolution, or amendment considered in the House; and

"(B) for the Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations of the Senate, in the case of any bill, resolution, or amendment considered in the Senate.".

Subtitle F—Provisions Relating to Medicare Part A

PART 1—HOSPITALS

Subpart A—General Provisions Relating to Hospitals

SEC. 15501. REDUCTIONS IN INFLATION UPDATES FOR PPS HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following:

"(XI) for fiscal year 1996, the market basket percentage increase minus 2.5 percentage points for hospitals in all areas,

"(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas, and

"(XIII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 15502. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and

(2) by adding at the end the following new clause:

"(ix) In the case of discharges occurring on or after October 1, 1995, the additional payment amount otherwise determined under clause (ii) shall be reduced as follows:

"(I) For discharges occurring on or after October 1, 1995, and on or before September 30, 1996, by 20 percent.

"(II) For discharges occurring on or after October 1, 1996, and on or before September 30, 1997, by 25 percent.

"(III) For discharges occurring on or after October 1, 1997, by 30 percent.".

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", and the Secretary shall not take into account any reductions in the amount of such additional payments resulting from the amendments made by section 15502(a) of the Medicare Preservation Act of 1995.".

SEC. 15503. PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) REDUCTION IN PAYMENTS FOR PPS HOSPITALS.—

(1) CONTINUATION OF CURRENT REDUCTIONS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence—

(A) by striking "through 1995" and inserting "through 2002"; and

(B) by inserting after "10 percent reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".

(2) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Medicare Preservation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on such date of enactment).".

(b) REDUCTION IN PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.

"(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1)).".

(c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

"(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

"(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

"(I) is a hospital that may otherwise receive payments under this subsection,

"(II) is not a public hospital, and

"(III) incurs capital-related tax costs for the fiscal year.

"(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Medicare Preservation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

"(v) For purposes of this subparagraph, capital-related tax costs include—

"(I) the costs of taxes on land and depreciable assets owned by a hospital (or related organization) and used for patient care,

"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

"(III) the costs of taxes paid by a hospital (or related organization) as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital (or related organization) under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease).

In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.".

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

(B) by inserting after subparagraph (C) the following:

"(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 85 percent.

"(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) The amount of the exception payment made shall not be reduced by any offsetting amounts.".

(2) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C.

1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (D))".

SEC. 15504. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

For provisions modifying medicare payment policies regarding graduate medical education, see part 2 of subtitle E.

SEC. 15505. TREATMENT OF PPS-EXEMPT HOSPITALS.

(a) UPDATES.—Section 1886(b)(3)(B)(ii)(V) (42 U.S.C. 1395ww(b)(3)(B)(ii)(V)) is amended by striking "thorugh 1997" and inserting "through 2002".

(b) REBASING FOR CERTAIN LONG-TERM CARE HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(A) in subparagraph (A), by striking "and (E)" and inserting "(E), and (F)";

(B) in subparagraph (B)(ii), by striking "(A) and (E)" and inserting "(A), (E), and (F)"; and

(C) by adding at the end the following new subparagraph:

"(F)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)), the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1991; or

"(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increase by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during fiscal year 1995 for which the hospital's allowable operating costs of inpatient hospital services recognized under this title for each of the two most recent previous 12-month cost reporting periods exceeded the hospital's target amount determined under this paragraph for such cost reporting periods, if the hospital—

"(I) has a disproportionate patient percentage during such cost reporting period (as determined by the Secretary under subsection (d)(5)(F)(vi) as if the hospital were a subsection (d) hospital) of at least 25 percent, or

"(II) is located in a State for which no payment is made under the State plan under title XIX for days of inpatient hospital services furnished to any individual in excess of the limit on the number of days of such services furnished to the individual for which payment may be made under this title.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

(c) TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended in the matter following clause (v) by striking the period and inserting the following: ", or a hospital classified by the Secretary as a long-term care hospital on or before September 30, 1995, and located in the same building as, or on the same campus as, another hospital.".

(2) STUDY BY REVIEW COMMISSION.—Not later than 12 months after the date a majority of the members of the Medicare Payment Review Commission are first appointed, the Commission shall submit a report to Congress containing recommendations for appropriate revisions in the treatment of long-term care hospitals located in the same building as or on the same campus as another hospital for purposes of section 1886 of the Social Security Act.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(d) STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR REHABILITATION HOSPITALS AND UNITS.—

(1) IN GENERAL.—After consultation with the Prospective Payment Assessment Commission, providers of rehabilitation services, and other appropriate parties, the Secretary of Health and Human Services shall submit to Congress, by not later than June 1, 1996, a report on the advisability and feasibility of providing for payment based on a prospective payment system for inpatient services of rehabilitation hospitals and units under the medicare program.

(2) ITEMS INCLUDED.—The report shall include the following:

(A) The available and preferred systems of classifying rehabilitation patients relative to duration and intensity of inpatient services, including the use of functional-related groups (FRGs).

(B) The means of calculating medicare program payments to reflect such patient requirements.

(C) Other appropriate adjustments which should be made, such as for geographic variations in wages and other costs and outliers.

(D) A timetable under which such a system might be introduced.

(E) Whether such a system should be applied to other types of providers of inpatient rehabilitation services.

SEC. 15506. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T)(i) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—

"(I) 75 percent for cost reporting periods beginning during fiscal year 1996,

"(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and

"(III) 50 percent for subsequent cost reporting periods.

"(ii) Clause (i) shall not apply with respect to bad debt of a hospital described in section 1886(d)(1)(B)(iv) if the debt is attributable to uncollectable deductible and coinsurance payments owed by individuals enrolled in a State plan under title XIX or under the MediGrant program under title XXI.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 15507. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

SEC. 15508. CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.

(a) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by inserting after "Massachusetts," the following: "or by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(b) SKILLED NURSING FACILITIES.—Section 1861(y)(1) is amended by inserting after "Massachusetts," the following: "or by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

Subpart B—Provisions Relating to Rural Hospitals

SEC. 15511. SOLE COMMUNITY HOSPITALS.

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking "and" at the end; and

(B) by striking subclause (IV) and inserting the following:

"(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

"(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 15512. CLARIFICATION OF TREATMENT OF EAC AND RPC HOSPITALS.

Paragraphs (1)(A)(i) and (2)(A)(i) of section 1820(i) (42 U.S.C. 1395i–4(i)) are each amended by striking the semicolon at the end and inserting the following: ", or in a State which the Secretary finds would receive a grant under such subsection during a fiscal year if funds were appropriated for grants under such subsection for the fiscal year;".

SEC. 15513. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) REFERENCE TO PAYMENT PROVISIONS UNDER PART B.—For provisions relating to payment for rural emergency access care hospital services under part B, see section 15607.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 15514. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 15515. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

PART 2—PAYMENTS TO SKILLED NURSING FACILITIES

SEC. 15521. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 15522. INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy, including supplies and support services incident to such services and therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title with respect to the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

"(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) RECONCILIATION OF AMOUNTS.—

"(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

"(i) the per stay limit applicable to the facility under subsection (d) for the period; and

"(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

"(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

"(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

"(1) LIMIT FOR FISCAL YEAR 1997.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

"(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) REBASING OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

"(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit determined for the fiscal year under the methodology for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1996, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a methodology for determining on an annual basis a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 15523. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting before the period at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995)".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(c) LIMITATION ON AGGREGATE INCREASE IN PAYMENTS RESULTING FROM ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1997, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1996 increased by the SNF market basket percentage increase (as defined in section 1888A(e)(3)) for fiscal year 1997; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year increased by the SNF market basket percentage increase for such subsequent fiscal year.".

(d) IMPOSITION OF LIMITS FOR ALL COST REPORTING PERIODS.—Section 1888(a) (42 U.S.C. 1335yy(a)) is amended in the matter preceding paragraph (1) by inserting after "extended care services" the following: "(for any cost reporting period for which payment is made under this title to the skilled nursing facility for such services)".

SEC. 15524. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 15506, is amended by adding at the end the following new subparagraph:

"(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 15525. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than physicians' services and other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, or otherwise).".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by sections 15506 and 15524, is amended by adding at the end the following new subparagraph:

"(V) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 15526. CERTIFICATION OF FACILITIES MEETING REVISED NURSING HOME REFORM STANDARDS.

(a) IN GENERAL.—Section 1819(a)(3) (42 U.S.C. 1395i-3(a)(3)) is amended to read as follows:

"(3)(A) is certified by the Secretary as meeting the standards established under subsection (b), or (B) is a State-certified facility (as defined in subsection (d)).".

(b) REQUIREMENTS DESCRIBED.—Section 1819 (42 U.S.C. 1395i-3) is amended by striking subsections (b) through (i) and inserting the following:

"(b) STANDARDS FOR AND CERTIFICATION OF FACILITIES.—

"(1) STANDARDS FOR FACILITIES.—

"(A) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of standards consistent with the contents described in subparagraph (B) for skilled nursing facilities which furnish services for which payment may be made under this title.

"(B) CONTENTS OF STANDARDS.—The standards established for facilities under this paragraph shall contain provisions relating to the following items:

"(i) The treatment of resident medical records.

"(ii) Policies, procedures, and bylaws for operation.

"(iii) Quality assurance systems.

"(iv) Resident assessment procedures, including care planning and outcome evaluation.

"(v) The assurance of a safe and adequate physical plant for the facility.

"(vi) Qualifications for staff sufficient to provide adequate care.

"(vii) Utilization review.

"(viii) The protection and enforcement of resident rights described in subparagraph (C).

"(C) RESIDENT RIGHTS DESCRIBED.—The resident rights described in this subparagraph are the rights of residents to the following:

"(i) To exercise the individual's rights as a resident of the facility and as a citizen or resident of the United States.

"(ii) To receive notice of rights and services.

"(iii) To be protected against the misuse of resident funds.

"(iv) To be provided privacy and confidentiality.

"(v) To voice grievances.

"(vi) To examine the results of inspections under the certification program.

"(vii) To refuse to perform services for the facility.

"(viii) To be provided privacy in communications and to receive mail.

"(ix) To have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long term care ombudsman, and any person the resident has designated as a visitor.

"(x) To retain and use personal property.

"(xi) To be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

"(xii) To be provided with prior written notice of a pending transfer or discharge.

"(D) REQUIRING NOTICE AND COMMENT.—The standards established for facilities under this paragraph may only take effect after the Secretary has provided the public with notice and an opportunity for comment.

"(2) CERTIFICATION PROGRAM.—

"(A) IN GENERAL.—The Secretary shall provide for the establishment and operation of a program consistent with the requirements of subparagraph (B) for the certification of skilled nursing facilities which meet the standards established under paragraph (1) and the decertification of facilities which fail to meet such standards.

"(B) REQUIREMENTS FOR PROGRAM.—In addition to any other requirements the Secretary may impose, in establishing and operating the certification program under subparagraph (A), the Secretary shall ensure the following:

"(i) The Secretary shall ensure public access (as defined by the Secretary) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the Secretary regarding the ownership, compliance histories, and services provided by certified facilities.

"(ii) Not less often than every 4 years, the Secretary shall audit its expenditures under the program, through an entity designated by the Secretary which is not affiliated with the program, as designated by the Secretary.

"(c) INTERMEDIATE SANCTION AUTHORITY.—

"(1) AUTHORITY.—In addition to any other authority, where the Secretary determines that a nursing facility which is certified for participation under this title (whether certified by the Secretary as meeting the standards established under subsection (b) or a State-certified facility) no longer or does not substantially meet the requirements for such a facility under this title as specified under subsection (b) and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its residents, the Secretary shall at least provide for the termination of the facility's certification for participation under this title, or

"(B) do not immediately jeopardize the health and safety of its residents, the Secretary may, in lieu of providing for terminating the facility's certification for participation under the plan, provide lesser sanctions including one that provides that no payment will be made under this title with respect to any individual admitted to such facility after a date specified by the Secretary.

"(2) NOTICE.—The Secretary shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer or does not substantially meet the requirements for such a facility under this title, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) EFFECTIVENESS.—The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the Secretary, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title, or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the Secretary shall terminate such facility's certification for participation under this title effective with the first day of the first month following the month specified in such clause.

"(d) STATE-CERTIFIED FACILITY DEFINED.—In subsection (a), a 'State-certified facility' means a facility licensed or certified as a skilled nursing facility by the State in which it is located, or a facility which otherwise meets the requirements applicable to providers of nursing facility services under the State plan under title XIX or the MediGrant program under title XXI.".

(c) CONFORMING AMENDMENTS.—(1) Section 1861(v)(1)(E) (42 U.S.C. 1395x(v)(1)(E)) is amended by striking the second sentence.

(2) Section 1864 (42 U.S.C. 1395aa) is amended by striking subsection (d).

(3) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1819(c)(2)(E),".

(4) Section 1883(f) (42 U.S.C. 1395tt(f)) is amended—

(A) in the second sentence, by striking "such a hospital" and inserting "a hospital which enters into an agreement with the Secretary under this section"; and

(B) by striking the first sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cost reporting periods beginning on or after October 1, 1995.

SEC. 15527. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this part on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 15528. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.

Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 15522) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

SEC. 15529. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

PART 3—CLARIFICATION OF CREDITS TO PART A TRUST FUND

SEC. 15531. CLARIFICATION OF AMOUNT OF TAXES CREDITED TO FEDERAL HOSPITAL INSURANCE TRUST FUND.

Section 121(e)(1)(B) of the Social Security Amendments of 1983 (Public Law 98–21) is amended by adding at the end the following: "The Secretary of the Treasury shall carry out this subparagraph without regard to any amendments to this subsection or to section 86 of the Internal Revenue Code of 1986 which take effect on or after January 1, 1994.".

Subtitle G—Provisions Relating to Medicare Part B

PART 1—PAYMENT REFORMS

SEC. 15601. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law (including changes made by the Secretary in response to section 1895), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(2) EXCLUSION OF SERVICES FURNISHED TO PRIVATE PLAN ENROLLEES.—In this subsection, the term 'physicians' services' with respect to a fiscal year does not include services furnished to an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus product offered under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.''.

(b) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended—

(A) by striking paragraph (2);

(B) by amending paragraph (3) to read as follows:

''(3) UPDATE.—

''(A) IN GENERAL.—Subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

''(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

''(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

''(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

''(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

''(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

''(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June of 1995.

''(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

''(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

''(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—

''(i) IN GENERAL.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

''(I) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100); or

''(II) less than the applicable percentage limit of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100).

''(ii) APPLICABLE PERCENTAGE LIMIT.—In clause (i)(II), the 'applicable percentage limit' for a year is—

''(I) for 1997, 93 percent;

''(II) for 1998, 92.25 percent; and

''(III) for 1999 and each succeeding year, 92 percent.''; and

(C) by adding at the end the following new paragraph:

''(4) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than November 1 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that describes the update in the conversion factor for physicians' services (as defined in subsection (f)(3)(A)) in the following year.

''(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) for a year and shall submit to the Congress, by not later than December 1 of the year, a report containing its analysis of the conversion factor for the following year.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1996.

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—FOR 1996, THE CONVERSION FACTOR UNDER THIS SUBSECTION SHALL BE $35.42 FOR ALL PHYSICIANS' SERVICES.''.

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by paragraph (1), is amended—

(A) by striking ''(or factors)'' each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii);

(B) in subsection (d)(1)(A), by striking ''or updates'';

(C) in subsection (d)(1)(D)(ii), by striking ''(or updates)''; and

(D) in subsection (i)(1)(C), by striking ''conversion factors'' and inserting ''the conversion factor''.

SEC. 15602. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 15603. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) for each of the years 1996 through 2002, 0 percentage points; and

''(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking ''and'' at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

''(iv) for each of the years 1996 through 2002, 1 percent, and''.

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) in clause (iv)—

(A) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

''(v) in 1996, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

''(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.''.

(c) PAYMENT FOR UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

''(16) PAYMENT FOR CERTAIN UPGRADED ITEMS.—

''(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of this title, effective on the date on which the Secretary issues regulations under subparagraph (C), payment may be made under this part for an upgraded item of durable medical equipment in the same manner as payment may be made for a standard item of durable medical equipment.

''(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

''(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

''(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i). In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

''(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

''(i) full disclosure by the supplier of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(ii) conditions of participation for suppliers of upgraded items, including conditions relating to billing procedures;

"(iii) sanctions (including exclusion) of suppliers who are determined to have engaged in coercive or abusive practices; and

"(iv) such other safeguards as the Secretary determines are necessary.".

(d) Payment Freeze for Parenteral and Enteral Nutrients, Supplies, and Equipment.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 15604. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Change in Update.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) Lowering Cap on Payment Amounts.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1997," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1996, is equal to 65 percent of such median.".

SEC. 15605. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) Reduction in Payments for Capital-Related Costs.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".

(b) Reduction in Payments for Other Costs.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 15606. FREEZE IN PAYMENTS FOR AMBULATORY SURGICAL CENTER SERVICES.

The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for any of the fiscal years 1996 through 2002.

SEC. 15607. RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) Coverage Under Part B.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(b) Payment Based on Payment for Outpatient Rural Primary Care Hospital Services.—

(1) In general.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)) is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(2) Payment methodology described.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in the heading, by striking "Services" and inserting "Services and Rural Emergency Access Care Hospital Services"; and

(B) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 15608. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) Payment for Jointly Furnished Single Case.—

(1) Payment to physician.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:

"(C) Payment for single case.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".

(2) Payment to CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".

(b) Effective Date.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

SEC. 15609. STATEWIDE FEE SCHEDULE AREA FOR PHYSICIANS' SERVICES.

(a) In General.—Notwithstanding section 1848(j)(2) of the Social Security Act, in the case of the State of Wisconsin, the Secretary of Health and Human Services shall treat the State as a single fee schedule area for purposes of determining the fee schedule amount (as referred to in section 1848(a) of such Act) for physicians' services (as defined in section 1848(j)(3) of such Act) under part B of the medicare program.

(b) Budget-Neutrality.—Notwithstanding any provision of part B of title XVIII of the Social Security Act, the Secretary shall carry out subsection (a) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in Wisconsin during a year are not greater or less than total payments for such services would have been but for this section.

(c) Construction.—Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842 of such Act, or physicians in the State of Wisconsin) of otherwise applicable administrative procedures for modifying the fee schedule area or areas in the State after implementation of subsection (a).

(d) Effective Date.—This section shall apply with respect to physicians' services furnished on or after January 1, 1997.

SEC. 15609A. ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.

(a) Payment in Accordance With Fee Schedule.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking "and (P)" and inserting "(P)"; and

(2) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (in accordance with section 15608(b) of the Medicare Preservation Act);".

(b) Requirements for Establishment of Fee Schedule.—

(1) In general.—The Secretary of Health and Human Services shall establish the fee schedule for ambulance services under section 1833(a)(1)(Q) of the Social Security Act (as added by subsection (a)) through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

(2) Considerations.—In establishing the fee schedule for ambulance services, the Secretary shall—

(A) establish mechanisms to control increases in expenditures for ambulance services under part B of the medicare program which fairly reflect the changing nature of the ambulance service industry;

(B) establish definitions for ambulance services which promote efficiency and link payments (including fees for assessment and treatment services) to the type of service provided;

(C) take into account regional differences which affect cost and productivity, including differences in the costs of resources and the costs of uncompensated care;

(D) apply dynamic adjustments to payment rates to account for inflation, demographic changes in the population of medicare beneficiaries, and changes in the number of providers of ambulance services participating in the medicare program; and

(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

(3) Savings.—In establishing the fee schedule for ambulance services, the Secretary shall—

(A) ensure that the aggregate amount of payments made for ambulance services under part B of the medicare program during 1998 does not exceed the aggregate amount of payments which would have been made for such services under part B of the program during 1998 if the amendments made by this section were not in effect; and

(B) set the payment amounts provided under the fee schedule for services furnished in 1999 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(4) CONSULTATION.—In establishing the fee schedule for ambulance services, the Secretary shall consult regularly with the American Ambulance Association, the National Association of State Medical Directors, and other national organizations representing individuals and entities who furnish or regulate ambulance services, and shall share with such associations and organizations the data and data analysis used in establishing the fee schedule, including data on variations in payments for ambulance services under part B of the medicare program for years prior to 1998 among geographic areas and types of ambulance service providers.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the fee schedule described in subsection (b) shall apply to ambulance services furnished on or after January 1, 1998.

SEC. 15609B. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.

(a) APPLICATION OF STANDARDS FOR OTHER PROVIDERS OF PHYSICAL THERAPY SERVICES TO SERVICES FURNISHED BY PHYSICIANS.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2), is amended—

(1) by striking "or" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; or"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of physicians' services under section 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.".

(b) CONFORMING AMENDMENT.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(subject to section 1862(a)(17))" after "(2)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

PART 2—PART B PREMIUM

SEC. 15611. EXTENSION OF PART B PREMIUM.

(a) IN GENERAL.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "and prior to January 1999", and

(B) by inserting "(or, if higher, the percent described in subparagraph (C))" after "50 percent"; and

(2) by adding at the end the following new subparagraph:

"(C) For purposes of subparagraph (A), the percent described in this subparagraph is the ratio (expressed as a percentage) of the monthly premium established under this section for months in 1995 to the monthly actuarial rate for enrollees age 65 and over applicable to such months (as specified in the most recent report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund published prior to the date of the enactment of the Medicare Preservation Act of 1995).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to premiums for months beginning with January 1996.

SEC. 15612. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $25,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $25,000. In the case of a joint return filed under section 6013 of the Internal Revenue Code of 1986 by spouses both of whom are enrolled under this part, the previous sentence shall be applied by substituting '$50,000' for '$25,000'. The preceding provisions of this paragraph shall not apply to any individual whose threshold amount is zero.

"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

"(A) Not later than October 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to 1/12 of the difference between—

"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

"(B) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

"(C) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

"(5) In this subsection, the following definitions apply:

"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

"(B) The term 'threshold amount' means—

"(i) except as otherwise provided in this paragraph, $75,000,

"(ii) $125,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

"(iii) zero in the case of a taxpayer who—

"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

"(II) does not live apart from his spouse at all times during the taxable year.".

(b) CONFORMING AMENDMENT.—Section 1839(f) (42 U.S.C. 1395r(f)) is amended by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer,

"(iii) the adjusted gross income of such taxpayer,

"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

"(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act."

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (14)" each place it appears and inserting "(14), or (15)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1997.

PART 3—ADMINISTRATION AND BILLING OF LABORATORY SERVICES

SEC. 15621. ADMINISTRATIVE SIMPLIFICATION FOR LABORATORY SERVICES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in accordance with the process described in subsection (b)) shall adopt uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of the medicare program.

(b) PROCESS FOR ADOPTION OF POLICIES.—The Secretary shall adopt uniform policies under subsection (a) in accordance with the following process:

(1) The Secretary shall select from carriers with whom the Secretary has a contract under part B during 1995 15 medical directors, who will meet and develop recommendations for such uniform policies. The medical directors selected shall represent various geographic areas and have a varied range of experience in relevant medical fields, including pathology and clinical laboratory practice.

(2) The medical directors selected under paragraph (1) shall consult with independent experts in each major discipline of clinical laboratory medicine, including clinical laboratory personnel, bioanalysts, pathologists, and practicing physicians. The medical directors shall also solicit comments from other individuals and groups who wish to participate, including consumers and other affected parties. This process shall be conducted as a negotiated rulemaking under title 5, United States Code.

(3) Under the negotiated rulemaking, the recommendations for uniform policies shall be designed to simplify and reduce unnecessary administrative burdens in connection with the following:

(A) Beneficiary information required to be submitted with each claim.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The performance of post-payment review of test claims.

(E) The prohibition of the documentation of medical necessity except when determined to be appropriate after identification of aberrant utilization pattern through focused medical review.

(F) Beneficiary responsibility for payment.

(4) During the pendency of the adoption by the Secretary of the uniform policies, fiscal intermediaries and carriers under the medicare program may not implement any new requirement relating to the submission of a claim for clinical diagnostic laboratory tests retroactive to January 1, 1995, and carriers may not initiate any new coverage, administrative, or payment policy unless the policy promotes the goal of administrative simplification of requirements imposed on clinical laboratories in accordance with the Secretary's promulgation of the negotiated rulemaking.

(5) Not later than 6 months after the date of the enactment of this Act, the medical directors shall submit their recommendations to the Secretary, and the Secretary shall publish the recommendations and solicit public comment using negotiated rulemaking in accordance with title 5, United States Code. The Secretary shall publish final uniform policies for coverage, administration, and payment of claims for clinical diagnostic laboratory tests, effective after the expiration of the 180-day period which begins on the date of publication.

(6) After the publication of the final uniform policies, the Secretary shall implement identical uniform documentation and processing policies for all clinical diagnostic laboratory tests paid under the medicare program through fiscal intermediaries or carriers.

(c) OPTIONAL SELECTION OF SINGLE CARRIER.—Effective for claims submitted after the expiration of the 90-day period which begins on the date of the enactment of this Act, an independent laboratory may select a single carrier for the processing of all of its claims for payment under part B of the medicare program, without regard to the location where the laboratory or the patient or provider involved resides or conducts business. Such election of a single carrier shall be made by the clinical laboratory and an agreement made between the carrier and the laboratory shall be forwarded to the Secretary of Health and Human Services. Nothing in this subsection shall be construed to require a laboratory to select a single carrier under this subsection.

SEC. 15622. RESTRICTIONS ON DIRECT BILLING FOR LABORATORY SERVICES.

(a) REQUIREMENT FOR DIRECT BILLING.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

"(7)(A) Effective for services furnished on or October 1, 1996, an individual or entity that performs clinical laboratory diagnostic tests shall not present or cause to be presented a claim, bill, or demand for payment to any person, other than the individual receiving such services or the health plan designated by such person, except that (i) in the case of a test performed by one laboratory at the request of another laboratory, which meets the requirements of clause (i), (ii), or (iii) of paragraph (5)(A), payment may be made to the requesting laboratory, and (ii) the Secretary may by regulation establish appropriate exceptions to the requirement of this subparagraph.

"(B)(i) Any person that collects any amounts that were billed in violation of paragraph (7)(A) above shall be liable for such amounts to the person from whom such amounts were collected.

"(ii) Any person that furnishes clinical laboratory services for which payment is made under paragraph (1)(D)(i) or paragraph (2)(D)(i) that knowingly violates subparagraph (A) is subject to a civil money penalty of not more than $10,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

"(iii)(I) Any individual or entity that the Secretary determines has repeatedly violated subparagraph (A) may be excluded from participation in any Federal health care program. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to an exclusion under this paragraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

"(II) The provisions of section 1128(e) of the Social Security Act shall apply to any exclusion under clause (iii)(I) in the same manner as such provisions apply to a proceeding under section 1128.

"(iv) If the Secretary finds, after a reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 of the Public Health Service Act has on a repeated basis violated subparagraph (A), the Secretary may suspend, revoke, or limit such certification in accordance with the procedures established in section 353(k) of Public Health Service Act.

"(C) For purposes of this paragraph, the following definitions shall apply:

"(i) The term 'Federal health care program' means—

"(I) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(II) any State health care program, as defined in section 1128(h).

"(ii) The term 'health plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by an insurer, except that such term does not include any of the following:

"(I) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

"(II) Medicare supplemental health insurance.

"(III) Coverage issued as a supplement to liability insurance.

"(IV) Liability insurance, including general liability insurance and automobile liability insurance.

"(V) Worker's compensation or similar insurance.

"(VI) Automobile medical-payment insurance.

"(VII) Coverage for a specified disease or illness.

"(VIII) A hospital or fixed indemnity policy.

(b) Look Back Provisions to Assure Savings.—

(1) In General.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)), as amended by section 15604(b), is amended—

(A) in clause (vii), by striking "and" at the end;

(B) in clause (viii)—

(i) by inserting "and before January 1, 2000," after "1996,", and

(ii) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new clause:

"(ix) after December 31, 1999, is equal to such percentage of such median as the Secretary establishes under paragraph (8)(B), or, if the Secretary does not act under paragraph (8)(B), is equal to 65 percent of such median.".

(2) Process for Reductions.—Section 1833(h) (42 U.S.C. 1395l(h)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(8)(A) On July 31, 1999, the Secretary shall estimate—

"(i) the amount of expenditures under this section for clinical diagnostic laboratory tests which will be made in the period from January 1, 1997, through September 30, 2002, and

"(ii) the amount of expenditures which would have been made under this section for clinical diagnostic laboratory tests in the period from January 1, 1997, through September 30, 2002, if paragraph (7) had not been enacted.

"(B) If the amount estimated under subparagraph (A)(i) is greater than 97 percent of the amount estimated under subparagraph (A)(ii), the Secretary shall establish a limitation amount under paragraph (4)(B)(ix) such that, when such limitation amount is considered, the amount estimated under subparagraph (A)(i) is 97 percent of the amount estimated under subparagraph (A)(ii).

"(C) The Director of the Congressional Budget Office (hereafter in this subparagraph referred to as the 'Director') shall—

"(i) independently estimate the amounts specified in subparagraph (A) and compute any limitation amount required under subparagraph (B), and

"(ii) submit a report on such estimates and computation to Congress not later than August 31, 1999.

The Secretary shall provide the Director with such data as the Director reasonably requires to prepare such estimates and computation.".

PART 4—QUALITY STANDARDS FOR DURABLE MEDICAL EQUIPMENT

SEC. 15631. RECOMMENDATIONS FOR QUALITY STANDARDS FOR DURABLE MEDICARE EQUIPMENT.

(a) Appointment of Task Force by Secretary.—

(1) In General.—The Secretary of Health and Human Services shall establish a broadly based task force to develop recommendations for quality standards for durable medical equipment under part B of the medicare program.

(2) Composition.—The task force shall include individuals selected by the Secretary from representatives of suppliers of items of durable medical equipment under part B, consumers, and other users of such equipment. In appointing members, the Secretary shall assure representation from various geographic regions of the United States.

(3) No Compensation for Service.—Members of the task force shall not receive any compensation for service on the task force.

(4) Termination.—The task force shall terminate 30 days after it submits the report described in subsection (b).

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the task force established under subsection (a) shall submit to the Secretary its recommendations for quality standards for durable medicare equipment under part B of the medicare program.

Subtitle H—Provisions Relating to Medicare Parts A and B

PART 1—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 15701. PAYMENT FOR HOME HEALTH SERVICES.

(a) In General.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 15106, is amended by adding at the end the following new section:

"PAYMENT FOR HOME HEALTH SERVICES

"Sec. 1894. (a) In General.—

"(1) Per Visit Payments.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, or otherwise).

"(2) Types of Services.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) Establishment of Per Visit Rate for Each Type of Services.—

"(1) In General.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1886(d)(8)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) for cost reporting periods beginning after October 1, 1995).

"(2) National Per Visit Payment Rate.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994, increased (in a compounded manner) by the home health market basket percentage increase for fiscal years 1995, 1996, and 1997; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the home health market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) Rebasing of Rates.—The Secretary shall provide for an update to the national per visit payment rates under this subsection for cost reporting periods beginning not later than the first day of the fifth fiscal year which begins after fiscal year 1997, and not later than every 5 years thereafter, to reflect the most recent available data.

"(4) Home Health Market Basket Percentage Increase.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

"(c) Per Episode Limit.—

"(1) Aggregate Limit.—

"(A) In General.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) Establishment of Per Episode Limits.—

"(i) In General.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) Case Mix Adjustment Factor.—For purposes of clause (i), the case-mix adjustment factor for a year is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year.

"(iii) Rebasing of Per Episode Amounts.—Beginning with fiscal year 1999 and every 2 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF APPLICABLE AREA.—For purposes of determining per episode limits under this subparagraph, the area in which a home health agency is considered to be located shall be such area as the Secretary finds appropriate for purposes of this subparagraph.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Phase II Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'episode' means the continuous 120-day period that—

"(I) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(II) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(ii) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(A) OVERPAYMENTS TO HOME HEALTH AGENCIES.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall reduce payments under this section to the home health agency in the following fiscal year in such manner as the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost cases described in subsection (e)(3) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 30, 60, 90, 120, and 165 days into an episode described in subsection (c)(1)(D).

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—The Secretary shall develop a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage of low-cost episodes for which home health services are furnished by the agency over such percentage determined for the agency for the 12-month cost reporting period ending on June 30, 1994. The Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) The adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.

"(g) NO EFFECT ON NON-MEDICARE SERVICES.—Nothing in this section may be construed to affect the provision of or payment for home health services for which payment is not made under this title.".

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 15522(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1894".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1894(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1894; or

"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;".

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 15525(a)(1), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1894(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 15525(a)(3), is amended by striking "section 1842(b)(6)(E);" and inserting "subparagraphs (E) and (F) of section 1842(b)(6);".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2) and section 15609B(a), is amended—

(i) by striking "or" at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting "; or"; and

(iii) by adding at the end the following new paragraph:

"(18) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) LIMITATION ON PART A COVERAGE.—

(1) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 165 days during any spell of illness;".

(2) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 165 days during such spell.".

(3) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5))."; and

(B) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

(e) EFFECTIVE DATE.—Except as provided in subsection (d)(4), the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 15702. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 15703. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA–1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of OBRA–1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996".

SEC. 15704. REPORT ON RECOMMENDATIONS FOR PAYMENTS AND CERTIFICATION FOR HOME HEALTH SERVICES OF CHRISTIAN SCIENCE PROVIDERS.

Not later than July 1, 1996, the Secretary of Health and Human Services shall submit recommendations to Congress regarding an appropriate methodology for making payments under the medicare program for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, Massachusetts, and appropriate criteria for the certification of such providers for purposes of the medicare program.

SEC. 15705. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION.

Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is amended—

(1) by striking "15 months" and inserting "36 months"; and

(2) by striking the second sentence and inserting the following: "The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.".

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

SEC. 15711. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "24-month", and

(2) by striking the second sentence.

SEC. 15712. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

SEC. 15713. PROHIBITING RETROACTIVE APPLICATION OF POLICY REGARDING ESRD BENEFICIARIES ENROLLED IN PRIMARY PLANS.

For purposes of carrying out section 1862(b)(1)(C) of the Social Security Act, the Secretary of Health and Human Services shall apply the policy directive issued by the Administrator of the Health Care Financing Administration on April 24, 1995, only with respect to items and services furnished on or after such date.

PART 3—FAILSAFE

SEC. 15721. FAILSAFE BUDGET MECHANISM.

(a) IN GENERAL.—Title XVIII, as amended by sections 15106(a) and 15701(a), is amended by adding at the end the following new section:

"FAILSAFE BUDGET MECHANISM

"SEC. 1895. (a) REQUIREMENT OF PAYMENT ADJUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.—If the Secretary determines under subsection (e)(3)(C) before a fiscal year (beginning with fiscal year 1998) that—

"(1) the fee-for-service expenditures (as defined in subsection (f)) for a sector of medicare services (as defined in subsection (b)) for the fiscal year, will exceed

"(2) the allotment specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (h) for that fiscal year),

then, notwithstanding any other provision of this title, there shall be an adjustment (consistent with subsection (d)) in applicable payment rates or payments for items and services included in the sector in the fiscal year so that such expenditures for the sector for the year will be reduced by 133⅓ percent of the amount of such excess.

"(b) SECTORS OF MEDICARE SERVICES DESCRIBED.—

"(1) IN GENERAL.—For purposes of this section, items and services included under each of the following subparagraphs shall be considered to be a separate 'sector' of medicare services:

"(A) Inpatient hospital services.

"(B) Home health services.

"(C) Extended care services (for inpatients of skilled nursing facilities).

"(D) Hospice care.

"(E) Physicians' services (including services and supplies described in section 1861(s)(2)(A)) and services of other health care professionals (including certified registered nurse anesthetists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.

"(F) Outpatient hospital services and ambulatory facility services.

"(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.

"(H) Diagnostic tests (including clinical laboratory services and x-ray services).

"(I) Other items and services.

"(2) CLASSIFICATION OF ITEMS AND SERVICES.—The Secretary shall classify each type of items and services covered and paid for separately under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.

"(c) ALLOTMENT.—

"(1) ALLOTMENTS FOR EACH SECTOR.—For purposes of this section, subject to subsection (h)(1), the allotment for a sector of medicare services for a fiscal year is equal to the product of—

"(A) the total allotment for the fiscal year established under paragraph (2), and

"(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.

"(2) TOTAL ALLOTMENT.—

"(A) IN GENERAL.—For purposes of this section, the total allotment for a fiscal year is equal to—

"(i) the medicare benefit budget for the fiscal year (as specified under subparagraph (B)), reduced by

"(ii) the amount of payments the Secretary estimates will be made in the fiscal year under the MedicarePlus program under part C.

In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.

"(B) MEDICARE BENEFIT BUDGET.—For purposes of this subsection, subject to subparagraph (C), the 'medicare benefit budget'—

"(i) for fiscal year 1997 is $208.0 billion;

"(ii) for fiscal year 1998 is $217.1 billion;

"(iii) for fiscal year 1999 is $228.4 billion;

"(iv) for fiscal year 2000 is $246.4 billion;

"(v) for fiscal year 2001 is $265.5 billion;

"(vi) for fiscal year 2002 is $288.0 billion; and

"(vii) for a subsequent fiscal year is equal to the medicare benefit budget under this subparagraph for the preceding fiscal year increased by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of medicare beneficiaries from the previous fiscal year to the fiscal year involved.

"(3) MEDICARE ALLOTMENT PROPORTION DEFINED.—

"(A) IN GENERAL.—For purposes of this section and with respect to a sector of medicare services for a fiscal year, the term 'medicare allotment proportion' means the ratio of—

"(i) the baseline-projected medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to

"(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.

"(B) BASELINE-PROJECTED MEDICARE EXPENDITURES.—In this paragraph, the 'baseline, projected medicare expenditures' for a sector of medicare services—

"(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and

"(ii) for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).

"(C) BASELINE ANNUAL GROWTH RATES.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:

"For the following sector—	Baseline annual growth rates for fiscal year—						
	1996	1997	1998	1999	2000	2001	2002 and thereafter
(A) Inpatient hospital services	5.7%	5.6%	6.0%	6.1%	5.7%	5.5%	5.2%
(B) Home health services	17.2%	15.1%	11.7%	9.1%	8.4%	8.1%	7.9%
(C) Extended care services	19.7%	12.3%	9.3%	8.7%	8.6%	8.4%	8.0%
(D) Hospice care	32.0%	24.0%	18.0%	15.0%	12.0%	10.0%	9.0%
(E) Physicians' services	12.4%	9.7%	8.7%	9.0%	9.3%	9.6%	10.1%
(F) Outpatient hospital services	14.7%	13.9%	14.5%	15.0%	14.1%	13.9%	14.0%
(G) Durable medical equipment and supplies	16.1%	15.5%	13.7%	12.4%	13.2%	13.9%	14.5%
(H) Diagnostic tests	13.1%	11.3%	11.0%	11.4%	11.4%	11.5%	11.9%
(I) Other items and services	11.2%	10.2%	10.9%	12.0%	11.6%	11.6%	11.8%

"(d) MANNER OF PAYMENT ADJUSTMENT.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for a sector for a fiscal year in such a manner as to—

"(A) make a change in payment rates (to the maximum extent practicable) at the time payment rates are otherwise changed or subject to change for that fiscal year; and

"(B) provide for the full appropriate adjustment so that the fee-for-service expenditures for the sector for the fiscal year will approximate (and not exceed) the allotment for the sector for the fiscal year.

"(2) TAKING INTO ACCOUNT VOLUME AND CASH FLOW.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—

"(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

"(B) the fact that an adjustment may apply to items and services furnished in a fiscal year (payment for which may occur in a subsequent fiscal year),

in a manner that is consistent with assuring that total fee-for-services expenditures for each sector for the fiscal year will not exceed the allotment under subsection (c)(1) for such sector for such year.

"(3) PROPORTIONALITY OF REDUCTIONS WITHIN A SECTOR.—In making adjustments under this subsection in payment for items and services included within a sector of medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included within the sector for the fiscal year.

"(4) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A FISCAL YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such year.

"(B) DESCRIPTION OF APPLICATION TO SPECIFIC SERVICES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE FACTOR FOR PAYMENT FOR OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS HOSPITALS.—To the computation of the applicable percentage increase specified in section 1886(d)(3)(B)(i) for discharges occurring in the fiscal year.

"(ii) HOME HEALTH SERVICES.—To the extent payment amounts for home health services are based on per visit payment rates under section 1894, to the computation of the increase in the national per visit payment rates established for the year under section 1894(b)(2)(B).

"(iii) HOSPICE CARE.—To the update of payment rates for hospice care under section 1814(i) for services furnished during the fiscal year.

"(iv) UPDATE FACTOR FOR PAYMENT OF OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS-EXEMPT HOSPITALS.—To the computation of the target amount under section 1886(b)(3) for discharges occurring during the fiscal year.

"(v) COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES.—To the computation of the facility per stay limits for the year under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).

"(5) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a calendar year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished at any time during such calendar year as follows:

"(i) For fiscal year 1997, the reduction shall be made for payment rates during calendar year 1997 in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of calendar year 1997.

"(ii) For a subsequent fiscal year, the reduction shall be made for payment rates during the calendar year in which the fiscal year ends in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of the calendar year, but also taking into account the payment reductions made in the first quarter of the fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.

"(iii) Payment rate reductions effected under this subparagraph for a calendar year and applicable to the last 3 quarters of the fiscal year in which the calendar year ends shall continue to apply during the first quarter of the succeeding fiscal year.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS' SERVICES.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section, for items and services furnished during the calendar year in which the fiscal year ends.

"(ii) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payments for professional services of certified registered nurse anesthetists under section 1833(l), nurse midwives, physician assistants, nurse practitioners and clinical nurse specialists under section 1833(r), clinical psychologists, clinical social workers, physical or occupational therapists, and any other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services, for services furnished during the calendar year in which the fiscal year ends.

"(iii) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.

"(iv) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.

"(v) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment basis under section 1834(a)(1)(B) for covered items described in section 1834(a)(13), for items furnished during the calendar year in which the fiscal year ends.

"(vi) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for services furnished during the calendar year in which the fiscal year ends.

"(vii) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography under section 1834(c)(1)(C)(ii), for screening mammography performed during the calendar year in which the fiscal year ends.

"(viii) PROSTHETICS AND ORTHOTICS.—To the computation of the amount to be recognized under section 1834(h) for payment for prosthetic devices and orthotics and prosthetics, for items furnished during the calendar year in which the fiscal year ends.

"(ix) SURGICAL DRESSINGS.—To the computation of the payment amount referred to in section 1834(i)(1)(B) for surgical dressings, for items furnished during the calendar year in which the fiscal year ends.

"(x) PARENTERAL AND ENTERAL NUTRITION.—To the computation of reasonable charge screens for payment for parenteral and enteral nutrition under section 1834(h), for nutrients furnished during the calendar year in which the fiscal year ends.

"(xi) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services, for services furnished during the calendar year in which the fiscal year ends.

"(6) APPLICATION TO PAYMENTS MADE BASED ON COSTS DURING A COST REPORTING PERIOD.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the Secretary shall provide for the payment adjustment under such subsection for a fiscal year through an appropriate proportional reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) CAPITAL-RELATED COSTS OF HOSPITAL SERVICES.—To the computation of payment amounts for inpatient and outpatient hospital services under sections 1886(g) and 1861(v) for portions of cost reporting periods occurring during the fiscal year.

"(ii) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886(b) for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.

"(iii) DIRECT GRADUATE MEDICAL EDUCATION.—To the computation of payment amounts under section 1886(h) for reasonable costs of direct graduate medical education costs for portions of cost reporting periods occurring during the fiscal year.

"(iv) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814(j) for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.

"(v) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility (other than covered non-routine services subject to section 1888A) for portions of cost reporting periods occurring during the fiscal year.

"(vi) REASONABLE COST CONTRACTS.—To the computation of payment amounts under section 1833(a)(1)(A) for organizations for portions of cost reporting periods occurring during the fiscal year.

"(vii) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(ii), for payment amounts for home health services, for portions of cost reporting periods occurring during such fiscal year.

"(7) OTHER.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on a basis not described in a previous paragraph of this subsection, the Secretary shall provide for the payment adjustment under such subsection through an appropriate proportional reduction in the payments (or payment bases for items and services furnished) during the fiscal year.

"(8) ADJUSTMENT OF PAYMENT LIMITS.—The Secretary shall provide for such proportional adjustment in any limits on payment established under part A or B for payment for items and services within a sector as may be appropriate based on (and in order to properly carry out) the adjustment on the amount of payment under this subsection in the sector.

"(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.

"(e) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—

"(1) ONE-TIME PUBLICATION OF SECTORS AND GENERAL PAYMENT ADJUSTMENT METHODOLOGY.—Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services into the sectors of medicare services under subsection (b) and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.

"(2) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—

"(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year 1999, the President shall include in the budget submitted under section 1105 of title 31, United States Code, information on—

"(i) the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year; and

"(ii) actual annual growth rates for fee-for-service expenditures in the different sectors in the second previous fiscal year.

"(B) RECOMMENDATIONS REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C). Such recommendations shall take into account medically appropriate practice patterns.

"(3) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—

"(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Secretary and the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year.

"(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a notice containing the Secretary's preliminary determination, for each sector of medicare services, concerning the following:

"(i) The projected allotment under subsection (c) for such sector for the fiscal year.

"(ii) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).

"(iii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.

"(iv) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.

Such notice shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C) shall be based on the best data available at the time of such determinations.

"(C) FINAL DETERMINATION.—Not later than September 1 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a final determination, for each sector of medicare services, concerning the matters described in subparagraph (B) and an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B).

"(4) LIMITATION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the classification of items and services among the sectors of medicare services under subsection (b),

"(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),

"(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or

"(D) any adjustment in an allotment effected under subsection (h).

"(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term 'fee-for-service expenditures', for items and services within a sector of medicare services in a fiscal year, means amounts payable for such items and services which are furnished during the fiscal year, and—

"(1) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and

"(2) does not include amounts paid under part C.

"(g) EXPEDITED PROCESS FOR ADJUSTMENT OF SECTOR GROWTH RATES.—

"(1) OPTIONAL INCLUSION OF LEGISLATIVE PROPOSAL.—The President may include in recommendations under subsection (e)(2)(B) submitted with respect to a fiscal year a specific legislative proposal that provides only for the substitution of percentages specified in the proposal for one or more of the baseline annual growth rates (specified in the table in subsection (c)(3)(C) or in a previous legislative proposal under this subsection) for that fiscal year or any subsequent fiscal year.

"(2) CONGRESSIONAL CONSIDERATION.—

"(A) IN GENERAL.—The percentages contained in a legislative proposal submitted under paragraph (1) shall apply under this section if a joint resolution (described in subparagraph (B)) approving such proposal is enacted, in accordance with the provisions of subparagraph (C), before the end of the 60-day period beginning on the date on which such proposal was submitted. For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

"(B) JOINT RESOLUTION OF APPROVAL.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President submits a proposal under paragraph (1) and—

"(i) which does not have a preamble;

"(ii) the matter after the resolving clause of which is as follows: 'That Congress approves the proposal of the President providing for substitution of percentages for certain baseline annual growth rates under section 1895 of the Social Security Act, as submitted by the President on ________.', the blank space being filled in with the appropriate date; and

"(iii) the title of which is as follows: 'Joint resolution approving Presidential proposal to substitute certain specified percentages for baseline annual growth rates under section 1895 of the Social Security Act, as submitted by the President on ________.', the blank space being filled in with the appropriate date.

"(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

"(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

"(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of a legislative proposal under paragraph (1)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Finance of the Senate;

"(ii) any reference to a resolution of which a committee shall be discharged from further consideration shall be deemed to be a reference to the first such resolution introduced; and

"(iii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the President submits the legislative proposal under paragraph (1).

"(h) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—

"(1) IN GENERAL.—If the Secretary determines under subsection (e)(3)(B) with respect to a particular fiscal year (beginning with fiscal year 1999) that the fee-for-service expenditures for a sector of medicare services for the second preceding fiscal year—

"(A) exceeded the adjusted allotment for such sector for such year (as defined in paragraph (2)), then the allotment for the sector for the particular fiscal year shall be reduced by 133⅓ percent of the amount of such excess, or

"(B) was less than the adjusted allotment for such sector for such year, then the allotment for the sector for the particular fiscal year shall be increased by the amount of such deficit.

"(2) ADJUSTED ALLOTMENT.—The adjusted allotment under this paragraph for a sector for a fiscal year is—

"(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in subsection (c)(2)(A)(ii) for that fiscal year,

"(B) adjusted to take into account the amount of any adjustment under paragraph (1) for that fiscal year (based on expenditures in the second previous fiscal year).

"(i) PROSPECTIVE APPLICATION OF CERTAIN NATIONAL COVERAGE DETERMINATIONS.—In the case of a national coverage determination that the Secretary projects will result in significant additional expenditures under this title (taking into account any substitution for existing procedures or technologies), such determination shall not become effective before the beginning of the fiscal year that begins after the date of such determination and shall apply to contracts under part C entered into (or renewed) after the date of such determination.".

(b) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1895 restrain the rate of growth of expenditures under this part in order to achieve such solvency.".

PART 4—ADMINISTRATIVE SIMPLIFICATION

SEC. 15731. STANDARDS FOR MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS.

Title XVIII, as amended by section 15031, is amended by inserting after section 1806 the following new section:

"STANDARDS FOR MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1807. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—

"(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt standards for information transactions and data elements of medicare information and modifications to the standards under this section that are—

"(A) consistent with the objective of reducing the administrative costs of providing and paying for health care; and

"(B) developed or modified by a standard setting organization (as defined in subsection (h)(8)).

"(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different from the standard developed by a standard setting organization, if—

"(A) the different standard or modification will substantially reduce administrative costs to health care providers and health plans compared to the alternative; and

"(B) the standard or modification is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—

"(A) IN GENERAL.—Each person, who maintains or transmits medicare information or data elements of medicare information and is subject to this section, shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(i) to ensure the integrity and confidentiality of the information;

"(ii) to protect against any reasonably anticipated—

"(I) threats or hazards to the security or integrity of the information; and

"(II) unauthorized uses or disclosures of the information; and

"(iii) to otherwise ensure compliance with this section by the officers and employees of such person.

"(B) SECURITY STANDARDS.—The Secretary shall establish security standards and modifications to such standards with respect to medicare information network services, health plans, and health care providers that—

"(i) take into account—

"(I) the technical capabilities of record systems used to maintain medicare information;

"(II) the costs of security measures;

"(III) the need for training persons who have access to medicare information; and

"(IV) the value of audit trails in computerized record systems; and

"(ii) ensure that a medicare information network service, if it is part of a larger organization, has policies and security procedures which isolate the activities of such service with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

The security standards established by the Secretary shall be based on the standards developed or modified by standard setting organizations. If such standards do not exist, the Secretary shall rely on the recommendations of the Medicare Information Advisory Committee (established under subsection (g)) and shall consult with appropriate government agencies and private organizations in accordance with paragraph (5).

"(4) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards and the modifications to the standards adopted pursuant to paragraph (1) or (3).

"(5) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this section, the Secretary shall rely on recommendations of the Medicare Information Advisory Committee established under subsection (g) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register the recommendations of the Medicare Information Advisory Committee regarding the adoption of a standard under this section.

"(b) STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make medicare information uniformly available to be exchanged electronically, that is—

"(A) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, enrollment and disenrollment, eligibility, premium payments, and referral certification and authorization; and

"(B) related to other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) UNIQUE HEALTH IDENTIFIERS.—

"(A) ADOPTION OF STANDARDS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the medicare information system. In developing unique health identifiers for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(B) PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—

"(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or

"(ii) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both.

"(3) CODE SETS.—

"(A) IN GENERAL.—The Secretary, in consultation with the Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies, shall—

"(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

"(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

"(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under subsection (c)(2).

"(4) ELECTRONIC SIGNATURE.—

"(A) IN GENERAL.—The Secretary, after consultation with the Medicare Information Advisory Committee, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this section and written signatures on enrollment and disenrollment forms.

"(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures—

"(A) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and

"(B) for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to reduce administrative costs or duplicative (or inappropriate) payment of claims, the Secretary shall establish further transaction standards for the coordination of benefits between health plans.

"(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a medicare information network.

"(c) TIMETABLES FOR ADOPTION OF STANDARDS.—

"(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of medicare information and security described in subsections (a) and (b).

"(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this paragraph, the modified code set shall include instructions on how data elements of medicare information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

“(d) Requirements for Health Plans.—

“(1) In general.—If a person desires to conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of medicare information.

“(2) Satisfaction of requirements.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by directly transmitting standard data elements of medicare information or submitting nonstandard data elements to a medicare information network service for processing into standard data elements and transmission.

“(3) Timetables for compliance with requirements.—Not later than 24 months after the date on which standards are adopted under subsections (a) and (b) with respect to any type of information transaction or data element of medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.

“(4) Compliance with modified standards.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification. However, the time determined appropriate under the preceding sentence shall be not earlier than the last day of the 180-day period beginning on the date such modified standard is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines such extension is appropriate.

“(e) General Penalty for Failure To Comply With Requirements and Standards.—

“(1) General penalty.—

“(A) In general.—Except as provided in paragraph (2), the Secretary shall impose on any person that violates a requirement or standard—

“(i) with respect to medicare information transactions, data elements of medicare information, or security imposed under subsection (a) or (b); or

“(ii) with respect to health plans imposed under subsection (d);

a penalty of not more than $100 for each such violation of a specific standard or requirement, but the total amount imposed for all such violations of a specific standard or requirement during the calendar year shall not exceed $25,000.

“(B) Procedures.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this paragraph in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

“(C) Denial of payment.—Except as provided in paragraph (2), the Secretary may deny payment under this title for an item or service furnished by a person if the person fails to comply with an applicable requirement or standard for medicare information relating to that item or service.

“(2) Limitations.—

“(A) Noncompliance not discovered.—A penalty may not be imposed under paragraph (1) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in paragraph (1).

“(B) Failures due to reasonable cause.—

“(i) In general.—Except as provided in clause (ii), a penalty may not be imposed under paragraph (1) if—

“(I) the failure to comply was due to reasonable cause and not to willful neglect; and

“(II) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

“(ii) Extension of period.—

“(I) No penalty.—The period referred to in clause (i)(II) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

“(II) Assistance.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i)(II). Such assistance shall be provided in any manner determined appropriate by the Secretary.

“(C) Reduction.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under paragraph (1) that is not entirely waived under subparagraph (B) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

“(f) Effect on State Law.—

“(1) General effect.—

“(A) General rule.—Except as provided in subparagraph (B), a provision, requirement, or standard under this section shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

“(B) Exceptions.—A provision, requirement, or standard under this section shall not supersede a contrary provision of State law if the Secretary determines that the provision of State law should be continued for any reason, including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.

“(2) Public health reporting.—Nothing in this section shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

“(g) Medicare Information Advisory Committee.—

“(1) Establishment.—There is established a committee to be known as the Medicare Information Advisory Committee (in this subsection referred to as the ‘committee’).

“(2) Duties.—The committee shall—

“(A) advise the Secretary in the development of standards under this section; and

“(B) be generally responsible for advising the Secretary and the Congress on the status and the future of the medicare information network.

“(3) Membership.—

“(A) In general.—The committee shall consist of 9 members of whom—

“(i) 3 shall be appointed by the President;

“(ii) 3 shall be appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; and

“(iii) 3 shall be appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate.

The appointments of the members shall be made not later than 60 days after the date of the enactment of this section. The President shall designate 1 member as the Chair.

“(B) Expertise.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, information networking and integration, consumer health, or health care financial management, and who possess the demonstrated capacity to discharge the duties imposed on the committee.

“(C) Terms.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of not more than 3 members expire at one time.

“(D) Initial meeting.—Not later than 30 days after the date on which a majority of the members have been appointed, the committee shall hold its first meeting.

“(4) Reports.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the committee shall submit to Congress and the Secretary a report regarding—

“(A) the extent to which entities using the medicare information network are meeting the standards adopted under this section and working together to form an integrated network that meets the needs of its users;

“(B) the extent to which such entities are meeting the security standards established pursuant to this section and the types of penalties assessed for noncompliance with such standards;

“(C) any problems that exist with respect to implementation of the medicare information network; and

“(D) the extent to which timetables under this section are being met.

Reports made under this subsection shall be made available to health care providers, health plans, and other entities that use the medicare information network to exchange medicare information.

“(h) Definitions.—For purposes of this section:

“(1) Code set.—The term ‘code set’ means any set of codes used for encoding data elements, such as tables of terms, enrollment information, and encounter data.

“(2) Coordination of benefits.—The term ‘coordination of benefits’ means determining and coordinating the financial obligations of health plans when health care benefits are payable under such a plan and under this title (including under a MedicarePlus product).

“(3) Medicare information.—The term ‘medicare information’ means any information that relates to the enrollment of individuals under this title (including information relating to elections of MedicarePlus products under section 1805) and the provision of health benefits (including benefits provided under such products) under this title.

“(4) Medicare information network.—The term ‘medicare information network’ means the medicare information system that is formed through the application of the requirements and standards established under this section.

“(5) Medicare information network service.—The term ‘medicare information network service’ means a public or private entity that—

"(A) processes or facilitates the processing of nonstandard data elements of medicare information into standard data elements;

"(B) provides the means by which persons may meet the requirements of this section; or

"(C) provides specific information processing services.

"(6) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, or any combination thereof:

"(A) Part A or part B of this title, and includes a MedicarePlus product.

"(B) The medicaid program under title XIX and the MediGrant program under title XXI.

"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

"(D) Worker's compensation or similar insurance.

"(E) Automobile or automobile medical-payment insurance.

"(F) A long-term care policy, other than a fixed indemnity policy.

"(G) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(H) An employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits.

"(7) INDIVIDUALLY IDENTIFIABLE MEDICARE INFORMATION.—The term 'individually identifiable medicare information' means medicare enrollment information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or medicare information network service, and

"(B) identifies an individual.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute.

"(9) STANDARD TRANSACTION.—The term 'standard transaction' means, when referring to an information transaction or to data elements of medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).".

PART 5—OTHER PROVISIONS RELATING TO PARTS A AND B

SEC. 15741. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term "approved device" means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 15742. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 15525(a)(2), section 15609B(a), and section 15701(c)(2)(C), is amended—

(1) by striking "or" at the end of paragraph (17),

(2) by striking the period at the end of paragraph (18) and inserting "; or", and

(3) by inserting after paragraph (18) the following new paragraph:

"(19) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 15743. COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES.

(a) ESTABLISHMENT OF DEMONSTRATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and operate over a 2-year period a demonstration project in 2 geographic regions selected by the Secretary under which (notwithstanding any provision of title XVIII of the Social Security Act to the contrary) the amount of payment made under the medicare program for a selected item or service (other than clinical diagnostic laboratory tests) furnished in the region shall be equal to the price determined pursuant to a competitive bidding process which meets the requirements of subsection (b).

(b) REQUIREMENTS FOR COMPETITIVE BIDDING PROCESS.—The competitive bidding process used under the demonstration project under this section shall meet such requirements as the Secretary may impose to ensure the cost-effective delivery to medicare beneficiaries in the project region of items and services of high quality.

(c) DETERMINATION OF SELECTED ITEMS OR SERVICES.—The Secretary shall select items and services to be subject to the demonstration project under this section if the Secretary determines that the use of competitive bidding with respect to the item or service under the project will be appropriate and cost-effective. In determining the items or services to be selected, the Secretary shall consult with an advisory taskforce which includes representatives of providers and suppliers of items and services (including small business providers and suppliers) in each geographic region in which the project will be effective.

SEC. 15744. DISCLOSURE OF CRIMINAL CONVICTIONS RELATING TO PROVISION OF HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) The Secretary, and each State or local survey agency or other State agency responsible for monitoring compliance of home health agencies with requirements, shall make available, upon request of any person, information the Secretary or agency has on individuals who have been convicted of felonies relating to the provision of home health services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 15745. REQUIRING RENAL DIALYSIS FACILITIES TO MAKE SERVICES AVAILABLE ON A 24-HOUR BASIS.

(a) IN GENERAL.—Section 1881(b)(1) (42 U.S.C. 1395rr(b)(1)) is amended by striking the period at the end and inserting the following: ", together with a requirement (in the case of a renal dialysis facility) that the facility make institutional dialysis services and supplies available on a 24-hour basis (either directly or through arrangements with providers of services or other renal dialysis facilities that meet the requirements of such subparagraph) and that the facility provide notice informing its patients of the other providers of services or renal dialysis facilities (if any) with whom the facility has made such arrangements.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1996.

Subtitle I—Clinical Laboratories

SEC. 15801. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

"(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

"(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

"(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).";

(2) in paragraph (3) (as so redesignated) by striking "(3)" and inserting "(4)"; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking "(2)" and inserting "(3)".

Subtitle J—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

SEC. 15901. ESTABLISHMENT OF MEDICARE GROWTH REDUCTION TRUST FUND FOR PART B SAVINGS.

Part B of title XVIII is amended by inserting after section 1841 the following new section:

"MEDICARE GROWTH REDUCTION TRUST FUND

"SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Growth Reduction Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Trust Fund, out of any amounts in the Treasury not otherwise appropriated, amounts equivalent to 100 percent of the Secretary's estimate of the reductions in outlays under this part that are attributable to the Medicare Preservation Act of 1995. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund.

"(3)(A) Subject to subparagraph (B), with respect to monies transferred to the Trust Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(B) Beginning with fiscal year 2003, the Secretary may expend funds in the Trust Fund to carry out this title, but only to the extent provided by Congress in advance through a specific amendment to this section.

"(b) The provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Supplementary Medical Insurance Trust Fund.".

The CHAIRMAN. No further amendment is in order except the amendment in the nature of a substitute numbered 2 printed in the designated place in the Congressional Record, which may be offered only by the gentleman from Missouri [Mr. Gephardt] or his designee, is considered read, is debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

Does the gentleman from Missouri [Mr. Gephardt] choose to control the time, or is he designating a Member to do so on his behalf?

Mr. GIBBONS. Mr. Chairman, I have been designated, along with the gentleman from Michigan [Mr. Dingell].

The CHAIRMAN. Who seeks time in opposition?

Mr. ARCHER. Mr. Chairman, I seek time in opposition.

Mr. BLILEY. Mr. Chairman, I seek time in opposition as well.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. Gibbons:

Strike all after the enacting clause and insert the following:

TITLE XV—MEDICARE

SEC. 15000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) Short Title.—This title may be cited as the "Medicare Enhancement Act of 1995".

(b) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) References to OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(d) Table of Contents of Title.—The table of contents of this title is as follows:

Subtitle A—Provisions Relating to Medicare Part A
Sec. 15001. Reductions in inflation updates for inpatient hospital services.
Sec. 15002. Continuation of current reduction in payments for capital-related costs for inpatient hospital services.
Sec. 15003. Elimination of certain additional payments for outlier cases.
Sec. 15004. Clarification of treatment of transfers.
Sec. 15005. Prospective payment for skilled nursing facilities.
Sec. 15006. Maintaining savings resulting from temporary freeze on payment increases for skilled nursing facilities.

Subtitle B—Provisions Relating to Medicare Part B
Sec. 15101. Payment for physicians' services.
Sec. 15102. Freeze in updates to payment amounts for certain items and services.
Sec. 15103. Reduction in effective beneficiary coinsurance rate for certain hospital outpatient services.
Sec. 15104. Expanding coverage of preventive benefits.
Sec. 15105. Reduction in payment for capital-related costs of hospital outpatient services.
Sec. 15106. Part B premium.
Sec. 15107. Ensuring payment for physician and nurse for jointly furnished anesthesia services.

Subtitle C—Provisions Relating to Parts A and B
Part 1—Medicare Secondary Payor
Sec. 15201. Extension of existing secondary payer requirements.
Sec. 15202. Clarification of time and filing limitations.
Sec. 15203. Clarification of liability of third party-administrators.
Sec. 15204. Clarification of payment amounts to medicare.
Sec. 15205. Conditions for double damages.
Part 2—Other Provisions Relating to Parts A and B
Sec. 15221. Making additional choices of health plans available to beneficiaries.
Sec. 15222. Teaching hospital and graduate medical education trust fund.
Sec. 15223. Revisions in determination of amount of payment for medical education.
Sec. 15224. Payments for home health services.
Sec. 15225. Requiring health maintenance organizations to cover appropriate range of services.
Sec. 15226. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 15227. Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens.

Subtitle D—Preventing Fraud and Abuse
Part 1—Amendments to Anti-Fraud and Abuse Provisions Applicable to Medicare, Medicaid, and State Health Care Programs
Sec. 15301. Anti-kickback statutory provisions.
Sec. 15302. Civil money penalties.
Sec. 15303. Private right of action.
Sec. 15304. Amendments to exclusionary provisions in fraud and abuse program.
Sec. 15305. Sanctions against practitioners and persons for failure to comply with statutory obligations relating to quality of care.
Sec. 15306. Revisions to criminal penalties.
Sec. 15307. Definitions.
Sec. 15308. Effective date.
Part 2—Interpretive Rulings on Kickbacks and Self-referral
Sec. 15311. Establishment of process for issuance of interpretive rulings.
Sec. 15312. Effect of issuance of interpretive ruling.
Sec. 15313. Imposition of fees.
Part 3—Direct Spending for Anti-Fraud Activities Under Medicare
Sec. 15321. Direct spending for anti-fraud activities under medicare.
Part 4—Preemption of State Corporate Practice Laws Under Medicare
Sec. 15331. Preemption of State laws prohibiting corporate practice of medicine for purposes of medicare.
Part 5—Medicare Anti-Fraud and Abuse Commission
Sec. 15341. Establishment of Medicare Anti-Fraud and Abuse Commission.
Sec. 15342. Functions of Commission.
Sec. 15343. Organization and compensation.
Sec. 15344. Staff of Commission.
Sec. 15345. Authority of Commission.
Sec. 15346. Termination.
Sec. 15347. Authorization of appropriations.

Subtitle A—Provisions Relating to Medicare Part A

SEC. 15001. REDUCTIONS IN INFLATION UPDATES FOR INPATIENT HOSPITAL SERVICES.

(a) PPS Hospitals.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following:

"(XI) for each of the fiscal years 1996 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area and the market basket percentage increase minus 1.0 percentage point for all other hospitals, and

"(XII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

(b) PPS-Exempt Hospitals.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) in subclause (V)—

(A) by striking "thorugh 1997" and inserting "through 1995", and

(B) by striking "and" at the end;

(2) by redesignating subclause (VI) as subclause (VII); and

(3) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1996 through 2002, is the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area and the market basket percentage increase minus 1.0 percentage point for all other hospitals, and".

SEC. 15002. CONTINUATION OF CURRENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) REDUCTION IN PAYMENTS FOR PPS HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence by striking "through 1995" and inserting "through 2002".

(b) REDUCTION IN PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.

"(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1)).".

SEC. 15003. ELIMINATION OF CERTAIN ADDITIONAL PAYMENTS FOR OUTLIER CASES.

(a) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended—

(1) by striking "the sum of"; and

(2) by striking "and the amount paid to the hospital under subparagraph (A)".

(b) DISPROPORTIONATE SHARE ADJUSTMENTS.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended—

(1) by striking "the sum of"; and

(2) by striking "and the amount paid to the hospital under subparagraph (A) for that discharge".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1995.

SEC. 15004. CLARIFICATION OF TREATMENT OF TRANSFERS.

(a) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 15005. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITIES.

Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1996, provide for payment for routine costs of extended care services in accordance with a prospective payment system established by the Secretary, subject to the limitations in subsections (f) through (h).

"(f)(1) The amount of payment under subsection (e) shall be determined on a per diem basis.

"(2) The Secretary shall compute the routine costs per diem in a base year (determined by the Secretary) for each skilled nursing facility, and shall update the per diem rate on the basis of a market basket and other factors as the Secretary determines appropriate.

"(3) The per diem rate applicable to a skilled nursing facility may not exceed the following limits—

"(A) With respect to skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in rural areas within the same region, as updated by the same percentage determined under paragraph (2).

"(B) With respect to skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in urban areas within the same region, updated by the same percentage determined under paragraph (2).

"(g) In the case of a hospital-based skilled nursing facility or a skilled nursing facility receiving payment under subsection (d) as of the date of enactment of this provision, the amount of payment to the facility based on application of subsections (e) and (f) may not be less than the per diem rate applicable to the facility for routine costs on the date of enactment of this provision.

"(h) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1998, provide for payment for all costs of extended care services (including routine service costs, ancillary costs, and capital-related costs) in accordance with a prospective payment system established by the Secretary. The Secretary shall adjust the payment amounts under this subsection in a manner to assure that the aggregate payments made under this subsection in a fiscal year result in a 5 percent reduction (as estimated by the Secretary) in the amount of payments that would otherwise have been made for such fiscal year.

"(i) The Secretary may provide for such exceptions as the Secretary determines appropriate to the amount of payment based on application of subsections (e) though (h)."

SEC. 15006. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITIES.

(a) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(1) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

Subtitle B—Provisions Relating to Medicare Part B

SEC. 15101. PAYMENT FOR PHYSICIANS' SERVICES.

(a) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH CUMULATIVE EXPENDITURE TARGET.—Section 1848(f)(2) (42 U.S.C. 1395w–4(f)(2)) is amended to read as follows:

"(f) CUMULATIVE EXPENDITURE TARGET.—

"(1) SPECIFICATION OF TARGET.—

"(A) FISCAL YEAR 1996.—The cumulative expenditure target for all physicians' services and for each category of such services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The cumulative expenditure target for all physicians' services and for each category of physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the cumulative expenditure target determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.".

"(2) EXCLUSION OF SERVICES FURNISHED TO PRIVATE PLAN ENROLLEES.—In this subsection, the term 'physicians' services' with respect to a fiscal year does not include services furnished to an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through enrollment with an eligible organization with a risk-sharing contract under section 1876.''.

(b) Establishing Update to Conversion Factor to Match Spending Under Cumulative Expenditure Target.—

(1) In general.—Section 1848(d) (42 U.S.C. 1395w–4(d)(3)) is amended—

(A) by striking paragraph (2);

(B) by amending paragraph (3) to read as follows:

''(3) Update.—

''(A) In general.—Subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

''(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

''(B) Update adjustment factor.—The 'update adjustment factor' for a year for a category of physicians' services is equal to the quotient of—

''(i) the difference between (I) the sum of the allowed expenditures for physicians' services in such category furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished in such category during each of the years 1995 through the previous year; divided by

''(ii) the Secretary's estimate of allowed expenditures for physicians' services in such category furnished during the year.

''(C) Determination of allowed expenditures.—For purposes of subparagraph (B), allowed expenditures for physicians' services in a category of physicians' services shall be determined as follows (as estimated by the Secretary):

''(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June of 1995.

''(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the cumulative expenditure target under subsection (f) for the fiscal year which begins during the year.

''(D) Determination of actual expenditures.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services in a category of physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

''(E) Restriction on variation from medicare economic index.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

''(i) greater than 103 percent of the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year; or

''(ii) less than 92.5 percent of the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year.''; and

(C) by adding at the end the following new paragraph:

''(4) Reporting requirements.—

''(A) In general.—Not later than November 1 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that describes the update in the conversion factor for physicians' services (as defined in subsection (f)(3)(A)) in the following year.

''(B) Commission review.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) for a year and shall submit to the Congress, by not later than December 1 of the year, a report containing its analysis of the conversion factor for the following year.''.

(2) Effective date.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(c) Establishment of Single Conversion Factor for 1996.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) Special rule for 1996.—For 1996, the conversion factor under this subsection shall be $34.60 for all physicians' services.''.

SEC. 15102. FREEZE IN UPDATES TO PAYMENT AMOUNTS FOR CERTAIN ITEMS AND SERVICES.

(a) Clinical Diagnostic Laboratory Tests.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended striking ''1994 and 1995'' and inserting ''1994, 1995, 1996, and 1997''.

(b) Durable Medical Equipment.—

(1) Covered items.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking ''a subsequent year'' and inserting ''1993, 1994, and 1995'', and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) for 1996 and 1997, 0 percentage points; and

''(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.''.

(2) Orthotics and prosthetics.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking ''1994 and 1995'' and inserting ''1994, 1995, 1996, and 1997''.

(c) Ambulatory Surgical Center Services.—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal years 1996 and 1997.

SEC. 15103. REDUCTION IN EFFECTIVE BENEFICIARY COINSURANCE RATE FOR CERTAIN HOSPITAL OUTPATIENT SERVICES.

(a) In General.—

(1) Ambulatory surgical center procedures.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(A) by striking ''of 80 percent''; and

(B) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(2) Radiology services and diagnostic procedures.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking ''of 80 percent''; and

(B) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) Reduction in Beneficiary Coinsurance Rate.—Section 1866(a)(2) (42 U.S.C. 1395cc(a)(2)) is amended by adding at the end the following new subparagraph:

''(E)(i) In the case of services furnished during a year for which the amount of payment under part B is determined under section 1833(i) or section 1833(n), clause (ii) of subparagraph (A) shall be applied by reducing '20 percent' by the percentage established for the year under clause (ii).

''(ii) The percentage established for a year under this clause shall be the percentage which, if applied for the year, will result in a reduction in projected total coinsurance payments under part B during the year in an amount equal to the Secretary's estimate of the reduction in expenditures under part B which would have occurred as a result of the enactment of section 15103(a) of the Medicare Enhancement Act of 1995 if this subparagraph were not in effect for the year.

''(iii) The Secretary shall establish and publish the percentage established for a year under this clause not later than October 1 preceding the year involved (or not later than December 1, 1995, in the case of the percentage established for 1996).''.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to services furnished during portions of cost reporting periods occurring on or after January 1, 1996.

SEC. 15104. EXPANDING COVERAGE OF PREVENTIVE BENEFITS.

(a) Providing Annual Screening Mammography for Women Over Age 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking ''but under 65 years of age,''; and

(2) by striking clause (v).

(b) Coverage of Screening Pap Smear and Pelvic Exams.—

(1) Coverage of pelvic exam; increasing frequency of coverage of pap smear.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking ''Smear'' and inserting ''Smear; Screening Pelvic Exam'';

(B) by striking ''(nn)'' and inserting ''(nn)(1)'';

(C) by striking ''3 years'' and all that follows and inserting ''3 years, or during the preceding year in the case of a woman described in paragraph (3).''; and

(D) by adding at the end the following new paragraphs:

''(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

''(3) A woman described in this paragraph is a woman who—

''(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

''(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).''.

(2) Waiver of deductible.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking ''and (5)'' and inserting ''(5)''; and

(B) by striking the period at the end and inserting the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) Conforming amendments.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) Coverage of Colorectal Screening.—

(1) In general.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) Frequency and Payment Limits for Screening Fecal-Occult Blood Tests, Screening Flexible Sigmoidoscopies, and Screening Colonoscopy.—

"(1) Frequency limits for screening fecal-occult blood tests.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

"(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

"(2) Screening flexible sigmoidoscopies.—

"(A) Payment amount.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) Frequency limits.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) Screening colonoscopy for individuals at high risk for colorectal cancer.—

"(A) Payment amount.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) Frequency limit.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

"(C) Factors considered in establishing criteria for determining individuals at high risk.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) Revision of frequency.—

"(A) Review.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

"(B) Revision of frequency.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.".

(2) Conforming amendments.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking "and" at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(III) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(ii) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) Prostate Cancer Screening Tests.—

(1) In general.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and".

(2) Tests described.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.".

(3) Payment for prostate-specific antigen blood test under clinical diagnostic laboratory test fee schedules.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(4) Conforming amendment.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(e) Diabetes Screening Benefits.—

(1) Diabetes outpatient self-management training services.—

(A) In general.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking "and" at the end of subparagraph (N);

(ii) by striking "and" at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

"(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and".

(B) Definition.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management Training Services

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National

Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.".

(C) Consultation with organizations in establishing payment amounts for services provided by physicians.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) Blood-testing strips for individuals with diabetes.—

(A) Including strips as durable medical equipment.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: ", and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);".

(2) Payment for strips based on methodology for inexpensive and routinely purchased equipment.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by adding "or" at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

"(iv) which is a blood-testing strip for an individual with diabetes,".

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

SEC. 15105. REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS OF HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 15106. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "1995" and inserting "1996", and

(2) in subparagraph (B)(v), by inserting "and 1996" after "1995".

SEC. 15107. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) Payment for Jointly Furnished Single Case.—

(1) Payment to physician.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:

"(C) Payment for single case.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".

(2) Payment to CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".

(b) Effective Date.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

Subtitle C—Provisions Relating to Parts A and B

PART 1—MEDICARE SECONDARY PAYER

SEC. 15201. EXTENSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) Data Match.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) Application to Disabled Individuals in Large Group Health Plans.—

(1) In general.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) Conforming amendments.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) Period of Application to Individuals with End Stage Renal Disease.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "18-month", and

(2) by striking the second sentence.

SEC. 15202. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) In General.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) Time, filing, and related provisions under primary plan.—Requirements under a primary plan as to the filing of a claim, time limitations for the filing of a claim, information not maintained by the Secretary, or notification or pre-admission review, shall not apply to a claim by the United States under clause (ii) or (iii).".

(b) Effective Date.—The amendment made by subsection (a) applies to items and services furnished after 1993.

SEC. 15203. CLARIFICATION OF LIABILITY OF THIRD PARTY-ADMINISTRATORS.

(a) In General.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended by inserting ", or which determines claims under the primary plan" after "primary plan".

(b) Claims Between Parties Other Than the United States.— Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)), (as amended by section 15201(a)) is further amended by adding at the end the following new clause:

"(vi) Claims between parties other than the United States.—A claim by the United States under clause (ii) or (iii) shall not preclude claims between other parties.".

(c) Effective Date.—The amendments made by the previous subsections apply to items and services furnished after 1993.

SEC. 15204. CLARIFICATION OF PAYMENT AMOUNTS TO MEDICARE.

(a) In General.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended to read as follows:

"(i) Repayment required.—

"(I) Any payment under this title, with respect to any item or service for which payment by a primary plan is required under the preceding provisions of this subsection, shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for that item or service has been or should have been made under those provisions. If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).

"(II) The amount owed by a primary plan under the first sentence of subclause (I) is the lesser of the full primary payment required (if that amount is readily determinable) and the amount paid under this title for that item or service.".

(b) Conforming and Technical Amendments.—

(1) Subparagraphs (A)(i)(I) and (B)(i) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended by inserting "(or eligible to be covered)" after "covered".

(2) Section 1862(b)(1)(C)(ii) (42 U.S.C. 1395y(b)(1)(C)(ii)) is amended by striking "covered by such plan".

(3) The matter in section 1861(b)(2)(A) (42 U.S.C. 1395x(b)(2)(A)) preceding clause (i) is amended by striking ", except as provided in subparagraph (B),".

(c) Effective Date.—The amendments made by the previous subsections apply to items and services furnished after 1993.

SEC. 15205. CONDITIONS FOR DOUBLE DAMAGES.

(a) In General.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking ", in accordance with paragraph (3)(A)", and

(2) by inserting ", unless the entity demonstrates that it did not know, and could not have known, of its obligation to pay" after "against that entity".

(b) Conforming Amendment.—Section 1862(b)(3)(A) (42 U.S.C. 1395y(b)(3)(A)) is amended by striking "(or appropriate reimbursement)".

(c) Effective Date.—The amendments made by this section shall apply to items and services furnished after 1993.

PART 2—OTHER PROVISIONS RELATING TO PARTS A AND B

SEC. 15221. MAKING ADDITIONAL CHOICES OF HEALTH PLANS AVAILABLE TO BENEFICIARIES.

(a) DEFINITION OF PPO.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) A preferred provider organization (as defined in paragraph (2)) shall be considered to be an eligible organization under this section.

"(2) In this section, the term 'preferred provider organization' means an organization that—

"(A) would be an eligible organization (as defined in subsection (b)) if—

"(i) clauses (ii) through (iv) of subsection (b)(2)(A) did not apply,

"(ii) subsection (b)(2)(C) did not apply, and

"(iii) subsection (b)(2)(D) only applied (in the case of services not provided under this title) to the physicians' services the organization provides; and

"(B) permits enrollees to obtain benefits through any lawful provider.

Nothing in subparagraph (B) shall be construed as requiring that the benefits for services provided through providers that do not have a contract with the organization be the same as those for services provided through providers that have such contracts so long as an enrollee's liabilities do not exceed the liabilities that the enrollee would have under parts A and B if the individual were not enrolled under this section.".

(b) PARTIAL RISK PAYMENT METHODS.—Section 1876 (42 U.S.C. 1395mm) is further amended by adding at the end the following new subsection:

"(l) Notwithstanding the previous provisions of this section, at the election of an eligible organization the Secretary may establish an alternative partial-risk-sharing mechanism for making payment to the organization under this section. Under such mechanism fee-for-service payments would be made to the organization for some services provided under the contract, under such conditions and subject to such restrictions as the Secretary may determine.".

(c) CONFORMING AMENDMENT.—Section 1876 (42 U.S.C. 1395mm) is further amended—

(1) in the heading by striking "ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS" and inserting "ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND PREFERRED PROVIDER ORGANIZATIONS", and

(2) in subsection (c)(3)(E)(ii), by inserting "(if any)" after "the restrictions".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

SEC. 15222. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

"TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2101. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

"(c) TRANSFERS TO FUND.—

"(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

"(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

"(A) the nationwide total of the amounts that would have been paid under section 1876(a)(4) during the year but for the exclusion of medical education payments from the adjusted average per capita cost pursuant to section 1876(a)(4)(B)(ii); and

"(B) the nationwide total of the amounts paid under section 1876(a)(4) during the year.

"(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.".

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the "Council").

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended—

(A) by striking "(4)" and inserting "(4)(A)"; and

(B) by adding at the end the following new subparagraph:

"(B) In determining the adjusted average per capita cost for a contract year under subparagraph (A), the Secretary shall exclude any amounts which the Secretary estimates would be payable under this title during the year for—

"(i) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

"(ii) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).".

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

"(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount excluded from the adjusted average per capita cost for the fiscal year pursuant to section 1876(a)(4)(B)(i).".

SEC. 15223. REVISIONS IN DETERMINATION OF AMOUNT OF PAYMENT FOR MEDICAL EDUCATION.

(a) INDIRECT MEDICAL EDUCATION.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clauses:

"(v) In determining such adjustment with respect to a hospital for discharges occurring on or after October 1, 1995, and on or before September 30, 2002—

"(I) the total number of interns and residents counted by the Secretary may not exceed the number of interns and residents counted with respect to the hospital as of August 1, 1995, and

"(II) the number of interns and residents counted by the Secretary who are not primary care residents (as defined in subsection (h)(5)(H)) may not exceed the number of such residents counted with respect to the hospital as of such date.

"(vi) In calculating the number of full-time-equivalent interns and residents of a hospital in determining such adjustment with respect to the hospital, the Secretary shall provide for a weighting factor of .50 with respect to each intern and resident who is not in an initial residency period (as defined in subsection (h)(5)(F)).".

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by striking "any entity" and all that follows through "and residents)" and inserting "any other entity under an agreement with the hospital".

(b) DIRECT MEDICAL EDUCATION.—

(1) LIMITATION ON NUMBER OF RESIDENTS.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002—

"(i) the total number of full-time-equivalent residents determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents with respect to the program as of August 1, 1995, and

"(ii) the number of full-time-equivalent residents determined under this paragraph with respect to the program who are not primary care residents (as defined in paragraph (5)(H)) may not exceed the number of such residents counted with respect to the program as of such date.".

(2) CONTINUATION OF FREEZE ON UPDATES TO FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D)(ii) (42 U.S.C. 1395ww(h)(2)(D)(ii)) is amended by striking "fiscal year 1994 or fiscal year 1995" and inserting "fiscal years 1994, 1995, 1996, or 1997".

(3) PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) Beginning with cost reporting periods beginning on or after July 1, 1996, notwithstanding any other provision of this title, the Secretary may make payments (in such amounts and in such form as the Secretary considers appropriate) to entities other than hospitals for the direct costs of medical education, if such costs are incurred in the operation of an approved medical residency training program described in subsection (h).".

(c) EXPANDING DEFINITION OF PRIMARY CARE RESIDENTS.—Section 1886(h)(5)(H) (42 U.S.C. 1395ww(h)(5)(H)) is amended by inserting "obstetrics and gynecology," after "geriatric medicine,".

(d) EFFECTIVE DATE.—Except as provided otherwise in this section (or in the amendments made by this section), the amendments made by this section apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 15224. PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by inserting "and before October 1, 1996," after "July 1, 1987" in subclause (III),

(2) by striking the period at the end of the matter following subclause (III), and inserting ", and",

(3) by adding at the end the following new subclause:

"(IV) October 1, 1996, 105 percent of the median of the labor-related and nonlabor per visit costs for free standing home health agencies.".

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "July 1, 1996" and inserting "October 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(d) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(e) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

The Secretary shall develop such a system for implementation in fiscal year 2000.

(f) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

"(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.".

(g) LIMITATION ON PART A COVERAGE.—

(1) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 160 visits during any spell of illness;".

(2) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(A) by striking "or" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 160 visits during such spell.".

(3) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5)).''; and

(B) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

(h) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.".

(i) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 15225. REQUIRING HEALTH MAINTENANCE ORGANIZATIONS TO COVER APPROPRIATE RANGE OF SERVICES.

(a) IN GENERAL.—Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(9) The organization shall not deny any health care professionals, based solely on the license or certification as applicable under State law, the ability to participate in providing services covered under the contract under this section, or be reimbursed or indemnified or by a network plan for providing such services under the contract.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to risk-sharing contracts under section 1876 of the Social Security Act which entered into or renewed on or after January 1, 1996.

SEC. 15226. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of either an approved device or a covered procedure.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device or a covered procedure.

(c) DEFINITIONS.—In this section—

(1) the term "approved device" means a medical device (or devices) which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means—

(A) a medical device or devices (other than a device described in paragraph (1)) approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act, or

(B) an investigational combination product under section 503(g) of the Federal Food, Drug, and Cosmetic Act which includes a device (or devices) authorized for use under section 505(i) of such Act.

SEC. 15227. COMMISSION ON THE FUTURE OF MEDICARE AND THE PROTECTION OF THE HEALTH OF THE NATION'S SENIOR CITIZENS.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Future of Medicare and the Protection of the Health of the Nation's Senior Citizens (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) analyze indicators of the health status of individuals in the United States who are eligible for benefits under the medicare program;

(B) make specific recommendations on actions which may be taken to improve the medicare program which would promote the health of medicare beneficiaries;

(C) analyze the effect of changes in the medicare program (including changes in medicare payments) on the access to and delivery of health care services to individuals who are not medicare beneficiaries;

(D) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(E) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program.

(B) The most efficient and effective manner of administering the program.

(C) Methods used by other nations to finance the delivery of health care services to their citizens.

(D) The financial impact on the medicare program of increases in the number of individuals in the United States without health insurance coverage.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint 3 members.

(C) The Minority Leader of the Senate shall appoint 3 members.

(D) The Speaker of the House of Representatives shall appoint 3 members.

(E) The Minority Leader of the House of Representatives shall appoint 3 members.

(2) Chairman and vice chairman.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) Vacancies.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) Quorum.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) Meetings.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) Compensation and reimbursement of expenses.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) Staff and Consultants.—

(1) Staff.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) Powers.—

(1) Hearings and other activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) Studies by GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) Cost estimates by congressional budget office.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) Detail of federal employees.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) Technical assistance.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) Use of mails.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) Obtaining information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) Administrative support services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) Acceptance of donations.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) Printing.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) Report.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) Termination.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) Authorization of Appropriations.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

Subtitle D—Preventing Fraud and Abuse

PART 1—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

SEC. 15301. ANTI-KICKBACK STATUTORY PROVISIONS.

(a) Revision to Penalties.—

(1) Permitting secretary to impose civil monetary penalty.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraphs (1) and (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);".

(2) Description of civil monetary penalty applicable.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "given)." at the end of the first sentence and inserting the following: "given or, in cases under paragraph (4), $50,000 for each such violation)."; and

(B) by striking "claim." at the end of the second sentence and inserting the following: "claim (or, in cases under paragraph (4), damages of not more than three times the total amount of remuneration offered, paid, solicited, or received.".

(3) Increase in criminal penalty.—Paragraphs (1) and (2) of section 1128B(b) (42 U.S.C. 1320a–7b(b)) are each amended—

(A) by striking "$25,000" and inserting "$50,000"; and

(B) by striking the period at the end and inserting the following: ", and shall be subject to damages of not more than three times the total remuneration offered, paid, solicited, or received.".

(b) Revisions to Exceptions.—

(1) Exception for discounts.—Section 1128B(b)(3)(A) (42 U.S.C. 1320a–7b(b)(3)(A)) is amended by striking "program;" and inserting "program and is not in the form of a cash payment;".

(2) Exception for payments to employees.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting at the end "if the amount of remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals, except that such employee can be paid remuneration in the form of a productivity bonus based on services personally performed by the employee.".

(3) Exception for waiver of coinsurance by certain providers.—Section 1128B(b)(3)(D) (42 U.S.C. 1320a–7b(b)(3)(D)) is amended to read as follows:

"(D) a waiver or reduction of any coinsurance or other copayment if—

"(i) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

"(ii) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(iii) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

"(iv) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

"(v) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan (as defined in section 1128(j)); and".

(4) New exception for capitated payments.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972; and

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service.".

(c) AUTHORIZATION FOR THE SECRETARY TO ISSUE REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a-7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions described in paragraph (3).".

(d) CLARIFICATION OF OTHER ELEMENTS OF OFFENSE.—Section 1128B(b) (42 U.S.C. 1320a-7b(b)) is amended—

(1) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(2) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend"; and

(3) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.".

SEC. 15302. CIVIL MONEY PENALTIES.

(a) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by section 15301(a)(1), is amended—

(A) by striking "; or" at the end of paragraph (3) and inserting a semicolon;

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program, other than to influence an individual enrolled in a managed care plan or a point-of-service plan (as defined in section 1128(j)) to receive benefits under the plan in accordance with established practice patterns for the delivery of medically necessary services;".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver or reduction of coinsurance amounts, and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver or reduction of coinsurance amounts by a person or entity, if—

"(A) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

"(B) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(C) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

"(D) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

"(E) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan under section 1128(j).".

(b) ADDITIONAL OFFENSES.—Section 1128A(a) of such Act, as amended by section 15301(a)(1) and subsection (a)(1), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the semicolon at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) engages in a practice which has the effect of limiting or discouraging (as compared to other plan enrollees) the utilization of medically necessary health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

"(7) substantially fails to cooperate with a quality assurance program or a utilization review activity; or

"(8) engaging in a pattern of failing substantially to provide or authorize medically necessary items and services that are required to be provided to an individual covered under a health plan (as defined in section 1128(j)) or public program for the delivery of or payment for health care items or services, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individual;".

"(9) submits false or fraudulent statements, data or information on claims to the Secretary, a State health care agency, or any other Federal, State or local agency charged with implementation or oversight of a health plan or a public program that the person knows or should know is fraudulent;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by section 15301(a), subsection (a)(1), and subsection (b), is amended in the matter following paragraph (9)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting after "under paragraph (4), $50,000 for each such violation" the following: "; in cases under paragraph (5), $10,000 for each such offer, payment, or transfer; in cases under paragraphs (6) through (9), an amount not to exceed $10,000 for each such determination by the Secretary"; and

(3) by striking "twice the amount" and inserting "three times the amount".

(d) INTEREST ON PENALTIES.—Section 1128A(f) (42 U.S.C. 1320a-7a(f)) is amended by adding after the first sentence the following: "Interest shall accrue on the penalties and assessments imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where the penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of penalties and assessments owed to cover the costs of collection.".

(e) AUTHORIZATION TO ACT.—

(1) IN GENERAL.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is amended by striking all that follows "(b)" and inserting the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(2) EFFECTIVE DATE.—The amendment made by this paragraph (1) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

(f) CLARIFICATION OF PENALTY IMPOSED ON EXCLUDED PROVIDER FURNISHING SERVICES.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting "who furnished the service" after "in which the person".

SEC. 15303. PRIVATE RIGHT OF ACTION.

Section 1128A (42 U.S.C. 1320a-7a) is amended by adding at the end the following new subsection:

"(m)(1) Subject to paragraphs (2) and (3), a carrier offering an insured health plan and the sponsor of a self-insured health plan that suffers financial harm as a direct result of the submission of claims by an individual or entity for payment for items and services furnished under the plan which makes the individual or entity subject to a civil monetary penalty under this section may, in a civil action against the individual or entity in the United States District Court, obtain damages against the individual or entity and such equitable relief as is appropriate.

"(2) A carrier or sponsor may bring a civil action under this subsection only if the carrier or sponsor provides the Secretary and the Attorney General with written notice of the intent to bring an action under this subsection, the identities of the individuals or entities the carrier or sponsor intends to name as defendants to the action, and all information the carrier or sponsor possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

"(3) A carrier or sponsor may bring a civil action under this subsection only if any cf the following conditions are met:

"(A) During the 60-day period that begins on the date the Secretary receives the written notice described in paragraph (2), the Secretary does not notify the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

"(B) If the Secretary notifies the carrier or sponsor during the 60-day period described in subparagraph (A) that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, the Secretary subsequently notifies the carrier or sponsor that the Secretary no longer intends to initiate such a proceeding against the defendants.

"(C) After the expiration of the 2-year period that begins on the date the Secretary notifies the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, the Secretary has not made a good faith effort to initiate such a proceeding against the defendants.

"(4) No action may be brought under this subsection more than 6 years after the date of the activity with respect to which the action is brought.".

SEC. 15304. AMENDMENTS TO EXCLUSIONARY PROVISIONS IN FRAUD AND ABUSE PROGRAM.

(a) Mandatory Exclusion of Individual Convicted of Criminal Offense Related to Health Care Fraud.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) Felony conviction relating to fraud.—Any individual or entity that has been convicted under Federal or State law, in connection with the delivery of a health care item or service on or after January 1, 1997, or with respect to any act or omission on or after such date in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) Conforming amendment.—Section 1128(b)(1) (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion From Medicare and State Health Care Programs.—

(1) In general.—Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraphs (1), (2), or (3) of subsection (b), the period of exclusion shall be a minimum of 3 years, unless the Secretary determines that an alternative period is appropriate because of aggravating or mitigating circumstances.

"(E) In the case of an exclusion of an individual or entity under paragraph (4) or (5) of subsection (b), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

(2) Conforming amendment.—Section 1128(c)(3)(A) (42 U.S.C. 1320a-7(c)(3)(A)) is amended by striking "subsection (b)(12)" and inserting "paragraph (1), (2), (3), (4), (6)(B), or (12) of subsection (b)".

SEC. 15305. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS RELATING TO QUALITY OF CARE.

(a) Minimum Period of Exclusion for Practitioners and Persons Failing To Meet Statutory Obligations.—

(1) In general.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than one year)".

(2) Conforming amendment.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) Amount of Civil Money Penalty.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "$10,000 for each instance".

(c) Repeal of "Unwilling or Unable" Condition for Imposition of Sanction.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations," and

(2) by striking the third sentence.

SEC. 15306. REVISIONS TO CRIMINAL PENALTIES.

(a) Treble Damages for Criminal Sanctions.—Section 1128B (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a) or (c) any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(b) Identification of Community Service Opportunities.—Section 1128B (42 U.S.C. 1320a-7b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

SEC. 15307. DEFINITIONS.

Section 1128 (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

"(j) Other Definitions Relating to Health Plans.—

"(1) Health plan.—The term 'health plan' means—

"(A) any contract of health insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, that is provided by a carrier in a State; or

"(B) an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides health benefits in a State and is funded in a manner other than through the purchase of one or more policies or contracts described in subparagraph (A).

"(2) Managed care plan.—The term 'managed care plan' means a health plan that provides for items and services covered under the plan primarily through providers in the provider network of the plan.

"(3) Point-of-service plan.—The term 'point-of-service plan' means a health plan other than a managed care plan that permits an enrollee to receive benefits through a provider network.

"(4) Provider network.—The term 'provider network' means, with respect to a health plan, providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services covered under the plan to individuals enrolled in the plan.".

SEC. 15308. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1997.

PART 2—INTERPRETIVE RULINGS ON KICKBACKS AND SELF-REFERRAL

SEC. 15311. ESTABLISHMENT OF PROCESS FOR ISSUANCE OF INTERPRETIVE RULINGS.

(a) Establishment.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Inspector General of the Department of Health and Human Services) shall establish a process under which individuals and entities may submit a request to the Secretary for an interpretive ruling regarding the provisions of section 1128B(b) of the Social Security Act or part 3 which relate to kickbacks, bribes, and rebates, or the provisions of section 1877 of the Social Security Act.

(b) Deadline for Rejection of Request.—If the Secretary of Health and Human Services rejects a request for an interpretive ruling submitted under this section, the Secretary shall notify the individual submitting the request of the rejection not later than 60 days after receiving the request.

SEC. 15312. EFFECT OF ISSUANCE OF INTERPRETIVE RULING.

(a) No Legal Effect.—If the Secretary of Health and Human Services issues an interpretive ruling under section 15311, the ruling shall not be binding upon the Secretary, the party requesting the ruling, or any other party.

(b) Publication of Rulings.—The Secretary of Health and Human Services shall publish each interpretive ruling issued under section 15311 in the Federal Register.

SEC. 15313. IMPOSITION OF FEES.

(a) In General.—The Secretary of Health and Human Services shall require an individual or entity requesting an interpretive ruling under section 15311 to submit a fee.

(b) Amount.—The amount of the fee required under subsection (a) shall be equal to the costs incurred by the Secretary in responding to the request.

PART 3—DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE

SEC. 15321. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 15224(f), is amended by adding at the end the following new section:

"APPROPRIATIONS FOR COMBATING FRAUD AND ABUSE

"SEC. 1894. (a) DIRECT SPENDING FOR PAYMENT SAFEGUARD ACTIVITIES.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for each fiscal year such amounts as are necessary to carry out the payment safeguard activities described in paragraph (2), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The payment safeguard activities described in this paragraph are as follows:

"(A) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review.

"(B) Audit of cost reports.

"(C) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(D) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(B) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(C) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(D) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(E) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(F) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(G) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(b) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and consumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(c) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under subsection (a) and subsection (b) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

PART 4—PREEMPTION OF STATE CORPORATE PRACTICE LAWS UNDER MEDICARE

SEC. 15331. PREEMPTION OF STATE LAWS PROHIBITING CORPORATE PRACTICE OF MEDICINE FOR PURPOSES OF MEDICARE.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"PERMITTING CORPORATIONS TO SERVE AS PROVIDERS

"SEC. 1893. The Secretary may not refuse to treat any individual or entity as a provider of services under this title or refuse to make payment under this title to the individual or entity on the grounds that the individual or entity is prohibited from practicing medicine under a provision of State or local law which prohibits a corporation from practicing medicine.".

PART 5—MEDICARE ANTI-FRAUD AND ABUSE COMMISSION

SEC. 15341. ESTABLISHMENT OF MEDICARE ANTI-FRAUD AND ABUSE COMMISSION

(a) IN GENERAL.—There is established a commission to be known as the "Medicare Anti-Fraud and Abuse Commission" (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 8 members as follows:

(1) OFFICIALS.—

(A) The Secretary of Health and Human Services (or the Secretary's designee).

(B) The Inspector General of the Department of Health and Human Services (or the Inspector General's designee).

(C) The Administrator of the Health Care Financing Administration (or the Administrator's designee).

(2) PUBLIC MEMBERS.—Five members, appointed by the President, of which—

(A) one shall be a representative of physicians;

(B) one shall be a representative of hospital administrators;

(C) one shall be a representative of medicare carriers;

(D) one shall be a representative of medicare peer review organizations; and

(E) one shall be a representative of medicare beneficiaries.

In making appointments under this paragraph of an individual who is a representative of persons or organizations, the President shall consider the recommendations of national organizations that represent such persons or organizations. The President shall report to Congress, within 90 days after the date of the enactment of this Act, the names of the members appointed under this paragraph.

(c) TERMS.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

SEC. 15342. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) investigate the nature, magnitude, and cost of health care fraud and abuse in the medicare program, and

(2) identify and develop the most effective methods of preventing, detecting, and prosecuting or litigating such fraud and abuse, with particular emphasis on coordinating public and private prevention, detection, and enforcement efforts.

(b) PARTICULARS.—Among other items, the Commission shall examine at least the following:

(1) Mechanisms to provide greater standardization of claims administration in order to accommodate fraud prevention and detection.

(2) Mechanisms to allow more freedom of the medicare program to exchange information for coordinating case development and prosecution or litigation efforts, without undermining patient and provider privacy protections or violating anti-trust laws.

(3) Criteria for physician referrals to facilities in which they (or family members) have a financial interest.

(4) The availability of resources to the medicare program to combat fraud and abuse.

(c) REPORT.—After approval by a majority vote, a quorum being present, the Commission shall transmit to Congress a report on its activities. The report shall be transmitted not later than 18 months after the date that a majority of the public members of the Commission have been appointed. The report shall contain a detailed statement of the Commission's findings, together with such recommendations as the Commission considers appropriate.

SEC. 15343. ORGANIZATION AND COMPENSATION.

(a) ORGANIZATION.—

(1) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(2) CHAIRMAN.—The Commission shall elect one of its members to serve as chairman of the Commission.

(3) MEETINGS.—The Commission shall meet at the call of the chairman or a majority of its members. Meetings of the Commission are open to the public under section 10(a)(10) of the Federal Advisory Committee Act, except that the Commission may conduct meetings in executive session but only if a majority of the members of the Commission (a quorum being present) approve going into executive session.

(b) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

SEC. 15344. STAFF OF COMMISSION.

(a) IN GENERAL.—The Commission may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment and compensation and other conditions of service in the competitive service.

(b) DETAIL OF FEDERAL EMPLOYEES.—Upon request of the chairman, any Federal employee who is subject to such laws, rules, and regulations, may be detailed to the Commission to assist it in carrying out its functions under this title, and such detail shall be without interruption or loss of civil service status or privilege.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of 120 percent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

SEC. 15345. AUTHORITY OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OBTAINING OFFICIAL DATA.—

(1) IN GENERAL.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of that department or agency shall furnish that information to the Commission.

(2) ACCESS TO INFORMATION.—Information obtained by the Commission is available to the public in the same manner in which information may be made available under sections 552 and 552a of title 5, United States Code.

(c) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property for the purpose of aiding or facilitating the work of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter which the Commission is authorized to investigate under this title. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

SEC. 15346. TERMINATION.

The Commission shall terminate 90 days after the date the report is submitted under section 15342(c).

SEC. 15347. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its functions, to remain available until expended.

The CHAIRMAN. The Chair would point out that one opponent is all that the rule allows. The gentleman from Texas [Mr. ARCHER] will be recognized in opposition.

Mr. ARCHER. Mr. Chairman, I ask unanimous consent to yield half of my time to the gentleman from Virginia [Mr. BLILEY] so that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GIBBONS. Mr. Chairman, I would ask unanimous consent that I may allocate half of my time to the gentleman from Michigan [Mr. DINGELL] so that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] is recognized for 15 minutes.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have completed an historic debate, 3 hours on probably the biggest bill that has been considered by this body in my 33 years. Yesterday, we spent not 3 hours, but 4 hours on shrimp. So much for priorities. So much for Speaker GINGRICH's belief about what is important in America.

Mr. Chairman, we have a substitute. Now I am going to let everybody in on a secret. It is not going to be adopted. The Republicans knew that when they made it in order. They have all received their marching orders. If they vote for this, they get fired. But despite all of that, this substitute does the work.

Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, first and foremost the substitute that is before us will deal with the solvency of the Medicare trust fund. It provides for $90 billion of savings to go into the Medicare trust fund providing for solvency to the year 2006. We have followed the suggestions of the trustees.

It is equivalent to the Republican bill in solvency. The Republican bill originally was advertised that it was going to go to the year 2014. They have later changed it to 2010. If we take away the magic wand of taking general funds into the trust fund, it is 2006.

Mr. Chairman, our bill is equivalent to the Republican bill on solvency for 10 years. Why do we have in the Republican bill three times more cuts in Medicare? It is not needed for the solvency. They do not use it for the solvency. It is used for a tax cut, paid for by the Medicare beneficiaries.

Mr. Chairman, they can use all the language they want about lock-boxes and that we have in the tax bill separate ways to pay for the tax bill, but I ask my colleagues to answer a simple question: If we do not pass this Medicare bill, the tax bill cannot go into effect, can it? Because we must have the savings from this bill in order to finance the tax cut.

Pure and simple, our seniors are being asked to pay for the tax cut. The substitute envisions no such thing. As a consequence of these draconian cuts, seniors are forced into plans that take away their choice. They have to pay more, $1,000 a year, just to maintain the same benefits. We have gone through that. If seniors have to pay more for the same benefits, it is a cut.

The Democratic substitute does not do that. The Democratic substitute provides for $90 billion of savings to go into the Medicare trust fund without jeopardizing our seniors' ability to have affordable health care.

There is no increase, no increase in the premium costs to our beneficiaries. Unlike the Republican bill that changes current law and allows the Medicare Part B premium to go up to $87 a month, the substitute that we are submitting, the premiums would be $30 a month less, $360 a year less.

For seniors who have limited income, who already have the highest out-of-pocket costs of any group of Americans, that is a large increase. Our substitute does not do that.

Mr. Chairman, let me talk for a moment to my friends who are part of the coalition budget. This substitute is better on deficit reduction, because we do not believe in the tax cut. If you add the revenue lost to the Treasury by the tax cut of $245 billion to the $90 billion of savings that we have in this bill, we get $335 billion in deficit reduction compared to $270 on the Republican side.

We are $65 billion better off, better off on deficit reduction, as a result of the substitute that is before you. I would encourage my coalition Members to take a look at that particular point.

We also provide for reform in our substitute. We move forward rather than backward on fraud and abuse. We strengthen, not weaken, fraud and abuse. We do not weaken the standards for civil penalties that is in the Republican bill. We provide additional protection, so that we can go after fraud and abuse.

Do not take the Democrats' word on it. Do not take the Republicans' word on it. The inspector general has said, an independent person, that the Republican bill threatens the ability to go after fraud and abuse. We move forward, not backward, in providing additional benefits to our seniors.

We provide for colorectal screening and annual mammography testing. Why? Because medical technology tells us that these tests are needed today. If we do not provide these tests, we are moving backward in providing seniors the care that they need. Our bill moves forward, not backward. Seniors already have too high out-of-pocket costs. They need these types of screenings.

Mr. Chairman, I say to Members that we have a choice before us. We do not have to vote for the extreme, mean-spirited Republican approach that would slash Medicare in order to pay for tax cuts. We have a substitute before us that provides for the solvency of the Medicare trust fund, provides for reform in the Medicare system, protects our seniors, protects the system, and deals with solvency.

Mr. Chairman, I urge Members to support the Democrat substitute.

□ 1530

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER], a respected member of the committee.

Mr. HERGER. Mr. Chairman, in April, the Medicare trustees stated that if nothing was done, Medicare would begin going broke next year, and become functionally bankrupt by the year 2002. Mr. Chairman, the Republican reforms proposed in the Medicare preservation act will preserve, will protect and will strengthen Medicare for future generations.

Mr. Chairman, there are clear and distinct differences between the Republican plan that guarantees Medicare's survival and the Democratic substitute. While the Republican plan saves Medicare for the next generation—the Democrat bill only saves Medicare through the next election.

While the Republican bill fixes Medicare for the long-term without increasing co-payments or deductibles, the Democrat substitute is nothing more than a band-aid, producing, at best, a short-term solution to this gaping problem. In fact, by the time the baby boomers retire, the Democrat alternative will have left Medicare with a projected deficit of over $300 billion.

Conversely, the Republican plan is specific and realistic and gives seniors the right to choose the Medicare plan that best suits their individual health care needs. Seniors will have the right to choose a HMO or a medisave account or they have the right to stay where they currently are, with their current doctor or hospital.

The Democrat plan, on the other hand, doesn't give seniors the right to choose—trapping them in the same one size fits all program.

Mr. Chairman, our choice is clear, we can either stay with our present broken-down 1965 model Medicare system or we can move ahead to a much improved 1995 model. I urge my colleagues to oppose this substitute and support the Republican Medicare preservation act.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my Republican colleagues have made it plain they have a low regard for the intellect of the American senior citizens. They accuse us of frightening the senior citizens and also the hospitals. The hard fact is that the hospitals and the senior citizens have had the daylights scared out of them by this Republican plan.

Because the people, contrary to what might be thought, understand what is going on. My Republican colleagues expect seniors to accept an absurd declaration that, unless we destroy the Medicare plan now, it will destroy itself. What is really very simple here is this: If you drop the tax cut for the rich, none of these Medicare cuts are necessary.

Do Democrats want to protect Medicare? Of course. Remember, we created it over united Republican opposition. When I was sitting in the chair 30 years ago and we passed that legislation, 93 percent of my Republican colleagues voted against Medicare.

Do we wish to protect trust fund soundness? Of course. Now, there is a difference. My Republican colleagues accomplish that goal by raising senior citizens' taxes through higher premiums, reducing Social Security checks from which premiums are deducted, kicking the seniors out of their own doctor's office, denying them choice, shoving them into HMos which senior citizens do not want, closing local hospital emergency rooms, repealing nursing home standards that protect patients in nursing homes, allowing doctors to perform office tests in the office sink, and taking away the right of citizens to recover from malpractice.

They do this also by eliminating statutory protections against fraud and abuse. The Secretary of HHS, the Department of Justice and the Inspector General all warned that this is a direct consequence of the language in this bill.It is not necessary, as the Republicans do, to cut the budget of the Inspector General of HHS, who deals with waste, fraud and abuse. We Democrats think there is a better way. The gentleman from Florida, [Mr. GIBBONS], the gentleman from Washington [Mr. MCDERMOTT], and I offer this substitute to show the way.

It ensures the solvency of the Medicare part A trust fund for exactly the same length of time that the Republican claim for their bill, the year 2006. It saves the amount that the trustees tell us needs to be saved, $90 billion. It should not and it will not cost the seniors more.

How do we do it? Simple. We are not proposing a tax cut for the rich. If we take the tax cut off the table, it is not that difficult. The substitute is good. I urge that we follow this course, that we accept the leadership of the Democratic proposal on the solvency issue. I am happy to offer it with my colleagues, the gentleman from Washington [Mr. MCDERMOTT and the gentleman from Florida [Mr. GIBBONS] and I urge support of the amendment.

Mr. Chairman, the Republicans have made clear in this debate that they have a very low regard for the intellect of America's senior citizens. They expect seniors to accept without question their absurd declaration that unless we destroy the Medicare program now, it will destroy itself.

I say to my Republican colleagues, it's this simple: Drop your tax cut for the rich, and none of these Medicare cuts will be necessary.

Do we want to protect Medicare? Of course we do.

Do we want to ensure that the trust fund is sound, today, tomorrow, and for years to come. Of course we do.

The Republicans think that to accomplish that goal, they should raise seniors' taxes, reduce their Social Security checks, kick them out of their own doctors' offices, shove them into HMO's they don't want, close their local hospitals, repeal the nursing home standards that protect them, allow doctors to perform office tests in the kitchen sink, and then take away their right to recover when their doctor commits malpractice.

We think there is a better way.

Mr. GIBBONS, Mr. MCDERMOTT, and I are offering this substitute today to show the American people that there is a better way. it ensures the solvency of the Medicare part A trust fund. It does so for exactly the same length of time the Republicans claim for their bill, the year 2006. And it does so by saving the amount of money that the Medicare Trustees tell us needs to be saved: $90 billion. And it won't cost seniors more.

Specifically, this proposal includes: Only modest reductions in hospital payments—about half of what the Republican bill cuts—but protection for rural and urban hospitals that serve the uninsured; tough provisions to enhance prevention, detection, and prosecution of fraud and abuse; the nursing home quality standards in current law, which the Republicans would repeal.

Also, fair reductions in physician payments so that the AMA's members share the burden, rather than make out like bandits in a backroom holdup; reduced copayments for seniors; less than half the Republican cuts in home health care; and new preventive services, including more frequent mammography, colorectal screening, pap smears, and diabetes services.

How, you may ask, do we pay for this? The answer is simple: We aren't the ones proposing a $245 billion tax cut targeted to the rich. If you take the tax cut off the table, I say to my Republican colleagues, it's really not that difficult.

Mr. Chairman, this substitute is a good one. It is the right approach to the Medicare trust fund solvency issue. I am pleased to offer it with Mr. GIBBONS and Mr. MCDERMOTT. I urge support for the amendment.

Mr. Chairman, before I conclude, I want to express my thanks, and the thanks of all the Democratic members of the Commerce Committee, to the Democratic staff of the committee—Bridget Taylor, Kay Holcombe, Reid Stuntz, Chris Knauer, David Tittsworth, Nick Karamanos, Carla Hultberg, Elaine Sheets, Candy Butler, and Sharon Davis. I add our thanks to Karen Nelson from the Staff of Subcommittee ranking member HENRY WAXMAN, and to the staffs of all the Democratic members of the committee.

I also want to commend the excellent staff of the Ways and Means Committee Democrats, with whom we worked closely and cooperatively on this bill and this substitute. And of course, I want to thank the legislative counsels, Ed Grossman and Noah Wofsy, for their invaluable help.

Mr. BLILEY. Mr. Chairman, I yield myself 3 minutes.

Before we go too much further, I do want to recognize the long days and nights put in by the staff of both the Committee on Commerce and the Committee on Ways and Means. I would like to make note of my troops, Mary McGrane, Howard Cohen, Melody Harned, Bud Albright, Jon Cohrssen, David Lusk, Mike Collins, Eric Bergren and Margaret Daze. We could not have made it this far without them.

Mr. Chairman, my colleagues, including the ranking Member from Michigan, talk about being tough on fraud, waste and abuse. Well, I would say to the Inspector General or to the Justice Department, to HHS, read our bill. Let us compare. Our bill allows $250,000 in criminal fines for individuals and $500,000 for corporations. It outlaws fraud and provides for fines and prison terms up to life. Their bill sets criminal fines at $50,000 maximum. Our bill, false statements makes it a felony, 5-year prison term, up to $500,000 fine. Their bill, false statements, sets fines at $50,000.

Our bill, theft, embezzlement makes it a felony, 10-year prison term, $500,000 fine. Their bill, no mention.

Our bill, bribery, graft, 15-year prison term, $500,000 fine. Their bill, no mention.

Obstruction of criminal investigation of health care crime, 5-year prison term, $500,000 fine. Their bill, no mention.

Democrats talk about our bill going light on fraud, and it is just plain wrong. Our bill is tough, much tougher than theirs. Once again, the Republicans deal with facts. The Democrats' talk does not withstand scrutiny.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman from Florida for yielding time to me, and I thank the gentleman from Michigan [Mr. DINGELL].

I am gratified that we have come today to be realistic about Medicare. If I can briefly talk about the facts, this captures the Republican plan on Medicare, the locking up of innocent seniors who simply came to protest and oppose $270 billion in cuts. They opposed the $24 million that Houston-Harris County hospitals will lose over a 7-year period. They oppose the increase in premiums.

Maybe I need to tell Members a little story about Ms. McDougall and a third grade class. In the class was a group with sweat shirts with R, and in the class was a group with sweat shirts with D. A little round-faced boy looked at the board, and Mrs. McDougall had $270 billion in cuts, increased premiums, losing physicians and some of our most needed hospitals. She asked the little boy, what does that mean to you? He applauded and said, tax cuts for the wealthy. Then she turned and asked the little round-faced girl with bright eyes. And she said, it is a loss for all America, but, she said, you know what, Mrs. McDougall, we are going to fix it.

That is what the Democrats are going to do. We are going to fix it. Vote for the substitute and vote down a disastrous plan for seniors.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a valued member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, Mark Twain once said "One of the most striking differences between a cat and a lie is that a cat only has nine lives." You have heard and will continue to hear that Republicans are cutting Medicare to pay for tax cuts. Members of this body who oppose saving Medicare have fabricated the Medicare tax-cut connection because it is useful politically.

Here are the facts: The tax bill approved by the House in April was financed on a pay-as-you-go basis. The tax provisions were paid for before the debate on Medicare reform even began. The savings came from welfare reform, lowering discretionary spending, and interest savings. We cut spending as we cut taxes and everyone here knows it.

Even so, you will hear that Republicans are cutting Medicare to pay for tax cuts.

Even after the Ways and Means Committee adopted my amendment to establish a Medicare lock-box—a Medicare Preservation trust fund—to lock in savings from the bill into the Medicare Program. The bill now contains my language making it illegal to use Medicare savings for tax cuts. Under the English-Whitefield local-box, the savings in Medicare will be used only to save Medicare. Most of the Members on the other side voted for the similar lock-box Mr. CRAPO offered this spring. They liked it back then. Even so, you will hear them claim that Republicans are cutting Medicare to pay for tax cuts.

Writing in the Washington Post on October 11, Robert Samuelson noted, "To listen to the Democrats, you'd think that every spending cut is needed to provide 'a tax break for the rich.' Medicare is being cut to help the wealthy; so is Medicaid, the school lunch program and welfare. The litany is endless. Maybe this makes good rhetoric, but it flunks first-grade arithmetic."

Mr. Chairman, only one plan saves Medicare, and keeps the savings from reform in Medicare. Reject this empty, placebo Band-Aid substitute, which doesn't even contain our lock-box protections.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I first want to give you some good news. I just talked to mom again in her hospital room. She is up on her feet and doing much better. She apparently exerted herself too much to the senior Olympics last week where she won three medals in the Baton Rouge State competition. The third medal was bronze for javelin throwing. So do not mess with mom. She is doing fine.

Let me first of all make it clear that what we are debating now finally is their comparison of two alternative plans, which I would hope we would have debated all day instead of motives and intentions and everything else. We are finally looking at the two alternative plans. And the plan we are examining now is a plan that simply says, we are going to try to save about $90 billion of waste, fraud, abuse, inefficiencies in the Medicare program in order that it not be bankrupt as opposed to the plan offered that saves as much as $270 billion out of waste, fraud, abuse, and inefficiencies in the program. Why one not the other?

Well, if we only want to Band-Aid the Medicare Program through the next election cycle, we have an alternative now we can vote for. If we want to fix it permanently, structurally, not for just the election but for the generation to follow, if we want to make sure that working Americans are not, after this election, taxed by payroll deduction increases that could double the payroll tax deduction, if we want to avoid that, then we have offered a plan that produces savings for the program and solvency for the next generation. That is the choice.

Even the blue dog Democrats have offered a third alternative which unfortunately is not on the floor. They recommended $170 billion in savings. President Clinton recommended $192 billion in savings. At least we are getting down to it here.

What is the right number in order to fix the program temporarily or permanently?

We propose a permanent fix. We propose fixing the program so it does not go bankrupt, not just for the election but for the next generation.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, just a speaker or two ago said that he had a plan that will cut down on fraud, waste, and abuse and then read a list of fines and costs and fines and costs and fines and costs that he prevails upon people.

The problem is, he never gets to the fines and costs because he has raised the legal standard that must be met in order to bring any kind of a case against someone who is ripping off the system. Having been a police officer for 13 years, you try to conduct an investigation, you keep putting a hurdle up higher and higher for law enforcement here to do their job.

□ 1545

But my colleagues' answer to fraud and abuse is, "After you catch them we'll put more fines and costs."

In the Democratic plans that have been presented, Mr. Chairman, we have asked our colleagues to look at things that do not raise the standard, but will make it easier to give law enforcement the tools they need to crack down on fraud, waste, and abuse; things such as putting civil penalties in the antikickback statute, giving subpoena power, something very simple. We do not have it under Medicare. Give us grand jury investigations; that was denied. Give us competitive bidding for durable medical equipment so we are not paying $28 for foam rubber mattresses that we can buy downtown for $19.95 or for the oxygen that will cost $280 under Medicare that only costs $123 for the VA. Let us competitively bid to cut down on the waste, and our colleagues said no. There is no provision against bundling. For every time there is a medical piece, they add another price to it and put it all together bundled up in one big package so they can charge more. That was what we saw happening in Medicare.

The way my colleagues can save this program is by cracking down on the fraud, waste, and abuse, but their answer is raise the standards for investigation, make it more difficult, make it harder on the seniors by putting all that money into fraud, waste, and abuse, and we have nothing to show for it.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Chairman, as my colleagues know, the October 16 issue of the Wall Street Journal reported that New Yorker Henry Sheinkoph would be a key strategist for President Clinton and the Democrats in the 1996 election. In this article Mr. Sheinkoph boasts, "I subscribe to terror. Terror works because it makes people hate." Scare tactics are also being used by the national Democratic Party to obstruct our efforts to save and strengthen the Medicare system.

The Democratic Party will not tell us that their part A tax has increased 23 times since the inception of this program. The part B premium has doubled in the last 8 years.

Four months ago this Congress passed a long-awaited and needed tax reduction for the American people. While it was not a tax reduction for the wealthy, it did provide a tax reduction for working men and women with children. While we do not apologize for that tax reduction, we will not allow savings in the Medicare plan over the next 7 years to be used to pay for our tax reductions.

This bill, the Republican bill, includes a lockbox provision which will establish a trust fund. All moneys saved under the plan will be appropriated to the trust fund. Money in the fund can only be used to provide care for the elderly, and cannot be used for any other purpose.

The Republican Medicare plan provides comprehensive change for a long-term solution. The Democratic plan is a Band-Aid approach that cannot and will not provide a long term solution.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget who has made a giant contribution over the years toward Medicare reform.

Mr. SHAYS. Mr. Chairman, I was asking some of my colleagues how are we doing. They said we are doing well, but it is tough when people are just throwing charges that are not true, and it is tough when the charges are not true, and they are not true. But it is easy when we have a bill like this to defend. Republicans, be proud of what has been done. Be proud of the fact that there are no increases in copayments. Be proud of the fact that there are no increases in deductibles. Be proud of the fact that you have not increased premiums. They will stay at 31½ percent. In fact, be proud of the fact that in one case we did increase premiums for the most wealthy. The most wealthy are going to have to pay more for Medicare part B. If someone is single and making $100,000, they will have to pay more for Medicare part B. If someone is married and makes over $150,000, they will have to pay more for Medicare part B. We are telling the most affluent that they have a rule to play in this.

Mr. Chairman, their bill lets the wealthy get all the benefits the poor get. Give me a break.

When I look at this bill, I know we have three major goals. We are going to get our financial house in order. We are going to do that and balance our budget. We are going to save our trust funds. We are going to protect them, and we are going to preserve them, and we are going to strengthen them, and we are also going to change this social, and corporate, and farming welfare state into an opportunity society. but we are going to save our Medicare trust fund, and how are we going to save it? In part because of a strong criminal fraud that we have in our bill.

When my colleagues voted against the rule, they voted against making crime in health care a Federal offense because in our rule we make health care fraud a Federal offense. We make it a Federal offense not just in Government programs, but in private programs as well. Theft and embezzlement, a federal offense. False statements, a federal offense. Bribe and graft, a Federal offense. Illegal enumerations, Federal offense. Obstruction of justice, a Federal offense. My colleagues voted against it when they voted against the rule. In our bill, contrary to what the previous speaker said, we have injunctive relief, we have subpoena power, we have grand jury disclosure. It is in our bill. Read it. My colleagues and continually distorting the facts, and, when the American people know what we have done, they are going to like it, and when I speak to the American people and my constituents, they say why would I object to a plan that does not increase copayments, does not increase deductible, does not increase my premium, allows me to have private care? My colleagues are into the old system. They are not giving their constituents choice. We are doing what the gentleman from Missouri [Mr. GEPHARDT] did in 1980. He said we should allow people in Medicare to get into a private-sector plan. The problem is he is 20 years later not in step.

Mr. DINGELL. Mr. Chairman, I yield myself 15 seconds to point out that my good friend's district would be cut $251 million between now and the year 2002 to give to the wealthy a large and unrequested tax cut.

Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will take this opportunity to remind the gentlewoman that wearing of badges is against the House rules.

Mrs. CLAYTON. Mr. Chairman, I will observe that.

PARLIAMENTARY INQUIRIES

Mr. THOMAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. Mr. Chairman, are the wearing of buttons, or sloganeering, or communicative badges against the rules of the House?

The CHAIRMAN. The Chair has stated that on several occasions today.

Mr. THOMAS. Mr. Chairman, if someone is wearing that when addressing the House, are they violating the rules of the House?

The CHAIRMAN. The are indeed.

Mr. THOMAS. Mr. Chairman, if they have been informed of that, they are, therefore, willfully violating the rules of the House?

The CHAIRMAN. The Chair just reminds all Members that the rules are here to maintain a level of comity in the House and it would be proper for all Members to observe the rules.

Mrs. CLAYTON. Mr. Chairman, let me make a statement.

Did I not say I would be glad to observe that? Did the Chair not hear me? Did anyone else hear me? I said I will be glad to observe that rule, so it is not willful.

Mr. WILLIAMS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WILLIAMS. Mr. Chairman, would wearing a paper bag over one's head violate the same rule of the House?

The CHAIRMAN. The gentleman knows the answer to that. Let us move on.

Mr. WILLIAMS. No, the gentleman would not ask the question if he knew the answer.

The CHAIRMAN. The Chair's guess is that the gentleman does know.

Mr. WILLIAMS. Mr. Chairman, I am not asking for a guess. I am asking for a parliamentary ruling. Would wearing a paper bag over one's head, as has been done by some of our Republican colleagues in previous Congresses, violate the same rule of the House?

The CHAIRMAN. The Chair would respond by saying that the Chair was not here at the time, but the Chair's understanding was that that was ruled a breach of decorum at the time, and the Chair promises the gentleman that, if he sees anyone with a bag over their head today, he will ask them to remove it.

The Chair recognizes the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I have really risen to speak in behalf of the amendment, and I do want to say that the Democrats have provided, I think, a reasonable alternative, a reasonable plan, that addresses saving health care. It also reads for senior citizens. Medicare needs to be reformed. Why? Because the trustees said it needed to be reformed to make sure there was financial stability.

But also, since my colleague raised the concern of the badge I was wearing, let me tell him why I had worn that badge inadvertently into the House and really in error. It was not meant to affront the House. But I do want to say it so my colleague understands: "Shame on you. No to the Republican plan."

Mr. Chairman, I may not be able to wear that, but I can say it over and over again: Shame on you, balancing the budget on the most vulnerable people in society. No to any plan that is so atrocious it does not indicate what it would do to poor people, senior citizens, rural communities, and inner cities, and no rule removes that moral obligation for the shame on your conscience.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. STEARNS) assumed the Chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore The committee will resume its sitting.

MEDICARE PRESERVATION ACT OF 1995

The Committee resumed its sitting.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Chairman, to the gentleman from Florida [Mr. GIBBONS], my good friend, to the gentleman from Michigan [Mr. DINGELL], to the minority leader, the gentleman from Missouri [Mr. GEPHARDT], let me first of all say, Your argument about tax cuts for the rich is clearly false, but let's really look at this argument in two ways.

First of all, Mr. Chairman, all the tax cuts were paid for before we even started talking about Medicare. Confirmed by CBO, these tax cuts were paid for as follows: welfare reform is $90 billion in savings; FCC spectrum auction is $15 billion; Uranium Enrichment Corporation is $2 million; and appropriation reductions are $38 billion in savings. My friends in the House and to all Americans, you should realize that they were paid for—$245 billion—was saved even before we even started talking about saving Medicare.

So the point is that there is nothing about this tax cut that is coming from Medicare savings or going for the rich. When we are going broke in a program like Medicare and spending less, we cannot put the savings into anything. That is math 101. There is not more cash by slowing of the growth in Medicare. There is less debt. Now the trust fund will be able to build up a reserve for those future generations. It is like reducing the principal on one's home mortgage. It does not mean that you have more cash. It means that you pay less obligation to the bank. By slowing the spending growth, we insure that the Medicare trust fund stays solvent. Solving this growth means the program will survive, and, Mr. Chairman, as mentioned before, the lockbox insures any savings from waste, fraud, and abuse goes to the trust fund.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

□ 1600

Mr. LEVIN. Mr. Chairman, the majority likes to quote the Trustees. They never say this. Here is what they say. The majority is asking for $270 billion in Medicare cuts, almost three times what is necessary to guarantee the life of the hospital insurance trust fund. As this chart shows, our substitute extends it for the same period as they do.

Second, there is a critical fact: Without the Medicare cuts there is not the money for the tax break, period.

Third, they talk about Medicare fraud and abuse. They should not brag about increasing penalties when their bill makes it more difficult to convict anybody. We can have life imprisonment. In their bill, we cannot convict anybody.

Fourth, you talk about market-driven forces. Seventy percent of your savings comes from old-fashioned price controls, 17 percent comes from hitting seniors. In fact, the gentleman from California [Mr. THOMAS] likes to brag that he is a radical. I would say to the gentleman, he can have that label. We Democrats want reform, not radical change.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, it is this amendment that has the arithmetic that the trustees say will keep Medicare fiscally solvent. The Republican proposal is nothing new for them. For half a century, congressional Republicans have harbored a subtle but sinister opposition to Social Security, and later, to Medicare.

When Social Security was first created in 1935, 99 percent of the Republican Members of Congress voted against it, and a third of a decade later, in 1965, when Medicare was created, 93 percent of Republicans in Congress voted against it.

What is different now? Because at last they have the majority, and they are determined that they will gut, today, Medicare, tomorrow Social Security, programs which they have always opposed and which they oppose here today with their new majority.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, it will not work. You cannot increase benefits, you cannot tell the American people you will increase benefits, cut premiums, and save Medicare. Medicare is insolvent next year. It is bankrupt 5 years thereafter. To get up here with a program that says "We are going to do this for you, that for you, and add benefits, but we are going to cut premiums, folks, and we are going to save Medicare," the American people do not want those kinds of answers anymore.

Let us look at this premium issue. What do the Republicans do? We say listen, you seniors out there, you have to keep with the level of burden you are carrying now. You are carrying 31 percent, just the part B costs. You keep carrying it. Seniors with $75,000 retirement incomes are going to carry more. What is this rich-poor business? Not one word of support for raising premiums on seniors who have a retirement income of $75,000 or more.

All we say to seniors is to save this program, keep doing what you are doing, and if you can afford it, do a little more if you have over $75,000 in income. What the Democrats say, we are going to cut it to 25 percent. We are going to give you a break. We are going to give you more benefits and lower premiums. Do you know what that does? That makes people working hard day in, day out, earning $30,000, $35,000, and $40,000 pay more taxes.

Six of the last ten years they have increased Medicare taxes. This is a back-ended, under-the-ground, surreptitious tax increase, because they are going to make the taxpayers pay more of the part B costs than they are currently paying, as costs are rising.

The second deceptive aspect of the plan the Democrats are offering, and it is more of the same, they only fix part A. Part B is in just as much trouble. Mr. Chairman, we have to save Medicare, not part A of Medicare.

Mr. GIBBONS. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Let me just correct this, Mr. Chairman. The gentlewoman from Connecticut is not accurate when she says we are cutting premiums. We are not. We are sticking with current law. They are changing current law. By changing current law, they are increasing the burdens on our seniors by increasing the part B premium.

The Democratic substitute or the substitute that we are offering stays with existing law. The dollar amount is currently in law and it goes back to 25 percent and then goes back to a COLA increase. They are increasing it, we are keeping current law.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, just a little while ago I had a young man, a sophomore in high school, down here for a leadership council meeting. He was sitting in my office and we were having a little chat. He looked up at the screen and he heard one of the Members of the other party speaking. He said, "Is that true?" I said, "No, that is not true. That is a lie." He said, "Are they allowed to do that?" I said, "They are not supposed to, but they do." Half of our job today is to try to correct these misstatements. There have been an awful lot of statements about this bill, weakening the ability to crack down on waste, fraud, and abuse.

Here are the facts: Our bill creates a new criminal statute, outlaws fraud, provides for fines of up to $500,000. Their bill limits the penalty for that offense at $50,000. Our bill says if you make a false statement there is a 5-year prison term, up to a $500,000 fine. The substitute limits that fine to $50,000. We make a new crime of theft and embezzlement. We make it a felony that carries a 10-year prison term and a half million dollar fine. The minority's substitute makes no mention of this crime.

The same thing on bribery and graft. Our bill, there is a half million dollar fine, 15-year prison term. Nothing over there. Our bill, obstruction of criminal investigation of a health care crime, a prison term, a half million fine, and nothing from the other side. Our bill is the toughest bill in the history of the Medicare Program on waste, fraud, and abuse. We ought to support it for that reason, if for no other.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, the gentleman should have known the statements that were just made about how sound the Republican program is were false. They would have been punishable under current law under the should have known rule. We are sound until 2010. They are sound until 2006, I will give them the credit, but the difference is a $300 billion loss in 2010. When we are still solvent.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, the Republicans would have us believe that Medicare is standing on the brink of bankruptcy. Having told 37 million beneficiaries whose lives depend on Medicare, having told them that their security is becoming worthless, they have the audacity to say the Democrats are scaring people.

In truth, the Medicare hospital insurance trust fund is not standing on the brink of bankruptcy, it is sitting on a surplus of $136 billion. That is not my definition of insolvency. It is true that this year Medicare will be drawing down that surplus, but even in 1999, the insurance trust fund will have assets of almost $100 billion. That is not my idea of a crisis.

Do we need to reduce the cost of Medicare? Sure we do, but the Democratic substitute lowers the cost by $90 billion over 7 years, and that end result—$90 billion of relief to the hospital insurance trust fund—is all the Republicans accomplish by $270 billion of savage cuts, because not only do they reduce the cost of Part A, but they also reduce the payroll taxes paid into it by $36 billion. I urge my colleagues to support the Democratic substitute.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the distinguished whip.

Mr. DELAY. Mr. Chairman, for days, weeks, even months we have heard the rhetoric regarding the future of Medicare. We have heard all the scare tactics, we have seen the attack ads, we have read the newspapers, but beyond the hype, beyond the clouds of misinformation, some basic facts emerge.

First, Medicare is going broke, and it will be broke in 7 years.

Second, the Republicans are not cutting Medicare.

Third, Democrats do not have a serious alternative that will save Medicare for the next generation.

The American people can begin to understand the basic differences in the approaches to saving Medicare between the Republicans and the Democrats. Republicans want to reform the whole system. We want to make commonsense changes which will promote greater choices, give greater flexibility to seniors, crack down on fraud and abuse, and put reasonable limits on Medicare growth.

Democrats ignore reform. They lack the courage to make commonsense changes to the system. They would prefer to keep the current system, which, if unreformed, will bankrupt this country. To me, Mr. Chairman, the Democrat alternative is just a joke wrapped in fraud and shrouded by farce. They save Medicare only enough to save their own political hides. In fact, secretly, Democrats would rather do nothing than to reform Medicare.

Mr. Chairman, political cowardice is no substitute for responsible policy. If we do nothing to save Medicare, the country faces a stark choice: Either we forget about ever achieving fiscal responsibility, or the government will be forced to rapidly raise payroll taxes and income taxes. As we all know, even President Clinton now suffers from taxer's remorse over his last huge tax increase, so clearly, raising taxes is not a serious alternative.

Mr. Chairman, as Edmund Burke once said, "For evil to succeed, good people simply need to do nothing." The

Democrats are doing nothing to save Medicare, and their inaction is a fool's choice. I urge my colleagues to vote for a brighter future for this country. Vote to save Medicare and reject this half-hearted Democrat substitute.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I rise in support of the Democratic alternative and oppose the Republican plan.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I want the public that may be watching this debate to understand the depth of cynicism that the Republicans have in presenting their Medicare proposal. I am going to put into the RECORD a series of key words and phrases given to the Republicans to use in this debate. Members may well recognize some words like "save, preserve, protect, proud to support." Then when they talk about the Democratic proposal they are supposed to say "politics as usual, the politics of the past." Maybe an energetic reporter will look through these comments today to see how many of these phrases were dutifully used by the Republicans for their proposal and against ours.

The second level of cynicism, to talk about the insolvency of the Medicare trust fund, to use that as an excuse for their package, the Medicare trust fund was nine times out of sync, and each time it was, without fanfare and partisan propaganda, restored. Mr. Chairman, this amendment is notable for what it does not do. What it does not do, unlike the Gingrich bill, is make the elderly pay larger premiums just to keep their Medicare benefits. It does not destroy the fee-for-service Medicare system that people are already in, and that they like, and it does not offer them these phony choices that will be paid for by savaging the Medicare program fee-for-service.

This amendment does not do what the Republicans do, which leaves people unprotected if they are forced out of Medicare into these Medicare-plus plans for balanced budgets, and doctors will charge them extra bills for their services. Unlike the Gingrich bill, it does not take billions of dollars out of Medicare to finance tax cuts, or to finance deficit reduction. This substitute preserves Medicare without doing all these onerous things, and for that reason, Mr. Chairman, we ought to support it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Chairman, I would ask the gentleman from California, what is this reporter going to do? I just heard him use the word "preserve." I guess there are only certain words people can use because there are only obviously clues and keys. My belief is, you think your program preserves Medicare. We believe our program preserves Medicare.

□ 1615

That word is going to be used on this floor back and forth. The difference is, how long and under what circumstances is Medicare preserved, and how do you preserve it? Yes, you preserved it nine times in the last 10 years. Six of those were increases in the payroll tax or lifting the lid on wages subject to the payroll tax.

What you have here is an honest representation of the difference in the plans. I know you do not like it, but it is the truth. If you will read the bill, I said read the bill, the Republican program stays sound through 2010. After 2010, yes, we have to find some money, but 2010 is when the baby boomers become eligible for Medicare. Our plan is solid. We do not have to look for new money until we fix it for the baby boomers.

The Democrats have said, they are sound at 2006. I agree, you are sound at 2006. What is the difference between 2006 and 2010? $300 billion. That is that red line. I know that is hard for you to envision. Red lines, $300 billion in the hole. At the time you are trying to work with the baby boomer commission, which you have in your bill as well, you are also going to have to find money to fill a $300 billion hole.

Mr. Chairman, we do not. Our program better preserves and protects Medicare. It strengthens it. We do not go to the well like you do in terms of increasing taxes. We do it through slowing the growth and allowing innovative programs using market-based techniques to save the system. That is the difference between our approach and yours.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, the Medicare cuts in the Republican bill will have a devastating impact on the quality of care New York seniors receive. It is very clear that the cuts will double the premiums, eliminate protections against higher medical fees, and make it harder for seniors to see their own doctor. For seniors living on fixed incomes, this Republican plan will mean real hardship.

The Republican Members know that, and that is why Speaker GINGRICH has been making back-room deals to win votes. Unfortunately, when NEWT GINGRICH plays "Let's Make a Deal," America's seniors lose. Frankly, all this deal-making is absolutely shameful.

Let me just ask our Republican colleagues, if this is such a great bill, if it is so good for seniors, why all the deals? You do not have to make deals to get votes for good bills, just bad ones.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, it is very simple. If we need to save $90 billion, do it. We can do it with the Democratic bill. The only difference is, the Democratic bill puts the savings in the trust fund, not into wealthy people's pockets. It does not cost seniors more, it protects the trust fund.

I believe that we can cure the Medicare system, but let us use a scalpel, not a meat ax. Let us vote for the Democratic alternative.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MATSUI], a very fine member of our Committee on Ways and Means.

Mr. MATSUI. Mr. Chairman, I thank the gentleman from Florida [Mr. GIBBONS] for yielding time to me.

Mr. Chairman, I have to say that this notion that the bill, if in fact, it passes does not pay for tax cuts is nonsense. What the Republicans plan to do, if this bill passes today, is to bring it back and put it on the reconciliation bill, and that way, they will be able to use the $270 billion in savings on Medicare to pay for the $245 billion in tax cuts. If, in fact, this Medicare bill goes down today, they will not be able to do the $245 billion tax cut, because they will not be able to put it on reconciliation. So it is obvious what is really going on.

I might also further point out what this debate is really all about. Everybody says, well, this is really just slowing the growth of Medicare on the Republican side. That is right. It is slowing the growth of Medicare. In the year 2002, just 6 years, 7 years from now, the average Medicare recipient will have $6,500 spent on them per year. Per capita, $6,500.

Mr. Chairman, they do not tell you the growth in the private sector. The private sector growth will go up to $7,600, a gap of $1,100. So I and anybody 30, 40, 50 years old in the work force will get $7,600, but if you are 60, 70, 80, 90 years old, you are going to get $1,000 less.

Why do we have Medicare in the first place? Medicare was passed in 1964 because seniors were not in the workplace, because seniors could not have access to private health insurance. As a result of that, they were left uninsured. We had a 25 percent poverty rate in senior citizens in 1964. It is down to 11 percent now and we should be very proud of that.

What we are going to do is we are going to bankrupt the senior citizens of America. That poverty rate is going to go up. We are going to be doing major damage to the senior citizens of this country, and I think, as the minority leader said, this is really an issue of values.

Mr. Chairman, I ask my Republican colleagues, what are your values? What do you stand for? Why are you here? Do you believe in the future of this country, or do you want to play games with senior citizens, those people that supported you in the prime of your life?

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I want to urge my colleagues to get behind this very rational Democratic substitute that cures the problems that will be created by the Republican Medicare plan. We will be saving Medicare with this $90 billion that the trustees say that is all that is necessary.

We do not need the tax cut for the wealthy. We will be eliminating the dramatic increases in the Part B premium, and there will be no forced choices for seniors under this. They do not have to go into HMOs, they can still choose their own doctors.

Even more important, it does not hurt the quality of health care. Hospitals will not have to close or cut back considerably. Payments to hospitals are reduced by less than one-half the amount in the Republican bill. Lastly, and just as important, this substitute deals with prevention.

If we can have more preventive care, which is provided in this substitute, we can save a lot of money and seniors will not have to be hospitalized, they will not have to be institutionalized.

Mr. Chairman, I urge support for the Democratic substitute.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, in listening to the debate I must ask our Republican colleagues, who are you trying to convince? In listening to the defense of your Medicare cuts, methinks thou doth protest too much. But it is understandable, when it must be a bitter pill to swallow to cut senior citizens' benefits, increase their premiums to give a tax break to the wealthiest Americans. Indeed, as the Speaker calls the tax cut, the crown jewel of the contract.

America's senior citizens and disabled people depend on Medicare for their health and security. The choice before the House today is between the Republican plan, which would threaten their security, and the Democratic plan, which would protect health and security for America's seniors.

In summary, the Republican bill cuts $180 billion more than what is needed to make the trust fund solvent, inflicts excessive new premiums on beneficiaries, forces low-income seniors into managed care, repeals important Federal nursing home standards, decimates the safety net in teaching hospitals, and weaken protections.

Mr. Chairman, I urge my colleagues to support the Democratic alternative.

Mr. DINGELL. Mr. Chairman, I yield myself three-quarters of a minute.

Mr. Chairman, I just received a copy of Congress Daily, and I want to call it to the particular attention of my dear friend, the gentleman from Virginia [Mr. BLILEY]. Under the subject "Health", it reads "Bliley Hints At Compromise On $270 Billion Medicare Savings."

"Even as President Clinton suggested he might be willing to meet Republican demands that the budget be balanced over 7 years rather than 10, a key House Republican today hinted the GOP might be willing to compromise on the previously inflexible $270 billion savings target for Medicare."

It looks like my Republican colleagues are being asked to walk the plank. I think that is a fine idea. But my friends over there should be told what they are facing and that maybe a compromise is in the offing.

Mr. BLILEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from Michigan for his remarks, and I meant it sincerely. If the President comes forward with a plan that saves Medicare until 2010, I am willing to look at it. I am certainly willing to sit down and negotiate with him. There is nothing wrong with that. I just wish he would stop standing on the curb and throwing bricks and come to the table and negotiate. That is all I ask for.

Mr. Chairman, with that, I yield the balance of my time to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as has been so often the case in this long day's debate, Republicans have to come to the podium time and time again to correct some of the misapprehensions left by the other party.

My good friend, the gentleman from California talked about what a terrible thing it was that even though we keep the part B premium at 31.5 percent, it goes up a little bit in dollars. It goes up a little bit in dollars. Well, I think the gentleman needs to be reminded of something.

During the 30 years that the Democratic Party presided over Medicare, the part B premium increased 1,500 percent. It started out at $3. As the Democratic Party allowed the cost of this program to inflate and to inflate out of control, it has been they who have caused the part B premium to increase.

Another statement that I think needs to be made for the record: Repeatedly today the Democratic Party has tried to have it both ways. We are not paying doctors enough, they say. We are not paying doctors high enough fees, we will drive them out of fee-for-service and into managed care, and then 2 seconds later they turn around and say, we have made some sort of a deal with the doctors to pay them too much.

The fact of the matter is that the substitute before us treats physician fees almost precisely the way our bill does. Physicians will make lower fees under the Republican bill than they would have otherwise, and that is consistent with what the Democrats have been trying to do.

Another inconsistency on fraud and abuse. Our plan makes false statements in health care a felony. The Democratic substitute leaves it as a misdemeanor, just like a speeding ticket. After listening to the Democratic debate today, I understand why they do not want to increase this penalty.

Mr. Chairman, this is a short-term game for the minority party, because the fact of the matter is that within a few short months the Republican leadership in the Congress and the President of the United States will resolve this issue through negotiations, and I guarantee you that the negotiated product will look very much like the bill that we have presented to the House today.

When that bill is signed, it will go into effect, and very early next year the senior citizens of America will live under this proposal, this reform that we have brought to the floor, and they will love it and they will thank us for it, and I think they will reelect us for it as well.

Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I have just heard through the grapevine here that there is a meeting going on with NEWT GINGRICH and Governor Wittman from New Jersey and a side deal is being cut for the New Jersey Delegation. However, prior to that old rumor, the old rumor was that the Republicans from New Jersey were voting against the plan, so we will see whether or not this compromise works.

Mr. Chairman, if in fact my Republican friends think it is a cut, why are the New Jersey Republicans voting against it because their hospitals, they contend, are cut too much? Something is inconsistent here. Maybe they should take the floor and explain their stand.

□ 1630

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Chairman, I am a mom. I have got two kids, and I understand how handling money goes on. My older daughter says to me, "Can I borrow a dollar?" I say, "You can borrow a dollar, but you can't spend it on candy." She says, "I won't." Two hours later I come back, and there are candy wrappers everywhere. I say, "I told you not to spend it on candy." She said, "I didn't. I used another dollar I had." I said, "Well, that was your lunch money." She said, "I know, I used your dollar for lunch money."

Well, everybody knows what happened; everybody knows what you are trying to do; and, seniors of America, the majority is trying to spend your money on candy. Do not let them.

The CHAIRMAN. The Chair would like to inquire from the gentleman from Florida and the gentleman from Michigan who seeks to use your last time?

Mr. GIBBONS. Mr. Chairman, I am down to my last speaker, the gentleman from Michigan [Mr. BONIOR]. I am going to yield him all my time.

Mr. DINGELL. Mr. Chairman, we have one last speaker that I share with the distinguished gentleman from Florida and that would be to close.

The CHAIRMAN. That would be the appropriate time to do that and that would give him 3½ minutes to close. The gentleman from Texas has 4 minutes remaining.

Mr. DINGELL. Mr. Chairman, I believe that since we are offering the amendment which is set forth in the rule, that the right to close is on this side. That would leave my colleagues on the other side to deal with that.

The CHAIRMAN. The gentleman from Texas has the right to close as the floor manager of the base bill.

Mr. DINGELL. Am I correct, Mr. Chairman, that we get to close on this side?

The CHAIRMAN. You can close on your side right now, and it will be followed by the gentleman from Texas.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Is it not in the rules that where the offeror of the amendment is designated in the rule that it is the right of that individual to close?

The CHAIRMAN. The Chair is informed by the Parliamentarian that it is the manager of the bill who has the right to close.

Mr. DINGELL. I am sure that is true in the case of the debate on the bill. I note that this is not debate on the bill. This is the debate on the amendment.

I would note as a further parliamentary inquiry that the gentleman from Florida [Mr. GIBBONS] and I are essentially the managers of the bill as the managers of the amendment.

The CHAIRMAN. The Chair is informed that when the committee chairman is defending the committee position, the committee chairman has the right to close on an amendment.

Mr. DINGELL. Mr. Chairman, I think this is a novel ruling, but I will not challenge it.

Mr. Chairman, I make a point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No 728]

ANSWERED "PRESENT"—419

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Berman
Chapman
Fields (LA)
Frank (MA)
Frost
Gekas
Hoyer
McCrery
Stupak
Tejeda
Tucker
Williams
Young (AK)

☐ 1653

The CHAIRMAN. With 419 Members having answered to their names, a quorum is present, and the committee will resume its business.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, as I recall the ruling of the Chair, it was that if the committee has a position on the amendment, it is the right of the committee to conclude the debate on that point. Is that correct?

The CHAIRMAN. The ruling was that the manager of the bill has the closing, and that is how the Chair is instructed by the Parliamentarian.

Mr. DINGELL. Mr. Chairman, is it possible for the Chair to inform us what is the committee position? I would note that the committee has taken no action on this particular proposal.

If I read the rule correctly, the amendment is offered by authority of the Committee on Rules, which has empowered the gentleman from Florida [Mr. GIBBONS] and I to offer this particular amendment. The amendment was never considered in the Committee on Commerce or in the Committee on Ways and Means. That being so, Mr. Chairman, if the Chair could help us greatly by informing us what is the position of the committee so we can understand if it qualifies under the Chair's prior ruling?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] is still the manager of the bill under the terms of the rule.

Mr. DINGELL. Mr. Chairman, further parliamentary inquiry. I note H.R. 2485, in its current form, is not reported from either the Committee on Commerce or the Committee on Ways and Means, and the amendment which is offered by the gentleman from Florida [Mr. GIBBONS], and it is offered by authority of the Committee on Rules. We are, therefore, the managers of that particular amendment and not my good friends on the Republican side of the aisle.

The CHAIRMAN. The base bill is still the bill that came through the two committees and was joined in the Committee on Rules, the Chair is informed by the Parliamentarian. The gentleman from Texas [Mr. ARCHER] is still the manager of the base text.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. GIBBONS. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. BONIOR].

The CHAIRMAN. The gentleman from Michigan [Mr. BONIOR] will be recognized for 3½ minutes.

Mr. BONIOR. Mr. Chairman, indeed this is a historic debate, a historic vote.

Supporters of this plan that we will be voting on on final passage say that this will be a courageous vote, that somehow they are doing something on this floor that they will be proud of. But there is nothing courageous about cutting Medicare to pay for tax breaks for the wealthy, and there is no pride in asking our senior citizens to pay more and get less so the wealthiest Americans can have it all.

But there is one thing supporters of this bill are right about. This is a historic vote. With this vote, we turn back 30 years of progress, 30 years of trust, 30 years of hope that our parents and grandparents will always have the health care that they need.

Mr. Chairman, the seniors who stand with us against this plan do not have much money. They do not have expensive homes or fancy cars. But when Medicare premiums go up, these are the people who are going to have to choose between buying food and buying medicine. They do not want to be a burden on their kids, and they do not want a handout.

If these cuts go through, you are going to take away the one thing, the one thing that they thought they would never lose. You are going to take away their dignity, and that is unforgivable.

Now, today, the same people who kept their plan hidden for 9 months, who refused to allow more than 1 day of hearings, who actually had seniors arrested when they tried to speak out, are accusing us of trying to scare senior citizens. That is an insult to the seniors of America. The same Republicans who cut the backroom deals with the AMA, who promoted savings accounts that would benefit only the wealthy insurance companies, now want us to trust them to save Medicare.

It seems like my colleagues on the Republican side of the aisle hope that we forget history. For 30 years, the Republican Party has not lifted a finger to save Medicare, and for 30 years they have waited for this moment to dismantle the system, and we are not going to let them turn back the clock now.

The Gibbons-Dingell-McDermott substitute proves you do not need $270 billion to shore up the Medicare system until the year 2,000, and it proves that you can do it without increasing premiums, without forcing seniors into HMO's, without limiting the choice of doctors, and without the massive tax breaks for the wealthy.

We may be nearing the end of this debate on the floor today, and we just had a little skirmish here about who is going to close, but the debate in this country is just beginning. It is not closing, and it will continue around the kitchen tables of every home in America where sons and daughters will scrimp and save to care for their parents, and there will come a day when they face the tough choices between educating their kids and paying their parents' medical bills, and they are going to ask, "Why, did you vote, why did you vote for tax breaks for people who did not even need them, instead of helping us?"

I urge my colleagues, Mr. Chairman, say "no" to these tax breaks. Say "yes" to this substitute and say "yes" to Medicare.

□ 1700

Mr. ARCHER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. ARCHER. Mr. Chairman, for a moment I must once again expose what many Democrats have repeated over and over today, that medical care savings will be used for tax cuts. They know it is not true. As the Washington Post said, it is medagoguery, political medagoguery.

They know that savings in the Medicare Trust Fund, under law, cannot be spent for anything other than health care benefits for our seniors. They know that. They know that in this bill itself there is lockbox language that prevents the use of these funds for anything other than paying medical bills. And, yes, finally, they know that in the budget reconciliation language, which will be before us next week, that Medicare has been taken completely out of pay-go under all of the budget considerations.

This is truly nothing but an effort to gain political advantage. They keep saying it because they hope that they will divert Americans from the real Medicare problems. Yes, the political response, I say to my colleagues, would be to sidestep this issue. We have seen that happen over and over again in previous Congresses. But our new majority will not be typical Washington politicians. Throughout the debate, many Democrats spoke only of the past. We will make the tough decisions and speak to the future.

Our plan is a serious solution to a very real Medicare crisis. Their plan is politics of the past, temporary fixes and Band-aids. Our plan is a long-term solution, a vision, hopes and dreams for all Americans. Their plan bankrupts Medicare well before the baby boomers retire. Our plan saves Medicare through the eve of baby-boomer retirement.

The latest actuary estimate that has just been given to us, delayed because of the unavailability of the specific language of the substitute, is that their plan saves Medicare through the year 2005, and our plan saves Medicare through the year 2011. Six years longer.

When this bill passes in a few minutes, Republicans will differ from politicians who came before us, because we will have kept our word.

Mr. Chairman, I am proud of this bill. It has been called the Gingrich bill, but it is the product of the effort of many of us in this body. And, yes, he deserves credit for it.

We said that we would save Medicare. Today, we will. We said we would preserve Medicare. Today, we will. We said we would protect Medicare. Today, we will.

America is truly in a new world of responsibility on Capitol Hill; responsibility to seniors who have worked hard all their lives and deserve to know that their health care benefits will be there for them; responsibility to middle age Americans who today are working with the expectation that the benefits will be for them; and, yes, to our children and to their children, to show them that we will make the tough decisions in concern for them, and not leave it to them to simply have to pay higher taxes.

Mr. Chairman, I urge a "no" vote on the substitute and an "aye" vote on the bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. GIBBONS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 283, not voting 1, as follows:

[Roll No. 729]

AYES—149

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Moakley
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sawyer
Schroeder
Schumer
Scott
Skaggs
Spratt
Stark
Stokes
Studds
Tejeda
Thornton
Torricelli
Towns
Traficant
Velazquez
Vento
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—283

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Rush
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Tucker

☐ 1725

Mrs. SLAUGHTER and Messrs. SERRANO, WYDEN, MINGE, and VOLKMER changed their vote from "aye" to "no."

Mr. RUSH changed his vote from "present" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program, pursuant to House Resolution 238, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. I am opposed to the bill in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 2425 to the Committees on Ways and Means and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Strike section 15611 (and redesignate the succeeding provisions and conform the table of contents accordingly).

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I would like to say to Members this motion is very simple. It knocks out the part B premium increases that our senior citizens will face if this measure passes. I think it is the least we can do before this measure passes.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, we will, with this one amendment, the only amendment we are allowed to make, and it automatically goes into the bill, ensure that Medicare part B premiums will only go up what current law requires. Otherwise, of the 37 million seniors on Medicare, 11 million of them are widows living on under $8,000 a year. By the year 2000, by the year 2002, this is a $300 a year hidden tax on them in order to put together a pile of money which will give someone making $350,000 a year 60 of these widows' money each year for a $19,000 tax break.

Mr. Speaker, it is the only vote we can ask our colleagues to make, the only amendment we can make here today. We ask Republicans to give us a yes vote on this one page out of 900 pages that ensures that that premium increase is not unfairly used by 60 each of these elderly widows to provide for a tax cut of $19,000 a year in the year 2002 for those that do not need it, making over $350,000 in our society.

Mr. Speaker, they built our country. They sacrificed for our country. They would not mind sacrificing again, but to ask for this sacrifice from the most vulnerable elderly widow population, in my opinion, is beneath what this House of Representatives should do here today. We ask for only one yes vote in the course of this entire debate, and it is on this very simple amendment. On this issue there is one thing that separates the senior citizens from the Republican majority, on this issue the senior citizens are right and they are wrong.

□ 1730

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to support this motion to recommit.

Mr. Speaker, I said to my Republican colleagues, they should not raise premiums for our seniors, not when they can find money to give tax breaks to the rich. That is not right. That is not fair. That is not just.

How long? How long until they realize what they are doing to our seniors? Not long. Not long until our seniors know what they have done.

Mr. Speaker, on this day, let the word go forth from this place into every State, every city, every town, every village, every hamlet, that it was the Republicans who voted to cut Medicare in order to give a huge tax break to the rich.

The Republican plan is too radical, too extreme, it is too much. It is more than wrong. It is a shame and a disgrace. Do the right thing. Support the motion to recommit.

Mr. GEPHARDT. Mr. Speaker, the action that is being proposed today, and the action that is being proposed next week in Medicaid, together are really the beginning steps of dismantling these programs as we have known them.

Mr. Speaker, when these programs were born, they were born on a simple premise that there would be a national standard of benefits that everyone in these programs would enjoy. With these changes that are being called for in Medicare today, and Medicaid next week, that premise is being taken away.

In Medicare, the so-called new ideas on the other side mean that people can choose medical savings accounts, and if they decide that they are going to be well for the rest of their life, they can have money put into that account and have a high-deductible account.

Mr. Speaker, there are many other choices. The problem is the choices are for a different standard of benefits.

Then, Mr. Speaker, in Medicaid we are going to have a competition now in the State legislatures. The elderly are going to be there pleading for their cause. The children of our country are going to be there pleading for their cause, and the disabled Americans who now claim 15 percent of Medicaid will be there pleading for their cause.

Mr. Speaker, is this the kind of competition that we want to have go on around this country? These programs have worked because we have gotten everybody on a level playing field and the competition is not between the companies that can find the well people as opposed to the sick people. The competition should be between those competitors who can most efficiently organize the resources of our medical system.

In the name of human decency, vote for this motion to recommit and vote against this bill which is wrong for America and wrong for the American people.

Mr. GINGRICH. Mr. Speaker, I rise in opposition.

Mr. Speaker, I must say with some sadness that we are ending this debate in the same spirit of misinformation that has characterized our opponents consistently. The fact is there is a provision in the medigrant program which provides that senior citizens at the poverty level, and below, have all of their part B premium paid for by the taxpayers, 100 percent.

So, the poorest of the widows that the gentleman from Massachusetts [Mr. MARKEY] spoke of will pay zero under our plan. Not one penny. My guess is the gentleman might even have known that, had he done any research, had he cared about the facts. This characterizes the whole plan.

Mr. Speaker, another colleague spoke about tax cuts. There are no tax cuts today. There is no budget today. This is about Medicare.

Now, we believe that saving Medicare matters; matters for the most human of reasons. Matters because of my mother-in-law, Virginia Ginther, who is 80 and on Medicare. It matters because of my mom and dad, Bob and Kit Gingrich, who are on Medicare.

But Medicare is not just about the elderly. Medicare matters to the children of those who have retired. To my wife Marianne; to her brother, John; to my sister, Rob and her husband Dave; to my sister, Susan and her husband, Jim; to my brother, Randy, an his wife, Jill; to my sister, Kathy, and her brother, Jesse; to my sister-in-law, Marilyn, and her brother, Ray.

They love their parents and they also know that someday they are going to retire. And they wish somebody had the guts in this city to start protecting the system, so it will not collapse when the baby boomers retire.

But it is not even just about the baby boomers. Medicare is also about our children's future. My daughter, Kathy, and her husband, Paul; my daughter, Jackie, and her husband, Mark; my sister Candace. My younger relatives, a number of them were here the day I became sworn in as Speaker. Young kids, Lauren and Kevin; Emily and Susan; my nephews, Mark and John, and my niece, Holly.

Do my colleagues know why it is important for them? Because if we continued to go down the irresponsible, unorganized, inefficient, bureaucratic, waste and fraud-filled system, the Health Care Financing Administration centralized bureaucracy, they would be crushed with taxes. They would be crushed with debt. They would pay higher interest on their student loans; higher interest on their house; higher interest on their car; they would be crushed in trying to open a business. And in the end, when their parents retired, the entire system would collapse and they would have to live through the mess.

Now, I am not going to abandon those children because of a bunch of 30-second commercials that are dishonest demagoguery.

Mr. Speaker, let me just say, and maybe this makes us different from the politicians who used to run this place, we want to solve problems for all Americans. We want no racial division. We want no class warfare. We want no conflicts between generations.

The only solutions worthy of America are solutions that try to help all Americans. That is why the Medicare Preservation Act takes the long view; not just a Band-Aid to get through one more election, and then have another Band-Aid for one more election and hope that for your career, we get by so the collapse will occur after you retire. That is not what we are for.

We want a solution to preserve and protect Medicare for the current seniors. We want a solution to set the stage for the baby boomers to retire with safety and security. We want a solution to protect younger Americans from higher taxes, higher interest rates, crushing debt, and a bankrupt Government.

Let me mention just one other thing about how we got here and what we did. The Medicare Preservation Act creates MedicarePlus. It was a team effort. We did things differently. We asked the chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], and the chairman of the Committee on Commerce, the gentleman from Virginia [Mr. BLILEY], to form a joint task force, and also the subcommittee chairmen, the gentleman from California [Mr. THOMAS] and the gentleman from Florida [Mr. BILIRAKIS] to join that task force.

We had able help from a number of Members, and I particularly single out the gentleman from Illinois [Mr. HASTERT] who was originally chosen by Bob Michel and lead the health care project in 1993 and 1994, and the gentlewoman from Connecticut [Mrs. JOHNSON] who has expressed extraordinary skill in this area.

We met as a team. Not by committee jurisdiction, not by territorial boundaries, not driven by ego, but as a group working together.

Mr. Speaker, I have to say we could never have done this without the staffs. In particular, I want to mention Ed Kutler, Howard Cohen, Mary McGrane, Chip Kahn, and also the legislative counsels, Noah Wofsy and Ed Grossman, because the truth is we are a team. We could not get the job done without the expert staff, and at the same time we represent the legal authority of our people.

Mr. Speaker, we did one other thing that seems to truly confuse the press and shock our friends on the left. We did not ask one particular genius to hide in a room and design an entire thing. We did not have any Ira Magaziners on our side.

We actually practiced listen, learn, help, and lead. We met with everybody. We met with the hospitals. We met with senior citizens. We held over a thousand—I know it is hard for those who have always believed in a closed system to understand this—we held over a thousand town hall meetings.

We reached out to people who knew how to deliver health care. We listened to our Members. Frankly, we would have listened and worked with any Member, any Member willing to agree to the objective of saving this system for a generation. But we would not work with any Member whose only goal was to break up the structure and design an amendment which was pathetically incapable of saving this system.

That is why we worked the way we worked. And I will say to my friends over here now, when we start the next project, for those Members who truly want to help us get there, our door is open. For those Members who just want to oppose and distort, our door is closed.

Mr. Speaker, I will close with this line, because it goes back to the allegation of the gentleman from Massachusetts. The poverty line for single persons is $7,551. That means that virtually 90 percent of the widows that gentleman was referring to will, in fact, have 100 percent of their part B eligible for payment under medigrant, if they apply, and that is literally the way the system works.

That is why not a single one of those poor widows has to pay a penny more. I only wish the gentleman from Massachusetts had one his homework before making such an absurd allegation.

Mr. Speaker, I urge everyone to vote for the Medicare Preservation Act.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit offered by the gentleman from Missouri [Mr. GEPHARDT].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 249, not voting 1, as follows:

[Roll No. 730]

AYES—183

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—249

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Tucker

□ 1800

Mr. DOOLEY changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. GEPHARDT was allowed to speak out of order.)

WELCOME BACK TO THE GENTLEMAN FROM TEXAS, FRANK TEJEDA

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker. I thank the distinguished minority leader for yielding to me. I just want the House to know that one of our colleagues has returned today because he felt this was a very important vote. He has been through a very serious operation and surgery, and he is just one of the neatest guys, and he understands how important this is. The gentleman from Texas [Mr. TEJEDA] has returned and is here today.

PARLIAMENTARY INQUIRY

Mr. MARKEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state his parliamentary inquiry.

Mr. MARKEY. Mr. Speaker, I am making an inquiry as to when the proper point would be to make a point of personal privilege on the privileges of the House to clarify a number of erroneous statements made about my statements in the well of the House before the recommittal vote.

The SPEAKER pro tempore. Personal privilege for that reason is not in order at this point.

Mr. MARKEY. I would ask the Speaker as to what the proper time would be.

The SPEAKER pro tempore. The gentleman will consult with the Chair at a later point.

The question is on the passage of the bill. Under the rule, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 231, nays 201, not voting 1, as follows:

[Roll No. 731]

YEAS—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—201

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lightfoot
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—1

Tucker

□ 1822

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2492, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104-283) on the resolution (H. Res. 239) providing for the consideration of the bill (H.R. 2492), making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO HAVE UNTIL FRIDAY, OCTOBER 20, 1995, TO FILE CONFERENCE REPORT ON H.R. 2002, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, October 20, 1995, to file a conference report on the bill, H.R. 2002, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DEFERRALS OF BUDGETARY RESOURCES AFFECTING INTERNATIONAL SECURITY ASSISTANCE PROGRAM, AND THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND STATE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–125)

The SPEAKER pro tempore (Mr. CHAMBLISS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three deferrals of budgetary resources, totaling $122.8 million.

These deferrals affect the International Security Assistance program, and the Departments of Health and Human Services and State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1995.*

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, I would inquire from the distinguished majority leader the schedule for next week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, this is the last recorded vote of this week. We will not be in session tomorrow, except for pro forma.

On Tuesday, October 24, the House will meet at 12:30 p.m. for morning hour, and at 2 p.m. for business.

We plan to take up three bills under Corrections Day procedures: H.R. 782, the Federal Employee Representative Improvement Act of 1995; H.R. 117, the Senior Citizens Housing Safety Act of 1995, and H.R. 1114, the Paper Balers Act.

Once the corrections bills have been considered, we will turn to H.R. 716, a bill to amend the Fisherman's Protective Act, which will be considered under suspension of the rules. Members should be advised, Mr. Speaker, that any recorded votes ordered will be postponed until 5 p.m. on Tuesday next.

On Wednesday and Thursday, the House will meet at 10 a.m. to consider H.R. 2492, the Legislative Branch Appropriation Act for fiscal year 1996, which is subject to a rule.

We will then consider H.R. 2491, the fiscal year 1996 budget reconciliation, which is also subject to a rule. Members are also reminded that conference reports may be brought to the floor at any time.

Mr. Speaker, there will be no legislative business on Friday of next week.

I thank the gentleman for yielding.

Mr. BONIOR. Mr. Speaker, I thank my colleague for giving us the information.

Mr. Speaker, on the reconciliation bill for next week, to our knowledge it has not even been filed yet. We are wondering over here when we can expect it next week.

Mr. ARMEY. If the gentleman will continue to yield, Mr. Speaker, the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, will file that bill tomorrow during the pro forma session.

Mr. BONIOR. I assume the gentleman expects it to come up sometime in the latter part of next week, would that be relatively accurate?

Mr. ARMEY. We expect to take the rule up on the floor on Wednesday, and take up the bill on Thursday.

Mr. BONIOR. Mr. Speaker, since it is the only major bill that we will be taking up next week, I hope we can expect to have sufficient debate time on that. I would request that from my friend, the gentleman from Texas. It is, as he knows, one of the major bills of the legislative sessions, and it is far-reaching. We hope that we will be afforded a little bit more time than we had on this bill today. We think it was woefully inadequate to have debated this Medicare bill for just 3 hours. We hope the gentleman from Texas will find sufficient time for us to have a full and thorough debate on this.

The other question I had, just one other one for my friend, the gentleman from Texas, is an earlier version of the floor schedule indicated that we would be considering the Glass-Steagall banking bill. I notice it has disappeared. I am just wondering when we can expect to see that particular piece of legislation.

Mr. ARMEY. I thank the gentleman. The gentleman is absolutely correct, the budget reconciliation bill, which we will consider on Thursday, is an important piece of legislation. We wanted to be sure that in fact we had an opportunity to talk about it for a great deal of time, and in consideration of that interest, we did postpone Glass-Steagall until a date to be determined later.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his remarks, and I wish him a very pleasant weekend in his district. I think we are all looking forward to going back home and explaining our actions today on Medicare. I thank the gentleman.

Mr. ARMEY. I thank the gentleman. I know I am excited about going home.

□ 1830

THE CLINTONS' PARTNERSHIP

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I have a 60 minute scheduled special order for later, but I am not sure that I will be able to make an airplane and do that, so I will put it off until next week.

Mr. Speaker, an amazing victory on the saving of Medicare for us senior citizens; I am 62.

I wanted to point out to my colleagues one of these occasional columns that comes along that has staying power. This is by one of the better writers at The New York Times, Maureen Dowd. She has the excellent columns from Clinton's photo ops on Normandy Beach.

She writes, and I think this one should be read by every Member of this body in the other chamber,

> Is Hillary Rodham Clinton playing the gender card from the bottom of the deck?

That is the way it starts, and she closes,

> Mrs. Clinton seems to feel that if she occasionally plays Pat Nixon, giving interviews to food writers, inviting gossip columnists to lunch, watching children dance, she might allay angst about her power. She thinks Americans fear the partnership with her husband. What they really fear is a bargain that ignores accountability. It is not about being a woman. It is about not being elected.

The body of it is ever better.

I will do that aforementioned 60 minutes special order next week about the breakdown of our judicial system and the fact that justice was not done in Los Angeles, and I will send $1,000 to Mr. Ron Goldman who said today that he wished his son had been able to play golf this week as O.J. Simpson has been playing golf in our face.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CHAMBLISS). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PROTECTING OUR IMPOVERISHED SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, I thank you for recognizing me.

In my 19 years in Congress, Mr. Speaker, I have never taken a special order before. This is the first time I have ever done so. The reason that I do it is that unfortunately, the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH], in making his final remarks for the Republicans to this great

House on the historic Medicare bill, invoked my name several times and attributed to me a motive to deliberately mislead this House with regard to the fact of whether or not the 11 million widows in the United States who live on an income of under $8,000 a year have protection, to ensure that they will not have to shoulder the burden of the dramatic increase in their part B premiums that has been included in the Republican Medicare reform.

The Speaker stated that, in fact, I should have done my homework in order to know that they are covered, and that in fact it was misleading to say that they were not covered, and that all who are below the poverty level have their premiums covered under the law of the United States.

Well, technically speaking, the Speaker is correct. They are covered under existing law, and the Speaker will continue to be correct for at least 5 more days, or until next Tuesday when the Republican Medicaid bill comes on to the floor which strips out the protection and the extra subsidy which those below the poverty level receive for their Medicare part B premium. At that point at which the Medicaid bill of the Republicans hits the floor, there will be no protections for those widows across this country numbering 11 million who are on Medicare and who will see their premiums increase over the next 7 years by a traumatic amount in order to put aside a huge fund for the tax breaks for the wealthy.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I have been listening to the gentleman. Is the gentleman telling me when the Speaker got up on the floor and said that in their bill there was a guarantee that anybody under $7,900 would have there Medicare premium part B paid, that he was not accurate?

Mr. MARKEY. Mr. Speaker, he was not accurate because the Republican Medicaid bill, which will be out here on the floor next week, will strip out that guarantee. In the Republican Medicaid bill, as you know, they block-grant the Medicaid program, cut the whole program by 20 percent, send it back to the States, and in fact repeal every requirement that we in this Congress have put on the books to protect those elderly seniors.

Mr. HOYER. Mr. Speaker, if the gentleman will yield further, does the gentleman then mean that the only way to have ensured that seniors under $7,900 would not have their premium increased was to vote for the motion to recommit?

Mr. MARKEY. Mr. Speaker, the gentleman is correct. The only way to guarantee that they will be protected.

Now, let me add as well that in our committee we had a vote on an amendment made by the gentleman from New Jersey [Mr. PALLONE] to protect them. On a party line vote all Republicans voted not to protect the seniors. On the Medicare bill we did the same thing with an amendment by the gentleman from Illinois [Mr. RUSH] to protect the senior, more impoverished elderly, those widows, so that they would not have to pay the premium.

So I assume, to be quite frank with the gentleman, the Speaker is a busy man and he does not have time to peruse each and every piece of legislation. That is the only conclusion that I can reach and be, I think, noncontentious in terms of what he might have intended.

Mr. Speaker, next week the Medicaid bill goes before the Committee on Rules, and we intend on making this amendment, one that we request the Committee on Rules to put in order on the floor next week as part of the Medicaid bill. If the Speaker wants to ensure that every senior impoverished widow in America is protected, we will have an opportunity in the committee on Rules to have that amendment put in order, and every Member out here on the floor, if the Republicans put that amendment in order, will have a chance to make true what it was the Speaker said on the floor today. Otherwise, there will be no protection.

Mr. HOYER. Mr. Speaker, I thank the gentleman for clarifying that issue.

Mr. MARKEY. I thank the gentleman from Maryland very much.

SPEAKER WILL DO HONORABLE THING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, it is obvious that the Speaker of the House, Mr. GINGRICH, did not understand the bill that the Republicans reported out of the Committee on Commerce; but since he made the claim that the bill would protect those individuals, low-income individuals, to help them pay for their Medicare out-of-pocket costs, I would expect that he will support the amendment that was offered in our committee by the gentleman from New Jersey [Mr. PALLONE].

The Pallone amendment would have given an assurance, an absolute guarantee, that if you are below the poverty line, your out-of-pocket Medicare costs, the premium, the co-insurance costs, will be picked up. If we do not have that kind of protection, a lot of people will not be able to buy part B. They will not be covered under Medicare. Low-income elderly just will not be part of the Medicare program that assures their physicians' fees.

Now, let me go through what their bill does. In their Medigrant bill, they repeal Medicaid completely. Their bill does not ensure people below the poverty line will have their Medicare premium paid.

What they say to the States is, spend some portion of your block grant funds to pay Medicare premiums for poor people. But the amount they are supposed to spend for that purpose, and let us be clear. There is no way to enforce even that requirement, there is not enough to cover people up to the poverty level, let alone to the 120 percent of poverty we require the States to pay now.

With the cuts in the growth of the funds for the Medigrant program, with the growth in the eligibles for Medicare, which is a growing elderly population in this Nation, with the big increases in premiums absolutely guaranteed by the passage of this Medicare bill, which will require more premiums, maybe even doubling of the premiums to be paid by the elderly, we will never be able to see the States cover the people who are below the poverty line.

I would like to give some numbers. The Republican Medicaid block grant repeals the requirement that States pay cost-sharing for low-income Medicare beneficiaries. However, the Republican proposal requires that States set aside 85 percent of what the States would have spent on premiums, not all cost-sharing, from 1992 to 1994. The premium for 1992 was $31.80; in 1993, $34.60; 1994, $41.10. NEWT GINGRICH himself estimates that the premium will be $88 in the year 2002.

With that kind of an increase in the premium, with a growing increase in the number of the elderly, the States are setting aside only 85 percent of the amount for the 1991–1992 levels. They are not going to be able to pay for the out-of-pocket costs for the elderly.

Furthermore, once they repeal Medicaid, which is what they seek to do next week and replace it with a Medigrant, a block grant bill, the States will get money. They can use it as they see fit. There will be a set-aside of money for this purpose, but it will be grossly inadequate, and the States will have to use that money as they see fit.

They could say to people, "We will cover you if you are in line, but when we run out of money you will not get covered." They could say, "We will only cover 10 percent of the costs instead of 100 percent of those premium and out-of-pocket costs." They can refuse to pay people for their out-of-pocket costs entirely.

There is no guarantee, if you are an individual below the poverty line, disabled or under Medicare because of your age, that you will be protected. There is no guarantee to the individual, only some money to the States, to do the best job they can, and whatever they do will be acceptable.

Now, the Speaker did incorrectly state what was in his bill. I believe that he genuinely did not understand his legislation. When he reads it, when he finds out what they did in the Committee on Commerce, well, I would not want to be the chairman of that committee since the Speaker now has decisionmaking power over who is chairman of the committee or not.

But I suspect what he will do, which is the only honorable thing to do, is to support the Pallone amendment when it is offered to the legislation.

A BAD MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, there are some facts that are very clear now. Let me go over the situation. Under current law, Medicaid beneficiaries are guaranteed coverage for premiums and co-pays and deductibles. The House Republican bill repeals that law.

The Democratic amendment in the House Committee on Commerce offered by my colleague, the gentleman from New Jersey [Mr. PALLONE], to restore this current guarantee was rejected by a vote of 24 to 18. Every member of the committee on the Republican side of the aisle voted against it.

Under the Republican block grant, Federal payments are cut by 20 percent over the next 7 years. No State is required to cover any elderly. There are no requirements to provide anything to the current Medicaid eligibles. Only 7 percent of State dollars have to be spent on low-income seniors.

□ 1845

This is simply not enough, and there is no guarantee.

Now, the House has already found, regrettably, that no one here really understands the entirety of the bill. The Speaker in a rather powerful statement has been proven to be entirely in error. How many other Members who have talked about the wonders of this legislation we passed today or the legislation that we are going to pass to amend Medicaid are going to be wrong?

The process under which this was conducted was intolerable. The bill was put in the committee, hearings were requested, none were given. The matter was considered without any hearings whatsoever, without testimony from any agency of the Federal Government, without hearing from any governor, from any citizen, or without hearing from any Federal agency as to how this would impact the people of the country.

There is no understanding of what is in the bill, including whether or not the fraud provisions are in fact adequate, which in fact, by the way, they are not.

The bill was passed out of committee without being read. On at least three separate occasions, different versions of the legislation were presented to the House or to the committee. Last night, the third or fourth version of the bill was presented to the House. It again was not read. The Committee on Rules had no opportunity really to understand what was presented to them.

Today, we saw a discussion of the legislation in which there appeared to be great confusion and in point of fact there was, because no Member had had opportunity to know or understand what is in this bill.

The process could have been abated by the ordinary way in which legislation is considered. Hearings could have been held. Proper markups could have been held. This matter was reported to the House by our committee with minimum consideration of the legislation, and similar activities took place in the Committee on Ways and Means.

My colleagues on the Republican side will tell us how hearings were held on Medicare. Hearings are routinely held on Medicare and on Medicaid hereabouts in this body, but it must be observed that not one hearing was held on this bill. The only hearing which was held on this subject in connection with this particular process was to hold a hearing in the Committee on Ways and Means on a press release, hardly a matter which merits congressional consideration.

The result is that the House has acted upon this legislation in great confusion. The Speaker has been led into the unfortunate position where I am sure unknowingly he misrepresented the facts as regards the content of the legislation on a point which is extremely important to the American people. That is, that 11 million widows will not have their Medicare payments paid on their behalf on Part B because of the way the law is going to work out when the consideration of this matter is at conclusion.

I say this is a sad and intolerable event. I say it is an event which has been created by a deliberate determination on the part of the Republican leadership of this body to present this matter to the House without giving adequate opportunity for this body to be properly informed through the orderly and regular process of this body which go back to the earliest days of the Republic. I think that this is a shameful way to proceed on legislation. It results in intolerable surprises to the Members of this body, results in lack of proper information on how the legislation has been constructed or what will be its impact.

I think we need only to look forward now to see what fresh new surprises are going to plague this body, are going to plague the senior citizens, are going to plague the administrators on a State and Federal level and are going to plague the people who would be beneficiaries under Medicare who today would enjoy benefits which are going to be taken away from them tomorrow. I think that the surprises are going to be substantial.

It is regrettable that we have done this this way. It is to be hoped that we will at least learn from it, will not repeat this kind of abuse. But a greater hope is that we might take the time to scrutinize the evil that we have done today and set about trying to correct it.

A DISASTROUS MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today in this House many of us opposed a very bad bill, the Medicare "reform" bill that cut Medicare $270 billion to give tax breaks to the wealthiest Americans. It weakened fraud provisions in a series of back-room deals with the AMA and with other organizations to roll back a lot of fraud provisions that would have allowed us to more aggressively go after those people that cheat the system.

The Inspector General's office has said that 10 percent of Medicare expenditures go to fraud, waste and abuse. We need to aggressively go after that. Instead, this House today turned its back on that. So, at the same time as this House made Medicare cuts, it weakened fraud provisions. It gave $245 billion in tax breaks to the wealthiest individuals in this country and the largest corporations in this country.

Perhaps equally disturbing as the bill itself, which I think is a disaster, was the process that led up to this vote today right up until we actually cast our votes.

Some weeks ago, the Speaker and the Republican leadership simply said there were going to be no hearings on this issue, no hearings in committee on Medicare, no hearings on this issue on Medicaid. We tried over and over asking for hearings, requesting of my committee chairman, the gentleman from Virginia [Mr. BLILEY], in the Committee on Commerce. The same went on in the Committee on Ways and Means. They simply turned a deaf ear not just to us, maybe we do not matter much, but turned a deaf ear to the American people, the people that wanted to come in and talk about what this Medicare bill was really about.

So while there were back-room deals, the American Medical Association and other groups got into the back room with the Republican leadership, the elderly were not even allowed in the hearing rooms to testify on this bill.

One lady in the Committee on Commerce a couple of weeks ago came in, tried to testify, was gaveled down. Eventually, within a few minutes, 15 elderly people, some in wheelchairs, some with canes, all of them I believe over 70 years old, were arrested and hustled out of the committee room, taken down into the basement. Several of them were handcuffed. All of them were taken to the police station in paddy wagons and fingerprinted and mug-shotted. It was a pretty amazing spectacle.

Then today, almost as disturbing, the Speaker of the House stood on this floor and said something, and I am sure he did not knowingly do this, but said something that clearly was not true about a provision in the bill that the gentleman from Massachusetts [Mr. MARKEY] had talked about, a provision in the bill that has been removed from the Medicaid bill that allowed elderly widows, some 11 million in this country that literally had their Medicare premiums paid for because they were so poor that they could not pay for them, and particularly wnen they go from $46 to $90 or $100, whatever the Gingrich Medicare bill ends up raising them to, that money was taken away from them.

The Speaker may have been confused or it may have been bad staff work. It may have simply been all the late-night deals that were cut as the bill was changed as late as last night in the middle of the night, and he was simply confused.

I have only been here 3 years, but there is this new arrogance to this place that I have never seen and heard of before, but it is particularly disturbing when those kinds of things are said on the floor because of either confusion or bad staff work, but the process has been so closed that people have not had a chance to really learn about what is in this bill.

Mr. Speaker, I yield to my friend, the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. I appreciate the gentleman yielding.

Mr. Speaker, there was obviously confusion in the Speaker's mind, but there really should be no confusion about this issue. Because, as the gentleman knows, I offered this amendment in our Committee on Commerce to make sure that in Medicaid these qualified Medicare beneficiaries were going to have their part B premiums covered.

The gentleman from Illinois [Mr. RUSH] offered the same amendment on the Medicare bill in the Committee on Commerce, the bad bill that we considered today; and I went before the Committee on Rules yesterday and asked that the amendment be considered as part of the bill today, had a dialog with the members of the Committee on Rules, including the gentleman from Georgia [Mr. LINDER] who was there, and explained that we wanted to make sure that there was a guarantee in the Medicare bill for these widows and these low-income senior citizens for which the Federal Government now pays their part B premium.

It is true, it may very well be that the Speaker misunderstood, but there is no excuse for it. Because in fact on three different occasions we have asked for this to be considered, on two occasions in this bill. The Committee on Rules denied the opportunity to have that amendment considered. The bill that we had today did not have the guarantee that those Part B premiums for those low-income seniors would be paid.

I think what the gentleman from Massachusetts [Mr. MARKEY] said is absolutely correct. We should go back to the Committee on Rules next week, ask that it be considered again in concert with the Medicaid bill. But I am really outraged over the fact that the suggestion was made today that somehow this guarantee was in the bill. It is not in the bill; it is not in the Medicaid bill; and we, all of us collectively, have tried very hard to make sure the guarantee was there and it is not there.

Mr. BROWN of Ohio. None of this would have happened, I think, if we had had hearings. There were dozens of hearings on Waco and Randy Weaver and Whitewater but no hearings on Medicare and Medicaid which affect everybody in this country.

I think the Speaker misspoke and was probably confused but sort of attacked our friend from Massachusetts by name. Surely if we had had hearings and not had these late-night deals and really, as a country, really discussed Medicare, Medicaid and what it means to senior citizens, you do not cut $270 billion to give tax breaks to the rich.

H.R. 2259

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. WATTS] is recognized for 5 minutes.

Mr. WATTS of Oklahoma. Mr. Speaker, as the son of a policeman and a fervent supporter of strong anticrime measures, I believe that we must attack the root problems that cause crime in America and that we must punish equal crimes with equal justice regardless of a person's color or economic class.

Last night we considered a well-intentioned bill, H.R. 2259, that sought to address one part of the Nation's crime problem, but unfortunately, it missed the mark by a mile and sent the wrong message to the Nation's drug traffickers and drug abusers.

The U.S. Sentencing Commission recently recommended that sentences for possessing and trafficking in crack cocaine should be the same as for possessing and trafficking in powder cocaine.

The Commission is right to seek to equalize punishment. It is essentially unjust to have one standard of justice for the type of cocaine that is abused in the expensive homes of our finest suburbs and a different standard of justice for the type of cocaine that is abused in the abandoned crack houses of our worst ghettos.

The Commission should have sought equalization by raising the sentences for powder cocaine. My view is that higher sentences, at equal levels, are needed in these cases.

Unfortunately, procedural rules did not allow that vote, so I voted to recommit H.R. 2259 with that goal in mind. When that failed, I had no choice but to vote against final passage.

We must punish the drug possessor, and work to rehabilitate him. But we must imprison the drug distributor and throw away the key. He haunts our Nation's schoolyards and makes his fortune off his poverty stricken and addicted buyer. He condemns his victims to a life of poverty and an early death. And his victims are disproportionately inner-city kids—young black Americans.

According to the Department of Health and Human Services [HHS], black Americans are being disproportionately affected by sentencing disparities. Only 4 percent of those sentenced for violating crack laws are white although 51 percent of crack users are white. In contrast, 88 percent of those sentenced for crack violations are black Americans, while only 38 percent of crack users are black, according to the HHS study.

I have said numerous times that this country's laws must deal with racial discrimination in as aggressive a manner as possible. I believe that implicit in that philosophy is a mandate to change any law that results in de facto racial discrimination.

As the father of young children, I am committed to passing the strongest antidrug measures possible. H.R. 2259 did not meet that standard.

MEDICARE BILL HAS WRONG PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Speaker, today, the process did not afford the opportunity for a very full discussion of the Medicare bill on the House floor, and so I wanted to take this opportunity to express my dismay and disappointment with the action of the House today, reneging on the basic health care protection that has existed for older Americans and for others that are the beneficiaries of Medicare for the past 30 years.

The fact is that Medicare is in trouble today, my colleagues. It is in trouble because the Republicans, this new majority that is in control, has not given the type of consideration, the type of deliberation, that has been the hallmark of much of what has been considered in the past in this Congress.

I think we are seeing a breakdown really of the committee system here, where the committees, even though this proposal has made some 8 months ago, 7 months ago, no proposal was forthcoming; and we end up with a 1,000 page bill on this floor that dramatically and drastically changes the policy.

I think, for starters, that the priorities are all wrong in terms of what is happening with the budget. The fact is that the $270 billion, it has been repeated today, that is saved in Medicare is not necessary for the Medicare trust fund. In fact, of course, much of it will be used for other Republican priorities that are in the budget. This is not a bipartisan budget, this is very much a partisan effort in this House, and I suspect the same reaction in the Senate.

There are 245 billion dollars' worth of tax breaks and not tax cuts, tax breaks that go specifically to some people in our society, taking away tax breaks from others. In fact, an article in the Wall Street Journal today indicates that those that have incomes less than $30,000 under the Republican tax plans will actually end up spending or actually end up paying more in taxes. Those under $30,000 will pay more in taxes under the tax plans that have been advanced by the House and by the Senate. That is wrong. I think these are the wrong priorities.

I think the right priorities are to deal with health. If anybody wants an example of what is wrong and where we are today as compared to some time ago, this last year we were talking about extending health care to those that did not have it. We found that there are 40 million Americans from working families that had no health care. Today, that number has risen by nearly 1.5 million. There are more families that do not have health care. They do not have Medicare. They do not have Medicaid. They do not have a private health insurance plan through their employer or through their own means. They are without.

What is happening today is we are not talking about meeting the needs of those 40 million plus in American working families. We are talking about reneging, pulling back on the Medicare system today to the tune of $270 billion today for tax breaks for the rich; and we are talking about next week taking $182 billion out of the Medicaid system. That is a system for the kids in this country, 16 million children, other millions of other people that would be denied the opportunity for dignity, for health care.

These are programs that are for the American family. These are the programs that were put together so that we could meet the needs of our families, for my parents, and for others that might be disabled, that have the fortune to have a good, long life.

The funny part about it is I keep talking about all the trust funds today, trust fund A and B, but the trust fund A has never been responsible for one dime of our deficit in this country, and the same is true of most of the Social Security programs, are not responsible for the deficits in this country. That is not what has created the deficit. Part B because of the health care costs is a contributor.

□ 1900

But the fact is that we cannot just, when the cuts are made, they are not just cuts. They are cuts that are made with no opportunity. You are not empowering senior citizens to challenge the system simply by giving them choice. You do not give them choice in this bill. They have choice today. They have HMO's, they have preferred physician options. They have those types of choices already today.

This offers nothing new. What you take is you are taking away the very tools they need to challenge the cost of what health care is today, taking away the ability to pursue fraud, taking away the legal system, the ability to challenge the medical doctor when in fact they make a mistake, when they do something wrong, taking away the accountability in this bill, taking away $270 billion and any ability or most of the ability for older Americans and for others in this health care system to really deal with that.

In other words, you are making them pay more, considerably more for the part B premiums and giving them less in benefits, capping the benefits. Read what is in your bill. Read what is in your particular proposals. You have not done so. You do not know what it is.

I think there are many Members in this body from what I can see that do not even understand what current funding means with regard to Social Security and Medicare, where the workers today are paying for the benefits of those that are receiving them and we are usually ahead about a year. That is what current funding is, but they do not understand it. They cannot predict it. But yet they are up here cutting $270 billion in Medicare benefits to give tax breaks to their wealthy contributors and their special interests. It is wrong and it should have been defeated today, not passed.

THE BILL WAS WRITTEN IN THE SPEAKER'S OFFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, the rules of debate here in the House are rather constrained at times, and they were constrained this evening as we had the opportunity to witness at the close of this great debate a bit of graceless gloating from the Speaker of the House, Mr. GINGRICH, about the victory that everyone on all sides knew was going to occur here today. They provided no opportunity, of course, to ask him a question, much less to respond immediately to his comments, but those comments deserve a response.

It is true that this Chamber is almost empty at this moment. Of course, our Republican friends are out popping the champagne corks, celebrating as is their right the fact that they really got those seniors. They are able to be out there saying, well, our buddies are going to really like that tax break we are able to provide now, and we taught those seniors a lesson when we took $270 billion out of Medicare so we could fund our tax break for the rich.

But Members will recall specifically, though they are celebrating now, that when the Speaker spoke he began by reading to us the names of the family members in his family and how much they were interested in what was occurring here today. Then he proclaimed with the greatest magnanimity there were so many who had contributed to the raiding of the Medicare system today, it is peculiar that omitted from that list of all those who helped was the Golden Rule Insurance Co. You will recall that it was only a week ago that CBS Evening News reported that Golden Rule, which had complied with the golden rule by contributing over a million dollars to the Republican party, stood to be one of the major beneficiaries of this so-called Medicare reform since they are the prime promoter of the so-called Medisave Program.

The truth of the matter is that this particular bill, not 10 Members of this House knew what was in it until about the time the debate began. And all this hoopla about how we had everybody involved and there were task forces and so forth. The truth of the matter is this bill was written by one person, Speaker GINGRICH, sitting in his office with one special interest lobbyist after another coming in. These task forces that existed, they were just an excuse for democracy. Instead of having the normal committee process operate, little task forces would meet and go in and out of the Speaker's office, in secret, where the American people had no opportunity to observe what was happening.

Can you imagine raiding the Medicare trust fund to the extent of $270 billion and not allowing one senior citizens in this country to testify on the specifics of the bill that provided for that raid?

Yet, my colleagues, that is precisely what happened with this new spirit of democracy and all the task forces and all the inclusion. The bill was written in the Speaker's office. The committee process was basically eliminated. I understand they are even considering the possibility of eliminating committees and perhaps just substituting a committee of one to write all of the legislation in this House.

You know, I have discussed this morning a bit tongue in cheek the fact that there was a painting that kind of summarized what was happening to seniors today, a painting by a famous American artist of the last century called plucked clean. It seemed to me that it symbolized what was happening here as our seniors were plucked clean and having to face higher deductibles and higher premiums and higher costs for health care at the time they were stretched to the limit.

Well, really, I think this same painting is a little bit symbolic of what is happening to democracy in this House. Instead of a proud eagle of democracy, democracy is being plucked clean in this House, because next week we are about to have the same thing happen. We have got something called reconciliation that is coming up, not the kind of reconciliation that happens between husband and wife. This is not a divorce unless it is the divorce between the reality of the real lives of the middle-class families that are working to make ends meet in this country and the Republican rhetoric that we hear on this floor.

No, indeed, we are talking about a bill that is going to do all kinds of mysterious things that have never received a hearing. It is going to rewrite laws that committees refuse to pass, and all of that is about to occur next week without the Members ever having seen the bill and without there ever having been even a final hearing.

What we should be talking about next week is a gift ban on the gifts that tie lobbyists and legislators and a reform of the lobby process. Apparently under this Speaker we are going to continue to write laws in secret that bind the American people, like was done today in secret working with various special interest lobbyists to get the law written their way. The American people deserve to have this out in the public. We need to reform this Congress and change business as usual as much as we need to protect the seniors of our Nation and prevent these kinds of Medicare- raids.

POLITICAL APPOINTEES ABUSING THEIR POSITIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, there is much talk throughout our Nation about reforming the way Washington, DC, operates. The people are upset about the way politicians have been conducting business. One reason that people are upset is because they see political appointees abusing their position using tax dollars to work on reelection campaigns instead of doing the jobs they are paid to do.

Mr. Speaker, last week the people of eastern North Carolina got a firsthand example of that abuse. A Clinton political appointee in the Department of Agriculture was assigned to contact one of the newspapers in my district. He not only called to use the agricultural appropriations bill to campaign against Republicans, he also called to campaign against Medicare, student loans, and other issues.

What in the world is an Under Secretary of Agriculture doing campaigning about programs that have absolutely nothing to do with his job on taxpayers' time?

The answer, Mr. Speaker, is that the Clinton administration talks about the need for reform but at the same time they are using taxpayers' dollars to campaign for reelection.

He called to talk about how much the Clinton administration cares about rural North Carolina, but at the same time the Clinton administration is recommending policies that would destroy the economy of rural eastern North Carolina.

As Gene Price, the editor of the Goldsboro News-Argus stated in an editorial, and I quote:

> Bill Clinton is the biggest enemy of the tobacco farmer ever to sit in the White House.
>
> Tobacco farmers aren't stupid. The man who has been going for their jugular ever since he has been in Washington now has the gall to send his emissary on a scare-the-hell-out-of-'em mission telling North Carolina farmers the Republicans are threatening their tobacco program.

I further quote Mr. Price:

> Republicans and conservative Democrats in Congress should not be fooled. Certainly the Third District's WALTER JONES, Jr. sees the President's campaign for what it is.

Mr. Speaker, the Goldsboro News-Argus is right. The President's campaign is exactly that, a political campaign paid for with your tax dollar. Every single Member of Congress from North Carolina, Republican and Democrat alike, voted for the agriculture appropriations bill. It is the Clinton administration, not Congress, that is trying to destroy the tobacco farmers.

Mr. Speaker, it is the Clinton administration that is now trying to classify nicotine as a drug. It is the Clinton administration that is trying to put families that have grown tobacco for generations into the same category as Asian poppy growers.

Now this same Clinton administration has the gall to have its political appointees call my district to say that he, Bill Clinton, is worried about what the Republicans might do to tobacco. The bad news, Mr. Speaker, is that this kind of hypocrisy only adds to the cynicism about all people in public life. The good news is that the people of eastern North Carolina have long ago figured out the Clinton crowd. The working people of eastern North Carolina who pay their taxes, go to church, and play by the rules know that there is very little relationship between what this administration does and says and really what it does and says in reality.

Mr. Speaker, no matter how many Clinton political appointees call my district to say otherwise, the people of eastern North Carolina know that an administration that is trying to destroy the tobacco farmer does not care about rural North Carolina.

In the future, Mr. Speaker, I would advise the President to have his political appointees confine their campaigning to Hollywood or to San Francisco or to some other place where the people have not yet figured out that this administration's word means very little.

But he is going to have his government employees do his campaigning for him. At least have them do it on their own time. That would be the beginning of real reform.

MEDICAID

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I wanted to start out this evening by going over and trying to explain a little better some of the statements that were made by my colleagues on the Committee on Commerce with regard to low income seniors who, under current law, under the Medicaid program, are guaranteed that the Medicaid program or the Federal Government will pay the full amount of their part B premium.

Part B is that part of Medicare which covers doctors' bills. And in the motion to recommit that we had today on the Medicare bill, the gentleman from Massachusetts [Mr. MARKEY] addressed the issue and pointed out that there will be no guarantee that widows and other seniors who are low income will receive coverage by the Federal Government of their part B premium in the future because of the repeal of that provision in Medicaid.

The Speaker, Speaker GINGRICH, later this evening spoke and basically criticized Mr. MARKEY because he suggested that that was not true, that somehow Medicare under the Republican proposal, under the Gingrich proposal, would continue to cover those recipients. Well, I do not know what the Speaker had in mind, but he clearly was misinformed. He clearly has not read the bill or had not followed what had been happening both in committee as well as in the Committee on Rules as well as on the floor of this House when the bill came up.

The reality is that that guarantee for low income seniors, including the widows, was struck from the Medicaid bill in the Republican proposal that came out of the Committee on Commerce as well as out of the Ways and Means Committee. And I had actually proposed an amendment to bring that provision back, to guarantee that those low income seniors would have their part B premium paid. I brought up the amendment not out of the sky but because when I went back to my district in central New Jersey, I had many senior citizens who were what we called qualified Medicaid beneficiaries who received this benefit who came to meetings and forums that I had and were seriously concerned about the fact that this was being repealed.

And so I went back to the Commerce Committee and offered that amendment, which was defeated on a partisan line, vote with the Republicans all voting against it.

When the Medicare bill came up in the Commerce Committee, my colleague, the gentleman from Illinois [Mr. RUSH], offered a similar amendment on Medicare on the theory that if it is no longer going to be covered under Medicaid, let us try to cover these poor seniors, these widows, these elderly under Medicare. And again, on a partisan line vote, that amendment was defeated, defeated by the Republicans, by the majority.

Yesterday I went before the Committee on Rules on the Medicare bill. I asked the Committee on Rules to consider an amendment on the floor today that would have guaranteed that those seniors would be covered. I had a dialog with the gentleman from Georgia [Mr. LINDER] and perhaps other members of the Committee on Rules where I explained what this was all about. And again, that request was denied.

So that in fact when the Medicare bill came up today for consideration, contrary to what the Speaker said, it does not guarantee that those widows and the people, those low income elderly, it does not have to just be widows, it is anyone who is 100 percent of the poverty line, whether they are male or female, whatever their marital status, it does not guarantee, the bill that was passed today by the majority, that those poor and elderly people are covered for the part B premium.

□ 1915

What does this mean for these senior citizens? Well, essentially it means that they are going to go without physicians coverage. Part B pays for their doctor bills.

Now the other side said in committee, "Well, you shouldn't worry about that, Congressman PALLONE, because we have included in the block grant that we are going to now give to the States, even though there is no entitlement, no guarantee that these senior citizens get their part B paid, we are going to send in a block grant to the State under Medicaid, and, as the States want to do that, they can cover them." Well, that is very nice, but the reality, as the gentleman from California [Mr. WAXMAN] said before, is the amount of money that is going to be available pursuant to that block grant is about 85 percent of what is going to be needed.

In addition, there is no guarantee or requirement that the State pay that part B premium, so they are going to get 85 percent of what they need, but, if they decide not to spend it, not to even cover those widows and elderly, they do not have to. They can decide to cover 10 percent of them, 50 percent of them, or none of them, and the disincentive for not having the money to do it is certainly going to be there, so it is likelihood that they will not be covered.

Another reason why they are not likely to be covered is because that figure about how much is being block-granted to the States is based on the current premium, and, as we know and as the gentleman from Massachusetts [Mr. MARKEY] pointed out, the premium under the Medicare under the Republican bill that was passed today doubles over the next 7 years, so instead of being 40-something dollars a month, it is going to be $90 a month by the year 2002. So what likelihood is there that those widows and those poor senior citizens are going to have the States covering them for their part B premium when the premium doubles, when the amount they are getting is based on current levels, and when they are getting only 85 percent of essentially what is necessary? I would maintain that the likelihood is almost nil.

This, what the Speaker said today, there is no question that he was misunderstood, but I have very little doubt that he intends to do anything to make sure that those people are covered. We are going to do something about it though. We are going to go to the Committee on Rules next week on the Medicaid bill on the reconciliation bill, which the gentleman from Texas [Mr. ARMEY] said is going to come up next Thursday on the floor, and when the Committee on Rules considers amendments next Tuesday or Wednesday, Mr. Speaker, myself and the others are going to be before it and ask that this amendment be considered to basically make it so that the Speaker has to announce whether he is going to include this provision or not for the widows and for the poor elderly. I doubt that we will see it, but we are certainly going to try.

I just wanted to point out again today when I went to the Committee on Rules yesterday many of us, many Members of this body, not only Democrats, but also some Republicans because I was there for a good deal of time, asked that amendments be considered today because they did not like the provisions of the Medicare bill that we considered, and I am sure it was noticed that the reality was that no amendments were considered. The only thing that was allowed was a substitute amendment, one substitute.

We also asked for at least a week's debate because, as you know, there have been no hearings on this bill in any committee. The Committee on Ways and Means had one day of hearings on the draft of the bill on a press release, but there were never any hearings on the actual bill that we voted on today, so we asked there be at least a week's worth of debate. What we were given today was 1 hour on the rule, which was a very closed rule, 3 hours' general debate on the bill, and one substitute amendment in which we were allowed 1 hour of debate. I would maintain that the biggest problem, or one of the biggest problems, that exists in this whole Medicare debate and with the whole Republican proposal is that most of my colleagues really do not even know what is in the bill because there has not been the opportunity to have hearings or to have adequate debate.

Now, before I go into my concerns about how this bill is going to essentially eliminate and destroy the Medicare system, I wanted to introduce a few things into the RECORD, Mr. Speaker, that I did not have the opportunity to do in the Committee of the Whole today the way the rules are. You cannot do that in the Committee of the Whole. The first is a letter that was sent to me by three Republican State legislators in New Jersey from the Jersey shore who previously had sent a letter to all the New Jersey Members of this House indicating their opposition to the Republican leadership Medicare bill that we voted on today and who today, or earlier this week, sent another letter to all of my colleagues in the New Jersey delegation asking them to vote against the Republican Gingrich bill and also to vote for the Democratic substitute instead, and I just wanted to read part of this, or even all of it, because it is not that long, if I could, Mr. Speaker, because I think it says a lot about the debate and backs up what I have been saying today, but in this case this is coming from Republicans, Republican State legislators in New Jersey, and they write to the House Members, and they say:

STATE OF NEW JERSEY,
October 13, 1995.

Re: Medicare.

DEAR HOUSE MEMBERS: It is our understanding the House Ways and Means Committee has voted 22–14 to send the Medicare reform package to the House floor next week.

Our 9th District Delegation, which represents the largest Senior Citizen population in New Jersey in Ocean, Burlington and Atlantic counties, issued a letter on September 22, 1995 to House Speaker Newt Gingrich and Senate Majority Leader Bob Dole, urging them to scrap this plan.

Copies of our correspondence to Speaker Gingrich and Senator Dole were conveyed to New Jersey's Congressional Delegation. For your convenience, a second copy of this appeal is enclosed.

Please allow our Delegation this opportunity to reiterate our profound concerns about these cuts in Medicare services for our elderly.

As you are aware, alternative proposals have been offered that would maintain the solvency of the Part A and Part B trust funds until 2006. This $90 billion compromise package would provide a decade for Congress and the White House to achieve a well-planned and balanced proposal to resolve Medicare's financial problems. This compromise would also provide the opportunity for a bipartisan consensus.

Our Delegation is genuinely sensitive to the difficult decision you face and have had our own feet roasted by the hot coals of Leadership. We feel very strongly that a rush to judgment on this issue is bad public policy. America must never turn its back on our parents and grandparents.

We, respectfully, urge New Jersey's House Members to oppose this $270 billion Medicare cut. Your leadership, in targeting Medicare fraud, the staggering costs of health care and in building a bridge to the future with the alternative proposals set forth by Reps Sam Gibbons and Ben Cardin, will provide the chance for Congress to seek a consensus solution to preserve Medicare for our parents and grandparents.

Thank you for your thoughtful attention to this appeal on behalf of the Senior Citizens of Ocean, Burlington and Atlantic counties.

Sincerely,

LEONARD T. CONNORS, Jr.
Senator—9th District.
JEFFREY W. MORAN
Assemblyman—9th District.
CHRISTOPHER J. CONNORS
Assemblyman—9th District.

Now I point this out, Mr. Speaker, because that is the way I voted today. I voted against this terrible Medicare bill, and I voted for the Democratic substitute sponsored by the gentleman from Florida [Mr. GIBBONS] and also the gentleman from Michigan [Mr. DINGELL], and it just pleases me to see not only that there are three State legislators at the Jersey shore that agree with that position and clearly understand why my position is accurate, but also that I believe that they and others like them in New Jersey influenced four of my colleagues on the Republican side, half of our New Jersey Republican delegation in Congress, to cast votes against the Gingrich Medicare plan today, and I think that we have worked very hard and essentially the vote today against the Medicare plan, against the Gingrich plan, as far as New Jersey goes, was really on a bipartisan basis.

Mr. Speaker, I am very proud of that fact. I hope that in the future we will see more Republican Congressmen coming out against this proposal and also more State legislators coming out against the proposal.

I want to yield, if I could, some time to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Would it be appropriate at this time to touch on another subject? Have you concluded most of your remarks?

Mr. PALLONE. Yes.

Mr. DOGGETT. I note first in this great Medicare debate, as I pointed out earlier today, we are about to substitute for the Medicare card a giant maze that looks somewhat like the maze that our Republican colleagues criticized President Clinton on last year on health care for the company. We are about to have a maze of that type presented to senior citizens. I wonder if some of them are not going to need to go back for a little late life education to get and understand the full maze of this, and I know you are familiar with this from your work there on the Committee on Commerce, but there are new commissions set up under this bill; are there not?

Mr. PALLONE. Yes, I wanted to commend the gentleman because I think he has pointed out that this bill has created such a bureaucracy over and above what, you know, what we have already, and I am glad he is pointing it out.

Mr. DOGGETT. This is the organizational chart. We will now have at a time we have been told we need less government we are now going to have a new baby-boom commission set up. We will have a variety of other new commissions, and boards, and agencies, and our seniors of course will face a wide range of new choices.

What it all boils down to, of course, is the choice to pay more and get less, but the way it is spread out, it is an organizational chart that is really an organizational nightmare. The lines that seem to me to be the most important though are the taking from the two funds that the gentleman is familiar with, part A and part B of Medicare, the taking from those funds, and taking that money out and really giving it, as you have been saying, to a tax cut for the most privileged members of our society, and I wanted to add to this very important debate, but I also would like at this point to comment on another topic that really related to my district.

Mr. PALLONE. Sure, I yield to the gentleman.

Mr. DOGGETT. This is about that we have been involved in a great debate today about the Medicare system and many of the important public policy issues. It is about another great debate and another debator.

Like many of the Members of this body of Congress on both sides of the aisle, Republican and Democrat, I had an opportunity early in my life to participate in the forensic program, and I rise tonight with the unhappy task of calling attention to a recent tragedy that befell members of the Texas Forensic Union, an award-winning debate and speech team of my alma mater at the University of Texas, Austin.

On a single weekend students were participating from the University of Texas along with their colleagues at debate tournaments in Kentucky and in Nevada. Unfortunately as one group of these young Texas students were returning from Nevada, their van was involved in a terrible accident just outside of Las Cruces, NV. A young man was killed in that mishap, Jason G. Wilson of Boca Raton, FL.

Mr. Speaker, although I did not have the good fortune of knowing Justin personally, I know that the hearts of people in this body, as were my friends at the University of Texas, go out to his friends at the University of Texas, go out to his family, and to his friends, and to the entire University of Texas community.

This was from all of the reports that I get from my friends at the University of Texas an exceptional young man, an excellent student, well liked by his peers and a very noteworthy debater who one day might have been participating in the Halls of this Congress. Justin's life was tragically cut short.

Mr. Speaker, all too often these days we hear of slipping academic standards, of deterioration of education, and a lack of caring by our colleges and universities. By contrast, the young people who are involved in this tragedy, and particularly Justin Wilson, embodied a real commitment to excellence. He should be honored, and I know that he will be missed.

Justin and his colleagues were returning from intercollegiate competition, and I can remember attending similar events at an earlier time that were really significant in my life and in the lives of many others.

□ 1930

I can remember the camaraderie, the mutual respect that characterizes these events, and the opportunity to compete and achieve excellence is really very important to the future of our democracy. Our sympathies go out to all of those who were involved in this tragedy. It is an event that reminds us that every year there are thousands of committed young students of all types of political philosophies and outlooks, and their coaches and their faculty members representing with pride their particular college or university, individuals like Justin Wilson that try to make a difference in the academic community and in the broader life of democracy in our country.

Ironically, in my year of debating, the subject was whether the United States should have a Medicare System. Today, we have been debating this same topic, as the other young debaters like Justin were participating in considering topics of important national interest this year.

These individuals make great sacrifices. They often go unnoticed, but their work is very important. Justin's too-short life is appropriately remembered here tonight in the halls of our Nation's Capitol. We strive to be more aware of the contribution that these unique students, and particularly Justin Wilson, have made to our country. I thank the gentleman for yielding.

Mr. PALLONE. I thank the gentleman.

Mr. Speaker, when I left off, I was talking about the letter I had received from the three Republican State legislators at the Jersey shore indicating opposition to the Medicare bill that was passed today, and asking all of our colleagues in New Jersey to vote against it, and to vote for the substitute.

I believe that those State legislators and others influenced, as I said, half, four of the eight Republican Members from New Jersey, to vote against the Gingrich Medicare bill today, because they realize it is not in the interests of the State of New Jersey.

Mr. Speaker, I also wanted to enter into the RECORD a letter from the National Conference of State Legislatures, in which they express serious concerns about certain provisions in the House Medicare legislation.

Mr. Speaker, I also wanted to point out that one of the reasons New Jersey Members opposed this Medicare bill, essentially on a bipartisan basis today, is because of concerns that were expressed in the State legislature in Trenton earlier this week about how much money the State would have to provide if we wanted to continue making sure that our senior citizens were to receive adequate health care.

If I could just read some excerpts from an article which appeared in the Asbury Park Press, which is my hometown daily, wherein the Democratic leaders in the State legislature, on October 18, basically pointed out that the Republican plan to slash Medicare and Medicaid funding "* * * would force New Jerseyans to pay far more for health care."

In the attack they made on the GOP proposals, assemble minority leader, Joseph Dorian, and Senate minority leader, John Lynch, Mr. Lynch happens to be from my district, "* * * insisted that the cuts could force State taxes to soar because of New Jersey's commitment to offer health care for all residents."

What Senator Lynch is essentially saying here, we have two choices in New Jersey if this bill becomes law. We either provide the services for the seniors at the level of care they have been accustomed to, and we pay more in State taxes to do so, or we do not offer the health care.

What Senator Lynch is saying, essentially, is that New Jersey, because of its tradition of wanting to provide quality health care to all its residents, is likely, and hopefully would opt to continue to provide the same level of care, but that is going to cost more in State taxes.

If I could just quote from Mr. Doria, the assembly minority leader, he says, "The cuts as presented are unreasonable and irrational." He urged the State's congressional delegation to vote against the gentleman from Georgia, NEWT GINGRICH, and the madness, to vote against the mean-spiritedness. He even said New Jersey should not become "Newt's Jersey," as I quoted.

Obviously, many of my Republican colleagues on the other side today felt strongly they did not want New Jersey to become Newt's Jersey, and thankfully, decided to vote against this very ill-advised piece of legislation.

Mr. Speaker, I just wanted to, if I could, in some of the time that I have here, to go over some of the reasons in a little more detail about why the Medicare bill that was passed today, the Republican bill, is so damaging to senior citizens and to the Medicare System, and to the health care system in general, and why the Democratic substitute, which I supported, would have corrected many of those problems that the Republican Medicare bill presents for the future of seniors' health care.

The biggest item, of course, and this is one of the things that my colleagues on the Democratic side have continued to stress, is that this leadership proposal, this Republican leadership proposal, essentially cuts $270 billion out of Medicare to pay for a $245 billion tax cut, mostly for the wealthy.

I know my colleagues on the other side have said, "We are not really doing a tax cut. This is not budget-driven." It is simply not true. We know that the trustees that the Republican leadership cite often, the Medicare trustees, basically said that there was only a need to save about $90 billion in the Medicare program over the next 10 years in order to keep the Medicare program solvent. The trustees have basically indicated that repeatedly.

The substitute that the Democrats had would have saved $90 billion. The rest of the money, the rest of that $270 billion cut, is going for tax cuts, tax cuts mostly for the wealthy. Also, seniors are going to have to pay more under this bill. Essentially, they are going to be paying more to get less. The part B premiums will double without a penny of that increase going back into the part A Medicare hospital trust fund.

There are essentially two parts to Medicare: There is the hospital trust fund, which the trustees have said does face problems over the next few years unless something is done, and then there is the part B program, which pays for physicians or doctors' bills, which is not really in any trouble at this point.

Here we have the Speaker, the gentleman from Georgia [Mr. GINGRICH] and the Republicans redoubling the premiums on part B, which is not facing insolvency. The only reason they are doing that is so they have money left in order to pay for a tax cut.

The other thing that is extremely troubling about the bill is that seniors will ultimately be forced into HMO's and other managed-care systems, and that means in many cases they have to give up their own doctors. Again, my Republican colleagues have said, "We are not telling the seniors they have to go into an HMO or a managed-care system," and that is true.

The law does not say that they have to choose the HMO, but the reality is that the amount of money that is being cut here is disproportionately hitting the traditional fee-for-service system, where people go to any doctor that they choose and the doctor gets reimbursed.

Therefore, this money that is being cut out of the system, this $270 billion, is being distributed in a way over the next 7 years, so that a significant amount of it goes to pay for HMO's and managed care, but less and less of it will go to pay for the traditional Medicare system, where you can choose your own doctor.

Therefore, even though the Republicans are not saying that you have to join an HMO, what you will find happening is that less and less seniors will find that their own doctors will stay in the traditional fee-for-service system, because they will not get reimbursed enough for it to be worth their while to continue to operate that way, so fewer and fewer doctors will be available to seniors, and take Medicare, under the traditional fee-for-service system.

The Republican plan also essentially destroys the high quality of care that we have in America's hospitals, because so much of the savings is in cuts to the reimbursement rate for hospitals, hospitals in inner cities, hospitals in suburbia, hospitals in rural areas. It depends to what extent those hospitals are dependent upon Medicare and Medicaid.

In other words, if you have a hospital, as you do for most of the hospitals in my part of New Jersey, where the majority of the money that they receive comes from either Medicare or Medicaid, if they are heavily dependent on Medicare and Medicaid and they have to face severe cuts in their reimbursement rates, they are going to be squeezed so much that essentially many of them will close, we estimate about 25 percent, and the others are going to significantly cut back on services. That is how the quality of care will suffer. That is how what probably is, and I would say is, no doubt in my mind, the best health care system in the world, probably the best health care system that has ever existed on this planet, will all of a sudden see significant cutbacks in quality of care.

Again, none of this would be necessary if the Speaker was not insisting on this tax break, primarily for wealthy Americans. I wanted to point out, if I could, that the Democratic substitute, which I supported today, which unfortunately did not pass, basically cured these problems, and addressed each of the concerns that I just brought up tonight about the Republican Medicare bill, and still managed to keep Medicare solvent and whole for the next 10 years.

Basically, what the Democratic substitute says is that, "We will cut $90 billion out of the Medicare Program and we will save $90 billion, instead of $270 billion," which is exactly the amount that the trustees say is needed to shore up the trust fund for the next 10 years, but a consequence of that is that much of the tax cut for the wealthy is eliminated.

The Democratic substitute, which I supported, again, also eliminates the dramatic increases in part B premiums that double under the Republican plan. This is the thing, this is the part of Medicare that is going to hurt seniors on fixed incomes, because they are going to have to pay twice as much as they pay now.

Under the Democratic substitute, the premiums for part B will actually increase less than the current law, and so there is an effort to really ease the problem for seniors on fixed incomes.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield on that point?

Mr. PALLONE. I yield to the gentleman from Texas.

Mr. DOGGETT. Under that substitute, would the gentleman have essentially provided the same amount of security for the Medicare trust fund that the Republicans claim they were providing?

Mr. PALLONE. Absolutely, there is no question that not only Secretary Rubin, Secretary of Treasury, but also several other trustees, I think there were four that put out a letter saying that $90 billion was necessary to shore up the trust fund.

Mr. DOGGETT. How in the world could you do it for $90 billion when they said they would need $270 billion to assure that the Medicare trust fund was there? How is it that you are able to do it for one-third the cost that they say they need in billions of dollars from Medicare?

Mr. PALLONE. It is very simple. As the gentleman from Texas [Mr. DOGGETT] has pointed out, and previously, they are using that extra money for a tax cut. It is primarily going to the wealthy Americans.

Mr. DOGGETT. So you could secure the entire Medicare trust fund for a third as much of what they took out today?

Mr. PALLONE. Over the next 10 years, that is right.

Mr. DOGGETT. Under your plan, the substitute, would seniors have seen this rapid increase in their premiums, and when the Senate finishes, an increase in deductibles? Would they have had out-of-pocket costs if your $90 billion had been adopted today?

Mr. PALLONE. Absolutely not. The way the current law provides, I would estimate that the monthly part B premium by 2002 over 7 years would go up to about $60 a month. It is now about $46, I think.

Under the Gingrich plan, it goes to over $90 a month. Under the substitute, it would be less than the $60 under current law, so we would actually be providing for less of an increase in the premium than current law.

Mr. DOGGETT. You are advancing, then, a proposal that would cost less to seniors than they would be facing under existing law, and yet it would provide every bit of the security of the Medicare trust fund that we heard one person after another out here proclaiming that they were the defenders of, and that though these reports had come out year after year after year, they just discovered them this year, right after they raided the Medicare trust fund for millions of dollars, and added to its insecurity, but you have a way to secure it fully, to the extent the Republicans are securing it, at a third of the cost and without costing seniors any additional premium; in fact, less premium than they would face under existing law?

Mr. PALLONE. Exactly, and not only that, I would point out that the substitute also does not decrease the quality of health care from the point of view of the hospitals, which I talked about before, because even though that $90 billion is coming from the reimbursement rate to hospitals, the reduction in the reimbursement rate is less than half of what the Republican Gingrich bill proposed today. The hospital association and the various hospitals that I have talked to in my area have indicated that they could absorb that level of cut, unlike the level of cut in the Republican proposal.

Mr. DOGGETT. I know you have put in a long day and have been participating here on the floor all day during this debate, and I want to thank you for your efforts. I know with the kind of leadership that you have provided today, that New Jersey will never be Newt Jersey. In fact, it was interesting to see that even at least one of our Republican colleagues from the apparent Newt Jersey, who had voted in favor of the Newt plan in committee, apparently had a change of heart our here today, perhaps hearing the words of the many Republicans who have spoken out from New Jersey saying that they would exercise their independence and would stand up for seniors. If we can just get the Members of the Senate to do the same thing, there is yet hope, and if President Clinton will stand firm on this, there is yet hope that our seniors will not find themselves plucked clean.

Mr. PALLONE. I want to thank the gentleman. I think the gentleman also brings up an important point, which is that I think a lot of people think that today was the end of this process. In fact, today is the beginning of the process, because the Medicare bill, the Republican bill, still has to be addressed in the Senate. It will still go to conference. The President has already said that he intends to veto the bill. It will come back to the House, back to the Senate, and we will probably be here for several weeks, if not several months, continuing to debate this issue, and hopefully there will be an opportunity to persuade more Members from the other side of the aisle to either not support this, or change it, consistent with the Democratic substitute.

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The other thing I wanted to point out about the substitute is that this whole shifting, if you will, of seniors into HMO's or into managed care where they do not have a choice of doctors is basically eliminated. There is no forced choice, because the system under the Democratic substitute is not changed in that there is no discrepancy in the reimbursement rate and the amount of money that is going to go, whether you are in an HMO or you are in the traditional fee-for-service system. So doctors will still be available under the traditional fee-for-service system and will continue to accept Medicare.

The other thing that I think is so important about the substitute, which has not really been debated a lot because so much of this debate on the Republican side has been subject-driven, is that the substitute seeks to include more of what I call preventive measures in Medicare.

I was hopeful, maybe I was naive, that when I took up Medicare reform this year that, rather than focus on the budget aspects and have a whole debate be driven by budget dynamics, that we would try to look to include in Medicare preventive measures which ultimately save money, because they prevent senior citizens from having to be hospitalized or institutionalized.

Now, just to give you an example, the Democratic substitute today makes a good start in that direction, because it includes programs like prostate screening. The whole idea is, let us do some things, whether it is prostate screening or it is other kinds of tests, so that we can detect problems that seniors might have at an early date so that they can have treatment on an outpatient basis, so that they can stay home and not have to be institutionalized.

So much of the cost, not only to the Medicare system but also to the Medicaid system, which we will be dealing with next week comes from having to institutionalize senior citizens in hospitals, nursing homes. Something like 70 percent of the money that the Federal Government spends on Medicaid in the State of New Jersey goes to pay for nursing home care.

If we could include preventive measures like this Democratic substitute that unfortunately was defeated today in our Medicare program, we could save a lot of money and come up with a better system without having to make the drastic changes and negative changes that the Republicans have proposed.

Mr. Speaker, I just wanted to bring up a couple of other points on the Republican bill today in the time that I have left, because oftentimes, obviously, since debate was limited to only 3 hours today and only half of that was on the Democratic side, there were several points that were made by Republican Members that I just thought were inaccurate or at least did not give a true picture of some of the things that are in this bill that the Republicans passed today.

One of the things that I thought needs to be addressed is this whole issue of fraud and abuse. In my committee, the Committee on Commerce, there was at least one day or perhaps several days of hearings not on this bill but just on the problem in general of fraud and abuse; and I know that I attended at least one of those hearings where a lot of attention was paid to the fact that tremendous amounts of money could be saved in the Medicare program and we would not have to cut other aspects of the program if we could weed out the fraud and abuse.

But, lo and behold, when the bill came up in the Committee on Commerce, we found that there were some provisions in the bill that, if anything, made it more difficult for the Federal Government, the prosecutors, the investigators, to go after fraud and abuse in the Medicare system. Specifically, we had testimony at an alternative hearing. Since we were not allowed to have a hearing before the Committee on Commerce, some of the Democrats got together and had their own hearing; and we had testimony from the inspector general, June Gibbs Brown of the Department of Health and Human Services, and she pointed out some major flaws in the bill in terms of the effort to weed out fraud and abuse.

Mr. Speaker, I just wanted to quote some of the things that she said that I thought were most important.

She said that we believe that H.R. 2425 contains several provisions which would seriously erode our ability to address Medicare and Medicaid fraud and abuse. Most notably, these troublesome proposals include the following:

One, the bill would make the existing civil monetary penalty and antikickback laws considerably more lenient.

Two, the bill would substantially increase the Government's burden of proof in cases under the Medicare-Medicaid antikickback statutes. For the vast majority of present-day kickback schemes the proposed legislation would place an insurmountable burden of proof on the Government.

Next, the bill would create new exemptions to the Medicare-Medicaid antikickback statute which would be readily exploited by those who wish to pay rewards or incentives to physicians for the referral of patients.

Finally, a fund was created directing moneys recovered from wrongdoers under the bill, but instead of the funding of that money going to fund law enforcement, the moneys could go to private contractors. No funds would be made available to enhance existing government law enforcement activities.

I know that on the other side today they tried to, and did, in fact, include some provisions to try to improve on the fraud and abuse, but not every one of these concerns that was addressed by the inspector general was addressed, and so the bill, in my opinion, continues to provide loopholes and make it more difficult for us to enforce fraud and abuse. I think that is totally unconscionable in the context of the fact that we are trying to squeeze so much money out of this Medicare Program in order to achieve a tax cut.

Mr. Speaker, the other thing that I wanted to point out is a lot of attention was paid by Republicans today to the medical savings accounts. It was termed by my colleagues on the other side that this was a new and innovative program that was going to sort of be the wave of the future. I forget all of the adjectives that were used to say how wonderful the Medicare savings accounts were going to be.

I would point out that there is no question in my mind, first of all, that these medical savings accounts are not going to be available to a lot of senior citizens, but also, that it essentially is going to cost more for the program. In other words, the Medicare savings accounts will not save the Medicare Program money, they are going to cost the program more money.

The CBO, the Congressional Budget Office, estimates show that medical savings accounts would essentially rob the program of $2.3 billion over 7 years. In other words, it would cost that much more to the Medicare Program to have these Medicare savings accounts in effect.

It says that under the MSA's, as they are called, under the medical savings accounts, the Medicare Plus voucher could be used to buy a catastrophic health insurance policy with a deductible as high as $10,000. Any difference between the cost of that policy and the voucher amount will be placed in a tax-deferred medical savings account. But only the wealthiest and healthiest seniors could afford to gamble with such a high-deductible policy. When these individuals buy MSA's, the average costs of those remaining in Medicare would increase.

So what essentially we are saying here is that the people that are going to take advantage of these medical savings accounts are the healthiest and wealthiest seniors, the ones that essentially we are not paying a lot of costs for under the current Medicare law in order to cover. If they are taken out of the system and the system has to pay out money into these medical savings accounts, what is going to happen is that the cost to Medicare is going to be more and not less, because the healthiest people that cost Medicare the least amount of money are the ones that are going to opt for it.

Mr. Speaker, the CBO says that. I mean it is not something that I am making up; it is something that is clearly indicated by the Congressional Budget Office.

The last thing I wanted to say, Mr. Speaker, because I think my time is almost up, is that there were many suggestions, most notably by Speaker GINGRICH this evening when he gave his speech on the floor, that this whole idea that Democrats were saying, and that I say, that this $270 billion in cuts to the Medicare Program is going to be used for a tax break for the wealthy, the Speaker said that that is simply not true. He said that we are not going to do that, that is not our intention, and so forth and so on.

Well, my contention, Mr. Speaker, is that if that were not true, if this whole debate was not budget-driven for the purpose of creating these tax cuts, then there was absolutely no reason for this Medicare reform, as it is termed, to be linked with the budget reconciliation, which it will be next week. Next week we are going to take up the budget reconciliation and we are told that the Medicare is going to be clearly linked to that. Although it was voted on separately today, that is essentially a ruse, because it will be included in the budget reconciliation.

If the Speaker and the Republican leadership were going to be honest with us and say that they are not going to use this for a tax cut, then they would have supported some of the amendments that we made in the Committee on Commerce and also tried to get included in the Committee on Rules that would have not allowed the savings to be scored for budgetary purposes.

We had such an amendment in the Committee on Commerce, and again, it was defeated along partisan lines with the Republicans voting against it, because they do, indeed, intend to score these Medicare savings of $270 billion to pay for the $245 billion in tax cuts. Those tax cuts, again, will go mostly to wealthy Americans and other corporations.

Mr. Speaker, I think it is a very tragic day for America's seniors that this Medicare bill was passed, and that the Democrat substitute was defeated, but hopefully, there will be more debate, if

not here, then certainly in America as a whole over the next few weeks and the next few months to bring to light how terrible and devastating this bill, this Republican bill is, and that we will eventually see changes so that it does ultimately make it possible to continue to have a quality health care program for the poor senior citizens in this country.

NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
October 18, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, The Capitol, Washington, DC.

DEAR MR. SPEAKER: On behalf of the National Conference of State Legislatures (NCSL), and the Special Committee on Health Care Reform of the National Association of Insurance Commissioners (NAIC), we are writing to express serious concerns about provisions in the House Medicare reform legislation currently under consideration. In particular, we urge you to reconsider provisions in the bill that exempt provider-based organizations (sometimes called provider-sponsored organizations (PSOs) or provider-sponsored networks (PSNs)) from the requirements of state regulation.

The proposal presents significant problems for the states and the current privately-based health insurance market in two fundamental respects. First, consumers could be harmed greatly by the loss of state-level protections resulting from the bill. Secondly, the proposal could eviscerate state regulation of health insurance overall.

By preempting state laws that otherwise apply to PSOs, in one fell swoop, the proposed legislation completely blocks the application of state insurance laws to these entities. These laws currently include financial and market conduct requirements, as well as other consumer protections, for many types of health plans which are similar to, if not identical in form and operation to, PSOs. Thus, state requirements—which have worked effectively for a substantial period of time—would be entirely eradicated for a growing and substantial segment of the health insurance market.

In order for the federal government to begin to provide the consumer protections deserved by all health care recipients, it must create a bigger and better Health Care Financing Administration to oversee these new organizations. This would result in bifurcated and potentially duplicative state and federal regulatory system. Further, consumers currently benefit from the necessary protections within current state law. It is highly unlikely that the proposed federal regulatory structure would come close to providing elderly consumers with the ability to lodge complaints currently available for enrollees in state licensed plans. Most significant of all, it is unlikely that a new federal bureaucracy could deal effectively with solvency problems, thus leaving the financial stability of the entire system at risk.

Contrary to the assertions of some, the requirements in state law are not a stumbling block to market innovation. Many provider-sponsored entities already operate and compete under the existing state regulatory structure. We question the viability and quality of those entities which could not withstand the test of state regulation.

Second, it is perplexing that the 104th Congress, which is to be commended for championing the states in so many respects, would intrude in this instance on states' rights—particularly in an area where the states clearly have superior expertise and experience: insurance regulation. The proposed legislation exempts association plans, as well as PSOs, from state regulation. Presently, both types of entities are largely subject to state law.

You must recognize the threat to the state insurance regulatory mechanism that this provision in the reform legislation presents. The proposed uneven regulatory playing field where PSOs are subject to different, and possibly less stringent, requirements is a discriminatory system. Once created, it will not be easily stopped. Every other type of organization in the health care delivery system will want the same treatment. Importantly, under the terms and definitions of the bill, this will be easy. All entities will reconfigure themselves or form subsidiaries to become PSOs. We urge you to avoid this prospect that could lead to the effective federalization of health insurance regulation.

In summary, we strongly object to any provisions in Medicare reform legislation which exempt PSOs from state regulatory authority. All Medicare beneficiaries deserve the same protections afforded other citizens of the states. The erosion of traditional state authority contained in the proposal is simply not justified and could worsen, rather than improve, the health care system.

Thank you for your consideration. Please contact us if you have any questions.

Sincerely,

BILL POUND,
Executive Director, NCSL.
LEE DOUGLAS,
President, NAIC and Chair, Special Committee on Health Care Reform, Commissioner of Insurance, State of Arkansas.

REPUBLICANS PRESERVE MEDICARE FOR GENERATIONS TO COME

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes as the designee of the majority leader.

Mr. HASTERT. Mr. Speaker, I thought we would take some time this evening to talk about the bill that we passed today, the Medicare bill where the Republican proposal to save and preserve Medicare for generations to come was passed in this House.

It was interesting to listen to some of the previous speakers and some of the shameless rhetoric that we have heard through the last hour or so about some of the proposals that were supposedly proposed in the Medicare bill, and in the next hour I would like to talk about some of those fallacies that were presented here and talk about why Republicans decided that we had to look at a system that has been in place for 25 years, or actually 30 years, since 1965.

Mr. Speaker, what happened last April, the President's Board of Trustees for Medicare came forward and said that Medicare is going to go broke, that we start going into arrears next year, in fiscal year 1996, and by the year 2003 or 2004 Medicare would be totally bankrupt. So we had a choice. Basically, Democrats and others today had a choice in this Chamber. You could vote for a program that was going to save Medicare, preserve Medicare and give seniors choices, or you could vote no and let Medicare go bankrupt so there would be no Medicare system in the next year or 2 years or 7 years, and let seniors down, take away a promise that has been there for a number of years.

In developing the Medicare plan that we had before us today, I would just like to take a minute and say that I think we went beyond the traditional square of how politicians think. We brought in health care recipients, organizations like AARP and other consumer organizations for seniors. We brought in management, risk managers of the Fortune 500 companies, we brought in hospital folks, we brought in nursing home folks, we brought in doctors and other providers to listen to what their problems were and how to design a Medicare system for the future.

We asked people to do one thing, and that was to think beyond either cutting down the benefits that have always been there to squeeze down the dollars that we spend on Medicare and hold back those benefits, or hold back the dollars that the providers got, or those types of traditional ways that the previous leadership in this House has behaved towards Medicare, or to try to think beyond the traditional square. How do you create a new system, how do you create a Medicare system that will reach into the future that will give people better services, better choices, and be a system that really starts to move towards the private sector?

Well, we decided that the fee-for-service system that has always been the traditional Medicare delivery system in this country was near and dear to many people. We did not want to upset seniors, and we wanted to make sure that that system was always there if people chose to take it. Also then, we wanted to offer an array of choices, and those choices, one of them is about 10 percent of our seniors in Medicare today already take the choice of managed care, or what we call HMO's, or Health Maintenance Organizations.

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Along with that, they do not have those choices today, but PPO's are also part of that choice system. In this system, a health maintenance organization may offer somebody prescription drug benefits, prepaid, and they offer to do away with copayments and they even offer to pick up part B premiums. So there is a real incentive to give people a better product at a lower price. Of course, that is the real market system starting to develop.

People also might want to develop what we call a provider service organization, where doctors and hospitals get together and offer a new system to health care recipients, to the Medicare recipients in this country. Of course, people may want to go to a medical savings account that we are going to talk about here tonight, where people can make choices of where they want to keep their traditional doctor, what kind of health care they want to buy, and if they do not spend a prescribed amount of money they get to keep it. That is certainly a unique idea in this country, especially when you deal with huge bureaucracies that formerly controlled the health care in this country.

Then, finally, the seamless coverage, that if you have had a health care insurance system where you worked for the last 30 years, you liked that system but all of a sudden you are reaching 65 years of age and, my gosh, you have to give up the insurance you have always known and try to find some other kind of a fee-for-service system in the Medicare system, that is a very traumatic experience to some folks. If your insurance company has agreed to stay within the system, now you can have that seamless coverage and stay with that traditional insurance that you have always had.

Those are the choices. But some of the things we want to talk about here tonight, talk about some of the fallacies that one's friends on the other side of the aisle have brought up but also some of the positive things about those positive choices that people will enjoy and at the same time trying to squeeze out the fraud and abuse that we have in health care. We think up to 10 to 15 percent of the dollars that we spend in Medicare today are wasted in fraud and abuse under the present system. We need to change that. We have brought in tough new provisions to make that happen.

I would like to defer, first of all, to my friend, the gentleman from Connecticut [Mr. SHAYS], who has also been on the ground floor of putting this program together; and we are going to talk about the inception of the change, the new system of Medicare. Plus we have with us the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Oklahoma [Mr. COBURN]. It will be interesting to hear from these gentlemen as well.

Mr. SHAYS. I thank the gentleman for yielding and want to say that I have seen our conference work on this legislation for well over a year, because we started, in fact, when we were in the minority to deal with this very serious problem of reforming our health care system and making it a better system for all.

One of the first fallacies, and there are going to be a lot of fallacies that we have to deal with, is this whole concept that we are in fact cutting Medicare. You can look at it in three different ways. Each way it is a significant increase.

In the last 7 years, we spent $926 billion on Medicare. We expect to spend in the next 7 years $1.6 trillion. It is about a $675 billion increase in new money over the next 7 years. We are going to spend 73 percent more money in the next 7 years than we spent in the last 7 years. Only in this place, in Congress and in Washington, when you spend 73 percent more during the next 7 years do people call it a cut.

We could look at it in terms of how much we spend today on Medicare. We spend $178 billion. In the 7th year we are going to spend $274 billion, estimated. That is a 54 percent increase in the 7th year. So we are going to spend in the 7th year 54 percent more than we spend today. Only in Washington when you spend 54 percent more would people call it a cut.

But then people said, Well, wait a second. There are a lot more beneficiaries. So we said, Yeah, let us see the impact on each individual beneficiary. We put aside for every senior approximately $4,800 per beneficiary, per senior. In the 7th year, that is going to go up to $6,700. That is a 40 percent increase per beneficiary in the kind of money we are putting into the system.

Mr. HASTERT. So what the Democrats are saying, that we are cutting Medicare, actually, we are expanding Medicare 40 percent over the next 7 years, is that correct?

Mr. SHAYS. Per beneficiary. We are putting in 73 percent more money in the next 7 years over the past 7 years. We are spending 54 percent more in the 7th year than we are spending today. Any way you look at it, we are spending a colossal amount of increased funds in this program.

Mr. SCHIFF. If the gentleman would yield on the same point, I want to say that I voted against the tax cut when it was first proposed; and I did not vote against it because I do not agree with tax cuts. I did not buy the class warfare argument being offered by the other side. I do not believe the proposed tax cuts go primarily to the rich; and, in any event, I think people keeping the money they have earned is desirable.

I voted against it for one major reason. That is, that I simply felt that we should concentrate on deficit reduction first. I make that point because the argument that is being made from the other side is that everything we are doing is simply for a tax cut and a tax cut for the wealthy. Therefore, I think I am in a credible position to talk about that since I personally did not vote for the tax cut.

It is important to emphasize on the gentleman from Connecticut's use of the word cuts in explaining that, that our colleagues on the Democratic side are using the word cuts or have used the word cuts to mean spending less than a projected increase, even though you are still spending more.

Only in Washington, of course, is spending more called a cut. But here is what I want to emphasize. The original position of many of our colleagues on the Democratic side was that nothing needs to be done with Medicare, everything is fine, everything the Republicans are proposing is simply to fund a tax cut for the wealthy.

Now, this morning they changed that position. This morning, or this afternoon, I guess I should say, in their substitute that they offered here they are proposing to cut Medicare using the word cut as they use it. They themselves have proposed spending less than certain target figures that have existed in government projections.

Why would they propose cutting Medicare unless they now acknowledge there is a real problem here, that Medicare faces bankruptcy unless action is taken? That is something that they have largely denied through the past several months.

Mr. SHAYS. If the gentleman would yield, the President came in with this 10-year plan. In this 10-year plan, he said we needed to reduce the growth, which is the proper term, of Medicare, $127 billion. And what he did not acknowledge, though, that was scored by OMB. The President, in fact, I just want to add weight to it, was suggesting by reducing $190 billion the growth in Medicare.

Mr. SCHIFF. I wanted to make the point that on the House floor today the Democratic counterproposal called for a cut in Medicare as they have used the term cut for the last number of months, spending an increase but not as much of an increase as projected targets. I thinks that that is an important concession that Medicare indeed is in serious projected financial trouble, and somebody had to come forward and start taking the lead on this.

I am going to yield back to the gentleman, but at some point I would like to analyze their current argument which is the difference in how to fund a tax cut.

Mr. HASTERT. If the gentleman would yield, one of the interesting things when they are talking about a $270 billion cut, what they are talking about is they want the inflationary rate of over 10.5 percent to go on unfettered. Our good Democrat friends on the other side of the aisle, who just got done speaking, are saying, let us not try to hold in inflation. Of course, we know what inflation does, especially to seniors. But they want that inflation to go at 10.5 percent. That is how they get to $270 billion more spending.

Mr. SCHIFF. If the gentleman would yield for one moment, and I will not belabor this, but I want to make the point that, of course, more spending is not a cut. But to the extent that some of our colleagues on the other side have said we are cutting Medicare, they proposed today to cut Medicare, too. That is a concession that there really are Medicare problems that we have to address.

They now say, well, the difference between our cut and your cut would fund the tax reduction for the wealthy. That is not true, either. I hope to address that when I get the floor again.

I yield to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. I heard a wonderful example on how to explain this. I have three grown daughters. But I did have teenage daughters. If I gave one of them $20 a week allowance and we come to negotiate again the next year and she wants $40 a week and I say I will give you $25, then she comes to tell me that I have given her a cut? No, I have given her a $5 increase. When you put it in the terms, it is what it would be versus what it should be.

I want to go back to the real point of why we are doing what we need to do. We are not getting value for our dollars in Medicare today. If we are going to assume a 10.5-percent growth, then we are going to assume that we are going to continue to not get value for our dollars.

So we have to ask the question, do we have an obligation to the seniors that are on Medicare today, to those of us that are working, paying for Medicare through our payroll deductions and to the children that are going to have to pay for it in the future to get the best value for every dollar that we spend? If you look at this plan, that is an attempt to move in that direction.

We are giving an allowance. It is going up. It is not going up as much as it has in the past in terms of inflation.

Mr. SHAYS. Thank goodness it is not going up as much

Mr. HASTERT. It is interesting. When we talk about growing Medicare, and the gentleman from Connecticut [Mr. SHAYS] talked about how much more dollars that we are going to put in the system over the next seven years, we base that at about 5.5 percent, which is even less than what the private sector medical growth has been.

When you look at the rate of inflation that the Federal Employees Benefit Plan has had across the country, they have had an average under 5 percent in the last couple of years. We are giving the people the benefit of the doubt, and we are letting Medicare grow at about 5.5 to 6.3 percent.

But the amazing thing is when we say that, no, we are not going to hold in inflation completely, that we are going to let it go, our friends on the other side have said, "Well, we will let it go, we will let inflation go up to 10 or 15 percent." That is where they get the $270 billion. That is wasted money. That is inflation. That is money that never was, never will be, but people would have to pay extra out of their pockets and not get any more in return.

Mr. COBURN. If the gentleman would yield, I think one other critical point, is it morally right to allow Medicare to grow faster than what it should, to be more inefficient than what we can make it? It is morally wrong to do that, and we should do everything in our power to make this an efficient system that delivers affordable quality health care with choice for our seniors.

We can do that. But we have to do that by being honest with what the problem is, being honest with what the numbers are, and then carrying that honesty out and say, yeah, we made the hard votes to do the right thing. To do anything else, we would be shirking our responsibility.

Mr. SHAYS. If the gentleman would yield, what we are really going to do is we are going to just take each of the points that were made by our colleagues on the other side of the aisle and just talk about how valid they were, if they had any validity.

I just make this point. Of the $270 billion of savings to the growth, $133 billion are going to go into the Medicare part A trust fund. That is the trust fund that individuals pay in their payroll tax, the 2.9-percent if you are self-employed, 1.45 percent that you pay if you have an employer; and the other $137 billion are going into the Medicare Part B trust fund. That is the fund that funds all the health services.

My colleague just brought up the issue of taxes; and since I serve on the Committee on the Budget, I would just like to respond to this issue and deal with this other issue that somehow they are linked. They are not linked at all.

When the tax cut passed, and this is a plan that I voted for, we paid for it through the fiscal dividend of getting our financial house in order. The Congressional Budget Office said we had a fiscal dividend of $170 billion by immediately getting our financial house in order. We saved the taxpayers $170 billion on unnecessary interest payments and so on.

Mr. HASTERT. If the gentleman would yield, we paid for those tax cuts.

Mr. SHAYS. That is the point I want to make. I want to say that before we even took up Medicare, we paid for each part of those tax cuts. We paid for them in cuts in discretionary spending, in slowing the growth of our entitlement programs that we specified and through our fiscal dividend. So it was paid for through very serious and in some cases difficult votes.

Our logic was, why have a program, for instance, a government program that is supposedly helping a family when 20 to 30 percent get taken off by the bureaucracy before it gets to the family, with all the bureaucratic requirements of the government program, and why not just get that family the money? A major part of it is the $500 tax credit, $500 for each child.

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Mr. HASTERT. Can I ask you a question and then let the gentleman from New Mexico ask, too? The Democrats are saying this is a tax break for the rich. You are saying tax breaks here are for families with children.

Mr. SHAYS. Anybody can just ask themselves, if you have a child that is under 18, you would get a $500 tax credit. If you are listening today and you feel you are rich, then you would qualify under their definition. And the Senate, on this $500 tax credit, has said it should only go, Republicans in the Senate said it should only go to families under $75,000. But 75 percent of all families make less than $75,000.

So the biggest part of our tax cut will go to individuals with families with children. If they have three children, they get $1,500. If they have four, they get $2,000.

I just would love to make this point, if I could. I would like to make the point that when my parents were raising me and my older brothers, they were able to take a deduction in today's dollars off their income of $8,000, and they could reduce their income. My family, in today's dollars, could reduce $32,000 from their income and not pay tax on that $32,000. You have seen what was then equated to today.

And my family, when they were having to, my mom and dad were raising us, they had to pay less than 20 percent in taxes to Federal, State, and local governments. A family today pays approximately 40 percent in Federal, State, and local. So what we are trying to do is focus the bulk of that tax on families and families that need it.

Mr. HASTERT. The other part of the tax cuts for the wealthy that our friends on the other side talk about, and it is somewhat laughable, because part of those tax cuts are for senior citizens who want to work that earn under $30,000 a year and ones who do not have all the income coming in and rents or interest rates or dividends from stocks or people who have to really go out and work for a living and people who have done that their whole life. But if you earn under $30,000, you do not have to pay that extra income tax or that deduction that you get on your Social Security.

Mr. SHAYS. Even taking into account the capital gains exemption, which we have to score as a loss in revenue, which most economists say will actually generate revenue, this is how Democrats equate it to a wealthy man. If you make $40,000 and you have a one-time capital gain of say $100,000 on the sale of a home or something else and you, therefore, have earned $40,000 in income and then you have this capital gains of 100,000, they say, see, you are a wealthy person, you made $140,000. And they put you on that equation of $140,000.

Mr. SCHIFF. I want to stay on the subject of the relation of our Medicare bill to the tax cuts. As I indicated, I did not support the tax cut only because I would like to see some real time history of budget savings rather than go on a plan. But the point is, for the purpose of this debate, on Medicare, I very strongly argue that the accusation made that this is to fund any tax cut for any purpose is simply incorrect.

I would just like to say that we start at the same place now. We have proposed reducing the rate of growth of Medicare, which they have called a cut. They now propose reducing the rate of growth in Medicare, which they call a cut. So we are now heading in the same direction.

They have conceded the fact that Medicare is heading towards insolvency. The argument that we heard for the last hour was the difference between the two figures, the amount of additional reduced growth, which we say is necessary for the long-term fiscal health of Medicare, they say is to fund the tax cut. I want to take a couple moments to say to my colleagues why that is just not true and why in fact the tax cut in the plan is funded in other ways.

In the first place, part A of Medicare, the hospital trust fund, which is the larger portion of Medicare spending, is funded by a payroll tax. That payroll tax is not affected by other taxes. In other words, other taxes can be raised or other taxes can be lowered. The fact of the matter is, the Medicare trust fund has the exact same source of income which is the payroll tax. So nothing we do in lowering or in fact raising taxes elsewhere has anything to do with part A.

Part B of Medicare that deals with funding physician and other services is paid for, approximately 31 percent, by beneficiaries and approximately 69 percent is subsidized by the general treasury. So the argument can be made, well, the tax cut is being funded by reduced spending in part B, because that is general funds.

The problem with that argument is that every Medicare beneficiary knows that part B regularly, I think annually, goes up in cost as the cost of the program goes up.

The current system is projected to raise the part B premiums for beneficiaries for the general fund in the next several years. The President's proposal will raise the contribution of beneficiaries and the general fund for part B in the future.

The point is, as I have seen the figures, the final figures projected to exist in 7 years for part B for beneficiaries are very close together. I think the widest range difference I have seen projected is that the Republican plan will, in seven years, not for seven years but in seven years would be $7 a month higher per beneficiary than the President of the United States. The point is, you do not fund a multibillion dollar tax cut out of a $7 a month difference.

Mr. HASTERT. One of the things that when we looked at our system and what we have tried to do, the rate today is 31.5 percent. And we keep that tax rate in place.

Now, there is a proposal or under law that this would drop to 25 percent. And if it did, indeed, drop to 25 percent, then taxpayers would have to pick up that extra amount and taxpayers would be subsidizing the part B premium about 75 percent. So the other side of the story, as some people use that terminology, our friends on the other side would actually have a tax increase for those people.

Mr. SCHIFF. It is my understanding that explains the difference between the Republican plan and the President's plan. We would keep the subsidy level of part B the same and not increase it out of the Treasury. But the difference is still too small, is still too small for anyone to say that is funding a multibillion dollar tax cut. It is just not correct.

Mr. SHAYS. I just would love to make sure that we just establish the arguments that are being made and whether they are credible.

First, we are not cutting Medicare. We are allowing it to grow significantly per beneficiary over 40 percent a year. The second argument is that somehow the tax cut is related to what we are looking to do to save, strengthen Medicare. There is absolutely no relationship.

The next argument they make is they say we are increasingly co-payments, which simply is not true. Copayments remain the same. They say we increased deductibles. That simply is not true. The deductible remains the same.

Then their argument is that we increase premiums. We are keeping premiums in fact at 31.5 percent, and 7 years from now they will stay at 31.5 percent. As health care costs grow, that 31.5 percent will cost slightly more as it has during the last 7 years. There has been that growth.

So what gets us into this is the exciting fact that we have an option beyond, you can say, in this fee-for-service program. You are not being forced out. No new co-payment, no new deductible, no increase in premium, no relationship between our effort to slow the growth in spending in the tax cut. In fact, no cut in this program, an increase. And it gets into this extraordinary opportunity we have with Medicare-plus.

Mr. COBURN. I just wanted to add, 7 years ago the part B premium was about $26. And it is $46 and 10 now. It is going to rise. It is going to rise a small amount each year for the next 7 years. But it is still going to stay at 31.5 percent of the total cost for the part B program. I think it is important for people to realize that the rate of rise is not going to be significantly different than what the rate of rise has been in the past.

Mr. SCHIFF. The gentleman has just made an extremely important point, that the part B program has been costing more every year and the amount that beneficiaries pay has gone up every year. What the other side argued was the entire projected increase in the part B premium was a result of the Republican bill and for tax reduction. The point is, the increases are coming anyway. The increases are posed in the President's budget. The difference is very small, and the difference is the result of do you want, in this season, in this time frame of deficits, do we want to be increasing the amount of subsidy from the general Treasury.

Mr. HASTERT. I think one of the most important things that we want to get to and I think we should walk through the choices that people have. traditional fee-for-service and the other choices are there, part of this Medicare Program.

Mr. SHAYS. Is it true that you will be forced to get out of your fee-for-service program?

Mr. HASTERT. Absolutely not. The fee-for-service, we believe that our CBO tells us about 75 percent of seniors will stay in the traditional fee-for-service. We think that there is too good an opportunity out there for seniors and seniors who really look at the opportunities they have will move from fee-for-service.

Mr. SHAYS. But they do not have to.

Mr. HASTERT. It is their choice if they want to.

Mr. COBURN. There is 9 percent already in a managed care option who are very satisfied.

Mr. HASTERT. Nine to ten percent are there and looking at that. When those folks get involved, they have options of getting prescription pharmaceuticals paid for. They get co-payments paid for in many of those plans, and we talked about part B premiums. These options are that the system can even pick up the part B premium for the Medicare recipients. So there are some real pluses there.

Mr. COBURN. Mr. Speaker, one of the advantages that I have had in dealing with Medicare is I am a practicing physician. I continue to practice on the weekends. I know Medicare both from a patient perspective and as well as a provider perspective. It is unique to be able to understand; it is very, very complicated. That is one of the reasons our seniors are so concerned, not only because of the rhetoric but because it is very difficult to understand. As we have changed Medicare, we really are going to give four very simple options.

Mr. HASTERT. I would like the gentleman as a physician and a practitioner, a person who deals with both patients and the system, one of our options is a medical savings account. Why do you not talk about that medical savings account and how that can affect patients and the system itself.

Mr. COBURN. I would be happy to. First of all, I think we need to correct what we heard a minute ago, that there was a $20,000 deductible. That is not even allowed under this plan. So it is not going to be one of the options, and the information stated was incorrect.

A medical savings account is an account like I presently have as a physician. I have a deductible, and I pay a premium each year for that deductible. It is a high dollar deductible. It is $10,000 for my entire family. I am fortunate enough to be able to have that kind of deductible. I am responsible for the bills in between it.

Under the Medicare Program, we will have deductibles, high deductible medical savings account available, which the Government will place into that account, the average payment for that area to purchase a high deductible policy; and what is left over can be used for medical care for that person for that period of time.

Mr. HASTERT. So basically, let us say that next year the Federal Government, and we are just using numbers generally, but next year the Government will pay $5,000, average payment per person will be about $5000 in the next fiscal year. So a person could buy a $3000 deductible catastrophic health care policy for about $2,000. Then the Government would put the balance of that $3000, the balance of $2000 from $5000 average, into their medical IRA. That money would be there.

They would choose where they want to go for health care. They would choose their doctor, what kind of care they wanted. They would also be pretty responsible then for looking at what the cost of that health care is. They actually would go out and shop because, if they do not spend it, they get to keep it. That is one of the things that would roll over in that medical IRA account. Then eventually, if they want to use that for long-term care insurance or some other type of health care, they could. But the thing is, it is their money. What a unique situation. All of a sudden, people are protective of those dollars and looking into that when it is their money.

I know we have been joined by one of our colleagues who has been a leader in health care for many, many years here, the gentlewoman from Connecticut.

Mr. SHAYS. The distinguished gentlewoman from Connecticut is an expert on this issue.

Mr. HASTERT. I would like to yield to the gentlewoman at this time.

Mrs. JOHNSON of Connecticut. I thank the gentleman for the opportunity to join him at this special order to discuss the Republicans' approach to reforming Medicare in order to secure for current seniors and to ensure that it is going to be there for future retirees.

I wanted to pick up on what the gentleman is talking about. One of the things that was very distressing about the debate this afternoon was the claims by opponents that we could not fund a premium that would buy a good plan in the market.

When we look at what is really happening out there right now already, the Medicare premium that seniors are paying would buy much more for them than Medicare is giving them. In the Boston area, there were two HMO's. Seniors have the right to choose to join an HMO. Not everybody wants to be in an HMO. If you do not like the staff or the doctors in the HMO, you cannot go outside.

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I personally am not high on joining an HMO, but they had two very good HMO's in the market in Boston. One of them was the Harvard Health Plan, and the other was the Fallon Plan. Each of those HMO's had developed quite large senior participation, but they were not growing.

Well, into the market came three new managed-care plans offering not only all Medicare services, but additional services, for a zero premium. That is just the Medicare premium. Now thousands of seniors every month are joining one of these five plans because what did the Harvard plan do? They dropped their premium from $89 a month to $15 a month. What did the other plan do? Its premium was over $50. They dropped their premium to zero. Now the seniors in the Boston area have the choice of four plans, four zero-premium plans, the Harvard $15-a-month plan, and for that they get all Medicare services plus copayments and deductibles plus some other, in some cases, prescription drugs, in some cases preventive-care coverage.

Mr. HASTERT. So you are saying that deductibles, this is something plus. I mean before a traditional fee-for-service health care and Medicare seniors have to pick up a copayment; is that right?

Mrs. JOHNSON of Connecticut. Right.

Mr. HASTERT. They would have to pay, pick up a deductible; is that right?

Mrs. JOHNSON of Connecticut. Right.

Mr. HASTERT. They have to pay for their own prescription drugs; is that right?

Mrs. JOHNSON of Connecticut. Correct.

Mr. HASTERT. And sometimes pay for their own eyeglasses?

Mrs. JOHNSON of Connecticut. Correct.

Mr. HASTERT. And under these programs you are saying that they are more efficient, a better system of delivery, and that they can pick up these costs so seniors really save.

Mrs. JOHNSON of Connecticut. Absolutely. Not only do seniors really save, but they choose these plans, they choose to go to a system that they believe serves their needs better, and they are choosing at such a rapid rate that while Medicare managed care used to be 5 percent of that market, it is now 10 percent

Now what does that tell you about our plan? Some people have been concerned, including some of our colleagues, that if our plan does not save as much as we think it will, we will have to make deeper cuts later on.

Well, our Budget Office thinks that over 7 years only 15 percent more seniors will choose MedicarePlus plans like this. Ten percent are in HMO's now, and they think that, when we offer them all these choices, Medicareplus plans, medical savings accounts, that only 15 percent more over 7 years will join.

In Boston they have already increased it in 2 years by 5 percent. I mean the Budget Office cannot take into account human choice and human motivation, and so they use old data to make old projections, and then they try to force us to make irrational decisions.

Mr. SHAYS. If the gentlewoman would yield, I would just love to emphasize again because we just continually, I think, need to based on what was said on the other side of the aisle. Any senior who wants to can stay in their traditional fee-for-service and have the same doctors they have presently, and I want to continue to make the point that they are never taken out unless they choose to be transferred to a private plan.

Now I just think there is one cautionary element that we need to make, especially coming from our area. It is probably going to be easier for people in the Boston, and New York, and Miami area to see greater opportunities in private health care plans. I suspect in an area like Oklahoma they may not see all the same ability to get some of those plans because we are dealing with high-cost areas and low-cost areas, and we have not yet fully resolved that issue, but I think we are on the way to doing that.

Mr. HASTERT. The gentleman from Oklahoma, if I could yield to him for a minute, I would like him to talk about that difference and also one of the new innovations we have called provider service organizations.

Mr. COBURN. Thank you. I would like to make one point so that seniors know a provision of this bill is that, if you would decide you wanted to go into an HMO and did not like it for the first 2 years, you can get out any time you want. So what we have also done is increased——

Mrs. JOHNSON of Connecticut. Beyond that, every single year you can get out, every single year you get a new choice, and you can stay in the plan you are in, you can change plans, or you can go back to Medicare, and in every single market there are medigap insurance plans that do not discriminate so you can always go back to that combination of Medicare and medigap if you prefer it.

So this is a totally voluntary choice plan that we are providing, and we do have overwhelming actual experience that shows that the Medicare-plus plans will be able to provide a lot more benefits for the same dollar, and if I could just add one thing before unfortunately I have to catch a plane, it is that, you know, both for the people who stay in Medicare and for the people who choose MedicarePlus, we are going to increase funding for both the premiums and for the fee-for-service system by $2,000 per recipient in the next 7 years. That is exactly as much as we increased it in the preceding 7 years.

So we are planning a healthy, reasonable, responsible, practical increase in spending in Medicare. We are simply not going to overpay for fraud and abuse. We are not going to overpay for unnecessary care. We are not going to overpay because, if we overpay in Medicare, then people who are working have higher taxes.

Mr. HASTERT. I certainly appreciate the gentlewoman from Connecticut joining us for a few minutes. Your work and contribution to health care reform in this country has been legend, and we certainly appreciate you spending a few minutes with us.

Mrs. JOHNSON of Connecticut. Thank you. It is interesting for the people who are watching to see the gentleman from Illinois [Mr. HASTERT] is a member of the Committee on Commerce, I am a member of the Committee on Ways and Means, two committees that have direct responsibility for Medicare and Medicaid. The gentleman from Oklahoma [Mr. COBURN] is also a member of the Committee on Commerce, but he is a physician. He brings a special perspective. The gentleman from New Mexico [Mr. SCHIFF] is a member of the Committee on the Judiciary. He brings special knowledge of the fraud and abuse problems. And my colleague, the gentleman from Connecticut [Mr. SHAYS], is from the Budget Committee, and he has the responsibility to look at these issues in the context of America's future and how do we get to a balanced budget in 7 years, and he, of course, is on the Health Subcommittee of the Committee on the Budget and, therefore, is a special part of our team.

This is the first time in Congress' history that there has been this level of integrated committee cooperation and action to solve a major problem that we face, and right here amongst the five of us you can see that whole body of the Congress, and how it has come together to think about this problem and produce an answer that we know is going to serve our seniors. So I am proud to have joined you for a few minutes and regret I have to leave.

Mr. HASTERT. I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I just think it is important to emphasize the main purpose of that last entire discussion. We have been talking about the fact that both parties recognize that we have to reduce the rate of growth of Medicare. If we do not, there will not be a Medicare. The costs would not be sustainable.

What the last discussion has meant is the fact that reducing the rate of growth does not have to mean reducing the level of services, that the projected rate of growth that we are talking about and that we have to avoid assumes that it is business as usual without change year after year, and we can explore ideas that might through alternative approaches, through just competition, reduce the rate of growth and still keep the level of service at at least what it is today.

Mr. HASTERT. I thank the gentleman.

I yield to the gentleman from Oklahoma.

Mr. COBURN. I was going to discuss another one of the options, Medicare-plus, and that is the opportunity. Heretofore physicians as groups have not been allowed to get together and offer their services as a group in hopes to lowering the costs and attracting more patients, and one of the options under the Medicare Preservation Act is to allow us in conjunction with inpatient hospital facilities and outpatient hospital facilities to offer a provider services network program where we go and offer our services for a fee which would be paid through the Medicare program where we can vastly expand the benefits and also lower the costs.

Doctors for years were saying, "Let use compete, let us go in. We'll show you that we can deliver the service." And now it is time for the doctors to show that in fact they do that, and I believe that they will. It will allow you to keep your doctor and still go into a Medicare-plus, if that in fact is what you want to do.

Mr. SCHIFF. I believe the gentleman is talking about proposals to relax the antitrust laws as it refers to physicians.

Mr. COBURN. That is true.

Mr. SCHIFF. And as a member of the Committee on the Judiciary, I very much support that.

The fact of the matter is for the system to operate there has to be a balance of competition, and we have seen the rise of HMO's health maintenance organizations, which essentially are conglomerates of offering services from an unified place. Many citizens like HMO's and they enroll in them. Other citizens do not want to enroll in HMO's, but the point is, given their existence, there is now a justification to allow physicians with each other and physicians with hospitals and other health care institutions to unite to offer a group-practice kind of policy to citizens that would compete with HMO's to give the citizens choices on an equal playing field.

So, I very much support that change in the antitrust laws.

Mr. COBURN. I think we might just talk about fraud and abuse for a minute.

Mr. HASTERT. Let us make it perfectly clear for everybody here so we can understand a little bit about our provider service organizations.

For instance, if you had 25 or 30 doctors in a large community, all specialists and general practitioners who you chose of the highest quality that you think are good practitioners of health care, and then you found one of the hospitals that was the best orthopedic hospital and another hospital that maybe is the best cardiac hospital, if you join together to provide those services to seniors, then you can give the seniors the best service at the lowest costs.

Is that the whole idea behind this?

Mr. COBURN. That is right, and do that in a unified package that we would know up front what their costs are, know what to expect, and know that they had quality and service.

Mr. SHAYS. What I think is exciting is that, you know, we are affecting the hospitals and doctors, and we are asking them to deal with lesser payments in some instances, but on the other hand we are also allowing them to compete directly with HMO's, directly with insurance companies, and provide their own organization of health care, and I have heard from so many doctors and hospitals that they feel they can reduce costs significantly and provide extra benefits to attract people into that system, and I think it is very exciting that we are allowing that to happen.

Mr. SCHIFF. If the gentleman would yield for just a moment, the point that our colleague from Oklahoma is making is that under existing antitrust laws physicians talking to each other and talking about joining together in the providing of services and offering joint rates is very restricted under the antitrust laws, but given the fact that the HMO's represent a group kind of practice which do exactly that, it makes very good sense to me to allow other groups to form together to offer their packages and then let the beneficiaries in Medicare, and other patients, make their own selection.

Mr. HASTERT. One of the things that we talked about as well as the choices that seniors have, and we talked about a couple of those choices out here, medical savings accounts, HMO's and PPO's, and then now the provider service organizations that we just got done talking about, we always thought also that there is a huge and historically huge amount of dollars, of Federal tax dollars, that go into Medicare that are wasted because of fraud and abuse. We estimate between 10 and 15 percent. That is a huge amount of money when you are talking about hundreds of billions of dollars.

Now we have two experts here on fraud and abuse, certainly the gentleman from New Mexico [Mr. SCHIFF] from the Committee on the Judiciary who looks at that type of issue all the time, and our friend from Oklahoma is an expert on that, but let us talk, talk to us a little bit about the provisions in this bill and how we start to curtail fraud and abuse.

I am happy to yield to the gentleman.

Mr. COBURN. I think the first thing we do is realize we have a problem, and every Federal Government agency that has testified before the House Committee on Commerce admitted that we had significant problems. Anywhere from 5 to 15 percent was common, with most saying 10 to 11 percent. We have to ask ourself the question why have we not been able to attack the fraud and abuse that is there. I mean why for the last 15 years have we allowed 10 percent of the dollars for Medicare to go to fraud? I mean it is inexcusable. It is also inexcusable for us to now when we start to change it for the Attorney General's office and the Inspector General's office to say, "Oh, wait, wait, don't change it," because obviously we have not put into effect what we need to put into effect to correct the problem.

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Our goal is to eliminate fraud and abuse. The way we do that is to make sure we change the expectation of those who are defrauding and abusing; that we, in fact, will catch them. If we change that expectation, then we will limit greatly the amount of people, and number of people, who attempt to defraud.

That requires two main things: First, you have to clarify the rules; and second, you have to have an aggressive fraud and abuse program. I think this program that is in this bill is a very aggressive program.

Mr. HASTERT. We hear stories all the time, Mr. Speaker, that a senior will get a bill, they usually do not get the bills from Medicare, hospital bills, but when they do get those bills and they look through there and they see that they have been charged a great deal of amount. Some of those dollars are cost-shifting, but actually, of course, the story that is going around the Capitol is the lady who looks at her bill and sees that she has been charged for an autopsy, and obviously, she did not receive the autopsy.

She calls in and says, "I did not receive this autopsy." And the person on the other end of the line says, "It must have been for your quadruple heart bypass." She said, "I did not receive one of those, either." What would a senior do under this bill when he gets into a situation like that?

Mr. COBURN. The program is designed to allow the senior to, first, be involved, to encourage them to report it, and also to benefit, if in fact they benefit——

Mr. HASTERT. How do they benefit?

Mr. COBURN. They benefit in that if the savings, I believe, are above $1,000, they share in the savings. They also benefit because they put on notice providers that are not honorable, that they are going to be caught, and it will not take long for the people who are presently abusing this system to recognize that we are going to have 36 million people out there helping us help them do the right thing.

Mr. HASTERT. Is it not a fact, too, that HCFA, the huge Health Care Financing Agency of the Federal Government, a huge bureaucracy that has grown in the last 40 years here in Washington, they have not been very effective in weeding out fraud and abuse, have they?

Mr. COBURN. No, they have not. I think the important thing, everybody that has a credit card, whether it is a BankAmericard or Visa card, when they use that today their bank knows it tonight. If they use it in Japan, they know it tonight. If they use it in South America, they know it tonight.

Our Medicare computer system, we do not know it and we will never know it if it is between two different divisions. It will never be tracked together, so in fact, we have in the past, through this bureaucracy, not even kept up the pace with 1970's computer knowledge and placement. We have spent the last 9 years trying to get a tracking system that will not be available for 3 or 4 more years.

Mr. HASTERT. That is one of the reasons in this bill, instead of throwing billions of dollars, again, at a huge Federal bureaucracy that is not very effective and certainly not efficient, that we have been going out in the private sector and finding those private CPA's who do a good job, who make a living doing that day in, and day out, and have to produce in order to be part of the system, to go out and do that job in fact also; is that correct?

Mr. COBURN. That is correct.

Mr. SHAYS. If the gentleman will yield, and then I would like to yield to the expert on this very issue, my committee and the Committee on Government Reform and Oversight, the Subcommittee on Human Resources and Intergovernmental Relations, has conducted a number of hearings on health care fraud.

We have learned incredible misuses, finding people who have been kicked out of the system, but they continue to be able to do business with the government. We know of agencies that have been fined $150 million because they have been so crooked, different organizations, but they are still allowed to participate. That is one of the things we are pressing our government to start to put an end to.

More importantly, we are learning the incredible fraud that exists and the failure to really get at it with some strong laws.

One of our efforts has been that the gentleman from New Mexico [Mr. SCHIFF] and I have introduced legislation that was incorporated into our Medicare bill. I thought the gentleman from New Mexico could describe that a bit.

Mr. SCHIFF. If the gentleman will yield, I want to say first, though, Mr. Speaker, that the term "fraud and abuse" in this context is used as a broad umbrella for many things. It, of course, includes criminal conduct, which I would like to talk about in a moment, but it includes many other things which might be recorded as inefficiencies. It does not mean there is less of a loss to the system, but the gentleman from Oklahoma [Mr. COBURN] was right on point when he said that the system that Medicare uses just to check billings is antiquated compared to private industry doing the same thing, as I understand it.

In fact, the number one complaint I heard from senior citizens meeting in my district on this subject is many of them would spot something wrong in a bill, a service was listed that was not provided to them, and this may not be fraud in a criminal sense, it could simply be an error in billing, but they would contact the Medicare Program through whichever contractor was administering it and tell them about it, and the contractor would simply say, "It is not enough to bother about."

Yet, I heard citizen, after citizen, after citizen, enunciate this kind of problem that they encountered with the system. If we can set up a beneficiary reward program where any kind of overbillings, assume the most accidental and inadvertent, if identified, results in a reward to that beneficiary, then that will force the system to respond.

Mr. SHAYS. I think the gentleman really needs to get into the whole criminal side. We have only about 5 minutes left before we lose our time.

Mr. SCHIFF. Time goes fast, as they say.

I want to say that included in the bill through the Committee on Rules was a provision in the bill that I and the gentleman from Connecticut [Mr. SHAYS] wrote, which contains a number of criminal provisions.

We are talking about, here, that small group, but nevertheless, a group that causes a lot of damage that deliberately and fraudulently overbills the system. The essence of these provisions are to make health care fraud a crime.

Right now health care fraud is not a crime under Federal law. If the U.S. attorneys want to prosecute, they have to prosecute under wire fraud, mail fraud, or any other type of statute. This requires a kind of a circular means of prosecuting.

Included in the bill now, based upon our bill, are provisions that make theft, fraud, kickbacks related to health care, a Federal offense, and further, it does not matter who the provider of the health care is, whether it is a government program or a private insurance company, because that small group that engages in really criminal fraud will defraud anybody. As soon as we can convict them, as soon as we can take them off the street, the better we all are.

Since we are winding down, I will yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, first of all, I want to thank the gentleman for the criminal provisions put in there. I also would add that we doubled the money penalties, we put mandatory sanctions on providers so they could not continue to participate in the Medicare system, and we are trying to straighten out the computer problem as well.

I just want to say, as a practicing physician, although physicians will, in fact, get less money than what they would have, which is a cut, or a slowdown in growth, as we hear from the other side, that to act irresponsibly and not save this program is wrong.

This bill has lots of things that I do not agree with in it in terms of detail, but the underlying bill is a good bill, to do what the American people want done; that is, control the growth and make sure a quality health care program for our seniors that has choice and is affordable is there. I think this bill does it.

I can say to all providers, not just doctors, but hospitals and others, that we will have to work harder to be more efficient, to do the right thing, to be careful and to work in a constructive manner to change the system, to make it more efficient, but we can do it. We owe it to our children and our grandchildren to make sure we do that.

Mr. HASTERT. Just the provisions that you gentlemen put in the bill on fraud and abuse, if you can squeeze $10 billion or $12 billion out of fraud and abuse every year and put that back into health care for seniors, what a positive thing this is, just in that one small aspect.

Mr. SHAYS. That is $50 billion of your 270.

I would love just to weigh in and say that we as a Republican majority have three basic desires to accomplish during the course of the next 2 years: We want to get our financial house in order and balance the budget. We want to save our trust funds, particularly Medicare, and we want to transform the social and corporate welfare state into an opportunity society.

Today, we began that journey very significantly in our effort to save and strengthen and preserve our Medicare trust fund, and we did it by allowing this program to continue to grow. We are going to put $1.6 trillion in in the next 7 years, and spend $73 billion more than in the past 7 years. I will turn to my colleague, if he could just conclude.

Mr. HASTERT. I certainly appreciate my colleagues joining me tonight to talk about this, Mr. Speaker. I think the bottom line is that we have our parents and grandparents, and we want to make sure Medicare is there for them, a good Medicare Program that could go beyond the bounds of what has traditionally been there and give them some choices, but most of all, to give them quality health care and give them the assurance that that health care is going to be there for the rest of their lives.

Then on the other side, we have out children and our grandchildren, that we want to make sure that we are not wasting their dollars. That is why we are cutting that inflationary $270 billion that the Democrats just want to leave there, so that they do not have to pay those extra dollars out of what money they have to earn.

It is estimated that a child that is born today has about $186,000 of debt that he has to work off or she has to work off in her adult lifetime. Let us hold that down. Let us be prudent in how we spend the taxpayers' money.

I think this bill gives seniors choices. It secures health care and Medicare for their decision-making process for the rest of their lifetime, and it establishes and holds firm a principle of Medicare, something that seniors have had in this country for years to come. I certainly appreciate your participation in this special order tonight, and I know that the seniors of this country will join me in thanking you very much.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKEY) to revise and extend their remarks and include extraneous material:)

Mr. MARKEY, for 5 minutes, today.
Mr. WAXMAN, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. VENTO, for 5 minutes, today.
Mr. DOGGETT, for 5 minutes, today.
Mr. DEUTSCH, for 5 minutes, today.
Mr. TOWNS, for 5 minutes, today.
Mr. PALLONE, for 60 minutes, today.
Mr. OWENS, for 60 minutes, today.

(The following Members (at the request of Mr. CHRYSLER) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, today.
Mr. HORN, for 5 minutes, on October 19, 20, and 23.
Mr. MCINNIS, for 5 minutes, today.
Mr. WATTS of Oklahoma, for 5 minutes, today.
Mr. GOSS, for 5 minutes, today.
Mr. TAUZIN, for 5 minutes, today.
Mr. DORNAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARKEY) and to include extraneous matter:)

Mr. LEVIN.
Mr. LAFALCE.
Ms. WOOLSEY.
Mr. JOHNSON of South Dakota.
Mr. KLECZKA.
Mr. HAMILTON.
Mr. STUDDS.
Mr. ROEMER.
Mr. SKELTON in two instances.
Mr. ACKERMAN.
Mr. FAZIO of California.
Mr. MFUME.
Mr. WARD in four instances.
Ms. VELÁZQUEZ.
Mr. BROWN of California.
Mr. LANTOS in two instances.
Mr. MENENDEZ.
Mrs. SCHROEDER.
Mr. REED.
Mr. STOKES.

(The following Members (at the request of Mr. CHRYSLER) and to include extraneous matter:)

Mr. GALLEGLY.
Mr. DUNCAN.
Mrs. ROUKEMA.
Mr. GILMAN in two instances.
Mr. CRAPO.
Mr. BUNNING of Kentucky.
Mr. STUMP.
Mr. SMITH of New Jersey.
Mr. SMITH of Texas.
Mrs. MORELLA.
Mr. BOEHNER.
Mr. ZIMMER.
Mr. PORTMAN.
Mr. CASTLE.
Mrs. VUCANOVICH in two instances.

(The following Members (at the request of Mr. SCHIFF) and to include extraneous matter:)

Mr. ROTH.
Mr. FRELINGHUYSEN.
Mr. MATSUI.

Mr. SKAGGS.
Mr. ALLARD.
Mr. MORAN.
Mr. EDWARDS.
Mr. ABERCROMBI.
Mr. HALL of Ohio.
Mr. VISCLOSKY.
Mr. STENHOLM.
Ms. DANNER.
Mr. MCGINNIS.
Mr. EVANS.
Mr. RICHARDSON.
Mrs. FOWLER.
Mr. ORTON.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1976. An act making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 56 minutes p.m.) the House adjourned until tomorrow, Friday, October 20, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1538. A letter from the Secretary of Energy, transmitting the Department's eighth annual report to Congress summarizing the Department's progress during fiscal year 1994 in implementing the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Commerce.

1539. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Italy for defense articles and services (Transmittal No. 96-04), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1540. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's annual report summarizing actions taken under the Program Fraud Civil Remedies Act [PFCRA] for the year ending September 30, 1995, pursuant to 31 U.S.C. 3801-3812; to the Committee on Government Reform and Oversight.

1541. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend title 31, United States Code, to require executive agencies to verify for correctness of transportation charges prior to payment, and for other purposes; to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIAZ-BALART: Committee on Rules. House Resolution 239. Resolution providing for consideration of the bill (H.R. 2492) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104-283). Referred to the House Calendar.

Mr. CLINGER. Committee on Government Reform and Oversight. H.R. 994. A bill to require the periodic review and automatic termination of Federal regulations; with an amendment (Rept. 104-284 Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 1020. Referral to the Committees on Resources and the Budget extended for a period ending not later than October 24, 1995.

TIME LIMITATION ON REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 994. Referral to the Committee on the Judiciary extended for a period ending not later than November 3, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUNN of Oregon:

H.R. 2507. A bill to disapprove amendment No. 8 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary," submitted by the U.S. Sentencing Commission to Congress on May 1, 1995; to the Committee on the Judiciary.

By Mr. ALLARD (for himself, Mr. KLUG, Mr. STENHOLM, Mr. DINGELL, Mr. GANSKE, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BOEHNER, Mr. BROWN of California, Mr. BRYANT of Texas, Mr. BURTON of Indiana, Mr. BUYER, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. COBLE, Mr. COMBEST, Mr. CONDIT, Mr. COOLEY, Mr. COSTELLO, Mr. CRAPO, Mrs. CUBIN, Mr. DE LA GARZA, Mr. DOOLEY, Mr. EHLERS, Mr. EMERSON, Mr. ENSIGN, Mr. EWING, Mr. GOODLATTE, Mr. GORDON, Mr. GUNDERSON, Mr. HAMILTON, Mr. HEFLEY, Mr. HOLDEN, Mr. HOSTETTLER, Mr. JOHNSON of South Dakota, Mr. KLECZKA, Mr. LAHOOD, Mrs. LINCOLN, Mr. LARGENT, Mr. LATHAM, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LUCAS, Mr. MCINNIS, Mr. MCINTOSH, Ms. MCKINNEY, Mr. MILLER of Florida, Mr. MINGE, Ms. MOLINARI, Mr. MYERS of Indiana, Mr. NORWOOD, Mr. PASTOR, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. POMBO, Mr. POMEROY, Mr. POSHARD, Mr. ROBERTS, Mr. ROEMER, Mr. ROSE, Mr. SCHAEFER, Mr. SKEEN, Mr. SOUDER, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. THORNTON, Mrs. THURMAN, Mr. WALSH, Mr. WATTS of Oklahoma, and Mr. WHITFIELD):

H.R. 2508. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; to the Committee on Commerce.

By Mr. CRAPO (for himself, Mr. POMEROY, Mrs CHENOWETH, and Mr. BROWN of California):

H.R. 2509. A bill to finance and implement a program of research, promotion, market development, and industry and consumer information to enhance demand for and increase the profitability of canola and rapeseed products in the United States, and for other purposes; to the Committee on Agriculture.

By Mr. FOX (for himself, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. MONTGOMERY, Mr. FRAZER, Mrs KELLY, Mr. WELLER, Ms. RIVERS, Ms. FURSE, Mr. UNDERWOOD, Mr. KING, Mr. PETERSON of Minnesota, Mr. BUNN of Oregon, Mr. WATTS of Oklahoma, Mr. ACKERMAN, Mr. SERRANO, Mr. FROST, Mr. LIPINSKI, Mr. WELDON of Pennsylvania, Mr. DORNAN, and Mr. HOKE):

H.R. 2510. A bill to amend title 5, United States Code, to provide veterans' preference status to certain individuals who served on active duty in the Armed Forces in connection with Operation Desert Shield or Operation Desert Storm, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. GOODLATTE (for himself, Mr. HYDE, Mr. CONYERS, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. FRANK of Massachusetts, Mr. GEKAS, Mr. SMITH of Texas, Mr. COBLE, Mr. CANADY, Mr. BONO, Mr. HEINEMAN, Mr. FLANAGAN, and Mr. DAVIS):

H.R. 2511. A bill to control and prevent commercial counterfeiting, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON of South Dakota:

H.R. 2512. A bill to provide for certain benefits of the Missouri River basin Pick-Sloan project to the Crow Creek Sioux Tribe, and for other purposes; to the Committee on Resources.

By Mr. STUMP (for himself, Mr. MONTGOMERY, Mr. EVERETT, and Mr. EVANS):

H.R. 2513. A bill to amend title 38, United States Code, to expand eligibility for burial benefits to include certain veterans who die in State nursing homes; to the Committee on Veterans' Affairs.

By Mr. ZIMMER (for himself, Mr. Levin, and Mr. Camp):

H.R. 2514. A bill to amend the Internal Revenue Code of 1986 to make the research credit permanent and to allow such credit for expenses attributable to certain collaborative research consortia; to the Committee on Ways and Means.

By Mr. SCHUMER:

H. Res. 240. Resolution providing for the consideration of the bill (H.R. 1710) to combat terrorism; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRYANT of Tennessee:

H.R. 2515. A bill for the relief of Florence Barrett Cox; to the Committee on the Judiciary.

By Mr. UNDERWOOD:

H.R. 2516. A bill for the relief of Vincente Babauta Jesus and Rita Rios Jesus; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mrs. Maloney, Ms. Eddie Bernice Johnson of Texas, and Mr. Filner.

H.R. 65: Mr. Pickett.

H.R. 72: Mr. Diaz-Balart.

H.R. 103: Mr. Condit.

H.R. 303: Mr. Studds.

H.R. 356: Mr. Horn and Mr. Poshard.

H.R. 528: Mrs. Fowler, Mrs. Meyers of Kansas, Mr. Volkmer, Mr. Johnson of South Dakota, Mr. Wicker, Mr. Zimmer, Ms. Woolsey, Mr. Boucher, and Ms. McKinney.

H.R. 585: Mr. Pastor, Mr. Bevill, Mr. Zimmer, Mr. Petri, and Mr. Tanner.

H.R. 773: Mr. Bentsen.

H.R. 784: Mr. Packard and Mr. Rahall.

H.R. 838: Mr. Kildee.

H.R. 862: Mr. Crane.

H.R. 903: Mr. Jacobs, Mr. Sensenbrenner, and Mr. Doyle.

H.R. 931: Mr. Payne of Virginia and Mr. English of Pennsylvania.

H.R. 1024: Mr. Crapo.

H.R. 1090: Mr. Ehrlich.

H.R. 1131: Mr. Crapo.

H.R. 1251: Mr. McCrery.

H.R. 1329: Ms. Woolsey.

H.R. 1353: Mr. Zimmer.

H.R. 1462: Mr. Doyle, Mr. Goodling, Mr. Foglietta, Mr. Torres, and Mr. Richardson.

H.R. 1464: Mr. Cunningham, Ms. Lofgren, Mr. McCollum, Mr. Packard, and Mr. Stump.

H.R. 1499: Mr. DeFazio and Ms. Roybal-Allard.

H.R. 1513: Ms. Lofgren and Mr. Pastor.

H.R. 1535: Mr. Olver.

H.R. 1627: Mr. Petri and Mr. Hansen.

H.R. 1711: Mr. Canady of Florida.

H.R. 1713: Mrs. Seastrand.

H.R. 1846: Mrs. Maloney.

H.R. 1856: Mr. Hall of Ohio, Mr. Sabo, Mr. Hancock, Mr. Johnson of South Dakota, Mr. Fattah, and Mr. Barton of Texas.

H.R. 1882: Mr. Johnson of South Dakota and Mr. Peterson of Florida.

H.R. 1883: Mr. McKeon and Mr. Stearns.

H.R. 1909: Mr. Bartlett of Maryland.

H.R. 1933: Mr. Pallone, Mr. Bevill, and Mr. Romero-Barcelo.

H.R. 1960: Mr. Paxon, Mr. Hutchinson, Mr. Weller, Mr. Gene Green of Texas, Mrs. Kelly, and Mr. Smith of New Jersey.

H.R. 2071: Miss Collins of Michigan.

H.R. 2089: Mrs. Smith of Washington, Mr. Ehlers, Mr. Thornberry, Mr. Hall of Ohio, Mr. Hutchinson, Mr. Whitfield, and Mr. Calvert.

H.R. 2090: Mr. Ramstad.

H.R. 2143: Mr. Shaw.

H.R. 2167: Mr. Kennedy of Massachusetts, Mr. Filner, Miss Collins of Michigan, Mr. Payne of Virginia, Mr. Traficant, Mr. Wynn, Ms. Kaptur, Mr. Rahall, Mr. Bonior, Mr. Coleman, Mrs. Mink of Hawaii, Mr. Hinchey, and Mr. Owens.

H.R. 2181: Ms. Furse.

H.R. 2190: Mrs. Seastrand, Mr. Packard, and Mr. Ramstad.

H.R. 2202: Mr. Franks of Connecticut.

H.R. 2211: Miss Collins of Michigan, Mr. Lipinski, Ms. Norton, Ms. Roybal-Allard, and Ms. Waters.

H.R. 2223: Mr. Frank of Massachusetts, Miss Collins of Michigan, and Mr. Kennedy of Massachusetts.

H.R. 2224: Ms. Kaptur.

H.R. 2244: Mr. Funderburk, Mr. Chrysler, Mr. Ganske, Ms. Lofgren, Mr. Fox, and Mr. Packard.

H.R. 2245: Miss Collins of Michigan.

H.R. 2247: Mr. Ackerman, Mr. Andrews, Ms. Brown of Florida, Mr. Gutierrez, Mr. Hinchey, Mrs. Mink of Hawaii, Ms. Pelosi, Mr. Rangel, Mr. Sanders, Ms. Velázquez, and Mr. Ward.

H.R. 2264: Mr. Oberstar, Mr. Duncan, Ms. Rivers, Mr. Jacobs, Mr. DeFazio, Mr. Barrett of Wisconsin, and Ms. Brown of Florida.

H.R. 2276: Miss Collins of Michigan, Mr. LaHood, Mr. Hastert, Mr. Skeen, Mr. Pete Geren of Texas, Mr. Kleczka, Mr. Hancock, Mr. Wamp, Mr. Hayes, Mr. Petri, Mr. Zeliff, Mr. Martini, Mr. Young of Alaska, Mr. Poshard, and Mr. Quinn.

H.R. 2280: Mr. Durbin, Mr. Deutsch, and Mr. Towns.

H.R. 2320: Mr. Frazer, Mr. Barrett of Wisconsin, Mr. Hancock, Mr. Taylor of North Carolina, Mr. Souder, Mr. Inglis of South Carolina, Mr. Luther, Mrs. Chenoweth, Mr. LaHood, Mr. Hoekstra, Mr. Pete Geren of Texas, Mrs. Lincoln, Mr. Bachus, Mr. Riggs, Mr. McCrery, Mrs. Thurman, Mr. Peterson of Florida, Mr. Poshard, Mr. Payne of Virginia, Mr. Tanner, Mr. Underwood, Mr. Lipinski, Mr. Brewster, Mr. Wamp, Mr. Gene Green of Texas, Mr. Knollenberg, Mr. Foley, Mr. Skeen, Mr. Stearns, Mr. Baldacci, and Mr. Hastert.

H.R. 2326: Mr. Klug, Mr. Goss, Miss Collins of Michigan, and Mr. Chabot.

H.R. 2338: Mr. Lipinski and Mr. Torres.

H.R. 2351: Mr. Coburn and Mr. Radanovich.

H.R. 2357: Mr. Pomeroy.

H.R. 2372: Mr. Hostettler and Mr. Whitfield.

H.R 2396: Miss Collins of Michigan, Mrs. Cubin, Mr. Faleomavaega, Mr. Filner, Mr. Foley, Mr. Fox, Mr. Frost, Mr. Gene Green of Texas, Mr. Lipinski, Mrs. Mink of Hawaii, Mr. Owens, Mr. Pallone, Mr. Saxton, Mr. Thompson, Mr. Torres, Mr. Underwood, and Mr. Watt of North Carolina.

H.R. 2416: Mr. Greenwood.

H.R. 2433: Mr. Rahall, Mr. Gene Green of Texas, Mr. Miller of California, Mr. Horn, Mr. Moran, Mr. Solomon, Mr. Lantos, Mr. Ackerman, Mr. Jacobs, Ms. Furse, Mr. Brown of California, Mr. Spence, Mr. Ney, Mr. Rose, Mr. Deutsch, Mr. Manton, Mr. Clyburn, and Mr. Abercrombie.

H. Con. Res. 36: Mr. Schiff.

H. Con. Res. 37: Mr. Schiff.

H. Con. Res. 50: Mr. DeFazio and Mrs. Thurman.

H. Con. Res. 51: Mr. Kim, Mr. Stearns, and Mr. Frank of Massachusetts.

H. Res. 36: Mr. McCollum.

EXTENSIONS OF REMARKS

OPPOSITION TO H.R. 2425, THE MEDICARE PRESERVATION ACT OF 1995

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. STOKES. Mr. Speaker, I rise in strong opposition to H.R. 2425, the Medicare Preservation Act of 1995. While cloaked in an innocent, nonthreatening title, when you peel off the title and clear the smoke and mirrors, what you find is that H.R. 2425 authorizes a legalized assault, and an all-out attack on the health of the Nation's seniors.

The measure destroys our Nation's health care system for the elderly—Medicare—by cutting $270 billion—from health care services for the elderly—in order to pay for a tax cut for the wealthy. It is absolutely essential for the American people to be aware that this figure is—three times more—than the $89 billion which the medicare actuaries and the medicare trustees have determined is needed to ensure Medicare's solvency.

The Republican measure forces the American people to needlessly pay more for less. Seniors' health care premiums will double. Gone are the limitations on the amount that doctors and hospitals can charge patients. In fact, the Republicans' balance billing provision allows providers to charge patients as much as they want, well beyond what Medicare pays.

With respect to choice, seniors' choice of provider is seriously restricted. Seniors are forced through a maze of financial maneuvers under the Republican Medicare-Plus provisions. These provisions are specifically designed to make it increasingly difficult for seniors to remain with their current private doctor, forcing seniors into HMO-type health care systems.

Mr. Speaker, where will our Nation's frail, poor, and sick elderly turn for care, when H.R. 2425 seriously erodes and threatens the very survival of the Nation's safety net hospitals. Uncompensated care will escalate.

As if these destructive provisions were not enough, H.R. 2425 provides fertile ground for fraud and abuse. Current provisions that are designed to prevent kickbacks and promote accurate billing are repealed. CBO estimates that this provision alone will cost the American people over $1 billion. These are but a few of H.R. 2425's life threatening provisions.

Mr. Speaker, I know the standard of living and quality of life for the 1.6 million beneficiaries in my State, Ohio, will be drastically reduced. They certainly cannot absorb the over $8 billion that Ohio will lose under the Republican proposal. This 20—ballooning to 30—percent cut will devastate Ohio's health care systems.

Let me take just a moment to share with you just a snapshot of the worries and fears that haunt the seniors in my district as they see medicare being ripped apart just for the sake of providing a tax cut for the wealthy.

Ms. Erline Chess is a 78-year-old widow who has been receiving home oxygen for nearly 10 years. She is concerned that the increased cost of care could put an end to her existence.

Mr. Eli Strinic has had the same doctor for over 15 years and does not want to be forced into a HMO-type health care system. Mr. Strinic is proud of the fact that his doctor knows his medical history, and understands his health care needs.

Mr. Speaker, I think that Ms. Anita Woodward, a health professional in my district sums up the situation most appropriately. She writes, "I fear not only the loss of quality. I worry that the sick will be forgotten, and patients that I see every day will really have to make the choice between the prescription blank and the grocery list."

Mr. Speaker, I strongly urge you and my colleagues to listen to the plea of America's seniors in particular, and the American people in general. Do not destroy medicare. Join me in voting "No" on H.R. 2425.

WELCOME BACK LOUISVILLE SLUGGER

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. WARD. Mr. Speaker, I would like to take this opportunity to welcome the Louisville Slugger, the world's finest baseball bat, back to its hometown of Louisville, Kentucky.

This Saturday, October 21, 1995, the Louisville Slugger will return to the Louisville skyline at the future site of the Hillerich and Bradsby headquarters at Eighth and Main Streets in downtown Louisville. The factory will open in Louisville this January. This event will also correspond with the first day of the World Series. In front of the future headquarters, the world's largest baseball bat will be installed, reaching a height of 120 feet. This giant bat will represent not only the quality product manufactured by Hillerich and Bradsby, but will also come to embody our Nation's love for the game. A public street party and other events will take place to welcome Hillerich and Bradsby and the large bat back to Louisville.

Mr. Speaker, I would like to congratulate the company of Hillerich and Bradsby on their dedication to producing a high quality product, on their dedication to the game of baseball, and on their dedication to the city of Louisville. Mr. Speaker, in Louisville, we may speak softly, but we carry a big bat.

TRIBUTE TO MAJ. GEN. JERRY C. HARRISON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. SKELTON. Mr. Speaker, today I pay tribute to a great American, a great Army officer, a great Missourian, and a great soldier. This month Jerry Harrison will complete over 32 years of dedicated service to our country. As a soldier, leader, and finally as a trusted advisor to the Secretary of the Army and the Chief of Staff of the Army he has provided dedicated and distinguished service.

Today as we honor his retirement, Jerry Harrison serves as the Army's Chief of Legislative Liaison. This is the capstone of a remarkable career which started in 1959 when he entered the U.S. Military Academy at West Point and where he was commissioned as a second lieutenant of field artillery in 1963. Over the course of the past three decades, he served in a variety of exceptionally challenging troop and staff assignments in the United States, Germany, Korea, and Vietnam.

As a leader, he has commanded at the battery, battalion, and brigade levels, culminating in his command of the U.S. Army Laboratory Command. As a staff officer and commander, he saw duty in many tough and challenging positions, validating the confidence the Army placed in his demonstrated abilities. He commanded the 1st Battalion 29th Field Artillery at Fort Carson, Colorado, followed by a staff assignment as Chief, High Technology Test Division, Office of the Deputy Chief of Staff for Operations and Plans. His skills were recognized when he was chosen for higher command and served as the Division Artillery Commander, 2nd Infantry Division, Camp Stanley, Korea. This was followed by a tour with the Deputy Chief of Staff for Research, Development, and Acquisition as the Deputy Director.

His selection to Brigadier General led him to Fort Sill, Oklahoma where he served as the Assistant Commandant of the Field Artillery School, followed by an assignment as the Chief of Staff, Army Materiel Command. Upon his selection for promotion to Major General, he was given command of the U.S. Army Laboratory Command. Since January 1992, he has served with distinction as the Chief, Army Legislative Liaison.

During his tour as the Chief, Army Legislative Liaison, he shepherded the Army's relationship with Congress wielding a deft and skillful touch during a period of tremendous change. Throughout this period, Jerry Harrison ably assisted the Army's senior leadership in its dealings with Members of the Congress and helped them to understand the needs of America's Army as it transformed itself from a forward deployed force to a power projection

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

force. Drawing on this years of experience he skillfully charted the way for an enhanced understanding of the Army's role in the legislative process and for telling the Army story. His leadership resulted in cohesive legislative strategies, well-prepared Army leaders, and a coherent Army message.

Jerry Harrison's career reflects a commitment to our Nation, characterized by dedicated selfless service, love for soldiers, and a commitment to excellence. Major General Jerry C. Harrison, the consummate professional, whose performance in over three decades of service, in peace as well as in war, personified those traits of courage, competency, and integrity that our Nation has come to expect from its Army officers. On behalf of the Congress of the United States and the people of this great Nation, I offer our heartfelt appreciation and best wishes for a soldier who served his country so admirably.

TRIBUTE TO MABEL HOGGARD

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mrs. VUCANOVICH. Mr. Speaker, I rise today to take time to honor and pay tribute to an individual who spent her life in the service of others. In doing so, Mabel Hoggard became a pioneer, both for her race and for women. Born on March 10, 1905, in Pueblo, CO, Mabel left her home State after high school to attend the University of Tennessee at Nashville, then known as Tennessee A&M, to pursue a teaching degree. Upon completion, she started teaching in a two-room schoolhouse in the coal fields of Jenkins, KY, for $100 a month. Mabel went on to do graduate work in education at Chicago University, University of Utah, and the University of Nevada, Las Vegas.

A lifelong Republican, Mabel was the first black writer for the Williamson, West Virginia News and the first black administrative staff person for the Williamson Housing Authority. Mabel Hoggard was not to be satisfied with these important contributions, however. In 1944, she moved to Las Vegas and became the first black teacher in the State of Nevada. Mabel spent 25 years with the Clark County School District, teaching at a number of schools including Matt Kelly, Highland, Westside, and C. V.T. Gilbert. In 1975, the Board of Trustees honored her by changing the name of the former Bonanza Elementary to the Mabel Hoggard School. The University of Nevada, Las Vegas in 1977, awarded Mabel the "Outstanding Citizen" award.

Mr. Speaker, Mabel Hoggard was a true pioneer in the great spirit of Nevada and we honor her memory today as an inspiration not only for Nevadans, but all Americans.

NAVAL ACADEMY'S CLASS OF 1955 PRESENTS COLD WAR MURAL

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. STENHOLM. Mr. Speaker, in June 1955, 742 young men graduated from the U.S. Naval Academy and received commissions in the Navy, the Marine Corps, and the Air Force. Today the Class of 1955 returns to the Academy for its 40th reunion. The U.S. Naval Academy was founded in October 1845. In recognition of the Academy's 150th anniversary, this evening the president of the class of 1955 will formally present an 85′ x 10′ mural to the superintendent of the U.S. Naval Academy. The mural is mounted in Alumni Hall and is described by the following text:

WINNING THE COLD WAR

On the occasion of our 40th reunion, the Class of 1955 proudly presents this mural to salute the 150th Anniversary of The United States Naval Academy. Conceived and commissioned by the class, the mural reminds today's midshipmen of the Cold War's scope and complexity. Through numerous examples, the mural illustrates the extensive efforts by our nation to win the longest war in our history. The mural makes the point that winning the war occurred in part as a result of values imparted to midshipmen of all the classes of the era by the Academy.

The historical purpose of the mural is to portray the world as it evolved during the period of sustained tension between the free world and the Communist nations from the late 1940's to the early 1990's. This period generally coincides with the active duty service of the Class of '55. The images of historic events and Naval Academy activities are chosen to remind viewers that the national security environment during the Cold War was very different than today's, and that the Naval Academy environment was different in many ways as well.

The Cold War is but one of many periods in our nation's history in which Naval Academy graduates made significant contributions to the preservation of our freedom. Despite the changing nature of the challenges, the Naval Academy prepares midshipmen to make these important contributions by emphasizing a traditional set of core values that provide the foundation for continued success by Academy graduates. These values are illustrated by the four themes in the mural: Leadership, Academics and Technology, Athletics, and Excellence and Professionalism.

LEADERSHIP

The Naval Academy consistently produces high quality graduates who understand and practice the fundamental principles of leadership. Academy graduates of every rank lead men and women in training and battle, in the execution of supporting technical and administrative duties, and rise to the most senior positions in their services. During the Cold War, Naval Academy graduates (including many members of the Class of '55) commanded ships, planes, squadrons, companies, battalions and other fighting units in the Navy, Marine Corps and Air Force. The two glass panels flanking the central world map present the insignia of all the services, the Department of Defense, and the Naval Academy.

The central panel of the mural illustrates the enormous geographic size of the Communist Empire directed by the very large and powerful Soviet Union. The comparatively small United States mounted a sustained 40 year campaign of moral, military, economic, and technical superiority to defeat the Communist threat to our free existence. The hexagon shaped panels illustrate some of the significant events that collectively contributed to Winning The Cold War. Naval Academy graduates participated in these events that resulted in the total collapse of the Soviet Union and subordinate nations of the Communist Empire. The mural suggests the internal decay of that empire by the rusty steel and popped rivets around the borders of Communist countries.

ACADEMICS AND TECHNOLOGY

The angled wall to the right of the map illustrates the role of the Naval Academy in preparing midshipmen for future intellectual challenges. Some of the most amazing technological advances in history occurred during the years spanned by the service of the Class of '55. As midshipmen, we used the slide rule for general calculations and analog computers for gun laying. A few years after graduation, the digital computer entered our professional careers and triggered an exponential technological explosion. The solid academic foundation provided by the Naval Academy enabled graduates to master emerging technologies and lead their subordinates through the challenges of the computer and nuclear age. The glass overlays on each end of the central panel, together with the adjacent painted scenes, illustrate representative ship, submarine and aircraft systems of steadily increasing complexity in which Naval Academy graduates served during the Cold War. The consistent ability of our nation to stay ahead of the former USSR in the development and application of technology forced a series of Communist leaders to recognize that they could not compete successfully in a military confrontation with the United States.

ATHLETICS

The angled wall to the left of the map illustrates the important contribution of the Naval Academy athletic programs in developing high quality graduates. Over the years, brilliant performances by individuals, combined with a unique Naval Academy emphasis on teamwork, resulted in significant victories over national colleges and universities with much stronger and heavily subsidized athletic programs. As an example, the "team called *DESIRE*", led by the Class of '55, overpowered favored Army and then defeated Mississippi, the Southeastern Conference Champions, 21–0 in the 1955 Sugar Bowl. Other teams and individuals represented on the panel won Olympic, National, Eastern Intercollegiate, and League Championships. A fierce competitiveness, the will to win, and a refusal to quit characterize the performance of Navy teams across a wide spectrum of collegiate sports. The special tolerance for pressure and for leadership under stress developed by participation in Navy sports enabled Academy graduates to withstand the physically demanding requirements of combat operations, space flight and in some cases prolonged detention as a prisoner of war. The Naval Academy athletic programs also motivate graduates to remain physically fit and apply the same winning habits to their professional careers.

EXCELLENCE AND PROFESSIONALISM

The plebe at the left end of the mural represents all midshipmen entering the Naval Academy. Each new plebe class contains individuals from every state, a few foreign nations, and some with previous military service. These fledgling midshipmen represent a wide range of value systems, family backgrounds and ethnic cultures. During their four years at the Academy, these young people grow in their sense of ethics, truthfulness and honor, and learn to respect the need for spiritual guidance. The first class midshipman at the right end of the mural is about to graduate, well prepared for commissioning as an officer in one of the armed services. The habit of excellence developed as midshipmen is transformed into the professionalism that distinguishes Naval Academy graduates as they lead military organizations, work on the frontiers of technology, and participate in programs of national importance.

The Cold War is over. Our national ability to remain strong and unyielding for over 40 years in the face of a hostile and persistent Communist threat to our freedom was due in significant part to dedicated service by Naval Academy graduates. Unfortunately, the world is still a dangerous place and our country will continue to call upon the armed services to preserve our freedom. The men and women in the service uniform of their choice will continue to answer the call and will add new chapters to the proud history of the Naval Academy developed over the past 150 years.

SEPA

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Ms. DANNER. Mr. Speaker, today I rise in opposition to a provision that may be included in the House version of the budget reconciliation package. Specifically, I strongly oppose the auction to the highest bidder of the Southeastern Power Administration [SEPA] and the consideration of the auction of any of the other Power Marketing Administrations [PMA's].

The House Resources Committee, by a 1 vote margin, approved language that would require the Corps of Engineers to auction to the highest bidder contracts to all SEPA generated power plus all land and facilities related to the generation of electricity. This includes generators, dams, locks, reservoirs, and the land surrounding the reservoirs. It is important to note that other than the generated power, those assets are under the jurisdiction of the House Transportation and Infrastructure Committee, not the Resources Committee.

In response, the Transportation and Infrastructure Committee, of which I am a member, passed language that prohibits the sale of the Corps of Engineer's assets as they relate to SEPA. If the Transportation and Infrastructure Committee language stands, which it should, all that is left of the Resources Committee language is the sale of the generated power. However, according to the Congressional Budget Office, the sale of the power generation alone does not score as a budget savings. If there are no budget savings the argument favoring such a sale, simply does not make sense.

We must defeat all proposals, now and in the future, to auction to the highest bidder any of the PMA's. This proposed auction would assuredly result in higher electric rates for rural and small town consumers.

ANNUAL FUND DINNER FOR THE INDIANA BRANCH OF THE NAACP

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. VISCLOSKY. Mr. Speaker, I rise today to congratulate the members of the Hammond, IN, branch of the National Association for the Advancement of Colored People [NAACP]. On Thursday, October 19, 1995, they will hold the Annual Freedom Fund Dinner.

The Hammond NAACP, which has chosen the theme of "Building Family Values," was organized in 1934 by a group of residents that felt there was a need for an organization that would monitor and defend the rights of African-Americans in northwest Indiana. The national organization, of which the Hammond branch is a member, focuses on providing better and more positive ways of addressing the important issues facing minorities in social and job-related settings.

The Annual Fund Dinner is a major fund raiser for the Hammond branch of the NAACP. In addition, the dinner serves to update and keep the community aware of the accomplishments of the local and national chapters on an annual basis.

Moreover, awards are presented at the dinner to members who have given of themselves above and beyond the planned agenda or the President's request. Those special individuals who will receive awards are the following: Rocharda Moore Morris, President's Award; The Reverend Albert Johnson, Jule Alexander Award; Officer Pete Torres, Community Service Award; and Anthony Higgs, Program Support Award. Pearline Jenkins Scholarship Awards, whose joint contributors are the Hammond NAACP and the Northern Indiana Public Service Co., will be presented to Peter Adams, of Hammond High School, and Marquist L. Spencer, of Morton Senior High School. The Master of Ceremonies is Bernard Carter, Lake County Prosecutor, and the keynote speaker is Norman Van Lier, former star of the Chicago Bulls. In addition, Norman will receive a special recognition award.

Mr. Speaker, it is my honor to congratulate the Hammond Branch of the NAACP for commending these outstanding men and women, who have taken the extra step to improve the quality of life for the residents of Indiana's First Congressional District.

PET TECHNOLOGY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. DUNCAN. Mr. Speaker, last month I was invited to the University of Tennessee Hospital where I was given a tour and briefing concerning a new medical technology, Positron Emission Tomography, or PET for short. I should say that this is the latest advance in medical technology for humans and does not apply to pet animals.

PET technology is the latest advance in diagnosing diseases such as breast cancer, colon cancer, lung cancer, brain cancer, heart disease, and epilepsy.

I have introduced H.R. 2194, the Medicare PET Coverage Act of 1995, because it is time that the average American has access to both this technology and the benefits from cost savings that PET scans provide. My bill would expand PET from research into widespread clinical use by permitting Medicare and Medicaid reimbursement for PET scan procedures.

Despite the fact that CHAMPUS and private insurers like Blue Cross/Blue Shield already reimburse for this safe, cost effective procedure, Medicare and Medicaid do not.

PET scan technology is a diagnostic procedure that doctors can use without surgery to determine the rate of growth of a tumor and tell if it is malignant or benign. This knowledge saves patients from unnecessary surgery and even eliminates the need for many biopsies.

Over its 20-year history and some 1 million PET scans, the technique has demonstrated the ability to reduce the number, cost, physical pain, and mortality of expensive surgical procedures.

This results not only in improved care, but also reduced health care delivery costs.

For example, in the case of breast cancer, most patients undergo an expensive and painful surgery to evaluate the tumors. This procedure often requires hospitalization and anesthesia and can lead to complications. PET scans allow doctors to screen out the 75 percent of patients who can be treated by partial mastectomy and thereby avoid surgery. Almost 74,000 women per year would be spared the risk and the cost associated with this surgery.

Similarly, lung cancer patients would avoid 10,000 surgeries and 17,000 biopsies each year with the use of PET scans.

With today's rising health care costs, we need to push those technologies which provide cost savings into the mainstream of medical practice.

Data collected from peer review studies shows that PET technology offers the potential to reduce national health care costs by a net of $5 billion a year. Approximately $1 billion of these savings would be in Medicare alone.

I would like to commend my colleague, Mr. THOMAS of California, for his efforts to include PET scans in the Medicare Preservation Act we will vote on tomorrow. His language clarifies the scope of coverage and amount of payment under the Medicare Program. This would ensure that cutting-edge and cost-saving technologies like PET are reimbursable.

This language is an important step in enabling Americans who rely on Medicare to benefit from innovative new technologies while at the same time generating considerable savings to the Federal Government.

As important for me as the cost savings is the fact that the largest manufacturer of PET scan equipment in the world, CTI, is located in my district in east Tennessee. The technology and personnel that founded the company came from the Oak Ridge National Laboratory just outside of Knoxville, TN.

The savings from PET technology could start today. One million PET scan studies have been performed with no known negative reactions. Patients have avoided unnecessary surgery because of PET. Again, I say we are not talking about animal pets, but a medical breakthrough called Positron Emission Tomography.

The Health Care Financing Administration [HCFA] has not made a decision on reimbursement while the Food and Drug Administration [FDA] drags its feet in making a decision on whether and how to regulate PET—something that States have already been doing.

For over 7 years, the developers of PET scans have complied with HCFA and FDA procedures and requests only to have the rules changed and inquiries about progress met with minimal response.

While there has been some recent movement on the part of the FDA, the fact remains that we have no consistent regulatory plan that applies industry-wide to all uses of PET.

Mr. THOMAS' language will help move PET, and other technologies like it, out of this needless bureaucratic standstill.

Under this language, HCFA can no longer prevent Americans who rely on Medicare from the benefits of PET scan technology. It will no longer be able to keep the Federal Government from realizing the savings that PET scans can generate.

A hallmark of our health care system is the ability to constantly improve patient treatment by introducing new technology. Better technology often means a more intelligent approach to the diagnosis and treatment of illness. This often translates into better care at a lower cost.

To the person who can avoid surgery, the access to PET is an immediate health concern. For the taxpayer or individual insurance consumer, reimbursement can help relieve the burden of rising costs. Medicare and Medicaid reimbursement of PET technology provides access to a medical benefit that Americans should not be denied 1 more day.

Mr. Speaker, PET scans can save lives, discovering things that other types of medical scanning miss.

It will not be long before people will be demanding this technology. We should not deny its benefits to our senior citizens because of bureaucratic delays or unfair medical rules.

TRIBUTE TO BYRON McKELVIE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Mr. Byron McKelvie of Cortez, CO, who recently retired after more than 30 years in the news business. As an acknowledgement of the many years of service Mr. McKelvie gave as an objective reporter and editor of the Cortez Sentinel and Montezuma Journal, those papers recently printed a wonderfully written farewell. I would like to insert that editorial into the RECORD, Mr. Speaker, and I ask that my colleagues join me in honoring Mr. McKelvie's devotion to his work, his community, and our country.

[From the Cortez Sentinel, Sept. 9, 1995]

There's an old joke about a little boy whose parents were very concerned that he could not talk. He seemed to function quite well in every other way, and the years went by until, lo and behold, one night at the supper table an amazing thing occurred. "This roast beef is burnt," he said, quite clearly. His parents and siblings were amazed. "Jimmy," they said, "you can talk! Why have you never said anything before?" "You never burned the roast beef before," he said.

That's the way the newspaper business works; until we publish something disagreeable, every one of our thousands of readers remain silent. Much of an editor's time is spent fielding complaints about not printing enough information, printing too much information, printing information too soon or too late, and occasionally but not nearly as often as one might think, printing incorrect information. Newspaper work is thankless, but the time has come to say thanks to a man who has spent much of his life contributing to the public exchange of information.

Byron McKelvie retired this week, after 36 years in the news business, most of them at Cortez Newspapers. First as a reporter and columnist and then as editor, he has been responsible for shining a clear light on issues of great importance to Montezuma County. While covering topics too numerous to list, his primary area of expertise has been water issues. He reported the development of the Dolores project from the early 1960s until its fruition, and he accomplished the delicate balancing act required of an objective reporter who was also an ardent supporter.

Writers are often remembered for the subjects about which they've written, but the true story of a newspaper man's career is the story of line after line of copy, year after year of deadlines, meeting after meeting to attend, newspaper after newspaper after newspaper to put out.

That's why the profession is called journalism, because a newspaper done well is a journal of life in its community. A newspaper is not a collection of stories, but thousands of chapters in a single story. For 8 years as this newspaper's editor, "Mac" has been responsible for telling that story. His accuracy, fairness, persistence and dedication are appreciated by his readers and by those of us who follow in his footsteps.

Thanks, Mac. Cortez and Montezuma County will miss you, and so will the Sentinel and the Journal, and myself.

STATEMENT ON MEDICARE BY CLAIRDA POTTS

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. WARD. Mr. Speaker, Clairda Potts is a constituent of mine who came to Washington to make a statement regarding her concerns about the proposed drastic changes in the Medicare system that the House is considering today. I am a Member of Congress for the sole purpose of representing Clairda Potts and all of my constituents who would not have a voice before this body. Therefore, I am including here for printing Ms. Potts concerns in her own words. I believe her statement really says it all.

My name is Clairda Potts and I am from Louisville, KY.

I have worked since I was 9 years old and for much of that time I paid into Medicare and Social Security.

When Social Security and first developed, Congress made a commitment to the American people—if we paid in to Social Security, we would be free from financial worry in our senior years.

I am appalled that here in our great country, there are actually senior citizens who go to bed hungry or without their medication.

Now, we have a new contract with America, to give tax cuts to the rich and solvent.

I ask that Congress keep its first contract with America before it starts manufacturing new ones.

I ask you honorable Members of Congress, please do not take from the vulnerable and needy in order to satisfy the wants of the greedy.

TRIBUTE TO MISSOURI NATIONAL GUARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. SKELTON. Mr. Speaker, today I pay tribute to the Missouri National Guard in recognition of their great feat of transporting tons of military equipment from the Port of Balboa on the Pacific side of the Panama Canal to Jefferson City, MO. The following is the fact sheet for the project:

SEAGOING BARGES MOVE MILITARY EQUIPMENT FROM THE PORT OF BALBOA, PANAMA

Late 1994.—The Missouri National Guard, in cooperation with the 102nd Army Reserve Command, ships over 340 pieces of military equipment to Panama for a Jan.–May 1995 exercise that was part of the ongoing nation building program in the US Southern Command theater. The equipment ranged from giant earthscrapers to light trucks, collected at Fort Leonard Wood and Camp Crowder, MO and loaded onto railcars and shipped to Beaumont, TX. It was unloaded there and then loaded onto a ship for the trip to Panama. Four high dollar items, UH-1 "Huey" helicopters, were flown by C-5 "Galaxy" from Whiteman AFB to avoid potential rail movement and transloading damage.

February, 1995.—Changes at Fort Leonard Wood made it impossible to plan on the fort as a return site. Regardless, the gear had to eventually come to National Guard headquarters along the Missouri River in central Missouri for maintenance after five months in Panama, and there is no rail yard there. Guard officials begin discussing barge movement with military transportation and sealift planners. The idea of shipment by seagoing barge became a plan and a contract was let.

June, 1995.—At the port of Balboa on the Pacific side of Panama two 400 by 100 foot barges are loaded with all equipment, including the helicopters (protected by plastic shrink wrap), towed through the canal and up to the Gulf of Mexico to New Orleans, then pushed up the Mississippi and Missouri Rivers and in mid-July unloaded at a temporary wharf less than half mile from the Guard's maintenance shops. The helicopters are unwrapped and flown straight from the barge deck two miles to their maintenance facility.

The Results.—With four handlings en route to Panama, there was damage to numerous items of equipment, including significant damage to vehicle windshields. With the equipment handled only twice on the return (by its "owners" both times) damage was almost zero. Personnel injury risk exposure was cut in half, and the offload was completed in the Missouri River bottoms with daytime highs in the mid to upper 90s without a single injury or heat casualty among the soldiers.

The move demonstrated the ability of an inland location to serve as a power projection platform for direct overseas movement or receipt of equipment in situations where seagoing barges can be used effectively as a means of filling shortfalls in current lift capability. The move avoided the costs associated with intermediate transloading operations, including avoiding personnel injury risk exposures and potentially significant equipment damage.

TRIBUTE TO AUTUMN KEYES-ITA

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mrs. VUCANOVICH. Mr. Speaker, I rise today to honor an outstanding citizen of the great State of Nevada. Autumn Keyes-Ita has been active in Republican and civic duties for the past 30 years. She has put many hours into improving the lives of her fellow Nevadans through her work at the Community College of southern Nevada, as well as representing Nevada at three Republican national conventions. Presently doing post-graduate work at the University of California, Dominquez Hills, Autumn was awarded a fellowship to research her paternal family, one of the founding families of Gonzales County TX, during the time that Texas was still a territory.

Autumn has served under three Governors and two Presidents, as well as running the Clark County office of the Republican Party in 1972. Along with these accomplishments, Autumn has spent her life in the service of children and adults who are mentally challenged. Her love of the arts has led her to serve an assistant directorship of two major Broadway hits, Oklahoma and Carousel.

Mr. Speaker, today I recognize Autumn Keyes-Ita for her outstanding accomplishments and civic pride. She is a shinning example of women making a difference in their community.

A TRIBUTE TO RICHARD AND JANICE SAMBOL

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. ZIMMER. Mr. Speaker, I rise today in order to recognize two remarkable individuals, Richard and Janice Sambol of Middletown, NJ. The Sambols will be honored this evening at the 1995 Testimonial Dinner and Journal Tribute for the Center for Holocaust Studies at Brookdale Community College.

Our community has been enhanced by the Sambol's civic endeavors and their personal generosity. The Ocean County Association of Children with Learning Disabilities named Dick Sambol Man of the Year; the Monmouth/Ocean Counties National Conference of Christians and Jews has honored him with the Brotherhood Award; the Ocean County Council, Boy Scouts of America has presented him with its Citizen of the Year Award; and the Kimball Medical Center Foundation has given him the Kimball Humanitarian Award. In 1990, both Dick and Janice were honored with the first annual Theodore Herzl Leadership Award by the Ocean County Jewish Federation.

Dick has built a highly successful construction business known for excellence of its work and its ethical practices. Janice has served the community by her active participation in a host of community and philanthropic organizations, including Hadassah, of which she is a life member. Dick and Janice have set wonderful examples for those around them by making pubic service an integral part of their lives.

It has been my privilege to get to know such giving and consequential people. I am happy to join in honoring Dick and Janice for their years of humanitarian efforts and dedication to their community, and wish all the best to both of them and to their entire family.

FORTIETH ANNIVERSARY OF FAIRFIELD, OH

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. BOEHNER. Mr. Speaker, today, the city of Fairfield, OH, marks its 40th anniversary. On this proud day, I extend my heartiest congratulations to its citizens, who have made Fairfield what it is today and what it promises to be tomorrow.

Although Fairfield became a city only 40 years ago, it boasts a proud history. Early in 1787, the New Jerseyite John Cleves Symmes heard from Major Benjamin Stites of a place in the western territories that was "the garden spot of any place that he had seen." Moved to visit the land, Judge Symmes formed a company to buy a large tract of land between the Little Miami and Big Miami Rivers, and ultimately, Judge Symmes was successful in buying just less than 1 million acres, at approximately 66 cents per acre.

Revolutionary war veterans moved into Ohio, seeking better lives for their families from the richness of the land. They traveled the country roads now recognized as U.S. Route 127 and S.R. 4. These pioneers began the statehood application process, and Ohio was accepted as a State in 1803. The opening of the Erie and Miami Canals in the 1820's brought greater prosperity and immigration to Fairfield's promising pastures, as farm goods and people moved freely between Ohio and major markets on the east coast.

In this century, Fairfield has grown and thrived, just as America has grown and thrived. While nearby Cincinnati grew into a truly large world class city, Fairfield maintained its uniquely American, town-of-the-heartland, entrepreneurial character. Incorporated as a village on July 10, 1954, it officially became a city on October 20, 1954. Today, its outlook for the future is as sure as its roots in the past. As a thriving center of the small businesses that will lead America into the next century, Fairfield is truly an illustration of how citizens, politically and economically empowered, can take control of their lives and make a better world for themselves and their families. I sincerely and enthusiastically congratulate Fairfield on its 40th year of independent life as a city, and look forward to many more successful years to come.

50TH ANNIVERSARY OF THE CITY OF OAK PARK

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. LEVIN. Mr. Speaker, on October 29, 1995, the city of Oak Park, MI, marks the end of its 50th anniversary celebration.

Since its incorporation 50 years ago, Oak Park's recent immigrants and long-time residents have helped transform it from semirural origins into a thriving community that is a good place to live, to work, and to raise families.

With the strong support of the Oak Park business community and the tireless efforts of city staff and volunteers, Oak Park has celebrated this milestone with fireworks, public safety programs, beautification projects, an international festival, recreation programs, and musical shows by nationally known performing artists.

The year-long celebration comes to an end October 29, with the annual dinner that honors more than 200 volunteers who serve on Oak Park's many boards and commissions.

It is my pleasure to share in the celebration and best wishes for continued success and prosperity for the city of Oak Park, MI.

TRIBUTE TO GEOFFREY SACKETT

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to pay tribute to Mr. Geoffrey Sackett, a man who lived a remarkable life in Marin County, CA before he tragically passed away at the age of 48.

As a young child, Geofffrey Sackett was motivated to reach inside himself, to find and foster a courage that cruel necessities demanded. He spent 2 years of his childhood fighting polio, only to recover and face yet another disease, diabetes. Geoffrey celebrated his entry into adulthood with a quadruple heart bypass operation. Again, he was struck, only this time with an illness he couldn't beat—AIDS. And, again, Geoffrey found the strength to endure a long, long struggle with a terrible disease.

Last summer, Geoffrey's battles with his own body ended as his glorious spirit finally flickered out. Marin County, the State of California, and indeed our entire country, lost a treasure with Geoffrey Sackett's death.

Geoffrey's family and friends marveled at his ability, even as a child, to endure through debilitating diseases with little complaint. Geoffrey was always too busy helping others, and too busy working to make the world more humane.

As part of his commitment to making the world a better place, Geoffrey strove to keep others free from AIDS through the Needle Exchange Program in Marin County. He worked with the Marin County Board of Supervisors to have a state of emergency declared in Marin County, thus allowing for a legal needle exchange program. He spent countless hours, in the cold, in the rain, in the streets and in the parks, exchanging clean needles nonjudgmentally to humans in need. There are many who will never know his name, but who will live because of his efforts.

Mr. Speaker, it is in those people, and in our hearts, that Geoffrey's great giving spirit lives on. The kindness and generosity Geoffrey demonstrated in his community is an example for us all.

THE LEGACIES OF J. GRAHAM BROWN AND THOMAS C. SIMONS

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. WARD. Mr. Speaker, at a public ceremony on October 25, 1995, in my district of Louisville, KY, the memories of two remarkable Louisvillians, J. Graham Brown and Thomas C. Simons, will be honored. This special ceremony will include the unveiling of bronze statues of the two gentlemen.

J. Graham Brown and Thomas Simons, each successful in business in their own right, were both deeply committed to assuring the strength and vibrancy of our community. Their contributions are many and it is most appropriate to recognize them.

The corner of 4th and Broadway in Louisville, home to the grand Brown Hotel, serves as a connection between the lives of J. Graham Brown and Thomas Simons. J. Graham Brown opened his magnificent building for guests in 1923, and over the years the hotel has provided lodging for many, many visitors to our city.

In 1982, Thomas Simons spearheaded a drive to renovate the Brown Hotel. After 2 years of dedicated work, it opened once more in all its glory.

Mr. Speaker, I am proud to join in paying tribute to J. Graham Brown and Thomas C. Simons. The residents of visitors to Louisville will forever be the beneficiaries of their foresight.

DR. CHARLES A. BRADY—THE NAME BURNS BRIGHTLY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. LaFALCE. Mr. Speaker,

Gold passes.
Kinsmen die.
Die we, too, in the end.
One thing only dies never—
The bright name one wins for oneself.

Thorvald Erikson, brother of Leif Erikson, sings this verse as he dies following an epic battle in "This Land Fulfilled."

Mr. Speaker, this past spring I included in the CONGRESSIONAL RECORD the obituary and a related article on the passing of Dr. Charles Brady, a native western New Yorker and one of this country's brightest intellectual beacons.

Today I submit the following eulogy of Dr. Brady which was delivered by his son Erik. Dr. Brady left us with volumes of his writings, which include novels, short stories, poems, children's stories, critical essays, and reviews. This eulogy, however, helps us better understand why he left too a name that continues to burn so brightly.

CHARLES A. BRADY—APRIL 15, 1912–MAY 5, 1995

Charles A. Brady died May 5, 1995, at 12:58 p.m at Sisters Hospital in Buffalo. He was 83. This eulogy was delivered by his son Erik on May 8 at a Mass of Christian Burial at Christ the King Chapel on the campus of Canisius College.

Mark Twain said biographies are the clothes and buttons of a man—they tell you something about him, but not nearly enough. Charles Brady felt much the same about eulogies. He said they too often told too much about what a man did and not often enough about who he was.

I'll try not to make that mistake today. We all know the wonderful things Dad did—the books he wrote, the students he taught, the literary criticism he crafted. So let's talk instead about who he was.

He was a man who loved books, to be sure. But he also loved family, friends, tennis and cats—if not not always in that order.

He loved Christmas, too. Not the Christmas of colored lights and shopping malls, but the real thing. The World Made Flesh. Take his homemade Christmas cards from a lifetime and his Christmas poems from America, the Jesuit magazine which has run them since 1948, and you have a wide-ranging look not at the Ghost of Christmas Past but at the essence of the Christmas story—its mystery, its beauty, its strangeness.

That he was attracted to stories of the Incarnation more than of the Resurrection tells you something about him, I think. Maybe it is as simple as the difference between birth and death.

He did not dwell on death, though it often seemed not far off. He'd been in precarious health for more than 35 years. The temptation is to say he was living on borrowed time, except that would not be correct. Here is a man who hated to borrow anything maybe money most of all. If you picked up a quart of milk for him he wanted you to have back the $1.67 before you sat down. So, no, there was nothing borrowed about these last decades and years. The time was all his, for which we are all most grateful.

His last first cousin on the Brady side died in 1990, leaving him as an unlikely patriarch, the last of his generation of 60-some Brady first cousins. The last of his five beloved brothers, Joe, died in 1988. We all grieve in different ways. Dad added some lines to a poem he had written about Joe and himself some 40 years earlier. Among the appended lines were these:

Remember how we used to clip our scores
Out of the sporting pages the next day?
Today I clip your ultimate score, my brother,
From the page they call the Irish sporting page
In Buffalo bars—we're Irish enough for that.
They grouse, those drinkers, if their friends' obituaries
Run too short; the same if they run too long.
Yours is exactly right, I think, my brother.
It's all down here: the things that really counted. . .
Only one thing wrong about all this, O my brother.
On the day they post new pairings, you'll not be around
To clip my final score as I clip yours.

Well, we are all around to clip Dad's final score, and his is exactly right, too, for which we can thank Karen: It's all there, the things that really counted, the tennis victories and poetry awards, the books and book reviews.

Take all he wrote and read across a lifetime of writing and reading then consider this preposterous fact: He was allergic to printer's ink! Michaelangelo may as well have been allergic to paint.

Because he wrote like an angel. And his ability to dissect the writing of other literary angels was so widely known some scholars consider his criticism of C.S. Lewis and Sigrid Undset the definitive studies in this country. He corresponded with both. Letters he received from Lewis are in Oxford's Bodleian Library. And just last fall, anUndset scholar from the University of Massachusetts came to visit with him—a pilgrimage, she called it, as he later recalled with a pleased grin.

In his 80s, when most folks have long since put away their professional tools, scholars came calling; his name turned up in the footnotes of books he was sent for review; and his literary caricatures were sometimes requested by their subjects. One was from author Louis Auchinchloss, half-brother of Jacqueline Kennedy Onassis, who wrote offering to pay for a caricature of him that accompanied Dad's review of his book last May. Dad was delighted and sent back the original as a gift. Not bad for a self-taught artist who, so far as is known, was the only book critic in the country who illustrated his own reviews.

Some of the originals are held by the Burchfield Art Center at Buffalo State College. Most were given to the library at Canisius College, as were the manuscripts for his novels, hundreds of books from his personal collection and dozens of his scrapbooks containing, among many other things, 50 years of his book reviews in The Buffalo News. All of which makes him one of the most generous benefactors in the history of the library at the college named for Peter Canisius, the saint who said better a college without a chapel than a college without a library.

Charles Brady loved Canisius. But if you had looked at his Bene Morenti plaque—the one he got for 40 years of distinguished service that hung for many years in his panelled study on Deerhurst Park—you would have seen a curious thing. He taped a small scrap of paper over the part that said: "Well done, oh good and faithful servant." He complained the tone was patronizing. "That is a judgment best left to Jehovah," he said. And so, on that scotchtaped scrap he wrote these words, in French: "I am not good, I am not faithful, I am no man's servant."

And yet there are few who served Canisius better or more faithfully in its history than Charles Brady. He graduated from Canisius

High School with highest honors in 1929 and from Canisius College with highest honors in 1933. He returned from graduate work at Harvard to teach for 42 years at the college, retiring from the classroom at the same time Kevin, his youngest, graduated in 1977. He relished that symmetry, though he retired in name only. For Dad never actually gave up that vital connection with the school whose history was so intertwined with his. Even from his deathbed he could see the college's Golden Dome, as well as the rooftop of the Humboldt Avenue home where he grew up and the Mediterranean-blue Delaware Avenue apartment building which was his last address.

So why the scotchtaped dissent on that plaque? Well, here was a good man who saw himself as not completely good—a man of high morals who fancied himself a rogue. And here was a faithful man who was also fiercely independent—unflinchingly loyal and yet always his own man.

His relationship with the church was little like that, too. He dissented respectfully in certain matters. I can remember as a child, when we were required to stand and repeat an oath from the Legion of Decency about attending movies, he stooped and whispered that we should repeat nothing. More recently, when he made out his church envelope each Year's Day, he crossed out the designation 'Feast of the Solemnity of Mary' and filled in the former name, 'Feast of the Circumcision.' Then in his familiar, compact handwriting it would say: "There is no point in substituting a redundant piece of Mariolatry for a meaningful feast attesting Christ's Jewishnesss, his maleness and the beginning of His Passion." No one ever called to wonder about the altered envelopes.

You could say all this made him a man of contradictions, but you would not be right. These things may sound like contradictions, but they're not. They're who he was. like the mythic griffin, who is eagle and lion in the same beast, Dad was rebel and loyalist in the same man.

He was an early critic of the Vietnam war, long before it became fashionable, yet when asked years later to shut down his class on a day of war protest, he refused. Some who asked were students, some were colleagues. He was in sympathy with their cause and held it against no one who stayed away, but he was paid to teach and so, for those who wanted to come, teach he did.

And he was a most marvelous teacher. As his children, none of us ever tire of hearing, as we often do, what a great teacher he was. We run across his former students so often it is sometimes hard to believe. But their testimony is not: always we hear of his greatness in the classroom. Everyone thinks his or her father is the greatest man who ever lived. The six of us have had the distinct pleasure of frequently running into strangers who agree with us about ours.

It was Dad's distinct pleasure that Kristin has taken up that greatness in her own classroom and in her own books. He took great pleasure in all of us. Karen. Moira. Sheila. Kristin. Myself. Kevin. His beloved wife of nearly 58 years, Eileen. And their 17 grandchildren. It's odd, but children nearby always made him both joyful and nervous—that apparent contradictory nature again. He took his post as patriarch joyfully, too. "Who would have bet on that?" he would ask, shaking his head with a bemused look.

Then again, who would have bet the lad whose first published poem came at the age of 16 would still be publishing 68 years later? And save for his time at Harvard, all of his writing years were spent in his native Buffalo. He said he had for Buffalo—and the Niagara Frontier, including the Canadian shore—what the Romans called genius loci: That is, love for a locality and true sense for a region's spirit of place. When he won the Poetry Society of America's first prize in 1968, it was for "Keeper of the Western Gate", a poem that was a paean to this region's Seneca past.

His love of place was exceeded only by his love of family; the poem was also a tribute to the Seneca blood of the family of John Roberts, Moira's late husband. In Dad's final days, he thought of John—and of many of our family's other Absent Friends. His voice cut off by a tracheotomy, he penned his thoughts in a kind of poetic shorthand. Of beloved brother Fran: "Unique." Of Joe: "War hero." Of Jack: "Our best." Of his parents: "I can see them." His images of long-gone loved ones grew clearer as his own end drew nearer.

Seven years ago, my wife Carol's grandmother died while we were on a visit to Buffalo. My son Steven was three at the time. Carol tried to explain to Steve what death was. She told him it's when you go to live with God. Steve thought about that a bit and announced somberly: "Well, I don't want to go to live with God."

"A very sensible reaction," Dad said. "I don't want to go to live with God either. Who does?" He said all this with that mischievous grin most of you remember so well, the one that flashed across his face when he was saying something mildly naughty, which was often.

Though he didn't talk much about death until these recent weeks, the theme figured prominently in his writing. As Thorvald Erikson, brother of Leif Erikson, dies after an epic battle in "This Land Fulfilled," he sings this verse (for Thorvald was a skaid, the name for a viking poet):

Gold passes.
Kinsmen die.
Die we, too, in the end.
One thing only dies never—
The bright name one wins for oneself.

The name Charles Andrew Brady burns bright. Karen often called him The Great Man; when she wrote a Buffalo News Sunday magazine piece last summer on soul searching, the internal world of belief, she asked The Great Man about his beliefs.

"Belief is a gift," he said. "It comes from the Anglo Saxon gelefan. A cognate word from the same root, lief, means dear or beloved. Another cognate is love—and the simplest thought about God is 'God is love.'"

And what of the Afterlife. "A mystery," he said. What did he think it will be? His answer. "I don't think about it."

But he did write about it. In "Viking Summer," he cast himself as Professor John C. Desmond. And in one passage, inspired by the death of his mother, he wrote about his own doubts about eternal life:

"Death, thought Professor Desmond, wasn't a very progressive idea. It was the most stubbornly reactionary fact man ever came up against. He often wondered if, in the end, one didn't just go down into a great darkness. To gain salvation, they said, one had to believe as a child. The trouble was that, even as a child, he had not been able to believe as a child. The difference between him and most who disbelieved was that, as a Catholic, he was committed to belief. As a result, he simultaneously believed and disbelieved. He believed with the top of his mind. He doubted with his blood. . .

"The idea of God was by no means dead in the 20th century. In some ways, it was actually more alive than it had been in the preceding 100 years. But the idea of personal immortality, of survival of the individual human personality after death, was definitely less vivid. It has never actually been as strong as the idea of God. Intimations of deity pressed one about on every side. One did not have the same imaginative conviction about the resurrection of the body. One believed, perhaps. If one was lucky. One never felt sure in one's bones. Not even the ancient Hebrews. Not even the old Egyptians, really. Not even the people of the high Christian ages. Only that strange people, the Irish, the people of the dead. The people to whom his mother had belonged. Even in Druidic days, the Irish had been confident that they should live again."

Charles Brady was Irish, and in the end he put all doubt aside. He was utterly sure he would live again. He underwent a terrible ordeal in his final weeks at Sisters Hospital. At one point early in this last hospitalization he came back from a painful bronchoscopy and nurses told us he was muttering gibberish. Jeanne d'Arc, Jeanne d'Arc, he said over and over. A nurse asked if it meant anything. Shella explained it meant everything: He was saying Joan of Arc. And the rest of it was not gibberish. He was praying—in French.

Moments later he said goodbye, without ever using the word, in a most remarkable death bed scene. He expressed his love for each of us in a moving soliloquy that was equal parts instruction, benediction and farewell. Most moving was his salute to our Mom, his Norwegian wife. He called her his soulmate. Most of what he said is private. But this much I can add. He said he felt no fear.

That ought to be a consolation for those of us here—to know he had no fear to know of his final confidence in the Afterlife. It ought to be, but of course it's not. Because we willall miss him here so terribly much—his knowledge, his wit, his writing, his counsel, his love.

We will have him always, in our hearts, and on our shelves, as he ambles the catlines byways of heaven with his brothers—holding aloft the black-thorn cane their father brought from Ireland much more than a century ago.

It that really what heaven will be like? Remember, Dad called it a mystery. It is a concept beyond our mortal grasp. But I know how I'd like to think of it. I imagine that as Charles Andrew Brady entered the Light, he heard the sweet baritone of Jehovah say, "Well done, oh good and faithful servant."

CROW CREEK SIOUX TRIBE INFRASTRUCTURE TRUST FUND ACT OF 1995

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, today, I am introducing legislation to establish a trust fund within the Department of Treasury for the development of certain tribal infrastructure projects for the Crow Creek Tribe. These projects were outlined in previous legislation but were never completed due to limited funding sources. The Crow Creek Development trust fund would be capitalized from a percentage of hydropower revenues and would be capped at $27.5 million.

The tribe would then receive the interest from the fund to be used according to a development plan based on legislation previously passed by Congress, and prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

The Flood Control Act of 1944 created five massive earthen dams along the Missouri River. This public works project, known as the Pick-Sloan Plan, has since provided flood control, irrigation, and hydropower for communities along the Missouri. Four of the Pick-Sloan dams are located in South Dakota.

The Impact of the Pick-Sloan plan on the Crow Creek Sioux Tribe has been devastating. Construction of the Big Bend and Fort Randall dams was severely detrimental to economic and agricultural development for the Crow Creek Tribe. Over 15,000 acres of the tribe's most fertile and productive land, the Missouri River wooded bottom lands, were inundated as a direct result of the Fort Randall and Big Ben dam construction. The tribal community has still not yet been adequately compensated for the economic deprivation brought about with Pick-Sloan.

Through the Big Bend Act of 1962, Congress directed the U.S. Army Corps of Engineers and the Department of the Interior to take certain actions to alleviate the problems caused by the destruction of tribal resources and displacement of entire communities. These directives were either carried out inadequately or not at all. The legislation I am introducing is the first step toward keeping the promises Congress made to the Crow Creek Sioux Tribe.

Congress established precedent for this legislation with the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act of 1992. At that time, Congress determined that the U.S. Army Corps of Engineers failed to provide adequate compensation to the tribes when their lands were acquired for the Pick-Sloan projects. There is little controversy on finding that the tribes bore an inordinate share of the cost of implementing the Pick-Sloan program. The Secretary of the Interior established the Joint Tribal Advisory Committee to resolve the inequities and find ways to finance the compensation of tribal claims. As a result, the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act set up a recovery fund financed entirely from a percentage of Pick-Sloan power revenues.

The Crow Creek Sioux Tribe Infrastructure Development Fund Act of 1995 will enable the Crow Creek Tribe to address and improve their infrastructure and will provide the needed resources for further economic development at the Crow Creek Indian reservation.

This legislation has broad support in South Dakota. South Dakota Governor Bill Janklow strongly endorses this funding mechanism to develop infrastructure at the Crow Creek Sioux reservation. I am including a letter of support from Governor Janklow to be printed in the RECORD.

I urge my colleagues to strongly support this important legislation and correct this historic injustice against the Crow Creek Sioux Tribe.

STATE OF SOUTH DAKOTA,
June 22, 1995.

HON DUANE BIG EAGLE,
Chairman of the Crow Creek Sioux Tribe, Post Office Box 50, Fort Thompson, South Dakota 57501

DEAR CHAIRMAN BIG EAGLE: Thank you for giving me a copy of the proposed federal legislation that requires the federal government to fulfill the commitments made to the Crow Creek Sioux Tribe in the Big Bend Act of 1962.

I wholeheartedly support this legislation and your efforts to develop Fort Thompson with the infrastructure and community facilities that the Crow Creek community should have received long ago. The method for funding in the bill is fair and I hope a majority of both houses of Congress and the President will realize the importance of passing this bill and signing it into law.

In several different ways, all of the various groups of people who live in South Dakota have not received the benefits promised when the great dams were built in the 1950s. The persistence of the members of the Crow Creek Sioux Tribe to right this wrong is worthy of high praise. Congratulations on creating an excellent proposal.

If there is anything I can do to help you, please let me know.

Sincerely,
WILLIAM J. JANKLOW,
Governor.

COALITION MEDICARE PROPOSAL

HON. BILL ORTON

OF UTAH
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 19, 1995

Mr. ORTON. Mr. Speaker, I rise today in support of the coalition Medicare reform alternative. In doing so, I will be voting against both the Democratic and Republican Medicare reform proposals considered today. I would like to explain why.

Today, we are considering only the Medicare portion of the Republican budget reconciliation package. This separation of Medicare from the rest of the Republican budget proposal is an effort to convince the American people that reduced spending in Medicare is not related to the rest of the budget. It is an effort to convince the American people that a $270 billion reduction in Medicare spending is necessary to address the impending insolvency of the Medicare HI trust fund in the year 2002. It is nonsense.

The bipartisan Concord Coalition perhaps said it best: It all began with the irreconcilable goals announced in the GOP's Contract With America: Balance the budget while at the same time enacting large tax cuts and pushing many large programs, most notably Social Security, off the table. Inevitably, a disproportionate share of the budget-cutting burden fell on Medicare.

The coalition Medicare reform proposal, of which I am a cosponsor, proves that the solvency of the Medicare HI trust fund can be restored, within the context of a 7-year balanced budget, while cutting $100 billion less in Medicare spending than the Republican proposal. I am disappointed that the Rules Committee did not make in order consideration of the coalition proposal on the House floor, because I believe it is closer to the priorities of the vast majority of Americans than either of the two proposals that we will be debating today.

The American people deserve a complete debate of the choices we face as a nation as we begin to balance the budget. Today, we will debate two options regarding Medicare: reducing Medicare spending by $270 billion in the context of a budget than contains a $245 billion tax cut, and reducing Medicare spending by $90 billion in order to restore solvency to the Medicare trust fund without balancing the budget.

There is a responsible alternative that sadly will not receive consideration: restoring the solvency of the Medicare program within the context of a balance budget without providing an immediate tax cut. I believe that this option represents the preferences of the majority of Americans.

The coalition alternative includes many of the same proposals contained in the Republican proposal: it allows the formation of provider sponsored networks, it means-tests part B premiums, and it expands the choice of seniors within the Medicare system.

However, there are many distinctions. The Republican plan raises premiums on all senior citizens. The coalition only raises premiums for wealthier seniors who are better able to afford an increase. The coalition plan also protects reimbursement rates in rural areas where hospitals are more likely to close, continues minimal standards for nursing homes, and maintains eligibility for health care at military facilities.

Finally, unlike the Republican plan, we do not include $35 billion in unspecified cuts, which the Republican Senate Finance Committee chairman labeled "blue smoke and mirrors."

We need to keep in mind two things when considering these proposals today: First, we cannot continue to borrow from future generations in order to have things we are not willing to pay for now, and second, we cannot overlook the needs of current generations as we set national fiscal priorities. I believe that the coalition alternative does the best job of balancing these two concerns.

Further, let it be clear that while the impending trust fund insolvency is an extremely serious and real concern, it is not a new finding. For many years, the trustees' report has indicated the insolvency problem in the Medicare HI trust fund. In fact, recent estimates had actually extended the insolvency date, and the trustees report itself stated that the long-range status of the HI Program had improved.

What is new is that Congress has decided to balance the budget and must address this insolvency in doing so. In addition, it is new to enact a $245 billion tax cut at the same time that the budget is being balanced—this means Congress must cut more spending in order to compensate for reduced tax revenue.

The coalition Medicare proposal represents the most sensible approach to achieving Medicare solvency because it does not lose sight of the larger health care picture in a rush to balance the budget. It extends solvency over a 10-year period, creates a bipartisan commission to address long-term solvency, protects beneficiaries, and eases the burden on rural hospitals which provide critical services to rural communities but often rely on Medicare and Medicaid for a majority of their funds.

Therefore, the coalition Medicare proposal achieves and exceeds the goals of the Republican proposal while containing spending reductions to a level that can be absorbed by the health care market without reducing seniors' access to health care—particularly those seniors with low incomes—or quality of health care.

I know that the Utah Association of Healthcare Providers and others share my concern about the magnitude of spending reductions contained in the House Republican proposal. They estimate that some hospitals in Utah will close as a result of these cuts, particularly hospitals in rural areas where over 60 percent of funding can be received from Medicare and Medicaid.

The $170 billion reduction contained in the coalition budget is almost identical to the amount that organizations like the American Hospital Association have said they can achieve without severely reducing the quality of, or access to, health care received by beneficiaries.

Let me make clear that I consider the need to balance the Federal budget the highest priority we face in Congress, and have worked hard for policies and specific spending cuts to reverse the spiraling deficit. But having agreed to balance the budget in a 7-year period, it is now crucial to have a thorough debate regarding the Nation's fiscal priorities. Tough spending cuts are necessary to achieve such a balance and seniors will have to share in these cuts. However, since the spending cuts contained in any balanced budget will be difficult, it is even more imperative that we cut spending first before cutting taxes.

Recent polls show that insistence on tax cuts in light of the tough decisions necessary to achieve a balanced budget does not reflect the priorities of the American people. Over 80 percent of Americans oppose cutting future costs of Medicare to pay for a tax cut. Higher income Americans are even less supportive of making Medicare cuts in order to finance tax cuts than other Americans.

In conclusion, containing health care costs is an essential part of the balanced budget equation. Health care is the fastest growing portion of the Federal budget, and if we do nothing, by the year 2030 all that our Federal tax dollar will pay for is health and retirement programs.

However, there is also more than one way to achieve a balanced budget and contain health care spending. There are important questions to discuss regarding how we can contain health care costs without decreasing quality or denying beneficiaries access to health care.

The Medicare reforms we are considering raise issues beyond simply balancing the budget and restoring solvency to the Medicare trust fund—reforms must include the impact of the costs of health care being shifted as the Federal Government pays proportionately less of health care spending.

I believe that it is critical for Congress to work with, and listen to, the American people as we attempt to determine which proposals are most appropriate and cost-effective.

The fact that the coalition Medicare proposal will not be considered in the debate today denies a voice to the moderate mainstream majority of Americans. I regret that the full details of this proposal will not receive a fair hearing.

LEGISLATION MAKING FGM ILLEGAL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mrs. SCHROEDER. Mr. Speaker, I was glad to hear that the Senate has approved legislation making female genital mutilation [FGM] illegal and implementing education and outreach efforts to stop its practice in this country. I commend Senator REID for attaching his bill, which is a companion to mine, to the foreign operations appropriations bill that the Senate passed on September 21. The House passed its foreign operations bill on July 11 without a similar provision and now it is up to the conference committee to preserve the Senate language of FGM.

I have spoken on this floor many times regarding FGM, and some States are now passing or considering their own legislation to ban it. The problem in this Congress seems to be that Members still do not believe that such a brutal procedure happens in this country, something my bill and Senator REID's would seek to correct. Lest there be any doubt that it does happen here, I refer Members to the October Atlantic Monthly, which features an article by Linda Burstyn about the efforts of activist Mimi Ramsey to end FGM in this country.

TRIBUTE TO MILKEN FAMILY FOUNDATION NATIONAL EDUCATOR AWARD WINNERS

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. WARD. Mr. Speaker, I would like to take this opportunity to congratulate the Milken Family Foundation National Educator Award winners. A recognition luncheon to honor these five exemplary individuals will be held Wednesday, October 25, at noon at the Marriott Hotel in Louisville. At the luncheon Dr. Wilmer S. Cody, Commissioner of Education; Foundation officials; leaders from business, government, and education; and the awardees' families will assemble to honor this year's recipients.

In 1981, the members of the Milken families conceived an educator awards program based on their belief that the most effective way to address the crisis in K–12 education was to focus on the needs and the resources of educators and to encourage bright young men and women to enter the profession. I applaud the Foundation's efforts to improve our Nation's educational system.

Mr. Speaker, I ask that a copy of the distinguished award winners which I am submitting be placed in the CONGRESSIONAL RECORD. I hope that the teachers will continue their invaluable service to the cause of education.

The recipients are: Barbara Byrd Fendley, a teacher from Dupont Manual High School in Louisville; Jerry L. Hodges, a principal from Williamsburg High School in Williamsburg; David E. Jordan, a principal from South Junior High School in Henderson; Susan Bernstein Stucker, a teacher from Blazer High School in Ashland; and Joyce Ann Mason Winburn, a teacher from Eminence High School in Eminence.

THE BILINGUAL EDUCATION TRAP

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. ROTH. Mr. Speaker, I rise today to call the attention of my colleagues to a column that appeared yesterday in the Wall Street Journal. The author, Michael Gonzalez, makes a compelling case against bilingual education and for preserving our common bond, the English language.

Mr. Gonzalez' article shares his personal experience with bilingual education programs as a new American growing up in New York City. His story is a cautionary tale of bureaucratic excess and educational ineffectiveness. Rather than helping children learn English, the bilingual education programs he describes actually hold them back.

A recent survey showed that in just 5 years, there will be 40 million Americans who can't speak English. Those Americans will be isolated, cut off from realizing the American dream, if they don't have the one skill that is required for success in America: fluency in English.

We should heed the warnings of people like Michael Gonzalez, who have experienced the negative effects of bilingual education first hand. I have introduced legislation that would end these misguided Government programs and shift our educational focus back to teaching new Americans English quickly and effectively. I hope you will join me in this effort by cosponsoring H.R. 739, the Declaration of Official Language Act.

I ask that the full text of Mr. Gonzalez' article appear in the RECORD at this point.

[From the Wall Street Journal, Oct. 18, 1995]

THE BILINGUAL ED TRAP

(By Michael Gonzalez)

The push to make English the official language of the U.S. misses the point. If proponents of such a constitutional amendment aim to prevent Balkanization and preserve the ideal of the melting pot, they would do far better to channel their efforts into radically changing bilingual education programs. Immigrants will learn English if the social engineers will only let them.

I know about bilingual education firsthand. When my family came to this country from Cuba via Spain more than 20 years ago, the New York City public school system, in its infinite wisdom, put me in a bilingual program, despite my family's doubts. The program delayed my immersion into English, created an added wedge between new immigrants and other students, and was sometimes used as a dumping ground for troubled Spanish-speakers more fluent in English.

When I tried to transfer to a regular class, the system threw roadblocks in my way. Administrators finally relented, though it took a lot to convince them. The process was an education in itself, but it wasn't one a 14-year-old should be asked to go through.

One year later, the students who had stayed in the bilingual class were still there, and their English-language skills were little improved. They were every bit as bright as I; it was the system that held them back. Sadly, this picture has not improved in the past two decades.

While a bilingual program of short duration that truly aims at quick immersion in the English-speaking culture would be of value, the lobbying groups that support bilingual education appear to have other aims in mind: chiefly, pushing the Spanish language as something in need of protection and creating a multicultural, multilingual nation.

Spanish is my native tongue, and it is the native tongue of every member of my family. I work hard at not losing it and speak it as often as I can, especially in the street. It is beautiful, melodious tongue, especially suitable for poetry and other forms of literature. It is not a waif that needs the help of some concerned administrator. The language is alive and duly celebrated in Spain and 18 countries in Latin America, as well as in any other country where individuals have chosen to add it to the particular inventory of the foreign languages they know.

Paul Hill, research professor at the University of Washington's graduate school of public policy, says one hidden agenda of bilingualism's proponents may be to create demand for teachers who speak a foreign language. He also suggest a more Machiavellian agenda: Instilling in a child a self-consciousness as a member of a separate group virtually ensures that he or she will never fully feel a member of the larger society and will be more vulnerable to claims of ethnic pride, or resentment, by politicians and marketers alike. I fear Prof. Hill may be right on target.

As a correspondent, I have witnessed countries such as South Korea and Japan use unity of purpose to compete globally. I have also witnessed strife in countries that are multilingual and multicultural, such as Afghanistan and Cyprus. We should think twice before we toss out the corny goal of having a melting pot.

Yes, Americans, an English-speaking people, had better start learning foreign languages, such as Spanish, in order to better compete in the world. Yes, our diversity is a real strength: Americans of Eastern European, Asian and Latin American background are leading the charge in opening markets in those regions. But we cannot afford to become dissipated at the center—we have to understand one another, linguistically and culturally, back at the head office.

But if the liberals on one side confuse matters, the conservatives on the other side also send the wrong message with English-only drives. The first law that established English as the official language of a state, in Nebraska in the 1920s, restricted the learning of any other foreign language until secondary education. Any law that risks encouraging isolationism should be opposed. Globalism is real—anyone who doubts it should visit our business schools and see students grappling with how to overcome America's natural seclusion. In addition, if it's fair to speculate about the motives of bilingual-ed supporters, it is also legitimate to hypothesize that supporters of English-only may be animated by nativism, racism and ignorance.

Far from working toward union, making English an official language risks creating further divisions. It goes against the grain of how things have traditionally been done in this country, where there is no official religion nor family that represents the state. Reforming bilingual ed and restricting government literature to English does not require an official language. We've done without one for 219 years. We don't need one now.

TRIBUTE TO RABBI ARTHUR SCHNEIER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying tribute and expressing deep appreciation to a truly outstanding American, my good friend, the courageous and inspirational Rabbi Arthur Schneier.

Rabbi Schneier has earned his place among the great leaders in human rights of this century with his tireless efforts on behalf of the world's victims of ultranationalism, religious persecution, ethnic cleansing and intolerance. He has risen above religious differences to establish the Appeal of Conscience Foundation, which has, for 30 years, brought together Roman Catholic, Protestant, Greek Orthodox, Jewish, and Islamic religious and lay leaders to solve the problems that face our globe.

As a young man, Rabbi Schneier led a highly successful campaign to recruit young people at a time of religious disaffection in the 1960's to a program at the Park East Synagogue which eventually became a seven-story day school cultural center that continues to attract young people and currently educates 250 children.

This effort, begun in 1965, was the beginning of an extraordinary career in religious leadership for Rabbi Schneier. That year, he recruited and led a group of political and religious leaders for an Appeal of Conscience rally protesting religious repression in the Soviet Union.

Rabbi Schneier then established the Appeal of Conscience Foundation, which continues to this day to provide effective and increasingly influential leadership on behalf of religious freedom and human rights throughout the world.

Just a few weeks ago, Rabbi Schneier met with Pope John Paul II to discuss the problem of radical nationalism around the world and its inevitably negative effects on human rights and religious freedom, particularly the prevalence of anti-semitism and xenophobia in troubled countries.

The Appeal of Conscience Foundation and Rabbi Schneier have been involved in a wide range of the world's most intractable problems and most egregious human rights violations. From meeting with Foreign Minister Andrei Kozyrev to discuss United States-Russian relations to meetings with the Presidents of Bosnia, Serbia, and Croatia to discuss a lasting peace in that troubled region, Rabbi Schneier has taken it upon himself to provide inspirational and effective leadership that has won him praise around the world.

Mr. Speaker, Rabbi Schneier is an inspiration to all Americans. He has taken his wealth of good will, tenacity and intelligence and brought his message to the forefront of international discussions. He has championed an issue that touches us all—the protection of the most basic human rights and the freedom to practice one's chosen religion. It is with the deepest appreciation and most heartfelt thanks that I invite my colleagues to join me in paying tribute to Rabbi Arthur Schneier.

IN HONOR OF REVEREND DANIEL CORREA, JR., SENIOR PASTOR OF THE GOSPEL TABERNACLE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Rev. Daniel Correa, Jr., for his dedication, spiritual leadership, and tireless commitment to the communities of North Bergen, Union City, west New York. He will be honored by the Gospel Tabernacle on October 22, 1995, at their annual Clergy Appreciation Day. This day seeks to acknowledge the contributions of American religious leaders in the 1990's.

Rev. Correa, born in Mayaquez, PR, moved to the south Bronx in New York when he was 6 months of age. He received his first call to ministry at the age of 10, when he preached his first sermon. In adulthood, he became an associate pastor at the Glad Tidings Assembly of God in the northeast Bronx for 7 years.

Two years ago, heeding to the call of God, he came to the Gospel Tabernacle in North Bergen where he currently serves as senior Pastor. At the beginning of his ministry, the congregation numbered 40 members. Under his leadership, the congregation has increased to more than 300 members.

Pastor Correa, about to receive his Masters in Theology, instituted several programs of great benefit to his congregation and the community. He established a full accredited Christian Training Academy, which provides a free GED program to the community and to members of the church. Through his conviction that "children are the church of today", he started one of the most successful Royal Ranger and Missionette programs. Other programs started by Pastor Correa include the AIDS Ministry to Broadway House in Newark and Jersey City Medical Center which gives guidance and counseling to patients and families.

Rev. Daniel Correa, Jr. deserves our highest praise for his dedication to his God and his community. I am proud to have him serving the residents of my congressional district and I salute him for his endless giving and years of service.

NATIVE AMERICAN POW WOW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. BROWN of California. Mr. Speaker, today, I would like to draw the attention of the Congress to an event which I am very proud of that happened this past weekend in my region of California.

At the Jerry L. Pettis Memorial Veterans' Medical Center in Loma Linda, CA, a pow wow was held on October 14 and 15 to honor native Americans who have served in defense of our Nation. The pow wow was entitled "A Celebration of Northern and Southern Traditional Values: In Harmony With the Land."

Over 180,000 native American men and women have served in the U.S. Armed Forces since World War I, defending our Nation with honor. Some of these men and women were in Loma Linda this past weekend.

Mr. Speaker, 2 weeks ago in Washington, a special joint session of the House and Senate was held to commemorate the 50th anniversary of the end of World War II. I am particularly honored to mention that in Loma Linda were several of the famous Navajo Code Talkers who are widely credited with helping to win the war in the Pacific during World War II. I feel strongly that theirs is a story that needs to be told more broadly so that all Americans—young and old—are thoroughly familiar with one of the many important contributions that native Americans have made to the continuing freedom and evolution of our Nation. I, for one, am very proud to know that these honored veterans and other native Americans gathered and celebrated in the inland empire region of California this past weekend.

I hope all Members of Congress will join me in congratulating all participants in the October 14 and 15 Loma Linda, CA, native American Pow Wow.

WILLIAM J. HAWKINS—A MAN OF GREAT PURPOSE AND INTEGRITY

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. REED. Mr. Speaker, it gives me great pleasure to pay tribute to a distinguished Rhode Islander who is being honored for his outstanding contributions as the Chief of the Division of Parks and Recreation in the State Department of Environmental Management.

Throughout his long and distinguished career, William J. Hawkins, Jr., has contributed greatly to the quality of life in our State. Rhode Island is proud to boast of many natural resources and public facilities which afford residents and visitors wonderful recreational opportunities. Bill Hawkins has been with the division for more than two decades. Under his leadership and vision, those resources have been protected, promoted, and enhanced for the benefit of all.

Bill Hawkins is a Marine Corps veteran and has been a volunteer fireman in his hometown of Smithfield for over 25 years. In addition to his professional contributions, Bill and his wife, Anne, are the proud parents of six children, and their lives have been blessed with six wonderful grandchildren. He is a man whose family is truly his pride and joy.

He is a man of great purpose and integrity who has earned the admiration, affection, and respect of many. I would ask my colleagues in the U.S. House of Representatives to join me in recognizing an individual who has made a significant difference to the enhancement of our Nation's recreational resources.

TRIBUTE TO ST. MICHAEL'S CHURCH

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Ms. VELÁZQUEZ. Mr. Speaker, I rise today to pay tribute to St. Michael's Church as it celebrates its 125th anniversary.

Throughout its existence, St. Michael's Church has continuously demonstrated its commitment to its parishioners and its surrounding community. Under the stewardship of Father Michael Brennan and the distinguished leaders before him, the church has not only been a place of worship, but it has also been a place of comfort for the weary, a place of guidance for the lost, and a place of hope for those who despair. In essence, St. Michael's has been a center of inspiration for our community.

Therefore, Mr. Speaker, I salute St. Michael's Church and Father Brennan on this momentous 125th anniversary and offer them my best wishes for the future.

220TH BIRTHDAY OF THE U.S. NAVY

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mrs. FOWLER. Mr. Speaker, Friday, October 13, marked a very special occasion in the history of our Nation. On October 13, 220 years ago, the Continental Congress authorized the two ships which were the foundation of the first U.S. Navy.

In honor of this very special birthday, I would like to say "Thank You" to the men and women of the U.S. Navy who work so tirelessly in the service of their country. Like all of our men and women in uniform, they endure a great deal of personal hardship because of their commitment to serve, and it is all too easy for those of us at home to take them for granted.

Right this moment, over 4,500 sailors from Mayport Naval Station in my district are at sea—far from home and months away from seeing their friends and loved ones. Mayport sailors are in the Mediterranean, the Atlantic, the Persian Gulf, the Caribbean and elsewhere. And thousands of other naval personnel are maintaining a forward presence and representing U.S. interests around the globe.

I would like to urge my colleagues to take a moment from their busy schedules to say a little prayer of thanks for the commitment, the patriotism and the devotion to duty shown by the men and women of the U.S. Navy. They deserve our thanks, our prayers and our complete support as they do the difficult and important work they do so well. Happy Birthday, Navy, and many happy returns of the day.

SUPPORT FOR CELEBRATING 3000TH ANNIVERSARY OF JERUSALEM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. GILMAN. Mr. Speaker, I rise in strong support of S. Con. Res. 29, sponsored by the majority leader of the other body, which reserves our Capitol Rotunda for a ceremony celebrating the 3000th anniversary of King David's establishment of Jerusalem as the capital of Israel. I wish to thank Representative THOMAS for his assistance in bringing this legislation to the floor.

S. Con. Res. 29 further notes that Jerusalem has been the focal point of Jewish life for millenia, and has held a unique place and exerted a unique influence on the moral development of Western Civilization. No other city on Earth is today the capital of the same country, inhabited by the same people, speaking the same language, and worshipping the same God as it was 3000 years ago. Yet Jerusalem's special character, and its importance to Israel and the Jewish people, knows no bounds.

Mr. Speaker, we look forward to hosting Prime Minister Rabin and Mayor Olmert soon in the Capitol Rotunda for this celebration of eternal Jerusalem. This commemoration is only one component of the thousands of events scheduled to celebrate Jerusalem's 3000 years as the City of David. Yet it will be an especially memorable event, which I am certain will be cherished by all those in attendance.

STATE OF CHIAPAS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. RICHARDSON. Mr. Speaker, at the request of my constituents in Taos, NM, I would like to take this opportunity to express my views to my colleagues about the 22-month-old uprising in the southern State of Chiapas, Mexico.

The state of Chiapas, where a large indigenous population of various tribes of Mayanslives, is one of the poorest in Mexico. Only 67 percent of the households in Chiapas have electricity, only 41 percent have access to sewers, and only 58 percent have access to running water. The level of illiteracy is also astonishingly high. Only 71 percent of children under the age of 14 attend school and only 70 percent of the people over 14 can read. In addition, Chiapas has a history of human rights abuses which includes summary executions and torture.

To bring attention to the precarious situation of the Indians in Chiapas, armed guerrillas of the Zapatista Army of National Liberation [EZLN] seized several towns on January 1, 1994. They killed policemen, ransacked stores, freed prisoners, kidnapped the governor of Chiapas, and stole dynamite. Accompanying the armed uprising in Chiapas was a car bombing in Mexico City and the destruction of electricity pylons in two other Mexican States, the EZLN claimed responsibility for both of these actions as well.

The Zapatistas stated that they were declaring war on the "illegitimate" Government of Carlos Salinas de Gortari; denounced human rights abuses, lack of opportunities and discrimination against the Mayan Indians in Mexico, and called for the building of socialism in the country.

The Mexican Government quickly responded to the unrest by sending in the army. They strafed suspected guerrilla strongholds, engaged in house to house combat with the Zapatistas, and seized many Chiapan villages. Violations of human rights, particularly against the indigenous communities, were reported during the fight.

The guerrilla leaders demanded the recognition of the EZLN as a belligerent force; a cease-fire by both parties; the army's withdrawal from all communities; the creation of a national commission to deal with indigenous issues; and the suspension of indiscriminate bombing. They also asked for land distribution, justice for the indigenous population and major democratic and social reforms on a national level.

On January 10, President Salinas agreed to the cease fire and sought a political, negotiated settlement of the crisis. The Mexican authorities created a Commission for Peace and Reconciliation to begin negotiations for a lasting peace. In addition, on January 27, the Government and eight political parties agreed on a Pact for Peace, Justice, and Democracy, which included a far-reaching electoral reform.

During the peace talks that took place from February 21 to March 2, the Government agreed to address the land, health, education and other material needs of the State's poor indigenous communities. Among the tentative agreements announced to the public on March 3, 1994, the Government proposed to give limited autonomy to indigenous communities; legislation forbidding discrimination against Indians; redrawing electoral boundaries to permit more indigenous representation; distribution of land from large ranches; and major public works to construct roads, schools and health clinics.

By this time, EZLN's demands had gained relative support throughout Mexican society and guerrilla's leaders announced that they would consult the local indigenous communities to see if the tentative agreements were acceptable. Tensions mounted after the assassination of the PRI's presidential candidate, Luis Donaldo Colosio on March 23, 1994. On March 26, the Zapatistas suspended peace negotiations, accused the Salinas government of complicity in the murder of Colosio and stated that the murder was being used as a pretext for a military offensive against guerrilla strongholds.

Meanwhile, peasant groups in Chiapas were seizing thousands of acres of land, and landowners started to press for action claiming that they would take matters into their own hands if the Government did not take action to prevent seizures of the land in the area. In April, the EZLN claimed a local leader had been shot by a landowner, and a military roadblock in Chiapas was attacked by an unidentified group.

On June 11, the EZLN leadership announced that they were rejecting the Government's March peace plan. After the election of President Zedillo, the EZLN claimed that the gubernatorial elections were fraudulent, objected to the election of PRI candidate Eduardo Robledo as Governor of Chiapas, and threatened to renew the armed rebellion unless Robledo resigned.

Robledo offered to resign if the guerrilla leaders laid down their arms, and agreed to form a non-partisan State government. He appointed a PRD member as his interior minister and a PAN leader as his health minister to show his good intentions. Robledo also pledged to develop a pluralistic government, to address the serious needs of Chiapas, and to revise the State constitution and electoral law to make future elections more credible.

In February 1995, President Zedillo instructed the Attorney General to arrest the Zapatistas leaders on the basis of evidence that they were preparing for further violence in Chiapas and other States in Mexico. President Zedillo also stressed the importance of full observance of the law and affirmed that channels for the peaceful resolution of the conflict remained open.

Following the results of a national referendum the EZLN called in last August, which suggested that the Mexican people wanted the Zapatistas to lay down its arms and become a political force, President Zedillo called on the rebel army to take part in a national dialog for political reform. In September 1995, the negotiators reached a modest agreement that set an agenda for discussions of social issues that contributed to the conflict.

The United States-Mexico relationship has greatly matured over the last decade. Our mutual interests have expanded from strategic concerns to economic and social matters that are vital to each nation's domestic stability. Our commitment to a strong relationship with Mexico was embodied in the NAFTA agreement which acknowledged Mexico's eligibility to take advantage of free trade and the global economic marketplace. The American commitment to Mexico was reinforced by President Clinton's courageous move to open a $20 billion line of credit to Mexico to rescue the troubled peso.

The financial package designed to hasten the stabilization of Mexico's economy will benefit all Mexicans by lessening the impacts of the crisis. As all Mexicans work to resolve the Chiapas problem, the United States should continue to urge restraint, respect for human rights and full compliance with the legal process. We should encourage Mexico to determine the best way to re-establish law and order, to address social problems, and to work toward a new political order in Chiapas. We should support all efforts underway to provide amnesty for EZLN members who give up their weapons and agree to channel their demands peacefully within the political process.

The promotion of democratic values in Mexico increases stability and legitimacy in our valued southern neighbor. Domestic violence and insurgencies are among Mexico's greatest threats, and the United States should play a constructive role in encouraging peaceful democratic solutions to address these concerns. Despite rumors to the contrary, the State Department insists that the United States did not pressure the Mexican Government to take a harder line in Chiapas as part of the financial assistance package for Mexico. Nor does the United States Government provide military assistance to Mexico beyond some low-level training programs. United States State Department personnel have travelled to Chiapas to assess the situation there, but have never accompanied or advised Mexican military troops stationed there. I am comfortable that the above claims are correct.

I support the willingness of President Zedillo's administration to solve the conflict through dialog and peaceful negotiations and every effort of the Government to solve not only the crisis in Chiapas, but also similar social problems that affect other parts of the country.

BURIAL BENEFITS TO INCLUDE CERTAIN VETERANS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. STUMP. Mr. Speaker, today I am introducing legislation to expand eligibility for burial benefits to include certain veterans who die in State nursing homes. My distinguished colleagues, SONNY MONTGOMERY, TERRY EVERETT, and LANE EVANS, join me in introducing this bill.

Currently, the Department of Veterans Affairs pays burial benefits for veterans who were either compensation or pension recipients, or who died in a VA medical center. About 2,500 veterans die in State veterans homes in a given year. About 12 percent of those—or 300 veterans—do not qualify for priority care in Veterans Health Administration facilities, are not service connected, or are not pension recipients.

This bill would provide, at an insignificant cost, more equitable and consistent coverage for our Nation's veterans receiving domiciliary, nursing home and hospital care at VA expense in State nursing homes.

Mr. Speaker, I urge my colleagues to join Mr. MONTGOMERY and me as cosponsors of this bill.

THE 25TH ANNIVERSARY OF NCUSIF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mrs. ROUKEMA. Mr. Speaker, I invite my colleagues to join me in congratulating the credit union community in celebrating the 25th anniversary of the creation of the National Credit Union Share Insurance Fund. This fund was established by Congress in 1970 and has provided unparalleled security and stability for America's credit union members since that time. This insurance fund has an impressive history—it has never received any Federal support or any taxpayer dollars in start-up capital or bail-out funding. No credit union member has ever lost money in a credit union protected by the fund.

Senator Wallace Bennett, the father of Utah's current Senator ROBERT F. BENNETT, was the author of the legislation creating the credit union share insurance fund. In his remarks during the debate over the legislation, Wallace Bennett said, "Since many credit unions deal primarily with individuals having limited incomes, it is particularly important that they enjoy the same insurance protection enjoyed by savers and depositors in other financial deposit accepting institutions." This belief endures today.

So on this special occasion, I wish the credit union community continued success and prosperity. Happy 25th Anniversary to the National Credit Union Share Insurance Fund.

CANOLA AND RAPESEED ACT

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. CRAPO. Mr. Speaker, I rise today with the support of Representatives POMEROY, CHENOWETH, and BROWN of California, to introduce the Canola and Rapeseed Research, Promotion, and Consumer Information Act.

Canola produces oil that is lower in saturated fat than any other commercially available edible oil. Since its approval by Federal Drug Association [FDA] in 1986 as a food, consumption of canola oil in the United States has grown from virtually zero, to the equivalent of over 333,000 acres in 35 States in 1994.

This act will enable the industry to create a producer-driven and producer-controlled checkoff program. Similar to other successful checkoff programs, the available funds would be used to promote canola oil, meal, and other products; provide consumers with helpful information; and conduct essential research that the Federal Government is unable to fund.

Please join me in cosponsoring this important legislation.

UNFINISHED ARMS CONTROL BUSINESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. HAMILTON. Mr. Speaker, Mr. Cord Meyer wrote a column entitled "Unfinished Arms Control Business" which appeared in the Washington Times on October 13, 1995. I would like to draw the attention of my colleagues to his thoughtful article. The text follows:

[From the Washington Times, Oct. 13, 1995]

UNFINISHED ARMS CONTROL BUSINESS

(By Cord Meyer)

Sen. Jesse Helms, North Carolina Republican, has taken on a heavy responsibility in trying to impose on President Clinton his vision of how the important aspects of foreign affairs should be organized. He has used his role as chairman of the Senate Committee on Foreign Relations to demand that the Arms Control and Disarmament Agency (ACDA), the Agency for International Development (AID), and the U.S. Information Agency (USIA) be brought back under the State Department's jurisdiction and control.

In the case of the ACDA, with its comparatively small budget and specialized staff, the domineering North Carolina senator has run into a solid wall of resistance within the Clinton administration and within the ACDA itself to any attempt to merge it with the State Department and cut off its direct access to the president. To bring pressure to bear, Mr. Helms has delayed in his committee the approval of any action on the START II treaty and on the Chemical Weapons Convention. Both these essential arms control measures are being held hostage to Mr. Helms' demand that the ACDA be integrated into the State Department.

The able director of the ACDA, John D. Holum, has made a persuasive case for maintaining his organization as the lead agency for negotiating, implementing and verifying arms control agreements. He points out that in January of this year, the vice president's National Performance Review reaffirmed ACDA's role as a vital agency "whose independence is essential to effective work in the area of arms control and nonproliferation."

Moreover, the State Department's own office of Inspector General conducted a thorough review of ACDA from April 3 to June 9, 1995, including inspection visits to Washington, Geneva, Vienna, and the Hague. It concluded that an independent arms control advocacy role was vital. It cited ACDA's leadership in obtaining the indefinite extension of the Nuclear Non-Proliferation Treaty (NPT). Also, the ACDA was virtually the only agency in the U.S. Government which pushed for a Chemical Weapons Convention. In the face of strong opposition from the State Department, ACDA finally convinced the administration not to certify Pakistan's nuclear program in view of evidence of evasion.

In a speech last month to the American Enterprise Institute, Mr. Holum warned that the delay forced by Mr. Helms in the ratification of START II could have the effect of encouraging Russian nationalists to oppose the treaty, while the delay in acting on the Chemical Weapons Convention increases the danger of proliferation. Warning that this is not the time to bury arms control two levels down in the State Department bureaucracy, Mr. Holum pointed out that "an assistant secretary of state is not going to tell the president that the secretary of state is wrong."

Gen. Andrew Goodpastor, who served as staff secretary to Dwight D. Eisenhower from 1954–1961, remembers that Eisenhower was very insistent that the responsibility for overseeing arms control be vested in a separate office under a single, competent individual. He was convinced that if it was assigned to the State Department, it would inevitably be "submerged" under a host of other issues. Gen. Goodpastor is convinced that Eisenhower was correct in this judgment, and has strongly supported Mr. Holum.

It is only fair to add that the support for ACDA is not unanimous in the foreign affairs community. There are former officials who believe the State Department could do a better job, but they do not have the support of Mr. Clinton and his principal advisers.

In his speech, Mr. Holum defined some important, unresolved problems. He warned that some critics in the United States have tried to place "unworkable" limits on the U.S. financial contribution to the Korean nuclear problem, and he advised against "leadfooted attempts to make political points at China's expense." He has joined Joint Chiefs of Staff Chairman John Shalikashvili in urging the Senate to recognize that unilateral legislation to break the ABM treaty could derail START II ratification in Russia.

Mr. Clinton has correctly described some of the measures proposed by Mr. Helms as "the most isolationist proposals to come before the U.S. Congress in the last 30 years." There are signs that the tide is turning in warnings against isolationism by former President George Bush and by former Secretaries of State James Baker and Lawrence Eagleburger. Arms control is too important to be left half-done.

CHARACTER COUNTS

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. SMITH of Texas. Mr. Speaker, this week we celebrate the importance of personal responsibility, mutual respect, and good citizenship. This week we salute these important virtues that are essential to the American character. This week we pay tribute to the millions of Americans who contribute billions of hours to help their neighbors achieve their potential and improve their lives.

This week is Character Counts week. So it is appropriate to bring to your attention the work of the Character Counts Coalition. The Character Counts Coalition focuses attention on the six pillars of character: trustworthiness, respect, responsibility, caring, fairness, and citizenship.

These pillars are more than simply words. They are a code by which millions of people have been able to achieve extraordinary dreams for themselves and their neighbors. These are a framework for a self-governing nation. And these six simple pillars have made the United States of America the economic, social, and political lighthouse for the world.

But today, as these pillars of character are being embraced around the globe from Moscow to Managua, they are too easily ignored or forgotten at home. Illegitimacy rates have spiralled 400 percent since 1960. Divorce rates have doubled over the past 30 years. A rising tide of suicide, teenage pregnancy, and violence have often turned our shining cities into gruesome nightmares.

We must work together within our own communities, our churches, our synagogues and mosques, our schools, and our workplaces to reverse these trends. Today the question for every American is not only what can you do for your nation but what can you do for your school, your neighborhood, and your community.

Character Counts week celebrates the work of those Americans who are answering this call. The Character Counts Coalition is answering this call. We salute the message and encourage all Americans to heed the pillars of character.

SUPPORT FOR THE ANIMAL DRUG AVAILABILITY ACT

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. ALLARD. Mr. Speaker, as a veterinarian, I am well aware of the importance of animal health products for maintaining the health and well-being of companion animals and food-producing animals. Unfortunately, during the past two decades, the drug-approval process at the Food and Drug Administration's Center for Veterinary Medicine has become increasingly prolonged and complicated. In fact, the FDA has approved only eight new drugs for food producing animals over the past 5 years.

The drug approval process needs to be streamlined so that useful health products are made readily available on the market while essential safety standards are preserved. Animal drug regulations exist to ensure that our family pets are safe and the integrity of our food supply is maintained. Any part of the regulatory process which does not promote these ends, but merely serves as a needless hurdle that delays the approval of beneficial drugs should be reformed. That is exactly what we aim to do with the Allard-Klug-Stenholm-Ganske Animal Drug Availability Act of 1995. This measure would maintain what is right about the current system while it would modify those portions that serve to lengthen the approval process while providing negligible offsetting benefits for safety.

The Animal Drug Availability Act would expedite the animal drug approval process by expanding the list of studies that FDA can use to prove a new drug's effectiveness and by allowing FDA more flexibility in determining whether a field investigation is necessary to prove drug's efficacy. In addition, the act would provide flexible effectiveness requirements for previously approved animal drugs for use in minor species and for minor uses. In order to ensure more predictability in the approval process for drug applicants, FDA officials would be required to convene a presubmission conference with an applicant for the purpose of outlining what types of studies will be necessary in order to achieve final approval. This agreement would be binding upon both parties unless a subsequent scientific development conclusively demonstrates that an additional study is essential to proving the safety and effectiveness of the drug.

I am pleased that this bill is a bipartisan approach which enjoys the support of over seventy other members of the House. In addition, it has the broad support of producer groups and feed groups and is endorsed by the Animal Health Institute and the American Veterinary Medical Association. I urge my colleagues to join us in improving the health of family pets and food-producing animals by supporting this commonsense reform to the animal drug approval process.

IN HONOR OF NATIONAL DENTAL HYGIENE MONTH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to share with my colleagues in the House of Representatives the importance of recognizing October as National Dental Hygiene Month.

The Dental Hygienists Association of the State of New York will celebrate its 75th anniversary October 20–22. With the advent of this anniversary, we should take note of this outstanding association.

The Dental Hygienists Association was developed to improve the oral health of the public; advance of the art and science of dental hygiene; maintain the highest standards of dental hygiene education and practice; represent and protect the interests of the dental hygiene profession; improve the professional competence of the dental hygienist; to foster research in oral health and finally, to provide professional communications.

Mr. Speaker, I ask all of my colleagues in the House of Representatives to join me now in saluting the members of the Dental Hygienists Association of the State of new York for their dedication to their profession and to the oral hygiene of the people of this United States of America.

OCTOBER 19 IS PART-TIME PROFESSIONAL DAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mrs. MORELLA. Mr. Speaker, the Association of Part-Time Professionals [APTP] has designated October 19, 1995 as the first annual Part-Time Professional Day. In honor of this special day, the APTP is hosting an open house at the association's headquarters in Falls Church, VA.

More than 4.5 million professionals work part time. These professionals prefer part-time work to accommodate changing priorities and lifestyles. Many of these individuals are parents seeking a better balance between work and family needs. Many are retirees who are interested in continuing their active participation in the work force.

Many companies, on their own, are moving toward family-flexible policies such as part-time employment because they recognize that companies that help employees balance work and family needs have reduced turnover and absenteeism and increased productivity. Over the past 5 years, the number of part-time employees in the workplace has increased dramatically, and it is estimated that the part-time work force will continue to grow during the next 5 years.

The APTP was founded in 1978 as a national nonprofit organization dedicated to promoting part-time employment on the professional level. APTP holds workshops, seminars and conferences, and provides updated information on employment trends and practices. The association publishes a monthly newsletter of interest to part-time professionals and their employers.

Mr. Speaker, I congratulate the Association of Part-Time Professionals for calling attention to the important role part-time professionals play in the workplace and establishing October 19, 1995 as the first annual Part-Time Professional Day. On this important day, it is an honor for me to pay tribute to the millions of men and women who strive to achieve a healthy balance between career and personal goals through flexible work policies.

HONORING AN AMERICAN HERO

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. STUDDS. Mr. Speaker, I rise to pay tribute to Tom Stoddard, one of our Nation's most eloquent and respected advocates for the civil rights of lesbians and gay men. On Friday, October 27, Mr. Stoddard will be honored by the New York University School of Law, which has established the Tom Stoddard Fellowship under the aegis of the law school's prestigious Arthur Garfield Hays civil liberties program.

Each year, one second-year law student will be selected to spend a year as the Stoddard Fellow, working with leading public interest organizations on gay and lesbian rights cases and other civil liberties matters.

I am told that this is the first fellowship at any law school in the world to be dedicated to securing and advancing the cause of lesbian and gay rights. It is hard to imagine a more fitting tribute to one who has done so much to reshape the law in this area from a sword of persecution into a shield of justice.

Tom served as counsel and, later, as legislative director, of the New York Civil Liberties Union, where he came into contact with most of the major civil rights causes of our time. He left the ACLU to devote his full attention to the rights of lesbians and gay men and the rights of people with HIV as head of the Lambda Legal Defense and Education Fund. Under his stewardship, the organization grew from a staff of 6 and an annual budget of $300,000 to a staff of 22 and a budget of $2.2 million. Although he retired from that position in 1991, he was lured back into public service 2 years later, when he spent 6 months commuting to Washington as director of the Campaign for Military Service.

Since 1980, Tom has served on the adjunct faculty of NYU, where he has been a mentor to a generation of law students searching for a way to use their skills in the service of humanity. He is a vice president of the American Civil Liberties Union and vice chairman of the American Foundation for AIDS Research.

Tom has also shown immense courage in his personal struggle with AIDS. He expresses gratitude—not for the disease, but for the way in which it has deepened his sense of connectedness to those he has represented so ably for so long. As he said to the New York Times, he has become the client as well as the lawyer: the "they" has become "we." His experience has broadened his perspective into what he has described as "an all-encompassing vista, one that connects the past to the future, one that ties me to all other people who have suffered."

In a similar way, Mr. Chairman, the Stoddard Fellowship connects the aspirations of lesbian and gay Americans with the larger struggle for social justice and human dignity. I join with Tom's spouse, Walter Rieman, and their family, friends, and colleagues, as they inaugurate this fellowship and celebrate the extraordinary man for whom it is named. May this endowment enable a new generation of leaders to further his vision of a society that is "fairer, more humane and more inclusive" of every human being.

ANTICOUNTERFEITING CONSUMER PROTECTION ACT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. GOODLATTE. Mr. Speaker, I am pleased to be joined by my colleagues, Representatives HYDE, CONYERS, MOORHEAD, MCCOLLUM, FRANK, GEKAS, SMITH of Texas, COBLE, CANADY, BONO, HEINEMAN, FLANAGAN, and DAVIS in introducing the Anticounterfeiting Consumer Protection Act of 1995. This legislation, which will provide much-needed additional protections against copyright and trademark counterfeiting, may be the most proconsumer, probusiness bill this Congress will consider. It directly addresses a practice that costs American business more than $200 billion a year, that results in the loss of an estimated 750,000 jobs, and that threatens the health and safety of every American man, woman, and child.

There is a myth that counterfeiting is just a penny ante crime, a $2 watch or handbag. In fact, counterfeiting involves billions of dollars, gangs, highly sophisticated equipment, organized crime and terrorists.

No area of the United States, no product is safe from the modern counterfeiter. We have seen counterfeits ranging from watches and sunglasses to auto and aircraft parts, from shampoo to baby formula, from food products to computer software. Counterfeit videotape copies of the movie, "Waterworld," were available before the real movie was even released in theaters. The simple fact is that if it is a product sold in America, there is probably a counterfeit being made and sold somewhere around the world.

The cost of counterfeiting is staggering. The U.S. Customs Service has estimated that in 1993, counterfeited goods resulted in the loss of 750,000 jobs. Fake auto parts such as brake pads and oil filters cost our domestic auto industry losses of over $12 billion. If the sales of these fake parts alone were eliminated, the industry estimates that it could hire an additional 200,000 workers.

The U.S. software industry has estimated that sales of pirated software account for more than 40 percent of total revenues. The counterfeiters have become so sophisticated in duplicating the label, the packaging, and even the hologram that appears on the software package, that it is almost impossible to distinguish authentic products from the fakes. In fact, the International Anticounterfeiting Coalition estimates that American businesses lose nearly $200 billion a year due to the sale of counterfeit products.

Every day, the intellectual property of American businesses is being stolen. It often costs hundreds of thousands of dollars to ready a product for marketing, to make sure that it is not only effective but safe. But today, with powerful computers and copying equipment, it only costs counterfeiters a few dollars to manufacture a copy. They do not have to worry about safety or quality. They prey on the good name, the research, the talent, and the hard work of others.

Because of the lure of enormous profits compared to the relatively low risk of being arrested, prosecuted, and sent to jail, it has not taken long for organized crime to get involved in counterfeiting operations. For example, in three recent raids conducted in Los Angeles, counterfeit Microsoft software and other material with a potential RICO value in excess of over $10.5 million was seized. Implicated in this activity were three Chinese triads: the Wahching, the Big Circle Boys, and the Four Seas. The vast majority of the counterfeit product was produced in southern California. Sheriff deputies seized software, manuals, and holograms. They were surprised when they stumbled upon four pounds of plastic explosives, two pounds of TNT, shotguns, handguns, and silencers.

Last month, U.S. Custom agents led massive raids in several States, including California, New York, New Jersey, and Georgia. They seized $27 million worth of counterfeit merchandise such as clothing, accessories, and sporting goods found in a network of factories, warehouses, and shops. Over 30 U.S. trademark holders were affected. Forty-three Korean nationals were charged for manufacturing, selling, and trafficking counterfeit merchandise. The scale of this operation demonstrates the pervasiveness and level of sophistication that is involved.

Recently, $400,000 worth of counterfeit handbags were seized in New Jersey. During the raid, law enforcement officials using drug sniffing dogs discovered heroin had been stitched into the walls of a number of counterfeit designer Louis Vuitton handbags.

Even more disturbing, however, is the growing threat counterfeits pose to public health and safety. For example, there have been reports of the seizure in 16 States of counterfeit Similac, an infant formula. Such a counterfeit could be deadly to any child who is allergic to the contents of the faked product. In a recent raid in Boston, a bogus butterscotch candy was seized that had been stored unwrapped and in unsanitary conditions. This candy was illegally labeled as a Bordon Eagle brand, however, that company does not even produce such a candy.

Even the sale of fake watches is not a victimless crime. The head of the Born to Kill Gang based in New York City, was making an estimated $13 million a year selling fake Cartier and Rolex watches. This revenue stream financed other criminal activities, from extortion to murder.

Despite these facts, the risk of arrest, prosecution and incarceration for counterfeiting is slight. Counterfeiting operations have become highly sophisticated, well-financed, mobile and international in scope. These criminal networks have distribution systems as diverse as any modern corporation. Counterfeiters know that although criminal penalties exist on the books, because of the inadequacy of the criminal penalties and prosecutors' misperceptions about the gravity of the crime, criminal actions are rarely initiated against counterfeiters. As for private enforcement actions, trademark and copyright owners are consistently frustrated by an inability to recover any meaningful damages.

The Anticounterfeiting Consumer Protection Act of 1995 will help law enforcement officials contend with the sophisticated nature of modern counterfeiting. First, it increases criminal penalties by making trafficking in counterfeit goods or services a RICO offense, consequently providing for increased jail time, criminal fines, and asset forfeiture.

Second, the legislation allows greater involvement by all levels of Federal law enforcement in fighting counterfeiting, including enhanced authority to seize counterfeit goods and the tools of the counterfeiters' trade.

Third, it makes it more difficult for these goods to re-enter the stream of commerce once they have been seized.

Fourth, our bill also adds teeth to existing statutes and provides stronger civil remedies, including civil fines pegged to the value of genuine goods and statutory damage awards of up to $1,000,000 per mark.

The Anticounterfeiting Consumer Protection Act of 1995 will provide law enforcement officials with the tools they need to fight back, and to protect American business and the health and safety of American consumers. The time has come to make sure that our fight against counterfeiting is as sophisticated and modern as the crime itself.

TRIBUTE TO BILL CRIVELLO

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to Bill Crivello, of Cudahy, WI, who was recently named 1995 Veteran of the Year by the Allied Veterans Council of Cudahy. Bill will be honored Saturday, November 4, at the Polish Legion of American Veterans Memorial Hall, In Cudahy.

I want to take this opportunity to tell you, and my distinguished colleagues, a little about Bill and his efforts on behalf of America's veterans.

Enlisting in the Air Force when he was just 17 years old, Bill served with distinction in both the Korean and Vietnam wars. His military service obviously had a profound affect on Bill, now an active member of the Polish Legion of American Veterans [PLAV], the Disabled American Veterans [DAV], the Veterans of Foreign Wars [VFW], the American Legion, the American Veterans, and the Air Force Sergeants Association [ASA].

The veterans of southeastern Wisconsin are proud of Bill Crivello as a volunteer for parades and other patriotic events, to ensure that today's generation, and many generations yet unborn, appreciate the sacrifices made by the men and women of the U.S. military over the years. And, in recognizing these sacrifices, that all Americans today to exercise their democratic rights, including free speech, and the right to vote.

The Allied Veterans Council of Cudahy has made a wise choice naming Bill Crivello Veteran of the Year. Bill, his wife, Gertrude, and their children and grandchildren should all feel a sense of pride in receiving this honor.

Bill, on behalf of our area's veterans, and your friends and neighbors, I encourage you to keep up the great work. As you are proud of our veterans, they, too, are quite proud of you.

ASSEMBLYMAN ARTHUR ALBOHN: PUBLIC SERVANT

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, today, I rise to pay tribute to a good friend and former colleague, Assemblyman Arthur Albohn of Hanover Township who is retiring from the New Jersey General Assembly after 16 years of dedicated service.

Having served with Art in the Assembly for 11 of those years as the junior member of the 25th Legislative District, I must say that it was difficult referring to oneself as a fiscal conservative while sitting next to him in the Assembly Chamber. Art has voted "no" on so many spending bills during his career that he makes the 104th Congress look like the previous forty. In the process, he earned the respect of his colleagues, the appreciation of his constituents and the admiration of all New Jerseyans.

He was elected to the General Assembly in 1979 after serving on the Hanover Township Committee for 27 years, including 5 terms as Mayor, 18 years as the Director of Finance and 12 on the Sewerage Authority.

However, Art's forte was developed earlier in life during his education in New York. Born in Queens, Art graduated from Columbia University and earned an additional degree in Chemical Engineering. Since that time, Art had worked in chemical engineering and management consulting for Goodyear, Rayonier, Celanese and more recently retired from the Komline-Sanderson Engineering Corporation of Peapack-Gladstone.

Art has utilized his proficiency in this field while serving as Chairman of the Assembly Solid and Hazardous Waste Committee and as a member of the Assembly Local Government Committee and New Jersey Commission on Science and Technology. As former colleagues in the Assembly, Representatives JIM SAXTON, DICK ZIMMER, BOB FRANKS, FRANK LOBIONDO and BOB MENENDEZ can each attest to Art's commitment to legislation based on common sense and sound science.

Anyone who knows Art Albohn knows that he could not have been so successful without the love and support of his wife of 51 years, Regina, who has been at his side and often out in front during his political career. As far as we know, Regina is the only person to whom Art has never said "no"!

Although they will want to spend time with their three children and two grandchildren, I have no doubt that Art and Regina will remain active in public life and still have much to contribute to the quality of life in Morris County, NJ. I, for one, will still count on his friendship and good counsel. I will miss him as a fellow elected official, his strong, independent views, his dry humor and unfailing dedication to the Jeffersonian proposition "that government which governs least, governs best."

HEALTH OF OUR CITIZENS AT RISK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. MATSUI. Mr. Speaker, today, we are not making health care policy. We have taken a number, randomly selected by the Budget Committee, and devised a mechanical computation to reach an arbitrary $270 billion goal. In the process, we have placed the health of our citizens severely at risk.

The United States is renowned for its health care. Our hospitals are considered the finest in the world. This is because we, in America, place a unique value on each, individual life. It doesn't matter who you are, how old you are, or what you have chosen to do with your life—everyone deserves quality health care.

Under the Republican plan, this value will be challenged. Hospitals will no longer have the resources to provide quality care, and ill people of all ages will lack the security of knowing that everything possible is being done for them.

Moreover, the elderly will not be able to live out their final years in comfort. The vast majority of senior citizens in this country are not wealthy, and new costs imposed on necessary medical services will be prohibitively expensive. The question we must answer is whether a civilized society has a role to play in improving the lives and health of its older members. In the past, we have answered this question in the affirmative; today, the Republicans have a different response.

The Medicare system has been subject to careful reform virtually every year since its inception. These changes have been deliberate and grounded in thoughtful policy. Reforms have been made with the health of American citizens in mind.

I am saddened to see that the bill before us is not based on the same honorable values. Instead, it represents a mathematical solution to a cold, mechanical $270 billion challenge. Calculations were made devoid of reason, research, and compassion. Qualify health policy played no role. Our elderly and all American people deserve more.

FIRST ANNUAL PART-TIME PROFESSIONALS' DAY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. MORAN. Mr. Speaker, it is with great pleasure that I rise today in recognition of the First Annual Part-Time Professionals' Day. This day was brought to my attention by the Association of Part-Time Professionals, a national nonprofit organization that is a leading authority on flexible work options. The First Annual Part-Time Professionals' Day recognizes the nearly 4.6 million men and women who currently work in part-time professional jobs.

Part-time workers comprise a diverse segment of the work force which includes men and women in search of nontraditional employment schedules to accommodate changing high-tech work environments and family priorities. These individuals include parents seeking better balance between work and family needs, retirees interested in continuing employment, students, and others pursuing outside interests such as volunteer opportunities in our communities.

More than 80 percent of the Association of Part-Time Professionals members live in the Washington metropolitan area. These members and others represent a growing segment of the work force which I am honored and delighted to recognize as valuable professionals in the American workplace.

STUDENT LOAN PROPOSAL HURTS MIDDLE CLASS

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. ROEMER. Mr. Speaker, last month the education committees of both bodies of Congress reported their respective versions of the budget reconciliation bill. Unfortunately, these proposals would harm our investment in education. Although the proposals are slightly different, their impact is the same: They will raise the cost of college and ultimately deny access to higher education to thousands of American families.

Instead of making a college education more accessible and affordable, the budget reconciliation proposals would cut more than $10 billion from student loans over the next 7 years. One proposed change to the student loan program is a new tax on colleges and universities based on the volume of guaranteed loans used by their students. Twenty million students enrolled at more than 7,000 schools would be adversely affected by this proposal each year.

The proposed student loan tax would force schools to increase tuition or cut back in other services to pay for this fee. Such a tax not only penalizes students, but also unfairly impacts schools that admit students who need financial assistance. College students and their families now have more debt than ever before, and it has become increasingly difficult for students and their families to afford college. For many middle-income families college soon will be out of reach financially.

I strongly oppose the proposed changes and other savings taken from the Student Loan Program which would increase the tax burden of the middle class. As written, the student loan changes represent yet another slap at middle-class working Americans who must rely on Federal student loan programs to help finance their children's college education.

For the benefit of my colleagues, I am inserting in the RECORD an editorial written by the president of the University of Notre Dame, Rev. Edward A. Malloy, which appeared recently in the Chicago Tribune. Rev. Malloy points out that taxing higher education is indeed shortsighted. Such action by Congress will make the American dream of a college education for middle-class families nothing more than a mirage that is completely out of reach for most families.

[From the Chicago Tribune, Oct. 3, 1995]

FINANCIAL BURDEN—TAXING HIGHER EDUCATION IS SHORTSIGHTED

(By Edward A. Malloy)

Hidden away in recent news stories was a report that the Senate's Labor and Human Resources Committee proposes to tax colleges and universities based on the total volume of guaranteed loans used by their students. If such a tax were enacted, many institutions would face yearly assessments running into hundreds of thousands, perhaps millions, of dollars. Not only would colleges and universities be burdened with yet another federally mandated fee, but we would most certainly be required to meet increased federal budget regulation for the "loan tax" program. Such an effort by the committee flies in the face of congressional rhetoric championing decreased taxation and less federal intervention in state and private matters.

Federal student loan programs exist to help students and their families afford college educations. Beyond a doubt, post-secondary education is the most significant factor in determining future income. Anything which increases the cost to students, particularly to those middle- and lower-income students who depend on student loans, will have a significant impact on their ability to start, or complete, college programs.

Students already are assessed a fee directly on their federal student loans. An additional fee on institutions of higher education, as proposed by the Senate could have several possible impacts on students—all of them harmful. Many schools simply will pass the fee along in the form of higher tuition. Others will handle the fee by reducing allocations for other priorities, such as undergraduate teaching, financial aid or student services. Students will pay, in fact, they will pay twice—once directly, once indirectly.

The impact of this double tax not only places a financial burden on students, but also in the long run promises to restrict access to higher education and to leave more young people behind as our society enters an increasingly information-based and technology-dependent age.

In developing this fee scheme, the Senate attacks precisely the people it purports to represent, middle-class families who see higher education as the best means of achieving the American dream. In a Congress which is reducing spending for education, particularly higher education, the Labor and Human Resources proposal adds insult to injury by both making loans more expensive and at the same time reducing their buying power. In the end, the student loan fee is nothing more than a tax increase on the middle class, the proceeds of which will find a tax cut for the wealthy.

We know as well that once the federal government begins assessing fees it rarely reduces or eliminates them. In fact, over time the fee most likely will increase. We also will inevitably get more regulatory requirements with the fee. Our institutions already strain under the weight of enormous reporting requirements for programs like the Federal Family Education Loan program. We spend hundreds of man-hours and significant resources meeting federal requirements. Adding a fee structure to this process will only increase this burden. This type of overregulation forces institutions like my own to seriously consider alternatives to the existing federal programs.

The committee is seeking an easy way to meet its budget obligations by imposing a tax on the nation's higher education system. Such a tactic is more than simply misguided, it is wrong. Higher education, including students and parents, already has been targeted for more than our fair share of budget cuts. We face reduced funding for basic research, for the humanities and the arts, a proposed reduction in the interest subsidy for student loans, elimination of the federal portion of Perkins Loans as well as State Student Incentive Grants and consistent underfunding of the Pell Grant program.

I believe I can speak with confidence when I say all of higher education would oppose an institutional fee on student loans. The government simply should not be taxing universities to pay for unwanted B-2 bombers and submarines.

Higher education is one of our nation's most successful enterprises and most valuable commodities. Why would Congress seek to undermine it by placing it out of reach for more and more families? To do so would be egregiously shortsighted. America needs the richness and diversity of its system of education. We must demand that Congress treat higher education as the national resource and national treasure it is, and not as some untapped "revenue stream" to subsidize other federal spending.

RECONCILIATION PROVISIONS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 1995

Mr. MARTINEZ. Mr. Speaker, as Will Rogers once said "All I know is what I read in the newspapers" and over the past few weeks, I have been reading about a provision that is, I am told, being wrapped into the massive reconciliation bill that is coming to the floor shortly.

Last month, after 7 hours of floor debate, this House passed H.R. 1594, the Pension Protection Act of 1995.

The purpose of that bill, we were told, was to protect America's seniors from the alleged dangers in the form of so-called economically targeted investments.

Because I have yet to be convinced that any action of Secretary of Labor Reich might have changed the rules under the Employee Retirement Income Security Act [ERISA] which require pension fund managers and trustees to act in the sole interests of the participants in pension plans, I could not support H.R. 1594.

The crocodile tears shed by the proponents of that legislation were almost legendary on this floor.

Now I read about something that should cause those same Members to shed more than tears, because, hidden in this massive tax bill is a provision that spells doom for the pensions of all Americans.

In the early 1980's, we saw corporations making use of so-called excess pension assets—those not needed to pay immediate pension benefits—for purposes that were certainly not in the interests of retirees.

It took a case like Pacific Lumber, and its cozy relationship with Executive Life, to bring out the significant dangers inherent in these activities.

As you may remember, Pacific Lumber was acquired in a leveraged buyout by another company, and the first thing the purchasing company, Maxxam, did was to terminate the pension plan that Pacific Lumber had provided for its employees.

Because legally they could not just walk away from the current retirees, they purchased insurance from Executive Life to guarantee the retirement benefits.

Of course, Executive Life was chosen because it was the low bidder, but it was also the holder of a significant proportion of the junk bonds issued in connection with the leveraged buyout, as well as other questionable investments. Executive Life failed, as we all know, and the retirees were left holding an empty bag.

Because of abuses like that, in 1990, Congress decided to limit the uses for which any company can put so-called excess pension assets.

And we limited access to those funds solely to allow the company to fund retiree health insurance programs, and imposed an excise tax of 50 percent where the company ended the plan.

Now, I am told, the Republicans, in the name of fiscal responsibility are seeking to expand the uses to which corporations can put these funds—to any purpose they wish to make of the funds.

They can use the funds to pay themselves even more lavish salaries or perks—to acquire other companies and close other factories—putting even more workers out of jobs—or just to have a party.

Of course, they could use this excess accumulation to provide a COLA or adjust benefits for participants, but I don't think that is likely.

To the extent that a withdrawal is made—the company making the withdrawal must pay income taxes on that amount.

And the bean counters over at Ways and Means have translated this into a windfall for the Treasury of $10 billion.

Well, based on what I have read about corporate tax liabilities over the past decade, that would be almost miraculous.

Current corporate tax rates top out at around 34 percent.

Corporations would have to draw down nearly $40 billion to produce that kind of tax, not considering all of the other factors, such as the fact that those taxes would be offset by loss carryovers, credits, and other adjustments.

So we are looking at a potential pension grab of tens of billions of dollars—with absolutely no protection for the pensioners or those workers who continue to expect their retirement to be protected.

And, there is no provision for notice to anyone, especially the participants and beneficiaries.

And another quiet little aspect of the provision is that the amount that can be withdrawn from pensions is based on a valuation date of January 1, 1995 or earlier, while the drawdown will not take place before January 1996.

So a pension fund that was in very healthy condition in December 1994, but which had suffered financial losses, or significantly increased claims for pensions—which happens when you force workers into early retirement—could be reduced significantly overnight.

The economically targeted investments that were the subject of such dire predictions by my friends on the other side of the aisle benefit all America—through job creation, new housing, and rebuilt infrastructure.

These are investments that produce income, which accrues to the benefit of the participants.

They are made from within the plan and the investment stays with the plan.

Mr. Stark's bill would allow funds to be taken from the plan—without notice.

The sole beneficiaries of this pension grab are the corporate moguls who fund the PAC's led by the Republican leadership.

So, retirees and pensioners, hold on to your wallets—the corporate raiders—the Willie Suttons in Gucci loafers—are headed your way and they have Armey's army leading the charge.

This is bad tax and pension policy and should be stopped.

SENATE—*Friday, October 20, 1995*

(Legislative day of Wednesday, October 18, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, ultimate judge of us all, free us from the pejorative judgments that put others down when they do not agree with us. We develop a litmus test to judge others. Sometimes, when they don't measure up, we question their value and make condemnatory judgments of them. Most serious of all, we think our categorization justifies our lack of prayer for them. Often we self-righteously neglect in our prayers the very people who most need Your blessing.

Give us Samuel's heart to say, "Far be it from me that I should sin against the Lord in ceasing to pray for you."—1 Samuel 12:23. Remind us that You alone have power to change the minds and hearts of people if we will be faithful to pray for them. Make us intercessors for all those You have placed on our hearts—even those we previously have condemned with our judgments. We accept Your authority: "Judgment is mine, says the Lord." I pray this in the name of Jesus, who with Moses and the prophets, taught us to do to others what we would wish them to do to us. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Virginia is recognized.

SCHEDULE

Mr. WARNER. Mr. President, speaking on behalf of the majority leader, I wish to inform the Senate that morning business on this day shall continue until the hour of 10:30 a.m. with Senators FORD, WARNER, BAUCUS, and KERREY to be recognized for time allocation within that period.

At 10:30 it will be the intention of the majority leader to proceed to the consideration of Calendar No. 207, S. 1322, regarding the relocation of the United States Embassy in Israel.

The majority leader wishes to advise all Senators that rollcall votes, therefore, are possible.

Further, the majority leader desires to bring up the State Department reorganization, if the managers' amendment can be worked out, or, in the alternative, the Labor-HHS appropriations bill, again if an agreement can be reached.

Mr. President, I seek recognition as one with allocation of morning business time.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein. Under the previous order, the Senator from Virginia [Mr. WARNER] is recognized to speak for up to 10 minutes in morning business.

Mr. WARNER. Thank you, Mr. President.

THE SENATE AND THE WORLD WIDE WEB

Mr. WARNER. Mr. President, I am privileged to be joined this morning by my distinguished colleague and friend, Senator FORD. Senator FORD and I have the joint responsibility for the Rules Committee, and we come to the floor today to announce the Senate presence on the World Wide Web.

As of this morning, nearly 6 million Americans will have access to educational information about the U.S. Senate by way of Internet. We envision the Senate Home Page as a tool that can be used by educators all across our Nation in helping with their teachings of the constitutional and historical role of this institution, and its place in American Government and its underlying responsibilities within our society.

The U.S. Senate World Wide Web Server provides information from and about the Members of the Senate, the Senate committees, and Senate leadership. This evolving service also provides general background information about U.S. Senate legislative procedures, the Senate facilities in this Capitol Building, and the history of this institution. It also includes a visual tour of the Capitol for those of our constituents who may be unable to visit in person, and particularly for those who can visit it. It includes many suggestions on how to plan their visits to the U.S. Capitol Building.

The Capitol Building also has, as we all know, a permanent art collection of great renown and of great historical significance. That too is treated in this Internet.

I want to thank Senator STEVENS and my colleague, Senator FORD, and other members of the Rules Committee who began this effort early this year. We have a very valued staff, and this effort has been led by John McConnell and Paul Steele, and most recently by the acting staff director, Grayson Winterling.

Special thanks to additional staff persons with technical ability in the Sergeant at Arms, Tom Meenan, Chris Lee, Charlie Kirsch, Alex Hobson, Jenny Yu, Roger Myers, Jim Judy, and Sara Oursler along with Cherie Allen of the Secretary of the Senate's office, for developing this technical achievement.

Additional thanks to many of those Senators and their high-technology staff members who were early adopters of this emerging technology, and who indeed gave us the impetus to move forward to this day.

Further, Mr. President, I would emphasize that this is but one step under the current leadership of the Rules Committee, myself and Mr. FORD. We hope to enrich and further expand the Senate Internet presence in the coming months with additional information about the Senate, and its Members.

Further, Mr. President, some of the additional services that we hope to add will be a calendar of events in the Capitol and the Senate, video and voice excerpts of Senate proceedings, and expanded home page percentages.

I yield the floor to my distinguished colleague.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD] is recognized.

Mr. FORD. Mr. President, I am pleased to join with Senator WARNER, our new chairman of the Senate Rules Committee, in announcing that as of this morning, the Senate is now online on the World Wide Web.

The Senate Rules Committee first authorized a Senate presence on the Internet in September, 1993, with the creation of the Senate FTP Gopher Server. In November of that year, the Rules Committee established policies and procedures for Senate participation on the Internet. In the short 2 years since that time, Internet technology has leaped forward producing the significantly improved graphics capability of the World Wide Web. The Web provides the Senate an improved opportunity to provide educational information to the public and I am pleased that we are able to announce this step forward today.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The U.S. Senate World Wide Web Server is produced under the auspices of the Secretary of the Senate's office with technical advice and input from the Sergeant at Arms' Office and the Rules Committee technical staff. The Senate Server will provide the public with general information on the Senate and how it works. The Senate Home Page will provide a direct link to Member's home pages located on the Server and will allow the public to surf such useful information as visual tours of the Capitol, committee membership and jurisdiction, a glossary of frequently used legislative terms, and the history of the Senate.

While we all recognize the somewhat limited reach of the Web today, with an estimated 6 million users nationally, the potential—and I emphasize "potential"—for this technology to eventually reach every school child, office place, and even private home, is obvious. The Senate needs to move into the 21st century and our presence on the Web ensures that the Senate will not be left behind as this technology explodes.

The Rules Committee will continue to monitor the development of the Web with an eye to ensuring that as technology moves forward, the Senate keeps pace with policies and procedures that ensure access to improving technology on a fiscally sound basis. I congratulate our chairman, Senator WARNER, on moving forward with this initiative and encourage my colleagues to take advantage of this important communications tool.

I yield the floor.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I say to Members of the Senate, Senator FORD and I have worked together on many things for now some 17 years and he is a tough, fair working partner, I tell you that.

Mr. FORD. Leave the "tough" out.

Mr. WARNER. All right. He is a man who takes very conscientiously the duties of the Rules Committee and has for many years. It is a pleasure to work with him.

TRIBUTE TO THE CAPITOL POLICE

Mr. WARNER. On Monday, October 16, a very significant number—I shall not make any estimate—of American citizens came from every corner of our land to answer a challenge to join in a day of atonement and brotherhood on the National Mall and the west front of the U.S. Capitol. Many visitors journeyed to Washington from distant States to join in what was characterized as the Million Man March, a successful occasion, indeed, by all press accounts.

The Capitol Grounds, which belong equally to every citizen of this Nation, was one of the focal points of this gathering. Sometimes those of us who work in the Senate, whatever the capacity may be, tend not to fully appreciate what happens behind the scenes when large demonstrations of this magnitude occur.

I stand today to pay tribute to the infrastructure of the Senate—indeed, I think of both the House and the Senate—that contributed in some measure to making this an acceptable and safe event.

Again, I thank all who helped make it a safe event. It was one of the largest demonstrations on the U.S. Capitol Grounds in contemporary history. I would particularly like to thank our Capitol Police Department; 1,100 U.S. Capitol Police officers were on duty on October 16. All days off were canceled. Officers were required to work extended duty hours. Officers provided routine law enforcement, protective operations, and traffic control. Their professionalism assured that our visitors received the services they deserved and permitted Senators and staff to continue their work during the day.

There was also significant infrastructure to provide for health and first aid.

Planning meetings with the organizations began early in August to assure this public safety. Senator FORD and I convened two meetings of the infrastructure on the Senate side and carefully reviewed their plans. We thank Chief Gary Abrecht, Assistant Chief Robert Howe, and Deputy Chief James Rohan for their overall command, and we are grateful to Lt. Gregg Parman and Officer Terry Rinaldi for their involvement in all phases of the planning process.

While the Nation focused its attention on the west front of the Capitol, the Capitol Police Department worked to assure the safety and security of all who assembled, preserving the tradition of our first amendment rights.

We thank the Capitol Police for their good work. We thank many others in this institution who equally contributed. And I pay a special recognition to Mr. Howard Greene, the Sergeant at Arms, who was sort of the executive officer of this effort.

RETIREMENT OF SENATOR NUNN

Mr. WARNER. Mr. President, it is a privilege for me to place into today's RECORD of the Senate the remarks made by our distinguished colleague, Senator NUNN of Georgia, when he announced his future intentions, which, to the regret of many, indicated that he would not seek reelection to the Senate.

Mr. President, I say it is a privilege because Senator NUNN has been a very, very close personal friend, a valued and respected professional partner—I always considered him a partner—for a quarter of a century. I first came to know Senator NUNN when I, as Secretary of the Navy, worked with Carl Vinson. Carl Vinson was chairman of the House Armed Services Committee. He served in the House of Represenatives for 50 years. I had a role in the naming of a supercarrier after him, the U.S.S. *Carl Vinson*.

It was in the process of that naming procedure that I first came to know SAM NUNN, who at that time was working in a capacity with Carl Vinson and the House Armed Services Committee. Of course, when I was privileged some 17 years ago to come to the Senate, he was a member of the Senate Armed Services Committee, and we worked there together for these many years and will continue to work for this coming year. I anticipate his contributions in this coming year to our Nation and to our Senate will be no less as significant in magnitude as the many contributions he has made over his entire career in the Senate.

As I say, I value his friendship, and for 6 years we were privileged to work together with Senator NUNN as chairman of the committee, and I had the position of ranking member. We sponsored many pieces of legislation, coauthored them together, particularly in the areas of personnel and strategic matters. We journeyed together to many foreign lands in connection with our responsibilities on the committee.

So it is with heartfelt thanks that I say to my friend, in joining many others in paying him respect, I wish him and his family the very best of good fortune and simply say thank you, Senator NUNN, for the many things you have done for our country particularly in the area of national security.

Mr. President, I ask unanimous consent to have printed in today's RECORD the full text of his statement. Also, I have a short article which appeared in the Washington Times entitled "Inside The Beltway," and I will read it. That would be the final, concluding part of the entry in today's RECORD. It reads:

> Family values. On Monday, after Senator Nunn announced that he would not run for reelection next year, we asked him what he felt had been his greatest accomplishment during his 24 years in Congress. Mr. Nunn thought about our question for several days and got back to us yesterday. We must concede we were surprised at his response, having expected the Georgia Democrat to cite one of his many legislative accomplishments.
>
> "Keeping my family together," he said.
>
> Asked to explain, Mr. Nunn said that, with the multitude of demands on a Senator's family, families have to make many sacrifices. He said he is especially proud to have kept his family together.
>
> The Senator and his wife, Colleen, recently celebrated their 30th wedding anniversary. They have two children, Michelle, 28, and Brian, 26.

I think that final comment in connection with his future plans not only symbolizes the humility of this great American but it also speaks to the life and the challenges of every Member of this institution.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SENATOR NUNN'S STATEMENT, OCTOBER 9, 1995

I am honored to be in our beautiful State capitol building on the floor of the Georgia house where I began my legislative career 27 years ago. After a lot of thought and prayer, I have concluded that my rewarding and fulfilling legislative career should end at the conclusion of my present term. This has been a difficult decision made much harder because of my deep respect for the many people who have encouraged me to run, but I know in my heart that it is time for me to follow a new course.

I believe that both voters and incumbents have a responsibility for careful assessment before entering into a new Senate Contract. For me, an election establishes a sacred trust between the voter and the elected official. Each time I have been elected to the Senate, I have committed heart and soul to the full range of duties of a Senator for a full 6 years. The job requires this commitment—the people deserve it.

Today, I look forward to more freedom, to more flexibility, more time with my family, more time in Georgia, and more time to read, write, and think. While I will not continue in the legislative arena, I will continue my involvement in public policy.

The essence of democracy is much more than just legislators casting votes. It is the action of men and women who take the time to wrestle with the problems of individuals and communites—and do something to solve them. This is the new arena that I will enter—that of a private citizen who also is engaged in the challenges that face our communities and our Nation.

Today, there is no shortage of challenges. These include issues of national security, foreign policy, the environment, health care, and the plight of citizens struggling to fully participate in the economic opportunity of our Nation.

Too many of our citizens are being left behind as our economy moves from the industrial age to the age of information and knowledge because they lack appropriate education and training. A large part of our economic challenge is fundamentally an education challenge. We must change.

Too many children in America are born and grow up outside family structures without the attention, nurturing, discipline, and love that every human soul must have. Too many parents who are struggling to provide their children with basic needs have no way to protect them from street violence and drugs. If America is to remain the greatest country on Earth, our children must come first. We must change.

Too many executives are spending too many corporate dollars paying for television programs that bombard our homes with sex and violence—not thinking or caring about the effect of this bombardment on our children and our Nation's future. Too many of us as citizens sit by passively while this bombardment takes place. We continue to buy the products which are advertised and sold at the expense of our culture—our values—our children—and our future. We must change.

We are reaping the harvest from this combination of conditions in soaring rates of child abuse, drug abuse, teenage pregnancies, abortions, and unprecented levels of crime and violence.

These challenges are made more difficult because our citizens are increasingly concluding that our political system responds primarily to money and special interests. Our system of government is sound, and most public officials are honorable, but there are fundamental problems which must be corrected.

Too much of the time and effort of Members of Congress is consumed by fund raising. The ability to raise big money and buy saturation tv ads has become the dominant theme of our political races.

Too often the tactics of obsessive polling, negative and cynical campaigns, and horse race media coverage overwhelm substantive debate, dialogue with the voters, and real leadership. Too much of the time of both Congress and the executive branch is spent budgeting—not enough time is spent in oversight and evaluation of Federal programs.

The average citizen primarily wants his or her elected officials to use common sense for the common good, but too often those voices are drowned out by the extremes in both parties who are usually wrong, but never in doubt. Our system of government is the best in the world, but our political process is in need of major reform. Continuation of the two party system, as we know it, will depend on whether true campaign reform and congressional procedural reform are undertaken soon.

America is not perfect, but it is the greatest country in the world. During our 200 year history, when we have faced economic, military, political, or social peril, Americans have demonstrated the unrivaled ability to change and to grow stronger in the process.

This is a period of transition for our Nation, similar to the historic periods after World War I and World War II. After World War I, decisions and events took place that led to a devastating worldwide depression, and an even more deadly war. After World War II, Americans led the way, in rebuilding war torn nations, in building international institutions that endured, and in containing communism until it collapsed from its own weakness. American leadership opened the door to an unprecedented era of prosperity for the free world.

We too will someday be measured by how well we meet the challenges we face today at home and abroad.

I am optimistic about America because the checks and balances built into our constitutional system have stood the toughest tests of time, and I am confident they will again.

I am optimistic because our military, with the world's best technology, remains ready and well-led, with men and women who reflect our very best in quality and in character. Our military strength represents a strong defensive shield against aggression. Our free society, our free flow of ideas, our energetic people, and our free enterprise system represent a strong offensive sword for democracy.

I am optimistic because America responds to major challenges. We have the opportunity and responsibility to prove to ourselves and to the world that our ideals of liberty, justice, and human rights can all be made to work in this land of diversity. In a world of ethnic and religious strife, America has no greater mission.

I am optimistic because we are finally recognizing that our fiscal soundness as a Nation depends on restraining the growth of our entitlement programs. Entitlement reform, including Social Security reform, will be difficult and must be done over time with care—but it must be done.

I am optimistic because we are beginning a serious debate on fundamental tax reform, and beginning to realize that there is a direct connection between our savings and our standard of living.

I am optimistic because we are at long last discussing frankly the terrible affliction of family deterioration and illegitimacy. We must reach out as an extended family to the millions of neglected and abused children who desperately need someone who cares. Government must play a role, but I do not believe that it will be the decisive role. This is a battle that must be fought one child at a time.

I am optimistic because I see our young people tutoring children, helping flood victims, building houses for the homeless, and working with at-risk youth. I see our young military personnel on their own time teaching math to inner-city children and mentoring young students.

I have watched my own daughter, Michelle, and her young friends in Atlanta create an organization of 10,000 people of all ages volunteering 20,000 hours per month for children, the elderly, the handicapped, and others in great need. Volunteers like these are filling a void in America today. They are our real heroes.

I am optimistic because we have so many energetic, innovative and bold young entrepreneurs like my son, Brian, who are finding their niche in the dynamic new world of information and technology—thereby building jobs and strengthening America's economic future.

I am optimistic about Georgia's future and Georgia's leadership in both the public and private sector. Our State has benefitted from strong political leadership, sound fiscal policy, and hard-working people. Our leaders in the private sector understand the important role that business must play in strengthening our education system and our communities.

When I leave the Senate at the end of next year, I know that whatever I will have accomplished during my legislative career will have been because I had a lot of help. I am deeply grateful to Colleen, my wife and partner, for her sacrifice, her patience, her wisdom and for her love which made my life of public service possible—to my children, Michelle and Brian, of whom we are very proud—to my wonderful mother and my late father who shaped my life by their love, their expectations and their example—to my sister Betty Mori and her husband, Jean, and to my entire family and close friends for their sacrifice, their steadfast support, and for their love.

I am grateful to my friends and supporters and to the voters of Georgia for their support in each election—for their encouragement and confidence—for their constructive criticism and for their forgiveness of my errors.

I am grateful to my staff—past and present—who have worked with honesty, skill, and dedication on behalf of the people of Georgia and the Nation.

I am grateful to the Members of the U.S. Senate and House—past and present—of both political parties, who have been my mentors—teachers—and friends, and who have been my partners in many legislative initiatives.

I am grateful to my friends in the Georgia legislature, and to Governor Miller, Governor Harris, Governor Busbee, and Governor Carter, Speaker Murphy and Lt. Gov. Howard as well as our State constitutional officers. They have guided our State with vision, fiscal prudence and integrity while I have served in the Senate. I am grateful to our leaders at the local level who play such an important role in the daily lives of our citizens.

I am grateful to Georgia Democrats for their role in leading our State to a point of unprecedented economic opportunity. Georgia Democrats have made education our top priority and brought together people from every region, every walk of life, and every race to work for common goals.

I am honored to represent a State where the vast majority of our people cast their ballots—not on the basis of one or two issues—but rather on their judgment of a candidate's principles and values, integrity and vision. I can never fully repay the people of Georgia for the trust and faith they have placed in me.

I have tried to return this trust and faith with hard work and effective representation.

I hope that I have played a meaningful role in making Georgia a better place to live and to raise our children.

I hope that I have helped build bridges of understanding and cooperation between people of different races, religions and political beliefs.

I have tried to help make America stronger at home and abroad. I have tried to help build a safer and more peaceful world with freedom and justice.

I have tried to instill in our young people by word and by example—the understanding and belief that it remains possible to be involved in the political process and also retain both intellectual honesty and ethical behavior. In the final analysis, this may be the single most important responsibility of public service.

I look forward to continuing these efforts as a U.S. Senator for the next 15 months, and after that—as a private citizen of Georgia for whatever term God may grant.

UNITED STATES TROOPS TO BOSNIA

Mr. WARNER. Mr. President, in recent days, the Nation has focused its attention on one of the most serious issues to come before this country since I have been privileged to be in the Senate, and I say that in all sincerity. That is the very difficult decision facing the President of the United States as to whether or not this Nation will make a further—and I underline further—commitment of our Armed Forces to the situation in Bosnia.

As I am privileged to address the Senate this morning, there are still pockets of combat in that war-torn nation, a nation which I have visited five times myself, being the first Senator to go to Sarajevo over 2½ years ago.

Since that time, I am pleased that so many of the Members of the Senate have found the opportunity to go to that region so that they can, likewise, gain a clearer and better understanding of this historic and tragic conflict.

I would like to focus my remarks today, Mr. President, on an issue which has captured the attention of the American people over the last week, that is, President Clinton's decision to send up to 25,000 United States ground troops to Bosnia.

Hearings were held this week in the U.S. Senate, both in the Armed Services Committee, of which I am a member, and in the Foreign Relations Committee. Those hearings revealed the depth of congressional concerns, both Republican and Democrat, with this proposed deployment. May I emphasize, Mr. President, I do not view this issue as a political one. I think each Senator that has spoken out or involved himself or herself in this debate has done so very sincerely, as a matter related to their duties to this Nation, not for any political reason.

I myself, in traveling through my State, indeed, not just in the last month or so, but over the period of the nearly 3 years of this conflict, have detected perhaps the deepest, the most sincere concern that I have ever experienced since the closing days of Vietnam about this conflict and America's role in the conflict.

In my view, the American people are entitled to a voice in a decision of this magnitude. The American people have followed this conflict for over 3 years. They are well-informed, they understand the complexities involved, they should have a voice in this decision. Their voice can best be manifested right in this institution, the U.S. Congress, with a very thorough and extensive debate. That is the principal reason I rise today to address the Senate. We, their elected representatives in the Congress, must ensure that the voice of the American people is heard.

I call on the congressional leadership, both Senate and House, to establish a plan for debating and voting on a freestanding resolution regarding the authorization for the use of United States ground troops in Bosnia.

I have consulted with my leader in the Senate, Senator DOLE. And he, at this time, is considering this need for the leadership to establish the procedure and the timing for this debate. In my view, in this special instance, the leadership must exercise control—I say that most respectfully—control over the procedure by which the Senate commences this debate to ensure that it is meaningful, well-informed, and timely.

I would like to emphasize that the timing of this congressional debate is critical. If the Senate considers the issue too soon, that is, before we know the outlines of the peace agreement, before we know all of the details of the proposed NATO operation, there will be too many unanswered questions to enable this debate to reach an informed conclusion. If we wait too long, however, our troops may well be on the their way, that is, our ground troops, and Congress will not have performed the responsible role that I believe the Constitution requires us to perform. Only by daily monitoring of this situation can the leadership best determine that critical hour when this debate should be initiated.

I do not see this debate, I repeat, Mr. President, as a political fight. This is not Republicans versus Democrats or Republicans versus the President. The misgivings regarding this operation cross party lines. At issue in this debate is not who scores the most political points. What is at stake are the lives of the men and the women of the U.S. Armed Forces and the present and future credibility of America's security policy.

The most important question we must answer in this debate is whether or not the United States has a vital national security interest in this conflict in Bosnia, which justifies putting United States combat troops in harm's way in this operation and justifies imposing a very significant cost on the American taxpayer, a cost which cannot be fully calculated at this time but which would easily be in the billions of dollars.

We must keep in mind that past military operations have taken dollars from our modernization and O&M accounts in the Department of Defense, dollars which directly affect the future readiness, preparedness, and capabilities of the Armed Forces of the United States.

Again, Mr. President, I focus on the fact that the use of United States ground troops in Bosnia would be an additional step by our Nation. Our military forces are already there and have been there in a very significant way in those military operations involving airpower, and in those military operations involving the naval embargo. In both the air and the naval operations, for several years we have been the dominant military participant.

I question, is this deployment of United States ground troops the best of the remaining options for resolving the fighting in Bosnia? The President and his negotiators deserve credit for the achievements they have had to date with respect to achieving a peace agreement and lessening the fighting. So that is definitely to their credit.

But should the United States play a role on the ground in Bosnia given that we are already, as I say, playing the major role in the air operations and the naval blockade, or are there other options we should consider which would not involve such a significant number of upward of 25,000 United States ground troops?

Mr. President, Senator LEVIN and I recently completed a report for the Senate Armed Services Committee involving the United States military involvement in Somalia. That report, I think, if I may say, should accomplish one thing. It should cause the administration and this Senate to consider more carefully the policy decisions that put men and women who serve in our Armed Forces at risk.

As the father of one of the young Rangers killed in Somalia, Col. Larry Joyce, told the Senate Armed Services Committee in an open hearing, and I quote him:

> Too frequently, policymakers are insulated from the misery they create. If they could be with the chaplain who rings a doorbell at 6:20 in the morning to tell a 22-year-old woman she's now a widow, they'd develop their policies more carefully.

That is why I emphasize that the American people need a much stronger voice in this critical decision. And that can only be fulfilled, in my judgment, by a very comprehensive debate here in the U.S. Senate. I hope that President Clinton will actively seek such a debate.

I point out that, very wisely, President Bush, when he was faced with the similar situation in the gulf war, received congressional authorization for the use of force prior to the initiation of that conflict. That debate, though difficult and contentious, was, in my view, one of the finest in the contemporary history of this institution.

The final vote taken after, I think, almost 3 days of debate, was by a narrow margin of five to authorize the President to use force. But the debate and vote served to unite the Congress and, indeed, the American people behind our President.

Fortunately, the casualty level in that conflict was far below the predictions. But had the Congress not been on record in support of the President and the war effort, and had that conflict resulted in greater—there were significant losses—but had there been greater losses, I fear the drumbeat could well have started right here in the Congress to bring our troops home. We need only remember the experience of Somalia.

In calling for this vote, I do not seek to question the President's role as Commander in Chief—in particular, his authority to deploy United States troops in emergency situations, such as we saw in Grenada and Panama, when the circumstances did not allow for a protracted, prior debate in the Congress. That was quite appropriate, and it was that type of action that was contemplated by the Founding Fathers when they wrote into the Constitution the specific roles of the President with respect to being Commander in Chief.

But that is not the case with Bosnia. That war has been going on for 3½ years, since April 1992. We are, at best, weeks away from a peace agreement. There is plenty of time for the Congress to exercise its constitutional responsibility for such a deployment by thoroughly debating the issue and voting on a resolution.

Although I have traditionally been a supporter of Presidential prerogative in the deployment of United States troops, I have yet to be convinced that this President's plan, President Clinton's plan, for putting this additional contingent of military forces, namely, up to 25,000 ground forces in Bosnia, is the proper option to follow.

I listened carefully to the administration's testimony during the course of our hearing in the Armed Services Committee, but I still cannot identify a vital United States national security interest in Bosnia that justifies putting United States ground troops at risk in that nation. I do not want to see U.S. troops inserted in the middle of a civil war, a civil war which is based on centuries' old religious and ethnic hatreds.

I would like to recount just a personal note. On my last visit, Senator ROBERT KERREY and I went into the Krajina region which, just days before our visit, had been the battleground for Croatian forces driving Serbian forces out, Croatian Serbs having taken that land several years earlier. There was an enclave of Serbs that had been trapped and prevented, in one way or another, from fleeing into Serb territory. We met extensively with these refugees. In one particular meeting, there was a doctor, there was a schoolteacher and there was another very well-educated individual. As hard as we pressed them for answers as to why this conflict exists and continues to exist, they could give no answers to explain why well-educated people have participated all throughout that region—all sides—in barbaric acts which those of us in this country find incomprehensible.

That is my major concern as to why we should not put our troops in there in harm's way. President Clinton has yet to make a convincing case that we should proceed with this deployment.

In my view, the burden of proof on the administration to turn public opinion around is virtually insurmountable. Therefore, it has to be a joint responsibility of the Congress and the President, no matter how definite the President and others may wish to make this commitment at this time. And another thing that concerns me, how the administration can predict, should we go in, that this situation would be of such a nature that we could pull out all of our forces 1 year from today. I just find that incomprehensible.

So, Mr. President, I shall have more to say on this subject in the coming days. I yield the floor and thank my colleagues.

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the Senator from Montana [Mr. BAUCUS] is recognized for up to 10 minutes.

BLM LANDS

Mr. BAUCUS. Mr. President, October 22, which is just around the corner, is a pretty important day in Montana, and I will tell my colleagues why in just a minute. But I will say it is one of the reasons why I am dead set against S. 1031, a bill to transfer the lands administered by the Bureau of Land Management to the States.

Let me say a word about multiple use. When Congress passed the Federal Land Management and Policy Act of 1976, it defined multiple use as "the management of the public lands so that they are utilized in the combination that will best meet the present and future needs of the American people."

That is what the statute says.

Let me tell you about what it means to Montanans—citizens of a State with nearly 30 million acres of Federal public lands. To many Montanans, it means jobs, jobs from the timber that we harvest, minerals that we mine, oil and gas that we extract, livestock that we graze and city slickers that pay for a week under the big sky with our outfitters and our guides.

And to all Montanans, folks who earn their living off the land and the majority who live and work in towns, these lands represent what we love most about our State. These lands provide recreation, an escape from work, a reminder that we live in the last best place.

It means teaching your kids to hunt like your dad taught you. It means being able to take your family out for a weekend and hike and camp and explore in the most beautiful, pristine places known to man.

Montanans head to the Pryor Mountains hoping to catch a glimpse of the wild horse herds; they float the historical Whitecliffs of the Missouri River; and they fish the blue-ribbon Madison River.

This weekend in particular reminds Montanans of just how lucky we all are to have so much Federal lands available to us. It is the start of the big game hunting season.

Montanans head to the Missouri Breaks in search of trophy mulies, set up their elk camps in the Centennial Mountains, or take a trip to their favorite spot to go antelope hunting, shoot upland game birds, pheasant, or ducks.

Montanans are lucky because these Federal lands are near our homes. Within an hour's drive from any town in Montana, these lands provide full access and outstanding opportunities for a successful hunt. In fact, there were more than 375,000 hunting trips on Montana's BLM lands in 1994.

Just think of that, 375,000 hunting trips on Montana's BLM lands in 1994.

There is, however, a bill pending in the Senate which takes this away from Montanans. It is S. 1031. It directs the Secretary of the Interior to give all the BLM lands to the States who, in turn, may deal with them as they see fit.

Montana may choose to manage these 8.8 million acres of BLM lands much the same way they are currently managed. Of course, that would mean coming up with the $34 million in funding that the U.S. Government currently spends each year to manage BLM lands in Montana. Finding an additional $34 million a year is a real stretch to our State when our total State budget is under $2 billion a year.

Of course, Montana has other options, as do other States, under this legislation. The State could simply not pay for range improvements, weed control, recreation, and wildlife projects that are currently being paid for and carried out by the BLM.

Montana can also choose to raise some quick revenue by putting these lands on the auction block and selling them to the highest bidder. Sleeping Giant, the Terry Badlands, the Missouri Breaks, Beartrap Canyon, the Pryor Range, the Centennial Mountains sold. Once public lands and streams, then fenced off; "no trespassing" signs put out. This bill takes away what Montanans love most about our State: Open, easy access to public lands to hunt, fish, hike, birdwatch, snowmobile, four-wheel drive.

I want to put my colleagues on notice that S. 1031 is a bad deal. It is bad for Montana. It is bad for the West. It is bad for the Nation. Our public lands are the key to perpetuating our outdoor heritage.

As Teddy Roosevelt said, "The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, not impaired, in value."

That is what Teddy Roosevelt said. S. 1031 ignores future generations and yanks their inheritance out from under them.

Marion and Rose Coleman of Laurel, MT, recently wrote me and said this:

> Please stop S. 1031 for the benefit of the 22 members of our family who love to hunt, fish, and camp on public lands.

I am here today to let Marion and Rose Coleman, and all Montanans, know that I intend to fight this bill every step of the way. It is anti-hunting, anti-Montana.

If it ever reaches the floor in anything close to its present form, it is dead on arrival. That is something I will guarantee my colleagues, and, more importantly, that is something I will guarantee the people of Montana.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska [Mr. KERREY] is recognized for 20 minutes.

THE BUDGET

Mr. KERREY. Mr. President, Tuesday night in Houston, and last Friday as well, the President of the United States made a comment where he said specifically, "I had to raise your taxes more than I wanted and cut spending less than I wanted to, which made a lot of you furious."

Well, the comment made those of us who voted for that proposal even more furious than it made, apparently, the audience to which the President was speaking.

Mr. President, the President of the United States has since said that he did not intend to say that the package was bad. He did not intend to mean that he was not proud of the people who voted for it. But he left the unmistakable impression that he would have cut more given the opportunity.

The fact is that, in 1993, Congressman Penny and Congressman KASICH presented $105 billion in additional spending cuts after the budget deficit reduction bill was passed. I think it has done a tremendous amount of good for the U.S. economy. It did reduce the deficit—as now estimated, by nearly a trillion dollars.

But Congressman Penny and Congressman KASICH, and later myself and Senator BROWN on the Senate side, offered nearly identical proposals to cut over $100 billion over 5 years, and the administration opposed it. They did not just send a letter about it. They sent various Members up here, saying this was draconian and it was going to hurt—all the things that are mentioned, typically, when a spending cut is made. Maybe this is part of a triangulation strategy that we hear about a lot. But, Mr. President, it is strangulating the confidence that we have in Congress that whatever it is we do is going to continue to enjoy the support of the President.

Now, I do not want to drag it much farther than that. I actually had a very harsh speech that I had written yesterday, and, fortunately, I think both for myself and the President, there was not time to get to the floor to give it. I have calmed down a bit since then. But a larger point needs to be made here, rather than, did the President misstate or not what it was he was trying to do?

Not only did Congressman Penny and Congressman KASICH and Senator BROWN and myself present spending cut proposals, but the President put together a bipartisan entitlement commission, with 32 people on it. Senator Danforth and I chaired that effort. We presented to the President, in 1994, the recommendations of that commission, and those recommendations are what I would like to talk about here today. They still need the full consideration of this body.

Mr. President, it is fairly obvious that this place is still controlled by men. I am a man myself, and so it does not bother me most of the time. But we men behave differently than women in certain things. One of the things women have noticed over the years is that we have a tendency to exaggerate the size of things sometimes. That is, in fact, occurring in this entire budget debate.

The Republicans get up and talk about this being revolutionary, and we heard Speaker GINGRICH talking about a great revolution, and the Democrats say, no, it is draconian, it is terrible, destructive, and on and on. The American people get kind of confused and wonder what is going on.

Mr. President, these are the facts. We will spend $1.5 trillion in 1995, the fiscal year ending September 30. At the end of 2002, under the Republican budget resolution, it will be roughly $1.858 trillion. If you use the Congressional Budget Office baseline, with no change, it is about $2.1 trillion. So it is some $240 billion less. That is a lot of money, but hardly what I would put in the category of revolutionary. Nor is it fair to say they are draconian, and on and on.

In some cases, I have had serious disagreements with the way the money is being allocated, but it is a relatively modest change. If you look at the tax revenue generated and total spending over the next 7 years compared to the past 7 years, we will spend nearly $2.4 trillion more, and we are going to have $3.2 trillion more in tax revenue—a lot more tax revenue coming in and a lot more money going out as well.

Mr. President, the goal that has been set over and over again by the Republicans in this budget resolution and debate—and last night you heard it again—is that we are going to balance the budget. Yes, that ought to be one goal. There is no question that it is accomplished under this budget resolution. I am for balancing the budget. I would like to be able to vote for the particular resolution that is going to come back to us at some point. In its current form, I will not be able to do it.

Mr. President, there is another goal this budget resolution ought to address, and it was identified by the bipartisan budget commission as more troubling than the budget deficit. That is, as a percentage of our budget, overall entitlements—not to the poor, but to the middle class—overall entitlement growth is at an unsustainable level. Today, it is 64 percent of our budget. In 2002, at the end of this resolution, it will be 74 percent of our budget. In 2008, when my generation—the biggest generation in the history of this country—starts to retire, it will very rapidly go to 100 percent—100 percent, Mr. President. The Federal Government is going to be an ATM machine. Some will say that is fine, let it transfer payments out.

Mr. President, there are things that we appropriate that not only strengthen our economy but improve the quality of life. I made a lot of money as a consequence of my parents helping to build the interstate highway system. And as a consequence of their grandparents doing the GI bill, I have made a lot of money. This country has made investments in the past that have improved the quality of our life. We spend $1.7 billion a year on parks, and 17 million Americans a year enjoy them, but we are going to cut it back. We are going to cut $1 billion out of the FAA. We already have $3 billion a year in increased costs to shippers as a result of delays. God knows what kind of disasters may occur as a result of underfunding that program.

We are going to have a real decline in education expenditures from $34 to $32 billion over the next 7 years. Transportation is going to be cut. We will be spending less on space and research and all sorts of things that we ought to be doing. The reason is, of the $358 billion increase in spending between this year and the year 2002, that incremental increase—all of it, more than 100 percent—goes for entitlements and net interest on the debt. Almost half of it, Mr. President, goes for an item that we have decided we do not want to talk about—Social Security.

If you want to have a revolution, let us bring Senator SIMPSON's and my proposal into consideration. People say, well, let us postpone that, and "we are going to do it in 1997," says Speaker GINGRICH. When you are saving money for retirement, time is not on your side. You can exercise, jog, watch your diet, quit smoking, get massages, or whatever else, but you do not get the time back. Every year you wait, that is less wealth you generate. You may want to generate it in a collective pool or a individual pool, as Senator SIMPSON and I are proposing.

Mr. President, to leave Social Security off the table makes it impossible to do what we want to do with this budget resolution—not only balance the budget by 2002, but balance the relationship between mandated programs and appropriated programs. We ought to decide collectively that it is going to be some fixed percentage of our budget, so we have money for schools, so we have money for roads, so we have money for Head Start, or whatever else it is we decide we want to spend it on.

Mr. President, when the former chairman of the Appropriations Committee came to this body 35 years ago, 75 percent of the budget was allocated in appropriated accounts; 30 percent was entitlements and interest.

The second objective we ought to be setting for ourselves is a big one. It is going to require us to change the eligibility age in these programs from 65 to 70, to phase it in. You cannot afford to do it any other way. It is why I said in the beginning that we describe it as big, either on the positive side or a negative side. But it is kind of a male sort of thing. The truth is that it is smaller than it needs to be.

We need to take stock of the growth of entitlements. Otherwise, we are not going to have the money to be able to improve the quality of our lives, whether it is parks, natural resources development, or to increase the productivity of our people and narrow this widening gap that we see right now with the economic haves and have nots.

Next, Mr. President, now that Republicans say they want to preserve and protect Medicare, what that means is the market does not work.

When I hear the majority leader say the market is rational, the Government is stupid, here is one Government program he does not think is stupid. For people over the age of 65 who depend upon Medicare, the market does not work.

The same is true for somebody who is 25, that is out there in the work force today making $8 an hour, being told they cannot have health insurance because they cannot afford it. That is the principle underneath the Medicare Program.

What we need to do is to say that we are going to radically alter—what a revolution—radically alter the system of eligibility and say to every American, if you are a legal resident or American citizen you are in. You do not have to doubt that you will have coverage. The goal of universal coverage is just as desirable today as it was in 1993 and 1994 when we debated it all the time.

Medicare, Medicaid, the income tax deduction, the Veterans Administration programs are fiscal political and structural barriers to getting that job done.

Democrats who for 35 years have supported Medicare because we understand the market does not work, need to say to recent convert Republicans that to get everybody covered we have to do things much differently. That would be a revolution. That would be something big that men and women would seize properly.

The last thing I say, Mr. President, contained in the debate yesterday in the Finance Committee was lots of conversation about the need to promote growing. I am for it. We should have a debate about fundamental tax reform.

You cannot cut tax on those who have stocks and bonds and have a substantial amount of our income coming from stocks and bonds while raising taxes on people that make $7 an hour, depending on the earned income tax credit. It is not fair. It does not wash. All you can hope is they do not notice and they do not vote as a consequence.

We are not being asked to reduce the capital gains tax by low-income people who may benefit when they sell their home. We are being asked by wealthy Americans who have stocks and bonds and who have accurately said, in my judgment, that the economy does need to grow through productive investment. We regard productive investment as replacing our income tax with a progressive consumption tax.

It gives Americans an unlimited opportunity to save money and accumulate wealth over the course of their working life and promote economic growth at the same time.

Do not put a capital gains tax cut out at the same time we cut and raise taxes for people that are at or below $25,000 a year, and to use that money—they do not use it for television sets.

I heard a colleague who is critical of the program say all they are doing is buying television sets. They use that few dollars to pay medical bills, buy cars that have 80,000 miles so they can go to work and drop the kids at the child care center. Many are using it to make a downpayment on rental deposits. They are using it the way the working people ought to, to consume the things that are increasingly making it difficult for them to cover their costs.

Finally, I say it again, I wish that the Republicans on the other side that currently control the majority of this Senate, I wish they would turn across the aisle and say we should start negotiating. What do you want, Senator KERREY? My answer is simple. What I want is to fix the cost of entitlements as a percent of our budget. What I want is to say now you support the idea that the marketplace does not work, agree that we will get universal coverage so every American knows they are covered in health care. You cannot make the system work any other way.

Rather than block granting Medicaid to the States, we ought to bring that and say to the States that $40 billion we will pay for, but you have to take $40 billion, whether for education, job training, transportation—something you do well. We have agreement; we will use the marketplace.

We do not have to get down and fill the air with rhetoric about Government taking over health care. We know the market is doing a good job of controlling cost. There is consensus that that is what ought to be done. Unless we change our notion of how people are going to become eligible for health care, you cannot get that job done.

Last, I say for my friends on the other side of the aisle, there is consensus on our tax system, whether it is the U.S.A. tax that Senator DOMENICI and Senator NUNN have worked on or other tax proposals, we know we should not just be concerned about how much money we generate to pay whatever is mandated or whatever we want to appropriate.

We need to think about generating the money so the economy grows and so Americans out there who are producing the tax revenue have the opportunity to save enough to accumulate wealth over the course of their working life.

Finally, Mr. President, I hear an awful lot, and I put out a lot myself from time to time about how bad the Government is and how terrible it does. I want to declare to my colleagues and people I represent in Nebraska that one of the reasons I stay in the job and am excited about the job, you can use the Government of the United States of American to save lives. It saves lives.

It will be interesting to see what Colin Powell says when we ask him about health care. The Government of the United States of America, the hospitals that provide health care for U.S.

Army servicemen have saved lives. Those people are Government employees. You could change lives, enrich lives, improve lives. That is what it ought to be about.

We need to improve the Government and make it operate more effectively, but we need to tell the American citizens there is no free lunch in this deal. This Government in this country cannot be any better than our people are willing to make it. Our people are willing to make it a heck of a lot better than we allow.

We are frightened of universal health care. We got our brains beat out in 1993 and 1994. We do not want to talk about it. The American people want to talk about it. We do not want to talk about fixing the costs of entitlements based on facts and truth as the Speaker calls for. We know if we give the facts and truth, we have to do Social Security, we have to change eligibility age, we have to change the method of eligibility.

Instead of working Republican and Democrats, I just hope that in the next 60 days or however long it takes to do this deal, rather than looking to always negotiate with the White House and try to cut a deal—I fear that more than I do anything right now—look across the aisle and work with us.

We are prepared to cast the tough votes. We want to embrace the future. We are not for the status quo. We are for change. We want to alter the course of our Nation's future and give investments to our children and be able to give them a brighter future than they have right now.

We are prepared, I believe, to cast the tough votes to change the course of this Nation's future, not based upon some calculation of triangulation, trying to determine whether the President is more popular or less popular, trying to figure how to get reelected, but trying to decide what is best for the people we represent, and most important what is best for our future.

Every single day of our lives has Americans—I do not care what your status is, what your name is, where you live—not a bad exercise to do as opposed to jogging is get up in the morning and go to bed at night and thank God for the things we have. We are a wealthy Nation, blessed with enormous freedoms and opportunities.

I got out of high school in 1961. The cold war was on and our class thought whether we would go in the Army, Navy, or Marine Corps because we knew we were likely to go to Vietnam.

That is not the future of today. There is tremendous opportunity. Seize that opportunity rather than hyperventilate and exaggerating each other's position. Seize the opportunities and try to put in place a change in the law that sends this Nation in a different direction, that does not just balance the budget but satisfies other needs and concerns and desires that the American people have today.

I yield the floor.

REGISTRATION OF MASS MAILINGS

The filing date for 1995 third quarter mass mailings is October 25, 1995. If your office did no mass mailings during this period, please submit a form that states: "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224-0322.

THE SOUTH PACIFIC NUCLEAR-FREE ZONE

Mr. THOMAS. Mr. President, as the Chairman of the Subcommittee on East Asian and Pacific Affairs, I come to the floor to inform my colleagues that at noon today the administration will announce that the United States, the United Kingdom, and France will sign the three protocols to the South Pacific Nuclear-free Zone Treaty [SPNFZ], known as the Treaty of Rarotonga. I wholeheartedly welcome that decision.

The SPNFZ, which took effect in 1986, is signed by Australia, New Zealand, Fiji, Papua New Guinea, Western Samoa, Kiribati, Nauru, Niue, Tuvalu, the Cook Islands, and the Solomon Islands. The treaty includes three protocols which are open to signature by nuclear countries outside the region. Protocol I prohibits any nuclear power with territories in the zone from manufacturing, stationing, or testing any nuclear device within those territories. Protocol II commits the protocol signatory not to use or threaten to use nuclear weapons against any treaty signatory. Finally, Protocol III commits each protocol signatory not to test a nuclear explosive device anywhere in the zone. While no nuclear power has adhered to Protocol I, both Russia and the People's Republic of China have adhered to Protocols II and III.

The SPNFZ is modeled after the Latin American Nuclear-Free Zone Treaty, the Treaty of Tlatelolco, which includes two protocols open to signature by the nuclear powers. While the United States is a signatory to both the Tlatelolco protocols, we have not signed the similar Rarotonga protocols. The reason appears to have been the tendency of the western nuclear powers to be hesitant to sign on unilaterally. Although both we and the British appeared to be amenable to signing, because of French interests we refrained from doing so.

The continued obstinacy of the French, coupled with their decision to go ahead with France's announced nuclear tests in the South Pacific, caused me great concern for several reasons. First, I believed that a resumption of testing would result in the disintegration of the current testing moratorium and a renewal of underground testing by other states. Moratoria are like truces—they are only good as long as all the parties to them observe their provisions. Second, it called into question France's commitment to the extension of the Nuclear Nonproliferation Treaty [NPT]. In May, the world's five announced nuclear powers persuaded the rest of the world to extend indefinitely the NPT. To win that consensus, the five promised to sign a comprehensive test ban treaty [CTBT] by the end of 1996. I believed strongly that the resumption of French testing, only 4 months after France signed the agreement, called into serious question its commitment to the CTBT and threatened to undermine international efforts to curb proliferation. Finally, the decision was vehemently opposed by most, if not all, of the countries in the region.

As a result of these concerns, on August 10 the distinguished ranking minority member of the Foreign Relations Committee, Senator PELL, and I wrote President Clinton asking him

> . . . to give serious consideration to an early decision to seek Senate advice and consent to ratification of the protocols to the Treaty. The timetable of such action would be consistent with the achievement of a complete ban in 1996. It would send a clear signal to the French that, while we commend their decision to join in a complete test ban next year, they should accede now to the overwhelming sentiment of the peoples of the South Pacific that there should be no further testing of any nuclear explosive devices in the region. Moreover, it would send an unequivocal message to regional nations that we support them in their desire to make their zone nuclear-free. Finally, it is important to give substance to the commitments we gave the regional nations when they supported the U.S. this spring in the effort in New York to secure the permanent extension of the [NPT].

The announcement today is an important step toward achieving a ban by the end of 1996. While I would like to think that our letter had something to do with the decision—and here I would like to commend the distinguished senior Senator from Rhode Island for his efforts in that regard—I must realistically credit the Government of France with making the agreement possible. France was the only country testing nuclear weapons in the zone, and had maintained that they would not join the protocols until the entry into force of the CTBT. Their decision to join us in signing the protocols represents in my mind a major step forward in our drive toward 1996. I would hope that the parties would move quickly to sign the protocols, and pledge to respect them pending each country's ratification process.

Mr. President, I yield the floor.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, October 19, the Federal debt stood at $4,974,014,009,081.49. We are still about $27 billion away from the $5 trillion mark, unfortunately, we anticipate hitting the $5 trillion mark sometime later this year or early next year.

On a per capita basis, every man, woman, and child in America owes $18,881.44 as his or her share of that debt.

IAN DAVIDSON

Mr. BAUCUS. Mr. President, it is with great respect and admiration that I rise today to congratulate a friend, Montana businessman Ian Davidson. As company president and CEO of D.A. Davidson & Co. [DADCO], a financial services company, Ian has ridden a wave of success in a field where he has dared to be different. Recently, the Billings Gazette honored Ian in a tribute to his tragedy and success. I would like to do the same.

It has been almost a year since the D.A. Davidson corporate plane crashed, killing three of the company's top executives. On November 8, 1994, Eugene Lewis, Robert Braggs, and Donald Knutson died along with pilot Harold Graf in what Ian described as "the worst tragedy of his life." But the Great Falls based company has made great leaps in the past year. New leaders have been assigned to the vacated positions, and despite the obvious grief experienced by the company and community, 1995 has been a tremendous year for DADCO. In addition to adding between 65 and 70 new employees since the beginning of the year, DADCO boasts more than 100,000 accounts in the Northern Rockies and Pacific Northwest.

Based on record earnings in the last 2 years and total capital of more than $31.5 million, DADCO is ranked among the top 60 firms operating outside New York City. Recognition that solidifies its corporate slogan—where "Wall Street Meets the Rockies."

Beyond this, while Ian would be the first to tell you that Montana has been good to him, he has also been very good to Montana. He runs a business that gives a lot back to our State and our Montana communities. Ian and his wife, Nancy, have been especially generous to the University of Montana.

Again, I want to recognize Ian Davidson for his contribution to Montana' communities. If we could all live our lives as fully and productively as Ian Davidson, the world would be a better place.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the period for the transaction of morning business be extended to the hour of 11 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S BUDGET

Mr. SANTORUM. Mr. President, I came to the floor this morning to offer a resolution concerning the President's budget, and I have been informed that my offering of this resolution and asking for its immediate consideration would be objected to by the other side.

I will not offer the resolution. The resolution is actually very simple. It goes to a very important item that is being discussed in the general public and by the Members of Congress and the White House; that is, the President's budget and whether the President's budget comes into balance, and whether we as a Congress should be adopting what the President wants to do in the area of the budget.

The President has been traveling around the country for several months now, talking about, waving around his balanced budget proposal, saying he has a budget that will balance over 10 years.

Incredibly enough, the American public actually believes what the President is saying. I say "incredibly enough," because the only person who has said that the budget balances is the Director of his own Office of Management and Budget, not any other independent agency, and certainly not the Congressional Budget Office.

Nobody believes this budget is balanced. In fact, it does not come to balance in 10 years or 20 years or 30 years. It never balances, except in his own interim shop. He has cooked the numbers, made all of these ridiculous assumptions about how fast the economy will go and how low interest rates will be and, all of a sudden wishes away all the budget problems.

Yet he goes out there every day and talks about how he balances the budget: "It is just a matter of whether you want my balanced budget or the Republicans' balanced budget," and the Republicans' balanced budget is cruel and draconian and mean-spirited and all these sorts of things, "and mine is kinder and gentler and I really care about people," and we can accomplish the same things.

The fact of the matter is he does not balance the budget. What I wanted to do was to present a resolution as a sense of the Senate that we should adopt the President's budget his second budget.

You may recall his first budget was voted on here on the floor of the Senate. His first budget that he came out with back in February of last year, which did not produce a balanced budget, he did not claim it produced a balanced budget, and it was defeated 99 to 0 on the floor of the Senate. He then went back and revised his budget to present his new, improved, balanced budget over 10 years and has been running around since.

I think it is time for some truth here. Let us have a debate. Let us have a debate on the President's budget. Let us examine what the President has done and whether he really does make the decisions that are necessary to bring this budget into balance over 10 years. Now we say he was willing, yesterday, to accept 9, or 8, or even 7. We do not know where he is at this time, but his budget says it balances in 10, so let us talk about it.

Unfortunately, there are Members on the other side who do not want to talk about it, they do not want to debate the resolution, do not want to vote on the resolution, refused to give us an opportunity to bring it to a vote. I do not understand why. If they support their President and believe his budget is in balance, then why the fear of coming to the Senate floor and having a good and open debate about what the President's budget does?

I am confident that there is someone on the other side of the aisle who believes enough in the President's budget that they will be willing to take up the mantle and run with it and offer the President's budget. So, what I will do is I will put this resolution over here on the desk. If there is someone on the other side of the aisle who would like to offer the President's budget and begin a debate, here is the resolution that will begin this debate. We can have a full and open debate on the President's budget. We can see whether it brings us into balance. We can see what cuts he wants to make. We can see how he is going to accomplish it. Then we can look at what he wants to do and what the Republicans are doing and see what the American public thinks.

That is the kind of dialog I think the American public would like to see. They would like to see what the options are. And the Senator is right, you are hearing one side saying one thing, the other side saying the other. Let us put them out here on the table. Let us see what the specifics are with both. I will give someone on the other side of the aisle the opportunity to do that.

If, for some reason, no one on the other side of the aisle picks up that resolution and decides to offer it, next week I will find an appropriate vehicle and offer it as an amendment to a bill that is coming through and have this discussion, because I think it is a discussion that needs to be opened up to the American public.

There is a lot of tomfoolery going on in this debate. There is a lot of misinformation being spread around in this debate. And there is no better place to straighten it out and talk about the facts than right here on the Senate floor.

What are the facts as we know them? We have a letter from the Congressional Budget Office that says the President's budget does not balance. It does not balance over 5 years, or 6 years, or 7 years, or 10 years, or 20 years, or 50 years. It never comes into balance. What we hope is the intent here, of this whole debate, is to balance the budget. The budget does not do that.

The PRESIDING OFFICER. The 5 minutes under the order for the Senator from Pennsylvania has expired.

Mr. SANTORUM. I thank the chair.

The PRESIDING OFFICER. The Senator from Ohio.

AN EMERGING CONSENSUS

Mr. DEWINE. Mr. President, let me congratulate my colleague from Pennsylvania. I think it is appropriate, at this very, very historic time—and I think we all understand the next 2, 3, 4, 5 weeks may be the most important weeks that any of us ever serve in this body, or in this Congress, and they may be some of the most important weeks for the future of this country—I think it is appropriate, and I think it is important we do have a full debate.

As the Senator from Pennsylvania so eloquently said, you cannot do that, really, unless you view different options, unless both sides are willing to debate the specific facts. Therefore, I think it is appropriate that the President's budget be literally on the table and that we look at that and look at the assumptions in there and look to see whether or not that budget does what the President says, and that is balance the budget.

There are those of us on this side who do not think it does. We think it is based upon assumptions that, frankly, are very optimistic and that are not based upon reality and that the savings, so-called savings that the President achieves he achieves in that manner, a changing of the accounting rules, in a sense, or changing of the assumptions, at least. So I think it is important we debate this.

We have, I believe, made some progress in this country in the tenor of the national debate. As I travel throughout my home State of Ohio—and, I imagine, my colleague from Pennsylvania finds the same thing in Pennsylvania—we are seeing emerging a consensus about the problems that exist and a consensus that this Congress finally has to do something about these problems.

There are three areas where I think really, today, there is a consensus.

A balanced budget: The American people understand we cannot continue to do what we had been doing in the past. They understand that. So the real question in this debate is, whose budget is realistic? Whose budget will, in fact, bring about a balanced budget, as we believe ours will, by the year 2002?

The second area where there clearly is a consensus is in regard to welfare reform. We saw this on the floor a few weeks ago as we looked at the overwhelming vote. Over 80 Members of this body of 100 cast a vote in favor of the final welfare reform bill that passed. There is a consensus in this country about welfare reform.

Medicare: A year ago, I do not think there was really an understanding about the problems that we have, that we face in regard to Medicare. Today, while there is a debate about what we should do about Medicare, I do not think there is any longer a debate about the fact that something has to be done. The Medicare commissioners have said clearly that Medicare will, in fact, be bankrupt in a short period of time unless we take some very dramatic action.

So there is consensus on these three issues. As my colleague from Pennsylvania says, it is important that we get the facts out and we debate these facts on this floor.

Let me talk for a moment, in light of this, about the bill that is going to be coming in front of us. The American people may not have heard the term "reconciliation." It is kind of a inside-the-beltway term, but it is a term that is going to be used quite often in the next several weeks. This particular bill we are going to discuss is going to be the vehicle for this Congress to bring about the changes I believe people voted for last November. This legislation is bold, it is farsighted, and it is absolutely necessary for America's future. Furthermore, it is based on sound data. It is based on facts. It is based on good budget figures.

The American people decided last November they wanted a Congress that was finally willing to put America back on track towards fiscal solvency. I believe the American people are ready for this change. In fact, I believe the message of 1994, and frankly the message of 1992, was that the American people were demanding this kind of change.

We cannot ignore the basic truth contained in the report of the bipartisan entitlement commission. That commission said, if we do not change our present course, by the year 2012, every single penny in the Federal budget will be consumed by entitlements and interest on the national debt.

Mr. President, I ask consent to speak for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. If, in the year 2012, we want Government to have any money for discretionary spending—money to run the Army, Navy, Air Force, Marines, or the WIC program—it would then mean a tax increase, because there would not be any money left, no money left at all, if we continue to do what we have been doing.

In the days ahead, I intend to continue to talk about this issue, to talk about the need for this reconciliation bill.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

BUDGET RECONCILIATION

Mr. DORGAN. Mr. President, I listened with interest to this morning's discussion. I would say to my friend from Pennsylvania, I do not support the budget plan the President sent to the Congress. I did not think it was a good budget when he sent it back in February. I do not support it now.

But I would say the budget that is coming, the reconciliation bill that is coming to the floor, is substantially worse than the proposal the President offered, even though I do not support the proposal of the President. We could have a vote on a proposal here in the Senate that does make some sense, that does balance the budget in the right way, that does not attack the Social Security trust funds. It can be done the right way, but the proposals here we are debating, in my judgment, steer this country in a direction that is not healthy.

The Senator from Nebraska a few minutes ago talked about the proposal that says to a lot of working families we are going to increase your taxes. And that is what this proposal will do.

Yesterday, the Treasury Department released an analysis indicating that about 50 percent of the families will find increased taxes as a result of this proposal. Then it says, if you are wealthy enough to get your income from stocks and bonds, you will get a tax cut. It will be beneficial to you. There is a beneficial approach for you. And the Senator from Nebraska says that is not what Members said they wanted.

Is it unusual for people to be skeptical when 97 percent of the members of a political party voted against the Medicare program saying, We do not want it, we do not think it is necessary, we do not support it, and then they now later say, "We are the ones that are going to save it." And people are skeptical about that? I think they have a right to be skeptical.

That is what the debate is about, the priorities. I do not think we ought to talk about a tax cut at this point this year. I think what we ought to do is balance the budget, do it the right way, and then when we have done that job figure out what we should do about the taxes. But some people here want to take the popular things first, and say, Let us serve the dessert first; that is, wait and serve dinner.

I watched with some interest earlier this week people who have been in Congress for 30, 35, 25, or 20 years come to the floor of the Chamber and cast their vote saying they would like to have term limits, and what is wrong with our country is that there are not term limits. Somebody who has been here for 30 years now votes for term limits, and says the problem with America is we did not have a limit of 12 years on their term. What are they telling the American people—stop me before I run again?

It is interesting to me that people say this is about changes and reform. In many respects, it is the business-as-usual crowd. Although the priorities are changing, the way they see it, the rich have too little, the poor have too much, and we are going to change that with this reconciliation bill. We will take some from the poor and from middle-income working families and give some to the more affluent families.

But aside from that, we will debate plenty of that in the coming days. I want to point out to my colleagues that the day before yesterday the majority party came to the Chamber and said, We have from the Congressional Budget Office now a letter, and it says in the year 2002 with our plan we will have a budget surplus. They were very proud of that letter.

So I wrote a letter to the Congressional Budget Office, and said if you compute this the way you are supposed to compute it —which is honestly, and the law requires you cannot use the Social Security trust fund to compute that because those can only be used for Social Security—if you compute it without the Social Security trust fund, what do you have?

Yesterday I received a letter in return saying,

> . . . including an estimated off-budget surplus of $180 billion, which is the Social Security surpluses, the CBO would project an on-budget deficit of $98 billion for the year 2002.

So in 24 hours this proposal has a slight surplus. Then it has a $98 billion deficit in the year 2002.

But the point is the only way you can claim the budget is in balance with this kind of arithmetic is if you take money out of Social Security and use it. People say that has been going on for a long time. If that is the case, it is business as usual. This is change? No. It is not. This is business as usual.

I started in 1983 offering the first amendment in the Ways and Means Committee saying if you are going to put in the trust fund money you intended to save for the Social Security System, do not raid it, do not pollute it, do not take the money for any other purpose, but protect it, keep it out the of calculation of the operating budget deficit. I happened to lose in that vote in 1983, and I have tried a number of times since. The Senator from South Carolina actually succeeded in putting it into the law.

That is why I said to the Congressional Budget Office that you cannot add it up this way. If you add it up the right way, the Director of CBO says what you get is in the year 2002 a $98 billion deficit. I am most anxious to hear people explain that to the American people.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I had a question for the Senator from North Dakota.

Does the Senator from North Dakota believe that the President's revised budget balances the budget in 10 years? Does the Senator believe that? He is running around the country saying he has a balanced budget that balances in 10 years.

Does the Senator agree with that?

Mr. DORGAN. No. But let me ask the Senator from Pennsylvania a question. Does he believe that what he is bringing to the floor of the Senate balances the budget in the year 2002 in light of what the Director of CBO says she thinks, that we will have a $98 billion deficit?

Mr. SANTORUM. I happen to believe, as I think most Americans do, that the Social Security program is a Federal program. Maybe some people do not think it is. It is a Federal program, and it should be counted as a Federal program. We have the luxury—it is a luxury—over the next several years of having a surplus in the Social Security trust fund. But, as the Senator from North Dakota knows, that luxury is a short-lived luxury. Those of us who are going to be working to balance the budget, over the next several years and beyond, are going to have to start working with a Social Security fund deficit shortly, in the not too distant future, in about 15 years. So we are going to have the luxury now. But we are going to have to face the music.

I think the important thing is to begin that over a long period of time so that we can start dealing with those deficits. And I think it is important to look at the Government as a whole—look at all of the Federal Government programs.

The Senator from Nebraska just a few minutes ago was saying you should do what he wants to do on Social Security, which is eventually privatize Social Security and change it.

So there are a lot of things out there. We may have to deal with the Social Security issue. But all I am suggesting is that I think it is absolutely appropriate to use all Federal accounts, to look at it as a unified budget as it has been done in the past to see whether we balance the budget. Remember, it is a surplus now, but it will not always be a surplus. We will have to deal with this problem over the long term.

Mr. DORGAN. Will the Senator yield for a question?

Mr. SANTORUM. Yes.

Mr. DORGAN. I wonder. The Senator, I think, understands that the Social Security trust funds are trust funds. If the Senator says we have a surplus now, he either assumes that there is going to be a surplus in the trust funds and not used for the operating budget deficit—in which case there is going to be $100 billion deficit in the year 2002—or he is not going to have the money in the trust fund. Either one of the two is going to happen.

Mr. SANTORUM. If I may reclaim my time. As the Senator from North Dakota knows, Social Security issues the notes, and the notes are paid interest. And we are going to have to pay the interest back as we continually do now. We will have to continue to pay that back. If you want to make the Social Security trust fund argument, you have to make the highway trust fund argument, you have to make the aviation trust fund argument, and you have to make the unemployment trust fund argument. The Government is made up of a bunch of trust funds in many, many respects. If you want to take them all out and say just because it is a trust fund it is not a Federal program, that just does not mesh with how we run our Government. The Government is segregated in the trust funds because we have certain taxes dedicated to those funds. That does not mean they are not part of the Government. Of course, these are part of the Government. If they were not, people would not pay the Social Security taxes because they would not have to because there would not be anybody there to enforce it. We are there to enforce it, to make sure that the IRS enforces the payment of those taxes. We can talk to a lot of businesses who have not paid their taxes. They will tell you that the IRS is in their pocket in 2 minutes making them pay that.

If you want to say that somehow is not a Federal program, or the unemployment program is not a Federal program, or the highway trust fund or aviation trust fund is not a Federal program, that all of those should be removed and we should balance the rest of the budget, that to me is a gimmick where you are trying to get around the whole issue. The real issue is are we going to make the changes in law to get this budget in the balance, not just for the next 7 years but into long-term when a lot of these funds are going to be running deficits? My feeling is that we have to make the tough decisions.

I am going to be proposing an amendment I think eventually, to offer it as the President's budget because the President does not make the tough choices. He does not even come close with surpluses, and all of these are fudged. Without them you cannot achieve a balanced budget. Yet, he runs around this country talking about his balanced budget. He has this budget that is going to balance over 15 years. There is not anybody in the Congress, there is not anyone who has studied this issue in the country, who has looked at these numbers who believes they balance. They do not. The only person that believes they balance is the President, and the only reason he believes it is because he wants to fool the American public into believing that he has some balanced budget, that he is accomplishing the same thing we are when the fact is he is not. And you have the Congressional Budget Office, which said back in June, after he introduced this second budget of his that came into balance, that his budget will produce in the next 7 years the following deficits: 196 in 1996, 212 in 1997, 199 billion—these are all billion-dollar deficits—a $199 billion deficit in 1998, $213 billion in 1999, $220 billion in 2000, $215 billion in 2001, and $210 billion in the year 2002.

That is the Congressional Budget Office. They are the folks we have to deal with in trying to get a certification of whether we balance the budget or not. Unfortunately, the President is running around using—I ask unanimous consent for 30 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Reserving the right to object, might I ask to be followed by 5 minutes following the presentation by the Senator from Pennsylvania, the same unanimous consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from North Dakota will be recognized.

Mr. SANTORUM. The point I am trying to make is the President in his first State of the Union Address to the Congress said that he would use the Congressional Budget Office numbers because they were the most reliable numbers. Now, he said he was going to do it. He is not doing it, and if he did use it, those numbers would not balance.

We have an obligation to the American public to play straight with them. The President is not playing straight. We are going to offer an amendment that is going to show the President that nobody here believes his numbers. Quit going around the country saying you have a balanced budget when you do not.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate the indulgence of my colleagues but because we are not able to have a discussion back and forth very easily—I hope one day we could put an hour aside jointly controlled and have a discussion to figure out where are the facts. I would love to do that with my colleagues on the other side of the aisle, but because of this discussion I want to take a couple minutes to try to clarify this.

It is not, as my colleague from Pennsylvania says blithely, well, this is all Government spending; it is a Government program, Government revenue. Therefore, it must be counted this way or that way.

Let me tell my colleagues what happened. In 1983, it was determined that we were going to have a problem with Social Security. Just after the Second World War, when the war ended, a lot of folks came back to our country, and I am told that they were very affectionate, had very romantic notions about seeing their loved ones again, and over a period of some years, with deep affection, this country produced the largest baby crop in the history of America: the war babies. And so when these, the war babies, the largest crop of babies in American history, reach retirement rolls just after the turn of the century in 2010 and 2015, we need to be prepared for that.

So in 1983 we prepared for it. We said we are going to build surpluses in the Social Security trust funds. This year we will collect $70 billion more than we need to spend in Social Security. Why? Because we like to do that? No, because we are saving for the future.

Now, if instead of the $70 billion that we collect this year above what we need to spend in Social Security, if instead of keeping it in the trust fund, we say we will use it over here as general revenue to balance the budget, have you saved it in the trust fund? Of course not. It is a fraud.

No business in this country would do what you propose we do. None. I am going to take the employees' retirement funds and use them in my operating budget. No one would do that. And that is why I asked the Congressional Budget Office to tell me, if you do not use the Social Security trust funds, then what do you have? What you have is a budget deficit of nearly $100 billion in the year 2002.

I am telling you this is business as usual. This is parading around and masquerading as doing something you are not. You are not balancing the budget if you are misusing the Social Security trust funds. And do not tell me they are ordinary funds. They are collected from every worker's paycheck in this country and they are labeled Social Security taxes.

Mr. SANTORUM. Will the Senator yield?

Mr. DORGAN. The wage earners are told they are going to be put into a trust fund, and they are told the trust fund is going to be used for only one purpose. Now, when it is used instead for the purpose of balancing the operating budget, that is misusing the trust fund. It is looting Social Security. It is fundamentally dishonest. And it is business as usual, regrettably.

Mr. SANTORUM. Will the Senator yield?

Mr. DORGAN. I would be happy to yield.

Mr. SANTORUM. I thank the Senator.

When the gas tax was enacted, did not the Congress and President, when they signed that, say that that money would be dedicated, every penny you pay at the pump for gas taxes is dedicated to the highway trust fund, to be used only for construction of highways and other purposes within that act? Is that not what the law says?

Mr. DORGAN. No. In fact, the law has been changed to take part of that and move it for other purposes.

Mr. SANTORUM. There is 2.5 cents——

Mr. DORGAN. If the Senator wants to win a debate we are not going to have, I say good for you. I will give you a medal. But we are not going to have a debate about the gas tax fund.

My interest is in having a debate about the $70 billion this year in the Social Security trust fund that we deliberately collect above what we need to save for the future and the fact that they again will be misused. That is the question. We could have a debate about trust funds for others.

Mr. SANTORUM. If the Senator will continue to yield.

Mr. DORGAN. I would be happy to yield.

Mr. SANTORUM. Is there not a surplus in the highway trust fund?

Mr. DORGAN. Yes.

Mr. SANTORUM. Is that surplus being used to offset the deficit?

Mr. DORGAN. Yes, by law.

Mr. SANTORUM. Well, only a portion of it is by law. As the Senator knows, 2.5 cents——

Mr. DORGAN. A portion by law.

Mr. SANTORUM. Is dedicated to deficit reduction. The vast majority of that fund is dedicated for the purposes only of improving our highways and other things related to transportation. Yet, we use that surplus to offset the deficit.

Mr. DORGAN. Yes.

Mr. SANTORUM. Just like, as the Senator suggested, we use the surplus in Social Security to offset the deficit.

My question is, why are you not here with a resolution that also deals with it, and why did not the other side when they debated the Social Security issue take all the trust funds that were running surpluses? But why just pick out Social Security, if you are really serious and you want to have fairness, not say——

Mr. DORGAN. Let me reclaim the time.

Mr. SANTORUM. It is too small.

Mr. DORGAN. It is a good question. I happen to feel the same way about trust funds. But you do not worry about a mouse in the corner when there is a gorilla at the door. The 500-pound gorilla on this issue is the hundreds of billions of dollars of surplus in the Social Security trust fund. That is what you want to get at because accessing that money—to be precise, about $1.2 trillion of that money—allows you to balance the budget, or claim you have balanced the budget. But it is dishonest. It is not balancing the budget.

The President did the same thing. I do not disagree with you to say, did he do it? Yes. It is wrong. It has been wrong since 1983, and the question is, when are we going to stop?

When do you stop coming to the floor and parading around with pocketfuls of money from the Social Security trust fund and claim you have done something to balance the operating budget deficit?

June O'Neill, the head of the CBO that you all hired, now says if you do not include those funds—and you should not—you do not have a balanced budget in 2002. What you have is nearly a $100 billion deficit.

Now, we have a legitimate disagreement about priorities. I do not think we ought to have a tax cut. I do not think 50 percent of it ought to go to families over $100,000 in income. I do not think you have to take $270 billion out of Medicare. I do not think we have to build B-2 bombers or Star Wars or ships, planes, and submarines the Defense Department did not order.

We have a difference in priorities about what we should invest in and spend money on. I do not believe you ought to kick 55,000 kids off Head Start.

But beyond those differences in priorities, nobody ought to disagree that it is wrong to take trust fund money to the tune of $1.2 trillion and claim you have done something good for the American people. You have weakened this country. You have cheated old folks out of a future they delivered in Social Security trust funds, and I would hope one day we will stop this business as usual and tell the American people what this budget is about.

Is my time expired?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Mr. President, I thank you.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Wyoming.

BALANCING THE BUDGET

Mr. THOMAS. Mr. President, I rise also to talk about the budget because I think the budget is what is on our minds now, and properly so. I rise because we have come to a defining time when we will decide. And I am very interested in the colloquy that has gone on here. I congratulate my friend from Pennsylvania for raising this question about the President's budget. This is what we ought to be considering.

Let me say to my friend from North Dakota that the gentleman is not for a balanced budget in any time. We are not going to get a balanced budget if we follow that pattern because there is none there. We are following the pattern that has been followed.

Furthermore, I think it is unfair to say this money is being used. I do not know of any trust fund of any kind or any annuity which the proceeds are not invested. In this case, they are invested in the U.S. securities. And the reason they are invested is because the law requires that. They are not stuffed in the mattress somewhere. And from an accounting standpoint, they do belong to that trust fund. And the Senator knows that, of course.

But I want to talk a little bit about the President's budget.

Mr. SANTORUM. Mr. President, will the Senator yield for 1 minute?

Mr. THOMAS. Of course.

Mr. SANTORUM. I ask unanimous consent that the transaction of morning business be extended to 11:15 a.m., under the previous terms.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THOMAS. I certainly would not want to stop this exciting debate.

Anyway, we do need to talk about where we are going. Now, there has been a great deal of activity in the administration going about the country saying, "We have a balanced budget. We balance the budget in 10 years." And so that, then, in our minds is measured against the Republican proposal to have a balanced budget and do so in 7 years.

But there is a substantial difference between the two. One is that the Republican budget does indeed balance in 7 years, as certified by CBO. The President's budget, what he has talked about for a 10-year balance, does not balance at the end of 10 years. So that is really the issue. And probably we will become involved in great detail about it.

But you really start with the question, Are we committed to the notion that we need to balance the budget? We have not been committed for 25 years to do that. As a matter of fact, we have heard this same debate for 25 years, the same excuses for 25 years, the same idea that we cannot do it for 25 years. In the meantime, the debt has increased to $5 trillion. In the meantime, the interest paid on that debt will become the largest single-line item in the budget, larger than defense.

So we do not really have now a choice. We can talk about the idea of Social Security being off-budget. I happen to favor that. The fact is that it is not. The fact is that it has not been. And the fact is that the folks on that side of the aisle would not balance the budget if it is on, let alone if it is off. It would make it much more difficult.

The President promised a 5-year balanced budget as a candidate. That did not happen. Instead, we had the largest tax increase in history in the 1993 budget.

The original budget by the administration this year was brought to the floor, defeated 99 to 0. So the administration sent down a new budget. It uses OMB numbers, not CBO numbers which the President told us a year ago, 2 years ago, that these are the numbers we all ought to use. We all ought to be on a level field. And I agree with that. CBO's are the numbers.

So the budget does not balance. There are a number of other problems. The proposition backloads cuts. The cuts come in after the year 2000. Eighty-five percent of the cuts come in in the next century. That is not a very tough approach to budgeting. It leaves the tough work for later, increases the deficit by 31 percent during this 10-year period. Well, the Republican budget eliminates it. It adds $2 trillion to the debt.

So that is the comparison that we make. We really need to come down to dealing with the fundamental changes that have to be made and that, indeed, will be voted on in the next 2 or 3 weeks.

Protecting Medicare—we have to make some changes. There is a trust fund there. The trust fund will go broke in the year 2002. The trustees say so. You have to make some changes if you want some different results.

Reform welfare—we need to do that. We needed to do it for a very long time. We have the opportunity to do it.

Balance the budget—perhaps the most important. We have an opportunity to do that. There is legitimate debate about how you do it, legitimate debate about the cuts you make or the reductions you make in growth. But there is not really a legitimate debate about whether or not you financially and morally are responsible to balance the budget of the United States.

The real question is, what kind of a Government do we pass on to our kids? What kind of a financial situation and Government do we hand on as the new century comes on us? And those are the decisions we will answer in the next 2 weeks.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator in Minnesota.

DEBATING THE PRESIDENT'S BUDGET

Mr. GRAMS. Mr. President, I want to join in and congratulate my colleague from Pennsylvania for bringing this issue to the floor today.

I just want to make a few statements in support of his effort, to put the President's so-called balanced budget on the table for debate, because I think we do need a healthy debate on both sides of the issue.

I would like to read from what the President has had to say in the last 2 weeks in his radio addresses, when he talks about continually maintaining that he does have a balanced budget.

He said on October 7, "I am deeply committed to balance the Federal budget." A week earlier, on September 30, he said, "I strongly believe we must balance the budget." He said, "Let's be clear. Of course, we need to balance the budget."

Well, of the three budgets that the President has put on the desk this year, none actually balances, according to the CBO, even his 10-year plan which he again touts as a balanced budget. It still leaves $200 billion-plus deficits as far as the eye can see. So the President really does not have a balanced budget at all. But at least we would like to have the opportunity to talk about it.

We would like to give the other side of the aisle an opportunity to put those figures on the table. Let us debate them. Let us talk about them. Let us let the American people see the difference between the Republican plan and the Democratic plan.

As you remember, back in 1993—this week the headlines have been talking about the budget of 1993 again. In fact, the President has been coming from both sides of the issue again, flip-flopping on whether he raised taxes too high. Yes, he did raise them too high. Did he make too many cuts? No. It was the spendthrift Democrats, that he could not stop their spending. So he had to raise taxes in order to balance the budget.

If you look back at that balanced budget in 1993, the President has said many times we did not get one Republican vote in favor of that budget. And he is right, not one Republican voted for the President's budget.

But what did Republicans do? As a Member of the House in 1993, I introduced a budget called Families First, which, by the way, now makes up much of what is in the Republican budget this year, including the $500 per child tax credit. And many of the others—Congressman JOHN KASICH of Ohio, now the Budget chairman in the House, also introduced a budget plan in 1993. Congressman JERRY SOLOMON of New York, Republican, also introduced a budget of his own in 1993.

So we had three definite Republican budgets on the table proposed and were voted on. We got 178 votes on my alternative Families First budget. So what we are saying is Republicans did not vote in 1993 for the President's plan, but we did vote for a budget plan that we had proposed.

So what I would advocate here today, and my colleague from Pennsylvania has talked about, let us put the Democratic or the President's plan on the table so we can have a healthy debate and at least a comparison of the two plans. And then, hopefully, let us get a vote on it so the American people know where the numbers really lie and where they are.

I know we are talking a lot about, and we are going to hear a lot in the debate, about the Social Security trust fund. This is a complicated issue. But the American people should know that the way the budget is set up, that all the funds from the Social Security trust fund has been used by past Democratic Congresses for the same purpose.

The President's proposed budget that he maintains balances uses every dime, the same as the Republicans' do at this time for the unified budget. But what remains in the Social Security trust fund are IOU's. As my colleague from Pennsylvania pointed out, we are going to have to repay those IOU's in the very near future. That is going to mean new tax revenues in order to do it. That is the only way the Government can pay it back.

So we do have a problem. We do have a luxury right now for the next few years of maintaining a surplus. But it will be easier to address this problem that we are going to be confronted with in Social Security if we stay on course and balance the budget by the year 2002.

So I just hope that over the next couple days, and probably yet today, we are going to get a chance to look more at what the President's plan is, what he advocates, and get a healthy dialog and debate going on these budget issues so the American people do get a very clear picture of what the President has proposed and what Republicans propose, because this is going to be the most important issue, for not only this Congress, but for the Congresses to follow, for our children and grandchildren, because what we cannot do, morally or financially, is to leave them our debts. We have to address this problem with every ounce of energy that we have.

So I hope we get a healthy debate on these issues. I thank you, Mr. President.

I yield the floor. And I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the period for the transaction of morning business be extended until noon, under the terms of the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. SANTORUM. Mr. President, I want to get back to some of the points that the Senator from North Dakota was making with respect to the President's budget. I think it is significant that the Senator from North Dakota said that the President's budget does not come into balance in 10 years, as he is claiming it does all over the country. We should use the congressional budget numbers. In fact, the Democratic leader, Senator DASCHLE, shortly after the President introduced his budget, said that the President should use Congressional Budget Office numbers. They have been the most reliable. The President addressed a joint session of Congress on February 17, 1993. This was shortly after he was sworn in, inaugurated as President of the United States. He said:

> The Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous Presidents have been. I did this——

In other words, he agreed to use Congressional Budget Office numbers.

> so that we can argue about priorities with the same set of numbers. I did this so no one could say I was estimating my way out of difficulty. In the last 12 years, because there were differences over the revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. This is a tightening of the rein on the Democrats as well as the Republicans. Let us argue about the same set of numbers so that the American public will think we are shooting straight with them.

The President wanted to shoot straight back in 1993. In 1995, he wants to shoot any way he can to hit the target of getting reelected. He believes he needs to get reelected by campaigning that he has a balanced budget when he knows darn well he does not have one. He has done exactly what he said he would not do, which is "estimating my way out of this difficulty."

He has reestimated what the growth of this country will be over the next 7 to 10 years and reestimated what the interest rates will be. You have to understand that if you reestimate just a tenth or two-tenths of 1 percent more growth, what does that mean? If you say that instead of having 2.5 percent growth, actually, we are going to have 2.6 or 2.7 percent, you might say that is close. Yes, it may be close, but it means hundreds of billions of dollars in differences to the Federal budget deficit, because that additional growth means more people are going to be working and paying taxes, and less people are going to be receiving Government benefits. Therefore, the deficit would be lower.

I think it would be easy for me to balance the budget in 1 year. All I have to do is say the economy is not going to grow at 2.5 percent, but at 5 percent, interest rates will be at 2 percent, and I will have balanced the budget. I would not have to cut a thing or raise taxes, and just by estimating things differently for the future, I could balance the budget. The economy is a lot bigger than the Federal budget. When this multitrillion-dollar economy grows by even a little bit more, it has a tremendous ripple effect on this little part of the economy, which is the Federal Government.

So what we are seeing here is the President trying to involve himself in debate, to become relevant to this debate, and he is using numbers that just do not add up. Now we are coming down to crunch time when we are going to bring up the budget reconciliation bill. We have a letter from the CBO that says it balances the budget. I want to make this clear, because people are saying that we have had Gramm-Rudman and all these things that were going to balance the budget. We have never passed a piece of legislation that, within its confines, has changes in law that will result in a balanced budget, if we do nothing else.

We have passed budget rules that say, well, we have to do certain things every year and cut programs in the future and reduce spending in the future. And if we do not, we will have this mechanism in place to make you do it. That is what we have passed in the past. We have had procedures by which we are forced to make decisions to balance the budget. That is not what we are doing here. We have those in place just in case the economy does not grow as fast or just in case interest rates are higher, but what we have in place, given the conservative assumptions of the Congressional Budget Office, is a plan that will, in fact, result in a balanced budget, if we do nothing else. We do not have to make any more changes in law or raise any taxes or cut any programs. We will have done it all in one bill.

It is fundamentally different than anything we have done here since 1968, which I think was the last time we balanced the budget. We will have balanced this budget and put in place a law that does it—not a procedure that does it, but changes in programs in Washington that balance the budget.

That is what the public has asked us to do. No more gimmicks, no more processes to do it. We have done it. We have made the tough decisions, and we have stepped up to the plate and taken a good swing at it.

Is it perfect? Absolutely not. Anyone who suggests that anything that comes out of the House and Senate is perfect does not understand the House and Senate. It is a compromise. It is putting things together to get the number of votes that are necessary to move the ball forward.

Are there things I would like different? Absolutely. But we made the tough decisions. We brought a group of people, hopefully, I believe, the majority of people, together to pass a budget and send it to the President.

What we want out of the President is simply honesty. If the President wants to claim he will be involved in this debate, then he better come up with a budget that is real and quit running around saying that the Republicans are mean and Draconian and all these things. "I want to balance the budget." He cannot have it both—mean, Draconian, nasty cuts from the Republicans and say, "I want to balance the budget, too," and not do it.

If you want to balance the budget, balance the budget, put forth a plan that does it. He has not done that.

I have in my desk, and some may remember these numbers, I had a chart here that had a question about where the President was in balancing the budget. The previous campaign, several on the other side of the aisle were asking the question, where is George? Why is he not involved in solving the problems of this country?

So I asked the same question. I put up, day after day after day, and the President refused to come to the table and balance the budget. Those number are still adding up. He still has not done so. Well, he has a chance. He has a chance. We are willing to sit down with the President and work through what it will take to pass a balanced budget. We understand we cannot pass a balanced budget on our own. The President has to sign the budget. He has to sign the reconciliation package.

We want him to do that. We are not going through this as a political exercise to get one-upmanship on the President. I can tell you, I am not anxious to vote for changes in a lot of laws, many of which I support and do not necessarily want to see reductions in, just to see the President veto it and nothing happen. It is not a particularly satisfying thing to have happen. If you are going to make the tough votes, at least you want to see it happen. You want to see the changes that you put forward go into law.

No one over here wants to do this as a political exercise. We want to do it because we want to see this country be saved for future generations. We want to see that person who is sitting out there now listening, who is at home and does not have a job and cannot find a job, have a better chance to get a job because the economy will be better. Everyone—the President, Democrats, Republicans—knows if we balance the budget, the economy will be better. Interest rates will be lower. Growth will be higher. More jobs will be created. We all know that.

The people listening who think, how am I going to get this employment opportunity? What will happen to turn this economy around? This is probably the most important thing we can do to turn that economy around.

This is not an esoteric debate about balancing the budget, but about affecting people's lives. This is the young child who may be sick from high school and sitting at home at night and maybe just surfing around on the channels and happens to stop here—probably not long—stop here and listen for a few minutes. That is for that person who wonders whether they will have a job when they get out of high school or college, whether they will have the opportunity to be able to raise a family and buy a home at a reasonable interest rate.

That is what this is all about. This is about real people and real lives. This is not just about balancing budgets and numbers and charts. It is about real people, and giving them the opportunity that this country was founded on.

We have the chance to do that. That is what this is about. We need the President. We need the President. This should not be about politics. This should be about working together for the common good of this country. We want to do that. We have put forward planned specifics.

Want to talk specifics? I remember listening early in the year when the budget resolution was out there and they said, "You guys are throwing these numbers out. You do not have specifics."

Folks, the Senator from New Mexico will come down next week with a whole bunch of specifics, tell you exactly how we get from A to Z, how we balance. The specifics are there. Here is how it happens.

Want to make some changes? We can make some changes. We are not going to make a change on this. We are not going to make a change on balancing this budget in 7 years. That is something we will not change. We are committed to the American public to do that.

I implore the President to stop waving this budget around. I know it may look good in the polls today. People may believe he has a balanced budget, and I know his polls are saying that people now believe he has a balanced budget. All he does is go around talking about it, and unfortunately, the American public sometimes believes the President even when he is not telling the truth. I think it undermines the credibility of the office.

Tell the truth. Tell the truth. Want to balance the budget in 7 years? The opportunity is here. You do not have to run around the country and campaign that you will balance the budget. Stay in Washington and you can sit down with the people who are working on this problem and you can balance the budget. You do not have to go around and raise money all over the country for your next campaign and talk about how you should not raise taxes and all these things.

You can come here and solve the problem. This is the time for work. This is a time when this body, in a bipartisan fashion—I think the Senator from Nebraska talked earlier, Senator

KERREY. I do not question his sincerity at all about trying to balance this budget. I think he is one of the real statesmen when it comes to dealing with the problems of entitlement reform and changing the way the Government does business.

We differ on priorities, but I think he is one who is sincere about the final objective. I think he knows the importance of that final objective. I think he is someone who we can negotiate with and sit down with.

But we need the President. We do not need politics. We do not need waving around budgets that do not balance. It is not the time for politics. You have a whole year, Mr. President, where you can campaign for reelection. The time now is to get serious about doing the business of the country. You were elected President. It is time to serve the Presidency. It is time to serve your Presidency, not politics. Roll up your sleeves. Come on down here, send your people down and we can get going. Quit playing games with the American public and trying to manipulate the polls. You may win this November, but if you keep playing that game, you will not win next November.

The country will not win, which is a heck of a lot more important than either of those things. We should get down to business. We are open. We are here. We are open for business. We are ready to go. All we need is someone who is willing to step to the plate and make it happen.

Later today if we end up getting an agreement to have a bill before the Senate today, I will put forward the President's budget and we will have a debate. I want to make it very clear, as I think we are hearing from both sides, that this budget is not real. This budget does not do anything to balance the budget for the next 7, 10, 20, or 30 years.

Get that out of the way. Get the politics and the charades and the broken promises out of the way. Deal with the facts. The fact is, Mr. President, if you want to balance the budget, get up here and do it. Quit running around the country campaigning on what you do not have, not telling the truth to the public about your budget, and get up here where the action is, where history is being made, and make a difference. Serve your Presidency, not your reelection.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that I may speak up to 10 minutes as in morning business, ending before the 12 clock deadline.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mrs. BOXER. Mr. President, we have heard much debate this morning, I think healthy debate, about the budget that is working its way through the House and through the Senate. I sit on the Budget Committee. This afternoon we were told by the Republicans that we will have our meeting where we will then act on the budget bill. As a matter of fact, we are going to meet in about an hour and a half.

I worked very late last night and I never got a copy of the budget. I started work very early this morning and I do not have a copy of the budget. And the American people need to understand that this budget is not just about numbers. It is about changing laws.

For example, in that budget, national standards for nursing homes are repealed. Changes in the laws are made so it will cost students more for college loans. Tax laws are being changed so the working poor will have to pay more taxes. Indeed, 51 percent of the people of America will pay more taxes because of this budget. And they all are on the middle-income to the poor level of our society. Champagne bottles are being chilled in penthouses all across the country—except in those where someone has a conscience. Because if somebody can explain to me why people who earn millions of dollars a year deserve a tax break, I am ready to listen, when we are trying to balance the budget.

The attack on elderly in our country is extraordinary. When I was growing up I learned some basic values. My parents said you have to work hard, you have to play by the rules, you have to respect your elders and honor your children.

This Republican budget is a slam at every one of those values. We are attacking the working poor. We are raising taxes on people who work so hard to bring home $30,000 a year or less, and we are hurting those people. Honor work? We are cutting $270 billion out of Medicare. We need to cut $89 billion, we are told by the experts, to make it sound and whole. But the Republicans are cutting $270 billion out of Medicare and funneling it into the tax cut for the rich—the Republican funnel plan.

Medicaid—repealing nursing home standards so it is easier for nursing homes to make more money, folks. That is what it is about. Why else would you do it? You do not have to be very old to remember the days in the 1980's when the scandals erupted about nursing homes. We found our senior citizens were being drugged, overdosed on drugs so they could be controlled in the nursing homes. They were being scalded in hot baths. They were being sexually abused. They had bedsores. They were lying in their own excrement.

Well, I made a pledge to my magnificent and beautiful mother, whom I love, a few years ago who spent her last days in a nursing home after she had spent down every penny she had, and all of her dignity, that I would not let this budget go by without telling the American people the truth, that the profits of the nursing homes will not be put over the well-being of the elderly in our society, those who have given birth to us, those who have nurtured us, those who worked so hard so we could get an education. My mother never graduated from high school, and she sacrificed so both her children could go to college.

Is this what the American dream is about? Is this what family values is about? Well, maybe it is popular to vote for that budget. Maybe I am out of step. Maybe compassion is out of fashion. Maybe respecting your elders is out of fashion. Maybe believing in your children is out of fashion. But not for this Senator. Six million people voted to bring me here, and I am going to stand up and I am going to fight. If it is popular, it is, and if it is not, it is not. That is OK, too.

The Republicans have put their budget on a fast track—no time. You tell me why we have to be on Friday afternoon waiting for the numbers when we could take this budget home over the weekend, examine it, and know what the heck we are doing on Monday morning. I will tell you why, folks. They want this budget to slip through with the least notice possible. They do not want the American people to understand it. And President Clinton is going to veto it. He is going to veto their budget. He is going to say no to their budget. And he might do it in the name of his mother, a nurse who healed the sick, a woman who died of breast cancer, who believed in the values of this society. He is going to veto this budget. This budget is not in any way including those American values that we learned when we were growing up; to honor our elders, to believe in our children.

Do we have to do this to balance the budget? We do not. That is not even an argument. I voted for two balanced budgets in the Senate—one by Senator BRADLEY and one by Senator CONRAD. As a matter of fact, they cut even deeper into the deficit than that which the Republicans have produced. But they contained within them some values—family values, American values, compassionate values, commonsense values.

So this is not about balancing the budget. We all want to balance the budget. We all voted for various amendments that would do that. It is about how do you get there and who gets rewarded and who gets hurt. I know this is a cynical time in America. I know it is a cynical time. When a Republican stands up, they do not believe the Republican. When a Democrat stands up, they do not believe the Democrat. Look at the numbers. Read the law. That is why they are rushing these things through. They do not want you to see the numbers. They do not want you to read the law. They do not want you to know the nursing home standards are repealed. They do not want you to know they are going to charge people who are waiting for their child support a fee to collect that child support. Imagine. A woman is desperate for her child support. They finally get it. They are going to make them pay a fee. For what? To give $5,500 a year back to people who earn over $350,000 a year. Have they no shame? Have they no values?

We have a funnel Medicare plan. It funnels the money from Medicare right to the hands of the rich. We have a Medicaid plan that I call the Dr. Kavorkian plan. I am not doing it to scare people. I am doing it because it is the reality. I told you what these nursing homes looked like before. And I will tell you, when faced with that choice, what would you do?

We put a lot of pressure on NEWT GINGRICH, and he finally changed the spousal impoverishment law that he tried to do away with. We are looking at whether or not he really saved it. But can you believe they were ready to do that, too? They were ready to say to an elderly man who put his loving wife of 60 years into a nursing home that he could not keep his house, he could not keep his car, and he could not keep his $1,200 a month; the Government was going to go after it before his wife could get help in that nursing home. Family values? I do not think so.

So I am going to walk into that Budget Committee this afternoon, and I am going to talk about the values that I have as a daughter of an immigrant mother who never went to high school but who is as smart as anyone in this Chamber. I am going to talk about the sadness I feel that America is turning its back on who we are and what made us great as a nation. But I am also going to fight.

Thank you very much, Mr. President. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

EXTENSION OF MORNING BUSINESS

Mr. DORGAN. Mr. President, I ask unanimous consent that the time for morning business be extended for 15 minutes and that I be allowed to speak for as much time as I consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECONCILIATION BILL

Mr. DORGAN. Mr. President, I listened to the Senator from California and to some others today discussing the issues of priorities. And this Chamber, while now empty, will be full with aggressive debate and much interest next week when we deal with what is called the reconciliation bill. Frankly, most people do not know what reconciliation means. It is a long term that relates to reconciling, to spending, to revenues, and to what was determined in the budget resolution passed by the Congress. That is what reconciliation means. So the bill is brought to the floor, cuts spending, changes the Tax Code, and it reconciles.

We have substantial differences in priorities and differences of opinion about what is important, and that represents the debate. Some people get very upset because there is a debate going on. I think it is a sign of health. That is what politics is. Politics is not a pejorative term. It describes the process by which we make public decisions.

I said before that John F. Kennedy used to say every mother hopes her child grows up to be President, provided the child does not have to get involved in politics.

Of course, getting involved in politics is a method by which we make decisions in America. There is nothing wrong with that. It is a noble, honorable thing to do, and I happen to feel proud and privileged that I am a part of it in the Senate.

The Senator from California talked about her heritage, and I was thinking yesterday about this. I was on a radio call-in program and someone called who had read an account of my great grandmother settling in North Dakota. I had attended a Scandinavian event and someone in the press had done a story about how my grandmother came to North Dakota.

The story just in thumbnail sketch was that she, Caroline, and Otto met and fell in love in Oslo, Norway, and got married as young Norwegians and then moved to the New World and settled in St. Paul, MN. After some time Otto died and Caroline, with her children—I believe it was six children—moved to the prairies of North Dakota and pitched a tent and with her children built a house and homesteaded 160 acres of land.

Someone had read that account in a press story last week as a result of my attending a Scandinavian festival and they called the radio station I was on and said is it not interesting, the story about your grandmother, this gritty, courageous Norwegian woman who comes from Norway to the United States, and then her husband dies and she takes her children to go to North Dakota to homestead on the prairie—pitches a tent, builds a house, raises a family, and homesteads 160 acres.

And she said, what do you think would have happened to your grandmother had we had a welfare system back at the turn of the century? Would there not have been the incentive to do that?

I thought about the question. It was an interesting question. I said, who do you think she got the land from? Who do you think created the Homestead Act? Who do you think passed a bill that said we are going to have a Homestead Act to say to people if you go out and homestead on the prairies and do the right things, we will give you 160 acres of land?

Yes, that is right, the Government. The Federal Government. Did it play an instrumental role in my great grandmother's life? You better believe it did. The Government has played a constructive role in a lot of lives. We are the Government, all of us. Every citizen in America is the Government. I know people want to just compartmentalize and say, boy, everything is awful, everything is evil, nothing works.

The fact is, from the Homestead Act to the GI bill, together, people working together, people making the right choices and right decisions about what is a priority for this country, have had an enormously important influence in the lives of people.

It is the Government, us together, we have built the education system in our country. We have something like 140 world class universities in this world. Over 120 of them are stationed where? In the United States of America. Let me say that again. We have something like 140 world class universities. Over 120 of them are located in our country. Chance? Accident? No, it is people working together. A lot of them are public institutions. People working together doing the right thing, saying education is important. We not only have done it at the top level, building world class universities, the best in the world, judged by everyone, but where are people going to school? Are they rushing to Iraq to go to college? I do not think so. No, people are coming to America to attend some of the greatest universities in the world. We have not only done it at the top, but we have done it at the bottom.

We created a Head Start Program, and we said to little kids 3, 4, 5 years old, who were in trouble, living in circumstances of poverty, living in dysfunctional families, we are going to give you a head start. We are going to give you an opportunity. And we created a Head Start Program to give those little kids an opportunity. And guess what? It works. It works really well. Everybody understands it works.

Now, the majority is saying that we cannot afford that. We are going to kick 55,000 kids off the Head Start Program. Every one of those kids has a name, and they have in their hearts some hope that things are going to change in their lives. And Head Start has been helpful to those kids—helped them to hold on to that hope.

It is a long way of getting to the point of saying this is all about priorities, this debate. It is not a debate, as the Senator from Wyoming alleged a while ago, about people do not want to balance the budget and people do. What a bunch of nonsense. That is not what the debate is. Everybody in here believes we ought to balance the budget. The question is not whether. The question is how.

I voted for a balanced budget in this Chamber. I voted for a balanced budget amendment to the Constitution for that matter. We had two versions, one that did not raid the Social Security System and one that did. I voted for that one that did not. But in any event, this is not about those who believe we should balance the budget and those who do not. All of us want the same goal. We want to balance the budget. This is about priorities.

The priorities that have been chosen by some in this Chamber—and it is their business. They have a vote. They have a right to choose priorities—say this. When the defense bill came to the floor of the Senate, they said to us we are conservative, we are frugal, we are penny pinchers, but when it comes to defense we want to spend $7 billion more than the Secretary of Defense asked for. The Secretary of Defense says we need a certain number of trucks. These folks say, I am sorry, you need a lot more than that. We insist on building you trucks you did not ask for. Ships, we demand that you buy ships you say you do not want. Jet airplanes, F–15's, F–16's, we will write them in. You did not ask for them. Well, we are going to build them for you anyway. How about the B–2 bomber? I supported 20 B–2 bombers. I supported 100 B–1 bombers. But now we are told by people who are conservative, penny pinching, frugal Members of Congress, we want to build 20 more B-2 bombers at a cost of $20 billion. It does not matter the Secretary of Defense says he does not want them. We insist you take them. And the hood ornament on this excess is the star wars program. We insist on an astrodome over America, a new star wars program, and we demand, by the way, that we go out and put it in the field by 1999, accelerated development—$7 billion they want to stuff in the trousers of the Pentagon that the Secretary of Defense did not ask for.

Again, is this frugal? Is this penny pinching? Is this conservative? I do not think so. I think that is reckless, wild-eyed spending. This is my judgment.

The same people who say we want to build star wars, when it comes to talking about star schools, say we are sorry; we do not have enough money. And 55,000 Head Start kids, we are sorry, you are out of luck. The poor kid going to school, we say you are no longer entitled to a school lunch in the middle of the day. We are going to remove the entitlement. Somebody might not want to give you lunch. As far as we are concerned, they do not have to.

In the whole series of priorities, including and especially the issue of Medicare and Medicaid, do we have to fix Medicare? Yes. There is no debate about that. Is there a solvency problem? You bet. Do we try to address it? Yes. But should we cut $270 billion from Medicare? I do not think so. Some people say, what do you mean, cut? There is no cut in Medicare. Of course, there is a cut—$270 billion less than what is needed to fund Medicare in the next 7 years.

Now, who do you think that is going to come out of? It is going to come out of somebody. Rural hospitals maybe. Senior citizens are going to pay more and get less. That is exactly what is going to happen—pay higher premiums and get less health care. Should we cut health care? Should we cut $270 billion? Of course not. Why are we doing that? Why the proposal to cut $270 billion? Because some feel they erected a tent with the center pole being a tax cut. The center pole of this new tent is a tax cut. And they insist on a tax cut. In order to pay for a tax cut, you are going to have to cut Medicare and Medicaid and those other things with the depth that they are discussing.

Let us take the tax cut just for a moment. We are told that the tax cut is perfectly appropriate because those who propose it are proposing to balance the budget. Well, why then in their proposal do they add hundreds and hundreds of billions of dollars to the debt at the same time they are talking about a tax cut?

Some of us happen to feel you ought to deserve less. You say, "Set up the table. We will serve dessert first." Politically, I guess, it is very attractive. I would like to be one of those who say my existence here is predicated on the ability to deliver a tax cut for the people whom I represent. My guess is most of them would prefer much lower taxes. They would like a tax cut.

But they would also believe, I think, that, just as in a family budget, you should deal with your spending problems first, balance your budget first, and then deal with a tax cut. I think that is how they would feel.

Now, with respect to this issue of priorities, I mentioned the other day I come from a town of 300 or 400 people. Actually, it was 400, but, like most rural communities in small counties, it is shrinking. But let us take this town of 300 or 400 people and use that as an example of what we are doing here in this Chamber. Let us consider this budget, the budget for my community.

Here is what we do. We get in the car, and we get all of our little envelopes telling people what this is going to do to them, and we just start driving around town. First, we come to the part of town where people do not have it so good. The houses are not quite so big. Some people are home because they cannot find work. Some people do not have much. They are hungry. But it is a part of town where there is not much in resources and people are struggling to make ends meet, working hard but not gaining ground.

And we stop at their home and we say to them, "Here is an envelope. This tells you what our plan is for you. Our plan for you is we're going to cut back on the earned income tax credit. That means you will pay higher taxes." In fact, all families with under $30,000 in income largely will face higher taxes, or put another way, 50 percent of the American taxpayers will end up with a slightly higher tax bill.

We also say to some of those people that "Your child is now in Head Start, but we cannot afford to keep him or her there. We will have to take your kid out of Head Start. Your grandma is on Medicare. Her premiums are going to be increased and she'll have managed care and she won't have the choice of a doctor or hospital anymore. Your daughter who is unemployed is now on Medicaid. We have a problem with Medicaid funding."

We go on down the list in terms of what the bad news is for those families who are struggling and not making it very well.

But then we keep driving around this same town and when we stop at the biggest houses in town, the folks who have the most money, the folks who have the house on the hill, who have done very well, we say to them, "Here is the envelope for you. Here is what this means. By the way, this is awfully good news for you because you happen to get your income from stocks and bonds. You have been enormously successful. And you are very wealthy. You get your money from stocks and bonds. So we have decided that people who get their money from stocks and bonds, they need a lower tax rate. So you are going to be blessed with a very substantial cut in your taxes."

And then we say that when you add all of this up, we come out with a balance. We have taken from those who do not have very much. We have given to those who have a lot. And then we have established essentially a balance. But no one is told that in order to get to that point we have taken all the trust funds out of a pension program that existed in that town and brought them over to use them as revenues when we count whether or not we have reached a balanced budget.

And that, in a nutshell, is the plan we have coming to the floor of the Senate. Some of us feel there is a better way and a different way and a way with better priorities and choices for the future of this country to address these budget issues.

No one disagrees we should reach a balanced budget. And we ought to reach a balanced budget, by the way, without raiding the Social Security trust funds to do so.

I had a short discussion with my colleague from Pennsylvania today. I showed my colleague from Pennsylvania the October 18 letter, which was Wednesday's letter trumpeted on the floor of the Senate, which says this reconciliation bill brought to the floor is going to have a balanced budget, in fact, a slight surplus.

Then yesterday, at my request, the same person, the Director of the Congressional Budget Office, wrote a letter that said, if you count this the way the law requires you to count it—she does not say that, but I asked her that—and do not use the Social Security trust funds, because they are not part of the budget and shall not be counted, what then do you have? And the answer is, well, in the year 2002 you do not have a balanced budget, you have a $98 billion deficit.

Mr. President, we will have a very substantial debate on all of these issues. I believe that we have to trim spending in many areas—Medicare, Medicaid, they will be trimmed some, the farm program, yes, somewhat—but I do not believe that you take the most vulnerable Americans and put them right smack in the bull's-eye and say, "By the way, when all the dust is settled and all is said and done, you are going to pay up." And then we say to others, "You have been so blessed in this country. By the way, when all the dust settles and all is said and done, guess what? You are going to be much better off because these sets of policies decide that you are more worthy than others."

I think there is a better way. And many of us will offer amendments next week, amendments that will get us to a balanced budget, really get us to a balance where it is not misusing the Social Security trust funds but really balancing the budget and doing it with different priorities. I do not want the message to be to family farmers, "You are in trouble? Well, move to town. We could not care less." "You are poor? Tough luck." "You are poor and old? That is even tougher luck."

I mean, I would like our sense of policies to be to say to people that are important, little kids going to Head Start, "You matter. Your life matters to us. We care about you." We can make room in these priorities because we can shift some of that money, because we can buy one less B-2 bomber and maybe not buy the fuel gauge or landing gear as spare parts for one B-2 bomber and pay for all of it for 55,000 children. Maybe that is the priority. Maybe we decide star wars is not the priority. Maybe we accept the judgment of the military people and the Secretary of Defense, who says we should not do this.

We say, all right, that is $48 billion. So what could we do with $48 billion? Maybe we reduce the deficit, first of all, or, if you insist on spending it, did not want to do that, if it is not star wars, how about star schools? How about deciding kids are as important as bombers? Those are the priorities that we will debate next week.

No one in this country should lament the fact that we are going to have a debate. If we at the end of the day can maybe reach some understanding between all of us of what the right priorities are, what really advances America's interests, which investments make life worthwhile for all Americans, what expands opportunities in our country, if we can develop better understandings of what achieves all of that, then our country is better served, in my judgment.

I am not someone who believes the Republicans are all wrong and we are all right. That is simply not the case. All of us have made mistakes in this country. This country is blessed with people who make good decisions, Republicans and Democrats. And I hope at the end of this reconciliation fight we can find a way to create more of a bipartisan approach to addressing some of the wrenching, real problems we have.

I have often thought it would be useful, perhaps, for us to restrict ourselves someday, and it would be useful, probably, for talk radio, for example, to restrict themselves, maybe to have a day a month and talk about what is right with America, what is right with our country. Would that not be hard for some people because there are so many who are only willing to talk about what is wrong. The fact is, most people are coming here, not leaving. Can you think of someplace you would rather live? I cannot. This country is the best place in the world to live.

The question is, What is right with it? How do we build on what is right with it? I think it would be nice for talk radio and, I guess, the U.S. Senate from time to time to set aside a period and say, this is a period where we are going to talk about what works and what makes it work and how we build on that. And, I mean, maybe someday we can get to that kind of discussion, which I would also like to have.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague from North Dakota for his remarks. And I will pick up on his last point.

First of all, Mr. President, I ask unanimous consent that morning business be extended for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHERE IS THE STANDARD OF FAIRNESS?

Mr. WELLSTONE. Thank you, Mr. President. I appreciate what the Senator from North Dakota said about our country. And I would say to my colleague who is presiding, the Presiding Officer, that I have said probably every week, when I go home, to someone that when I come to the floor of the Senate I still get goose bumps. It is a real honor to serve in the U.S. Senate and for Minnesota. If you look at these buildings here in Washington, DC, and you think about what they stand for—my father was a Jewish immigrant who fled persecution in Russia. It is a wonderful country, and we ought to emphasize the positive.

Mr. President, next week we will have debate—not hate, but rather a debate. And I would like to lay out my framework just for really not more than 10 minutes.

Mr. President, I came to the floor of the Senate at the beginning of this Congress, and I had a resolution. It was nothing more than a sense-of-the-Senate amendment that it was the sense of the Senate that we would not take any action that could create more hunger or homelessness among children. Actually, it was defeated twice. Then the third time it was passed by a voice vote. I now regret that I accepted a voice vote, because I think it was a symbolic vote, because if I look at this deficit reduction, the issue becomes deficit reduction based upon what standard? Is it deficit reduction based on the path of least political resistance? Are we asking some of the citizens to tighten their belts who cannot? And are we leaving a lot of special interests untouched? I think we are.

I certainly will be active in the debate next week with amendments to force some discussions on these issues, and I want to know where Senators stand.

We have something like $35 billion slated for cuts in nutrition programs for children. Food stamps and the Women, Infants, and Children Program, the WIC Program, is an incredibly important program, because if you were to ask me as a former teacher what is the most important education program, I would say to make sure every woman who is expecting a child—I just had a grandson, our third grandchild, a week ago. That grandson, Joshua Paul, I think is going to have a good life. He was born healthy, but my daughter, Marcia, had an adequate diet. She had the resources to make sure she did.

My God, children at birth are not going to have the same chance if their mothers have not had a decent diet. We are cutting the Women, Infants, and Children Program.

The Food Stamp Program is not perfect; we ought to make it more accountable. The fact of the matter is, imperfections and all, we dramatically expanded the Food Stamp Program after the expose on hunger and malnutrition in America, and we did it in the early 1970's. We had some national standards, and we implemented this program across the country. We do not have all the children anymore with distended bellies. We do not have the same amount of hunger and malnutrition, though we still have too much. We are cutting into these programs.

When it came to the Pentagon budget, which was $7 billion more than the Pentagon asked, when it came to the military contractors, when it came to star wars or Stealth or Trident, we just gave the money away. They have the clout. They are the heavy hitters, they have the lobbyists, and they did just fine. But the children in America did not, especially poor children.

I just do not think there is a standard of fairness. I think there is consensus that you have to pay off the interest on the debt. That is what this is all about. There is not a Senator here that could be proud of the building up of the debt in this country. The question becomes, when you make the cuts and you do the deficit reduction, where is the Minnesota standard of fairness? That is the question.

Mr. President, the Finance Committee met and came out with $245 billion of tax cuts. But here is the interesting thing. If you have family incomes below $30,000 a year, which is about half the people in this country, you have the earned-income tax credit taken away from you and you pay more. You are paying a tax all the way up to families $30,000 a year and under. But, by golly, if you are in the top 1 percent of this population with incomes over $350,000 a year, you get a $5,626 break. And if it is $200,000 a year, you get $3,416. This is a subsidy in inverse relationship to need.

If you are at the top of the population income-wise, the top 1 percent, you get a huge tax break. If you make over $200,000 you do, and if you make over $100,000 you do. But if you make under $30,000 a year, you do not get any break; you pay more. This is like a subsidy in inverse relationship to need. Same issue.

This is what I am going to zero in on next week: Why have the military contractors got everything they wanted? Why do the children lose some of their nutritional programs? Who has the power in America? Who has power in the Congress? Special interests dominate.

Why does the top 1 percent of the population get a huge tax break and the bottom 50 percent of the population get an additional tax? Who has power? Who has the lobbyists? Who are the special interests? Who is well represented here? There is no Minnesota standard of fairness in this plan.

Finally, Mr. President, I have two other issues to mention. One is student financial aid. It is not coming up enough. I was a teacher for 20 years, and when we marked up the cuts in financial aid out of committee, I asked colleagues—and maybe they have done this—but I said to colleagues, "Have you had any town meetings on your campuses? Because the picture you seem to have of students is not the same picture I get from holding community meetings back in my State"—Moorhead State, Inver Hills Community College, Minneapolis Community College, University of Minnesota at Duluth. Because what happens to me is fully half the students, if not more, come up to me and they say, either publicly or someone who is not good at speaking in a public meeting will come up afterwards and say, "Senator, I'm a nontraditional student." That is the first sentence.

The next sentence, especially at the community colleges, is, "I am older than you"—they always like to say that—"and I lost my job. I am going back to school. I don't have the resources. Don't cut the financial aid. I am a single parent. I am the welfare mother you say you want to go into workfare. Don't cut my financial aid. Senator, we can't afford it."

Or if it is the 18-to-22-year-old group—many of our undergraduates are going to school 6 years, not 4 years and they have two and three minimum wage jobs and we are cutting financial aid for students. And then, Mr. President, there are the students who sell plasma to buy textbooks to begin the semester.

What in the world are we doing ending the grace period on the interest on loans 6 months after graduation? Why are we ending the parent plus loan program for moderate- and middle-income families? Why are we putting a tax on the institutions based on their loan portfolio? Why do we not understand that 75 percent of the student financial aid package are loans now, not grants? What in the world are we thinking?

The missing piece here is the impact on people. I have held these town meetings on campuses. I do not know, maybe other Senators have gotten a different picture from students, but that is the picture I get.

So, again, $245 billion of tax cuts, but cuts in students financial aid; $7 billion more than the Pentagon wants, but cuts in student financial aid.

Mr. President, I am not talking about Medicare and Medicaid and health care today, but I will tell you this, this is a rush to recklessness and it will not work in my State of Minnesota. We have done something of which I am proud. We have 300,000 children that receive medical assistance. It is a safety net program. Is that going to be cut?

I meet with people from the developmental disabilities community, and I have people say to me—I remember a woman in another town meeting. Are we holding town meetings? Are we talking to people back in the States that are going to be affected by this? She says to me—and this Chair is a close friend of mine, I respect the Chair, the Senator from New Hampshire—she says to me, "PAUL, the Americans With Disabilities Act is going to be a cruel lie for me if I don't have someone to help me get out of bed in the morning, a personal attendant. I can't go and own my own small business, and I do own my own small business. I am intelligent and I am smart and I live a life of dignity. Do you know what you are doing with cuts in medical assistance? Are you going to restrict eligibility, less access to personal attendants? Are we going to have to be poor to be eligible for any of this? What are you doing? That is the question. Don't be so reckless with our lives."

I hear the same thing in rural Minnesota. I could go on and on, Mr. President. But the question I have, by way of summary, because I do not want to dominate the floor today, is why, if we are going to do deficit reduction, not do it based on some standard of Minnesota fairness? Why do we have a disproportionate number of cuts that affect the most vulnerable citizens in this country, the poor, namely women and children? Why are we cutting financial aid for higher education? Why are we cutting into health care and the quality of health care that is delivered to people?

I am willing to argue this issue of quality later on for 20 hours plus in terms of what this is going to do for Medicare and medical assistance. But at the same time, Mr. President, you have the tax cuts that mainly go to people on the top. You have more than the Pentagon asked for. And then, finally, and this is going to be the piece that I am looking most forward to in this debate, what about all of the subsidies that go to the oil companies and the tobacco companies and the pharmaceutical companies and the insurance companies? What about all those loopholes in deductions and giveaways?

I will tell you something. I think what makes people more angry about the political process in the Nation's Capital is the feeling that some of these special interests who are the heavy hitters and hire the lobbyists and are the big players and the big givers get their way.

This is a perfect example. I am going to come out here on the floor and I am going to say—and we are going to have votes on these amendments—if you want to have deficit reduction, why do you not ask some of these large corporations that get tax giveaways to tighten their belts? Should they not be a part of deficit reduction? You know what? Every time you do that, all sorts of colleagues think of a million reasons why we should continue to give them special tax breaks. Middle-income people do not get these breaks; working people do not get these breaks; low-income people do not get these breaks. But, oh, boy, oil companies do, pharmaceutical companies do, gas companies do, coal companies do, tobacco companies do. They all get these breaks.

So I think the debate next week ought to be about, where is the standard of fairness? Who is being well represented and who is not being well represented?

We will have a sharp debate, I say to my colleague from Georgia. It will not be hate, it will be debate, because I believe all of us have mutual respect for one another. We feel strongly about what we are doing, and I am sure we are all doing it in good faith. But I have a lot of indignation about the priorities of this deficit reduction plan. I believe it goes against the grain of the basic Minnesota standard of fairness.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

EXTENSION OF MORNING BUSINESS

Mr. COVERDELL. I ask unanimous consent that the period for morning business be extended for another 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I think everybody would acknowledge that we are entering a very historical moment in America's history, certainly in the context of the Congress of the United States, because we are, over the next 4 to 6 weeks, going to be making decisions—very significant decisions—about the way the American people are governed.

Of course, I always appreciate the remarks of my colleague from Minnesota. But it is almost as if he has forgotten that a new Congress was sent here this past November, and with startling results. The Congress was not sent here by any large corporation. This new majority was sent here by an overwhelming pronouncement by the American people—all these folks he is talking about, such as the workers, who said, "We want something different done in Washington," and families, saying, "We do not like what is happening in Washington." In overwhelming numbers, Americans went to the polls and said, "We want things in Washington to change."

Every speech I hear from the other side of the aisle, including from the President and the administration, is saying, "Leave everything the way it is, it is just fine." Every time you try to change it, we come out with some new class of evil Americans who try to frighten America from the change that has to be made.

Let us talk about the President for a moment or two. When the President ran for President in 1992, he promised the American people, "I will give you a balanced budget in 5 years." Well, he has been here for a little over 2 years now, and he has not given us a balanced budget in 5 years, in 7 years, in 10 years, in no years. Why did he make that promise? He made the promise because he knew that the American people overwhelmingly are demanding that this city, this town, this Congress balance the budget. But once he got elected, he started listening to speeches like we just heard. We will just keep everything the same. No one will notice.

But the new Congress came here and said that we are going to balance the budget in 7 years. I think, somewhat to their surprise, that is exactly what we are doing. What is more—and he knows this—it is exactly what the America people want us to do. They want us to balance the budget.

Well, first, the President said he was not going to offer any budget at all after this new Congress got here. Then he went back out into the country and found out that the American people did not like that, so he offered a budget. That budget did not receive a single vote in the Senate—from our party or his. It was 99 to 0. No deal. It is not a balanced budget, Mr. President.

So then he came and said, well, I am going to offer a budget that is balanced in 10 years. The Congressional Budget Office, who the President says provide the most reliable numbers we can get, said, "We are sorry, Mr. President, but your budget does not balance in 10 years." In fact, it never balances. The President has been traveling the country back and forth saying he is giving us a budget. "Theirs is 7, mine is 10." But that is just not so. His budget never balances. I know this morning the Senator from Pennsylvania suggested that the other side of the aisle go ahead and introduce that budget if they believe so strongly in it. No one is willing to introduce the budget. Why? Because they know it does not balance. It does not do what the President said.

And then, last week, he said, "Well, maybe I will do one that is 9 years or 8 years." So now we are on about the fifth or seventh reincarnation of the President's budget. It is not really that complicated. It either balances or it does not. The Congressional Budget Office can tell us. It has now told us that the Republican budget will balance in 7 years, just like the American people are asking us to do.

I was fascinated listening to the Senator from Minnesota, because he was talking about students and student loans. I wonder if the Senator is aware of the fact that if America—if their Congress—balances the budget, what happens to students who have to borrow money. Let me tell you what happens. A student that borrowed $11,000, or the family that had to borrow $11,000 for that student, if we had balanced budgets, would pay so much less interest for the loan that they would save $2,000 on the student loan in lower interest payments. If we balance our budgets, interest rates, according to DRI/McGraw, interest rates will drop between 2 and 3 percent. That means that the American families that the Senator from Minnesota is talking about will save billions. Well, billions gets to be a number that is so big, it is kind of hard to bring down home. But let us say we are talking about an American family that had a $75,000 home and mortgage. That family, because we balanced the budgets and because we had lower interest rates, would save between $1,500 and $1,700 every year. And here you have an average family. The average family income in America is $40,000. The Government is already taking half of that money between Federal, State, and local, leaving them only half to deal with all their needs, and we can take an act up here that will lower their interest payments on their home $1,500 to $2,000.

We have increased their disposable income by 10 percent—increased. There is nothing we could do, there is no Government program, there is no new bureaucracy, no new system taking care of people from Washington that will do so much good for the American family—the average family—than lowering the financial burden on that family, which happens if you balance the budget. It does not happen if you do not balance the budget.

Mr. President, balancing the budget will do more for every American than any Government program we can think of. We will save them $1,500 on a home mortgage of $75,000. We will save them $900 in lower interest rates if they buy a car. We will save them $2,000 in lower interest rates if they are borrowing money to send students to school.

The American family knows this. That is why 70 to 80 percent of them have been banging on the door of this town saying, "For Heaven's sakes, get your spending under control. Quit taxing us to death. Quit spending money you do not have. Quit spending the future opportunity of our children."

Balancing the budget will produce a rainbow and a nest egg in the checking account of every average family in America. Make no mistake about it. The great burden of running this Government falls on the average American family—not on the rich. You could take all the money the rich produce and you could not run this Government.

In the end, it is the average American that bears the burden—not the poor. It is the average American. The greatest good that we can do for that family is to balance our budget.

Now, Mr. President, several days ago the President admitted—which I was shocked about, but he did—the President said in speaking to a fundraising audience, "I will surprise you, because I think I raised taxes too high in 1993." That is a pretty big mistake, Mr. President.

We raised taxes at a historical level—$250 billion-some-odd in new taxes—the highest in American history, and now the President says maybe that was a mistake. Not maybe it was a mistake, it was a mistake.

Why did he raise taxes? So that the Federal Government could spend more so that our deficits would continue to increase, so that interest rates are higher on every family, and they are paying thousands upon thousands of dollars because we do not have a balanced budget.

The President has now said that tax increase was a mistake. We agree with him. What we are saying is we are going to help the President fix that mistake. We are going to lower the economic burden on the American family.

He raised taxes $255 billion. We are going to lower it $245 billion. A lot of people try to connect that to the Medicare argument, which is a totally separate thing. The real connection here is between the President's tax increase of 1993 and the Republican tax refund of 1995. He raised them $255 billion and we are going to lower it $245 billion.

He said it was a mistake. It was. It has affected the economic stability of every middle-class family. Now we are going to lower it. We are going to help those very American families by lowering the economic pressure on them and relieving them from the pressure that he exacted in 1993.

We are going to balance the budget. We are going to lower interest rates in every American home. We are going to, therefore, expand the economy and therefore people are going to have shorter lines waiting to get a job. We are going to put hundreds of thousands of Americans to work because we balanced this budget.

Mr. President, we are going to reform welfare. Every American knows it needs to be done. Mr. President, we are going to secure Medicare for a quarter of a century. The trustees said it will go bankrupt in 6 years, but we are going to change that and strengthen it and keep it healthy for 25 years, according to the CBO yesterday. We are going to lower the economic burden and pressure on the American family by lowering taxes.

Every one of those things that we are talking about, every one of them, the American people want to have happen. Mr. President, it is time the Congress did what the American people wanted up here.

I yield the floor.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak not to exceed 20 minutes.

The PRESIDING OFFICER. As in morning business?

Mr. BYRD. It does not matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I did not mean to give the Chair a short answer. I thought my request covered the situation very well.

UNITY ON BOSNIA POLICY

Mr. BYRD. Mr. President, there has been substantial movement toward a peace agreement among the warring factions in Bosnia, and the President deserves great credit for exercising strong leadership for moving this process forward in the last 2 months. The conflict has gone on too long, and the horrendous spectacle of ethnic cleansing and prolonged, widespread inhumanity in the Balkans offends and disgusts all civilized society. It is clear that our European partners in NATO have been unable to bring the fighting to a halt and will be unable, Mr. President, to bring a lasting peace in the Balkans without strong American leadership. One might well argue that it is a European problem—and it is—and the European nations should be able to achieve a peaceful settlement without us—and they should. That would be what I think most people would like to see. But that has demonstrably not been the case over the last 2–3 years of carnage in Bosnia. Therefore, the President has taken a strong role in leading our allies to bring the parties to the peace table. A peace agreement has not yet been reached, but negotiations, so-called "proximity talks," will begin at the end of this month of October, in Dayton, Ohio.

Mr. President, Administration officials have testified that the United States should participate in any NATO operation which would implement an accord that is reached among the warring parties. The Secretaries of Defense and State, and the Chairman of the Joint Chiefs of Staff, have all testified that the operation would be a NATO operation, and that there would be no so-called "dual key" command and control structure which includes a decision-making role by the United Nations. Those command and control arrangements were an abject failure in the U.N. operation in Bosnia over the last several years. The United Nations has tried valiantly to play a peaceful role in Bosnia, but it is clear that up to now there has been no peace to keep and that the ferocity and hatreds which have consumed the Bosnian factions have overwhelmed the ability of the United Nations to operate in a peace-enforcing role there. Therefore, it is appropriate that NATO assume any peacekeeping responsibility, since only the clear promise of overwhelming and swift retaliation against any group or individual that violates a peace accord is necessary for such an accord to work in the environment of the Balkans.

Mr. President, the question has arisen as to what role the Congress will play in determining the policy and possible deployment of American forces to the Balkans in connection with a peace treaty. There is substantial risk of casualties there, in spite of the fact that the purpose of any NATO force would be to police and implement an agreement among the parties. Cease fires in the Balkans have been routinely entered into and they have been just as routinely violated. The parties to the conflict cannot resist, it seems—cannot resist the temptation to take advantage of temporary weaknesses of their opponents to gain more territory or to commit more atrocities. Furthermore, the terrain is treacherous, made more so by the harshness of winter weather, which is the likely season that this accord will be reached, and, hopefully, such an accord will be reached.

I believe that any President, Democrat or Republican, is on dubious constitutional ground in deploying forces to be at risk abroad without the positive action in support thereof, by the Congress.

We could debate this all we want to debate it. I know we say, on the one hand, any President does not need Congress' approval. On the other hand, there are those who say he needs congressional approval. And there are arguments to be made on both sides. But I think of the wild animals in the forest, the lion, the tiger, the elephant—the wild animals in the forest. At some point or another they have to come to the waterhole. There is a big waterhole in that forest. Some may have to come sooner than others. But eventually they all have to come to the waterhole.

Well, the power of the purse is the waterhole in the constitutional process. The appropriation of money is the waterhole. So we can argue all we want, until we are blue in the face. But in the final analysis, unless that appropriation is there, unless the funds are provided, the use of military forces would automatically have to be cut off, you see. So that is the waterhole. We can argue all we want, but that power of the purse is the most effective power in the whole constitutional system—the power of the purse. That is why I have stood on my feet many, many times in the Senate and argued against shifting that power of the purse to the executive branch.

Well, I will not go further into that at this point. But we should all keep in mind the waterhole. All government agencies have to come down to the waterhole, sooner or later.

Well, only the Congress can fund such operations, and Congress has the sole responsibility, under the Constitution, to raise and maintain land and naval forces. But, aside from this constitutional requirement, from a commonsense political perspective, I think that any President is well advised to gain the prior support of the Congress, and therefore the American people, before committing forces that risk casualties, which will result in the expenditure of substantial sums of money, and which might be employed over a period of rather extended duration. Regardless of the differences between this proposed operation and the American deployment in 1990 to the Middle East to counter the aggression of Iraq against Kuwait, the risks, the costs, and the duration of peace implementation in Bosnia argue for the same need—the same need—for the President to solicit and gain the support of the Congress before going forward. As I wrote to the President on October 13th, I believe he should welcome the opportunity to rally the Nation behind him and ask for the approval of Congress for this proposed mission. As I stated in that letter, "while this effort, of course, risks rejection, a sure political foundation seems essential to carry it over the shoals and storms of difficulties which could possibly confront our forces during an extended period of American military involvement." In my letter to President Clinton, I encouraged him to seek Congressional support and endorsement of any deployment of U.S. forces to the Balkans which might be required to enforce a peace agreement.

I am pleased to report to my colleagues that the President has responded to my inquiry, and he has responded in a most positive way. He wrote a letter to me, dated October 19, 1995, in which he says that he "would welcome, encourage, and, at the appropriate time, request an expression of support by Congress promptly after a peace agreement is reached."

Promptly after a peace agreement is reached. Let me say that again. He states that he "would welcome, encourage, and, at the appropriate time, request an expression of support by Congress promptly after a peace agreement is reached. Such an expression of support would be in the national interest." Mr. President, I congratulate and commend President Clinton for taking this position. It will require a debate over the detailed plans adopted by the President to lead a NATO deployment, if and when an acceptable peace treaty is reached among the parties.

I emphasize the preliminary nature of these assurances. Delicate negotiations are underway among the parties, with the strong intermediary role played by this Administration and others in the European region. We in this body, in what we do and say, need to be cognizant of the delicacy of this process. It would be unfortunate if Congressional action at this time made that process more difficult. It would be most unfortunate if the peace process were to be derailed by premature action here as to what we would or would not do or should or should not do in the event of an agreement. Let us wait and see what the Administration can accomplish with the parties in the upcoming negotiations.

Given the preliminary nature of this process, I certainly cannot say today what my position will be on an American deployment. The President will have to make a clear case and a strong case, and a convincing case for it, if he desires to employ American forces on the ground in Bosnia. There will be a debate. There will be a thorough examination and understanding as to what the American national interests are in that event. I, personally, will approach such a request for Congressional support with an open mind.

The President goes on in his letter to me to say that "our foreign policy works best when we are united in purpose . . . I intend to work with the Congress to make this happen." Mr. President, there will need to be a very detailed understanding of the risks, duration, the nature of forces to be deployed, the command and control arrangements, the funding, and many other aspects of the ingredients of the participation of our forces in implementing any of these treaties involved. There undoubtedly will be a major debate, as occurred in the Senate before President Bush deployed forces in combat against Iraq. Now is not the time for that debate, or for second guessing. Let us let history take its course, certain that the President will, as he has promised, request Congressional support, endorsement, and participation when the details of an accord are reached and when the allies have determined whether and how NATO should implement it.

Mr. President, the President's letter is short. I shall read it into the RECORD.

DEAR ROBERT: Thank you for letter regarding whether or not I will seek Congressional authorization prior to committing United States troops to a NATO implementation force in Bosnia. I welcome the opportunity to set forth my position.

While maintaining the constitutional authorities of the Presidency, I would welcome, encourage and, at the appropriate time, request an expression of support by Congress promptly after a peace agreement is reached.

So, Mr. President, what could be more clear as to the President's intention?

Such an expression of support would be in the national interest. I believe, however, action at this time is premature pending the proximity peace talks to be held in Dayton, Ohio at the end of this month. I hope as the peace talks commence we can continue the process begun in Congressional hearings to brief and consult with Congress so that we secure the widest support possible for peace.

Those hearings have begun. They began in the Armed Services Committee just a few days ago, and the able Senator from New Hampshire [Mr. SMITH], who is presently presiding over the Senate with a degree of dignity and grace and skill that is "so rare as a day in June," was present at the hearing, as I was, when we heard testimony.

As you know, our foreign policy works best when we are united in purpose. We have an historic opportunity in Bosnia to change the course of events, to prevent the spread of the conflict and to end the human suffering that has plagued the people of the region for so long. I intend to work with Congress to make this happen.

Thank you again for your words of support.

Sincerely,

BILL CLINTON.

Mr. President, I ask unanimous consent to have printed in the RECORD not only the President's letter but also my letter addressed to him, and to which I have alluded earlier in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 13, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: Press reports today quote Secretary of Defense William Perry as stating that your Administration will not seek Congressional authorization prior to committing United States troops to a NATO peacekeeping operation in Bosnia, although such authorization would be "welcome." If the reports are accurate, I urge you to reconsider this decision and actively seek prior authorization for this mission.

Given the gravity, risks, and costs associated with an extended peacekeeping operation in Bosnia, I think it would be wise to have the support of the American people and Congress behind you. I believe the Congressional majority should share full responsibility, from the outset, for any decision to accept the costs and risks of this proposed operation. As you know, President Bush sought and received the support of Congress and the American people for Operation Desert Storm in Iraq. That support would have been invaluable to him had the initial casualty predictions been realized, or if international contributions had not reimbursed U.S. costs associated with the mission.

Without outlining the risks and benefits of U.S. involvement in Bosnia and gaining the consent and cooperation of Congress in advance, it may well be difficult, if not impossible, to sustain or to pay for such involvement, particularly if factional fighting recurs. Secretary Perry was also quoted in the press as saying that it is "not only a possibility, but likely" that paramilitary groups would target U.S. forces in Bosnia.

I believe you should welcome the opportunity to use your considerable persuasive skills to rally the nation behind you, and that you should ask for the approval of Congress for this proposed mission before it commences. While this effort, of course, risks rejection, a sure political foundation seems essential to carry it over the shoals and storms of difficulties which could possibly confront our forces during an extended period of American military involvement. It should also serve as a signal to those who might consider testing our staying power that a strong measure of bipartisan and popular support underpins it.

As always, I appreciate your thoughtful consideration of my views on matters of this importance to our nation and your Presidency.

With kind regards, I am.

Sincerely yours,

ROBERT C. BYRD.

THE WHITE HOUSE,
Washington, DC, October 19, 1995.
Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR ROBERT: Thank you for your letter regarding whether or not I will seek Congressional authorization prior to committing United States troops to a NATO implementation force in Bosnia. I welcome the opportunity to set forth my position.

While maintaining the constitutional authorities of the Presidency, I would welcome, encourage and, at the appropriate time, request an expression of support by Congress promptly after a peace agreement is reached. Such an expression of support would be in the national interest. I believe, however, action at this time is premature pending the proximity of peace talks to be held in Dayton, Ohio at the end of this month. I hope as the peace talks commence we can continue the process begun in Congressional hearings to brief and consult with Congress so that we secure the widest support possible for peace.

As you know, our foreign policy works best when we are united in purpose. We have an historic opportunity in Bosnia to change the course of events, to prevent the spread of the conflict and to end the human suffering that has plagued the people of the region for so long. I intend to work with Congress to make this happen.

Thank you again for your words of support.

Sincerely,

BILL CLINTON.

Mr. BYRD. Mr. President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I first want to congratulate the Senator from West Virginia on his fine remarks relative to the issue of Bosnia. It is not my purpose to rise on that issue but I would make a comment that I think it is good that the President is willing to come to the Congress for prior authorization, as the Senate is familiar with the sense of the Senate which passed last week which I offered requesting the President to come to the Congress for prior approval.

I also suggest, however, that, if we wait until the agreement is reached on a peace accommodation or a peace accord, we may well be past the time when the Congress can take action effectively; that there has been discussion of the fact that we would have a very short time after a peace agreement has been reached to expect troops to be introduced into the region; in fact, 96 to 100 hours has been the discussion. Obviously, that would give a very short window for the Congress to express its views on whether or not we should be putting American soldiers at risk on the ground in Bosnia.

So I hope that we can take up this subject more substantively before a peace agreement is reached, if it is reached.

THE BUDGET

Mr. GREGG. Mr. President, I rise to associate myself with the remarks made earlier in the day by the Senator from Pennsylvania, Senator SANTORUM, who was addressing the fact that we have heard a great deal from the administration on the issue of their budget, and whether or not they have a budget which reaches a balanced budget.

As we all know, we on the Republican side of the aisle have produced a budget that reaches a balance, is scored by CBO as reaching balance over the next 7 years, and is the first budget to do so in the last 25 years. It is a budget that does this by reforming—and, I think, significantly improving—many of the functions of Government. We end for, example, welfare as an entitlement, and say to people in this country who seek to receive the support of the Government through welfare payments that they are expected to work after a certain amount of time on welfare, and they will only have the right to be on welfare for a period of up to 5 years throughout their lifetime.

It also addresses the issue of Medicaid by returning the authority for managing Medicaid with the dollars to the States, a major step forward in my opinion. For example, in the State of New Hampshire I know that we will be able to deliver better health care to our indigent, to our people who are in need of health care who qualify for Medicaid, and to the disabled, especially young mothers with children, mothers with young children, and our young men also, in a much more efficient and effective way with probably more dollars in those programs by having the State manage that program at the State level and not having it be a Federal program.

We have in our budget reform improved significantly and strengthened the Medicare Program. In fact, we have taken the Medicare Program—which is on the brink of bankruptcy, according to the Medicare trustees headed in that direction, and will be there by the year 2002, and will begin next year to spend more money than it takes in, and thus starts this death spiral toward bankruptcy—taking that program, reform it, strengthen it, and will be giving our seniors dramatic new choices which they do not have today for alternative forms of health care delivery while retaining their right, preserving their right, to continue in their pre-Medicare delivery system, if they wish it, with their present doctors.

That Medicare reform and strengthening is done in I think a way that is fairly consistent with what is happening in the private sector. It is using the marketplace, saying to the senior citizens of this country, "Listen, you should have the same choices those of us in Congress have. You should not be limited in your ability to choose other types of health care."

So we have put forward plans which I believe are very aggressive, very effective, and very positive in reforming Government, in downsizing the rate of growth of the Federal Government, and in delivering a balanced budget.

Why have we done this? Republicans recognize that, if you do not do something about the problems of this country in the area of the deficit, we are going to be driving this country into bankruptcy.

This chart reflects that fact. The red lines represent entitlement spending; the blue lines discretionary spending; and, the yellow line is interest on the Federal debt. You will note that the green line represents the revenues of the Federal Government. You will see from this chart that, if we continue on our present path with the present rate of growth as a Government, beginning in the year 2010 we will only have enough money as a Government to pay for interest on the Federal debt and entitlement spending. That means all spending such as defense spending, spending on education, and spending on the environment, we will not be able to afford.

Beginning in about the year 2017, we will only have enough money to pay for the entitlement spending of the Federal Government, which means we will not be able to pay interest on the Federal debt.

What does that mean? That means we end up like Mexico was about a year and a half ago. We will be insolvent as a nation. We will have passed on to our children a country that is essentially bankrupt. It is not fair, not right, not appropriate, and it is not something this Congress is going to allow happen. That is why, as Republicans, we came forward with this rather dramatic idea of balancing the budget, and we delivered on it. We have produced a budget that is in balance.

However, the issue is, has the President done the same thing? Has he been a substantive player in this process? Has he contributed to it? That is the issue raised earlier today by the Senator from Pennsylvania when he suggested a sense-of-the-Senate resolution which would basically allow the other side, if they felt confident in the President's numbers, to put forward the President's budget and say, all right, we stand by the President's budget as an approach to balancing the budget.

I have not heard anyone from the other side of the aisle take up the Senator from Pennsylvania on that issue, and I do not expect we will because, as a practical matter, the President has not come forward with anything that reflects any type of a balanced budget.

CBO, which is the fair arbiter of scoring in this institution, and which the President designated as the fair arbiter of scoring at the beginning of his term in office in his first address to the joint session of the Congress, has calculated that the President's budget as sent up in February was out of balance by at least $200 billion per year as far as the eye could see, adding $1 trillion of new debt to the backs of our children over the next 7 years, and that his most recent submission, which was not sent up in budget form but was sent up basically in outline form, is also entirely out of balance and does not accomplish any sort of cloture on the deficit over that same timeframe of 10 years, which he professes as being the period when we should be balancing the budget. And so there is no proposal on the table from this administration which would lead us to a balanced budget.

That gets to the core of the issue. When you hear from the other side of the aisle, as we heard earlier today from the Senator from North Dakota and the Senator from California and the Senator from Minnesota, that our budget is insensitive, that we are not caring, that we are dastardly individuals on this side for trying to balance the budget because it impacts this group or that group—many of which representations, by the way, were inaccurate, especially in reference to the WIC Program—but when you hear those allegations, you have to ask yourself, what is the true insensitivity and unfairness in this country today? Is it not really that we as a generation, our generation—I am talking now about the postwar baby-boom generation, the Bill Clinton generation, of which I happen to be a member—is running up a huge debt for our day-to-day expenses, for expenses which we incur and enjoy the fruits of today but are not willing to pay for today, that we are taking that bill and passing it on to our children?

Is not the true injustice that is occurring today to the people of this country, and especially to the children of this country and to the next generation of this country, that if we continue on our present course we will be the first, the first generation in the history of this great and wonderful country—now, again I am referring to the postwar baby-boom generation—the first generation to pass on less to our children than was passed on to us by our elders.

That is the true insensitivity, and so we have addressed it, and we have addressed it in a very positive way, I believe.

Mr. President, I would simply conclude my remarks by saying that I believe the President of the United States has an obligation to engage in this process substantively rather than politically. He has engaged very well politically. There is no question about that. He has managed to go to almost every interest group in this country, including one group in the Midwest, to this group in the South, to that group in the West, far West, and represent that he is on their side in this budget issue.

I suggest that he come to the Congress and make specific proposals which do lead to a balanced budget rather than proposals which are simply structured for his reelection campaign. If he were to come to this Congress with proposals which would lead to a balanced budget, which were substantive, where he actually put on the table a budget with numbers balanced by CBO, we could close this matter rather quickly and, as a result, pass a better opportunity for a good life to our children, which is our primary obligation as Members of the Senate.

I notice the Senator from Louisiana has some guests present, and I would be happy to pause in my comments and in fact yield back my time so that the Senator from Louisiana can introduce his guests.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank my distinguished friend.

VISIT TO THE SENATE OF THE PRESIDENT AND FIRST LADY OF MONGOLIA

Mr. JOHNSTON. Mr. President, on behalf of Senator HATFIELD and myself, I would like to introduce to the Senate the distinguished President of Mongolia, President Ochirbat and the First Lady, First Lady Tsevelmaa. Mr. Ochirbat is not only President of Mongolia, but he is generally credited with being the architect of democracy in Mongolia.

Senator HATFIELD and I, and a number of other United States Senators, had the great pleasure and honor of going to Mongolia in August of this year, and frankly we were overwhelmed not only with the friendship extended to us but with the importance of this country, its strategic location in Asia and its friendship toward America.

So we welcome the President of Mongolia and the First Lady, and look forward to many years of friendship with the President and his great country.

[Applause, Senators rising.]

EXTENSION OF MORNING BUSINESS

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask consent that morning business be extended for another 20 minutes and I be recognized for that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Chair.

TREATMENT OF THE DEFICIT

Mr. HOLLINGS. Mr. President, I want to touch on an article in the morning news relative to how we have historically dealt with the problem of budget deficits. But first, let me touch on the point raised by my distinguished colleague from New Hampshire relative to the Congressional Budget Office's scoring of the Republican budget as balanced. I hope everyone within the sound of my ears and the view of this particular C-SPAN coverage will look at the RECORD. Yes, on the day before yesterday, on October 18—and you will find it in your CONGRESSIONAL RECORD at page 15263—a letter was included in the RECORD from the Director of the Congressional Budget Office doing exactly as the distinguished Senator from New Hampshire claimed. CBO said that not only was the GOP budget in balance but that by the year 2002, there would be a $10 billion surplus.

That was day before yesterday. On yesterday, October 19, if you please, Mr. President, another letter was sent from CBO to Senators CONRAD and DORGAN. I ask unanimous consent at this particular point that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, October 19, 1995.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR: Pursuant to Section 205(a) of the budget resolution for fiscal year 1996 (H. Con. Res. 67), the Congressional Budget Office yesterday provided the Chairman of the Senate Budget Committee with a projection of the budget deficits or surpluses that would result from enactment of the reconciliation legislation submitted to the Budget Committee. As specified in section 205(a), CBO provided projections (using the economic and technical assumptions underlying the budget resolution and assuming the level of discretionary spending specified in that resolution) of the deficit or surplus of the total budget—that is, the deficit or surplus resulting from all budgetary transactions of the federal government, including Social Security and Postal Service spending and receipts that are designated as off-budget transactions. As stated in the letter to Chairman Domenici, CBO projected that there will be a total-budget surplus of $10 billion in 2002. Excluding an estimated off-budget surplus of $108 billion in 2002 from the calculation, CBO would project an on-budget deficit of $98 billion in 2002.

If you wish further details on this projection, we will be pleased to provide them. The staff contact is Jim Horney, who can be reached at 226-2880.

Sincerely,

JUNE E. O'NEILL.

Mr. HOLLINGS. I thank the distinguished Chair. Let me just highlight the pertinent part:

> As specified in section 205(a), CBO provided projections on spending specified in that resolution of the deficit or surplus of the total budget, that is, the deficit or surplus resulting from all budgetary transactions of the Federal Government, including Social Security and Postal Service spending and receipts that are designated as off-budget transactions.
>
> As stated in the letter to Chairman Domenici, CBO projected that there will be a total budget surplus of $10 billion in 2002. Excluding an estimated off-budget surplus of $108 billion in 2002 from the calculation, CBO would project an on-budget deficit of $98 billion.

So, unlike 2 days ago, when the CBO scored the GOP budget as having a $10 billion surplus in the seventh year, yesterday CBO scored it as leaving us with a $98 billion deficit. It piqued my interest because the CBO used the expression in the letter to Senator CONRAD "including Social Security and Postal Service spending and receipts."

What bothers me about that clause is that, this Senator, along with my distinguished colleague from Pennsylvania, the former Senator John Heinz, cosponsored an amendment that passed the Congress and was enacted by the President—namely, section 13301 of the Congressional Budget Act, which orders that Social Security funds shall not be used in citing in deficits or surpluses of the Government. That particular section puts Social Security off budget and in trust.

But today we learn that a mistake was made over at CBO. In considering the size of the Social Security surplus in the year 2002, they did not catch the fact that the Finance Committee had banked on a small change in the CPI, otherwise known as the Consumer Price Index. In turn, a reduction in the CPI reduces the amount of cost-of-living adjustments paid to Social Security recipients.

Under the law, this change in Social Security payments does not divert money to lower the deficit or to fund the general budget. Instead, if you save money in Social Security, the money merely adds to the surpluses in the Social Security trust fund.

Right now, Mr. President, we have a surplus of $481 billion in Social Security. We have a surplus in Medicare of $147 billion. And instead of recognizing that fact, we run around knocking over desks to get on TV and carry on about things that will happen 7 years from now for Medicare, 30 years from now with Social Security. What we don't do is to pay attention to the crisis that is happening right this minute.

And that brings me to the morning editorial by our friend, Mr. J. W. Anderson of the editorial staff of the Washington Post.

I ask unanimous consent that the editorial in its entirety, entitled "This Is Leadership?" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 20, 1995]

THIS IS LEADERSHIP?—SINCE 1973, THE DEFICIT HAS BEEN CENTRAL TO AMERICAN POLITICS

(By J.W. Anderson)

President Clinton's repudiation of his 1993 tax increase, followed by his ungainly scramble to repudiate the repudiation, has inflicted a severe injury on himself and his party. It becomes increasingly difficult to know exactly what he stands for.

His first budget with its tax increase and its attack on the deficit is arguably the bravest, and certainly the most useful, of his accomplishments as president. Now, alas, he's running after the Republicans' tax-cut bandwagon and throwing the best of his own record into doubt. But it's not unprecedented. President Bush, running for reelection in 1992, repudiated the tax increase that he had accepted in the very constructive budget compromise of 1990.

This country seems to be going through a series of presidencies eroded and diminished by the savage politics of intractable budget quarrels. How long will it continue? It's hard to say. The process has been going on for more than 20 years, and progress has been slow.

The origins of today's budget fights lie in the pivotal year 1973—the year that the great postwar boom ended.

For a quarter of a century, from the late 1940s into the early 1970s, standards of living improved faster than ever before in history. It happened throughout the world, but most spectacularly in the developed industrial democracies. As the long boom continued, governments began to think that they had at last solved the mysteries of economic growth and that they now knew how to keep their economies expanding steadily and rapidly.

The only question was the pleasant one of how best to spend the flood of wealth, private and public, that this boom was generating. Most of the democracies decided to put much of the new revenues into new and expanded social benefits—mainly pensions for the elderly and health care. In those years here in the United States, Medicare and Medicaid were enacted, and Social Security was greatly increased. In Western Europe, where the war years had created a hunger for security beyond anything in the American tradition, this expansion of benefits went much farther.

Then, in 1973, the boom suddenly ended. Economic historians still aren't quite sure why it happened. The oil crisis had something to do with it and perhaps the American decision to take the dollar off the gold standard. But whatever the reasons, throughout the rich democracies—here in North America, in Western Europe and in Japan alike—the economic growth rates dropped to half the level of the previous 25 years.

The consequences have been huge. One of them was that high growth no longer produced the immense increases in tax revenues on which all those governments had been counting to finance the new social entitlements. But, having put those pensions and health insurance laws in place, they couldn't retreat from them. The result was the era—which still continues—of big budget deficits.

The United States is struggling with a deficit that now, counting all levels of government including states and municipalities, comes to about 2.2 percent of gross domestic product. All of the other big industrial democracies have bigger deficits—some of them much, much bigger.

The budget deficit has become central to American politics. It's the same in Europe, and more so because all of the European Union countries have agreed to get their deficits down as a condition of joining the common currency at the end of the decade. Most of them clearly won't make it, and they fear being shut out of continental prosperity. Just as deficit politics is weakening the American president, it's having the same effect in Europe. The most notable example at the moment is France's new president, Jacques Chirac, who is caught between economic reality and a series of unwise campaign promises.

The strongest political leader in Europe is Helmut Kohl, Germany's chancellor, who has responded forcefully to deficit dangers by slamming a heavy surtax on top of a tax burden that was already high. It's to pay the costs of modernizing formerly communist eastern Germany. Other presidents and prime ministers don't have the advantage of a widely accepted public need like that one.

Here in the United States, the past 22 years' record suggests that the country will coast along, weakened and distracted by its budget troubles until they produce a real financial crisis. Americans, and particularly American politicians, are good at meeting crises. Nothing short of a genuine crisis, it seems, can generate enough public attention and concern to make a real solution possible and return the federal budget to the small deficits of the years before 1973.

Mr. HOLLINGS. I thank the distinguished Chair.

Summarizing, if you please, Mr. President, Mr. Anderson states that "from the late 1940's into the early 1970's, standards of living have improved faster than ever before" in the history of this Nation. We had surplus moneys, and the only question was "how best to spend the flood of wealth, private and public. . ." And, as a result, we greatly increased Social Security, health care, Medicare, Medicaid and all these particular programs.

Then Mr. Anderson goes on and says, now wait.

> Then, in 1973, the boom suddenly ended. . . (T)he oil crisis had something to do with it, taking the dollar off the gold standard had something to do with it. . . . The budget deficit has become central to American politics.

He cites how Europe has confronted this particular problem whereby the European countries have agreed that their deficits must be reduced as a condition of joining the common currency and, emphasizing, I quote,

> The strongest political leader in Europe is Helmet Kohl, Germany's Chancellor, who has responded forcefully to deficit dangers by slamming a heavy surtax on top of a tax burden that was already high.

Now, that is historic, having the media praise somebody for increasing taxes. Let me go to the concluding sentence here of the Anderson article that I included in the RECORD.

And I quote:

> Nothing short of a genuine crisis, it seems, can generate enough public attention and

concern to make a real solution possible and return the Federal budget to the small deficits of the years before 1973.

Now, my point here, Mr. President, is, we have a crisis right here and now. The gentleman says, "Nothing short of a genuine crisis * * * can generate enough public attention." The only hope we have is to use the free media to reveal that crisis. The press corps absolutely refuse to do it. They continue to report deficits in the terms of what they call a unified deficit, which, contrary to the law, includes the borrowing from the trust funds.

I can show you what I mean in article after article where $161.4 billion is cited as last year's deficit. The true deficit was $283.3 billion—because that is what you get if you subtract out your Social Security moneys, your civil service and military retirement, your Medicare and all the rest of the trust funds that you are going to have to pay back. And as of this minute, we owe the trust funds $1.255 trillion.

Now, under the Republican 7-year budget, we are going to use another $636 billion of Social Security moneys. So instead of owing Social Security $481 billion today, in 2002 we are going to owe over $1 trillion all the while beating our breast and saying that we are balancing the budget.

We have got to cut out the gamesmanship and get down to truth in budgeting. Mr. President, it is a heck of a note to have to write the Congressional Budget Office and ask, "In accordance with the law, would you please cite the deficit?"

On one day, they cite a surplus of $10 billion. Then when we asked them to comply with the law, they said, "Excuse us, there is a deficit of $98 billion." Now they have corrected that little mistake and got it up to $115 billion.

Just the other Sunday, I was listening to Mr. Russert on "Meet the Press" asking Mr. Panetta: "Will you withstand those political charges and go along with this reduction in cost-of-living increases in order to balance the budget?"

Going along, with lowering cost-of-living increases in Social Security, does not balance the budget. It enhances the Social Security surplus. He said time and again on that particular program to Mr. MOYNIHAN.

My point is that historically we have gotten into the hands of the Philistines. I saw this start back in West Virginia with our friend, President John F. Kennedy, when he was Candidate Kennedy. They never expected in West Virginia that upbeat Harvard graduate was going to best the populous Hubert Humphrey. But Jack Kennedy had Lou Harris and played all the hot-button issues like a Stradivarius.

He came out on top, and then the rule of thumb came for all national elections, "Get yourself a pollster."

Our trouble is that the media act in complicity with the politicians. They get irritated or annoyed if you try to explain an issue. They want a quick, pithy, confrontational answer to any particular item. They do not care about an issue, they do not understand it, and they continue to report what is not the fact, namely, that you are balancing your budget when they know otherwise.

Mr. President, I ask unanimous consent that the budget table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET TABLES

[Outlays in billions]

Year	Government budget	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−311.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports.

	Year 2002 (billion)
1996 Budget: Kasich Conf. Report, p. 3 (deficit)	−$108
1996 Budget Outlays (CBO est.)	1,583
1995 Budget Outlays	1,530
Increased spending	+53
CBO Baseline Assuming Budget Resolution:	
Outlays	1,874
Revenues	1,884
This Assumes:	
(1) Discretionary Freeze Plus Discretionary Cuts (in 2002)	−121
(2) Entitlement Cuts and Interest Savings (in 2002)	−226
(3) Using SS Trust Fund (in 2002)	−115
Total reduction (in 2002)	−462

Mr. HOLLINGS. You can see how the spending has gone up. For example, from 1995 to 1996, spending goes from $1,530,000,000,000 in spending to $1,583,000,000,000 in spending. In other words, while we say that we are cutting spending, in fact we have increased spending 53 billion bucks.

Under the GOP plan we are supposed to cut $45 billion in spending this year. If you see in the last year of their plan you have to have a freeze of $96 billion, additional cuts of $25 billion—cuts in entitlements of $159 billion and interest savings of $67 billion, for a total of $226 billion—plus the Social Security trust fund of $115 billion.

Now those are a lot of facts and figures, but what I am saying is you have to have total reductions in 2002 of $462 billion. Let's get real. If you cannot, with a new group of freshmen spurring us to cut, get $45 billion, how are you going to get $462 billion?

That is why I told my colleague, the distinguished chairman of the Budget Committee, if this particular plan balanced in the year 2002, I would jump off the Capitol dome. There is no chance of that. They know it and I know it.

In the Commerce Committee, for example, we have presumed to save $15 billion. The truth is—and we all know it in the Commerce Committee—that $4.5 billion of the $15 billion is already expended in the telecom bill.

That has occurred in a lot of these other committees. In the Finance Committee yesterday, they have a mechanism for Medicare called BELT. You find out that the poor, the sick, and taxpayers in America are the ones that are going to be belted. That little phrase requires that if Congress comes in say $40 billion shy, they push off the heavy lifting on to the next Congress.

I ask unanimous consent, Mr. President, that a chart which I compiled earlier this year with respect to "The Realities on Truth in Budgeting," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Mr. HOLLINGS. Mr. President, I showed the cuts necessary at that time and showed that if you wanted to balance the budget without using the trust funds you had to increase revenues as well as cut spending.

Governors pay their bills, mayors pay their bills, but not us in Congress and the President. We have no idea of paying the bills. We blissfully continue this one grand political charade, this one grand fraud.

The only way I know to expose it is through the free press. Thomas Jefferson once commented that between a free government and a free press, he would choose the latter. You can have a free government, but you cannot hold it long unless you get a free press. But unfortunately, the free press here is a pollster press. In today's paper it says that the best of the best reporters were out eating supper instead of listening to the President's speech in Houston. They do not care. They get little snippets and stories, and you cannot get the truth. The truth is, Mr. Anderson, there is no crisis we are going to have to reach. We are in crisis now.

We have spending on automatic pilot. Next year we will have to pay $348 billion in interest costs on the national debt. That is a billion dollars a day. If that is not a crisis, I don't know what is. We can straighten out Medicare, but we do not have to devastate the Government in doing so. Neither side, including the President, has a balanced budget. The Democrats do not have a balanced budget, and the Republicans do not have a balanced budget. So we should not act like there is a choice at the present time.

The truth of the matter is that next year we will pay $348 billion in interest. They say you cannot avoid death and you cannot avoid taxes. Well, you cannot avoid interest costs. As such, you have tax increases on automatic pilot of $1 billion a day. That is the hemorrhage we have to stop. That is the real problem confronting us. And we are not doing it. We are arguing whether it is for the middle class or rich, and who is going to get the political credit. We ought to stop these shenanigans and get down to the business at hand.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POTENTIAL DEPLOYMENT OF AMERICAN TROOPS TO BOSNIA

Mr. DOLE. Mr. President, this week the Senate and the House began conducting hearings on the potential deployment of American ground forces to Bosnia and Herzegovina in the event a peace agreement is reached. This is the beginning of a very important process of congressional review and debate. I am pleased that the administration sent the Secretary of State, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff to testify on behalf of the administration's proposal.

Any decision to send American Forces into harm's way requires the utmost consideration. American interests may justify sending Americans into Bosnia, but the goals must be clear and the risks must be understood and weighed carefully.

Unfortunately, the administration has not yet made the case for its proposed operation. Many questions remain unanswered and many answers remain ambiguous.

The first task must be to persuade the Congress that this is the best option of the options available. And let me be clear, there are other options.

For over 3 years now, I have called for American leadership. For over 3 years now, I have called for NATO involvement. But, I am not convinced that exercising United States leadership and deploying NATO ground forces in support of a peace agreement that partitions Bosnia is the best or only option. We need to know: will American Forces be the guarantors of ethnic cleansing? Will they be used to prevent Moslem refugees from returning to their homes in what becomes the Bosnian Serb Republic?

With respect to the peace settlement, the administration must be able to ensure that any peace reached is a stable and sustainable peace—that there are defensible borders; that the Bosnian Government structure is viable; that this is not just the first step toward a greater Serbia.

If there is a genuine peace, there is a real question why tens of thousands of peacekeepers, including Americans, are needed? Moreover, how did the administration come up with the number 25,000 for the American ground force contribution? Is this solely the result of President Clinton's speech 2 years ago or is there a military rationale for it?

There is a lot of confusion as to what NATO's role will be. Will NATO ensure the territorial integrity of Bosnia? Who will accomplish the tasks that NATO does not wish to be involved in, such as facilitating the return of refugees, the conduct of free and fair elections, humanitarian operations?

What will this operation cost? What factors are current cost estimates based on? How does the administration plan to pay for such an operation? Was Secretary Perry serious when he said that the administration would take funds from missile defense programs—intended to protect Americans from the growing threat of missile defenses—for peacekeeping?

What are the criteria for success of this operation? What is the exit strategy? How do we ensure that the Bosnians can defend themselves once peacekeepers leave? Who will arm and or train the Bosnians?

It seems to me that developments in recent months have vindicated the overwhelming majority in Congress who argued that the Bosnians and the Croats were capable of defending themselves if armed. It has also demonstrated that NATO air power can be used effectively and that Bosnian Serb Forces are not invincible. The military balance began shifting in Bosnia, but I am not sure that it has stabilized. In my view, lifting the arms embargo on Bosnia is as relevant in a post-settlement situation as it is now. This matter cannot be avoided and must be resolved as part of any peace settlement.

The bottom line is that Congress is not yet in possession of the facts. Indeed, the administration is not in possession of the facts. There is no settlement yet. But, with that in mind, we must make sure that we do not deploy any forces without clear answers to these critical questions. I am deeply concerned that since current NATO plans call for initial deployments within a few days of a settlement being signed that we may not have all the answers—and that the administration will go ahead and deploy forces and try to figure out what they will be doing after they are already on the ground.

In view of these many unanswered questions—and those I have raised are by no means all-inclusive—I would strongly urge the administration to cooperate with the Congress and provide us with the information we need to make an informed judgment.

Furthermore, I strongly urge the administration to seek congressional authorization for any deployment of United States ground forces to Bosnia. This was my view prior to the gulf war, and it is now. It is essential that the American people are behind any undertaking that places thousands of our soldiers in a dangerous environment for a prolonged period of time.

Mr. President, let me also express my deep concern about other aspects of the diplomatic process and the talks that are due to begin on August 31 in Dayton, OH. The agenda does not include Kosova which has been under martial law for over 6 years now. This is not just a matter of human rights, but a question of Kosova's status. Even in the former Yugoslavia, Kosova had autonomous status—the people and their assembly could make their own decisions. Today, there are 2 million Albanians there under an apartheid-like system—A large majority terrorized and oppressed by a small minority.

We cannot let Serbian President Slobodan Milosevic off the hook for Kosova, or for his continued support of paramilitary forces which are reported today to have slaughtered hundreds of Moslem men and boys in northern Bosnia. Milosevic is no peacemaker, rather the mastermind behind ethnic cleansing, oppression, and aggression in the former Yugoslavia. As early as 1992, senior U.S. Government officials accused him of war crimes. But today, he has been invited by this administration to the United States to participate in peace talks. I believe that this was a serious error in judgment which calls into question the administration's commitment to the prosecution of war criminals in the former Yugoslavia. Sure, Milosevic has not yet been indicted by the war crimes tribunal, but, there is no doubt that he has given support and safe haven to some of the most notorious war criminals. Slobodan Milosevic should not be issued a visa. If the administration insists on this, at the very least, it should ensure that any visa issued to Milosevic confines him to Wright Patterson Air Force Base. He does not deserve to be treated like other foreign dignitaries.

Finally, there should be no comprehensive sanctions relief on Serbia until there is a satisfactory resolution of the situation in Kosova. Unless there is a comprehensive settlement including Kosova, there will be no stability in the region—one of the key objectives presently being cited by the administration. The sanctions on Serbia are the only leverage the United States and the international community have been willing to use on the Belgrade regime.

Mr. President, I hope that the administration will address my concerns and those of my colleagues, and cooperate with the Congress so that together we can determine what is in the best interest of the United States.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. FEINGOLD. Mr. President, I ask unanimous consent that morning business be extended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING TROOPS IN BOSNIA

Mr. FEINGOLD. I, too, am about to speak about the situation in Bosnia and am glad to follow on the remarks of the majority leader and the Senator from West Virginia, both of whom have expressed a concern about the role of Congress as we go forward with this possible commitment of troops into the situation in Bosnia.

This week, administration officials testified before the Senate Foreign Affairs Committee, the Senate Armed Services Committee, the House International Relations Committee, and the House National Security Committee on the issue of the deployment of United States troops as a part of NATO's implementing force in the Republic of Bosnia and Herzegovina.

While the testimony laid out some of the proposals the administration is contemplating, it opened up many, many questions for consideration, some of which the majority leader just listed. The most constructive forum, in my view, to debate those issues, though, is through the constitutional process embodied by the War Powers Act by which Congress is required to authorize the deployment of troops into imminent hostilities. For that reason, I am pleased that just today the President has indicated that he will seek congressional approval of the mission, as Senator BYRD just reported. I am not completely satisfied, however, that the President will request authorization prior to the time that he has actually made a commitment. I want to be sure that he does not sign a peace treaty with that commitment in it and then come back and say, "By the way, I need your approval to go forward."

If Congress is going to really be a partner in the process envisioned under the Constitution then we should either vote on an authorization prior to the commitment to deploy is made, or alternatively, the President should clearly state that any commitment he makes for U.S. troop deployment during negotiations is contingent upon congressional approval. One way or the other, the President has in effect rendered Congress' role meaningless.

To ensure that this most necessary exchange takes place in the most constructive sequence, Mr. President, I am going to introduce a sense-of-the-Senate resolution today which would express our intention to vote on a resolution of approval prior to the commitment to introduce United States forces in Bosnia as a part of IFOR. My resolution does not approve or disapprove of the administration's proposal. Rather, it requires the Senate to debate and vote on it before we are presented with a commitment to deploy. What I am trying to avoid, Mr. President, is being presented with a fait accompli to authorize a deployment, and therefore undermine the important debate that we should have had.

Mr. President, in many respects this is a bit of a rehash of the war powers debate, the debate about whether this body has the right and the responsibility to authorize the use of American troops. Indeed, the mere fact that this resolution is needed indicates the institutional crisis we face in this country about how we make the gravest of decisions—the decision about whether to send American men and women in harm's way overseas.

This is a debate we face every time American troops are called to active duty. Unfortunately, it is not a question we have seriously sought to resolve. Instead, we seem to muddle through each crisis and try to work out sort of a case-by-case understanding between the Congress and the President, somehow hoping that the skeleton of war powers will stay hidden in the closet just until the current crisis goes away, as if there is not going to be another crisis in the future.

Mr. President, the issue of war powers will not go away because its purpose really makes too much sense to ignore. While the War Powers Act has certainly failed as a mechanism for implementing article I of the Constitution, its intention should be heeded, and Bosnia is a perfect example of why.

The Constitution and the War Powers Act were both crafted to take advantage of the collective wisdom and power of both the President and the Congress in making some of the most serious decisions we face. Our democracy does not vest in one person so much power that he or she alone can use military force to accomplish their own goals. Rather, our system splits such an awesome power by charging the President with commanding the Army, the Navy, and giving Congress both the power to declare war and the responsibility to appropriate funds for military action.

Mr. President, Congress is not simply supposed to be consulted on such matters or just be a rubberstamp for such actions. Congress is supposed to be an active partner in this process.

Mr. President, I think this is shared power worth protecting. While I have no doubt of President Clinton's motives in committing 20,000 troops to Bosnia, I want to ensure that some other future President does not have the unilateral authority to send 80,000 troops for some reason that she or he alone supports. We have to remember that how we proceed here can and will set a precedence on how troops are deployed for other peacekeeping or peace-enforcing missions.

Mr. President, this process is also important for marshaling public support for any military operation—which, as any of our veterans will tell you, is a critical element for success for any mission. It is through the authorization process that the mission is explained and refined to the American people generally, and specifically for those folks that are asked to serve their country and risk their lives. The questions are answered, fears are alleviated, and the American people are given an opportunity to air their views on what the mission means and is worth to them.

In this case, in this case of Bosnia, there are many, many, unanswered questions at this point, many good questions that the President will want to answer in building support for this mission.

Mr. President, these are very, very crucial questions. They are fair questions. Their answers hold great consequences for this country, for NATO, for the Balkans, and perhaps for the world.

Certainly, if we are going to do something as drastic as deploy U.S. troops, we have to create a process by which the Congress and the executive work together to forge a workable and attainable mission.

Mr. President, my main point is that consultations are not going to be enough. Authorization that comes just after a commitment to the parties has already been made is not sufficient, either. Congress has to have this debate before the President is authorized to commit troops, and any commitment he makes prior to congressional approval, I believe, has to be explicitly conditioned upon subsequent congressional consent.

This is the only way to ensure that article I of the Constitution is respected and that the awesome decision of placing U.S. troops into imminent hostility is one that is jointly made by the executive and the legislative branches. Our troops must have the confidence that, if they are going to be sent to Bosnia, they are doing it with the support of the American public through their elected Representatives. If they cannot get that, then perhaps we may actually say that their mission may not be worth the risk.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAIG). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ENDOWMENTS

Mr. PELL. Mr. President, I find it both ironic and disheartening to be standing here 30 years after the establishment of the National Foundation on the Arts and the Humanities—30 years distinguished by success in preserving and nurturing the arts and scholarship of our Nation—defending the very principles upon which the legislation was created. As one of the founding sponsors of the legislation authorizing the National Endowments, I am deeply concerned about the future of these extraordinary agencies.

I am told that the old arguments no longer work. Opponents dismiss the overwhelming evidence that a national infrastructure results in greater public access to our culture. They gloss over the fact that American creative excellence influences the way we are perceived as a Nation and remembered when the history of our civilization is documented. They ignore the many studies which demonstrate how the arts have stimulated local economies by revitalizing downtown areas, attracting tourism and providing jobs and taxable income.

Yet, who can deny that Americans of all ages from every corner of the country have a tremendous thirst to learn, enjoy and participate in the great diversity of our Nation's culture? The public is aware that the Endowments have brought a great value to millions of Americans. The voices acknowledging this are no longer silent, but are being heard in increasing numbers. And what the people seek is not to be found in the commercial marketplace. Throughout the ages, the great legacies of art and scholarship have been created, sustained and preserved with some form of patronage. They should not now be expected to pay for themselves.

I am proud when our American artists are recognized for their excellence with invitations to demonstrate their work abroad. I am equally proud when a child remains in school and improves his grades as a result of the positive experience he has had with a school-based arts program. The National Endowment for the Arts fosters American creativity just as the National Endowment for the Humanities stimulates learning. I firmly believe that regardless of our differences of wealth, race, religion and political belief, our cultural development binds us together, develops our character as Americans and establishes our common heritage.

The Endowments were founded and have been sustained over the years with bipartisan support. Hearings before the full committee earlier this year demonstrated that the trend can continue. What has happened to this bipartisanship elsewhere in Congress? Why have the divisive tactics of a few led to so much time being devoted to such a small amount of money?

While critics eager to further polarize our parties have focused on a very few controversial grants, perhaps they have missed the fact that the Arts Endowment Design Program led the way in convening a design panel to plan the post-bombing redevelopment of downtown Oklahoma City. Perhaps they did not know that a world-class American dance company performed in their hometown or that young members of a string quartet gave a series of workshops in their schools. Perhaps they are unaware that many grateful constituents remember the role of both Endowments in bringing hope, joy, inspiration, knowledge and healing to their own communities.

Perhaps, too, the critics did not notice the valuable changes in the agency's procedures instituted by National Endowment for the Arts Chairman Jane Alexander last year that go a long way toward addressing the public's concerns by strengthening the Chairman's oversight of Endowment grantees and making the Endowment respond more effectively to the needs of the people. I fully understand that many Americans are troubled when they hear of works distasteful to them that are funded (or rumored to be funded) in part with their tax dollars. Nevertheless, while the Endowment has awarded well over 100,000 grants, fewer than 40 have resulted in any controversy. The remaining 99.96 percent of all grants made are testament to the Endowment's success.

As each of my colleagues know from their own constituents, the public's investment in a relatively small Endowment grant is often the key to stimulating the release of large amounts of State and local funds and private contributions. Unlike most Federal programs, the National Endowment for the Arts initiatives leverage 12 non-Federal dollars for each Federal dollar invested. Similarly, the National Endowment for the Humanities stimulates an average of $70 million in private support annually. In all probability, this money would never have become available to the recipients without the initial Endowment recognition. Donors look to the Endowments for leadership when they decide how to allocate their funds, and it is these private funds that guarantee the survival of the best of our country's arts and scholarship. In short, removal of the national recognition and the stimulation of partnerships offered through Federal grants will dramatically reduce all forms of State and local cultural support.

Can we not move beyond the ideology of a few? Last July, the Committee on Labor and Human Resources voted 12 to 4 in favor of an amendment in the nature of a substitute to S. 856 to improve and extend the National Foundation on the Arts and Humanities Act of 1965, the Museum Services Act, and the Acts and Artifacts Indemnity Act. The committee report reaffirms the Government's commitment to, and interest in, supporting arts and humanities projects throughout the Nation well into the future. After four hearings and lengthy debate, the committee determined that the agencies do provide valuable service to the American public and should be maintained.

October is National Arts and Humanities Month. Let us use the occasion to reflect upon the eloquent words of President Kennedy delivered shortly before the Endowments were founded:

> I see little of more importance to the future of our country and our civilization than full recognition of the place of the artist. * * * I look forward to an America which will reward achievement in the arts as we reward achievement in business and statecraft. I look forward to an America which will steadily raise its standards of artistic accomplishment and which will steadily enlarge cultural opportunities for all of its citizens.

I believe that the National Endowment for the Arts has been remarkably successful in furthering this ideal. Arts is no longer the privileged domain of a relatively few practitioners and connoisseurs; it no longer exists in a remote and rarefied atmosphere. It can no longer be considered as incidental or peripheral to our way of life. It is central to the life we cherish and to the beliefs we hold; for as a nation we are reaching toward maturity, and the surest sign of maturity lies in the growing expression of an indigenous and creative national culture.

The Arts Endowment provides critical assistance in creating and presenting our Nation's music, theater, dance, literature, painting, sculpture, photography, film and video, design arts and folk arts. Without this funding, many popular programs would simply not exist, let alone be made available to millions. Even the very limited funds appropriated for the Endowment help keep ticket prices reasonable, thus enabling lower income citizens, young people, the elderly and the disabled to gain access to our common culture.

The Humanities Endowment has supported and preserved the work of an extraordinary group of scholars and historians, and stimulated a wide array of new scholarship—all of which has served to expand our Nation's collective knowledge of history, literature, philosophy, languages, and religion. Many know of the agency's role in sponsoring thrilling interpretive exhibitions and informative films on public television. It has also helped to fund such diverse projects as a dictionary of American language, an encyclopedia of bioethics, the publication of George Washington's papers, the distribution of the "Civilization" series to 2,000 colleges, the microfilming of over 600,000 brittle books and repair of 100,000 additional volumes, training for conservators, summer seminars for teachers, the introduction of various new technologies to the classroom, and repairs to museum, library, and school collections damaged by Hurricane Andrew and the Midwest floods.

Parents and teachers know the importance of arts and humanities curricula; and studies confirm that they teach young people creativity, increase self-discipline, develop analytical and communication skills, and are a critical means of passing on an understanding of American culture and civilization to the next generation.

I urge my colleagues to stop using the Endowments as pawns in an ideological war and move to reaffirm the Government's support of the arts and humanities. It is very important that we act on the reauthorization of the National Foundation for the Arts and Humanities Act of 1995 this year and I fervently hope that our leadership will schedule a time to consider bill S. 856 as soon as possible.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2425. An act to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, October 20, 1994, by the President pro tempore [Mr. THURMOND]:

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2425. An act to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 20, 1995, he had presented to the President of the United States, the following enrolled bills:

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes.

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 929. A bill to abolish the Department of Commerce (Rept. No. 104–164).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABRAHAM (for himself, Mr. HEFLIN, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. CRAIG, and Mr. KYL):

S. 1346. A bill to require the periodic review of Federal regulations; to the Committee on Governmental Affairs.

By Mr. COATS:

S. 1347. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Captain Daryl*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1348. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Alpha Tango*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1349. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Old Hat*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD:

S. 1350. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, and for other purposes; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN:

S. 1351. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1352. A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself, Mr. BUMPERS, Mr. DEWINE, and Mr. LAUTENBERG):

S. 1353. A bill to amend title 23, United States Code, to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD:

S. Res. 187. A resolution to express the sense of the Senate that Congress should vote on the deployment of U.S. Armed Forces in the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM (for himself, Mr. HEFLIN, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. CRAIG, and Mr. KYL):

S. 1346. A bill to require the periodic review of Federal regulations; to the Committee on Governmental Affairs.

THE REGULATORY REVIEW ACT OF 1995

• Mr. ABRAHAM. Mr. President, I rise in support of the Regulatory Review Act of 1995, which I introduce today on behalf of myself and Senators HEFLIN, LOTT, NICKLES, HUTCHISON, CRAIG, and KYL.

It is only common sense that the utility of a rule may change as circumstances change. Under current law, however, a rule enjoys eternal life unless the agency that promulgated it takes affirmative steps to terminate it. And in fact agencies rarely choose to burden themselves with the task of reexamining the rules they have promulgated. As a result, our rulebooks are littered with rules that are obsolete, inconsistent with other rules, or just plain unnecessary.

The weight of this heap of outdated rules rests most heavily on the small businesses of this country. Unlike larger firms, small businesses cannot spread the costs of regulation over a large quantity of output. Nor can they pass their regulatory headaches on to an accounting department, legal counsel, or human resources division. Instead, in case after case the entrepreneur himself must spend innumerable hours attempting to comply with the mandates of Federal regulators. It comes as no surprise, then, that problems relating to regulation and Government paperwork were the fastest growing areas of concern in a recent survey conducted by the National Federation of Independent Businesses.

The Regulatory Review Act would solve the problems caused by unnecessary rules. Under the act, the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget would coordinate and supervise agency reviews of covered rules, which largely would be rules that impose annual costs of $100 million or more. Covered rules not reviewed by the end of their review period would terminate. The duration of review periods under the act would be up to 7 years, plus a possible extension of 6 months. Finally, the act itself would sunset after 10 years.

There are several reasons why OIRA should be given supervisory authority over the regulatory review process. Obviously, the review process will involve determinations as to whether the rules of one agency conflict with or duplicate those of another agency. Those determinations will require a global, interagency perspective that comes much more naturally to OIRA than to the individual agencies themselves. Additionally, vesting this authority in OIRA, rather than scattering it among the various agencies, will provide a timely reaffirmation of what Alexander Hamilton called the unity of the executive in Federalist No. 70.

It is also worth noting that the act avoids two areas of contention that arose during debate on S. 343, the regulatory reform bill. First, the act contains no decisional criteria; instead, rules would be reviewed according to whatever criteria already exist under current law. Second, the act would not affect the availability of, or standards for, judicial review of final agency action. Thus, at bottom, the act stands for the commonsense principle that agencies should be required to review their rules periodically.

Mr. President, I urge the Senate to address this issue without delay. The small businesses represented by the National Federation of Independent Businesses, which strongly supports the Regulatory Review Act, demand no less.•

By Mr. COATS:

S. 1347. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Captain Daryl*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

• Mr. COATS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12105 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the vessel CAPTAIN DARYL, United States official number 64320.•

By Mr. COATS:

S. 1348. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Alpha Tango*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

• Mr. COATS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the vessel ALPHA TANGO, United States official number 723340.•

By Mr. COATS:

S. 1349. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Old Hat*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

• Mr. COATS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the vessel OLD HAT, United States official number 508299.•

By Mr. FEINGOLD:

S. 1350. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, and for other purposes; to the Committee on Governmental Affairs.

THE SMALL BUSINESS FAIR TREATMENT ACT OF 1995

• Mr. FEINGOLD. Mr. President, I am pleased to introduce the Small Business Fair Treatment Act of 1995, a measure designed not only to afford regularly relief to our Nation's small businesses, but also to begin to change the attitude of Government regulators who are often viewed by small business as adversaries rather than as sources of help and guidance.

Mr. President, the regulatory structure that has developed over the years performs important safety, health, and consumer protection functions.

Just 2 years ago, a cryptosporidium outbreak in the city of Milwaukee's water supply left 104 people dead and over 400,000 people seriously ill.

That was a tragic reminder of how just one small crack in the regulatory process can have devastating consequences for a community that until then had never experienced any such problems.

The need for strong, effective regulations is undeniable.

At the same time, few would dispute that the current regulatory system needs meaningful reform.

Mr. President, I have held over 175 listening sessions in my home State of Wisconsin during the 2½ years that I have been a Member of this body.

Countless times I have had constituents stand up at these meetings and express their tremendous frustration and anger with a regulatory process that too often is impractical, impersonal, and needlessly burdensome.

This body debated a regulatory reform proposal earlier this summer that sought to respond to this widespread frustration and anger.

But many of the proposals that were offered on the floor of the Senate during that regulatory relief debate earlier this summer focused more on changes in the actual rulemaking process and featured solutions that if not entirely Washington-based at least took a Washington perspective in addressing the issue.

The central devices that evolved in that debate as the tools by which the regulatory process would be improved, such as judicial review and the petition process, were approaches to regulatory relief that reflected a large corporation, Washington lobbyist, Washington law firm based approach to solutions.

Mr. President, there certainly is a role for our Nation's larger corporate citizens to play in the regulatory climate of this country, but those interests do not always represent the interests of all businesses, and the solutions to the regulatory problems of large businesses are not always appropriate or effective for smaller businesses.

While a multinational corporation with substantial resources might find it reasonable to devote funds to an enhanced petition process, that kind of solution might mean little for a small, family owned business with a fraction of the resources of a large firm, and little working knowledge of the rulemaking process.

As well, Mr. President, solutions proposed during the regulatory relief debate did little to focus on the day-to-day, practical problems of regulation with which small businesses must contend.

By contrast, this legislation focuses on small business, and on the practical problems of dealing with Government agencies and regulations.

It contains a number of provisions that make it easier for small businesses to comply with Government regulations, including several that are similar to some excellent ideas offered as part of legislation sponsored by the chair of the Senate Small Business Committee, Mr. BOND, as well as others that have been implemented at the direction of President Clinton.

The bill requires agencies to publish compliance guides that provide a straightforward, plain language description of a rule or regulation with which a small business must comply.

These guides would be required to be published and disseminated by the agency before any enforcement action was brought.

Beyond the obvious help these guides could be for businesses affected by a Government regulation, requiring an agency to think out and describe a new regulation in a clear and understandable way will only enhance the ability of that agency to administer the regulation.

The bill also requires agencies to establish procedures for the use of so-called no action letters. These are letters issued by an agency in response to a specific request of clarification from a small business trying to comply with that agency's regulations.

The bill requires agencies to make a timely determination whether or not to issue such a no action letter, and if such a letter is issued, the bill establishes that the business could rely on it in an enforcement action related to matters laid out in the letter.

In addition to providing specific direction to a small business in dealing with subjective interpretations of agency regulations, a no action letter also establishes a record to which other businesses can turn in seeking guidance on how a particular regulation should be interpreted.

A body of no action letters also ensures consistency in the interpretation of regulations by an agency, something that can only further enhance compliance.

Mr. President, the bill also allows small businesses to request an audit from a regulator without the fear that the findings of such an audit would be used in any enforcement action.

The findings from such an audit would not be used in any enforcement action, if correction of any identified problem were made within 180 days, except if the basis of the enforcement action were a violation of criminal law, or if the voluntary audit was requested for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of the audit, was imminent or in progress.

In listening to small businessmen and women in Wisconsin, one of the most troubling complaints that is raised with respect to Government regulation is the feeling that Government agencies too often take a confrontational or adversarial approach in dealing with the business.

Whether or not this feeling is justified in every instance, in many instances, or in only a few, it is honestly felt and reveals a problem that needs fixing.

When the relationship between those who oversee and enforce regulations and those who must observe them deteriorates in this manner, it only hinders compliance.

By allowing businesses to request a review of their operations, without fear that the results would be used against them, we can begin to improve that relationship, and change the way business perceives regulators from adversaries to sources of help.

Mr. President, another provision in the bill allows small business a 6-month grace period to correct violations of Environmental Protection Agency regulations after they have been identified, unless there is imminent risk to public health or worker safety.

This proposal has already been implemented at the direction of President Clinton, and in my own State of Wisconsin, small businesses have informed me that this extra time has allowed them to work with EPA to develop a plan of action to deal with an identified problem.

We should codify this directive, and this bill does just that.

Another Presidential directive that we should codify is allowing regulators to waive up to 100 percent of the punitive fines on small businesses for first-time violations where the firm acts quickly and sincerely to correct the problem.

While as a general rule, we should ensure that rules and regulations are enforced uniformly, it makes sense to provide regulators some flexibility in addressing the first-time regulatory infractions of a small business.

Small businesses trying to comply with regulations should be allowed to devote scarce resources to correcting problems instead of paying fines.

Here again the target of this measure is not only to provide regulatory relief to small business, it is to improve and enhance the relationship between small businesses and Government agencies.

Though these last two provisions have been implemented by executive order, enacting them into law will give them permanence, and will prevent future Presidents from simply rescinding them through subsequent Executive order.

An additional directive of the President's that merits the full force of Federal law is a prohibition against using personnel practices that reward agency employees, directly or indirectly, based on the number of contacts made with small entities in pursuit of enforcement actions, or on the amount of fines levied against small entities to enforce agency regulations.

The section responds to comments made to my office by small business people who have reported that agency personnel have felt compelled to find something wrong, even if it is small, in order to justify their visit to the firm.

This goes to the heart of what the role of a regulator is. Personnel practices based on these two kinds of performance incentives may quite naturally provoke adversarial relationships. Regulators need to remain independent from the entities they oversee, but unnecessary antagonism can actually hinder efforts to ensure compliance with the rules.

Mr. President, I want to reiterate my sincere and spirited support for reforming the regulatory process that is currently in place.

The current system is not acceptable; the need for reform is clear and imperative.

And though the larger regulatory reform legislation has bogged down, I very much hope a compromise can be worked out and a meaningful reform package can be enacted into law.

But, Mr. President, even if a compromise can be hammered out, it is likely that it will still reflect a process-oriented approach that may provide large corporate interests with avenues for relief, but does little to address the day-to-day problems facing small business.

Nor does such legislation address the very real feeling of small businesses that Government regulators too often act as adversaries rather than to provide guidance in helping firms to comply with the law.

Mr. President, the provisions of this bill are designed to help do just that.

The provisions outlined in this measure both provide some practical regulatory relief and can improve the relationship between businesses and agencies. The process reforms of other regulatory reform measures merit our consideration, but I urge my colleagues not to allow that approach to dominate a debate which should rightly be focused on that portion of the business world that is most severely burdened by Government regulation—small business.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Fair Treatment Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE

Sec. 101. Definitions.
Sec. 102. Compliance guides.
Sec. 103. No action letter.
Sec. 104. Voluntary self-audits.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Performance measures.
Sec. 202. Grace period for correction of violations of Environmental Protection Agency regulations.
Sec. 203. Waiver of punitive fines for small entities.

TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COMPLIANCE GUIDE.—The term "compliance guide" means a publication made by a covered agency under section 102(a).

(2) COVERED AGENCY.—The term "covered agency" means any agency that, on the date of enactment of this Act, has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5, United States Code, and any other agency that promulgates any such rule, as of the date of enactment of this Act.

(3) NO ACTION LETTER.—The term "no action letter" means a written determination from a covered agency stating that, based on a no action request submitted to the agency by a small entity, the agency will not take enforcement action against the small entity under the rules of the covered agency.

(4) NO ACTION REQUEST.—The term "no action request" means a written correspondence submitted by a small entity to a covered agency—

(A) stating a set of facts; and

(B) requesting a determination by the agency of whether the agency would take an enforcement action against the small entity based on such facts and the application of any rule of the agency.

(5) RULE.—The term "rule" has the same meaning as in section 601(2) of title 5, United States Code.

(6) SMALL ENTITY.—The term "small entity" has the same meaning as in section 601(6) of title 5, United States Code.

(7) SMALL BUSINESS CONCERN.—The term "small business concern" has the same meaning as in section 3 of the Small Business Act.

(8) VOLUNTARY SELF-AUDIT.—The term "voluntary self-audit" means an audit, assessment, or review of any operation, practice, or condition of a small entity that—

(A) is initiated by an officer, employee, or agent of the small entity; and

(B) is not required by law.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—

(1) PUBLICATION.—If a covered agency is required to prepare a regulatory flexibility analysis for a rule or group of related rules under section 603 of title 5, United States Code, the agency shall publish a compliance guide for such rule or group of related rules.

(2) REQUIREMENTS.—Each compliance guide published under paragraph (1) shall—

(A) contain a summary description of the rule or group of related rules;

(B) contain a citation to the location of the complete rule or group of related rules in the Federal Register;

(C) provide notice to small entities of the requirements under the rule or group of related rules and explain the actions that a small entity is required to take to comply with the rule or group of related rules;

(D) be written in a manner to be understood by the average owner or manager of a small entity; and

(E) be updated as required to reflect changes in the rule.

(b) DISSEMINATION.—

(1) IN GENERAL.—Each covered agency shall establish a system to ensure that compliance guides required under this section are published, disseminated, and made easily available to small entities.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—In carrying out this subsection, each covered agency shall provide sufficient numbers of compliance guides to small business development centers for distribution to small businesses concerns.

(c) LIMITATION ON ENFORCEMENT.—

(1) IN GENERAL.—No covered agency may bring an enforcement action in any Federal court or in any Federal administrative proceeding against a small entity to enforce a rule for which a compliance guide is not published and disseminated by the covered agency as required under this section.

(2) EFFECTIVE DATES.—This subsection shall take effect—

(A) 1 year after the date of the enactment of this Act with regard to a final regulation in effect on the date of the enactment of this Act; and

(B) on the date of the enactment of this Act with regard to a regulation that takes effect as a final regulation after such date of enactment.

SEC. 103. NO ACTION LETTER.

(a) APPLICATION.—This section applies to all covered agencies, except—

(1) the Federal Trade Commission;

(2) the Equal Employment Opportunity Commission; and

(3) the Consumer Product Safety Commission.

(b) ISSUANCE OF NO ACTION LETTER.—Not later than 90 days after the date on which a covered agency receives a no action request, the agency shall—

(1) make a determination regarding whether to grant the no action request, deny the no action request, or seek further information regarding the no action request; and

(2) if the agency makes a determination under paragraph (1) to grant the no action request, issue a no action letter and transmit the letter to the requesting small entity.

(c) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE.—In any enforcement action brought by a covered agency in any Federal court or Federal administrative proceeding against a small entity, the small entity shall have a complete defense to any allegation of noncompliance or violation of a rule if the small entity affirmatively pleads and proves by a preponderance of the evidence that the act or omission constituting the alleged noncompliance or violation was taken in good faith with and in reliance on—

(1) a no action letter from that agency; or

(2) a compliance guide of the applicable rule published by the agency under section 102(a).

SEC. 104. VOLUNTARY SELF-AUDITS.

(a) PROCEDURES.—Each agency shall establish voluntary self-audit procedures for small entities regulated by the agency.

(b) INADMISSIBILITY OF EVIDENCE AND LIMITATION ON DISCOVERY.—If action to address a violation is taken not later than 180 days after the date on which a voluntary self-audit is concluded, the evidence described in subsection (c)—

(1) shall not be admissible, unless agreed to by the small entity, in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding; and

(2) may not be the subject of discovery in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding.

(c) APPLICATION.—For purposes of subsection (b), the evidence described in this subsection is—

(1) a voluntary self-audit made in good faith; and

(2) any report, finding, opinion, or any other oral or written communication made in good faith relating to such voluntary self-audit.

(d) EXCEPTIONS.—Subsection (b) shall not apply if—

(1) the act or omission that forms the basis of the enforcement action is a violation of criminal law; or

(2) the voluntary self-audit or the report, finding, opinion, or other oral or written communication was prepared for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of preparation, was imminent or in progress.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. PERFORMANCE MEASURES.

No covered agency shall establish or enforce agency personnel practices that reward agency employees, directly or indirectly, based on the number of contacts made with small entities in pursuit of enforcement actions or on the amount of fines levied against small entities to enforce agency regulations.

SEC. 202. GRACE PERIOD FOR CORRECTION OF VIOLATIONS OF ENVIRONMENTAL PROTECTION AGENCY REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), for violations of regulations identified on or after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall afford small entities 180 days after the date on which the violation is identified to correct such violation.

(b) EXCEPTION.—Subsection (a) shall not apply—

(1) if the Administrator of the Environmental Protection Agency determines that there is an imminent risk to public health or worker safety; or

(2) to a violation of a regulation for which criminal liability may be imposed.

SEC. 203. WAIVER OF PUNITIVE FINES FOR SMALL ENTITIES.

Notwithstanding any other law, policy, or practice, a covered agency may waive all or part of a punitive fine that would otherwise be imposed on a small entity if—

(1) the fine is for a first time violation of a law or regulation; and

(2) the small entity acts quickly and in good faith to correct the violation.●

By Ms. MOSELEY-BRAUN:

S. 1351. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct, and for other purposes; to the Committee on the Judiciary.

THE CHARITABLE MEDICAL CARE ACT OF 1995

● Ms. MOSELEY-BRAUN. Mr. President, I am pleased to introduce the Charitable Medical Care Act of 1995. This legislation is designed to ensure that licensed providers, who, in good faith, provide medical treatment without compensation, are not sued. Currently, because of malpractice concerns, health care professionals have a disincentive to volunteer their services. This act does not apply in situations of gross negligence or willful misconduct.

Protection from liability for voluntarily providing uncompensated care is not a new idea. Currently, eight States, including my home State of Illinois, have laws in place that free doctors, who practice voluntarily and in good faith, from at least some part of malpractice liability. These States include: Virginia, Utah, North Carolina, Florida, Kentucky, South Carolina, Iowa, and Washington, DC.

My legislation builds upon existing Good Samaritan laws. Good Samaritan laws prevent an individual who acted in good faith from liability in the event a mishap occurs. In 1959, California enacted the Nation's first Good Samaritan statute. Today, all 50 States, and Washington, DC, have adopted some form of a Good Samaritan statute. These statutes exempt the volunteers from tort liability for ordinary negligence in rendering emergency aid to an individual. The rationale for these laws is to encourage health professionals to aid persons in need of assistance.

The need for free clinics and voluntarism by health professionals has never been more striking. There were 41 million uninsured Americans in this country last year. Voluntarism by health care professionals has been instrumental in providing health care to the uninsured. Free clinics have a preventative and primary care focus. They offer an alternative to emergency rooms, which have become family doctors to far too many. They also represent an enormous savings to the entire health care system. In the tradition of family doctors, these clinics offer a primary care continuum.

Free clinics supplement community clinics that provide care to those without insurance as well as those on Medicaid. Together these clinics provide the majority of care in underserved communities. More than 1,500 free and community clinics serve over 10 million individuals each year in this country. In my State of Illinois last year, 17,350 people were served and over $600,000 worth of care was provided. The potential impact of charitable care is not insignificant. It is estimated that charitable medical care provides care to 30 percent of the currently uninsured population.

Free clinics have served a valuable service and will continue to provide vital access to health care to the poor. While I am a firm supporter of universal coverage, it appears that, at least for a while, millions of Americans will remain uncovered. The number of uninsured Americans increased from 37.4 million in 1993 to 41 million in 1994, an increase of nearly 4 million individuals. Proposed changes in Medicaid and Medicare will most certainly increase this number.

The role of free clinics and voluntarism by professionals is, and will remain, an important part of the health care delivery system. This is particularly true in urban and rural underserved areas. Thus far, free clinics have been very successful in serving the community. Their success is due to their broad-based community support and the voluntarism of the medical community. Medical liability suits are very rare.

Doctors and other medical personnel who voluntarily provide quality medical care to the poor are an essential component of free/community clinics. Free clinics cannot provide services, however, if barriers to voluntarism remain. One of the best ways to increase voluntarism is through some protection from liability. It is critical that we encourage doctors to volunteer their services to those who cannot afford such care. I believe the legislation I am introducing today will go a long way toward achieving this goal.

I urge my colleagues to join me in support of this important legislation.•

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1352. A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

COASTAL BARRIER RESOURCES SYSTEM LEGISLATION

• Mr. D'AMATO. Mr. President, I introduce legislation with my friend and colleague, Senator MOYNIHAN, which would correct a technical error that has prevented certain residents of my State from participating in the National Flood Insurance Program. Specifically, this bill would direct the Secretary of the Interior to make technical corrections in the current maps of the Coastal Barrier Resources System [COBRA]. A companion to this bill, H.R. 2005, was introduced in the House of Representatives by Congressman MICHAEL FORBES on July 11, 1995, and was approved by the House Committee on Resources on September 27, 1995. This necessary legislation is supported by the administration.

In 1990, the Department of the Interior's Fish and Wildlife Service made a technical error when it designated part of the Point O'Woods community on Fire Island in New York as part of an otherwise protected area [OPA]. As a result of this technical error, homeowners in this part of the country are restricted from protecting their properties through the purchase of Federal flood insurance.

Mr. President, the Fish and Wildlife Service concedes that the designation of these residences as part of an OPA was erroneous. The administration testified in support of the House version of this legislation before the Oceans, Fisheries, and Wildlife Subcommittee of the House Committee on Resources. The inadvertent error in the COBRA map has greatly complicated community efforts to relocate houses away from high erosion zones and otherwise practice effective coastal barrier management. This legislation would allow the Point O'Woods community the opportunity, which other American homeowners in similar areas currently have, to participate in the Federal Flood Insurance Program. The Federal Government actively encourages participation in this important program in order to minimize taxpayer costs in the event of a natural disaster.

Mr. President, I ask unanimous consent that a copy of a letter written to me by the U.S. Fish and Wildlife Service in support of this correction and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION TO MAP.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the map described in subsection (b) as are necessary—

(1) to move on that map the eastern boundary of the excluded area covering Ocean Beach, Seaview, Ocean Bay Park, and part of Point O'Woods to the western boundary of the Sunken Forest Preserve; and

(2) to ensure that on that map the depiction of areas as "otherwise protected areas" does not include any area that is owned by the Point O'Woods Association (a privately held corporation under the laws of the State of New York).

(b) MAP DESCRIBED.—The map described in this subsection is the map that is included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990, that relates to the unit of the Coastal Barrier Resources System entitled Fire Island Unit NY–59P.

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, October 20, 1995.

Senator ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO, At the request of staff on the Senate Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs, I am writing to inform you of the position of the Department of the Interior on legislation to modify unit NY59P of the Coastal Barrier Resources System. This letter is consistent with testimony before the House Committee on Resources, which I have enclosed.

The House Resources Committee is in the process of reviewing H.R. 2005, a bill introduced by Congressman Forbes making technical corrections to maps relating to the Coastal Barrier Resources System. The U.S. Fish & Wildlife Service supports passage of H.R. 2005 in its current form and agrees with the removal of a portion of unit NY59P from the Coastal Barrier System to correct a technical error. However, we would oppose the addition of other provisions dealing with any other units to this bill without full opportunity for Service review.

H.R. 2005 seeks to remove a portion of unit NY59P, Fire Island, New York, from the Coastal Barrier System. This unit is part of the Fire Island National seashore and is mapped as an otherwise protected area. Otherwise protected areas are defined by the CBRA as coastal barriers which are "included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in Section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes." The Department of the Interior recommended to Congress that otherwise protected areas not be included in the System and therefore no further refinement of the mapped boundaries were made. However, with the passage of the 1990 legislation, Congress prohibited the sale of Federal flood insurance within otherwise protected areas thus retaining these units in the System. The property owned by the Point O'Woods Association in unit NY59P is not part of this otherwise protected area and therefore, was mistakenly included in the System.

The Service recommends that the boundary of NY59P be modified to remove the Point O'Woods property from within the boundary of NY59P, and we support H.R. 2005 in its current form. Please feel free to contact me or our Office of Congressional and Legislative Services if you have questions or require further information.

Sincerely,

__________,

Assistant Director, External Affairs.•

By Mr. DORGAN (for himself, Mr. BUMPERS, Mr. DEWINE, and Mr. LAUTENBERG):

S. 1353. A bill to amend title 23, United States Code, to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL DRUNK DRIVING PREVENTION ACT

• Mr. DORGAN. Mr. President, I rise today to offer the National Drunk Driving Prevention Act which will put an end to our Nation' s policy of tolerating open alcoholic containers in vehicles. I am pleased that a strong bipartisan group of my colleagues are joining me in this effort as original cosponsors: Senator BOXER, Senator BUMPERS, Senator CHAFEE, Senator DEWINE, Senator LAUTENBERG, and Senator MURRAY.

According to the National Highway Traffic Safety Administration, it is still legal in 26 States in this country for passengers in a vehicle to have open containers of alcoholic beverages in vehicles while the vehicle is in operation. In six States it is perfectly legal for a driver of a car to put one hand on the steering wheel and with the other, grab a bottle of whisky and drive off drinking. In my judgment, this is unacceptable.

It seems to me that we should make it a matter of national policy that there ought to be a strict separation between drinking and driving. By tolerating drinking of alcoholic beverages in cars we are ignoring one of the most deadly causes of traffic deaths in this country—people drinking while they drive.

During the period 1982 through 1993, approximately 266,000 persons lost their lives in alcohol-related traffic accidents. In 1993, over 17,000 people died on our Nation's roads in alcohol-related accidents—that's an average of 1 every 30 minutes. That figure is about 40 percent of the total number of traffic fatalities in the United States in 1993. The National Highway Transportation Safety Administration [NHTSA], estimates that over 1 million persons a year are injured in alcohol-related crashes—an average of 1 person every 26 seconds.

Especially disturbing is the fact that drunk driving is a major killer of youths. According to the National Commission Against Drunk Driving, alcohol-related traffic fatalities hit the youth more than any other group. In 1993, youths were killed at a rate of 11 alcohol-related traffic fatalities per 100,000 license drivers compared to 8 per 100,000 for adult drivers. Traffic crashes are the greatest single cause of death for every age between the ages of 6 and 32—almost half of these crashes are alcohol-related.

This legislation would make the roads throughout the Nation safer by requiring all States to enact open container laws. If a State does not comply within 4 years, 1.5 percent of its Federal highway construction funds would be transferred to its Federal allocation of highway safety funds.

The 1991 ISTEA legislation—Intermodal Surface Transportation and Efficiency Act—authorized incentive grants to States which would allow States a 5-percent increase in highway traffic safety allocations if that State has enacted legislation prohibiting open containers. The fact is that incentive grants have not worked—over half of the States continue to permit open containers in vehicles. I think the results speak for themselves.

It seems to me that stronger efforts must be made. Since half the States have not enacted open container laws, the Congress must do something at the Federal level to urge States to take action. Incentive grants have been available for some time and we seem to have not made much progress under that approach.

Earlier this year, I offered an amendment to S. 440, the National Highways Systems Designation Act, which was very similar to this legislation. This bill differs in that it provides States with 2 more years to comply. Under this legislation, States would have until 1999 to enact laws prohibiting open containers in vehicles.

Drinking and driving cannot be seen as a personal moral decision. When someone decides to drink and drive, that person is not simply putting himself and others in danger. That person is a threat to innocent drivers, passengers, and pedestrians. The odds are that 2 out of every 5 Americans will be involved in an alcohol-related traffic accident, regardless of their drinking habits.

The fact is that every third drunk driving fatality is an innocent victim—a nondrinking driver, passenger, or pedestrian. Under the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Government is requiring States to enact laws requiring the use of seat belts and helmets, which are matters of personal safety, in the interest of traffic safety. Allowing individuals to mix drinking and driving is not just a matter of personal safety—it is a matter of public safety with serious public concerns. All the more reason, I believe, for the Congress to require States to address this concern.

This legislation takes a positive step and makes good public policy. This bill provides a strong incentive for States to enact laws prohibiting the insane behavior of drinking in a moving vehicle. If States fail to comply, States would not lose any Federal funds. Rather, States would have 1.5 percent—in fiscal year 1999—or 3 percent—in any fiscal years thereafter—transferred to its Federal allocation of highway safety funds.

I urge my colleagues to support this legislation and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Drunk Driving Prevention Act of 1995".

SEC. 2. OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

§161. Open container requirements

"(a) PENALTY.—

"(1) GENERAL RULE.—

"(A) FISCAL YEAR 2000.—If, at any time in fiscal year 2000, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2001 under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2000, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(b) OPEN CONTAINER LAWS.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with subsection (a) with respect to the motor vehicle for each fiscal year during which the law is in effect.

"(c) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred under subsection (a) to the apportionment of a State under section 402 shall be 100 percent.

"(d) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under subsection (a) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 that is determined by multiplying—

"(1) the amount of funds transferred under subsection (a) to the apportionment of the State under section 402 for the fiscal year; and

"(2) the ratio of the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for the fiscal year.

"(e) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other law, no limitation on the total of obligations for highway safety programs carried out by the Secretary under section 402 shall apply to funds transferred under subsection (a) to the apportionment of a State under section 402.

"(f) DEFINITIONS.—In this section:

"(1) ALOCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided in section 158(c).

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided in section 154(b).

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided in section 410.

"(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.".

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following.

"161. Open container requirements".●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the names of the Senator from Indiana [Mr. COATS] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 309

At the request of Mr. BENNETT, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 309, a bill to reform the concession policies of the National Park Service, and for other purposes.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 1091

At the request of Mr. CRAIG, the names of the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1091, a bill to finance and implement a program of research, promotion, market development, and industry and consumer information to enhance demand for and increase the profitability of canola and rapeseed products in the United States, and for other purposes.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1135

At the request of Mr. CRAIG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1135, a bill to amend the Federal Crop Insurance Act to include seed crops among the list of crops specifically covered under the noninsured crop disaster assistance program, and for other purposes.

S. 1322

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 1322, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 187—RELATIVE TO A DEPLOYMENT OF TROOPS

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 187

Resolved: It is the sense of the Senate that Congress should vote on a measure regarding the deployment of U.S. Armed Forces in the Republic of Bosnia and Herzegovina as part of the Implementation Force of the North Atlantic Treaty Organization, prior to the United States entering into a commitment to carry out such deployment.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the information of the Senate and the public that the October 26, 1995, hearing which had been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources to receive testimony on S. 231, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; H.R. 562, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; S. 342, a bill to establish the Cache La Poudre River National Water Heritage area in the State of Colorado; S. 364, a bill to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado; S. 489, a bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with the town of Grand Lake, CO, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; and S. 608, a bill to establish the New Bedford Whaling National Historic Park in New Bedford, MA, has been postponed.

The hearing will now take place on Thursday, November 9, 1995, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

H.R. 629, a bill to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado has been added to the hearing agenda.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224-5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, October 20, 1995, at 10 a.m., to hold a hearing on religious liberty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SECRETARY OF ENERGY

● Mr. BROWN. Mr. President, with the rise of democracy all over the world, U.S. companies are facing greater competition than ever before in international markets. Over the next several decades, Asia will represent one-half of the world's new electric capacity. As India and Pakistan move to free market economies they will quadruple their electricity supply over the next 20 years.

As emerging nations design energy policy and negotiate global security, they look to the United States for counsel. Secretary O'Leary's expertise has been sought to lead energy discussions in international forums by world leaders such as Indian Prime Minister Rao, Pakistan Prime Minister Bhutto, and South African President Nelson Mandela. As the United States competes aggressively for market share against European companies, Secretary O'Leary's personal visits to these distant markets have given American business a competitive advantage.

Past trade missions to India led to $10 billion in trade agreements between the United States and India, as well as opened the channels of communication for an ongoing discussion on nuclear safety and developing a sustainable energy future for India.

During her 1994 visit to Pakistan, Secretary O'Leary advanced $4 billion in United States business and signed three agreements designed to encourage the global exchange of ideas. Her involvement also helped create the United States-Pakistan Energy Committee which looks to expand commercial activities in the environmental sector in both countries.

Secretary O'Leary's 1995 visit to China culminated in 4.6 billion dollars' worth of trade agreements, averaging nearly 20,000 jobs in the United States. During this trip, the Secretary signed five agreements between the DOE and the Government of China to encourage energy efficiency and rural electrification.

Secretary O'Leary has brought together the best of American energy companies and government specialists to expand U.S. influence in the growing global market. Her visits have created thousands of jobs here in the United States, as well as promoted sustainable energy development in emerging nations. We should applaud Secretary O'Leary's outstanding efforts on behalf of U.S. energy interests in international markets. Her past achievements and future accomplishments are worthy of bipartisan support.•

TRIBUTE TO KICKAPOO HIGH SCHOOL

• Mr. BOND. Mr. President, I rise today to pay special tribute to Kickapoo High School in Springfield, MO. On October 25, Kickapoo High School will celebrate its 25th anniversary. Since opening its doors in 1971, over 8,000 students have graduated from Kickapoo High School, and about 75 percent of those graduates have gone on to attend college.

These graduating students have attained many honors and excelled in many areas ranging from earning exceptional scholastic achievements to participating in community service programs for credit. Students have also benefited from independent study programs in advanced and specialized fields, foreign language programs, and the Career Center and the Learning Resource Center designed for students with special needs.

Kickapoo High School was designated by the U.S. Department of Education as a secondary school that represents educational excellence. It has received a AAA classification by the Missouri State Department of Elementary and Secondary Education. I commend Kickapoo High School for its dedication to providing the highest quality education to our young people. I also congratulate the men and women educators for 25 years of service and wish them only success in the next 25 years.•

TRIBUTE TO REV. JOE VICKERS

• Mr. FRIST. Mr. President, I rise today to recognize a Tennessean who has played an important role in the community of Goodlettsville for nearly 35 years. Since 1961, Rev. Joe Vickers has been the pastor of Goodlettsville Cumberland Presbyterian Church. On Sunday, October 29, Reverend Vickers is retiring as pastor and beginning a new stage of his life. Today, I would like to thank Joe Vickers for his longstanding commitment to his church, his family, and his community, and wish him well as he begins his retirement.

Originally from Memphis, TN, Reverend Vickers graduated from the University of Mississippi on a football scholarship. After serving in the Army, Vickers entered the 4-year seminary program at Bethel College and became a Presbyterian minister.

Mr. President, when Joe Vickers came to Goodlettsville, his church had 70 members. During his tenure as pastor, the Goodlettsville Cumberland Presbyterian membership has grown dramatically. Now, that church is 1,000 members strong, and should continue to thrive in the years to come.

As a minister, Reverend Vickers nurtured his congregation well, but he also nurtured his community. For 35 years, Vickers was a neighbor, an adviser, a leader, and a friend to the people of Goodlettsville. His service to the community and church was an example of strong faith for many children and youth. He joined couples in marriage, consoled those who experienced a physical, emotional, or spiritual loss, and taught the lessons of life alongside of the lessons of Christ. Those who know Joe Vickers know that even in retirement, he will remain a friend, an adviser and a leader to many people in the area.

Mr. President, after he retires, Joe Vickers will continue to live in Goodlettsville with his wife Mary Catherine, and will remain active in the church as its minister emeritus. He will also remain a vital part of the community. And on Sunday, October 29, members of Reverend Vickers' family, his church family, and his friends in the community will gather to honor this man and his accomplishments. And as he retires, they will look at the foundation Reverend Vickers has laid for his family, his church, and the city of Goodlettsville, and they will see that it is strong and solid.•

ORDERS FOR MONDAY, OCTOBER 23, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, October 23; that, following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and then there be a period for morning business until the hour of 12 noon with Senators to speak for up to 5 minutes each with the exception of the following: Senator DASCHLE for 60 minutes, Senator SHELBY for 10 minutes, and Senator COCHRAN for 50 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, we are waiting for one response from the other side of the Senate, but it will be my intention to ask for consent that at 12 noon the Senate proceed to S. 1322 regarding the Embassy in Israel. Therefore, votes can be expected to occur in relation to that bill, but not to occur prior to the hour of 5 p.m. Monday. I will not make that request at this time because we are waiting for one call.

But in addition to that bill, the Senate could be asked to turn to any of the following items on Monday and Tuesday of next week: S. 1328, regarding Federal judgeships; S. 1004, Coast Guard authorization; S. 325, technical corrections in laws relating to native Americans.

By Wednesday of next week it will be the leader's intention to begin the reconciliation bill, which all Members know has a statutory limitation of 20 hours. Therefore, late nights can be expected next week.

Mr. President, let me state that it was our intention to bring up S. 1322 today. But we have been in negotiations most of the morning in my office and part of this afternoon, and there are negotiations going on now with interested parties, parties interested in S. 1322, with representatives at the White House, representatives of the President, and we believe that by Monday we will be in a position to indicate to our colleagues on both sides that we have reached some agreement. But, if not, we will proceed with S. 1322 in its present form. The reason for asking consent—which we are still waiting for—is that otherwise I would need to file cloture today on a motion to proceed. So, if consent is not obtained, then we will proceed on that. I think we will have consent here momentarily.

So if we can obtain that consent, there would be no further business to come before the Senate except brief remarks by the Senator from South Dakota, the Democratic leader, Senator DASCHLE.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair advises the Senator from North Dakota that we have been operating in morning business on a Senator-by-Senator basis, so if he can ask unanimous consent for the time he will need.

Mr. CONRAD. Mr. President, I ask unanimous consent to proceed for 15 minutes.

Mrs. BOXER. Will the Senator yield? Will he ask in his request that the Senator from California be allowed 15 minutes following the Senator?

Mr. CONRAD. And I ask unanimous consent that the Senator from California be granted 15 minutes after I conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET RECONCILIATION

Mr. CONRAD. Mr. President, we have just had a rather extraordinary experience in the Senate Budget Committee with the chairman putting that committee into adjournment after a very short discussion of the reconciliation measure that was before the committee.

We had hoped that there would be an opportunity to discuss this afternoon and Monday what is in this budget reconciliation package that has been put forward by our colleagues on the other side of the aisle. We believe that the American people deserve a chance to hear precisely what this package will mean. We believe it has severe consequences for the people in this country. We believe there are very sharp cuts in Medicare and Medicaid that are going to mean increased burdens for our senior citizens, are going to mean hospital closures all across America, and especially in rural America, that there are going to be many people who are elderly, who are ill, who are not going to have the kind of care that they deserve.

Much of that is being done in order to provide a tax reduction that will go disproportionately to the wealthiest among us. Many on our side of the aisle, I believe everyone on our side of the aisle, believes that is an inappropriate set of priorities.

One thing our colleagues on the other side of the aisle have said, and said repeatedly, is that they are balancing the budget by the year 2002. Mr. President, that is not accurate. Senator DORGAN and I, 2 days ago asked the head of the Congressional Budget Office for an analysis, if the law of the United States is followed, will the reconciliation plan put forward by the Republicans balance the budget in the year 2002 or not?

The head of the Congressional Budget Office reported to us in a letter yesterday, with a revised letter today, that if the law of the United States is followed—that is, if Social Security surpluses are not included in the calculation, which under our law is specifically excluded; that is, we are not to count Social Security surpluses in determining whether or not the budget of the United States is in balance—when that calculation is made, the head of the budget office told us in a letter dated today, "excluding an estimated off-budget surplus of $115 billion in 2002."

Again, let me read that phrase, "excluding an estimated off-budget surplus of $115 billion in 2002," that is primarily Social Security surpluses, if those are excluded "from the calculation, CBO would project an on-budget deficit of $105 billion in the year 2002." Not a surplus, not a balanced budget, a $105 billion deficit in 2002.

Let me just say, I think anybody who knows anything about accounting would understand you do not count Social Security surpluses in calculating whether you have balanced the budget or not. Why is that? That is because the Social Security trust fund has been set up to run surpluses in preparation for the time the baby boom generation retires.

Unfortunately, all those surpluses are being spent, and what is happening is we are using that money today instead of saving it or paying down the existing debt to better prepare ourselves to meet that demographic time bomb. That is a profound mistake.

Let me just make clear, if any company in the United States tried to take the retirement funds of its employees and put them into the pot to balance the budget, they would be in violation of Federal law. Indeed, that is precisely what has been happening in the United States. It has been going on since 1983. It should not be permitted to continue. We have already run up almost $500 billion of IOU's, but that is going to grow geometrically over the next 18 years.

We have a chance to get our house in order. We have a narrow window of opportunity, and we ought to take advantage of it. We should not be looting and raiding the Social Security trust funds in order to assert that we are balancing the budget. That is not truthful. And I am pleased to say the Congressional Budget Office has now acknowledged that the budget will not be in balance by 2002 but, in fact, will have a $105 billion deficit in that year.

I think there are other reasons the Republicans in the Budget Committee at least were not eager to have a further discussion of the reconciliation bill. I think there are a lot of things they would prefer the American people not hear before votes are held and cast on that measure.

One of the things they may not be eager for the American people to hear is that there is going to be a $1.3 trillion increase in the national debt under the Republican plan. That is the cumulative increase in the debt that is being added to the $4.9 trillion in debt we already have in this country. They are going to add, under their plan, another $1.3 trillion of debt. Yet, they insist on a tax reduction, a tax cut, primarily going to the wealthiest among us, which will add to this debt.

What sense does that make? I can say to my colleagues that when I queried the people of my State, they made it clear to me to balance the budget first before there is any tax cut. We can have tax cuts after we balance the budget. We are not balancing the budget, No. 1; No. 2, we are adding $1.3 trillion to the national debt, and $245 billion of that is tax cuts which, again, primarily go to the wealthiest among us.

Let me just go a little further so that people have a chance to hear what is in this tax package that has just passed, because we have heard on the other side of the aisle the assertion that this is a significant tax cut that would go to American families. I wish that were true. I wish it were true that it was really directed at the middle class, because while I believe it is not the time for tax cuts, when you are adding $1.3 trillion to the national debt and you have not really balanced the budget in 7 years, and even with that I think we could look more kindly upon a tax cut if it were really directed at the middle class. That is not where this tax cut is directed.

In fact, what we learned yesterday is that the Senate Republican plan would mean tax increases for everyone earning under $30,000 a year. Those earning under $30,000 a year, which are 51 percent of the American people, get a tax hike. They get their taxes increased. I will demonstrate that point by asking unanimous consent that the tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TAX PROVISIONS IN THE SENATE FINANCE COMMITTEE, CHAIRMAN'S MARK FOR REVENUE RECONCILIATION AND THE EITC PROVISIONS PREVIOUSLY ADOPTED BY THE COMMITTEE[1]

[1996 INCOME LEVELS]

Family economic income class[4] (thousands)	Federal taxes under current law[2]			Change in Federal taxes[3]			Total Federal taxes after change		
	Amount (billion)	As a percent of pre-tax income	As a percent of after-tax income	Amount (billion)	As a percent of pre-tax income	As a percent of after-tax income	Amount (billion)	As a percent of pre-tax income	As a percent of after-tax income
0 to 10	$5.7	8.0	8.7	$0.2	0.3	0.4	$5.9	8.4	9.1
10 to 20	21.5	8.8	9.7	0.8	0.3	0.3	22.2	9.1	10.0
20 to 30	50.1	13.3	15.4	1.3	0.4	0.4	51.4	13.7	15.8
30 to 50	156.3	17.5	21.2	−5.7	(0.6)	(0.8)	150.6	16.8	20.4
50 to 75	224.0	19.9	24.8	−10.4	(0.9)	(1.1)	213.6	19.0	23.7
75 to 100	196.1	21.1	26.7	−10.0	(1.1)	(1.4)	186.1	20.0	25.3
100 to 200	303.0	22.0	28.1	−12.5	(0.9)	(1.2)	290.5	21.1	27.0
200 and over	316.6	23.7	31.1	−9.5	(0.7)	(0.9)	307.1	23.0	30.1
Total[5]	1.275.1	20.1	25.2	−45.8	(0.7)	(0.9)	1,229.3	19.4	24.3

Source: Department of the Treasury Office of Tax Analysis, October 18, 1995.

[1] This table distributes the estimated change in tax burdens due to the tax provisions in the Senate Finance Committee Chairman's Mark (JCX–44–95, September 16 1995); and the EITC provisions adopted by the Committee on September 30, 1995.

[2] The taxes included are individual and corporate income, payroll (Social Security and unemployment) and excises. Estate and gift taxes and customs duties are excluded. The individual income tax is assumed to be borne by payors, the corporate income tax by capital income generally, payroll taxes (employer and employee shares) by labor (wages and self-employment income) excises on purchases by individuals by the purchaser, and excises on purchases by business in proportion to total consumption expenditures. Taxes due to provisions that expire prior to the end of the Budget period are excluded.

[3] The change in Federal taxes is estimated at 1996 income levels but assuming fully phased in law and long-run behavior. The effect of the IRA proposal is measured as the present value of tax savings on one year's contributions. The effect on tax burdens of the proposed capital gains exclusion is based on the level of capital gains realizations under current law. Provisions which expire before the end of the budget period and provisions which affect the timing of tax payments but not liabilities are not distributed. The incidence assumptions for tax changes the same as for current law taxes (see footnote 2).

[4] Family Economic Income (FEI) is a broad-based income concept. FEI's constructed by adding to AGI unreported and underreported income. IRA and Keogh deductions; nontaxable transfer payments, such as Social Security and AFDC empower-provided fringe benefits, inside build-up on pensions, IRAs, Keoghs, and life insurance tax-exempt interest, and imputed rent on owner occupied housing. Capital gains are computed on an accrual basis, adjusted for inflation to the extent reliable data allow, inflationary losses of lenders are subtracted and of borrowers are added. There is also an adjustment for accelerated depreciation of noncorporate businesses. FEI is spent on a family rather than on a tax return basis. The economic incomes of all members of a family unit are added to arrive at the family's economic income used in the distribution.

[5] Families with negative incomes are included in the total line but not shown separately.

DISTRIBUTIONAL EFFECTS OF REVENUE RECONCILIATION PROVISIONS OF THE CHAIRMAN'S MARK SCHEDULED FOR MARKUP IN THE FINANCE COMMITTEE ON OCTOBER 18, 1995 AND PREVIOUSLY ADOPTED CHANGES IN THE EITC[1]

[Calendar year 2000]

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective tax rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
Less than $10,000	$879	9.6	$9	0.7	$10	0.7	8.6	9.4
$10,000 to $20,000	922	2.2	42	3.0	43	3.1	9.0	9.2
$20,000 to $30,000	417	0.5	86	6.1	87	6.3	13.6	13.6
$30,000 to $40,000	−4,221	−3.4	125	8.9	121	8.8	16.7	16.2
$40,000 to $50,000	−5,347	−4.0	132	9.4	127	9.2	18.4	17.6
$50,000 to $75,000	−11,740	−4.2	280	19.9	269	19.5	20.5	19.5
$75,000 to $100,000	−5,814	−2.8	209	14.8	203	14.8	22.9	22.1
$100,000 to $200,000	−3,850	−1.6	246	17.5	242	17.6	24.1	23.4
$200,000 and over	−2,792	−1.0	277	19.7	274	19.9	29.8	28.8
Total, all taxpayers	−31,546	−2.2	1,407	100.0	1,375	100.0	20.4	19.7

[1] Includes the tax credit for children under age 18, student loan interest credit, marriage penalty relief, IRA changes, long term care, capital gains deduction, treatment of adoption expense, aviation fuel exemption, and repeal of the wine and flavors credit as well as EITC changes previously adopted by the Senate Finance Committee.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 1995 levels.

[3] Federal taxes are equal to individual income tax (including the outlay portion of the EITC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

[4] The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

Mr. CONRAD. Mr. President, when we look at where the breaks go, because there are $245 billion of tax cuts in this package. Where do they go? They go, disproportionately, to the wealthiest among of us; 48 percent goes to people earning over $100,000 a year. We can see on this chart that the top 5 percent of the people, 2.8 million families making over $200,000, get, on average, a $3,400 tax break. People earning over $200,000 a year get a $3,400 tax break. The richest 1 million families in America, those making over $350,000, get a $5,600 tax break.

Mr. President, I say to you, I do not think that is fair. I do not think it is fair to increase the taxes of those earning less than $30,000 a year in order to concentrate tax breaks on those who are the wealthiest among us, to give a $3,400 tax break to the top 5 percent, those earning over $200,000, and a $5,600 tax break to the top 1 percent, those earning over $350,000 a year.

Mr. President, this is the chart that was provided for us yesterday that shows the distributional effect of tax provisions in the Senate Finance Committee chairman's mark for revenue reconciliation and the earned income tax provisions previously adopted by the committee. When you take into consideration previous changes in the earned income tax credit and the changes in this package, one finds that people earning up to $30,000 all experience a slight tax increase under this plan. But those who are earning above that amount experience a tax reduction. But let us see who gets what. Those earning from $30,000 to $50,000 a year get less than $250 of tax reduction a year, while those earning over $200,000 a year, get $3,400 in tax reduction. That does not strike me as fair. It does not strike me as balanced. It does not strike me as the kind of targeted tax relief that is seriously intended to help hard-pressed middle income families in this country.

Mr. President, this redistributional effect, taking from those who are of more modest income, those earning up to $30,000 a year, and giving them a tax increase and reducing taxes for the wealthiest among us, giving 48 percent of the benefit to those who are earning over $100,000 a year, continues a trend that I think ought to concern us all, and that is the concentration of wealth in this country in the hands of fewer and fewer people.

This chart shows the share of wealth of the top 1 percent of the households in America. In 1969, 20 percent of the wealth in this country was in the hands of the top 1 percent. By 1979, 30 percent of the wealth of this country was controlled by the top 1 percent. But by

1989, 39 percent of the wealth of America was held in the top 1 percent of this country.

Mr. President, anybody who has studied history knows what this trend means. When wealth is increasingly concentrated in the hands of a few, it leads to political instability, it leads to, I think, a threat to all of our institutions. It is no wonder that people are angry across America, as they see the wealth of the Nation concentrated in fewer and fewer hands. Our colleagues on the other side of the aisle have been quick to accuse the Democrats of being for redistribution of income. Let me say that our friends on the other side of the aisle have been the champions of income and wealth redistribution.

Over and over and over, in committee after committee, our friends on the other side of the aisle have pursued policies that concentrate wealth in the hands of those who are already the wealthiest among us. I ask the simple question, how much wealth do the top 1 percent want to have in their hands? They have nearly 40 percent now. Do they want 60 percent of the wealth of America in the hands of just 1 percent of the people? Do they insist on 80 percent of the wealth in the hands of just 1 percent of the people? I do not think this is good social policy. I do not think it is good economic policy. I think it threatens the future of the country.

Mr. President, 73 percent of the American people pay more taxes in payroll taxes than they pay in income taxes. Yet, what is happening under the Republican plan is to take payroll taxes—the only way to justify payroll taxes at their current levels is if you are building surpluses to prepare for the day when the baby boom generation retires. But all of those moneys are being spent, not saved. They are being taken and spent in other areas of the budget. And so what is really happening is an enormous redistribution of wealth. Make no mistake about it. We are taking payroll tax money, generating surpluses and not saving them, but spending them. And we are spending part of them to give a big tax reduction to the wealthiest among us, so we are taking payroll taxes that are regressive. That simply means lower income people pay a higher percentage of their income in payroll taxes, taking money from them and flushing it back out in a tax cut to the wealthiest among us. Forty-eight percent of the benefit goes to the top 1 percent.

That is what is going on here. It is an enormous redistribution of wealth, going from middle-income people, because under the Republican plan, 51 percent of the people, those earning less than $30,000 a year, are going to experience a tax increase. The money is being taken from them in payroll taxes and other taxes, and part of it is then being used to give a big tax cut to the wealthiest among us. I do not think that is fair or right. I do not think it represents American values.

Mr. President, I think that is the reason the chairman of the Budget Committee was so swift to gavel the Budget Committee into adjournment, because they did not want to see and hear these facts being provided to the American people.

They want to pass this in the dead of night without a chance for the American people to see and hear what these plans will mean for the people of this country.

I yield the floor.

Mrs. BOXER. Thank you, Mr. President.

Mr. CRAIG. Would the Senator from California yield to me for a few moments to put the final words in the RECORD?

Mrs. BOXER. Of course, as long as I do not lose my right to 15 minutes.

The PRESIDING OFFICER (Mr. HELMS). The Senator's rights will be preserved.

Mrs. BOXER. Reserving the right to object, I want to make sure Senator MURRAY has 15 minutes.

The PRESIDING OFFICER. The Senator's rights will be preserved.

ORDERS FOR MONDAY, OCTOBER 23, 1995

Mr. CRAIG. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. on Monday, October 23; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 2 p.m., with Senators to speak for up to 5 minutes each with the exception of the following: Senator DASCHLE for 60 minutes, Senator SHELBY for 10, and Senator COCHRAN for 50 minutes.

Mr. CONRAD. Would the Senator yield, and add Senator CONRAD for 15 minutes, as well?

Mr. CRAIG. And Senator CONRAD for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I ask unanimous consent that at 2 p.m. the Senate proceed to S. 1322, regarding the Embassy in Israel. Therefore, votes can be expected to occur in relation to that bill but will not occur prior to the hour of 5 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CRAIG. For the information of all Senators, in addition to the Jerusalem bill, the Senate could be asked to turn to any of the following items for the next week: S. 1328, regarding Federal judgeships; S. 1004, Coast Guard authorization; S. 325, technical corrections in laws relating to native Americans.

By Wednesday of next week it will be the leader's intention to begin the reconciliation bill, which all Members know has a statutory limitation of 20 hours. Therefore, late nights can be expected.

I yield the floor.

BUDGET RECONCILIATION

Mrs. BOXER. Thank you, Mr. President. It is unusual for Senators to take to the floor on a Friday afternoon long after the Senate has concluded most of its business when there are no votes.

Today is an unusual day for members of the Budget Committee. We have heard from the Senator from North Dakota who has worked so long and hard to present a truly balanced budget—not only to the committee but to the Senate and to the American people. It was my privilege to support him.

He showed, as did Senator BRADLEY from New Jersey, that it is, in fact, possible to balance the budget in America over 7 years, do it truthfully, not relying on Social Security surplus, and do it with a heart and with compassion, with common sense, with caring, with pride, that really reflects the values of America.

What are those values? You reward hard work, as in the earned-income tax credit. You make sure that your children have a chance to get the proper immunizations as in Medicaid. We make sure that when our kids are students they could get college loans. We make sure that if our people run into trouble and they have to collect child support, that the Government does not penalize them for it.

We make sure that large corporations pay a tax, as in the alternative minimum tax, which is repealed by the Republicans. We make sure large corporations are good citizens and do not raid pension funds. Republicans do that, too.

And we make sure that when our people reach the age of 65, they can count on Medicare. If they are having to go into a nursing home, that there are decent standards for those nursing homes, which are repealed by the Republicans. I will talk more about that.

Today, the Democrats and the Republicans came around a long table in the Budget Committee. When we walked in, we saw a bill that was so tall—of course, I am not very tall, that is true—but this bill was so tall that I could barely see my next door neighbor on the committee, Senator MURRAY. I kind of used it as a chin rest.

That is the size of this Republican revolution. That is the number of things they are doing in this budget reconciliation bill. That is why we Democrats felt it was important to hear from some of the people who represent those in America, our great country, who will be impacted by this 1992 revolution, if you will.

So our ranking member, Senator EXON, a Senator who has served here with great distinction—and I might add, is in his senior years—asked in a very nice way if, in fact, four people could be heard before we start to vote on this package.

Who are those four people? One was an honor student who happens to be in a wheelchair, a quadriplegic, who counts on Medicaid for his very breath. We found out that in the Republican plan—and I ask my friend to correct me if I am incorrect in this—the Medicaid cuts are so deep that no longer will people like that who are trying so hard to build the American dream—an honor student—will not be able to count on their oxygen supply.

I found that out today. I did not know it when I walked into the room. We needed more time. I told my friend in North Dakota, and I am sure he would help me, along with my friend from Washington State, that we ought to have an amendment, take away 5 cents a year from the people over $350,000, from the tax break they are getting, and pay for oxygen for people like this.

Who else wanted to speak? Two elderly women who live on Medicare. By the way, in my home State of California, the average woman of 65 earns $8,500 a year. In California, that is brutally hard. She already spends a third of her income on health care. Think about that. Do the math on that.

How could she possibly be asked to spend another $1,000 to $2,000 a year? That is what the Republican plan calls for. We in the Budget Committee, Democrats, wanted to hear from a person who could give us the truth.

Then there was a woman who had served 20 years in the military. Her child is very ill. On a military salary she needs to count on Medicaid for her child. We wanted her to be here. Well, no. It was interesting, because it was the first time in my life—I have been in the Congress for 13 years—that a chairman of a committee adjourned us without allowing us to vote on whether to hear these people. He ruled that they had no right to be heard, and when we appealed the ruling of the Chair he refused to honor that and gavelled us down. He said he was very disappointed we did not just vote on that budget.

Well I am glad we have the weekend for Americans to look at what is in it.

I am going to go to a couple of charts to give the big picture on this. This is the basic bill that already passed the House of Representatives, a $58 billion increase in the military. We are talking here between 1996 and 2002, 7 years—that is $30 billion more than the Pentagon asked for.

All the admirals and generals said "Yes, we need some more," but Republicans gave them $58 billion. The nondefense money that we spend on education and transportation, environmental protection, food safety, highways, airport safety, those kind of things, on a cut of $499 billion, how is that for symmetry?

Now we move to what we call entitlements, things we do to help people because this is America and we want everyone to get a chance. So, $270 billion cut in Medicare, $182 billion cut in Medicaid, $13 billion cut in ag, $10 billion cut in student loans, welfare, earned income tax credits. Food stamps, that is another $100 billion. That is the budget that they are so proud of.

Now, what happened was that NEWT GINGRICH promised the crown jewel of the Republican contract would be a tax break for the wealthiest people in America. And he had to figure out a way to get the money for it, because it was going to cost a lot of money. He wanted the people over $350,000 to get back about $20,000 a year. By the way, he settled for about $5,500 a year.

Let me repeat that. NEWT GINGRICH wanted the people who earn over $350,000 a year to get back $20,000 a year, and he had to find the money. So he thought, how can I find the money? Aha, where is there money? Medicare and Medicaid. So let us try and scare the people into thinking we have to cut that much out of it, and then we will turn around and just give all that money to the wealthiest among us.

What I have here is the trustees' reports on the Medicare trust fund, going back to 1970. I want to point out that, from 1970 to the present, it was only twice that the trustees reported we did not have to do something to save Medicare. In other words, this is a routine thing that happens with the trust fund. But people do not know this. So the Republicans said, "Let's make a big hoopla out of this year's trustees' report."

So, clearly, we know we have to act to save Medicare. We know how much we have to cut. In order to save Medicare we need to cut $89 billion. We need to cut $89 billion out of Medicare. And, by the way, it is not that easy to do it, but we can find the savings. We can make the adjustments. My goodness, there is enough fraud there we can go after, so we think we can do that without pain. So, remember that number, $89 billion is what we need to save Medicare.

But, remember what I told you, they need a lot of money for a tax cut. So they decided to cut $270 billion from Medicare. Keep it in mind. We needed $89 billion; they are cutting $270 billion. And why? Not because the trustees' report says to do that. We know the trustees' report indicates where we need to cut $89 billion. Here is why, the next chart will show it.

They need $245 billion for their tax cut. For their tax cut. But, guess what, in their zeal they made a big mistake, as the Senator from North Dakota has said. They did not really do their homework, because in the end they are producing a tax increase for 51 percent of the people, according to the Wall Street Journal. The Wall Street Journal is, in fact, a party that is not known to stand up and fight for Democrats. On the contrary. And the Wall Street Journal says those earning $30,000 and below, in our country, will see a tax increase as a result of NEWT GINGRICH's revolution. And who will benefit the most? The people who earn over $350,000 a year. And let me tell you, they are chilling the champagne bottles tonight in those board rooms and those penthouses.

Now, we set them back a little because we stopped it in the Budget Committee. We said the American people have to see the truth. We took the light and we shined it on this budget, and we are telling the American people, in dollars and cents, what it means.

I want to show you a chart that reflects what has happened in America with our tax policy since the 1940's. It is very interesting. I got this chart out of a story in the New Yorker that basically asked the question, "What has happened to the middle class?" The middle class is going away.

It is fascinating to see this chart. From 1947 to 1973, taxpayers in every single quintile—and each quintile represents an income bracket. So from the very lowest income bracket, No. 1, to the highest, No. 5, every one went up at about the same rate, from 1947 to 1973. What does that mean? We all prospered together. We all are in this together and we all did well together.

I always thought there was an agreement among Republicans and Democrats that that was best for our country. Yes, when the poor do well and the middle class do well and the wealthy do well, we are all benefiting from this great Nation. That is the way it should be.

Look what happened, starting in 1973, to 1993. We turned this picket fence into a staircase. But look at it. It is Robin Hood in reverse. The ones who were doing the worst are poorest, the first two quintiles. And by far, this little cat—some might say fat cat—sitting on the last quintile, that is the one that goes up to millions and billions, that did by far the best.

What America is better for our people? One in which we all prosper, or one in which only the very wealthy prosper? That is the question I want the American people and the people of California to ponder over this weekend. Since we were able to get a little bit of time, we are taking the floor of the U.S. Senate to bring these issues home.

Let me tell you, buried in this budget are some awful things for folks. I have heard from hospitals in my State of California who are desperate, desperate about the cuts that will come to them, from seniors who are frightened about the cuts that will come to them, from people who have moms and dads in nursing homes who are frightened to death what will happen to their parents.

By the way, we call them the sandwich generation. They are caught in the middle. Their teenage kids have to go to college. How can they experience a day in peace, worrying about their kids on the one hand and all the challenges we have, economic and otherwise, raising our kids, and our parents on the other.

I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered. The Senator is granted 2 additional minutes.

Mrs. BOXER. Thank you very much, Madam President.

So, this budget is a slam at American values. It is a slam at family values. It repeals nursing home standards. Why do we have them? Because we learned in the 1980's what happens to old people who are helpless. And we needed to put national standards in place so they would not get bed sores, so they would not be scalded, so they would not be abused physically, sexually, so they could have a little dignity in a very difficult time, after they raised their kids.

Family values? This is the opposite of family values. This is turning our backs on our people whom we are here to fight for. Nursing homeowners? Or the people? I do not know what is popular today or what is unpopular. But I know where I stand. I stand with my colleague for the people, for the people of my State and the people of my Nation. I am a first-generation American. I was taught by my parents hard work, play by the rules, stand up and fight for what you believe in, honor the children, honor the elderly, and have love in your heart for those who may not be as fortunate as you.

So this budget debate is very important. And when the budget chairman slammed down that gavel and said "adjourned, we are not listening anymore, we do not want to hear it, we do not want to hear it," it sent a chill up and down my spine. But I believe that my Democratic colleagues on that committee are more resolved than ever to show that we can balance the budget and do it in a smart way.

I yield the floor.

Mr. CONRAD. Madam President, might I have 30 seconds?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Thank you, Madam President.

I just want to thank my colleague from California. I hope the people from California know what a fighter they have in the Senator from California, Senator BOXER. I am so proud to be a member of the Budget Committee with her because over and over during these discussions and debates, she has stood up and fought for the middle class and the working families, and said, "Now, wait a minute. Let us understand what the implications are of these policies that are being pursued. Who wins? Who loses? Who is helped? Who is hurt?"

I just want to say once again that I appreciate the strong stance she has taken to say we ought to have a policy that is fair. That is an American standard; that is an American value; that we stand up and fight for something that is fair in this country, that asks everybody to contribute in this budget battle, not just to say to the working class and middle-income people get in the front lines of this budget battle, but to say to those who are the wealthiest among us as well that you ought to participate, too. That is the American way.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Madam President. I ask unanimous consent to speak in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Thank you.

Madam President, I am here today to join my colleague from North Dakota and my colleague from California to express my surprise and outrage at the actions of the Budget Committee today. To have citizens of this country come before us to tell us their personal stories about how this budget would impact their lives, their very fragile lives, and not allow them the opportunity to speak for 5 minutes each to me was very un-American and a very sad moment in this Senate's history.

These people represent literally thousands of people across this country who are as concerned as we are about the real life impacts of this budget. We did not hear from the senior citizen. We did not hear from a young man in a wheelchair who uses Medicaid dollars to continue breathing. We did not hear from a young man who is trying to get his education who is fearful that his student loan is going to go away and he will not be given that American dream, that American opportunity to finish his college education. We, in fact, have not heard from that welfare mother, that single mother who is off welfare with two little children in this country. She does not have the time to fly out here. She does not have the ability to pay. We have not heard from them. And this budget is going to impact them throughout America.

Madam President, I ran for the Senate in 1992. I moved from my home State 3,000 miles away and brought my family with me to do this terrifically difficult job because I sat at home one day not that long ago, 3 years ago, and I looked across this country, and I said, "Is anybody on that floor addressing the real issues that affect people like me?" I am that sandwich generation. I have two kids at home. I have two parents who are seriously ill who rely on Medicare to continue living. And I know what it is like to worry about whether or not my kids will have the ability to go to college because of money. I know what it is like to get that phone call from a parent who says, "I do not have enough money to go to the doctor." I know what it is like for my husband and I to both work every single day to pay our mortgage, to put food on the table, and who do not have time, like thousands of American citizens, to know what is in this budget.

Yet, we are to know what is in that budget when it came before us before the Budget Committee in a stack this high, and we were told we had to vote on it in that minute. This budget will impact the lives of every single American working family in a dramatic and difficult way. It will mean that our kids will not have preschool education and Head Start. It will mean that there will be kids without immunization. It will mean kids who cannot go to college. It will mean Medicaid recipients—one out of five children in my State—who will not have health care coverage. It means senior citizens who will not have health care in this country anymore. And it means that those of us who will have to make a difficult decision about whether or not our parents need to go into a nursing home will not be able to know what the standard of care is there for them when they need it.

This budget is what I came back here to fight for. As a U.S. Senator, we deserve the time, both as citizens in this country who come here to testify and as citizens on the floor of this Senate and as U.S. Senators, to have the opportunity to tell the American people what is in this budget.

Mrs. BOXER. Will the Senator yield? I just want to say to the Senator before I leave the floor how much I appreciate her contribution to this U.S. Senate. She ran as a mom in tennis shoes. She stayed true to the reason she came to this Senate. The fact that she was sitting on the committee that will make these decisions is a great tribute to this Nation. And she and I know if we were not here tonight, if we were not speaking out against this budget, we would not be true to ourselves. I just want to thank her for adding a voice in this debate.

Mrs. MURRAY. I thank the Senator from California.

I just want to point out, because I think this is the family who has been forgotten—we talked about them in the welfare debate. We said their mother has to go to work in this country. We passed that bill out of the Senate. It is passed out of the House. This is the single mother with two children who earns $12,000 a year. This is how this budget will impact this mother. She is going to lose her earned income tax credit. She is going to lose $373 a year under this budget. This mother is going to lose $300 a year on food stamps. This mother is going to lose $2,400 a year that pays for Medicaid and health care coverage for her children. And she is going to have to pay $480 to her State in order to collect child support from her missing husband.

This budget will cost this single mother with two young children $3,553. As my colleagues have pointed out, she is going to lose. And who is going to win? The richest 1 percent of Americans will get a tax break every single year.

I ask my colleagues. Who do we value in this country? Do we value a young mother who is working and trying to raise her kids? Are we going to ignore her in this budget process? I think it is critical that we take the time to evaluate it, and it is critical that we listen to the people across this country about the priorities that we are going to set in the future.

I join my colleagues on the Budget Committee in expressing our outrage at what is occurring. I thank my colleague.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I would like to thank my colleague from Washington for the great work she has done on the Budget Committee.

At its root, at its bottom, a budget is the priorities of America. This represents the choices we make about the priorities for the money that we are going to spend over the next 7 years.

These are critically important choices, and the Senator from Washington has been loud and clear with respect to what those priorities ought to be—priorities that favor the middle class and working families in this country who are struggling to get by, saying to the students who want to further their education there ought to be an opportunity for a student loan. We should not, as the Republican plan calls for, increase the cost of that student loan $3,100 over the next 7 years.

It says to that struggling senior, yes, there have to be savings out of Medicare; we understand that, but not these kinds of draconian cuts that mean a further burden on seniors and that will threaten the closing of hospitals throughout the rural parts of America.

To say to others who count on Federal programs in order to survive, as that young man who was in the wheelchair this afternoon who relies on Medicaid for his very breath, that is an American priority, that is someone we care about in the American family.

Senator MURRAY has been right there making these points and carrying this fight. I thank her very much for the effort she makes every day to make certain that the budget reflects the priorities of the American people.

I thank the Chair and yield the floor.

ADJOURNMENT UNTIL 11 A.M. MONDAY, OCTOBER 23, 1995

Mrs. MURRAY. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:30 p.m., adjourned until Monday, October 23, 1995, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 20, 1995:

THE JUDICIARY

NANETTE K. LAUGHREY, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN AND WESTERN DISTRICTS OF MISSOURI, VICE JOSEPH E. STEVENS, JR., RETIRED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

LOTTIE LEE SHACKELFORD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1998. (REAPPOINTMENT)

HOUSE OF REPRESENTATIVES—*Friday, October 20, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. UPTON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 20, 1995.

I hereby designate the Honorable FRED UPTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Whatever our concerns and whatever our hopes, we pray, almighty God, that we will be appreciative of the wonders of Your whole creation and faithful stewards of that which has been entrusted to us. Remind us to be good custodians of the resources of our land so that those who follow us will not be needy because of our neglect or because of our selfishness. May we be vigilant so that all the resources that have come to us, the material and the spiritual, will be enriched and multiply to Your honor and to the service of every person. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Pledge of Allegiance will be led by the Chair.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1617. An act to consolidate and reform workforce development and literacy programs, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1617) "An Act to consolidate and reform workforce development and literacy programs, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, and Mr. WELLSTONE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2126) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes", agrees to a further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. MACK, Mr. SHELBY, Mr. GREGG, Mr. HATFIELD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. HARKIN, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 868. An act to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes;

S. 1048. An act to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and Inspector General; and for other purposes; and

S. 1309. An act to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

RECESS

The SPEAKER pro tempore. The house will now stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 2 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1835

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PETRI) at 6 o'clock and 35 minutes p.m.

EXTENSION OF REMARKS

The SPEAKER pro tempore. Without objection, on this day all Members are permitted to extend their remarks and include extraneous material in that section of the RECORD entitled "Extension of Remarks."

There was no objection.

ADJOURNMENT TO TUESDAY, OCTOBER 24, 1995

The SPEAKER pro tempore. Without objection, when the House adjourns today, it will adjourn to meet at 12:30 p.m. on Tuesday, October 24, 1995, for morning hour debates.

There was no objection.

CONFERENCE REPORT ON H.R. 2002

Mr. WOLF submitted the following conference report and statement on the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for others purposes:

CONFERENCE REPORT (H. REPT. 104–286)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2002) "making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 10, 11, 12, 13, 18, 19, 21, 34, 37, 44, 51, 53, 56, 63, 64, 65, 66, 73, 78, 86, 91, 112, 121, 125, 126, 132, 133, 134, 135, 141, 142, 143, 146, 148, 152, 155, 156, 161, 162, 165, 166, 171, 172, 173, 181, 183, 184, 185, 189, and 190.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 15, 17, 20, 24, 31, 33, 35, 38, 39, 42, 43, 46, 49, 50, 69, 70, 71, 74, 76, 77, 79, 84, 85, 89, 90, 93, 99, 105, 107, 108, 114, 119, 120, 136, 138, 144, 145, 147, 149, 150, 151, 159, 160, 168, 169, 170, and 191, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$56,189,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$8,220,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$103,149,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$22,600,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$22,600,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$16,000,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$135,200,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,278,991,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *; and of which $20,000,000 shall be expended from the Boat Safety Account*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$362,375,000*; and on page 8 of the House engrossed bill H.R. 2002 delete line 23; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$167,600,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$12,000,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$49,200,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$88,875,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$44,700,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *Provided further, That the Commandant may dispose of surplus real property by sale or lease and the proceeds of such sale or lease shall be credited to this appropriation*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$18,000,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$4,645,712,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,222,859,100*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That the Secretary may transfer funds to this account, from Coast Guard "Operating expenses", not to exceed $60,000,000 in total for the fiscal year, fifteen days after written notification to the House and Senate Committees on Appropriations, solely for the purpose of providing additional funds for air traffic control operations and maintenance to enhance aviation safety and security*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,934,883,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,718,883,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$185,698,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,450,000,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the first sum named in said amendment, insert: *$26,000,000*.

In lieu of the second sum named in said amendment, insert: *$48,000,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$509,660,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$208,946,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$11,000,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$11,000,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$17,550,000,000*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$77,225,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$51,884,430*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$32,247,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$127,700,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided further, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishing and fixtures for State, local, or private buildings or structures*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$49,919,000*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$24,550,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$115,000,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *studies, corridor planning, development, demonstration, and implementation, $19,205,000, to remain available until expended*; and on page 24, line 14 of the House engrossed bill H.R. 2002, delete "$5,000,000" and in lieu thereof, insert: *$7,118,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the first sum named in said amendment, insert: *$1,000,000*; and in lieu of the second sum named in said amendment, insert: *$6,000,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$635,000,000, to remain available until expended*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *That up to $15,000,000 of the amount made available under this head for capital improvements may, at the discretion of the Corporation, be transferred to the Northeast Corridor Improvement Program: Provided further,*

And the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$942,925,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,052,925,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That the limitation on operating assistance provided under this heading shall, for urbanized areas of less than 200,000 in population, be no less than seventy-five percent of the amount of operating assistance such areas are eligible to receive under Public Law 103–331*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That in the distribution of the limitation provided under this heading or urbanized areas that had a population under the 1990 census of 1,000,000 or more, the Secretary shall direct each such area to give priority consideration to the impact of reductions in operating assistance on smaller transit authorities operating within the area and to consider the needs and resources of such transit authorities when the limitation is distributed among all transit authorities operating in the area*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$85,500,000 of which $39,500,000 shall be for activities under 49 U.S.C. 5303, $4,500,000 for activities under 49 U.S.C. 5311(b)(2), $8,250,000 for activities under 49 U.S.C. 5313(b), $22,000,000 for activities under 49 U.S.C. 5314, $8,250,000 for activities under 49 U.S.C. 5313(a), and $3,000,000 for activities under 49 U.S.C. 5315*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *, notwithstanding any other provision of law, except for fixed guideway modernization projects, $21,631,250 made available under Public Law 102–388 under "Federal Transit Administration, Discretionary Grants" for projects specified in that Act or identified in reports accompanying that Act, not obligated by September 30, 1995, shall be made available for new fixed guideway systems together with the $666,000,000 made available for new fixed guideway systems in this Act, to be available as follows*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$20,060,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$4,250,000 for the Canton-Akron-Cleveland commuter rail project;* ; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$1,000,000 for the Cincinnati Northeast/Northern Kentucky rail line project;* ; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$3,000,000*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$6,000,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$9,720,625 for the Jacksonville ASE extension project;* ; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$85,000,000*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$8,500,000 for the Los Angeles-San Diego commuter rail project;* ; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$15,315,000*; and the senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$1,250,000 for the Memphis, Tennessee Regional Rail Plan;* ; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$80,250,000*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$5,000,000 for the New Orleans Canal Street Corridor project;* ; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$126,725,125*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$12,500,000*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,759,500*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, of which not more than $5,000,000 may be available for high-occupancy vehicle lane and intermodal corridor design costs*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$7,500,000 for the San Juan, Puerto Rico Tren Urbano project;*

And the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$500,000 for the Tampa to Lakeland commuter rail project;*

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$2,500,000 for the Whitehall ferry terminal, New York, New York;*

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *; and*; the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *$5,650,000 for the Burlington-Charlotte, Vermont commuter rail project.*

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$23,937,000*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$31,448,000*; and the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: $23,750,000; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$7,500,000*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$95,649,000*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *collocate and consolidate*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *surface transportation field offices and administrative activities*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 339. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: Provided, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

And, on page 53 of the House engrossed bill H.R. 2002, delete lines 1–13.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 340. None of the funds in this Act shall be available to pay the salaries and expenses of any individual to arrange tours of scientists or engineers employed by or working for the People's Republic of China, to hire citizens of the People's Republic of China to participate in research fellowships sponsored by the modal administrations of the Department of Transportation, or to provide training or any form of technology transfer to scientists or engineers employed by or working for the People's Republic of China: Provided, That this provision shall not apply to the Federal Aviation Administration or the joint Federal Aviation Administration, Department of Defense and Department of Commerce initiative designed to modernize the air traffic control system of the People's Republic of China.

And the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 343. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City, New York.

And the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 347. (a) In consultation with the employees of the Federal Aviation Administration and such non-governmental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5, United States Code, and other Federal personnel laws, the Administrator of the Federal Aviation Administration shall develop and implement, not later than January 1, 1996, a personnel management system for the Federal Aviation Administration that addresses the unique demands on the agency's workforce. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

(b) The provisions of title 5, United States Code, shall not apply to the new personnel management system developed and implemented pursuant to subsection (a), with the exception of:

(1) Section 2302(b), relating to whistleblower protection;

(2) Sections 3308–3320, relating to veterans' preference;

(3) Section 7116(b)(7), relating to limitations on the right to strike;

(4) Section 7204, relating to antidiscrimination;

(5) Chapter 73, relating to suitability, security, and conduct;

(6) Chapter 81, relating to compensation for work injury; and

(7) Chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage.

(c) This section shall take effect on April 1, 1996.

And the Senate agree to the same.

Amendment numbered 175:

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 348. (a) In consultation with such non-governmental experts in acquisition management systems as he may employ, and notwithstanding provisions of Federal acquisition law, the Administrator of the Federal Aviation Administration shall develop and implement, not later than January 1, 1996, an acquisition management system for the Federal Aviation Administration that addresses the unique needs of the agency and, at a minimum, provides for more timely and cost-effective acquisitions of equipment and materials.

(b) The following provisions of Federal acquisition law shall not apply to the new acquisition management system developed and implemented pursuant to subsection (a):

(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252–266).

(2) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.);

(3) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355);

(4) The Small Business Act (15 U.S.C. 631 et seq.), except that all reasonable opportunities to be awarded contracts shall be provided to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged inidividuals;

(5) The Competition in Contracting Act;

(6) Subchapter V of Chapter 35 of title 31, relating to the procurement protest system;

(7) The Brooks Automatic Data Processing Act (40 U.S.C. 759); and

(8) The Federal Acquisition Regulation and any laws not listed in (a) through (e) of this section providing authority to promulgate regulations in the Federal Acquisition Regulation.

(c) This section shall take effect on April 1, 1996.

And the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 349.

And the Senate agree to the same.

Amendment numbered 177:

That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 350.

And the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 351.

And the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 352.

And the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 353.

And the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 354.

And the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC. 355.

And the Senate agree to the same.

Amendment numbered 187:

That the House recede from its disagreement to the amendment of the Senate numbered 187, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

SEC.

And the Senate agree to the same.

Amendment numbered 188:

That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 357. AUTHORITY TO USE FUNDS FOR SIDING AND INTERMODAL FACILITY IN RICHLAND COUNTY, NORTH DAKOTA.

Notwithstanding section 22101(a)(3) of title 49, United States Code, the State of North Dakota may use funds available to the State under section 22106(b) of such title for the building of a siding and intermodal facility proposed by the State in Sections 7 and 8, Township 133 North, Range 47 West, Richland County, North Dakota.

And the Senate agree to the same.

Frank R. Wolf,
Tom DeLay,
Ralph Regula,
Harold Rogers,
Jim Lightfoot,
Ron Packard,
Sonny Callahan,
Jay Dickey,
Bob Livingston,
Martin Olav Sabo (except amendment 174 and amendment 190)
Richard J. Durbin (except amendment 132, amendment 174, and amendment 190)
Ronald D. Coleman (except amendment 174)
Thomas M. Foglietta (except amendment 174)
David R. Obey (except amendment 174)

Managers on the Part of the House.

Mark O. Hatfield,
Pete V. Domenici,
Arlen Specter,
Christopher S. Bond,
Slade Gorton,
Richard C. Shelby,
Frank R. Lautenberg,
Tom Harkin,
Barbara A. Mikulski,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The conferees agree that Executive Branch propensities cannot substitute for Congress' own statements concerning the best evidence of Congressional intentions—that is, the official reports of the Congress. Report language included by the House that is not changed by the report of the Senate, and Senate report language that is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

PROGRAM, PROJECT AND ACTIVITY

During fiscal year 1996, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project and activity" shall mean any item for which a dollar amount is contained in an appropriations Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Federal Aviation Administration, facilities and equipment" and for "Coast Guard, Acquisition, construction, and improvements" shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustment, if required, to be accomplished only through the normal reprogramming process.

STAFFING INCREASES PROVIDED BY CONGRESS

The conferees direct the Department of Transportation to fill expeditiously any positions added in this bill, without regard to agency-specific staffing targets which may have been previously established to meet the mandated government-wide staffing reductions. The conferees support the overall staffing reductions, and have made reductions in the bill which more than offset staffing increases provided for a small number of specific activities.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Amendment No. 1: Appropriates $56,189,000 for salaries and expenses of the Office of the Secretary, instead of $55,011,500 as proposed by the House and $56,500,000 as proposed by the Senate. Within these funds, the conferees have provided $91,000 and 1 full-time equivalent staff year for aviation information management.

The conference agreement includes the following changes to the budget request for this office:

Reductions in staff, −8 FTEs	−$600,000
Hold reception and representation costs to 1995 levels	−20,000
Hold travel to $365,000	−150,000
Reduce contractual services for acquisition, maintenance and repair of ADP equipment and commercial online data information systems, and other reductions	−500,000
Delete funds for residual functions of the Interstate Commerce Commission	−4,705,000

Reductions in staff, −8 FTEs.—The conference agreement reduces the number of full time equivalent staff of the Office of the Secretary by 8 full-time equivalent staff years and $600,000. Though the conferees believe that reductions in the number of attorney advisors, public affairs specialists and congressional affairs officers will not undermine the ability of the Department to conduct its core duties and responsibilities, the conference agreement affords the Secretary the flexibility to determine the specific reductions in staff. The Secretary is directed to allocate the reduction in staff and notify the House and Senate Committees on Appropriations within fifteen days after the enactment of this Act.

Travel, office of the assistant secretary for budget and programs.—The conference agreement includes $5,000 for the travel of the office of the assistant secretary for budget and programs, which is the same level imposed upon the office in fiscal year 1995. The conferees are concerned that travel for this office in fiscal year 1995 may have exceeded last year's directive and that this directive may have been circumvented by using funds from the operating administrations. The conferees reiterate that Congressional directives in this area need to be followed explicitly by this office in the future and direct that no funds be used from other sources to supplement travel by this office.

Reprogramming procedures.—Over the past year, the conferees have become aware of numerous instances in which various modal administrations of the department have either misinterpreted or disregarded the existing departmental reprogramming procedures, which limit reprogrammings among programs, projects and activities to no more than ten percent unless Congressional approval is granted. The conferees reiterate that the department shall not take any action that would contravene an instruction included in the conference agreement unless such action is in accord with the established reprogramming guidelines and for which previous Congressional approval is provided.

Office of intermodalism.—The conferees note that in 1991, the Intermodal Surface Transportation Efficiency Act created the Office of Intermodalism within the Department of Transportation to initiate and promote efficient intermodal transportation. The conferees express their support for the assistance the office has given the Department of Defense in exploring joint-use, civilian/military transportation infrastructure improvements at Biggs Army Airfield located at Fort Bliss, Texas. In consultation and cooperation with Santa Teresa, New Mexico and its proposed intermodal transportation facility, the conferees urge the Department to consider to support actively this venture.

Amendment No. 2: Provides $40,000 for official reception and representation expenses as proposed by the House instead of $60,000 as proposed by the Senate.

Amendment No. 3: Includes language that prohibits funds from being used to maintain "custody" of airline tariffs as proposed by the Senate, instead of language that prohibits funds to maintain "duplicate physical copies" of airline tariffs as proposed by the House.

Amendment No. 4: Includes the words "and open" as proposed by the Senate, instead of "or open them" as proposed by the House.

OFFICE OF CIVIL RIGHTS

Amendment No. 5: Appropriates $6,554,000 for the Office of Civil Rights as proposed by the House instead of $12,083,000 as proposed by the Senate. The conference agreement disallows the transfer of 65 FTEs and $5,158,000 to consolidate external civil rights functions in the office of the secretary. The conferees are concerned that the proposal to consolidate the various modal offices of civil rights into one office under the guidance of the secretary may dilute the power and flexibility of those offices to respond to the needs of small and minority businesses participating in the various programs of the modal administrations.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Amendment No. 6: Appropriates $8,220,000 for transportation planning, research, and development instead of $3,309,000 as proposed by the House and $9,710,000 as proposed by the Senate. The conference agreement provides $3,900,000 for the integrated personnel/payroll system; $2,809,000 for transportation planning studies; $1,000,000 for aviation management systems; and $500,000 for the docket management system. Funding of $6,195,000 for the automated procurement system is deferred.

Railroad Safety Institute.—The conferees urge the Department to consider providing funds to establish the Railroad Safety Institute. This relates to a Senate provision in amendment numbered 185.

WORKING CAPITAL FUND

Amendment No. 7: Limits expenses of the working capital fund to $103,149,000, instead of $102,231,000 as proposed by the House and $104,364,000 as proposed by the Senate. The conference agreement includes the following reductions to the budget request:

Disallowance of transfer from OST of intermodal data network	−$453,000
Hold non-pay inflationary increases to 1.5 percent	−262,000
Reduction in WCF-funded travel	−300,000
Reduction in executive training and development programs	−200,000

PAYMENTS TO AIR CARRIERS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

Amendment No. 8: Appropriates $22,600,000 to liquidate contract authority obligations for payments to air carriers instead of $15,000,000 as proposed by the House and $26,738,536 as proposed by the Senate.

Amendment No. 9: Limits obligations for payments to air carriers to $22,600,000, instead of $15,000,000 as proposed by the House and $26,738,536 as proposed by the Senate.

The conferees fully intend that all essential air service communities that are participating in the program in fiscal year 1995 will continue to be eligible for participation in the essential air service program in fiscal year 1996, albeit at reduced levels. The conferees expect that the Department may be required to make pro-rata reductions in the subsidy or daily/weekly service levels to manage the funding reductions included in the conference report.

Amendment No. 10: Includes language proposed by the House that prohibits payments to air carriers in communities fewer than seventy highway miles from the nearest large or medium hub airport instead of seventy-five highway miles as proposed by the Senate.

Amendment No. 11: Deletes "or small" proposed by the Senate. The program mileage criteria retained in the conference agreement pertain only to distances from the nearest "large or medium" hub airport as proposed by the House.

Amendment No. 12: Deletes exception to essential air service program mileage criteria for communities having certain airline maintenance facilities proposed by the Senate. The House bill contained no similar exception.

Amendment No. 13: Includes language proposed by the House that allows essential air service subsidies to communities located greater than two hundred and ten miles from the nearest large or medium hub airport instead of two hundred miles as proposed by the Senate.

Amendment No. 14: Rescinds $16,000,000 in contract authority from the payments to air carriers program instead of $23,600,000 as proposed by the House and $11,861,464 as proposed by the Senate. The conference agreement rescinds contract authority that is not available for obligation due to annual limits on obligations.

Amendment No. 15: Deletes House language that would require the state, local government, or other non-Federal entity to pay at least fifty percent of the cost of providing essential air service. The conferees recognize that many states' legislatures are not in session at this time and would have difficulty responding to the cost sharing requirements contained in the House bill. The conferees note, however, that states, local governments and non-Federal entitles should begin pursuing cost sharing mechanisms in anticipation of a fifty percent cost share requirement in fiscal year 1997.

RENTAL PAYMENTS

Amendment No. 16: Appropriates $135,200,000 for rental payments instead of $130,803,000 as proposed by the House and $139,689,000 as proposed by the Senate.

Amendment No. 17: Provides $17,685,000 in rental payments from "Federal-aid highways, Limitation on general operating expenses" as proposed by the Senate instead of $17,099,000 as proposed by the House.

MINORITY BUSINESS OUTREACH

Amendment No. 18: Appropriates $2,900,000 for minority business outreach activities as proposed by the House instead of $2,100,000 as proposed by the Senate.

Amendment No. 19: Provides that of the funds appropriated for minority business outreach activities, $2,642,000 shall be available until September 30, 1997, as proposed by the House instead of $1,842,000 as proposed by the Senate.

Amendment No. 20: Provides that funds appropriated for minority business outreach activities may be used for business opportunities related to any mode of transportation as proposed by the Senate. The House bill contained no similar provision.

INTERSTATE COMMERCE COMMISSION SUNSET

Amendment No. 21: Deletes appropriation of $4,705,000 for the Interstate Commerce Commission Sunset activities proposed by the Senate. The House bill contained no similar appropriation. Funding for these activities is included under amendment numbered 166.

COAST GUARD

OPERATING EXPENSES

Amendment No. 22: Appropriates $2,278,991,000 for Coast Guard operating expenses instead of $2,565,607,000 as proposed by the House and $2,286,000,000 as proposed by the Senate. The conference agreement assumes that additional funding of $300,000,000 will be provided in the Department of Defense Appropriations Act, 1996.

The following table shows detailed adjustments to the budget estimate in the House and Senate recommendations and the conference agreement by budget activity:

	House bill	Senate bill	Conference
Pay and allowances:			
Budget estimate	$1,591,835,000	$1,591,835,000	$1,591,835,000
Adjustments to budget estimate:			
Military pay and benefits:			
Military pay raise (2.2%)	−1,401,000	0	0
Military essentiality	−1,000,000	0	−1,000,000
General detail	−3,000,000	−3,000,000	−3,000,000
Leased housing (transfer)	−14,900,000	−14,900,000	−14,900,000
Civilian pay and benefits:			
SES staffing	+1,000,000	0	0
Youth opportunity staffing	−825,000	−825,000	−825,000
Medical care and equipment: Hold costs to fiscal year 1995 level	−6,300,000	0	−2,835,000
Leased housing (by transfer)	+14,900,000	+14,900,000	+14,900,000
Budget activity-wide:			
Accelerate existing streamlining	−4,850,000	0	−4,850,000
Accelerate fiscal year 1997 restructuring	−5,000,000	0	0
Undistributed	+175,000	−8,000,000	0
Amount recommended	1,570,634,000	1,580,010,000	1,579,325,000
Depot level maintenance:			
Aircraft	139,041,000	139,041,000	138,124,000
Electronics	31,549,000	31,549,000	31,549,000
Shore facilities	95,645,000	94,126,000	93,963,000
Vessels	99,081,000	99,081,000	98,465,000
Amount recommended	365,316,000	363,797,000	362,101,000
Operations and support:			
Budget estimate	400,496,000	400,496,000	400,496,000
Adjustments to budget estimate:			
Area operations and support:			
Cutters—high endurance	0	−263,000	−263,000
Area offices	0	−823,000	−823,000
Maintenance and logistics commands	0	−12,734,000	−2,734,000
Communications stations	0	−155,000	0
District operations and support:			
District offices	−5,600,000	0	−2,800,000
Groups and bases	0	−577,000	−577,000
Combined group/air stations	0	−359,000	−359,000
Marine safety offices	0	−1,285,000	−1,285,000
LORAN stations	0	−237,000	−237,000
Amount recommended	394,896,000	394,063,000	391,418,000
Recruiting and training:			
Budget estimate	70,943,000	70,943,000	70,943,000
Adjustments to budget estimate: Graduate school tuition	−1,000,000	0	0
Amount recommended	69,943,000	70,943,000	70,943,000
Coast Guard-wide centralized services and support:			
Budget estimate	189,726,000	189,726,000	189,726,000
Adjustments to budget estimate:			
Headquarters-managed units:			
TISCOM	0	−19,000	−19,000
Military personnel center	−150,000	0	−150,000
Activities Europe	0	−1,372,000	−1,372,000
Headquarters administration:			
Hold to 1.7 percent increase	−2,000,000	0	−2,000,000
Reduce by three-tenths of 1 percent	0	−325,000	0
Centralized bill paying:			
FTS 2000	−1,434,000	−560,000	−900,000
FEC	−647,000	0	−647,000
Unemployment compensation	−115,000	−115,000	−115,000
Amount recommended	185,380,000	187,335,000	184,523,000
Account-wide adjustments:			
Recreational equipment	−146,000	−146,000	−146,000
Non-pay inflation	−5,842,000	−5,842,000	−5,842,000

	House bill	Senate bill	Conference
Non-operational travel	−1,831,000	−1,831,000	−1,831,000
MPPC contracting out	−500,000	0	0
Undistributed	−10,243,000	−2,329,000	0
VTS contracting out	−1,000,000	0	−1,000,000
Studies and analysis	−1,000,000	0	−500,000
Defense bill—offset	0	−300,000,000	−300,000,000
Amount recommended	−20,562,000	−310,148,000	−309,319,000
Total appropriations	2,565,607,000	2,286,000,000	2,278,991,000

Reprogramming procedures.—The House report expressed concern that the Coast Guard has misinterpreted the existing departmental reprogramming procedures, which limit reprogrammings among programs, projects, and activities (PPAs) to a specified percentage unless Congressional notification and approval is granted, and which define PPAs. In response, the Coast Guard stated they are unaware of any such guidelines. The conferees are concerned that the Coast Guard is unaware of the document titled "Reprogramming Guidelines" issued on April 13, 1992 to each of the operating administrations by the Assistant Secretary for Budget and Programs, in which these and other important procedures are specified. Consequently, the conferees direct the Assistant Secretary for Budget and Programs to re-issue this guidance to all operating administrations as soon as possible, and to report to the House and Senate Committees on Appropriations regarding the Coast Guard's compliance with those guidelines under the service's current practices.

Military/civilian staffing ratio.—The conference agreement includes a reduction of $1,000,000 for conversion of military support positions to civilian positions, as proposed by the House, and no additional senior executive service (SES) positions, as proposed by the Senate. The House believed that a modest increase in the ratio of civilians to military staffing in the Coast Guard and additional SES positions would lead to budget savings, management stability, and stronger "corporate memory" than is presently the case. While supporting the concept of military-to-civilian conversion, the Senate assumed no savings from that conversion and did not agree that additional SES positions were necessary. The conferees agree that this topic should be more fully explored, and direct the U.S. General Accounting Office to follow up on its past work in this area by conducting a thorough analysis of the Coast Guard's military/civilian staffing ratio to determine the benefits of greater military-to-civilian conversion, including senior civilian management positions such as the senior executive service.

Marine safety resources.—The conferees concur in the initiative of the Senate and have provided adequate funds within the amounts made available for military pay and marine safety office (MSO) operations to restore the marine safety billets slated for termination. The conferees expect funds provided for MSO operations above the fiscal year 1995 level first to be used for annualization of fiscal year 1995 follow-on costs and then to restore the operating costs associated with these 21 billets. The conferees expect the Commandant to submit the report on these restored billets as requested by the Senate.

Military personnel center.—The conference agreement includes a reduction of $150,000 for recruiting activities. These activities should be funded under "recruiting and training", not under this project.

Vessel traffic service contracting out.—The conference agreement includes a reduction of $1,000,000 in the operating cost of vessel traffic service (VTS) systems across the country, as proposed by the House. This represents a 5 percent reduction from the budgeted level of $19,862,000. The conferees believe that VTS system operations are a prime candidate for contract operation, and that such systems could be operated at less cost than is presently the case with government employees. The Coast Guard has a study underway to address the long-term viability of retaining the VTS mission within the Coast Guard budget, and the conferees await the results of that study next year. However, this interim step is necessary due to budget constraints and to assist in determining the lowest cost method of operating VTS systems within the Coast Guard budget.

Southern Lake Michigan air facility.—The conference report includes funds to maintain a Coast Guard search and rescue air facility located in southern Lake Michigan.

Amendment No. 23: Provides that, of the total funding provided for "Operating expenses", $20,000,000 shall be expended from the Boat Safety Account of the Aquatic Resources Trust Fund instead of $25,000,000 as proposed by the House and no funds as proposed by the Senate. Under current law, the Coast Guard is authorized to expend from the trust fund for boating safety activities an amount equal to the amount appropriated for the boat safety grants program.

Amendment No. 24: Deletes House language specifying that no less than $314,200,000 is available for drug enforcement activities, as proposed by the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 25: Appropriates $362,375,000 for "Acquisition, construction, and improvements" instead of $375,175,000 as proposed by the House and $366,800,000 as proposed by the Senate. The conferees also approve reprogramming totaling $38,000,000, resulting in overall program resources of $400,375,000 for fiscal year 1996.

A table showing the distribution of this appropriation by project as included in the fiscal year 1996 budget estimate, House bill, Senate bill, and the conference agreement follows:

ACQUISITION CONSTRUCTION AND IMPROVEMENTS: CONFERENCE AGREEMENT—FISCAL YEAR 1996

Program name	Fiscal year 1996 estimate	Fiscal year 1996 House	Fiscal year 1996 Senate	Conference agreement
Vessels:				
Survey and design—cutters and boats	$500,000	$500,000	$500,000	$500,000
Seagoing buoy tender (WLB) replacement	65,000,000	65,000,000	65,000,000	65,000,000
Coastal buoy tender (WLM) replacement	93,000,000	93,000,000	93,000,000	93,000,000
47-foot motor lifeboat (MLB) replacement project	500,000	500,000	500,000	500,000
Buoy boat replacement project (BUSL)	8,500,000	0	8,500,000	0
Polar icebreaker replacement follow-on	4,300,000	4,300,000	0	0
82-foot WPB capability replacement	4,000,000	0	0	0
Norwegian crewing concept development (NORCREW)	2,000,000	2,000,000	0	0
Self propelled barge replacement	900,000	900,000	0	0
Surface search radar replacement project	3,500,000	3,500,000	0	0
210-foot medium endurance cutter MMA	14,500,000	14,500,000	10,500,000	6,000,000
378-foot shipboard command & control	1,300,000	1,300,000	0	0
Configuration management	5,700,000	5,700,000	0	2,600,000
Total vesssels	203,700,000	191,200,000	178,000,000	167,600,000
Aircraft:				
Traffic alert & collision avoidance system (TCAS) phase IV	13,000,000	10,000,000	8,000,000	8,000,000
Global positioning system installation phase VI	1,900,000	1,900,000	1,900,000	1,900,000
HH–65 Helicopter main transmission gearbox upgrade phase II	2,500,000	2,500,000	2,500,000	0
HC–130 side looking airborne radar (SLAR) upgrade	2,100,000	2,100,000	2,100,000	2,100,000
Total aircraft	19,500,000	16,500,000	14,500,000	12,000,000
Other equipment:				
Supply center computer replacement	1,000,000	1,000,000	1,000,000	1,000,000
Fleet logistics system	3,000,000	3,000,000	0	3,000,000
Vessel traffic service (VTS) system 2000	5,000,000	5,000,000	2,000,000	3,400,000
VTS equipment replacement	3,000,000	3,000,000	3,000,000	1,900,000
Marine information for safety and law enforcement (MISLE)	11,000,000	11,000,000	11,000,000	11,000,000
Conversion of software applications	11,100,000	6,100,000	9,000,000	8,500,000
Finance center information system replacement	2,600,000	2,600,000	2,500,000	2,500,000
Differential GPS transmitter replacement	1,700,000	0	1,700,000	1,700,000
Differential GPS implementation—second district	2,400,000	0	2,400,000	0

ACQUISITION CONSTRUCTION AND IMPROVEMENTS: CONFERENCE AGREEMENT—FISCAL YEAR 1996—Continued

Program name	Fiscal year 1996 estimate	Fiscal year 1996 House	Fiscal year 1996 Senate	Conference agreement
Search and rescue simulation model (SARSIM)	500,000	500,000	500,000	500,000
Communication systems 2000	11,000,000	6,000,000	11,000,000	11,000,000
WLB/WLM support facility	1,500,000	1,500,000	1,000,000	1,000,000
Vessel navigation training simulator	1,500,000	1,500,000	1,500,000	1,500,000
Local notice to mariners automation	500,000	500,000	500,000	500,000
Global maritime distress and safety system	500,000	500,000	500,000	500,000
Operational information system	0	0	0	1,200,000
Total other equipment	56,300,000	42,200,000	47,600,000	49,200,000
Shore facilities and aids to navigation:				
Survey and design—Shore projects	8,000,000	8,000,000	6,000,000	6,000,000
Minor AC&I shore construction projects	5,000,000	5,000,000	4,000,000	4,000,000
Streamlining initiatives	5,000,000	5,000,000	0	0
Air station consolidation	11,00,000	11,000,000	0	0
Coast Guard Yard ship handling facility (phase II)	15,100,000	0	7,000,000	7,000,000
Public family quarters	22,700,000	20,275,000	8,900,000	9,175,000
Station Boothbay Harbor, ME—renovate/expand	2,800,000	2,800,000	2,800,000	2,800,000
Base South Portland, ME—construct station operations bldg.	2,600,000	2,600,000	2,600,000	2,600,000
Base San Juan, PR—reconstruction	3,150,000	3,150,000	0	0
Station Port Isabel, TX—reconstruct/expand waterfront facilities	2,650,000	2,650,000	2,650,000	2,650,000
Station Portage, MI—relocate/replace station facilities	4,200,000	4,200,000	4,200,000	2,300,000
Station Chetco River, OR—construct mooring/waterfront	2,000,000	2,000,000	2,000,000	2,000,000
Station Honolulu, HI—replacement	5,000,000	5,000,000	5,000,000	5,000,000
Waterways ATON projects	5,500,000	5,500,000	4,000,000	4,500,000
Overseas LORAN closure	0	0		−1,900,000
Streamlining/initiatives:				
New London, CT: Academy (Roland Hall renovation)	5,100,000	5,100,000	0	3,900,000
New London, CT: Academy (CPO & leadership schools)	0	0	2,500,000	2,500,000
New London: CT: Academy (Galley renovation)	0	0	0	5,000,000
Wadsworth, NY: Group/MSO/VTC Center	0	0	9,000,000	9,000,000
Rosebank, NY: Pier and station rehabilitation	0	0	4,000,000	4,000,000
Rosebank, NY: Moorings	0	0	0	3,900,000
Bayonne, NJ: Pier improvements/ANT team facilities	0	0	5,700,000	5,700,000
Sandy Hook, NJ: Construct group engineering building	0	0	2,750,000	2,750,000
Portsmouth, VA: Support center administrative space	0	0	4,000,000	4,000,000
Boston, MA: Support center rehabilitation	0	0	2,000,000	2,000,000
Yorktown, VA: Reserve training center yeoman school mods	0	0	1,100,000	0
Total shore facilities and aids to navigation	99,800,000	82,200,000	80,200,000	88,875,000
Personnel and related support:				
Direct personnel costs	48,200,000	42,500,000	46,000,000	44,200,000
Core acquisition costs	700,000	500,000	500,000	500,000
Total personnel and related	48,900,000	43,000,000	46,500,000	44,700,000
Total appropriations	428,200,000	375,175,000	366,800,000	362,375,000

Amendment No. 26: Provides $167,600,000 to acquire, repair, renovate or improve vessels, small boats and related equipment instead of $191,200,000 as proposed by the House and $178,000,000 as proposed by the Senate. In addition, the conference agreement includes the reprogramming of $14,000,000 from the seagoing and coastal buoy tender (WLB/WLM) programs, to be reallocated to the following programs:

Polar icebreaker replacement	$4,300,000
NORCREW search and rescue boat	2,000,000
Self-propelled barge	900,000
Surface search radar replacement	3,500,000
378-foot shipboard command and control	1,300,000
210-foot cutter MMA	2,000,000

Stern loading buoy boat (BUSL) replacement.—The conference agreement provides no funding for this project, as proposed by the House, instead of $8,500,000 as proposed by the Senate. This should be interpreted as a deferral of additional funding, and not Congressional desire to terminate the project. Due to project delays, prior year funding is available to continue this effort through fiscal year 1996 without additional appropriation.

Amendment No. 27: Provides $12,000,000 to acquire new aircraft and increase aviation capability instead of $16,500,000 as proposed by the House and $14,500,000 as proposed by the Senate.

RU-38A wing assembly upgrade.—The conferees understand the Coast Guard has identified a particular upgrade to the center wing assembly of the RU-38A surveillance aircraft which could significantly enhance the aircraft's service life, range and endurance on operational missions. The conferees understand that additional funding may be required to conduct this upgrade, and encourage the Coast Guard to submit a reprogramming proposal to the Congress for this work if the Coast Guard determines the project to be of sufficient priority.

Amendment No. 28: Provides $49,200,000 for other equipment instead of $42,200,000 as proposed by the House and $47,600,000 as proposed by the Senate.

Operational information system.—The conference agreement includes $1,200,000 for procurement and evaluation of prototypes of the operational information system (OIS), proposed by the House under the "Research, development, test and evaluation" (RDT&E) appropriation. In its appeal to the conferees, the Coast Guard suggested that RDT&E was not the appropriate account for this project. Consequently, the conference agreement includes funding under this appropriation.

Amendment No. 29: Provides $88,875,000 for shore facilities and aids to navigation facilities instead of $82,275,000 as proposed by the House and $80,200,000 as proposed by the Senate. In addition, the conference agreement includes the reprogramming of $24,000,000 from various shore facilities as listed in the Senate report (−$22,100,000) and from the overseas Loran-C closure program (−$1,900,000), to be reallocated to the following programs:

Air station consolidation	$11,000,000
Public family quarters	11,100,000
Station Portage, MI	1,900,000

Amendment No. 30: Provides $44,700,000 for acquisition-related personnel compensation, benefits and related costs instead of $43,000,000 as proposed by the House and $46,500,000 as proposed by the Senate.

Amendment No. 31: Deletes House language that would have allowed the Secretary to transfer up to $50,000,000 within the AC&I appropriation for implementation costs associated with Coast Guard streamlining plans. The Senate bill provided funding for specific streamlining projects rather than transfer authority for unspecified projects. The conference agreement adopts the Senate approach, providing $42,750,000 for ten streamlining projects. This compares to $31,050,000 in the Senate bill. The budget request included $5,000,000 for unspecified projects. The conferees are very supportive of the Coast Guard's streamlining efforts and look forward to reviewing specific proposals next year in detail.

Amendment No. 32: Provides that the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation. The Senate bill required disposal by sale or lease. The House bill contained no similar provision.

PORT SAFETY DEVELOPMENT

Amendment No. 33: Appropriates $15,000,000 for debt retirement of the Port of Portland, Oregon, to remain available until expended, as proposed by the Senate. The House bill contained no similar appropriation.

ALTERATION OF BRIDGES

Amendment No. 34: Appropriates $16,000,000 for the alteration or removal of obstructive bridges as proposed by the House instead of $2,000,000 as proposed by the Senate.

A table comparing the fiscal year 1996 estimate, House bill, Senate bill, and conference agreement by bridge and location follows:

	Fiscal year 1996 estimate	House bill	Senate bill	Conference agreement
Bridge and location:				
Burlington, IA, Burlington Northern RR Bridge	$2,000,000	$2,000,000	$2,000,000	$2,000,000
New Orleans, LA, Florida Avenue RR/HW Bridge		2,000,000		2,000,000
Brunswick, GA, Sidney Lanier HW Bridge		8,000,000		8,000,000
Chelsea St. Bridge, Boston, MA		2,000,000		2,000,000
Limehouse HW Bridge, St. John's Island, SC		2,000,000		2,000,000
Total	2,000,000	16,000,000	2,000,000	16,000,000

RESERVE TRAINING

Amendment No. 35: Appropriates $62,000,000 for reserve training as proposed by the Senate instead of $61,859,000 as proposed by the House.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Amendment No. 36: Appropriates $18,000,000 for research, development, test, and evaluation instead of $18,500,000 as proposed by the House and $20,000,000 as proposed by the Senate.

The following table summarizes the fiscal year 1996 budget estimate, House and Senate recommendations, and the conference agreement by program, project and activity:

Program area	Fiscal year 1996 estimate	House bill	Senate bill	Conference agreement
Improve search and rescue capability:				
Search planning	$100,000	$100,000		100,000
Search process, platforms and sensors	400,000	400,000		400,000
Personnel	432,000	432,000		432,000
Total	932,000	932,000	500,000	932,000
Waterways safety and management:				
Waterways management	500,000	500,000		400,000
Advanced vessel traffic systems/services	600,000	100,000		275,000
Integrated navigation systems	450,000	450,000		450,000
Short range aids to navigation	400,000	200,000		200,000
Advanced GPS development	0	0		0
Personnel	864,000	864,000		864,000
Total	2,814,000	2,114,000	1,325,000	2,189,000
Marine safety:				
Marine safety research	530,000	200,000		200,000
Human factors analysis	1,685,000	700,000		1,050,000
Fire safety for commercial vessels	960,000	750,000		750,000
Personnel	972,000	700,000		700,000
Total	4,147,000	2,350,000	2,000,000	2,700,000
Ship structure committee:				
Support for Committee	250,000	0	0	0
Personnel	36,000	0	0	0
Total	286,000	0	0	0
Marine environmental protection:				
Planning, management and training	150,000	150,000		150,000
Detection/surveillance systems	0	0		0
Oil pollution response	850,000	500,000		625,000
Personnel health and safety	75,000	75,000		75,000
Port demonstration project	0	0		0
OPA90 regional grant program	0	0		0
HazChem countermeasures and safety	0	0		0
Personnel	504,000	504,000		504,000
Total	1,579,000	1,229,000	1,075,00	1,354,000
Maritime law enforcement:				
Surveillance	725,000	725,000		725,000
Vessel search	0	0		0
Sensor integration information	0	0		0
Personnel	504,000	504,000		504,000
Total	1,229,000	1,229,000	725,000	1,229,000
Safety and environmental compliance:				
Cutter fire safety technology	600,000	586,000	0	586,000
Pollution prevention	500,000	500,000	0	500,000
Aviation engineering support	75,000	0	0	0
Vessel loss exposure and risk analysis methology	620,000	620,000	0	620,000
Personnel	612,000	612,000		612,000
Total	2,407,000	2,318,000	0	2,318,000
Human resource management effectiveness:				
Training techniques and technologies	300,000	0	0	100,000
Staffing standards development	0	0	0	0
Personnel	144,000	0	0	0
Total	444,000	0	0	100,000
Command, control, computers and intelligence:				
Information systems	280,000	1,780,000	0	280,000
Advanced communications systems	0	0	0	0
Personnel	648,000	648,000	0	648,000
Total	928,000	2,428,000	0	928,000
Technology base:				
Future technology assessment	300,000	0	0	0
Modeling	150,000	0	0	0
Select projects	450,000	300,000	0	300,000
Personnel	684,000	200,000	0	200,000
Total	1,584,000	500,000	0	500,000
R&D personnel, program support and operations				
Admin/support personnel and related costs	3,100,000	2,600,000	0	2,850,000

Program area	Fiscal year 1996 estimate	House bill	Senate bill	Conference agreement
Support and operations	1,700,000	1,500,000	0	1,600,000
R&D management info system development	500,000	450,000	0	450,000
Modernization of F&STD test facilities	850,000	850,000	0	850,000
Total	6,150,000	5,400,000	0	5,750,000
Mission capabilities assessment	0	0	1,780,000	0
Multimission/administrative support	0	0	12,595,000	0
Other projects:				
South Florida oil spill research center	0	0	0	0
Maritime Fire and Research Assoc.	0	0	0	0
Total	0	0	0	0
Total appropriations	22,500,000	18,500,000	20,000,000	18,000,000

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

Amendment No. 37: Appropriations $20,000,000 for boat safety grants as proposed by the House instead of no funding as proposed by the Senate. The budget proposal and the Senate recommendation assumed this program would be fully funded as a mandatory appropriation beginning in fiscal year 1996. When combined with an estimated $10,000,000 in mandatory spending authorized by the Clean Vessel Act of 1992, total program resources are $30,000,000 for fiscal year 1996, which compares to $32,500,000 for fiscal year 1995.

Notwithstanding the difficult budget constraints faced by the Congress, the conferees believe that to convert discretionary grant programs such as this one to mandatory funding—avoiding annual budget review and competition with other programs in the appropriations process—would undermine fiscal constraint and lessen Congressional oversight in an area which has the country's second highest number of transportation-related fatalities and is currently on the National Transportation Safety Board's list of "most wanted" safety improvements. Rather than put this program on an automatic spending status and lessen oversight, the conferees believe the Coast Guard and the department could more effectively use these grant funds to target states with poor boat safety records, and provide leveraged funding for safety improvements.

The conferees also note the Coast Guard is in error when it assumes that funding for this and other maritime programs comes at the expense of its operating budget. The conferees wish to make clear to the Coast Guard and the department that, while funding for boating safety grants is clearly a portion of the overall allocation of budgetary resources in this bill, it should not be assumed that reductions have been made in Coast Guard operating expenses to accommodate this or any other important maritime programs in the bill.

EMERGENCY FUND

(LIMITATION ON PERMANENT APPROPRIATIONS)

(OIL SPILL LIABILITY TRUST FUND)

Amendment No. 38: Deletes limitation of $3,000,000 on the permanent appropriation authorized in section 1012(a)(4) of the Oil Pollution Act of 1990 proposed by the House. The Senate bill contained no similar limitation.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 39: Inserts heading "including transfer of funds" as proposed by the Senate. This is necessary due to the disposition of amendment numbered 46.

Amendment No. 40: Appropriates $4,645,712,000 for FAA operations instead of $4,600,000,000 as proposed by the House and $4,550,000,000 as proposed by the Senate.

The following table summarizes adjustments to the budget estimate in the House and Senate bills and the conference agreement, by budget activity:

FAA OPERATIONS

	House bill	Senate bill	Conference agreement
Operation of the ATC system:			
Budget estimate	2,228,634,000	2,228,634,000	2,228,634,000
Adjustments to budget estimate:			
Contract tower streamlining	−6,520,000	0	0
"Quality through partnership"	−1,790,000	0	−1,790,000
General reduction	0	−28,310,000	0
Acclerated promotion	0	0	−4,300,000
Amount recommended	2,220,324,000	2,200,324,000	2,222,544,000
NAS logistics support:			
Budget estimate	185,158,000	185,158,000	185,158,000
Adjustments to budget estimate:			
Motor fleet, FAALC	−3,100,000	0	0
Depot spares	+4,000,000	0	0
General reduction	0	+4,493,000	0
Amount recommended	186,058,000	180,665,000	185,158,000
Maintenance of ATC system:			
Budget estimate	868,297,000	868,297,000	868,297,000
Adjustments to budget estimate:			
AMASS maintenance	−2,000,000	0	−2,000,000
OASIS maintenance	−100,000	0	−100,000
Undefined inflation	0	−3,602,000	−3,602,000
Amount recommended	866,197,000	864,695,000	862,595,000
Leased telecommunications:			
Budget estimate	328,423,000	328,423,000	328,423,000
Adjustments to budget estimate:			
Administrative communications	−4,680,000	0	−1,500,000
WECO switch offset	−2,000,000	0	−2,000,000
General reduction	0	−2,078,000	0
Amount recommended	321,743,000	326,345,000	324,923,000
Aviation regulation/certification:			
Budget estimate	399,711,000	399,711,000	399,711,000
Adjustments to budget estimate:			
Flight standards staff increase	−4,954,000	−4,954,000	0
New data systems	−1,634,000	−1,634,000	−1,634,000
PCS moves	−617,000	−617,000	−617,000
OMEGA navigation system	−8,556,000	−2,056,000	−1,840,000
Amount recommended	383,950,000	390,450,000	395,620,000
Aviation standards:			
Budget estimate	111,395,000	111,395,000	111,395,000

FAA OPERATIONS—Continued

	House bill	Senate bill	Conference agreement
Adjustments to budget estimate:			
Hold costs to fiscal year 1995 level	−2,644,000	−2,644,000	−2,644,000
Amount recommended	108,751,000	108,751,000	108,751,000
Aviation security:			
Budget estimate	65,769,000	65,769,000	65,769,000
Adjustments to budget estimate:			
Hold costs to fiscal year 1995 level	−920,000	0	0
General reduction	0	−769,000	0
Amount recommended	64,849,000	65,000,000	65,769,000
NAS Design and management:			
Budget estimate	53,277,000	53,277,000	53,277,000
Adjustments to budget estimate:			
General reduction	−8,277,000	−277,000	−3,000,000
Amount recommended	45,000,000	53,000,000	50,277,000
Administration of airports:			
Budget estimate	42,173,000	42,173,000	42,173,000
Adjustments to budget estimate:			
Staffing increase	−643,000	−673,000	−650,000
Amount recommended	41,530,000	41,500,000	41,523,000
Commercial space transportation:			
Budget estimate	6,541,000	6,541,000	6,541,000
Adjustments to budget estimate:			
Hold travel to fiscal year 1995 level	−45,000	−45,000	−45,000
Contract programs	−666,000	−666,000	−666,000
Delete industry support	−60,000	−60,000	−60,000
Amount recommended	5,770,000	5,770,000	5,770,000
Human resource management:			
Budget estimate	231,947,000	231,947,000	231,947,000
Adjustments to budget estimate:			
Labor, personnel and human relations	−22,142,000	0	−17,197,000
Centralized training	−10,050,000	0	−8,000,000
MARC	+250,000	0	+250,000
General reduction	0	−23,447,000	0
Amount recommended	200,005,000	208,500,000	207,000,000
Executive direction and management:			
Budget estimate	189,216,000	189,216,000	189,216,000
Adjustments to budget estimate:			
Staffing reductions	−5,390,000	0	−3,169,000
Regional public affairs staffing	−2,047,000	0	−2,047,000
General reduction	−6,779,000	−9,216,000	0
Amount recommended	175,000,000	180,000,000	184,000,000
Account-wide adjustments:			
Administration aircraft	−3,600,000	0	−1,500,000
Adjustments to budget estimate:			
SAE grant	−105,000	0	0
Overseas personnel assignments	−500,000	0	−500,000
Non-pay inflation	−4,824,000	0	−4,824,000
Workers' compensation	−1,394,000	0	−1,394,000
Undistributed	−8,754,000	−15,000,000	0
Operational pay differential	0	−45,000,000	0
Non-pay inflation, administrative aircraft, and GSA vehicles	0	−5,000,000	0
Amount recommended	−19,177,000	−65,000,000	−8,218,000
Offsetting receipts: Amount recommended	0	−10,000,000	0
Total appropriations	4,600,000,000	4,550,000,000	4,645,712,000
Transfer from Coast Guard			60,000,000
Total funding	4,600,000,000	4,550,000,000	4,705,712,000

Contract tower streamlining program.—The conferees agree to restore the reduction of $6,520,000 proposed by the House for this program, but agree with the House's observation that in past years, funds for this important program have not been spent as intended, but reprogrammed to other activities. The conferees believe these delays have been at least partly due to wage determinations required administratively by the Department of Labor. Since the conferees agree with the Senate language amending and streamlining the wage determination process, it is hoped the contract tower program will move forward without further delay and achieve the promised budgetary savings. The FAA is directed not to reprogram any of the $6,520,000 appropriated for this program.

"Quality through partnership" program.—The conference agreement deletes the $1,790,000 budgeted for this program, as proposed by the House. The conferees direct that no funds be reprogrammed for this activity during fiscal year 1996.

Accelerated promotion.—Since completion of House and Senate action on this bill, program savings of $4,300,000 have been found resulting from discontinuation of the accelerated promotion program for air traffic controllers. When the Training Agreement for Accelerated Promotions expired on July 15, 1995 and the administration made a decision not to renew the program, these funds became excess to budgetary requirements. This program allowed controllers to receive grade-to-grade promotions without fulfilling the time-in-grade requirements applicable to other federal employees. The conferees have used these savings to restore funding for additional FAA safety and certification inspectors, in order to provide the highest level of aviation safety possible.

Aviation safety inspectors.—The conference agreement fully funds the administration's request for 233 additional aviation safety inspectors, including an additional 117 general aviation inspectors. This is in addition to the increase in staffing provided for fiscal year 1995. Between fiscal year 1994 and 1996, end-of-year staffing in this area has risen from 4,051 to a funded level of 4,606, a two-year increase of almost 14 percent. Despite difficult budget constraints, the conferees believe this is a high priority safety area worthy of additional funding.

Flight service stations.—The conferees do not intend for FAA to close flight service stations not in the currently-approved plan, and believe funding in the conference agreement is sufficient for the FAA to continue to operate and maintain its existing network of flight service stations around the country.

Allocation of budget reductions.—The conferees reiterate to FAA and departmental officials that the funding allocations and reductions specified in the bill, as detailed and explained in this joint explanatory statement of the committee of conference, are the best expressions of Congressional intentions regarding the proper uses of appropriated funds. Should the department decide to reduce activities below the levels specified or implied herein, and in particular if activities are to be substantially reduced or terminated by agency action which is not specifically addressed in this statement, the department shall receive prior Congressional approval through the reprogramming process.

Mid America Aviation Resource Consortium.—The conferees agree to provide $250,000 for continued support of the Mid-America Aviation Resource Consortium, as proposed by the House, but intend that this be the final year of federal support for this facility unless requested in the President's budget.

Loran-C automatic blink system.—The conferees agree with the House's direction to expedite implementation of the automatic blink system for the Loran-C navigation system.

Aurora, IL en route center.—The conferees recognize the urgency of solving the problems causing computer outages at the FAA's air traffic control center in Aurora, Illinois. The Aurora center is one of the busiest in the world and a critical link in our nation's air traffic control system. Years of delay in updating the present equipment have resulted in an obsolete, aged, and failure-prone system in the Aurora center. FAA has worked diligently to develop an interim solution to this problem as quickly as is technologically feasible, pending installation of a new air traffic control system for the nation. The conferees deem maintenance of reliable operational capability at the Aurora center to be in the national interest of maintaining an efficient and viable national air transportation system, and deem the implementation of interim solutions to the problems causing computer outages to be an urgent national priority. FAA should simplify and expedite its procurement process to the maximum extent feasible, and should allocate all necessary personnel resources to assure that the existing system remains in reliable working order. If FAA determines that additional technological or personnel resources are necessary to develop and implement interim solutions to these problems, then the Congress would give serious consideration to providing such additional resources. The conference agreement includes $20,000,000, as proposed by the Senate, for the display channel complex rehost program, which will upgrade the computers at Aurora and similar centers.

Amendment No. 41: Provides that $2,222,859,100 shall be derived from the airport and airway trust fund instead of $1,871,500,000 as proposed by the House and $1,865,000,000 as proposed by the Senate.

Amendment No. 42: Allows funds for any "agency" services to be credited to this appropriation, as proposed by the Senate. The House bill specified that only receipts for "aviation" services be credited to the appropriation.

Amendment No. 43: Requires that funds credited to the appropriation be "receipts for" certain services, as proposed by the Senate. The House bill contained no similar language.

Amendment No. 44: Deletes Senate language allowing $10,000,000 in additional safety and security fees to be credited to this appropriation. The conferees have not yet seen adequate details from the administration demonstrating the unequivocal need for new fees, and explanation and justification of the specific fees to be imposed, or a convincing argument that the FAA's cost structure is of such efficiency that new fees or taxes are necessary. In addition, the conferees believe there will be substantial savings achieved through the FAA reform provisions enacted in this bill and the broader revisions currently under consideration in the authorization process. Such cost savings, combined with further review of the agency's cost structure, could obviate or minimize the need for additional fees.

Amendment No. 45: The conference agreement deletes language proposed by the Senate which would have begun a three year phaseout of the "five percent bonus pay" for air traffic controllers and technicians, and inserts new language allowing the Secretary of Transportation permissive transfer authority of up to $60,000,000 from Coast Guard "Operating expenses" to augment funding for air traffic control operations and maintenance to enhance safety and security.

FAA operations funding and transfer flexibility.—Since consideration of the fiscal year 1996 transportation appropriations bill by the House and Senate, the administration has raised the priority of funding for FAA operations and maintenance. For example, in a September 13, 1995 letter to the House and Senate Appropriations Committees, the director of the Office of Management and Budget advised "the administration has serious concerns that the funding level for Federal Aviation Administration (FAA) Operations would make it difficult to continue today's high levels of aviation safety. The administration's highest priority is that FAA operations be funded at the requested level."

The conferees have given the utmost consideration to the administration's priorities. The conference agreement includes an appropriation for FAA operations above the levels proposed in either the House or Senate bill. In addition, the agreement includes the authority for the Secretary of Transportation to transfer up to $60,000,000 from Coast Guard "Operating expenses" to augment the FAA's operating budget for air traffic control operations and maintenance activities which enhance aviation safety and security. It is not clear at this time how much of this authority might be required, but the conferees wish to provide maximum flexibility in the event of a critical shortfall. With the transfer, total funding for FAA operations in this bill is $4,705,712,000, slightly above the administration's request.

In addition, the conference agreement fully restores the requested increase for aviation safety inspectors and implements significant FAA personnel and procurement reforms. The first action addresses a high administration priority and provides the maximum resources possible for an important safety initiative. Personnel and procurement reforms are expected to free up significant operating funds or air traffic control and safety-related activities. Overall, the conferees are confident that the increased funding level, combined with transfer flexibility and these additional actions, will be sufficient to maintain aviation safety over the coming year despite the difficult budget environment and the necessity for governmentwide downsizing.

Five percent bonus pay.—The conference agreement restores the reduction of $45,000,000 to begin a three year phaseout of this pay proposed by the Senate. However, in order to accommodate the $88,600,000 estimated for this program, the conferees were required to hold funding for the airport improvement program to the fiscal year 1995 level of $1,450,000,000. Given the high priority placed on the five percent bonus by the administration and the desire to maintain morale in the air traffic controller workforce, the conferees believe it prudent and necessary to delay some airport construction projects to finance continuation of this important activity.

Aviation security.—The conference agreement fully funds the administration's request of $65,769,000 for aviation security activities due to the high priority of this activity given recent threat assessments.

Amendment No. 46: Provides for the transfer of unexpended balances from prior appropriations for the office of commercial space transportation to this appropriation, and prohibits airport and airway trust fund resources from being used to support the office of commercial space transportation, as proposed by the Senate. The House bill contained no similar provisions. The conference agreement transfers this office from the office of the secretary of transportation to the FAA.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 47: Appropriates $1,934,883,000 for facilities and equipment instead of $2,000,000,000 as proposed by the House and $1,890,377,000 as proposed by the Senate.

The following table summarizes the fiscal year 1996 budget estimate, House and Senate recommended levels, and the conference agreement by program, project, and activity:

FACILITIES AND EQUIPMENT

Conference Agreement

(In thousands of dollars)

FY96 LINE	TITLE	FY 1996 Estimate	FY 1996 House	FY 1996 Senate	Conference Agreement
BA1	**ENGINEERING DEVELOPMENT, TEST AND EVALUATION:**				
1A01	AVIATION WEATHER SERVICES IMPROVEMENTS	13,700.0	26,100.0	13,700.0	19,700.0
1A02	EN ROUTE AUTOMATION	317,400.0	256,700.0	256,700.0	256,700.0
	AERONAUTICAL DATA LINK (ADL)	0.0	27,400.0	27,400.0	27,400.0
1A04	VOICE SWITCHING AND CONTROL SYSTEM (VSCS) - EDT&E	11,000.0	11,000.0	11,000.0	11,000.0
1A03	OCEANIC AUTOMATION SYSTEM	47,100.0	47,100.0	47,100.0	47,100.0
	AERONAUTICAL DATA LINK (ADL) APPLICATIONS				
	SUBTOTAL - EN ROUTE PROGRAMS	**389,200.0**	**368,300.0**	**355,900.0**	**361,900.0**
1B01	AIRPORT SURVEILLANCE RADAR (ASR)	14,300.0	14,300.0	14,300.0	14,300.0
1B02	REMOTE MAINTENANCE MONITORING SYSTEM	3,000.0	3,000.0	0.0	0.0
1B03	TERMINAL AUTOMATION	31,600.0	31,600.0	24,400.0	31,600.0
1B04	TOWER AUTOMATION	29,500.0	29,500.0	29,500.0	29,500.0
	TERMINAL AREA SURVEILLANCE SENSOR (TASS)	0.0	5,800.0	5,000.0	5,000.0
	LOW-COST ASDE	0.0	8,000.0	0.0	5,000.0
	LOOP TECHNOLOGY FOR SURFACE DETECTION	0.0	2,000.0	0.0	2,000.0
	SUBTOTAL - TERMINAL PROGRAMS	**78,400.0**	**94,200.0**	**73,200.0**	**87,400.0**
1EO2	FAA TECHNICAL CENTER FACILITY - BUILDING LEASE	5,290.0	.0	5,290.0	5,290.0
1EO3	UTILITY PLANT MODIFICATIONS	1,560.0	.0	1,560.0	1,560.0
1EO5	NAS IMPROVEMENT OF SYSTEM SUPPORT LABORATORY	2,000.0	.0	2,000.0	2,000.0
1EO6	TECHNICAL CENTER FACILITIES	9,600.0	20,600.0	9,600.0	9,600.0
1EO8	CAMI INFRASTRUCTURE - MODERNIZATION	600.0	600.0	600.0	600.0
1EO1	INDEPENDENT OPERATIONAL TEST SUPPORT	1,500.0	1,500.0	1,500.0	1,500.0
1EO4	GENERAL AIRPORT IMPROVEMENTS	150.0	.0	150.0	150.0
1EO7	TECHNICAL CENTER FIBER DATA DISTRIBUTION INTERFACE	2,000.0	.0	2,000.0	2,000.0
1EO9	CABIN RESEARCH FACILITY CONSTRUCTION	500.0	500.0	500.0	500.0
	SUBTOTAL, RDT&E EQUIPMENT AND FACILITIES	**23,200.0**	**23,200.0**	**23,200.0**	**23,200.0**
	TOTAL ACTIVITY 1	***490,800.0***	***485,700.0***	***452,300.0***	***472,500.0***
BA2	**AIR TRAFFIC CONTROL FACILITIES AND EQUIPMENT:**				
	DISPLAY COMPLEX CHANNEL REHOST	0.0	.0	20,000.0	20,000.0
2AO1	LONG RANGE RADAR (LRR) PROGRAM - REPLACE/ESTABLISH	12,800.0	12,800.0	12,800.0	12,800.0
2A02	RML SYSTEM REPLACEMENT/EXPANSION	1,000.0	1,000.0	1,000.0	1,000.0
2AO3	NEXT GENERATION WEATHER RADAR (NEXRAD) - PROVIDE	10,800.0	10,800.0	10,800.0	10,800.0
2AO4	ATC EN ROUTE RADAR FACILITIES IMPROVEMENTS	17,700.0	11,800.0	11,800.0	11,800.0
2AO5	EN ROUTE AUTOMATION	17,700.0	17,700.0	17,700.0	17,700.0
2AO6	AIR TRAFFIC OPERATIONS MANAGEMENT	1,000.0	1,000.0	1,000.0	1,000.0
2AO7	WEATHER AND RADAR PROCESSOR (WARP)	7,800.0	7,800.0	7,800.0	7,800.0
2A08	AERONAUTICAL DATA LINK (ADL) APPLICATIONS	15,000.0	.0	0.0	0.0
2A09	ARTCC BUILDING IMPROVEMENTS/PLANT IMPROVEMENTS	42,100.0	59,100.0	59,100.0	59,100.0
2A10	VOICE SWITCHING AND CONTROL SYSTEM (VSCS)	112,700.0	106,100.0	106,100.0	106,100.0
2A11	RCF - EXPAND/RELOCATE	1,000.0	1,000.0	1,000.0	1,000.0
2A12	TRAFFIC FLOW MANAGEMENT	28,500.0	40,300.0	34,000.0	40,300.0
2A13	DATA MULTIPLEXING NETWORK (DMN)	7,900.0	7,900.0	7,900.0	7,900.0
2A14	CRITICAL COMMUNICATIONS SUPPORT	3,000.0	.0	2,000.0	2,000.0
2A15	EN ROUTE COMMS AND CONTROL FACILITIES IMPROVEMENT	3,181.0	3,181.0	3,181.0	3,181.0
2A16	SATELLITE COMMUNICATIONS CIRCUIT BACK-UP	4,000.0	4,000.0	4,000.0	4,000.0
2A17	DOD BASE CLOSURE - FACILITY TRANSFER	5,000.0	5,000.0	5,000.0	5,000.0
2A18	BACK-UP EMERGENCY COMMUNICATIONS (BUEC)	2,000.0	2,000.0	2,000.0	2,000.0
	VOLCANO MONITOR	0.0	0.0	2,000.0	2,000.0
	SUBTOTAL - EN ROUTE PROGRAMS	**293,181.0**	**291,481.0**	**309,181.0**	**315,481.0**
2B01	TERMINAL DOPPLER WEATHER RADAR (TDWR) - PROVIDE	4,900.0	47,400.0	7,400.0	7,400.0
2B02	MODE S - PROVIDE	12,700.0	12,700.0	12,700.0	12,700.0
2B03	TERMINAL AUTOMATION	22,800.0	17,300.0	17,300.0	17,300.0
2B05	REMOTE MAINTENANCE MONITORING SYSTEM (RMMS)	27,500.0	15,000.0	24,500.0	24,500.0
2B06	TERMINAL AIR TRAFFIC CONTROL FACILITIES - REPLACE	60,400.0	60,400.0	60,400.0	60,400.0
2B07	CONTROL TOWER/TRACON FACILITIES - IMPROVE	25,664.0	22,800.0	25,600.0	25,600.0
2B09	EMERGENCY TRANSCEIVERS - REPLACEMENT	2,000.0	2,000.0	2,000.0	2,000.0
2B10	TERMINAL VOICE SWITCH REPLACEMENT (TVSR)	7,000.0	14,000.0	7,000.0	14,000.0

FACILITIES AND EQUIPMENT

Conference Agreement

(In thousands of dollars)

FY96 LINE	TITLE	FY 1996 Estimate	FY 1996 House	FY 1996 Senate	Conference Agreement
2B11	RADIO CONTROL EQUIPMENT (RCE) - PROVIDE	1,100.0	1,100.0	1,100.0	1,100.0
2B13	AIRPORT SURFACE DETECTION EQUIPMENT (ASDE-3)	8,800.0	8,800.0	8,800.0	8,800.0
2B12	TERMINAL RADAR (ASR) - IMPROVE	3,506.0	3,506.0	2,700.0	3,506.0
2B08	METROPLEX CONTROL FACILITIES -ADVANCED PLANNING	2,000.0	2,000.0	2,000.0	2,000.0
2B18	DALLAS/FORT WORTH METROPLEX PROGRAM	13,000.0	13,000.0	13,000.0	13,000.0
2B14	POTOMAC METROPLEX	12,600.0	12,600.0	10,400.0	10,400.0
	NORTHERN CALIFORNIA METROPLEX	0.0	10,000.0	2,000.0	3,800.0
	ATLANTA METROPLEX	0.0	10,000.0	3,800.0	3,800.0
2B17	CHICAGO METROPLEX	1,000.0	1,000.0	1,000.0	1,000.0
2B21	SOUTHERN CALIFORNIA METROPLEX	2,000.0	2,000.0	2,000.0	2,000.0
2B15	EMPLOYEE SAFETY/OSHA AND ENVIRONMENTAL COMPLIANCE STDS	23,000.0	23,000.0	23,000.0	21,000.0
2B19	PRECISION RUNWAY MONITORS	1,200.0	1,200.0	0.0	0.0
2B20	NEW AUSTIN AIRPORT AT BERGSTROM	14,800.0	14,800.0	12,000.0	14,000.0
2B04	AIRPORT MOVEMENT AREA SAFETY SYSTEM (AMASS)	11,300.0	31,300.0	0.0	11,300.0
2B23	TERMINAL COMMUNICATIONS IMPROVEMENTS	3,495.0	3,495.0	3,495.0	3,495.0
2B16	ARTS IIIA DATA ENTRY DISPLAY	1,000.0	1,000.0	1,000.0	1,000.0
2B22	INTEGRATED NETWORK MANAGEMENT SYSTEM	300.0	.0	0.0	0.0
	SUBTOTAL - TERMINAL PROGRAMS	**262,065.0**	**330,401.0**	**243,195.0**	**264,101.0**
2C01	FLIGHT SERVICE STATION (FSS) AUTOMATION	1,000.0	1,000.0	1,000.0	1,000.0
2C02	AUTOMATED SURFACE OBSERVING SYSTEM (ASOS)	24,500.0	24,500.0	24,500.0	24,500.0
2C03	OASIS	18,700.0	18,700.0	16,700.0	16,700.0
2C04	FLIGHT SERVICE FACILITIES IMPROVEMENT	805.0	805.0	805.0	805.0
	SUBTOTAL - FLIGHT SERVICE PROGRAMS	**45,005.0**	**45,005.0**	**43,005.0**	**43,005.0**
2D01	VOR/DME/TACAN NETWORK PLAN	1,000.0	1,000.0	1,000.0	1,000.0
2D02	ILS - REPLACE MARK 1A, 1B, AND 1C	6,900.0	6,900.0	6,900.0	6,900.0
2D03	INSTRUMENT LANDING SYSTEM (ILS) - ESTABLISH/UPGRADE	30,000.0	33,500.0	35,000.0	35,000.0
2D04	VISUAL NAVAIDS - ESTABLISH/EXPAND	2,000.0	2,000.0	2,000.0	2,000.0
2D06	RUNWAY VISUAL RANGE (RVR)	2,000.0	9,000.0	2,000.0	9,000.0
2D07	INSTRUMENT APPROACH PROCEDURES AUTOMATION (IAPA)	900.0	900.0	900.0	900.0
2D08	GULF OF MEXICO OFFSHORE PROGRAM	4,900.0	4,900.0	4,900.0	4,900.0
2D11	NAVIGATIONAL AND LANDING AIDS - IMPROVE	3,864.0	3,864.0	3,864.0	3,864.0
2D05	LOW LEVEL WINDSHEAR ALERT SYSTEM (LLWAS)	1,000.0	15,000.0	15,000.0	15,000.0
2D09	ILS - REPLACE GRN-27	6,900.0	6,900.0	6,900.0	6,900.0
2D10	WIDE AREA AUGMENTATION SYSTEM FOR GPS (WAAS)	86,900.0	86,900.0	86,900.0	86,900.0
	SUBTOTAL - LANDING AND NAVIGATIONAL AIDS	**146,364.0**	**170,864.0**	**165,364.0**	**172,364.0**
2EO1	ALASKAN NAS INTERFACILITY COMM SYSTEM (ANICS)	5,900.0	5,900.0	5,900.0	5,900.0
2EO2	FUEL STORAGE TANK REPLACEMENT AND MONITORING	25,000.0	9,400.0	23,800.0	16,000.0
2EO3	FAA BUILDINGS AND EQUIPMENT - IMPROVE/MODERNIZE	7,232.0	7,232.0	7,232.0	7,232.0
2EO4	ELECTRICAL POWER SYSTEMS - SUSTAIN/SUPPORT	5,400.0	5,400.0	5,400.0	5,400.0
2EO5	AIR NAVAIDS AND ATC FACILITIES (LOCAL PROJECTS)	2,500.0	.0	1,000.0	1,000.0
2EO6	AIR NAVIGATION FACILITY/ATC SYSTEM SUPPORT	4,500.0	.0	2,500.0	2,500.0
2EO7	PURCHASE LAND OR EASEMENT FOR EXISTING FACILITIES	1,500.0	1,500.0	1,500.0	1,500.0
2EO8	AIRCRAFT RELATED EQUIPMENT PROGRAM	4,900.0	4,900.0	3,900.0	3,900.0
2EO9	AIRCRAFT FLEET MODERNIZATION	55,000.0	55,000.0	55,000.0	54,000.0
2EO11	AIRPORT CABLE LOOP SYSTEMS - SUSTAINED SUPPORT	2,000.0	2,000.0	2,000.0	2,000.0
2EO12	COMPUTER AIDED ENG GRAPHICS (CAEG) REPLACEMENT	1,500.0	1,500.0	1,500.0	1,500.0
	SUBTOTAL - OTHER ATC FACILITIES	**115,432.0**	**92,832.0**	**109,732.0**	**100,932.0**
	TOTAL ACTIVITY 2	***862,047.0***	***930,583.0***	***870,477.0***	***895,883.0***
BA3	**NON-ATC FACILITIES AND EQUIPMENT:**				
3AO1	NAS MANAGEMENT AUTOMATION PROGRAM (NASMAP)	2,000.0	.0	1,500.0	0.0
3AO2	HAZARDOUS MATERIALS MANAGEMENT	22,100.0	21,000.0	22,100.0	18,000.0
3A04	AVIATION SAFETY ANALYSIS SYSTEM (ASAS)	19,400.0	19,400.0	19,400.0	19,400.0
3AO5	OPERATIONAL DATA MANAGEMENT SYSTEM (ODMS)	4,900.0	4,900.0	4,900.0	4,900.0
3AO6	CHILD CARE FACILITIES	2,600.0	5,200.0	2,600.0	2,600.0
3AO7	FAA EMPLOYEE HOUSING - PROVIDE	4,900.0	4,900.0	4,900.0	4,900.0
3A08	LOGISTICS SUPPORT SYSTEM AND FACILITIES	2,000.0	2,000.0	2,000.0	2,000.0
3AO9	TEST EQUIPMENT - MAINTENANCE SUPPORT	1,000.0	1,000.0	1,000.0	1,000.0
3A10	INTEGRATED FLIGHT QUALITY ASSURANCE	1,000.0	1,000.0	1,000.0	1,000.0
3A11	SAFETY PERFORMANCE ANALYSIS SUBSYSTEM (SPAS)	3,200.0	3,200.0	3,200.0	3,200.0

FACILITIES AND EQUIPMENT
Conference Agreement
(In thousands of dollars)

FY96 LINE	TITLE	FY 1996 Estimate	FY 1996 House	FY 1996 Senate	Conference Agreement
	PORTABLE PERFORMANCE SUPPORT SYS - PEN-BASED	0.0	.0	2,100.0	2,100.0
3A13	NATIONAL AVIATION SAFETY DATA CENTER	2,000.0	2,000.0	2,000.0	2,000.0
3AO3	NAS RECOVERY COMMUNICATIONS (RCOM)	2,000.0	2,000.0	2,000.0	2,000.0
3A12	PERFORMANCE ENHANCEMENT SYSTEM	2,100.0	2,100.0	0.0	0.0
	AIRPORT/AIRCRAFT SECURITY EQUIPMENT	0.0	10,000.0	10,000.0	10,000.0
	SUBTOTAL - SUIPPORT EQUIPMENT	***69,200.0***	***78,700.0***	***78,700.0***	***73,100.0***
3B01	COMPUTER BASED INSTRUCTION (CBI) - EXPAND/IMPROVE	8,800.0	8,800.0	8,800.0	8,800.0
3BO2	AERONAUTICAL CENTER TRAINING AND SUPPORT FACILITIES	6,900.0	6,900.0	6,900.0	6,900.0
3B03	NATIONAL AIRSPACE SYSTEM (NAS) TRAINING FACILITIES	3,000.0	3,000.0	3,000.0	3,000.0
	SUBTOTAL - TRAINING EQUIPMENT & FACILITIES	***18,700.0***	***18,700.0***	***18,700.0***	***18,700.0***
	TOTAL ACTIVITY 3	***87,900.0***	***97,400.0***	***97,400.0***	***91,800.0***
BA4	**MISSION SUPPORT:**				
4AO1	SYSTEM ENGINEERING AND DEVELOPMENT SUPPORT	72,400.0	72,400.0	69,400.0	69,400.0
4AO3	LOGISTICS SUPPORT SERVICES	7,000.0	7,000.0	7,000.0	7,000.0
4AO4	MIKE MONRONEY AERONAUTICAL CENTER - LEASE	15,000.0	15,000.0	15,000.0	15,000.0
4AO5	IN-PLANT NAS CONTRACT SUPPORT SERVICES	4,900.0	4,900.0	4,900.0	4,900.0
4AO6	TRANSITION ENGINEERING SUPPORT	50,000.0	60,000.0	50,000.0	53,000.0
4AO7	FREQUENCY AND SPECTRUM ENGINEERING - PROVIDE	1,300.0	1,300.0	1,300.0	1,300.0
4AO8	ACQUISITION OVERSIGHT	400.0	400.0	400.0	400.0
4AO9	FAA SYSTEM ARCHITECTURE	4,900.0	2,000.0	4,000.0	3,000.0
4A1O	TECHNICAL SERVICES SUPPORT CONTRACT (TSSC)	62,200.0	61,200.0	60,200.0	60,200.0
4A02	PROGRAM SUPPORT LEASES	27,000.0	31,117.0	27,000.0	29,500.0
4A11	PERMANENT CHANGE OF STATION MOVES	15,000.0	15,000.0	15,000.0	15,000.0
	TOTAL ACTIVITY 4	***260,100.0***	***270,317.0***	***254,200.0***	***258,700.0***
BA5	**PERSONNEL AND RELATED EXPENSES:**				
5AO1	PERSONNEL AND RELATED EXPENSES	207,000.0	216,000.0	216,000.0	216,000.0
	TOTAL ACTIVITY 5	***207,000.0***	***216,000.0***	***216,000.0***	***216,000.0***
	TOTAL	***1,907,847.0***	***2,000,000.0***	***1,890,377.0***	***1,934,883.0***

Automated surface observing system.—In its July 30, 1992 report on the fiscal year 1993 DOT Appropriations Bill, the Senate Appropriations Committee noted that certain critical requirements for the automated surface observing system (ASOS) appeared to be unfunded and not included in the original ASOS contract. In a report to Congress dated July 26, 1993, the Acting Administrator of the FAA noted that ground-to-air radios, freezing rain sensors, and improved tower displays were "considered urgent to achieve successful completion of the ASOS program". According to the FAA, additional funding was not required for the radios, the rain sensors would be funded over fiscal years 1994 and 1995, and the display upgrade only awaited a cost estimate from the National Oceanic and Atmospheric Administration. Given these statements, the conferees were surprised to learn that a recent ASOS program review revealed unfunded costs of approximately $25,000,000 for these items, as well as unfunded maintenance costs. The FAA is now developing a plan to use a large portion of the fiscal year 1996 funds—appropriated to procure 106 additional systems—to address this shortfall instead. The conferees emphatically direct the FAA to use the fiscal year 1996 funding to procure the additional ASOS systems, as was justified to the Congress in the President's budget request.

The conferees are disappointed to learn that the FAA did not resolve these problems in 1993, as it led Congress to believe, and are concerned that this is one more example of an FAA acquisition culture in great need of the reforms contained in this bill. If the FAA's estimates of a shortfall are correct, then a reprogramming of non-ASOS funds should be submitted for consideration through the normal process, in an expedited manner as would be suggested by the agency's past statements regarding the urgency of these improvements. In addition, the conferees direct the FAA to report to the House and Senate Committees on Appropriations by December 1, 1995 on the agency's plans to close the gap of installed versus commissioned sites, without interrupting the scheduled procurement of ASOS units.

The conferees direct the FAA to expedite installation of the long line connection providing ASOS data between the Ames Airport, Iowa and the national weather net.

Terminal area surveillance system.—The conference agreement provides $5,000,000 for the terminal area surveillance system (TASS) as proposed by the Senate instead of $5,800,000 as proposed by the House. In its appeal to the conferees, the FAA stated "the TASS program has been restructured from a single, multi-function system acquisition program to a program focused on research into subsystem performance enhancements." The conferees have no information on this restructured program, and believe the TASS development and acquisition program should proceed as scheduled and planned prior to any restructuring. Fiscal year 1996 funding is provided specifically for the TASS system acquisition program and not for any subsystem enhancements.

Low-cost ASDE and non-radar runway incursion technologies.—The conferees agree that the FAA should explore lower cost surface detection technology solutions for airports not scheduled to receive ASDE–3 equipment. The conferees agree to provide $5,000,000 for the development and demonstration of lower cost phased array surface detection technology, instead of $8,000,000 as proposed by the House. Funds should be used for purchase and installation of one such system and for administrative costs related to demonstration and evaluation of the system.

Terminal doppler weather radar.—The conference agreement does not include additional funding for the acquisition of five new terminal doppler weather radars proposed by the House. The conferees, however, are not convinced that the ASR/windshear alert program, now in the research phase, will be a cost-effective alternative to terminal doppler weather radar in meeting future windshear requirements. The FAA has not provided sufficient data regarding the performance of the ASR/windshear alert program in dry regions of the country. Moreover, under current projects, the ASR/windshear alert program will not be commissioned until the year 2002. During the fiscal year 1997 hearing cycle, the conferees expect to further explore the efficacy of the ASR/windshear alert program. In the interim, the conferees expect the FAA to move forward with site surveys for the next five sites for which TDWR systems are indicated, and to report on its progress no later than sixty days following enactment of this Act. In addition, the conferees direct the FAA to update the needs requirement analysis for the terminal doppler weather program that was first done in 1986 no later than sixty days following enactment of this Act. The update should include a review of the 47 sites included in the existing contract and the 53 sites not scheduled under the current contract. The conferees direct the FAA to review those sites experiencing significant delays in the installation of TDWRs in the existing contract and certify that each is likely to be commissioned. With that review, and based upon the site selection review for the next five sites, the FAA is urged to request reprogramming permission, if necessary to continue the TDWR program in fiscal year 1996.

The conferees want to reiterate that funding for any TDWR environmental impact statement (EIS) shall not prejudge the outcome of the EIS for any particular site in New York except as previously cited (North Belmore and Roslyn, New York).

Instrument landing systems-establishment.—The conference agreement provides $35,000,000 as proposed by the Senate instead of $33,500,000 as proposed by the House. Of the amount provided, $3,500,000 is for a category II ILS on runway 7/25 in Rockford, Illinois, and $1,500,000 is for benefit-cost analysis, environmental assessment, site survey, and other activities necessary to determine the requirements for an ILS (category I, II, or III) at Lanai Airport, Hawaii. The conference agreement includes funding for a category III ILS on runway 12L/30R at Lambert-St. Louis International Airport, not runway 14R as specified in the House report.

St. Paul, MN downtown airport tower.—In fiscal year 1995, Congress provided $3,476,000 for the St. Paul, Minnesota Downtown Airport to build a replacement air traffic control tower. The FAA, however, used the airport's money to finance cost overruns on another project. Given that the FAA requested and Congress provided funds for the St. Paul tower in fiscal year 1995, the conferees urge the FAA to honor their prior agreement and make available the funds necessary to build the replacement tower at the St. Paul Downtown Airport.

Financial baseline control notices.—The conferees reiterate the House's direction that all financial baseline control notices are to be submitted to the Congress at the time they are approved by the agency. The documents themselves should be submitted. The Appropriations Committees will review this practice at the end of the fiscal year to determine whether it should be continued.

Support contracts.—A recent FAA study concluded that the agency uses far too many support contractors, that agency personnel could be much more cost conscious in their contracting and oversight methods, and that in many cases, contract employees are collated with FAA staff and virtually indistinguishable from government employees. While the conferees have high regard for the work of FAA's support contractors, the study nevertheless raises questions about the extensive nature of such contracts within the FAA. Therefore, the conferees direct the FAA to report to the House and Senate Committees on Appropriations by March 30, 1996 on its plan for resolving the findings and implementing the recommendations of this study. This report should include a discussion of the extent to which the procurement reforms in this bill lessen the need for support contracts to meet the current requirements of the procurement process.

Amendment No. 48: Provides that, of the total amount appropriated, $1,718,883,000 is available for three years, instead of $1,784,000,000 in the House bill and $1,674,377,000 in the Senate bill. This is the amount provided for budget activities one through four.

Amendment No. 49: Includes technical change proposed by the Senate, deleting the word "and" to allow inclusion of language contained in amendment numbered 50.

Amendment No. 50: Provides that, of the total amount appropriated, $10,000,000 is for noncompetitive cooperative agreements with air carriers for acquisition, installation, and evaluation of certain specified airport security equipment, as proposed by the Senate. The House bill contained no similar provision, although $10,000,000 was provided for such equipment in the overall appropriation.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Amendment No. 51: Rescinds $60,000,000 as proposed by the House instead of $70,000,000 as proposed by the Senate.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 52: Appropriates $185,698,000 for research, engineering, and development instead of $143,000,000 as proposed by the House and $215,886,000 as proposed by the Senate.

The following table summarizes the fiscal year 1996 estimate, House and Senate recommendations, and the conference agreement, by program, project, and activity:

Program name	Fiscal year 1996 estimate	House bill	Senate bill	Conference agreement
System development and infrastructure	$13,551,000	$8,800,000	$12,500,000	$10,000,000
System planning and resource management	3,953,000	3,000,000	3,700,000	2,000,000
Technical laboratory facility	9,598,000	5,800,000	8,800,000	8,000,000
Capacity and air traffic management technology	79,205,000	25,129,000	50,800,000	37,200,000

Program name	Fiscal year 1996 estimate	House bill	Senate bill	Conference agreement
Air traffic management technology	9,875,000	0	8,000,000	3,500,000
Oceanic automation program	10,470,000	8,000,000	8,000,000	8,000,000
Terminal air traffic control automation (TATCA)	15,624,000	0	0	0
Runway incursion reduction	8,177,000	0	8,000,000	4,000,000
System capacity, planning and improvements	12,256,000	6,000,000	12,000,000	9,000,000
Cockpit technology	8,266,000	6,500,000	8,200,000	6,700,000
General aviation/vertical flight technology	3,327,000	2,629,000	2,600,000	2,600,000
Modeling, analysis, and simulation	7,807,000	2,000,000	4,000,000	3,400,000
Future airway facilities technology	3,403,000	0	0	0
Communications, navigation and surveillance	31,330,000	20,000,000	25,963,000	23,000,000
Communications	15,367,000	10,000,000	10,000,000	10,000,000
Navigation	15,963,000	10,000,000	15,963,000	13,000,000
Surveillance	0	0	0	0
Weather	6,493,000	6,493,000	6,493,000	6,493,000
Airport technology	9,278,000	1,000,000	8,000,000	6,000,000
Aircraft safety technology	47,547,000	29,578,000	40,548,000	37,978,000
Aircraft systems fire safety	3,906,000	0	0	0
Advanced materials/structural safety	2,973,000	2,000,000	2,500,000	2,000,000
Propulsion and fuel systems	4,059,000	0	4,055,000	3,400,000
Flight safety/atmospheric hazards research	4,173,000	4,173,000	4,173,000	4,173,000
Aging aircraft	21,415,000	15,000,000	21,415,000	20,000,000
Aircraft catastrophic failure prevention research	4,357,000	2,705,000	2,705,000	2,705,000
Fire research	4,604,000	0	0	0
Fire research and safety	0	5,700,000	5,700,000	5,700,000
General aviation renaissance	1,005,000	0	0	0
Cabin safety	1,055,000	0	0	0
System security technology	43,808,000	23,000,000	37,900,000	36,045,000
Explosives and weapons detection	33,179,000	23,000,000	30,000,000	29,000,000
Airport security technology integration	2,530,000	0	1,500,000	1,000,000
Aviation security human factors	4,603,000	0	3,000,000	2,549,000
Aircraft hardening	3,496,000	0	3,400,000	3,496,000
Human factors and aviation medicine	25,860,000	28,000,000	25,182,000	23,682,000
Flight deck/maintenance/system integration human factors	11,182,000	15,500,000	11,182,000	11,182,000
Air traffic control/airway facilities human factors	10,193,000	10,000,000	10,000,000	10,000,000
Aeromedical research	4,485,000	2,500,000	4,000,000	2,500,000
Environment and energy	5,429,000	1,000,000	4,500,000	3,800,000
Innovative/cooperative research	5,160,000	0	4,000,000	1,500,000
Total appropriations	267,661,000	143,000,000	215,886,000	185,698,000

Innovative deicing technology.—In order to evaluate the effectiveness of enclosed deicing techniques at smaller regional airports, the conferees urge the FAA to consider the application of Rhinelander-Oneida County Airport to develop a test site for the evaluation of innovative deicing technology. The conferees believe that this technology warrants further exploration, and direct the FAA to provide a full report to the House and Senate Committees on Appropriations by March 15, 1996 on the results of testing and the agency's plans to authorize airport grant funding or passenger facility charges to enable airports to procure such a system.

Runway incursion reduction.—The conference agreement includes $4,000,000 instead of no funds as proposed by the House and $8,000,000 as proposed by the Senate. With the funds provided, the conferees direct FAA to give immediate priority and attention to the surface movement advisor project. The conferees believe that reducing runway incursions is a high priority for further research and rapid prototyping. While funds in this long-term research activity are being reduced below the administration's request, the conference agreement includes an additional $7,000,000 in the "facilities and equipment" account for non-radar technologies and development of low-cost ASDE radar systems. Total funding, over all accounts, for addressing this safety problem in the conference agreement is approximately $3,000,000 above the administration's request.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 53: Deletes heading "including rescission of contract authorization" proposed by the Senate. This is a technical amendment referring to a proposed rescission of contract authority discussed under amendment numbered 56.

Amendment No. 54: Limits obligations for the grants-in-aid for airports program to $1,450,000,000 instead of $1,600,000,000 as proposed by the House and $1,250,000,000 as proposed by the Senate.

Letters of intent.—The conferees agree with the Senate direction that new letters of intent (LOIs) be awarded only after (1) scheduled LOI payments fall to less than fifty percent of AIP discretionary funds, and (2) FAA has improved its ability to estimate airport development projects' impact on systemwide capacity. Regarding the Senate's language on possible letters of intent for the Northwest Arkansas Regional Airport and the Philadelphia International Airport, the conferees agree that the FAA should fairly consider LOI applications from these airports, and base a final decision on technical requirements at these sites and projections of long term AIP funding, consistent with other directions in this report.

Regarding the Senate's language on a possible letter of intent for the Seattle-Tacoma International Airport, the conferees agree that the FAA should also fairly consider an LOI application from this airport subject to: (1) completion of the required FAA/federal environmental review process; (2) resolution of the concerns brought forward in the report RO-FA-5-015 by the Office of Inspector General; and (3) approval of the runway project from the Regional Transportation Planning Organization for the central Puget Sound region by amending the Regional Air System Plan. Finally, the FAA shall fairly consider any information brought out at Congressional field hearings on this matter, but not sign an LOI prior to March 31, 1996.

Amendment No. 55: Limits obligations for the military airports program to $26,000,000 and the reliever airports program to $48,000,000. The Senate bill proposed obligation limitations of $20,000,000 and $50,000,000, respectively. The House bill contained no similar limitations. The conference agreement reflects the Senate's concerns over the effectiveness of these programs, and frees up financial resources for discretionary grants in other parts of the overall AIP program.

Huntsville, AL runway/taxiway rehabilitation project.—The conferees understand that a specific allocation of fiscal year 1996 funds for this project is not necessary, and that sufficient fiscal year 1995 funding has been provided for this project.

State of Missouri flood-damaged airports.—The conferees understand that a specific allocation of fiscal year 1996 funds for this project is not necessary, and that sufficient fiscal year 1995 funding has been provided for this project.

Amendment No. 56: Deletes rescission of contract authority of $5,000,000 proposed by the Senate. The House bill contained no similar rescission.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Amendment No. 57: Limits general operating expenses of the Federal Highway Administration to $509,660,000, instead of $495,381,000 as proposed by the House and $548,434,000 as proposed by the Senate.

Amendment No. 58: Provides $208,946,000 for contract programs of the Federal Highway Administration, instead of $190,667,000 as proposed by the House and $248,909,000 as proposed by the Senate.

Recommended funding distribution by program and activity of the administrative expenses and the research and development programs of the Federal Highway Administration is as follows:

Program/Activity	*Conference*
Administrative expenses ...	$254,714,000
Motor carrier safety administrative expenses	46,000,000
Contract programs:	
Research and technology:	
Highway R&D	56,772,000
Intelligent transportation systems	109,779,000
Technology deployment	12,622,000
Long term pavement performance	8,739,000
Local technical assistance	3,015,000
National Highway Institute	4,369,000
Disadvantaged business enterprises	10,000,000
International transportation	500,000
OJT/supportive services	

Program/Activity	*Conference*
Technical assistance to Russia	400,000
Truck dynamic test facility	750,000
Transportation investment analysis	
Cost allocation study	2,000,000
Total	509,660,000

The highway research and development and intelligent transportation systems programs by activity are as follows:

Highway research and development:	
Safety	8,768,000
Pavements	9,247,000
Structures	13,211,000
Environment	5,593,000
Right-of-way	429,000
Policy	5,681,000
Planning	6,069,000
Motor carrier	7,774,000
Total	56,772,000
Intelligent transportation systems:	
Research and development	24,479,000
Operational tests	32,500,000
Commercial vehicle operations	14,500,000
Automated highway system	14,000,000
Advanced technology applications	
Program and systems support	11,300,000
Priority corridors	
Crash avoidance research	13,000,000
Total	109,779,000

Office of motor carriers.—The conference agreement provides a specific designation of funds for the Office of motor carriers' administrative expenses within the Federal Highway Administration's limitation on general operating expenses. The House had included funding for the Office of motor carrier's administrative expenses within the limitation on general operating expenses.

Fatigue-related issues.—The conferees direct the Federal Highway Administration to issue an advanced notice of proposed rulemaking (ANPRM) dealing with a variety of fatigue-related issues no later than March 1, 1996. This ANPRM is to be followed by a notice of proposed rulemaking within one year, and a final rule or decision thereafter.

Highway safety research.—Congress has long been active in the advancement of highway safety and has recognized the invaluable contributions which short-term, applied research can make to improve safety. Given its concern for safety, the Congress has, since the early 1990s, vigorously supported this research by encouraging the Federal Highway Administration to work closely with the Trucking Research Institute (TRI) in the study of such issues as fatigue, sleep disorders, brake maintenance, and rest stop access—all investigations which may directly affect safety.

In fiscal year 1994, the Congress continued its participation in the development of an aggressive research agenda by directing the FHWA to undertake three projects totaling $1,750,000: Truck loading and unloading as a possible contributor to driver fatigue; technology to automate commercial vehicle roadside inspections; and guidelines for the inspection and maintenance of wheels and bearings. In fiscal year 1995, the Congress identified three additional studies, totaling $2,500,000, for the implementation in the same fashion with TRI: The use of "smart cards" to facilitate compliance with motor carrier safety rules; medical requirements associated with commercial vehicle operation; and electronic truck and intermodel information systems.

Highway safety research and related activities continue to be a priority of the Congress and the conferees. In fact, a recent National Transportation Safety Board study on driver fatigue and fatal truck accidents further highlights their importance and currency. However, despite directions to the contrary, the FHWA has been negligent in its efforts to undertake any of the aforementioned research projects designated by the Congress in either fiscal years 1994 to 1995.

The conferees therefore reiterate the direction to FHWA to use unobligated balances to make grants to, enter into cooperative agreements or contracts with, or use any existing technical support services agreements with TRI, in amounts totaling not less than $4,000,000 to conduct the six studies referenced above. The conferees further direct FHWA to complete this process within 90 days from the date of enactment of this Act and to advise the House and Senate Committees on Appropriations when such actions have been completed.

Highway research and development.—The conference agreement provides $8,768,000 for safety-related research and development. The conferees direct that safety be funded at a level of at least $12,768,000, including both ISTEA and appropriations authority.

Pavement research and development.—The conference agreement provides $9,247,000 for pavement research and development but does not include $1,000,000 as proposed by the Senate for a joint university/industry grant.

The conferees agree that expanded cost-effective use of benign waste materials in infrastructure construction, based on appropriate tests and standards to ensure long-term environmental and physical performance, represents a priority technology that is intended to be funded within the funds available for Section 6005.

National Center for Physical Acoustics.—The conferees urge the Federal Highway Administration to work with the National Center for Physical Acoustics in its effort to apply acoustics to monitor traffic and/or pipeline maintenance.

Motor carrier research.—The conference agreement provides $7,774,000 for motor carrier research and includes funds for two studies to (1) identify and test technological interventions to offset driver fatigue and (2) determine the extent of scheduling practices and their influences on truck driver fatigue. No funds are provided for outreach and technical assistance to regulated entities, to help complete program uniformity activities, or to eliminate barriers to effective intermodal freight transportation.

Intelligent transportation systems.—The conference agreement provides a total of $109,779,000 for intelligent transportation systems (ITS). Within the funds provided for operational tests, $10,000,000 shall be allocated to initiate at least two different operational tests that evaluate various elements of the systems architecture and integrate the core infrastructure features, including advance traffic management systems.

ITS/commercial vehicle operations.—The conference agreement provides $14,500,000 for commercial vehicle operations (CVO). Within these funds, the conferees have included $6,000,000 for development and initial pilot testing of the CVO communications architecture and the purchase of transponders.

ITS program and systems support.—The conferees direct that no more than $2,500,000 of the $11,300,000 provided for program and systems support shall be spent on institutional studies.

The conferees are concerned that the joint program office and the FHWA administrator have failed to submit several reports pertaining to the national ITS program. These reports include: the annual report on the ITS program (due in December 1994); a report on the future of the CVO components of the ITS program (due in May 1995); and the interim report on the automated highway system program (due in April 1995). These reports were intended to provide essential information useful in evaluating the department's activities and plans. The conferees direct the Secretary to ensure more timely delivery of all reports relevant to the ITS program, as well as other reports on departmental programs and activities.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 59: Appropriates $11,000,000 to liquidate contract authority obligations for highway-related safety grants instead of $10,000,000 as proposed by the House and $13,000,000 as proposed by the Senate.

Amendment No. 60: Limits obligations to $11,000,000 for highway-related safety grants instead of $10,000,000 as proposed by the House and $13,000,000 as proposed by the Senate.

The conferees agree that not less than $1,000,000 shall be allocated to the Office of Highway Safety to support the red light running campaign and to increase compliance with yield right-of-way or grade crossing signs.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 61: Limits obligations for the Federal-aid highways program to $17,550,000,000 instead of $18,000,000,000 as proposed by the House and $17,000,000,000 as proposed by the Senate.

The conference agreement deletes the Senate's references of priority designations within the Federal Highway Administration's discretionary grant programs.

The conferees direct that within the total provided for the intelligent transportation systems program, funding shall be available for the following projects in the amounts specified below:

Project	*Amount*
I–10 Mobile, Alabama	$3,000,000
Hazardous materials fleet management and monitoring system (NIER)	2,500,000
Green light CVO project, Oregon	7,000,000
Capital beltway	4,000,000
Houston, Texas	2,200,000
Syracuse, New York congestion management	1,500,000
I–95 Corridor	3,500,000
Johnson City, Tennessee	1,500,000
Texas Transportation Institute	600,000
University of North Dakota	1,000,000
I–675/SR 844/Col. Glenn, Fairborn, Ohio	1,000,000

Project	*Amount*
Paralympiad	1,000,000
Santa Teresa border crossing, New Mexico	900,000
Western Transportation Institute, Montana	1,000,000
TRANSCOM, New York/New Jersey	1,500,000
New York State Thruway	1,500,000
National Transportation Center, Oakdale, New York	2,000,000
Advanced railroad/highway crossings	1,250,000
Minnesota GuideStar	2,000,000
Salt Lake City	2,000,000

In fiscal year 1996, the conference agreement earmarks a total of $40,950,000 for intelligent transportation systems, a reduction of over $35,000,000 compared with fiscal year 1995 levels. The conferees will give serious consideration to discontinuing the practice of earmarking the intelligent transportation systems program in fiscal year 1997.

The conferees direct that any funding provided for intelligent transportation systems be used only in support of, or research on, intelligent transportation systems and not for construction of buildings.

Paralympiad.—The conferees direct the Federal Highway Administration to pursue vigorously the deployment and demonstration of an individualized routing system to assist people with disabilities in moving about independently during the Tenth Paralympiad. The conferees expect that the funds provided will be expended and that a system will be delivered and fully implemented in time of the Tenth Paralympiad.

National Transportation Center, Oakdale, New York.—The conference agreement includes $2,000,000 for the National Transportation Center in Oakdale, New York, of which $1,000,000 shall be available only for a NAFTA intermodal transportation center.

Minnesota GuideStar.—The State of Minnesota has established a major laboratory for intelligent transportation system activities in the Twin Cities metropolitan area. The GuideStar network emphasizes transit systems in addition to highways and has been recognized by the Federal Highway Administration as a leader in the development and implementation of ITS technologies. The conferees have included $2,000,000 for this project. Up to 25 percent of this amount may be made available to the University of Minnesota's Center for Transportation Studies to support education, research and training aspects of the project.

World wide web site on the Internet.—The conferees urge the FHWA to establish a world wide web site to permit commuters in major metropolitan areas to retrieve through the Internet video feeds from traffic cameras, average speeds as determined by traffic monitoring systems, and traffic messages that appear on variable message signs employed in the area. To the extent possible, the Department should make the data available in a standard format on a dial-in network server that provides text-only access, and a standard protocol for a touch-tone driven phone system.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Amendment No. 62: Limits obligations for motor carrier safety grants to $77,225,000 instead of $79,150,000 as proposed by the House and $75,000,000 as proposed by the Senate.

The conferees agree to the following program allocations:

Basic grants to states	$58,000,000
Traffic enforcement	6,900,000
Hazardous materials training	1,500,000
Research and development	500,000
Public education	850,000
CDL enforcement	1,000,000
Truck and bus accidents	1,750,000
Uniformity grants	3,450,000
Uniformity working groups	450,000
Commercial vehicle information system	1,500,000
Drug interdiction assistance program	500,000
Administrative expenses	825,000

Covert verification activities.—The conferees agree that, within the basic grant program, $1,500,000 shall be used to conduct covert operations in addition to those funds originally intended under each state's enforcement plan. Of the $1,500,000, $400,000 shall be allocated to develop a model out-of-service prototype system that states can use to assure that commercial vehicle drivers comply with those orders.

In addition to covert operations, the conferees believe that the office of motor carriers should develop cost effective rules to improve safety, educate motor carriers so that they know how to comply with these rules, and promote voluntary compliance.

Assistance to border states.—The conferees agree that, within the basic grant program, $750,000 shall be provided to states along the Mexican border to ensure the safety of increased traffic. These states face special problems associated with a projected concentration of trade-related commercial vehicle traffic once restrictions along the U.S.-Mexican border are significantly reduced on December 17, 1995.

Truck and bus accidents.—The conferees have provided $200,000 to conduct a model accident investigation and reconstruction program. These funds shall be available to train motor carrier safety officers on investigative techniques at accident sites.

SURFACE TRANSPORTATION PROJECTS

Amendment No. 63: Deletes appropriation of $39,500,000 for surface transportation projects proposed by the Senate. The House provided no similar appropriation.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Amendment No. 64: Appropriates $73,316,570 for the general fund portion of the operations and research activities of the National Highway Traffic Safety Administration as proposed by the House instead of $71,261,000 as proposed by the Senate.

Amendment No. 65: Provides that of the general funds made available for operations and research, $37,825,850 shall remain available until September 30, 1998 as proposed by the House instead of $36,770,676 as proposed by the Senate.

Amendment No. 66: Includes language proposed by the House which prohibits the National Highway Traffic Safety Administration from obligating or expending funds to plan, finalize, or implement any rulemaking that would alter the tire grading standards currently in effect. The Senate bill contained no similar provision.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

Amendment No. 67: Appropriates $51,884,430 from the highway trust fund for operations and research activities of the National Highway Traffic Safety Administration instead of $52,011,930 as proposed by the House and $50,344,000 as proposed by the Senate.

Amendment No. 68: Provides that of the funds made available for operations and research, $32,247,000 shall remain available until September 30, 1998, instead of $32,770,670 as proposed by the House and $31,716,720 as proposed by the Senate.

The conference agreement for operations and research (general fund and highway trust fund combined) includes the following adjustments to the budget request

Rulemaking:	
Vehicle safety standards	−$200,000
New car assessment program	−1,057,000
Fuel economy program	−2,165,000
Theft program pilot project	+890,000
Enforcement:	
Vehicle safety compliance	−500,000
Auto safety hotline	−1,000,000
Odometer fraud	−40,000
Highway safety program:	
Safe communities injury control	−5,225,000
Alcohol program	−548,000
Pedestrian and bicycle	−224,000
National occupant protection	−392,000
Child safety seat program	−600,000
Police traffic system	−300,000
Driver education	−75,000
Older driver research	+100,000
Driver fatigue	+1,000,000
Research and analysis:	
Biomechanics	−1,500,000
Fatal accident reporting system	−300,000
National accident sampling system	−300,000
Data analysis program	−500,000
State data programs	−400,000
Partnership for new generation vehicles	−5,000,000
General administration:	
Strategic planning	−200,000
Accountwide adjustments:	
Computer support	−245,000
Administrative	−250,000
Travel	−50,000
Overtime	−60,000
Net reduction	−19,141,000

Theft program.—The conference agreement provides $890,000 to establish pilot National Motor Vehicle Title Information System programs. The conferees note that the Anti-Car Theft Act of 1992 directed the Department of Transportation to establish an information system for instant and reliable access to titling information. The American Association of Motor Vehicle Administrators, the Customs Service, and others have stated that such a system is essential to prevent thieves from obtaining legal ownership of stolen vehicles.

Older drivers.—The conferees have provided $100,000 for older driver research to improve and test referral systems and develop performance assessment techniques. These additional funds will advance NHTSA's goal of improving driving performance and licensing of older drivers.

Driver fatigue.—The conference agreement includes $1,000,000 to analyze the role of driver fatigue, sleep disorders, and inattention in highway crashes and shall be available to develop and test public education strategies and countermeasures that make drivers aware of the dangers of driving while fatigued.

Section 403 programs.—The purposes of the section 403 programs is to research and test new highway safety ideas that may be successfully implemented throughout the United States. In recent years, some of these programs have received "seed money" far longer than expected. The conferees agree with the Senate direction that requires NHTSA to prepare a report highlighting how much money section 403 programs have received, what future financial support is expected for these programs, and when such support can be terminated. The conferees urge NHTSA to complete this report as soon as possible and provide it to the House and Senate Committees on appropriations by May 1, 1996.

National advanced driving simulator.—the conferees have provided $2,000,000 for the national advanced driving simulator. The conferees direct the Department of Transportation to allocate the costs of the simulator among the participating modal administrations, including the Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, and the Intelligent transportation systems joint program office, as part of the department's 1997 budget request. Also, the conferees urge the department to discuss additional cost sharing commitments with the departments of Defense and Health and Human Services.

OPERATIONS AND RESEARCH

(RESCISSIONS)

Amendment No. 69: Deletes rescissions of $4,547,185 in unobligated balances previously made available for the national advanced driving simulator as proposed by the Senate.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Amendment No. 70: Appropriates $155,100,000 to liquidate contract authority obligations for highway traffic safety grants as proposed by the Senate instead of $153,400,000 as proposed by the House.

Amendment No. 71: Limits obligations for highway traffic safety grants to $155,100,000 as proposed by the Senate instead of $153,400,000 as proposed by the House.

Amendment No. 72: Provides $127,700,000 for state and community highway safety grants instead of $126,000,000 as proposed by the House and $128,000,000 as proposed by the Senate. Of the total, the conferees agree that $4,700,000 shall be available to local communities to implement safe communities initiatives and $9,200,000 for youth traffic safety programs.

Amendment No. 73: Provides $2,400,000 for the National Driver Register as proposed by the House instead of $2,100,000 as proposed by the Senate.

Amendment No. 74: Provides that funding for the national Driver Register shall be subject to authorization as proposed by the Senate instead of subject to passage by the House of a bill authorizing appropriations and for only the amounts provided therein as proposed by the House.

Amendment No. 75: Includes language proposed by the House which prohibits any funding for highway traffic safety grants to be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for state, local, or private buildings or structures. Deletes language proposed by the House which prohibits funds to be used to purchase automobiles or motorcycles for state, local, or private usage. The Senate bill contained no similar provisions.

Amendment No. 76: provides $5,211,000 for the administration of state and community highway safety grants as proposed by the Senate instead of $5,153,000 as proposed by the House. The conferees agree that $300,000 of the administrative takedown shall be expended to evaluate the costs and benefits of the section 403 safe communities injury control initiative. The evaluation shall be provided to the House and Senate Committees on Appropriations by March 1, 1997.

Amendment No. 77: Requires up to $500,000 shall be used for technical assistance to states as proposed by the Senate instead of allowing flexibility to use up to that amount, as proposed by the House.

Amendment No. 78: Provides $890,000 for administrative expenses under the national Driver Register program as proposed by the House instead of $777,000 as proposed by the Senate.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Amendment No. 79: Appropriates $14,018,000 for the Office of the Administrator as proposed by the Senate instead of $14,000,000 as proposed by the House. The conference agreement includes the following reductions to the budget request:

Technical assistance program	−$130,000
Operation respond	−10,000
Nonpay inflation	−500,000
Other services	−91,000
Offset for high unobligated balances	−2,621,000

The conference agreement allows the Office of the administrator to spend down its prior years' unobligated balance.

RAILROAD SAFETY

Amendment No. 80: Appropriates $49,919,000 for railroad safety instead of $49,940,660 as proposed by the House and $49,105,000 as proposed by the Senate. The conference agreement includes the following reductions to the budget request:

Other services	−$105,000
New partnership program	−400,000
Nonpay inflation	−230,000
Salaries and expenses	−200,000
Inspector trainee program	−50,000
Automated track inspection program	−100,000
Permanent change of station moves	−100,000

Federal Railroad Administration offices.—The conferees generally agree that the Federal Railroad Administration should limit its railroad safety offices to two per state, but recognize that large states with significant rail activities may require an exception. The Federal Railroad Administration shall submit to the House and Senate Committees on Appropriations prior to October 1, 1996, a written justification for any state(s) where it may be necessary to provide more than two offices due to volume of rail activity and/or geographic coverage.

New computers for railroad safety inspectors.—The conferees have provided $800,000 to procure laptop computers for railroad inspectors in one region, anticipating that productivity enhancements and reduced program costs will occur as inspectors compile their work from remote locations. The conferees direct the Federal Railroad Administration (FRA) to prepare a study detailing the cost savings resulting from the investment in laptop computers for railroad safety inspectors. The study shall be completed prior to FRA requesting further funding to procure additional laptop computers for its railroad safety inspectors in other regions.

Accident reporting.—The conferees direct the Federal Railroad Administration to complete necessary changes to its accident report by June 1, 1996.

RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 81: Appropriates $24,550,000 for railroad research and development instead of $21,000,000 as proposed by the House and $25,775,000 as proposed by the Senate. The conference agreement includes the following adjustments to the budget request:

Increase Operation Lifesaver	+$150,000
Increase human factors work	+400,000
Reduce track, structures, and train control	−1,000,000
Reduce growth in high speed activities	−27,922,000
Delete maglev initiative	−825,000
Reduce grade crossing notification system	−100,000
Postive train separation	+5,000,000
Reduce administration	−100,000

Operation Lifesaver.—The conference agreement provides a total of $300,000 for Operation Lifesaver, $150,000 more than the budget request. The conferees agree that the increase shall be expended to address grade crossing safety.

Human factors.—The conferees have provided $400,000 for human factors research to implement FRA's five-year human factors strategic research plan as rapidly as possible and to address fundamental problems that cause railroad accidents, such as fatigue and stress.

Positive train separation.—The conferees have provided $5,000,000 for the state of Oregon for positive train separation (PTS) activities. As part of this work, funding can be used for an extension into Union Station and for additional track and signal work. In addition, the Federal Railroad Administration (FRA) shall research and develop PTS, implement a high speed rail mitigation path, evaluate the compatibility of PTS and corridor passenger service on the Portland, Oregon to Seattle, Washington corridor, and purchase necessary wayside sensors and radios so that the PTS system can verify train locations and switch positions. This will allow PTS equipped trains to operate on either track in either direction at full track speed. Finally, FRA shall assess the communications reliability of this system in a dense urban area, such as Portland, Oregon. FRA believes that the Pacific Northwest Corridor is the ideal testbed for such a system. No matching funds are required for this project.

In connection with this project, the conferees strongly encourage the Federal Railroad Administration, the U.S. Coast Guard, and the U.S. Army Corps of Engineers to work together to establish differential global positioning system coverage for the territory between Portland and Hinkle, Oregon. Such coverage is vital to test and validate the PTS automatic location capability in an area where radio propagation may be limited by the rugged terrain.

National Academy of Sciences study of high speed rail.—The conferees direct the FRA to contract with the National Academy of Sciences to assemble a panel of experts to issue periodic reports on FRA's high speed rail research and development and next generation high speed rail activities. The first of these reports should assess the content, inter-relationship of individual projects, management structure, and direction of FRA's activities. The intent of this assessment is to determine whether these activities make up a coherent, well-managed whole, and whether the proposed fiscal year 1997 projects are logical extensions of these efforts. This first assessment should be completed by April 1, 1996, to meet the deadline established in the House report. The second report should assess whether specific projects in FRA's program are likely to yield useful research results, and the prospect of state and/or private deployment. Thereafter, the panel should consider and report on, in sequence, the other elements as stated in the Senate report.

Advanced train control study.—The conferees agree not to require FRA to submit an advanced train control plan for evaluation prior to further corridor development work occurring outside of the Northeast Corridor as proposed by the House.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Amendment No. 82: Appropriates $115,000,000 for the northeast corridor improvement program instead of $100,000,000 as proposed by the House and $130,000,000 as proposed by the Senate. Of this amount, the conferees agree to distribute $65,000,000 to the southern portion of the corridor for repair and $50,000,000 to the northern portion of the corridor for track work, maintenance facilities, and electrification. The conferees have not provided any additional funding for high-speed transets because prior year appropriations remain available for this procurement. This should be interpreted as a deferral of additional funding and not Congressional desire to terminate the project. The conferees direct Amtrak to notify the House and Senate Committees on Appropriations of its final detailed allocation of these funds.

Cash flow analysis.—The conferees agree that Amtrak is to provide a detailed cash flow analysis, which identifies the funding required to complete the high-speed rail trainset procurement and options for public and private financing of the procurement. This cash flow analysis should include information from Amtrak's ongoing market and ridership survey that validates the estimates being made for the electrified New Haven to Boston service. A preliminary report shall be provided to the House and Senate Committees by December 1, 1995 and a final report shall be issued no later than March 1, 1996.

Joint transportation plan.—The conferees direct the Federal Railroad Administration and Amtrak to provide by March 1, 1996 to the House and Senate Committees on Appropriations a joint and comprehensive transportation plan for the Washington, DC to New York, N.Y. segment of the corridor that details (1) the state of the rail line, (2) all required capital improvements, (3) necessary investments for recapitalization, and (4) a projected timeline for these expenditures over the next two decades. This plan should include information on how the costs for upgrading and maintaining the railroad will be shared by all users of the rail line.

NEXT GENERATION HIGH SPEED RAIL

Amendment No. 83: Appropriates $19,205,000 for next generation high speed rail studies, corridor planning, development, demonstration, and implementation instead of $10,000,000 as proposed by the House and $20,000,000 as proposed by the Senate. The House bill provided funding only for high speed rail technology development and demonstrations.

The conference agreement provides total funding (appropriation plus limitation on obligations) of $24,205,000 for the next generation high speed rail program to be allocated as follows:

Advanced train control:	
Detroit to Chicago corridor	$3,000,000
Chicago to St. Louis corridor	6,000,000
Nonelectric locomotives:	
New York nonelectric locomotives demonstration	6,000,000
Transportation technology center	3,000,000
Grade crossing hazards:	
Complete state grade crossing work	1,000,000
Innovative techniques	3,500,000
Corridor planning technology	1,250,000
Administrative costs	455,000

Nonelectric locomotives.—The conferees have provided $6,000,000 to continue the development, testing, and demonstration of turbine powered nonelectric locomotives in the state of New York as proposed by the Senate. This funding shall be matched on a dollar-for-dollar basis. The House did not provide funding for this project. Since then, the House has received significant information on the project and now believes that a more comprehensive demonstration of this technology is necessary. Therefore, the conferees have agreed to fund the retrofit of a second nonelectric trainset so that additional data can be gathered on the capacity, reliability, maintainability, and fuel consumption of a turbine powered nonelectric fleet. Also, this funding should be used to further develop ways to improve the acceleration capabilities of nonelectric locomotives so that their performance is more comparable to that of electric locomotives. FRA, in conjunction with Amtrak and the State of New York, should submit information on the retrofitted locomotives as compared to the Genesis P–40 and other high speed locomotives, to the House and Senate Committees on Appropriations no later than August 15, 1996 so that the results can be evaluated prior to finalization of the fiscal year 1997 Department of Transportation appropriations bill. While this is ongoing, FRA, Amtrak, and the State of New York should work to resolve the liability concerns along the Empire Corridor and close highway-rail grade crossings so that these trains can operate at 125 miles per hour.

In addition, the conference agreement raises the liquidating cash appropriation from the highway trust fund to $7,118,000, based on updated estimates from FRA. The House and Senate bills included $5,000,000 for this purpose.

Amendment No. 84: Provides that next generation high speed rail funds may be made available for grants to states for high speed rail corridor design, feasibility studies, environmental analyses, and track and signal improvements as proposed by the Senate. The House bill included no similar provision.

ALASKA RAILROAD REHABILITATION

Amendment No. 85: Appropriates $10,000,000 for Alaska Railroad rehabilitation as proposed by the Senate. The House contained no similar appropriation.

PENNSYLVANIA STATION REDEVELOPMENT PROJECT

Amendment No. 86: Deletes $25,000,000 for the Pennsylvania Station Redevelopment project proposed by the Senate. The House bill contained no similar appropriation. The conferees have provided funding for related activities under the National Railroad Passenger Corporation's capital grants program, rather than new development of the James A. Farley post office building.

RHODE ISLAND RAIL DEVELOPMENT

Amendment No. 87: Appropriates $1,000,000 for Rhode Island rail development instead of $2,000,000 as proposed by the Senate. The House bill contained no similar appropriation. As proposed by the Senate, the conference agreement specifies that the federal contribution shall be matched on a dollar-for-dollar basis. Further, the Providence and Worcester Railroad shall reimburse Amtrak and/or the Federal Railroad Administration up to the first $6,000,000 in legal damages if damages occur resulting from provision of vertical clearances in excess of those required for present freight operations.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 88: Provides $635,000,000 for the National Railroad Passenger Corporation (Amtrak) instead of $628,000,000 as proposed by the House and $605,000,000 as proposed by the Senate. Over the past year, Amtrak has undergone significant changes to improve its service quality and productivity and to eliminate its dependence on federal operating assistance by the year 2001. Amtrak has made strides in reaching these goals; however, legislative reforms, including labor reforms, must be enacted if Amtrak is to reach its operating cost goals. Current authorization bills contain a number of these legislative reforms. As such, the significant level of funding provided is predicated on the belief that vital legislative reforms will occur in the near term, which will reduce Amtrak's costs.

Amendment No. 89: Provides $305,000,000 for operating losses and mandatory passenger rail service payments as proposed by the Senate instead of $336,000,000 as proposed by the House.

Amendment No. 90: Provides $100,000,000 for Amtrak's transition costs as proposed by the Senate instead of $62,000,000 as proposed by the House.

Amendment No. 91: Provides $230,000,000 for capital improvements to Amtrak as proposed by the House instead of $200,000,000 as proposed by the Senate. The conference agreement provides up to $20,000,000 for emergency life safety repairs to be completed at the existing Pennsylvania Station, as allowed during fiscal year 1995, as well as for the reconstruction of the station's service building to provide the support services necessary for the safe operation of the station.

Amendment No. 92: Deletes language proposed by the House which would have made the availability of funds contingent upon enactment of significant reforms in authorizing legislation to restructure the National Railroad Passenger Corporation. The Senate bill contained no similar provision. In lieu of this language, the conference agreement provides Amtrak with the ability to transfer not more than $15,000,000 from the capital improvements account to the Northeast Corridor Improvement Program.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

Amendment No. 93: Appropriates $42,000,000 for administrative expenses of the Federal Transit Administration (FTA) as proposed by the Senate instead of $39,260,000 as proposed by the House. The conference agreement provides two full-time equivalent staff year positions in the FTA's Washington, DC offices to conduct management and oversight of the Washington Metropolitan Area Transit Authority (WMATA). The conference agreement also includes a provision under amendment numbered 165 that requires the FTA to conduct its oversight of WMATA from FTA's Washington metropolitan area offices.

FORMULA GRANTS

Amendment No. 94: Appropriates $942,925,000 from the general fund for formula grants of the Federal Transit Administration instead of $890,000,000 as proposed by the House and $985,000,000 as proposed by the Senate.

Amendment No. 95: Provides for a total program level of $2,052,925,000, including appropriations and limitations on obligations, for transit formula grants, instead of $2,000,000,000 as proposed by the House and $2,105,850,000 as proposed by the Senate.

Amendment No. 96: Limits reductions in transit operating assistance to urbanized areas of less than 200,000 in population to no less than seventy-five percent of the amount of operating assistance such areas are eligible to receive under Public Law 103-331, instead of eighty percent as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 97: Deleted language proposed by the Senate that would apportion $29,325,031 to areas of 200,000 or greater in population before apportionment of transit formula funds. The conference agreement includes language that, in the distribution of the limitation on transit operating assistance to urbanized areas that had a population under the 1990 decennial census of 1,000,000 or more, the Secretary shall direct each area to give priority consideration to the impact of reductions in operating assistance on smaller transit authorities operating within the area, and to consider the needs and resources of such transit authorities when the limitation is distributed among all transit authorities operating in the area.

TRANSIT PLANNING AND RESEARCH

Amendment No. 98: Appropriates $85,500,000 for transit planning and research instead of $82,250,000 as proposed by the House and $90,000,000 as proposed by the Senate. The conferees agree to specify in the bill that $39,500,000 shall be provided for the metropolitan planning program (49 U.S.C. 5303); $4,500,000 for the rural transit assistance program (49 U.S.C. 5311(b)(2)); $8,250,000 for the transit cooperative research program (49 U.S.C. 5313(b)); $22,000,000 for the national program (49 U.S.C. 5314); $8,250,000 for the state program (49 U.S.C. 5313(a)); and $3,000,000 for the National transit institute (49 U.S.C. 5315). The House bill contained similar funding allocations, but at different levels than in the conference agreement. The Senate bill contained no allocations by program in the bill.

The conferees direct that within the total funding level provided for transit planning and research, the Federal Transit Administration shall make available the following amounts for the programs and activities listed below:

Team transit program of the Minnesota Metropolitan Commission	$500,000
Project ACTION (Accessible Community Transportation in our Nation)	2,000,000
Advanced technology transit bus	5,000,000
Fuel cell bus technology	5,000,000
Research on large circuit breakers and switch gears	2,500,000
Dulles corridor studies	500,000
Hennepin County, Minnesota, public works program	500,000
Intermodal positioning system (inertial navigational technology)	500,000
Advanced lead acid battery consortium	500,000
Ridership enhancement strategies	500,000

The conferees agree that federal transit assistance should contribute to the improvement of the entire community which transit systems serve, rather than support just the transit service itself. This is the goal of the livable communities initiative. By assisting a broad range of activities, communities may be improved; and by better linking the communities to the transit system, transit service may be made more effective. The conferees, therefore, urge the Department of Transportation to endeavor in these types of community initiatives.

Advanced transportation systems program.—Section 6071 of title V of the Intermodal Surface Transportation Efficiency Act established the advanced transportation systems and electric vehicle technology program. The conferees are aware of the significant contributions that participating consortia have made to this program and direct the FTA to continue its heavy duty transit buses, the development of energy storage technologies, flywheel and hybrid vehicle development and demonstration, and the continued charging infrastructure programs.

Within available funds, the department is urged to consider support of monobeam transit system development.

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Amendment No. 99: Provides $1,120,850,000 in liquidating cash for the trust fund share of expenses of the formula grants program as proposed by the Senate instead of $1,110,000,000 as proposed by the House.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Bus and bus-related facilities.—The conference agreement provides $333,000,000 for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities. The conferees agree that the recommended funding should be distributed as follows:

Project location and purpose	House	Senate	Conference
Arkansas:			
Little Rock, central Arkansas transit transfer facility	$0	$1,000,000	$0
Fayetteville, intermodal transfer facility	0	5,400,000	0
State of Arkansas; buses	6,000,000	0	6,200,000
California:			
Coachella Valley; SunLine bus facility	1,000,000	0	500,000
Long Beach, bus replacement and parts	0	3,000,000	1,500,000
Los Angeles; Gateway intermodal center	8,000,000	15,000,000	8,000,000
San Diego, San Ysidro intermodal center	0	10,000,000	5,000,000
San Francisco; buses	13,480,000	0	6,740,000
San Francisco, BART ADA compliance/paratransit	0	4,460,000	2,230,000
San Gabriel Valley; Foothill bus facilities	12,500,000	0	9,750,000
San Joaquin, RTD bus replacement	0	10,560,000	5,280,000
Santa Cruz; bus facility	3,000,000	0	1,500,000
Sonoma County; park and ride facilities	2,500,000	0	1,250,000
Ventura County; bus facility	1,200,000	0	600,000
Yolo County; buses	3,000,000	0	1,500,000
Colorado: Fort Collins and Greeley; buses	2,500,000	0	1,250,000
Connecticut: Norwich; intermodal center	3,000,000	0	1,500,000
Delaware: State of Delaware; buses	2,700,000	0	1,350,000
Florida:			
Metropolitan Dade County; buses	4,000,000	16,000,000	10,000,000
Orlando; Lynx buses and bus operating facility	8,500,000	0	4,250,000
Palm Beach County; bus facilities	4,000,000	0	2,000,000
Volusia County; buses and park and ride facility	2,500,000	0	1,250,000
Georgia: Atlanta; buses	7,500,000	0	3,750,000
Hawaii: Honolulu, Oahu; Kuakini medical center parking facility	0	8,000,000	4,000,000
Iowa:			
Ames, Marshalltown, Ottumwa, Regions 6, 14, 15, 16; buses and bus facilities	4,000,000	0	2,350,000
Cedar Rapids; hybrid electric bus consortium	0	2,960,000	1,200,000
Ottumwa; global positioning equipment	0	700,000	0
Waterloo; intermodal bus facility	0	1,340,000	670,000
State of Iowa; buses, equipment, and facilities	0	8,000,000	4,280,000
Illinois:			
Chicago replacement buses/communications system	0	13,700,000	0
State of Illinois; buses	20,000,000	0	16,850,000
Indiana:			
Gary and Hammond; buses	520,000	0	260,000
South Bend; intermodal facility	5,000,000	0	2,500,000
State of Indiana; buses and bus facilities	13,000,000	0	6,500,000
Kentucky: Lexington; buses	2,000,000	0	1,000,000
Louisiana:			
New Orleans; bus facility	6,000,000	0	3,000,000
New Orleans; buses	12,000,000	0	6,000,000
Saint Barnard Parish; intermodal facility	3,000,000	0	1,500,000
Massachusetts: Worcester; intermodal center	4,000,000	0	2,000,000
Maryland: Maryland Transit Authority, Maryland; buses	10,000,000	16,000,000	13,000,000
Michigan:			
Lansing intermodal transportation center	0	4,180,000	2,090,000

Project location and purpose	House	Senate	Conference
State of Michigan; ISTEA set-aside requirement	10,000,000	10,000,000	10,000,000
Minnesota: Metropolitan Council, Minnesota; articulated buses	15,000,000	0	7,500,000
Missouri:			
Kansas City; Union Station intermodal	0	13,000,000	6,500,000
St. Louis; Metrolink bus purchase	0	10,000,000	3,500,000
State of Missouri; buses and bus facilities	0	11,000,000	7,000,000
North Carolina: State of North Carolina; buses and bus facilities	10,000,000	0	5,000,000
New Jersey:			
Garden State Parkway; park-n-ride at interchange 165	0	2,300,000	1,150,000
Hamilton Township; intermodal facility/bus maintenance	0	25,000,000	12,500,000
Nevada: Clark County, Nevada; buses and bus facility	14,000,000	20,000,000	17,000,000
New York:			
Albany; buses	0	10,000,000	5,000,000
Buffalo; Crossroads intermodal station	1,000,000	0	500,000
Long Island; buses	0	3,000,000	1,500,000
New Rochelle; intermodal facility	1,500,000	0	750,000
New York City; natural gas buses/fueling station	0	10,000,000	5,000,000
Rensselaer; intermodal station	7,500,000	7,500,000	7,500,000
Rochester-Genessee; buses	0	1,400,000	700,000
Syracuse; buses	2,000,000	0	1,000,000
Syracuse; intermodal station	2,000,000	0	1,000,000
Utica; buses	0	6,000,000	3,000,000
Westchester, bus facility	4,500,000	0	2,250,000
Ohio:			
Cleveland; Triskett bus facility	2,500,000	0	1,250,000
Columbus; buses	0	10,000,000	0
State of Ohio; buses and bus facilities	20,000,000	0	15,000,000
Oregon:			
Wilsonville; transit vehicles	0	500,000	250,000
Eugene Lane transit district; radio system	0	1,300,000	650,000
Pennsylvania:			
Allegheny County; busway system	8,000,000	10,000,000	9,000,000
Altoona; ISTEA set-aside requirement	2,000,000	0	1,000,000
Beaver County; bus facility	1,600,000	3,300,000	2,450,000
Erie; intermodal complex	0	8,000,000	4,000,000
North Philadelphia; intermodal center	6,000,000	0	3,000,000
Philadelphia; buses	3,000,000	0	1,500,000
Philadelphia: Chestnut Street/alternative fueled vehicles	0	2,000,000	1,000,000
Philadelphia; lift-equipped buses	15,000,000	0	7,500,000
Tennessee: Nashville, Tennessee; electric buses	600,000	0	300,000
Texas:			
Corpus Christi; buses, dispatching system, and facilities	0	1,600,000	2,450,000
Corpus Christi; bus facilities	2,500,000	0	0
El Paso; buses, equipment and facilities	6,000,000	0	5,200,000
El Paso; bus equipment	2,900,000	0	0
El Paso; satellite transit terminal	1,500,000	0	0
Robstown/Corpus Christi bus shelters/curb cuts/transit center	0	800,000	0
Utah: Utah Transit Authority, Utah; buses	3,500,000	0	1,750,000
Virginia: Richmond; downtown intermodal station	0	10,000,000	5,000,000
Vermont:			
State of Vermont, buses and bus facilities	0	6,000,000	3,000,000
Marble Valley; bus upgrades	0	2,000,000	1,000,000
Washington:			
Everett; intermodal center	0	7,000,000	3,500,000
Pierce County; Tacoma Dome station	3,000,000	5,000,000	5,000,000
Seattle; Metro/King County multimodal	0	4,000,000	2,000,000
Seattle/King County; Seattle metro bus purchase	2,500,000	10,000,000	6,250,000
Wenatchee; Chelan-Douglas multimodal	0	2,000,000	0
Wisconsin: State of Wisconsin; buses	20,000,000	0	10,000,000
Total	333,000,000	333,000,000	333,000,000

Within available balances, the conferees direct the Federal Transit Administration to support the following applications: the Santa Barbara Metropolitan Transit District for state-of-the-art, electric battery-powered buses for initial use at the 1996 Summer Olympic Games; Taos, New Mexico and Kansas City, Kansas for buses and bus-related purchases; and the Pennsylvania consolidated bus purchase.

State of Arkansas.—The conference agreement includes $6,200,000 for buses and intermodal and bus-related facilities to be made available to the Arkansas Highway and Transportation Department to be distributed as follows: $200,000 for Pine Bluff Transit; $3,200,000 for the University of Arkansas; $400,000 for Hot Springs Transit; $300,000 for South Central Arkansas; $800,000 for Central Arkansas Transit; and $800,000 for Southeast Arkansas Transit. The remaining balances may be retained by the Arkansas Highway and Transportation Department for other state bus and bus-related projects.

Ames, Marshalltown, Ottumwa, Regions 6, 14, 15 and 16, Iowa; bus and bus facilities.—The conference agreement includes $2,350,000 for buses and bus facilities for Ames, Marshalltown, Ottumwa, and Regions 6, 14, 15 and 16, Iowa to be distributed as follows: $1,069,000 for Ames; $704,300 for Ottumwa; $189,500 for Marshalltown; $17,600 for Region 6; $121,100 for Region 14; $159,400 for Region 15; and $89,100 for Region 16.

State of Michigan.—The conference agreement includes $10,000,000 for the State of Michigan to fulfill the requirements of section 3035(ll) the Intermodal Surface Transportation Efficiency Act of 1991. Of the $10,000,000 for the State of Michigan, the conferees have included: $3,022,500 for buses and bus facilities for Grand Rapids; $3,022,500 for buses and bus facilities in Flint; $3,022,500 for the Suburban Mobility Authority for Regional Transportation (SMART); and $932,500 for an intermodal facility in Lansing. The conference agreement includes a total of $3,022,500 for the intermodal transportation center in Lansing. The conferees recognize that $1,200,000 more is required to complete this project and encourage the project sponsors to submit a future request for the remaining funds.

State of New York.—The conferees direct those transit systems in the State of New York receiving section 3 bus discretionary allocations in areas over 200,000 population for the express purpose of providing fixed-route transit services, to purchase alternative fueled buses. Vehicles purchased for use in urbanized areas under 200,000 population and for use in rural areas and/or for ADA mandated paratransit services are exempt.

State of Illinois.—The conference agreement provides $16,850,000 for the Illinois Department of Transportation for replacement buses and transit facilities. This amount includes funds for replacement buses for the following transit agencies: $1,585,000 for Champaign-Urbana; $528,000 for Decatur; $2,290,000 for Madison County; $528,000 for Quincy; $528,000 for Rockford; $880,000 for Rock Island; $1,073,000 for Springfield; and $1,665,000 for Pace. The amount also includes $720,000 for a transfer facility in Peoria and $800,000 for bus facilities for the South Central MTD. In addition, $6,000,000 is provided for a new bus communications system for the Chicago Transit Authority.

Bus overhauls.—The conferees direct the FTA to study and report to the appropriate Congressional committees by July 15, 1996 on the data associated with requests for funding under the periodic bus overhaul funding provision, including, but not limited to, the number, size, and geographic type of transit systems that seek to capitalize such expenses, and the amounts requested under this section.

Amendment No. 100: Includes language that reprograms $21,631,250 of funds previously made available in Public Law 102-388 and provides $666,000,000 for new fixed guideway systems. The House bill included $666,000,000 and the Senate bill included a total of $688,840,000, of which $22,840,000 was proposed to be reprogrammed.

The conferees recommend that $21,631,250 of funds that were originally provided in the fiscal year 1993 Department of Transportation and Related Agencies Appropriations Act, Public Law 102-388, that have not been obligated by October 1, 1995 be reprogrammed. Should additional funds from Public Law 103-388 remain unobligated, the conferees direct the Administrator to reprogram these funds 15 days after notification to the House and Senate Committees on Appropriations only to those projects that have existing full funding grant agreements on the date of enactment of this Act, to the extent that those projects are likely to be capable of obligating these funds in the course of this fiscal year.

The conference agreement provides for the following distribution of the recommended funding for new fixed guideway systems as follows:

Project	*Amount*
Atlanta-North Springs project	$42,410,000
South Boston Piers (MOS-2) project	20,060,000
Canton-Akron-Cleveland commuter rail project	4,250,000
Cincinnati Northeast/Northern Kentucky rail line project	1,000,000
Dallas South Oak Cliff LRT project	16,941,000
DART North Central light rail extension project	3,000,000
Dallas-Fort Worth RAILTRAN project	6,000,000
Florida Tri-County commuter rail project	10,000,000
Houston Regional Bus project	22,630,000
Jacksonville ASE extension project	9,720,625
Los Angeles Metro Rail (MOS-3)	85,000,000
Los Angeles-San Diego commuter rail project	8,500,000
MARC commuter rail project	10,000,000
Maryland Central Corridor LRT project	15,315,000
Miami-North 27th Avenue project	2,000,000
Memphis, Tennessee Regional Rail Plan	1,250,000
New Jersey Urban Core-Secaucus project	80,250,000
New Orleans Canal Street Corridor project	5,000,000
New York Queens Connection project	126,725,125
Pittsburg Airport Phase 1 project	22,630,000
Portland-Westside LRT project	130,140,000
Sacramento LRT extension project	2,000,000
St. Louis Metro/Link LRT project	12,500,000
Salt Lake City light rail project	9,759,500
San Francisco BART extension project	10,000,000
San Juan, Puerto Rico Tren Urbano project	7,500,000
Tampa to Lakeland commuter rail project	500,000
Whitehall ferry terminal, New York, New York	2,500,000
Wisconsin central commuter project	14,400,000
Burlington-Charlotte, Vermont commuter rail project	5,650,000

South-North corridor project.—The conferees note that the Oregon legislature and Portland area voters have approved $850 million in local and state funds for the South-North corridor project. The conferees support the inclusion of the South-North corridor in the Portland area program of interrelated projects and note that a project financing plan, based on a discretionary (section 3) share of fifty percent of the total project costs, will be considered should the Portland region seek funding for this project.

Orange County, California.—The conferees are concerned with the delay of the Federal Transit Administration in obligating the funds previously provided in fiscal years 1994 and 1995 for the Orange County Transitway project. The conferees are concerned that the FTA may fail to recognize that the Anaheim Intermodal Transportation Center is not an element of the Transitway project. The conferees, therefore, direct the FTA to work expeditiously to obligate these funds once all pending planning and financial issues are addressed adequately.

Kansas City.—Although no funds have been provided for the Kansas City, Missouri light rail project, the conferees believe that based on the results of the recently completed major investment study, the project may have merit and therefor encourage project sponsors to continue to seek federal support in the future.

Seattle-Tacoma.—The conferees agree that sums available from funds appropriated in fiscal year 1992 for the Seattle-Tacoma commuter rail project may be used for intermodal access and facilities in Seattle and/or commuter track and signal projects in and between Seattle and Tacoma, only to the extent to which such projects are consistent with existing federal transportation laws and regulations.

Amendment No. 101: Provides $20,060,000 for the South Boston Piers (MOS-2) project instead of $17,500,000 as proposed by the House and $22,620,000 as proposed by the Senate.

Amendment No. 102: Provides $4,250,000 for the Canton-Akron-Cleveland commuter rail project instead of $6,500,000 as proposed by the House and no funding as proposed by the Senate; and deletes House language that would have made funding for this project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein. The conferees have agreed to delete this language because on September 20, 1995, the House passed H.R. 2274, the National Highway Systems Designation Act of 1995, which contained the authorization for this and the several other new start projects that follow below.

Amendment No. 103: Provides $1,000,000 for the Cincinnati Northeast/Northern Kentucky rail line project instead of $2,000,000 as proposed by the House and no funding as proposed by the Senate; and deletes House language that would have made funding for this project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 104: Provides $3,000,000 for the DART North Central light rail extension project instead of $2,500,000 as proposed by the House and $3,500,000 as proposed by the Senate.

Amendment No. 105: Deletes House language that would have made funding for the DART North Central rail extension project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 106: Provides $6,000,000 for the Dallas-Fort Worth RAILTRAN project instead of $5,000,000 as proposed by the House and $7,000,000 as proposed by the Senate.

Amendment No. 107: Deletes House language that would have made funding for the Dallas-Fort Worth RAILTRAN project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 108: Deletes House language that would have made funding for the Florida Tri-County commuter rail project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 109: Provides $9,720,625 for the Jacksonville ASE extension project instead of $12,500,000 as proposed by the House, The Senate bill contained no similar provision.

Amendment No. 110: Provides $85,000,000 for the Los Angeles Metro Rail (MOS-3) instead of $125,000,000 as proposed by the House and $45,000,000 as proposed by the Senate.

The conference agreement provides $85,000,000 for the Los Angeles Metro Rail Line project. The conferees, however, reiterate the safety concerns and the need for quality assurances outlined in the Senate report.

The conferees are aware that after the Senate's consideration of the Act, the Los Angeles Metropolitan Transportation Authority (MTA) has made significant progress in the areas of concern as expressed by the Senate. The MTA has hired a new head of Metro construction to whom quality assurance and safety personnel now must directly report. In addition, the MTA has submitted the updated Metro Rail Red Line Project Management plan, which demonstrates the commitment to safety and quality assurance, to the Federal Transit Administration for review, prior to FTA's October 1, 1995 deadline.

While this progress is encouraging, the conferees direct the Federal Transit Administration to continue diligent oversight and to ensure that these commitments to greater safety and quality assurance staffing are finalized before these or any other federal funds are obligated to the Metro Red Line Project.

Amendment No. 111: Provides $8,500,000 for the Los Angeles-San Diego commuter rail project instead of $10,000,000 as proposed by the House and no funding as proposed by the Senate.

Amendment No. 112: Provides $10,000,000 for the MARC commuter rail project as proposed by the House instead of $15,000,000 as proposed by the Senate.

Amendment No. 113: Provides $15,315,000 for the Maryland Central Corridor LRT project instead of $3,000,000 as proposed by the House and $22,630,000 as proposed by the Senate.

Amendment No. 114: Deletes House language that would have made funding for the Miami-North 27th Avenue project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 115: Provides $1,250,000 for the Memphis, Tennessee Regional Rail Plan instead of $2,500,000 as proposed by the House and no funding as proposed by the Senate; and deletes House language that would have made funding for this project contingent upon passage by the House of a bill authorizing appropriations therefore, and only in amounts provided therein.

Amendment No. 116: Provides $80,250,000 for the New Jersey Urban Core-Secaucus project instead of $75,000,000 as proposed by the House and $85,500,000 as proposed by the Senate.

Amendment No. 117: Provides $5,000,000 for the New Orleans Canal Street Corridor project instead of $10,000,000 as proposed by the House and no funding as proposed by the

Senate, and deletes House language that would have made funding for this project contingent upon passage by the House of a bill authorizing appropriations therefore, and only in amounts provided therein.

Amendment No. 118: Provides $126,725,125 for the New York Queens Connection project instead of $114,989,000 as proposed by the House and $160,000,000 as proposed by the Senate.

Amendment No. 119: Deletes funding for the Orange County Transitway project as proposed by the Senate instead of $5,000,000 as proposed by the House.

Amendment No. 120: Provides $130,140,000 for the Portland Westside LRT project as proposed by the Senate instead of $85,500,000 as proposed by the House.

Amendment No. 121: Provides $2,000,000 for the Sacramento LRT extension project as proposed by the House instead of no funding as proposed by the Senate.

Amendment No. 122: Provides $12,500,000 for the St. Louis Metro Link LRT project instead of $10,000,000 as proposed by the House and $13,000,000 as proposed by the Senate. Within the funds provided, the conferees have included up to $2,000,000 for the St. Claire extension.

Amendment No. 123: Provides $9,759,500 for the Salt Lake City light rail project instead of $5,000,000 as proposed by the House and $14,519,000 as proposed by the Senate.

Amendment No. 124: Retains, with modification, House language which provides that $5,000,000 of the funds made available for the Salt Lake City light rail project may be available for related high occupancy vehicle lane and intermodal corridor design costs.

Amendment No. 125: Provides $10,000,000 for the San Francisco BART extension project as proposed by the House instead of $22,620,000 for the San Francisco BART extension to the airport/Tasman corridor projects as proposed by the Senate.

The conferees have agreed to provide $10,000,000 to continue the BART proposed extension to the San Francisco International Airport. BART and the San Francisco Airport Commission recently reached an agreement in principle on an airport station alignment that reduces project costs and that is compatible with the airport's extension plan. However, significant unresolved issues must be resolved before a long-term financial commitment can be made to this project. For example, despite planned cost reductions, a complete cost analysis and financial plan are not yet available and there is no assurance that the federal share of this project will be reduced. Further, neither supplemental draft nor analyses have yet been concluded, and four transportation agencies on the San Francisco peninsula, including one of the project sponsors (the San Mateo County Transit District), have voted to study a direct CalTrain link with the airport. Lastly, the conferees believe that the proposed local share costs to be borne by the airport and its users should be consistent with federal transportation policy and regulation. Given these many concerns, the conferees believe that sufficient time to complete and review adequately the supplemental draft environmental impact statement and the subsequent engineering and financial plans, and final environmental impact statements is not available in fiscal year 1996. Sixty days prior to action to execute a full funding grant agreement, the conferees direct the FTA to report back to both the House and Senate Committees on Appropriations and certify in writing that the aforementioned concerns are fully addressed. This action shall not be interpreted as a Congressional desire to terminate this project.

The conference agreement provides no new funding for the Tasman corridor project. Measure A, a Santa Clara County local sales tax proposition which constitutes the Tasman project's local match, was invalidated by a California appeals court and later upheld by the California Supreme Court on September 28, 1995. Therefore under the terms of the Bay Area's Metropolitan Transportation Commission's new rail starts program, the conferees expect that the $33,320,000 of federal funds originally made available in fiscal years 1994 and 1995 shall be allocated by the Metropolitan Transportation Commission to the San Francisco BART extension to the airport.

Amendment No. 126: Restores language proposed by the House which provides funds for the San Francisco BART extension to the airport only instead of the San Francisco BART extension/Tasman corridor project as proposed by the Senate.

Amendment No. 127: Provides $7,500,000 for the San Juan, Puerto Rico Tren Urbano project instead of $15,000,000 as proposed by the House and no funding as proposed by the Senate; and deletes House language that would have made funding for this project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 128: Provides $500,000 for the Tampa to Lakeland commuter rail project instead of $1,000,000 as proposed by the House and no funding as proposed by the Senate; and deletes House language that would have made funding for this project contingent upon passage of the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 129: Provides $2,500,000 for the Whitefall ferry terminal, New York, New York instead of $5,000,000 as proposed by the House and no funding as proposed by the Senate; and deletes House language that would have made funding for this project contingent upon passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 130: Deletes House language that would have made funding for the Wisconsin central commuter project to passage by the House of a bill authorizing appropriations therefor, and only in amounts provided therein.

Amendment No. 131: Provides $5,650,000 for the Burlington-Charlotte, Vermont commuter rail project instead of $11,300,000 as proposed by the Senate. The House bill contained no similar appropriation.

Amendment No. 132: Deletes $5,000,000 for the Chicago central area circulator proposed by the Senate. The House bill contained no similar provision.

Due to the failure of the State of Illinois to appropriate funding for its share of the Chicago central area circulator project this year and the uncertainty of the design and construction of the system, the conferees have not allocated any new fiscal year 1996 funding for this project. Should the state appropriate its share of the costs of the project or should the Federal Transit Administration approve the core system phasing approach into an amended full funding grant agreement, the conferees will then make every effort to provide funding according to a full funding grant agreement funding schedule.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Amendment No. 133: Appropriates $2,000,000,000 to liquidate contract authority obligations for mass transit capital programs as proposed by the House instead of $1,700,000,000 as proposed by the Senate.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Amendment No. 134: Appropriates $200,000,000 for construction of the Washington, DC metrorail system as proposed by the House instead of $170,000,000 as proposed by the Senate.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Amendment No. 135: Deletes language proposed by the Senate that prohibits expenditure of funds in the Corporation's financial reserve or from the Harbor Maintenance Trust Fund for the design, development, or procurement of a global positioning system vessel traffic services system during fiscal year 1996. The House bill contained no similar provision.

Vessel traffic services system.—The conferees have expanded the scope of a study on the options for privatizing procurement and operation of vessel traffic services on the American portion of the Saint Lawrence Seaway, which the Senate report directed the Corporation to submit by May 1, 1996. The study shall focus on division of responsibility and cost-sharing issues in the development, procurement, installation, and operation of a GPS vessel traffic services system among the Saint Lawrence Seaway Development Corporation, the St. Lawrence Seaway Authority of Canada, the U.S. Coast Guard, the Canadian Coast Guard, and the carrier industry.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

Amendment No. 136: Appropriates $10,150,000 for operations and maintenance of the Saint Lawrence Seaway Development Corporation as proposed by the Senate instead of $10,190,500 as proposed by the House. The conferee agreement includes the following adjustments to the budget request:

Travel and transportation of things	−$6,000
Other miscellaneous services	−5,500
Nonpay inflation	−41,000
Unspecified reduction	−40,500

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Amendment No. 137: Appropriates $23,937,000 for research and special programs instead of $26,030,000 as proposed by the House and $24,281,000 as proposed by the Senate.

The conference agreement distributes the research and special programs appropriation and 176 full-time equivalent staff as follows:

	In dollars	Positions
Hazardous materials safety	12,650,000	111
Research and technology	3,288,000	13
Emergency transportation	1,022,000	7
Program support	7,388,000	45
Accountwide adjustments	−411,000	

The conferees have made the following adjustments to the budget request:

	In dollars
Hazardous materials safety:	
Information systems	−50,000
Training	+100,000
Registration program	−182,000
Aviation information management	−2,282,000
Research and technology:	
Personnel compensation and benefits	−91,000

	In dollars
Technology development	−2,951,000
Technology promotion	−874,000
Technology deployment	−400,000
Emergency transportation:	
Crisis management	−279,000
Program administration:	
Operating expenses	−42,000
Policy and program support	−50,000
Civil rights and special programs	−25,000
Program management and administration	−95,000
Contract program	−53,000
Working capital fund	−40,000
Accountwide adjustments:	
Training	−109,000
Equipment	−302,000
Net reduction	−7,725,000

Amendment No. 138: Deletes House language as proposed by the Senate and transfers $2,200,000 and 22 full-time equivalent employees from the Research and Special Programs Administration's aviation information management program to the Bureau of Transportation Statistics under amendment numbered 144.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

Amendment No. 139: Appropriates $31,448,000 for pipeline safety instead of $29,941,000 as proposed by the House and $32,973,000 as proposed by the Senate.

Amendment No. 140: Provides $28,750,000 from the Pipeline Safety Fund instead of $27,243,000 as proposed by the House and $30,275,000 as proposed by the Senate. The conference agreement includes the following reductions from the budget request:

	In dollars
Personnel compensation and benefits	−22,000
Operating expenses	−306,000
Information systems	−552,000
Risk assessment and technology studies	−500,000
Compliance	−4,146,000
Training and information dissemination	−21,000
Research and development	−2,423,000
Grants	−3,000,000
Net reduction	−10,970,000

Amendment No. 141: Provides that not to exceed $1,000,000 shall be available from the pipeline safety fund for grants to states for the development and establishment of one-call notification systems, as proposed by the House instead of $1,500,000 as proposed by the Senate.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

Amendment No. 142: Limits obligations for emergency preparedness grants to $8,890,000 as proposed by the House instead of $9,200,000 as proposed by the Senate.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 143: Appropriates $40,238,000 for salaries and expenses of the Office of inspector general as proposed by the House instead of $39,891,200 as proposed by the Senate.

BUREAU OF TRANSPORTATION STATISTICS

Amendment No. 144: Appropriates $2,200,000 for the Bureau of Transportation Statistics as proposed by the Senate. The House bill contained no similar provision.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

Amendment No. 145: Appropriates $3,500,000 for salaries and expenses of the Architectural and Transportation Barriers Compliance Board as proposed by the Senate instead of $3,656,000 as proposed by the House. The conferees agree that, although no funding is provided in fiscal year 1996 for the acquisition of a new financial accounting system, this reduction is made without prejudice to the system receiving funding in future appropriations acts.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

Amendment No. 146: Appropriates $38,774,000 for salaries and expenses of the National Transportation Safety Board as proposed by the House instead of $37,500,000 as proposed by the Senate.

The conference agreement distributes the salaries and expenses of the National Transportation Safety Board and 350 full-time equivalent staff years as follows:

Office	Budget authority	Staff years
Policy and direction	$5,662,000	45
Aviation safety	13,334,000	122
Surface transportation	10,473,000	94
Research and engineering	5,281,000	48
Administration	2,692,000	31
Administrative law judges	1,332,000	10

EMERGENCY FUND

Amendment No. 147: Appropriates $360,802 for the emergency fund as proposed by the Senate instead of $160,802 as proposed by the House.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

Amendment No. 148: Appropriates $13,379,000 for one quarter year of salaries and expenses as well as severance and closing costs of the Interstate Commerce Commission as proposed by the House. The Senate bill provided the same amount, but only for severance and closing costs. The conferees agree that collected fees shall be made available for the time the Commission remains in existence during fiscal year 1996 and that once the Commission ceases to exist, any unobligated balances from these collections shall be used to pay termination and severance costs.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

Amendment No. 149: Makes technical change in the citation to the authorization statute regarding primary and secondary schooling of dependents of FAA personnel stationed outside of the continental United States, as proposed by the Senate.

Amendment No. 150: Deletes "pursuant to paragraph (d)" as proposed by the Senate.

Amendment No. 151: Prohibits the use of funds for salaries and expenses of more than one hundred political and Presidential appointees in the Department of Transportation as proposed by the Senate instead of one hundred and ten appointees as proposed by the House.

Amendment No. 152: Restores House language deleted by the Senate that prohibits funds to be used to implement section 404 of title 23, United States Code.

Amendment No. 153: Reduces the working capital fund for the Department of Transportation programs funded in this Act by $7,500,000 instead of $10,000,000 as proposed by the House and $5,000,000 as proposed by the Senate.

Amendment No. 154: Limits working capital fund obligational authority for the Department of Transportation programs funded in this Act to no more than $95,649,000 instead of $92,231,000 as proposed by the House and $99,364,000 as proposed by the Senate.

Amendment No. 155: Restores House language deleted by the Senate that prohibits the use of funds to prepare, propose or promulgate any regulations that prescribe changes in the corporate average fuel economy standards for automobiles.

Amendment No. 156: Cancels $25,000,000 of the budgetary resources provided to the Department of Transportation, excluding the Maritime Administration, as proposed by the House, instead of canceling $25,000,000 of the budgetary resources provided to the Department of Transportation, including the Maritime Administration, as proposed by the Senate.

Amendment No. 157: Restores House language deleted by the Senate and includes language proposed by the Senate which requires the Secretary of Transportation to collocate and consolidate the Department of Transportation's office structure.

Amendment No. 158: Restores House language deleted by the Senate and includes language proposed by the Senate which requires the Secretary of Transportation to collocate and consolidate the Department of Transportation's surface transportation field offices and activities.

Amendment No. 159: Includes Senate language that permits the Secretary of Transportation to submit a reorganization plan of the surface transportation activities of the Department of Transportation and the relationship of the Saint Lawrence Seaway Development Corporation to the Department. The House bill included no similar provision.

Amendment No. 160: Permits the Secretary of Transportation to transfer funds appropriated in this Act to "Rental Payments" as proposed by the Senate. The House bill would have permitted the Secretary of Transportation to transfer funds appropriated for any office of the Office of the Secretary.

Amendment No. 161: Prohibits funds for certain specified types of employee training activities, as proposed by the House. The Senate bill required that training be consistent with current law.

Amendment No. 162: Prohibits funds for enforcing the existing airport revenue diversion laws, and which require airports to be as self-sustaining as possible, as they relate to specified facilities on Hot Springs Memorial Field in Hot Springs, Arkansas, as proposed by the House. The Senate bill contained no similar provision.

Amendment No. 163: Deletes language in the Senate bill requiring that time an individual has spent on the workers' compensation rolls be counted as regular employment time for the purpose of calculating retirement benefits. In addition, the conference agreement deletes lines 1 through 13 on page 53 of the House engrossed bill, H.R. 2002. The effect of this and the preceding disposition is to delete all language in the House and Senate bills requiring changes in the eligibility of employees to receive workers' compensation payments after becoming eligible for regular federal retirement benefits. Both the House and Senate bills required a cessation of workers' compensation benefits six months after retirement eligibility is reached.

The conferees are concerned, however, that for many individuals, workers' compensation has become a more lucrative alternative to regular retirement. For example, in the FAA alone, almost 500 people on the workers' compensation rolls are at least 70 years of age, and over 1,200 are over 60. The current system allows these people to remain on the workers' compensation rolls even when disability retirement is available to them and even when there is little or no chance they will be returned to work in the agency. These cases create a drain on the annual discretionary budget of agencies like the FAA, which are forced to use those scarce funds to finance what is essentially a retirement program—and one with excessive and unnecessary costs. To address this issue on a government-wide basis, the conferees direct the General Accounting Office to study this issue and report with recommendations for reform to the House and Senate Committees on Appropriations no later than May 31, 1996.

The conference agreement also includes a limitation against using funds in this Act for activities designed to influence Congress on legislation or appropriations pending before the Congress except on the request of Members of Congress through the proper official channels. The effect of this provision is to restate, for emphasis, existing law codified in 18 U.S.C. 1813 regarding limitations on lobbying activities.

Amendment No. 164: Modifies House language deleted by the Senate that prohibits the use of funds for technical training, tours, research fellowships with citizens of the People's Republic of China to exempt the Federal Aviation Administration and the joint Federal Aviation Administration, Department of Defense and Department of Commerce initiative designed to modernize the air traffic control system of the People's Republic of China.

Amendment No. 165: Restores House language deleted by the Senate which prohibits the use of funds in the Act to support Federal Transit Administration's field operations and oversight of the Washington Metropolitan Area Transit Authority in any location other than from the Washington, DC metropolitan area.

Amendment No. 166: Restores House language deleted by the Senate which appropriates $8,421,000 to the successor of the Interstate Commerce Commission and permits the collection of fees collected pursuant to 31 U.S.C. 9701. The conferees expect that the current level of user fees will continue to be collected throughout the fiscal year unless changed by authorization.

Amendment No. 167: Deletes language proposed by the Senate that provides for the redistribution of funds originally provided for a project in West Calcasieu Parish, Louisiana to be available for a project in Lake Charles, Louisiana, and inserts language that limits the use of funds for improvements to the Miller Highway in New York City, New York. The House bill addressed this issue in amendment numbered 191.

Amendment No. 168: Includes language proposed by the Senate that would require improvements identified by section 1069(t) of Public Law 102–240 and funded pursuant to section 118(c)(2) of title 23, U.S.C. shall not be treated as an allocation for interstate maintenance. The House bill contained no similar provision.

Amendment No. 169: Includes Senate language which requires the Secretary of Transportation to carry out research to identify successful telecommuting programs. The House bill contained no similar provision.

Amendment No. 170: Includes Senate language which would exempt Indian Reservation Roads from any reductions required pursuant to section 1003 of Public Law 102–240. The House bill contained no similar provision.

Amendment No. 171: Deletes Senate provision that would have allowed states to trade in unobligated balances of their federal-aid highway program, except for the congestion mitigation and air quality improvement program, to mitigate reductions pursuant to section 1003 of the Intermodal Surface Transportation Efficiency Act. The House bill contained no similar provision.

Amendment No. 172: Deletes Senate provision that would have allowed states to trade in unobligated balances of funds authorized or appropriated for highway demonstration projects to mitigate reductions pursuant to section 1003 of the Intermodal Surface Transportation Efficiency Act. The House bill contained no similar provision.

Amendment No. 173: Deletes Senate provision that would have established interstate compact infrastructure banks. The House bill contained no similar provision.

Amendment No. 174: Retains, with amendment, language in the Senate bill requiring development of a new personnel management system for the Federal Aviation Administration. The House bill contained no similar provisions. The conference agreement includes the following changes to the Senate bill: (a) the official responsible for development and implementation of the new personnel system is the FAA administrator, not the Secretary; and (b) the new system shall not waive current law relating to veterans' preference and unemployment compensation. The provision takes effect on April 1, 1996, as proposed by the Senate.

Management-labor relationship.—The conferees believe that a harmonious management-labor relationship within the FAA is important to the effectiveness and efficiency of the national airspace system. The conferees do not intend that the personnel management reforms included in this bill force the disestablishment of any existing management-labor agreement or lead to the dissolution of any union currently representing FAA employees. Instead, the conference agreement provides the administrator of the FAA flexibility to redefine the management-labor relationship to the benefit of the agency and all of its employees.

Administrator's working group.—The conferees have included bill language which requires the FAA to develop new personnel and procurement reform plans, with the goal of accelerating the modernization of the FAA in the most efficient and cost-effective manner. The conferees believe the success of this plan will, in part, depend upon the assistance of the entire aviation community. The conferees would like to see high level input from the aviation community. The conferees therefore strongly recommend that the administrator consult with the widest array of interested parties in developing the new personnel and procurement systems. The administrator should consider establishing a working group to assist his efforts. The working group could include, but not be limited to, representatives from the air carriers, general and business aviation, airports, aircraft manufacturers, airline and FAA employees, and the Office of the Secretary of Defense.

Amendment No. 175: Retains, with amendment, language in the Senate bill requiring development of a new acquisition management system for the Federal Aviation Administration. The House bill contained no similar provisions. The conference agreement changes the official responsible for development and implementation of the new acquisition system to the FAA administrator, not the Secretary. The provision takes effect on April 1, 1996, as proposed by the Senate.

Amendment No. 176: Reduces bonuses and cash awards for Department of Transportation employees by $752,852 as proposed by the Senate. The House bill included no similar provision.

Amendment No. 177: Limits funds for Department of Transportation advisory committees to $850,000 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 178: Includes provision that enables the Secretary of Transportation to enforce and continue in effect the exemption provisions of the Motor Vehicle Information and Cost Savings Act. The House bill contains no similar provision.

Amendment No. 179: Provides that the FAA Technical Center in Pomona, New Jersey be designated as the "William J. Hughes Technical Center", as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 180: Provides that no funds may be used to close Coast Guard small boat stations or subunits, and allows flexibility for the Secretary to implement system-wide management efficiencies, as proposed by the Senate. The House bill contained no similar provision. The conferees support Coast Guard downsizing and streamlining efforts in general, but find that in this instance the Coast Guard's methodology failed to fairly consider distinctions between small boat stations, such as water temperature and survival time, leading ultimately to a proposal which lacked critical justification.

Amendment No. 181: Deletes Senate language that would redistribute funds made available for obligation authorized by item 21 of the table in section 1105(f) of Public Law 102–240 to carry out additional surface transportation projects in Louisiana. The House bill contained no similar provision.

Amendment No. 182: Includes Senate language that provides for the transfer of certain federal property in Hoboken, New Jersey. The House bill contained no similar provision.

Amendment No. 183: Deletes Senate language which requires a five percent reduction from fiscal year 1995 levels in the energy costs of federal facilities used by agencies funded in this Act. The conferees are aware that this issue will be addressed government-wide by the Treasury, Postal Service and General Government Appropriations Act, 1996.

Amendment No. 184: Deletes language proposed by the Senate requiring the Secretary of Transportation to conduct a study of competition and air fares in rural aviation markets in the United States.

Amendment No. 185: Includes Senate language that would provide $1,000,000 to establish and operate the Railroad Safety Institute. The House bill contained no similar provision. The conference agreement also addresses this issue under amendment numbered 6.

Amendment No. 186: Retains language proposed by the Senate expressing the sense of the Senate regarding a dispute between the United States and Japan over implementation of the current U.S./Japan bilateral aviation agreement. The House bill contained no similar provision.

Amendment No. 187: Includes Senate language which modifies provisions of section

339 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102-388). The House bill included no similar provision.

Amendment No. 188: Deletes Senate provision that repeals section 404 of 23 U.S.C. and inserts language that waives the freight tonnage limit for rail lines benefiting from the Local Rail Freight Assistance (LRFA) program for a project near Wahpeton, North Dakota. The funds are proceeds from LRFA loans that have been repaid to the State. Approximately $2,300,000 may be used for the partial cost of a privately owned rail spur, siding, and loading facility.

Amendment No. 189: Includes Senate language that would have delayed the restriction on the availability of certain highway funds and designated the National Highway System. The House bill contained no similar provision.

TITLE IV

Amendment No. 190: Restores House language deleted by the Senate which provides for mandatory standards and procedures governing arbitrators and arbitration of labor disputes in the Washington, DC area.

TITLE V

Amendment No. 191: Deletes title V of the House bill which restricts the use of funds for improvements to the Miller Highway in New York City, New York. This prohibition is included under amendment numbered 167.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$14,214,401,000
Budget estimates of new (obligational) authority, fiscal year 1996	35,468,964,831
House bill, fiscal year 1996	12,810,725,806
Senate bill, fiscal year 1996	12,613,811,567
Conference agreement, fiscal year 1996	12,680,532,831
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	−1,533,868,169
Budget estimates of new (obligational) authority, fiscal year 1996	−22,788,432,000
House bill, fiscal year 1996	−130,192,975
Senate bill, fiscal year 1996	+66,721,264

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	58,094,000	57,459,000	55,011,500	56,500,000	56,189,000	-1,905,000
Immediate Office of the Secretary	(1,220,000)					(-1,220,000)
Immediate Office of the Deputy Secretary	(583,000)					(-583,000)
Office of the General Counsel	(7,876,000)					(-7,876,000)
Office of the Assistant Secretary for Transportation Policy	(2,309,000)					(-2,309,000)
Office of the Assistant Secretary for Aviation and International Affairs	(7,887,000)					(-7,887,000)
Office of the Assistant Secretary for Budget and Programs	(4,400,000)					(-4,400,000)
Office of the Assistant Secretary for Governmental Affairs	(2,250,000)					(-2,250,000)
Office of the Assistant Secretary for Administration	(22,425,000)					(-22,425,000)
Office of Public Affairs	(1,380,000)					(-1,380,000)
Executive Secretariat	(932,000)					(-932,000)
Contract Appeals Board	(630,000)					(-630,000)
Office of Civil Rights	(1,779,000)					(-1,779,000)
Office of Small and Disadvantaged Business Utilization	(936,000)					(-936,000)
Minority Business Resource Center	(4,000,000)					(-4,000,000)
Office of Intelligence and Security	(800,000)					(-800,000)
Office of Intermodalism	(1,000,000)					(-1,000,000)
Undistributed	(-2,313,000)					(+2,313,000)
Office of civil rights		12,793,000	6,554,000	12,083,000	6,554,000	+6,554,000
Transportation planning, research, and development	8,293,000	15,710,000	3,309,000	9,710,000	8,220,000	-73,000
Office of Commercial Space Transportation: Operations and Research	6,060,000					-6,060,000
Working capital fund	(93,000,000)	(104,364,000)	(102,231,000)	(104,364,000)	(103,149,000)	(+10,149,000)
Payments to air carriers (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(33,423,000)		(15,000,000)	(26,738,536)	(22,600,000)	(-10,823,000)
(Limitation on obligations)	(33,423,000)		(15,000,000)	(26,738,536)	(22,600,000)	(-10,823,000)
Rescission of contract authority	(-4,000,000)	(-38,600,000)	(-23,600,000)	(-11,861,464)	(-16,000,000)	(-12,000,000)
Rescission		(-6,786,971)	(-6,786,971)	(-6,786,971)	(-6,786,971)	(-6,786,971)
Rental payments	144,419,000	143,436,000	130,803,000	139,689,000	135,200,000	-9,219,000
Headquarters facilities		331,000,000				
Minority business resource center program	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000	
(Limitation on direct loans)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	
Minority business outreach		2,900,000	2,900,000	2,100,000	2,900,000	+2,900,000
ICC Sunset		4,705,000		4,705,000		
State Infrastructure Banks (sec. 349)				250,000,000		
Total, Office of the Secretary	218,766,000	569,903,000	200,477,500	476,687,000	210,963,000	-7,803,000
(Limitations on obligations)	(33,423,000)		(15,000,000)	(26,738,536)	(22,600,000)	(-10,823,000)
Total budgetary resources	(252,189,000)	(569,903,000)	(215,477,500)	(503,425,536)	(233,563,000)	(-18,626,000)
Coast Guard						
Operating expenses	2,598,000,000	2,618,316,000	2,565,607,000	2,286,000,000	2,278,991,000	-319,009,000
Acquisition, construction, and improvements:						
Vessels	187,900,000	203,700,000	191,200,000	178,000,000	167,600,000	-20,300,000
Aircraft	11,800,000	19,500,000	16,500,000	14,500,000	12,000,000	+200,000
Other equipment	29,700,000	56,300,000	42,200,000	47,600,000	49,200,000	+19,500,000
Shore facilities and aids to navigation	89,350,000	99,800,000	82,275,000	80,200,000	88,875,000	-475,000
Personnel and related support	44,200,000	48,900,000	43,000,000	46,500,000	44,700,000	+500,000
Subtotal, A C & I	362,950,000	428,200,000	375,175,000	366,800,000	362,375,000	-575,000
Environmental compliance and restoration	23,500,000	25,000,000	21,000,000	21,000,000	21,000,000	-2,500,000
Port Safety Development				15,000,000	15,000,000	+15,000,000
Alteration of bridges		2,000,000	16,000,000	2,000,000	16,000,000	+16,000,000
Retired pay	562,585,000	582,022,000	582,022,000	582,022,000	582,022,000	+19,437,000
Reserve training	64,981,000	64,859,000	61,859,000	62,000,000	62,000,000	-2,981,000
Research, development, test, and evaluation	20,310,000	22,500,000	18,500,000	20,000,000	18,000,000	-2,310,000
Boat safety (Aquatic Resources Trust Fund)	25,000,000		20,000,000		20,000,000	-5,000,000
Emergency Fund (Oil Spill Liability Trust Fund) (limitation of permanent appropriation)			(3,000,000)			
Total, Coast Guard	3,657,326,000	3,742,897,000	3,660,163,000	3,354,822,000	3,375,388,000	-281,938,000
Federal Aviation Administration						
Operations	4,595,394,000	4,704,000,000	4,600,000,000	4,550,000,000	4,645,712,000	+50,318,000
Facilities and equipment (Airport and Airway Trust Fund)	2,087,489,000	1,917,847,000	2,000,000,000	1,890,377,000	1,934,883,000	-152,606,000
Rescission	(-35,000,000)		(-60,000,000)	(-70,000,000)	(-60,000,000)	(-25,000,000)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Research, engineering, and development (Airport and Airway Trust Fund)	259,192,000	267,661,000	143,000,000	215,886,000	185,698,000	-73,494,000
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	....
(Limitation on obligations)	(1,450,000,000)	(1,500,000,000)	(1,600,000,000)	(1,250,000,000)	(1,450,000,000)	....
Rescission of contract authority	....	....	....	-5,000,000	....	....
Rescission of contract authority (sec. 349 j)	....	....	....	-250,000,000	....	....
Aircraft purchase loan guarantee program	148,000	50,000	50,000	50,000	50,000	-98,000
(Limitation on borrowing authority)	(9,970,000)	(1,600,000)	(1,600,000)	(1,600,000)	(1,600,000)	(-8,370,000)
Total, Federal Aviation Administration	6,942,223,000	6,889,558,000	6,743,050,000	6,656,313,000	6,766,343,000	-175,880,000
(Limitations on obligations)	(1,450,000,000)	(1,500,000,000)	(1,600,000,000)	(1,250,000,000)	(1,450,000,000)	....
Total budgetary resources	(8,392,223,000)	(8,389,558,000)	(8,343,050,000)	(7,906,313,000)	(8,216,343,000)	(-175,880,000)
Unified transportation infrastructure investment program (limitation on obligations)	....	(-1,500,000,000)	....	....	....	....
Total budgetary resources	(8,392,223,000)	(6,889,558,000)	(8,343,050,000)	(7,906,313,000)	(8,216,343,000)	(-175 880,000)
Federal Highway Administration						
Limitation on general operating expenses	(525,341,000)	(689,486,000)	(495,381,000)	(548,434,000)	(509,660,000)	(-15 681,000)
Highway-related safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(10,800,000)	(10,000,000)	(10,000,000)	(13,000,000)	(11,000,000)	(+200,000)
(Limitation on obligations)	(10,800,000)	(10,000,000)	(10,000,000)	(13,000,000)	(11,000,000)	(+200,000)
Rescission of contract authority	(-20,000,000)	....	....	....	....	(+20 000,000)
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(17,160,000,000)	(20,254,255,000)	(18,000,000,000)	(17,000,000,000)	(17,550,000,000)	(+390,000,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
(Liquidation of contract authorization)	(17,000,000,000)	(19,200,000,000)	(19,200,000,000)	(19,200,000,000)	(19,200,000,000)	(+2,200,000,000)
Right-of-way revolving fund (Highway Trust Fund) (limitation on direct loans)	(42,500,000)	....	....	....	....	(-42,500,000)
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(73,000,000)	(68,000,000)	(68,000,000)	(68,000,000)	(68,000,000)	(-5,000,000)
(Limitation on obligations)	(74,000,000)	(85,000,000)	(79,150,000)	(75,000,000)	(77,225,000)	(+3,225,000)
Surface transportation projects	352,055,000	....	....	39,500,000	....	-352,055,000
Rescission	(-12,004,000)	....	....	....	....	(+12,004,000)
High priority corridor (sec. 314A)	6,000,000	....	....	....	....	-6,000,000
Orange County, CA toll road project (sec. 336 a)	8,000,000	....	....	....	....	-8,000,000
Total, Federal Highway Administration	366,055,000	....	....	39,500,000	....	-366,055,000
(Limitations on obligations)	(17,244,800,000)	(20,349,255,000)	(18,089,150,000)	(17,088,000,000)	(17,638,225,000)	(+393,425,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
Total budgetary resources	(19,878,556,000)	(20,429,255,000)	(20,401,082,000)	(19,459,007,000)	(19,969,732,000)	(+91 176,000)
Unified transportation infrastructure investment program (limitation on obligations)	....	(-20,134,255,000)	....	....	....	....
Total budgetary resources	(19,878,556,000)	(295,000,000)	(20,401,082,000)	(19,459,007,000)	(19,969,732,000)	(+91 176,000)
National Highway Traffic Safety Administration						
Operations and research	79,556,000	84,598,000	73,316,570	71,261,000	73,316,570	-6,239,430
Rescissions	....	....	(-4,547,185)	....	....	....
Operations and research (Highway Trust Fund)	46,997,000	59,744,000	52,011,930	50,344,000	51,884,430	+4,887,430
Subtotal, Operations and research	126,553,000	144,342,000	125,328,500	121,605,000	125,201,000	-1,352,000
Highway traffic safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(151,000,000)	(180,000,000)	(153,400,000)	(155,100,000)	(155,100,000)	(+4,100,000)
State and community highway safety grants (Sec. 402) (limitation on obligations)	(123,000,000)	(168,600,000)	(126,000,000)	(128,000,000)	(127,700,000)	(+4,700,000)
National Driver Register (Sec. 402) (limitation on obligations)	(3,400,000)	(2,400,000)	(2,400,000)	(2,100,000)	(2,400,000)	(-1,000,000)
Alcohol-impaired driving countermeasures programs (Sec. 410) (limitation on obligations)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	....
Total, National Highway Traffic Safety Administration	126,553,000	144,342,000	125,328,500	121,605,000	125,201,000	-1,352,000
(Limitations on obligations)	(151,400,000)	(196,000,000)	(153,400,000)	(155,100,000)	(155,100,000)	(+3,700,000)
Total budgetary resources	(277,953,000)	(340,342,000)	(278,728,500)	(276,705,000)	(280,301,000)	(+2,348,000)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Railroad Administration						
Office of the Administrator	13,090,000	17,370,000	14,000,000	14,018,000	14,018,000	+928,000
(By transfer)	(611,950)					(-611,950)
Local rail freight assistance	17,000,000					-17 000,000
Rescission	(-6,563,000)					(+6 563,000)
Railroad safety	47,729,000	51,104,000	49,940,660	49,105,000	49,919,000	+2,190,000
Railroad research and development	20,500,000	48,947,000	21,000,000	25,775,000	24,550,000	+4,050,000
Northeast corridor improvement program	200,000,000	235,000,000	100,000,000	130,000,000	115,000,000	-85,000,000
Next generation high speed rail	20,000,000	30,000,000	10,000,000	20,000,000	19,205,000	-795,000
Trust fund share of next generation high speed rail (Highway Trust Fund):						
(Liquidation of contract authorization)	(3,400,000)	(7,118,000)	(5,000,000)	(5,000,000)	(7,118,000)	(+3,718,000)
(Limitation on obligations)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	
Alaska Railroad rehabilitation				10,000,000	10,000,000	+10,000,000
Pennsylvania station redevelopment project	40,000,000	60,000,000		25,000,000		-40,000,000
Rescission	(-40,000,000)					(+40,000,000)
Rhode Island Rail Development	5,000,000	10,000,000		2,000,000	1,000,000	-4,000,000
Grants to the National Railroad Passenger Corporation:						
Operations	542,000,000	420,000,000	336,000,000	305,000,000	305,000,000	-237,000,000
Transition costs			62,000,000	100,000,000	100,000,000	+100,000,000
Capital	251,500,000	230,000,000	230,000,000	200,000,000	230,000,000	-21,500,000
Long-term restructuring transition		100,000,000				
Total, Grants to the National Railroad Passenger Corporation	793,500,000	750,000,000	628,000,000	605,000,000	635,000,000	-158,500,000
Total, Federal Railroad Administration	1,156,819,000	1,192,421,000	822,940,660	880,898,000	868,692,000	-288,127,000
(Limitations on obligations)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	
Total budgetary resources	(1,161,819,000)	(1,197,421,000)	(827,940,660)	(885,898,000)	(873,692,000)	(-288,127,000)
Unified transportation infrastructure investment program		-1,045,000,000				
Total budgetary resources	(1,161,819,000)	(152,421,000)	(827,940,660)	(885,898,000)	(873,692,000)	(-288,127,000)
Federal Transit Administration						
Administrative expenses	43,060,000	44,202,000	39,260,000	42,000,000	42,000,000	-1,060,000
Formula grants	640,000,000	1,244,200,000	490,000,000	585,000,000	542,925,000	-97,075,000
Operating assistance grants	710,000,000	500,000,000	400,000,000	400,000,000	400,000,000	-310,000,000
Formula grants (Highway Trust Fund) (limitation on obligations)	(1,150,000,000)	(1,120,850,000)	(1,110,000,000)	(1,120,850,000)	(1,110,000,000)	(-40,000,000)
University transportation centers	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	
Transit planning and research	92,250,000	100,027,000	82,250,000	90,000,000	85,500,000	-6,750,000
Metropolitan planning program		(41,512,500)	(39,436,250)	(40,500,000)	(39,500,000)	(+39,500,000)
Rural transit assistance program		(4,612,500)	(4,381,250)	(4,500,000)	(4,500,000)	(+4,500,000)
Transit cooperative research program		(8,475,000)	(8,051,250)	(8,250,000)	(8,250,000)	(+8,250,000)
National TPR program		(33,952,000)	(19,480,000)	(25,500,000)	(22,000,000)	(+22,000,000)
State TPR program		(8,475,000)	(8,051,250)	(8,250,000)	(8,250,000)	(+8,250,000)
National transit institute		(3,000,000)	(2,850,000)	(3,000,000)	(3,000,000)	(+3,000,000)
Subtotal, Transit planning and research	(92,250,000)	(100,027,000)	(82,250,000)	(90,000,000)	(85,500,000)	(-6,750,000)
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(1,150,000,000)	(1,120,850,000)	(1,120,850,000)	(1,120,850,000)	(1,120,850,000)	(-29,150,000)
Discretionary grants		59,944,000				
Discretionary grants (Highway Trust Fund) (limitation on oblig):						
Fixed guideway modernization	(725,000,000)	(724,976,000)	(666,000,000)	(666,000,000)	(666,000,000)	(-59,000,000)
Bus and bus-related facilities	(353,330,000)	(274,992,000)	(333,000,000)	(333,000,000)	(333,000,000)	(-20,330,000)
New starts	(646,670,000)	(724,976,000)	(666,000,000)	(666,000,000)	(666,000,000)	(+19,330,000)
Subtotal, Discretionary grants	(1,725,000,000)	(1,724,944,000)	(1,665,000,000)	(1,665,000,000)	(1,665,000,000)	(-60,000,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(1,500,000,000)	(1,700,000,000)	(2,000,000,000)	(1,700,000,000)	(2,000,000,000)	(+500,000,000)
Interstate transfer grants - transit	48,030,000					-48 030,000
Washington Metropolitan Area Transit Authority	200,000,000	200,000,000	200,000,000	170,000,000	200,000,000	
Violent crime reduction program (Violent Crime Trust Fund)		5,000,000				
Total, Federal Transit Administration	1,739,340,000	2,159,373,000	1,217,510,000	1,293,000,000	1,276,425,000	-462,915,000
(Limitations on obligations)	(2,875,000,000)	(2,845,794,000)	(2,775,000,000)	(2,785,850,000)	(2,775,000,000)	(-100,000,000)
Total budgetary resources	(4,614,340,000)	(5,005,167,000)	(3,992,510,000)	(4,078,850,000)	(4,051,425,000)	(-562,915,000)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Unified transportation infrastructure investment program		-2,154,373,000				
(Limitation on obligations)		(-2,785,850,000)				
Total budgetary resources	(4,614,340,000)	(64,944,000)	(3,992,510,000)	(4,078,850,000)	(4,051,425,000)	(-562,915,000)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	10,251,000	10,243,000	10,190,500	10,150,000	10,150,000	-101,000
Research and Special Programs Administration						
Research and special programs	26,238,000	31,862,000	26,030,000	24,281,000	23,937,000	-2,301,000
Hazardous materials safety	(12,897,000)	(12,782,000)	(12,600,000)	(12,987,000)	(12,650,000)	(-247,000)
Aviation information management	(2,453,000)	(2,282,000)	(2,322,000)			(-2,453,000)
Emergency transportation	(1,326,000)	(1,301,000)	(1,086,000)	(962,000)	(1,022,000)	(-304,000)
Research and technology	(2,530,000)	(7,604,000)	(3,209,000)	(3,451,000)	(3,288,000)	(+758,000)
Program and administrative support	(7,032,000)	(7,693,000)	(7,394,000)	(7,292,000)	(7,388,000)	(+356,000)
Accountwide adjustment			(-581,000)	(-411,000)	(-411,000)	(-411,000)
Subtotal, research and special programs	(26,238,000)	(31,862,000)	(26,030,000)	(24,281,000)	(23,937,000)	(-2 301,000)
Pipeline safety (Pipeline Safety Fund)	34,991,500	39,720,000	27,243,000	30,275,000	28,750,000	-6 241,500
Pipeline safety (Oil Spill Liability Trust Fund)	2,432,500	2,698,000	2,698,000	2,698,000	2,698,000	+235,500
Subtotal, Pipeline safety	37,424,000	42,418,000	29,941,000	32,973,000	31,448,000	-5,976,000
Alaska Pipeline task Force (Oil Spill Liability Trust Fund) (rescission)	(-544,000)					(+544,000)
Emergency preparedness grants:						
(Emergency preparedness fund)	400,000	400,000	400,000	400,000	400,000	
(Limitation on obligations)	(10,800,000)	(11,338,000)	(8,890,000)	(9,200,000)	(8,890,000)	(-1.910,000)
Total, Research and Special Programs Administration	64,062,000	74,480,000	56,371,000	57,654,000	55,785,000	-8,277,000
(Limitations on obligations)	(10,800,000)	(11,338,000)	(8,890,000)	(9,200,000)	(8,890,000)	(-1,910,000)
Total budgetary resources	(74,862,000)	(85,818,000)	(65,261,000)	(66,854,000)	(64,675,000)	(-10,187,000)
Office of Inspector General						
Salaries and expenses	40,000,000	40,238,000	40,238,000	39,891,200	40,238,000	+238,000
Bureau of Transportation Statistics						
Salaries and expenses				2,200,000	2,200,000	+2,200,000
General Provisions						
Administrative provision: Procurement (sec. 323a)	-65,120,000					+65,120,000
Bureau of Transportation Statistics (transfer from Federal-aid Highways)	(15,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(+5,000,000)
Federal railroad transfer (sec. 341)	3,000,000					-3,000,000
Federal-aid highways (sec. 310 (e))		-574,341,000				
Working capital fund reduction (sec. 327)	-7,000,000		-10,000,000	-5,000,000	-7,500,000	-500,000
DOT field office consolidation (sec. 335)			-25,000,000	-25,000,000	-25,000,000	-25,000,000
ICC transition (sec. 342)			8,421,000		8,421,000	+8 421,000
Total, title I, Department of Transportation (net)	14,134,164,000	14,203,727,029	12,754,756,004	12,559,071,765	12,624,519,029	-1,509,644,971
Appropriations	(14,252,275,000)	(14,249,114,000)	(12,849,690,160)	(12,902,720,200)	(12,707,306,000)	(-1,544,969,000)
Rescissions	(-118,111,000)	(-45,386,971)	(-94,934,156)	(-343,648,435)	(-82,786,971)	(+35,324,029)
(Limitations on obligations)	(21,770,423,000)	(24,907,387,000)	(22,646,440,000)	(21,319,888,536)	(22,054,815,000)	(+284,392,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
Total budgetary resources including (limitations on obligations and (exempt obligations)	(38,172,288,000)	(39,191,114,029)	(37,713,128,004)	(36,210,467,301)	(37,010,841,029)	(-1,161,446,971)
Adjustments made for unified program		-3,199,373,000				
(Limitation on obligations)		(-24,420,105,000)				
Unified transportation infrastructure invest program		24,392,976,000				
Total budgetary resources	(38,172,288,000)	(39,163,985,029)	(37,713,128,004)	(36,210,467,301)	(37,010,841,029)	(-1,161,446,971)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	3,350,000	3,656,000	3,656,000	3,500,000	3,500,000	+150,000
National Transportation Safety Board						
Salaries and expenses	37,392,000	38,774,000	38,774,000	37,500,000	38,774,000	+1,382,000
Emergency fund	....	360,802	160,802	360,802	360,802	+360,802
Total, National Transportation Safety Board	37,392,000	39,134,802	38,934,802	37,860,802	39,134,802	+1,712,802
Interstate Commerce Commission						
Salaries and expenses	30,302,000	28,844,000	13,379,000	13,379,000	13,379,000	-16,923,000
Payments for directed rail service (limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	....
Total, Interstate Commerce Commission	(30,777,000)	(29,319,000)	(13,854,000)	(13,854,000)	(13,854,000)	(-16,923,000)
Panama Canal Commission						
Panama Canal Revolving Fund:						
(Administrative expenses)	(50,030,000)	(50,741,000)	(50,741,000)	(50,741,000)	(50,741,000)	(+711,000)
(Limitation on operating and capital expenses)	(540,000,000)	....	....	....	....	(-540,000,000)
Washington Metropolitan Area Transit Authority						
Interest payments and repayments of principal	9,193,000	....	....	....	....	-9,193,000
Total, title II, Related Agencies	80,237,000	71,634,802	55,969,802	54,739,802	56,013,802	-24,223,198
(Limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	....
Total budgetary resources	(80,712,000)	(72,109,802)	(56,444,802)	(55,214,802)	(56,488,802)	(-24,223,198)
Total appropriations in this bill (net)	14,214,401,000	35,468,964,831	12,810,725,806	12,613,811,567	12,680,532,831	-1,533,868,169
Scorekeeping adjustments	-2,671,053,000	375,011,000	370,983,000	367,511,148	383,676,148	+3,054,729,148
Grand total (net)	11,543,348,000	35,843,975,831	13,181,708,806	12,981,322,715	13,064,208,979	+1,520,860,979
Appropriations	(11,661,459,000)	(35,889,362,802)	(13,276,642,962)	(13,324,971,150)	(13,146,995,950)	(+1,485,536,950)
Rescissions	(-118,111,000)	(-45,386,971)	(-94,934,156)	(-343,648,435)	(-82,786,971)	(+35,324,029)
(Limitations on obligations)	(21,770,898,000)	(487,757,000)	(22,646,915,000)	(21,320,363,536)	(22,055,290,000)	(+284,392,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
Grand total budgetary resources including (limitations on obligations) and (exempt obligations)	(35,581,947,000)	(36,411,732,831)	(38,140,555,806)	(36,633,193,251)	(37,451,005,979)	(+1,869,058,979)
CONNGRESSIONAL BUDGET RECAP						
Total mandatory and discretionary	11,543,348,000	35,843,975,831	13,181,708,806	12,981,322,715	13,064,208,979	+1,520,860,979
Mandatory	571,926,000	582,072,000	582,072,000	582,072,000	582,072,000	+10,146,000
Discretionary:						
Crime trust fund	....	5,000,000	....	....	....	....
General purposes	10,971,422,000	35,256,903,831	12,599,636,806	12,399,250,715	12,482,136,979	+1,510,714,979
Total, Discretionary	10,971,422,000	35,261,903,831	12,599,636,806	12,399,250,715	12,482,136,979	+1,510,714,979

FRANK R. WOLF,
TOM DELAY,
RALPH REGULA,
HAROLD ROGERS,
JIM LIGHTFOOT,
RON PACKARD,
SONNY CALLAHAN,
JAY DICKEY,
BOB LIVINGSTON,
MARTIN OLAV SABO (except amendments 174 and 190),
RICHARD J. DURBIN (except amendments 132, 174, and 190),
RONALD D. COLEMAN (except amendment 174),
THOMAS M. FOGLIETTA (except amendment 174),
DAVID R. OBEY (except amendment 174)

Managers on the Part of the House.

MARK O. HATFIELD,
PETE V. DOMENICI,
ARLEN SPECTER,
CHRISTOPHER S. BOND,
SLADE GORTON,
RICHARD C. SHELBY,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,

Managers on the Part of the Senate.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, pursuant to the previous order of the House, the House stands adjourned until 12:30 p.m. on Tuesday, October 24, for morning hour debates.

There was no objection.

Accordingly (at 6 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until Tuesday, October 24, 1995, at 12:30 p.m. for morning hour debates.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 2371. A bill to provide trade agreements authority to the President; with an amendment (Rept. 104–285, Pt. 1). Ordered to be printed.

Mr. WOLF: Committee of conference. Conference report on H.R. 2002. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rep. 104–286). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1358. A bill to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, MA; with an amendment (Rept. 104–287). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2005. A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System (Rept. 104–288). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following occurred on October 16, 1995, and was omitted from the RECORD of October 17, 1995]

H.R. 1122. Referral to the Committee on Commerce extended for a period ending not later than November 24, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KASICH:

H.R. 2517. A bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; to the Committee on the Budget, and in addition to the Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, International Relations, the Judiciary, National Security, Resources, Rules, Science, Transportation and Infrastructure, Veterans' Affairs, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington:

H.R. 2518. A bill to authorize the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, WA, for certain lands owned by Public Utility District No. 1 of Chelan County, WA, and for other purposes; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. OWENS.
H.R. 428: Ms. PELOSI.
H.R. 713: Mr. MORAN, Ms. MCKINNEY, and Mr. DAVIS.
H.R. 1073: Mr. CLEMENT and Mr. SENSENBRENNER.
H.R. 1074: Mr. CLEMENT.
H.R. 1083: Mr. GILCHREST.
H.R. 1595: Mr. PORTER.
H.R. 1982: Mr. RICHARDSON.
H.R. 2008: Mr. QUINN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2491

OFFERED BY: MR. ORTON

Amendment in the nature of a substitute

AMENDMENT NO. 7: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Common Sense Balanced Budget Act of 1995".

(b) TABLE OF CONTENTS.—

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

Sec. 1101. Privatization of uranium enrichment charges.
Sec. 1103. Cogeneration.
Sec. 1104. FEMA radiological emergency preparedness fees.

Subtitle B—Central Utah

Sec. 1121. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District.

Subtitle C—Army Corps of Engineers

Sec. 1131. Regulatory program fund.

Subtitle D—Helium Reserve

Sec. 1141. Sale of helium processing and storage facility.

Subtitle E—Territories

Sec. 1151. Termination of annual direct assistance to Northern Mariana Islands.

TITLE II—AGRICULTURAL PROGRAMS

Sec. 2001. Short title and table of contents.

Subtitle A—Extension and Modification of Various Commodity Programs

Sec. 2101. Extension of loans, payments, and acreage reduction programs for wheat through 2002.
Sec. 2102. Extension of loans, payments, and acreage reduction programs for feed grains through 2002.
Sec. 2103. Extension of loans, payments, and acreage reduction programs for cotton through 2002.
Sec. 2104. Extension of loans, payments, and acreage reduction programs for rice through 2002.
Sec. 2105. Extension of loans and payments for oilseeds through 2002.
Sec. 2106. Increase in flex acres.
Sec. 2107. Reduction in 50/85 and 0/85 programs.

Subtitle B—Sugar

Sec. 2201. Extension and modification of sugar program.

Subtitle C—Peanuts

Sec. 2301. Extension of price support program for peanuts and related programs.
Sec. 2302. National poundage quotas and acreage allotments.
Sec. 2303. Sale, lease, or transfer of farm poundage quota.
Sec. 2304. Penalty for reentry of exported peanut products.
Sec. 2305. Price support program for peanuts.
Sec. 2306. Referendum regarding poundage quotas.
Sec. 2307. Regulations.

Subtitle D—Tobacco

Sec. 2401. Elimination of Federal budgetary outlays for tobacco programs.
Sec. 2402. Establishment of farm yield for flue-cured tobacco based on individual farm production history.
Sec. 2403. Removal of farm reconstitution exception for burley tobacco.
Sec. 2404. Reduction in percentage threshold for transfer of flue-cured tobacco quota in cases of disaster.
Sec. 2405. Expansion of types of tobacco subject to no net cost assessment.
Sec. 2406. Repeal of reporting requirements relating to export of tobacco.
Sec. 2407. Repeal of limitation on reducing national marketing quota for flue-cured and burley tobacco.
Sec. 2408. Application of civil penalties under Tobacco Inspection Act.
Sec. 2409. Transfers of quota or allotment across county lines in a State.
Sec. 2410. Calculation of national marketing quota.

Sec. 2411. Clarification of authority to access civil money penalties.
Sec. 2412. Lease and transfer of farm marketing quotas for burley tobacco.
Sec. 2413. Limitation on transfer of acreage allotments of other tobacco.
Sec. 2414. Good faith reliance on actions or advice of department representatives.
Sec. 2415. Uniform forfeiture dates for flue-cured and burley tobacco.
Sec. 2416. Sale of burley and flue-cured tobacco marketing quotas for a farm by recent purchasers.

Subtitle E—Planting Flexibility

Sec. 2501. Definitions.
Sec. 2502. Crop and total acreage bases.
Sec. 2503. Planting flexibility.
Sec. 2504. Farm program payment yields.
Sec. 2505. Application of provisions.

Subtitle F—Miscellaneous Provisions

Sec. 2601. Limitations on amount of deficiency payments and land diversion payments.
Sec. 2602. Sense of Congress regarding certain Canadian trade practices.

TITLE III—COMMERCE

Sec. 3101. Spectrum auctions.
Sec. 3102. Federal Communications Commission fee collections
Sec. 3103. Auction of recaptured analog licenses.
Sec. 3104. Patent and trademark fees.
Sec. 3105. Repeal of authorization of transitional appropriations for the United States Postal Service.

TITLE IV—TRANSPORTATION

Sec. 4101. Extension of railroad safety fees.
Sec. 4102. Permanent extension of vessel tonnage duties.
Sec. 4103. Sale of Governors Island, New York.
Sec. 4104. Sale of air rights.

TITLE V—HOUSING PROVISIONS

Sec. 5101. Reduction of section 8 annual adjustment factors for units without tenant turnover.
Sec. 5102. Maximum mortgage amount floor for single family mortgage insurance.
Sec. 5103. Foreclosure avoidance and borrower assistance.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

Sec. 6101. Consumer Price Index.
Sec. 6102. Repeal of entitlement funding for family preservation and support services.
Sec. 6103. Matching rate requirement for title XX block grants to States for social services.
Sec. 6104. Denial of unemployment insurance to certain high-income individuals.
Sec. 6105. Denial of unemployment insurance to individuals who voluntarily leave military service.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

Sec. 7001. Limitation on expenditures recognized for purposes of Federal financial participation.
Sec. 7002. Transitional reduction in amount of Federal financial participation during the last 3 quarters of fiscal year 1996.

Subtitle B—Medicaid Managed Care

Sec. 7101. Permitting greater flexibility for States to enroll beneficiaries in managed care arrangements.
Sec. 7102. Removal of barriers to provision of medicaid services through managed care.
Sec. 7103. Additional requirements for medicaid managed care plans.
Sec. 7104. Preventing fraud in medicaid managed care.
Sec. 7105. Assuring adequacy of payments to medicaid managed care plans and providers.
Sec. 7106. Sanctions for noncompliance by eligible managed care providers.
Sec. 7107. Report on public health services.
Sec. 7108. Report on payments to hospitals.
Sec. 7109. Conforming amendments.
Sec. 7110. Effective date; status of waivers.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

Sec. 7201. Permitting increased flexibility in medicaid cost-sharing.
Sec. 7202. Limits on required coverage of additional treatment services under EPSDT.
Sec. 7203. Delay in application of new requirements.
Sec. 7204. Deadline on action on waivers.

Subtitle D—National Commission on Medicaid Restructuring

Sec. 7301. Establishment of commission.
Sec. 7302. Duties of commission.
Sec. 7303. Administration.
Sec. 7304. Authorization of appropriations.
Sec. 7305. Termination.

Subtitle E—Restrictions on Disproportionate Share Payments

Sec. 7401. Reforming disproportionate share payments under State medicaid programs.

Subtitle F—Fraud Reduction

Sec. 7501. Monitoring payments for dual eligibles.
Sec. 7502. Improved identification systems.

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title; table of contents.

SUBTITLE A—MEDICARE CHOICE PROGRAM

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"Sec. 1851. Requirements for Medicare Choice organizations.
"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to Medicare Choice organizations.
"Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
"Sec. 1857. Medicare Choice certification.
"Sec. 1858. Contracts with Medicare Choice organizations.
"Sec. 1859. Demonstration project for high deductible/medisave products.
Sec. 8003. Reports.
Sec. 8004. Transitional rules for current medicare HMO program.

PART 2—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

Sec. 8011. Medicare choice MSA's.
Sec. 8012. Certain rebates excluded from gross income.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

Sec. 8021. Application of antitrust rule of reason to provider service networks.

PART 4—COMMISSIONS

Sec. 8031. Medicare Payment Review Commission.
Sec. 8032. Commission on the Effect of the Baby Boom Generation on the Medicare Program.

PART 5—PREEMPTION OF STATE ANTI-MANAGED CARE LAWS

Sec. 8041. Preemption of State law restrictions on managed care arrangements.
Sec. 8042. Preemption of State laws restricting utilization review programs.

SUBTITLE B—PROVISIONS RELATING TO REGULATORY RELIEF

PART 1—PROVISIONS RELATING TO PHYSICIAN FINANCIAL RELATIONSHIPS

Sec. 8101. Repeal of prohibitions based on compensation arrangements.
Sec. 8102. Revision of designated health services subject to prohibition.
Sec. 8103. Delay in implementation until promulgation of regulations.
Sec. 8104. Exceptions to prohibition.
Sec. 8105. Repeal of reporting requirements.
Sec. 8106. Preemption of State law.
Sec. 8107. Effective date.

PART 2—ANTITRUST REFORM

Sec. 8111. Publication of antitrust guidelines on activities of health plans.
Sec. 8112. Issuance of health care certificates of public advantage.
Sec. 8113. Study of impact on competition.
Sec. 8114. Antitrust exemption.
Sec. 8115. Requirements.
Sec. 8116. Definition.

PART 3—MALPRACTICE REFORM

SUBPART A—UNIFORM STANDARDS FOR MALPRACTICE CLAIMS

Sec. 8121. Applicability.
Sec. 8122. Requirement for initial resolution of action through alternative dispute resolution.
Sec. 8123. Optional application of practice guidelines.
Sec. 8124. Treatment of noneconomic and punitive damages.
Sec. 8125. Periodic payments for future losses.
Sec. 8126. Treatment of attorney's fees and other costs.
Sec. 8127. Uniform statute of limitations.
Sec. 8128. Special provision for certain obstetric services.
Sec. 8129. Jurisdiction of Federal courts.
Sec. 8130. Preemption.

SUBPART B—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)

Sec. 8131. Basic requirements.
Sec. 8132. Certification of State systems; applicability of alternative Federal system.
Sec. 8133. Reports on implementation and effectiveness of alternative dispute resolution systems.

SUBPART C—DEFINITIONS

Sec. 8141. Definitions.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

SUBTITLE C—MEDICARE PAYMENTS TO HEALTH CARE PROVIDERS

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART 2—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Updating fees for physicians' services.
Sec. 8212. Use of real GDP to adjust for volume and intensity.

PART 3—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.
Sec. 8226. Elimination of certain additional payments for outlier cases.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

SUBTITLE D—PROVISIONS RELATING TO MEDICARE BENEFICIARIES

Sec. 8301. Part B premium.
Sec. 8302. Full cost of medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

SUBTITLE E—MEDICARE FRAUD REDUCTION

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
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TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) PRODUCTION FACILITY.—Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

(c) DEFINITIONS.—Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

(d) EMPLOYEES OF THE CORPORATION.—

(1) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are amended to read as follows:

"(A) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(B) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(2) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b-4(e)(4)) is amended—

(A) by striking "AND DETAILEES" in the heading;

(B) by striking the first sentence;

(C) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(D) by striking the last sentence.

(e) MARKETING AND CONTRACTING AUTHORITY.—

(1) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(A) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(B) by striking the first sentence.

(2) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(A) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(B) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(3) Pricing.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(4) Leasing of gaseous diffusion facilities of department.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) Low-Level Radioactive Waste and Mixed Waste.—

"(1) Responsibility of the department; costs.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) Agreements with other persons.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(5) Liabilities.—

(A) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(i) by inserting "and Privatization" after "Transition" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(B) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(i) by inserting "and Privatization" after "Transition" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(C) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(i) by inserting "and Privatization" after "Transition" in the heading; and

(ii) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(6) Transfer of uranium.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.".

(f) Privatization of the Corporation.—

(1) Establishment of private corporation.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) Establishment.—

"(1) In general.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) Authorities.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) Transfer of assets.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

"(4) Merger or consolidation.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(5) Tax treatment of privatization.—

"(A) Transfer of assets or merger.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

"(B) Cancellation of debt and common stock.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

"(b) OSHA Requirements.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational

Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(2) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(3) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by paragraph (2)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(4) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by paragraph (3)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(5) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by paragraph (4)) is amended by adding at the end the following new section:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of private corporation.
"Sec. 1504. Ownership limitations.
"Sec. 1505. Exemption from liability.
"Sec. 1506. Resolution of certain issues.
"Sec. 1507. Application of privatization proceeds.".

(7) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(8) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

(g) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

(h) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking "other than" and inserting "including".

(i) CONFORMING AMENDMENTS.—

(1) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(A) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(i) Section 1202.

(ii) Sections 1301 through 1304.

(iii) Sections 1306 through 1316.

(iv) Sections 1404 and 1405.

(v) Section 1601.

(vi) Sections 1603 through 1607.

(B) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(2) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(A) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by subsection (f)(1)).

(B) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(C) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(3) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(A) by repealing subsections (a), (b), (c), and (d), and

(B) in subsection (e)—

(i) by striking the subsection designation and heading,

(ii) by redesignating paragraphs (1) and (2) (as added by subsection (d)(1)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(iii) by striking paragraph (3), and

(iv) by redesignating paragraph (4) (as amended by subsection (d)(2)) as subsection (c), and by moving the margins 2-ems to the left.

SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Paragraph (3) of section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is repealed.

SEC. 1103. COGENERATION.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C.

8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities".

SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

Subtitle B—Central Utah

SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.".

Subtitle C—Army Corps of Engineers

SEC. 1131. REGULATORY PROGRAM FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the "Army Civil Works Regulatory Program Fund" (hereinafter in this section referred to as the "Regulatory Program Fund") into which shall be deposited fees collected by the Secretary of the Army pursuant to subsection (b). Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

(b) REGULATORY FEES.—

(1) COLLECTION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall establish fees for the evaluation of commercial permit applications, for the recovery of costs associated with the preparation of environmental impact statements required by the National Environmental Policy Act of 1969, and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. The Secretary shall collect such fees and deposit amounts collected pursuant to this paragraph into the Regulatory Program Fund.

(2) FEES.—The fees described in paragraph (1) shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

Subtitle D—Helium Reserve

SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE FACILITY.

(a) SHORT TITLE.—This section may be cited as the "Helium Act of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

(c) AUTHORITY OF SECRETARY.—Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

"(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

"(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after such date.

"(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

"(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

"SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

"(a) STORAGE AND TRANSPORTATION.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective one year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

"(c) DISPOSAL OF FACILITIES.—(1) Within one year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

"(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium.

"(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).".

(d) SALE OF CRUDE HELIUM.—Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(2) Subsection (b) is amended by inserting "crude" before "helium" and by adding the following at the end thereof: "Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.".

(3) Subsection (c) is amended by inserting "crude" before "helium" after the words "Sales of" and by striking "together with interest as provided in this subsection" and all that follows down through the period at the end of such subsection and inserting the following: "all funds required to be repaid to the United States as of October 1, 1994 under this section (hereinafter referred to as 're-payable amounts'). The price at which crude

helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

"(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

"(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.".

(4) Subsection (d) is amended to read as follows:

"(d) Extraction of Helium From Deposits on Federal Lands.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.".

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting "(1)" after "(f)" and by adding the following at the end thereof:

"(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.".

(e) Elimination of Stockpile.—Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) Review of Reserves.—Not later than January 1, 2014 the Secretary shall review the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

"(b) Reserves Below 1 BCF in 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are less than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2019. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection. The price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c) by the year 2019 with minimum market disruption. The date specified in this subsection for completion of such sales and for repayment of debt may be extended by the Secretary for a period of not to exceed 5 additional years if necessary in order to assure repayment of such debt with minimum market disruption.

"(c) Reserves Above 1 BCF in 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are more than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2024. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum disruption of the market for crude helium.

"(d) Discovery of Additional Reserves.—The discovery of additional helium reserves after the year 2014 shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b) or (c), as the case may be.".

(f) Repeal of Authority To Borrow.—Sections 12 and 15 are repealed.

Subtitle E—Territories

SEC. 1151. TERMINATION OF ANNUAL DIRECT ASSISTANCE TO NORTHERN MARIANA ISLANDS.

(a) In General.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) Elimination of 7-Year Extensions.—

(1) In general.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) Conforming changes.—(A) Section 5 of the Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking "agreement identified in section 3 of this Act" and inserting "Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands"; and

(ii) by striking "Interior and Insular Affairs" and inserting "Resources".

TITLE II—AGRICULTURAL PROGRAMS

SEC. 2001. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) Table of Contents.—The table of contents of this title is as follows:

TITLE II—AGRICULTURAL PROGRAMS

Sec. 2001. Short title and table of contents.
Subtitle A—Extension and Modification of Various Commodity Programs
Sec. 2101. Extension of loans, payments, and acreage reduction programs for wheat through 2002.
Sec. 2102. Extension of loans, payments, and acreage reduction programs for feed grains through 2002.
Sec. 2103. Extension of loans, payments, and acreage reduction programs for cotton through 2002.
Sec. 2104. Extension of loans, payments, and acreage reduction programs for rice through 2002.
Sec. 2105. Extension of loans and payments for oilseeds through 2002.
Sec. 2106. Increase in flex acres.
Sec. 2107. Reduction in 50/85 and 0/85 programs.
Subtitle B—Sugar
Sec. 2201. Extension and modification of sugar program.
Subtitle C—Peanuts
Sec. 2301. Extension of price support program for peanuts and related programs.
Sec. 2302. National poundage quotas and acreage allotments.
Sec. 2303. Sale, lease, or transfer of farm poundage quota.
Sec. 2304. Penalty for reentry of exported peanut products.
Sec. 2305. Price support program for peanuts.
Sec. 2306. Referendum regarding poundage quotas.
Sec. 2307. Regulations.
Subtitle D—Tobacco
Sec. 2401. Elimination of Federal budgetary outlays for tobacco programs.
Sec. 2402. Establishment of farm yield for Flue-cured tobacco based on individual farm production history.
Sec. 2403. Removal of farm reconstitution exception for Burley tobacco.
Sec. 2404. Reduction in percentage threshold for transfer of Flue-cured tobacco quota in cases of disaster.
Sec. 2405. Expansion of types of tobacco subject to no net cost assessment.
Sec. 2406. Repeal of reporting requirements relating to export of tobacco.
Sec. 2407. Repeal of limitation on reducing national marketing quota for Flue-cured and Burley tobacco.
Sec. 2408. Application of civil penalties under Tobacco Inspection Act.
Sec. 2409. Transfers of quota or allotment across county lines in a State.
Sec. 2410. Calculation of national marketing quota.
Sec. 2411. Clarification of authority to access civil money penalties.
Sec. 2412. Lease and transfer of farm marketing quotas for Burley tobacco.
Sec. 2413. Limitation on transfer of acreage allotments of other tobacco.
Sec. 2414. Good faith reliance on actions or advice of Department representatives.
Sec. 2415. Uniform forfeiture dates for Flue-cured and Burley tobacco.
Sec. 2416. Sale of Burley and Flue-cured tobacco marketing quotas for a farm by recent purchasers.
Subtitle E—Planting Flexibility
Sec. 2501. Definitions.
Sec. 2502. Crop and total acreage bases.
Sec. 2503. Planting flexibility.
Sec. 2504. Farm program payment yields.
Sec. 2505. Application of provisions.
Subtitle F—Miscellaneous Provisions
Sec. 2601. Limitations on amount of deficiency payments and land diversion payments.
Sec. 2602. Sense of Congress regarding certain Canadian trade practices.

Subtitle A—Extension and Modification of Various Commodity Programs

SEC. 2101. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR WHEAT THROUGH 2002.

(a) Agricultural Act of 1949.—Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a) is amended—

(1) in the section heading by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(4)(C), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (q), by striking "**1995**" each place it appears and inserting "**2002**";

(3) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 2002";

(4) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 2002";

(5) in subsection (c)(1)(E)(vii), by striking "1997" and inserting "2002";

(6) in the heading of subsection (e)(1)(G), by striking "1995" and inserting "2002"; and

(7) in subsection (g)(1), by striking "and 1995" and inserting "through 2002".

(b) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1995" both places it appears and inserting "2002".

(c) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1996, through May 31, 2003.

(d) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(e) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—.The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(f) NONAPPLICABILITY OF SECTION 107 OF AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

SEC. 2102. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR FEED GRAINS THROUGH 2002.

(a) AGRICULTURAL ACT OF 1949.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(4)(C), (a)(6), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(1)(H), (e)(2)(H), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (p)(1), (q)(1), and (r), by striking "1995" each place it appears and inserting "2002";

(3) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 2002";

(4) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 2002";

(5) in subsection (c)(1)(E)(vii), by striking "1997" and inserting "2002";

(6) in the headings of subsections (e)(1)(G) and (e)(1)(H), by striking "1995" both places it appears and inserting "2002"; and

(7) in subsection (g)(1), by striking "and 1995" and inserting "through 2002".

(b) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1996" and inserting "2002".

(c) NONAPPLICABILITY OF SECTION 105 OF AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

SEC. 2103. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR COTTON THROUGH 2002.

(a) EXTRA LONG STAPLE COTTON.—Section 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended by striking "1996" and inserting "2003".

(b) UPLAND COTTON.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), (c)(1)(D)(v)(II), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997 CROPS" and inserting "2002 CROPS";

(4) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops";

(5) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002"; and

(6) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking "1998" each place it appears and inserting "2003".

(c) COTTONSEED AND COTTONSEED OIL.—Section 203(b) of the Agricultural Act of 1949 (7 U.S.C. 1446d(b)) is amended by striking "1995" and inserting "2002".

(d) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking "1995" each place it appears and inserting "2002".

(e) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(f) SUSPENSION OF MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(g) PRELIMINARY ALLOTMENTS FOR 2003 CROP OF UPLAND COTTON.—Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 2003 crop.

(h) COTTON CLASSIFICATION SERVICES.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (chapter 337; 7 U.S.C. 473a), is amended by striking "1996" and inserting "2002".

SEC. 2104. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR RICE THROUGH 2002.

Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2001";

(4) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 2002";

(5) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 2002";

(6) in subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002"; and

(7) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997 CROPS" and inserting "2002 CROPS".

SEC. 2105. EXTENSION OF LOANS AND PAYMENTS FOR OILSEEDS THROUGH 2002.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "2002"; and

(3) in subsections (c) and (h)(2), by striking "1997" each places it appears and inserting "2002".

SEC. 2106. INCREASE IN FLEX ACRES.

(a) WHEAT.—Subsection (c)(1)(C)(ii) of section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop of wheat) and 79 percent (for the 1996 through 2002 crops)".

(b) FEED GRAINS.—Subsection (c)(1)(C)(ii) of section 105B of such Act (7 U.S.C. 1444f) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop) and 79 percent (for the 1996 through 2002 crops)".

(c) UPLAND COTTON.—Subsection (c)(1)(C)(ii) of section 103B of such Act (7 U.S.C. 1444-2) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop of upland cotton) and 79 percent (for the 1996 through 2002 crops)".

(d) RICE.—Subsection (c)(1)(C)(ii) of section 101B of such Act (7 U.S.C. 1441-2) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop of rice) and 79 percent (for the 1996 through 2002 crops)".

SEC. 2107. REDUCTION IN 50/85 AND 0/85 PROGRAMS.

(a) RICE.—Section 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/85 PROGRAM" and inserting "50/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(b) COTTON.—Section 103B(c)(1)(D) of such Act (7 U.S.C. 1444-2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/85 PROGRAM" and inserting "50/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(c) FEED GRAINS.—Section 105B(c)(1)(E) of such Act (7 U.S.C. 1444f(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/85 PROGRAM" and inserting "0/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(d) WHEAT.—Section 107B(c)(1)(E) of such Act (7 U.S.C. 1445-3a(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/85 PROGRAM" and inserting "0/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(e) EFFECT OF AMENDMENTS ON PRIOR CROP YEARS.—Sections 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), and 107B(c)(1)(E) of the Agricultural Act of 1949, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1991 through 1995 crops covered by such sections.

Subtitle B—Sugar

SEC. 2201. EXTENSION AND MODIFICATION OF SUGAR PROGRAM.

(a) ASSURANCE OF SUGAR SUPPLY.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g, et seq.) is amended to read as follows:

“SEC. 206. ASSURANCE OF SUGAR SUPPLY.

“(a) In General.—The price of each crop of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

“(b) Sugarcane.—Subject to subsection (d), the Secretary shall support the price of domestically grown sugarcane through loans at 18 cents per pound for raw cane sugar.

“(c) Sugar Beets.—Subject to subsection (d), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

“(d) Adjustment in Support Level.—

“(1) Downward adjustment in support level.—

“(A) In general.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the price determined for the preceding crop, as established under this section, if negotiated reductions in export subsidies and domestic subsidies provided for sugar of the European Union and other major sugar growing, producing, and exporting countries (‘major countries’) in the aggregate exceed the commitments made as part of the Uruguay Round Agreements.

“(B) Extent of reduction.—The Secretary shall not reduce the support price under this section below a level that provides an equal measure of support to that provided by any other major country or customs union based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture referenced in 19 U.S.C. 3511(d)(2).

“(C) Major countries.—For purposes of this subsection, the term ‘major countries’ includes all countries allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 of chapter 17 of the Harmonized Tariff Schedule, all countries of the European Union, and the People's Republic of China.

“(2) Increases in support level.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

“(e) Loan Type; Processor Assurances.—

“(1) In general.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

“(2) Modification.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is set at, or is increased to, a level that exceeds the minimum level for such imports committed to by the United States under the Agreement on Agriculture contained in the Uruguay Round of Agreements of the General Agreement on Tariffs and Trade, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during such fiscal year shall be modified by the Secretary into a nonrecourse loan.

“(3) Processor assurances.—In order to effectively support the prices of sugar beets and sugarcane received by the producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or modify recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

“(f) Announcements.—In order to ensure the efficient administration of the program under this section and the effective support of the price of sugar, the Secretary shall announce the type of loans available and the loan rates for beet sugar and cane sugar for any fiscal year under this section as far in advance as is practicable.

“(g) Loan Term.—

“(1) In general.—Except as provided in paragraph (2) and subsection (h), loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

“(2) Extension.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, upon written request to the Commodity Credit Corporation. The maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

“(h) Supplementary Loans.—Subject to subsection (d), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

“(1) be made at the loan rate in effect at the time the second loan is made; and

“(2) mature in not more than 9 months less the quantity of time that the first loan was in effect.

“(i) Use of Commodity Credit Corporation.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

“(j) Marketing Assessments.—The following assessments shall be collected with respect to all sugar marketed within the United States during the 1996 through 2003 fiscal years:

“(1) Beet sugar.—The first seller of beet sugar produced from sugar beets or sugar beet molasses, or refined sugar refined outside of the United States, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1794 percent of the loan level established under subsection (b) per pound of sugar marketed.

“(2) Cane sugar.—The first seller of raw cane sugar produced from sugarcane or sugarcane molasses, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1 percent of the loan level established under subsection (b) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

“(3) Collection.—

“(A) Timing.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation within 30 days of the date that the sugar is marketed.

“(B) Manner.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

“(4) Penalties.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

“(A) the quantity of sugar involved in the violation; by

“(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

“(5) Enforcement.—The Secretary may enforce this subsection in the courts of the United States.

“(6) Regulations.—The Secretary shall promulgate regulations to carry out this subsection.

“(k) Information Reporting.—

“(1) Duty of processors and refiners to report.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

“(2) Duty of producers to report.—In order to efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

“(3) Penalty.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

“(4) Monthly reports.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

“(l) Sugar Estimates.—

“(1) Domestic requirement.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States equal to Total Estimated Disappearance minus the quantity of sugar that will be available from carry-in stocks.

“(2) Total disappearance.—For the purposes of this subsection, the term“ Total Estimated Disappearance” means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) plus the quantity of sugar that would provide for adequate carryover stocks.

“(3) Quarterly reestimates.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

“(m) Definition of Market.—For purposes of this section, the term ‘market’ means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and deliver to a buyer.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) CONFORMING AMENDMENT.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

Subtitle C—Peanuts

SEC. 2301. EXTENSION OF PRICE SUPPORT PROGRAM FOR PEANUTS AND RELATED PROGRAMS.

(a) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsection (a)(1), (a)(2), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(3) in subsection (g)(1), by striking "1997 crops" the first place it appears and inserting "2002 crops".

(b) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(1) in section 358-1 (7 U.S.C. 1358-1)—

(A) in the section heading, by striking "**1997**" and inserting "**2002**";

(B) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(C) in subsection (b)(1)(A)—

(i) by striking "1997" and inserting "2002"; and

(ii) in clause (i), by inserting before the semicolon the following: ", for the 1991 through 1995 marketing years, and the 1995 marketing year, for the 1996 through 2002 marketing years"; and

(D) in subsections (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3)(A), and (f), by striking "1997" each place it appears and inserting "2002";

(2) in section 358b (7 U.S.C. 1358b)—

(A) in the section heading, by striking "**1995**" and inserting "**2002**"; and

(B) in subsection (c), by striking "1995" and inserting "2002";

(3) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(4) in section 358e (7 U.S.C. 1359a)—

(A) in the section heading, by striking "**1997**" and inserting "**2002**"; and

(B) in subsection (i), by striking "1997" and inserting "2002".

(c) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3459) is amended—

(1) in section 801 (104 Stat. 3459), by striking "1995" and inserting "2002";

(2) in section 807 (104 Stat. 3478), by striking "1995" and inserting "2002"; and

(3) in section 808 (7 U.S.C. 1441 note), by striking "1995" and inserting "2002".

SEC. 2302. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS.

(a) ESTABLISHMENT.—Subsection (a)(1) of section 358-1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1) is amended to read as follows:

"(1) ESTABLISHMENT.—The national poundage quota for peanuts for each of the 1991 through 2002 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible and related uses. Beginning with the 1996 marketing year, the Secretary shall exclude seed uses from the estimate of domestic edible and related uses, but shall include the estimated quantity of peanuts and peanut products to be imported into the United States for the marketing year for which the quota is being established.".

(b) EXCLUSIONS FROM FARM POUNDAGE QUOTA.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) through the 1995 marketing year, any increases for undermarketings from previous years; or

"(ii) through the 2002 marketing year, any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(2) in paragraph (3)(B), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) through the 1995 marketing year, any increases for undermarketings of quota peanuts from previous years; or

"(ii) through the 2002 marketing year, any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).".

(c) TEMPORARY QUOTA ALLOCATION.—Subsection (b)(2) of such section is amended—

(1) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph. The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary. The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(ii) CONDITION ON ALLOCATION.—The allocation of quota pounds to producers under this subparagraph shall be performed in such a manner so that such allocation will not result in a net decrease in the farm poundage quota for a farm in excess of 3 percent, after temporary seed quota is added, from the basic farm quota in 1996. Such decrease shall occur one time only and shall be applicable to the 1996 marketing year only.

"(iii) TERM OF PROVISION.—Application of this subparagraph may continue so long as doing so does not result in increased cost to the Commodity Credit Corporation by displacement of quota peanuts by additional peanuts in the domestic market, increased losses in the Association loan pools, or other such increases in cost.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section shall alter or change in any way the requirements regarding the use of quota and additional peanuts established by section 359a(b) of the Agricultural Act of 1949 (7 U.S.C. 1359a(b)), as added by section 804 of the Food, Agriculture, Conservation, and Trade Act of 1990.".

(d) QUOTA CONSIDERED PRODUCED.—Subsection (b)(4) of such section is amended to read as follows:

"(4) QUOTA CONSIDERED PRODUCED.—

"(A) NATURAL DISASTER.—For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary.

"(B) LEASE OR RELEASE OF QUOTA.—Such farm poundage quota shall also be considered produced on a farm if the farm poundage quota was either leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made or the farm poundage quota was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made. The farm poundage quota leased or released under this subparagraph shall be considered produced for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made. The farm shall not receive considered produced credit for more than 1 marketing year out of the 3 immediately preceding marketing years under the options in this subparagraph.".

(e) ALLOCATION OF QUOTAS REDUCED OR RELEASED TO FARMS WITHOUT QUOTAS.—Subsection (b)(6) of such section is amended to read as follows:

"(6) ALLOCATION OF QUOTAS REDUCED OR RELEASED.—

"(A) IN GENERAL.—The total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs 3 and (5) shall be allocated under subparagraph (B), as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

"(B) SET-ASIDE FOR FARMS WITH NO QUOTA.—The total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm. Any farm quota pounds remaining after allocation to farms under this subparagraph shall be allocated to farms in the State on which poundage quotas were established for the immediately preceding crop year.".

(f) TRANSFER OF ADDITIONAL PEANUTS.—Subsection (b) of such section is amended by striking paragraphs (8) and (9) and inserting the following new paragraph:

"(8) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested and marketed may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide, except that the poundage of such peanuts so transferred shall not exceed the difference in the total peanuts meeting quality requirements for domestic edible use as determined by the Secretary marketed from the farm and the total farm poundage quota, excluding quota pounds transferred to the farm in the fall. Peanuts transferred under this paragraph shall be supported at a total of not less than 70 percent of the quota support rate for the marketing years in which such transfers occur and such transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

SEC. 2303. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA.

(a) TRANSFERS AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.—Subsection (a) of section 358b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is amended—

(1) in paragraph (1)—

(A) by striking "(including any applicable under marketings)" both places it appears;

(B) in subparagraph (A), by striking "undermarketings and"; and

(C) by adding at the end the following new sentences: "In the case of a fall transfer only, poundage quota from a farm may be leased to another owner or operator of a farm within the same county or to another owner or operator of a farm in any other county within the State. Fall transfers of quota pounds shall not affect the farm quota history for the transferring or receiving farm and shall not result in reducing the farm poundage quota on the transferring farm.";

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same county or any other county within the same State and that had a farm poundage quota for the preceding crop year, if both the transferring and the receiving farms were under the control of the owner or operator for at least 3 crop years prior to the crop year in which the farm poundage quota is transferred. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if sufficient acreage is planted on the receiving farm to produce the quota pounds transferred.";

(3) in paragraph (3), by striking "(including any applicable undermarketings)"; and

(4) by adding at the end the following new paragraph:

"(4) TRANSFERS BY SALE IN STATES HAVING QUOTAS OF 10,000 TONS OR MORE.—Subject to such terms and conditions as the Secretary may prescribe, the owner, or operator with permission of the owner, of any farm for which a farm quota has been established and which is located in a State having a quota of 10,000 tons or more may sell poundage quota to any other eligible owner or operator of a farm within the same State. The Secretary shall ensure that no more than 15 percent of the total poundage quota within a county as of January 1, 1996, is sold and transferred in 1996 under this paragraph and that no more than 5 percent of the quota pounds remaining in a county as of January 1 in each of the next 4 years are sold and transferred in any such year. Notwithstanding any other provision of this paragraph, no more than 30 percent of the total poundage quota within a county may be sold and transferred. Quota pounds sold and transferred under this paragraph may not be leased or sold from the farm to which transferred to another farm owner or operator within the same State for a period of 5 years following the original transfer to the farm.".

(b) CONDITIONS.—Subsection (b) of such section is amended—

(1) in paragraph (1), by inserting before the period at the end the following: ", except that no such agreement shall be necessary in the event of fall lease, if the operator had the lienholder's agreement for a previous spring cash lease"; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committees of the counties from which transferred and to which transferred and the committees determine that the transfer complies with this section.".

SEC. 2304. PENALTY FOR REENTRY OF EXPORTED PEANUT PRODUCTS.

Section 358e(d)(6)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(d)(6)(A)) is amended by inserting "or peanut products manufactured from additional peanuts" after "any additional peanuts".

SEC. 2305. PRICE SUPPORT PROGRAM FOR PEANUTS.

(a) SUPPORT RATES.—Subsection (a)(2) Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) by striking "any increase" and inserting "any increase or decrease"; and

(2) by striking ", except that" and all that follows through "preceding crop" and inserting the following: "In no event shall the national average quota support rate be increased by more than 5 percent of the national average quota support rate for the preceding crop. In no event shall the national average quota support rate be decreased by more than 5 percent of the national average quota support rate for the preceding crop.".

(b) SPECIAL RULE REGARDING NEW MEXICO POOLS.—Subsection (c)(2)(A) of such section is amended by inserting after the first sentence the following new sentence: "Peanuts physically produced outside the State of New Mexico shall not be eligible for entry into or participation in the New Mexico pools even though the farm on which the peanuts are produced is considered to be a New Mexican farm for administrative purposes.".

(c) LOSSES IN AREA QUOTA POOLS.—Subsection (d)(2) of such section is amended—

(1) by redesignating subparagraph (B) as subparagraph (D);

(2) by inserting after subparagraph (A) the following new paragraphs:

"(B) REDUCTION OF GAINS OF OTHER PRODUCERS IN SAME POOL.—If use of the authority provided in subparagraph (A) is not sufficient to cover losses in an area quota pool, the additional losses shall be offset by reducing the gain of any producer in such pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

"(C) USE OF MARKETING ASSESSMENTS.—If use of the authority provided in subparagraphs (A) and (B) is not sufficient to cover losses in area quota pools, the Secretary shall use funds collected under subsection (g) to offset such losses. At the end of each year, the Secretary shall deposit in the Treasury those funds collected under subsection (g) that the Secretary determines are not required to cover losses in area quota pools for that year."; and

(3) in subparagraph (D), as redesignated by paragraph (1), by adding at the end the following new sentence: "This subparagraph shall apply only to the extent that use of the authority provided in subparagraphs (A), (B), and (C) is not sufficient to cover losses in an area quota pool.".

(d) COMPLIANCE WITH QUALITY STANDARDS.—Subsection (f)(2) of such section is amended to read as follows:

"(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic market, including peanuts imported into the United States, meet all United States quality standards under Marketing Agreement No. 146 and that importers of such peanuts fully comply with inspection, handling, storage, and processing requirements implemented under Marketing Agreement No. 146. The Secretary shall ensure that peanuts produced for the export market meet quality, inspection, handling, storage, and processing requirements under Marketing Agreement No. 146.".

(e) ASSESSMENT RATES.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "1.15 percent" the first place it appears and all that follows through the period at the end of such paragraph and inserting "and 1.2 percent for the 1996 through 2002 crops, of the applicable support rate under this subsection.";

(2) in paragraph (2)(A)(i)—

(A) by inserting "and" at the end of subclause (II); and

(B) by striking subclauses (III) and (IV) and inserting the following new subclause:

"(III) in the case of each of the 1996 through 2002 crops, .6 percent of the applicable national average support rate;"; and

(3) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (I);

(B) in subclause (II), by striking "through 1997 crops" and inserting "and 1995 crops"; and

(C) by adding at the end the following new subclause:

"(III) in the case of each of the 1996 through 2002 crops, .6 percent of the applicable national average support rate; and".

(f) ASSESSMENT ON IMPORTS.—Subsection (g) of such section is further amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) IMPORTS.—Each importer of peanuts produced outside of the United States and imported into the United States after the date of the enactment of this paragraph shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to the product obtained by multiplying the number of pounds of peanuts imported by the importer by 1.2 percent of the national average support rate for additional peanuts.".

SEC. 2306. REFERENDUM REGARDING POUNDAGE QUOTAS.

Section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 13581(d)) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—Each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the seven calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the next six years of the period. In the case of the referendum required in 1995, the Secretary shall conduct the referendum as soon as practicable after the date of the enactment of the Agricultural Reconciliation Act of 1995. In the case of any referendum required in calendar years 1996 through

2002, the Secretary shall conduct the referendum not later than December 15 of the calendar year in which the referendum is required.".

SEC. 2307. REGULATIONS.

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title. In issuing the regulations, the Secretary—

(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

(2) shall provide public notice through the Federal Register of any such proposed regulations; and

(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.

Subtitle D—Tobacco

SEC. 2401. ELIMINATION OF FEDERAL BUDGETARY OUTLAYS FOR TOBACCO PROGRAMS.

Section 106(g)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)(1)) is amended—

(1) by striking "1998" and inserting "2002"; and

(2) by inserting after "equal to" the following: "a pro rata share of the total amount of the costs of other Department of Agriculture programs related to tobacco production or processing that are not required to be covered by user fees or by contributions or assessments under section 106A(d)(1) or 106B(d)(1), but in no event less than".

SEC. 2402. ESTABLISHMENT OF FARM YIELD FOR FLUE-CURED TOBACCO BASED ON INDIVIDUAL FARM PRODUCTION HISTORY.

(a) METHOD OF DETERMINING FARM ACREAGE ALLOTMENTS.—Subsection (a) of section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by striking paragraphs (2) through (8) and inserting the following new paragraphs:

"(2) FARM ACREAGE ALLOTMENTS.—The term 'farm acreage allotment' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.

"(3) FARM YIELD.—The term 'farm yield' means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

"(4) FARM MARKETING QUOTA.—

"(A) IN GENERAL.—The term 'farm marketing quota' for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

"(i) the farm marketing quota for the farm for the previous marketing year (prior to any adjustment for undermarketing or overmarketing); by

"(ii) the national factor.

"(B) ADJUSTMENT.—The farm marketing quota determined under subparagraph (A) for a marketing year shall be increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediate preceding marketing year (if marketing quotas were in effect for that year under the program established by this section) is less than or exceeds the farm marketing quota for such year. Notwithstanding the preceding sentence, the farm marketing quota for a marketing year shall not be increased under this subparagraph for undermarketing by an amount in excess of the farm marketing quota determined for the farm for the immediately preceding year prior to any increase for undermarketing or decrease for overmarketing. If due to excess marketing in the preceding marketing year, the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction shall be made for the subsequent marketing year or years.

"(5) NATIONAL FACTOR.—The term 'national factor' for a marketing year means a number obtained by dividing—

"(A) the national marketing quota (less the reserve provided for under subsection (e)); by

"(B) the sum of the farm marketing quotas (prior to any adjustments for undermarketing or overmarketing) for the immediate preceding marketing year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the first sentence of subsection (b), by striking "and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco,";

(2) in the first sentence of subsection (c), by striking "and at the same time announce the national acreage allotment and national average yield goal";

(3) in subsection (d)—

(A) in the sixth sentence, by striking ", national acreage allotment, and national average yield goal";

(B) in the eighth sentence, by striking ", national acreage allotment and national average yield goal"; and

(C) in the ninth sentence, by striking ", national acreage allotment, and national average goal are" and inserting "is";

(4) in subsection (e)—

(A) in the first sentence, by striking "No farm acreage allotment or farm yield shall be established" and inserting "A farm marketing quota and farm yield shall not be established";

(B) in the second sentence, by striking "acreage allotment" both places it appears and inserting "marketing quota";

(C) in the second sentence, by striking "acreage allotments" both places it appears and inserting "marketing quotas"; and

(D) in the last sentence, by striking "acreage allotment" and inserting "marketing quota"; and

(5) in subsection (g)—

(A) in paragraph (1), by striking "paragraph (a)(8)" and inserting "subsection (a)(4)"; and

(B) in paragraph (3), by striking "subsection (a)(8)" and inserting "subsection (a)(4)".

(c) FARM MARKETING QUOTA REDUCTIONS.—Subsection (f) of such section is amended to read as follows:

"(f) CAUSES FOR FARM MARKETING QUOTA REDUCTION.—(1) When an acreage-poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for a farm shall be reduced by the amount of such kind of tobacco produced on the farm—

"(A) which was marketed as having been produced on a different farm;

"(B) for which proof of disposition is not furnished as required by the Secretary;

"(C) on acreage equal to the difference between the acreage reported by the farm operator or a duly authorized representative and the determined acreage for the farm; and

"(D) as to which any producer on the farm filed, or aids, or acquiesces, in the filing of any false report with respect to the production or marketing of tobacco.

"(2) If the Secretary, through the local committee, find that no person connected with a farm caused, aided, or acquiesced in any irregularity described in paragraph (1), the next established farm marketing quota shall not be reduced under this subsection.

"(3) The reduction required under this subsection shall be in addition to any other adjustments made pursuant to this section.

"(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner's land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quotas for the farm acquired by the agency.

"(5) Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316) be leased and sold under the terms and conditions in section 316 of this Act, except that any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred.".

(d) EFFECT OF AMENDMENTS ON CURRENT TOBACCO CROP.—Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1995 crop of Flue-cured tobacco.

SEC. 2403. REMOVAL OF FARM RECONSTITUTION EXCEPTION FOR BURLEY TOBACCO.

Section 379(a)(6) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379(a)(6)) is amended by striking ", but this clause (6) shall not be applicable in the case of burley tobacco".

SEC. 2404. REDUCTION IN PERCENTAGE THRESHOLD FOR TRANSFER OF FLUE-CURED TOBACCO QUOTA IN CASES OF DISASTER.

The second subsection (h) in section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking "90 percent" in paragraph (1)(A) and inserting "80 percent".

SEC. 2405. EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.

(a) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(1) in clause (ii), by inserting after "Burley quota tobacco" the following: "and cigar-type quota tobacco"; and

(2) in clause (iii)—

(A) in the matter preceding the subclauses, by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(B) by striking subclause (II) and inserting the following new subclause:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for such kind of tobacco payable under clauses (i) and (ii); and".

(b) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(1) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and cigar-type quota tobacco"; and

(2) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 2406. REPEAL OF REPORTING REQUIREMENTS RELATING TO EXPORT OF TOBACCO.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

SEC. 2407. REPEAL OF LIMITATION ON REDUCING NATIONAL MARKETING QUOTA FOR FLUE-CURED AND BURLEY TOBACCO.

(a) FLUE-CURED TOBACCO.—Section 317(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(1)) is amended by striking subparagraph (C).

(b) BURLEY TOBACCO.—Section 319(c)(3) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3)) is amended by striking subparagraph (C).

SEC. 2408. APPLICATION OF CIVIL PENALTIES UNDER TOBACCO INSPECTION ACT.

Section 12 of the Tobacco Inspection Act (7 U.S.C. 511k) is amended—

(1) by inserting "(a) FINE FOR VIOLATIONS.—" after "That any person"; and

(2) by adding at the end the following new subsections:

"(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any rule or regulation issued under this Act.

"(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to the person who committed such violation or administrative action.

"(d) CIVIL PENALTIES AND ORDERS.—

"(1) CIVIL PENALTIES.—Any person who willfully violates any provision of this Act or any of the regulations issued by the Secretary under this Act may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense.

"(2) CEASE AND DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

"(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

"(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the Secretary's order with the appropriate district court of the United States, in accordance with subsection (e).

"(e) REVIEW BY DISTRICT COURT.—

"(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this Act, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (d), may obtain review of the penalty or order—

"(A) by filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

"(i) the district court of the United States for the district in which the person resides or conducts business; or

"(ii) the United States District Court for the District of Columbia; and

"(B) by sending, within the same period, a copy of such notice by certified mail to the Secretary.

"(2) RECORD.—The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

"(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if such finding is found to be unsupported by substantial evidence.

"(f) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order under this section after such order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for hearing and for a judicial review under the procedures specified in subsection (e), of not more than $500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

"(g) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for the district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(h) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.".

SEC. 2409. TRANSFERS OF QUOTA OR ALLOTMENT ACROSS COUNTY LINES IN A STATE.

(a) TRANSFERS ALLOWED BY REFERENDUM.—

(1) FLUE-CURED TOBACCO.—Section 316(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g)) is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the Secretary may permit the sale of a Flue-cured tobacco allotment or quota from one farm in a State to any other farm in the State if a majority of active Flue-cured tobacco producers within the State approve of such sales by a state-wide referendum to be conducted by the Secretary.".

(2) OTHER TOBACCO.—Section 318(b) of such Act (7 U.S.C. 1314d(b)) is amended in the proviso by inserting after "same State" the following: "and, in the case of other kinds of tobacco, any such transfer may be made to a farm in another county in the same State if transfers of such type are approved by a majority of the active producers of that kind of tobacco in the State who vote in a referendum held on the subject".

(3) BURLEY TOBACCO.—Section 319(l) of such Act (7 U.S.C. 1314e(l)) is amended by striking the last sentence.

(b) SAME GROWER IN CONTIGUOUS COUNTIES.—Section 379(b) of such Act (7 U.S.C. 1379(b)) is amended by striking "Burley tobacco poundage quota" and inserting "tobacco quota or allotment".

SEC. 2410. CALCULATION OF NATIONAL MARKETING QUOTA.

(a) FLUE-CURED TOBACCO.—Section 317(a)(1)(B)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(1)(B)(ii)) is amended by inserting before the semicolon the following: ", but excluding any exports of unmanufactured tobacco counted under clause (i)".

(b) BURLEY TOBACCO.—Section 319(c)(3)(A)(ii) of such Act (7 U.S.C. 1314e(l)) is amended by inserting before the semicolon the following: ", but excluding any exports of unmanufactured tobacco counted under clause (i)".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to the 1996 and subsequent crops of Flue-cured and Burley tobacco.

SEC. 2411. CLARIFICATION OF AUTHORITY TO ACCESS CIVIL MONEY PENALTIES.

Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) The failure by a person to comply with regulations issued by the Secretary governing the marketing, disposition, or handling of tobacco under this part shall subject the person to a penalty at the rate provided in subsection (a).".

SEC. 2412. LEASE AND TRANSFER OF FARM MARKETING QUOTAS FOR BURLEY TOBACCO.

Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended—

(1) in paragraph (1), by striking "July 1" each place it appears and inserting "September 1"; and

(2) in paragraph (3)—

(A) by striking "within the three immediately preceding crop years" in the first sentence and inserting "during the current crop year or either of the two immediately preceding crop years"; and

(B) by striking "July 1" in the second sentence and inserting "September 1".

SEC. 2413. LIMITATION ON TRANSFER OF ACREAGE ALLOTMENTS OF OTHER TOBACCO.

Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended by striking "ten acres" and inserting "20 acres".

SEC. 2414. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE OF DEPARTMENT REPRESENTATIVES.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 314A (7 U.S.C. 1314–1) the following new section:

"SEC. 315. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE OF DEPARTMENT REPRESENTATIVES.

"Notwithstanding any other provision of law, the performance rendered in good faith by a person in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of this part.".

SEC. 2415. UNIFORM FORFEITURE DATES FOR FLUE-CURED AND BURLEY TOBACCO.

(a) SALE OR FORFEITURE OF FLUE-CURED TOBACCO ALLOTMENT OR QUOTA.—The first subsection (h) of section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended—

(1) in paragraph (1), by striking "before the expiration of the eighteen month period beginning on July 1 of the year in which such crop is planted" and inserting "before February 15 of the year after the end of the marketing year for the planted crop"; and

(2) in paragraph (2), by striking “July 1” and inserting “February 15”.

(b) Mandatory Sale of Flue-cured Tobacco Allotment or Quota.—Section 316A of such Act (7 U.S.C. 1314b–1) is amended—

(1) in subsection (a), by striking “December 1 of the year” and inserting “February 15 of the year”; and

(2) in subsection (b), by striking “July 1” and inserting “February 15”.

(c) Mandatory Sale of Burley Tobacco Allotment or Quota.—Section 316B of such Act (7 U.S.C. 1314b–2) is amended—

(1) in subsection (a), by striking “December 1 of the year” and inserting “February 15 of the year”; and

(2) in subsection (c)(1), by striking “before the expiration of the eighteen month period beginning on July 1 of the year in which such crop is planted” and inserting “before February 15 of the year after the end of the marketing year for the planted crop”.

SEC. 2416. SALE OF BURLEY AND FLUE-CURED TOBACCO MARKETING QUOTAS FOR A FARM BY RECENT PURCHASERS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 316B (7 U.S.C. 1314b–2) the following new section:

“SEC. 316C. AUTHORITY FOR RECENT PURCHASER OF A FARM TO SELL BURLEY TOBACCO OR FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE FARM.

“A new owner of a farm that has purchase history of Burley tobacco or Flue-cured tobacco may sell the purchased tobacco quota notwithstanding any limitations on such a sale contained in this part if the sale is completed not later than one year after the purchase date of the farm.”.

Subtitle E—Planting Flexibility

SEC. 2501. DEFINITIONS.

Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by adding at the end the following:

“(4) Acreage conservation reserve, reduced acreage.—The terms ‘acreage conservation reserve’ and ‘reduced acreage’ mean the number of acres on a farm to be devoted to conservation uses on the farm, which must be protected from weeds and erosion. Such number shall be determined by multiplying the specific crop acreage base for a crop on the farm by the percentage acreage reduction required by the Secretary.

“(5) Permitted acreage.—The term ‘permitted acreage’ means the crop acreage base for a program crop for the farm less the acreage conservation reserve. If an acreage reduction program is not in effect for a program crop, for purposes of administering this title, the permitted acreage of such a crop on a farm shall be equal to the crop acreage base for the crop for the farm.

“(6) Payment acreage.—The term ‘payment acreage’ means the lesser of—

“(A) the number of acres planted and considered planted to an eligible crop, as determined in sections 503(c) and 504(b)(1), for harvest within the permitted acreage; or

“(B) 79 percent of the crop acreage base for the crop for the farm less the acreage conservation reserve.

“(7) Resource-conserving crop.—The term ‘resource-conserving crop’ means legumes, legume-grass mixtures, legume-small grain mixtures, legume-grass-small grain mixtures, and experimental and industrial crops, crops planted for special conservation practices, biomass production, intensive rotational grazing, and non-legume crops, as determined by the Secretary, to satisfy program objectives.

“(8) Resource-conserving crop rotation.—The term ‘resource-conserving crop rotation’ means a crop rotation that includes at least one resource-conserving crop and that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves water.

“(9) Farming operations and practices.—The term ‘farming operations and practices’ means practices which include the integration of crops and crop-plant variety selection, rotation practices, tillage systems, soil conserving and soil building practices, nutrient management strategies, biological control and integrated pest management strategies, livestock production and management systems, animal waste management systems, water and energy conservation measures, and health and safety considerations.

“(10) Integrated farm management plan.—The term ‘integrated farm management plan’ means a comprehensive, multiyear, site-specific plan that meets the requirements of section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822).

“(11) Grass.—The term ‘grass’ means any perennial grasses commonly used for haying or grazing.

“(12) Legume.—The term ‘legume’ means any forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green manure, but not including any bean crop from which the seeds are harvested.

“(13) Small grain.—The term ‘small grain” does not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.”.

SEC. 2502. CROP AND TOTAL ACREAGE BASES.

Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended—

(1) in the section heading, by inserting “and total” after “crop”;

(2) at the end of subsection (a), by adding the following new paragraph:

“(4) Total acreage base.—The total acreage base for a farm shall equal the sum of the crop acreage bases established for program crops on the farm that are enrolled in the acreage reduction programs established by the Secretary.”;

(3) in the heading for subsection (b) by adding “of Crop Acreage Bases” after “Calculation”;

(4) in subsection (b)(2)—

(A) by striking “(A) In general”;

(B) by striking “except as provided in subparagraph (B),”; and

(C) by striking subparagraph (B); and

(5) in subsection (c)(1), by striking “reduced acreage” and inserting “acreage conservation reserve”.

SEC. 2503. PLANTING FLEXIBILITY.

(a) Specified Commodities.—Subsection (b) of section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended—

(1) in paragraph (1)—

(A) by striking “and” at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting the following new subparagraph after subparagraph (D):

“(E) any cover crop (including maintenance of native cover) and summer fallow which, as determined by the Secretary, will protect the land from weeds and erosion; and”;

(2) by striking paragraph (2) and inserting the following new paragraph:

“(2) Limitations on Crops.—

“(A) In general.—For purposes of this section, the Secretary may restrict the planting on a crop acreage base of any crop specified in paragraph (1).

“(B) Effect of acreage reduction program.—If an acreage reduction program is in effect for any specific program crop, the Secretary may limit the plantings of the specific program crop for which there is an acreage reduction program in effect to no more than the sum of—

“(i) the permitted acreage for the specific program crop for which there is an acreage reduction program in effect; plus

“(ii) 21 percent of other crop acreage bases which are included in the total acreage base for a farm.

“(C) Minimum planting.—The Secretary may require that, as a condition for eligibility for loans, deficiency payments and any other program benefits authorized by this Act, a minimum percentage not to exceed 50 percent of a specific permitted acreage, be planted to the specific program crop.”; and

(3) in paragraph (3) by striking “make a determination in each crop year of” and inserting “determine”.

(b) Limitation on Plantings.—Subsection (c) of such section is amended by striking paragraphs (1) and (2) and inserting the following:

“The quantity of the total acreage base that may be planted to program crops enrolled in an acreage reduction program shall not exceed 100 percent of the total acreage base, less the acreage conservation reserve for the farm.”.

(c) Plantings in Excess of Permitted Acreage.—Subsection (d) of such section is amended to read as follows:

“(d) Plantings in Excess of Permitted Acreage.—Notwithstanding any other provision of this Act, except as provided in section 504(b)(2)(B), producers of a program crop who are participating in the acreage reduction program for that crop shall be allowed to plant that program crop in a quantity that exceeds the permitted acreage for that crop without losing their eligibility for loans or payments with respect to that crop if—

“(1) the acreage planted to that program crop on the farm in excess of the permitted acreage for that crop does not exceed the permitted acreage of other program crops on the farm; and

“(2) the producer agrees to a reduction in permitted acreage for the other program crops produced on the farm by a quantity equal to the overplanting.”.

(d) Loan Eligibility.—Subsection (e) of such section is amended to read as follows:

“(e) Loan Eligibility.—Producers of a specific program crop (referred to in this subsection as the ‘original program crop’) who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are participants in the program established for such other program crop shall be eligible to receive loans or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in a acreage reduction program established for such other program crop if the producers—

“(1) plant such other program crop in an amount that does not exceed 100 percent of the permitted acreage established for the original program crop; and

“(2) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.”.

SEC. 2504. FARM PROGRAM PAYMENT YIELDS.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465) is amended to read as follows:

“SEC. 505. FARM PROGRAM PAYMENT YIELDS.

“(a) Establishment.—The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c).

"(b) Farm Program Payment Yields Based on 1995 Crop Year.—

"(1) In general.—If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraph (2), the farm program payment yield for each of the 1996 through 2002 crop years shall be the farm program payment yield for the 1995 crop year for the farm.

"(2) Additional yield payments.—In the case of each of the 1991 through 2002 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. The payments shall be made available not later than the time final deficiency payments are made.

"(3) No yield available.—If no farm program payment yield was established for the farm for 1995 crop, the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

"(4) National, State, or county yields.—If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

"(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

"(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

"(5) Balancing yields.—If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(c) Determination of Yields.—

"(1) Actual yields.—With respect to the 1996 and subsequent crop years, the Secretary may—

"(A) establish the farm program payment yield as provided in subsection (a); or

"(B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

"(2) Prior yields.—For purposes of the preceding sentence, the farm program payment yield for the 1996 crop year and the actual yield per harvested acre with respect to the 1997 and subsequent crop years shall be used in determining farm program payment yields.

(3) Reduction limitation.—Notwithstanding any other provision of this subsection, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1991 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

(4) Adjustment of yields.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield for the crop on the farm does not accurately reflect the productive potential of the farm.

(d) Assignment of Yields.—In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

"(e) Actual Yield Data.—

"(1) Provision.—The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

"(2) Maintenance.—The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.".

SEC. 2505. APPLICATION OF PROVISIONS.

Section 509 of the Agricultural Act of 1949 (7 U.S.C. 1469) is amended to read as follows:

"SEC. 509. APPLICATION OF TITLE.

"Except as provided in section 406, this title shall apply only with respect to the 1996 through 2002 crops.".

Subtitle F—Miscellaneous Provisions

SEC. 2601. LIMITATIONS ON AMOUNT OF DEFICIENCY PAYMENTS AND LAND DIVERSION PAYMENTS.

Section 1001(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(1)(A)) is amended by striking "$50,000" and inserting "$47,000".

SEC. 2602. SENSE OF CONGRESS REGARDING CERTAIN CANADIAN TRADE PRACTICES.

(a) Findings.—The Congress finds the following:

(1) On October 15, 1993, in response to a request from the National Potato Council, the Foreign Agricultural Service of the Department of Agriculture listed several Canadian nontariff barriers that violate the national treatment principle of the General Agreement on Tariffs and Trade, including the prohibition on bulk shipments, container size limitations on processed products, and prohibitions on consignment sales.

(2) Current Government-to-Government and direct grower-to-grower discussions with Canada have failed to result in changes in Canadian trade practices.

(b) Sense of Congress.—It is the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should intensify efforts to resolve the Canadian potato trade concerns and begin to consider formal action under the dispute resolution procedures of the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

TITLE III—COMMERCE

SEC. 3101. SPECTRUM AUCTIONS.

(a) Extension and Expansion of Auction Authority.—

(1) Amendments.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) General authority.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) Exemptions.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) Conforming amendment.—Subsection (i) of section 309 of such Act is repealed.

(3) Effective date.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) Commission Obligation To Make Additional Spectrum Available by Auction.—

(1) In general.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) Criteria for reassignment.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) Notification to NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.";

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93-253 (FCC 93-510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92-9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).".

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

"(A) $40,000,000; plus

"(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

"(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

"(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

"(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

"(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

"(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

"(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

"(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.".

(2) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section—

"(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

"(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

(3) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading "COMMON CARRIER SERVICES", the following new item:

"23. Personal communications services

"a. Initial or new application ...	230
"b. Amendment to pending application ...	35
"c. Application for assignment or transfer of control ...	230
"d. Application for renewal of license ...	35
"e. Request for special temporary authority ...	200
"f. Notification of completion of construction ...	35
"g. Request to combine service areas ...	50".

(4) VANITY CALL SIGNS.—

(A) LIFETIME LICENSE FEES.—

(i) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading "PRIVATE RADIO SERVICES", the following new item:

"11. Amateur vanity call signs. 150.00".

(ii) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(B) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs .... 7".

(b) REGULATORY FEES.

(1) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(2) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(A) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

(B) by adding at the end the following new paragraph:

"(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).".

(3) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

"Terrestrial television satellite operations .... 500".

(4) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(5) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(A) in section 9, by striking subsection (i); and

(B) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

"(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

"(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.

(a) LIMITATIONS ON TERMS OF ANALOG TELEVISION LICENSES ("REVERSION DATE").—The Commission shall not renew any analog television license for a period that extends beyond the earlier of December 31, 2005, or one year after the date the Commission finds, based on annual surveys conducted pursuant to subsection (b), that at least 95 percent of households in the United States have the capability to receive and display video signals, other than video signals transmitted pursuant to an analog television license. After such date, the Commission shall not issue any television licenses other than advanced television licenses.

(b) ANNUAL SURVEY.—The Secretary of Commerce shall, each calendar year from 1998 to 2005, conduct a survey to estimate the percentage of households in the United States that have the capability to receive and display video signals other than signals transmitted pursuant to an analog television license.

(c) SPECTRUM REVERSION.—The Commission shall ensure that, as analog television licenses expire pursuant to subsection (a), spectrum previously used for the broadcast of analog television signals is reclaimed and reallocated in such manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. The Commission shall complete the competitive bidding procedure by May 1, 2002.

(d) MINIMUM SERVICE OBLIGATION.—

(1) PROVISION OF CAPABILITY TO RECEIVE ADVANCED SERVICES.—The Commission shall, by regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced television licensees shall provide each household with the capability to receive and display video signals for advanced television services if such household requests such capability.

(2) PROVISION OF NONSUBSCRIPTION SERVICES.—Each advanced television service licensee shall provide, for at least a minimum of 5 years from the date identified in subsection (a), at least one nonsubscription video service that meets or exceeds minimum technical standards established by the Commission. In setting such minimum technical standards, the Commission shall, to the extent technically feasible, ensure that picture and audio quality are at least as good as that provided to recipients within the Grade B contour of an analog television license. The Commission shall revoke the license of any advanced television licensee who fails to meet this condition of the license.

(e) DEFINITIONS.—As used in this section:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87-268.

(3) The term "analog television licenses" means licenses issued pursuant to 47 C.F.R. 73.682 et seq.

SEC. 3104. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Section 2004 of title 39, United States Code, is repealed.

(2)(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

TITLE IV—TRANSPORTATION

SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.

Subsection (e) of section 20115 of title 49, United States Code, is repealed.

SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended—

(1) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents per ton not to exceed in the aggregate 10 cents per tone in any one year, for each fiscal year thereafter"; and

(2) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents per ton, not to exceed 30 cents per ton for each fiscal year thereafter".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year, for each fiscal year thereafter,".

SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors

Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

SEC. 5102. MAXIMUM MORTGAGE AMOUNT FLOOR FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking "the greater of" and all that follows through "applicable size" and inserting the following: "50 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size".

SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) ASSIGNMENT.—

"(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses resulting from the mortgage modification.

"(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.".

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

SEC. 6101. CONSUMER PRICE INDEX.

(a) ADJUSTMENTS APPLICABLE TO INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Paragraph (3) of section 1(f) of the Internal Revenue Code of 1986 (defining cost-of-living adjustment) is amended by striking the period at the end and inserting a comma and by inserting at the end the following flush material:

"reduced by the number of percentage points determined under paragraph (8) for the calendar year for which such adjustment is being determined."

(2) LIMITATION ON INCREASES.—Subsection (f) of section 1 of such Code is amended by adding at the end the following new paragraph:

"(8) LIMITATION ON INCREASES IN CPI.—

"(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

"(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

"(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

"(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—The Secretary shall adjust the number taken into account under paragraph (3)(B) so that any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period."

(b) ADJUSTMENTS APPLICABLE TO CERTAIN ENTITLEMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of determining the amount of any cost-of-living adjustment which takes effect for benefits payable after December 31, 1995, with respect to any payment (or benefit) described in paragraph (5)—

(A) any increase in the relevant index (determined without regard to this subsection) shall be reduced by the number of percentage points determined under paragraph (2), and

(B) the amount of the increase in such payment (or benefit) shall be equal to the product of—

(i) the increase in the relevant index (as reduced under subparagraph (A)), and

(ii) the average such payment (or benefit) for the preceding calendar year under the program described in paragraph (5) which provides such payment (or benefit).

(2) LIMITATION ON INCREASES.—

(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—Any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.

(3) PARAGRAPH (1) TO APPLY ONLY TO COMPUTATION OF BENEFIT AMOUNTS.—Paragraph

(1) shall apply only for purposes of determining the amount of payments (or benefits) and not for purposes of determining—

(A) whether a threshold increase in the relevant index has been met, or

(B) increases in amounts under other provisions of law not described in paragraph (5) which operate by reference to increases in such payments (or benefits).

(4) DEFINITIONS.—For purposes of this subsection—

(A) COST-OF-LIVING ADJUSTMENT.—The term "cost-of-living adjustment" means any adjustment in the amount of payments (or benefits) described in paragraph (5) which is determined by reference to changes in an index.

(B) INDEX.—

(i) INDEX.—The term "index" means the Consumer Price Index and any other index of price or wages.

(ii) RELEVANT INDEX.—The term "relevant index" means the index on the basis of which the amount of the cost-of-living adjustment is determined.

(5) PAYMENTS AND BENEFITS TO WHICH SUBSECTION APPLIES.—For purposes of this subsection, the payments and benefits described in this paragraph are—

(A) old age, survivors, and disability insurance benefits subject to adjustment under section 215(i) of the Social Security Act (but the limitation under paragraph (1) shall not apply to supplemental security income benefits under title XVI of such Act);

(B) retired and retainer pay subject to adjustment under section 1401a of title 10, United States Code;

(C) civil service retirement benefits under section 8340 of title 5, United States Code, foreign service retirement benefits under section 826 of the Foreign Service Act of 1980, Central Intelligence Agency retirement benefits under part J of the Central Intelligence Agency Retirement Act of 1964 for certain employees, and any other payments or benefits under any similar provision under any retirement system for employees of the government of the United States;

(D) Federal workers' compensation under section 8146a of title 5, United States Code;

(E) benefits under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974; and

(F) benefits under title XVIII or XIX of the Social Security Act.

SEC. 6102. REPEAL OF ENTITLEMENT FUNDING FOR FAMILY PRESERVATION AND SUPPORT SERVICES.

(a) IN GENERAL.—Subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629a–629e) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Part B of title IV of such Act (42 U.S.C. 620 et seq.) is amended by striking the heading for such part and for subpart 1 of such part and inserting the following:

"PART B—CHILD WELFARE SERVICES".

(2) Section 422 of such Act (42 U.S.C. 622) is amended—

(A) in subsection (a), by striking "this subpart" and inserting "this part";

(B) in subsection (b), by striking "this subpart" each place such term appears and inserting "this part"; and

(C) in subsection (b)(2), by striking "under the State plan approved under subpart 2 of this part,";

(3) Section 423(a) of such Act (42 U.S.C. 623(a)) is amended by striking "this subpart" and inserting "this part".

(4) Section 428(a) of such Act (42 U.S.C. 628(a)) is amended by striking "this subpart" each place such term appears and inserting "this part".

(5) Section 471(a)(2) of such Act (42 U.S.C. 671(a)(2)) is amended by striking "subpart 1 of".

(6) Section 13712(c) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is amended by inserting "(as in effect before the effective date of section 6101 of the Omnibus Budget Reconciliation Act of 1995)" after "Act" each place such term appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 6103. MATCHING RATE REQUIREMENT FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2002(a)(1) of the Social Security Act (42 U.S.C. 1397a(a)(1)) is amended by striking "Each State" and all that follows through the period and inserting the following: "(A) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to the lesser of—

"(i) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or

"(ii) the allotment of the State for the fiscal year.

"(B) A State to which a payment is made under this title shall use the payment for services directed at the goals set forth in section 2001, subject to the requirements of this title.".

SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO CERTAIN HIGH-INCOME INDIVIDUALS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking "and" at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following new paragraph:

"(19) compensation shall not be payable to any individual for any benefit year if the taxable income of such individual for such individual's most recent taxable year ending before the beginning of such benefit year exceeded $120,000; and".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to benefit years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1995, the amendments made by this section shall apply to benefit years beginning after the day 30 calendar days after the first day on which such legislature is in session on or after December 31, 1995.

SEC. 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO INDIVIDUALS WHO VOLUNTARILY LEAVE MILITARY SERVICE.

(a) GENERAL RULE.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

"(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 45 days or more) in the armed forces or the commissioned corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual—

"(A) was discharged or released under honorable conditions,

"(B) did not resign or voluntarily leave the service, and

"(C) was not discharged or released for cause as defined by the Secretary of Defense;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a discharge or release after the date of the enactment of this Act.

TITLE VII—MEDICAID REFORM

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Subtitle A—Per Capita Spending Limit

SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1903(a), by striking "From" and inserting "Subject to section 1931, from";

(2) by redesignating section 1931 as section 1932; and

(3) by inserting after section 1930 the following new section:

"LIMITATION ON FEDERAL FINANCIAL PARTICIPATION BASED ON PER BENEFICIARY SPENDING

"SEC. 1931. (a) IN GENERAL.—Subject to subsection (e), the total amount of State expenditures for medical assistance for which Federal financial participation may be made under section 1903(a) for quarters in a fiscal year (beginning with fiscal year 1997) may not exceed the sum of the following:

"(1) NONDISABLED MEDICAID CHILDREN.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid children (described in subsection (b)(1)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(2) NONDISABLED MEDICAID ADULTS.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid adults (described in subsection (b)(2)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent nondisabled elderly medicaid beneficiaries (described in subsection (b)(3)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(4) DISABLED MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent disabled medicaid beneficiaries (described in subsection (b)(4)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(5) ADMINISTRATIVE EXPENDITURES.—The product of—

"(A) the number of full-year equivalent medicaid beneficiaries who are in any category of beneficiaries in the State in the fiscal year, and

"(B) the per capita limit established under subsection (c)(1) for administrative expenditures for the fiscal year.

This section shall not apply to expenditures for which no Federal financial participation is available under this title.

"(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

"(1) NONDISABLED MEDICAID CHILDREN.—The term 'nondisabled medicaid child' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is under 21 years of age.

"(2) NONDISABLED MEDICAID ADULTS.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 21 years of age but under 65 years of age.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARY.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 65 years of age.

"(4) DISABLED MEDICAID BENEFICIARIES.—The term 'disabled medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title who is entitled to such assistance solely on the basis of blindness or disability.

For purposes of this section, nondisabled medicaid children, nondisabled medicaid adults, nondisabled elderly medicaid beneficiaries, and disabled medicaid beneficiaries each constitutes a separate category of medicaid beneficiaries.

"(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

"(1) IN GENERAL.—The Secretary shall establish for each State a per capita medical assistance limit for each category of medicaid beneficiaries described in subsection (b) and for administrative expenditures for a fiscal year equal to the product of the following:

"(A) PREVIOUS EXPENDITURES.—The average of the amount of the per capita matchable medical assistance expenditures (determined under paragraph (2)(A)) for such category (or the per capita matchable adminstrative expenditures determined under paragraph (2)(B)) for such State for each of the 3 previous fiscal years.

"(B) INFLATION FACTOR.—The rolling 2-year CPI increase factor (determined under paragraph (3)(A)) for the fiscal year involved.

"(C) TRANSITIONAL ALLOWANCE.—The transitional allowance factor (if any) applicable under paragraph (3)(B) to such limit for the previous fiscal year and for the fiscal year involved.

"(2) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES.—For purposes of this section—

"(A) MEDICAL ASSISTANCE EXPENDITURES.—The 'per capita matchable medical assistance expenditures', for a category of medicaid beneficiaries for a State for a fiscal year, is equal to—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under paragraphs (1) and (5) of section 1903(a) (other than expenditures excluded under subsection (e)) with respect to medical assistance furnished with respect to individuals in such category during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in such category in the State in such fiscal year.

"(B) PER CAPITA MATCHABLE ADMINISTRATIVE EXPENDITURES.—The 'per capita matchable administrative expenditures', for a State for a fiscal year, is equal to—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under section 1903(a) (under paragraphs (1) and (5) of such section) during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in any category of medicaid beneficiary in the State in such fiscal year.

"(3) INCREASE FACTORS.—In this subsection—

"(A) ROLLING 2-YEAR CPI INCREASE FACTOR.—The 'rolling 2-year CPI increase factor' for a fiscal year is 1 plus the percentage by which—

"(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

"(ii) the average value of such index for months in the 3 previous fiscal years.

"(B) TRANSITIONAL ALLOWANCE FACTORS.—

"(i) FISCAL YEAR 1996.—The 'transitional allowance factor' for fiscal year 1996—

"(I) for the category of nondisabled medicaid children, is 1.051;

"(II) for the category of nondisabled medicaid adults, is 1.067;

"(III) for the category of nondisabled elderly medicaid beneficiaries is 1.031;

"(IV) for the category of disabled medicaid beneficiaries is 1.015; and

"(V) for administrative expenditures is 1.046.

"(ii) SUBSEQUENT FISCAL YEARS FOR NONDISABLED CHILDREN AND ADULTS AND FOR DISABLED CATEGORIES.—The 'transitional allowance factor' for the categories of nondisabled medicaid children, nondisabled medicaid adults, and disabled medicaid beneficiaries—

"(I) for fiscal years 1997 and 1998 is 1.02,

"(II) for fiscal year 1999 is 1.015,

"(III) for fiscal year 2000 is 1.01,

"(IV) for fiscal year 2001 is 1.005, and

"(V) for each subsequent fiscal year is 1.0.

"(iii) SUBSEQUENT FISCAL YEARS FOR THE ELDERLY AND ADMINISTRATIVE EXPENDITURES.—The 'transitional allowance factor' for the category of nondisabled elderly medicaid beneficiaries and for administrative expenditures for fiscal years after fiscal year 1996 is 1.0.

"(4) NOTICE.—The Secretary shall notify each State before the beginning of each fiscal year of the per capita limits established under this subsection for the State for the fiscal year.

"(d) SPECIAL RULES AND EXCEPTIONS.—For purposes of this section, expenditures attributable to any of the following shall not be subject to the limits established under this section and shall not be taken into account in establishing per capita medical assistance limits under subsection (c)(1):

"(1) DSH.—Payment adjustments under section 1923.

"(2) MEDICARE COST-SHARING.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)).

"(3) SERVICES THROUGH IHS AND TRIBAL PROVIDERS.—Payments for medical assistance for services described in the last sentence of section 1905(b).

Nothing in this section shall be construed as applying any limitation to expenditures for the purchase and delivery of qualified pediatric vaccines under section 1928.

"(e) DEFINITIONS.—In this section, the term 'medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title.

"(f) ESTIMATIONS AND NOTICE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a process for estimating the limits established under subsection (a) for each State at the beginning of each fiscal year and adjusting such estimate during such year; and

"(B) notifying each State of the estimations and adjustments referred to in subparagraph (A).

"(2) DETERMINATION OF NUMBER OF FULL-YEAR EQUIVALENT INDIVIDUALS.—For purposes of this section, the number of full-year equivalent individuals in each category described in subsection (b) for a State for a year shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not entitled to benefits under a State plan for the entire fiscal year (or are within a group of individuals for only part of a fiscal year), the number shall take into account only the portion of the year in which they were so entitled or within such group. The Secretary may audit such reports.

"(g) ANTI-GAMING ADJUSTMENT TO REFLECT CHANGES IN ELIGIBILITY.—

"(1) REPORT ON PER CAPITA EXPENDITURES.—If a State makes a change (on or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the addition or deletion of individuals eligible for such assistance, the State shall submit to the Secretary with such change such information as the Secretary may require in order to carry out paragraph (2).

"(2) ADJUSTMENT FOR CERTAIN ADDITIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in making medical assistance available for additional individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures will be less the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits under such subsection separately with respect to individuals who are eligible for medical assistance without regard to such addition and with respect to the individuals so added.

"(3) ADJUSTMENT FOR CERTAIN DELETIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in denial of medical assistance for individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures is greater than the applicable per capita limit established under subsection (c)(1) for such catetory, the Secretary shall adjust the payment limits under subsection (a) to reflect any decrease in average per beneficiary expenditures that would result from such change.

"(h) TREATMENT OF STATES OPERATING UNDER WAIVERS.—The Secretary shall provide for such adjustments to the per capita limits under subsection (c) for a fiscal year as may be appropriate to take into account the case of States which either—

"(1) during any of the 3 previous fiscal years was providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is no longer providing such medical assistance under such waiver; or

"(2) during any of the 3 previous fiscal years was not providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is providing such medical assistance under such a waiver.".

(b) ENFORCEMENT-RELATED PROVISIONS.—

(1) ASSURING ACTUAL PAYMENTS TO STATES CONSISTENT WITH LIMITATION.—Section 1903(d) of such Act (42 U.S.C. 1396b(d)) is amended—

(A) in paragraph (2)(A), by striking "The Secretary" and inserting "Subject to paragraph (7), the Secretary", and

(B) by adding at the end the following new paragraph:

"(7)(A) The Secretary shall take such steps as are necessary to assure that payments under this subsection for quarters in a fiscal year are consistent with the payment limits established under section 1931 for the fiscal year. Such steps may include limiting such payments for one or more quarters in a fiscal year based on—

"(i) an appropriate proportion of the payment limits for the fiscal year involved, and

"(ii) numbers of individuals within each category, as reported under subparagraph (B) for a recent previous quarter.

"(B) Each State shall include, in its report filed under paragraph (1)(A) for a calendar quarter—

"(i) the actual number of individuals within each category described in section 1931(b) for the second previous calendar quarter and (based on the data available) for the previous calendar quarter, and

"(ii) an estimate of such numbers for the calendar quarter involved.".

(2) RESTRICTION ON AUTHORITY OF STATES TO APPLY LESS RESTRICTIVE INCOME AND RESOURCE METHODOLOGIES.—Section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

"(C) Subparagraph (A) shall not apply to plan amendments made on or after October 15, 1995.".

(c) CONFORMING AMENDMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following:

"(16) in accordance with section 1931, with respect to amounts expended to the extent they exceed applicable limits established under section 1931(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1996.

Subtitle B—Medicaid Managed Care

SEC. 7101. PERMITTING GREATER FLEXIBILITY FOR STATES TO ENROLL BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(a), is amended—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

"STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS

"SEC. 1932. (a) MANDATORY ENROLLMENT.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this section and notwithstanding paragraphs (1), (10)(B), and (23) of section 1902(a), a State may require an individual eligible for medical assistance under the State plan under this title to enroll with an eligible managed care provider as a condition of receiving such assistance and, with respect to assistance furnished by or under arrangements with such provider, to receive such assistance through the provider, if the following provisions are met:

"(A) The provider meets the requirements of section 1933.

"(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such provider are made on an actuarially sound basis.

"(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll with such providers.

"(D) The individual is not a special needs individual (as defined in subsection (c)).

"(E) The State—

"(i) permits an individual to choose an eligible managed care provider—

"(I) from among not less than 2 medicaid managed care plans; or

"(II) between a medicaid managed care plan and a primary care case management provider;

"(ii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment;

"(iii) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with the provider;

"(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such individual who does not enroll with an eligible managed care provider during the enrollment period specified by the State shall be enrolled by the State with such a provider in accordance with such process; and

"(v) establishes the sanctions provided for in section 1934.

"(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(E)(iv) shall—

"(A) provide that the State may not enroll individuals with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

"(B) provide for an equitable distribution of individuals among all eligible managed care providers available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such providers.

"(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

"(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the provider as of the first day of the month in which the individual is again eligible for such assistance.

"(2) CONDITIONS.—Paragraph (1) shall only apply if—

"(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the eligible managed care provider;

"(B) the eligible managed care provider continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

"(C) the eligible managed care provider complies with the requirements of section 1933.

"(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to an eligible managed care provider of any reenrollment of an individual under this subsection.

"(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this section, a 'special needs individual' means any of the following:

"(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who —

"(A) is eligible for supplemental security income under title XVI;

"(B) is described under section 501(a)(1)(D);

"(C) is a child described in section 1902(e)(3); or

"(D) is in foster care or is otherwise in an out-of-home placement.

"(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including —

"(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

"(B) an individual who is a resident in transitional housing.

"(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health

Service Act), or the spouse or dependent of such a worker.

"(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c)))."

(b) CONFORMING AMENDMENT.—Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended —

(1) in the matter preceding subparagraph (A), by striking "subsection (g) and in section 1915" and inserting "subsection (g), section 1915, and section 1931,"; and

(2) in subparagraph (B) —

(A) by striking "a health maintenance organization, or a" and inserting "or with an eligible managed care provider, as defined in section 1933(g)(1), or".

SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MEDICAID SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(b) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of —

(1) the day after the date of the expiration of the contract; or

(2) the date which is 1 year after the date of the enactment of this Act.

(c) ELIGIBLE MANAGED CARE PROVIDERS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as amended by sections 7001(a) and 7101(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1933. (a) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELIGIBLE MANAGED CARE PROVIDER.—The term 'eligible managed care provider' means —

"(A) a medicaid managed care plan; or

"(B) a primary care case management provider.

"(2) MEDICAID MANAGED CARE PLAN.—The term 'medicaid managed care plan' means a health maintenance organization, an eligible organization with a contract under Section 1876, a provider sponsored network or any other plan which provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B).

"(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

"(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that —

"(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B);

"(ii) receives payment on a fee-for-service basis (or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals;

"(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

"(iv) is not an entity that is at risk.

"(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that —

"(i) has a contract with the State under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual; and

"(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

"(b) ENROLLMENT.—

"(1) NONDISCRIMINATION.—An eligible managed care provider may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollmentof individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

"(2) TERMINATION OF ENROLLMENT.—

"(A) IN GENERAL.—An eligible managed care provider shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider to terminate such enrollment for cause at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

"(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with an eligible managed care provider on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion shall be considered to terminate such enrollment for cause.

"(C) NOTICE OF TERMINATION.—

"(i) NOTICE TO STATE.—

"(I) BY INDIVIDUALS.—Each individual terminating enrollment with an eligible managed care provider under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of an eligible managed care provider.

"(II) BY PLANS.—Any eligible managed care provider which receives notice of an individual's termination of enrollment with such provider through receipt of such notice at an office of an eligible managed care provider shall provide timely notice of the termination to the State agency administering the State plan under this title.

"(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (i) shall provide timely notice of the termination to such provider.

"(D) REENROLLMENT.—Each State shall establish a process under which an individual terminating enrollment under this paragraph shall be promptly enrolled with another eligible managed care provider and notified of such enrollment.

"(3) PROVISION OF ENROLLMENT MATERIALS IN UNDERSTANDABLE FORM.—Each eligible managed care provider shall provide all enrollment materials in a manner and form which may be easily understood by a typical adult enrollee of the provider who is eligible for medical assistance under the State plan under this title.

"(c) QUALITY ASSURANCE.—

"(1) ACCESS TO SERVICES.—Each eligible managed care provider shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such provider and the State under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

"(2) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall respond to requests from enrollees for the delivery of medical assistance in a manner which —

"(A) makes such assistance —

"(i) available and accessible to each such individual, within the area served by the provider, with reasonable promptness and in a manner which assures continuity; and

"(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

"(B) with respect to assistance provided to such an individual other than through the provider, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the provider) if —

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

"(ii) it was not reasonable given the circumstances to obtain the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

"(3) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

"(A) REVIEW OF MEDICAID MANAGED CARE PLAN CONTRACT.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), each medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan's contract with the State under section 1932(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care plan provides such services in a timely manner.

"(ii) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(I) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(II) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(III) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(IV) other activities as prescribed by the Secretary or the State.

"(iii) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care plan, except that the results may not be made available in a manner that discloses the identity of any individual patient.

"(B) DEEMED COMPLIANCE.—

"(i) MEDICARE PLANS.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if the plan is an eligible organization with a contract in effect under section 1876.

"(ii) PRIVATE ACCREDITATION.—

"(I) IN GENERAL.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if —

"(aa) the plan is accredited by an organization meeting the requirements described in clause (iii); and

"(bb) the standards and process under which the plan is accredited meet such requirements as are established under subclause (II), without regard to whether or not the time requirement of such subclause is satisfied.

"(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall specify requirements for the standards and process under which a medicaid managed care plan is accredited by an organization meeting the requirements of clause (iii).

"(iii) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this clause if the organization —

"(I) is a private, nonprofit organization;

"(II) exists for the primary purpose of accrediting managed care plans or health care providers; and

"(III) is independent of health care providers or associations of health care providers.

"(C) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

"(4) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(5) PROVIDING INFORMATION ON SERVICES.—

"(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(i) INFORMATION TO THE STATE.—Each medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the following:

"(I) The services that the plan provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

"(II) The identity, locations, qualifications, and availability of participating health care providers.

"(III) The rights and responsibilities of enrollees.

"(IV) The services provided by the plan which are subject to prior authorization by the plan as a condition of coverage (in accordance with paragraph (6)(A)).

"(V) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

"(VI) The performance of the plan in serving individuals eligible for medical assistance under the State plan under this title.

"(ii) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care plan shall —

"(I) upon request, make the information described in clause (i) available to participating health care providers, enrollees, and potential enrollees in the plan's service area; and

"(II) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the plan that are covered either directly or through a method of referral and prior authorization.

"(B) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall —

"(i) provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

"(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required; and

"(iii) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization.

"(iv) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

"(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall provide the State with aggregate encounter data for early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

"(6) TIMELINESS OF PAYMENT.—An eligible managed care provider shall make payment to health care providers for items and services which are subject to the contract under section 1931(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the provider on a timely basis and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the eligible managed care provider agree to an alternate payment schedule.

"(7) ADDITIONAL QUALITY ASSURANCE REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(A) CONDITIONS FOR PRIOR AUTHORIZATION.—A medicaid managed care plan may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval —

"(i) provides that such decisions are made in a timely manner, depending upon the urgency of the situation; and

"(ii) permits coverage of medically necessary medical assistance provided to an enrollee without prior authorization in the event of an emergency.

"(B) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care plan shall establish an internal grievance procedure under which a plan enrollee or a provider on behalf of such an enrollee who is eligible for medical assistance under the State plan under this title may challenge the denial of coverage of or payment for such assistance.

"(C) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care plan shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1902(x).

"(D) PATIENT ENCOUNTER DATA.—

"(i) IN GENERAL.—Each medicaid managed care plan shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27). The plan shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

"(ii) COMPLIANCE.—A medicaid managed care plan shall —

"(I) submit the data maintained under clause (i) to the State; or

"(II) demonstrate to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii).

"(iii) STANDARDS.—In establishing managed care quality assurance guidelines under clause (ii)(II), the Secretary shall consider —

"(I) managed care industry standards for —

"(aa) internal quality assurance; and

"(bb) performance measures; and

"(II) any managed care quality standards established by the National Association of Insurance Commissioners.

(E) PAYMENTS TO HOSPITALS.—A medicaid managed care plan shall—

"(i) provide the State with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

"(ii) report to the State at least annually—

"(I) the rates paid to hospitals by the plan for items and services furnished to such individuals,

"(II) an explanation of the methodology used to compute such rates, and

"(III) a comparison of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a medicaid managed care plan; and

"(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet the standard described in clause (i).

"(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE AS GROUNDS FOR HEARING.—If an eligible managed care provider —

"(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

"(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(3), but only, with respect to a medicaid managed care plan, after completion of the internal grievance procedure established by the plan under subsection (c)(6)(B).

"(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if such procedure does not exist or if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature.

"(e) MISCELLANEOUS.—

"(1) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF ELIGIBLE MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each eligible managed care provider shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider may not be held liable—

"(A) for the debts of the eligible managed care provider, in the event of the provider's insolvency;

"(B) for services provided to the individual—

"(i) in the event of the provider failing to receive payment from the State for such services; or

"(ii) in the event of a health care provider with a contractual or other arrangement with the eligible managed care provider failing to receive payment from the State or the eligible managed care provider for such services; or

"(C) for the debts of any health care provider with a contractual or other arrangement with the provider to provide services to the individual, in the event of the insolvency of the health care provider.

"(2) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

"(A) IN GENERAL.—In the case of an enrollee of an eligible managed care provider who is a child with special health care needs —

"(i) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subparagraph (C), the eligible managed care provider shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either —

"(I) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the eligible managed care provider to provide such assistance; or

"(II) if appropriate services are not available through the eligible managed care provider, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the eligible managed care provider; and

"(ii) the eligible managed care provider shall require each health care provider with whom the eligible managed care provider has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

"(B) PRIOR AUTHORIZATION.—An enrollee referred for treatment under subparagraph (A)(i)(I), or permitted to seek treatment outside of or apart from the eligible managed care provider under subparagraph (A)(i)(II) shall be deemed to have obtained any prior authorization required by the provider.

"(C) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of subparagraph (A), a child with special health care needs is a child who is receiving services under —

"(i) a program administered under part B or part H of the Individuals with Disabilities Education Act;

"(ii) a program for children with special health care needs under title V;

"(iii) a program under part B or part D of title IV; or

"(iv) any other program for children with special health care needs identified by the Secretary.

"(3) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care plan shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care plan shall meet the requirements of section 1876(i)(8).

"(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE MANAGED CARE PROVIDERS.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), eligible managed care providers that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such providers. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.".

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MEDICAID MANAGED CARE PLANS.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: "Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through an eligible managed care provider (as defined in section 1933(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.".

(e) CLARIFICATION OF CERTIFICATION REQUIREMENTS FOR PHYSICIANS PROVIDING SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i)(12) of such Act (42 U.S.C. 1396b(i)(12)) is amended —

(1) in subparagraph (A)(i), to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,";

(2) in subparagraph (B)(i), to read as follows:

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association,"; and

(3) in both subparagraphs (A) and (B) —

(A) by striking "or" at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.

Section 1933 of the Social Security Act, as added by section 7102(c)(2), is amended —

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(1) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

"(A) IN GENERAL.—Subject to subparagraph (C), each medicaid managed care plan shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the plan, with respect to a service area —

"(i) has the capacity to serve the expected enrollment in such service area;

"(ii) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services and translation services consisting of the principal languages spoken in the service area;

"(iii) maintains sufficient numbers of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the plan to the same extent that such services are available to individuals enrolled in the plan who are not recipients of medical assistance under the State plan under this title;

"(iv) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

"(v) provides preventive and primary care services in locations that are readily accessible to members of the community; and

"(vi) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible.

"(vii) complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(B) PROOF OF ADEQUATE PRIMARY CARE CAPACITY AND SERVICES.—Subject to subparagraph (C), a medicaid managed care plan that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of subparagraph (A):

"(i) Rural health clinics, as defined in section 1905(l)(1).

"(ii) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

"(iii) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

"(C) SUFFICIENT PROVIDERS OF SPECIALIZED SERVICES.—Notwithstanding subparagraphs (A) and (B), a medicaid managed care plan may not be considered to have satisfied the requirements of subparagraph (A) if the plan does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

"(2) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—Each medicaid managed care plan that enters into a written provider participation agreement with a provider described in paragraph (1)(B) shall —

"(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care plan includes in its agreements with other participating providers with respect to —

"(i) the scope of covered services for which payment is made to the provider;

"(ii) the assignment of enrollees by the plan to the provider;

"(iii) the limitation on financial risk or availability of financial incentives to the provider;

"(iv) accessibility of care;

"(v) professional credentialing and recredentialing;

"(vi) licensure;

"(vii) quality and utilization management;

"(viii) confidentiality of patient records;

"(ix) grievance procedures; and

"(x) indemnification arrangements between the plans and providers; and

"(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.".

SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED CARE.

(a) IN GENERAL.—Section 1933 of the Social Security Act, as added by section 7102(c)(2) and amended by section 7103, is amended —

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) ANTI-FRAUD PROVISIONS.—

"(1) PROVISIONS APPLICABLE TO ELIGIBLE MANAGED CARE PROVIDERS.—

"(A) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

"(i) IN GENERAL.—An eligible managed care provider may not knowingly—

"(I) have a person described in clause (iii) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the plan's equity; or

"(II) have an employment, consulting, or other agreement with a person described in clause (iii) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(ii) EFFECT OF NONCOMPLIANCE.—If a State finds that an eligible managed care provider is not in compliance with subclause (I) or (II) of clause (i), the State —

"(I) shall notify the Secretary of such noncompliance;

"(II) may continue an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(III) may not renew or otherwise extend the duration of an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iii) PERSONS DESCRIBED.—A person is described in this clause if such person —

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

"(III) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

"(B) RESTRICTIONS ON MARKETING.—

"(i) DISTRIBUTION OF MATERIALS.—

"(I) IN GENERAL.—An eligible managed care provider may not distribute marketing materials within any State—

"(aa) without the prior approval of the State; and

"(bb) that contain false or materially misleading information.

"(II) PROHIBITION.—The State may not enter into or renew a contract with an eligible managed care provider for the provision of services to individuals enrolled under the State plan under this title if the State determines that the provider intentionally distributed false or materially misleading information in violation of subclause (I)(bb).

"(ii) SERVICE MARKET.—An eligible managed care provider shall distribute marketing materials to the entire service area of such provider.

"(iii) PROHIBITION OF TIE-INS.—An eligible managed care provider, or any agency of such provider, may not seek to influence an individual's enrollment with the provider in conjunction with the sale of any other insurance.

"(iv) PROHIBITING MARKETING FRAUD.—Each eligible managed care provider shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the provider, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.

"(2) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE PLANS.—

"(A) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care plan may not enter into a contract with any State under section 1932(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such plans or to the default enrollment process described in section 1932(a)(1)(D)(iv) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

"(B) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care plan shall —

"(i) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that —

"(I) the plan has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

"(II) the plan uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and plan; and

"(III) the plan does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

"(ii) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) relating to the information reported pursuant to clause (i) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

"(iii) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the plan and a party in interest (as defined in section 1318(b) of such Act); and

"(iv) agree to make available to its enrollees upon reasonable request —

"(I) the information reported pursuant to clause (i); and

"(II) the information required to be disclosed under sections 1124 and 1126.

"(C) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

"(i) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care plan shall make adequate provision against the risk of insolvency.

"(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in clause (i), the Secretary shall consider - solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

"(iii) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(D) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care plan shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing —

"(i) the most recent audited financial statement of the plan's net earnings, in accordance with guidelines established by the Secretary in consultation with the States, and consistent with generally accepted accounting principles; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the plan and entitled to medical assistance under the State plan under this title.".

SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 7001, 7101(a), and 7102(c), is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

"ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS

"SEC. 1934. As a condition of approval of a State plan under this title, a State shall—

"(1) find, determine, and make assurances satisfactory to the Secretary that—

"(A) the rates it pays medicaid managed care plans for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

"(i) the items and services to which the rate applies,

"(ii) the eligible population, and

"(iii) the rate the State pays providers for suchitems and services; and

"(B) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care plan; and

"(2) report to the Secretary, at least annually, on—

"(A) the rates the States pays to medicaid managed care plans, and

"(B) the rates medicaid managed care plans pay for hospital services (and such other information as medicaid managed care plans are required to submit to the State pursuant to section 1933(c)(5)(E).".

SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS.

(a) SANCTIONS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as previously amended, is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1934 the following new section:

"SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with an eligible managed care provider, which the State may impose against an eligible managed care provider with a contract under section 1932(a)(1)(B) if the provider—

"(1) fails substantially to provide medically necessary items and services that are required (under law or under such provider's contract with the State) to be provided to an enrollee covered under the contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee;

"(2) imposes premiums on enrollees in excess of the premiums permitted under this title;

"(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by sections 1932 and 1933, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the provider by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

"(4) misrepresents or falsifies information that is furnished

"(A) to the Secretary or the State under section 1932 or 1933; or

"(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

"(5) fails to comply with the requirements of section 1876(i)(8).

"(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

"(1) Civil money penalties as follows:

"(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

"(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

"(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

"(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

"(2) The appointment of temporary management to oversee the operation of the eligible managed care provider and to assure the health of the provider's enrollees, if there is a need for temporary management while—

"(A) there is an orderly termination or reorganization of the eligible managed care provider; or

"(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the eligible managed care provider has the capability to ensure that the violations shall not recur.

"(3) Permitting individuals enrolled with the eligible managed care provider to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

"(c) TREATMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

"(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of an eligible managed care provider which has failed to meet the requirements of section 1932 or 1933, the State shall have the authority to terminate its contract with such provider under section 1932(a)(1)(B) and to enroll such provider's enrollees with other eligible managed care providers (or to permit such enrollees to receive medical assistance under the State plan under this title other than through an eligible managed care provider).

"(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

"(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that—

"(A) an eligible managed care provider with a contract under section 1932(a)(1)(B) fails to meet any of the requirements of section 1932 or 1933; and

"(B) the State has failed to act appropriately to address such failure.

"(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1932(a)(1)(B) for individuals enrolled after the date the Secretary notifies an eligible managed care provider of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(f) DUE PROCESS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with an eligible managed care provider under section 1932(a)(1)(B) unless the provider is provided with a hearing prior to the termination.

"(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with an eligible managed care provider which is the subject of a hearing to terminate the provider's contract with the State of the hearing and that the enrollees may immediately disenroll with the provider for cause.

"(3) OTHER PROTECTIONS FOR ELIGIBLE MANAGED CARE PROVIDERS AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against an eligible managed care provider other than termination of the provider's contract, the State shall provide the provider with notice and such other due process protections as the State may provide, except that a State may not provide an eligible managed care provider with a pretermination hearing before imposing the sanction described in subsection (b)(2).

"(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.".

(b) CONFORMING AMENDMENT RELATING TO TERMINATION OF ENROLLMENT FOR CAUSE.—Section 1933(b)(2)(B) of the Social Security Act, as added by this part, is amended by inserting after "coercion" the following: ", or pursuant to the imposition against the eligible managed care provider of the sanction described in section 1935(b)(3),".

SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1932(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1932(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1932 of such Act.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include —

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in

subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1996, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1932 of the Social Security Act.

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1932(b)(3)(P) of such Act.

SEC. 7109. CONFORMING AMENDMENTS.

(a) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) of the Social Security Act (42 U.S.C. 1320a–7(b)(6)(C)) is amended—

(1) in clause (i), by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1),"; and

(2) in clause (ii), by inserting "section 1115 or" after "approved under".

(b) STATE PLAN REQUIREMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking "section 1903(m)" and inserting "section 1932(a)(1)(B)"; and

(2) in subsection (a)(57), by striking "hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "or hospice program";

(3) in subsection (e)(2)(A), by striking "or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or

(6) of section 1903(m) under a contract described in section 1903(m)(2)(A);

(4) in subsection (p)(2)—

(A) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1),";

(B) by striking "an organization" and inserting "a provider"; and

(C) by striking "any organization" and inserting "any provider"; and

(5) in subsection (w)(1), by striking "sections 1903(m)(1)(A) and" and inserting "section".

(c) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of an eligible managed care provider with a contract under section 1932(a)(1)(B).".

(d) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1)," each place it appears.

(e) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r–6(b)(4)(D)(iv)) is amended to read as follows:

"(iv) ENROLLMENT WITH ELIGIBLE MANAGED CARE PROVIDER.—Enrollment of the caretaker relative and dependent children with an eligible managed care provider, as defined in section 1933(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through an eligible managed care provider in accordance with sections 1932, 1933, and 1934.".

(f) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Section 1926(a) of such Act (42 U.S.C. 1396r–7(a)) is amended in paragraphs (1) and (2) by striking "health maintenance organizations under section 1903(m)" and inserting "eligible managed care providers under contracts entered into under section 1932(a)(1)(B)" each place it appears.

(g) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) of such Act (42 U.S.C. 1396r–8(j)(1)) is amended by striking "* * * Health Maintenance Organizations, including those organizations that contract under section 1903(m)," and inserting "health maintenance organizations and medicaid managed care plans, as defined in section 1933(a)(2),".

(h) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking "(except section 1903(m)" and inserting "(except sections 1932, 1933, and 1934)".

SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1996; or

(2) in the case of assistance furnished under a contract described in section 7102(b), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) APPLICATION TO WAIVERS.—

(1) EXISTING WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this subtitle shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of sections 1932, 1933, and 1934 of the Social Security Act (as added by this subtitle).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDICAID COST-SHARING.

(a) IN GENERAL.—Subsections (a)(3) and (b)(3) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are amended by striking everything that follows "other care and services" and inserting the following: "will be established pursuant to a public schedule of charges and will be adjusted to reflect the income, resources, and family size of the individual provided the item or service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 7202. LIMITS ON REQUIRED COVERAGE OF ADDITIONAL TREATMENT SERVICES UNDER EPSDT.

(a) REGULATIONS.—The Secretary of Health and Human Services shall define, by regulation promulgated after consultation with States and organizations representing health care providers, those treatment services (in addition to those otherwise covered under a State plan under title XIX of the Social Security Act) that must be covered under section 1905(r)(5) of such Act.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as limiting the scope of such treatment services a State may cover under such section.

SEC. 7203. DELAY IN APPLICATION OF NEW REQUIREMENTS.

(a) DELAY IN IMPLEMENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no change in law—

(A) which has the effect of imposing a requirement on a State under a State plan under title XIX of the Social Security Act, and

(B) with respect to the Secretary of Health and Human Services is required to issue regulations to carry out such requirement, shall take effect until the date the Secretary promulgates such regulation as a final regulation.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect

to have a change in a law described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(b) Prohibition of Changes in Final Regulations During a Fiscal Year.—

(1) In general.—Except as provided in paragraph (2), any change in a regulation of the Secretary of Health and Human Services relating to the medicaid program under title XIX of the Social Security Act shall not become effective until the beginning of the fiscal year following the fiscal year in which the change was promulgated.

(2) State option.—Except as otherwise provided by the Secretary, a State may elect to have a change in a regulation described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(c) Sense of Congress Regarding Federal Payment for New Medicaid Mandates.—It is the sense of Congress that if a State is required by future legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under its medicaid program under title XIX of the Social Security Act, the Federal Government shall provide for full payment of any such additional costs for at least the first two years in which such requirement applies.

SEC. 7204. DEADLINE ON ACTION ON WAIVERS.

(a) In General.—In considering applications for medicaid waivers—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within ninety days after the date of the submission of the application of the Secretary, either denies the application in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application, and

(2) after the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary within ninety days of such date, denies such application.

(b) Medicaid Waivers.—In this section, the term "medicaid waiver" means the request of a State for a waiver of a provision of title XIX of the Social Security Act (or of another provision of law that applies to State plans under such title), and includes such a waiver under the authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

(a) In General.—There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the "Commission").

(b) Composition.—The Commission shall be composed as follows:

(1) 2 federal officials.—The President shall appoint 2 Federal officials, one of whom the President shall designate as chairperson of the Commission.

(2) 4 members of congress.—(A) The Speaker of the House of Representatives shall appoint one Member of the House as a member.

(B) The minority leader of the House of Representatives shall appoint one Member of the House as a member.

(C) The majority leader of the Senate shall appoint one Member of the Senate as a member.

(D) The minority leader of the Senate shall appoint one Member of the Senate as a member.

(3) 6 state government representatives.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(B) The minority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(4) 6 experts.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(B) The President shall appoint 2 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(c) Initial Appointment.—Members of the Commission shall first be appointed by not later than February 1, 1996.

(d) Compensation and Expenses.—

(1) Compensation.—Each member of the Commission shall serve without compensation.

(2) Travel expenses.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 7302. DUTIES OF COMMISSION.

(a) Study of Medicaid Program.—

(1) In general.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary regarding the need for changes (in addition to the changes effected under this title) in the laws and regulations regarding the medicaid program under title XIX of the Social Security Act.

(2) Specific concerns.—The Commission shall specifically address each of the following:

(A) Changes needed to ensure adequate access to health care for low-income individuals.

(B) Promotion of quality care.

(C) Deterrence of fraud and abuse.

(D) Providing States with additional flexibility in implementing their medicaid plans.

(E) Methods of containing Federal and State costs.

(b) Reports.—

(1) First report.—The Commission shall issue a first report to Congress by not later than December 31, 1996.

(2) Subsequent reports.—The Commission shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

SEC. 7303. ADMINISTRATION.

(a) Appointment of Staff.—

(1) Executive director.—The Commission shall have an Executive Director who shall be appointed by the Chairperson with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(2) Staff.—With the approval of the Commission, the Executive Director may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(3) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(b) Provision of Administrative Support Services by HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $3,000,000 for fiscal year 1996, $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

SEC. 7305. TERMINATION.

The Commission shall terminate on December 31, 1998.

Subtitle E—Restrictions on Disproportionate Share Payments

SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) Targeting Payments.—Section 1923 of the Social Security Act (42 U.S.C. 1396r–3) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(1)" and inserting "(1)(A)",

(C) in clause (i) (as so redesignated) by striking "(b)(1)" and inserting "(b)(1)(A)", and

(D) by adding at the end the following:

"(B) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that utilizes the definition of such hospitals specified in subsection (b)(1)(B) in lieu of the definition established by the State under subparagraph (a)(i).";

(2) in subsection (a)(2)(A)—

(A) by inserting "(i)" after "(2)(A)",

(B) by striking "paragraph (1)" and inserting "paragraph (1)(A)(i)", and

(C) by adding at the end the following:

"(ii) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1996, the State must submit to the Secretary by not later than April 1, 1996, the State plan amendment described in paragraph (1)(B), consistent with subsection (c), effective for inpatient hospital services furnished on or after July 1, 1996.";

(3) in subsection (b)—

(A) in the heading, by striking "Hospitals Deemed Disproportionate Share" and inserting "Disproportionate Share Hospitals",

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(ii) by striking "(1) For purposes of subsection (a)(1)" and inserting "(1)(A) For purposes of subsection (a)(1)(A)", and

(iii) by adding at the end the following:

"(B) For purposes of subsection (a)(1)(B), a hospital that meets the requirements of subsection (d) is a disproportionate share hospital only if—

"(i) in the case of a hospital that is not described in subsection (d)(2)(A)(i), the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent; or

"(ii) in the case of a hospital that is described in subsection (d)(2)(A)(i)—

"(I) the hospital meets the requirement of clause (i), or

"(II) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) exceeds 20 percent.";

(C) in paragraph (2) by striking "(1)(A)" and inserting "(1)",

(D) in paragraph (3) by striking "(1)(B)" and inserting "(1)", and

(E) by striking paragraph (4);

(4) in subsection (c)—

(A) in paragraph (2), by striking "subparagraph (A) or (B) of subsection (b)(1)" and inserting "clause (i) or (ii) of subsection (b)(1)(A)",

(B) by striking paragraph (3), and

(C) in the matter following paragraph (3)—

(i) by striking "(1)(B)" each place it appears and inserting "(1)(A)(ii)", and

(ii) by striking "(2)(A)" each place it appears and inserting "(2)(A)(i)" ; and

(5) in subsection (e)—

(A) in paragraph (1)(C), by striking "meets the requirement of subsection (d)(3)" and inserting "makes payments under this section only to hospitals described in subsection (b)(1)(B)", and

(B) in paragraph (2)—

(i) by inserting "and" at the end of subparagraph (B), and

(ii) by striking subparagraph (C).

(b) Direct Payment by State.—Section 1923(a) of such Act (42 U.S.C. 1396r-4(a)), as amended by subsection (a), is further amended—

(1) in paragraph (1), by adding at the end the following

"(C) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State provides that any payments made under this section with respect to individuals who are—

"(i) entitled to benefits under the State plan, and

"(ii) enrolled with a health maintenance organization or other managed care plan,

are, at the option of the hospital, made directly to such hospital by the State."; and

(2) in paragraph (2)(A)(ii), by striking "amendment described in paragraph (1)(B)" and inserting " amendments described in subparagraphs (B) and (C) of paragraph (1)".

(c) Adjustment to National DSH Limit, State Allocations.—The Secretary of Health and Human Services shall make appropriate adjustments in—

(1) the national DSH payment limit established under section 1923(f)(1)(B) of the Social Security Act, and

(2) the State DSH allotments established under section 1923(f)(2) of such Act,

to reflect the amendments made by subsection (a).

(d) Effective Date.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) July 1, 1996, or

(2) in the case of a State with a State legislature that is not scheduled to have a regular legislative session in 1996, July 1, 1997.

Subtitle F—Fraud Reduction

SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.

The Administrator of the Health Care Financing Administration shall develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program in the case of individuals who are dually eligible for benefits under such program and under the medicare program.

SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.

The Administrator of the Health Care Financing Administration shall develop improved mechanisms, such as picture identification documents and smart documents, to provide methods of improved identification and tracking of beneficiaries and providers that perpetrate fraud against the medicaid program.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE; REFERENCES IN TITLE; TABLE OF CONTENTS.

(a) Short Title of Title.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) References to OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(d) Table of Contents.—The table of contents of this title is as follows:

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title; table of contents.

Subtitle A—Medicare Choice Program

Part 1—Increasing Choice Under the Medicare Program

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

"Part C—Provisions Relating to Medicare Choice

"Sec. 1851. Requirements for Medicare Choice organizations.
"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to Medicare Choice organizations.
"Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
"Sec. 1857. Medicare Choice certification.
"Sec. 1858. Contracts with Medicare Choice organizations.
"Sec. 1859. Demonstration project for high deductible/medisave products.

Sec. 8003. Reports.
Sec. 8004. Transitional rules for current medicare HMO program.

Part 2—Special Rules for Medicare Choice Medical Savings Accounts

Sec. 8011. Medicare choice MSA's.
Sec. 8012. Certain rebates excluded from gross income.

Part 3—Special Antitrust Rule for Provider Service Networks

Sec. 8021. Application of antitrust rule of reason to provider service networks.

Part 4—Commissions

Sec. 8031. Medicare Payment Review Commission.
Sec. 8032. Commission on the Effect of the Baby Boom Generation on the Medicare Program.

Part 5—Preemption of State Anti-Managed Care Laws

Sec. 8041. Preemption of State law restrictions on managed care arrangements.
Sec. 8042. Preemption of State laws restricting utilization review programs.

Subtitle B—Provisions Relating to Regulatory Relief

Part 1—Provisions Relating to Physician Financial Relationships

Sec. 8101. Repeal of prohibitions based on compensation arrangements.
Sec. 8102. Revision of designated health services subject to prohibition.
Sec. 8103. Delay in implementation until promulgation of regulations.
Sec. 8104. Exceptions to prohibition.
Sec. 8105. Repeal of reporting requirements.
Sec. 8106. Preemption of State law.
Sec. 8107. Effective date.

Part 2—Antitrust Reform

Sec. 8111. Publication of antitrust guidelines on activities of health plans.
Sec. 8112. Issuance of health care certificates of public advantage.
Sec. 8113. Study of impact on competition.
Sec. 8114. Antitrust exemption.
Sec. 8115. Requirements.
Sec. 8116. Definition.

Part 3—Malpractice Reform

SUBPART A—UNIFORM STANDARDS FOR MALPRACTICE CLAIMS

Sec. 8121. Applicability.
Sec. 8122. Requirement for initial resolution of action through alternative dispute resolution.
Sec. 8123. Optional application of practice guidelines.
Sec. 8124. Treatment of noneconomic and punitive damages.
Sec. 8125. Periodic payments for future losses.
Sec. 8126. Treatment of attorney's fees and other costs.
Sec. 8127. Uniform statute of limitations.
Sec. 8128. Special provision for certain obstetric services.
Sec. 8129. Jurisdiction of Federal courts.
Sec. 8130. Preemption.

SUBPART B—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)

Sec. 8131. Basic requirements.
Sec. 8132. Certification of State systems; applicability of alternative Federal system.

Sec. 8133. Reports on implementation and effectiveness of alternative dispute resolution systems.

SUBPART C—DEFINITIONS

Sec. 8141. Definitions.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART 2—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Updating fees for physicians' services.
Sec. 8212. Use of real GDP to adjust for volume and intensity.

PART 3—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

Subtitle D—Provisions Relating to Medicare Beneficiaries

Sec. 8301. Part B premium.
Sec. 8302. Full cost of medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

Subtitle E—Medicare Fraud Reduction

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Direct spending for anti-fraud activities under medicare.
Sec. 8406. Fraud reduction demonstration project.
Sec. 8407. Report on competitive pricing.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

SUBPART A—RURAL HOSPITALS

Sec. 8501. Sole community hospitals.
Sec. 8502. Clarification of treatment of EAC and RPC hospitals.
Sec. 8503. Establishment of rural emergency access care hospitals.
Sec. 8504. Classification of rural referral centers.
Sec. 8505. Floor on area wage index.
Sec. 8506. Medical education.

SUBPART B—RURAL PHYSICIANS AND OTHER PROVIDERS

Sec. 8511. Provider incentives.
Sec. 8512. National Health Service Corps loan repayments excluded from gross income.
Sec. 8513. Telemedicine payment methodology.
Sec. 8514. Demonstration project to increase choice in rural areas.

PART 2—MEDICARE SUBVENTION

Sec. 8521. Medicare program payments for health care services provided in the military health services system.

Subtitle G—Other Provisions

Sec. 8601. Extension and expansion of existing secondary payer requirements.
Sec. 8602. Repeal of medicare and medicaid coverage data bank.
Sec. 8603. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 8604. Additional exclusion from coverage.
Sec. 8605. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle H—Monitoring Achievement of Medicare Reform Goals

Sec. 8701. Establishment of budgetary and program goals.
Sec. 8702. Medicare Reform Commission.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 8801. Establishment of Medicare Growth Reduction Trust Fund for part B savings.

Subtitle J—Clinical Laboratories

Sec. 8901. Exemption of physician office laboratories.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 8001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

"(B) THROUGH A MEDICARE CHOICE PRODUCT.—Through a Medicare Choice product (as defined in paragraph (2)), which may be—

"(i) a product offered by a provider-sponsored organization,

"(ii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

"(iii) a product providing for benefits on a fee-for-service or other basis.

Such a product may be a high deductible/medisave product (and a contribution into a Medicare Choice medical savings account (MSA)) under the demonstration project provided under section 1859.

"(2) MEDICARE CHOICE PRODUCT DEFINED.—For purposes this section and part C, the term 'Medicare Choice product' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

"(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

"(A) NON-MEDICARE-CHOICE OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-Medicare Choice option'.

"(B) MEDICARE CHOICE OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a Medicare Choice product is considered to have elected the 'Medicare Choice option' for that product.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice product offered by a Medicare Choice organization only if the organization in relation to the product serves the geographic area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a Medicare Choice product offered by a limited enrollment Medicare Choice organization (as defined in section 1852(c)(4)(D)) only if—

"(i) the individual is eligible under section 1852(c)(4) to make such election, and

"(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a Medicare Choice product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

"(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a Medicare Choice product offered by a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for Medicare Choice products in an area as soon as such products become available in that area.

"(3) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice product offered by a Medicare

Choice organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice product offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-Medicare Choice option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a Medicare Choice organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate Medicare Choice product offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a Medicare Choice product is discontinued, if the individual had elected such product at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the Medicare Choice program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in Medicare Choice products under this section.

"(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the Medicare Choice option during the initial election period described in subsection (e)(1).

"(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which Medicare Choice products are offered:

"(A) INFORMATION BOOKLET.—

"(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the Medicare Choice option under this section during coverage election periods.

"(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

"(I) the benefits (including cost-sharing) and premiums for the various Medicare Choice products in the areas involved;

"(II) the quality of such products, including consumer satisfaction information; and

"(III) rights and responsibilities of medicare beneficiaries under such products.

"(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of Medicare Choice products and the benefits and premiums for such products.

"(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of part C.

"(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the Medicare Choice option provided under this section in the annual notice of medicare benefits under section 1804.

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a Medicare Choice product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a Medicare Choice product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE CHOICE OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-Medicare Choice option may change such election to a Medicare Choice option at any time.

"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product may change such election to another Medicare Choice product or to the non-Medicare Choice option.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MEDICARE CHOICE HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect Medicare Choice products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the Medicare Choice product under such option becomes effective.

"(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a Medicare Choice product offered by a Medicare Choice organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

"(B) in the case of an individual who has elected a Medicare Choice product offered by a Medicare Choice organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a Medicare Choice option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a Medicare Choice organization under section 1858(a) with respect to an individual electing a Medicare Choice product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(h) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approaches to coordinated open enrollments in different markets, including different annual enrollment periods and models of rolling open enrollment periods. The Secretary may waive previous provisions of this section in order to carry out such projects.".

SEC. 8002. MEDICARE CHOICE PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

"SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'Medicare Choice organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

"(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—A Medicare Choice organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice product.

"(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)).

"(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Subject to paragraph (5), paragraph (1) shall not apply to a Medicare Choice organization that is a provider-sponsored organization (as defined in section 1854(a)).

"(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a Medicare Choice organization that is a qualified association (as defined in section 1852(c)(4)(B)).

"(5) LIMITATION.—Effective on and after January 1, 2000, paragraph (1) shall only apply (and paragraph (3) shall no longer apply) to a Medicare Choice organization in a State if the standards for licensure of the organization under the law of the State are identical to the standards established under section 1856(b).

"(c) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(d) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)) or a qualified association (as defined in section 1852(c)(4)(B)), this subsection shall not apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(e) PROVISION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—Each Medicare Choice organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of Medicare Choice products offered by the organization.

"(2) TREATMENT OF TAFT-HARTLEY SPONSORS.—An entity that is a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to Medicare Choice products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

"SEC. 1852. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—Each Medicare Choice product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

"(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(3) SATISFACTION OF REQUIREMENT.—A Medicare Choice product offered by a Medicare Choice organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) NON-MEDICARE CHOICE LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-Medicare Choice option.

"(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-Medicare Choice option) of the payment rate provided under the contract.

"(b) ANTIDISCRIMINATION.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(c) GUARANTEED ISSUE AND RENEWAL.—

"(1) In general.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under section 1805 with respect to a Medicare Choice product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) Priority.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

"(A) first to such individuals as have elected the product at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

"(3) Limitation on termination of election.—

"(A) In general.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under section 1805 for a Medicare Choice product it offers.

"(B) Basis for termination of election.—A Medicare Choice organization may terminate an individual's election under section 1805 with respect to a Medicare Choice product it offers if—

"(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-Medicare Choice option (as defined in section 1805(a)(3)(A)).

"(C) Organization obligation with respect to election forms.—Pursuant to a contract under section 1858, each Medicare Choice organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(4) Special rules for limited enrollment Medicare Choice organizations.—

"(A) Taft-Hartley sponsors.—

"(i) In general.—Subject to subparagraph (D), a Medicare Choice organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

"(ii) Taft-Hartley sponsor.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(B) Qualified associations.—

"(i) In general.—Subject to subparagraph (D), a Medicare Choice organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) Limitation on termination of coverage.—Such a qualifying association offering a Medicare Choice product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(iii) Qualified association.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

"(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

"(II) does not exist solely or principally for the purpose of selling insurance, and

"(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(C) Unions.—

"(i) In general.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(ii) Union sponsor.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(D) Limitation.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) Limited enrollment Medicare Choice organization.—In this part and section 1805, the term 'limited enrollment Medicare Choice organization' means a Medicare Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

"(F) Employer, etc.—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(d) Submission and Charging of Premiums.—

"(1) In general.—Each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premiums for coverage under each Medicare Choice product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

"(B) the enrollment capacity in relation to the product in each such area.

"(2) Amounts of premiums charged.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

"(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

"(B) 1/12 of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

"(3) Uniform premium.—The premiums charged by a Medicare Choice organization under this part may not vary among individuals who reside in the same payment area.

"(4) Terms and conditions of imposing premiums.—Each Medicare Choice organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice product for failure to make premium payments only in accordance with subsection (c)(3)(B).

"(5) Relation of premiums and cost-sharing to benefits.—In no case may the portion of a Medicare Choice organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization.

"(e) Requirement for Additional Benefits, Part B Premium Discount Rebates, or Both.—

"(1) Requirement.—

"(A) In general.—Each Medicare Choice organization (in relation to a Medicare Choice product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) Excess amount.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

"(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

"(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(3) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

"(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice products offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—Each Medicare Choice organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(g) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

"(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PRODUCT.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its medicaid program under title XIX with those provided under a Medicare Choice product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

"PATIENT PROTECTION STANDARDS

"SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A Medicare Choice organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each Medicare Choice product it offers:

"(1) Benefits under the Medicare Choice product offered, including exclusions from coverage.

"(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(3) Potential liability for cost-sharing for out-of-network services.

"(4) The number, mix, and distribution of participating providers.

"(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

"(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

"(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

"(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

"(b) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

"(D) coverage is provided for emergency services (as defined in paragraph (5)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a Medicare Choice product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

"(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

"(B) the amount charged by the entity furnishing such items and services.

"(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of physicians' services or renal dialysis services described in subparagraph (C) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with a Medicare Choice organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of physicians' services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a Medicare Choice organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this subparagraph are physicians' services or renal dialysis services which are furnished to an enrollee of a Medicare Choice organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

"(4) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides covered services through a network of providers shall provide coverage of services provided by a provider that is not part of the network if the service cannot be provided by a provider that is part of the network and the organization authorized the service directly or through referral by the primary care physician who is designated by the organization for the individual involved.

"(5) EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital, and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (6)) until the condition is stabilized.

"(6) EMERGENCY MEDICAL CONDITION.—In paragraph (5), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(7) PROTECTION AGAINST BALANCE BILLING.—The limitations on billing that apply to a provider (including a physician) under parts A and B in the case of an individual electing the non-Medicare Choice option shall apply to an individual who elects the Medicare Choice option in the case of any provider that (under the Medicare Choice option) may bill the enrollee directly for for services.

"(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(d) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluates the continuity and coordination of care that enrollees receive;

"(F) has mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establishes or alters practice parameters;

"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) is evaluated on an ongoing basis as to its effectiveness; and

"(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

"(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

"(e) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(f) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

"(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

"(g) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—Each Medicare Choice organization may not distribute marketing materials unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a Medicare Choice product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards in relation to Medicare Choice products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

"(i) ADDITIONAL STANDARDIZED INFORMATION ON QUALITY, OUTCOMES, AND OTHER FACTORS.—

"(1) IN GENERAL.—In addition to any other information required to be provided under this part, each Medicare Choice organization shall provide the Secretary (at a time, not less frequently than annually, and in an electronic, standardized form and manner specified by the Secretary) such information as the Secretary determines to be necessary, consistent with this part, to evaluate the performance of the organization in providing benefits to enrollees.

"(2) INFORMATION TO BE INCLUDED.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

"(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of risk-adjusted payments under section 1855.

"(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and well-being of enrollees.

"(C) Information on health care expenditures and the volume and prices of procedures.

"(D) Information on the flexibility permitted by plans to enrollees in their selection of providers.

"(3) SPECIAL TREATMENT.—The Secretary may waive the provision of such information under paragraph (2), or require such other information, as the Secretary finds appropriate in the case of a newly established Medicare Choice organization for which such information is not available.

"(j) DEMONSTRATION PROJECTS.—The Secretary shall provide for demonstration projects to determine the effectiveness, cost, and impact of alternative methods of providing comparative information about the performance of Medicare Choice organizations and products and the performance of Medicare supplemental policies in relation to such products. Such projects shall include information about health care outcomes resulting from coverage under different products and policies.

"PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1854. (a) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity that (in accordance with standards established under subsection (b)) is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary under such standards) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) PREEMPTION OF STATE INSURANCE LICENSING REQUIREMENTS.—

"(1) IN GENERAL.—This section supersedes any State law which—

"(A) requires that a provider-sponsored organization meet requirements for insurers of health services or health maintenance organizations doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency, or

"(B) imposes requirements that would have the effect of prohibiting the organization from complying with the applicable requirements of this part,

insofar as such the law applies to individuals enrolled with the organization under this part.

"(2) EXCEPTION FOR IDENTICAL STANDARDS.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides the application of standards that are identical to the standards established for provider-sponsored organizations under this part.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

"SEC. 1855. (a) PAYMENTS.—

"(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each Medicare Choice organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted Medicare Choice capitation rate (as provided under subsection (b)) with respect to that individual for that area.

"(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) the annual Medicare Choice capitation rate for each payment area for the year, and

"(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

"(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPITATION RATE.—

"(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted Medicare Choice capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual Medicare Choice capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

"(2) ANNUAL MEDICARE CHOICE CAPITATION RATES.—

"(A) IN GENERAL.—For purposes of this section, the annual Medicare Choice capitation rate for a payment area for a year is equal to the annual Medicare Choice capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

"(B) SPECIAL RULES FOR 1996.—

"(i) FLOOR AT 85 PERCENT OF NATIONAL AVERAGE.—In no case shall the annual Medicare Choice capitation rate for a payment area for 1996 be less than 85 percent of the national average of such rates for such year for all payment areas (weighted to reflect the number of Medicare beneficiaries in each such area).

"(ii) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—In determining the annual Medicare Choice capitation rate for 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded from such rate any amounts which the Secretary estimated would have been payable under this title during the year for—

"(I) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

"(II) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).

"(3) PAYMENT AREA DEFINED.—

"(A) IN GENERAL.—In this section, the term 'payment area' means—

"(i) a metropolitan statistical area, or

"(ii) all areas of a State outside of such an area.

"(B) SPECIAL RULE FOR ESRD BENEFICIARIES.—Such term means, in the case of the population group described in paragraph (5)(C), each State.

"(4) CLASSES.—

"(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

"(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

"(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

"(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

"(c) PER CAPITA GROWTH RATES.—

"(1) FOR 1996.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the below average service utilization cohort, 10.0 percent.

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the above average service utilization cohort, 5.6 percent.

"(iii) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 3.2 percent.

"(B) BUDGET NEUTRAL ADJUSTMENT.—The Secretary shall adjust the per capita growth rates specified in subparagraph (A) for all the areas by such uniform factor as may be necessary to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996.

"(2) FOR SUBSEQUENT YEARS.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT SET AT 143 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the below average service utilization cohort for the year shall be 143 percent of the national average per capita growth rate for the year (as specified under paragraph (3)).

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT SET AT 80 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the above average service utilization cohort for the year shall be 80 percent of the national average per capita growth rate for the year.

"(iii) HIGHEST SERVICE UTILIZATION COHORT SET AT 40 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 40 percent of the national average per capita growth rate for the year.

"(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

"(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

"(A) 1996 is 7.0 percent,

"(B) 1997 is 6.5 percent,

"(C) 1998 is 6.5 percent,

"(D) 1999 is 6.5 percent,

"(E) 2000 is 6.5 percent,

"(F) 2001 is 6.5 percent,

"(G) 2002 is 6.0 percent, and

"(H) each subsequent year is 6.0 percent.

"(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

"(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

"(A) BELOW AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the below average service utilization cohort.

"(B) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.00 but less than 1.20 shall be assigned to the above average service utilization cohort.

"(C) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

"(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

"(A) the annual Medicare Choice capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

"(B) the input-price-adjusted annual national Medicare Choice capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

"(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

"(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national Medicare Choice capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

"(i) the national standardized Medicare Choice capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED MEDICARE CHOICE CAPITATION RATE.—In this paragraph, the 'national standardized Medicare Choice capitation rate' for a year is equal to—

"(i) the sum (for all payment areas) of the product of (I) the annual Medicare Choice capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(e) PAYMENT PROCESS.—

"(1) IN GENERAL.—Subject to section 1859(f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a Medicare Choice organization under this part.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization, and payments to a Medicare Choice MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a Medicare Choice product offered by a Medicare Choice organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice product or Non-Medicare Choice option (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a Medicare Choice organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"ESTABLISHMENT OF STANDARDS FOR MEDICARE CHOICE ORGANIZATIONS AND PRODUCTS

"SEC. 1856. (a) INTERIM STANDARDS.—

"(1) IN GENERAL.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

"(2) SOLICITATION OF VIEWS.—In developing standards under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the American Academy of Actuaries.

"(3) EFFECT ON STATE REGULATIONS.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

"(b) PERMANENT STANDARDS.—

"(1) IN GENERAL.—The Secretary shall develop permanent standards under this subsection.

"(2) CONSULTATION.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and medicare beneficiaries.

"(3) EFFECTIVENESS.—The standards under this subsection shall take effect for periods beginning on or after January 1, 2000.

"(c) SOLVENCY.—In establishing interim and permanent standards under this section relating to solvency of organizations, the Secretary shall recognize the multiple means of demonstrating solvency, including—

"(1) reinsurance purchased through a recognized commerce company or through a captive company owned directly or indirectly by 3 or more provider-sponsored organizations,

"(2) unrestricted surplus,

"(3) guarantees, and

"(4) letters of credit.

In such standards, the Secretary may treat as admitted assets the assets used by a provider-sponsored organization in delivering covered services.

"(d) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(e) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law. The standard or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"MEDICARE CHOICE CERTIFICATION

"SEC. 1857. (a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of organizations and products offered by organizations as meeting the applicable standards for Medicare Choice organizations and Medicare Choice products established under section 1856.

"(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(3) USE OF PRIVATE ACCREDITATION PROCESSES.—

"(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that Medicare Choice organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

"(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

"(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(b) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a Medicare Choice organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

"(c) QUALIFIED ASSOCIATIONS.—In the case of Medicare Choice products offered by a Medicare Choice organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

"CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

"SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a Medicare Choice product offered by a Medicare Choice organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one Medicare Choice product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) ENROLLMENT REQUIREMENTS.—

"(A) MINIMUM ENROLLMENT REQUIREMENT.—Subject to subparagraphs (B) and (C), the Secretary may not enter into a contract under this section with a Medicare Choice organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(B) ALLOWING TRANSITION.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

"(C) TREATMENT OF AREAS WITH LOW MANAGED CARE PENETRATION.—The Secretary may waive the requirement of subparagraph (A) in the case of organizations operating in areas in which there is a low proportion of medicare beneficiaries who have made the Medicare Choice election.

"(2) REQUIREMENT FOR ENROLLMENT OF NON-MEDICARE BENEFICIARIES.—

"(A) IN GENERAL.—Each Medicare Choice organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) an organization that has been certified by a national organization recognized by the Secretary and has been found to have met performance standards established by the Secretary for at least 2 years, or

"(ii) a provider-sponsored organization for which commercial payments to providers participating in the organization exceed the payments to the organization under this part.

"(C) MODIFICATION AND WAIVER.—The Secretary may modify or waive the requirement imposed by subparagraph (A)—

"(i) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

"(ii) in the case of an organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(D) ENFORCEMENT.—If the Secretary determines that an organization has failed to comply with the requirements of this paragraph, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(f) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(f)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a Medicare Choice organization under this section or may impose the intermediate sanctions described in subsection (g) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

"DEMONSTRATION PROJECT FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS

"SEC. 1859. (a) IN GENERAL.—The Secretary shall permit, on a demonstration project basis, the offering of high deductible/medisave products under this part, subject to the special rules provided under this section.

"(b) HIGH DEDUCTIBLE/MEDISAVE PRODUCT DEFINED.—

"(1) IN GENERAL.—In this part, the term 'high deductible/medisave product' means a Medicare Choice product that—

"(A) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the product) equal to the amount of a deductible (described in paragraph (2));

"(B) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

"(C) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in subparagraph (A) in the year, for a level of reimbursement that is not less than—

"(i) 100 percent of such expenses, or

"(ii) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less. Such term does not include the Medicare Choice MSA itself or any contribution into such account.

"(2) DEDUCTIBLE.—The amount of deductible under a high deductible/medisave product—

"(A) for contract year 1997 shall be not more than $10,000; and

"(B) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this paragraph increased by the national average per capita growth rate under section 1855(c)(3) for the year.

If the amount of the deductible under subparagraph (B) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(c) SPECIAL RULES RELATING TO ENROLLMENT.—The rule under section 1805 relating to election of medicare choice products shall apply to election of high deductible/medisave products offered under the demonstration project under this section, except as follows:

"(1) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual is not eligible to elect a high deductible/medisave product under section 1805 if the individual is entitled to benefits under chapter 89 of title 5, United States Code, as an annuitant or spouse of an annuitant.

"(2) TRANSITION PERIOD RULE.—During the transition period (as defined in section 1805(e)(1)(B)), an individual who has elected a high deductible/medisave product may not change such election to a Medicare Choice product that is not a high deductible/medisave product unless the individual has had such election in effect for 12 months.

"(3) NO 90-DAY DISENROLLMENT OPTION.—Paragraph (4)(A) of section 1805(e) shall not apply to an individual who elects a high deductible/medisave product.

"(4) TIMING OF ELECTION.—An individual may elect a high deductible/medisave product only during an annual, coordinated election period described in section 1805(e)(3)(B) or during the month of October, 1996.

"(5) Effectiveness of election.—An election of coverage for a high deductible/medisave product made in a year shall take effect as of the first day of the following year.

"(d) Special Rules Relating to Benefits.—

"(1) In general.—Paragraphs (1) and (3) of section 1852(a) shall not apply to high deductible/medisave products.

"(2) Premiums.—

"(A) Application of alternative premium.—In applying section 1852(d)(2) in the case of a high deductible/medisave product, instead of the amount specified in subparagraph (B) there shall be substituted the monthly adjusted Medicare Choice capitation rate specified in section 1855(b)(1) for the individual and period involved.

"(B) Class adjusted premiums.—Notwithstanding section 1852(d)(3), a Medicare Choice organization shall establish premiums for any high deductible/medisave product it offers in a payment area based on each of the risk adjustment categories established for purposes of determining the amount of the payment to Medicare Choice organizations under section 1855(b)(1) and using the identical demographic and other adjustments among such categories as are used for such purposes.

"(C) Requirement for additional benefits not applicable.—Section 1852(e)(1)(A) shall not apply to a high deductible/medisave product.

"(e) Additional Disclosure.—In any disclosure made pursuant to section 1853(a)(1) for a high deductible/medisave product, the disclosure shall include a comparison of benefits under such a product with benefits under other Medicare Choice products.

"(f) Special Rules for Individuals Electing High Deductible/Medisave Product.—

"(1) In general.—In the case of an individual who has elected a high deductible/medisave product, notwithstanding the provisions of section 1855—

"(A) the amount of the payment to the Medicare Choice organization offering the high deductible/medisave product shall not exceed the premium for the product, and

"(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a Medicare Choice MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) Establishment and designation of medicare choice medical savings account as requirement for payment of contribution.—In the case of an individual who has elected coverage under a high deductible/medisave product, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a Medicare Choice MSA (as defined in section 137(b) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one Medicare Choice MSA, has designated one of such accounts as the individual's Medicare Choice MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) Lump sum deposit of medical savings account contribution.—In the case of an individual electing a high deductible/medisave product effective beginning with a month in a year, the amount of the contribution to the Medicare Choice MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(g) Special Contract Rules.—

"(1) Enrollment requirements waived.—Subsection (b) of section 1858 shall not apply with respect to a contract that relates only to one or more high deductible/medisave products.

"(2) Effective date of contracts.—In no case shall a contract under section 1858 which provides for coverage under a high deductible/medisave account be effective before January 1997 with respect to such coverage.".

(b) Conforming References to Previous Part C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) Use of Interim, Final Regulations.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) Advance Directives.—Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "1853(g)," after "1833(s),", and

(B) by inserting ", Medicare Choice organization," after "provider of services", and

(2) by adding at the end the following new paragraph:

"(4) Nothing in this subsection shall be construed to require the provision of information regarding assisted suicide, euthanasia, or mercy killing.".

(e) Conforming Amendment.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are covered under this title and are furnished to any individual enrolled under part C with a Medicare Choice organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".

SEC. 8003. REPORTS.

(a) Alternative Payment Approaches.—By not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this title referred to as the "Secretary") shall submit to Congress a report on alternative provider payment approaches under the medicare program, including—

(1) combined hospital and physician payments per admission,

(2) partial capitation models for subsets of medicare benefits, and

(3) risk-sharing arrangements in which the Secretary defines the risk corridor and shares in gains and losses.

Such report shall include recommendations for implementing and testing such approaches and legislation that may be required to implement and test such approaches.

(b) Coverage of Retired Workers.—

(1) In general.—The Secretary shall work with employers and health benefit plans to develop standards and payment methodologies to allow retired workers to continue to participate in employer health plans instead of participating in the medicare program. Such standards shall also cover workers covered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

(2) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the development of such standards and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) Transition From Current Contracts.—

(1) Limitation on new contracts.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall not enter into any risk-sharing or cost reimbursement contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for Medicare Choice organizations and products are first established under section 1856(a) of such Act with respect to Medicare Choice organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(2) Termination of current contracts.—

(A) Risk-sharing contracts.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) Cost reimbursement contracts.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) Conforming Payment Rates Under Risk-Sharing Contracts.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(1) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(2) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act.

For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

PART 2—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

SEC. 8011. MEDICARE CHOICE MSA'S.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICARE CHOICE MSA'S.

"(a) Exclusion.—Gross income shall not include any payment to the Medicare Choice MSA of an individual by the Secretary of Health and Human Services under section 1859(f)(1)(B) of the Social Security Act.

"(b) Medicare Choice MSA.—For purposes of this section—

"(1) Medicare choice msa.—The term 'Medicare Choice MSA' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1859(f)(1)(B) of the Social Security Act.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

"(2) Qualified medical expenses.—

"(A) In general.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

"(i) for medical care (as defined in section 213(d)) for the account holder, but only to the extent such amounts are not compensated for by insurance or otherwise, or

"(ii) for long-term care insurance for the account holder.

"(B) Health insurance may not be purchased from account.—Subparagraph (A)(i) shall not apply to any payment for insurance.

"(3) Account holder.—The term 'account holder' means the individual on whose behalf the Medicare Choice MSA is maintained.

"(4) Certain rules to apply.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

"(c) Tax Treatment of Accounts.—

"(1) In general.—A Medicare Choice MSA is exempt from taxation under this subtitle unless such MSA has ceased to be a Medicare Choice MSA by reason of paragraph (2). Notwithstanding the preceding sentence, any such MSA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Account assets treated as distributed in the case of prohibited transactions or account pledged as security for loan.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to Medicare Choice MSA's, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(d) Tax Treatment of Distributions.—

"(1) Inclusion of amounts not used for qualified medical expenses.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a Medicare Choice MSA which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a Medicare Choice MSA which is not so used shall be included in the gross income of such holder.

"(2) Penalty for distributions not used for qualified medical expenses if minimum balance not maintained.—

"(A) In general.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare Choice MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in the Medicare Choice MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the catastrophic health plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

"(B) Exceptions.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) Special rules.—For purposes of subparagraph (A)—

"(i) all Medicare Choice MSA's of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Withdrawal of erroneous contributions.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a Medicare Choice MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) Trustee-to-trustee transfers.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a Medicare Choice MSA of an account holder to another Medicare Choice MSA of such account holder.

"(5) Coordination with medical expense deduction.—For purposes of section 213, any payment or distribution out of a Medicare Choice MSA for qualified medical expenses shall not be treated as an expense paid for medical care.

"(e) Treatment of Account After Death of Account Holder.—

"(1) Treatment if designated beneficiary is spouse.—

"(A) In general.—In the case of an account holder's interest in a Medicare Choice MSA which is payable to (or for the benefit of) such holder's spouse upon the death of such holder, such Medicare Choice MSA shall be treated as a Medicare Choice MSA of such spouse as of the date of such death.

"(B) Special rules if spouse not medicare eligible.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such Medicare Choice MSA, other than payments attributable to periods before such date,

"(ii) in applying subsection (b)(2) with respect to such Medicare Choice MSA, references to the account holder shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse, and

"(iii) in lieu of applying subsection (d)(2), the rules of section 220(f)(2) shall apply.

"(2) Treatment if designated beneficiary is not spouse.—In the case of an account holder's interest in a Medicare Choice MSA which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(A) such account shall cease to be a Medicare Choice MSA as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such holder, in such holder's gross income for last taxable year of such holder.

"(f) Reports.—

"(1) In general.—The trustee of a Medicare Choice MSA shall make such reports regarding such account to the Secretary and to the account holder with respect to—

"(A) the fair market value of the assets in such Medicare Choice MSA as of the close of each calendar year, and

"(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

"(2) Time and manner of reports.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account holder—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations."

(b) Exclusion of Medicare Choice MSA's From Estate Tax.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICARE CHOICE MSA'S.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any Medicare Choice MSA (as defined in section 137(b)) included in the gross estate."

(c) Tax on Prohibited Transactions.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(5) Special rule for Medicare Choice MSA's.—An individual for whose benefit a

Medicare Choice MSA (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a Medicare Choice MSA by reason of the application of section 137(c)(2) to such account."

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d),

"(E) a Medicare Choice MSA described in section 137(b), or

"(F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(d) FAILURE TO PROVIDE REPORTS ON MEDICARE CHOICE MSA'S.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

"(B) section 220(h) (relating to medical savings accounts), and

"(C) section 137(f) (relating to Medicare Choice MSA's)."

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. Medicare Choice MSA's.

"Sec. 138. Cross references to other Acts."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions."

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. Medicare Choice MSA's."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under section 1852(e)(1)(A) of the Social Security Act during the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

SEC. 8021. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS.

(a) RULE OF REASON STANDARD.—In any action under the antitrust laws, or under any State law similar to the antitrust laws—

(1) the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a Medicare Choice PSO product, and

(2) the conduct of any member of such network for the purpose of providing such health care services under such contract to such extent,

shall not be deemed illegal per se. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) HEALTH CARE PROVIDER.—The term "health care provider" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(3) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a Medicare Choice PSO product including services related to the delivery or administration of such service.

(4) MEDICARE CHOICE PROGRAM.—The term "Medicare Choice program" means the program under part C of title XVIII of the Social Security Act.

(5) MEDICARE CHOICE PSO PRODUCT.—The term "Medicare Choice PSO product" means a Medicare Choice product offered by a provider-sponsored organization under part C of title XVIII of the Social Security Act.

(6) PROVIDER SERVICE NETWORK.—The term "provider service network" means an organization that—

(A) is organized by, operated by, and composed of members who are health care providers and for purposes that include providing health care services,

(B) is funded in part by capital contributions made by the members of such organization,

(C) with respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a Medicare Choice PSO product—

(i) requires all members of such organization who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

(ii) receives the compensation paid for the health care services of such type provided under such contract by such members, and

(iii) provides for the distribution of such compensation,

(D) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in such product, along with internal procedures to correct identified deficiencies relating to such methods and such services,

(E) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a program to monitor and control utilization of health care services provided under such product, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

(F) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in such product, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

(G) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a grievance and appeal process for such organization designed to review and promptly resolve beneficiary or patient grievances and complaints.

Such term may include a provider-sponsored organization.

(7) PROVIDER-SPONSORED ORGANIZATION.—The term "provider-sponsored organization" means a Medicare Choice organization under the Medicare Choice program that is a provider-sponsored organization (as defined in section 1854(a)(1) of the Social Security Act).

(8) STATE.—The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(c) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of subsection (a).

PART 4—COMMISSIONS

SEC. 8031. MEDICARE PAYMENT REVIEW COMMISSION.

(a) IN GENERAL.—Title XVIII, as amended by section 8001(a), is amended by inserting after section 1805 the following new section:

"MEDICARE PAYMENT REVIEW COMMISSION

"SEC. 1806. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) GENERAL DUTIES AND REPORTS.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title. By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program. The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. The Secretary shall respond to recommendations of the Commission in notices of rulemaking proceedings under this title.

"(2) SPECIFIC DUTIES RELATING TO MEDICARE CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare Choice program under part C—

"(A) the appropriateness of the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas,

"(B) the appropriateness of the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries,

"(C) the implications of risk selection both among Medicare Choice organizations and between the Medicare Choice option and the non-Medicare Choice option,

"(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare Choice organizations,

"(F) the impact of the Medicare Choice program on access to care for medicare beneficiaries, and

"(G) other major issues in implementation and further development of the Medicare Choice program.

"(3) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

"(B) payment methodologies; and

"(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

"(4) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(3) CONSIDERATIONS IN INITIAL APPOINTMENT.—To the extent possible, in first appointing members to the Commission the Comptroller General shall consider appointing individuals who (as of the date of the enactment of this section) were serving on the Prospective Payment Assessment Commission or the Physician Payment Review Commission.

"(4) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(6) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment

Review Commission" and inserting "Medicare Payment Review Commission".

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (2)(C), (9)(D), and (14)(C)(i) and inserting "Medicare Payment Review Commission".

(iii) Section 1848 (42 U.S.C. 1395w@4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A)of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than March 31, 1996.

(2) TRANSITION.—Effective on a date (not later than 30 days after the date a majority of members of the MPRC have first been appointed, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), and amendments made by subsection (b), are terminated. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

SEC. 8032. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) The most efficient and effective manner of administering the program, including the appropriateness of continuing the enforcement of medicare budget targets under section 8701 for fiscal years after fiscal year 2002 and the appropriate long-term growth rates for contributions electing coverage under Medicare Choice under part C of title XVIII of such Act.

(C) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(D) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(E) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(C) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(2) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

PART 5—PREEMPTION OF STATE ANTI-MANAGED CARE LAWS

SEC. 8041. PREEMPTION OF STATE LAW RESTRICTIONS ON MANAGED CARE ARRANGEMENTS.

(a) LIMITATION ON RESTRICTIONS ON NETWORK PLANS.—Effective as of January 1, 1997—

(1) a State may not prohibit or limit a carrier or group health plan providing health coverage from including incentives for enrollees to use the services of participating providers;

(2) a State may not prohibit or limit such a carrier or plan from limiting coverage of services to those provided by a participating provider, except as provided in section 1013;

(3) a State may not prohibit or limit the negotiation of rates and forms of payments for providers by such a carrier or plan with respect to health coverage;

(4) a State may not prohibit or limit such a carrier or plan from limiting the number of participating providers;

(5) a State may not prohibit or limit such a carrier or plan from requiring that services be provided (or authorized) by a practitioner selected by the enrollee from a list of available participating providers or, except for services of a physician who specializes in obstetrics and gynecology, from requiring enrollees to obtain referral in order to have coverage for treatment by a specialist or health institution; and

(6) a State may not prohibit or limit the corporate practice of medicine.

(b) DEFINITIONS.—In this section:

(1) MANAGED CARE COVERAGE.—The term "managed care coverage" means health coverage to the extent the coverage is provided through a managed care arrangement (as defined in paragraph (3)) that meets the applicable requirements of such section.

(2) PARTICIPATING PROVIDER.—The term "participating provider" means an entity or individual which provides, sells, or leases health care services as part of a provider network (as defined in paragraph (4)).

(3) MANAGED CARE ARRANGEMENT.—The term "managed care arrangement" means, with respect to a group health plan or under health insurance coverage, an arrangement under such plan or coverage under which providers agree to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

(4) PROVIDER NETWORK.—The term "provider network" means, with respect to a group health plan or health insurance coverage, providers who have entered into an agreement described in paragraph (3).

SEC. 8042. PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS.

(a) IN GENERAL.—Effective January 1, 1997, no State law or regulation shall prohibit or regulate activities under a utilization review program (as defined in subsection (b)).

(b) UTILIZATION REVIEW PROGRAM DEFINED.—In this section, the term "utilization review program" means a system of reviewing the medical necessity and appropriateness of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

(c) EXEMPTION OF LAWS PREVENTING DENIAL OF LIFESAVING MEDICAL TREATMENT PENDING TRANSFER TO ANOTHER HEALTH CARE PROVIDER.—Nothing in this subtitle shall be construed to invalidate any State law that has the effect of preventing involuntary denial of life-preserving medical treatment when such denial would cause the involuntary death of the patient pending transfer of the patient to a health care provider willing to provide such treatment.

Subtitle B—Provisions Relating to Regulatory Relief

PART 1—PROVISIONS RELATING TO PHYSICIAN FINANCIAL RELATIONSHIPS

SEC. 8101. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROVISIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and

(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2), as amended by section 152(a) of the Social Security Act Amendments of 1994—

(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";

(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B))," and inserting "subsection (a)(2),"; and

(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.".

SEC. 8102. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

"(B) Items and services furnished by a community pharmacy (as defined in paragraph (1)).

"(C) Magnetic resonance imaging and computerized tomography services.

"(D) Outpatient physical therapy services.".

(b) COMMUNITY PHARMACY DEFINED.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8101(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

"(1) COMMUNITY PHARMACY.—The term 'community pharmacy' means any entity licensed or certified to dispense prescription drugs by the State in which the entity is located (including an entity which dispenses such drugs by mail order).".

(c) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and

(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".

SEC. 8103. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA-1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA-1993.

SEC. 8104. EXCEPTIONS TO PROHIBITION.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.".

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section

1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8101(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";

(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";

(3) in subparagraph (A), by inserting "or part C" after "section 1876";

(4) by striking "or" at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

"(F) which—

"(i) provides health care items or services directly or through one or more subsidiary entities or arranges for the provision of health care items or services substantially through the services of health care providers under contract with the organization, and

"(ii)(I) assumes financial risk for the provision of health services through mechanisms (such as capitation, risk pools, withholds, and per diem payments) or offers its network of contract health providers to an entity (including self-insured employers and indemnity plans) which assumes financial risk for the provision of such health services, or

"(II) has in effect a written agreement with the provider of services under which the provider is at significant financial risk (whether through a withhold, capitation, incentive pool, per diem payments, or similar risk sharing arrangement) for the cost or utilization of services that the provider is obligated to provide.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

"(A) that is furnished—

"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(iii) to a patient of a shared facility physician; and

"(B) that is billed by the referring physician or a group practice of which the physician is a member.".

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8101(b)(6) and section 8102(b), is amended by inserting after paragraph (1) the following new paragraph:

"(2) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".

(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".

(i) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking "an item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 8105. REPEAL OF REPORTING REQUIREMENTS.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (g)(5).

SEC. 8106. PREEMPTION OF STATE LAW.

Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

"(i) PREEMPTION OF STATE LAW.—This section preempts State law to the extent State law is inconsistent with this section.".

SEC. 8107. EFFECTIVE DATE.

Except as provided in section 8103(b), the amendments made by this part shall apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments.

PART 2—ANTITRUST REFORM

SEC. 8111. PUBLICATION OF ANTITRUST GUIDELINES ON ACTIVITIES OF HEALTH PLANS.

(a) IN GENERAL.—The Attorney General shall provide for the development and publication of explicit guidelines on the application of antitrust laws to the activities of health plans. The guidelines shall be designed to facilitate development and operation of plans, consistent with the antitrust laws.

(b) REVIEW PROCESS.—The Attorney General shall establish a review process under which the administrator or sponsor of a health plan (or organization that proposes to administer or sponsor a health plan) may submit a request to the Attorney General to obtain a prompt opinion (but in no event later than 90 days after the Attorney General receives the request) from the Department of Justice on the plan's conformity with the Federal antitrust laws.

SEC. 8112. ISSUANCE OF HEALTH CARE CERTIFICATES OF PUBLIC ADVANTAGE.

(a) ISSUANCE AND EFFECT OF CERTIFICATE.—The Attorney General, after consultation with the Secretary, shall issue in accordance with this section a certificate of public advantage to each eligible health care collaborative activity that complies with the requirements in effect under this section on or after the expiration of the 1-year period that begins on the date of the enactment of this Act (without regard to whether or not the Attorney General has promulgated regulations to carry out this section by such date). Such activity, and the parties to such activity, shall not be liable under any of the antitrust laws for conduct described in such certificate and engaged in by such activity if such conduct occurs while such certificate is in effect.

(b) REQUIREMENTS APPLICABLE TO ISSUANCE OF CERTIFICATES.—

(1) STANDARDS TO BE MET.—The Attorney General shall issue a certificate to an eligible health care collaborative activity if the Attorney General finds that—

(A) the benefits that are likely to result from carrying out the activity outweigh the reduction in competition (if any) that is likely to result from the activity, and

(B) such reduction in competition is necessary to obtain such benefits.

(2) FACTORS TO BE CONSIDERED.—

(A) WEIGHING OF BENEFITS AGAINST REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(A), the Attorney General shall consider whether the activity is likely—

(i) to maintain or to increase the quality of health care by providing new services not currently offered in the relevant market,

(ii) to increase access to health care,

(iii) to achieve cost efficiencies that will be passed on to health care consumers, such as economies of scale, reduced transaction costs, and reduced administrative costs, that cannot be achieved by the provision of available services and facilities in the relevant market,

(iv) to preserve the operation of health care facilities located in underserved geographical areas,

(v) to improve utilization of health care resources, and

(vi) to reduce inefficient health care resource duplication.

(B) NECESSITY OF REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(B), the Attorney General shall consider—

(i) the ability of the providers of health care services that are (or likely to be) affected by the health care collaborative activity and the entities responsible for making payments to such providers to negotiate societally optimal payment and service arrangements,

(ii) the effects of the health care collaborative activity on premiums and other charges imposed by the entities described in clause (i), and

(iii) the availability of equally efficient, less restrictive alternatives to achieve the benefits that are intended to be achieved by carrying out the activity.

(c) ESTABLISHMENT OF CRITERIA AND PROCEDURES.—Subject to subsections (d) and (e), not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary shall establish jointly by rule the criteria and procedures applicable to the issuance of certificates under subsection (a). The rules shall specify the form and content of the application to be submitted to the Attorney General to request a certificate, the information required to be submitted in support of such application, the procedures applicable to denying and to revoking a certificate, and the procedures applicable to the administrative appeal (if such appeal is authorized by rule) of the denial and the revocation of a certificate. Such information may include the terms of the health care collaborative activity (in the case of an activity in existence as of the time of the application) and implementation plan for the collaborative activity.

(d) ELIGIBLE HEALTH CARE COLLABORATIVE ACTIVITY.—To be an eligible health care collaborative activity for purposes of this section, a health care collaborative activity shall submit to the Attorney General an application that complies with the rules in effect under subsection (c) and that includes—

(1) an agreement by the parties to the activity that the activity will not foreclose competition by entering into contracts that prevent health care providers from providing health care in competition with the activity,

(2) an agreement that the activity will submit to the Attorney General annually a report that describes the operations of the activity and information regarding the impact of the activity on health care and on competition in health care, and

(3) an agreement that the parties to the activity will notify the Attorney General and the Secretary of the termination of the activity not later than 30 days after such termination occurs.

(e) REVIEW OF APPLICATIONS FOR CERTIFICATES.—Not later than 90 days after an eligible health care collaborative activity submits to the Attorney General an application that complies with the rules in effect under subsection (c) and with subsection (d), the Attorney General shall issue or deny the issuance of such certificate. If, before the expiration of such 90-day period, the Attorney General may extend the time for issuance for good cause.

(f) REVOCATION OF CERTIFICATE.—Whenever the Attorney General finds that a health care collaborative activity with respect to which a certificate is in effect does not meet the standards specified in subsection (b), the Attorney General shall revoke such certificate.

(g) WRITTEN REASONS; JUDICIAL REVIEW.—

(1) DENIAL AND REVOCATION OF CERTIFICATES.—If the Attorney General denies an application for a certificate or revokes a certificate, the Attorney General shall include in the notice of denial or revocation a statement of the reasons relied upon for the denial or revocation of such certificate.

(2) JUDICIAL REVIEW.—

(A) AFTER ADMINISTRATIVE PROCEEDING.—(i) If the Attorney General denies an application submitted or revokes a certificate issued under this section after an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for review of the record of such denial or revocation.

(ii) As part of the Attorney General's answer, the Attorney General shall file in such court a certified copy of the record on which such denial or revocation is based. The findings of fact of the Attorney General may be set aside only if found to be unsupported by substantial evidence in such record taken as a whole.

(B) DENIAL OR REVOCATION WITHOUT ADMINISTRATIVE PROCEEDING.—If the Attorney General denies an application submitted or revokes a certificate issued under this section without an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for de novo review of such denial or revocation.

(h) EXEMPTION.—A person shall not be liable under any of the antitrust laws for conduct necessary—

(1) to prepare, agree to prepare, or attempt to agree to prepare an application to request a certificate under this section, or

(2) to attempt to enter into any health care collaborative activity with respect to which such a certificate is in effect.

(i) DEFINITIONS.—In this section:

(1) The term "certificate" means a certificate of public advantage authorized to be issued under subsection (a).

(2) The term "health care collaborative activity" means an agreement (whether existing or proposed) between 2 or more providers of health care services that is entered into solely for the purpose of sharing in the provision and coordination of health care services and that involves substantial integration and financial risk-sharing between the parties, but does not include the exchanging of information, the entering into of any agreement, or the engagement in any other conduct that is not reasonably required to carry out such agreement.

(3) The term "health care services" includes services related to the delivery or administration of health care services.

(4) The term "liable" means liable for any civil or criminal violation of the antitrust laws.

(5) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

SEC. 8113. STUDY OF IMPACT ON COMPETITION.

The Attorney General, in consultation with the Chairman of the Federal Trade Commission, annually shall submit to the Congress a report as part of the annual budget oversight proceedings concerning the Antitrust Division of the Department of Justice. The report shall enable the Congress to determine how enforcement of antitrust laws is affecting the formation of efficient, cost-saving joint ventures and if the certificate of public advantage procedure set forth in section 8112 has resulted in undesirable reduction in competition in the health care marketplace. The report shall include an evaluation of the factors set forth in paragraphs (2)(A) and (2)(B) of section 8112(b).

SEC. 8114. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 8115 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 8115. REQUIREMENTS.

The requirements referred to in section 8114 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 8116. DEFINITION.

For purposes of this subtitle, the term 'antitrust laws' has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

PART 3—MALPRACTICE REFORM

Subpart A—Uniform Standards for Malpractice Claims

SEC. 8121. APPLICABILITY.

Except as provided in section 8131, this subpart shall apply to any medical malpractice liability action brought in a Federal or State court, and to any medical malpractice claim subject to an alternative dispute resolution system, that is initiated on or after January 1, 1996.

SEC. 8122. REQUIREMENT FOR INITIAL RESOLUTION OF ACTION THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—

(1) STATE CASES.—A medical malpractice liability action may not be brought in any State court during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under an alternative dispute resolution system certified for the year by the Secretary under section 8132(a), or, in the case of a State in which such a system is not in effect for the year, under the alternative Federal system established under section 8132(b).

(2) FEDERAL DIVERSITY ACTIONS.—A medical malpractice liability action may not be brought in any Federal court under section 1332 of title 28, United States Code, during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under the alternative dispute resolution system referred to in paragraph (1) that applied in the State whose law applies in such action.

(3) CLAIMS AGAINST UNITED STATES.—

(A) ESTABLISHMENT OF PROCESS FOR CLAIMS.—The Attorney General shall establish an alternative dispute resolution process for the resolution of tort claims consisting of medical malpractice liability claims brought against the United States under chapter 171 of title 28, United States Code. Under such process, the resolution of a claim shall occur after the completion of the administrative claim process applicable to the claim under section 2675 of such title.

(B) REQUIREMENT FOR INITIAL RESOLUTION UNDER PROCESS.—A medical malpractice liability action based on a medical malpractice liability claim described in subparagraph (A) may not be brought in any Federal court unless the claim has been initially resolved under the alternative dispute resolution process established by the Attorney General under such subparagraph.

(b) INITIAL RESOLUTION OF CLAIMS UNDER ADR.—For purposes of subsection (a), an action is "initially resolved" under an alternative dispute resolution system if—

(1) the ADR reaches a decision on whether the defendant is liable to the plaintiff for damages; and

(2) if the ADR determines that the defendant is liable, the ADR reaches a decision on the amount of damages assessed against the defendant.

(c) PROCEDURES FOR FILING ACTIONS.—

(1) NOTICE OF INTENT TO CONTEST DECISION.—Not later than 60 days after a decision is issued with respect to a medical malpractice liability claim under an alternative dispute resolution system, each party affected by the decision shall submit a sealed statement to a court of competent jurisdiction indicating whether or not the party intends to contest the decision.

(2) DEADLINE FOR FILING ACTION.—A medical malpractice liability action may not be brought by a party unless—

(A) the party has filed the notice of intent required by paragraph (1); and

(B) the party files the action in a court of competent jurisdiction not later than 90 days after the decision resolving the medical malpractice liability claim that is the subject of the action is issued under the applicable alternative dispute resolution system.

(3) COURT OF COMPETENT JURISDICTION.—For purposes of this subsection, the term "court of competent jurisdiction" means—

(A) with respect to actions filed in a State court, the appropriate State trial court; and

(B) with respect to actions filed in a Federal court, the appropriate United States district court.

(d) LEGAL EFFECT OF UNCONTESTED ADR DECISION.—The decision reached under an alternative dispute resolution system shall, for purposes of enforcement by a court of competent jurisdiction, have the same status in the court as the verdict of a medical malpractice liability action adjudicated in a State or Federal trial court. The previous sentence shall not apply to a decision that is contested by a party affected by the decision pursuant to subsection (c)(1).

SEC. 8123. OPTIONAL APPLICATION OF PRACTICE GUIDELINES.

(a) DEVELOPMENT AND CERTIFICATION OF GUIDELINES.—Each State may develop, for certification by the Secretary, a set of specialty clinical practice guidelines, based on recommended guidelines from national specialty societies, to be updated annually. In the absence of recommended guidelines from such societies, each State may develop such guidelines based on such criteria as the State considers appropriate (including based on recommended guidelines developed by the Agency for Health Care Policy and Research).

(b) PROVISION OF HEALTH CARE UNDER GUIDELINES.—Notwithstanding any other provision of law, in any medical malpractice liability action arising from the conduct of a health care provider or health care professional, if such conduct was in accordance with a guideline developed by the State in which the conduct occurred and certified by the Secretary under subsection (a), the guideline—

(1) may be introduced by any party to the action (including a health care provider, health care professional, or patient); and

(2) if introduced, shall establish a rebuttable presumption that the conduct was in accordance with the appropriate standard of medical care, which may only be overcome by the presentation of clear and convincing evidence on behalf of the party against whom the presumption operates.

SEC. 8124. TREATMENT OF NONECONOMIC AND PUNITIVE DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant and the members of the claimant's family for losses resulting from the injury which is the subject of a medical malpractice liability action may not exceed $500,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) NO AWARD OF PUNITIVE DAMAGES AGAINST MANUFACTURER OF MEDICAL PRODUCT.—In the case of a medical malpractice liability action in which the plaintiff alleges a claim against the manufacturer of a medical product, no punitive or exemplary damages may be awarded against such manufacturer.

(c) JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.—The liability of each defendant for noneconomic damages shall be several only and shall not be joint, and each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the defendant's percentage of responsibility (as determined by the trier of fact).

(d) USE OF PUNITIVE DAMAGE AWARDS FOR OPERATION OF ADR SYSTEMS IN STATES.—

(1) IN GENERAL.—The total amount of any punitive damages awarded in a medical malpractice liability action shall be paid to the State in which the action is brought (or, in a case brought in Federal court, in the State in which the health care services that caused the injury that is the subject of the action were provided), and shall be used by the State solely to implement and operate the State alternative dispute resolution system certified by the Secretary under section 8132 (except as provided in paragraph (2)).

(2) USE OF REMAINING AMOUNTS FOR PROVIDER LICENSING AND DISCIPLINARY ACTIVITIES.—If the amount of punitive damages paid to a State under paragraph (1) for a year is greater than the State's costs of implementing and operating the State alternative dispute resolution system during the year, the balance of such punitive damages paid to the State shall be used solely to carry out activities to assure the safety and quality of health care services provided in the State, including (but not limited to)—

(A) licensing or certifying health care professionals and health care providers in the State; and

(B) carrying out programs to reduce malpractice-related costs for providers volunteering to provide services in medically underserved areas.

(3) MAINTENANCE OF EFFORT.—A State shall use any amounts paid pursuant to paragraph (1) to supplement and not to replace amounts spent by the State for implementing and operating the State alternative dispute resolution system or carrying out the activities described in paragraph (2).

(e) DRUGS AND DEVICES.—

(1)(A) Punitive damages shall not be awarded against a manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) which caused the claimant's harm where—

(i) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(ii) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(B) Subparagraph (A) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(i) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(ii) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(2) PACKAGING.—In a product liability action for harm which is alleged to relate to the adequacy of the packaging (or labeling relating to such packaging) of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer of the drug shall not be held liable for punitive damages unless the drug is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

SEC. 8125. PERIODIC PAYMENTS FOR FUTURE LOSSES.

(a) IN GENERAL.—In any medical malpractice liability action in which the damages awarded for future economic loss exceeds $100,000, a defendant may not be required to pay such damages in a single, lump-sum payment, but may be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based upon projections of when such expenses are likely to be incurred.

(b) WAIVER.—A court may waive the application of subsection (a) with respect to a defendant if the court determines that it is not in the best interests of the plaintiff to receive payments for damages on such a periodic basis.

SEC. 8126. TREATMENT OF ATTORNEY'S FEES AND OTHER COSTS.

(a) REQUIRING PARTY CONTESTING ADR RULING TO PAY ATTORNEY'S FEES AND OTHER COSTS.—

(1) IN GENERAL.—The court in a medical malpractice liability action shall require the party that (pursuant to section 8122(c)(1)) contested the ruling of the alternative dispute resolution system with respect to the medical malpractice liability claim that is the subject of the action to pay to the opposing party the costs incurred by the opposing party under the action, including attorney's fees, fees paid to expert witnesses, and other litigation expenses (but not including court costs, filing fees, or other expenses paid directly by the party to the court, or any fees or costs associated with the resolution of the claim under the alternative dispute resolution system), but only if—

(A) in the case of an action in which the party that contested the ruling is the claimant, the amount of damages awarded to the party under the action is less than the amount of damages awarded to the party under the ADR system; and

(B) in the case of an action in which the party that contested the ruling is the defendant, the amount of damages assessed against the party under the action is greater than the amount of damages assessed under the ADR system.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the party contesting the ruling made under the previous alternative dispute resolution system shows that—

(i) the ruling was procured by corruption, fraud, or undue means,

(ii) there was partiality or corruption under the system,

(iii) there was other misconduct under the system that materially prejudiced the party's rights, or

(iv) the ruling was based on an error of law;

(B) the party contesting the ruling made under the alternative dispute resolution system presents new evidence before the trier of fact that was not available for presentation under the ADR system;

(C) the medical malpractice liability action raised a novel issue of law; or

(D) the court finds that the application of such paragraph to a party would constitute an undue hardship, and issues an order waiving or modifying the application of such paragraph that specifies the grounds for the court's decision.

(3) LIMIT ON ATTORNEYS' FEES PAID.—Attorneys' fees that are required to be paid under paragraph (1) by the contesting party shall not exceed the amount of the attorneys' fees incurred by the contesting party in the action. If the attorneys' fees of the contesting party are based on a contingency fee agreement, the amount of attorneys' fees for purposes of the preceding sentence shall not exceed the reasonable value of those services.

(4) RECORDS.—In order to receive attorneys' fees under paragraph (1), counsel of record in the medical malpractice liability action involved shall maintain accurate, complete records of hours worked on the action, regardless of the fee arrangement with the client involved.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 8127. UNIFORM STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no medical malpractice claim may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered, but in no event may such a claim be initiated after the expiration of the 4-year period that begins on the date on which the alleged injury that is the subject of such claim occurred.

(b) EXCEPTION FOR MINORS.—In the case of an alleged injury suffered by a minor who has not attained 6 years of age, a medical malpractice claim may not be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered or should reasonably have been discovered, but in no event may such a claim be initiated after the date on which the minor attains 12 years of age.

SEC. 8128. SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IN GENERAL.—In the case of a medical malpractice claim relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the claim is brought did not previously treat the claimant for the pregnancy, the trier of fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

SEC. 8129. JURISDICTION OF FEDERAL COURTS.

Nothing in this subpart shall be construed to establish any jurisdiction over any medical malpractice liability action in the district courts of the United States on the basis of sections 1331 or 1337 of title 28, United States Code.

SEC. 8130. PREEMPTION.

(a) IN GENERAL.—The provisions of this subpart shall preempt any State law to the extent such law is inconsistent with such provisions, except that the provisions of this subpart shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this part, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions than those provided in this part.

(b) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subpart shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground in inconvenient forum.

Subpart B—Requirements for State Alternative Dispute Resolution Systems (ADR)

SEC. 8131. BASIC REQUIREMENTS.

(a) IN GENERAL.—A State's alternative dispute resolution system meets the requirements of this section if the system—

(1) applies to all medical malpractice liability claims under the jurisdiction of the courts of that State;

(2) requires that a written opinion resolving the dispute be issued not later than 6 months after the date by which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute, and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Secretary);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system, and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator for Health Care Policy and Research of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

(b) APPLICATION OF MALPRACTICE LIABILITY STANDARDS TO ALTERNATIVE DISPUTE RESOLUTION.—The provisions of subpart A (other than section 8122) shall apply with respect to claims brought under a State alternative dispute resolution system or the alternative Federal system in the same manner as such provisions apply with respect to medical malpractice liability actions brought in the State.

SEC. 8132. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) CERTIFICATION.—

(1) IN GENERAL.—Not later than October 1 of each year (beginning with 1995), the Secretary, in consultation with the Attorney General, shall determine whether a State's alternative dispute resolution system meets the requirements of this subpart for the following calendar year.

(2) BASIS FOR CERTIFICATION.—The Secretary shall certify a State's alternative dispute resolution system under this subsection for a calendar year if the Secretary determines under paragraph (1) that the system meets the requirements of section 8131, including the requirement described in section 8124 that punitive damages awarded under the system are paid to the State for the uses described in such section.

(b) APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.—

(1) ESTABLISHMENT AND APPLICABILITY.—Not later than October 1, 1995, the Secretary, in consultation with the Attorney General, shall establish by rule an alternative Federal ADR system for the resolution of medical malpractice liability claims during a calendar year in States that do not have in effect an alternative dispute resolution system certified under subsection (a) for the year.

(2) REQUIREMENTS FOR SYSTEM.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section 8131(a) shall apply to claims brought under the system;

(B) if the system provides for the resolution of claims through arbitration, the claims brought under the system shall be heard and resolved by arbitrators appointed by the Secretary in consultation with the Attorney General; and

(C) with respect to a State in which the system is in effect, the Secretary may (at the State's request) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of medical malpractice liability claims.

(3) TREATMENT OF STATES WITH ALTERNATIVE SYSTEM IN EFFECT.—If the alternative Federal ADR system established under this subsection is applied with respect to a State for a calendar year, the State shall make a payment to the United States (at such time and in such manner as the Secretary may require) in an amount equal to 110 percent of the costs incurred by the United States during the year as a result of the application of the system with respect to the State.

SEC. 8133. REPORTS ON IMPLEMENTATION AND EFFECTIVENESS OF ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report describing and evaluating State alternative dispute resolution systems operated pursuant to this subpart and the alternative Federal system established under section 8132(b).

(b) CONTENTS OF REPORT.—The Secretary shall include in the report prepared and submitted under subsection (a)—

(1) information on—

(A) the effect of the alternative dispute resolution systems on the cost of health care within each State,

(B) the impact of such systems on the access of individuals to health care within the State, and

(C) the effect of such systems on the quality of health care provided within the State; and

(2) to the extent that such report does not provide information on no-fault systems operated by States as alternative dispute resolution systems pursuant to this part, an analysis of the feasibility and desirability of establishing a system under which medical malpractice liability claims shall be resolved on a no-fault basis.

Subpart C—Definitions

SEC. 8141. DEFINITIONS.

As used in this part:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term "alternative dispute resolution system" means a system that is enacted or adopted by a State to resolve medical malpractice claims other than through a medical malpractice liability action.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and, in the case of an individual who is deceased, incompetent, or a minor, the person on whose behalf such an action is brought.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC DAMAGES.—The term "economic damages" means damages paid to compensate an individual for losses for hospital and other medical expenses, lost wages, lost employment, and other pecuniary losses.

(5) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State.

(6) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(7) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice claim.

(8) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means any civil action brought pursuant to State law in which a plaintiff alleges a medical malpractice claim against a health care provider or health care professional, but does not include any action in which the plaintiff's sole allegation is an allegation of an intentional tort.

(9) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services or the use of a medical product, without regard to the theory of liability asserted, and includes any third-party claim, cross-claim, counter-claim, or contribution claim in a medical malpractice liability action.

(10) MEDICAL PRODUCT.—

(A) IN GENERAL.—The term "medical product" means, with respect to the allegation of a claimant, a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) if—

(i) such drug or device was subject to premarket approval under section 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which is the subject of the claimant's allegation or the adequacy of the packaging or labeling of such drug or device, and such drug or device is approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective under regulations issued by the Secretary of Health and Human Services under section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)).

(B) EXCEPTION IN CASE OF MISREPRESENTATION OR FRAUD.—Notwithstanding subparagraph (A), the term "medical product" shall not include any product described in such subparagraph if the claimant shows that the product is approved by the Food and Drug Administration for marketing as a result of withheld information, misrepresentation, or an illegal payment by manufacturer of the product.

(11) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to compensate an individual for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental

anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses, but does not include punitive damages.

(12) PUNITIVE DAMAGES.—The term "punitive damages" means compensation, in addition to compensation for actual harm suffered, that is awarded for the purpose of punishing a person for conduct deemed to be malicious, wanton, willful, or excessively reckless.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO DETERMINE PAYMENTS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1848(j)(2) (42 U.S.C. 1395w@4(j)(2)) is amended to read as follows:

"(2) FEE SCHEDULE AREA.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the term 'fee schedule area' means, with respect to physicians' services furnished in a State, the State.

"(B) EXCEPTION FOR STATES WITH HIGHEST VARIATION AMONG AREAS.—In the case of the 15 States with the greatest variation in cost associated with physicians' services among various geographic areas of the State (as determined by the Secretary in accordance with such standards as the Secretary considers appropriate), the fee schedule area applicable with respect to physicians' services furnished in the State shall be a locality used under section 1842(b) for purposes of computing payment amounts for physicians' services, except that the Secretary shall revise the localities used under such section so that there are no more than 5 such localities in any State.".

(b) BUDGET-NEUTRALITY REQUIREMENT.—The Secretary of Health and Human Services shall carry out the amendment made by subsection (a) in a manner which ensures that the aggregate amount of payment made for physicians' services under part B of the medicare program in any year does not exceed the aggregate amount of payment which would have been made for such services under part B during the year if the amendment were not in effect.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians' services furnished on or after January 1, 1997.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVIDERS.

(a) FREEZE IN UPDATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in paragraph (2), for purposes of determining the amount to paid for an item or service under title XVIII of the Social Security Act, the percentage increase in any economic index by which a payment amount under title XVIII of the Social Security Act is required to be increased during fiscal year 1996 shall be deemed to be zero.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) to payments for the operating costs of inpatient hospital services of a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act); or

(B) to the determination of hospital-specific FTE resident amounts under section 1886(h) of such Act.

(b) ECONOMIC INDEX.— The term "economic index" includes—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFs AND HHAs.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA-1993 is amended by striking "1994 and 1995" and inserting "1994, 1995, and 1996".

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking "1995" and inserting "1996", and

(ii) by striking "subsection." and inserting "subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).".

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996".

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA-1993 is amended by striking "1996" and inserting "1997".

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking "1996" and inserting "1997", and

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1,1997.".

PART 2—PROVISIONS AFFECTING DOCTORS

SEC. 8211. UPDATING FEES FOR PHYSICIANS' SERVICES.

(a) ESTABLISHMENT OF SINGLE, CUMULATIVE MVPS.— Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in subparagraphs (A) and (C) of paragraph (1), by striking "rates of increase for all physicians' services and for each category of such services" each place it appears and inserting "rate of increase for all physicians' services (and, in the case of fiscal years beginning before fiscal year 1996, for each category of such services)"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "IN GENERAL.—" and inserting "FISCAL YEARS 1991 THROUGH 1995.—",

(ii) in the matter preceding clause (i), by striking "a fiscal year (beginning with fiscal year 1991)" and inserting "fiscal years 1991 through 1995", and

(iii) in the matter following clause (iv), by striking "subparagraph (B))" and inserting "subparagraph (C))",

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), and

(C) by inserting after subparagraph (A) the following:

"(B) FISCAL YEAR 1996 AND THEREAFTER.—Unless Congress otherwise provides, the performance standard rate of increase for all physicians' services for a fiscal year beginning with fiscal year 1996 shall be equal to the performance standard rate of increase determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services under this part for portions of calendar years included in the fiscal year involved,

"(ii) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the average annual percentage growth (divided by 100) in volume and intensity of all physicians' services under this part for the 5-fiscal-year- period ending with the preceding fiscal year, and

"(iv) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) that are estimated to result from changes in law or regulations affecting the percentage increase described in clause (i) and that is not taken into account in the percentage increase described in clause (i),minus 1, multiplied by 100, and reduced by the performance standard factor (specified in subparagraph (C)).".

(b) ANNUAL UPDATE BASED ON CUMULATIVE PERFORMANCE.—

(1) IN GENERAL.—Section 1848(d)(3)(B) (42 U.S.C. 1395w- 4(d)(3)(B)) is amended—

(A) in clause (i)—

(i) by striking "IN GENERAL.—" and inserting "For 1992 through 1995",

(ii) by striking "for a year" and inserting "for each of the years 1992 through 1995", and

(iii) by striking ", subject to clause (ii)," and inserting "subject to clause (iii),";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) YEARS BEGINNING AFTER 1996.—

"(I) IN GENERAL.—The update for all physicians" services for a year beginning after 1996 provided under subparagraph (A) shall, subject to clause (iii), be increased or decreased by the same percentage by which the cumulative percentage increase in actual expenditures for all physicians' services in the second previous fiscal year over the third previous fiscal year, was less or greater, respectively, than the performance standard rate of increase (established under subsection (f)) for such services for the second previous fiscal year.

"(II) CUMULATIVE PERCENTAGE INCREASE DEFINED.—In subclause (I), the 'cumulative percentage increase in actual expenditures' for a year shall be equal to the product of the adjusted increases for each year beginning with 1995 up to and including the year involved, minus 1 and multiplied by 100. In the previous sentence, the 'adjusted increase' for a year is equal to 1 plus the percentage increase in actual expenditures for the year (over the preceding year).".

(3) ESTABLISHMENT OF CONVERSION FACTOR FOR 1996.—Section 1848(d)(1) (42 U.S.C. 1395w@4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $36.40 for all physicians' services.".

(c) Establishing Upper Limit on MVPS Rewards.—

(1) In general.—Clause (iii) of section 1848(d)(3)(B), as redesignated by subsection (b)(1)(B), is amended by striking "a decrease" and inserting "an increase or decrease".

(2) Effective date.—The amendment made by paragraph (1) shall apply to physicians' services furnished on or after January 1, 1996.

SEC. 8212. USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.

Section 1848(f)(2)(B)(iii) (42 U.S.C. 1395w-4(f)(2)(B)(iii)), as added by section 8211(a)(2)(C), is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS Hospitals.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

"(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and"; and

(2) in subclause (XIII), by striking "1998" and inserting "2003".

(b) PPS-Exempt Hospitals.—

(1) In general.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "thorugh 1997" and inserting "through 1996", and

(ii) by striking "and" at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and".

(2) Conforming amendment.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) Ambulatory Surgical Center Procedures.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) Radiology Services and Diagnostic Procedures.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) Effective Date.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT SERVICES.

(a) In General.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by striking "section 1886)—" and all that follows and inserting the following: "section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;".

(b) Establishment of Prospective Payment System.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) Effective Date.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1996.

SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOSPITALS FOR INPATIENT CAPITAL-RELATED COSTS.

(a) PPS Hospitals.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking "1995" and inserting "1996".

(b) PPS-Exempt Hospitals.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1996.".

SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.

(a) In General.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking "Secretary)" and inserting "Secretary on or before September 30, 1995)".

(b) Recommendations on Appropriate Standards for Long-Term Care Hospitals.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress recommendations for modifications to the standards used by the Secretary to determine whether a hospital (including a distinct part of another hospital) is classified as a long-term care hospital for purposes of determining the amount of payment to the hospital under part A of the medicare program for the operating costs of inpatient hospital services.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.

(a) Additions to Cost Limits.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(b) Use of Interim Final Regulations.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(c) Studies.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(d) Payments Determined on Prospective Basis.—Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

"(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.".

SEC. 8232. LIMITATION OF HOME HEALTH COVERAGE UNDER PART A.

(a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 150 days during any spell of illness;".

(b) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell.".

(c) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5)).''; and

(2) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 1999, 0 percent; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "each of the years 1994 through 1999".

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) in 1996 and each subsequent year, is 90 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 8234. NURSING HOME BILLING.

(a) PAYMENTS FOR ROUTINE SERVICE COSTS.—

(1) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.".

(2) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

(b) INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NONROUTINE SERVICES.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title to the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

"(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) Reconciliation of Amounts.—

"(1) Limit based on per stay limit and number of stays.—

"(A) In general.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(B) Cost reporting period limit.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

"(i) the per stay limit applicable to the facility under subsection (d) for the period; and

"(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

"(C) Prospective reduction in payments.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) Incentive payments.—

"(A) In general.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) Installment incentive payments.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

"(d) Determination of Facility Per Stay Limit.—

"(1) Limit for fiscal year 1997.—

"(A) In general.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

"(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

"(B) Facilities not having 1994 cost reporting period.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) Limit for subsequent fiscal years.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) Rebasing of amounts.—

"(A) In general.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

"(B) Treatment of facilities not having rebased cost reporting periods.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

"(e) Determination of Facility-Specific Stay Amounts.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay (as determined on a per diem basis); and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) Intensive Nursing or Therapy Needs.—

"(1) In general.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) Per stay limit for intensive need residents.—Not later than June 30, 1997, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) Budget neutrality.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) Special Treatment for Small Skilled Nursing Facilities.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(h) Exceptions and Adjustments to Limits.—

"(1) In general.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) Budget neutrality.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(i) Special Rule for X-Ray Services.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.".

(2) Conforming amendment.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 1999".

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) Teaching Hospital and Graduate Medical Education Trust Fund.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

"TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2101. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

"(c) TRANSFERS TO FUND.—

"(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

"(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

"(A) the nationwide total of the amounts that would have been paid under sections 1855 and 1876 during the year but for the operation of section 1855(b)(2)(B)(ii); and

"(B) the nationwide total of the amounts paid under such sections during the year.

"(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.".

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the "Council").

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organizations paid on a capitated basis, see section 1855(b)(2)(B)(ii).

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

"(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount of reductions in payments under section 1855 that are attributable to the operation of subsection (b)(2)(B)(ii) of such section. ".

SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR INDIRECT MEDICAL EDUCATION.

(a) MODIFICATION REGARDING 6.8 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by striking "on or after October 1, 1988," and inserting "on or after October 1, 1999,"; and

(2) by striking "1.89" and inserting "1.68".

(b) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT .—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: "In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.68' is deemed to be 1.48.".

Subtitle D—Provisions Relating to Medicare Beneficiaries

SEC. 8301. PART B PREMIUM.

(a) FREEZE IN PREMIUM FOR 1996.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "December 1995" and inserting "December 1996"; and

(2) in subparagraph (B)(v), by striking "1995" and inserting "1995 and 1996".

(b) ESTABLISHING PREMIUM AT 25 Percent of Program Costs Through 2002.—Section 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by striking "January 1999" and inserting "January 2003".

SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"Sec. 59B. Supplemental Medicare part B premium.

"SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.

"(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare part B premiums (if any) for months during such year that such individual is covered under Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—

"(1) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) of the Social Security Act for such month, over

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(2) ADJUSTING MONTHLY ACTUARIAL RATE BY GEOGRAPHIC AREA.—

"(A) IN GENERAL.—In determining the amount described in paragraph (1)(A) for an individual residing in a premium area, the Secretary shall adjust such amount for a year by a geographic adjustment factor established by the Secretary which reflects the relative benefits and administrative costs payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in the year with respect to enrollees residing in such are compared to the national average of such benefits and costs.

"(B) PREMIUM AREA.—In this paragraph, a 'premium area' means a metropolitan statistical area or the portion of a State outside of any metropolitan statistical area.

"(d) PHASEIN.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $25,000, the amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $25,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) PHASEIN RANGE FOR JOINT RETURNS WHERE BOTH SPOUSES ARE COVERED BY MEDICARE PART B.—In the case of a joint return filed by spouses both of whom are covered by Medicare part B for any month during the taxable year, paragraph (1) shall be applied by substituting '$50,000' for '$25,000'.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000,

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 931 and 933.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the amount imposed by subsection (a) shall be the sum of the amounts so imposed determined separately for each spouse, and

"(B) subsections (a) and (d) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(5) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental Medicare part B premium imposed by this section shall be treated as an amount paid for insurance covering medical care (as defined in section 213(d)).

"(2) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F (other than section 6654), the supplemental Medicare part B premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental Medicare part B premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55."

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the portion of the supplemental Medicare part B premium (as defined in such section 59B) which is attributable to months during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Paragraph (1) of section 6050F(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the Secretary of Health and Human Services in the case of the information specified in subsection (a)(1)(D)."

(4) The heading for section 6050F is amended by inserting "and medicare part b coverage" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII. Supplemental Medicare part B premiums for high-income individuals."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(B) by striking "(nn)" and inserting "(nn)(1)";

(C) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(D) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

"(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).".

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking "and (5)" and inserting "(5)"; and

(B) by striking the period at the end and inserting the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

"(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

"(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

"(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) REVISION OF FREQUENCY.—

"(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

"(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.".

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking "and" at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(III) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(ii) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) PROSTATE CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and".

(2) TESTS DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.".

(3) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(e) DIABETES SCREENING BENEFITS.—

(1) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking "and" at the end of subparagraph (N);

(ii) by striking "and" at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

"(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and".

(B) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

"DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.".

(C) Consultation with Organizations in Establishing Payment Amounts for Services Provided by Physicians.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) Blood-testing strips for individuals with diabetes.—

(A) Including strips as durable medical equipment.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: ", and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);".

(2) Payment for strips based on methodology for inexpensive and routinely purchased equipment.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by adding "or" at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

"(iv) which is a blood-testing strip for an individual with diabetes,".

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

Subtitle E—Medicare Fraud Reduction

SEC. 8401. INCREASING BENEFICIARY AWARENESS OF FRAUD AND ABUSE.

(a) Beneficiary Outreach Efforts.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) Clarification of Requirement to Provide Explanation of Medicare Benefits.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) Provider Outreach Efforts; Publication of Fraud Alerts.—

(1) Special fraud alerts.—

(A) In general.—

(i) Request for special fraud alerts.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) Special fraud alert defined.—In this section, a "special fraud alert" is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) Issuance and publication of special fraud alerts.—

(i) Investigation.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) Criteria for issuance.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subparagraph (C); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(C) Consequences described.—The consequences described in this subparagraph are as follows:

(i) An increase or decrease in access to health care services.

(ii) An increase or decrease in the quality of health care services.

(iii) An increase or decrease in patient freedom of choice among health care providers.

(iv) An increase or decrease in competition among health care providers.

(v) An increase or decrease in the cost to health care programs of the Federal Government.

(vi) An increase or decrease in the potential overutilization of health care services.

(viii) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

(2) Publication of all HCFA fraud alerts in Federal Register.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD AND ABUSE.

(a) Program to Collect Information on Fraud and Abuse.—

(1) Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program.

(2) Payment of portion of amounts collected.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) Program to Collect Information on Program Efficiency.—

(1) Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) Payment of portion of program savings.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAYMENTS.

(a) Requiring Billing and Payment to be Based on Site Where Service Furnished.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished during cost reporting periods beginning on or after October 1, 1995.

SEC. 8404. SKILLED NURSING FACILITIES.

(a) Clarification of Treatment of Hospital Transfers.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) Establishment of Medicare Integrity Program.—Title XVIII, as amended by section 8231(d), is further amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

"(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

"(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

"(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

"(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

"(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

"(B) fines imposed under section 1128B arising out of a claim under this title, and

"(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

"(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

"(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 1895(g)".

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1894, as added by subsection (a), is amended by adding at the end the following new subsection:

"(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and conumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish not less than three demonstration projects under which organizations with a contract under section 1816 or section 1842 of the Social Security Act—

(1) identify practitioners and providers whose patterns of providing care to beneficiaries enrolled under title XVIII of the Social Security Act are consistently outside the norm for other practitioners or providers of the same category, class, or type, and

(2) experiment with ways of identifying fraudulent claims submitted to the program established under such title before they are paid.

(b) DURATION OF PROJECTS.—Each project established under subsection (a) shall last for at least 18 months and shall focus on those categories, classes, or types of providers and practitioners that have been identified by the Inspector General of the Department of Health and Human Services as having a high incidence of fraud and abuse.

(c) REPORT.—Not later than July 1, 1997, the Secretary shall report to the Congress on the demonstration projects established under subsection (a), and shall include in the report an assessment of the effectiveness of, and any recommended legislative changes based on, the projects.

SEC. 8407. REPORT ON COMPETITIVE PRICING.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall submit to Congress a report recommending legislative changes to the medicare program to enable the prices paid for items and services under the medicare program to be established on a more competitive basis.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

Subpart A—Rural Hospitals

SEC. 8501. SOLE COMMUNITY HOSPITALS.

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking "and" at the end; and

(B) by striking subclause (IV) and inserting the following:

"(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

"(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 8502. CLARIFICATION OF TREATMENT OF EAC AND RPC HOSPITALS.

Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i@4(i)) are each amended by striking the semicolon at the end and inserting the following: ", or in a State which the Secretary finds would receive a grant under such subsection during a fiscal year if funds were appropriated for grants under such subsection for the fiscal year;".

SEC. 8503. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(2) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(b) COVERAGE AND PAYMENT UNDER PART B.—

(1) COVERAGE UNDER PART B.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)) is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) Prohibiting Denial of Request for Reclassification on Basis of Comparability of Wages.—

(1) In general.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) Effective date.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) Continuing Treatment of Previously Designated Centers.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8505. FLOOR ON AREA WAGE INDEX.

(a) In General.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) Budget-Neutrality in Implementation.—The Secretary of Health and Human Services shall make any adjustments required under subsection (a) in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year without such adjustments.

SEC. 8506. MEDICAL EDUCATION.

(a) State and Consortium Demonstration Projects.—

(1) In general.—

(A) Participation of states and consortia.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with paragraph (4)—

(i) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in subsection (b); and

(ii) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(B) Exclusion of consortia in participating states.—A consortia may not receive payments under the demonstration project under subparagraph (A)(ii) if any of its members is located in a State receiving payments under the project under subparagraph (A)(i).

(2) Applications.—

(A) In general.—Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in subsection (b). In the case of an application of a State, the application shall include—

(i) information demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(ii) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project; and

(iii) an explanation of a plan for evaluating the impact of the project in the State.

(B) Approval of applications.—A State or consortium that submits an application under subparagraph (A) may begin a demonstration project under this subsection—

(i) upon approval of such application by the Secretary; or

(ii) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(C) Notice and comment.—A State or consortium shall issue a public notice on the date it submits an application under subparagraph (A) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(3) Specific requirements for participants.—

(A) Requirements for states.—Each State participating in the demonstration project under this section shall use the payments provided under paragraph (4) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(i) Use of alternative weighting factors.—

(I) In general.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(II) Use of payments for primary care residents.—In applying different weighting factors under subclause (I), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) Payments for medical education through consortium.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium) that is established in the State but that is not otherwise participating in the demonstration project.

(B) Requirements for consortium.—

(i) In general.—In the case of a consortium participating in the demonstration project under this section, the Secretary shall make payments for graduate medical education costs through a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) Use of payments.—

(I) In general.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(II) Payments to participating programs.—The consortium shall ensure that the majority of the payments received under clause (i) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(4) Allocation of portion of medicare GME payments for activities under project.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) In the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the State an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(5) DURATION.—A demonstration project under this subsection shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(6) EVALUATIONS AND REPORTS.—

(A) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(B) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(7) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(b) GOALS FOR PROJECTS.—The goals referred to in this subsection for a State or consortium participating in the demonstration project under this section are as follows:

(1) The training of an equal number of physician and nonphysician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

(c) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term "health care training consortium" means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term "primary care" means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term "rural area" has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

Subpart B—Rural Physicians and Other Providers

SEC. 8511. PROVIDER INCENTIVES.

(a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.—

(1) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(3) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(4) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary not later than 30 days after the end of the contract year on the types of providers to whom the carrier made additional payments during the year for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers during the year; and".

(5) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting and retaining physicians to provide services in such areas.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), and shall include in the report such recommendations as the Secretary considers appropriate.

(6) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (4) shall apply to physicians' services furnished on or after January 1, 1996.

(b) DEVELOPMENT OF MODEL STATE SCOPE OF PRACTICE LAW.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(2) DEADLINE.—The Secretary shall publish the model law developed under paragraph (1) not later than 1 year after the date of the enactment of this Act.

SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.
"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

SEC. 8514. DEMONSTRATION PROJECT TO INCREASE CHOICE IN RURAL AREAS.

The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall conduct a demonstration project to assess the advantages and disadvantages of requiring Medicare Choice organizations under part C of title XVIII of the Social Security Act (as added by section 8002(a)) to market Medicare Choice products in certain underserved areas which are near the standard service area for such products.

PART 2—MEDICARE SUBVENTION

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) PAYMENTS UNDER MEDICARE RISK CONTRACTS PROGRAM.—

(1) CURRENT PROGRAM.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k) Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States

Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other eligible organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other eligible organizations with risk sharing contracts under this section.".

(2) Medicare choice program.—Section 1855, as inserted by section 8002(a), by adding at the end the following new subsection:

"(h) Payments to Military Program.—Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered a Medicare Choice organization under this part, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other Medicare Choice organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other Medicare Choice organizations with contracts in effect under this part.".

(b) Temporary Provision for Waiver of Part B Premium Penalty.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(h) The premium increase required by subsection (b) shall not apply with respect to a person who is enrolled with a managed care plan that is established by the Secretary of Defense under chapter 55 of title 10, United States Code, and is recognized as an eligible organization pursuant to section 1855(h) or section 1876(k), if such person first enrolled in such plan prior to January 1, 1998.".

(c) Payments Under Part A of Medicare.—Section 1814(c) (42 U.S.C. 1395f(c)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.".

(d) Payments Under Part B of Medicare.—Section 1835(d) (42 U.S.C. 1395n(d)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.".

(e) Conforming Amendments to the Third Party Collection Program for Military Medical Facilities.—(1) Section 1095(d) of title 10, United States Code, is amended—

(A) by striking "XVIII or"; and

(B) by striking "1395" and inserting "1396".

(2) Section 1095(h)(2) of such title is amended by inserting after "includes" the following: "plans administered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),".

(f) Effective Date.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

Subtitle G—Other Provisions

SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) Data Match.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) Application to Disabled Individuals in Large Group Health Plans.—

(1) In general.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) Conforming amendments.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) Expansion of Period of Application to Individuals With End Stage Renal Disease.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "24-month", and

(2) by striking the second sentence.

SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) In General.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) Conforming Amendments.—

(1) Medicare.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under—" and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) Medicaid.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "including the use of" and all that follows through "any additional measures".

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) Data matches.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding "; or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) Coverage.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of either an approved device or a covered procedure.

(b) Clarification of Payment Amount.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient or outpatient hospital services (including outpatient diagnostic imaging services) for which payment may be made under the program may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device or a covered procedure.

(c) Definitions.—In this section—

(1) the term "approved device" means a medical device (or devices) which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means—

(A) a medical device or devices (other than a device described in paragraph (1)) approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act, or

(B) a product authorized for use under section 505(i) of the Federal Food, Drug, and Cosmetic Act which includes the use of a medical device (or devices) or an investigational combination product under section 503(g) of such Act which includes a device (or devices) authorized for use under section 505(i) of such Act.

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) In General.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) In General.—

(1) Application of hospital insurance tax.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) Coverage under medicare.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) Effective date.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) Transition in Benefits for State and Local Government Employees and Former Employees.—

(1) In general.—

(A) Employees newly subject to tax.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) Medicare qualified state or local government employment defined.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) Authorization of appropriations.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) Information to individuals who are prospective medicare beneficiaries based on state and local government employment.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) Technical Amendments.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1996.

Subtitle H—Monitoring Achievement of Medicare Reform Goals

SEC. 8701. ESTABLISHMENT OF BUDGETARY AND PROGRAM GOALS.

(a) In General.—The Secretary shall establish program budgetary and program goals for the medicare program consistent with this section.

(b) Budgetary Goals.—The budgetary goal is to restrict total outlays under the medicare program as follows:

(1) For fiscal year 1996, $173,500,000,000.
(2) For fiscal year 1997, $187,300,000,000.
(3) For fiscal year 1998, $200,800,000,000.
(4) For fiscal year 1999, $215,200,000,000.
(5) For fiscal year 2000, $220,500,000,000.
(6) For fiscal year 2001, $248,000,000,000.
(7) For fiscal year 2002, $267,100,000,000.

(c) Program Goals.—The program goals shall be consistent with the following:

(1) There should be an equitable distribution of funds between per beneficiary spending on payments to Medicare Choice organizations under part C of the medicare program and on payments to providers on a fee-for-service basis under parts A and B of the program.

(2) Payments to Medicare Choice organizations should be established in a manner that promotes the availability of Medicare Choice products in all regions of the country and that permits such organizations to offer adequate coverage.

SEC. 8702. MEDICARE REFORM COMMISSION.

(a) Establishment.—There is established a commission to be known as the Medicare Reform Commission (in this section referred to as the "Commission").

(b) Duties.—

(1) In general.—The Commission shall examine how the medicare program has met the budgetary and program goals established under section 8701.

(2) Periodic reports.—

(A) In general.—The Commission shall issue a report on April 1, 1998, and on March 1 of every third subsequent year, on the status of the medicare program in relation to the budgetary and program goals specified in section 8601.

(B) Contents.—Each report shall include the following information about the medicare program in the most recent fiscal year and projects for the succeeding 3 fiscal years:

(i) The actuarial value of the traditional medicare benefit package.

(ii) The projected rate of growth of outlays under the traditional medicare program.

(iii) The ability of Medicare Choice organizations to offer an adequate benefit package under part C of the medicare program.

(iv) The extent of Medicare Choice products made available to medicare beneficiaries in the different regions of the country.

(3) Recommendations.—

(A) In general.—If a report under paragraph (2) finds that any of the following problems exists, the Commission shall include recommendations to respond to the problem:

(i) The actuarial value of the traditional medicare benefit package exceeds the payment rate under the Medicare Choice program.

(ii) The rate of growth of the traditional medicare program under parts A and B is projected to result in medicare outlays exceeding the outlay targets specified in section 8701.

(iii) The payments under the Medicare Choice program are not sufficient to allow contractors to provide an adequate benefit package.

(iv) The selection of Medicare Choice products are limited or not available in parts of the country.

(B) Types of recommendations.—The recommendations provided under subparagraph (A) may include—

(i) in response to the problem described in subparagraph (A)(ii), reduction in payments to providers under parts A and B or an increase in cost sharing by beneficiaries; and

(ii) in response to the problems described in subparagraphs (A)(iii) and (A)(iv), an adjustment to payment rates to Medicare Choice organizations.

Such recommendations may not include any change that is inconsistent with attaining the outlay targets specified under section 8701.

(4) Presidential response.—If the Commission reports under this subsection that the goals established in section 8701 are not met (or projects that such goals will not be met for during a 3-year period), the President shall submit to Congress, within 90 days after the date of submission of the report, specific legislative recommendations to correct the problem. Such recommendations may include those described in paragraph (3)(B) and may not include any any change that is inconsistent with attaining the outlay targets specified under section 8701.

(5) Congressional consideration.—

(A) In general.—The President's recommendations submitted under paragraph (4) shall not apply unless a joint resolution (described in subparagraph (B)) approving such recommendations is enacted, in accordance with the provisions of subparagraph (C), before the end of the 60-day period beginning on the date on which a report containing such recommendations is submitted by the President under paragraph (4). For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(B) Joint resolution of approval.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the report described in subparagraph (A) is submitted and—

(i) which does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: "That Congress approves the recommendations of the President under section 8702(b)(4) of the Medicare Preservation Act, as submitted by the President on __________.", the blank space being filled in with the appropriate date; and

(iii) the title of which is as follows: "Joint resolution approving Presidential recommendations submitted under section 8702(b)(4) of the Medicare Preservation Act, as submitted by the President on __________.", the blank space being filled in with the appropriate date.

(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on Ways and Means and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Finance of the Senate; and

(ii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the President submits the recommendations under paragraph (4).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 5 members appointed by the President, of which 4 of whom are appointed from a list (of at least 5 nominees) submitted by each of the following:

(A) The Speaker of the House of Representatives.

(B) The Minority Leader of the House of Representatives.

(C) The Majority Leader of the Senate.

(D) The Minority Leader of the Senate.

(2) TERM OF SERVICE.—Each member of the Commission shall serve for a term of 3 years. Members may be reappointed for additional terms.

(3) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(5) QUORUM.—A quorum shall consist of 3 members of the Commission, except that 2 members may conduct a hearing under subsection (e).

(6) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(7) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission. In particular, the Administrator of the Health Care Financing Administration and the Director of the Office of Management and Budget shall provide the Commission with access to data for the conduct of its work.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

SEC. 8801. ESTABLISHMENT OF MEDICARE GROWTH REDUCTION TRUST FUND FOR PART B SAVINGS.

Part B of title XVIII is amended by inserting after section 1841 the following new section:

"MEDICARE GROWTH REDUCTION TRUST FUND

"SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Growth Reduction Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the Secretary's estimate of the reductions in expenditures under this part that are attributable to the Medicare Preservation Act of 1995. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund.

"(3)(A) Subject to subparagraph (B), with respect to monies transferred to the Trust Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(B) Beginning with fiscal year 2003, the Secretary may expend funds in the Trust Fund to carry out this title, but only to the extent provided by Congress in advance through a specific amendment to this section.

"(b) The provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Supplementary Medical Insurance Trust Fund.".

Subtitle J—Clinical Laboratories

SEC. 8901. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

"(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

"(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

"(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).";

(2) in paragraph (3) (as so redesignated) by striking "(3)" and inserting "(4)"; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking "(2)" and inserting "(3)".

TITLE X—WELFARE REFORM

SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Temporary Employment Assistance

SEC. 9101. STATE PLAN.

(a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part A and inserting the following:

"PART A—TEMPORARY EMPLOYMENT ASSISTANCE

"SEC. 400. APPROPRIATION.

"For the purpose of providing assistance to families with needy children and assisting parents of children in such families to obtain and retain private sector work to the extent possible, and public sector or volunteer work if necessary, through the Work First Employment Block Grant program (hereafter in this title referred to as the 'Work First program'), there is hereby authorized to be appropriated, and is hereby appropriated, for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have approved State plans for temporary employment assistance.

"Subpart 1—State Plans for Temporary Employment Assistance

"SEC. 401. ELEMENTS OF STATE PLANS.

"A State plan for temporary employment assistance shall provide a description of the State program which carries out the purpose described in section 400 and shall meet the requirements of the following sections of this subpart.

"SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOYMENT ASSISTANCE.

"(a) IN GENERAL.—The State plan shall provide that any family—

"(1) with 1 or more children (or any expectant family, at the option of the State), defined as needy by the State; and

"(2) which fulfills the conditions set forth in subsection (b),

shall be eligible for cash assistance under the plan, except as otherwise provided under this part.

"(b) INDIVIDUAL RESPONSIBILITY PLAN.—The State plan shall provide that not later than 30 days after the approval of the application for temporary employment assistance, a parent qualifying for assistance shall execute an individual responsibility plan as described in section 403. If a child otherwise eligible for assistance under this part is residing with a relative other than a parent, the State plan may require the relative to execute such a plan as a condition of the family receiving such assistance.

"(c) LIMITATIONS ON ELIGIBILITY.—

"(1) LENGTH OF TIME.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18 years (or age 19 years, at the option of the State), has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

"(B) HARDSHIP EXCEPTION.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

"(i) at the option of the State, the family includes an individual working 20 hours per week (or more, at the option of the State);

"(ii) the family resides in an area with an unemployment rate exceeding 8 percent; or

"(iii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

"(C) EXCEPTION FOR TEEN PARENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which the parent—

"(i) is under age 18 (or age 19, at the option of the State); and

"(ii) is making satisfactory progress while attending high school or an alternative technical preparation school.

"(D) EXCEPTION FOR INDIVIDUALS EXEMPT FROM WORK REQUIREMENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which 1 or each of the parents—

"(i) is seriously ill, incapacitated, or of advanced age;

"(ii)(I) except for a child described in subclause (II), is responsible for a child under age 1 year (or age 6 months, at the option of the State), or

"(II) in the case of a 2nd or subsequent child born during such period, is responsible for a child under age 3 months;

"(iii) is pregnant in the 3rd trimester; or

"(iv) is caring for a family member who is ill or incapacitated.

"(E) EXCEPTION FOR CHILD-ONLY CASES.—With respect to any child who has not attained age 18 (or age 19, at the option of the State) and who is eligible for assistance under this part, but not as a member of a family otherwise eligible for assistance under this part (determined without regard to this paragraph), the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which such child has not attained such age.

"(F) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that if a family is no longer eligible for cash assistance under the plan due to the imposition of the 60-month period under subparagraph (A) or due to the imposition of a penalty under subparagraph (A)(ii) or (B)(ii) of section 403(e)(1)—

"(i) for purposes of determining eligibility for any other Federal or federally assisted program based on need, such family shall continue to be considered eligible for such cash assistance;

"(ii) for purposes of determining the amount of assistance under any other Federal or federally assisted program based on need, such family shall continue to be considered receiving such cash assistance; and

"(iii) the State may, at the option of the State, after having assessed the needs of the child or children of the family, provide for such needs with a voucher for such family—

"(I) determined on the same basis as the State would provide assistance under the State plan to such a family with 1 less individual,

"(II) designed appropriately to pay third parties for shelter, goods, and services received by the child or children, and

"(III) payable directly to such third parties.

"(2) TREATMENT OF INTERSTATE MIGRANTS.—The State plan may apply to a category of families the rules for such category under a plan of another State approved under this part, if a family in such category has moved to the State from the other State and has resided in the State for less than 12 months.

"(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT ASSISTANCE.—The State plan shall provide that no assistance shall be furnished any individual under the plan with respect to any period with respect to which such individual is receiving old-age assistance under the State plan approved under section 102 of title I or supplemental security income under title XVI.

"(4) CHILDREN FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.—A child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a needy child under this part, and such child's income and resources shall be disregarded in determining the eligibility of the family of such child for temporary employment assistance.

"(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—The State plan shall provide that no assistance will be furnished any individual under the plan during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs that are funded under this part, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(6) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—The State plan shall provide that no assistance will be furnished any individual under the plan for any period if during such period the State agency has knowledge that such individual is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of assistance under the plan, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(I) is described in clause (i) or (ii) of subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the recipient is within such officer's official duties.

"(d) DETERMINATION OF ELIGIBILITY.—

"(1) DETERMINATION OF NEED.—The State plan shall provide that the State agency take into consideration any income and resources of any individual the State determines should be considered in determining the need of the child or relative claiming temporary employment assistance, subject to section 407.

"(2) RESOURCE AND INCOME DETERMINATION.—In determining the total resources and income of the family of any needy child, the State plan shall provide the following:

"(A) RESOURCES.—The State's resource limit, including a description of the policy determined by the State regarding any exclusion allowed for vehicles owned by family members, resources set aside for future needs of a child, individual development accounts, or other policies established by the State to encourage savings.

"(B) FAMILY INCOME.—The extent to which earned or unearned income is disregarded in determining eligibility for, and amount of, assistance.

"(C) CHILD SUPPORT.—The State's policy, if any, for determining the extent to which child support received in excess of $50 per month on behalf of a member of the family is disregarded in determining eligibility for, and the amount of, assistance.

"(D) CHILD'S EARNINGS.—The treatment of earnings of a child living in the home.

"(E) EARNED INCOME TAX CREDIT.—The State agency shall disregard any refund of Federal income taxes made to a family receiving temporary employment assistance by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

"(3) VERIFICATION SYSTEM.—The State plan shall provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137.

"SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.

"(a) ASSESSMENT.—The State agency responsible for administering the State plan shall make an initial assessment of the skills, prior work experience, and employability of each applicant for, or recipient of, assistance under the State plan who—

"(1) has attained 18 years of age; or

"(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

"(b) INDIVIDUAL RESPONSIBILITY PLANS.—

"(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

"(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State plan approved under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

"(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

"(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

"(D) may require that the individual enter the State program established under part F, if the caseworker determines that the individual will need education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector;

"(E) shall provide that the individual must—

"(i) assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance; and

"(ii) cooperate with the State—

"(I) in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and

"(II) in obtaining support payments for the individual and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due the individual or the child,

unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf assistance is claimed.

"(F) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

"(G) shall describe what services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

"(H) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

"(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

"(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of assistance under the State plan approved under this part; or

"(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

"(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State plan approved under this part of all available services under the State plan for which they are eligible.

"(d) REQUIREMENT THAT RECIPIENTS ENTER THE WORK FIRST PROGRAM.—

"(1) IN GENERAL.—Beginning with fiscal year 2004, the State shall place recipients of assistance under the State plan approved under this part, who have not become employed in the private sector within 1 year after signing an individual responsibility plan, in the first available slot in the State program established under part F, except as provided in paragraph (2).

"(2) EXCEPTIONS.—A state may not be required to place a recipient of such assistance in the State program established under part F if the recipient—

"(A) is ill, incapacitated, or of advanced age;

"(B) has not attained 18 years of age;

"(C) is caring for a child or parent who is ill or incapacitated; or

"(D) is enrolled in school or in educational or training programs that will lead to private sector employment.

"(e) PENALTIES.—

"(1) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G:

"(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—

"(i) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart 1 of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (other than by reason of conduct described in paragraph (2)) shall be reduced by—

"(I) 33 percent for the 1st such act of noncompliance; or

"(II) 66 percent for the 2nd such act of noncompliance.

"(ii) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(iii) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 1 calendar month shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

"(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK, LOOK FOR WORK, OR ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—

"(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work—

"(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

"(aa) a period of not less than 6 months after the date of the first such refusal; or

"(bb) the first date the individual agrees to work or look for work; or

"(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

"SEC. 404. PAYMENT OF ASSISTANCE.

"(a) STANDARDS OF ASSISTANCE.—The State plan shall specify standards of assistance, including—

"(1) the composition of the unit for which assistance will be provided;

"(2) a standard, expressed in money amounts, to be used in determining the need of applicants and recipients;

"(3) a standard, expressed in money amounts, to be used in determining the amount of the assistance payment; and

"(4) the methodology to be used in determining the payment amount received by assistance units.

"(b) LEVEL OF ASSISTANCE.—Except as otherwise provided in this title, the State plan shall provide that—

"(1) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

"(2) families of similar composition with similar needs and circumstances shall be treated similarly.

"(c) CORRECTION OF PAYMENTS.—The State plan shall provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of assistance under such plan, including the request for Federal tax refund intercepts as provided under section 416.

"(d) OPTIONAL VOLUNTARY DIVERSION PROGRAM.—The State plan shall, at the option of the State, and in such part or parts of the State as the State may select, provide that—

"(1) upon the recommendation of the caseworker who is handling the case of a family eligible for assistance under the State plan, the State shall, in lieu of any other assistance under the State plan to the family during a time period of not more than 3 months, make a lump-sum payment to the family for the time period in an amount not to exceed—

"(A) the value of the monthly benefits that would otherwise be provided to the family under the State plan; multiplied by

"(B) the number of months in the time period;

"(2) a lump-sum payment pursuant to subparagraph (A) shall not be made more than once to any family; and

"(3) if, during a time period for which the State has made a lump-sum payment to a family pursuant to subparagraph (A), the family applies for and (but for the lump-sum payment) would be eligible under the State plan for a monthly benefit that is greater than the value of the monthly benefit which would have been provided to the family under the State plan at the time of the calculation of the lump sum payment, then, notwithstanding subparagraph (A), the State shall, for that part of the time period that remains after the family becomes eligible for the greater monthly benefit, provide monthly benefits to the family in an amount not to exceed—

"(A) the amount by which the value of the greater monthly benefit exceeds the value of the former monthly benefit, multiplied by the number of months in the time period; divided by

"(B) the whole number of months remaining in the time period.".

"SEC. 405. OTHER PROGRAMS.

"(a) WORK FIRST PROGRAM; WORKFARE OR JOB PLACEMENT VOUCHER PROGRAM.—The State plan shall provide that the State has in effect and operation—

"(1) a work first program that meets the requirements of part F; and

"(2) a workfare program that meets the requirements of part G, or a job placement voucher program that meets the requirements of part H, but not both.

"(b) PROVISION OF POSITIONS AND VOUCHERS.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part G, or a job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is prohibited from participating in the work first program operated by the State, and shall not provide such a position or such a voucher to any other individual.

"(c) PROVISION OF CASE MANAGEMENT SERVICES.—The State plan shall provide that the State shall provide to participants in such programs such case management services as are necessary to ensure the integrated provision of benefits and services under such programs.

"(d) STATE CHILD SUPPORT AGENCY.—The State plan shall—

"(1) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

"(2) provide that the State agency administering the plan approved under this part shall be responsible for assuring that—

"(A) the benefits and services provided under plans approved under this part and part D are furnished in an integrated manner, including coordination of intake procedures with the agency administering the plan approved under part D;

"(B) all applicants for, and recipients of, temporary employment assistance are encouraged, assisted, and required (as provided under section 403(b)(1)(E)(ii)) to cooperate in the establishment and enforcement of paternity and child support obligations and are notified about the services available under the State plan approved under part D; and

"(C) procedures require referral of paternity and child support enforcement cases to the agency administering the plan approved under part D not later than 10 days after the application for temporary employment assistance; and

"(3) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency established pursuant to part D of the furnishing of temporary employment assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out-of-wedlock without regard to whether the paternity of such child has been established).

"(e) CHILD WELFARE SERVICES AND FOSTER CARE AND ADOPTION ASSISTANCE.—The State plan shall provide that the State has in effect—

"(1) a State plan for child welfare services approved under part B; and

"(2) a State plan for foster care and adoption assistance approved under part E,

and operates such plans in substantial compliance with the requirements of such parts.

"(f) REPORT OF CHILD ABUSE, ETC.—The State plan shall provide that the State agency will—

"(1) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving assistance under the State plan under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(2) provide such information with respect to a situation described in paragraph (1) as the State agency may have.

"(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS OF STATE.—The State plan shall consider and address the needs of rural areas in the State to ensure that families in such areas receive assistance to become self-sufficient.

"(h) FAMILY PRESERVATION.—

"(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

"(A) to encourage fathers to stay home and be a part of the family;

"(B) to keep families together to the extent possible; and

"(C) except to the extent provided in paragraph (2), to treat 2-parent families and 1-parent families equally with respect to eligibility for assistance.

"(2) MAINTENANCE OF TREATMENT.—The State may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than such limitations in effect in the State plan in fiscal year 1995.

"SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

"(a) STATEWIDE PLAN.—The State plan shall be in effect in all political subdivisions of the State, and, if administered by the subdivisions, be mandatory upon such subdivisions. If such plan is not administered uniformly throughout the State, the plan shall describe the administrative variations.

"(b) SINGLE ADMINISTRATING AGENCY.—The State plan shall provide for the establishment or designation of a single State agency to administer the plan or supervise the administration of the plan.

"(c) FINANCIAL PARTICIPATION.—The State plan shall provide for financial participation by the State in the same manner and amount as such State participates under title XIX, except that with respect to the sums expended for the administration of the State plan, the percentage shall be 50 percent.

"(d) REASONABLE PROMPTNESS.—The State plan shall provide that all individuals wishing to make application for temporary employment assistance shall have opportunity to do so, and that such assistance be furnished with reasonable promptness to all eligible individuals.

"(e) AUTOMATED DATA PROCESSING SYSTEM.—The State plan shall, at the option of the State, provide for the establishment and operation of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan approved under this part, so as—

"(1) to control and account for—

"(A) all the factors in the total eligibility determination process under such plan for assistance, and

"(B) the costs, quality, and delivery of payments and services furnished to applicants for and recipients of assistance; and

"(2) to notify the appropriate officials for child support, food stamp, and social service programs, and the medical assistance program approved under title XIX, whenever a recipient becomes ineligible for such assistance or the amount of assistance provided to a recipient under the State plan is changed.

"(f) DISCLOSURE OF INFORMATION.—The State plan shall provide for safeguards which restrict the use or disclosure of information concerning applicants or recipients.

"(g) DETECTION OF FRAUD.—The State plan shall provide, in accordance with regulations issued by the Secretary, for appropriate measures to detect fraudulent applications for temporary employment assistance before the establishment of eligibility for such assistance.

“Subpart 2—Administrative Provisions

“SEC. 411. APPROVAL OF PLAN.

“(a) IN GENERAL.—The Secretary shall approve a State plan which fulfills the requirements under subpart 1 within 120 days of the submission of the plan by the State to the Secretary.

“(b) DEEMED APPROVAL.—If a State plan has not been rejected by the Secretary during the period specified in subsection (a), the plan shall be deemed to have been approved.

“SEC. 412. COMPLIANCE.

In the case of any State plan for temporary employment assistance which has been approved under section 411, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by subpart 1 to be included in the plan, the Secretary shall notify such State agency that further payments will not be made to the State (or in the Secretary's discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until the Secretary is so satisfied the Secretary shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

“SEC. 413. PAYMENTS TO STATES.

“(a) COMPUTATION OF AMOUNT.—Subject to section 412, from the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for temporary employment assistance, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State under such plan.

“(b) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

“(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on—

“(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

“(B) records showing the number of needy children in the State; and

“(C) such other information as the Secretary may find necessary.

“(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services—

“(A) reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter;

“(B) reduced by a sum equivalent to the pro rata share to which the Federal Government is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to temporary employment assistance furnished under the State plan; and

“(C) reduced by such amount as is necessary to provide the appropriate reimbursement to the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by the State pursuant to such section,

except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

“(c) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

“SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND REPORTING SYSTEM.

“(a) QUALITY ASSURANCE.—

“(1) IN GENERAL.—Under the State plan, a quality assurance system shall be developed based upon a collaborative effort involving the Secretary, the State, the political subdivisions of the State, and assistance recipients, and shall include quantifiable program outcomes related to self sufficiency in the categories of welfare-to-work, payment accuracy, and child support.

“(2) MODIFICATIONS TO SYSTEM.—As deemed necessary, but not more often than every 2 years, the Secretary, in consultation with the State, the political subdivisions of the State, and assistance recipients, shall make appropriate changes in the design and administration of the quality assurance system, including changes in benchmarks, measures, and data collection or sampling procedures.

“(b) DATA COLLECTION AND REPORTING.—

“(1) IN GENERAL.—The State plan shall provide for a quarterly report to the Secretary regarding the data described in paragraphs (2) and (3) and such additional data needed for the quality assurance system. The data collection and reporting system under this subsection shall promote accountability, continuous improvement, and integrity in the State plans for temporary employment assistance and Work First.

“(2) DISAGGREGATED DATA.—The State shall collect the following data items on a monthly basis from disaggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

“(A) The age of adults and children (including pregnant women).

“(B) Marital or familial status of cases: married (2-parent family), widowed, divorced, separated, or never married; or child living with other adult relative.

“(C) The gender, race, educational attainment, work experience, disability status (whether the individual is seriously ill, incapacitated, or caring for a disabled or incapacitated child) of adults.

“(D) The amount of cash assistance and the amount and reason for any reduction in such assistance. Any other data necessary to determine the timeliness and accuracy of benefits and welfare diversions.

“(E) Whether any member of the family receives benefits under any of the following:

“(i) Any housing program.

“(ii) The food stamp program under the Food Stamp Act of 1977.

“(iii) The Head Start programs carried out under the Head Start Act.

“(iv) Any job training program.

“(F) The number of months since the most recent application for assistance under the plan.

“(G) The total number of months for which assistance has been provided to the families under the plan.

“(H) The employment status, hours worked, and earnings of individuals while receiving assistance, whether the case was closed due to employment, and other data needed to meet the work performance rate.

“(I) Status in Work First and workfare, including the number of hours an individual participated and the component in which the individual participated.

“(J) The number of persons in the assistance unit and their relationship to the youngest child. Nonrecipients in the household and their relationship to the youngest child.

“(K) Citizenship status.

“(L) Shelter arrangement.

“(M) Unearned income (not including temporary employment assistance), such as child support, and assets.

“(N) The number of children who have a parent who is deceased, incapacitated, or unemployed.

“(O) Geographic location.

“(3) AGGREGATED DATA.—The State shall collect the following data items on a monthly basis from aggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

“(A) The number of adults receiving assistance.

“(B) The number of children receiving assistance.

“(C) The number of families receiving assistance.

“(D) The number of assistance units who had their grants reduced or terminated and the reason for the reduction or termination, including sanction, employment, and meeting the time limit for assistance).

“(E) The number of applications for assistance; the number approved and the number denied and the reason for denial.

“(4) LONGITUDINAL STUDIES.—The State shall submit selected data items for a cohort of individuals who are tracked over time. This longitudinal sample shall be used for selected data items described in paragraphs (2) and (3), as determined appropriate by the Secretary.

“(c) ADDITIONAL DATA.—The report required by subsection (b) for a fiscal year quarter shall also include the following:

“(1) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A statement of—

“(A) the percentage of the Federal funds paid to the State under this part for the fiscal year quarter that are used to cover administrative costs or overhead; and

“(B) the total amount of State funds that are used to cover such costs or overhead.

“(2) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—A statement of the total amount expended by the State during the fiscal year quarter on programs for needy families, with the amount spent on the program under this part, and the purposes for which such amount was spent, separately stated.

"(3) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The number of noncustodial parents in the State who participated in work activities during the fiscal year quarter.

"(4) REPORT ON CHILD SUPPORT COLLECTED.—The total amount of child support collected by the State agency administering the State plan under part D on behalf of a family receiving assistance under this part.

"(5) REPORT ON CHILD CARE.—The total amount expended by the State for child care under this part, along with a description of the types of child care provided, such as child care provided in the case of a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, or in the case of a family that is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

"(6) REPORT ON TRANSITIONAL SERVICES.—The total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, along with a description of such services.

"(d) COLLECTION PROCEDURES.—The Secretary shall provide case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of plan performance.

"(e) VERIFICATION.—The Secretary shall develop and implement procedures for verifying the quality of the data submitted by the State, and shall provide technical assistance, funded by the compliance penalties imposed under section 412, if such data quality falls below acceptable standards.

"SEC. 415. COMPILATION AND REPORTING OF DATA.

"(a) CURRENT PROGRAMS.—The Secretary shall, on the basis of the Secretary's review of the reports received from the States under section 414, compile such data as the Secretary believes necessary, and from time to time, publish the findings as to the effectiveness of the programs developed and administered by the States under this part. The Secretary shall annually report to the Congress on the programs developed and administered by each State under this part.

"(b) RESEARCH, DEMONSTRATION AND EVALUATION.—Of the amount specified under section 413(a), an amount equal to 0.25 percent is authorized to be expended by the Secretary to support the following types of research, demonstrations, and evaluations:

"(1) STATE-INITIATED RESEARCH.—States may apply for grants to cover 90 percent of the costs of self-evaluations of programs under State plans approved under this part.

"(2) DEMONSTRATIONS.—

"(A) IN GENERAL.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies to—

"(i) improve child well-being through reductions in illegitimacy, teen pregnancy, welfare dependency, homelessness, and poverty;

"(ii) test promising strategies by nonprofit and for-profit institutions to increase employment, earning, child support payments, and self-sufficiency with respect to temporary employment assistance clients under State plans; and

"(iii) foster the development of child care.

"(B) ADDITIONAL PARAMETERS.—Demonstrations implemented under this paragraph—

"(i) may provide one-time capital funds to establish, expand, or replicate programs;

"(ii) may test performance-based grant to loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a pro-rated basis; and

"(iii) should test stategies in multiple States and types of communities.

"(3) FEDERAL EVALUATIONS.—

"(A) IN GENERAL.—The Secretary shall conduct research on the effects, benefits, and costs of different approaches to operating welfare programs, including an implementation study based on a representative sample of States and localities, documenting what policies were adopted, how such policies were implemented, the types and mix of services provided, and other such factors as the Secretary deems appropriate.

"(B) RESEARCH ON RELATED ISSUES.—The Secretary shall also conduct research on issues related to the purposes of this part, such as strategies for moving welfare recipients into the workforce quickly, reducing teen pregnancies and out-of-wedlock births, and providing adequate child care.

"(C) STATE REIMBURSEMENT.—The Secretary may reimburse a State for any research-related costs incurred pursuant to research conducted under this paragraph.

"(D) USE OF RANDOM ASSIGNMENT.—Evaluations authorized under this paragraph should use random assignment to the maximum extent feasible and appropriate.

"(4) REGIONAL INFORMATION CENTERS.—

"(A) IN GENERAL.—The Secretary shall establish not less than 5, nor more than 7 regional information centers located at major research universities or consortiums of universities to ensure the effective implementation of welfare reform and the efficient dissemination of information about innovations, evaluation outcomes, and training initiatives.

"(B) CENTER RESPONSIBILITIES.—The Centers shall have the following functions:

"(i) Disseminate information about effective income support and related programs, along with suggestions for the replication of such programs.

"(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

"(iii) Assist the States in the region formulate and implement innovative programs and improvements in existing programs that help clients move off welfare and become productive citizens.

"(iv) Provide training as appropriate to staff of State agencies to enhance the ability of the agencies to successfully place Work First clients in productive employment or self-employment.

"(C) CENTER ELIGIBILITY TO PERFORM EVALUATIONS.—The Centers may compete for demonstration and evaluation contracts developed under this section.

"SEC. 416. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

"(a) IN GENERAL.—Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving temporary employment assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.".

(b) PAYMENTS TO PUERTO RICO.—Section 1108(a)(1) (42 U.S.C. 1308(a)(1)) is amended—

(1) in subparagraph (F), by striking "or"; and

(2) by striking subparagraph (G) and inserting the following:

"(G) $82,000,000 with respect to each of fiscal years 1989 through 1995, or

"(H) $102,500,000 with respect to the fiscal year 1996 and each fiscal year thereafter;".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(g) COLLECTION OF OVERPAYMENTS UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 416 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(2) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 416, 464, or 1137 of the Social Security Act".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection

(a), the State shall not be regarded as failing to comply with the requirements of such amendment before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

Subtitle B—Make Work Pay

SEC. 9201. TRANSITIONAL MEDICAID BENEFITS.

(a) STATE OPTION OF EXTENSION OF MEDICAID ENROLLMENT FOR FORMER AFDC RECIPIENTS FOR 1 ADDITIONAL YEAR.—

(1) IN GENERAL.—Section 1925(b)(1) (42 U.S.C. 1396r-6(b)(1)) is amended by striking the period at the end and inserting the following: ", and that the State may, at its option, offer to each such family the option of extending coverage under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions as the option of extending coverage under this subsection for the first succeeding 6-month period.".

(2) CONFORMING AMENDMENTS.—Section 1925(b) (42 U.S.C. 1396r-6(b)) is amended—

(A) in the heading, by striking "EXTENSION" and inserting "EXTENSIONS";

(B) in the heading of paragraph (1), by striking "REQUIREMENT" and inserting "IN GENERAL";

(C) in paragraph (2)(B)(ii)—

(i) in the heading, by striking "PERIOD" and inserting "PERIODS", and

(ii) by striking "in the period" and inserting "in any of the 6-month periods";

(D) in paragraph (3)(A), by striking "the 6-month period" and inserting "any 6-month period";

(E) in paragraph (4)(A), by striking "the extension period" and inserting "any extension period"; and

(F) in paragraph (5)(D)(i), by striking "is a 3-month period" and all that follows and inserting the following: "is, with respect to a particular 6-month additional extension period provided under this subsection, a 3-month period beginning with the 1st or 4th month of such extension period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PROVIDED TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by the amendment made by section 9101(a) of this Act, is amended by adding at the end the following:

"(h) NOTICE OF AVAILABILITY OF EITC.—The State plan shall provide that the State agency referred to in subsection (b) must provide written notice of the existence and availability of the earned income credit under section 32 of the Internal Revenue Code of 1986 to—

"(1) any individual who applies for assistance under the State plan, upon receipt of the application; and

"(2) any individual whose assistance under the State plan (or under the State plan approved under part A of this title (as in effect before the effective date of title IX of the Omnibus Budget Reconciliation Act of 1995) is terminated, in the notice of termination of benefits.".

(b) FOOD STAMPS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24) by striking "and" at the end;

(2) in paragraph (25) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (25) the following:

"(26) that whenever a household applies for food stamp benefits, and whenever such benefits are terminated with respect to a household, the State agency shall provide to each member of such household notice of—

"(A) the existence of the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

"(B) the fact that such credit may be applicable to such member.".

(c) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide that the State shall provide notice of the existence and availability of the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to each individual applying for medical assistance under the State plan and to each individual whose eligibility for medical assistance under the State plan is terminated.".

SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT AND DEPENDENT CARE TAX CREDIT TO BE INCLUDED ON W-4 FORM.

(a) IN GENERAL.—Section 11114 of the Omnibus Budget Reconciliation Act of 1990 (26 U.S.C. 21 note), relating to program to increase public awareness, is amended by adding at the end the following new sentence: "Such means shall include printing a notice of the availability of such credits on the forms used by employees to determine the proper number of withholding exemptions under chapter 24 of such Code."

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Section 3507 of the Internal Revenue Code of 1986 (relating to the advance payment of the earned income tax credit) is amended by adding at the end the following:

"(g) STATE DEMONSTRATIONS.—

"(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of paragraph (3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 413(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

"(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1996.

"(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1996, and before January 1, 2000.

"(ii) SPECIAL RULES.—

"(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke any designation made under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

"(II) AUTOMATIC TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

"(3) PROPOSALS.—No State may be designated under paragraph (2) unless the State's proposal for such designation—

"(A) identifies the responsible State agency,

"(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

"(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned income tax credit,

"(F) commits the State to furnishing to each participating resident by January 31 of each year a written statement showing—

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat any advance earned income payments as described in paragraph (5) and any repayments of excessive advance earned income payments as described in paragraph (6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1996.

"(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

"(A) AMOUNT.—

"(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident shall conform to the fullest extent possible with the provisions of subsection (c).

"(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

"(B) TIMING.—The frequency of advance earned income payments may be determined on the basis of the payroll periods of participating residents, on a single statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advance earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

"(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(A) IN GENERAL.—For purposes of this title, advance earned income payments during any calendar quarter—

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of—

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding),

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) IF ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

"(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and as being required to pay to the United States, the repayment amount during the repayment calendar quarter.

"(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, the term 'excessive advance income payment' means that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

"(C) REPAYMENT AMOUNT.—For purposes of this subsection, the term 'repayment amount' means an amount equal to 50 percent of the excess of—

"(i) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of—

"(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

"(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

"(D) REPAYMENT CALENDAR QUARTER.—For purposes of this subsection, the term 'repayment calendar quarter' means the second calendar quarter of the third calendar year beginning after the calendar year in which an excessive earned income payment is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) STATE ADVANCE PAYMENT PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

"(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

"(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

"(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

"(i) is a resident of a State that has in effect a designated State Advance Payment Program,

"(ii) makes the election described in paragraph (3)(D) pursuant to guidelines prescribed by the State,

"(iii) certifies to the State the number of qualifying children the individual has, and

"(iv) provides to the State the certifications and statement described in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause, the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.".

(b) TECHNICAL ASSISTANCE.—The Secretaries of the Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file Federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repay those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal years 1997 through 2000.

SEC. 9205. FUNDING OF CHILD CARE SERVICES.

(a) REPEAL OF CHILD CARE PROGRAMS UNDER THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(b) FUNDING OF CHILD CARE SERVICES THROUGH SOCIAL SERVICES BLOCK GRANT PROGRAM.—Title XX (42 U.S.C. 1397-1397f) is amended by adding at the end the following:

"SEC. 2008. CHILD CARE.

"(a) CONDITIONAL GRANT.—

"(1) IN GENERAL.—In addition to any payment under section 2002 or 2007, the Secretary shall make a grant to each State with a plan approved under this section for a fiscal year in an amount equal to the special allotment of the State for the fiscal year.

"(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary not more than—

"(A) $1,400,000,000 for fiscal year 1997;

"(B) $1,450,000,000 for each of fiscal years 1998, 1999, and 2000; and

"(C) $1,500,000,000 for each of fiscal years 2001 and 2002.

"(b) STATE PLANS.—

"(1) CONTENT.—A plan meets the requirements of this paragraph if the plan—

"(A) identifies an appropriate State agency to be the lead agency responsible for administering at the State level, and coordinating with local governments, the activities of the State pursuant to this section;

"(B) describes the activities the State will carry out with funds provided under this section;

"(C) provides assurances that the funds provided under this section will be used to supplement, not supplant, State and local funds as well as Federal funds provided under any Act and applied to child care activities in the State during fiscal year 1989;

"(D) provides assurances that the State will not expend more than 7 percent of the funds provided to the States under this section for the fiscal year for administrative expenses;

"(E) provides assurances that, in providing child care assistance, the State will give priority to families with low income and families living in a low-income geographical area;

"(F) ensures that child care providers reimbursed under this section meet applicable standards of State and local law;

"(G) provides assurances that the lead agency will coordinate the use of funds provided under this section with the use of other Federal resources for child care provided under this Act, and with other Federal, State, or local child care and preschool programs operated in the State;

"(H) provides for the establishment of such fiscal and accounting procedures as may be necessary to—

"(i) ensure a proper accounting of Federal funds received by the State under this section; and

"(ii) ensure the proper verification of the reports submitted by the State under subsection (f)(2);

"(I) provides assurances that the State will not impose more stringent standards and licensing or regulatory requirements on child care providers receiving funds provided under this section than those imposed on other child care providers in the State;

"(J) provides assurances that the State will not implement any policy or practice which has the effect of significantly restricting parental choice by—

"(i) expressly or effectively excluding any category of care or type of provider within a category of care;

"(ii) limiting parental access to or choices from among various categories of care or types of providers; or

"(iii) excluding a significant number of providers in any category of care; and

"(K) provides assurances that parents will be informed regarding their options under this section, including the option of receiving a child care certificate or voucher.

"(2) FORM.—A State may submit a plan that meets the requirements of paragraph (1) in the form of amendments to the State plan submitted pursuant to section 658E of the Child Care and Development Block Grant Act of 1990, as in effect before the effective date of section 9205 of the Omnibus Budget Reconciliation Act of 1995.

"(3) APPROVAL.—Not later than 90 days after the date the State submits a plan to the Secretary under this subsection, the Secretary shall either approve or disapprove the plan. If the Secretary disapproves the plan, the Secretary shall provide the State with an explanation and recommendations for changes in the plan to gain approval.

"(c) SPECIAL ALLOTMENTS.—The special allotment of a State for a fiscal year equals the amount that bears the same ratio to the amount appropriated pursuant to this section for the fiscal year, as the number of children who have not attained 13 years of age and are residing with families in the State bears to the total number of such children in all States with plans approved under this section for the fiscal year, determined on the basis of the most recent data available from the Department of Commerce at the time the special allotment is determined.

"(d) PAYMENTS TO STATES.—

"(1) PAYMENTS.—

"(A) COMPUTATION OF AMOUNT.—From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this section for a fiscal year, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to ¼ of the special allotment of the State for the fiscal year.

"(B) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

"(i) ESTIMATE.—The Secretary shall, before each quarter, estimate the amount to be paid to the State for the quarter under this section, based on a report filed by the State containing the State's estimate of the total sum to be expended by the State in such quarter in accordance with subsection (e).

"(ii) CERTIFICATION.—The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

"(iii) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"(2) DEADLINE FOR EXPENDITURE OF FUNDS BY STATES.—Except as provided in paragraph (3)(A), each State to which funds are paid under this section for a fiscal year shall expend such funds in the fiscal year or in the immediately succeeding fiscal year.

"(3) REDISTRIBUTION OF UNEXPENDED SPECIAL ALLOTMENTS.—

"(A) REMITTANCE TO THE SECRETARY.—Each State to which funds are paid under this section for a fiscal year shall remit to the Secretary that part of such funds which the State intends not to, or does not, expend in the fiscal year or in the immediately succeeding fiscal year.

"(B) REDISTRIBUTION.—The Secretary shall increase the special allotment of each State with a plan approved under this part for a fiscal year that does not remit any amount to the Secretary for the fiscal year by an amount equal to—

"(i) the aggregate of the amounts remitted pursuant to subparagraph (A) for the fiscal year; multiplied by

"(ii) the adjusted State share for the fiscal year.

"(C) ADJUSTED STATE SHARE.—As used in subparagraph (B)(ii), the term 'adjusted State share' means, with respect to a fiscal year—

"(i) the special allotment of the State for the fiscal year (before any increase under subparagraph (B)); divided by

"(ii)(I) the sum of the special allotments of all States with plans approved under this part for the fiscal year; minus

"(II) the aggregate of the amounts remitted to the Secretary pursuant to subparagraph (A) for the fiscal year.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided under this section shall be used to expand parent choices in selecting child care, to address deficiencies in the supply of child care, and to expand and improve child care services, with an emphasis on providing such services to low-income families and geographical areas. Subject to the approval of the Secretary, States to which funds are paid under this section shall use such funds to carry out child care programs and activities through cash grants, certificates, or contracts with families, or public or private entities as the State determines appropriate. States shall take parental preference into account to the maximum extent possible in carrying out child care programs.

"(2) SPECIFIC USES.—Each State to which funds are paid under this section may expend such funds for—

"(A) child care services for infants, sick children, children with special needs, and children of adolescent parents;

"(B) after-school and before-school programs and programs during nontraditional hours for the children of working parents;

"(C) programs for the recruitment and training of day care workers, including older Americans;

"(D) grant and loan programs to enable child care workers and providers to meet State and local standards and requirements;

"(E) child care programs developed by public and private sector partnerships;

"(F) State efforts to provide technical assistance designed to help providers improve the services offered to parents and children; and

"(G) other child care-related programs consistent with the purpose of this section and approved by the Secretary.

"(3) LIMITATIONS ON USE OF FUNDS.—A State to which funds are paid under this section for a fiscal year shall use not less than 80 percent of such funds to provide direct child care assistance to low-income parents through child care certificates or vouchers, contracts, or grants.

"(4) METHODS OF FUNDING.—Funds for child care services under this title shall be for the benefit of parents and shall be provided through child care vouchers or certificates provided directly to parents or through contracts or grants with public or private providers.

"(5) PARENTAL RIGHTS OF CHOICE.—Any parent who receives a child care certificate under this title may use such certificate with any child care provider, including those providers which have religious activities, if such provider is freely chosen by the parent from among the available alternatives.

"(6) CHILD CARE CERTIFICATES.—

"(A) IN GENERAL.—For purposes of this title, a child care certificate is a certificate issued by a State directly to a parent or legal guardian for use only as payment for child care services in any child care facility eligible to receive funds under this Act.

"(B) REDEMPTION.—If the demand for child care services of families qualified to receive such services from a State under this Act exceeds the available supply of such services, the State shall ration assistance to obtain such services using procedures that do not disadvantage parents using child care certificates, relative to other methods of financing, in either the waiting period or the pecuniary value of such services.

"(C) COMMENCEMENT OF CERTIFICATE PROGRAM.—Beginning not later than 1 year after the date of the enactment of this section, each State that receives funds under this title shall offer a child care certificate program in accordance with this section.

"(D) AUTHORITY TO USE CHILD CARE FUNDS FOR CERTIFICATE PROGRAM.—Each State to which funds are paid under this title may use the funds provided to the State under this title which are required to be used for child care activities to plan and establish the State's child care certificate program.

"(7) OPTION OF RECEIVING A CHILD CARE CERTIFICATE.—Each parent or legal guardian who receives assistance pursuant to this title shall be provided with the option of enrolling their child with an eligible child care provider that receives funds through grants, contracts, or child care certificates provided under this title. Such parent shall have the right to use such certificates to purchase child care services from an eligible provider of their choice. The State shall ensure that parental preference is considered to the maximum extent possible in awarding grants or contracts.

"(8) RIGHTS OF RELIGIOUS CHILD CARE PROVIDERS.—Notwithstanding any other provision of law, a religious child care provider who receives funds under this Act may require adherence by employees to the religious tenets or teachings of the provider.

"(9) ELIGIBLE CHILD CARE PROVIDERS.—Any child care provider who meets applicable standards of State and local law shall be eligible to receive funds under this section. As used in this paragraph, the term 'child care provider' includes—

"(A) proprietary for-profit entities, relatives, informal day care homes, religious child care providers, day care centers, and any other entities that the State determines appropriate subject to approval of the Secretary;

"(B) nonprofit organizations under subsections (c) and (d) of section 501 of the Internal Revenue Code of 1986;

"(C) professional or employee associations;

"(D) consortia of small businesses; and

"(E) units of State and local governments, and elementary, secondary, and post-secondary educational institutions.

"(10) PROHIBITED USES.—Any State to which funds are paid under this section may not use such funds—

"(A) to satisfy any State matching requirement imposed under any Federal grant;

"(B) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility; or

"(C) to provide any service which the State makes generally available to the residents of the State without cost to such residents and without regard to the income of such residents.

"(f) REPORTING REQUIREMENTS.—

"(1) NOTICE TO SECRETARY OF UNEXPENDED FUNDS.—Each State which has not completely expended the funds paid to the State under this section for a fiscal year in the fiscal year or the immediately succeeding fiscal year shall notify the Secretary of any amount not so expended.

"(2) STATE REPORTS ON USE OF FUNDS.—Not later than 18 months after the date of the enactment of this section, and each year thereafter, the State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the State's use of funds paid to the State under this section, including—

"(A) the number, type, and distribution of services and programs under this section;

"(B) the average cost of child care, by type of provider;

"(C) the number of children serviced under this section;

"(D) the average income and distribution of incomes of the families being served;

"(E) efforts undertaken by the State pursuant to this section to promote and ensure health and safety and improve quality; and

"(F) such other information as the Secretary considers appropriate.

"(3) GUIDELINES FOR STATE REPORTS; COORDINATION WITH REPORTS UNDER SECTION 2006.—Within 6 months after the date of the enactment of this section, the Secretary shall establish guidelines for State reports under paragraph (2). To the extent feasible, the Secretary shall coordinate such reporting requirement with the reports required under section 2006 and, as the Secretary deems appropriate, with other reporting requirements placed on States as a condition of receipt of other Federal funds which support child care.

"(4) REPORTS BY THE SECRETARY.—

"(A) REPORTS TO THE CONGRESS OF SUMMARY OF STATE REPORTS.—The Secretary shall annually summarize the information reported to the Secretary pursuant to paragraph (2) and provide such summary to the Congress.

"(B) REPORTS TO THE STATES ON EFFECTIVE PRACTICES.—The Secretary shall annually provide the States with a report on particularly effective practices and programs supported by funds paid to the State under this section, which ensure the health and safety of children in care, promote quality child care, and provide training to all types of providers.

"(g) ADMINISTRATION AND ENFORCEMENT.—

"(1) ADMINISTRATION.—The Secretary shall—

"(A) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

"(B) collect, publish, and make available to the public a listing of State child care standards at least once every 3 years; and

"(C) provide technical assistance to assist States to carry out this section, including assistance on a reimbursable basis.

"(2) ENFORCEMENT.—

"(A) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the plans approved under this section for the State, and shall have the power to terminate payments to the State in accordance with subparagraph (B).

"(B) NONCOMPLIANCE.—

"(i) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(I) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under this section for the State; or

"(II) in the operation of any program for which assistance is provided under this section there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the findings and that no further payments may be made to such State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(ii) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to clause (i), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose the other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section, and disqualification from the receipt of financial assistance under this section.

"(iii) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under clause (ii).

"(C) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(i) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(ii) imposing sanctions under this subsection.

"SEC. 2009. CHILD CARE DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING; EXTENDED ELIGIBILITY.

"(a) CHILD CARE GUARANTEE.—

"(1) IN GENERAL.—Each State agency referred to in section 2008(b)(1)(A) shall guarantee child care in accordance with section 2008—

"(A) for any individual who is participating in an education or training activity (including participation in a program established under part G of title IV) if the State agency approves the activity and determines that the individual is participating satisfactorily in the activity;

"(B) for each family with a dependent child (as defined in section 413(a)(2)(E)) requiring such care to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed, including in a community service job under part G of title IV; and

"(C) to the extent that the State agency determines that such care is necessary for the employment of an individual, if the family of which the individual is a member has ceased to receive assistance under the State plan approved under part A of title IV by reason of increased hours of, or income from, such employment, subject to paragraph (2) of this subsection.

"(2) LIMITATIONS ON ELIGIBILITY FOR TRANSITIONAL CHILD CARE.—A family shall not be eligible for child care under paragraph (1)(C)—

"(A) for more than 12 months after the last month for which the family received assistance described in such paragraph;

"(B) if the family did not receive such assistance in at least 3 of the most recent 6 months in which the family received such assistance;

"(C) if the family does not include a child who is (or, if needy, would be) a dependent child (within the meaning of section 413(a)(2)(E));

"(D) for any month beginning after the caretaker relative (within the meaning of such part) in the family has terminated his or her employment without good cause; or

"(E) with respect to a child, for any month beginning after the caretaker relative in the family has refused to cooperate with the State in establishing or enforcing the obligation of any parent of the child to provide support for the child, without good cause as determined by the State agency in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child.

"(b) STATE ENTITLEMENT TO PAYMENTS.—Each State with a plan approved under section 2008 shall be entitled to receive from the Secretary for any fiscal year an amount equal to—

"(1) the total amount expended by the State to carry out subsection (a) during the fiscal year; multiplied by

"(2) the Federal medical assistance percentage (as defined in the last sentence of section 1118).".

(c) EFFECTIVE DATE.—The amendments and repeals made by this section shall take effect on October 1, 1996.

SEC. 9206. CERTAIN FEDERAL ASSISTANCE INCLUDABLE IN GROSS INCOME.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. CERTAIN FEDERAL ASSISTANCE.

"(a) IN GENERAL.—Gross income shall include an amount equal to the specified Federal assistance received by the taxpayer during the taxable year.

"(b) SPECIFIED FEDERAL ASSISTANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified Federal assistance' means—

"(A) assistance provided under a State plan approved under part A of title IV of the Social Security Act (relating to temporary employment assistance program),

"(B) assistance provided under any food stamp program, and

"(C) supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66).

"(2) Special rule.—In the case of assistance provided under a program described in subsection (d)(2), such term shall include only the assistance required to be provided under section 21 or 22 (as the case may be) of the Food Stamp Act of 1977.

"(c) Individuals Subject To Tax.—For purposes of this section—

"(1) Temporary employment assistance program.—Assistance described in subsection (b)(1)(A) shall be treated as received by the relative with whom the dependent child is living (within the meaning of section 406(c) of the Social Security Act).

"(2) Food stamps.—In the case of assistance described in subsection (b)(1)(B)—

"(A) In general.—Except as provided in subparagraph (B), such assistance shall be treated as received ratably by each of the individuals taken into account in determining the amount of such assistance for the benefit of such individuals.

"(B) Assistance to children treated as received by parents, etc.—The amount of assistance which would (but for this subparagraph) be treated as received by a child shall be treated as received as follows:

"(i) If there is an includible parent, such amount shall be treated as received by the includible parent (or if there is more than 1 includible parent, as received ratably by each includible parent).

"(ii) If there is no includible parent and there is an includible grandparent, such amount shall be treated as received by the includible grandparent (or if there is more than 1 includible grandparent, as received ratably by each includible grandparent).

"(iii) If there is no includible parent or grandparent, such amount shall be treated as received ratably by each includible adult.

"(C) Definitions.—For purposes of subparagraph (B)—

"(i) Child.—The term 'child' means any individual who has not attained age 16 as of the close of the taxable year. Such term shall not include any individual who is an includible parent of a child (as defined in the preceding sentence).

"(ii) Adult.—The term 'adult' means any individual who is not a child.

"(iii) Includible.—The term 'includible' means, with respect to any individual, an individual who is included in determining the amount of assistance paid to the household which includes the child.

"(iv) Parent.—The term 'parent' includes the stepfather and stepmother of the child.

"(v) Grandparent.—The term 'grandparent' means any parent of a parent of the child.

"(d) Food Stamp Program.—For purposes of subsection (b), the term 'food stamp program' means—

"(1) the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977), and

"(2) the portion of the program under sections 21 and 22 of such Act which provides food assistance."

(b) Reporting.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new section:

"SEC. 6050Q. PAYMENTS OF CERTAIN FEDERAL ASSISTANCE.

"(a) Requirement of Reporting.—The appropriate official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of specified Federal assistance paid to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the aggregate amount of payments made to the individual which are required to be shown on such return, and

"(2) the name of the agency making the payments.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) Definitions and Special Rule.—For purposes of this section—

"(1) Appropriate official.—The term 'appropriate official' means—

"(A) in the case of specified Federal assistance described in section 91(b)(1)(A), the head of the State agency administering the plan under which such assistance is provided,

"(B) in the case of specified Federal assistance described in section 91(b)(1)(B), the head of the State agency administering the program under which such assistance is provided, and

"(C) in the case of specified Federal assistance described in section 91(b)(1)(C), the Secretary of Health and Human Services.

"(2) Specified federal assistance.—The term 'specified Federal assistance' has the meaning given such term by section 91(b).

"(3) Amounts treated as paid.—The rules of section 91(c) shall apply for purposes of determining to whom specified Federal assistance is paid."

(2) Penalties.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to payments of certain Federal assistance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to payments of certain Federal assistance),".

(c) Temporary Employment Assistance Program, Supplemental Security Income, and Food Stamp Benefits Not Taken into Account for Purposes of the Earned Income Tax Credit.—Section 32 of the Internal Revenue Code of 1986 (relating to the earned income tax credit), is amended by adding at the end the following new subsection:

"(k) Adjusted Gross Income Determined Without Regard to Certain Federal Assistance.—For purposes of this section, adjusted gross income shall be determined without regard to any amount which is includible in gross income solely by reason of section 91."

(d) Clerical Amendments.—

(1) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 91. Certain Federal assistance."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

"Sec. 6050Q. Payments of certain Federal assistance."

(e) Effective Date.—The amendments made by this section shall apply to benefits received after December 31, 1995, except that the amendment made by subsection (c) shall apply to taxable years beginning after such date.

SEC. 9207. DEPENDENT CARE CREDIT TO BE REFUNDABLE; HIGH-INCOME TAXPAYERS INELIGIBLE FOR CREDIT.

(a) Credit To Be Refundable.—

(1) In general.—Section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 34.

(2) Technical amendments.—

(A) Section 35 of such Code is redesignated as section 36.

(B) Section 21 of such Code is redesignated as section 35.

(C) Paragraph (1) of section 35(a) of such Code (as redesignated by subparagraph (B)) is amended by striking "this chapter" and inserting "this subtitle".

(D) Subparagraph (C) of section 129(a)(2) of such Code is amended by striking "section 21(e)" and inserting "section 35(e)".

(E) Paragraph (2) of section 129(b) of such Code is amended by striking "section 21(d)(2)" and inserting "section 35(d)(2)".

(F) Paragraph (1) of section 129(e) of such Code is amended by striking "section 21(b)(2)" and inserting "section 35(b)(2)".

(G) Subsection (e) of section 213 of such Code is amended by striking "section 21" and inserting "section 35".

(H) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 35 of such Code".

(I) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.".

(J) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(b) Higher-Income Taxpayers Ineligible for Credit.—Subsection (a) of section 35 of such Code, as redesignated by subsection (a), is amended by adding at the end the following new paragraph:

"(3) Phaseout of credit for higher-income taxpayers.—The amount of the credit which would (but for this paragraph) be allowed by this section shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for the taxable year over $60,000 bears to $20,000. Any reduction determined under the preceding sentence which is not a multiple of $10 shall be rounded to the nearest multiple of $10.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle C—Work First

SEC. 9301. WORK FIRST PROGRAM.

(a) Establishment and Operation of Program.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part F and inserting the following:

"Part F—Work First Program

"SEC. 481. STATE ROLE.

"(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

"(1) OBJECTIVE.—The objective of the program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

"(2) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved under part A with the private sector labor market as soon as possible and offer them the support and skills necessary to remain in the labor market. Each component of the program should be permeated with an emphasis on employment and with an understanding that minimum wage jobs are a stepping stone to more highly paid employment. The program shall provide recipients with education, training, job search and placement, wage supplementation, temporary subsidized jobs, or such other services that the State deems necessary to help a recipient obtain private sector employment.

"(3) JOB CREATION.—The creation of jobs, with an emphasis on private sector jobs, shall be a component of the program and shall be a priority for each State office with responsibilities under the program.

"(4) FORMS OF ASSISTANCE.—The State shall provide assistance to participants in the program in the form of education, training, job placement services (including vouchers for job placement services), work supplementation programs, temporary subsidized job creation, job counseling, assistance in establishing microenterprises, or other services to provide individuals with the support and skills necessary to obtain and keep employment in the private sector.

"(5) 2-YEAR LIMITATION ON PARTICIPATION.—The program shall comply with section 487(b).

"(6) AGREEMENTS OF MUTUAL RESPONSIBILITY.—

"(A) IN GENERAL.—The State agency shall develop an agreement of mutual responsibility for each program participant, which will be an individualized comprehensive plan, developed by the team and the participant, to move the participant into a full-time unsubsidized job. The agreement should detail the education, training, or skills that the individual will be receiving to obtain a full-time unsubsidized job, and the obligations of the individual.

"(B) HOURS OF PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

"(i) not fewer than 20 hours per week during fiscal years 1997 and 1998;

"(ii) not fewer than 25 hours per week during fiscal year 1999; and

"(iii) not fewer than 30 hours per week thereafter.

"(7) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

"(8) NONDISPLACEMENT.—The program may not be operated in a manner that results in—

"(A) the displacement of a currently employed worker or position by a program participant;

"(B) the replacement of an employee who has been terminated with a program participant; or

"(C) the replacement of an individual who is on layoff from the same position given to a program participant or any equivalent position.

"(b) ANNUAL REPORTS.—

"(1) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under section 488(c).

"(2) COMPLIANCE WITH PARTICIPATION RATES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

"SEC. 482. REVAMPED JOBS PROGRAM.

"A State that establishes a program under this part may operate a program similar to the program known as the 'GAIN Program' that has been operated by Riverside County, California, under Federal law in effect immediately before the date this part first applies to the State of California.

"SEC. 483. USE OF PLACEMENT COMPANIES.

"(a) IN GENERAL.—A State that establishes a program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance.

"(b) REQUIRED CONTRACT TERMS.—Each contract entered into under this section with a company shall meet the following requirements:

"(1) PROVISION OF JOB READINESS AND SUPPORT SERVICES.—The contract shall require the company to provide, to any program participant who presents to the company a voucher issued under subsection (d) intensive personalized support and job readiness services designed to prepare the individual for employment and ensure the continued success of the individual in employment.

"(2) PAYMENTS.—

"(A) IN GENERAL.—The contract shall provide for payments to be made to the company with respect to each program participant who presents to the company a voucher issued under subsection (d).

"(B) STRUCTURE.—The contract shall provide for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid after the company has placed the participant in a position of full-time employment and the participant has been employed in the position for such period of not less than 5 months as the State deems appropriate.

"(c) COMPETITIVE BIDDING REQUIRED.—Contracts under this section shall be awarded only after competitive bidding.

"(d) VOUCHERS.—The State shall issue a voucher to each program participant whose agreement of mutual responsibility provides for the use of placement companies under this section, indicating that the participant is eligible for the services of such a company.

"SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

"A State that establishes a program under this part may establish a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

"SEC. 485. MICROENTERPRISE.

"(a) GRANTS AND LOANS TO NONPROFIT ORGANIZATIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE, TRAINING, AND CREDIT TO LOW INCOME ENTREPRENEURS.—A State that establishes a program under this part may make grants and loans to nonprofit organizations to provide technical assistance, training, and credit to low income entrepreneurs for the purpose of establishing microenterprises.

"(b) MICROENTERPRISE DEFINED.—For purposes of this subsection, the term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"SEC. 486. WORK SUPPLEMENTATION PROGRAM.

"(a) IN GENERAL.—A State that establishes a program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable under the State plan approved under part A to participants in the program and use the sums instead for the purpose of providing and subsidizing jobs for the participants (as described in subsection (c)(3)(A) and (B)), as an alternative to providing such assistance to the participants.

"(b) STATE FLEXIBILITY.—

"(1) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this section and section 484 (as in effect immediately before the date this part first applies to the State).

"(2) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(3) Notwithstanding any other provision of law, a State operating a work supplementation program under this section may provide that the need standards in effect in those areas of the State in which the program is in operation may be different from the need standards in effect in the areas in which the program is not in operation, and the State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(4) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of assistance provided under the plan to different categories of recipients (as determined under paragraph (3)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(5) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section as described in subsection (a), the State may use a sampling methodology.

"(6) Notwithstanding any other provision of law, a State operating a work supplementation program under this section, may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c) RULES RELATING TO SUPPLEMENTED JOBS.—

"(1) A work supplementation program operated by a State under this section may provide that any individual who is an eligible individual (as determined under paragraph (2)) shall take a supplemented job (as defined in paragraph (3)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for temporary employment assistance under part A except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for assistance under an approved State plan if the State did not have a work supplementation program in effect.

"(3) For purposes of this subsection, a supplemented job is—

"(A) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(B) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by the State or local agency.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(d) COST LIMITATION.—The amount of the Federal payment to a State under section 413 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in the State under this section had received the maximum amount of assistance providable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for the lesser of—

"(1) 9 months; or

"(2) the number of months in which the individual was employed in the program.

"(e) RULES OF INTERPRETATION.—

"(1) This section shall not be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom the State or local agency provides a job under the work supplementation program (or with respect to whom the State or local agency provides all or part of the wages paid to the individual by another entity under the program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under the program be provided employee status by the entity during the first 13 weeks the individual fills the position.

"(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) PRESERVATION OF MEDICAID ELIGIBILITY.—Any State that chooses to operate a work supplementation program under this section shall provide that any individual who participates in the program, and any child or relative of the individual (or other individual living in the same household as the individual) who would be eligible for assistance under the State plan approved under part A if the State did not have a work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"SEC. 487. PARTICIPATION RULES.

"(a) IN GENERAL.—Except as provided in subsection (b), a State that establishes a program under this part may require any individual receiving assistance under the State plan approved under part A to participate in the program.

"(b) 2-YEAR LIMITATION ON PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate in a State program established under this part if the individual has participated in the State program established under this part for 24 months after the date the individual first signed an agreement of mutual responsibility under this part, excluding any month during which the individual worked for an average of at least 25 hours per week in a private sector job.

"(2) AUTHORITY TO ALLOW REPEAT PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii) of this subparagraph, the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed—

"(I) 10 percent of the total number of individuals who participated in the State program established under this part or the State program established under part H during the immediately preceding program year; or

"(II) in the case of fiscal year 2004 or any succeeding fiscal year, 15 percent of such total number of individuals.

"(ii) AUTHORITY TO INCREASE LIMITATION.—

"(I) PETITION.—A State may request the Secretary to increase to not more than 15 percent the percentage limitation imposed by clause (i)(I) for a fiscal year before fiscal year 2004.

"(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"SEC. 488. CASELOAD PARTICIPATION RATES; PERFORMANCE MEASURES.

"(a) PARTICIPATION RATES.—

"(1) REQUIREMENT.—A State that operates a program under this part shall achieve a participation rate for the following fiscal years of not less than the following percentage:

"Fiscal year:	Percentage:
1997	16
1998	20
1999	24
2000	28
2001	32
2002	40
2003 or later	52.

"(2) PARTICIPATION RATE DEFINED.—

"(A) IN GENERAL.—As used in this subsection, the term 'participation rate' means, with respect to a State and a fiscal year, an amount equal to—

"(i) the average monthly number of individuals who, during the fiscal year, participate in the State program established under this part or (if applicable) part G or H; divided by

"(ii) the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility plan is in effect under section 403 during the fiscal year.

"(B) SPECIAL RULE.—For each of the 1st 12 months after an individual ceases to receive assistance under a State plan approved under part A by reason of having become employed for more than 25 hours per week in an unsubsidized job in the private sector, the individual shall be considered to be participating in the State program established under this part, and to be an adult recipient of such assistance, for purposes of subparagraph (A).

"(3) STATE COMPLIANCE REPORTS.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

"(4) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(A) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by paragraph (1) for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(B) SECOND CONSECUTIVE FAILURE.—Notwithstanding subparagraph (A), if a State fails to achieve the participation rate required by paragraph (1) for 2 consecutive fiscal years, the Secretary may—

"(i) require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G; and

"(ii) reduce by 5 percent the amount otherwise payable to the State under section 413.

"(b) PERFORMANCE STANDARDS.—The Secretary shall develop standards to be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"(c) PERFORMANCE-BASED MEASURES.—

"(1) ESTABLISHMENT.—The Secretary shall, by regulation, establish measures of the effectiveness of the State programs established under this part and under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(2) ANNUAL COMPLIANCE REPORTS.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under paragraph (1).

"SEC. 489. FEDERAL ROLE.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—Within 60 days after the date a State submits to the Secretary a plan that provides for the establishment and operation of a work first program that meets the requirements of section 481, the Secretary shall approve the plan.

"(2) AUTHORITY TO EXTEND APPROVAL DEADLINE.—The 60-day deadline established in paragraph (1) with respect to a State may be extended in accordance with an agreement between the Secretary and the State.

"(b) PERFORMANCE-BASED MEASURES.—The Secretary shall, by regulation, establish measures of the effectiveness of the State program established under this part and (if the State has established a program under part G) the State program established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(c) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(1) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by section 488 for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(2) SECOND CONSECUTIVE FAILURE.—Notwithstanding paragraph (1), if the State has failed to achieve the participation rates required by section 488 for 2 consecutive fiscal years, the Secretary may require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G.

"Part G—Workfare Program

"SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.

"(a) IN GENERAL.—A State that establishes a work first program under part F may establish and carry out a workfare program that meets the requirements of this part, unless the State has established a job placement voucher program under part H.

"(b) OBJECTIVE.—The objective of the workfare program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

"(c) CASE MANAGEMENT TEAMS.—The State shall assign to each program participant a case management team that shall meet with the participant and assist the participant to choose the most suitable workfare job under subsection (e), (f), or (g) and to eventually obtain a full-time unsubsidized paid job.

"(d) PROVISION OF JOBS.—The State shall provide each participant in the program with a community service job that meets the requirements of subsection (e) or a subsidized job that meets the requirements of subsection (f) or (g).

"(e) COMMUNITY SERVICE JOBS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each participant shall work for not fewer than 30 hours per week (or, at the option of the State, 20 hours per week during fiscal years 1997 and 1998, not fewer than 25 hours per week during fiscal year 1999, not fewer than 30 hours per week during fiscal years 2000 and 2001, and not fewer than 35 hours per week thereafter) in a community service job, and be paid at a rate which is not greater than 75 percent (or, at the option of the State, 100 percent) of the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with no income.

"(2) EXCEPTION.—(A) If the participant has obtained unsubsidized part-time employment in the private sector, the State shall provide the participant with a part-time community service job.

"(B) If the State provides a participant a part-time community service job under subparagraph (A), the State shall ensure that the participant works for not fewer than 30 hours per week.

"(3) WAGES NOT CONSIDERED EARNED INCOME.—Wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law.

"(4) COMMUNITY SERVICE JOB DEFINED.—For purposes of this section, the term 'community service job' means—

"(A) a job provided to a participant by the State administering the State plan under part A; or

"(B) a job provided to a participant by any other employer for which all or part of the wages are paid by the State.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(f) TEMPORARY SUBSIDIZED JOB CREATION.—A State that establishes a workfare program under this part may establish a program similar to the program operated by the State of Oregon, which is known as 'JOBS Plus'.

"(g) WORK SUPPLEMENTATION PROGRAM.—

"(1) IN GENERAL.—A State that establishes a workfare program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as a community service minimum wage and use the sums instead for the purpose of providing and subsidizing private sector jobs for the participants.

"(2) EMPLOYER AGREEMENT.—An employer who provides a private sector job to a participant under paragraph (1) shall agree to provide to the participant an amount in wages equal to the poverty threshold for a family of three.

"(h) JOB SEARCH REQUIREMENT.—The State shall require each participant to spend a minimum of 5 hours per week on activities related to securing unsubsidized full-time employment in the private sector.

"(i) DURATION OF PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate for more than 2 years in a workfare program under this part.

"(2) AUTHORITY TO ALLOW REPEATED PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed 10 percent of the total number of individuals who participated in the program during the immediately preceding program year.

"(ii) AUTHORITY TO INCREASE LIMITATION.—

"(I) PETITION.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

"(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"(j) USE OF PLACEMENT COMPANIES.—A State that establishes a workfare program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

"(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—A program participant may not receive more than 3 community service jobs under the program.

"Part H—Job Placement Voucher Program

"SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.

"A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

"(1) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

"(2) An employer who receives a voucher issued under the program from an individual may redeem the voucher at any time after the individual has been employed by the employer for 6 months, unless another employee of the employer was displaced by the employment of the individual.

"(3) Upon presentation of a voucher by an employer to the State agency responsible for the administration of the program, the State agency shall pay to the employer an amount equal to 50 percent of the total amount of assistance provided under the State plan approved under part A to the family of which the individual is a member for the most recent 12 months for which the family was eligible for such assistance.".

(c) FUNDING.—Section 413(a), as added by section 9101(a) of this Act, is amended—

(1) by striking "Subject to" and inserting the following:

"(1) IN GENERAL.—Subject to"; and

(2) by inserting after and below the end the following:

"(2) WORK FIRST AND OTHER PROGRAMS.—(A) Each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such paragraph) of its expenditures to carry out such programs (subject to limitations prescribed by or pursuant to such parts or this part on expenditures that may be included for purposes of determining payment under paragraph (3)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under subparagraph (B) with respect to the State.

"(B) The limitation determined under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (C) for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(C)(i) The amount specified in this subparagraph is—

"(I) $1,600,000,000 for fiscal year 1997;

"(II) $1,600,000,000 for fiscal year 1998;

"(III) $1,900,000,000 for fiscal year 1999;

"(IV) $2,500,000,000 for fiscal year 2000; and

"(V) $3,200,000,000 for fiscal year 2001; and

"(VI) $4,700,000,000 for fiscal year 2002; and

"(VII) the amount determined under clause (ii) for fiscal year 2003 and each succeeding fiscal year.

"(ii) The amount determined under this clause for a fiscal year is the product of the following:

"(I) The amount specified in this subparagraph for the immediately preceding fiscal year.

"(II) 1.00 plus the percentage (if any) by which—

"(aa) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the most recent 12-month period for which such information is available; exceeds

"(bb) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

"(III) The amount that bears the same ratio to the amount specified in this subparagraph for the immediately preceding fiscal year as the number of individuals whom the Secretary estimates will participate in programs operated under part F, G, or H during the fiscal year bears to the total number of individuals who participated in such programs during such preceding fiscal year.

"(D) For purposes of this paragraph, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with assistance provided under the State plan approved under this part.

"(E) For purposes of subparagraph (D), the term 'dependent child' means a needy child (i) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (ii) who is (I) under the age of eighteen, or (II) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).

"(F) For purposes of subparagraph (E), the term 'relative with whom any dependent child is living' means the individual who is one of the relatives specified in subparagraph (E) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

"(3)(A) In lieu of any payment under paragraph (1) therefor, the Secretary shall pay to each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H, with respect to expenditures by the State to carry out such programs, an amount equal to—

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services; and

"(II) 60 percent or the Federal medical assistance percentage (as defined in the last sentence of section 1118), whichever is the greater, in the case of expenditures made by a State in operating such programs for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating such programs may be in cash or in kind, fairly evaluated.

"(C) Not more than 10 percent of the amount payable to a State under this paragraph for a quarter may be for expenditures made during the quarter with respect to program participants who are not eligible for assistance under the State plan approved under this part.".

(d) SECRETARY'S SPECIAL ADJUSTMENT FUND.—Section 413(a), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(4) SECRETARY'S SPECIAL ADJUSTMENT FUND.—(A) There shall be available to the Secretary from the amount appropriated for payments under paragraph (2) for States' programs under parts F and G for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for such programs.

"(B) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its program under part F (and, in fiscal years after 1997) its program under part G for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under paragraph (2) in the current fiscal year and obligated 95 percent of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

"(C) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under paragraph (2), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in such paragraph shall be considered to be so increased for the following fiscal year.

"(D) The amount made available under subparagraph (A) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under paragraph (2) of this subsection and section 2008 for a fiscal year exceeded the sum of the Federal payments under such provisons of law for such fiscal year, but for fiscal years after 1997, such amount at the end of such fiscal year shall not exceed $400,000,000.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1115(b)(2)(A) (42 U.S.C. 1315(b)(2)(A)) is amended by striking ", and 402(a)(19) (relating to the work incentive program)".

(2) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking "or, in the case of part A of title IV, section 403(k)"; and

(B) in subsection (d), by striking "(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)".

(3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended—

(A) by striking "402(a)(37), 406(h), or"; and

(B) by striking "482(e)(6)" and inserting "486(f)".

(4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1)) is amended by striking "482(e)(6)" and inserting "486(f)".

(f) INTENT OF THE CONGRESS.—The Congress intends for State activities under section 484 of the Social Security Act (as added by the amendment made by section 9301(a) of this Act) to emphasize the use of the funds that would otherwise be used to provide individuals with assistance under part A of title IV of the Social Security Act and with food stamp benefits under the Food Stamp Act of 1977, to subsidize the wages of such individuals in temporary jobs.

(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that States should target individuals who have not attained 25 years of age for participation in the program established by the State under part F of title IV of the Social Security Act (as added by the amendment made by section 9301(a) of this section) in order to break the cycle of welfare dependency.

SEC. 9302. REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

SEC. 9303. APPLICABILITY TO STATES.

(a) STATE OPTION TO ACCELERATE APPLICABILITY.—If a State formally notifies the Secretary of Health and Human Services that the State desires to accelerate the applicability to the State of the amendments made by this subtitle, the amendments shall apply to the State on and after such earlier date as the State may select.

(b) STATE OPTION TO DELAY APPLICABILITY UNTIL WAIVERS EXPIRE.—The amendments made by this subtitle shall not apply to a State with respect to which there is in effect a waiver issued under section 1115 of the Social Security Act for the State program established under part F of title IV of such Act, until the waiver expires, if the State formally notifies the Secretary of Health and Human Services that the State desires to so delay such effective date.

(c) AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES TO DELAY APPLICABILITY TO A STATE.—If a State formally notifies the Secretary of Health and Human Services that the State desires to delay the applicability to the State of the amendments made by this title, the amendments shall apply to the State on and after any later date agreed upon by the Secretary and the State.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV-D PROGRAM CLIENTS

SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) State Law Requirements.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

"(12) Use of central case registry and centralized collections unit.—Procedures under which—

"(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

"(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

"(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

"(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

"(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

"(ii) an agreement described in clause (i) becomes void whenever either party advises the State agency of an intent to vacate the agreement.".

(b) State Plan Requirements.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) provide that such State will undertake—

"(A) to provide appropriate services under this part to—

"(i) each child with respect to whom an assignment is effective under section 403(b)(1)(E)(i), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

"(ii) each child not described in clause (i)—

"(I) with respect to whom an individual applies for such services; and

"(II) (on and after October 1, 1998) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

"(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A) unless the parties to the order which establishes the support obligation have opted, in accordance with section 466(a)(12)(C), for an alternative payment procedure."; and

(2) in paragraph (6)—

(A) by striking subparagraph (A) and inserting the following:

"(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;";

(B) in subparagraph (B)—

(i) by inserting "on individuals not receiving assistance under part A" after "such services shall be imposed"; and

(ii) by inserting "but no fees or costs shall be imposed on any absent or custodial parent or other individual for inclusion in the central State registry maintained pursuant to section 454A(e)"; and

(C) in each of subparagraphs (B), (C), and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(ii) by striking the final comma and inserting a semicolon.

(c) Conforming Amendments.—

(1) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(2) Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking "information as to any application fees for such services and".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "or (6)".

SEC. 9402. DISTRIBUTION OF PAYMENTS.

(a) Distributions Through State Child Support Enforcement Agency to Former Assistance Recipients.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by striking section 402(a)(26) is effective," and inserting "section 403(b)(1)(E)(i) is effective, except as otherwise specifically provided in section 464 or 466(a)(3),"; and

(B) by striking "except that" and all that follows through the semicolon; and

(2) in subparagraph (B), by striking ", except" and all that follows through "medical assistance".

(b) Distribution to a Family Currently Receiving Temporary Employment Assistance.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a) (as so redesignated)—

(A) in the matter preceding paragraph (2), to read as follows:

"(a) In the Case of a Family Receiving TEA.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;";

(B) in paragraph (4), by striking "or (B)" and all that follows through the period and inserting "; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family."; and

(3) by inserting after subsection (a) (as so redesignated) the following new subsection:

"(b) Alternative Distribution in Case of Family Receiving TEA.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

"(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(5) fifth, any remainder shall be paid to the family.".

(c) Distribution to a Family Not Receiving TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

"(c) Distributions In Case of Family Not Receiving TEA.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

"(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

"(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).".

(d) Distribution to a Child Receiving Assistance Under Title IV–E.—Section 457(d)

(42 U.S.C. 657(d)) is amended, in the matter preceding paragraph (1), by striking "Notwithstanding the preceding provisions of this section, amounts" and inserting the following:

"(d) Distributions In Case of a Child Receiving Assistance Under Title IV-E.—Amounts".

(e) Regulations.—The Secretary of Health and Human Services shall promulgate regulations under part A of title IV of the Social Security Act, establishing standards applicable to States electing the alternative formula under section 457(b) of such Act for distribution of collections on behalf of families receiving temporary employment assistance, designed to minimize irregular monthly payments to such families.

(f) Clerical Amendments.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by inserting after the semicolon "and"; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(g) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall become effective on October 1, 1996.

(2) Family not receiving TEA.—The amendment made by subsection (c) shall become effective on October 1, 1999.

(3) Special rules.—

(A) Applicability.—A State may elect to have the amendments made by any subsection of this section become effective only with respect to child support cases beginning on or after the effective date of such subsection.

(B) Delayed implementation.—A State may elect to have the amendments made by this section (other than subsection (c)) become effective on a date later than October 1, 1996, which date shall coincide with the operation of the single statewide automated data processing and information retrieval system required by section 454A of the Social Security Act (as added by section 9415(a)(2) of this Act) and the State centralized collection unit required by section 454B of the Social Security Act (as added by section 9422(b) of this Act).

SEC. 9403. DUE PROCESS RIGHTS.

(a) In General.—Section 454 (42 U.S.C. 654), as amended by section 9402(f) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for procedures to ensure that—

"(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;

"(B) individuals applying for or receiving services under this part have access to a fair hearing that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order); and

"(C) individuals adversely affected by the establishment or modification of (or, in the case of a petition for modification, the determination that there should be no change in) a child support order shall be afforded not less than 30 days after the receipt of the order or determination to initiate proceedings to challenge such order or determination;".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 9404. PRIVACY SAFEGUARDS.

(a) State Plan Requirement.—Section 454 (42 U.S.C. 454) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following:

"(25) will have in effect safeguards applicable to all sensitive and confidential information handled by the State agency designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions on the release of information on the whereabouts of one party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions on the release of information on the whereabouts of one party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—PROGRAM ADMINISTRATION AND FUNDING

SEC. 9411. FEDERAL MATCHING PAYMENTS.

(a) Increased Base Matching Rate.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1997, 69 percent,

"(B) for fiscal year 1998, 72 percent, and

"(C) for fiscal year 1999 and succeeding fiscal years, 75 percent.".

(b) Maintenance of Effort.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Maintenance of Effort.—Notwithstanding the provisions of subsection (a), total expenditures for the State program under this part for fiscal year 1997 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subsection (a)(2)(A), (B), or (C)(i), shall not be less than such total expenditures for fiscal year 1996, reduced by 66 percent.".

SEC. 9412. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) Incentive Adjustments to Federal Matching Rate.—Section 458 (42 U.S.C. 658) is amended to read as follows:

"INCENTIVE ADJUSTMENTS TO MATCHING RATE

"Sec. 458. (a) Incentive Adjustment.—(1) In General.—In order to encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

"(2) Standards.—(A) In General.—The Secretary shall specify in regulations—

"(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

"(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

"(I) 5 percentage points, in connection with Statewide paternity establishment; and

"(II) 10 percentage points, in connection with overall performance in child support enforcement.

"(B) Limitation.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

"(3) Determination of Incentive Adjustment.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

"(4) Fiscal Year Subject to Incentive Adjustment.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

"(5) Recycling of Incentive Adjustment.—A State shall expend in the State program under this part all funds paid to the State by the Federal Government as a result of an incentive adjustment under this section.

"(b) Meaning of Terms.—For purposes of this section—

"(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

"(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

"(B) the total number of children born out of wedlock in the State during such fiscal year; and

"(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

"(A) the percentage of cases requiring a child support order in which such an order was established;

"(B) the percentage of cases in which child support is being paid;

"(C) the ratio of child support collected to child support due; and

"(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.".

(b) Adjustment of Payments Under Part D of Title IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 9411(a) of this Act, is amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

"increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.".

(c) Conforming Amendments.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking "incentive payments" the first place it appears and inserting "incentive adjustments"; and

(2) by striking "any such incentive payments made to the State for such period" and inserting "any increases in Federal payments to the State resulting from such incentive adjustments".

(d) Calculation of IV–D Paternity Establishment Percentage.—(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,".

(2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(ii) by striking "(or all States, as the case may be)";

(B) in subparagraph (A)(i), by striking "during the fiscal year";

(C) in subparagraph (A)(ii)(I), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(D) in subparagraph (A)(ii)(II), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(E) in subparagraph (A)(iii)—

(i) by striking "during the fiscal year"; and

(ii) by striking "and" at the end; and

(F) in the matter following subparagraph (A)—

(i) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(ii) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(iii) by striking "or (E)" the second place it appears.

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated, by striking "the percentage of children born out-of-wedlock in the State" and inserting "the percentage of children in the State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B), as redesignated—

(i) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(ii) by inserting "and securing support" before the period.

(e) Reduction of Payments Under Part D of Title IV.—

(1) New requirements.—Section 455 (42 U.S.C. 655) is amended by inserting after subsection (b) the following:

"(c)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

"(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV–D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

"(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(B) that, with respect to the succeeding fiscal year—

"(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

"(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

"(2) The reductions required under paragraph (1) shall be—

"(A) not less than 6 nor more than 8 percent, or

"(B) not less than 8 nor more than 12 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

"(C) not less than 12 nor more than 15 percent, if the finding is the third or a subsequent consecutive such finding.

"(3) For purposes of this subsection, section 405(d), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.".

(2) Conforming amendments.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking "403(h)" each place such term appears and inserting "455(c)".

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking "403(h)" and inserting "455(c)".

(f) Effective Dates.—

(1) Incentive adjustments.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1997, except to the extent provided in subparagraph (B).

(B) Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) Penalty reductions.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) State Agency Activities.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program under this part, which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

"(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) Federal Activities.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(c) to be applied to the State;

"(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

"(ii) of the adequacy of financial management of the State program, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) Effective Date.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) Establishment.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes and timely case processing) to be applied in following such procedures" before the semicolon.

(b) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by section 9404(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following:

"(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) Revised Requirements.—(1) Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 454 the following new section:

"AUTOMATED DATA PROCESSING

"Sec. 454A. (a) In General.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

"(b) Program Management.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

"(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

"(c) Calculation of Performance Indicators.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) Information Integrity and Security.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

"(1) Policies restricting access.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

"(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

"(2) Systems controls.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

"(3) Monitoring of access.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) Training and information.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

"(5) Penalties.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) Regulations.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.".

(4) Implementation Timetable.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 9404(a)(2) and 9414(b)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j) of this Act;".

(b) Special Federal Matching Rate for Development Costs of Automated Systems.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(B) by striking "so much of"; and

(C) by striking "which the Secretary" and all that follows and inserting ", and"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

"(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

"(I) 80 percent, or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(c) Conforming Amendment.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100-485) is repealed.

(d) Additional Provisions.—For additional provisions of section 454A, as added by subsection (a) of this section, see the amendments made by sections 9421, 9422(c), and 9433(d) of this Act.

SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.

(a) Reporting to Secretary.—Section 452(a) (42 U.S.C. 652(a)) is amended in the matter preceding paragraph (1) by striking "directly".

(b) Staffing Studies.—

(1) Scope.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) Frequency of studies.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) Report to the congress.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 (42 U.S.C. 652), as amended by section 9415(a)(3) of this Act, is amended by adding at the end the following new subsection:

"(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

"(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

"(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

"(C) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

"(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving assistance under State plans approved under part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

"(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

"(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).".

SEC. 9418. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following indented clauses:

"(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

"(II) with respect to whom a child support payment was received in the same month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

"(1) families (or dependent children) receiving assistance under State plans approved under part A (or E); and

"(2) families not receiving such assistance.

"(b) The data referred to in subsection (a) are—

"(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

"(2) the number of such cases in which the service has been provided."; and

(2) in subsection (c), by striking "(a)(2)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 3—LOCATE AND CASE TRACKING

SEC. 9421. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 9415(a)(2) of this Act, is amended by adding at the end the following:

"(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

"(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

"(B) the date on which or circumstances under which the support obligation will terminate under such order;

"(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

"(D) the distribution of such amounts collected; and

"(E) the birth date of the child for whom the child support order is entered.

"(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from matches with Federal, State, or local data sources;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

"(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnish to the Data Bank of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

"(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 9422. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a) and 9414(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that the State agency, on and after October 1, 1998—

"(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

"(B) will have sufficient State staff (consisting of State employees), and (at State option) contractors reporting directly to the

State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).".

(b) Establishment of Centralized Collection Unit.—Part D of title IV (42 U.S.C. 651–669) is amended by adding after section 454A the following new section:

"CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

"Sec. 454B. (a) In General.—In order to meet the requirement of section 454(27), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

"(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

"(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(b) Required Procedures.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to either parent, upon request, timely information on the current status of support payments.".

(c) Use of Automated System.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by section 9421 of this Act, is amended by adding at the end the following new subsection:

"(g) Centralized Collection and Distribution of Support Payments.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

"(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

"(A) within two working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

"(B) using uniform formats directed by the Secretary;

"(2) ongoing monitoring to promptly identify failures to make timely payment; and

"(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.".

(d) Effective Date.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) Mandatory Income Withholding.—(1) Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1) Income withholding.—(A) Under orders enforced under the State plan.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Under certain orders predating change in requirement.—Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)";

(B) in paragraph (5), by striking all that follows "administered by" and inserting "the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.";

(C) in paragraph (6)(A)(i)—

(i) by inserting ", in accordance with timetables established by the Secretary," after "must be required"; and

(ii) by striking "to the appropriate agency" and all that follows and inserting "to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(D) in paragraph (6)(A)(ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(E) in paragraph (6)(D)—

(i) by striking "employer who discharges" and inserting "employer who—(A) discharges";

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

"(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.".

(b) Conforming Amendment.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) Definition of Terms.—The Secretary shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term "income" and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 9423(a)(2) of this Act, is amended by inserting after paragraph (7) the following:

"(8) Locator information from interstate networks.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

"(A) for purposes relating to the use of motor vehicles; or

"(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.".

SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERVICE.

(a) Expanded Authority to Locate Individuals and Assets.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting the following:

", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support;

"(B) against whom such an obligation is sought; or

"(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information specified in subsection (a)"; and

(B) in paragraph (2), by inserting before the period ", or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))";

(3) in subsection (e)(1), by inserting before the period ", or by consumer reporting agencies".

(b) Reimbursement for Data From Federal Agencies.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period "in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)".

(c) Access to Consumer Reports Under Fair Credit Reporting Act.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking ", limited to" and inserting "to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to"; and

(B) by striking "employment, to a governmental agency" and inserting "employment, in the case of any other governmental agency)".

(2) Reimbursement for Reports by State Agencies and Credit Bureaus.—Section 453

(42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).".

(d) Disclosure of Tax Return Information.—(1) Section 6103(1)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking ", but only if" and all that follows and inserting a period.

(2) Section 6103(1)(8)(A) of the Internal Revenue Code of 1986 is amended by inserting "Federal," before "State or local".

(e) Technical Amendments.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting "Federal" before "Parent" each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) New Components.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2) of this section, is amended by adding at the end the following:

"(h) Data Bank of Child Support Orders.—

"(1) In general.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) Case information.—The information referred to in paragraph (1), as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

"(i) Directory of New Hires.—

"(1) In general.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

"(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

"(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

"(2) Employer information.—

"(A) Information required.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory established under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

"(B) Reporting method and format.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

"(i) automated or electronic transmission of such reports;

"(ii) transmission by regular mail; and

"(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

"(C) Employee defined.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

"(D) Paperwork reduction requirement.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

"(E) Civil money penalty on noncomplying employers.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

"(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(iii) Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

"(3) Employment security information.—

"(A) Reporting requirement.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

"(B) Manner of compliance.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

"(j) Data Matches and Other Disclosures.—

"(1) Verification by social security administration.—(A) The Secretary shall transmit data on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

"(i) the name, social security number, and birth date of each individual; and

"(ii) the employer identification number of each employer.

"(2) Child support locator matches.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

"(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less often than every 2 working days; and

"(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

"(3) Data matches and disclosures of data in all registries for title IV program purposes.—The Secretary shall—

"(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

"(B) disclose data in such registries to such State agencies,

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

"(k) Fees.—

"(1) For SSA verification.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

"(2) For information from SESAs.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

"(3) For information furnished to State and Federal agencies.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

"(l) Restriction on Disclosure and Use.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

"(m) Retention of Data.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

"(n) Information Integrity and Security.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(o) Limit on Liability.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service section and disclosed by the Secretary in accordance with this section.".

(g) Conforming Amendments.—

(1) To part D of title IV of the Social Security Act.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(2) To Federal Unemployment Tax Act.—Section 3304(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) To State grant program under title III of the Social Security Act.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding after paragraph (9) the following new paragraph:

"(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.".

SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.

(a) State Law Requirement.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 9401(a) of this Act, is amended by inserting after paragraph (12) the following:

"(13) Social security numbers required.—Procedures requiring the recording of social security numbers—

"(A) of both parties on marriage licenses and divorce decrees; and

"(B) of both parents, on birth records and child support and paternity orders.".

(b) Clarification of Federal Policy.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting "This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.".

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and 9426(a) of this Act, is amended inserting after paragraph (13) the following:

"(14) Interstate enforcement.—(A) Adoption of UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

"(B) Expanded application of UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

"(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

"(ii) in which interstate activity is required to enforce an order.

"(C) Jurisdiction to modify orders.—The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) do not reside in the issuing State; and

"'(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

"'(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(D) Service of process.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

"(E) Cooperation by employers.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.".

SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following:

"(f) Recognition of Child Support Orders.—If one or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only one court has issued a child support order, the order of that court must be recognized.

"(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "Prior" and inserting "Modified"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by adding after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

"(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

"(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

"(C) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

"(D) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records; and

"(ii) certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

"(E) INCOME WITHHOLDING.—To order income withholding in accordance with subsection (a)(1) and (b) of section 466.

"(F) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 403(b)(1)(E)(i), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(G) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

"(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

"(I) unemployment compensation, workers' compensation, and other benefits;

"(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

"(III) lottery winnings;

"(ii) to attach and seize assets of the obligor held by financial institutions;

"(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

"(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

"(I) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

"(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

"(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking "(d) If" and inserting the following:

"(d) EXEMPTIONS FROM REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) NONEXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

"(A) subsection (a)(5) (concerning procedures for paternity establishment);

"(B) subsection (a)(10) (concerning modification of orders);

"(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

"(D) subsection (a)(13) (concerning recording of Social Security numbers);

"(E) subsection (a)(14) (concerning interstate enforcement); or

"(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).".

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by sections 9421 and 9422(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).".

CHAPTER 5—PATERNITY ESTABLISHMENT

SEC. 9441. SENSE OF THE CONGRESS.

It is the sense of the Congress that social services should be provided in hospitals to women who have become pregnant as a result of rape or incest.

SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES FOR NEW FATHERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), and 9431 of this Act, is amended by inserting after paragraph (14) the following:

"(15) Procedures for providing new fathers with positive parenting counseling that stresses the importance of paying child support in a timely manner, in accordance with regulations prescribed by the Secretary.".

SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide that the State agency administering the plan under this part—

"(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 403(b)(1)(E)(i) and 1912;

"(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

"(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

"(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

"(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

"(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

"(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

"(i) the name of the putative father (or fathers); and

"(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

"(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

"(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate)) will not later determine such individual not to be cooperating (or not to have good cause not to cooperate) until such individual has been afforded an opportunity for a hearing.".

(b) MEDICAID AMENDMENTS.—Section 1912(a) (42 U.S.C. 1396k(a)) is amended—

(1) in paragraph (1)(B), by inserting "(except as provided in paragraph (2))" after "to cooperate with the State";

(2) in subparagraphs (B) and (C) of paragraph (1) by striking ", unless" and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

"(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

"(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

"(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

"(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

"(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

"(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate; and

"(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

"(i) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after the date of the enactment of this Act (or such earlier quarter as the State may select) for assistance under a State plan approved under part A of title IV of the Social Security Act or for medical assistance under a State plan approved under title XIX of such Act.

SEC. 9444. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1996, 69 percent;

"(B) for fiscal year 1997, 72 percent; and

"(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.".

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following:

"(c) MAINTENANCE OF EFFORT.—Notwithstanding subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.".

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking "(5)" and inserting the following:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—";

(2) in subparagraph (A)—

(A) by striking "(A)(i)" and inserting the following:

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN.—(i)"; and

(B) by indenting clauses (i) and (ii) so that the left margin of such clauses is 2 ems to the right of the left margin of paragraph (4);

(3) in subparagraph (B)—

(A) by striking "(B)" and inserting the following:

"(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)";

(B) in clause (i), as redesignated, by inserting before the period ", where such request is supported by a sworn statement (I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties, or (II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;";

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

"(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.";

(4) by striking subparagraphs (C) and (D) and inserting the following:

"(C) PATERNITY ACKNOWLEDGMENT.—(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

"(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as, voluntary paternity establishment programs of hospitals and birth record agencies.

"(v) Such procedures must require the State and those required to establish paternity to use only the affidavit developed under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

"(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

"(aa) attaining the age of majority; or

"(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.";

(5) by striking subparagraph (E) and inserting the following:

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.";

(6) by striking subparagraph (F) and inserting the following:

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

"(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

"(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy."; and

(7) by adding after subparagraph (H) the following new subparagraphs:

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

"(L) WAIVER OF STATE DEBTS FOR COOPERATION.—At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

"(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security account number of each parent" before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

"(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

"(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

"(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;".

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon ", and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1997.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Child Support Guidelines Commission" (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—The Commission shall develop a national child support guideline for consideration by the Congress that is based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

(a) In General.—Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) Procedures for modification of support orders.—

"(A)(i) Procedures under which—

"(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

"(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

"(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

"(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be established by the Secretary and provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.".

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.

(a) Changed Order of Refund Distribution Under Internal Revenue Code.—Section 6402(c) of the Internal Revenue Code of 1986 is amended by striking the 3rd sentence.

(b) Elimination of Disparities in Treatment of Assigned and Non-Assigned Arrearages.—(1) Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) by striking "(a)" and inserting "(a) Offset Authorized.—";

(B) in paragraph (1)—

(i) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(C) in paragraph (2), to read as follows:

"(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 403(b)(1)(E)(i) or 471(a)(17); and

"(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.";

(D) in paragraph (3)—

(i) by striking "or (2)" each place it appears; and

(ii) in subparagraph (B), by striking "under paragraph (2)" and inserting "on account of past-due support described in paragraph (2)(B)".

(2) Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking "(b)(1)" and inserting "(b) Regulations.—"; and

(B) by striking paragraph (2).

(3) Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), as" and inserting "(c) Definition.—As"; and

(B) by striking paragraphs (2) and (3).

(c) Effective Date.—The amendments made by this section shall become effective October 1, 1999.

SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) Amendment to Internal Revenue Code.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting "except as provided in paragraph (5)" after "collected";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(5) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) Effective Date.—The amendments made by this section shall become effective October 1, 1997.

SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) Consolidation and Streamlining of Authorities.—

(1) Section 459 (42 U.S.C. 659) is amended in the caption by inserting "INCOME WITHHOLDING," before "GARNISHMENT".

(2) Section 459(a) (42 U.S.C. 659(a)) is amended—

(A) by striking "(a)" and inserting "(a) Consent To Support Enforcement.—

(B) by striking "section 207" and inserting "section 207 of this Act and 38 U.S.C. 5301"; and

(C) by striking all that follows "a private person," and inserting "to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.".

(3) Section 459(b) (42 U.S.C. 659(b)) is amended to read as follows:

"(b) Consent to Requirements Applicable to Private Person.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.".

(4) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking "responding to interrogatories pursuant to requirements imposed by section 461(b)(3)" and inserting "taking actions necessary to comply with the requirements of subsection (A) with regard to any individual"; and

(B) by striking "any of his duties" and all that follows and inserting "such duties.".

(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (b), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (b) (as added by paragraph (3) of this subsection) the following:

"(c) Designation of Agent; Response to Notice or Process.—(1) The head of each agency subject to the requirements of this section shall—

"(A) designate an agent or agents to receive orders and accept service of process; and

"(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.".

(6) Section 459 (42 U.S.C. 659) is amended by striking subsection (d) and by inserting after subsection (c)(1) (as added by paragraph (5) of this subsection) the following:

"(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

"(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.".

(7) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (c) (as added by paragraph (5) and amended by paragraph (6) of this subsection) the following:

"(d) Priority of Claims.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

"(3) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(8) Section 459(e) (42 U.S.C. 659(e)) is amended by striking "(e)" and inserting the following:

"(e) No Requirement To Vary Pay Cycles.—".

(9) Section 459(f) (42 U.S.C. 659(f)) is amended by striking "(f)" and inserting the following:

"(f) Relief From Liability.—(1)".

(10) Section 461(a) (42 U.S.C. 661(a)) is redesignated and relocated as section 459(g), and is amended—

(A) by striking "(g)" and inserting the following:

"(g) REGULATIONS.—"; and

(B) by striking "section 459" and inserting "this section".

(11) Section 462 (42 U.S.C. 662) is amended by striking subsection (f), and section 459 (42 U.S.C. 659) is amended by inserting the following after subsection (g) (as added by paragraph (10) of this subsection):

"(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); and

"(iii) worker's compensation benefits paid under Federal or State law; but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.".

(12) Section 462(g) (42 U.S.C. 662(g)) is redesignated and relocated as section 459(i) (42 U.S.C. 659(i)).

(13)(A) Section 462 (42 U.S.C. 662) is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 (42 U.S.C. 659) is amended by adding at the end the following:

"(j) DEFINITIONS.—For purposes of this section—".

(C) Subsections (a) through (e) of section 462 (42 U.S.C. 662), as amended by subparagraph (A) of this paragraph, are relocated and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subparagraph (B) of this paragraph, (42 U.S.C. 659(j)), and the left margin of each of such paragraphs (1) through (4) is indented 2 ems to the right of the left margin of subsection (i) (as added by paragraph (12) of this subsection).

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661), as amended by subsection (a) of this section, are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new paragraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).";

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement," before "which—".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by striking "to spouse" and inserting "to (or for benefit of)"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order or an order of an administrative process established under State law for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section

1408(d)(1) of such title is amended by inserting after the first sentence the following: "In the case of a spouse or former spouse who, pursuant to section 403(b)(1)(E)(i) of the Social Security Act, assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order or an order of an administrative process established under State law for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisy the amount of child support set forth in a court order or an order of an administrative process established under State law shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

SEC. 9465. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking "(4) Procedures" and inserting the following:

"(4) LIENS.—

"(A) IN GENERAL.—Procedures"; and

(2) by adding at the end the following new subparagraph:

"(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

"(i) any person owed such arrears may place such a lien;

"(ii) the State agency administering the program under this part shall systematically place such liens;

"(iii) expedited methods are provided for—

"(I) ascertaining the amount of arrears;

"(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

"(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

"(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.".

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, and 9442 of this Act, is amended by inserting after paragraph (15) the following:

"(16) FRAUDULENT TRANSFERS.—Procedures under which—

"(A) the State has in effect—

"(i) the Uniform Fraudulent Conveyance Act of 1981,

"(ii) the Uniform Fraudulent Transfer Act of 1984, or

"(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(i) seek to void such transfer; or

"(ii) obtain a settlement in the best interests of the child support creditor.".

SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, and 9466 of this Act, is amended by inserting after paragraph (16) the following:

"(17) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, and professional and occupational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.".

SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by striking "(9) Procedures" and inserting the following:

"(9) LEGAL TREATMENT OF ARREARS.—

"(A) FINALITY.—Procedures";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by indenting each of such clauses 2 additional ems to the right; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

"(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.".

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, and 9467 of this Act, is amended by inserting after paragraph (17) the following:

"(18) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).".

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1998.

SEC. 9471. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by sections 9415(a)(3) and 9417 of this Act, is amended by adding at the end the following new subsection:

"(l) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—

"(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 9471(b) of the Omnibus Budget Reconciliation Act of 1995.

"(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting "; and"; and

(C) by adding after paragraph (27) the following new paragraph:

"(28) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(l) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State, upon certification by the Secretary of Health and Human Services, in accordance with section 452(l) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), 9422(a), and 9471(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following:

"(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.".

SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and 9470(a) of this Act, is amended by inserting after paragraph (18) the following:

"(19) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

"(A) The distributor of the winnings from a State lottery or State-sanctioned or tribal-sanctioned gambling house or casino shall—

"(i) suspend payment of the winnings from the person otherwise entitled to the payment until an inquiry is made to and a response is received from the State child support enforcement agency as to whether the person owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(B) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(C) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(D) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

"(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

"(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.

"(E) Any person required to make a payment in respect of a decedent shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.".

SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL SUPPORT OF CHILDREN OF THEIR MINOR CHILDREN.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, 9470(a), and 9473 of this Act, is amended by inserting after paragraph (19) the following:

"(20) Procedures under which each parent of an individual who has not attained 18 years of age is liable for the financial support of any child of the individual to the extent that the individual is unable to provide such support. The preceding sentence shall not apply to the State if the State plan explicitly provides for such inapplicability.".

SEC. 9475. SENSE OF THE CONGRESS REGARDING PROGRAMS FOR NONCUSTODIAL PARENTS UNABLE TO MEET CHILD SUPPORT OBLIGATIONS.

It is the sense of the Congress that the States should develop programs, such as the program of the State of Wisconsin known as the "Children's First Program", that are designed to work with noncustodial parents who are unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended adding at the end the following:

"(i) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(j) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part

D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 9491 of this Act, is amended by adding at the end the following:

"(k) Disqualification for Child Support Arrears.—

"(1) In general.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 9498. EFFECTIVE DATES.

(a) In General.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon enactment.

(b) Grace Period for State Law Changes.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) Grace Period for State Constitutional Amendment.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment, or

(2) the date five years after enactment of this title.

SEC. 9499. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

Subtitle E—Teen Pregnancy And Family Stability

SEC. 9501. STATE OPTION TO DENY TEMPORARY EMPLOYMENT ASSISTANCE FOR ADDITIONAL CHILDREN.

(a) In General.—Section 402(d)(1), as added by section 9101(a) of this Act, is amended—

(1) by striking "(1) Determination of need.—" and inserting the following:

"(1) Determination of need.—

"(A) In general.—"; and

(2) by adding at the end the following:

"(B) Optional denial of assistance to families having additional children while receiving assistance.—At the option of the State, the State plan may provide that—

"(i)(I) a child shall not be considered a needy child if the child is born (other than as a result of rape or incest) to a member of a family—

"(aa) while the family was a recipient of assistance under the State plan; or

"(bb) during the 6-month period ending with the date the family applied for such assistance; and

"(II) if the value of assistance to a family under the State plan approved under this part is reduced by reason of subclause (I), each member of the family shall be considered to be receiving such assistance for purposes of eligibility for medical assistance under the State plan approved under title XIX for so long as assistance to the family under the State plan approved under this part would otherwise not be so reduced; and

"(ii) if the State exercises the option, the State may provide the family with vouchers, in amounts not exceeding the amount of any such reduction in assistance, that may be used only to pay for particular goods and services specified by the State as suitable for the care of the child of the parent (such as diapers, clothing, or school supplies).".

(b) Effective Date.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(a) In General.—Section 402(c), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(8) Supervised living arrangements for minors.—The State plan shall provide that—

"(A) except as provided in subparagraph (B), in the case of any individual who is under age 18 and has never married, and who has a needy child in his or her care (or is pregnant and is eligible for temporary employment assistance under the State plan)—

"(i) such individual may receive such assistance for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home; and

"(ii) such assistance (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

"(B)(i) in the case of an individual described in clause (ii)—

"(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

"(II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, the State agency shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency); and

"(ii) for purposes of clause (i), an individual is described in this clause if—

"(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(III) the State agency determines that the physical or emotional health of such individual or any needy child of the individual would be jeopardized if such individual and such needy child lived in the same residence with such individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the needy child to waive the requirement of subparagraph (A) with respect to such individual.".

(b) Effective Date.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) In General.—Title XX (42 U.S.C. 1397–1397f), as amended by section 9205(b) of this Act, is amended by adding at the end the following:

"SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

"(a) National Clearinghouse on Adolescent Pregnancy.—

"(1) Establishment.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

"(2) Functions.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

"(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention program and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

"(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

"(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

"(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

"(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

"(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

"(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (a) so that in the aggregate the expenditures for such grants do not exceed $2,000,000 for fiscal year 1996, $4,000,000 for fiscal year 1997, $8,000,000 for fiscal year 1998, and $10,000,000 for fiscal year 1999 and each subsequent fiscal year.

"(c) DEFINITIONS.—As used in this section:

"(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

"(A) a local education agency, acting on behalf of one or more schools, together with

"(B) one or more community-based organizations, institutions of higher education, or public or private agencies or organizations.

"(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

"(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

"(B) the number of children receiving assistance under a State plan approved under part A of title IV of this Act is substantial as determined by the responsible Federal officials; or

"(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

"(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

"(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 9101(a) of this Act, is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following:

"(ii) in the case of a client who is a custodial parent who is under age 18 (or age 19, at the option of the State), has not successfully completed a high-school education (or its equivalent), and is required to participate in the Work First program (including an individual who would otherwise be exempt from participation in the program), shall provide that—

"(I) such parent participate in—

"(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

"(bb) an alternative educational or training program on a full-time (as defined by the provider) basis; and

"(II) child care be provided in accordance with section 2009 with respect to the family.".

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(iii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participate in a program of monetary incentives and penalties which—

"(I) may, at the option of the State, require full-time participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

"(II) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual's individual responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and service providers will coordinate with the educational or skills training activities in which the client is participating;

"(III) shall provide monetary incentives (to be treated as assistance under the State plan) for more than minimally acceptable performance of required educational activities;

"(IV) shall provide penalties (which may be those required by subsection (e) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities;

"(V) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid directly to such parent, regardless of whether the State agency makes payment of assistance under the State plan directly to such parent; and

"(VI) for purposes of any other Federal or federally-assisted program based on need, shall not consider any monetary incentive paid under the State plan as income in determining a family's eligibility for or amount of benefits under such program, and if assistance is reduced by reason of a penalty under this clause, such other program shall treat the family involved as if no such penalty has been applied.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MINORS WHO BEAR CHILDREN OUT-OF-WEDLOCK.

(a) PROHIBITION OF ASSISTANCE.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(1) after the birth of the child—

(A) the individual marries an individual who has been determined by the relevant State to be the biological father of the child; or

(B) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(2) the individual is a biological and custodial parent of another child who was not born out-of-wedlock; or

(3) eligibility for such Federal housing assistance is based in whole or in part on any disability or handicap of a member of the household.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term "covered program" means—

(A) the program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) the public housing program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(C) the program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(D) the program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(E) the program for mortgage insurance provided pursuant to sections 221(d) (3) or (4) of the National Housing Act (12 U.S.C. 1715l(d)) for multifamily housing for low- and moderate-income families;

(F) the rural housing loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472);

(G) the rural housing loan guarantee program under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h));

(H) the loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings;

(I) the program of loans for rental and cooperative rural housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(J) the program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A));

(K) the loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor;

(L) the program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c);

(M) the program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m); and

(N) the program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(2) COVERED PROJECT.—The term "covered project" means any housing for which Federal housing assistance is provided that is attached to the project or specific dwelling units in the project.

(3) FEDERAL HOUSING ASSISTANCE.—The term "Federal housing assistance" means—

(A) assistance provided under a covered program in the form of any contract, grant, loan, subsidy, cooperative agreement, loan or mortgage guarantee or insurance, or other financial assistance; or

(B) occupancy in a dwelling unit that is—

(i) provided assistance under a covered program; or

(ii) located in a covered project and subject to occupancy limitations under a covered program that are based on income.

(4) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance provided for a household pursuant to an application or request for such assistance made by such household before the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

SEC. 9506. STATE OPTION TO DENY TEMPORARY EMPLOYMENT ASSISTANCE TO MINOR PARENTS.

(a) IN GENERAL.—Section 402(d)(1), as added by section 9101(a) of this Act and as amended by section 9501(a) of this Act, is amended by adding at the end the following:

"(C) OPTIONAL DENIAL OF ASSISTANCE TO MINOR PARENTS.—At the option of the State, the State plan may provide that—

"(i)(I) in determining the need of a family, the State may disregard the needs of any family member who is a parent and has not attained 18 years of age or such lesser age as the State may prescribe; and

"(II) if the value of the assistance provided to a family under the State plan approved under this part is reduced by reason of subclause (I), each member of the family shall be considered to be receiving such assistance for purposes of eligibility for medical assistance under the State plan approved under title XIX for so long as such assistance under the State plan approved under this part would otherwise not be so reduced; and

"(ii) if the State exercises the option, the State may provide the family with vouchers, in amounts not exceeding the value of any such reduction in assistance, that may be used only to pay for—

"(I) particular goods and services specified by the State as suitable for the care of the child of the parent (such as diapers, clothing, or cribs); and

"(II) the costs associated with a maternity home, foster home, or other adult-supervised supportive living arrangement in which the parent and the child live.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect in the same manner in which the amendment made by section 9101(a) takes effect.

Title IX, Subtitle F

Subtitle F—SSI Reform

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."; and

(5) in subparagraph (F), as so redesignated by paragraph (3) of this subsection, by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act, is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

"(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(d) Effective Date.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) Tightening of Representative Payee Requirements.—

(1) Clarification of role.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking "and" at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting "; and", and by adding after subclause (IV) the following new subclause:

"(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.".

(2) Documentation of expenditures required.—

(A) In general.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

"(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

"(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

"(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.".

(B) Conforming amendment with respect to parent payees.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking "Clause (i)" and inserting "Subclauses (II) and (III) of clause (i)".

(3) Effective date.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) Dedicated Savings Accounts.—

(1) In general.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following:

"(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

"(I) education and job skills training;

"(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

"(III) appropriate therapy and rehabilitation.".

(2) Disregard of trust funds.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking "and" at the end of paragraph (10),

(B) by striking the period at the end of paragraph (11) and inserting "; and", and

(C) by inserting after paragraph (11) the following:

"(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).".

(3) Effective date.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) In General.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 9601(a)(3) of this Act, is amended by adding at the end the following:

"(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(b) Conforming Amendments.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1613(a)(12) (42 U.S.C. 1382b(a)(12)) is amended by striking "1631(a)(2)(B)(xiv)" and inserting "1631(a)(2)(B)(xiii)".

(3) Section 1631(a)(2)(A)(ii) (42 U.S.C. 1383(a)(2)(A)(ii)) is amended—

(A) by striking "(I)"; and

(B) by striking subclause (II).

(4) Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) by striking clause (vii);

(B) in clause (viii), by striking "(ix)" and inserting "(viii)";

(C) in clause (ix)—

(i) by striking "(viii)" and inserting "(vii)"; and

(ii) in subclause (II), by striking all that follows "15 years" and inserting a period;

(D) in clause (xiii)—

(i) by striking "(xii)" and inserting "(xi)"; and

(ii) by striking "(xi)" and inserting "(x)";

(E) in clause (xiv) (as added by section 9603(b)(1) of this Act), by striking "(x)" and inserting "(ix)"; and

(F) by redesignating clauses (viii) through (xiv) as clauses (vii) through (xiii), respectively.

(5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking all that follows "$25.00 per month" and inserting a period.

(6) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(7) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "—" and all that follows through "(A)" the 1st place such term appears;

(B) by striking "and" the 3rd place such term appears;

(C) by striking subparagraph (B);

(D) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(E) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1995, and shall apply with respect to months beginning on or after such date.

(d) Funding of Certain Programs for Drug Addicts and Alcoholics.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Director of the National Institute on Drug Abuse—

(1) $95,000,000, for each of fiscal years 1997, 1998, 1999, and 2000, for expenditure through the Federal Capacity Expansion Program to expand the availability of drug treatment; and

(2) $5,000,000 for each of fiscal years 1997, 1998, 1999, and 2000 to be expended solely on the medication development project to improve drug abuse and drug treatment research.

SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under programs that are funded under part A of title IV, or title XIX of this Act, the consolidated program of food assistance under chapter 2 of subtitle E of title XIV of the Omnibus Budget Reconciliation Act of 1995, or the Food Stamp Act of 1977 (as in effect before the effective date of such chapter), or benefits in 2 or more States under the supplemental security income program under title XVI of this Act.".

SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) In General.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 9604(b)(1) of this Act, is amended by inserting after paragraph (2) the following:

"(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if, throughout the month, the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) Exchange of Information With Law Enforcement Agencies.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties;

"(B) the location or apprehension of the recipient is within the official duties of the officer; and

"(C) the request is made in the proper exercise of such duties.".

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS BY REASON OF DISABILITY.

(a) In General.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by section 9602 of this Act, is amended by adding at the end the following:

"(v) In the case of an individual who has attained 18 years of age and for whom a determination has been made of eligibility for a benefit under this title by reason of disability, the following applies:

"(I) Subject to the provisions of this clause, the determination of eligibility is effective for the 3-year period beginning on the date of the determination, and the eligibility of the individual lapses unless a determination of continuing eligibility is made before the end of such period, and before the end of each subsequent 3-year period. This subclause ceases to apply to the individual upon the individual attaining 65 years of age. This subclause does not apply to the individual if the individual has an impairment that is not expected to improve (or a combination of impairments that are not expected to improve).

"(II) With respect to a determination under subclause (I) of whether the individual continues to be eligible for the benefit (in this clause referred to as a 'redetermination'), the Commissioner may not make the redetermination unless the individual submits to the Commissioner an application requesting the redetermination. If such an application is submitted, the Commissioner shall make the redetermination. This subclause is subject to subclause (V).

"(III) If as of the date on which this clause takes effect the individual has been receiving the benefit for three years or less, the first period under subclause (I) for the individual is deemed to end on the expiration of the period beginning on the date on which this clause takes effect and continuing through a number of months equal to 12 plus a number equal to 36 minus the number of months the individual has been receiving the benefit.

"(IV) If as of the date on which this clause takes effect the individual has been receiving the benefit for five years or less, but for more than three years, the first period under subclause (I) for the individual is deemed to end on the expiration of the 1-year period beginning on the date on which this clause takes effect.

"(V) If as of the date on which this clause takes effect the individual has been receiving the benefit for more than five years, the Commissioner shall make redeterminations under subclause (I) and may not require the individual to submit applications for the redeterminations. The first 3-year period under subclause (I) for the individual is deemed to begin upon the expiration of the period beginning on the date on which this clause takes effect and ending upon the termination of a number of years equal to the lowest number (greater than zero) that can be obtained by subtracting the number of years that the individual has been receiving the benefit from a number that is a multiple of three.

"(VI) If the individual first attains 18 years of age on or after the date on which this clause takes effect, the first 3-year period under subclause (I) for the individual is deemed to end on the date on which the individual attains such age.

"(VII) Not later than one year prior to the date on which a determination under subclause (I) expires, the Commissioner shall (except in the case of an individual to whom subclause (V) applies) provide to the individual a written notice explaining the applicability of this clause to the individual, including an explanation of the effect of failing to submit the application. If the individual submits the application not later than 180 days prior to such date and the Commissioner does not make the redetermination before such date, the Commissioner shall continue to provide the benefit pending the redetermination and shall publish in the Federal Register a notice that the Commissioner was unable to make the redetermination by such date.

"(VIII) If the individual fails to submit the application under subclause (II) by the end of the applicable period under subclause (I), the individual may apply for a redetermination. The Commissioner shall make the redetermination for the individual only after making redeterminations for individuals for whom eligibility has not lapsed pursuant to subclause (I).".

(b) Limitations on Authorization of Appropriations.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) Effective Date.—The amendment made by subsection (a) takes effect upon the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 9608. NARROWING OF SSI ELIGIBILITY ON BASIS OF MENTAL IMPAIRMENTS.

(a) In General.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by adding at the end the following sentence: "In making determinations under this clause regarding the severity of mental impairments, the Secretary shall revise the regulations under subpart P of part 404 of title 20, Code of Federal Regulations, to accomplish the result that (relative to such regulations as in effect prior to the date on which this sentence takes effect) less weight is given to criteria regarding concentration, persistence (and pace), and ability to tolerate increased mental demand associated with competitive work, and that, accordingly, the eligibility criteria regarding mental impairments are narrowed.".

(b) Final Regulations.—The final rule for the regulations required in subsection (a) shall be issued before the expiration of the 9-month period beginning on the date of the enactment of this Act,and shall take effect upon the expiration of such period.

SEC. 9609. REDUCTION IN UNEARNED INCOME EXCLUSION.

(a) In General.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking "$20" and inserting "$15".

(b) Effective Date.—The amendment made by subsection (a) shall apply to benefits for months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 9701. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall not apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 9702. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) Certification Period.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended to read as follows:

"(c) 'Certification period' means the period specified by the State agency for which households shall be eligible to receive authorization cards, except that such period shall be—

"(1) 24 months for households in which all adult members are elderly or disabled; and

"(2) not more than 12 months for all other households.".

(2) Section 6(c)(1)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

(A) in clause (ii) by adding "and" at the end;

(B) in clause (iii) by striking "; and" at the end and inserting a period; and

(C) by striking clause (iv).

(b) Energy Assistance Counted As Income.—

(1) Limiting exclusion.—Section 5(d)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)) is amended—

(A) by striking "(A) under any Federal law, or (B)"; and

(B) by inserting before the comma at the end the following: ", except that no benefits provided under the State program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall be excluded under this clause".

(2) Conforming amendments.—

(A) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking the ninth through the twelfth sentences.

(B) Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (C) and redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(C) Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended by adding at the end the following:

"(4) For purposes of subsection (d)(1), any payments or allowances made under any Federal or State law for the purposes of energy assistance shall be treated as money payable directly to the household.".

(D) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8634(f)) is amended—

(i) in paragraph (1), by striking "food stamps";

(ii) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding"; and

(iii) by striking paragraph (2).

(c) Exclusion of Certain JTPA Income.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d)—

(A) by striking "and (16)" and inserting "(16)"; and

(B) by inserting before the period at the end the following: ", and (17) income received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) by a household member who is less than 19 years of age"; and

(2) in subsection (*l*), by striking "under section 204(b)(1)(C)" and all that follows and inserting "shall be considered earned income for purposes of the food stamp program.".

(d) Exclusion of Life Insurance Policies.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(6) The Secretary shall exclude from financial resources the cash value of any life insurance policy owned by a member of a household.".

(e) In-Tandem Exclusions From Income.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end the following:

"(n) Whenever a Federal statute enacted after the date of the enactment of this Act excludes funds from income for purposes of determining eligibility, benefit levels, or both under State plans approved under part A of title IV of the Social Security Act, then such funds shall be excluded from income for purposes of determining eligibility, benefit levels, or both, respectively, under the food stamp program of households all of whose members receive benefits under a State plan approved under part A of title IV of the Social Security Act.".

SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which authorization to accept and redeem coupons under the food stamp program shall be valid.".

SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)), as amended by section 9703, is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied or that has such an approval withdrawn on the basis of business integrity and reputation cannot submit a new application for approval. Such periods shall reflect the severity of business integrity infractions that are the basis of such denials or withdrawals.".

SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence by inserting ", which may include relevant income and sales tax filing documents," after "submit information" ; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources in order that the accuracy of information provided by such stores and concerns may be verified.".

SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall prohibit a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied because it does not meet criteria for approval established by the Secretary in regulations from submitting a new application for six months from the date of such denial.".

SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data, or evidence obtained through transaction reports under electronic benefit transfer systems.".

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)), as amended by section 9707, is amended by adding at the end the following: "Such regulations may establish criteria under which the authorization of a retail food store or wholesale food concern to accept and redeem coupons may be suspended at the time such store or concern is initially found to have committed violations of program requirements. Such suspension may coincide with the period of a review as provided in section 14. The Secretary shall not be liable for the value of any sales lost during any suspension or disqualification period.".

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) in the first sentence by inserting "suspended," before "disqualified or subjected";

(2) in the fifth sentence by inserting before the period at the end the following: ", except that in the case of the suspension of a retail food store or wholesale food concern pursuant to section 12(a), such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action, and the period of suspension shall be deemed a part of any period of disqualification which is imposed."; and

(3) by striking the last sentence.

SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED FROM THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) The Secretary shall issue regulations providing criteria for the disqualification of approved retail food stores and wholesale food concerns that are otherwise disqualified from accepting benefits under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized under section 17 of the Child Nutrition Act of 1966. Such disqualification—

"(1) shall be for the same period as the disqualification from the WIC Program;

"(2) may begin at a later date; and

"(3) notwithstanding section 14 of this Act, shall not be subject to administrative or judicial review.".

SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021), as amended by section 9709, is amended by adding at the end the following:

"(h) The Secretary shall issue regulations providing for the permanent disqualification of a retail food store or wholesale food concern that is determined to have knowingly submitted an application for approval to accept and redeem coupons which contains false information about one or more substantive matters which were the basis for providing approval. Any disqualification imposed under this subsection shall be subject to administrative and judicial review pursuant to section 14, but such disqualification shall remain in effect pending such review.".

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—Section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking "or intended to be furnished".

(b) CIVIL AND CRIMINAL FORFEITURE.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is amended by adding at the end the following:

"(h)(1) CIVIL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

"(A) Any food stamp benefits and any property, real or personal—

"(i) constituting, derived from, or traceable to any proceeds obtained directly or indirectly from, or

"(ii) used, or intended to be used, to commit, or to facilitate,

the commission of a violation of subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall be subject to forfeiture to the United States.

"(B) The provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to a seizure or forfeiture under this subsection, insofar as applicable and not inconsistent with the provisions of this subsection.

"(2) CRIMINAL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

"(A)(i) Any person convicted of violating subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall forfeit to the United States, irrespective of any State law—

"(I) any food stamp benefits and any property constituting, or derived from, or traceable to any proceeds such person obtained directly or indirectly as a result of such violation; and

"(II) any food stamp benefits and any of such person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

"(ii) In imposing sentence on such person, the court shall order that the person forfeit to the United States all property described in this subsection.

"(B) All food stamp benefits and any property subject to forfeiture under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding relating thereto, shall be governed by subsections (b), (c), (e), and (g) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), insofar as applicable and not inconsistent with the provisions of this subsection.

"(3) APPLICABILITY.—This subsection shall not apply to property specified in subsection (g) of this section.

"(4) RULES.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this subsection.".

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(C)(iii) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(iii)) (as amended by section 316(a) of the Social Security Administrative Reform Act of 1994 (Public Law 103-296; 108 Stat. 1464) is amended—

(1) by inserting in the first sentence of subclause (II) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) by inserting in the last sentence of subclause (II) immediately after "other Federal" the words "or State"; and

(3) by inserting "or a State" in subclause (III) immediately after "United States".

(b) Section 6109(f)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)(2)) (as added by section 316(b) of the Social Security Administrative Reform Act of 1994 (Public Law 103-296; 108 Stat. 1464)) is amended—

(1) by inserting in subparagraph (A) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) in the last sentence of subparagraph (A) by inserting "or State" after "other Federal"; and

(3) in subparagraph (B) by inserting "or a State" after "United States".

SEC. 9713. EXPANDED DEFINITION OF "COUPON".

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization cards, cash or checks issued or coupons or access devices, including, but not limited to, electronic benefit transfer cards and personal identification numbers".

SEC. 9714. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i)—

(A) by striking "six months" and inserting "1 year"; and

(B) by adding "and" at the end; and

(2) striking clauses (ii) and (iii) and inserting the following:

"(ii) permanently upon—

"(I) the second occasion of any such determination; or

"(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), firearms, ammunition, or explosives for coupons.".

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the semicolon at the end.

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the period at the end.

(c) Section 6103(1) of the Internal Revenue Code (26 U.S.C. 6103(1)) is amended—

(1) by striking "officers and employees" in paragraph (10)(A) and inserting "officers, employees or agents, including State agencies"; and

(2) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees or agents, including State agencies".

SEC. 9716. PROMOTING EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended—

(1) by amending paragraph (1) to read:

"(1)(A) State agencies are encouraged to implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) Subject to paragraph (2), a State agency is authorized to procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency deems appropriate.

"(C) The Secretary shall, upon request of a State agency, waive any provision of this subsection prohibiting the effective implementation of an electronic benefit transfer system consistent with the purposes of this Act. The Secretary shall act upon any request for such a waiver within 90 days of receipt of a complete application.";

(2) in paragraph (2), by striking "for the approval"; and

(3) in paragraph (3), by striking "the Secretary shall not approve such a system unless" and inserting "the State agency shall ensure that".

SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "and (11)" and inserting "(11)";

(2) in clause (11) by inserting "through October 1, 1994" after "each October 1 thereafter"; and

(3) by inserting before the period at the end the following:

", and (12) on October 1, 1995, and on each October 1 thereafter, adjust the cost of such diet to reflect 100 percent of the cost, in the preceding June (without regard to any previous adjustment made under this clause or clauses (4) through (11) of this subsection) and round the result to the nearest lower dollar increment for each household size".

SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.

The second sentence of section 5(e)(4) (7 U.S.C. 2014(e)(4)) is amended by inserting ", except October 1, 1995, and October 1, 1996" after "thereafter".

SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS IN PARTICIPATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 9720. DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491 and 9492, is amended by adding at the end the following:

"(*l*) Disqualification for Participating in 2 or More States.—An individual shall be ineligible to participate in the food stamp program as a member of any household during a 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual to receive benefits simultaneously from 2 or more States under—

"(1) the food stamp program;

"(2) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under title XIX of the Act (42 U.S.C. 1396 et seq.); or

"(3) the supplemental security income program under title XVI of the Act (42 U.S.C. 1381 et seq.).".

SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, and 9720, is amended by adding at the end the following:

"(m) Disqualification for Child Support Arrears.—

"(1) In general.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 9722. STATE AUTHORIZATION TO ASSIST LAW ENFORCEMENT OFFICERS IN LOCATING FUGITIVE FELONS.

Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(B)) is amended by striking "Act, and" and inserting "Act or of locating a fugitive felon (as defined by a State), and".

SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPIENTS.

(a) In General.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, 9720, and 9721, is amended by adding at the end the following:

"(n) Work Requirement.—

"(1) Definition of work program.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or local government, as determined appropriate by the Secretary.

"(2) Work requirement.—No individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly;

"(B) participate in a workfare program under section 20 or a comparable State or local workfare program;

"(C) participate in and comply with the requirements of an approved employment and training program under subsection (d)(4); or

"(D) participate in and comply with the requirements of a work program for 20 hours or more per week.

"(3) Exception.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with a dependent child under 18 years of age; or

"(D) otherwise exempt under subsection (d)(2).

"(4) Waiver.—

"(A) In general.—The Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 8 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) Report.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

(b) Work and Training Programs.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

"(O) Required participation in work and training programs.—A State agency shall provide an opportunity to participate in the employment and training program under this paragraph to any individual who would otherwise become subject to disqualification under subsection (i).

"(P) COORDINATING WORK REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, a State agency that meets the participation requirements of clause (ii) may operate the employment and training program of the State for individuals who are members of households receiving allotments under this Act as part of a program operated by the State under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), subject to the requirements of the Act.

"(ii) PARTICIPATION REQUIREMENTS.—A State agency may exercise the option under clause (i) if the State agency provides an opportunity to participate in an approved employment and training program to an individual who is—

"(I) subject to subsection (i);

"(II) not employed at least an average of 20 hours per week;

"(III) not participating in a workfare program under section 20 (or a comparable State or local program); and

"(IV) not subject to a waiver under subsection (i)(4).".

(c) ENHANCED EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking "$75,000,000 for each of the fiscal years 1991 through 1995" and inserting "$150,000,000 for each of fiscal years 1996 through 2000";

(2) by striking subparagraphs (B), (C), (E), and (F);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking "for each" and all that follows through "of $60,000,000" and inserting ", the Secretary shall allocate funding".

SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 8(d) of the Food Stamp Act of 1977 (7 U.S.C. 2019(d)) is amended—

(1) by striking "(d) A household" and inserting the following:

"(d) NONCOMPLIANCE WITH OTHER WELFARE OR WORK PROGRAMS.—

"(1) IN GENERAL.—A household"; and

(2) by inserting "or a work requirement under a welfare or public assistance program" after "assistance program"; and

(3) by adding at the end the following:

"(2) WORK REQUIREMENT.—If a household fails to comply with a work requirement under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of a penalty imposed for the failure to comply; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.".

SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION RATES.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "September 30, 1995" each place it appears and inserting "September 30, 2002".

SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.

Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking "1994, and" and inserting "1994,"; and

(2) by inserting "and $1,143,000,000 for each of the fiscal years 1996 through 2002," before "to finance".

SEC. 9727. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

CHAPTER 2—COMMODITY DISTRIBUTION

SEC. 9751. SHORT TITLE.

This chapter may be cited as the "Commodity Distribution Act of 1995".

SEC. 9752. AVAILABILITY OF COMMODITIES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary") is authorized during fiscal years 1996 through 2000 to purchase a variety of nutritious and useful commodities and distribute such commodities to the States for distribution in accordance with this chapter.

(b) In addition to the commodities described in subsection (a), the Secretary may expend funds made available to carry out the section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), which are not expended or needed to carry out such section, to purchase, process, and distribute commodities of the types customarily purchased under such section to the States for distribution in accordance to this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), may be made available by the Secretary to the States for distribution in accordance with this chapter.

(d) In addition to the commodities described in subsections (a), (b), and (c), commodities acquired by the Commodity Credit Corporation that the Secretary determines, in the discretion of the Secretary, are in excess of quantities needed to—

(1) carry out other domestic donation programs;

(2) meet other domestic obligations;

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act; shall be made available by the Secretary, without charge or credit for such commodities, to the States for distribution in accordance with this chapter.

(e) During each fiscal year, the types, varieties, and amounts of commodities to be purchased under this chapter shall be determined by the Secretary. In purchasing such commodities, except those commodities purchased pursuant to section 9760, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) the preferences and needs of States and distributing agencies; and

(3) the preferences of the recipients.

SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION OF COMMODITIES.

(a) The Secretary shall establish procedures under which State and local agencies, recipient agencies, or any other entity or person may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities that such entities or persons donate for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(1) the funds appropriated for administrative cost under section 9759(b);

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter; and

(3) the personnel, both paid or volunteer, involved in such storage, handling, or distribution; to store, handle or distribute commodities donated for use under subsection (a).

(c) States and recipient agencies shall continue, to the maximum extent practical, to use volunteer workers, and commodities and other foodstuffs donated by charitable and other organizations, in the distribution of commodities under this chapter.

SEC. 9754. STATE PLAN.

(a) A State seeking to receive commodities under this chapter shall submit a plan of operation and administration every four years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) The State plan, at a minimum, shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter in quantities requested to eligible recipient agencies in accordance with sections 9756 and 9760;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which at minimum shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of application for assistance.

(c) The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this chapter in the State.

(d) A State agency receiving commodities under this chapter may—

(1)(A) enter into cooperative agreements with State agencies of other States to jointly provide commodities received under this chapter to eligible recipient agencies that serve needy persons in a single geographical area which includes such States; or

(B) transfer commodities received under this chapter to any such eligible recipient agency in the other State under such agreement; and

(2) advise the Secretary of an agreement entered into under this subsection and the transfer of commodities made pursuant to such agreement.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9760, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 60 percent of such total value as the number of persons

in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line. Each State shall receive the value of commodities allocated under this paragraph.

(2) 40 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year. Each State shall receive the value of commodities allocated to the State under this paragraph.

(b)(1) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under subsection (a) or this subsection, if applicable. Each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute such commodities in a manner the Secretary deems appropriate and equitable. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year in a manner the State determines is appropriate and the Secretary shall reallocate and distribute such allocation as the Secretary deems appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities from such unaffected State to States containing areas adversely affected by the disaster.

(c) Purchases of commodities under this chapter shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All commodities so purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and or carry out section 9760, not later than December 31 of the following fiscal year.

SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.

(a) In distributing the commodities allocated under subsections (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to emergency feeding organizations.

(b) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsection (a), its remaining allocation of commodities shall be distributed to charitable institutions described in section 9763(3) not receiving commodities under subsection (a).

(c) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsections (a) and (b), its remaining allocation of commodities shall be distributed to any eligible recipient agency not receiving commodities under subsections (a) and (b).

SEC. 9757. INITIAL PROCESSING COSTS.

The Secretary may use funds of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter into forms and in quantities suitable, as determined by the Secretary, for use by the individual households or eligible recipient agencies, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

SEC. 9758. ASSURANCES; ANTICIPATED USE.

(a) The Secretary shall take such precautions as the Secretary deems necessary to ensure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31, 1997, and not less than every two years thereafter, a report as to whether and to what extent such displacements or substitutions are occurring.

(b) The Secretary shall determine that commodities provided under this chapter shall be purchased and distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) PURCHASE OF COMMODITIES.—To carry out this chapter, there are authorized to be appropriated $260,000,000 for each of the fiscal years 1996 through 2000 to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) ADMINISTRATIVE FUNDS.—

(1) There are authorized to be appropriated $40,000,000 for each of the fiscal years 1996 through 2000 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this chapter, excluding costs associated with the distribution of those commodities distributed under section 9760. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are allocated among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States in a manner the Secretary deems appropriate and equitable.

(2)(A) A State shall make available in each fiscal year to eligible recipient agencies in the State not less than 40 percent of the funds received by the State under paragraph (1) for such fiscal year, as necessary to pay for, or provide advance payments to cover, the allowable expenses of eligible recipient agencies for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such recipient agencies.

(B) As used in this paragraph, the term "allowable expenses" includes—

(i) costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after such commodities are received by eligible recipient agencies;

(ii) costs associated with determinations of eligibility, verification, and documentation;

(iii) costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; and

(iv) costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

(C) If a State makes a payment, using State funds, to cover allowable expenses of eligible recipient agencies, the amount of such payment shall be counted toward the amount a State must make available for allowable expenses of recipient agencies under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or eligible recipient agencies for costs other than those involved in covering the expenses related to the distribution of commodities by eligible recipient agencies.

(4)(A) Except as provided in subparagraph (B), to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to eligible recipient agencies; or

(II) for the allowable expenses of such recipient agencies;for use in carrying out this chapter.

(B) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(C) Any funds distributed for administrative costs under section 9760(b) shall not be covered by this paragraph.

(5) States may not charge for commodities made available to eligible recipient agencies, and may not pass on to such recipient agencies the cost of any matching requirements, under this chapter.

(c) VALUE OF COMMODITIES.—The value of the commodities made available under subsections (c) and (d) of section 9752, and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations authorized by this section.

SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) From the funds appropriated under section 9759(a), $94,500,000 shall be used for each fiscal year to purchase and distribute commodities to supplemental feeding programs serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the "commodity supplemental food program"), or serving both groups wherever located.

(b) Not more than 20 percent of the funds made available under subsection (a) shall be made available to the States for State and local payments of administrative costs associated with the distribution of commodities by eligible recipient agencies under this section. Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(c)(1) During each fiscal year the commodity supplemental food program is in operation, the types, varieties, and amounts of commodities to be purchased under this section shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or amounts from those that were available or were planned at the beginning of the fiscal year the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1996 through 2000 to the Secretary. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(d) The Secretary shall, in each fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate, to the full extent that applications can be approved within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (e)) in areas in which the program is in effect.

(e) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(f)(1) If it is necessary for the Secretary to pay a significantly higher than expected price for one or more types of commodities purchased under this section, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(g) Commodities distributed to States pursuant to this section shall not be considered in determining the commodity allocation to each State under section 9755 or priority of distribution under section 9756.

SEC. 9761. COMMODITIES NOT INCOME.

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for purposes of determining recipient eligibility under any Federal, State, or local means-tested program.

SEC. 9762. PROHIBITION AGAINST CERTAIN STATE CHARGES.

Whenever a commodity is made available without charge or credit under this chapter by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing, and transporting to recipient agencies the commodities minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

SEC. 9763. DEFINITIONS.

As used in this chapter:

(1) The term "average monthly number of unemployed persons" means the average monthly number of unemployed persons within a State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(2) The term "elderly persons" means individuals 60 years of age or older.

(3) The term "eligible recipient agency" means a public or nonprofit organization that administers—

(A) an institution providing commodities to supplemental feeding programs serving women, infants, and children or serving elderly persons, or serving both groups;

(B) an emergency feeding organization;

(C) a charitable institution (including hospitals and retirement homes and excluding penal institutions) to the extent that such institution serves needy persons;

(D) a summer camp for children, or a child nutrition program providing food service;

(E) a nutrition project operating under the Older Americans Act of 1965, including such projects that operate a congregate nutrition site and a project that provides home-delivered meals; or

(F) a disaster relief program; and that has been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(4) The term "emergency feeding organization" means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

(5) The term "food bank" means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(6) The term "food pantry" means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) The term "needy persons" means—

(A) individuals who have low incomes or who are unemployed, as determined by the State (in no event shall the income of such individual or household exceed 185 percent of the poverty line);

(B) households certified as eligible to participate in the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(8) The term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(9) The term "soup kitchen" means a public and charitable institution that, as integral part of its normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

SEC. 9764. REGULATIONS.

(a) The Secretary shall issue regulations within 120 days to implement this chapter.

(b) In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register a nonbinding estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses for the commodities distributed under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of eligible recipient agencies.

SEC. 9765. FINALITY OF DETERMINATIONS.

Determinations made by the Secretary under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 9757, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

(a) The Secretary may—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SEC. 9768. REPEALERS; AMENDMENTS.

(a) REPEALER.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

(b) AMENDMENTS.—

(1) The Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by striking section 110; and

(B) by striking section 502.

(2) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking section 4.

(3) The Charitable Assistance and Food Bank Act of 1987 (7 U.S.C. 612c note) is amended by striking section 3.

(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1562(a) and section 1571; and

(B) in section 1562(d), by striking "section 4 of the Agricultural and Consumer Protection Act of 1973" and inserting "section 9752 of the Commodity Distribution Act of 1995".

(5) The Agricultural and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(A) in section 4(a), by striking "institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants and children or elderly persons, or both, wherever located, disaster areas, summer camps for children,";

(B) in subsection 4(c), by striking "the Emergency Food Assistance Act of 1983" and inserting "the Commodity Distribution Act of 1995"; and

(C) by striking section 5.

(6) The Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 612c note) is amended by striking section 1773(f).

CHAPTER 3—OTHER PROGRAMS

SEC. 9781. CHILD AND ADULT CARE FOOD PROGRAM.

(a) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.".

(b) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home of the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose income is verified by a sponsoring organization under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 40 cents for breakfasts, and 20 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) SPONSOR PAYMENTS.—Section 17(f)(3)(B) of the National School Lunch Act is amended—

(A) by striking the period at the end of the second sentence and all that follows through the end of the subparagraph and inserting the following:", except that the adjustment that otherwise would occur on July 1, 1996, shall be made on August 1, 1996. The maximum allowable levels for administrative expense payments shall be rounded to the nearest lower dollar increment and based on the unrounded adjustment for the preceding 12-month period.";

(B) by striking "(B)" and inserting "(B)(i)"; and

(C) by adding at the end the following new clause:

"(ii) The maximum allowable level of administrative expense payments shall be adjusted by the Secretary—

"(I) to increase by 7.5 percent the monthly payment to family or group day care home sponsoring organizations both for tier I family or group day care homes and for those tier II family or group day care homes for which the sponsoring organization administers a means test as provided under subparagraph (A)(iii); and

"(II) to decrease by 7.5 percent the monthly payment to family or group day care home sponsoring organizations for family or group day care homes that do not meet the criteria for tier I homes and for which a means test is not administered.".

(3) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).".

(4) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (as amended by paragraph (3)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the program under this section shall annually provide to a family or group day care home sponsoring organizations that request the data, a list of schools serving elementary school children in the State in which at least 50 percent of the children enrolled are certified to receive free or reduced price meals. State agencies administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall collect such data annually and provide such data on a timely basis to the State agency administering the program under this section.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(5) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the National School Lunch Act is amended by inserting "(including institutions that are not family or group day care home sponsoring organizations)" after "institutions".

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

(3) IMPLEMENTATION.—The Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (2), (3), and (4) of subsection (b) and the provisions of section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)) not later than February 1, 1996. If such regulations are issued in interim form, final regulations shall be issued not later than August 1, 1996.

SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

(1) by striking "Out of" and all that follows through "and $10,000,000" and inserting "To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $10,000,000"; and

(2) by striking the last sentence.

Subtitle H—Treatment of Aliens

SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RESOURCES UNDER TEA, SSI, AND FOOD STAMP PROGRAMS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), in applying sections 407 and 1621 of the Social Security Act and section 5(i) of the Food Stamp Act of 1977, the period in which each respective section otherwise applies with respect to an alien shall be extended through the date (if any) on which the alien becomes a citizen of the United States (under chapter 2 of title III of the Immigration and Nationality Act).

(b) EXCEPTION.—Subsection (a) shall not apply to an alien if—

(1) the alien has been lawfully admitted to the United States for permanent residence, has attained 75 years of age, and has resided in the United States for at least 5 years;

(2) the alien—

(A) is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge,

(B) is on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) is the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B);

(3) the alien is the subject of domestic violence by the alien's spouse and a divorce between the alien and the alien's spouse has been initiated through the filing of an appropriate action in an appropriate court; or

(4) there has been paid with respect to the self-employment income or employment of the alien, or of a parent or spouse of the alien, taxes under chapter 2 or chapter 21 of the Internal Revenue Code of 1986 in each of 20 different calendar quarters.

(c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—Subsection (a) shall not apply with respect to determinations of eligibility for benefits under a State plan approved under part A of title IV of the Social Security Act or under the supplemental income security program under title XVI of such Act but only insofar as such determinations provide for eligibility for medical assistance under title XIX of such Act.

(d) RULES REGARDING INCOME AND RESOURCE DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A of title IV of the Social Security Act, as added by section 9101(a) of this Act, is amended by adding at the end the following:

"SEC. 407. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

"(a) For purposes of determining eligibility for and the amount of assistance under a State plan approved under this part for an individual who is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(d);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for assistance under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of assistance under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).'.

SEC. 9802. REQUIREMENTS FOR SPONSOR'S AFFIDAVITS OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) IN GENERAL.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the Federal Government, by a State, or by any political subdivision of a State, providing cash benefits under a public cash assistance program (as defined in subsection (f)(2)), but not later than 5 years after the date the alien last receives any such cash benefit; and

"(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) EXPIRATION OF LIABILITY.—Such contract shall only apply with respect to cash benefits described in paragraph (1)(A) provided to an alien before the earliest of the following:

"(A) CITIZENSHIP.—The date the alien becomes a citizen of the United States under chapter 2 of title III.

"(B) VETERAN.—The first date the alien is described in section 9801(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1995.

"(C) PAYMENT OF SOCIAL SECURITY TAXES.—The first date as of which the condition described in section 9801(b)(4) of the Omnibus Budget Reconciliation Act of 1995 is met with respect to the alien.

"(3) NONAPPLICATION DURING CERTAIN PERIODS.—Such contract also shall not apply with respect to cash benefits described in paragraph (1)(A) provided during any period in which the alien is described in section 9801(b)(2)(B) or 9801(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1995.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) REQUIREMENT.—The sponsor shall notify the Federal Government and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1)(A).

"(2) ENFORCEMENT.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

"(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) IN GENERAL.—Upon notification that a sponsored alien has received any cash benefits described in subsection (a)(1)(A), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such cash benefits.

"(B) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) INITIATION OF ACTION.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) FAILURE TO ABIDE BY REPAYMENT TERMS.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) LIMITATION ON ACTIONS.—No cause of action may be brought under this subsection later than 5 years after the date the alien last received any cash benefit described in subsection (a)(1)(A).

"(f) DEFINITIONS.—For the purposes of this section:

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over; and

"(C) is domiciled in any State.

"(2) PUBLIC CASH ASSISTANCE PROGRAM.—The term 'public cash assistance program' means a program of the Federal Government or of a State or political subdivision of a State that provides direct cash assistance for the purpose of income maintenance and in which the eligibility of an individual, household, or family eligibility unit for cash benefits under the program, or the amount of such cash benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit. Such term does not include any program insofar as it provides medical, housing, education, job training, food, or in-kind assistance or social services.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section 213A.

SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

"(4) PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT.—

"(A) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) AFFIDAVITS OF SUPPORT.—Any immigrant who seeks admission or adjustment of status as any of the following is excludable unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A:

"(i) As an immediate relative (under section 201(b)(2)).

"(ii) As a family-sponsored immigrant under section 203(a) (or as the spouse or child under section 203(d) of such an immigrant).

"(iii) As the spouse or child (under section 203(d)) of an employment-based immigrant under section 203(b).

"(iv) As a diversity immigrant under section 203(c) (or as the spouse or child under section 203(d) of such an immigrant).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens with respect to whom an immigrant visa is issued (or adjustment of status is granted) after the date specified by the Attorney General under section 9802(c).

Subtitle I—Earned Income Tax Credit

SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—

Sec. 10001. Short title; table of contents.

Subtitle A—Tax Treatment of Expatriation

Sec. 10101. Revision of tax rules on expatriation.

Sec. 10102. Basis of assets of nonresident alien individuals becoming citizens or residents.

Subtitle B—Modification to Earned Income Credit

Sec. 10201. Earned income tax credit denied to individuals with substantial capital gain net income.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

Sec. 10401. Tax treatment of certain extraordinary dividends.

Subtitle E—Foreign Trust Tax Compliance

Sec. 10501. Improved information reporting on foreign trusts.

Sec. 10502. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.

Sec. 10503. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 10504. Information reporting regarding foreign gifts.

Sec. 10505. Modification of rules relating to foreign trusts which are not grantor trusts.

Sec. 10506. Residence of estates and trusts, etc.

Subtitle F—Limitation on Section 936 Credit

Sec. 10601. Limitation on section 936 credit.

Subtitle A—Tax Treatment of Expatriation

SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph with respect to any property—

"(i) this section (other than this paragraph) shall not apply to such property, but

"(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

"(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

"(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(B) FOREIGN PENSION PLANS.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—For purposes of this section—

"(A) GENERAL RULE.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) SPECIAL RULE.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

"(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(i) the methodology used to determine that taxpayer's trust interest under this section, and

"(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Rules Relating to Payment of Tax.—

"(1) Imposition of tentative tax.—

"(A) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(B) Due date.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

"(C) Treatment of tax.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(2) Deferral of tax.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

"(3) Rules relating to security interests.—

"(A) Adequacy of security interests.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

"(B) Special rule for trust.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

"(i) Coordination With Estate and Gift Taxes.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

"(1) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

"(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

"(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

"(k) Cross Reference.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47)."

(b) Definition of Termination of United States Citizenship.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(47) Termination of united states citizenship.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

(c) Conforming Amendments.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995."

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

"(3) Cross reference.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i)."

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i)."

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1))."

(d) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) Due date for tentative tax.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) In General.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

"(a) General Rule.—If a nonresident alien individual becomes a citizen or resident of the United States, gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

"(b) Exception for Depreciation.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Applicable date.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

"(A) the date the individual becomes a citizen or resident of the United States, or

"(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of becoming a United States real property interest (within the meaning of section 897(c)(1)).

"(2) Resident.—The term 'resident' does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and a foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) Trusts.—A trust shall not be treated as an individual.

"(4) Election not to have section apply.—An individual may elect not to have this section apply solely for purposes of determining gain with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

"(5) Section only to apply once.—This section shall apply only with respect to the first time the individual becomes either a citizen or resident of the United States.

"(d) Regulations.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

"(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

"(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business."

(b) Conforming Amendment.—The table of sections for part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

"Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

"Sec. 1062. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to dispositions after the date of the enactment of this Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 611) applies.

Subtitle B—Modification to Earned Income Credit

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) In General.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) capital gain net income for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 5 percent of net business receipts of the corporation for the taxable year.

"(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

"(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

"(d) DEFINITIONS.—For purposes of this section:

"(1) NET BUSINESS RECEIPTS.—The term 'net business receipts' means the value of all parts or products sold in the United States, excluding—

"(A) the value of parts or products sold for export,

"(B) expenses paid for parts or products produced in the United States,

"(C) expenses paid for services performed in the United States, and

"(D) amounts paid for income, sales or use taxes imposed by any State, or political subdivision thereof, or by the District of Columbia, Puerto Rico, Guam or the Virgin Islands.

"(2) SUBSIDIARY OR AFFILIATE CONTROLLED BY THE CORPORATION.—An entity shall be considered to be a 'subsidiary or affiliate controlled by the corporation' if the corporation owns 5 percent or more of any class of stock of the entity or if the corporation exercises control over a majority of the board of directors of the entity."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part VIII. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) of the Internal Revenue Code of 1986 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) of such Code (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

Subtitle E—Foreign Trust Tax Compliance

SEC. 10501. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 404(a)(4) or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) Trusts not having united states agent.—

"(A) In general.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(B) United states agent required.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) Reporting by United States Beneficiaries of Foreign Trusts.—

"(1) In general.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) Inclusion in income if records not provided.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(d) Special Rules.—

"(1) Determination of whether united states person receives distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) Domestic trusts with foreign activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) Time and manner of filing information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) Modification of return requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) Increased Penalties.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Civil Penalty.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(b) Special Rules for Returns Under Section 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is of such Code amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) Effective Dates.—

(1) Reportable events.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) Grantor trust reporting.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) Reporting by united states beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 10502. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) Treatment of Trust Obligations, Etc.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

"(B) Transfers at fair market value.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value."

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) Certain obligations not taken into account under fair market value exception.—

"(A) In general.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) Treatment of principal payments on obligation.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) Persons described.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust."

(b) Exemption of Transfers to Charitable Trusts.—Subsection (a) of section 679 of such Code is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) Other Modifications.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(4) Special rules applicable to foreign grantor who later becomes a United States person.—

"(A) In general.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) Treatment of undistributed income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) Residency starting date.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) Outbound trust migrations.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph."

(d) Modifications Relating to Whether Trust Has United States Beneficiaries.—Subsection (c) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(3) Certain United States beneficiaries disregarded.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

"(4) Treatment of former United States persons.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust."

(e) Technical Amendment.—Subparagraph (A) of section 679(c)(2) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) Regulations.—Section 679 of such Code is amended by adding at the end the following new subsection:

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(g) Effective Date.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) General Rule.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) Subpart Not To Result in Foreign Ownership.—

"(1) In general.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) Exceptions.—

"(A) Certain revocable and irrevocable trusts.—

"(i) In general.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

"(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(ii) Exception.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

"(B) Compensatory trusts.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) Special rules.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

"(4) Recharacterization of purported gifts.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) Credit for Certain Taxes.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income."

(c) Distributions by Certain Foreign Trusts Through Nominees.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

"(h) Distributions by Certain Foreign Trusts Through Nominees.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 of such Code is amended by striking subsection (c).

(d) Effective Date.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Exception for certain trusts.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) Transitional Rule.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.— Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 10505. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) of such Code is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) PENALTY.—Section 1494 of such Code is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle F—Limitation on Section 936 Credit

SEC. 10601. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Paragraph (4) of section 936(a) of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking subparagraph (A) and inserting the following new subsections:

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

"(I) the excess determined under clause (i), bears to

"(II) the QPSII assets of the possession corporation for such taxable year."

(b) PHASEDOWN OF CREDIT.—The table contained in clause (ii) of section 936(a)(4)(C) of such Code, as redesigated by subsection (a), is amended to read as follows:

"In the case of taxable years beginning in:	**The percentage is:**
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0."

(c) DEFINITIONS AND SPECIAL RULES.—Subsection (i) of section 936 of such Code is amended to read as follows:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

"(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) RELOCATED BUSINESSES.—

"(A) IN GENERAL.—In determining—

"(i) the possession corporation's qualified possession wages for any taxable year, and

"(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

"(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after October 12, 1995, or any addition after such date to an existing trade or business of such possession corporation unless—

"(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

"(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

"(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(B) the possession corporation has paid or accrued any taxes of a possession of the

United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c), such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect."

(d) MINIMUM TAX TREATMENT.—Clause (iii) of section 56(g)(4)(C) of such Code is amended by adding at the end thereof the following subclauses:

"(III) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(IV) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The contents of this title are as follows:

TITLE XI—VETERANS' AFFAIRS

Sec. 11001. Short title; table of contents.

Subtitle A—Permanent Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.
Sec. 11012. Medical care cost recovery authority.
Sec. 11013. Income verification authority.
Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 11015. Home loan fees.
Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 11022. Enhanced loan asset sale authority.
Sec. 11023. Withholding of payments and benefits.

Subtitle C—Health Care Eligibility Reform

Sec. 11031. Hospital care and medical services.
Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.
Sec. 11033. Prosthetics.
Sec. 11034. Management of health care.
Sec. 11035. Improved efficiency in health care resource management.
Sec. 11036. Sharing agreements for specialized medical resources.
Sec. 11037. Personnel furnishing shared resources.

Subtitle A—Permanent Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

*Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998,".

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking out ", and before October 1, 1998".

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out paragraph (11).

Subtitle B—Other Matters

SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

"(A) with a compensable service-connected disability;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.".

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out "hospital care and nursing home care" in subparagraphs (A), (B), and (C) and inserting in lieu thereof "hospital care, medical services, and nursing home care";

(B) in paragraph (2), by inserting "and medical services" after "Hospital and nursing home care"; and

(C) by striking out "subsection (a)(1)(G) of this section" each place it appears and inserting in lieu thereof "subsection (a)(1)(F)".

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(2) of this section".

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title),";

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 30 percent or greater.

"(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

"(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

"(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

"(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

"(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

"(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.

"1706. Management of health care: other requirements.".

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out "(c)", and

(ii) striking out "this section, sections" and inserting in lieu thereof "sections 1710,".

(2)(A) The heading of such section is amended to read as follows:

"§ 1703. Annual report on furnishing of care and services by contract".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"1703. Annual report on furnishing of care and services by contract.".

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

"(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) Enforcement.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) Repeal of Section 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) Revised Authority for Sharing Agreements.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "specialized medical resources" and inserting in lieu thereof "health-care resources"; and

(B) by striking out "other" and all that follows through "medical schools" and inserting in lieu thereof "any medical school, health-care provider, health-care plan, insurer, or other entity or individual";

(2) in subsection (a)(2) by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,";

(3) in subsection (b), by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.";

(4) in subsection (d), by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services";

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.".

(c) Cross-Reference Amendments.—(1) Section 8110(c)(3)(A) of such title is amended by striking out "8153" and inserting in lieu thereof "8152".

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out "section 8154" and inserting in lieu thereof "section 8153".

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out "section 8153(a)" and inserting in lieu thereof "section 8152(a)"; and

(B) in subsection (b)(3), by striking out "section 8153" and inserting in lieu thereof "section 8152".

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out "section 8157" and "section 8153(a)" and inserting in lieu thereof "section 8156" and "section 8152(a)", respectively; and

(B) in paragraph (1), by striking out "section 8157(b)(4)" and inserting in lieu thereof "section 8156(b)(4)".

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.".

TITLE XII—LEGISLATIVE BRANCH

SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED FOR OFFICIAL ALLOWANCES OF MEMBERS OF THE HOUSE OF REPRESENTATIVES BE DEDICATED TO DEFICIT REDUCTION.

Of the funds made available in any appropriation Act for fiscal year 1996 or any succeeding fiscal year for the official expenses allowance, the clerk hire allowance, or the official mail allowance of a Member of the House of Representatives, any amount that remains unobligated at the end of such fiscal year shall be transferred to the Deficit Reduction Fund established by Executive Order 12858 (58 Fed. Reg. 42185). Any amount so transferred shall be in addition to the amounts specified in section 2(b) of such order, but shall be subject to the requirements and limitations set forth in sections 2(c) and 3 of such order.

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) Conformance With Schedule for Civil Service COLAs.—Subparargraph (B) of section 1401a(b)(2) of title 10, United States code, is amended—

(1) by striking out "THROUGH 1998" the first place it appears and all that follows through. "In the case of" the second place it appears and inserting in lieu thereof "THROUGH 1996.—In the case of";

(2) by striking "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1993, 1994, or 1995"; and

(3) by striking out "September" and inserting in lieu thereof "March".

(b) Repeal of Prior Conditional Enactment.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed.

SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) Disposals Required.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) Limitation on Disposal Quantity.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

AUTHORIZED STOCKPILE DISPOSALS

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) Deposit of Receipts.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) Termination of Disposal Authority.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) Definition.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) Definitions.—For the purpose of this section—

(1) the term "agency" means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term "health benefits plan" means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term "health-benefits coverage" means coverage under a health benefits plan;

(4) an individual shall be considered to be an "annuitant of an agency" if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term "Office" means the Office of Personnel Management.

(b) Prefunding Requirement.—

(1) In general.—Effective as of October 1, 1996, each agency shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) Regulations.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a "pay-as-you-go" basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB Standards.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) Clarification.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) Draft Legislation.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 13104. APPLICATION OF OMB CIRCULAR A-129.

The provisions of Office of Management and Budget Circular No. A-129, relating to policies for Federal credit programs and nontax receivables, as in effect on the date of enactment of this Act, shall apply as provided in that circular.

SEC. 13105. 7-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES.

(a) Extension of Taxes.—

(1) Extension of hazardous substance superfund financing rate.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) Application of hazardous substance superfund financing rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 2003."

(2) Application of tax.—Subsection (e) of section 59A (relating to application of environmental tax) is amended to read as follows:

"(e) Application of Tax.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 2003."

(b) Extension of Repayment Deadline for Superfund Borrowing.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking "December 31, 1995" and inserting "December 31, 2002".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1996.

EXTENSIONS OF REMARKS

IMPROVING TIES BETWEEN THE UNITED STATES AND BULGARIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1995

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to the progress and success that has been achieved by Bulgaria in the past 5 years, as the Government of Bulgaria has implemented a number of democratic reforms. Since that transformation, there has been considerable progress, although these times of change and instability have been difficult for many of the Bulgarian people.

The relationship between the United States and Bulgaria has improved steadily since 1990, when the authoritarian Communist government was replaced by a democratically elected government. There have been a number of concrete indications of the growing cooperation between our two countries. In early 1991 our two countries completed a bilateral trade agreement, and as a consequence of that agreement, most-favored-nation trading status was extended to Bulgaria in November 1991. Thanks to Bulgaria's progress, the House passed a bill earlier this year to grant permanent MFN trading status to Bulgaria.

Several decisions have been made recently confirming the commitment of Bulgaria toward strong bilateral cooperation with the United States. These decisions include revoking export licenses from two arms trading companies for irregularities in their trade operations. The Bulgarian Government has taken positive steps to provide restitution of property, both private and communal, to individuals of Jewish descent. In addition, the Bulgarian Parliament has taken steps to strengthen and improve export and visa regulations, and it has reaffirmed support of the United States-supported peace program for Bosnia and the former Yugoslavia.

Mr. Speaker, Bulgaria has been a source of stability in the Balkan region and this steadiness has contributed to preventing potential expansion of the crisis in the former Yugoslavia. Bulgaria has maintained its policy of noninterference in the affairs of other countries of the Balkans. With regard to humanitarian concerns, Bulgaria has been actively involved in providing humanitarian assistance and shelter to refugees from the regions of conflict.

I commend our colleagues in the Bulgarian Parliament for their efforts and their legislative actions to ensure Bulgaria's transition to a democratic government and the full implement of market economic reforms. The dedicated members of the Bulgarian Parliament have played a critically important part in the progress, thus far, and I am sure will continue to play an essential role as this transformation continues and succeeds.

TRIBUTE TO GLORY GRADS, JAMES MADISON HIGH SCHOOL CLASS OF 1935

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1995

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to one of the most distinguished groups of students ever to attend New York City high schools. They are members of the Class of 1935 of James Madison High School in Brooklyn who are coming from all parts of this land to mark the 60th anniversary of their commencement. The celebration will take place at the Stanley Kaplan Penthouse at Lincoln Center on November 12. The members of the class were named the "Glory Grads" by their teachers because of their outstanding achievements. The school was named after the fourth President of the United States, whose words are carved in stone above the entrance: "Education is the true foundation for civil liberty."

The Glory Grads attained the highest scholastic average in New York State that year and fielded a football team that won the city championship." You are the cream and you will rise to the top," their grad advisor told them at graduation and they have fulfilled that prediction in a spectacular manner. Over the many years, they have achieved honors and national distinctions in the fields of medicine and surgery, engineering, mathematics, journalism, business and the arts. They were children of the Depression, who came mostly from poor families and had to struggle to get on the first rung of the ladder of achievement. But, they were inspired by family tradition to study and work hard and, therefore, to go on to self-made success.

These Glory Grads never forgot the opportunities they were given by the country to which their parents came as immigrants. They have paid their dues many times over. The great majority of the male class members served in World War II. They then made their way up in professional and business careers, became leaders in community and civic organizations and have been unusually generous in their philanthropies.

I wish to extend special congratulations and felicitations to the chairman of the reunion committee, Stanley H. Kaplan, a friend of long standing and founder of the international chain of test-prep centers that bears his name. I congratulate, too, the members of the reunion committee, including Marty Glickman, famed sportscaster and hero of the Madison gridiron and track oval; Martin Abramson, prize-winning author and war correspondent; businessmen Winn Heimer and Sidney Thomashower; and travel consultant Anita Forin Fine.

I salute "Mr. Basketball Coach," Jammy Moskowitz, a spry 92, who will be making the trip from Florida to New York to attend the reunion. I also salute Principal Wendy Karp and Director of Alumni Relations Sonya Lerner, without whose cooperation, this "return to James Madison" would not have been as successful.

I salute the Glory Grads. May they have many years of good health, happiness, and continued friendship.

A CELEBRATION OF NORTHERN AND SOUTHERN TRADITIONAL VALUES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1995

Mr. BROWN of California. Mr. Speaker, today, I would like to draw the attention of the Congress to an event which I am very proud of that happened this past weekend in my region of California.

At the Jerry L. Pettis Memorial Veterans' Medical Center in Loma Linda, CA, a Pow Wow was held on October 14 and 15 to honor Native Americans who have served in defense or our Nation. The Pow Wow was entitled "A Celebration of Northern and Southern Traditional Values: In Harmony with the Land."

Over 180,000 Native American men and women have served in the U.S. Armed Forces since World War I, defending our Nation with honor. Some of these men and women were in Loma Linda this past weekend.

Mr. Speaker, two weeks ago in Washington, a special joint session of the House and Senate was held to commemorate the 50th anniversary of the end of World War II. I am particularly honored to mention that in Loma Linda were several of the famous Navajo code talkers who are widely credited with helping to win the war in the Pacific during World War II. I feel strongly that theirs is a story that needs to be told more broadly so that all Americans—young and old—are thoroughly familiar with one of the many important contributions that Native Americans have made to the continuing freedom and evolution of our Nation. I, for one, am very proud to know that these honored veterans and other Native Americans gathered and celebrated in the Inland Empire region of California this past weekend.

I hope all Members of Congress will join me in congratulating all participants in the October 14 and 15 Loma Linda, CA, Native American Pow Wow.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN MEMORIAM: ADITYA VIKRAM BIRLA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1995

Mr. ACKERMAN. Mr. Speaker, I call to the attention of my colleagues the obituary of Aditya Birla, which appeared in the October 3 edition of the New York Times. Aditya Birla, the chairman of the Birla Group, one of India's largest industrial conglomerates, died on October 1 in Baltimore. His death at the young age of 51 was a tragedy because it cut short a prolific life of entrepreneurship and leadership.

Mr. Speaker, Aditya Birla was one of the foremost advocates of expanding Indian economic activity abroad and opening India's vast consumer marketplace to foreign investment and competition. When India began its historic market reforms in 1991 under the leadership of Prime Minister P.V. Narsimha Rao and Finance Minister Manmohan Singh, many observers felt that Mr. Birla, whose company is one of the largest manufacturers of automobiles in India, would resist the entry of foreign companies into the India marketplace. Aditya Birla, however, proved the observers wrong. He became a strong proponent of the reforms and entered into many important joint ventures with American companies. Most recently Aditya Birla signed agreements with AT&T to provide cellular and local telephone service in India.

Mr. Speaker, Aditya Birla was a visionary. His untimely death has left a void in the Indian corporate world that will be difficult to fill. I know my colleagues join me in sending condolences to the Birla family. His wife, son, and daughter should know that our thoughts and prayers are with them at this time.

H.R. 2517

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 20, 1995

Mr. ROBERTS. Mr. Speaker, I am inserting the following section-by-section analysis of H.R. 2517 into the RECORD at this time.

The analysis follows:

BRIEF EXPLANATION

Title I of the bill will reduce projected agriculture spending for farm commodity programs by $13.4 billion over the period, fiscal year 1996 through 2002.

It consists of the final consideration by the Committee on Agriculture of the Chairman's reconciliation recommendations that are patterned in large part after H.R. 2195, the Freedom to Farm Act. The latter bill is designed to reform U.S. agricultural policy to perhaps the greatest extent since the 1930's. The title also conforms to the reconciliation instructions directed to the Committee on Agriculture in House Concurrent Resolution 67, the Current Resolution on the Budget—Fiscal Year 1996. The provisions in the title I recognize the realities of a post-GATT and NAFTA world trade environment within which U.S. farmers and producers must compete as we approach the 21st Century.

The balance of the budget savings within the jurisdiction of the Committee on Agriculture designed to achieve the budget reductions required by H. Con. Res. 67 were realized with the House passage of H.R. 4, the Personal Responsibility Act, under Title V, Food Stamp Reform and Commodity Distribution, that is now scheduled for a House-Senate conference.

PURPOSE AND NEED

Subtitle A—Freedom to Farm

Background

Since the last time Federal commodity programs were addressed in a farm bill (1990) or in reconciliation (1993), major changes in world trade policy, domestic budget policy, and commodity producer opinion require a reconsideration of Federal commodity policy.

The new majority in the 104th Congress is committed to balancing the budget. With the passage of the first Budget Resolution in June, the House Committee on Agriculture, despite having cut over $50 billion in budget authority in previous years, was directed in H.Con.Res. 67, the FY 1996 Budget Resolution to achieve $13.4 billion in savings from Federal farm programs over the next seven fiscal years. Admittedly, reducing Federal spending by that amount will impact farmers. However, some economists predict that a balanced budget will lead to a 1.5 percent reduction in interest rates. Agriculture as a major user of credit has over $140 billion borrowed in terms of long term and short debt would benefit from such a result. If interest rates decline by 1.5 percent, a balanced budget could lead to an interest rate savings for U.S. agricultural producers exceeding $15 billion over the next 7 years.

Following 19 hearings on Federal farm program policy by the Subcommittee on General Farm Commodities and the full Committee on Agriculture, the call from throughout the United States was clear: agricultural producers wanted more planting flexibility, more certainty with respect to Federal assistance, and less Federal regulatory burden.

The combination of these factors led to the following conclusions: (1) the U.S. production agriculture industry needed to become more market-oriented, both domestically and internationally; (2) the industry could not become more market-oriented with a continued Federal involvement that simply extended the current supply-management policies of the past; and (3) the required budget cuts would not provide adequate funding levels to allow the existing Federal programs to function properly in a post-GATT and NAFTA world-oriented market. Analyzing these conclusions is conjunction with a review of the current Federal commodity price support and production adjustment programs resulted in several observations about agricultural policy.

First, current Federal farm programs are based on the 60 year old New Deal principle of utilizing supply management in order to raise commodity prices and farm income. When the Federal farm programs were first created, the government relied on a system of quotas and allotments to control supply. However, over the last 20 years the primary justification for the programs has been the producers receive in return for setting aside (idling productive farmland) Federal assistance. That assistance was largely in the form of deficiency payments to compensate producers for market or loan levels that fell below a Congressionally mandated target price for their production. Additionally, when Federal commodity programs were set up, world markets were not a major factor in determining agricultural policy. This approach, while perhaps appropriate in the 1930's, ignores the realities of a post-GATT and NAFTA world.

Second, current programs no longer achieve their original goals and have collapsed as an effective way to deliver assistance to producers. Worldwide agricultural competition usurps foreign markets when the United States reduces production. With respect to wheat, for example, world demand, when combined with the United States' supply control approach of idling acreage (including acreage idled under the Conservation Reserve Program), has tightened U.S. supplies so much that there have been no set-asides for five years and there are not expected to be any in the foreseeable future, which eliminates the supply management policy justification for the present policy.

For the last ten years, congressional farm policy actions have been driven by budget reductions. The 1995 debate has re-affirmed the Federal budget as the driving force for agricultural program policy. Modifications made to the original farm programs since their inception have revolved around two main goals: further restricting supply in order to alleviate the overproduction which the programs encourage; and decreasing Federal expenditures by limiting the amount of production which is covered by Federal subsidies. These two factors have combined in a way which has made current Federal commodity programs less effective, both as a means of increasing farm income and as a means to manage production, with each successive modification. There have been several recent situations where producers, who received an advance deficiency payment based on U.S.D.A. estimated low prices, have had a poor harvest and were required to repay the advance because the nation-wide effect of the poor harvest was to drive up the market price of the commodity beyond the point at which current programs make a payment. This has placed many producers in a difficult position. Even though prices were high, their income is down because they have no crop to market and the government assistance they had previously received must be paid back.

Government outlays under current programs are the highest when prices are lowest (and hence when harvests are the best). This has had the effect of encouraging production based on potential government benefits, not on market prices. This incentive, when combined with the government's authority to idle acreage (which is the only means that current programs contain for limiting budget outlays) results in a situation in which producers have an incentive to produce the maximum amount of commodities while the government restricts the acres that can be planted, thereby encouraging the over-use of fertilizers and pesticides in order to get the most production from the acres the government is allowing the farmer to plant that year. This environmentally-questionable incentive created by current programs has also resulted in Congress authorizing greater and greater bureaucratic controls on producers over the last ten years in order to minimize environmental damage by requiring conservation compliance plans, compliance with wetlands protection provisions, and compliance with many other land-use statutes. It would be hard to imagine a program which creates more inconsistent incentives than the existing commodity programs.

Added on top of the regulatory burdens which have resulted from the counter-productive environmental incentives of current programs are the additional regulatory burdens created by Congress over the past twenty years which attempt to target program benefits to small producers. These so-called payment limitation provisions have: (1) resulted in substantial paperwork requirements for producers whose operations do not actually approach the payment limit, (2) required a substantial amount of government administrative resources, which has inhibited the government-wide goal of downsizing; and (3) been largely ineffective as a means of ensuring that benefits are targeted to small producers because of the loopholes in the existing structure.

Third, preserving the current Federal farm program structure with the required $13.4 billion in cuts will leave producers with an ineffective and counter productive agricultural policy. The resulting system would be an emasculated remnant of an out-of-date 1930's-era program which no longer serves the people it was originally intended to benefit. While further modifications of current Federal commodity programs may accomplish required budget savings, ten years of budget cuts has changed the fundamental nature of farm programs to the extent they have inhibited farm production and producer earning potential.

Retaining the present policy would be a mistake when other methods can achieve the goals of providing U.S. producers with increased planting flexibility and less regulatory burden while at the same time allowing for greater earnings from the marketplace and reducing the budgetary exposure to the Federal Government.

Rationale

With these conclusions in mind, the recommended changes in Federal commodity policy which are accomplished in this title have a cumulative reconciliation savings of $13.4 billion, as estimated by the Congressional Budget Office. The Federal farm policy for commodities, titled as the "Freedom to Farm" in Subtitle A, captures the CBO projected baseline for agriculture over the next seven years after incorporating the $13.4 billion in savings required by the House Concurrent Resolution 67 instructions to the Committee on Agriculture.

Freedom to Farm ("FFA") replaces the commodity price support and production adjustment programs with a seven-year market transition contract payment for eligible owners and operators and a nonrecourse marketing assistance loan program for eligible producers. Contract participants will receive seven annual market transition payments in exchange for maintaining compliance with their respective conservation plans and applicable wetlands protection provisions. Producers utilizing the marketing assistance loan will get the benefit of a nonrecourse loan at harvest time so that they will not have to sell commodities at a time when market prices are historically low in order to maintain a positive cash flow. Additionally, contract payments are limited to $50,000 per person, regardless of whether such payments are received directly or indirectly through other entities, and will be tracked according to Social Security numbers, hence eliminating once and for all the devices and schemes such as the "Mississippi Christmas Tree" to avoid payment limits. The Secretary is also directed to implement adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

From a GATT perspective, the termination of the commodity price support programs will make U.S. commodities immediately more competitive on the world market by removing the distorting effect that current programs have maintained. This is significant because at the current time, world commodity supplies are relatively tight and estimates indicate that, at best, this situation will remain for quite some time.

With respect to domestic farm policy, FFA accomplishes several goals. First, it accomplishes a large amount of deregulation by freeing farmers up to farm for the market and not the government program. By removing government production controls on land use, FFA effectively eliminates the number one complaint of producers about the programs: bureaucratic red tape and government interference. Complaints about endless waits at the county office should end. Hassles over field sizes and whether the right crop was planted to the correct amount of acres should be a thing of the past. People concerned about the environment will be pleased that the government no longer forces the planting of surplus crops and monoculture agriculture. Producers who want to introduce a rotation on their farm for agronomic reasons should be free to do so without the restrictions in current programs.

Second, the Freedom to Farm Act provides U.S. producers with a guaranteed payment for the next seven years, because it establishes a contract between the Federal Government and the producer. When compared to the alternative of further modifying existing programs, it results in the optimum producer net income over the next seven years and protects the producer from further budget cuts should there be further budget reconciliation bills in the future. The guarantee of a fixed (albeit declining) payment for seven years will provide the predictability that producers have wanted and will provide certainty to lenders as a basis for extending credit to production agriculture. The current situation in which prices are above the target price as a result of poor crops (producers do not get a payment or are forced to repay advanced payments), and therefore have less income should be corrected under FFA. Without a crop to market, producers cannot benefit from the higher prices, and instead of getting help when they need it most, the current system cuts off their deficiency payments and demands that they repay advance deficiency payments.

FFA insures that whatever government financial assistance is available will be delivered, regardless of the circumstances, because the producer signs a contract with the Federal Government for the next seven years. Just as producers will need to look to the market for planting and marketing signals, FFA will require producers to manage their finances to compensate for price swings. It may be true that when prices are high, producers will receive a full market transition payment under FAA but it is equally true that if prices decline, farmers will receive no more than the fixed market transition payment. That means the individual producer must *manage* all income, both market and government, to account for weather and price fluctuations.

Third, FFA encourages market orientation. Producers can plant or idle *all* their acres at their discretion, with a significant reduction in the restrictions on what can be planted. Producers will have to make commodity planting decisions in response to commodity markets instead of decisions based on deficiency payment rates and crop acreage bases. Decoupling Federal payments from production (a process which began in 1985 when payment yields were frozen) would end any pressure from the government in choosing crops to plant. Under FFA, all production incentives should come from the marketplace and not government programs. Additionally, as long as producers maintain compliance with their applicable conservation plans, they are free to choose to plant no crop at all, which will benefit soil and water quality in marginal areas, as well as benefitting wildlife.

Fourth, FFA recognizes that the benefits from current programs have, to some extent, been incorporated into the value of agricultural land. By abolishing the link between production and benefits, but doing so in a manner which provides a seven-year transition period, the economic distortions caused by existing programs can be removed in a manner that causes the least amount of disruption and harm to rural America. For that reason the FFA contract payment has been aptly named as a market transition payment.

Good policy for the future

FFA is also good policy for the future of production agriculture in the United States. The most severe critics of current farm programs, including the New York Times, the Washington Post, the Economist, and a host of regional newspapers, have hailed FFA as the most significant reform in agricultural policy since the New Deal in the 1930's. Congressional critics that have urged reform of the farm programs have also indicated that FFA embodies the type of reform necessary to transition agriculture into a market-oriented industry. Nearly every agricultural economist who has commented on FFA has supported its structure and its probable effect on producers and the agricultural sector.

The reforms accomplished by FFA will help transition U.S. agricultural producers into a new era of a market-oriented Federal farm policy while simultaneously providing fixed, declining payments over seven years in order to minimize the economic distortions resulting from the change away from the New Deal Era Federal farm programs.

Subtitle B—Dairy

Summary

Subtitle B replaces the dairy price support program on January 1, 1996, with (1) a market transition program which provides seven market transition payments to milk producers between April 15, 1996 and October 15, 2001, and (2) a recourse loan program for processors. The Federal milk marketing order program is replaced on July 1, 1996, by a program which verifies receipts of, prices paid for, and uses of milk, and which further, upon request, audits marketing agreements and other private contracts for the receipt and payment of milk between producers and handlers. The Dairy Export Incentive Program (DEIP) is reauthorized through September 30, 2002, and fully funded to the limits permitted by the Uruguay Round of the GATT. The Fluid Milk Promotion Program of 1990 is reauthorized and the producer assessment for promotion under the Dairy Production Stabilization Act of 1983 is extended to imported products. The combined impact of these changes saves $511 million, or approximately 23.5%, of spending on Federal dairy programs projected by CBO over the next seven fiscal years.

Background

Since the last time Federal dairy programs were addressed in a farm bill (1990) or in reconciliation (1993), major changes in world trade policy, domestic budget policy, and dairy producer opinion require us to reconsider Federal dairy policy.

Every Federal dairy program was created subsequent to Section 22 and premised upon the ability of Section 22 to stop foreign dairy products at our border. As of July 1, 1995, Section 22 was limited in its applicability by the implementation legislation for the Uruguay Round of the GATT.

With the passage of the First Budget Resolution in June, the House Agriculture Committee was required to achieve $13.4 billion in savings on Federal farm programs over the next seven fiscal years. As a commodity, dairy's fair share of that amount was slightly more than $500 million, or about $73 million annually.

Following ten hearings on dairy issues by the Subcommittee on Livestock, Dairy and Poultry, including field hearings in California, Florida, Minnesota, New York, and Wisconsin, the mandate from dairy farmers to end budget reconciliation assessments immediately became overwhelming. The elimination of assessments would decrease funding available for Federal dairy programs by approximately $250 million annually.

The combination of these events led to the following conclusions: (1) the U.S. dairy industry needed to become more market-oriented, domestically and internationally; (2) the industry could not become more market-oriented without a level field at home; (3) the industry needed tools to become, and remain, competitive in the world market; and (4) there was inadequate funding to retain and maintain existing Federal dairy programs.

A review of Federal dairy programs (i.e., dairy price supports, Federal milk marketing orders, and the Dairy Export Incentive Program (DEIP)) produced the following conclusions.

First, since the support price was decreased to $10.10/cwt in the 1990 Farm Bill, the dairy price support program has been largely inactive. For example, in the last 12 months, the Commodity Credit Corporation (CCC) has not purchased any cheese and only purchased 26 million pounds of butter and 27 million pounds of nonfat dry milk. By contrast, a decade ago the CCC purchased 293 million pounds of butter, 591 million pounds of cheese, and 827 million pounds of nonfat dry milk during the same 12 month period. Currently, we have no butter, no cheese, and only 30 million pounds of nonfat dry milk in government storage.

Secondly, existing Federal milk marketing orders act as an impediment to a level playing field domestically. The U.S. dairy industry cannot hope to be competitive in the world market if our domestic marketing system produces competitive advantages and disadvantages at home unrelated to market indicators and other economic conditions. The Congressional Budget Office projects that Class I differentials, fixed by statute in 1985, will add an average of $134 million annually to the cost of the dairy price support program in the next five fiscal years by creating artificial incentives to produce milk in regions with sufficient Class I supplies of milk. Studies of Federal milk marketing orders by the General Accounting Office in 1988 and 1995 have produced similar conclusions.

Thirdly, the inactivity of the dairy price support program and the low levels of government-stored dairy products are directly related to the success of the DEIP program. Dairy economists across the nation uniformly agree that the DEIP program has added between $.50/cwt to $1.00/cwt to producer prices in each of the last five years.

Rationale

With these conclusions in mind, the following changes in Federal dairy policy are accomplished in this legislation which have a cumulative reconciliation savings of $511 million estimated by the Congressional Budget Office.

Chapter 1 of subtitle B replaces the dairy price support program on January 1, 1996 with a market transition program for milk producers and a recourse loan program for dairy processors. Producers will receive seven market transition payments in exchange for the termination of the price support program. Since any negative impact resulting from that termination will be greatest in 1996, producers will receive two of the seven market transition payments during calendar year 1996.

From a GATT perspective, the termination of the price support program will make U.S. cheese, butter and nonfat dry milk immediately competitive on the world market. This is significant because, by the end of the decade, 17 percent of the world market for nonfat dry milk, 23 percent of the world market for cheese, and 31 percent of the world market for butter will have opened up due to reductions in subsidized exports under the Uruguay Round.

The recourse loan program will permit processors of cheddar cheese, butter and nonfat dry milk to place their product under a recourse loan with the CCC at 90 percent of the average market value for that product during the previous three months. Loans will be at CCC interest rates and will come due at the end of the fiscal year (September 30), but can be extended into the upcoming fiscal year.

Chapter 2 of subtitle B further enables the United States to become, and remain, a player in the world dairy market of the 21st Century. The DEIP program is reauthorized through September 30, 2002 and fully funded to the limits permitted under the Uruguay Round in each fiscal year. The Secretary of Agriculture is authorized to assist the U.S. dairy industry in establishing an export trading company, or other entity, to provide international market development and export services.

Chapter 3 of subtitle B further assists the industry in becoming more market-oriented by reauthorizing the Fluid Milk Promotion Act of 1990, extending the producer promotion assessment under the Dairy Production Stabilization Act of 1983 to imported dairy products, and by requiring that at least 10 percent of the budget of the National Dairy Promotion and Research Board be allocated to international market development annually.

Indeed, the purpose of Federal dairy promotion programs authorized under the Fluid Milk Promotion Act and the Dairy Product Stabilization Act is to maintain and expand markets for fluid milk and the products of milk, not to maintain or expand the share of those markets which any particular processor or association of producers currently has. The programs created and funded by these Acts are not intended to compete with or replace individual advertising and promotion efforts, but rather to meet the governmental goal and objective of maintaining and expanding the market for fluid milk and the products of milk through continuous and coordinated programs of promotion, research, and consumer information.

Chapter 4 of subtitle B replaces current Federal milk marketing orders on July 1, 1996, with a program which verifies receipts of, prices paid for, and uses of milk, and which further provides an auditing mechanism for marketing agreements and other private contracts for the receipt and payment of milk between producers and handlers. The Secretary will report statistics to the industry including information on payments to producers on a component basis, including payments for milkfat, protein and other solids.

The elimination of the pricing and pooling functions of Federal milk marketing orders will assure a level playing field domestically among producers and insure that industry responds to market signals rather than decade-old fixed differentials which provide artificial incentives to produce milk.

Chapter 5 of subtitle B extends miscellaneous expiring provisions in law related to these Federal dairy programs.

Subtitle C—Other Commodities

The Committee commenced hearings and received testimony from over 100 witnesses in the areas of the United States where peanuts and sugar beets, sugar cane, and corn are grown, as well as in Washington, D.C., to discuss reform of the peanut and sugar programs. The Committee outlined reform criteria with the goal of revising the current peanut and sugar programs to make them more market-oriented and operate at no cost to the Federal Government, while still providing a safety net for producers.

These programs have been increasingly criticized by consumer groups, food processors and manufacturers, environmental groups, and others for a variety of reasons, including artificially increasing prices, encouraging the environmentally-damaging practice of monoculture cropping, and allowing a relatively small number of producers to reap the program benefits at the expense of taxpayers and consumers.

In this context, the Committee's recommendations with respect to the Federal programs for peanuts and sugar are reform-oriented and are made with the intention of providing the framework for a more market-oriented approach to production, with less government involvement.

Peanuts

According to the United States Department of Agriculture (USDA), net peanut government program expenditures for fiscal year 1995 are estimated to be $85.6 million. USDA projects an annual cost of $76 million per year for fiscal years 1996–2000 if current program provisions were retained. The proposed title I would eliminate the administrative costs of the program through the elimination of the national poundage quota and undermarketing provisions which allow additional peanuts to receive the quota price support rate. This will allow the Secretary to set the national poundage quota at a level that satisfies the estimated domestic consumption and prevent additional peanuts from entering the quota pool at the higher loan rate.

With respect to price support, title I would freeze the price support loan rate for quota peanuts at $610 per ton for the 1996 through 2002 crops. This is a reduction from the current loan rate of $678 per ton, which is approximately commensurate to a price support level based on current cost of production. Current law provides that the price support level may only increase based on cost of production, up to 5% over the support rate for the preceding year. If the previous years' quota price support rates were allowed to increase or decrease 5% per year, today's price support level would be approximately $608.64.

Among other changes, title I, as proposed, would also instruct the Secretary to decrease the quota support rate by 15 percent to any producer who refuses an offer from a handler to purchase quota peanuts at the quota support rate, in order to provide an incentive to producers to sell to the market rather than taking out a price support loan.

Title I would prioritize the method of covering losses in area quota pools. Looses would first be covered through individual gains on sales of additional peanuts, then by pool gains on sales of additional peanuts, before proceeding to the cross compliance provisions. The Secretary of Agriculture would also be given the authority to increase the marketing assessment on growers in a pool to cover any further losses, with a provision directing any unused assessment funds to be returned to the Treasury.

With respect to the sale, lease, and transfer of quota, several changes are recommended. Currently, quota can only be sold or leased to another owner or operator in the fall or after the normal planting season within the same country. The Committee recommends full sale, lease or transfer of quota to any county within a State without any restrictions. The Committee also proposes a review of the feasibility of quota transfer of across state lines under the purview of the Commission on 21st Century Production Agriculture.

In addition, the Committee's recommendation would tighten the eligibility of those who own quota by mandating that any required reductions in the national poundage quota in a State shall first be reduced with respect to public entities, non-resident quota holders who are not producers, and resident quota holders who are not producers before reducing the quota allocation of a State's producers.

Sugar

The Committee proposal increases revenue to the Treasury through an increased marketing assessment from 1.1% to 1.5% of the loan rate for raw cane sugar and from 1.17% to 1.6083% of the loan rate for beet sugar. Provisions in current law mandating that the program operate at no net cost to the Treasury would be maintained.

Sugar beet and sugar cane loan rates are frozen at current 1995 levels. However, loan rates are required to be reduced if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of the European Union and other major sugar growing countries in the aggregate exceed the commitments made as part of the Uruguay Round Agreement.

With respect to marketing allotments, the Committee's recommendation would allow full and unrestrained production of sugar in the United States through elimination of marketing allotments.

The Committee also proposes a consistent increase of imports through the establishment of a loan modification threshold which is initially triggered at 1,257,000 short tons raw value in fiscal years 1996 and 1997, and at 103% of the loan modification threshold for the previous fiscal year level for fiscal years 1998 through 2002. Under this provision, recourse loans to processors are made available up to the threshold level and would be converted into nonrecourse loans if imports rise above the threshold level.

Subtitle D—Miscellaneous Program Changes

The Federal Crop Insurance Reform Act of 1994 (Reform Act), contained in Title I of P.L. 103-354, made significant changes in the multi-peril crop insurance (MPCI) program as well as ending, for all practical purposes, ad hoc Federal assistance to farmers for crop failures. Two controversial and complex provisions of the new law have caused consternation and irritation among agricultural producers, and that, in turn, has made MPCI a less attractive product for many farmers.

A principal provision of the Reform Act required any agricultural producer who is a farm commodity program or Conservation Reserve Program participant or who is receiving a loan or loan guarantee through the U.S. Department of Agriculture (USDA) to purchase a MPCI policy to insure against at least a catastrophic crop loss (CAT), i.e., for a crop loss of 50 percent loss in yield, on an individual or area yield basis. To obtain CAT coverage, producers pay an administrative fee for each crop produced in a county. Because of USDA's implementation of the Reform Act, each landlord who receives a program payment (shared tenancy) is required to pay the $50 fee. This link between farm program participation and crop insurance caused a great deal of confusion and irritation among producers because of the inequities in USDA implementation. For example, an owner-operator growing only wheat on a section of land in a single county could purchase CAT coverage for a single $50 fee, while multiple owners with a tenant farming in more than one county were required to pay multiple fees. One particularly egregious case that came to light involved nine different landlords and their tenants who farmed three different crops in three counties. Each of the owners was required to pay three fees for each crop in each of the three counties, resulting in a substantial amount of dollars in fees for insurance on a minimal number of acres.

A second provision that caused undue confusion involved the delivery system implemented by the Consolidated Farm Service Agency (CFSA) within USDA. Because each agricultural producer could be required to purchase at least the CAT insurance policy, Congress allowed CFSA local offices to sell CAT coverage in those areas of the country where private insurance agents were not available or not readily available. As implemented, however, CFSA became an instant competitor with insurance agents around the country. Because the new MPCI program was late in clearing Congress and even later in getting into the field, local CFSA personnel obviously were confused during the initial start-up phase of the new program. This confusion was spread throughout farm country during this past spring and harmed a program that already was disliked and unused by a majority of producers in almost every part of the country.

It also has come to the Committee's attention that the assistant administrator for risk management who is the FCIC manager and responsible for its day-to-day operations also has become totally absorbed by CFSA administrators to an extent that risk management and crop insurance are being run as if they were just another farm program, in other words, not in an actuarially-sound manner. Under any policy scenario, Federal farm price and income support programs are in transition, making it vitally important that our agricultural producers have sound risk management programs they can use for price and yield protection and marketing assistance without undue USDA intervention. Creating an independent agency and then subsuming the congressional policy objective of providing new risk management techniques, including MPCI offered generally through a private delivery system, within the scope of traditional, 50-year-old New Deal policies does not make sense. Congress clearly set new policy and structural changes at the new CFSA, and thus far, CFSA has ignored many of those policy objectives.

Finally, in that regard, the FCIC board has been inactively engaged in its responsibility to manage FCIC operations in the current Administration, ceding its authority to CFSA personnel. Because of that, the MPCI program has been neglected and is a less viable risk management tool than Congress intended but for the inattention to its direction by CFSA.

Admendments included in the agricultural title of the omnibus budget reconciliation bill seek to change both the mandatory link of MPCI and USDA farm and credit programs so that producers not wanting to purchase CAT coverage could do so by waiving the right to any possible crop disaster assistance for the crop year in which CAT coverage had been offered by the FCIC but not purchased by the producer. This saves $180 million over the seven-year period.

Additional amendments provide for a totally private delivery system by the crop insurance industry. Under the Committee amendments, FCIC is required to submit its delivery plan that will provide at least CAT insurance availability to each producer in the country (who wants to purchase it) to the agriculture committees of Congress by May 1, 1996. The clear intent is that MPCI, both CAT coverage and additional buy-up coverage, will be offered, sold and serviced by the private crop insurance industry that has invested a great deal of time and money toward providing crop insurance services to agricultural producers.

Other amendments included in the budgetary provisions establish a fully independent Office of Risk Management with an administrator who will manage the FCIC as well as assume other risk management responsibilities enumerated by the amendments. The Secretary of Agriculture is directed to (shall) appoint the Administrator of the Office of Risk Management.

Further amendments will recreate a more effective FCIC board of directors by providing a more diverse composition of the board's directors as well as providing for terms of appointment for specific time periods. Impairment of the board to act under the law also will impair the delegation of authority to the FCIC manager. This should ensure the board will remain an active participant in FCIC's policy and operational direction.

By any measure, farmers, agricultural economists, wildlife advocates and environmentalists alike believe the Conservation Reserve Program (CRP), established by the 1985 Food Security Act ('85 FSA), has been a success. Landowners have enrolled about eight percent of U.S. cropland in 12 separate signups from 1986 to June 1992. At the end of the 12th signup, about 375,000 contracts had been put into effect, although around two-thirds of the acreage currently subject to contracts will expire at the beginning of fiscal year 1998.

Billions of tons of topsoil have been saved over the life of the program. Large sections of prairie have been returned to grass, providing critical habitat for migratory waterfowl as well as restorative nesting cover for game birds. Net savings in farm program expenditures also have been realized throughout the life of the CRP.

As mentioned previously, however, 1992 was the last year of new CRP enrollments even though the 1990 amendments to the '85 FSA provided for a 38 million-acre program. The appropriations committees of the Congress in those years refused to provide for any additional acreage to be enrolled in the CRP.

Current law also does not give a landowner with a CRP contract any flexibility to opt out of his contract even though the rental payment is intended to pay for conservation in the Federal fiscal year for which the payment is made. Should commodity prices rise enough to entice a landowner using acceptable conservation systems with an approved compliance plan to get out of the program to meet market demands, he may not do so unless the Secretary is satisfied there is sufficient grain needs worldwide to require use of CRP lands.

The amendments set out in Section 1402 of Subtitle D are intended to resolve these issues. As of the date of enactment, the Committee will ratify, by an amendment in title I, four years of appropriations committee policy by capping the CRP at the current acreage of 36.4 million acres during the seven-year period beginning with the date of enactment.

The Committee's amendments also would allow for landowners to opt out of their contracts by giving the Secretary 60 days notice of the contract termination. Should the contract be terminated prior to the end of the fiscal year, September 30 of any calendar, the Secretary shall prorate the payment. The highly-erodible land must be farmed under a conservation system and compliance plan that is not more onerous than systems and plans for similar land in the area.

Landowners who have terminated a contract may resubmit a subsequent bid to enroll the high-erodible land under a new CRP contract. Extensions of existing contracts or any new contracts of reenrolled lands will be at 75 percent of the previous rental rate for the land. These provisions provide savings between 1996–2002 of $570 million.

Subtitle E—Commission on 21st Century Production Agriculture

The changes in Federal farm policy made in the preceding subtitles are a dramatic departure from current farm commodity programs. Many of those involved in production agriculture from the farmer to the economist, to rural lenders, and especially to those with an economic interest in current programs, are concerned that a change of the magnitude described in the preceding subtitles coupled with less Federal subsidy dollars will adversely affect not only the U.S. agricultural industry, but also rural America. While the dramatic changes proposed for the Federal Government's involvement in agriculture as prescribed by the Freedom to Farm Act, are in fact a recognition of the changing rural and urban landscape of America, an examination of the changes wrought by these policy changes and what farm policies are needed for the 21st Century farm sector is in order.

When the present Federal programs for agriculture were adopted, the nation was in the darkest depths of the Great Depression of the 1930's. Not everyone believed the Federal Government should get involved in agriculture. Indeed, the original Agricultural Adjustment Act of 1933 was declared unconstitutional by the Supreme Court. But a consensus was reached and the United States Government embarked upon a course of substantial involvement in agriculture. The present programs were claimed to be created out of political and economic necessity, because the nation was largely rural and the majority of the population lived on farms or rural areas.

In the intervening 60 years, the United States has been transformed into a largely urban society with less than 2 million citizens on farms. There is evidence that Federal farm programs may have eased the transition from a rural society to an urban society. While the United States is now largely an urban population, nearly 20 percent of the Gross National Product can be attributed to agriculture if the entire sector is considered, i.e., from the farm to the manufacturing, distribution, and input infrastructure involved in modern agriculture's miracle of productivity.

The United States is blessed with a very valuable asset: fertile land, with adequate moisture, growing season, and dedicated users of such land that make it the envy of the world. The challenge for the United States as we enter the 21st Century is how do we wisely use our very valuable natural resource: agriculture. The present system of agricultural price supports and supply control programs has come under increasing attack by economists, environmentalists, and farmers as being inadequate for modern agriculture. The Freedom to Farm Act is meant to be a transition policy for U.S. agriculture. But a transition to what?

Over the 7 years of the transition contract, the Congress hopes a national debate can take place as to what should be the Federal involvement in production agriculture in the 21st Century. Should it be a system of direct price supports found in the present system? Should it be some type of income support mechanism that provides some means of income or revenue protection given the nature of production agriculture, which is subject to the vagaries of weather, pestilence, and geopolitical market disruptions. Should the Federal involvement in production agriculture be limited to only foreign market development and research that enhances U.S. agriculture's relative competitive position? Or can many of the goals necessary to have a healthy food and fiber sector be accomplished through Federal tax policy?

To stimulate substantial debate and provide answers to these questions, Subtitle E establishes a Commission on 21st Century Production Agriculture, which is designed to give future Congresses and Presidents and others information and feedback to gauge the effectiveness of the changes made by this legislation, and also to recommend further appropriate Federal policy and involvement in production agriculture. The Commission is to conduct a "look-back" (how successful is Freedom to Farm) and a "look-to-the-future" that recommends new or different policies for 21st Century agriculture.

This Commission, comprised of 11 members to be appointed by the President and the Chairmen of the House and Senate Agriculture Committees in consultation with their Ranking Minority Members, will conduct a comprehensive review of changes in the condition of the agricultural sector, taking into account land values, regulatory and taxation burdens, export markets, and progress under international trade agreements. The Commission will also make an assessment of changes in production agriculture, identify the appropriate future relationship between the Federal Government and production agriculture after 2002, and assess the future personnel and administrative needs of USDA. Not later than June 1, 1998, the Commission shall report its interim findings with respect to its comprehensive review of the condition of the agricultural sector. Not later than January 1, 2001, the Commission shall make a final report concerning its assessments and determinations regarding the future role of the Federal Government in farm policy.

SECTION-BY-SECTION ANALYSIS

SUBTITLE A—FREEDOM TO FARM

Section 1101.—Short title

This Subtitle may be cited as the "The Freedom to Farm Act of 1995".

Section 1102.—Seven year contracts to improve farming certainty and flexibility

Subsection (a). Contracts authorized

Subsection (a) amends obsolete section 102 of the Agricultural Act of 1949 to provide authority for the Secretary to enter into seven-year market transition contracts.

Amended section 102(a), in paragraph (1), authorizes the Secretary to enter into 7-year market transition contracts between 1996 and 2002 with eligible owners and operators on a farm containing eligible farmland. In exchange for annual payments under the contract, the owner or operator must agree to comply with the applicable conservation plan for the farm and the wetland protection requirements of title XII of the Food Security Act of 1985.

Amended section 102(a), in paragraph (2), describes eligible owners and operators, that include:

(A) an operator who assumes all risk of producing a crop;

(B) an operator who shares in the risk of producing a crop;

(C) an operator with a share-rent lease regardless of the length of such lease if the owner also enters into the contract;

(D) an operator with a cash rent lease that expires on or after September 30, 2002, in which case the consent of the owner is not required;

(E) an operator with a cash rent lease that expires before September 30, 2002, and the owner consents to the contract; and

(F) an operator with a cash rent lease, but only if the operator declines to enter into a contract, in which case payments under the contract will not begin until the fiscal year following the year in which the lease expires.

Amended section 102(a), in paragraph (3), instructs the Secretary to provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

Amended section 102(b), in paragraph (1), provides that the deadline for entering into a market transition contract is April 15, 1996, except that owners and operators on farms which contain acreage enrolled in the Conservation Reserve Program ("CRP") may enter into a market transition contract upon the expiration of the CRP contract.

Amended section 102(b), in paragraph (2), provides that the contracts shall begin with the 1996 crop year and extend through the 2002 crop year.

Amended section 102(b), in paragraph (3), provides that, at the time a contract is signed, the Secretary shall estimate the minimum payment that will be made under the contract, and the owner or operator may terminate the contract without penalty if the first actual payment is less than 95 percent of the estimate.

Amended section 102(b), in paragraph (4), instructs the Secretary to issue a report to the House and Senate Agriculture Committees within 90 days after the date of enactment of this section setting forth a plan as to the number of, and acreage in, contracts to be signed, the anticipated amount of payments, and the manner in which the contracts will be signed.

Amended section 102(c) describes eligible farmland, which is land that contains a crop acreage base, at least a portion of which was enrolled in the acreage reduction programs authorized for a crop of rice, upland cotton, feed grains, or wheat and which has served as the basis for deficiency payments in at least one of the 1991 through 1995 crop years, including zero-certified considered planted acreage under section 503(c)(7) of the Agricultural Act of 1949. With respect to contracts for acreage enrolled in the CRP, such acreage must have crop acreage base attributable to it.

Amended section 102(d) establishes the payment dates under the market transition contracts as September 30 of each of the fiscal years 1996 through 2002, and provides that an owner or operator may opt to receive half of each annual payment not later than March 15 of each year. For the 1996 fiscal year, an owner or operator may elect to receive half of the payment within 90 days of signing a market transition contract.

Amended section 102(e), in paragraph (1), establishes an overall spending limit for the fiscal years 1996 through 2002 at $38,733,000,000.

Amended section 102(e), in paragraph (2), establishes yearly spending limits of:

(A) $6,014,000,000 for FY 1996;
(B) $5,829,000,000 for FY 1997;
(C) $6,244,000,000 for FY 1998;
(D) $6,047,000,000 for FY 1999;
(E) $5,573,000,000 for FY 2000;
(F) $4,574,000,000 for FY 2001; and
(G) $4,453,000,000 for FY 2002.

Amended section 102(e), in paragraph (3), directs the Secretary to adjust the amounts specified in paragraphs (1) and (2), if necessary, by:

(A) subtracting payments required under sections 101B, 103B, 105B, and 107B for the 1994 and 1995 crop years;

(B) adding producer repayments of deficiency payments received during that fiscal year under section 114(a)(2);

(C) adding market transition contract payments withheld at the request of producers, during the preceding fiscal year as an offset against repayments of deficiency payments otherwise required under section 114(a)(2); and

(D) adding market transition contract payments which are refunded during the preceding fiscal year under amended section 102(h).

Amended section 102(f) establishes the basis for determining the allocation of available funds under a market transition contract for crop acreage base for each contract commodity;

Amended section 102(f)(2), in subparagraph (A), directs the Secretary to calculate the total expenditures for all contract commodities for the 1991 through 1995 crops under sections 101B, 103B, 105B, and 107B, including expenditures in the form of deficiency payments, loan deficiency payments, marketing loan gains, and marketing certificates.

Amended section 102(f)(2), in subparagraph (B), authorizes the Secretary to use estimates, as contained in the President's budget for fiscal year 1997 submitted to Congress under section 1105 of title 31, United States Code, in the absence of information regarding actual 1995 crop expenditures for a contract commodity.

Amended section 102(f), in paragraph (3), provides that the amount available for a fiscal year for payments with respect to crop acreage base of a contract commodity shall be equal to the product of:

(A) the ratio of the amount calculated under section 102(f)(2) for that contract commodity to the total amount calculated for all contract commodities under paragraph (2); and

(B) the amount specified in section 102(e)(2) for that fiscal year (including any adjustments under section 102(e)(3)).

Amended section 102(g), in paragraph (1), establishes the basis for determining the amount of production attributable to a contract commodity covered by a contract, which is equal to the product of:

(A) the crop acreage base of that contract commodity attributable to the eligible farmland subject to the contract; and

(B) the farm program payment yield in effect for the 1995 crop of that contract commodity for the farm containing that eligible farmland.

Amended section 102(g), in paragraph (2), provides that for each of the fiscal years 1996 through 2002, the total amount of production of each contract commodity covered by all market transition contracts shall be equal to the sum of the amounts calculated under paragraph (1) for each market transition contract in effect during that fiscal year.

Amended section 102(g), in paragraph (3), provides that the payment rate for a contract commodity for a fiscal year shall be equal to—

(A) the amount made available under section 102(f)(3) for that commodity for that fiscal year; divided by

(B) the amount determined under paragraph (2) for that fiscal year.

Amended section 102(g), in paragraph (4), provides that, for each of the fiscal years 1996 through 2002, the amount to be paid under a particular market transition contract with respect to a contract commodity shall be equal to the product of—

(A) the amount of production determined under section 102(g)(1) for that contract for that contract commodity; and

(B) the payment rate in effect under paragraph (3) for that fiscal year for that contract commodity.

Amended section 102(g), in paragraph (5), provides that the provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act relating to assignment of payments shall apply to market transition contract payments, and requires that the owner, operator, or assignee to notify the Secretary of such assignment.

Amended section 102(g), in paragraph (6), directs the Secretary to allow for sharing of payments made under a market transition contract among the owners and operators subject to a contract on a fair and equitable basis.

Amended section 102(h) establishes an annual payment limitation under a market transition contract at $50,000 per person during any fiscal year and instructs the Secretary to issue regulations defining the term 'person' which shall conform, to the extent practicable, to the regulations defining such term issued under section 1001 of the Food Security Act of 1985. The Secretary is further instructed to ensure that contract payments issued to corporations and other persons described in section 1001(5)(B)(i)(II) of such Act comply with the attribution requirements specified in paragraph (5)(C) of such section.

Amended section 102(i), in paragraph (1), authorizes the Secretary to terminate a market transition contract if an owner or operator violates the farm's conservation compliance plan or wetland protection requirements. Upon termination, the owner or operator forfeits future payments and must refund payments received during the period of the violation, with interest as determined by the Secretary.

Amended section 102(i), in paragraph (2), provides that, if the Secretary determines that the nature of the violation does not warrant termination of the contract as provided in paragraph (1), the Secretary may—

(A) require a partial refund with interest thereon; or

(B) adjust future contract payments.

Amended section 102(i), in paragraph (3), prohibits the Secretary from requiring repayments from an owner or operator if farmland which is subject to the contract is foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This authority does not void the responsibilities of such owner or operator if the owner or operator continues or resumes control or operation of the property subject to the contract, and in effect reinstate the contract.

Amended section 102(i), in paragraph (4), provides that a determination by the Secretary under this subsection shall be considered as an adverse decision for purposes of review by the National Appeals Division under subtitle H of title II of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994.

Amended section 102(j), in paragraph (1), provides for transfers of land subject to a market transition contract. Upon a transfer, a contract is automatically terminated unless the transferee agrees to assume all obligations under the contract. A transferee may request modifications to a contract before assuming it, if the modifications are consistent with the objectives of this section as determined by the Secretary.

Amended section 102(j), in paragraph (2), authorizes the Secretary to issue regulations regarding contract payments in instances in which an owner or operator dies, becomes incompetent, or is otherwise unable to receive a contract payment.

Amended section 102(k), in paragraph (1), establishes planting flexibility provisions on land subject to a market transition contract. Crops which can be grown include—

(A) rice, upland cotton, feed grains, and wheat;

(B) any oilseed;

(C) any industrial or experimental crop designated by the Secretary;

(D) mung beans, lentils, and dry peas; and

(E) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not covered by subparagraph (D), unless such fruit or vegetable crop is designated by the Secretary as—

(i) an industrial or experimental crop; or

(ii) a crop for which no substantial domestic production or market exists.

Amended section 102(k) in paragraph (2), authorizes the Secretary to prohibit the planting of any crop specified in paragraph (1) on acreage on the farm subject to the market transition contract.

Amended section 102(k), in paragraph (3), directs the Secretary to make a determination each crop year of the commodities that may not be planted pursuant to this subsection and make available a list of such commodities.

Amended section 102(k), in paragraph (4), provides that, in lieu of planting crops, owners and operators may devote all or part of the eligible farmland subject to a contract to conserving uses in accordance with regulations issued by the Secretary.

Amended section 102(k), in paragraph (5), allows for haying and grazing of eligible farmland subject to a contract, except that haying and grazing is not permitted during the 5-month period designated by the State Committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act between April 1 and October 31st of each year. The Secretary may permit unlimited haying and grazing on eligible farmland in cases of a natural disaster, and may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising such natural disaster authority.

Amended section 102(l) provides that market transition contracts are legally binding.

Amended section 102(m) directs the Secretary to carry out this section through the Commodity Credit Corporation, except that no funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of market transition payments or loans under this subtitle.

Amended section 102(n) authorizes the Secretary to issue such regulations as are necessary to implement this section.

Subsection (b). Conforming amendments

Subsection (b) amends sections 107B(c)(1)(E), 105B(c)(1)(E), 103B, 101B(c), and 205(c) of the Agricultural Act of 1949 so that such sections are applicable only through the 1995 crop year (with respect to certain payments etc.), and section 509 of such Act only until January 1, 1996.

Section 1103.—Availability of nonrecourse marketing assistance loans for wheat, feed grains, cotton, rice, and oilseeds

Subsection (a). Nonrecourse loans available

Section 1103(a) amends the Agricultural Act of 1949 by inserting after section 102 a new section 102A which establishes a nonrecourse marketing assistance loan for certain crops.

New section 102A(a), in paragraph (1), directs the Secretary to make nonrecourse marketing assistance loans available to eligible producers of wheat, feed grains, upland cotton, extra long staple cotton, rice, and oilseeds for each of the 1996 through 2002 crops of such commodities under terms and conditions prescribed by the Secretary at a loan rate calculated under 102A(c). Such loans shall have a term of nine months, and may not be extended by the Secretary.

New section 102A(b) directs the Secretary to announce the loan rate for each commodity not later than the start of the marketing year for such commodity.

New section 102A(c), in paragraph (1), establishes the loan rate for each commodity at 70 percent of the simple average price received by producers during the marketing years for the immediately preceding five crops (a rolling average).

New section 102A(c), in paragraph (2), directs the Secretary to reduce the loan rate of a commodity for a marketing year if the Secretary estimates that the market price for a commodity is likely to be less than loan rate calculated under paragraph (1).

New section 102A(c), in paragraph (3), instructs the Secretary to determine the five-year simple average price received by producers, excluding the highest and lowest years.

New section 102A(d) provides that, if the Secretary determines that the market price of a commodity falls below the lower of: (1) the loan rate; or (2) the adjusted loan rate set under paragraph (2), the Secretary shall allow such loan to be repaid at such market price. This subsection does not apply to marketing assistance loans for extra long staple cotton, rye or oilseeds.

New section 102A(e) authorizes the Secretary to make such adjustments in the announced loan rate for a commodity as the Secretary determines appropriate to reflect differences in grade, type, quality, location, and other factors.

New section 102A(f), in paragraph (1), provides that, in the case of a marketing assistance loan for a crop of wheat, feed grains (except rye), upland cotton, or rice, only a producer whose land on which the crop is raised is subject to a market transition contact shall be eligible for a marketing assistance loan.

New section 102A(f), in paragraph (2), provides that, in the case of a marketing assistance loan for a crop of extra long staple cotton, rye or oilseeds, any producer shall be eligible for a marketing assistance loan except as provided in subsection (d).

New section 102A(g) provides that the Secretary may not make payments to producers to cover storage charges incurred in connection with marketing assistance loans.

New section 102A(h), in paragraph (1), defines 'feed grains' to mean corn, grain sorghums, barley, oats, and rye; and in paragraph (2), defines 'oilseeds' to mean soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, and, if designated by the Secretary, other oilseeds.

New section 102A(i) authorizes the Secretary to issue such regulations as are necessary to carry out this section.

Subsection (b). Repeal of current adjustment authority

Subsection (b) repeals section 403 of the Agricultural Act of 1949, relating to loan rate adjustment authority.

Section 1104.—Reform of payment limitation provisions of Food Security Act of 1985

Subsection (a). Attribution of payments made to corporations and other entities

Subsection (a) amends paragraph (5)(C) of section 1001 of the Food Security Act of 1985 relating to payments made to corporations and other entities.

Amended section 1001(5)(C), in clause (i), directs the Secretary, in the case of payments to corporations and other entities described in section 1001(B)(i)(II), to attribute payments to individuals in proportion to their ownership interests in the corporation or entity receiving the payment, or in any other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment. The provisions of this subparagraph shall apply to individuals who hold or acquire, directly or through another corporation or entity, a substantial beneficial interest in the corporation or entity actually receiving the payment.

Amended section 1001(5)(C), in clause (ii), directs the Secretary, in the case of payments to corporations and other entities described in section 1001(B)(i)(II), to also attribute payments to any State (or political subdivision or agency thereof) or other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment in proportion to their ownership interests in the corporation or entity receiving the payment. The provisions of this subparagraph shall apply even if the payments are also attributable to individuals under clause (i).

Amended section 1001(5)(C), in clause (iii), provides that for purposes of subparagraph (C), 'substantial beneficial interest' means not less than five percent of all beneficial interests in the corporation or entity actually receiving the payment, except that the Secretary may set a lower percentage in order to ensure that the provisions of this section and the scheme or device provisions in section 1001B are not circumvented.

Subsection (b). Tracking of payments

Subsection (b) amends paragraph (3) of section 1001(A(a) to provide that each entity or individual receiving payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations of section 1001(A)(a). Each such entity or individual receiving payments shall provide to the Secretary, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

Subsection (c). Conforming amendment

Subsection (c) amends paragraph (2) of section 1001(A)(a) to provide that, for purposes of subsection 1001A(a), 'substantial beneficial interest' has the meaning given such term in amended section 1001(5)(C)(iii).

Section 1105.—Suspension of certain provisions regarding program crops

Section 1105 suspends provisions of permanent law relating to commodity programs for the 1996 through 2002 crop years.

Subsection (a). Wheat

Subsection (a) suspends: (1) sections 331 through 339, 379b, 379c (relating to wheat crops for 1996 through 2002); (2) sections 379d through 379j of the Agricultural Adjustment Act of 1938 (applicable to wheat processors or exporters from June 1, 1996 through May 31, 2003); (3) the joint resolution entitled "a joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended" (applicable to the 1996 through 2002 crops of wheat); and (4) section 107 of the Agricultural Act of 1949 with respect to the wheat crops of 1996 through 2002.

Subsection (b). Feed grains

Subsection (b) suspends 105 of the Agricultural Act of 1949 with respect to the 1996 through 2002 crops of feed grains.

Subsection (c). Cotton

Subsection (c) suspends sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 and section 103(a) of the Agricultural Act of 1949 with respect to the 1996 through 2002 crops of upland cotton.

SUBTITLE B—MILK AND THE PRODUCTS OF MILK

Chapter 1—Authorization of Market Transition Payments in Lieu of Milk Price Support Program

Section 1201.—Seven year market transition contracts for milk producers

Section 1201 amends the Agricultural Act of 1949 by replacing section 204, and conforming sections 201(a) and 301 accordingly.

Subsection (a). Contracts authorized

Subsection (a) replaces existing section 204 of the Agricultural Act of 1949 with the following new provisions.

New section 204(a) authorizes the Secretary to enter into market transition contracts with milk producers in which a producer would agree to continue compliance with any government animal waste regulations and any wetlands protection requirements applicable to the producer's operation in exchange for seven market transition payments. A milk producer is defined as any person that was engaged in the production of milk on September 15, 1995, and that had received a payment during the 45-day period prior to that date for cows' milk marketed for commercial use.

New section 204(b) requires that contracts be entered not later than April 15, 1996, and that they shall extend through December 31, 2001.

New section 204(c) requires the Secretary to provide an estimate of payments anticipated under the market transition contract at the time the contract is entered.

New section 204(d) provides that the first payment under a market transition contract be made on April 15, 1996, or as soon thereafter as practicable. Subsequent payments would occur on October 15 of fiscal years 1997 through 2002.

New section 204(e) establishes the following payment schedule and payment rates: April 15, 1996 (10 cents/cwt); October 15, 1996 (15 cents/cwt); October 15, 1997 (13 cents/cwt); October 15, 1998 (11 cents/cwt); October 15, 1999 (9 cents/cwt); October 15, 2000 (7 cents/cwt); and October 15, 2001 (5 cents/cwt).

New section 204(f) requires the Secretary to determine the historic annual milk production, expressed in hundredweights (cwt) of milk, for each milk producer on the basis of the producer's milk checks or other records of commercial marketings of milk acceptable to the Secretary. If a producer has produced milk for at least three calendar years, the producer's historic annual milk production will be the average hundredweight of milk marketed during the three highest production years from 1991–1995. If a producer has produced milk for less than three calendar years, the producer's historic annual milk production will be the annualized average of the monthly quantity of milk marketed by the producer during the period in which the producer has produced milk.

New section 204(g) provides that a producer's payment in any fiscal year will be equal to the payment rate in effect for that fiscal year times the producer's historic annual milk production.

New section 204(h) provides that market transition contracts with milk producers are freely assignable, but that the Secretary may require notice of any assignment of a contract.

New section 204(i) permits the Secretary to terminate or adjust the market transition contract of a milk producer if the producer fails to comply with animal waste regulations or wetlands protection requirements. The Secretary is required to make a determination regarding violations of animal waste management regulations in consultation with appropriate State governmental authorities. If the Secretary determines that a termination is appropriate, the producer forfeits all rights to future payments and is further required to refund any payment received after the producer was notified of the violation. If the Secretary determines that the violation does not warrant termination, the Secretary may require the producer to refund any payment received after the producer was notified of the violation and may make adjustments in the amount of future payments otherwise required under the contract.

New section 204(j) provides that market transition contracts are legally binding.

Subsection (b). Continued operation of existing program through 1995

Subsection (b) provides that the dairy price support program under existing section 204 of the Agricultural Act of 1949 continues in operation through December 31, 1995 at which time it is terminated. Producers that are entitled to a refund of their 1995 budget reconciliation assessment (i.e., their marketings of milk in calendar year 1995 did not exceed their markings of milk in calendar year 1994) will receive those refunds from CCC funds rather than from assessments on producers in 1996.

Subsection (c). Conforming repeal of general authority to provide price support for milk

Subsection (c) conforms sections 201(a) and 301 of the Agricultural Act of 1949 to eliminate milk from the designated and undesignated nonbasic agriculture commodities for which the Secretary has general authority to provide price support.

Section 1202.—Recourse loans for commercial processors or dairy products

Section 1201 amends the Agricultural Act of 1949 by replacing section 424 with the following.

New section 424(a) authorizes the Secretary to make recourse loans available to commercial processors of cheddar cheese, butter and nonfat dry milk dairy products to assist those processors in assuring price stability for the dairy industry.

New section 424(b) provides that loans are to be made available at 90% of the reference for a product and at established CCC interest rates.

New section 424(c) provides that loans may not extend beyond the end of the fiscal year in which they are made, except that the Secretary may extend a loan for an additional period not to exceed the next fiscal year.

New section 424(d) defines the reference price for cheddar cheese as the average price for 40 pound blocks of cheddar cheese on the National Cheese Exchange for previous three months, for butter as the average price for butter on the Chicago Mercantile Exchange for butter for the previous three months, and for nonfat dry milk as the Western States price for nonfat dry milk for the previous three months.

Chapter 2—Dairy Export Programs

Section 1211.—Dairy Export Incentive Program

Section 1211 amends section 153(c) of the Food Security Act of 1985 to make the following revisions in the Dairy Export Incentive Program (DEIP).

Subsection (a). In general

Subsection (a) requires the Secretary to use the DEIP program to export the maximum allowable quantities of U.S. dairy products consistent with the obligations of the United States as a member of the World Trade Organization, minus the quantity sold under section 1163 of the Food Security Act of 1985 during that year, except to the extent that such volume would exceed the limitations on value set forth in subsection (f).

Subsection (b). Sole discretion

Subsection (b) establishes that the Secretary of Agriculture exercises sole discretion over the DEIP program.

Subsection (c). Market development

Subsection (c) authorizes the Secretary to include an amount for the development of world markets for U.S. dairy products in the payment rate for DEIP.

Subsection (d). Maximum allowance amounts

Subsection (d) limits the Secretary's use of money and commodities for the DEIP program in any year to the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization minus the amount expended under section 1163 of the Food Security Act of 1985 during that year.

Subsection (e). Conforming amendment

Subsection (e) extends the operations of the DEIP program through the year 2002.

Section 1212.—Authority to assist in establishment and maintenance of export trading company

Section 1212 authorizes the Secretary of Agriculture to assist the United States dairy industry in establishing and maintaining an export trading company under the Export Trading Company Act of 1982 to facilitate the international market development for an exportation of U.S. dairy products.

Section 1213.—Standby authority to indicate entity best suited to provide international market development and export services

Section 1213 provides standby authority for the Secretary of Agriculture to indicate which entity, autonomous of the U.S. government, is best suited to provide international market development and export services to the U.S. dairy industry and to assist that entity in identifying sources of funding for its activities.

Subsection (a). Indication of entity best suited to assist in the international development for and export of United States dairy products

Subsection (a) provides that, in the event that (1) the U.S. dairy industry does not establish an export trading company, or (2) the quantity of exports of U.S. dairy products during the period July 1, 1996–June 30, 1997 does not exceed the quantity of exports of U.S. dairy products during the period July 1, 1995–June 30, 1996 by 1.5 billion pounds (milk equivalent), the Secretary is directed to indicate which entity autonomous of the U.S. government is best suited to facilitate the international market development for and exportation of U.S. dairy products.

Subsection (b). Funding of export activities

Subsection (b) requires the Secretary to assist the entity chosen by the Secretary in subsection (a) in identifying sources of funding for its activities from within the dairy industry and elsewhere.

Subsection (c). Application of section

Subsection (c) limits the Secretary's authority to engage in the activities specified in section 1213 to the period between July 1, 1997 and September 30, 2000.

Section 1214.—Study and report regarding potential impact of Uruguay Round on prices, income and Government purchases

Subsection (a). Study

Subsection (a) directs the Secretary of Agriculture to perform a study of the potential impact of new access cheese imports under the Uruguay Round on U.S. milk prices, dairy producer income, and the cost of Federal dairy programs.

Subsection (b). Report

Subsection (b) directs the Secretary to report the results of the study conducted under subsection (a) to the Committees on Agriculture of the Senate and the House of Representatives not later than September 30, 1996.

Subsection (c). Rule of construction

Subsection (c) provides that any restriction on the conduct or completion of studies or reports to Congress shall not apply to this study unless section 1216 is explicitly referenced by that restriction.

Chapter 3—Dairy Promotion Programs

Section 1221.—Research and promotion activities under Fluid Milk Promotion Act of 1990

The following sections of the Fluid Milk Promotion Act of 1990 (subtitle H of title XIX of Public Law 101-624) are amended.

Subsection (a). Extension of order

Subsection (a) amends section 1999O to eliminate the automatic termination of any order issued under the Act on December 31, 1996.

Subsection (b). Definition of research

Subsection (b) amends section 1999C to expand the definition of research to include research that would lead to the expansion of sales of fluid milk products, the development of new products and new product characteristics, and improved technology in the production, manufacturing and processing of milk and the products of milk.

Subsection (c). Conforming amendments regarding marketing orders

Subsection (c) amends section 1999J to conform the Fluid Milk Promotion Act to amendments made in chapter 4 of this subtitle which eliminate the Federal milk marketing order program.

Subsection (d). Clarification of referendum requirements

Subsection (d) amends sections 1999N and 1999O to clarify the referendum requirements of the Fluid Milk Promotion Act which were inadvertently impacted by amendments made to the Act in 1993 which altered the definition of "fluid milk processor". Any future order issued under the Act must now be approved by the affirmative votes of fluid milk processors representing 60 percent or more of the volume of fluid milk products marketed by all fluid milk processors voting in the referendum before it can be implemented.

Section 1222.—Expansion of Dairy Promotion Program to cover dairy products imported into the United States

Section 1222 amends the Dairy Production Stabilization Act of 1983 to extend the assessment for generic research and promotion on U.S. dairy producers to imported dairy products.

Subsection (a). Declaration of policy

Subsection (a) amends section 110(b) to include imported dairy products among those items upon which an assessment for generic dairy promotion is levied.

Subsection (b). Definitions

Subsection (b) amends section 111 to alter the definitions of "milk", "dairy products", "research", and "United States" and to add definitions of "importer" and "exporter" to facilitate the extension of the dairy promotion assessment to imported dairy products, including casein.

Subsection (c). Membership of board

Subsection (c) amends section 113(b) to expand the membership of the National Dairy Promotion and Research Board from 36 to 38 members to include one importer and one exporter as members.

Subsection (d). Assessment

Subsection (d) amends section 113(g) to place an assessment on imported dairy products equal to 1.2 cents per pound of total milk solids in such products or 15 cent per hundred weight of milk in such products, whichever is less. Importers of dairy products will be entitled to the same credit for contributions to State or regional promotion or nutrition programs to which domestic producers are entitled.

Subsection (e). Records

Subsection (e) amends section 113(k) to require importers to maintain such records and make such reports as the Secretary determines are appropriate to the administration or enforcement of the promotion program.

Subsection (f). Termination or suspension of order

Subsection (f) amends section 116(b) to include importers among those eligible to vote on the suspension or termination of any order issued under the Act.

Section 1223.—Promotion of United States dairy products in international markets through Dairy Promotion Program.

Section 1223 amends section 113(e) of the Dairy Production Stabilization Act of 1983 to require that the budget of the National Dairy Promotion and Research Board during each of the fiscal years from 1996 and 2000 shall provide for the expenditure of not less than 10 percent of anticipated revenues available to the Board on the development of international markets for, and the promotion within such markets of, U.S. dairy products.

Section 1224.—Issuance of amended order under Dairy Production Stabilization Act of 1983

Section 1224 establishes the following procedure to implement the amendments required by sections 1222 and 1223 to the dairy products promotion and research order issued under the Dairy Production Stabilization Act of 1983.

Subsection (a). Implementation of amendments

Subsection (a) requires the Secretary to issue an amended dairy products promotion and research order reflecting the amendments in sections 1222 and 1223, and no other changes to the order in existence on the date of enactment of this Act.

Subsection (b). Proposal of amended order

Subsection (b) directs the Secretary to publish a proposed order reflecting the amendments in sections 1222 and 1223 not later than 60 days following the enactment of this Act, and shall provide notice and an opportunity for public comment on the proposed order.

Subsection (c). Issuance of amended order

Subsection (c) provides that, following notice and an opportunity for public comment, the Secretary shall issue a final dairy products promotion and research order.

Subsection (d). Effective date

Subsection (d) requires the final dairy products promotion and research order to be issued and become effective not later than 120 days following the publication of the proposed order.

Subsection (e). Referendum on amendments

Subsection (e) amends section 115 of the Dairy Production Stabilization Act of 1983 to direct the Secretary to conduct a referendum of producers and importers not later than 36 months after the issuance of the final order reflecting the amendments required by sections 1222 and 1223 for the sole purpose of determining whether those amendments shall be continued.

Chapter 4—Verification of Milk Receipts

Section 1231.—Program to verify milk receipts

Section 1231 creates a new subsection (*l*) in section 204 of the Agricultural Act of 1949 to establish a program to verify receipts of milk and audit marketing agreements and other contracts for the marketing and receipt of milk between producers and handlers.

Subsection (a). Establishment of verification program

Subsection (a) provides that, under new section 204(*l*)(1), the Secretary shall establish a program through which the verification of receipts of all cow's milk marketed commercially in the contiguous 48 States and the auditing of marketing agreements with respect to receipts of such milk can be accomplished. The Secretary shall prescribe regulations to implement the verification program.

New section 204(*l*)(2) requires the program to provide a means by which: (1) processors, associations of producers and others engaged in the handling of milk and milk products file reports with the Secretary regarding receipts of milk, prices paid for milk, and the purposes for which milk was used by handlers, (2) authorized deductions from payments to producers, including assessments for research and promotion programs, are collected, (3) assurance of payment by handlers for milk is achieved, and (4) the reports, records, and facilities of handlers are reviewed and verified. The Secretary shall publish statistics regarding receipts, prices and uses of milk. Statistics published by the Secretary are to include information on payments received by producers for milk on a component basis. The expenses associated with the collection and publication of such statistics are to be paid by handlers. Such assessments shall not exceed the total expenses of the Secretary.

New section 204(*l*)(3) directs that the program shall further provide a means by which the weighing, sampling, and testing of milk purchased from producers is accomplished and verified. Cooperative Marketing Associations may continue to provide such services for their members. The cost of providing such marketing services shall be paid by producers. Such assessments shall not exceed the total cost of the services.

New section 204(*l*)(4) authorizes producer and associations of producers to negotiate and enter into marketing agreements or other private contracts with handlers for the marketing or receipt of milk. Upon request, the Secretary may audit an agreement or contract to assure compliance with its terms. The Secretary is to be reimbursed for any costs associated with an audit.

New section 204(*l*)(5) provides that no marketing agreement or government regulations applicable to milk or its products in any marketing area or jurisdiction shall prohibit or in any manner limit the marketing in that area of any milk or product of milk produced in any production area in the United States.

New section 204(*l*)(6) mandates that, effective July 1, 1996, the verification program shall supersede any Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 with respect to milk or the products of milk.

Subsection (b). Time for issuance

Subsection (b) requires the Secretary to issue final regulations implementing the verification program not later than July 1, 1996.

Subsection (c). Process

Subsection (c) provides that the Secretary shall issue proposed regulations not later than April 1, 1996, and shall provide for a comment period on the proposed regulations not to exceed 60 days nor extend past May 31, 1996.

Section 1232.—Verification program to supersede multiple existing Federal orders

Section 1232 provides that the verification program established by section 1231 will supersede existing Federal milk marketing orders by making the following amendments to the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

Subsection (a). Termination of milk marketing orders

Subsection (a) terminates existing Federal milk marketing orders by striking paragraphs (5) and (18) of section 8c.

Subsection (b). Prohibition on subsequent orders regarding milk

Subsection (b) conforms paragraph (2) of section 8c to remove milk from the list of commodities for which the Secretary has general authority to issue marketing orders.

Subsection (c). Conforming amendments

Subsection (c) makes conforming amendments to section 2(3), 8c(6), 8c(7)(B), 8c(11)(B), 8c(13)(A), 8c(17), 8d(2), 10(b)(2), and 11.

Subsection (d). Effective date

Subsection (d) provides that the amendments made by section 1232 are effective on July 1, 1996.

Chapter 5—Miscellaneous Provisions Related to Dairy

Section 1241.—Extension of transfer authority regarding military and veterans hospitals

The authority of the Secretary to transfer dairy commodities to military and veterans hospitals in extended through 2002.

Section 1242.—Extension of Dairy Indemnity Program

The Dairy Indemnity Program is extended until 2002.

Section 1243.—Extension of report regarding export sales of dairy products

The requirement that the Secretary report on export sales of dairy products is extended through 2002.

Section 1244.—Status of producer-handlers

The legal status of producer-handlers is not altered or otherwise affected by the provisions of this subtitle.

SUBTITLE C—OTHER COMMODITIES

Section 1301.—Extension and modification of price support and quota programs for peanuts

Section 1301 amends section 108B of the Agricultural Act of 1949 and part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938, which are currently effective only for the 1991 through 1997 crops of peanuts, by extending such section and part through the 2002 crops of peanuts.

Subsection (a). Extension of price support program

Subsection (a) amends subsections (a)(1), (b)(1), (g)(1), (g)(2)(A), and (h) of section 108B of the Agricultural Act of 1949 by extending such price support, marketing assessment, and reporting provisions for quota and additional peanuts through the 2002 crops of peanuts.

Subsection (b). Changes to price support program

This subsection amends section 108B of the Agricultural Act of 1949 by making changes in the price support provisions of such section.

Amended section 108B(a), in paragraph (2), establishes a national average quota support rate for the 1996 through 2002 crops of quota peanuts at $610 per ton. Section 1301(b)(1)(B) provides that such amendment does not affect the loan rate in effect for the 1995 crop of quota peanuts.

Amended section 108B(a), in new paragraph (4), provides that the Secretary shall reduce the support rate by 15 percent for any producer on a farm who had available to the producer an offer from a handler to purchase quota peanuts from the farm at a price equal to or greater than the applicable quota support rate (and redesignates existing paragraphs (4) and (5) as paragraphs (5) and (6).

Amended subsection 108B(d)(2) provides that losses in quota area pools shall be covered using the following sources in the following order of priority:

(A) the proceeds due any producer from any pool shall be reduced by the amount of losses incurred on transfers of peanuts from an additional loan pool to a quota loan pool by such producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938;

(B) further losses in a quota pool shall be offset by reducing the gain of any producer in such pool by the amount of pool gains to the same producer from the sale of additional peanuts for domestic and export edible use;

(C) the Secretary shall use marketing assessment funds collected from growers under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools (any such unused assessment funds shall be transferred to the Treasury);

(D) further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8), shall be offset by any gains or profits from quota pools in other production areas (not including separate type pools established for Valencia peanuts produced in New Mexico) as the Secretary provides by regulation; and (E) any further losses in an area quota pool (not covered by subparagraphs A, B, C and) shall be covered by an increase in the marketing assessment imposed by the Secretary, but such increase in an assessment shall only apply to quota peanuts in such pool.

Subsection (c). Extension of national poundage quota

Subsection (c) amends subsections (a)(3), (b)(1)(A), (b)(1)(B), (b)(2) (A) and (C), (b)(3)(A), and (f) of section 358–1, subsection (c) of section 358b, subsection (d) of section 358c, and subsection (i) of section 358e of part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 by extending such subsections through the 2002 marketing year.

Subsection (d). Prioritized quota reductions

Subsection (d) amends section 358–1(b)(2)(C) of the Agricultural Adjustment Act of 1938 Act to provide a priority method for allocating decreases in poundage quota.

Amended section 358–1(b(2)(C) provides that if the poundage quota apportioned to a State under section 358–1(a)(3) is decreased, rather than apply the decrease to all farms in the State, such decrease shall first be allocated among farms in the following order:

(i) farms owned or controlled by municipalities, airport authorities, schools, colleges, refuges, and other public entities.

(ii) farms for which the quota holder is not a producer and resides in another State.

(iii) farms for which the quota-holder, although a resident of the State, is not a producer.

(iv) other farms described in the first sentence of this subparagraph.

Subsection (e). Elimination of quota floor

Subsection (e) amends section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 by eliminating the 1,350,000 ton minimum national poundage quota.

Subsection (f). Spring and fall transfers within a State

Subsection (f) amends section 358b(a)(1) of the Agricultural Adjustment Act of 1938 relating to farm poundage quota transfer.

Amended section 358b(a), in paragraph (1), allows farm poundage quota to be sold or leased, either before or after the normal planting season, to any other owner or operator of a farm in the same State. Current provisions requiring 90 percent of a farm's basic quota to be planted or considered planted before a fall (or after the normal planting season) transfer is allowed are maintained.

Subsection (g). Transfers in counties with small quota

Subsection (g) amends section 358b(a) of the Agricultural Adjustment Act of 1938 by adding a new paragraph (4) which authorizes the sale, lease or other transfer of farm poundage quota at any time to any other farm within a State if the county in which the transferring farm is located has less than 10,000 tons of national poundage quota for the preceding year's crop. Current authority regarding quota transfers to other self-owned farms in paragraph 2 and transfers in States with less than 10,000 tons of quota in paragraph (3) is maintained.

Subsection (h). Undermarketings

Subsection (h) amends section 358–1(b) of the Agricultural Adjustment Act of 1938 by deleting paragraphs (8) and (9) relating to increases in farm poundage quota based on undermarketings in previous marketing years (and adds conforming amendments).

Subsection (i). Limitation of payments for disaster transfer

Section (i) amends section 358–1(b) of the Agricultural Adjustment Act of 1938 by adding a new paragraph (8) relating to disaster transfer authority.

Amended section 358–1(b), in a new paragraph (8), provides that additional peanuts on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, may be transferred to the quota loan pool, under certain conditions, except that such peanuts shall be supported at a total of not more than 70 percent of the quota support rate, for the marketing years in which such transfers occur, and such transfers shall not exceed 25 percent of the total farm quota pounds, including pounds transferred in the fall.

Subsection (j). Temporary quota allocation

Subjection (j) amends section 358–1(b)(2) of the Agricultural Adjustment Act of 1938 by deleting the current subparagraph (B) relating to allocation of increased quota in Texas and inserting a new subparagraph (B) authorizing temporary increases in quota based on seed use.

Amended section 358–1(b)(2), in subparagraph (B), provides that, for the 1996 through 2002 marketing years, a temporary quota allocation for the marketing year only in which the crop is planted, equal to the number of pounds of seed peanuts planted for the farm that shall be made to the producers for the 1996 through 2002 marketing years, in addition to the normal farm poundage quota established under section 358–1. Subparagraph (B) also provides that there is no change in the requirement regarding the use of quota and additional peanuts established by section 359a(b) of the Agricultural Adjustment Act of 1938. A conforming amendment deletes the word "seed" from subsection (a)(1) relating to the establishment of national poundage quotas.

Subsection (k). Suspension of marketing quotas and acreage allotments

Subsection (k) suspends subsections (a) through (j) of section 358, subsections (a) through (h) of section 358a, subsections (a), (b), (d) and (e) of section 358d, part I of subtitle C of title III, and section 371 of the Agricultural Adjustment Act of 1938 relating to the suspension of marketing quotas and acreage allotments for the 1996 through 2002 crops of peanuts.

Subsection (l). Extension of reporting and recordkeeping requirements

Subsection (l) amends section 373(a) of the Agricultural Adjustment Act of 1938 by extending the recordkeeping requirements of such section to the 1996 through 2002 crops of peanuts.

Subsection (m). Suspension of certain price support provisions

Subsection (m) suspends section 101 of the Agricultural Act of 1949 related the authority of the Secretary to provide price supports for any crop at a level not in excess of 90 per centum of the parity price of the commodity for the 1996 through 2002 crops of peanuts.

Section 1302.—Availability of loans for processor of sugar cane and sugar beets

Subsection (a). Sugar loans

Subsection (a) amends section 206 of the 1949 Act to provide loans for the 1996 through 2002 crops of domestically grown sugarcane and sugar beets.

Amended subsection 206(a) sets the loan rate for raw cane produced from domestically grown sugarcane crops, subject to the authority of the Secretary to reduce loans as provided in subsection (c), at the 1995 level.

Amended subsection 206(b) sets the loan rate for refined beet sugar produced from domestically grown sugar beet crops, subject to the authority of the Secretary to reduce loans as provided in subsection (c), at the 1995 level.

Amended subsection 206(c)(1) requires the Secretary to reduce the loan rate specified in subsections (a) and (b) if the Secretary determines that negotiated reductions in export subsidies provided for sugar of the European Union and other major sugar exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture. Amended subsection 206(c) also provides that the Secretary shall not reduce the loan rate under subsections (a) and (b) below a rate that provides domestic sugar a competitive measure of support to that provided by the European Union and other sugar exporting countries based on the provisions of Agreement on Agriculture, section 101(d)(2) of the Uruguay Round Agreements Act.

Amended subsection 206(d) provides for the Secretary to carry out the section through the use of recourse loans for sugar. However, it also provides that during any fiscal year in which the tariff rate quota (TRQ) for imports of sugar into the U.S. is set, or increased to, a level that exceeds the loan modification threshold, the Secretary is directed to carry out this section by making nonrecourse loans (previously made recourse loans are to be modified by the Secretary into nonrecourse loans). The "loan modification threshold", for sugar for purposes of the subsection, means 1,257,000 short tons raw value for fiscal years 1996 and 1997, and for subsequent fiscal years, 103 percent of the loan modifications threshold for the previous fiscal year. If the Secretary is required to make nonrecourse loans (or modify recourse loans) under this subsection during a fiscal year, the Secretary is to obtain from processors adequate assurances that such processors will provide appropriate minimum payments to producers as set by the Secretary. Not later than September 1, of each fiscal year, the Secretary shall announce the loan modification threshold that shall apply for the subsequent fiscal year.

Amended 206(e) provides that for three month loans, which can be extended for additional three-month periods, except that a loan may not be extended beyond nine months nor extended beyond the end of the fiscal year (September 30). Processors may terminate a loan and redeem the collateral at any time by paying all principal, interest, and any applicable fees.

Amended subsection 206(f) directs the Secretary to use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this section.

Amended subsection 206(g) requires first processors of raw cane sugar to CCC nonrefundable marketing assessment for each pound of raw cane sugar equal to 1.5 percent of the loan rate, while first processors of sugar beets are to remit to CCC a marketing assessment of 1.6083 percent of the loan rate for raw cane sugar, during fiscal year 1996 through 2003 on all marketings. Assessments are to be collected on a monthly basis, except that any inventory which has not been marketed by September 30 of a fiscal year shall be assessed at that point, except that the latter sugar shall not be assessed later when it is marketed. Any person who fails to remit the assessment is liable for a penalty based on the quantity of the sugar involved in the violation times the applicable loan rate at the time of violation. "Market" is defined in paragraph (6) to mean to sell or otherwise dispose of in commerce (including the movement of raw cane sugar into the refining process in the case of integrated processor and refiner) and deliver to a buyer.

Amended subsection 206(h) requires processors and refiners must report such information to the Secretary as is required in order to administer the program. A penalty applies for failure to report and the Secretary is required to make monthly reports on pertinent sugar production, etc. data.

Amended subsection 206(i) requires the Secretary to estimate, each year on a quarterly basis, the domestic demand for sugar which shall be equal to domestic consumption, plus adequate carryover stocks, minus carry-in-stocks. Quarterly reestimates are to be made by the Secretary at the beginning of each of the second through fourth quarters.

Amended subsection 206(j) authorizes the Secretary to issue such regulations as are necessary to implement this section.

Subsection (b). Effect on existing loans for sugar

Subsection (b) provides that the amendments made to section 206 of the Agricultural Act of 1949 by subsection (a), above, shall not affect loans made before the date of enactment of this Act for the 1991 through 1995 crops of sugarcane and sugar beets.

Subsection (c). Termination of marketing quotas and allotments

Subsection (c) repeals Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa–1359jj) relating to marketing quotas and allotments.

Section 1303.—Repeal of obsolete authority for price support for cottonseed and cottonseed products

Section 301(b) of the Disaster Assistance Act of 1988 is amended by striking paragraph (1) and section 420 of the Agriculture Act of 1949 is repealed.

SUBTITLE D—MISCELLANEOUS PROGRAM CHANGES

Section 1401.—Limitation on assistance under Emergency Livestock Feed Assistance Program

This section amends section 609 of the Emergency Livestock Feed Assistance Act of 1988 by striking subsections (c) and (d) and inserting a new subsection (c) to provide that no person may receive benefits attributable to lost product of a fee commodity if catastrophic insurance protection or noninsured crop disaster assistance is available to the person under the Federal Crop Insurance Act.

Section 1402.—Conservation Reserve Program

Subsection (a). Limitations on acreage enrollments

Subsection (a) in paragraph (1) amends section 1231(d) of the Food Security Act of 1985 to limit the total number of acres authorized to be enrolled in the Conservation Reserve Program to 36,400,000 acres, and paragraph (2) amends section 727 if the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 by striking the priviso relating to the enrollment of new acres beginning in calendar year 1997.

Subsection (b). Optional contract termination by producers

Subsection (b) amends section 1235 of the Food Security Act of 1985 by adding a new subsection (e).

New subsection (e), in paragraph (1), provides that an owner or operator of land enrolled under a conservation reserve contract may terminate the contract upon written notice to the Secretary.

New subsection (e), in paragraph (2), provides that the cancellation shall become effective 60 days after the owner or operator submits written notice under paragraph (1).

New subsection (e), in paragraph (3), provides that when a contract is terminated before the end of a fiscal year, the annual payment shall be prorated accordingly.

New subsection (e), in paragraph (4), provides that a contract termination under this section does not affect the future eligibility of an owner or operator to submit a subsequent bid to enroll in the conservation reserve program.

New subsection (e), in paragraph (5), provides that, if land is returned to production of an agricultural commodity upon termination of a contract under this section, the Secretary cannot impose conservation requirements on such lands which are more onerous than the requirements imposed on other lands.

Subsection (c) Limitation on rental rates

Subsection (c) amends section 1234(c) of the Food Security Act of 1985 by adding a new paragraph (5), which limits rental rates for contracts that are extended, or new contracts covering land that was previously enrolled in the conservation reserve program, not to exceed 75 percent of the annual rental payment under the previous contract.

Section 1403—Crop insurance

Subsection (a). Conversion of catastrophic risk protection program to voluntary program

Subsection (a) amends section 508(b)(7) of the Federal Crop Insurance Act by redesignating current subparagraph (B) as (C) and inserting a new subparagraph (B) that provides that catastrophic risk protection may be declined, beginning with the spring-planted 1996 crops and in any subsequent crop years, and remain eligible for a market transition contract or marketing assistance loan, the conservation reserve program or any benefit described in section 371 of the Consolidated Farm and Rural Development Act as long as the producer agrees in writing to waive any eligibility for emergency crop loss assistance with respect to losses for which the producer declines to obtain catastrophic risk protection.

Subsection (b). Delivery of voluntary catastrophic protection

Subsection (b) amends section 508(b)(4) of the Federal Crop Insurance Act by inserting new subparagraphs (C) and (D).

Amended section 508(b)(4), in new subparagraph (C), provides that, if mandatory participation is not required, the Secretary will no longer have the option of delivering catastrophic risk protection coverage for agricultural crops and all such risk protection policies written by the Department prior to that date will be transferred, along with all fees collected, to the private sector for all service and loss adjustment functions.

Amended section 508(b)(4), in new subparagraph (D), provides that the Federal Crop Insurance Corporation (FCIC) must consult with approved insurance providers in developing a plan to ensure that each producer of an insured crop has the option to be served by an approved insurance provider if insurance is available for that crop in the county, and the FCIC shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by May 1, 1996, regarding the implementation of such plan.

Subsection (c). Establishment of the Office of Risk Management

Subsection (c) amends the Department of Agriculture Reorganization Act of 1994 by inserting after section 226 a new section 226A.

New section 226A(a) directs the Secretary to establish and maintain an independent Office of Risk Assessment within the Department.

New section 226A(b) provides that such office shall have jurisdiction over:

(1) the supervision of FCIC.

(2) administration and oversight of all aspects of all programs authorized by the Federal Crop Insurance Act;

(3) any pilot or other programs involving revenue insurance, risk management, savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the FCIC Act or other law; and

(4) such other functions as the Secretary considers appropriate.

New section 226A(c) provides that the Office shall be headed by an Administrator who shall be appointed by the Secretary, and that the Administrator shall also serve as the Manager of FCIC.

New section 226A(d), in paragraph (1), authorizes the consolidation of the human resources, public affairs, and legislative affairs functions of the Office of Risk Management under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

New section 226A(d), in paragraph (2), directs the Secretary to provide human and capital resources to the Office of Risk Management sufficient to enable the Office to carry out its functions in a timely and efficient manner.

New section 226A(d), in paragraph (3), provides that not less than $88,500,000 of the fiscal year 1996 appropriation provided for the salaries and expenses of the Consolidated Farm Services Agency shall be provided to the Office of Risk Management for its salaries and expenses.

Subsection (d), Reconfiguration of board of directors

Subsection (d) amends section 505 of the Federal Crop Insurance Act by making changes in the composition and functions of the FCIC Board of Directors.

Amended section 505(a) vests the management of FCIC in a Board of Directors subject to the general supervision of the Secretary.

Amended section 505(b)(1) provides that the Board shall consist of the manager of FCIC, the Under Secretary of Agriculture for Farm and Foreign Agricultural Services, one person who is an officer or employee of an approved insurance provider, one person who is a licensed crop insurance agent, and one person who is experienced in the reinsurance business not otherwise employed by the Federal Government, and four active producers who are not otherwise employed by the Federal Government. The Secretary shall not serve as a member of the Board.

Amended section 505(b)(2) provides that in appointing the 4 active producers the Secretary shall ensure that 3 such members are policyholders from different geographic areas of the U.S. with diverse agricultural interests. The fourth active producer may also be a policyholder and shall be a person who receives a significant portion of crop income from crops covered by the noninsurance crop disaster assistance program established in section 519 of the Federal Crop Insurance Act.

Amended section 505(c) provides for the appointment, terms, and succession of members of the Board. The Administrator of the Office of Risk Management shall serve as the Manager of the FCIC. Terms of office shall be for 3 years except for the first term which will provide for different expiring terms. A member may serve after expiration of his or her term until a successor is appointed.

Amended section 505(d) provides that five of the Board members in office shall constitute a quorum for the transaction of business.

Amended section 505(e) provides that the powers of the Board to execute the functions of FCIC shall be impaired at any time there are not six members of the Board in office, which shall also serve to impair the powers of the Manager to act under any delegation of power provided in subsection (g).

Amended section 505(f)(1) provides that members of the Board who are employees of USDA shall not be further compensated, but may be allowed travel and subsistence expenses outside of Washington, D.C.

Amended section 505(f)(2) provides that members of the Board who are not Federal Government employees shall be compensated as the Secretary determines, except that such compensation shall not exceed a level V of the Executive Schedule under section 5316 of title 5, United States Code. Actual necessary traveling and subsistence expenses are also authorized and are to be paid out of the insurance fund established in section 516(c).

Amended section 505(g) provides that the Manager of FCIC shall also be its chief executive officer, with such power as the Board may confer.

Section 1404.—Repeal of the Farmer Owned Reserve Program

Subsection (a). Repeal

Subsection (a) of this section repeals the Farmer Owned Reserve Program authorized by section 110 of the Agricultural Act of 1949.

Subsection (b). Effect of repeal on existing loans

Subsection (b) clarifies that the repeal of the Farmer Owned Reserve Program under this section does not affect the validity or terms and conditions of any extended price support loan provided under such program before the date of enactment of this Act.

Section 1405.—Reduction in funding levels for export enhancement program

Section 301(e)(1) of the Agricultural Trade Act of 1978 is amended so as to limit the amount of the CCC funds or commodities available for the Export Enhancement Program as follows: $400,000,000 for fiscal years 1996 and 1997; $500,000,000 for fiscal year 1998; $550,000,000 for fiscal year 1999, $579,000,000 for fiscal year 2000; and $478,000,000 for fiscal years 2001 and 2002 (not more than $500,000 was provided for fiscal year 1995).

Section 1406.—Business Interruption Insurance Program

Subsection (a). Establishment of program

Subsection (a) directs that not later than December 31, 1996, the Secretary is to establish a Business Interruption Insurance Program that allows a producer of a program crop to obtain revenue insurance coverage in case of loss of revenue for a program crop. The Secretary is authorized to determine the nature and extent of such a program including the manner of determining the amounts of indemnity to be paid.

Subsection (b). Report on progress and proposed expansion

Subsection (b) provides that the Secretary must submit data to the Commission on 21st Century Production Agriculture established under Subtitle E by January 1, 1998, regarding the results of the program through October 1, 1997. The Secretary shall also make recommendations to the Commission about how to best offer a revenue insurance program to agricultural producers in the future, at one or more levels of coverage, that—(1) is in addition to or in lieu of, catastrophic and higher levels of crop insurance, (2) is offered through reinsurance arrangements with private companies, (3) is actuarially sound, and (4) requires the payment of premiums and administrative fees by participating producers.

Subsection (c). Programs crop defined

Subsection (c) defines program crop to mean wheat, corn, grain sorghums, oats, barley, upland cotton, or rice.

SUBTITLE E—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE

Section 1501—Establishment

This section establishes a commission to be known as the "Commission on 21st Century Production Agriculture."

Section 1502.—Composition

Subsection (a). Membership and appointment

Subsection (a) of this section requires that the Commission be composed of eleven members: three members appointed by the President; four members appointed by the Chairman of the Committee on Agriculture of the House of Representatives (in consultation with the ranking minority member); and four members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (in consultation with the ranking minority member).

Subsection (b). Qualifications

Subsection (b) establishes the qualifications required of the persons appointed to the Commission. At least one member appointed by each the President, the Chairman of Committee on Agriculture of the House of Representatives, and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate shall be an individual who is primarily involved in production agriculture. All other members appointed to the Commission must have knowledge and experience in agriculture production, marketing, finance, or trade.

Subsection (c). Term of members; vacancies

Subsection (c) requires that the appointment to the Commission be for the life of the Commission. It also directs that a vacancy on the Commission shall not affect the Commission's power and shall be filled in the same manner as the original appointment.

Subsection (d). Time for appointment; first meeting

Subsection (d) requires that the members of the Commission be appointed no later than October 1, 1997 and that the Commission convene its first meeting 30 days after six members of the Commission have been appointed.

Subsection (e). Chairman

Subsection (e) requires that the chairman of the Commission be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

Section 1503.—Comprehensive review of past and future of production agriculture

Subsection (a). Initial review

Subsection (a) of this section requires the Commission to conduct a comprehensive review of changes in the condition of production agriculture in the United States subsequent to the date of enactment of this Act and the extent to which such changes are the result of the changes made by this Act. This review shall include: (1) the assessment of the initial success of market transition contracts in supporting the economic viability of farming in the United States; (2) the assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief; (3) an assessment of the changes in farm land values and agricultural producer incomes; (4) an assessment of the regulatory relief for agricultural producers that has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations; (5) an assessment of the tax relief for agricultural producers that has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high and low-income years; (6) an assessment of the effect of any Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements; and (7) the assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

Subsection (b). Subsequent review

Subsection (b) requires the Commission to conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. This review shall include: (1) an assessment of changes in the condition of production agriculture in the United States since the initial review under subsection (a); (2) an identification of the appropriate future relationship of the Federal Government with production agriculture after 2002; and (3) an assessment of the manpower and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

Subsection (c). Recommendations

Subsection (c) requires that the Commission develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

Section 1504—Reports

Subsection (a). Report on initial review

Subsection (a) of this section requires that by June 1, 1998, the Commission submit a report containing the results of the initial review to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subsection (b). Report on subsequent review

Subsection (b) requires that not later than January 1, 2001, the Commission submit a report containing the results of the subsequent review conducted under section 1503(b) to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Section 1505.—Powers

Subsection (a). Hearings

Subsection (a) of this section authorizes the Commission to conduct hearings, take testimony, receive evidence, and act in a manner the Commission considers appropriate to carry out the purposes of this Act.

Subsection (b). Assistance from other agencies

Subsection (b) authorizes the Commission to secure directly from any department or agency of the Federal Government any information necessary to carry out its duties under this title. The head of such department or agency shall furnish information requested by the chairman of the Commission, to the extent permitted by law.

Subsection (c). Mail

Subsection (c) authorizes the Commission to use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

Subsection (d). Assistance from Secretary

Subsection (d) requires that the Secretary of Agriculture shall provide appropriate office space and reasonable administrative and support services available to the Commission.

Section 1506.—Commission procedures

Subsection (a). Meetings

Subsection (a) of this section requires that the Commission meet on a regular basis. The frequency of such meeting shall be determined by the chairman or a majority of its members. Additionally, the Commission must meet upon the call of the chairman or a majority of the members.

Subsection (b). Quorum

Subsection (b) provides that a majority of the members of the Commission must be present to produce a quorum for transacting the business of the Commission.

Section 1507.—Personnel matters

Subsection (a). Compensation

Subsection (a) of this section provides that members of the Commission serve without compensation, but are allowed travel expenses when engaged in the performance of Commission duties, including a per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

Subsection (b). Staff

Subsection (b) provides that the Commission shall appoint a staff director. The staff director's basic rate of pay shall not exceed that rate provided for under section 5376 of title 5 United States Code. The Commission may appoint such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties without regard to the provisions governing appointments in the competitive service, title 5, United States Code, and provisions relating to the number, classification, and General Schedule rates in chapter 51 and subchapter III of chapter 53 of title 5 or any other provision of law. No employee appointed by the Commission (other than the staff director) may be compensated at a rate exceeding the maximum rate applicable to level 15 of the General Schedule.

Subsection (c). Detailed personnel

Subsection (c) authorizes the head of any department or agency of the Federal Government to detail, without reimbursement, any personnel of such department or agency to the Commission to assist the Commission in carrying out its duties. The detail of any such personnel may not result in the interruption or loss of civil service status or privilege of such personnel.

Section 1508.—Termination of commission

This section provides that the Commission shall terminate upon the issuance of its final report required by section 1504.

COMMITTEE CONSIDERATION

The Committee on Agriculture met, pursuant to notice, on September 20, 1995, a quorum being present, to consider Recommendations to the Budget Committee for Title I—Committee on Agriculture—with respect to the Reconciliation Bill for Fiscal Year 1996, and other pending business.

The Chairman called the meeting to order at 9:30 a.m. and after finishing the first item of business, offered a statement concerning the Committee's budget reconciliation responsibilities. Ranking Minority Member de la Garza was recognized for a statement also.

The Chairman laid before the Committee the Chairman's recommendation for title I—of what he stated probably would be the first title of the House Reconciliation Bill—and stated that such title I would be open for amendment by subtitle.

Thereafter, the Chairman proposed to take up the two substitute amendments (de la Garza-Rose-Stenholm, and Emerson-Combest) before beginning the amendment process.

At that point Mr. de la Garza was recognized to speak on the de la Garza-Rose-Stenholm amendment in the nature of a substitute and to control the time for the Minority to speak on the substitute. A summary was then provided to the Members.

After considerable discussion on the de la Garza-Rose-Stenholm Substitute, a vote was requested by Mr. de la Garza. By a roll call vote of 22 yeas to 25 nays, the de la Garza-Rose-Stenholm Substitute was not adopted. See Roll Call Vote No. 1.

Mr. Emerson was then recognized to offer the Emerson-Combest EnBloc Amendment (also known as a Substitute) and a summary of the Substitute was provided to the Members.

Mr. Allard asked that the record indicate whether the total Emerson-Combest package had been scored by CBO. Mr. Combest noted that the exact number had not been scored, but that provisions similar to those in the Emerson-Combest bill (H.R. 2330) have received preliminary scores. It was also noted that whatever final package came from the Committee would have to receive final scoring from CBO.

Discussion occurred on the parliamentary procedures by which a reconciliation bill would proceed to the Budget Committee, the Rules Committee, and to the House Floor. Chairman Roberts clarified the procedures which would occur if the Committee did not meet its budget obligations.

Mr. Lewis asked about the tobacco provisions in the Emerson-Combest Substitute which he had not seen before, and the Chairman asked for an explanation of the provisions. Mr. Ewing indicated that there should be some review by the Subcommittee on Risk Management and Specialty Crops on the tobacco provisions included in the Substitute.

Discussion also occurred on the dairy provisions of the Emerson-Combest Substitute. By a recorded vote of 23 yeas to 26 nays, the Emerson-Combest Substitute was not adopted. See Roll Call Vote No. 2.

Mr. Volkmer was recognized and requested unanimous consent for all debate on the Volkmer dairy amendment and all amendments thereto end at 5:00 p.m. Chairman Roberts indicated he would make every effort to honor the request.

Mr. Volkmer then offered an amendment, the Dairy Policy Act of 1995, and presented a brief description. After much discussion, the Volkmer amendment was not adopted by a vote of 22 yeas to 25 nays and 2 present. See Roll Call Vote No. 3.

Mr. Smith was then recognized to offer and explain an amendment on behalf of himself and Mr. Lewis, the Dairy Act of 1995. A summary was provided to Members. Discussion occurred and by a voice vote, the Smith-Lewis amendment failed. Mr. Smith requested a roll call vote, but an insufficient number of Members were in favor of a roll call vote, so the roll call vote was not ordered.

Mr. Ewing was then recognized to discuss the peanut and sugar provisions contained in Subtitle C. Brief discussion occurred, and Mr. Everett was recognized to offer an amendment concerning peanut temporary quota allocation. Mr. Ewing indicated that he would accept the amendment.

Chairman Roberts called for a vote on the Everett amendment, and by a voice vote, the amendment was adopted.

Mr. Foley was then recognized to offer an amendment regarding sugar that would replace the original five-year average loan modification threshold with a loan modification threshold set at 103% of imports for the previous year and would eliminate provisions to grant import licenses to cane refiners for imports above the GATT minimum level. After discussion, the amendment was adopted, by a voice vote.

Mr. Smith was recognized to offer an amendment regarding the accumulation and storage of sugar by the Federal Government. Representatives from the Department of Agriculture addressed what was presently being implemented regarding the No Net Cost Sugar Provisions and the sugar price support program using nonrecourse loans. Further discussion occurred, and without objection, Mr. Smith withdrew his amendment to pursue the matter at a more appropriate time.

Mr. Allard was then recognized to offer an amendment regarding reduction of USDA bureaucracy to signal his displeasure with the Department for misleading statements made by Department officials at a hearing held on February 15 relating to State water rights and Departmental policy that permits the Forest Service to take water allocated for urban, suburban and rural uses for another purpose.

Chairman Roberts assured Mr. Allard that he had discussed the matter with Secretary Glickman and that the Secretary had indicated that he would address the issue. With assurances of the Chair to work with him in resolving this issue, Mr. Allard, without objection, withdrew his amendment.

Mr. Dooley was recognized to offer an amendment regarding recourse marketing loans and marketing deficiency payments for wheat as market-based alternative to the contract provisions in the Freedom to Farm Act. Discussion occurred and by a voice vote the Dooley amendment failed.

Mr. Hostettler was recognized to offer an amendment concerning crops which may be grown instead of program crops on what was formerly known as crop base acreage. Discussion occurred and at the request of the Chairman, Mr. Hostettler, without objection, withdrew his amendment with the understanding that the issue would be considered in the farm bill.

Mr. Barrett was recognized to engage in a colloquy with Counsel regarding limitations on forage planting relative to subsection (k) Planning Flexibility of the Chairman's Mark. After further discussion, Mr. Barrett chose not to offer his amendment.

Mr. Minge was then recognized and indicated that he had planned to offer an amendment which would extend the current program into the 1996 crop year so that farmers could be assured of what type of program they would have during the 1996 crop year. Chairman Roberts assured Mr. Minge that he shared his concern and wanted to expedite the process so that producers would know the government program for the 1996 crop year.

Mr. Smith was recognized and indicated that he had intended to offer an amendment regarding limitation on rental rates under the Conservation Reserve Program, but that he would just bring it to the attention of the Committee that this provision may need to be addressed. Mr. Allard and the Chairman indicated they would work with Mr. Smith during farm bill deliberations to address his concerns.

Mrs. Clayton was then recognized and indicated that she had two amendments. One amendment concerned housing assistance to rural communities, which likely would be ruled out of order, so she would just raise the issue and not offer the amendment. The second amendment concerned water and waste grants and loans for rural communities. Discussion occurred on the appropriate committee of jurisdiction and discretionary and mandatory funding accounts. After discussion, Mrs. Clayton requested a vote, and by a show of hands 25 yeas to 15 nays, the amendment was adopted However, the Chairman stated that in his opinion the amendment was subject to a point-of-order and he would probably object to its inclusion at the Rules Committee.

Mr. Gunderson moved that the Committee favorably report its recommendations for title I—Agriculture to the Committee on the Budget for insertion in the Reconciliation Bill. Mr. Emerson requested a rollcall vote. In anticipation of a less than majority vote, Congressman Gunderson requested that his vote be changed from yea to nay, and by a recorded vote of 22 yeas to 27 nays, the Gunderson motion was not adopted. See Roll Call Vote No. 4.

After a brief recess, the Chairman announced that the Committee had come to no resolution on the Reconciliation bill and that the meeting was adjourned, subject to the call of the Chair.

On September 28, 1995, the Committee on Agriculture met to conclude the Committee's Reconciliation Recommendations.

Chairman Roberts advised the Committee that the motion to favorably report the Committee on Agriculture's Reconciliation Recommendations had failed on a vote of 22 yeas to 27 nays, and that he would send a letter to the Chairman of the Budget Committee and the Speaker advising them that the Committee had come to no resolution of this matter as directed in the instructions to this committee contained in House Concurrent Resolution 67, the Concurrent Resolution on the Budget for FY 1996.

The Chairman also indicated the authority of the House Rules Committee in those instances where a standing committee fails to submit recommended changes to the Committee on the Budget.

The meeting adjourned, subject to the call of the Chair.

ROLLCALL VOTES

In compliance with clause 2(l)(2)(B) of rule XI of the House of Representatives, the Committee sets forth the record of the following rollcall votes taken with respect to consideration of the recommendations regarding the Reconciliation Bill for Fiscal Year 1996:

ROLLCALL NO. 1

Summary: Substitute Amendment.

Offered by: Mr. de la Garza, Mr. Rose and Mr. Stenholm.

Results: Failed by a rollcall vote: 22 yeas/25 nays.

Yeas: Cong. de la Garza, Cong. Brown, Cong. Rose, Cong. Stenholm, Cong. Volkmer, Cong. Johnson, Cong. Condit, Cong. Peterson, Cong. Dooley, Cong. Clayton, Cong. Minge, Cong. Hilliard, Cong. Pomeroy, Cong. Holden, Cong. McKinney, Cong. Baesler, Cong. Thurman, Cong. Bishop, Cong. Thompson, Cong. Farr, Cong. Pastor, Cong. Baldacci.

Nays: Cong. Emerson, Cong. Gunderson, Cong. Combest, Cong. Allard, Cong. Barrett, Cong. Boehner, Cong. Ewing, Cong. Goodlatte, Cong. Pombo, Cong. Canady, Cong. Everett, Cong. Lucas, Cong. Lewis, Cong. Baker, Cong. Crapo, Cong. Calvert, Cong. Chenoweth, Cong. Hostettler, Cong. Bryant, Cong. Latham, Cong. Cooley, Cong. Foley, Cong. Chambliss, Cong. LaHood, Cong. Roberts, Chairman.

ROLLCALL VOTE NO. 2

Summary: EnBloc (Substitute) Amendment.

Offered by: Mr. Emerson and Mr. Combest.

Results: Failed by a rollcall vote: 23 yeas/26 nays.

Yeas: Cong. Emerson, Cong. Combest, Cong. Baker, Cong. Bryant, Cong. Chambliss, Cong. de la Garza, Cong. Brown, Cong. Rose, Cong. Stenholm, Cong. Volkmer, Cong. Condit, Cong. Dooley, Cong. Clayton, Cong. Hilliard, Cong. Holden, Cong. McKinney, Cong. Baesler, Cong. Thurman, Cong. Bishop, Cong. Thompson, Cong. Farr, Cong. Pastor, Cong. Baldacci.

Nays: Cong. Gunderson, Cong. Allard, Cong. Barrett, Cong. Boehner, Cong. Ewing, Cong. Doolittle, Cong. Goodlatte, Cong. Pombo, Cong. Canady, Cong. Smith, Cong. Everett, Cong. Lucas, Cong. Lewis, Cong. Crapo, Cong. Calvert, Cong. Chenoweth, Cong. Hostettler, Cong. Latham, Cong. Cooley, Cong. Foley, Cong. LaHood, Cong. Johnson, Cong. Peterson, Cong. Minge, Cong. Pomeroy, Cong. Roberts, Chairman.

ROLL CALL VOTE NO. 3

Summary: Dairy Policy Act.

Offered by: Mr. Volkmer.

Results: Failed by a roll call vote: 22 yeas/26 nays/2 present.

Yeas: Cong. Emerson, Cong. Everett, Cong. Chambliss, Cong. de la Garza, Cong. Rose, Cong. Stenholm, Cong. Volkmer, Cong. Johnson, Cong. Condit, Cong. Dooley, Cong. Clayton, Cong. Hilliard, Cong. Pomeroy, Cong. Holden, Cong. McKinney, Cong. Baesler, Cong. Thurman, Cong. Bishop, Cong. Thompson, Cong. Farr, Cong. Pastor, Cong. Baldacci.

Nays: Cong. Gunderson, Cong. Combest, Cong. Allard, Cong. Barrett, Cong. Boehner, Cong. Ewing, Cong. Doolittle, Cong. Goodlatte, Cong. Pombo, Cong. Canady, Cong. Lucas, Cong. Baker, Cong. Crapo, Cong. Calvert, Cong. Chenoweth, Cong. Hostettler, Cong. Bryant, Cong. Latham, Cong. Cooley, Cong. Foley, Cong. LaHood, Cong. Brown, Cong. Peterson, Cong. Minge, Cong. Roberts, Chairman.

Present: Cong. Smith, Cong. Lewis.

ROLL CALL VOTE NO. 4

Summary: Gunderson motion to favorably report Recommendations for Title I—Agriculture to the Committee on the Budget for Reconciliation.

Offered by: Mr. Gunderson.

Results: Failed by a roll call vote: 22 yeas/27 nays.

Yeas: Cong. Allard, Cong. Barrett, Cong. Boehner, Cong. Ewing, Cong. Doolittle, Cong. Goodlatte, Cong. Pombo, Cong. Canady, Cong. Smith, Cong. Everett, Cong. Lucas, Cong. Lewis, Cong. Crapo, Cong. Calvert, Cong. Chenoweth, Cong. Hostettler, Cong. Bryant, Cong. Latham, Cong. Cooley, Cong. Foley, Cong. LaHood, Cong. Roberts, Chairman.

Nays: Cong. Emerson, Cong. Gunderson, Cong. Combest, Cong. Baker, Cong. Chambliss, Cong. de la Garza, Cong. Brown, Cong. Rose, Cong. Stenholm, Cong. Volkmer, Cong. Johnson, Cong. Condit, Cong. Peterson, Cong. Dooley, Cong. Clayton, Cong. Minge, Cong. Hilliard, Cong. Pomeroy, Cong. Holden, Cong. McKinney, Cong. Baesler, Cong. Thurman, Cong. Bishop, Cong. Thompson, Cong. Farr, Cong. Pastor, Cong. Baldacci.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(C)(3) of Rules XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the staff of the Budget Committee prior to the filing of this report are as follows:

MEMORANDUM

To: Wayne Struble.

From: Dave Hull and Craig Jagger, Congressional Budget Office.

Subject: Agriculture reconciliation proposals.

We have determined a preliminary score for the Agriculture Reconciliation proposals, as contained in the language drafted on October 12, 1995 (with revisions discussed by telephone). The estimate is preliminary in that it has not had full consideration and approval by our managers, normally accomplished when a formal, signed cost estimate is produced.

The table attached covers changes in direct spending outlays only.

Two lines may require some explanation. Reimbursements to nongovernmental employee members of the Board of Directors of the Federal Crop Insurance Corporation is set to be made from the Crop Insurance Fund. This constitutes new direct spending, but is estimated less than $500,000. Also, the Secretary is directed to offer a Business Interruption Insurance Program by December 31, 1996. No real limits in costs are imposed on the initial program (although the 1998-and-later program is directed to be "actuarially sound"), so this program could be implemented in a costly way. It could also be implemented as a small pilot program, with premiums carefully set to avoid net costs. We feel we have no good way of determining the cost of this provision as currently proposed.

In the dairy sections of the bill, the Secretary is ordered to carry out certain provisions, but is given the authority to collect assessments (e.g. for milk marketing verification studies and audits; promotion referenda; etc.)

The Dairy Indemnity Program is reauthorized, and there are several studies and commissions ordered by the bill. We assume these provisions would only be carried out if funds are appropriated for those purposes.

CBO COST ESTIMATE OF HOUSE OF REPRESENTATIVES RECONCILIATION BILL REGARDING AGRICULTURE AND CONSERVATION

[In millions of dollars, by fiscal years]

Section		1996	1997	1998	1999	2000	2001	2002	1996–2002
	PRELIMINARY ESTIMATED CHANGES IN DIRECT SPENDING OUTLAYS								
1102	Freedom to Farm contracts in lieu of deficiency payments	−431	−361	−360	−493	−751	−1554	−1544	−5494
	End cotton stop 2 marketing payments	−132	−126	−129	−127	−128	−126	−131	−900
	End storage payments to cotton under loan	0	−12	−12	−12	−12	−12	−12	−72
1103	Reform loan programs (set rate at 70% of prices)	−65	−513	−611	−644	−497	−319	−206	−2904
1101 & 4	$50,000 payment limit, attribute to individuals	−34	−61	−76	−75	−73	−75	−75	−469
1201	Reform dairy program (replace current purchase system with payments, and assessments)	−67	−46	−57	−48	−70	−81	−152	−511
1301	Reform peanut program (remove quota floor, undermarketings, lower loan rate)	0	−95	−59	−69	−67	−66	−66	−434
1302	Reform sugar program (increased assessments)	−8	−11	−12	−12	−13	−13	−13	−82
1401	End emergency feed assistance if crop insurance or noninsured disaster assistance is available	−10	−60	−60	−60	−60	−60	−60	−370
1402	Cap CRP at 36.4 million acres; cap extension rental rates at 75 percent of existing rates	0	−41	−139	−142	−140	−144	−143	−749
1403	End mandatory crop insurance catastrophic coverage	−10	−27	−26	−28	−29	−29	−29	−180
	Crop Insurance Board of Directors Funding	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1404	End Farmer Owned Reserve	0	−17	−17	−17	−18	−18	−18	−105
1405	Cap EEP spending	−279	−482	−281	−130	0	0	0	−1172
1406	Business Interruption Insurance Program	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
	Total	−1016	−1851	−1851	−1857	−1858	−2501	−2508	−13442

[1] These provisions could have some direct spending impact, but the level is either likely below $500,000, or indeterminate.

Note.—Assumes effective date of November 15, 1996. some estimates would change with later effective date.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of the Chairman's recommendations of the Committee on Agriculture with respect to the reconciliation bill for fiscal year 1996 will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by the Chairman's recommendations of the Committee on Agriculture with respect to the reconciliation bill for fiscal year 1996.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of rule X of the Rules of the House of Representatives.

SENATE—*Monday, October 23, 1995*

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

O God, give us the desire to do what we already know of Your will, so that we may know more of it, and make it ours. We want to be positive, open, receptive people who can receive Your guidance for each new challenge. You have shown us that discovery of Your will comes from consistent communion with You. We also know that You condition our thinking in preparation for the big decisions ahead of us in the future. Today's obedience results in tomorrow's guidance. Action is the nerve center of our spiritual life. Motivate us to do what You have shown us needs to be done in the mundane details of life so we will be prepared to discover and do Your will in momentous decisions in the future. Keep our souls fit with consistent practice of Your presence. May prayer throughout the day be as natural as breathing. We are filled with awe and wonder, gratitude and praise that You who are Creator of the universe and sovereign Lord of all nations would use us to carry out Your will in the United States. We press on with renewed commitment to serve You. In the name of our blessed Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Mississippi is recognized.

SCHEDULE

Mr. COCHRAN. Mr. President, today the leader time has been reserved, and there will be a period for morning business until the hour of 2 p.m., this afternoon. At 2 p.m., the Senate will begin consideration of S. 1322 regarding the relocation of the United States Embassy in Israel. The majority leader has previously announced that there will be no rollcall votes prior to 5 p.m., today.

MEASURE PLACED ON CALENDAR—H.R. 1715

Mr. COCHRAN. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 1715) respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

Mr. COCHRAN. Mr. President, I object to the further consideration of the bill at this time.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Mississippi [Mr. COCHRAN] is recognized to speak for up to 50 minutes.

PROCESS FOR BALANCING THE BUDGET

Mr. COCHRAN. Mr. President, I understand that other Republican Senators would like to be heard this morning on the subject of the balanced budget process and our effort to get a reconciliation bill before the Senate this week for action and the general policy that we have embarked upon to try to do a better job of controlling the Federal deficit.

As part of this effort, of course, we have been trying to reduce the levels of funding in individual appropriations bills. We passed a budget resolution earlier this year. The conference report was agreed to by both Houses of Congress setting specific targets for spending, many of which are below last year's levels of funding for the operations of the Federal Government.

Let me give you one example of the success that we have achieved to date. And I am confident that more success will be achieved as we go through the balance of this legislative session.

The President signed a bill on Saturday appropriating funds for the Department of Agriculture and related agencies. This is the fiscal year 1996 appropriations bill that had previously been passed by the Congress. This bill represents, first of all, successful negotiation with the administration over what had been some very contentious issues. We were able to work with our colleagues in the House and here in the Senate, on both sides of the aisle, to work out an agreed-upon bill which was passed here in the Senate, Senators may recall, with only three dissenting votes.

This bill provides funding at a level over $5 billion less than the level of funding that was made available for this Department and these agencies for the fiscal year that ended on September 30. That shows remarkable restraint because many of the programs funded in that bill are mandatory programs, the programs that we will have to deal with when we take up the reconciliation bill later this week.

My recollection is that funding level for the bill was about $63 billion. And of that amount, some $50 billion was required to be funded by law: entitlement programs, reimbursements to the Commodity Credit Corporation for net realized losses, food stamp benefits that are made available to those who are entitled under the definition of the law of statutes to certain levels of food assistance. The qualifications for those benefits are set out in other laws, not the appropriations bill.

And so I am using this as an illustration to describe why it is so important if we are to continue to achieve reductions in spending in later years for us to take up and pass the budget reconciliation bill which does make changes in the eligibility for Government resources and funds under the definition of statutory law.

The amount of funds provided in the Agriculture appropriations bill for the discretionary funding programs amounted to only about $13 billion of the total $63 billion included in that bill. So even if we did not appropriate any money for the discretionary programs funded in that bill, next year or the next there would still be required to be spent by the Government way more than half, more than two-thirds of the total funds appropriated in that bill. That is true not only of that appropriations bill, but many others like it.

I am very glad the President signed the bill and that we were able to successfully negotiate our way through the process so that we could get a bill passed by this Congress that could be signed by the President and that does carry out the directive of the congressional budget resolution to cut spending, to try to do with less, to try to make do with less money than we have in the past for many of these programs. But we were restricted and restrained because of the provisions of law in most of the accounts that are funded in that bill.

So, to take care of that problem, to address that need, to deal with the realities facing this Congress on how we

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

approach the challenge of reductions in spending to achieve a balanced budget, we have to make changes in the law which qualify individuals and other entities for Federal dollars every year.

The reconciliation bill carries out that important requirement by assembling a package of changes from every legislative committee in the Congress, which will, if passed and signed by the President, reduce the costs of Federal programs over the next 7 years to the extent that by the year 2002 we not only will have a balanced budget, but we will have a surplus in the annual operating budget of the Federal Government.

That is the plan. That is the purpose of the passage of the reconciliation bill, and also the adoption of the individual appropriations bills as we are taking them up now in a process, as a part of a plan, that will meet the challenge of developing a new policy of fiscal responsibility at the Federal level.

This is the change, I am convinced, Mr. President, that the American people voted for in the last election. It is the change that President Clinton ran on when he was elected President, but he did not do anything after he was elected President to force the changes that we are now requiring under the budget reconciliation and budget process that has been adopted by the Republican Congress.

So we are trying to deliver on the promise President Clinton made when he ran and also deliver on the promises that were made by those who were candidates for Congress in the House and the Senate in the last election, and we are making progress. That is the point.

This Agriculture appropriations conference report that we adopted and the bill that was signed on Saturday by President Clinton shows that we can deliver on the promise to cut spending, to be more responsible, to make tough choices. We would like to be able to appropriate more money for the funding of programs under the jurisdiction of that committee, but we were confronted with the reality of a $200 billion operating deficit in the last fiscal year and a budget that recommended the same thing for next year, and that was intolerable.

The Congress decided, when it adopted the resolution on the budget, that it was intolerable, and so we changed that policy and determined that we would bring the deficit down. We started doing it, and I am proud of the Congress for taking up the challenge and delivering on the promises. I hope we can continue to carry through with this kind of momentum until we achieve the success that the American people deserve and want and achieve a balanced budget by the year 2002.

Mr. President, I know there are a number of Senators on our side who indicated an interest in speaking on this and related subjects. I am happy to yield the floor so that Senators can be recognized under the previous order.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

BUDGET RECONCILIATION ACT

Mr. CRAIG. Mr. President, let me, first of all, thank my colleague from Mississippi for the work he has done, as have many on this side of the aisle, to bring about this Budget Reconciliation Act that we will be debating later on this week that is so critical to the economic viability of our country.

For this Senator, it is absolutely exciting to stand on the floor and speak the words "balanced budget," and, for the first time in all of the years that I have had the privilege of serving my State, for those words to actually mean something.

Starting in the early eighties, I and others, when I was serving in the House, began a movement that went nationwide to bring about a constitutional amendment requiring a balanced budget. We knew that the Congress could not control or curb its spending appetite, and, of course, history proves that we were somewhat right. It was not until the American people spoke so loudly last year on the issue of debt and deficit that finally this Congress got the message, and the message was: Stop spending, control the fiscal purse strings of our Government, and bring about a balanced budget.

Of course, as most of us know—and the public was watching—we missed by one vote in producing a balanced budget amendment for the citizens of this country to consider, which would really then put ourselves on a path toward a balanced budget.

Over the course of the last 6 months, all of the appropriate committees have worked hard to produce a responsible document that we could honestly turn to the American people and say, "We are speaking to your wishes. More importantly, we are speaking to what you told us to do last November, and that was to bring about a balanced budget."

We will begin debate later this week on the Balanced Budget Reconciliation Act of 1995, and it does some very, very profound and important things for this country. But more importantly, it does some important things for our Government. It puts goals in place, it puts parameters into a dynamic process that cause this Congress to be the fiscally responsible Congress that the American people have so demanded for way too long.

My colleague from Mississippi began to outline the kinds of efforts that are incorporated in this critical piece of legislation that bring together all of the efforts of this Congress over the last good many months into a final document that will submit to the President a process and a procedure that brings us to a balanced budget by the year 2002.

The thing that I find most important about it is that while we were debating the balanced budget amendment, those from the other side cried and pleaded with the American people that Republicans were only going to balance the budget on the backs of the elderly and we would do so by using Social Security.

Well, I say to the folks from the other side, it just "ain't" so. It was not then and it is not now. The Social Security trust funds are not being used and will not be used and Social Security is every bit as strong today and next year and the year after through the year 2002 as we had promised during that historic debate of a good number of months ago.

In fact, if you look at the year 2002, and if you want to take it just one step forward to the year 2005, when you look at the projection of the surpluses that begin to grow, you can argumentatively say that Social Security is totally aside, totally apart from the budget calculations by the year 2005 based on that surplus growth if—if—the Congress of the United States will be true to its commitment, and that commitment will be spoken to this week in this most important and historic act.

I said during the balanced budget debate of a good number of months ago, if you are worried about Social Security and its stability, then you have to be worried about debt and deficit, because if you really want to protect Social Security and you want to show to the American seniors that you mean it, then you have to control debt.

The solvency of our Government means its ability to pay its obligations. If the Congress of the United States and greedy big Federal spenders want to destroy Social Security, then they want to keep mounting debt, because there could come a day when we could not pay our bills, and Social Security, like everything else, is a bill or an obligation of the Government to pay to the recipients of the program that which it was committed to. Control the debt, as we are doing now with the Budget Reconciliation Act, and you will do nothing but strengthen Social Security in the coming years.

Mr. President, there is one other item in this whole debate that is so critical for us here in Congress to understand but, more importantly, for the American people to have a clear and unfettered message of. It was spoken well this morning in an editorial in the Washington Times called "The Great Medi-Scare."

I ask unanimous consent to have this editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE GREAT MEDI-SCARE

Congressional Democrats, who have been flailing about in the desperate hope of bumping into an issue that will leverage them back into power, think they have finally got it. As Republicans in the House celebrated their party-line victory on legislation to reform Medicare, Democrats attempted to taunt them, childishly waving their hands and mouthing "bye, bye."

This undignified spectacle came after a day chock full of those impassioned, if not unhinged, speeches House Democrats have been cranking out denouncing the GOP—"It's another day of infamy for 40 million Americans who depend on Medicare," railed Florida Rep. Sam Gibbons; the bill is an affront to "human decency" cried House Minority Leader Richard Gephardt. But if the Republicans' vote was indecent and infamous, how do Democrats explain their expression of glee? The display suggests that one of several unpleasant conclusions must be drawn about the new minority party: Either the Democrats are happy to see seniors suffer just so long as that misery is their ticket back to power; or the Democrats know full well that their apocalyptic pronunciamentos are hollow, in which case they were doing nothing worse than celebrating what they think was a successful scare campaign.

Exactly how successful has the scare campaign been? There is a belief among Democrats and some political analysts that Republicans are making a fatal error by even attempting to reform Medicare. The specter of seniors mobbing Rep. Dan Rostenkowski is raised time and again, a mere prelude, we are to believe, of the elderly's wrath to come. The thought gives comfort to the Gibbonses and Gephardts and is supposed to put fear in the hearts of Republicans. But Medicare reform and Rosty's catastrophic-care legislation are by no means analogous. Medicare reform merely limits the rate of growth in the program, boosting seniors' costs marginally if they remain in traditional fee-for-service Medicare, and saving money for many of the elderly who choose one of the various insurance options to be offered for the first time—such as medical savings accounts. In any case, once all the hype has died down, seniors will realize that their benefits are intact, and their out-of-pocket expenses have not exploded. That was not the case with Rosty's catastrophic legislation.

The new entitlement that Mr. Rostenkowski briefly imposed on the nation in 1989—before it was withdrawn in the face of vociferous protest—was financed in a way that fit liberal sensibilities very nicely, but enraged the segment of the elderly population that got stuck with the bill. Instead of spreading the costs out among all taxpayers, wealthy seniors were forced to pick up the tab almost exclusively. Paying for the whole program meant that there was a distinct population of senior citizens who were hit with new taxes of $800 a year. Is it any wonder they rioted? It is hard to imagine that senior citizens whose Medicare premiums go up $4 more than they would have otherwise will react with quite the same fervor and gusto as those who took an $800 hit. In other words, liberals who think the Republicans' Medicare reform will produce a catastrophic backlash are engaged in wishful thinking.

Once the Republican plan is up and running, the scaremongering will have no more resonance. Perhaps, however, House Democrats are counting on the reforms never becoming law; President Clinton has, after all, promised to veto the legislation. But Capitol Hill Democrats should know by now that they can't rely on Mr. Clinton—a fact that was in stark relief last week when the president blamed his long-suffering allies on the Hill for his whopping 1993 tax hikes. There is every reason to believe that when Mr. Clinton is confronted with the prospect of a government shutdown, the veto pen will stay in his pocket. Republican leaders no doubt will toss the president a few face-saving changes on Medicare and other budget items, and Mr. Clinton will acquiesce, much as he did on this year's rescission bill.

Then where will congressional Democrats be? They may yet be waving bye-bye—that is, from their seats on the Greyhound.

Mr. CRAIG. Mr. President, the great medi-scare. Oh, my goodness, I watched with great interest this past week when the House voted by a very large bipartisan vote to reform Medicare. The wringing of hands and the gnashing of teeth from the other side of the aisle, from liberals who wanted to argue that this would be the destruction of health care as we know it to the seniors of our society, how tragic that kind of debate is in an attempt to split people, to use scare tactics to anger and frustrate the American people when what we are doing is exactly what Congress has done ever since Medicare was created by this Congress: To manage it on a yearly or biyearly basis and, whenever necessary, to make adjustments and changes in the program to make sure it could continue to provide the kind of health care reimbursement that it has historically provided.

How many times has the Congress addressed changes in Medicare? Almost too many to count since it was created back in the seventies. Why? Because we are the board of directors of Medicare. It is our job to make sure it is solvent, to make sure it works, to make sure it honors its commitment to that portion and that share of the senior citizen dollar that goes in in the form of premiums, to pay that dollar that is matched with the Federal dollar. And, as a result, Medicare has always been there, and it will always be there.

I am sorry, I say to those who have no better answer and are trying to use the emotion of senior citizens in this country as the political tactics of 1996, folks, it is not going to work because already the seniors have seen through it. They have recognized that they have been used over the years in the arguments of Social Security reform, and now they are being used—I repeat the word "used"—in the arguments of changing Medicare when, in fact, what we are doing is creating new dynamics in a program that will allow seniors greater choice, greater opportunity, and greater independence in their health care delivery systems.

Why should they not be allowed to choose between a provider fee system, between HMO's, between a variety of other options that are out there? The important words are "allowed to choose," not being forced or not being shoved into a new program, but being allowed to choose a variety of options, including staying exactly where they are today.

Now, because we have never offered that choice in the past, the dynamics of the Medicare trust funds have not had the flexibility to create the efficiencies that we ought to have. As a result, the costs of those funds, based on demand, escalated at over 10.4 percent a year when private health care costs last year were 4 percent, and this year could be 4 percent. Why is it that a Federal health care program is not at least reflecting and mirroring the cost of private health care? Because it is federally rigid; because the rules and regulations will not allow the dynamics in the marketplace of choice, independence, and of selection that every other citizen in our country has. That is exactly what we are providing. Yet, the opposition is saying it is going to destroy it. They are trying to use it as a political tactic.

Why do I talk about the Balanced Budget Reconciliation Act and Medicare all at the same time? Because it is all of a total budget that this Congress has to look at. It is part of the kind of reform that is critical when it relates to the dynamics of making the kinds of overall savings that produces a balanced budget by the year 2002 and honors the commitment we have had to the American people that we are going to start being fiscally responsible and we are not going to be continually running up debt that is now at $4.8 or $4.9 trillion and accumulating faster than the average citizen can absolutely comprehend.

If we will do anything this year, we will be able to turn to the American people and say, we heard you, we listened, and we responded, and we have set the Government on a course of action that will cause us to be fiscally responsible, that will allow us to look out into the future and say, we have indebted our children less, and we will allow them to have greater freedoms of opportunity in selecting their jobs and keeping more of their own made money for the purposes of providing for themselves and their children.

That is what this debate is all about. We are going to look at it program by program, detail by detail, going through Wednesday, Thursday, and into Friday of this week. I hope the American people are listening because what they will hear in the end will not be frightening. It will be a very loud, clear, analytical debate, program by program, on what this Congress is doing to control a runaway budget. And that is exactly what they expect us to do.

To the seniors of this country, please listen, do not be frightened by what is known as scare mongering. That is what this editorial was saying; that the Democrats are running to the only thing that will resonate at this moment—scare mongering—instead of working with us in a constructive way to maintain a dynamic and important program for this country.

I remember back in the early 1980's when Social Security was in trouble and I was a freshman legislator on the other side. Those who were in control of the Congress at that time—the Democrat Party—tried just that. Ronald Reagan said, "Oh, no, you don't. I am going to bring you, the Congress, and the Presidency together, in a bipartisan way, and we are going to fix this problem. There is not going to be any fear, there is not going to be any fright. We are going to create the dynamics that assures the stability of Social Security on into the future."

He pulled their scare mongering platform out from under them. As a result, we got a phenomenally dynamic, bipartisan process that stabilized Social Security as it is today and will into the future if we balance the budget and take the debt fear away. That is the same responsibility we have with Medicare. I challenge my colleagues on the other side—down with your bright line graphs, down with your rhetoric, and up with your willingness to work with us to create a bipartisan dynamics, both in the budget process and in the securing of a stable Medicare Program that we can turn to the American people and say, we heard you, we honored you, and we are committed to a stable Government in the future that lives within its means.

I yield the remainder of my time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON] is recognized.

BALANCED BUDGET RECONCILIATION ACT OF 1995

Mrs. HUTCHISON. Mr. President, I thank the Senator from Idaho, who made a terrific statement, and the Senator from Mississippi, who asked many of us to talk about the big picture. So many times in this Congress we talk about the minutia, the crisis of the day—and it seems like there is a crisis every day. But I think it is time, because the rhetoric is flying and because tempers are getting short, that we step back and look at the big picture.

Almost 1 year ago, the people elected a new Congress. They rejected business as usual; they ended the reign of spendthrifts that mortgaged their grandchildren's future for a handful of votes on the first Tuesday every other year.

Now, after a year of preparation, we are ready to put into effect the changes that will protect us from bankruptcy and preserve the strength of our Union. During this week, we will debate our future course as a people and as a government.

The question before us is simple: Will we follow the path of those who want us to tax and spend and borrow until we are so deep in debt and denial that we are fiscally and morally bankrupt? Or, will we set this country on the path toward freedom and prosperity for all, with charity for those who cannot help themselves?

One of our greatest leaders, Abraham Lincoln, said, "A house divided against itself cannot stand." Just as our country could not live "half slave half free," it cannot live in a perpetual class war with the poor incited to battle the rich, the old to fight the young, or the sick to fight the healthy. We cannot make the public better off by pitting them against one another for partisan advantage. We must work together for the benefit of all of us—for our children, for our handicapped, for our elderly—instead of using them as props in publicity stunts designed to turn people against progress without examining the facts.

President Clinton has led the charges that Republicans seek to gut Medicare to give a tax break to the rich. How many times have you heard that said in the last few weeks? The Speaker of the House said that the President has reduced himself to scaring old people to try to defeat our balanced budget. In his all-out effort to defend the status quo, the President, who campaigned for change, takes advantage of his most vulnerable citizens and threatens the solvency of their health care trust.

Last week, when President Clinton admitted that he and the Democrats in Congress had made a mistake in raising taxes, according to the Washington Post, reporters for the Washington Post, New York Times, Chicago Tribune, and Los Angeles Times skipped the speech and went out for Mexican food.

I will not argue with their choice of menus—after all, they were in Texas—but when they read the speech later, they still did not think it was news.

Apparently, they are so used to the flip-flops by the President that his repudiation of the largest tax increase in the history of America did not sink in.

I am not surprised that the President chose Texas as the place to admit that his tax hikes were a mistake, because in Texas most Democrats believe that Government should take less, not more. That is why so many of them have either been crossing the aisle or supporting Republicans.

Why are they doing that? Because we are protecting the elderly by saving Medicare from bankruptcy. We are lowering taxes on the middle class, and we are cutting spending to balance the budget.

In short, Mr. President, we are keeping our promises. We are not protecting the status quo. We are reordering priorities and ending fraud, waste, and subsidies.

We must act now. If no changes are made to the budget, entitlement spending, Social Security, Medicare, Medicaid, welfare, and Federal retirement plus interest on the debt will take over the entire Federal budget by the year 2012.

Now, Mr. President, think of that. In the year 2012, entitlement spending which is Social Security, Medicare, Medicaid, welfare, and retirement plus interest on the debt will be the entire Federal budget. There will be no defense spending, no spending to help crime, education, or anything else.

Medicare will be insolvent next year according to members of the President's own Cabinet. By the year 2002, it will be bankrupt.

Our Medicare reform proposal slows the rate of growth but it does not cut spending in Medicare. It slows the rate of growth, but increased spending will amount to 73 percent over the next 7 years. The total spending will be $1.6 trillion for Medicare alone. No one will be without health care. Seniors will have more choices. They can keep the old plan or choose a new one that suits them better.

We do this by cutting fraud and waste and reining in the exploding costs. Our tax cut reduces the tax burden on people who actually pay taxes. It closes loopholes. More than three-quarters of the cuts in the first year go to the middle class—those making $75,000 or less.

Now, who are those people? They are mothers and fathers who will get help raising their children with a $500 per child tax credit; they are homemakers who will have the opportunity for the first time to contribute the maximum amount to an IRA for their retirement security; they are married couples who will have the Tax Code's marriage penalty reduced; and they are savers who are trying to buy a first home, pay for college for their kids, or retirement for themselves.

Our tax cut benefits all Americans. It will put more money in people's pockets, and it will increase jobs. Together with a balanced budget, it will lower interest rates and increase the standard of living for millions of Americans.

The time for publicity stunts, Mr. President, for walking out, for shouting, for interrupting meetings with demonstrators, and for labeling Republicans "extremists" is over.

The public spoke clearly last November. They saw through the antics and the publicity stunts and they asked for leadership. Leadership is not increasing taxes on the elderly and everybody who drives a car and then claim you only hit the rich, which the Democrats without one Republican vote did in 1993. It is not leadership to walk away from those tax increases 2 years later and to attack others who seek to lower the tax burden now.

It is not leadership to propose a budget to this Congress this year with a $200 million deficit. It is not leadership to propose only 4 months later, a 10-year budget which you say balances but which does not.

It is leadership to confront our fiscal problems head on, to show the people that we must preserve Medicare—and we will—to help families, to create jobs, and to balance the budget.

The American people asked for leadership, for the Congress to shoulder the responsibility of showing them the way. This budget ends the culture of dependence, the belief that the people cannot provide for themselves. It shows the way toward hope and prosperity for all, with charity for those who cannot help themselves.

The American people have created the greatest country on Earth with the intelligence, the creativity, and the energy God gave them. It is our responsibility as their leaders to maintain the opportunity they have created and that this great country offers. That is what we are trying to do, Mr. President. We are making the tough decisions to assure the future.

I yield the floor.

RECONCILIATION

Mr. DEWINE. Mr. President, first let me congratulate my colleague from Texas for a very eloquent statement as well as congratulate my colleague from Idaho for his statement that preceded the Senator from Texas.

I rise today, Mr. President, to discuss the reconciliation bill that we will begin debating this Wednesday. It is very clear that there will be nothing more important that this Congress will do than the particular bill that we are going to take up on Wednesday.

In fact, there may not be anything more important in any of our careers here in Congress, however short or long they may be, than this particular bill.

The bill that we will begin debating on Wednesday results from a statement made by the American people last November. It was a statement that was very simple, very plain and very eloquent. What the American people said last November was that we must make some very fundamental changes in the course of the direction of this Government.

Mr. President, the American people had ample reason to speak so loudly last November. For example, if we look at the budgetary outlook contained in the report of the Bipartisan Commission on Entitlements, we will find a pretty grim picture.

Here is what this Bipartisan Commission said, in essence. If we do not change our present course, by the year 2012 every single penny in the Federal budget will be consumed by entitlements and by interest on the national debt.

My colleague from Texas just said that a moment ago. I again want to repeat it because it summarizes, I think, very well, the crisis that we are in. Think of it—every single penny of the entire Federal budget will be consumed by entitlements and by interest on the national debt.

If, Mr. President, in the year 2012 we want Government to do anything at all—provide for our national defense, provide money to run the Army, the Navy, Air Force, Marines, run a program such as the WIC Program or provide any funds for higher education or primary or secondary education—to do any of these things, unless we change the course of the direction of this Government of this country, we would have to raise taxes because there would not be any money anywhere else in the budget to pay for any of these things. This, I think, gives us a pretty good indication of what kind of problem we have in this country.

As we approach this problem, I think the American people demand from us honesty, demand from us that we use numbers that are real, because I believe the American people are sick and tired of phony numbers. They know we cannot go on trying to hide from the facts. Unless we take action and take action now, our children, our grandchildren, are going to face an even more severe reckoning; frankly, the quality of life our children have, and our grandchildren and their children have, will be different, will be lower than ours. So I believe the American people last November were also saying that the time for the blue smoke and mirrors is over.

The reconciliation bill that we will begin to consider this Wednesday is an honest, forthright attempt to solve this major problem threatening our children's future—the problem of America's imminent bankruptcy. If we listen to the debate occurring on TV, in our newspapers, on the radio, one might conclude that we, on this side, have been a little too honest, maybe a little too forthright. But I do not think so. I do not believe that the American people expect us to do any less than to be forthright and to be honest.

And one charge that has not been made—and I do not think will be made—is that we have taken a walk on this issue. We assuredly have not. This reconciliation bill that, in about 48 hours, we will begin to consider is a serious, detailed, fundamental attempt to change America's fiscal course. The patience of the American people, I believe, has run out—their patience with distorted figures, their patience with lack of candor. That is one of the reasons why we had such a revolutionary election, such an historic election in 1994. The American people want elected officials who are willing to break the syndrome, once and for all, of distortion. That is what I believe we are trying to do with this reconciliation bill. The President, on the other hand, has not responded to this national demand for fundamental change. Unfortunately, the administration's proposal does not even come close to meeting this challenge. It is not detailed. It is not serious. And it does not attempt to fundamentally change the course and the direction of this Government.

Thanks to the important work of my colleague, the senior Senator from New Mexico, the chairman of the Budget Committee, we have details spelling out exactly how far short the President's plan has fallen.

Let us look at how the President's plan claims to get to balance. Let us look at it.

According to the President's plan, there will be $55 billion less in Medicare spending. No changes in benefits, no changes in law, it will just, somehow, magically appear. There will be $68 billion less in Medicaid spending, according to the President. Again, no changes in benefits, no changes in law; it will just somehow magically happen. There will be $85 billion less in spending on agriculture, pensions, and other programs. No details, no specific cuts; again, it will just somehow magically happen.

The same goes for $22 billion in supposed savings in the discretionary account. No real changes—the cuts are just going to happen somehow.

Then—please stay with me, follow this—the administration predicts, based upon these assumptions, assumptions that really have no basis in fact, that as a result of these things certain other things will occur that will save another $70 billion from lower interest rates; yet another $175 billion thanks to economic growth—lower interest rates and economic growth, based upon assumptions that have no basis in fact, that have no support, that have no specifics.

A few years ago there was a popular song that asked, "Do You Believe in Magic?" The American people no longer believe in magic when it comes to the Federal budget. They believe it is time to sweep away the smoke and mirrors. It is time to start buckling down and making the tough choices.

Sadly, the administration proposal is not even smoke and mirrors. There are not any mirrors in that proposal. It is all smoke. When you say we are going to cut $475 billion out of the budget without actually changing anything, without actually paying any kind of price, that does not even qualify as a trick. The time for that kind of falsehood, I think, is over. It is time for truth. It is time for decisions. And that is what Congress is trying to do in this historic reconciliation bill.

A vote for the reconciliation package is a vote to balance the budget so we can start reducing the national debt and put America on a course toward a future we can be proud to leave our children. A vote against the reconciliation package, I believe, is a vote to stay the course, a vote to take today's staggering deficits and hand them to our children and our grandchildren, to give our children and our grandchildren our bills for them to pay.

When the smoke clears, there is one fundamental difference between the President's budget proposal and our budget proposal. Under the President's plan, we will leave our children and our grandchildren our bills. Under our plan, we will balance our budget so our children and grandchildren will not have to pay our bills. For America, I believe it is a clear choice between two very distinct and different futures. That is why I intend to vote for this reconciliation package.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I understand the distinguished Senator from Minnesota [Mr. GRAMS] is here to speak under the order reserved in my name. I yield the floor so he can be recognized at this time.

The PRESIDING OFFICER. The Senator from Minnesota.

THE BUDGET

Mr. GRAMS. Mr. President, I am honored to join with my freshman colleagues and others this morning as we share our thoughts on the important work that is being undertaken this Congress. We may be new to the Senate, but together we carry the powerful and, in Washington, novel idea that the tax dollars are not the Government's money.

While I was growing up on my family's dairy farm, we did not have much need back then, it seemed, for the Federal Government. As long as the mail got delivered and there was something to collect when they cashed in their war bonds, my folks and their neighbors really did not have much reason to concern themselves much with what was going on in Congress. They certainly did not turn to Washington when they needed a helping hand. They never really thought of doing that, and I expect they never thought anything would come of it if they tried.

They did not believe Government should have the right to take as much money as it thought was fair from some Americans and, in turn, give as much money as it thought was fair to others. If the Government can confiscate the wealth of some, it can take it all from all.

We agree that taxes need to be collected for our national security, our transportation, our good sewer and water systems. But we do not want our hard-earned money taken for social engineering and the redistribution of wealth, disregarding the people who have worked so very hard to earn it, invested all they had, and took, in many cases, enormous risks.

If you had worked hard to save what you have, we have had a Congress over the last 30 years that believed this money actually belonged to Washington. The Democratic leaders have used your money to basically create not a level playing field, but a dependent class. They have used your money to buy, in many cases, political support and votes.

There was a time in this Nation's history when neighbors counted on their neighbors for help. Whatever involvement from the Government they may have needed came partly from the State, but most of their contact with Government came at the local level. If there were improvements that were needed for the good of the community, folks scheduled a town meeting where they talked over their problems and then made those decisions. It was open democracy at its most basic level. Most important, the choices were made by the community and made voluntarily, and the town got to see exactly where their tax dollars were going and they enjoyed the direct benefits of pooling together their money.

They did not need a department of education or housing or transportation. That is what families and the communities were for. But then, beginning sometime during the 1930's, while the Nation was rebounding from the Great Depression, the Federal Government began inserting itself more directly into American life, and the idea started to take hold that Washington somehow had all the answers. That philosophy grew even more quickly during the 1960's and into the 1970's. Washington became the center of power by confiscating the people's money and using that money to make decisions that Washington felt were best for the people.

As that power was taken away from the American people, more and more people were forced to start relying on the Government rather than relying on each other. Mr. President, just ask your constituents. They know how much more of their tax dollars Washington has demanded year after year.

Back in 1948 the average family of four paid just 3 percent of its annual income to the Federal Government. That jumped to nearly one-third of their paychecks by 1993, when President Clinton pushed a $275 billion tax hike through this Congress, a record-breaking tax increase that even now he admits was too much.

Somewhere along the line, the big spenders who used to control Congress forgot just who the money really belongs to. They have passed laws that say you have to pay more so they can spend it where they see fit. When you do this for more than 30 years, they not only forget who the money really belongs to, but they begin to believe that it actually is theirs. They did this again by passing laws one at a time that say you owe Washington its due.

Again, I am not saying that we do not need a strong Federal Government and it will cost us money in the form of taxes to support that, but not half of everything that we earn, while the appetite in Washington for your tax dollars continues to grow. This transfer of cash away from the local communities into the Federal coffers has stripped people of so much of their money that they have little left to invest in their own communities, toward caring for the less fortunate and to making their neighborhoods better places to live. Government has taken the place of private charity, of neighbor helping neighbor, and has even usurped the role of families, in many cases, in caring for children and in caring for the elderly. In fact, a lot of things have become the problem of the Federal Government.

Already this year I have received 155,000 letters from my Minnesota constituents. The majority of those letters express opinions on the issues that we are currently debating in Congress, and I need that kind of feedback. But an ever-increasing percentage of mail we get here in the Capitol is from people looking to Washington for help.

Washington creates the problem. Then Washington offers to fix it. It is a catch-22 cycle, and it certainly is not governing. If the Federal Government reduced taxes and let the people keep the dollars they earned, maybe they would not need to go to the Federal Government with those outstretched hands.

I ask my colleagues on the other side of the aisle, Why do you denounce our plans to give working-class Americans some of their own money back through a tax cut? They argue that we cannot afford to give anybody a tax cut. But who is we, Mr. President? Is not we supposed to be the people? And how can Congress not afford to give back to the people something which is actually theirs in the first place?

It is no wonder that some of our colleagues are fighting us every step of the way on our tax-cutting plans. They see the power being stripped away from them, and it scares them.

The $500 per child tax credit is powerful relief for overtaxed American families. Yet, compared against 1 trillion in tax dollars which the Federal Government will collect in 1996, a tax cut that amounts to about $35 billion a year makes a pretty small dent in the national tax bill. But it is a sign that Congress has heard the people, that the tide which has tugged against the taxpayers for so long is finally beginning to shift in another direction, that someone in Washington has finally remembered that it is not the Government's money.

For too many years, Congress has been eating the people's dessert while the people have been eating the gruel. Congress taxes away the workers' college fund or vacation, or their downpayment on a home, and then make the workers come to Washington looking for help. I say it is time we give them a break.

Congress has enjoyed handing out other people's money so much that they have spent all the taxes that I will pay. They have even spent some of the taxes my children will pay, and they have even begun to spend some of the taxes that my grandchildren will pay.

Mr. President, the soul of any democracy is the idea that the power still rests with the people. The only purpose for which power can be rightfully exercised over any member of civilized communities against his will is to prevent harm to others. And that is something that was written by 19th century English economist, John Stewart Mill. His own good, either physical or moral, is not sufficient. All that my freshmen colleagues and I are trying to do is give back to the people the power that rightfully rests with them.

Finally, Mr. President, we will balance the budget. We are going to push ahead with our tax cuts, and at every opportunity, through our legislation or statements on the floor, we will be here to remind our fellow Senators again and again that it is not the Government's money, that it belongs to those who earn it.

Thank you very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, I do not know if this is necessary. But I ask unanimous consent that the time I use be taken out of the time as previously under the order allocated to the minority leader, Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

GATT AND PRESCRIPTION DRUGS

Mr. PRYOR. Mr. President, the Senate is in the midst of a crucial debate over Medicare and Medicaid. In the midst of this controversy, the fate of a single bill or amendment might be inconsequential. But today I rise to discuss a bill which speaks clearly and directly to a very simple question at the heart of all of this debate, and that question is this: Can the Senate do what is best for the American people?

My colleagues, Senator CHAFEE of Rhode Island and Senator BROWN of Colorado, and I have offered just such a proposal. Compared with the matter that we began debate on Wednesday in the reconciliation bill, our proposal is simple, and it is easy to miss. But it is important. It is crucial. It admits a congressional mistake, and it fixes a congressional mistake. It closes a glaring legislative loophole and saves billions of dollars in the process.

But, most important, it sends a very simple message to the American people: Congress makes mistakes, but Congress can fix those mistakes when the interests of the American people are at stake.

Mr. President, we offered this bill because the interests of the American people—both as taxpayers and as consumers—are clearly at stake here. And deep down my colleagues know it, too.

Let me briefly describe our proposal. It enjoys broad bipartisan support in the Senate and in the House and has been endorsed by every single Federal agency involved with trade, patents, or drugs: the U.S. Trade Representative, the Patent and Trademark Office, and the Food and Drug Administration.

Mr. President, here is what it does: When Congress passed the GATT Treaty last year, we enacted two transition provisions. First, we granted a generous extension to all current patents. Second, as a condition of that extension, we permitted generic competitors onto the market on the old patent expiration date if they had already made a substantial investment and were willing to pay a royalty. That was our agreement. That was our discussion as it related to GATT. These changes were universally understood by all of the negotiators from every country, from every industry, from every economic aspect of our economic life in America.

Let me be very clear on this point. U.S. Trade Representative Mickey Kantor states categorically in a letter dated September 18 to me that the law was meant to apply universally, that there would be no exceptions. The GATT negotiators themselves—the experts who physically sat down at the table and negotiated the GATT Treaty on behalf of the United States—have personally confirmed that the transition provisions were meant to apply to every single person, product, company, and industry in the country.

There was a loophole. And guess who came out smelling like a rose? A few pharmaceutical drug companies, who now—if we do not do something about it—are going to have a free ride for the next 3 years when generic competition is poised and ready to compete with them in the marketplace.

This spring the Congress discovered this loophole. We failed to modify this loophole in the Finance Committee because of a technical problem. When we passed the GATT Treaty, we inadvertently gave the prescription drug industry a giant unintended windfall. Of all the companies, of all the products in America—from automobiles to zippers, computers and TV parts, everything—only prescription drug companies, only drug companies, received a competition-free patent extension, a free ride, a windfall.

In fact, when one of the officials of Glaxo Co., that manufactures Zantac, heard about this loophole being discovered, his first word was—and I quote—"eureka." They got the extension, and they were mistakenly shielded from the competition intended by GATT. Without that competition, today a handful of drug companies are now, beginning today, receiving a whopping multibillion-dollar windfall paid for by consumers and paid for by taxpayers.

This was a simple mistake of oversight, Mr. President. I wish to emphasize that. We make mistakes around here every day. Sometimes we correct them and sometimes we do not. But this is an opportunity to correct that mistake. Every authority that I have spoken to, every Member of this body, every Senate committee, and every Government agency admits this was an error, and now we have a chance to change it. Even the companies that gained this unjustified multibillion-dollar windfall admit it was a mistake.

This is why my colleagues, Senators CHAFEE and BROWN and myself, will be offering this amendment. This amendment does one thing and one thing only. It applies GATT to those few drug companies the same way it applies to every other company and every other product in this country. Unless we correct this loophole today, enormous profits, unjustified and unexpected, will go to those few companies. We have already taken the first steps to a solution, but 3 weeks ago we were blocked by a procedural technicality in the Finance Committee. And make no mistake. The only way to rectify this problem is here and it is now. The Senate is the court of appeals for this issue to be decided.

If there is any doubt whether Congress should fix its own mistakes, I have some news for my distinguished colleagues. The Patent Office and the FDA have tried to correct this problem on their own. They failed because of technicalities. The problem is, their hands are tied by the letter of the law in the GATT treaty.

On last Thursday, despite their best efforts, a Federal court held that three drug makers that had filed suits in the court had actually won, which meant that they ruled against this loophole being corrected. The Federal court said that their hands were tied.

Even worse, the court ruling now means that potentially hundreds of products could be affected. This could mean as much as $6 billion—I repeat, $6 billion—in unnecessary health care costs for every purchaser of prescription drugs—the elderly, hospitals, clinics, HMO's, drugstores, insurance companies and, not the least, the governments, State and Federal governments.

According to securities analysts, the ruling could "affect sales of billions of dollars of brand name drugs that would otherwise be open to competition from less expensive generic versions."

For the average person, this means money out of our pockets for no good reason. If they are one of the millions of people who take the world's best selling drug, Zantac, our legislation would cut the cost of Zantac by one-half. Think of it, cutting the cost of one medication by one-half that is the best selling drug in America.

Our legislation would cut the cost of Capoten for hypertension by two-thirds. By over 65 percent we would cut the cost of this drug simply because there would be competition in the marketplace. That competition in the marketplace is going to be delayed unless the court of appeals, in this case the U.S. Senate, the last court of appeals, handles this matter and corrects this very tragic mistake.

Let me tell you three other reasons why we should be supporting this amendment at the proper time. Our proposal will save the Government hundreds of millions of dollars for the poor, the veterans, active military personnel, pregnant women, Native Americans, and every American served by Medicaid, the Department of Veterans Affairs, the Department of Defense, as well as the Public Health Service and the Indian Health Service clinics. All of those would be included and all of those would benefit with the adoption of our proposal.

Second, everyone wants to do what is best for older Americans, the sick and the poor and the consumers. How often do we hear that? Here we have an opportunity to do it. It is clear. It is evident that we can help these groups by supporting this idea. Our proposal is supported by senior citizens, consumers, medical practitioners. It is endorsed by the National Council on the Aging, National Consumers League, the Gray Panthers, the National Women's Health Network, the United Homeowners Association, the National Council of Senior Citizens, and the National Black Women's Health Project.

Finally, this issue has been the focus of intense media scrutiny for the last several weeks. People are beginning to see how a big ripoff is about to happen unless we correct it. Articles and stories inspired by disbelief have appeared in the New York Times, NBC News, Associated Press, Los Angeles Times, Business Week, Reuters, Journal of Commerce, Roll Call, and the Orlando Sentinel, and the list goes on and on.

Why is there so much attention on this issue? Well, the bottom line is there is a lot of money at stake. There are multibillion-dollar health care cuts being debated in Congress today, and here we are about to give an enormous windfall to one of the most profitable segments of our economic activity, the pharmaceutical companies.

Why does anyone care about this particular legislation? I think the reason people care is because they know this bill is the right thing to do. They are sick and tired of the excuses that are given when we fail to do the right thing. Please let me repeat, this is not a partisan issue. It never has been. It is about fixing a mistake. It is about saving taxpayers' money. It is about precluding an enormous windfall in unjustified profit to several drug companies that have gotten, in my opinion, extremely greedy.

This morning, Mr. President, I was just handed a page from the Roll Call newspaper, dated Monday, October 23, 1995, page 8. Here is an advertisement placed by the American pharmaceutical research companies—by the way, that is the old PMA—Pharmaceutical Manufacturers Association. They changed their name a few months ago, Mr. President, so they could add a little cloak of dignity emphasizing research. They take what we are trying to do apart and they try, as they say, separating fact from fiction in this particular ad. But the bottom line is what they have said is extremely misleading. It is motivated by economic gain. In addition to that, it is simply wrong. The motivation for this particular advertisement, in my opinion, is the continuation of economic greed by some of the pharmaceutical manufacturers.

Just in the Wall Street Journal, I believe, on Friday, the drug companies talked about, well, they cannot sell drugs in America as cheaply as they can sell these same drugs in Europe or in the other industrialized nations. Look at this headline: "Strong Global Sales Lift Drug Company Profits." So they are selling overseas these same drugs they sell to us for 40 and 50 and 60 percent more in this country, they sell these drugs overseas at so much less and they are making such an enormous profit that they see their stock is going up in these companies, and once again the drug companies find a way to take advantage of the American consumer and certainly the American taxpayer. If we do not correct this issue now, we are going to be actually a part, in my opinion, of a terrible mistake that we had a chance to correct.

Here is the alternative, Mr. President. We can stand here and do nothing, we can let these drug companies make off like bandits with these unjustified profits, or we can vote for the amendment offered by myself and, hopefully, some of my other colleagues. We can rob older Americans, HMO's and every single taxpayer in this country if we do nothing. We can enrich two or three drug companies, we can keep competition out of the market, or we can make certain that they do not receive money they do not deserve.

We can let a loophole rob American consumers of as much as $6 billion. We can let the intense lobbying efforts by one or two drug companies sway us. We can ensure special treatment to a few companies while the rest of the country plays fair, following the rules and obeying the law.

Once again, Mr. President, a few pharmaceutical drug companies are the only companies that are excluded under this provision. They are the only ones given this mistake. They are the ones taking advantage, I should say, of this mistake in the GATT treaty. Now is our opportunity to change it. And in my opinion, Mr. President, this is the mother of all special interest issues.

Let me read from the New York Times when they observed a few days ago:

> Some of the Nation's largest drug companies will have spent and lobbied heavily against one bill that hardly amounts to budget dust. While its impact on the Federal budget may be minuscule, the measure means a fortune to these drug companies.

Mr. President, I urge my colleagues to join us in supporting this proposal. If we fail, it will allow the legal combination of a legal loophole, a procedural technicality, intense lobbying, big bucks, and our own failure of will, robbing the American consumers of billions of their taxes and their income. Every American citizen will be forced to continue subsidizing an outrageous, unintended windfall to a handful of drug companies simply because we do not have the courage or the foresight or the will to admit and to fix our own mistakes.

Mr. President, I ask unanimous consent that documentation of savings from this proposal, letters of support, and recent media articles be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 20, 1995]

THREE DRUG MAKERS WIN SUIT TO EXTEND PROTECTION OF PATENTS

ALEXANDRIA, VA.—Merck & Company, the Schering Plough Corporation, and Roche Holding A.G., have won a lawsuit against the United States Patent Office and the Food and Drug Administration, in which they had sought an extension on some of their patents.

The ruling, reached Monday by the Federal District Court here, is a victory for brand-name drug makers who fought a decision by the F.D.A. and the Patent Office to limit patent protection.

Securities analysis said the ruling could affect sales of billions of dollars of brand-name drugs that would otherwise be open sooner to sharp competition from less expensive generic versions.

Neil B. Sweig, an analyst with Brown Brothers Harriman & Company, said that based on current sales in the United States, the extension could result in $3 billion in sales of Zantac, the ulcer treatment made by the Glaxo Wellcome Company; $1.45 billion in sales of Mevacor, a cholesterol-lowering drug made by Merck, and $280 million in sales of Capoten, a hypertension treatment produced by the Bristol-Myers Squibb Company.

Mr. Sweig added that the court ruling had been anticipated by investors and was already reflected in drug companies' stock prices.

Under a Federal rule that took effect on June 8, drug makers could either have patent protection under the new world trade organization or the previous system.

The new patent protection for brand-name drugs would last as long as 20 years from the date of the patent filing. Under the old system, drug patents were protected in the United States for 17 years after they were granted, plus some of the time drugs were waiting, regulatory review by the F.D.A. In some cases, protection would last longer under the old system.

"The courts ruled that they were wrong, and you can be protected under both systems," said Steve Bercham of the Pharmaceutical Manufacturers Association.

Mr. Bercham said, however, that the court had decided that a patent could never result in exclusive marketing rights for more than 14 years.

As a result of the decision, Merck's patent on its cholesterol-lowering drug Mevacor was extended to June 15, 2001, from Nov. 4, 1999.

Gary Latchow, a Merck spokesman, said the patent for the company's ulcer medication Pepcid had also been extended.

U.S. TRADE REPRESENTATIVE,
Washington, DC, September 18, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: Thank you for your recent letter updating me on the ongoing concerns of the Congress, health care purchasers and consumers over the exclusion of the prescription drug industry from the scope of the Uruguay Round Agreements Act (URAA) transitional "grandfather" provision.

As you note in your letter, I wrote to Food and Drug Administration (FDA) Commissioner Kessler earlier this year to inform him that the URAA "grandfater" provision language was intended by its drafters to be generally applicable and to permit generic pharmaceutical producers to market their products where they had made substantial investments in anticipation of the expiration of the unextended patent terms. While the FDA found that the URAA did not permit it to allow the generic pharmaceutical producers on the market until the expiration of the extended patent term, it stated that "the language of the URAA does not reflect the legislative intent" which Congress desired.

In light of these events, I applaud your effort to seek to correct this situation through your introduction of the Consumer Access to Prescription Drugs Act. The draft legislation generally reflects the intent of the drafters of the URAA.

With regard to the issue of whether this correction would either weaken patent protection under the URAA or diminish our ability to campaign for stronger patent protection abroad, I believe that any concerns in this area are overstated. As you know, we intended to apply this "grandfather" provision to the pharmaceutical area, and so legislation of this type should result in a level of protection that is consistent with our original intent. Additionally, this level of protection is consistent with the obligations under the intellectual property agreement negotiated as part of the Uruguay Round, called the "TRIPs Agreement." Just as we are permitted to make limited exceptions to the grant of additional rights as the result of the TRIPs Agreement, so are our trading partners. As we have already made certain exceptions to the rights granted during the extension period for all types of patents other than pharmaceutical patents, the application of these exceptions to pharmaceutical patents should not weaken our ability to insist on strong patent protection in our trading partners. You can be sure that if a trading partner attempts to expand these exceptions beyond those permitted by the Agreement, we will vigorously oppose them.

Consequently, I do not think that your efforts will have a negative effect on our ability to ensure that the TRIPs Agreement is fully implemented by our trading partners. I look forward to working with you on this issue.

Sincerely,
MICHAEL KANTOR.

U.S. TRADE REPRESENTATIVE,
Washington, DC, September 25, 1995.

Hon. JOHN H. CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAFEE: Thank you for your letter concerning the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and the intended effect of certain provisions of the Uruguay Round Agreements Act (URAA). You raise several significant issues related to the nature of the United States' obligations under the TRIPs Agreement and the way in which the United States implemented those obligations in the URAA. In answering your questions, I would like first to indicate the nature of certain of the obligations under the TRIPs Agreement, and then to discuss the provisions in the URAA that are intended to implement those obligations.

U.S. OBLIGATIONS UNDER ARTICLE 70 OF THE TRIPS AGREEMENT

Article 70 of the TRIPs Agreement generally requires World Trade Organization (WTO) Members to apply the high levels of protection required by the TRIPs Agreement to all existing intellectual property. In other words, if a WTO Member provides an additional right or benefit to the owners of a particular type of intellectual property as a result of its implementation of the TRIPs Agreement, it must provide that additional right or benefit to intellectual property created in the future *and* to intellectual property already created but still subject to protection. Accordingly, in the URAA the United States modified the term of patents from seventeen years from grant to twenty years from application for all future patents, and also applied the new term to existing patents, thereby giving some owners of U.S. patents a longer term of protection.

The primary provisions of Article 70 on treatment of existing subject matter and "newly infringing acts" are Articles 70:2, 70:3 and 70:4. Article 70:2 contains the general requirement that TRIPs-consistent levels of protection must be applied to existing intellectual property. Article 70:2 also states that in the case of copyrightable subject matter (e.g., books, movies, sound recordings, computer software), copyright obligations, including the grant of retroactive protection must be implemented solely through the application of Article 18 of the Berne Convention for the Protection of Literary and Artistic Works. This provision makes clear that where copyrightable subject matter must be pulled out of the public domain and granted protection to comply with TRIPs, the terms of Article 18 of the Berne Convention shall control.

Article 70:3 of the TRIPs Agreement provides that no WTO Member is obligated to restore protection to subject matter which has fallen into the public domain. For example, an expired patent need not be granted a new term of protection, even if the patent would still be in effect had it been granted a TRIPs-consistent term of protection. As noted above, Article 70:2 expressly carves-out copyright protection from Article 70:3.

Article 70:4 provides that to the extent that certain activities become infringing because of the higher levels of protection required by TRIPs, WTO Members may allow a person to engage in such infringing acts as long as they pay equitable remuneration to the right holder. This provision was intended to permit WTO Members to treat equitably those persons who in good faith used or made a significant investment in connection with the use of the intellectual property right in a way that would be prohibited after a TRIPs-consistent level of protection applied. For example, if TRIPs requires an extension of the patent term in a WTO Member, that Member may allow a person who built a factory for the purpose of manufacturing a patented product when the patent was previously expected to expire to make the produce during the extension period, as long as that person pays equitable remuneration to the right holder during the extension period.

Consequently, while Article 70:4 could apply to treatment of inventory created before the application of the Agreement, it was not intended to be limited to that situation. The primary intent of this provision was to treat equitably those persons who had made a substantial investment in reliance on the pre-TRIPs level of protection. It was not intended to allow nations with weak patent laws to protect domestic industries while those nations came into conformity with the new TRIPs standards. Investment must be substantial and it must be made by a certain date.

U.S. IMPLEMENTATION OF ARTICLE 70 OF THE TRIPS AGREEMENT

The United States implemented its obligations under the TRIPs Agreement in Sections 501–532 of the URAA. Section 532(a) of the URAA amended Section 154 of the Patent Act to change patent terms from a seventeen years from grant system to a twenty years from application system. As noted above, in accordance with our TRIPs Article 70:2 obligations, Section 154(c)(1) of the Patent Act was amended to grant owners of patents still in force the benefit of this new system to the extent it increased their term.

To treat equitably those persons who had made a substantial investment in reliance on the old patent term, Section 154(c) (1) and (2) of the Patent Act was amended to provide that such persons would be able to make use of the patent during the extension term as long as they paid equitable remuneration to the patent owner. This provision was written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food Drug and Cosmetic Act and Section 271 of the Patent Act, but were inadvertently overlooked.

Our creation of the "transition period" in Article 154(c) of the Patent Act is consistent with our obligations under the TRIPs Agreement. The extension of this transition period to pharmaceutical products would also be consistent with these obligations and the intent of the U.S. negotiators involved in drafting the TRIPs Agreement.

Finally, the extension of the Section 154(c) to pharmaceutical products would not undermine ongoing U.S. efforts to seek high levels of intellectual property protection around the world. We are acting wholly within our rights in establishing the transition period, as other countries would be if they did the same. Furthermore, we have already established under our law the transition period with respect to all types of patents other than pharmaceutical patents; extending it to pharmaceutical patents would in no way increase the ability of our trading partners to justify their failure to provide TRIPs-consistent patent protection. You can be sure that if one of our trading partners attempts to overstep the equitable treatment permitted under TRIPs Article 70:4, or otherwise fails to live up to the TRIPs Agreement, we will work vigorously to bring them into compliance with their international obligations.

I look forward to working with you further on this manner. Please let me know if I can provide you with any more information.

Sincerely,

MICHAEL KANTOR.

[From Prime Institute, College of Pharmacy, University of Minnesota, Health Sciences Unit F-7-159, Minneapolis, MN, March 1995]

ECONOMIC IMPACT OF GATT PATENT EXTENSION ON CURRENTLY MARKETED DRUGS

EXECUTIVE SUMMARY

At least 109 currently patented and marketed drugs will receive a windfall patent extension if GATT rules are retrospectively applied to previously filed or issued patents.

The average patent extension for the currently marketed drugs would be more than 12 months with some drugs receiving more than 28 months of added exclusivity.

The windfall extension of patent exclusivity for currently marketed drugs will mean that the introduction of lower cost generics will be delayed. Therefore, the American consumer will have to pay more for prescription medications.

FDA approved versions of generic drug products typically enter the market at a price more than 25% less than the patented brand. Within one year the price of competing generics will be 45% below the brand; at two years the price will be 60% less and at three years it will average 75% less than the brand name drug (Kidder, Peabody: Generic Drug Industry Overview, October 5, 1994).

FDA approved versions of generic drug products typically capture 45% of the units sold within one year of market introduction. After two years their market penetration averages more than 50% of all units sold and by the third year the penetration approaches 60% (Kidder, Peabody: Generic Drug Industry Overview, October 5, 1994).

The economic impact of extending the GATT rules to currently marketed drugs can be estimated by applying the recent pricing and market penetration performance of generics to the actual and projected sales volume of currently marketed drugs for the additional length of time that American consumers will have to wait for access to lower cost generics.

The projected cost to American consumers from the windfall extension of patent exclusivity for the 109 currently marketed drugs affected by this change will exceed $6 billion (1996 net present value) over the next two decades.

Twenty of the most common prescription drugs will account for an increased cost to American consumers of over $4.5 billion (1996 net present value) in the next two decades.

There are at least 10 drugs whose patents will expire in 1995. The lack of generic competitors for just three of these drugs' will cost American consumers $1.2 billion (1996 net present value) in 1996 and 1997.

The lower price and high market penetration of generics, when available, results in substantial savings to American consumers. These savings are also of benefit to Medicaid, federal and state government, private insurers, managed care, employers, unions, ERISA plans, and others who pay for prescriptions. The cost of this windfall extension of exclusivity to Medicaid alone will be about $1 billion (1996 net present value) and the total cost to federal and state government will exceed $1.25 billion (1996 net present value).

The projected cost to American consumers from the extension of GATT rules to currently marketed drugs has been estimated in a study conducted by the PRIME Institute at the University of Minnesota. The PRIME Institute specializes in research involving pharmaceutical benefit management, economics, and public policy issues.

[From the Associated Press, Oct. 19, 1995]

DRUGS GET EXTRA PATENT TIME

WASHINGTON.—A federal court has decided nearly 100 brand-name drugs may get an extra few years' monopoly in the market, the pharmaceutical industry announced Thursday.

At issue is whether the drugs could get two patent extensions—one from a 1984 law and another under a global trade agreement.

The General Agreement on Tariffs and Trade, which went into effect in June, extends patent protection to 20 years from the date drug makers file for a patent. Until now, those patents have had a 17-year life from the time they were granted. Current patent-holders will get whichever expiration date is later.

A 1984 law already has offered brand-name drugs up to an extra five years' patent life to help offset the time it takes those medicines to get Food and Drug Administration approval for sale.

Makers of brand-name drugs said they were entitled to both extensions, which could have given some drugs patent protection for a total of 25 years.

But the Patent and Trademark Office decided in June that drugs that got the 1984 extension couldn't get one from GATT too. The ruling affected 94 brand-name drugs and meant the longest a medicine could monopolize the market was about 22 years.

The drug industry went to court. Thursday, the Pharmaceutical Research and Manufacturers Association announced that a U.S. District Court in Alexandria, Va., had ruled that both extensions were the law.

[From the Roll Call, Oct. 5, 1995]

SIMPSON ABSTAINS BECAUSE OF STOCK

(By Amy Keller)

In an unusual acknowledgment of the potential conflict created by Members' financial holdings. Sen. Alan Simpson (R-Wyo) abstained from a Finance Committee vote Friday on an amendment that could affect two major pharmaceutical companies in which he owns thousands of dollars worth of stock. Simpson, who chairs the Finance subcommittee on Social Security and family policy, abstained from voting on an amendment offered by Sens. David Pryor (D-Ark) and John Chafee (R-RI), which according to Pryor would "close a multibillion-dollar loophole in the General Agreement on Tariffs and Trade for the name-brand pharmaceutical industry."

According to his 1994 financial disclosure forms, Simpson owns between $1,000 and $15,000 worth of stock in both Glaxo-Wellcome PLC and Bristol-Myers Squibb Co.—two pharmaceutical companies that stand to lose millions of dollars if the Pryor-Chafee amendment is enacted.

Simpson said yesterday that he "just didn't feel comfortable" voting on the amendment.

"I abstained . . . simply because I own about . . . four or five thousand bucks of Glaxo stock. . . . It is a serious amendment and I just chose to abstain," Simpson said.

The amendment seeks to put an end to exemptions granted to name-brand pharmaceutical companies allowing them patent extensions on drugs.

As Pryor explains it, through GATT, the US "agreed to extend patents [on all sorts of products] we grant from 17 years to 20 years to conform with the rest of the world," but the treaty also included language to allow "generic manufacturers to come on the market after the 17-year term ended if they agreed to pay a sort of franchise fee to the brand-name company."

After heavily lobbying Congress to keep the 20-year patent extensions under the treaty, the pharmaceutical industry was granted "special protection" for some 100 specific drugs.

The United States Patent and Trademark Office later revoked the protection of 94 of those drugs, and the Pryor-Chafee amendment seeks to revoke the 20-year patents of the handful of drugs that still carry such protection.

Citing a study by the University of Minnesota, Pryor contends that Glaxo, which makes the ulcer drug Zantac prescribed to some 33 million Americans and is the world's largest pharmaceutical company, and Bristol-Myers Squibb, maker of the blood pressure medication Capoten (prescribed to some 15 million), could net a "windfall" of $1 billion and $100 million, respectively, if generic companies are prevented from manufacturing the drugs for an additional three years.

Despite a 9-7 vote in favor of the amendment, the measure failed when Finance Chairman Bill Roth (R-Del) ruled that the amendment to the budget reconciliation bill was out of order. Roth said the amendment was nongermane, thus requiring a two-thirds majority vote for passage instead of a simple majority.

Three other members of the 19-member Finance Committee—Sens. Bob Dole (R-Kan) and Larry Pressler (R-SD) and then-Sen. Bob Packwood (R-Ore),—also abstained from voting on the amendment.

According to Pryor press secretary Justin Johnson, Pressler and Dole had prepared "no" votes by proxy and only abstained from voting on the amendment when it became apparent the amendment would fail with or without their votes.

And while Dole has no direct holdings in pharmaceutical stock, his wife Elizabeth owns between $1,000 and $15,000 in Bristol-Myers Squibb stock, and she holds between $1,000 and $15,000 in Kimberly-Clark Company stock, another major pharmaceutical corporation, according to 1994 financial disclosure records.

Pryor and Chafee have not given up the fight on their amendment, however, and plan to raise the issue on the Senate floor in the near future. According to Johnson, there will be a modification to the amendment and it will be re-offered.

And should the Pryor-Chafee amendment make it to the Senate floor, at least five of Simpson's colleagues will face the same choice the Senator did last week, on whether to vote on a measure that could constitute a conflict of interest in light of their private investments.

Among those also owning stock in the affected pharmaceutical companies according to their 1994 financial disclosure records are: Sens. Paul Coverdell (R-Ga), who holds between $1,000 and $15,000 in Glaxo; Judd Gregg (R-NH), between $100,000 and $500,000 in Bristol-Myers Squibb; James Inhofe (R-Okla), between $1,000 and $15,000 in Bristol-Myers Squibb; Lauch Faircloth (R-NC), between $1,000 and $15,000 in Glaxo; and Claiborne Pell (D-RI), between $1,000 and $15,000 in Bristol-Myers Squibb.

Simpson said he doesn't know if he will again abstain from voting on the Pryor-Chafee amendment if it reaches the Senate floor.

"I'll go sort it out again and see where we are, but at least everybody will know that I have that type of holding in Glaxo, which is listed in my [financial disclosure] reports anyway," Simpson said.

According to Rule 37 of the Senate Code of Official Conduct, no Senator shall "knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest. . . ."

Still, it is exceedingly rare for lawmakers to abstain themselves from a vote, an ethics expert confirmed.

According to former House Counsel Stan Brand, "[Conflict of interest] is something that has been broadly construed in the annals of ethical rule of the House and Senate, and it's only in the most acute cases of a conflict that [someone] is actually barred from voting."

In the first half of 1995, Glaxo-Wellcome's PAC gave $94,300 in political contributions to Republicans and $28,500 to Democrats, while Bristol-Myers Squibb's PAC gave $22,800 to Republicans and $7,300 to Democrats, according to Federal Election Commission records.

Five members of the Senate Finance Committee—Sens. Max Baucus (D-Mont), Alfonse D'Amato (R-NY), Charles Grassley (R-Iowa), Frank Murkowski (R-Alaska), Pressler, and Simpson—received political contributions from Glaxo.

Baucus and D'Amato each also received contributions from Bristol-Myers Squibb.

[From the Reuter Business Report, Sept. 29, 1995]

Drug Company Preserves Tax Break in Senate Committee

(By David Lawsky)

A major drug company Friday won a fight in a Senate committee, holding on to a loophole that opponents said will cost consumers $3.6 billion.

The Senate Finance Committee, which is considering an omnibus budget bill, turned down an attempt to remove the special treatment for Glaxo Holding PLC and other brand name drug companies.

Those against the break promised to bring the fight up again on the floor of the Senate.

Sen. John Chafee, R-R.I., proposed ending the break for Glaxo because he said it was "unanticipated and totally inadvertent." In fact, Chafee said, when the lawyer for Glaxo discovered the loophole, he said he had a "'Eureka!' moment."

"I might say he's entitled to shout 'Eureka!' when you've got $3.6 billion" at stake.

A study cited by Chafee showed that without cheaper competition by generic drug companies 13 drug companies stood to reap $4.3 billion, with Glaxo getting most of it.

Chairman William Roth, R-Del., ruled Chafee's motion out of order. To the consternation of Chafee and his allies, Roth said he was going to require a two-thirds vote to overturn him, citing a rule.

"Mr. Chairman I've never known us to require a two-thirds vote" in such a situation, said Sen. Daniel Patrick Moynihan, D-N.Y., who was chairman when Democrats held a majority.

But Roth held firm and although the committee voted 9-7 to remove the break, Chafee lost.

The issue arose out of the General Agreement on Tariffs and Trade, which has a section that in many cases stretched patents from 17 to 20 years.

But that section would put generic companies at a disadvantage if they had made expensive preparations to go into business against a patent-holder, anticipating the end of 17-year patents.

So a special section was adopted that permitted companies that had sunk money into competition to go ahead and market their competing product, so long as they paid royalties to the brand name company which won the extra patent time.

U.S. Trade Representative Mickey Kantor said this week in a letter to Chafee the section was supposed to apply to all products but that "pharmaceutical products . . . were inadvertently overlooked," because they needed a special change in the law governing the Food and Drug Administration.

The measure was opposed by Sen. Orrin Hatch, R-Utah, who called it "complex," and by Sen. Carol Moseley-Braun, D-Ill., who said through a spokeswoman she was a friend of the president of Glaxo and had traveled on the company plane to speak at its headquarters.

[From the Orlando Sentinel, Sept. 30, 1995]

Generic-Drug Talks Stall in Committee

(By Maya Bell)

A bill that would allow generic-drug companies to begin competing with brand-name rivals suffered a setback in Congress on Friday.

The Senate Finance Committee voted 9-7 to consider correcting a congressional oversight that protected the makers of 13 brand-name drugs from generic competition for up to three years. Among the drugs are two best-sellers, Zantac for ulcers and Capoten for high blood pressure.

But committee Chairman William Roth, R-Del., ruled that two-thirds of the committee had to agree to debate the bill. Lacking that majority, the amendment was tabled.

"It's still a victory. The reason we couldn't get a hearing was procedural," said Natalie Shear, a spokeswoman for the Generic Drug Equity Coalition, a consortium of consumer groups and generic-drug companies lobbying Congress to correct its mistake. "The bottom line was the senators indicated their support."

Sen. Bob Graham, the only Floridian on the committee, voted to consider the bill.

A spokesman for one of the sponsors, Sen. Richard Pryor, D-Ark., said the measure would be brought up again in another forum.

"It's definitely not dead yet," said Justin Johnson, Pryor's press secretary. "There will be a modification, and it will be reoffered. We'll keep after it."

The bill is intended to correct what is widely acknowledged to have been a congressional oversight. The mistake was made when Congress adopted the language for the global trade treaty known as GATT. While extending U.S. patent terms from 17 years to 20 years to comply with the General Agreement on Trade and Tariffs, Congress inadvertently exempted 13 brand-name drugs from generic competition for up to three years.

The drug coalition estimates that the oversight will cost consumers, who won't have generic alternatives for some prescriptions as early as anticipated, nearly $2 billion.

Among the biggest beneficiaries are drug giants Glaxo-Wellcome Inc., the makers of Zantac, and Bristol-Myers Squibb Co., which produces Capoten. Last year, Glaxo sold $2.7 billion worth of Zantac and Bristol-Myers $581 million of Capoten in the United States.

Neither company could be reached for comment Friday. Glaxo spokeswoman Nancy Pekarek has said the company opposes the GATT fix because it would send a message to other countries that they, too, can tinker with the treaty to protect a favored industry.

[From the Journal of Commerce, Sept. 28, 1995]

Drug Firms Fight To Preserve Windfall

(By John Maggs)

WASHINGTON.—A handful of powerful drug companies are waging one of the most furious and extravagant lobbying campaigns seen on Capitol Hill in years, all to preserve an inadvertent change to U.S. law in last fall's trade bill that promises them billions of dollars in unexpected profit.

The drug companies are shelling out millions of dollars to enlist the influence of distinguished former senators such as Warren Rudman of New Hampshire and Dennis DeConcini of Arizona, and former U.S. Trade Representative and Senator William Brock of Tennessee.

The prize for this largess is one of the biggest payoffs for the smallest number of companies ever granted by Congress without a word of debate.

One company alone, Britain's Glaxo Holdings PLC, will rake in $3.6 billion over the next two years as a result of this legal twist of fate, all of it money that it never expected to earn. This windfall will come out of the pockets of ulcer patients, most of them in the United States, who will pay higher prices for Glaxo's revolutionary anti-ulcer drug Zantac.

The explanation begins with last year's bill to implement the Uruguay Round trade agreement, which lowered trade barriers worldwide and increased protection for patented drugs and copyrighted material. As part of that international patent deal, the United States agreed to change the life of new patents from 17 years after they are first granted to the norm for the rest of the world—20 years from the date a patent request is first made.

The trade legislation sent to Congress made the patent term change effective for all patents, so that those coming due less than 20 years after they were originally filed were automatically granted an extension. Mindful that this would have handed drug companies an unwarranted windfall, the trade bill provided that generic drug firms would be allowed to begin manufacturing the patented drugs after the original patent date, provided they pay a licensing fee to the big drug companies.

But unknown to the drafters of this legislation, a 1984 drug law effectively freed Glaxo and other big pharmaceutical companies from this obligation to license their products. In a moment of insight a lawyer for Glaxo discovered this overlooked statute, and set off a bitter fight with generic drug companies to reverse this inadvertent stroke of good luck.

This list of beneficiaries is a long one. Glaxo is by far the biggest—it will receive nearly two years of extra monopoly control over Zantac, earning $6 million a day more than it would have earned if competing with generic drug producers. Also benefitting are Squibb, which will get $311 million of added profits for its ACE hypertension drug; Organon, which gets $108 billion for its Norcoron anestesia; and Searle, which gets $102 million for its Cytolec anti-ulcer drug.

Advocates of the generics have lined up the support of U.S. Trade Representative Mickey Kantor in arguing that the windfall was an inadvertent one.

As soon as today, Sens. David Pryor, D-Ark., and John Chafee, R-R.I., are expected to offer an amendment to reverse this windfall profit, but they face an uphill battle. Sen. Jesse Helms, R-N.C., is leading the fight for Glaxo, whose U.S. subsidiary is based in North Carolina. Sen. Helms faces re-election in 1996 and some of Zantac's billions of dollars in earnings would be useful in financing his campaign.

Sen. Helms has lined up the support of majority leader Bob Dole, who has in turn made preserving the windfall for the drug companies a partisan issue. Few Republicans other than Sen. Chafee have committed to support the Pryor amendment.

[From the Journal of Commerce, Oct. 2, 1995]

SENATE PANEL: NO VOTE ON DRUG LOOPHOLE

WASHINGTON.—Senate Finance Committee Chairman Bill Roth, R-Del., refused to allow a vote to repeal a controversial loophole in U.S. patent law, despite opposition to his unusual ruling from a bipartisan majority of the committee.

Behind the maneuvering was a huge amount of money for British-owned Glaxo Holding PLC and the tight grip that Senate Majority Leader Bob Dole, R-Kan., holds over the Finance Committee.

The issue apparently resulted from an inadvertent mistake in drafting last fall's trade bill, which gave Glaxo an unexpected windfall of $3.6 billion by extending for two years its exclusive patent rights on the anti-ulcer medicine Zantac.

Generic drug companies are clamoring to put out knock-off versions of Zantac, but cannot because government lawyers drafting the trade bill overlooked a 1984 law that effectively prevented these generics from starting production. Career trade negotiators who worked on the legislation confirmed Friday that it was an oversight.

Sens. John Chafee, R-R.I., and David Pryor, D-Ark., Friday sought to reverse this mistake with an amendment to the huge budget reconciliation bill before the Finance Committee. Although Finance was hearing other amendments on Medicaid and Medicare, Mr. Roth deemed the patent measure out of order, declaring that it was in the jurisdiction of the Labor Committee and he refused to accept a letter from Labor waiving jurisdiction.

Behind his resolve was Mr. Dole, who had agreed to block a vote at the request of Sen. Jesse Helms, R-N.C., who faces re-election in 1996 and could use the financial help of the U.S. subsidiary of Glaxo, located in North Carolina.

In a perhaps unprecedented move, Mr. Chafee forced a vote on Mr. Roth's decision. Little-used rules required a two-thirds majority to overrule the chair.

Thus a 9-7 vote to overrule failed, despite the majority.

Mr. Roth later declined to comment on whether the ruling had been made under pressure from Mr. Dole. "I don't discuss my meetings with Sen. Dole," he said, "but this was based on the rules of the Finance Committee."

[From the Journal of Commerce, Oct. 5, 1995]

THE SENATOR FROM GLAXO?

When Sen. Bill Roth succeeded Bob Packwood as chairman of the Senate Finance Committee, he had a cloud over his head. Sen. Roth, so the thinking went, would be beholden to Sen. Majority Leader Bob Dole and not act independently on committee business. That may have been an unfair rap, but so far it seems to be coming true.

Consider a case involving patents that came before the Finance panel recently. Last fall, as part of the new Uruguay Round trade deal, Congress changed the term for patent protection to make the U.S. standard match the norm in most other countries. An oversight by government lawyers, however, effectively extended the life of a handful of drug patents, denying generic drug companies the right to compete with these patent-holders.

By far the biggest beneficiary of this mistake is British-owned Glaxo Pharmaceuticals, which will earn $3.6 billion by gaining an extra 19 months of patent protection for a single drug—its Zantac anti-ulcer medicine.

To preserve this windfall, Glaxo has enlisted, among others, Sen. Jesse Helms of North Carolina, the state where Glaxo's U.S. subsidiary is located. Facing re-election in 1996, Sen. Helms reportedly went to Sen. Bob Dole and got his support for squelching any attempt to repeal Glaxo's bonus.

When Sens. John Chafee and David Pryor offered an amendment to close the Glaxo loophole, Sen. Roth blocked them. Using a parliamentary ruling from Sen. Dole's office, he ruled the amendment out of order, even though it fell within the committee's purview on health care and trade.

Even though most committee members favored a vote on the proposal, Sen. Roth ignored their pleas. In a move the committee hadn't seen in decades, a majority of members then voted to overrule the chairman on a procedural point, tossing out a tradition of collegiality.

In the end Sen. Roth prevailed, since two-thirds of committee members were needed to overrule him. But he lost this first test of leadership.

TRANSCRIPT FROM NBC NIGHTLY NEWS WITH TOM BROKAW, WEDNESDAY, SEPTEMBER 27, 1995—"IN DEPTH" SEGMENT

[Brokaw in studio standup.]

BROKAW. More on Medicare reform as Congress looks for ways to save. We've got the shocking story of how some drug companies are cashing in—at your expense.

[Video to footage of Congressional Hearing on Capitol Lawn.]

In the Medicare debate today, House Democrats held their second hearing on the Capitol lawn, protesting what they say is Republican unwillingness to hold official hearings.

[Brokaw in studio standup.]

In the Senate, gridlock as Democrats blocked the Finance Committee from working on the Medicare proposal today. But there is one area where Congress could help save millions of taxpayers dollars—now. NBC's Lisa Myers has this Indepth report.

[Video footage of Florence Davis.]

MYERS. Ninety-year-old Florence Davis takes the prescription drug Capoten for her high blood pressure. A month's supply costs $125 at her pharmacy.

DAVIS. If I could get the generic cheaper, I would.

MYERS. Her son, Norman, pays for the medication.

NORMAN. For all of my mother's drugs, I pay for them. She can't afford it.

MYERS. Mrs. Davis was supposed to be able to buy a cheaper generic version of Capoten beginning last month, cutting the cost by as much as half.

[Video footage of pharmacist dispensing pills in pharmacy.]

But, thanks to Congress, she'll have to wait until at least February, and here's why.

[Cut to video of Myers in Senate Hearing Room showing GATT bill.]

Last year, Congress made a costly mistake in this huge bill implementing the trade agreement called GATT. It gave big drug companies longer patent protection on about a dozen drugs, enabling them to charge high prices without competition.

[Cut to video of Senator David Pryor (Democrat-Arkansas) holding pill bottle.]

PRYOR. They're getting a two billion dollar a year windfall. It is a bonanza. This is an absolute ripoff to consumers and to taxpayers.

[Cut to graphic of "Big Winners" showing Bristol-Myers Squibb and Glaxo, with picture of drug products.]

MYERS. The big winners: Bristol-Myers Squibb, maker of Capoten, taken by 15 million Americans last year, and Glaxo, maker of Zantac, an ulcer drug prescribed to 33 million.

[Cut to graphics "Big Losers."]

The biggest losers: everyone who uses the drugs.

[Cut to graphic of Zantac.]

Take Zantac, the ulcer drug which costs about $83 a month. Buying generic could cut that cost in half, a big savings if you're on a fixed income.

[Cut to video of Horning.]

HORNING. That can mean the difference between her having lunch or not. It's simply that critical to some of our elderly.

[Cut to video of crowded street scene.]

MYERS. And if you don't use the drugs, you still lose. Taxpayers have to pay $200 million more for these prescriptions under health programs for the poor.

[Cut to video of drug production line.]

It's no wonder drug companies are fighting to save their huge windfall. In fact, they claim it was no mistake at all.

[Cut to video of Mossinghoff.]

MOSSINGHOFF. Congress knew exactly what it was doing. It was extending patents across the board.

[Cut to video of Chafee and Dole talking; video of Chafee.]

MYERS. However, Republican Senator John Chafee says that's not true.

CHAFEE. Each of us that were involved never thought that this was taking place.

[Cut to graphic on campaign contributions.]

MYERS. Still, fixing the problem will be an uphill battle. Glaxo has given $600,000 in campaign contributions in the last two and a half years: $375,000 to Republicans; $236,000 to Democrats.

[Cut to video of senior citizen purchasing prescription.]

Senior groups warn that if Congress does not correct its mistake, it would send a powerful message to voters.

[Cut to video of Horning.]

HORNING. It is a signal that, "Well, we really don't care about you because, you know, the pharmacies are giving me campaign money."

[Cut to video of Davis.]

MYERS. Florence and Norman Davis say they can't afford to have Congress and big drug companies conduct business as usual.

Lisa Myers, NBC News, the Capitol.

[From the New York Times, Sept. 28, 1995]

BATTLE OVER BONANZA FOR DRUG COMPANIES

An army of lobbyists has been enlisted to do battle over a loophole in a trade treaty that has created a windfall for the makers of patent drugs.

A Senate committee is considering amending a provision in the General Agreement on Tariffs and Trade that extends the life of patents on prescription drugs. Under the provision, a handful of drug companies would receive billions of dollars in additional profits by having a longer period to sell their products without competition before other companies would be allowed to make low-cost generic alternatives.

On one side are companies like Glaxo-Wellcome, the world's largest pharmaceutical concern, whose ulcer drug Zantac earns it $2.1 billion a year, a figure that could drop sharply once generic versions of the drug are sold.

On the other side is a coalition of generic drug makers and consumer groups who say that failure to close the loophole will cost consumers billions of dollars.

[From the New York Times, Sept. 28, 1995]

DRUG FIRMS AT ODDS OVER PATENT EXTENSIONS

SPECIAL PLEADERS—A PERIODIC LOOK AT LOBBYING

(By Neil A. Lewis)

WASHINGTON, September 27.—By the time the Senate Finance Committee resumes consideration of the Federal budget's multibillion dollar issues Thursday, some of the nation's largest drug companies will have spent and lobbied heavily against one amendment that hardly amounts to budget dust.

But while its impact on the Federal budget may be minuscule, the measure means a fortune to the drug companies.

The amendment at issue would close what appears to be an unintended loophole in an international trade treaty enacted last year that extends the life of patents on prescription drugs. A handful of drug companies are fighting to protect the provision for billions of dollars in additional profits they would receive by having a longer period to sell their products before other companies could make low-cost generic alternatives. On the other side of the issue are members of the generic drug industry, which in coalition with consumer groups argues that the failure to close the loophole will cost patients billions of dollars.

While both sides have their teams of lobbyists, the major drug companies have enlisted a virtual army of advocates, including one former Senator and several former senior Congressional aides who have been clustering outside the Senate hearing room in which the committee has been meeting this week. One company, Glaxo-Wellcome P.L.C. of North Carolina, which probably has the most at stake, has retained the most influential phalanx of lobbyists.

Donations from Glaxo's political action committee to members of Congress have more than doubled in the most recent reporting period, compared to the same period two years ago, according to records of the Federal Election Commission.

Glaxo, the world's largest pharmaceutical company, has the patent on Zantac, widely used drug to treat ulcers. The drug, which retails for about $2 a tablet, accounts for about $2.1 billion in annual sales for the company, said Nancy Pekarek, Glaxo's manager of corporate relations. This revenue will drop sharply once generic versions of Zantac are permitted.

That the issue of the patent extensions arises from an unintended loophole is generally beyond dispute.

Glaxo's lawyer told Business Week magazine in May that he had "a Eureka! moment" when he was poring over the details of the General Agreement on Tariffs and Trade signed into law last year and discovered that the language could be read to extend patents on prescriptions drugs. The drug companies pressed their interpretation on the Food and Drug Administration, which last May reluctantly acknowledged they were correct. Mickey Kantor, the United States Trade Representative who negotiated the treaty has written a letter to the Senate saying the negotiators did not mean to incur this consequence.

Senator David Pryor, an Arkansas Democrat, has been trying to enact an amendment to the budget bill that would do just that, eliminate what he said is a "windfall" for the drug companies. His amendment would restore the 17-year limit on a drug company's patent of a new medicine, the period during which other companies are prohibited from making a generic equivalent.

"It's absolutely an unjust enrichment," he said. "A classic case of the law of unintended consequences."

What happened to create this fortuitous situation for the drug companies was that when the trade agreement was negotiated, it included a provision for bringing all 123 countries onto the same standard for patent protections. It required the United States to switch from granting 17-year patents from the time of their approval to giving 20-year patents from the time of the application for a patent.

Depending on how long it took to gain patent approval, the law gave companies up to three years of extra protection for their products. About 10 drugs are affected, and Glaxo's Zantac would gain 19 extra months of patent protection.

Ms. Pekarek of Glaxo said that her company was not fighting the amendment because of its effect on Zantac, but because of "a much broader issue of worldwide patient protections."

She said that it was important not to tamper with the trade treaty because, "if we do anything to undercut it that would be opening the door for other countries to make special provisions on patents for their products."

The United States is the world's leader in producing new medicines, and the pharmaceutical industry has long argued that its profits during the patent protection period finance research on new drugs.

Among those Glaxo has employed to lobby the Senate is William Brock, a former Republican Senator from Tennessee. Mr. Brock is also particularly suited to press the point about worldwide patent consistency because he is also a former United States Trade Representative.

He has been making that argument this week in the Republican cloakroom to which he has access as a former Senator. Mr. Kantor, the current trade representative, has disputed that argument.

The amendment sponsored by Mr. Pryor as well as Senator John H. Chafee, a Rhode Island Republican, may come up as early as Thursday.

But its fate is uncertain, since it is a tenet of Capitol Hill that it is more difficult to pass something than to defeat it. Most of the Democrats are expected to support the measure but at least one Senator Carol Moseley-Braun of Illinois declared her opposition today.

Senator Moseley-Braun said through a spokeswoman today that she was a longtime friend of Robert Ingram, president and chief executive of Glaxo. She flew on the company's jet last March to Glaxo's headquarters to give a speech and meet with community leaders.

She said through her spokeswoman, Joanna Slaney, that she opposed the amendment because she believed the trade agreement should not be tampered with.

[From the Food and Drug Inside Report, Sept. 29, 1995]

GLAXO ROLLS OUT "BIG BUCKS" CARD IN GATT BATTLE ON CAPITOL HILL

REPUBLICANS UNEASY WITH HEAVY-HITTER LOBBYISTS AND SCORE SHEET ON CAMPAIGN CONTRIBUTIONS BEING TOUTED BY GLAXO

When the congressional staffers working on H.R. 5121 sat down last November to draft the specific language that would implement the GATT in the United States, it must have been very late when the final draft was completed. It would, after all, be understandable that these staffers would be tired after laboring for months on multiple versions of the implementing statute for GATT. The complexities of the GATT Agreement are legion, and even experienced international trade lawyers were hard pressed to provide clear explanations of a great deal of the sections of GATT. The bottom line, borne no doubt from those difficult conditions, the Congress made a mistake.

Like much of the grinding machinery of the legislative process, the impact of that mistake took some time to assess. In this case, the mistake was a simple oversight by the drafters who failed to contemplate the importance of including conforming amendments to the Federal Food and Cosmetic Act and Section 271 of the Patent Act.

Shortly after passage of H.R. 5121, no doubt in the richly paneled offices of one of Washington's expensive law firms, a lawyer by the name of Marc Shapiro was laboring on the language of the newly passed legislation. No doubt it was an effort to advise his client, Glaxo Holding PLC, of what they needed to do to comply with the various. For Marc Shapiro, who is known among his colleagues as a professional with a deep understanding of his craft, it was a mind numbing experience when he read the plain language that set forth Congress' view of how GATT would be implemented in the United States.

In order to comply with an "international harmonization" of patent terms with member nations of GATT, the United States adopted changes to the patent term to commence at the date of filing with the patent office and extend for a period of 20 years. That contrasts with the previous U.S. patent law that had provided for a 17-year patent term which commenced from the date of approval of the patent by the Patent and Trademarks Office (PTO).

The GATT includes a section known as Trade-Related Aspects of Intellectual Property Rights (TRIPs) which requires member countries to apply high levels of protections for existing patent holders. The United States fulfilled its obligations under TRIPs by amending the Patent Act of grant owners of patents still in force the benefits of the new terms to the extent that it increased their patent protection term.

But TRIPs also had specific provisions to protect those individuals who had made a "substantial investment" in anticipation of the expiration of the patent under the old system. To balance the interests to the existing patent holders, those who had made substantial investment would be required to pay "equitable remuneration" to the patent holder.

Marc Shapiro, while sifting through the legislation, had what he characterized to a Business Week reporter as a "eureka moment" when he discovered that Congress had extended the patents of a number of Glaxo products, and had provided no protections for generic drug manufacturers even if they had made the required substantial investment.

For generic drug manufacturers, it was a setback. For senior citizens on fixed incomes who rely heavily on access to generic drug products to ease the financial burden of needed prescription drugs, it was a disaster. For low-income families with children who are forced to rely upon generic drugs in difficult economic circumstances where the choice is often not to fill a needed prescription because of cost, it was a horrible calamity. For the U.S. government health care programs like Medicare, Medicaid, Veterans Affairs, Indian Health Service, and the Public Health Service, it is an unmitigated catastrophe.

Glaxo executives and lobbyists, however, were whooping it up like they had just won the Super Bowl. In a certain sense, they had.

The flagship Glaxo product, Zantac, was granted an additional 19 months of patent protection. It was totally unanticipated by Glaxo. Indeed, they had priced their product over the 17-year patent term in anticipation of the old term, and the passage of the new law occurred within months of the expiration of the patent. The overall revenue gain was billions.

Glaxo lobbyists now bristle at the characterization of the revenues raked in during the extended patent term as being "windfall profits." "That is not fair because we all know that we gave up a lot to the generic industry back in 1984. We're just seeing a justified correction," claims one Glaxo lobbyist.

The 1984 Drug Price Competition and Patent Term Restoration Act, commonly referred to as "Hatch-Waxman," did indeed involve a carefully crafted compromise between the brand industry and generic drug manufacturers. The generics got pre-expiration access to patented raw materials to conduct testing to theoretically allow FDA to approve the ANDA on the date of patent expiration. The brand industry got a guarantee of 14 years of market exclusivity despite any delays in FDA review.

Many have credited the Hatch-Waxman Act as having been the catalyst for a rapid expansion of the generic drug industry. Senior citizen groups and consumer advocacy groups have lauded the Act as key to improving the health of financially fragile purchases who often deferred purchasing needed drugs simply because of the high cost of brand name drug products.

There has not been any serious attack on the Hatch-Waxman Act as having been "unbalanced" to one side or the other over the first ten years of its existence. But now, in 1995, Glaxo points to the need for restoring some balance to the brand industry for injury heaped on it by Hatch-Waxman.

The Generic Drug Equity Coalition, a group of consumer advocate groups, senior citizen lobbying groups, and generic industry supporters, sees the issue a little differently. "Glaxo has no legitimate gripe with the proposed fix. It will simply mean they won't get to keep the multi-billion windfall profit they received solely from a legislative mistake. They didn't earn that windfall profit. They don't deserve that windfall profit. But they want to take those profits right out of the pockets of people who can least afford their high prices," complained one Coalition FDA Insider.

Capitol Hill staffers are caught in a tough situation. Privately, of 33 staffers contacted on this issue, none disagreed with the fact the mistake needed to be corrected. None disagreed that the consumers and government would have to pay unjustified higher prices for products that should have generic competition. All of the staffers agreed that Glaxo did not deserve the billions they would receive from this mistake. But only 1 staffer was absolutely confident Congress would correct the mistake.

"What can we do. Glaxo has made campaign contributions to all of our bosses. The Chairman of the company [Glaxo] has been demanding personal meetings with our bosses. Is there any doubt about the subtle message being conveyed. 'We are here to pick up the chit.' This is going to be a case of pure political conflict, with the consumers on the side of the angels and Glaxo with the gold shillings. I just don't know how it will come out," laments one Senate Finance Committee staff FDA Insider.

The battle lines drawn

The political battle lines are not clearly defined. For the generic coalition, Senator John Chafee (R-Rhode Island), Senator Hank Brown (R-Colorado), and Senator David Pryor (D-Arkansas) have been working to correct the mistake in the GATT language. For Glaxo, there is less public enthusiasm, but a lot of fire-power by virtue of the campaign favors that are being called in. Senator Alfonse D'Amato (R-New York) has obviously been pressed into service by virtue of his position as Chairman of the Republican Senatorial Campaign Committee. Some other Republicans are concerned about the appropriateness of the high-level of visibility that D'Amato has taken on the issue, but sources at the Campaign Committee bluntly told FDIR that "Glaxo was taking no prisoners" on this issue.

Senator Jesse Helms (R-North Carolina) has dutifully stepped to the plate to help his home state Glaxo workers (the U.S. Glaxo operations are in the Research Triangle in Raleigh, North Carolina). Beyond that, there are only a group of stealth Glaxo supporters who are desperately hoping that something will happen to allow them to get off the end of the Glaxo spear. For most it is a horrible political position to be in to appear to oppose access to lower cost generic drugs for senior citizens and low-income families.

The Congressional Budget Office (CBO) scored the 5-year savings to Medicaid at $150 million. That is no small potatoes to Republicans seeking savings. But that amount is minuscule compared to the $2 billion cost to consumers identified in a Muse & Associates economic impact analysis. At that number the political pain becomes much deeper and the potential for future constituent problems becomes very real.

The strategy for correcting the GATT legislation mistake is to include a provision in the Budget Reconciliation Act as an amendment in the Senate Finance Committee markup. Glaxo supporters are trying to argue the amendment is not germane under the "Byrd Rule" since the savings flow to the Medicaid block grants and not to the Federal deficit. But Glaxo critics argue the block grants are unique to the Finance Committee review cycle this time around, and virtually all of the provisions technically trample on the Byrd rule in order to facilitate the block grants being transferred from the Federal Government to the states.

The central substantive argument Glaxo has relied upon has been that any change now would upset the delicate balance with World Trade Organization (WTO) members who have a history of poor enforcement of patent infringements in their countries. Glaxo points to certain language in the GATT and TRIPs they claim was in fact incorporated in the strategy of the H.R. 5121 drafters. The thesis, then, is that there was no error or mistake, but the language was clearly set forth to express the specific intent of the U.S. Congress.

"They must have their fingers crossed behind their backs when they sling that BS up here," commented one House Ways and Means Committee staffer. "It was a mistake, we know it, and they know it.

Senator Chafee wanted to know the truth of the matter, so he sought the advice of USTR Ambassador Micky Kantor. Kantor was succinct in his view: "This provision [Section 154(c) (1) and (2) of the Patent Act] was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food Drug and Cosmetic Act and Section 271 of the Patent Act, but were inadvertently overlooked."

The key part of the Glaxo argument is directed at the problems encountered around the world with poor enforcement of patents, particularly with some members of WTO. They advance the argument that any tinkering with the present language would send a strong message to our trading partners that they need not aggressively enforce patent rights. It is an argument that seemingly was sufficient for Glaxo supporters to hang their hats on.

But Ambassador Kantor punched big holes in that argument, and has left Glaxo very vulnerable to the charge that they are just trying to keep an unjustified windfall profit. It is a message that Glaxo has tried to gussy up with an elite lobbying corps. Former Senator Warren Rudman and former Senator Bill Brock were both brought in to shore up an eroding Glaxo position. That augments a term of virtually every high-powered lobbyist in Washington available to work. "The 'alligator shoe' crowd is apparently out in force," commented one House Commerce Committee staff FDA Insider.

The generic drug industry, on the other hand, seems to have placed its fate in the hands of a rag-tag band of consumer advocates and senior citizen advocacy groups. It seems to be working. Congressional staffers report a substantial interest in the issue among talk show hosts around the country.

"Our phone lines are burning up with senior citizens who are just hopping mad over the prospect we may add costs to drugs. I don't think we want to be in that position," observed a Senate staff FDA Insider.

Whatever the Senate Finance Committee does on this issue in the Budget Reconciliation markup, it promises to be a hot issue over the next several weeks. For Marc Shapiro, he is surely hoping his "eureka moment" doesn't turn into a "Maalox minute." Certainly it is a comment he wished he could take back and recast it in less flammatory language.

"This battle boils down to a simple issue. Is there any justification for allowing Glaxo to keep the billions of dollars they will get simply from an error in drafting a piece of legislation.

"Did Glaxo earn these windfall profits? No.

"Did Glaxo expect or need these windfall profits to fund R&D for the product? No.

"Did Glaxo project these windfall revenues into pricing to recover a fair return on their investment? No.

"I have not yet heard one compelling argument to justify a vote to let them keep money Glaxo will get on the backs of senior citizens and poor families. Glaxo is getting access to various members because they have been strong campaign contributors. But they didn't buy votes with those contributions, particularly when they have no credible argument to justify themselves. It is only a lot of smoke and mirrors. No substance. It is a no-brainer to me. Vote to protect consumers."—Senate Finance Committee Staff FDA Insider.

"The Hatch-Waxman Act established a delicate balance in the pharmaceutical industry between the interests of research-based companies and the generic industry. Any responsible look at the proposal by the generic companies would upset that balance and result in a serious injury to the innovator drug industry. We have no reason to apologize for the revenues that result from the research and development efforts of our company. We are responsible in our pricing policies, and we recognize the needs of low-income families in acquiring our products. Truly needy families can get assistance from community organizations we support."—Glaxo Lobbyist FDA Insider.

"Finally, the extension of the Section 154(c) to pharmaceutical products would not undermine ongoing U.S. efforts to seek high levels of intellectual property protection around the world. We are acting wholly within our rights in establishing the transition period, as other countries would be if they did the same. Furthermore, we have already established under our law the transition period with respect to all types of patents other than pharmaceutical patents; extending it to pharmaceutical patents would in no way increase the ability of our trading partners to justify their failure to provide TRIPs-consistent patent protection."—Ambassador Michael Kantor, the United States Trade Representative, Letter to Senator John H. Chafee, September 25, 1995.

[From the Orlando Sentinel, Sept. 3, 1995]

GATT PUTS GENERIC DRUGS ON HOLD

(By Maya Bell)

MIAMI.—Interested in saving money, Phylis Tannen routinely requests generic prescriptions for her ulcer.

So Tannen, 74, was surprised to learn recently that she would have to wait much longer than expected to buy the less expensive medicine. That's because the patent for Zantac, slated to expire this December, had been extended until July 1997, preventing the release of a generic equivalent until then.

The retired Dade County school principal was even more surprised to learn the convoluted reason for the delay, which could cost her roughly $430 over the life of the extended patent. In implementing the worldwide trade agreement known as GATT, the U.S. Congress inadvertently exempted at least 13 brand-name drugs from generic competition for up to three years.

Among them: Zantac and the high blood-pressure medicine Capoten, among the best-selling drugs in the world.

The oversight may have been unintentional but, outraged consumer groups say, its impact is enormous: Brand-name drug companies, primarily Glaxo Wellcome Inc. and Bristol-Myers Squibb Co., the makers of Zantac and Capoten, will reap nearly a $2 billion windfall at the expense of the public.

Last year, Glaxo sold $2.7 billion worth of Zantac and Bristol-Myers $581 million of Capoten in the United States alone. Together, they accounted for nearly 48 million prescriptions.

Paying most for the delayed availability of the generic drugs, advocates say, will be the elderly, who consume a third of the $64 billion worth of prescriptions sold annually. Because Medicare does not cover the cost of prescriptions, seniors such as Tannen often pay for them out of their own pockets.

"It was an unintended mistake by Congress, but the public will pay dearly for it," said Dixie Horning, executive director of the Gray Panthers, a lobbying group for the elderly. "Not only are the people who can least afford it—senior citizens on fixed incomes—paying more for their drugs than they ought to be, but taxpayers are too. The government, and that means you, is a big buyer of these drugs."

A study conducted for the Generic Drug Equity Coalition, a consortium of 26 consumer groups and generic-drug companies urging Congress to correct its mistake, estimated the cost of delaying the 13 generic substitutes of $1.9 billion. Sen. David Pryor, D-Ark., the ranking minority member and former chairman of the Senate's Special Committee on Aging, introduced a bill to clarify Congress' intent earlier this month. The bill would not alter the GATT treaty, nor require ratification from other countries.

Florida's U.S. senators, Republican Connie Mack and Democrat Bob Graham, are not involved in the issue yet, but their staffs said they will take a close look at the legislation when they return from summer recess. In the meantime, at least one generic-drug company is taking its fight to enter the market to court.

Should the bill pass, senior citizens and the federal Medicaid program stand to gain some of the biggest savings, said Don Muse, a former analyst for the Congressional Budget Office and author of the coalition study. He projected seniors would save $517 million; the Medicaid program, which covers prescriptions, would save another $205 million, and the Department of Veterans Affairs $21 million. Other big savers would include insurance companies, whose medical plans often require members to elect generic drugs.

The estimated savings are very conservative, the coalition says, because the study assumes the generic products would be only 10 percent cheaper than their brand name equivalents. However, generic drugs have historically debuted at a price about one-fourth less than the brand, quickly falling to 75 percent of the brand cost.

How the General Agreement on Tariffs and Trade wound up hurting consumers such as Tannen while helping companies such as Glaxo is as complicated as the 8,000-page treaty itself. The trouble began when Congress changed U.S. patent law to match the global standard set by GATT. The change extended the life of U.S. patents from 17 years to 20 years, benefiting current patent-holders by up to three years.

But Congress recognized that the change would, as one congressional staffer put it, "move the goal posts back" for companies that anticipated a patent expiring and already had a generic product in the pipeline. So Congress devised a mechanism allowing those companies to enter the market on the day the original patent would have expired. The compromise: The generic company would pay the brand-name company a royalty until the extended patent expired.

Everything was fine until the generic-drug companies realized that Congress overlooked the very law that launched their industry in 1984. The law plainly states that a generic drug cannot come to market before the brand's patent expires. Hamstrung by the conflict, the Food and Drug Administration forbade generic-drug companies from selling their products until the extended patents expire.

As a rsult, the prescription drug industry is the only industry in the nation that will benefit from longer patent terms but be exempted from generic competition during the compromise period.

The ruling felt like a kick in the teeth to Patrick McEnany, president of Royce Laboratories Inc., a small but rapidly growing generic drug company in Miami that nearly doubled its sales last year to $6.6 million.

Soon after McEnany joined Royce in 1991, the company set out to develop a generic form for Capoten, which was supposed to lose its patent on Aug. 8. Spending more than $1 million to develop a bio-equivalent, Royce hoped to put the first Capoten substitute on the shelf, a key to capturing the generic market.

"In this business, timing is everything," said Robert Band, Royce's chief financial officer. "Once the shelf space is taken up, it's hard to wrestle it away."

The FDA ruling, however, extended Capoten's patent for six months, keeping Royce and five other companies from competing with Bristol-Myers until February.

The company counted on attracting an enviable share of the nearly 15 million Capoten prescriptions sold annually during the next six months. Instead it was left with the prospect of having even more generic competitors come February.

Not content to let that happen, Royce picked a fight with Bristol-Myers in U.S. District Court in Miami, winning the first round nine days ago when a judge ruled that the FDA was free to approve Royce's Capoten product.

Bristol-Myers appealed, and the FDA said it would not act on the court action until that appeal was exhausted.

"When we embarked on this product, we relied on a set of rules and the rules changed—not in the middle of the game, but at the end of the game," McEnany said. "It is an injustice to us and to the consumer."

Royce is not alone. Novopharm USA Inc., an Illinois-based pharmaceutical company, has millions of dollars worth of its generic form of Capoten sitting in inventory. Worse, Novopharm has a $38-million plant under construction in North Carolina, company president Bill Gunter said. It was where Novopharm planned to begin manufacturing its generic alternative for Zantac this December.

"Now we're scrambling to figure out what we can do to justify that huge, white building," Gunter said. "It's not a simple thing."

Royce and Novopharm are members of the coalition pushing Congress to correct its oversight. They aren't, however, getting much sympathy from brand-name manufacturers, who argue that it is the generic competitors reaping the windfall. After all, generic manufacturers capitalize on the millions of dollars brand-name companies spend on research and development, coming to market without doing the same science.

Bristol-Myers spokesman Bob Laverty points out that, since Capoten was first approved in 1981 to combat high blood pressure, the company has discovered three other life-saving uses for the drug. In his view, Bristol-Myers has more than earned its patent extension.

"We don't feel this is a windfall because the company has continued to invest in this product over the years," Laverty said. "We've continued to pour research dollars into the product and it has helped consumers tremendously."

Glaxo paints the GATT flap as a trade issue, not a consumer issue. Company spokeswoman Nancy Pekarek warns that if Congress amends the GATT law to appease the genertic drug industry, it will send a message to other countries that they, too, can tinker with their patent laws to protect a favored industry.

"The law is clear and it should be followed," Pekarek said "Generic companies already have a shortcut and for that shortcut they promised to honor the patent expiration date. Yes, the rules changed, but everybody has to abide by the rules."

[From USA Today, Aug. 8, 1995]

GATT DELAYED NEW GENERIC DRUGS

(By Anita Manning)

The world trade agreement GATT extended patents on a dozen drugs—including popular blood pressure and ulcer medications—delaying generic manufacturing and costing consumers millions of dollars, consumer advocates say.

The patents were to expire today on Capoten and Capozide and on Zantac in December, but the General Agreement on Tariffs and Trade extends them into 1996 and 1997.

Patents had run 17 years; GATT extended it to 20 years.

"GATT created a windfall for drug companies," says Jim Firman of the National Council on the Aging.

In 1994, nearly 15 million prescriptions were written for blood pressure medicine Capoten/Capozide, at $56.29 each wholesale, and more than 33.4 million for the ulcer drug Zantac, at $81.47, says the Generic Drug Equity Coalition.

Steve Berchem, of the trade group Pharmaceutical Research and Manufacturers of America, says patents are the industry's "lifeblood." "Patents help companies generate revenue to do further research."

[From the Los Angeles Times, June 8, 1995]

RULING SHORTENS BRANDED DRUGS' MONOPOLY

Nearly 100 brand-name drugs lost their chance at an extra few years' monopoly in the market Wednesday under a ruling by the U.S. Patent and Trade Office.

At issue is whether the drugs could get two patent extensions, one from a 1984 law and another under a global trade agreement provision that takes effect today.

The General Agreement on Tariffs and Trade extends patent protection to 20 years from the date drug makers file for a patent. Until now, those patents have had a 17-year life from the time they were granted. Current patent holders will get whichever expiration date is later.

A 1984 law has already offered brand-name drugs up to an extra five years' patent life to help offset the time it takes those medicines to get Food and Drug Administration approval for sale.

Makers of brand-name drugs said they were entitled to both extensions, and in March the patent office tentatively agreed. The proposal theoretically could have given some drugs patent protection for a total of 25 years, although the Pharmaceutical Research and Manufacturers Assn. insisted that was highly unlikely.

But the patent office reversed itself Wednesday, ruling that companies that took the 1984 extension can't also get one from GATT. The ruling affects 94 brand-name drugs and means that the longest a medicine will be able to monopolize the market because of the extension is slightly under 22 years.

"American consumers should get a price break on many drugs as a result of the patent office's reversal" because it opens the market to quicker generic competition, said Sen. David Pryor (D-Ark.).

The brand-name industry was disappointed by the ruling.

"Their March tentative ruling was the correct one from a legal standpoint," said Neil Mulcahy, an attorney for the pharmaceutical association.

Another 15 drugs, including the billion-dollar ulcer drug, Zantac, will get the GATT extension.

But Pryor renewed his pledge to fight those drugs' market exclusivity. GATT had included a provision saying cheaper generic versions of these drugs could proceed to the market on the brand name's original expiration date if they paid the competitor compensation. But the FDA last month said prior law invalidated that provision, meaning GATT will postpone generic competition for these 15 drugs.

GENERIC DRUG EQUITY COALITION,
Washington, DC, September 20, 1995.

Hon. WILLIAM ROTH,
Chairman, Committee on Finance, 219 Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: As you prepare for action on the reconciliation bill, the Generic Drug Equity Coalition urges you to include language to correct an oversight in the GATT Treaty implementing legislation as it affects the availability of generic drugs.

The Congressional Budget Office has determined that, for budget scoring purposes, Medicaid will save $150 million over five years, if the correction is included in the reconciliation bill.

The GATT treaty extends patents on U.S. products from 17 to 20 years. It also includes transition rules for generic products that were ready to go to market based on the old 17-year patent term. When Congress approved the treaty, however, it failed to change U.S. law to allow the Food and Drug Administration (FDA) to certify generic drugs for marketing during the transition period.

Correcting this oversight will save American consumers almost $2 billion, including $150 million for Medicaid.

Thank you.

Sincerely,

JAMES FIRMAN, Ed.D.

CITIZEN ACTION, CONSUMER FEDERATION OF AMERICA, CONSUMERS UNION,
September 26, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, 219 Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR ROTH: We urge you to include provisions in the budget reconciliation bill that would close the current loophole in FDA law that is delaying American consumers' access to low-cost generic drugs. The Congressional Budget Office (CBO) has estimated that by closing this loophole, you would save the Medicaid system $150 million over the next five years, while consumers would save up to $2 billion.

The General Agreement on Tariffs and Trade (GATT), passed by Congress in 1994, requires the United States to switch from its present system of 17-year patents to 20-year patents. Congress tried to balance the detrimental impact of this provision on competitors by including a clause permitting companies to introduce competing products at the 17-year patent expiration point if the company made significant prior investments and if it paid a royalty to the patent holder. When asked to interpret this clause in the light of the 1984 generic drug law, the FDA found that a loophole exists in the GATT that precludes the agency from certifying generic versions of drugs for marketing until the GATT-extended patents expire.

The extension of patents from 17 to 20 years to currently marketed prescription drugs delays the introduction of low-cost generic drugs into the marketplace. Generic drugs typically enter the market at a much lower cost than the patented brand, and the brand-name drugs which would benefit from this extended patent are among the top-selling drugs used. The result of the FDA's ruling could potentially cost American consumers billions of dollars. The detrimental effects of this patent extension go beyond the individual health care consumer. Taxpayers will be forced to absorb the additional costs for more expensive drugs under the Medicaid program.

The FDA's interpretation of the GATT transition rules does not appear to reflect the intent of Congress when it approved the GATT, nor does it reflect the views of Ambassador Michael Kantor, the U.S. Trade Representative who negotiated the agreement. Mr. Kantor recently wrote to Congress that the transition rule was "intended by its drafters to be generally applicable and to permit generic pharmaceutical producers to market their products where they had made substantial investments in anticipation of the expiration of the unextended patent terms." The unintended effects of the patent extension include diminished market competition, an undeserved windfall to pre-GATT patent holders, and further inflated costs to millions of Americans.

At a time of federal, state and local budget-cutting, health care savings are more important than ever for American consumers. Therefore, we strongly urge you to use the budget reconciliation process to redress this unintended, and potentially costly, effect of the GATT.

Sincerely,

MERN HORAN,
Consumer Federation of America.
GENE KIMMELMAN,
Consumers Union.
CATHY HURWIT,
Citizen Action.

THE NATIONAL COUNCIL ON THE AGING, INC.,
Washington, DC, September 26, 1995.

Hon. ROBERT DOLE,
U.S. Senate, 141 Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: As you prepare for action on the Medicaid reconciliation bill this week, the National Council On the Aging urges you to support language to correct an oversight in the GATT Treaty implementing legislation as it affects the availability of generic drugs. This language will be introduced by Senator Chafee.

The GATT treaty extends patents on U.S. products from 17 to 20 years. It also includes transition rules for generic products that were ready to go to market based on the old 17-year patent term. When Congress approved the treaty, however, it failed to change U.S. law to allow the Food and Drug

Administration (FDA) to certify generic drugs for marketing during the transition period.

The Congressional Budget Office has determined that this correction will result in $150 million in Medicaid savings over five years. The correction will save American consumers almost $2 billion.

Lowering the cost of prescription drugs is particularly important for older consumers. Older Americans spend more than any other group on prescriptions. Over one third of the $64 billion spent on prescription drugs come from seniors. This correction will result in over $500 million in savings to older Americans.

We strongly urge you to support the Chafee language in the reconciliation bill allowing consumers faster access to many generic drugs and creating savings for the U.S. budget and for older Americans. Thank you.

Sincerely,

JAMES FIRMAN, Ed.D.,
President.

NATIONAL WOMEN'S HEALTH NETWORK,
Washington, DC, September 26, 1995.
Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ROTH: I am writing on behalf of the National Women's Health Network to urge you to close the generic drug loophole in the GATT during the budget reconciliation process. The NWHN is the only national public interest membership organization devoted solely to women and health.

The availability of low-cost generic drugs saves American consumers billions of dollars every year. Under a recent ruling by the FDA, the patent terms of over a dozen brand name drugs will be extended, costing consumers and taxpayers billions of dollars over the next few years. With the costs of health care continuing to skyrocket while the numbers of uninsured keep going up, consumers cannot afford to pay unnecessarily high prices for medicine. Closing this loophole will save the Medicaid system $150 million over the next five years while it saves consumers close to $2 billion.

Women live longer than men, use more health care services than men, and pay more for drugs out of their pockets than do men. If important generic drugs are delayed, women will suffer most.

The generic drug loophole gives pharmaceutical companies a windfall and hurts American health care consumers. This could not have been what Congress intended when it passed the GATT implementing legislation. Congress should fix the law so that drug companies are not given special treatment while consumers are left holding the bag. I urge you to make this fix in the budget reconciliation bill.

Sincerely,

CYNTHIA PEARSON,
Executive Director.

AMERICAN COLLEGE OF NURSE-MIDWIVES,
Washington, DC, September 25, 1995.
Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ROTH: The American College of Nurse Midwives urges you to support the Chafee generic drug amendment to the Medicaid reconciliation bill.

If adopted, the Chafee amendment will result in $150 million in Medicaid savings according to the Congressional Budget Office.

The amendment will correct an oversight in the GATT implementing legislation that is delaying the availability of generic substitutes for a dozen popular medications, including the widely prescribed anti-ulcer medication Zantac. United States Trade Representative Mickey Kantor has indicated that this was *not* the intent of the drafters of the GATT implementing legislation.

Left uncorrected, the GATT delay will cost consumers almost $2 billion overall and create an unintended windfall for major pharmaceutical companies.

Please vote to save American taxpayers $150 million by supporting the Chafee amendment.

Thank you.

Sincerely,

KAREN FENNELL,
Senior Policy Analyst.

NATIONAL BLACK WOMEN'S HEALTH PROJECT,
Washington, DC, September 26, 1995.
Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: The National Black Women's Health Project (NBWHP), a national self-help and health advocacy organization, would urge you to include a provision in the budget reconciliation bill to close the generic drug loophole in the General Agreement on Tariffs and Trade (GATT). By closing this loophole, you would help to insure that low-income women and their families have access to safe, affordable prescription and over-the-counter medication.

GATT extends patent terms for U.S. products from 17 years to a worldwide term of 20 years. Because many manufacturers had already invested millions of dollars in competing products in anticipation of patent expiration under the original 17-year limit, Congress adopted rules that allow those companies to introduce generic alternatives on the date a 17-year patent would expire, provided they pay reasonable royalties to the patent holder.

Through an error of omission, though, the pharmaceutical industry wasn't included in these transition rules. As a result, makers of lower-cost generic drugs are prohibited from bringing their result to the market until the full 20-year term of patent protection incorporated in the GATT treaty is expired. This loophole will extend the patent terms on more than a dozen drugs—including big-sellers Zantac and Capoten—with a combined $5 billion share of the market.

As an organization dedicated to ensuring the health needs of low-income women, who are disproportionately black, we believe that access to low-cost generic drugs is crucial. Low-income women and children are more likely to be uninsured and therefore the least likely to afford the high costs of brand name drugs. In addition, low-income families often have limited resources and are forced to delay treatment because of high drug costs. Increasing access to generic drugs will help to improve the quality of health care received by many low-income families.

By closing the generic drug loophole, health care consumers would save approximately $2 billion. Congress would save $150 million in Medicaid costs over the next five years. We urge you to vote in favor of consumers by removing the loophole afforded the pharmaceutical industry in the budget reconciliation bill.

Sincerely,

KIM YOUNGBLOOD.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, September 27, 1995.
Hon. LARRY PRESSLER,
Committee on Finance, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: The National Committee to Preserve Social Security and Medicare urges you to support language to correct an oversight in the GATT Treaty implementing legislation that affects the availability of generic drugs. This language will be sponsored by Senators Chafee and Pryor as an amendment to the Medicaid reconciliation legislation this week. The Congressional Budget Office (CBO) has determined that this correction will result in $150 million in Medicaid savings over five years, and some $2 billion in savings to all consumers.

The GATT treaty extends patents on U.S. products from 17 to 20 years. It also includes transition rules for generic products that were ready to go to market based on the old 17-year patent term. When Congress approved the treaty, however, it failed to change U.S. law to allow the Food and Drug Administration (FDA) to certify generic drugs for marketing during the transition period.

In addition to savings for consumers of all ages, lowering the cost of prescription drugs is particularly important for older Americans. Older persons consume about one-third of the $64 billion spent on prescription drugs in the United States.

On behalf of the nearly six million members and supporters of the National Committee to Preserve Social Security and Medicare, we urge you to support the Chafee/Pryor amendment to the reconciliation bill.

Sincerely,

MARTHA A. MCSTEEN,
President.

PUBLIC CITIZEN,
Washington, DC, September 25, 1995.
Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ROTH: Public Citizen, a national consumer advocacy organization with over 120,000 members, urges you to support efforts to fix the generic drug loophole in the General Agreement on Tariffs and Trade with an amendment to the budget reconciliation bill. This amendment will save the Medicaid system $150 million over the next five years. Consumers will save as much as $2 billion.

For nearly 25 years, Public Citizen and its Health Research Group have been at the forefront of efforts to ensure that safe, effective and affordable drugs are available to American consumers. We were part of the citizens' coalition that supported the Waxman-Hatch Act of 1984 to help consumers save billions of dollars by making more low-cost generic drugs available to the public.

Because of the recently-enacted GATT, which calls for longer durations for monopoly drug patents worldwide, consumers will be forced to pay billions of dollars more instead of less. We urge Congress to restore the law to its original intent so that drug firms do not receive a windfall at the expense of health care consumers.

In this time of massive government budget-cutting and soaring medical costs, health care savings are critically important to the American public. The availability of low-cost generic drugs is one way the marketplace can help bring down the high cost of health care. By extending the duration of monopoly patents on more than a dozen drugs, the GATT will add billions of dollars to consumers' medical costs at a time when they can least afford it.

We urge you to support efforts to protect consumers' health and taxpayers' pocketbooks by fixing the generic drug loophole in the budget reconciliation bill.

Sincerely,

MICHAEL CALABRESE,
Executive Director,
Congress Watch.

U.S. PUBLIC INTEREST RESEARCH GROUP, NATIONAL ASSOCIATION OF STATE PIRGS,
Washington, DC, September 25, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ROTH: I am writing on behalf of the U.S. Public Interest Research Group to urge you to fix the generic drug loophole in the General Agreement on Tariffs and Trade as part of the budget reconciliation bill. U.S. PIRG is the national lobbying office for state Public Interest Research Groups. PIRGs are non-profit, nonpartisan consumer and environmental advocacy groups with members around the country.

Because of a loophole in the GATT that is being eagerly exploited by profiteering drug companies, American consumers face unnecessary higher costs for prescription drugs at the same time as overall health care costs are skyrocketing. Hundreds of millions of taxpayer dollars and billions of consumer dollars are at stake in this critical fight; the health of millions of Americans absolutely depends on affordable access to low-cost generic drugs.

I urge you to restore the original intent of the GATT's implementing language by closing the generic drug loophole in the budget reconciliation bill. Now is the time to stop rapacious drug companies from misusing GATT to gouge the sick and elderly.

Sincerely,

EDMUND MIERZWINSKI,
Consumer Program Director, U.S. PIRG.

UNITED SENIORS HEALTH COOPERATIVE,
Washington, DC, September 26, 1995.

Hon. WILLIAM ROTH,
Chairman, Committee on Finance, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: The United Seniors Health Cooperative urges you to support language to correct an oversight in the GATT Treaty implementing legislation as it affects the availability of generic drugs. This language will be introduced by Senator Chafee as part of action on the Medicaid reconciliation bill this week. The Congressional Budget Office has determined that this correction will result in $150 million in Medicaid savings over five years.

The GATT treaty extends patents on U.S. products from 17 to 20 years. It also includes transition rules for generic products that were ready to go to market based on the old 17-year patent term. When Congress approved the treaty, however, it failed to change U.S. law to allow the Food and Drug Administration (FDA) to certify generic drugs for marketing during the transition period.

Lowering the cost of prescription drugs is particularly important for older consumers. Older Americans spend more than any other group on prescriptions. Over one third of the $64 billion spent on prescription drugs come from seniors. This correction will result in $2 billion in savings to all consumers and over $500 million in savings to older Americans.

We strongly urge you to support the Chafee language in the reconciliation bill allowing consumers faster access to many generic drugs and creating savings for the U.S. budget and for older Americans. Thank you.

Sincerely,

ESTHER PETERSON,
Vice Chair.
EDMUND H. WORTHY, JR.,
President and CEO.

UNITED HOMEOWNERS ASSOCIATION,
Washington, DC, October 18, 1995.

Senator DAVID PRYOR,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: During Senate consideration of the reconciliation bill, Senators Chafee and Pryor will offer an amendment which will save Medicaid $150 million and consumers about $2 billion. The savings can be realized if a prior oversight by Congress is corrected. The oversight by Congress occurred when the General Agreement on Tariffs and Trade (GATT) implementing legislation was adopted.

GATT extends U.S. patents from 17 to 20 years. It also includes "grandfather" rules for generic products, including drugs, that were ready to go to market based on pre-GATT patent expiration dates. Congress, however, failed to change the law to allow the Food and Drug Administration to apply to grandfather rules to generic drugs.

As a result, consumers will spend almost $2 billion more for a dozen popular medications, such as Capoten and Zantac, for which 63 million prescriptions were written in 1994.

Senators Chafee and Pryor will offer an amendment to the reconciliation bill to close the GATT loophole.

Congress can save consumers almost $2 billion, including $150 million in Medicaid savings (according to the CBO), by allowing the FDA to apply the grandfather rules to generic drugs.

Such a change would, according to U.S. Trade Representative Mickey Kantor, be wholly consistent with the intent of the drafters of the GATT Treaty.

The United Homeowners Association urges you to support the Chafee/Pryor amendment to the reconciliation bill.

Thank you.

Sincerely,

JORDAN CLARK,
President.

NATIONAL COALITION FOR HOMELESS VETERANS,
Washington, DC, September 27, 1995.

Hon. WILLIAM ROTH,
Senate Finance Committee, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR ROTH: On behalf of the more than 200 community-based non-profit programs around the country who provide services for homeless veterans, I am writing to urge you to support the Chafee generic drug amendment to the Medicaid reconciliation bill. The amendment will correct an oversight in the GATT treaty implementing legislation, thereby saving consumers $2 billion, including $21 million in direct savings for the Department of Veterans Affairs which could be better used to provide support for local programs who assist needy veterans—instead of being spent on high cost pharmaceuticals.

The Food and Drug Administration has determined that it cannot certify generic versions of popular drugs such as Capoten and Zantac for marketing until the GATT-extended patents expire, thereby delaying the availability of lower priced generics. We do not believe that this is what Congress intended when it approved the GATT treaty in 1994. Specific transition rules were included in GATT implementing legislation to allow generic products to be marketed based on pre-GATT patent expiration dates. Congress, however, inadvertently failed to include conforming amendments to the Federal Food, Drug and Cosmetics Act to allow the FDA to certify the generic drugs for marketing.

It is essential to bring generic drugs to the marketplace as soon as possible to meet the medical needs of veterans and to help the Veterans Health Administration save money. Secretary of Veterans Affairs Jesse Brown estimates that failure to pass this amendment could cost the VA's health budget a significant amount of money. In these times of continuing budget cuts, it is vital that the VA be able to target its limited resources where the need is the greatest.

We urge you to support the Chaffee amendment which will allow the FDA to use pre-GATT patent expiration dates to determine when generic drugs can be certified for marketing and made available to the Department of Veterans Affairs in a manner consistent with the GATT transition rules.

Sincerely,

RICHARD FITZPATRICK,
Executive Director.

PARAQUAD INC.,
St. Louis, MO, September 22, 1995.

Memo to: Members of the Senate Finance Committee.

Re: Medicaid Bill.

I write on behalf of members of the Paraquad community—many of whom are users of prescription medication—to urge you to support the Chafee amendment.

Senator Chafee is proposing a change to U.S. drug legislation that would accelerate the development of generic drugs that now are kept off the market by the GATT agreement.

We believe Congress never intended for the GATT to block generic drugs from being made available quickly to American consumers.

Accordingly, the Chafee amendment merely restores the original intent of Congress.

For example, a generic substitute for the popular anti-ulcer drug "Zantac" won't be available to American consumers until July 1997—despite the fact that it originally was to be available in December of this year.

Senator Chafee is asking the Finance Committee to make the necessary change as part of the pending Medicaid savings bill. That is because the American taxpayer will have to pay an additional $150 million for Zantac and other drugs for Medicaid recipients that would be required if the generic substitutes were available.

Many members of the Paraquad community are persons of limited income. Many depend on Medicaid. With cost pressures rising, we join with responsible elected officials like Senator Chafee in urging that where cost savings may be realized at no less of quality, they should be.

Please vote "Yea" for the Chafee amendment.

Thank you.

Sincerely,

MAX STARKLOFF,
President, Paraquad Inc.

CONSUMER PROJECT ON TECHNOLOGY,
Washington, DC, September 27, 1995.

Hon. WILLIAM ROTH,
Finance Committee, U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: I am writing to express the Consumer Project on Technology's support for the Chafee generic drug amendment to the Medicaid reconciliation bill. This amendment seeks to correct an error by the previous Congress, which extended the patent terms for several widely used drugs. As you know, investment incentives are forward looking, and actions which award post hoc monopolies on pharmaceutical drugs which are already on the market are economically inefficient. This retroactive extension of monopoly marketing rights is costing American consumers billions of dollars, and should be immediately corrected.

The U.S. Congress and the Clinton Administration have already given the pharmaceutical industry extremely favorable treatment in a wide range of areas, such as the complete lack of price controls on drugs, favorable tax treatment, billions of dollars in direct research subsidies from the National Institutes of Health (NIH) and other federal agencies, and the recent decision by NIH to abandon the reasonable pricing clause for drugs invented by government scientists. We hope that on this issue Congress will demonstrate concern for the problems faced by consumers in obtaining health care.

Sincerely,

JAMES P. LOVE,
Director, Consumer Project on Technology.

Mr. PRYOR. Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is that we are proceeding under a 1-hour morning business allotment?

The PRESIDING OFFICER. We are in morning business.

Mr. DORGAN. Is there an hour reserved under my name or the minority leader?

The PRESIDING OFFICER. There is time under the minority leader, 1 hour.

Mr. DORGAN. Mr. President, with the consent of the minority leader, let me yield myself as much time as I may consume under that 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECONCILIATION PROCESS

Mr. DORGAN. Mr. President, I was interested in the comments by the Senator from Arkansas. He is correct about this and so many other things. It is interesting to me that there are so many special deals going on these days for special interests, especially in the reconciliation bill and, also, in some of these recent appropriations bills.

It makes me think of going into a shopping center. There you see the sign that says, "Food Court." You look around at the food court, and the entire thing is full of all these little places where you get food. Well, we ought to mark off a little place somewhere here in the Capitol and call it the Favor Court, special interests looking for favors line up here. And by the way, it does not matter how long the line is, you are going to be sure to get them in with this new majority because they happen to agree with virtually all the things special interests want.

This is the Baskin-Robbins of special interest. Do not try one, try all the flavors. This reconciliation bill and the appropriations bills that come to the floor of the Senate now are loaded, loaded with special deals. Do you think it is special deals for mom and pop? No. No, it is not special deals for mom and pop or mom and pop businesses. It is special deals for the biggest special interests, the most powerful special interests, and the wealthiest special interests in this country. And that is a fact.

I want to talk a little today about the reconciliation bill and the plan, where we are headed, where we are going. Last week I read to some colleagues on the floor of the Senate a letter of October 18 from the Congressional Budget Office, from the Director of the CBO, June O'Neill, who wrote to Senator DOMENICI. They proudly brought it to the floor of the Senate and proudly held it up and trumpeted this letter saying, "This letter from the Director of CBO, the Congressional Budget Office, shows that our reconciliation bill will now result in a small budget surplus in the year 2002." That was on October 18. And boy, you know, you almost saw them busting their buttons on their double-breasted blazers here on the floor of the Senate. "We have produced something that will produce a small surplus." October 18.

Now, the next day, October 19, I actually wrote to the CBO and said, "Well, I saw that letter you sent over here. I am wondering if you computed this the way the law requires you to compute it, in other words, if you do not misuse or loot the Social Security trust funds for the operating budget revenue, then what would you have in the year 2002?" Same person, same agency, different letter, one day later says, "Excluding an estimated off-budget surplus of $108 billion"—and what that means in English is that if you do not use essentially the Social Security trust fund surplus and a couple others—CBO would project an "on-budget deficit of $98 billion in 2002."

Let me say that again. The next day the agency said, if you do not count the Social Security trust fund, then you have $98 billion deficit in the year 2002. Same person, different letter.

Now, the next day, the day after, October 20, a third letter. The same agency said they made a mistake in the second letter. They now say that the estimated off-budget surplus of $115 billion, from the calculation, would result in an on-budget deficit of $105 billion in 2002.

So here is what we have: Three days, three letters, three different estimates. Presumably the last is the right one, saying that if you misuse the Social Security trust funds in the first letter, you actually get a budget surplus, but if you do not loot the Social Security trust funds you have a $105 billion budget deficit in the year 2002.

So the next time someone comes to the floor and says, "Boy, haven't we done a good job? We have been patting ourselves so hard on the back we have a wrenched elbow here," just ask about the letter of October 20. Do you have more than a wrenched elbow? Do you have a $105 billion deficit in the year 2002? The answer is clearly yes.

Now, the reconciliation bill will come to the floor of the Senate, and I intend to offer a couple of amendments. I would like to discuss just briefly what those amendments are.

We have not had the opportunity to address tax legislation on the floor of the Senate this year except in this reconciliation bill, and then only for the members of the Finance Committee, apparently, because, you know, the rules prohibit certain amendments—so I am going to offer an amendment on the issue of so-called runaway plants or the tax break we now give to companies that move their plants overseas.

I want all Members of the Senate to express themselves on it. Should we close the tax break or should we not? If you have a company in this country and you decide on Wednesday, let's shut the doors, let's close this company up in the United States and move it overseas to a tax haven country, make the same product hiring foreign workers and ship the product back to the United States, we save money, guess what? We'll give you a special deal if you do that, if you close your company in the United States and move it overseas, make the same product and ship it back here. We'll give you a tax break. We'll give you a special tax break.

I think we ought to take that tax break out of the Internal Revenue Service Code and be done with it. And I am going to give every Member of this Senate the chance to decide, do they want to end the tax break for people who move their plants outside this country to use foreign labor to ship it back in? I hope Members will think it is not good for this country.

Second. There are two amendments I will offer on capital gains. I say to the Senator from Arkansas, the capital gains issue is an issue that is very controversial, and I recognize that. Sometimes inflation plays on the value of an asset such that you are now paying, not so much for the increased value of the asset, you are paying taxes on the increase built up. I understand that. I would like to do something to deal with it.

But I am not interested in doing something that substantially improves the well-being of people who already have millions of dollars at this point. They have done very well. They have done better than almost all other Americans recently.

Take the last 10 years. The rich have gotten much richer. That is fine. I am just saying we do not need to give them a big tax cut now.

Capital gains, shall we do something on capital gains? Yes, I think for small business owners, family farmers, people who invest in stocks and buy something for kids to go to college in assets and sell it. Should we do something on capital gains? Yes. The capital gains proposal in the bill contains a 50-percent exclusion benefit. That is in the bill coming to the Senate floor. That is not surprising. They always provide big benefits to the biggest interests.

So, I will have two alternative proposals. One is, no capital gains tax, no tax at all, zero, no 50 percent exclusion, a zero tax rate on $250,000 of capital gains income on assets you have held for 10 years during a taxpayer's lifetime, during your lifetime; if you have held the assets for 10 years, $250,000 in capital gains, you can pass those through with zero tax rate, provided you held it for 10 years. That is a much better capital gains tax proposal for most Americans than the one that will come to the floor. It is twice as generous. But it does not give away the farm to the wealthiest Americans.

Second, if you do not like that, then take the capital gains proposal that is in the bill and say, "All right, let's do that, 50 percent exclusion, but let's limit it to $1 million of capital gains income during a taxpayer's lifetime." Is $1 million not enough? Would that not be sufficient, $1 million of income in capital gains during your lifetime at a preferential tax rate of 50 percent?

Or are you saying, "No, that's not enough. I stand here representing the interests of the little millionaires or the little billionaires" these days. We have billionaires in this country, which is fine, too. Much of that is a sign of success, but we do not have to, at a time when we are up to our neck in debt, decide to give very significant tax cuts to people whose incomes yearly in capital gains is in the millions, tens of million and hundreds of million.

The question is going to be, no capital gains at all, no tax on capital gains up to $250,000 during your lifetime, or limit the taxpayers to $1 million of capital gains at the preferential rate during their lifetime?

Those are three of the amendments that I intend to offer on this legislation. I hope that my colleagues will listen and evaluate and come to a judgment that makes some sense. I think all of these make great sense.

Mr. PRYOR. If the Senator from North Dakota will yield just for a moment, I want to compliment him for his statement. I sat through 2 days last week of pretty excruciating—and I see my colleague, Senator CONRAD of North Dakota, here now. We joined in that effort of seeing if we could not return some degree of fairness to the proposal as sent from the Finance Committee that would be embodied in reconciliation.

I have another idea that I proposed and it failed on a party-line split. I think that the small business owner, the self-employed, should have a greater deduction in trying to buy insurance for himself and his employees.

Simply put, our colleagues on the other side are now trying to bring capital gains for corporations, the biggest corporations in America, from 35 percent down to 28 percent. My amendment was simple. I said, "If you want to give a capital gains tax cut to corporations, let's go not from 35 to 28 percent, let's go from 35 to 32 percent, still give them a little break but list also in that, not a 30-percent deduction for health insurance premium, but a 50-percent deduction."

I would like to do 100 percent, and I think we should do 100 percent, but the dollars are not there. We could, by shaving this little benefit off the major corporations, give 10 million self-employed individuals a 50-percent tax deduction when they pay for insurance for themselves and their employees.

I think it would be one of the best things that we could do. I think we would find a lot of people agree that it makes sense and certainly it represents fairness.

Mr. DORGAN. I certainly support that. I think it makes a lot of sense. They ought to have 100-percent deduction on health insurance costs. I know the Senator has been working on that. So have I and others. It makes a lot of sense.

I would like to summarize a couple of points, because the Senator from New Mexico wants to speak and the Senator from North Dakota, Senator CONRAD, does as well.

I want to make a couple of points about the reconciliation bill more generally. I listened with interest for an hour this morning to people who came to the floor and said what this is about is demagoguery. Anyone who comes to the floor and disagrees with them somehow is trying to scare somebody.

Well, this is not about demagoguery, it is about choices. We can, should, and will balance the budget. The question is how do you balance the budget? What choices do you make to balance the budget? I will show you the choices this Congress is making. Not pretty choices, in my judgment, but they are making the choices nonetheless.

They are saying we cannot afford Head Start; 50,000 kids in Head Start, all of whom have a name, will be kicked out of the program. All of them have a name and all of them in their hearts hope they get a chance, a better start in life because they come from a home of low income or troubled circumstances. Fifty thousand kids, we cannot afford them. B-2 bombers, we can afford that, 20 more for $35 billion.

Five hundred million dollars for displaced workers at a time we are saying to displaced workers, "Get a job." What about the training? We cannot afford that, but we can afford the star wars program.

Let us go down to veterans' health care, $989 million cut. Congress had to make a decision about two amphibious ships, which to buy, which to build, one $900 million, the other $1.3 billion. Do you know what the Congress said? Build them both, the sky's the limit. Let us stuff both pockets with money. So we can afford the two amphibious assault ships the Pentagon did not order, but we have a little trouble with veterans' health care.

Low-income home energy assistance, we cannot afford that, but more money for fighters the Defense Department did not order.

I do not have blimps on here, but they did give $60 million for blimps. Low-income home energy, that is a fancy way of saying that this is providing some heat for a house on a cold winter night in North Dakota, some low-income person who needs a little help to get some heat in their house, that is what this is about.

These are choices. The other side says this is all scare tactics. It is not scare tactics, it is about the choices we have made.

Let me tell you about another choice. This is a Wall Street Journal piece yesterday: "Tax Analysis Now Shows GOP Package Would Mean Increase for Half the Payers."

Which half? Can anybody guess, with a Republican-controlled Congress, which half of the American taxpayers will be paying more in taxes?

There are only two choices, but can anyone guess which half the majority party would choose to ask to pay more? That is right, the bottom half. Why would that be the case? Because they need to find ways to finance a self-help program for the top half. Actually not the top half, really the top 5, 6, 7 percent.

These are choices. This is not demagoguery. It is choice, and all choices come down to an impact on people.

I want to read to you a couple of letters. These happen to come from some young Indian children who I talked with the other day. I visited these children. They are at a boarding school. They come from dysfunctional backgrounds, backgrounds of significant poverty and trouble. I want to read to you what some of these kids say, because they are the victims of bad choices.

Here is a 14-year-old. They were asked, "If I had one wish for my family": "I wish my grandmother would be alive so I don't have to live in a foster home anymore."

Wishing for a grandmother.

A 13-year-old: "If I had one wish for my family, I wish we were all a family again."

"If I had one wish for my family," this 12-year-old says, "for my mother and brother to be happy together. He lives in Oregon someplace and I haven't seen my father since birth."

A 14-year-old says, "My wish for my family would be for my mother and my father and for my brother and sisters to be together on Christmas Day."

And a 13-year-old says, "My wish is for my real father to quit drinking and my grandmother, too." Think about what people wish for—amphibious ships, bombers, star wars—and then a 13-year-old wishes that her mother, brother, father, and sister could be together on Christmas Day. That is something most of us take for granted.

A lot of people in this country live in a fair amount of poverty and trouble. We ought not turn our backs on them. We ought to make the right choices for them.

Last week, I told of a woman who met me at the Minot Airport about a week or two ago. She asked to speak to me and took me to one side. She was in her late seventies. Her chin began to quiver and her eyes teared up as she spoke in a low voice, because others were around, and she said her husband has been in a nursing home for 3 years. They had a small farm that they lived on for half a century. She sold most of the farm to pay for the nursing home care. She wants to continue to try to live in the house. This woman is in her late seventies. She had tears in her eyes because she is worried she may not be able to stay in her home because her husband is in a nursing home.

These are real problems faced by people who are not the caricature of what we hear about welfare. Sometimes the debate rises above the caricature, but sometimes not. The caricature is some slothful indolent, overweight, lazy, shiftless, no-good bum sitting in a La-Z-Boy, legs up, watching a 32-inch television, watching Oprah and Montel, drinking two quarts of beer and munching on nachos, refusing to go to work.

Well, here is welfare, really: Two-thirds of welfare recipients are children under 16 years of age.

Do you know where the need is in this country? It is 75-year-olds or 80-year-olds who are no longer working and who wonder whether they are going to have enough money to keep their home or pay the nursing home for their spouse. That is where the low-income problems are in this country.

These choices that are made time after time in this Chamber by the majority party, regrettably, have been choices that say to those people: We are sorry. What you have is something we call tough luck. The majority's response to that is Tough luck.

But to the other bigger interests, the response has always been to try to see if we can give you benefits. Do you want a capital gains tax cut, 75 percent of which goes to people with $100,000 or more income? Do you want to build more bombers? How about some F–15's or F–16's? What about amphibious ships?

Those choices are not the right choices for this country. We can, should, and will balance the budget, but we have to make the right choices to do that. I regret to say that this reconciliation bill that comes to the floor of the Senate is filled with special interest deals—the flavor of the month for all of the special interests. Regrettably, it does not make the right choices.

I would like to leave you with one question that I think we need to answer during the next hour or so. It is interesting to me that the analysis of the House bill provides that the $270 billion cut in Medicare extends the solvency of the Medicare Program for the same length of time that the $89 billion cut in Medicare does. Question: Why would that be the case? Answer: Because at least part of the money is used to provide a tax cut. That is a simple answer—the only answer.

The Senate does it differently. They cut Medicare $270 billion and then use the money twice in a lockbox, and they do exactly to Medicare what they do to Social Security—that is, misuse the trust funds so they can use the money twice. Double-entry bookkeeping is one where you can use the money twice. That is for not only restoring solvency of the Social Security trust fund, but for triggering a device that says you have reached a balanced budget and, therefore, you can proceed with a tax cut.

I will finish with this observation, which is the one I started with. I have three letters in my hand, one dated October 18, one dated October 19, one is October 20, all written by the same person, signed by the same person, all addressed to me. In the October 18 letter it says this reconciliation bill reaches a slight budget surplus in the year 2002. The next letter says that if you do not take the Social Security trust funds, if you are prevented from using Social Security trust funds as revenue for operating budget deficits, then the CBO would project an on-budget deficit of $98 billion in 2002. The next day, in the October 20 letter, it said we were wrong about that as well. Actually, the budget deficit in 2002 would be $105 billion.

Mr. President, this, I think, describes what is happening with the reconciliation bill. I hope that we will have a significant debate in the coming days about these issues. It is not fear mongering. It is not trying to scare anybody. It is talking about priorities. What are the priorities for this country? What advances this country's interests? What moves us ahead? Who should pay and who benefits? Those are questions all of us should ask in the coming days.

Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from New Mexico.

EDUCATION IS A PRIORITY

Mr. BINGAMAN. Mr. President, I appreciate the excellent comments by the Senator from North Dakota. I want to speak about one portion of the priorities that he discussed there with his chart. I want to talk about education—and education is a priority for this country—and what is reflected in the budget that is about to be passed here in the Senate and, in the next few weeks, sent to the President.

This week, the Senate is getting ready to take up a reconciliation bill which contains a $10.8 billion cut in financial support for Federal student loans. I share my colleagues' distress that at the moment tuition costs are rising, the Senate is asking to save billions of dollars on the system that helps students and their families pay their tuition.

If such a change in the student loan program was the only cut being made in education, obviously, we would be concerned. And if there were no other way to balance the Federal budget, we would be concerned and perhaps be able to see our way clear. But neither is the case. Cuts in student loans are, unfortunately, the tip of an education-cutting iceberg. The debate on the reconciliation bill will be in the spotlight on these cuts in higher education. The Labor-HHS appropriations bill cuts billions more in elementary and secondary education.

Mr. President, I am concerned at the magnitude of the cuts. I am concerned at the erosion of the bipartisan commitment that we have had to support education here in the Congress. Most of all, I am concerned with the abandonment of a clear vision and a sense of urgency regarding the need to raise the performance of our educational system.

The magnitude of these cuts, Mr. President, is enormous. Let me show a chart here that indicates some of the problems as I see it. This chart shows the last 7 years—1996 being the seventh year, so it is the last 6 years, I guess, of support for education. It is easy to see from this chart that, in each year, from fiscal year 1990 to fiscal year 1995, there has been some increase in funds for education voted by the Congress. That was, in some years, not as much of an increase as I would have liked and, in some cases, it was not as much of an increase as an increase in inflation, but there was some increase. I should make clear, this is not a chart that shows increases in growth; this is a chart that shows absolute increases and absolute cuts.

In 1996, according to the budget resolution which we are about ready to have a final vote on, there is a proposal for a $3.7 billion cut in the educational funds. This reverses a bipartisan agreement over the last three administrations that improving education is a top priority in this country. That priority has been expressed each year in annual increases in total educational funding that varied from $2.6 billion in 1991 to $0.6 billion in 1993. Compare this to the House proposal to cut $3.7 in fiscal year 1996. We are making a very dramatic reversal in our priorities this year for the first time in many years.

Twelve years ago, the Reagan administration appointed a blue ribbon group called the National Commission on Excellence in Education. In 1983, they issued a report, which many of us have heard about now for over a decade, called "A Nation At Risk."

That commission concluded in that report in 1983:

> * * * the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people. What was unimaginable a generation ago has begun to occur—others are matching and surpassing our educational attainments.
>
> If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves. * * * We have dismantled essential support programs which helped make [prior] gains possible. We have, in effect, been committing an act of unthinking unilateral educational disarmament.

That report "A Nation at Risk," called on the public to rally to deal with the situation. It challenges Americans to undertake a long-term effort to achieve excellence in education and the public did respond. States raised their high school graduation requirements. Today, States require more years of study in the basic subjects of the curriculum that were recommended by that commission—subjects of English and mathematics and science and social studies and computer science.

In 1982, the year before the "A Nation at Risk" study came out, only 13 percent of all high school students graduated with 4 years of English, 3 years of math, 3 years of science, and 3 years of social studies. Those are the amounts recommended in that report.

By 1987, that percentage had gone from 13 percent up to 29 percent. By 1990 it was at 40 percent. In 1992 when this administration took office, it was 47 percent.

At the same time, student achievement—this is not just the number of courses taken, but this is actual achievement—as measured by the National Assessment of Educational Progress made only modest improvements.

These achievements resulted from a broadly based bipartisan effort involving educators, public policymakers and the public itself focusing on how to achieve excellence. These efforts received an additional boost in 1989 when President Bush invited State Governors to an education summit in Charlottesville. In fact, then-Governor Clinton was one of those who attended that Charlottesville summit.

The purpose of that summit was to focus on a list of specific national education goals for the country. The goals were to be measurable and to be attainable by the year 2000.

The Bush administration developed an America 2000 strategy, lending the authority and the bully pulpit of national leadership to a program to focus schools on how to improve performance and how to achieve better educational results.

The business community has embraced these goals and become the most articulate spokespersons for this national need to raise education standards. When the Goals 2000 legislation was passed into law in the last Congress it was endorsed by the National Alliance of Business, the National Association of Manufacturers, and the U.S. Chamber of Commerce, as well as by the National Parent Teacher Association, and a long list of other educational associations.

Why has business taken such an interest? Because business leaders are acutely aware that modest improvements in student achievement cited above are just not adequate to prepare young people to succeed in the work force. Competition in the global economy would demand higher levels of reading and writing and problem solving than we have ever needed before.

Schools need to help graduates meet the real world standards that will be applied when graduates are hired and retained and promoted in jobs. Business leaders recognize the urgency of the need for schools to realign their academic standards which the higher standards at the workplace will demand of them as graduates.

Lou Gerstner, who is the chairman and CEO of IBM Corp., addressed the Nation's Governors at one point earlier this summer. He pointed out to the Governors that it has been 12 years since "A Nation at Risk" was published and U.S. students still finish at or near the bottom on international tests of math and science.

He said the first priority for public education should be "setting absolutely the highest academic standards and holding all of us accountable for results. Now. Immediately. This school year. Now if we don't do that, we won't need any more goals, because we are going nowhere. Without standards and accountability, we have nothing."

Now, how does the budget that we are going to vote on this week match up to Lou Gerstner's sense of urgency and the need to improve education? He talks about how we have to do it "now, this school year."

I submit that this budget does not measure up at all. This budget is an abdication of our responsibility to deal effectively with this problem. The budget cuts in education are too much and they are in the wrong places.

Mr. President, the reconciliation bill proposes $10.8 billion be saved from student loans in postsecondary education over the next 7 years. The appropriations bill which eventually will have to be passed in some form magnifies this very unfortunate trend.

In fiscal year 1996, the House appropriations bill cuts overall spending for elementary and secondary education in the Department of Education by $5.9 billion—from $32.9 to $27 billion.

Cuts are made in Head Start programs, safe and drug-free schools, and bilingual education, Indian education, and the list goes on. These are the wrong priorities. Let me show one other chart here, Mr. President, just to make the point about priorities.

This is a chart that summarizes the various discretionary spending accounts in this year's budget proposal. Starting on the left, we have agriculture, where there is a slight cut in discretionary spending, going on across. There are additional cuts in entitlement programs that are not reflected on this, but these are the additions and the cuts in discretionary spending where we get to make a decision every year without question.

When we look at where the largest single area of cut in discretionary spending is, it is in education and training. Obviously, the largest area of increase is defense, and the only other area of increase is in crime. But the largest single area of cuts in discretionary spending is in education and training.

Mr. President, these are the wrong priorities. These do not reflect the priorities of the American people.

One particular program I want to talk about which concerns me greatly in this budget bill is the Goals 2000 Program. In the House appropriations bill dealing with education they cut the funding in that program from $361 million in 1995 to zero dollars in 1996.

Yet the purposes for which Goals 2000 makes Federal funds available to States and local school districts are exactly the purposes that as a Nation we most need to pursue.

This Goals 2000 Program is a flexible program. It makes block grants to States for their own school improvements. Next year, 90 percent of the funds that will be used in that program will go to local districts. In 48 States, these grants are being used as the States decide to use them.

In Washington State, for example, for 30 districts in which mentor teachers train other teachers. In Kentucky, for homework hotlines and other efforts to enhance parental participation. In Massachusetts, for 14 charter schools. In other States, for other efforts at achieving high educational standards.

This program will not tell States what higher standards have to be. The States decide that for themselves.

In my own home State of New Mexico, our State has developed the educational plan for student success. Like other States, we use our Goals 2000 money to bring together the citizens and the educators and the business leaders to look at existing State policies, compare them with where we want to go. They—this group in New Mexico—will use the Goals 2000 funds to pursue strategic planning, to improve student learning and success and New Mexico's own standards of excellence.

We are not a rich State in New Mexico. Without Goals 2000 funds, New Mexico's efforts to reach the vision that Louis Gerstner talks about will be significantly slowed down.

Worse, without support from Goals 2000 and other important Federal programs, we signal to New Mexico and to other States that Louis Gerstner's sense of urgency is misplaced. We signal that it is enough, in our view, to allow States to progress at whatever pace they would like, without any help from the Federal Government. That simply is not true.

This year, the year 2000, is fast coming on us. How we balance the budget today is going to shape how we enter this new century. The budget needs to reflect our priorities. Improving education needs to be high on that list of priorities. And while some progress has been made, our Nation is still at risk.

Presidents Reagan and Bush and Clinton have joined with the public to improve the education offered to the next generation. The budget that is going to be on this Senate floor for a vote later this week is a retreat from that commitment. We know better. And we owe much better to the next generation.

I hope we can find ways to do better before we adjourn this year.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from North Dakota.

BUDGET RECONCILIATION

Mr. CONRAD. Mr. President, I rise today to talk about the budget reconciliation process that is underway. I think this is most important because we have been told now that the Budget Committee is only going to spend an hour and a half on the debate on the budget reconciliation package that is going to affect every American, that is going to set the spending priorities for this country for the next 7 years, a budget reconciliation package that many of us believe, while it moves toward balancing the budget, does not actually balance the budget. And, also, it is done in a way that is unfair—fundamentally unfair in terms of who is asked to fight this budget battle.

After being deeply involved in the budget reconciliation process, both in the Budget Committee and the Finance Committee and the Senate Agriculture Committee, as well, I believe very strongly that while it is critically important that we balance the budget and that we do it as rapidly as possible, the choices that have been made in the proposal that is before us do it in a way that asks the middle class and working families in this country to be in the front lines in the battle to balance the budget but says to the wealthiest among us, "You are ushered to the sidelines."

Even worse than that, it says to the wealthiest among us, "You are first in line for additional tax preferences, tax loopholes, and tax benefits because we are going to let the rest of America fight this fight, not the wealthiest among us. The wealthiest among us, you can just stand by. You can be observers. You can be on the sidelines. And while you are on the sidelines, we are going to actually direct some of the resources that we are saving from this budget plan toward you."

Mr. President, I do not think that is what the American people have in mind in terms of balancing the budget. I think they want this job done. They want the job done fairly. Most of all, they want the job done.

Unfortunately, the reconciliation package that is on its way to the floor does not even balance the budget. That is not just my opinion, that is the answer from the Congressional Budget Office in a letter that was sent to Senator DORGAN and myself on October 20, by June O'Neill, the Director, in which she says in the last line in the first paragraph, "Excluding an estimated off-budget surplus of $115 billion in 2002 from the calculation, CBO would project an on-budget deficit of $105 billion in 2002."

What is June O'Neill talking about when she talks about an off-budget surplus of $115 billion in 2002? She is talking about the Social Security surplus in that year—the Social Security surplus. And the only way you can call this budget that is coming toward the Senate floor balanced is to use every penny of Social Security surpluses, every penny, over the next 7 years.

The law does not permit that. If one looks at the Budget Enforcement Act—and I have a copy of it right here—on page 745 it says:

> ### EXCLUSION OF SOCIAL SECURITY FROM THE CONGRESSIONAL BUDGET
>
> Section 301(e) of the Congressional Budget Act of 1974 is amended by adding at the end the following:
>
> The concurrent resolution shall not include the outlays and revenue totals of the Old Age Survivors and Disability Insurance program established under Title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection, or in any other surplus or deficit totals required by this title.

That is the law. Mr. President, 98 Senators voted for it; 98 Senators said we should not count Social Security surpluses in determining whether the budget of the United States is in surplus or deficit.

Those Senators were right. They were right to cast that vote. They were right because it is absolutely wrong to count Social Security surpluses toward balancing the budget. That is just fundamental. You do not take trust funds and throw those into the pot to balance an operating budget. There is no accountant or accounting firm in America that would tell one of its clients to follow that policy. It is wrong.

Some will say, "But it is the practice we are following now." Absolutely, it is what we are doing now. That does not make it right. There are a lot of things being done now that are not right. It is not right to balance the budget using the Social Security surpluses. That is precisely the point. That is why 98 Senators voted to change it.

Mr. President, 98 Senators said we ought not to continue this practice, we ought to make a change; we ought not to be raiding Social Security trust funds; we ought not to be looting in order to make the deficit look smaller.

Mr. President, this has a very critical, practical impact, because it is true we have been doing it, but the consequences for keeping this practice in place are much more severe in the years ahead. Let me indicate why. These Social Security surpluses that we are running now are about to explode. They are going to explode because we have more and more baby-boom generation people paying payroll taxes. We are paying those taxes at a higher rate on a larger share of our wages and so the surpluses are going to build. They were designed to increase, and the reason they are exploding is because we are supposed to be getting ready for the time the baby-boom generation retires.

But, instead of doing that, instead of saving these funds or paying down the rest of the debt with these funds—which would be a good strategy, a sound strategy for the future—instead, the Republican plan is to loot every penny of Social Security surplus over the next 7 years to call their budget balanced.

This next chart shows that the conference report on the budget demonstrates this point very clearly. It shows deficits over the years covered by the budget resolution. And while our friends on the Republican side say over and over they have offered a balanced budget, their own conference report on the budget shows something quite different. This shows the deficits for the fiscal years 1996 through 2002. If they were telling the American people the truth when they say they have balanced the budget in fiscal year 2002, their budget document would show no deficit. It would show a zero. That would be a balanced budget. But their own budget document does not show a zero.

It shows a deficit in fiscal year 2002 of $108.4 billion. Boy, this is going to come as a big surprise to a lot of the media who keep reporting it is a balanced budget. And it is going to come as an even bigger surprise to the American people who have been told every day that they are getting a balanced budget. It is not a balanced budget. It is $108.4 billion in deficit. That is very close, by the way, to the number that the head of the Congressional Budget Office told us in her letter—that the deficit in the year 2002 would be $105 billion.

Mr. President, how is this occurring? Well, very simply. This is the looting of the Social Security trust funds from the year 1996 to 2002. One can see the total Social Security surpluses, that are being raided or being looted, which are $636 billion. That is what is being thrown into the pot to call this a balanced budget. Do not anybody be misled. This is not a balanced budget. It is not a balanced budget in law. It is not a balanced budget in fact. Any accounting firm in America would tell you do not count the trust fund surpluses. You do not count the retirement funds in balancing a budget. That is precisely what is wrong around this town.

That is why we are in so much trouble now because we keep saying things that are not true. It is not truthful to tell people you are balancing the budget when you are raiding the trust funds because those funds are going to have to be replaced. And the reason we are running surpluses now is to get ready for the time the baby-boom generation retires. Why is that so important? Because it is going to double the number of people eligible for Social Security. We are going to go from 24 million people eligible for Social Security to 48 million people eligible for Social Security. That is why we are running surpluses now. And the thing we ought to be doing is either stockpiling that money or paying down the national debt so that we are better prepared to deal with the demographic time bomb represented by the baby-boom generation.

I guess the thing that I have found most frustrating about Washington in the 9 years I have been in the U.S. Senate is that we say things that confuse people. We use words in a way that are not accurate, that do not really reveal what is actually happening. And to call it a balanced budget when you are taking every penny of Social Security surplus is not accurate. It is not honest. It misleads people.

That is not the only problem with the reconciliation plan that is headed for this Senate floor. I think another fatal flaw is that we are increasing the debt under the Republican plan by $1.3 trillion—increasing the debt over the next 7 years under the Republican plan by $1.3 trillion. The chart here shows that from 1996 to 2002 the national debt is actually increasing by $1.3 trillion. About half of that is the raiding of the Social Security trust funds that I have talked about. That is increasing the national debt. Yet, we are talking about providing a massive tax cut.

I think if the American people were aware that the debt of America is increasing by $1.3 trillion over the next 7 years they would not be very interested in a tax cut. I just did a survey of the people in my State. Overwhelmingly they have said to me—I have asked them the question directly—get the budget balanced before any tax cut. Then we can have a tax cut after we get our problems taken care of.

We are adding $1.3 trillion to the national debt, and a big chunk of that is a tax reduction. It reminds me a lot of kids eating their dessert before dinner. We have played this game before in this town. We always say, "Gee. We are going to cut spending so we can have a tax cut now."

We did that before. Do you remember what happened? The debt exploded in the 1980's when we played this game with the American people and told them we are going to cut spending. We promised. We really are so we can have a tax cut now. We did that in 1981. What happened? The deficits went from $50 billion a year to $200 billion a year because guess what happened? We took the tax cuts but we never did the spending cuts, or certainly not of the magnitude necessary to keep the deficit from exploding. The result is we went from being less than $1 trillion in debt to being $5 trillion in debt in the space of 12 years. This is not smart. This is not responsible fiscal policy.

This chart shows the debt increases under the Republican balanced budget plan year by year, the amounts that are contributed by the budget deficits—that is, the spending over what we take in—and the amounts that come from the tax cuts that are added to the debt. You can see for every year here we are adding money to the debt of the country. And there are large sums added, $240 billion, $125 billion, $220 billion.

You can see the light orange part of each of these bars shows how much of that is being contributed by a tax cut. I just say to my colleagues, and I say to the American people. This is not wise—to be adding to the national debt in order to take a tax cut at this time. It especially is unwise given who benefits and who loses under this Republican tax plan.

We have now a series of estimates that were done by the Joint Committee on Taxation—this is a bipartisan group—and an analysis done by the U.S. Treasury Department. That shows who benefits, and who loses under the Republican tax plan. It is very interesting.

What we find, as this chart shows, is how the Senate GOP tax plan affects America's families. Half get hit with a tax increase. It is not a tax cut. Half the people in this country are going to get a tax increase. That is according to the Joint Committee on Taxation and the U.S. Treasury Department.

I ask unanimous consent that each of these charts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISTRIBUTIONAL EFFECTS OF REVENUE RECONCILIATION PROVISIONS OF THE CHAIRMAN'S MARK SCHEDULED FOR MARKUP IN THE FINANCE COMMITTEE ON OCTOBER 18, 1995 AND PREVIOUSLY ADOPTED CHANGES IN THE EITC[1]

[Calendar Year 2000]

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective tax rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law Percent	Proposal percent
Less than $10,000	$879	9.6	$9	0.7	$10	0.7	8.6	9.4
$10,000 to $20,000	922	2.2	42	3.0	43	3.1	9.0	9.2
$20,000 to $30,000	417	0.5	86	6.1	87	6.3	13.6	13.6
$30,000 to $40,000	−4,221	−3.4	125	8.9	121	8.8	16.7	16.2
$40,000 to $50,000	−5,347	−4.0	132	9.4	127	9.2	18.4	17.6
$50,000 to $75,000	−11,740	−4.2	280	19.9	269	19.5	20.5	19.5
$75,000 to $100,000	−5,814	−2.8	209	14.8	203	14.8	22.9	22.1
$100,000 to $200,000	−3,850	−1.6	246	17.5	242	17.6	24.1	23.4
$200,000 and over	−2,792	−1.0	277	19.7	274	19.9	29.8	28.8
Total, all taxpayers	−31,546	−2.2	1,407	100.0	1,375	100.0	20.4	19.7

[1] Includes the tax credit for children under age 18, student loan interest credit, marriage penalty relief, IRA changes, long term care, capital gains deduction, treatment of adoption expense, aviation fuel exemption, and repeal of the wine and flavors credit as well as EITC changes previously adopted by the Senate Finance Committee.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 1995 levels.

[3] Federal taxes are equal to individual income tax (including the outlay portion of the EITC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

[4] The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source.—Joint Committee on Taxation. Detail may not add to total due to rounding.

TAX PROVISIONS IN THE SENATE FINANCE COMMITTEE CHAIRMAN'S MARK FOR REVENUE RECONCILIATION AND THE EITC PROVISIONS PREVIOUSLY ADOPTED BY THE COMMITTEE [1]

[1996 income levels]

Family economic income class [2] ($000)	Number of families (millions)	Average tax change (dollars)	Total tax change: Amount [3] (millions)	Total tax change: Percent distribution	Tax change as a percent of income	Tax change as a percent of current Federal taxes
0–10	12.5	$19	$239	−0.5	0.34	4.20
10–20	16.2	48	773	−1.7	0.32	3.60
20–30	15.1	88	1,319	−2.9	0.35	2.63
30–50	22.7	−249	−5,668	12.4	−0.63	−3.63
50–75	18.3	−565	−10,363	22.6	−0.92	−4.63
75–100	10.8	−927	−10,011	21.9	−1.08	−5.11
100–200	10.6	−1,183	−12,505	27.3	−0.91	4.13
200 and over	2.8	−3,416	−9,496	20.7	−0.71	−3.00
Total [4]	109.4	−418	−45,786	100.0	−0.72	−3.59

[1] This table distributes the estimated change in tax burdens due to the tax provisions in the Senate Finance Committee Chairman's Mark (JCX–44–95, September 16, 1995), and the EITC provisions adopted by the Committee on September 30, 1995.

[2] Family Economic Income (FEI) is a broad-based income concept. FEI is constructed by adding to AGI unreported and underreported income; IRA and Keogh deductions; nontaxable transfer payments such as Social Security and AFDC; employer-provided fringe benefits; inside build-up on pensions, IRAs, Keoghs, and life insurance; tax-exempt interest; and imputed rent on owner-occupied housing. Capital gains are complted on an accrual basis, adjusted for inflation to the extent reliable data allow. Inflationary losses of lenders are subtracted and gains of borrowers are added. There is also an adjustment for accelerated depreciation of noncorporate businesses. FEI is shown on a family rather than a tax-return basis. The economic incomes of all members of a family unit are added to arrive at the family's economic income used in the distributions.

[3] The change in Federal taxes is estimated at 1996 income levels but assuming fully phased in law and long-run behavior. The effect of the IRA proposal is measured as the present value of tax savings on one year's contributions. The effect on tax burdens of the proposed capital gains exclusion is based on the level of capital gains realizations under current law. Provisions which expire before the end of the budget period and provisions which affect the timing of tax payments but not liabilities are not distributed. The incidence assumptions for tax changes is the same as for current law taxes.

[4] Families with negative incomes are included in the total line but not shown separately.

Source—Department of the Treasury, Office of Tax Analysis, October 18, 1995.

TAX PROVISIONS IN THE SENATE FINANCE COMMITTEE CHAIRMAN'S MARK FOR REVENUE RECONCILIATION AND THE EITC PROVISIONS PREVIOUSLY ADOPTED BY THE COMMITTEE [1]

[1996 income levels]

Family economic income quintile [2]	Number of families (millions)	Average tax change (dollars)	Total tax change: Amount [3]	Total tax change: Percent distribution	Tax change as a percent of income	Tax change as a percent of current Federal taxes
Lowest [4]	21.4	$26	$562	−1.2	0.30	3.97
Second	21.9	77	1,688	−3.7	0.34	2.76
Third	21.9	−233	−5,110	11.2	−0.61	−3.49
Fourth	21.9	−578	−12,658	27.6	−0.93	−4.66
Highest	21.9	−1,380	−30,195	65.9	−0.87	−3.87
Total [4]	109.4	−418	−45,786	100.0	−0.72	−3.87
Top 10 percent	10.9	1,771	−19,375	42.3	−0.79	−3.59
Top 5 percent	5.5	−2,416	−13,220	28.9	−0.74	−3.18
Top 1 percent	1.1	−5,626	−6,155	13.4	−0.68	−2.77

[1] This table distributes the estimated change in tax burdens due to the tax provisions in the Senate Finance Committee Chairman's Mark (JCX–44–95, September 16, 1995), and the EITC provisions adopted by the Committee on September 30, 1995.

[2] Family Economic Income (FEI) is a broad-based income concept. FEI is constructed by adding to AGI unreported and underreported income; IRA and Keogh deductions; nontaxable transfer payments such as Social Security and AFDC; employer-provided fringe benefits; inside build-up on pensions, IRAs, Keoghs, and life insurance; tax-exempt interest; and imputed rent on owner-occupied housing. Capital gains are computed on an accrual basis, adjusted for inflation to the extent reliable data allow. Inflationary losses of lenders are subtracted and gains of borrowers are added. There is also an adjustment for accelerated depreciation of noncorporate businesses. FEI is show on a family rather than a tax-return basis. The economic incomes of all members of a family unit are added to arrive at the family's economic income used in the distributions.

[3] The change in Federal taxes is estimated at 1996 income levels but assuming fully phased in law and long-run behavior. The effect of the IRA proposal is measured as the present value of tax savings on one year's contributions. The effect on tax burdens of the proposed capital gains exclusion is based on the level of capital gains realizations under current law. Provisions which expire before the end of the budget period and provisions which affect the timing of tax payments but not liabilities are not distributed. The incidence assumptions for tax changes is the same as for current law taxes.

[4] Families with negative incomes are excluded from the lowest quintile but included in the total line.

Note.—Quintiles begin at FEI of: Second $15,604; Third $29,717; Fourth $48,660; Highest $79,056; Top 10% $108,704; Top 5% $145,412; Top 1% $349,438.

Source.—Department of the Treasury, Office of Tax Analysis, October 18, 1995.

Mr. CONRAD. Mr. President, how can it be? We heard all of this talk about a tax cut. Yes; in overall terms, in dollar terms, there is a tax cut; about $245 billion. But not everybody gets a tax cut. Half the people in the country are going to get a tax increase. That is what these charts show from the Joint Committee on Taxation and from the U.S. Treasury Department. Fifty-one percent of Americans, those earning up to $30,000 a year, 44 million American families, are going to get a tax increase. On the other side of the ledger, higher income people are going to get a tax reduction. Forty-nine percent of the American people are going to get a tax reduction. But 48 percent of the benefit is going to go to those earning over $100,000 a year.

Let us just see. This is the top 5 percent. What do they get? The top 5 percent. The 2.8 million families making over $200,000 a year get a $3,400 tax break. The top 5 percent get a $3,400 tax break.

How about the top 1 percent? Those are the 1.1 million American families that earn over $350,000 a year. They get a $5,600 tax break. Gee. You might wonder. How about my family? How about my family? We are earning $25,000 a year, a family of four. Do you know what is going to happen to you? You are going to get a tax increase. How about a family of four earning from $30,000 to $50,000 a year? What happens to them? They are going to get a slight tax cut of $249.

Compare that to the people getting over $350,000 a year. They are going to get $5,600—20 times as much, 20 times as much if you are earning over $350,000 than if you are earning between $30,000 and $50,000. And, of course, the dirty little secret of this tax plan is that Americans earning less than $30,000 a year—51 percent of the American people, 44 million American families—are going to have a tax increase. And then you look at the spread among those who are going to get a tax reduction, and it is unfair. A family earning between $30,000 and $50,000. They get only $250.

This small tax cut is going to be completely overwhelmed by the other effects of this overall package because those folks are going to find things that help them being cut, and they are going to wind up in a negative. If you look at how spending programs are being reduced and how the tax cuts affect them, you are going to find that people in the $30,000 to $50,000 category lose under this plan. The same will be true of $50,000 to $75,000. While they get a $565 tax cut, when you take into account the Medicare-Medicaid changes, the college loan changes and all the other Government programs that affect them, you find out their tax cut is going to be completely overwhelmed by the spending cuts that affect them.

So what you have here is an overall program that is an enormous transfer of wealth program. It transfers wealth from those who are on the low end of the totem pole and the middle of the totem pole to those who are on top. That is what the overall effect of this Republican plan is. And you know, that is what has been going on in this country for a long time.

This chart shows the share of wealth held by the top 10 percent of households in America. It shows in 1969, the top 1 percent had 20 percent of the wealth in this country. By 1979, the top 1 percent held 30 percent of the wealth in this country. And by 1989, they were up to 39 percent of the wealth. The top 1 percent, in 1989, held 39 percent of the wealth in this country.

I just say to my Republican colleagues, they accuse the Democrats of being for redistributing the wealth of America. Let me just say they have been the champions of redistribution of wealth, but instead of redistributing wealth from the wealthy down to those who are middle income and lower income, the Republicans have transferred wealth up to the top 1 percent, from the top 1 percent holding 20 percent of the wealth to the top 1 percent now holding 39 percent of the wealth of the Nation.

If anything is clear from history, it is that if wealth is concentrated in the hands of fewer and fewer people, that leads to political instability and that leads to deep trouble in the future.

Mr. DORGAN. I wonder if the Senator will yield.

Mr. CONRAD. I would be happy to yield.

Mr. DORGAN. I noticed a comment the Senator made about the fact that this reconciliation proposal will increase taxes for nearly 50 percent of the American families. Some say that is not a tax increase. If you limit or scale back the earned income tax credit, that is not a tax increase. And I was noticing that Jack Kemp, noted national Republican figure, former Congressman, former Cabinet official, said last week when he testified before the Senate Small Business Committee:

> I hope you guys do not go too far on removing the earned-income tax credit because that is a tax increase on low-income workers and the poor which is unconscionable.

So at least Jack Kemp thinks that when you scale back the earned income tax credit, what you have is a tax increase on low income and poor people. Is the Senator saying that the combination of those changes means that 50 percent of the working families in this country will have a tax increase?

Mr. CONRAD. These are not my estimates, I might add. These are the estimates of the Joint Committee on Taxation, these are the estimates of the U.S. Treasury Department, that do, as the Senator from North Dakota knows, distribution tables. And the distribution tables they provided the Finance Committee show that everybody earning up to $30,000 a year is going to get a tax increase. That is 51 percent of American families. Of the others who are going to get a tax reduction, interestingly enough, 48 percent of the benefit goes to those earning over $100,000 a year.

Let me just make one other point on the question the Senator asks with respect to the notion that the earned income tax credit is a welfare program. We heard that in the Finance Committee, that the earned income tax credit is really a transfer payment to people, at least in part. It is interesting because President Ronald Reagan said the earned income tax credit is the best profamily, prowork, antiwelfare measure ever to come out of Congress. That is what Ronald Reagan thought about the earned income tax credit.

What these folks want people to believe is that the earned income tax credit only relates to the income tax, because it is true; some of the folks who get the benefit of the earned income tax credit do not have an income-tax liability, but guess what. They have a payroll tax liability that is huge. In fact, 73 percent of the American people pay more in payroll taxes than they pay in income taxes, and the earned income tax credit was devised not only to provide relief on income tax but also on payroll taxes for working families. These are not people on welfare. These are people who are working, working families who get a break on their taxes, on their payroll taxes and their income taxes.

Mr. DORGAN. I wonder if the Senator would yield for another question.

I am interested in this proposition of the three letters from the Congressional Budget Office. The Senator and I jointly wrote a letter to the Director of the Congressional Budget Office.

It is not a secret; I have said on the floor of the Senate here when the Director of the Congressional Budget Office was appointed, the chairman of the House Budget Committee said, "I want to appoint this person because I think we will get the answers that we want from this person." This is a person who believes in the kind of an estimating process that is going to make them comfortable.

So I came to the floor and said I was pretty concerned about that. I want the CBO to be the referee, the one that is wearing the striped shirt, that is unbiased at the signal calling, or at least calling the issues as they see them.

And June O'Neill, the Director of CBO, in scoring this proposal, provided a letter on October 18, and the majority party brought it to the floor and they held it up and they were proud as new parents, blushing and showing all of us, gushing with pride, gee, we have now reached with this plan of ours a budget surplus in the year 2002. They did not claim that everyone would bear the same burden of lifting in order to reach the surplus, but nonetheless we have now reached a budget surplus in the year 2002.

Then the Senator and I wrote a letter to the Director of the CBO and said, well, that would be using the Social Security trust funds as operating revenues, would it not? The law will not allow us to do that, so will you provide us with a letter telling us what the year 2002 would look like if you cannot do what the law says you cannot do, that is, misuse the Social Security trust funds? Then what would the answer be?

The next day, October 19, we received a letter. And I noticed nobody from the other side has come and talked about this letter. But this letter says if you are going to count it that way, then in the year 2002 the budget deficit is $98 billion.

Then my understanding is they made a mistake in the computation of this. So the next day we got a third letter. And the third letter says, well, if you are going to count it that way with Social Security, we have made another adjustment and the deficit in the year 2002 is $105 billion.

So we went from a small surplus to a $98 billion deficit, now to a $105 billion deficit in 2002.

I raised the question last week about using the Social Security trust funds, and someone from the other side stood up and huffed and puffed and then gave me the answer kind of mumbled, like their mouth was full of tobacco or something. I could not quite hear what they said, but I got the gist of it. And the gist of it was that this is income.

You know, you do this like a business. You count all your income. I am thinking to myself, I wonder what they would say if the business counted as their operating income the pension money? I suspect the business man or woman would be somewhere on the road to 2 years of hard tennis in some Pennsylvania facility. Right.

You cannot do that. It does not work. It is dishonest. You cannot take Social Security trust funds that are dedicated to taxes, only to be used for that purpose, bring them to the operating budget, and say, "By the way, we have taken all this money out of the Social Security trust funds. We now have a budget surplus."

And because you cannot do that, cannot do it honestly, we asked the Congressional Budget Office Director to tell us, what is the deficit, if you are prevented from doing what is dishonest? The answer—$105 billion in 2002.

Can the Senator comment on these three letters?

Mr. CONRAD. First of all, when we talk about how it is counted, what the Senator and I asked for is, how about if you do it according to what the law is? The law is very clear. I read the law.

The law says you cannot count Social Security surpluses in determining whether the budget is in surplus or deficit. That is what the law says. Ninety-eight Senators voted for that law. They thought it was a good idea to protect Social Security then. They thought it was a good idea not to count surpluses, Social Security surpluses, in establishing whether the budget is in deficit or surplus then. They recognized when they cast that vote that it is absolutely wrong to take Social Security trust fund surpluses and use those to make the deficit look smaller.

Now, obviously I think that is right. And then when we asked the question of CBO, here is the final answer we got. There were three answers. The first answer, as the Senator noted, said we are going to have a slight surplus. When we said, "Yeah. But follow the law, obey the law. What happens when you exclude Social Security trust fund surpluses that are off-budget by law?" Then she came back and said—her final answer was, you have a $105 billion deficit in the year 2002, if you obey the law and you do not take Social Security trust fund surpluses.

Obviously, that is what we must do. That is what the law requires us to do. And what is the reason for that? The reason is, no place in America would any institution take the retirement funds of its employees, throw those into the pot and say they balanced the budget. Obviously you have got to run surpluses in your retirement accounts if you are going to have money for when your folks retire. It does not take any rocket science to figure that out.

If you spend all of the money, what happens when the folks retire? Their retirement funds are gone. That is what is at the heart of this issue.

I asked my accountant back in North Dakota, called him up one day, and I said, "Larry, what would you say to a client, business client, who came to you, and said, you know, he was having some rough economic times, and his company was running in the red. And if this business owner figured out a way to balance was to take the retirement funds of his employees and throw those into the pot and call the budget balanced," what would his advice be to a client who came to him with that question?

My accountant said, "I would tell him, 'You are on your way to Federal jail because that is a violation of Federal law.'"

And that is precisely what this Republican budget plan contemplates.

Mr. DORGAN. I wonder if the Senator would yield for one additional question.

The reason this is an important issue is either there is a surplus with this plan—despite the fact that you might or might not think this plan is well done; you might think the plan takes from the poor and the middle-income families and gives to the wealthy—that is neither here nor there; we will have that debate, and have had that debate—but either it produces a surplus or it does not.

Some came to the floor of the Senate boasting. They had this new letter. They said, "Look. We did all the heavy lifting, and we have a surplus in 2002." The reason they say that is germane is that it allows us to proceed with a tax cut. That triggers the ability to do tax cuts.

Well, if part of the triggering of the tax cuts is to use the Social Security trust funds, then what you have is a circumstance where, in my State, at least two-thirds of the senior citizens are living on $15,000 a year or less. You are saying to those people, "Your trust funds in Social Security, we're going to use those to provide a tax break to some Wall Street bankers or some others in this country who don't need a tax break."

So there is this tremendous transfer going on. That is why this question is important. And, again, I would say, Director O'Neill is, by all accounts, smart, capable. I have no reason to be critical of CBO, except we now have three different answers, the last of which is apparently correct.

And my sense is that it tells us what you and I have been talking about for some long while. The only way this adds up is if you add it wrong. It is the only way this adds up. Add it wrong, you get the right answer. Add it right, you get the wrong answer.

Mr. CONRAD. The Senator is exactly right. This is a fundamental question. And let me just say those who defend it by saying it is what we have been doing, that is no defense at all. That is just no defense at all.

What we have been doing is wrong. We have been doing it since 1983. For most of the time it has not made that much difference because the Social Security surpluses have been very small. But now the Social Security surpluses are growing dramatically. And they are going to continue to grow dramatically. There is a reason for it. The reason was to get ready for the time the baby-boom generation retires. That is why Congress acted in the early 1980's to change the Social Security fund, to design it to run surpluses. And what have we done? We have raided them. We have looted them. And now we will continue that practice to the tune of $636 billion over the next 7 years and call it a balanced budget. That is a fraud. That is an absolute fraud.

There is no one who would consider taking trust funds, throwing those into the pot to balance an operating budget as the correct way to do business. It is maybe the Washington way to do business; it is not the right way to do business. And we should stop it. We should stop it now.

I thank the Chair. I yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION AND BALANCING THE FEDERAL BUDGET

Mr. KYL. Mr. President, we are going to be taking up later on this week what we call in the Senate the reconciliation bill. Some of the Members from the other side have been talking about that bill this morning as it pertains to balancing the Federal budget. I would like to speak to some of the things that Senators addressed this morning, and also to the President's plans for dealing with our budget deficit over the course of the next 7 years.

Mr. President, Senator DORGAN and Senator CONRAD were just on the floor, and I think Senator HOLLINGS spoke earlier to this problem of the Federal budget deficit as it pertains to the Social Security surplus. They objected to the fact that the Republican balanced budget did not account for the fact that the Federal Government is spending that Social Security surplus and, therefore, makes it more like we are in balance when, in fact, we are spending money that does not really belong to the general Government; it belongs to the Social Security surplus. If you exclude that surplus, then, in fact, they charge that we would be running a deficit of about $100 billion in the year 2002.

Of course, it is true, that if the U.S. Government were not spending the Social Security surplus funds, then those funds would not be reflected in the budget and, obviously, there would be a deficit beyond that which has been calculated by the CBO.

But, Mr. President, the Senators that I just mentioned, the Senators from North Dakota and the Senator from South Carolina, while they have been consistent in speaking out in support of segregating those Social Security trust funds, I note have, with most of the other Members of both Houses of the legislative branch of Government, failed to refrain from voting for budgets that use those Social Security funds. My point is that everybody likes to talk about not spending those Social Security funds, but the fact is they vote for budgets that use the Social Security funds.

In 1993, all three of the Senators aforementioned voted for the budget resolution and, by the way, the reference is rollcall vote 94, April 1, 1993.

Senator Dorgan, Senator Conrad, and Senator Hollings—all three—voted for the budget resolution that spent every dime of the Social Security surplus and, by its own admission, left a projected deficit of about $200 billion, even taking into account the Social Security surplus at the end of its 5 year period.

They all voted for the 1993 budget reconciliation bill, on August 6, 1993, that relied on the use of the Social Security surplus. Senator Dorgan, speaking on behalf of the budget reconciliation bill, said on the floor on August 6:

> The fact is, we are going to decide today whether we do something about this crippling deficit or whether we continue to do nothing.

And then he voted for the budget resolution that spent every dime of the Social Security surplus. They all voted for the budget resolution in 1994, that is May 12, 1994, that spent every dime of the Social Security surplus and, again, by its own admission, left a projected deficit of about $200 billion, even taking into account the Social Security surplus at the end of its 5 year period.

Excluding the Social Security surplus, the budget resolution in 1994 provided for deficits of $239 billion in 1995, rising to $300 billion in 1999. Yet, Senators Dorgan, Conrad, and Hollings all voted for it, and I note, by the way, Mr. President, that that compares with our budget which, excluding Social Security, would go from $245 billion in 1996 to about a $100 billion deficit in the year 2002 and, of course, if you do not count Social Security, according to CBO we would be in balance by then with a zero deficit.

These three Senators are claiming that the Republican budget is a phony budget because it counts Social Security, the same as it has always done. But our budget, as I said, leaves a deficit of zero at the end of the 5-year period—zero—and that is certified by the bipartisan Congressional Budget Office.

If you excluded the surplus, the question is, what would you do with it? And I ask the question of those three Senators, because I think it is odd, it is strange that they come here today criticizing the Republican budget because it allows the expenditure of those funds when, in fact, all three of them have supported the same practice over and over and over again. So what would they do with those funds?

The surplus, of course, is invested in U.S. Government securities. By definition, it is borrowed by the Treasury. We do not put our money under a mattress any more than anybody else does. So do these three Senators all contend that we should borrow the money, pay interest to the trust funds, and then let the money sit idle, not do anything? That is a poor use of the funds.

Perhaps they would be willing to join us in finding a way to allow people to invest that in the private sector as a way of creating a surplus to Social Security earnings.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I will conclude by making this point. If we can invest that money in the private sector, it would both return a supplement to the people who are receiving Social Security in the future and prevent the general Government from expending the funds so that it would truly be used for Social Security purposes.

I hope that our colleagues' ultimate purpose is not to support what President Clinton has suggested, using pension funds for "economically targeted investments." In other words, pension funds would not be invested soundly for the benefit of retirees or, in this case, Social Security recipients, but used to advance social programs that benefit third parties.

I hope that is not what they are talking about. I hope it is more a political point they are making. Again, Mr. President, I point out that we would all like not to use those funds for general expenditure purposes, and we will be talking in the future about how we can assure those funds are used strictly for the benefit of Social Security retirees. I believe we should be supporting the Republican budget which the CBO confirms gets us to a zero deficit by the year 2002.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Are we in morning business?

The PRESIDING OFFICER. We are in morning business. Senators are authorized to speak up to 5 minutes.

Mr. DOMENICI. I ask unanimous consent that I be permitted to proceed for up to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAXES AND THE BUDGET

Mr. DOMENICI. Mr. President, I hope my friend from Arizona, if he is not terribly busy, can be with me on the floor for a moment.

I have three issues to address. Let me take the first one. I regret over the weekend in talking about the President's statement that he made in Houston that he thought he raised the taxes too much and that it was because of Congress, in particular I assume his party and our party, the Republican Party, that he raised taxes this much, implying that if somehow or another there would have been more help up here, he would have raised less taxes.

Let me make it absolutely clear, the President of the United States asked for more taxes than he got. Let me state that again. He sent us a budget and he ultimately got a tax increase and not a single Republican voted for that tax increase. But let me review what the President had done prior to that. He sent a budget to the Congress stating his master plan. What was in the master plan in terms of tax increases?

I have the number now. It is $360 billion. Remember, he had a Btu tax in it, an energy tax. Some of his own Members, such as then Senator Boren and others, said that will never fly. The ultimate tax increase was $270 billion. Over the weekend, the numbers were bantered around, but this is the right number. So essentially he asked us, if my arithmetic is right, for $90 billion more than he got.

What does that mean? That means that it was not Congress that forced him to get these big tax increases, it was the President's own plan. So what really happened was that he was asking for more tax increases than his Democratic supporters ended up giving him.

Is that not a shame that he would imply that it was the Democratic Senators and Congressmen who forced him to raise taxes so much? I will get this together in a memo with all of the number spread and put it into the Record. I trust my staff implicitly, and I now recall the Btu tax. So I say to my friend, Senator Kyl from Arizona, over the weekend we heard an incredible change of mind by the President—a flip-flop or whatever you want to call it. The President was up here asking, in 1993, for $360 billion in tax increases. He gets only $270 billion from the Congress, and he suggests if he would have had more cooperation from the Congress, he would not have raised taxes so much.

Mr. KYL. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. KYL. Mr. President, I was in the House of Representatives when this was proposed. I remember a lot of my Democratic colleagues who were not happy about supporting a Btu tax. The Senator from New Mexico will recall that the House Members ended up supporting that budget with the request for tax increases, including the Btu tax increase. Of course, the Senator from Arizona, then a Member of the House, and most of the other Republicans voted against the Btu tax increase, but most of the Democrats voted for it. I know they were greatly distressed when the Senate then turned it down and, in effect, were critical of the President for making them walk the plank when there was never really a chance that that tax would be imposed at the end of the day.

I agree with the Senator from New Mexico that it is unfortunate to cast the blame on the Congress, including a lot of good Democrat Members of Congress, who did not want to increase taxes as much as the President, and certainly the Republican Members of the Congress. The President, therefore, was pointing the finger in the wrong direction when he alleged that it was the Congress that made him do it. It is like that old comedian that said, "The devil made me do it." It was really the President himself who offered the tax increase to the American people.

Mr. DOMENICI. The Senator, in rebuttal of statements by Senators KENT CONRAD and BYRON DORGAN, referred to whether we have a balanced budget or not. Let me make sure the American people understand. See this nice certificate with the red ribbons? It says, "certified balanced budget." What is that about? What is this? This is the budget for fiscal year 1996, the concurrent resolution that was passed and now implemented by the bill we are talking about, called reconciliation.

What is this "certified balanced budget"? The Director of the Congressional Budget Office, Dr. June O'Neill, who is charged by almost everyone that knows anything about our fiscal problems with being in charge of an agency that we ought to believe because they are neutral, they belong to no one, they are funded by us, and they work independently for both the President and the Congress.

Why do I know that? Well, I know it because I have been working with them for 20 years. But the President told us that. He told us 2 years ago in his State of the Union Address, and I paraphrase: If you do not want to be accused of smoke and mirrors and if you want to be conservative so you are more apt to come out right, in terms of assumptions, let us all agree to use the Congressional Budget Office.

That is how important they are. They wrote us an analysis of the Senate's reconciliation bill—the one coming up soon—along with the budget resolution. What did they tell us? They said, "We certify that you have a balanced budget."

How could it be that the Congressional Budget Office is telling America the Republicans' 7-year plan gets to balance, and we have the Senators coming to the floor saying it is not in balance? It is interesting. If it is not in balance and we ought to do it another way, maybe we ought to hear their plan for cutting even more, which is apparently the proposal. If you do not want ours, you ought to cut more, so you get the proposal they are advocating.

I will tell you why they are doing it. I am not going to say this myself. I am going to read from a column by Charles Krauthammer from about 3 months ago. I will read one paragraph:

> In my 17 years in Washington, this is the single most fraudulent argument I have heard. I don't mean politically fraudulent, which is routine in Washington and a judgment call anyway. I mean logically, demonstrably, mathematically fraudulent, a condition rare even in Washington and not a judgment call at all.

I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

SOCIAL SECURITY 'TRUST FUND' WHOPPER

(By Charles Krauthammer)

Last week, Sens. Kent Conrad and Byron Dorgan managed to (1) kill the balanced budget amendment, (2) deal Republicans their first big defeat since November and (3) make Democrats the heroes of Social Security. A hat trick. How did they do it? By demanding that any balanced budget amendment "take Social Security off the table"—i.e., not count the current Social Security surplus in calculating the deficit—and thus stop "looting" the Social Security trust fund.

In my 17 years in Washington, this is the single most fraudulent argument I have heard. I don't mean politically fraudulent, which is routine in Washington and a judgment call anyway. I mean logically, demonstrably, mathematically fraudulent, a condition rare even in Washington and not a judgment call at all. Consider:

In 1994 Smith runs up a credit card bill of $100,000. Worried about his retirement, however, he puts his $25,000 salary into a retirement account.

Come Dec. 31, Smith has two choices: (a) He can borrow $75,000 from the bank and "loot" his retirement account to pay off the rest—which Conrad-Dorgan say is unconscionable. Or (b) he can borrow the full $100,000 to pay off his credit card bill and keep the $25,000 retirement account sacrosanct—which Conrad-Dorgan say is just swell and maintains a sacred trust and staves off the wolves and would have let them vote for the balanced budget amendment if only those senior-bashing Republicans had just done it their way.

But a child can see that courses (a) and (b) are identical. Either way, Smith is net $75,000 in debt. The trust money in (b) is a fiction: It consists of 25,000 additionally borrowed dollars. His retirement is exactly as insecure one way or the other. Either way, if he wants to pay himself a pension when he retires, he is going to have to borrow the money.

According to Conrad-Dorgan, however, unless he declares his debt to be $100,000 rather than $75,000, he has looted his retirement account. But it matters not a whit what Smith declares his debt to be. It is not his declaration that is looting his retirement. It is his borrowing (and over-spending).

Similarly for the federal government. In fiscal 1994, President Clinton crowed that he had reduced the federal deficit to $200 billion. In fact, what Conrad calls the "operating budget" was about $250 billion in deficit, but the Treasury counted the year's roughly $50 billion Social Security surplus to make its books read $200 billion. According to Conrad-Dorgan logic, President Clinton "looted" the Social Security trust fund to the tune of $50 billion.

Did he? Of course not. If Clinton had declared the deficit to be $250 billion and not "borrowed" $50 billion Social Security surplus—which is nothing more than the federal government moving money from its left pocket to its right—would that have made an iota of difference to the status of our debt or of Social Security?

Whether or not you figure Social Security in calculating the federal deficit is merely an accounting device. Government cannot stash the Social Security surplus in a sock. As long as the federal deficit exceeds the Social Security surplus—that is, for the foreseeable forever—we are increasing our net debt and making it harder to pay out Social Security (and everything else government does) in the future.

Why? Because the Social Security trust fund—like Smith's retirement account—is a fiction. The Social Security system is pay-as-you-go. The benefits going to old folks today do not come out of a huge vault stuffed with dollar bills on some South Pacific island. Current retirees get paid from the payroll taxes of current workers.

With so many boomers working today, pay-as-you-go produces a cash surplus. That cash does not go into a Pacific island vault either. In a government that runs a deficit, it cannot be saved at all—any more than Smith can really "save" his $25,000 when he is running a $100,000 deficit. The surplus necessarily is used to help pay for current government operations.

And pay-as-you-go will be true around the year 2015, when we boomers begin to retire. The chances of our Social Security benefits being paid out then will depend on the productivity of the economy at the time, which in turn will depend heavily on the drag on the economy exerted by the net debt that we will have accumulated by then.

The best guarantee, in other words, that there will be Social Security benefits available then is to reduce the deficit now. Yet by killing the balanced budget amendment, Conrad-Dorgan destroyed the very mechanism that would force that to happen. The one real effect, therefore, that Conrad-Dorgan will have on Social Security is to jeopardize the government's capacity to keep paying it.

Having done that, Conrad-Dorgan are now posing as the saviors of Social Security from Republican looters. A neat trick. A complete fraud.

Mr. DOMENICI. Mr. President, we all understand that the unified balanced budget is what has been used ever since Arthur Burns was chairman of the Federal Reserve Board. It is still used today. It is used by the President, it is used by the Federal Reserve Board, it is used by the Congressional Budget Office. What it essentially says is, if you put everything on budget, including not just the Social Security trust fund, but the myriad trust funds, that is the unified budget. Do not take some off and put some on; put it all on. With it all on, we are in balance.

I suggest—and it may come as a surprise—that we might even be able to show you, before the debate is finished, that in the 10th year we may be balanced—let us take Social Security balances off budget. We may be very close to getting there, under the projections of the Congressional Budget Office.

Having said that, let me talk about just two other things. My colleague from New Mexico took to the floor and spoke about education, relating with some specificity to my State and his, New Mexico. Let me make sure that we all understand what we are talking about. Let me try my best to make sure everybody understands about education. First of all, we appropriate 1 year at a time. There are no binding caps on appropriations for 1997, 1998 or 1999. Congress will do that each year, unless and until we set some legislative targets.

So let me talk for a minute about where we are in 1996, if everything works out the Republican way. Can we do that? In the year 1992, for the latest official data, total public spending on education programs in the country was $292.2 billion. So on top of that figure, you add $100.5 billion for the private education.

Get this: The Federal education budget, the U.S. Government helping or hindering education—whichever the case may be, but it is money spent—we spent, in 1992, $28 billion on the national Government's education participation. That is 7.2 percent of what is spent in the country on education—7.2 percent. So let us remember when the Federal Government says we are not going to spend quite that much, we are reducing 7.2 percent of the education budget of our schools, not the 100 percent, because the 100 percent is paid by local governments, by the State; 7.2 percent is paid by us.

Today, 3 years later, the percentage has declined to about 6.2 percent. The Federal Government's education component is 6.2 percent of what we spend as a nation. Here are the facts about the year 1996. The Senate-reported education and labor bill provides $22.3 billion for education programs in 1996—nearly $1.5 billion higher than the House-passed bill. The Senate-reported education appropriations bill is a grand sum of less than $400 million below the Federal contribution in the year 1995—$400 million less. Guess what that is in the percent reduction, Mr. President, of education in America? While we are trying to balance the budget, everybody takes a little bit of a cut, it is one-tenth, Mr. President, it is one-tenth of a percent; one-tenth of a percent of all of the expenditures on education is what the Senate did in the Labor education bill. It reduced it by $400 million—one-tenth of 1 percent.

As the President speaks of education, as Senators speak of education, would anyone believe we are talking about, in the Senate-passed education bill, reducing the level of expenditures on education into which we now, as a nation, spend $400 billion, roughly?

We have reduced it $400 million—one-tenth of 1 percent—1996 or 1995. That is not what anyone would understand from the statements that are made. We will wait until 1997 and 1998 and 1999 and see how those counts come out.

For the year 1996, that is it—one-tenth of 1 percent reduction under the Senate's proposal in education funding.

Mr. President, I have a number of other things I will save for later discussions. There is a huge misunderstanding around about the earned income tax credit and how it relates to the $500 per child tax credit. We have now figured it out and we will put it out for everybody to understand.

The one big thing right off for those wondering what we will show you when we put it all together, the President's child care tax credit goes up to 13 years of age and was $300. You had to take the earned income tax credit first and then apply the $500 after—very big difference than ours.

We take the $500 credit before the earned income tax credit and it turns out very, very few people get less than they did in 1995. The overwhelming percentage of Americans with children get a very significant tax cut, EITC changes or not.

I yield the floor.

RECONCILIATION

Mr. FORD. Mr. President, I was listening to the debate by all of our Senators and how well words are used and how well numbers are used.

We see this big board that is here—you may take it down; it should not be on the floor after the Senator has left, anyhow—that the budget is balanced. The budget is balanced under the proposal. That is the reason we can give a $245 billion tax cut; the budget is balanced. If you take $245 billion out of it, it is unbalanced. Figure it any way you want to. I have a balanced budget, but all of a sudden I have an expenditure that I did not account for, so my budget is out of balance.

Anybody sitting around the kitchen table at night trying to figure up their bills, has a balanced budget, then all of a sudden they have a doctor bill, have a car that breaks down, whatever it might be; therefore, their budget is out of balance.

Instead of a medical bill or car breaking down, they want to give a $245 billion tax cut.

We hear about cutting education, only just a minimal amount—$400 million is $400 million. The distinguished occupant of the chair and other Senators here know States that put up anywhere from 60 to 70 percent of their general fund in that State to education. Every little bit of help makes education better, gives the States an opportunity.

Talk about private education—sure, the big companies, corporations give to their private institution of higher learning. What about the State institutions? We have 55,000-plus students in Kentucky that get some kind of grant or loan to go to school. Now we will reduce those or eliminate them or make them higher at the end, and we will lose somewhere in the neighborhood of 600,000 Pell grants in my State.

They say, well, we will increase Pell grants by $100. That is true. But you will knock out from 600,000 down, so eliminate my students that have an opportunity to have a little bit to get over the hump.

It is the same way with the earned income tax credit. We have a poor family out here struggling to get into the middle class at $27,000 annual income, a family of four. You tell him you cannot have any credit for working, you cannot have any help for working, you cannot have any help to get over the poverty line. So we will cut that out.

They say, CBO said we would balance the budget. That is true, but then you will take $245 billion out of it. I hear a lot about what the President said about taxes; he may have taken too much or gone too far. Let me say this, Mr. President. In my State, after I voted for that package in 1993, those who paid taxes in 1992, 12,500 of my constituents, according to the information I have, paid increased taxes—12,500 filers in 1992 paid more for 1993. Mr. President, 315,000 of my constituents paid less. Everybody else paid the same. We reduced the budget by $500 billion, and by that we reduced interest rates, and that made a $600 billion reduction.

We eliminated or reduced over 300 programs in the Federal Government; going to remove 272,000 Federal bureaucrats, and we are on the way—close to 200,000 less than in 1993.

I thought that was a pretty good vote and I thought the path had been drawn pretty clear. I do not believe the Republicans would be here today with their deficit reduction tax cuts—all these things—if we had not cast that vote in 1993 to make this country better.

We hear a lot about Social Security and Medicare and the commission that reports it. The commission reported a year ago that we would have solvency problems in Medicare a year earlier. Now it is a year later. We are in better shape.

For a small amount we can take care of Medicare as it is for a decade. We have always taken care of the problems in Social Security and Medicare.

So now we hear they will cut Medicaid. Medicaid is what the middle-income, if you want to call it that, $35,000 to $75,000 income—most of them, after they spend everything they have, they are on Medicaid in a nursing home.

About August they will pick up the phone and say, "WENDELL, come get Dad. We have run out of money." "WENDELL, come and get Ma. We have run out of money." Do not worry about that; that will never happen, they say.

They have reduced the regulations on the nursing homes, and the statement was that you can sedate these old folks in nursing homes. They will be easier to handle and you can have fewer employees. That is exactly what got the Federal Government in the nursing home regulation business in the first place—the damage that was being done to our elderly that we were trying to help.

When you begin to look at the morass of what we are getting ready to vote on and shove down our throats, you will find in the days to come that there will be a lot of words that were said on the other side, how great it will be, take our money, put it in stocks and bonds. You get on the stock market one of these days and you will have problems. Pension funds; use them. Do all these things. This is one Senator that is not going to vote for it.

I hope that the question that the distinguished Senator from North Dakota asked the chairman of the Finance Committee or the Budget Committee the other day, where is the meat? Where are the hearings? We do not have any hearings. Are you afraid to debate it? I am not afraid to debate it. But you come here on the floor with public relations house statements, statements that are written—I have the book sent to all the Republicans. Everyone has one. Here is what you say when asked this question. Here is what you say when asked that question. If they do not ask this question, you raise this. All from the public relations house.

Mr. President, I know my time is up, and I wish that we would have more time when reconciliation comes up so we could really look at it in depth, but we are going to be limited, we are going to be limited.

I yield the floor.

AMBASSADOR REED DELIVERS U.N. SECRETARY-GENERAL'S MESSAGE IN HIROSHIMA CITY

Mr. PELL. Mr. President, on August 6, 1995, U.N. Under Secretary-General Joseph Verner Reed attended the Hiroshima City Peace Memorial Ceremony in Hiroshima, Japan, where he delivered a message on behalf of U.N. Secretary-General Boutros Boutros-Ghali.

As many of my colleagues will recall, Ambassador Reed has an accomplished, remarkable record of service in the United States Government, including serving ably and with distinction as the United States Ambassador to Morocco and as Chief of Protocol. Ambassador Reed is now dedicating his talents to the United Nations, where he serves as Under Secretary General and Special Representative of the Secretary General for Public Affairs.

In his introductory remarks to the Secretary-General's message, Ambassador Reed asked that we remember and praise the determination of the Hiroshima community to rebuild in the destructive aftermath of the war, and to work for nuclear disarmament and a nuclear test ban.

As a longtime advocate, friend, and supporter of the United Nations, and as one who has tried to work for a world free from the threat of nuclear weapons, I believe the ceremony in Hiroshima was a particularly important and compelling event.

In my view, the remarks by Ambassador Reed, and the message he delivered on behalf of Secretary-General Boutros Ghali, help to set precisely the right tone for the event. Mr. President, I commend those remarks to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY AMBASSADOR JOSEPH VERNER REED

Mr. Prime Minister, Mr. Mayor of Hiroshima, Excellencies, ladies and gentlemen, friends, 50 years ago today life on our planet Earth was changed forever.

The Hiroshima City Peace Memorial Ceremony is a highly symbolic and extraordinary event. For me, both as an international civil servant at the United Nations and as an American, today is a very emotional and significant day. I am very proud to represent the United Nations and Secretary-General Dr. Boutros Boutros-Ghali at this 50th Peace Memorial Ceremony in the year of the 50th anniversary of the United Nations. On this day, let us remember the first words of the Charter of the United Nations: "We the peoples of the United Nations, determined to save succeeding generations from the scourge of war . . ."

On this day, let us remember the determination of the citizens of Hiroshima to rebuild their lives and to overcome war. Let us praise their determination to work for nuclear disarmament and nuclear test ban.

On this solemn day, let us take to heart that there is a time to remember, a time to heal and a time to look forward. Hiroshima is living proof of man's ability to recover from the most horrible destruction and that gives hope to our planet.

The crushing coda to the most violent war in history altered global politics and war. The bomb introduced a new age of terror—the Atomic Age; a whirlwind was sowed.

The international community has to make sure that there is no reason ever again to employ destructive nuclear force. The United Nations, your United Nations, needs you, the citizens of Hiroshima, the people of Japan.

Ladies and gentlemen, let me now bring you a message from the Secretary-General of the United Nations, Dr. Boutros Boutros-Ghali:

"Today's is a poignant anniversary. Fifty years ago the infinite capacity of the human mind was given proof. And we saw how the skills and talents of man could harness the mysteries of science itself, to purpose that could be ennobling or to purpose that could simply destroy.

In that sense, this is an anniversary to remind us of what we can do and just how far it is possible for us to go. We saw that on the sixth of August, 1945. But in the sunlight of the awakened day, new realisations emerged, new resolves were fashioned. And this is also a commemoration of the will not necessarily to do what is within our means to do. It is a commemoration of the conciliation of capacity and conscience, of power with prudence. It is a commemoration of our awareness of the terrifying levels to which conflict, once begun, can escalate. It is a commemoration of the resolve, enshrined in the Charter of the United Nations barely 6 weeks earlier, to reaffirm faith in the dignity and worth of the human person.

You have dedicated this ceremony to peace. And, without doubt, the introspection the horror of Hiroshima compelled has made our world a safer place. Machinery has been put in place to support nuclear controls and safeguards, to carry out the destruction of nuclear weapons, to ban nuclear testing. The nuclear nonproliferation treaty has been validated in perpetuity. It has signatories whose number falls only a few short of the membership of the United Nations itself. Given tact, reason, and understanding it should be possible to aspire to a truly universally regime. Such a regime becomes all the more necessary and compelling given the clear and unambiguous assertion by the Security Council at the highest political level in January 1992 that the proliferation of weapons of mass destruction constitutes a threat to international peace and security.

In 2 years we shall commemorate the 40th anniversary of an unfulfilled mission: The question of a comprehensive nuclear test ban, which first appeared on the agenda of the General Assembly in 1957. It would be an achievement well worth striving for. The progress being made towards a comprehensive test ban treaty must be enhanced and build upon. The vast potential for the peaceful uses of nuclear energy must be addressed and given realisation unhindered by its diversion for essentially combative ends. And it is clear that non nuclear-weapon states must be provided international security assurances that are legally binding.

These are some thoughts that come to mind on an occasion such as this. In Hiroshima hope has succeeded hate, determination despair. For a half a century you have lived with an awareness at first hand of what the phrases the world uses can really mean. Please share that awareness, that sense of the possibilities that we can and we must realise. The world owes you no less, nor you the world."

This is the message from the Secretary-General of the United Nations.

Excellencies, citizens of Hiroshima, this expression of the Secretary-General is what we at the United Nations want to do together with you, the citizens of Hiroshima and the people of Japan.

I thank you.

PROCLAMATION HONORING THE 25TH ANNIVERSARY OF KICKAPOO HIGH SCHOOL OF SPRINGFIELD, MO

Mr. ASHCROFT. Mr. President, today I would like to salute a high school from my hometown of Springfield, MO, that defines excellence in secondary education. Kickapoo High School has been recognized by the U.S. Department of Education as one of the excellent secondary schools in America. Opened in 1971, Kickapoo will celebrate its 25th anniversary on October 25 after a rich history of academic achievement. Over 8,000 Missourians have graduated from the halls of Kickapoo High School. These students have attended some of America's finest universities including: Yale, Northwestern, University of Chicago, Duke, and Washington University.

Kickapoo High School continues to be a leader in educational diversity, serving as a model, not just for southwest Missouri, but for the Nation as a whole. The needs of physically and academically challenged students have been served by the opening of a learning resource center and by establishing an orthopaedically handicapped program. In an era when test scores are emphasized for college admissions, Kickapoo High School's students exceed the national average on the ACT by two points on each of the three sections. Students' educations are supplemented by advanced placement courses, where 80 percent of Kickapoo students earned scores, qualifying them for college credits upon enrollment.

A defining characteristic of a school is the honors bestowed upon it. Kickapoo High School had seven National Merit Scholar finalists and nine National Merit Commended Scholars in 1994 alone. For these achievements listed and many others not, I am pleased to honor Kickapoo High School on the 25th anniversary of its charter.

The teachers, students, administrators, and community of Kickapoo High School should be commended for their achievements and service to our Nation. All of those who have been affiliated with Kickapoo High School are charged with a duty to leave America as a better place. Kickapoo serves as an emblematic secondary educational institution and prime example of academic excellence in the United States of America.

THE CONSUMER PRICE INDEX

Mr. MOYNIHAN. Mr. President, some 32 years ago, in the administration of John F. Kennedy, I became Assistant Secretary of Labor for Policy Planning and Research. This was a new position. In this new position, I was nominally responsible for the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution which long predated the Department of Labor itself. The then-commissioner, Ewan Clague, could not have been more friendly and supportive and in time I grew to know more of the field. At that time the monthly report of the unemployment rate was closely watched by capital and labor, as we would have said, and was frequently challenged. Committees regularly assembled to examine and debate the data. Published unemployment rates, based on current monthly survey methodology appeared, if memory serves, in 1948 and so the series was at most 14 years in place at this time. By contrast, the Consumer Price Index dated back to 1919. And yet, while the statisticians were increasingly confident of the accuracy by which they measured unemployment, they were never entirely happy about the CPI. Its computation was, and remains, a difficult and ever-changing effort. In particular, the statisticians worried that the Consumer Price Index was increasingly used as a surrogate for the cost-of-living index. They felt this would lead to great troubles as surely the CPI overstated inflation. I think they would have been even more alarmed to know that in the two decades that followed we would use the CPI to index some 30 percent of Government outlays and 45 percent of Government revenues.

This problem inevitably grew more salient at times of true inflation. Thus, on October 26, 1980, an article in the Business and Finance section of the Washington Post described the election difficulties President Carter was facing owing to double-digit inflation. The story noted "The consumer price index overstates the impact of inflation, the White House contends." As we know, it contended to no avail, but the difficulties with the CPI as a proxy for the cost of living continued.

In the spring 1981 issue of the Public Interest, Dr. Robert J. Gordon, now chairman of the department of economics at Northwestern University, wrote:

> . . . the [United States] CPI is probably the single most quoted economic statistic in the world.

We are now slowly waking up to the further fact, well known in the economics and statistics communities, that the Consumer Price Index is not a measure of the change in the cost of living. It is so stated in a pamphlet published by the Bureau of Labor Statistics entitled "Understanding the Consumer Price Index: Answers to Some Questions":

> Is the CPI a cost-of-living index?
>
> No, although it frequently and mistakenly is called a cost-of-living index. The CPI is an index of price change only. It does not reflect the changes in buying or consumption patterns that consumers probably would make to adjust to relative price changes. For example, if the price of beef increases more rapidly than other meats, shoppers may shift their purchases away from beef to pork, poultry, or fish. If the charges for household energy increase more rapidly than for other items, households may buy more insulation and consume less fuel. The CPI does not reflect this substitution among items as cost-of-living index would. Rather, the CPI assumes the purchase of the same market basket, in the same fixed proportion (or weight) month after month.

Despite this caution from the agency that compiles the CPI, the index is used as a yardstick for adjusting Government benefits, including Social Security, and provisions of the Internal Revenue Code.

And yet, it is now well recognized that changes in the CPI overstate the change in the cost of living.

The administration recognizes this fact.

Congress recognizes this fact.

And a Commission of eminent economists appointed by the Senate Finance Committee recognizes this fact.

In an October 3, 1994, memorandum entitled "Big Choices," Dr. Alice Rivlin, then Acting Director of OMB and now Director—and a distinguished economist who has served as the president of the American Economic Association—noted that among the options available to reduce the budget deficit were several COLA proposals including, and I quote:

> CPI minus 0.5 "technical" reform (CPI may be overstated by 0.4% to 1.5%).
>
> CPI minus 2 for five years.

The budget resolutions passed by the Senate and House built into their baseline lower CPI assumptions than were projected by CBO in January. The lower assumptions reflect the expectation that scheduled BLS revisions of the CPI will lower the reported CPI. The Senate assumed a two-tenths of a percentage point adjustment; the House assumed a six-tenths of a percentage point adjustment. The conference report adopted the Senate version.

In their report—Senate Report 104–82—the Senate Budget Committee noted:

> In January, CBO projected CPI inflation would remain at 3.4 percent for 1998 and thereafter. The downward revision reported here relative to the January figures reflects CBO's new appraisal that the 1998 benchmark revision to the CPI planned by the Bureau of Labor Statistics will likely reduce the rise in the computed measure of the CPI by 0.2 percentage points a year. Federal Reserve Chairman Greenspan and CPI experts have recently testified before the Senate that incomplete evidence suggests CPI inflation may be overstated by as much as 1.0 to 1.5 percentage points a year. However, in advance of further, more conclusive analysis, CPI biases remain speculative and have not been incorporated into the Committee assumptions.

And the budget resolution, adopted by the Senate on May 25, 1995, contained this language:

> **SEC. 304. NONPARTISAN ADVISORY COMMISSION ON THE CPI.**
>
> (a) FINDINGS.—The Congress finds that—
>
> (1) Congress intended to insulate certain government beneficiaries and taxpayers from the effects of inflation by indexing payments and tax brackets to the Consumer Price Index (CPI);
>
> (2) approximately 30 percent of total Federal outlays and 45 percent of Federal revenues are indexed to reflect changes in the CPI; and
>
> (3) the overwhelming consensus among experts is that the method used to construct the CPI and the current calculation of the CPI both overstate the estimate of the true cost of living.
>
> (b) SENSE OF THE SENATE.—It is the sense of the Senate that—
>
> (1) a temporary advisory commission should be established to make objective and nonpartisan recommendations concerning the appropriateness and accuracy of the methodology and calculations that determine the CPI;
>
> (2) the Commission should be appointed on a nonpartisan basis, and should be composed of experts in the fields of economics, statistics, or other related professions; and

(3) the Commission should report its recommendations to the Bureau of Labor Statistics and to Congress at the earliest possible date.

The conference agreement on the concurrent budget resolution for fiscal year 1996 passed the Senate on June 29, 1995. The conference report included the following:

SEC. 309. SENSE OF THE SENATE ON THE ASSUMPTIONS.

It is the sense of the Senate that the aggregates and functional levels included in this budget resolution assume that—

* * * * *

. . . (6) a temporary nonpartisan commission should be established to make recommendations concerning the appropriateness and accuracy of the methodology and calculations that determine the Consumer Price Index (CPI) and those recommendations should be submitted to the Bureau of Labor Statistics at the earliest possible date.

Earlier, on March 13, April 6, and June 6, the Finance Committee held hearings on this subject. Testimony was received from 13 established economists who collectively represented virtually all the expertise that exists on this issue.

A remarkable consensus emerged at those hearings.

I ask unanimous consent that a list of the witnesses, along with their affiliations, and their estimates of the degree to which changes in the CPI overstate changes in the cost of living be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ESTIMATES OF CPI OVERSTATEMENT

(In order of appearance of witnesses)

March 13, 1995 Hearing:

Chairman Alan Greenspan, Federal Reserve: 0.5 to 1.5 percentage points.

Cmsr. Katharine Abraham, Bureau of Labor Statistics (BLS): No estimate offered.

Dr. Robert Gordon,[1] Northwestern University Dept. of Economics: Minimum of 1.7 percentage points.

Director June O'Neill, Congressional Budget Office: 0.2–0.8 of a percentage point (based on CBO report 10/94).

April 6, 1995 Hearing:

Dr. Dale Jorgenson,[1] Harvard University Dept. of Economics: Around 1 percentage point.

Dr. W. Erwin Diewert, Univ. of British Columbia/Dept. of Economics: 1.3 to 1.7 percentage points.

Dr. Ariel Pakes, Yale University Dept. of Economics: 0.8 of a percentage point.

Dr. Joel Popkin, Popkin & Co. (former Assistant Commissioner for Prices and Living Conditions at BLS): No estimate offered.

June 6, 1995 Hearing:

Dr. Michael Boskin,[1] Senior Fellow, Hoover Institute, Stanford Univ.: At least 1.0 percentage point, maybe 2.0 percentage points.

Dr. Ellen Dulberger,[1] Director, Strategy and Economic Analysis IBM: CPI overstatement is greater than others have stated and likely to grow.

Dr. Zvi Griliches,[1] Harvard University Dept. of Economics: 0.4 to 1.6 percentage points.

Dr. Janet Norwood, Senior Fellow, Urban Inst. (former BLS Commissioner): No estimate offered.

Dr. Robert Pollak, University of Washington Department of Economics: No estimate offered.

Average of Mid-Point Estimates by CPI Commission Members: 1.3 percentage points at a minimum (assumes Dulberger's minimum is 1.3 points, the average of other four members).

Mr. MOYNIHAN. Mr. President, again: Dr. Alan Greenspan, Chairman of the Federal Reserve Board—0.5 to 1.5 percentage points.

Dr. Dale Jorgenson, chairman of the department of economics at Harvard University—around 1 percentage point.

Dr. Robert Gordon, chairman of the economics department at Northwestern University—at least 1.7 percentage points. Note that in 1981 Professor Gordon wrote the Public Interest article, cited earlier, in which he laid out many of the issues related to the accurate measurement of changes in the cost of living.

Dr. Michael Boskin, professor of economics at Stanford University and Chairman of the Council of Economic Advisers in the Bush administration—at least 1 percentage point, maybe 2 percentage points.

In all, 9 of the 13 witnesses provided numerical estimates of the overstatement. The average of the estimates: about 1.1 percentage points. The calculation is based on a minimum estimate for some witnesses. Even if we assume a zero estimate of the overstatement for those who provided no estimate—and few, if any, would so contend—the average for all the witnesses would be 0.8 of a percentage point.

Not too different from the 0.4 to 1.5 percentage points noted by OMB Director Rivlin in her memo last October.

The complete record of these hearings is printed as Senate Hearing 104-69—Consumer Price Index. I hope Senators will obtain copies and review the hearing record.

Following the hearings, then Finance Committee Chairman Packwood and I, as ranking member, announced on June 26, 1995, the appointment of a nonpartisan Commission to:

. . . study the methodology used to calculate the Consumer Price Index (CPI) and to advise Congress on whether this methodology provides an accurate measure of the cost of living.

At that time I stated:

. . . Current law makes it clear that certain federal programs should be adjusted for changes in the cost of living. What is not clear is whether changes in the CPI, which is used as a proxy for changes in the cost of living, accurately measures these changes. A study by a non-partisan commission will provide invaluable advice to Congress on this important issue.

The Commission, chaired by Dr. Michael Boskin, issued its interim report on September 15, 1995.

The report, "Toward a More Accurate Measure of the Cost of Living," included the following observations and conclusions in the executive summary:

. . . While the CPI is the best measure currently available, it is not a true cost of living index (this has been recognized by the Bureau of Labor Statistics for many years). Despite important BLS updates and improvements in the CPI, changes in the CPI have substantially overstated the actual rate of price inflation, by about 1.5% per annual recently. It is likely that a large bias also occurred looking back over at least the last couple of decades, perhaps longer, but we make no attempt to estimate its size.

. . . Changes in the CPI will overstate changes in the true cost of living for the next few years. The Commission's interim best estimate of the size of the upward bias looking forward is 1.0% per year. The range of plausible values is 0.7% to 2.0%. The range of uncertainty is not symmetric. It is more likely that changes in the CPI have a larger than a smaller bias.

. . . The upward bias programs into the federal budget an annual automatic real increase in indexed benefits and real tax cut.

Let me now elaborate on the implications of these points made by the Commission.

Current law requires the Government to adjust some benefits and tax provisions for changes in the cost of living.

The 1972 Amendments to the Social Security Act included this language:

Section 202. (a) 1 Section 215 of the Social Security Act is amended by adding at the end thereof the following new subsection: Cost-of-Living Increases in Benefits.

Similarly, section 104(f)(3) of the Economic Recovery Tax Act of 1981 states:

. . . the cost of living adjustment for any calendar year is the percentage . . .

The objective of these statutes is clear: Benefits and Tax Code provisions should be adjusted for changes in the cost of living. However, the law stipulates that the adjustments should be based on changes in the CPI as a proxy for changes in the cost of living. But with mounting evidence that changes in the CPI overstate changes in the cost of living, implementation of the policy is thwarted. The law is being thwarted.

What can be done to ensure that the policies Congress has adopted are faithfully executed? That is, how can we ensure that adjustments in benefits and Tax Code provisions more accurately reflect changes in the cost of living? Two things.

First, continue to support ongoing efforts by the BLS in its routine updating and rebenchmarking of consumer expenditure patterns, and in its research activities. Talented and dedicated BLS researchers have identified many of the complex measurement issues that must be addressed when compiling a CPI in a world in which the quality of products changes and new goods are introduced with resolute regularity.

Second, Congress must recognize that, despite the best intentions of the BLS as it continues with its updates and research, the CPI is not, as the BLS readily acknowledges, a cost-of-living index. To achieve its policy objectives—so clearly stated in the law—

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[1] CPI Commission members.

Congress must implement legislative corrections that, when combined with the most accurate CPI that the BLS can produce, will result in changes in benefits and Tax Code provisions that accurately reflect changes in the cost of living.

As noted earlier, the Boskin commission on the CPI suggests that for now, the correction Congress should adopt is 1 percentage point.

The Commission's report also highlights the budget implications of failing to correctly implement policies designed to adjust for changes in the cost of living. We should not harbor any misgivings merely because these changes will dramatically improve the budget outlook. The error is there and should be corrected without regard to budget implications.

Even so, it must be acknowledged that the budget implications are enormous. One could say awesome.

CBO estimates a cumulative 10-year reduction in the deficit of $634 billion from a 1 percentage point downward adjustment in automatic changes of benefits and tax provisions. By the 10th year the annual reduction in the deficit is almost $140 billion. Extrapolating from these CBO projections, my staff estimates the 12-year cumulative reduction in the deficit at almost $1 trillion.

And the corrections affect both sides of the budget ledger. About one-half of the cumulative reduction in the deficit is due to lower outlays; one-third due to higher revenues, and the remainder results from reductions in interest payments.

And while we are thinking about saving the Social Security trust fund, consider this fact. Harry Ballantyne, Chief Actuary of the Social Security Administration, estimates that the date of exhaustion of the OASDI fund is extended by 19 years from 2030 to 2049 by a 1 percentage point downward adjustment in the CPI.

Exhaustion is defined as the year in which the trust fund has used up all its reserves of Treasury securities with the expectation that annual outlays will continue to exceed annual income.

This is a real fiscal dividend. We can get things right and save the trust fund.

Mr. President, I ask unanimous consent that the following reports and documents cited in my remarks be printed in the RECORD after my statement.

First, "The Consumer Price Index: Measuring Inflation and Causing It" by R.J. Gordon, 1981, in the Public Interest 63: Spring.

Second, "Understanding the Consumer Price Index: Answers to Some Questions" by the U.S. Department of Labor, Bureau of Labor Statistics, May 1994.

Third, "Toward a More Accurate Measure of the Cost of Living" by the Advisory Commission to Study the Consumer Price Index, September 15, 1995.

Fourth, table on the change in deficit from a downward adjustment in the CPI of 1 percentage point by the Congressional Budget Office, March 15, 1995.

Fifth, memorandum prepared by Harry C. Ballantyne, September 28, 1995, on: Estimated Long-Range Effects of Alternative Reductions in Automatic Benefit Increases.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Public Interest, Spring 1981]

THE CONSUMER PRICE INDEX: MEASURING INFLATION AND CAUSING IT

(By Robert J. Gordon)

Inflation is widely believed to be the most important economic problem facing the United States and most other countries in the world. Thus it is not surprising that the monthly publication of the U.S. Consumer Price Index (CPI) is so closely watched both inside and outside of government. Large increases in the CPI are bad news for Administration officials, particularly in election years, and may lead to sudden policy reversals such as the introduction of the Carter Administration's ill-fated credit controls in March 1980. Large increases in the CPI, however, are good news for millions of recipients of social security benefits, government retirement pay, and other payments that by law or contract must be escalated in step with the CPI. Also, since foreigners watch the CPI closely for clues to the future course of U.S. interest rates and the exchange value of the dollar, the CPI is probably the single most quoted economic statistic in the world.

Imagine that someone pushes the wrong button on a computer at the Bureau of Labor Statistics (BLS), the division of the Department of Labor that is responsible for the CPI, and records that the increase in the CPI over a particular year is 15 percent instead of the true rate of 10 percent. Government officials would probably react with restrictive policy measures—some combination of expenditure reductions, tax increases, and higher interest rates. Thousands, perhaps millions, of Americans might be thrown out of work. Millions of others receiving social security benefits or union wages escalated by the CPI would enjoy a windfall gain, since their payments would go up by more than the true inflation rate. The unnecessary extra benefit payments would cause the government deficit to balloon, putting extra pressure on the Federal Reserve to print more money and finance still more inflation, while the higher union wage payments would put pressure on firms to raise prices faster than otherwise.

Exactly this chain of events occurred in the United States in 1979 and 1980, but not because of an easily correctable slip by BLS. Instead, a serious overstatement of inflation by the CPI was caused by built-in design flaws. These defects have come to light not through the snooping of some measurement-minded Woodward or Bernstein, but rather as a result of a growing discrepancy between the CPI and a competing government measure of consumer prices called the "Personal Consumption Expenditures deflator," published by a division of the Department of Commerce, and usually called the "PCE deflator" for short. Table I shows that after registering only a small difference in early 1978 and most earlier years, the inflation rate recorded by the two indexes grew apart by an amount that reached an annual rate of 5 percent in the first half of 1980.

TABLE I.—INFLATION RATES AS ESTIMATED BY THE CPI AND PCE DEFLATOR

[Percentage changes at annual rates][1]

	CPI	PCE Deflator	Difference
1. 1947–77	3.4	3.3	0.1
2. 1978–80 by half year			
1978, first half	8.9	8.3	0.6
1978, last half	9.0	6.8	2.2
1979, first half	12.6	10.0	2.6
1979, first half	13.0	9.8	3.2
1980, first half	16.2	11.2	5.0

[1] Source: CPI from Bureau of Labor Statistics, PCE Deflator from Survey of Current Business, various issues. These figures do not reflect the data revisions announced in December 1980 for the PCE deflator. A preliminary inspection suggests that the inflation rate of the PCE deflator in the new data is between 0.5 and 1.0 percentage points lower for each period shown since 1977. Because the CPI has not been revised, the difference between the two indexes has been further enlarged by the revisions.

The story of the two inflation indexes is a fascinating one, even for those whose eyes glaze over at talk of measurement procedures and who prefer to treat government economic data as unchallenged gospel. Since the CPI and PCE deflator are compiled from a common set of underlying price data by two different sets of rules, part of the tale involves the rules themselves, why they lead to different results, and why the CPI rules are widely believed to be inferior to those used in the PCE deflator. Another aspect involves the internal workings of the BLS, where staff bureaucrats have long urged the replacement of obsolete rules for the measurement of housing prices but were forced by political pressure to retain the old rules in the new version of the CPI introduced in 1978. A final and less-reported chapter involves the adequacy of the underlying price data that both the CPI and PCE deflator share in common. These form the basis for all economic measures of real economic progress, or the lack of it, including those that show a drastic slowdown in the growth of U.S. productivity in the last decade. How effectively do official procedures handle innumerable situations when a new model or product costs more than the item it replaces, but differs in quality as well? New radial tires last longer than the old bias-ply type, and recent-vintage television sets both perform better and need fewer repairs than their predecessors. But if price indexes are not adjusted adequately for these quality improvements, inflation is overstated and the improvement in our productivity and standard of living is understated.

A TWO-CLASS SOCIETY?

The CPI was first published by the BLS in 1919 to help set wage levels for workers in shipbuilding yards, and its use as a standard for wage increases has always been one of its main purposes. Currently about 8 million workers are covered by collective bargaining contracts that provide for increases in wage rates based on increases in the CPI, and these wages set a pattern that millions of other workers try to emulate. More recently, many types of government payments have been linked to the CPI. Among those who reap a windfall if the annual CPI increase is overstated are 31 million social security beneficiaries and 2.5 million retired military and Federal Civil Service employees and survivors. Others receive payments geared to a particular component of the CPI, especially 20 million food stamp recipients and 25 million children who eat federally subsidized school lunches. In all about half the population, including dependents is affected by changes in the CPI.

The use of escalator clauses has created a two-class society, separating those who are protected against inflation, legally or by contract, from those who are not. Steelworkers, Chicago bus drivers, and other union members enjoying generous escalator clauses have moved several steps up the relative income ladder at the expense of white-collar workers and others whose wages are not escalated. Social security recipients enjoyed a 14.4 percent boost in benefits in July 1980, as compared to an increase in the government's average hourly earnings index of only 9.2 percent in the year ending that month. Use of that earnings index rather than the CPI for escalation in 1980 would have reduced the federal deficit by about 8 billion. Use of the PCE deflator would have been almost as desirable, saving about $6 billion.[1] Thus some of the much-discussed financial crisis of the Social Security System results from the use of the CPI for escalation purposes.

While adjustment of payments is the most tangible function of the CPI, there are two other uses which figure prominently in discussions of economic performance and policy. The first and most obvious is that the CPI itself is a readily available measure of inflation and serves as a widely-quoted verdict on the success or failure of economic policy. The second is that the individual CPI item indexes for pork gasoline, and other products are the sources of other price indexes. The CPI and PCE deflator displayed in Table I are both based on the same price-change data for pork and gasoline, but they combined these individual item indexes with different weights. Because the Commerce Department procedures put less weight on energy prices, which rose rapidly during the 1978–80 period (as well as no weight at all on mortgage interest rates), they yield a slower overall increase when the PCE deflator is added up. It is the PCE deflator, and the broader "GNP deflator" of which it is a major component, that allow the Commerce Department to translate data a current-dollar sales and personal income into quarterly estimates of real Gross National Product. The basic measure of the economy's productive performance.[2] Real GNP, in turn, is divided by BLS data on hours spent at work to yield data on the nation's hourly productivity.

THE EVER-CHANGING MARKET-BASKET

The CPI reports the price in any given month of a so-called "fixed market-basket" of commonly purchased items. Today's price of the market-basket is expressed relative to what the same items would have cost in 1967, the arbitrary "base year" of the index. As shown on the top line of Table II, the CPI was at a level of 251.7 in September 1980, indicating that items costing $10,000 in 1967 would have cost $25,170 if purchased in September 1980. Public attention tends to focus on recent changes in the CPI rather than on the cumulative change since 1967. Thus, newspaper reports do not highlight the index level of 251.7, but rather the change over the past year and month. In September 1980, the change in the CPI over the previous year registered 12.7 percent, and the change from August to September was 1.0 percent, usually expressed at an annual rate. The sense of panic that surrounded the Carter Administration's economic policy in March and April of 1980 was directly set off by three consecutive monthly CPI increases of 1.4 percent, or 18.2 percent when expressed as an annual rate.

TABLE II.—A SAMPLE OF CPI ITEM INDEXES, SEPTEMBER 1980.[1]

	Index Level (1967=100)	Percent change from September 1979
All items	251.7	12.7
White bread	219.6	9.4
Sirloin steak	280.9	11.9
Eggs	179.9	5.4
Potatoes	313.2	57.2
Roasted coffee	426.1	0.0
Whiskey	137.6	6.7
Residential rent	195.1	9.0
Contracted mortgage interest	500.9	26.3
Fuel oil	585.4	21.3
Telephone services	137.0	3.5
Television	105.0	2.0
Women's dresses	168.5	−1.5
New cars	181.7	9.4
Airline fares	310.3	44.9
Hospital room	428.4	13.8
School books and supplies	221.0	9.7

[1] Source: Consumer Price Index Detailed Report, September 1980.

The task of constructing the CPI involves (1) determining what people buy, (2) determining where they buy, and (3) determining what they pay for what they buy. The first task was carried out by the BLS and Census Bureau in 1972–74 and involved quarterly interviews with about 20,000 families and a survey of another 20,000 families who were asked to keep diaries of small, frequent purchases for two weeks. Because this effort of carrying out the Consumer Expenditure Survey is so complex and expensive, Congress is only willing to allocate funds for such a survey every decade. The previous Consumer Expenditure Survey had been carried out in 1960–61 and was the basis of the CPI until 1977. Thus in late 1977 the "old CPI" was based on expenditure data that were sixteen years out of date, and the "new CPI" introduced in 1978 was based on an expenditure survey that was already five years out of date.

Determining where people buy, so that the right amount of information might be collected from particular retail outlets, discount stores, and mail-order houses, was accomplished by a "point-of-purchase" survey of another 23,000 families in the early 1970s. This scientific basis for the collection of price data represents a substantial improvement on the arbitrary choices of outlets in the CPI for earlier years. With the allocation of individual items and retail outlets established by these various surveys, the month-to-month job of collecting the actual price quotations is carried out by BLS data collectors who have considerable latitude to choose the specific brands and types of goods to be priced each month within the general item definitions laid down by the central BLS office. An incredible total of one and a half million individual price quotations are obtained each year, of which 700,000 are for food, 100,000 are for rent and property taxes, and the remainder are for other items. Data sources, called "reporters," include about 2,300 food store outlets, 18,000 rental units, 18,000 housing units, and 22,300 other sources.

THE IMPORTANCE OF WEIGHTING PROCEDURES

Every month the CPI publishes an overall index, summary indexes for major groups of items like food and apparel, and about 250 item indexes, a few of which are shown as examples in Table II. What is striking here is the wide variety of price increases registered by different items since 1967, ranging from 5 percent for television sets to 485 percent for fuel oil. Clearly the overall inflation rate registered by the CPI depends on how much weight is attached to each item. Someone who spends equal shares of his income on rent, TV sets, telephone calls, eggs, and whiskey, would have experienced a price increase since 1967 of only 51 percent, or a compounded rate of only 3.2 percent per year. Someone else who spends equal shares on steak, potatoes, coffee, fuel oil, and mortgage interest, would have experienced an increase since 1967 of 321.3 percent, or a compounded rate of 11.7 percent per year. Since average hourly earnings increased by 7.5 percent over the same period, the first spending pattern would have allowed a substantial increase in real income, whereas the second pattern would have resulted in a drastic drop in real income.

Consumers are under constant pressure to shift their spending patterns to avoid goods that have unusually high price increases—for example, to reduce fuel usage in favor of wool sweaters, or to shift from coffee to whiskey. Any index like the CPI that uses fixed expenditure weights must exaggerate the inflation rate as compared to an index like the PCE deflator that uses current weights, since the CPI assigns relatively large weights to high-inflation items like fuel oil and coffee based on their shares in consumer expenditure in the "good old days" of 1972–73, before the consumer reaction against their increase in price. The fixed weights used in the CPI would not be an important defect if all products changed in price by roughly the same amount over long periods of time. But the large variety of price changes between 1967 and 1980 displayed by the index numbers for individual items in Table II has made the fixed-weight problem a source of upward bias in the CPI during the past three years, as obsolete weights magnify the high inflation rates of products like fuel oil.

How much of an exaggeration in the CPI's measured inflation rate is caused by this so-called "substitution bias"? We do not learn the answer to this question by examining the massive differences between the CPI and PCE deflator displayed in Table I, since these are largely caused by other factors besides substitution. Instead, we can determine the contribution of consumer substitution away from high-inflation items by examining the effect of three different weighting schemes for the data used in the PCE deflator. The first is the scheme used in the published "implicit PCE deflator" itself. Table III shows an example of how the implicit PCE deflator would be calculated for a simple economy consisting only of spending on coffee and whiskey. Sections 1 and 2 exhibit prices and quantities in three different periods: the 1972 base period and two successive quarters in 1980. Section 3 multiplies price times quantity in each period to obtain actual expenditures. Section 4 then computes "real" expenditures in constant 1972 prices by multiplying the actual quantities purchased in each period by the constant prices of 1972.

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[1] The actual social security increase was based on the CPI change in the twelve months ending in March, 1980.

[2] About two-thirds of Gross National Product consists of Personal Consumption Expenditures deflated by the PCE deflator. The other third consists of construction spending, business equipment purchases, government wages and purchases of goods, and the excess of exports over imports. Each of these other components has its own deflator based on a wide variety of data sources.

THE CONSUMER PRICE INDEX AND INFLATION

TABLE III.—METHODS OF CALCULATING PRICE INDEXES (FOR A HYPOTHETICAL ECONOMY)[1]

	1972	1980	
		First quarter	Second quarter
THE HYPOTHETICAL ECONOMY			
1. Prices:			
Coffee per pound	$1	$4	$5
Whiskey per bottle	$5	$5	$5
2. Units sold:			
Pounds of coffee	5	3	2
Bottles of whiskey	1	2	3
3. Actual expenditures:			
Coffee	$5	$12	$10
Whiskey	$5	$10	$15
Total	$10	$22	$25
4. Real expenditures in 1972 prices:			
Coffee	$5	$3	$2
Whiskey	$5	$10	$15
Total	$10	$13	$17
THE EFFECTS ACCORDING TO THREE INDEXES			
5. Implicit PCE deflator	100	169	147
6. Chain index of 1980 change			11.7
7. 1972 fixed-weight index	100	250	300

[1] Notes: The implicit PCE deflator in section 5 is 100 times the ratio of total actual expenditures (section 3) to real expenditures (section 4).

The Chain Index in section 6 multiplies the price change for the second quarter of 1980 for each item (25 percent for coffee, zero for whiskey) by the average expenditures share of each product in both quarters of 1980 (22/47 and 24/47, respectively).

The Fixed-weight Index in line 7 multiplies the level of the item index for each period (100, 400, and 500 for coffee; 100 each period for whiskey) by that item's share in 1972 expenditures (50 percent for each product in this case).

The PCE deflator is simply defined as the ratio of actual expenditures to real expenditures, and this is written in section 5, along with the percentage change between periods. This extreme example reveals a defect of the PCE deflator, which uses weights that shift each period. The alteration in weights in successive periods causes the deflator to mix up the measurement of price changes with the effect of shifting weights. Thus, in the second quarter of 1980 the price of coffee increases by 25 percent, and the price of whiskey stays constant, but the PCE deflator registers a 13 percent decline in spite of the fact that no single price has dropped! Why? Expenditures in that quarter have shifted toward whiskey, which has had no price increase at all since the base year of 1972; thus the higher weight increases the influence of whiskey's cumulative absence of price change since 1972, which has nothing to do with actual inflation in 1980.[3]

How can we obtain the advantage of the up-to-date weights used in the PCE deflator without the deflator's disadvantage of mixing together price changes and weight changes? This is accomplished by the "chain index," which is calculated by averaging together the changes in individual prices between and periods rather than by computing an index level as in the case of the implicit deflator. These individual changes are weighted by the average share of expenditures of each category in the two adjacent quarters taken together. In our example the increase in the chain index is 11.7 percent (shown in section 6), which makes intuitive sense as an average of the 25 percent increase in the price of coffee and the zero percent increase in the price of whiskey. (Since the share of expenditures on constant-price whiskey is a bit more than half in the two quarters, $25/$47, the chain index comes out showing a bit less of an increase than a simple unweighted average of 25 and zero).

Finally, the third alternatives is to combine the coffee and whiskey prices with fixed 1972 expenditure weights. This creates an index analogous to the CPI. As shown in section 7, the fixed-weight index yields a 20 percent price increase for the second quarter of 1980, reflecting the higher weight of coffee in 1972 spending patterns. In this extreme case the bias in the fixed-weight index stemming from consumer substitution is represented by the difference between the 20 percent increase in the index compared to the 11.7 percent increase in the chain index.

While real-world price changes vary all over the map, the relatively large share in spending of items experiencing roughly average price increases makes the problem of consumer substitution in the actual CPI less important than in our extreme example. This is shown in Table IV, which displays an array of price change indexes, ranging in order from the implicit PCE deflator in section 1 to the CPI itself in section 5. The five indexes here allow us to decompose the difference between the implicit PCE deflator and the CPI into three main factors. The chain index in section 2 differs from the implicit deflator in section 1 by eliminating the undesirable impact of changing weights, thus the difference between section 2 and section 1 shows the modest quantitative impact of shifting weights. Next, section 3 lists the PCE deflator recalculated with fixed 1972 weights. The difference between this fixed-weight version of the PCE deflator and the chain index in the section above shows the effect of consumer substitution away from items with rapidly rising prices. The difference is negligible in 1977 and 1978 but became magnified in 1979 and 1980, largely due to the over-weighting of energy prices in the fixed-weight index. Nevertheless, in the first half of 1980 shifting weights and the substitution effect together contributed only 0.8 out of the 4.4 percentage point difference between the Consumer Price Index and the implicit PCE deflator.

TABLE IV.—FIVE MEASURES OF INFLATION, 1977–80[1]

[In percent]

	Late 1976–77	Late 1977–78	Late 1978–79	Late 1979–mid-1980
1. PCE deflator	5.6	7.4	9.9	11.6
2. PCE deflator with "chain weights"	6.0	7.8	10.3	11.9
3. PCE deflator with "fixed weights"	5.9	7.9	10.7	12.4
4. CPI with PCE treatment of home ownership	6.3	7.9	10.8	12.2
5. CPI	6.8	9.0	13.3	16.0

[1] Source: Alan S. Blinder, "The Consumer Price Index and the Measurement of Recent Inflation," Brookings Papers on Economic Activity, vol. 11 (1980, no. 2), Tables II, IV and VI.

Note.—CPI figures are for December through December, or December through June in the last column. PCE deflator figures are for fourth quarter through fourth quarter, or fourth quarter through second quarter in the last column.

ACCOUNTING FOR HOME OWNERSHIP

The bulk of the excessive inflation rate measured by the CPI can be explained by its bizarre treatment of home ownership. Section 4 displays a special version of the CPI that replaces the actual home ownership component by the PCE measure and weighting of home ownership cost. The difference between the actual CPI in section 5 and the special version in section 4 shows that the choice of home ownership treatment makes an enormous difference, a full 3.8 percentage points in the first half of 1980.

Far from being a source of higher prices, squeezed budgets, and falling living standards, most Americans have found home ownership to be a source of wealth creation and one of the few spots in the family budget that is largely insulated from inflation. The treatment of homeownership in the CPI makes the fatal error of treating the whole population as if it were in the predicament of a newlywed couple buying its first house. This unlucky pair, late arrivals on the housing inflation merry-go-round, over the past several years has indeed faced a substantial increase in the monthly payment required to own its first house. But the vast majority of home owners has been protected from these higher costs. Increases in home purchase prices for existing home owners are a source of higher wealth, and "leverage" (the small initial share of their down-payment equity) makes the value of their equity increase by a multiple of the percentage annual increase in house prices. Because income is properly defined as consumption plus the change in one's wealth, higher home prices by this definition also raise individual incomes. Increases in mortgage interest rates do not represent a higher cost for holders of existing mortgages, since most of these were negotiated at fixed interest rates. The monthly payment to the local savings bank is the same today as it was in the month of the first payment when the house was purchased two or five or fifteen years ago, and thus is a steadily falling proportion of annual earnings that allows the paycheck to be diverted to other needs. Home ownership has been a blessing—a source of wealth and six-figure balance sheets for many Americans—rather than the curse that the CPI's treatment would imply.

In Table V the housing component of the PCE deflator is compared with the various parts of the rent and home ownership component of the CPI. It is evident that the difference between the PCE and CPI treatments involves both the weights and the actual price increases registered by the individual components. The housing component represents 17.4 percent of the weight in the PCE deflator, as contrasted with the 30.2 percent weight for rent and home ownership together in the CPI. The increase in the PCE component in the year to September 1980 was only 9.0 percent, as compared to a weighted average of 15.4 percent for rent and home ownership together in the CPI. There are numerous weak points, both major and minor, in the CPI treatment of housing. The most important are (1) the overweighting of the home-purchase and mortgage-interest-rate components, (2) the treatment of existing mortgage contracts as involving variable rather than fixed rates, and (3) the failure to subtract from the higher home prices and mortgage rate the benefits that consumers receive from interest tax deductions and from the capital gains due to higher house prices.

TABLE V.—RENT AND HOME OWNERSHIP COSTS: CPI WEIGHTS AND PRICE INCREASES[1]

[In percent]

Item	Weight in total index, December 1979	Annual rate of change September 1979–September 1980
A. PCE deflator housing component	17.4	9.0
B. CPI components:		
1. Residential rent	5.3	9.0
2. Home ownership	24.9	16.8
Home purchase	10.4	13.8
Contractual mortgage interest cost	8.7	21.8
Property taxes	1.7	3.5
Property insurance	0.6	13.6

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[3] If the same example were recalculated for a deflator using a base of 1980, second quarter (rather than 1972), the result would be an increase in the deflator of 14 percent rather than a decline of 13 percent.

TABLE V.—RENT AND HOME OWNERSHIP COSTS: CPI WEIGHTS AND PRICE INCREASES [1]—Continued

[In percent]

Item	Weight in total index, December 1979	Annual rate of change September 1979–September 1980
Maintenance and repairs	3.4	9.0

[1] Sources: CPI: Same as Table II. PCE Deflator: Survey of Current Business, October 1980. PCE data refer to the quarter in which indicated month occurred.

1. Overweighting of home purchase prices and mortgage interest rates. Table V shows that the weight attached to mortgage interest is almost as large as that attached to home purchase. The CPI makes the incredible error of treating home purchase and mortgage interest payments as separate unrelated transactions; it counts the house price once as the weight for home price changes and then counts most of it again as the weight for changes in mortgage interest rates. This double-counting can be appreciated in an example involving a new home purchased for $40,000 in 1972, financed by a 20 percent down payment ($8,000) and a twenty-five-year $32,000 mortgage taken out at a typical 1972 interest rate of 7.5 percent.[4] The BLS procedure computes the weight for the purchase price component from the 1972–73 consumer expenditure survey based on purchases of newly constructed houses; if every survey respondent had annual consumption expenditures of $20,000, and 5 percent of them purchased a new $40,000 house, this would yield a weight for a home purchase of 10 percent. But that is not all. Fully half of the mortgage payments over the 25 year term ($26,429, in this case) is included as an additional expenditure, so that mortgage interest costs receive a weight of 6.6 percent in this example. A minimum requirement for consistency in the CPI should be that the weight on housing reflects the amount actually spent—$40,000 in this case. People do not buy houses and mortgages separately; they obtain mortgages so that they do not actually have to lay down $40,000 in cash!

2. Assumption of variable rates on all existing contracts. The CPI does not describe the housing-cost experience of actual U.S. homeowners but rather of a fictitious society in which the interest rate on all outstanding mortgages is renegotiated every month. Imagine that the average mortgage lasts 10 years, and that the mortgage rate has risen in the past decade from 5 to 15 percent at a pace of exactly one-twelfth of a percentage point every month. Then the average rate paid on outstanding contracts would be 10 percent. Now imagine that on January 1, 1981, the rate on mortgage closings suddenly jumps from 15 to 17 percent. The CPI uses the mortgage closing rate for the first five days of the previous month, and so in this example the mortgage component of the February 1981 CPI would show an increase of 13.3 percent. If all other items were increasing at an average of 1 percent per month, or 12.7 percent per year, this treatment of the mortgage interest rate would be enough to cause scare headlines, since the annual rate of increase of the all-items CPI in February would be 27.9 percent. But in truth, since a single month is initially involved and the average mortgage lasts for ten years, less than one percent of total mortgage payments are affected by the new rate. The average mortgage interest rate paid would change from 10.0 to 10.1 percent, for an increase of just one percent, exactly the same as the assumed increase in all other items. Scare headlines would be avoided, and the February announcement of the CPI would report an annual rate of increase of 12.7 rather than 27.9 percent.

3. Use of actual rather than real after-tax interest rate. Does a higher mortgage interest rate actually raise the true cost of borrowing, as assumed by the CPI? Not necessarily, because borrowing cost consists of the actual interest rate paid, less the percentage increase in the price of the item purchased with the borrowed funds, less any tax deductions for interest paid. Sensible home owners and business borrowers know that a 15 percent interest rate is not a suffocating burden if borrowing allows them to buy cheap now and sell dear later. In fact it is easy to show how an increase over a decade from a 5 to 15 percent mortgage rate actually could have reduced real borrowing costs. Imagine that over the same period the inflation increased from zero to 10 percent, and that the income tax rate remained fixed at 20 percent. Since all interest paid (not just the net-of-inflation part) is deductible, the real cost of borrowing can decline if inflation is high enough.

THE HOME-OWNERSHIP BLUNDER, AND HOW TO RIGHT IT

There are no defenders of the present treatment of home ownership costs in the CPI, which has remained essentially unchanged since 1953.[5] Yet year after year between 1977 and 1980 its damage grew as escalated union wages, government transfer payments, and the government deficit were pushed up. During the deliberations that led to the 1978 CPI revision, there was unanimous staff support in BLS for killing the present procedure. Yet the staff was overruled by the late Julius Shiskin, then Commissioner, who wrote that "I have decided that the present treatment will be continued . . . This decision is based on the fact that there is widespread disagreement among the business, labor, and Government advisers to the Bureau of Labor Statistics concerning the approaches to the cost of shelter proposal by the Office of Prices and Living Conditions."[6] One interpretation of this remark is that the last refuge of a bureaucrat faced with controversy is to retain the status quo. Another possibility is that the key word in Shiskin's letter is "labor," and that labor unions were unwilling to accept any tampering with the CPI that might jeopardize the privileged position that they had enjoyed during the 1973–74 high-inflation period thanks to their CPI-escalated contracts. In light of the fact that the Carter Administration bowed to union pressure on the issue of the minimum wage, it is not implausible that union pressure was behind Shiskin's decision. In any case there is no doubt that labor unions have been among the main beneficiaries of his vote for the status quo.

The two main candidates suggested by economists to replace the present treatment are the same as those proposed by the BLS staff during the 1972–77 deliberations on the CPI revision—the "user cost" and "rental equivalence" approaches. In fact, in an end run around its own index, the BLS now publishes five alternative versions of the CPI using different measures of home ownership cost. Of the five alternatives, four represent different ways of treating user-cost, and the fifth is based on the rental equivalence method. (It is the fifth alternative that is displayed on line 4 of Table IV.)

1. The user-cost of housing. Economists love to dazzle their students with "user cost" formulas of the type developed in the early 1960's by Harvard's Dale Jorgenson for the purpose of explaining business investment behavior. The aim is to come up with a figure to represent the amount for which a capital good could be rented. Unlike the present CPI approach, which is based on the current price paid for new houses by the small fraction of people who actually purchase them in a given year, the user-cost approach measures the current annual capital and operating cost of home ownership for everyone. User-cost formulas typically sum up the annual mortgage interest costs, plus the interest that would have been earned on the down payment if it had been invested in a financial asset, plus operating costs like taxes, insurance, and repairs, minus capital gains due to higher house prices, and minus tax deductions made possible by the payment of mortgage interest.

The basic problem with the user-cost approach is that there are several alternative ways of measuring the ingredients in the formula, especially interest rates, tax rates, and capital gains. Are capital gains to be counted as those expected when the mortgage was taken out or those actually realized? Is the mortgage interest rate to be the current rate or an average of past rates? How is the personal tax rate relevant for mortgage interest deductions to be determined? The BLS provides four different measures of user cost to provide a menu of outcomes, and all of them display much more volatility than actual rent. If an economist's approximation of how much a house should rent for does not behave at all like actual observed rents, then that ought to be telling him something.

2. Rental equivalence. The idea of rental equivalence is simple and in fact is already used in the PCE deflator: Simply assume that the costs of home ownership moves in proportion to actual rents as measured by the CPI rent index, and apply a weight based on the estimated rental value of owner-occupied homes. Residential rent has increased more slowly than the average for other CPI items, and much more slowly than the present CPI home ownership component. Objections to the rental equivalence approach center around the fact that most single-family homes are not rented, and so the rental information collected by the CPI may not reflect hypothetical rents of single-family homes. Nevertheless landlords face the same interest costs as home owners and enjoy roughly the same tax deductions and capital gains. The fact that actual rents exhibit more gradual changes than hypothetical user-cost measures does not necessarily imply an error but rather reflects the tendency for prices of physical goods and services to adjust more slowly to changing conditions than prices of financial assets. Just as a company's stock price typically jumps around much more than the prices of the things it sells, so housing prices and interest rates jump around more than the rental

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[4] This example is taken from the article by Alan Blinder cited in the note to Table IV.

[5] In January 1981 the BLS announced that "the much-criticized home-purchase component of the consumer price index will be deleted and will probably be replaced with an estimate for rents" (New York Times, January 29, 1981, p. 1). This announcement thus endorses the conclusion of this section (written before the announcement) that the "rental equivalence" method should have been used all along. Unfortunately, the change will not be made until 1985, so this section of the text remains relevant for the first half of this decade.

[6] Letter from Julius Shiskin to Lyle Gramley of the Council of Economic Advisers, April 15, 1977.

value of houses. This makes sense in the case of rent, since changes in current mortgage interest rates do not actually affect landlords who have long-term fixed-rate mortgages, and changes in current capital gains have no impact (except on paper wealth) if the building is going to be held over a long period rather than sold at today's price.

Since the rental equivalence method is appealing, why not just adopt it? Use of rent data for the CPI home ownership component would justify expanding the sample of rent information to include more single-family houses. I suspect that much of the resistance to the rent approach stems from a belief that rent data are tainted, since rents have been rising so much less rapidly than the cost of construction (95 percent vs. 192 percent, respectively, between 1967 and 1980). But there is an economic reason for this divergence. My parents recall renting a house in Berkeley, California, in 1938 for $65 per month that was also for sale at the same time for $7,500. The house now would sell for $250,000 but could not rent for $2,167 a month (an equivalent percentage of sale price). In fact, a rent below $1,000 would be typical for the kind of house in the current Berkeley rental market. Why? Landlords and home owners renting out their homes no longer have to recoup all of their cash mortgage interest and operating expenses from rent, since likely taxed capital gains and tax deductions on mortgage interest now pay part of the bill. Thus the slow increase in rents is not a fiction, but reflects economic reality.

ACCOUNTING FOR CHANGING QUALITY

Up to this point all of the issues have involved differences between the CPI and PCE deflator. But now we turn to the question of the changing quality of products, where both indexes are on the same footing because they use the same underlying price figures obtained by the BLS data collectors. When a new model of a product is introduced that contains one or more extra features, part of its higher price may be explained by its higher quality. The gradual acquisition of higher quality goods has been an important source of a rising standard of living for Americans, and so we must make sure that adequate adjustments are made for the fraction of price increases that actually represent higher quality.

Quality change poses a problem for the CPI, which attempts to measure changes in the price of goods and services in a fixed market basket. The apparently straightforward task of collecting information on the price of a fixed set of goods is continually complicated by the fact that some goods go out of existence to be replaced by new models or new products. The issue of quality adjustments involves precisely how and when the new models are introduced into the overall index.

Over its history the CPI market basket has continually changed, providing an interesting—though usually out-of-date—commentary on social history. From 1918 to 1940, the CPI index that covered shaving was the price of a barber shave, and then switched in 1940 to the safety-razor blade, despite the fact that safety razors had largely replaced other barber shaves in the 1920's. From 1940 to 1952 the index item was the blade, joined from 1952 to 1964 by shaving cream, followed from 1964 to 1977 by the shaving cream alone, followed since 1977 by a combination of dental and shaving toiletry products. Since 1964 there has been no blade in the CPI, and thus no consideration of the new world opened up for most men by the invention of the double-edged blade in the early 1970's.

Other products have come and gone as well. In 1940 the index dropped not only barbershop shaves, but also high button shoes, men's nightshirts, and girls' cotton bloomers. The 1953 revision eliminated salt pork and laundry bar soap but added televisions, frozen foods, Coca-Cola, and whiskey. Pajamas, which had replaced nightshirts in 1940, themselves disappeared in 1964, leaving only sheets and blankets to cover the sleeping American male. Appendectomies also disappeared in 1964, the year funeral services were added. Among the new product categories introduced in the 1978 revision were pet supplies and expenses, indoor sports equipment, tranquilizers, and electronic pocket calculators.

How are new models and products introduced into the CPI? There are three main methods.

1. Direct comparison. When a quality change is considered to be "small," in the judgment of BLS staff members, it is neglected. All of the observed price change would be recorded as a change in the CPI item index, with no adjustment for quality change. If we assume that most model change-overs involve quality improvements, the direct comparison method imparts an upward bias to the CPI—that is, causes it to register too much inflation.

2. Linking. When the BLS staff members assess the quality change as too important to be ignored, then they introduce a linking procedure. This effectively imputes to the product whose quality changed the price movement of similar goods whose quality did not change. Let us imagine that an old-fashioned cotton sheet selling for $5.00 is replaced by a polyester permanent press sheet selling for $8.00 which lasts twice as long. The CPI linking procedure pays no attention to increased durability, but simply replaces the observed price increase by the actual price increase of other unchanged items in the same "household linens category."

3. Cost data. In some cases the BLS obtains the cost of the quality change directly from the manufacturer. First, staff members must determine whether a change claimed by the manufacturer to improve quality actually does so. The criterion for the judgment is whether the change improves the value of the product for the user. (Several years ago the BLS would not include a change by an auto manufacturer from a dial to digital clock on the grounds that this change did not increase the "user value" of the automobile.) The value of those quality changes that are not disallowed is based on the manufacturer's estimate of the extra cost involved in making the higher-quality item. This procedure is obviously subject to the flaw that the manufacturer may overstate the cost of the quality improvement in order to disguise a portion of actual price increases, particularly in a period in which government price controls or guidelines are attempting to hold a lid on prices. This source of error would tend to bias the CPI downward and cause it to register too little inflation.

The automobile is the only product which is given the full-blown cost-adjustment treatment. Every September several BLS officials travel to Detroit to consult with the major manufacturers in order to identify those specification changes on new models for which adjustments must be made. If a producer has introduced a new, heavier bumper, whether on its own initiative or to comply with federal safety regulations, the firm is asked to supply an estimate of the difference in the cost of producing the new bumper as compared to the old bumper. This difference in cost is then subtracted from the reported price increase of the new model automobile.

Because the BLS devotes so much more attention to automobiles than to other products, there is a chance that the recorded differences between the inflation rates registered by autos and other products may reflect differing quality-adjustment procedures rather than a true difference in price behavior. For instance, between 1972 and 1978 the measured price of automobiles went up 27 percent, but the price indexes for other types of moving mechanical equipment like tractors and construction machinery (part of the Producers' Price Index compiled by the BLS) increased by about 80 percent.

PRODUCT PRICE CYCLES AND INCREASED PERFORMANCE

The typical product, whether automobiles in the 1920's, TV sets in the 1950's, or electronic calculators in the 1970's, experiences after its invention an initial period of declining price, as its manufacturers spread the fixed cost of its development over more and more units sold. Then, as a product becomes "mature," there is less opportunity for efficiency gains to cancel out increased wages and other costs, so prices begin to rise. Three aspects of CPI procedures cause it to understate quality improvements and to overstate price change. First, the use of obsolete weights from decade-old expenditure surveys tends to place too little weight on modern products where price increases are relatively slow—this "consumer substitution" problem was examined above. Second, new models and products are typically introduced into the index much later than the date when their sales volume becomes important. And finally, the linking procedure, by far the most common quality-adjustment technique used by the BLS, tends both to treat new products as if they were mature products and to ignore performance improvements.

The long intervals between CPI revisions, and the officially sanctioned tendency for data collectors to cling to existing models until they disappear from the marketplace, imply that items with declining prices are typically absent from the index. Albert Rees, who in 1960 performed a fascinating comparison of BLS item indexes with price data for the same products from mail-order catalogues, recalls with amusement a visit with a store owner to identify the particular model cooking pot that was then being priced by a BLS field representative. "Oh, you mean this old model up here on the top shelf. We never sell these any more," answered the store owner, "but that BLS field representative keeps asking us for its price."

More important are the new products that enter the CPI late in the product price cycle. The United States became a motorized society in the 1920's and 1930's, when there was an enormous improvement in the performance of automobiles along with a decline in their price—but the automobile was not included in the CPI until 1940. Penicillin entered the CPI in 1951, after it had already experienced a 99 percent decline from its initial price. The pocket calculator entered the CPI in 1978, after it had declined in price about 90 percent from early 1970–71 models and about 98 percent from the price of a comparable electromechanical desk calculator of the 1960's.

The linking procedure misses quality improvements for two reasons. First, as in the cotton sheet example, the price change is taken to be identical to other items in the sample product group that remain unchanged in quality. But these are likely to be mature products experiencing price increases, whereas the item that is improved in quality is more likely to be in the early stage of its product cycle. Perhaps more important, the CPI ignores changes in performance that tend to accompany model changes. In the cotton sheet example, the new sheet lasts twice as long. Since consumers presumably are buying years of service from long-lasting items like sheets, the CPI treatment ignores the lower price of a "sheet-year," since the service life in the example is assumed to double while the price only increases by 60 percent. (It is a sign of the times that many goods like sheets and draperies are officially classified as "nondurable" yet actually last longer than many "durable" goods.)

The most striking fact about the treatment of quality change in the CPI is that it is inconsistent with its own stated objective, which is to adjust for changes in quality when they improve the value of a product to the user. In the sheet example and in many others there is no attempt to measure the change in product performance. Consumers value sheet-years, motor-oil-miles, and tire-miles, rather than sheets, quarts of motor oil, and tires independent of their durability. F. Lee Moore has calculated that between 1935 and 1978 the price of tires per mile of tire-life declined by 9 percent, in contrast to an increase in the CPI tire index of 140 percent. Over the same period, the price of motor oil per mile declined by 52 percent as compared to an increase in the CPI of 234 percent.[7] There are other examples of improved performance that are missed by the CPI's attention to "price per item" instead of "price per service desired by the user." Among these are the increased service life of light bulbs, spark plugs, and appliances.

Our previous discussion of the user cost of housing can be applied more broadly to any good which lasts a significant length of time. Consumers care about the total annual operating costs of automobiles and appliances having a given level of performance, not purchase price alone. Auto manufacturers have diverted development efforts from the old concentration on styling and tailfins to a new obsession with increased fuel efficiency. Yet there is no procedure in the CPI to adjust for improvements in automobile fuel efficiency.[8] A lab at M.I.T. several years ago studied the repair records of appliances and found that the frequency of refrigerator repairs had dropped by a factor of two, and TV repairs by a factor of four, between the mid 1950's and early 1970's.

In a study that makes allowances for improved electricity efficiency and other characteristics, I have estimated that the quality-adjusted prices of refrigerators, washing machines, and air conditioners declined at about twice the rate registered by the CPI between 1950 and the mid 1960's.

Performance improvements are not just limited to goods, but also extend to services. That vanishing breed, the domestic household worker, now accomplishes more per hour with modern appliances and fabrics than her 1925 counterpart, yet her "price" is a straight hourly wage. The apparently outrageous increases in hospital room charges exhibited in Table II disguise improvements in the quality of medical care provided to the typical patient, and today's guest at a Holiday Inn or other medium-priced hotel enjoys telephone and television service that was unavailable to his luxury-hotel counterpart of 50 years ago. An airline passenger mile is a more comfortable, faster, and safer, commodity than it was in 1955, and yet the CPI prices a homogeneous passenger mile. There is no doubt that train service has deteriorated, but this is of minor importance in an index that keeps its weight up to date.

Of all products in the U.S. economy, the one displaying the faster rate of price decline throughout the entire postwar era has been the electronic computer. Yet the U.S. government does not compile a price index for computers, so that the output and productivity gains achieved by companies like IBM and the office machinery industry as a whole are not captured by aggregate indexes of output and productivity. This does not involve the CPI directly, because until recently few computers were sold directly to consumers. Government officials are quick to admit that IBM's output and productivity achievements are missed in official data in the year the computers are manufactured, but they claim that the higher efficiency made possible by computers is accurately captured when they are used in subsequent years in the production of consumer goods. This position is partly true, since the use of computers to replace workers in consumer-goods factories has contributed to measured productivity advances.

Yet for a wide variety of consumer services the CPI is not capturing the improvements that the computer has provided. On many airlines computers make possible pre-reserved seats and one-stop check-in, and airline managements were willing to invest in computerized equipment in the belief that consumers should value the extra services provided. Yet the CPI does not value the extra services, treats an airline passenger-mile as an unchanged commodity, and leaves the impression in our national data that the investment in the extra computer has produced nothing. The same point applies to 24-hour money machines provided on street corners by banks, and other financial services. It is doubtful that the world-wide convenience made possible by major credit cards would have occurred without the computer, yet the CPI ignores the saving of time and fees by consumers who no longer have to purchase so many travelers checks and letters of credit.

Even the much-criticized U.S. government has been a source of an unmeasured improvement in our standard of living. For 25 years we paid an increased gasoline excise tax, treated by the CPI as an increase in the price of gasoline, in order to finance construction of the interstate highway system. Automobile travel is now faster and safer, but this government activity is treated as having only costs, with no benefits.

The interstate highway example is interesting because it conflicts with a controversial decision that treats anti-pollution and safety devices on automobiles in the CPI as an increase in quality rather than an increase in price. Government environmental and safety legislation is treated as having wisely balanced the cost of the devices against the benefits received by the nation as a whole in reduced pollution and greater safety, in contrast to the interstate highway case where benefits are ignored. If government regulatory efforts, like most economic activities, are subject to increasing costs and diminishing benefits as more and more of the pollution is eliminated, then the CPI treatment may have been conservative a decade ago, in the early stages of regulation, but overly generous recently. The growing consensus that many recent government regulations do not provide benefits to balance their costs would imply that, at least for this one reason, the Consumer Price Index understates inflation.

As we plunge further into the murky depths of index-making, at some point we leave the realm of the statistician and enter the realm of the philosopher. Where do we draw the line between a new model of an old product and an entirely new product? The CPI states that the price of admission to movies increased 330 percent between 1948 and 1978. Yet the invention of television allowed the price of two hours of movie-like entertainment to decline substantially, even if we cancel out the agony of commercials against the saving in baby sitters, parking fees, and transportation expenses. A long list of such broadly conceived substitutions could be complied—permanent press clothing for commercial laundries, phone for mail, appliance for domestic servants.

A BETTER INDEX

The CPI is a severely flawed index, as shown both by our comparison with the PCE deflator and our examination of the pervasive nature of unmeasured quality change. Yet it is striking that the BLS spent $50 million during 1972–77 to revise the CPI without curing any of its major defects. In a six-month overlap period in early 1978, the expensively revised "new CPI" registered an increase that differed from the "old CPI" by only 0.1 percentage point.

It seems clear in retrospect that the BLS spent its revision money on the wrong things, improving the number of outlets covered or the number of consumers surveyed rather than investing money in more rent data on single-family homes or on performance data for newly introduced models and products. What the CPI needs, in addition to the use of more up-to-date weights and a rental equivalence approach to the measurement of home ownership costs, is a vastly improved effort to measure the improved performance and efficiency of consumer goods and services, as well as the occasional decline in product quality. Much can be done with existing performance and efficiency data available from the published test reports of Consumers Union and other organizations, and in selective cases the BLS could institute its own testing program or contract for tests from private organizations.

It is now 20 years since a committee headed by George Stigler recommended many of the same improvements in the CPI. It is discouraging that so little has been done by so many for so long. BLS officials tend to reject suggestions for a more imaginative approach to quality measurement as too "subjective," when what is needed is a more frequent application of simple common sense. In the now-classic words of Martin Bronfenbrenner, addressed to the Stigler Committee in 1960, "it is better to be imprecisely right than precisely wrong." And in an era in which each change in the CPI sets off a wave of redistributional adjustments, that observation is precisely right.

UNDERSTANDING THE CONSUMER PRICE INDEX: ANSWERS TO SOME QUESTIONS

PREFACE

The continually growing uses and users of the Consumer Price Index (CPI) have generated an increasing number of questions about the CPI. Although the Bureau of Labor Statistics (BLS) has provided extensive material to the public describing the CPI since its 1987 revision, much of this material has been quite technical. BLS has developed this pamphlet, therefore, to (1) answer frequently asked questions about the CPI, (2) familiarize users of the CPI with some of the most important of the new procedures introduced with the 1987 CPI Revision, and (3) help users of the CPI better understand and use it.

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[7] F. Lee Moore, "Index Mischief: Price versus Cost," *Electric Perspectives*, 1978, no. 5, pp. 8–27.

[8] In the case of automobiles the BLS has measured the price change on new downsized models as equal to models that are unchanged in size. This is the correct procedure if the fuel savings on the new models just balance the consumer value of the loss in comfort and performance, but not otherwise.

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WHAT IS THE CPI?

The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a fixed market basket of consumer goods and services from A to Z. The CPI provides a way for consumers to compare what the market basket of goods and services costs this month with what the same market basket cost a month or a year ago.

HOW IS THE CPI USED?

The Consumer Price Index affects nearly all Americans because of the many ways it is used. Three major uses are:

As an economic indicator: The CPI is the most widely used measure of inflation and is sometimes viewed as an indicator of the effectiveness of government economic policy. It provides information about price changes in the Nation's economy to government, business, labor, and other private citizens and is used by them as a guide to making economic decisions. In addition, the President, Congress, and the Federal Reserve Board use trends in the CPI to aid in formulating fiscal and monetary policies.

As a deflator of other economic series: The CPI and its components are used to adjust other economic series for price changes and to translate these series into inflation-free dollars. Examples of series adjusted by the CPI include retail sales, hourly and weekly earnings, and components of the national income and product accounts.

An interesting example of this is the use of the CPI as a deflator of the value of the consumer's dollar to find its purchasing power. The purchasing power of the consumer's dollar measures the change in the quantity of goods and services a dollar will buy at different dates. In other words, as prices increase, the purchasing power of the consumer's dollar declines.

As a means of adjusting dollar values: As inflation erodes consumers' purchasing power, the CPI is often used to adjust consumers' income payments, for example, Social Security; to adjust income eligibility levels for government assistance; and to automatically provide cost-off-living wage adjustments to millions of American workers.

The CPI affects the income of almost 70 million persons as a result of statutory action: 43.1 million Social Security beneficiaries, about 22.6 million food stamp recipients, and about 3.9 million military and Federal Civil Service retirees and survivors. Changes in the CPI also affect the cost of lunches for 24.2 million children who eat lunch at school, while collective bargaining agreements that tie wages to the CPI cover about 2.8 million workers.

Another example of how dollar values may be adjusted is the use of the CPI to adjust the Federal income tax structure. These adjustments prevent inflation-induced increases in tax rates, an effect called "bracket creep."

IS THE CPI A COST-OF-LIVING INDEX?

No, although it frequently and mistakenly is called a cost-of-living index. The CPI is an index of price change only. It does not reflect the changes in buying or consumption patterns that consumers probably would make to adjust to relative price changes. For example, if the price of beef increases more rapidly than other meats, shoppers may shift their purchases away from beef to pork, poultry, or fish. If the charges for household energy increase more rapidly than for other items, households may buy more insulation and consume less fuel. The CPI does not reflect this substitution among items as a cost-of-living index would. Rather, the CPI assumes the purchase of the same market basket, in the same fixed proportion (or weight) month after month. About every 10 years the market basket is thoroughly updated to allow for the introduction of new products and services and to reflect more current spending patterns. (See question 6.) In addition, the CPI does not reflect taxes that are not directly associated with the purchase of specific goods and services. In other words, the CPI excludes taxes such as income and Social Security taxes.

It is important to note that local area CPI's cannot be used to compare levels of living costs or prices between areas. (See answer to question 17: "Can the CPI's for individual areas be used to compare living costs among the areas?")

WHOSE BUYING HABITS DOES THE CPI REFLECT?

The CPI reflects spending patterns for each of two population groups: All urban Consumers (CPI-U) and Urban Wage Earners and Clerical Workers (CPI-W). The CPI-U represents about 80 percent of the total U.S. population. It is based on the expenditures reported by almost all urban residents, including professional employees, the self-employed, the poor, the unemployed, and retired persons as well as urban wage earners and clerical workers. Not included in the index are the spending patterns of persons living outside urban areas, farm families, persons in the Armed Forces, and those in institutions (such as prisons and mental hospitals).

The CPI-W is based on the expenditures of urban households that meet additional requirements: More than one-half of the household's income must come from clerical or wage occupations and at least one of the household's earners must have been employed for at least 37 weeks during the previous 12 months. The CPI-W's population represents about 32 percent of the total U.S. population and is a subset, or part, of the CPI-U's populations.

DOES THE CPI MEASURE MY EXPERIENCE WITH PRICE CHANGE?

Not necessarily. It is important to understand that BLS bases the market baskets and pricing procedures for the CPI-U and CPI-W on the experience of the relevant average household, not on any specific family or individual. It is unlikely that your experience will correspond precisely with either the national indexes or those for specific cities or regions.

For example, if you or your family spend a larger than average share of your budget on medical expenses, and medical care costs are increasing more rapidly than other items in the CPI market basket, your personal rate of inflation (or experience with price change) may exceed the CPI. Conversely, if you heat your home with solar energy, and fuel prices are rising more rapidly than other items, you may experience less inflation than the general population.

This phenomenon explains why people sometimes question the accuracy of the published indexes. A national average reflects all the ups and downs of millions of individual price experiences. It seldom mirrors a particular consumer's experience.

HOW IS THE CPI MARKET BASKET CHOSEN?

The CPI market basket is developed from detailed expenditure information provided by families and individuals on what they actually bought. For the current CPI, this information was collected from the Consumer Expenditure Survey over the 3 years 1982, 1983, and 1984. In each of the 3 years, about 4,800 families, from around the country, provided information on their spending habits in a series of quarterly interviews. To collect information on frequently purchased items, such as food and personal care products, another 4,800 families in each of the 3 years kept diaries listing everything they bought during a 2-week period.

Altogether, about 29,000 individuals and families provided expenditure information for use in determining the importance, or weight, of each item in the index structure.

Due to time constraints, we used data from only the first 2 years of the Consumer Expenditure Survey to select the items to be priced. In addition, we update the sample of stores and service outlets in roughly 20 percent of the urban areas priced for the CPI each year. New items are introduced with these new samples.

WHAT GOODS AND SERVICES DOES THE CPI COVER?

The CPI represents all goods and services purchased for consumption by urban households. We have classified all expenditure items into over 200 categories, arranged into 7 major groups. Major groups and examples of categories in each are as follows:

Food and beverages (cookies, cereals, cheese, coffee, chicken, beer and ale, restaurant meals); housing (residential rent, homeowners' costs, fuel oil, soaps and detergents, televisions, local telephone service); apparel and its upkeep (men's shirts, women's dresses, jewelry); transportation (airline fares, new and used cars, gasoline, car insurance); medical care (prescription drugs, eye care, physicians' services, hospital rooms); entertainment (newspapers, toys, musical instruments, admissions); and other goods and services (haircuts, college tuition, bank fees).

In addition, the CPI includes various user fees such as water and sewerage charges, auto registration fees, vehicle tolls, and so forth. Taxes that are directly associated with the prices or specific goods and services (such as sales and excise taxes) are also included. But, the CPI excludes taxes not directly associated with the purchase of consumer goods and services (such as income and Social Security taxes).

The CPI does not include investment items (such as stocks, bonds, real estate, and life insurance). These items relate to savings and not day-to-day living expenses.

For each of the over 200 item categories, the Bureau has chosen samples of several hundred specific items within selected business establishments, using scientific statistical procedures, to represent the thousands of varieties available in the marketplace. For example, in a given supermarket, the Bureau may choose a plastic bag of golden delicious apples, U.S. extra fancy grade, weighing 4.4 pounds to represent the "Apples" category.

HOW ARE CPI PRICES COLLECTED AND REVIEWED?

Each month, Bureau of Labor Statistics (BLS) field representatives visit or call thousands of retail stores, service establishments, rental units, and doctors' offices, all over the United States to obtain price information on thousands of items in the CPI market basket. For the entire month they record the prices of about 90,000 items. These 90,000 prices represent a scientifically-selected sample of the prices of goods and services sold to urban consumers throughout the country.

During each call or visit, the field representative collects price data on a specific good or service that was precisely defined during an earlier visit. If the selected item is available, the field representative records its price. If the selected item is no longer available or if there have been changes in the quality or quantity (for example, eggs sold in packages of 8 when previously they had been sold by the dozen) of the good or service since the last time prices had been collected, the field representative selects a new item or records the quality change in the current item.

The recorded information is sent to the national office of BLS where commodity specialists who have detailed knowledge about the particular goods or services priced, review the data. The specialists check the data for accuracy and consistency and make any necessary corrections or adjustments. These can range from an adjustment for a change in the size or quantity of a packaged item to more complex adjustments based upon statistical analysis of the value of an item's features or quality. Thus, the commodity specialists strive to keep changes in the quality of items from affecting the CPI's measurement of price change.

HOW IS THE CPI CALCULATED?

The CPI is a product of a series of interrelated samples. First, using data from the 1980 Census of Population, BLS selects the urban areas from which prices are to be collected and chooses the housing units within each area that are eligible for use in the shelter component of the CPI. The Census of Population also provides the data which allows the assigning of the number of consumers represented by each area priced for the CPI. Next, another sample of about 24,000 families serves as the basis for a Point-of-Purchase survey that identifies the places where households purchase various types of goods and services.

Data from the Consumer Expenditure Survey conducted from 1982 through 1984, involving a national sample of almost 29,000 families, provided detailed information on their spending habits. This enabled BLS to construct the CPI market basket of goods and services and to assign each item in the market basket a weight or importance based on total family expenditures. The final stage in the sampling process is the selection of the specific detailed item to be priced in each outlet. This is done using a method called "disaggregation." For example, BLS field representatives may be directed to price "fresh whole milk." Through the disaggregation process, the field representative selects the specific kind of fresh whole milk that will be priced over time in the outlet. By this process, each kind of whole milk is assigned a probability, or weight, based on the quantity of it the store sells. If, for example, Vitamin D, homogenized milk in half-gallon containers makes up 70 percent of the sales of fresh whole milk, and the same milk in quart containers accounts for 10 percent of all whole milk sales, then the half-gallon container will be seven times more likely to be chosen than the quart container. After probabilities are assigned, one kind of milk is chosen by an objective selection process based on the theory of random sampling. The particular kind of milk that is selected by disaggregation will continue to be priced each month in the outlet.

To sum up, the price movement measurement (see question 8) is weighted by the importance of the item in the spending patterns of the appropriate population group. The combination of all these factors gives a weighted measurement of price change for all the items in all the outlets, in all the areas priced for the CPI.

HOW DO I READ OR INTERPRET AN INDEX?

An index is a tool that simplifies the measurement of movements in a numerical series. Most of the specific CPI indexes have a 1982–84 reference base. That is, we set the average index level (representing the average price level)—for the 36-month period covering the years 1982, 1983, and 1984—equal to 100. We measure changes in relation to that figure. An index of 110, for example, means there has been a 10-percent increase in price since the base period; similarly an index of 90 means a 10-percent decrease. Movements of the index from one date to another can be expressed as changes in index points (simply, the difference between index levels), but it is more useful to express the movements as percent changes. This is because index points are affected by the level of the index in relation to its base period, while percent changes are not.

In the following table, item A increased by half as many index points as item B. Yet, because of the different starting figures, both had the same percent change; that is, prices advanced at the same rate. On the other hand, items B and C show the same change in index points, but the percent change is much greater for item C because of its lower starting value.

We usually update reference base periods every 10 years or so to make it easier for people to relate changes in the CPI to other economic and cultural changes. We chose the 1982–84 period because it coincided with the time period of the CPI's expenditure weights.

	Item A	Item B	Item C
Year I	112.5	225.0	110.0
Year II	121.5	243.0	128.0
Change in index points	9.0	18.0	18.0
Percent change	(1)	(2)	(3)

[1] Item A: 9.0/112.5100=8.0
[2] Item B: 18.0/225.0100=8.0
[3] Item C: 18.0/110.0100=16.4

IS THE CPI THE BEST MEASURE OF INFLATION?

Inflation is the widespread and persistent increase in costs and prices over the Nation's entire price and cost structure, with expectations that the increase will continue to occur in the future.

Various techniques have been devised to measure different aspects of inflation. The CPI measures inflation as experienced by consumers in their day-to-day living expenses; the Producer Price Index (PPI) captures it at earlier stages of the production and marketing process; the Employment Cost Index (ECI) measures it in the labor market; the BLS' International Price Program measures it for imports and exports; and the Gross Domestic Product Deflator (GDP-Deflator) measures combine the experience with inflation of governments (Federal, State and local), businesses, and consumers. Finally, there are more specialized measures, such as measures of interest rates and measures of consumers' and business executives' expectations.

The "best" measure of inflation for a given application depends on the intended use of the data. The CPI is generally the best measure for adjusting payments to consumers when the intent is to allow them to purchase, at today's prices, the same market basket of consumer goods and services that they could purchase in an earlier reference period. It is also the best measure to use to translate retail sales and hourly or weekly earnings into real or inflation-free dollars.

WHICH INDEX IS THE "OFFICIAL CPI" REPORTED IN THE MEDIA?

Each month, BLS releases thousands of detailed CPI numbers to the press. However the press generally focuses on the broadest, most comprehensive CPI. This is known as "the Consumer Price Index for All Urban Consumers (CPI–U) for the U.S. City Average for all Items, 1982–84 = 100." Often, the media will report some or all of the following:

a. the index level (for example, July 1992 = 140.5)

b. the 12-month percent change (for example, July 1991 to July 1992 = 3.2 percent).

c. the 1-month percent change on a seasonally adjusted basis (for example, from June 1992 to July 1992 = 0.1 percent).

d. the annual rate of percent change so far this year (for example, from December 1991 to July 1992 if the rate of increase over the first 7 months of the year continued for the full year, after the removal of seasonal influences, the rise would be 2.9 percent).

e. the annual rate based on the latest seasonally adjusted 1-month change. For example, if the June 1992 to July 1992 rate continued for a full 12 months, the rise, compounded, would be 1.7 percent.

WHAT INDEX SHOULD I USE FOR ESCALATION?

The decision to employ an escalation mechanism, as well as the choice of the most suitable index, is up to the user. When drafting the terms of an escalation provision for use in a contract to adjust future payments, both legal and statistical questions can arise. While BLS cannot help in any matters relating to legal questions, it does provide basic technical and statistical assistance to users who are developing indexing procedures.

Some examples of technical or statistical guidelines from BLS follow:

BLS strongly recommends using indexes unadjusted for seasonal variation (i.e., not seasonally adjusted indexes) for escalation. (See answer to question 14 for a further explanation of seasonally adjusted indexes and why we do not recommend seasonally adjusted indexes for use in escalation.)

BLS recommends using national or regional indexes for escalation due to the volatility of the local indexes. (See answer to question 15 for an explanation of this point).

If you have further questions, the Bureau has prepared a detailed report, Using the Consumer Price Index for Escalation. For copies write or call the nearest BLS regional office listed at the end of this report, or call (202)—606–7000.

WHEN SHOULD I USE SEASONALLY ADJUSTED DATA?

By using seasonally adjusted data, economic analysts and the media find it easier to see the underlying trend in short-term price change. It is often difficult to tell from raw (unadjusted) statistics whether developments between any 2 months reflect changing economic conditions or only normal seasonal patterns. Therefore, many economic series, including the CPI, are seasonally adjusted to remove the effect of seasonal influences on the changes, thereby revealing the underlying trend. Seasonal influences are those that normally occur at the same time and in about the same magnitude every year. They include price movements resulting from changing climatic conditions, production cycles, model changeovers, and holidays. We re-estimate or revise seasonally adjusted indexes annually.

The unadjusted data reflect the actual prices consumers pay. Therefore, unadjusted data are appropriate for escalation purposes.

WHAT AREA INDEXES ARE PUBLISHED, AND HOW OFTEN?

Besides monthly publication of the national (or U.S. City Average) CPI–U and CPI–W, monthly indexes are also published for the four regions—Northeast, North Central, South, and West. Monthly indexes are also published for urban areas classified by population size—all metropolitan areas over 1.2 million, mid-sized metropolitan areas, small metropolitan areas, and all nonmetropolitan urban areas. Indexes also are available within each region cross-classified by area size. For the Northeast and West, however, some of the population-size classes are not available. BLS also publishes indexes for 29 local areas. These local area indexes are byproducts of the national CPI program. Each local index has a much smaller sample size than the national or regional indexes and is, therefore, subject to substantially more sampling and other measurement error. As a result, local area indexes are more volatile than the national or regional indexes, even though their long-term trends are similar. Therefore, BLS strongly urges users to consider adopting the national average (or regional) CPI's for use in their escalator clauses. If used with caution, local area CPI data can be used to illustrate and explain the impact of local economic conditions on consumers' experience with price change. Local area data are available on the following schedule:

We publsh five major metropolitan areas monthly: Chicago-Gary-Lake County, IL–IN–WI; Los Angeles-Anaheim-Riverside, CA; New York-Northern NJ-Long Island, NY–NJ–CT; Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD; San Francisco-Oakland-San Jose, CA.

Data for an addition 10 metropolitan areas are published every other month [on an odd (January, March, etc.) or even (February, April, etc.) month schedule] for the following areas:

Baltimore, MD—odd.
Houston, TX—even.
Boston-Lawrence-Salem, MA–NH—odd.
Miami-Fort Lauderdale, FL—odd.
Cleveland-Akron-Lorain, OH—odd.
Pittsburgh-Beaver Valley, PA—even.
Dallas-Fort Worth, TX—even.
St. Louis-East St. Louis, MO–IL—odd.
Detroit-Ann Arbor, MI—even.
Washington, DC–MD–VA—odd.

(Note: The designation even or odd refers to the month during which the area's price change is measured. Due to the time needed for processing, data are released 2 to 3 weeks into the following month.)

Data are published for another group of 12 metropolitan areas on a semiannual basis. These indexes, which refer to the arithmetic average for the 6-month periods from January through June and July through December, are published with release of the CPI for July and January, respectively, in August and February for: Anchorage, AK, Kansas City, MO–KS, Atlanta, GA, Milwaukee, WI, Buffalo-Niagara Falls, NY, Minneapolis-St. Paul, MN–WI, Cincinnati-Hamilton, OH–KY–IN, Portland-Vancouver, OR–WA, Denver-Boulder, CO, San Diego, CA, Honolulu, HI, Seattle-Tacoma, WA.

Finally, BLS recently began publication of CPI's for two metropolitan areas on an annual basis. These indexes represent the arithmetic averages for the 12-month period from January through December of each year. They are published with the release of the CPI for January, i.e., in February. These areas are: New Orleans, LA; Tampa-St. Petersburg-Clearwater, FL.

WHAT AREA CPI SHOULD I USE IF THERE IS NO CPI FOR THE AREA I LIVE IN?

Although the BLS can provide some guidance on this question, users must make the final decision.

As noted in the answers to Questions 13 and 15, BLS strongly urges the use of national or at least regional CPI's for use in escalator clauses. These indexes are more stable and subject to less sampling and other measurement error than local area indexes. They are, therefore, more statistically reliable.

CAN THE CPI'S FOR INDIVIDUAL AREAS BE USED TO COMPARE LIVING COSTS AMONG THE AREAS?

No, an individual area index measures how much prices have changed in that particular area over a specific time period. It does not show whether prices or living costs are higher or lower in that area relative to another. In general, both the market basket and relative prices of goods and services in the base period vary substantially across areas.

The following illustration shows that while Area B has higher prices than Area A, the price change in Area A has been greater than in Area B. The CPI measures the rates of change in prices rather than the level of prices.

	Base period		Current period	
	Price	Index	Price	Index
Area A	$0.30	100	$0.55	183
Area B	0.60	100	0.90	150

WHAT TYPES OF DATA ARE PUBLISHED?

There are many types of data published as outputs from the CPI program. The most popular are indexes and percent changes. Requested less often are relative importance data (or relative expenditure weights), base conversion factors (to convert from one CPI reference base to another), seasonal factors (the monthly factors used to convert unadjusted indexes into seasonally adjusted indexes), and average food and energy prices. Index and price change data are available for the U.S. City Average (or national average), for various geographic areas (regions and metropolitan areas), for size classes of urban areas, and for cross-classifications of regions and size classes. Indexes for various groupings of items are available for all geographic areas and size classes.

There are individual indexes available for over 200 items (e.g., apples, men's shirts, airline fares), and over 120 different combinations of items (e.g., fruits and vegetables, food at home, food and beverages, and All items), at the national or U.S. City Average level. BLS classifies consumer items into seven major groups: food and beverages, housing, apparel and upkeep, transportation, medical care, entertainment, and other goods and services. Some indexes are available as far back as 1913.

Each month, indexes are published along with short-term percent changes, the latest 12-month change and, at the national item and group level, unadjusted and (where appropriate) seasonally adjusted percent changes (and seasonal factors), together with annualized rates of change. These annualized rates indicate what the rate of change would be for a 12-month period, if a price change measured for a shorter period continued for a full 12 months.

The answer to question 15 provides information about the areas and size classes for which indexes are published. For areas, we publish less detailed groupings of items than we do for the national level. The following table illustrates this point:

ALL ITEMS

Baltimore, MD	U.S. city average
Food and beverages	Food and beverages.
Food	Food.
Food at home	Food at home.
Cereals and bakery products	Cereals and bakery products.
	Cereals and cereal products.
	Flour and prepared flour mixes.
	Cereal.
	Rice, pasta, and corn meal.
	Bakery products.
	White bread.
	Fresh other bread, biscuits, rolls, and muffins.
	Cookies, fresh cake and cupcakes.
	Other bakery products.

Annual average indexes and percent changes for these groupings are published at the national and local levels.

Semiannual average indexes and percent changes for some of these groupings are also published.

Each month, we publish average price data for some food items items (for the U.S. and 4 regions) and for some energy items (for the U.S., 4 regions, 4 size-classes, 13 cross-classifications of regions and size-classes, and for 15 metropolitan areas).

WHAT ARE SOME LIMITATIONS OF THE INDEX?

The CPI is subject to both limitations in application and limitations in measurement.

Limitations of application

The CPI may not be applicable to all population groups. For example, it is designed to measure the experience with average price change of the U.S. urban population and, thus, may not accurately reflect the experience of rural residents. Also, the CPI does not provide data separately for the rate of inflation experienced by subgroups of the population, such as the elderly or the poor.

As noted in the answer to question 17, the CPI cannot be used to measure differences in price levels or living costs between one place and another; it measures only time-to-time changes in each place. A higher index for one area does not necessarily mean that prices are higher there than in another area with a lower index, it merely means that they have risen faster since their common base period.

The CPI cannot be used as a measure of total change in living costs, because changes in these costs are affected by such factors as changes in consumers' market baskets, social and environmental changes, and changes in income taxes, which the CPI does not include.

Limitations in measurement

Limitations in measurement can be grouped into two basic types, sampling errors and non-sampling errors.

Sampling errors: Since the CPI measures price change based on only a sample of items, the published indexes differ somewhat from what the results would be if actual records of all retail purchases by everyone in the index population could be used to compile the index. These estimating or sampling errors are limitations on the precise accuracy of the index, not mistakes in index calculation. The accuracy could be increased by using much larger samples, but the cost would be multiplied. Most of those who have examined the index have found it to be sufficiently accurate for most of the practical uses made of it. The CPI program has developed measurements of sampling error.

Nonsampling errors: These errors occur from a variety of sources. Unlike sampling errors, they can cause persistent bias in the index measurement. They are caused by problems of price data collection, logistical lags in conducting surveys, difficulties in defining basic concepts and their operational implementation, and difficulties in handling the problems of quality change. Nonsampling errors can be far more hazardous to the accuracy of a price index than sampling error, per se. BLS expands much effort to minimize these errors. Highly trained personnel are relied on to insure comparability of quality of items compared from period to period (see answer to question 8.); collection procedures are extensively documented and recurring audits are conducted. The CPI program has started a program of continuous evaluation to identify needed improvements and has introduced improvements as their benefits were proven and as our budget permitted.

WILL THE CPI BE UPDATED OR REVISED IN THE FUTURE?

Yes. The CPI will need revisions as long as there are significant changes in consumer buying habits or shifts in population distribution or demographics. The Bureau, by developing annual Consumer Expenditure Surveys and Point-of-Purchase Surveys, has the flexibility to monitor changing buying habits in a timely and cost-efficient manner. In addition, the censuses conducted by the Department of Commerce provide information that permits us to adapt to shifts in the population distribution and other demographic factors at 10-year intervals.

As a matter of policy, BLS is continually researching improved statistical methods. Thus, even between major revisions, we are making further improvements to the CPI. For example, changes in children's day care and nursery school expenses, until recently, had been represented by changes in State and local minimum wages. The development of an adequate sample of day care providers and nursery school reporters enabled us to obtain prices for day care and nursery school services directly.

HOW CAN I GET CPI INFORMATION?

BLS furnishes CPI data to the public in a variety of methods and formats.

The Electronic News Release: This is the quickest. It is reachable electronically immediately at release time (which is approximately 2 weeks after the reference month) through the BLS News Release Service. A fee is charged for this service. Write to the Office of Publications and Special Studies, Bureau of Labor Statistics, 2 Massachusetts Avenue, NE, Washington, DC 20212–0001, or call (202) 606–5888.

Telephone: A wide range of summary CPI data are provided on a 24-hour recorded message, including key CPI numbers plus the next release date. Call (202) 606–STAT. Another recorded message, of less than 3 minutes, provides information about the U.S. and Washington All Items CPI's and the next release date. Call (202) 606–6994. Technical information is available, between 8:15 and 4:45 Eastern time, Monday through Friday, at (202) 606–7000. BLS Regional Offices also provide CPI information by telephone.

Mailgram: This arrives overnight. It is provided through the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151. It costs $190 per year in the contiguous United States. It provides selected U.S. City Average CPI data.

Machine-readable form: A single magnetic tape which contains all current and historical CPI data is $95. Data diskettes are also available. These offer CPI–U and CPI–W indexes for the U.S. city average for 104 selected items, and All items indexes for 54 selected areas, for all months of the current year and the previous year. A single copy costs $38 and a 12-month subscription $290. These arrive about a week after the data are released. For information, write to the Office of Publications and Special Studies, Bureau of Labor Statistics, 2 Massachusetts Avenue, NE, Washington, DC 20212–0001 or call (202) 606–5886. Custom diskettes providing data requested by the user are also available. Call (202) 606–6968.

Free CPI Summary News Release: This 2-page release provides CPI–U and CPI–W indexes, 1-month and 12-month percent changes for 104 selected items for the U.S. city average, a brief analysis of recent CPI movement, and All items indexes for 36 selected areas and groupings of areas for available periods within the past 3 months, with their latest 12-month percent change. It arrives about 3 weeks after the release of the CPI. You can request that we add your name to this free mailing list by writing to the Office of Publications and Special Studies, Bureau of Labor Statistics, 2 Massachusetts Avenue, NE Washington, DC 20212–0001 or by calling (202) 606–STAT. BLS Regional Offices (see end of this brochure) also maintain free mailing lists for local and regional CPI information.

CPI Detailed Report: This is the Bureau's most comprehensive report on consumer prices. It is published monthly and costs $26 a year, $7 for a single copy. It can be ordered from: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. It includes text, statistical tables, graphs, and technical notes. Besides index data, the Detailed Report includes average prices for some food and energy items. It arrives 3–4 weeks after the release date.

Monthly Labor Review: The MLR provides selected CPI data included in a monthly summary of BLS data and occasional analytical articles and methodological descriptions too extensive for inclusion in the CPI Detailed Report. It can be ordered from: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. It costs $25 a year, $7 for a single copy.

Historical tables: These show all of the published indexes for each of the detailed CPI components listed in the CPI Detailed Report. They are available upon request. We impose fees for large requests. For information call (202) 606–7000.

Special publications: Various special publications are available upon request. Examples of these are: Relative Importance of Components in the Consumer Price Index, Using the CPI for Escalation, fact sheets like "Rebasing the Consumer Price Index" and associated conversion factors, and assorted checklists which describe the items eligible for pricing. For information call (202) 606–7000.

TOWARD A MORE ACCURATE MEASURE OF THE COST OF LIVING

(Interim report to the Senate Finance Committee from the Advisory Commission To Study the Consumer Price Index, September 15, 1995)

SEPTEMBER 15, 1995.

Hon. WILLIAM V. ROTH, Jr., *Chairman*,
Hon. DANIEL P. MOYNIHAN, *Ranking Minority Member*,
Committee on Finance, U.S. Senate, 211 Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS ROTH AND MOYNIHAN: The Advisory Commission to Study the Consumer Price Index herewith submits its Interim Report in accordance with its charter based on Senate Resolution 73, Section 11b.

Sincerely,

MICHAEL J. BOSKIN,
Chairman.
ELLEN DULBERGER,
Member.
ZVI GRILICHES,
Member.
ROBERT J. GORDON,
Member.
DALE JORGENSON,
Member.

EXECUTIVE SUMMARY

1. The American economy is flexible and dynamic. New products are being introduced all the time and existing ones improved, while others leave the market. The relative prices of different goods and services changes frequently, in response to change in consumer tastes and income, and technological and other factors affecting cost. This makes constructing an accurate cost of living index more difficult than in a static economy.

2. Estimating a cost of living index requires assumptions, methodology, data gathering and index number construction. Biases can come from any of these areas.

3. The strength of the CPI is in the underlying simplicity of its concept: pricing a fixed (but representative) market basket of goods and services over time. Its weakness follows from the same conception: the "fixed basket" becomes less and less representative over time as consumers respond to price changes and new choices.

4. There are five categories of potential bias in using changes in the CPI as a measure of the change in the cost of living. 1) Substitution bias occurs because a fixed market basket fails to reflect the fact that consumers substitute relatively less for more expensive goods when relative prices change. 2) Outlet substitution bias occurs when shifts to lower price outlets are not properly handled. 3) Quality change bias occurs when improvements in the quality of products, such as greater energy efficiency or less need for repair, are measured inaccurately or not at all. 4) New product bias occurs when new products are not included in the market basket, or included only with a long lag. 5) Formula bias occurs when the method of aggregating from the many thousands of elementary products for which price quotations are obtained to a modest number of groups of goods is inappropriate. The report discusses and estimates the size of each of the potential sources of bias.

5. While the CPI is the best measure currently available, it is not a true cost of living index (this has been recognized by the Bureau of Labor Statistics for many years). Despite important BLS updates and improvements in the CPI, changes in the CPI have substantially overstated the actual rate of

price inflation, by about 1.5% per annum recently. It is likely that a large bias also occurred looking back over at least the last couple of decades, perhaps longer, but we make no attempt to estimate its size.

6. Changes in the CPI will overstate changes in the true cost of living for the next few years. The Commission's interim best estimate of the size of the upward bias looking forward is 1.0% per year. The range of plausible values is 0.7% to 2.0%. The range of uncertainty is not symmetric. It is more likely that changes in the CPI have a larger than a smaller bias.

7. The upward bias programs into the federal budget an annual automatic real increase in indexed benefits and real tax cut.

8. CBO estimates that if the change in the CPI overstated the change in the cost of living by an average of 1% per year over the next decade, this bias would contribute almost $140 billion to the deficit in 2005 and $634 billion to the national debt by then. The bias alone would be the fourth largest federal program, after social security, health care and defense.

9. Some have suggested that different groups in the population are likely to have faster or slower growth in their cost of living than recorded by changes in the CPI. We find no compelling evidence of this to date, in fact just the opposite, but further exploration of this issue is desirable.

10. In our final report we expect to have a more complete analysis and evaluation together with specific recommendations for procedures to improve and/or complement the CPI.

I. INTRODUCTION[1]

Accurate measures of changes in the cost of living are among the most useful and important data necessary to evaluate economic performance. The change in the cost of living between two periods, for example 1975 and 1995, tells us how much income people would have needed in 1975, given the prices of goods and services available in that year, to be at least as well off as they are in 1995 given their income and the prices of goods and services available then. For example, if a family with a $45,000 income in 1995 would have needed $15,000 in 1975, the cost of living has tripled in the interim.

If the American economy was quite static, with very few new products introduced, very little quality improvement in existing products, little change in consumers' tastes, and very small and infrequent change in the relative prices of goods and services, measuring changes in the cost of living would be conceptually quite easy and its implementation a matter of technical detail and appropriate execution. Fortunately for the overwhelming majority of Americans, our economy is far more dynamic and flexible than that. New products are being introduced all the time and existing ones improved, while others leave the market. The relative prices of different goods and services change frequently, in response to changes in consumer taste and income, and technological and other factors affecting costs. Consumers in America have the benefit of a vast and growing array of goods and services from which to choose, unlike consumers in some other countries.

But because the economy is complex and dynamic is no reason to bemoan the greater difficulty in constructing an accurate cost of living index. Major improvements can and should be made to the various official statistics that are currently used as proxies for changes in the cost of living, such as the well-known Consumer Price Index (CPI).

The Consumer Price Index measures the cost of purchasing a fixed market basket of goods and services. Based on surveys of households from some base period, the index sets weights (expenditure shares) for different goods and services. The weights reflect average or representative shares for the groups surveyed.[2] Keeping these weights fixed through time, the CPI is then calculated by attempting to measure changes from one month to the next in prices of the same, or quite closely related, goods and services.

But through time consumption baskets change, in part because of changes in the relative prices of goods and services, and therefore the weights from the base period no longer reflect what consumers are actually purchasing. This failure to adjust for the changes in consumer behavior in response to relative price changes is called substitution bias. It is a necessary result of keeping the market basket fixed. Because the market basket is updated only every decade or so, as we get further away from the base period, there is more opportunity for relative prices to diverge from what they were in the base period, and for consumption baskets to change substantially.

Just as there are changes in what consumers purchase, there are also trends and changes in where purchases are made. In recent years, there has been a transformation of retailing. Superstores, discount stores, and the like now comprise a large and growing fraction of sales relative to a decade or two ago. As important as keeping up with the basket of goods that consumers actually purchase is keeping up with the outlets where they actually purchase them, so that the prices paid are accurately recorded. The current methodology suffers from an outlet substitution bias, which insufficiently takes into account the shift to discount outlets.

Many of the products sold today are dramatic improvements over their counterparts from years ago. They may be more durable and subject to less need for repair, more energy efficient; lighter; safer; etc. Sometimes, at least initially, a better quality product replacing its counterpart may cost more. Separating out how much of the price increase is due to quality change rather than actual inflation in the price of a standardized product is far from simple, but is necessary to obtain an accurate measure of the true increase in the cost of living. To the extent quality change is measured inaccurately or not at all, there is a quality change bias in the CPI.

The same is true with the introduction of new products, which have substantial value in and of themselves—not many of us would like to surrender our microwave ovens, radial tires, and VCR's—as well as the value of greater choice and opportunities opened up by the new products. To the extent new products are not included in the market basket, or included only with a long lag, there is a new product bias in the CPI.

Finally, in a dynamic, complex economy like the contemporary United States, there are literally many thousands of goods and services consumed. Price data are collected at a considerable level of disaggregation and how the price changes are aggregated into an overall index involves quite technical issues that can lead to a formula bias in the CPI.

Even if no federal program on either the outlay or revenue side of the budget was indexed, it would still be desirable to improve the quality of measures of the cost of living from the standpoint of providing citizens a better and more accurate estimate of what was actually going on in the economy, a way to compare current performance to our historical performance or to that of other countries. For example, the most commonly used measure of the standard of living is real income or output per person. To measure changes in real income requires the separation of nominal income changes from price changes. Obviously, that requires an accurate measure of price changes.

But numerous federal, state and local government programs and tax features are "indexed" for changes in the cost of living by the changes in the Consumer Price Index. The CPI is also used to index a large number of private sector contracts, including wages in collective bargaining agreements and rents, to name obvious examples that affect millions of Americans. Currently, slightly under one-third of total federal outlays, mostly in retirement programs, are directly indexed to changes in consumer prices. Several features of the individual income tax, including the tax brackets, are indexed; the individual income tax accounts for a little under half of federal revenues.

Congress indexed these outlay programs and tax rules in order to help insulate or protect the affected individuals from bearing the brunt of increases in the cost of living. Yet the Bureau of Labor Statistics, the agency responsible for compiling and presenting the Consumer Price Index, has explicitly stated for years that the CPI is not a cost of living index, presumably for some of the reasons mentioned above. If the Consumer Price Index as currently produced, and as likely to be produced over the next few years, is not an appropriate cost of living index for the task Congress had in mind, then it is desirable to consider alternative measures.

The consequences of changes in the Consumer Price Index overstating changes in the cost of living can be dramatic. For example, if use of the CPI is expected to overstate the increase in the cost of living by one percentage point per year over the next seven years, the national debt would be almost $300 billion greater in 2002 than if a corresponding correction were made in the indexing of outlays and revenues.

This interim report proceeds as follows: Section II discusses the historical and prospective budgetary implications of changes in the CPI overstating changes in the cost of living. Section III details why the CPI is not a true cost of living. Section III details why the CPI is not a true cost of living index and discusses several sources of bias. Section IV describes in greater detail the bias from quality change and new products. Section V introduces the issue of separate price indexes for different groups. The Conclusion summarizes the interim findings of the Commission.

II. INDEXING THE FEDERAL BUDGET

The issue proposed for fiscal policy makers by an upward bias in the CPI has been stated with admirable clarity by the Congressional Budget Office (1994): The budgetary effect of any overestimate of changes in the cost of living highlights the possibility of a shift in the distribution of wealth. If the CPI has an upward bias, some federal programs would overcompensate for the effect of price changes on living standards, and wealth would be transferred from younger and future generations to current recipients of indexed federal programs—an effect that legislators may not have intended.[3]

Social Security is by far the most important of the federal outlays that are indexed to the CPI. However, Supplemental Security Income, Military Retirement, and Civil Service Retirement are significant programs that are similarly indexed. Other federal retirement programs, Railroad Retirement, veterans' compensation and pensions, and the

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Footnotes at end of article.

Federal Employees' Compensation Act also contain provisions for indexing. The Economic Recovery Tax Act of 1981 indexed individual income tax brackets and the personal exemption to the CPI.

How important have the budgetary consequences of upward bias in the CPI been historically? Obviously, a precise answer to this question would require extended study, taking into account the timing of the bias, the parallel development of indexing provisions in specific federal outlays and revenues, and interest on the accumulation of debt that has resulted. An indication of the potential size of these effects can be inferred from one important historical example of one clearly identified source of bias. A careful study of this type, which focuses on the most important federal program affected by indexing, namely, social security benefits, has been conducted by the Office of Economic Policy (OEP) of the Department of the Treasury.

On February 25, 1983, the Bureau of Labor Statistics (BLS) introduced an important technical modification in the Consumer Price Index for All Urban Consumers (CPI-U). This altered the treatment of housing costs by shifting the costs for homeowners to a rental equivalent basis. The new treatment of housing costs was incorporated into the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), used to index social security benefits, in 1985.

The rental equivalent measure of housing costs was a conceptual improvement and has been retained in subsequent official publications. However, housing costs in preceding years employed a "homeownership" measure ". . . based on house prices, mortgage interest rates, property taxes and insurance, and maintenance costs."[4] The treatment of housing costs prior to 1983 was not modified in publishing the revised CPI-U, so that the new treatment of housing introduced a discrepancy in the conceptual basis for the CPI-U before and after 1983. Similarly, housing cots in the CPI-W prior to 1985 have not been modified.

BLS developed an "experimental" price index, CPI-U X1, based on a rental equivalent treatment of housing extending back to 1967. This provides the basis for the OEP assessment of bias in the CPI-W. The bias for 1975, the first year that social security was indexed to the CPI-W, was 1.1 percent. This bias mounted over subsequent years, reaching 6.5 percent by 1982 and then declining to 4.7 percent in 1984.[5]

Overpayments of social security benefits resulting from the bias in the CPI-W mounted through 1983, reaching a total of $7.1 billion or 7.1 percent of benefits paid in that year. These overpayments have resulted in a lower balance in the OASI trust fund and a larger federal deficit and debt. OEP estimates interest costs associated with these deficits at the rate of interest paid or projected to be paid on the OASI trust fund. Beginning in 1985 interest costs predominate in the total. In the current fiscal year the total cost is $16.7 billion, of which $12.6 billion is interest. The cumulative effect of just this one source of bias in the CPI-W via this one program on the federal debt amounts to $213.2 billion, as of 1995.

In summary, the BLS made two decisions in revising the treatment of housing costs in the CPI-W in 1985. The first decision was to change the treatment of housing costs to a rental equivalent basis beginning in January 1985. The second was not to revise the treatment of housing costs for 1984 and earlier years. As a consequence of these two decisions the level of the CPI-W is 4.7 percent above the CPI-U X1, a measure of the cost of living based on the same primary data sources and similar methodology, but with a consistent treatment of housing costs.

The increases in federal outlays resulting from the bias in the CPI-W cannot be justified as cost of living adjustments. These increases are the consequence of an inappropriate treatment of housing costs before 1985 and have resulted in large transfers to beneficiaries of the OASI program that are devoid of any economic rationale. The overpayments have continued up to the present, but are declining in importance. However, the resulting decline in the OASI trust fund continues to mount due to rising interest costs and now contributes more than two hundred billion dollars to the federal debt!

Of course, nobody would suggest retroactively undoing the overindexing due to this or any other source of bias. The point of this discussion is to demonstrate how important it is to correct biases in the CPI (in either direction) as quickly and fully as possible before their consequences mount, indeed compound.

What would be the effect of an upward bias in the CPI on future deficits? More than half of federal spending of $1.5 trillion is now attributable to entitlements and mandatory spending programs. In January 1995 the annual Congressional Budget Office (CBO) outlook for the economy and the federal budget showed that this proportion is projected to rise to almost two-thirds of federal spending during fiscal year 1998. Cost-of-living adjustments at a projected rate of 3.0 percent will contribute $43 billion to total spending on mandatory programs in that year and $80 billion in fiscal year 2000.[6] This is 6.8 percent of projected spending on mandatory programs in fiscal year 2000.

Testimony presented by the CBO to the Committee on Finance shows the impact of a hypothetical correction (reduction) of 0.5 percent in cost of living adjustments for fiscal years 1996–2000.[7] Federal outlays would decline by $13.3 billion in fiscal year 2000, while revenues would rise by $9.6 billion. The decline in debt service resulting from reduced deficits in fiscal years 1996–2000 would be $3.3 billion, yielding a total contribution to deficit reduction of $26.2 billion in fiscal year 2000.[8] This is more than ten percent of the deficit projected by CBO in that year.

The CBO has provided the Commission with projections of the impact of hypothetical corrections (reductions) of 0.5 and 1.0 percent in cost of living adjustments for fiscal years 1996–2005. With a reduction of 0.5 percent the total contribution to deficit reduction rises to $71.9 billion in 2005. Of this amount, an increase in revenue accounts for $21.9 billion and reductions in outlays, including debt service, amounts to $32.7 billion (of which debt service is $17.3 billion). The total reduction is almost seventeen percent of the projected deficit in 2005. The cumulative reduction in debt held by the public in 2005 is $319.6 billion or about 2.7 percent of the GDP projected for that year.

CBO projections for the impact of a hypothetical correction (reduction) in cost of living adjustments of 1.0 percent are, of course, even more dramatic. The total change in the deficit in the year 2005 is $139.1 billion. Federal revenues would be increased by $40.8 billion and federal outlays reduced by $98.3 billion, of the reduction in outlays $34.4 billion can be attributed to lower debt service and $63.9 billion to lower outlays on indexed programs. (See Appendix Figure A–1 for detail not reproducible in Record.) The cumulative reduction in outstanding federal debt by 2005 is $634.3 billion. (See Appendix Figure A–2 for detail not reproducible in Record). This is almost 9.4 percent of the debt projected for that year and almost 5.5 percent of the GDP!

Stated differently, if the change in the CPI overstated the change in the cost of living by an average of 1% per year over this period, this bias alone would contribute almost $140 billion to the deficit in the year 2005. That is one-third the projected baseline deficit (which assumes no policy changes such as the current balanced budget proposals). More remarkably, the upward bias by itself would constitute the fourth largest federal outlay program, behind only social security, health care and defense!

In summary, an upward bias in the CPI would result in substantial overpayments to the beneficiaries of federal entitlements and mandatory spending programs. In addition, such a bias would reduce federal revenues by overindexing the individual income tax. In short, the upward bias programs into the federal budget every year an automatic, real increase in indexed benefits and a real tax cut. Correction of biases in the CPI, while designed to more accurately adjust benefits and taxes for true changes in the cost of living, would also contribute importantly to reductions in future federal budget deficits and the national debt. These reductions can be attributed to higher revenues, lower outlays, and less debt service. Lower outlays-cuts in indexed federal spending programs and reduced interest payments-account for over two-thirds of the long-run deficit reduction, while higher revenues account for the rest.

III. THE CONSUMER PRICE INDEX AND A COST OF LIVING INDEX: MEASUREMENT ISSUES

A cost of living index is a comparison of the minimum expenditure required to achieve the same level of well-being (also known as welfare, utility, standard-of-living) across two different sets of prices. Most often it is thought of as a comparison between two points of time. As with any practical application of theory to index number production, estimating a cost of living index requires assumptions, a methodology, data gathering processes and index number construction.

There are two sets of potential biases in the CPI: biases relative to an "ideal" cost of living index and biases which arise within its own terms of reference. The strength of the CPI is in the underlying simplicity of its concept: pricing a fixed (but representative) market basket of goods and services over time. Its weakness follows from the same conception: the "fixed basket" becomes less and less representative over time as consumers respond to price changes and new choices.

Consumers respond to price changes by substituting away from products that have become more expensive and toward goods whose prices have declined relatively. As the world changes, they are faced with new choices in shopping outlets, varieties, and entirely new goods and services, and respond to these as well. These changes make the previous "fixed basket" increasingly irrelevant.

In trying to keep true to its concept in a rapidly changing world, the current CPI procedures encounter difficulties. Biases result when they ignore some of these changes such as the appearance of discounters, and also when they try to do something about them such as when items are rotated out of the sample and replaced with new items. Attempting to capture the changes in a way that tries to mimic the pricing of a "fixed basket" within a rather patchwork framework just cannot be done without introducing other problems into the resulting index.

These different biases overlap and have been discussed under a number of headings: substitution bias; formula bias; outlet substitution bias; quality change; and new product bias.

The "pure" substitution bias is the easiest to illustrate. Consider a very stylized example, where we would like to compare an initial "base" period 1 and a subsequent period 2. For simplicity, consider a hypothetical situation where there are only two commodities: beef and chicken. In period 1, the prices per pound of beef and chicken are equal, at $1, and so are the quantities consumed, at 1 lb. Total expenditure is therefore $2. In period 2, beef is twice as expensive as chicken ($1.60 vs. $0.80 per pound), and much more chicken (2 lb.) than beef (0.8 lb.) is consumed, as the consumer substitutes the relatively less expensive chicken for beef. Total expenditure in period 2 is $2.88. The relevant data are presented in Table 1. How can we compare the two situations? Actually, there are several methods, each asking slightly different questions and therefore, not surprisingly, giving different answers.[9]

TABLE 1.—HYPOTHETICAL EXAMPLE OF SUBSTITUTION BIAS

	Price in period 1	Quantity in period 1	Price in period 2	Quantity in period 2	Price relatives		Relative weights	
					P2/P1	P1/P2	1	2
Beef	1	1	1.6	0.8	1.6	0.63	0.5	0.43
Chicken	1	1	0.8	2.0	0.8	1.25	0.5	0.57

The simplest comparison is to ask "How much more must I spend in my current situation (period 2) to purchase the same quantities that I purchased initially (in period 1)?"[10] This is the question asked by the CPI. The price index for period 2 relative to period 1 uses the initial period 1 basket of consumption as the weights in the computation. To buy 1 lb. of beef and 1 lb. of chicken in period 2 costs $2.40. The price index for period 2 relative to period 1 is 1.20 (2.40/2.00), that is a 20% increase.

Intuitively, it is easy to understand why such a computation imparts an upward (substitution) bias to the measure of the change in the true cost of living. It assumes the consumer does not substitute (cheaper) chicken for beef. In the real world, as in the hypothetical example, consumers change their spending patterns in response to changes in relative prices and, hence, partially insulate themselves from price movements.

An alternative approach would be to ask the question "How much more am I spending in my current situation (period 2) than I would have spent for the same goods and services at the prices that prevailed initially (in period 1)?"[11] This price index compares expenditures in period 2 ($2.88) with what it would cost to buy the current (period 2) market basket at the initial prices ($0.80 for the beef plus $2.00 for the chicken equals $2.80). This price index is 1.03, that is only a 3% increase. This approach understates the rise in the true cost of living as it overstates substitution.

The idea of a cost of living index is not to keep the consumption basket fixed, but to allow for the substitution that follows relative price changes. The question answered by a true cost of living index is instead "How much would we need to increase (or decrease) the initial (period 1) expenditure in order to keep the consumer just as well off in period 2?" Such a question cannot be answered without knowing the consumer's preferences in more detail, but a very good approximation may be obtained by interpolating between the two answers (that arise from the different base periods). There are alternative ways of doing so, each involving a different mathematical formula. A commonly accepted approach is to use the geometric mean (the square root of the product) of the two answers.[12] In our example, this comes to 1.11, an 11% increase. By comparison, the CPI-type fixed base index contains an upward bias of 0.09 (1.20–1.11); thus, almost half of the increase in the CPI-type calculation is substitution bias.

How large are such substitution biases in the real world? That depends on how out of date the base period weights used in constructing the index are and on how much relative prices have changed in a consistent and permanent direction. If relative prices diverge over time and do not just fluctuate, there is a permanent bias in the standard fixed base formula. Since we have been experiencing various consistent price trends, the further one gets away from the base period (for which the weights are approximately correct), the larger the bias.

Most of the computations done for large groupings of commodities (relatively aggregated commodity levels) show small biases in the growth rates of the CPI, rising from about 0.15 percent per year in the first five years after new expenditure weights are introduced, to about 0.30 percent per year in the subsequent five years. These estimates are based on research covering the period 1982–91 and updated to 1993.[13] [14] The bias increases as average consumption patterns drift further away from what they were in the base period. Therefore, this bias may be expected to increase further in the next few years, perhaps to 0.40 percent per year, until the newly revised CPI is released in 1998. At that point, the weights will be shifted to reflect average consumer expenditures in 1993–5, (and will already be four years out of date!). Although the substitution bias will then decline for awhile, it will grow subsequently as prices and consumptions patterns drift away again from those in the new base period unless the BLS changes its procedures and moves toward some different index number formula with shifting weights.

These estimates may be low. They are based on computations using rather high level groupings (200 commodity subindexes) of the many underlying varieties and models of specific products and services and may miss some of the large substitutions that occur at the more detailed level. Indeed, one may interpret as additional evidence on this point, the results of a simulation experiment by BLS researchers which applied different index number formulae at the item, or "elemental," level, for price changes in 1991–2 and yielded an estimate of the bias equal to 0.50 percent.[15]

Recognizing the continuously changing assortment of commodities in the market, the BLS improved its price measurement procedures in 1978. The improved procedure chooses items to be priced based on a probability sample and rotates these items on a staggered, five year cycle. The idea was laudable, but embedding it in a conceptually "fixed-weight," "fixed-basket" index created unanticipated problems which have become known as "formula" bias.

In essence, the problem arises as the procedure exaggerates (gives too much importance to) the effect of short run variability of prices (such as items on sale). This bias was discovered and evaluated by BLS researchers and appears to be most important in seasonal items such as fruit and vegetables, but has apparently also affected the residential housing component of the index.[16] [17] The overall bias from this source has been estimated to be on the order of 0.50 percent per year. However, now that this formula bias is understood, procedures are being developed which will largely eliminate it when implemented.

While the formula bias in the CPI can, should and hopefully will be eliminated in the future, the problems of outlet and variety substitution are unlikely to diminish soon. Just as consumers change the goods they purchase in response to changes in relative prices as in the beef and chicken example, so do they change the location of where they make their purchases. The opening of a new discount store outlet may give consumers the opportunity to purchase a given good at a lower price than before. At present, the CPI procedures ignore such reductions that occur when consumers change outlets. However, if consumers cared only about obtaining goods at the lowest price, then we would observe all goods sold at the same price at all outlets. Instead, we observe low prices at discount stores and warehouse clubs at the same time as medium prices at supermarkets and higher prices at convenience stores. Evidently, consumers care not only about prices, but the level of services such as availability of clerks, wrapping services, and the distance between home and alternative outlets.

Current procedures in the CPI ignore price changes when consumers switch outlets. This incorporates into the CPI the implicit assumption that price differentials among outlets entirely reflect the differences in service quality. This approach would be legitimate if the economy stood still with a stable set of outlets providing alternative levels of service quality. However, there has been a continuous increase in the market share of discount stores as more efficient technologies of distribution allow low price outlets to expand while older, higher priced outlets have contracted and in some cases gone out of business. This shift in market share indicated that many consumers respond to price differentials and do not consider them to be fully offset by difference in service quality. Completely ignoring all differences in service quality by incorporating all such price reductions into the CPI would err in the opposite direction. Further research is required to disentangle true changes in prices from changes in service quality. This problem is analogous to the need to disentangle the changes in prices from changes in product quality.

Quality change and new goods present the most difficult problems for measurement. They include capturing the introduction of new products in a timely manner; making direct quality comparisons of new products with existing ones; making direct quality comparisons of new products with other products against which they compete (in other classification groupings such as a new drug and the surgical treatment it replaces); and capturing the combined impact of quality and substitution as these new products displace others within and across their classification grouping.

A full treatment of these issues reinforces the problem of focusing on the "average" or "representative" consumer. Different consumers have different tastes and time costs, and hence value the appearance of new outlets and new products differentially, with some (the majority) becoming better off with supermarkets and others losing out as the corner grocery store disappears. The CPI is not equipped to account for special characteristics of different consumers or groups of consumers.[18, 19] The following sections explore some of these problems.

There are still other issues that would in principle apply to obtaining a true cost of living index (COLI). Consider two examples: the negative effects of higher crime rates and the concommitant purchases of security devices and higher insurance premiums and the positive effects of improvements in information technology that permit a parent to work at home when a child is ill. Surely these would enter a calculation of "the minimum expenditure necessary to be at least as well off." The Commission notes these considerations but is not prepared to quantify them at this time.

IV. QUALITY CHANGE

The difficulty created by quality change in existing products, and by the introduction of new products, is highlighted by returning to the definition of a cost of living index—a comparison between two time periods of the minimum expenditure required to achieve the same level of well-being. What does the "same level" mean when entirely new products are introduced that were unavailable in the first time period?

A pervasive phenomenon called the "product cycle" is critical in assessing the issue of new product bias in the CPI and applies as well to new models of existing products. A typical new product is introduced at a relatively high price with sales at a low volume. Soon improvements in manufacturing techniques and increasing sales allow prices to be reduced and quality to be improved. For instance, the VCR was introduced in the late 1970s at a price of $1,000 and with clumsy electromechanical controls; by the mid 1980s the price had fallen to $200 and the controls were electronic, with extensive preprogramming capabilities. Later on in the product cycle, the product will mature and eventually will increase in price more rapidly than the average product of its class. The sequence is easily visualized as a "U"-shaped curve—the price of any given product relative to the consumer market basket starts high, then goes down, is flat for a while, and then goes back up. To the extent that the CPI overweights mature products and underweights new products, it will tend to have an upward bias.

Our discussion of quality change and new product bias begins with a review of the methods used by the CPI to handle quality changes in existing products and then turns to problems posed by new products. The BLS has four different methods to cope with a model change for an existing product.

The "direct comparison" method treats all of the observed price change between the old model and the new model as a change in price and none as a change in quality. There is no necessary bias, because quality can decrease as well as increase. But in practice goods tend to undergo steady improvement, and often a better model is introduced with no change in price, causing the quality change to be missed entirely.

The "deletion" method makes no comparison at all between the prices of the old and new model. Instead, the weight attributable to this product is applied to the average price change of other products in the same commodity classification. To the extent that the deletion method is used, the CPI consists disproportionately of commodities of constant quality which may be further along in the product cycle.

The "linking" method can be used if the new and old model are sold simultaneously. In this case the price differential between the two models at the time of introduction of the new model can be used as an estimate of the value of the quality differential between the two models. Unfortunately, new models usually replace old models entirely, and the link prices are not observed. Also, a quality improvement in the new model can occur even if it costs less or the same as the old model, as in the case of the VCR where the price fell continuously while programming capability and reproduction quality improved.

The "cost estimation" method attempts to establish the cost of the extra attributes of the new model. Problems in practice with the costing method have been its infrequency of use, and the fact that it has been applied disproportionately in the case of automobiles relative to other products. This raises the possibility that there is a spurious upward "drift" in the price of other products relative to automobiles due to an uneven application of the costing method.

This list of method reveals at least two potential sources of upward bias, the use of the direct comparison method that does not address the quality issue at all, and the use of the deletion method that bases price change on models that are unchanged in quality and may be further along in the product cycle. A greater difficulty is that the CPI makes no attempt to create systematic estimates of the value of quality improvements which increase consumer welfare without raising the price of products. For instance, many consumer electronic products and household appliances have experienced a reduction in the incidence of repairs and in electricity use, and few if any of these improvements have been taken into account by the CPI.

The CPI uses only rarely an alternative methodology called the "hedonic regression method" for estimating the value of quality change. The hedonic approach can be viewed as an alternative method to manufacturers' cost estimates in making quality change adjustments. It assumes that the price of a product observed at a given time is a function of its quality characteristics, and it estimates the imputed prices of such characteristics by regressing the prices of different models of the product on their differing embodied quantities of characteristics. Thus the hedonic approach is less a new method than an alternative to cost estimates to be used when practical factors make it more suitable than the conventional method.

By their very nature hedonic indexes require large amounts of data. Given the thousands of separate products that are produced in any modern industrial society, the need to collect a full cross-section of data on each product presents an insurmountable obstacle to the full-blown adoption of the hedonic technique. Further, it is impossible to construct a hedonic index in the timely fashion required by the CPI, with its orientation to producing within a few weeks an estimate of month-to-month price changes that can never be revised. Accordingly, most hedonic studies have been retrospective and can be used to gauge the accuracy of individual components of the CPI rather than being used in the actual month-to-month construction of the CPI. This is one important reason to consider broadening the concept of the CPI to include both the current index dedicated to timely measures of month-to-month price changes, and a second supplementary index produced with a greater time lag, and subject to periodic revision, dedicated to accurate measurement of price changes over years and decades.

We turn now to the issue of new product bias. There is no debate regarding the reality of the product cycle, and nobody debates the fact that the CPI introduces products late, thus missing much of the price decline that typically happens in the first phase of the product cycle. For example, the microwave oven was introduced into the CPI in 1978 and the VCR and personal computer in 1987, years after they were first sold in the marketplace.

A second aspect of new product bias results from a narrow definition of a commodity. When a new product is finally introduced into the CPI, no comparison is made of the price and quality of the new product with the price and quality of an old product that performed the same function. For instance, people flock to rent videos, but the declining price of seeing a movie at home, as compared to going out to a theater, is not taken into account in the CPI. Similarly, the CPI missed the replacement of electric typewriters by electronic typewriters and then PCs with word-processing and spell-checking capability, or CD-ROM encyclopedias that cost far less than old-fashioned bound-book versions and eliminate many trips to the library. Inevitably, however, many new products embody genuinely new characteristics that have no previous counterpart. How does one value electronic mail that provides a new set of bonds and communication between parents and their children who are off at college?

This discussion of new products leads inevitably to deeper questions about changes in the standard of living of the average American. Positive changes made possible by consumer electronics need to be weighed against increasing crime rates that have forced some families to divert expenditures to burglar systems and security guards. The industrial revolution caused widespread air and water pollution, while numerous factors since the mid-1960s have caused a major decline in the presence of many types of contaminants in the air and water.[20]

How large is the bias in the CPI introduced by inadequate treatment of quality change, and by the problems created by new products? Estimates of bias vary widely by product, and there are examples of both positive and negative bias. For instance, one study found an upward bias in the CPI index of TV sets of six percent per year, of which almost half was due to the failure of the CPI to place a value on reduced repair incidence and electricity use. Most other studies of consumer durables have found an upward bias in the CPI, except in the case of new automobiles for the period since the late 1960s. As stated above, the automobile is a complex product in which many small improvements have been made over the years. Evaluating the negative quality change in the shift to smaller cars as against the substantial improvements in fuel economy (which are worth different amounts in different periods, depending on gasoline prices) is a complex task. However, there seems to be little doubt that the CPI index for used autos has been upward biased, as few if any adjustments for quality change were made to this index during much of the postwar period, and the price index for used autos drifts upward relative to new autos by an implausible amount.

Studies have found a downward bias in the CPI in two important areas. Prior to 1988, the CPI index for rental housing (which since 1983 has also been used for owner-occupied housing) did not take into account the deterioration in housing stock quality as a result of aging and depreciation. Clothing is another problematic area, where the difficult task of separating taste or fashion changes from quality changes, as well as a strong seasonal pattern in clothing prices, may have created a substantial downward bias in apparel prices.

Thus we find that studies point to substantial upward bias for some products, mainly consumer durables, but countervailing downward bias for several important categories, namely home rent and apparel. Further, the sources of bias shift over time. Since 1987 the BLS has made an attempt to adjust the prices of used cars for quality change, reducing or eliminating that previous source of upward bias. Going in the opposite direction, since 1988 the BLS has eliminated the downward bias due to the failure to take account of aging and depreciation in rental housing.

Nevertheless, it is likely that there is a substantial upward bias in the CPI, however hard it may be to measure, and much of this is likely to come from new products. Whatever invention we take—whether the automobile that allowed limitless flexibility in the time and destination of rapid transportation, or the jet plane and communications satellite that tied together people in far-flung nations, or the television and VCR that allowed almost any motion picture to enter the home, or the PC with CD-ROM that promises ultimately to bring the Library of Congress into every home—these new developments have made human life better on a large scale.

In the concluding section of the interim report, we put forth estimates for the main categories of CPI bias, stated in the form of a "point estimate" and a range of uncertainty. In the category of quality change bias (excluding new product bias), we have chosen a relatively conservative point estimate of 0.2 percent per year. Existing studies of consumer durables, weighted by the share of consumer durables in total consumption, point to a bias of at least 0.3 percent per year. Our choice of 0.3 balances the effect of a possible downward bias in apparel against the likelihood that substantial quality change is missed in many areas of nondurable goods and services. Because we are more uncertain in the direction of a higher upward bias, our range of uncertainty for quality change is asymmetric, going from 0.2 to 0.6.

The most difficult question of all is to place a point estimate on new product bias. We have approached this question by carrying out the following thought experiment. Take the market basket of goods and services available in 1970 and labeled with 1970 prices. Take the market basket available in 1995 and labeled with today's prices. Ask the consumer, how much more income would you require to be as satisfied with the 1995 basket and prices as with the 1970 basket and prices? The CPI says 4 times as much income would be necessary, because the CPI has quadrupled since 1970. But that 1970 market basket has no VCRs, microwave ovens, or modern anti-ulcer drugs; its color TV sets break down all the time; and it refrigerators use a lot of electricity. Consumers forced to answer this question are going to miss many benefits of modern life and are not going to say that four times as much income would be necessary—maybe 3 times, maybe 3.5 times, but not 4 times. That is the ultimate test of new product bias in the CPI.

To translate this approach into an annual rate of change, an answer of "3.5 times" would imply an upward bias of 0.54 percent a year.[21] The commission has chosen to take a lower, more conservative point estimate of a new product bias of 0.3 percent per year, but to extend the range of uncertainly from 0.2 to 0.7 percent per year. We will attempt in our final report to assemble new evidence on this issue and to narrow the range of uncertainty.

V. SEPARATE PRICE INDEXES?

In principle, if not practice, a separate cost of living index could be developed for each and every household based upon their actual consumption basket and prices paid. As noted above, the aggregate indexes use data reflecting representative consumers. Some have suggested that different groups in the population are likely to have faster or slower growth in their cost of living than recorded by changes in the CPI. We find no compelling evidence of this to date, and in fact two studies suggest that disaggregating by population group, for example by region or by age, would have little effect on measured changes in the cost of living.[22] Further, work on this subject remains to be done.

Beyond the different consumption baskets, it is important to understand our analysis of the sources of bias are applied to representative or average consumers. Some consumers will substitute more than others, and the substitution bias may be larger for some, smaller for others. Likewise, some are more likely to take advantage of discount outlets; others less so. Perhaps more importantly, the benefits of quality change and the introduction of new products may diffuse unevenly throughout the population. Some will quickly gain the benefits of cellular telephones, for example, while others may wait many years or decades or never use them. This is yet another reason why we have been very cautious in our point estimates for these particular sources of bias.

VI. CONCLUSION

While the CPI is the best measure currently available, it is not a true cost of living index. It suffers, as do all price indices, from a variety of conceptual and practical problems as the vehicle for measuring changes in the cost of living. Despite important BLS updates and improvements in the Consumer Price Index, it is likely that changes in the CPI have substantially overstated the actual rate of price inflation. Moreover, revisions have not been carried out in a way that can provide an internally consistent series on the cost of living over an extended span of time. More importantly, changes in the Consumer Price Index are likely to continue to overstate the change in the true cost of living for the next few years. This overstatement will have important unintended consequences, including overindexing government outlays and tax rules and increasing the federal deficit and debt. If the intent of such indexing is to insulate recipients and taxpayers from changes in the cost of living, use of the Consumer Price Index has in the past, and will in the future, overcompensate (on average) for changes in the true cost of living.

Table 2 presents the Commission's evaluation of the biases in using changes in the Consumer Price Index as a measure of changes in the cost of living for the recent historical past (the last few years). It presents point estimates, and plausible ranges of values, for each of the five sources of potential bias as well as the overall bias. Our best judgment of the overstatement of the change in the cost of living embedded in changes in the CPI for this historical period is 1.5% per annum. It is likely that a large bias also occurred looking back over at least the last couple of decades, perhaps longer, but we make no attempt to estimate its size.

TABLE 2.—ESTIMATES OF RECENT HISTORICAL BIASES IN THE CPI

[Percent per annum]

Source of bias	Estimate	Range
Substitution bias	0.3	0.2–0.4
Outlet bias	0.2	0.1–0.3
Formula bias	0.5	0.3–0.7
Quality change	0.2	0.2–0.6
New products	0.3	0.2–0.7
Total	1.5	1.0–2.7

NB: Total bias assumed to be additive across types and independent of the level of inflation. See text.

A plausible range of values is 1.0% to 2.7% per annum. The point estimate of 1.5% includes 0.5% for formula bias, which is the technical problem in using methods that impart an upward bias in the movement from elementary or extremely disaggregated price quotations to broader commodity groups. The BLS is aware of this problem, and is moving to correct it. Hopefully, it will be eliminated quickly.

Excluding formula bias, the point estimate is 1.0% per annum, and the range is 0.7% to 2.0% per annum. Note that the range of uncertainty is not symmetric around our point estimate. It is far more likely that changes in the CPI have embedded a larger than a smaller bias. The range of potential upward bias is significantly larger because we have been conservative in our point estimates of the biases from the sources of quality change and new products. The conceptual issues involved in measuring these two sources of bias are even more difficult than the other sources, and the range of studies upon which to base such conclusions at this point is insufficient to support our "best judgment" as strongly as those for the other sources of bias. Hence, we have been especially cautious in these two areas.

Past is not necessarily prologue. What can we say about the likely sources of bias moving forward, as opposed to estimates of the biases looking back at recent history? We believe the substitution bias is likely to be as large or larger as in the recent past. It is likely that the substitution bias will drift up a little bit, perhaps to 0.4%, until 1998 when the CPI will incorporate the new expenditure weights from the 1993-95 expenditure survey. Note that at that time the expenditure weights will still be four years out of date and thus much substitution may have already occurred. However, at that time it is likely that the substitution bias will decrease considerably, to no more than 0.2%. As time moves on, it will likely drift up again. So, even though the base year will be updated in 1998, it is likely that for several years the substitution bias will continue to be large then shrink for a short period before gradually drifting back up again by the turn of the century. Thus, a substitution bias on the order of 0.3% is likely to be a good approximation on average for the next decade, although not year by year.

Until and if procedures are changed, we expect the outlet substitution bias to be approximately 0.2% per year. As noted above, we believe the BLS has discovered, and is developing procedures to eliminate, the formula bias. Our estimate for the future of 0.0% assumes that the BLS will quickly and completely remove the formula bias. To the extent that methods are changed slowly or incompletely, a sizable formula bias will remain. Thus, again, the 0.0% is perhaps conservative, especially for the very short-run. Finally, our estimates for quality change and new products of 0.2% and 0.3%, which, as discussed above, we believe to be quite conservative, are likely to apply in the future as well.

TABLE 3.—ESTIMATES OF LIKELY FUTURE BIAS IN THE CPI

[Percent per annum]

Source of bias	Estimate	Range
Substitution bias	0.3	0.2–0.4
Outlet bias	0.2	0.1–0.3
Formula bias	0.0	
Quality change	0.2	0.2–0.6
New products	0.3	0.2–0.7
Total	1.0	0.7–2.0

Assumes BLS quickly and completely fixes the problem. Will continue to be substantial until this occurs.

This brings our estimate of the upward bias of changes in the CPI as a measure of the change in the cost of living to 1.0% per year. However, the certainty that the Commission ascribes to alternative estimates clearly is greater the lower the estimate within the plausible range. For example, while 1.0% is our interim best estimate and likely to be conservative, we are even more certain that the lower end of our plausible range does not overstate the upward bias in the CPI.

These separate biases are approximately additive and likely to be independent of modest swings in the true inflation rate. Thus, a bias of 1% implies that when changes in the CPI show inflation rising from 3% to 5%, it is likely actually to be rising from 2% to 4%. Note the bias primarily affects the level, not the change, in the inflation rate. At very high rates of inflation, the bias may increase (one might assume greater outlet and commodity substitution), but we currently have no evidence regarding this issue.

Figure 2 shows the compounding effect over time of such a bias on the index. While 1.0% may seem to be a small amount in any given year, cumulatively year after year it adds up to a sizable difference. [Figure 2 not reproducible in RECORD.]

An additional word of caution is in order. This Commission has thus far relied primarily on studies already produced prior to the convening of the Commission, with a small amount of additional work that we have been able to commission in the two months since our inception. Thus, our judgments reported above are not much advanced beyond what was available in the three rounds of Senate Finance Committee Hearings earlier this year. Given the short time available to this Commission, there are many issues which we have not yet been able to explore adequately. While we expect the interim conclusions to hold up under further examination, they will also be subject to amendment as we proceed with our investigation.

In our final report we expect to have a more complete analysis and evaluation and will certainly have specific recommendations for procedures to improve and/or complement the CPI. It may be possible to implement some of these suggestions quickly, others may take considerable time and additional resources.

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FOOTNOTES

[1] We would like to thank the staffs of the Bureau of Labor Statistics, Congressional Research Staff and the Congressional Budget Office for valuable assistance and cooperation in the early stages of the Commission's work.

[2] The two most commonly used measures are the CPI–U and CPI–W. The former is for all urban consumers, roughly 80% of the population; the latter is for urban wage and clerical workers, about 32% of the population. Note that the expenditure shares may be quite different than the average for any particular household, and also on average for subgroups of the population. Also, the prices paid for some products may differ for some households from the prices actually sampled. In principle, if not practice, a separate cost of living index could be developed for each and every household based on their actual consumption basket and prices paid. The overall index is used to approximate this with the data reflecting representative consumers. Whether this is itself sufficiently misleading as to warrant separate price indexes for different population subgroups is discussed below.

[3] Congressional Budget Office (1994), "Is the Growth of the CPI a Biased Measure of Changes in the Cost of Living?" CBO Papers, Washington. Congress of the United States, October, p. 32.

[4] Robert Gillingham and Walter Lane, "Changing the Treatment of Shelter Costs for Homeowners in the CPI," Monthly Labor Review, June 1982, p. 9.

[5] James Duggan, Robert Gillingham, and John Greenlees, "Housing Bias in the CPI and its Effect on the Budget Deficit and the Social Security Trust Fund," Office of Economic Policy, U.S. Department of the Treasury, June 30, 1995, page 6.

[6] Congressional Budget Office, "The Economic and Budget Outlook: Fiscal Years 1996–2000," Report to the Senate and House Committees on the Budget, Washington, Congress of the United States, January 1995, Table 2–8, p. 43.

[7] June O'Neill (1995), "Prepared Statement," Consumer Price Index, Hearings before the Committee on Finance, U.S. Senate, 194th Congress, First Session, Washington, U.S.G.P.O., Table 1, p. 146.

[8] All CBO budget estimates are relative to CBO's January 1995 baseline and do not include the small adjust assumed in the out-years of the budget resolution.

[9] Each method has come to be named for its inventor. See below.

[10] This index is called the Laspeyres index.

[11] This index is called the Paasche index.

[12] This index is called the Fisher, or Fisher Ideal, index.

[13] A.M. Aizcorbe and P.C. Jackman, "The Commodity Substitution Effect in CPI Data, 1982–91." Monthly Labor Review, U.S. Bureau of Labor Statistics, pp. 25–33 (December 1993).

[14] Updated by BLS for the Commission.

[15] B.R. Moulton, "Basic components of the CPI: Estimation of Price Changes." Monthly Labor Review, U.S. Bureau of Labor Statistics, pp. 13–24 (December 1993).

[16] M. Reinsdorf, "The Effect of Outlet Price Differentials in the U.S. Consumer Price Index," in Price Measurements and Their Uses, M.F. Foss, M.E. Manser and A.H. Young (eds), NBER Studies in Income and Wealth, Vol. 57, pp. 227–254 (1993).

[17] B.R. Moulton, "Basic components of the CPI: Estimation of Price Changes," Monthly Labor Review, U.S. Bureau of Labor Statistics, pp. 13–24 (December 1993).

[18] Dale W. Jorgenson and Daniel T. Slesnick. "Individual and Social Cost-of-Living Indexes." Price Level Measurement, W.E. Diewert and C. Montmarquette (eds.), Ottawa, Statistic Canada, pp. 241–336 (1983).

[19] F.M. Fisher and Zvi Griliches, "Aggregate Price Indices, New Goods, and Generics," Quarterly Journal of Econometrics (1995).

[20] The CPI implicitly values the improvement in air quality made possible by mandated anti-pollution devices in automobiles, since it treats the cost of mandated anti-pollution and safety devices as an improvement in quality rather than an increase in price. However, the CPI is inconsistent, since a portion of the higher cost of electricity, steel, and other products is also due to environmental regulation, and the benefits of higher air and water quality made possible by regulation of products other than automobiles is not taken into account.

[21] An index that rises from 1.0 to 4.0 over 25 years exhibits a compound growth rate of 5.55 percent per year. An index that rises from 1.0 to 3.5 over 25 years exhibits a compound growth rate of 5.01 percent per year. The difference is 0.54 percent per year.

[22] See M. Boskin and M. Hurd, "Indexing Social Security Benefits: A Separate Price Index for the Elderly," Public Finance Quarterly, Volume 13, Number 4, pp. 436–449 (October 1985); Dale W. Jorgenson and Daniel T. Slesnick, "Individual and Social Cost-of-Living Indexes," Price Level Measurement, W.E. Diewert and C. Montmarquette (eds.), Ottawa, Statistics Canada, pp. 241–336 (1983). However, very preliminary unpublished work suggests that for the period 1982–91 the larger fraction of expenditures on out-of-pocket healthcare by the elderly combined with the more rapid rise in healthcare prices than overall prices for this period might lead to a slightly faster rise in a price index for the elderly. The rate of healthcare price inflation has slowed substantially of late, so it is unlikely this result will be reproduced for the mid-1990s.

[23] The bias is currently running at 1.5% per annum or more, in our best judgment. We do not estimate it year by year for this period but believe this estimate is close on average for the period. Figure 1 is for illustrative purposes only.

CHANGE IN DEFICIT IF ADJUSTMENT MADE FOR CPI OVERSTATEMENT (1 PERCENTAGE POINT LESS)

[In billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Change in Revenues [a]	−1.8	−5.5	−9.8	−13.1	−17.7	−23.0	−27.1	−31.8	−36.2	−40.8
Change in Outlays:										
Social Security/RR Retire	−2.6	−6.2	−10.1	−14.1	−18.4	−22.8	−27.4	−29.2	−37.8	−43.6
SSI	−0.2	−0.5	−0.8	−1.2	−1.9	−2.1	−2.9	−3.6	−4.3	−5.1
Civil Service Retirement	−0.2	−0.7	−1.1	−1.5	−1.9	−2.4	−2.9	−3.4	−3.9	−4.5
Military Retirement	[a]	−0.3	−0.6	−1.2	−1.6	−2.0	−2.4	−2.9	−3.4	−3.9
Vets Comp & Pensions	−0.1	−0.3	−0.5	−0.6	−0.9	−1.3	−1.6	−2.1	−2.5	−3.1

CHANGE IN DEFICIT IF ADJUSTMENT MADE FOR CPI OVERSTATEMENT (1 PERCENTAGE POINT LESS)—Continued

[In billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
EITC[a]	(d)	−0.5	−1.1	−1.8	−2.4	−3.1	−3.9	−4.7	−5.4	−6.2
Other[b]	(d)	(d)	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1
Offsets[c]	(d)	0.1	0.2	0.4	0.7	1.0	1.4	1.8	2.3	2.7
Total Outlay Change	−3.1	−8.4	−14.1	−20.2	−26.5	−32.7	−39.8	−44.1	−55.2	−63.9
Debt Service	−0.2	−0.8	−2.0	−4.0	−6.7	−10.2	−14.7	−20.1	−26.6	−34.4
Change in Deficit	−5.0	−14.7	−25.9	−37.3	−50.9	−65.9	−81.6	−96.0	−117.9	−139.1

(a) Estimates for 1996–2000 prepared by the Joint Committee on Taxation. CBO, based on the JCT model, has extrapolated projections for 2001–2005.

(b) FECA, foreign service retirement, PHS retirement, and Coast Guard retirement.

(c) Includes Medicare, Medicaid, and Food Stamp offsets to cuts in the Social Security COLA.

(d) Less than $50 million.

Notes: CBO estimates that the CPI has probably grown faster than the cost of living by between 0.2 and 0.8 of a percentage point in recent years. For purposes of these calculations, though, CBO has assumed an adjustment of a full percentage point. Revenue increases are shown with a negative sign because they reduce the deficit.

Source: Congressional Budget Office.

[Memorandum as of September 28, 1995]

From: Harry C. Ballantyne

Subject: Estimated Long-Range Effects of Alternative Reductions in Automatic Benefit Increases—Information

The following table shows our estimates of the long-range effects of modifying the present-law calculation of all future automatic benefit increases by reducing each increase by one percentage point (or alternatively one-half of one percentage point) from the present-law increase, which is equal to the percentage increase in the CPI–W. The estimates are based on the assumption that the reduction would first be reflected in the next automatic benefit increase, for December 1995, or, alternatively, that the reduction would first be reflected in the automatic benefit increase for December 1996. The estimates are based on the intermediate assumptions in the 1995 Trustees Report and are shown for the combined OASI and DI Trust Funds.

	Present law	Reduction of 1% effective December—		Reduction of 0.5% effective December—	
		1995	1996	1995	1996
Change in actuarial balance over next 75 years (percent)	....	1.44	1.41	0.74	0.73
Actuarial balance (percent)	−2.17	−0.74	−0.76	−1.43	−1.44
Year of exhaustion	2030	2049	2048	2036	2036
First year in which outgo exceeds tax income	2013	2018	2018	2015	2015
Maximum trust fund ratio (percent)	269	408	397	332	327
Year Maximum ratio is reached	2011	2015	2015	2014	2014

HARRY C. BALLANTYNE,
Chief Actuary.

SOCIAL SECURITY TRUST FUNDS

Mr. CONRAD. Mr. President, earlier today Senator DOMENICI inserted in the RECORD a column by Charles Krauthammer that displays a fundamental misunderstanding of the operation of the Social Security trust funds and attacks my position on this issue. I ask unanimous consent that the response written by Senator DORGAN and me, which ran in the Washington Post on March 16, 1995, to correct the many factual and logical errors in Mr. Krauthammer's argument, also be published at an appropriate place in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 16, 1995]

UNFAIR LOOTING

(By Byron L. Dorgan and Kent Conrad)

Charles Krauthammer's uninformed defense of an indefensible practice [''Social Security Trust Fund Whopper,'' oped, March 10] demonstrates that it is possible to be a celebrated pundit yet know nothing of the subject about which one is writing.

In attacking us for our position on the balanced-budget amendment, Krauthammer misses the mark by a country mile on two very important points. First, he insists incorrectly that ''Social Security is a pay-as-you-go system'' that ''produces a cash surplus'' because ''so many boomers are working today.'' Second, he ignores the fact that Social Security revenues were never meant to pay for expenses incurred in the federal operating budget. Missing both fundamental points undermines the credibility of Krauthammer's conclusions.

Here are the facts:

First, Social Security is not a pay-as-you-go system. If it were, Social Security benefits would exactly equal taxes, and there would be no surpluses. But there are. This year alone Social Security is running a $69 billion surplus.

Apparently, Krauthammer completely missed the 1983 Social Security Reform Act, which removed the system from a pay-as-you-go basis. In 1983 Congress recognized that in order to prepare for the future retirement needs of the baby boom generation, we should raise more money from payroll taxes now than is needed for current Social Security benefits. We did that because when the baby boomers retire, there will not be enough working Americans to cover Social Security benefits on a pay-as-you-go basis. We will need accumulated surpluses to pay these benefits.

Second, Social Security revenue is collected from the paychecks of working men and women in the form of a dedicated Social Security tax, deposited in a trust fund and invested in government securities. This regressive, burdensome tax (almost 73 percent of Americans who pay taxes pay more in social insurance taxes than in income taxes) isn't like other taxes. It has a specific use—retirement—as part of the contract this nation made 60 years ago with working Americans.

Because this tax is dedicated solely for working Americans' future retirement, it shouldn't be used either for balancing the operating budget or masking the size of the budget deficit. Krauthammer not only irresponsibly condones the use of the Social Security surpluses to do these things, he thinks we should enshrine this procedure in our Constitution.

He apparently does so because he doesn't understand the difference between balancing an operating budget and using dishonest accounting gimmicks to hide operating losses. To illustrate the difference and how it works to loot the Social Security trust funds, let's use an example a little closer to home for Krauthammer.

Assume that Krauthammer is paid a lucrative salary by The Washington Post, which puts part of the salary into a company retirement plan. Then let's assume The Washington Post comes upon hard times and starts losing money each year.

Here's where honesty matters. The Post has two choices. It could face up to its problems and move to balance its budget. Or it could follow Krauthammer's prescription and disguise its shortfall by raiding the employees' retirement fund to make it appear that the operating budget is balanced. Of course, the retirement fund would have nothing but IOUs in it when it comes time for Krauthammer to retire. At that point, even Krauthammer might recognize the fallacy of looting trust funds to pay operating expenses.

Absurd? Sure. But the flawed Republican balanced-budget amendment plan would in the same way keep on looting Social Security trust funds to balance the federal operating budget. Instead, we should take the honest course and begin the work now to bring our federal operating budget into balance without raiding the Social Security trust funds.

Contrary to Krauthammer's assertion, the only fraudulent point about this issue was his uninformed column.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, morning business is now closed.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate bill 1322, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1322) to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I am one of the original cosponsors of this legislation and would like to begin the discussion of the legislation until the majority leader and the chairman of the Senate Foreign Relations Committee have an opportunity to come to the floor and make their opening statements in support of S. 1322.

This is historic legislation. It is important legislation, for a variety of reasons that affect everyone in this body and, frankly, most of the people in this country. It is a strong statement of foreign policy implications. It is a strong statement in support of our longstanding relationship with the State of Israel.

I want to begin by describing briefly what the legislation would do and what the rationale for the legislation is. The bill begins by making a series of findings which report on the history of the status of Jerusalem, leading up to some conclusions of policy by the U.S. Government. Let me state those conclusions of policy first.

The bill provides that:

> It is the policy of the United States that—
>
> Jerusalem should remain an undivided city in which the rights of every ethnic religious group are protected;
>
> Jerusalem should be recognized as the capital of the State of Israel; and
>
> the United States Embassy in Israel should be relocated to Jerusalem no later than May 31, 1999.

The bill then goes on to provide a mechanism for the President to establish, to relocate the U.S. Embassy in Jerusalem, and that that process would be completed by May 31, 1999. The bill originally provided for a beginning date in 1996, but out of deference to concerns expressed by the State Department and the President and others, that particular provision was taken out of the bill, primarily because, of course, the key is the date that the Embassy is opened, not the date that we begin construction on a new Embassy or the conversion of the existing consulate into a new Embassy.

Let me now turn to the findings that are stated in this legislation and then discuss a little bit of the history of this particular matter:

> Each sovereign nation, under international law and custom, may designate its own capital.

And that is the first finding that we make.

> Since 1950, the city of Jerusalem has been the capital of the State of Israel.

The second finding.

> [It is] the seat of Israel's President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.

That is our third finding.

In No. 4 we make the point that:

> The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.
>
> (5) From 1948–1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled [then] by Jordan.

The sixth finding of this legislation is that:

> In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.
>
> Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

We make a point in finding No. 8 that:

> This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.

We further find:

> In 1990 the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress, [and I am quoting from the resolution now] "strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic religious group are protected."

In finding No. 10 we make the point that:

> In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

Finding No. 11 is that:

> The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of "final status" issues, including Jerusalem.

No. 12 is that:

> The agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

And further, in point No. 13, that:

> In March of 1995, 93 members of the United States Senate signed a letter to the Secretary of State Warren Christopher encouraging "planning to begin now" for relocation of the United States Embassy to the city of Jerusalem.
>
> The United States maintains its embassy in the functioning capital of every country in the world except in the case of our democratic friend and strategic ally, the State of Israel.

That is the 14th finding of this legislation.

The 15th finding is to note that:

> The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

Finally and importantly we note that:

> In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry.

And, therefore, as a result of these findings, as I say, we declare it to be the policy of the United States that:

> Jerusalem should remain an undivided city.
>
> [2] Jerusalem should be recognized as the capital of the State of Israel; and
>
> [3] the United States Embassy in Israel should be relocated to Jerusalem no later than May 31, 1999.

As the mechanism for ensuring that this policy is adhered to, and that the Embassy is in fact opened on that date or before then, the Congress ensures that:

> Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for "Acquisition and Maintenance of Buildings Abroad" may be obligated until the Secretary of State determines and reports to the Congress that the United States Embassy in Jerusalem has officially opened.

So, Mr. President, that is the essence of this legislation. As I said, I think it represents an important milestone in the relationship between the United States and Israel, one of the strongest friends of the United States, but a State which has its capital in the city of Jerusalem and the United States Embassy in Tel Aviv. This legislation remedies that and ensures that the new Embassy will open by May 31, 1999, in Jerusalem.

Let me go into a little bit more of the history of this, in order to, I think, assure everyone of the reasons why this is so important and why we need to do it now. The United States Government has refused official recognition of Israeli sovereignty in Jerusalem for various reasons since Israel's inception, at first in line with the never implemented 1947 U.N. General Assembly partition recommendation for western Palestine. U.S. policy supported a special international status, corpus separatum, as it was called, for the city of Jerusalem. The impractical notion actually appealed to neither the Jews nor the Arabs, and in 1948, the Arab Legion conquered east Jerusalem, including the old city, as part of the general Arab military offensive to prevent Israel from coming into being. Israel retained control over west Jerusalem.

When east Jerusalem was under Arab rule, many Jews were prohibited from visiting their holy places and the synagogues in the old city were razed and Jewish burial places were desecrated.

In 1967, as Egypt and Syria moved again toward war with Israel, the Israel Government urged King Hussein of Jordan to sit out the fighting and promised the territories he controlled would be left alone if he did so. The King failed to heed the warning. He attacked Israel and, as we all know, in the ensuing fighting he lost east Jerusalem and the West Bank.

Israel, under the Labor Party leadership at the time, declared that Jerusalem will remain undivided forever, as Israel's capital, and all people will have free access to their holy places.

Since 1967, the policy and practice of the U.S. Government regarding Jerusalem has, unfortunately, been somewhat inconsistent.

United States officials have often explained our Government's unwillingness to recognize Israeli sovereignty over any of Jerusalem on the grounds that the city status should be resolved through Arab-Israeli negotiations, or at that particular moment in time it was difficult, if not a good thing to do, in view of the relationships existing between the parties at those times.

On the other hand, our Government has repeatedly said that we do not favor redivision of the city. Yet, the State Department makes a point of prohibiting United States officials from visiting east Jerusalem under Israeli auspices. In other words, for purposes of official visits of Jerusalem, the United States Government distinguishes between east and west Jerusalem. But as proposals have been made over the years to move the United States Embassy to west Jersualem—I note west Jerusalem and not east Jerusalem—the State Department refused on the grounds that we do not distinguish between east and west Jerusalem, and do not recognize anyone's sovereign claims to any of Jerusalem.

The only thing consistent about United States policy on Jerusalem, unfortunately, is its antagonism to Israel's claim there. In my view, this policy is unprincipled, notwithstanding the fact that on many occasions it was urged in support of positions on which we were supporting the Government of Israel. But I still believe, and I think one of the reasons for this legislation is, that the policy has not been viewed as principled, but rather entirely too pragmatic depending upon the circumstances of the time, and that view, in my personal opinion, is unworthy of the United States, and, frankly, as I will explain later, I believe unhelpful to the cause of peace.

Notwithstanding the several peace agreements that Israel has signed with its neighbors, Arab enemies of the Jewish state continue to insist that Israel is not legitimate, that it has no right to exist on what they deem to be Arab land. The international community, acting through the League of Nations and in the United Nations, based its acknowledgement of Jewish people's national rights in Palestine on the historical connection of the Jewish people with Palestine.

Though the long war against Zionism and Israel is now checked on the military level, it continues on the battlefield of ideas. That is why the actions of the United States with regard to a very tangible matter, the location of our Embassy, is so very, very important. It matters what position the United States takes in this battleground of ideas. And in this particular war, Israel's enemies have worked to not legitimize Israel, to deny the significance of the historical connection that I referred to before between the Jews and Zion, and to foster hope that someday Israel, perhaps then abandoned by its friends and exhausted by the unremitting hostility and violence of its foes, can be made to disappear, first as the Christian Crusaders of the Middle Ages wore worn down and ultimately expelled from the Holy Land.

The belief that Israel's friends are unreliable and Israel's resolve is weak is a major impediment to true Arab-Israeli peace. Unrealistic expectations on the part of Arab parties about Jerusalem make peace harder to achieve.

The Jerusalem Embassy relocation bill aims to close the question of United States support for Israel's rights in its own capital. I want to restate the point, Mr. President, because it is the critical reason why this legislation is brought before the U.S. Senate and the House of Representatives at this time. This bill, the Jerusalem Embassy relocation bill, aims to close the question of United States support for Israel's rights in its own capital. It aims at the heart of the legitimacy issue, for Jerusalem is the essence of the historical connection of the Jewish people with Palestine. The interest of peace, in my view, is not served by anyone thinking that Israel can be divided from the United States over the Jerusalem issue. It is an error to suppose the United States is more effective diplomatically when we pose as a neutral, honest broker between the Israelis and the Arabs seeking peace in the region.

U.S. influence does not derive from any claim of neutrality on our part in this particular conflict, although it is important that Arabs interested in peace understand the important bona fides of the United States in this question of peace. Rather, U.S. influence, I submit, derives from our status as a great power, the intensity of our worthy convictions, and our loyalty to our friends. And, if all three of those circumstances are well understood by all of the parties, it will be much easier for a true and lasting peace to be achieved, a peace which is so fragile that it can be jeopardized by the question of whether the United States should relocate its Embassy to west Jerusalem, a peace which is bound to fail on other grounds and, therefore, a peace not worth having. We want a lasting peace. The Israelis want a lasting peace. And I know that Arabs of good will want a lasting peace. And a lasting peace is based upon a bedrock of good faith and principles that are not inconsistent between the peacemaking parties.

If there are fundamental—fundamental—differences between the peacemaking parties, then the peace becomes too fragile to be sustained. And after thousands of years of conflict in this region, Mr. President, the people of this region deserve to have the opportunity to live in peace with each other as friends and under circumstances in which there is not always the cloud of uncertainty and even war and when there is not the cloud of danger in the streets which exists as it does today.

The many, many people of this body and the House of Representatives which support this legislation do so because we believe it will send a principled and constructive signal to all of the parties in the Arab-Israeli negotiations and establish the United States position in support of the State of Israel in clear and unmistakable terms.

Mr. President, before I turn the podium over, I want to acknowledge a couple of other points of view and some people who have been very instrumental in bringing this legislation forward.

The majority leader, Senator DOLE, has made stirring speeches in support of this legislation and believes in his heart that it is the best way to proceed in order to make the kind of statement that I spoke of a moment ago. And he is joined by all of the original cosponsors with that idea in mind.

There are other Members of this body who have worked very hard to develop the language that would be most satisfactory to the Members of this body as well as to the President and to his Cabinet. Senator LIEBERMAN from Connecticut is one of the people who has worked very long and hard to bring these ideas together and to try to achieve a very broad consensus so that when this legislation passes, it is with a broad bipartisan degree of support and, hopefully, the support of the administration as well.

Senator DIANNE FEINSTEIN, who is here, the Senator from California, and Senator LAUTENBERG from New Jersey have been engaged in meetings. They have to some degree a somewhat different point of view as to how this legislation will work out in terms of the negotiations that are currently pending between the Israelis and the Arabs in the region. But it is their desire, no less than mine and the other cosponsors, that we work toward the day when we can achieve the situation that this bill would achieve—namely, the relocation of the Embassy in Jerusalem.

So let there be no doubt that, though some Members of this body may have somewhat different views as to how best to achieve this objective, we are united in the objective, and we are determined to reach a point where the legislation can move forward with a strong bipartisan degree of consensus and eventually the support of the administration.

Mr. President, with that opening statement and with the desire that when Senator DOLE or Senator HELMS are able to come to the floor to make their opening statements in support of the bill, I would be happy to relinquish the floor at this time to someone on the other side who would wish to make a statement.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, first, let me stand and say that I support this legislation and intend to vote for it. I think it is very worthy legislation. I recognize the role that has been played by the Senator from Arizona, by Senator DOLE, by Senator FEINSTEIN, by Senator LIEBERMAN, by Senator LAUTENBERG, and some others. I think this is the right thing to do, and I will be voting for it.

Mr. President, two additional items. The comments made previously by the Senator from Arizona discussed votes that had been cast by Senator CONRAD any myself in previous budget issues. I shall not respond to them in this discussion. I will at some point later. But they are not at all related to the issue which we are discussing on the floor of the Senate. To change the subject of the debate, when it is the equivalent of getting lost and then claiming where you ended up was where you intended to be, is interesting but not, in my judgment, very useful.

So I will discuss that at some later point this afternoon when I take the floor.

I would want to say this, however. I intend to submit an amendment to the desk in a moment. It is a sense-of-the-Senate amendment on a subject unrelated to the central part of this bill, and I do it because it is the only opportunity I have to offer it prior to the reconciliation bill coming to the floor. I will agree to a very short time limit, 10 minutes, 5 on each side, or 10 on each side. I do want to get a vote. But it is my intention to offer it. It can be set aside as far as I am concerned and I will agree to a very brief time limit.

So, Mr. President, again, because circumstances prevented me in recent days from offering this sense-of-the-Senate amendment and because this is the only circumstance in which one can be offered, I would say to those who are worried about this holding up the bill, I do not intend to do that at all. I will agree to 5 minutes on each side, and we will no doubt have some votes at some point and I hope the Senate would express itself on this.

As the Presiding Officer and other Members know, we are very limited in our ability to address a number of issues that are very important in this Chamber. Often we are required to do so in this manner, a sense-of-the-Senate resolution on a piece of legislation that is unrelated. But I do not intend in any way to hold this piece of legislation up. I will agree to the shortest of all time agreements if the majority wishes, 5 or 10 minutes on each side.

AMENDMENT NO. 2940

(Purpose: To express the sense of the Senate on tax cuts and Medicare)

Mr. DORGAN. Mr. President, I send the amendment to the desk and ask it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2940.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON BUDGET PRIORITIES.

(a) FINDINGS.—The Senate finds that—

(1) the concurrent resolution on the budget for fiscal year 1996 (H. Con. Res. 67) calls for $245 billion in tax reductions and $270 billion in rejected spending reductions from Medicare;

(2) reducing projected Medicare spending by $270 billion could substantially increase out-of-pocket health care costs for senior citizens, reduce the quality of care available to Medicare beneficiaries and threaten the financial health of some health care providers, especially in rural areas;

(3) seventy-five percent of Medicare beneficiaries have annual incomes of less than $25,000;

(4) most of the tax cuts in the tax bill passed by the House of Representatives (H.R. 1215) go to families making over $100,000 per year, according to the Office of Tax Analysis of the United States Department of the Treasury.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate should approve no tax legislation which reduces taxes for those making over $250,000 per year; and

(2) the savings from limiting any tax reductions in this way should be used to reduce any cuts in projected Medicare spending.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk continued with the call of the roll.

Mrs. FEINSTEIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I ask unanimous consent that I be permitted to speak only on S. 1322.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Excuse me, Mr. President, reserving the right to object, under the terms the Senator from California has outlined, namely that she will speak only on the Jerusalem resolution, after which another quorum call would be called for.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California.

Mrs. FEINSTEIN. I thank the Senator. I thank the Chair.

Mr. President, I rise to speak about the legislation before the Senate, S. 1322, a bill that essentially expresses the sense-of-Congress that Jerusalem should remain undivided and be the capital of Israel, and that it should be the site of the location of the United States Embassy at a date certain, namely May 1999.

Mr. President, many people have participated in this discussion. And I know Senator LAUTENBERG, with whom I have been working, wishes to speak. I want to thank the majority leader for working with those of us that have concerns on this legislation. I know that there are discussions ongoing.

Senators LAUTENBERG, LIEBERMAN, LEVIN, and I just had a discussion. And I believe Senator LIEBERMAN is going to talk with Senator KYL and Senator DOLE on what our conclusions are.

For the purposes of these comments, I would like to make some general comments about the intentions of this legislation. Let me state what I believe some basic truths to be.

The first basic truth is that the United States of America has an absolute right to place its Embassy in a capital city, any capital city. Clearly, Jerusalem is the capital of Israel. We need no one's permission to do so, and we need no piece of legislation to do so. This issue has been one that has percolated for a long, long time with a great deal of impatience on the part of many people who say, "Why hasn't the Embassy been relocated to Jerusalem prior to this time?"

Having said that, we have another basic truth, and that is that Israel can survive long-term as a Jewish democratic state only if there is peace, if that peace is recognized and bought into by Israel's neighbors, and that there are safe and secure borders. Therefore, the peace process now ongoing is key and critical to the long-term survival of the State of Israel.

Jerusalem is many things to many people. All one has to do is spend some time there to see the Mount of Olives, the concept of the promised land, the Garden of Gethsemane, the home of more than 40 Christian denominations, the home of the Moslem religion, the home of the Armenian Patriarch, the Western Wall, a magical and mystical place, a source of religion throughout the world.

The only democracy in the Middle East rests within the State of Israel; and yet it has been the site of hatred, war, and conflict dating from the Crusades and even back before that time.

So it is a difficult and complicated subject. However, I want to say this, that I, like most Americans, believe that the U.S. Embassy should be located in Jerusalem. But as this bill was originally presented, there were concerns about the bill.

Originally, the bill that was introduced had 62 Senators on it. This bill has 69 Senators. So there is a very strong bulwark of support for the bill.

Some concerns remain even about the new text of the bill. Chief among these concerns for all of us is what the Chief Executive of this Nation will do. Many of us believe that whatever the politics surrounding this bill, we can all agree that to have a divisive vote on an issue around which there has always been consensus and to go through the unpleasantness of a veto confrontation, even with a successful override vote, would not be to anyone's benefit. Most of all, going through that process would be to the detriment of Jerusalem and Israel, as doubts about the U.S. commitment on this issue would certainly emerge.

So for all those for whom Jerusalem is important and vital, I cannot imagine a more devastating outcome to the first legislation ever sent to a President mandating moving the U.S. Embassy to Jerusalem than to have this legislation vetoed. For that reason, I think it is imperative that we try to address the concerns that exist about the bill. And we have tried to do that in conversations that have taken place on Friday and taken place today as well.

One of the administration's concerns is that the bill in its current form does not provide a degree of flexibility in the end date by which an Embassy must be established in Jerusalem. We are hopeful that waiver language can be agreed upon by all the parties concerned that would allow the President under certain key conditions, best defined as national security interests, to suspend any necessary provisions of this bill related to the timetable if there was a determination that it was in the national security interest to do so.

I suspect we can all agree that the President should, whenever possible, be granted this kind of flexibility. As a matter of fact, it is within his own constitutional responsibility to be able to do so.

One of my concerns, for example, is that the move of our Embassy could overlap with key events unfolding in the Middle East peace process. In the opinion of this Senator, and perhaps some others would agree, the conclusion of a comprehensive peace between Israel and its neighbors is in the national security interests of the United States.

The bill, in its current form, would require the new Embassy to be opened by May 31, 1999, regardless of what is happening in the peace process. May 1999 is, of course, also the deadline Israel and the Palestinians have set for themselves to complete final status talks and also the transition period. But we all know that despite good will on both sides and a series of important agreements, Israel and the Palestinians have missed virtually every deadline they have set during the course of the peace process.

First, the agreement on withdrawal from Gaza and Jericho, scheduled to be signed in December 1993 and implemented by April 1994, was signed and implemented in May 1994.

Second, Palestinian elections were supposed to take place in July 1994. They have not. Now the commitment is that they would take place prior to Ramadan, hopefully in January 1996, a year and a half later.

Third, for weeks leading up to the recent agreement on Israeli redeployment in the West Bank, the negotiators set numerous deadlines for themselves that went unmet.

With all of this background, can we accurately predict that a peace process will definitely conclude on May 4, 1999, as scheduled? Of course not. It is a difficult, fluid process, but it is working. The President should have the ability and the flexibility to postpone actions that might have an impact on the negotiations if they were taken at a sensitive moment in the talks. The waiver, we hope, will be forthcoming as a product of these discussions and would provide, we believe, that kind of flexibility.

Another purpose of a waiver amendment is to address the administration's constitutional concerns about this bill. The State Department has made it clear that they will recommend against the signature of a bill that they deem interferes with the constitutional prerogatives to conduct foreign policy. They have also indicated their strong objection to a specific date for location or establishment of the Embassy in Jerusalem.

Specifically, the President interprets this bill to infringe upon his constitutional prerogatives by forcing him to establish an Embassy by a specific date, at a specific location. But by providing a sufficient waiver, renewable, if need be, the President has the opportunity to temporarily delay implementation of section 3(b), the timetable under this bill, should he find that it harms the peace process, to the extent of violating what we hope will be in the waiver, national security interests.

There is no question that Congress and the executive branch frequently have differing interpretations of the constitutionality of particular statutes. I do not expect all of my colleagues to agree with every aspect of the President's interpretation. Indeed, there are aspects of his interpretation with which I disagree.

But, in the interest of allowing the administration's views to speak for themselves, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a legal analysis of the earlier version, S. 770, prepared by the Justice Department, and a June 20, 1995 letter from the Secretary of State to the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. I thank the Chair. Nevertheless, despite our differing interpretations, we must face facts, and the fact is that the State Department has determined that the President should veto the bill in its current form.

As I said before, the damage that would result to Jerusalem, first and foremost, and to our common cause of moving the Embassy there from passing a bill that could get vetoed could be irreparable. So I am hopeful that this bill will not be vetoed.

Mr. President, with a sufficient waiver, we can pass a bill that mandates the moving of the United States Embassy to Jerusalem, but allows the President to waive the timing of the establishment of the Embassy in Jerusalem if national security interests are involved.

This would be first-time legislation, the first time a bill on this issue has been passed, and I think that is extraordinarily important.

I must say, I have never conceived of this issue as a litmus test of one's support for Israel. I find deeply committed friends of Israel holding a wide variety of views on the question of when and how to move the United States Embassy to Jerusalem, and on these bills.

As for the debate in Congress, let us establish a basic understanding that all participants in this debate agree on one fundamental truth: that united Jerusalem is and will remain as the capital of Israel.

So Jerusalem's status as Israel's capital has never been in question here. The debate is, instead, focused on a side debate to the central issue, the placement of the Embassy, and I, like my colleagues, believe there is basic agreement in this body, and I share the view of my colleagues, that the United States Embassy in Israel does, indeed, belong in Jerusalem. It is elementary that a sovereign nation, as I have pointed out, has that right to place an Embassy at the site of a nation's capital with whom it enjoys diplomatic relations.

So this should not in all logic, in all reason, in all sovereign power be privy to negotiations having to do with peace and security between the Palestine Liberation Organization and the State of Israel, or between the State of Jordan and the State of Israel, or between any of the Arab neighbors and the State of Israel. However, there is one important point, and I think this is where we need to be very careful that we are not provocative.

There was a letter sent to Secretary of State Christopher sponsored by the two distinguished Senators from New York, Senator MOYNIHAN and Senator D'AMATO, last March. I joined with 92 of my colleagues in signing this letter in which we said, and I quote:

> We believe that the United States embassy belongs in Jerusalem. It would be most appropriate for planning to begin now to ensure such a move no later than the agreements on permanent status take effect and the transition period is ended which, according to the Declaration of Principles, is scheduled for May 1999.

This letter, I believe, reflected a true consensus on this issue in the Senate and, to a great extent, in the community affected. In a letter to the Jewish Press on April 7, 1995, Senator MOYNIHAN explained why the letter was written, and I quote:

> Senator D'Amato and I chose to write a letter rather than to introduce legislation because we wanted to secure maximum public support for the proposition that united Jerusalem is the capital of Israel and the appropriate home of our embassy.

So when legislation was introduced on this issue in May, however, the consensus cracked and then, as we know, with the earlier bill, 62 Senators signed on.

There was one point in that earlier bill that very deeply concerned me, and that was the provision that the commencement of construction on the Embassy site in West Jerusalem would begin in 1996, and I felt that that could truly be provocative, be disturbing to the peace process at this very difficult time, particularly in view of the fact that Palestinian elections for the first time have not yet taken place and are about to take place. And we now know that the date agreed to is prior to Ramadan or in January of next year. Therefore, to mandate the beginning of construction in 1996 could be, I think, unintentionally, but very realistically, provocative and something that we would not want to do.

The leader, in his wisdom, and I am grateful and thankful for this, and Senator KYL agreed, did remove that section and, hence, that laid the basis for the new legislation which is before us today, entitled Senate bill 1322. So my major concern has really been addressed, and I am very pleased and grateful for that. The concern expressed then that the original bill might precipitate a difficult situation I think has been remedied.

There was also a lack of consensus at that time in statements that were issued by a number of major American Jewish organizations who felt that the objectives of the legislation were good but hoped that everybody would come together and agree on a piece of legislation that would not be provocative to the peace process but could establish the intent with the clarity of law, in this body and the House, for the first time in the history of debate over this issue.

I believe that if we can agree on waiver language that does not limit the constitutional authority of the President, that we will have given the bill the necessary features to meet a variety of needs. For the first time, we will have mandated in law the move of the U.S. Embassy to Jerusalem, an important achievement, and a variety of preparations for that move spelled out in the timing of report language.

We will have also provided the President with the flexibility to postpone the actual move if events in the Middle East peace process or other U.S. National security interests warrant it, and I believe this is a responsible way for the Congress to legislate in this area.

I think that, as we vote on this bill, we should be aware that some of the leading Middle East experts in the administration do worry, still, about its impact on the peace process—not in 1999, but today. I think this Government is so privileged to have one of the most skillful and determined young negotiators I have met, in the person of Dennis Ross. His perspicacity, his energy, his undying commitment to this process has really been helpful in America playing the role of the honest broker, in sitting down with the two sides, and in being responsible for bringing the chairman of the Palestine Liberation Organization, the Prime Minister and Foreign Minister of the State of Israel, the President of Egypt, the King of Jordan, and a host of other dignitaries from the European Union, together recently at the White House to witness what was an unbelievable signing. I, for one, during many times in the past decades thought we would never see that day. But, Mr. President, we did see that day, and a lot of it is due to the skill and dedication of Dennis Ross. I think that has to be said.

Mr. Ross has warned that passing this legislation could now complicate the already-difficult implementation of the recent agreement on redeployment in the West Bank. He is also concerned that Jerusalem could become a central issue in the upcoming Palestinian election now scheduled for January, which would likely play to the radical faction and put Chairman Arafat in a very difficult position. Martin Indyk, our Ambassador to Israel, at his confirmation hearing in the Foreign Relations Committee, at which I was present, has echoed many of these concerns.

Mr. President, I raise these issues simply because I believe we should be aware of what people in the administration—in an administration that has been extremely supportive of Israel—are thinking about this legislation. This administration has achieved something that has never in the history of the area been achieved, and that is an agreement which may guarantee safe and secure borders and peace between the small, tiny State of Israel and the Arab nations that surround it. And its importance cannot be overlooked in that regard.

So I am looking for a way that we can indicate the rights of the sovereign nation by saying that we should place our Embassy in Jerusalem, that it should be the policy of the Congress that Jerusalem is the capital and that Jerusalem should remain undivided, without presenting a provocation in what I think is the most important process for peace ongoing, certainly, in the history of the Middle East.

I am hopeful that the negotiations now ongoing will be able to provide that form of waiver. I think it is vital—a waiver that does not in any way compromise the President's constitutional authority. So at this time I would like to yield the floor, and I will have more to say when those negotiations are completed.

At this time, I yield the floor.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, DC, May 16, 1995.

Memorandum for Abner J. Mikva, Counsel to the President.

From: Walter Dellinger, Assistant Attorney General.

Re Bill to relocate United States Embassy from Tel Aviv to Jerusalem.

This is to provide you with our views on S. 770, a bill introduced by Senator Dole and others, "[t]o provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes." The provisions of this bill that render the Executive Branch's ability to obligate appropriated funds conditional upon the construction and opening of the United States Embassy to Israel in Jerusalem invade exclusive Presidential authorities in the field of foreign affairs and are unconstitutional.

The bill states that

[i]t is the policy of the United States that—

(1) Jerusalem should be recognized as the capital of the State of Israel;

(2) groundbreaking for construction of the United States Embassy in Jerusalem should begin no later than December 31, 1996; and

(3) the United States Embassy should be officially open in Jerusalem no later than May 31, 1999.

Section 3(a).

The bill requires that not more than 50% of the funds appropriated to the State Department for FY 1997 for "Acquisition and Maintenance of Building Abroad" may be obligated until the Secretary of State determines and reports to Congress that construction has begun on the site of the United States Embassy in Jerusalem. Section 3(b). Further, not more than 50% of the funds appropriated to the State Department for FY 1999 for "Acquisition and Maintenance of Buildings Abroad" may be obligated until the Secretary determines and reports to Congress that the United States Embassy in Jerusalem has officially opened. Section 3(c).

Of the funds appropriated for FY 1995 for the State Department and related agencies, not less than $5,000,000 "shall be made available until expended" for costs associated with relocating the United States Embassy in Israel to Jerusalem. Section 4. Of the funds authorized to be appropriated in FY 1996 and FY 1997 for the State Department for "Acquisition and Maintenance of Buildings Abroad, "not less than $25,000,000 (in FY 1996) and $75,000,000 (in FY 1997) "shall be made available until expended" for costs associated with, respectively, the relocation of the United States Embassy to Jerusalem, and the construction and relocation of the Embassy. Section 5.

The Secretary is required to report to Congress not later than 30 days after enactment "detailing the Department of State's plan to implement this Act." Section 6. Beginning on January 1, 1996, and every six months thereafter, the Secretary is to report to Congress "on the progress made toward opening the United States Embassy in Jerusalem." Section 7.

It is well settled that the Constitution vests the President with the exclusive authority to conduct the Nation's diplomatic relations with other States. This authority flows, in large part, from the President's position as Chief Executive, U.S. Const. art. II, §1, cl. 1, and as Commander in Chief, *id.* art. II, §2, cl. 1. It also derives from the President's more specific powers to "make Treaties," *id.* art. II, §2, cl. 2; to "appoint Ambassadors . . . and Consuls," *id.*; and to "receive Ambassadors and other public Ministers," *id.*, art. II, §3. The Supreme Court has repeatedly recognized the President's authority with respect to the conduct of diplomatic relations. *See, e.g., Department of Navy* v. *Egan* 484 U.S. 518, 529 (1988) (the Supreme Court has "recognized 'the generally accepted view that foreign policy was the province and responsibility of the Executive'") (quoting *Haig* v. *Agee*, 453 U.S. 280, 293-94 (1981)), *Alfred Dunhill of London, Inc.* v. *Republic of Cuba*, 425 U.S. 682, 705-06 n. 18 (1976) ("the conduct of [foreign policy] is committed primarily to the Executive Branch"); *United States* v. *Louisiana*, 363 U.S. 1, 35 (1960) (President is "the constitutional representative of the United States in its dealings with foreign nations"). *See also Ward* v. *Shannon*, 943 F.2d 157, 160 (1st Cir. 1991) (Breyer, J.) ("the Constitution makes the Executive Branch . . . primarily responsible" for the exercise of "the foreign affairs power"), *cert. denied*, 112 S. Ct. 1558 (1992); *Sanchez-Espinoza* v. *Reagan*, 770 F.2d 202, 210 (D.C. Cir. 1985) (Scalia, J.) ("broad leeway" is "traditionally accorded the Executive in matters of foreign affairs"). Accordingly, we have affirmed that the Constitution "authorize[s] the President to determine the form and manner in which the United States will maintain relations with foreign nations." *Issues Raised by Section 129 of Pub. L. No. 102-138 and Section 503 of Pub. L. No. 102-140*, 16 Op. O.L.C. 18, 21 (1992) (preliminary print).

Furthermore, the President's recognition power is exclusive. *See Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 410 (1964) ("[p]olitical recognition is exclusively a function of the Executive"); *see also Restatement (Third) of the Foreign Relations Law of the United States* §204 (1987) ("the President has exclusive authority to recognize or not to recognize a foreign state or government, and to maintain or not to maintain diplomatic relations with a foreign government"). It is well established, furthermore, that this power is not limited to the bare act of according diplomatic recognition to a particular government, but encompasses as well the authority to take such actions as are necessary to make the power of recognition an effective tool of United States foreign policy. *United States* v. *Pink*, 315 U.S. 203, 229 (1942) (The authority to recognize governments "is not limited to a determination of the government to be recognized. It includes the power to determine the policy which is to govern the question of recognition.").

The proposed bill would severely impair the President's constitutional authority to determine the form and manner of the Nation's diplomatic relations. The bill seeks to effectuate the policy objectives that "Jerusalem should be recognized as the capital of the State of Israel" and that "the United States Embassy should be officially open in Jerusalem no later than May 31, 1999." "To those ends, it would prohibit the Executive Branch from obligating more than a fixed percentage of the funds appropriated to the State Department for "Acquisition and Maintenance of Buildings Abroad" in FY 1997 until the Secretary determines and reports to Congress that construction has begun on the site of the United States Embassy in Jerusalem. It would also prohibit the Executive Branch from obligating more than a fixed percentage of the funds appropriated for the same purpose for FY 1999 until the Secretary determines and reports to Congress that the United States Embassy in Jerusalem has "officially opened."

By thus conditioning the Executive Branch's ability to obligate appropriated funds, the bill seeks to compel the President to build and to open a United States Embassy to Israel at a site of extraordinary international concern and sensitivity. We believe that Congress cannot constitutionally constrain the President in such a manner.

In general, because the venue at which diplomatic relations occur is itself often diplomatically significant, Congress may not impose on the President its own foreign policy judgments as to the particular sites at which the United States' diplomatic relations are to take place. More specifically, Congress cannot trammel the President's constitutional authority to conduct the Nation's foreign affairs and to recognize foreign governments by directing the relocation of an embassy. This is particularly true where, as here, the location of the embassy is not only of great significance in establishing the United States' relationship with a single country, but may well also determine our relations with an entire region of the world. Finally, to the extent that S. 770 is intended to affect recognition policy with respect to Jerusalem, it is inconsistent with the exclusivity of the President's recognition power.

Our conclusions are not novel. With respect to the Foreign Relations Authorization Act, FY 1994 & 1995, which included provisions purporting to require the establishment of an office in Lhasa, Tibet, the President stated that he would "implement them to the extent consistent with [his] constitutional responsibilities." Statement by the President at 2 (Apr. 30, 1994). The Reagan Administration objected in 1984 to a bill to compel the relocation of the United States Embassy from Tel Aviv to Jerusalem, on the grounds that the decision was "so closely connected with the President's exclusive constitutional power in responsibility to recognize, and to conduct ongoing relations with, foreign governments as to, in our view, be beyond the proper scope of legislative action." Letter to Dante B. Fascell, Chairman, Committee on Foreign Affairs, United States House of Representatives, from George P. Shultz, Secretary of State, at 2 (Feb. 13, 1984). Again, in 1987, President Reagan stated that he would construe certain provisions of the Foreign Relations Authorization Act, FY 1988 & 1989, including those that forbade "the closing of any consulates," in a manner that would avoid unconstitutional interference with the President's authority with respect to diplomacy. *Pub. Papers of the Presidents: Ronald Reagan* 1542 (1987). Indeed, as long ago as 1876, President Grant declared in a signing statement that he would construe legislation in such a way as to avoid "implying a right in the legislative branch to direct the closing or discontinuing of any of the diplomatic or consular offices of the Government," because if Congress sought to do so, it would "invade the constitutional rights of the Executive." 7 James D. Richardson (ed.) *Messages and Papers of the Presidents* 377-78 (1898).

Finally, it does not matter in this instance that Congress has sought to achieve its objectives through the exercise of its spending power, because the condition it would impose on obligating appropriations is unconstitutional. *See United States* v. *Butler*, 297 U.S. 1, 74 (1936); *Issues Raised by Section 129 of Pub. L. No. 102-138 and Section 503 of Pub. L. No. 102-140*, 16 Op. O.L.C. AT 30-31 ("As we have said on several prior occasions, Congress may not use its power over appropriation of public funds 'to attach conditions to Executive Branch appropriations requiring the President to relinquish his constitutional discretion in foreign affairs.'") (citation omitted).

For the above reasons, we believe that the bill's provisions conditioning appropriated funds on the building and opening of a United States Embassy in Jerusalem are unconstitutional.

THE SECRETARY OF STATE,
Washington, DC, June 20, 1995.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to express my opposition to S. 770, which would compel the Administration to move its Embassy to Jerusalem. Given the sensitivity of the subject, it is important that there be no misunderstanding on where we stand.

There is no issue related to the Arab-Israeli negotiations that is more sensitive than Jerusalem. It is precisely for this reason that any effort by Congress to bring it to the forefront is ill-advised and potentially very damaging to the success of the peace process.

I do not say this lightly. Nor do I say it without recognizing the depth of feeling that exists in the Congress about moving the U.S. Embassy to Jerusalem. Both the President and I am very much aware of this sentiment and the reasons for it. The President expressed himself on this issue during the 1992 campaign and he stands by that position. But he also said at that time, and on a number of occasions since then, that he would not take any step that would disrupt the negotiating process and the promotion of Middle East peace. And S. 770 would unmistakably have that consequence.

The President's commitment to promoting peace in the Middle East has been one of his key priorities in foreign policy. It is a commitment all of his predecessors have had since the time of Israel's founding. The President and I know how important the achievement of peace with security is to Israel and to our national interests. We have worked very closely with Israel's leaders to pursue our common interests. The U.S.-Israeli bilateral relationship has never been stronger and the President and I are particularly proud of that fact.

Our support for Israel will remain strong and steadfast, and we will work actively to help Israel achieve peace with her neighbors.

Given the extraordinary progress of the last two years, that objective appears, for perhaps the first time in history, to be within reach. Having just returned from the Middle East, I am even more persuaded of the opportunities for progress which can ultimately produce a real peace. We must not take steps that make it more difficult to achieve that historic end.

Yet, there are few other issues that are more likely to undermine negotiations and complicate the chances for peace than premature focus on Jerusalem. The issues on the table are complex enough without pushing to the fore perhaps the most sensitive and emotional issue for Arabs and Israelis, Muslims and Christians alike. The enemies of peace would use the Jerusalem issue to inflame passions further and attack those who want to see the negotiations succeed. Jerusalem is a powerful symbol of the hopes and aspirations of all sides. As such it has the potential to divide, to polarize, and to divert attention from the critical issues now being negotiated.

Palestinians and Israelis both understood this reality when they agreed in the Declaration of Principles that Jerusalem would be covered in the permanent status negotiations. They recognized that deferring this highly sensitive issue as essential if progress were to be made. The negotiations on permanent status are slated to begin as early as May 1996.

Safeguarding the negotiations is more vital than ever. This process is now entering an especially delicate period. Israelis and Palestinians have set a July 1 date for an agreement on the second phase of the Oslo accords, including an agreement on elections for a Palestinian Council. Israeli and Syrian Chiefs of Staff are scheduled to begin discussion on security issues on June 27. Few actions would be more explosive and harmful to these efforts than for the United States—as the key sponsor of this process—to be pushing the Jerusalem issue forward. In fact, we recently vetoed a Resolution in the United Nations Security Council which pushed Jerusalem to the fore precisely for this reason. Israeli Prime Minister Rabin recently suspended land expropriations in Jerusalem, effectively reducing the focus on the Jerusalem issue. The last thing we should want is for the U.S. at this very moment to put the focus back on Jerusalem.

My opposition to this legislation is also strongly rooted on constitutional grounds. The Justice Department's Office of Legal Counsel has issued an opinion to the White House Counsel concluding that the bill would unconstitutionally invade exclusive Presidential authorities in the field of foreign affairs. Because the bill would seek to compel the President to build and open an embassy at a particular site for foreign policy reasons, it is incompatible with the separation of powers under the Constitution. This is the same position taken by this and previous Administrations on comparable legislative efforts to dictate the location of diplomatic and consular facilities. Accordingly, I would be remiss if I did not counsel the President to protect against the unconstitutional infringement on the prerogatives of his office.

In light of this, unless the policy and constitutional concerns noted above are satisfactorily addressed, I will recommend that the President veto S. 770 if it is presented to him. I wish it were otherwise, but for the sake of Middle East peace and the President's constitutional responsibility in foreign policy, I will have no choice but to do so.

Sincerely,

WARREN CHRISTOPHER.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I, too, would like to ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an editorial from the New York Times of May 29, 1995, along with a brief with respect to the constitutional prerogatives of the President and the Congress, relating to matters of this kind.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. Mr. President, let me make a couple of very brief comments before I take my place in the chair. I respect the views presented by the Senator from California. I will make additional comments with respect to the issue of the waiver as follows:

One of the problems that we have had with this issue, generally, and one of the reasons why Senator MOYNIHAN brought his letter to the Senate, and why all of us have been pursuing legislation now to actually bring a close to the issue and make it clear that we will move our Embassy to Jerusalem, is that the United States has always found a reason not to do it. At the time, those seemed like valid positions. Obviously, we would not want a waiver to provide a mechanism for continued lip service to the concept without actually moving toward the actual relocation of the Embassy. That is why there has been some question about how waiver language should be inserted into the bill.

Also, there is some oddity, I think, in the matter that locating our Embassy in a country's capital would actually be deemed to be contrary to the national security interest of the United States. It seems to me that one has to stretch it a little bit to find that to be the case. Yet, I know there are those who believe that, even at this point in time, that is exactly the case. I think it is important that if there is to be some kind of waiver, it not be a waiver that the President can exercise because he has a policy dispute with the Congress on when and under what circumstances the Embassy should be moved. Such a waiver should be exercised by the President only because he finds that the national security interests of the United States require that. And the security of the United States is not necessarily the same as peace in the Middle East, which is not necessarily the same as a controversy between Arabs and Israelis over the status of peace discussions. So simply because it makes some Arabs anxious or angry, or gives them a political issue, is not, I think, a reason why such a waiver would ever be exercised.

I also think it is important that the whole world understand one point very clearly—and I think, on this, we are united—that when we talk about the final status of Jerusalem, which is subject to negotiation between the parties there, no one should suffer under any illusion that the United States feels itself bound not to locate our Embassy in West Jerusalem pending the outcome of those negotiations. The State of Israel's rights with respect to west Jerusalem, and our obligations and entitlements to put our Embassy in west Jerusalem, are in no way dependent on those final negotiations which do not go to the political status of west Jerusalem insofar as the Israelis are concerned.

To the point of the constitutional concerns alluded to by the Senator from California, there are differing opinions on this. I am a very strong advocate of the power of the President in this regard. I do not come lightly to the point of view that Congress has a prerogative in this case to require the relocation of the Embassy. I think it is good that the RECORD contain both the arguments in support of the Presidential and congressional power in that regard. I am delighted to see them both included in the RECORD at the conclusion of this debate.

I think it is important that the understanding be with all parties that whatever kind of waiver language may or may not be included in this bill, it is a temporary waiver only. We are not talking about the ability of the President to simply continue year after year after year, saying, gee, I am really with you on this, but I think I find a reason why we do not want to do it right now. That is the intent of any waiver. I know that is not what the Senator from California was saying.

Should there by any waiver language included, I want it to be crystal clear on the record that nobody is talking about a waiver which, however open-ended it may or may not be, would allow a President, every 6 months, to simply say that because he has a different point of view than Congress on this, he is going to refuse to implement what the Congress has directed him to do, finding that there is somehow a national security interest of the United States involved.

Mr. President, I conclude by making this point. I think the importance of this issue is illustrated by the fact that we have had difficulty in arriving at the exact language because everybody is concerned about what the impact of it will be. Those are very legitimate concerns. I am going to conclude by addressing myself to those concerns. This is not a tangential issue. It is symbolic in one respect, but sometimes symbolism is extraordinarily important. In this case it is, regardless of how you come down on this issue. If you are an Arab, for example, one can argue that this would make you very anxious and concerned. Therefore, the symbolism of it is very important. There are those, in fact, who believe that it would be so distressing to certain Arabs if the United States exercises its legitimate right to put our Embassy where we want to, particularly since it is the capital of the host country, and that should not be considered to be a policy matter with respect to our position in these negotiations. But the fact of the matter is that some people will see it as that. Nobody should be allowed to use—in a political campaign or in the conduct of terrorism, or in negotiations—the fact that a country like the United States exercises its right to put its Embassy in the capital of the host country. That is not a legitimate concern.

So while I understand the politics of it, that is different from the legitimacy of the issue.

The final point is this: Some people have said, well, even though it is an irrational and illegitimate argument, people will make it. As a result, it could bring a halt to the peace negotiations even. People might stop talking peace. There may be more demonstrations over this, even though it is not a legitimate position to be taken.

I will respond to that in this fashion because it goes to the heart of the debate. No one knows for sure. That is a very legitimate concern among those of us who are very, very supportive of the peace process and want it to succeed. Certainly, the people in the region feel that much more even than any of us in this body can.

I think it is also important to reflect upon the history of U.S. foreign policy and to note that every time the United States has been firm, fair, resolute, principled, consistent in its investigation of friendships and positions in the world, the world has been better off for that firm, principled expression.

It did not always suit nervous nellies during the cold war, that Presidents like President Reagan made firm statements about our commitments, calling the Soviet Union what at that time it was and many Russians since have confirmed. Sure, in many respects it was an evil empire. It made people very nervous when President Reagan said it. Many people say had the United States not taken firm positions, had President Reagan not spoken so clearly, that evil empire would still exist today.

Had we not made it crystal clear to the Chinese that they could not invade Quemoy and Matsu Islands back in the 1960's, they might have done so. Had we made it clearer to Hitler that he would not get away with an attack on Poland, perhaps he would not have done so.

Mr. President, our history is replete with examples of situations in which history has shown that the world frequently was thrown into conflict in which great human suffering and loss resulted because leaders at the time were not firm enough and clear enough in the expression of the principles that stood behind their country's positions.

In this case, I think a firm, clear statement of something as simple as the United States exercising its right to put its Embassy in the capital of a country as we have with every other country in the world except Jerusalem, I think to the extent that the United States makes that statement very clearly, we advance the ultimate cause of fundamental peace, a peace that is lasting. To that extent, I think it is important that we do that prior to the time that those negotiations are to be concluded.

I think that deals generally with the waiver issue however that issue is ultimately resolved.

I see that Senator LEVIN is here, who I know has a very strong interest in the matter, as well as Senator HELMS, the chairman of the Senate Foreign Affairs Committee.

I relinquish the majority position to Senator HELMS and Senator LEVIN, if he would like to speak, although I want to make a point, if I may, that the unanimous consent to lift the preceding quorum call by the Senator from California was premised upon the point that it was limited to the discussion of this issue and that it could not be used to relate to an amendment offered by the Senator from North Dakota, Senator DORGAN.

Subject to that agreement, I am happy to yield the floor.

EXHIBIT 1

[From the New York Times, May 29, 1995]

TO PROMOTE PEACE, MOVE THE EMBASSY

(By Douglas J. Feith)

WASHINGTON.—There is something more than Presidential politics behind the bills in Congress to relocate the United States Embassy in Israel from Tel Aviv to Jerusalem. It is sensible policy.

If American support for Israel's sovereignty in Jerusalem remains an open question, will this help promote peace? No. Alternatively, are Israel's Arab interlocutors likelier to make the philosophical adjustments and political concessions necessary for peace if they know that America's support for Israel on Jerusalem is a closed question?

This view—endorsed by the key Republican sponsors of the bills, Senators Bob Dole and Jon Kyl and the Speaker of the House Newt Gingrich—has logic, though not the Clinton Administration, on its side.

Since the beginning of the 20th century, the Arab-Jewish conflict over Palestine has been a fight over legitimacy. The Zionists have asserted that the Jews have the right to a state in at least part of Palestine. Arab anti-Zionists have argued that all of Palestine on both sides of the Jordan River is Arab land and that the Jews have no right to a state there.

In the conflict, periods of violence have alternated with periods of quiet, though hostility has persisted throughout. Quiet is a type of peace, but in recent years diplomacy has aimed at a higher type—peace that is formal and de jure.

But Israel's experiences with Egypt and the Palestine Liberation Organization demonstrate that formal accords do not necessarily reflect or produce the highest form of peace—that is, peace based on an absence of hostility.

True peace is possible only if Israel's Arab neighbors change their hearts and minds on the fundamental issue of Israel's legitimacy. What might facilitate that change? When Israel appeared vulnerable, it did not achieve peace, or even peace talks.

Only after being forced to acknowledge the strength of Israel's position—its military power, its enduring ties to the United States, and, since the end of the cold war, our unchallenged global predominance—did some Arab powers abandon rejectionist positions and start negotiating.

If Israel's antagonists bow to unpleasant realities and lower unrealistic expectations, the peace process may produce not merely signing ceremonies but real peace.

Inasmuch as the essence of the Arab-Israeli conflict is legitimacy, the essence of the legitimacy issue is Israel's right to sovereignty in Jerusalem. If Israelis do not have the right to sovereignty there, they can hardly justify sovereignty anywhere.

Jerusalem has been central to Jewish nationhood for 3,000 years. The Jews' national movement, after all, is Zionism, Zion being Jerusalem. The Arabs understand this, too, which is why the importance of Jerusalem in Arab politics, diplomacy, philosophy and literature increased as the struggle against Zionism intensified.

By relocating our embassy to Jerusalem, we would end our anomalous policy of refusing to recognize Israel's sovereignty in its own capital. We would proclaim that Israel's legitimacy in Zion is not an open question for us. This would signal that we expect all parties to the conflict—not just Israel—to pursue peace on the basis of realism.

In the ongoing Arab-Israeli negotiations, moving the embassy would not prejudice any issue that is actually open. This is why even dovish voices, like that of Deputy Foreign Minister Yossi Beilin, have categorically endorsed the bill. The Government of Prime Minister Yitzhak Rabin says it will in time negotiate Jerusalem issues, but not Israeli sovereignty. In this it deserves our support.

Across the political spectrum in Israel and among Jews worldwide, there is a profound commitment to retaining Jerusalem forever as the undivided capital. The cause of peace will be served by whatever helps persuade Yasir Arafat that he will not get American support or Israeli consent to divide Jerusalem and establish part of it as the capital of a new Arab state.

The necessary adjustment in expectations on the Arab side would be difficult and even painful. Passionate cries—and worse—would ensue, but in the end the process would be constructive.

Like all American pro-Israel initiatives, the bill to move the embassy is being deprecated in certain quarters as a cynical play for political points with American Jews. Such criticism is itself deeply cynical.

Every Congressional initiative pleases some constituencies and displeases others. Each is supported by some politicians for substantive by some politicians for substantive reasons, some for political reasons and many for both types of reasons.

But support for Israel as a fellow democracy and strategic ally has been sustained by a long line of Democratic and Republican administrations and Congresses. It reflects the nation's strong sympathy for Israel as evinced in public opinion polls decade after decade since 1948.

The automatic assumption that a pro-Israel initiative is nothing more than pandering is unfair and at odds with America's national interest as most Americans see it.

SHAW, PITTMAN,
POTTS & TROWBRIDGE,
JUNE 27, 1995.

To: American Israel Public Affairs Committee
From: Gerald Charnoff, Charles J. Cooper, and Michael A. Carvin
Re S. 770; Bill to Relocate U.S. Embassy to Jerusalem

I. INTRODUCTION

This memorandum is in response to your request for an analysis of the constitutionality of the "Jerusalem Embassy Relocation Implementation Act of 1995," hereinafter S. 770, a measure introduced by Senator Dole in the first session of the 104th Congress. Maintaining that Jerusalem should be recognized by the U.S. as the capital of Israel, the bill, in a Statement of Policy, states that groundbreaking for the U.S. embassy in Jerusalem "should begin" by 31 December 1996 and that the embassy "should be officially open" by 31 May 1999. S. 770, 104th Cong., 1st Sess. §3(a). The measure further establishes that no more than 50% of the funds appropriated to the Department of State in fiscal year 1997 for "Acquisition & Maintenance of Buildings Abroad" may be obligated until the Secretary of State certifies that construction has begun on the U.S. embassy in Jerusalem. Id. §3(b). Similarly, not more than 50% of the funds appropriated in the same account for fiscal year 1999 may be obligated prior to certification by the Secretary of State that the Jerusalem embassy has officially opened. Id., §3(c). Additional provisions, contained in sections four and five of the measure, earmark certain funds for the relocation effort."[1]

The Office of Legal Counsel of the Department of Justice has taken the position that the funding mechanism incorporated into S. 770 is an unconstitutional infringement on the President's powers. See Bill to Relocate the United States Embassy from Tel Aviv to Jerusalem, Op. Off. Legal Counsel (May 16, 1995) ("The proposed bill would severely impair the President's constitutional authority to determine the form and manner of the Nation's diplomatic relations.") (hereinafter "OLC Op.").

II. ANALYSIS

The Office of Legal Counsel ("OLC") Opinion argues that the President has primary responsibility for foreign affairs and that his specific power to recognize foreign governments to exclusive. OLC Op., p. 2-3. Accordingly, OLC concludes that "Congress may not impose on the President its own foreign policy judgments as to the particular sites at which the United States' diplomatic relations are to take place." Id. at 3. OLC maintains that the imposition of fixed-percentage restrictions on the State Department's FY 1997 and FY 1999 acquisition and maintenance funds until specified steps are completed in the relocation effort constitutes an impermissible restriction on the President's discretion in foreign affairs. Although OLC does not in any way dispute Congress' plenary power over the purse, it maintains that Congress may not "attach conditions to Executive Branch appropriations requiring the President to relinquish his constitutional discretion in foreign affairs." Id. at 4, quoting Issues Raised by Section 129 of Pub. L. No. 102-138 and Section 503 of Pub. L. No. 102-140, 16 Op. Off. Legal Counsel at 30-31 (1992) (emphasis added.). In support of this assertion, OLC places exclusive reliance on prior Executive Branch opinions which criticize congressional appropriations riders that directly required the President to take (or refrain from) a particular action by stating that no appropriated funds could be used for the congressionally proscribed action. Id. at 3-4. See also Issues Raised by Section 129 of Pub. L. No. 102-138 & Section 503 of Pub. L. No. 102-140, 16 Op. Off. of Legal Counsel 18, 19 (1992), citing Section 503 of Pub. L. No. 102-140, 105 Stat. at 820 (1991) ("[N]one of the funds provided in this Act shall be used by the Department of State to issue more than one official or diplomatic passport to any United States government employee. . . ."); Appropriations Limitation for Rules Vetoed by Congress, 4B Op. Off. of Legal Counsel 731, 731-32 (1980), citing H.R. 7484, §608, 96th Cong., 2nd Sess. (1980) ("None of the funds appropriated or otherwise made available to implement . . . any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted. . . .").

OLC's assertion concerning the primacy of the Chief Executive in foreign affairs is well-supported,[2] and its further assertion that Congress may not interfere with these foreign policy prerogatives even when exercising its spending power is also consistent with long-standing Executive Branch precedent, although Congress has taken a different view.[3] The issue has never been resolved judicially.[4] However, OLC's assertion that S. 770 "requires" or "compels" the President to move the Embassy to Jerusalem, and is thus subject to the same constitutional objections as appropriation riders containing such unconditional requirements, is belied by the plain language of the bill and is otherwise unsupported by law or Executive Branch opinions.

S. 770 does not purport to restrict the President's ability to maintain an Embassy in Tel Aviv or to otherwise interfere with the President's authority to use appropriated monies in any manner he believes best serves the Nation's foreign policy interests. Rather, the measure merely states that, absent compliance with an established timetable for relocation of the U.S. Embassy in Israel, Congress will invoke its spending power to reduce the aggregate funding level that can be obligated in certain related discretionary accounts. Instead of a prohibition on the ability of the President to use money to exercise his constitutional powers, S. 770 merely provides a fiscal incentive for the President to exercise his discretion in a certain manner, though leaving him capable of eschewing these incentives and acting in direct contravention of Congress' wishes. Thus, such a mechanism in no way restricts the ability of the President to use his foreign affairs power to employ appropriated money as he sees fit.

That being so, S. 770 is different in this critical respect from any other appropriation rider ever objected to by Executive Branch officials as an unconstitutional infringement on the President's foreign affairs power or other executive powers. In all such cases, the appropriations riders have directed a particular course of action or inaction by prohibiting certain uses of appropriated funds, even if the President desired to take such actions in fulfilling his constitutionally-assigned duties. Issues Raised by Section 129 of Pub. L. No. 102-138 & Section 503 of Pub. L. No. 102-140, supra, citing Section 503 of Pub. L. No. 102-140, 105 Stat. at 820 (1991) ("[N]one of the funds provided in this Act shall be used by the Department of State to issue more than one official or diplomatic passport to any United States government employee. . . . "); Appropriations Limitation for Rules Vetoed by Congress, supra, citing H.R. 7584, §608, 96th Cong., 2nd Sess. (1980) ("None of the funds appropriated or otherwise made available shall be available to implement . . . any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted. . . .").

The Attorney General and OLC have reasoned that if Congress is without constitutional power to make decisions for the President in areas the Constitution commits to his discretion, it matters not whether that intrusion is embodied in appropriations or other legislation. In exercising its power of the purse, Congress has no greater authority to usurp the President's exclusive constitutional authority than when it acts pursuant to other enumerated powers. See, The Appropriations Power & the Necessary & Proper Clause, 68 Wash. U. L. Q. 623, 30 (1990) ("[W]hen we hear discussions about Congress' weighty role in . . . the foreign relations power, and Congress adverts to 'the power of the purse,' it does not make sense. Congress still has to point to a substantive power. The power of the purse . . . is only procedural.") (remarks by the Honorable William Barr).

Here, in contrast, Congress imposes no restrictions on appropriated funds: such funds may continue to be used to maintain an Embassy in Tel Aviv should the President decide to leave the Embassy there. Accordingly, there is nothing in S. 770 "requiring the President to relinquish his constitutional discretion in foreign affairs" and thus OLC's reliance on Executive Branch condemnation of such appropriation riders is entirely misplaced. OLC Op., p. 4.

To be sure, if the President retains the status quo in Israel, the State Department will have less funds in two upcoming fiscal years than it would otherwise have, and so S. 770 is plainly designed to influence the President's decision on the Jerusalem Embassy. But this sort of "horse trading" is a basic staple of relations between the two political branches and hardly infringes the President's constitutional authority or powers. For example, the President has unfettered constitutional authority to nominate whomever he desires for, say, Surgeon General, and Congress does not unconstitutionally interfere with that presidential appointment authority by abolishing or reducing the funding for the Surgeon General's Office if certain nominees are proposed. Similarly, Congress may constitutionally pledge to reduce financial support for certain foreign interests or international organizations simply because it is displeased with the President's exercise of his responsibilities as foreign affairs spokesman or Commander-in-Chief. Since the use of these sorts of quid pro quos to influence the President's exercise of his constitutional duties does not unconstitutionally interfere with those duties, S. 770's establishment of such a device is similarly within Congress' constitutional authority.

By entrusting the President with the authority to definitively resolve certain questions, the Framers did not erect a prophylactic shield protecting the President against all attempts to influence the manner in which he resolves those issues. Accordingly, the Founders did not erect some special constitutional protection for the President which immunizes him from the give and take of inter-branch disagreements. Rather, they expected that a President of "tolerable firmness" would be able to resist congressional blandishments to pursue a course he deemed unwise, assuming such appropriations riders survived his veto in the first instance. Alexander Hamilton, "The Federalist No. 73," at 445 (C. Rossiter ed. 1961).

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[1] Footnotes at end of letter.

For this reason, even those scholars who believe Congress "ought not be able to regulate Presidential action by conditions on the appropriation of funds . . . if it could not regulate the action directly," Henkin, supra at 113, acknowledge that establishment of financial penalties or incentives to influence presidential action is permissible. Henkin, supra at 79. ("Since the President is always coming to Congress for money for innumerable purposes, domestic and foreign, Congress and Congressional committees can use appropriations and the appropriations process to bargain also about other elements of Presidential policy and foreign affairs."). Indeed, the Attorney General has favorably opined on the constitutionality of an appropriation rider that imposed a markedly more onerous restriction on the President's exclusive Commander-in-Chief powers than S. 770 imposes on his foreign policy discretion. In 1909, Congress attached the following rider to the Navy's appropriation:

"[N]o part of the appropriations herein made for the Marine Corps shall be expended for the purpose for which said appropriations are made unless officers and enlisted men shall serve on board all battleships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than eight percentum of the strength of the enlisted men of the navy on said vessels.

"Naval Appropriations Act of 1909, 35 Stat. 753, 773, reprinted in Appropriations—Marine Corps—Service on Battleships," 27 Op. Att'y Gen. 259 (1909).

The Attorney General found this restriction constitutional because, "Congress has power to create or not to create . . . a marine corps, make appropriation for its pay, [and] provide that such appropriation shall not be made available unless the marine corps be employed in some designated way . . ." 27 Op. Att'y Gen. at 260.

So far as we can discern, neither OLC nor the Attorney General have subsequently disavowed or undermined the vitality of this Attorney General Opinion, although they opined at times that appropriation riders could not direct the President to take action within his constitutional sphere. Presumably, then, even Executive Branch officials have recognized a distinction between impermissible riders that mandate certain action or inaction and permissible ones which, like the Marine Corps appropriation, provide the President with at least a nominal choice between two courses of action, with financial "penalties" if he chooses the disfavored option. In the 1909 naval appropriation, the President's "choice" was between having marines constitute eight percent of battleship crews or having no funding for the Marine Corps at all. This complete defunding penalty for exercising the disfavored option is obviously far more draconian than the 50% reduction in construction funding occasioned by S. 770.

In short, there is an obvious and constitutionally significant difference between an appropriations law forbidding the President to take action which the Constitution leaves to his discretion and a law which merely sets out the negative financial consequences that will ensue if the President pursues a certain policy. This distinction between coercive laws and laws which offer financial incentives to exercise one's sovereign power in the preferred way has been well-recognized by the Supreme Court in directly analogous circumstances.

Most notably, in *South Dakota* v. *Dole*, 483 U.S. 203 (1987), the Supreme Court considered a congressional statute, known as Section 158, which directed the Secretary of Transportation to withhold five percent of allocable highway funds from any state in which individuals under the age of 21 could legally purchase or possess alcohol. Like S. 770, the funding mechanism in *Dole* constituted a congressional attempt to provide indirect financial inducement to affect policy in an area presumably beyond Congress' power to legislate directly.

Despite earlier recognition that the "Twenty-first Amendment grants States virtually complete control over whether to permit importation or sale of liquor and how to structure the liquor distribution system,"[5] the Court upheld this statutory incursion into state sovereignty, asserting that the "encouragement to state action found in §158 is a valid use of the spending power." *Dole*, 483 U.S. at 212. Accordingly, even though the Constitution assigned to the states the responsibility for establishing drinking ages, and thus Congress presumably could not direct the states to set a minimum age, this funding restriction was permissible because "Congress has acted indirectly under its spending power to encourage uniformity in the States' drinking ages." Id. at 206. Thus, such restrictions are permissible because the potential recipient of appropriated federal funds is free to reject Congress' financial inducement and exercise unfettered discretion in the relevant area, so long as the recipient is willing to endure the financial sacrifice that ensues. Id. at 211–212 ("Congress has offered . . . encouragement to the States to enact higher minimum drinking ages than they would otherwise choose. But the enactment of such laws remains the prerogative of the States not merely in theory but in fact."). Similarly, in upholding federal appropriation riders requiring the regulation of State employees' political activities, the Supreme Court has ruled that even though Congress "has no power to regulate local political activities as such of state officials," the federal government nevertheless "does have power to fix the terms upon which its money allotments to states shall be disbursed." *Oklahoma* v. *Civil Service Comm'n*, 330 U.S. 127, 143 (1947). The Court found that the state's sovereignty remained intact because the state could adopt "the 'simple expedient' of not yielding to what she urges is federal coercion." Id. at 143–144.

Thus, *Dole* would seem to directly establish that the sort of conditional funding provided by S. 770 is constitutionally permissible. In *Oklahoma* and *Dole*, the Tenth and Twenty-first Amendments provided the states with exclusive authority over their employees' political activities and citizens' legal drinking age, yet Congress did not unconstitutionally infringe these powers by offering financial incentives to adopt a particular policy. By the same token, the fact that the Constitution vests the President with exclusive recognition authority does not disable Congress from using its plenary spending power to seek to influence the exercise of that authority.

Like the drinking-age restriction in *Dole*, the funding mechanism in S. 770 merely attempts to induce recipients of federal funds to pursue policy ends advocated by Congress via clearly established conditions on future appropriations, while leaving that decisionmaker with the option of refusing such conditions. The President may exercise his discretion to retain the American embassy in Tel Aviv and accept the potential of reduced congressional funding in certain related discretionary accounts, or he can move the embassy. S. 770 does nothing to alter the fundamental fact that the decision as to where to locate the U.S. embassy in Israel "remains the prerogative" of the President "not merely in theory but in fact." *Dole*, 483 U.S. at 211–12.[6]

To be sure, the President differs from state governments because, as noted, he cannot pursue any action requiring expenditures without congressional funding. Thus a blanket prohibition against using appropriated funds does not leave him with any option to pursue the proscribed activity. Because of this distinction, a straightforward restriction against using any funds for an action otherwise within the President's constitutional power is an effective prohibition against taking such action and thus presents a different, and more difficult, constitutional question. As noted, however, that is not the situation here. The President has been offered a choice directly analogous to that offered the states in *Dole*—he may pursue the congressionally disfavored option and accept the financial consequences or acquiesce to the preferred option without any such sacrifice.

OLC has nonetheless previously sought to distinguish *Dole* on the grounds that the Supreme Court's decision in *Metropolitan Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*, 111 S. Ct. 2298 (1991) (hereinafter "MWAA") found *Dole* "inapplicable" to issues that "involve separation-of-powers principles." Issues Raised by Section 129 of Pub. L. No. 102–138 and Section 503 of Pub. L. No 102–140, supra, at 31. This assertion is patently untrue. *MWAA* in no way suggests that, while Congress is free to use its spending power to influence the sovereign power of states guaranteed by the Tenth Amendment and the Constitution's basic structure, the sovereign powers of the President are somehow different and thus immune from such congressional blandishments. Contrary to OLC's misleading selective quotation, *MWAA* never said *Dole's* rationale was "inapplicable" to cases involving "separation-of-powers principles," it simply stated that *Dole's* Nationale was "inapplicable to the issue presented by this case." *MWAA*, 1111 S. Ct. at 2309 (emphasis added). *Dole's* rationale was inapplicable not because the sovereign authority of the President is somehow different from that of the states, but because the infringement of executive powers in *MWAA* was obviously and significantly different from the funding appropriation conditions at issue in *Dole*.

The issue that divided the dissenting and majority opinions in *MWAA* was whether Congress was effectively responsible for creating the Board of Review, which was composed of Members of Congress and had veto power over the Airport Authority's important decisions. Id. at 2313 (White, J. dissenting). The dissent argued that no separation-of-powers issue was implicated by this Board of Review because the Commonwealth of Virginia (and the District of Columbia) had created that Board and no federalism principles prevented the states from so utilizing the talents of Members of Congress. Id. According to the dissent, the fact that Congress had coerced Virginia to make this decision was of no moment because this "coercion" was no different than Congress' use of the spending power to influence states in *Dole*. Id. at 2316–17.

In the section of the opinion relied upon by OLC, the majority refuted both prongs of the dissent's arguments:

"Here, unlike *Dole*, there is no question about federal power to operate the airports.

The question is whether the maintenance of federal control over the airports by means of the Board of Review, which is allegedly a federal instrumentality, is invalid, not because it invades any state power, but because Congress' continued control violates the separation-of-powers principle, the aim of which is to protect not the States but "the whole people from improvident laws." *Chadha*, at 951, 103 S. Ct. at 2784. Nothing in our opinion in *Dole* implied that a highway grant to a State could have been conditioned on the State's creating a "Highway Board of Review" composed of Members of Congress."—*Id.* at 2309.

The first two sentences merely make the obvious point that since *MWAA* deals with a "federal instrumentality" and there was no question about the propriety of "federal power to operate the airports," there is simply no issue of federal interference with state power.[7] Since there was no question of federal interference with, or bargaining for, state power, the only relevant question was who controlled the federal power—Congress or the Executive. In that regard, Congress had not "bargained" with the Executive by establishing financial conditions analogous to S. 770, but had directly commandeered control over the Airport Authority by establishing the Review Board.

The third sentence in the quoted passage simply says that *Dole* is inapplicable because the infringement in *MWAA* is different from the appropriation restriction in *Dole* and would be impermissible if applied to the states. This obviously belies the assertion that *Dole* was found inapplicable because different standards govern infringement on the President's powers than those which govern state intrusions. Specifically, *Dole* was distinguishable because, in *MWAA*, Congress did not provide money in return for Virginia exercising *its* sovereignty in a certain way. Rather, Virginia agreed to transfer its sovereignty over the Airport Authority to Congress. As the opinion's derisive citation to a "Highway Board of Review" makes clear, while the federal government may use its spending power to influence a state's exercise of its own sovereignty, Congress cannot use its spending power to induce the state to enhance congressional authority by creating congressionally-controlled federal instrumentalities. In short, Virginia was not trading away its own state power over airports; it had none. Rather, it was trading away the pre-existing Executive power over the airports to Congress. Since Virginia obviously had no Executive power to trade, Congress could not invoke *Dole* to justify its exercise of Executive power.

As this detailed review establishes, *MWAA* said that *Dole* was inapplicable because 1) there was no state power to bargain away, and 2) states cannot enhance congressional power in return for congressional dollars. Nothing in *MWAA* suggests that *Dole* was inapposite because the Executive, unlike states, in somehow disabled from agreeing to exercise his sovereign authority in a particular manner in return for increased congressional monies.

To the contrary, like the states, the Executive Branch, "absent coercion . . . has both the incentive and the ability to protect its own rights and powers, and therefore may cede such rights and powers." *MWAA*, 111 S. Ct. at 2309. The fact that preserving the President's powers against congressional enactments is ultimately designed to protect the "whole people from improvident laws" does not suggest a different rule, since the federalism concerns implicated in *Dole* were also designed to preserve the people's liberty. See *U.S.* v. *Lopez*, 115 S. Ct. 1624, 1626–27 (1995) ("Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front."), quoting *Gregory* v. *Ashcroft*, 501 U.S. 452, 458 (1991); *New York* v. *U.S.*, 112 S. Ct. 2408, 2431 (1992) ("[t]he Constitution divides authority between federal and state governments for the protection of individuals.") (emphasis added.)

To be sure, under *MWAA*, Congress could not condition appropriations on the President's agreement to establish an "Israeli Embassy Board of Review," where congressional agents determine the location of the Embassy. The President cannot transfer his recognition powers to congressional decisionmakers and, as indicated, there is a plausible argument that Congress cannot directly supplant the President's decisionmaking authority on such matters, even though directives in appropriations bills. Like any other sovereign, however, the President may consider many factors in making his own decisions. Just as he may consider the reaction of foreign countries, he may also consider a negative congressional reaction. Accordingly, nothing precludes Congress from seeking to influence that decision through use of its own constitutional powers including the spending power.

Indeed, OLC's contrary position demeans the President's constitutional status and certainly cannot be advanced in the name of a strong Executive. The OLC Opinion suggests that the President, unlike the states, lacks the ability or the will to resist Congress' financial inducements. Particularly given the existence of his veto power, this view of the President's authority vis-a-vis Congress is obviously untenable and irreconcilable with the Framers' views. The Framers did not erect a prophylactic constitutional umbrella protecting the President from the persuasive power of Congress' financial inducements, they forged only a shield against congressional directives. OLC simply ignores this vital distinction and the Executive Branch and judicial precedent which support it.

Under these precedents and a proper understanding of the constitutional framework, S. 770 does not violate any separation-of-powers principle or infringe any constitutional authority of the President.

FOOTNOTES

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[1] Section 4 of S. 770 merely reprograms $5 million in funds appropriated in the Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act of 1995. Pub. L. No. 103-317, 108 Stat. 1724, 60 (1994) (Title V contains appropriations specifically for the Department of State and related agencies.) Specifically, $5 million previously contained in the aggregate account for expenses of general administration is earmarked for costs incurred in activities associated with the relocation of the U.S. embassy in Israel: Id., §4 ("Of the funds appropriated for fiscal year 1995 for the Department of State and related agencies, not less than $5,000,000 shall be made available until expended for costs associated with relocating the United States Embassy in Israel. . . .").

The $5 million authorization is to remain in effect without temporal restriction until such funds are expended. §4 Though the President is in no way obligated to spend the $5 million earmarked for the relocation effort, such funds cannot be used for any other purposes. General Accounting Office, "Principles on Federal Appropriations Law" 6-6 (2. ed., 1992) (In an appropriations bill providing $1,000 for "[s]moking materials . . . of which not less than $100 shall be available for Cuban cigars . . . portions of the $100 not obligated for Cuban cigars may not be applied to the other objects of the appropriation."); Earmarked Authorizations, 64 Comp. Gen. 388, 394 (1985) (asserting that where measure providing funding for the National Endowment for Democracy earmarks "Not less than $13,800,000" for projects of the Free Trade Union Institute, "awards should not be made" where there is no worthy programs, "but the consequence of this [non-allocation] is not to free the unobligated earmarks for other projects."). Similarly, Section 5 of the bill earmarks a specified amount of the funds authorized to be appropriated in the Department of State's general account for "Acquisition and Maintenance of Buildings Abroad" in fiscal years 1996 and 1997, requiring that such earmarked funds be spent on the embassy relocation effort. As in Section 4, the budget authority is not temporarily restricted and is to last "until expended" on the relocation effort. Given the identical requirement that "not less than [the earmarked amount] . . . shall be made available" in fiscal years 1996 and 1997 respectively, the President has discretion as to whether to use the money, but cannot use earmarked funds for other general purposes.

[2] See, e.g., *Alfred Dunhill of London, Inc.* v. *Republic of Cuba*, 425 U.S. 682, 705–06 n. 18 (1976) ("[T]he conduct of [diplomacy] is committed primarily to the Executive Branch."); *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 410 (1964) ("Political recognition is exclusively a function of the Executive."); *Unites States* v. *Pink*, 315 U.S. 203, 229 (1942) (Asserting that the executive's constitutional authority to recognize governments "is not limited to a determination of the government to be recognized. It includes the power to determine the policy which is to govern the question of recognition.").

[3] Congress has repeatedly used its control over appropriations to influence executive actions on foreign policy and has repeatedly opined that these conditions are constitutional. See, e.g., William C. Banks & Peter Raven-Hansen, "National Security and the Power of the Purse" 3-4 (1994); Louis Henkin, "Foreign Affairs and the Constitution" 114 (1972). ("Congress has insisted and Presidents have reluctantly accepted that in foreign affairs . . . spending is expressly entrusted to Congress and its judgment as to the general welfare of the United States, and it can designate the recipients of its largesse and impose conditions upon it."); "Report of the Committees Investigating the Iran-Contra Affair," S. Rept. No. 100–216, H. Rept. No. 100–433, 100th Cong., 1st Sess. 475 (1987) ("[W]e grant without argument that Congress may use its power over appropriations . . . to place significant limits on the methods a President may use to pursue objectives the Constitution put squarely within the executive's discretionary power."). Department of Defense Appropriations Act for Fiscal Year 1985, Pub. L. No. 98–473, §8066, 98 Stat. 1837, 1935 (1984), reprinted in Banks, supra at 138. ("During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting . . . military or paramilitary operations in Nicaragua. . . ."); Arms Control Export Act of 1976, Pub. L. No. 94–329, §404, 90 Stat. 729, 757–58 (1976) ("[N]o assistance of any kind may be provided for the purpose, or which would have no effect, of promoting . . . the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola. . . .").

[4] It is well-established that Congress may not use its spending power to coerce activity that itself violates a provision of the Constitution. See *United States* v. *Butler*, 297 U.S. 1, 69–70, 74 (1936): *United States* v. *Lovett*, 328 U.S. 303, 315–16 (1946) (striking a funding restriction as a bill of attainder in violation of the U.S. Constitution). Obviously, this doctrine has no application here since the Constitution does not prohibit moving the American Embassy in Israel to Jerusalem. However, OLC, as it has in the past, further maintains that the spending power cannot be used to force the President to take action that is perfectly constitutional, if the appropriation restricts the President's power to exercise his unfettered discretion in an area within his constitutional authority. There is no judicial precedent either way on OLC's extension of the "independent constitutional bar" principle in a separation-of-powers context. In the context of congressional funding conditions on state governments, the Supreme Court has unequivocally rejected an expanded notion of the independent constitutional bar:

"[T]he "independent constitutional bar" limitation on the spending bar is not, as petitioners suggest, a prohibition on the indirect achievement of objectives which Congress is not empowered to achieve directly. Instead, we think that the language in our earlier opinions stands for the unexceptionable proposition that the power may not be used to induce activities that would themselves be unconstitutional."

South Dakota v. *Dole*, 483 U.S. 203, 210 (1987). See also *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127 (1947). Of course, the President, unlike the states, has no access to funds other than those appropriated by Congress. Thus, unlike the situation with state governments, a prohibition precluding the President from spending any appropriated monies on a particular activity is a direct prohibition against pursuing that activity. This provides a plausible basis for distinguishing the statute involved in *Dole* from a direct appropriations restriction on the President's activities. As we discuss below, however, *Dole* provides direct support, where, as here, there is no prohibition against spending money on the President's desired activity.

[5] *California Retail Liquor Dealers Assn.* v. *Midcal Aluminum*, 445 U.S. 97, 110 (1980) cited in *Dole*, 483 U.S. at 205.

[6] The Supreme Court has recognized that at some point, a financial inducement becomes so lucrative that "pressure turns into compulsion" and such incentive becomes unconstitutional coercion. *Dole*, 483 U.S. at 211. See also, *Steward Machine Co.* v. *Davis*, 301 U.S. 548, 590 (1937). However, the *Dole* Court dismissed any claim of coercion involved in the drinking age funding provision, stating that the "relatively small percentage" of highway funds involved in the cutoff were not coercive. 483 U.S. at 211. The Court further asserted that the mere fact that a conditional grant of money is successful in achieving compliance with congressional restrictions will not establish coercion. Id. seems clear that, given the minuscule amount of funding involved in S. 770, especially relative to the substantial highway fund allocations involved in *Dole*, the incentive mechanism at issue could not be deemed coercive. Should the President refuse to move the embassy, he would be barred from obligating funds amounting to a mere one percent of the budget authority reserved for international affairs in each of the fiscal years involved and a mere one one-hundredth of one percent of the aggregate budget in those same years. Office of Management & Budget, "Appendix to the Budget of the United States for Fiscal Year 1996" 692-93 (1995); Office of Management & Budget, "Historical Tables to Supplement the Budget of the United States for Fiscal Year 1996" 14, 69 (1995).

[7] The Court had previously noted that the Board of Review was "an entity created at the initiative of Congress, the powers of which Congress has delineated, the purpose of which is to protect an acknowledged federal interest, and membership in which is restricted to congressional officials. Such an entity necessarily exercises sufficient federal power as an agent of Congress to mandate separation-of-powers scrutiny." Id. at 2308.

Mr. LEVIN. Mr. President, I rise in support of the bill which I have cosponsored which will relocate the American Embassy to Israel's capital of Jerusalem by a date certain.

For nearly 50 years now, Jerusalem has served as the capital of the State of Israel. Israel is the only place in the world that I know of where the United States has established its Embassy in a city other than that identified by the host nation as its capital. Jerusalem is the seat of Israel's Government and there should be little question of where our Embassy should be.

Now, some have suggested that establishing the American Embassy in Jerusalem during the ongoing peace negotiations might adversely affect the peace process. For reasons just stated by Senator KYL, I think it actually could have the opposite effect, that our clear determination to place our Embassy in Jerusalem by a date certain will avoid any misunderstanding, and it is that misunderstanding or lack of clarity which could harm the peace process, because surely no one seriously suggests that Israel would ever agree to change the status of Jerusalem as Israel's capital.

I do not think anyone has made that suggestion. I do not think anyone in the world would make that suggestion.

It is now Israel's capital. It is clearly going to remain Israel's capital. We, as Israel's ally, should make it very clear that we recognize that fact and that we act to assure the movement of our Embassy to the capital of the State of Israel by a fixed date.

Mr. President, there will be and has been some discussion about a possible Presidential waiver. We had such a waiver with the Jackson-Vanik legislation, for instance—very important legislation which focused some very significant pressure on the then Soviet Union.

That legislation had an impact. It worked well to focus pressure on the Soviet Union. It made a very important statement about our feelings about human rights in the Soviet Union and its relationship to trade. But it also had a waiver.

The question is, what kind of a waiver would be appropriate for the President in this instance? It is clear to me that the waiver should be narrowly drawn so as not to undermine or detract from the point of this legislation.

This is historic legislation. This is action which is long overdue. It is cosponsored by 67 Senators, which will, hopefully, assure its overwhelming passage today. I cosponsor it in the hope that it will receive the overwhelming bipartisan support of the Senate that it deserves.

I yield the floor.

Mr. HELMS. Mr. President, I am among those who have long supported the concept embodied in the Jerusalem Embassy Relocation Implementation Act of 1995. Since Senator DOLE introduced this legislation, there has been great gnashing of teeth and wringing of hands that have trivialized a fundamental and significant fact: Jerusalem is the capital of Israel, and the capital is where the United States Embassy should always be regardless of the country involved.

The Government of Israel has asserted that Jerusalem is and will remain the capital of Israel. The dire warnings being heard that the peace process will be endangered are, in fact, threats. The peace process will be dismantled only if and when Yasser Arafat wants to dismantle it.

I commend Senator DOLE for his efforts, for his conviction, and for accomplishing what I feel should have been done years ago. I am pleased to be a cosponsor, and I will be pleased to visit the United States Embassy in Jerusalem, capital of the State of Israel.

Mr. WARNER. Mr. President, I am honored to rise today as an original cosponsor of S. 1322, the Jerusalem Embassy Relocation Implementation Act of 1995. I would like to commend Majority Leader DOLE and Senators D'AMATO and MOYNIHAN for the leadership they have shown on this important issue.

I think it is only fitting—and long overdue—that the Senate act on this resolution this week, prior to Wednesday's ceremony in the Capitol rotunda celebrating the 3,000th anniversary of the Jewish presence in Jerusalem.

The resolution before us today would put the Senate clearly on record as supporting a unified Jerusalem as the permanent capital of the State of Israel. Some have argued that Senate passage of this resolution would somehow harm the peace process—in particular, the upcoming negotiations on the final status of Jerusalem. I would point out to my colleagues that this resolution has been carefully drafted so that it is compatible with the timetable established by the peace process. Under the terms of this resolution, the Senate would state that it is the policy of the United States that "the United States Embassy in Israel should be relocated to Jerusalem no later than May 31, 1999." That is the date established in the Oslo Agreement of 1993 for the completion of final status negotiations for Jerusalem. I think it is appropriate that we send a clear signal of congressional support for our Israeli allies as they enter these difficult negotiations.

Mr. President, Jerusalem has been the declared capital of the State of Israel since January 23, 1950. And yet, over 45 years later, the United States has not recognized Jerusalem as the capital of our friend and ally, the State of Israel. Israel is the only nation in the world where the United States Embassy is not located in the host nation's capital.

Like many of my colleagues, I have had the privilege of visiting Jerusalem on many occasions. I have seen the many holy sites which make Jerusalem the cradle of three of the world's largest religons—Judaism, Christianity, and Islam—and an inspiration to us all.

I have also seen the bombed out buildings in West Jerusalem that stand just outside the wall of the Old City—buildings which were shelled during the time of the Jordanian occupation of East Jerusalem. Those buildings serve as a constant reminder of the sacrifices endured by the Jewish people from 1947 to 1967 when Jews were denied access to the holy sites in East Jerusalem; and a reminder that the world must never allow the citizens of Israel—and indeed Jews around the world—to be subjected to such suffering again.

Mr. President, Israel is our strong friend and ally in the Middle East. As the only democracy in the region, this brave nation stands as a symbol of hope for millions. The people of Israel claim Jerusalem as their capital. This is their right. Their choice should be honored. America should recognize that Jerusalem is, and will remain, the undivided and permanent capital of the State of Israel.

I thank the Chair.

Ms. SNOWE. Mr. President, I support this legislation, and would like to congratulate the distinguished majority leader for his consistent leadership on this very important issue. This bill states the simple fact that Jerusalem is Israel's national capital. It puts in place a series of careful, measured steps to eventually locate our Embassy in Israel's capital city, but in any case no later than May 31, 1999.

I am a cosponsor of both S. 770, the original Jerusalem Embassy Relocation Implementation Act, as well as the slightly modified bill that we are considering today, S. 1322. S. 770 was introduced on May 9 by the gentleman from Kansas, Senator DOLE, and I am proud to have joined with 62 of my colleagues as a cosponsor of both S. 770 and S. 1322.

I was also pleased to join 92 of my colleagues in our March 20 letter to Secretary of State Christopher calling for the relocation of our Embassy to Jerusalem no later than May 1999, the time when both the Israelis and Palestinians have agreed that the final status of Jerusalem would be settled.

Some may argue that now is not the time for us to establish a firm policy on the eventual location of the U.S. Embassy in Jerusalem. The irony, of course, is that it appears that for 47 straight years the State Department has never yet found precisely the right moment to take this commonsense action. All we are saying in this legislation is that we are giving State 4 years in which they certainly can find an appropriate time.

As a cosponsor of the original House Lantos bill to take this action over a decade ago, I have consistently supported this position throughout my congressional career.

Only in the sometimes fantastic politics of the Middle East could this issue even be considered remarkable. It is a simple fact that Jerusalem—or at least some part of Jerusalem—has been Israel's capital city ever since Israel's 1948 war for independence. Observing this fact is no different than observing that the sun rises in the east. And trying to deny the act does not make it any less true.

This takes us to a potentially troubling aspect of the State Department's consistent refusal to recognize Jerusalem as Israel's capital. This policy originated from the days of the U.N. partition plan ending Britain's colonial mandate over the region. That plan envisioned the establishment of Jerusalem as an international city not under the sovereignty of any nation.

The U.N. partition plan of 1947, however, was never implemented due to its total rejection by the Arab countries because it would have split the British protectorate into a Jewish and Arab state. Thus, the State Department continues to cling to a formal position refusing to acknowledge Israel's sovereignty over any part of Jerusalem.

The only, and I repeat only possible justification for such a position would be if the State Department believed that Israeli sovereignty over even west Jerusalem was illegitimate, and that Israel must cede the entire city to an Arab state or to international control.

If our country does not take this position, we have no more right maintaining our Embassy in Tel Aviv than we do insisting on maintaining our Embassy in Alexandria, Egypt, which was that country's capital until the military overthrow of its monarchy by Col. Gamel Abdel Nassar in 1952.

Mr. President, I believe it is long past time for our country to begin treating our closest ally in the Middle East—Israel—in the same way that we treat every Arab country, and indeed, every other country in the world with whom we maintain diplomatic relations. It is time for us to locate our Embassy in Israel's capital city, and stop making excuses why any particular moment never seems to be exactly the right moment. Sometime in the next 4 years that moment will arrive, and that is all this bill is saying.

I urge overwhelming bipartisan support for this important bill, and I again congratulate the Senator from Kansas for his leadership on this issue.

Mr. FRIST. Mr. President, I rise today in support of S. 1322, a bill to relocate the United States Embassy in Israel to Jerusalem from Tel Aviv. I am honored to be a cosponsor of this legislation and to have joined the overwhelming majority of my colleagues in writing a letter to Secretary Christopher this past March regarding this issue.

Mr. President, for nearly 50 years, the United States and Israel have shared a unique and historic relationship. Israel has been our strongest, most loyal ally in the Middle East, and the location of our Embassy in Tel-Aviv is inconsistent with this relationship.

Israel is the only country in the world where the United States Embassy is not located in the capital city, and I believe this policy must change. It is important to note that Israel's Parliament, supreme court, central bank, and all other state institutions and headquarters are located in Jerusalem, including the Foreign Ministry. Beyond just the important symbolism, the location of our embassy in Jerusalem, rather than in Tel Aviv, an hour away from the seat of government, makes practical sense.

Mr. President, I believe that since this year marks the 3,000th anniversary of King David establishing Jerusalem as the capital city of the Jewish nation, there is no better time for the United States to recognize this historic seat of government. The site for the Embassy is not located in disputed territory, the status of Jerusalem as Israel's capital is not disputed, and we ought to support this valuable friend and ally.

Thank you, Mr. President. I yield the floor.

Mr. GRAMM. Mr. President, the Arab-Israel peace process must be judged by one question, and one question only: Will Israel be stronger and more secure at the end of the process than it was at the beginning? To achieve that end, I support this legislation to move the U.S. Embassy to Jerusalem.

Our Embassy should be located in Jerusalem. Jerusalem is Israel's chosen seat of government, where its Parliament, prime ministry, Supreme Court, and most government ministries are located. The United States has diplomatic relations with 184 countries, and in every country—except Israel—our embassy is located in the capital designated by the host nation.

The Clinton administration argues that moving the Embassy will destroy the peace process. I believe that the peace process can continue only if Israelis believe that their nation's vital interests will not be compromised. Moving our Embassy to Jerusalem will strengthen that conviction, and it will be a clear demonstration of the fact that no wedge will be driven between Israel and the United States over the status of Jerusalem.

This week, we will begin a celebration of Jerusalem and its 3,000 years of playing a critical, central role in world history. As we begin this celebration, I am pleased to support this bill in the conviction that moving the American Embassy would send an unmistakable signal that the unity of Jerusalem is irreversible, and it will remain, now and forever, the capital of Israel.

Mr. D'AMATO. Mr. President, I rise in support of S. 1322, as an original cosponsor, an author, along with my colleague Senator MOYNIHAN of a letter to the Secretary of State along with 91 of our colleagues proposing this very idea, and finally as a true believer in the principle of this legislation. I want to make it very clear: Jerusalem is and shall remain the undivided capital of the State of Israel. Jerusalem belongs to Israel and our Embassy belongs in Jerusalem.

Relocation of our Embassy from Tel Aviv to Jerusalem should begin as soon as possible. Under this bill, it will.

It is outrageous that we have diplomatic relations with 184 countries throughout the world and in every one, except Israel, our Embassy is in the functioning capital.

Israel has endured much throughout her history and for her to have to suffer the indignity of her main ally refusing to place its embassy in her capital is an insult.

We would never allow another country to tell us where to locate our capital. Why are we dictating this to Israel?

In a time when the Palestinians are placing more and more demands on Israel and when the United States is providing $500 million to the PLO, only to find Yasir Arafat unable to deliver on his end of the peace agreement, we must make it clear that some things are not negotiable. Jerusalem for one is not a topic for negotiation. Jerusalem belongs to Israel.

If we delay moving our Embassy any longer, we will be raising unrealistic hopes about the future of this holy city.

It was for this reason that I along with Senator MOYNIHAN and 91 other Senators sent a letter to Secretary of State Warren Christopher urging him to begin planning now for the relocation of the Embassy to Jerusalem by no later than May 1999. At this time, I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, March 20, 1995.

Hon. WARREN CHRISTOPHER,
Department of State, Washington, DC.

DEAR MR. SECRETARY: We believe that Jerusalem is and shall remain the undivided capital of the State of Israel. It is now over eleven years since 50 United States Senators and 227 members of the House of Representatives joined in endorsing the transfer of the United States embassy In Israel from Tel Aviv to Jerusalem.

In the subsequent decade both Houses of Congress have passed, by near-unanimous margins, a total of four resolutions calling on the United States government to acknowledge United Jerusalem as the capital of the State of Israel. A fifth resolution adopted last year called on the administration to veto language in United Nations Security Council Resolutions that states or implies that Jerusalem is occupied territory.

This administration has been open, direct and specific with regard to its position concerning an undivided Jerusalem. In this light, we are particularly pleased to note that the most recent edition of "Key Officers of Foreign Service Posts: Guide for Business Representatives," published by the Department of State lists Jerusalem under Israel for the first time in 46 years, albeit with a disclaimer. This is not enough.

There can be little doubt that Jerusalem is a sensitive issue in the current peace process. While the Declaration of Principles stipulates that Jerusalem is a "final status" issue to be negotiated between the parties, we share Prime Minister Rabin's view which he expressed to the Knesset that:

"On Jerusalem, we said: 'This Government, like all of its predecessors, believes that is no disagreement in this House concerning Jerusalem as the eternal capital of Israel. United Jerusalem will not be open to negotiation. It has been and will forever be the capital of the Jewish people, under Israeli, sovereignty, a focus of the dreams and longings of every Jew."

United States policy should be equally clear and unequivocal. The search for peace only be hindered by raising utterly unrealistic hopes about the future status of Jerusalem among the Palestinians and understandable fears among the Israeli population that their capital city may once again be divided by cinder block and barbed wire.

The United States enjoys diplomatic relations with 184 countries. Of these, Israel is the only nation in which our embassy is not located in the functioning capital. This is an inappropriate message to friends in Israel and, more importantly, a dangerous message to Israel's enemies.

We believe that the United States Embassy belongs in Jerusalem. It would be most appropriate for planning to begin now to ensure such a move no later than the agreements on "permanent status" take effect and the transition period has ended, which according to the Declaration of Principles is scheduled for May 1999. We would appreciate hearing from you as to what steps are being taken to make such a relocation possible.

Sincerely,

Daniel Patrick Moynihan, Alfonse M. D'Amato, Paul S. Sarbanes, Bob Packwood, Russell D. Feingold, Jess Helms, Barbara Boxer, Connie Mack, Frank R. Lautenberg, Don Nickles.

Joseph I. Lieberman, Mitch McConnell, Bob Graham, Christopher S. Bond, John D. Rockefeller IV, Olympia J. Snowe, Richard H. Bryan, James M. Inhofe.

Charles S. Robb, Dirk Kempthorne, Howell Heflin, Jon Kyl, Carl Levin, Phil Gramm, Carol Moseley-Braun, Larry E. Craig.

Patty Murray, Robert Dole, Paul Wellstone, Slade Gorton, Dianne Feinstein, Hank Brown, Joseph R. Biden, Jr., Mike DeWine.

Tom Harkin, Charles E. Grassley, Daniel K. Inouye, Thad Cochran, John Glenn, Arlen Specter, Wendell H. Ford, Richard C. Shelby.

Claiborne Pell, Trent Lott, Paul Simon, Dan Coats, Ben Nighthorse Campbell, Conrad Burns, Max Baucus, William S. Cohen.

Daniel K. Akaka, Kay Bailey Hutchison, Christopher J. Dodd, John Ashcroft, John F. Kerry, Robert F. Bennett, Thomas A. Daschle, Larry Pressler.

Barbara A. Mikulski, Bill Frist, Herb Kohl, Paul Coverdell, Bill Bradley, Rod Grams, Harry Reid, Lauch Faircloth.

J. Bennett Johnston, John McCain, J. James Exon, Bob Smith, Robert J. Kerrey, Richard G. Lugar, John B. Breaux, Rick Santorum.

Edward M. Kennedy, Orrin G. Hatch, Kent Conrad, Strom Thurmond, Ernest F. Hollings, Craig Thomas, Byron L. Dorgan, John W. Warner, Jeff Bingaman, Alan K. Simpson.

Sam Nunn, Nancy Landon Kassebaum, Patrick J. Leahy, Pete V. Domenici, William V. Roth, Jr., Judd Gregg, Frank H. Murkowski, Fred Thompson, Ted Stevens.

Mr. D'AMATO. The bill calls for completion of the Embassy in May 1999, to ensure that such a move occurs no later than when the agreements on permanent status take effect and the transition period has ended, according to the Declaration of Principles signed by Israel and the Palestinians in September 1993.

Jerusalem is and will remain the permanent and undivided capital of Israel. I am not going to let the State Department bureaucrats forget that.

The Clinton administration must recognize this and begin the process of moving the United States Embassy to Jerusalem. It is shameful that the United States continues to bend to pressure to keep its Embassy outside of Jerusalem.

While I understand that the present Middle East peace negotiations are both complicated and delicate, I do not want this administration to be under the impression that Jerusalem will belong to anyone other than Israel.

Further delay in moving the United States Embassy to Jerusalem will only embolden the Palestinians who believe that they have a justified claim to the city.

While some worry that such a move will damage the peace process, delay can only hurt it. If the future of Jerusalem remains unclear in the minds of the Palestinians then they will increase their demands and this will further complicate the already tense negotiations.

Let the message be clear: A united Jerusalem is off limits to negotiation. Jerusalem belongs to Israel and our Embassy belongs in Jerusalem.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise to speak on behalf of the legislation before us, which would compel the movement of the United States Embassy in Israel to Jerusalem.

Jerusalem, city of peace, the holy city, was entered almost 3,000 years ago by King David. Mr. President, 47 years ago, in 1948, the modern State of Israel was established. The Prime Minister at that time, David Ben-Gurion, declared Israel a state and declared also that its capital would be Jerusalem, although at that time, after the war for independence, Jerusalem was a divided city: the western part Israeli; the old city and the eastern part, Jordanian.

In the normal course of diplomatic relations, every nation in the world would have established their embassy in the city, Jerusalem, designated as the capital by the new state of Israel, the state having been recognized by the United States, having been accepted as a member of the United Nations. But, for reasons that need not be spelled out in detail here, because of controversy that surrounded the State of Israel and its creation, the modern state, the United States did not move its Embassy to the capital of the State of Israel.

When you think about it, it is nothing short of outrageous. We have gone through 47 years of the history of this country, 47 years of extraordinary friendship between the United States and Israel based on common values, common history, our common commitment to what is appropriately described as the Judeo-Christian tradition, our common commitment to democratic values. Through most of that time, the 47 years, Israel was the only country in the Middle East that was a democracy. It was 47 years in which our strategic relationships have grown ever closer, with joint military exercises and joint work on research and development, even, in this time, as we in the Senate have recently considered the priority threat that ballistic missiles represent to our country, the United States and Israel have been working jointly on a ballistic missile defense.

I remember once years ago hearing the then Prime Minister of Israel, Golda Meir, say, and I believe it is true today, that there is one country in the Middle East where the United States will always know—not just today, not just 10 years from now or 50 years from now or 100 years from now—as long as Israel exists, because the ties between these countries are so deep and so strong—there is one country in the Middle East where the United States will always know that in a time of need, in a time of conflict, in a time of danger, the United States can always land its planes, can always keep its equipment, can always bring its ships into Israeli docks. As she said, hopefully there will be a time—and, of course, we echo that here in this Chamber, and there is such a time now—where there are other countries in the Middle East where that is so, where U.S. troops, U.S. personnel, are welcome. But it will always be so in Israel.

Yet, in spite of all these points of common value, common interest, common strategic purpose, shared strategic developments, nonetheless the United States continued to be frozen into this inconsistent, illogical and in some senses insulting position of not moving its Embassy to the city of Jerusalem, which Israel has designated as its capital. There have been succeeding generations of American politicians—of both parties—who somehow manage to be committed to the movement of the embassy to Jerusalem during campaigns, but then when it comes time that they hold office, it does not happen.

I think we are about to change all that, and I think we are about to change it in a truly bipartisan way. It is, though a long overdue moment, nonetheless a critically important moment when we are in reach of a strong, bipartisan majority in this Chamber and in the other body in support of this legislation.

Would that the legislation were not necessary. But, it is. In some senses it may be unfortunate that it is, but in other senses it is fortunate that we bring this legislation to the Senate because the effect will be to show the world, to show the people of Israel, to show all concerned parties in the Middle East, that the representatives here in the Senate and in the House, both parties, from every section of the country, agree that this is a matter of principle, a matter of common sense, a matter in which the United States, a strong nation—the strongest nation in the world—acts like a strong nation and does what is consistent with its principles.

Mr. President, I congratulate those who have brought this legislation forward: the distinguished majority leader, Senator DOLE, Senator INOUYE, Senator KYL, Senator MOYNIHAN, and the countless others who have fought this battle for so many years now, standing together shoulder to shoulder behind this piece of legislation. I am privileged to join them as a cosponsor.

Mr. President, the details of the legislation have been spelled out. But the heart of it is that by this legislation, Congress will have stated a clear message. The Embassy of the United States in Israel will be relocated to Jerusalem, recognizing Israel's choice of that city as its capital.

That relocation will occur no later than May 31, 1999. Why that day? Obviously, if you believe that the Embassy ought to be moved to Jerusalem, it should be moved as soon as possible, but that date was inserted by the sponsors—and I think wisely so—as an expression of deference, or respect, if you will, for the peace process embodied in the Declaration of Principles signed by the parties, Israel, the Palestinian Liberation Organization, the United States, and Russia on September 13, 1993, here in Washington. May 1999 is the termination of the process begun by this Declaration of Principles, the so-called Middle East peace process. But let us set that definite date. Let us leave no uncertainty about it, that by that date the Embassy of the United States will be located in Jerusalem.

Mr. President, there are those who are concerned about what impact this movement now will have on the peace process. Of course, every time in the past—I heard Senator INOUYE speak in a meeting about this—any time he has begun to move forward moving the Embassy to Jerusalem, there is always something going on in the Middle East that makes it less than the perfect time.

So there are those who will say they are worried about what effect this movement will have on the peace process. But I say that this is the perfect time, though long overdue, to move the Embassy to Jerusalem because of the peace process, because we have a growing level of trust, because we have a growing level of mutual interest, and of common purpose among the parties in the Middle East. The United States has played a leadership role in bringing those changes about. But at the heart of those changes, at the heart of the peace process, must be an honest relationship between the parties involved.

I do not think the United States should be at all unclear about this. We are committed to doing in Israel what we do in every other country that we know about in the world—putting the Embassy in its capital. Let this not be an act of delusion of the Palestinians or any of the other parties to this process. Let us be honest about it and, in a sense, let us get the question of where the American Embassy is in Israel off the table in the peace process. Let us get it over with. There is a lot to negotiate.

Some have suggested that somehow moving the Embassy was contrary to the Declaration of Principles. Mr. President, I read from article V of the Declaration of Principles signed here in Washington on September 13, 1993. It says in section 3 of article V that it is understood that these negotiations—which is to say, the permanent status negotiations that begin next year—shall cover the remaining issues, including Jerusalem; presumably final status of Jerusalem, and certainly not the question of where the United States locates its Embassy in this country. We are a great nation. How could we, as a great nation, yield that sovereign determination of ourselves to a process in which third parties are negotiating?

So I think we ought to be honest with the Palestinians here and indicate that this Embassy of ours will move to Jerusalem. That kind of honesty will lead to trust as we go forward in the peace process.

Second, Mr. President, I need not go on at length but would simply say I have supported the peace process. I think the status quo before the peace process was going nowhere good, nowhere good for Israel, nowhere good for the Arab world, nowhere good for the Palestinians, and nowhere good for the Israeli security. There were no viable options to the attempt to make peace between the parties in conflict, understanding that peace would not come overnight. It would be built step by step and with each step outlined in the Declaration of Principles, hopefully enough trust would have been built to go on to the next step.

There are enemies of peace all around, and the worst enemies of peace are committing acts of terrorism still. Those acts of terrorism, directed particularly against citizens of Israel, have an effect on the body politic in Israel and shake confidence in the peace process, shake support for the peace process.

So I want to say, Mr. President, is that as the Israel people wonder and ask themselves whether the peace process really will provide more security; as they express diminishing support for the peace process in polls that are taken; and as the Rabin government finds that in taking Oslo 2 or Oslo B, the most recent agreement between Israel and the Palestinian authority, to the Israeli parliament—in the Knesset, the vote on ratification was 61 to 59; it is that close—the people of Israel look to the United States, the foremost, most steadfast supporter of the state, and ask where security will come from. Are there limits to what Israel will be asked to do?

I think this is the perfect moment for the Congress of the United States to say there are some limits here. There are some matters that are off the table. We understand the critical importance of the city of Jerusalem to the people of Israel. And as a sign of that, this is the appropriate moment—long overdue, as I have said, but nonetheless a constructive moment—to say by this act we are ready to move our Embassy to Jerusalem.

So I hope, though I know there are questions raised, we will find a way, and perhaps before too long here today, to build a strong, overwhelming bipartisan vote for this measure.

I know there are concerns about constitutional questions. I know there is a discussion of a possible waiver going on; that is to say, to give the President the authority under some circumstances to waive the ultimate penalties associated with not moving the Embassy by May 31, 1999. I understand those questions, and I am involved in the discussions of those questions.

But it seems to me, as my friend and colleague from Michigan, Senator LEVIN, said, it is critically important that any waiver be narrowly drawn in that it not be a waiver that will go on forever, but that if the President determines—first, the President must be required to find a genuine threat to America's national security to stop the forward movement of the Embassy to Jerusalem, a threat to our national security. Second, that the waiver ought to be limited in time to perhaps 6-month periods so that the President will have to make that decision each time those 6 months are over.

Mr. President, I am confident at this moment that we share—all of us in this Chamber—a goal; that is, to do what is right, to move the Embassy to Jerusalem. The question now really is over legislative wording, the appropriate relationship between the branches. I am optimistic that we can do that because I think we all share in this goal, and we are all committed to strengthening both our relationship with our cherished ally, Israel, but also in bringing peace both to the Israelis and the Palestinians, and to the Arab nations throughout the Middle East.

So I urge my colleagues to do what I know they want to do, which is to vote for this proposal.

I thank the Chair, and I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I also rise to speak in favor of S. 1322, which is the Israel Embassy Relocation Act. I have long supported moving the United States Embassy in Israel to Jerusalem, and I firmly believe that Jerusalem should remain as the undivided capital of Israel.

Earlier this year, I joined 92 of my Senate colleagues in sending a letter to Secretary of State Warren Christopher endorsing the transfer of the United States Embassy from Tel Aviv to Jerusalem, and as an original cosponsor of S. 1322, I commend the majority leader and Senator KYL of Arizona for their constant and persistent leadership on this issue.

Of the 184 United States Embassies around the world, our Embassy in Israel is the only one that is not located in the chosen capital of the host country. Israel has been mentioned many times on the floor today as a key strategic ally for America and the only true democratic nation in the Middle East. It makes good sense that the United States Embassy should be located in the same city where the business of government is conducted. The Israeli people will not abandon the rightful claim to Jerusalem as the eternal and undivided capital, and the United States will not force them to relinquish that claim. This simply is not a negotiable matter.

As the peace process continues, moving the United States Embassy to Jerusalem again will send a clear message that America supports Israel's claim to Jerusalem. It is far better that all parties in the Middle East peace process understand America's position and know that it is a clear position. By allowing our position to remain ambiguous throughout the peace talks, we would risk creating false and unrealistic expectations about the status and the destiny of Jerusalem.

Critics out there, including some in the administration, try to dismiss this bill as political pandering, but during his 1992 campaign it was President Clinton who deplored the fact that "George Bush has repeatedly challenged Israel's sovereignty over the united Jerusalem and groups Jerusalem with the West Bank and Gaza as up for negotiation. Bill Clinton and Al Gore will . . . support Jerusalem as the capital of the State of Israel."

S. 1322 has strong bipartisan support with 67 cosponsors. This bill has already been modified to provide the administration with more flexibility in trying to determine the construction timetable for a new Embassy in Jerusalem, and as a member of the Foreign Relations Committee, I hope the administration will drop any of its remaining opposition to this important symbolic legislation.

Mr. President, S. 1322 would rectify a half-century-old wrong, contribute to the ongoing peace process, implement the wishes of the American people, and it would fulfill the hopes of the Israeli people. I close by urging my colleagues to show that Congress overwhelmingly supports this effort.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, we have before us an issue that I think commands attention all around the world. It is an issue about whether or not we acknowledge what is a fact of life—that the Embassy, our Embassy, embassies of countries with diplomatic relations with Israel, belong in Israel's capital. There is no doubt that Jerusalem will remain the undivided capital of Israel. What we are discussing today, frankly, is not whether or not the United States Embassy belongs in Jerusalem, our Ambassador to Israel should be stationed there; we are talking about something that is, frankly, I believe, a matter of timing more than a matter of principle.

The question of timing raises many arguments and many views. I am only able to stand in the Chamber a few minutes now because I have a Budget Committee meeting, which is kind of at the crux of lots of things at the moment—reconciliation, how we develop our revenues and what our expenses are and how we get to a balanced budget.

That is certainly critical when we talk about foreign relations generally because we continue to reduce America's ability to communicate its views and ideas and implement its policies around the world as we limit the funds available for the operation of the State Department and our ability to grant aid.

Just by way of quick example, in 1986 we gave 21 billion dollars' worth of foreign aid, and in 1996 we are going to provide around $12 billion. And when you consider inflation, it is probably more like 30 billion dollars' worth of aid or more at present values. But we will be giving less than half of that, kind of saying that America is withdrawing; America is stepping back; we are returning to a period, not a very pleasant one in history, where we isolated ourselves from the rest of the world. We continue to fund friendly nations like Egypt and Israel so that we can help maintain stability and an honest relationship with these countries. And so part of what we want to do is respect the sovereign view of where the capital lies and functions, and, as a responsible ally, place our Embassy there, within the normal reach of their Government. I think there are few in this Chamber who do not want it to happen.

I ask unanimous consent that an article in today's Washington Post on page A9, entitled "He Felt What I Felt," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 23, 1995]

"HE FELT WHAT I FELT"—JEW, PALESTINIAN REACH OUT AFTER SONS' DEATHS

(By Barton Gellman)

JERUSALEM, Oct. 22.—Almost exactly a year ago, Abed Karim Bader pinned on a skullcap to pass for a Jew and stopped his rented car for a hitchhiking Israeli soldier.

With three confederates from Hamas, the Islamic Resistance Movement, Bader overpowered Cpl. Nachshon Waxman and abducted him to the West Bank. Israeli commandos staged a rescue raid, and the kidnappers shot their bound captive to death in his chair. Bader died in the gunfight moments later.

This is a conflict that trains even bystanders for their roles. Loss calls for vengeance, hate for hate. Most of the time those calls are answered. But not always.

Tonight two grieving fathers, Bader's and Waxman's sat together behind a table and spoke of treading a new path of peace. They each wore a gray beard and a skullcap—Yehuda Waxman the knitted kippah of a religious Zionist, Yassin Bader the white linen takiyah of a Muslim sheik.

They told a gathering of Israeli and Palestinian youths that things had to change—that, as Waxman said, "we have no choice but to live together."

"We are two peoples who live in this land," Bader said. "We have each suffered. We have paid a heavy price with our sons. Mr. Waxman is a religious man. He felt what I felt, and I felt what he felt. I hope no one here will ever feel what we have felt or suffer what we have suffered."

There was no political program in the words, just a heart-heavy hope good might somehow come of their loss. Waxman is tortured by the time he did not make for his son, the conversations he was always too busy to have. Bader asks himself how he could have missed the signs that his son had turned to Hamas. Both want to be teachers of tolerance, and they started here.

The result were mixed. All the teenagers gathered at East Jerusalem's American Colony Hotel were inclined to listen. The Israelis were from Peace Now Youth, the Palestinians from an informal peace group in Ramallah. Even so, there was anger in the room, and strong distrust.

Ori Dirdikman, 17, an Israeli, stood up and said she wanted to ask how Bader "responded to all his son's expressions of extremism, since I assume it didn't suddenly happen and he must have had an opportunity to respond."

Bader, a dignified man who runs a grocery in the Beit Hanina section of East Jerusalem, composed his face. "It is hard," he said. "I didn't know what was inside my son."

Afterward, the Israeli teenager shook her head. "I want to believe him," she said, "but no. I'm sorry, but I don't think it is possible. If he was really for peace, he was obliged to do something.

Fayez Othman, 17, a Palestinian, asked Waxman why Jews who kill Arabs seem to get off lightly, while Arabs who dare cast a stone are imprisoned for years.

Waxman tried to deflect the question at first, saying such matters are for the government. But Othman pressed again. "What do you call this government? Is this a just government?" he asked.

"You're a young man and you're looking for justice," Waxman replied. "I'm not looking for justice any more. There are no just governments. There is only the best that people can do. . . . It's better for a man to look for justice near his home, with his brothers, with his friends. There you can make a difference. Absolute justice? There's no such thing."

Othman liked the second answer better, but only a little.

"I didn't want to hear, 'This is not my responsibility,'" the Palestinian said. "I wanted to hear that this is wrong."

Even so, Othman said, he respected a man who could respond to his son's death with a gesture of tolerance. "This will encourage us," he said.

Nachshon Waxman's kidnapping transfixed Israel last year. His kidnappers released a videotape of the young man pleading for his life. Yehuda Waxman, who said he could not stand to watch, must be one of the few Israelis who did not see it. His son, who held American and Israeli passports, died the same day that the Nobel Peace Prize committee announced the award would be shared among Palestinian leader Yasser Arafat, Israeli Prime Minister Yitzhak Rabin and Israeli Foreign Minister Shimon Peres.

At first, the two families, Waxman and Bader, shared no link save trauma. Yehuda Waxman prayed and spoke of punishment for Hamas. At the Bader home—just a mile away—the funeral tent featured slogans painted by Hamas declaring Yassin Bader's son a martyr righteous cause.

The idea for reconciliation came as something of a journalistic stunt. A weekly newspaper called Jerusalem worked tirelessly to bring the two men together, negotiating every detail for months.

Israeli soldiers had sealed the Bader home in retribution, and Yassin Bader wanted nothing to do with Israelis. Yehuda Waxman feared being used. Before he would meet Bader, he insisted on a letter dissociating the sheik from his son's acts.

Gradually Bader became convinced. He sat down and wrote out longhand the requested note. "I had no control over my son," he wrote. "I did not know of his plans. Had I known, I would have opposed them. For who would want his son to risk his life? Who would want his son to do such deeds?"

When the two men finally met, they said, they were struck by how alike they were. Devout and serious, they decided to work together.

Did it help? "To tell the truth," said Naomi Cohen, 17, "with all the pain and for all the fact that I've grown up on the left, I couldn't help hating [Bader] since he is the father of a murderer, and he was sitting beside the total opposite. They symbolize different things. Waxman is an example to me. He is able to be more forgiving than I am, and it was his son."

Nihaya Harhash, also 17, said she felt "anger and tension on both sides."

Waxman, interviewed afterward, said he was not discouraged or surprised. "This is our purpose, to see this anger melt off," he said. "It will take a long time. It will take years and years. But we will do it."

Mr. LAUTENBERG. The article talks about the pain of two fathers, one whose son was kidnapped by the other's son and put on television when this young man was held by Hamas, pleading for his life. His father heard the pleas of the young man as they held a gun to his head.

When the rescue attempt took place, just a little later on, not only was the victim killed, but the perpetrator was killed. And now the fathers are meeting a year later and discussing their feelings. Nothing can restore their children, but they can describe how they felt, their anger, their pain, the call for revenge, the call for healing, still unsure about what to do.

Mr. President, what we are witnessing now is almost a modern miracle. I have traveled many times to Israel and Jerusalem. I know people there. I have visited the entire breadth of the country. And I know how important Jerusalem is to all faiths and that Israel has promised that its responsibility is to make sure that all faiths have access. There is not a lot of debate about what the capital of the country is. But more than anything else, people want peace. They want to stop the killing.

What we have seen in the last couple of years has been astonishing. President Clinton and the United States have help make peace between these long-term enemies. It is something that, to me, resembled a modern miracle. Everyone knows Yasser Arafat. They know his costume. They know his manner. They know he was at the United Nations some years ago with a gun on his hip; and he was there this time, 2 days ago, yesterday, talking about peace and moving the process along.

It was noted on this same page of the Washington Post, "Joint Jordanian-Israeli Flight Marks Anniversary of Treaty." Two air forces, Israel and Jordan, flying side by side in joint maneuvers over both countries. And I am sure the sirens in Israel did not go off when the Jordanian airplanes flew over, and vice versa.

Peace in the making, but violence continues. Fathers and mothers still anguish to understand what it is that takes their young son's lives. A few days ago six Israelis died on their northern border with Lebanon. This killing has to stop.

Yesterday in New Jersey I spoke on behalf of a newly opened school. It was a religious day school. And I met a man who I had only known by telephone. His name is Stephen Flatow. I spoke to him on the phone while I was touring Israel and Egypt in April of this year, 6 months ago. The day I arrived in Israel from Egypt, an attack took place on a bus in which a number of people, innocent people, died.

At that time the newly appointed Ambassador to Israel, Martin Indyk, was presenting his credentials in Israel. And he said to me, "Frank, I have terrible news. A young woman, 20 years of age, was on that bus and is on life support at the moment. She comes from New Jersey. She comes from West Orange, NJ. Her family has been just notified."

I tried to find out more about her condition. It was precarious, at best. And within 2 days she died. Twenty years old. She was in Israel studying, on a learning experience. Murdered. For what reason? No explanation. Terrorism. People angry at one another, so angry that reason was obliterated. The father flew to Israel immediately and saw his daughter before she took her last breath.

I spoke to him on the phone after the funeral was held in New Jersey. I expressed my sympathy and he said one thing to me that, frankly, I found almost so overpowering that it was hard to understand. He told me that his 16-year-old daughter, his other child who was studying in Israel also, was being asked by her father and mother, who just lost a 20-year-old daughter, to continue her studies in Israel and to continue to fight for peace. Their daughter was killed in a senseless act of terrorism, and they continued to search for peace.

I saw him yesterday, as I said, and we talked about the peace initiatives that are taking shape. I said, "I may quote you. I want you to know that I am going to mention our conversation. Do you want to see the search for peace continued there, raising all kinds of questions at the same time? Can Chairman Arafat keep law and order in the Palestine community? Will there be disruptions from Hamas and other mad organizations, angry, supported by mad men with lots of money, by mad nations with lots of money? Is it worth the pursuit?"

And he said, "Yes," it was worth the pursuit. "And they should continue to search for peace."

And the relevance of this, Mr. President, goes to the discussion underway about whether or not the Embassy should be moved immediately, after 47 years of being established in Tel Aviv, whether it should move immediately or whether the move takes place in the context of general discussions of peace.

Now, I, for one, have advocated the establishment of the American Embassy in Jerusalem from the day that Israel was declared a State, a country. I have said so as well in my many visits there—the first one being 1969 after the city had been united, when I saw what happened to holy Jerusalem during the years of occupation when there was total disregard for artifacts, for archeological treasures, for custom, for religion, for culture. I was stunned and glad to see the city undivided, and declared then, in 1969, that as long as I live and could do anything about it, that city would never be divided again, that it was essential that the world recognize that Jerusalem is the capital of Israel.

And I do not like being in a discussion, Mr. President, where there are those saying, "Well, perhaps it ought to take a little more time." I do not want it to take more time. But I want it to be consistent with the discussions that are taking place.

I could not believe that a couple weeks ago I stood with Chairman Arafat, shook his hand. I have been very angry with Arafat in the past. And I am sure he felt the same way about me. But there we were, shaking hands and taking pictures because he was here in Washington on a peace mission.

We do not have to like the people we do business with, but if they are on the same wavelength, if they are on the same track, share the same goals and principles, then one would have to be a fool not to respect it.

And so, Mr. President, I fully support the establishment of the American Embassy in Jerusalem, the undivided capital of the State of Israel, but I will continue to debate the process as to exactly when and how we move. That is the only thing I ask, an open discussion.

The people who I know, the people I talk to feel similarly about whether or not Jerusalem is the place that embassies belong. It is the capital of the country. It does not belong anyplace else. We do not go to France and say we are going to locate our Embassy in Marseilles. We do not go to Russia and say we will locate it outside of Moscow. It is up to them to decide where their capital is, and it is up to us, as full diplomatic partners, to locate our Embassy where their capital is.

So I hope that as this debate unfolds, Mr. President, that we will keep in mind that peace is the objective, a noble objective. I hope we will try to understand the many sides of this peace discussion, because there is now Jordan, a full diplomatic partner with Israel, there is Egypt, and there is hope that other countries will come along.

I hope the situation with the Palestinians can be resolved into a full understanding. I hope we will see a more structured community and assistance to help the Palestinians establish themselves to have jobs, to have schools, to have a structured life, to have a chance to live peacefully.

So while I respect and appreciate Senator DOLE's willingness to have this move take place as well as the willingness of our colleague from Arizona, who has been fully supportive of the establishment of the Embassy in the capital of Israel, I hope that we have a chance to work out an understanding that we do not take away the President's initiative to conduct foreign policy, and I hope that he will help us to help them conclude the peace discussions and get the Embassy moved as part of a total understanding.

I yield the floor.

Mr. KYL. Mr. President, I would like to pass on that the majority leader, with whom I was meeting, asked me to make the point that he is enormously gratified at the support over the years and, in particular, the support of the Senator from New York for the bill on which he is about to speak and without the support of the Senator from New York, obviously we would not be nearly as far along in this process as we are. The majority leader appreciates that very much.

UNANIMOUS-CONSENT AGREEMENTS

Mr. KYL. Mr. President, I ask unanimous consent that at the hour of 6 p.m. today, the majority leader, or his designee, be recognized in order to move to table the pending Dorgan amendment No. 2940.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection, it is so ordered.

Mr. KYL. I further ask unanimous consent that at the hour of 5:40 p.m., the Senate resume amendment No. 2940 and that there shall be 20 minutes equally divided in the usual form prior to the motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. All Senators should therefore be informed, Mr. President, that there will be a rollcall vote on the motion to table the Dorgan amendment at 6 o'clock this evening.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to carry on the manner and the thoughtfulness of my colleague and friend from New Jersey as we begin this debate, which will shortly, I think, conclude for today.

The Senate stands ready to correct an absurdity which has endured for nearly half a century. We propose to respect Israel's sovereign right to choose her capital. We do this by providing for the relocation of our embassy to the city which contains the Parliament of that State.

The bill which the distinguished majority leader has proposed will ensure that the United States Embassy in Israel is moved to Jerusalem, the undivided capital of that State, no later than May 31, 1999.

I have been involved with this particular issue in some measure since my tenure as Permanent Representative to the United Nations in 1975. By the early 1970's, the United States was faced with a General Assembly where a

Soviet-led coalition wielded enormous power and used it in an assault against the democracies of the world. In that regard, I cite an editorial in the New Republic which recently said of the United Nations in that time that "During the cold war, the U.N. became a chamber of hypocrisy and proxy aggression."

Proxy aggression, Mr. President, and in particular directed to the State of Israel, which became a metaphor for democracy under virtual siege at the United Nations.

Those who had failed to destroy Israel on the field of battle joined those who wished to discredit all Western democratic governments in an unprecedented, sustained attack on the very right of a U.N. member state to exist within the family of nations.

The efforts in the 1970's to delegitimize Israel came in many forms, none more insidious than the twin campaigns to declare Zionism to be a form of racism and to deny Israel's ties to Jerusalem. Those who ranted against the "racist Tel Aviv regime" were spewing two ugly lies. Both had at their heart a denial of Israel's right to exist.

The first lie, the infamous Resolution 3379, was finally repealed on December 16, 1991, after the cold war had ended and the Soviet Union dissolved.

Today, we take an important step to refute the second lie, the absurd suggestion that Israel did not have a right to select its own capital city.

Israel expects attempts by her enemies to undermine her, but it is more difficult to fathom our own refusal to recognize Israel's chosen capital and to locate our Embassy in Jerusalem. In so doing, we have given and continue to give unintended encouragement to those enemies of Israel who hope one day to be able to divide the United States and that nation, the only democratic state in the Middle East. For as long as Israel's most important friend in the world refuses to acknowledge that Israel's capital city is not its own, we lend credibility and dangerous strength to the lie that Israel is somehow a misbegotten, an illegitimate, or transient state.

This suggestion is all the more untenable when you consider that no other people on this planet have been identified as closely with any city as the people of Israel are with Jerusalem—a city which this year celebrates the 3000th anniversary of King David declaring it his capital. No Jewish religious ceremony is complete without mention of the Holy City. And twice a year, at the conclusion of the Passover Seder and the Day of Atonement services, all assembled repeat one of mankind's shortest and oldest prayers "Next year in Jerusalem."

Throughout the centuries Jews kept this pledge, often sacrificing their very lives to travel to, and live in, their holiest city. It should be noted that the first authoritative Turkish census of 1839 reported that Jews were by far the largest ethnic group in Jerusalem—and this long before there was a West Jerusalem, or even any settlements outside the ancient walled city.

When the modern State of Israel declared independence on May 14, 1948, Jerusalem was the only logical choice for the new nation's capital —even if it was only a portion of Jerusalem, the Jordanian Arab Legion having occupied the eastern half of the city and expelled the Jewish population of the Old City—Jerusalem was sundered by barbed wire and cinder block and Israelis of all faiths and Jews of all citizenship were barred from even visiting the section under Jordanian occupation.

The world was silent while the historic Jewish Quarter of the city was sacked and razed to the ground, 127 synagogues were destroyed, and 3,000 years of history were denied. This bizarre anomaly only ended on June 5, 1967, when Israel faced renewed aggression from Egypt and Syria, both then close friends of, and dependents of the Soviet Union. As hostilities commenced, Israeli Prime Minister Levi Eshkol sent a message to King Hussein of Jordan promising that, if Jordan refrained from entering the war, Israel would not take action against it. Jordan, however, attacked Israel that same day. Within the week, Israeli forces had captured all of Jerusalem, as well as other territories west of the Jordan River. The City of David was once again united, and has been since 1967. Under Israeli rule Jerusalem has flourished as it did not under Jordanian occupation, and the religious shrines of all faiths have been meticulously protected.

Israel has found itself repeatedly attacked, boycotted, and spurned by its neighbors. But slowly Israel has worked to secure a less hostile environment. First, the historic Camp David Accords brought peace between Israel and Egypt. All Senators are aware of the unprecedented accomplishments of the last 2 years. Jordan is at peace with Israel and a peace process is well underway with the Palestinians. In fact, Mr. Arafat gave voice at the United Nations just yesterday.

The United Nations is celebrating its 50th anniversary. Even Yasir Arafat, who 21 years ago addressed the General Assembly wearing a gun holster, spoke yesterday of the tremendous achievements in Israeli-Palestinian relations. The New York Times characterizes Mr. Arafat's remarks as "a far more conciliatory tone than during his last visit." And contrasts his earlier calls for the destruction of Israel with yesterday's General Assembly pledge to "turn over the leaf of killing and destruction once and for all so that the Palestinian people and Israeli people may live side by side."

There are those who might criticize our proposal, saying that we have no business taking such action while the peace process continues. On the contrary—or such is my view. This is our Embassy and congressional sentiment should be made known. In this I am reminded of a message from Prime Minister Yitzhak Rabin to the American-Israel Friendship League on November 28, 1993 in which he wrote:

> In 1990, Senator Moynihan sponsored Senate Resolution 106, which recognized Jerusalem as Israel's united Capital, never to be divided again, and called upon Israel and the Palestinians to undertake negotiations to resolve their differences. The resolution, which passed both houses of Congress, expressed the sentiments of the United States toward Israel, and, I believe, helped our neighbors reach the negotiating table.

The negotiators will soon turn to final status issues, as defined by the Declaration of Principles signed on September 13, 1993, by Israel and the Palestinians. The status of Jerusalem is one of the agenda items to be settled during this final stage of the peace process. It is inconceivable that Israel would agree to any proposal in which Jerusalem did not remain the capital of Israel. Since Jerusalem will continue to be the capital of Israel, it is time to begin planning to move the United States Embassy to ensure that at the end of the process it will be where it belongs.

Our Embassy should have been moved long ago, but we recognize the momentous achievements taking place in the Middle East and they temper our actions. Our intentions are clear. When the peace process is completed, which according to the Declaration of Principles is scheduled for May 1999, our Embassy will be located in Jerusalem.

On March 20th of this year, Senator D'AMATO and I sent a letter to Secretary Christopher with the support of 91 other Senators. That letter made it clear that the overwhelming majority of Senators agree with the proposition that "Jerusalem is and shall remain the undivided capital of the State of Israel." We also wrote that our embassy belongs in Jerusalem and we asked the Secretary to inform us of the steps being taken to make a relocation of our Embassy to Jerusalem possible.

Today we have before us legislation that reflects the spirit of our letter to Secretary Christopher. I am hopeful that the President will be able to sign this legislation. Prime Minister Begin once advised me that the "battle for Jerusalem should never be fought in the halls of Congress." I agree and am pleased that the majority leader worked with those of us on our side of the aisle to produce a draft that reflects the bipartisan consensus of the Senate. I would also like to commend my friend, the Senator from Connecticut, Senator LIEBERMAN, for his considerable contribution to the formulation of this bill.

This administration has been effective in the Middle East peace process. Secretary Christopher has personally flown to the region numerous times and has clearly committed himself to active participation in the peace process. On the issue of our Embassy, I would respectfully suggest that the administration direct its attention to the comments of Prime Minister Rabin, as our letter to the Secretary of State noted:

> There can be little doubt that Jerusalem is a sensitive issue in the current peace process. While the Declaration of Principles stipulates that Jerusalem is a "final status" issue to be negotiated between the parties, we share Prime Minister Rabin's view which be expressed to the Knesset that:
>
> On Jerusalem, we said: "This Government, like all its predecessors, believes there is no disagreement in this House concerning Jerusalem as the eternal capital of Israel. United Jerusalem will not be open to negotiation. It has been and will forever be the capital of the Jewish people, under Israeli sovereignty, a focus of the dream and longing of every Jew."

It continues:

> United States policy should be equally clear and unequivocal. The search for peace can only be hindered by raising utterly unrealistic hopes about the future status of Jerusalem among the Palestinians and understandable fears among the Israeli population that their capital city may once again be divided by cinder block and barbed wire.

Charles Krauthammer adopted a similar line of argument in a column in the Washington Post on May 19, 1995, when he wrote:

> True, the embassy move does endorse the proposition that Jerusalem is the capital of Israel. What possibly could be wrong with that? Is it the PLO position that even after a final peace, Jerusalem may not be the capital of Israel?

That is the simple proposition for the Senate today, Mr. President. This bill would provide for the relocation of our Embassy to Jerusalem where it has always belonged. It does not interfere with the peace process, because there is no scenario in which Israel would agree to relinquish Jerusalem as its capital.

The Senate's involvement in this particular issue could be traced in some degree to the seventh conference of heads of state of government of nonaligned countries, which convened in New Delhi, India, March 7 through 11, in 1983. This summit devoted several lengthy passages of its final declaration as it is called—final declaration—to excoriating Israel and its ally the United States. Special attention was devoted to the question of Jerusalem's status. And not just east Jerusalem as had become the practice of such forums.

I happened to be in New Delhi in the days before the summit began and was shown a draft of the final declaration. The draft passage on Israel read: "Jerusalem is part of the occupied Palestinian territory and Israel should withdraw completely and unconditionally from it and restore it to Arab sovereignty."

While surely this can be read as a provocative statement that all of Jerusalem is occupied Palestinian territory, when pressed on the point, my Indian hosts assured me that by Jerusalem they really only meant east Jerusalem, which is to say the old city, or perhaps the Arab section. Hence, the significance of the revised final text of the declaration of some 101 nations. This is what nonaligned declared in that session in 1983:

> West Jerusalem is part of the occupied Palestinian territory and Israel should withdraw completely and unconditionally from it and restore it to Arab sovereignty.

West Jerusalem, Mr. President.

The 101 nations of the nonaligned movement declared that the Israeli Parliament and government buildings, Yad Vashem, the Holocaust memorial, the whole of the new city, did not belong to Israel. The State of Israel is not a nation. It has no capital, or so said the nonaligned.

What was the response from Washington to such polemics? Not a word. In effect, our silence could have been interpreted as implying that we had no quarrel with those who state that Israel has no capital. And thus, that Israel is less than a sovereign nation.

It was at this point that I brought the issue to the Senate floor. On September 22, 1983, during consideration of the State Department authorization bill, I offered an amendment to articulate the clearest and most emphatic demonstration of a policy of fairness toward Israel. The amendment was only one sentence long: "The United States shall maintain no embassy in Israel that is not located in the city of Jerusalem."

I withdrew the amendment after Senator Percy, the distinguished chairman of the Foreign Affairs Committee at the time, gave his assurance that a hearing would be held on the matter. On October 31, 1983, I introduced S. 2031 which also required the relocation of our Embassy from Tel Aviv to Jerusalem.

Senator Percy, always true to his word, convened a hearing of the Senate Foreign Affairs Committee on February 23, 1984, to consider that bill. Lawrence Eagleburger, then Under Secretary of State for Political Affairs testified on behalf of the administration.

I stated in my testimony to the committee:

> I begin with the simple proposition that Jerusalem is the capital of the state of Israel and our embassy in that State should be in its capital.
>
> This would seem to be an unexceptional statement, Mr. Chairman. That it is not is the result of actions the United States has taken and actions not taken.
>
> In the first category is the unprecedented and bewildering practice of the United States Government in its official publications to record that there is a "country" named Israel in which our Embassy is located at a "post" named Tel Aviv; and another "country" named Jerusalem in which we are represented at a "post" named Jerusalem.

Secretary Eagleburger suggested they might at least be able to correct the State Department phone book, but nothing was done.

Offical documents published by the United States Government at the time, such as the State Department's "Key Officers of Foreign Service Posts: Guide for Business Representatives," listed Jerusalem separate from Israel. The guide listed countries alphabetically, under each of which in subscript was enumerated the various diplomatic posts the United States Government maintained in that country.

There was Ireland, with the one post in Dublin; then came Israel, with one diplomatic office listed, its address in Tel Aviv; then curiously several pages later, after Japan, there was listed a Consulate General in a country called Jerusalem. Then came Jordan and Kenya.

That was how the Key Officers of Foreign Service Posts was organized until the end of 1994, when Secretary Christopher published the document with Jerusalem listed under the Israel heading. This is a welcome change. That simple refusal by the United States Government to associate our consulate in Jerusalem with the State of Israel carried much greater weight with the nonaligned countries than we realized.

They would not have acted as they had done in 1983 if they did not think at some measure we were not in disagreement. Our documents have so implied.

No doubt, we wounded the Israelis more than we intended as well, while sending a dangerous message to Israeli enemies.

Clarifying the status of Jerusalem began to gain momentum in the Senate in 1990 when I submitted S. Con. Res. 106, which States simply: "Jerusalem is and should remain the capital of the State of Israel." A simple declarative sentence which gained 85 cosponsors and was adopted unanimously by the Senate and by an overwhelming majority in the House.

Two years later, Senator Packwood and I submitted Senate Concurrent Resolution 113 to commemorate the 25th anniversary of the reunification of Jerusalem.

The measure stated that, "Congress strongly believes that Israel must remain an undivided city." That, too, was agreed to unanimously, both in the Senate and the House.

Last year, in the wake of the massacre in Hebron, the United Nations Security Council adopted a measure which referred to Jerusalem as "occupied territory." Senator MACK and I sent a letter to the President, with the signature of 81 other Senators, calling on the administration to veto any U.N. Security Council resolution which states or implies that Jerusalem is occupied territory.

To his credit, President Clinton responded with a forceful promise to veto any future U.N. resolution which raised questions about the status of Jerusalem. A promise that he kept on May 17, 1995, when Ambassador Albright cast such a long overdue veto in the Security Council.

In the winter of 1981, I wrote an article in Commentary entitled "Joining The Jackals" in response to the Carter administration's disastrous support for a resolution challenging Israel's rights in Jerusalem. Almost 15 years later, we find that the jackals are in retreat. Israelis and Palestinians are negotiating the details of their future. And today we have an opportunity to make a simple but important contribution to this process by unequivocally recognizing Israel's chosen capital.

Mr. President, I see my friend from Connecticut has risen. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to thank my friend and colleague from New York for his statement, which is not only characteristically learned—which is to say characteristic of him, not necessarily of all of us—but also characteristically principled.

The history of our Government's policy on this question of the location of the American Embassy in Israel is a tawdry history. It is not the history of a great and principled nation. It is a history of a nation that has, I think, in the words of a musical, "bowed and kowtowed" too often and too low, when it was not necessary, on a matter as fundamental as respecting a country—not just any country but a country that is a dear and cherished, valued ally—in its own decision about where its capital is. It is a sovereign nation, a member of the United Nations.

There has been a way in which our whole history here—harking to my earlier incarnation as Attorney General enforcing consumer protection laws—unfortunately, has been one of bait and switch. The political process has engaged in kind of alluring promises during campaigns and then switched to an entirely less principled, more pragmatic—in the worst sense of pragmatic—position once in office.

But I really rise to recite that unhappy history just to say that, throughout all of that, as long as he has been in public office, the Senator from New York has been a steadfast beacon of principle on this—and of course other questions—but on this, unwavering, speaking out of the best of our traditions and the best traditions of international law. Hopefully, the Chamber will catch up with him in the vote on the measure before us.

But I do not know that I have adequate words, not only to express my admiration, but to do the historical record justice here as to the really pioneering and principled and consistent position that the Senator from New York has taken. I thank him for his statement, but, really, more than that, I thank him for all he has done over the years to bring the Chamber to the point where we may finally be about to direct the movement of the Embassy to Jerusalem by a date certain.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I express my profound gratitude for the remarks of my friend from Connecticut. If he is only partially correct, I am wholly complimented and deeply honored.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I rise to express my strong support for relocating the U.S. Embassy in Israel to Jerusalem. I want to share with my colleagues my reasons for holding this view.

First, locating the Embassy in Jerusalem is practical and will streamline our diplomatic operations. For decades, the offices of Israel's President and Prime Minister, the Knesset, and most government ministries have been located in Jerusalem. Moving our Embassy there will make it easier to conduct diplomatic business. So it is common sense to move the Embassy to Jerusalem.

Second, it is consistent with our policies for other nations. Israel is the only nation in the world where our Embassy is not located in the host nation's chosen capital. Let me repeat that. Israel is the only nation in the world where our Embassy is not located in the host nation's chosen capital.

A number of concerns have been expressed about the wisdom of moving the Embassy at this time. I want to address each of these concerns specifically.

Opponents have said that this bill could trigger anger and terrorism on the part of Israel's opponents. Indeed, when the bill was first being circulated, opponents said the peace process would fall apart. They said the peace process would fall apart if we even introduced this bill. But the peace process did not fall apart. As a matter of fact, the peace process moved forward. That is because this bill is not directly related to the peace process. As a matter of fact, this bill, as recently modified—and I support the modifications—shows great deference to the peace process. By removing the requirement for an early construction start date, this bill shows complete respect for the peace process. Opponents of this bill have also argued we should wait to move our Embassy until the so-called final status negotiations are complete. I would argue that, although the final status of Jerusalem may be an issue in the peace talks, the location of our Embassy is not. The location of an American Embassy is entirely an American decision.

In any case, our Embassy will be located within the pre-1967 West Jerusalem border, not in the more controversial eastern section. It is this fact that leads me to conclude that moving our Embassy would in no way prejudice the outcome of the final status negotiations. It is not as if we are breaking new ground in a new area that has not been under Israeli control.

Finally, and perhaps the most important point I wish to make for my colleagues today, is that when I was in Israel in November, I sensed an undeniable fear and concern about the future. Terrorist attacks were escalating. Support for peace was falling. As a matter of fact, there was not one person, whether it was a cab driver or a student, that I met who did not indicate to me the fears that they had.

Israel, of course, is taking a risk for peace, and, therefore, the people are taking a risk for peace. As a matter of fact, all the good people who come to the table, whatever side they are on, are taking a risk for peace. So, when I left Israel, I thought, we need to do something here to just show that we support the peace process, and that we support our close ally, Israel. I think this is something we can do that demonstrates a high level of respect for the good people of the State of Israel, and for the peace process as a whole.

I have a very balanced view of this issue. I believe that Yasser Arafat must have what he needs to build confidence among Palestinians for the peace process so that extremist groups like Hamas renounce violence and go to the ballot box as their way. I think this is very important. And that is why I supported the Middle East Peace Facilitation Act, which authorized continuing aid to the Palestinian authority so long as they continued to meet their commitments to work for peace.

So, Mr. President, I support the Palestinians who are working for peace, and I support the Israelis who are working for peace. Just as we show support for the Palestinians through the Peace Facilitation Act, we must also show support for the people of Israel who have taken some very serious risks for peace. I think that this bill sends a very important message.

I want to say again that I understand that there are those in the Senate who want changes to this bill. And we may have a couple of amendments. I will look them over very carefully.

But the point that I want to make today is that I hope we are going to pass this bill with a united front—all of us together, regardless of political party or ideology. To pass this important legislation with a unified voice would send a strong message. Yes, we support the peace process, and yes, we support moving our Embassy to Jerusalem. Surely, we should do no less for our friend and ally Israel.

Thank you very much.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, as I indicated when I previously rose to speak on this bill, I intend to support the bill. I think this underlying bill makes a great deal of sense. I offered a sense-of-the-Senate amendment to this bill, which I understand is now going to be voted on at 6 o'clock this evening, and just prior to that vote there will be 10 minutes of debate on each side. I wanted to rise briefly to describe what the sense-of-the-Senate amendment is.

I indicated when I offered it that I have no intention of holding up this legislation. I support this legislation. I want this legislation to move. But I was constrained last week from offering this sense-of-the-Senate amendment, and it is the only way I have to express myself—and hopefully, express the sentiments of the Members of the Senate—on this issue. So this device is an attempt in the sense-of-the-Senate resolution to once again weigh in on this question of priorities.

My sense-of-the-Senate resolution expresses the following: It is the sense of the Senate that any tax cut provided by the Congress this year shall be limited to those whose income is under $250,000 a year, and the savings, by limiting the tax cut to those who earn less than $250,000 a year, shall be used to reduce the cut that is being proposed for Medicare.

Again, my suggestion is very simple. This is always a debate about priorities. It is really nothing more than that. It is not a debate about whether there should be a balanced budget. Of course, there should be a balanced budget. It is a debate about how we get there. Some say give very large tax cuts to some very affluent people, and let us give very large budget cuts in Medicare that will affect some very low-income elderly people. I think that the proper priority would be to say, let us think about this more clearly.

I offered an amendment a couple of weeks ago saying, let us at least limit the tax cut to those whose incomes are below $100,000 a year and use the savings from that to reduce the amount of cuts in the Medicare Program. That was voted down by the Senate.

I say, all right. I indicated then I am going to offer another resolution. How about limiting the tax cut to those whose incomes are below a quarter of a million dollars a year? Gosh, there are not a lot of Americans who make more than a quarter of a million dollars a year. Those who do I do not think at this point need a tax cut. Their top tax rate has gone down from 70 percent in 1980, down to 39 percent low. Let us at least decide that we will limit the tax cut to those whose incomes are below a quarter of a million dollars a year. Then whatever we save from that limitation, let us use that to offset the cuts that are now being proposed for Medicare, to see if we can soften that blow a bit.

That is the purpose of my sense-of-the-Senate resolution. And we will have a vote on that at 6 o'clock. I hope the Senate will approve that. Then I hope following approval of that, it will express itself to those who are writing this reconciliation bill, and maybe we will have a reconciliation bill to come to the floor that does just that.

I would be happy to yield to the Senator from California.

Mrs. BOXER. Thank you very much for yielding.

I want to commend my friend for giving us an opportunity to express ourselves on a very basic point. To me, it is extraordinary that the Republican Congress with very few exceptions—maybe one or two—are going to cut $270 billion out of Medicare and use about $245 billion for a tax cut that mostly benefits the very wealthy.

What my friend is saying is, look—to the Republicans—we want to give a tax cut, but at least come along with us and say that the people who earn over a quarter of a million dollars a year do not really need that tax cut as much as our seniors need Medicare.

In California, the average woman who is on Social Security earns $8,500 a year. I say to my friend from North Dakota that the numbers are probably even lower in his State—$8,500 a year for the average woman on Social Security.

I daresay that if you talk to any decent human being, a gentleman who earns $350,000 or a woman who earns $500,000 a year, and you ask them, "Do you really need to have this tax cut, or would you rather that our senior citizens live in dignity," I daresay the reasonable, thoughtful, decent American in that highest 1 percent income bracket would say, "You know something? Sure. It would be nice to have another trip to Europe, but I think that is not the American way. I do not think that is really family values."

I want to say to my friend. I wonder if he has heard some of Kevin Phillips' quotes on this issue. Kevin Phillips is a Republican commentator, and on the 19th of September he made a number of quotes. I wonder if I could read them to my friend and ask him to comment on them.

First of all, this is Kevin Phillips. This is not Senator BOXER from California, a Democrat from California, speaking. This is a Republican commentator. On September 19, he said:

If the Republican Medicare reform proposal was a movie, its most appropriate title would be "Health Fraud II."

Then he says, "Today's Republicans see Federal Medicare outlays to old people as a treasure chest of gold for partial redirection in their favorite direction towards tax cuts for corporations. Furthermore," he says, "the revolutionary ideology driving the new Republican Medicare proposal is cut middle-class programs as much as possible and give the money back to business and high-income taxpayers." And finally he says, "In part, the Republicans' Medicare shell game is a redistribution towards America's small 1 or 2 percent elite."

So my friend is giving us a chance here, in a bipartisan way, to be I think humane, reasonable, sensible, and smart. I wonder if he would comment on these quotations from Kevin Phillips, because I think it is rather extraordinary that even a Republican says they have gone too far with their budget proposal. Will my friend comment on that?

Mr. DORGAN. This discussion has often been called class warfare; it is just more politics, just partisan.

I really do not see it so much as Republican versus Democrat. It really is choices. In the case of the reconciliation bill heading our way, the choice is to decide that one-half of the American families will pay higher taxes. That is the choice. And that is not for me. That is from the Treasury Department and others who have analyzed it.

Mrs. BOXER. Will my friend yield? Is it not true it is those who earn under $30,000 a year who will pay more taxes under the Republican plan?

Mr. DORGAN. I was just going to give a multiple choice question, and the multiple choice question would be A or B.

Mrs. BOXER. I am sorry.

Mr. DORGAN. If you learned that the reconciliation bill coming to the floor of the Senate from the majority party provides that one-half of the American families will end up paying higher taxes, do you think it would be, A, the bottom 50 percent of income earners or B, the top 50 percent of income earners?

I will bet you that most Americans would say, well, given what we have read so far, they probably say that the lower half of the income folks ought to pay higher taxes. And you know, that is exactly what is coming our way. But for the top 5 or 6 or 1 percent of the American people it is not higher taxes. It is an enormous amount of benefits in form of lower taxes. That is the purpose of this amendment. It is not anti-

Republican or anticonservative. It is to say this is about a series of choices we are going to make and let us express ourselves.

Is the choice of cutting Medicare funding that is needed for senior citizens to the depths that they are talking about, $270 billion, is that a choice that ought to take precedence over a tax cut for the wealthy? That is what I want people to express themselves on.

My sense is that if this Congress could sit down without all the lights and without a lot of fanfare and thoughtful people discuss what really are the priorities, just in a room without microphones, I do not have any question that this Congress would say those 55,000 kids, those little 2-, 3-, 4-, and 5-year-olds, all of them who have names—every one of them has a name—those little kids on the Head Start Program who are disadvantaged, come from low-income households, those that are going to get kicked off the Head Start Program because we have decided there is not enough money for those 55,000, I do not have any doubt that a group of thoughtful people would say you know something in our judgment, Head Start investment for 55,000 4-year-olds and 5-year-olds is a better investment and a more important investment than building the second $1 billion amphibious assault ship.

I do not think there is any question at all that is the case. This Congress was provided with a choice during the defense bill—lots of choices: star wars, yes. B-2 bombers yes—20 of them, $30 billion, and then the choice was which of the two amphibious assault ships shall we build, the $900 million one or the $1.3 billion one. You know what the Congress decided? "Let's build both of them. Why should we have to choose?"

My point is the choice is to say yes, let us build a second amphibious assault ship for $1 billion and then let us take 55,000 kids out of the Head Start Program. It is just that simple because it is always about choices. You choose to spend the resources and what represents an investment in the future of the country.

Mrs. BOXER. Will my friend yield just one last time?

Mr. DORGAN. I would be happy to yield.

Mrs. BOXER. Because I am going to head back to the Budget Committee so I can vote against the Republican budget and proudly do it. I again thank my friend for pointing these things out. He is so right about the defense number. The admirals and generals came to us and said we need x billions of dollars to do our job, and this Republican Congress gave them $30 billion-plus, more than they asked for over the next 7 years. To me, it is extraordinary how far those dollars could go, whether it is in the Senator's home State, my home State, the Chair's home State. And just cavalierly not wanting to make any choice, we are going back to the days of the $400 hammers and the $600 toilet seats and the $7,600 coffee pot. The wasteful spending kind of gets lost in the debate.

I wish to make one final point in support of my friend. The reconciliation bill that is headed here clearly is really a funnel plan. It is a funnel from the senior citizens in our country through the Medicare Program, from the poor, the disabled in our country through the Medicaid plan—and by the way two-thirds of our seniors in nursing homes are on Medicaid, so it is a funnel from those people, it is a funnel from those working people who the Senator described who earn $30,000 or less, it is a funnel from all of those groups, the middle-class right into this tax cut for the wealthy.

What my friend is giving us a chance to do later on this evening is to say enough is enough. Enough is enough. We are hurting too many people in this country. For all the talk about family values, we are hurting families. Buried in this bill, we are repealing nursing home standards. It is extraordinary. And I vowed that in my mother's name I would fight that—seniors who are scalded in bathtubs in nursing homes, seniors who are sexually molested, seniors who wander out of nursing homes onto the streets and freeze to death. That is why we have national standards.

But in the Republican budget, what is more important than nursing home standards is giving a tax break for the wealthiest. What my friend is saying is that enough is enough. Defer that tax break, if you earn over a quarter of a million dollars, and let us not hurt the kids, the families, the middle class, the working poor, the grandmas and grandpas in nursing homes. I will be proud to stand with my friend and I hope we can win this vote.

I yield back to my friend.

Mr. DORGAN. I thank the Senator from California. We will have a vote on this at 6 o'clock. And again I do not intend to pursue it further. I will come back for 10 minutes of debate prior to that time. But it is very simple. It simply says let us limit the tax cut, if there is a tax cut coming in this legislation—there apparently is; I would prefer there not be but there is—let us limit that to families earning at least $250,000 a year and then let us use the savings by that limitation to reduce the cuts in Medicare. It is a very simple sense-of-the-Senate resolution.

Mr. President, let me mention one additional item. I did not respond earlier today. following the presentation by Senator CONRAD and myself, the Senator from New Mexico came to the floor and the Senator from Arizona, and there was some discussion about balanced budgets and the Congressional Budget Office and a whole range of other things. So let me respond briefly. In effect, the Senator from Arizona was generous enough to bring to the floor the voting records and described what Senator CONRAD and I had voted for.

It always amazes me some to find someone changing the subject. That is the equivalent of getting lost and then claiming that where you found yourself is where you intended to be.

Well, I guess that is an interesting way to describe what the debate is about. But the debate was not about whether Senator CONRAD or I voted for budget resolutions in the past. Yes, we did.

We voted for the one in 1993. We voted for previous ones. We never claimed those budget resolutions, which, incidentally, reduces the deficit, which is why we voted for them, we never claimed what the Republicans are claiming. They are claiming that they now have a balanced budget. I never claimed that the 1993 proposal balanced the budget.

I have felt since 1983 that those who use, in whatever circumstances, under whatever conditions, the Social Security trust funds, are misusing the trust funds, and it does not matter whether it is the President's budget, President Clinton or President Bush or the Congressional Budget Office. When trust funds are included in the operating revenues—Social Security trust funds especially—it is not being honest.

Now, the point we made earlier was on October 18 the majority party came over to the floor and held up this letter from the Congressional Budget Office. The letter says, we estimated, based on your submission to the CBO, that your plan will produce a small budget surplus in the year 2002. And I came to the floor and said that obviously is not true.

I wrote to the CBO and said, "Give us your estimate of the Republican plan if you do not take the Social Security trust funds and use them as operating revenues." And the next day the director sent us another letter and said, "Well, we estimate, if that is the case, that the deficit in the year 2002 will be $98 billion." So it went from a small surplus to a $98 billion deficit.

On the third day, October 20, they sent us another letter and said the deficit is not $98 billion: "We recalculated, and the deficit would be really $105 billion." And so that is what we have learned from the Congressional Budget Office. And our point was to say, if you take the Social Security trust funds and use them over on the operating budget, it is dishonest budgeting, and dishonest budgeting for Democrats to do it and dishonest budgeting for Republicans to do it.

This is business as usual. It has been going on way too long. I introduced a half dozen proposals to stop it. The Senator from South Carolina has. In

1983, I began to try to stop this process. But when the Senator came today with his big chart, and he had a gold medallion on the chart or a gold certificate of some type, certified with a big gold thing, certified balanced budget, that is baloney. There is no certification of a balanced budget. October 20 says that this is a budget with a $105 billion deficit in the year 2002.

Why is that important? It is important because if you do not have a balanced budget, you cannot trigger the tax cuts presumably.

What is that gold certificate about that they paraded on the floor? That is their certificate so they can go ahead and proceed to make the tax cuts. But it is a fraudulent certificate. It does not have any seal on it, so I assume it was just printed up for their purposes.

I mean, that is just gamesmanship. It is not a certificate of anything. The only thing that matters is the October 20 letter that said, "CBO says in the year 2002 there will be a $105 billion deficit." That is the official number. The only way you can say that is not true is if you believe you should take the money out of the Social Security trust fund and use it as an operating budget revenue.

I would guarantee you, you run a business and do that, you take your employees' trust fund, pension funds and pull them over to your P&L statement and say, "This is my business income," you will be on a fast track to a penitentiary of someplace. You cannot do it in business; you ought not be able to do it in Government. It is not honest budgeting.

So when the folks came to the floor today—it is amusing to have this debate, I suppose, about past budgets, but no one claimed what the Republicans are claiming, that they have this balanced budget. This is not in balance. The Congressional Budget Office says it is not in balance. They ought to stop pretending it is in balance. If it is not in balance, they cannot trigger a tax cut, 50 percent of which, incidentally, goes to taxpayers with incomes or families whose incomes are over $100,000 a year.

Mr. BIDEN. Mr. President, I rise to speak in favor of the amendment offered by the Senator from North Dakota. We are fast approaching the culmination of this session—the culmination of a year of significant debate on the course of the Federal budget.

This amendment goes to the heart of that debate—how should we bring the budget into balance, and how should the burdens of that process be shared among the people of this country?

As one who voted for a balanced budget amendment, and as a cosponsor of a balanced budget plan, I share the conviction that deficit reduction should be among the top priorities of this Congress. But we should not let the urgency of that task blind us to our fundamental principles, or to the other, equally important responsibilities we face.

As I have explained here before, Mr. President, balancing the budget is essential, not as an end in itself, but a means of restoring healthier growth to our economy, and as a means of promoting the basic principles that first led me to the Senate.

I won't revisit here the clear and convincing reasons for fundamental change in our Federal budget. But while I am encouraged by the powerful consensus behind balancing the budget, Mr. President, I am concerned about the shortsighted priorities and the lack of fundamental fairness that characterize the budget plan that is now taking shape in this Congress. We will debate that budget plan on the floor of the Senate this week.

The amendment of the distinguished Senator from North Dakota represents what should be simply common sense. But unfortunately, Mr. President, common sense seems to be in short supply these days.

The amendment says simply that we should limit any tax cuts to families with incomes under $250,000, and use the savings to reduce the cuts that are planned for Medicare.

I believe that there is a real need for tax relief—in a perfect world, perhaps we could spread tax cuts around a little more. But there can be no argument that families with middle incomes have seen their paychecks stuck for years—with no reward from the substantial gains in productivity that our national economy has made.

Those working families spend more of their waking hours running faster just to stay in place. Mothers and fathers strain for a few minutes with their kids, with each other—never mind a moment for themselves. Because their wages haven't gone up, they have to spend more hours working every day just to keep up with growing expenses.

Chief among the costs that are growing faster than the average family's income are health care and education. For most middle Americans, Mr. President, those are not luxuries to be deferred or cut back—they are costs that must be met by cuts in family time, in savings, in things that we used to consider essential and that increasingly are beyond reach.

So we should do what we can to cut the costs of health care and education for Americans. Incredibly, the budget that is shaping up now does exactly the opposite. In their search for the funds to give tax cuts to people with incomes over $250,000, the Republican majority is increasing the costs of health care and education for the average American family.

And, by itself, the tax bill just reported by the Finance Committee would actually increase the tax burden on the majority of Americans, Mr. President, those with incomes of $30,000 or less. Can't we at least put a cap on the unfairness in that plan?

And, as the Republicans' own Congressional Budget Office has certified, Mr. President, their plan does not balance the budget. It continues to borrow from the Social Security surplus in the year 2002 to cover up a glaring $98 billion deficit.

This is unconscionable, Mr. President, and it is unnecessary. We can reach the goal of a balanced budget, provide tax relief for the middle class, and restore some of the excessive cuts in Medicare that are part of the Republican budget plan.

With Senator BRADLEY, I cosponsored earlier this year a budget plan that would have permitted up to $100 billion in tax relief for the middle class, including help with higher education expenses. That plan would have balanced the budget by 2002, without borrowing against the future obligations of the Social Security system. I also supported Senator CONRAD's plan, that would have balanced the budget without raiding the Social Security system.

We apparently cannot pass a budget this year that will not continue the charade of using Social Security surpluses—needed to meet its future legal and moral obligations—to cover up annual deficits in our operating budget.

But, by supporting the amendment now before us, we can still restore some fairness to tax relief, and we can reduce some of the damage that will be caused by the exorbitant increases in Medicare costs in the Republican plan.

This amendment simply expresses the sense of the Senate—a statement of our priorities—that we should limit any tax cuts to those who really need it, and that we should use those savings to reduce the hit on Medicare that the Republicans have planned—a hit that will be used to pay for tax cuts for those who don't really need it.

I think those are the real priorities of almost all Americans—even those who may not directly benefit from the tax cuts. Most Americans share the goals of deficit reduction—because it will help all Americans. Deficit reduction will free up more of our scarce saving for private investments by homeowners, entrepreneurs, and corporations—investments that will create jobs and sustain a growing economy.

For those who are now well off, who will share in the benefits of a growing economy at least as much as anyone else, a tax brake now to sustain those whose incomes have been stuck for years is scarcely grounds for resentment.

This amendment recognizes that we must use common sense and fairness as we search for ways to reduce the deficit and restore balance to our country's finances.

So I urge my colleagues to join me in supporting this amendment, that will put the Senate on record sharing the priorities of most Americans—doing what is right and what is fair while we do what is necessary.

Mr. DORGAN. I notice, Mr. President, Senator PELL is waiting to speak. I will, because of that, relinquish the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

MEDICARE BY THE NUMBERS

Mr. PELL. Mr. President, the national debate over the future of the Medicare and Medicaid programs is not so much about objectives as it is about means. But it is the means that make all the difference.

There clearly is widespread agreement that steps must be taken to restrain growth in Government spending for medical programs. But there is considerable disagreement about how to achieve this objective, how to distribute the impact of change, and about the timeframe in which all of this is to occur. In that connection, I join in expressing my distress about the course the congressional majority would have us take.

I should say at the outset that I believe it is unfortunate that we are allowing arbitrary dollar limits to drive our consideration of essential social policy. We are seeking to evaluate fundamental human needs through the green eye shades of accountants.

As I have stated on previous occasions, while I do share the view that Government spending should be curtailed where appropriate and that the deficit should be substantially reduced, I do not believe that this automatically translates into a cast-iron doctrine that the national budget must be in absolute balance by a time certain.

In the case of the medical programs, it would have been far preferable, in my view, to have devised first a rational strategy for curtailing unreasonable growth in spending for these programs—while preserving their essential services—and then see how much savings could be dedicated to deficit reduction.

But since the majority has committed us to a dollar-driven course of action, let's consider the figures.

In their quest to reach budget balance by the year 2002, the majority seeks to reduce Government spending by an arbitrary $894 billion over the 7-year period.

Over half of the saving—and by far the largest single component—would be $452 billion in reduced spending for the Federal medical programs: $270 billion would be realized from reduced spending on Medicare, and $182 billion from Medicaid.

While protracted cutbacks may be needed to assure solvency over the long term, there simply does not seem to be justification for reductions of the proposed order of magnitude in the timeframe of the next 7 years.

I found particularly persuasive in this regard the recent testimony of the Secretary of the Treasury, Robert Rubin. Speaking in his capacity as managing trustee of the Medicare Hospital Insurance Trust Fund, Mr. Rubin stated:

> Simply said, no member of the Senate should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare Trustees or that such reductions are needed now to prevent an imminent funding crisis . . . Nonetheless, the Majority is asking for $270 billion in Medicare cuts, almost three times what is needed to guarantee the life of the Hospital Insurance Trust fund for the next ten years.

The Secretary went on to observe that the $270 billion in reduced Government spending would be accomplished in part by increasing costs to beneficiaries of the Medicare part B program, even though such increases do not contribute to the solvency of the Part A Hospital Trust Fund.

"In this context," Secretary Rubin stated, "it is clear that more than $100 billion in Medicare funding reductions are being used to pay for other purposes—not to shore up the Hospital Insurance Trust Fund."

Secretary Rubin's testimony is disturbing because it validates the presumption that the proposed reductions in Medicare are being made for reasons not dictated by necessity, including the possibility that the amount of proposed reductions might have been inflated for the specific purpose of accommodating a tax cut.

In that light we can only ask what manner of needless sacrifice, worth more than $100 billion, are we asking of our senior citizens. Will most of it be accounted for by the $71 billion in increased payments by beneficiaries? Or will it be attributed to the $73.6 billion in reduced payments to hospitals, or the $22.6 billion reduction in the allowable fee schedule for physicians treating Medicare patients?

It seems apparent to me that the majority has overreached and that a far more modest cutback of the Medicare Program would serve our purpose. Since Secretary Rubin says that more than $100 billion is being siphoned off for other purposes, this would suggest that the $270 billion reduction proposed should be in the order of $150 billion at the most. And the reduction could be even less if we take appropriate steps to deal with the annual loss of $18 billion through waste, fraud, and abuse.

With respect to Medicaid, I am very distressed that the majority proposal would dismantle a 30-year-old commitment to the poor and disabled, and transfer a less binding responsibility to the States.

The result, it seems to me, can only be the creating of pockets of medical impoverishment between a few overburdened oases of generosity. Some States and regions simply will not be able to maintain the level of compassionate service on which their citizens have come to depend.

My own State of Rhode Island is in this latter category, partly because it has a larger proportion of elderly people using nursing home facilities. I would point out that our Republican Governor, Lincoln Almond, has voiced his opposition to the block-grant formula as it was proposed in the House.

Here, I would like to salute the efforts in the Finance Committee of my distinguished colleague, Senator CHAFEE, to modify the plan, particularly through restoring entitlement status to pregnant women, children under age 12, and the disabled. But notwithstanding these efforts, the basic proposal is still fatally flawed in my view.

As one of the original advocates of the Federal medical programs, I regret exceedingly that we have come to this juncture when in the name of economy, the gains of decades of progress in social responsibility are being jettisoned or badly compromised. The proposals should not become law, and I applaud and support the President's announced determination to veto them if they reach his desk in their present form.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. PELL. Mr. President, on the question of the American Embassy in Jerusalem, I suggest that most of us here believe the same thing, that Jerusalem is the capital of Israel and that our Embassy belongs there one day. Where some of us disagree, however, is whether or not the President has the right to decide when. I do not think the Congress has the right or the obligation or the responsibility to micromanage the decision. We all agree it should move. How it should move and when it should move, that I really think should be left to our President.

All Americans are aware, too, of the respect and deeply seated, emotional attachment that Israelis—indeed all Jews—have for Jerusalem. I would add the same emotions and attachments apply to Moslems and Christians, and I think all of us appreciate the care and effort that Israel has made to make Jerusalem accessible to adherents of all faiths. For these reasons, I find it difficult to fathom a final settlement for the Middle East that does not declare, once and for all, that Jerusalem is, and shall forever remain, Israel's undivided capital.

The administration has suggested that by adopting this legislation, Congress would be prejudging the outcome of the Israeli-Palestinian talks, and in doing this, we might undermine our own traditional place as the honest broker and cast the peace process into disarray.

Mr. President, I believe we must take due acknowldgement of the administration's strong and forceful views about this bill. When officials from the administration suggest, as they have in recent days, that adopting this legislation could interrupt—or indeed kill—the peace process, I think we must take those suggestions seriously. When the same officials predict that adopting this legislation could lead to an explosion of passions in the West Bank and Gaza, we cannot take those predictions lightly. When these officials say that passing the bill could mean that people, whether they are Israelis, Palestinians, Jordanians, or U.S. diplomats, could lose their lives, we have a solemn obligation to be absolutely sure of what we do.

I am not convinced that the arguments, both pro and con, have been given a chance to be aired properly. The Senate is on the verge of making an extraordinary decision without even having had the benefit of one hearing on the Senate side, at least, devoted to the issue.

Against all these concerns, most of which I share, we must balance some fundamental truths. First among these is the fact that Israel is the only country in the world where the United States does not have its Embassy in the functioning capital. With the Israeli Government based in Jerusalem, having our Embassy in Tel Aviv has made it difficult to maintain our official contacts with the Israeli Government. Frankly, it has also stigmatized, indeed cheapened, our relationship with Israel. Moving our Embassy will at least settle once and for all what many of us know to be true—that Jerusalem is truly the capital of Israel.

Second, by requiring the President to move our Embassy, the United States will once and for all dispel whatever unrealistic hopes remain that Jerusalem will somehow become the capital of a Palestinian State.

Finally, no one, including the Palestinians, can really contest Israeli sovereignty over West Jerusalem. If this bill passes and is implemented, our Embassy would clearly be moved there, not to East Jerusalem.

I acknowledge, Mr. President, that I opposed this bill when it was introduced in an earlier form. Since then, it has been reintroduced with a significant change in text which has given a more flexible approach than existed earlier. I still believe more is needed, and for that reason, I tend to support amending it to address some of President Clinton's additional concerns. If we moderate this bill sufficiently, then I am hopeful that we can arrive at a version the President could sign and implement. If we do not, then there is the risk that the President might feel forced to veto it.

I do believe in my heart, however, that Jerusalem is truly and rightfully the capital of Israel. Once that premise is accepted, there can be no other choice but to move our Embassy there, whether it be now or in the near future. I therefore hope we can arrive at more flexible, consensus-based language that will enable everyone—the Senate, the administration, the Jewish-American community, the American people at large—to support this bill.

To repeat, the important thing here is that eventually it be moved, but specifying the day, the hour, the minute, or the week or the month even is not up to Congress, it is up to the Executive to make that decision.

I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I rise in very strong support of the resolution before us to provide for the relocation of the United States Embassy in Israel to Jerusalem where it rightfully belongs and has belonged. This is something that I feel very strongly about and of which I am proud to be an original cosponsor when it was introduced by the distinguished majority leader, Senator DOLE.

As Congress and the executive branch grapple with the various issues of national policy, oftentimes we tend to overlook what is most compelling and what is most fundamental in terms of right and wrong. Despite the best of intentions, the best of motives, by all parties on both sides, occasionally we seem to lose sight of the forest for the trees. When this happens, we owe it to ourselves, as a legislative body, but also to our constituents and, frankly, to the very issue of morality itself, to make amends, to do the right thing, to remedy a wrong. Today, with this legislation, we have that historic opportunity; that is, recognizing, by putting our Embassy there, that Jerusalem is the rightful capital of the State of Israel.

Mr. President, Jerusalem is the eternal capital of the State of Israel. It has been and, in my opinion, forever will be a shining symbol of faith, of inspiration and tradition, not only to the Jewish people but Christians and Moslems as well. No other place on Earth holds such a unique and rich history as this holiest of holy cities, and no other place in all the world can reasonably be considered the capital of Israel.

I think, in the legislation before us, we see in our findings a sampling of many of the reasons, which are really quite obvious. But to recite a few of them, and I know they have been stated before, I do not think it hurts to reinforce the importance of these findings:

No. 1, that each sovereign nation under international law and custom has the right to designate its own capital. Israel has done that. Since 1950, the city of Jerusalem has been the capital of the State of Israel. The city of Jerusalem is the seat of Israel's President, Parliament, supreme court, and the site of numerous Government ministries and social and cultural institutions.

Jerusalem is the spiritual center of Judaism. It is also considered a holy city by the members of other religious faiths as well.

Historically, from 1948 through 1967, Jerusalem was a divided city, and Israeli citizens of all faiths, as well as Jewish citizens of all states, were denied access to holy sites in the area controlled by Jordan. But in 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.

Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within that city by Israel.

In March 1995, 93 Members of the U.S. Senate signed a letter to Secretary of State Warren Christopher encouraging planning to begin now for relocation of the U.S. Embassy in the city of Jerusalem. Well, now is the time, Mr. President, to make that happen. The United States maintains its Embassy in the functioning capital of every country, except in the case of this, one of our most loyal allies and strategic allies, the State of Israel.

In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry. I think the facts, Mr. President, in this bill speak for themselves, and I certainly commend its authors—especially Senator DOLE—for pointing out those facts. But it is troubling that the U.S. policy with respect to the status of Jerusalem has been less then clear.

Reasonable people can disagree on the best means to achieve peace in the Middle East, but that is another issue. That is not the same issue, Mr. President. On the question of Jerusalem, there is only one inescapable conclusion: It is now, has been in the past, and forever will be and should be the capital of Israel. That is the plain and simple truth.

The United States maintains diplomatic relations with over 180 nations and, of these, as indicated in the findings of the bill, Israel is the only nation in which our Embassy is not located in the functioning capital. We say Tel Aviv, but we do not have the right to say Tel Aviv. Israel has the right to choose its capital; it has done so, and we should honor that. How do we justify anything else? How do we explain this to our friends in Israel, who have endured such hardship and remained true to the principles of democracy throughout the years? The answer is that there is no justification for not doing it. This is a terrible oversight, and it should be corrected.

The legislation offered by the majority leader does correct this wrong. It initiates the long overdue process of moving the U.S. Embassy to Jerusalem but more importantly, Mr. President, moving it to Jerusalem by a date certain—May 31, 1999.

I understand that the administration, unfortunately, opposes this legislation. I do not think their arguments have much merit—they do not have any merit, and they lose sight of the real issue. This is not about executive-legislative turf battles, Mr. President. It is about what is right and wrong. It is about the right of a sovereign nation to choose its capital and to have the United States and other countries of the world honor that by putting their embassies in that capital. It is about precedent, it is about history, it is about culture and recognition, and it is about changing a misguided policy. I say to my friends in the administration, correcting such an injustice and doing what is right is more important than perpetrating some inside-the-beltway turf war between the Congress and the executive branch. This is much bigger than that; it is much more important than that.

Jerusalem is the capital of Israel. The U.S. Embassy belongs in Jerusalem. I urge the adoption of this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I ask unanimous consent to proceed in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCING THE BUDGET

Mr. GREGG. Mr. President, I heard earlier a discussion on this floor from a number of Members on the other side, specifically the Member from California and the Member from North Dakota about the effects of the coming debate or the implications of the coming debate on the matter of balancing the budget relative to tax policy.

First, I think it should be noted once again for the record that for the first time in 25 years this Congress, this Senate, is going to get the opportunity to take up the issue of balancing the budget. For the first time in 25 years there will be on the floor of this Senate a reconciliation resolution which, if passed by this Congress and agreed to by this President, will lead to a balanced budget by the year 2002.

That fact is certified by the Congressional Budget Office, the fair arbiter, as we have all agreed around here, including the President during his first speech to Congress, of the number-scoring process.

We have a major opportunity, probably the most significant opportunity—clearly the most significant opportunity in the last 25 years to bring under control the spending of this country.

The purpose of doing this is really rather simple, as has been discussed before. It is to give our children a chance to have a prosperous lifestyle, to pass on to the next generation the opportunity to live in a Nation which is fiscally solvent.

If we do not take this action, I think the matter has been well debated, and generally agreed to, that the next generation will have very little opportunity for prosperity, that they will be given a country which is insolvent, that they will be faced with a Nation where we will probably have to grossly inflate our money supply, creating economic havoc as children move into their earning years, as our children move into their earning years, in the period of their twenties and on.

So we as a Congress stepped up to this matter. At least as a party we have stepped up to the matter. We have produced a budget which is in balance. As a result of producing that budget in balance, certain very good things happen.

First, of course is the point that our children will have a shot at an economically solvent future. A more immediate event occurs, which will assist almost all Americans, or at least all Americans who borrow money—which is I suspect almost all Americans.

That is, that under a generally accepted view of economists and once again the Congressional Budget Office, the interest rates in the economy generally will drop as a result of passing a balanced budget and having it be in law by approximately 2 percent.

What does that mean? It means if you are borrowing to buy a new home, that the interest rates you will have to pay on that new loan will be 2 percent less. That translates into literally thousands of dollars for middle-income Americans seeking home ownership.

It will mean if you are going to school as a student that your interest rates will probably be at 2 percent less than what they are today, meaning you will be able to go to school longer or get out of school with less debt—either one being a very positive aspect of this.

It means if you buy a car or household goods or you improve on your home or you are simply borrowing money because it is necessary due to some circumstances of your lifestyle, that the cost of borrowing that money will drop rather significantly.

It also means good news for the Federal Government. It means that our rate of interest will drop by 2 percent.

As a result, CBO has said that we will receive over the next 7 years, because we have put in place this balanced budget, a windfall, if you wish to describe it that way, or dividend if you wish to describe it that way, or approximately $170 billion in savings on the cost of paying for the Federal debt, the interest.

We have taken that $170 billion and we have passed it back to the taxpayers of this country. We have said—the Republicans in this Senate—that if we are going to balance the budget and we are going to reduce the size of growth of the Federal Government, we ought to return to the people who support this Government and who are the underpinnings of our Nation, the taxpayers specifically, that they ought to be able to participate in the benefits of this event of balancing the budget.

So we have decided to use this economic dividend, this drop in interest rates which generates $170 billion, and return it, return it directly to the taxpayers.

Now we have heard a lot from the other side about the fact we should not have any tax cut, that there should not be any tax cut at all, that there should be no return to the taxpayers of this country of putting in place a balanced budget.

Of course, they do not want a balanced budget, so you can probably understand the fact they do not want to return the money to the taxpayers, but it seems to me a little crass and unfeeling and unkind to say to the taxpayers of this country who have been supporting the largess of this liberal Government for the last 40 years when it finally gets its act together those taxpayers will not receive any of the benefit.

We are not going to take that on this side of the aisle. We are going to suggest that that money flow back to the taxpayer.

We also heard first they do not want a balanced budget, or a real balanced budget, put it that way. They want something like the President sent up here that CBO scores as being out of balance for as far as the eye can see—for at least $200 billion a year, adding $1 trillion of new debt to our children's backs over the next 7 years.

They do not want a real budget. They want some sort of gamesmanship budget. They will not support our balanced budget which has been scored as a real balanced budget. They do not want a tax cut.

Furthermore, not only are they opposed to a balanced budget and opposed to a tax cut, they come to the floor and misrepresent the tax cut that is before the Senate. I heard a number of Members on the other side, or at least two, state that that tax cut is just going to the wealthy, that this economic dividend which we are going to use to send back to the taxpayers of this country which is their right and due reward for having a balanced budget, is just going to go to the wealthy.

Somebody ought to refer them to real figures. Maybe CBO figures, for example, rather than OMB figures. Under those figures, we will talk about where the benefit of that tax cut goes.

Mr. President, 84 percent—84 percent of the benefit of that tax cut flows to people with incomes under $100,000; 77 percent of the benefit of that tax cut goes to people with incomes under $75,000. Maybe we have a new definition of "wealthy" coming from the Members of the other side of the aisle. If you make up to $75,000 in this country you are suddenly wealthy. I do not think so.

If 77 percent of the economic benefit of the tax cut goes to people with incomes under $75,000, I say a vast majority of the tax cut, at least three-fourths of the tax cut goes to people with moderate and lower incomes.

This is only logical, because if you look at what the terms of the tax cut are, they are clearly targeted progressively on assisting especially moderate income families. First, of course, is the $500 tax credit for children.

This does not in any way put the average family into the type of position that they were in, say, back in the 1940's and 1950's, when you could have a single earner in a household and maintain a family, and about 3 percent of your income went to the Federal Government. Today, unfortunately, 24 percent of your income goes to the Federal Government.

But, in order to try to alleviate in some minor way—and actually it should be fairly significant for many people—the cost of raising a family in this country, and especially the tax cost of being a moderate-income family, we have said we are going to put in place a $500 tax credit. That is a fairly reasonable proposal.

So, if you have children—one, two, three, four—you can multiply the number of children you have by $500 and that is how much you are going to get back as a tax credit. This tax credit, by the way, phases out as your income goes up. For very high-income people there is no tax credit. So it must be fairly logical, since this is the largest part of the tax cut, it clearly flows to people with moderate incomes, under $75,000, who have families. So when you say the tax cut is going to the wealthy, when I hear that statement from the other side of the aisle, it is either, first, disingenuous; second, uninformed; or, third, potentially misleading.

Then look at some of the other proposals we have. We have a spousal IRA. Again, it phases out as your income goes up, so high-income people do not have the benefit. So, clearly, low- and moderate-income individuals will have that benefit.

We have elimination of the marriage tax penalty, again for middle- and low-income individuals who find themselves, because they got married, actually paying more taxes than if they had remained single and been filing the same type of returns. That is an unfair and unique quirk of our tax laws which has existed too long and needs to be changed.

So, we have put in place in this tax package the tax benefits which are targeted directly on, essentially, the middle- and moderate- and to some extent low-income families, to the extent they pay taxes, in this country. So it is a blatant misrepresentation to come to this floor and say this tax cut goes to the wealthy. It is equally unfair and inappropriate to come to this floor and suggest there should be no tax cut at all if we actually have a balanced budget, when you are not even willing to vote for the balanced budget. There seems to be something inappropriate in taking that position.

So, as we go forward on this debate, I hope he will look at the hard numbers, at the real substantive action rather than the political hyperbole. I hope we will step back from this attitude, which the White House seems to be taking, which is to pick a constituency a day to scare through misrepresentation, and, rather, inform people as to what is actually happening. Because, if people look at the facts of this situation, they will come to two very clear conclusions. First, if we do not do something fairly soon, this country is going to find itself unable to remain financially solvent; and, second, if we follow the program put forward by the Republicans in the Senate and in the House, which leads to a real balanced budget, we will be able to pass on to our children a country which is financially solvent and one where they have an opportunity for prosperity. We will be a generation which passes on to the next generation opportunities that exceed even those that were given to us by our parents.

If we fail to take this action, we will, of course, be the opposite, the first generation in the history of this country which will pass less on to our children than was given to us by our elders. That is not acceptable, it is not right, and it is not fair. That is why I strongly support the reconciliation bill that will be coming forward toward the end of this week.

Mr. President, I appreciate the courtesy of the Chair and yield such time as I may have.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A reminder to the Senator from South Carolina that, under unanimous consent, 20 minutes of debate will begin at 20 minutes before 6, equally divided between both sides, dealing with the Dorgan amendment to S. 1322.

Mr. HOLLINGS. Very good. I thank the distinguished Chair.

THE BUDGET

Mr. HOLLINGS. Mr. President, what I want to do, right quickly is, first to put in the RECORD the letter of October 20 from June E. O'Neill. I ask unanimous consent to have the letter from the Congressional Budget Office printed in the RECORD at this particular point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 1995.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR: Pursuant to Section 205(a) of the budget resolution for fiscal year 1996 (H. Con. Res. 67), the Congressional Budget Office provided the Chairman of the Senate Budget Committee on October 18 with a projection of the budget deficits or surpluses that would result from enactment of the reconciliation legislation submitted to the Budget Committee. As specified in section 205(a), CBO provided projections (using the economic and technical assumptions underlying the budget resolution and assuming the level of discretionary spending specified in that resolution) of the deficit or surplus of the total budget-that is, the deficit or surplus resulting from all budgetary transactions of the federal government, including Social Security and Postal Service spending and receipts that are designated as off-budget transactions. As stated in the letter to Chairman Domenici, CBO projected that there will be a total-budget surplus of $10 billion in 2002. Excluding an estimated off-budget surplus of $115 billion in 2002 from the calculation, CBO would project an on-budget deficit of $105 billion in 2002. (The letter you received yesterday incorrectly stated these two figures.)

If you wish further details on this projection, we will be pleased to provide them. The staff contact is Jim Horney.

Sincerely,

JUNE E. O'NEILL, *Director.*

Mr. HOLLINGS. While the distinguished Senator from New Hampshire said that the Republican budget was "certified as being balanced," this letter certifies a $105 billion deficit.

Now, I would also ask unanimous consent that we insert two budget tables in the RECORD which have been prepared with the help of my staff.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

BUDGET TABLES

[Outlays in billions]

Year	Government budget	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−311.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports.

	Year 2002 (billion)
1996 Budget: Kasich Conf. Report, p. 3 (deficit)	−$108
1996 Budget Outlays (CBO est.)	$1,583
1995 Budget Outlays	1,530
Increased spending	+53
CBO Baseline Assuming Budget Resolution:	
Outlays	1,874
Revenues	1,884
This Assumes:	
(1) Discretionary Freeze Plus Discretionary Cuts (in 2002)	−121
(2) Entitlement Cuts and Interest Savings (in 2002)	−226
(3) Using SS Trust Fund (in 2002)	−115
Total reductions (in 2002)	−462

MORE BUDGET TABLES

[In billions]

Year	National debt	Interest costs
1996	$5,238	$348
2002	6,728	436

[In billions]

	1996	2002
Debt Includes:		
(1) Owed to the Trust Funds	$1,361.8	$2,355.7
(2) Owed to Government Accts	81.9	([1])
(3) Owed to Additional Borrowing	3,794.3	4,372.7
[Note No "unified" debt, just total debt]	5,238.0	6,728.4
Surplus in Social Security (CBO through 1996)	544.0	
Surplus in Medicare (CBO through 1996)	145.0	

[1] Included above.

"SOLID" BUDGET PLAN

[In billion; 1995 Real Deficit (CBO) (1) $283.3 billion]

Year (2)	CBO outlays	CBO revenues
1996	$1,583	$1,355
1997	1,624	1,419
1998	1,663	1,478
1999	1,718	1,549
2000	1,779	1,622
2001	1,819	1,701
2002	1,874	1,884

"SOLID" BUDGET PLAN—Continued

[In billion; 1995 Real Deficit (CBO) (1) $283.3 billion]

Year (2)	CBO outlays	CBO revenues
Total	12,060	11,008

Note: $636 Billion "embezzlement" of the Social Security Trust Fund.

[In billions]

	Outlays	Revenues
2002 CBO Baseline Budget	$1,874	$1,884
This assumes:		
(1) Discretionary Freeze Plus Discretionary Cuts (In 2002)		−$121
(2) Entitlement Cuts and Interest Savings (in 2002)		−226
[1996 Cuts, $45 B] Spending Reductions (in 2002)		−347
Using SS Trust Fund		−115
Total reductions (in 2002)		−462

Mr. HOLLINGS. Mr. President, as they demonstrate, you can add up the CBO outlays—the spending of the years 1996, 1997, 1998, 1999, 2000, 2001, 2002—and find that over that 7-year period, we will spend a total of $12.06 trillion. Over that same period, CBO estimates that revenues will total $11,008 trillion. So you can see that spending will actually increase over revenues during the 7-year period by $1.052 trillion.

Even that figure is low is it requires what the former Senator, John Heinz, called "embezzlement"; namely, using the Social Security trust fund to mask the true size of the deficit.

I just heard in the Budget Committee the distinguished chairman, Senator DOMENICI, call it a phony argument. But he voted for it and all the Members who were present in 1990 voted to stop using Social Security surpluses to mask the size of the deficit. Senator Heinz and I put it into the law, section 13301 of the Congressional Budget Act. There is nothing phony about it, but I hear the Senator from Washington coming in and quoting Charles Krauthammer as saying the argument was fraudulent. I know that Mr. Krauthammer was a psychiatrist before he started spilling ink in the editorial page. It reminds me of the old saw that a psychiatrist is the fellow who goes to the burlesque show to look at the audience.

Let us not use economic figures from psychiatrists, let's use the $105 billion deficit cited by CBO.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2940

The PRESIDING OFFICER. I remind the Senator that 20 minutes of debate has begun on the Dorgan amendment, but none of the managers is here.

I see the Senator from North Dakota is here.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Under the previous unanimous-consent order, the Senator has 10 minutes.

Mr. DORGAN. Let me yield myself 5 minutes of the 10 minutes and then reserve the time.

Mr. President, this issue will be relatively simple. The vote we are going to have in 20 minutes is a very simple proposition. It is a sense-of-the-Senate resolution that says let us limit the tax cut to those whose incomes are under a quarter of a million dollars a year and use the savings from that limitation to reduce the cut in Medicare. It is very simple. This follows an amendment I had previously that was voted on by the Senate—it failed—saying let us limit the tax cut to those whose incomes are $100,000 a year or less. That failed.

So I indicated that I intended to offer another resolution which I now offer that says I do not personally think we ought to talk about tax cuts at the moment. I think we ought to deal with the budget issue, and the Congressional Budget Office has told us there is not a balanced budget in this proposal. The deficit in the year 2002 will be $105 billion. But the majority side says they have reached a balanced budget. So they want now to proceed to a tax cut.

While I wish they would not do that, my amendment is painfully simple. It says let us at least agree to limit the tax cut to those whose incomes are $250,000 a year or less. If we do that, we will save some money and be able to cut Medicare less than is now proposed.

What does this amount to? I do not have exact figures. But, from talking to the Treasury Department and others, my reckoning is that we are talking about 20 percent of the tax cut going to slightly more than 1 percent of the earners in this country, or about $50 billion over the 7 years. This sense-of-the-Senate would, say, let us save $50 billion that will otherwise, during the 7 years, go to those whose incomes are over a quarter of a million dollars a year and use that $50 billion to soften the blow on Medicare recipients. It is interesting. That $50 billion over the 5 years is almost exactly the same amount as the $50 billion increase in part B premiums that senior citizens will be asked to pay.

It is simply about choices. It is not about Republicans, Democrats, conservative, or liberal. It is about choices. What is important? Is it more important to provide tax cuts to people whose incomes are a quarter of a million dollars or greater? Is it more important to do that than to try to soften the blow on low-income senior citizens who will, I think, get hit fairly hard on the question of these Medicare cuts?

So that is the purpose of this amendment. As the Members of the Senate know, the Treasury Department has indicated that the reconciliation bill that will come to the floor will provide nearly one-half of its tax benefits to those with incomes of $100,000 a year or more, and it will at the same time increase taxes on about half the families in our country. Which half? The lower half, of course. That is the subject of this amendment. It is about priorities.

I hope that others in the Chamber, having reflected on this and having turned down the proposition to limit the tax cut to those under $100,000 a year, will now at least agree that those who make over a quarter of a million dollars a year really do not need at this point a tax cut. So that is the purpose of the sense-of-the-Senate resolution.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator from North Dakota has about 5½ minutes remaining.

Mr. DORGAN. Mr. President, the reconciliation bill will come to the floor of the Senate tomorrow perhaps, or at the latest Wednesday. We will begin debate on the reconciliation bill under a procedure that is very restricting and very constrained, as you know.

It will, by necessity, limit the debate on the amendments, and, frankly, we will have an insignificant opportunity to effect what is happening in the committees that is brought to the floor under the reconciliation bill.

Tragically, this reconciliation bill really does almost everything. It is going to have a farm bill in it. For the first time in history, they stick a farm bill in the reconciliation bill. I mean, it has the kitchen sink in it—profound, massive changes in Medicaid and Medicare and eliminates national standards for nursing homes. You name it. But especially it deals with choices, and that is the purpose of my sense-of-the-Senate resolution. The choice that says what we would like to do at this point is balance the budget and provide a tax cut.

I have no objection to a tax cut provided that we have done the heavy lifting to balance the budget first. But the Congressional Budget Office says that with the reconciliation bill there exists a $105 billion deficit in the year 2002, and still the majority party wishes to proceed with a tax cut, half of which will benefit those families with incomes over $100,000 a year, $50 billion of which over the 7 years will benefit those families with incomes over a quarter of a million dollars a year.

My point is very simple. With the number of people out there in this country living on very modest incomes, especially senior citizens, the bulk of whom live on less than $15,000 a year, we are saying to them, "Tighten your belt, buckle up, you are in for some tough times, because we are going to change the programs that you count on because we cannot afford to do otherwise."

And then we say to the wealthiest families in America, those who earn over a quarter of a million a year and more, guess what. We are going to stop at your house with an envelope, and guess what is in the envelope. A very significant tax cut. So start grinning; it is coming your way. Why? Well, it is about pals and pols. It is about choices. It is about the wrong choices. My sense-of-the-Senate resolution is very simple. It says let us at least make a decision to limit this tax cut to those families that earn less than $250,000 a year and say to those with a quarter million dollars a year or more income, we think you are doing great; you do not need a tax cut, and use the savings, $50 billion in 7 years, to offset some of the cut that is going to be impacting and hurting senior citizens in this country.

Mr. President, I yield the floor and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted from both sides equally.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for 4 minutes as if in morning business.

The PRESIDING OFFICER. Again, we are under a unanimous-consent order between 5:40 and 6 o'clock. Any unanimous consent would have to use part of that time.

Mr. BINGAMAN. I would ask that my 4 minutes be charged equally to the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota controls 40 seconds. The rest would have to come from the other side.

CLINTON ANDERSON CENTENNIAL

Mr. BINGAMAN. Mr. President, 100 years ago, New Mexico was 17 years from becoming a State and Grover Cleveland was in his second term as President, the x ray was discovered, and O. Henry, who was a writer of great importance in this country, was charged with embezzlement. Also, 100 years ago was the time that Senator Anderson, Clinton Anderson of my home State of New Mexico, was born. Senator Anderson was a man who would mean a great deal to this institution, to this country, and to my home State of New Mexico.

Mr. President, 100 years ago today he was born in Centerville, SD. As a young man, he contracted tuberculosis and moved to New Mexico for treatment of that disease. I should note, Mr. President, that many other of my State's distinguished residents did the very same thing. The dry air of New Mexico revived more than one set of eastern lungs, and Senator Anderson's were among these. He recovered from his illness. He worked in journalism. He was active in Democratic politics. He was elected to the House of Representatives in 1941, served until 1945, when President Truman asked him to become Secretary of Agriculture. In 1948, he ran for the Senate and came to this body in the famous class of 1948 that included Margaret Chase Smith, Lyndon Johnson, Hubert Humphrey, Paul Douglas, Russell Long, Robert Kerr, and Estes Kefauver.

He served for 24 years, creating a very distinguished legislative record, as many of his illustrious classmates did.

One of the finest studies of this outstanding Senator was written by Senate historian, Richard Baker, entitled "Conservation Politics/The Senate career of Clinton P. Anderson." Dr. Baker perfectly described Senator Anderson's technique as a legislator. He said in that book, and I quote:

Anderson saved his shots. He was not accustomed to launching trial balloons. When he spoke, his colleagues listened. When he decided that New Mexico could gain no more by prolonged debate, he settled for the best package available. And when he attached to a legislative measure the full weight of his intellect and prestige, doubting solons set aside their skepticism, and he prevailed.

Mr. President, however many of us have the honor of representing New Mexico in the Senate, Senator Anderson provides a benchmark against which we will be measured. I am proud to have known him. My uncle, John Bingaman, was active in getting him elected and reelected to the Senate and felt when he died we lost a great public servant.

Today we honor the fact of his birth and the value of his life. For us in New Mexico and in the Senate, his are the shoulders we stand on as we move into the future.

Mr. President, I thank you for the chance to speak, and I yield the floor.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, here we go again. It is not enough that President Clinton has admitted that he and his allies have raised taxes too much, but here his allies in Congress are already seeking to undermine real tax relief for middle-class Americans.

These folks cannot have it both ways. What Senator DORGAN's amendment amounts to is little more than business as usual. At home and on the campaign trail, the President and his allies talk about change—real change—but here in Washington they continue a game that has been playing out for three decades, a game that has led our Nation into a debt that is almost $4.9 trillion, a game that has run us into $200 billion deficits, and a game that has done little, if anything, to improve the conditions of the most vulnerable among us.

Why do they persist? Because they want it both ways. In some quarters this is called talking out of both sides of the mouth. Even the Washington Post has identified this symptom. According to the Post, the Democrats have fabricated the Medicare tax cut connection because it is useful politically. In an earlier editorial, the Post opined that

> The Democrats are engaged in demagoguery, big time. And it's wrong. . . . [The Republicans] have a plan. Enough is known about it to say it is credible; it's gutsy and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What Democrats have, on the other hand, is a lot of expostulation, TV ads and scare talk.

What my colleagues on the other side of the aisle will not tell the American people is that under the plan we are proposing, using Medicare savings for tax cuts would be illegal. The law requires that money saved on the Medicare Program will stay in the Medicare Program. Remember, these are trust funds, the assets of which may not be used for any other purpose. And to say otherwise, as the Post points out, is little more than politically motivated scare tactics.

The sense-of-the-Senate amendment completely undermines the progress we have made toward saving Medicare. Without our plan, the trust fund is bankrupt in 2002. It is that simple. Without our plan, the Government will not be able to live up to its obligations. We assure solvency of the program until the year 2020. This gives us a sufficient time to focus on the needs that will arise when the baby-boom generation reaches the age of eligibility.

It is important to note that Senator DORGAN's plan is not even based on the Senate Finance Committee proposal. It is based on the Clinton administration assessment of the House plan. How in the world are we supposed to make an intellectual judgment call when the amendment Senator DORGAN asks us to vote on mixes apples and oranges, citing what only can at best be called partisan economic data.

Let us restore intellectual honesty to the debate. According to the Joint Committee on Taxation, 70 percent of the benefits of the Finance Committee tax bill will go to families making under $75,000 a year. Seventy percent. Our bill provides a $500 per child tax credit to our hard-working families. It eliminates the marriage penalty for many, creates a credit for adoption expenses, and helps with student loan payments. We also provide much-needed incentives for savings and investment. These are all middle-class provisions that go to help the people President Clinton has admitted to raising taxes on. What we are doing is trying to help the President and his allies correct a mistake. Let us make it right for the American people.

Mr. President, I move to table the pending Dorgan amendment.

The PRESIDING OFFICER. All time under the unanimous-consent agreement has expired.

The question now occurs on agreeing to the motion to table the Dorgan amendment numbered 2940.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. INOUYE], the Senator from Nebraska [Mr. KERREY], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

The PRESIDING OFFICER (Mr. COCHRAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 40, as follows:

[Rollcall Vote No. 495 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—8

Bradley
Daschle
Faircloth
Helms
Inouye
Kassebaum
Kerrey
Nunn

So the motion to lay on the table the amendment (No. 2940) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION

Mr. GORTON. Mr. President, a few hours ago this afternoon the Senate Budget Committee reported to the Senate the reconciliation bill for 1996 through the year 2002. We will soon begin to debate that bill—perhaps the most momentous debate that this Senate will engage in this year or perhaps any year during the course of the last decade.

The design of that bill is, of course, to see to it that the budget of the United States is balanced in the year 2002, precisely the time at which the constitutional amendment on a balanced budget would have required such a balance, had it been passed and submitted to the States by this Senate.

Hidden in the debate over the budget, however, is one vitally important proposition. That is, that this budget does not lead us to balance on the basis of figures submitted by my distinguished friend, the chairman of the Budget Committee, by the majority leader, by a party caucus, or by any other such partisan individual or organization.

The certification that this budget will be balanced comes from our Congressional Budget Office, an office set up literally decades ago in order to provide us with the most objective advice possible with respect to the budgetary implication of our actions.

In fact, just 2 short years ago, the President of the United States reported that we ought to end debate over assumptions and projections and all operate off baselines provided by the Congressional Budget Office. I regret that the President has abandoned that salutary course of action.

It is not relevant for the purposes of my argument here this evening, Mr. President. What is relevant is the fact, first, that the Congressional Budget Office has said to us, if you pass this bill, if you follow these policies, you will, in fact, reach balance by the year 2002. As a result, we, the Congressional Budget Office, can tell you that the economy of the United States will be healthier, much healthier, as a result of adopting those policies.

The figure the Congressional Budget Office gives in this regard is that we will have a dividend of $170 billion in increased revenues from our present tax system as a result of the fact that we are going to balance the budget, increased revenues that come because the economy will grow more rapidly because interest rates will be lower. These will be reflected in the budget itself.

Of course, it is this $170 billion dividend, together with changes which close corporate loopholes—corporate welfare as it were—that provide the great bulk of the $245 billion tax cut for middle-income and working Americans, which is an integral part of this reconciliation bill.

The dramatic differences which will be debated later on this week have to do with whether or not we want that dividend, whether or not we want to adopt difficult and tough policies that will result in a stronger or better economy, or whether we prefer the status quo at a slower rate of growth, a higher interest rate, and a higher rate of inflation. It is just that simple.

Now, Mr. President, in addition to repudiating the ideas that were causing this dividend to take place, Members on the other side of the aisle do not want to give a tax break to middle-income Americans under any set of circumstances. They would much prefer to continue the policies of the past—slow growth, no tax reductions, no balanced budget now or ever.

The President's budget, by contrast, according to the same Congressional Budget Office, will never result in deficits significantly below $200 billion a year.

Finally, Mr. President, we will have, during the course of the debate over this reconciliation bill, a paradox. The President, the official line is that these spending reductions are too great, that we should not give working Americans tax reductions. We simply ought to continue the status quo.

Grace notes from some on the other side in connection with this debate will be that we really have not balanced the budget at all, we have not gone far enough, we should not be using a unified budget, we should ignore all of the taxes collected under the Social Security system and paid out under that Social Security system.

Implicit in that argument is that we have not gone far enough, that we have not cut spending sufficiently. There will be a great deal of confusion on the part of the American people when they hear on one side the argument that we have not gone far enough because we do not bring the budget to balance in the year 2002, in spite of the words of the Congressional Budget Office—without any suggestion, I may say, as to how we should do so—and, on the other side, the argument we are simply going to far.

I hope this debate will be worked out during the course of, simply, the balance of this week. But the bottom line is that this Senate, the majority in this Senate, are going to vote for a budget which not only brings us into balance as quickly as a constitutional amendment would have brought us into balance but will also pay off $170 billion less in deficits than would otherwise take place. That $170 billion is itself only the tip of the iceberg above water. That is how the Federal Government benefits. The people of the United States will benefit two, three, four times as much, in higher incomes, in better jobs, in a brighter future and in more opportunity.

So I commend my friend, the chairman of the Senate Budget Committee, for his work in getting us to the verge of this great success and look forward to a significant and vitally important debate in this Senate on the future of this country.

UNANIMOUS-CONSENT AGREEMENT—S. 1322

Mr. GORTON. Mr. President, I ask unanimous consent that during the pendency of S. 1322, the only amendment in order be one substitute amendment to be offered by Senator DOLE and others. I further ask that following the disposition of the above-listed amendment, the bill be advanced to third reading and, at 11 a.m. on Tuesday, there be 30 minutes of time remaining to be equally divided in the usual form, with 10 minutes under the additional control of Senator BYRD, with a vote to occur on passage of S. 1322, as amended, at 11:40 a.m. Tuesday, and that paragraph 4 of rule 12 be waived.

The PRESIDING OFFICER. Is there any objection to the request?

Mr. FORD. Mr. President, this side of the aisle has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I thank the Senator.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

THE BUDGET

Mr. FORD. Mr. President, I enjoyed listening to my friend from the State of Washington. It seems like the only hearings we are going to have on this budget are on the Senate floor. It is very difficult not to have people in to hold hearings and have markups on many pieces of legislation.

Mr. President, it is a little bit interesting to look at all the figures that are coming out. Everybody has different figures. CBO says one thing and they give you a certification. Then we get numbers from someplace else. Then the Budget Committee comes up with theirs, and I am tickled to death with the work of the Budget Committee except I do not think they ought to give the tax cut.

Now we see almost 50 percent of the taxpayers of this country are going to have their taxes increased by not allowing the tax credit that they have had in past years that encouraged people to work, to bring people above the poverty level.

So, you can say all you want to about how great this is. There is a hymn, "How Great Thou Art." There is nothing about "thou art" in this budget.

So I hope we will look at it very closely. I am disappointed we did not have an opportunity to dig into the details because, as I have brought up, the devil is in the details. We have not seen all the details yet, and I hope at some point during the debate some of the details will come out.

I do not know whether or not anybody else is seeking the floor, Mr. President. If not, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1322.

AMENDMENT NO. 2941

(Purpose: To provide for the establishment of the United States Embassy in Israel in the capital of Jerusalem, and for other purposes)

Mr. DOLE. Mr. President, I send a substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2941.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jerusalem Embassy Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Each sovereign nation, under international law and custom, may designate its own capital.

(2) Since 1950, the city of Jerusalem has been the capital of the State of Israel.

(3) The city of Jerusalem is the seat of Israel's President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.

(4) The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.

(5) From 1948–1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.

(6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.

(7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

(8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.

(9) In 1990, the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress "strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected".

(10) In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

(11) The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of "final status" issues, including Jerusalem.

(12) The Agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

(13) In March of 1995, 93 members of the United States Senate signed a letter to Secretary of State Warren Christopher encouraging "planning to begin now" for relocation of the United States Embassy to the city of Jerusalem.

(14) In June of 1993, 257 members of the United States House of Representatives signed a letter to the Secretary of State Warren Christopher stating that the relocation of the United States Embassy to Jerusalem "should take place no later than . . . 1999".

(15) The United States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.

(16) The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

(17) In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry.

SEC. 3. TIMETABLE.

(a) Statement of the Policy of the United States.—

(1) Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected;

(2) Jerusalem should be recognized as the capital of the State of Israel; and

(3) the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

(b) Opening Determination.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for "Acquisition and Maintenance of Buildings Abroad" may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

SEC. 4. FISCAL YEARS 1996 AND 1997 FUNDING.

(a) Fiscal Year 1996.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1996, not less than $25,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(b) Fiscal Year 1997.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1997, not less than $75,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

SEC. 5. REPORT ON IMPLEMENTATION.

Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate detailing the Department of State's plan to implement this Act. Such report shall include—

(1) estimated dates of completion for each phase of the establishment of the United States Embassy, including site identification, land acquisition, architectural, engineering and construction surveys, site preparation, and construction; and

(2) an estimate of the funding necessary to implement this Act, including all costs associated with establishing the United States Embassy in Israel in the capital of Jerusalem.

SEC. 6. SEMIANNUAL REPORTS.

At the time of the submission of the President's fiscal year 1997 budget request, and every six months thereafter, the Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made toward opening the United States Embassy in Jerusalem.

SEC. 7. PRESIDENTIAL WAIVER.

(a) Waiver Authority.—(1) Beginning on October 1, 1998, the President may suspend the limitation set forth in section 3(b) for a period of six months if he determines and reports to Congress in advance that such suspension is necessary to protect the national security interests of the United States.

(2) The President may suspend such limitation for an additional six month period at the end of any period during which the suspension is in effect under this subsection if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.

(3) A report under paragraph (1) or (2) shall include—

(A) a statement of the interests affected by the limitation that the President seeks to suspend; and

(B) a discussion of the manner in which the limitation affects the interests.

(b) Applicability of Waiver to Availability of Funds.—If the President exercises the authority set forth in subsection (a) in a fiscal year, the limitation set forth in section 3(b) shall apply to funds appropriated in the following fiscal year for the purpose set forth in such section 3(b) except to the extent that the limitation is suspended in such following fiscal year by reason of the exercise of the authority in subsection (a).

SEC. 8. DEFINITION.

As used in this Act, the term "United States Embassy" means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

Mr. DOLE. There is no objection to the substitute.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2941) was agreed to.

Mr. DOLE. Mr. President, as I understand it, we have 40 minutes? There will be 40 minutes of debate beginning at 11 a.m. tomorrow, to be followed on a vote on the passage of S. 1322, the substitute. We expect a vote about 11:40. I think 10 minutes of that 40 is reserved for Senator BYRD and the other is equally divided.

In addition, I ask at this point to add the following cosponsors to the bill:

Senators FEINSTEIN, LAUTENBERG, and KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask for yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask there be a period for morning business not to extend beyond the hour of 7:30 p.m., with Members permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON BLOCKING ASSETS AND PROHIBITING TRANSACTIONS WITH SIGNIFICANT NARCOTICS TRAFFICKERS—MESSAGE FROM THE PRESIDENT—PM 89

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency in response to the unusual and extraordinary threat posed to the national security, foreign policy, and economy of the United States by the actions of significant foreign narcotics traffickers centered in Colombia and to issue an Executive order that:

—blocks all property and interests in property in the United States or within the possession or control of United States persons of significant foreign narcotics traffickers centered in Colombia designated in the Executive order or other persons designated pursuant thereto; and

—prohibits any transactions or dealing by United States persons or within the United States in property of the persons designated in the Executive order or other persons designated pursuant thereto.

In the Executive order (copy attached) I have designated four significant foreign narcotics traffickers who are principals in the so-called Cali cartel in Colombia. I have also authorized the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to designate additional foreign persons who play a significant role in international narcotics trafficking centered in Colombia or who materially support such trafficking, and other persons determined to be owned or controlled by or to act for or on behalf of designated persons, whose property or transactions or dealings in property in the United States or with United States persons shall be subject to the prohibitions contained in the order.

I have authorized these measures in response to the relentless threat posed by significant foreign narcotics traffickers centered in Colombia to the national security, foreign policy, and economy of the United States.

Narcotics production has grown substantially in recent years. Potential cocaine production—a majority of which is bound for the United States—is approximately 850 metric tons per year. Narcotics traffickers centered in Colombia have exercised control over more than 80 percent of the cocaine entering the United States.

Narcotics trafficking centered in Colombia undermines dramatically the health and well-being of United States citizens as well as the domestic economy. Such trafficking also harms trade and commercial relations between our countries. The penetration of legitimate sectors of the Colombian economy by the so-called Cali cartel has frequently permitted it to corrupt various institutions of Colombian government and society and to disrupt Colombian commerce and economic development.

The economic impact and corrupting financial influence of such narcotics trafficking is not limited to Colombia but affects commerce and finance in the United States and beyond. United States law enforcement authorities estimate that the traffickers are responsible for the repatriation of $4.7 to $7 billion in illicit drug profits from the United States to Colombia annually, some of which is invested in ostensibly legitimate businesses. Financial resources of that magnitude, which have been illicitly generated and injected into the legitimate channels of international commerce, threaten the integrity of the domestic and international financial systems on which the economies of many nations now rely.

For all of these reasons, I have determined that the actions of significant narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I have, accordingly, declared a national emergency in response to this threat.

The measures I am taking are designed to deny these traffickers benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. These measures demonstrate firmly and decisively the commitment of the United States to end the scourge that such traffickers have wrought upon society in the United States and beyond. The magnitude and dimension of the current problem warrant utilizing all available tools to wrest the destructive hold that these traffickers have on society and governments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 21, 1995.*

MEASURES REFERRED

The following concurrent resolution, previously received from the House of Representatives for the concurrence of the Senate, was read and referred as indicated:

H. Con. Res. 108. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1594; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 1715. An act respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1536. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual Horse Protection Enforcement Report for fiscal year 1994; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1537. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation for the Conservation Title of the 1995 Farm Bill; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1538. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93–03; to the Committee on Appropriations.

EC–1539. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, a notice of determination relative to contract awards; to the Committee on Armed Services.

EC–1540. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer transfer by sale of three vessels; to the Committee on Armed Services.

EC–1541. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report entitled, "Flood Insurance Compliance"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1542. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to amend chapter 303 of title 49, United States Code, to provide for the transfer of selected National Driver Register functions to non-Federal management, to provide authorizations for appropriations for each of fiscal years authorizations for appropriations for each of fiscal years 1996 and 1997, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. 1357. An original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1354. A bill to approve and implement the OECD Shipbuilding Trade Agreement; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. CONRAD, Mr. LEVIN, Mr. REID, Mr. WELLSTONE, Mr. SIMON, Mr. FEINGOLD, Mr. KENNEDY, Mr. LEAHY, Mr. HARKIN, Mr. BYRD, Mr. FORD, Mr. KERREY, Mr. BUMPERS, and Mr. KERRY):

S. 1355. A bill to amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States; to the Committee on Finance.

By Mr. PRESSLER:

S. 1356. A bill to amend the Shipping Act of 1984 to provide for ocean shipping reform, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 1357. An original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; from the Committee on the Budget; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 1354. A bill to approve and implement the OECD Shipbuilding Trade Agreement; to the Committee on Finance.

THE SHIPBUILDING TRADE AGREEMENT ACT

• Mr. BREAUX. Mr. President, I introduce legislation to approve and implement the Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, also known as the OECD Shipbuilding Agreement. While not perfect, this agreement appears to be our last best chance to eliminate unfair subsidies, to counter injurious pricing policies, to reign in trade distorting export financing, and to institute an effective binding dispute settlement system for shipbuilding controversies. Because of this agreement, for the first time, U.S. shipyard workers will have safeguards against having to compete with continued funding from foreign treasuries.

My involvement with the issue of unfair foreign shipbuilding practices relates to my State of Louisiana being one of the premier shipbuilding States in the country. Over 27,000 Louisiana jobs are impacted by constructing or repairing ships. As has been the case nationwide, Louisiana's shipbuilding employment has suffered significantly since the 1980's. This situation is due to U.S. defense downsizing and to unfair foreign shipbuilding practices. Since 1989, I've been actively working to eliminate unfair foreign shipbuilding practices and to restore the U.S. commercial shipbuilding industry.

How did the United States get in this dilemma? From 1974 to 1987, worldwide overall demand for ocean going vessels declined 71 percent. During the same time span, United States merchant vessel construction dropped drastically from an average of 72 ships/year to an average of 21 ships/year. Also during this period governments in all the major shipbuilding nations, with the exception of the United States, dramatically increased aid to their shipyards and their associated infrastructure with massive levels of subsidies in virtually every form.

The U.S. Government, however, decided to unilaterally terminate commercial construction subsidies to U.S. yards. Instead, U.S. Defense shipbuilding increased. U.S. Defense shipbuilding construction rose from an average of 79 ships/year in the 1970's to an average of 95 ships/year in the 1980's. The net result was a virtual abandonment by the large U.S. Defense yards to subsidized foreign yards of the international commercial shipbuilding market. In 10 years, the number of major U.S. shipyards producing only commercial ships declined from 11 to 1.

The end of the 1980's saw a Department of Defense reevaluation of the need for a 600-ship navy. It also saw the U.S. shipbuilding industry reevaluate its need to compete for commercial ship construction orders in a subsidized world market. Consequently, in June of 1989, the U.S. shipbuilding industry, represented by the Shipbuilders Council of America, filed a claim for injurious unfair subsidies under section 301 of the U.S. trade laws against the major shipbuilding countries of the world.

Later that year, however, U.S. Trade Ambassador Carla Hills, persuaded the industry that a better way to eliminate the foreign subsidies was through multilateral negotiations. Industry decided to give international negotiations a chance and therefore withdrew its section 301 claim. The 5-year OECD quest to eliminate shipbuilding subsidies had begun.

From late 1989 to late 1994, the OECD negotiations were constantly on again and off again. During 1993, when the talks had seemingly collapsed, I introduced a bill in the Senate (S. 990) and Congressman SAM GIBBONS introduced a bill in the House (H.R. 1402), that would have invoked significant sanctions against ships constructed in foreign subsidized yards when those ships called upon the United States. This legislation became unnecessary when the agreement was finally signed.

From June 1989 until the present agreement was signed on December 21, 1994, the U.S. objective and the industry's urgent request appeared to be straightforward: "Eliminate subsidies and we can compete." When the Clinton administration came into office, to its credit, it proposed a shipyard revitalization plan. Assistant U.S. Trade Representative Don Phillips described the nature of the plan for the Senate Finance Committee Trade Subcommittee on November 18, 1993 when he said:

> Finally, this five-point program is a transitional program, consistent with federal assistance to other industries seeking to convert from defense to civilian markets. In addition, it seeks to support, not undercut, the negotiations that are currently underway in the OECD. *In this regard, we have made clear our intention to modify this program, as appropriate, so that it would be consistent with the provision of a multilateral agreement—if and when such an agreement enters into force.* (emphasis added).

Now we have such an agreement, but the largest U.S. Defense shipyards don't want it because current U.S. transitional subsidies will need to be curbed, as well as additional future subsidies prohibited, in order to be consistent with the agreement. This is really the issue in a nutshell. We can talk about the Jones Act, we can talk about the trustworthiness of other countries, we can talk about the adequacy of enforcement mechanisms, but what it really seems to come down to for these big shipyards is whether or not we can keep our currently advantageous subsidies.

In all the comments I have heard to date about this agreement, I have yet to hear of a scenario whereby U.S. industry is better off fighting unfair foreign shipbuilding practices without the agreement than it would be with the agreement. For example, this agreement will give us real tools to fight unfair French subsidies. It will allow us to counter unfair dumping of ships by Japan and Korea. It will finally plug the gap in existing U.S. trade laws that has cost so many American shipyard workers their jobs.

The assertions that this agreement somehow puts the Jones Act domestic build provisions in jeopardy is discredited by our own Jones Act carriers who stand to lose the most under a faulty agreement. The largest Jones Act carriers, in fact, support the agreement and they clearly would not if this agreement hurt their interests—it does not. In addition, many of the new shipbuilding orders that have been placed at U.S. shipyards are for use in the Jones Act trade.

It also seems that the optimism over the current success of our title XI financing program may be overstated. As I understand it, the new export orders associated with the current title XI program exist because our stepped-up title XI program is currently protected by a standstill clause in the OECD agreement. If we reject the agreement, we lose the standstill clause, and consequently it seems to reason that we will lose our current title XI advantage. While I recognize the need to conform our title XI program, I am willing to explore the continuation of current title XI terms, subject to reasonable due diligence negotiations, to the date that we implement the terms of the agreement.

Unless we are prepared to win a long-term subsidies race with our competitors, I don't understand how we can reject this agreement. Not only is Congress faced with dire budgetary decisions, such as cutting over $450 billion from Medicare and Medicaid over the next 7 years, but the Department of Defense has also indicated that it will not fund commercial shipbuilding subsidies through its DOD accounts.

Add heightened competition due to increasing world shipbuilding capacity and it seems to me, and history supports, that our competitors are very likely to match or exceed what little amounts we will be able to devote to title XI. It was estimated by the Shipbuilding Council in 1993 that the top six subsidizing nations in the OECD were budgeting over $9 billion on average each year to assist their shipyards. We may then find ourselves in the same untenable situation that confronted our industry in 1981: No international subsidies disciplines, inadequate U.S. trade remedies, and no recourse for the U.S. commercial shipbuilding industry and its workers.

Mr. President, we're all in the same boat, so to speak. However, before anyone attempts to scuttle this agreement to help revise our U.S. commercial shipbuilding industry, I'd like to redouble efforts with all members of the industry to see what we can do to close the remaining competitiveness gap. Our goal should be to couple the significant advantages of this agreement with genuine and creative improvements in U.S. shipbuilding competitiveness.

With this in mind, I am introducing the Shipbuilding Trade Agreement Act. The text of this bill closely reflects an administration draft that we have attempted to improve and strengthen. It is a bipartisan work-in-progress bill composed of two titles. Title I contains "injurious pricing and countermeasures" provisions that closely track current U.S. antidumping laws, while taking into account the unique nature of ship transactions. Title II contains "other provisions" including amendments to the Merchant Marine Act of 1936, repeal of the U.S. vessel repair statute for signatory countries, and a special monitoring provision to ensure foreign country compliance with the terms of the shipbuilding agreement.

The House Ways and Means trade Subcommittee has already held a hearing on this agreement. I understand the subcommittee is currently making final revisions to the same USTR draft that we used and intends to introduce a bill in the House shortly. It is my hope that the House can move its bill quickly in order that both legislative bodies might pass a bill and send it to the President for signature before year-end. I have requested a full committee hearing on this Senate bill with the chairman of the Senate Finance Committee. Commerce Committee Surface Transportation and Merchant Marine Subcommittee Chairman TRENT LOTT has also indicated interest in holding a hearing on the agreement.

In closing, we stand before a window of opportunity for the U.S. commercial shipbuilding industry. The $265 billion commercial shipbuilding market is fast approaching its cyclical peak. I am hopeful that we will seize this moment and implement this agreement. It may be our best and only chance to end foreign shipbuilding subsidies and finally five our workers and yards the level playing field for which they have asked, and deserved, for too long.

I also ask unanimous consent that a copy of the October 19, 1995, Journal of Commerce editorial supporting the OECD Shipbuilding Agreement be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, Oct. 19, 1995]

END SHIP SUBSIDIES

Government subsidies have been the mainstay of foreign shipbuilders for decades. That has been a good deal for companies that buy ships but a burden for taxpayers who underwrite the handouts, and a problem for unsubsidized shipyards, including those in the United States.

Much of this would change under a pending global agreement, which would end most subsidies and give U.S. shipbuilders a better chance to compete. But the agreement is languishing in Congress, a victim mainly of political concerns. After more than six years spent negotiating this deal, lawmakers would be foolish to let it unravel over partisan sniping. Congress should approve it, and soon.

Japan, Korea and Europe dominate the world shipbuilding market, and for years their governments have showered them with financial support. The United States, which ended its direct subsidies in 1981, has been trying for six years to stop the foreign handouts. A deal completed in 1994 would largely do that, and it is scheduled to take effect Jan. 1 but only if the major shipbuilding nations ratify it. So far, the United States has not, and the prospects for approval are uncertain.

Most of the problems are purely political. The shipbuilding agreement's strongest supporter, Rep. Sam Gibbons, is the former Democratic chairman of the House Ways and Means Committee. The new Republican chairman, Rep. Bill Archer, has been cool toward an agreement viewed largely as a Democratic initiative—even though, as a Republican, Mr. Archer should be stumping for *any* plan that ends government subsidies. Indeed, Mr. Archer might eventually back the agreement, but only if influential Democrats support one of his bills. This is the usual Washington game of political trade-offs, but if a deal isn't struck soon, the pact may not be ratified by the January deadline.

The other problem is rooted in the White House. The Clinton administration negotiated the shipbuilding agreement and supports it publicly. But several big shipyards oppose it, as do their labor unions. Mr. Clinton, anxious to rebuild his labor base in time for the election, has been careful not to offend unions this year, so the White House hasn't been pushing Congress very hard.

Mr. Clinton and Republican leaders would do well to look at the larger issue here. Like farming and steel, shipbuilding has been one of the most distorted of international industries. Decisions on where to build ships have been based as much on government subsidies as on quality and workmanship. This has hurt U.S. shipyards, and the agreement would begin to change that.

Ironically, the biggest U.S. shipyards continue to fight the pact, arguing, instead, for new direct subsidies to help them make up for lost time. That is stunningly short-sighted. Any new subsidy plan by the United states would be matched instantly by other shipbuilding nations. Indeed, other countries most likely would top any U.S. subsidy, as they have before. That would leave U.S. shipbuilders in the same position they've been if for the last 15 years. For that reason, many smaller shipyards, including those with more commercial experience, are supporting the agreement.

Foreign shipyards, admittedly, have a leg up on their U.S. competitors because of existing subsidies, some of which will not be completely phased out until 1999. But U.S. yards have had their own advantages over the years, including lucrative military work and a government-created monopoly on building ships for the U.S. domestic trades. In fact, commercial ship orders actually have been increasing lately at U.S. yards. A generous government loan guarantee program has spurred the new orders, and while the program will be scaled back under the new pact, it has given U.S. yards a foot in the door with commercial buyers.

No trade agreement can ever instantly level the competitive field between nations. Still, the shipbuilding pact gets other countries off the subsidy treadmill and restores some sense to the global market. Leaders of both parties should put aside politics and get this deal done.●

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. CONRAD, Mr. LEVIN, Mr. REID, Mr. WELLSTONE, Mr. SIMON, Mr.

FEINGOLD, Mr. KENNEDY, Mr. LEAHY, Mr. HARKIN, Mr. BYRD, Mr. FORD, Mr. KERREY, Mr. BUMPERS, and Mr. KERRY):

S. 1355. A bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States; to the Committee on Finance.

THE AMERICAN JOBS AND MANUFACTURING PRESERVATION ACT

Mr. DORGAN. Mr. President, we will soon be making a number of tough choices on the Senate floor to reduce the Federal deficit. There is one choice, however, which should be easy for most of us: eliminating the costly and misguided tax subsidy which encourages American firms to move abroad and then compete, unfairly, with Main Street businesses in the U.S. market.

That's why I rise today—with 15 of my Senate colleagues—to introduce the American Jobs and Manufacturing Preservation Act. It repeals a perverse Federal tax incentive which actually encourages many of the finest U.S. companies to shut down their manufacturing plants in the United States, move them—and the jobs they provide—abroad, and then supply the U.S. market from foreign tax havens.

The often-overlooked loss of our manufacturing jobs is alarming. Yet the Federal Government actually rewards U.S. companies that move their jobs and capital to foreign tax havens.

This special tax subsidy is called deferral. The way it works is quite simple. If a U.S. company moves an operation abroad, it can defer its taxes on the resulting profits until it sends those profits back to the United States in the form of dividends. Evidence shows that this special tax break costs U.S. taxpayers billions of dollars in lost revenues, and accelerates the movement of U.S. jobs overseas.

According to the Bureau of Labor Statistics, about 3 million U.S. manufacturing jobs have been lost since 1979. One half of that job loss in manufacturing, 1.4 million, occurred between January 1989 and September 1993. During this time, the United States lost an average of 26,000 manufacturing jobs per month. This is the equivalent to shutting down one Fortune 500 manufacturing firm per month, for 56 months. While there was a short period of job growth in manufacturing in late 1993 and 1994, there are new and disturbing signs that employment in manufacturing is again declining.

While the United States was losing manufacturing jobs, many foreign tax havens were seeing significant increases in job creation from U.S. owned subsidiaries. For example, while the United States was losing 3 million manufacturing jobs, the number of jobs with United States based companies in Singapore sky-rocketed by 46 percent, or 36,800 jobs. In 1992, U.S. firms had hundreds of thousands of manufacturing jobs located in tax haven countries.

The Federal Government has just started to track data to tell us how many of the U.S. jobs lost through plant closure moved overseas. However, if only half of the plant closings involved these runaway plants moving jobs to other countries, this would account for the elimination of more than half a million U.S. manufacturing jobs per year.

This legislation is carefully targeted. It would end tax deferral only where U.S. multinationals produce abroad in foreign tax havens, and then ship those tax haven-produced products back into the United States. It is important to note that this bill does nothing to hinder U.S. multinationals that produce abroad from competing with foreign firms in foreign markets.

We can hardly be shocked when U.S. companies move jobs overseas—jobs which produce goods for U.S. consumption, no less—when we offer a special tax break giving them an unfair advantage over U.S. competitors to do so. Add the low tax rates and labor costs which foreign governments often use to entice U.S. firms to move overseas and it's not surprising at all that many companies find the lure to move U.S. jobs to foreign countries irresistible.

Congress should act now both to protect American jobs and to prevent any further erosion of our domestic economic base. And I intend to offer this legislation as amendment to the budget reconciliation bill later this week.

Some companies may still choose to dislocate thousands of workers in America in search of greater profits abroad. But taxpayers should not be asked to provide billions of dollars in tax subsidies to encourage them to do so.

By Mr. PRESSLER:

S. 1356. A bill to amend the Shipping Act of 1984 to provide for ocean shipping reform, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OCEAN SHIPPING REFORM ACT OF 1995

• Mr. PRESSLER. Mr. President, I ask unanimous consent that a summary of the text of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE OCEAN SHIPPING REFORM ACT OF 1995

ELIMINATION OF THE FEDERAL MARITIME COMMISSION

Under the new legislation the Federal Maritime Commission will be eliminated no later than October 1, 1997. The legislation directs that the existing functions and responsibilities of the Commission should begin to be transferred to the Secretary of Transportation, beginning as soon as practical in fiscal year 1996.

ELIMINATION OF TARIFF ENFORCEMENT AND TARIFF AND CONTRACT FILING

On January 1, 1997, tariffs shall no longer be enforced and, on June 1, 1997, all requirements that tariffs and service contracts be filed with the federal government are eliminated.

COMMON CARRIAGE

On June 1, 1997, a new and separate system for common and contract carriage takes effect. Under the common carriage regime, common carriers and conferences will be required to make available a schedule of transportation rates which shall include the rates, terms, and conditions for transportation services not governed by an ocean transportation contract. Upon the request of any person, the schedule of transportation rates shall be provided to the requesting person in writing. Common carriers and conferences may assess a reasonable charge for providing the schedule in writing; however, the charge may not exceed the cost of providing the information requested. Any disputes concerning the applicability of the rates, terms, and conditions provided, or any claim involving false billing, false classification, false weighing, false report of weight, or false measurement must be decided in State or Federal court.

CONTRACT CARRIAGE

The new legislation eliminates completely the rules and requirements pertaining to service contracts and establishes a broad and deregulated system of ocean transportation contracts. Under this system, one or more common carriers or a conference may enter into an ocean transportation contract with one or more shippers (as discussed below the definition of shipper has been expanded to include shippers' associations and ocean freight forwarders that accept responsibility for the payment of the ocean freight). The duties of the parties to an ocean transportation contract are limited to the duties specified by the terms of the contract, and ocean transportation contracts may not be challenged on the grounds that the contract violates a provision of the Act. The exclusive remedy for an alleged breach of an ocean transportation contract is an action in State or Federal court.

Ocean transportation contracts are not required to be filed with the federal government as are service contracts, and on January 1, 1998, such contracts may be made on a confidential basis, upon agreement of the parties. Also effective on January 1, 1998 is a requirement that members of a conference agreement may not be prohibited or restricted from agreeing with one or more shippers that the parties to the contract will not disclose the rates, services, terms, or conditions of that contract to any other member of the agreement, to the conference, to any other carrier, shipper, conference, or to any other third party.

INDEPENDENT ACTION ON CONTRACTS

On January 1, 1997, authorization is provided to the members of conference agreements to enter individual and independent contracts and, on June 1, 1997, the requirement that conferences may not prohibit or restrict conference members from engaging in individual negotiations for contracts and may not issue mandatory rules affecting individual contracts is implemented. However, a conference may require that a member of the conference disclose the existence of an individual contract or negotiations for a contract when the conference enters negotiations for a contract with the same shipper.

INDEPENDENT ACTION ON CONFERENCE RATES

On June 1, 1997, the notice requirements concerning independent action on conference common carriage rates is reduced from 10 calendar days to 3 business days.

CHANGES TO PROHIBITED ACTS

All prohibited acts related to rebating are stricken from the Shipping Act on January 1, 1997, and a new antidiscrimination provision is added that prohibits unreasonable discrimination by one or more common carriers against a person, place, port, or shipper, except when entering ocean transportation contracts.

On June 1, 1997, several other prohibitions concerning discrimination are stricken as is the restriction on the use of loyalty contracts. However, prohibitions concerning retaliation by carriers, the employment of fighting ships unreasonable refusals to deal, refusals to negotiate with shippers' associations, the acceptance of cargo or contracts with non-licensed and bonded ocean freight forwarders, and improper disclosure of information are retained. The legislation adds a new and controversial prohibited act that prevents conferences from subjecting a person, place, port, class or type of shipper, or ocean freight forwarder, to unjust or unreasonable ocean contract provisions.

EXPANSION OF THE MEANING OF SHIPPER

The definition of shipper is expanded to include shippers' associations and ocean freight forwarders that accept responsibility for payment of the ocean freight. One of the primary purposes of this change was to ensure that shippers' associations and ocean freight forwarders could enter ocean transportation contracts under the new contract carriage scheme established by the legislation. This change will also afford certain protections to such entities that traditionally have been limited to shippers.

OCEAN FREIGHT FORWARDERS/NVOCCS

The new Act collapses the definition of non-vessel-operating common carriers ("NVOCCs") into the definition of ocean freight forwarders and requires all United States ocean freight forwarders to obtain a license and bond (or other surety). This change effectively eliminates the confusing legal distinctions between various types of third parties who perform similar or related functions.

OTHER CHANGES TO DEFINITIONS

The definitions of certain terms that are no longer relevant or necessary under the new statutory scheme are stricken (*i.e.* "deferred rebates," "bulk cargo," "forest products," "loyalty contracts" and "service contracts") and a new definition for "ocean transportation contracts" is added.

CONTROLLED CARRIERS AMENDMENTS

All requirements that controlled carriers file tariffs with the FMC are eliminated by the new legislation. Additionally, a new provision is added to this section of the '84 Shipping Act that would expand the application of rate scrutiny to not only controlled carriers but to "ocean common carriers that have been determined by the Secretary to be structurally or financially affiliated with nontransportation entities or organizations (government or private) in such a way as to affect their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way that disadvantages United States carriers." The Secretary may make such a determination upon the request of any person or upon his own motion. This provision has been strongly criticized by many foreign carriers.

MARINE TERMINAL OPERATOR SCHEDULES

In order to address concerns raised by the ports and other providers of terminal services relative to the elimination of tariff enforcement, a provision is included in the Act that would require marine terminal operators to make a schedule of rates, regulations, and practices available to the public. This schedule shall be enforceable as an implied contract, without proof of actual knowledge of its provisions, for any activity taken by the operator to— (1) efficiently transfer property between transportation modes; (2) protect property from damage or loss; (3) comply with any governmental requirement; or (4) store property in excess of the terms of any other contract or agreement, if any, entered into by the marine terminal operator.

POLICY REGARDING FOREIGN GOVERNMENTS' OWNERSHIP AND CONTROL OF OCEAN COMMON CARRIERS

The Secretary of Transportation is required under the Act to implement a negotiation strategy to persuade foreign governments to divest themselves of ownership and control of ocean common carriers. The Secretary must develop and submit such strategy to Congress no later than January 1, 1997.

OTHER AMENDMENTS

Technical and conforming changes were made to the Penalties section of the 1984 Shipping Act and the Foreign Laws and Practices Act. In addition, the requirement concerning anti-rebating certificates is eliminated.

ADDITIONAL COSPONSORS

S. 581

At the request of Mr. FAIRCLOTH, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Montana [Mr. BURNS], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. CAMPBELL] was added as cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 881

At the request of Mr. PRYOR, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1088

At the request of Mr. COHEN, the names of the Senator from Georgia [Mr. NUNN], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1088, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 1322

At the request of Mr. DOLE, the names of the Senator from Tennessee [Mr. THOMPSON], the Senator from Washington [Mrs. MURRAY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from California [Mrs. FEINSTEIN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1322, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 1323

At the request of Mr. DOLE, the names of the Senator from Tennessee [Mr. THOMPSON], the Senator from North Dakota [Mr. DORGAN], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1323, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

AMENDMENTS SUBMITTED

THE JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

DORGAN AMENDMENT NO. 2940

Mr. DORGAN proposed an amendment to the bill (S. 1322) to provide for the relocation of the United States Embassy in Israel to Jerusalem, and other purposes; as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON BUDGET PRIORITIES.

(a) FINDINGS.—The Senate finds that—

(1) the concurrent resolution on the budget for fiscal year 1996 (H. Con. Res. 67) calls for $245 billion in tax reductions and $270 billion in projected spending reductions from Medicare;

(2) reducing projected Medicare spending by $270 billion could substantially increase out-of-pocket health care costs for senior citizens, reduce the quality of care available to Medicare beneficiaries and threaten the

financial health of some health care providers, especially in rural areas;

(3) seventy-five percent of Medicare beneficiaries have annual incomes of less than $25,000;

(4) most of the tax cuts in the tax bill passed by the House of Representatives (H.R. 1215) go to families making over $100,000 per year, according to the Office of Tax Analysis of the United States Department of the Treasury.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate should approve no tax legislation which reduces taxes for those making over $250,000 per year; and

(2) the savings from limiting any tax reductions in this way should be used to reduce any cuts in projected Medicare spending.

DOLE AMENDMENT NO. 2941

Mr. DOLE proposed an amendment to the bill S. 1322, supra; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jerusalem Embassy Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Each sovereign nation, under international law and custom, may designate its own capital.

(2) Since 1950, the city of Jerusalem has been the capital of the State of Israel.

(3) The city of Jerusalem is the seat of Israel's President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.

(4) The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.

(5) From 1948–1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.

(6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.

(7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

(8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.

(9) In 1990, the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress "strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected".

(10) In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

(11) The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of "final status" issues, including Jerusalem.

(12) The Agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

(13) In March of 1995, 93 members of the United States Senate signed a letter to Secretary of State Warren Christopher encouraging "planning to begin now" for relocation of the United States Embassy to the city of Jerusalem.

(14) In June of 1993, 257 members of the United States House of Representatives signed a letter to the Secretary of State Warren Christopher stating that the relocation of the United States Embassy to Jerusalem "should take place no later than . . . 1999".

(15) The United States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.

(16) The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

(17) In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry.

SEC. 3. TIMETABLE.

(a) STATEMENT OF THE POLICY OF THE UNITED STATES.—

(1) Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected;

(2) Jerusalem should be recognized as the capital of the State of Israel; and

(3) the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

(b) OPENING DETERMINATION.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for "Acquisition and Maintenance of Buildings Abroad" may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

SEC. 4. FISCAL YEARS 1996 AND 1997 FUNDING.

(a) FISCAL YEAR 1996.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1996, not less than $25,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(b) FISCAL YEAR 1997.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1997, not less than $75,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

SEC. 5. REPORT ON IMPLEMENTATION.

Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate detailing the Department of State's plan to implement this Act. Such report shall include—

(1) estimated dates of completion for each phase of the establishment of the United States Embassy, including site identification, land acquisition, architectural, engineering and construction surveys, site preparation, and construction; and

(2) an estimate of the funding necessary to implement this Act, including all costs associated with establishing the United States Embassy in Israel in the capital of Jerusalem.

SEC. 6. SEMIANNUAL REPORTS.

At the time of the submission of the President's fiscal year 1997 budget request, and every six months thereafter, the Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made toward opening the United States Embassy in Jerusalem.

SEC. 7. PRESIDENTIAL WAIVER.

(a) WAIVER AUTHORITY.—(1) Beginning on October 1, 1998, the President may suspend the limitation set forth in section 3(b) for a period of six months if he determines and reports to Congress in advance that such suspension is necessary to protect the national security interests of the United States.

(2) The President may suspend such limitation for an additional six month period at the end of any period during which the suspension is in effect under this subsection if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.

(3) A report under paragraph (1) or (2) shall include—

(A) a statement of the interests affected by the limitation that the President seeks to suspend; and

(B) a discussion of the manner in which the limitation affects the interests.

(b) APPLICABILITY OF WAIVER TO AVAILABILITY OF FUNDS.—If the President exercises the authority set forth in subsection (a) in a fiscal year, the limitation set forth in section 3(b) shall apply to funds appropriated in the following fiscal year for the purpose set forth in such section 3(b) except to the extent that the limitation is suspended in such following fiscal year by reason of the exercise of the authority in subsection (a).

SEC. 8. DEFINITION.

As used in this Act, the term "United States Embassy" means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold a hearing on S. 1341, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, AZ. The hearing will take place on Thursday, October 26, 1995, beginning at 9:30 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

AGRICULTURAL APPROPRIATIONS BILL

• Mr. ABRAHAM. Mr. President, on September 20, the Senate passed the Agriculture appropriations bill. I would like to take this time to explain some of the votes I cast during debate on this bill.

I voted for several amendments related to reducing the scope of the Market

Promotion Program including an amendment which would reduce funding for the MPP's and limit potential users to small U.S. businesses.

While many businesses have benefited from this program, in these times of extreme budgetary austerity, we must prioritize Federal Government spending. These are tough choices, but if we don't make them now, the results will be devastating for future generations.

One of our goals in this Congress has been to free citizens from unnecessary burdens and excessive taxation of bureaucracy. In doing so, some Government programs which support businesses also must be reduced. It is my hope, however, that in the long run, we will allow individuals and businesses to keep more of the money they are now paying in taxes so that they are able to create programs like the Market Promotion Program without Government involvement.

I also voted against an amendment which would have eliminated from the bill a provision to provide assistance to cotton farmers whose crops were devastated by tobacco bud worms, beet army worms, and other pests. This amendment was accepted without my support.

Many farmers were told that the newly created Catastrophic Crop Disaster Insurance Program would provide the same level of protection as previous Federal disaster programs. These farmers, therefore, relied on the new program for help in disasters such as this. Unfortunately, the level of protection is not the same as previous disaster programs. The provision to assist cotton farmers was included in the bill because the Catastrophic Crop Disaster Insurance Program is not sufficient to help these farmers.

Mr. President, recognizing the extreme losses these farmers are experiencing through no fault of their own and over which they had absolutely no control, I feel it is appropriate that the Federal Government, assuming that the Secretary of Agriculture deems the losses disastrous, step in to provide these low interest loans to cotton growers who have been economically devastated by this disaster.•

DRUNK DRIVING PREVENTION ACT

• Mr. LAUTENBERG. Mr. President, I am joining Senator DORGAN in introducing the Drunk Driving Prevention Act of 1995. I urge my colleagues to lend their support to this important piece of legislation.

The Drunk Driving Prevention Act of 1995 would require States to take a commonsense approach to preventing drunk driving accidents and deaths. The legislation would require the transfer of certain Federal highway funds to a State's highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger's area of motor vehicles. Sanctions under the bill would not go into effect until fiscal year 2000, so States will have ample time to comply with this law.

I have always been a strong supporter of efforts to eliminate the needless slaughter of innocent men, women, and children on our Nation's highways. I sponsored the legislation that established the 21 minimum drinking age law. That legislation has been credited with saving some 9,000 lives and 120,600 injuries over the last 10 years.

Even with efforts like the "21" bill, the killing continues. Last year, nearly 17,000 people were needlessly killed in alcohol-related traffic accidents. That amounts to one alcohol-related death every 30 minutes. The repercussions of impaired driving continue to cost our society some $46 billion each year in direct costs, with approximately $5.5 billion allotted for medical care.

Mr. President, we all know that mixing alcohol and driving is a deadly combination. Unfortunately, 26 States in this country allow the consumption of alcohol in motor vehicles. This is an open invitation to disaster and an outrage that must be stopped.

I commend my friend from North Dakota for his tenacity on this issue and I am proud to join him in his effort to make our Nation's roads safer.•

RETIREMENT OF SENATOR SAM NUNN

• Mr. DODD. Mr. President, I want to take a few moments to reflect upon the recent announcement of our esteemed colleague from Georgia that he will not seek reelection at the conclusion of his current term. I must of course, accept his decision, but I am also personally saddened by it.

SAM NUNN has given much to this body, and given even more to the people of Georgia. Early in his career, SAM NUNN quietly impressed his colleagues with his thoughtful and well-reasoned speeches on the future of our national defense. And as the former chairman of the Senate Armed Services Committee, he helped shape that future with strong leadership and keen intellect.

SAM NUNN led one of this body's most important committees during a time of enormous, it not tumultuous, global change. His foresight about events in the Russian Republic led this body to create one of the world's most important mechanisms for ensuring the peaceful disposal of former Soviet weapons. To this day, the Nunn-Lugar initiative on security assistance leaves a legacy of peace in the post-cold-war era—a peace that stands as a fitting tribute to the efforts of its author.

But SAM NUNN's commitment to peace has been matched, if not surpassed, by his commitment to a strong defense. For nearly a decade, SAM NUNN has helped crystallize the standards by which we examine our national defense. It was SAM NUNN who pushed for the American research initiatives that have resulted in today's stealth technologies. Likewise, it was SAM NUNN who ensured those technologies were available to those serving in our Armed Forces, giving them the edge they needed to defend our country.

Finally, it should be noted that SAM NUNN always put first the needs and the safety of America's service personnel. Over the past 23 years, SAM NUNN has consistently fought for our service members and their families. Whether it was funds for better housing, or expanded opportunities for better medical care, SAM NUNN has always been there guarding the interests of our dedicated troops. The dozens upon dozens of tokens of appreciation that adorn his office wall are proof of SAM NUNN's commitment to people.

SAM NUNN is a gentleman and a scholar. He has graced these halls for more than two decades with his quick wit, commitment to public service, and personal passion for the affairs of our Nation. I wish my friend well, and I shall miss his service in this body.•

DECLINING CARIBOU HERD/ARCTIC NATIONAL WILDLIFE REFUGE

• Mr. LAUTENBERG. Mr. President, later this week, the Senate will be voting on amendments to the budget reconciliation bill, which the Senate Budget Committee approved today. One of those amendments will be to strike the provision that opens up the Arctic National Wildlife Refuge to oil and gas drilling.

I strongly oppose drilling in ANWR and will support that amendment. If we allow drilling in the coastal plain, we are destroying what the Fish and Wildlife Service calls the biological heart of the only complete Arctic ecosystem protected in North America. We will be destroying that resource for a one in five chance of finding any economically recoverable oil in the coastal plain. And, even worse, we will destroy that biological heart in an effort to recover what many experts suggest will be only 200 days worth of oil for the Nation.

Mr. President, I do not intend to argue all the issues surrounding the decision to drill in ANWR, or to keep it as it is. Instead, I want to only focus on one issue: caribou.

On Saturday, the Anchorage Daily News reported that a new State survey produced by the Alaska Department of Fish and Game revealed a sharp decline in the central Arctic caribou herd, which calves and ranges in the Prudhoe Bay and Kuparuk oil fields, from 23,400 animals in 1992 to about 18,100 this summer. The census also revealed that the herd that stays away from the oil and gas development has not suffered as much decline.

The State and Federal wildlife biologists do not know what caused the decline, but one thing is sure. The article paraphrases a State wildlife biologist.

> [A]lmost all of the decline has occurred in that part of the herd that ranges near the oil fields. It could be due to noise, traffic or some other disruption of caribou grazing, or to some natural cycle.

Mr. President, I raise this because there has been some dispute involving the effects of the proposed drilling on wildlife, and particularly on caribou. Supporters of drilling in ANWR contend that caribou are flourishing and the caribou may even benefit from development. Opponents of drilling contend that the impact will negatively affect caribou, particularly the porcupine caribou, which calve on the 1002 area and on which the Gwich'in people depend for their food and culture.

Two herds occupy ANWR: the porcupine herd and the central Arctic herd. There are significant differences between the two herds, but, according to industry, the basic features of the ecology are similar. Industry publications boast that the central Arctic herd caribou are healthy and increasing in the Prudhoe Bay region, and that oil development has not adversely affected caribou. Opponents of drilling believe otherwise.

Reasonable people can and do differ on this point. However, this recent study raises some serious questions as to the health of the central Arctic herd. More importantly, the fact that the herd is declining on those lands where there is current oil and gas development, raises critical questions about the effects of proposed oil and gas drilling in the Arctic National Wildlife Refuge.

Environmentalists have contended that the effects will be severe to the caribou herd. This survey suggests that they may be right. The Anchorage Daily News article cites recent research by a University of Alaska Fairbanks biologist, which found that caribou living near the oil fields have far fewer calves.

And, a Federal Arctic National Wildlife Refuge biologist is paraphrased as saying:

> If oil activity is to blame, such impacts would be magnified in the wildlife refuge. There, the porcupine herd is much larger—about 150,000 animals—but there is less coastal habitat and the calving grounds are much smaller.

Mr. President, when the Senate votes on the fate of the Arctic National Wildlife Refuge, every Member should put politics aside and vote on facts. This report is serious. We ought not take a chance on the pristine ecosystem and its wildlife by drilling in ANWR.

I ask that the text of the article be printed in the RECORD.

[From the Anchorage Daily News, Oct. 21, 1995]

OIL FIELD CARIBOU DECLINE—STATE FINDS FEWER IN ARCTIC HERD

(By Steve Rinehart)

A new state caribou survey has found a sharp decline in the Central Arctic caribou herd, which ranges in and around the Prudhoe Bay oil fields.

State and federal biologists said they don't know what caused the decline but said it could have been brought on by interference from the oil fields, or by some unknown natural cause. In any case, the caribou count released late Friday by the Alaska Department of Fish and Game may strengthen arguments against opening the Arctic National Wildlife Refuge just east of Prudhoe to oil drilling.

The effect of oil development on caribou is one of the core issues in the statewide and national debate over drilling in ANWR. There, the much larger Porcupine caribou herd calves in areas that are thought to be hot oil prospects.

The Central Arctic herd has dropped from about 23,400 animals in 1992, the most recent prior survey, to about 18,100 this summer, according to the count released late Friday. Low calf production brought on by undernourished cows is thought to be the cause of that 23 percent decline, but the reasons behind it are not known, according to state Fish and Game biologist Ken Whitten of Fairbanks, who conducted the survey.

However, Whitten said, almost all of the decline has occurred in that part of the herd that ranges near the oil fields. It could be due to noise, traffic or some other disruption of caribou grazing, or to some natural cycle, he said.

The department's first accurate count, coinciding with the early days of oil production in 1978, placed the herd at about 6,000 animals. The herd more than doubled in the next five years, then climbed steadily to its peak.

The most recent survey was scheduled to be conducted in 1994, but was delayed until this year by bad weather. In a memo dated Friday, Whitten said the census was based on "high quality" aerial photographs taken July 15.

"Weather conditions and carbou behavior were ideal for the photo-census effort," Whitten wrote. "It is unlikely that many caribou were missed."

The kind of change noticed in the Central herd is not extraordinary for cribou, Whitten said in an interview. "The fact that it is happening around the oil field is what is drawing attention," Whitten said.

Biologists for the major oil producers could not be reached for comment Friday evening. However, at a wildlife conference in Fairbanks this summer, before the census was completed, British Petroleum scientist Chris Herlugson said his observations indicate the Central Arctic caribou may benefit from some oil field improvements.

Thousands of caribou "come right into the fields on sunny, calm days when the mosquitoes and flies are abundant," he said at the time, "Those gravel roads and pads will provide a little bit of relief."

Arco spokesman Ronnie Chappell said his company would "delay comment until we have had an opportunity to talk to the biologists who conducted the census."

Fran Mauer, a federal Arctic National Wildlife Refuge biologist who has worked with state Fish and Game on caribou studies, said he was not surprised by the findings. Recent research by a University of Alaska Fairbanks biologist found that caribou living near the oil fields have far fewer calves, he said.

"There are a myriad of potential factors," he said, but one part of the census stands out: The part of the Central Arctic herd that keeps away from Prudhoe has not suffered near as much decline.

If oil activity is to blame, he said, such impacts would be magnified in the wildlife refuge. There, the Porcupine herd is much larger—about 150,000 animals—but there is less coastal habitat and the calving grounds are much smaller, he said.

The census got plenty of attention late Friday. For, although the biological significance of the new caribou count is uncertain, the political weight may be considerable.

In lobbying to open ANWR to drilling, the Knowles administration, the oil industry and development groups have made much of the fact that the Central herd has grown dramatically during the 20-year history of Prudhoe Bay. Oil exploration "will not hurt the wildlife or the land," declared an advertisement in a Washington, D.C., newspaper this week, placed by the state- and industry-funded group Arctic Power.

The new census does not contradict that, said Arctic Power director Debbie Reinwand.

"We could still say that the number of caribou have tripled since Prudhoe Bay," she said. "I think if (oil development) was going to hurt the caribou we would have seen it in that 20-year period."

She said she did not think the new information would sway Congress, which is days away from voting on a major budget bill that includes the ANWR drilling provision.

ANWR drilling opponents, though, said the census supports their arguments, and could affect the debate.

"It makes an opening for people to listen who were not inclined to listen before," said Bob Childers of the Gwich'in Steering Committee, which represents some Interior Alaska Natives who oppose drilling.

"Senators and congressmen have been assured by everyone that the herd is growing and all is nifty-keen. This raises a caution flag," he said.

Teri Camery of the Alaska Wilderness League said, "This demonstrates that oil and wilderness don't mix." If the experience of the Central herd is applied to the Porcupine herd, she said, "we're likely to see an even more severe decline."

"It is really interesting in that the state has denied there is a conflict between caribou and oil development," said Pam Miller of the Alaska Coalition.

A spokeswoman for Gov. Tony Knowles, Claire Richardson, said Knowles would not comment until reviewing the report, which was released after the close of business Friday at the request of the Daily News.●

TRIBUTE TO RETIRING SENATOR BILL BRADLEY

● Mr. DODD. Mr. President, I rise to pay tribute today to our colleague BILL BRADLEY, who has announced he will be leaving the Senate following the conclusion of his term. He will indeed be missed, as Senator BRADLEY's tenure in this body has been one of true statesmanship and outstanding public service.

Mr. President, a Renaissance Man is, in this day and age, a rare individual. Not many people distinguish themselves in numerous and varying pursuits. But BILL BRADLEY is one such person. From his academic record, to his Olympic basketball competition and pro basketball career with the New York Knicks, to his service here in the Senate, BILL BRADLEY has excelled in every endeavor.

Here in the Senate, BILL BRADLEY has shown himself to be an insightful thinker and policymaker, painstakingly studying the nuts and bolts of many ideas far before the pundits and the politicians recognized an issue's prominence. He has persistently worked with colleagues to facilitate agreement, standing tall—quite literally—even when his ideas were unpopular.

The 1986 tax overhaul was one such time. For more than 4 years, BILL BRADLEY labored to construct the tax law that still governs most of our present Tax Code. At first, many dismissed his plan, but Senator BRADLEY's persistence paid off, and it eventually gained momentum. although we disagreed over the substance of that plan, I admire and respect Senator BRADLEY's perseverance in crafting it.

More recently, I was pleased to work with Senator BRADLEY in support of NAFTA. An unyielding proponent of free trade, BILL BRADLEY and I served on a small group that worked within both the House and Senate to bring about passage of that important trade agreement. As I'm sure he remembers, that was no easy task. But, with Senator BRADLEY on the team, I was confident as we buckled down to do that job that we would succeed, and we did.

But, Mr. President, this body and this country have also reaped the benefits, of BILL BRADLEY's lesser-known contributions. Senator BRADLEY understood that encouraging democracy in the former Soviet Union would require United States involvement and argued vehemently for both aid dollars and cultural exchanges. He has championed legislation to expand access to college education, including direct lending for student loans and the Student Right-to-Know Act. And he has been an ardent supporter of civil rights, strongly supporting affirmative action while denouncing racism and race-biting. These few examples illustrate but small battles in the larger fight for freedom and equality in which BILL BRADLEY has been engaged throughout his career.

And that, Mr. President, will be BILL BRADLEY's legacy. We may not be able to retire his jersey in tribute, but we have a long string of impressive legislative accomplishments by which to remember him. BILL BRADLEY has been as skillfully aggressive on the Senate floor as he was on the basketball court. Whether a member of the New York Knicks or the U.S. Senate, BILL BRADLEY has constructed the game plans, covered the court, and could be relied upon when he went to the line. His contributions to the Senate have earned him a reputation as one of our most valuable players, and I wish him the very best in his future endeavors.●

ORDER OF BUSINESS

IN MEMORY OF REUBEN "RUBY" COHEN

Ms. SNOWE. Mr. President, a candle went out late one night recently at the Bangor Rye Bread Co. as Reuben "Ruby" Cohen—father of my friend and colleague Senator BILL COHEN—passed away while working late at night in the bakery he founded and owned.

I was deeply saddened to learn of his passing, and my thoughts are with his wife Clara, his three children and his seven grandchildren. Ruby was laid to rest in his beloved town of Bangor with many friends and family members at his side. I joined them to bid my own farewells to this remarkable American.

Ruby Cohen was an exceptional human being by living his life in a traditional manner: he worked hard, he worked late, he held strong values, and he raised a family.

But these are traits that have made Ruby Cohen a legend in Bangor.

At age 86, he had seen it all. The First World War, the Great Depression, the Second World War, the cold war, Korea and Vietnam, Kennedy and King, Nixon in China, Reagan in Russia, and the fall of the Iron Curtain.

To Ruby Cohen, what mattered were the timeless ideals of hard work, good business, a strong family, and straight, honest talk.

And he lived it to the hilt. He worked 18 hours a day, 6 days a week, for 70 years. His days began as everyone else's day was ending. And even when everyone else's day was beginning, Ruby was on the road delivering bagels, rye bread, French bread, Italian sandwich bread, and—last but certainly not least—his trademark Cohen rolls.

That diversity of his produce was matched only by the ethnic collage for which Bangor is known. Ruby Cohen himself was a product of immigrants who hailed from Russia, and married an Irish girl named Clara in 1937. His accomplishments and his stamina shine brightly as yet another example of the rich foundation millions of immigrants and their children have laid down for future generations.

As was always the case with his father and then with his children, work at Ruby Cohen's bakery was nothing short of a family affair right up until his very last day.

In January 1989, I was honored to be a part of an 80th birthday celebration party for Reuben Cohen in the Queen City—Bangor. As always, time spent with Ruby was full of laughs, smiles, and stories about his wit and his candor—all of which will be sorely missed by us all.

His son and their senior Senator from Maine, BILL COHEN, said yesterday that his father "worked to live and lived to work". In the process, Reuben Cohen added light and color to the lives of so many of us who knew him, so many of us who took pride in being able to call him "Ruby".

There is a richness by which you can measure the success of one's life. It can be found in the satisfied love and companionship of your spouse, the abiding love of your children, and in the admiration and friendship of those who have known you across the years. By all these measures and so many others, Reuben Cohen was a very rich man.

Ruby, we know you are still putting in those late hours—only in a different place. But it just won't be the same without you. God bless.

HARRY KIZIRIAN

Mr. CHAFEE. Mr. President, later in the evening or possibly tomorrow the Senate will approve H.R. 1606, a bill to name the post office at 24 Corliss Street in Providence, RI after a renowned Rhode Islander and a proud American—Harry Kizirian. Senator PELL and I introduced the bill earlier this year, and Representatives JACK REED and PATRICK KENNEDY introduced identical legislation in the House of Representatives, which also has been approved.

I greatly appreciate the help of Senator STEVENS, chairman of the Governmental Affairs Subcommittee on Post Office and Civil Service, in helping to obtain approval of our proposal in an expeditious manner.

Harry Kizirian is a household name in Rhode Island because of his lifelong career in the Postal Service but, even more so, because of his involvement with and commitment to his community. He has served on the board of directors of Butler Hospital, Big Brothers of Rhode Island, the Providence Human Relations Commission, Rhode Island Blue Cross, and the Rhode Island Heart and Lung Associations.

Over the years he has earned countless awards and citations for his community involvement. He was inducted into the Rhode Island Hall of Fame and received the Roger Williams Award. He served on advisory boards for Rhode Island College, Providence Heritage Commission on R.I. Medal of Honor Recipients, the Disabled American Veterans, and the Marine Corps League.

The lessons learned from Harry Kizirian are lessons of fortitude, valor, strength of character, and perseverance.

While Harry was just a boy in school, at Mt. Pleasant High School in Providence, he went to work part time as a postal clerk. He was 15 years old and his father had died, so Harry took responsibility for supporting his family. He did so while keeping his grades up and participating in athletics. Twenty years later, at 35, Harry was named postmaster of Rhode Island, a position he held for more than 25 years.

Like many young men at the time, Harry's job was interrupted by World War II. The day after high school graduation Harry enlisted in the Marine Corps. He fought on Okinawa with the 6th Marine Division. He was awarded the Navy Cross—the second highest honor a marine can receive—for his valor on Okinawa.

Harry and a group of marines were pinned down by a Japanese machine gunner. Harry got up and ran toward the machine gun. He was shot in the legs. Despite his injuries, he pulled himself forward and eliminated the enemy position. This extraordinary act of valor sent Harry Kizirian, a teenage boy, to a hospital in Guam with the Navy Cross, a Bronze Star, and a Purple Heart with a gold star.

Harry Kizirian was seen by millions of Americans as the face of the war in the Pacific. Before he was injured, a news photographer captured his image, the image of a boy in battle, for the cover of the New York Times Sunday magazine. Last November, I was present when Harry was honored by his old Atwood-Bucci Detachment of the Marine Corps. The famous photograph was prominently displayed on the podium.

After the war, Harry returned to Providence and to his job at the post office. He was a substitute clerk. By 1954 he was made foreman. He was named assistant superintendent during the transition from the old postal system to the turnkey mechanization system. The Providence post office on Corliss Street was the first post office in the country to use the turnkey system. The turnkey system was the first fully automated system for sorting the mail. Until that point, all of the mail was sorted by hand. The new system was not easily implemented, but once again Harry rose to the challenge. In 1961, Harry was rewarded for his hard work and dedication. He was named postmaster of Rhode Island.

What better way to honor the life and lessons of Harry Kizirian than to name the post office of Corliss Street for him. I am delighted that the Senate has voted unanimously to name our historic post office in Providence "The Harry Kizirian Post Office Building." Again, many thanks to Senators STEVENS and PRYOR for their help.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt, now about $25 billion shy of $5 trillion, has been fueled for a generation by bureaucratic hot air; (sort of like a hot air balloon whirling out of control), which everybody has talked about, but almost nobody even tried to fix. That attitude began to change, however, immediately after the November 1994 elections.

The 104th Congress promised to hold true to the Founding Fathers' decree that the executive branch of the U.S. Government should never be able to spend a dime unless and until it had been authorized and appropriated by the U.S. Congress—money supplied by the approximately 61.4 percent Americans who pay Federal income taxes, according to the Internal Revenue Service.

So, when the new 104th Congress convened this past January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. On the Senate side, all but 1 of the 54 Republican Senators supported the balanced budget amendment.

That was the good news. The bad news was that only 13 Democrat Senators supported it, and that killed the balanced budget amendment for the time being. Since a two-thirds vote—67 Senators, if all Senators are present—is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote during the 104th Congress.

Here is today's bad debt boxscore:

As of the close of business Monday, October 23, the Federal debt—down to the penny—stood at exactly $4,974,119,827,892.07 or $18,881.84 on a per capita basis for every man, woman, and child.

THE BUDGET

Mr. DOMENICI. Mr. President, am I the one holding the Senate up here now? I do not want to do that. I thought there was something else to do, because I would very much like you to go home also, Mr. President.

I want to say how grateful I am, however, that 12 Members of the Budget Committee started this battle for a balanced budget January and February and March of this year. They have stuck together. They produced a very exciting budget resolution for America's future. It had a real chance for the first time of making America's Government decide that you could not just spend willy-nilly on anything that anybody wanted, but that you had to stop spending beyond what you were taking in in taxes so our children will have a future, so they will not be paying our bills.

This afternoon, after an hour and a half of debate, 12 Republican Senators, in spite of all of the talk across this land, much of it overstating the case on the Democrat side, voted aye to bring that budget resolution not only to the Senate, but to the American people.

Sometimes it is hard to explain the future. Everybody would like to talk about now. Or they would like to talk about the past. But I do not think you can be a leader and not talk about the future—especially when it is not 100 years. That may be too far for any of us. But the next 10, 15 years are going to bring absolute chaos to the U.S. money supply, to the value of our dollar, to interest rates and to our standard of living if we do not stop spending what we do not have.

So we are sending a very good message tonight that we are proud, very, very proud that our committee has put together this package which will get the American budget moving downward in a permanent manner. I submit, in the next few days, as we debate each component, you should not be frightened to death by those prophets of gloom who, I believe, are thinking in the present and trying to frighten you about the present while they hide their eyes and their minds from 10 years from now, when some of our children are going to be in this society.

I close by saying we are very pleased the American Revolution—not the one we are involved in now, the one that started with the Boston Tea Party—was built on a premise that is absolutely sound: No taxation without representation.

What we are doing with deficit spending is taxing the next generation, taxing the teenagers—taxing everybody that cannot vote, excluding generations yet unborn. We are taxing them without any representation for they cannot vote, and we are saying we are going to put more burden on your shoulders, on your brains, and on your productivity. You are going to just have to pay all these bills even though you did not get to vote. That is the issue.

Then a second issue is: Are the reductions fair? Mr. President, I suggest that the seniors of America, before they get so concerned and frightened by those who want everybody to worry about today and the status quo and no change, let us present our Medicare in its totality. And you are going to find that it is very fair. There will be some seniors who have money—more than Social Security—$50,000, and even more, will have to pay a little more for Medicare. But that is not really unfair. When we unfold it and show you precisely what it is, it is very, very fair.

So, as we look at this, we want to insert a new word in the vocabulary of those who represent America. And that is what we can afford, not what we can promise—not what we have already promised, and not what we feel compelled to continue giving to people because they need, they want it, and they contend they cannot do without. Our position is we cannot do that unless we can pay for it. It is not too complicated for average folks. They are doing that every day in the United States. It is time we do it. That is what that budget resolution is going to do.

I thank the Chair for yielding time. I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, if I might for just a moment respond to the statement of the distinguished chairman of the Budget Committee, on which I sit.

I hear the intonation that we are trying to take care of our budget responsibilities so that our children in the future have not sacrificed their opportunities, that they have not been burdened with debt—and so the story goes—because of expenditures like Medicare and Medicaid.

But, Mr. President, are we burdening our children when we spend more on defense than was requested by the President, or is necessary in the judgment of many to preserve the strength of our military? Are we burdening our children, our future generations, Mr. President, when we give sweetheart leases for mineral development in the West, when there is a recent story about a sale for something less than $10,000 for a piece of property that can produce $1 billion worth of ore recovery? Do we burden our children when we give tax breaks to people of substantial means, when we give $20,000 to someone who earns $350,000? I think that is a darned burden for our children. I really do.

So the only response to the growing deficit is not simply to put a dagger in the hearts of Medicare, or to deprive Medicaid recipients of their sustenance in many cases for life.

So that is just to set the record clear from this Senator's vantage point, Mr. President. I know that we are close to, as they say, closing shop for the day. The distinguished Senator from Mississippi is on the floor, and is in the chair. I shall relinquish the floor to the Mississippi delegation.

Mr. LOTT. Mr. President, perhaps we should vote since this is an all-Mississippi presence at this time.

ORDERS FOR TUESDAY, OCTOBER 24, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:15 on Tuesday, October 24; that, following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that there be a period for morning business until the hour of 11 a.m. with Senators to speak for up to 5 minutes each with the exception of the following: Senator HOLLINGS for 20 minutes, Senator THOMPSON for 20 minutes, Senator LEVIN for 15 minutes, Senator SPECTER for 30 minutes, Senator GRAMS for 10 minutes, and Senator PRYOR for 15 minutes; and, I further ask unanimous consent, that at 11 a.m. the Senate resume consideration of S. 1322, a bill regarding the relocation of the U.S. Embassy in Israel.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate stand in recess between the hour of 12:30 and 2:15 for the weekly policy luncheons to meet; I further ask unanimous consent that at the hour of 2:15 the Senate begin consideration of Calendar No. 208, S. 1328, regarding temporary Federal judgeships.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, under a previous order, there will be 40 minutes of debate beginning at 11 a.m. tomorrow, to be followed by a vote on passage of S. 1322, the U.S. Embassy bill. Senators can, therefore, expect a vote on Tuesday morning at approximately 11:40.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment as under the previous order.

There being no objection, the Senate, at 6:56 p.m., adjourned until Tuesday, October 24, 1995, at 9:15 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 24, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 25

9:00 a.m.

Conferees

On S. 652, to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

S-SC-5, Capitol

10:00 a.m.

Armed Services

Closed business meeting, to consider certain pending military nominations.

SR-222

Judiciary

To resume hearings to examine the status of religious liberty in the United States and whether there is a need for further legal protection.

SD-226

Veterans' Affairs

To hold hearings on S. 293, to authorize the payment to States of per diem for veterans receiving adult day health care, S. 403, to provide for the organization and administration of the Readjustment Counseling Service, to improve eligibility for readjustment counseling and related counseling, S. 425, to require the establishment in the Department of Veterans Affairs of mental illness research, education, and clinical centers, S. 548, to provide quality standards for mammograms performed by the Department of Veterans Affairs, S. 612, to provide for a hospice care pilot program for the Department of Veterans Affairs, and S. 644, to reauthorize the establishment of research corporations in the Veterans Health Administration.

SR-418

Special on Special Committee To Investigate Whitewater Development Corporation and Related Matters

To resume hearings to examine issues relating to the President's involvement with the Whitewater Development Corporation.

SH-216

2:00 p.m.

Select on Intelligence

To hold hearings to examine intelligence's support to law enforcement.

SD-G50

OCTOBER 26

9:00 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings to examine alternatives to Federal forest land management and to compare land management cost and benefits on Federal and State lands.

SD-366

9:30 a.m.

Indian Affairs

To hold hearings on S. 1341, to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona.

SR-485

Special on Aging

To hold hearings to examine the quality of care in nursing homes.

SD-628

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

OCTOBER 31

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine global proliferation of weapons of mass destruction.

SD-342

10:00 a.m.

Judiciary

To hold hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.

SD-106

Small Business

To hold joint hearings with the House Committee on Small Business to examine the cost of Federal regulations on small business.

SD-G50

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

NOVEMBER 1

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation to reform the United States shipping industry.

SR-253

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine global proliferation of weapons of mass destruction.

SD-342

10:00 a.m.

Judiciary

To continue hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.

SD-106

NOVEMBER 7

10:00 a.m.

Indian Affairs

To hold hearings on S. 1159, to establish an American Indian Policy Information Center.

SR-485

NOVEMBER 8

10:00 a.m.

Judiciary

To hold hearings to examine mandatory victim restitution.

SD-226

NOVEMBER 9

2:00 p.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 231 and H.R. 562, bills to modify the boundaries of Walnut Canyon National Monument in the State of Arizona, S. 342, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, S. 364, to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and H.R. 629, the Fall River Visitor Center Act.

SD-366

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

NOVEMBER 14

10:00 a.m.

Judiciary

To hold hearings to examine the operation of the Office of the Solicitor General.

SD–226

NOVEMBER 15

10:00 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 582, to amend United States Code to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding.

SD–226

CANCELLATIONS

OCTOBER 25

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

SENATE—*Tuesday, October 24, 1995*

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Help us, O Lord, to have no other gods before You. We say we trust in You, but there are times when our worries and fears expose us to the idols in our hearts. Sometimes we are troubled about our success ratings, what people think of us, and maintaining popularity. Often we are better at reading the pulse of public opinion than honestly taking our own spiritual pulse. Help us to use the true measurement of humility; not to stoop until we are smaller than ourselves, but to stand at our real height and compare ourselves to the greatness You intend for us to achieve. Thus, seeing the real smallness of our supposed greatness, stretch our souls today until they are enlarged to contain the gift of Your spirit. Then sound in our souls Your renewed call to serve You with our eye on only one opinion poll: What You think of our performance. Free us from need of people's approval so that we may give ourselves away for the needs of people. In our Lord's name. Amen.

RESERVATION OF LEADERSHIP TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from South Carolina [Mr. HOLLINGS] is recognized to speak for up to 20 minutes.

The able Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the junior Senator from South Carolina. I thank the distinguished Chair.

(Mr. FRIST assumed the chair.)

SCORING THE BUDGET

Mr. HOLLINGS. Mr. President, once again we have lied to the American people.

Mr. President, once again, we are lying to the American people. For the past several weeks, we have heard the cries of the "balanced budget" and "the first opportunity in 25 years really to balance this budget." Everywhere men and women cry "balance." But, Mr. President, there is no balance to this budget. It is an outright fraud, and my friends on the other side should know better.

It was an embarrassing moment at the Budget Committee last evening. The chairman of the Budget Committee had fallen into the trap of playing to the cameras.

He had a clock flashing the amount of the gross debt and a chart showing the first page of the reconciliation bill with a ribbon, like in a horserace or the good housekeeping award, certifying that this budget was for fiscal responsibility. Not so at all.

On last Tuesday, just a week ago, he inserted in the CONGRESSIONAL RECORD the letter from June O'Neill, the Director of the Congressional Budget Office, together with the tables showing a surplus of $10 billion.

I ask unanimous consent that the letter be printed in the RECORD again at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TAXATION, BUDGET, AND ACCOUNTING TEXT

[Letter from Congressional Budget Office Director, June O'Neill to Senate Budget Committee Chairman Pete Domenici (R–NM), projecting enactment of reconciliation legislation submitted to committee would produce budget surplus in 2002, issued Oct. 18, 1995 (Text)]

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 18, 1995.

Hon. PETE V. DOMENICI,
Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the legislation submitted to the Senate Committee on the Budget by eleven Senate committees pursuant to the reconciliation directives included in the budget resolution for fiscal year 1996 (H.Con Res. 67). CBO's estimates of the budgetary effects of each of those submissions have been provided to the relevant committees and to the Budget Committees. Based on those estimates, using the economic and technical assumptions underlying the budget resolution, and assuming the level of discretionary spending specified in that resolution, CBO projects that enactment of the reconciliation legislation submitted to the Budget Committee would produce a small budget surplus in 2002. The effects of the proposed package of savings on the projected deficit are summarized in Table 1, which includes the adjustments to CBO's April 1995 baseline assumed by the budget resolution. The estimated savings that would result from enactment of each committee's reconciliation proposal is shown in Table 2.

As you noted in your letter of October 6, CBO published in August an estimate of the fiscal dividend that could result from balancing the budget in 2002. CBO estimated that instituting credible budget policies to eliminate the deficit by 2002 could reduce interest rates by 150 basic points over six years (based on a weighted average of long-term and short-term interest rates) and increase the real rate of economic growth by 0.1 percentage point a year on average, compared with CBO's economic projections under current policies. CBO projected that the resulting reductions in federal interest payments and increase in federal revenues would total $50 billion in 2002 and $170 billion over the 1996–2002 period. Those projections were based on a hypothetical deficit reduction path developed by CBO. The deficit reductions estimated to result from the reconciliation legislation submitted to the Budget Committee, together with the constraints on discretionary spending proposed in the budget resolution, would likely yield a fiscal dividend similar to that discussed in the August report.

If you wish further details on this projection, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. HOLLINGS. I thank the distinguished Chair.

Thereupon, Senators admonished the Director of the Congressional Budget Office that she was violating section 13301 of the Budget Act, which provides that Social Security trust funds shall not be used to hide the size of the deficit.

On October 19, 2 days later, the same June O'Neill, the Director of the Congressional Budget Office, sent a second letter in response to inquiries made by my colleagues from North Dakota, Senators CONRAD and DORGAN. In that response, Ms. O'Neill explained that if you follow the law, you will end up with a deficit of $98 billion in the year 2002.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 19, 1995.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Pursuant to Section 205(a) of the budget resolution for fiscal year 1996 (H. Con. Res. 67), the Congressional Budget Office yesterday provided the Chairman of the Senate Budget Committee with a projection of the budget deficits or surpluses that would result from enactment of the reconciliation legislation submitted to the Budget Committee. As specified in section 205(a), CBO provided projections (using the economic and technical assumptions underlying the budget resolution and assuming

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the level of discretionary spending specified in that resolution) of the deficit or surplus of the total budget—that is, the deficit or surplus resulting from all budgetary transactions of the federal government, including Social Security and Postal Service spending and receipts that are designated as off-budget transactions. As stated in the letter to Chairman Domenici, CBO projected that there will be a total-budget surplus of $10 billion in 2002. Excluding an estimated off-budget surplus of $108 billion in 2002 from the calculation, CBO would project an on-budget deficit of $98 billion in 2002.

If you wish further details on this projection, we will be pleased to provide them. The staff contact is Jim Horney, who can be reached at 226–2880.

Sincerely,

JUNE E. O'NEILL.

Mr. HOLLINGS. I thank the distinguished Chair.

Again the following day, October 20, the same June O'Neill acknowledged an accounting mistake and corrected her October 19 letter by explaining that actually the deficit in the year 2002 would not be $98 billion, but $105 billion instead.

Now, calling this budget balanced is a mistake that is commonly made, Mr. President. Just two Sundays ago on "Meet the Press," the best I have seen in the public media covering this budget, Mr. Tim Russert, asked Mr. Panetta, "Will you withstand those political charges and go along with the reduction in cost-of-living increases in order to balance the budget?"

That question is based on a false premise, Mr. President. The reduction of the cost-of-living increase does not go to balance the budget, but, on the contrary, adds to the surpluses in the Social Security trust fund. We are getting all boiled up around here, Mr. President, with respect to Medicare and Social Security, about things that are in the black and ignoring the part of Government that is not paid for.

Specifically, let me cite Social Security. At the end of this fiscal year, Social Security will have a $544 billion surplus. Has anybody in this body, Capitol, ever heard the word "surplus"? I have. I worked with President Lyndon Johnson, in 1968 and 1969 with our good friend, Chairman George Mahon, of the Appropriations Committee.

In December 1968 we called the President and said, "Mr. President, please allow us to cut another $5 billion." The outlays were for the entire Government in 1968–69, defense included were $178 billion. Today, just the interest cost on the national debt is projected to reach $348 billion, almost $1 billion a day.

We have been fiscally responsible at times. And perhaps before I start, I ought to qualify myself as a witness, like they do in court.

Mr. President, this particular Governor got the first triple-A credit rating, before Tennessee, before North Carolina, Georgia, before any Southern State. It was accomplished by hard work, but I, as a young Governor, knew I could not make any impression on investors by just talking about paving a road and serving barbecue. We needed a calling card of fiscal responsibility.

Even back then I was trying to get business sense in Government, I asked the management consultants, to look at higher education, elementary and secondary education, the tax commission, insurance department. We went through Government making it more efficient and earning a triple-A credit rating, which incidentally, was subsequently lost by our former Republican governor.

Then, as I previously stated, I worked in Washington with Chairman Mahon back in 1968. And we continued that work to try and cut spending without decimating the responsibilities of Government. When President Ford came in, we had an economic summit and we cut spending. When President Carter came in, I was the chairman of the Budget Committee. I went to the White House after President Carter had been defeated in November 1980 and said, "Mr. President, you are going to leave a bigger deficit than you inherited from President Ford." He said, "How much?" I said, "$66 billion." He said, "Well, then, how much are we projecting?" I said, "We are projected to have a deficit of $75 billion. And if that occurs, no Democrat will ever get elected again."

So we passed the first reconciliation bill, signed by President Carter on December 5, 1980, cutting spending. I went to my good friends, Senator Magnuson of Washington, Senator Church of Idaho, Senator Culver of Iowa, Senator Gaylord Nelson of Wisconsin, Senator George McGovern of South Dakota, Senator Birch Bayh of Indiana. I said, "You fellows have got to help. We have got to cut back on the appropriations bills that we have already approved." And we did just that.

In 1981, I worked with the then majority leader, Howard Baker. We could see that this supply-side economics was just exactly what Baker called it, "river boat gambling." In the coming days, you are going to hear a whole lot of campy nonsense about opportunity and growth, about giving people their money back, and about people back home knowing more about how to spend their money.

We should remember our experience with the supply-siders mantra of "growth, growth, growth." We first called it Kemp-Roth, then Reaganomics, and finally Vice President Bush named it "voodoo." And here we go again with the voodoo. We are heading full-tilt toward enacting a massive tax cut, when we are looking for money to pay the bills.

It is absolutely irresponsible. We have lied again to the American people.

President Reagan came to town promising to balance the budget in 1 year. Then having been sworn in, the President said, "Oops, this is way worse than I ever thought. We will balance it in 3 years." We could not pass a budget freeze, so we tried Gramm–Rudman-Hollings which was a freeze plus automatic cuts across the board.

The trouble is that we are about to see history repeat itself. We may pass this budget but then, after 2 or 3 years, they will throw it away just like they threw away Gramm-Rudman-Hollings on October 19, 1990, at 12:41 a.m. in the morning.

I stood at this desk and raised the point of order against doing away with the fixed deficit targets of Gramm–Rudman-Hollings, but Senator GRAMM and others voted me down. So it is not accurate to say, "Oh, it didn't work." It was working too well, that was the problem for some of my colleagues. Instead, they said, "Let's have caps on spending and we will balance the budget." And you can see the caps have gone up, up, and away.

My Republican colleagues have, to their credit, mastered the rhetoric and the lingo: Balance, balance, balance, balance, first time in 25 years, solid budget, certified by CBO—it is an absolute charade. CBO says that by the year 2002 there will be a $105 billion deficit. But Mr. ARCHER, the chairman of the Ways and Means Committee over on the House side, was quoted yesterday in USA Today. He said:

> House Ways and Means Chairman Archer (R-TX) denies that his party's budget is balanced with borrowing through Social Security dollars and angrily denied Hollings' allegations. "I don't know where he comes up with that," Archer says of Hollings.

Mr. President, I would recommend that he go to the conference report of Mr. KASICH's budget on page 3 where it says: Fiscal year 2002, $108,400,000,000 deficit. "Deficit" is the word used, not surplus or balance.

No wonder we're in a pickle. The chairman of the Ways and Means Committee does not even know that the budget provides for a deficit in 2002. Here in the Senate, the chairman of the Budget Committee charges that we are using a phony argument. But I would invite my colleagues to look at the CONGRESSIONAL RECORD of last Tuesday, October 17, and you will see that Mr. DOMENICI himself says that we will owe the Social Security fund. I quote from S. 15193, October 17 and Mr. DOMENICI:

> So we owe it, in fact, we owe part of it to the Social Security trust fund.

So please spare me this about phony. They think as long as they holler "balance" and holler "phony and fraudulent" people will ignore the fact that the law plainly says that Social Security shall be excluded from deficit and surplus totals.

I ask unanimous consent to have printed in the RECORD that section 13301 of the Congressional Budget Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, what I do then is go to the figures themselves, because it is not very difficult.

I ask unanimous consent to have printed in the RECORD a budget table.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET TABLES

[Outlays in billions]

Year	Government budget	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−311.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports.

	Year 2002 (billion)
1996 Budget: Kasich Conf. Report, p. 3 (deficit)	−$108
1996 Budget Outlays (CBO est.)	1,583
1995 Budget Outlays	1,530
Increased spending	+53
CBO Baseline Assuming Budget Resolution:	
Outlays	1,874
Revenues	1,884
This Assumes:	
(1) Discretionary Freeze Plus Discretionary Cuts (in 2002)	−121
(2) Entitlement Cuts and Interest Savings (in 2002)	−226
(3) Using SS Trust Fund (in 2002)	−115
Total reduction (in 2002)	−462

Mr. HOLLINGS. Mr. President, these budget tables show the Government outlays from 1968 through 1995 and the CBO estimate for 1996. It shows the trust funds that we have borrowed from for a total of $1,255,000,000,000.

Then it shows the term they use—"Unified deficit"—that is borrowing from the public and then also borrowing from your own pocket.

I ask unanimous consent that I may continue for another 5 minutes to conclude.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Chair.

So we have each figure in a separate column. Adding the unified deficit to the money we owe the trust funds gives us the real deficit which last year totaled $283.3 billion.

I ask unanimous consent to have printed in the RECORD another budget table.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MORE BUDGET TABLES: SENATOR ERNEST F. HOLLINGS

[In billions of dollars]

	National debt	Interest costs
1996	5,238	348
2002	6,728	436

	1996	2002
Debt includes:		
1. Owed to the trust funds	1,361.8	2,355.7
2. Owed to Government accounts	81.9	([1])
3. Owed to additional borrowing	3,794.3	4,372.7
Note: No "unified" debt; just total debt	5,238.0	6,728.4

[1] Included above.

Surplus in Social Security (CBO through 1996)—$544.0 billion.

Surplus in Medicare (CBO through 1996)—$145.0 billion.

"SOLID" BUDGET PLAN

1995 real deficit (CBO), −$283.3 billion.

[In billions of dollars]

Year	CBO outlays	CBO revenues
1996	1,583	1,355
1997	1,624	1,419
1998	1,663	1,478
1999	1,718	1,549
2000	1,779	1,622
2001	1,819	1,701
2002	1,874	1,884
Total	12,060	11,008

$636 billion "embezzlement" of the Social Security Trust Fund.

[In billions of dollars]

	Outlays	Revenues
2002 CBO baseline budget	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−$121
2. Entitlement cuts and interest savings (in 2002)		−$226
[1996 cuts, $45 B] Spending reductions (in 2002)		−$347
Using SS Trust Fund		−$115
Total reductions (in 2002)		−$462

Mr. HOLLINGS. Mr. President, in this chart we have taken the outlays under the Republican budget proposal as promulgated by the Congressional Budget Office for the years 1996 through the year 2002, and the revenues from CBO for the years 1996 through 2002. If you look at the total for spending, it is $12,080,000,000,000—$12,080,000,000,000. Then if you look at total revenues over the same period, it is only $11,008,000,000,000.

By simple arithmetic we will be adding over $1 trillion to the debt over the next 7 years.

In the year 2002, the gross debt will go from $4.9 trillion today to $6.728 trillion.

In order to show good faith, Mr. President, I ask unanimous consent to have printed in the RECORD the budget paths that I presented in January at our initial meeting of the Budget Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Mr. HOLLINGS. Mr. President, the January table shows the deficit using trust fund and not using the trust fund.

I have been in this budget game now for over 20 years at the Federal level. If anyone can show me any kind of realistic cuts that will by themselves balance the budget, I will jump off the Capitol dome. It is very easy to make that pledge because you see exactly from the arithmetic.

The Republican budget can claim it balances the budget in 7 years only because they use $636 billion of Social Security between now and 2002. The other half of the trillion-dollar program comes from discretionary cuts, entitlement cuts, and interest savings of $347 billion in the year 2002. That should give us a dose of reality. At this very minute, we are struggling to find $45 billion in cuts for this fiscal year.

In addition, you can add on the tax cut, which adds $93 billion to the debt. I ask unanimous consent that a Wall Street Journal article outlining this fact be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

GOP TAX CUTS WILL ADD $93 BILLION TO U.S. DEBT, BUDGET ANALYSTS SAY

(By Jackie Calmes)

WASHINGTON.—Despite Republicans' claims to the contrary, their tax cuts will add billions to the nation's nearly $5 trillion debt even as the GOP seeks to balance the budget by 2002.

An estimated $93 billion in extra debt will pile up as a result of the Republicans' proposed $245 billion in seven-year tax cuts, according to calculations from GOP congressional budget analysts. And that's assuming the economy gets a huge $170 billion fiscal stimulus that Republicans are counting on as a consequence of balancing the budget over seven years, thanks mostly to lower interest rates.

GOP leaders agreed last summer, as part of a House-Senate budget compromise, to apply that hypothetical $170 billion "fiscal dividend" toward their proposed $245 billion in tax cuts. That left $75 billion in revenue losses unaccounted for. Interest on that amount would add about $18 billion, for the total $93 billion in debt.

Meanwhile, the Republican architects of the plan boast that the tax cuts are all paid for with spending cuts. Senate Finance Committee Chairman William Roth, announcing his panel's draft $245 billion tax-cut package last Friday, said it would be completely financed with lower interest rates and smaller government. "Other factors like that will add up to $245 billion," the Delaware-Republican said.

And Oklahoma Sen. Don Nickels, another Finance Committee panelist and a member of the Senate GOP leadership, added, "We will not pass this tax cut until we have a letter" from the Congressional Budget Office reporting that Republicans' proposed spending cuts through 2002 "will give us a balanced budget and a surplus of at least $245 billion." He added, "It's all paid for."

The confusion has to do with the frequently misunderstood distinction between the nation's accumulated debt, now approaching $4.9 trillion, and its annual budget deficits, which have built up at roughly $200 billion a year.

Republicans' spending cuts, it's projected, generally will put the annual deficits on a downward path until the fiscal 2002 budget shows a minimal surplus. But the annual deficits until then, while declining, together with nearly $1 trillion more to the cumulative debt. Meanwhile, the GOP tax cuts add to those annual deficits in the early years—in fact, the fiscal 1997 deficit would show an increase from the previous year. Thus the debt, and the interest on the debt, would be that much higher.

Interviews in recent weeks indicate that many House and Senate GOP members are unaware of the calculus. And some are unfazed even when they hear of it. "It would bother me if I thought we were adding to the debt," said Texas Sen. Phil Gramm, now seeking the presidency on his record as a fiscal conservative, "but I don't think we are.".

Mr. HOLLINGS. The Chair has been indulgent and I know my distinguished colleague from Tennessee is waiting to be heard.

Let me conclude by asking people to look at the arithmetic and to help expose the fact that once again, we have lied to the American people.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized to speak for up to 20 minutes.

CHANGE THE BUDGET STATUS QUO

Mr. THOMPSON. Mr. President, I appreciate the recognition.

First of all, I want to commend the distinguished Senator from South Carolina for his usual eloquence. I think if I ever had a case to litigate in court that I want him on my side. Apparently, a lot of people in South Carolina over the years have felt the same way.

He brings to this discussion a unique perspective of someone who has been in this body for many years, having served as Governor before his service in this body. Great experience—he has been through the budget years, budget battles.

It is always enlightening to hear an analysis of history—ancient history, recent history—as to how we got into the fix that we are in this country, whose fault it has been in the past, and what calculations that were made in the past that turned out not to be correct, and the political battles back and forth.

It is also interesting to hear from someone with such vast knowledge and experience as to how these deficits are figured, whose figures are to be used, whose figures are to be trusted and all of that.

However, Mr. President, I cannot bring to this discussion that kind of richness of historical perspective. I bring, as many of my colleagues here in the Senate, including my colleague from Tennessee who occupies the chair now, a different perspective.

That is, one from someone who has not been in this body, has not been in politics as far as that is concerned, over the years, and perhaps who views this a bit differently, from a different perspective.

That is, simply—regardless of all of that—we are simply spending more than we are taking in. We are simply bankrupting the next generation. We simply have to do some things differently in this country.

I think probably the best service that analysis of the past can be is an example of what we should not do. Sometimes I wonder whether or not we should not, with regard to our fiscal policies in the past, with regard to so many of our social policies, we should not carefully analyze what we have done over the years and do the exact opposite.

I think as far as these fiscal problems are concerned, all I know is that we have that problem; the American people know we have that problem. They sent some of us here to address that problem in a different way than has been addressed in times past.

We stand here now on the brink of what I feel is a historic opportunity to address this for the first time in decades. Others would disagree and say we have tried various things before and they have failed. We tried some things and they worked for a while and we backed off again, which to me is a pretty good argument for a constitutional amendment to balance the budget. That is a debate for a different time.

The chairman of the Budget Committee, as I read in this morning's paper, called this reconciliation package the culmination of his life's work. He is not a person to use language loosely, and I am sure he feels that way, and I am sure it is the case.

It has been a remarkable life's work and I think it points out the way in which serious people view this serious problem and where we are. That is, on the brink of perhaps a historic occasion for the first time, perhaps, in this generation, to really try to get a grip on a problem that is strangling our Nation, that will undoubtedly engulf the next generation if we do not face up to it and do something about it.

Anyone who reads history will see that history is full of occasions of great powers having great economic viability and power and success and great military powers, and countries come to the top and they rule the world on occasion for periods of time, in ancient times, and they become the major economic powers of the world for periods of time.

Invariably, as the Bard would say, they strut and fret their brief hour upon the stage and then they move on. They decline, through laziness, laxity, corruption, for whatever reason, they move on. And they fade into the sunset and they are no longer militarily or economically powerful.

One looking at the United States of America by any measurable criteria—economic, socially, or perhaps any other criteria—could make a pretty good case that the United States of America is on the beginning stages of that kind of decline. I think just within the last few years that people have taken note and made a decision in this country that we are not going to let that happen to the United States of America, that we are going to do something really unprecedented in world history, and that is to stop ourselves in mid-decline and to correct that course.

For years in this country we have somewhat recognized these problems, but basically roll them over for the next generation to deal with. We have thought that we could have our cake and eat it too. We have thought that we could socially engineer our ways out of almost any problem and do it from Washington, DC.

These things have not worked. Now we are in a position of having to correct some false assumptions that we have made and some false basis for policies that we have had in this country for some time now. That should not be a remarkable occurrence and it should not be something that should be extremely disturbing to many of us.

This must happen in an individual's life. In the life of a nation, Thomas Jefferson, as we heard so often quoted in the balanced budget debate back a few months ago, pointed out that we need to reexamine ourselves every once in a while. Even our form of government, in some basic ways, should be reexamined and challenged from time to time. Different way of doing business. Certainly these policies that are based on nothing more than a series of legislative enactments should undergo that kind of scrutiny. That is what we are doing now. That is what we are doing.

We have operated under the assumption that we could cure poverty in this country by spending our way out of it, that as long as we were spending vast sums of money this was demonstrating our commitment to those less fortunate. It made us feel good.

Basically, of course, we were spending other people's money, folks out there working for a living, paying taxes, and they were footing the bill as always. But we felt basically the end would justify that, because we could eradicate poverty in this country, basically. We, of course, gave no account, apparently, to basic tenets of human nature, that we could not spend $5 trillion on a problem such as this without creating dependency. We gave no accounting to the obvious fact that we cannot micromanage people's behavior from Washington, DC. But we spent $5 trillion and now we have, perhaps, basically the same rate of poverty that we had in this country when we started.

We developed a program for health care coverage for the elderly back in 1965. A lot of Democrats and Republicans joined together at that time to institute Medicare and also Medicaid. At the time the Ways and Means Committee estimated the hospital insurance part A would cost $9 billion to finance in 1990. In 1990 hospital insurance actually cost $67 billion. Medicaid, a narrowly defined program buried in the 1965 bill that created Medicare, of course provides health care for low-income Americans. It was intended to cost about $1 billion annually. By 1992, expenditures had ballooned to $76 billion. In 1995 it was $89 billion. Of course that is the Federal Government's share alone, the States spent another $67 billion.

So it is clear that we miscalculated, that we have operated under false assumptions, and that we must have some midcourse correction here in order to save the very thing we say we want, because the results of these policies, the results of this miscalculation, has left us in a sea of debt. It has slowed down the economy. We now have the lowest savings rate in the industrialized world. We have one of the lowest investment rates among our trading competitors, and it has left our growth rate at about half what it usually is coming out of a recession in this country. It is making it more difficult for us to compete in a global economy with nations that measure their wages in pennies instead of dollars, and our work force here is insufficiently trained to meet that. This is all in the context of an economy about which a good argument can be made, based upon our savings rate and our growth rate, that our investment rate is basically, long range, long term, slowing down—slowing down.

We have seen the result of our social policies. Mr. President, it is not going to matter all that much whether we balance the budget or not if out-of-wedlock births become the norm in this country. It is not going to matter whether we have a tax cut or not if juvenile crime makes it so that nobody can even get out on the streets anymore in this country—and that is what it is coming to.

At a time when many of our prime statistics are leveling off, juvenile crime is now skyrocketing. Drug use among the juvenile population is now skyrocketing. So we have a slowing economy and terrible social indicators, where out-of-wedlock births exceed 50 percent in most of the major cities now.

Probably worst of all, I think, is a growing cynicism among the American people. The dissatisfaction you see, the third parties we hear being talked about, the aftermath of these activities of some of our law enforcement agencies, have people who are big, strong, conservative law enforcement people saying, "Wait a minute, this is not the way it ought to be. This is not the Government I know. I feel disassociated from that kind of Government, that way of doing business." This is in a country where 75 percent of the people consistently say they want a particular policy—term limits is one example—and nothing ever happens.

All of that, all of that is a result, a culmination of years and years and years of policies that may have worked for a while and that certainly were based on good intentions by those who instituted them. Certainly some remnants and some parts of some policies are worth saving, and then there are some that were outright wrong from their inception and were based on fraudulent premises. A combination of all of that has led us here with these problems.

We talk about the last election. I do not think people got up on election day last time and started loving Republicans across the country. I think we benefited from the fact that we were not in, that we were out. I think, more than anything else, it had to do with people wanting some kind of fundamental change in the way we were doing business in this country on a fundamental basis, and they were willing to give us a narrow window of opportunity to see if we could do something about it. That is why so many of us came together and decided we would take a handful of things, but a handful of the most important things facing this country, and try to do something about them that is different fundamentally—and they are come together in this reconciliation package.

It had to do with the commitment to balance the budget of this country. It had to do with a Medicare system that everybody knows cannot continue the way it is. Changes have to be made or it will not be with us. It had to do with a failed welfare system where $5 trillion has created more social havoc than we would have believed imaginable. And it had to do with leaving a few more dollars in the pockets of those who earned the dollars in the form of a tax cut. They were laid out in the campaigns last time and people responded to them, and they are looking to see now whether or not we are going to keep that commitment.

Everyone can be debated and will be debated, but I think it is good for the system and the American people to see it all debated out, because there are two sides to most of these issues. But after all is said and done, the time is running out for us to make fundamental changes and it is going to have to be done and it is going to happen on our watch.

I am proud to be here for that historic occasion, when I think that will happen. The easy thing to do, always, is to maintain the status quo, to nibble around the edges, to really do just enough to make people think you are doing something without doing enough to really have any effect on anybody's life so you will be subject to criticism. We can argue over whose figures to use and all that. But I think the President's so-called second budget is a good example of that. He apparently comes up with $245 billion simply by changing a few estimates. Again, I suppose folks that have been around here a long time are used to that. That is the way you make your money, mostly, is to change your estimates, change your growth estimates, change your inflation estimates and all that, and you can come up with $245 billion out of thin air without having to make any changes.

Regarding the Congressional Budget Office, we do not have anyone who everyone can agree is omnipotent, who is all-knowing and can give us figures that everyone will agree on. I suppose the Congressional Budget Office is the nearest we have been able to come to that. The President always thought so until recently. According to the Congressional Budget Office, the President's so-called second budget does not balance. It gives us $200 billion deficits as far as the eye can see.

So the status quo is always easier. The same thing as far as the Medicare situation is concerned. We take the position we have to have $270 billion in Medicare savings. Our colleagues on the other side, so many of them, say, "Yes, we acknowledge first of all that we would have to have a balanced budget," which is progress right there. And second, "Yes, we must do something about Medicare." But again, just as with the balanced budget, "You are going too far, you are going too fast."

Mr. David Broder wrote in the Washington Post earlier this month on this subject, and he pointed out the real problem, when you cut through all the rhetoric on both sides of the aisle as far as the health care problem is concerned, is that the growth in spending for health care is devouring the Federal budget. He pointed out the Presidential commission, headed by our colleagues Senator KERREY of Nebraska and Senator Danforth, reported earlier this year that unless current trends are changed, by 2010 or 2012, 15 to 17 years from now, all Federal revenues will be consumed by entitlement programs and interest on the national debt. So we clearly cannot continue down that road.

He further states that the Republican approach comes closer to the scale of changes that the country needs. He points out that in the House Ways and Means Health Subcommittee, they point to some estimates given to the committee by Guy King, former chief actuary for the Federal agency that runs Medicare and Medicaid.

Mr. King says that the Democrats are correct in claiming that their $90 billion solution would keep the Medicare trust fund solvent until 2006, but in 2010—the last year that the Republican plan would keep the trust fund in the black—he said the Democrats would leave it with a $309 billion figure in the red. He says that date is terribly important because 2010 is the year the huge wave of baby-boomer retirees really hits.

Everyone acknowledges further changes in Medicare will be needed by then. But, as Thomas points out, it is one thing to be dealing with the retiree wave from a position of fiscal parity—which is what our plan would do—but it is much harder to do it when you are already $300 billion in arrears.

So all he is saying is that, sure, the plan that would say let us just have $90 billion in savings would get us over the hump. That is what we are used to doing in this country—getting over the hump usually until the next election, hopefully until the next generation, just pushing it on down the road just a little bit further, and do not let me have to deal with it because I do not want to have to go home and explain anything unpleasant to anybody. But if we do that when those retirees hit, when those baby boomers start retiring, we will be hopelessly insolvent.

But we are not getting a reasoned debate in many instances on this. We are getting scare tactics. We are getting the 30-second sound bites which the American people have grown to love so much in our political races, 30-second television commercials that appeal to the most basic instincts and that are invariably flawed from the factor standpoint.

Mr. President, has my time expired?

The PRESIDING OFFICER (Mr. INHOFE). The time has expired.

Mr. THOMPSON. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, Mr. Tim Penny, former Democratic Representative from Minnesota, wrote earlier in the Washington Post, last month, and said that members of both parties should be working together on this important issue just as many Republicans joined Democrats in voting for Medicare in 1965. Unfortunately, Democratic leaders in Congress have decided otherwise, choosing to attack the Republican Medicare plan rather than offering an alternative. By politicizing the issues, Democrats are threatening the viability of the very program that they created.

Mr. President, we are better than that. We can do better than that. Those on both sides of the aisle have pointed out that this is not an accurate representation of what we are doing, the rhetoric that we are hearing now.

The Washington Post, on September 25, 1995, pointed out that as far as saying the tax cut proposal is simply a tax cut for the rich to finance the Medicare cuts, they said, "The Democrats have fabricated a Medicare tax cut connection because it is useful politically".

Mr. President, the stakes are too high. The opportunities are too great. We must get down to what we all know is the task at hand; that is, saving this Nation from insolvency, saving the Medicare trust fund from insolvency, and putting some money back into the hands of working people.

Mr. President, only in Washington, DC, do we still think that $1 of tax cuts of any kind, capital gains or otherwise, is $1 of revenue to the Federal Government. It simply does not work that way. In 1981, for example, when the rates were cut for capital gains, revenues went up. In 1996, when rates were increased, revenues went down.

So I believe, as Senator DOMENICI has pointed out, the chairman of the Budget Committee, this is a culmination of not only his last work but a lot of people's last work. It is an historic occasion. We have an opportunity to do something that probably will not present itself again, certainly in our lifetime, as far as this reconciliation package is concerned.

I urge its prompt consideration and its approval.

I yield the floor.

The PRESIDING OFFICER. Under a previous order, the Senator from Michigan [Mr. LEVIN] is recognized to speak for up to 15 minutes.

Mr. LEVIN. I thank the Chair.

THE ISTOOK AMENDMENT

Mr. LEVIN. Mr. President, the Saturday New York Times over the weekend reported that a group of freshman Republicans in the House were threatening to basically bring the Federal Government to a halt unless a provision that they support is adopted in the conference report on the Treasury-Postal appropriations bill. The provision at issue is commonly referred to as the Istook amendment after its author, Congressman ERNEST ISTOOK of Oklahoma. It would put massive new restrictions on all Federal grant recipients with respect to their participation in matters of public policy. This is how the New York Times described it: "As this week began, the freshmen were threatening an even wider uprising, with nearly half vowing to hold up all the upcoming spending bills and the reconciliation bill unless the leadership holds fast" on the Istook amendment.

Congressman ROGER WICKER of Mississippi is quoted in the article as saying, "It is something the conferees will ignore at their peril."

One headline recently referred to the amendment here, as "lobby reform." Proponents of the amendment say it will "end welfare for lobbyists." Well, I have been working on lobbying reform for over 5 years, now, and I can tell you, this is not lobbying reform. It is repression of the rights of people to lobby.

The Istook amendment is a rather blatant attempt to silence dissent and to muffle the diversity of opinion in the forum of public policy debate. The amendment is one of the most poorly thought out I have ever come across. Senate conferees have been holding fast against it, although there is supposed to be a meeting of the conferees sometime tomorrow and we will have to see what happens. But again, the Senate has served as a firewall against an extreme proposal emanating from the House. The Istook amendment provides that any Federal grant recipient is not allowed to use more than a small percentage of their own money—non-Federal dollars—for political advocacy and still receive a Federal grant for totally unrelated activities.

There is already a longstanding law on the books that prohibits the use of appropriated funds for lobbying—no ifs, and, or buts. Appropriated funds under current law cannot be used for lobbying and there are provisions that ensure that even indirect costs of an organization cannot be used to subsidize lobbying activities. Current law applies to all appropriated funds regardless of who the recipient is—for profit contractors as well as nonprofit grant recipients. The penalties for violating this provision are severe, including debarment from all future Federal funding. So this is not restriction that is easily overlooked or dismissed.

The argument that current law allows welfare for lobbyists is factually incorrect. Under current law, no federally appropriated money, no Federal tax dollars can be spent by any recipient to lobby, period.

Well, then, what is the Istook amendment getting at? It is getting at the non-Federal money. It is trying to control what private organizations can do with the money they raise solely from private sources.

What does the amendment say? First, it applies to all grant recipients. Any entity that receives a Federal grant, either directly or indirectly would be subject to the provisions and requirements of the Istook amendment. So, yes it covers organizations like AARP which receives grants to conduct various programs for senior citizens, a favorite target of the Istook supporters. But it also covers grants to persons who do research in small laboratories for the NIH. It covers grants to major medical centers that may be studying the effects of chemotherapy for cancer treatment. It covers grants to religious organizations that may be conducting latchkey programs for the forgotten kids in neighborhoods across this country, and it covers groups like the Red Cross. It applies to any organization or entity that receives, directly or indirectly, Federal grant money or, indeed, that may apply for Federal grant money.

It does not apply to Federal contractors. Federal contractors receive hundreds of billions of Federal tax dollars, and they have a tremendous incentive to lobby. Continuation of the B-2 bomber readily comes to mind as a program that producers of the B-2 might have an interest in lobbying on, but the Istook amendment does not try to limit the amount of lobbying that contractors can conduct with their private money, even when they are lobbying for Federal funds. The amendment does not try to limit the volume of lobbying these companies can conduct despite the hundreds of millions, and in some cases the billions of dollars, they receive from the Federal Government and the Federal taxpayers. And if the Istook supporters can call private money used by Federal grant recipients welfare for lobbyists, the same would have to hold true for private moneys used by Federal contractors. There is no difference.

The whole approach is based on a disturbing and a flimsy distinction. You can buy B-2's from a company that makes a profit and not worry about how it lobbies with its own money, but if you buy research into a cure for cancer from a nonprofit university, then you need to restrict that university's lobbying efforts with its own money.

The B-2 contractor can lobby all it wants with its own money, but the university working on a cure for cancer cannot.

So the amendment at the outset targets only one type of recipient of Federal funds, and that is the grant recipients that are largely nonprofit organizations, leaving the contract recipients that are largely for-profit companies completely untouched.

What are the restrictions that the amendment then places on all Federal grant recipients? An organization cannot get a Federal grant if it spent more than—and I am shorthanding the formula here—if it spent more than 5 percent of its total expenditures on political advocacy in any one of the preceding 5 years. So let me repeat that. An organization cannot get a Federal grant if it spent more than 5 percent of its total expenditures on political advocacy—that is the term the amendment uses—in any one of the preceding 5 years. And then, of course, once an organization is a grantee, it is held to that same 5-percent limit as a condition of continuing to receive the grant.

So first of all, this is not a limitation on what a grant applicant must be bound by once it gets a grant. This is much more than that. This is a limitation on what an applicant for a grant can do in the 5 years prior to applying for a grant.

An organization may not even know that it wants to apply for a grant, let us say, in 1995, but should it this year spend more than 5 percent of its money on what the Istook amendment calls political advocacy, then it is precluded 5 years from now from applying for a grant, even though it engaged in no political advocacy this year, next year, the year after, or the year after that.

This amendment is not only applicable to the period of time during which the grantee is carrying out a grant, it applies for all practical purposes for all years whether or not an organization has a grant if it thinks that it might some year, 5 years down the road, want to apply for a grant.

What is "political advocacy?" The definition is so extreme that it is almost laughable if the stakes, namely, basic democratic principles, were not so high. Political advocacy includes carrying on "propaganda"—that is the term that is used in the amendment—or otherwise attempting to influence legislation or agency action. This, the amendment says, includes but is not limited to contributions, endorsements, publicity, or similar activities.

So if the Food and Drug Administration were considering restricting the availability of cigarettes for young people, the American Medical Association, which may have a grant or may even want to apply for a grant in the next 5 years, could be precluded from using non-Government funds, its own funds, to endorse that agency action. At a minimum, if it thought it might want to apply for grant in the next 5 years, if it did not have one at the time, it would have to keep records of how much it spent if it made such endorsements and then regularly measure that amount against its other political advocacy activity, assuming you could figure out what political advocacy meant, and it would have to do that to make sure its total expenditures do not go over the 5-percent limit.

Political advocacy also includes participating in any judicial litigation—I do not know what litigation is other than in a judicial setting, but that is the term the amendment uses—in any judicial litigation or agency proceeding including as a friend of the court in which any Federal, State, or local government is involved. The exceptions to this sweeping provision are if the grantee is a defendant, so you are allowed to defend yourself, or if the grantee is challenging a Government decision or action directed specifically at the powers, rights, or duties of the grantee or grant recipient.

OK, so now let us say you are the Mayo Clinic, and you receive a large Federal grant to conduct cancer or diabetes research. The city of Rochester has developed a new master plan to rezone the entire city including the area around the clinic. You as the clinic are affected by that plan and you want to challenge it, but it is not directed specifically at the powers, rights, or duties of the Mayo Clinic. It is a plan for the entire city of Rochester, so now you would be forced to choose between continuing with the research grant or participating in the debate over the master plan.

Political advocacy also includes—and this is where the amendment takes another major leap in its extremism and its absurdity—allocating, disbursing, or contributing any money or in-kind support to any person or entity whose expenditure for political advocacy in the previous fiscal year exceeded 15 percent of its total expenditures for that year.

What does that mean? Presumably that every Federal grant recipient or potential applicant has to determine whether or not the business from which its purchasing services or products meets the 15-percent test.

So now if a Federal grantee or a potential grantee purchases a computer from IBM, that Federal grantee had better be sure that IBM is within the 15-percent limit, because otherwise that is an expenditure for political advocacy and the grantee has to count the amount of the purchase toward its 5-percent limit.

Let us take another example. A child care facility which receives a Federal grant for a breakfast program uses its own non-Federal private funds and hires an individual to do graphics for a campaign to promote healthy breakfasts. The person they happen to pick is a part-time lobbyist at the State legislature for other persons and other interests. The child care facility did not pick that person for that skill. They picked him for his ability to put together an attractive presentation for little children and for families. Under the Istook amendment, we are going to hold that child care facility responsible for determining whether or not that graphics person spends more than 15 percent of his expenditures on political advocacy. And if it does, the child-care center has to include in its total of its expenditures that amount of money.

Now, Mr. President, this is getting absolutely absurd. A potential grantee, an applicant for a Federal grant, who thinks that it may apply even in the next 5 years, has to keep a record of every single purchase it makes from every company during that 5 years and make sure that no company from which it buys a computer or anything else has exceeded a 15-percent expenditure limit using its own funds.

If you buy food for a clinic, you better make sure that the wholesaler from which you bought that food did not spend more than 15 percent of its own funds on political advocacy. This is Government gone mad. This is Government gone haywire. Nobody can keep these kinds of records and get certification from every person from whom they buy anything that that person did not spend more than 15 percent of its money on political advocacy.

This amendment does exactly what the opponents of lobbying and gift reform in the last Congress correctly said would be unacceptable: Interfering with the right of an organization to communicate information to its members.

The Istook amendment would treat as political advocacy, and therefore reportable and subject to its limits, all communications between a grantee organization and any bona fide member of that organization that encourages the member to communicate with any government official on legislation or agency action. Let me repeat that. The Istook amendment requires grantees to report on an annual basis all of their expenditures—again, we are talking about non-Federal funds—incurred in communicating to their members to encourage them to contact Government officials on legislation or agency policy action. Isn't that what killed lobbying reform last Congress and is not that exactly the issue the very proponents of this Istook amendment said would be so offensive? We struck any reference to grassroots lobbying from the lobbying reform bill this year in order to make progress, and here, some Congressmen are threatening to shut down the entire Federal Government in order to pass a provision that requires organizations to publicly account for just how much they spend to do grassroots lobbying on their own members, not only on persons outside their organization but with their own members. Last year's provision did not go nearly that far and many of these same House Members railed against that.

This is Alice in Wonderland material, made real by the fact that the sponsors have threatened to shut down Government, if they don't get their way.

We are talking here about making the Red Cross report each year how much it spends of non-Federal funds should it ask its members to urge Congress to pass stronger legislation to protect the country's blood supply. We are talking about making the Girl Scouts of America report each year how much they spend when they ask their members to write to the FCC on violence in television shows. We are talking about requiring Mothers Against Drunk Driving to keep a record of all the expenses they incur in communicating with their members to fight for tougher drinking laws in their States. And these organizations would have to keep these records and report these amounts even though they do not even meet the definition of a lobbying organization under the Senate-passed lobbying disclosure bill.

Promoting and supporting this amendment is, alone, an unfortunate, unwise, and I believe deleterious position to take with respect to our basic democratic principles. But elevating the passage of this amendment to the position of importance that puts the entire Federal Government at risk is incomprehensible.

One day we will weary of threats to shut Government down—and as a body rise up to defeat proposals supported by such threats. This proposal should also be defeated despite the threats, Mr. President, because the laws are already in place to protect any misuse of taxpayer moneys with respect to lobbying by tax-exempt organizations. The Senate should not give in to this thoroughly misguided piece of legislation; our conferees should hold fast.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania [Mr. SPECTER] is recognized to speak for up to 30 minutes.

Mr. SPECTER. I thank the Chair.

THE BUDGET RECONCILIATION BILL

Mr. SPECTER. Mr. President, 1 year ago we Republicans won control of the Congress based on commitments to balance the budget, reduce the size of Government, and lower taxes. These commitments remain our basic goals. I have sought recognition this morning to speak on the reconciliation bill which will be coming up tomorrow.

I know that tomorrow time will be very precious, so I want to express some of my thoughts at this time. These reservations which I am about to discuss have been expressed to the leadership. There was difficulty in even coming to preliminary conclusions because much of the material had not been made available until very recently, some of the tables on the tax reductions only coming as late as yesterday.

As we address the reconciliation process in the next few days, I ask my colleagues to reconsider certain aspects of the proposed legislation. As much as I favor tax relief for Americans, I question tax cuts that may jeopardize our No. 1 priority, which is balancing the Federal budget.

As much as I want to reduce the size of Government, I question spending cuts directed so disproportionately against the elderly, the young and the infirm. And on a political basis, I suggest to my Republican colleagues that we all rethink support for a combination of tax cuts and spending cuts that may lead to the perception of the Republican Party as the party of wealth, power and privilege, and not the party of ordinary American working families.

Last fall we Republicans swept to historic victories in both Houses based on our responsiveness to the people's demand for less, not more Government, for a Government that lives within its means, and for a reduction of the tax burden on ordinary Americans.

I am fearful, Mr. President, that we will forfeit that political high ground in an instant if we adopt a budget that not only fails to end the deficit, but that, either in appearance or in fact, makes the least affluent Americans bear the heaviest burdens while giving most of the tax benefit to the most affluent among us.

I am concerned, Mr. President, that these tax cuts threaten a balanced budget, which is by far the most critical aspect of the electoral mandate of 1994. Many of us have been working for a balanced budget for many years. And I have been making that effort for all of my 15 years in the Senate. But until this year, I have never seen legislation passed that actually had a likelihood of achieving that goal.

Finally, after years of shadowboxing, after years of spending restraint initiatives that were mere smoke and mirrors, not really substance, this Congress has been willing to make the painful changes necessary to achieve a balanced budget. We are moving toward real reform of entitlements, thereby for the first time giving us a real ability to restrain future spending in those programs. Painful though these actions are, we are willing to make these sacrifices in the name of future generations. And we do that in order to achieve a real balanced budget within the 7-year glidepath.

The Senate Appropriations Subcommittee on Labor, Health, and Human Services, which I chair, and where the distinguished Senator from Iowa, Senator HARKIN, serves as ranking member, has made very, very painful cuts on a budget which had exceeded $70 billion in discretionary spending. These reductions totalled almost $8 billion, down to somewhat more than $62 billion in spending.

I would suggest to you, Mr. President, that we made these cuts with a scalpel and not a meat ax. But we had to pare back critical programs, difficult as it was, such as compensatory education for the disadvantaged, substance abuse treatment and prevention, drug-free schools, dislocated worker training—and we did so, I believe, in a way that left intact the basic safety net that protects America's neediest and most disadvantaged—and with a special concern for children and the elderly.

We were able to make these difficult spending cuts because of our commitment to a balanced Federal budget. But the current reconciliation bill may undercut that commitment while leaving those painful spending cuts in place. The largest spending cuts occur in the so-called outyears while many of the tax cuts occur at the outset. These savings may materialize, but there is no guarantee that they will.

Estimates of rates of economic growth, inflation, tax revenue generation are only estimates, and estimates invariably become less accurate the further out in time they occur. The proposed reconciliation bill offers the certain tax cuts right now paid for by spending cuts later and anticipated savings. That sounds too much like the approach which has put us in a predicament with almost a $5 trillion national debt.

Mr. President, I am very concerned that these tax cuts are unfair or at least give the perception of unfairness. I express this concern because much of the pain of the spending cuts goes to the elderly, the young, and the infirm while allowing tax cuts for corporate America and those in higher brackets.

I question, Mr. President, cuts in student aid, job training, low-income energy assistance, workplace safety, Head Start, childhood immunization, and mother and child health programs while we give corporate tax breaks such as accelerated depreciation for convenience stores and expanded equipment depreciation.

I am concerned, Mr. President, as I take a look at the cuts in Medicare and Medicaid. This is a subject that was highly controversial, leading many Republicans from my neighboring State of New Jersey to vote against the Medicare Program in the House of Representatives. I point specifically to Medicare part A disproportionate share payments relating to extra payments to hospitals that serve a high proportion of poor patients. This program is reduced by some $4.5 billion over 7 years. This change impacts very, very heavily on many of the hospitals in my State of Pennsylvania and on many training institutions across the country.

And I point further to the Medicare part A indirect medical education payments, which are financial adjustments to teaching hospitals to cover excess costs due to training. This program is reduced by some $9 billion. I also point to the change in the index for future payments to hospital providers, which will be reduced by some $36 billion over the course of 7 years.

While it is admitted that Medicare changes are necessary in order to remain solvent and that we have to have a handle on Medicare, there are many questions being raised by senior citizens and the elderly all over America today as to the fairness of these reductions. I specify that they are not cuts, but we are trying to get a handle on Medicare so that as costs increase, we can reduce the rate of increase. But there are many questions legitimately being raised about these budget considerations on Medicare.

On Medicaid, there is a change from entitlements to block grants. We have bitten the tough bullet on changing the block grants on welfare payments, and we are in the process of making real reforms in the entitlement programs.

There is a particular concern as to what will happen in many of the

States. There was a lead article in the New York Times in the last few days about what is happening and what may happen further. The State illustrated was Mississippi. A particular concern of my State, Pennsylvania, is the formula for the allocation of Medicaid funds under a block grant, with some of the pending legislation hitting Pennsylvania very, very hard.

Mr. President, it is a herculean effort to rein in entitlements and balance the budget under the best of circumstances in a way that will be accepted as fair. I believe the American people are prepared to tighten their belts to balance the budget, so long as the sacrifices are fair and equitable.

We consistently hear constituents urge spending cuts except for their own pet projects. But leadership calls for the Congress to take the political risks on those hard votes to cut popular programs for the future economic stability of the country. It simply may be too much to cut about $1.4 trillion, and that is an approximation—$200 billion a year over 7 years—plus another $245 billion for tax cuts, which at least gives the appearance of unfairness.

I further suggest that the reconciliation bill may well be bad politics as well as bad public policy. To balance the budget and reform entitlements are tough under any circumstance, but they are even more difficult along with the tax cuts and corporate benefits.

In the wake of Congress' proposed tax cuts, the lead story in the Sunday Philadelphia Inquirer of October 15, 1995, headlined, in the upper right hand corner: "Bearing the Brunt of GOP Cutbacks, Low-Income Families Would Lose Billions in Benefits. Tax Cuts Would Benefit the Affluent."

That story then details the cuts in popular programs. It is especially difficult, Mr. President, I suggest, to justify curtailments in the earned income tax credit at the same time the tax cuts are going to Americans in higher brackets.

The earned income tax credit was expanded in 1986 under President Reagan and again in 1990 under President Bush. President Reagan called the program the best antipoverty, the best pro-family, the best job creation measure to come out of the Congress.

What is the measure of fairness in eliminating facets of the earned income tax credit at the same time that we are adding tax breaks for those in higher brackets?

The specifics on this, frankly, have been difficult to obtain, but the Senate reconciliation bill would reduce funds for the earned income tax credit by some $43.2 billion, which is substantially more than the House reduction of some $23.2 billion over 7 years.

The Senate bill would eliminate the earned income tax credit for taxpayers without children, who now receive a limited credit up to $324. The changes made in the Senate bill on the earned income tax credit tighten up eligibility and expand the income included for phaseout purposes.

Further, the credit would be entirely phased out for individuals with one child with income over $23,730. The Senate proposal would also freeze the credit at 36 percent rather than allowing it to rise up to 40 percent under current law.

Mr. President, the reconciliation bill contains many credits which I like very much. I especially like the $500 tax credit per child, but is there not a question as to extending that tax break to individuals in the $75,000 bracket or $110,000 for married couples, at a time when we are curtailing the earned income tax credit for people who earn $23,730?

There is no doubt about the justification for giving a tax credit for families in middle-income America, but should we be doing it at the same time when the taxes are being increased or the earned income tax credit is being reduced for people in much lower brackets?

This legislation, the reconciliation bill, contains an increase on IRA's, independent retirement accounts, and that is a measure that I have long supported and fought for. I recall in 1986 we had a vote, 51 to 48, eliminating the IRA's. I very strongly opposed the elimination of the IRA's. But is it sound public policy to be increasing IRA availability for singles who earn up to $85,000 and for families earning up to $100,000, from the current limits of $25,000 and $40,000, at a time when we put limitations on the earned income tax credit?

I do not have absolute answers to these questions, but I think they deserve very, very careful thought.

Mr. President, these political problems have been candidly noted by many of our colleagues in the U.S. Senate. Our distinguished majority leader on a Sunday talk show a few weeks ago raised a question about having these tax cuts and quoted a number of Republican members on the Senate Finance Committee, and then, in the wake of objections, retreated from the questioning of these tax cuts.

I believe that if there were a secret ballot among the 53 Republicans, many would vote against the tax cuts in the context of balancing the budget and in the context of difficulties for others in lower brackets. One of my colleagues estimated that as many as 20 of our Republican Senators might oppose the tax cuts if we were to have a secret ballot.

I raise these issues in the context of having debate at the start of this bill, again saying that I do not have absolute answers but think that these issues have to be thought through very, very carefully.

Mr. President, I suggest that it is time to face the facts that the Emperor, as well as the poor, may well be wearing no clothes if the reconciliation bill passes in its present form.

I remind my colleagues about the political consequences back in 1986. Many who are now in the Senate, especially on the Republican side, were not here in 1986 when we faced a question about cutting Social Security benefits. Those benefits were cut. Later in 1986, Republicans lost control of the Senate. Those who voted in favor of the Social Security tax cuts were defeated at the polls.

I think that is something that has to be remembered, especially since, even though the Social Security tax cuts passed the Senate, they did not come into law. They ultimately were abandoned.

Many of the items we are going to be voting on here, as we seek to pass this reconciliation bill, are conceded not to be in final form—that this is a test run and that this reconciliation bill is highly likely to be vetoed by the President. He already announced his intention. Then it is going to come back for further consideration, again raising the question about making these votes which are so politically perilous and which really may not have any effect at all.

Mr. President, I further suggest that we can have all of the advantages in the reconciliation bill in terms of tax breaks for middle-income Americans and more. We can have not just a reduction in the capital gains rate but an elimination of the capital gains tax, and an elimination of tax on dividends if we move to the flat tax, which I introduced earlier this year, Senate bill 488.

I take second place to no one in this body when it comes to supporting tax relief for all Americans. But real tax relief cannot come from tinkering at the margins, by adding a new break here or a new loophole there. Breaks and loopholes are part of the problem, not the solution. The solution to tax oppressiveness is a completely new method of income taxation, a method based on the fundamental principles of fairness, simplicity, and growth. That solution, Mr. President, is the flat tax.

Our current Internal Revenue System is a mammoth bureaucracy requiring Americans to spend billions of hours each year to complete their tax forms and hundreds of billions of dollars in compliance, estimated as high as $595 billion by Fortune magazine. It is reliably estimated that some 5.4 billion hours annually are spent by Americans on tax compliance.

Worse, our tax system is fundamentally antigrowth, diverting otherwise productive resources to compliance costs, promoting economic decisions based on tax avoidance rather than productivity, and discouraging savings and investment by the double taxation of dividends and capital gains.

My flat-tax proposal, Senate bill 488, was introduced in March of this year.

It would scrap our current Tax Code and replace it with a simple 20 percent rate, keeping only two deductions—interest on home mortgages up to $100,000 in borrowing, and charitable deductions up to $2,500.

Individuals would be taxed at the 20 percent rate on all income from wages, pensions, and salaries. They would not pay tax on interest or savings and dividends because those would be taxed at the source. They would also not pay any tax on capital gains because the answer to encouraging investment and growth is not simply to reduce capital gains tax but to eliminate it entirely.

Under my bill, a family of four earning up to $25,500 would pay no tax. Low- and middle-income Americans would benefit from my tax cut because millionaires, who often pay little or no tax because of the myriad loopholes and shelters in the Tax Code, would have to pay tax at the 20 percent rate because these loopholes and shelters would be eliminated. It has been shown that under our current tax system, more than half of all personal income in the United States, or some $2.6 out of $5 trillion, escapes taxation entirely. A fair tax system, like my flat-tax proposal, taxes all income equally—and just once.

Businesses would also be taxed at a flat rate of 20 percent. My plan would eliminate the intricate scheme of depreciation schedules, deductions, credits, and other complexities that complicate business filing, and that in some cases permit tax evasion. Businesses would only deduct wages, direct expenses, and purchases. Businesses would be allowed to expense 100 percent of the cost of capital formation, including purchases of capital equipment, structures, and land, and to do so in the year in which the investments are made. Although the elimination of most deductions means that business taxes will increase in the aggregate—thus assuring that investment income is fully taxed before it is paid out—that extra cost to business will be offset by the elimination of their enormous tax compliance costs.

For both businesses and individuals, the hours and hours of tax-related recordkeeping, the litany of schedules, the libraries full of regulations and decisions, would be replaced by a postcard sized form that almost all Americans and business owners could complete in about 15 minutes.

But the most important reason for adopting a flat-tax system is in its potential to foster economic growth and job creation. With the elimination of taxation on interest, dividends, and capital gains, the pool of capital available for investment will grow dramatically. Conservative economic projections are that interest rates will come down two full points, and that renewed economic activity will add $2 trillion to the gross national product over 7 years—an additional $7,000 for every man, woman, and child in America.

My tax proposal has been carefully calculated to be revenue neutral, so that it will not add one penny to the national debt. My flat tax is based on the analyses done over a period of years by highly respected economic professors, Robert Hall and Alvin Rabushka, of Stanford's Hoover Institute. Hall and Rabushka's calculations show a national flat tax with no deductions and a 19 percent rate matching current tax revenues. My bill deviates from the Hall-Rabushka model by its retention of limited deductions for home mortgage interest on up to $100,000 of borrowing and charitable contributions up to $2,500. While these modifications limit the purity of the flat-tax principle, I believe that these deductions are so ingrained in the financial planning of American families that they should be retained as a matter of fairness. Based on computations provided by the Joint Tax Committee, the additional 1 percent in my flat-tax proposal above the Hall-Rabushka proposal—a 20 percent rate instead of 19 percent—will fully cover the cost of these deductions.

In fact, there is every reason to believe that as the growth aspects of flat taxation take hold, and the economy expands, tax revenues will rise significantly—which will permit either a further lowering of tax rates or actual reduction in the national debt. However, since those savings are speculative, I have not included them in my calculations to set revenue neutral, deficit neutral rate.

I am obviously reluctant to vote against legislation that offers needed tax relief to some Americans. But we ought not be tinkering at the margins where some Americans benefit and others don't. Under a flat tax such as I have proposed, everyone benefits and everyone pays their fair share.

The current tax breaks are, at best, a Band-Aid. A flat tax is a cure for the cancer which retards the productivity of the American economic engine. The relevant committees have had hearings on the flat tax and are in a position to act on these proposals.

Mr. President, I make these comments because of my concern that the pending reconciliation bill may be going too far at a time when our primary objective is to balance the budget, and that Americans are prepared for those cuts if they are fair and if they are just.

At a time when we are tightening our belts, I question the wisdom of the additional tax cuts to people who are in much higher brackets and to corporate tax breaks at this particular time.

Again, I say I am not in concrete on this matter, but I urge my colleagues to carefully consider this matter before we move to the voting state and consideration of final passage of the reconciliation bill.

The Republican leadership has heretofore been advised of my concerns and reservations. While it is late in the process, there is still time to revise the reconciliation bill in the interest of fairness and sound tax policy. It is my hope that modifications can be made so that I and a broad coalition of Members can support this landmark legislation.

The PRESIDING OFFICER. Under a previous order, the Senator from Arkansas, Senator PRYOR, is recognized for up to 15 minutes.

MEDICARE MISINFORMATION AD CAMPAIGN

Mr. PRYOR. Mr. President, this morning I rise today to sound an alarm, about a $1 million television advertising campaign that supports the Republican plan to cut Medicare and is currently airing all over the United States.

I am here to explain to my colleagues why this commercial does not tell the whole story and why the public needs to know more about the organization that is actually paying for this TV commercial that advocates the Republican cuts in the Medicare program.

Mr. President, the organization paying for this television commercial is called the Seniors Coalition. We might not have heard a great deal about the Seniors Coalition because it has not been around all that long. It is an operation founded by Mr. Richard Viguerie.

The star of this ad is our colleague and good friend from Tennessee, Senator BILL FRIST.

Let me make it clear at the start that I mean no disrespect to Senator FRIST. I talked to him this morning, stating I was going to make this statement, and that I was not questioning his integrity in any way.

In fact, I sincerely doubt our colleague, Senator FRIST, is aware of the information that I will share with my colleagues this morning.

The ad, Mr. President, which features Senator FRIST talking about the Republican plan to cut Medicare, is not paid for by the Republican Party but by the Seniors Coalition.

First, some background on the Seniors Coalition. The Seniors Coalition is one of three so-called seniors organizations that have been working exclusively with the GOP leadership. It is working with the GOP leadership to push and help organize and in some cases to fund activities that support the Republican plan to cut Medicare by $270 billion and to provide a $245 billion tax break—most of it or a lot of it, Mr. President, going to the wealthiest in our society.

Here we see a chart that includes the Seniors Coalition. We also see 60-Plus here. And, we see United Seniors, or USA, here. These are all founded by Mr. Viguerie, who has control of perhaps some of the most sophisticated mailing lists in America.

The Coalition to Save Medicare was founded to support the House Republican plan to cut Medicare. As one columnist has recently put it, the Coalition to Save Medicare is "deliriously misnamed," and is a "coalition of huge corporations and insurance companies out to loot Medicare to pay for corporate tax breaks."

In fact, Mr. President, the Seniors Coalition, United Seniors Association, and 60-Plus, are all 501(C)(4) organizations. They pay no taxes whatsoever. They have use of a nonprofit mailing permit. They are being subsidized by the American taxpayer.

The other coalition, which is the Coalition for America's Future—and here is a letter of September 22—was created by the majority party, by the Republican leadership, to apply pressure during efforts to push the Contract With America, including tax breaks for the wealthy, through the House of Representatives.

Let us look at this letter of September 22. This letter is addressed to me:

> On behalf of the more than 7 million families, senior citizens and large and small businesses of the Coalition for America's Future, we are writing to urge you to make good on the promise of the budget resolution to provide $245 billion in tax cuts over the next 7 years.

One of the so-called members of the Coalition for America's Future is the National Committee To Preserve Social Security and Medicare. They are listed along with the Seniors Coalition, United Seniors Association, and 60-Plus as seniors organizations who are members and who support the Coalition's agenda.

Mr. President, just this morning I received a letter from the National Committee to Preserve Social Security, and I will read part of it now:

> Regrettably, that letter lists our organization as a member of this Coalition and falsely implies our support for its position in favor of the $245 billion tax cut package contained in the budget reconciliation bill.

Martha McSteen concludes by saying:

> I want to emphasize in the strongest possible terms that the National Committee to Preserve Social Security and Medicare did not endorse this letter or approve of the use of our organization's name in connection with this letter.

At this point, I would like to explain how these groups were founded, how they operate and exactly who they are.

First, letters that will grab the attention of seniors, usually through scare tactics, are sent to thousands of seniors across America. These letters make senior citizens think that their Medicare is in jeopardy, that it is in danger, and that what they need to do immediately is to send their money in to one of the three groups founded by Mr. Viguerie. Here is what happens.

The letter is sent by one of these groups to Mr. or Mrs. Smith, Anytown, USA. Then the older American receives this letter, writes a check out of their savings account to either the Seniors Coalition, United Seniors Association, or 60-Plus. Then the dollars go, first—where? To Mr. Viguerie. We have the contract for Mr. Viguerie that we will show in a few moments, that shows that Mr. Viguerie gets up to 50 percent, possibly one-half of all of these checks sent in by mail by the senior citizens to United Seniors Association. Some of the remaining money is used to generate some more mail to send out to scare the seniors.

These groups also use some of the remaining money to lobby the Congress. For example, Seniors Coalition had enough money left over to run TV commercials like we are seeing running in many parts of America today. This ad campaign is telling seniors that the Medicare cuts are necessary to save the Medicare system.

Last year, in 1994, these same groups were doing the exact opposite. They were scaring seniors by telling them that President Clinton was cutting $124 billion out of Medicare as part of his health care reform proposal. Here is one letter dated March 28, 1994 from the same organization, the Seniors Coalition, and it was sent out to thousands of seniors all over the country, requesting contributions. In the body of the letter the Seniors Coalition states:

> Now President Clinton wants to cut an additional $124 billion. This is all part of his plan to have the Government take over health care.

Well, they reversed themselves now, 2 years later, because of the Contract With America, because of their desire to cut $270 billion out of the Medicare proposal, because they want to give a $245 billion tax break for the wealthy, and because now they are all in the league with the Republican leadership.

This year, however, the same groups are scaring seniors by telling the seniors if the Republican plan to save Medicare is not adopted, they might lose their Medicare benefits. What the letters do not show is that the Seniors Coalition strongly supports the Republican plans to cut Medicare by $270 billion and to provide a $245 billion tax break, a great portion going to the wealthiest in America.

Second, many seniors are dipping into their savings—from their piggy banks, like the one shown here—to send so-called contributions to these three groups, thinking the money would be used to lobby Congress to save their Medicare Program. But what these seniors are not told and what they do not know—and they would have no reason to know—is that their dollars are being used, not to save Medicare, but to cut Medicare. A senior sends his check in to one of these groups, and their own money is being used against them, to cut Medicare benefits. This is a fraud. It is a sham.

And, after collecting savings from seniors, the groups spend a lot of it, up to 50 percent in the case of the United Seniors Organization, to pay direct-mail companies. Here we have the direct-mail contract between United Seniors Association and Mr. Viguerie. As part of the contract, Mr. Viguerie takes up to one-half of all of the dollars that are sent into USA. And Mr. Viguerie also does the direct mail for another of these groups called 60-Plus.

Experts have taken a look at this contract between Mr. Viguerie and 60-Plus. In fact, they have taken a very close look at this contract. These experts have all concluded that the provisions in Mr. Viguerie's contract, when added up, indicate that in fact he controls as much as 70 percent of the so-called "not-for-profit" 60-Plus. If this is true, what it means is that the American people, through tax exemptions—because it is a nonprofit organization—and postal nonprofit permits, are subsidizing a private fundraiser's operations. In these days of budget cutting, this sort of thing must be stopped.

Mr. President, I think this is an absolute outrage. In fact, it is my understanding the Postal Service is now investigating some of these issues. I hope they will pursue that investigation to its conclusion.

The money that remains after the direct mail people get their cut is used to send out more scare letters to seniors and to support the Republican plans to cut Medicare by $270 billion. Once again, the message is clear: Medicare is growing broke. Send us your money, and we will save it.

Well, seniors are sending in their money. And what they are doing with the seniors' money is it is used to cut, not to save, Medicare.

As I have stated, documents make it very clear that these groups are actively supporting the Republican plans to cut Medicare by $270 billion and to provide a $245 billion tax break, mostly for the wealthy. The ironic thing is that this is not what their members truly want.

This summer I received a petition from the United Seniors Association, one of Mr. Viguerie's groups, and they had on this petition the names of almost 300 Arkansans listed as "members." I thought something looked strange about this petition, so I instructed my staff during the August break to sit there and call the people on this list, on this petition, and simply ask a very few basic questions. What we learned was most educational. It made me realize that their "members" do not necessarily know that they are members. They do not understand what these groups support, nor do they understand that their names are being used to lobby to cut their Medicare benefits.

This chart also shows the results of a phone survey of these Arkansans listed as USA members. First, 53 percent of the seniors listed on the USA petition that I received from Arkansas as members were not actually members. They said they were not members of USA, despite what the petition to me said.

Second, seniors listed in the USA petition to me expressed confusion about the positions that USA takes; 83 percent said they did not know that USA is working to rally support by the Republicans to cut Medicare by $270 billion.

These same seniors, on this list that was sent to my office as a petition, listed their opposition USA position's position on Medicare. Again, as a matter of fact, on Medicare, 89 percent were in fact against cutting it by $270 billion. They oppose the very position of USA that USA and the House majority claims they support.

In sum, the Republicans are saying that a lot of senior groups are supporting these cuts in Medicare. These charts I have shown indicate what these senior groups actually are, how they are motivated, and with whom they are associated.

It is not the case that these so-called seniors groups—Seniors Coalition, United Seniors Association, and 60-Plus—are fighting against these cuts in Medicare. In reality, two things are happening:

First, much of the money is going into the budgets of Richard Viguerie and other direct mail vendors.

Second, the lobbying that these groups are doing amounts not to the saving the Medicare Program but rather supporting the Republican Medicare cuts—even though these cuts could jeopardize the health care received by seniors.

Mr. President, now that we have basically looked at who the players are in this scheme to confuse and to manipulate older Americans, I would like to talk about the million-dollar television campaign that the Seniors Coalition is running across America.

The PRESIDING OFFICER. The Senator is advised that the time for morning business is expired.

Mr. PRYOR. Mr. President, I see no other Senator seeking recognition, and I ask unanimous consent that I may proceed for an additional 6 minutes.

Mr. WELLSTONE. Mr. President, will the Senator yield? Could I ask unanimous consent that it would be 10 minutes, and that I could have 4 minutes after the Senator?

Mr. PRYOR. I would have no objection to that. I see my colleague from Minnesota. I did not see him.

Mr. GRAMS. Mr. President, I have no objection. I had 10 minutes reserved earlier this morning. But I know the leader wants to close off morning business as early as possible because of the remaining debate on the resolution S. 1322 dealing with the Israeli question.

Mr. PRYOR. Mr. President, if I might, I would like to ask my friend from Minnesota, is my friend from Minnesota going to be one of the managers or one of those involved with the resolution or with the issue before the Senate?

Mr. GRAMS. No. I was going to go ahead with another statement. But I will yield to the Senator from Arizona.

Mr. KYL. Mr. President, if I could perhaps clarify this, it has been my understanding that we are operating under a unanimous-consent agreement which will cause the Senate to begin literally right now at 11 o'clock on the debate on the Jerusalem Embassy bill, and that the vote would then occur at 11:40. Is that a correct understanding?

The PRESIDING OFFICER. The Senator is correct.

Mr. KYL. And the leader has asked that we begin that debate as soon as people are here to speak to it. Until the leader or Senator HELMS arrives, I would be acting in their stead. I see Senator FEINSTEIN is here. I do not know whether others may wish to, but I would suggest, in order to comply with the unanimous-consent agreement, that we wind up the business we are on so we can get to that.

Mr. WELLSTONE. Mr. President, will the Senator yield for a moment?

Mr. KYL. Sure.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. WELLSTONE. I might say to my colleague from Arkansas that I withdraw my request, and I think the only question is whether the courtesy might be given to the Senator from Arkansas to finish his statement. He only has a few more minutes to go.

Mr. PRYOR. I will try to be very brief. I will try to proceed if I may.

The PRESIDING OFFICER. The Senator from Arkansas will proceed under a unanimous-consent request.

Mr. PRYOR. I ask unanimous consent that I may be allowed to proceed for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I think it would then be important to indicate to Members that the vote would occur at 11:45, and not at 11:40.

The PRESIDING OFFICER. The Chair would observe that under the unanimous consent, under the previous order, the vote will not occur at 11:40 but at 11:45.

Mr. PRYOR. Mr. President, I want to sincerely thank my colleagues, and my colleague from Arizona, for allowing me to proceed.

Mr. President, as part of the million-dollar Seniors Coalition ad campaign that we are talking about, the television commercials state that in the Republican plan there are "no cuts in benefits." The facts are simple and indicate otherwise. With this particular Republican plan that the ad campaign is supporting, $270 billion will taken out of Medicare. The question is this: If this level of cuts causes the only hospital to which we have access to close its doors, is this not a cut in benefits? In rural America this is exactly what is about to happen to hundreds of hospitals.

Second, if this level of cuts causes the nursing home or a doctor in our town to stop taking Medicare beneficiaries, is this not a cut in benefits?

Third, if this gives incentives to home health care agencies and other providers to treat only healthy people, is this not a cut for older and more frail citizens?

There is another claim expressed in this television commercial. This commercial states that "the Republican plan increases spending by nearly $2,000 per senior."

The fact is, Mr. President, that the yearly per beneficiary growth rate allowed under this plan is 4.9 percent. It is, in fact, much below the expected 7.1 percent growth rate in private sector health care costs. Medicare's ability to respond to health care costs decreases with the severity of these cuts.

Mr. President, the commercial further states that the Republican plan gives "patients more choices." The fact is what good is offering choices when only bad choices are offered? While seniors may have more health care plans to choose from, choosing the one that they can afford may mean they must give up their choice of a physician.

And, finally, the proposed medical savings account threatens the viability of Medicare by allowing insurance companies to cherry-pick by moving healthy, wealthy people out of the Medicare pool. The result would be far higher costs to the beneficiaries who stay in Medicare.

Also, the Seniors Coalition television ad says nothing about the Republicans using the cuts in Medicare to fund tax breaks for the wealthy. Why is this, Mr. President? It is perhaps because seniors who are actually paying for these commercials do not want the Medicare Program to be cut to fund tax breaks. I think this is a legitimate question.

Mr. President, only $89 billion is actually needed to shore up Medicare's trust fund in the short term. Why then are our people not being told where the $181 billion cuts are actually going to go? Were those same seniors who sent their dollars to Mr. Viguerie's groups told this? Of course not. They have been used, they have been abused, and they have been manipulated by a slick campaign of distortion and untruths.

Mr. President, this is a situation where the seniors of America are being scared to death. They are sending their money in to basically, as the letters call for, to protect Medicare.

Mr. President, this television advertising campaign cost the Seniors Coalition $1 million and is running in 19 markets across the country. I want to make sure everyone knows that this campaign was paid for by the elderly, many of them poor and disabled, who sent in money thinking that the Seniors Coalition was going to lobby the Congress to save their Medicare Program— not cut it.

That is why my advice to seniors who are thinking about sending their hard-earned savings to these three so-called seniors groups is that "Contributions May Be Hazardous to Your Health." They should think twice before writing a check to a Viguerie-founded group.

As I said earlier, I am here today to sound the alarm and expose this scam. I am concerned not only because some seniors are being taken advantage of, but also because this scam is a cynical manipulation of our political process. It threatens the democratic principles under which we operate.

Americans who think they are getting involved with the political process are actually being financially exploited. Furthermore, they are not being represented the way they think they are. This is a perfect example of why so many people today have such little confidence in our political system.

Mr. President, older Americans—all Americans—can say "no" to this type of cynical manipulation and misrepresentation.

Let me encourage every senior to get involved with reform of their Medicare Program. They can write a letter to us in the Senate. They can call. They can visit. They can fax. But, they do not need to send money to a direct-mail vendor in order to be heard in the Congress.

Mr. President, before seniors send in $10, $20, or $30 to these so-called seniors groups they should consider the following. The most effective way only costs 32 cents. I will always place more importance on a personal letter or a visit from one of my constituents than on a letter or preprinted card from a group that distorts their views.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material, editorials, and extraneous matter that relate to this issue that I have discussed this morning.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 23, 1995.

Hon. DAVID PRYOR,
Ranking Minority Member, Senate Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: Thank you for forwarding the September 22, 1995 letter of the *Coalition for America's Future.* Regrettably, that letter lists our organization as a member of this coalition and falsely implies our support for its position in favor of the $245 billion tax cut package contained in the budget reconciliation bill.

I want to emphasize in the strongest possible terms that the National Committee to Preserve Social Security and Medicare did not endorse this letter or approve of the use of our organization's name in connection with this letter. We had no advance knowledge that it was sent to Congress and only learned of its existence today after you forwarded it to us.

Our position in strong opposition to the pending budget reconciliation bill is well known to Congress. It is the position of this organization that the $270 billion cut in Medicare to finance tax cuts, primarily for upper income individuals and corporations, is unfair and unjustified. We supported an alternative bill in the House which eliminated the tax cuts and made only those cuts in Medicare necessary to insure its solvency.

If you have any questions, feel free to contact me.

Sincerely,

MARTHA A. MCSTEEN,
President.

[From the Washington Post, Oct. 2, 1995]

FUNDRAISER ALREADY A MEDICARE WINNER

(By Jack Anderson and Michael Binstein)

The battle to reform Medicare still has a long way to go on Capitol Hill, but it's already clear who one of the biggest winners will be: Richard Viguerie, the conservative king of direct-mail fund-raising.

Three groups founded by Viguerie—the Seniors Coalition, the United Seniors Association and 60-Plus—have teamed with the House Republican leadership to gather public support for its controversial Medicare changes. The Coalition to Save Medicare was launched in July and includes the three seniors' groups, in addition to leading industry groups such as the National Association of Manufacturers and the Alliance for Managed Care.

But according to documents uncovered by the Democratic staff of the Senate Special Committee on Aging, much of the money being raised by two of the three seniors' groups is going straight to Viguerie's for-profit company.

Although the Seniors Coalition is no longer associated with Viguerie, having severed its ties with him in 1993, the two other groups remain dependent on Viguerie's fund-raising prowess. United Seniors Association, for example, signed a contract with Viguerie's for-profit direct-mail firm, American Target Advertising, that calls for ATA to receive as much as 50 percent of gross revenue from direct mail until July 30, 1996. After that, ATA will get 25 percent of the take.

In Viguerie's contact with 60-Plus, Viguerie & Associates—later reorganized to become ATA—is slated to own 70 percent of the income for the life of the mailing lists. According to direct-mail experts, this means Viguerie "owns" 70 percent of the organization, including its fund-raising operation. Some direct-mail experts wonder if 60-Plus should be allowed to retain its nonprofit status, which lets it mail solicitations at taxpayer-subsidized rates.

"I've never seen anything like this [contract]," Sen. David Pryor (Ark.) told our associate Jan Moller. Pryor, the ranking Democrat on the Aging Committee, has been directing the Hill investigation. "I've never seen one this flagrant. The worst part of it is the real deception. They're collecting the dollars from the seniors and using those dollars to reduce these programs that are so necessarily for their quality of life."

The Viguerie style of fund-raising is as familiar as it is effective: It starts with a "scare" letter warning seniors of the imminent collapse of Medicare unless something is done. It ends with a request for money, often accompanied by a petition to sign or some other device so respondents can get their "voice" heard in Washington. Viguerie did not respond to our telephone calls.

But when Aging Committee staff members called a sampling of Arkansas seniors whose names appeared on a "telegram" sent to Pryor's office by United Seniors Association, they got a surprise: Less than 15 percent of the seniors said they supported the Republican effort to cut Medicare spending by $270 billion. And only 47 percent acknowledged being members of the association.

Mr. PRYOR. I thank the Chair. I also once again thank my colleagues for allowing me to go a little longer than I had originally anticipated.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. HUTCHISON). Morning business is closed.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1322, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1322) to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

The Senate resumed consideration of the bill.

Mr. KYL. Madam President, I ask unanimous consent that Senator KOHL be added as a cosponsor to the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I also ask unanimous consent that the time consumed as a part of this debate be subtracted from the time originally provided for Senator BYRD from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, might I ask unanimous consent to add my name as an original cosponsor?

The PRESIDING OFFICER. Without objection, Senator WELLSTONE will be added as an original cosponsor.

Mr. KYL. May I also ask unanimous consent that a letter received this morning addressed to Senator DOLE, Senator MOYNIHAN, myself, and Senator INOUYE from AIPAC be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AIPAC,
October 24, 1995.

DEAR SENATORS DOLE, MOYNIHAN, KYL, AND INOUYE: We wish to express our strong support for the Jerusalem Embassy Relocation Act, as modified. It is historic and unprecedented. For the first time, the Senate will have voted on binding legislation to move our embassy to Jerusalem by a date certain, May 31, 1999.

The waiver language contained in the bill is very tightly drawn, allowing the President to waive the funding provision only to protect US national security interest—a very high standard to meet. Clearly, the Senate has indicated that it does not expect this waiver to be exercised lightly, without strong and serious justification. Our embassy belongs in the capital of the State of Israel, just as it is in the designated capital of every other country with which we have diplomatic relations.

As celebrations continue marking the 3,000th anniversary of King David's incorporation of Jerusalem as the capital of Israel, we wish to thank you and your colleagues for bringing this legislation to the floor. We look forward to its overwhelming adoption by the Senate, and to the opening of our embassy in Jerusalem.

Sincerely,

STEVE GROSSMAN,
President.
NEAL M. SHER,
Executive Director.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I want particularly to commend and thank the Senator from Arizona as well as the majority leader, Senator LIEBERMAN, Senator LEVIN, and in particular Senator LAUTENBERG, because I believe that together we have effected an agreement which is significant and important.

Before I go on, I just want to say I am fully aware that the majority leader and the Senator from Arizona could have proceeded on this issue. Clearly they have the votes. I think the fact that they negotiated with those of us who had concerns about the way in which the resolution was worded is very significant and important, and I must say I believe that is why the American people sent us here and how they expect us to work.

And so to the Senator from Arizona, I would like to offer my deepest respect and thanks for the process which I think worked very well, and I think we now have a bill which can bring about the broadest and I hope even unanimous consensus of this body.

Madam President, I think we all must recognize that Jerusalem is a city of vital importance to people all over the world—not just Israel, not just Arab peoples, but people all over the world. Its layers of history and importance are symbolized best perhaps by the Temple Mount where the Dome of the Rock and the El-Aqsa Mosque, shrines holy to Moslems, sit atop the remains of the Temple of Solomon, while down below Jews worship at the Western Wall, the last remnant of that temple.

One can stand in the Old City and hear simultaneously the Moslem call to prayer from the minarets of the mosques, the sounds of the Torah being read down by the Western Wall, and church bells ringing in the distance. It is truly a special city, and Israel is fortunate to call Jerusalem its capital.

The bill we will pass today, as modified by the leader and the Senator from Arizona, is a good bill, and I believe it is one the President can sign. We worked hard Friday and again yesterday to produce a compromise that protects the President's prerogatives to conduct foreign policy. This was a crucial point because without these protections there was a good chance that this bill would be vetoed, which would be a tragic outcome.

Under our compromise, the President would have to establish that it is in the national security interests of the United States to postpone establishing the U.S. Embassy in Jerusalem in 1999. This is a tough but fair standard for any President to meet. As I said yesterday, it is my belief that if a successful conclusion to the Middle East peace process could be imperiled by the implementation of this act, then the President would be able to invoke the waiver on national security grounds. I am sure that many of my colleagues agree. But the inclusion of the waiver should not obscure the achievement reached by this bill.

For the first time ever, Congress will pass legislation that will mandate moving the U.S. Embassy to Jerusalem, and I believe the President will sign it. This represents a major advance in our cause of moving the Embassy. And through this message we will send word that Israel, like every country in the world, has the sovereign right to designate its capital and to have that capital recognized by the nations of the world.

I congratulate my colleagues on this achievement, and I look forward to it passing with overwhelming support.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the majority leader.

I might say to the majority leader that I will take just a few minutes. I actually rise to, first of all, thank the Senator from California and the Senator from Arizona and others for their fine work on this measure. I believe that this is an extremely important step we are taking as we act on this resolution to move our Embassy in Israel to Jerusalem, and to condition certain State Department funding on the Embassy's relocation under the specific timeline laid out in this bill. I rise in support of this legislation, and I am delighted to be a cosponsor of the compromise negotiated over the last few days.

Madam President, let me first talk about this issue personally, because the status of Jerusalem is important to me personally, and will always be. As an American Jew, as a Senator from Minnesota, I believe Jerusalem is and should remain the capital of Israel, an undivided city. Never in my life have I had a more moving experience than when I was in Jerusalem a few years ago, and could experience first-hand the marvels of the city.

At the same time, I have had a concern—and I think the Senator from California, Senator FEINSTEIN, and from New Jersey, Senator LAUTENBERG, and others shared this concern—that certainly we did not want to do anything inadvertent which was going to impede the Mid-East peace process. And for this reason I believe that the waiver provided for in the substitute bill is extremely important. The administration has been clear about this concern all along. In fact, United States Ambassador to Israel Martin Indyk observed that moving forward on the original version of the resolution could have placed tremendous strains on the peace process, and even caused its collapse. This measure now tries to address that potential problem.

Our deep and abiding commitment to Israel is reflected in the bill. Our commitment to Jerusalem as the capital of Israel, with the United States Embassy there, is again strongly and clearly stated. At the same time, the clear commitment to Jerusalem as a city for all peoples is there. This was the most sensitive of all issues in the peace process, agreed to be put off by the parties, in the Declaration of Principles, to final-status negotiations. I think that with this provision we now have in this bill something which I would hope all of us can support.

The initial formulation in the bill, which talked about the importance of Jerusalem as the capital, which talked about our locating our Embassy there, I supported. When we began to talk about this in terms of specific timelines, the concern I had was the effect this could have on ongoing negotiations. Those concerns have now been addressed in this most recent version.

Mr. President, passage of this resolution would be simply another indication of the deep and strong support for Israel in this body. That is critical, I think, because our support for Israel must remain strong and steadfast in this difficult period. Maintaining the security of the State of Israel, our good friend and strategic ally, must remain paramount. We must continue to work actively to help her achieve and maintain peace with her neighbors. This requires maintaining adequate foreign assistance to Israel designed to help her resettle refugees, make key economic reforms, and encourage peaceful economic development. Strengthening and building upon historic gains in the peace process, and making sure that the risks which have already been taken for peace were not taken in vain, must be our twin goals.

I think we now have the strong language necessary to accomplish the goal of this resolution. At the same time, we have the waiver built in to give the President appropriate flexibility. I think that now this version of the bill represents the best of people here in the Senate coming together, and working out an agreement which we can all proudly support. I thank my colleagues for their work. I am proud to support this. And I did ask earlier that my name be included as an original cosponsor.

I yield the floor.

Mr. SPECTER. Madam President, I support the pending legislation to move the United States Embassy from Tel Aviv to Jerusalem because I believe that our Embassy should be located in the capital of Israel, which is the custom for all our other Embassies.

I have long supported this proposition, Madam President. A bill was introduced back on October 1, 1983, Senate bill 2031, which I cosponsored. Back on March 26, 1990, Senate Concurrent Resolution 106 was submitted. Again, I was a cosponsor of that measure. I have cosponsored the pending legislation.

I do have some concerns, Madam President, as to whether such legislation would be an impediment to the peace process, but on balance I think it would not, especially as the legislation has been worked out giving a Presidential discretionary period to expand the time when the Embassy would be moved from Tel Aviv to Jerusalem.

I believe that basically this is a decision which ought to be made by the U.S. Government, and it is entirely appropriate for the legislation to come from the U.S. Senate and for us to take a stand on this matter.

Madam President, today is an auspicious moment for me and many here in the Senate. We are taking action by the passage of S. 1322 to call again on the President of the United States to move the United States Embassy to its rightful location in the city of Jerusalem, the capital of Israel. This is a welcome moment.

I have supported this action since I came to the Senate. I first cosponsored a resolution on this issue introduced on October 1, 1983. That resolution (S. 2031) was cosponsored by 50 Senators. Now, some 15 years later, it is my hope that with the momentum of the peace process, the message of the cosponsors to this bill will resonate sufficiently to move the administration to action on this.

On March 26, 1990, Senate Concurrent Resolution 106 was submitted and was subsequently passed calling for the move of the Embassy to Jerusalem. Again, the Congress acted on this subject through its recent correspondence on February 24, 1995 in its letter to Secretary of State Warren Christopher signed by 93 Senators.

During the August recess, I traveled to Israel as well as other countries. On September 28, I stated here on the Senate floor my impressions of the challenges facing American foreign policy in the near future. It was during that travel that I was able to speak directly with the President of Israel, Ezer Weitzman, Prime Minister Yitzhak Rabin, the leader of the opposition party Mr. Benjamin Netanyahu, as well as Chairman of the Palestine Liberation Organization, Mr. Arafat and significant Palestinian personalities now engaged in attempting to fashion a means to live side by side, Israelis with Palestinians. Many times during these conversations, we spoke of Jerusalem and the future. All of us were aware of the importance of Jerusalem to the future of the region.

Tomorrow, Members of Congress and their guests will convene in the Capitol Rotunda to celebrate the Inaugural ceremony for Jerusalem 3,000, a 15 month long celebration commemorating 3,000 years since the establishment of Jerusalem as the capital city of Israel by King David. I hope to be in attendance at this ceremony.

The action we take today is consonant with the observance of the ceremony as well as with the policy we have around the world in every country we recognize. The United States today locates its embassies, around the globe, in the city designated by the respective country as its capital. It is long overdue that this is our action in Israel. It is most appropriate that, as we move toward the period when both sides in the conflict are scheduled to move into negotiations over a permanent resolution, that the commitment to a date certainly be made for the opening of our embassy.

We have been, and continue to be, the catalyst in bringing the parties to resolution; it is my hope that our action in the Senate today will be accepted and acted upon by President Clinton and that no further roadblocks will be put up which would impede the opening of the Embassy in Jerusalem on May 31, 1999, as provided for in this legislation.

I think it is very, very important that Jerusalem remain undivided, and I think the expression by the U.S. Congress putting into law the timetable for moving our Embassy from Tel Aviv to Jerusalem is entirely appropriate, and accordingly I support that legislation. I yield the floor.

PROTECT THE PEACE PROCESS

Mr. BYRD. Madam President, this bill, which would mandate a move of the U.S. Embassy from Tel Aviv to Jerusalem by May 31, 1999, may be popular with a very vocal segment of the United States population, but it represents precarious foreign policy for the United States as a whole. The United States has played a central role in carrying forward the very difficult and sensitive negotiations that will, hopefully, bring a lasting peace to Israel and the Middle East. It ill behooves us now to undermine what is arguably the single most sensitive issue of the negotiations, that of the status of the holy city of Jerusalem, by impetuously acting to side with one party to the negotiations. If the United States is to be credible as a facilitator of the peace process, it must act with fairness and impartiality.

Proponents of this legislation argue that negotiations on the final status of Jerusalem are to be complete by May, 1999, so that this bill is compatible with the timetable of the peace process. But this presupposes the outcome of the negotiations, which do not even begin until next May. This may be exactly what the proponents desire. If it is "imperative to establish now the U.S. conviction that realistic negotiations must be premised on the principle that Jerusalem is the capital of Israel and must remain united," as an October 20, 1995 mailing from the American Israel Public Affairs Committee (AIPAC) asserts, then what is left to negotiate at all? Acting in advance of the negotiations undermines the incentive for the Palestinians, who also have political and religious claims to the city, to participate in the talks.

United States support for Israel is well known. Israel and the United States have close military and diplomatic ties. The United States provides more economic aid and military assistance to Israel than to any other single state. Moving the United States Embassy from its current location in Tel Aviv to Jerusalem at this time is not necessary to help shore up Israeli support for the peace process. It can wait and let the ground breaking in 1999 serve as a visible signal of the success of the peace negotiations, should the outcome be as expected. Not moving the Embassy at this time is, in my view, probably more important to help shore up the willingness of the Palestinians to continue along this rocky path to peace. Let the ground breaking for a new U.S. Embassy in Jerusalem in 1999 be a visible sign of U.S. support for the final outcome of the negotiations, if that is the result, rather than a continuing reminder to them that the negotiations were rigged from the outset.

Jerusalem is an ancient city, considered holy by three of the world's religions, Christianity, Judaism, and Islam. There is no more volatile mixture in the world than religion and politics, and Jerusalem has suffered the devastating effects over the centuries as wars, occupations, and divisions have forever marked her walls and buildings. Peace is within our grasp, if we can act with sensitivity to acknowledge the ancient and competing claims to this most contested plot of land. No one, I believe, wants a city torn by terror and divisiveness, a Jerusalem that cannot stand as a beacon of tolerance and understanding among three religions and all of the peoples of the Middle East. Therefore, I will vote against this bill, which does so much to undermine the peace process.

Mr. ROBB. Madam President, I recognize the city of Jerusalem as the united, undivided, eternal, and sovereign capital of Israel, and where the United States Embassy is located should reflect that reality. While some have urged caution about relocating our mission in the midst of the peace process, it is my sense that such a move, as envisioned by the Jerusalem Embassy Relocation Act, will not create a detour on the road to achieving a comprehensive Arab-Israeli peace.

Jerusalem stands today as an international city, where the rights of all ethnic religious groups are protected and freedom of worship is guaranteed. Diverse religious faiths coexist peacefully. This week we are seeing a hopeful spirit of internationalism expressed by many world leaders celebrating the founding of the United Nations 50 years ago. Like the community of nations joining together in support of the United Nations many religious faiths and sects engender a collective spirit of interdenominational harmony in Jerusalem.

Madam President, Prime Minister Rabin has told the Israeli people that "I assure you that Jerusalem will remain united under Israel's sovereignty, and our capital forever." That expression leads me to the conclusion that the final status talks on the city should not focus on issues of overall sovereignty. Rather, making permanent each denomination's jurisdiction over its respective holy sites and collateral issues of autonomy should be the subject of the negotiations next year.

Even President Clinton has stated that "I recognize Jerusalem as an undivided city, the capital of Israel—whatever the outcome of the negotiations, Jerusalem is still the capital of Israel and must remain an undivided city, accessible to all." That statement represents a consensus that our Embassy belongs in the functional capital of Israel.

Among the 184 countries we maintain diplomatic relations with, Israel is the single exception to the rule of locating the United States chancery in the designated capital of each foreign nation. We have a responsibility to respect the decisions of where all countries locate their seat of government, and Israel should not be viewed in a different light.

Thus far in the peace talks, Israel has sacrificed the tangible—land—for the intangible—the security of its people. As we continue down the road of peace, Israel will cede valuable territory, natural resources, and political authority, while Palestinians will enjoy broader political and economic freedoms. There are no long-term guarantees for Israel. A single Hamas-sponsored terrorist attack can disrupt any sense of peace achieved at the negotiating table.

Madam President, that is why I endorse this move to demonstrate our long-term commitment to having our Embassy in Jerusalem which will symbolize the united and undivided character of this city. Such a move will not stand in the way of achieving a comprehensive peace. It will simply lay to rest doubts about the U.S. position on the status of our Embassy.

I also support the modified substitute offered by the majority leader last night that includes compromise language providing the President a national security interests waiver. I think it is appropriate that the President should be given the authority to waive the legislation if it would have dire consequences on the peace process.

Madam President, I joined as a cosponsor of this legislation some time ago, and believe it sends the right message at the right time to Israel. It is our decision alone to move the Embassy. With upcoming ceremonies in the rotunda of the Capitol celebrating the 3,000th anniversary of Jerusalem as the capital of Israel, I believe we will be serving the interests of peace in the Middle East by passing this legislation. So I urge my colleagues to support this effort to relocate our Embassy to the capital of the Jewish homeland.

Mr. COHEN. Madam President, this week in the Capitol rotunda the United States Congress will host the United States Inaugural Ceremony of Jerusalem 3000, beginning the celebration of the 3,000th anniversary of the establishment of Jerusalem as the capital of Israel.

It is a particularly appropriate time for the Senate to act on this important legislation that would reaffirm our commitment to Jerusalem as the undivided capital of Israel by directing the relocation of the United States Embassy to Jerusalem by 1999.

It has been over a decade since a majority of the Members of Congress, and I was proud to be among this group, called for the movement of our Embassy to where it belongs—in the capital of Israel. Since then, as Senator MOYNIHAN has recited in detail, the Senate and the other body have repeatedly adopted by overwhelming and frequently unanimous votes legislation calling on the United States to affirm Jerusalem as Israel's undivided capital.

Most recently, nearly every Member of the Senate signed a letter to the President urging that the relocation take place no later than May 1999. This letter clearly rejected the assertion of some that declaring our intent to move our Embassy would endanger the peace process, noting that:

> United States policy should be clear and unequivocal. The search for peace can only be hindered by raising utterly unrealistic hopes about the future status of Jerusalem among the Palestinians and understandable fears among the Israeli population that their capital city may once again be divided by cinder block and barbed wire.

We also endorsed in that letter Prime Minister Rabin's declaration that "United Jerusalem will not be open to negotiation. It has been and will forever be the capital of the Jewish people, under Israeli sovereignty, a focus of the dreams and longings of every Jew."

The bill we have before us, of which I am proud to be an original cosponsor, brings this legislative process to fruition by establishing in law United States policy that Jerusalem should be recognized as the capital of Israel and that our Embassy should be relocated there no later than May 31, 1999, and by authorizing funding beginning this year for construction of a United States Embassy in Jerusalem.

To help that ensure the executive branch implements this policy faithfully, the bill requires semiannual reports from the Secretary of State, beginning in January, on the progress made toward opening our Embassy in Jerusalem. It also would give the State Department a strong financial incentive by limiting the availability of its construction funding after 1999 until the Embassy opens in Israel's capital. As a practical matter, this limitation would not actually take effect until the middle of the year 2000, given the historical spend-out rates for the State Department's construction budget. But it emphasizes the importance Congress places on this matter.

Even with this inherent flexibility, however, the administration has shown resistance to this legislation. In response, Senator DOLE has now added a broad waiver authority that would allow the President to suspend this limitation on State Department construction if he believes it is necessary to protect the national security interests of the United States.

I should also note that the bill carefully states that the rights of every ethnic and religion group should be protected in the undivided capital of Jerusalem. Three major faiths revere Jerusalem as a holy city. The best way to protect the religious interests of members of all these faiths is to ensure that Jerusalem never again is divided, which would only threaten to reignite religious conflict.

Madam President, Senator DOLE and Senator MOYNIHAN are to be commended for their persistent leadership in ensuring that this legislation has finally come for a vote on the floor of the Senate. I hope that, once the House of Representatives gives its approval, this legislation will be signed into law by the President, who during the 1992 campaign clearly stated that "I recognize Jerusalem as an undivided city, the eternal capital of Israel." Given the very strong support this bill rightly enjoys in both Houses of Congress, I think the President's advisers would be unwise to suggest another course of action.

And once this bill is enacted into law, through whichever mechanism, I trust that the President will move expeditiously to implement it and attain its objective before the May 1999 deadline.

Madam President, many of us in the Senate have had the opportunity to help cultivate America's special relationship with the State of Israel. As a strategic ally and an island of stability and democracy in an important but troubled region, Israel steadfastly supported American interests during the cold war. During the gulf war, when Saddam Hussein sought to gain control over Middle Eastern energy resources, Israel stood firmly with America, enduring savage attacks on its civilian population that were designed to split Israeli policy from United States policy.

Having protected U.S. interests in a hostile region for decades, the American-Israeli strategic alliance today is the foundation for the Middle East peace process. Without steadfast United States support for Israel, those among Israel's neighbors who have accepted the necessity for a negotiated peace settlement would not have done so. And without our continued steadfast support, the peace process will not be successful. Nowhere is this need greater than on the question of the status of Jerusalem.

Jerusalem is and will remain the undivided capital of the State of Israel, and we must not miss the opportunity to underline that fact—particularly today on the eve of the inauguration of the celebration of the 3,000th anniversary of Jerusalem's establishment as the capital of Israel. This legislation will help to ensure that the fourth millennium of this holy city will begin with an era of peace.

I urge my colleagues to support this legislation, so that we can pass it with a large majority and ensure its swift enactment into law.

Mr. LOTT. Madam President, I rise in support of S. 1322, a bill to relocate the United States Embassy in Israel to Jerusalem.

In the over 180 countries where the United States has a diplomatic presence, Israel is the only country where our diplomatic presence is outside of the capital city. It is time to pledge ourselves to moving our Embassy to Jerusalem, which is the legitimate capital of Israel. It is in our interest to strongly support Israel and its continued administration of Jerusalem.

I am a cosponsor of this legislation, along with 63 other Senators. In a year some characterize as a very partisan year, you have a bipartisan consensus on this issue. Senators have come together for the national interest, something which is above politics.

This is what this bill is all about: The national interest. I have heard that this bill is solely about politics of the Presidential kind. That is not true—the proof is in the list of cosponsors: This list is bipartisan and balanced.

I have heard the argument against this bill, that moving our Embassy ahead of schedule would endanger the Middle East peace process. I am not persuaded by this argument. The United States has consistently recognized Jerusalem as Israel's capital. If we want to be an honest broker in peace talks between Israelis and Palestinians, we should be honest about our view of Israel's sovereignty over Jerusalem.

This bill would allow us to break ground in 1996 for the new Embassy. Next year will be the 3,000th anniversary year of Jerusalem. King David relocated his throne from Hebron to Jerusalem 3 millennia ago. Next year, America should move its Embassy to the city of David.

This bill is not a statement of animosity against any religion. Almost all Senators are on record supporting Israel's administration of Jerusalem as a unified and universal city, open to all followers of the three great world religions. This it has done for 28 years, and that will not be jeopardized.

This bill is not a statement against any country. This bill is for the official recognition on our part that our ally Israel has its governmental seat in Jerusalem. The peace negotiations can and should continue. We should facilitate such negotiations. Relocating our Embassy does not and should not have anything to do with ongoing peace talks.

So I think we should pass this bill, and I think the President should sign it. Jerusalem has always been at the crossroads of history and faith. We should begin next year to place our presence there.

I am reminded that people of the Jewish faith say at the end of the Passover and Yom Kippur services, "Next year, in Jerusalem." This expresses their hope of return and the centrality of Jerusalem in the Jewish faith.

I say something similar, Madam President: That I hope this bill passes, and next year, we will be in Jerusalem breaking ground for a new Embassy in the Holy City.

Ms. MIKULSKI. Madam President, I rise as a cosponsor of the Israel Embassy Relocation Act. I thank the sponsors of this legislation for amending it to give Israel more flexibility on when construction on our new Embassy will begin.

Jerusalem is and always will be the capital of Israel. For thousands of years the Jewish people prayed, "next year in Jerusalem." This prayer helped to sustain Jews even through the darkest days of the diaspora.

Even after Israeli independence, the holy sites of Jerusalem were closed to Christians and Jews. The Jewish quarter of the old city was destroyed. But since Jerusalem was unified in 1967, Jerusalem is open to all religions for the first time in its history.

I have visited Israel with Jews who were there for the first time. When we visited the Western Wall, I saw what it meant for them to touch the stones that their ancestors could only dream of. I saw that Jerusalem is not just a city or a capital. It is the religious and historic homeland of the Jewish people.

Why is Israel the only nation with which we have diplomatic relations that is not allowed to chose its own capital? The sight for the U.S. Embassy is in west Jerusalem, which has been part of Israel since its independence. We should have moved our Embassy long ago.

So over the years, I have supported every effort of Congress to call upon the executive branch to move our Embassy to Jerusalem. And each successive administration has ignored us.

But now, as Israel takes courageous steps toward peace, we are raising this issue again. And what should have been a clear statement on Jerusalem has become a political debate.

When this legislation was first introduced, I had some concerns about the requirement that construction on the new Embassy must begin in 1996. I did not cosponsor it because I believe that we would be imposing our own deadlines on the peace process. This new bill removes the arbitrary dates that fit United States elections rather than the will of the Israeli people. This issue is too important to politicize.

Madam President, this year we celebrate the 3,000 anniversary of Jerusalem. Let us mark this great event by reaffirming that Jerusalem is and always will be the capital of the State of Israel.

Mr. HATCH. Madam President, I stand here today to strongly support S. 1322, the Jerusalem Embassy Relocation Act of 1995.

I wish to commend the majority leader for his efforts in introducing this bill. I also wish to commend the efforts of Senator KYL and a number of my Democratic colleagues for ensuring that we possess a bill that will have, I hope, unanimous support here in the Senate.

The issue of Jerusalem has been debated on this floor for over a decade. I have always believed that Jerusalem is the capital of Israel, and I believe that now is the time for the United States Congress to recognize this reality. That is why I signed the letter to Secretary Christopher on March 20, 1995—along with 92 of our colleagues—that declared that "we believe that the

United States Embassy belongs in Jerusalem."

I understand that this legislation has been modified to address concerns that we may be restricting the President's foreign policymaking powers. With these modifications, I encourage the administration to join us in correcting a diplomatic anomaly that we have visited on our closest ally in the Middle East for too long: Of the diplomatic relations we hold with over 180 nations around the world, Israel is the only country in which our Embassy is not in the capital.

I have been and remain a strong supporter of the Middle East peace process. But through the years of my support, I have always maintained that the policy process must be driven by the participants, and that the United States' role is to support, not dictate, the terms of the negotiations. Israel has made some courageous concessions over these negotiations. It has waged a fight for peace that has been, on some days, as bloody as its previous wars.

Next year will begin the "Final Status" negotiations. There has been much positioning by certain parties over the future of Jerusalem. But Israeli governments have not vacillated over this issue, and their position has always been clear: Jerusalem is the seat of the Israeli Government, and Jerusalem shall remain the united capital of Israel. This is the conviction of the Israeli Government, the only democratic state and our most valuable ally in the region.

This should be our conviction now. Our ambivalence beyond this point will only muddle, and I believe frustrate, the final status negotiations. The parties must set the terms, and we must not confound expectations by perpetuating the anomaly of the U.S. Embassy in Tel Aviv. If we wish to continue supporting the peace process, and I firmly believe we should, then we must make clear that it is the policy of the U.S. Government to have its Embassy in Jerusalem by the conclusion of the peace negotiations at the end of this century.

Jerusalem just celebrated its 3,000th anniversary. Let us now declare that the U.S. Embassy will reside in that holy city by the end of this troubled 20th century. Let us now pass resoundingly S. 1322.

Ms. MOSELEY-BRAUN. Madam President, I strongly support S. 1322, the Jerusalem Embassy Relocation Implementation Act, legislation which would locate the United States Embassy in Israel in Jerusalem, Israel's capital city.

It is customary, indeed, universal, that an embassy is located in the capital city of every sovereign nation in which a diplomatic presence is maintained; that is why I cosponsored S. 1322, along with 62 of my colleagues.

Madam President, Jerusalem is Israel's chosen seat of government. It is where the President, Prime Minister, Parliament, Supreme Court, central bank, and all other authoritative institutions of state are headquartered. It has been the capital of Israel since 1950. Moving the American Embassy is nothing more than an acknowledgment of what is in fact the reality—Jerusalem is the capital of the State of Israel.

Presently, the United States maintains diplomatic relations with 184 countries around the world. Of these, Israel is the only nation in which our Embassy is located in a city not regarded by the host nation as its capital.

Imagine, Madam President, the huge outcry, within and outside of government, if any foreign nation refused to locate its embassy in our capital or insisted that it would maintain relations with us, but not in the location we designated as our capital city. That kind of refusal would create serious and unnecessary tensions between the United States and that country. After all, the question of where to locate the capital of the United States is for the United States to decide—and no one else.

That same logic applies in this case to the capital of Israel. The question of where to locate its capital is for Israel to decide and no other nation or power to frustrate. And Israel decided long ago that Jerusalem would be its capital.

If the argument is made that Middle East peace negotiations are at a delicate stage, and that this is not the time for this legislation, my response to that is: Peace negotiations are always at a delicate stage. The pendency of discussions should not force an untenable discrimination against one of the negotiators.

Jerusalem has been the capital of Israel since 1950. The time for waiting is over. Forty-five years is a long enough period for closure of what should be a matter of simple fairness.

Critics of this legislation also argue that the passage—even the discussion—of this legislation will undermine the peace process, thereby harming Israel's security and strategic interests. However, the Government of Israel and its citizens, the ultimate authorities on Israel's security and strategic interests, do not share that view. They enthusiastically support the relocation of the American Embassy to the capital city, Jerusalem.

Others argue that the relocation of the American Embassy to Jerusalem would prejudge and prejudice the final status of Jerusalem negotiations under the Oslo agreement. I do not agree. The site the United States is considering for a future Embassy is in an area that has been part of Israel since its founding in 1948. Moreover, Israel's right to this section of Jerusalem is uncontested, even by the Palestine Liberation Organization.

Madam President, I understand and appreciate the uniqueness of the city of Jerusalem. It is unique in the world as a holy place. The hilltop city is sacred to Jews as the site of their ancient temple, to Christians as the birthplace of Christianity, and to Moslems as the site from which Muhammad ascended into heaven. It is all of these things—and it is also the capital of Israel.

Each and every U.S. Embassy abroad exists to represent our Government to the government of the country in which it is located. The Government of Israel is in Jerusalem. Jerusalem, therefore, is the only place our Embassy should be.

The logic of locating our Embassy in Israel's capital city is overwhelming and compelling, which is why this legislation enjoys such widespread, bipartisan support in both the Senate and the House of Representatives. I urge the prompt passage of this legislation, and I look forward to the day in the near future when the United States Embassy opens in Israel's capital—Jerusalem.

Mr. FEINGOLD. Madam President, I am proud to be a cosponsor of the Jerusalem Embassy Relocation Implementation Act. Like almost all of my colleagues, I believe that an undivided Jerusalem is the legitimate capital of the State of Israel, and that United States policy should clearly reflect that. Accordingly, the United States Embassy should be housed in Israel's capital, just like it is in every other country, and not in the country's economic center.

Of course, the Jerusalem issue is practically unique in world politics. The ancient city is holy for Jews, Christians, and Moslems, and both Israelis and Palestinians claim Jerusalem as their capital. The Tomb of the Holy Sepulchre is sacred for Christians to honor Christ's death. Moslems claim the Dome of the Rock and the al-Aqsa mosque as the site of Abraham's sacrifice. Jews pray at the Kotel, the Western Wall, the last remaining wall of the ancient synagogues, as well as the scores of other holy sites nestled in so many quarters.

Named as the City of Peace, Jerusalem has unfortunately been split by war. Throughout history, Arabs and Jews and Christians have locked each other out, and have often accused each other of desanctifying religious monuments, and barring access to each other's holy places.

Incidents have occurred where Moslems have felt offended by desecrations of their holy monuments and religious foundations. My own memory is seared by the defacing of meaningful and historic synagogues in the Old City's Jewish Quarter in 1947-67, when the city was not controlled by Israel. I remember with pain the laundry that hung on the Wailing Wall, a place of immensely spiritual and sacred value for Jews. I cannot forget the pictures of Jewish tombstones thrown around the Mount of Olives cemetery just at the foot of the walls of the Old City.

Though the international community has tried to split Jerusalem under the political solution of corpus separatum, to my mind, the spirituality and emotion of the city make division impossible. Given the 3,000 years of the history of Jerusalem, it will always be the heart of the Jewish people and the capital of the Jewish state. Indeed, it is the capital of the sovereign nation of Israel—a sovereignty the United States has heavily invested in and fiercely supported for 45 years. If our support for Jewish sovereignty over the land of Israel is to mean anything, then the United States should recognize Israel's capital appropriately.

Waiting years—if not decades—for the right moment to move the United States Embassy is not an appropriate recognition of Israel's sovereignty. As much as I hate to admit it, I do not think there will ever be a right time for a move with such emotional associations. And therefore, now is as right as ever. In exchange, Israel must guarantee universal access to other religions who seek to honor their holy places as well. I believe that, save some very unfortunate incidents, Israel for the most part has protected the right of access to Moslem and Christian holy places, and has a responsibility to continue to do so.

I am very sensitive to concerns that such a move by the United States at this time would undermine the peace process. I understand the risk that perhaps the United States would compromise its important position as an honest broker in the peace process: To that, I respond that America's position is nonnegotiable since Israel's claim to Jerusalem is nonnegotiable. Already, there should be no doubt of what the United States position is; hiding our Embassy in Tel Aviv does not change that.

I am also troubled by suggestions that such a move would predetermine the outcome of the final status talks between Israel and the Palestine Liberation Organization, and tie the chairman's hands in other critical negotiations. I am not persuaded, however, that the move of the U.S. Embassy from Tel Aviv to Jerusalem would have such a devastating effect. It is important to keep this proposal in perspective, and not underestimate the power of the commitment of the parties themselves to the peace process—wherever the U.S. Embassy is housed. Further, I believe that Prime Minister Rabin's own assertions that Israel will not cede Jerusalem are just as important to the process, and can guide United States actions on the issue.

The stationing of the United States Embassy in Jerusalem has been a widely supported proposal. The Democratic Party has included it as a plank in our platform since 1967. Sweeping majorities in Congress have urged it for years. It has not been a partisan issue; it has not been a personal crusade for just a few Members of Congress. Indeed, it is when we have broad-based and bipartisan support such as this that coherent and successful policies emerge. Israel has always been a beneficiary of such unity. For that reason, I appreciate Senator DOLE working with the administration to craft a bill that can have near-unanimous support, and to avoid the nonsense of division on an issue like Jerusalem.

This year Jerusalem is celebrating its 3,000th anniversary. For it to remain the unclaimed capital of Israel is a shame. We should honor it, and the State of Israel, with the Jerusalem Embassy Relocation Implementation Act.

Mr. CHAFEE. Madam President, I fully recognize that Israel is one of the most strategic and important allies of the United States—the only working democracy in the Middle East. We should never waver in our support for a nation that has been militarily threatened by its neighbors since its founding over 40 years ago.

But I also strongly support the peace process that Israeli Prime Minister Rabin and the Palestine Liberation Organization began over 2 years ago. A glimmer of hope has emerged in recent years that the longstanding hostilities that have fueled conflict in this volatile region of the world may soon come to an end. It is imperative that the United States stand firmly behind the efforts of Israel and the Palestinians to reach agreement on the many disagreements that have divided these peoples for so long.

In announcing its accord on Jericho and the Gaza Strip 2 years ago, Israel and the PLO also agreed to negotiate the permanent status of Jerusalem beginning next year. The United States has stood firmly—and indeed has been a leader—behind negotiations on these and other unresolved issues that are aimed at achieving long-term peace.

I certainly recognize that Israel declared Jerusalem to be its capital in 1950. However, since 1967 the United States has called for a negotiated resolution of Jerusalem's status, a position restated by the September 1993 agreement between Israel and the PLO. I am convinced that the question of when we construct our Embassy in Israel should be left to the President and the State Department. Having Congress dictate to the State Department a construction schedule for our Embassy would surely disrupt and possibly derail the ongoing Mideast peace process, a most sensitive diplomatic effort.

Although the administration is given a national security waiver in the compromise version of this legislation, there is still no guarantee that the Embassy move could be waived if the peace process is halted. That is why the State Department remains opposed to this bill. Because of my support for the Mideast peace process and executive branch authority on foreign policy, I will vote against S. 1322.

Mr. KOHL. Madam President, I rise today as a cosponsor of this resolution to move the U.S. Embassy from Tel Aviv to Jerusalem. I strongly believe that Jerusalem is, and will always be, the undivided capital of the state of Israel. The United States Embassy should have been moved from Tel Aviv to Jerusalem long ago, and I have supported many past efforts to that end. Earlier this year, I joined 91 other Senators in a letter to Secretary of State Christopher urging that our Embassy be moved as soon as possible.

Beyond the protocol concerns of maintaining an embassy outside a state's declared capital city, the U.S. Government is ignoring the centrality of Jerusalem to the Jewish people by keeping its embassy in Tel Aviv. Jerusalem is more than just a capital for the people of Israel. Israelis cherish Jerusalem for its historical and religious significance and hold it in great affection. As a result, this continued reluctance to move the Embassy to Israel's precious capital and most important city is perceived as the ultimate diplomatic snub. It is only appropriate that we correct this slight.

Jerusalem has emotional resonance that reaches far beyond the Middle East as the religious capital for all Jews and as an important religious site for many other faiths. The Israeli Government has earned our praise in its valiant efforts to ensure that people of all faiths have unhindered access to their holy sites. Unfortunately, Jerusalem has not always been so accessible, as Senator LAUTENBERG detailed for the Senate yesterday.

Mr. President, I have been somewhat skeptical as to whether we can pass legislation that will really move our Embassy from Tel Aviv to Jerusalem. The administration has expressed reasonable concerns that this measure is ill-timed and that in its original form could have had an adverse effect on the peace process. I am pleased that Senators FEINSTEIN and LAUTENBERG were able to work with the original sponsors of this measure to achieve a compromise to address the administration's concerns.

With or without this legislation, I continue to urge the administration to move the U.S. Embassy to Jerusalem as soon as possible. I urge my colleagues to support this bill to send that message to the administration.

Mr. MACK. Madam President, I rise in support of S. 1332, a bill to relocate the U.S. Embassy to Jerusalem. I have long supported placing the U.S. Embassy in Jerusalem. It is time that the United States recognized Jerusalem as the capital of Israel by placing our Embassy there. Such recognition is long overdue—47 years overdue. Over time, the location of the Embassy in Tel Aviv has taken on a significance that is at odds with our strong and unwavering support for Israel and Jerusalem as its undivided capital.

The United States failure to recognize Jerusalem as the capital of Israel has only served to embolden the enemies of Israel, leading them to think perhaps the United States, Israel's closest ally, was ambivalent about the status of Jerusalem. We are not. And it is long past time for us to demonstrate our steadfast commitment to an undivided Jerusalem as the historic, governmental, and spiritual capital of Israel.

Much of the discussion on this bill has addressed concerns that relocation of the U.S. Embassy to Jerusalem would have a detrimental effect on the peace process. The opposite is true. An essential part of the peace process involves a clear understanding between the parties on a number of issues, an undivided Jerusalem as the capital of Israel is one. PLO compliance is another. On both counts, I want to be absolutely clear: both are essential to a lasting peace in the Middle East. Both are good for Israel and both are good for the Palestinian people. Both are fundamental prerequisites for moving forward into a phase of good relations between Israel and its neighbors. Both are necessary for stability, economic development, good government, and the rule of law for the Palestinian people.

Mr. PRESSLER. Madam President, I want to join the strong chorus of bipartisan support for S. 1322, the Jerusalem Embassy Relocation Act. As an original cosponsor of this bill, as well as the legislation introduced early this year, S. 770, I am pleased the Senate is taking decisive action. This bill already has more than 60 cosponsors—a testament once again to the strong bond between the people of the United States and Israel, our friend and ally in the Middle East. I urge my colleagues in the House of Representatives to pass this legislation and send it to the White House as soon as possible.

Swift passage would not only be appropriate, but timely. In less than 2 weeks, Prime Minister Rabin and Mayor Olmert of Jerusalem will be with us here in the Capitol to commemorate the 3,000th anniversary of the establishment of Jerusalem as the capital of Israel by King David. It was 45 years ago, in 1950, when Jerusalem formally was reestablished as the capital of Israel. Throughout this city's rich history, Jerusalem has been an important city to people of many faiths. It has been occupied by military governments, psuedo-states, and empires. However, for three centuries, only one State has called Jerusalem her capital—the State of Israel. Jerusalem is and should forever be the capital of Israel. Jerusalem is where our Embassy belongs.

The Senate repeatedly has expressed in a strong, unified voice that the United States Embassy in Israel should be relocated to Jerusalem. Earlier this year, I was pleased to join a vast majority of my colleagues—92 to be exact—in a letter to Secretary of State Warren Christopher, urging that the State Department begin taking concrete steps to relocate the U.S. Embassy to Jerusalem. The legislation we will pass today more than gets the process moving. Specifically, S. 1322 would set a definitive timeline for the construction and relocation of the United States Embassy to Israel in Jerusalem. It would authorize funding over the next 2 years to ensure the timeline is met, including the opening of the U.S. Embassy in Jerusalem by May 31, 1999.

Madam President, I strongly disagree with those who claim that this legislation could threaten the Middle East peace process. There is no rational basis to question the Senate's commitment to achieving a lasting peace in the Middle East. All want to see the peace process succeed. The safety and security of all the people of Israel is critical to attaining a stable environment in the Middle East.

Clearly, a number of issues in the peace process remain to be worked out. However, there are a few facts that are not in dispute: Jerusalem is an undivided city. Jerusalem is a city open to all people of all nationalities and faiths. Jerusalem is the true capital of Israel. By relocating our Embassy in this historic city, we simply reinforce these facts—facts that reinforce U.S. policy. Nothing more. Nothing less.

Again, Madam President, I am proud to be an original cosponsor of this very important legislation. Throughout my career in the Senate, this body has passed a number of nonbinding resolutions recognizing Jerusalem as the capital of Israel. U.S. policy is clear. Congress has spoken many times. Now the time has come for action. I commend the majority leader, my friends and colleagues from New York—Senator D'AMATO and Senator MOYNIHAN—and my friend from Arizona, Senator KYL, for their tenacious leadership to see this bill through to final passage today. I can think of no action by the United States to be more appropriate on this extraordinary year—the 3,000th anniversary of King David's recognition of Jerusalem as the capital of Israel—than to place our Embassy in Israel's capital city, Jerusalem—a city forever free, forever undivided and forever the capital of the people of Israel.

Mr. DODD. Mr. President: I rise today to speak about S. 1322—Jerusalem Embassy Relocation Implementation Act of 1995. Let me say at the outset that I share the fundamental premise of the sponsors of this legislation, namely that Jerusalem is and should remain the undivided capital of the State of Israel. I also agree that the logical extension of that premise is that the U.S. Embassy should therefore appropriately be located in that city.

I have joined with my colleagues on numerous occasions expressing this view. Most recently, on March 20, I joined with 92 of my Senate colleagues on a letter to Secretary of State Warren Christopher stating our view that:

> it would be appropriate for planning to begin now to ensure such a move no later than the agreements on permanent status take effect and the transition period has ended, which according to the Declaration of Principles is scheduled for May 1999.

Mr. President, several weeks ago I had the privilege of being present at the White House to witness the historic signing of the Interim Agreement on the West Bank and Gaza by Prime Minister of Israel Yitzhak Rabin and PLO Chairman Yasser Arafat. With the stroke of their pens, they took, the peoples of the Middle East one step closer to lasting peace. All of the efforts of those who were the enemies of peace could not deter these two brave leaders from their goal of finding the common ground that made that agreement a reality.

Since the establishment of the State of Israel more than 47 years ago, the people of Israel have sought to live in peace with their neighbors in the Middle East. For too long Israeli efforts to reach out for peace and dialog with its Arab counterparts were met with rejection and terrorism. Fortunately that has now largely changed. Clearly the break up of the Soviet Union and the gulf war were defining moments that totally reshaped the political landscape in the Middle East and improved the prospect for peace.

Mr. President, I fully understand the emotional attachment that Israelis—indeed all Jews—have for Jerusalem. I also respect the significance of this city for those of Moslem and Jewish faiths. Under Israeli sovereignty, all nations have enjoyed complete freedom of worship in a united Jerusalem. Moving the U.S. Embassy to Jerusalem will in no way effect freedom of access to holy places or Moslem and Christian continued control of their respective holy sites in that city.

We can all be justly proud of the enormous progress that has been made to date to undo the destruction and distrust that are the byproduct of decades of hatred and havoc in the Middle East. But we must also be realistic about the difficult issues that remain to be resolved. We must also be mindful of actions we might take here in this body that could further complicate efforts to reach a final agreement.

It is within that context that the administration's opposition to legislatively mandating the relocation of the U.S. Embassy to Jerusalem by a date certain should be understood. Having said that, I believe that at this point not to vote in support of this legislation would send the wrong signal to those who would prefer to see the Middle East remain in turmoil. It would send the wrong signal to those who may hold some allusion that our views about the undivided nature of the capital of Israel will somehow change.

Mr. President, I also would note that the changes that have been made to the original legislation by its sponsors do address some of the specific concerns expressed by the administration about earlier versions. I am pleased that ongoing discussions concerning the inclusion of Presidential waiver authority bore fruit.

Mr. President, while I may have had some doubts about the specific wording of the legislation or the timing of its consideration, I wholeheartedly endorse its intent, and will join with my colleagues at the appropriate time in support of final passage.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. DOLE. Madam President, this is an historic day for the Senate. Long discussed and long promised, today marks the day that means a U.S. Embassy in Jerusalem will be a reality. On October 13, 1995, along with Senators MOYNIHAN, KYL, INOUYE, and 61 other colleagues, I introduced S. 1322, the Jerusalem Embassy Relocation Act of 1995. It modifies S. 770, introduced last May, by deleting the requirement setting the groundbreaking must be begun on the Embassy by May 1996. This legislation states that Jerusalem should be recognized as the capital of Israel and that our Embassy should be relocated to that city no later than May 1999. That is the bottom line.

I wish to say at the outset that the sponsors of this legislation do not want to undermine the peace process. We support the process of building peace in the Middle East.

In our view this legislation is not about the peace process, as the Senator from Arizona pointed out in a meeting we had the other day with the Senator from California, Senator FEINSTEIN, the Senator from New Jersey, Senator LAUTENBERG, and the Senator from Connecticut, Senator LIEBERMAN, time and time again.

This legislation is not about the peace process, it is about recognizing Israel's capital. Israel's capital is not on the table in the peace process, and moving the United States Embassy to Jerusalem does nothing to prejudge the outcome of any future negotiations.

Years ago, I expressed some concern about the impact of Jerusalem and related issues could have on the prospects for peace. But we live in a very different world today. The Soviet empire is gone, and Arab States can no longer use cold war rivalries in their differences with Israel. Iraqi aggression against Kuwait has been reversed with American forces fighting shoulder to shoulder with Arab allies. American military forces remain in the Persian Gulf region. Jordan has joined Egypt in making genuine peace with Israel. The second phase of the Declaration of Principles is being implemented, Gaza is under Palestinian control, and Israeli withdrawal from West Bank towns has begun.

Even yesterday Arafat met with a group of 100 some Jewish leaders in New York City. I never thought it would happen. It happened.

No one can fail to see that the Middle East has changed dramatically. In my view, now is the time to set the deadline for moving the American Embassy to Jerusalem.

In the more than 5 months since this legislation was introduced, there was not one single overture from the Clinton administration. There were veto threats and legal arguments, but no effort to even discuss our differences. Despite the administration's refusal to talk, the sponsors of the legislation remained willing to address concerns about the bill.

I had no doubt we can work it out and move forward on this legislation.

I want to thank my colleagues, Senator LAUTENBERG, Senator FEINSTEIN, and others for their willingness to cooperate and work out some of the differences we had, along, of course, with Senator KYL, Senator LIEBERMAN, Senator MOYNIHAN, and Senator INOUYE.

The administration raised concerns over the lack of a waiver provision in the bill. Last Friday, they proposed a national interest waiver with no limits. In the interest of getting the broadest possible support—we hope, even including the support of the White House—the substitute adopted last night included a national security interest waiver. If the waiver is exercised, funding withholding would take place in the next fiscal year. This should take care of any possibly unforeseen impact of the legislation. Despite having the votes to prevail, we have demonstrated our willingness to meet the concerns raised. We did not want a confrontation with the White House. In sum, we have gone the extra mile, and now is the time for the Senate to speak.

Some have said the Israeli Government is opposed to this legislation. Nothing could be further from the truth. The architect of the Oslo accord, Deputy Foreign Minister Yossi Beilin recently made Israeli Government views very clear:

> Any timing for transferring any embassy to Jerusalem, is good timing. The earlier the better. Israel is the only nation in the world that doesn't have a recognized capital.

As I said when introducing this legislation, the time has come to move beyond letters, expressions of support, and sense-of-the-Congress resolutions. The time has come to enact legislation that will get the job done.

Madam President, we have a very sound piece of legislation before us today. I would particularly like to thank the lead sponsors and those who have been helpful in the process.

I am pleased that Senator FEINSTEIN and Senator LAUTENBERG agreed to cosponsor the legislation after the substitute was worked out last night.

It would seem to me we ought to have unanimous or near unanimous support for this legislation.

I ask unanimous consent that several items referred to in my statement be printed in the RECORD at the end of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHAW, PITTMAN,
POTTS & TROWBRIDGE,
JUNE 27, 1995.

To: American Israel Public Affairs Committee
From: Gerald Charnoff, Charles J. Cooper, and Michael A. Carvin
Re S. 770; Bill to Relocate U.S. Embassy to Jerusalem

I. INTRODUCTION

This memorandum is in response to your request for an analysis of the constitutionality of the "Jerusalem Embassy Relocation Implementation Act of 1995," hereinafter S. 770, a measure introduced by Senator Dole in the first session of the 104th Congress. Maintaining that Jerusalem should be recognized by the U.S. as the capital of Israel, the bill, in a Statement of Policy, states that groundbreaking for the U.S. embassy in Jerusalem "should begin" by 31 December 1996 and that the embassy "should be officially open" by 31 May 1999. S. 770, 104th Cong., 1st Sess. §3(a). The measure further establishes that no more than 50% of the funds appropriated to the Department of State in fiscal year 1997 for "Acquisition & Maintenance of Buildings Abroad" may be obligated until the Secretary of State certifies that construction has begun on the U.S. embassy in Jerusalem. Id. §3(b). Similarly, not more than 50% of the funds appropriated in the same account for fiscal year 1999 may be obligated prior to certification by the Secretary of State that the Jerusalem embassy has officially opened. Id., §3(c). Additional provisions, contained in sections four and five of the measure, earmark certain funds for the relocation effort."[1]

The Office of Legal Counsel of the Department of Justice has taken the position that the funding mechanism incorporated into S. 770 is an unconstitutional infringement on the President's powers. See Bill to Relocate the United States Embassy from Tel Aviv to Jerusalem, Op. Off. Legal Counsel (May 16, 1995) ("The proposed bill would severely impair the President's constitutional authority to determine the form and manner of the Nation's diplomatic relations.") (hereinafter "OLC Op.").

II. ANALYSIS

The Office of Legal Counsel ("OLC") Opinion argues that the President has primary responsibility for foreign affairs and that his specific power to recognize foreign governments to be exclusive. OLC Op., p. 2–3. Accordingly, OLC concludes that "Congress may not impose on the President its own foreign policy judgments as to the particular sites at which the United States' diplomatic relations are to take place." Id. at 3. OLC maintains that the imposition of fixed-percentage restrictions on the State Department's FY 1997 and FY 1999 acquisition and maintenance funds until specified steps are completed in the relocation effort constitutes an impermissible restriction on the President's discretion in foreign affairs. Although OLC does not in any way dispute Congress' plenary power over the purse, it maintains that Congress may not "attach conditions to Executive Branch appropriations requiring the President to relinquish his constitutional discretion in foreign affairs." Id. at 4, quoting Issues Raised by Section 129 of Pub. L. No. 102–138 and Section 503 of Pub. L. No. 102–140, 16 Op. Off. Legal Counsel at 30–31 (1992) (emphasis added.). In support of this assertion, OLC places exclusive reliance on prior Executive Branch opinions which criticize congressional appropriations riders that directly required the President to take (or refrain from) a particular action by stating that no appropriated funds could be used for the congressionally proscribed action. Id. at 3–4. See also Issues Raised by Section 129 of Pub. L. No. 102–138 & Section 503 of Pub. L. No. 102–140, 16 Op. Off. of Legal Counsel 18, 19 (1992), citing Section 503 of Pub. L. No. 102–140, 105 Stat. at 820 (1991) ("[N]one of the funds provided in this Act shall be used by the Department of State to issue more than one official or diplomatic passport to any United States government employee. . ."); Appropriations Limitation for Rules Vetoed by Congress, 4B Op. Off. of Legal Counsel 731, 731–32 (1980), citing H.R. 7484, §608, 96th Cong., 2nd Sess. (1980) ("None of the funds appropriated or otherwise made available to implement . . . any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted. . . .").

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[1] Footnotes at end of letter.

OLC's assertion concerning the primacy of the Chief Executive in foreign affairs is well-supported,[2] and its further assertion that Congress may not interfere with these foreign policy prerogatives even when exercising its spending power is also consistent with long-standing Executive Branch precedent, although Congress has taken a different view.[3] The issue has never been resolved judicially.[4] However, OLC's assertion that S. 770 "requires" or "compels" the President to move the Embassy to Jerusalem, and is thus subject to the same constitutional objections as appropriation riders containing such unconditional requirements, is belied by the plain language of the bill and is otherwise unsupported by law or Executive Branch opinions.

S. 770 does not purport to restrict the President's ability to maintain an Embassy in Tel Aviv or to otherwise interfere with the President's authority to use appropriated monies in any manner he believes best serves the Nation's foreign policy interests. Rather, the measure merely states that, absent compliance with an established timetable for relocation of the U.S. Embassy in Israel, Congress will invoke its spending power to reduce the aggregate funding level that can be obligated in certain related discretionary accounts. Instead of a prohibition on the ability of the President to use money to exercise his constitutional powers, S. 770 merely provides a fiscal incentive for the President to exercise his discretion in a certain manner, though leaving him capable of eschewing these incentives and acting in direct contravention of Congress' wishes. Thus, such a mechanism in no way restricts the ability of the President to use his foreign affairs power to employ appropriated money as he sees fit.

That being so, S. 770 is different in this critical respect from any other appropriation rider ever objected to by Executive Branch officials as an unconstitutional infringement on the President's foreign affairs power or other executive powers. In all such cases, the appropriations riders have directed a particular course of action or inaction by prohibiting certain uses of appropriated funds, even if the President desired to take such actions in fulfilling his constitutionally-assigned duties. Issues Raised by Section 129 of Pub. L. No. 102–138 & Section 503 of Pub. L. No. 102–140, supra, citing Section 503 of Pub. L. No. 102–140, 105 Stat. at 820 (1991) ("[N]one of the funds provided in this Act shall be used by the Department of State to issue more than one official or diplomatic passport to any United States government employee. . . ."); Appropriations Limitation for Rules Vetoed by Congress, supra, citing H.R. 7584, §608, 96th Cong., 2nd Sess. (1980) ("None of the funds appropriated or otherwise made available shall be available to implement . . . any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted. . . .").

The Attorney General and OLC have reasoned that if Congress is without constitutional power to make decisions for the President in areas the Constitution commits to his discretion, it matters not whether that intrusion is embodied in appropriations or other legislation. In exercising its power of the purse, Congress has no greater authority to usurp the President's exclusive constitutional authority than when it acts pursuant to other enumerated powers. See, The Appropriations Power & the Necessary & Proper Clause, 68 Wash. U. L. Q. 623, 30 (1990) ("[W]hen we hear discussions about Congress' weighty role in . . . the foreign relations power, and Congress adverts to 'the power of the purse,' it does not make sense. Congress still has to point to a substantive power. The power of the purse . . . is only procedural.") (remarks by the Honorable William Barr).

Here, in contrast, Congress imposes no restrictions on appropriated funds: such funds may continue to be used to maintain an Embassy in Tel Aviv should the President decide to leave the Embassy there. Accordingly, there is nothing in S. 770 "requiring the President to relinquish his constitutional discretion in foreign affairs" and thus OLC's reliance on Executive Branch condemnation of such appropriation riders is entirely misplaced. OLC Op., p. 4.

To be sure, if the President retains the status quo in Israel, the State Department will have less funds in two upcoming fiscal years than it would otherwise have, and so S. 770 is plainly designed to influence the President's decision on the Jerusalem Embassy. But this sort of "horse trading" is a basic staple of relations between the two political branches and hardly infringes the President's constitutional authority or powers. For example, the President has unfettered constitutional authority to nominate whomever he desires for, say, Surgeon General, and Congress does not unconstitutionally interfere with that presidential appointment authority by abolishing or reducing the funding for the Surgeon General's Office if certain nominees are proposed. Similarly, Congress may constitutionally pledge to reduce financial support for certain foreign interests or international organizations simply because it is displeased with the President's exercise of his responsibilities as foreign affairs spokesman or Commander-in-Chief. Since the use of these sorts of quid pro quos to influence the President's exercise of his constitutional duties does not unconstitutionally interfere with those duties, S. 770's establishment of such a device is similarly within Congress' constitutional authority.

By entrusting the President with the authority to definitively resolve certain questions, the Framers did not erect a prophylactic shield protecting the President against all attempts to influence the manner in which he resolves those issues. Accordingly, the Founders did not erect some special constitutional protection for the President which immunizes him from the give and take of inter-branch disagreements. Rather, they expected that a President of "tolerable firmness" would be able to resist congressional blandishments to pursue a course he deemed unwise, assuming such appropriations riders survived his veto in the first instance. Alexander Hamilton, "The Federalist No. 73," at 445 (C. Rossiter ed. 1961).

For this reason, even those scholars who believe Congress "ought not be able to regulate Presidential action by conditions on the appropriation of funds . . . if it could not regulate the action directly," Henkin, supra at 113, acknowledge that establishment of financial penalties or incentives to influence presidential action is permissible. Henkin, supra at 79. ("Since the President is always coming to Congress for money for innumerable purposes, domestic and foreign, Congress and Congressional committees can use appropriations and the appropriations process to bargain also about other elements of Presidential policy and foreign affairs."). Indeed, the Attorney General has favorably opined on the constitutionality of an appropriation rider that imposed a markedly more onerous restriction on the President's exclusive Commander-in-Chief powers than S. 770 imposes on his foreign policy discretion. In 1909, Congress attached the following rider to the Navy's appropriation:

"[N]o part of the appropriations herein made for the Marine Corps shall be expended for the purpose for which said appropriations are made unless officers and enlisted men shall serve on board all battleships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than eight percentum of the strength of the enlisted men of the navy on said vessels." Naval Appropriations Act of 1909, 35 Stat. 753, 773, reprinted in Appropriations—Marine Corps—Service on Battleships, 27 Op. Att'y Gen. 259 (1909).

The Attorney General found this restriction constitutional because, "Congress has power to create or not to create . . . a marine corps, make appropriation for its pay, [and] provide that such appropriation shall not be made available unless the marine corps be employed in some designated way . . ." 27 Op. Att'y Gen. at 260.

So far as we can discern, neither OLC nor the Attorney General have subsequently disavowed or undermined the vitality of this Attorney General Opinion, although they opined at times that appropriation riders could not direct the President to take action within his constitutional sphere. Presumably, then, even Executive Branch officials have recognized a distinction between impermissible riders that mandate certain action or inaction and permissible ones which, like the Marine Corps appropriation, provide the President with at least a nominal choice between two courses of action, with financial "penalties" if he chooses the disfavored option. In the 1909 naval appropriation, the President's "choice" was between having marines constitute eight percent of battleship crews or having no funding for the Marine Corps at all. This complete defunding penalty for exercising the disfavored option is obviously far more draconian than the 50% reduction in construction funding occasioned by S. 770.

In short, there is an obvious and constitutionally significant difference between an appropriations law forbidding the President to take action which the Constitution leaves to his discretion and a law which merely sets out the negative financial consequences that will ensue if the President pursues a certain policy. This distinction between coercive laws and laws which offer financial incentives to exercise one's sovereign power in the preferred way has been well-recognized by the Supreme Court in directly analogous circumstances.

Most notably, in *South Dakota* v. *Dole*, 483 U.S. 203 (1987), the Supreme Court considered a congressional statute, known as Section 158, which directed the Secretary of Transportation to withhold five percent of allocable highway funds from any state in which individuals under the age of 21 could legally purchase or possess alcohol. Like S. 770, the funding mechanism in *Dole* constituted a congressional attempt to provide indirect financial inducement to affect policy in an area presumably beyond Congress' power to legislate directly.

Despite earlier recognition that the "Twenty-first Amendment grants States virtually complete control over whether to permit importation or sale of liquor and how to structure the liquor distribution system,"[5] the Court upheld this statutory incursion into state sovereignty, asserting that the "encouragement to state action found in §158 is a valid use of the spending power." *Dole*, 483 U.S. at 212. Accordingly, even though the Constitution assigned to the states the responsibility for establishing drinking ages, and thus Congress presumably could not direct the states to set a minimum age, this funding restriction was permissible because "Congress has acted indirectly under its spending power to encourage uniformity in the States' drinking ages." Id. at 206. Thus, such restrictions are permissible because the potential recipient of appropriated federal funds is free to reject Congress' financial inducement and exercise unfettered discretion in the relevant area, so long as the recipient is willing to endure the financial sacrifice that ensues. Id. at 211-212 ("Congress has offered . . . encouragement to the States to enact higher minimum drinking ages than they would otherwise choose. But the enactment of such laws remains the prerogative of the States not merely in theory but in fact."). Similarly, in upholding federal appropriation riders requiring the regulation of State employees' political activities, the Supreme Court has ruled that even though Congress "has no power to regulate local political activities as such of state officials," the federal government nevertheless "does have power to fix the terms upon which its money allotments to states shall be disbursed." *Oklahoma* v. *Civil Service Comm'n*, 330 U.S. 127, 143 (1947). The Court found that the state's sovereignty remained intact because the state could adopt "the 'simple expedient' of not yielding to what she urges is federal coercion." Id. at 143–144.

Thus, *Dole* would seem to directly establish that the sort of conditional funding provided by S. 770 is constitutionally permissible. In *Oklahoma* and *Dole*, the Tenth and Twenty-first Amendments provided the states with exclusive authority over their employees' political activities and citizens' legal drinking age, yet Congress did not unconstitutionally infringe these powers by offering financial incentives to adopt a particular policy. By the same token, the fact that the Constitution vests the President with exclusive recognition authority does not disable Congress from using its plenary spending power to seek to influence the exercise of that authority.

Like the drinking-age restriction in *Dole*, the funding mechanism in S. 770 merely attempts to induce recipients of federal funds to pursue policy ends advocated by Congress via clearly established conditions on future appropriations, while leaving that decisionmaker with the option of refusing such conditions. The President may exercise his discretion to retain the American embassy in Tel Aviv and accept the potential of reduced congressional funding in certain related discretionary accounts, or he can move the embassy. S. 770 does nothing to alter the fundamental fact that the decision as to where to locate the U.S. embassy in Israel "remains the prerogative" of the President "not merely in theory but in fact." *Dole*, 483 U.S. at 211–12.[6]

To be sure, the President differs from state governments because, as noted, he cannot pursue any action requiring expenditures without congressional funding. Thus a blanket prohibition against using appropriated funds does not leave him with any option to pursue the proscribed activity. Because of this distinction, a straightforward restriction against using any funds for an action otherwise within the President's constitutional power is an effective prohibition against taking such action and thus presents a different, and more difficult, constitutional question. As noted, however, that is not the situation here. The President has been offered a choice directly analogous to that offered the states in *Dole*—he may pursue the congressionally disfavored option and accept the financial consequences or acquiesce to the preferred option without any such sacrifice.

OLC has nonetheless previously sought to distinguish *Dole* on the grounds that the Supreme Court's decision in *Metropolitan Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*, 111 S. Ct. 2298 (1991) (hereinafter "MWAA") found *Dole* "inapplicable" to issues that "involve separation-of-powers principles." Issues Raised by Section 129 of Pub. L. No. 102–138 and Section 503 of Pub. L. No 102–140, supra, at 31. This assertion is patently untrue. *MWAA* in no way suggests that, while Congress is free to use its spending power to influence the sovereign power of states guaranteed by the Tenth Amendment and the Constitution's basic structure, the sovereign powers of the President are somehow different and thus immune from such congressional blandishments. Contrary to OLC's misleading selective quotation, *MWAA* never said *Dole*'s rationale was "inapplicable" to cases involving "separation-of-powers principles," it simply stated that *Dole*'s rationale was "inapplicable to the issue presented by this case." *MWAA*, 1111 S. Ct. at 2309 (emphasis added). *Dole*'s rationale was inapplicable not because the sovereign authority of the President is somehow different from that of the states, but because the infringement of executive powers in *MWAA* was obviously and significantly different from the funding appropriation conditions at issue in *Dole*.

The issue that divided the dissenting and majority opinions in *MWAA* was whether Congress was effectively responsible for creating the Board of Review, which was composed of Members of Congress and had veto power over the Airport Authority's important decisions. Id. at 2313 (White, J. dissenting). The dissent argued that no separation-of-powers issue was implicated by this Board of Review because the Commonwealth of Virginia (and the District of Columbia) had created that Board and no federalism principles prevented the states from so utilizing the talents of Members of Congress. Id. According to the dissent, the fact that Congress had coerced Virginia to make this decision was of no moment because this "coercion" was no different than Congress' use of the spending power to influence states in *Dole*. Id. at 2316–17.

In the section of the opinion relied upon by OLC, the majority refuted both prongs of the dissent's arguments:

"Here, unlike *Dole*, there is no question about federal power to operate the airports. The question is whether the maintenance of federal control over the airports by means of the Board of Review, which is allegedly a federal instrumentality, is invalid, not because it invades any state power, but because Congress' continued control violates the separation-of-powers principle, the aim of which is to protect not the States but "the whole people from improvident laws." *Chadha*, at 951, 103 S. Ct. at 2784. Nothing in our opinion in *Dole* implied that a highway grant to a State could have been conditioned on the State's creating a "Highway Board of Review" composed of Members of Congress."—*Id.* at 2309.

The first two sentences merely make the obvious point that since *MWAA* deals with a "federal instrumentality" and there was no question about the propriety of "federal power to operate the airports," there is simply no issue of federal interference with state power.[7] Since there was no question of federal interference with, or bargaining for, state power, the only relevant question was who controlled the federal power—Congress or the Executive. In that regard, Congress had not "bargained" with the Executive by establishing financial conditions analogous to S. 770, but had directly commandeered control over the Airport Authority by establishing the Review Board.

The third sentence in the quoted passage simply says that *Dole* is inapplicable because the infringement in *MWAA* is different from the appropriation restriction in *Dole* and would be impermissible if applied to the states. This obviously belies the assertion that *Dole* was found inapplicable because different standards govern infringement on the President's powers than those which govern state intrusions. Specifically, *Dole* was distinguishable because, in *MWAA*, Congress did not provide money in return for Virginia exercising *its* sovereignty in a certain way. Rather, Virginia agreed to transfer its sovereignty over the Airport Authority to Congress. As the opinion's derisive citation to a "Highway Board of Review" makes clear, while the federal government may use its spending power to influence a state's exercise of its own sovereignty, Congress cannot use its spending power to induce the state to enhance congressional authority by creating congressionally-controlled federal instrumentalities. In short, Virginia was not trading away its own state power over airports; it had none. Rather, it was trading away the pre-existing Executive power over the airports to Congress. Since Virginia obviously had no Executive power to trade, Congress could not invoke *Dole* to justify its exercise of Executive power.

As this detailed review establishes, *MWAA* said that *Dole* was inapplicable because 1) there was no state power to bargain away, and 2) states cannot enhance congressional power in return for congressional dollars. Nothing in *MWAA* suggests that *Dole* was inapposite because the Executive, unlike states, in somehow disabled from agreeing to exercise his sovereign authority in a particular manner in return for increased congressional monies.

To the contrary, like the states, the Executive Branch, "absent coercion . . . has both the incentive and the ability to protect its own rights and powers, and therefore may cede such rights and powers." *MWAA*, 111 S. Ct. at 2309. The fact that preserving the President's powers against congressional enactments is ultimately designed to protect the "whole people from improvident laws" does not suggest a different rule, since the federalism concerns implicated in *Dole* were also designed to preserve the people's liberty. See *U.S.* v. *Lopez*, 115 S. Ct. 1624, 1626–27 (1995) ("Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front."), quoting *Gregory* v. *Ashcroft*, 501 U.S. 452, 458 (1991); *New York* v. *U.S.*, 112 S. Ct. 2408, 2431 (1992) ("[t]he Constitution divides authority between federal and state governments for the protection of individuals.") (emphasis added.)

To be sure, under *MWAA*, Congress could not condition appropriations on the President's agreement to establish an "Israeli Embassy Board of Review," where congressional agents determine the location of the Embassy. The President cannot transfer his recognition powers to congressional decisionmakers and, as indicated, there is a plausible argument that Congress cannot directly supplant the President's decisionmaking authority on such matters, even though directives in appropriations bills. Like any other sovereign, however, the President may consider many factors in making his own decisions. Just as he may consider the reaction of foreign countries, he may also consider a negative congressional reaction. Accordingly, nothing precludes Congress from seeking to influence that decision through use of its own constitutional powers including the spending power.

Indeed, OLC's contrary position demeans the President's constitutional status and certainly cannot be advanced in the name of a strong Executive. The OLC Opinion suggests that the President, unlike the states, lacks the ability or the will to resist Congress' financial inducements. Particularly given the existence of his veto power, this view of the President's authority vis-a-vis Congress is obviously untenable and irreconcilable with the Framers' views. The Framers did not erect a prophylactic constitutional umbrella protecting the President from the persuasive power of Congress' financial inducements, they forged only a shield against congressional directives. OLC simply ignores this vital distinction and the Executive Branch and judicial precedent which support it.

Under these precedents and a proper understanding of the constitutional framework, S. 770 does not violate any separation-of-powers principle or infringe any constitutional authority of the President.

FOOTNOTES

[1] Section 4 of S. 770 merely reprograms $5 million in funds appropriated in the Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act of 1995. Pub. L. No. 103–317, 108 Stat. 1724, 60 (1994) (Title V contains appropriations specifically for the Department of State and related agencies.) Specifically, $5 million previously contained in the aggregate account for expenses of general administration is earmarked for costs incurred in activities associated with the relocation of the U.S. embassy in Israel: Id., §4 ("Of the funds appropriated for fiscal year 1995 for the Department of State and related agencies, not less than $5,000,000 shall be made available until expended for costs associated with relocating the United States Embassy in Israel. . . .").

The $5 million authorization is to remain in effect without temporal restriction until such funds are expended. §4 Though the President is in no way obligated to spend the $5 million earmarked for the relocation effort, such funds cannot be used for any other purposes. General Accounting Office, "Principles on Federal Appropriations Law" 6-6 (2. ed., 1992) (In an appropriations bill providing $1,000 for "[s]moking materials . . . of which not less than $100 shall be available for Cuban cigars . . . portions of the $100 not obligated for Cuban cigars may not be applied to the other objects of the appropriation."); Earmarked Authorizations, 64 Comp. Gen. 388, 394 (1985) (asserting that where measure providing funding for the National Endowment for Democracy earmarks "Not less than $13,800,000" for projects of the Free Trade Union Institute, "awards should not be made" where there is no worthy programs, "but the consequence of this [non-allocation] is not to free the unobligated earmarks for other projects."). Similarly, Section 5 of the bill earmarks a specified amount of the funds authorized to be appropriated in the Department of State's general account for "Acquisition and Maintenance of Buildings Abroad" in fiscal years 1996 and 1997, requiring that such earmarked funds be spent on the embassy relocation effort. As in Section 4, the budget authority is not temporarily restricted and is to last "until expended" on the relocation effort. Given the identical requirement that "not less than [the earmarked amount] . . . shall be made available" in fiscal years 1996 and 1997 respectively, the President has discretion as to whether to use the money, but cannot use earmarked funds for other general purposes.

[2] See, e.g., *Alfred Dunhill of London, Inc.* v. *Republic of Cuba*, 425 U.S. 682, 705–06 n. 18 (1976) ("[T]he conduct of [diplomacy] is committed primarily to the Executive Branch."); *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 410 (1964) ("Political recognition is exclusively a function of the Executive."); *United States* v. *Pink*, 315 U.S. 203, 229 (1942) (Asserting that the executive's constitutional authority to recognize governments "is not limited to a determination of the government to be recognized. It includes the power to determine the policy which is to govern the question of recognition.").

[3] Congress has repeatedly used its control over appropriations to influence executive actions on foreign policy and has repeatedly opined that these conditions are constitutional. See, e.g., William C. Banks & Peter Raven-Hansen, "National Security and the Power of the Purse" 3-4 (1994); Louis Henkin, "Foreign Affairs and the Constitution" 114 (1972). ("Congress has insisted and Presidents have reluctantly accepted that in foreign affairs . . . spending is expressly entrusted to Congress and its judgment as to the general welfare of the United States, and it can designate the recipients of its largesse and impose conditions upon it."); "Report of the Committees Investigating the Iran-Contra Affair," S. Rept. No. 100–216, H. Rept. No. 100–433, 100th Cong., 1st Sess. 475 (1987) ("[W]e grant without argument that Congress may use its power over appropriations . . . to place significant limits on the methods a President may use to pursue objectives the Constitution put squarely within the executive's discretionary power."). Department of Defense Appropriations Act for Fiscal Year 1985, Pub. L. No. 98–473, §8066, 98 Stat. 1837, 1935 (1984), reprinted in Banks, supra at 138. ("During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting . . . military or paramilitary operations in Nicaragua. . . ."); Arms Control Export Act of 1976, Pub. L. No. 94–329, §404, 90 Stat. 729, 757–58 (1976) ("[N]o assistance of any kind may be provided for the purpose, or which would have no effect, of promoting . . . the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola. . . .").

[4] It is well-established that Congress may not use its spending power to coerce activity that itself violates a provision of the Constitution. See *United States* v. *Butler*, 297 U.S. 1, 69–70, 74 (1936): *United States* v. *Lovett*, 328 U.S. 303, 315–16 (1946) (striking a funding restriction as a bill of attainder in violation of the U.S. Constitution). Obviously, this doctrine has no application here since the Constitution does not prohibit moving the American Embassy in Israel to Jerusalem. However, OLC, as it has in the past, further maintains that the spending power cannot be used to force the President to take action that is perfectly constitutional, if the appropriation restricts the President's power to exercise his unfettered discretion in an area within his constitutional authority. There is no judicial precedent either way on OLC's extension of the independent constitutional bar principle in a separation-of-powers context. In the context of congressional funding conditions on state governments, the Supreme Court has unequivocally rejected an expanded notion of the independent constitutional bar:

> "[T]he "independent constitutional bar" limitation on the spending bar is not, as petitioners suggest, a prohibition on the indirect achievement of objectives which Congress is not empowered to achieve directly. Instead, we think that the language in our earlier opinions stands for the unexceptionable proposition that the power may not be used to induce activities that would themselves be unconstitutional."

South Dakota v. *Dole*, 483 U.S. 203, 210 (1987). See also *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127 (1947). Of course, the President, unlike the states, has no access to funds other than those appropriated by Congress. Thus, unlike the situation with state governments, a prohibition precluding the President from spending any appropriated monies on a particular activity is a direct prohibition against pursuing that activity. This provides a plausible basis for distinguishing the statute involved in *Dole* from a direct appropriations restriction on the President's activities. As we discuss below, however, *Dole* provides direct support, where, as here, there is no prohibition against spending money on the President's desired activity.

[5] *California Retail Liquor Dealers Assn.* v. *Midcal Aluminum*, 445 U.S. 97, 110 (1980) cited in *Dole*, 483 U.S. at 205.

[6] The Supreme Court has recognized that at some point, a financial inducement becomes so lucrative that "pressure turns into compulsion" and such incentive becomes unconstitutional coercion. *Dole*, 483 U.S. at 211. See also, *Steward Machine Co.* v. *Davis*, 301 U.S. 548, 590 (1937). However, the *Dole* Court dismissed any claim of coercion involved in the drinking age funding provision, stating that the "relatively small percentage" of highway funds involved in the cutoff were not coercive. 483 U.S. at 211. The Court further asserted that the mere fact that a conditional grant of money is successful in achieving compliance with congressional restrictions will not establish coercion. Id. seems clear that, given the minuscule amount of funding involved in S. 770, especially relative to the substantial highway fund allocations involved in *Dole*, the incentive mechanism at issue could not be deemed coercive. Should the President refuse to move the embassy, he would be barred from obligating funds amounting to a mere one percent of the budget authority reserved for international affairs in each of the fiscal years involved and a mere one one-hundredth of one percent of the aggregate budget in those same years. Office of Management & Budget, "Appendix to the Budget of the United States for Fiscal Year 1996" 692–93 (1995); Office of Management & Budget, "Historical Tables to Supplement the Budget of the United States for Fiscal Year 1996" 14, 69 (1995).

[7] The Court had previously noted that the Board of Review was "an entity created at the initiative of Congress, the powers of which Congress has delineated, the purpose of which is to protect an acknowledged federal interest, and membership in which is restricted to congressional officials. Such an entity necessarily exercises sufficient federal power as an agent of Congress to mandate separation-of-powers scrutiny." Id. at 2308.

JERUSALEM, ISRAEL,
July 5, 1995.

The EDITOR,
New York Times.

TO THE EDITOR: The debate about the relocation of the U.S. Embassy continues and I write to express my whole-hearted support of the Dole/Inouye legislation, which calls for moving the U.S. Embassy to Jerusalem by 1999.

Jerusalem has been the capital of Israel since the founding of the State in 1948. Throughout history, Jerusalem has been the capital of the Jewish nation and must remain so. For the Embassy of the United States—"Israel's closest friend"—not to be in the functioning capital of Israel is an anomaly. Israel is the only country in the world where the U.S. Embassy is located in a city not regarded by the host nation as its capital. The basis for the Embassy not being located in Jerusalem was incorrect from the beginning, and this policy should finally be corrected.

Jerusalem is sacred to all three monotheistic religions but is meaning is not equal for them. In Christendom and Islam there are many spiritual centers and many symbolic capitals. In Judaism and for the Jewish people, there is only one Jerusalem.

Public attention is focused on whether or not this is the "right time" for such a move. I believe it is. The placement of the U.S. Embassy in Jerusalem has been a consensus issue for the American Jewish community and for successive Israeli governments for years. In the last decade, both Houses of Congress have enacted four resolutions calling on the U.S. government to acknowledge united Jerusalem as the capital of Israel.

The Dole/Inouye legislation, which is cosponsored by a majority of the U.S. Senate, will be put to a vote. It must be enacted by an overwhelming majority. Failure to do so will send a wrong message to the Arab States. It is imperative to establish now the U.S. conviction that realistic negotiations be premised on the principle that Jerusalem is the capital of Israel, and must remain united, Israelis of all political stripes are for the establishment of the U.S. Embassy in Jerusalem. The site reserved for the new Embassy is in West Jerusalem—on land which has been part of Israel since 1948.

Support for this legislation is, and has always been, bipartisan. Now is the time to move forward with it.

Sincerely yours,
TEDDY KOLLEK.

YOSSI BEILIN ON LEGISLATION TO MOVE THE UNITED STATES EMBASSY TO JERUSALEM

(Press conference with Israeli journalists, Oct. 12, 1995)

Question. Regarding the Jerusalem legislation to move the embassy from Tel Aviv to Jerusalem, are you pleased with the initiative and the timing of this?

BEILIN. Any timing for transferring any embassy to Jerusalem is good timing. The earlier the better, from my perspective. I am happy that there is the intention to do this. I'm only sorry that this has become part of election strife in Congress between the Republicans and Democrats in a bit of a cynical manner. To my disappointment, it has been promised by the opposition but then it was not carried out.

Question. Aren't you concerned that it will hurt the peace process or the standing of the U.S. in the eyes of the Arabs if the legislation will pass?

BEILIN. Israel is the only nation in the world that doesn't have a recognized capital and I am not prepared to accept that if Israel has a recognized capital this will affect the negotiations.

Mr. KYL. The waiver provision in S. 1322 will be examined by many people. I would like to join with the distinguished majority leader in clarifying on the RECORD the meaning and purpose of the waiver language.

Mr. DOLE. I agree with my friend from Arizona, that it is important to address the scope and meaning of the waiver provision. It is important that no one think that this provision would allow the President to ignore the requirements of S. 1322 simply because he disagrees with the policy this legislation is promulgating. The President cannot lawfully invoke this waiver simply because he thinks it would be better not to move our Embassy to Jerusalem or simply because he thinks it would be better to move it at a later time. The waiver is designed to be read and interpreted narrowly. It was included to give the President limited flexibility—flexibility to ensure that this legislation will not harm U.S. national security interests in the event of an emergency or unforeseen change in circumstances.

Mr. KYL. What is the significance of the phrase "national security interests" as opposed to "national interest?"

Mr. DOLE. This is the way we are ensuring that the waiver will not permit the President to negate the legislation simply on the grounds that he disagrees with the policy. "National security interests" in much narrower than the term "national interest"—and it is a higher standard than national interest. The key word is security. No President should or could make a decision to exercise this waiver lightly.

Mr. KYL. Is it fair to say that the intention of the waiver is to address constitutional concerns that have been raised about S. 1322?

Mr. DOLE. It is fair to say the waiver is intended to address unusual or unforeseen circumstances. We believe S. 1322 is constitutional even without the waiver, but the constitutional questions that have been raise about it deal with issues so important that we think it is best to offer the President the limited flexibility of the waiver. It is within the constitutional appropriations power of Congress to withhold funds from the executive branch if it does not act in accordance with congressional mandates.

Mr. KYL. Although in drafting the legislation Senators did not limit the number of times the President could invoke the waiver authority, is it correct to say that the intent of the drafters is not to grant the President the right to invoke the waiver in perpetuity?

Mr. DOLE. The waiver authority should not be interpreted to mean that the President may infinitely push off the establishment of the American Embassy in Jerusalem. Our intent is that the Embassy be established in Jerusalem by May 1999. If a waiver were to be repeatedly and routinely exercised by a President, I would expect Congress to act by removing the waiver authority.

I yield the floor.

Mrs. FEINSTEIN. I yield 4 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from California.

I would ask how much time is left, because I want to be certain that my colleague from Delaware has a chance to say a few words.

The PRESIDING OFFICER. After your 4 minutes, there will be 3½ minutes remaining on your side.

Mr. LAUTENBERG. And also for the Senator from California and the Senator from Connecticut. I will try to wrap up in a couple minutes because yesterday I think I expressed myself and my full support for this substitute.

I want to commend the majority leader, Senator DOLE, and Senator KYL for the hard work that they did to move this legislation along to ensure that the capital of Israel, the capital chosen by that State, is going to be home to our Embassy, as it ought to be.

Frankly, there was some difficulty in arriving at the consensus view that we finally did. And that was largely, not because we disagreed on the objective, that is, moving our Embassy to Jerusalem, but because perhaps there might have been an involvement that would have interfered with the orderly discussion of the peace process.

Madam President, the one thing that I want to be sure of is that as much as possible we stop the killing in the Middle East, that as much as possible we get these parties together on an open and honest basis. And the process is in being at this moment. There has not been in the history of the creation of the State of Israel a friendlier President than President Clinton is to Israel.

We saw on the lawn of the White House the celebration of the end of enormous hostilities that existed for decades where people just looking at one another were almost ready at first sight to kill each other.

Yesterday's story in the Washington Post was a poignant recollection of what happens to two families, one Arab, one Jew, who lost their sons, one responsible in a way for the death of the other, but nonetheless no one seeking revenge, no one looking for vengeance. What they wanted to do was make sure that other families did not have to mourn the loss of a son or a daughter, be they Palestinian or Jew.

That is the way we ought to be approaching this. And I think, Madam President, that is what is going to happen. All of us want the Embassy moved. The question is, we want it to happen as soon as possible, but we want the peace discussions to continue, as I said, in an orderly fashion.

I worked very closely with some dear friends, with Senator LIEBERMAN from Connecticut, with whom I share a very deep interest in the State of Israel, in Jerusalem, in the peace process, and with Senator BIDEN who has had a long history of support for Israel. And I want to commend Senator FEINSTEIN for her diligence, for her insight into the problem, and for getting us to this point where I believe that the supporting vote will be almost unanimous, as I believe it should be.

And so, Madam President, it is a moment that not yet calls for celebration, but does initiate a process of which I think we can all be proud.

Madam President, I support this substitute amendment.

Unlike the original bill, this amendment includes a waiver for the President. I believe the amendment will mandate the move of the American Embassy to Jerusalem while providing the administration flexibility in case it's necessary for national security reasons.

Madam President, I have long supported having the American Embassy in Jerusalem. I wish the American Embassy had been opened in Jerusalem long ago, when the State was established or when the city was reunified in 1967. I believe Jerusalem—a city I have visited many times—will always remain the undivided capital of the State of Israel.

The pace at which the Middle East peace process has yielded tangible results has been breathtaking. Just 2 years ago, on September 13, 1993, Prime Minister Rabin and Yasir Arafat agreed to end decades of bloodshed when they signed the historic Declaration of Principles and shook hands at the White House. Continuing their pursuit of peace, they signed the Cairo Agreement on Gaza and Jericho on May 4, 1994. And just weeks ago, on September 28, 1995, they again met at the White House to sign an agreement on the West Bank.

Jordan, too, has been brought into the process and has signed a formal peace agreement with Israel.

America should be proud of the role it has played in helping former enemies agree to end hostilities. To be sure, the parties in the Middle East needed to be ready to take the giant step toward peace. It was their readiness and their political courage that made peace attainable.

The amendment we offer now would help protect the peace process should national security interests warrant it. The amendment would provide a national security waiver for periods of up to 6 months with prior reporting to Congress. It was included to give the administration a limited amount of flexibility.

It also includes a clear expression of the Congress' belief that Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected. It expresses the Congress' clear view that Jerusalem should be recognized as the capital of the State of Israel and that our Embassy there should be established by May 1999.

I am firmly convinced, Mr. President, that the peace process will result in Israel retaining control over all of Jerusalem, and that Jerusalem will remain the undivided capital of Israel.

I am encouraged by support for the peace process. Even those who have lost their children to senseless acts of terrorism agree about the imperative of achieving peace. Earlier this year, a young college student from New Jersey, who was studying in Israel, was killed in a suicide bombing in Gaza. Her name was Aliza Flatow, and her death brought home to the people of New Jersey the urgent need to bring peace to the Middle East.

I was in Israel at the time of this terrible tragedy, and from there, I spoke to Aliza's parents in New Jersey. Despite the loss of their daughter and in the midst of grieving her loss, Aliza's father urged me to do whatever I could to support the peace process and to ensure that it would move forward unimpeded. Only the peace process, he said, holds the promise of bringing an end to these senseless deaths.

Our goal is to send a bill to President Clinton that will mandate the opening of the Embassy in Jerusalem. The amendment we are offering is consistent with that goal. It would represent a clear policy statement that the Embassy will be moved and is intended to preserve the President's constitutional authority. Absent a national security interest, it requires the Embassy to be established in Jerusalem by May 1999.

I urge my colleagues to support this amendment.

Mr. KYL. Madam President, I ask unanimous consent that Senator GRAHAM from Florida be added as a cosponsor to the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. At this time I would yield time to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. KYL. How much time remains?

Mr. LIEBERMAN. I do not think I need more than 3 minutes.

Mr. KYL. I yield 3 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

I thank my friend and colleague from Arizona, not only for yielding time but for the extraordinary leadership and dedication he has shown in his support of this measure.

Madam President, perhaps it is appropriate that I begin with some words from the prophets.

Amos first.

> In that day I will raise up the tabernacle of David that is fallen, and close up the breaches thereof; and I will raise up his ruins, and I will build it as in the days of old.

Then Jeremiah.

> So says the Lord; Behold I will return the captives of the tents of Jacob . . . and the city will be rebuilt on its mound.

Madam President, tomorrow in this Capitol we will join in the worldwide celebration of the 3,000th anniversary of the entering of King David into the holy city of Jerusalem.

In our time, in 1948, thanks to the courage of the people of the State of Israel, thanks to extraordinary support from people throughout the world, including particularly the Government of the United States, we witnessed the creation of the modern State of Israel and the establishment of Jerusalem as its capital.

For the ensuing 47 years, for a lot of reasons that were not adequate, we in the United States, administration after administration of both parties, refused to locate our Embassy in Israel in the city of Jerusalem designated as the capital by that country as we do in virtually every other country in the world.

Today, thanks to the leadership of Senator DOLE who began this effort, of Senator MOYNIHAN who has fought for it for so many years, of Senator INOUYE, Senator KYL, Senator BIDEN, who is on the floor, who has been unyielding and persistent in his support of this principle and, in the last few days, working together with Senators FEINSTEIN and LAUTENBERG, we have come to the point where I think we fashioned an extraordinarily strong and honest bill that will receive overwhelming bipartisan support in both Chambers and I hope will be signed by the President.

Madam President, I want to say that there have been concerns raised about the impact that passing this measure now would have on the peace process. In this regard, I will make two brief points. First, the location of the U.S. Embassy never was and never should be the subject of negotiations among third parties. It is our decision, it is an American decision, and we will make it here today.

Second, as a supporter of the peace process in the Middle East, I feel particularly that this is the moment, as trust grows—and honesty is at the core of our relations with the Israelis and the Palestinians and the Arab world—that we do what is honest and say clearly our Embassy belongs in Jerusalem, the city that has been denoted by the Israelis as their capital.

I will say in closing, ending, it seems to me, appropriately with a Psalm that we are realizing in this vote today the hopes expressed by David in Psalm 122, when he wrote:

> Pray for the peace of Jerusalem: they shall prosper that love thee.

Peace be within thy walls, calm within thy palaces.

If I may offer a modern-day interpretation of the word palaces, calm be within thy embassies as they locate in the city of Jerusalem.

I thank the Chair and my friends and colleagues. I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I yield the remainder of my time to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 3 minutes, 32 seconds.

Mr. BIDEN. Madam President, thank you very much. I would like to thank my colleague from California for her leadership in bringing about what I think is a workable piece of legislation.

I would like to thank Senator MOYNIHAN, who is not here. In 1983, he started this process. He argued we should be doing this, and we are finally getting there.

With regard to the last point made by my colleague from Connecticut about the peace process, I have had the view for the past 24 years that the only way there will be peace in the Middle East is for the Arabs to know there is no division between the United States and Israel—none, zero, none.

I argue that is why we are where we are today, because we did not relent under the leadership of this President and others. We made it clear that no wedge would be put between us, thereby leaving no alternative but the pursuit, in an equitable manner, for peace.

Those familiar, and all are on this floor, with the Jewish people know the central meaning that the ancient city of Jerusalem has for Jews everywhere. Time and again, empires have tried to sever the umbilical cord that unites Jews with their capital.

They have destroyed the temple. They have banished the Jews from living in Jerusalem. They have limited the number of Jews allowed to immigrate to that city. And, finally, in this century, they tried simply to eliminate Jews.

(Mr. KYL assumed the chair.)

Mr. BIDEN. They may have succeeded, Mr. President, in destroying physical structures and lives. But they have never succeeded in wholly eliminating Jewish presence in Jerusalem, or in cutting the spiritual bond between Jews and their cherished capital.

After the horrific events of the Holocaust, the Jewish people returned to claim what many rulers have tried to deny them for centuries: The right to peaceful existence in their own country in their own capital.

How many of us can forget that poignant photograph of an unnamed Israeli soldier breaking down in tears and prayer as he reached the Western Wall after his army liberated the eastern half of the city in the Six Day War?

Those tears told a story. A story of a people long denied their rightful place among nations. A people denied access to their most hallowed religious sites. A people who had finally, after long tribulation, come home.

Mr. President, it is unconscionable for us to refuse to recognize the right of the Jewish people to choose their own capital. What gives us the right to second-guess their decision?

For 47 years, we, and much of the rest of the international community, have been living a lie. For 47 years, Israel has had its government offices, its Parliament, and its national monuments in Jerusalem, not in Tel Aviv. And yet, nearly all embassies are located in Tel Aviv. I think this is a denial of fundamental reality.

Mr. President, are we, through the continued sham of maintaining our Embassy in Tel Aviv, to refuse to acknowledge what the Jewish people know in their hearts to be true? Regardless of what others may think, Jerusalem is the capital of Israel.

And Israel is not just any old country. It is a vital strategic ally.

As the Israelis and Palestinians begin the final status negotiations in May 1996—negotiations, I might add, that were made possible through the leadership of President Clinton—it should be clear to all that the United States stands squarely behind Israel, our close friend and ally.

Moving the U.S. Embassy to Jerusalem will send the right signal, not a destructive signal. To do less would be to play into the hands of those who will try their hardest to deny Israel the full attributes of statehood.

I urge my colleagues to support this legislation.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished majority leader for bringing this to a head. It has not been easy. We have talked about this for years. The people of Israel have fought repeatedly to hold the State of Israel intact. They have designated their capital. The capital is Jerusalem. This historic, important religious city is their capital. I think it is most unusual for the United States to go to another city to establish its Embassy when the country where we are being hosted has established a different city for its capital.

The time has come long since for America to recognize the capital city of Israel. It is Jerusalem. It is time for us to move in a responsible way to have our Embassy also in the capital city of Jerusalem.

I commend the majority leader and the Senator from Arizona for their leadership in this area. I appreciate the fact that all factions have come together. Clearly, there must be some leeway for the President to make this move in a timely way. I think that leeway has been granted. This is quite a reasonable resolution. The time has come for us to have our Embassy in the capital of Israel. The capital is Jerusalem.

Thank you, Mr. President.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that I be allowed to use my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I yield 1 minute to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, finally, after 50 years, the Congress is about to act to assure the movement of our Embassy to Israel's capital. This has been a bipartisan effort. I have been proud to cosponsor Senator DOLE's legislation, and it is truly a historic day. This is a meaningful day. It is a day where we finally acknowledge the reality, which is that Jerusalem is the capital of Israel and that at the end of the peace process will be the capital of Israel.

It will not help the peace process for there to be any ambiguity about where Israel's capital is. Our action today will help to eliminate any such ambiguity and to make it clear to all concerned that this country is finally going to do in Israel what we have done in every single country in the world, which is to place our Embassy in the capital city.

I want to thank the Democratic leader. I want to thank the majority leader, also, for his leadership here. I yield the floor.

The PRESIDING OFFICER (Mrs. HUTCHISON). The minority leader.

Mr. DASCHLE. Madam President, let me commend the distinguished Senator from Michigan for his comments and associate myself with his remarks. This has been a bipartisan effort over the last several weeks, particularly the last several days.

There is little doubt that we all share the same goals. There has been a good-faith effort to reach an agreement that allowed us the confidence that those goals could be met.

I want to commend in particular the participants in those negotiations over the last several days, Senators FEINSTEIN, my good friend, Senator KYL, Senators LAUTENBERG and LIEBERMAN, and certainly the majority leader for all of the work that he put into ensuring that we would reach this point today.

I think it is fair to say we all agree on three shared goals. The first is the most obvious: moving the Embassy to Jerusalem. We recognize that Jerusalem is the spiritual center and the capital of Israel, as well as a special city for those all over the world. Each country, as so many have already indicated, has the right to designate its capital, and certainly our Embassy should be there.

Second, we want to ensure that Jerusalem remains an undivided city in which the rights of every ethnic and religious group are protected. That has been a goal articulated officially by this Senate since we adopted Senate Concurrent Resolution 106 in 1990.

Third, and perhaps most important in the context of this debate and the negotiations that have taken place, we want to ensure that the peace process moves forward.

Let me commend the administration for emphasizing as strongly as they have their concern for that last goal. It is their concern and their desire to ensure that we have the flexibility, that we have the opportunities, that we have all of the tools necessary to ensure that we can reach all three goals—that we move the Embassy, that we can ensure that it remains an undivided city, and, most importantly, that the peace process be allowed to continue.

I personally believe that the language that has now been agreed upon will provide the President the flexibility to ensure that the peace process can move forward. Definitely, the whole concept of a peace process is in our national security interest. That peace process must be contained. That peace process has to be nurtured throughout the next several years, and certainly the administration needs to proceed very carefully as we begin to articulate our goals as it relates to moving the Embassy.

The administration has concerns about the constitutionality of this legislation. I understand that. I hope that we can find this agreement has adequately addressed those concerns, as well.

Clearly, this has to be an effort on which we continue to work with the administration. I am very hopeful that, as a result of the tremendous work that has been done in the last several days, we can build upon our work with the State Department and with others in the administration to ensure that our goals are realized.

Let me again commend all of those who were instrumental in reaching this agreement, to ensure a U.S. commitment to an Embassy in Jerusalem, and equally as important, Madam President, to ensure that the U.S. commitment to the peace process maintains the kind of priority that we all have recognized during these very difficult talks.

The PRESIDING OFFICER. The Senator has 2 minutes and 12 seconds remaining.

Mr. KYL. Thank you, Madam President. Madam President, I am pleased and honored to close this debate on this important and historic legislation which will finally cause the United States Embassy to be relocated in Jerusalem, the capital of Israel, by the year 1999.

We all know that diplomacy is filled with subtleties but that some things are fundamental. One of those fundamental things is the relationship between the United States and Israel.

Key to that relationship is an underlying principle. The principle is that Jerusalem is the essence of the historical connection of the Jewish people for Palestine. That is why Jerusalem is the capital of Israel.

This legislation, which is a bipartisan presentation of congressional intent that finally actions replace words, that deeds replace words, and expressing that historical connection, as I said, is supported in a bipartisan way by the overwhelming majority of both sides of the aisle.

There are approximately 50 Republicans which have cosponsored this legislation, and it is strongly supported as well by the many Democrats who have spoken on it.

I think the key here is for the American people to finally express, as I said, in deeds rather than words, their support for Israel through the acknowledgment that Jerusalem is the capital by the relocation of the United States Embassy in the capital city of Jerusalem.

As Senator LIEBERMAN from Connecticut so ably pointed out, and Senator DOLE did as well, this is not about the peace process, which we all support. Rather, it is an expression on the part of the United States that no longer will there be any doubt about our position relative to Jerusalem. It is an honest position, as Senator LIEBERMAN said.

That is why, Madam President, it is so important for this body, in an overwhelming way, to express its support for the United States-Israel relationship by supporting this legislation to relocate the Embassy of the United States to the capital of Israel, Jerusalem.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 496 Leg.]

YEAS—93

Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—5

Abraham
Byrd
Chafee
Hatfield
Jeffords

NOT VOTING—1

Bradley

So the bill (S. 1322), as amended, was passed as follows:

S. 1322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jerusalem Embassy Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Each sovereign nation, under international law and custom, may designate its own capital.

(2) Since 1950, the city of Jerusalem has been the capital of the State of Israel.

(3) The city of Jerusalem is the seat of Israel's President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.

(4) The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.

(5) From 1948-1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.

(6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.

(7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

(8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.

(9) In 1990, the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress "strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected".

(10) In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

(11) The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of "final status" issues, including Jerusalem.

(12) The Agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

(13) In March of 1995, 93 members of the United States Senate signed a letter to Secretary of State Warren Christopher encouraging "planning to begin now" for relocation of the United States Embassy to the city of Jerusalem.

(14) In June of 1993, 257 members of the United States House of Representatives signed a letter to the Secretary of State Warren Christopher stating that the relocation of the United States Embassy to Jerusalem "should take place no later than . . . 1999".

(15) The United States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.

(16) The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

(17) In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry.

SEC. 3. TIMETABLE.

(a) STATEMENT OF THE POLICY OF THE UNITED STATES.—

(1) Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected;

(2) Jerusalem should be recognized as the capital of the State of Israel; and

(3) the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

(b) OPENING DETERMINATION.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for "Acquisition and Maintenance of Buildings Abroad" may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

SEC. 4. FISCAL YEARS 1996 AND 1997 FUNDING.

(a) FISCAL YEAR 1996.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1996, not less than $25,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(b) FISCAL YEAR 1997.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1997, not less than $75,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

SEC. 5. REPORT ON IMPLEMENTATION.

Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate detailing the Department of State's plan to implement this Act. Such report shall include—

(1) estimated dates of completion for each phase of the establishment of the United States Embassy, including site identification, land acquisition, architectural, engineering and construction surveys, site preparation, and construction; and

(2) an estimate of the funding necessary to implement this Act, including all costs associated with establishing the United States Embassy in Israel in the capital of Jerusalem.

SEC. 6. SEMIANNUAL REPORTS.

At the time of the submission of the President's fiscal year 1997 budget request, and every six months thereafter, the Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made toward opening the United States Embassy in Jerusalem.

SEC. 7. PRESIDENTIAL WAIVER.

(a) WAIVER AUTHORITY.—(1) Beginning on October 1, 1998, the President may suspend the limitation set forth in section 3(b) for a period of six months if he determines and reports to Congress in advance that such suspension is necessary to protect the national security interests of the United States.

(2) The President may suspend such limitation for an additional six month period at the end of any period during which the suspension is in effect under this subsection if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.

(3) A report under paragraph (1) or (2) shall include—

(A) a statement of the interests affected by the limitation that the President seeks to suspend; and

(B) a discussion of the manner in which the limitation affects the interests.

(b) APPLICABILITY OF WAIVER TO AVAILABILITY OF FUNDS.—If the President exercises the authority set forth in subsection (a) in a fiscal year, the limitation set forth in section 3(b) shall apply to funds appropriated in the following fiscal year for the purpose set forth in such section 3(b) except to the extent that the limitation is suspended in such following fiscal year by reason of the exercise of the authority in subsection (a).

SEC. 8. DEFINITION.

As used in this Act, the term "United States Embassy" means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Arizona for a unanimous-consent request without losing my right to the floor.

Mr. KYL. Mr. President, I ask unanimous consent that Senator PELL be listed as a cosponsor of the bill just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak for not to exceed 30 minutes—I will not require that much time—out of order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BUDGET RECONCILIATION

Mr. BYRD. Mr. President, I hope that the Senators who are present will listen and that those who may be watching over the television will also listen. We are about to take up the reconciliation bill in the Senate. At this moment, the Senate reconciliation bill is not available. It has not been returned from the printers, so we do not have it. I hold in my hand the House reconciliation bill, 1,563 pages—1,563 pages. The Senate bill may be a larger bill. It may not be. It may not have as many pages, but I would imagine that it is at least going to be 1,000 pages.

This bill will be called up probably tomorrow. The motion to proceed to it is not debatable. One cannot filibuster. Once we are on it, the maximum length of time is 20 hours to be equally divided, which means 10 hours to the side.

This bill is so complex and so massive that there are tables of contents scattered throughout to indicate what items are from what committees. Each committee has been given instructions, and when that committee submits the results of those instructions to the Budget Committee, the Budget Committee cannot alter them substantively. The Budget Committee is required to fold them all into a reconciliation bill.

What I am going to say is that we need more time to debate a reconciliation bill. There are all kinds of legislation that will be crammed into this bill—far-reaching legislation. Laws that are already on the statute books will be repealed, and very few Senators will know what is in the bill or will know what they are voting on. There will be comprehensive changes—Medicare, Medicaid, welfare reform, whatever.

After we have voted on this bill—and we only have 20 hours—after we have completed our work on it, there may be a half dozen Senators who will have a grasp of the actions that have been taken.

We are limited to 2 hours on any amendment in the first degree, 1 hour on any amendment in the second degree, and there is no committee report.

There is nothing here to tell us what we are going to be acting on. And it is going to hit us tomorrow morning in all likelihood, if not today, or maybe tomorrow afternoon. But think of that! Think of having to act on a bill of that size, a bill of that magnitude, and even this 1,563 page bill is not complete. On page 1,562 it refers to "Title XVIII, Welfare Reform, Text to be supplied." Page 1,563, "Title XIX, Contract Tax Provisions, Text to be supplied; Title XX, Budget Process, Text to be supplied."

So it is not all here, even in this House reconciliation bill.

What are we coming to in this Senate, in this Congress? This will be the most important bill that will be acted upon by this Senate in this session. And we all know that far-reaching changes are being contemplated, I suppose you would call it, in the so-called Contract With America. All of these new, all of these reforms and repealing of measures are going to be included in this reconciliation bill this year.

As Members of the Senate are aware, the Congressional Budget Act of 1974 established the congressional budget process. I was here. I had a lot to do with the writing of that act. But we did not contemplate, those of us who wrote that act in 1974, who voted on it, who debated it on the floor, did not contemplate what was going to be done in subsequent years through the reconciliation legislation.

It was never intended—I would never have voted for that 1974 act if I could have just foreseen that the reconciliation process would be used as it is being used. It is a catchall for massive authorization measures that should be debated at length, and should be subject to unlimited time for amendments and unlimited time for debate.

Very controversial measures are being put into reconciliation bills. And there is no cloture mechanism that could be more than a distant speck on the horizon as compared with time restrictions in a reconciliation bill. It is a super bear trap.

Prior to the enactment of the Congressional Budget Act, there was no procedure or process through which Congress could exercise control over the total Federal budget. The appropriations process, which traditionally had overseen Federal spending through the enactment of annual appropriations bills, had increasingly become less able to do so because of the growth in "entitlement" or "mandatory spending." These entitlement programs, notably Medicare and Medicaid, obligated the Federal Government to make direct payments to qualified beneficiaries, without the payments having to first be appropriated.

Congress recognized that in order to be able to carry out its full responsibilities over the Federal purse, a new congressional budget process was needed. And through this new congressional budget process, it was our intention that all spending decisions would be considered in relation to each other. In addition, it is vital that the aggregate spending decisions we make be related carefully to revenue levels.

In order to ensure that these new congressional budget processes and procedures would work, the Congressional Budget Act created two new fast-track vehicles—the budget resolution and the reconciliation bill. Both of these measures are considered under expedited, fast-track procedures in the Senate. It is the fast-track procedures relative to reconciliation measures which cause me great concern.

And mind you, as I say, there is a limitation of 20 hours of debate. That includes debate on amendments, debatable motions, appeals, points of order. Everything is included under debate in that 20-hour limitation, except, for example, in the case of certain quorum calls and the reading of amendments. They are not charged against the 20 hours.

But that is not all. Any Senator may move to reduce the overall time from 20 hours to 10. Any Senator may move to reduce the 20 hours to 5 or to 2 or to 1 hour.

Well, that would be a rather unreasonable thing to do, but the rule allows it. And that would be a nondebatable motion. If a Senator elects to move to reduce the time—it does not have to be the majority leader or the minority leader—the newest Member of the Senate can make that motion to reduce the time. It is a nondebatable motion. It would be decided by a majority vote. So if a majority were so minded, it could reduce the time. This is an astonishing thing that we have done to ourselves.

I think it is fair to say that the participants in the creation of the Congressional Budget Act recognized that this new process, as I say, was a dramatic departure from the budget practices and procedures that existed at the time. It was, therefore, obvious that no one could anticipate all of the effects that could result from enactment of the Congressional Budget Act. I do not believe that the Congress fully anticipated the uses that would be made of the fast-track reconciliation process.

The reconciliation process is a fast-track, deficit-reduction vehicle which, under the Congressional Budget Act, cannot be filibustered against. A simple majority of Senators voting determines what amendments the Senate will adopt to a reconciliation measure, and a simple majority is sufficient to pass the legislation.

First degree amendments, as I say, get 2 hours of debate; second degree amendments get 1 hour. All debate must fall within the act's 20-hour cap. It is for this reason that I have called reconciliation a colossally super gag rule. It is a gigantic bear trap.

I do not believe, Mr. President, the participants in the creation of the Congressional Budget Act recognized the way—I do not believe they recognized the way; I did not recognize it—in which this expedited reconciliation process would be used. They intended the reconciliation process to be a way to ensure that the spending and revenue and deficit targets for a given fiscal year would be met. In fact, there were no reconciliation instructions in budget resolutions for fiscal years 1975, 1976, 1977, 1978, or 1979. The Senate Budget Committee first reported a budget resolution containing reconciliation procedures for FY 1980, under the chairmanship of Senator Muskie, Ed Muskie. The following year, the new Budget Committee chairman, Senator HOLLINGS, included reconciliation instructions in the 1981 budget resolution in the form of a binding revision of the 1980 budget resolution.

Then, for fiscal year 1982, Senator DOMENICI assumed the chairmanship of the Budget Committee, a post which he also holds today, and he made further innovations in the reconciliation process. In fact, I understand that it was during this period that the revised budget resolution for fiscal year 1981 included reconciliation instructions for years beyond the first fiscal year covered by the resolution, thereby extending the reach of reconciliation to more permanent changes in law. No longer was reconciliation just a ledger adjustment for one year.

Since that time, reconciliation instructions have been included in budget resolutions for FY 1981, 1982, 1984, 1986, 1987, 1988, 1990, 1991, 1994, and 1996. By the same light, budget resolutions did not include reconciliation instructions in many fiscal years, including fiscal years 1989, 1992, and 1993, during multi-year budget agreements.

Over this period, Congress used reconciliation legislation to accomplish substantial deficit reduction. At the same time, however, many legislative items were included in reconciliation bills that had no business being there. And it is not surprising, Mr. President, that attempts have been made to include extraneous matters in reconciliation bills. After all, the fast-track procedures for considering reconciliation bills, as well as conference reports thereon, make them almost irresistible vehicles to which Senators will attempt to attach non-budgetary legislative matters.

It was in response to this problem that I offered an amendment to the Consolidated Omnibus Budget Reconciliation Act of 1985, originally adopted as a temporary rule and made permanent in 1990 as Section 313 of the Congressional Budget Act of 1974, as amended. The purpose of what is commonly referred to as the "Byrd Rule" was to curb this tendency to include extraneous matter in reconciliation measures. That is why the Byrd rule came about. The Congressional Research Service recently issued a report for Congress entitled, "The Senate's Byrd Rule Against Extraneous Matters in Reconciliation Measures: A Fact Sheet." According to that report, in the five reconciliation measures to which it applied, there have been 16 cases involving the Byrd Rule. In 11 of those cases, opponents were able to either strike extraneous matter from legislation—in six cases—or bar the consideration of extraneous amendments—in five cases—by raising points of order. Three of ten motions to waive the Byrd Rule were successful and two points of order against matter characterized as extraneous in a conference report were rejected. It appears, then, that the Byrd Rule has had some success in keeping extraneous matter out of reconciliation measures.

Yet, Mr. President, more needs to be done to ensure that Senators and the American people are fully informed as to what is included in these massive reconciliation bills before they are voted upon.

The people have a right to know, our constituents have a right to know what is in this bill, and we Senators have a right to know, and we Senators have a responsibility to know. But how can we know under the circumstances—under the circumstances?

As it stands now, the Budget Act allows only 20 hours of debate on reconciliation bills and only 10 hours of debate on reconciliation conference reports. And that does not even begin to be a sufficient amount of time to address the massive number of items that are contained in reconciliation bills. These bills contain a large number of permanent changes in law which would otherwise have extended debate, which would otherwise have to go through the process of amendments and thoughtful consideration, debate, perhaps days of debate.

Yet, we are all put under the gun, on both sides of the aisle, to get the reconciliation bill through with a modicum of debate, both in the Budget Committee and here on the Senate floor. I am having to make this speech on my amendment today, the day before we will actually take up the reconciliation bill because there will likely not be time to discuss my amendment during regular consideration of the bill.

I have an amendment. It will be subject to a 60-vote point of order. It probably will not be adopted, but I am going to offer it anyhow. Do you think I will have time to debate that amendment when this bill is up before the Senate? We have a very little amount of time.

I do not raise this issue for any partisan purpose. When Democrats controlled the House and Senate, reconciliation bills were also far-reaching and yet received no more consideration than will the 1996 reconciliation bill. I am convinced, though that regardless of which party is in the majority, reconciliation bills and conference reports require more of the Senate's time than the Budget Act presently allows. So I intend to offer an amendment to the reconciliation bill which will increase from 20 to 50 hours the time limitation for debate on future reconciliation measures and to increase from 10 to 20 hours the time limitation for Senate consideration of conference reports thereon. I recognize, as I say, that a Byrd Rule point of order can be raised against my amendment, in that it has no effect on outlays or revenues.

Nevertheless, I urge my colleagues to refrain from raising a point of order against this amendment and, instead, to join me in adopting the amendment, both sides, Senators on both sides need more time for consideration of such a leviathan as this. While not a magic pill that will solve all the problems we face in reconciliation bills, I feel that this increased time for consideration of reconciliation bills and conference reports in the future does constitute a much-needed improvement to the present reconciliation process.

Analogies between the legislative process and making sausage have often been made, but in no instance does legislating resemble sausage making more than in the process known as reconciliation.

Unlike most legislative vehicles which emanate from only one committee, the reconciliation bill is a hodgepodge, a catchall, of proposals from every authorizing committee, sewn into one skin called a reconciliation package. The package is usually massive, as we have noted here today, and contains far-reaching changes in the law—some of them beneficial, some of them detrimental, and some of them downright ridiculous. The point here is that the expedited procedures and very tight time limits have, over the years, become opportunities for those who would abuse the process. Unfortunately, the Byrd Rule, which was intended to help lessen the prospects for abuse in reconciliation has, over time, become a favorite parlor game for many of Washington's fertile legal minds, and ways have been found to circumvent its intent.

It is my belief that very often the final reconciliation sausage would not pass public inspection if there were a little more time for examination and debate. Our aim in the Senate should never be to hide important public issues from the public eye. While we need to keep the deficit reduction train on track with some sort of time limits, we do not need to be in such a hurry that the toxic material in the boxcars is rushed by without even a moment for a cautionary warning flag to be raised.

We should give the American people a little more of a window on the reconciliation process here in the Senate, and at least allow for some additional debate and some additional opportunity to amend the bill. My amendment would make the ingredients of the reconciliation process a little more pure and, hopefully, a little better seasoned. I believe mine is a constructive change, and I will hope for bipartisan support when I offer it to the reconciliation bill.

Mr. DORGAN. Mr. President, I wonder if the Senator from West Virginia will yield to me for a question?

Mr. BYRD. Yes, I gladly yield.

Mr. DORGAN. Mr. President, let me first indicate that I hope that the Senator will add me as a cosponsor to his amendment that would expand the amount of time available for which there would be debate on the reconciliation bill.

Mr. BYRD. I will be happy to do that.

Mr. DORGAN. I think that is a very important amendment, and I hope people will not raise points of order against it. But even that is a minuscule amount of time with which to evaluate this kind of legislation.

My understanding is that the reconciliation bill, when it comes to the floor of the Senate, will be somewhere over 2,000 pages, and that includes everything. It is now 20 minutes to 1. We are told today may be the day we will begin considering the bill. It is not available. I have not seen a bill. I have asked for it. It is not available. So a piece of legislation that will be probably 2,000 pages long, if it includes everything—the House version is 1,500 pages long but does not include the three major areas, that is text to be added later, I understand.

Mr. BYRD. The Senator is correct.

Mr. DORGAN. So we are talking about a proposal that will have some of the most profound changes we have seen in 30, 40, 50 years coming to the floor of the Senate later today, and it is now 20 minutes to 1 and it is not yet available, not yet written, not yet provided to Members of the Senate. Fifty hours is not enough. I support the Senator's amendment.

I have heard in the past people say, "Well, how can we legislate if we don't have access to what is being done here?"

The Senator from West Virginia comes from a rural State, as do I. This will contain, when it gets here, essentially, a new farm bill. We are required to write a farm bill every 5 years. This is a year to write a farm bill. It is now late October. We do not yet have a farm bill.

This will contain the structure of the new farm bill. It should not be here. That is a slap in the face of rural States. It is in there. Yet, like everything else, it will have a profound impact on a rural State and almost no opportunity will exist to get at it, to amend it, and to have a thoughtful, responsible debate about what farm policy will be in our country.

This will have a substantial impact on men and women all over this country who are trying to run a family-sized farm.

Does the Senator from West Virginia have a copy of the reconciliation bill yet, or has the Senator from West Virginia sought to get a bill?

Mr. BYRD. I have sought to get a copy and a copy is not available. I have in my hands a copy of the House reconciliation bill covering 1,563 pages. As the distinguished Senator from North Dakota has pointed out, there are three titles which are yet to be supplied.

I do not know what the size of the Senate reconciliation will be. It may be longer or shorter. I think the Senator is well within reason to expect at least 1,200 to 1,500 pages.

These will be changes of great magnitude—complex—in Medicare, Medicaid, and as the Senator has already said, farm legislation. Various and sundry laws will be repealed and amended which otherwise would perhaps require hours and hours or days, even, for debate on the Senate floor.

I will certainly be pleased to add the Senator's name to my amendment. I hope that Republicans will join in supporting this amendment because they, too, should be concerned about what we are doing here—enacting legislation of this enormity without knowing what is in the legislation, without having an opportunity to adequately study it or amend it.

I thank the Senator for his willingness to join in the presentation.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:42 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GREGG].

TEMPORARY FEDERAL JUDGESHIPS COMMENCEMENT DATES AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. 1328, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1328) to amend the commencement dates of certain temporary Federal judgeships.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased that the Senate is taking up S. 1328, a bill that amends the commencement dates of certain temporary judgeships that were created under section 203(c) of the Judicial Improvements Act of 1990 [Public Law 101-650, 104 Stat. 5101].

The minor adjustment embodied in this bill should improve the efficiency of the courts involved. This is not a controversial change, but it is a necessary one.

I am pleased to have Senators BIDEN, GRASSLEY, HEFLIN, SPECTER, SIMON, DEWINE, FEINSTEIN, and ABRAHAM as original cosponsors of this bill.

I also want to thank the Administrative Office of the U.S. Courts and the fine Federal judges, particularly Chief Judge Gilbert of the southern district of Illinois, who called to my attention the need for this legislative fix—and the need for it to be passed before December 1, 1995.

The Judicial Improvements Act of 1990 created the temporary judgeships at issue in two steps.

First, the 1990 act provided that a new district judge would be appointed to each of 13 specified districts.

Second, the act then provided that the first vacancy in the office of a district judge that occurred in those districts after December 1, 1995 would not be filled.

That two-step arrangement, which is typical in temporary judgeship bills, is required in order to ensure that the judge filling a temporary judgeship is still a full-fledged, permanent, article III judge in accordance with the Constitution.

Thus, although a new judgeship in a given district has only a temporary effect, the individual judge appointed serves on a permanent basis in the same manner as any other article III judge.

It is the time between the appointment of a judge to a temporary judgeship and the point at which a vacant permanent judgeship is left unfilled that is key. That overlap is what effectively adds another judge to the district for a temporary period of time.

The 1990 act created the temporary judgeships in the following 13 districts: the northern district of Alabama, the eastern district of California, the district of Hawaii, the central district of Illinois, the southern district of Illinois, the district of Kansas, the western district of Michigan, the eastern district of Missouri, the district of Nebraska, the northern district of New York, the northern district of Ohio, the eastern district of Pennsylvania, and the eastern district of Virginia.

However, due to delays in the nomination and confirmation of many of the judges filling those temporary judgeships, many districts have had only a relatively brief period of time in which to take advantage of their temporary judgeship.

In the district of Hawaii and the southern district of Illinois, for example, new judges were not confirmed until October 1994. Other districts have faced similar delays.

Those delays mean that many of the temporary judgeships will be unable to fulfill congressional intent to alleviate the backlog of cases in those districts.

Many of the districts faced a particularly heavy load of drug enforcement and related matters. Those cases will not be absorbed adequately if the first judicial vacancy that occurs in those districts after December 1, 1995 must go unfilled.

This bill solves the problem by changing the second part of the temporary judgeship calculus.

The bill provides that the first district judge vacancy occurring 5 years or more after the confirmation date of the judge appointed to fill the temporary judgeship would not be filled.

In that way, each district would benefit from an extra active judge for at least 5 years, regardless of how long the appointment process took.

This will help alleviate the extra burden faced in those districts. The only district excluded from this treatment is the western district of Michigan. That district requested to be excluded because its needs will be met under the current scheme.

I also note that the judges from the affected districts have requested that this bill be enacted before December 1, 1995. After that date, some vacant judgeships will be unable to be filled under current law.

That is why this bill has some urgency. And that explains why the bill has not gone to the Judiciary Committee, but was placed directly on the calendar.

I wish to clarify that for the benefit of my colleagues, who may not be so familiar with this measure, and who may have wondered why that was done.

As the list of original cosponsors shows, the Judiciary Committee supports the substance of this bill. I also note that there was no opposition from any Senator on the Judiciary Committee to placing S. 1328 on the calendar directly.

I see no reason for a prolonged debate on this noncontroversial measure, and I commend my colleagues on both sides of the aisle who have cooperated in moving this measure along.

I should also note that no one should confuse this bill with the Judicial Conference's request to Congress for additional judgeships. No one has yet to introduce that bill, and its merits have yet to be considered by the Judiciary Committee.

Finally, although this bill is needed because Congress in 1990 underestimated the timeframes involved in the confirmation process, the need for this bill is in no way a reflection on the speed with which Senator BIDEN, when he was chairman of the Judiciary Committee, or I as the current chairman, have proceeded with the judicial confirmation process.

This bill would have been necessary regardless of who was chairman of the Judiciary Committee. The nomination and confirmation process is a deliberate undertaking.

It has been my aim to have the Judiciary Committee process judicial nominees in a manner that is thorough, but also fair and expeditious.

Since January 1995, 8 circuit judges, 28 district court judges, and 2 judges of the Court of International Trade have been confirmed.

Of the judicial nominees confirmed this Congress, it has taken only 70.85 days from the date a judge is nominated to the date he or she is confirmed by the full Senate.

That amounts to a speedier confirmation process in the Senate than occurred even when the Democratic Senate was charged with confirming Clinton nominees.

The committee has carried out what is arguably its most important task fairly and diligently in this session of Congress.

The upshot of this is that the courts are currently operating at nearly optimal levels. For example, there are only 11 unfilled circuit court seats in the Nation out of 179 permanent circuit court judgeships.

Adding both circuit and district court vacancies, there are only 57 vacancies unfilled out of the 828 judges of the Federal judiciary. This means that only 7 percent of all seats on the Federal bench are vacant.

When pending nominees are excluded, only 33 seats are open—just 5 percent of all seats.

While we intend to be very thorough in our consideration of nominees for lifetime judicial appointments, we recognize the priority of this constitutional mandate on the Senate.

I wish to thank my colleagues on the Judiciary Committee and in the Senate as a whole for their cooperation in the confirmation process, and I commend them for their accomplishments in this regard this Congress.

Mr. FORD. Mr. President, will the distinguished Senator yield for a question?

Mr. HATCH. I would be happy to.

Mr. FORD. For a long time, three States have had split judges. The State of Kentucky has one, I think Missouri has a good many, and so does Oklahoma. The reason I ask the Senator this question is that we have the split judge driving from one end of the State to the other, and most of the judicial time that is needed in court is spent on the road. Until and unless we can have an additional judge, we will still have the split judge.

I think an amendment to eliminate the split judge and add one, even though the commission, as the Senator mentioned earlier—we have not considered its recommendations. I understand they recommended an additional judge to eliminate our split judge. That was withdrawn, and we fired off letters asking them to come back.

I believe this amendment would be germane. And, I intend, after we are offered the President's budget to approve and other things on this bill, to offer that amendment. I wanted to alert the Senator so he understands what I am concerned about.

Mr. HATCH. I do. Is the Senator intending to offer it on this?

Mr. FORD. I am hoping to offer it on this bill because this amendment is more germane to the bill than some of the other amendments we are going to get this afternoon.

Mr. HATCH. I would like the Senator to withhold. We are looking into adding additional judgeships. I believe before long, in the next year, we will probably pass a bill to add additional judgeships.

Mr. FORD. But I say to my good friend, into the next year we will have this one particular judge, and she will be driving from Ashland, KY, to Paducah, KY, from Louisville to Owensboro, and on the road. We have cases that are beginning to pile up, and it is no fault of the split judge.

So it is just very important that I at least get this out for people to think about, and I may introduce it. I have it prepared to introduce as an amendment to this bill. As I say, it will be more germane to this bill than other nonbinding amendments, sense-of-the-Senate resolutions that are going to be offered here this afternoon to try to make us walk the plank. We voted 99 to 0 on the one that is going to be offered next, I think.

So I just wanted to be sure that the Senator understood why I am doing it, and not because of the Senator's position and my respect for the Senator.

Mr. HATCH. I appreciate that. I understand. I hope the Senator will withhold because I will certainly give every consideration to this and solving it in an expeditious manner.

Mr. FORD. It will probably be next year before we can get to it.

Mr. HATCH. Perhaps we may be able to do something before then.

Mr. FORD. This has been going on for a long time. We have been waiting for the commission's report. Then they withdrew that. So I waited for that without doing anything. Now I feel I am almost compelled for my constituents to be served by the Federal judiciary.

Mr. HATCH. Let us chat about it. Let us see what we can do.

Mr. FORD. I thank the Senator. I thank the Chair.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Thank you, Mr. President.

I simply want to thank my colleague from Utah for moving ahead with this bill. We face problems in two districts in Illinois, and this bill takes care of their problems, among others. I appreciate the leadership of my colleague from Utah on this.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2943

(Purpose: To express the sense of the Senate regarding the President's revised federal budget proposal)

Mr. SANTORUM. Mr. President, I send an amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SANTORUM) proposes an amendment numbered 2943.

Mr. SANTORUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. FORD. Mr. President, I object to dispensing with the reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Strike all after "SECTION", and insert in lieu thereof the following:

. SENSE OF THE SENATE REGARDING THE PRESIDENT'S REVISED FEDERAL BUDGET.

(A) FINDINGS.—Congress finds that—

(1) On May 19, 1995, the United States Senate voted 99–0 to reject the Fiscal Year 1996 budget submitted by President Clinton on February 6, 1995.

(2) The President on June 13, 1995, after the House of Representatives and the Senate passed resolutions that the Congressional Budget Office said would result in a balanced federal budget in Fiscal Year 2002, revised his budget.

(3) The President said on June 13, 1995, and on numerous subsequent occasions, that this revised budget would balance the federal budget in Fiscal Year 2005.

(4) The President's revised budget, like the budget he submitted to Congress on February 6, 1995, took into account surpluses in the Old Age, Survivors and Disability Insurance (OASDI) trust funds in calculating the deficit.

(5) President Clinton, in his address before a joint session of Congress on February 17, 1993, stated that he was "using the independent numbers of the Congressional Budget Office" because "the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous Presidents have been."

(6) President Clinton further stated: "Let's at least argue about the same set of numbers, so the American people will think we're shooting straight with them."

(7) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $128 billion in Medicare through 2002 and $295 billion through 2005.

(8) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $54 billion in federal Medicaid spending through 2002 and $105 billion through 2005.

(9) The President has proposed savings of $64 billion in "non-health entitlements by 2002 by reforming welfare, farm and other programs."

(10) The Congressional Budget Office estimated that the President's revised budget includes proposals that would reduce federal revenues by $97 billion over seven years and $166 billion over ten years.

(11) These proposed tax reductions are more than offset by the President's proposed Medicare savings.

(12) The Congressional Budget Office has determined that enactment of the President's proposal would result in deficits in excess of $200 billion in each of fiscal years 1997 through 2005.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress shall enact the President's budget as revised on June 13, 1995.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

Mr. President, I offer this amendment. It is not the identical amendment that we voted on previously. The first amendment, sense-of-the-Senate amendment was on the President's first budget that he introduced back in February. This is on the revised Clinton budget that purports to balance the budget over the next 10 years. And the reason, if I may respond to the senior Senator from Kentucky, that I am introducing this is not to vote on the same thing we had before. If the President were not running around the country talking about how he has a balanced budget over 10 years, there would be no need for us to bring this to the Senate floor and have a debate exposing a phony balanced budget.

However, the President continues to go around the country saying, as he did on September 30, I have proposed a balanced budget plan that reflects our fundamental values. This is September 30, 1995. I am sure we can find hundreds of quotes as he has campaigned around the country where he has said that this budget comes into balance and reflects his values and all these things.

It may reflect his values. Principal among his values is he does not want to balance the budget because this does not balance the budget. It may reflect other values in spending more money and all the other things that he wants to do, but fundamentally this budget does not balance. And so the President's actions are the reason we have decided to bring this amendment to the floor and debate this issue. I think we need to expose this budget for what it is and have a vote here on the Senate floor to determine whether we want to take the course the President would like to take us on, which is unbalanced budgets, according to the Congressional Budget Office, of $200 billion or more for the next 10 years and beyond.

Let me read you what the Congressional Budget Office estimates the Clinton revised budget will result in. In 1996, the Clinton budget will produce a $196 billion deficit; in 1997, a $212 billion deficit; in 1998, a $199 billion deficit; in 1999, a $213 billion deficit; in the year 2002, a $220 billion deficit; 2001, a $211 billion deficit; 2002, a $210 billion deficit; 2003, a $207 billion deficit, and in 2004 and 2005, a $209 billion deficit.

That is not a balanced budget. It is not a balanced budget in 10 years. It is not going to be a balanced budget in 20 years or 30 years or 40 years. It is a phony, and the President should stop running around trying to convince and fool the American public into believing that he has this grand scheme to balance the budget when in fact it does not balance, and to say that our reductions in spending are somehow mean spirited and draconian, that we do not have to do these things to balance the budget when he knows in fact that is probably the only way we are going to balance the budget is to do what we are suggesting.

And so that is why this amendment is here. It is here because the President refuses to come to Washington and solve the budget crisis and instead decides to run around this country and promote a phony balanced budget. We want to bring this phony balanced budget back to where it can be seen in the light of day and understand that this does not quite wash.

Now, the Democratic National Committee has the audacity to put on TV spots. Let me quote for you this TV spot that they have. "There are beliefs in values that tie Americans together. In Washington these values get lost in the tug of war. But what's right matters."

I agree; what is right does matter. "Work, not welfare, is right." In the budget reconciliation bill that will be in the Chamber tomorrow is a welfare reform bill that passed 87 to 12 on this floor. And it does require work and has strong bipartisan support. "Public education is right." Again, if you look at the budget reconciliation bill, very little of it—very little entitlement education spending. The bulk of the education spending is in the education appropriations bill, of which of the $23 billion that we are going to spend this year, it is a reduction of $400 million.

By the way, we spend in public education in this country $400 billion. We are talking about a reduction of one-tenth of 1 percent in the amount of money we spend on public education. That is hardly a draconian cut, one-tenth of 1 percent, in a system that everyone agrees could use a lot of belt tightening.

So we have public education I think pretty well in focus here. "Medicare is right." I agree; Medicare is right. Medicare deserves to be saved. We have the only proposal that is going to be put forward that saves Medicare, not just for this generation but future generations. And I would also remind you from the resolution's reading that the President's balanced budget, which does not balance, reduces the growth in Medicare more than his tax cut that is in his own bill. The same thing he, by the way, claims we are doing in our bill. So it is just a matter of degree, not a matter of direction. We believe that Medicare needs to be saved, not just for a year or two but for the long-term.

"A tax cut for working families is right," they say in the ad. Well, we have a tax cut for working families. Over 90 percent—listen to this—over 90 percent of the tax reductions in the Senate Finance Committee bill, the bill that is going to be in the Chamber, over 90 percent of the benefits go to families under $100,000 in income. Over 70 percent of the benefits go to families under $75,000 in income. That is our proposal. It is a very much middle-income, pro-family tax cut. And anyone who would like to claim otherwise is demagoging, not reading the specifics of the bill. Read the bill. Read the bill. It is pro family, pro growth, pro jobs, and pro balancing the budget.

Then it continues on. "There are values behind the President's balanced budget plan." A TV ad that calls the President's plan, that the Congressional Budget Office says is out of balance forever, they have a TV ad running now that says the President has a balanced budget plan. On national TV. Just out and out lying to the American public.

Now, you would say, well, maybe the Congressional Budget Office numbers are not the numbers we are going use, are not the numbers we should use. I would just remind you that the President was the one who said we should use the Congressional Budget Office. In his first State of the Union Address he came to the Congress, right in a joint session over on the House side and he stood up and said the Office of Management and Budget numbers have been wrong; they have been rosy; they have been exaggerating growth, underestimating inflation and they cannot be trusted. The only numbers we should use, so we can all talk about the same set of numbers, is the Congressional Budget Office numbers.

That is what he said. He promised. Now, I know it is going to probably strike people as absolutely incredible that the President would actually go back on one of his promises, but here we have it again. The President promised to use the Congressional Budget Office, promised to use the same set of numbers, promised that he would shoot straight with the American public, promised. And then he comes forward with a phony balanced budget using trumped-up numbers, and the Congressional Budget Office, the one he promised to use, says you will have $200 billion-plus deficits for as far as the eye can see. And then comes on the air with a TV ad saying that he has a balanced budget, lying—the Democratic National Committee lying—to the American public that the President has a balanced budget.

And you want to know who is telling the truth around here. I hear so much of the American public saying, well, who do we believe? I can understand why they say that. You had so much misinformation out here, so many deliberate distortions of what is going on in this Chamber that it is no wonder the American public just throws up their hands and says who do we believe? That is the strategy: Confuse, obfuscate, muddy the waters, do not let anybody know who is really right and who is really wrong. Do not tell the truth about what is going on here.

And here we have this Democratic National Committee television spot saying that there are values behind the President's balanced budget, values Republicans ignore; Congress should join the President and back these values so, instead of a tug of war, we can come together and do what is right for our families.

We are ready to come together. We are here with a balanced budget over 7 years. We are here with real changes. We are here with real solutions. We are here ready to engage with the President on a real budget, not run around and campaign on a phony budget that does not balance. I can tell you for those of us who were in the trenches making these tough decisions which we know affect millions of peoples' lives, it does not help the air of cooperation to have a President demagoging this issue so he can get elected in the next election and not be here in Washington to solve the problem. Someone should inform the President that he was elected to serve as President, not elected so he could run for reelection as President, but that his job is here to solve problems.

That is why I offer this amendment. I offer it to bring to light and to have a vote on the phony budget, and to see who supports phony budgeting around here, who supports trumped up, rosy scenarios, exaggerated growth, underestimated interest rates as a way to solve the budget. We have had that for years around here, frankly, from both administrations, Republican and Democrat, and I think everyone should be tired of it.

We should deal with the real numbers, conservative estimates, that get us to a balanced budget in a reasonable set of time, and that is 7 years. And I am hopeful we can reject this amendment.

I will just remind everybody that I came up here on the floor Friday, Friday morning, and said I would have sitting at the desk, which it has been all week long, a copy of this resolution, and encouraged someone from the other side to offer it, to stand up and defend the President's budget. I said, "Come to the floor, pick it up, debate it. I will be here to debate the President's budget with you if you want to defend the President's budget. There is the resolution."

It is now the day before reconciliation, the day before the rubber hits the road, and no one did. So I decided to pick it up and offer it on behalf of the body. I cannot support the President's budget. It is a phony budget, but I think we should have a debate about it. I think those who want to defend what the President is doing, the posturing that he is taking, the politicization of this debate, the demagoging that has gone on, should feel free to defend it and show the American public what you are really for.

Let us find out what people in this Chamber are really for. Are we for a balanced budget or not?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2944 TO AMENDMENT NO. 2943

Mr. WELLSTONE. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2944 to amendment No. 2943.

The amendment is as follows:

Strike all after the first word and insert, in lieu thereof, the following:

In the event provisions of the FY 1996 Budget Reconciliation bill are enacted which result in an increase in the number of hungry or medically uninsured children by the end of FY 1996, the Congress shall revisit the provisions of said bill which caused such increase and shall, as soon as practicable thereafter, adopt legislation which would halt any continuation of such increase.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I did not realize that we were going to start the debate on what we call the reconciliation bill today. But if we are going to do so, then I want to have out on the floor what I think are an important set of concerns. And by the way, I think, Mr. President, they are the concerns of the vast majority of people in this country.

What this perfecting amendment says in the sense of the Senate is that if, in fact, as a result of this bill with the budget cuts, we see an increase in the number of hungry or medically uninsured children in America by the end of fiscal year 1996, the Congress shall revisit the provisions of this bill which caused such an increase and shall adopt legislation which would halt the continuation of such an increase.

I expect to get 100 votes for this amendment, Mr. President. I have said many times on the floor of the Senate that it is quite one thing—I have heard my colleague from North Dakota say it better than I—it is quite one thing to talk about deficit reduction and a balanced budget. I do not believe there is a Senator that serves in the U.S. Senate, Democrat or Republican, who is proud of the decade of the 1980's-plus where we built up the debt and the interest on the debt. It is time to start paying off that interest on the debt. It is time to put our fiscal house in order.

But, Mr. President, it is quite another question as to whether or not we see in this proposed deficit-reduction plan what I would call the Minnesota standard of fairness. Too many of the cuts—every day people are reading in newspapers, every day people are hearing on the radio, every day people are seeing in some of the TV reports that too many of these cuts seem to be based on the path of least political resistance.

Mr. President, too many of us in office love to have our photo op, love to have our picture taken next to children. It is a great photo opportunity. All of us talk about the importance of children. All of us talk about the future and the importance of children. Well, what this amendment says—and that is why it is such an important perfecting amendment—is that if, in fact, these proposed reductions in the Food Stamp Program, the Women, Infants, and Children Program, nutrition programs for children and family child-care centers, really, whether it be center-based child care or family-based child care, or whether or not the cuts in medical assistance—in my State there are over 300,000 children, many of them in working-poor families that are covered by medical assistance—that if these reductions should result in an increase in the number of children that are hungry or the number of children who now find themselves without health insurance, then we will revisit this question, we will revisit the provisions of this bill which cause such an increase; and then, after that, we will take such practical steps as can be taken that would, in fact, halt the continuation of such an increase.

Mr. President, I came out here on the floor of the Senate at the beginning of this Congress and I said to my colleagues, "I believe that what we are going to do this session is we are going to, in the name of deficit reduction, take food out of the mouths of hungry children." I have said that more than once on the floor of the Senate. And I had an amendment, it was a sense-of-the-Senate amendment, that said the U.S. Senate, that Congress, shall take no action that will increase the number of hungry or homeless children.

Mr. President, I lost. I lost on that amendment on the first two votes. And I remember one of my colleagues on the other side of the aisle—and I have many close friends on the other side of the aisle, including the distinguished Senators on the floor, I would say especially the distinguished Senator from Utah—but I remember that one Senator came out and said, "The only thing the Senator from Minnesota is trying to do is embarrass us." And I said, "You can just prove me wrong and vote for this."

And then, finally, Mr. President—and I deeply regret that I did this—I introduced the amendment again, and it was accepted, and it was voice voted. But I am not interested in symbolic politics any longer. We are getting into the debate now.

I probably would not have had this amendment today, but when the Senator from Pennsylvania comes out with his amendment, his concerns, then it is time for me to come out with my amendment and my concerns.

Mr. President, these children, they are not the heavy hitters. These children, they are not the players. These children, they do not have a lot of lobbyists that are out there in the anteroom right now, and they have not been here throughout this process.

But some of my colleagues just want to talk about the balanced budget over and over and over again, deficit reduction over and over and over again. But how interesting it is that they fail to translate some of their proposals into human terms and what its impact on people is going to be.

Mr. President, we have scheduled in this reconciliation bill dramatic reductions of investment in children.

We have scheduled in this reconciliation bill, in this deficit reduction bill cuts in the Women, Infants, and Children Program. Unbelievable, Mr. President. My God, if there is one thing we ought to agree on, it is that every woman expecting a child ought to have an adequate diet, and we are not going to invest the resources necessary for that?

Mr. President, the Food Stamp Program certainly has its imperfections, and I am all for fixing the problems, but there is a difference between fixing problems and, no pun intended, throwing the baby out with the bath water. I can tell you that with Richard Nixon's leadership, with national standards and dramatic expansion of such a program in the early 1970's—and I saw it in the 1960's in the State of North Carolina where I lived, we had all too many children with distended bellies, too much rickets, scurvy, too many children malnourished—we moved forward with a dramatic expansion of the Food Stamp Program, and it has been—imperfections and all—one of the most important and successful programs in this country because, thank God, it reduced hunger and malnutrition among children in America, hunger and malnutrition among all of God's children.

I ask the Chair, where is the voice for low-income children? Where is the voice for some of the most vulnerable citizens in this country?

So if we are going to now, today, debate this budget, it is my opportunity to make my case and to make my plea to my colleagues that we should go on record, Mr. President, as Senators making it clear that if these reductions should increase the number of hungry or medically uninsured children by the end of fiscal year 1996, the Congress shall revisit the provisions of such a bill that caused such an increase, and then we shall adopt legislation which would halt such an increase.

I met on Saturday with family child care providers. I say to my colleague from Iowa, these are small business people. There are some 14,000 in the State of Minnesota. What did they say to me? They talked about the adult and child care feeding program and they said to me, "Senator, we don't know what is going to happen with the proposed reductions in this program, because for a lot of these kids coming from these families, this is the one really good meal they get a day, and we can't assume the cost ourselves because we're small business people and we don't have any big margin of profit. Senator, who cares about these children?"

But, again, we see reductions in this program.

We are talking about $180 billion-plus of cuts in medical assistance, and I said several weeks ago on the floor of the U.S. Senate when I suggested that the Senate Finance Committee not meet because there had not been one hearing on the precise proposals that had finally been laid out with one expert coming in from anywhere in the country, I said, this was a rush to recklessness, and it is.

It is a rush to recklessness, and what is so tragic about it is that the missing piece is the impact on the people back in our States. The State of Minnesota, again, has done a great job. You can talk to the doctors and the nurses, you can talk to the caregivers, you can talk to the people in the Government agencies, you can talk to the people in the communities, we have 300,000 children that receive medical assistance and now we are going to see draconian cuts in medical assistance.

There is a reason why there has been an increase, and the reason is simple: Every year, more and more families lose their employment-based health care coverage. Every 30 seconds, a child is born into poverty in this country. I keep reciting these statistics over and over again because I do not seem to be able to get my colleagues to focus on it. Every 30 seconds, a child is born into poverty in this country. Every 2 minutes a child is born to a woman who has not had prenatal care. Every 2 minutes, a child is born to a woman and that child is born severely low weight, which means that child may not even have a chance in his or her life. The statistics go on and on.

We are now moving toward one quarter of all the citizens in this country being poor. So if we are going to have this debate today, I offered my perfecting amendment to the amendment of the Senator from Pennsylvania to say let us go on record and let us make it clear that surely we are not taking any action that is going to reduce more hunger or is going to increase the number of children that go without medical insurance and, therefore, without adequate medical care.

Mr. President, while I am speaking and before I forget, I do want to also ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum. Was there a sufficient second?

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HATCH. Mr. President, reserving the right to object. It is one thing to ask for the yeas and nays. We are not prepared to vote on this amendment. So I object.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the quorum call be dispensed with and we go forward.

Mr. HATCH. Mr. President, I object.

The PRESIDING OFFICER. The Chair recognizes there was a sufficient second.

The yeas and nays were ordered.

Mr. WELLSTONE. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, what we have here, which is why I offered this perfecting amendment, is the following equation: On the one hand, we have in the State of Minnesota somewhere between $2.5 billion and $3.5 billion of cuts in medical assistance.

And what do I hear from citizens in Minnesota, I mean from those who are affected? I hear families with children telling me we do not believe that our children are any longer going to be able to receive adequate medical care. I suggest to you as a former teacher, that if a child goes to school—and I have met such children in my State of Minnesota, and, Mr. President, I say to my colleagues, there are such children in their States as well—with an abscessed tooth because that child could not afford dental care or because a child goes to school and that child has not received adequate health care, that child cannot do well in school.

So, to me it would be unconscionable—it would be unconscionable—to essentially dismantle one of the most important safety nets we have for children in our country.

I meet with families, I say to my colleagues, who right now receive medical assistance so they can keep their children who are developmentally disabled at home. If these proposed cuts in medical assistance go through, their fear—Mr. President, may I have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WELLSTONE. I thank the Chair.

Mr. President, their concern is that what will happen is they will no longer have the medical assistance program—it is called TEFRON—in our State to enable them to keep their children at home, and they do not want their children to be institutionalized.

Are we going to turn the clock backward? That is why I have this amendment. This is not a game. These are people's lives. I want my colleagues to go on record that if these proposed reductions mean that there will be more children in America that will go hungry or more children in America that will go without health care insurance, then we will, in fact, in 1996 revisit the provisions and take the corrective action to make sure that we do not continue to see this suffering. That is what I am asking my colleagues to vote on.

The medical assistance program is a vitally important program for children in America, yet we have these huge reductions slated and nobody has bothered to ask these children or their mothers or their fathers—many of them come from working poor families—"How is this going to affect you and what will you do?" Nobody has bothered to go out there and over and over and over again meet with people in the developmental disabilities communities and find out from them, "How is this going to affect you? What are you going to do?"

I had an amendment on the floor of the Senate to the budget resolution that said we ought to consider some of these tax loopholes and deductions and tax giveaways.

A dollar spent by the Government is a dollar spent, regardless of how you do it. It can be a direct subsidy or it can be a giveaway to some large corporation.

My amendment said we ought to consider some of this; it was defeated. Let me be clear about the why of this amendment on the floor of the Senate today.

The U.S. Senate, when it comes to what we call corporate welfare, when it comes to some of the largest tax giveaways to some of the most affluent citizens, largest corporations in America, we do not want to take any action, do not want to ask them to tighten their belts, and do not want them to be part of the sacrifice, but we are willing to cut nutrition programs for children in America.

That is not the goodness of people in this country. But it is pretty easy to explain because those children are not out there with their lobbyists.

The Wall Street Journal had a piece yesterday about the mix of money and politics. It is unbelievable the amounts of money pouring in from all over the country. But those children, they are not the ones that get represented in such a politics.

Today we get a chance to give our assurance to those children that we take account of them and we take account of their lives.

Mr. President, we had a bill out here, appropriations bill that was the Pentagon budget. It was $7 billion more than the Pentagon wanted. It passed. Many of us were saying, could we not put that money into deficit reduction? Could we not at least do a little bit of the balancing of the budget? This is all about priorities, all about choices. Could we not ask the military contractors to tighten their belts?

My colleague from Iowa has probably done the best work in the Senate in pointing out where he thinks there has been some waste here and where he thinks there could be most fiscal accountability.

Mr. President, we were not successful. So we got $7 billion more than the Pentagon wants. We got the money for the military contractors. We go forward with the weapon systems. We go forward with add-on projects. We go forward with this budget. But at the same time, we are going to cut nutritional programs for children and medical assistance for children in the United States of America.

Mr. President, the last piece of this, as long as my colleague brings out this whole issue of the budget, is we now look at the Treasury Department analysis, we now look at pieces that are being written in the papers, and we have $245 billion of tax giveaways.

In the best of all worlds, I would love to vote for it. But it is, I have said on the floor before, it is like trying to dance at two weddings at the same time. As my colleague from Illinois, Senator SIMON, would say, if deficit reductions are our No. 1 goal, we will be put on a strict diet. The next thing we do is say, but first we will give you dessert. It is preposterous.

What is more preposterous is when in fact you are willing to give away $245 billion in breaks, most of it going to the most affluent citizens who do not need it, but you are going to cut the Women, Infants, and Children Program, nutrition programs for children, and medical assistance that has become the most sweeping and important safety net program in this country for children in America.

Mr. President, I just ask my colleagues, where are the priorities? Mr. President, I do not intend to filibuster the Senate. I do not intend to bring the Senate to a halt. I am quite pleased to go forward.

Mr. President, let me just conclude because out of respect for my colleague from Utah who is managing this bill I will not take up much more time. Mr. President, my colleague from Pennsylvania came out here on the floor and did what he felt was right. I respect him for that.

He absolutely should do so. He has his set of concerns. He talks about a balanced budget. He talks about deficit reduction.

I also have a set of concerns. I have a set of concerns about whose backs is the budget balancing on? I have a concern about where is the standard of fairness? I have a concern about all the reports that are coming out talking about the fact that this proportionate number of the budget cuts target low-income citizens in America—the poorest of poor people, with children unfortunately being disproportionately affected by these reductions.

I have concerns about too many children who live in poverty today. I have concerns about what the impact in personal terms of some of these reductions in nutrition and health care programs will be on the nutritional status and health status of children in Minnesota and all across this land.

Since I think we have had precious little discussion about all of this, it seems to me it is time for the Senate to vote.

I remind my colleagues that I had a very similar kind of an amendment on the floor of the Senate. It was defeated twice. The third time it was passed by this body. This was an amendment which said "We go on record that we will take no action, that we create more hunger or homelessness among children in America."

So today we can through our vote provide some assurance to people throughout Minnesota and throughout the land that children do come first. Children and their mothers and fathers do come first. Families do come first. That we will not target the most vulnerable citizens. That there will be some standard of fairness. That we will make sure that our actions do not increase the number of hungry children, and do not increase the number of children who go without health care coverage.

We can do that, Mr. President through this amendment. I will read the amendment and then I will make a request. The amendment reads as follows:

> In the event provisions of the fiscal year 1996 budget reconciliation bill are enacted which result in an increase in the number of hungry or medically uninsured children by the end of fiscal year 1996, the Congress shall revisit the provisions of said bill which caused such increase and shall, as soon as practicable thereafter, adopt legislation which would halt any continuation of such increase.

That is very reasonable.

Mr. President, I am aware that the parliamentary situation is such that I will only be able to get a vote on my amendment if I move to table my own amendment. I will soon do so and urge my colleagues to vote against my motion to table. In that way, the Senate will go on record with respect to the provisions of my amendment.

Mr. President, I do not want to take up more time because we have a lot of business but I believe in my heart and soul that there could be no more important focus than children in this country, and especially vulnerable children.

Mr. President, I am a father of three children: 30, 26, and 23. I am a grandfather, three grandchildren: Ages 4, 1, and 2 weeks. I am not so concerned about my children or my grandchildren with this amendment. I am concerned about a lot of other children. I am concerned about a lot of children who right now in the United States of America live in some brutal economic circumstances. I am concerned about a lot of children in America who right now are in a very fragile situation. I am concerned about a lot of children in America who do not believe that they truly will have an opportunity to be all that they can be. I am concerned about a lot of children in America who grow up in families where there is tremendous tension, where there are parents without jobs, where people struggle economically and where there is tremendous violence in their lives.

I have all of those concerns. Mr. President, for that reason, I do not want us to take any action that could increase the number of hungry children or those that would go without adequate health care.

I move to table my amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is now on the motion to lay on the table amendment No. 2944.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 497 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—1

Bradley

So the motion to lay on the table the amendment (No. 2944) was agreed to.

Mr. SANTORUM. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2943, AS MODIFIED

Mr. SANTORUM. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the bill, add the following new paragraph:

SEC. . SENSE OF THE SENATE REGARDING THE PRESIDENT'S REVISED FEDERAL BUDGET.

(a) FINDINGS.—Congress finds that—

(1) On May 19, 1995, the United States Senate voted 99-0 to reject the Fiscal Year 1996 budget submitted by President Clinton on February 6, 1995.

(2) The President on June 13, 1995, after the House of Representatives and the Senate passed resolutions that the Congressional Budget Office said would result in a balanced federal budget in Fiscal Year 2002, revised his budget.

(3) The President said on June 13, 1995, and on numerous subsequent occasions, that this revised budget would balance the federal budget in Fiscal Year 2005.

(4) The President's revised budget, like the budget he submitted to Congress on February 6, 1995, took into account surpluses in the Old Age, Survivors and Disability Insurance (OASDI) trust funds in calculating the deficit.

(5) President Clinton, in his address before a joint session of Congress on February 17, 1993, stated that he was "using the independent numbers of the Congressional Budget Office" because "the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous Presidents have been."

(6) President Clinton further stated: "Let's at least argue about the same set of numbers, so the American people will think we're shooting straight with them."

(7) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $128 billion in Medicare through 2002 and $295 billion through 2005.

(8) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $54 billion in federal Medicaid spending through 2002 and $105 billion through 2005.

(9) The President has proposed savings of $64 billion in "non-health entitlements by 2002 by reforming welfare, farm and other programs."

(10) The Congressional Budget Office estimated that the President's revised budget includes proposals that would reduce federal revenues by $97 billion over seven years and $166 billion over ten years.

(11) These proposed tax reductions are more than offset by the President's proposed Medicare savings.

(12) The Congressional Budget Office has determined that enactment of the President's proposal would result in deficits in excess of $200 billion in each of fiscal years 1997 through 2005.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress shall enact the President's budget as revised on June 13, 1995.

AMENDMENT NO. 2945 TO AMENDMENT NO. 2943, AS MODIFIED

(Purpose: To express the sense of the Senate regarding the President's revised federal budget proposal)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. FORD. Is it appropriate to have the modification read before we get the tree filled?

The PRESIDING OFFICER. It is not required that the modification be read.

Mr. FORD. I understand that. I ask unanimous consent the modification be read.

Mr. HATCH. Mr. President, could we do that after I——

Mr. FORD. Mr. President, I want it read before we fill the tree.

The PRESIDING OFFICER. Is the Senator aware that a second-degree amendment has been sent to the desk? And the regular order is for the clerk to report the amendment.

Mr. FORD. Mr. President, I withdraw my request.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2945 to amendment No. 2943, as modified.

Mr. SANTORUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the first word and insert in lieu thereof the following:

SEC. . SENSE OF THE SENATE REGARDING THE PRESIDENT'S REVISED FEDERAL BUDGET.

(a) FINDINGS.—Congress finds that—

(1) On May 19, 1995, the United States Senate voted 99-0 to reject the Fiscal Year 1996 budget submitted by President Clinton on February 6, 1995.

(2) The President on June 13, 1995, after the House of Representatives and the Senate passed resolutions that the Congressional

Budget Office said would result in a balanced federal budget in Fiscal Year 2002, revised his budget.

(3) The President said on June 13, 1995, and on numerous subsequent occasions, that this revised budget would balance the federal budget in Fiscal Year 2005.

(4) The President's revised budget, like the budget he submitted to Congress on February 6, 1995, took into account surpluses in the Old Age, Survivors and Disability Insurance (OASDI) trust funds in calculating the deficit.

(5) President Clinton, in his address before a joint session of Congress on February 17, 1993, stated that he was "using the independent numbers of the Congressional Budget Office" because "the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous Presidents have been."

(6) President Clinton further stated: "Let's at least argue about the same set of numbers, so the American people will think we're shooting straight with them."

(7) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $128 billion in Medicare through 2002 and $295 billion through 2005.

(8) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $54 billion in federal Medicaid spending through 2002 and $105 billion through 2005.

(9) The President has proposed savings of $64 billion in "non-health entitlements by 2002 by reforming welfare, farm and other programs."

(10) The Congressional Budget Office estimated that the President's revised budget includes proposals that would reduce federal revenues by $97 billion over seven years and $166 billion over ten years.

(11) These proposed tax reductions are more than offset by the President's proposed Medicare savings.

(12) The Congressional Budget Office has determined that enactment of the President's proposal would result in deficits in excess of $200 billion in each of fiscal years 1997 through 2005.

(13) President Clinton stated on October 17, 1995, that, "Probably there are people . . . still mad at me at that budget because you think I raised your taxes too much. It might surprise you to know that I think I raised them too much, too.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress shall enact President Clinton's budget as revised on June 13, 1995.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

Mr. President, we are now back to the original subject at hand before the Wellstone amendment, which is a sense of the Senate which says the Senate should adopt the President's second budget, his budget which he proclaims balances the budget over a 10-year period of time.

I wanted to show in graphic terms what the President's balanced budget does. The red line is what the Congressional Budget Office says are the deficit projections for the President's balanced budget. You see over the next 7 years the President's budget, unlike the Republican budget here in the Senate that will be up tomorrow. You see the difference between what we are debating here today and will be debating the rest of the week is a vision, a vision of fiscal responsibility for this country. If you are to believe the President, what the President wants to do, he does not want to get to a balanced budget in 7 years or 10 years or any other time after that.

You can see what the Congressional Budget Office says is the annual projected deficit for the President's budget. It is about $200 billion, give or take, over the next 7 years. And by the way, this line continues out for several years to come. In the reconciliation package we are going to debate tomorrow, we take the budget deficit from here and take it down to zero—in fact, a slight surplus in the year 2002.

This right here is the credibility gap, the gap between what the President says he wants to do, which is balance the budget, to where the President really is in 7 years, which is at a $200 billion plus deficit. That is a $200 billion credibility gap that the President is trying to pull over on the American public. And somehow or another, a $200 billion deficit qualifies as a balanced budget. I do not think in anybody's book a $200 billion deficit qualifies as a balanced budget.

So what we have been having today is a discussion on the President's budget and our budget and the differences between the two, and hopefully we will have a vote later today on whether we will adopt the President's budget, whether this body wants to go in the direction of red ink as far as the eye can see, of reductions—remember, the President calls for hundreds of billions of dollars in reductions in spending, and even with all those reductions in spending he still has $200 billion in deficit because he does not do enough. He does not make the changes that are necessary to get this budget in order.

Remember, just 3 years ago the Governor of Arkansas campaigned across America about change, change, change, change. How many times have you heard during the campaign of 1992 the word "change"? How many times have you heard over the past year the word "change"? Not very much. What you heard is there is too much change, according to the President. There is too much disruption. There is too much. "Oh, we cannot do that." He has all of a sudden come from being the President of change to the President of the status quo. And my fellow colleagues, this is the status quo, this is continued deficits for as far as the eye can see. That is not change. That is not pro-family. It is not pro-family America; it is not pro-growth; it is not pro-anything except pro-deficits and pro-decline.

We have an opportunity to reject the status quo here in a few minutes and start tomorrow on a fresh, new change in America's future, a balanced budget that we will get to later today.

Mr. KYL. Will the Senator from Pennsylvania yield for a couple of questions?

Mr. SANTORUM. I would be glad to.

Mr. KYL. The Senator from Pennsylvania is talking about the President's budget. Has anybody on the minority side offered the President's budget for a vote here?

Mr. SANTORUM. The Senator from Arizona asks a very relevant question, because on Friday morning I took the floor and put forth this resolution, and laid it on the desk down here and said, "If anyone on the other side wishes to take up the President's budget and argue for his budget, it is there. The sense of the Senate to approve the President's budget is there, if anybody wants to offer it on the other side of the aisle, to defend what the President wants to do, to talk about how he gets to balance, what his numbers are he used, what his assumptions are he uses, to speak on behalf of the President, to defend your President. Who?"

And I do not know if the Senator from Arizona knows this, but the Democratic National Committee is running TV spots all over the country, saying, "There are values, there are values behind the President's balanced budget plan." Now you have the Democratic National Committee running around the country with TV ads proclaiming that this budget is a balanced budget, and yet you cannot find one Member of the U.S. Senate on the other side of the aisle defending it, to defend what the President has done in reaching his balance. I wonder why that is.

Mr. KYL. Would the Senator from Pennsylvania yield for another question.

Mr. SANTORUM. Of course.

Mr. KYL. Just so we have this all right now, the Senator from Pennsylvania is offering up the President's budget just to see who is willing to support it. There has not been a Member of his party willing to offer it.

Mr. SANTORUM. If I could interrupt the Senator from Arizona.

Not only have they been unwilling to offer it, but during the time we have had the opportunity to debate this past Friday and here again today, not one Member of the other side of the aisle has even risen to defend it, much less offer it, to even question any of the arguments that we have put forward on this subject.

Mr. KYL. Perhaps we can go back in time.

Did we not vote on the President's budget earlier this year? As I recall, the Senate is on record as opposing the first President's budget 99–0.

Could the Senator from Pennsylvania enlighten us further on that?

Mr. SANTORUM. That is correct. Earlier this year we had the opportunity to debate and discuss the President's budget. And I am not too sure how many Members on the Democratic side of the aisle defended it. I am not too sure very many did. There were admissions that the President's budget did not go very far. But I will give the President credit for this on his first budget: On his first budget he did not claim he balanced the budget. He admitted that he had $250 billion-plus deficits as far as the eye can see. He admitted it was a bad budget.

What he has come back with is a ruse. You know, he and his buddy, Rosy, Rosy Scenario, have gotten together to come up with a budget by underestimating what the interest rates will be and overestimating growth. He and Rosy have figured out a way to balance this budget. Well, unfortunately, Rosy does not cut it. We need real reforms. People are looking for real changes, the changes that he campaigned on in 1992 that he is not delivering with these budgets.

Mr. President, I——

Mr. KYL. Excuse me, if the Senator would further yield. We have been having a conversation about this. It seems that there is one other little problem, that is, in actuality there is a second President's budget in the same sense that he offered the budget earlier in the year; and the Republicans, through the Budget Committee, and the House and the Senate, have actually produced a full budget, funding each of the departments of the U.S. Congress, as well as developing all the revenues necessary for doing that.

Actually, is it not the case that what the President is talking about now as his balanced budget is really a concept only, that, A, is not a full budget, B, will not be offered by anyone in his party, C, does not ever get into balance insofar as the Congressional Budget Office estimates are concerned, and, therefore, really the only thing that we do have to vote on later on this week is the Republican budget combined with the other features of what we call the reconciliation bill here?

Mr. SANTORUM. The Senator from Arizona again is exactly correct. What the President has trumpeted across this land and the Democratic National Committee has begun to run ads suggesting, is that the President has a balanced budget. No, he does not. He does not have any specifics.

In fact, the entire package the President submitted back in June of this year was some 10 pages, 10 pages of broad outlines as to how you would accomplish it; no specifics, no itemized reductions, no specific plans on how to reform Medicare, no specific plans on how to reform Medicaid, no specific plans on how he is going to adopt his tax cuts, no specific plans on how he is going to increase education spending, which he says he wants to do. All of it is sort of vague, general numbers without the kind of detail that we are forced, and should be required, frankly, to produce here in a budget reconciliation package.

We have come forward with the specifics. And, as you know, when you put forward specifics, you have a lot more to shoot at. In fact, I think the reconciliation package is a pretty sizable document, a pretty voluminous measure. And so I am sure within these documents you have a lot to shoot at. When you have 10 or 15 pages of broad generalizations, you do not have much to sink your teeth into.

So the President has been able to run around and talk about a balanced budget, which he has never really produced in detail, No. 1, and, No. 2, does not balance, and then proceeds to take shots at a very well thought out, detailed description by the Republicans in the House and the Senate as to how we are going to get to the budget. It is a pretty neat place to be. You are sitting there taking potshots at folks without having to deliver leadership.

Unfortunately, we have a President who does not think he has to lead, thinks he can sit back here and take potshots at what others trying to solve the problem want to do.

Mr. KYL. Will the Senator yield for another question? I hate to ask all these other questions about the President's budget.

Mr. SANTORUM. I do not see anyone else seeking time.

Mr. KYL. The President talked about his companion, Rosy, Rosy Scenario. I recall when the President first spoke to the Congress, he talked very firmly about the need for us to work together, using a common set of assumptions. And he pointed out that, of course, that common set of assumptions came from using the numbers, the credible numbers, the objective, bipartisan numbers of the Congressional Budget Office, to analyze how much Government would actually cost and how much the revenue would actually be for the various kinds of taxation that we have in the country, and that instead of the President using the OMB, which is what he accused past administrations of using, and the Congress using the CBO, or the Congressional Budget Office, we ought to both agree that the CBO had it right. They had it figured out; they used the right assumptions; and we ought to use the CBO numbers.

Now, I would ask the Senator from Pennsylvania, which numbers did the President use? And did that have an effect on the assumptions inherent in his so-called budget?

Mr. SANTORUM. As the Senator from Arizona knows very well, the President broke his promise. He broke his promise that he made to the Congress in 1993 when he came to the joint session of Congress in his first speech before the Congress, and he stood up and said that we will use a common set of numbers, we will use the Congressional Budget Office numbers so we are working with the same numbers, so there are not going to be any games on wishing away the problems.

He offered this budget using OMB numbers, the Office of Management and Budget within the White House, not the Congressional Budget Office up here on the Hill that we are bound to use.

The Congressional Budget Office is more conservative. They have more pessimistic assumptions. And if you look at the history of budgets and the projections of balancing, I am sure there are a lot of folks who are listening here who remember Congress after Congress saying, "We'll balance the budget in a few years; we'll get to it; we'll get to it," and projecting rosy scenarios out of the White House.

The fact of the matter is, we want to take a conservative approach, and if we are wrong, what is the downside if we are wrong? We end up with a surplus, such a horrible thing to have. If the Office of Management and Budget is wrong and their projections are too rosy, what happens? We end up with a pretty good size deficit, that is the problem.

So I suggest it is better to err and be cautious, as we are here in the Congressional Budget Office using these numbers, than it is to go out and wish away the problem like the President has done.

Mr. KYL. Will the Senator yield for another question? I was just handed this statement and wonder if the Senator is aware of it.

June O'Neill is the Director of the Congressional Budget Office, and she testified in August, and I am quoting now that "the deficits under the President's July budget would probably remain near $200 billion through the year 2005."

The July budget is the budget the Senator from Pennsylvania is talking about and referring to in his chart here.

So the red line that the Senator from Pennsylvania has demonstrated on his chart, compared to the line of zero down below, does that represent what June O'Neill, Director of CBO, says is the budget deficit remaining near $200 billion through the year 2005 under the President's figures?

Mr. SANTORUM. That is correct, and that is why this amendment is here. If the President was not out running around saying that he has a balanced budget and he has a budget plan and the Democratic National Committee—by the way, this Democratic National Committee spot was not 3 months ago, 4 months ago, it was this weekend—this weekend. In the face of this, in the face of the knowledge that the Congressional Budget Office says this plan does not balance, does not deter the Democratic National Committee from running around lying to the American public that it does balance, and it does not.

You have the Democratic leader who, after the President introduced his second budget that said balanced, when the Congressional Budget Office came out and said it did not, the Democratic leader said the President should use CBO numbers.

Now you have the Democratic leader criticizing the President saying, "Use the right numbers, don't cook the numbers." And yet the Democratic National Committee, in the middle of this Titanic struggle to balance the budget, is going out there trying to fool the American public, suggesting the President has a balanced budget plan.

Mr. FORD. Will the Senator from Pennsylvania yield for a question?

Mr. SANTORUM. I will be happy to yield for a question.

Mr. FORD. The two Senators over there are just talking to each other. I do have a germane amendment, which yours is not, to this bill. I have discussed it with the floor manager of the legislation. I would like to get on. If you want a vote, let us have a vote. You can even move to table your amendment. I just would like to get on to other things, because we have been through this rosy scenario, and we are very acquainted with "Rosy" because you have introduced her to us.

Mr. HATCH. Will the Senator yield?

Mr. SANTORUM. Rosy is not unique among Democrats and Republicans in the White House. She has been a constant partner of Presidents for a long time. The unfortunate part is this is the first time that a Congress has come forward with a true balanced budget without Rosy, and what we are doing is very serious business and what the President——

Mr. FORD. If the——

Mr. SANTORUM. Let me finish my statement. When the President is out there using Rosy to cover up what is a truly deficient budget that does not balance in the face of the tough decisions that this Congress is making now, it raises that specter of deceit that has been going on with Presidents for a long, long time to a new level. That is why this amendment is on the floor.

Mr. FORD. Mr. President, will the Senator yield again?

Mr. SANTORUM. I yield for a question.

Mr. FORD. Did the Senator hear the former chairman of the Budget Committee this morning when he said your budget, by CBO figures, was $108 billion or $105 billion short in 2002?

So you are standing up here telling us that you are balancing the budget and you have the direct opposite view from that of the former chairman of the Budget Committee, and he got his information from CBO.

Mr. SANTORUM. If I can reclaim my time, I am sure the Senator from New Mexico will present the letter from the Congressional Budget Office Director which certifies the budget does balance in 7 years. I do not know where the Senator from South Carolina got his information.

Mr. FORD. He did not get it out of his own office, he got it out of CBO.

Mr. SANTORUM. I reclaim my time, and I encourage that we defeat this amendment. I will be happy to take an up-or-down vote. If the Senator from Kentucky will allow an up-or-down vote, we can do that. If the Senator requires me to table, I will be happy to do that.

Mr. HATCH. Will the Senator yield?

Mr. SANTORUM. I will be happy to yield.

Mr. HATCH. If I can make a suggestion, I suggest we have a vote up or down on the Senator's amendment. I intend to support him. I think we should do that right now.

I notice the distinguished Senator from Iowa is ready to speak on the underlying bill. The distinguished Senator from Kentucky, the minority whip, has an amendment he would like to bring up. So I am prepared to go to a vote if we can.

Several Senators addressed the Chair.

Mr. KYL. Mr. President, I rise in opposition to the amendment and the budget that President Clinton has submitted.

The President says he supports a balanced budget and that he has submitted a balanced budget to the Congress for consideration, but the agency he praised as the best authority on budget numbers, the CBO, says otherwise. June O'Neill, the Director of CBO, testified in August that "the deficits under the President's July budget would probably remain near $200 billion through 2005."

So, the President's budget does not balance. Not in 7 years, 8 years, 9, or 10 years. It doesn't balance.

The President claims the Congress is cutting Medicare to pay for tax cuts for the rich. We all know that's not true either, just as we know the President didn't propose to cut Medicare when he proposed tax cuts in his revised budget.

CBO estimates that the President's revised budget would reduce the growth in Medicare by $105 billion by 2005. The President's numbers put net Medicare savings at $124 billion. So, President Clinton finds savings in Medicare as well.

His budget also proposes tax cuts that would cut the growth of tax revenues by $166 billion by 2005. The President's tax cuts are more than offset by Medicare spending cuts. Yet we all know that cuts have nothing to do with Medicare. Whether we raise taxes, lower taxes or leave taxes the same, the fact is that Medicare will go bankrupt unless spending growth is slowed and the program is reformed.

Last week, the President said that he could support a balanced budget in 7 years, just as we are proposing. We should vote down this budget today and give the President another chance to produce a budget that CBO will certify gets us to balance. We want to work with the President, but we don't want—and we shouldn't—go back on the promise we made to the American people to balance the budget by the year 2002.

Let us vote down this budget today and consider an alternative that keeps the promises we have made. Let us balance the budget and give tax relief to hard-working American families.

Mr. President, I think it is time for us to have a vote, and I simply would like to frame what the vote is, in about 30 seconds here.

The Senator from Pennsylvania has offered the President's budget. We are going to be voting later this week on the Republican budget. Members will have an opportunity to decide: Do they want a budget that, according to June O'Neill, the Director of the Congressional Budget Office, shows deficits of $200 billion through the year 2005, or do they want a balanced budget offered by the Republicans which will be voted on later this week?

I suggest that we have the vote, that it be up or down, and that we defeat the budget that has been offered by the Senator from Pennsylvania, since none of the Members of the Democratic Party were willing to offer the President's budget.

Mr. HATCH. Mr. President, I also suggest we have this vote up or down, and I agree this amendment should be defeated. We should not be voting for the President's budget, which has $200 billion in deficits, ad infinitum. It is not realistic about getting spending under control, and I think, once and for all, that we can vote on this issue.

Mr. SANTORUM. Mr. President, one additional comment. The Senator from Kentucky and I just had a conversation. I want to give the Senator from Kentucky and the Democrats credit for not defending the President's budget. He is absolutely right, he is not defending the President's budget because the President is not using the right numbers, so I give credit to the other side for not standing up and defending this budget. I think they are showing character in not doing so. I think, hopefully, that is a message that will be sent to 1600 Pennsylvania Avenue.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we do have a bill before us, a very important bill. We have been talking about amendments to that bill that are unrelated to the underlying bill. I am going to speak about the underlying bill. I want to tell people who are watching that this sometimes happens in the U.S. Senate; that you get a relatively noncontroversial bill before the Senate, and then people want to offer amendments. I do not have any fault with either the process, or I do not have any fault with the amendment on which we are going to be voting. In fact, I cheer what the Senator from Pennsylvania is doing. But I do want to state my view on this underlying bill which creates and extends some temporary judgeships, and then I also want to make a statement on how we arrive at the number of judgeships we ought to have and the necessity for a review of that process.

As far as the underlying bill is concerned, Mr. President, I want to clearly state that I support the bill, even though I am going to raise some questions about the process, even though I might raise a question about one of the judges that is being temporarily extended, the creation of which is being temporarily extended.

I want to state for the record that there is at least one of these positions that is being extended, some questions from judges who operate in this judicial district as to whether or not it even ought to be extended.

I want to say at the outset that the Sixth Circuit Judicial Council has asked that one of the temporary judgeships not be renewed. The letter I have from Mr. Wiggins, circuit executive for the sixth district, who speaks about the temporary judgeship for the western district of Michigan, says at a meeting of the Sixth Circuit Judicial Council held on May 4, 1994: The council approved the request of the western district of Michigan that no action be taken to extend the temporary judgeship for the western district of Michigan.

With this bill, we are extending then some judgeships which judges themselves have raised questions about whether or not they are needed, whether or not they even want them.

It is, of course, this sort of mindset that has caused me to look very closely at the spending habits and the allocation of judges in the Federal judiciary.

Congress has made difficult budget choices, as you know, this year—in fact, the next 3 days—on what we call the reconciliation process. We are going to be voting on these particular tough decisions that we have to make to get us to a balanced budget. In that process, we in the Congress have downsized our own staffs, the staffs of our committees. We have downsized in the executive branch, as well.

I believe it is time that we look at the downsizing of the Federal judiciary. That is why I have begun a series of hearings on the proper allocation of Federal judges. As some in this body know, last week I chaired a hearing before the Court Subcommittee that I chair on the appropriate number of judges for the U.S. Court of Appeals for the D.C. Circuit.

That hearing addressed an issue which this body has not considered since the 19th century—the process of eliminating judgeships. The last time we eliminated a judgeship as a Congress was in 1868 when there were 10 members of the Supreme Court temporarily because of what President Lincoln wanted to do. It was reduced by one judgeship. That is the last time I have been told that is the case.

Here we are looking at whether or not we need 12 judges on the circuit for Washington, DC. The caseload of the Washington, D.C. circuit has actually declined slightly over the past few years. The number of agency cases in the D.C. circuit is about the same now as it was in 1983—that was a year before Congress created a 12th judgeship in the D.C. circuit.

It costs a little under $1 million—$800,000, to be exact—when we create and keep filled a circuit court judgeship. By the way, that figure, $800,000, comes from the judicial conference. In other words, that is the official judiciary's estimate. It is not my estimate.

The administration claims despite the declining caseload, despite the expense to the American taxpayers, that 12th seat must be filled. I am not convinced that this is so. Mr. President, $1 million per year, per judgeship is a lot. I do not think it should be spent unwisely.

Mr. President, with respect to the D.C. circuit, the administration basically says that the D.C. circuit is too slow in rendering decisions and that a 12th judge would speed things up. But this is not necessarily so.

I agree with a large number of well-respected Federal judges who have raised serious concerns about the runaway growth of the Federal branch. Some judges, including Judge Silberman on the D.C. circuit and Judge Wilkinson of the First Circuit Court of Appeals, have raised serious objections to an excessively large Federal judiciary. These circuit judges have concluded, based on the experience of the ninth circuit, that courts of appeal which are too large actually decrease the quality of judicial decisionmaking and increase the possibility of a conflicting panel decision which must be reconciled through full court rehearings.

At my hearing that I held last week in my subcommittee, Judge Silberman testified that 12 judges is just too many for the D.C. circuit. In those very brief periods when the D.C. circuit has actually had 12 judges—and that was just for a brief period of time, quite frankly, Mr. President, between 1984 and now, when it was created, I think a period of not more than 18 months—there just was not enough work to go around. That is what Judge Silberman said.

I ask unanimous consent that an article from a newspaper about the hearing I recently chaired which appears in the paper be printed in the RECORD at the end of my remarks. Furthermore, I ask unanimous consent to have printed the letter I read from the sixth judicial council.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. GRASSLEY. Furthermore, when there are too many judges—and I go back to what Judge Silberman is saying and what Judge Wilkinson is saying—there are too many opportunities for Federal intervention.

We should not forget, just as Government regulatory agencies swelled in number and size since President Roosevelt and President Johnson set America on a path to big Government and Government control of the economy, the Federal courts have also increased in size. The size of the Federal judiciary is an indicator, in the view of many people, including myself, of the degree of unnecessary Federal intervention in State and local affairs.

To some degree, I must admit, this is our fault. Whenever we in the Congress try to create a Federal solution to a State and local problem, we give the Federal judiciary more work to do. So we have to, of course, shoulder some blame for this, and it would not take a lot of research that every Senator, including this one, has done some things, promoted some legislation to increase the workloads of the Federal judiciary.

Is that right? No, it is not right. It is a fact. We have an opportunity now to review some of this. We have a bill before the Senate that extends temporary judgeships that were created 5 years ago for another short period of time, to get us over a hurdle.

We are going do that, obviously, but it calls for the consideration of how we do this, how often we do it, and whether we do it in too willy-nilly of a fashion.

Like most of my colleagues on this side of the aisle, I do not necessarily support Federal solutions to local problems. With the Republican victory last November, I am confident that some common sense will be restored to the way that we do business up here in Washington.

Mr. President, all of what I have described is expensive. When we ask for more Government, more committees, more employees on the Hill, more bureaucrats downtown, and even more judges, it is all very expensive. So it is time we in Congress step up to the plate on the issue of the Federal judiciary and its size and we make some tough budgetary choices.

I yield the floor.

EXHIBIT 1

WHEN IT COMES TO JUDGES, MANY SAY LESS IS MORE

(By Frank J. Murray)

The U.S. Senate may be about to abolish an appeals court judgeship because there's not enough work to justify the job.

This has happened only once before, in 1868, when Congress cut the U.S. Supreme Court from 10 justices to nine.

But the mood to cut judgeships is growing. At issue is whether to cut the 12-judge U.S. Court of Appeals for the D.C. Circuit, the nation's second most important court. Three of the nine current Supreme Court justices were elevated from that court.

Yesterday, Judge Randall R. Rader of the Federal Circuit told The Washington Times that 12-judge appeals court also could be better off if its current vacant slot were abolished.

"I think circuit courts work better in smaller numbers. I think that the Federal Circuit would work as well with 11 [judges], perhaps more efficiently," Judge Rader said.

In the Eastern District of Louisiana, Chief Judge Morey L. Sear is asking the Senate not to fill two vacancies on the U.S. District Court bench.

And Judge Laurence H. Silberman of the D.C. Circuit advocates cutting one judge from that court.

Sen. Charles E. Grassley, Iowa Republican and chairman of the Senate Judiciary oversight subcommittee, says he has found support for reducing the number of judges on the D.C. Circuit and elsewhere during soundings of sentiment among appeals judges nationwide.

Chief Circuit Judge Harry T. Edwards, who opposes the reduction, acknowledges that Judge Silberman speaks for a significant faction of the court, although its 11 judges have taken no vote.

Chief Judge Edwards says any decision not to leave the question to the U.S. Judicial Conference could suggest "some agenda that has nothing to do with the quality of justice."

In opening a committee hearing last week, Mr. Grassley said his choices fall between filling the vacancy and cutting the bench by as many as three positions.

Each circuit judgeship costs about $800,000 a year, including salaries for a support staff of five. Such judgeships must be eliminated when vacant because the Constitution guarantees incumbent judges their jobs and their salary levels for life.

"We think the [D.C. Circuit] seat should be filled," says White House spokeswoman Ginny Terzano. "It's not a political issue. It's a question of whether this seat should exist or not, and the administration thinks it should."

In separate interviews, Judges Edwards and Silberman says they respect each other's opinions on an issue laden with political overtones.

"If the question to me is, are we better off with 12 judges—do we serve the public better and do our jobs better?—my answer is yes," Judge Edwards says. But he concedes he can't effectively challenge those who rely on a formula allotting the circuit just 9½ judges because of declining workload.

"I can't say there's any magic number and produce that number to prove the point," Chief Judge Edwards says. "I admitted it is a difficult assessment in those terms." Although the number of cases accepted for review fell over a 10-year period, the backlog of 2,000 is up 70 percent.

"I do think the 12 judges is excessive and therefore a diversion of judicial resources," Judge Silberman told the Judiciary Committee. He says 11 is the right number and nine is too few.

The resolution of the dispute could determine whether Mr. Clinton eventually undoes what Ronald Reagan wrought. The D.C. Circuit has five Reagan nominees, two Bush appointees, two Clinton nominees and two Carter appointees—including Chief Judge Edwards. Judge Silberman was appointed by President Reagan.

"I am in favor of the abolition of the 12th judgeship no matter who is President or who controls the Senate. We simply do not need a 12th judgeship, and there is a cost in the quality of our decisionmaking," Judge Silberman says. He says he expressed this view privately months before Mr. Garland's nomination and wrote a Sept. 26 letter spelling out his position at Mr. Grassley's invitation.

"The fact that I am in some measure of disagreement with the chief judge on this issue has not affected my enormous respect and affection for him," Judge Silberman says. Says Chief Judge Edwards: "Everyone else who's testified has supported the 12th judge. I don't care to say anything on that. Our relationship is good. I'll leave it that way."

EXHIBIT 2

U.S. COURT OF APPEALS
FOR THE SIXTH CIRCUIT,
Cincinnati, OH, May 5, 1994.

Re temporary judgeship in Western District of Michigan.

DAVID L. COOK,
Chief, Statistics Division Administrative Office of the U.S. Courts, Federal Judiciary Building, Washington, DC.

DEAR MR. COOK: At a meeting of the Sixth Circuit Judicial Council held on May 4, 1994, the Council approved the request of the Western District of Michigan that no action be taken to extend the temporary judgeship for the Western District of Michigan.

Sincerely,

JAMES A. WIGGINS,
Circuit Executive.

Mr. MACK. Mr. President, I rise to support the effort that the Senator from Pennsylvania has put to the Senate, but would encourage my colleagues to vote against the resolution.

The resolution calls for the adoption, as I understand it, of the President's budget as submitted June 13 of this year. When the vote is called, I hope that my colleagues would vote against the resolution.

Again, I want to support the effort that the Senator from Pennsylvania is making. What he is really giving us is an opportunity to discuss—and I suspect maybe some do not want to discuss it—the President's budget, because there is the impression that has been created that with this proposal that the President made in June, that there is an alternative to what Republicans have proposed.

In the next few days we will be voting on the reconciliation package. That, combined with other actions of the Senate—the appropriations bill, the passage of the budget resolution earlier this year—will lead us to a balanced budget, according to CBO.

There is a proposal, again, that will come to the floor of the Senate tomorrow, and we should have a vote on final passage before we conclude our work this week, that will, in fact, over a period of 7 years, balance the budget. If my memory is correct, that will be the first time that the budget will have been balanced since 1969.

I again want to take the opportunity here to talk about the President's budget, but I cannot help but think that there are times maybe for a little levity.

Over the weekend, through some clandestine activity, we were able to come up with an instrument that allows us to understand how the President comes to conclusions about certain tax policies.

This instrument is the key. This is spun, apparently, and where it stops is an indication of what the President's policy with respect to taxes should be.

Again, just to quote some of the various options here that the President has to pick from, in January, 1992, the President said, "I want to make it very clear that this middle-class tax cut is central * * *" to what he is trying to accomplish. Then, in March 1992, just a few months later, I am quoting the President again, he says, "but to say that this middle-class tax is the center of anybody's economic package is just wrong."

Then, on June 8, the President went on to say, "I would emphasize to you that the press and my opponents always made more of the middle-class tax cut than I did." We all are familiar with the President's comments with respect to taxes raised in 1993. He has been quoted rather extensively, I think, now, over the last week or so, in essence admitting that he went too far in raising taxes.

What is ironic about that, in the same breath he really said it was not his fault, that the Congress—the fact that he had to work within the Democratic Party—he was forced to raise taxes and he now admits it was a mistake and in essence he apologized for having raised those taxes.

Interestingly enough, you could use this instrument for just about any policy decisions in the White House that you wanted. You could take the issue of budget resolutions. If you go to candidate Clinton in 1992, I believe he said on the "Larry King Show" that he believed that a budget could be balanced in a 5-year period.

Then, the first budget that the President submitted to the Congress did not call for a balanced budget at all. That was in 1993, even after raising taxes to the point I think many have said was the largest single tax increase in the history of the country. Certainly a large one. So here we are in the President's first year, presenting to the Congress a budget that, in fact, does not call for balance.

Then, earlier this year the President proposed to the Congress his budget for fiscal year 1996. Interestingly enough, there was no effort to balance the budget in that particular proposal. In fact, I think this is the one that was voted on. It was voted down 99 to zero. There was no support whatsoever in the Senate for the President's first proposal this year. That called for balancing the budget in a 10-year period. When it was re-estimated by CBO, it was indicated we would see deficits out, well, forever—of $200 billion-plus per year.

The President has been quoted, too, as saying he now favors a program that would balance the budget in 7 years—at least that was the implication. I should be careful about that. That was the implication—that the President, in fact, supported the concept of balancing the budget in 7 years.

So I thought it was an interesting find over the weekend to have found this instrument that really has turned out to be the key to the President's policy decision-making process. That has been, I think, very helpful.

Also, since we have the opportunity to talk about the President's budget, it has been some time since we have had an opportunity to focus on this. The Joint Economic Committee, as the Chair recognizes, held a hearing to review the President's supposed balanced budget proposal over 10 years. Mind you, over 10 years. He claimed to have balanced the budget in 10 years.

This chart indicates, again according to CBO, what would be necessary in order to balance the budget over a 7-year period. We would have to reduce Federal expenditures, that is the anticipated Federal expenditures, over that 7-year period by $1.257 trillion. In fact, that is the proposal that the Republicans have put before the Senate, both as a budget resolution and now the combination of appropriations bills and reconciliation bill. So we are going to meet this goal.

The President's proposal does not come anywhere near that. As you begin to review—not my analysis of the President's budget, but the Congressional Budget Office's analysis of the President's budget—and you might be asking yourself, why does the Senator keep referring to the Congressional Budget Office, known as CBO?

The reason I do is because I remember, I think as most of the Members of the Senate do, that in January 1993, when we were all assembled at a joint session of the Congress to hear the President's State of the Union Message, he really challenged the Congress. Maybe that is really not the way to say it. I think what he was saying to the Congress is he recognized in the past, that previous administrations and previous Congresses, frankly, had used smoke and mirrors to put budget resolutions together. When things got tough and tough decisions were going to have to be made, the Congress somehow or another decided they would accept rosier economic assumptions. Because by accepting rosier economic assumptions, fewer cuts had to be made.

This is what the President said, back in January 1993. He said that he would use "the independent numbers of the Congressional Budget Office, so we could argue about priorities with the same set of numbers. I did this so no one could say I was estimating my way out of this difficulty."

Guess what, here is another flip-flop. If I had that other chart back up maybe we could spin the wheel one more time and see if the President would conclude he should respond to this kind of question. The President has decided not to use the Congressional Budget Office numbers. He has decided to use OMB. As a result of using OMB, guess what, they are using rosier economic assumptions—economic assumptions about the level of economic growth; economic assumptions about interest rates; economic assumptions about inflation and so forth.

The end result was that the President has, in fact, estimated his way out of the problem. This portion of the reduction does in fact come about as a result of changing economic assumptions and using lower interest rates, assuming there will be lower interest rates in the future.

I say to my colleagues as we have an opportunity to both vote on this resolution and on reconciliation, it is obvious. It does not get to zero. Over half of the deficit reduction the President has proposed comes from estimating his way out of the problem, using higher growth numbers, lower interest rates, and so forth. That program just will not do it. This is exactly what created the problem we are in today. It is because, in the past, every administration and every Congress decided to blink.

All I am saying is you cannot get there with the plan the President has proposed and that is why I encourage Members to vote against the resolution that is on the floor.

Sometimes people get lost with charts in this discussion of economics and statistics and numbers. If you think about it, in essence what CBO has said is that deficits are growing at this rate. This line represents the deficits out in the future if we do not do anything. Here is what we would have to do—that is this line here represents zero. We have to get rid of this gap. We have to fill that gap, rather, in order to solve the deficit problem.

The President has figured he will address the problem with over half of that gap being filled by phony economic assumptions. That has happened year after year after year. That is why we have seen the debt build up year after year.

Mr. President, I want to address maybe two other areas related to this. The first is, what does this mean to individuals? What is important about doing this? Clearly one could make the economic argument that this is important because it is going to get us to a balanced budget. Plenty of other people have made those arguments and I have heard my colleagues on the other side of the floor refer to what our proposal might do to people in the country.

I ask them to think about what is going to happen to those individuals if we do not do something. Take Medicare, briefly. What if we do not act on Medicare? How are they going to answer the people 7 years from now when there is no money in the trust fund to make those benefit payments? What are they going to say to their moms, dads, and grandparents? What are they going to say to those individuals who are suffering from all types of diseases that come as a result of aging? Are they just going to say we did not have the courage back in 1995 to solve the problem; we felt it would be better to do whatever Congress has done before that? That is, flinch; fuzzy up the issue; change the economic assumptions; avoid the tough decisions? That is what they are saying.

Oh, they will not admit that. But that is exactly what they are saying. What about those people, those young families in America where mom and dad get up at 4:30, 5 o'clock in the morning and commute to work, and by the time they get back home in the evening it is already dark? They feel, and I think accurately so, that the Federal Government is sucking money away from them to pay for programs that have been proven to fail. It would be another thing if, in fact, programs were working. But almost everyone in America today understands that they have failed.

They have failed, and it is fundamentally wrong to say to those hard-working men and women of this Nation trying to raise their families, trying to provide the necessary dollars for education, for food, for health care, and so forth, "Oh, no. We are going to take more of your money away from you and we are going to give it to those guys in Washington, DC, to continue to spend on programs that have proven to be a failure."

What about the young couple where the father works all week, in fact has two jobs? He comes home for the weekend, and he takes care of the children, and his wife works for the weekend to make just a little bit more money so they can make ends meet. What about them? What about those individuals that we have been taking money away from to transfer it to someone else that they feel, frankly, is not worthy of it, because they hear the stories about the programs that have failed.

In fact, that has happened as we have gone from this dream that was created in the early 1960's to the nightmare of the programs that have been developed over the years, and the poverty that people are living in today, and the dependency that people are living in today as a result of those programs.

So I ask my colleagues to think about those men and women who are working hard day-in and day-out. What about them? What about their future? What about their opportunity? They will not have one—not at the level that we have experienced over the years, if we continue the kind of Federal spending and the Federal programs that have been going on for these last 25 years or so.

The last point I would make is I think that the decision we are making here, the decision to reject the President's alternative which does not get us anywhere near a balanced budget and the reconciliation package that we will have an opportunity to vote on in just a few days, I think the opportunity is much greater than the simple reaching of a balanced budget. We have a Nation that for generations and for centuries has been dedicated to the principles of freedom, independence, justice, democracy, human rights, free markets, free enterprise, and capitalism. And I believe that our country is the only one in the world today that has the interest or the concern or the desire to see that those principles are exported around the world. But if we do not get our fiscal house in order, we will not have an opportunity to do that. America will not be the center of influence in the 21st century, and America will not have the opportunity to expand and pursue those ideas around the world.

So this is much larger than just this simple debate today about whether we are going to support the President's plan or whether we are going to support our plan. We are talking about America's future.

The President has failed to provide us with leadership. He has failed to provide us with a plan and, therefore, he has failed to provide us with an alternative. There is no choice. Reject this resolution that has been proposed, and in a few days vote for the reconciliation package.

I yield the floor.

Mr. HATCH. Mr. President, I suggest that we are prepared to vote.

The PRESIDING OFFICER (Mr. CAMPBELL). Is there further debate?

Mr. FORD. Is this is on the second degree?

Mr. HATCH. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the second-degree amendment.

If there is no further debate, the question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Ohio [Mr. GLENN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 0, nays 96, as follows:

[Rollcall Vote No. 498 Leg.]

NAYS—96

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—3

Bradley
Glenn
Kassebaum

So the amendment (No. 2945) was rejected.

Mr. SANTORUM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SANTORUM] is recognized.

Mr. SANTORUM. Mr. President, we just witnessed on the Senate floor the President's revised balanced budget getting no votes; his plan to balance the budget over 10 years getting no votes on the U.S. Senate floor, no support on either side of the aisle. Nobody on the other side of the aisle, and rightfully so, I might add, defended his balanced budget.

All I suggest to the Democratic National Committee, which is running a television ad saying that the President has a balanced budget, that it is now, I think, apparent that the President does not have a balanced budget and that nobody believes he has a balanced budget. So quit running ads on national television saying he does have a balanced budget.

There is no support for phony numbers in the U.S. Senate from either side of the aisle, and I commend my colleagues on both sides of the aisle for standing up and sending a very clear message down Pennsylvania Avenue that we are tired of the President running around campaigning and not coming back here to work on a serious balanced budget resolution and reconciliation.

We have the opportunity, as a result of the 1994 elections and the movements in this House and Senate, to pass a balanced budget. No more phony-baloney politics, but real deficit reduction, real balanced budgets.

Mr. President, 0 to 96; 0 to 96, I think that is a pretty clear message to the President and his TV commercial that the Democratic National Committee has out which says—as they read the text, there is an image of the President sitting at his desk working on a balanced budget plan. I suggest that the President actually do go to his desk and actually do start working on a balanced budget plan and not try to pull the wool over the American public's eyes on a budget that does not balance, on a plan that does not do what he is claiming it does.

I am hopeful that the message will be sent to the President and to the Democratic National Committee that these kinds of ruses that are trying to be pulled on the American public have no place in a serious dialog about solving the great fiscal problems of this country.

I want to commend both sides of the aisle for delivering that message loud and clear this afternoon to the President of the United States that his budget is phony, his budget does not work; that he needs to get serious about balancing this budget; that he needs to come to the Hill and sit down and work on a bipartisan basis to solve this problem; and that the campaigning has to end and being President and presiding has to begin today.

We are ready to go. We are going to start tomorrow. We are going to pass a budget. We are going to pass a reconciliation package, and I hope at that time that the President will hear the call, will hear 0 to 96 on his phony plan and come here and get serious about the business at hand.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. DORGAN] is recognized.

Mr. DORGAN. Mr. President, has the Senator from Pennsylvania withdrawn the first-degree amendment that he offered?

The PRESIDING OFFICER. The Senator's first-degree is still pending.

Mr. DORGAN. Mr. President, I am tempted to offer a second-degree amendment. I expected the Senator from Pennsylvania would——

Mr. SANTORUM. If the Senator from North Dakota will yield for an explanation. I intended to withdraw the amendment. The Senator from Mississippi wanted to speak briefly, and then I was going to withdraw the amendment.

Mr. DORGAN. Reclaiming my time, I sought recognition expecting that you would have withdrawn the amendment, but you did not. I am tempted to offer a second-degree amendment, which I was intending to do. But let me just make a comment that the Senator from Pennsylvania has a knack——

Mr. HATCH. Will the Senator yield for just a second?

Mr. DORGAN. I will be happy to yield.

Mr. HATCH. I suggest that the Senator from Pennsylvania withdraw his amendment and that will solve that problem, and then, of course, whatever remarks the distinguished Senator would like to make; is that OK?

Mr. DORGAN. Mr. President, I have the floor. Let me just make my statement.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. The Senator from Pennsylvania has a knack for winning debates that we are not having. This is the third that he has won with this amendment offering President Clinton's budget. I did not vote for that. The Senator from Pennsylvania is correct that the President did not propose a budget that calls for a balanced budget.

I want to ask the Senator from Pennsylvania a question. The Senator from Pennsylvania offered this, I guess, because he wanted to make the point that we must have a balanced budget on the floor of the Senate. And I think in further of that point, he would say the reconciliation bill that he is going to vote for later this week does, in fact, provide a balanced budget.

I ask the Senator from Pennsylvania if he has seen the letter of October 20 from the Director of the Congressional Budget Office, and I will read to the Senator from Pennsylvania the last sentence of the first paragraph. Just to refresh the memory of the Senator from Pennsylvania, he will recall that the majority party brought a big chart to the floor, and it had one of these giant gold seals on it with ribbons and things. It says, "This certifies that this budget is in balance," and it was attached to a letter from the Director of the Congressional Budget Office.

I looked at that big gold seal that had been printed up in some confetti factory someplace and did not really mean anything but it was colorful, I looked at that and said, "Gee, how can you certify that this is in balance?"

That is a curious thing, because I know that in the year 2002, the only way you could have done that would have been to have taken the Social Security trust funds and use them and then claim they were in balance. Of course, that would not be an honest way to use the Social Security trust funds.

So I wrote to the Director of the Congressional Budget Office the next day, October 19, and said, "Could you tell me, if you don't use the Social Security trust funds, what is the budget balance in the year 2002?"

She wrote a letter back on the 19th of October and then a second letter correcting an error in the letter of the 19th. The second letter is the 20th and it says: "Excluding an estimated off-budget surplus of $115 billion in 2002 from the calculation, the CBO would project an on-budget deficit of $105 billion in 2002."

Is the Senator from Pennsylvania familiar with this letter that says the CBO would project an on-budget deficit of $105 billion in 2002?

The Senator from Pennsylvania was critical, I think properly so, of the budget that he submitted in his amendment. Would he also be critical of a proposal brought to the floor of the Senate that contains a deficit of $105 billion in the year 2002, or is this the one he is prepared to vote for?

I will be happy to yield for a question or for a response without yielding my right to the floor.

Mr. SANTORUM. Mr. President, we have a certification from the Congressional Budget Office that says that the budget comes into balance by the year 2002.

The Senator from North Dakota is under the false assumption because we have trust funds they are not part of the Federal Government. They are part of the Federal Government like the highway trust fund is, like the aviation trust fund is. Just like we have a number of trust funds in this budget.

To suggest that they are not part of the Federal Government and should not be considered just does not look at reality. The reality is this is all part of the Federal Government. The Social Security Administration is a Federal Agency run by the Federal Government. To suggest somehow they should not be included in a Federal budget, I think, flies in the face of fact.

Mr. DORGAN. Let me ask an additional question because the Senator is attempting to respond to my original questioning saying this is income—income to the Federal Government.

Let me ask the Senator to put himself in a business seat, running a business, and someone says, "How can you possibly take the trust funds from our pension program and use them as income on your operating statement? That is dishonest."

The Senator would say, "Well, what do you mean dishonest? That is part of my income."

Do you think the Senator would stay in his desk very long or would they haul you to the penitentiary?

Mr. SANTORUM. I suggest no one is taking that money and using it without replacing it with an interest-bearing note required by law. There is no raiding of any pension fund going on here.

To suggest otherwise is a deliberate attempt to scare people, when, in fact, the Senator from North Dakota knows very well that money is only as secure as the solvency of this Government.

Mr. DORGAN. I think we are getting close to an answer——

Mr. SANTORUM. We are trying to get this Government solvent to pay back——

Mr. DORGAN. I think we are getting close to an answer, which is interesting because my theory is that there are some who think double-entry bookkeeping or double-entry accounting means you can use the same money twice. I think that is what we are seeing.

I think the Senator has said, well, it is not that we have taken the money out of the trust fund. There still exists an asset in the trust fund. If there still exists an asset in the trust fund, it cannot be over here. It is over here in the trust fund or it is over here in the budget as income.

Now, if it is over here in the budget as income, it is not in the trust fund. If it says, the Senator from Pennsylvania says it is in the trust fund, then you have a problem. Then you have to tear up that little gold certificate you brought to the floor that says you have a balanced budget, because your own Director of the CBO, June O'Neil, says, sorry, pal, $105 billion deficit in the year 2002.

The question is, where is it? It cannot be in two places. Is it over in the trust fund or is it used as revenue over here in your operating budget? Which, I ask the Senator from Pennsylvania, is it? Where does it exist?

Mr. SANTORUM. It is, as the Senator from North Dakota knows very well, what we are looking at as accounting practices to determine what the overall assets and liabilities are for Government; what you are doing is trying to play games.

Mr. DORGAN. The Senator is not responding to my question.

I am asking you, is it in the trust fund or used as income over the operating revenue side? It cannot be in both places.

Mr. SANTORUM. The money is a credit toward the trust fund. That trust fund surplus, like the aviation fund surplus, like the highway trust fund surplus, is part of the overall budget and is used for accounting purposes—for accounting purposes—to offset other deficiencies in other areas of the budget, for accounting purposes.

Mr. DORGAN. Now I understand.

Now, you propose that it is a credit in the trust fund. It is a credit. Now, what that means is that the trust fund is owed money you have used somewhere else.

That is why, you see, this does not add up. The only reason I am doing this, you brought to the floor something that says the administration's budget is a fraud because it does not propose to balance the budget. I agree with you. It did not balance the budget. I agree.

I am asking if the Director of your CBO writes a letter to us and says, if you do not use the Social Security trust fund—and believe me, you cannot do that because it is not the right way—you have a $105 billion deficit in the year 2002.

Why is that important? It is important because you say you will trigger a tax cut in balancing the budget and come up with a letter dated 10/18 saying, guess what? We have gold paper and a new ribbon and a letter saying we balance the budget.

Then I asked the question, if you balance the budget according to the law as written by Senator HOLLINGS—incidentally, that says you cannot use the trust fund. What do you have? Could you have a balanced budget? The answer is no, I am sorry, you have a $105 billion deficit in the year 2002.

I only do this to point out the contradiction of what you have just done. You do not have a balanced budget, either.

What I want to see us do is find a way that all of us could sift through all of this and figure out what represents wise choices. Where do you cut spending, where do you find revenue, where do you invest, where do you put together the pieces of this puzzle that really address the fiscal policy problem that we have?

This amendment we just had was not a tough vote for me because I have said before I do not support what President Clinton sent to us. But last night I offered an opportunity to vote on a simple proposition: At least restrict or limit the tax cut to those people whose earnings or income is less than a quarter of a million dollars a year.

Do you know what you save by that restriction? If you say the tax cut only goes to those with incomes of $250,000 a year or less, you save $50 billion by limiting the tax cut, over 7 years—$50 billion.

Now, I said, use that to reduce the cut we will make in Medicare. It is kind of an interesting juxtaposition. A lot of people in this country are doing very well, some making $1 million a year, some $10 million a year. God bless them. But frankly, they do not need a tax cut.

We are going to very low-income people and saying, guess what? News for you—increase your cuts and reduce your health care.

It is all about choices, which the Senator was alluding to on the requirement to vote for this amendment. I have no objection.

My only point is the argument made in favor of offering this, that the budget was not in balance as offered by the President, is exactly the same position you find yourself in, certified by the Director of the Congressional Budget Office. Is that not kind of a contradiction?

I am happy to yield to the Senator from Pennsylvania.

Mr. SANTORUM. Where does the Senator from North Dakota come up with a $50 billion figure for those making over $250,000? I would love to see the estimate.

Mr. DORGAN. It is a reckoning by the Department of Treasury. Over 7 years, the amount of the tax break that will go to those earning over a quarter million dollars a year, over the 7-year period, totals about $50 billion.

Mr. SANTORUM. If the Senator will yield, the Senator from New Mexico and the Senator from Delaware have on numerous occasions come to the floor and discussed the tax cut and suggested that 90 percent of the benefits of the tax cut go to people under $100,000.

If that is correct, that means only $23 billion, roughly, $24 billion, roughly, goes to people over $100,000. I do not know how you come up with a figure of $50 billion for those over $250,000.

Mr. DORGAN. There is room for plenty of surprises on the floor of the Senate, but there is no room for surprise as significant as the one you have just offered or you say is offered by the Senator from Delaware, that 90 percent of this tax cut is going to go to people whose incomes are below $100,000.

That is not just a surprise, that is so far from the truth that it hardly warrants a response.

Mr. SANTORUM. That is why we will have debate tomorrow.

Mr. DORGAN. We are going to, but we will find going through the details of this that not only does it not hit the bull's eye, the arrow does not hit the target. It is not anywhere near it.

The fact is, about half of this tax cut in the aggregate, added all up, about half of it—this comes from the Office of Treasury, the U.S. Treasury Department—about half of that goes to persons whose incomes, families whose incomes are over $100,000 a year.

Mr. SANTORUM. Will the Senator yield?

Is the Office of the Treasury the official estimator of the tax provisions in the U.S. Congress?

Mr. DORGAN. I say to the Senator from Pennsylvania, it is difficult for us to get estimates on a very timely basis out of the Joint Tax Committee.

Mr. SANTORUM. The Joint Tax Committee is the official estimator?

Mr. DORGAN. Yes, and I am happy to give information from them except I would not get it the way your side has done it. What happened, you give us a bunch of tables and tell us the impact of the tax but do not count the change in the earned income tax credit, by the way. Do not count that. Then give us the table and tell us what we are doing.

So they get the tables, and I say, what is this? These are not tables. They do not mean anything. They are not accurate.

So the information I have received from the Department of the Treasury shows that about half of the tax breaks will go to families with incomes over $100,000. That is a debate we will have later.

I guarantee you this: There is not any way, there is not any way that we will find that 90 percent of the tax breaks go to families under $100,000. That will not happen.

I will also say, the Joint Tax Committee has said the GOP plan increases taxes on about 51 percent of the Americans, if you consider the earned-income tax credit changes. So that is the other side of this debate. We will have a long and tortured debate in the days ahead.

The Senator from Utah and Senator from Delaware, I think, are seeing their patience worn thin by this. But I did just want to respond to the proposition that the President's budget was not in balance. He is correct about that. But my point is, your budget is not in balance either. It is a fair piece out of balance.

I will not offer my second amendment. I should say to my friend, however, I am very tempted because my second-degree amendment would just ask us to vote on the same proposition we voted on last night except to say, "Would you agree at least then to limit the earnings to those below a half a million dollars? If you will not agree to $100,000 or $250,000, would you agree at least to limit the tax cut to those whose income is under a half a million dollars? And I am sorely tempted to offer that as second-degree amendment, but I will not do that because I know the Senator intends to withdraw his amendment.

Mr. HATCH. I know this is an important debate, and I do not want to interject myself, but I want to move this bill.

Mr. DORGAN. I yield the floor.

Mr. LOTT. Mr. President, there were so many things that were said in the exchange a few moments ago between the Senator from North Dakota and the Senator from Pennsylvania that I want to comment on that and I hardly know where to begin. But I cannot leave many of those statements on the RECORD without some comment.

The Democratic National Committee continues to run a spot that says this about the President's budget:

> These are the values behind the President's balanced budget plan, values Republicans ignore.

He continues to talk about the fact that he has a balanced budget. We all know that is not true.

With regard to Social Security, I should note, by the way, that the

President's budget treats Social Security the same way that the budget we are going to vote on later on this week treats that matter. The President does not have a balanced budget in 10 years, 9 years, or 8 years, for that matter. Now the Senate has spoken I think more than once, but also in the vote we just had, 96 to zero, repudiating the President's budget.

That having been done, I think it is time for us to really get serious about doing this job and balancing the budget. It is not easy. It is never easy. But we have a historic opportunity this time to actually make the commitment to balance the budget in 7 years.

I thought some of the President's comments during the past week had been positive, and what he had to say about tax increases. He said, you know, that he probably raised them too much. And he himself got around to saying yes, we can probably balance a budget in 7 years. Now there has been a lot of give and take on that. But we are getting closer together I thought.

But my question here this afternoon is when is the President going to get serious about talking to the Congress and working with the Congress in getting this job done? Everybody says we are going to have to come to some accommodation. Everybody says we need a balanced budget. What I want to know is when is that going to happen? I do not see any movement in that direction from the President, or from his representatives. It is just not occurring. The communication is just not occurring.

So the Congress has an obligation to go forward and fulfill the commitment that we made in our budget resolution earlier this year. That is what we are going to do in the next 2 or 2½ days. We are going to pass a reconciliation bill that keeps our commitments to a balanced budget in 7 years, that does reform Medicare. And I want to emphasize on Medicare once again that our Medicare reforms would allow for Medicare spending to increase 6 percent over that 7-year period, 6 percent each year which is double what inflation will allow. So we are going to have a significant increase every year over the previous year of what can be spent for Medicare. We are going to have genuine reform that saves and preserves the program. We are going to have Medicaid reform, and we are going to have tax cuts.

I know that it is a very easy thing to do, I guess, here on the floor of the Senate—to attack the tax cut, as the Senator from North Dakota did a while ago. But when you go down the list and start asking Senators which one of these tax cuts do you oppose, then their attitude changes. Who among us does not want to get rid of the marriage penalty? For 20 years—at least 10 years—I have been hearing that we need to get rid of this marriage penalty that penalizes people where they have to pay more taxes when they get married. Maybe that goes to upper income, lower, or middle income. But the question is, is the marriage penalty wrong? The answer is that it absolutely is. We ought to eliminate it.

On spousal IRA's, who among us wants to argue that a spouse working in a home should not be able to have an IRA like everybody else? That spouse is prohibited. That is what is in this bill. We want to encourage savings. IRA's, Individual Retirement Accounts, will do that.

Capital gains tax rate cuts will provide growth in the economy and create jobs.

Here is an interesting tidbit that is ignored around here. Even in spite of this very small $245 billion tax cut, revenue to the Federal Government will go up $3.3 trillion over the next 7 years. We are not exactly starving the Federal Government for revenue. That is $3.3 trillion on top of all the revenue that is already coming into the Federal Government.

So to allow some of the people that are working and paying the taxes to keep a little bit of their tax money for families with children, to be able to get a little tax credit to help them pay for the needs of their children makes good sense to me.

With regard to the balanced budget and the so-called cuts, or the controlling of spending that we are doing in our budget resolution, I point out once again that in spite of the controls on spending which we include, spending will still go up $2.6 trillion over the next 7 years; not exactly putting the Federal Government on a diet when it still will go up $2.6 trillion. The truth of the matter is we probably should be cutting spending a lot more, but we have an orderly, planned package. This is a fair package, a balanced package in the cuts and controls in spending, and also in the tax cuts.

I continue to hear also some remarks that maybe we ought to let the Treasury decide what the tax numbers are, or the Joint Commission on Taxation. You know, I think it ought to be the Congressional Budget Office, not the Office of Management and Budget. And the President said on February 17, 1993, that the Congressional Budget Office was normally more conservative, and what was going to happen was closer to right than previous Presidents have been.

We should use the Congressional Budget Office. We should not use smoke and mirrors this time in getting to a balanced budget. We should not use rosy economic assumptions. We should not assume that medical inflation is coming down dramatically and use that to try to cover up what the truth is about the budget deficit numbers. We ought to go ahead and face up to the tough votes on cutting and controlling spending.

Also, it is continued to be suggested that, well, maybe we should change the Consumer Price Index.

Look, anything we do to change those numbers is just going to allow us to find a way to duck the tough choices of controlling spending and allowing the people who pay the taxes to keep a little of their revenue to look after their own families and make their own decisions.

I am glad we put the decision to rest. The President's budget did not really exist in the first place. We just had a vote of 96 to nothing to say we are not going to consider that. And so now let us move on to tomorrow and Thursday and taking up, considering a real budget resolution and reconciliation package that will provide a true balance over the next 7 years.

Mr. President, I yield the floor.

Mr. HATCH. I move the bill.

Mr. LOTT. What is the pending business, Mr. President?

AMENDMENT NO. 2946, AS MODIFIED

The PRESIDING OFFICER (Mr. ABRAHAM). There is no specific order to moving the bill. The question is on the amendment of the Senator from Pennsylvania, at this time. The Senator from Utah has the floor.

Mr. HATCH. Mr. President, could I yield to the distinguished Senator from Kentucky?

Mr. FORD. Mr. President, I would like to have the floor in my own right. I do not think the Senator from Pennsylvania has withdrawn his amendment yet. There is a pending amendment.

The PRESIDING OFFICER. Right.

Mr. SANTORUM. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2943), as modified, was withdrawn.

AMENDMENT NO. 2946

(Purpose: To provide for the appointment of 1 additional Federal district judge for the western district of Kentucky, and for other purposes)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], proposes an amendment numbered 2946.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 2. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of Kentucky.

(b) EASTERN DISTRICT.—The district judgeship for the eastern and western districts of Kentucky (as in effect before the date of the enactment of this Act) shall be a district judgeship for the eastern district of Kentucky only, and the incumbent of such judgeship shall hold his office under section 133 of title 28, United States Code, as amended by this section.

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, shall reflect the change in the total number of permanent district judgeships authorized under this section, such table is amended by amending the item relating to Kentucky to read as follows:

"Kentucky:
"Eastern 5
"Western .... 5".

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I rise today to introduce an amendment to correct a longstanding problem in my State of Kentucky. There is an old expression that goes, "justice delayed is justice denied." Well many in Kentucky are being denied justice and if it were not for an extremely hardworking and dedicated judiciary, many more would feel the same.

The situation is nothing short of critical. For several reasons Kentucky is in a unique situation. It has what is known as a "swing" judgeship. That means a judge is shared between two districts. In this case it is the eastern and western districts. Being largely a rural State, the communities that hold court are usually a long way from each other and the only means of travel is by car over bad roads that wind through the mountains.

This situation is far more troubling than many of my colleagues from other areas of the country may realize. Long trips by judges after hours or before court take up a significant amount of time—time a judge would normally spend hearing cases. In fact, without the difficult travel requirements, I probably would not be troubling the Senate with this amendment. Unfortunately, I must—the problem is just too great.

Juries also travel great distances. This results in jurors who would rather deliberate late into the evening—sometimes into the early morning—in order to avoid travel home and back for additional days of deliberations. This poses still further hardships on the judges who are then forced to stay up late and then travel to court in the next jurisdiction the very next day.

Furthermore, new gun control legislation has dramatically affected cases in Kentucky. Many times a more routine drug bust or other arrest turns into a time consuming and difficult case because of the presence of the firearm. The practical effect of this has been a large increase in long cases that tie up the judges, keeping them from getting to other matters on their dockets. Civil cases in many instances have been held to a stand still.

Mr. MCCONNELL. Mr. President, I would like to speak in support of the effort by my senior colleague to relieve the burdensome situation within the Federal judiciary in Kentucky. I commend him for his leadership on this issue.

We have two districts in Kentucky's Federal court. And we have one judge who splits her time between the eastern and western districts. In order to fulfill her responsibilities, she often logs hundreds of miles each week. She has two principle offices and must attend administrative meetings for both districts. This is an inefficient use of her time and represents valuable time away from managing her caseload. And, this situation is no reflection on the current judge who occupies this position. These are the identical circumstances that existed with the prior occupant of this position.

I realize it may not be feasible to create a single additional Federal judge at this particular time. I am aware of the complicated balancing act that must occur any time the number of Federal judges is evaluated.

Nevertheless, I join with my senior colleague in drawing the Senate's attention to our particular circumstances in Kentucky. When the Senate Judiciary Committee considers additional Federal judges, I hope the members of the committee look at the swing judge in Kentucky. And, I urge the Administrative Office of the U.S. Courts to examine this unique situation.

I thank Senator FORD for his leadership on this issue.

Mr. FORD. Mr. President, I am not going to take any additional time on this because I know the chairman of the Judiciary Committee is itching to get away from here, and I do not blame him. It was about 3 hours ago, I think. But what I have is a split judgeship, one in the eastern part of Kentucky, one in the west. The youngest judge is assigned to the east and the west. So we have some going to the mountains and some going to the flatlands of west Kentucky, and this one judge spends 5 and 6 hours on the road. If the jury is out until 2 o'clock in the morning, then makes their judgment, comes in, the judge is back in the car and has to drive another 5 or 6 hours. It is absolutely a horrendous situation.

Mine is not the only State. Missouri has split judges, Oklahoma has split judges. But we just have one. And when you traverse the State from Pikeville in the far east to Paducah in the far west, it is some 600 miles. So it gets to be a tremendous burden.

What I am asking in this amendment is to allow Kentucky to have an additional judge. That additional judge, then, would mean that we would have a full-time judge in eastern Kentucky and not divided with the west. We would also, then, have a full-time judge in the west. And we would see that the court docket was reduced tremendously.

Mr. HATCH. If the Senator will yield, we understand the Senator's problem and we are concerned about it. As of right now, there is a real question as to whether we can justify another judge in that State. But I am willing to talk with the Senator and try to work this out, if we can, over the immediate future and see if there is some possible way we can solve it. If there is not, we will be straight up with the Senator and let him know, but I am willing to try to see what we can do.

We would like to pass this bill because it is a temporary judgeship bill that, really, nobody has any objections to, and that literally will solve a lot of very important problems for the courts. We would like to do it without amendment if we can.

Mr. FORD. Mr. President, I understand what the distinguished Senator from Utah is saying. But, if I did not bring notice——

Mr. HATCH. I understand.

Mr. FORD. To this body and to the Judiciary Committee, through this method, which is the only one I have, then I think I would be remiss in representing my State.

Mr. HATCH. We understand.

Mr. FORD. There is a lot more to dispensing justice than the number of cases. What we are doing now is, the youngest judge, a female judge, is on the road day and night. And that is justice delayed. She is absolutely working her heart out, getting a driver, dictating, writing while she is on the road, trying to accommodate the lawyers in the cases and the courts in which she is assigned.

So it is fine for you to say you will work with me. The commission sent a report, in which it gave us an extra judge in Kentucky, which would have solved our problem. I understand the commission withdrew their suggested increases. Now we are in limbo and I do not know where we are.

I will not accept "we will try sometime in the future, next year." I would like to try sooner than that, if I could. Because the judge is being overworked by travel, by court cases.

We have an excellent judiciary in Kentucky. They are working hard to eliminate the burden of cases. But, under the circumstances, we are not able to do that and it is not the number of cases per judge that creates the problem for us.

Mr. HATCH. If the Senator will yield, I do not think Kentucky could have better advocates than the two Senators that currently represent Kentucky. I understand the issue. All I can say is, in good faith, we will try to work with the Senator and try to resolve it. But I would like to not have to go to a vote on this amendment, because I would have to oppose it under these circumstances and I would prefer not to do that if we can somehow or other find our way clear to working out this problem.

As far as I am concerned, the Senator is a leader in this body. I have every desire to try to accommodate him if we can.

Mr. FORD. Mr. President, I will, in just a moment, withdraw it. It is not very often I come before my colleagues and ask for something other than what I think is—

Mr. BIDEN. Will the Senator yield before he withdraws?

Mr. FORD. I will be glad to.

Mr. BIDEN. Mr. President, I think the Senator from Kentucky makes a very valid point. I, for one, think there is justification for Kentucky having another judgeship.

Frankly, one of the things the Senator from Utah and I talked about earlier in the process—not today, but in the year—was this notion of whether or not we need an additional judgeship bill, period, nationwide. And the answer is we do.

Mr. HATCH. Yes, we do.

Mr. BIDEN. So we do need additional judges, in my view.

I am not referencing any particular Senator when I say this. And I mean this literally: Not referencing any particular Senator. But we are getting into the field, the time and space, where it is going to be hard to get judges moving through here at all.

As some will remember, when President Bush was in his last year, last days in the Presidency, I, along with the Senator from Utah—we pushed through literally another 17 or 18 judges in the last 4 or 5 days of the session. I hope that spirit exists here.

But in fairness, both President Bush and President Clinton suffered from the same problem. They took too darned long in getting a lot of their nominees up here for us. But we are where we are now. I cannot speak and do not intend to speak for the Senator from Utah. I expect that had things moved more quickly we may have been in a position to be pushing the judgeship bill overall. My guess is that the political reality would be that we are not likely to get that done until the next election settles, whether or not we will get it done.

That is a long way of saying I think on the merits the Senator from Kentucky is correct about the need in Kentucky. I would add in addition to that that the Senators from several other States are in very difficult shape. For example, in the southern district of Florida, they could use a handful more judges just to get their docket up and running to be able to handle civil cases because they have so many criminal cases; in southern California, in Texas, in New York. So there are a lot of places we need extra judges.

I compliment the Senator from Kentucky for making the case for his State. The whole purpose of my speaking these 5 minutes or so is to make the point for the RECORD. On the record, for the RECORD, the Senator from Kentucky has a case. I believe he is correct. I will tell him I will do all I can immediately to try to get him an additional judge. But he knows the system as well as I do, and, quite frankly, better than anyone that I know. I would not want him to bet the mortgage on—he probably does not have a mortgage anymore—but I would not want him to bet the farm or the house on us getting this done very quickly. But I support him, and I think he is substantively correct.

Mr. FORD. I thank my friend from Delaware, and I also thank my friend from Utah.

Mr. President, I am reluctant to do this but I understand where we are coming from. We will revisit this question, and if we do not vote, if I do not get it the first time, it may be the second time and it may be the third time. I am going to be persistent.

So, therefore, Mr. President, I withdraw my amendment.

So, the amendment (No. 2946) was withdrawn.

Mr. HATCH. Mr. President, I thank my colleague for that.

Mr. LEVIN. Mr. President, today the Senate will consider legislation to extend the temporary judgeships created by the 1990 Federal Judgeship Act from 5 years or more from the date of enactment of the act to 5 years or more from the confirmation date of the judge named to fill the temporary judgeship created in that act.

Of the 13 temporary Federal judgeships created by the 1990 act, only Michigan will be exempt from today's extension. This is because the Michigan Western District judges do not want to preserve this seat because they don't believe it can be justified by their caseload. I ask unanimous consent to insert in the RECORD the attached Grand Rapids Press article on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Grand Rapids Press, Oct. 14, 1995]

IN STRANGE MOVE, JUDGES SAY THEY DON'T WANT NEW COLLEAGUE

(By Arn Shackelford)

West Michigan federal judges have shocked members of the area's Republican delegation by maintaining they don't need any more judges.

The judges last month wrote to U.S. Sen. Spencer Abraham, R-Michigan, requesting that the federal Western District of Michigan be excluded from a bill that likely would bring another federal jurist to the area.

"We were surprised to hear they were saying no," said Lee Liberman Otis, Abraham's chief judicial counsel. "It's very unusual for people in the federal government—or anywhere else—to say, 'We don't need extra people to help us with our work.'"

The bill, which is sponsored by U.S. Sen. Orrin Hatch, R-Utah, and likely will be passed this year, would extend the Federal Judgeship Act of 1990. The act, under which U.S. District Judge Gordon Quist was appointed, created "temporary" judgeship for five years, or through December.

Quist's judgeship doesn't evaporate that month, but if one of the district's five active judges takes senior status, retires or dies before that time, that vacancy would not be filled by a new judge.

Under the Hatch bill, the period during which another judge could be appointed will be extended to five years from whenever temporary judges were sworn in. That would be Aug. 28, 1997, in Quist's case.

"But the judges in this district decided we did not need to have the position renewed," said U.S. District Chief Judge Richard A. Enslen. "We think we can get along with four judges and four magistrates."

The federal Western District of Michigan—which includes all counties in the western half of the state and the entire Upper Peninsula—now has five active judges, four magistrates and two senior judges.

The active judges, who carry a load of about 225 civil cases and 50 criminal cases, include Robert Holmes Bell, Enslen, Benjamin F. Gibson, David McKeague and Quist. The magistrates, who handle most arraignments, misdemeanor cases and motions are Hugh W. Brenneman Jr., Joseph G. Scoville, both based in Grand Rapids; Doyle A. Rowland in Kalamazoo; and Timothy P. Greeley in Marquette.

But the senior judges, Douglas W. Hillman and Wendell A. Miles, also are hard at work in the district and handle at least a quarter of the civil cases the others do.

Federal judges, who are paid $133,600 annually, can take senior status when they reach 65 and have enough years of service to total 80. Even though they continue on full salary until they die, they can leave the bench as soon as they move to the new status.

Neither Hillman nor Miles has chosen to do so. And Gibson, who announced earlier this year that he will take senior status next August, said that he, too, will continue to work on cases in this district.

"One of the reasons we're in good shape is because we do have the two senior judges still working," Enslen said. "That's a good deal for taxpayers. The best bargain in America is a (federal) judge who reaches retirement age and doesn't walk away."

As once was the case, lawsuits aren't piled up waiting to be heard for long periods in this district, the judges say. In addition to help from the senior judges, fewer cases are being filed now than in the past, and the court also reduced some of what was a backlog by implementing "differential case management." That process assigns lawsuits to different time tracks, limits what attorneys may do, and moves cases along quickly.

Still, if West Michigan isn't excluded from the Hatch bill, a new judge could be appointed to fill the vacancy Gibson's move to senior status will create. And if Enslen decided to move to senior status before August 1997, the district would be slated for two new judges.

Otis, who said West Michigan likely would be excluded from the bill, said the district was the only one to make such a request.

"Most of the other areas are saying, 'Yes; we want this extended,'" she said. "This is very good of your judges. They could use their extra time playing golf."

Mr. ABRAHAM. Mr. President, I am delighted to support S. 1328. I just want to address one aspect of this legislation: why the bill does not extend the temporary district judgeship in western Michigan.

That judgeship is not being extended because the judges of the western district contacted the offices of members of the Judiciary Committee, including mine, and requested that it not be extended. I will admit that I was surprised to receive this request. It is, I believe, the only request I have received on behalf of any government entity to give it fewer resources. Indeed, I was so surprised I thought I should see if there was some hidden agenda behind it.

Remarkably enough, however, there proved to be none. Rather, the judges in the western district were simply saying the following:

"We believe the government should be run for the benefit of the governed. We are volunteering to work longer hours and take fewer vacations with no gain to ourselves in order to live up to that obligation. We also appreciate the efforts of our senior judges, who in many cases are continuing to carry very full dockets despite being under no obligation to do so."

"For these reasons, we do not need this judgeship. Not filling it will thereby save the taxpayers millions of dollars. To be sure, given the size of the deficit, that will not make that much of a dent. But we believe it is our responsibility to do our part in reducing the size of the government, and the burden it places on taxpaying American citizens."

While there is much talk of shared sacrifice, there are not very many offers to take on a greater share of it. I simply want to express my thanks, and the thanks of my fellow Michiganders, to the western district judges, for making this unusual request, to which my colleagues and I are glad to accede.

Mr. HEFLIN. Mr. President, I rise today as a cosponsor of S. 1328, a bill to amend the commencement dates of temporary judgeships that were created under section 203(c) of the Judicial Improvements Act of 1990.

This legislation created 13 temporary judgeships in districts throughout the United States, one of which is in the northern district of Alabama, and the act provided that the first vacancy in the office of a district judge in those 13 districts occurring after December 1, 1995 would not be filled.

The reason this legislation is necessary is because delays occurred in the nominations and confirmations of the 13 judgeships created by the 1990 act. Thus, many districts have had a relatively short time in which to utilize the services of these temporary judgeships. For instance, in the northern district of Alabama, our new judge, the Honorable Sharon Lovelace Blackburn, was not confirmed until May 28, 1991. She has served with remarkable distinction and is a very hard working and dedicated U.S. district judge.

What is important to remember, as we seek to pass this legislation, is that the delays in filling these temporary judgeships frustrates the intent of Congress back in 1990 to reduce the backlog of cases pending in these 13 districts.

The bill before this body today provides that the first district judge vacancy occurring 5 or more years after the confirmation date of the judge appointed to fill the temporary judgeship will not be filled. Thus, each of these 13 districts, with the exception of the western district of Michigan which requested to be excluded from coverage under this bill, will benefit from an extra judge for a minimum of 5 years regardless of how long the judge's confirmation took. I urge my colleagues' support for S. 1328.

Mr. HATCH. Mr. President, as far as I am concerned the bill is ready for a vote.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time, and passed as follows:

S. 1328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5101; 28 U.S.C. 133 note) is amended by striking out the last sentence and inserting in lieu thereof "The first vacancy in the office of district judge in each of the judicial districts named in this subsection, except the western district of Michigan, occurring 5 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this Act, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled.".

Mr. HATCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, on behalf of the leader, I want to announce that there will be no further votes tonight.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

PRESIDENTIAL BUDGETS

Mr. FORD. Mr. President, I hear all this talk about the budget every day and everybody says the same thing. We could probably just have a tape recording of what we said yesterday, and we get the same thing again today.

Senators act like this is the first budget that has ever been brought before the House or the Senate submitted by a President that has been voted on that did not get any votes.

The distinguished Senator from Mississippi talked about 96 to nothing or 99 to nothing. Remember Ronald Reagan's 425 to nothing in the House. I believe that is correct. I see him shaking his head. So there have been a lot of budgets that have been dead on arrival. Even the Republicans have voted against a Republican President's budget. So this is not new. Senators act like this is the first time for it to ever happen, this is the worst fellow that has ever been up there.

If turning budgets down makes a bad President, then we have had some Republicans up there who had their budgets turned down, so they were not very good Presidents that we are now bragging about.

One statement has been made here that we ought to quit this smoke and mirrors, and we ought to sit down and we ought to do it rather than beating up on the President. You have responsibility; I have responsibility; we all have responsibility to try to get it worked out. We take CBO figures. We take CBO figures and we get letters from the Director of CBO which state the Republican budget is not in balance by $105 billion.

We did not select that chairman. The majority selected that chairman. That chairman sent us the letter, and we now have it, which says the budget that is being proposed is $105 billion short.

So what I wish to do, Mr. President, is not stop the Pell grants for my State. I do not want to reduce or eliminate the help for 55,000 higher education students in my State. We are in a global market. We are in global competition. Education is the great equalizer. But oh, no, we are increasing, you hear from the other side, Pell grants by $100. That may be true, but you are eliminating—if you are not eligible for $600, you are eliminated from the rolls. So in Kentucky we lose 6,000 Pell grants next year alone—next year alone.

So it just is a little bit disconcerting to me to hear all of these things, and the public ought to be quite confused, quite confused because you get a CBO letter with a gold seal on it that says the budget is balanced, and the next day you get one that says it is not—

from the same office, signed by the same person as it relates to whether Social Security is in the trust fund and loaned or it is in the general fund. It cannot be both places. You can say what you want to and argue all day. I do not believe you can find a jury that would say in this particular case that it is both. You can borrow from it and spend it, but the assets are over in Social Security. It cannot be used twice. And so we do not have it.

So the point I am trying to make here, Mr. President, is that we can take care of Medicare without cutting it $270 billion; $89 billion is enough. We do not need to put the middle-income people in a problem, and the middle-income people, $35,000 to $70,000, is where I would say they are as it relates to Medicaid and nursing homes because you are going to run out of money. That is going to fall on the shoulders of the sons and daughters of the $35,000 to $70,000 income families at some point when their parents are in a nursing home on Medicaid and the phone rings about the latter part of July, 1st of August saying, "Come and get dad; come and get mom; we are out of money."

And you change the rules in this bill on regulations on nursing homes. You change the rules as they relate to regulations on nursing homes. Let States do it. The reason the Federal Government is in the business of regulating nursing homes is because the States had it. And the statement has been made, OK, just sedate the elderly; you can handle them easier; then you have fewer employees, you will need fewer employees.

Well, that is just one giant indication that we are headed back to the same place we were when we had to take over the regulation of the nursing homes.

One of the things that we see coming down the pike is hiding the sale of power marketing administrations in the House bill on page about 470-something where it is now the Secretary of Energy, Interior and Army cannot sell PMA's, but in the House bill you repeal those three and then you instruct those three Secretaries to have a report on how to sell PMA's by the end of next year. And now you have put it in the appropriations bill, and those that are opposed to the sale of PMA's, you better go look at the appropriations bill, Interior bill, and see what they have done there and refuse to sign the conference report until the PMA sale is in that appropriations bill.

I see the Senator looking at his watch. I will quit any time he wants me to.

I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I would have looked at my watch sooner.

Mr. FORD. I would not have quit sooner, though.

FOUR CHANGES TO BE MADE

Mr. THOMAS. I want to talk a little bit about the business that we are approaching this week. It seems to me it is the most important opportunity that we have had in 25 years, and the Senator and the previous speakers talked about the reasons why we cannot make these changes and the reasons why this is wrong and the reasons why it has to be some other way. The real test is that we have been talking that way for 25 years, and the results speak for themselves.

We find all kinds of reasons why we cannot balance the budget. So what has the result been? A $5 trillion debt. It has resulted in the interest on the debt being the largest single line item in the budget. But we have been talking that same talk for 25 years: Cannot do it.

I wish to talk a little bit about why we should do it and why we have the greatest opportunity we have had in a very long time to do the same, to complete at least four things that I think most of us, particularly most of us that are new here, apparently came here to do, and it is the first time there has been a chance to do that, and I wish to talk about the benefits of doing it.

They are four changes that need to be made and four changes that can be made in the next couple of weeks, fundamental changes, not messing around the edges, not talking about change but never doing it. All of us have watched this Government for a long time. Most of us have watched this Congress talk about it; we want change. The fact is, it has not changed. The fact is, the debt has continued to grow. So we have a chance to make some fundamental changes, to not only turn around the arithmetic but to turn around the morality and the fiscal responsibility of making this Government sound within. Maybe more importantly than that, shaping the Government in the way that you would like to see it be shaped when we go into a new century, that you would like to see it be shaped when you turn it over to your kids or your grandkids.

Do we want a Government that is $5 trillion, $6 trillion, $7 trillion in debt? I do not think so. Despite all of the rhetoric, despite all the talk every year, the same thing has gone on, and I guess that is how you really measure it—by results, not by talk, not by whether it is CBO or whether it is OMB, but what are the results. And the results are that the debt has gone up each year.

So we have a chance to make fundamental change, fundamental change in at least four areas. One of them is to balance the budget, a change you would not think we would even need to make, a change to make income and outgo the same. Can you imagine that? That is the way it has to be with families, the way it has to be with businesses. But we have not done that. We have spent more than we have taken in, and we put it on the credit card.

Someone asked recently in a letter to a column called Ask Marilyn, and they talked about the problem with a credit card.

Let me quote from it.

> Let's suppose you have an income of $125,760 that comes not from work but from the contributions of all your friends and relatives who work. You're not satisfied with what $125,760 can buy this year, so you prepare for yourself a budget of $146,060 and charge the $20,300 difference to your credit card, on which you're already carrying an unpaid balance of $452,248—boosting that to $472,548, on which you pay interest daily.

Multiply that little scenario by 10 million, and you have the national budget.

The second thing we can do is strengthen and save Medicare. We can do that. We can do that. Reform welfare, we can pass that here. We can reform welfare for the very first time. We can reduce the burden to taxpayers.

Now, why is this the right thing to do? It is because that is what we said we would do when we came. That is what we told voters we would do when we came. That was in the contract for America. The President said he was going to do those four things when he ran. But he did not do it. So, that is what we need to do. These are key issues and these are attainable goals.

There is great opposition to change always, mostly from people who have put the programs that are now in place in place, from people who talk about the failure of the present program and use as an example what is wrong now and the reason why we cannot change based on programs that are already in place and have been put in place by the folks that are opposing change. That is where we are.

So, we need to make changes if we expect some different results. But guess what? Folks want to continue to do the same thing and anticipate that the results will be different. It will never happen.

What are good things to be gained? Of course, we balance the budget. We will do something about that interest that is going on. The largest line item can go to something else, can be used for tax deductions, can be used for many things, put more money into the private sector because it will not take it out of the private sector to fulfill this. It would change the interest rates, reduce the interest rates. But maybe most of all it shows some responsibility in fiscal responsibility in terms of our future and the future of our kids.

Welfare: We need to change the pattern of welfare. Everybody believes we ought to have welfare programs to help the people who need help, but then to help them back in, help them back in to the private economy. We need to move it to the States. The States are the laboratories that develop effective distribution systems.

Medicare: We all want Medicare to continue to serve the elderly. It will not unless we make changes. There is no question that you have to make a change; there is some question, I suppose, how you do it. But it will go broke if we do not do something. We need to have choices. Why should not the elderly have choices? We have been able to contain some, the increased costs in health care costs—not in Medicare, not in Medicaid. It continues to go up at 10 percent. We can do that.

Tax reductions: We ought to leave more money into the pockets of families. We ought to leave more money in businesses to be reinvested in jobs for the economy. We have a chance to do these things and a chance to do them in the next 2 or 3 weeks. Mr. President, I hope that my associates will take that opportunity and cause that to happen.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

SAVING OUR CHILDREN

Mr. ASHCROFT. Mr. President, this week we will have an opportunity to save our children's future. Time and time again there are individuals that have come to the floor of the Senate to speak to this deliberative body about the rights of the children. But the truth of the matter is, we have been spending the inheritance of our children, not just their inheritance, but also we have been spending their yet unearned wages at an alarming rate. We need to begin consideration of a budget reconciliation bill which indeed will save our children from having their resources consumed in advance of their having earned them.

Our current national debt is $5 trillion. Children born this year will have to pay interest of about $200,000 over their lifetime. That is just interest—not principal. When we think about the children, I think we ought to think carefully about what we do to the children when we displace the costs of our consumption to the next generation, to the children born and yet unborn. For decades now the Federal Government has spent beyond its means and lived beyond its resources. It has done so at the expense of the next generation.

During the debate over the current plans to limit the size and growth in spending, I have been reminded of the philosopher's words, "They sought to heal by incantations a cancer which requires the surgeon's knife." We cannot react to the countries' fiscal crisis by saying a few rosy words. We cannot make a few incantations and heal the problem we have in terms of the finances and resources of this country. We need to take the surgeon's knife.

It is important to note that the surgeon's knife is an instrument of therapy, not an instrument of destruction. It is an instrument which will provide for better health. I believe we will do that, and we will make responsible—yes—difficult choices. We take the knife to the cancer and we take the knife where it is necessary to pare back the increase that would otherwise happen too frequently, with the kind of wasteful increase we have had in the past.

We have to stop an ever-increasing spiral of debt, a spiral which is a spiral of abuse against the next generation. In the past few months, we have made some difficult choices surrounded by the familiar incantations of those still clinging to the discredited and irresponsible philosophy of spending without consequence or budgeting without accountability.

Mr. President, I believe in the purpose for which we were sent to Washington. The people were demanding and expecting that we would balance the budget and they are expecting that we will end business as usual. They are expecting us to listen to them. We must continue. We have made progress, but we must continue on this historic journey toward meeting their demand—we represent them. We must fulfill their expectation by passing a balanced budget reconciliation bill that puts us on a path to fiscal responsibility.

Now, there are those who came here in this session of the Congress who decided that two rules have to be changed; therefore, we cannot call the budget balanced. They say now, we must use different figures, different procedures than we would have used in the past. I think it is time for us to balance the budget according to the rules and to get that behind us. There are other things we might do in the future to improve our fiscal health.

Let us take this directive from the American people. Let us balance the budget. We could put our heads in the sand rather than to face this Nation's fiscal realities. We could produce a plan, I suppose, that would allow minor changes. We could only tinker with the operations so that we stave off the Medicare bankruptcy for several months or a couple of years. We need to set our system on a sound footing for long-term growth and development. Congress could continue the ingrained habit of treating taxpayers' funds as the key to the candy store. We could wait until the year 2015 to address our problems like the national debt. In 2015, at the rate of current spending, the Government would only be able to spend on four entitlement programs and interest on the national debt—that would take the entirety of the budget.

Then there would be no money for defense for the country, no law enforcement, no food safety, no highways. It would all be just for the entitlements and interest. We cannot do that. We must act now. We must protect the children. We must protect their opportunities.

We live in a global economy where productivity and competitiveness are the hallmarks. We will succeed, we will sink or swim based on whether or not we are productive and competitive. We cannot swim with a debt load on the back of each citizen in the next century so great that they cannot compete in the world marketplace.

Some people say, "Well, instead of controlling spending, we could always raise taxes." The largest tax increase in history was pushed through in 1993. Now the President says he raised taxes too much. I think we all felt that he raised taxes too much.

I know we could find a lot of things that we want to do instead of balance the budget—people did not send us here for that. They sent us here to balance the budget, and it is time that we do it, because the Government sets a standard.

Over the last 30 years, tragically, we have been setting a standard of irresponsibility, a standard of undisciplined spending. We are like the parents who never set a standard for their children. The children are witnessing this Government spend, spend, and spend without accountability. It is time that we meet the challenge of bringing responsibility and accountability back to Government. It is time we stopped saying an incessant "yes." It is time we have the tough character to say "no" to protect the children—to take a responsible path.

During the 104th Congress we passed a budget resolution to balance the budget in 7 years. We voted to phase out or consolidate numerous outdated programs, commissions, agencies, initiatives. We voted to reform the failed welfare system by giving the people the power to eliminate poverty and hopelessness in their own backyards.

Mr. President, rather than trying to gain short-term political advantage by shamelessly frightening elderly Americans with empty rhetoric and misinformation, we instead are moving to protect, preserve, and strengthen Medicare for the long haul. We are working to bring efficiencies, normally only found in the marketplace of late, into the Medicare system to give people a sense of choice and, in doing so, yes, to restrain some of the growth—but still make it possible for people to have good health care.

We all know that in the next 7 years of reform, the amount spent per capita in the Medicare system under these reform plans goes from $4,800 per year to $6,700 per year, and that kind of an increase per capita is a substantial one. It will allow us to attend to the current health needs, without continuing to jeopardize the future of the fund.

Mr. President, we want to let the American people keep more of what they earn. American families deserve it. American families have seen their tax burden grow from as little as 2 percent in 1950 to nearly 50 percent today. We want to give families the opportunity and responsibility of spending their own money so they can help themselves rather than have the Government always taking their resources and deploying it in a governmental scheme which seldom meets the need and frequently undermines and erodes the values for which families stand.

It is important for families to decide what is in their best interest, rather than having a governmental bureaucracy always deciding what is in their best interest.

When the families of American people express their belief that Government is out of control, as they did in last November's election, they are correct. For too long this body has assembled to satisfy the appetites of narrow interests at the public's expense. The American people are fed up with a Congress that spends the yet unearned wages of the next generation.

The resounding mandate from the electorate is to dramatically reduce Government spending, to shrink the size of the Federal Government, to stop the Government from interfering with the ability of individuals to make decisions for themselves, for their families, their property, and their lives.

That means that the attitude of "Washington knows best" must come to an end. It means that the Congress must exercise the same kind of fiscal responsibility and restraint in making its difficult decisions that every family in this country has exercised when budgeting around their kitchen tables. We say that we will not buy the things that we cannot afford. We do not spend the money we do not have, and that is a virtue that ought to be imposed upon the Government.

In conclusion, over the next couple of weeks, all Senators, both Democrats and Republicans, will have the opportunity during the debate on the budget reconciliation bill, and other measures, to send a message to the American people. Let us make it a message of responsibility and integrity and accountability. Let us say that we have heard them; that they have sent us here to do a job, not necessarily an easy job, it is not a job that requires no courage, or a job that requires no judgment. They have sent us here to do a tough job, but it is a job, the toughness of which they face on a daily basis in their own lives and businesses.

Let us do that job. We have a duty to America and the next generation to tackle the tough decisions and not to hide our heads in the political sands. So let us come together to a point of reconciliation. Let us come to a point of decision on a bill that will set us on a steady path, a responsible path of accountability, of integrity and responsibility, a path of a balanced budget. It is within our grasp in the next 2 days. Let us make sure we take advantage of this opportunity.

Mr. President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous-consent to speak—I had not realized that there was a 10-minute limit. When I created the speech, which is talking about something which has not been talked about before on the floor, I did it for the purpose of trying to enlighten the membership. So if I go over just a couple of minutes, will that put me in severe jeopardy with the Presiding Officer?

The PRESIDING OFFICER. Another Presiding Officer will be here by that point.

Mr. ROCKEFELLER. That is true.

The PRESIDING OFFICER. So the Senator from West Virginia might want to seek a unanimous consent agreement first.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that I, with discipline and with good intent, have the time which I might require for my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROMISES MADE SHOULD BE PROMISES KEPT

Mr. ROCKEFELLER. Mr. President, I rise to report to the entire U.S. Senate and, in fact, I am talking to my colleagues—hopefully, everybody is listening, probably not—about just how low, frankly, some are willing to stoop.

As we all know, we will soon see a gigantic budget bill with the impossible name of "reconciliation" on the floor. Under the special rules, the Senate will have very little time to discuss, let alone try to alter, this mammoth Government bill. That is why I stand here today. I want to take the time to shine a piercing light on one of the darkest, most hidden and most underhanded parts of the mammoth budget bill about to land on everybody's desk.

Using that familiar label of tax relief, the provision is an attempt to line the pockets of a select group of companies, some of which I shall name in a few moments, at the expense of something as critical as health benefits for the most vulnerable, the oldest, the weakest, and the most deserving group of Americans you could find: Our coal miners, retired, old.

It is a provision based, in my judgment, upon greed. It is a provision stuck quietly into the package—it is, in fact, the second to last part of the finance package—in a back room before it surfaced in the open just last week. It was stuck in by the majority leader.

It is a provision that has brought a shudder into the hearts and minds of 92,000 very old, sometimes very sick, retired miners, their widows, and their orphans. Mr. President, almost 30,000 of them live in West Virginia. Obviously, I would tend to care about that a lot. On the other hand, 8,000 live in Virginia; 6,500 in Ohio; 20,000 in Pennsylvania; 12,000 in Kentucky; close to 2,000 in Indiana; and, in fact, they are in every State in this country, with the exception of Hawaii, and also in the District of Columbia.

Mr. President, these are 92,000 people who were promised by employers for decades—it was not an open question, it was a done deal—promised by their employers that they could count on health care when they made their last exit from the mines, when their lungs had sacrificed enough and they could not go on, they simply could not; when they had been underground digging out the fuel that made this country the world's most powerful economic engine, when they got too old, too sick or even lost a spouse or a parent to the dangerous work of, particularly underground, coal mining, when they could hope for some rest finally in their retirement years, 92,000 of these people are still living across this country and still have a right to believe in the principle that promises made should be promises kept.

Instead, with no hearings, with no visible authorship, no announcement, a special favor for the companies—a small group of which will get the majority of the benefits of this provision, and I will name them in a few moments—this special deal for these companies which want to break their promises—was slipped into the reconciliation bill.

It is the most extraordinary and duplicitous act I can remember in the 10 years I have been in the Senate.

A favor that gets these companies off the hook, a favor that risks the collapse of the fund that ensures the promised health care benefits to the retirees in my State and in virtually every other State—literally every other State but Hawaii—in America.

This provision is outrageous. It is shameful. It is another example of what we read about in the Wall Street Journal today. I assume and hope there will be more of this. It is an article on Members of the Senate who are getting special breaks, and it lists a bunch of Senators and the deals they cut for special friends or special interests—however you want to phrase it. It is not very elegant, however one phrases it.

Mr. President, even though average Americans did not get their say in what would happen to their Medicaid benefits or their student loans or to the tax credit that rewards working over welfare, a select group of companies with lobbyists wall to wall sure got their say in this package.

A bill allegedly meant to balance the budget is tipping the scales of fairness and justice when it comes to health care for 92,000 very old retirees.

I strongly appeal to my Republican colleagues. I ask them to stop this corporate payoff before more damage is done to people who have done nothing in their life to deserve it.

It is obvious that the hope is to keep this cruel little provision under wraps, stick it on page 166 of a Finance Committee document. Hide it in the bill about to come to the floor. Do not talk about it, do not acknowledge who is responsible for this giveaway to companies.

I am here to talk about it. I will not stop talking about it for as long as it hangs around. I am not going to let the U.S. Senate become a bazaar again for greedy interests, and in particular in the case of retired old coal miners.

If one has not seen them, if one does not know them, one does not understand the emotion involved in this. They cannot hire lobbyists. They cannot prevail in a fight like this, unless they have a majority of us on their side.

What exactly does the provision do? It hands over the money that is keeping the miners' health trust fund solvent to a select group of companies that cannot bear keeping their promise to their own retirees to whom they promised health benefits, with whom there was an agreement. It is one more reminder that special interests count a whole lot more in this particular Congress—not the working people who toiled in the mine, miles underground in crawl spaces, crouched in the icy water until their backs ached and their lungs spoiled, as they dug to provide the power for our Nation's growth and prosperity.

Those workers—fathers, friends, brothers, and uncles—do not count when they are stacked up against the interests of big corporations who want to wriggle out of any responsibility for their own retirees to whom they have made this commitment of health benefits so long as they shall live.

I want to share just a little bit of history with the Senate. Almost 50 years ago, Madam President, the President of the United States, Harry S. Truman—this is important, because it gives it context—ended a national coal strike by seizing the coal mines. That action established an unprecedented relationship between the Federal Government, miners, and operators in the coal industry. In that 1946 strike right after the Second World War, health care was a central issue. It is not hard to understand why. Pensions are important, health care is everything—both for miners and for their families. Back then, people died of mining illnesses and injuries in staggering numbers. There were no safety precautions. That did not take place until we passed the 1969 Coal Safety Act. All to dig out coal for the rest of the country to grow on and become what it is today which is, of course, a great, incredible, America.

Since that 1946 strike, coal miners have traded—sacrificed—other benefits like pensions to preserve the decent health care benefits which they depend on because illness and injury are so intertwined with the nature of coal mining.

This leads up to the health program under attack in the reconciliation bill about to come to the floor. In the 1950's, a grand compact involving the President and others was reached between labor and management in the coal industry—an extraordinary sort of event.

In return for health and pension security, it was decided, labor agreed to mechanize the coal mines, thereby throwing out of work within a few years 400,000 people in the Appalachians. But in return for the mechanization was the promise of lifetime pensions and health benefits. It was a good deal all around.

Much later on the health care promised to retirees faced jeopardy, and because of the impending crisis—this is much later on—I, as a Member of the Senate, worked night and day for months and months on end to find a way to shore up the health fund and extend its solvency.

I cared passionately about working this out. That led to the passage of the 1992 Coal Industry Retiree Health Benefit Act, simply known as the Coal Act.

Coal miners helped to create the might of modern industrial America. Nobody would dispute that. They fueled our progress. In 1992, when we passed the Coal Act, unanimously, without a vote, and through bipartisan negotiations, in a solution which was suggested by President Bush and his White House, and the law, of course, was signed by President Bush, we told those miners that their tremendous contributions and sacrifices mattered, and the promises made to them would be kept.

Action had to be taken. That became clear in the late 1980's. That is because the dwindling base of contributors resulting from bankruptcies and the failure of some companies to keep paying into the fund, just walking away from their responsibilities, put the miners' health trust fund in jeopardy.

When a strike broke out in 1989, then-Secretary of Labor Elizabeth Dole appointed a mediator to assist in a settlement. When the settlement was reached, she announced the appointment of a commission to recommend a long-term solution to the health crisis in this fund. That commission became known as the Dole Commission.

Secretary Dole explained that during negotiations of the settlement of this strike which involved at that time one single company, "It became clear," she said in the unanimous report, "to all parties involved that the issue of health care benefits for retirees affects the entire industry."

She went on to say, "A comprehensive industrywide solution is desperately needed."

Secretary Dole's Coal Commission submitted its final report in November of 1990. The Commission observed that health benefits are an emotional subject in the coal industry, not only because coal miners have been promised and guaranteed health care benefits for life, but also because coal miners in their labor contracts have traded lower pensions over the years for better health care benefits.

In fact, in the solution that we reached in 1992, the miners contributed something like $210 million from their pension funds to the solution to protect their health benefits.

Something else that the Coal Commission said:

> Retired coal miners have legitimate expectations of health care benefits for life. That was the promise they received during their working lives. That is how they planned their retirement years. That commitment should be honored.

Close quote, the Dole Commission.

The Dole commission also considered the fairest way to ensure that the health fund did not collapse. The base upon which it was funded was getting more narrow. Therefore, there had to be a broader solution. They recommended that companies that employed miners—current signatories, so to speak, and former signatories alike—share the costs of providing benefits to miners whose employers went out of business. And, in the words of the Dole commission, the best way to finance the health benefits promised miners was the "imposition of a statutory obligation to contribute on current and past signatories, mechanisms to prevent future dumping of retiree health obligations."

(Ms. SNOWE assumed the chair.)

Mr. ROCKEFELLER. It was hard. And at that time we ran up against, to be quite honest, Madam President, President Bush's so-called "read my lips" problem. What the Dole commission was talking about was a tax on coal companies. The President said, "This is not acceptable." So he came in with the solution that became the Coal Act, upon which everything is based today and which is being undermined in the reconciliation bill about to come before us.

Collective bargaining cannot work when companies are not around to bargain with because they are bankrupt, perhaps, or have walked away from their responsibilities, sometimes through legal loopholes which created dozens of conflicting court decisions. Moreover, the orphaned retirees whose last employers were gone faced the prospect that when the collective bargaining agreement expired in 1993, no one would have been responsible for their health care. And that was the fact. The Bituminous Coal Operators Association was going to just cease to exist, and there would be nobody to pay for any of the health benefits. Whereas this small group, 25 percent of the coal industry, was paying for 100 percent of the retirees of all coal companies, and that patently was not fair.

So, the Miners Health Program, with the shrinking funding base and spiraling costs, made continuation of the old program unworkable, hence the task Congress and the administration faced in 1992, when we did pass, unanimously, the Coal Act. That was the best that we could do to assign responsibility for funding the health program, recognizing that there was not then nor is there now any perfect solution.

So, in 1992, Congress met its national responsibility to protect miners' health benefits. I was proud to offer that legislation—again, the Coal Industry Retiree Health Benefit Act, or the Coal Act. It was attached to the Energy Policy Act of 1992. I worked on that legislation with an outstanding group of Members whose invaluable contributions were essential to securing passage of the act, my esteemed colleagues Senator BYRD, Senator FORD, and Senator SPECTER. Senator Wallop was absolutely crucial. The Senator from Wyoming at that time was absolutely crucial in the passage of that act, and others from the Finance Committee and the Energy Committee. The Coal Act would not have become law without their work and without strong bipartisan cooperation, which is what has me so perplexed now.

We did our work, and miners' benefits were saved and that makes me proud. Now those miners, today, on average are 73 years old. Most worked in the mines for 20, 30, or 40 years or more. People have no idea what that means unless they have been around coal mining. Every day they rode a rail car a mile underground, stooped in crawl spaces 4-feet high with ice water up to their knees, and made their mines productive and made their employers rich, for the most part. For them, the legacy of that work is black lung.

People say they can get by on black lung. Black lung is a totally different subject, and only about 4 percent of miners are granted black lung, even though I firmly believe that anybody who has been in the mines for 8, 9, or 10 years, by definition has black lung. They have black lung, asthma, cancer, back pain, chronic respiratory disease. Their health benefits remain a matter of life and death to them, Madam President. The most serious of subjects in the most dangerous profession. And now, in this new amazing Congress, a sneak attack has been made on the health care security that was finally restored in 1992 for miners and their widows and orphans. And, Madam President, it is not a secret attack any longer.

The companies that would profit, which would get 60 percent of the benefit of all of this, have been hiding behind little coal companies so as to make it look like little coal companies were going to take all the hurt. The ones who are going to get 60 percent or more of the benefits of the finance provision are Allied Signal, North American Coal, LTV, Pittston, A.T. Massey, and Berwind Coal Co. Those six have manipulated, through dozens, scores of lawyers, to the point where they could put into the reconciliation bill something that will yield them a $33 million windfall.

The provision in this bill is a gift for these big companies looking for a way to walk away from their promise made to these miners nearly 50 years ago. These companies have spent millions to unravel the Coal Act, to renege on their promises. So far they have not succeeded in robbing miners of a single day of health coverage, but they have not stopped trying. I thought this was all put to bed, it was all history. As I said, people did not want to do it in the Finance Committee. I do not think any Republican members in the Finance Committee really wanted to do it. It was just put in there. I think it was put in there by the majority leader, and their patrons slipped just what they were asking for in the reconciliation bill approved by the Finance Committee and now part of the package about to come to the floor.

The day after the Finance Committee reported out their handiwork that demolishes the health security of over 92,000 miners and their widows for the sake of a few of the biggest and most profitable companies in this country—I will not give you their profit levels, but they are extraordinary—I went back to West Virginia. I would say to my esteemed colleague from Minnesota, I am almost finished. I went back to tell miners and their wives what happened.

The miners I met with were tight-lipped. This was this past weekend. They were tight-lipped, as miners tend to be under all circumstances, especially older miners who have seen it all—strikes, cave-ins, shutdowns, layoffs. They have learned to accept a lot in life.

I remember, once I had a friend who fought in the Second World War in the Battle of the Bulge. He and I served in the Peace Corps together and I tried to get him to talk about it. He would not talk about it. He would not talk about it. Miners tend to be like that.

They have seen their coworkers killed, mangled, dismembered. They have lost limbs, they have lost their breath, but they have kept their faith and they have kept their health care benefits, but they do not have a lot to pass on to their families.

Until the Senate Finance Committee action, you know, then they had their health cards and knew their health benefits were going to be safe and secure. I had to tell them about a document that appeared on Monday, that was debated by the Finance Committee on a Wednesday, that was approved by its Republican members on Thursday, full of tax breaks for every conceivable special interest. But on pages 165 and 166—those are the pages I care about—the very end of the package containing the Cracker Jack prize for all of the companies that want to renege on their promise to their retirees.

One miner, who worked for decades in the mines, told me starkly, he said, "I am worried to death." He said, "Now it seems like the company is the one running the whole show."

He is right.

"They want to do away with us when we were the ones who worked and built everything else."

He is right.

Bude Jarvis, one of the miners, asked me, "What's going to happen to me if I lose my benefits?" And he answered his own question, "They'll probably just put me in the grave before my time."

Another miner, worried about his diabetic wife—diabetes is common—he said, "If I had to buy her medicine, I don't know what would happen. I could not afford to."

Today retired miners' health benefits pay for prescription drugs. That is one of the beauties. They are on Medicare but Medicare does not pay for any of that stuff.

These are people who will have taken a dozen different kinds of pills by lunch because of their ailments. So when it comes right down to it, this provision is about one thing. Old coal miners and their widows being ground up in the legislative process like hamburger while the lobbyists cut them up.

All the jockeying, the lobbying, the lawyering, and the loophole making behind this provision, who pays, who does not, who profits, by how much—it is so much legal mumbo jumbo to a retired miner. He does not get into those things, nor does his widow.

When a retired coal miner who has worked for half a century underground in the most dangerous profession in the world by far—by far, Madam President—cannot count on the health care that he was promised decades ago by this Federal Government, and by the companies that richly profited from his labors, then we have made the word of this body worthless—worthless—and will have made contracts worthless. If the Senate and society do not say that the contract that guaranteed miners—guaranteed miners and their widows—benefits is worth keeping, then how can we trust any contract? A contract is not anything to an average American if he needs a bevy of lawyers to make it count. That is supposed to be a problem in countries which are struggling to work their way out of dictatorships and Communist economies. A contract is not worth anything if it is only good until some special interest with political connections can take away what you were promised while elected representatives, including perhaps your own, turn their backs.

Promises made should be promises kept, whether you are a coal miner, or a teacher, or a computer technician, or a nurse, or a politician, or a plumber. Promises made should be promises kept.

The Senate still has a chance to reject this giveaway to select companies trying to profit at the expense of 92,000 retirees, widows, and their orphans. They are dying at the rate of 6,000 a year. Ninety-two thousand are dying. When we passed the bill, there were 120,000. Now it is 92,000. They are dying.

We know the budget reconciliation bill will pass with virtually every Republican vote. I hope I am wrong on that. We know that the process is stacked so that the bill cannot be filibustered. But my colleagues on the other side of the aisle can stand up for the people in their own States and the principle of keeping promises.

And I close with this. My colleagues on the other side of the aisle who heard the call of Secretary DOLE's Coal Commission for a fair solution and helped me pass the bill to rescue the health fund can heed that call once more. To anyone who says America's crisis is about values, this is the chance to turn those words into deeds. This provision that mocks the basic value of keeping promises and attacks the health care of 92,000 retirees should go, Madam President. It should go. And, if it does not, those of us on the other side, in West Virginia and across the country, will not give up. We will not, and we cannot, as I am sure the Presiding Officer understands, be still.

I thank the Presiding Officer. I thank my distinguished colleague from Minnesota who must think that I took considerable advantage.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Thank you very much, Madam President.

Madam President, we are beginning a truly historic week. With a vote approaching on budget reconciliation, Congress is ready to set this Nation on course toward a balanced budget. We are also ready to offer working-class Americans relief from a Federal tax burden that is crushing them and their families.

The legislation we will approve this week is nothing short of revolutionary. The desperate attempts of my colleagues across the aisle to discredit the revolution are nothing short of pitiful.

For several weeks now, we have had to listen to baseless statements made on the floor of this Senate about the budget reconciliation package, the kind of statements that in Minnesota we call fish stories.

Now, I hate to waste a lot of time in answering such ridiculous charges, but in Washington, things that get repeated three times somehow become fact, especially in the minds of the liberal press, who will carry these charges as fact.

My colleague, the junior Senator from California, was on the floor last Friday, getting in the last words before the weekend, and claimed Speaker GINGRICH had made a deal with people making over $350,000 a year to give them a huge tax break but they had to settle for $5,500 back instead.

The good Senator should first of all be held accountable for making such a ridiculous, baseless charge.

"Where's the beef?" Where is the proof to back up such outlandish accusations?

What she failed to say is that the Republican tax relief plan has been scored with nearly 75 percent of our $245 billion in tax cuts going to working-class families with incomes under $75,000.

So why would she pick out the figure of 350,000? The answer is class warfare. It is an old trick our opponents have perfected in 1995: if you are not right, try divide and conquer. Scare people into believing things that are not true, or at best half-truths.

The good Senator from California also spoke about Medicare and trustees' report warning the Medicare Program would be bankrupt by 2002.

She was right when she said nearly every year, the Medicare trustees issue a report naming a date when the system faces default.

But again, she failed to mention that this year, the trustees urged Congress to act quickly to save the system and stave off bankruptcy—to lessen the impact it will have on the hard-working families who pay the taxes to support it. And besides, that is no excuse to do nothing.

My colleague said the Medicare system has been faced with the same problem many times, that Democrats have made some tough decisions, but have extended the life of Medicare each time.

But again, she did not tell the American people that the seven times the Democrats faced those "tough" questions, their answer was to raise taxes on working Americans.

Seven times they raised taxes in the last 30 years to keep the program going. Doubling, tripling, quadrupling your withholding taxes * * * and then doubling it again and again. Rather than finding a way to save Medicare, improve it, and hold down the costs, they would advocate a tax increase.

That new tax, of course, would have to amount to $388 billion over the next 7 years, $388 billion in new payroll taxes—to feed this huge Government machine * * * a machine we cannot control now * * * a bureaucracy that is so out of control there is no efficiency, only billions in waste, fraud, and abuse.

But hey, it is only the taxpayers' money, not mine. Put it on the taxpayers' credit card, they say.

Funny, the Democrats never seem to have a problem in raising taxes, taking money from you and me * * * but ask them to support a tax cut, and they will rush to the floor in a flood of protest. They just cannot stand the pain of not being able to give away more of your dollars. They want to raise your taxes so they can be compassionate and give it away.

But Mr. President, that is not compassion. That behavior is greedy and power grabbing.

For over 40 years, the Democrats have been inviting people to dinner, and using the American taxpayer as the credit card to pay for it.

I also heard the Democrats say they have the resolve to balance the budget, but would do it in a "more reasonable" way, with "more compassion."

The last 40 years, however, tell us how they would do it: Raise taxes, give away more money, raise taxes, give away more money.

Again, watch out for that word "compassion"—it means they want more of your hard-earned dollars so they can spend it.

The President says he has the resolve to balance the budget, but he does not have a balanced budget to offer.

The outlines he has put on the table have never come close to balancing the budget. They leave $200 billion-a-year-plus deficits as far as the eye can see.

And what about the so-called balanced budget plan the senior Senator from North Dakota has proposed, the one my Democrat colleagues say is the answer.

Again, their answer is always more taxes, and my colleague's budget is no different.

I have a chart here just to compare 1993, 1994, and 1995—the Democrat budget and answer, and the Republican budget and answer. You can see in each year—1993, a $251 billion tax increase by President Clinton, the largest in history; Democrats in 1994 continue more taxes; in 1995, under the plan of the Senator from North Dakota, he would want to raise taxes another $228 billion rather than giving back $245 billion in tax cuts.

His budget would supposedly balance without inflicting pain on millions of Americans, unless, of course, you include those who get up and go to work every day, the taxpayers of this country. There apparently is no pain in working longer hours to pay more in taxes.

The budget offered by the Senator from North Dakota would pick your pockets to the tune of over $500 billion-plus, in additional taxes over the next 7 years. Imagine, rather than supporting a tax cut of $245 billion, their plan would be to raise another $228 billion from American taxpayers.

If the growth of the Federal budget is not reduced and spending continues to increase, you need more dollars to feed the spending fire, and that is where you, the taxpayers, come in again.

The Republicans have a plan that will balance the budget—eliminate the deficit—by the year 2002.

Now, they say our plan will cost students more to go to school, cost families more for everything from food to clothing to shelter, the elderly will pay more for Medicare, nursing homes, et cetera.

But let me ask you a simple question: if we cannot afford it as individuals, as families, as a society, how can we afford for the Government to do it for us?

The money has to come from somewhere.

The Government creates no wealth—it only reallocates it, redistributes it. If we do not have the money to pay the bills that need to be paid, how can we afford the taxes Washington wants in order to do it for us—to be compassionate?

The Senate Democrats do not hold a monopoly on compassion. Liberal or conservative, Republican or Democrat, I think most of us came to this Chamber out of deep compassion for our fellow Americans.

We want nothing more than for every American to have the opportunity to be successful, no matter what that means to each individual. As Edward Deming, the Father of the Japanese industrial revolution would say. We need a "Win-win" solution. We do not want losers in society, or those left out. We want winners. We are all better off with more winners.

But somehow, according to the senior Senator from California, if you make $350,000 a year, you do not deserve it, because you have somehow gotten it illegally or unfairly.

Or if nothing else, it is just not right that you have it.

And if you do, the Government should step in and take it away—whatever amount it deems "fair"—and give it to those the Government thinks deserve it.

There are individuals in this country that need our help and we are spending nearly $1.6 trillion this year to try and meet those needs the best we can, without destroying the very fabric of our society—our families and our job creators—to do it.

But the rhetoric that spending is being reduced so the money can be funneled into huge tax cuts for the wealthy is a sham.

The whole argument is being presented in this manner to drive your attention from the facts to the fiction, the shell game, the con man, the snake oil salesman, the Democratic opposition.

President Clinton himself is guilty of this budgetary double-speak.

The President raised taxes in 1993 by $251 billion.

Of course, we all know that last week, he told a crowd of fat cat contributors at a $1,000 a plate fundraiser he knew they were mad and he admitted he raised taxes too much, but said it was the Republicans' fault because they would not help him stop the Democrats from spending more money.

He had to raise taxes, he said. But the next day, back in Washington, he blamed that statement on being tired, reiterating his point that "no Democrat in his right mind would ever propose cutting taxes, or saying they had raised them enough."

They do not want the taxpayers to keep more of their own money. They do not trust you to spend it wisely.

Who knows, you might "waste it" on food, clothing, shelter, a vacation, or by saving it for your child's education.

"Send it to Washington and we'll be compassionate with your hard-earned money," they say. "Let us take care of you."

The kind of care offered by the Democrats is suffocating the American people.

To stop the suffocation, we are ready to cut their taxes, and I need to remind my colleagues across the aisle that tax relief is not dessert.

Congress has been eating the taxpayers' dessert for the past 40 years. And the American people have been left only gruel to eat.

Finally, when the opponents of change resort to class warfare, when they resort to statements like, "champagne bottles are being chilled in penthouses all across the country—except in those where someone has a conscience," well, that is nothing but the desperate cry of a dying liberal agenda.

I cannot afford champagne, but that is OK because I do not like it anyway. When I get back to Minnesota this weekend, I am going to put some beer in the cooler.

And like millions of Americans across this country, we are going to celebrate a small victory over this powerful Government machine, because the people know they will be able to keep $245 billion of their own money, to spend the way they want, rather than giving it to those who claim to be compassionate.

And we are going to say this is only the first in a long line of victories to come.

The PRESIDING OFFICER. The Senator's 10 minutes' time has expired.

Mr. GRAMS. I thank the Chair.

Mr. KERRY. Madam President, what is the legislative status at this point?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. Statements are limited to 10 minutes.

Mr. KERRY. I ask unanimous consent that I be permitted to proceed for such time as I might consume.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

FOLLOWING THE BUDGET DEBATE

Mr. KERRY. Madam President, I listened with interest to the comments of my friend from Minnesota, and I guess in a way as I listened to him I sort of felt sorry for Americans who try to follow this debate. It is going to be difficult because the rhetoric flies fast and furiously, and a lot of people evidently are going to have difficulty trying to figure out what is really true and what is not true.

The Senator from Minnesota talked about the amount of taxes that were raised in 1993 and what a terrible thing it is the Democrats have perpetrated on the country. But the truth is—the truth, which often gets hidden in these debates—yes, taxes were raised in 1993, but only on 1 percent, the upper 1 percent of Americans, and that for 98 or 99 percent of most Americans taxes went down. The burden of the average working person went down in the United States.

So when our Republican friends come to the floor and start lamenting the 1993 bill that gave this country a continued economic growth—I might add 7.5 million jobs added to the economy of this country in the last 3 or 3½ years compared with about 2.5 million during the entire 4 years of the Bush administration—that 1993 bill raised taxes only on the very wealthiest 1 percent of Americans, and yet our friends keep coming to the floor in defense of that 1 percent. And that is really what divides our parties at this point in time.

Certainly, we are not divided by a desire to have a balanced budget because the vast majority of Democrats voted for a balanced budget this year. I voted for a balanced budget that will take place in 7 years. We did cut Medicare. We did cut Medicaid. But we did not turn around when the country has an extraordinary deficit problem and give back to people individually what amounts to a very small amount of money. I believe it is something like $1.69 a week that most people in America will get with this famous $500 tax credit that everybody is going to get, which incidentally does not go to everybody. The truth is that while our Republican friends talk about a $500 tax credit for every family in America, not every family in America will get that $500 credit because it is only a credit against income tax. The biggest tax that most Americans pay is the payroll tax. And for workers at the low end of the income scale, they are not going to get the benefit of that $500 income credit because it does not show up in their income tax. So it does not go to every family in America—another one of the deceptions in the rhetoric that people hear.

We have heard a lot about how we are going to put taxes back in the pockets of Americans, but the CBO itself, which we keep hearing quoted by our Republican friends, will tell you that the Republican plan raises taxes on 49.5 percent of Americans. If you are earning $30,000 or less, you have a tax increase in the Republican reconciliation bill. For 17 million American families, a tax increase, an average tax increase of $352; for about 7 million families, if you have a family of two, it is about a $400 increase; for 4 million some families with one child it is again about a $410 increase, and for a family with no children, it is about a $300 increase. That is just the reality, a tax increase for $30,000 and less; a tax break for $350,000 and of over $5,600 a year.

Now, the last time I looked, I really did not think that somebody earning over $350,000 a year really needed that $5,000 tax break this next year if it is at the expense of somebody earning $30,000 or less.

Now, somehow in this country a fundamental notion of fairness has been distorted, and somehow, unfortunately, not enough Americans get the facts or the truth of what is happening. Mr. President, today I stood up with Senator JOHN MCCAIN of Arizona, Senator FRED THOMPSON of Tennessee, Senator RUSS FEINGOLD of Wisconsin, and we offered some $60 billion of cuts that could be made in the budget that are based on fairness and common sense.

One of them, for example, is this now infamous program called the Market Promotion Program. Now, we had a vote on that, and we lost. It does not mean we should not offer it and offer it and offer it until we finally win, as we did on the wool and mohair subsidy; as we finally won on the ALMR, the advanced liquid metal reactor; as we finally won on the supercollider, which the Senator from Arkansas and others fought so long to get rid of; as we finally won on the mink subsidy.

Sometimes it takes time for people to understand the full measure of common sense the American people are asking us to exercise. But the fact is, the Market Promotion Program—how do you turn to the average American and say, "We're going to ask you to pay more in your premiums in Medicare, we're going to cut working families off of Medicaid, we're going to cut school lunches and take away science research that produces more jobs for the future, but we're going to continue to let the Gallo Wine Co. get a subsidy from the Federal Government to sell its wine abroad, we're going to continue to let Japanese-made underwear, that happens to be made with American cotton, be advertised abroad, we're going to continue to allow major companies like McDonalds to be able to sell their products even though they make money"? They all make money. We are going to tell a senior citizen on a fixed income, "You pay more, but we're going to help these companies that are making millions of dollars to sell their products." It does not make sense.

I am not saying that in an ideal world I would not love to help our companies sell abroad, but we are living in a very tough world now where the average family in America, on a daily basis, is being asked to make tough decisions. "Can I buy clothing for my family? Can I afford to take a vacation? Can I send my kid to even the parochial school where there may be a $4,000 or $5,000 tuition, let alone to a private school"?

There is not a parent in America who does not feel the implosion of the school system around them, who is struggling to get their kid the best education possible. And these folks know that on a daily basis they are making decisions that are based on what they can afford and what they must get for their survival and for their kids' future.

We ought to be making the same decisions here in Washington. What do we need? What must we provide for the American people? Must we provide a market promotion program when we are cutting people from a hot lunch that might be the only meal they get a day that is hot? Must we provide the Gallo Co. with an additional subsidy to sell wine at a time when we are asking senior citizens on a fixed income to tighten their belt and pick up more of the cost of absolutely predictable medical costs or in a time when we are telling certain people that they have to sell their home and go into poverty in order to qualify for the health care that they may need? It just does not make sense.

You know, we woke up this morning to the umpteenth statistic of violence in the city of Washington. A young diplomat's son, sitting on the doorsteps of his home on Massachusetts Avenue, blown away, dead. That is an act of repetition that occurs in this city every day. And it occurs in New York, in Boston, Los Angeles, Detroit, Miami, you name the city. And it does not have to be a big city. All over this country today the acts of random violence are increased. And where are the police? Where are the police? That is something we must do in America, is put more police on the streets.

But instead we are going to build B-2 bombers. Even though the Pentagon does not want the B-2 bombers, even though the Pentagon never submitted a request for the B-2 bombers, even though Boris Yeltsin and President Clinton are meeting, talking about the cooperation of former Soviet troops now Russian troops in Bosnia. We are building B-2 bombers. For what threat? For what reason? The military did not even ask for an additional $6 or $7 billion. But this budget provides it, and provides it even while they are asking all these folks below $30,000 and all these other folks to tighten their belt.

Mr. President, it does not make sense. And in the next hours, as we debate this, and in next days as Americans come to confront the realities of this budget, America is going to understand it does not make sense.

Now, I keep hearing my colleagues say, "Well, what do you guys want to do? You just want to continue the deficit? You just want to spend more money? You just want to build up the debt of this country?" The answer is no. We voted this year for a balanced budget in 7 years, but we did not do it at the expense of asking education costs to rise, we did not do it at the expense of trying to make life miserable for those for whom it is already hard enough to find a job and break out of poverty. We did it by fairly deciding that you should not give this enormous tax cut to those who least need it at a time when you are complaining about a deficit and the debt of this Nation.

The Wall Street Journal the other day had an article that showed that even under CBO's own analysis, this "reconciliation package," as it is known, will add to the debt of this country over the next 7 years, add to the debt service of the country, and that it will, indeed, raise taxes on people.

Jack Kemp came before the Small Business Committee just last week, and he said, "I hope you guys"—referring to those in the committee—"will not cut the earned-income tax credit, because if you do, that is a tax increase."

Ronald Reagan called the earned-income tax credit the greatest antipoverty program, profamily program in this country. What is happening in the next hours is that $43 billion will be cut from the earned-income tax credit which will make it harder for people at the low end of the income scale to do what so many people on the other side of the aisle talk about, going to work, making work pay, living out the values of work, and being able to break out of poverty.

Here we are taking this extraordinary program that Republicans and Democrats together voted to support in the past years, and cutting it. Mr. President, in the next few hours, in the next 2 days of debate and 1 day of just rapid-fire voting, because of the situation the Senate finds itself in, we are going to be debating on what I call the antivision, the counter reform 1995 reconciliation act.

I know one thing in the midst of this debate, Mr. President. The American people want to put this country back on track. They want, and they deserve, a balanced budget. They want, and they deserve, a reduction in the deficit. But they also want us to exercise common sense in a way that is fair and that talks and thinks about the future of this country.

What began in January of 1995 as an effort to work on a bipartisan basis to achieve change, Mr. President, has regrettably turned into a very partisan war of rhetoric and, I think, even some deception. Why do I say "deception?" Because under the guise of saving the Medicare Program, we have colleagues who have basically misled the public by calling for a massive change to Medicare that will increase the out-of-pocket costs to seniors. It will result in hundreds of thousands of health care jobs lost. And it will also change the fundamental relationship of seniors to their health care delivery system, while at the same time telling them they are going to get more money.

Mr. President, what is the deception in that? Let me be very frank, very straightforward. The deception is that all seniors know, because they also listen to the trustees, that the trustees did not describe a $270 billion problem.

The trustees described a $90-billion problem. I agree there is a $90-billion problem. But everybody understands that the real deception here is the effort to take a $90-billion problem and turn it into a $270-billion solution so that you can give a tax cut to the folks who least need it.

I might add that one of the great acts in turning the table topsy-turvy was last year with Harry and Louise. Remember how everybody argued about, "Gosh, we don't want the Government telling you what to do, and we don't want people to have choice taken away."

And here, all of a sudden, is a formulation for Medicare that is the Government telling people what to do and narrowing their choices by requiring that they go into a certain kind of managed care as the only means of providing the savings that they are providing.

What is equally egregious is, we keep hearing people say, "We're not cutting Medicare; we're just slowing the rate of growth. It is still going to grow. There is still going to be a fixed amount of money additionally that everybody is going to get each year."

So with that sort of great statement, that bond, that verbal bond, everybody is supposed to feel good: "Wow, I'm going to get an additional $2,000 over the next 7 years."

But the difference is, Mr. President, and everybody knows it, when you have a fixed amount of budget available and the costs of Medicare are going up at a fairly steady rate, even if you diminish that rate to what most people would accept as a reasonable rate of increase, the population is growing, the population of seniors in America is growing at a predictable rate.

So you take this fixed pot of money, say to everybody, that fixed pot of money, even growing a little bit, is going to have to take care of the same costs as it did the year before, even though the costs are increasing, and it is going to have to do it for a larger population.

Ask anybody in elementary math, any school in America and even with the problems we have in math in America, I believe they will understand that with a fixed amount of money, a growing population, increased costs, you have a problem in delivering the same level of care. That is why they want to take the standards off the nursing homes, because if you take the standards off the nursing homes, people can deliver nursing care without a registered nurse. We can have a turning back to the time when people were strapped in wheel chairs and where they were just, basically, drugged out as a means of taking care of people. We can step back, and that may be the antivision that a lot of our friends are expressing here. It is certainly a form of deception.

Mr. President, at a time when this country is desperately in need of serious tax simplification, a tax simplification that really cuts tax rates for all Americans and American businesses, the Republicans are increasing taxes on the middle class and increasing the number of loopholes for business, contrary to the very reform effort that we tried to put in place in 1986.

The Republican antivision, counterreform, tax-and-spend legislation sends a clear and unequivocal message to middle-income Americans across this Nation, which is: "You're really not that important."

How else can you explain to people who earn $30,000 a year, who comprise just about 50 percent of the people in this country, why it is that their taxes are going to go up? Nowhere in the legislation that will come to the floor tomorrow is there a demonstrated commitment to the 2 million Americans who work slightly at or above the minimum wage. Nowhere is there a clear commitment to continued environmental cleanup and the progress that we have made over the last 25 years, and for the working mothers of this country who cut the strings of welfare dependence and sought and secured employment.

This legislation is saying to them that it is going to remain silent and even absent from helping them by proposing an increase in the minimum wage that has gone down now to a 40-year low level. For middle-class families that have an aging parent living in a nursing home, we may now find that those young people who once thought that their mothers and fathers were taken care of are now going to help them with the costs of care. And having already bankrupted the elderly nursing home resident because of the requirements we have, we are going to place additional burdens on their children.

In contrast to that, the wealthiest Americans will reap a substantial bonus from this legislation. The richest 12 percent—and I do not want to get into a class distinction here, but fair is fair and we have to measure the notion of fairness.

The fact is that at the upper level of the income scale, the upper 12 percent are going to receive a whopping 48 percent of the tax benefits, and people with annual incomes greater than $200,000 are going to find their taxes decreased by over $3,400, and the 13 million families that earn more than $100,000 annually are going to enjoy a new tax break of $1,138. I do not know how you explain that when the other people are paying more taxes. I do not know anybody who can argue that that is a sensible idea of tax equity or tax fairness.

In the end, if you look at the various breaks that are continued and loopholes that are created, there is, in this reconciliation bill a new definition of welfare reform for those who are at the upper end of the scale, and I think it is part of a deception, or a counterreform, if you will, that literally turns back the clock to the time before we learned in this country that you needed to have a Government that was willing to respond and make a difference in people's lives.

It strips away those protections that were developed through harsh and bitter experiences, through the Depression years and through the long years prior to the Depression where we began to understand what abject poverty and racism did to the Nation. We learned that you needed a response. All we hear about is the failure of that response, even though, in fact, most people who dispassionately and apolitically analyze it will tell you that it is not that so many of those things have failed, it is rather that they have not been permitted to be completed or to go to fruition.

Maybe this is what the real Contract With America is all about, Mr. President, creating a lesser America for those who are struggling at the middle and lower end of the scale and then increasing privilege for the few.

The statistics on what has happened to income in the last 13 years dramatize this. From 1940 to 1950, 1950 to 1960, 1960 to 1970, 1970 to 1980, everybody in this country saw their income grow together. If you were at the lowest end of the income scale, the lowest 20 percent of Americans during that period of time, your income went up in the area of 138 percent every 10 years. If you were in the upper end of the income scale, your income went up in the area of 98 percent. That is not a bad balance. But from 1980 to 1993, the income of the lowest 20 percent of workers went down.

Over a 13-year period, the income of the lowest 20 percent of Americans went down in the area of 17 percent. The next 20 percent, their income went down in the area of 4 percent. The middle two stayed the same, but the top quintile of America went up in the area of 105 percent. That really is the story of what has happened in this country in the last 13 years.

Not very long ago, Speaker GINGRICH talked about creating an "opportunity society," as he called it—a society where problems would be turned into opportunities, where Americans of all ages, ethnic, or racial backgrounds would be afforded equal opportunity.

Well, Mr. President, that rhetoric should be measured against the reconciliation bill we will debate in the next hours—a reconciliation bill where we see spending on middle income and average Americans decrease, where we see an increase of taxes on the middle class, an opportunity society that has really been left to the "haves," and for those who have not, the opportunity is clearly going to continue to escape their grasp.

Ironically, the choices made in this budget make some very, very strange and even bewildering opportunities. I do not think anybody wants the opportunity to drink dirty water. But for the first time in 5 or 6 years, the Federal share of helping Boston clean up its harbor and relieve the rates—what are now the highest rates of water in the country—is going to be diminished—diminished even from what President Bush was willing to give it.

I do not know anybody who wants the opportunity to go to school without books or even be able to go to a decent school at all. But the chapter 1 education assistance and the Goals 2000 is going to be stripped away. I do not know anybody who thinks it is an opportunity to eat contaminated meat, but we saw that proposed in the course of this last few months. And even the taking of unsafe medicines—is that an opportunity?

So how do our Republican colleagues come to the floor and tell the American people that opportunity means cutting cops on the streets, when children are being shot in cold blood on some of the streets of America. How do they say it is an opportunity when they raise $43 billion in taxes on low-income working Americans, who are struggling to make ends meet on what Ronald Reagan called the best antipoverty, profamily program in America and give a $245 billion tax break to the wealthiest Americans while increasing the national debt in the process?

How is it an opportunity for students when we cut $11 billion from student loans and then increase the amount of taxes their parents are going to have to pay? In fact, Mr. President, over the course of the next 7 years, this reconciliation bill is going to now end the direct loan program for maybe 50 percent of the schools in this country that have entered into that program in the last few years. It is going to raise the burden on the average American borrowing money in order to send their kids to school and put that money through the tax benefit in the hands of the banks and the lenders even though it has been one of the most successful door openings to the information age that we ever could have anticipated.

What kind of opportunity is it when this budget cuts $182 billion from Medicaid, but leaves intact an $11 billion international space program? What kind of opportunity do seniors get when our Republicans colleagues have chosen to cut $270 billion from Medicare and give the Defense Department a $6 billion bonus—money that it did not even request?

What do I tell the people of Massachusetts when, if these Medicare cuts hold, we lose 129,000 health service jobs, when the State loses 4 percent across the board in general fund spending and has to make up for the $1.3 billion loss in Federal aid. When seniors in Massachusetts have to pay $1,000 more per year for Medicare and the interest on student loans for 4 years of college goes up $3,000? What do you say about opportunity in the face of the largest income earners in America getting a tax break?

I was here in 1986, Mr. President, when we voted for the biggest tax decrease in the history of the country. We took the rates down to 28 percent and, for a few people in the bubble, 33 percent. We have been giving tax breaks to all Americans across the board. But in the face of these other reductions, it is unconscionable to suggest that that represents a definition of opportunity.

Mr. President, I really think there is a reform agenda which we could have embraced in a bipartisan way, and I reemphasize that there are many of us on both sides of the aisle that I know could have found a common middle ground here, if politics and ideology and hot-button pushing did not put such a premium on the agenda of the House and on some who were elected in 1994.

It seems to me that what we are seeing here is a program that, not intentionally—although, in some I am not sure—turns out to be anticommunity, even antipeople, certainly anticommon sense, in the context of the real agenda of this country. When those who espouse that agenda choose not to fund a successful program like YouthBuild in Boston—when they strip youth employment opportunities and educational funds that can keep kids in school or give kids structure in their lives—that disempowers communities and prevents people from helping themselves.

We hear an awful lot of talk in the U.S. Senate about values, and we hear a lot of talk about family; but the truth is, Mr. President, that 36 percent of all the children in America today are born out of wedlock. The truth is that you can go into any community in America today and find kids who talk with a level of anger and alienation unlike anything any of us have ever known historically. The truth is that these are kids who do not have contact with church or school or parents. That is why they are in trouble.

Now, we can talk about values all we want. But if somebody does not have some contact with that child, ages 9 to 16, where are the values going to come from? Most of us would come to the floor and extol the virtues of the Boy Scouts, Girl Scouts, Brownies, boys and girls clubs, YWCA's, YMCA's. But the truth is that, for the vast majority of the children in this country, they are just not available. Who is going to provide the structure? Or are we going to wait until we are forced to spend $50,000 a year to incarcerate that new felon?

I keep hearing my colleagues perpetuate one of the great misstatements and myths of American politics today. They sweep every one of these efforts to reach children under the same rug. They brand it all with one great sweeping brush and say, "The liberal programs of the past failed."

But the truth is, Mr. President, that I can show you thousands of young people across this country who are working at jobs today, who are graduating from college today because one of these entities intervened in their life, whether it was a City Year, YouthBuild, or a host of other entities. I know a young man who graduated—I do not know him not personally, but I know of him—and I have seen his curricula and history, in the context of YouthBuild, extolled for having graduated from Rutgers this past year. He came out of the streets through a YouthBuild program and saved his opportunity. I know a young woman currently working as a project manager on the Boston third harbor tunnel project in Boston. She came out of gangs and drug use and a prison record, or at least a court-associated record. By virtue of this program that entered her life where there was no parent, where there was no affirmation, she got it from the friends that joined her in this effort to save their lives.

Much of that is being done away with, with this effort by the Republicans.

There are many of these efforts that are enormously successful across the country, Mr. President, and we should not have to fight for basic support to have a successful program to give some of these kids a chance.

I think that what we need is a positive vision for a truly progressive revolution in this country that reforms the Government, and not just a negative vision that is guaranteed to take us back to darker times. The right choice is to empower communities to come together to do what needs to be done and to help them do it.

I am not in favor, nor am I coming to the floor, to advocate that we should stay with the old programs that have failed. I am not even coming to the floor to advocate this ought to all come from Washington. It should not, Mr. President.

I am not even advocating Government programs. I am advocating a new partnership between the Federal capacity to help distribute some resources and do it in an administratively cheap way that gets that money to those nongovernmental entities, to the nonprofit entities by the thousands that are out there, struggling to make a difference in the lives of young people.

But we do not do that, not in this piece of legislation, even with this extraordinary opportunity to really create a blueprint for the future of this country.

I think we ought to be encouraging partnerships for community progress all across the country between the Government and the private sector and churches and schools and community groups. We should rely on the community groups and on those local entities and on the local people to help define those efforts.

One thing I know, Mr. President, when you have only 82 kids in a YouthBuild program in Boston and 400 kids on the waiting list, it is unconscionable to be continuing some of these other subsidies in giving tax breaks when we could be saving some of those 400 kids and providing the same kind of self-help program that truly embodies the notion of giving people values.

Mr. President, the people in this country are really sick and tired of the lack of common sense that emanates from Washington. They are tired of the gamesmanship. They are tired of the rhetoric that comes off of this floor. It is hard.

I must say I listened to C–SPAN a couple nights ago and I said, "God, I really hope I do not sound like that," because the words just sort of bounce around. They sometimes have no real connection to the lives of the people that we were sent here to represent. There is more finger pointing and more gamesmanship.

Sadly, we have arrived at a point where we have this extraordinarily important budget, and truly it can be said that there has been no real outreach, no real effort to try to find a bipartisan approach.

We are implementing the Contract With America. We are implementing an agenda that was set in a campaign document, a document that does not even mention the word "children." The word "children" does not appear in this contract. The words "health care" do not appear in this contract. "Environment" does not appear in the contract except under the concept of regulatory reform.

Most importantly, those things that really matter to people, which is how am I going to get a job? How am I going to raise my income for the additional work I am putting in on a daily basis? That is the primary thing that most Americans are concerned about.

People want to know whether or not they will have their kids be able to have an adequate enough education to be able to get that kind of job. They want to know whether or not they will be able to go home at night and literally not be so exhausted and burned out and frazzled that they can spend some time with a child, truly imparting values, and that they can have time for something we used to call quality of life.

I think the people of this country want us to move inexorably to a stronger, richer, safer, better, and saner America for everyone—everyone—on a fair basis.

They want to fix what is wrong. They want to keep what is right. There is a lot that is right.

Unfortunately, in this budget we are not going to have the opportunity to really present those choices to the American people. I am convinced that most Americans very quickly will understand what is fair and what is real and what is not.

The American people believe unquestionably in their hearts that we have not been wrong to do what both Republicans and Democrats joined together in doing in the last years. Republicans joined with Democrats to guarantee that those who work at the low end of the scale of America have a reasonable wage. That we did together.

They joined together to guarantee that we would put 100,000 cops on the streets of America. And yet here we are with a proposal that blocks it all into a grant, makes those cops compete with floodlights for prisons, computers for the precinct, new cruisers, all the other things—except that we so desperately need cops on every street in this country.

Mr. President, the budget debate that we will embark on in the next hours really should not be so honed in political ideology or 30-second sound bites. I think it really ought to be a much more thoughtful discussion to the American who is listening and who wants to really consider how we will build the future of this country.

It ought to be a debate based on facts, not on distortions and side bars and fictions but really on the facts. The implacable and irrefutable facts about where we are heading in terms of income and jobs, violence, education, environmental cleanup, and the other things that make up the quality of life.

Mr. President, I think it is a discussion that should not be limited in this arbitrary 20-hour way of jamming all of the legislative effort and the 1,000 pages that most people have not even had time to read.

The tax provisions contained in this legislation certainly require a great deal more time and exposure in order to really flesh out their fairness and also their long-term impact on the economy of this country.

Maybe it is time we changed our rules, Mr. President, by voting to recommit the legislation of the Budget Committee to ensure that a tax-writing committee has had sufficient time to explore and debate all the issues not addressed, including real tax reform and simplification.

This legislation leaves us with many, many questions, Mr. President. Why is it that we could not have used this as a great opportunity to try to make a stronger set of choices for the American people? Why could we not have lowered the tax rates for lower-income Americans and been fairer in the distribution at the upper end? Why could we not have used this as a means of debating how we will break people out of that lower end cycle, rather than sending them back into it by doing away with the earned income tax credit.

Why could we not have used this to have a stronger real fix for the problem of the inequity of the delivery of health care in the country and the problem of the distribution of resources and the increasing numbers of Americans who have no coverage at all? Why could we not have spent the time on the floor really expressing the stronger vision of where it is that we are headed.

I know my colleagues will come to the floor and they will say the Senator has it all wrong. What we are going to do here is we are going to balance the budget. We are going to end this cycle of spending.

I agree, Mr. President. Balancing the budget is good for America, and reducing this deficit is good for America. That is not the issue. That is not what is at stake here because we are going to do that.

The question is, how are we going to do it? Are we going to do it fixated only on the fiscal deficit, or are we also going to think about the spiritual, moral, cultural deficit in this country? Are we also going to think about the investment deficit in this country?

You do not get from here to there in America on an old FAA computer system and call it safe. You do not get from here to there in America on trains that are predestined to crash because we do not invest enough in safety measures for our country. You do not get from here to there in America on roads that were not built in the National Highway System with the commitment of Federal participation. There are hundreds of examples, where responsible action at the Federal level has improved the capacity of this country to provide for its people and to help people provide for themselves.

I am absolutely one who accepts the notion that we have to rethink how we deliver services. I am prepared to shrink the size of Washington. In fact we have been doing that. We will soon have around 200,000 fewer bureaucrats. It is the smallest Government we had since Jack Kennedy was President of the United States. You would not know that from listening to our colleagues. We have had 3 straight years of deficit reduction. And now we will move on to balance the budget, which is what we ought to do.

But Americans are going to ask whether, as we did this, we did it sensibly; whether it is fair; whether we had a vision for what we want the future to be. Americans are going to ask whether or not this document represents an antivision, or a vision. I am confident that, because it represents an antivision, the President of the United States will ultimately veto it, because it is not bipartisan, because it is not reflective of the higher plane of vision of what this country ought to be and what we want it to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

MEDICARE

Mr. FRIST. Mr. President, I rise today to join my colleagues who earlier discussed what is truly a historic budget reconciliation that will be coming to the floor in the morning. This is legislation that will balance the Federal budget in 7 years, and that is the issue before us; that will reform welfare, and that is the issue before us; that will save Medicare from bankruptcy, because that is the issue before us; and which will provide much needed tax relief to American families.

The Social Security and Medicare programs were reviewed in a document. The trustees, there were six in all, three of whom were on the Clinton administration's Cabinet, made it very clear that the issue before us in Medicare is to save it from bankruptcy, to save the entire program—not just a part of it, not just one trust fund, but the entire program.

On the first page of the report of the trustees—and, again, the trustees, three of whom are from Clinton's Cabinet—it says very clearly, "The Federal Hospital Insurance Trust Fund will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range. The trustees believe that prompt, effective and decisive action is necessary." And that action we have in this reconciliation package.

On page 13 of this same report it spells it out very clearly that, "both the hospital insurance trust fund and the supplementary medical insurance trust fund show alarming financial results." That is part A and part B; not just part A, as we so often hear from the other side of the aisle.

I continue reading from page 13, "The HI trust fund continues to be severely out of financial balance and is projected to be exhausted in 7 years. The SMI trust fund [which is part B, the physician part] shows a rate of growth of cost which is clearly unsustainable."

Again, reading the exact words, these words are from Sanford Ross and David Walker, the two public trustees, "The Medicare program is clearly unsustainable in its present form." Not just the part A trust fund but the Medicare program. Again, we hear from the other side of the aisle we can put another Band-Aid on this program. We can do what we have done in the past and ratchet down a little more on the hospitals, because it is not a crisis. It is not all that urgent. "We have seen it before over the last 10 years," the other side of the aisle says. Yet the trustees say, "We strongly recommend that the crisis presented by the financial condition of the Medicare trust funds [both funds] be urgently addressed on a comprehensive basis."

These are the trustees' words. I point that out because, again, we hear every day and several times a day, "Let us just put another $100 billion into the program and that will take care of it for another couple of years." No, the trustees say we need to address part A, and part B, hospitals and doctors, the program overall, and not just one aspect of that program.

So, we make the case. The trustees have made the case that Medicare is going bankrupt if we do nothing. The American people did not know that 1 year ago, or even 8 months ago. Now our senior citizens recognize that. Our individuals with disabilities recognize that. And they recognize that we are going to have to change the system, bring it up to date, to 1995 standards. It is a good program. As a physician I have seen that it has cared for millions and millions of our senior citizens in an effective way. But, as the trustees said, it cannot be sustained. It needs to be modernized.

We pointed out again and again that we are going to increase spending in the Medicare program. Just a few moments ago we heard, when you adjust it on a per beneficiary, or per capita, or per person basis we are really not increasing it. That is not true. On a per capita, per person, per senior citizen, we are spending $4,800 a year this year and that is going to increase next year and that is going to increase the year after that, and increase the year after that to, by the year 2002, just 6½ years from now, we are going to be spending $6,700, almost $2,000 more than we are spending today. And that is not a cut.

It is going bankrupt if we do nothing. We have heard no alternative, reasonable alternative that addresses the overall program from the other side of the aisle.

Second, we are going to increase spending, not cut.

And, third is something that I am most excited about, again because of my past experience as a physician, as one who has taken care of thousands of senior citizens. When I close my eyes I do see faces, individual faces of mothers, of grandmothers, of fathers, of grandfathers, of individuals with disabilities. We cannot just throw more money at the problem, more Band-Aids. We have to strengthen the system.

We have not given enough attention publicly to what we are doing in strengthening this system, in improving it, in giving our seniors and individuals more options that meet their individual needs. That is where we are giving them the right to choose, empowering them to choose a plan which might better meet their needs but at the same time allowing them to keep exactly what they have today if they wish.

Let me refer to this chart, just to explain what I mean by that, how we are strengthening the program. Just focus on the top part of this part. Today we have fee for service, traditional fee for service, where you choose your own physician, you pay your physician in a very direct fashion for the services delivered, and about 91 percent of the 37 million people on Medicare today are in a fee for service system.

About 9 percent of those 37 million people are in an HMO. It is a very limited model. It is a very closed model today, but that is an option for 1 out of 10 of our citizens. On the other hand, in the State of Tennessee there are no HMO's in the Medicare system. Everybody, the number actually in Tennessee of all those 37 million people, for the most part are in just this fee-for-service system.

We are going to hear the plan laid out a little more over the next few days. But what does it do for our senior citizens? As I said, our senior citizens can stay in fee for service, keep their same physician today, not be forced out of that system at all. Or they can stay in an HMO, if they happen to be there and are pleased with that. But look what we are actually opening up to those senior citizens: A wonderful array of plans that can better meet their individual needs.

If you need a lot of prescription drugs, you are not going to want to be in a fee-for-service system where prescription drugs are not covered. You might want to pick one of these other plans. You do not have to, but you can, for the first time in 30 years in the history of this program.

Medical savings accounts; for the first time a senior citizen can pick a medical savings account or indemnity plan or a preferred provider organization or a point of service plan, or a union-sponsored plan. For the first time, our senior citizens are going to be able to opt for the plan that better meets their needs.

Medical savings accounts—let me just take a few minutes and talk about medical savings accounts, because it is an example of an option that our seniors today have no access to, that, once this bill passes, they will be able to choose if they would like. The use by health consumers of MSA's will change provider behavior—the physician, the hospital—as well as consumer behavior. Why? Because it, if one chooses that, will decrease the role of third-party payers.

It will also increase an individual's awareness of the health care costs. Today, there is really very little incentive for patients to be cost-conscious consumers of health care. On average, every time a patient in America receives a dollar's worth of care, 79 cents is paid by a third party—by an insurance company, or by the Federal Government. Only 21 cents is paid by that patient.

The result is that we have the potential—and I believe grossly—of overconsuming medical services today. Everyone wants it. It is a human tendency. You want it for your mother, your spouse, and your children. Everybody wants the latest, the hottest, the most sophisticated, and, yes, usually the most expensive in whatever medical service it is. It might be the most deluxe hospital room, or it might be getting an MRI scan for a headache, or it might be the latest in nuclear medical imaging. We want the very best. This does play a role in increasing the cost of health care.

Medical savings accounts—which are savings accounts that an individual puts money into and can draw upon for care—will help introduce incentives, marketplace incentives, for most cost-conscious behavior.

MSA's, medical savings accounts, give individuals more choice in the health care market. Our senior citizen cannot join an MSA today in Medicare. It will help stem rising health care costs without decreasing availability or the quality of patient care. It empowers individuals to make prudent, cost-conscious decisions about their health care, about their health care needs, and how to meet those needs. And it will encourage hospitals and physicians to compete for patients on the basis of cost, yes, but also outcomes and quality of care.

There is another important aspect of medical savings accounts, and it is really overlooked almost always by policymakers in Washington; that is, the effect that empowerment of individuals—37 million individuals potentially, although I do not think it will be that—but that empowerment actually changes provider behavior. It changes physician behavior. Doctors, like patients, are accustomed to a system that is not subject to market forces. Since insured patients do not have any incentives to shop around or ask outcome questions or compare medical services, whether it is based on price or outcome, physicians are not rewarded for providing cost-conscious care.

Throughout much of my practice as a heart surgeon and a heart transplant surgeon, I would perform a heart operation, submit the bill, and the bill was paid with no questions asked by the patient.

The PRESIDING OFFICER. If the Senator will suspend, under the rules of morning business we are operating in, Senators are limited to 10 minutes unless the Senator asks unanimous consent.

Mr. FRIST. I ask unanimous consent that I be allowed to continue for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, traditionally no questions have been asked. One day an individual came to see me. He actually needed a heart transplant. He came with a list of transplant centers. He said, "These are outcomes that I have heard about. What are your outcomes?" He asked, "What are your infection rates, and how much do you charge for heart transplants?"

To be honest, nobody had ever come in and asked, "How much do you charge for a heart transplant?" What I did was actually turn around and go back to my transplant team, and say, "Let us see exactly what we charge. Let us be able to answer that question why we charge what we charge as well as look at the outcome data and how our results were compared to other people," not only with my own practice and my own transplant team, but the other transplant teams in my center.

I brought them together, and sure enough, we looked at quality standards. We got those out to the community. And, yes, we lowered our prices for how much we would charge for transplantation. Just because of one empowered patient who came forward and asked the right questions, I think we improved quality, we improved care, and we gave more cost-effective care.

Because someone else usually pays the bills, many patients forget that they are consumers. They do not ask providers to be accountable. If one individual can make such a difference, just imagine what impact we can make when we empower thousands of individuals similarly.

Because I strongly believe that empowerment of individuals will help reform—not totally reform the system but help reform, the delivery of health care—I recently introduced a bill, S. 1249, which provides for establishment of a little bit different type of MSA. Under this bill, just to use an example, an employer would deposit up to $2,500 in a tax-free savings account for an employee and would also purchase a catastrophic-type health insurance policy to cover the cost of extraordinary medical expenses. Routine expenses, like eye glasses, annual checkups, possibly prescriptions and dental work would be paid by the employee using that medical savings account. If you did not use all those funds, that medical savings account would accumulate from year to year. Self-employed and uninsured individuals would also be able to establish an MSA link with a low-cost insurance plan under this bill.

Unlike the other MSA proposals introduced in Congress, my bill allows for greater flexibility in benefit design. S. 1249, unlike some of the other more restrictive MSA's, allows managed care companies to offer a low-cost plan based on higher cost sharing rather than just a large, rigid deductible. Restricting plan participation to the size of the deductible may work fine in today's market, but as we learn more and more about how individuals purchase health care services under an MSA, the market may need greater flexibility which can be accomplished under our plan.

Indeed, many insurance plans today have modified their benefit and cost-sharing design over time to alter consumer behavior. Some critics of MSA's are concerned that individuals may forego preventive care to save money. I personally believe that greater control over your health care dollars will encourage more preventive care in this environment.

In my MSA proposal, we would allow a plan to possibly stretch the effect of cost-conscious purchasing by requiring a 50 percent copayment for the first $5,000 of services in a year as opposed to the traditional high deductible plan. My bill would allow this flexibility.

Mr. President, in closing, we, in America, are fortunate to have the absolute highest quality health in the world. When leaders of the world become seriously ill, they do not go to Great Britain or Canada to seek treatment. They come to the United States. While there are those who would like to stifle our technological advances and allow bureaucrats to tell us how much and what kind of health care we can receive, the American people have loudly and clearly rejected this notion.

No one can predict what will happen in medicine over the next 50 years. Over the last 50 years, there have been tremendous changes. The technological advances are simply mind-boggling. The challenge for us in health care is to maintain the highest quality of health care in the world and at the same time to continue to make it available to all Americans, but this can be done only if we change that basic framework through which medical services are consumed.

A medical savings account, again, is not the answer to these problems. But it is an alternative. It is an option which will go a long way to empower individual consumers.

HONORING HARRY KIZIRIAN

Mr. PELL. Mr. President, today the Senate will act on H.R. 1606, legislation to designate the U.S. Post Office Building located at 24 Corliss Street, Providence, RI, as "The Harry Kizirian Post Office Building." I was pleased to join my colleague, Senator JOHN CHAFEE, in cosponsoring the Senate version of the bill, S. 786.

It is a fitting tribute for Congress to name this particular structure after Harry Kizirian because it was the first post office in the United States to use a fully automated sorting system, under Harry's supervision. Harry Kizirian himself is a Rhode Island landmark because of his extraordinary contributions to the United States, to Rhode Island, and to Providence.

When Harry was just 15 years old, his father died, and he went to work part-time as a postal clerk to help support his widowed mother. He then worked his way up through the leadership positions in the Postal Service. After being nominated by former Senator John O. Pastore, Harry was confirmed by the Senate in 1961 as postmaster of Providence, RI, a post he held for more than 25 years.

World War II interrupted Harry's career for a short time. He enlisted in the U.S. Marine Corps after he graduated from Mount Pleasant High School and subsequently became Rhode Island's most decorated marine.

He fought in Okinawa and was shot in battle. He earned the Navy Cross, the Bronze Star with a "V", the Purple Heart with a gold star and, finally, the Rhode Island Cross.

After the war, Harry returned to Rhode Island and to his job at the Post Office. In addition to his military service and his work in the Postal Service, he had served on numerous committees and boards in Rhode Island.

Harry served on the board of directors of Butler Hospital, Big Brothers of Rhode Island, the Providence Human Relations Commission, Rhode Island Blue Cross, and Rhode Island Heart and Lung Associations.

He was also a member of the Community Advisory Board of Rhode Island College, the Providence Heritage Commission, the Commission on Rhode Island Medal Honor Recipients, DAV, and the Marine Corps League.

Harry Kizirian's name has become synonymous with the qualities he exemplifies—dedication, loyalty, leadership, and hard work. I am delighted to honor him, not only for his lifetime of service to the Postal Service, but also for his involvement with and commitment to his community. Congratulations, Harry.

U.S. WORKERS NEED MORE PROTECTION UNDER OUR IMMIGRATION LAWS

Mr. KENNEDY. Mr. President, legal immigration within the limits and rules of our immigration laws has served America well throughout our history, and is one of the most important elements of our national strength and character.

Clearly, Congress and the American people today are rightly concerned about illegal immigration. There is broad bipartisan support for effective measures to crack down on this festering problem. But we must be careful to ensure that attitudes toward illegal immigrants do not create a backlash against legal immigrants.

In general, the current laws and policies on legal immigration work well, and we must be hesitant to change them, especially those that give high priority to encouraging family reunification and enabling U.S. citizens to bring their spouses, children, parents and siblings to this country.

But one area of legal immigration that needs reform is in the rules protecting American workers. It has become clear that protections for U.S. workers under current law have not kept pace with changes in the American labor market and the world labor market.

This problem is particularly serious in our laws permitting the entry of temporary foreign workers—the so-called nonimmigrants. Hearings conducted earlier this month by the Senate Subcommittee on Immigration, under the able chairmanship of Senator SIMPSON, have revealed the depth of this problem.

U.S. companies are increasingly outsourcing activities previously performed by permanent employees. More firms are resorting more often to the use of temporary workers or independent contractors as a way of increasing profits and reducing wages and benefits, even though the result is less in-house expertise for the firms.

Often, the workers brought in from outside are U.S. citizens. But increasingly, U.S. firms are also turning to temporary foreign workers. Yet, this little known aspect of our immigration laws includes few protections for U.S. workers.

Current laws governing permanent immigrant workers require employers to try to recruit U.S. workers first. The Department of Labor must certify that efforts for such recruitment have been carried out before an employer can sponsor an immigrant worker. This process has some shortcomings, but it is intended to guarantee that immigrant workers do not displace American workers.

A serious problem is that our laws governing temporary foreign workers contain no such requirement. They are based on the outdated view that because they enter only temporarily, few protections for U.S. workers are required. Current law does not require employers to try to recruit U.S. workers first, and the Department of Labor has little authority to investigate and remedy abuses that arise, such as the underpayment of wages or the use of inadequate working conditions.

As a result, a U.S. firm can lay off permanent U.S. workers and fill their jobs with temporary foreign workers—either by hiring them directly or by using outside contractors.

In one case, a major U.S. computer firm laid off many of its U.S. computer programmers, then entered into a joint venture with an Indian computer firm that supplied replacement programmers—most of whom were temporary workers from India.

While reforms are needed in this area, we must be careful not to throw the baby out with the bath water. Many temporary workers who come here provide unique skills that help the United States to stay competitive in the global marketplace. For example, such workers can bring unique knowledge and expertise to university research programs developing new medical advances and new technologies.

As Congress takes up far-reaching reforms in legal immigration, it is vitally important that we recognize these basic distinctions. Stronger protections for American workers are needed. But they are not inconsistent with preserving an appropriate role for foreign workers with unique skills.

In our subcommittee hearings earlier this month, Secretary of Labor Robert Reich proposed three important changes to our immigration laws on temporary foreign workers. I believe these should receive serious consideration by Congress.

Secretary Reich proposed, first, that these employers should be required to make good faith efforts to recruit U.S. workers first—before seeking the entry of a foreign worker. Second, he proposed that employers who lay off U.S. workers should be precluded from seeking foreign workers in that field for at least 6 months. Third, he proposed that the length of time that temporary foreign workers may remain in the United States be reduced from 6 years under current law to no more than 3 years, in order to reduce the overall number of temporary foreign workers in the country at a given time.

In addition to these three thoughtful proposals by Secretary Reich, the bipartisan Commission on Immigration Reform, chaired by former Congresswoman Barbara Jordan, has recommended that employers who request immigrants also be required to contribute to the training of American workers. As the Commission stated in its report last June,

> To demonstrate the bona fide need for a foreign worker and to increase the competitiveness of U.S. workers, an employer should be required to pay a substantial fee, that is, make a substantial financial investment into a certified private sector initiative dedicated to increasing the competitiveness of U.S. workers.

Each of these proposals is worth serious consideration by Congress—both for permanent immigrant workers and for temporary foreign workers. As Congress moves forward in the coming months on far-reaching immigration reform legislation, it is essential that we enact stronger safeguards against unscrupulous resorting to foreign workers at the expense of American workers, and I look forward to working closely with my colleagues in the Senate and the House to achieve this important goal.

Mr. President, I ask unanimous consent that a recent article from the Washington Post—"White-Collar Visas: Importing Needed Skills or Cheap Labor?"—be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 21, 1995]

WHITE-COLLAR VISAS: IMPORTING NEEDED SKILLS OR CHEAP LABOR?

(By William Branigin)

A large New York insurance company lays off 250 computer programmers in three states and replaces them with lower-wage temporary workers from India. A Michigan firm sends underpaid physical therapists from Poland to work at health care facilities in Texas. A company in California advertises that it can supply employers with "technical workers" from the Philippines at low pay.

Even the White House resorts to cheap technical help, using a company that imports most of its workers from India to upgrade the president's correspondence-tracking computer system.

As Congress considers major changes in immigration law, the Department of Labor and a number of professional associations and private citizens are citing cases such as these in urging an overhaul of a little-known immigration program designed to meet shortages of highly skilled workers in certain "specialty occupations." The debate highlights much broader dilemmas that the nation faces as it tries to decide how many foreigners to admit and what qualifications to demand of them.

Each year, tens of thousands of such workers from around the world are brought into the United States under the H-1B visa program, which admits computer programmers, engineers, scientists, health care workers and fashion models under "nonimmigrant" status.

Businesses say they need the program to obtain quick, temporary professional help that cannot be found in the U.S. work force. They say the visa category enables them to hire people with "unique" skills—the "best and brightest" that the world has to offer—and to compete in an increasingly tough global market.

Advocates of this and other employment-based visa programs cite numerous cases in which foreign professionals with special expertise have made valuable contributions to American science and technology and have helped create jobs in the American economy. But the Labor Department says the H-1B program also has been widely exploited to bring in thousands of foreign professionals and technicians whose chief attraction is that they are willing to work for much lower salaries than their U.S. counterparts. Many are imported by job-contracting firms known as "body shops," which recruit the foreign professionals and hire them out to major U.S. companies at a profit.

In many cases, "employment-based immigration is used not to obtain unique skills, but cheap, compliant labor," said Lawrence Richards, a former IBM computer programmer who formed the Software Professionals' Political Action Committee last year after colleagues were laid off and replaced by lower-paid programmers from India.

Richards and other critics of the H-1B visa program described the imported professionals as "techno-braceros," the high-tech equivalent of migrant farm workers.

They charged that the program is driving down wages in certain sectors, displacing American workers and bringing in foreigners who often are effectively "indentured" to their employers. In the long run, they predicted, it will accelerate the flight of high-tech jobs overseas, discourage American students from studying for those occupations and produce the very shortages it was designed to alleviate.

In addition, some immigrants have used the program to set up lucrative job-contracting concerns that discriminate against Americans in hiring, sometimes even as they receive federal assistance for minority-owned businesses.

To remedy what he says is a situation "fraught with abuse," Labor Secretary Robert B. Reich is seeking major reforms under immigration legislation now being debated in both chambers of Congress.

"We have seen numerous instances in which American businesses have brought in foreign skilled workers after having laid off skilled American workers, simply because they can get the foreign workers more cheaply," Reich said in an interview. The program "has become a major means of circumventing the costs of paying skilled American workers or the costs of training them," he added.

"There is abuse of the current nonimmigrant system, but it is by no means overwhelming," argued Austin T. Fragomen, an immigration lawyer who represents major U.S. corporations. "To the extent there is abuse, [it] occurs among small, relatively unknown companies" and should be "controlled through more effective enforcement," he said in written Senate testimony last month.

"It is minimally widespread," said Charles A. Billingsley, of the Information Technology Association of America, a pro-immigration group. "Are U.S. workers being put out of work by foreign workers? Probably. But the occurrence is minuscule." In any case, he said, H-1B visa holders account for only " a fraction of the U.S. work force."

Such arguments are not much comfort to John Morris, who owns a computer consulting firm in Houston. He said he lost his largest customer, a major oil company, when he refused to supply it with cheap foreign programmers.

"Greed is the reason they're doing this," Morris said. "Anybody who says it ain't greed is smoking rope."

He said he also has turned down a Chinese company's offer to provide programmers for placement at $500 a month in jobs that usually would pay $5,000 a month.

"The Chinese are desperate to get in here," Morris said. "This is economic warfare."

In 1990, Congress passed an immigration act that raised a cap on permanent employment-based immigration from 54,000 to 140,000 a year in response to fears of an imminent shortage of scientists, engineers and other highly skilled professionals. A separate provision created the H—1B visa category, which lets in as many as 65,000 professionals a year for stays of up to six years. These workers are supposed to be paid "prevailing wages" and not used to break strikes.

The H-1B provision requires no test of the U.S. labor market for the availability of qualified American workers, and it does not bar businesses from replacing U.S. workers with "temporary" nonimmigrants.

In practice, critics say, "prevailing wages" have been defined too broadly to prevent many job contractors from significantly undercutting the salaries usually paid to Americans. Moreover, the anticipated shortages did not materialize, in part because defense industry cuts after the end of the Cold War added to the ranks of an estimated 2.3 million Americans who have been laid off so far this decade.

In Senate testimony last month, Reich called on Congress to prohibit employers from hiring nonimmigrant workers in place of Americans who were laid off. He said companies should be required to show they had tried to "recruit and retain U.S. workers' in the occupations for which nonimmigrants were sought. He also recommended that the permitted stay of these workers be reduced to three years.

"Hiring foreign over domestic workers should be the rare exception, not the rule," Reich said.

The labor secretary noted that although nonimmigrant workers are admitted on a "temporary" basis, many stay for years, sometimes illegally. More than half of foreigners granted permanent resident status in fiscal 1994 originally came in as nonimmigrant students or "temporary" workers, Reich said.

In response to "abuse" of the nonimmigrant programs, over the past three years the Labor Department has charged 33 employers with wage violations involving more than 400 workers in physical therapy and computer-related occupations.

In one case, the department found that an Indian-owned firm in Michigan called Syntel Inc. had "willfully underpaid" its Indian computer programmers, who came to the United States under H-1B visas and made up more than 80 percent of the company's work force.

In November last year, American International Group, a large Manhattan-based insurer, paid off 250 American programmers in New York, New Jersey and New Hampshire and transferred the work to Syntel. Syntel assigned some of the work to about 200 Indians it had brought in, reportedly at about half the American's salaries, and gave the rest to much lower-paid employees at its home office in Bombay. During their last weeks of employment, the laid-off U.S. workers were even required to train their replacements, Reich said.

"It was clear that Syntel did not bring in any special skills that we did not have," said Linda Kilcrease, one of the full-time programmers who lost their jobs.

Another Michigan company, Rehab One, was found by the Labor Department to have underpaid physical therapists it brought in from Poland. The workers, who came in with H-1B visas, were assigned to U.S. health care facilities, primarily in Texas, and were paid as little as $500 a month, the department found.

In New Jersey, a major shipping company, Sea-Land Services, laid off 325 computer programmers this year and replaced them with Filipinos supplied by Manila-based Software Ventures International. The Americans, who were paid about $50,000 a year on average, also had to train the lower-paid Filipinos, most of whom eventually returned to Manila to carry out the work even more cheaply there.

"I was outraged," said Jessie Lindsay, one of the former Sea-Land programmers. "There were highly paid technical jobs leaving the country. . . . What's the point of getting an education and technical training if companies can get away with hiring at slave wages?"

Mastech Corp., of Oakdale, Pa., a company owned by two Indian immigrants that has won millions of dollars in consulting contracts with the federal government, has brought in about 900 of its 1,300 workers from India under the H-1B program. From 1991 until Sept. 30, one of its contracts, obtained under a set-aside program for minority-owned businesses, involved "computer system integration, installation, maintenance and operational support for the White House correspondence system," the presidential press office said.

"We have been lumped in with some other companies that allegedly underpay their foreign workers," a Mastech executive said. "We are not a low-paying company."

One of the latest controversies over the H-1B program erupted last month after it was reported that the National Association of Securities Dealers had laid off 30 contract computer programmers and hired an Indian firm, Tata Consultancy Services, to do the work. The government-chartered association, based in Rockville, Md., owns, operates and regulates the Nasdaq Stock Market. Tata, which has a regional office in Silver Spring, is part of a huge Indian conglomerate that company officials say produces everything from tea to computer software.

An NASD spokesman, Marc Beauchamp, said Tata would employ about 40 people on the project, half of them working here on H-1B visas and half at Tata's home office in Bombay. He denied that any full-time NASD employees were fired and said that "fewer than 20 outside contractors could possibly be affected" by the move.

The Indians essentially would be maintaining "outmoded technology" so that regular NASD programmers could "focus on new technologies" and perform "more challenging work," Beauchamp said. "We found it made no business sense to hire programmers that we would have to pay more than, or as much as, the people we have on staff," he said.

Neither NASD nor Tata would disclose details of the contract. However, Tata insisted that it follows all U.S. regulations and wage requirements.

"We are not a body shop," said A. Sruthi Sagar, the firm's personnel manager. "We are not in the business of providing cheap labor to the United States."

TRANSFER OF BUREAU OF LAND MANAGEMENT LANDS TO THE STATES

Mr. BURNS. Mr. President, I rise today to talk about an issue that I firmly believe in, more localized control of our public lands. I am here today to set the facts straight so that the people of Montana get the real story and can make their decision on two pieces of legislation before this body.

Several months ago I cosponsored a bill, S. 1031, that will allow the Governors of States with Bureau of Land Management lands to request these lands be transferred to the States in which they are located. This bill brings control of public lands to the local government and out of the stone cold buildings in this town. I signed on to this bill as a way of addressing an issue that I have fought long and hard for local control and oversight of public lands by the people that live in and around those lands.

This bill will provide for the Secretary of the Interior to offer to transfer BLM lands to the States in which they are located. The Governor of the State will then have 2 years in which to make the decision on the future of this land. A Governor can either accept the title transfer of these lands or they may reject this offer. If accepted, then within the following 10 years the Secretary will transfer these lands to the States.

What this effectively does, Mr. President, is place control and oversight of these lands into the hands of those closest to the land. This puts the decisions on the use of this land into the local hands, and out of the hands of people that live thousands of miles away. It will provide a better opportunity for all Montanans to have a voice in the future of the public lands in the State.

There have been many incidents in Montana where people, outside the State, have affected the Federal land policy of land within Montana. People living in downtown New York City have placed a stamp on an envelope and appealed decisions that effect the people in Montana. This goes against every promise the West ever offered to those who live there. Throughout my tenure in the Senate I have stood strong on one basic philosophy; the people of Montana know what is best for Montana. The best decisions are made at the local level. We do not need a Federal land manager in Washington to tell us how to manage our lands. The land managers in the State have a better understanding of the needs and the future of the lands in Montana.

One of the basic misconceptions that have been expounded on by the opponents of this bill is that the sportsmen and other Montanans will lose access to the lands. This is far from the truth. Our State lands are open to the public, more open than the Federal Government makes their land.

I must assure my fellow Montanans that I would never do anything to deprive them of their rights to hunt or fish or have access to our lands. As a founding member of the Congressional Sportsmen's Caucus I have fought hard for the sportsmen across the country. The goal of the caucus is to provide more opportunities for all the sportsmen throughout the state and the nation, and I am proud to serve as the Senate cochair.

As I look at this legislation I would like to ask a couple of questions about the future of public lands. In Montana I wonder who among us would like to have the future of our public lands, our access to those lands and use of them, determined by Federal land managers in Washington? How many of us would prefer to have our neighbors and friends, those people who live in our state determine when and where we can use and have access to the lands?

I would like to return debate of this bill to the topic from which it has been built. Local control over local lands and access to lands by the people in the State where the lands are located. Multiple use of the lands by people who understand the concept of multiple use.

This is not a bill that sells land to private interests or closes land off to the residents of a State. It is a bill which allows each and every State that has lands the opportunity to determine the future of their lands.

I end by restating one belief that I have always held near and dear when talking about Montana. I stand firm in the fact that Montanans make the best decisions about the future of Montana.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on that evening in 1972 when I first was elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned that the total Federal debt which is $27 billion shy of $5 trillion, which we will pass this year. Of course, Congress is responsible of creating this monstrosity for which the coming generations will have to pay.

The young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 22, 1992. I wanted to make a matter of daily record of the precise size of the Federal debt which as of yesterday, Monday, October 23, stood at $4,973,904,347,350.96 or $18,881.03 for every man, woman, and child in America on a per capita basis.

FOOD QUALITY PROTECTION ACT

Mrs. FEINSTEIN. Mr. President, I am pleased to join as a cosponsor of S. 1166, the Food Quality Protection Act, introduced by Senator LUGAR.

This legislation addresses three major issues: the need to ensure that tolerances of pesticides in food safeguard the health of infants and children; the need to encourage the registration of minor use pesticides; and the need to repeal the Delaney clause and replace it with a negligible risk standard for pesticide residues in both raw and processed foods.

The Delaney clause was enacted in 1958 as part of the Federal Food, Drug, and Cosmetic Act to prohibit any residue of a food additive that has been found to cause cancer, no matter the amount of the risk to human health. In the intervening years, our ability to detect residues has improved, to the point where we can now detect minute amounts, even parts per trillion.

Many including the Environmental Protection Agency agree the Delaney clause zero risk standard should be replaced with a de minimis standard. In fact, for a number of years, EPA has used a de minimis standard for regulating pesticide residues on food.

However, as a result of the court decision in Les versus Reilly and a consent decree in California versus Browner, the Environmental Protection Agency will have to strictly enforce the Delaney clause the end of this year. Strict enforcement of the Delaney clause will result in the cancellation of tolerances of over 100 chemicals used in California agriculture, even if they pose only a negligible risk of one in a million additional risk of cancer in a lifetime. In order for agriculture to retain use of these chemicals, it is imperative that the Delaney clause be replaced with a negligible risk standards that protects human health, including the health of infants and children.

S. 1166 replaces the Delaney zero risk standard with a negligible risk standard. EPA has been defining negligible risk as one additional cancer for every one million people exposed.

The issue of food safety is extraordinarily important both to California agriculture and to the health of 32 million Californians. About 20 percent of the agricultural chemicals sold in the United States—about 500 billion pounds of chemicals—are used in the State annually. California has its own pesticide regulation program and in many cases has stricter standards for pesticides than the national standards.

A concern that I have about S. 1166 is that it provides for national uniformity and preempts California's more stringent standards. I believe that States should be able to set tougher standards, and will move an amendment to do so.

I will work to improve the bill as it goes forward, and to get a bill enacted. It is vital that we reform the Delaney clause this year.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 6:07 pm., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1254. An act to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.

H.R. 402. An act to amend the Alaska Native Claims Settlement Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1543. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report entitled, "National Annual Industrial Sulfur Dioxide Trends, 1995-2015"; to the Committee on Environment and Public Works.

EC-1544. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report entitled, "Acid Deposition Standard Feasibility"; to the Committee on Environment and Public Works.

EC-1545. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report regarding the progress implementing the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act; to the Committee on the Environment and Public Works.

EC-1546. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend title 31 United States Code, to require executive agencies to verify for correctness of transportation charges prior to payment, and for related purposes; to the Committee on Governmental Affairs.

EC-1547. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report summarizing actions taken under the Program Fraud Civil Remedies Act [PFCRA] during fiscal year 1995; to the Committee on Governmental Affairs.

EC-1548. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, a draft of proposed legislation to allow removal of suits against the United States and its agencies, as well as those against Federal officers, and to allow removal of suits against Federal officers, and to allow removal of suits against Federal agencies and officers that are brought in local courts of U.S. territories and possession; to the Committee on the Judiciary.

EC-1549. A communication from the Vice President of the American Council of Learned Societies, transmitting, the annual report for fiscal year 1994; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-374. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-375. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-376. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-377. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-378. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

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POM-381. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-382. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-383. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-384. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-385. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-386. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-387. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-388. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

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POM–401. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM–402. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM–403. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

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POM–445. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM–446. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM–447. A resolution adopted by the Interstate Oil and Gas Compact Commission relative to the Arctic National Wildlife Refuge; to the Committee on Energy and Natural Resources.

POM–448. A resolution adopted by the Southern Governors' Association relative to the Endangered Species Act; to the Committee on Environment and Public Works.

POM–449. A resolution adopted by the Arkansas Wildlife Federation relative to water resources management; to the Committee on Environment and Public Works.

POM–450. A resolution adopted by the board of commissioners of Columbus County, NC, relative to welfare reform; to the Committee on Finance.

POM–451. A petition from a citizen of the State of Texas relative to a Constitutional Convention; to the Committee on the Judiciary.

POM–452. A resolution adopted by the council of the city of Atlanta, GA, relative to drug abuse prevention programs; to the Committee on Labor and Human Resources.

POM–453. A concurrent resolution adopted by the legislature of the State of Mississippi; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION NO. 547

"A concurrent resolution post-ratifying amendment XIII to the Constitution of the United States prohibiting the practice of slavery within the United States except as punishment for a crime whereof the party shall have been duly convicted; and for related purposes.

"Whereas, the Thirty-Eighth Congress of the United States, on February 1, 1865, by the required vote of two-thirds of the membership of both houses thereof, did propose to the legislatures of the several states an amendment to the Constitution of the United States which reads as follows:

"'"AMENDMENT XIII

"'"Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"'"Section 2. Congress shall have power to enforce this article by appropriate legislation.'; and

"Whereas, Amendment XIII officially became part of the United States Constitution on December 6, 1865, when the General Assembly of the State of Georgia furnished that amendment's pivotal twenty-seventh ratification, there being at the time thirty-six states in the Union; and

"Whereas, it is common for state legislatures to continue to act upon amendments to the U.S. Constitution well after those amendments have already received a sufficient number of ratifications in order to become part of that document; and

"Whereas, with specific regard to Amendment XIII, subsequent to the Georgia General Assembly's approval, that amendment was then post-ratified by the legislatures of eight other states which were part of the Union during that era, including that of Delaware in February of 1901, some thirty-five years after Amendment XIII had already been adopted, and that of Kentucky in March of 1976, well over a full century after Amendment XIII had been established as part of our nation's highest law; and

"Whereas, with respect to Amendment XIII, Mississippi, until now, has been the only state which was part of the Union well before and long after Amendment XIII was proposed and ratified whose legislature has denied approval of that important amendment to the U.S. Constitution; and

"Whereas, the people of present-day Mississippi strongly condemn the unconscionable practice of slavery and firmly believe that it is fitting and proper that official action be taken now to finally place upon Amendment XIII the special approval of the State of Mississippi: Now, therefore, be it

"*Resolved by the Mississippi Siate Senate, the House of Representatives concurring therein,* That Amendment XIII to the Constitution of the United States, quoted above and transmitted by resolution of the Thirty-Eighth Congress be, and the same hereby is, post-ratified by the Legislature of the State of Mississippi; be it further

"*Resolved,* That Chapter CVIII, General Laws of 1865, in which the Mississippi Legislature, on December 4, 1865, refused to ratify

Amendment XIII, is hereby specifically rescinded; and be it further

"*Resolved*, That the Secretary of State of the State of Mississippi transmit properly-attested copies of this concurrent resolution to the Archivist of the United States, pursuant to Pub. L. 98-497; to the Vice-President of the United States, as presiding officer of the U.S. Senate; to the Speaker of the U.S. House of Representatives; to both U.S. Senators and to all five U.S. Representatives from Mississippi with the request that this concurrent resolution's text be reproduced in its entirety in the Congressional Record."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Kathleen A. McGinty, of Pennsylvania, to be a Member of the Council on Environmental Quality to which position she was appointed during the last recess of the Senate.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMPSON:

S. 1358. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Carolyn*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON:

S. 1359. A bill to amend title 38, United States Code, to revise certain authorities relating to management and contracting in the provision of health care services; to the Committee on Veterans Affairs.

By Mr. BENNETT (for himself, Mr. DOLE, Mr. LEAHY, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. FRIST, Mr. SIMON, Mr. HATCH, Mr. GREGG, Mr. STEVENS, Mr. JEFFORDS, Mr. KOHL, Mr. DASCHLE, and Mr. FEINGOLD):

S. 1360. A bill to ensure personal privacy with respect to medical records and health care-related information, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. COCHRAN, and Mr. SIMPSON):

S.J. Res. 39. A joint resolution to provide for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

S.J. Res. 40. A joint resolution to provide for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

S.J. Res. 41. A joint resolution to provide for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMPSON:

S. 1359. A bill to amend title 38, United States Code, to revise certain authorities relating to management and contracting in the provision of health care services; to the Committee on Veterans' Affairs.

THE VETERANS HEALTH CARE MANAGEMENT AND CONTRACTING FLEXIBILITY ACT OF 1995

• Mr. SIMPSON. Mr. President, it is a great pleasure for me, as chairman of the Senate Veterans' Affairs Committee, to introduce today the Veterans Health Care Management and Contracting Flexibility Act of 1995. This legislation, Mr. President, would free the Department of Veterans Affairs [VA] from a number of statutory restrictions which unnecessarily limit its authority to contract for health care-related services. It would also ease and clarify current reporting requirements which excessively impede VA's ability to manage its own affairs.

What this bill would accomplish is best understood by considering, first, the health care environment within which all health care providers—including VA—must operate today, and then the state of the law under which VA attempts to so operate. If there is any certainty today with respect to health care, it is this: those who pay for health care—whether those payers be State or Federal Government agencies, insurance carriers or health maintenance organizations, or better informed consumers drawing, perhaps some day, from health savings accounts or simply from their own bank accounts—will no longer tolerate the unrestrained cost inflation that they have been forced to put up with in the past. All health care providers, therefore, are now—and will continue to be—under unprecedented pressure to rein in costs and find operating efficiencies so that they can compete in an increasingly cost sensitive environment.

In light of these realities, all now agree that health care providers must restrain the growth of—or affirmatively cut—costs. One sure way of doing that is to share certain resources—including, but not necessarily limited to, high-technical medical resources—lest there be wasteful duplications in expenditures and effort within local markets. For example, it has become increasingly common for one hospital or practice group to sell, for example, Magnetic Resonance Imaging [MRI] services to another, while buying other diagnostic services from the same purchaser.

Like any health care provider, VA medical centers ought to be able to share, buy and swap all sorts of services with other community providers. But they cannot fully capitalize on such opportunities under current law.

Presently, VA can only share or purchase "medical" services. It cannot share or purchase other critical services, for example, risk assessment services, that all health care providers must either buy or provide "in house." Even within the narrow authority allowing only "medical" services to be shared or purchased, there is an unnecessary restriction. VA cannot purchase or share any medical resource; it can only purchase or share "specialized" medical resources.

And that is not all, Mr. President; there is further restriction imposed upon VA. VA medical centers are not free to purchase from, or share with, any and all health care providers they might find in the local community. They can only "partner up" with—and, here, I quote from statute—"health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools." 38 U.S.C. §8153. This restrictive legal rubric does not extend to VA authority to enter into sensible sharing arrangements with other potential partners such as HMOs, insurance carriers or other "health plans," or with individual physicians or other individual service providers.

One provision of my bill, Mr. President, would cut through this legal thicket by expanding significantly VA's current sharing authority. In summary, VA would be authorized to share, purchase or swap any resources with any local provider. VA could enter into contracts for any and all "health care resources," a term which is considerably broader than the "specialized medical resource" limitation under which VA now operates. That term would include such resources, but would also include nonspecialized "hospital care," "any other health-care service," and any other "health-care support or administration resource."

Further, VA would be authorized to buy from, or share with, any "non-Departmental health care provider"—a term which would include the "health-care facilities" and "research centers and medical schools" with which VA may not contract, but which would also include other "organizations, institutions, or other entities or individuals that furnish health-care resources," and also "health care plans and insurers."

Thus, Mr. President, my bill seeks to open up to VA an entire new world of potential sharing partners and sharing opportunities. While VA would not have totally unfettered authority to buy and sell services—for example, VA would be required to ensure that any such arrangements not diminish services made available to its veteran patients—it is my intention that VA be freed from restrictions which were applied when VA tried to do everything itself "in-house." There was a time, perhaps, when VA could afford to try to be everything to everyone, but it cannot do so now. No modern provider can afford that mentality today.

I note for the Record, Mr. President, that VA has requested the expanded legal authority that I propose today. But it has done so in the context of a much larger bill, S. 1345, that I introduced at VA's request on October 19, 1995. The main thrust of S. 1345 is so-called "eligibility reform," that is, a broad scale revision of current statutes defining who shall be eligible for what VA medical services. That issue, Mr. President, is an extremely thorny one inasmuch as, lying at its very center, are very difficult judgements about who shall have priority over whom in securing VA health care in a period of limited resources. The Committee on Veterans' Affairs intends to take this critical issue up, but it will take time to sort out conflicting claims to priority to such limited resources. I think we ought to proceed now to streamline the statutes that restrict VA's sharing authority—an action which, in my view, can be taken now, and will made sense whether or not we are able to accomplish "eligibility reform."

My bill would do more, Mr. President. As I have pointed out, VA now has authority—though authority that is, in my view, too narrow—to contract for "specialized medical resources." Even so, however, VA medical centers are statutorily barred from "contracting out" the very same services. 38 U.S.C. §8110(c). In addition, they may not contract out activities that are "incident to direct patient care." Id. Finally, VA medical centers may contract out other "activities" at VA medical centers, for example, grounds' maintenance services—but only if VA leaps through a series of substantive and procedural hoops that plainly impede the contracting process.

Under my reading of the law, it is apparently acceptable, under 38 U.S.C. §8153, for a VA medical center to contract for supplemental "specialized" medical services—let us say anesthesiology services—so long as the medical center does not contract out all such services. This distinction, Mr. President, makes no sense to me—and, as I will discuss in a moment, apparently makes no sense to the Congress any longer. Further, it makes no sense to me that VA cannot contract out services that are "incident to direct care"—assuming one can identify the legal boundaries of activities that are merely "incidental." To my way of thinking, if "direct care" activities ought to be shared and purchased without significant restriction—as VA espouses in recommending modifications to 38 U.S.C. §8153—they ought to be subject to purchase wholly by the medical center through the "contracting out" process. And if "direct care" activities ought to be subject to contracting, then, clearly, services that are "incidental" to such activities should be too.

Of course, Mr. President, what is true for direct care services—services which go to the core of what VA does—is also true for other activities at VA medical centers: all such activities ought to be subject to contracting if contracting makes economic sense. We can afford no other standard. Unnecessary impediments to contracting—such as those set up by 38 U.S.C. §8110(c)—ought to be swept away.

As I noted a moment ago, the Congress has apparently come to that conclusion already. In the 104th Congress, we suspended application of restrictive aspects of section 8110(c) through fiscal year 1999. See 38 U.S.C. §8110(c)(7). Mr. President, it is clear to us all that VA will not be under less budgetary pressure in the year 2000 than it is now. We ought not to indulge the fiction that VA will be able to afford to hold all activities "in house" then, if it cannot afford to do so now. In short, we should have repealed section 8110(c) last year—and we ought to do so now.

Finally, Mr. President, I note another restrictive provision of law that ought to be swept away—or at least narrowed—now. Under current law, VA is precluded from putting into effect certain field facility "administrative reorganizations"—essentially, those which will result in a force reduction of 15 percent or more at any particular site—unless it has first given the Congress 90-days notice computed to count only those days when both Chambers of Congress are in session. 38 U.S.C. §510.

Two difficulties arising from this provision of law came into focus earlier this year when VA's Under Secretary for Health, Doctor Ken Kizer, submitted a proposal to reorganize VA's 172 medical centers into 22 "Veterans Integrated Service Networks" [VISNs]. While Doctor Kizer had briefed Congress extensively on his sensible reorganization model during its development, he still had to wait more than 3 months after the announcement of the reorganization before he could, by law, take any "action to carry out such administrative reorganization." 38 U.S.C. §510(b). Worse, since the statute specifies that the 90-day "notice and wait" period runs only when both bodies of Congress are in session, Id., he—and we—were unable to determine when the 90-day notice would expire since no one was able to know when either body of the Congress might recess.

Such obstructionism by the Congress is, in my view, most unfortunate and unseemly. I really think that we ought to grant more trust to the senior officials we confirm than is reflected in this statute. Yet, I remain sensitive to the Members' needs to know if a field office reorganization will adversely affect a significant number of their constituents. Therefore, I do not propose today that this provision of law be totally repealed. I do propose, however, that we reduce the "notice and wait" period to 45 calendar days. That period, I believe, is sufficient to allow Senators and House Members an opportunity to assess the impact of a given reorganization on their constituents.

To recap, Mr. President, my bill would expand VA's authority to share, purchase and swap resources, as is necessary to meet the challenges of 21st century medicine. And it would remove an excessive restriction on VA's right to organize and station its employees efficiently. These measures are dictated by common sense and are, in the main, supported by VA. I request the support of this body.

I request unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Management and Contracting Flexibility Act of 1995".

SEC. 2. WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATIONS.

Section 510(b) of title 38, United States Code, is amended—

(1) in the second sentence, by striking out "90-day period of continuous session of Congress following" and inserting in lieu thereof "45-day period beginning on"; and

(2) by striking out the third sentence.

SEC. 3. REPEAL OF LIMITATIONS ON CONTRACTS FOR CONVERSION OF PERFORMANCE OF ACTIVITIES OF DEPARTMENT OF HEALTH-CARE FACILITIES.

Section 8110 of title 38, United States Code, is amended by striking out subsection (c).

SEC. 4. REVISION OF AUTHORITY TO SHARE MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION.

(a) STATEMENT OF PURPOSE.—The text of section 8151 of title 38, United States Code, is amended by read as follows:

"It is the purpose of this subchapter to improve the quality of health care provided veterans under this title by authorizing the Secretary to enter into agreements with health-care providers in order to share health-care resources with, and receive health-care resources from, such providers while ensuring no diminution of services to veterans. Among other things, it is intended by these means to strengthen the medical programs at Department facilities located in small cities or rural areas which facilities are remote from major medical centers.".

(b) DEFINITIONS.—Section 8152 of such title is amended—

(1) by striking out paragraphs (1), (2) and (3) and inserting in lieu thereof the following new paragraphs (1) and (2):

"(1) The term 'health-care resource' includes hospital care (as that term is defined in section 1701(5) of this title), any other health-care service, and any health-care support or administrative resource.

"(2) The term 'health-care providers' includes health-care plans and insurers and any organizations, institutions, or other entities or individuals that furnish health-care resources."; and

(2) by redesignating paragraph (4) as paragraph (3).

(c) AUTHORITY TO SECURE HEALTH-CARE RESOURCES.—(1) Section 8153 of such title is amended—

(A) by striking out paragraph (1) of subsection (a) and inserting in lieu thereof the following new paragraph (1):

"(1) The Secretary may, when the Secretary determines it to be necessary in order to secure health-care resources which otherwise might not be feasibly available or to utilize effectively health-care resources, make arrangements, by contract or other form of agreement, for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and non-Department health-care providers. The Secretary may make such arrangements without regard to any law or regulation relating to competitive procedures."; and

(B) by striking out subsection (e).

(2)(A) The section heading of such section is amended to read as follows:

"§8153. Sharing of health-care resources".

(B) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 8153 and inserting in lieu thereof the following new item:

"8153. Sharing of health-care resources.".●

By Mr. BENNETT (for himself, Mr. DOLE, Mr. LEAHY, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. FRIST, Mr. SIMON, Mr. HATCH, Mr. GREGG, Mr. STEVENS, Mr. JEFFORDS, Mr. KOHL, Mr. DASCHLE, and Mr. FEINGOLD):

S. 1360. A bill to ensure personal privacy with respect to medical records and health care-related information, and for other purposes; to the Committee on Labor and Human Resources.

THE MEDICAL RECORDS CONFIDENTIALITY ACT OF 1995

● Mr. BENNETT. Mr. President, today I am introducing the Medical Records Confidentiality Act of 1995. This legislation is one of the many small steps that are needed to reform our health care system. I am pleased that a number of my Republican and Democratic colleagues have joined me in cosponsoring this legislation.

I can think of few other areas in our lives that are more personal and private than is our medical history. Each of us has a relationship with our doctors, nurses, pharmacists, and other health care professionals that is unique and privileged. They may know things about us that we choose not to tell our spouses, children, siblings, parents, or our closest friends. While our medical records may contain nothing out of the ordinary, to us these records should be strictly personal.

S. 1360 aims, first, to provide Americans with greater control over their medical records in terms of confidentiality, access, and security, and second, to provide the health care system with a Federal standard for handling identifiable health information.

Most Americans believe their medical records are protected in terms of confidentiality under Federal law. Most Americans are mistaken. Protecting the confidentiality of our medical records is an expectation that is yet to be guaranteed as a right. This legislation is an opportunity for Congress to act in a bipartisan manner to resolve an important problem within our health care system. Today over 80 percent of our medical records are paper based; however, in the not too distant future all of our medical records will be electronic based.

In my opinion and in the opinion of a number of outside groups such as the Center for Democracy and Technology, American Health Information Management Association, International Business Machines Corporation, Blue Cross and Blue Shield Association, and the American Hospital Association, it is time to put into place the safeguards and security measures needed to protect the integrity and confidentiality of our medical records.

Patients should be assured that the treatment they receive is a matter between themselves and their doctor, regardless if it's a yearly physical, psychiatric evaluation, plastic surgery, or cancer treatment. The majority of patients agree that treatment and billing are the two appropriate uses of medical records. This legislation provides patients the right to limit disclosure of medical records for purposes other than treatment and billing and requires separate authorization forms for treatment, billing and other kinds of disclosures. It also requires providers to keep a record of those to whom they disclose information.

In the hospital, most patients are unaware that their records are accessible to almost any health care provider walking into their room or almost any hospital employee with a computer who can gain access to the hospital's computer system. There are a number of doctors and nurses who refuse to be treated in the hospital where they practice medicine because they know that with a stroke of a keyboard their colleagues will know why they are in the hospital and know they are being treated.

One of the most important issues this legislation addresses is that of access to personal medical records. It is difficult for most of us to understand that in many instances individuals may have great difficulty gaining access to their own medical records. There are no Federal laws regarding access to medical records and only a few States allow patients the right to review and copy their medical records. In many instances, if the medical record is incorrect the patient never has the opportunity to address those errors. This legislation would allow individuals not only access to their records but also the opportunity to address any errors.

This legislation will enable organizations and entities involved in providing health care, or who act as contractors or agents to providers, to abide by one standard for confidentiality. Our health care system grows more complex and sophisticated with each year. Having one standard will simplify the business of health care, reduce the cost of complying with 50 State standards and allow the continuation of research that will improve the efficiency of our health care system.

Currently, the only protection of medical records is under State laws. At this time there are 34 States with 34 different laws to protect these records. Only 28 States provide patients with access to their medical records. My own State of Utah does not have a comprehensive law to protect medical records or provide access. Given the transient nature of our society and that fact that more than 50 percent of the population live on a State border, it is vital that we provide a national standard for the protection of medical records.

It is unfair to both the patients and the providers of medical services not to clearly and concisely outline the rights of the patient and define the standards of disclosure. The effort to provide Federal protection of medical records has continued for the last 20 years. Many of the outside groups that have provided assistance to me and my staff have been involved for many of these years. Those groups that have provided assistance include patient right advocates, health care providers, electronic data services, insurance companies, health researchers, States, health record managers—to name just a few. I am grateful to them for their assistance and expertise; without their efforts we would not be here today.

I want to express my appreciation to the two leaders, Senators DOLE and DASCHLE for their support as cosponsors. I am very pleased to have Chairwoman KASSEBAUM and the ranking minority member, Senator KENNEDY of Labor and Human Resources Committee as cosponsors. I want to express my appreciation to Senator LEAHY for his efforts on this legislation. He has been a supporter of this legislation for a number of years and I appreciate his cosponsorship I am also pleased to add Senators HATCH, FRIST, JEFFORDS, STEVENS, GREGG, SIMON, KOHL, and FEINGOLD as original cosponsors. I hope the Senate will act swiftly to hold hearings and to move this legislation through the committee process to the Senate floor for final consideration. I would urge my colleagues to support this legislation and would welcome their cosponsorship.●

● Mrs. KASSEBAUM. Mr. President, I rise today to join Senator BENNETT, the distinguished majority leader, Senators HATCH, KENNEDY, FRIST, LEAHY, SIMON, and others in introducing the Medical Records Confidentiality Act of 1995.

We have spent a great deal of time and energy these last several months—and will spend even more time during the coming weeks—debating changes to the Medicare and Medicaid programs.

As we debate these changes, the private health care system continues to literally transform itself overnight.

While health providers still wrestle with multiple paper forms and bulky files, increasingly health information and data is digitally transmitted to multiple databases by high-speed computers over fiber-optic networks. Many Americans believe their private medical records are safely stored in doctors' offices and hospitals. Yet, the evolving health care delivery system and the technological infrastructure necessary to support it has left gaping holes in the patchwork of current State privacy laws and threatened the confidentiality of private medical information.

Let me give just one example that highlights both the promise and the peril of medical information. Recent advances have allowed researchers to identify a growing number of genetic characteristics that place individuals at higher-than-average risk for developing disease. While genetic research provides tremendous opportunities to help us better treat and manage illness, disclosure of genetic information also may place individuals at a greater risk of discrimination in obtaining health coverage for themselves and their families.

The Medical Records Confidentiality Act takes a balanced approach to encouraging the continued development of a world-class health information infrastructure while, at the same time, assuring Americans that their sensitive medical records are protected. The legislation is designed to provide all patients with Federal safeguards for their medical records, whether in paper or electronic form, and to provide doctors, hospitals, insurance companies, managed care companies, and other entities that have access to medical records with clear Federal rules governing when and to whom they may disclose health information.

Mr. President, I applaud Senator BENNETT for taking on such a complex and important issue. I look forward to working with him, and with my colleagues on the Senate Committee on Labor and Human Resources, to see that this very important piece of legislation is enacted during the 104th Congress.●

Mr. LEAHY. Mr. President, today I join in introducing the Medical Records Confidentiality Act of 1995, with Senator BENNETT, our distinguished colleague from Utah.

For the past several years, I have been engaged in efforts to make sure that Americans' expectations of privacy for their medical records are fulfilled. That is the purpose of this bill.

I do not want advancing technology to lead to a loss of personal privacy and do not want the fear that confidentiality is being compromised to stifle technological or scientific development.

The distinguished Republican majority leader put his finger on this problem last year when he remarked that a compromise of privacy that sends information about health and treatment to a national data bank without a person's approval would be something that none of us would accept. We should proceed without further delay to enact meaningful protection for our medical records and personal and confidential health care information.

I have long felt that health care reform will only be supported by the American people if they are assured that the personal privacy of their health care information is protected. Indeed, without confidence that one's personal privacy will be protected, many will be discouraged from seeking help from our health care system or taking advantage of the accessibility that we are working so hard to protect.

The American public cares deeply about protecting their privacy. This has been demonstrated recently in the American Civil Liberties Union Foundation's benchmark survey on privacy entitled "Live and Let Live" wherein three out of four people expressed particular concern about computerized medical records held in databases used without the individual's consent. A public opinion poll sponsored by Equifax and conducted by Louis Harris indicated that 85 percent of those surveyed agreed that protecting the confidentiality of medical records is extremely important in national health care reform. I can assure you that if that poll had been taken in Vermont, it would have come in at 100 percent or close to it.

Two years ago, I began a series of hearings before the Technology and the Law Subcommittee of the Judiciary Committee. I explored the emerging smart card technology and opportunities being presented to deliver better and more efficient health care services, especially in rural areas. Technology can expedite care in medical emergencies and eliminate paperwork burdens. But it will only be accepted if it is used in a secure system protecting confidentiality of sensitive medical conditions and personal privacy. Fortunately, improved technology offers the promise of security and confidentiality and can allow levels of access limited to information necessary to the function of the person in the health care treatment and payment system.

In January 1994, we continued our hearings before that Judiciary Subcommittee and heard testimony from the Clinton administration, health care providers and privacy advocates about the need to improve upon privacy protections for medical records and personal health care information.

In testimony I found among the most moving I have experienced in more than 20 years in the Senate, the subcommittee heard first hand from Representative Nydia Velázquez, our House colleague who had sensitive medical information leaked about her. She and her parents woke up to find disclosure of her attempted suicide smeared across the front pages of the New York tabloids. If any of us have reason to doubt how hurtful a loss of medical privacy can be, we need only talk to our House colleague.

Unfortunately, this is not the only horrific story of a loss of personal privacy. I have talked with the widow of Arthur Ashe about her family's trauma when her husband was forced to confirm publicly that he carried the AIDS virus and how the family had to live its ordeal in the glare of the media spotlight.

We have also heard testimony from Jeffrey Rothfeder who described in his book "Privacy for Sale" how a freelance artist was denied health coverage by a number of insurance companies because someone had erroneously written in his health records that he was HIV-positive.

The unauthorized disclosure and misuse of personal medical information have affected insurance coverage, employment opportunities, credit, reputation, and a host of services for thousands of Americans. Let us not miss this opportunity to set the matter right through comprehensive Federal privacy protection legislation.

As I began focusing on privacy and security needs, I was shocked to learn how catch-as-catch-can is the patchwork of State laws protecting privacy of personally identifiable medical records. A few years ago we passed legislation protecting records of our videotape rentals, but we have yet to provide even that level of privacy protection for our personal and sensitive health care data.

Just yesterday the Commerce Department released a report on Privacy and the NII. In addition to financial and other information discussed in that report, there is nothing more personal than our health care information. We must act to apply the principles of notice and consent to this sensitive, personal information.

Now is the time to accept the challenge and legislate so that the American people can have some assurance that their medical histories will not be the subject of public curiosity, commercial advantage or harmful disclosure. There can be no doubt that the increased computerization of medical information has raised the stakes in privacy protection, but my concern is not limited to electronic files.

As policymakers, we must remember that the right to privacy is one of our most cherished freedoms—it is the right to be left alone and to choose what we will reveal of ourselves and what we will keep from others. Privacy is not a partisan issue and should not be made a political issue. It is too important.

I am encouraged by the fact that the Clinton administration clearly understands that health security must include assurances that personal health information will be kept private, confidential and secure from unauthorized disclosure. Early on the administration's health care reform proposals provided that privacy and security guidelines would be required for computerized medical records. The administration's Privacy Working Group of its NII task force has been concerned with the formulation of principles to protect our privacy. In these regards, the President is to be commended.

The difficulties I had with the initial provisions of the Health Security Act, were the delay in Congress' consideration of comprehensive privacy legislation for several more years and the lack of a criminal penalty for unauthorized disclosure of someone's medical records.

Accordingly, back in May 1994, I introduced a bill to provide a comprehensive framework for protecting the privacy of our medical records from the outset rather than on a delayed basis. That bill was the Health Care Privacy Protection Act of 1994, S. 2129. I was delighted to receive support from a number of diverse quarters. We were able to incorporate provisions drawn from last year's Health Care Privacy Protection bill into those reported by the Labor and Human Resources Committee and the Finance Committee. These provisions were, likewise, incorporated in Senator DOLE'S bill and Senator MITCHELL'S bills, indicating that the leadership in both parties acknowledges the fundamental importance of privacy.

Although Congress failed in its attempt to enact meaningful health care reform last Congress, we can and should proceed with privacy protection—whether or not a comprehensive health care reform package is resurrected this year. I am proud to say that the Medical Records Confidentiality Act that Senator BENNETT and I are introducing today, derives from the work we have been doing over the last several years. I am delighted to have contributed to this measure and look forward to our bipartisan coalition working for enactment of these important privacy protections.

Our bill establishes in law the principle that a person's health information is to be protected and to be kept confidential. It creates both criminal and civil remedies for invasions of privacy for a person's health care information and medical records and administrative remedies, such as debarment for health care providers who abuse others' privacy.

This legislation would provide patients with a comprehensive set of rights of inspection and an opportunity to correct their own records, as well as information accounting for disclosures of those records.

The bill creates a set of rules and norms to govern the disclosure of personal health information and narrows the sharing of personal details within the health care system to the minimum necessary to provide care, allow for payment and to facilitate effective oversight. Special attention is paid to emergency medical situations, public health requirements, and research.

We have sought to accommodate legitimate oversight concerns so that we do not create unnecessary impediments to health care fraud investigations. Effective health care oversight is essential if our health care system is to function and fulfill its intended goals. Otherwise, we risk establishing a publicly sanctioned playground for the unscrupulous. Health care is too important a public investment to be the subject of undetected fraud or abuse.

I look forward to working with my colleagues both here in the Senate and in the House as we continue to refine this legislation. I want to thank all of those who have been working with us on the issue of health information privacy and, in particular, wish to commend the Vermont Health Information Consortium, the Center for Democracy and Technology, the American Health Information Management Association, the American Association of Retired Persons, the AIDS Action Council, the Bazelon Center for Mental Health Law, the Legal Action Center, IBM Corp., and the Blue Cross and Blue Shield Association for their tireless efforts in working to achieve a significant consensus on this important matter.

With Senator BENNETT'S leadership and the longstanding commitment to personal privacy shared by Chairman KASSEBAUM and Senator KENNEDY, I have every confidence that the Senate will proceed to pass strong privacy protection for medical records. With continuing help from the administration, health care providers and privacy advocates we can enact provisions to protect the privacy of the medical records of the American people and make this part of health care security a reality for all Americans.

By Mr. MOYNIHAN (for himself, Mr. COCHRAN and Mr. SIMPSON):

S.J. Res. 39. A joint resolution to provide for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

S.J. Res. 40. A joint resolution to provide for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

S.J. Res. 41. A joint resolution to provide for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

APPOINTMENTS AS CITIZEN REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. MOYNIHAN. Mr. President, I introduce three joint resolutions to appoint Howard H. Baker, Jr., Anne D'Harnoncourt, and Louis V. Gerstner, Jr., to serve as citizen regents of the Smithsonian Institution. I introduce these joint-resolutions on behalf of my distinguished colleagues, Senators COCHRAN and SIMPSON, with whom I have the privilege to serve on the Smithsonian's Board of Regents.

Howard Baker, whose reputation is well known among the Members of this body, is a superb public servant. After spending 18 illustrious years in the Senate, during which time he served 4 years as majority leader, Senator BAKER went on to become President Reagan's most trusted advisor. He has since returned to private practice, as the senior partner in the law firm of Baker, Donelson, Bearman & Caldwell, but has remained an active leader in the political and business communities. His commitment to both communities is marked by his membership on the Council on Foreign Relations and the Washington Institute of Foreign Affairs and his positions on the boards of Federal Express, United Technologies, and Penzoil. He has most deservedly received the Nation's highest civilian award, the Presidential Medal of Freedom, as well as the Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official.

As the distinguished statesman and gifted strategist that he is, Howard Baker would bring to the Smithsonian a voice that can talk to Congress at a time when that is what is most urgently needed. The Institution would benefit immensely from his political and fiscal wisdom, and I urge my colleagues to support his appointment.

Just as Senator Baker would add his expertise on matters political and economic, Ms. Anne D'Harnoncourt would bring to the Smithsonian vast experience in the management and oversight of a large museum. Having served with her for some 15 years on the Board of the Hirshorn Museum, I can think of no person better suited to serve on the Board of Regents.

Ms. D'Harnoncourt has served as an Assistant Curator for the Art Institute of Chicago, a Curator for the Philadelphia Museum of Art, and is currently the George D. Widener Director of the Philadelphia Museum of Art. She has a broad base of expertise in the arts, and is among the most actively involved in that community. As the Smithsonian continues to broaden its mission within the sciences, Ms. D'Harnoncourt surely would help the Institution remain focused on its long-standing commitment to the arts. Her knowledge and experience would be of inestimable value to the Board of Regents, and I eagerly urge her appointment.

Finally, Louis V. Gerstner, Jr., a gifted leader in the business and educational communities. Mr. Gerstner was named chairman and chief executive officer of International Business Machines Corp. on April 1, 1993, prior to which he served for 4 years as chairman and chief executive officer of RJR Nabisco Inc. He received his B.A. from Dartmouth College in 1963, his M.B.A. from Harvard Business School in 1965, and was awarded an honorary doctorate of business administration from Boston College in 1994.

Mr. Gerstner has long been an advocate of improving the quality of public education in America. He is the co-author of "Re-Inventing Education: Entrepreneurship in America's Public Schools" (Dutton, 1994), which documents public school reforms designed to enable our children to handle the demands of today's complex global economy. At IBM he has redirected a majority of the company's substantial philanthropic resources to support public school reform. His dedication to reinventing both education and management makes him an ideal candidate to serve on the Smithsonian's Board of Regents.

Mr. President, I hope my colleagues will agree that this profoundly talented triumvirate is most deserving of these appointments, and I urge Senators to support all three resolutions.

• Mr. COCHRAN. Mr. President, I am pleased to join Senators MOYNIHAN and SIMPSON in introducing joint resolutions providing for the appointment of Howard H. Baker, Jr., Anne d'Harnoncourt, and Louis V. Gerstner, Jr., as Citizen Regents of the Smithsonian Institution.

Howard Baker is a distinguished public servant well known in this body. He was a Senator from Tennessee from 1967 to 1985, serving as minority leader from 1977 to 1981 and as majority leader from 1981 to 1985. He was Chief of Staff to President Reagan in 1987 and 1988 before returning to the private practice of law. He has received the Nation's highest civilian award, the Presidential Medal of Freedom, as well as the Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official.

Anne d'Harnoncourt is currently the George D. Widener Director of the Philadelphia Museum of Art, having previously served that museum as Curator of Twentieth Century Art and as Assistant Curator of Twentieth Century Art at the Art Institute of Chicago. A Fellow of the American Academy of Arts and Sciences, she is a member of numerous advisory committees and boards, including the board of directors of The Henry Luce Foundation and the board of overseers of the Graduate School of Fine Arts of the University of Pennsylvania.

Louis V. Gerstner, Jr., is Chairman and Chief Executive Officer of International Business Machines Corp. He previously served as chairman and chief executive officer of RJR Nabisco and as president of American Express Company. He is a director of The New York Times Company, Bristol-Myers Squibb Co., the Japan Society, and Lincoln Center for the Performing Arts. A lifetime advocate of the importance of quality education, he has redirected a majority of IBM's substantial philanthropic resources in the United States to the support of public school reform.

I urge Senators to support the resolutions of appointment of these outstanding Americans.•

ADDITIONAL COSPONSORS

S. 434

At the request of Mr. KOHL, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986, to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 837

At the request of Mr. WARNER, the name of the Senator from Louisiana [Mr. JOHNSTON]] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 1032

At the request of Mr. ROTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1032, a bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

S. 1166

At the request of Mr. LUGAR, the names of the Senator from Nebraska [Mr. EXON], the Senator from North Carolina [Mr. HELMS], the Senator from Oklahoma [Mr. NICKLES], the Senator from California [Mrs. FEINSTEIN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Idaho [Mr. CRAIG], the Senator from Kentucky [Mr. FORD], the Senator from Mississippi [Mr. LOTT], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1166, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances, to safeguard infants and children, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the names of the Senator from Illinois [Mr. SIMON], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 1289, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1277

At the request of Mr. BROWN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1277, a bill to provide equitable relief for the generic drug industry, and for other purposes.

S. 1285

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1285, a bill to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purposes.

S. 1289

At the request of Mr. KYL, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1289, a bill to amend title XVIII of the Social Security Act to clarify the use of private contracts, and for other purposes.

S. 1322

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1322, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

At the request of Mr. KYL, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1322, supra.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 1322, supra.

At the request of Mr. GRAHAM, his name was added as a cosponsor of S. 1322, supra.

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 1322, supra.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

AMENDMENT NO. 2941

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 2941 proposed to S. 1322, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 2941 proposed to S. 1322, supra.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

BYRD (AND DORGAN) AMENDMENT NO. 2942

(Ordered to lie on the table.)

Mr. BYRD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by them to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

At the appropriate place in the bill, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL AND CONFERENCE REPORT.

(a) CONSIDERATION OF A BILL.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by striking 20 "hours" and inserting "50 hours".

(b) CONSIDERATION OF A CONFERENCE REPORT.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "Debate in the Senate on a conference report on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeal in connection therewith, shall be limited to not more than 20 hours.".

THE TEMPORARY FEDERAL JUDGESHIPS ACT

SANTORUM AMENDMENT NO. 2943

Mr. SANTORUM proposed an amendment to the bill (S. 1328) to amend the commencement dates of certain temporary Federal judgeships; as follows:

Strike all after "section" and insert in lieu thereof the following:

SENSE OF THE SENATE REGARDING THE PRESIDENT'S REVISED FEDERAL BUDGET.

(a) FINDINGS.—Congress finds that—

(1) On May 19, 1995, the United States Senate voted 99-0 to reject the Fiscal Year 1996 budget submitted by President Clinton on February 6, 1995.

(2) The President on June 13, 1995, after the House of Representatives and the Senate passed resolutions that the Congressional Budget Office said would result in a balanced federal budget in Fiscal Year 2002, revised his budget.

(3) The President said on June 13, 1995, and on numerous subsequent occasions, that this revised budget would balance the federal budget in Fiscal Year 2005.

(4) The President's revised budget, like the budget he submitted to Congress on February 6, 1995, took into account surpluses in the Old Age, Survivors and Disability Insurance (OASDI) trust funds in calculating the deficit.

(5) President Clinton, in his address before a joint session of Congress on February 17, 1993, stated that he was "using the independent numbers of the Congressional Budget Office" because "the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous Presidents have been."

(6) President Clinton further stated: "Let's at least argue about the same set of numbers, so the American people will think we're shooting straight with them."

(7) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $128 billion in Medicare through 2002 and $295 billion through 2005.

(8) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $54 billion in federal Medicaid spending through 2002 and $105 billion through 2005.

(9) The President has proposed savings of $64 billion in "non-health entitlements by 2002 by reforming welfare, farm and other programs."

(10) The Congressional Budget Office estimated that the President's revised budget includes proposals that would reduce federal revenues by $97 billion over seven years and $166 billion over ten years.

(11) These proposed tax reductions are more than offset by the President's proposed Medicare savings.

(12) The Congressional Budget Office has determined that enactment of the President's proposal would result in deficits in excess of $200 billion in each of fiscal years 1997 through 2005.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress shall enact the President's budget as revised on June 13, 1995.

WELLSTONE AMENDMENT NO. 2944

Mr. WELLSTONE proposed an amendment to amendment No. 2943 proposed by Mr. SANTORUM to the bill S. 1328, supra; as follows:

Strike all after the first word and insert, in lieu thereof, the following—

In the event provisions of the FY 1996 Budget Reconciliation bill are enacted which result in an increase in the number of hungry or medically uninsured children by the end of FY 1996, the Congress shall revisit the provisions of said bill which caused such increase and shall, as soon as practicable thereafter, adopt legislation which would halt any continuation of such increase.

HATCH AMENDMENT NO. 2945

Mr. HATCH proposed an amendment to amendment No. 2943 proposed by Mr. SANTORUM to the bill S. 1328, supra; as follows:

In the pending amendment, strike all after the first word and insert in lieu thereof the following:

. SENSE OF THE SENATE REGARDING THE PRESIDENT'S REVISED FEDERAL BUDGET.

(A) FINDINGS.—Congress finds that—

(1) On May 19, 1995, the United States Senate voted 99-0 to reject the Fiscal Year 1996 budget submitted by President Clinton on February 6, 1995.

(2) The President on June 13, 1995, after the House of Representatives and the Senate passed resolutions that the Congressional Budget Office said would result in a balanced federal budget in Fiscal Year 2002, revised his budget.

(3) The President said on June 13, 1995, and on numerous subsequent occasions, that this revised budget would balance the federal budget in Fiscal Year 2005.

(4) The President's revised budget, like the budget he submitted to Congress on February 6, 1995, took into account surpluses in the Old Age, Survivors and Disability Insurance (OASDI) trust funds in calculating the deficit.

(5) President Clinton, in his address before a joint session of Congress on February 17, 1993, stated that he was "using the independent numbers of the Congressional Budget Office" because "the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous Presidents have been."

(6) President Clinton further stated: "Let's at least argue about the same set of numbers, so the American people will think we're shooting straight with them."

(7) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $128 billion in Medicare through 2002 and $295 billion through 2005.

(8) The Congressional Budget Office estimated that the President's revised budget would achieve savings of $54 billion in federal Medicaid spending through 2002 and $105 billion through 2005.

(9) The President has proposed savings of $64 billion in "non-health entitlements by 2002 by reforming welfare, farm and other programs."

(10) The Congressional Budget Office estimated that the President's revised budget includes proposals that would reduce federal revenues by $97 billion over seven years and $166 billion over ten years.

(11) These proposed tax reductions are more than offset by the President's proposed Medicare savings.

(12) The Congressional Budget Office has determined that enactment of the President's proposal would result in deficits in excess of $200 billion in each of fiscal years 1997 through 2005.

(13) President Clinton stated on October 17, 1995, that, "Probably there are people . . . still mad at me at that budget because you think I raised your taxes too much. It might surprise you to know that I think I raised them too much, too."

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress shall enact President Clinton's budget as revised on June 13, 1995.

FORD AMENDMENT NO. 2946

Mr. FORD proposed an amendment to the bill S. 1328, supra; as follows:

At the end of the bill add the following new section:

SEC. 2. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of Kentucky.

(b) EASTERN DISTRICT.—The district judgeship for the eastern and western districts of Kentucky (as in effect before the date of the enactment of this Act) shall be a district judgeship for the eastern district of Kentucky only, and the incumbent of such judgeship shall hold his office under section 133 of title 28, United States Code, as amended by this section.

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, shall reflect the change in the total number of permanent district judgeships authorized under this section, such table is amended by amending the item relating to Kentucky to read as follows:

"Kentucky:
"Eastern 5
"Western .... 5".

THE HARRY KIZIRIAN POST OFFICE BUILDING DESIGNATION ACT OF 1995

STEVENS (AND OTHERS) AMENDMENT NO. 2947

Mr. FRIST (for Mr. STEVENS, for himself, Mr. SIMON, and Mr. PRYOR) proposed an amendment to the bill (H.R. 1606) to designate the United States Post Office building located at 24 Corliss Street, Providence, RI, as the "Harry Kizirian Post Office Building"; as follows:

At the end of the bill add the following new section:

SEC. 3. SALARY ADJUSTMENTS FOR THE BOARD OF GOVERNORS OF THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out the fifth and sixth sentences; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) Each Governor shall receive—

"(i) a salary of $30,000 a year as adjusted by subparagraph (C);

"(ii) $300 a day for the not more than 42 days each year, for each day such Governor—

"(I) attends a meeting of the Board of Governors; or

"(II) performs the official business of the Board as approved by the Chairman: and

"(iii) reimbursement for travel and reasonable expenses incurred in attending meetings and performing the official business of the Board.

"(B) Nothing in subparagraph (A) shall be construed to limit the number of days of meetings each year to 42 days.

"(C) Effective on the first day of the first applicable pay period beginning on or after the date on which an adjustment takes effect under section 5303 of title 5 in the rates of pay under the General Schedule, the salary of each Governor shall be adjusted by the percentage equal to the percentage adjustment in such General Schedule rates of pay.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

Amend the title so as to read: "An Act to designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building", to amend chapter 2 of title 39, United States Code, to adjust the salary of the Board of Governors of the United States Postal Service, and for other purposes."

NOTICE OF HEARING

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management to receive testimony from academicians and State and local officials on alternatives to Federal forest land management. Testimony will also be sought comparing land management cost and benefits on Federal and State lands.

The hearing will take place on November 2, 1995, at 9:30 a.m. This will be a continuation of the hearing that begins on October 26, in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet Tuesday, October 24, at 2:30 p.m., to consider S. 1316, the Safe Drinking Water Act Amendments of 1995, and other pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 24, 1995, at 2 p.m., in room 226 Senate Dirksen Office Building to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 24, 1995, at 2:30 p.m. to hold a member briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 24, 1995, at 5 p.m. to hold a closed conference with the House Permanent Select Committee on Intelligence on the fiscal year 1996 intelligence authorization bill (H.R. 1655).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on the Administrative Oversight and the Courts of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, October 24, 1995, at 10 a.m., in the Senate Dirksen Building room 226 to hold a hearing on S1101, Federal Courts Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF INDONESIA'S ACHIEVEMENTS

• Mr. BOND. Mr. President, this past August, Indonesia, a longtime Asian friend and ally of the United States marked 50 years of independence. Over those 50 years, the United States has been able to count on this strong ally for support in a wide range of areas, including its anti-Communist commitment, its support during the Vietnam war, its backing for United States and United Nations operations in countries such as Somalia and Cambodia, and its role in advancing trade liberalization in the Asia Pacific Economic Cooperation [APEC].

Over the past 25 years, under the direction of President Soeharto, this nation of 13,000 islands and 198 million people has achieved some of the most impressive economic growth the world has seen. Let me give you some numbers to emphasize this point: a 7-percent average annual growth in the GDP since 1967, an increase in the per capita GNP from less than $70 in 1967 to almost $900 today, a life expectancy rate that has risen from 41 in 1967 to 61 in 1992, and a dramatic decrease in both the infant mortality rate and illiteracy rate.

The Government of Indonesia is continuing to move ahead with aggressive and impressive projects to develop further the nation's quality of life, its infrastructure, and its capabilities and competitiveness for the next millennium. Over the next 5 years, these projects include: increasing the telephone penetration in the country by 8 million lines; increasing power generation by 11,000 megawatts; implementing a $13 billion basic transportation infrastructure program that will touch almost every sector, including, ports, airports, railways, roadways and a rail system through the city of Jakarta; and a water and sanitation plan to bring clean water to a larger portion of the population.

In all, the country is looking at approximately $53 billion in new works and heavy maintenance, engineering and support systems development over the next 5 years.

I think my colleagues would agree with me that this is an impressive program of development.

As these projects move forward, the Government of Indonesia is also working to make the country an easier place to do business by streamlining investment regulations and removing import license requirements; thus making it easier for foreign firms to participate in this booming market's economy.

And for anyone who questions whether the changes and opportunities created in this environment have benefited U.S. business, the answer is yes. In fact U.S. firms have reacted emphatically with exports from the U.S. rising 113 percent—from $2.3 billion in 1989 to $4.9 billion in 1994. For the U.S. economy that means that more than 95,000 jobs are supported by exports to Indonesia. And the United States Government has participated in supporting United States industries' interest in Indonesia by naming this emerging Asian tiger one of the 10 big emerging markets [BEM] for economic growth and by opening one of the first overseas U.S. Export Assistance Centers in Jakarta.

As Indonesia has gained a growing presence in the economic arena, President Soeharto has also brought the country into a more active role in the international community. As chairman of the Non-Aligned Movement [NAM], Mr. Soeharto has been a moderating voice in the developing world on the benefits of an active dialog between developed and lesser developed countries. Indonesia has also taken a leading role in promoting peace and security in the Asia-Pacific region. From its role in helping to settle the Cambodian conflict, where Indonesians made up one of the largest U.N. peacekeeping contingencies, to its efforts to establish an Asia dialog to settle the Spratly Islands territorial dispute, President Soeharto's efforts have been instrumental in helping promote harmony in a rapidly evolving region.

In recognition of his tireless efforts to bring economic prosperity to Indonesia while also engaging the country in a prominent international political role, President and Mrs. Soeharto are being honored later this week in Washington at a dinner hosted by CARE. It is an honor they richly deserve.

The strong relationship between the United States and Indonesia is indeed a benefit for both our countries. We both have prospered and continue to prosper from our close ties and common interests.

I think I also speak for many of my colleagues when I say that the achievements and growth of Indonesia over the past 25 years are truly impressive by any standards. I congratulate President Soeharto and the people of Indonesia on the many achievements they have made since independence and wish them continued success for the next 50 years.

I am confident that the strong relationship between our two great nations will continue not only for the next 50 years but well beyond.•

THE AMERICAN JOBS AND MANUFACTURING PRESERVATION ACT

• Mr. LEAHY. Mr. President, I rise as an original cosponsor and strong supporter of Senator DORGAN's bill, the "American Jobs and Manufacturing Preservation Act."

Mr. President, many people in Washington talk about cutting corporate welfare. But my colleague from North Dakota has actually written legislation that will cut corporate welfare by $1.5 billion over the next 5 years. I applaud his commitment to ending corporate welfare as we know it.

Over the years, big business and other special interests have lobbied hard for tax subsidies for specific industries. And, unfortunately, they have been successful on occasion. These wasteful special interest tax subsidies do not increase economic growth. To the contrary, wasteful special interest tax subsidies only add to our deficit, which puts a drag on our whole economy.

Like an old-fashioned pork sausage, it is amazing what is actually in our Internal Revenue Code. This bill repeals one of the most infamous examples of "corporate pork" in our tax laws today—the tax deferral on income of controlled foreign corporations.

Our tax laws allow U.S. firms to delay tax on income earned by their foreign subsidiaries until the profit is transferred to the United States. Many U.S. multinational corporations naturally drag their feet when transferring profits back to their corporate headquarters to take advantage of this special tax break. But the millions of small business owners—who make up over 95 percent of businesses in my home State of Vermont—do not have the luxury of paying their taxes later by parking profits in a foreign subsidiary.

The American Jobs and Manufacturing Preservation Act closes this tax loophole by taking aim at past abuses. It would end the tax deferral where U.S. multinationals produce abroad and then ship those same products back to the United States. As a result, the bill terminates the current tax incentive for corporations to ship jobs overseas.

The Progressive Policy Institute, a middle-of-the-road think tank, along with the liberal Center On Budget And Policy Priorities and the conservative Cato Institute, have all recommended that Congress repeal the tax deferral on income of controlled foreign corporations. Budget experts on the right, center, and left all agree that this tax deferral is a pork-barrel tax loophole just as wasteful as pork-barrel programs.

Mr. President, I urge my colleagues to support the American Jobs and Manufacturing Preservation Act.•

CONGRATULATING DR. SAM WILLIAMS FOR WINNING THE 1995 MEDAL OF TECHNOLOGY

• Mr. ABRAHAM. Mr. President, I rise today to congratulate Dr. Sam Williams, Chairman and Chief Executive Officer of Williams International, on his winning the 1995 Medal of Technology. This medal is given by the U.S. Department of Commerce in recognition of Dr. Williams' unequaled achievements as a gifted inventor, tenacious entrepreneur, risk-taker and engineering genius in making the United States of America No. 1 in small gas turbine engine technology and competitiveness, and for his leadership and vision in revitalizing the U.S. general aviation business, jet and trainer jet aircraft industry.

I can think of no one who deserves this recognition more than Dr. Williams. He pioneered the design and development of small gas turbine engines at a time when most companies were preoccupied with developing larger engines. He blazed a new trail by developing engines for small, lower cost aircraft, missiles, and unmanned vehicles such as the Tacit Rainbow and TSSAM.

And Dr. Williams did not stop there. He led the design and development of the FJ44 turbofan engine; an engine that makes possible a new class of lightweight business jet aircraft and new low-cost military and civil trainers.

Dr. Williams has contributed greatly to America's technological advancements, to our defense and to our provision of good jobs to our citizens. He has brought numerous high paying, long lasting jobs to the Detroit metropolitan area and his continued success promises continued advancement for America's technology and her workers.•

UNITED STATES POLICY ON HUMAN RIGHTS IN CHINA

Mr. FEINGOLD. Mr. President, this week President Clinton will be meeting in New York with Chinese President Jiang Zemin. We can recall that about this time last year, in Indonesia, President Clinton also met with Jiang Zemin; going into that meeting the

President declared: "the United States, perhaps more than any other country in the world, consistently and regularly raises human rights issues." I expect that in the reports coming out of this latest meeting we will hear that President Clinton once again took issue with the Chinese leadership for the egregious abuse of human rights in China.

I only wish, Mr. President, that a result of these exchanges would be an improvement in China's human rights record. Unfortunately, there has been little change in Chinese behavior in this regard.

We can begin by reading the administration's own State Department Human Rights Report, which acknowledges that in 1994 "widespread and well-documented" human rights abuses continued unabated and that in many respects the situation "has deteriorated." We can recall the highly publicized case of American human rights activist Harry Wu, imprisoned by the Chinese Government only months after the November 1994 Clinton-Jiang Zemin meeting. Wu, subsequently expelled by the Chinese Government, has worked for years to document and expose horrific practices such as the harvest of body parts from executed prisoners for use in transplants.

If Wu—a citizen of the world's only remaining superpower and a country whose riches, technological expertise and markets are needed by the Chinese Government—could be treated with such impunity, how can it be for the Chinese human rights proponent who is laboring in relative anonymity? In the past year Human Rights Watch/Asia reports that several activists have disappeared, others sent into internal exile, and still others detained while their houses were ransacked for the simple crime of speaking out in favor of political openness. Furthermore, two prominent dissidents who were released just prior to the 1994 decision on MFN, Wei Jeisheing and Chen Zemin, are back in custody: at least, we assume Wei Jeisheing is in custody—he has been missing since April of this year.

Mr. President, I believe that the lack of progress on human rights is attributed to the fact that U.S. actions have been inconsistent with the spoken principle. Rather than seek to impose a cost on China for its abuse, rewards are bestowed on the leadership. I refer, of course, of the renewal in June of most-favored-nation [MFN] status for China. The President's announcement continued what I believe to be an ill-considered abandonment of a policy linking MFN status—or other economic benefit—for China to an improvement of its human rights situation. The administration argued that U.S. business investment and overall improved economic ties would lead the Chinese in the right direction on human rights. In fact, the Chinese leadership appears to have taken the exact opposite lesson: that the United States puts corporate interests, market access, and profits before fundamental rights.

Mr. President, we have in MFN a weapon that the Chinese fear. Whenever it appears that its status is in question, they cancel high-level official contacts. They threaten to limit the access of American corporations lusting after a potentially huge market. Why are the Chinese so visceral in their reaction? The $20 billion trade surplus China has with us, a surplus it uses to continue financing its economic development, might have something to do with it.

It is clear that the Chinese care deeply about this trade relationship and the benefits it brings to their economy. We have leverage, and we should use it to oppose egregious human rights abuses, such as slave labor, torture, and disappearances of Chinese citizens.

President Clinton did this effectively earlier this year when, in response to flagrant Chinese piracy violations against United States companies, President Clinton threatened to slap $1.1 billion worth of trade sanctions on China. Rather than face economic retaliation, the Chinese immediately promised to make statutory changes to address this problem. I am proud that the United States was willing to stand up for our software industry; it should do the same for human beings.

This is one of the reasons I introduced legislation in July to revoke MFN status from China because of its human rights record. We have had strong bipartisan support for linking MFN and human rights in the past. Taking that action will get Chinese attention in a concrete manner, in a way that words have not and cannot, and I renew my call to have such a resolution passed and supported by the administration.

Alternatively, I would welcome another strategy the administration could put forth for how human rights can be more effectively protected and promoted in China. Clearly, raising the issue has not been successful. This week's meeting is an opportunity to pursue this issue more aggressively, and I would urge the President to do so.•

CHANGES TO THE BUDGET RESOLUTION REVENUE ALLOCATIONS

• Mr. DOMENICI. Mr. President, upon the reporting of a reconciliation bill, section 205(b) of House Concurrent Resolution 67 requires the chairman of the Senate Budget Committee to appropriately revise the budgetary allocations and aggregates to accommodate the revenue reductions in the reconciliation bill.

Pursuant to Sec. 205(b) of House Concurrent Resolution 67, the 1996 budget resolution, I hereby submit revisions to the first- and 5-year revenue aggregates contained in House Concurrent Resolution 67 for the purpose of consideration of S. 1357, the Balanced Budget Reconciliation Act of 1995.

The material follows:

	1996	1996–2000
Current revenue aggregates	$1,042,500,000,000	$5,691,500,000,000
Revised revenue aggregates	1,040,257,000,000	5,565,353,000,000

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The text of the bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes, as passed by the Senate on October 19, 1995, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 927) entitled "An Act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short Title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT
Sec. 101. Statement of Policy.
Sec. 102. Authorization of support for democratic and human rights groups and international observers.
Sec. 103. Enforcement of the economic embargo of Cuba.
Sec. 104. Prohibition against indirect financing of Cuba.
Sec. 105. United States opposition to Cuban membership in international financial institutions.
Sec. 106. United States opposition to termination of the suspension of the Government of Cuba from participation in the Organization of American States.
Sec. 107. Assistance by the independent states of the former Soviet Union for the Government of Cuba.
Sec. 108. Television broadcasting to Cuba.
Sec. 109. Reports on commerce with, and assistance to, Cuba from other foreign countries.
Sec. 110. Importation safeguard against certain Cuban products.
Sec. 111. Reinstitution of family remittances and travel to Cuba.
Sec. 112. News bureaus in Cuba.
Sec. 113. Impact on lawful United States Government activities.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

- *Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.*
- *Sec. 202. Assistance for the Cuban people.*
- *Sec. 203. Implementation; reports to Congress.*
- *Sec. 204. Termination of the economic embargo of Cuba.*
- *Sec. 205. Requirements for a transition government.*
- *Sec. 206. Factors for determining a democratically elected government.*
- *Sec. 207. Settlement of outstanding United States claims to confiscated property in Cuba.*

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in subsidies from the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of Cuba's economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba or to adopt any economic or political reforms that would lead to democracy, a market economy, or an economic recovery.

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban Government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 40 Cuban men, women, and children attempting to flee Cuba.

(7) The Castro government holds hostage in Cuba innocent Cubans whose relatives have escaped the country.

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and supplying of groups dedicated to international violence.

(9) Over the past 36 years, the Cuban Government has posed a national security threat to the United States.

(10) The completion and any operation of a nuclear-powered facility in Cuba, for energy generation or otherwise, poses an unacceptable threat to the national security of the United States.

(11) The unleashing on United States shores of thousands of Cuban refugees fleeing Cuban oppression will be considered an act of aggression.

(12) The Government of Cuba engages in illegal international narcotics trade and harbors fugitives from justice in the United States.

(13) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(14) Attempts to escape from Cuba and courageous acts of defiance of the Castro regime by Cuban pro-democracy and human rights groups have ensured the international community's continued awareness of, and concern for, the plight of Cuba.

(15) The Cuban people deserve to be assisted in a decisive manner in order to end the tyranny that has oppressed them for 36 years.

(16) Radio Marti and Television Marti have been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(17) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals, and the political manipulation of the desire of Cubans to escape that results in mass migration to the United States;

(4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(5) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect American nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

SEC. 4. DEFINITIONS.

As used in this Act, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code, except as otherwise provided for in this Act under paragraph 4(5).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED.—The term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure by the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government,

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government, or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(5) CUBAN GOVERNMENT.—(A) The terms "Cuban Government" and "Government of Cuba" include the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality" is used within the meaning of section 1603(b) of title 28, United States Code.

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government that the President has determined as being democratically elected, taking into account the factors listed in section 206.

(7) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (50 U.S.C. 1701 and following), the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following), as modified by the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following).

(8) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien, or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

(9) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to members of the Council of Ministers, Council of State, central committee of the Cuban Communist Party, the Politburo, or their equivalents.

(10) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of title III of this Act, the term "property" shall not include real property used for residential purposes, unless, at the time of enactment of this Act—

(i) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban Government or the ruling political party in Cuba.

(11) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a

government that the President determines as being a transition government consistent with the requirements and factors listed in section 205.

(12) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian Government of Cuba pursuant to chapter VII of the Charter of the United Nations, employing efforts similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by an independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, and the continuation of intelligence activities from Cuba targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban Government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

SEC. 102. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION.—The President is authorized to furnish assistance to and make available other support for individuals and nongovernmental organizations to support democracy-building efforts in Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) DENIAL OF FUNDS TO THE GOVERNMENT OF CUBA.—In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance are provided to the Government of Cuba or any of its agencies, entities, or instrumentalities.

(c) SUPERSEDING OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law, except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs appropriations Act.

SEC. 103. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) TRADING WITH THE ENEMY ACT.—(1) Subsection (b) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102–484, is amended to read as follows:

"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(2) Section 16 of the Trading With the Enemy Act is further amended—

(A) by striking subsection (b), as added by Public Law 102–393; and

(B) by striking subsection (c).

(e) COVERAGE OF DEBT-FOR-EQUITY SWAPS UNDER THE ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national; and".

SEC. 104. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to a foreign or United States national for the purpose of financing transactions involving any property confiscated by the Cuban Government the claim to which is owned by a United States national as of the date of enactment of this Act, except for financing by the owner of the property or the claim thereto for a permitted transaction.

(b) SUSPENSION AND TERMINATION OF PROHIBITION.—(1) the President is authorized to suspend this prohibition upon a determination pursuant to section 203(a).

(2) The prohibition in subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba, as provided for in section 204.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by such civil penalties as are applicable to similar violations of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

SEC. 105. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination pursuant to section 203(c).

(2) Once the President submits a determination under section 203(a) that a transition government in Cuba is in power—

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 106. UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE GOVERNMENT OF CUBA FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban Government from participation in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 107. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE GOVERNMENT OF CUBA.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(1)) is amended by striking "of military facilities" and inserting "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,".

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) except for assistance under the secondary school exchange program administered by the United States Information Agency, for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or".

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban Government debt in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national.

"(4) CUBAN GOVERNMENT.—(A) The term Cuban Government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code.".

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term appropriate congressional committees, includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform and rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160)".

SEC. 108. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) are repealed.

SEC. 109. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, and by January 1 each year thereafter until the President submits a determination under section 203(a), the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is available—

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national;

(5) a determination of the amount of Cuban debt owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals or businesses; and

(B) the amount of debt owned the foreign country that has been exchanged, reduced, or forgiven in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national;

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties; and

(7) an identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between Cuba and such countries;

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material; and

(C) the terms or conditions of any such agreement.

SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.

(a) STATEMENT OF POLICY.—(1) The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and

dealings outside the United States in, merchandise that—

(A) is of Cuban origin,

(B) is or has been located in or transported from or through Cuba, or

(C) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(2) The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba, noting that the statement of administrative action accompanying that trade agreement specifically states the following:

*(A) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. * * * Nothing in the NAFTA would operate to override this prohibition.".*

(B) "Article 309(3) (of the NAFTA) permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries.".

(3) The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198) required the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for re-export to the United States any sugar produced in Cuba.

(4) Protection of essential security interests of the United States requires enhanced assurances that sugar products that are entered are not products of Cuba.

SEC. 111. REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.

It is the sense of Congress that the President should, before considering the reinstitution of general licensure for—

(1) family remittances to Cuba—

(A) insist that, prior to such reinstitution, the Government of Cuba permit the unfettered operation of small businesses fully endowed with the right to hire others to whom they may pay wages, buy materials necessary in the operation of the business and such other authority and freedom required to foster the operation of small businesses throughout the island, and

(B) require a specific license for remittances above $500; and

(2) travel to Cuba by United States resident family members of Cuban nationals resident in Cuba itself insist on such actions by the Government of Cuba as abrogation of the sanction for refugee departure from the island, release of political prisoners, recognition of the right of association and other fundamental freedoms.

SEC. 112. NEWS BUREAUS OF CUBA.

(a) ESTABLISHMENT OF NEWS BUREAUS.—The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if—

(1) the exchange is fully-reciprocal;

(2) the Cuban Government allows free, unrestricted, and uninhibited movement in Cuba of journalists of any United States-based news organizations;

(3) the Cuban Government agrees not to interfere with the news-gathering activities of individuals assigned to work as journalists in the news bureaus in Cuba of United States-based news organizations;

(4) the United States Government is able to ensure that only accredited journalists regularly employed with a news gathering organization avail themselves of the general license to travel to Cuba; and

(5) the Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of any United States-based news organization that has a news bureau in Cuba.

(b) ASSURANCE AGAINST ESPIONAGE.—In implementing this section, the President shall take all necessary steps to assure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) FULLY RECIPROCAL.—It is the sense of Congress that the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance or other support from a governmental or official source, are permitted to establish and operate a news bureau in each nation.

SEC. 113. IMPACT ON LAWFUL UNITED STATES GOVERNMENT ACTIVITIES.

Nothing in this Act shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

It is the policy of the United States—

(1) to support the self-determination of the Cuban people;

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to consider the restoration of diplomatic relations with Cuba and support the reintegration of the Cuban Government into the Inter-American System after a transition government in Cuba comes to power and at such a time as will facilitate the rapid transition to a democratic government;

(6) to remove the economic embargo of Cuba when the President determines that there exists a democratically elected government in Cuba; and

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, subject to subsections 203 (a) and (c).

(2) EFFECT ON OTHER LAWS.—Subject to section 203, the President is authorized to provide such forms of assistance to Cuba as are provided for in subsection (b), notwithstanding any other provision of law, except for—

(A) this Act;

(B) section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)); and

(C) section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs appropriations Act.

(b) RESPONSE PLAN.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan detailing, to the extent possible, the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and

(B) a democratically elected government in Cuba.

(2) TYPES OF ASSISTANCE.—Support for the Cuban people under the plan described in paragraph (1) shall include the following types of assistance:

(A) TRANSITION GOVERNMENT.—(i) The plan developed under paragraph (1)(A) for assistance to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the basic human needs of the Cuban people.

(ii) When a transition government in Cuba is in power, the President is encouraged to remove or modify restrictions that may exist on—

(I) remittances by individuals to their relatives of cash or humanitarian items, and

(II) on freedom to travel to visit Cuba other than that the provision of such services and costs in connection with such travel shall be internationally competitive.

(iii) Upon transmittal to Congress of a determination under section 203(a) that a transition government in Cuba is in power, the President should take such other steps as will encourage renewed investment in Cuba to contribute to a stable foundation for a democratically elected government in Cuba.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—The plan developed under paragraph (1)(B) for assistance for a democratically elected government in Cuba should consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(i) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(ii) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(iii) assistance provided by the Trade and Development Agency;

(iv) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(v) Peace Corps activities.

(c) INTERNATIONAL EFFORTS.—The President is encouraged to take the necessary steps—

(1) to seek to obtain the agreement of other countries and multinational organizations to provide assistance to a transition government in Cuba and to a democratically elected government in Cuba; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(d) REPORT ON TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and other appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with

respect to trade and any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act; and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and other appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President is encouraged to take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination, consistent with the requirements and factors in section 205, that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the authorization of appropriations and the availability of appropriations, commence to provide assistance pursuant to section 202(b)(2)(A).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance authorized under section 202(b)(2)(A) to the transition government in Cuba, the types of such assistance, and the extent to which such assistance has been distributed.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall consult regularly with the appropriate congressional committees regarding the development of the plan.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—Upon making a determination, consistent with section 206, that a democratically elected government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the authorization of appropriations and the availability of appropriations, commence to provide such forms of assistance as may be included in the plan for assistance pursuant to section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Once the President has transmitted a determination referred to in either subsection (a) or (c), the President shall, not later than 60 days after the end of each fiscal year, transmit to the appropriate congressional committees a report on the assistance to Cuba authorized under section 202, including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(a) that a transition government in Cuba is in power, the President, after consulting with the Congress, is authorized to take steps to suspend the economic embargo on Cuba and to suspend application of the right of action created in section 302 as to actions thereafter filed against the Government of Cuba, to the extent that such action contributes to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with regard to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act (22 U.S.C. 6003, 6004(d), 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act (22 U.S.C. 6003, 6004(d), 6005) are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on _____.", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURE.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6-month period thereafter.

SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

(a) A determination under section 203(a) that a transition government in Cuba is in power shall not be made unless that government has taken the following actions—

(1) legalized all political activity;

(2) released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has committed to organizing free and fair elections for a new government—

(A) to be held in a timely manner within 2 years after the transition government assumes power;

(B) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(C) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(b) In addition to the requirements in subsection (a), in determining whether a transition government is in power in Cuba, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has publicly committed itself to, and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights;

(C) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) assuring the right to private property; and

(F) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(3) has ceased any interference with broadcasts by Radio Marti or the Television Marti Service;

(4) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

(5) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206. FACTORS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of determining under section 203(c) of this Act whether a democratically elected government in Cuba is in power, the President shall take into account whether, and the extent to which, that government—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba; and

(5) is continuing to comply with the requirements of section 205.

SEC. 207. SETTLEMENT OF OUTSTANDING UNITED STATES CLAIMS TO CONFISCATED PROPERTY IN CUBA.

(a) SUPPORT FOR A TRANSITION GOVERNMENT.—Notwithstanding any other provision of this Act—

(1) no assistance may be provided under the authority of this Act to a transition government in Cuba, and

(2) the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of a transition government in Cuba, except for assistance to meet the emergency humanitarian needs of the Cuban people,

unless the President determines and certifies to Congress that such a government has publicly committed itself, and is taking appropriate steps, to establish a procedure under its law or through international arbitration to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by the Government of Cuba on or after January 1, 1959, from any person or entity that is a United States national who is described in section 620(a)(2) of the Foreign Assistance Act of 1961.

(b) SUPPORT FOR A DEMOCRATICALLY ELECTED GOVERNMENT.—Notwithstanding any other provision of this Act—

(1) no assistance may be provided under the authority of this Act to a democratically elected government in Cuba, and

(2) the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of a democratically elected government in Cuba,

unless the President determines and certifies to Congress that such a government has adopted and is effectively implementing a procedure under its law or through international arbitration to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by the Government of Cuba on or after January 1, 1959, from any person or entity that is a United States national who is described in section 620(a)(2) of the Foreign Assistance Act of 1961.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban Government held by United States nationals beyond those certified under section 507 of the International Claims Settlement Act of 1949,

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy,

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions,

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property confiscated by the Cuban Government held by United States nationals who did not receive or qualify for certification under section 507 of the International Claims Settlement Act of 1949, and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) SENSE OF CONGRESS.—It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban Government recognized by the United States remains an essential condition for the full resumption of economic and diplomatic relations between the United States and Cuba.

(e) WAIVER.—The President may waive the prohibitions in subsections (a) and (b) if the President determines and certifies to the Congress that it is in the vital national interest of the United States to provide assistance to contribute to the stable foundation for a democratically elected government in Cuba.

WINFIELD SCOTT STRATTON POST OFFICE

Mr. FRIST. Mr. President, at this juncture, I would like to take care of several housekeeping issues, if I could. What I would like to do is ask unanimous consent that the Senate—this will take 2 minutes—proceed to the immediate consideration of H.R. 1026, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1026), to designate the United States Post Office Building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado as the "Winfield Scott Stratton Post Office."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1026) was deemed read for a third time, and passed.

HARRY KIZIRIAN POST OFFICE BUILDING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1606, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1606) to designate the United States Post Office Building located at 24 Corliss Street, Providence, Rhode Island as the "Harry Kizirian Post Office Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PELL. Mr. President, I would like to offer my congratulations and say well done. I am glad Harry Kizirian is honored in this way.

AMENDMENT NO. 2947

(Purpose: To amend chapter 2 of title 39, United States Code, to adjust the salary of the Board of Governors of the United States Postal Service, and for other purposes)

Mr. FRIST. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST), for Mr. STEVENS, for himself, Mr. SIMON, and Mr. PRYOR, proposes an amendment numbered 2947.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 3. SALARY ADJUSTMENTS FOR THE BOARD OF GOVERNORS OF THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out the fifth and sixth sentences; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) Each Governor shall receive—

"(i) a salary of $30,000 a year as adjusted by subparagraph (C);

"(ii) $300 a day for not more than 42 days each year, for each day such Governor—

"(I) attends a meeting of the Board of Governors; or

"(II) performs the official business of the Board as approved by the Chairman; and

"(iii) reimbursement for travel and reasonable expenses incurred in attending meetings and performing the official business of the Board.

"(B) Nothing in subparagraph (A) shall be construed to limit the number of days of meetings each year to 42 days.

"(C) Effective on the first day of the first applicable pay period beginning on or after the date on which an adjustment takes effect under section 5303 of title 5 in the rates of pay under the General Schedule, the salary of each Governor shall be adjusted by the percentage equal to the percentage adjustment in such General Schedule rates of pay.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

Amend the title so as to read: "An Act to designate the United States Post Office building located at 24 Corliss Street Providence, Rhode Island, as the "Harry Kizirian Post Office Building", to amend chapter 2 of title 39, United States Code, to adjust the salary of the board of Governors of the United States Postal Service, and for other purposes."

Mr. STEVENS. Mr. President, the amendment I offer today, on behalf of myself and Senators SIMON and PRYOR, would rectify a situation which has gone unattended for far too long. This amendment would, for the first time in 25 years, adjust the rate of pay for the members of the Board of Governors of the U.S. Postal Service.

In 1970, as part of the Postal Reorganization Act, Congress created an 11-member Board of Governors whose duties are to direct and control the expenditures and review the practices and policies of the postal service. Nine of the members are private citizens who are nominated by the President and confirmed by the Senate to 9-year terms. They, in turn, name the Postmaster General and the Deputy Postmaster General who also serve on the board.

The Board of Governors oversees and directs the operations of a $54 billion corporation which ranks 12th on the Fortune 500 list. The board meets monthly, usually for 2 or 3 days.

The salary of the nine confirmed members of the Board was set in 1971 at $10,000 annually. The salary of the Postmaster General was set at $60,000. Today, the Postmaster General's salary is $148,000 but the Governors' salary has remained unchanged at $10,000. If the Governors' salary had increased by the rate of inflation, they would currently be paid $37,600.

The Governors receive an additional $300 per day for their monthly meetings and reasonable travel expenses. Of course, they spend more time in preparation for these meetings for which they are not paid this daily meeting rate. In addition, members represent the Board on other occasions—such as testimony before Congress—for which they do not receive the daily rate.

How does this compare with other boards within the Federal Government? Not well. For example, board members for Fannie Mae, Sallie Mae, and Freddie Mac all receive at least double the annual Postal Service Board salary. And, that doesn't take into account the much higher daily meeting rates they receive.

Mr. President, I ask unanimous consent to reprint in the RECORD at this point a chart comparing the compensation of the Postal Service Board of Governors with Fannie Mae, Sallie Mae, and Freddie Mac.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPENSATION OF DIRECTORS

Organization	Board of Directors	Retainer	Additional compensation
USPS	9 Governors (nominated by the President, confirmed by the Senate) serving 9 year terms.	$10,000	$300 a day for not more than 42 days a year of meetings. Reimbursed for travel and reasonable expenses.
Fannie Mae	18 (13 elected annually by the common stockholders & 5 appointed annually by the President).	$23,000	$1,000 annually for personally attending each Board or Board committee meeting. Additional $500 if chairperson. $600 if participate by telephone conference. Additional $300 if chair the telephone conference. Non-management Directors are eligible to receive additional compensation in the form of restricted common stock, equaling $45,000 over a five-year cycle. $1,000,000 donation to charitable groups/educational institutions of the director's choice upon the director's death.
Sallie Mae	21 (14 elected annually by the common stockholders & 7 appointed annually by the President).	$20,000 $35,000 for the Chairperson of the Board	$2,750 for attending each regular or special meeting. Chairperson receives $1,750 for each day spent on the Association's business. May elect to receive deferred compensation in the form of cash or common stock. $50,000 life insurance. Eligible to participate in a special pension plan and stock purchase plan available to employees. Eligible to receive awards up to 100 shares of restricted common stock each year.
Freddie Mac	18 (13 elected annually by the common stockholders & 5 appointed annually by the President).	$20,000 Full time officers or employees of the Federal Government do not receive the "retainer" for service on the Board.	Full-time officers or employees of the Federal Government do not receive compensation for service on the Board Directors not employed by Freddie Mac receive $1,000 and out-of-pocket expenses for personally attending each Board or Board committee meeting Committee chairpersons receive an additional retainer of $2,500 Directors may defer cash compensation, or receive shares of Freddie Mac's common stock in lieu of cash compensation Directors eligible to receive additional compensation in the form of stock options and awards of restricted common stock at fair market value of $10,000.
Federal Express Corp.	14 (5 elected by the common stockholders & 9 appointed by the corporation).	$30,000 for Outside Directors $35,000 for Committee Chairpersons	Officers of the corporation receive no compensation for serving as Directors. Outside Directors receive $2,000 for each Board meeting attended. Outside Directors receive $1,000 for each Committee meeting attended. Outside Directors granted an option for 1,000 shares of common stock for each of the five consecutive annual meeting dates. Retirement plan for Outside Directors equals an annual amount, for no less than 10 years and no more than 15 years, equal to the percentage from 50% to 100% (as determined by the ears of service) of the annual retainer fee.
United Parcel Service of America, Inc	13 (12 elected by the common stockholders & 1 appointed by the corporation).	$45,000 for Outside Directors $49,000 for Committee chairpersons	Employees or former employees of the corporation receive no compensation for serving as Directors. Members of the Audit, Officer Compensation and Nominating committees, who are not employees or former employees, receive an annual fee of $2,500 for each committee on which they serve. Retirement plan for Outside Directors equals the amount of the Directors' annual retainer. Benefits continue for the number of years served multiplied by four.
International Business Machines Corp	11 (all elected by the common stockholders)	$55,000 for Outside Directors $60,000 for Committee Chairpersons	Employee Directors receive no additional compensation for their service on the Board. Non-Employee Directors receive 100 promised Award Shares of IBM common stock plus an additional 100 year thereafter that the Director is re-elected. Under the Deferred Compensation and Equity Award Plan, non-Employee Directors may defer all or part of their Board compensation to selected later years, to be paid either with interest or in promised fee shares of IBM common stock. Non-Employee Directors with five years service, upon retirement or age 70, are entitled to retirement income of annual payments of 50% of the Director's last annual fee.

Mr. STEVENS. Mr. President, in addition, this chart shows the compensation received by members of the boards of the Postal Service's private sector competitors like Federal Express and UPS.

Our amendment would provide a much-needed increase in the compensation for the Postal Service Board of Governors. First, we increase the annual salary of the governors to $30,000. Second, we allow the daily meeting rate to be paid for performance of official business as determined by the chairman of the board, up to the current statutory limit of 42 days per year. And, third, we create an automatic annual pay adjustment which is equivalent to that received by Federal employees.

I urge my colleagues to support this amendment.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be deemed read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1606), as amended, was deemed read for a third time and passed.

Mr. FRIST. I send an amendment to the title to the desk.

Amend the title so as to read: "An Act to designate the United States Post Office building located at 24 Corliss Street Providence, Rhode Island, as the "Harry Kizirian Post Office Building", to amend chapter 2 of title 39, United States Code, to adjust the salary of the Board of Governors of the United States Postal Service, and for other purposes."

ORDERS FOR WEDNESDAY, OCTOBER 25, 1995

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, October 25, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate immediately turn to the consideration of Calendar No. 216, S. 1357, the reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, the Senate will begin the reconciliation bill at 10 a.m. Therefore, Members can expect votes throughout Wednesday's session of the Senate on amendments, and the Senate is expected to be in session late into the evening in order to consume a considerable amount of time allocated under the statute for the reconciliation bill.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senators PELL and LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

THE RECONCILIATION BILL

Mr. PELL. Mr. President, as we all know, the Senate is about to embark on a massive reordering of national priorities under the rubric of the reconciliation process. In the short space of the 20 hours prescribed by statute, we will decide the fate of Medicare, Medicaid, welfare programs, education assistance, and a host of other Federal programs and agencies.

We surely did not anticipate such abbreviated consideration of a sweeping reconfiguration of government when we enacted the Congressional Budget and Impoundment Control Act of 1974, which established the reconciliation process. It is regrettable that we must do so now, and I suggest that in doing so we exceed the spirit if not the letter of the act.

But we are now confronted with the determination of the majority to proceed nonetheless, and in anticipation of the time constraints, I would like to state my continuing reservations about the bill. I have already expressed my distress and concern about the decimation of hard-won Federal education programs and the emasculation of the Medicare and Medicaid programs.

What remains to be said is that this mammoth bill embodies priorities in many other areas which are diametrically opposed to my own. It overturns decades of progress in social policy and it imposes a regressive tax plan that is both misguided and untimely. It bears unfairly on children, on poor people and on the elderly and the disabled. And it would undo environmental gains and open pristine wilderness areas to commercial exploitation.

It would do all this in a headlong pursuit of a goal which I believe has been blindly accepted, namely the mantra that the budget must be balanced by a date certain. To my mind, this is an unrealistic objective that results not from careful and rational assessment, but from well-orchestrated sloganeering in the guise of the so-called contract devised by the House majority leadership. And that, I would submit, has led to false expectations in the electorate as well as among some legislators themselves.

Far more preferable, in my view, would be a measured and continuing effort to reduce deficit spending, while at the same time preserving the essential gains in social policy of the last half century.

It is unrealistic to assume, I submit, that some $900 billion can be cut from Federal spending levels provided under present law between 1996 and 2002 without imposing unacceptable hardship on many segments of the population. Here, the arbitrary goal has dictated the cuts; again, the more rational course would be to to decide what can and should be reduced and then arrive at a figure.

And it is equally unrealistic—and absurd on the face of it—that tax cuts of $245 billion could be proposed at the very time the stated objective is to reduce deficits. Inevitably, such as proposal suggests that spending cuts have been inflated to accommodate the tax cuts. It seems appalling to me that the proposed tax cuts will actually add to the deficit in some years, meaning that the Treasury will actually have to borrow funds to make up for the lack of revenue. Overall, these unwise tax cuts will add some $93 billion to the national debt, according to the Wall Street Journal.

Here again, a far wiser course would be one of moderation. While I reject most of the proposed tax cuts as untimely at best and pandering at worst, I would agree that there is one area of tax relief that could be reasonably undertaken at this time, and that is reduction in the capital gains tax rate. The provisions of the bill allowing individuals to exclude 50 percent of capital gains from taxation, while dropping the corporate capital gains rate from 35 to 28 percent, would cost the Treasury some $40 billion in revenue foregone over 7 years.

As I see it, this would be a worthwhile expenditure. It would help release some $1.5 trillion in locked-up capital gains to pursue investment opportunities that create jobs and growth in the U.S. economy. By one estimate, this would result in a rise in gross domestic product of 1.4 percent and result in $12 million in increased Federal tax revenues.

And I might note that the individual beneficiaries of capital gains tax relief are by no means limited to wealthy stockholders. A recently updated U.S. Treasury study shows that nearly one-half of all capital gains are realized by taxpayers with wage and salary incomes of less than $50,000. And these would include every homeowner who has benefited from an increase in the value of his house over recent years.

Notwithstanding my support for this one tax provision, I must reiterate my view that the overall tax package is untimely and inappropriate. Together with the other major flaws of the bill, there is compelling reason to vote against the bill, and good cause for the President to veto the measure, as he has promised to do, in the likelihood that Congress approves it.

Our task will not end there. Assuming the probability that the President's veto cannot be overridden, the real work will have to begin to devise a compromise that can be enacted. My hope is that reason, compassion, and responsibility will prevail and that the many excesses of this bill will be recast into a more moderate measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Chair.

WHOSE SIDE ARE YOU ON?

Mr. LAUTENBERG. I will try to confine my remarks to 10 minutes, not simply to spare the distinguished occupant of the Chair from further duty but to try and consolidate the message so that it has meaning and is clearly understood.

Mr. President, I look at what is proposed in terms of this budget reconciliation, and I truly believe that the American people are being deceived; that there is kind of a sneak attack on senior citizens and the impoverished in our society; that they do not yet know what is planned for them for their future.

The question that arises is a very fundamental one, and that is, Whose side are you on? Whose side are we on in this body when we pass legislation? Are we on the side of the people who have worked hard, who try to put away a few bucks, who have tried to protect their security in their old age, who worry about what happens to them in their golden years?

Are we on the side of those who are making lots of money, who will get a benefit, the benefits of a tax cut that is being proposed as a result of the exorbitant request that is being made of the senior citizen population of our country or of those who are dependent on Medicaid? It is a backdoor attack.

I do not mean to insult my friends on the other side of the aisle. I am describing what I think is their approach to decimate a program that has been of value. All one has to do is look at the human dimension as we discuss these programs. Forget about the accountant's approach for just a moment, forget about the fact that we are strapped, that we have to figure out ways out of our dilemma in terms of our budget deficit. Just think first about the people who are affected, think of those who worked hard, who put away small sums of money by paying their insurance premiums over the years, who believe deeply that a Government contract, a contract with their Government was something of value that could not be diminished.

We know one thing, Mr. President. That is, that that program, the Medicare Program, has worked incredibly well. All you have to do is look at the life expectancy in our population today and look at the quality of life that people can enjoy even as they age if their health is good, if they take care of themselves at the appropriate time, if they get the right kind of medication, if they get the right kind of physician attention or health care provider attention. The program has worked.

In Russia today, the former Soviet Union, the life expectancy for a male on average is 57 years. Fifty-seven years in this country is beginning to look like the prime of life. I know guys who are becoming fathers for the first time at 57 years of age. It is not something I recommend. I have no opinion on it. I am simply stating a fact. Fifty-seven is young. Age 72, 73 is a time when lots of people can do things that they did when they were much younger. I invite people to go skiing with me sometime to see. I do not like to tell anybody, but my next birthday is going to be my 72d birthday. I served in World War II. I worked hard all my life before I came to the Senate and, I think, since I have come to the Senate, because I believe so deeply in those things that this Government of ours can and should do for its citizens.

We are looking at a $270 billion cut in Medicare opportunity for our senior citizens, a $180 billion cut in Medicaid. Mr. President, those who are dependent on Medicaid are either impoverished or disabled. The senior citizen who runs out of funds, who needs nursing home care, which is becoming an evermore present condition in our society, and who has to spend their time in a nursing home depends on Medicaid for care.

Seventy-one percent of the funds applied for Medicaid are for senior citizens and the disabled, 71 percent. For the disabled, Mr. President we have seen people who are totally dependent on Medicaid support for the sustenance of their lives.

We had a young man in his 20's appear at the Budget Committee the other day breathing from a device on his wheelchair. And as he spoke, he was obviously straining for breath, straining for volume in his voice. He said, "If they cut out Medicaid the way they are planning, if they reduce it the way they are planning, I will lose my ability to continue my life." He is a college student. And that is what is going to happen. This is just not an accounting exercise.

Mr. President, I want us to see a balanced budget in our society, in our country. Frankly, I am not upset whether it takes 7 years or 10 years. I think if we get on the right kind of a down slope, we will be doing the right thing. We have other ways of getting to a balanced budget than slashing programs that the elderly depend on for their health and well-being. We do not have to spend as much on defense as we are spending. We do not have to spend as much giving away mining claims to the folks out West who get benefits from the Federal Government that are beyond comprehension for most people. We do not have to continue to support wealthy corporate farms or corporate ranches. That is not necessary. But we do have to support those people who depend upon us for their very existence. And those are the senior citizens and those who live as a result of having assistance from Medicaid.

Mr. President, again, the question is simply put, whose side are you on? And when we examine the sum of money, the sums that are being asked for reductions in health care programs, $270 billion is in the Medicare cut, a $245 billion tax break, much of it for the wealthiest in our society.

The House proposed that if you had an income of $350,000 a year, you would get a $20,000 tax break. How does that square? Mr. President, it does not square. We do not believe that it is necessary to lop $270 billion off Medicaid to save the program as the proponents are suggesting. This is the case where the medicine is far worse than the cure because it could kill you. The medicine can kill you when we start worrying elderly people about whether or not they are going to be able to continue to have health care, whether or not they are going to have to depend on their kids, having the kids worry about whether or not mom or pop or grandma or grandpop is going to have to come to them begging for them to take over. That is what is going to happen if we go ahead with the program as proposed.

(Mr. ASHCROFT assumed the chair.)

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a letter I have be printed in the RECORD. It comes from the chief actuary for the Health Care Financing Administration. It says that we need $89 billion to continue Medicare and its viability until the year 2006. The cut proposed by the Republican majority is to take care of things until 2002. They say it needs $270 billion. Let me correct the record, Mr. President, because I think there is an arithmetic error here. For $89 billion we can take care of the program until the year 2002, $89 billion versus $270 billion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HEALTH CARE FINANCING
ADMINISTRATION,
THE ADMINISTRATOR,
Washington, DC, August 3, 1995.

Hon. THOMAS DASCHLE, U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: This is in response to your request for information about the effect of the Medicare savings in the President's balanced budget initiative on the exhaustion date of the Hospital Insurance (HI) Trust Fund.

Attached is a memorandum that I have received from the Chief Actuary of the Health Care Financing Administration (HCFA). The memo indicates that the year-by-year savings in the President's plan, which would total $89 billion in Part A over the period 1996–2002, would extend the life of the HI Trust Fund from 2002 to the fourth quarter of calendar year 2006 (the first quarter of fiscal year 2007). This estimate is based on the 1995 Annual Report of the Board of Trustees of the Federal Hospital Insurance Fund intermediate assumption baseline.

Please let me know if I can provide any further information.

Sincerely,

BRUCE C. VLADECK.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I also want to include in the RECORD an article that appeared in the New York Times a couple weeks ago. It talks about the arrangement made between the House Republican leadership and the AMA and about how, by reducing the reductions that the doctors and the health providers may have to take, that, in fact, they were able to get the doctors, the AMA, aboard for their health plan.

Mr. President, while they were doing that for the doctors, they were not talking to the seniors who are alarmed by the prospects that their health care options are going to be substantially reduced. And I ask unanimous consent that this article from the New York Times be printed in the RECORD as well.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOCTORS' GROUP BACKS PLAN OF REPUBLICANS ON MEDICARE

(By Robert Pear)

WASHINGTON, OCT. 10.—After receiving assurances that Medicare payments to doctors would be cut less than originally planned, the American Medical Association tonight expressed support for a House Republican plan to redesign the medical plan for the elderly.

Leaders of the association issued a statement after meeting with House Speaker Newt Gingrich saying, "A.M.A. endorses House G.O.P. plan to transform Medicare."

Republicans in the House and Senate alike want to cut projected spending on Medicare by $270 billion, or 14 percent, in the next seven years. Of that amount, $26.4 billion would have come from strict new limits on Medicare payments for doctors' services.

Kirk B. Johnson, senior vice president of the association, said tonight that the doctors would receive billions of dollars more than the Republicans had planned. But he and Mr. Gingrich refused to give details, nor would they specify which other groups might receive less money to make up the difference.

Mr. Gingrich had been wooing the doctors all summer in the hope of winning their endorsement for the Republicans' Medicare plan. But just last week—a few days after details of the Republican plan were disclosed—spokesmen for the American Medical Association complained that the Republican plan would not only slow the growth of Medicare payments to doctors, but actually reduce payments for many services.

In response to such complaints, House Republicans made unspecified financial concessions to the doctors, and their support tonight was apparently one result. Mr Gingrich, thrilled with the endorsement, said it showed that the Republicans were willing to listen to suggestions from various interest groups.

The president of the association, Dr. Lonnie R. Bristow, said, "This legislation will expand choices for Medicare beneficiaries, allowing them to open medical savings accounts in conjunction with high-deductible insurance policies, enroll in private sector coverage plans or remain in the traditional Medicare program."

For the association, he said, the Republican plan "represents the end of a decade-long quest to put Medicare on a fiscally sound basis, as well as the beginning of a new journey toward delivery of appropriate quality care in a more fiscally prudent environment."

Dr. Bristow praised elements of the Republican plan that would exempt doctors from antitrust laws in certain situations and limit payment of damages to some victims of medical malpractice.

In the debate over President Clinton's health plan last year, the association endorsed the goal of universal health insurance coverage, but criticized many details of the Clinton plan.

The medical association sways votes on Capitol Hill. It has shrewd lobbyists and a political action committee that donates tens of thousands of dollars to congressional candidates. In the battle over President Clinton's health plan, the association endorsed the goal of health insurance coverage for all Americans, but criticized many details of his plan and wavered in its support for his proposal that all employers be required to buy health insurance for their employees. The association's failure to endorse Mr. Clinton's plan was politically damaging to the White House.

Elsewhere on Capitol Hill, Republican efforts to revamp Medicare gained momentum today as House Republicans voted down a series of Democratic proposals that would have established consumer protections for Medicare beneficiaries who join private health plans.

Democrats repeatedly failed in their efforts to set detailed Federal standards for such private health plans, which would serve millions of elderly people under the Republican plan. Democrats said the standards were needed to protect those who enrolled in the plans. Republicans said they would stifle growth of the health care market.

The House Ways and Means Committee appeared today to be moving on schedule toward approving the Republicans' plan to cut projected spending on Medicare by $270 billion, or 14 percent, in the next seven years. The committee is expected to approve the legislation on Wednesday, with the full House likely to vote on a Medicare bill next week. The Senate Finance Committee has approved similar legislation.

Democrats noted that the Ways and Means Committee worked on the legislation for 14 hours on Monday, and they complained that the panel was moving too fast. "What is the hurry?" Representative Sam M. Gibbons, Democrat of Florida, asked today. Republicans said they were moving quickly to save Medicare from bankruptcy.

The heart of the Republican measure is a proposal to open Medicare to hundreds of private health plans, so elderly people would have a much wider range of health insurance options. Democrats today offered numerous amendments to remedy what they see as severe weaknesses in the Republicans plan, but the proposals were rejected, generally on party-line votes.

By a vote of 22 to 13, the Ways and Means Committee defeated a proposal by Representative Pete Stark, Democrat of California, to set detailed Federal standards for private health plans enrolling Medicare beneficiaries. He would, for example, have required such plans to serve all parts of a metropolitan area, not just the affluent neighborhoods. Bruce C. Vladeck, who supervises Medicare as administrator of the Federal Health Care Financing Administration, said that under the Republican bill "health plans could gerrymander their service areas so that minorities and low-income people will not be offered the same choices as everyone else."

Consumers Union and the American Association of Retired Persons supported Mr. Stark's proposal, but Republicans rejected it, saying such Federal regulation would frustrate the development of a private health insurance market for the elderly. Representative Bill Thomas, Republican of California, said the Democrats would establish "an entangling bureaucratic structure."

Today's debate was bitterly partisan and acrimonious, full of snide remarks. Lucia DiVenere, a lobbyist with the National Association for Home Care, said: "What you see here, in microcosm, are two totally different approaches to Government, two philosophies completely at odds with each other. It's all black or white. There is no gray area."

Mr. Stark said the elderly needed the Government to protect them because the Republicans were "forcing Medicare beneficiaries into the arms of private for-profit insurance companies." Republicans replied that the Democrats' proposals for more Federal regulation would perpetuate the heavy hand of Government. Representative Nancy L. Johnson, Republican of Connecticut, said the Democrats' proposals were evidence of "old thinking, the view that Government can serve seniors better than the private sector" can.

To help control Medicare costs, the Republicans would limit the growth of Federal payments to health maintenance organizations and other private health plans. Democrats today proposed to eliminate these limits, saying they would force H.M.O.'s to cut services or increase premiums. "Let's not tie Medicare payment levels to arbitrary budget caps," said Representative Sander M. Levin, Democrat of Michigan.

The Democrats' basic theme is that some of the Republicans policy proposals would make sense if the Republicans were not simultaneously squeezing $270 billion out of Medicare.

The Republicans describe the various private health insurance options as "Medicare Plus." But Mr. Gibbons told them: "You ought to call it Medicare Minus. What you're doing is herding all the seniors together and forcing them to accept managed care."

Mr. LAUTENBERG. I thank the Chair.

I would just like to read from the article for a couple seconds.

> After receiving assurances that Medicare payments to doctors would be cut less than originally planned, the American Medical Association tonight expressed support for a House Republican plan to redesign the medical plan for the elderly. * * *

Republicans in the House and Senate alike want to cut projected spending on Medicare by $270 billion . . . in the next seven years. Of that amount, $26.4 billion would have come from strict new limits on Medicare payments for doctors' services.

Obviously, that was obviated or the AMA in this case would not have come along.

Mr. President, what this budget does is painful. It doubles the premiums for part B from $46 a month to $93 a month. It doubles part B deductibles from $100 to $210. It hurts seniors who want to stay in fee for service. It will mean a cut of $6 billion in the State of New Jersey that would cause us to lose the services of 40 out of 110 hospitals in our State, when combined with the Medicaid cuts.

In short, this proposal, as it is outlined, would result in disaster for our senior citizen population.

The arithmetic is very simply displayed on this chart. "The GOP's New Medicare Plan: The Untold," I call it the sneak attack, "The Untold Story." Mr. President, $270 billion worth of proposed cuts, $89 billion is needed for the trust fund. It leaves $181 billion, and where is it going? It is going for tax breaks for the well-off.

And so, when we finally vote on this reconciliation bill, one I voted against in committee—I am on the Budget Committee—and one that I continue to view as harmful to the very structure of our society, breaking promises with people to whom we have had arrangements, I know one thing: That I am going to be on the side of the senior citizen. I am going to be on the side of the students in this country who are depending on our Government for help in getting their education. I am going to be on the side of those who need Medicaid for their support, and I am going to vote "no" on this budget reconciliation bill.

The one thing I hope will come out in the debate these next couple of days is that the American people will fully realize what it is that is being proposed; that the notion that these cuts have to be made to save the program are patently false, they are untrue and that what we have to do is put our thinking caps together, sit down and take the time necessary to redesign a program that will fit the bill, that will not continue to exacerbate the budget deficit situation.

So, Mr. President, as we close the debate this evening, I hope that our colleagues in the Senate will continue to examine this proposal that is in front of us and reject it when the time comes and to think about the folks back home and those who are depending on it.

With that, I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under a previous order, the Senate will now stand in adjournment until 10 a.m. on Wednesday, October 25.

Thereupon, the Senate, at 8:03 p.m., adjourned until Wednesday, October 25, 1995, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, October 24, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. LONGLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 24, 1995.

I hereby designate the Honorable JAMES B. LONGLEY, Jr. to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Connecticut [Ms. DELAURO] for 5 minutes.

BULK SALES OF SPEAKER GINGRICH'S BOOK

Ms. DELAURO. Mr. Speaker, they say that people who live in glass houses should not throw stones. Well, it might also be advised that people who throw stones at glass houses should not move into glass houses.

In 1988, when then-Congressman NEWT GINGRICH led the call for an investigation into then-Speaker Jim Wright, GINGRICH claimed that Wright had violated House rules by arranging for bulk sales of a book he had authored.

At the time, GINGRICH alleged that the bulk sales were being used by Wright to get around limits on lecture fees. Now, according to a story that in yesterday's New York Daily News, Speaker GINGRICH is profiting from some bulk sales of his own.

The Daily News story reveals that Speaker GINGRICH is wracking up his own bulk sales of his book, "To Renew America." According to records, bulk sales of the Gingrich manifesto have been made to both political organizations which he has personal ties to and to organizations which have business before Congress. In one case, a company purchased 10,000 dollars' worth of Mr. GINGRICH's book. That is a lot of books.

What is wrong with that, you may ask? Plenty, according to experts on congressional ethics. In fact, Richard Phelan, the independent counsel who led the ethics investigation into the Wright book deal, said yesterday that Speaker GINGRICH's bulk sales raise a lot of questions. When asked to compare the charges against former Speaker Wright with the latest allegations against current Speaker GINGRICH, Phelan said: "There is a definite parallel."

Among the organizations that have purchased the Speaker's book in bulk, are the Rev. Jerry Falwell's Liberty University in Virginia and the Georgia Public Policy Center. Both organizations are run by Gingrich political allies and both purchases were made just prior to GINGRICH attending events sponsored by the groups.

When former prosecutor Phelan was told of one case where the bulk sales were made, just prior to a speech by GINGRICH, he said: "It could be a quid pro quo for the speech and this is precisely what we got Wright on. No, no, no, Mr. Speaker."

No, no, no, Mr. Speaker, indeed. The latest twist in the Speaker's troublesome book deal with Rupert Murdoch only serves to underscore the need for an outside counsel to investigate the ethics charges against Mr. GINGRICH. As the Speaker himself said in 1988, when urging an outside counsel to investigate Mr. Wright:

> The rules normally applied by the Ethics Committee to an investigation of a typical Member are insufficient in an investigation of the Speaker of the House, a position which is third in the line of succession to the Presidency and the second most powerful elected position in America. Clearly, this investigation has to meet a higher standard of public accountability and integrity.

The standard of public accountability and integrity cannot be expected to be upheld when the investigation into the highest ranking member of the U.S. House of Representatives is being conducted by people who are politically indebted to him.

It is hard to say "no" to the Speaker of the House. Republicans on the House Ethics Committee feel pressured to defend the Speaker's book deal, just as Republican organizations feel pressured to purchase the Speaker's book.

Without an independent, outside counsel to investigate the allegations against Speaker GINGRICH, we will never lift the ethical cloud that hangs over the House.

MEDICARE PRESERVATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. FOLEY] is recognized during morning business for 5 minutes.

Mr. FOLEY. Mr. Speaker, I have just concluded a number of town hall meetings in my district. I must say the response from my constituents was very favorable. My district is the sixth oldest district in America of Medicare recipients. Of the freshmen who came to the 104th Congress, I am No. 1 in seniors in my district.

Let me read to you an editorial from the Port Saint Lucie News, published by Scripps Howard, a prominent news gathering source around our Nation. The editorial says, "Slowing down not stopping." If a car was going down the highway at 70 miles per hour, and the driver let up enough on the accelerator for the speed to be reduced to 65 miles per hour, would you then say the car had stopped? Well, if you are a Democrat Member of Congress, you probably would.

Of course, if the Democrats conceded that this was just an instance of going slower, they may also have to concede that the Republicans are not planning to deprive the elderly whose savings have run out, and other poor people, of health care. The Democrats are making that case all over the land. It is preposterous and shameful.

The real issue is that the budget cannot be balanced without reducing the growth rate of entitlement programs or increasing taxes astronomically. If the budget is not balanced, interest payments on the debt will eventually consume all of the Federal budget and leave no room for anything else. What do the Democrats plan to do then?

I have received commentary from my districts through a newsletter we submitted to our constituents. Do you support the Medicare Preservation Act? They had four choices: strongly support, to strongly oppose. A gentleman, Oto Fredro, from West Palm Beach, FL, somewhat support. Would like to stay with the current Medicare plan. Oto, you can do that under the Republican's plan.

Doug Weaver, strongly support, would consider a new plan like an HMO. Also urges us to decrease funding for the B-2 bomber. Decrease money for food stamps. Increase money for Medicare. Decrease money for foreign aid. Decrease money for welfare.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Glenn Shaffer, Lake Placid, FL, strongly supports Medicare Preservation Act. But wants to stay in the current Medicare plan. Glenn, you get to stay in the current Medicare plan as you choose.

Leonard Keal from Palm City, FL, strongly support. Again, wants to stay in the Medicare plan.

Miriam Dunst, somewhat opposed, very skeptical about the plan, wants to stay with Medicare. She wants to have that choice. You can stay there and we appreciate your response.

Joseph Cerzosie from West Palm Beach, FL, strongly opposes our plan, but would like to consider an HMO. Under the current plan, he cannot select an HMO. Under our plan, you can.

Now, there has been a lot of talk about tax cuts. There has been a lot of talk about balancing Medicare in order to provide for the tax cuts. They are not related. The Post Times the other day did take on the President of the United States because, they said, he spent too much on the explanation of taxes, too little on principle. In one typically self-pitying moment, Bill Clinton demonstrated again last week why he is a President with many enemies and also few friends. He spent Tuesday night explaining that he had raised taxes too much.

Folks in this Congress, the 104th Congress, the freshmen have come here to make a difference. We have problems in our system. Do I think the Republicans have solved all the problems in Medicare? Absolutely not. Do I think we have a silver bullet to erase years of wasteful spending in our system? Absolutely not.

I want to target fraud, waste, and abuse in our bill. I want to strengthen the provisions that we brought to this floor, strengthen the provisions for fraud and abuse. Anyone who rips off our taxpayers should do jail time. Anyone who rips off our taxpayers in Medicare should have their licenses removed, be it a hospital, be it an insurance company, be it a provider.

But, ladies and gentlemen, make no bones about it; when I come from the sixth oldest district in America and I had over 700 people attend my town hall meetings saying to me, help save Medicare, nobody is screaming at me. Nobody yelling at me. One or two people threatened to throw me out of office, which is the risk of this business. Nobody is saying that this was the horrible plan. They want explanations.

One person got up in one meeting and said I had done a terrible thing and I was voting against him. The New York Times was with us, following that meeting. One person gets up to speak negatively about our plan, their headlines, tough Medicaid meeting. It was not a tough meeting. The public supports us, and I am proud to represent the 16th District of Florida.

GINGRICH BOOK DEAL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of California. Mr. Speaker, once again we are confronted in the press with reports of violations of House rules with respect to our Speaker of the House, Speaker GINGRICH. That is the bulk sale of his books to organizations that have connections to the Speaker and have been supportive of the Speaker or in fact have contributed to the Speaker in the past.

We saw, unfortunately, in the past when the Speaker engaged in this same activity, he later had to resign from office for this transgression of House rules. The suggestion here is because the commission is somewhat smaller, therefore it is right. No, it is not. The House rules prevent that.

This is the second time in a matter of a week and a half where revelations have again appeared in the press suggesting that the Speaker's political action committee, GOPAC, was more deeply involved and involved earlier in Federal campaigns and campaigns for Members of Congress and trying to change the majority in Congress before it was authorized to do so.

The New York article that was published a couple of weeks ago outlines exactly what took place in communications between GOPAC and members of the Republican Party. So where are we?

We are a year later. What is an ethics committee and a chairman of that ethics committee doing that continues to try to manage the investigation and to manage the spin and to manage the flow of information to Members of Congress, to the press, and to the public rather than engaging in an investigation. A year later, when witnesses still have not been called, when documents have still not been subpoenaed, and information has not been gone through that is relevant to this information, according to the popular press.

What we need, what this House needs and what this House deserves and what the American people deserve is a full-blown independent investigation, not an investigation managed by Members of the Speaker's party who are indebted to the Speaker politically in this House or for their daily activities in the House or to their districts. What we need is an investigation, as the Speaker called for for the previous Speaker, and that is an independent counsel. As the Speaker said of the previous Speaker, if you have done nothing wrong, you have nothing to fear.

What this House cannot tolerate and what Members of this House cannot tolerate and what the public should not tolerate is the continued efforts to try to manage this investigation, to get past the Contract With America. Then they wanted to manage it to get past the Medicare fight. Then they wanted to manage it to get past reconciliation. Then there is a question of whether the Speaker is going to run for President. Will the revolution continue?

Those are all interesting. Those all may be consequences of the Speaker's activities and the consequences of this investigation, but they are not reasons of which an independent investigation should be forgone.

We are talking about the most powerful Member of this House, obviously one of the most powerful politicians in the country, one of most powerful people in line of succession to the President of the United States. The suggestion is somehow that we are going to manage and we are going to change the nature of the investigations that this Congress is engaged in in the past when it has to unfortunately investigate one of its own. That is that you have to eventually get to an individual, an independent counsel.

Apparently the ethics committee has arrived at this conclusion after a year of seeing that they could not properly handle this investigation. So now what they are trying to do is to manage the charter of the independent counsel, to suggest that he can only go down road A, but he cannot go down road B, he can only go down so far on this path of evidence, but he cannot go down too far. He cannot stumble across things that may come up in the nature of that investigation.

If they had done that to the independent counsel in the Espy case, they would have never discovered Jim Lake and his scheme to provide illegal contributions to a Federal candidate.

That is the nature of an independent counsel, to be independent and as free to go as far as the facts and the truth take that individual; not as far as the facts and the political realities of the political debts and the political obligations take that investigation, but as far as the facts and the truth take that investigation.

□ 1245

The time has come for the chairman of the Committee on Standards of Official Conduct to admit they cannot do a job that will satisfy the needs of the Members of this House of Representatives in terms of telling their constituents that we have a different way of doing business, that we have a different way of handling congressional ethics, that we have a different way of handling the transgressions of those ethics because it is now Speaker GINGRICH, as opposed to Speaker Wright, or it is not Speaker GINGRICH, as opposed to 9 or 10 other Members of Congress, that had independent counsels. Let us meet the standard that Speaker GINGRICH has set our for the House, and that is an independent counsel.

TOURISM: THE WORLD'S LARGEST INDUSTRY AND GREATEST JOB CREATOR

The SPEAKER pro tempore (Mr. LONGLEY). Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Mr. Speaker, I have an important statement here which might take me longer than 5 minutes.

Mr. Speaker, thank God for the tourists. Here in Washington, in the small towns and big cities across America, the sight of a camper or a tour bus packed with people eager to spend money in local motels, restaurants, and gift shops is an answer to many a prayer. Each one of these vacationers is an economic miracle funding and fueling a massive industry, travel and tourism. That is America's second-largest employer and provides billions of dollars in revenue for every State, city, and town across America.

In today's changing world of high technology and increasing mobility, tourism is an economic sleeping giant. Futurist John Naisbitt has written that tourism in the next century will be the largest industry not only in America, but worldwide, and I agree. I believe that Naisbitt is right. Travel and tourism is also awakening politically from its slumber.

Mr. Speaker, we now have 302 members of our Travel and Tourist Caucus, an indication of how important this industry is to Congress. In 1995 travelers in the United States will spend an estimated $535 billion. This is real economic muscle. Today we support 14 million jobs and provide $493 billion in wages and salaries. That comes out of travel and tourism. The revenue generated by travel and tourism will total $127 billion in Federal, State, and local taxes. That is what travel and tourism contributes to our economy.

Mr. Speaker, I can tell you exactly what it means for each and every household in America. It means that you are paying $652 less in taxes. Let me repeat that, $652 less in taxes for each household, every year because of travel and tourism. This decrease in taxes comes to the American taxpayer from the travel and tourist industry and from the tourists.

Given these statistics, Mr. Speaker, convincing government to actively support travel and tourism should be easy. But, as my colleagues know, in spite of the growing support for the travel and tourism industry, the United States is losing ground. We must seriously focus on travel and tourism so that we can add jobs and income here in America.

In the recent hearing I held right here on Capitol Hill in our Economic Policy and Trade Subcommittee, Greg Farmer, Under Secretary of Commerce for Travel and Tourism, delivered some startling news.

He pointed out that the United States ranks 33d in the world among nations spending funds to promote tourism. That is even behind Malaysia and Tunisia. For the past 3 years, the U.S. market share in tourism has declined from 18 percent down to 15 percent. This means a lot of jobs and a lot of revenue right here in America, and the message is clear. The United States has invested less money in tourism, and now we are paying the price for that neglect. We are losing our share of the international tourist market.

We cannot allow that to continue to happen, and, Mr. Speaker, this means one thing for the working people in America: lost jobs. In the past 3 years the United States has lost 177,000 tourist jobs to other countries. Why? Because travelers are choosing destinations other that the United States, and we must reverse that trend, and that is what we are attempting to do in the Travel and Tourism Caucus. We want to bring travel and tourism, which has a great story to tell, here to the Congress, America, and around the world because travel and tourism is the incoming tide of a strong economy.

The need for action in this area is clear, and that is why we have, in my opinion, 302 members of the Travel and Tourist Caucus. Caucus members know that travel and tourism is America's economic prosperity, and it must be considered as two sides of the same coin.

Next week, as my colleagues know, on Monday and Tuesday a week from today and tomorrow, we are having our first ever White House Conference on Travel and Tourism. We are having some 1,700 people from every congressional district in America here on Capitol Hill, and from that conference we are going to take the recommendations and implement them into legislation. We can get in step with travel and tourism, the greatest economic engine that is propelling America into a stronger economy. By the year 2000, more than 661 million people will be traveling throughout the world, and, Mr. Speaker, I just want to add that travel and tourism will have more impact on our country and in our world economically than any other industry.

ACTIONS, NOT WORDS, ARE IMPORTANT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I have come to talk a bit about words, words, words, words and how we often think we know what they mean, but they are not meaning what we think they mean so often as they are used by the Republicans in this time.

First of all, the words "family friendly." This was going to be a big "family friendly" Congress. Well, guess what they are selling first? They are selling the day care center for staff, and the day care center has been gagged. When you call and say, "What's going to happen to you, are you going to move somewhere?" they say, "We have been ordered not to talk to anybody about it." That does not sound very family friendly to me, and so, when you hear family-friendly, just think of the child care center for the staff being put on the auction block by these guys and see if you think that is family friendly.

Now the other thing that we hear about is independent counsel. We now hear that we are moving toward an independent counsel. Well, when you think of independent, independent means independent. But we hear the big hangup as to why we cannot have an independent counsel is because they want to find a way to leash the independent counsel, put blinders on the independent counsel, and keep the independent counsel in a cage. That is not an independent counsel. That is a lap dog, and no one wants a lap dog from the Committee on Standards of Official Conduct as we look into these issues dealing with the Speaker's ethics charges.

We also hear the big fight about, that was in the paper today, about the Speaker and his bulk sales in the newest, newest charge that has been piled up in front of the door of the Committee on Standards of Official Conduct, and what does the word "bulk" mean? The newspapers today are filled with all sorts of articles on what does the word "bulk" mean. Were 200 books a bulk sale? Well, that was yesterday's news because today's news in the St. Petersburg Times says the 200 appears to be 400 books. Are 400 books to Capital Formation a bulk sale? How many books does it take to make a bulk, and how many books does it take to really get people's attention? There is also they will say, well, but when you look at ex-Speaker Wright's books, he sold a whole lot more. Yes, but he sold them at 5 bucks, you know. So, does the price count? Does how much comes back to the person count? I mean what is all of this nonsense?

Once again what we really need here is action and not words, action, action, action, and I have never seen so much inaction with so much to act on. Maybe that is why we are seeing the inaction, and maybe that is why we do not want a real independent counsel who has got to be these huge fights as to how do we call him independent and make him something else?

So I just say, as I get more and more frustrated, I keep remembering what my grandmother always told me: It is in the actions and not in the words, it is in the deeds and not in the words. It is in what people do and not what they say, and it is in the record and not the rhetoric because the rhetoric over here sounds wonderful, warm, fuzzy, family friendly, independent counsel, oh they are not bulk sales that the Speaker was selling, yatta, yatta, yatta, yatta. Well, guess what? When you peel away all of those wonderful, warm, fuzzy things, you find out they are selling the day care center, and they cannot even talk to you about it. Hum, makes me suspicious.

The reason we have not had any action on the independent counsel is they do not really want it to be independent except in name. We will call them that, but we will make them something else. We will make them kind of a lap dog, and that when you come to the issues around the Speaker's different charges, of which there are more and more piled up at the door, they want to dismiss them away and argue about them in the press.

That is not what is supposed to happen. We are supposed to have somebody on the outside with subpoenas and proper authority go out and find out what the real issues are rather than day-by-day are going through and finding all sorts of charges flying around in the newspaper, and one newspaper reporter found this, and another newspaper reporter found that, and another newspaper reporter found. Maybe we ought to hire them. I mean, if we are not going to hire anybody, maybe we ought to hire them; I do not know.

But I think that it really brings more cynicism to this body, and it certainly does not do anything for institution-building in this body because people expect us to act as we speak and do as we say we are going to do, so all I do is take the floor today to say, "Please, please, if you're going to sell the day care center, tell us how our staffs are going to be able to find child care here." Mr. Speaker, Members take their children to their office and let their staffs provide the child care. I am not sure that is quite so fair, but what do the staffs do, where do they go, and how do we make this family friendly?

And please do not gag them, and please let us find out about that, and then when we come to the Committee on Standards of Official Conduct, let us get an independent counsel, let us get on with this, and let us decide, let them decide, how much bulk is bulk rather than this continuing day-by-day press thing.

RENEWAL OF HEIRS OF CERTAIN HISTORIC CABIN PERMITS IN SEQUOIA NATIONAL PARK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RADANOVICH] is recognized during morning business for 5 minutes.

Mr. RADANOVICH. Mr. Speaker, I rise today to introduce legislation in defense of the property rights of cabin permittees at the Mineral King Area of Sequoia National Park. Many permittees in Mineral King are apprehensive about evictions from property that their families have used for decades, because the National Park Service no longer believes it has discretion to renew the permits of those permittees who die. This issue has the attributes of a Federal land seizure. What a discouraging sight it would be if these properties are boarded up and the families who have responsibly occupied these historic cabins are evicted. I believe that as a matter of public policy they should be allowed to continue using these cabins. It is in this spirit that I introduce this bill.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENEWAL TO HEIRS OF CERTAIN HISTORIC CABIN PERMITS IN THE MINERAL KING ADDITION OF THE SEQUOIA NATIONAL PARK.

Section 314(d)(2) of the National Parks and Recreation Act of 1978 (16 U.S.C. 45f(d)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "be reviewed by the Secretary, and may" in the first sentence; and

(B) by inserting before the period at the end of the first sentence the following: "under the same terms and conditions as those contained in such lease or permit";

(C) by striking "shall be reviewed" in the second sentence;

(D) by striking "and may" in the second sentence and inserting in lieu thereof "shall"; and

(E) by striking "the date of enactment of this Act" in the third sentence and all that follows and inserting in lieu thereof "November 10, 1978, or their heirs, and any such lease or permit shall provide that the Secretary may terminate the lease or permit only for a breach of the specific conditions detailed in the lease or permit."; and

(2) by adding at the end the following:

"(C) In the case of any lease or permit which—

"(i) was continued under subparagraph (A);

"(ii) was held by a person who died after November 10, 1978; and

"(iii) expired on or before the date of the enactment of this subparagraph without being renewed or extended under subparagraph (B),

the Secretary shall grant a renewal or extension of such lease or permit to the heirs of the person in the same manner as leases and permits are renewed or extended under subparagraph (B) and under the same terms and conditions as those applicable to such leases or permits.".

THE FOOD AND DIETARY SUPPLEMENT CONSUMER INFORMATION ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, in a few weeks this Congress will begin consideration of reform of the Food and Drug Administration, the FDA.

Now the FDA now regulates 25 cents out of every dollar spent on a good or service in this economy, and its impact in our everyday lives runs very deep. It performs several important functions such as protecting public health and safety.

Mr. Speaker, on June 29 of this year I added to the debate over the FDA reform, and I introduced a bill called the Food and Dietary Supplement Consumer Information Act of 1995, and this addresses how the FDA regulates food and dietary supplements. I am aware that the issue of dietary supplement regulation was considered in the last Congress and legislation was enacted, but that legislation fell short in a number of areas and also created an unlevel playing field for foods and dietary supplements. More importantly, a recent U.S. Supreme Court decision has raised the issue whether we ought to clarify the law with respect to claims, advertising and important health information to the public on this issue.

□ 1300

One key issue that must be resolved, Mr. Speaker, is whether the American public has the right to receive and hear truthful, nonmisleading information concerning the potential and proven health benefits of food and dietary supplements.

A recent U.S. Supreme Court decision, Rubin versus the Coors Brewing Company, has provided us with guidance on clarifying the law with respect to claims and health information. The issue of regulation of food and dietary supplements is among the most important to my constituents. We must all eat food daily to stay healthy, that is obvious. Over 100 million Americans are now supplementing their diets on a regular basis.

There are three important issues raised by the American people and my constituents that Congress, I think, must act decisively upon when we talk about this issue: First, the right to receive and hear truthful, nonmisleading information. The American public has been demanding to have access to all the scientific information available about food and dietary supplements, and Americans have realized the power and influence of our health that nutrition plays on our well-being. I think the public policy has to respect these objectives.

I want to emphasize the legislation I have introduced does not affect the current statutory and enforcement authority of the FDA to protect the public. The FDA will continue to have its present authority to prosecute and remove mislabeled and fraudulent products.

Second, Mr. Speaker, the American public does not want food or dietary supplements turned into drugs. They want unhampered, affordable access to health-promoting food and supplements. One of the ways the FDA uses its power to interfere with our public access to these products is by declaring them to be drugs and forcing their removal from the market. I think there is an important distinction and clarification that should be made. We should enact my legislation to make it clear that food and dietary supplements cannot be drugs. In the context of health care we have, we created a system where, when one classifies something as a drug, a whole new set of regulations befalls that product. This system is specifically designed for patentable products for which industry is given the ability to recover the hundreds of millions of dollars required to go through the patent approval process.

Unfortunately, the system is poorly designed for foods and dietary supplements which are generally naturally occurring products and are nonpatentable. It also creates the unfortunate consequence on the public health that there is no low cost medicine. Obviously, the best low cost medicine is prevention. Nutrition foods, dietary supplements and an overall healthy lifestyle can be good preventive medicine. It is therefore important that foods and supplements be kept out of the drug category in order to protect their ability to be used economically and affordably in the maintenance and presentation of good health.

Third and finally, Mr. Speaker, the American public has the right to make its own health choices. The American people want their health freedom. With a $1 trillion sickness-based health care system, people are looking for prevention and more treatment options. Let us give the people the information and access they want, and let us empower them to take responsibility for their own health. Enactment of this legislation preserves this principle without sacrificing the role of government to be the guardian of the public health.

There are some other provisions in my bill which will save money and help to create uniformity among the 50 States. The legislation will ensure uniformity among the States by requiring the same labeling definitions and claims standards for food and dietary supplements. I think we will all agree on the necessity to make it economically efficient for manufacturers and consumers to have uniform standards for labeling definition and claims.

The legislation also acts to resolve what is now no longer needed, in my opinion. That is, the Presidential Commission on Dietary Supplement Labels. The Commission is unnecessary and would be a waste of taxpayers' money. I do not believe, and many of my colleagues would agree with me, that we really need another commission to spend the next 2 years and the FDA another 2 years thereafter to figure out how to inform the public.

As long as the communicated information is truthful and not misleading, as outlined by Supreme Court decisions, there should be no difficulty in arriving at a cohesive and sensible public policy on labeling.

Mr. Speaker I would urge consideration of this bill.

Mr. Speaker, in a few weeks, this Congress will begin consideration of reform of the Food and Drug Administration. This Agency now regulates 25 cents out of every dollar spent on a good or service in this economy and its impact in our everyday lives runs deep. It performs several important functions such as protecting public health and safety.

Mr. Speaker, on June 29, 1995 I added to this debate and discussion by addressing how the Agency regulates foods and dietary supplements by introducing the Food and Dietary Supplement Consumer Information Act of 1995. I am aware that the issue of the dietary supplement regulation was considered in the last Congress and legislation was enacted. But that legislation fell short in a number of areas and also created an unlevel playing field for foods and dietary supplements. More importantly, a recent U.S. Supreme Court decision has raised the issue whether we ought to clarify the law with respect to claims, advertising, and important health information to the public.

One key issue that must be resolved, Mr. Speaker, is whether the American public has the right to receive and hear, truthful, nonmisleading information concerning the potential and proven health benefits of foods and dietary supplements. A recent U.S. Supreme Court decision, Rubin versus Coors Brewing Co. has provided us with guidance on clarifying the law with respect to claims and health information.

The issue of regulation of food and dietary supplements is among the most important to our constituents. We all must eat food daily to stay healthy. And over 100 million Americans are now supplementing their diets on a regular basis. There are three important issues raised by the American people that the Congress must act decisively upon:

First, the right to receive and hear truthful, nonmisleading information.

Mr. Speaker, the American public has been demanding to have access to all the scientific information available about foods and dietary supplements. Americans have recognized the power and influence on our health that nutrition plays in our well being. Public policy must reflect those objectives.

When we passed the Nutrition Labeling and Education Act in 1990 [NLEA], we authorized the FDA to pre-clear all health claims, claims that a food or dietary ingredient could prevent a disease or health related condition. Congress wanted the FDA to allow such claims because of the overwhelming scientific evidence between disease and nutritional status. It also was allowed so that industry could better educate its consumers regarding the benefits of their products. The FDA was given the discretion to use a standard that they called "significant scientific agreement" to decide whether to approve a health claim.

When the NLEA was passed, the FDA was asked to evaluate nine health claims for foods and supplements. It approved only two for supplements; first was that calcium prevents osteoporosis and second, after initially rejecting the claim, that folic acid prevents neural tube birth defects for women of child bearing age. It also approved claims that antioxidant and fiber rich foods like fruits and vegetables could help prevent heart disease and cancer. It refused to approve the same claims for supplements of those dietary ingredients.

The case of the folic acid health claim is most illustrative of the problem with the FDA being the censor of truthful, nonmisleading information and the terrible price our country pays for being kept in the dark. When NLEA was passed, the FDA was asked to evaluate a health claim for folic acid preventing certain birth defects. In November of 1991, the FDA denied the health claim, stating that there was no "significant scientific agreement" to approve the claim. Subsequently in July of 1992, the U.S. Public Health Service published an advisory asking all women of child bearing age to get adequate folic acid in their diets by foods or supplements to prevent these tragic birth defects. Public and scientific outrage finally forced the FDA to reverse itself in the fall of 1993 and the claim was approved. But what was most outrageous Mr. Speaker, was that the FDA testified in a Senate Labor and Human Resource Committee hearing in October 1993 that it had been aware of scientific data that folic acid could prevent these birth defects for 10 years. They argued that in their opinion, there was no "significant scientific agreement" when the Nutrition Labeling and Education Act was first enacted in 1990 until the FDA reversed itself in the fall of 1993. In the interim, the American public was kept in the dark, and an estimated additional 2,000 children were born with birth defects that could have been prevented had the information been allowed to reach women in a responsible manner. For 10 years when the first scientific data started coming in, women were not allowed to be told on food and supplement labels that folic acid might prevent neural tube birth defects. In this period of time, these tragic and irreversible birth defects struck approximately 20,000 babies. If any of my colleagues have ever seen a child born with anencephalopathy or spina bifida, then they know the pain and suffering these children and their parents face. These are children who are disabled, disfigured, and have short life spans. The costs to take care of these children run in the millions. Yet the information was out there that an adequate amount of folic acid had the potential to avert these birth defects. The risk to women of child bearing age who could have received this information was zero. The benefit potential was thousands of birth defects prevented.

Now the same thing is happening with a class of nutrients called antioxidants which scientific research is showing huge potential in reducing or eliminating known risk factors for cancer and cardiovascular disease. When I introduced this legislation, the June 21st edition of the Journal of the American Medical Association published a study on vitamin E which provides compelling evidence that it can reduce the risk of heart disease. This is another study that adds to the overwhelming number of scientific studies that antioxidants have important contributions to make in the fight against degenerative disease that are driving our health care costs into oblivion. And in May, scientists confirmed that a mineral antioxidant, selenium, has the ability to protect the human immune system and minimize damage from viral infections. These studies promise innovation and cost effective treatments for people with viral illnesses. But such information will never reach the consumer in time under current FDA policies.

I want to emphasize that this legislation does not affect the current statutory and enforcement authority of the agency to protect the public. The FDA will continue to have its present authority to prosecute and remove mislabeled and fraudulent products.

Our desire must be to avail ourselves of this information so that the public can safely and beneficially use these inexpensive nutrients to protect their health. The American people have a right to hear truthful and nonmisleading health information about the foods and supplements they consume.

I think the philosophy and public policy objective concerning claims should be guided by the sage words of Justice Stevens who recently wrote in Rubin versus Coors Brewing Co.

> Any "interest" in restricting the flow of accurate information because of the perceived danger of that knowledge is anathema to the First Amendment; more speech and a better-informed citizenry are among the central goals of the Free Speech Clause. Accordingly the Constitution is most skeptical of supposed state interests that seek to keep people in the dark for what the government believes to be for their own good.

Over 100 million Americans consume dietary supplements on a regular basis. Americans are getting better educated and familiar about the food they eat by reading improved labels for foods. The payoff we anticipate is that Americans will use the power of nutrition and a healthy lifestyle to prevent or delay chronic disease and achieve optimal health.

Second, the American public does not want food or dietary supplements turned into drugs. They want unhampered and affordable access to health promoting foods and supplements.

Mr. Speaker, one of the ways the FDA uses its power to interfere with public access to products is by declaring them to be drugs and forcing their removal from the market. I think this is an important distinction and clarification that has to be made. The Senate passed version of S. 784 in the 103d Congress made it clear that dietary supplements could not be classified as drugs. However, this provision was deleted in the House when the final bill was passed. We should enact my legislation to make it clear that foods and dietary supplements cannot be drugs. In the context of health care we have created a system where when one classifies something as a drug a whole new set of regulations befalls that product. This system is specifically designed for patentable products for which industry is given the ability to recover the hundreds of millions of dollars required to go through the approval process. Unfortunately this system is poorly designed for foods and dietary supplements which are generally naturally occurring products and are nonpatentable. It also creates the unfortunate consequence on the public health that there is no low cost medicine. The best low cost medicine is prevention, Mr. Speaker. Nutritious foods, dietary supplements, and an overall healthy lifestyle can be good preventive medicine. It is therefore important that foods and supplements be kept out of the drug category in order to protect their ability to be used economically and affordably in the maintenance and preservation of good health.

Third, the American public has the right to make its own health choices.

The American people want their health freedom. With a $1 trillion sickness based health care system, people are looking for prevention and more treatment options. Let's give the people the information and access they want and let us empower them to take responsibility for their own health. Enactment of this legislation preserves this principle without sacrificing the role of Government to eve the guardian of the public health.

There are some other minor provisions in the bill which will save money and help to create uniformity among the 50 States. The legislation will ensure uniformity among the 50 States by requiring the same labeling, definitions, and claims standards for foods and dietary supplements. I think we all would agree on the necessity to make it economically efficient for manufacturers and consumers to have uniform standards for labeling, definitions, and claims.

The legislation also acts to resolve what is now a no longer needed result of Public Law 103–417, the establishment of a Presidential Commission on Dietary Supplement Labels. This Commission is unnecessary and would be a waste of taxpayer money. I don't believe, and many of my colleagues would agree with me, that we really need another Commission to spend the next 2 years and the FDA another 2 years thereafter to figure out how to inform the public. As long as the communication and information is truthful and not misleading as outlined by Supreme Court decisions, there should be no difficulty in arriving at cohesive and sensible public policy on labeling.

What the American people asked for in the food and vitamin labeling debate was clear, cohesive, rational, and sensible public policy with the responsible regulatory agency. In the 103d Congress, the U.S. Senate enacted legislation which would have accomplished this. However, the House amended the legislation to defer the most important issue on the information access question. The food and vitamin debate was not fully resolved and outstanding questions still remain. That was what was enacted into law. This debate will linger and smolder unless we act decisively to resolve this issue once and for all now. The U.S. Supreme Court has offered its wisdom to guide us to resolving some of these issues and I am confident that the 104th Congress will act decisively on the subject.

I am aware that some in this Congress believe that we ought to wait and see how the FDA regulates foods and supplements. However, the truth is that millions of letters were sent to Congress asking for a definitive solution and reform of this agency's regulatory mission. The public did not get what it asked for. Rather than tolerate anymore delays and foot dragging by this agency in implementing the will of Congress, it is time that we act now. I believe this Congress can deliver comprehensive and all-inclusive FDA reform. Reform of the Food and Drug Administration is one area where Congress can really make a difference to improve the lives of our constituents.

DECISION DAY FOR AMERICA'S FUTURE

The SPEAKER pro tempore (Mr. LONGLEY). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized during morning business for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, we are fast approaching a decision date for America's future. The decision deals with balancing the budget for the first time since 1969. This is a bipartisan issue. While the Republicans are leading the way, it is for all Americans that we want to balance the budget. By doing so, it will generate economic dividends for families and individuals. It will mean, by balancing the budget, Mr. Speaker, lower housing costs.

According to a study conducted by the National Association of Realtors and McGraw-Hill, the average 30-year mortgage will drop by 2.7 percentage points on a 30-year $50,000 mortgage at 8.23 percent. Families will save $1,081 annually or $32,400 throughout the life of the loan.

By balancing the budget, we will lower car expenses. Car loan rates will be 2 percentage points lower than they otherwise would be. On a $15,000 5-year car loan, Mr. Speaker, at 9¾ percent interest, that is an extra $900 in the family budget.

By balancing the budget we will lower college costs. Student loan rates will be 2 percentage points lower than they otherwise would be. A college student who borrows $11,000 at 8 percent interest will pay $2,100 almost $2,200 less for schooling.

A balanced budget will lower taxes. A child born today will pay an average of $187,000 in taxes over 75 years to cover his or her share of the interest on the national debt. By balance the budgeting we can keep these payments from getting any larger.

Balance the budgeting will mean more jobs. By lowering interest rates, a balanced budget will create 6.1 million new jobs in 10 years. That will provide greater opportunity and economic stability for high school graduates, for college graduates, and for those who are looking for new opportunities. We must also, Mr. Speaker, reduce the tax burden for all Americans. By reducing taxes for single mothers with a $500 child tax credit, the single parent with 2 children will pay $7,000 less in taxes over 7 years. By reducing taxes for working families, with a $500 per child tax credit a 2-income family with 3 children will keep $10,500 more of their own hard-earned money.

Also by reducing taxes for senior citizens, we will repeal the 1993 unfair tax on Social Security, which reduces the average tax liability of $7.7 million for our seniors, and this is something that is supported by the National Committee to Preserve Social Security and Medicare.

We also will lower taxes for working senior citizens. Right now, Mr. Speaker, seniors under 70 who wish to work are capped at earning $11,280. If they earn $1 over, that is deducted from their existing Social Security. Under our plan to reduce taxes for senior citizens, we will be able to have them make up to $30,000 a year over the next 5 years without having deductions from their Social Security.

I believe, Mr. Speaker, this is a bipartisan Republican-sponsored package to make sure we balance the budget, which is fair to our seniors, fair to working-class families, and fair to all Americans. We are about the business here this week in the House of making sure we return choices to our citizens, we restore fiscal integrity to our country, and we reduce the cost of families trying to move ahead in this country to earn a living, to provide for their education of their family, and to make sure they are secure in their Medicare and their other health care needs as they move on in the years here in the United States.

CUTS IN MEDICARE AND MEDICAID AFFECT ALL AMERICAN FAMILIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized during morning business for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, there comes a time when it is very important for us to reflect upon this Nation and some of the actions of this august body. However, sometimes we cavalierly resort to viewing what we have done as last week's headlines, or yesterday's story on the 6 o'clock news.

Last week on October 19, 1995, this body, controlled by the Republicans, offered to cut, and did, some $270 billion out of our Medicare Program. Of course, it was under the pretense that seniors themselves wanted to see the program fixed, and certainly no one would argue with that point.

Many of us have stood on the House floor and have said that the fraud, waste, and abuse that has plagued that system needs to be remedied. But nowhere could any of the statisticians and financial experts, and even the trustees, of which the Republican body has so much relied upon, that is the trustees of the Medicare trust account, none of these persons can justify the $270 billion in cuts. In fact, one trustee, Deputy Secretary Rubin, wrote a letter and said that such cuts would be harsh, and I paraphrase him, "and devastating."

Was anybody listening? No, they were only gloating over the headlines of Friday and the big articles, and that they now have another victory or another notch in their gunbelt. Why gunbelt, because these cuts destroy the very lives of those who have made this country—senior citizens—by cutting their health care.

Yesterday, I was in my district, the 18th Congressional District in Houston, TX, and visited with a room full of seniors, about 800 to maybe 1,000 seniors at a luncheon program. I did not make a speech. I went table to table, hand to hand, face to face, and looked into the faces of those senior citizens, some worn, some wrinkled, to talk seriously about this issue called Medicare. I told them that I voted against, resoundingly, the Republican plan, but I was prepared to fix this system and to eliminate the waste, fraud, and abuse, and so I voted for a $90 billion reduction that in fact was responsible, but as well, accepted by the trustees as reasonable to deal with this question of reducing unnecessary Medicare costs acknowledging that unlike the scare tactics of the Republicans, Medicare is not going bankrupt. There is a 7-year life until the year 2002.

I do not know about you, and we do more talking rather than the necessary work to repair Medicare, but I think there could be a lot of fixing in 7 years. Those seniors told me the pain they would experience with increased premiums, not being able to see their own physician, the cuts in the hospital payments would severely hurt our small hospitals, and, as well, the heavy burden on the Harris County public hospital system, of which many of them are part.

As we continue this process, we now approach the budget reconciliation process, in that process you will find $182 billion in cuts on Medicaid. Some people do not understand. They throw Medicaid to the side, saying "That is another deadbeat program." For those of you who are working and supporting children in college and may be part of the baby boomer generation, Medicaid protects your seniors who are indigent, who may need long-term nursing care. It helps mothers with children and children who need immunization. It is a program that has helped this country become healthier. Do we need to get rid of the abuse? Who would not stand on the House floor and gladly say yes, we do, but $182 billion in cuts? No. Do you think it is for any reason? Yes, it is. It is to give tax cuts to those making over $200,000.

My seniors told me yesterday, they said "Keep explaining this to us, because when the news trickles out beyond the Mississippi and other places, it is portrayed to look like the Congress is being obstructed," but they say "now we understand. What work we, as senior citizens, have done in this country is disrespected and disregarded. When we come to a point in our lives when we need long-term nursing care that will not be there because of the actions of the Republican majority."

I heard my colleague talk about this process of budget reconciliation this week, as I have indicated, this will be done on the backs of seniors and children by cutting the $270 billion in Medicare and $182 billion from Medicaid. This budget reconciliation process will hurt the working families of America. I heard a gentleman talk this morning on C-SPAN and mention that he had five children or five persons to take care of, he is doing it himself, and he makes about $28,000. I applaud him. He was complaining about taxes in this country.

Do you know what the Senate did last week, in conjunction with what we did here in the U.S. House of Representatives? They cut out the earned income tax credit that would benefit those individuals making under $30,000, a program President Reagan said has been the best program on getting people out of poverty, that he has ever been able to support, a program proposed under the Ford administration. Yet, hypocritically, the U.S. Senate showed by their actions that this earned income tax credit was not a valuable program.

Might I add as I close, Mr. Speaker, that one of the seniors I met at the luncheon yesterday was an older woman living alone. In her face I saw pain and distress, and she said to me "Can you help me with my utility bill?" That is the kind of person whose Medicare and possibility Medicaid that this Congress will cut. Is this the kind of person we want to face. It was not a pretty picture, it was a sad, sad picture.

I do not want to sit by idly, watching while our seniors and children suffer. What about you?

PRESIDENTIAL ELECTIONS IN HAITI?

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, the Washington Post took valuable editorial space last week to alert anyone who might be paying attention to what is going on in Haiti to the fact that the Presidential election process seems to be falling off track. In fact, the United Nations said last week that they need 110 days to do the job correctly, putting those elections—not the inauguration of a new Haitian President—into the first week of February.

Unfortunately, this is just one of a host of signs that things may be beginning to unravel in that small Caribbean nation. October 15 marked 1 year since more than 20,000 American troops returned President Aristide to his demiisland nation.

Even as Vice President GORE traveled to Haiti to celebrate the first anniversary of that happy event, wire services began to report the Haitian Prime Minister, Smarce Michel, unable to get the support of the President for his vital economic reform proposals, had tendered his resignation.

While the American media was quick to suggest on Monday that he stepped down because of pressure from the incoming Parliament, the fact is that Prime Minister Michel has been fighting for many weeks against the rear guard action of left-leaning, antireform elements, and apparently anti-American activists in the Aristide government.

Why is this so important? Because the inability of the Aristide government to summon the collective will to make the economic reforms required to access $1.2 billion international aid package means that Haitians could face their worst economic crisis to date.

For Americans, this ultimately could mean another costly refugee interdiction operation in the windward passage. While the Aristide government has been talking reform with the international community, there are troubling reports that, as happened in 1991, it may be actually working behind the scenes to gain control of key industries like flour, cement, sugar, and rice rather than privatizing as promised.

Already what were very promising bidding cycles for the cement and flour plants have been suspended indefinitely—not for lack of bids.

An unnamed international official quoted in the New York Times last week summed up well the frustration of working with a government that appears to be working dual agendas: "The President is not playing straight with us and that means we are on a collision course * * * it is unacceptable for him to give aid and comfort to the international community behind closed doors and then say something completely different to his own people." With the overwhelmingly Lavalas National Assembly seated last weekend with the blessing of the Clinton administration—but not of the Haitian political parties—President Aristide and his supporters now have a Parliament to rubberstamp the creation of a new cabinet and what is apparently their real agenda—the consolidation of power for the left and leftist authoritarian rule.

It should come as no surprise then that, after publicly stating his intention to depart, Aristide has said he will let his new Lavalas Parliament guide him with regard to his tenure in office. We may be further from the Presidential elections in Haiti than any of us dared to think—even though the 1987 Haitian Constitution says that President Aristide must go come February. The U.S. House of Representatives has even passed the Goss amendment to encourage the Haitians to stick to that Constitution and elect a new president to lead them forward.

With almost $3 billion American tax dollars on the line, rest assured that Americans across the country, myself included, are going to be looking to Port-au-Prince come February expecting a new Haitian President to take office and to help his people take the fate of their country back into Haitian keeping.

If that isn't going to happen, then the Clinton administration owes this Congress and the taxpayers of this country an explanation about what is happening and what is not happening, as they have promised.

These things matter for lots of reasons. They matter because we are the champions of democracy, and they matter because we have a lot of taxpayers' dollars invested, and when we do that we have an accountability to the world and to our taxpayers, and that accountability time has come.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 18 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know that Your words of grace and truth reign in all eternity, O God, and today we pray that those same words will live in our hearts and minds and souls. O gracious Creator, from whom we have come and to whom we shall return, we pray that Your message of good will and understanding, of life and peace, of faith and hope and love, will prevail not only in the wonders of the heavens, but lead us in our tasks, guide us in our thoughts, forgive us in our errors, and bring us in the way everlasting. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HEFLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TOURISM

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I am proud as can be today, as chairman of the Travel and Tourism Caucus, to announce that as of last Friday, we had our 300th Member sign up as member of the Travel and Tourism Caucus. This is a most propitious time, because a week from today we are going to have the White House Conference on Tourism.

As my colleague, the gentleman from Ohio, PAUL GILLMOR, representing the Fourth District, who became our 300th member knows, if you want to have jobs in America, then you have to be in sync with travel and tourism. It is the second largest employer in America. Travel and tourism employs 11 million people That is why I am so delighted to point out today that the largest caucus in the Congress it the Travel and Tourism Caucus.

Next week we are going to have 1,700 people from all over America, every congressional district in America, will be converging on Washington for the White House conference on travel and tourism. From this conference, we are going to develop a strategy for the 21st century, because, as Nesbitt points out in his most recent book, in the 21st century travel and tourism is going to be the key to economic success.

In my district alone, Mr. Speaker, we have some $700 million coming in from tourism. We have 302 members today. There is room for more. Please come and join.

OPPOSING THE DEVASTATING CUTS IN BUDGET RECONCILIATION BILL

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, I rise today in strong opposition to the devastating cuts proposed in the budget reconciliation bill—a measure anything but conciliatory toward families and their hopes for their children.

Let's examine how this bill would harm children. First, it jeopardizes immunizations for children; second, it eliminates emergency health care for millions of children from poor families; third, it cuts Head Start services which would only result in lower academic performance; fourth, it reduces funding for programs that keep drugs and violence away from children and their schools; fifth, it eliminates meaningful summer job opportunities; sixth, it ignores the need for child care and child protection services for abused and neglected children.

Yes, we must make the tough choices to balance the budget, but not at the expense of harming our children. Can't we reconcile the budget while being conciliatory to the opportunities for the next generation. Let's not pave over the chances for success of the next generation as we construct the road to financial solvency.

ANOTHER WHITE HOUSE FLIP-FLOP

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, recently President Clinton admitted to a fundraiser for his reelection campaign that he felt that he, along with the help of the Democratic Congress, raised taxes too much in 1993. One would assume at a fundraiser for a Presidential incumbent the majority of those in attendance would be wealthy. The President told wealthy Democrats he taxed them too much. But when the Republicans want to cut taxes, Clinton thinks we are giving too many tax cuts to the wealthy.

Republican tax breaks, like Clinton's tax increases, touch everyone, including senior citizens, small business, and middle- and low-income families. Many in politics would say President Bush lost in 1994 because of his reversal on his "read my lips" pledge. Mr. Speaker, I suggest it is impossible to read the current President's lips when he is on all sides of every issue.

TIME TO LOOK AT THE UNITED NATIONS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is time to take a look at the United Nations. It is bad enough American troops have served under the command of the United Nations, but now the United Nations is talking about a world tax. The United Nations wants the power to tax currency transactions and arms sales. Beam me up here, Mr. Speaker. Congress better wake up.

The last I heard, Members of Congress swear an oath to the Constitution of the United States, not to the charter of the United Nations. George Washington once warned Congress about foreign entanglements. I say here today, the United Nations is the mother of all foreign entanglements. Boutros-Boutros Ghali may be the Secretary General of the United Nations, but deep down, I do not think he is a fan or that much of a friend of the United States to start with. Wake up, Congress. This has gone too far.

NEW MAJORITY WILL GIVE PRESIDENT CLINTON THE OPPORTUNITY TO ROLL BACK HIS RECORDBREAKING TAX INCREASE

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, the President, who in 1993 gave the American people the largest single tax increase in peacetime history, told us last week that he made a mistake by raising taxes too much.

The next day he said that he did not really mean what he had said the day before. Actually, he said, it was late in the day and he was a little bit sleepy.

My goodness. It is not exactly news that Mr. Clinton has occasionally tailored his remarks to suit whatever group he happens to be talking to at the moment, but this one is a real doozy.

Mr. Speaker, we are going to give the President another opportunity to make amends for his mistake in 1993. We are going to present him with a tax bill that will reduce the taxes on those same middle class Americans to whom he promised a tax cut in 1992, then raised their taxes instead, soon after becoming President.

Mr. Speaker, 75 percent of our tax cuts go to people who make less than $75,000. Let us hope that when the tax cut bill comes before him this year, he will be in the right frame of mind and he will sign our middle-class tax cut.

RED RIBBON CELEBRATION

(Mrs. THURMAN asked and was given permission to address the House for 1 minute and to include extraneous material.)

Mrs. THURMOND. Mr. Speaker, I rise today to remind my colleagues that we all have a role to play in the battle against illegal drugs—and that no one is more serious about that fight than the people of Citrus County, FL.

This week marks the eighth annual National Red Ribbon Celebration.

We all know that it takes a solid community effort to steer kids away from drugs. This week, Citrus County businesses are joining in the effort in many ways.

More than 14,000 ribbons, each symbolizing the wearer's commitment to a drug-free lifestyle, will be donated to the county's schools.

Those who wear the ribbons will receive discounts for food and entertainment and other events will be built around the drug-free theme.

Mr. Speaker, I commend all the committed people of Citrus County for making this year's events the biggest and best ever. They are giving the young people in Citrus County something to say "yes" to when they say "no" to drugs.

The article follows:

[From the Tribune, Citrus County, FL]

STUDENTS AND TEACHERS TURN RED WHEN IT COMES TO DRUGS—WEARERS DISPLAY COMMITMENT TO A DRUG-FREE LIFESTYLE

(By Gary Sprott)

CRYSTAL RIVER.—Thousands of Citrus County students, teachers and school support workers will don red next week in the fight against drugs.

The eighth annual National Red Ribbon Celebration, Oct. 23–31, will feature a variety of school and community events. The celebration is sponsored by The National Federation of Parents for Drug Free Youth.

About 14,000 ribbons, each symbolizing the wearer's commitment to a drug-free lifestyle, will be donated to the county's schools by Spring/United Telephone-Florida.

"The goal is to get the community involved so students see that prevention isn't just taught in class," said Linda Higdon, who coordinates the school district's drug-free school program.

Schools and community groups will sponsor guest speakers, special presentations and healthy-lifestyle promotions.

Higdon said the celebration strengthens the district's year-round efforts through its school resource officers and Drug Abuse Resistance Education program, also known as DARE.

"We've had really good participation and every year it keeps growing," she said. "It's just not enough to tell kids what to say 'No' to, you've got to show them what to say 'Yes' to."

Among the planned community events:

Oct. 25: The Burger King in Inverness will offer a 10 percent discount on purchases for students and adults wearing a red ribbon.

Publix and Winn-Dixie stores will use grocery bags decorated by the county's elementary school students.

Oct. 27: The Roller Barn in Inverness will offer $1 off admission from 6 to 11 p.m. for students wearing red ribbons.

The Parks and Recreation Department will sponsor a free Halloween costume contest from 6:30 to 7:30 p.m., at the county auditorium in Inverness.

The contest will be followed by a dance for middle-school students from 7:30 to 10:30 p.m. The dance is free for students wearing red ribbons or Halloween costumes, $1 for others. For information, call 795-2202.

Oct. 28: Manatee Lanes in Crystal River will offer discount rates and free shoe rental from noon to 5 p.m. for students wearing red ribbons.

BUDGET RECONCILIATION WILL LOWER TAXES

(Mr. NORWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NORWOOD. Mr. Speaker, I am here to tell you something that the people back home in Georgia thought they'd never hear me say. I am here to tell you that I agree with the President. Mr. President, I do believe you raised taxes too much. And that's why this week we are going to pass a budget reconciliation that lowers taxes. We will allow seniors to keep more of the money they earn. We will lower the capital gains rate; 77 percent of those benefiting from a lower capital gains rate will have an income of less than $75,000 a year. And we will pass a $500 per child tax credit, which will eliminate the tax burden for families making less than $25,000 and will cut the tax liability of those making between $25,000 and $30,000 in half. We are cutting taxes to benefit seniors, families, and the middle class. That's exactly what we were elected to do.

Mr. President, 2 years ago, you took away $260 billion; and this week, we're going to refund that money.

The SPEAKER pro tempore (Mr. FOLEY). The Chair would advise Members to address the Chair, not the President of the United States.

NEAR TRAGEDY PREVENTED AT DENVER AIRPORT DURING SNOWSTORM

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and to include therein extraneous material.)

Mrs. SCHROEDER. Mr. Speaker, Sunday night we had a terrible snowstorm in Denver. We really want to thank the crew of the United flight that prevented a terrible accident by aborting the landing that would have crashed into equipment that was, unfortunately, on the field. I am pleased to say that after notifying the FAA of my great concern about this, the FAA now has a team of experts on the ground at DIA. They have decertified the ground radar that did not work. Hopefully, we will get it fixed and that will never happen again.

They are looking at the tiles that have fallen off the roof in the tower that were falling and allowing water to fall all over the equipment that the Air Traffic Controllers were trying to use. That is an outrage in a brandnew airport. Hopefully, that is going to get fixed right away.

Finally, they are looking at the discrepancies between the flow control coming out of the regional center and what the tower said they could absorb.

Mr. Speaker, there was a whole parade of mistakes. Thank goodness the FAA is there on the ground now trying to fix them, and we again thank the crew for making sure those mistakes did not end in a tragedy.

Sunday night Denver experienced its second snow storm of the season. Denver International Airport weathered the first storm with flying colors. Unfortunately, the second storm caused serious problems.

A United Boeing 727 nearly hit a city vehicle that accidently ventured onto an active runway. The pilot of that plane should be commended for his quick reaction. The FAA ground radar system that should have told air traffic controllers that there was a vehicle on the runway was operating, but not working.

Airport operations had trouble removing the snow from the runways, creating a backlog of aircraft waiting to land. One plane got stuck on a taxiway. The regional air traffic control center kept the flow of aircraft higher than the Denver tower could handle.

The Doppler radar and ground radar went out during the storm. Tiles from the ceiling of the newly built air traffic control tower fell to the ground. Water leaked all over the equipment and had to be vacuumed out.

And today I find out that a tile fell last night and hit an air traffic controller on the head while she was managing air traffic. Fortunately she's OK. Clearly, we need improvements.

The FAA has sent in a team of experts to DIA. They're on site, working hard to rectify this situation. They have decertified the ground radar, and are looking at the other systems as well.

The city and the FAA must quickly work closely together so that we'll be able to make it through the many storms to come.

NO INTENTION OF RAISING TAXES TOO MUCH

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, last week the President made an astonishing confession. He said that his tax increase of 1993 might have been too much. What he failed to admit is that in his 1992 campaign he promised to cut taxes, not increase them.

Republicans promise to cut taxes for the middle class and small business, not raise them, and that is just what we are going to do. Our $500 per-child tax credit will eliminate Federal taxes for families making less than $25,000 a year. Those making between $25,000 and $30,000 will have their Federal liability cut in half. In addition our capital gains tax reductions will benefit the middle class. The IRS found that 77 percent of those who paid capital gains in 1993 earned less than $75,000.

You won't hear this Republican-led Congress apologizing to the American people for raising taxes too much, because unlike the President, we have no intention of doing so.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 927. An act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

The message also announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

□ 1415

BUDGET RECONCILIATION ACT

(Mr. FRAZER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRAZER. Mr. Speaker, I rise to express my objection to the Budget Reconciliation Act of 1996.

This legislation is designed to devastate programs that help children, senior citizens, and students.

The Virgin Islands is in the process of recovering from Hurricane Marilyn which has an estimated price tag of $3 billion. The proposed cuts in housing targeted for families with children will have a devastating impact on our efforts to rebuild the Islands.

Over 7,500 senior citizens in the Virgin Islands receive Medicare. I was elected to Congress to represent my constituents who have invested in a system that would provide quality health care that is accessible and affordable.

We need to preserve and improve Medicare, education, and housing programs, not dismantle them for tax cuts for the rich making over $600,000 a year.

I urge my colleagues to defeat H.R. 2491.

THE ANTITAX REVOLUTION

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, these presidential gyrations on taxes are fascinating. Watch the President flip, flop, flip. Well, we all remember when candidate Bill Clinton promised a middle-class tax cut, but then President Bill Clinton raised taxes on the American people. Now the President, as the train is leaving the station, says he wants on board the antitax revolution.

Well, Mr. Speaker, we here in Congress—the Republican majority anyway—heartily agree with the President that his 1993 tax increases were way too big and a big policy mistake. That is why we want to give American families a $500-per-child tax credit. The average family of two will get a $1,000 tax credit. Those making between $25,000 and $30,000 will see their taxes cut in half, and 4.57 million very low income families will see their tax liability eliminated altogether.

Mr. Speaker, President Clinton is right. His taxes are too high, and we Republicans this week are going to cut those taxes and let Americans keep more of the fruit of their labors.

ARE WE TAKING CARE OF OUR NATION'S CHILDREN?

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, 22 percent of our Nation's children live below the poverty line—22 percent. That is the largest percentage of any developed country. So what are we doing about that? Are we acting in a bipartisan way to make sure that we take care of our Nation's children? No.

In this reconciliation package this week, we are cutting Head Start programs by $137 million, kicking children out of existing programs; and this is a program that President Ronald Reagan sought to increase funding for.

At the same time, lobbyists are arguing very successfully for more funding for B-2 bombers that the Defense Department does not event want, and we are cutting children out of Head Start programs.

Mr. Speaker, this is coldhearted, this is short-sighted, and I hope that we work together in a bipartisan way to take care of our Nation's children, 22 percent of which live below the poverty line.

THE ASSAULT ON CHILDREN

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, last week, it was the assault on the elderly. This week, as budget reconciliation comes to the floor of the House, the assault is on children.

Let me talk for a moment, Mr. Speaker, about my home State of Pennsylvania. The Republican Medicaid plan would eliminate coverage for as many as 114,892 Pennsylvania children and 4.4 million children nationwide. We are also going to cut in Philadelphia and Pittsburgh infant mortality programs by 52 percent.

We have heard a lot about tax credits. That is nonrefundable. How many people who have two or four children at the end of the year owe $1,000 or $2,000? Actually, when they eliminate the earned income tax credit, families with two or more children in Pennsylvania will face an average tax increase of $448 under the Republican plan.

This plan will deny Head Start to 6,000 children across Pennsylvania and 180,000 children nationwide. It will deny 45,000 Pennsylvania students basic and advanced skills in 1996 by cutting title I. The cuts just keep on coming, Mr. Speaker.

THE MEDICARE BILL WILL COST SENIORS MORE

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I have been saying for some time on the floor that the Medicare bill which passed the House last week, the Republican-sponsored Medicare bill, would cost seniors a lot more. They would have to pay more in order to get less quality care.

I was therefore amazed when I found out that when the bill came up, a rule that was adopted in this House in which the Republican leadership boasted about requiring a three-fifths vote majority to raise any taxes was waived when the Medicare bill came to the floor last week. That was a recognition of the fact that this bill had major tax increases, doubled premiums for part B for physicians' care, eliminated the guarantee that certain low-income seniors have their Medicaid part B paid for and also implemented a means test which required seniors to pay more.

There is no question in my mind that what that Medicare bill did was charge a lot more to seniors in order to finance this tax cut that is coming up this week, a $245 billion tax cut that is going to be going mainly to wealthy Americans.

THE AMERICAN PEOPLE WANT ACTION

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, last week, President Clinton was caught in the act of selling another huge whopper to the American people. This time Bill Clinton told an audience of fat cat Democrat contributors that he thinks his 1993 tax increases were a mistake.

He then attempted to hide behind his mother by saying he forgot her advice about making a speech after 7 p.m.

Mr. Speaker, I have not forgotten my mother's advice. My mother told me to go to Washington and cut taxes, save Medicare, reform welfare, and balance the budget. My momma wouldn't care how tired I was or about the time of day. My mother and my constituents gave me a clear agenda that I will not back away from. No more excuses, no more inside-the-beltway gimmicks. The American people want action and they want Congress and the President to do the right thing for America's future—even if it means working late at night.

GO BRAVES

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, Ted Turner has done it again. Turn on your TV. Turn on almost any channel. You can't miss it. The Atlanta Braves are back—back in the World Series—to claim what is theirs.

Not since the Yankees of old has a baseball team stood so tall for so long. Bobby Cox has built a team for the ages—a team for destiny. Maddux. Glavine. Smoltz. Avery. Wohlers. The Murderer's Row of the 1990's—the pitchers no team wants to face.

The defense of Belliard, Lemke, and Grissom—the power of Justice, Klesko, Jones, and McGriff—they inspired Atlanta to forget the strike, to believe.

So I say to my friends from Ohio—get ready to rock and roll.

It's two and "Oh" and two to go. The Braves will not be denied. They cannot go back, they must not go back, they will not go back. Go Braves, Go Braves, Go Braves.

NEW MAJORITY WILL DELIVER TAX CUTS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this week the new majority will deliver on the tax cuts we promised during the last election. We will provide much needed relief to overburdened families.

In 1948, the average American family with children paid only 3 percent of their income to the government. Today, that same family pays 24.5 percent. In fact, the average family pays more in taxes than it does on food, clothing, and housing combined.

Our $500-per-child family tax credit will provide relief to more than 35 million American families. For families with two children, that's $1,000 that is now in their hands—not the government's.

In addition, the $500-per-child tax credit will eliminate the tax burden for 4.7 million families.

Mr. Speaker, all Americans deserve a tax cut. President Clinton believed this when he was a candidate. This week, Republicans will deliver.

WHERE IS THE BILL?

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, we are going to vote on reconciliation this week, and the last speaker in the well said that they are going to keep their contract provisions and give everybody a tax break. Well, here is a draft of the reconciliation bill. It is 1,563 pages. On page 1,563 title 19 says, contract tax provisions, text to be supplied. Text to be supplied.

They do not have a bill. We will never see the bill, but they are going to expect every one of us, 435, to vote on it come Thursday, a bill we have never seen.

Mr. Speaker, we know from the past 10 months what the Republican plan will do. It will eliminate Medicaid coverage for over 69,000 children in Michigan. We know it will jeopardize the immunization program for children in Michigan. We know that over 600,000 children in Michigan will have their taxes raised by an average of $380 by the year 2002. We know that they deny Head Start over 7,000 children in Michigan. We know that there are nutrition programs that will be cut in this reconciliation package.

Before we vote, I hope we get the whole text of the reconciliation bill and not just false promises.

PRESIDENT RAISES TAXES TOO MUCH

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the President has finally confirmed what Republicans have been saying all along—that he raised taxes too much. While speaking in Houston at a fundraiser he stated that a lot of people think "I raised their taxes too much. It might surprise you to know that I think I raised them too much too."

Republicans promised tax cuts last year and this week we plan to vote on a budget package that will include a tax cut totaling $245 billion dollars.

We are offering a $500-per-child tax credit which will eliminate taxes for families making less than $25,000. We reduce capital gains taxes by 50 percent. We reduce the tax burden on our Nations seniors by repealing the 1993 Clinton tax increase over the next 7 years.

Everyday it is more clear that Republicans want to lead this Nation into the next century, while the President and Democrats can only offer rhetoric, scare tactics, and flip-flops.

DEDICATED EDUCATORS

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, I rise today to inform you and all of my colleagues of a special event taking place beginning this evening and for the balance of the week.

Our Page School is being visited by a validation team from the Middle States Association of Colleges and Schools. This visitation occurs once every 10 years, and a favorable report is critical to the reaccreditation of the school. I know Dr. Knautz, the principal of the Page School, and his very able staff have spent a year in preparation, and I am confident the school will be recognized for its continued excellence.

As chairman of the Page Board, I want to acknowledge the dedication of these educators who are serving on the validation team. The chairperson is Ms. Maureen K. Newman of Great Neck, NY. She is ably assisted by Mr. James M. Skeens of Randallstown, MD, Mrs. Kathryn Draper of Centreville, MD, Mr. Robert C. Williams of Edgewood, MD, and Mr. Don Mieczkowski of Sandy Spring, MD.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar. Without objection, the first bill on the calendar will be called last.

There was no objection.

The SPEAKER pro tempore. The Clerk will call the second bill on the Corrections Calendar.

SENIOR CITIZENS HOUSING SAFETY AND ECONOMIC RELIEF ACT OF 1995

The Clerk called the bill (H.R. 117) to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwelling units in public housing projects designated for occupancy by elderly families, and for other purposes.

The Clerk read the bill, as follows:

H.R. 117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizens Housing Safety Act of 1995".

SEC. 2. LIMITATION ON OCCUPANCY IN PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.

(a) IN GENERAL.—Section 7(a) of the United States Housing Act of 1937 (42 U.S.C. 1437e(a)) is amended—

(1) in paragraph (1), by striking "Notwithstanding any other provision of law" and inserting "Subject only to the provisions of this subsection";

(2) in paragraph (4), by inserting ", except as provided in paragraph (5)" before the period at the end; and

(3) by adding at the end the following new paragraph:

"(5) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

"(A) OCCUPANCY LIMITATION.—Notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by—

"(i) any person with disabilities who is not an elderly person and whose history of use of alcohol or drugs constitutes a disability; or

"(ii) any person who is not an elderly person and whose history of use of alcohol or drugs provides reasonable cause for the agency to believe that the occupancy by such person may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

"(B) REQUIRED STATEMENT.—A public housing agency may not make a dwelling unit in such a project available for occupancy to any person or family who is not an elderly family, unless the agency acquires from the person or family a signed statement that no person who will be occupying the unit—

"(i) uses (or has a history of use of) alcohol, or

"(ii) uses (or has a history of use of) drugs,

that would interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.".

(b) LEASE PROVISIONS.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) provide that any occupancy in violation of the provisions of section 7(a)(5)(A) or the furnishing of any false or misleading information pursuant to section 7(a)(5)(B) shall be cause for termination of tenancy; and".

SEC. 3. EVICTION OF NONELDERLY TENANTS HAVING DRUG OR ALCOHOL USE PROBLEMS FROM PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.

Section 7(c) of the United States Housing Act of 1937 is amended to read as follows:

"(c) STANDARDS REGARDING EVICTIONS.—

"(1) LIMITATION.—Except as provided in paragraph (2), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or a portion of the project) pursuant to this section or because of any action taken by the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

"(2) REQUIREMENT TO EVICT NONELDERLY TENANTS HAVING DRUG OR ALCOHOL USE PROBLEMS IN HOUSING DESIGNATED FOR ELDERLY FAMILIES.—The public housing agency administering a project (or portion of a project) described in subsection (a)(5)(A) shall evict any person whose occupancy in the project (or portion of the project) violates subsection (a)(5)(A).

"(3) REQUIREMENT TO EVICT NONELDERLY TENANTS FOR 3 INSTANCES OF PROHIBITED ACTIVITY INVOLVING DRUGS OR ALCOHOL.—With respect to a project (or portion of a project) described in subsection (a)(5)(A), the public housing agency administering the project shall evict any person who is not an elderly person and who, during occupancy in the project (or portion thereof), engages on 3 separate occasions (occurring after the date of the enactment of the Senior Citizens Housing Safety Act) in any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of alcohol or drugs.

"(4) RULE OF CONSTRUCTION.—The provisions of paragraphs (2) and (3) requiring eviction of a person may not be construed to require a public housing agency to evict any other persons who occupy the same dwelling unit as the person required to be evicted.".

SEC. 4. STANDARDS FOR LEASE TERMINATION AND EXPEDITED GRIEVANCE PROCEDURE.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (k), in the first sentence of the matter following paragraph (6), by striking "criminal" in the first place it appears; and

(2) in subsection (l)(5), by striking "criminal" the first place it appears.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore (Mr. FOLEY). The Clerk will report the Committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as "Senior Citizens Housing Safety and Economic Relief Act of 1995".

SEC. 2. AUTHORITY FOR PUBLIC HOUSING AGENCIES TO PROHIBIT ADMISSION OF DRUG OR ALCOHOL ABUSES TO ASSISTED HOUSING.

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended—

(1) in the section heading by striking "INCOME"; and

(2) by adding at the end the following new subsection:

"(e) AUTHORITY TO LIMIT ADMISSION OF DRUG OR ALCOHOL ABUSERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may establish standards for occupancy in public housing dwelling units and assistance under section 8, that prohibit admission to such units and assistance under such section by any individual—

"(A) who currently illegally uses a controlled substance; or

"(B) whose history of illegal use of a controlled substance or use of alcohol, or current use of alcohol, provides reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

"(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny admission or assistance to any elderly person based on a history of use of a controlled substance or alcohol, a public housing agency may consider whether such elderly person—

"(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable);

"(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable); or

"(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable).".

SEC. 3. DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES.

(a) IN GENERAL.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

"(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

"(4) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

"(A) IN GENERAL.—Subject only to the provisions of subsection (b) and notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by any individual who is not an elderly person and—

"(i) who currently illegally uses a controlled substance; or

"(ii) whose history of illegal use of a controlled substance or use of alcohol, or current use of alcohol, provides reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

"(B) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to subparagraph (A), to deny occupancy to any individual based on a history of use of a controlled substance or alcohol, a public housing agency may consider the factors under section 16(e)(2).

"(b) STANDARDS REGARDING EVICTIONS.—

"(1) LIMITATION.—Except as provided in paragraph (2), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

"(2) REQUIREMENT TO EVICT NONELDERLY TENANTS IN HOUSING DESIGNATED FOR ELDERLY FAMILIES WHO HAVE CURRENT DRUG OR ALCOHOL ABUSE PROBLEMS.—The public housing agency administering a project (or portion of a project) described in subsection (a)(4)(A) shall evict any individual who occupies a dwelling unit in such a project and who currently illegally uses a controlled substance or whose current use of alcohol provides a reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This paragraph may not be construed to require a public housing agency to evict any other individual who occupies the same dwelling unit as the individual required to be evicted.

"(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a) shall provide, to each person and family relocated in connection with such designation—

"(1) notice of the designation and relocation, as soon as is practicable for the agency and the person or family;

"(2) comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate that is comparable to that applicable to the unit from which the person or family has vacated; and

"(3) payment of actual, reasonable moving expenses.

"(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

"(1) establishes that the designation of the project is necessary—

"(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(B) to meet the housing needs of the low-income population of the jurisdiction; and

"(2) includes a description of—

"(A) the project (or portion of a project) to be designated;

"(B) the types of tenants for which the project is to be designated;

"(C) any supportive services to be provided to tenants of the designated project (or portion);

"(D) how the agency will secure any additional resources or housing assistance that is necessary to provide assistance to nonelderly disabled families that would have been housed if occupancy in project were not restricted pursuant to this section; and

"(E) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants.

For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of residents.

"(e) REVIEW OF PLANS.—

"(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

"(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

"(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

"(A) the plan is incomplete in significant matters required under such subsection; or

"(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

"(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995) that have not been approved or disapproved before such date of enactment.

"(f) EFFECTIVENESS.—

"(1) 5-YEAR EFFECTIVENESS OF PLAN.—A plan under subsection (d) shall be in effect for purposes of this section only during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d). An agency may extend the effectiveness of the designation and plan for an additional 2-year period beginning upon the expiration of such period (or the expiration of any previous extension period under this sentence) by submitting to the Secretary any information needed to update such plan.

"(2) SAVINGS PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995) before such date of enactment shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

"(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

"(h) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) LEASE PROVISIONS.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) provide that any occupancy in violation of the provisions of section 7(a)(4) shall be cause for termination of tenancy; and".

SEC. 4. STANDARDS FOR ASSISTED HOUSING LEASE TERMINATION AND EXPEDITED GRIEVANCE PROCEDURE.

(a) PUBLIC HOUSING AGENCY GRIEVANCE PROCEDURE.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended, in the first sentence of the matter following paragraph (6), by striking "criminal" the first place it appears and all that follows through "such premises" and inserting "activity described in subsection (l)(5) of this section or section 8(d)(1)(B)(iii)".

(b) PUBLIC HOUSING LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

"(4) require that the public housing agency may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause;

"(5) provide that the public housing agency may terminate the tenancy of a public housing resident for any activity, engaged in by the resident, any member of the resident's household, or any guest or other person under the resident's control, that—

"(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the public housing agency or other manager of the housing;

"(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

"(C) is criminal activity (including drug-related criminal activity);".

(c) SECTION 8 HOUSING LEASES.—Section 8(d)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)) is amended by striking clause (ii) and (iii) and insert the following new clauses:

"(ii) the owner shall not terminate the tenancy except for violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause;

"(iii) the owner may terminate the tenancy of the tenant of a unit for any activity, engaged in by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, that—

"(I) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the owner or manager of the housing;

"(II) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

"(III) is criminal activity (including drug-related criminal activity); and".

SEC. 5. EXTENSION OF FHA MORTGAGE INSURANCE PROGRAM FOR HOME EQUITY CONVERSION MORTGAGES.

(a) EXTENSION OF PROGRAM.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(b) LIMITATION ON NUMBER OF MORTGAGES.—The second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "25,000" and inserting "50,000".

(c) ELIGIBLE MORTGAGES.—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z–20(d)(3)) is amended to read as follows:

"(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;".

The SPEAKER pro tempore (during the reading). Without objection, the committee amendment in the nature of a substitute will be considered as read and printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa [Mr. LEACH] and the gentleman from Massachusetts [Mr. KENNEDY] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, before the House this afternoon is H.R. 117, the Senior Citizens Housing Safety and Economic Relief Act. The bill is designed to address the physical and economic needs of senior citizens.

On physical grounds, it is intended that seniors not be required to live with those who have brought drugs and crime into their housing projects. It is imperative to give seniors not only a safe environment in which to live, but one in neighborhoods where they have been brought up in a community with their past and current families.

In cities in particular, it is thus designed to halt gray flight.

For this initiative, I would compliment Mr. BLUTE, who introduced this approach in bill form, and Mr. FLANAGAN, who has been such an advocate of this change.

The second group of senior citizens this legislation—which was put together by the excellent work of Representative RICK LAZIO, chairman of the Housing and Community Opportunity Subcommittee—would help are those whose major asset is the house in which they have lived for many years, in which they have raised their family and in which they hope to continue to live, as long as they are physically capable of doing so.

Many of these elderly home-owning persons are facing financial pressures which can be eased by allowing them to enter into so-called reverse mortgages through which they can remain in their homes while receiving either a lump sum payment or monthly payments based on the value of their homes.

□ 1430

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LAZIO] to explain this program.

Mr. LAZIO of New York. Mr. Speaker, time and time again Members have come to the floor of the House of Representatives and spoken about the tremendous opportunity we have in the 104th Congress. Today, through the corrections day process and through the hard work of many Republican Members, we are seizing that opportunity to right the wrongs of misguided public policies and to make sure our seniors can be secure in their homes.

H.R. 117 accomplishes two very important goals. By allowing PHA's to take steps to evict dangerous tenants, this bill ensures that seniors who have trusted the government to provide them with decent, safe housing can feel secure in their own homes. By reauthorizing the Home Equity Conversion Mortgage [HECM] program, this bill also ensures seniors who own their own home and who want to stay in their own neighborhood can do so in comfort, not worrying about whether they can afford to.

Too often, the best laid plans of HUD and Congress have effects that were never intended. Certainly, providing good housing for disabled Americans is something we should do and elderly-only housing projects tend to be some of the best federally-assisted housing available. Too many people who receive a housing subsidy are current drug addicts or alcoholics living under the guise of disabled persons. This mix has proven to be harmful to seniors and truly needy and deserving disabled people as well.

We cannot tolerate the harassment, intimidation, and even physical abuse that is heaped on older Americans by residents in their own building who are living at taxpayer expense. We cannot tolerate those who would prey on grandparents, our neighbors, or our children.

I appreciate the hard work of so many of my colleagues who played a part in bringing this legislation to the floor and the leadership shown by Members such as my distinguished colleague from Massachusetts, Mr. BLUTE. I applaud the commitment being made today by Members on both sides of the aisle who, by voting for this bill, are supporting and protecting our parents and grandparents.

I also appreciate the concern many Members have shown with regard to the other provision of H.R. 117 that was in a bill I introduced earlier this year as H.R. 1934, which reauthorized the Home Equity Conversion Mortgage Program for older Americans. I feel very strongly about the need to reauthorize this program because of the tremendous value reverse mortgages have for seniors around the country.

This provision encourages those who want to stay in their homes and in the neighborhoods they care about, while at the same time making their life more livable. The HECM program can ensure the quality of life of older Americans at no additional cost to the government, making everybody winners.

In closing, I would remind my colleagues of the strong showing of support we have received for this legislation. The American Association of Retired Persons, the National Association of Home Builders, the American Association of Homes and Services for the Aging, and the National Assisted Housing Management Association have all voiced strong support for this bill. But in the final analysis we are passing this bill today not for political reasons: We are passing it for the people these groups represent and for the millions of Americans who look to this Congress for help and support. The Senior Citizen Housing Safety and Economic Relief Act of 1995 is a good bill and I urge all of my colleagues to support it.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me read to this Chamber the headline from an article written in the Boston Herald last Friday, October 20. The headline says: "Chelsea Widow, 73, Raped at Gunpoint."

This 73-year-old woman had just lost her husband 4 or 5 months prior to this outrageous incident, and was living alone in what was supposed to be an elderly-only public housing building in Chelsea, MA, a working-class city just outside of Boston.

Unfortunately, over the past several years more and more younger people have been allowed to move into this supposedly elderly-only public housing project, many with substance abuse problems. While noboby who actively abuses drugs or alcohol is supposed to get into public housing, too often screening is inadequate, old habits return, or drug pushers "game" the system and gain admittance to public housing under the guise of being disabled in order to ply their trade. As we all know, drug addicts commit crimes, particularly violent crimes, and, as in Chelsea, the victims are often the elderly and the frail.

We have tried several times over the past several years in the Congress to make it possible for public housing authorities to set up elderly-only public housing, and to kick out trouble makers who are threatening the elderly for any reason. In fact, later this year I expect the committee to consider whether or not former drug or alcohol abusers should be considered disabled at all for the purposes of public housing.

But for various reasons, the attempts to restore elderly-only housing have failed. So, today we are moving forward on a bipartisan basis to try to address this terrible problem and I want to commend Chairman LAZIO for bringing this bill to the floor.

This bill will give housing authorities the power to screen out people with histories of drug and alcohol abuse if they have reasonable grounds for expecting that the applicants will cause problems.

It requires housing authorities to get rid of nonelderly tenants who have current alcohol or drug abuse problems.

It enables housing authorities to get rid of tenants in family or elderly projects who are threatening the health and safety of other tenants.

It clears away the existing barriers to the creation of elderly-only public housing, and allows for the creation of disabled-only housing or housing for mixed populations.

While I support this bill, and urge my Democratic colleagues to do the same, I must point out that the Republicans have not always been so friendly to the elderly who live in our public and assisted housing.

Just a few short weeks ago, the Republicans voted to kill all new rental assistance that the Secretary was using largely to move the disabled out of senior-only housing.

Just a few short weeks ago, the Republicans voted to raise rents on senior citizens living in public and assisted housing, and the Republicans defeated amendments offered by me and my colleague BARNEY FRANK to roll back these rent increases.

These same Republicans came to the floor and voted for a budget that will absolutely decimate public housing, in spite of the fact that about one-third of public housing units are occupied by the elderly. Where will they go when the walls start falling down around them, or there is no more heat or hot water?

Finally, while authorizing public housing authorities to create disabled-only housing, the notion that any such housing will ever be built, given the tight-fisted budgets passed for housing by this Republican Congress is, frankly, a fantasy. The need will be greater, but there will be less and less housing for these extremely vulnerable people.

So, I ask my Republican colleagues not just to cast the easy votes and make speeches on the House floor, not just to pay lip service to the needs of the elderly and disabled, but to cast the tough votes and fight the tough battles for increased housing for the elderly, the disabled, and the poor.

Mr. Speaker, I reserve the balance of my time.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to my friend, the distinguished gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, just over a year ago, this House passed on a voice vote an amendment to the Housing and Community Development Act that would have prevented drug addicts and alcoholics from residing in elderly public housing.

However, the Senate did not act on this legislation, and, therefore, I reintroduced it this year. Since then I have worked with Chairman LEACH and Chairman LAZIO on perfecting this bill and I believe that with their leadership and with the leadership of many members of the committee on both sides of the aisle that we have brought before this House a bill which everyone can be proud of and can support.

The fact of the matter remains as it did last year and the year before then that senior citizens are living in fear because of a law which Congress passed back in 1988. That law allows young drug and alcohol abusers into senior housing facilities. The result of this misguided statute has brought terror into the lives of elderly Americans across the country who deserve to live out their retirements in safe and secure housing.

Not only are our parents and grandparents subjected to loud music and all-night parties, they are being shaken down for loans, harassed, robbed, assaulted and, yes, in some tragic cases even raped.

Let me just state some of the horrible situations that our seniors are living with under current Federal law:

In my district, an elderly woman was shaken down for a $1,000 loan by a 38-year-old former drug abuser who lived in her complex. He then threatened the life of the woman's relatives after being confronted by them.

In the city of Boston, a 92-year-old woman was raped in her public elderly housing apartment by a 38-year-old neighbor in her building who was a drug abuser.

More recently the Committee on Banking and Financial Services heard emotional testimony from a senior citizen from Worcester, MA, Anneliesse Belculfino, who spoke about young men lined up outside as a prostitute tossed her keys out the window, and a drug abuser and resident running naked through the hallway harassing elderly tenants.

In addition, the committee heard testimony from Jack Mather of the Brockton, Massachusetts Housing Authority who said that the percentage of nonelderly disabled in senior housing has risen from 9 percent to 38 percent.

This bill will change this disastrous policy. I can think of nothing that is more important to correct in the Federal code than this policy. I urge this House to adopt this bill.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ], the former chairman of the committee, an individual who has done more for public housing and housing of our Nation's poor and senior citizens than any individual in this Chamber.

Mr. GONZALEZ. Mr. Speaker, I appreciate the very kind remarks of Chairman KENNEDY, particularly coming from him, whom I greatly admire. In a grandfatherly way, I have watched him grow up, so it is something that I deeply appreciate.

Mr. Speaker, the bill before the House clarifies current law. As a practical matter the bill is not necessary. The fact is that housing authorities already can screen applicants for disabled housing, to ensure that persons who are likely to be disruptive or a threat to their neighbors are not placed in senior citizen projects. And housing authorities already can evict tenants who are disruptive or who threaten other tenants. But to the extent that housing authorities believe they need clearer legal guidance, this bill provides that guidance.

In its original form, this bill would have permitted public housing authorities to refuse housing or to evict virtually anyone, on an arbitrary basis. We worked in a bipartisan way to make improvements in the bill, to provide a reasonable level of protection against arbitrary and capricious actions by housing authorities. However, even as it stands, the bill could be read as permitting actions against tenants based solely on gossip and rumor, rather than any real evidence of misconduct. Therefore I want to emphasize that it is not the intent of this bill to deny anyone the right to reasonable process.

Every tenant of a public housing unit, just like any other citizen, has the right to be protected against neighbors who pose a threat or who engage in criminal conduct of any kind. That is what this bill is about—to make clear that disabled individuals who use drugs or alcohol, and who are disruptive or threaten their elderly neighbors, will promptly be evicted. And in addition, this bill makes it clear that a housing authority can deny housing to a person who is likely to threaten the peace and safety of a senior citizen housing project. This protection can be provided without violating anyone's right to a reasonable process. Moreover, as I have stated before, housing authorities can already do this under current law—all this bill does is to make that fact clear to anyone who feels a clarification is needed.

The majority did work with us to make needed revisions in the bill, and I appreciate the cooperation that we received. The bill in its current form is much improved, and I support it.

□ 1445

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute and 30 seconds to the distinguished gentleman from Iowa, [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding time to me.

On July 24, the citizens of Waterloo, IA, spoke to the Speaker of the House and myself during a town meeting. During that visit, the Speaker made a commitment to the people of Waterloo that we were going to act today on this important legislation. So today we do act.

I commend the chairman, the gentleman from New York, [Mr. LAZIO], and the gentleman from Iowa, [Mr. LEACH], and many others who have worked tirelessly on this issue.

I want to read to you the pleas of the citizens group in Waterloo that has been working on this issue. In part it says this: when a drug dealer lives in Federal housing, more specifically in section 8 housing, we find our battle is not only with the drug dealer, but also with the Federal Government.

They went on to say, as poor families sit on waiting lists, sometimes for years, to receive section 8 housing, drug dealers roll up their thick wad of twenties and continue to get their rent paid by the Federal Government. Federally funded housing should be the most crime-free housing in our Nation. Instead it has become synonymous with drugs and violence. Being poor should not mean you are forced to live among drug dealers and violent criminals.

Therefore, families are forced to live with drug dealing and with violent neighbors because of regulations that go unenforced by Housing and Urban Development. Today we will stop this practice by this important legislation.

We answer the pleas of Leon Moseley and Donna Jones and many others from Waterloo and across the country that have been pleading for help and action by the Federal Government so that they do not have to live in communities that are full of drugs and violence. I commend this entire Congress for working in an area where Housing and Urban Development would not.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield 6 minutes to the gentleman from Virginia [Mr. MORAN] who came to see me on this issue going back almost 6 years ago. He has been working tirelessly to try to clean up elderly housing in his district. I commend him for his steadfast efforts in that regard.

Mr. MORAN. Mr. Speaker, I thank my very good friend from Massachusetts and the ranking Democrat on the Subcommittee on Housing and Community Opportunity.

This is a very good bill. Certainly all of us are aware of the fact that we have so many seniors who are asset rich and cash poor, and so this home equity conversion mortgage extension works out very well for them and is going to relieve a lot of anxiety for them. I am particularly excited about the provision that relates to the screening and eviction of drug and alcohol abusers in public and publicly assisted housing.

I did not come to the conclusion in any easy way. In fact, when I got involved in public service, back many years ago, it was really over subsidized housing. By the time I was mayor of Alexandria across the river, one out of every seven homes in Alexandria were subsidized.

But increasingly they become characterized by drug dealing and crime and violence. It was not working. Elderly residents were scared for their lives to live in publicly assisted housing. Single mothers had to come to the conclusion really that their children were going to get involved in drug dealing before they became adults. It was almost inevitable. It came to a climax when I lost a very good friend who was a police officer in a highly publicized shootout over a drug transaction. I will not go into the specifics of that, but it became clear that we had to do something.

I went to Secretary Kemp and got a waiver to do exactly what this bill does today. In fact, this bill builds on the provisions that were in last year's Housing and Community Development Act that expanded the grounds for eviction for criminal activity to any activity that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents and by public housing employees.

This measure includes language that I offered last year to remove the geographic limitation that current law places to the expedited eviction procedure by striking the on-or-near-such-premises language. What happens is that drug dealers know very well where the boundary is, they just step over to do their drug dealing.

This bill also clarifies that ignorance of illegal drug activity should not by itself be grounds for exempting a tenant from the expedited eviction procedure. That actual-knowledge standard is a real easy way our for the tenant of record. It encourages the leasehold, which is oftentimes the parent, to avoid knowing what the members of their family, who should be under their control, are actually doing on the premises.

Mr. Speaker, one outstanding concern is that the eviction and screening provisions should be extended to all government assisted privately owned housing. There are approximately 1.4 million public housing units, while there are more than 2.1 million section 8 publicly assisted housing units.

What is effective for public housing should be applied to the privately owned publicly assisted housing as well. In reviewing the legislation, it is not exactly clear if tenants in project-based section 8 programs and tenants in FHA-insured subsidized housing are covered. I am not aware of any legislation standards for eviction from section 8 project-based on FHA-subsidized housing, although I believe HUD has issued rules and a handbook for this housing.

So I think it would be helpful if we could clarify with respect to the project-based section 8 housing and the FHA-subsidized housing whether this applies to them.

Mr. Speaker, could the gentleman from New York [Mr. LAZIO], clarify that?

Mr. LAZIO of New York. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Speaker, I would be happy to respond to the gentleman.

I want to thank the gentleman from Virginia first of all for his tireless work in this area and for his very valuable input and his strong personal understanding of the issue in working with our staff and particularly with me.

The intent of this bill is to apply stronger eviction standards as broadly as possible to all forms of section 8 housing as well as public housing. Regarding other forms of assisted housing, we are urging the Secretary of Housing and Urban Development to apply stricter standards, stricter eviction standards to all activity, whether criminal, drug related or otherwise in all types of assisted housing.

I would also like to assure my colleague from Virginia that I will continue to work in this area with him to ensure that all multifamily assisted housing meets the stricter eviction standard that the gentleman speaks so eloquently about. I am prepared to include provisions in H.R. 2406, the United States Housing Act of 1995, that would cover all forms of assisted housing and pledge to work with my distinguished colleague from Virginia and other interested colleagues who share these concerns.

I would turn to my distinguished colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], the former ranking member of the Subcommittee on Housing and Community Opportunity whose experience in this field who will no doubt play an important part in this process, with the gentleman's indulgence.

Mrs. ROUKEMA. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman from New York [Mr. LAZIO] and our colleague, the gentleman from Virginia [Mr. MORAN].

I have worked on this issue as the ranking member of the subcommittee for a number of years. Clearly section 202 housing projects are by their very design for elderly only; at least they should be. These projects are almost universally well run, well maintained and relatively free from crime. But it is precisely this type of environment that we should be able to provide for all seniors in all federally assisted housing.

I am really pleased that the gentleman from Virginia [Mr. MORAN] has brought this subject up. We must work very diligently to close any existing loopholes that there may be and to be sure that that kind of protection is afforded for all seniors and disabled. I thank the gentleman.

Mr. MORAN. Mr. Speaker, I thank the gentlewoman for her leadership and for that clarification, as well as the gentleman from New York [Mr. LAZIO], the gentleman from Texas [Mr. GONZALEZ], the former chairman, and the gentleman from Massachusetts [Mr. KENNEDY], the former chairman, as well.

I thank them very much for clarifying that, and the substance of this legislation is very important.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], the chairperson of the Subcommittee on Financial Institutions and Consumer Credit and a great friend of seniors throughout America.

Mrs. ROUKEMA. Mr. Speaker, recovering alcoholics and drug abusers should never have been allowed to live in these housing projects that are clearly reserved for the elderly and the disabled. We have the opportunity today to close this shameful chapter for our senior citizens.

Our seniors have a right to live their lives in quiet and trouble-free environments rather than one filled with drug abusers, dealers, and alcoholics. It should never have happened.

I want to commend the gentleman from Massachusetts [Mr. BLUTE]. I worked with him since 1992. We thought we had the problem resolved. As has already been stated, the problem goes back to the 1988 act.

At the time of that 1988 legislation, I opposed the change in the law. In 1992, we thought we had worked with the chairman of the committee and many others who rewrite the laws and protect against it. But we said at the time it would probably need more working. In 1994, we went through the same exercise, a good exercise. It was a good piece of legislation. Unfortunately, the Senate did not act on the legislation.

So I want to thank the chairman, thank the ranking member, and all those who are working here today to finally fix the problem and provide for clarity, not only in the law but also for the regulatory process so that there will be no more confusion and that we will give the safety to the senior citizens that they deserve and close this shameful chapter in the history of public housing and subsidized housing.

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I really thank the gentleman for his work and the work of the gentleman from Massachusetts [Mr. BLUTE] on this bill. This is a long time coming.

It is great work, and I am proud to be associated with it and to support it. It seems to me that what we have done here finally is we have injected some common sense into a process that was very short on it. We are saying very clearly and for the first time that there are certain things, certain standards that we can demand that people must adhere to in order to qualify for, in order to be able to take advantage of public assisted housing.

One of those things is that we are not going to allow drug addicts and drugs to be disrupting the lives of senior citizens in federally subsidized housing. I have got a specific project in Cleveland on the west side of the Cuyahoga River that overlooks the river. It is a wonderful community, a diverse community of senior citizens who care for each other, who care about each other, who take care of each other in a very remarkable way. Yet, they were victimized by drug dealers in their building. I am so delighted that we are fixing that problem today. I commend the gentleman for his efforts.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FLANAGAN], a great advocate of this legislation.

Mr. FLANAGAN. Mr. Speaker, before I give the statement I prepared, I would like to call to the House's attention the testimony given by the gentleman from Virginia [Mr. MORAN] before the full committee. If Members are in any way undecided on this bill, I urge them to pull that testimony and read Mr. MORAN's remarks. He was very self-effacing today when he said he would not go through the details, but it is an amazing story, and it is truly a moving one. I wish that there were time for him to repeat it fully here.

Mr. Speaker, as a cosponsor of H.R. 117, the Senior Citizens Housing Safety Act of 1995, I am pleased that this legislation is on the House floor today. I am very proud of this legislation. It is the result of a bipartisan effort to protect our seniors and to make their housing safer.

Mr. Speaker, earlier this year I visited with the coalition to save the Greenview and Eckhardt apartments in Chicago. Seniors discussed many of the problems that they face everyday as residents in public housing. The picture that they painted was horrifying. The housing of substance abusers in these complexes is despicable. Our seniors' safety is threatened with guns, gang crime, violence, and prostitution into what should be their safe haven—their homes.

The Eckhardt apartment complex clearly illustrates that mixing elderly and nonelderly substance dependent residents does not work. Mr. Speaker, it is nothing less than tragic that our poor and innocent senior citizens should have to live in public housing facilities designated for the elderly and the elderly and disabled families with nonelderly tenants who are substance abusers. These drug and alcohol abusers are a threat to the health and safety to the seniors who live in these projects. For elderly citizens, who are most susceptible to physical attack, having to live in the same project with these substance abusers in an outrage.

This legislation toughens placement and eviction policies in order to protect residents of public and assisted housing programs from substance abusers. It gives public housing directors the authority to bar troublesome tenants from their buildings, and this reduce the threat to seniors.

Although I am not on the committee, I have attended hearings on public housing by the Banking and Financial Services Committee and its Subcommittee on Housing and Community Opportunities. Time and time again it was brought up that one of the most important actions that can be taken to protect our seniors from such atrocities in public housing is the careful pre-screening of applicants. Everyone wants this to happen, the tenants, the managers, the Federal, State, and local public officials. The only ones who are not happy about this bill are those who know that they wouldn't be allowed in.

The Blute bill, the Senior Citizens Housing Safety Act of 1995 (H.R. 117) is the appropriate step in that it allows for proper pre-screening of potential tenants. We owe it to our seniors to fight for their safe housing. I urge my colleagues to support this legislation.

□ 1500

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. KENNEDY] for yielding this time to me.

This is an issue that is very important across the Nation, but particularly we have seen it in the Pittsburgh region. I know the gentleman from Massachusetts [Mr. KENNEDY] has worked very hard on this issue, as has the former chairman, the gentleman from Texas [Mr. GONZALEZ], now ranking member, and I thank the gentleman from New York [Mr. LAZIO] for his hard work on this because this is an issue that, I think, we can see that something good occurs today.

As my colleagues know, back in 1988 housing provisions were enacted that resulted really in commingling of senior citizens and substance abusers in public housing complexes, and obviously the introduction, as my colleagues have heard from Members here today, Mr. Speaker, had led to conflicts, and it had led to crime. In response in 1992 Congress designated seniors-only, disabled-only, and mixed housing, but there has been some confusion by those people who run the public housing. I think that this bill today will clarify how these designations can be made. I think this will be a great help. The rules to implement these three categories have been difficult to enforce, If we talk to our housing directors. We have talked to them, in western Pennsylvania. They tell us that only 10 of 3,400 public housing authorities have had their plans approved so far. We hear all the time from people who say:

> Look, we don't want to go down to common areas because we are afraid of who we are going to see down there. We don't want to go down to shared laundry facilities because we don't know what kind of situation we are going to get involved with.

I thought the comments of the gentleman from Massachusetts [Mr. BLUTE] were particularly enlightening because we heard the same thing where they get shaken down by people who really kind of force them into giving them loans, and it is really a shakedown, and the seniors really at this point in their lives are supposed to feel some kind of security in their home situation.

In Pittsburgh we have also had in recent news; in fact this was back on the sixth of September of this year, the attempted rape of a 90-year-old woman in the Wilmerding Apartments just outside of the city of Pittsburgh. This is just the kind of thing that residents there had feared would happen for a long time. This is a senior citizens' high rise. Betty Pebanic, who is 76 years old who lived in the Wilmerding Apartments for 10 years said, "We are all frightened, this fellow has got to be put away." Of course she was referring to a 40-year-old man named Earl Thomas who was arrested within an hour after the assault. Now this 90-year-old woman who he attempted to rape must have been just a little bit too much for Mr. Thomas to handle despite the difference in age because she bloodied his eye, she got away from him, and she chased him away. Not only did she chase him away, but when the police were summoned, they found blood droplets. They found out it was not hers, it was his. But they also found his plastic bank card, and they were able to identify him, and within 1 hour Mr. Thomas was arrested. He was taken out, he was arraigned on $100,000 bond. It was really something because the police station is right next door to the highrise, and the police officers arrived, and they saw Mr. Thomas peeking out of his apartment. What is going on here? And they noticed that he had a fresh wound on his eye. They said, "Come out here, we'd like to talk to you." He did, and within a matter of a few moments after they found the bank card, they talked to him, and they were able to arrest him, but this is really not the kind of peace of mind that people need to have. They need to know that they are not going to be attacked, and, unlike this 90-year-old woman, they will not have to fight themselves off. I think that if Congress enacts this bill today, it will have done something good.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from New York [Mr. LAZIO], chairman of this committee, for yielding me the time and for the excellent work he has done in this area, and also the speaker, the gentleman from Iowa [Mr. NUSSLE], the gentleman from Massachusetts [Mr. BLUTE], the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Virginia [Mr. MORAN], and all the people that have been involved in straightening out, bringing some common sense back to, this 1988 law which mandated that disabled people were eligible to live in public housing and disabled people were people who had doctor's certificates, they were mentally ill, drug addicts and the like, alcoholics. We are restoring a little common sense back into the law today.

This again, I think, shows and points to the fact that law in many areas of our country today has run amok. We have got too much Government, we have got to bring some common sense back into these areas again, and I think we could be in session here 2 weeks or longer taking up bills like this.

Drug dealers have no place in public housing. In fact, drug dealers have no place in America anywhere, and we are going to force them out of public housing, but where are these rats going to run? We have to make sure that we get after the drug dealers, not just push them out of public housing, although that is a first step.

We have waged wars all over the world, hot and cold, to go after, against, murderous regimes so people throughout the world could live in peace, dignity, and safety. We are doing it for people in public housing here today. We have some 3,400 public housing projects throughout the country.

It has been mentioned before that we heard excellent testimony, and we did at the hearing. We heard from many senior citizens. Quite frankly it was very moving when people would tell us, "Hey, I moved into this beautiful apartment, Members of Congress, but after a few months the drug dealers came in, the alcoholics came in, and they took over, and I was a prisoner in my own apartment." Is that the kind of America we want? I do not think so, and that is why I think the legislation of the gentleman from New York [Mr. LAZIO] is so important.

I want to digress here, make a point. We have got drug dealers and alcoholics who are so-called disabled on SSI. Why do we have 250,000 people, drug addicts and alcoholics, as disabled? They should not be disabled. It is costing us $2 billion a year, and I hope we address that issue, too.

Mr. Speaker, the dreaded knock on the door is no longer just a famous metaphor representing the power of evil in foreign dictatorships.

Such sinister knocking is being heard increasingly by our Nation's elderly living in our public housing projects.

So who is doing the knocking here? The answer sometimes means life or death to the frail elderly person reaching for the door knob.

Is it a delivery person with essential food or medicine as ordered? Or is it a menacing neighbor disabled by drugs, alcohol, or mental illness? Often that is exactly whom it is.

Often, the vulnerable aged person finds robbery, rape, injury, and even death waiting when the door opens.

Such crazed or addicted neighbors live legally cheek by jowl with the elderly in public housing projects.

This is true because a 1988 Federal law mandates that such mentally disabled persons are eligible to live in the same public housing with our senior citizens.

Physically disabled persons are eligible for public housing, too, but the physically disabled reportedly pose little or no threat to others.

The reign of terror comes from the doctor-certified mentally disabled—the mentally ill, drug addicts, and alcoholics.

The threat affects the entire population of public housing projects, including children. It is particularly terrifying for the hundreds of thousands of our vulnerable senior citizens forced by economics to live there. And we must put a stop to it.

The legislation before us today, H.R. 117, the Senior Citizens Housing Safety and Economic Relief Act of 1995, addresses this intensifying problem of our senior citizens.

I intend to vote for this bill, and I urge my colleagues to join me.

We have waged wars—both cold and hot—against murderous regimes around the world to try to make sure our people—all of them—can live in peace, dignity, and safety. But in our country's 3,400 public housing projects, many, particularly our senior citizens, live frightened, often terrified lives.

Testimony received by the committee is compelling.

It suggests addicts' attacks and threats aimed most often at the frail elderly are occurring hundreds of times a day throughout our 1.3 million public housing apartments and units.

Of these units, about 35 percent are occupied by elderly persons averaging 76 years of age.

Four out of five are women.

About 10 percent of the units are occupied by mostly younger persons disabled by mental illness, drugs, or alcohol.

Of the remaining units, 45 percent are families with children, and 10 percent are families without children.

The liberals argue that the disabled component is only a small number of people, and that they should have the right to try to live independently and to try fit in if they can.

Housing project managers tell me, however, that it only takes one disruptive disabled person to keep an entire building in a constant uproar.

Disabled persons have no business being intermingled, as present Federal law mandates, with the elderly.

The test for the elderly and others should be whether ages are high enough, whether incomes are low enough to make them eligible and whether they are capable of independent living.

Our housing managers should not be required to minister to a population of disabled persons.

They have no trained staff for the disabled. They are not nurses. They have no medical or other special qualifications for coping with those who refuse to take their prescribed medications.

They are not skilled in criminal investigation, often essential to preventing or eradicating drug-dealing rings who seek out elderly-only projects as ideal bases for drug selling.

I commend the gentleman from Massachusetts [Mr. BLUTE] for his crusade to keep this issue before the Congress.

The gentleman brought the committee one of its most eloquent witnesses, Anneliese J. Belculfino of Worcester, MA.

She is the tenant leader in her building. I will never forget her testimony:

> We have 199 apartments . . . . When I first moved in about eight years ago, it was beautiful. Most tenants were senior citizens.
>
> Now we have almost more young people in here than seniors.
>
> Most of the younger tenants are drug addicts or alcoholics or both.
>
> Old ladies are afraid to ride with those people in the same elevator. . . . A few times human waste was found in the elevator. . . .
>
> Late at night prostitutes are being let into the building. I have also seen drugs being dealt here outside near my porch.
>
> A lady went to the laundry room to wash her clothes. She places them in the dryer and goes to her apartment to dc a little housework while the dryer takes about one hour. When she gets back to the laundry room her dryer is empty. That happens quite a few times.
>
> I would like for the younger people to have their own building and let the seniors live in peace and without fear for the time they have left.

And the problem seems to be getting worse. Actually, the magnitude makes no difference. None of this should ever happen at all.

This bill would provide three approaches: Managers could keep seniors and addicted persons separated if the managers submit and win HUD approval of operational plans to do so under streamlined procedures.

Such plans would be effective for 5 years under my amendment adopted by the committee, instead of for only 2 years as originally proposed.

Public housing managers could refuse to mix senior citizens and persons with a history of drug and alcohol abuse.

And druggies and alcoholics could be evicted for disruptive behavior under an expedited procedure.

As far as our senior citizens are concerned the subject before us amounts to fear and powerlessness inflicted on them by the Federal Government in public housing.

I urge my colleagues to vote for this bill.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. Mr. Speaker, in July 1994 I received a letter from a 90-year-old woman in my district, and she said:

> I live in a senior citizens' apartment building which now accepts tenants with drug, alcohol, and emotional problems. There have been several threatening instances caused by these problem people. I no longer feel safe in this building.

She signed the letter:

> Please help us.

As a result of that letter, I made some inquiries and found that the gentleman from Massachusetts [Mr.

BLUTE] was to offer H.R. 117, and I became an original cosponsor. Since that time I have heard testimony which basically tells us of the terror of these senior citizens. The gentleman from Wisconsin [Mr. ROTH] spoke of a lady who saw her public housing building turned from a wonderful place to live to a nightmare. I heard testimony from a similar woman on our committee who said, and I am going to read her description:

> When I first moved in about 8 years ago, it was beautiful. Most tenants were senior citizens. Now we have almost more young people than seniors. Most of the young tenants are drug addicts, or alcoholics, or both. Old ladies are afraid to ride with these people in the same elevator. At night prostitutes are being led into the building. I've seen drugs dealt outside my porch. A lady went to the laundry room to wash her clothes. She placed them in the dryer, goes back to her apartment. When she returns, her dryer is empty. This happens quite a few times. A few times human waste was found in the elevator. I would like for the young people to have their own building. Let the seniors live in peace and without fear for the time they have left.

I call on all of us in the time that these seniors have left, let them live in peace. Vote "yes" on this legislation.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CASTLE], chairman of the Subcommittee on Domestic and International Military Policy, a great Member of this body.

Mr. CASTLE. Mr. Speaker, Mr. Chairman, I would like to commend Chairman LAZIO and Congressman BLUTE, who have worked hard on this legislation and who have made a commitment to supporting and protecting older Americans. As a member of the Banking Subcommittee on Housing and Community Development and a cosponsor of this bill, I am pleased that we are voting on this legislation today.

The Senior Citizens Housing Safety and Economic Relief Act addresses a problem that has arisen both as a result of a national housing policy which allows for the mixing of elderly and disabled populations in public housing; and a 1988 law that expanded the definition of disabled to include former abusers of drugs and alcohol.

Senior housing units were created to aid older or disabled people who needed a place to live. By expanding the definition of disabled, we have virtually made seniors prisoners in their own homes. They are afraid to leave their own apartments due to the harassment, intimidation, and even physical abuse that they must endure at the hands of some so-called disabled residents who are living at the expense of American taxpayers.

I have visited housing complexes in Delaware, and when I toured Electra Arms high-rise apartments and East Lake family housing complex, I heard time and time again from both the housing authorities and residents that other than weapons and crime in some of the lower income housing, they thought this was the single greatest problem which they face.

Just last week, a female, a mentally disabled resident with a history of drug dependency who is not elderly, but is living in the elderly-only Crestview Apartments in Wilmington, set fire to her 8th floor unit. The fire was set intentionally, and did considerable damage before being brought under control. Thankfully, no one was hurt. But, unfortunately our country's seniors endure incidences such as this every day.

Seniors should feel protected and secure in their homes. This bill takes us one major step closer to making public housing communities safer and bringing peace of mind to residents.

Again, I applaud the leadership of Chairman LAZIO and Congressman BLUTE and urge my colleagues to support the bill.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield 5 minutes to my friend, the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise this afternoon really to say thank you to my colleagues on both sides of the aisle for their work on this very, very important bill, and I tell my colleagues that this bill makes public housing safe for our seniors, and amen. We have waited for this day for a very, very long time.

Mr. Speaker, this bill employs better screening of potential tenants prior to admission and a more streamlined procedure for evicting tenants who put the health, and safety, and peaceful enjoyment of other residents at risk in senior housing.

In addition, this legislation clarifies the ability of public housing authorities to create elderly-only, disabled-only and mixed population housing based on local needs.

I have worked with elderly residents and public housing authorities in New Haven to ensure that such protections were passed into law as part of the Community Development Act in 1992.

Seniors have the right to feel safe in their homes; particularly, elderly residents who can afford to live nowhere else.

I am proud to join my Republican and Democratic colleagues today, as we embark on the next stage in providing seniors a safe and more secure living environment.

The Community Development Act of 1992, included language to permit public housing authorities to designate certain projects for elderly-only, for disabled residents only, or mixed housing. However, we did not provide the tools necessary to implement these laws. To date, only 10 out of 3,400 local public housing authorities have had mixed housing plans approved by the Department of Housing and Urban Development.

The Senior Citizens Housing Safety and Economic Relief Act, that we are taking up today, clarifies the rules for implementing these plans while providing essential safeguards against wrongful exclusion or eviction of tenants under current law.

This can truly be an issue of life and death. In New Haven, CT, several years ago, an elderly public housing resident living in the Crawford Manor public housing development was killed by a non-elderly resident. This painful tragedy created a reaction of fear and resentment among the elderly, not only in Crawford Manor, but throughout the city.

Despite the passage of the mixed housing legislation, I continue to receive letters from local tenants, organizations citing complaints from residents of elderly housing complexes regarding abusive or violent tenants.

□ 1515

Here is a portion of a letter I received from Sylvin Nisbet, president of the New Haven Tenants Representative Council in October of last year.

> The problems that certain persons are subjecting the elderly to are extraordinary and catastrophic. I have received complaints about fighting, lack of security, intoxication, urine in hallways, loud, offensive, obscene language, threats on seniors lives, confusion, disorder and criminal activities. Senior citizens deserve to have a better living environment. At the very least, we are entitled to our rights of peace and quiet enjoyment in our apartments.

Mr. Speaker, I wholeheartedly agree with Sylvan Nesbitt. This bill will assist in achieving that peace and security and community that our seniors deserve.

Mr. Speaker, let me make a personal comment here. My mother is 82 years old. She sits on the city council in New Haven, CT. Five years ago at age 77 she said to me when I was elected to this body, "If there is one issue that you can work on that I have seen day after day in every senior housing complex that I go into, it is the fear that seniors live in because of the situation with drug addicts and alcohol abusers." She said "If you can work on anything, please see if you can do something about this."

I do not sit on this committee, but I have been active in this area. I applaud my colleagues for bringing this bill forward today, and helping me make good on a promise to my mother and to the seniors of the city of New Haven and the third district and the seniors of Connecticut.

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. WELLER], a fine member of the Subcommittee on Housing of the Committee on Banking and Financial Services.

Mr. WELLER. Mr. Speaker, I rise in support of H.R. 117. I am proud to cosponsor this initiative with the chief sponsor, the gentleman from Massachusetts [Mr. BLUTE].

Mr. Speaker, let us keep this issue real simple. This bill rights a wrong, that wrong that jeopardizes the safety of my constituents, seniors living in senior housing. Today HUD bureaucrats say my seniors must live alongside recovering drug addicts and alcoholics, a situation that has forced many seniors to live in fear. In fact, according to testimony from seniors living in the Chicago housing authority and other public housing authorities in Joliet, Will, Grundy, Kankakee, and LaSalle counties, many seniors have been victims of rape, physical assault, and other violent crimes and are afraid. According to many of the news articles that many of us are sharing, and I will include this in the RECORD, they are afraid even to leave their apartments to go to the store, simple daytime activities.

H.R. 117 rights this wrong and lets local housing authorities keep senior housing for seniors. This is authority they have asked for. I urge an aye vote. Let us allow our senior highrises to be safe housing for seniors. Keep senior housing safe for seniors by putting this into law.

Mr. Speaker, I include for the RECORD an article by Joseph Mallia:

[From the Boston Herald, Feb. 22, 1994]

Rape Victim Sues BHA—Says Attacker Should Have Been Evicted

(By Joseph Mallia)

A 92-year-old woman who was raped in her elderly-housing apartment two years ago is suing the Boston Housing Authority for failing to protect her from her assailant, another resident with a history of violence.

The housing authority is responsible because officials knew the assailant, Eric Lee Davis Jr., was dangerous but failed to evict him, the woman maintains in her Suffolk Superior Court civil suit.

The woman's name was not made public because she was the victim of a sexual crime.

"The elderly have been asking for help for years. But the only time the BHA or other agencies take notice is when a lawsuit is filed," said the victim's lawyer, Jeffrey A. Newman. "This was a man who would assault them, threaten them, walk around without clothes—they were absolutely responsible to evict him."

The attack "severely psychologically damaged" the victim the lawyer said. "She has essentially lost her independence. She's untrusting and fearful."

BHA officials could not be reached for comment last night.

Davis, who is 6-foot 3-inches and weights 190 pounds, was found unfit to stand trial and was committed to Bridgewater State Hospital, Newman said. After he was charged, Davis gave police a tape-recorded confession, authorities said.

Davis, who was 38 at the time of the attack, had faced a previous attempted rape charge in a 1986 assault on a 66-year-old woman, law enforcement sources said. That charge was dropped and Davis instead was civilly committed to Bridgewater State Hospital for treatment, and later released.

Federal law allows disabled and handicapped persons to live in the Dorchester complex at 784 Washington St. which was designed for the elderly. And elderly tenants of public housing across the country face similar dangers, Newman said.

For a year before the rape, Davis "had harassed various tenants; had threatened them; had demanded money and food from them; had made a practice of roaming the hallways causing various tenants to be afraid to walk the hallways unaccompanied," according to court documentation.

Davis also "roamed the halls semi-naked; loudly expressed threats and desires to kill various people and to rape various people, including tenants and his own mother; he grabbed various tenants including the rape victims," the lawsuit claims.

He also forcibly kisses the victim, and forced his way into elderly tenant apartments, the lawyer says.

The lawsuit accuses the BHA and its officials with "deliberate indifference to a known danger . . . the dangerous activities and proclivities of Eric L. Davis."

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. METCALF], another fine member of the committee.

Mr. METCALF. Mr. Speaker, I commend the gentleman from Massachusetts [Mr. BLUTE] for his relentless commitment to senior citizens living in federally assisted housing. The reforms in H.R. 117 are long overdue. In title VI of the Housing and Community Development Act of 1992, Congress allows public housing authorities and federally assisted apartment owners to designate elderly only housing. However, problems still persist in mixed populations housing, especially in buildings where the level of nonelderly residents remain high or where drug- and alcohol-abusing much younger tenants continue to be admitted.

Our seniors deserve to live in a peaceful environment free from the threats of violence and inappropriate conduct from a small group of residents. As a senior myself, I can understand the problems which arise when different age groups live in close proximity to each other. H.R. 117 provides the tools to fix this problem.

This legislation will achieve the following:

Authorizes public housing agencies to establish occupancy standards. This would allow public housing agencies to screen potential tenants first, before providing housing. The Everett Housing Agency in my district has had problems with some nonelderly tenants with alcohol abuse. If they could screen potential residents first, they can assist these individuals and direct them to treatment centers.

Amend the lease provisions which give public housing agencies greater flexibility in evicting residents in cases where the behavior of one resident affects the safety of others.

Last, nonelderly residents who do not display inappropriate behavior or are drug users are not evicted. I support this commonsense reform which will protect both our seniors and other tenants. I encourage my colleagues to support H.R. 117.

Mr. KENNEDY of Massachusetts. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, while I want to continue to be complimentary of the gentleman from New York [Mr. LAZIO] on this bill, and other Members on the other side of the aisle with regard to their concerns about elderly only housing, we cannot ignore the fact that while this has taken place on the House floor today, this Congress, over the course of the last few months, has absolutely decimated the public housing budget of this country. We have seen a quarter of the Nation's housing eliminated by the Republicans in a move, at the same time while they are providing a tremendous tax cut to the richest people in this country.

So while everybody is marching out to the House floor today indicating they are standing up for our Nation's senior citizens, let us recognize that there are millions and millions of Americans that are becoming senior citizens that will never get access to any housing because of the housing cuts that have taken place under the leadership of the Republicans that are now sanctimoniously standing up and looking as though they are protecting the seniors of the country. It is the height of hypocrisy to indicate that we are protecting seniors as we go about gutting the very programs and projects which they need.

Mr. Speaker, we will see housing for senior citizens decimated as a result of these cuts. We will see homeless people created as a result of these cuts. We will see the homeless budget cut by 50 percent as a result of these cuts.

Mr. Speaker, I just think it is unbelievable that people can stand up here on the House floor and look like they are standing up for our Nation's elders, like they want to stand up for every grandmother that writes them, and at the same time they walk in the back door and cut the very legs off of the programs that provide for this housing.

Mr. Speaker, I just believe we ought to be honest with the American people, that if we are going to provide a $245 billion tax cut and at the same time go about absolutely decimating the public housing budget, absolutely decimating the assisted housing budget, and we go back in and try to pretend to people like we are actually doing them a favor, then it is just not intellectually honest, it does not hold up for the kind of politics that the Lincoln Republican Party has stood for in the past; that it in fact ends up going after and blaming the victims.

We refer time and time again to the worst public housing, ignoring the fact that out of 34,000 public housing authorities in this country, 33,300 of them are well-run. We cannot tell the difference between the private housing and the public housing. Yet, we go about indicting public housing, as a result of the worst public housing in America.

Let us stand up for housing. Let us stand up for our senior citizens. Let us give them housing. Let us house our homeless. However, let us not do that, and the same time coming on the House floor and looking like we are acting and standing up for our Nation's seniors, and going in the back door and absolutely leveling the housing budgets that they depend on so they can lead a life of dignity in their senior years.

Mr. LAZIO of New York. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would just ask the following question: Is a $500 credit for long-term care insurance, which every senior citizen wants, something for the rich? Is a $500 credit for home care something for the rich, which is part of that tax package? Is a $148 marriage penalty correction something for the rich? Is $5,000 for the adoption of a child something for the rich? Is $2,000 for an IRA for parents that stay at home with their children something for the rich?

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. LoBIONDO], one of the outstanding class of 1994.

Mr. LoBIONDO. Mr. Speaker, I rise today in strong support of our Nation's senior citizens. H.R. 117, the Senior Citizens' Housing Safety and Economic Relief Act, addresses a problem that is facing housing authorities throughout the country and in the Second District in New Jersey.

For months now, the Housing Authority of the city of Millville has been attempting to designate its three highrises as "elderly only" under the bureaucratic nightmare imposed by current statutory and regulatory law. The delay that Millville has encountered in this designation has led to several problems. First, as we heard in the very compelling testimony presented to the committee, our senior citizens should be allowed to live together in peace and quiet without fear for their own safety. The current law simply delays Millville's ability to put this designation into effect. An additional effect of this delay is that without approval of the designation plan, the housing authority cannot acquire and renovate another building that will be used for housing the young disabled even though funding is available.

Enactment of H.R. 117 will streamline the process of elderly or disabled only designations while also giving our housing authorities greater power to exclude those with a history of drug or alcohol abuse. The designation and exclusion provisions of this bill will ensure that seniors have clean and safe quality housing. I strongly support this very important legislation and urge my colleagues to vote in favor of our elderly and disabled by voting yes on H.R. 117.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield myself 1 minute to answer the allegations that were just made.

The truth of the matter is that the vast majority of the tax cuts that are being provided by the Republicans go to people with incomes above $100,000. There are some small provisions that trickle down to the working people, and to people that fit certain categories, but the overwhelming majority of the benefits go to the richest people in the country, No. 1; No. 2, the Republicans are gutting the Medicare program, they are gutting the Medicaid program; No. 3, they are gutting the basic standards for all of the nursing home care in this country.

If we are going to talk about who is standing up for our Nation's senior citizens, go look at their own budget, go look at who benefits, who wins, and who loses.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding time to me, and at the very outset wish to identify and adhere to his remarks and his position, and once again express my admiration for his superb leadership in this respect.

Mr. Speaker, what the Republican cuts mean, simply put, is less housing, higher costs, and lower quality. We will see more homeless than ever before, and more people who are forced to choose between paying the rent and buying fuel. We should not delude ourselves that this is making things better, what we have here before us; housing will not be improved, that is, made possible to be improved. It will only be made worse.

This bill may be a good and sensible thing in itself to do, but at the same time, the Republicans are intent on wrecking housing, not making it better. The Republicans are using this bill to look as if they are concerned, even as they wreck housing and housing programs. Therefore, while this bill in itself may be good, what comes next is the wrecking ball. That makes senior citizens and everyone else pay more and get a lot less.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. LaHOOD].

Mr. LaHOOD. Mr. Speaker, I want to refocus the attention on what we are here to debate today, and try to be intellectually honest with the American people about what we are talking about. We are talking about the fact that we want to make the existing housing that exists in this country safe for senior citizens, and we are doing it in a bipartisan way.

I think it is a little unfortunate that those Members that want to accuse Republicans of doing things against senior citizens do not take the time to do that in another place and another time, perhaps on the debate on budget reconciliation, or as you did during the Medicare debate, but the debate here today and the discussion here today is on the efforts of your colleague, the gentleman from Massachusetts, PETER BLUTE, who, when he was elected, came here and introduced this bill while you were in control, not when we were talking about tax cuts.

I think the gentleman from Massachusetts deserves an awful lot of credit for having the foresight to bring this bill to the House when he was first elected.

Mr. KENNEDY of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. LaHOOD. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I would just like to point out that we did pass this bill.

Mr. LaHOOD. I know, and I think your colleague, the gentleman from Massachusetts, deserves an awful lot of credit for bringing it back up again, not the idea now that we are trying to use this to leverage and try to scare senior citizens, when what we are really trying to do is protect them.

Mr. Speaker, I want to make one comment about my own aunt. I have traveled all over central Illinois, whether it be in Jacksonville, Havana, Beardstown, Springfield, or my hometown of Peoria. My aunt is 90 years old. She was lived in senior housing for 25 years. She is blind. She has lived in that housing scared to death for many years of the kind of people that were there.

I think because of the leadership of the gentleman from Massachusetts, PETER BLUTE, the gentleman from New York, RICK LAZIO, and Members on the other side to bring this bill forward and to get it passed, not only in this House but in Senate, it is a credit to our majority, along with the minority, who care deeply about senior citizens and improving their community, because these senior housing projects are their community within a community. I laud all of those for getting the bill forward and ask support.

Mr. Speaker, I rise today in complete support of this important piece of legislation, not only for the country, but for my district as well. Next to balancing the Federal budget, public safety in our housing communities is something I hear about all the time. Everywhere I go, senior citizens tell me of the horror stories of having to live their lives terrified by crime in public housing facilities. Senior citizens are being held hostage, because crime is out of control. Our Nation's public housing facilities have become a breeding ground for criminals and criminal behavior. I am sometimes outraged at the stories told to me throughout my district. This must stop.

Mr. Speaker, I also speak from personal experience. My 90-year-old aunt, Ann Tapscott, who happens to be blind, is a resident of the

Sterling Towers Apartments in Peoria, IL. She has lived there for over 25 years. Not a day goes by in which she has not felt threatened by the drug activity at Sterling Towers. This type of activity is reprehensible, and we have an obligation to bring it to a halt.

Fortunately, the bill we are considering today, H.R. 117, the Senior Citizens Housing Safety Act of 1995, would prohibit the placement of current or former drug and alcohol abusers in public housing that is specifically designated [section 202] for elderly, or elderly and disabled families. Mr. Speaker, I commend our colleague and friend, the gentleman from Massachusetts [Mr. BLUTE]. He has worked tirelessly, since 1992, on this issue. I wholeheartedly support the bill and urge its adoption by the House.

Mr. Speaker, before closing, I would also like to thank my colleagues on the Banking Committee for their leadership in this issue. Senior citizens in central Illinois are truly grateful.

□ 1530

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. WAMP], a great Member of the new class.

Mr. WAMP. Mr. Speaker, compassion should not be measured by how many people are in government housing, or by how much money we spend on government programs. Compassion should be measured by how few people are in government housing, and how efficiently we use the limited resources we have in the Federal Government.

Mr. Speaker, I am proud that we have been to this floor and this House many times this year benefiting senior citizens. As a matter of fact, I believe that last Thursday when we passed the Medicare Preservation Act it was the most courageous vote that we will cast the whole time I am here, and I just got here, for senior citizens.

This bill cures two problems that have been identified with senior citizens. Those who have equity that they can use to generate income on a monthly basis for themselves, and those who do not have home equity that are living in government housing to make that a safer place. For 4 years my grandmother, at 85 years old and on a $450-a-month income, campaigned to send me to Congress, and she died 10 months ago. Today she would be pleased.

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules and a great Member of this body.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Long Island, NY [Mr. LAZIO] for yielding time to me, and I congratulate him and the gentleman from Iowa [Mr. LEACH].

Mr. Speaker, this bill fixes precisely the type of senseless, really I should say dumb, regulation that the Corrections Day process was created to address. Placing violent drug abusers and alcoholics intentionally into a taxpayer-subsidized senior housing project defies common sense. More important, it puts at risk some of the most frail of our society, as we have heard numerous times here.

There have been numerous reports of seniors being harassed, abused, and even to the point of rape, because of this ill-conceived mandate that needs to be fixed. This is wrong, and like so many big government regulations, it is hurting real people across America.

Mr. Speaker, obviously seniors should not have to live in fear of their neighbors. They should not have to endure criminal activity in their homes, and they should not have to endure anxiety causing rhetoric by architects of failed social experiments either. They should be allowed to enjoy their retirement peacefully, comfortably, and with dignity.

Mr. Speaker, I urge a "yes" vote on this important legislation which also extends the home equity conversion mortgage program, which is of great interest to many seniors.

Mr. LAZIO of New York. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS], a distinguished member of the Committee on the Budget.

Mr. Speaker, this legislation is long overdue. I have always been puzzled why alcoholics and drug abusers are considered disabled with all the government rights and privileges that go with being disabled.

Young alcoholics, young drug abusers should not be in senior citizen housing. They should not be in federally subsidized homes, and I am grateful we are finally coming to grips with this terrible problem.

Senior citizen housing should be for the elderly and those who are truly disabled.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again I just want to say that I strongly support this legislation that we are acting on today. It is legislation that was passed in the last Congress. It was also interesting to see earlier this year when we were attempting to work out a policy that had been begun by Secretary Cisneros to get these drug abusers and alcoholics out of public housing, that was voted against by my Republican colleagues.

The truth of the matter is, while people want to say well, there is some negativism with regard to the general attitude of the Democrats toward what is going on in the housing bill of this country, that is absolutely right. We are very negative about the fact that you can cut 26 percent of an agency's budget without a single hearing and come back and then have a bill on the House floor that makes a small appeal to a particular group of people, and then try to pretend that that is representative of all of the things that you are trying to do in terms of senior citizens' housing.

Mr. Speaker, we ought to be getting rid of this policy that is patently ludicrous policy, that we consider people disabled for the purposes of gaining access to public housing because they have drug abuse or alcoholic abuse in their histories. That is patently ludicrous. The Democratic Congress knew that, and passed a bill to fix it last year.

The Republicans are now piling on, giving credit where it is not really due, but giving credit for passing this bill on the House floor today. I give them credit for having passed this bill in the committee; it is something we ought to do. But we ought not to lose sight of the fact that while we are doing this we are also gutting and decimating senior citizens' housing all across this country. We have cut a quarter of the Nation's housing budget and we are absolutely gutting the very homeless programs that are needed to back up the cuts in the programs that are providing public and assisted housing.

So while I want to give credit, and I have given credit, to the gentleman from New York [Mr. LAZIO], and the gentleman from Massachusetts [Mr. BLUTE] and others for their steadfast work, and it has been steadfast on this issue, we ought not to lose sight of the fact that at a time when we are taking a small step in moving senior citizens' housing forward, we are taking a large step backward in terms of all of the effects that the Republican policies will have on our Nation's seniors.

Mr. Speaker, I yield back the balance of my time.

Mr. LAZIO of New York. Mr. Speaker, I yield myself 45 seconds.

Mr. Speaker, one of the great responsibilities of this body is to care for those who cannot care for themselves, and it was with this in mind that an amendment had been offered earlier in the year to restore money for the section 202 program, which is the program for new construction for senior housing and for the disabled, and also for housing for people with AIDS. In the end, because of the changes that have been made as a result of that amendment, and because of the support in this body on a bipartisan basis, there will be more units available to the disabled and more units available to seniors than have been in the past, and that is a very positive thing.

Mr. Speaker, I also wanted to mention the fact that in this program we are working hard to give seniors the ability to take equity out of their own homes. This is not a handout. Back on Long Island, Betsy, 83, and Estelle, 90 years old, who live in Amityville, were able to use the reverse equity program to get a new heating system, to get a new roof on their home where there had been none before.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], a great proponent of this legislation.

Mr. BLUTE. Mr. Speaker, I want to commend the chairman of the full committee, Mr. LEACH, and the chairman of the subcommittee, Mr. LAZIO, and all of the Members of Congress on both sides of the aisle who have worked to bring us to this point where we are dealing with this very important piece of legislation.

Mr. Speaker, today we Members of Congress have a unique opportunity to right a historic wrong, a wrong-headed Federal policy that has allowed drug and alcohol abusers into senior housing which has caused the ruination of the lives of senior citizens from Los Angeles to Boston, from Chicago to Miami, and all over our great country. This is a policy that needs to change, and it needs to change today.

The fact is that this situation violates the American people's sense of reasonableness, and it is having an impact out there among senior citizens.

We now have a phenomena called Gray Flight in which senior citizens no longer even want to apply for senior housing because they know what is going on in those buildings.

So, Mr. Speaker, this bill makes sense. It will right a historic wrong. I think we should stand up for common sense, for reasonableness, for sanity, and for senior citizens' protection, and I ask that the Members of this House on both sides of the aisle strike a blow for seniors living in senior housing and vote for this piece of legislation.

Mr. MFUME. Mr. Speaker, I rise today in support of H.R. 117 and I urge all of my colleagues to support it. While H.R. 117 does not break any new ground in terms of what a public housing authority can do to ensure the security and happiness of its senior residents, it does clarify the intent of Congress in this area. Furthermore, H.R. 117 is a good example of Members from both sides of the aisle working together to produce solid, fair legislation.

It is clear that the law allowing disabled people into senior-only public housing, while extremely well intentioned, has led to problems. And, while we do not want to say that all handicapped people should be excluded from senior-only housing, it is clear that we should enable public housing authorities [PHA's] to make and enforce policies that ensure the rights of all senior citizens to pursue a safe and peaceful existence.

H.R. 117 does, I believe, a good job of clarifying that the PHA's do have the power they need while at the same time ensuring that they cannot and should not use this law to act in a capricious or arbitrary manner. As originally brought before the full Banking Committee, H.R. 117 contained some language that concerned me. Amendments which were adopted by Mr. LAZIO and Mr. GONZALEZ, Mr. FLAKE and Ms. WATERS, Mr. NEY and Mr. WELLER, and Mrs. ROUKEMA and myself, however, improved the bill considerably and eased many of my concerns.

In the case of my amendment, I had concerns that by explicitly stating that PHA's could evict a person for disruptive or illegal behavior by others in their household or guests "regardless of whether the resident had actual knowledge of such activity" would provide disingenuous PHA's with too much authority to follow their own agendas. It would be wrong, for example, for a grandmother to be put out into the street because a grandson sold drugs from the apartment once, if it was done without her knowledge.

At the same time, I do not believe that a claim of ignorance, especially when it is false, should absolve a person of all responsibility. For this reason, I feel comfortable that the language which is contained in the amendment offered today by Chairman LEACH, which reflects the agreement between myself and Chairman LAZIO, will allow a PHA to evict problem tenants while at the same time protecting the rights of the truly innocent.

I believe that the legislation before us, which reflects the changes adopted in committee, is a good bill which will, hopefully, provide PHA's with more clarity as to what they can do to cope with the problems facing their senior populations. The amendments accepted in committee were not compromises; rather I would view them as improvements. All of them addressed issues that we all felt were important, regardless of our party affiliation.

In this vein, Mr. Speaker, I would like to thank the members of the Banking Committee, especially Chairman LAZIO, and their staff for their cooperation on this matter. While, as I said earlier, I had some concerns that in a few isolated cases the original text gave the PHA's too much discretion, Chairman LAZIO and his staff worked hard to address my concerns and in the end I feel that we arrived at a product that is satisfactory to all involved.

I am especially pleased to see this situation addressed by this Congress as it is a problem in Baltimore City. Since the 1988 change in regulations there have been several—too many, in fact—incidents in which the peace or safety of seniors living in public housing has been threatened. While Baltimore's PHA has taken steps to alleviate the problem, I understand that there are concerns as to whether or not such actions are legal. I hope that this bill will alleviate the city's concerns.

As I said earlier, Mr. Speaker, I rise in support of this legislation and I urge my colleagues to support it. Our seniors deserve to live in peace and safety.

Mr. CUNNINGHAM. Mr. Speaker, today I rise in support of H.R. 117, the Senior Citizens Housing Safety and Economic Relief Act of 1995. Passage of this measure is vital to ensure that our Nation's seniors are kept safe within their homes. I do not want any elderly public housing resident within my district, or any other district throughout the United States, to continue living in fear because their neighbor is abusing drugs or alcohol.

Under the Americans With Disabilities Act [ADA], people of any age with mental or physical disabilities can reside in any federally assisted housing program that is designated to house elderly families. This is good and fine. However, when current and former drug abusers fall under this disabled category, senior citizens do not receive the quiet, safe living conditions they deserve and expect. Instead, they are plagued by the threat of guns and violence. Such elderly residents of public housing are horrified to leave their houses in fear of falling victim to crime.

As you can see, this effect of ADA is ridiculous and must be changed. On this corrections day, we must right a wrong and prevent drug abusers from disrupting the lives of seniors. H.R. 117 will allow public housing authorities to evict drug abusing tenants living in elderly family housing. I urge each of you to join me in voting in favor of this bill to protect our Nation's seniors. The elderly population must be afforded the right to live the duration of their lives with peace of mind in safe surroundings.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise in support of this bill. This measure addresses the fundamental concerns of seniors—fear for their economic and physical safety.

The right of seniors to continue to live in their own neighborhoods, and their right to live in peace, will be enhanced by this legislation.

That is why I was working on a legislative response to the problem of ensuring safety in senior housing and I welcome today's response to this thorny issue.

That is why I became the first original cosponsor of my colleague from New York's renewal and expansion of the Home Equity Conversion Mortgage Program that has been incorporated into this bill.

Rhode Island has a special interest in the survival of this program. Three-hundred and sixty-three Rhode Islanders have benefited from the conversion program since its inception in 1989, giving us one of the top five participation rates in the country.

The typical conversion participant in Rhode island is 72 years old, with an annual income of $13,000.

The conversion program is ideally suited to the needs of Rhode Island's senior population.

Sixty-two percent of older Rhode Islanders own their own homes.

In 1989, the median income of households for persons over 65 was only $16,403.

This program targets those in need with help tailored to their particular circumstances.

This bill could not have come at a better time, because after what was approved last week and what stands to be enacted later this week, seniors are going to need to mortgage their homes more than ever.

More seniors will need to mortgage their homes to pay medical bills.

More seniors will need to mortgage their homes to pay heating bills.

More seniors will need to mortgage their homes to pay basic daily expenses.

This bill will provide comfort to some, but nothing compared to the harm caused by the cuts to Medicare, Medicaid, and housing programs.

It will provide little comfort to seniors who know that promises made to them are being broken.

It will provide little comfort to a senior whose Medicare premiums will double over the next 7 years.

It will provide little comfort to a senior whose public housing rent will go up at the same time the quality of that housing will decline.

It will provide little comfort to a senior who will have to say goodbye to the doctor who took care of them for years as they are hustled into managed care.

It will provide little comfort to a senior whose spouse is in a nursing home where restraints, inadequate staffing, drugging patients, and people sitting in their own waste are once again common practice.

But this bill will provide comfort to politicians looking for cover.

Those who today vote to protect seniors, are doing seniors no service if last week and this Thursday they vote to dismantle Medicare and Medicaid.

These are conflicts that cannot be reconciled.

The safety offered to seniors in this bill is real and laudable, but let's be honest: It pales in comparison to the safety seniors are losing in almost every other measure considered in this Congress.

Mr. VENTO. Mr. Speaker, I rise in support of this legislation. H.R. 117 reauthorizes the home equity conversion mortgage, an important option for seniors that want to stay in their own homes and need a financial fix to do so. H.R. 117 also clarifies the abilities that public housing authorities [PHA's] have to protect seniors in public housing.

Congress has moved several times in the past few years to address the controversial issue of mixed populations in public housing that had been designated as senior buildings. In 1992, the Banking Committee worked very diligently to set up a fair residency procedure for PHA's to set up elderly only buildings, disabled only buildings, and mixed buildings. Last year, the House passed an amendment to clarify the screening capabilities of PHA's with regard to nonelderly substance abusers and this bill today is a continuation of that process. I am pleased that we are moving today to clarify the role of the PHA's screening so that our seniors do not have to pay the price because of the bad behavior of some tenants.

The bill reauthorizes the HECM program. The success of the HECM or reverse mortgage program in Minnesota has been outstanding, and the program has had a positive impact across the Nation. In Minnesota, through September of this year, some 298 reverse mortgage loans have been closed, with 25 or so pending or planned to go to closing in October. These 300-plus loans are the result of 853 formal counseling interactions that were the result or roughly 5,000 calls of inquiry within Minnesota.

In 1992, Congress reauthorized this demonstration program and extended its authority to 25,000 loans. Although under 10,000 reverse mortgages have been issued, the authority has expired and we need to reauthorize it quickly today.

This reverse mortgage program, with this important extension of authorization, will serve many more senior homeowners, improving their quality of life. Reverse mortgages enable people to remain in their homes and permit the use of their own equity to enhance their lives. The reverse mortgage authority has a minimal impact on the Federal budget—through the Federal Housing Administration—and, in fact, reduces the demand on subsidized housing and some nursing home placements because of home health care payments facilitated by such a choice. The reverse mortgage program targets lower income seniors and today has afforded close to 10,000 people the opportunity to maintain ownership while meeting important personal and health needs. In fact, reverse mortgages have been used to prevent foreclosures because of back taxes or ill-advised home equity loans as well as for other needs.

I am pleased we are seeing rapid action on at least this measure and hope that we will continue to work positive on housing policies. To date as this Congress has moved, it unfortunately is making disastrous cuts in the overall housing budget that I cannot and do not support.

Mr. HEINEMAN. Mr. Speaker, I rise today to join in supporting H.R. 117, the Senior Citizen Housing Safety and Economic Relief Act of 1995. I was pleased to cosponsor this legislation for our vulnerable senior citizens who live in public housing and who have a right to feel safe in their homes. There is a crisis across this country, brought about because of misguided housing policies that have allowed drug and alcohol abusers to live side by side with vulnerable senior citizens. The law was intended to provide housing for seniors and the disabled. Drug abusers have figured out that if they tell public housing officials that their drug addictions make them disabled, they too can claim public housing rights—next door to our most vulnerable elderly Americans.

The Senior Citizens Housing Safety Act prohibits current or former drug and alcohol abusers from being placed in public housing which was specifically set aside for the elderly, disabled, and their families.

Mr. Speaker, as a senior citizen and a veteran, I think it is a disgrace to treat our seniors this way. During a recent hearing on this legislation, the House Banking Committee heard shocking testimony from seniors terrified to go outside their homes, and seniors who told us they were repeatedly preyed upon by their drug addict neighbors. The Senior Citizens Housing Safety and Economic Relief Act takes care of this problem.

If a public housing project was built for senior citizens, then senior citizens shouldn't have to fear for their lives if they live there. Public housing bureaucrats have used a loophole in the law to let dangerous drug addicts move next door to elderly men and women who never hurt anyone. It is a disgrace that we have allowed this to happen to the same generation that protected this country in World War II.

Mixing drug addicts with senior citizens was never a good idea. It's not what the law was intended to do. As a former chief of police, I know the elderly are particularly vulnerable to crime. I'm delighted to help protect them.

Mr. STOKES. Mr. Speaker I rise in strong support of H.R. 117, the Senior Citizens Housing Safety Act of 1995. I commend the committee for its leadership in recognizing the urgent need to address this serious and distinct issue affecting elderly persons living in public housing.

Nationwide, housing authorities have been struggling with problems arising from mixed populations residing in housing originally established for the elderly. These problems present serious challenges for our Nation's public and assisted housing authorities who have to balance the needs of our senior citizens, while at the same time, provide housing and other specialized services for the nonelderly, in particular the physically and mentally disabled.

Mr. Speaker, in my capacity as a member of the VA/HUD and Independent Agencies Appropriations Subcommittee, I was able—a few years ago—with the support of my colleagues to include provisions in the appropriations bill that would allow the establishment of projects in which only elderly residents would be permitted to live. In addition, reasonable efforts were taken to provide alternative housing to handicapped and disabled persons, and to set aside certain other housing assistance for such persons.

Unfortunately, Mr. Speaker, the definition of eligible disabled populations includes certain substance abusers who tyrannize other residents. This is often the case in those units were mixed populations reside together. It is unconscionable that we place our Nation's elderly in such unsafe and fearful environments.

H.R. 117 gives housing authorities the ability to rid their developments of unsavory individuals who have overwhelmed housing authorities across this Nation. Our support of this measure sends a strong message of support not only to our seniors but to public housing authority directors who are forced to operate under increasing deficits and declining Federal support.

Mr. Speaker, I hope that my colleagues will support H.R. 117 today and also stand up for all other residents of public housing during later deliberations on funding for federally assisted housing.

Mr. REED. Mr. Speaker, I rise in strong support of H.R. 117, the Senior Citizens Housing Safety and Economic Relief Act of 1995.

All too often, I have spoken with residents of my State's senior housing complexes who are concerned about their safety and quality of life. For too many, expectations of a quiet, all-elderly environment have gone unfulfilled because of a few drug abusing neighbors who are so disruptive that seniors are afraid to leave their apartments. Instead of enjoying the golden years of life with their contemporaries, our older citizens have been unable to live in the type of peaceful environment that was promised to them.

This legislation will clarify the current discrepancy in the mixed population language for section 8 housing. H.R. 117 will allow public housing officials to deny admission to persons whose use and abuse of alcohol and illegal drugs causes a severe threat to the security and well-being of our senior citizens. It establishes specific terms and conditions for leases with respect to termination of tenancy. The bill also provides for an expedited grievance hearing process before local public housing authorities, allowing these potential problems to be solved much quicker.

I believe that this legislation is an important step toward resolving this issue. For many, public or subsidized housing is the only opportunity for decent, affordable housing. We must continue to expand the supply of such housing for all Americans. Indeed, the root of the mixed-population issue is really the lack of affordable housing options in many of our communities. The final solution to this problem will come when we are able to provide adequate, decent, safe, and affordable housing for Americans of all ages.

I urge my colleagues to support this bill and make our senior housing complexes safe again.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. BLUTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed until 5 p.m. this evening.

FAIR LABOR STANDARDS ACT REVISIONS REGARDING PAPER BALERS

The Clerk called the bill (H.R. 1114) to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards.

The Clerk read the bill, as follows:

H.R. 1114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR 16 AND 17 YEAR OLDS TO LOAD MATERIALS INTO BALERS AND COMPACTORS.

In the administration of the child labor provisions of the Fair Labor Standards Act of 1938, individuals who are 16 and 17 years of age shall be permitted to load materials into cardboard balers and compactors that are safe for the 16 and 17 year olds loading the equipment and which cannot operate while being loaded. for purposes of this section, such balers and compactors shall be considered safe for 16 and 17 year olds loading such equipment if they are in compliance with the most current safety standard established by the American National Standards Institute.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GOODLING:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY FOR 16 AND 17 YEAR OLDS TO LOAD MATERIALS INTO SCRAP PAPER BALERS AND PAPER BOX COMPACTORS.

(a) GENERAL RULE.—In the administration and enforcement of the child labor provisions of the Fair Labor Standards Act of 1938, employees who are 16 and 17 years of age shall be permitted to load materials, but not operate or unload materials, into scrap paper balers and paper box compactors—

(1) that are safe for 16 and 17 year old employees loading the scrap paper balers or paper box compactors, and

(2) that cannot operate while being loaded.

(b) DEFINITION.—For purposes of subsection (a), scrap paper balers and paper box compactors shall be considered safe for 16 or 17 year old employees to load only if—

(1) such scrap paper balers and paper box compactors are in compliance with the current safety standard established by the American National Standards Institute;

(2) such scrap paper balers and paper box compactors include an on-off switch incorporating a keylock or other system and the control of such system is maintained in the custody of employees who are 18 years of age or older;

(3) the on-off switch of such scrap paper balers and paper box compactors is maintained in an off condition when such scrap paper balers and paper box compactors are not in operation; and

(4) the employer of 16 and 17 year old employees provides notice, and posts a notice, on such scrap paper balers and paper box compactors stating that—

(A) such scrap paper balers and paper box compactors meet the current safety standard established by the American National Standards Institute;

(B) 16 and 17 year old employees may only load such scrap paper balers and paper box compactors; and

(C) any employee under the age of 18 may not operate or unload such scrap paper balers and paper box compactors.

SEC. 2. CONSTRUCTION.

Section 1 is not to be construed as affecting the exemption for apprentices and student learners published at 29 Code of Federal Regulations 570.63.

Mr. GOODLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes, and the gentleman from New York [Mr. OWENS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1114 partially reverses Hazardous Occupation Order 12 [HO 12]. Hazardous occupational orders have been issued by the Department of Labor under the authority of the Fair Labor Standards Act. HO 12 was issued by the Department of Labor in 1954. Under HO 12, minors under the age of 18 may not load or operate any paper baler or compactor.

Again, I want to emphasize to my colleagues that HO 12 was issued in 1954, when paper balers and compactors were significantly more hazardous machines than the state of the art machines being built today.

H.R. 1114 would create an exception to HO 12 by allowing 16 and 17 year olds to load, but not operate or unload, paper balers and compactors that meet certain safety standards. As passed by the Opportunities Committee on July 20, 1995, H.R. 1114 specified that 16 and 17 year olds would be permitted to load only those paper balers that meet the current standards for such equipment issued by the American National Standards Institute [ANSI], a private standards-setting organization. It also specified that such machines must be designed and maintained so as to prevent their operation while they are being loaded. In other words, when the loading door is open, the machine cannot operate. The exception to HO 12 applies only to those machines.

Subsequent to the committee's markup several additional protections were agreed to, and are included in the substitute which I am offering today. The substitute provides that 16 and 17 year olds would be permitted to load, but not to operate or unload, a paper baler or paper compactor, provided that all of the following are met:

First, the equipment meets the current ANSI standard;

Second, the equipment includes an on-off switch with some type of locking system, control of which is kept in the custody of a person over the age of 18;

Third the on-off switch is maintained in an off position when the machine is not being operated; and

Fourth, the employer provides notice and posts notice on the machine that the machine meets the ANSI standard, that 16 and 17 year olds may only load the equipment, and that no employee under age 18 may operate or unload the equipment.

Mr. Speaker, the bill before us is a reasonable resolution and correction for the current overly rigid regulation that flatly prohibits 16 or 17 year olds from loading boxes into paper balers, no matter how safe those balers or compactors are. Unlike that current rigid regulation, the legislation takes into account the advances in technology that have made these machines safe, specifically provides that the machine cannot be operated while being loaded, and it will encourage more employers to put the newer and safe technology into their workplaces. The opponents of the legislation say that people are still being injured by paper balers, but there is no evidence that those injuries and accidents are occurring on machines that meet the standards specified this legislation.

I urge my colleagues to support the substitute that I am offering today.

□ 1545

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 1114. While the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] is an improvement upon the bill as reported by committee, there are still reasons to be concerned about this legislation.

First, this legislation may not adequately protect the safety of minors. Current regulations applicable to balers and compactors, commonly referred to as HO 12, prohibit minors from being employed to load, operate, or unload balers or compactors. The effect of HO 12 is to eliminate any occupational justification for a minor to otherwise be in the vicinity of a baler or compactor when it is operating. The amendment before us permits 16 and 17-year-olds to load balers and compactors in certain circumstances. As a consequence, a 16 and 17-year-old is now likely to be the closest person to the machine when it is operating. If the machine malfunctions, it is the minor who is likely to be at greatest risk.

The corrections calendar is a wholly inappropriate forum in which to consider this legislation. The purpose of corrections day is supposed to be to repeal senseless or silly regulations. The contention that Hazardous Occupation Order number 12, which is intended to protect the safety of minors, is either senseless or silly is both inappropriate and false. There were six fatalities involving paper baling machines between 1993 and 1995. Further, while I firmly believe H.O. 12 has saved lives, minors have been seriously injured and killed by these machines.

Typically, a stock clerk will take shopping carts full of boxes back to the baler or compactor to be crushed. The clerk will load the boxes into the baler or compactor. At the point that the loading bin of the baler or compactor is full, an adult operator will cause the door to the loading bin to be closed, unlock the ignition, and engage the ram or plunger to crush the boxes in the loading bin.

A machine in compliance with current American National Standards Institute [ANSI] standards and this legislation must have an interlock device, a mechanical device intended to prevent the ram from functioning unless the loading bin door is completely closed. However, interlock devices are not failsafe and, as OSHA citations have demonstrated, are known to malfunction. Most injuries associated with these machines occur when the loading bin door fails to close completely, the ram or plunger operates anyway, and an employee gets caught by the ram because the employee reached into the machine to clear a jam or ensure a box is fully inside the loading bin. As a result of this legislation, the individual most likely to reach into the machine in the event the interlock device malfunctions may be the 16- or 17-year-old stock clerk.

I had sought a provision in the legislation requiring employers to take reasonable steps to ensure that 16- and 17-year-olds remain at an arm's length distance, 3 feet, from the machine when it is in operation. Such a requirement would have addressed the most serious safety concern raised by this legislation. The failure of this legislation to include a requirement to remain 3 feet from the machine when it is in operation needlessly increases the risk of minors being grievously injured or killed.

While my most serious concern about the legislation is the potential risk of serious injury or death to minors, I have additional reservations regarding the legislation. The amendment appears to unconstitutionally delegate governmental authority to a private organization, the American National Standards Institute, or ANSI. Under this legislation, a machine is deemed safe so long as it is in compliance with whatever the then current ANSI standards applicable to balers and compactors happen to be. In other words, this legislation delegates to ANSI, a private organization, sole regulatory authority to determine what is a safe baler or compactor for 16- and 17-year-olds to load. The provisions of the Administrative Procedures Act and other laws intended to ensure that regulations are developed fairly and openly are effectively circumvented.

In addition, whereas current regulations provide clear and easily understood obligations on employers, this new legislation does not. H.R. 1114 purports to permit employers to allow 16- and 17-year-olds to load balers and compactors, but only if the machine is in full compliance with ANSI standards. Compared to government regulations, ANSI standards are both broader and more prescriptive than those typically adopted by agencies. However, at the same time, because legal liability typically does not directly depend upon compliance with voluntary standards, ANSI standards are more vague and less precise than agency regulations.

In order to comply with this legislation and use minors to load balers and compactors, an employer must comply with, and the Department of Labor must ascertain compliance with, cumbersome requirements that are not directly related to the safety of workers. At a time when agency resources are being cut, this legislation increases enforcement burdens on the Department of Labor.

More importantly, because of the vague and uncertain requirements contained in the ANSI standards, an employer, despite good faith efforts, will have difficulty determining with certainty whether or not he or she has met the requirements of the legislation. Far from immunizing employers from enforcement vagaries, this legislation only increases them. Further, because compliance is now dependent upon the state of the machine at the time a minor loads it, this bill also potentially increases the liabilities for noncompliance. That is, a violation will now occur each and every time a minor loads a machine that is not in full compliance with ANSI standards. Finally, the failure of the legislation to provide any regulatory authority to any government agency, or anyone outside of ANSI, means the Department of Labor cannot specify permissible activity for employers. Particularly where employee safety is at issue, it is in no one's interest to enact a statute imposing confusing and imprecise requirements.

I have never contended that it is not possible to craft legislation permitting minors to load balers and compactors in a manner that both clearly states the obligation of employers and fully states the obligations of employers and fully protects the safety of workers. My concern with the bill before us is that it does not adequately do either. Therefore, I oppose H.R. 1114.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EWING], who was very active in bringing this legislation before us.

Mr. EWING. Mr. Speaker, I would like to thank Chairman GOODLING for his assistance in passing this legislation through his committee and bringing it to the floor today. I would like to thank my colleagues LARRY COMBEST, whom I have worked closely with over nearly 3 years to resolve this issue, and ROB ANDREWS, who was instrumental in helping to bring labor and management together to address concerns raised by both sides.

Many of my colleagues are aware that the Labor Department in its enforcement of H.O. 12 has been levying fines on grocery store owners of up to $10,000 per violation because teenage employees merely tossed empty boxes into paper balers.

Many of us have visited grocery stores in our district and have seen how safe the modern machines are. It is impossible to load a modern machine when it is operating. These machines include an on-off switch, a key lock, and a lift gate which must be completely closed before the machine may operate. When the gate is lifted the slightest bit, the machine automatically shuts down. In order to load the machine, the machine must be shut down, non-operable, dormant.

The Labor Department, in my opinion, has misused their power by fining grocers huge amounts of money for a casual violation, when there is not a real safety concern. This is an example of what has become a hated symbol of excessive and needless government regulation. For example, I recently heard from a chain of stores which was requested by the Department to pay over $500,000 for H.O. 12 violations. To arrive at that figure, the Department tracked down isolated violations of H.O. 12 during their investigation of a small number of the chain's stores, asked some employees if they had ever thrown some items into a company paper baler, thereby a technical violation of HO 12, then multiplied that number by the number of stores the chain owned to come up with the fine. This chain did not have a single injury involving a paper baler in any of their stores.

Our legislation brings a commonsense approach to this regulation and I think it is extremely reasonable. We allow 16- and 17-year-olds to load machines meeting the modern safety features, but not to operate or unload any paper balers, even the modern ones.

We require that grocers wishing to allow teenagers to load balers always maintain the most modern machines and therefore provide an important incentive for grocers to get rid of the old, potentially dangerous machines that are out there. This is the best way to enhance the safety of all workers.

We worked very hard to accommodate the concerns raised by the minority members of this Committee and the United Food and Commercial Worker's Union.

In fact, the manager's amendment which has been offered would make nine major changes to the original legislation which we wrote. Every single one of these provisions were requested by labor union representatives. For example, under this amendment, we explicitly require that machines to be loaded by 16- and 17-year-olds must not be operable while being loaded, we require them to have a key-lock system and that the key be maintained in the custody of adult employees. We also require employers to provide notice to employees that the machine meets current ANSI standards and post notice on the machine that this is the case and that the teenage employees are therefore permitted to load, but not operate or unload the machines.

We believe that we have accommodated every reasonable request made by all the parties interested in this issue.

Mr. Speaker, the American people want us to put an end to government policies which kill jobs and harm small businesses without any benefit to worker safety. The Labor Department's policies on paper balers is a perfect example of why people are so frustrated. I want to thank Speaker GINGRICH for establishing this corrections day process which provides us an opportunity to alter this outdated and costly regulation.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I thank the ranking member of the subcommittee for yielding me the time. I thank him and the staff for their outstanding cooperation throughout this process in trying to improve this bill.

Mr. Speaker, with all due respect to my friend, I rise in support of the bill. It has been a long-standing tradition in our country that very often someone's first job was in a grocery store or a supermarket. It is a way that they helped to pay their way through school or help their family meet its family obligations. That is a tradition that I think we should support and promote, and that is what we are doing by this legislation today.

I would not support this legislation if I thought it was going to take jobs away from full-time adult workers. I do not believe there is any evidence that says that it does. Nor would I support this legislation if I thought that it raised significant risks of safety hazards to younger workers. I believe it does not for the following reasons:

First of all, it is very important to note that this statute, this bill, does not permit minors to engage in operating or unloading a paper baler or compactor, a cardboard compactor. It only permits the minor, 16 or 17-year-old, to engage in the practice of loading the cardboard baler or cardboard compactor.

Second, it is important to note that any compactor or baler, to be in compliance with this law, must meet these standards that are set forth by the national organization. I believe that national organization has every vested and appropriate interest in making sure that the standards are very high and the standards will, in fact, protect people using the machine.

Finally, it is very important to note that each of these balers and compactors, to be in compliance with this bill, must have a locking device. The locking device must be in the locked position before the minor may load the baler or compactor, and the key that would activate the machine must be in the custody of an adult who is supervising the minor worker.

In short, I think that this legislation is common sense, I think it is sensible, I think it has very excellent safeguards for the young workers who are involved, and I believe it helps us to continue that tradition of a young person, a 16 of 17-year-old, getting his or her first job in the supermarket or the grocery store.

I thank the majority staff, the chairman and subcommittee chairman for their work on this. Again, I thank our ranking subcommittee member for his cooperation and his staff's cooperation. I support the measure. I urge its adoption.

Mr. GOODLING. Mr. Speaker, I yield the balance of my time to the gentleman from North Carolina [Mr. BALLENGER], and I ask unanimous consent that he be permitted to control that time.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BALLENGER. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. EHRLICH].

Mr. EHRLICH. Mr. Speaker, I rise in strong support of H.R. 1114, the Ewing-Combest bill, which will bring about one modest but long overdue change to a 1954 Labor Department regulation. This bill will bring fairness and a good dose of common sense to a 40-year-old child labor law clearly out of step with today's workplace technology.

In 1954, the Department of Labor issued an order to prohibit minors from working in occupations involving the operation of power-driven paper product machines, including the cardboard balers and compactors. These balers are primarily found in supermarkets and grocery stores.

This order was issued more than 40 years ago, and despite the advancement in safety standards, designs, and mechanisms made since then, it is still enforced. Regulations are necessary, but they must reflect the safety technology currently in use in the workplace. The prohibition does not embrace or promote safety standards. It simply prohibits minors from loading materials into a baler, even balers which meet the highest standards of safety in the industry.

An employer can be fined as much as $10,000 for a violation of this order. Some companies have even been fined as much as $250,000—clearly, an excessive burden to small businesses where there is no longer a safety threat. Since 1989, the Department of Labor, has assessed an estimated $6 million against employers.

Does it make sense to penalize employers when there is no longer a risk to the young worker? As a result many food retailers no longer hire young people or have to cut back on the number of jobs offered to teenagers. If I owned a grocery store making a net profit of less than a penny on the dollar—the industry average—would I hire young people and run the risk of a $10,000 fine from the Labor Department? Of course not, it would not be worth it.

Mr. Speaker, on August 8, upon the request of a constituent, Harold Graul, I visited Graul's, a small, family owned supermarket which is the mainstay of a northern Baltimore County community within my district. Graul's is a typical, locally owned business which tries to reach out to its community and give young people their first job opportunity. Graul's baler is a modern piece of equipment with up-to-date safety devices. Harold Graul, the proprietor, has no intention of expecting his young employees to operate this machinery. However, he would like to be able to allow 16- and 17-year-old employees to just toss cardboard into a machine, which isn't even turned on at the time. He would like to avoid unreasonable fines for having cardboard tossed into what is essentially a glorified trash bin.

It was this visit which clearly illustrated to me how mistakes made here in Washington can reach all the way out to my congressional district and have a real effect on the small businessman and even a teenager.

Let me add that—this problem is by no means limited to the small markets—many large-volume grocers, such as Giant, Mars, Santoni's, are equally adversely impacted.

Mr. Speaker, the sad thing about this whole issue is that because of large fines against grocery stores, job opportunities for young people have been curtailed significantly in recent years to the extent that some grocers no longer hire anybody under 18 years of age.

Lawmaking is simply not the means to which the Federal Government must aspire to anticipate with precision every possible situation, obligation, and exception. Laws and regulations must be built upon a foundation of practicality and common sense.

Corrections day is precisely a vehicle which will push the kind of change Americans demanded last November. Corrections day will prove that changes can take place, corrections can be put into force quickly, and Federal Government can remove burdens from individuals, families, and small businesses.

Mr. Speaker, let's correct this bureaucratic mess. Let's reform Hazardous Occupation Order No. 12, and let's be fair to both supermarket employers and young people who want job opportunities. We can all do this enacting H.R. 1114. I urge my colleagues to vote for this common sense legislation.

□ 1600

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Speaker, I am pleased to be here today in support of the manager's amendment to H.R. 1114, which will revise the Federal Department of Labor's Hazardous Occupation Order No. 12.

Mr. Speaker, this legislation is somewhat unusual by congressional standards. It delivers a common sense solution to a real world problem. Furthermore, it was developed in a collegial and bipartisan manner with input from all concerned parties. No one walked away from the table, no one refused to work in good faith, and in the end a consensus was reached.

Mr. ANDREWS, Mr. EWING, Mr. COMBEST, and Chairman GOODLING are all to be commended for their work on this legislation. Their efforts should set the standard by which we develop all future corrections day legislation.

For Members on my side of the isle I would note that H.R. 1114 was developed with the full participation of the United Food and Commercial Workers, and they are not actively opposed to this legislation.

To put it simply, H.R. 1114 will allow 16- and 17-year-old grocery store employees to throw cardboard boxes into a compacting or baling machine. The only time that this will be allowed is when the doors to the machine are locked open, and the machine itself is turned off with the key removed and in the possession of an adult supervisor. In addition, the machines themselves will be required to meet the most current design safety standards of the American National Standards Institute. That's it.

The bill will not damage current standards for workplace safety in the retail food marketing industry. But it will eliminate an unnecessary regulatory burden on employers in the retail grocery business who often provide that important first job to 16- and 17-year-old young men and women in all of our home towns.

The manager's amendment to H.R. 1114 addresses all of the pertinent safety questions satisfactorily. It will insure maintenance of a rational workplace safety standard while getting the Federal Government out of the silly business of regulating who throws away cardboard boxes in the back of the supermarket.

Mr. Speaker, H.R. 1114 solves a specific problem in a rational and responsible manner. In my opinion, Congress should take on more issues in this manner—responsibly and rationally. I urge the Members to support this consensus legislation, and I yield back the balance of my time.

Mr. BALLENGER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Speaker, I rise in strong support of this legislation to repeal one of the dumbest rules we have on the books today.

Going back to the 1950's when this rule was written with good intent at the time, how could they have seen back then in the 1950's and foreseen that in the 1990's we would have good machines, good balers that worked very effectively and are perfectly safe? I speak from firsthand knowledge of having put my arms, put my head and shoulders in these machines to examine the safety precautions that are now part of these balers, and they are perfectly safe. I would allow my child to operate one of these balers, if properly employed at a supermarket, and would feel perfectly fine with them doing so.

What has happened is the Labor Department, taking this ancient law, is now using it as a punitive measure to fine grocery stores, in many cases small grocery stores but big employers in communities, $10,000 a pop when they are having teenagers throw these boxes into the balers, and in most cases they are not even putting their hands or their arms into the balers. They are just taking the box and throwing it in the baler. The baler, then the safety mechanism, if operating properly, will smash the cardboard boxes and dispose of them.

The old machines not covered under these safety standards would not be affected in any way by this law. This is an important piece of legislation. It is also very important for those who believe we need to put teenagers to work in neighborhoods across this country.

It is an effort that we have been working on for a long time. Labor Secretary Reich has told us he is going to try to get rid of this dumb old law. He has not done a thing about it.

Here today we have an opportunity to correct a wrong that has been in existence for too long. I am proud to be a strong supporter of this effort to repeal this cardboard baler law.

Mr. OWENS. Mr. Speaker, I yield myself 2 minutes to point out that we have worked out some language for this bill which I hope we will all reach agreement on, but let us not call the regulations dumb.

In 1991 alone, more than 50 baler accidents among employees were reported nationwide. Although minors at that time were prohibited, as they are now, by law from operating balers and compactors, there have been very serious injuries. A minor working in a supermarket had his arms severely crushed when he reached into a baler to remove a catsup bottle. A minor was seriously injured when his hand was caught in a baler. He broke several fingers and underwent surgery to install pins in the knuckles. A 17-year-old worker in Pennsylvania was killed when he reached into a baler to free some jammed paper. A 13-year-old minor was killed when he became caught in a paper compactor. At the time the injury occurred, he was stuffing cardboard boxes into the baler.

This is not a dumb regulation. We are going to make some changes. We are not dealing with a dumb regulation. Lives were saved by this regulation, I assure you.

Mr. EWING. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Illinois.

Mr. EWING. The question I have is what type of balers were they operating? We have these statistics. We cannot get from the department one statistic that shows that the accidents which the gentleman referred to happened to the new, modern balers, and that is all we are talking about here. The latest, up-to-date baler is the only one that would be exempt. Can you tell me?

Mr. OWENS. Reclaiming my time, I think the gentleman reinforces my point. We had a regulation which dealt with a serious problem which currently deals mostly with the old balers. In this bill, we are saying we want only the new balers to operate when this law is going to be adapted from that new condition and new standards by ANSI. The gentleman is saying what I am saying. It is not a dumb law. This applies now because we have new machines under new standards.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank my friend, the distinguished ranking member of the committee, the gentleman from New York. I want to say to the gentleman from New York [Mr. OWENS] is one of the real fighters in this Congress in behalf of working men and women, the safety and welfare of our people, and I am privileged to be speaking with him. I think his point is well taken as well that the safety of young people and all workers is of paramount importance, I think, on both sides of the aisle.

Mr. Speaker, I rise today in support of H.R. 1114, a bill to reform the Department of Labor's hazardous occupation order No. 12 and allow workers, age 16 and 17, to load paper balers and compactors.

This bill is a good compromise between both sides of the aisle, the grocers and the unions.

Several months ago, Mr. Speaker, I met with the grocers from Maryland and then visited a grocery store in my district to see a baler, first hand.

While I understood the inconvenience of minors being prohibited from loading the balers, I was very concerned about the union's objections and the safety of our Nation's young workers.

I was pleased to work with Members on both sides of the aisle to ensure that the final product that the House will vote on today embodied this approach.

The manager's amendment, offered by Mr. GOODLING, will guarantee that every baler and compactor loaded by minors meets the most current ANSI standards.

Further, to ensure that minors will only be loading the balers, the machines must include an on-off switch with a key-lock system which will be maintained by employees over 18.

Mr. Speaker, I am pleased that we can offer commonsense reform today to the grocers of America, while protecting the health and safety of our young workers. This is a good compromise which brought the grocers and the unions together to help craft a bill which protects everyone's interests and makes sense for America's businesses.

I urge my colleagues to support H.R. 1114.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to H.R. 1114, a bill which will allow minors 16 and 17 years of age to load paper balers—dangerous machinery used in a variety of businesses including grocery stores, department stores, hospitals, and recycling operations.

I oppose the contents of the bill as it will gut vital protections for youth in the retail industry, and I also oppose the manner in which this matter is being considered by the Congress.

As I understand this new corrections day procedure it is meant to bring up noncontroversial bills which seek to eliminate frivolous and useless regulations that are contrary to basic common sense.

H.R. 1114 weakens a child labor law regulation that is neither frivolous or useless. Protecting the lives and limbs of the countless number of teenagers working in grocery stores or other retails outlets as part-time jobs, sounds like pretty good common sense to me. Hazardous Occupation Order 12, which prohibits minors under 18 years of age from loading paper balers limits the participation of young people in a fluid, mechanized process that has proven to be dangerous and life-threatening.

Even with HO 12 in place there have been serious injuries and fatalities when the law has been ignored. Between 1993 and 1995, there were six fatalities involving paper baling machines, including two cases where the victims fell into the compacting area of a machine while attempting to clear jams that occurred during the loading process.

A paper baler is not merely a trash or recycling bin. It is a large, dangerous machine, with a large power-driven steel plunger which crushes and compresses paper into a tight mass. These machines are almost always located in the basement or backroom of a retail outlet, away from supervision.

HO 12 is based on the same kind of common sense that parents use everyday in telling their children to not play with matches. When you play with matches you get burned.

And the more time minors spend around dangerous, complicated machinery the more apt they are to get hurt.

The flaw in this legislation is clear. It replaces a straightforward directive to businesses on how to keep its younger employees safe, with a standard that will be difficult to enforce and that is based on engineering design rather than health and safety standards.

H.R. 1114 as amended by the manager's amendment will allow 16- and 17-year-olds to load paper balers as long as the machine meets current American National Standards Institute [ANSI] standards, the machine has an on-off locking ignition system, and notices are posted regarding these regulations.

This so-called compromise bill attempts to make a bad bill better, but it falls far short of this goal.

Reliance on ANSI standards is a basic flaw that is unworkable and unenforceable.

The National Institute of Occupational Safety and Health, this Nation's primary authority on occupational safety, determined that only one out of five balers currently in use were safe to load and that the ANSI standards are not sufficient to protect minors. NIOSH further determined that HO 12 should be maintained as is.

Of particular concern to NIOSH was the great number of older machines being used, and the necessity for periodic equipment inspection and maintenance to ensure safe working conditions for all employees.

H.R. 1114 does nothing to address this major concern raised by NIOSH. It does not address how adherence to ANSI standards will be enforced, does not include specific requirements on maintenance, and does not include assurances that young people will be properly trained in loading the machine and avoiding any dangerous situations.

I fear that H.R. 1114 simply opens the door for allowing minors to utilize this machinery without appropriate safeguards.

Proponents of H.R. 1114 argue that HO 12 is preventing thousands of young people from getting jobs in supermarkets and retail stores, yet there is no solid evidence that this is the case. We have solid evidence that HO 12 protects the lives and limbs of our young people.

We have responsibility to maintain this protection of health and safety, I urge my colleagues to vote no on H.R. 1114.

Mr. STENHOLM. Mr. Speaker, passing this measure simply makes good common sense. Think about it.

Hazardous Occupation Order No. 12 has been on the books for 41 years. In 1954, heavy-duty industrial machinery, like the paper baler, was substantially more dangerous than today. Since that time, technology and concern for worker safety have helped create a much safer workplace. As a matter of fact, the Waste Equipment Technology Association's 7 year review of 8,000 compensation cases involving injuries could not identify a single injury attributable to a baler or compactor failing to meet acceptable standards. Unfortunately, H.O. 12 has never been updated to reflect the changes brought about by advances in workplace safety. It's time we updated this regulation.

The economic effects of this measure have been substantial. Fines in excess of $250,000 have been levied against grocery store owners. Faced with this kind of punishment, is it any wonder that store owners are less likely to hire 16 and 17 year olds?

Mr. Speaker, to put things in perspective, I was 16 when this regulation took effect. I remember needing extra money to pay the insurance on my car and to take care of other necessities. Young people today are no different and we should be doing everything we can to encourage employers to hire them.

The bottom line is this: H.R. 1114 is a proemployer, prolabor, proyoung person, projobs bill. We don't see this kind of measure too often, and when we do, we ought to support it.

Mr. LANTOS. Mr. Speaker, I rise in strong opposition to H.R. 1114, legislation which would overturn existing child labor protections prohibiting young people under the age of 18 from loading paper balers and compactors. I oppose this legislation because I believe that any weakening of current child labor standards will only lead to more exploitation and endangerment of our Nation's most precious resource—our youth.

As the former Chairman of the House Subcommittee on Employment and Housing which investigated workplace injuries of minors, including the death in 1988 of a 17-year-old boy who was crushed while operating a paper baler at the direction of his supervisor, I am appalled that this Congress is about to take this dangerous and ill-conceived step. This legislation will unfortunately result in more tragic deaths and injuries involving our Nation's teenagers.

In 1989, my subcommittee found that, although minors are prohibited by law from operating balers and compactors, serious injuries and deaths occur because the law is ignored by employers. According to the latest figures available from the Department of Labor, this tragedy continues. There were six fatalities involving paper baling machines between 1993 and 1995. In 1991, the most recent statistical year available, more than 50 accidents were reported involving minors and paper balers. Children have suffered amputated limbs and crushed bones. I do not want to imagine how many more of our children will suffer once these regulations are loosened.

Mr. Speaker, it has become popular these days to question regulations without considering the important reasons behind the regulation. Some regulations are out-dated and should be repealed; this regulation emphatically should not be repealed.

A paper baler is not merely a recycling bin or a waste paper bin. It is a large, dangerous machine that can severely injure a careless, untrained, or inexperienced worker. It has a power-driven steel plate which crushes and compresses paper into a tight mass. The paper is then secured by steel straps or wire. When the baler is hand-fed, an arm or a hand can get caught and crushed. A worker can receive serious lacerations to the face or other parts of the body if there is an accidental release of the baling steel or wire.

The legislation before us today would amend the Fair Labor Standards Act to permit minors to load balers and compactors and provides a legal and occupational justification for minors to be present while a baler is being operated. I oppose any effort which will increase the proximity of minors to these machines, even if minors are not actually turning the machines on. It does not take a genius to figure out that permitting children to work in and near these machines will increase the likelihood of serious injury and death.

Let me cite a few examples of the horrific injuries which can occur when minors were allowed or were directed to work illegally in the vicinity of paper balers and compactors:

An 11-year-old boy was loading paper boxes in a paper baler at the C-Town Food Corporation in the Bronx, NY, when his arm got caught in the baler which pulled his body up against the machine and crushed him. He died as a result of internal injuries.

A 16-year-old girl at an IGA Supermarket in Michigan was loading cardboard boxes into a paper baler and started the machine. When she reached down to pick up a loose piece of cardboard, her smock became entangled in the machine. The baler dragged her right arm in and tore muscle and tendon.

A 16-year-old material handler in Yadkinville, NC, got his hand caught in a baler while loading it and suffered a crushing injury to his hand.

A 16-year-old lost the tip of his index finger while operating a box compactor at Gordy's IGA in Chippewa Falls, WI.

These accidents occurred despite a regulation that prohibits minors from loading or operating paper balers.

It is our duty to ensure that our youth are employed in occupations which do not expose them to unnecessary safety risks. The Congress can do much more to provide our young people with opportunities which provide safe and sound work experience which contribute to their development into responsible, confident, and able-bodied adults. I will not support legislation which will expose our children to needless risk or put them in harm's way. I urge my colleagues to oppose this legislation.

Mr. MARTINI. Mr. Speaker, I rise today in support of H.R. 1114. This bill is a bipartisan bill to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compactors that meet appropriate American National Standards Institute design safety standards.

At the base of this bill is the 104th Congress' firm commitment to reform outdated Federal regulations. A commitment that is reiterated every day by the electorate who have sent us here to Washington. They do not merely ask for reform, rather they demand reform, and they deserve reform. They deserve reform from a Congress which has pledged to act in a different manner from the Congresses of the past.

We can no longer sit by the wayside and suffer the consequences that are inherent in out-of-date legislation. Too often technological reforms outpace legislative reforms; it is time for us to take a step and catch up. Clearly, we can no longer afford to be shackled to the past by antiquated laws that preclude technological innovations. H.R. 1114 is just one of the many bills that this Congress has proposed to level the playing field and increase productivity for this Nation. This legislation recognizes the safety enhancements that are now being incorporated into the design and manufacturing of balers and compactors, and adjusts the current law accordingly.

The feedback that I have received from companies in my congressional district has provided me with a clear understanding of why we need to pass H.R. 1114. David Maniaci, president and chief executive officer of Nicholas Markets in Haldon, NJ, has written me and documented how the present law has affected his company. As a businessman in my congressional district, Mr. Maniaci has shown me the inadequacies of the system and why we need to pass this measure. This constituent has shown me that H.R. 1114 will not only affect business on a national level, but will help small businesses in local communities in this country.

Mr. Speaker, small business provides the backbone of the U.S. economy as 97 percent of the Nation's employers. We cannot sit idly and allow outdated regulations to continue to slow the economic growth of this Nation. The time for change and reform is upon us.

This legislation currently has over 140 cosponsors; it indisputably serves to maintain a balance of fairness in the increasingly competitive global marketplace. The penalties of the past that have been imposed on industries for allowing teenagers to toss boxes into balers are not only astronomical for the company, but also detrimental to the teenagers of today. There is no incentive to employ our youth and instill a work ethic that they will carry with them from job to job if companies are constantly wary of prosecution. H.R. 1114 allows companies to employ our youth and it gives teenagers additional employment opportunities. Without it our youth will lose.

Mr. Speaker, I ask my fellow colleagues to support H.R. 1114.

Mr. KOLBE. Mr. Speaker, I rise today in support of H.R. 1114 and the managers amendment, a bill to reform Hazardous Occupation Order No. 12.

I first heard about this issue in the late 1980's, when food stores in my own district were being punished based on a simple statement by a former teenage employee who would truthfully tell a Department of Labor investigator: "Yeah, I tossed a box into a baler once." Huge fines were being levied against supermarket companies—large chains as well as independent operators. Efforts to reform Hazardous Occupation Order 12 through the regulatory process were unsuccessful. The Labor Department showed an amazing—though not surprising—lack of common sense. So, I am pleased to vote today for legislation which will correct this longstanding problem for Arizona grocers.

In 1992, I saw this problem first hand. I toured a supermarket's back room and looked at a cardboard baler with members of the Arizona Food Marketing Alliance. These balers operate much like your home dishwasher. If the door is open you can't run the machine, even if you press the "on" button. The cardboard baler operates under the same principle. When the gate is open it can be filled with cardboard boxes. When it is time to run the machine, an authorized adult can close the gate and turn the key to operate the equipment. Only an adult has the operating key. The gate has a lock-out device which prevents it from operating when the gate is opened, even if the machine is in the operating position. This is much the way a microwave oven works. If you open it while it's on, the machine stops. It is beyond comprehension why able 16- and 17-year-olds must stack cardboard by the baler—possibly causing a greater hazard and encumbrance to workers moving around in the area, not to mention health hazards as they attract rats and roaches—and wait for someone 18-years-old or older to place the boxes in the baler.

The owners and store managers of the Nation's supermarkets who don't want to harm these young people entering the work world or working their way through school. They have a good financial incentive to look after the safety anyhow—their insurance costs. But, as it stands now, if minors are stocking shelves, they cannot toss empty, cardboard boxes into an open and locked baler. This is absurd.

I urge my colleagues to support this bill which includes a compromise worked out to address safety concerns. It is a perfect Corrections Day item to fix an outdated 41-year-old regulation while keeping young people safe.

Mr. OWENS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BALLENGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the previous question is ordered on the amendment and the bill.

The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEE REPRESENTATION IMPROVEMENT ACT OF 1995

The SPEAKER pro tempore. The Clerk called the bill (H.R. 782) to amend title 18 of the United States Code to allow members of employee associations to represent their views before the United States Government.

The Clerk read the bill, as follows:

H.R. 782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Representation Improvement Act of 1995".

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

"(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

"(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

"(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

"(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

"(A) is a claim under subsection (a)(1) or (b)(1);

"(B) is a judicial or administrative proceeding where the organization or group is a party; or

"(C) involves a grant, a contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.".

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

"(i) Nothing in this section prevents an employee from acting pursuant to chapter 71 of title 5 or section 1004 or chapter 12 of title 39.".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The clerk read as follows:

Committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Representation Improvement Act of 1995".

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subseciton (d) of section 205 of title 18, United States Code, is amended to read as follows:

"(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

"(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

"(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the Untied States or of the District of Columbia, or their spouses or dependent children.

"(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

"(A) is a claim under subsection (a)(1) or (b)(1);

"(B) is a judicial or administrative proceeding where the organization or group is a party; or

"(C) involves a grant, a contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.".

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

"(i) Nothing in this section prevents an employee from acting pursuant to chapter 71 of title 5 or section 1004 or chapter 12 of title 39.".

Mr. HOKE (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. HOKE] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. HOKE].

□ 1615

Mr. HOKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill.

Mr. Speaker, H.R. 782, the Federal Employee Representation Improvement Act of 1995 is good Government measure with broad bipartisan support. The act is a remedial measure necessary to protect the right of Federal employees as representatives of their employee organizations to communicate with Federal departments and agencies in appropriate circumstances.

In an effort to influence the crime bill before the 103d Congress in 1994, some employees of the Department of Justice, who are also members of the National Association of Assistant United States Attorneys, met with Justice Department officials to express their views as an employee organization.

Attorney General Reno asked for an official opinion from Assistant Attorney General Walter Dellinger in the Office of Legal Counsel regarding the propriety of this group's expression of their opinion to top Justice Department officials. The Department was concerned that communications by the employees on behalf of the employee organization was a conflict of interest under section 205 of title 18, a criminal statute, which prohibits Federal employees from representing persons in matters in which the United States has a direct and substantial interest.

The Justice Department issued an opinion concluding that no general exception exists for employee organizations from the restrictions of section 205 of title 18. Under that opinion, any representation made by a Federal employee on behalf of an employee organization is a criminal conflict of interest under section 205. Included among these organizations are credit unions, child care centers, health and fitness organizations, recreational associations, and professional associations. This interpretation of the law has had a chilling effect on communications between Federal employees and management on exactly those issues where communications should be fostered, not discouraged.

H.R. 782, introduced by the gentleman from Virginia, Mr. WOLF, will correct this situation and protect the right of Federal employees as representatives of their employee organizations to communicate with Federal agencies in appropriate circumstances.

The Subcommittee on the Constitution reported an amendment in the nature of a substitute to H.R. 782. The substitute differs from the introduced bill by providing certain specific limitations on when an employee can represent an employee organization. The substitute will continue to prohibit employees from representing organizations or groups in formal adversarial matters or in competition with the private sector for the assistance the Government provides through actual cash disbursements, as opposed to services, equipment and facilities.

Therefore, under the language of the substitute, a Federal employee may not represent an organization or group in a claim against the Government, in a judicial or administrative proceeding where the organization or group is a party, or where the organization or group is seeking money from the Government.

Mr. Speaker, H.R. 782 will restore and protect the rights that Federal employees have enjoyed for over 30 years until the Justice Department removed those rights through its interpretation of the law. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Ohio [Mr. HOKE] has accurately stated both the history that led up to this bill and its purpose. As a member of the Committee on the Judiciary conference, I thought the Assistant U.S. Attorneys Association was dead wrong in what they were arguing. Why they insisted on keeping people locked up for many, many years, whose sole crime was the possession of relatively small amounts of marijuana, I will never understand. But this institution defends in part the right of people to do things that do not make a great deal of sense, and certainly to say things that I disagree with. I believe the response of the Justice Department was erroneous, in that it did lead to a curtailment of the rights of Federal employees.

We have taken some steps to expand the rights of employees, and we certainly should not be going back, so I was glad to cooperate with the chairman of the Subcommittee on the Constitution, the gentleman from Florida [Mr. CANADY], and others, in moving this bill quickly forward.

As evidence of the importance of this bill, Mr. Speaker, I will include into the RECORD a letter from Leonard Hirsch, president of the board of directors of the Gay, Lesbian or Bisexual Employees of the Federal Government, who testified in this letter to the importance of this kind of right of free expression for the kind of efforts that they and other organizations engage in.

Mr. Speaker, the gentleman from Virginia [Mr. WOLF] was the moving force behind this bill, and is entitled to a great deal of credit for it.

Mr. Speaker, I include the letter referred to for the RECORD.

FEDERAL GLOBE,
Washington, DC, October 20, 1995.

Hon. BARNEY FRANK,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN FRANK: I want to take this opportunity to thank you for your past support for H.R. 782—To amend title 18 of the US Code to allow members of employee associations to represent their views before the US Government—and to urge you to continue this support as the bill comes to the floor this week.

As you know, this law returns basic rights of free association and speech to federal employees. These rights were inadvertently removed during the important process of streamlining the Federal Personnel Manual. This legislation simply returns these rights to federal employees.

Good business practice, in addition to the base ideals of this country, undergird the need for this small but important piece of legislation. Federal agencies must be able to gather information and advice from the most knowledgeable and useful sources. This often means their own employees who by joining cooperative, voluntary, professional organizations bring together information and wisdom that can, through consultation and discussion, make for better and more efficient workplace policies.

Absent this bill, all employee groups—senior managers, women, African-Americans, Native Americans, health care professionals, scientists, etc—cannot as a group give advise, or advocate for better policy implementation within their areas of purview. This makes for bad process and bad policy. Employees must feel free to join groups and know that they can speak within the workplace for these groups and the knowledge they bring forward. As the federal workplace strives to make itself free from harassment and discrimination against its lesbian, gay, and bisexual employees (which it sadly is not), it is vital that the GLOBE groups in the agencies are able to work with the department and agency administration in developing workable and useful procedures and programs. This bill will enable such cooperation to continue without fear.

Thank you for your continued support and we look forward to working closely with you on future issues.

Sincerely,

LEONARD P. HIRSCH,
President Board of Directors.

Mr. HOKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are very proud to be here on the floor today to actually get this on Corrections Day corrected. I also think that the gentleman from Massachusetts [Mr. FRANK] was quite correct in saying that the Justice Department's interpretation of this particular portion of the code is, in my opinion, completely incorrect. But in any event, we have now dealt with that in a way that will not be confused in the future.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF]. The gentleman from Virginia carried the water on this and did a good job with it.

Mr. WOLF. Mr. Speaker, I rise in support of the bill. It is the Federal Employee Representation Improvement Act. It is bipartisan. It has been supported by the chairman of the Subcommittee on the Constitution of the Committee on Justice, the gentleman from Florida [Mr. CANADY] and the ranking member, the gentleman from Massachusetts [Mr. FRANK]. It will help Federal employees. Whereby up until this time they were able to negotiate and talk about day-care and different things like that. When the Department of Justice came down with their ruling, they were no longer able to do it. This will now permit them to do it.

Mr. Speaker, this is strongly supported by a number of Federal employee groups. It will protect the rights of Federal employees that they have enjoyed until the Department of Justice removed them through its interpretation of section 205. It is a good measure.

Mr. Speaker, I want to express my gratitude to the gentleman from Florida [Mr. CANADY], the chairman of the Subcommittee on the Constitution, and the gentleman from Massachusetts [Mr. FRANK], the ranking member of the subcommittee, for quickly moving this, and also appreciate the hard work of the Office of Government Ethics and the staff of the Subcommittee on the Constitution, all of whom worked with my staff to create this bipartisan legislation.

Mr. Speaker, I also want to commend and thank Will Moschella, who works for me, who really did the bulk of the work on this.

Mr. Speaker, I rise in support of H.R. 782, the Federal Employee Representation Improvement Act. This legislation, which has bipartisan support, would allow Federal employee management and professional organizations to have Federal employees speak on their behalf without violating criminal law. This legislation is necessary because the Department of Justice [DOJ] issued a legal opinion on November 7, 1994, explaining Federal employee speaking on behalf of a nonunion association to their superiors could be guilty of violating 18 U.S.C. section 205, a criminal provision. It is apropos that H.R. 782 is being considered under the correction calendar process because we must correct the consequences of the DOJ legal opinion which has had negative repercussions throughout the entire Federal Government.

Federal employees who are members of employee organizations, like child care centers, health and fitness organizations, recreation associations, and professional associations, have traditionally been able to represent the views of the employee organization to the employing department or agency. I think all would agree that active employee participation in matters of employment should be encouraged.

Until now, Federal employees' ability to represent to their agencies the interests of their employee organization has peacefully coexisted with 18 U.S.C. section 205, which prohibits a Government employee, except in the performance of official duties, from acting as agent or attorney for anyone before any agency or court of the United States in connection with a covered matter. A covered matter is described at 18 U.S.C. sections 205(h) as including "any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter." Until now, issues affecting employees as employees, such as pay and benefits issues, have not been viewed as covered matters.

DOJ legal opinions and guidelines state that managers or supervisors who are Federal employees and who represent the interests of their peers or associations before senior management officials are guilty of a violation of 18 U.S.C. sections 205 and could be prosecuted as felons and subject to imprisonment and fines. Technically, according to DOJ, an employee who asks to use office space on behalf of an employee organization may have violated the law and could be subject to criminal prosecution or a civil penalty of not more than $50,000 for each violation. This is chilling to employee participation and is the wrong policy to pursue. During this time of downsizing and cutbacks, we should be encouraging more employee participation instead of less.

18 U.S.C. section 205 was enacted in 1962 and there has not been a problem until DOJ issued its opinion. Now, if a Federal employee wishes to discuss child care on behalf of his or her employee organization, he or she is in violation of the law. This situation is outrageous and must be corrected. This legislation, which reverses the Department of Justice's interpretation of the law, allows a Federal employee to represent an employee association or the interests of its members to the executive branch or any agency of the Government.

For example, this legislation would allow a Federal employee member of the Conference of Administrative Law Judges to represent its views on changes in the Social Security adjudication process to or before a Federal department or agency. Under DOJ's interpretation of current law, administrative law judges who have experience in matters involving the administrative adjudicatory process, would not be able to share that knowhow with the agency. This is an absurd situation and H.R. 782 will change it.

This bill will protect the rights that Federal employees have enjoyed for years until the Department of Justice removed them through its interpretation of section 205. This legislation is a good-government measure, is good for Federal employees and maintains the integrity and purpose of section 205. I urge unanimous support for this legislation.

Mr. Speaker, I want to express my gratitude to Congressman CANADY, chairman of the Constitution Law Subcommittee and Congressman FRANK, the ranking member of the subcommittee, for quickly moving this legislation. I also appreciate the hard work of the staff of the Office of Government Ethics and the staffs of the Constitutional Law Subcommittee, all of whom worked with my staff to craft this bipartisan legislation.

Mr. Speaker, I ask unanimous consent to include a list of Federal employee groups who support H.R. 782.

WHO SUPPORTS H.R. 782?

American Federation of Federal Employees.
American Foreign Service Association.
Asian Pacific American Network in Agriculture.
Blacks in Government.
Classification and Compensation Society.
Coalition for Effective Change (29 Federal Employee Groups).
Customs National Hispanic Agents Association.
Federal Investigators' Association.
Federal Bar Association.
Federal Bureau of Investigation Agents Association
Federal Law Enforcement Officers Association.
Federal Managers Association.
Federal Physicians Association.
Federal Asian Pacific American Council.
Fraternal Order of Police, National Park Ranger Lodge.
International Personnel Management Association.
National Association of Assistant United States Attorneys.
National Association of Black Customs Enforcement Officers.
National Association of Federal Veterinarians.
National Association of Retired Federal Employees.
National Association of Treasury Agents.
Naval Civilian Managers Association.
NIST, Child Care Association.
Organization of Professional Employees of the USDA.
Professional Managers Association.
Senior Executives Association.
Senior Foreign Service Association.
Social Security Management Associations, Inc.

Mr. DAVIS. Mr. Speaker, I rise to voice my strong support for this important legislation and to thank my friend and neighbor, Mr. WOLF, for crafting this solution to what has become a stifling regulatory burden on the free speech rights of Federal employees. I would also like to thank Mr. CANADY, chairman of the Subcommittee on the Constitution, for shepherding this bill through the legislative process and bringing it to the floor today.

The Federal Employee Representation Improvement Act corrects a Department of Justice [DOJ] legal opinion that promulgated an overly broad interpretation of section 205 of the 1962 Government Ethics Statute, Public Law 87–849. This controversial legal opinion stated that Federal employees would be subject to prosecution if they communicated with the U.S. Government in any way on any matter currently before a Federal agency. Now, this might make sense in the context of Federal employees interfering in a rulemaking that affects the general public, but the Department of Justice legal opinion is so overbroad that it could be interpreted to forbid Federal employees from contacting their employing agency regarding personnel and administrative matters.

I have been contacted by numerous constituents who report that the DOJ legal opinion has had a chilling effect on what we all would agree are merely routine contacts between employees and management. Federal employees are currently afraid to communicate with management regarding administrative issues in Federal agencies, such as child care centers, health and fitness facilities, credit unions, and professional associations. The modern workplace is often the site of many activities that are not related to the official duties carried out by the office or agency. Employees should be encouraged to get involved in these activities and to speak out when necessary. H.R. 782 will correct the existing confusion and allow an open dialog on administrative issues within government agencies.

I believe it is especially appropriate that we advance this legislation via the new corrections day procedure which was designed by the Speaker to resolve poorly written or interpreted regulations and laws. H.R. 782 will correct an overbroad legal opinion that has stifled the open exchange of views in the Federal workplace on administrative and quality of life issues. I urge my colleagues to unanimously support this important legislation.

Mrs. MORELLA. Mr. Speaker, I rise in strong support of H.R. 782, a commonsense measure aimed at protecting the channels of communication between Federal employees and management.

One of the key factors that is driving the continuous improvement initiatives in government and the private sector is employee involvement. In fact, employee involvement and employee empowerment are cornerstones in the administration's national performance review and are essential to an agency's ability to explore new paths in solving problems.

For employees, who speak on behalf of employee associations, having an entree to management is vital in the process. For management, having this feedback system is essential in staying abreast of emerging workplace concerns and in developing solutions that reduce conflict and costly potential grievances.

And for years, no one questioned this beneficial relationship between employees and management. However, a Justice Department interpretation of title 18, section 205 prohibits employee representatives from expressing the views of an employee organization or association before a government agency. In fact the employee could be prosecuted if he/she does so.

Mr. Speaker, I ask you to imagine being prosecuted for offering suggestions to make a day care facility safer and more enjoyable for our children. I ask you to imagine being arrested because as a representative of blacks in government or the Professional Managers Association you raise concerns about new hiring initiatives in your agency, or as a representative of the Coalition for Effective Change you had the nerve to comment on suggestions to improve the efficiency of the organization.

The Justice Department was correct in its interpretation of the law, but in doing so, it compromised the spirit of the law and the spirit of cooperation between employees and management.

H.R. 782 restores the voice of these employees and the spirit of the law, without overextending the rights of employee associations or infringing on the responsibilities of executives. I urge my colleagues to support H.R. 782.

Mr. HOYER. Mr. Speaker, I hope that the House will approve this legislation that will revise rules for representational activities of Federal employees.

This is commonsense government and, as a cosponsor, I am pleased to see H.R. 782 included on today's agenda. The legislation authored by Congressman WOLF will resolve existing problems that make it illegal for Federal employees to express the view of an employee organization or association to a governmental agency.

This has been a troublesome issue for child care groups, credit unions, recreational associations, and other employee organizations.

This bill will allow members of such groups to discuss all matters except judicial proceedings and grant requests.

In my view, the 1962 ethics provisions, as interpreted by the Department of Justice in 1994, were never intended to prohibit such communication. It does not make sense to stop the president of a credit union from discussing his needs or issues with representatives of the agency or Department. In fact, open discussion benefits both the organizations, the employees involved, and the employer.

I thank the Committee on the Judiciary for reporting the legislation and I urge its adoption.

Mr. HOKE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 4, PERSONAL RESPONSIBILITY ACT OF 1995

The SPEAKER pro tempore. Without objection, the gentleman from California [Mr. CUNNINGHAM] is appointed as a conferee on H.R. 4.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATION FROM HONORABLE SAM M. GIBBONS, MEMBER OF CONGRESS

The Chair laid before the House the following communication from the Honorable SAM M. GIBBONS, Member of Congress:

SAM M. GIBBONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 18, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the Middle District of Florida.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

SAM M. GIBBONS,
U.S. Congressman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

FISHERIES ACT OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 716) to amend the Fishermen's Protective Act.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fisheries Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The Table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HIGH SEAS FISHING COMPLIANCE

Sec. 101. Short title.
Sec. 102. Purpose.
Sec. 103. Definitions.
Sec. 104. Permitting.
Sec. 105. Responsibilities of the Secretary.
Sec. 106. Unlawful activities.
Sec. 107. Enforcement provisions.
Sec. 108. Civil penalties and permit sanctions.
Sec. 109. Criminal offenses.
Sec. 110. Forfeitures.
Sec. 111. Effective date.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

Sec. 201. Short title.
Sec. 202. Representation of United States under convention.
Sec. 203. Requests for scientific advice.
Sec. 204. Authorities of Secretary of State with respect to convention.
Sec. 205. Interagency cooperation.
Sec. 206. Rulemaking.
Sec. 207. Prohibited acts and penalties.
Sec. 208. Consultative committee.
Sec. 209. Administrative matters.
Sec. 210. Definitions.
Sec. 211. Authorization of appropriations.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

Sec. 301. Short title.
Sec. 302. Research and monitoring activities.
Sec. 303. Definitions.
Sec. 304. Advisory committee procedures.
Sec. 305. Regulations and enforcement of Convention.
Sec. 306. Fines and permit sanctions.
Sec. 307. Authorization of appropriations.
Sec. 308. Report and savings clause.
Sec. 309. Management and Atlantic yellowfin tuna.
Sec. 310. Study of bluefin tuna regulations.
Sec. 311. Sense of the Congress with respect to ICCAT negotiations.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

Sec. 401. Findings.
Sec. 402. Amendment to the Fishermen's Protective Act of 1967.
Sec. 403. Reauthorization.
Sec. 404. Technical corrections.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

Sec. 501. Short title.
Sec. 502. Fishing prohibition.

TITLE VI—DRIFTNET MORATORIUM

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Prohibition.
Sec. 604. Negotiations.
Sec. 605. Certification.
Sec. 606. Enforcement.

TITLE VII—YUKON RIVER SALMON ACT

Sec. 701. Short title.
Sec. 702. Purposes.
Sec. 703. Definitions.
Sec. 704. Panel.
Sec. 705. Advisory committee.
Sec. 706. Exemption.
Sec. 707. Authority and responsibility.
Sec. 708. Continuation of agreement.
Sec. 709. Administrative matters.
Sec. 710. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS

Sec. 801. South Pacific tuna amendment.
Sec. 802. Foreign fishing for Atlantic herring and Atlantic mackerel.

TITLE I—HIGH SEAS FISHING COMPLIANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "High Seas Fishing Compliance Act of 1995".

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term "Agreement" means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term "FAO" means the Food and Agriculture Organization of the United Nations.

(3) The term "high seas" means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term "high seas fishing vessel" means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term "length" means—

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "vessel of the United States" means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms "vessel subject to the jurisdiction of the United States" and "vessel without nationality" have the same meaning as in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. 1903(c)).

SEC. 104. PERMITTING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e);

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or permit issued under this title; or

(10) to violate any provision of this title or any regulation or permit issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or permit issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or permit issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or permit issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) PERMIT SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on such permit.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a permit sanction is imposed under subsection (b) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and

unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Northwest Atlantic Fisheries Convention Act of 1995".

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a "United States Commissioner to the Northwest Atlantic Fisheries Organization"; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a "United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council".

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b) (1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURES.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311 (a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term "authorized enforcement officer" means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term "Commissioner" means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term "Convention" means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term "Fisheries Commission" means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term "General Council" means the General Council provided for by Article II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term "Magnuson Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term "Organization" means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term "person" means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term "Representative" means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term "Scientific Council" means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, 1997, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Atlantic Tunas Convention Authorization Act of 1995".

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) Research and Monitoring Program.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

"SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.";

(2) by striking the last sentence;

(3) by inserting "(a) Biennial Report on Bluefin Tuna.—" before "The Secretary of Commerce shall"; and

(4) by adding at the end the following:

"(b) Highly Migratory Species Research and Monitoring.—

"(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

"(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

"(B) provide for appropriate participation by nations which are members of the Commission.

"(2) The program shall provide for, but not be limited to—

"(A) statistically designed cooperative tagging studies;

"(B) genetic and biochemical stock analyses;

"(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

"(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

"(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

"(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

"(G) integration of data from all sources and the preparation of data bases to support management decisions; and

"(H) other research as necessary.

"(3) In developing a program under this section, the Secretary shall—

"(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

"(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards;

"(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

"(D) through the Secretary of State, encourage other member nations to adopt a similar program.".

SEC. 303. DEFINITIONS.

Section 2 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971) is amended—

(1) by designating paragraphs (3) through (10) as (4) through (11), respectively, and inserting after paragraph (2) the following:

"(3) The term 'conservation recommendation' means any recommendation of the Commission made pursuant to article VIII of the Convention and acted upon favorably by the Secretary of State under section 5(a) of this Act.";

(2) by striking paragraph (5), as redesignated, and inserting the following:

"(4) The term 'exclusive economic zone' means an exclusive economic zone as defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)."; and

(3) by striking "fisheries zone" wherever it appears in the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) and inserting "exclusive economic zone".

SEC. 304. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following:

"(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

"(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

"(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

"(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

"(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

"(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 305. REGULATIONS AND ENFORCEMENT OF CONVENTION.

Section 6(c) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)) is amended—

(1) by inserting "AND OTHER MEASURES" after "REGULATIONS" in the section caption;

(2) by inserting "or fishing mortality level" after "quota of fish" in the last sentence of paragraph (3); and

(3) by inserting the following after paragraph (5):

"(6) Identification and Notification.—

"(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

"(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

"(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

"(iii) publish a list of those Nations identified under subparagraph (A).

In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

"(7) Consultation.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the government of that Nation for the purpose of obtaining an agreement that will—

"(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

"(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

"(C) result in the establishment, if necessary, by such nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.".

SEC. 306. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

"(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1995, $4,103,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $2,890,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).

"(2) For fiscal year 1996, $5,453,000, of which $50,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.

"(3) For fiscal year 1997, $5,465,000 of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.

"(4) For fiscal year 1998, $5,465,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.".

SEC. 308. REPORT AND SAVINGS CLAUSE.

The Atlantic Tuna Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

"§11. Annual report

"Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

"(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

"(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

"(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

"(4) describes actions taken by the Secretary under section 6.

"§12. Savings clause

"Nothing in this Act shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.".

SEC. 309. MANAGEMENT OF ATLANTIC YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commercial catch of Atlantic yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than July 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna made pursuant to article VIII of the International Convention for the Conservation of Atlantic Tunas and acted upon favorably by the Secretary of State under section 5(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971c(a)).

SEC. 310. STUDY OF BLUEFIN TUNA REGULATIONS.

Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and to the Committee on Resources of the House of Representatives a report on the historic rationale, effectiveness, and biological and economic efficiency of existing bluefin tuna regulations for United States Atlantic fisheries. Specifically, the biological rationale for each regional and category allocation, including directed and incidental categories, should be described in light of the average size, age, and maturity of bluefin tuna caught in each fishery and the effect of this harvest on stock rebuilding and sustainable yield. The report should examine the history and evaluate the level of wasteful discarding, and evaluate the effectiveness of non-quota regulations at constraining harvests within regions. Further, comments should be provided on levels of participation in specific fisheries in terms of vessels and trips, enforcement implications, and the importance of monitoring information provided by these allocations on the precision of the stock assessment estimates.

SEC. 311. SENSE OF THE CONGRESS WITH RESPECT TO ICCAT NEGOTIATIONS.

(a) SHARING OF CONSERVATION BURDEN.—It is the sense of the Congress that in future negotiations of the International Commission for the Conservation of Atlantic Tunas (hereafter in this section referred to as "ICCAT"), the Secretary of Commerce shall ensure that the conservation actions recommended by international commissions and implemented by the Secretary for United States commercial and recreational fishermen provide fair and equitable sharing of the conservation burden among all contracting harvesters in negotiations with those commissions.

(b) ENFORCEMENT PROVISIONS.—It is further the sense of the Congress that, during 1995 ICCAT negotiations on swordfish and other Highly Migratory Species managed by ICCAT, the Congress encourages the United States Commissioners to add enforcement provisions similar to those applicable to bluefin tuna.

(c) ENHANCED MONITORING.—It is further the sense of the Congress that the National Oceanic and Atmospheric Administration and the United States Customs Service should enhance monitoring activities to ascertain what specific stocks are being imported into the United States and the country of origin.

(d) MULTILATERAL ENFORCEMENT PROCESS.—It is further the sense of the Congress that the United States Commissioners should pursue as a priority the establishment and implementation prior to December 31, 1996, an effective multilateral process that will enable ICCAT nations to enforce the conservation recommendations of the Commission.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) in 1994 Canada required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should continue its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall, subject to the availability of appropriated funds, reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balance of previously appropriated funds remaining in the Fishermen's Protective Fund established under

section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a), which shall be deposited in the Fishermen's Protective Fund established under section 9.

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.".

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

"SEC. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

"(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

"(c) For the purposes of this section, the term 'fishing vessel' has the meaning given that term in section 2101(11a) of title 46, United States Code.

"(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).".

(c) Notwithstanding any other provision of law, the Secretary of State shall reimburse the owner of any vessel of the United States for costs incurred due to the seizure of such vessel in 1994 by Canada on the basis of a claim to jurisdiction over sedentary species which was not recognized by the United States at the time of such seizure. Any such reimbursement shall cover, in addition to amounts reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1973), legal fees and travel costs incurred by the owner of any such vessel that were necessary to secure the prompt release of the vessel and crew. Total reimbursements under this subsection may not exceed $25,000 and may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9 of the Fishermen's Protective Act (22 U.S.C. 1979).

SEC. 403. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting "October 1, 2000".

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103–238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102–567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

"(C) any vessel supporting a vessel described in subparagraph (A) or (B).".

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the "Sea of Okhotsk Fisheries Enforcement Act of 1995".

SEC. 502. FISHING PROHIBITION.

(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting "and the Central Sea of Okhotsk" after "Central Bering Sea".

(b) DEFINITION.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) CENTRAL SEA OF OKHOTSK.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.".

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the "High Seas Driftnet Fishing Moratorium Protection Act".

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusive economic zone of any nation, including the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV, P.L. 100–220), the Driftnet Act Amendments of 1990 (P.L. 101–627), and the High Seas Driftnet Fisheries Enforcement Act (title I, P.L. 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—YUKON RIVER SALMON ACT

SEC. 701. SHORT TITLE.

This title may be cited as the "Yukon River Salmon Act of 1995".

SEC. 702. PURPOSES.

It is the purpose of this title—

(1) to implement the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995;

(2) to provide for representation by the United States on the Yukon River Panel established under such agreement; and

(3) to authorize to be appropriated sums necessary to carry out the responsibilities of the United States under such agreement.

SEC. 703. DEFINITIONS.

As used in this title—

(1) The term "Agreement" means the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995.

(2) The term "Panel" means the Yukon River Panel established by the Agreement.

(3) The term "Yukon River Joint Technical Committee" means the technical committee established by paragraph C.2 of the Memorandum of Understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada recorded January 28, 1985.

SEC. 704. PANEL.

(a) REPRESENTATION.—The United States shall be represented on the Panel by six individuals, of whom—

(1) one shall be an official of the United States Government with expertise in salmon conservation and management;

(2) one shall be an official of the State of Alaska with expertise in salmon conservation and management; and

(3) four shall be knowledgeable and experienced with regard to the salmon fisheries on the Yukon River.

(b) APPOINTMENTS.—Panel members shall be appointed as follows:

(1) The Panel member described in subsection (a)(1) shall be appointed by the Secretary of State.

(2) The Panel member described in subsection (a)(2) shall be appointed by the Governor of Alaska.

(3) The Panel members described in subsection (a)(3) shall be appointed by the Secretary of

State from a list of at least 3 individuals nominated for each position by the Governor of Alaska. The Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries. The Governor of Alaska may make appropriate nominations to allow for, and the Secretary of State shall appoint, at least one member under subsection (a)(3) who is qualified to represent the interests of Lower Yukon River fishing districts, and at least one member who is qualified to represent the interests of Upper Yukon River fishing districts. At least one of the Panel members under subsection (a)(3) shall be an Alaska Native.

(c) ALTERNATES.—The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under subsections (b) (1) and (3), who meets the same qualifications, to serve in the absence of the Panel member. The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(2), who meets the same qualifications, to serve in the absence of that Panel member.

(d) TERM LENGTH.—Panel members and alternate Panel members shall serve four-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(e) REAPPOINTMENT.—Panel members and alternate Panel members shall be eligible for reappointment.

(f) DECISIONS.—Decisions by the United States section of the Panel shall be made by the consensus of the Panel members appointed under paragraphs (2) and (3) of subsection (a).

(g) CONSULTATION.—In carrying out their functions under the Agreement, Panel members may consult with such other interested parties as they consider appropriate.

SEC. 705. ADVISORY COMMITTEE.

(a) APPOINTMENTS.—The Governor of Alaska may appoint an Advisory Committee of not less than eight, but not more than twelve, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least 2 of the Advisory Committee members shall be Alaska Natives. Members of the Advisory Committee may attend all meetings of the United States section of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the United States section of the Panel.

(b) COMPENSATION.—The members of such advisory committee shall receive no compensation for their services.

(c) TERM LENGTH.—Advisory Committee members shall serve two-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) REAPPOINTMENT.—Advisory Committee members shall be eligible for reappointment.

SEC. 706. EXEMPTION.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel, the Yukon River Joint Technical Committee, or the Advisory Committee created under section 705 of this title.

SEC. 707. AUTHORITY AND RESPONSIBILITY.

(a) RESPONSIBLE MANAGEMENT ENTITY.—The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of the Agreement.

(b) EFFECT OF DESIGNATION.—The designation under subsection (a) shall not be considered to expand, diminish, or change the management authority of the State of Alaska or the Federal government with respect to fishery resources.

(c) RECOMMENDATIONS OF PANEL.—In addition to recommendations made by the Panel to the responsible management entities in accordance with the Agreement, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of the Interior, Department of Commerce, Department of State, North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

SEC. 708. CONTINUATION OF AGREEMENT.

In the event that the Treaty between Canada and the United States of America concerning Pacific Salmon, signed at Ottawa, January 28, 1985, terminates prior to the termination of the Agreement, and the functions of the Panel are assumed by the "Yukon River Salmon Commission" referenced in the Agreement, the provisions of this title which apply to the Panel shall thereafter apply to the Yukon River Salmon Commission, and the other provisions of this title shall remain in effect.

SEC. 709. ADMINISTRATIVE MATTERS.

(a) Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS-15 of the General Schedule when engaged in the actual performance of duties.

(b) Travel and other necessary expenses shall be paid for all Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties.

(c) Except for officials of the United States Government, individuals described in subsection (b) shall not be considered to be Federal employees while engaged in the actual performance of duties, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 71 of title 28, United States Code.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $4,000,000 for each fiscal year for carrying out the purposes and provisions of the Agreement and this title including—

(1) necessary travel expenses of Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code;

(2) the United States share of the joint expenses of the Panel and the Joint Technical Committee: Provided, That Panel members and alternate Panel members shall not, with respect to commitments concerning the United States share of the joint expenses, be subject to section 262(b) of title 22, United States Code, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(3) not more than $3,000,000 for each fiscal year to the Department of the Interior and to the Department of Commerce for survey, restoration, and enhancement activities related to Yukon River salmon; and

(4) $400,000 in each of fiscal years 1996, 1997, 1998, and 1999 to be contributed to the Yukon River Restoration and Enhancement Fund and used in accordance with the Agreement.

TITLE VIII—MISCELLANEOUS

SEC. 801. SOUTH PACIFIC TUNA AMENDMENT.

Section 9 of the South Pacific Tuna Act of 1988 (16 U.S.C. 973g) is amended by adding at the end thereof the following:

"(h) Notwithstanding the requirements of—

"(1) section 1 of the Act of August 26, 1983 (97 Stat. 587; 46 U.S.C. 12108);

"(2) the general permit issued on December 1, 1980, to the American Tunaboat Association under section 104(h)(1) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(1)); and

"(3) sections 104(h)(2) and 306(a) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(2) and 1416(a))—

any vessel documented under the laws of the United States as of the date of enactment of the Fisheries Act of 1995 for which a license has been issued under subsection (a) may fish for tuna in the Treaty Area, including those waters subject to the jurisdiction of the United States in accordance with international law, subject to the provisions of the treaty and this Act, provided that no such vessel fishing in the Treaty Area intentionally deploys a purse seine net to encircle any dolphin or other marine mammal in the course of fishing under the provisions of the Treaty or this Act.".

SEC. 802. FOREIGN FISHING FOR ATLANTIC HERRING AND ATLANTIC MACKEREL.

Notwithstanding any other provision of law—

(1) no allocation may be made to any foreign nation or vessel under section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in any fishery for which there is not a fishery management plan implemented in accordance with that Act; and

(2) the Secretary of Commerce may not approve the portion of any permit application submitted under section 204(b) of the Act which proposes fishing by a foreign vessel for Atlantic mackerel or Atlantic herring unless—

(A) the appropriate regional fishery management council recommends under section 204(b)(5) of that Act that the Secretary approve such fishing, and

(B) the Secretary of Commerce includes in the permit any conditions or restrictions recommended by the appropriate regional fishery management council with respect to such fishing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a collection of bills that passed the House and the Senate. I am the sponsor of one of the bills; the distinguished gentleman from Massachusetts is another sponsor; the gentleman from New Jersey [Mr. SAXTON] is a sponsor of another bill; I am the sponsor of another two bills; and Senator STEVENS from Alaska is also a sponsor of the last remaining two bills.

Mr. Speaker, I am pleased to bring before the House H.R. 716, the Fishermen's Protective Act.

Mr. Speaker, during consideration of this legislation in the Senate, several other pending international fisheries bills were added to the original text of H.R. 716. This package of fisheries bills represents over 2 years of work on various bills dealing with the conservation and management of fisheries resources at the international level.

Included in this package are the Fishermen's Protective Act, which passed the House on April 3, 1995; the Northwest Atlantic Fisheries Convention Act, which passed the House on

March 28, 1995; the Sea of Okhotsk Fisheries Enforcement Act, passed by the House on March 14, 1995; the Atlantic Tunas Convention Act, which has been reported to the House and is awaiting floor action; and several other noncontroversial provisions dealing with the United States' obligation to the protection and conservation of fish species that are important to many nations, including the United States.

I will now briefly summarize the provisions of H.R. 716, now titled the Fisheries Act of 1995, as amended by the Senate:

Title I of the bill establishes permitting, reporting, and other regulations for U.S. vessels fishing on the high seas in accordance with the United Nations Food and Agriculture Organization's Agreement To Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted in 1993.

Title II implements the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. While the Senate ratified this convention in 1983, it has taken until now to enact the implementing language for the U.S. participation in the Northwest Atlantic Fisheries Organization [NAFO]. This title allows the United States to participate in NAFO, an international organization which assesses and manages high seas fishery resources off the Atlantic coasts of Canada and New England, and provides the mechanisms for United States selection of commissioners and coordination with other domestic management provisions.

Title III reauthorizes the Atlantic Tunas Convention Act through fiscal year 1998. This act implements the International Convention on the Conservation of Atlantic Tunas [ICCAT], which is an international treaty signed by 22 countries for the conservation and management of highly migratory species such as bluefin tuna and swordfish. This title also establishes procedures for the U.S. Advisory Committee and takes important steps in urging international cooperation with the recommendations of ICCAT.

Title IV reauthorizes and amends the Fishermen's Protective Act of 1967 to protect U.S. fishermen whose vessels are seized by a foreign government under laws which are inconsistent with international law. This title also allows those United States fishermen who, last year, were forced to pay an illegal transit fee by the Canadian Government to recover those fees.

Title V prohibits United States fishermen from fishing in an international area known as the "Peanut Hole" in the Central Sea of Okhotsk unless the fishing operations are in accordance with fishery agreements signed by the United States and Russia. This measure protects the important fishery stocks which travel through the Peanut Hole and allows the United States to pursue agreements with other fishing nations whose vessels fish in this area.

Title VI prohibits the United States from entering into any international agreements which would be contrary to the United Nations global moratorium on large-scale driftnet fishing on the high seas.

Title VII implements the Yukon River Salmon Treaty between the United States and Canada to protect and manage Yukon River salmon stocks. This title establishes the mechanism for the United States to appoint representatives to the Yukon River Panel, establishes voting procedures for the U.S. representatives, and authorizes appropriations for the U.S. contributions required under the treaty.

Title VIII includes two miscellaneous provisions. The first corrects a problem encountered by U.S. vessels permitted under the South Pacific Tuna Treaty. The second establishes procedures under which the Secretary of Commerce may allow any foreign fishing for Atlantic herring and mackerel with the consent of the appropriate Fishery Management Council.

This package of fisheries bills represents a lot of bipartisan work by both the House and Senate to continue the leadership of the United States in rational management of the world's fishery resources. I urge this legislation to be forwarded to the President for his signature.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 716, a legislative package that will strengthen multilateral fisheries management on the high seas.

Time and time again, I have come to the floor to speak about the decline of our fisheries, both in the United States and in oceans around the world. In the United States alone, more than 40 percent of our fisheries are being harvested at an unsustainable rate, costing tens of thousands of jobs in regions like New England and a loss of billions of dollars to the U.S. economy.

Last week, the House overwhelmingly supported the reauthorization of the Magnuson Act, the principal law governing fisheries management in the United States. I worked very hard with Chairmen YOUNG and SAXTON to ensure that we passed the strongest bill possible to begin the process of rebuilding our fisheries.

Yet, this will only address a part of the problem. Fish recognize no boundaries, and the conservation efforts we implement within our waters are also the responsibility of all coastal nations. We must continue to work with all nations who fish on the high seas and encourage participation in international agreements to ensure that conservation and management is a cooperative effort.

The bill we are passing today demonstrates the U.S. commitment to the continued development of multilateral conservation agreements. It ensures that U.S. fishermen will comply with international fishery management regimes in the Bering Sea, the Northwest Atlantic, and elsewhere where agreements recognized by the United States have been developed.

It also provides strong incentives for all nations to share in the conservation burden for Atlantic highly migratory fisheries. If our swordfishermen and bluefin tuna fishermen are going to play by the rules established by international agreement, there is no reason why fishermen from other countries should not share the conservation burden. There is also no reason that our Nation should encourage noncompliance by allowing the importation into this country of fish that are caught in violation of and diminish the effectiveness of those international agreements. This bill ensures that this will not continue.

In short, this bill is an important step toward continued multilateral efforts to conserve and rebuild our fisheries on the high seas and here at home, resulting in more jobs and greater benefits to the U.S. economy. It has broad support and I urge its passage.

□ 1630

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I want to thank the gentleman for yielding me time and I want to say that I am pleased we are considering H.R. 716, which was developed on a bipartisan basis and contains a number of vital conservation and fishery provisions.

Let me pause at this point, Mr. Speaker, to just say that the gentleman from Alaska [Mr. YOUNG] and the gentleman from Massachusetts [Mr. STUDDS] have worked together for many years on a bipartisan basis and this is a product of a process which is a good example, I believe, of what this Congress should be about: How to arrive at solutions that are of benefit to the American people and others by Members of Congress without regard to party affiliation. That truly happened in this case and I, for one, appreciated it very much.

H.R. 716 was amended by the other body to include the text of S. 267, which contains eight titles to authorize various fishery laws. These include the High Seas Fishery Compliance Act, the Northwest Atlantic Fisheries Convention Act, the Fishermen's Protective Act, Fisheries Enforcement in the Sea of Okhotsk, and the enforcement of all appropriate laws prohibiting driftnet fishing.

Title III, the Atlantic Tunas Convention Act of 1995, which I have sponsored, is of particular importance to me.

The Atlantic Tunas Convention Act delineates the involvement of the United States in the International Convention on the Conservation of Atlantic Tunas [ICCAT]. It establishes guidelines and procedures for various activities, including the selection of U.S. delegates to the ICCAT Commission, the U.S. Advisory Committee, and the Species Working Groups.

One of the provisions in this title requires an annual report on noncomplying nations. The annual report will list those nations that are not in compliance with the International Convention on the Conservation of Atlantic Tunas and recommend actions the President could take against such a nation.

This is a very important component of H.R. 716. U.S. fishermen have been doing an outstanding job when it comes to conserving the highly migratory species under the jurisdiction of the Convention. I believe every nation, which is a member of the Convention, should share in the burden of conservation and, if they choose not to, should be held accountable to the other member nations.

Mr. Speaker, I support H.R. 716 and urge my colleagues to vote aye on this important conservation bill, which makes a number of positive contributions to the health of various fish stocks around the world.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume to being note to what the gentleman from New Jersey has just said, this is truly a sound piece of conservation legislation. This makes sense. Unfortunately, many of the groups that support the conservation movements bring forth to this floor and talk about topics that are not true scientific conservation, and this is one. It is bipartisan supported and I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and concur in the Senate amendment to H.R. 716.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 716, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

JERUSALEM EMBASSY ACT OF 1995

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1322) to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jerusalem Embassy Act of 1995"

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Each sovereign nation, under international law and custom, may designate its own capital.

(2) Since 1950, the city of Jerusalem has been the capital of the State of Israel.

(3) The city of Jerusalem is the seat of Israel's President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.

(4) The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.

(5) From 1948-1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.

(6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.

(7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

(8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.

(9) In 1990, the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress "strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected".

(10) In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

(11) The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of "final status" issues, including Jerusalem.

(12) The Agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

(13) In March of 1995, 93 members of the United States Senate signed a letter to Secretary of State Warren Christopher encouraging "planning to begin now" for relocation of the United States Embassy to the city of Jerusalem.

(14) In June of 1993, 257 members of the United States House of Representatives signed a letter to the Secretary of State Warren Christopher stating that the relocation of the United States Embassy to Jerusalem "should take place no later than . . . 1999".

(15) The United States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.

(16) The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

(17) In 1996, the State of Israel will celebrate their 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry.

SEC. 3. TIMETABLE.

(a) STATEMENT OF THE POLICY OF THE UNITED STATES.—

(1) Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected;

(2) Jerusalem should be recognized as the capital of the State of Israel; and

(3) the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

(b) OPENING DETERMINATION.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for "Acquisition and Maintenance of Buildings Abroad" may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

SEC. 4. FISCAL YEARS 1996 AND 1997 FUNDING.

(a) FISCAL YEAR 1996.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1996, not less than $25,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(b) FISCAL YEAR 1997.—Of the funds authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" for the Department of State in fiscal year 1997, not less than $75,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

SEC. 5. REPORT ON IMPLEMENTATION.

Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate detailing the Department of State's plan to implement this Act. Such report shall include—

(1) estimated dates of completion for each phase of the establishment of the United States Embassy, including site identification, land acquisition, architectural, engineering and construction surveys, site preparation, and construction; and

(2) an estimate of the funding necessary to implement this Act, including all costs associated with establishing the United States Embassy in Israel in the capital of Jerusalem.

SEC. 6. SEMIANNUAL REPORTS.

At the time of the submission of the President's fiscal year 1997 budget request, and every six months thereafter, the Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made toward opening the United States Embassy in Jerusalem.

SEC. 7. PRESIDENTIAL WAIVER.

(a) WAIVER AUTHORITY.—(1) Beginning on October 1, 1998, the President may suspend the limitation set forth in section 3(b) for a period of six months if he determines and reports to Congress in advance that such suspension is necessary to protect the national security interests of the United States.

(2) The President may suspend such limitation for an additional six month period at the end of any period during which the suspension is in effect under this subsection if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.

(3) A report under paragraph (1) or (2) shall include—

(A) a statement of the interests affected by the limitation that the President seeks to suspend; and

(B) a discussion of the manner in which the limitation affects the interests.

(b) APPLICABILITY OF WAIVER TO AVAILABILITY OF FUNDS.—If the President exercises the authority set forth in subsection (a) in a fiscal year, the limitation set forth in section 3(b) shall apply to funds appropriated in the following fiscal year for the purpose set forth in such section 3(b) except to the extent that the limitation is suspended in such following fiscal year by reason of the exercise of the authority in subsection (a).

SEC. 8. DEFINITION.

As used in this Act, the term "United States Embassy" means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York, [Mr. GILMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation pending before us today, S. 1322 would move the United States Embassy in Israel from Tel Aviv to Jerusalem. This has been a priority of many in Congress for decades. Each time the issue was raised, successive administrations maintained that Congress was infringing on the Executive's power to conduct foreign policy, or that the hopes and dreams for peace in the Middle East rested on this one issue.

Under the Speaker's leadership, and that of Senate majority leader DOLE, legislation was introduced which is finally seeing the light of day, and which we fully expect will become law. Original sponsors of H.R. 1595, Speaker GINGRICH'S legislation, in addition to myself, Mr. HORN, Mr. LAZIO, Mr. ZIMMER, Mr. SMITH of New Jersey, Mr. WELLER, Mr. DELAY, Mr. PAXON, Mr. SOLOMON, Mr. MCINTOSH, Ms. MOLINARI, Mr. HASTERT, Mr. ARCHER, Mrs. MYRICK, Mr. NUSSLE, Mrs. VUCANOVICH, Mr. BARR, Mr. TORKILDSEN, and Mr. BURTON of Indiana.

This measure, the Jerusalem Embassy Act of 1995, makes a series of findings, concluding with stipulation that it is the policy of the United States that "Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected; Jerusalem should be recognized as the capital of the state of Israel; and the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999."

In negotiations with the administration and other opponents on the original bill, this revised measure does contain a 6 month, renewal Presidential waiver based on national security interests. I question this inclusion, since the waiver authority does not end on a date certain, and the standard being employed is inappropriate.

Congress does not intend for the President to utilize this waiver indefinitely, nor should the employment of such a waiver, on national security grounds, be invoked lightly. Frankly, it is preposterous that a national security waiver is being employed. The national security interests of the United States are not threatened because our Embassy is located 40 miles from where Congress and the American people believe it ought to be. The legislation is clear that congressional intent is for our Embassy in Jerusalem to be established no later than May 31, 1999.

This bill is important because it rectifies an imbalance in our relationship with Israel—a nation that has shown itself to be, time and time again, the best friend that the United States has in the world, bar none.

When Saddam Hussein was raining Scud missiles throughout Israel, Israel did not retaliate, abiding by the United States request not to do so. To those cynics who may believe that Israel complied because of United States foreign assistance, I say—no moral nation, especially one that was born out of the ashes of the Holocaust as Israel was, will sacrifice its people for any sum of money.

But, a nation that has proven its friendship and reliability over the decades, as Israel has, often suppressing its own national interests in favor of ours, especially when the very lives of its own citizens is at stake, deserves our particular American brand of loyalty. There is nothing more basic than recognizing the capital of a country, which is why I strongly endorse this bill.

Since 1967, when Israel reunified Jerusalem, access for the three major religions, an American priority, became the norm. It is only under Israel that each religion has had free access to their holy places as well as control over them. In 1969, Secretary of State William Rogers modified United States policy further by stating that Jerusalem should remain a unified city, a point made repeatedly by subsequent administrations.

Administration officials maintain that the United States should not move our Embassy until negotiations have taken place on Jerusalem. This policy infers that such a move would demonstrate a preference for one of the parties, and that the U.S. role as honest broker would be compromised. But, United States policy on Jerusalem changed both before and after the onset of the peace talks in 1991.

In January 1989, the United States signed a 99-year lease with the Government of Israel at $1 per year for a 14-acre site in southwest Jerusalem. The Middle East peace process did not collapse when it was disclosed that the site had been chosen. That action, 6 years ago, did not prevent the Madrid peace talks from convening, did not prevent them from moving forward, and did not prevent the various agreements Israel signed with the PLO or its peace treaty with Jordan.

Another departure from previous U.S. policy took place in March 1994. In prior instances, the United States had supported U.N. resolutions claiming Jerusalem to be "occupied territory". That month the United States insisted on voting paragraph by paragraph on U.N. Resolution 904, considered in the aftermath of the Hebron massacre.

On language pertaining to Jerusalem, the United States abstained. United States Ambassador to the United Nations Madeleine Albright explained that Jerusalem was improperly included in the resolution as occupied territory and that the United States would continue to oppose including Jerusalem in this category.

It is not a major departure from existing U.S. policy to support moving the U.S. Embassy from Tel Aviv to Jerusalem by 1999, which is what the legislation being considered today proposes to do. The administration, Israel, Jordan, and the PLO have all stated that the peace process is irreversible.

This past spring, along with other Members of the House, I circulated a letter to Secretary of State Christopher, expressing support for Jerusalem as the undivided capital of Israel, noting that with negotiations on Jerusalem expected to begin in May 1996, discussion should begin in order to move the United States Embassy from Tel Aviv to Jerusalem by May 1999, when the negotiations are expected to end. Two Hundred fifty-seven Members of the House signed that letter, another resounding measure of support from Congress to move the embassy.

Unfortunately, no response was received from the Secretary of State, and no attempt at outreach to discuss the letter's contents was made by the administration.

Congress today has the opportunity of expressing its support through the adoption of this legislation that would relocate our embassy to Jerusalem no later than 1999. I urge my colleague's strong support for this legislation, despite the inclusion of the waiver language. Moving our embassy in Israel is something the United States should have done in 1948. We have an historic opportunity today to right a wrong, to rectify an imbalance against one of our staunchest allies. Accordingly, I urge strong support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise to oppose S. 1322, the Jerusalem Embassy Act of 1995.

I do so reluctantly because I share the goal of the legislation—eventually moving our embassy in Israel from Tel Aviv to Jerusalem, which is and has been Israel's capital since the founding of the state in 1948.

I do so reluctantly also because the bill before us is a vast improvement over the bill introduced by the Speaker and the Senate majority leader a few months ago. It now contains a Presidential waiver, which allows the President to delay relocating the embassy if he decides it is in the national security interest of the United States to do so.

I. PROBLEMS WITH PROCESS

I am deeply disturbed about the manner in which the bill comes to the floor today.

The House cannot be proud of the process we are following: No hearings were held; no committee consideration occurred; the administration was not given a chance to state its case before the Members; few Members will be allowed to speak today; no amendments are in order; the bill was placed on the suspension calendar without consulting the minority; and no opportunity has been given to assess the impact of this bill on the fragile peace process.

In the past, decisions about whether bills would be considered under suspension of the rules were a matter of comity. The majority's conference rules specifically require that the minority agree before bills are placed on the suspension calendar.

Those rules were violated here.

We demean the role of the House in the making of American foreign policy by the quick and cursory handling of this sensitive and difficult issue.

The politics of this bill. This bill is being rushed through the House today. We should understand why.

The President has not requested it. No emergency requires immediate legislative action. A decision about where to locate U.S. diplomatic missions is inherently an executive branch decision—it goes to the President's constitutional responsibilities for the conduct of diplomacy.

The Government of Israel has not requested it. There is no urgency about this issue for Israel, either. Jerusalem is and has been Israel's capital since the founding of the State, regardless of where the U.S. Embassy is located.

This bill is being rushed through the Congress today for reasons of domestic politics, not foreign policy. The chief sponsors of this bill simply want to present this bill to the Prime Minister of Israel and the Mayor of Jerusalem when they arrive for a ceremony in the Capitol rotunda tomorrow.

This bill is a classic congressional foreign policy maneuver. We pass this bill to win political and financial support.

Yet we in Congress are unwilling to act decisively. This bill sets a date for the transfer of the Embassy. Then, a few sentences later, it steps back and hands the problem to the President by giving him a waiver.

We have it both ways. We pretend that we are acting, but we are really tossing the problem into the President's lap with a waiver. We get the domestic political advantage, but the President must take the responsibility.

II. PROBLEMS WITH SUBSTANCE

The final status of Jerusalem is not an isolated problem. It is part of the entire web of issues in the Middle East conflict. Those issues must be resolved in the context of a just and lasting settlement of the conflict. It must be resolved by the parties themselves.

I quote from Secretary Christopher:

> There is no issue related to the Arab-Israeli negotiations that is more sensitive than Jerusalem. It is precisely for this reason that any effort by Congress to bring it to the forefront is ill-advised and potentially very damaging to the success of the peace process.

The issue of Jerusalem has been left for the final status negotiations, which start in May 1996. The Congress should not jeopardize negotiations on this key issue, which we may do by this bill. Jerusalem has been left until last: Because of the strong emotions it engenders; because of the controversy it promotes; and because of the necessity to build confidence among the parties in any proposed solution of the Jerusalem issue.

Unilateral efforts to predetermine a particular outcome for Jerusalem has the potential to damage the peace process. That is precisely the risk we run today.

A few examples are worth noting:

In 1978, the Camp David negotiations nearly came unglued when the parties—the United States, Israel, and Egypt—tried to hammer out a simple joint statement on Jerusalem;

In 1980, Israel proclaimed the Jerusalem law which made Jerusalem Israel's eternal and undivided capital. It was, from Israel's viewpoint, a natural and right step. But what happened? Thirteen of the fifteen embassies then in Jerusalem moved out;

In 1984, Congress considered several resolutions to relocate the U.S. Embassy to Jerusalem. According to the Israeli press, Prime Ministers Begin and Shamir, successively, asked key Senators involved to desist, lest the ensuing political storm work to Israel's detriment;

More recently, the Israeli Government attempted to confiscate land in the Jerusalem area. Once confronted with the damage this move did to the credibility of the peace process, the Israeli Government backtracked. The Israelis simply misjudged the Jordanian reaction and the fragility of the peace process when the issue of Jerusalem was pushed to center stage.

The point of reciting these examples is to show that unilateral and provocative actions on Jerusalem can hurt the peace process and Israel's interests.

At this critical juncture in the peace process, when progress is being made, all sides should seek to avoid provocative acts: The Government of Israel has now resolved to avoid confiscation of Arab land in Jerusalem for housing purposes; the Palestinian Authority, too, should avoid provocation involving, for example, trying to use buildings in Jerusalem for its own activities; and the United States should step back from this resolution and other acts which can disrupt the peace talks.

The peace process represents the best chance for a comprehensive peace in the Middle East. I want it to go forward. I do not want to put obstacles in the way, or to make the tasks of the negotiators more difficult.

I am sometimes frustrated by the slow pace of the peace process. But I believe, there is no substitute for the fragile—and so far successful—process we now are trying to promote.

The daily interaction of Jews and Arabs in Jerusalem—and the acknowledged religious rights of Jews, Muslims, and Christians in the heart of the city—require a solution based on mutual trust. Confidence between Israelis and Palestinians is building slowly. Let's not risk tearing it apart with ill-timed action on this bill.

Mr. Speaker, Jerusalem is the proper location for the U.S. Embassy. It is not a question of whether: it is a question of when. I share the goal of this resolution. But I also feel strongly that setting a rigid timetable for moving the Embassy ignores the realities of the peace process. Timetables are markers the parties set to try to move the peace process forward.

Furthermore, we should be careful about where we put an embassy. This bill is silent on this key point. There could well be serious repercussions throughout the Islamic world from building an embassy on land claimed as Islamic Trust, or Waqf land, considered sacred by Muslims. This issue will have to be addressed.

We should declare our intention, which has been the clear policy of eight successive Presidents, to move the embassy to Jerusalem as soon as its status as Israel's capital is confirmed by a peace agreement—and to reserve our right to recognize that status if the peace process collapses.

For now, our policy should remain unchanged. Our policy has made an extraordinary contribution to the peace process. The labors of many Presidents are now bearing fruit. Our policy should continue to be based on strong support for Israel's security, coupled with our role as a credible mediator.

Let's not make a difficult peace process even more difficult.

I urge a "no" vote on S. 1322.

□ 1645

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for yielding and for his lifetime commitment to the state of Israel and to peace in the Middle East.

Mr. Speaker, with due respect to the gentleman from Indiana [Mr. HAMILTON], who always presents the most persuasive arguments, I rise in strong support of relocating the U.S. Embassy in Israel to its ancient capital in Jerusalem.

Mr. Speaker, for 3,000 years, Jerusalem has been the cultural, religious, and spiritual capital of the Jewish people—and yet our 200-year-old Nation still does not afford it the proper dignity virtually every other nation enjoys. In fact, Israel is the only country in the world where the United States neither recognizes the designated capital of the host country nor has our embassy located in that city.

Let me remind my colleagues, no matter what happens as the peace process unfolds, Jerusalem will remain the capital of Israel.

We must bring an end to this 50-year debate about when is the right moment to move the embassy to Jerusalem.

Tomorrow, Prime Minister Yitzhak Rabin will participate in a congressional ceremony in the rotunda of the U.S. Capitol to celebrate the 3,000th anniversary of Jerusalem as the capital of Israel. What better time than now for Israel's strongest supporter to finally acknowledge that Jerusalem is the eternal, undivided capital of Israel and to begin the process of relocating our embassy there.

I call on my colleagues today to make a clear statement to one of our strongest allies—and support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I rise in support of S. 1322, the Jerusalem Embassy Relocation Implementation Act.

Israel is the only country in the world where the United States does not maintain its embassy in the host nation's declared capital. It is now time for the United States to accept Jerusalem as Israel's capital and to move the U.S. Embassy accordingly.

Israel has never wavered from its position that Jerusalem is its capital. Jerusalem is Israel's seat of government—the president, the prime minister, and the supreme court are located in the capital city of Jerusalem. The reunification of Jerusalem under Israeli sovereignty and its restoration as the capital of Israel is of utmost importance to the Jewish people in Israel—as well as to all friends of Israel around the world. As a matter of duty and principle, the United States must take a leadership role and support Jerusalem's permanent status as the capital of Israel and locate the U.S. Embassy there.

Furthermore, I reject that this bill will undermine the peace process. The Israeli Government has never committed itself to opening up to negotiation the issue of its sovereignty over unified Jerusalem. Israel has always asserted that Jerusalem is its capital, and it is unrealistic for anyone to believe that Israel will compromise on the issue. In fact, I believe that the reluctance of the United States to locate its embassy in Jerusalem is more likely to undermine the peace process. It implies that even Israel's closest allies might be open to the idea of redividing the city or challenging Israel's sovereignty there.

Again, as a world leader, the United States must act now and move the United States Embassy to Jerusalem—the capital of Israel.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON], ranking member, my friend, and someone whom I admire, for this time, but I must disagree with the gentleman and rise in support of this important resolution.

Mr. Speaker, let us not forget something: For any of the time that Israel has had control of any portion of Jerusalem, it has been open. The world's holy places have been open. When the Arab nations had control of Jerusalem between 1948 and 1967, no Jew was allowed to visit any of those holy places, and many are important to the Jewish religion, as well as the Christian and Islamic religions.

Mr. Speaker, whenever I went to Israel and would have to meet with American officials and leave Jerusalem and go to Tel Aviv, it was embarrassing. It was humiliating. It was wrong.

As has been said before, it is a nation's sovereignty to choose its capital. Israel has chosen Jerusalem. It is about time the United States went along.

Mr. Speaker, I salute the gentleman from New York [Mr. GILMAN] for his resolution.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I believe that the time is right for the action of this Congress, both this House and the other body, moving forward to embrace the relocation of the United States Embassy to the Holy City of Jerusalem. It is the time to do it. I wholeheartedly embrace this legislation and think it is long overdue.

Mr. Speaker, we need to send a signal that this embassy, which is so critical in such a critical part of the world, should be located in the Holy City. I am very honored to rise in support of the action today and look for its swift and prompt passage, and urge the administration to embrace the tenets of this bill and support it as well.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, we should not be jeopardizing the prospects for peace for the sake of political posturing.

Mr. Speaker, I understand that the Presidential candidate that is pushing this legislation used to be opposed to this move. What compelling reason is there to depart from our policy on Jerusalem that has served both Republican and Democratic administrations for over 45 years?

Mr. Speaker, since President Truman, this Nation has stuck firmly to the policy that Jerusalem's final status could only be determined by negotiation. Now, we have a chance for lasting peace through United States-sponsored negotiations between Israel and the Palestinians. In these peace talks sometime next year the permanent status negotiations on Jerusalem will occur.

Mr. Speaker, both the Palestinians and the Israelis recognize that this issue must be deferred to the end of the peace process in order to make the progress that has been made to date. This is not the time, unilaterally, for the United States, contrary to the desire of Israel and the Palestinians, to begin the process of moving the capital to Jerusalem.

Mr. Speaker, I say to my colleagues, do not do this to Prime Minister Rabin and do not do it to the peace process.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I just want to emphasize that this bill will not damage the peace process. In fact, it complements the peace process in terms of when construction would actually begin on the embassy and when it would actually be completed.

Mr. Speaker, I think that we have to stress that an undivided Jerusalem needs to be recognized as the capital of Israel and that our embassy should be moved there. This move is long overdue. Particularly now, with Jerusalem's 3,000th anniversary as the capital of Israel, I think it is time to support it and support it on a bipartisan basis.

Mr. Speaker, I would stress that this is not a Republican bill; it is not a

Democratic bill; it is a bipartisan bill and will, I think, complement the peace process and not take away from it in any way.

Mr. Speaker, I urge support for the legislation.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise today in strong support of this bill, which establishes a time-frame for the United States embassy in Israel to be relocated to Jerusalem.

I, along with many of my colleagues, have been fighting for this relocation for many years now. It is fitting that as we celebrate the 3,000th anniversary of King David's establishment of Jerusalem as the capital of Israel, we will finally pass this bill to move our embassy to Jerusalem.

Mr. Speaker, Jerusalem is the capital of Israel, and it shall always remain the capital of Israel. Yet Israel is the only country in which the United States embassy is not located in the capital. This is not right.

By having our embassy anywhere other than Jerusalem, we are sending mixed signals about the United States' position on Jerusalem as the capital of the Jewish homeland. This is not the type of message we should be sending. Our position should be unequivocal: the United States recognizes Jerusalem as the capital of Israel.

Mr. Speaker, I urge my colleagues to support this sensible bill that puts into law what we have been talking about for all of these years.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. LOBIONDO].

Mr. LOBIONDO. Mr. Speaker, I rise in strong support of S. 1322—the Jerusalem Embassy Relocation Improvement Act.

Mr. Speaker, Jerusalem has been a United City, administered by Israel since 1967. For 28 years, it has been a city in which the rights of all faiths have been respected and protected. It is not only the historic center of Judaism, but it is clearly the functioning capital of Israel.

Yet Jerusalem is the only functioning capital in which the United States does not maintain its embassy.

Mr. Speaker, Israel is a proven friend of the United States. It is a strategic ally and a democratic state. The United States should recognize Jerusalem as the capital of Israel and a such, should begin construction on, and open, its U.S. Embassy in the city of Jerusalem as soon as is practical. This bill accomplishes that goal and I urge all of my colleagues to support the bill.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California, [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I rise in strong support of this resolution.

Mr. Speaker, there are three things to commend it. First of all, it reflects a bipartisan compromise on the issue, and it is my view, absolutely, that the more bipartisanship we can have in this institution, the better.

Second of all, it recognizes something which was, is, and will be the fact, and that is that Jerusalem is the capital of the State of Israel. It is very important that everyone understand that Jerusalem was, is, and will be the capital of the State of Israel.

Mr. Speaker, third, it allows for flexibility in the timing and manner of the move of the U.S. Embassy from Tel Aviv to Jerusalem, consistent with progress on the peace talks. It is imperative that we allow the peace process to go forward and do nothing to undermine it.

For all of these reasons, Mr. Speaker, I strongly support the resolution and urge all our colleagues to support it as well.

Mr. Speaker, I rise today in strong support of H.R. 1595, the Jerusalem Embassy Relocation Implementation Act.

First, the bill reflects a bipartisan approach to the issue—something essential to effective policy.

Second, the bill officially acknowledges that Jerusalem is and should always be the capital of the State of Israel. I have always supported a unified Jerusalem under Israeli rule, and note that this year the world celebrates the 3000th anniversary of King David's establishment of Jerusalem as the capital of Israel. In this century, after suffering one of the greatest tragedies in history, the Jewish people have finally been able to return to Israel, and to call Jerusalem their own. By moving the U.S. Embassy to Jerusalem, America reaffirms the success of that struggle, and the incomparable friendship between our Nation and the State of Israel.

Third, the bill carefully permits the time and manner for moving our Embassy to take into account developments in the peace process now underway. The Clinton and Rabin administrations have made tremendous strides in recent days, and it would be counter to the interests of both nations to destabilize that process for the sake of a timetable to move an embassy.

I strongly support moving the U.S. Embassy to Jerusalem, and urge my colleagues to support this bipartisan resolution.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, in the Roman Empire the idea of Rome was more than it was simply a city. It was a symbol of its power and its majesty. The time when Britain rose to prominence, London was more than simply its largest collection of people. It was the seat of its merchant and industrial power.

So with Israel. Jerusalem is more simply than a place where its citizens live. Jerusalem is a symbol of the Jewish State; the capital of its faith, not only its nation.

The United States plays an important role in this great truth, this special role of Jerusalem to Israel and to the Jewish people, because America is not an equal among the families of nations. We set a standard. So, with 184 other nations, the presence of an American Ambassador, the flying of our flag, is an important recognition of the legitimacy of those governments and the place of its power.

Yet, today, Mr. Speaker, though the United States was the first Nation in the world to recognize the state of Israel, our Ambassador is absent from the seat of its capital.

□ 1700

This is more than a matter of prestige. It is also an important matter of political power. Unless and until an American Ambassador sits in Jerusalem, this matter will be misunderstood and misinterpreted by all those who still have hostile intent against the Jewish State. This resolution sets the matter right, that America will stand with Israel.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I yield to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I thank the gentleman for yielding to me. I rise in vehement opposition to this legislation.

Mr. BONIOR. Mr. Speaker, it is not hard to understand the passions on both sides of this issue.

Jerusalem is sacred to Jews, Muslims, and Christians—and we should respect the rights of all religions to honor Jerusalem as a holy place.

But this bill today is the wrong move—at the wrong time.

Not only will it disrupt the peace process;

Not only could it lead to an explosion of passions on the West Bank and Gaza;

If we pass this bill today, we may very well put the lives of innocent Israelis, Palestinians, and Jordanians at risk;

That is what our negotiators in the Middle East tell us today—and I believe we should heed their warnings.

Mr. Speaker, we have made great strides toward peace in the Middle East the past few years.

As a nation, we have historically supported Israel. At the same time, America has been able to play a strong role in these negotiations because we've been seen as something of an honest broker.

If we vote to move our Embassy today—we would be siding more directly with one side on one of the major issues in the peace process. And I believe we could disrupt negotiations entirely.

Mr. Speaker, the question of Jerusalem must be resolved. But it can only be resolved through honest discussion and negotiation in the context of the peace process.

The fact is, every country but two is keeping its embassy in Tel Aviv—pending the outcome of negotiations.

Every President and every Secretary of State since the 1950s has said that the future of Jerusalem must be worked out in negotiations.

The Government of Israel itself says that this issue must be worked out in negotiations.

The leaders of Israel have shown tremendous courage and vision in embracing the peace process. Passing this bill will be a step backwards.

Mr. Speaker, we should not try to resolve 3,000 years of history with 40 minutes of debate under suspension of the House rules.

This bill weakens our hand—undercuts our effectiveness—and destroys the trust we have worked so hard to build in the peace process.

It is the wrong move—at the wrong time—and I urge my colleagues to reject it.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to join with my colleagues in support of the legislation which will recognize for the first time that Jerusalem is the appropriate place for our Embassy, the capital of Israel. In every other country across the world, the United States has its Embassy in the capital of the country; not so, of course, in Israel.

This will send a clear signal to everyone around the world that we regard Israel as one of the most important allies we have, a country that has stood the test of time in its restraint during recent conflicts, not that long ago in the Middle East, a country that is the only democracy in the Middle East, a country that has been America's best friend. There is no better substantive or symbolic item that I think could come before this Congress today than to have us approve the legislation.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. GEPHARDT].

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I express myself in opposition to this legislation.

Mr. Speaker, with no hearings, no report, no adequate consideration of this legislation in committee the House is taking up legislation passed just today in the Senate.

This is no way to legislate.

It disregards the normal, correct, and proper practices of the House. It, like other recent actions in this body, raises questions of the propriety of the process here.

Adoption of this legislation at this time raises real fears as to the continued viability of the peace process in the Middle East.

I do not take the view as to where our Embassy in Israel should be located. Perhaps we should decide that it should be located in Jerusalem, but only if we are satisfied such action is fully consonent with our national interests, and in the interest of peace in the area.

The peace process is ongoing. This Nation is subsidizing the Israeli economy to the amount of more than $3 billion per year, and have been doing so for years. We are subsidizing other countries with billions more of our tax payers dollars.

A peace process, pedaled, pushed, and driven by our efforts goes on. What happens to that process if this legislation is passed.

Secretary Christopher warns of the peril of this legislation.

The U.S. Ambassador to Israel, Martin Ludyk warns, "Any move now, (on the location of our Embassy) I believe strongly, would explode the peace process."

The Foreward a major Jewish newspaper in New York says "Efforts (by Presidential Candidate Dole and others) to emerge as the greater champion of Israel would be laughable, were it not so blatant a play for positioning in the coming primaries."

The Israeli Minister of Communications said, "If the Americans decide to do it immediately, they would be liable to cause tensions, which we don't need."

Shimon Peres, Israeli Foreign Minister said, "There is no need for our involvement at this point."

And a spokesman for Yitzhak Rabin, the Israeli Prime Minister had this to say, "The rightist Likud opposition is behind the effort in the hope of torpedoing the peace negotiations."

Why then are we considering this legislation? The Israeli Government does not want the legislation and it will be offensive to other parties to the negotiations. It will severely threaten the peace process, and it will hurt our efforts to bring peace to the Middle East.

The United States has major interest in returning a just peace to the Middle East. We are spending billions of dollars of American taxpayers money there to promote peace and restore stability as well as to sustain governments of Israel and other countries in the area.

This legislation can be passed enthusiastically when the time is right. I will happily support it then. Now is not the time for this action. It is not in the interest of our country. Nor is it in the interest of peace in the Middle East, or of the people there.

I urge a "no" vote.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge my colleagues to support this bill—to move the American Embassy in Israel to Jerusalem, which is the real and proper capital of Israel.

Tomorrow, in this very building, many of us will join with Prime Minister Rabin to celebrate the 3,000th anniversary of the founding of Jerusalem. I can't think of a better anniversary gift than to move past the rhetoric and the nonbinding resolutions, and finally acknowledge the city that the people of Israel chose as their own capital nearly five decades ago.

To me, Jerusalem embodies the very notions of liberty, justice and freedom from persecution upon which Israel was founded. That is why we must follow the example of the other body, which passed this bill by an overwhelming, bipartisan margin this morning.

Of course, we must all be concerned about the delicate peace process in the Middle East, above all else. That is why this bill is designed to move the American Embassy to Jerusalem in 1999, when the peace process is expected to be completed.

But if, for some unforseen reason, moving the embassy at that time would damage the peace process, this bill gives the President the authority to delay the move. The Speaker and I, along with many other strong supporters of Israel, felt it was important to include that condition, because a lasting peace in the Middle East must take precedence over all other goals and concerns.

Barring that kind of unforeseen development, we can allow no further delay or excuses. It is only fitting that the holiest city in the world be acknowledged as the official center of the Jewish people, who have strived for so long to express their faith freely and openly.

Let's pass this bill, and affirm what the Jewish people have known for 3,000 years—that Jerusalem is their capital, not just spiritually, but politically as well.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would just like to say today that I rise in very strong support of the measure presented by the gentleman from New York. It was, after all, 45 years ago, 45 years ago that the State of Israel established Jerusalem as its capital. Since and during those 45 years, the Knesset and the prime minister's office have been in continuous operation in the city chosen by the people of the country to be their capital.

During that time, it goes, I think, without saying that every American, virtually every American that visits Israel visits the city of Jerusalem and considers it, because the people of Israel have chosen it, as their capital. And we consider it the same. Yet our embassy remains in Tel Aviv.

It seems to me that we all know what the right thing to do is. As a matter of fact, in the last presidential campaign, candidate Clinton, now of course the President of our country, said, and I will quote this as closely as I can remember it, he said a very few words to express his feelings on the matter. He said Jerusalem is the eternal and undivided capital of Israel.

So this bill essentially does two things: It moves toward the positive aspects of a decision which would move our embassy to Jerusalem. And it recognizes that there is a tenuous peace process which is currently under way. Therefore, it says to the President, if you need a temporary delay, we grant a waiver in order that you may take advantage of some time, some time sensitivities, if you believe they exist.

So I believe we should move forward today with this. I think it is a very important matter. I conclude by saying that I support it very, very strongly.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I thank the distinguished gentleman from Indiana for yielding time to me.

Mr. Speaker, I rise in opposition to the pending measure that would relocate the U.S. Embassy now located in Tel Aviv, to Jerusalem.

Mr. Speaker, when this legislation was first introduced in May of this year, and word went out in the world about it, there were quite a few statements made about its negative impact upon the Middle East peace talks.

A spokesperson for Prime Minister Rabin said: "the rightist Likud opposition is behind the effort in the hope of torpedoing the peace negotiations."

Shimon Peres, Israeli Foreign Minister, said: "There is no need for our involvement at this point."

Shulamit Aloni, Israeli Minister of Communications, said: "If the Americans decide to do it immediately, they would be liable to cause tensions, which we don't need."

Martin Indyk, our new Ambassador to Israel, said: "Any move now, I believe strongly, would explode the peace process."

The Forward, a Jewish Newspaper based in New York, said:

> "Efforts by individuals to emerge as the 'greater champion of Israel' would be laughable, were it not so blatant a play for positioning in the coming primaries."

It is not lost on anyone that five Presidential candidates have come out in support of the legislation.

The bill, which will have the force of law, emphatically states that Jerusalem is, and has always been, the capital of Israel. Yet it is a matter of record that no nation—no country—since Israel's annexation of east Jerusalem in 1967—has recognized Jerusalem as Israel's capital. As a matter of fact, no country has moved an embassy to Jerusalem since 1967 except Costa Rica. The fact that the new embassy would be in west Jerusalem does not change a thing.

I understand that waivers have been placed in the Senate measure passed yesterday in that body, to allow the President to waive this move in the interest of our National Security, but that it does not necessarily mean that the President may consider a breakdown of ongoing peace talks in the Middle East, or a breakdown of relations between Israel and the PLO, as being "in the national security interests."

What kind of "National Security Interest waiver authority" is that?

No doubt, King Hussein of Jordan, Yasir Arafat of Palestine, King Hassan of Morocco—now feel they have been made unwitting collaborators in a plot to destroy the peace process.

Mr. Speaker, not since 1967 has a single country, including the United States, recognized Israel's annexation of east Jerusalem, nor that Jerusalem was the capital of Israel. Not one. How then is it that we have a bill on the floor today that states—unequivocally—that Jerusalem is, and always has been, the capitol of Israel and that being so, we should move our embassy there?

Jerusalem is a holy city, and it is called the City of Peace. It belongs to Judaism, to Christianity, and to Islam.

It is not only Israel that feels bound by its history and its religious beliefs and practices to Jerusalem. It is not only Israel's holiest of cities—it is the holy city of Christians and of Moslems too. It always was, and it always will be.

Passage of this bill flies in the face of the recent outstanding gains the United States has made in the Arab world as an honest, and objective, broker of peace in the Middle East.

The President has been advised, by the Department of State, to veto the bill, because of constitutional questions about its usurping the President's constitutional authority to conduct foreign affairs and set foreign policy.

I understand that, the President will sign the bill, based on these waivers, and that no veto can be expected.

Mr. Speaker, as our Amabassador to Israel, Martin Indyk, stated in May of this year, I believe strongly that any move now would explode the peace process." I also believe it will have an extremely adverse effect on Prime Minister Rabin's ability to continue as Prime Minister, playing dangerously into the hands of the hard-line Likud party. Certainly I believe it will place chairman Arafat in an untenable position with respect to his ability to keep the peace, comply with the accords, and particularly with respect to the first Palestinian elections scheduled to take place in January 1996.

I hope that the President will see the so-called waivers as actually binding his hands as an honest broker of Middle East Peace. That he will see such binding of his hands is a threat to our national security interests and that he will veto this legislation with a veto message stating that the upending of the Middle East Pace talks is, in his view, a matter of our National Security Interest, and further that he demand a bill that says so in no uncertain terms.

Mr. Speaker, I am opposed to passage of this legislation.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise today in support of H.R. 1595 of which I am a proud original cosponsor.

Jerusalem has been the spiritual capital of Israel since King David established it as the capital of the Jewish Kingdom 3,000 years ago. Since 1950, it has been the official capital of modern Israel. It is time the United States recognized it as such. All across the world we maintain our embassies in the functioning capitals of every country except Israel—we didn't build our embassy in Lyons instead of in Paris, or in Bath instead of London. It is time we extend the same diplomatic courtesy to Israel. To do otherwise is to ignore Israel's legitimate historic claim.

With the significant progress that has been made in the peace process, I firmly believe that the recognition of Jerusalem as the undivided capital of Israel and a city open to all ethnic and religious groups—is the next step to take.

This is the first time we will vote on legislation that is real. It is more than just a promise or a resolution; it is an action that demonstrates the seriousness of our intentions. It is my hope that we can accomplish this goal by the date we have set—May 31, 1999.

Congress has already adopted four resolutions on this matter. Now is the time for the rhetoric to cease. Now is the time to take action.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I rise today in support of H.R. 1595, which is a piece of legislation that will facilitate a long overdue movement of the United States Embassy in Israel from Tel Aviv to Jerusalem. This is the only Embassy in the world, American Embassy, that is not in the capital that is designated by the country that the Embassy is in.

It is unprecedented and almost bizarre that it exists at this point in time. It is an anachronism from a misguided policy of really 40 years ago that this country has continued. I really congratulate my colleagues in the leadership of this House for bringing this bill to the floor at this time.

It is a bill that really should not be necessary, but we are here today discussing it and hopefully we will pass it in a few minutes. It is setting the size of the sandbox. Why should this Congress be dictating to another country what their capital is? Obviously Jerusalem is the center of the world for most people on this planet. But still that remains the capital of the state of Israel.

To offer anything else but passage of this resolution today, I think, would be really sending a terrible signal to the world, a terrible signal. In fact, I would argue very strongly that failure to get the two-thirds vote on this bill today would be sending an exactly wrong message because it would be sending a message that there is not resolve in this Congress of support of the peace process and that there is an opening in terms of what could happen in terms of Jerusalem, that the United States Congress has weakened its supports for this peace process.

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So I really urge my colleagues, hopefully as close to unanimous as we can be in support of this process, that we will continue an effort, and I hope we have a situation in the Middle East that we will have peace in that region for all time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a reunited Jerusalem has been a dream for so many throughout the world. As for many of us right here in the Congress, our dream has been to see the day that our United States Embassy would be moved from Tel Aviv to Jerusalem. This legislation moves us that much closer to reality, the reality of a comprehensive peace in the Middle East and the reality of the United States Embassy property in Israel's capital, Jerusalem.

Accordingly, Mr. Speaker, I urge my colleagues to fully support this landmark legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Indiana [Mr. HAMILTON] is recognized for 1 minute.

Mr. HAMILTON. Mr. Speaker, let me just give a quote from Secretary Christopher, if I may, about the question of Jerusalem. This is the quote:

> There is no issue related to the Arab-Israeli negotiations that is more sensitive than Jerusalem. It is precisely for this reason that any effort by Congress to bring it to the forefront is ill-advised and potentially very damaging to the success of the peace process.

Mr. ENGEL. Mr. Speaker, for almost 45 years only one country has had the dubious distinction of having to send its government officials out of its capital to visit the United States Embassy. This insult was not reserved for Libya, North Korea, Cuba, or any of America's historic detractors. It was reserved for Israel—one of America's closest friends and our most important ally in the turbulent Middle East.

Because the U.S. Embassy in Israel is based in Tel Aviv, not Jerusalem—Israel's declared capital—the United States has managed to reject a general principle of international practice: The placement of a state's embassy in the location of a foreign nation's capital. I, therefore, rise in strong support of S. 1322, the Jerusalem Embassy Relocation Act, which states that an undivided Jerusalem should be recognized as the capital of Israel and that our Embassy should be moved to that city. As the sponsor of the resolution declaring Jerusalem to be the united capital of Israel, which overwhelmingly passed the House in 1990, I strongly support this resolution and urge the House to pass it.

Some have raised concerns with the impact of S. 1322 on the ongoing peace process in the Middle East. According to those opposed to the bill, any decision to move the Embassy before the conclusion of final status talks on Jerusalem would damage the process and set back chances for peace in the Mid East. I would like to take this opportunity to allay those concerns. According to the Oslo agreement signed by Israel and the PLO in 1993, the issue of Jerusalem will be discussed during final status negotiations beginning of 1996. Moving the Embassy by 1999 is not only the principled thing to do, it is fully compatible with the time table of the peace process. Final status negotiations are to be complete by May 1999.

While I strongly support this bill, I would like to express my opposition to the procedure under which it has been brought to the floor. S. 1322 is authorizing legislation and should rightfully have been referred to the International Relations Committee, of which I am a member, for hearings and a markup. Similar to the procedure—or lack thereof—on the Middle East Peace Facilitation Act, the International Relations Committee has not seen fit to exercise its jurisdiction on this critical issue.

On this 3,000th anniversary of the establishment of Jerusalem, the city of David, however, I am proud to announce my support for this legislation. As Israel's closest ally, the United States must take the lead in supporting the unity of Jerusalem and its permanent status as capital of Israel by moving our Embassy to the holy city.

Mr. HEINEMAN. Mr. Speaker, I rise in strong support of S. 1322, the Jerusalem Embassy Relocation Implementation Act. The United States enjoys diplomatic relations with 184 countries. Israel is the only country in which our nation does not have it's Embassy located in the Nation's capital. I believe that is wrong. I realize the historical and religious importance of Jerusalem to all sides involved in this matter and support the ongoing peace process taking place between Israel and the Palestinians.

I believe it is important for the United States' position on Jerusalem to be clear. S. 1322 declares that it is official United States policy to recognize Jerusalem as the capital of Israel. The actual moving of the U.S. Embassy from Tel Aviv to Jerusalem would not take place for several years. This would allow enough time for peace negotiations between Israel and the PLO to be completed. This is a bipartisan piece of legislation which should receive strong support from the Congress and the President of the United States. Now is the time for our Nation to show some leadership by supporting S. 1322.

Mr. LANTOS. Mr. Speaker, I rise today in strong support of the legislation we are considering, S. 1322—the Jerusalem Embassy Relocation Implementation Act of 1995.

Symbolically, this is an important and an appropriate gesture for the United States to make at this particular time. This week we commemorate the anniversary of the date 3,000 years ago when David, the King of Israel, captured the city of Jerusalem and made it his capital. Under David and his successors, Jerusalem became the religious and political and emotional center of Israel, and it remains so to this very day.

Mr. Speaker, almost 12 years ago—in November of 1983—I introduced legislation in the Congress that was identical in purpose to the legislation that we are considering here today. At that time, a majority of the Members of the House cosponsored this legislation, and a majority of the Members of the Senate cosponsored the identical bill which was introduced in the other body by the distinguished Senator from New York, Senator DANIEL PATRICK MOYNIHAN.

Then—as now—this legislation had broad bipartisan support. Our distinguished colleague, Congressman BENJAMIN A. GILMAN of New York, was the principal cosponsor of our bill in the House, and a broad bipartisan group of our Democratic and Republican colleagues joined us in cosponsoring the bill. I might add that there were fewer Republican cosponsors at that time, in part because there were fewer Republican Members of the House in those days. I might add that 12 years ago, the administration of Republican President Ronald Reagan and his Vice President, George Bush, opposed our legislation.

Mr. Speaker, we have witnessed important changes since 1983 and 1984—changes which now make the adoption of this legislation more timely and appropriate. The peace process has transformed the Middle East. The Government of Israel has taken bold steps in a courageous effort to resolve the conflict with the Palestinians. The end of the cold war has created the fundamental conditions that have permitted this peace process to move forward.

U.S. administrations have played a critical role in encouraging and facilitating this peace process—administrations of both parties with the bipartisan support of the Congress. The Bush administration played a major role in starting the process following the victory of U.S.-led forces in the gulf war. The Clinton administration continued actively to encourage, cajole, and support the process, culminating in the signing ceremony on the White House lawn in September 1993. With the support of the United States, a peace treaty between Israel and Jordan has been signed, and agreements have been signed regarding Palestinian administration of Palestinian-inhabited territories and arrangements for democratic Palestinian elections.

Although conditions in the region have changed that now permit us to move forward on this legislation, the arguments and reasons for adopting this legislation have not changed over the past 12 years.

Mr. Speaker, the United States maintains diplomatic relations with 184 countries. In virtually all of these countries where we have a resident Embassy, our Embassy is located in the capital city. When the Government of Brazil decided to move its capital from Rio de Janeiro to Brasilia, the United States moved its Embassy to the new capital. When the Government of Saudi Arabia, which until a few years ago indicated that it would like to have Embassies located in Riyadh, the United States Government followed traditional diplomatic practice and constructed an Embassy building in Riyadh. This is as it should be. An Embassy should be in the same city as the Government to which it is accredited.

In one case, however, our Embassy is not located in the capital city—despite the expressed desire of the house country that this be done. Although Jerusalem is the capital of Israel, our Embassy is located in Tel Aviv.

Jerusalem has been the capital of Israel since 1949. Presidents of the United States, Secretaries of State, United States Ambassadors, Members of Congress—all have done business with the Government of Israel at the seat of government in West Jerusalem. When Anwar Sadat of Egypt paid a historic visit to Israel and addressed the Israeli Knesset, he spoke at the Knesset building in West Jerusalem.

Moving the U.S. Embassy to West Jerusalem does not affect any of the issues surrounding the peaceful resolution of the Palestinian issue. West Jerusalem has been an integral part of Israel since 1949 and this has been recognized by all nations with whom Israel maintains diplomatic relations.

An analogy with the situation in East Germany prior to the unification of Germany just 4 years ago this month is particularly appropriate in this case. The Government of East Germany claimed that East Berlin was an integral part of its territory. The United States, however, did not recognize this claim and maintained that East Berlin and West Berlin had a unique status guaranteed by the four occupying powers—the Soviet Union, the United States, Britain and France. Nevertheless, when the United States established diplomatic relations with East Germany in 1971, we located our Embassy in East Berlin. At that time the State Department affirmed:

> The United States Government proceeds on the basis that the locations and functions of an American Embassy in East Berlin, where it will be convenient to the government offices with which it will deal, will not affect the special legal status of the Berlin area.

We were broadminded enough to enunciate and observe this rational principle in dealing with a communist dictatorship which sought to undermine our own treaty obligation for all of Berlin. Why should we not follow the same rational principle in dealing with a democratic ally?

Mr. Speaker, I urge my colleagues to join in supporting the adoption of this legislation. The time has come to end inconvenience, inefficiency, and expense by moving our Embassy to Israel's capital city—Jerusalem.

Mr. DEUTSCH. Mr. Speaker. I rise today to speak in support of S. 1322, a piece of legislation that will facilitate a long overdue movement of the United States Embassy in Israel from Tel Aviv to Jerusalem. As an original cosponsor and strong advocate of relocating our embassy to Jerusalem, I congratulate the leadership in both the House and Senate for making this a priority and moving this legislation.

For 3,000 years Jerusalem has been the capital of the Jewish people, the very heart of its religious, spiritual, cultural, and national life. It is and will forever be the eternal, undivided capital of Israel. Yet for nearly five decades Israel's closest ally—the United States—has failed to acknowledged Jerusalem as the capital. In fact, Israel is the only country in the world that the United States does not recognize the designated capital of the host country.

When you think about it, out position is nothing short of bizarre, illogical, and offensive. For 47 years, the United States has shared an extraordinary friendship with Israel but for 47 years, the United States has been frozen in this state of inconsistency and insensitivity.

But instead of looking back at what may be our mistake let's look ahead at what may be our fortune. As the peace process moves forward, moving the United States embassy to Jerusalem will send a clear message to the world, to the Middle East and most importantly, to the Palestinians that America supports Israel's claim to Jerusalem. We must stand behind Prime Minister Rabin's words to the Knesset:

> United Jerusalem will not be open to negotiation. It has been and will forecer be the capital of the Jewish people, under Isreali sovereignty, a focus of the dreams and longings of every Jew.

For far too long, the United States has allowed this matter to linger in ambiguity throughout the peace talks. There is absolutely no reason to risk uncertainty about the U.S. Government's commitment to the status and the destiny of Jerusalem.

Tomorrow, Prime Minister Rabin will be here to celebrate the 3,000th anniversary of Jerusalem as the capital of Israel. What better way for the United States to celebrate this occasion with Israel than to begin the process of relocating our embassy to Jerusalem.

Mr. ACKERMAN. Thank you, Mr. Speaker. I rise in strong support of this extremely important resolution, and I want to commend the leadership for bringing this bill, a bill that is 47 years overdue, to the floor for consideration today.

Mr. Speaker, in the last half century, the United States has rightly shown its support and respect for our most loyal ally in the Middle East, and one of our best friends in the world, in just about every area—except for one. That, of course, is in the matter of proper diplomatic recognition. Yes, we obviously recognize the sovereignty of Israel, yet by not placing our Embassy in Israel's declared capital, we do a great disservice to her, as well as to us. Israel is the only nation, out of 184 with which we maintain diplomatic relations, in which we do not have our Embassy in its declared capital. I think it is highly inappropriate to continue this overt, and undiplomatic gesture on our part.

This issue as a whole is intrinsically emotional and complex. However, the bottom line is that Jerusalem has been and always will be, the capital of Israel. Undeniably speaking, the Middle East peace process is a fragile entity. It is a process that has been almost a century in the making. Just as Israel has greatly committed to the success of this venture, so too have many in the Arab world. However, the future of Jerusalem has never been in doubt to the Government of Israel, nor to the millions of Jews still living in the Diaspora. It has been clearly stated time and again that Jerusalem is the eternal capital of the State of Israel, and to a larger extent, the Jewish people.

This issue goes to the heart of relations between the United States and Israel. What we are accomplishing with this bill is something that should have been accomplished 47 years ago—when the United States became one of the first countries to recognize and support the State of Israel, after its declaration of independence in May 1948. What we are finally doing here today is setting right a wrong of the largest magnitude.

Mr. DORNAN. Mr. Speaker, today the House passed a historical piece of legislation, the Jerusalem Embassy Relocation Improvement Act. This legislation, H.R. 1595, declares that it is official United States policy that Jerusalem be recognized as the permanent and undivided capital of Israel. Pursuant to this recognition, the bill directs the State Department to begin the relocation of the United States Embassy in Israel from Tel Aviv to Jerusalem.

Jerusalem, a city of great historical and religious significance for Jews, Muslims, and Christians, has been the capital of Israel since 1950. But for millennia, Jerusalem has been the focal point of Jewish life and has held a unique place and exerted a special influence on the moral development of western civilization. The city was divided between Israel and Jordan from 1948 to 1967, during which Jordan prohibited access to its half of the city to Jews and other religious pilgrims. However, in 1967 Israel united the city during the Six Day War, the second of three wars it would fight against its primary adversaries of the time: Egypt, Syria, and Jordan. During the 28 years following the reunification of Jerusalem, Israel has allowed full access to all holy sites in the city for persons of all faiths. It is a unique and treasured city to persons around the world.

Although the United States recognizes Israel as an important friend and ally in the Middle East and conducts official meetings in Jerusalem, it does not maintain an embassy there, but rather in Tel Aviv. By moving our embassy from Tel Aviv to Jerusalem, a much more appropriate and productive location, the United States will demonstrate a firm commitment to the national sovereignty and unity of Israel.

As someone who has always had a warm place in my heart for Israel, I am pleased with this legislative accomplishment. I look forward to a deeper, closer, stronger working relationship between the United States and Israel.

Mr. LAZIO of New York. Mr. Speaker, I am proud to rise today in support of S. 1322, the Jerusalem Embassy Relocation Implementation Act of 1995. S. 1322 declares that it is official policy that Jerusalem be recognized as the capital of Israel. I am proud to be an original cosponsor of this bill and rise today to urge my colleagues to vote for S. 1322.

For centuries the City of Jerusalem has been a religious and cultural beacon for people of all faiths. Our Nation's embassy in Israel should be located in Jerusalem—the holiest of cities, which has always been the capital of Israel.

It is fitting that Congress pass this bill today on the eve of Israeli Prime Minister Yitzhak Rabin's visit to the U.S. Capitol to commemorate the 3,000th anniversary of the founding of Jerusalem.

It is time to recognize that Jerusalem is Israel's capital by moving our Embassy there. I am pleased to support this bill today and urge my colleagues to do the same.

Ms. PRYCE. Mr. Speaker, I rise today in support of this legislation to move the United States Embassy in Israel from Tel Aviv to Jerusalem. Israel is the only country in the world in which the American Embassy is located outside of the host nation's capital. It is time for the United States to show that it supports Jerusalem and its permanent status as the capital of Israel.

Much has been said about how this legislation could send the wrong signal at a time when both sides of the conflict in the Middle East are pursuing peace. However, the realities of what we have seen to date in the peace process do not support this argument. Significant progress in the peace process has occurred since the introduction of this legislation in the House and Senate. Just a few weeks ago, Israel and the Palestinians signed the second phase of the Oslo Accords. This agreement came after the Palestinians and the Arab world had time to consider this legislation. This is compelling evidence that the peace process is not impeded by this legislation.

Mr. Speaker, the location of our embassies abroad is not a subject in the ongoing peace negotiations. Next year marks the 3,000th anniversary of King David's establishment of Jerusalem as the capital of the Jewish kingdom. Now is the time to begin the process of transferring the U.S. Embassy to Jerusalem, just as our other 183 embassies are located in the capitals of their host nation. I urge support for S. 1322.

Mr. ALLARD. Mr. Speaker, I want to take a few minutes to show my support for H.R. 1595, the Jerusalem Embassy Relocation Improvement Act.

Jerusalem is a city of great historical significance for Jews, Christians, and Moslems. Since the 1950's, Jerusalem has been the capital city of Israel. However, the United States has never maintained its Embassy in Jerusalem. We have located it instead in Tel Aviv. This is inconsistent with every other U.S. Embassy which is located in the host country's capital city. Our policy is particularly inappropriate since Israel has been one of our strongest allies. I strongly believe it is time for the United States to fully recognize Jerusalem as the capital of Israel.

Some critics say that the moving of the Embassy to Jerusalem would upset the tense peace negotiations. I do not believe this to be the case. In fact, I believe this change shows that the United States strongly supports the peace process and wants to see a peace which includes a unified Jerusalem.

I believe this matter to be one of principle and priority for the Jewish people. Jerusalem is the seat of government. The President, Parliament, Prime Minister, the supreme court, and most of the government agencies are located there. As one of Israel's closest allies and friends, the United States should lead the way in showing its support for the unity of Jerusalem and its permanent status as the capital of Israel.

H.R. 1595 is the most direct and strongest statement the United States can make concerning a unified Jerusalem. That is why I am proud to be a cosponsor and supporter of this legislation.

Mr. SKAGGS. Mr. Speaker, the United States has a crucial role to play as the honest broker—the convening authority—in the Middle East peace effort. To fulfill the responsibilities we've assumed, we must maintain a semblance of official evenhandedness regarding matters in controversy among the parties. It is of overarching importance, as we fashion Middle East policy, not to do anything that would undermine our own role and responsibility. That's why its long been official U.S. policy that the final status of Jerusalem be left to negotiations among the parties in interest.

I personally want to see Jerusalem as a unified city, with free access for people of all religion to its great holy sites. I also personally believe that Jerusalem is the legitimate capital of the State of Israel. Clearly, that's the view of most of us. But it is not appropriate to transpose our personal views into a mandate of U.S. policy at this sensitive time.

We should not pretend that the legislation will not be seen as compromising the U.S. role as honest broker in the peace process. By declaring that "Jerusalem should be the recognized capital of the State of Israel," we will be sending a clear signal to the Palestinians and the Arab States that we have prejudged the solution on Jerusalem.

In dictating how the President must deal with a foreign policy matter of great delicacy and subtlety, this bill is also on extremely questionable constitutional grounds. It seeks to micromanage a function that falls squarely within the Executives's foreign policy authority under article II. It would set a precedent by legislating for the first time in history where an Embassy must be located. The escape clause, enabling the President to defer the requirements of the bill for 6 month intervals under a finding of national security necessity, may save it from unconstitutionality in law, but not in spirit.

We should recognize this measure for what it is—something driven by domestic Presidential politics—not an effort to make sound foreign policy. The Government of Israel itself has made it clear—though off the record—that a law like this would be counterproductive.

This legislation, however well intended, is unwise, and we should reject it.

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of the Jerusalem Embassy Relocation Act. I am very proud to be an original cosponsor of this moral, long-overdue legislation.

It is nothing short of preposterous that we keep our Embassy in Tel Aviv rather than in Jerusalem. In every country in the world, the U.S. Embassy is located in the capital of that country. Why not in Israel? Every day that passes by without our Embassy in Jerusalem is 1 day too many.

Israel's claim to Jerusalem as its eternal capital is stronger than that of any other country in the world to its capital. That claim is rooted in a 3,000-year-old bond that is recorded in the Bible itself. "By the waters of Babylon, there we sat and wept, as we remembered thee, O Zion!"

For 3,000 years, the Jewish people have kept their faith with Jerusalem. Every year, on Yom Kippur, and at Passover, Jews repeat the phrase: "Next year in Jerusalem!" Mr. Speaker, it is time for this Congress to tell the President, regarding the United States Embassy: "Next year in Jerusalem!"

Mr. SHAW. Mr. Speaker, I rise today in strong support of relocating the United States Embassy in Israel to Jerusalem. For 3,000 years Jerusalem has been the religious and cultural capital of the Jewish people. Yet, Israel remains the only country in the world where the United States does not maintain its Embassy in the capital city. On this day when Jerusalem is celebrating its 3,000th anniversary, there is no better time than now to acknowledge that Jerusalem is the recognized capital of Israel by relocating our Embassy to there.

This is a matter of principle and priority to the Jewish people. Jerusalem is their seat of Government. Their Prime Minister and Parliament are located there. We can show no greater respect for their Government than to agree to move our Embassy to their capital. I urge my colleagues to continue to strongly support all efforts to follow through with this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the Senate bill, S. 1322.

The question was taken.

Mr. GILMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2002, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104–289) on the resolution (H. Res. 241) waiving points of order against the conference report to accompany the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

NOTIFICATION OF INTENT TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGE

Ms. SLAUGHTER. Mr. Speaker, pursuant to rule IX, I hereby give notice of my intention to offer a resolution that raises a question of privilege of the House. The form of the resolution as follows:

RESOLUTION

To direct the Speaker to provide an appropriate remedy in response to the use of a forged document at a subcommittee hearing.

Whereas, on September 28, 1995, the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the Committee on Government Reform and Oversight held a hearing on political advocacy of Federal grantees;

Whereas, the president of the Alliance for Justice, a national association of public interest and civil rights organizations testified at that hearing;

Whereas, a document was placed upon the press table for distribution at the hearing which contained the letterhead, including the name, address, phone number, fax number, and E-mail address of the Alliance for Justice, and the names of certain member organizations and the dollar amounts of Federal grants they received;

Whereas, in her opening statement at the hearing, the president of the Alliance for Justice identified the document as being forged and contained errors and requested an explanation from the chairman of the subcommittee as to the source of the document;

Whereas, in response, the chairman acknowledged that the document was created by the subcommittee staff;

Whereas, House Information Resources, at the request of the subcommittee staff, prepared the forged document;

Whereas, the document was prepared using official funds;

Whereas, the chairman of the subcommittee acknowledged in a letter, dated September 28, 1995, to the president of the Alliance for Justice that "the graphics, unfortunately, appeared to simulate the Alliance's letterhead";

Whereas, the September 29, 1995, issue of the National Journal's Congress Daily reported that Representative McIntosh's communications director said that the "the letterhead was taken from a faxed document, scanned into their computer system and altered"; and

Whereas, questions continue to arise regarding the responsibility for preparation of the forged document: the chairman of the subcommittee stated during the hearing that he had no prior knowledge of the document's preparation; the chairman later stated that the subcommittee staff prepared the document; and other published reports suggested that Chairman McIntosh's personal office prepared the document;

Whereas, on September 27, 1995, the Speaker expressed concern over the distribution of unattributed documents and announced a policy requiring that materials disseminated on the floor of the House must bear the name of the Member authorizing their distribution;

Whereas, Members and staff of the House have an obligation to ensure the proper use of documents and other materials and exhibits prepared for use at committee and subcommittee hearings and which are made available to Members, the public or the press, and to ensure that the source of such documents or other materials is not misrepresented;

Whereas, committees and subcommittees should not create documents for use in their proceedings that may give the impression that such documents were created by other persons or organizations, as occurred at the September 28, 1995, hearing of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs;

Whereas, the dissemination of a forged document distorts the public record and affects the ability of the House of Representatives, its committees, and Members to perform their legislative functions, and constitutes a violation of the integrity of committee proceedings which form a core of the legislative process: Now, therefore, be it

Resolved, that the Speaker shall take such action as may be necessary to provide an appropriate remedy to ensure that the integrity of the legislative process is protected, and shall report his actions and recommendations to the House.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Speaker in the legislative schedule within two legislative days its being properly noticed. The Chair will announce the Speaker's designation as tomorrow. In the meantime, the form of the resolution proffered by the gentlewoman from New York will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated by the Speaker for consideration of the resolution.

REMOVAL OF NAME OF MEMBER AS A COSPONSOR OF H.R. 500

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 500.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 1322.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1058, SECURITIES LITIGATION REFORM ACT

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. DINGELL. Reserving the right to object, Mr. Speaker, is this the legislation which relates to securities reform? Is that correct?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. BLILEY. Yes, that is correct, Mr. Speaker.

Mr. DINGELL. This is legislation which the gentleman has talked to me about going to conference on?

Mr. BLILEY. Yes, Mr. Speaker, it is.

Mr. DINGELL. Mr. Speaker, we have no objection to the gentleman's unanimous-consent request, and, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from VA?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Messrs. BLILEY, TAUZIN, FIELDS of Texas, COX of California, WHITE, DINGELL, MARKEY, BRYANT of Texas, and Ms. ESHOO.

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Messrs. HYDE, MCCOLLUM, and CONYERS.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each question on which further proceedings were postponed earlier today in the order in which that question was entertained.

Votes will be taken in the following order:

Vote No. 1 will be approval of the Journal; No. 2, H.R. 117 by the yeas and nays; and, No. 3, S. 1322 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal of the last day's proceeding.

The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOBSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 48, answered "present" 1, not voting 20, as follows:

[Roll No. 732]

YEAS—363

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Ewing
Farr
Fattah
Fawell
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Neumann
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torres
Torricelli
Traficant
Upton
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—48

Abercrombie
Becerra
Brown (CA)
Clay
Clyburn
Coburn
Conyers
Crane
DeFazio
Durbin
Ensign
Evans
Everett
Fazio
Filner
Gephardt
Gibbons
Gutknecht
Hastings (FL)
Hefley
Heineman
Jacobs
Johnson, E. B.
LaFalce
Levin
Lewis (GA)
Longley
McNulty
Neal
Ney
Orton
Pickett
Pombo
Sanford
Schroeder
Scott
Stockman
Stump
Taylor (MS)
Thompson
Thurman
Torkildsen
Towns
Vento
Visclosky
Waters
Wicker
Wolf

ANSWERED "PRESENT"—1

Harman

NOT VOTING—20

Borski
Brown (OH)
Chapman
Engel
Fields (LA)
Martinez
McKeon
Moakley
Mollohan
Rangel
Rush
Scarborough
Serrano
Sisisky
Taylor (NC)
Tucker
Velazquez
Volkmer
Vucanovich
Weldon (PA)

□ 1746

Mr. HILLEARY and Mr. SHADEGG changed their vote from "nay" to "yea."

So the journal was approved.

The result of the vote was announced as above recorded.

□ 1745

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. GUTKNECHT). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional question on which the Chair has postponed further proceedings.

SENIOR CITIZENS HOUSING SAFETY AND ECONOMIC RELIEF ACT OF 1995

The SPEAKER pro tempore. The pending business is the question of passage of the bill, H.R. 117.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill, H.R. 117, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device and there were—yeas 415, nays 0, not voting 17, as follows:

[Roll No. 733]

YEAS—415

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos

Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Vento
Visclosky
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Borski
Brown (OH)
Bryant (TX)
Chapman
Fields (LA)
Martinez
Moakley
Rangel
Rush
Serrano
Sisisky
Taylor (NC)
Tucker
Velazquez
Volkmer
Vucanovich
Weldon (PA)

☐ 1757

So (three-fifths having voted in favor thereof) the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

JERUSALEM EMBASSY ACT OF 1995

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1322.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the Senate bill, S. 1322, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 374, nays 37, answered "present" 5, not voting 17, as follows:

[Roll No. 734]

YEAS—374

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Upton
Vento
Visclosky
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff
Zimmer

NAYS—37

Abercrombie
Becerra
Beilenson
Bereuter
Bonior
Boucher
Bryant (TX)
Clayton
Clinger
Collins (MI)
Conyers
Danner
Dellums
Dingell
Ganske
Goodling
Hamilton
Klink
Knollenberg
Lipinski
Miller (CA)
Minge
Mink
Moran
Murtha
Obey
Payne (NJ)
Petri
Rahall
Sanders
Sawyer
Skaggs
Studds
Taylor (MS)
Thompson
Traficant
Waters

ANSWERED "PRESENT"—5

Bateman
Frank (MA)
Hoke
Schroeder
Watt (NC)

NOT VOTING—17

Borski
Brown (OH)
Chapman
Fields (LA)
Martinez
Moakley
Rangel
Rush
Serrano
Sisisky
Taylor (NC)
Tucker
Velazquez
Volkmer
Vucanovich
Weldon (PA)
Young (FL)

☐ 1807

Mr. WATT of North Carolina changed his vote from "nay" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TAYLOR of North Carolina. Mr. Speaker, on October 24, I was absent due to a family medical emergency and thus missed roll no. 733, the vote on the Senior Citizens Housing Safety and Economic Relief Act of 1995 and roll no. 734, the vote on the Jerusalem Embassy Act of 1995. Had I been present, I would have voted "yea" on both of these measures.

PERSONAL EXPLANATION

Mr. RANGEL. Mr. Speaker, travel delays on Tuesday, October 24, prevented me from casting my vote on H.R. 1595, the bill to move the U.S. Embassy to Jerusalem.

I would have voted "yes" on the bill had I been present for the vote.

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, on rollcall votes 733 and 734, I was unavoidably detained and was not here to vote.

Mr. Speaker, had I been here to vote, I would have voted, "aye" on rollcall vote 733 and "aye" on rollcall vote 734.

PERSONAL EXPLANATION

Mr. YOUNG of Florida. Mr. Speaker, I was not recorded on rollcall 734. Had I been recorded, I would have voted "yes".

Mr. Speaker, due to a malfunction of the voting system, I was not recorded October 24, 1995, on rollcall vote 734. This was the third in a series of votes that evening, and although I was recorded on the first two votes, my vote was not recorded on the third vote. Had I been properly recorded, my vote was "yes" in support of S. 1322, legislation providing for the relocation of the United States Embassy in Israel to Jerusalem.

As one who has signed letters to the President and Secretary of State in support of the relocation of the Embassy, I would request unanimous consent that my statement appear in the permanent RECORD immediately following the vote on S. 1322.

HOUR OF MEETING ON TOMORROW

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from New York?

Mr. DOGGETT. Mr. Speaker, reserving the right to object, subject to that reservation, I would ask the gentleman, this is as I understand it to permit 3 hours of general debate tomorrow on the reconciliation bill.

Mr. SOLOMON. If the gentleman will yield, the gentleman is exactly correct. I will be making a unanimous-consent request for that purpose in a few minutes.

Mr. DOGGETT. Fine.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

HOUR OF MEETING ON THURSDAY OCTOBER 26, 1995

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, Wednesday, October 25, 1995, it adjourn to meet at 9 a.m. on Thursday, October 26, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DOGGETT. Mr. Speaker, reserving the right to object, let me just be sure I am clear about this.

Under the series of unanimous-consent requests, there will be 3 hours of general debate tomorrow, and then in addition to that, as the rule provides, there will be 3 hours of general debate on Thursday, plus an hour on the substitute.

Mr. SOLOMON. If the gentleman will yield, I would just say to the gentleman, we have not held the hearing nor have we issued the rule, but we intend to follow through with the gentleman's assumptions.

Mr. DOGGETT. Is it also your understanding, we have in addition to what will amount to 6 hours of debate, then, on reconciliation; that by coming in early at 9 a.m. on Thursday, following more or less the timetable we had last week, that we would also at 9 a.m. Thursday have fifteen 1-minutes per side?

Mr. SOLOMON. That is what we intend to do with one slight exception. We do intend by agreement with the minority to allow for 3 hours of debate to start tomorrow night. However, should the gentleman not use all of that time, should it only be 2 hours and 10 minutes, you would not be carrying that time over. We would then still live up to our end of the bargain on the rule the following day.

Mr. DOGGETT. That is our understanding.

Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BLUTE). Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2491, 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that it be in order at any time for the Speaker, pursuant to clause 1(b) of rule XXIII, to declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; that the first reading of the bill be dispensed with; that all points of order against consideration of the bill be waived; that general debate be confined to the bill and the text of H.R. 2517; that general debate be limited to 3 hours equally divided and controlled by the chairman of the Committee on Budget and Representative GEPHARDT, or his designee; that after general debate the Committee of the Whole rise without motion; and that no further consideration of the bill be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW, WEDNESDAY, OCTOBER 25, 1995, DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Agriculture; Committee on Banking and Financial Services; Committee on Commerce, Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on House Oversight; Committee on International Relations; Committee on the Judiciary; Committee on Resources; Committee on Science; Committee on Small Business; and Committee on Veterans' Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1617, CAREERS ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1617) to consolidate and reform workforce development and literacy programs, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

The Chair hears none and, without objection, appoints the following conferees: Messrs. GOODLING, GUNDERSON, CUNNINGHAM, MCKEON, RIGGS, GRAHAM, SOUDER, CLAY, WILLIAMS, KILDEE, SAWYER, and GENE GREEN of Texas.

There was no objection.

ANNOUNCEMENT OF INTENT TO OFFER ON TOMORROW, WEDNESDAY, OCTOBER 25, 1995, MOTION TO INSTRUCT CONFEREES ON S. 4, THE SEPARATE ENROLLMENT AND LINE-ITEM VETO ACT OF 1995

Mr. DEUTSCH. Mr. Speaker, pursuant to rule XXVIII, I hereby announce my intention to offer a motion to instruct conferees on S. 4 tomorrow.

The form of the motion is as follows:

Mr. DEUTSCH moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S. 4 be instructed, within the scope of the conference, to insist upon the inclusion of provisions to require that the bill apply to the targeted tax benefit provisions of any revenue or reconciliation bill enacted into law during or after fiscal year 1995.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, October 23, 1995 at 10:55 a.m. and said to contain a message from the President whereby he transmits notification that he has declared a national emergency regarding foreign narcotics traffickers centered in Columbia.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

DECLARATION OF NATIONAL EMERGENCY REGARDING FOREIGN NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-129)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency in response to the unusual and extraordinary threat posed to the national security, foreign policy, and economy of the United States by the actions of significant foreign narcotics traffickers centered in Colombia and to issue an Executive order that:

—blocks all property and interests in property in the United States or within the possession or control of United States persons of significant foreign narcotics traffickers centered in Colombia designated in the Executive order or other persons designated pursuant thereto; and

—prohibits any transaction or dealing by United States persons or within the United States in property of the persons designated in the Executive order or other persons designated pursuant thereto.

In the Executive order (copy attached) I have designated four significant foreign narcotics traffickers who are principals in the so-called Cali cartel in Colombia. I have also authorized the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to designate additional foreign persons who play a significant role in international narcotics trafficking centered in Colombia or who materially support such trafficking, and other persons determined to be owned or controlled by or to act for or on behalf of designated persons, whose property or transactions or dealings in property in the United States or with United States persons shall be subject to the prohibitions contained in the order.

I have authorized these measures in response to the relentless threat posed by significant foreign narcotics traffickers centered in Colombia to the national security, foreign policy, and economy of the United States.

Narcotics production has grown substantially in recent years. Potential cocaine production—a majority of which is bound for the United States—is approximately 850 metric tons per year. Narcotics traffickers centered in Colombia have exercised control over more than 80 percent of the cocaine entering the United States.

Narcotics trafficking centered in Colombia undermines dramatically the health and well-being of United States citizens as well as the domestic economy. Such trafficking also harms trade and commercial relations between our countries. The penetration of legitimate sectors of the Colombian economy by the so-called Cali cartel has frequently permitted it to corrupt various institutions of Colombian government and society and to disrupt Colombian commerce and economic development.

The economic impact and corrupting financial influence of such narcotics trafficking is not limited to Colombia but affects commerce and finance in the United States and beyond. United States law enforcement authorities estimate that the traffickers are responsible for the repatriation of $4.7 to $7 billion in illicit drug profits from the United States to Colombia annually, some of which is invested in ostensibly legitimate businesses. Financial resources of that magnitude, which have been illicitly generated and injected into the legitimate channels of international commerce, threaten the integrity of the domestic and international financial systems on which the economies of many nations now rely.

For all of these reasons, I have determined that the actions of significant narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I have, accordingly, declared a national emergency in response to this threat.

The measures I am taking are designed to deny these traffickers the benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. These measures demonstrate firmly and decisively the commitment of the United States to end the scourge that such traffickers have wrought upon society in the United States and beyond. The magnitude and dimension of the current problem warrant utilizing all available tools to wrest the destructive hold that these traffickers have on society and governments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 21, 1995.*

□ 1815

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 390

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 390.

The SPEAKER pro tempore (Mr. BLUTE). Is there objection to the request of the gentleman from Hawaii?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

THE BUDGET DEBATE: REMEMBER THE ELDERLY, POOR, AND DISABLED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. THURMAN] is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, I rise today to express my outrage at the Republican tactics in this so-called budget debate. This week we will vote on the Republican proposal to cut Medicaid funds by $182 billion and block grant the Program.

The elderly, the disabled, and the poor children of America have had no voice in this debate. They have been lost in the rhetoric of the majority party.

The Republicans talk about choice and freedom for the States. However, the only choice the States will have is either to raise State taxes to remedy the cuts or kick people off Medicaid.

The Republicans do not want to talk about the people who need Medicaid.

They do not want to talk about the grandmother in a nursing home, or the disabled child in your neighborhood, or the pregnant woman in need of prenatal care.

The Republicans do not want you to know that they are removing Federal standards for nursing homes or that they are not requiring States to cover Medicare premiums for the poorest seniors.

The truth is, when we move from a shared system based on individual needs to a capped system that shifts the problem to the States, States will have to deny maternity services, early childhood care, assisted living benefits, and long-term care to some of our most vulnerable citizens. More than 2½ million people in Florida depend on Medicaid for basic health care, and because our population is growing so quickly, this number is increasing every day. In Florida, over 110,000 seniors rely on the Medicaid payments for their Medicare premiums repealed by the Republican plan. Almost 400,000 children depend on Medicaid coverage for check-ups, immunizations, and emergencies. By the year 2000, Florida is expected to provide long-term care to as many as 380,000 seniors.

Yet one-half of the total Medicaid cut of $182 billion will come from my State of Florida and seven other States.

Under the Republican capped block grant, the reality is that Florida will have to either kick people off Medicaid, or make up the shortfall with State tax money.

Basing the 1996 Medicaid funding formula on 1994 statistics ignores the growth in Florida during the last year. It puts us in a huge financial hole from the start by simply ignoring our $2 billion in new expenses this year. As a result, Florida will lose more than $10.5 billion in Medicaid funds over the next 7 years, a 26-percent reduction. Quite frankly, it is not fair.

The inequality of the funding formula is blatantly apparent. If you abused the system in the past, you get rewarded under the Republican formula. The more money a State was able to pilfer from the system under the current rules, the higher the baseline for its block grant. How can you possibly call that reform?

Of course, there are penalties in the plan. The penalties are for playing fair, working hard to contain costs, and obeying the rules. The poor, the elderly, and the disabled will be the ones paying these penalties.

We have tried to reason with our colleagues on the other side of the aisle, especially those from Florida who know our situation. We have tried to appeal to their sense of compassion and encouraged them to consider what will happen to Florida under this formula.

In 2 days, when I come to this House to vote against these cuts, I will remember the faces of those elderly, poor, and disabled in my district who will be denied health services and long-term care under this plan. Since my Republican colleagues are so anxious to secure tax cuts for the wealthy, I wonder whom they will be thinking of.

A SALUTE TO GREECE: OXI DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, October 28, 1995, marks the 55th anniversary of a very historic day in Greek history, and for that matter world history.

On October 28, 1940, the Italian Minister in Athens presented an ultimatum to the Prime Minister of Greece, demanding the unconditional surrender of Greece. His answer: "Oxi," which means "no" in Greek.

Military success for the Italians would have sealed off the Balkans from the south and helped Hitler's plan to invade Russia. Indeed, with an army that was fully equipped, well supplied, and backed by superior air and naval power, the Italians were expected to overrun Greece within a short time.

However, despite their lack of equipment, the Greek Army proved to be well trained and resourceful. Within a week after the Italians first attacked, it was clear that their forces had suffered a serious setback in spite of having control of the air and fielding armored vehicles.

On November 14th, the Greek Army launched a counteroffensive and quickly drove Italian forces back well into Albania. On December 6th, the Greeks captured Porto Edda and continued their advance along the seacoast toward Valona. By February 1, 1941, the Italians had launched strong counterattacks, however the determination of the Greek Army coupled with the severity of the winter weather, nullified the Italians' efforts.

The Italians, in an effort to bring the war to a close before they would need the help of German intervention, launched another offensive on March 12, 1941. However, after 6 days of fighting, the Italians made only insignificant gains and it became clear that German intervention was necessary.

On March 26th, Hitler shouted "I will make a clean sweep of the Balkans." It took him 5 weeks, until the end of April, to subdue Greece. It turned out to be an important 5 weeks for the world. As a result of this campaign, Hitler's plan to invade Russia had to be delayed. Instead of launching the Russia invasion on May 15, 1941, as planned, Hitler had to set a new date of June 22, 1941.

This delay proved catastrophic for the Germans and contributed to the failure of their Russian campaign.

The victory of the Greek Army against the Italians and the repudiation of Mussolini astonished the world. Greece was attacked after the fall of France and at a time when the Axis powers were seemingly unbeatable.

The heroic stance by the Greeks against insurmountable odds, was the first glimmer of hope for the Allies, and today we can take great pride in those who risked their lives to defend their country. They sought to defend their own land, but they helped to save Europe.

THE ENDLESS GROWTH OF OUR NATIONAL TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I am here today because I think it is absolutely imperative that a proper amount of attention be given to the disturbing facts about the seemingly endless growth of the U.S. international trade deficit, and the impact of that growth on the American economy and American jobs.

In the first two quarters of 1995, the U.S. international trade deficit was over $64 billion, compared to $50 billion last year for the same period, and the second quarter's deficit of $33.8 billion was the largest since 1987.

What these numbers signify is a growing assault on American jobs as foreign goods and services pour into the United States at a pace that far exceeds the exit of American exports. When one stops to consider these facts, Mr. Speaker, it becomes quite clear that the incessant push to enter into free trade agreements without first stopping to insure they include fair trade safeguards is, pure and simple, reckless.

Perhaps there is no better example to illustrate this point than the recently broken-down negotiations between Congress and the Administration over the reauthorization of fast-track trading authority, and the relation of those negotiations to the runaway momentum in both the Congress and the executive branch to expand NAFTA.

The debate over fast-track's reauthorization has centered on the Administration's position that U.S. trade negotiators should continue to be allowed to address labor and environmental concerns and the Republicans' drive to revoke that authority. In my opinion this difference represents a flawed point on which to base negotiations as it begs the very fundamental question of whether fast-track should be reauthorized at all.

While the Administration's position is imminently better than the Republicans', it is not a good alternative. It is, rather, the lesser of two evils. For even under a fast-track program that safeguards the right of U.S. trade negotiators to address both labor and environmental concerns, Congress would still have to agree in advance of seeing a trade agreement.

Mr. Speaker, I think it is tragically wrong for Congress to agree to stifle itself and surrender its constitutionally granted authority when considering trade pacts that will have far reaching effects on American jobs. Those pacts should, on the contrary, be scrutinized from top to bottom in order to prevent the type of disaster that is currently going on as a result of the NAFTA pact.

Indeed, those who would see fast-track reauthorized and subsequently support the use of that tool to expand NAFTA must be living under rocks. As the last 20 months have shown, the impact of NAFTA on the American economy has been anything but what its proponents promised. To push for expanding that ill-conceived trade pact represents nothing short of a callous disrespect for the notion of protecting American jobs.

Consider, for instance, the claim made often by NAFTA's strongest supporters before the NAFTA agreement was approved by Congress that the trade pact would create 200,000 jobs by 1995. That claim was made by using the calculation that every billion dollars of net exports creates 20,000 jobs. It is with no pleasure, and I assure you with no pleasure on my part, that I point out that in the first 6 months of 1995 the United States recorded an $8.3 billion trade deficit with Mexico, whereas last year during the same period the U.S. had recorded a surplus of $1.1 billion.

In order to reach the goal of 200,000 new NAFTA jobs, the United States would have to run a yearly trade surplus with Mexico exceeding $8.6 billion. Thus what is clear is that the reality of the situation is drastically different from what NAFTA's champions promised the American people; with a projected $15 billion 1995 trade deficit with Mexico, and the situation with Canada not being much better, by the year's end, instead of creating 200,000 new employment opportunities, NAFTA probably will have eliminated some 800,000 American jobs.

What is, moreover, as equally disturbing is the Labor Department's recent report that as of September 30 it had certified 42,221 citizens as eligible for NAFTA-related trade adjustment assistance.

In light of these facts, the push to expand NAFTA is not just bad policy, it is shockingly bad policy. Congress need to get its priorities in order. Before we worry about expanding a trade agreement that has done nothing yet but consume American jobs, I would suggest that we first attempt to both offer better help to those Americans who have already lost their jobs and stop further hemorrhaging.

For the immediate future this means ensuring that fast track will indeed, as reports now indicate, be kept out of the reconciliation bill, killing the Caribbean Basin Initiative, which proposes to grant one-way NAFTA privileges to 23 Latin American countries without any reciprocal benefits for the U.S., and opposing the inclusion of Chile in NAFTA. For the long term this means working to implement policies that have the effect of actually creating jobs in a fair and equitable manner.

□ 1830

Mr. Speaker, I feel very strongly about this. I think that NAFTA has hurt the United States, hurt our economy, and I do not want to see it expanded.

KEEP UNITED STATES TROOPS OUT OF BOSNIA

The SPEAKER pro tempore (Mr. BLUTE). Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, under the cover of a peace agreement in a country that has never known peace, Bill Clinton is about to commit 25,000 of our sons and daughters into Bosnia. Now, that is not just 25,000 troops into Bosnia. That really equates to a number much larger than that, because you have to have the support troops to support those 20,000 or 25,000 troops that we are going to put on the ground in Bosnia.

Take a look very carefully at the situation in Bosnia. We have an absolute responsibility to question Bill Clinton about his intent to put these young people into that country. We need to assess the situation. Is the situation in Bosnia a security threat to this country? That answer is easy; no. Is it a security threat to any of our allies? The answer is easy; no. Is it an economic threat to the United States of America? The answer is no. Is it an economic threat to any of our allies? The answer is no. If we do not go into Bosnia, will it mean the collapse of NATO? No, it will not.

How can this President justify it? Because he has made a commitment to this? Take a look at what the cost of Bosnia will be. We know that there is a very high likelihood of loss of life, and it could be my son. I have a son who is 18 years old. It could be your daughter or your son.

Think about it before we put these troops into Bosnia, before we let Bill Clinton put us into a situation that has no exit strategy. We need to ask Bill Clinton some pretty tough questions: One, what are the rules of engagement, Mr. Clinton? Number two, for what purposes and what reasons and where will our troops be assigned? Three, how do we get out of there? Four, how long are we going to be in there? Have you made any kind of strategy as to how we are going to get out or how long we are going to be there?

I would venture to say that we are woefully short of the kind of answers we need before we even consider supporting this President sending America ground troops into the country of Bosnia. I think that it is imperative and incumbent upon us to demand from this President that he be forthright with the people of the United States of America and explain what that situation is. Right now he has got the cover of Medicare, he has got the cover of budget. While all this is going on, the Pentagon is buzzing away down there preparing to send these troops over to a country that is not a threat to this country.

I think the test, the ultimate test that each and every one of us in these chambers should employ, is the test that came across to me when I sat at a graduation speech this last spring. An 18-year-old young man just got his degree and walked by. The person next to me leaned over and said, "We are very proud. That young man is going into the United States Marines."

At that very instant I thought to myself, could I look at his parents if we lose this young man in Bosnia? Could I look at his parents eye-to-eye and tell them that the loss of their son was necessary for the national security of the United States of America? Could I look them in the eye and tell them that it was necessary to send their son over to Bosnia? Were we able to look them in the eye when we were over in Lebanon or Somalia? I venture to say before we give our support to this President to send those troops into Bosnia, we ought to consider what our response is going to be to those parents.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, let me begin by saying I just returned from that part of the world this weekend. I had a chance to meet with all of our top NATO officials and to go to observation posts on the Serbian border.

I am not going to disagree with anything the gentleman said. What I would say as a member of the minority party talking to a member of the majority party is I would ask that the gentleman ask the Speaker of the House that we be allowed to vote on this. It is our constitutional duty.

Everything the gentleman said I agree with. Congress ought to vote on it. The gentleman and I and the other 400 Members ought to decide this issue, not the President of the United States.

Mr. McINNIS. Mr. Speaker, reclaiming my time, I absolutely agree with the gentleman. This should not be the decision of the President of the United States. The President of the United States should come to the U.S. Congress and ask us for our permission. Frankly, I am going to be leading the charge against it, because while I have not been to Bosnia, I have an 18-year-old son.

THE NEED FOR AN INDEPENDENT, CONSOLIDATED STATISTICAL AGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, today on behalf of myself, Mr. CLINGER, Mr. PETRI, Mrs. JOHNSON, Mr. CHRYSLER, Mr. DAVIS, Mr. EHLERS, Mr. FALEOMAVAEGA, Mr. HOBSON, Mr. KNOLLENBERG, Mr. LEACH, and Mr. ROGERS, I introduced the Statistical Consolidation Act of 1995. It would create a Federal Statistical Service which would combine the functions of the Bureaus of the Census and Labor Statistics, one in Commerce, one in Labor, and the Bureau of Economic Analysis.

A core principle of the Republican majority is that government is too big and costs too much, and that we should seek economies wherever we might. The new Federal Statistical Service would streamline and improve the quality and efficiency of key data production, which affects not only the apportionment of Congress, the State legislatures, the boards of supervisors and city councils, but also business, the allocation of Federal and State programs, and many industry functions across the country.

Duplication of effort hampers the collection of statistical data. Both the Bureau of Labor Statistics and the Bureau of the Census collect data on the Nation's small businesses. The results are not only a wasted effort, but inconsistent and even contradictory findings. Public and private sector planning relies heavily on the accuracy of these statistics, which are collected through an assortment of sources.

The Nation needs better coordination and planning among its statistical agencies, to make Federal programs more responsive to the needs of our citizens. Lack of coordination has limited the usefulness of the data.

Senator Abraham Ribicoff, Democrat of Connecticut, a number of years ago saw the same need for change. He introduced the Statistical Policy Act of 1980. This Statistical Consolidation Act of 1995 takes many provisions from Senator Ribicoff's very far-reaching legislation. It is designed to remove duplication, harness information and technology, and streamline the collection and utilization of statistical data.

Some of you may ask, why not consolidate all statistical agencies, as Canada did with its Statistics Canada. After all, if Canada can do it, so can the United States. Canada, however, is not an example of complete consolidation. In fact, many of Canada's statistics come from sources other than Statistics Canada. In addition, the United States has nine times as many people and more complex statistical tasks than does the Government of Canada.

The new Federal Statistical Service would be headed by an Administrator nominated by the President and confirmed by the Senate. Other officials to be nominated by the President with the advice and consent of the Senate are the Deputy Administrator, general counsel, and inspector general.

Also established is a Federal Council on Statistical Policy to advise the Administrator and the President. On the Council would be statistics and survey professional experts from outside the Government, who would make policy recommendations to both the President and the Administrator.

The bill, when enacted, would trigger several events. Not later than 12 months after enactment, the new Federal Council would report to Congress on the consolidation of Census and Bureau of Labor Statistics field offices and on the savings possible from the merger. At the same time, the Council would provide a report on the feasibility of separating the decennial census mission from the rest of the Census Bureau. That action is in the bill to help Congress and the Nation grasp the cost of the decennial census.

Finally, within 18 months after enactment, the Council would recommend to Congress any changes in the procedure for releasing major social and economic indicators.

A well-informed electorate with access to knowledge of the state of the society is the cornerstone of a proper working democracy. Decisions based on the output of the Federal statistical system affects every citizen. That system is called upon to serve the voters of today and tomorrow. It is on their intelligent choices that the success of our democracy ultimately depends.

There must be better coordination and planning among these statistical agencies so that programs are more responsive to the needs of the Federal Government. It is my hope this bill will be passed as a bipartisan effort. The passage of this measure will not only mean better coordination, but it will also ensure independence from partisan influences, which are more probable when these functions are located in a Cabinet department.

Mr. Speaker, I urge my colleagues to carefully consider this proposal and hopefully adopt it during this session.

MAKE NEEDED CHANGES IN MEDICARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DEUTSCH] is recognized for 5 minutes.

Mr. DEUTSCH. Mr. Speaker, I am going to speak tonight on something we did last week and we are probably going to do again on Thursday, and that is to pass a bill that basically eliminates Medicare in this country. We will pass it again as part of the reconciliation bill on Thursday, and it will go over to the Senate.

The reason I am speaking about it is with the faint hope that my colleagues on the majority side will try to make some changes. I just doubt that will happen between now and Thursday, but the good news is it is a bicameral legislature, and the Senate will have the possibility to deal with this, and ultimately this is a piece of legislation that will go in front of the President. The President has issued a statement he will veto this legislation. I urge him and I think all Americans need to urge him to follow through on that veto.

I think it is worth it to really focus on the facts on this issue. I am going to talk about three facts and just go through them very clearly, very specifically, because this is a case that the more that the American people know about what the Republican majority is doing to Medicare, the more disturbing, the more distressing that it is.

It is truly as bad as people's worst nightmare in this country. The first thing is this whole debate has started because my Republican colleagues say Medicare is going bankrupt in 7 years. We have to do something to save Medicare. It is going bankrupt in 7 years.

Well, one of the things that this chart points out, and this I think really says it in black and white, is if you look at the 30 years that Medicare has existed, 12 of those 30 years Medicare had an actuarial life less than what it has today. In fact, in several years it had only a 2-year actuarial life. What Congress has done is made adjustments to the Medicare system like any health care insurance program, which is what Medicare is, and has made adjustments to correct those actuarial deficiencies.

So the first big flat out lie that my Republican colleagues have made in this legislation is this is unprecedented. That is just not the case.

The second flat out lie that they have made is that it requires $270 billion to correct. Where did the $270 billion number come from? There are actuarial, nonpolitical, technical people whom evaluate the solvency of the Medicare program. No one has come up with any numbers anywhere near $270 billion. Where did that number come from?

Where it came from, it was a derived number from the budget process. The Republicans, as they were drawing up their budget, came up with a hole of $270 billion. And the only place that they went to, they could have gone to Social Security, but they were a little bit more fearful of that, they went to Medicare for a $270 billion gap to fill the hole.

What is in that hole? Well, there is a variety of things in that hole, including a military budget above what the President has requested and what the Joint Chiefs of Staff and divisions of different branches of the military has requested. But they are also including tax breaks of the worst kind that are outrageous from this government's and from the people of this country's perspective.

Special interests at the worst level; it is a list that gets longer and longer. Who did what for who? College football coaches, convenience stores, certain specific companies get tax breaks in this legislation, on the backs of 36 million Medicare recipients, who worked hard and played by the rules, and yet if this legislation passes and is not vetoed, would in fact occur.

So that is the second big lie, which is a $270 billion number. And the third and final big lie that I will mention is this whole idea of choice. My Republican colleagues consistently say that the Medicare proposal that they pass, and they will pass again this week, provides choice. They continuously say it provides choice for Medicare recipients.

What it provides is a false choice. It provides a false choice, because what will inevitably happen, and this legislation is set up to make this happen, is that for anyone who remains in traditional Medicare, the out-of-pocket costs will be astronomical, 4, 5, 6, 7, 8,000 a year for seniors. To put it in perspective, 75 percent of the seniors in this country, their income is less than $25,000 a year, so we are talking about $4,000 out-of-pocket for someone in that category. It just does not work.

□ 1845

So what will end up inevitably happening is that 90-plus percent of seniors will be forced into substandard HMO's. I urge everyone to both write their Senators and urge the President to veto this legislation.

AN INCREASE TO MINIMUM WAGE WILL LIST WORKERS OUT OF POVERTY AND OFF WELFARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise tonight in support of the minimum wage increase, and later this evening the gentleman from New York, MAJOR OWENS, has organized a special order in support of the minimum wage. I join my colleagues from the Committee on Economic and Educational Opportunities in my support for an increase in the minimum wage. Fifty seven years ago today the Congress first approved a minimum wage of 25 cents.

This anniversary finds us with mixed emotions. On the one hand, we are thankful that the Congress recognized the need to guarantee a livable wage. On the other hand, we recognize that millions of people earn at or below the minimum wage and that the last increase in the minimum wage occurred on April 1, 1991. As if this was not enough, the real value of the minimum wage has been on a fairly steady decline for the past 15 years. Today, the minimum wage has fallen 45 cents in real value since its 1991 increase. I am afraid that if the majority party has its way, we may never see an increase in the minimum wage.

Many people, writing or speaking on either side of this issue, quote from 57 years of studies on how the increase of the minimum wage affects employment, wages and the economy. There are studies on both sides.

My contention is we should base the argument on the facts and not theory. Based on my experience, real life is never constant nor completely equal.

First, the idea that an increase in the minimum wage could lead to increased numbers of welfare recipients is simply not correct. In fact, the opposite is true. Today, a full-time minimum wage worker is paid $8,800 a year.

The U.S. Census reports that the average family in my Houston district is 3.2 people. According to the census guidelines published in the Federal Register [February 9, 1995], the 1995 Federal poverty level for a family of three is $12,590. Using these facts, the math is simple. A full-time minimum wage worker supporting a family of three will make almost $4,000 less than the Federal poverty level.

However, with an increase in the minimum wage to $5.15, and figuring in their maximum earned income tax credit, which was passed by the Democratic Congress, this same family would be $1,500 above the poverty rate and off welfare. Let me repeat that. Off welfare.

It is also argued that the minimum wage is a wage for lower- to middle-class teenagers and is, therefore, an entry level wage. While this may have been so in years past, the Federal Bureau of Labor Statistics estimates that more than 4 million Americans earn at or below the minimum wage. According to the Bureau of Labor Statistics, current minimum-wage earners are two-thirds adult, with over 50 percent being 26 or older, while 62 percent are women. The minimum wage is no longer just for teenagers.

Finally, the argument is made that raising the minimum wage would lead many employers to use more efficient machines, to relocate their factories, or to use part-time and temporary workers. Statistics show that minimum-wage earners, due to their lack of skills, work harder and longer hours to compensate for that shortcoming. I am not advocating the position that employers are unfeeling, but we must all face the fact that most employers, with some exceptions, are driven by the bottom line and not the betterment of society.

One recent study between New Jersey, which raised their minimum wage, and Pennsylvania, which did not, showed no job loss and only a very slight increase in the cost of a fast food meal. I find it very confusing when the majority argues the minimum wage increase will cause job loss by increasing or continuing farm subsidies is never given to the same rhetoric. Both the farm subsidies and the minimum wage provide a level at which the producer, either farm produce or labor, can earn a profit.

Americans need an increase in the minimum wage, because it will lift them out of poverty, it will give them a living wage, but more importantly, it will get them off of welfare. Instead of concentrating all of their efforts on tax-cuts for the wealthy, the majority should act to provide a minimum wage that will lift workers out of poverty and off the welfare rolls.

IMPACT OF REPUBLICAN BUDGET CUTS ON RURAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. BISHOP] is recognized for 5 minutes.

Mr. BISHOP. Mr. Speaker, we are here today to focus on rural communities and the impact of the proposed Republican budget cuts on rural America. Current common wisdom is that two elements are essential for sustainable rural development: first, long-range strategic planning, and second, local leadership. We must support the efforts of State and Federal officials, and more importantly, the motivation and leadership shown by local community leaders who have been successful in making educational advances, and rural economic development a reality in their own communities. But we must look forward to more.

We have all heard the statistics describing the decline of agriculture as the main rural economic base. And we know that rural areas differ greatly by region in terms of publication, income levels, and the relative importance of agriculture to the local economy. We also know that the shift in the national economy toward world markets requires rural areas—which are hampered by geographic isolation, inadequate infrastructure, and a shortage of capital—to compete in an unfamiliar global arena. But I believe that the citizens of Georgia, and particularly in the second district, have some of the most enterprising, efficient, and effective rural communities in the Nation.

But the budget cuts proposed by the Republican Leadership work against the common wisdom of how we can best support the vitality of our rural communities and citizens. First of all, let me speak about the Republican budget proposal which cuts over $13 billion from our farm commodity programs. These cuts will come out of the pockets of farmers who live in my district. According to a recent letter sent to the Speaker from 15 members of the Speaker's own party, the current Freedom to Farm proposal will cause the U.S. taxpayer to actually spend even more on subsidies under the Freedom to Farm proposal than under the proposal put forth by the Democrats, or even the farm proposal put forward by the Republicans in the other body.

Other cuts proposed by the Republicans will put a dagger in rural America. From health care to agriculture to education, the Republican budget targets rural America, where we can least afford to lessen our efforts. The Republican budget raises taxes on over 229 thousand working families in rural Georgia by an average of $368 by the 2002. In addition, the Republican cuts to the earned income tax credit will add an $84.5 million tax increase on working families and their children in rural Georgia.

Republican education cuts will deny 113,000 children basic and advanced skills instruction in rural America in 1996 alone. Title 1 funds for reading instruction in rural areas will be cut by $113 million, denying crucial assistance at a time when many small-town and rural school systems are already having trouble making ends meet.

The Republican budget will cut rural housing funding in our small communities. Cuts to public housing capital assistance in rural areas will total $460 million next year, which will severely hinder efforts by rural housing agencies to provide security and anticrime programs. The Republicans will also cut $108 million in funding for assistance to the homeless in rural America. This will mean 4.9 million fewer nights of shelter for America's rural homeless.

Republicans propose to cut Medicare by $270 billion in this body—three times larger than the largest cuts in history—just to pay for a tax cut for the wealthy. Their budget will cut Medicare spending in rural communities by $58 billion over 7 years, a 20-percent cut in the year 2002. The Republican cuts will force 9.6 million older and disabled Americans in rural America to pay higher premiums and higher deductibles. In Georgia, it will cut $2.7 billion for our rural areas from Medicare.

The Republican Medicaid cuts will eliminate coverage for children, nursing home residents, and people who need long-term care throughout rural America. Two million, two hundred thousand rural Americans—including over 1 million children—will be denied medicaid coverage. The budget will cut Medicaid in rural areas by as much as $45 billion, forcing poor children, people with disabilities, and older Americans to lose coverage.

We should be focusing on four key principles that will help our rural communities:

First: Providing economic opportunity that will create jobs within the community and region, and training for jobs that offer upward mobility;

Second: Offering assistance for sustainable community development to further the creation of vibrant community institutions;

Third: Encouraging community-based partnerships that involve all segments of the community, including our centers of learning and community institutions; and

Fourth: Helping to provide a strategic vision for change that builds on the assets of the community—coordinating a response to community needs in a comprehensive fashion.

We must look forward to the survival of small and rural communities; we should not be looking for opportunities to twist the dagger into the heart of rural America, the dagger that is offered by the Republican budget proposals.

MEDICARE AND MEDICAID PROPOSALS WILL DEVASTATE SENIORS, POOR WOMEN, AND CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, the House of Representatives is the People's House. We were sent here to Congress with a mission: to serve the people. As Members of Congress, we should be listening to our constituents and voting against proposals that will devastate our seniors, poor women, and children.

First, the Republicans went after Medicare, saying they were going to save it by cutting $270 billion out of it. And this time, the Republicans are going after Medicaid, the program that serves the poorest, the sickest—people most in need.

They said they were saving Medicare. Now they say they are saving Medicaid by cutting $182 billion from the program. Well, I come from Florida where I served for 10 years in the Florida House. In Florida we have a saying for that kind of thing, "That dog won't hunt."

Thousands of my constituents have told me that they are outraged at the Republicans' reverse Robin Hood tactics, stealing from the working people and the poor and giving tax breaks to the wealthy.

Mr. Speaker, we can fool some of the people some of the time, but we cannot fool all the people all of the time.

I am most concerned about how the Republican Medicaid plan will hurt Florida. Basically, it is a big slap in the face to the thousands of Floridians on a fixed income, just managing to get by.

According to our Governor, the Medicaid plan will cost our State $8.4 billion over the next 7 years. But forget about these huge dollar figures for a moment. Let's look at this in real terms: people!

Under the Republican Medicaid plan formula, hundreds of thousands of Florida residents would be cut from the program. Let me ask you: What do the Republicans think the Floridians cut off from Medicaid are going to do for health care? Do they have a plan for that? I don't think so.

The biggest problem with the Republican Medicaid plan is that the Republican formula for distributing funds to the States does not take into account Florida's population explosion. Florida's growth should not be overlooked. My State will be capped at a 6 percent growth rate from 1998 to 2002, while Florida can expect that the growth in Florida is expected to go from 12 to 14 percent.

□ 1900

That, my friends, is a cut. The Republicans are putting up smoke and mirrors when they say that these are not cuts.

Let us look at the facts. Holding Florida to the measure of other States' growth rate is completely unfair. The numbers just do not add up. I do not care how you slice it, a cut is a cut is a cut.

The Florida delegation should be working together in a bipartisan fashion to protect Florida. If these Medicaid cuts pass, we may well be declaring Florida a permanent disaster area.

Not only are the Republicans cutting away at funds for these programs, they are cutting away Federal Medicaid protection for our Nation's seniors. Over 60 percent of our nursing home residents get help from Medicaid. In 1994, over 100,000 Florida seniors lived in our State's 649 nursing homes. Right now, these nursing home residents have rights. They are protected by the Federal guidelines. The Republican Medicaid plans cut out quality care standards which are currently in place.

Take out these provisions, and I can see the newspaper headlines now:

"Abuse in Nursing Homes Increase." "Doesn't Anyone Care About Nursing Home Residents?" "Where Have All the Nursing Home Watchdogs Gone?" This is outrageous, and the Republicans should be ashamed of themselves.

So, although I share the goals of balancing the budget, I cannot, in good faith, balance the budget on the backs of the poor, women, children, elderly, and the disabled.

Last week in Florida, I spoke to the National Council of Senior Citizens; and, as I close, I want to close with one saying: Wake up, America. In particular, wake up Florida.

EFFECTS OF BUDGET CUTS ON AMERICA'S CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, let me begin tonight with a quote from Hubert Humphrey, and this is something that Hubert Humphrey said in 1977, and I quote:

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.

When this Congress is put to those tests, it fails miserably on all of these counts. Last week, the GOP budget ax came down on seniors; and, this week, it comes down on kids.

Now, my Republican colleagues will argue that they are making tough decisions to balance that budget, that this budget represents a shared sacrifice for a noble purpose; but, folks, the sacrifice is not shared, and the purpose is not noble.

There is nothing noble in asking the poor to sacrifice for the rich. There is nothing noble in asking the sick to sacrifice for the healthy. There is nothing noble in asking the weak to sacrifice for the strong.

Winners in this budget are the corporations that will now be allowed to legally dodge paying taxes and the other special interests whose loopholes have been left wide open.

The sacrifices in this budget come from our most vulnerable citizens: the poor, the sick, the disabled, the elderly and, yes, our children.

Yesterday, the White House released a report on the impact of the Republican budget on America's children. In its analysis, the White House, in conjunction with the Department of Health and Human Services and the Urban Institute, looked at nine areas where kids will be asked to bear the brunt of GOP budget cuts.

According to the study, the health of our children will be put in jeopardy by a combination of Medicaid cuts, the repeal—I repeat, the repeal of the vaccines for children program, and cuts in child nutrition.

Consider the number of children who benefit from these programs and the number of children who stand to lose under the GOP budget. Medicaid pays for immunizations, regular checkups, and intensive care in case of emergencies for about 18 million children in America. In fact, one half of Medicaid beneficiaries are children.

The Republican budget would eliminate this health care coverage for as many as 4.4 million children nationwide. Let me repeat that. Mr. Speaker, 4.4 million children nationwide would have their health care coverage eliminated.

Among the children who could be denied coverage, many are disabled. This budget would deny as many as 755,000 disabled children cash benefits in the year 2002. For disabled children, Medicaid helps to pay for wheelchairs, for communication devices for therapy, for respite care for families, and for home modifications. Without this help, patients may be forced to seek institutional placement for their disabled children.

The Republican budget repeals the vaccines for children program. Now, that means it cuts $1.5 billion that would otherwise provide vaccinations, immunizations for our children.

As the White House was releasing its findings yesterday, I was visiting with administrators and the staff in New Haven, CT at the Children's Hospital, Yale University's Children's Hospital. I was there to brief them on the budget process and to better understand how Medicaid cuts would impact their young patients. The health care professionals that I visited with told me that they do not know how they are going to provide the same level of care for our children if Medicaid is cut back by 20 to 30 percent, as the Republican budget proposes.

Let me talk a little bit about Connecticut. Connecticut health care providers have every single right to be concerned about children in our State, because 14 percent of them, of our children, rely on Medicaid for their basic health needs. And according to the study that was released yesterday, the Republican budget cuts will hit Connecticut children hard.

Let me repeat some of those cuts for Connecticut children, the cuts that I talked to the Yale Children's Hospital about yesterday.

Medicaid pays for basic health services for 166,000 children in the State of Connecticut. The budget would eliminate Medicaid coverage for as many as 57,983 children in the State of Connecticut. It will deny as many as 4,000 disabled children in Connecticut cash benefits in the year 2002.

Mr. Speaker, the dean of the Yale School of Medicine, Dr. Joseph Warshaw, was at this meeting yesterday; and I would like to quote Dr. Warshaw. And the quote is, "If we abandon this safety net, the kids are really going to suffer." I am not making that up. You can see that quote in the New Haven Register today.

The vice president for administration spoke up and talked about how the hospital would certainly accept all those children who were faced with a health care problem and would not want to deny them any health care, but they were going to be faced with how they were going to try to have to deal with the level of services they may have to and how they would probably have to cut back on services.

Kids are really going to suffer. That is a pretty strong statement. And let me be very honest with you. That statement does not come from a Democratic Member of the House of Representatives, and I am a Democratic Member of the House of Representatives. It does not come from someone with any kind of a partisan interest in this debate. It comes from a health care provider who understands what these cuts in Medicaid will mean in real terms to the children that he sees every single day at this hospital.

Our debate on the magnitude of these Medicaid cuts is about more than ideology. It is about more than a political philosophy. It is more than an intellectual or an academic exercise. That is not what this is all about. It is about reality and real people. It is about the reality that these deep Medicaid cuts are going to hit kids, kids in this country, kids in the State of Connecticut, very, very hard. And that is why tonight some of us are here as we stand with these photographs of American families that rely on Medicaid for their basic health care needs.

I would like to just introduce you to one family and tell you their story in their own words. A mother from Illinois tells us how Medicaid has helped her to earn her nursing degree without putting her children's health at risk. This is a quote.

> In December of 1996, I will graduate with an associate degree in nursing and a lot of pride knowing that I am fully capable of supporting my family. I would not be in this position today if public aid was not there to bridge the gap of no medical coverage.

That was signed by Kathy Davis, and these are Kathy Davis' children. Kathy Davis does not want a handout. She wants a helping hand. Here is a woman who is doing all the right things trying to provide for her family, build a better future for these two youngsters in this photograph.

The Government should not be in the business of punishing people who are working hard, and working hard to improve their own standard of living. We should be in the business of helping them to raise that standard of living. That is what our job is all about here.

That is what the mission of government is.

Mr. Speaker, Medicaid is a safety net for millions of American families just like Kathy Davis and her family and her two young children here. This budget cuts that safety net away, and it is our Nation's children who are going to take the fall.

I urge my colleagues to look at these faces. I urge them to think about these kids on Thursday, this week, when the budget comes to the floor for a vote; and I ask my colleagues to ask yourself, is it worth it? Is it worth it?

Balancing the budget is a tremendously important goal, but if we balance the budget on the backs of sick children, disabled children, of just children in general, it will be a truly shameful day in the history of this great Nation of ours; and it will be a sad day in the history of this institution, which is charged with creating good public policy, sound public policy, responsible public policy that will allow the people in this country, in fact, to have a better standard of living for themselves and for their families, especially when they are working as hard as they are and playing by the rules and trying to help themselves and their families.

Thank you, Mr. Speaker.

Mr. Speaker, I would like now to ask the gentleman from New Jersey [Mr. PALLONE], who has joined with me and with several of us almost on a nightly basis, to talk about some of these issues: Medicare, Medicaid and the budget and its impact. I would like to ask my colleague from New Jersey to let us know about his sentiments on this issue.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman from Connecticut [Ms. DELAURO] for allowing me some time to talk about some of the same subjects, particularly with regard to children.

Mr. Speaker, I wanted to start by pointing out that last week when the House passed the Medicare bill it passed the largest tax increase on senior citizens in the history of this Congress through Speaker GINGRICH's Medicare plan, while reducing the quality of health care that seniors can expect to receive.

Many of us, including the gentlewoman from Connecticut and myself, have continued to talk the last few weeks about how this Medicare plan forces seniors to pay more and essentially get less. But this week Congress will be voting on what we call the budget reconciliation, which will include once again this Medicare package.

Mr. Speaker, I hope that New Jersey can count again on most of its Members, as they did last week on the Medicare bill, to stay firm and vote again to oppose this terrible Medicare legislation. The majority of New Jersey Members in the House of Representatives, both Democrat and Republican, ended up voting against the Medicare bill.

In addition to incorporating Medicare into this budget package, there are other cuts like the Medicare cuts in Medicaid, which is the health insurance program for poorer people, as well as cuts in nutrition assistance and the school lunch programs.

□ 1915

So in a sense what we are seeing is both senior citizens with Medicare and now also children, with Medicaid, nutrition, and school lunches are being cut. Their programs are being cut or raided in order to provide tax cuts for the wealthy, for the wealthiest Americans.

Just to give you some statistics, according to the U.S. Treasury, Office of Tax Analysis, and this is with regard to the Senate version of budget reconciliation, income earners who make up to $30,000 per year can expect a $19 to $88 tax increase. In other words, not a tax cut but a tax increase if your income is up to $30,000 a year.

Meanwhile the average American who earns over $200,000 a year will receive a $3,416 tax cut. I would ask you, is that fair, particularly when we see who is impacted? Again, mostly senior citizens and children.

Now, while many of the Republicans are claiming to be balancing the budget for the future of our children and suggest that somehow this budget plan is actually going to benefit children, their plans actually hurt children. It is just the opposite of what they say.

I am sympathetic to this, Mr. Speaker. Right now I have two young children, one is about 8 months old and another is a little over 2 years old. And when I look at them and I think about how difficult it would be for someone earning a lot less than myself to be able to provide for them, particularly with regard to health care, it really makes me wonder where we are going in this Congress with this terrible budget bill.

I just wanted to quote from a recent New York Times article that was in the New York Times, Monday October 23. It says, and I quote,

> The specific spending cuts in the Republican plans would fall very heavily on poor and lower middle income children today, leaving them less able to hold jobs in the years ahead.

I think what the New York Times is pointing out is that if we cut these programs for children, then in the long run we are not going to have adults who can really compete and do a good job as Americans in the marketplace. And ultimately we are essentially making it more difficult for these children when they become adults to contribute to society. So it really makes no sense.

Mr. Speaker, I think it is totally inappropriate to balance the budget and provide tax cuts for the wealthy on the backs of children. I just wanted to give an example, if I could. To my left here are two kids who really could be my own, in fact in some way they remind me of my own. This is used basically to illustrate the terrible impact of the cuts in Medicaid, which is the health income program for low-income Americans, which provides health care coverage now for one in four American children.

It is a statement basically from their mom whose name is Leslie. She is a 26-year-old mother of the two children, ages 6 and 2. And she says she is recently divorced and caring for her children as an at-home mother. Her income is substantially below the poverty line but with careful planning she manages to feed, clothe, and provide shelter for her children. And she says that her finances must be stretched out obviously to cover the budget, which is very strained. Without Medicaid, which again is the health insurance program for poorer children, even the best laid financial plans would surely collapse. The dilemma she would face without Medicaid in place would be basically to decide whether or not to feed her children or to provide shelter for her children. And she just goes on to point out how difficult it would be without Medicaid, again, the health care program for low-income Americans.

Childrens hospitals, as we know, receive about 40 to 70 percent of their revenue from Medicaid. So it is not only a question of when you cut Medicaid you hurt low-income children. But you also hurt all children in a way because, for example, the hospitals where oftentimes we go in order to deal with the problems that affect children would be significantly cut back in terms of the type of services that they could provide. Medicaid, as I said, provides health care to about 36 million low-income Americans. But two-thirds of the funding is utilized by the blind, disabled, and the elderly for acute and long-term care. What we are trying to point out here is that a lot of people, disabled people, elderly people, as well as children, are impacted by these cuts in Medicare.

And what I would like to ask, and I know the gentlewoman from Connecticut is here, it is incredible to me that we can cut $182 billion out of Medicaid when we spend more for defense in this budget bill. It actually is more money that goes for defense while we are making these cuts in Medicaid.

Why are the Republicans cutting funding for school nutrition programs? School nutrition programs we know work. In my districts there are a lot of children that are able to take advantage of them. We are also cutting or reducing child abuse protections by nearly 20 percent in this bill.

And to me it just boggles the mind. The Speaker, Speaker GINGRICH, and the Republican leadership, I believe, are destroying the next generation and whacking seniors, who have already made this country great, through Medicaid, Medicare, nutrition program, and other program cuts. All of this just in order to pay for tax cuts for the rich. I think there are other ways to balance the budget. I voted in the past to support balanced budgets, but this budget plan is terrible. I really would urge my colleagues to vote against it.

I want to thank the gentlewoman from Connecticut, once again, for organizing this, because I think it is very important to point out that just as these Republican plans last week in Medicare were hurting the elderly, now with this budget reconciliation, we are really hurting severely children.

Ms. DELAURO. I thank my colleague for his comments and say it really is rather incredible. I take a look at some of the other cuts in Connecticut, and you have similar numbers and probably larger numbers in New Jersey. But we are going to see that about 1,374 children in Connecticut will be denied Head Start, about 180,000 children nationwide; 9,200 Connecticut children will be denied basic and advanced skills, and that happens through the cuts in the title I program of our education budget. It is a 17-percent cut in 1996.

We are going to cut safe- and drug-free schools, which 170 out of 175 school districts in Connecticut use to keep crime and violence and drugs away from children.

We are jeopardizing the nutrition programs for about 300,000 kids in the State of Connecticut; 130,000 children in Connecticut live in working families that are going to have their taxes raised an average of about $300 under this Republican budget.

And yet, we are going to see a tax break for the richest people in this country. It is just so out of sync. It is out of whack.

Mr. PALLONE. Mr. Speaker, I know we have other speakers, but the gentlewoman mentioned certain things that are really so important. Head Start, which I did not even mention, we have waiting lists, long waiting lists in New Jersey in most of my towns for Head Start. It is a prudent program that was supported by President Bush and President Reagan before him. It was never a partisan issue. All of a sudden now we are talking about cutting back on Head Start.

The earned income tax credit, which again I did not get into, basically goes against the whole philosophy which says that you want to encourage people to work. The main reason why that was put in place, again, not just by Democrats but also by Republican Presidents beforehand, the way I understood it, was to get people off welfare and let them have a little extra money through a tax break so that they could use it and be discouraged to go back on welfare. Now we are talking about eliminating that earned income tax credit.

Third, you talk about nutrition programs. I spent some time, I guess it was a couple months ago now, going into some of the schools in my district and actually partaking of school lunch with the kids.

Ms. DELAURO. So did I.

Mr. PALLONE. It is amazing. There are some school districts that I represent where overwhelming majorities of the kids take advantage of the school lunch program. Sometimes they get it free or sometimes they have to pay something. But without that school lunch program a lot of them just would not eat. So, again, I yield back, but it is just incredible to think how this impacts children.

Ms. DELAURO. I want to make one more comment and then yield to my colleague from Texas.

There was an article in yesterday's New York Times by Bob Herbert. It is entitled "Kiss and Cut, Empty Promises About Children." I think that there are two pieces that are particularly important in the discussion and the debate that we are going to have over the next few days here, because we are going to hear a lot of talk on this floor.

This is Dr. Irwin Redlener who was president of the Children's Health Fund. Their mission is to deliver services to youngsters in rural and urban communities. He says here, the fact that there are proposals on the table now that will further undermine health care, the health care safety net for children is really incredible. It suggests the possibility of some terrible consequences for society in the future because what it really means is that there will be children who will suffer from disabilities, physical and mental, that will haunt them for the rest of their lives. It is incredibly stupid and shortsighted to take down Medicaid in this way.

Then he concludes the article, because again what we are to hear on this floor in the next couple days is that what we are doing in this budget is saving this country for our children, that all of this, all of these cuts in nutrition and in health care and in education, and just go down the line, all of these cuts are going to be there for our children's future.

There is a particularly, I think, poignant finish to this article. It says, when the budget cutters smile in your face and tell you how much they love your children, ask to see that ugly and arcane region known as the fine print. You will need a guide and a strong stomach. What they do to children there is not to be believed.

I encourage everyone to look, to listen, to watch in the next couple of days about what is in that fine print and what, in fact, is being proposed for the children of this country.

Mr. PALLONE. Mr. Speaker, I just have to, if I can, interrupt. I had previously quoted from this New York Times story of the same day, yesterday. It is interesting, it is not the same one but a different one from what the gentlewoman has. They bring up how the Republican leaders are basically over the next few days going to emphasize this $500-a-child tax credit.

What this article says, and I would just quote from it briefly, it says the tax credit would do little to help children in low-income households, and families that have no Federal income tax liability other than exemptions, after other exemptions and deductions, would not be eligible for refunds.

For example, a family of four with both parents working and both children in child care programs would not qualify for the credit if it earned less than $24,000 a year. It says the Center on Budget and Policy Priorities, a Washington research group with a reputation for accurate statistics, has calculated that 23.7 million children, or 34 percent of the Nation's children, live in families too poor to qualify for the credit. Another 7.1 million children, or 10 percent, would qualify only for a partial credit. The real winners from the Republican tax and budget plans are likely to be affluent children who receive relatively little direct Federal spending.

So again there is going to be all the emphasis on this $500-a-child tax credit. It is not a bad idea. But the bottom line is the way they put this together ultimately means that it is primarily affluent children who benefit, and many of the children who really need it are getting nothing.

Ms. DELAURO. Mr. Speaker, I ask unanimous consent to yield the balance of my time to my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], who truly spends so much time here on behalf of the people of this Nation and really fighting for their causes.

The SPEAKER pro tempore (Mr. BLUTE). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 30 minutes.

MORE ON MEDICAID

Ms. JACKSON-LEE. I thank the gentlewoman from Connecticut for her wisdom and also her tenacity in not giving up.

I was on the House floor this morning, and I began to sense maybe even a glimmer of frustration in my own voice because I drew those who were lessening attention that we in this body sometimes tend to view incidences, votes, and occurrences like yesterday's news. We tend to think that it was last

Thursday's vote. It is over with and we go on to something else.

It is particularly important that we continue to address these issues because I believe that the American people will want us to do the right thing and then themselves will rise up and demand this body, this collective body of the U.S. Senate and of course the U.S. House of Representatives to do the right thing.

□ 1930

Might I say, Mr. Speaker, something that really caught my attention, and it might be the frustration of some of my colleagues in the other body, but one Member was quoted to say when they were being approached about matters dealing with working out resolutions to avoid having such severe cuts in Medicaid and whether or not they would be willing to compromise and bring those cuts substantially down and maybe out of frustration, this person was heard to say, "I'm willing to swallow a lot to get to that," and I would simply say that the children of this country cannot swallow a lot, they are little, small tykes, and we have an obligation not to be frustrated, not to be overwhelmed, not to worry about the next vote, or the next headline, or the next news byline, but simply to fight, fight, fight, if we have to, for these abominable cuts that are going to devastate our children and those senior citizens, of course, with Medicare, but those in long-term care, by this $187 billion in Medicaid cuts as well as this budget reconciliation process.

I draw you attention, Mr. Speaker, to these children who are standing here with me by way of a photograph, and this really speaks to the issue of what Medicare is all about. Medicare is not about the so-called deadbeat that we have always been hearing about, the one who gets accused of being on the dole. This is about children like this and a mother from Rhode Island, Jacqueline, who says,

> I have three children. My two girls are asthmatic, and they have to be on medication at all times. This medicine costs an average of $110 each month. My third child is a diabetic, and he needs two types of medication. If it was not for Medicaid, I would not be able to keep my children and myself alive.

Mr. Speaker, I think the bottom line here is alive, not even healthy, but alive, a diabetic and asthmatic children, and so, Mr. Speaker, I rise this evening realizing that it has to be a continued opposition to what has to be an extreme response to the alleged interests in balancing the budget. I am a person that believes a balanced budget can occur, and, I think, can occur over a deliberative process, recognizing that health care in this country is an important aspect of the quality of life, and I want this country to live up to its traditions, its aspirations, and the image that it has around this world, and so I rise tonight particularly to attack the mean-spirited effort that is going on against the Nation's children, and I refer, of course, to the Republican budget cuts.

Mr. Speaker, the Republican plan to balance the budget would, among other things, eliminate Medicaid coverage for as many as 4.4 million children by 2002. It would deny Social Security benefits to some 755,000 disabled children, and eliminates summer job opportunities for 4 million young people, cut nutrition assistance to 14 million children, reduce child abuse protection by nearly 20 percent, and deny assistance to more than 16,000 homeless children.

Mr. Speaker, when I served as a member of the Houston City Council with citizens comprising of 1.4 million individuals, we faced the real burden and the real concern of seeing every day faces of homeless families, individuals who but for some undesirable occurrence in their life living not in cars, but under bridges with no protection whatsoever. It was certainly the extension of this Government, the McKinney Act, in fact, in provisions thereunder, that recognized that homeless children and families needed opportunities, too.

What do we do in 1995? We discard all of the progress that has been made in helping those families bridge themselves from homelessness to independence by this major budget reconciliation process that then cuts, and cuts, and cuts, and destroys, and destroys, and destroys. There is no doubt that many children will suffer if this effort is successful. That is why it is important that people who are on this side of the Mississippi River and beyond understand the very crux and crisis that we are facing.

My Republican colleagues argue that their progress would benefit children in the long run. Cutting the debt today they argue will save children from paying unbearable taxes in the future. Let me frankly say to you, Mr. Speaker, I wonder whether these children will even have an opportunity to be adults and certainly taxpaying adults for we diminish their opportunity with poor health care, Head Start being eliminated and simply not providing an opportunity for them to be educated and to bridge themselves out of poverty. These are innocent children, simply innocent victims, who will look to this country not for a handout, but for a hand up and a helping hand. Republican tax cuts would fall heavily on poor and lower-middle-income children.

Just this morning I heard a constituent citizen of the Nation calling up saying that he is tired of taxes, but he makes $28,000 a year, and he takes care of at least five persons. Well, you know what? The tax cut that Republicans are proposing would not help this gentleman. The took away his very bridge, the earned income tax credit. He will not get that anymore. He is hard-working. He is not on the dole. He goes to work every day, and he supports his family and his children, but yet when this Government could do something for him, give him an extra measure of opportunity, not giving him the opportunity to buy a television set or maybe some used 15-year-old car, but possibly providing the extra incentive that he needs, the extra light bill that he has to pay. Maybe it has gotten too cold that year or too hot that year and utilities have gone up. This is the opportunity we provide hard-working Americans under Democrats.

What we provide now with the Republican leadership and the Budget Reconciliation Act is a cut totally of the earned income tax provision. This smacks in the light and the direction of which we would want this country to go, and that is to applaud those who are working and seeking to be independent and supporting their children. These cuts will now provide us with hungry, malnourished children who cannot be expected to concentrate and do well in school. These children will prove less able to compete for good jobs with children from more affluent families.

Mr. Speaker, all children ought to be loved and appreciated, and so this is not a fight between affluent children and poor children. This is a question of our priorities. This is the question of the moral fabric of this Nation.

The Republicans plan cuts' effect on the one-quarter of the Nation's children who live in poverty would be substantial. The White House has calculated the poorest fifth of American families with children would lose an average of $1,521 a year in income and $1,662 a year in health benefits under Republicans. The simple question is: Where do they go from here? What is their alternative? What are we simply saying to them? You cannot pay your rent, so go out into the street? We cannot provide you with health care, so be part of the epidemics of measles and various other childhood diseases that will plague this Nation? There are families with average incomes of $13,325.

Furthermore, the Republicans' proposed $500 child tax credit would do little to help children in low-income households, and this becomes a real dilemma. Is anyone accusing or castigating those families who have been able to work and do well, provide for their children and not indicate that the $500 which the underlying current in that effort is to suggest that children are precious—of course we believe that children are precious, but I would simply ask, and I do not know if we have had a reconciliation on this issue, do we give it to families making $500,000 a year? $200,000 a year? Some of the suggestions have been to cap it at $75,000 a year. The real issue is the families making $30,000 a year need it as well, and the earned income tax credit is now being eliminated, so that means that we are making less precious the children of those making less money.

Mr. Speaker, I would not want to live in a nation that promotes those kinds of ideals. All children are precious. All of them should be embraced. All of them should be given the opportunity to fulfill the highest achievement they can possibly achieve, and our physically challenged youngsters should particularly be encouraged for great things they can do, and they can do these great things as we of the Nation provide the underpinnings and the support for them as well. Families that have no Federal income tax liability after other exemptions and deductions would not be eligible for refunds. That is the earned income tax credit which helps so many of the working poor.

We talk and talk in this Congress about children and our family values, but, despite all the lip service given to children, proposed Republican budget cuts are antifamily and antichildren. For the past few months I have been fighting to prevent cuts in health care which would remove the health safety net for many Americans. These cuts were cooked up behind closed doors without discussion and an appreciation of the devastating consequences the proposed cuts would have on the very old and the very young in our society. Even in the Medicare debate simple assets such as mammograms for our senior citizens, denied and rejected. Simple opportunities to provide physicians in underserved areas, denied and rejected. What an attitude, but other kinds of cooked-up deals that smell very smelly to me, they were put into the bill, and they are moving along quite well. It really is a shame that those aspects of the bill that provide the most devastating occurrences were provided and allowed in the Medicare bill that was just passed last week, but, oh well, just as I have said, another headline, another day in the United States Congress.

But I simply say, no, these are devastating consequences proposed by the Republican majority that would have devastating impact on the very old and the very young.

Just this past weekend, as I said this morning, I had the opportunity to visit with seniors at a large luncheon provided, of course, by the city of Houston and provided under Federal funds, sometimes the only meal that these seniors would have, and off to the side an older women pulled me and said, looking sad, "Can you help me with my utility bill?" This is not the senior citizen that we tend to think is going to be able to survive without Medicare or Medicaid. This is someone truly on the edge, possibly on the edge of living in decent home conditions or living out on the street. It seems, however, that the debate of the past few weeks has fallen on deaf ears.

Mr. Speaker, in my district of Houston, TX, too many children are in poverty too many times. As someone who has been an advocate for the homeless on city council and those children who need well care, health care, I find that we are not listening, and I find that we allow too many of our citizens to live in poverty for we say, if it is not in front of us, then it is not before us. I would simply say it is a play on words, just as I have done. It is before us, and it is in front of us, and we are going off the edge of a cliff. I find it hard to believe that this Congress would further cut the safety net for these children.

As one doctor of low-income children has said, I see kids literally every day with asthma that has not been treated, asthma so bad that they cannot function. Do you imagine, or can you imagine, what that is like, to see a child hardly able to breathe and getting no relief, to see a child unable to attend school, the same child that you cajole and encourage their parents to get a job, but yet you are creating a situation where this child will either not live to full adulthood or live a very short life. I see kids with ear infections that have led to hearing losses, the doctor says, to the extent they are not functioning in school. We can solve these problems, but we are not doing it.

In short, Mr. Speaker, these cuts are appalling. I am tired of Members of this body giving lip service to children's needs while voting against measures which will protect children's well-being and strengthen families. As it is now when we talk particularly about the city of Houston, I can tell you how hurting this will be for us. The Harris County Hospital District, again for a lack of a better term, will simply be devastated. Already they will be suffering under the Medicare plan which diminishes their opportunity for physicians to treat these citizens as well, but this program, as we look at it during the budget reconciliation effort this week, will find that Medicare coverage will be cut for as many as 206,641 children in Texas and 4.4 million children nationwide. Currently 20 percent of our children in Texas rely on Medicaid for their basic health needs. Medicaid pays for immunization, regular checkups, and intensive care in case of emergencies for about 1,407,000 children in Texas.

That is a particular concern of mine. I worked for many, many years in the city of Houston working with our city health department to move up the well-care checkups for our children, and all the time, as a city, we constantly face the problem no money, no money, no money.

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Obviously, an ounce of cure is worth a pound of prevention. I would simply say, we are being foolhardy, pound-foolish, pennywise, however it goes; we are being foolhardy. I believe that we have to be sensible and understand that our children are our future. The Republican budget cuts Federal Medicaid funding to Texas by $7 billion over 7 years and by 20 percent in 2002 alone. The sad part about it is that it gets a wide net of our children. It denies as many as 44,070 disabled children in Texas SSI cash benefits by the year 2002. The least of our little ones are left to the wind.

So I think it is time to give some substance to lip service, and as I stand here today, I fear for the future. What we do today will determine how bright or dismal the future will be for millions of children in this country. I urge my colleagues to ask themselves, what is the legacy that the 104th Congress will leave? Will it be one our grandchildren can be proud of, or will it be one of undereducated, underemployed, malnourished, nonimmunized young people?

There comes a time when we need to be able to stand up for things that are right. Over the past couple of weeks, we have simply seen a lockstep attitude. That frightens me, and it frightens me because it leaves little opportunity for any of us to engage in real debate.

Just this past week we saw a headline in the newspaper that talked about the punitive measures that were being brought against Republicans who voted against the Republican Medicare plan. My hat is off to them. They voted for their constituents, not for their political aggrandizement. They were not worried about the last campaign or the last headline.

My call today, as we begin this process of budget reconciliation, is who will you stand for? I am going to stand for the children, working families, senior citizens, Americans. I am going to stand for those who can do better if we help them to do better. I am going to stand for these very children who are here and who would want to be saved and to be contributing Americans.

I pray, humbly so, that I can call upon my Republican colleagues, more of them, that will join the dignity, the respect, the strength, that was offered by their colleagues last week when they voted absolutely no on the Medicare, so-called, Preservation Act. Stand up again this week and join those of us who believe in our country and our children, and make sure that as you do that, you stand up and vote for our children and for our children's children, and all of Americans who are simply trying to grab hold onto the quality of life that we would pretend to have in this Nation.

Mr. Speaker, it gives me great pleasure that, as I close to yield to the gentleman from Maine [Mr. BALDACCI] who has been a great leader on many issues dealing with our children and dealing with hunger, and for his constituents in the State of Maine.

Mr. BALDACCI. Mr. Speaker, I thank the gentlewoman from Texas for yielding to me. I appreciate her very eloquent statements here today. It gives us food for thought.

Mr. Speaker, I am here today to add my voice to those of my colleagues in recognition of Domestic Violence Awareness Month. Every year domestic violence tops the chart as the leading cause of death among women. Every year more women are at risk of being killed by their current or former male partners than by any other kind of assailant. And every year more and more children find themselves living in violent homes, often the victims of violence themselves. Mr. Speaker, we cannot allow these staggering statistics to continue.

I will be holding a domestic violence public forum in my district in the coming weeks to explore how to reduce this growing problem. At this forum I will be speaking with professionals from domestic violence and family crisis agencies who last year served over 10,000 individuals in the State of Maine. They provided 10,626 hours of crisis intervention through their hotline; 15,829 bed nights of shelter; and 14,252 hours of community education about the horrors of domestic violence. While we are fortunate that such facilities exist to help us cope with the massive numbers in need of assistance, it is unfortunate that such facilities are needed at all.

We need to continue funding such legislation as the Violence Against Women Act. We need to continue supporting law enforcement and family crisis agencies in their efforts to create community based responses to coping with domestic violence. We need to continue to train health care professionals to recognize and respond to domestic violence. And we need to continue to educate men and women alike about the evils of domestic violence, reminding them that no one asks to be the victim of domestic violence, no one deserves to be beaten while in the supposed safety of one's own home.

Working together, we can create a society where there is no longer a need for shelters, for hotlines, or for domestic violence counselors. Until that time, however, we must continue to work to break the silence surrounding this issue, and to address the critical needs of battered women and their children.

In closing, Mr. Speaker, again I want to thank the gentlewoman from Texas [Ms. JACKSON-LEE] for yielding the time to give these remarks in regard to domestic violence and Domestic Violence Awareness Month, and applaud her efforts in bringing more attention to the overall budget reconciliation and what is going to be happening this week in the House. I want to thank the gentlewoman.

Ms. JACKSON-LEE. I thank the gentleman from Maine for his very important statement, Mr. Speaker. He is joining in with many of us in adding to some of the problems with the Budget Reconciliation Act. Mr. Speaker, let me applaud him for that, and add, as well, my comments on domestic violence. It is a crisis, and for any diminishing of the domestic violence funding, we are again doing something extremely tragic to this Nation. I will add my comments on this issue for the RECORD and expand on such.

THE RECONCILIATION BILL

The SPEAKER pro tempore (Mr. BLUTE). Under the Speaker's announced policy of May 12, 1995, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Speaker, I am delighted to be here tonight with my colleague, the gentleman from the Keystone State of Pennsylvania [Mr. JON FOX], to talk a little bit about this reconciliation bill that we are going to vote on here in the next couple of days. The debate will begin tomorrow. It really is a historic time in American history.

I note that some of my colleagues from the other side of the aisle have had pictures of children with them tonight to show. When we were sworn in as new Members of this body, we were given essentially two things. One is this nice little card case that included our voting card, and which some have said is the most expensive credit card in the world, because on this credit card our predecessors have run up something like $4.9 trillion worth of debt on our children and grandchildren.

I put into my little card case three of the most important people in my life, and they are my three kids. They are all teenagers, and some people would say that teenagers are difficult, and all the things about teenagers you have heard. Some of it is true, but in truth, they are really the inspiration to me about what this is about and what our real responsibilities are.

I carry those picture of my kids with me, because I think when we talk about reconciliation, we talk about the budget, we talk about balancing the budget, we really are talking about what are we going to do for future generations of Americans, what are we going to do on behalf of our kids.

I would like to, before we really get into this, and I want to yield to my colleague, the gentleman from Pennsylvania, remind my colleagues and some of the folks who may be watching this special order on C-SPAN of a quote, and we have heard a lot about children, but one of my favorite quotes is from one of our colleagues over in the Senate, representative PHIL GRAMM from the great State of Texas. He has said many times that we will hear, especially in the next several days, that this is a debate about children. It is a debate about how much we are going to spend on education and how much we are going to spend on nutrition, how much we are going to spend on medical care.

The truth of the matter, Mr. Speaker, this is not a debate about how much we are going to spend on children or how much we are going to spend on education or how much we are going to spend on health care. This is a debate about who is going to do the spending. We know government bureaucracies and we know families. Some of us on this side of the aisle, at least, know the difference. So the debate is about who is going to do the spending.

We are talking about balancing the budget for the first time in 25 years, and really, it is about future generations, because historically, and I do not know, you probably do not represent as many farmers as I do, I would say to the gentleman from Pennsylvania [Mr. FOX]——

Mr. FOX of Pennsylvania. We have our share.

Mr. GUTKNECHT. Back in my district, it is fairly heavily agricultural, and those who do not actually live on farms are not far removed from living on the farm, and they understand this, that historically what Americans wanted to do was to pay off the mortgage and leave their kids the farm. But what we have been doing as a society and what we have been doing as a government, what this Congress has been doing for the last 40 years, is we have been selling the farm and leaving our kids the mortgage.

I think we all know, deep down in our bones, that there is something fundamentally immoral about that. For the first time in 25 years, as we approach this reconciliation, we are going to do something about that. I think it is a very historic moment. Frankly, the people who should be the most enthusiastic about this are young people, because it is their future that has been mortgaged. I think it is important, that step we are going to take.

Mr. Speaker, I yield to the gentleman from the great State of Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding. He has been at the forefront in our freshman class in this 104th Congress in identifying those issues that are most important to Americans, and one of them is to make sure we achieve a balanced budget, without forgetting that we have human concerns to be addressed; that what we want to see is elimination of waste in the Federal Government, but using the moneys we have in the Government to make sure we take care of children, that we take care of working families, that we take care of seniors. We can do that. By having a balanced budget, I believe what we are on the threshold to achieve is to make sure we lower housing costs and in fact balance the budget.

We have heard from the National Association of Realtors that the average 30-year mortgage will drop almost 3 percentage points; that if we balance the budget, we will be lowering car expenses about 2 percentage points lower than they otherwise would be. We will be lowering the cost of college for students. Student loan rates will be 2 percentage points lower because we have balanced the budget. A college student who borrows, for instance, $11,000 at 8 percent will pay almost $2,200 less in schooling costs.

Mr. GUTKNECHT. That's $2,200 less if we balance the budget?

Mr. FOX of Pennsylvania. Finally, after 22 years.

Mr. GUTKNECHT. These are college students. We are talking about changing the rules slightly, so some may have to pay $7 more, but over a net basis they could be spending over the life of the loan over $2,200 less, just because we balance the budget?

Mr. FOX of Pennsylvania. Absolutely. And another thing that is important to senior citizens, what we are going to do under this legislation is be able to roll back the unfair taxes applied in 1993 for Social Security recipients. We will also be able, for the first time under this legislation, Mr. Speaker, be able to in fact allow seniors who are under 70 who want to continue earning money through a job, they are now capped at $11,200. Under our legislation they can make up to $30,000 a year without deductions from Social Security.

Under Medicare plus, not only will they have the options of having traditional fee-for-service, but you will also have the managed care option, the Medisave accounts, and be eliminating the fraud, abuse, and waste, which is $30 million, Mr. Speaker, we will be able to make sure that those funds go back in the Medicare lockbox for improvements in the health care system, so our senior citizens will have the health care dollars that they want.

Mr. GUTKNECHT. So with the lockbox, we are not using any funds for the Medicare savings and reform, we are not using that for the tax cut?

Mr. FOX of Pennsylvania. Not for any tax cut, not for any government program. It must go back for senior citizens, for their health care.

Mr. GUTKNECHT. Into the trust fund?

Mr. FOX of Pennsylvania. Absolutely.

Mr. GUTKNECHT. You understand that, I understand that, and I think everybody on the other side of the aisle understands that, yet there has been an awful lot of disinformation and misinformation spread in the last several months.

Mr. FOX of Pennsylvania. The fact of the matter is Medicare is very important. It was the President's trustees just in April, Mr. Speaker, that came out and said if in fact we do nothing by the year 2002 Medicare will be out of business, so to do nothing would be irresponsible, whether you are Republican, Democrat, whether you are in the House and Senate, or you are the President. Everyone agrees we must do something to improve the system.

I think by reducing the paperwork costs, which have been 12 percent, by eliminating $30 billion a year in fraud and abuse in the system by the providers, and by making sure that we have a streamlined system that offers options to seniors, so they can have managed care if they want to have things like prescriptions filled and eyeglasses included, they can design their own health care program. I think that is what the objective here is, to make sure seniors have the independence. People are living longer, and we want them to live better.

Mr. GUTKNECHT. In fact, what we are really trying to do is convert the seniors from being consumers of medical care into being buyers of medical care. We are trying to use market forces, give them more choices, do some of the things that are working in terms of the private sector right now.

We know on a national basis right now health care inflation in the private sector is running about 1.1 percent. That is what it is running in the State of Minnesota, about 1.1 percent in the private sector, but then on the government-run side of the health care expenditures, it is running 10.4 percent. You do not have to be an MBA from Wharton in the State of Pennsylvania to understand that if we can take some of those ideas and use market forces, give people more choices, offer the option of managed care, medical savings accounts, preferred provider networks and some of the things that are working so well in the private sector, if we give them those choices, we can dramatically reduce the overall cost of health care, give people more options, give people more choices, and I think in the long run give them more services than they currently get, and control the cost so we eliminate some of the waste, fraud, and abuse that is currently in the system and everybody wins except some of those providers that have been gouging the system.

Mr. FOX of Pennsylvania. I thank the gentleman for the recognition.

And the ones who have been gouging the system, under the legislation which we have cosponsored, not only do those providers who have been violating the law face a 10-year jail sentence, but they will not be able to participate in the system any longer, because they will have violated the Medicare law which says you can no longer participate if you have in fact violated the fraud and abuse statutes that are in the bill.

Mr. GUTKNECHT. In fact, and I think we need to be honest, because under our plan, the total cost to the average senior citizen may go up by as much as $7 more than under the President's proposal. That is $7 a year. When I have had a chance, and I do not know if you have had a chance to talk to some of the seniors in your district, when I explain what they are going to get for their $7, with all the options, with all the choices, with better managed care and hopefully better services available to them, when I explain that to them, and that the real benefit is we not only save the system, we do not just patch it up to get through the next election, we are trying to save it to get to the next generation. This is really about generational equity.

When I explain that to my senior citizens and they hear all the facts, they say "What are these people grousing about? This is a great deal. This is what you should be doing. We are delighted you have the courage to finally step up to the plate and do what needs to be done with Medicare."

Mr. FOX of Pennsylvania. Prior Congresses have said "We know Medicare is in trouble, but we will get around to it sometime." But frankly, there is not anyone who wants to make sure that we want to take care of the system for our seniors more than the people who are here. We were sent here, and many of the senior citizens in our district have said "Save Medicare, make it work." Believe me, what I like about the bill now that was not in the original bill, I would say to the gentleman from Minnesota [Mr. GUTKNECHT], is the lockbox feature, making sure all the savings go back to Medicare, and the fraud and abuse statutes, which will finally, for the first time, go after those who have violated the law and stop them from participating in the system.

□ 2000

You only have to read the Reader's Digest September issue to see the litany of cases where people have violated the law, have in fact gotten away with it, because we do not have a government system now that will enforce existing laws, or have sufficient penalties to discourage the waste and abuse in Medicare. $30 billion a year. It is a remarkable, unbelievable item.

Frankly, if we had run this system of Medicare in a private industry setting, we would have made the changes we are now doing 10 years ago so the system would have worked. Although now, I should think seniors need to know that the restrictions that are being placed on the system are to providers and not to seniors.

We are saying to the providers, you must give quality health care at a fair price to the Government. We are not going to change one iota in the quality of care for our seniors. That must be held to the highest standard possible, or else they will not participate in the system any longer.

Mr. GUTKNECHT. Well, the whole key of service networks, provider service networks, PPO's, HMO's and the other forms of managed care has been to put some kind of a manager in place to help control these costs so that we do not have the waste, fraud and abuse, and frankly, we do not have the unneeded tests and services that are out there. Right now we have a system, and I think most people who participate in the system, including many senior citizens, understand that there is an awful lot of waste, an awful lot of fraud and abuse.

We have had 33 town meetings on the subject, and again, I am surprised sometimes that our colleagues on the other side of the aisle say, we have not had enough meetings. We have literally had thousands of meetings with all kinds of people. We have talked to providers and insurance companies; we have had meetings with seniors.

Most of us have had anywhere from 10 to 40 town meetings. I have had 33, and at one, the whole issue of waste, fraud and abuse comes up. However, the problem has been with the old system and the way it exists today, it was like it was nobody's money, and if a senior complains and says, wait a minute, I did not get this particular treatment or service or whatever, the attitude was, what are you complaining about? It is not your money.

It has sort of been that attitude that I think has become almost a cancer on the entire Medicare system. If we can begin to change those attitudes and if we can make people more responsible, if we can put managers in place to help control costs, we can save the system, we can reduce costs dramatically.

As a matter of fact, if anything, I think we are being entirely too timid in the total budget targets that we are looking at for the next 7 years. Even assuming that only 25 percent of the seniors get involved in various forms of managed care, and that is what the CBO estimates, we can save the system, not just for the next 7 years, in my opinion, but we can save it for long into the 21st century.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman would yield, I think it is important to make sure that the Medicare bills and anything dealing with the Government is in plain English.

Many of my seniors come to me and say, I would like to help you out and eliminate the fraud, abuse and waste, but if it was in plain English it would help, so that I know the data service and what was supposedly given to me. Because I have had the same kind of stories that the gentleman from Minnesota [Mr. GUTKNECHT] has had, where seniors have told me, well, I got charged for a service, but I did not receive it, or I got charged for it twice.

Mr. Speaker, what is good about this legislation is that those seniors that report fraudulent or over-charged items over $100, they will be able to participate in the savings, so hopefully there will be an economic incentive to make sure the system works.

Mr. GUTKNECHT. Mr. Speaker, we do want to give them an incentive to say, wait a second. We had a lady who said she had been billed $232 for a tooth brush. Those are the kinds of things that are just outrageous.

Mr. FOX of Pennsylvania. In Minnesota, you have to bring those prices down.

Mr. GUTKNECHT. We cannot afford that, we cannot afford to pay for cataract surgeries which were not performed. Those are the kinds of things we have to stop, and if we can do that, we can save the system.

Mr. Speaker, let us talk a little bit about the bigger budget as well, because Medicare is certainly a part of it. One of the things that I have been proud of, and the gentleman from Pennsylvania [Mr. FOX] and I came together as freshmen as part of this historic 104th Congress. The great thing, it seems to me, about this Congress is we have not dodged the bullet, we have not ignored the big problems, we have stepped right up to the plate and started on day one, when we changed the way Congress does business, when we downsized the committee process.

The very first bill that we voted on in this Congress was H.R. 1, the Shays Act, which says, Congress is going to abide by the same rules that we impose on everybody else. Mr. Speaker, on every step we have stepped up to the plate.

Many times our critics have said, well, you did that, but you will not do this. Well, then it came to the budget and Medicare and changing the way that Congress does business, we have stepped up to the plate, and frankly, I think we as freshmen have to take at least some of the credit for that, because we forced our own leadership, and I feel good.

We look at this budget reconciliation and I think if we take it item-by-item, because it is a big package, and it includes, frankly, several things in it that I do not particularly like and I wish I did not have to vote on. However, when you look at the big picture, if you wait until all the lights are on green, you are never going to leave the House.

Mr. Speaker, for too long the Congress has basically taken an attitude that well, yes, we would balance the budget, but it would mean that we might have to cut back a little bit on military spending. It might mean that a military base in my district might have to close. I would really like to balance the budget, but I do not want to make any restrictions here. I really want to balance the budget, but I do not want to tackle Medicare head-on. I really want to balance the budget, but I do not want to deal with this problem of Medicaid. I really want to balance the budget, but.

We have had all of these "yes, buts" for the last 30 years. The good news about this Congress is we are moving ahead despite some of our personal concerns about particular items that are in this budget. So we are stepping up to the plate, we are not allowing the perfect to become the enemy of the good.

The bill that we are going to vote on here in the next couple of days, in my opinion, I have to say is not perfect. There are several things in this bill that I wish were not in the bill, but on the other hand, if we wait until all of the lights are on green, we are never going to leave the House, we are never going to get started down the part to a real balanced budget.

Mr. Speaker, as the gentleman said earlier, the real benefactor of a balanced budget are not the rich, it is actually middle class and lower middle class people. It is children, it is families.

Mr. Speaker, earlier, one of our colleagues, the gentlewoman from Texas [Ms. JACKSON-LEE] said something about a family at $30,000 was not going to get this benefit. Well, I am sorry, but I think that is absolutely wrong. If they have three children, they earn $30,000 a year, they are going to get a $1,500 a year tax credit.

Now, obviously you are rich, $1,500 may not seem like much. If you earn $30,000 a year, $1,500 is a lot money, and they are going to get that under our tax plan.

Mr. Speaker, I want to yield to the gentleman from Pennsylvania in a minute, but I want to talk about that average family that earns $30,000 a year, because there are a heck of a lot of them, not only in my district but all across America.

In 1950, that family was paying about 4 percent of their gross income to the Federal Government. This year, they will pay about 24 percent of their gross income; and I do not think anybody in this Congress or anybody in the United States can argue that that family is really better off because they are giving six times as much as they were giving in 1950 to the Federal Government.

That is part of what this debate about reforming and downsizing the Federal Government and reducing a family's taxes is about.

So when people talk about giving these big tax cuts to the rich, the truth is they are not being very honest with the American people. Because the broad base of this tax cut will go to families, in fact, 74 percent will go to families earning less than $75,000. This is not about a tax cut for the rich. This is about a tax cut for the middle class. It is about helping families. I think it is time we stand up for families here in the United States Congress.

Mr. FOX of Pennsylvania. Mr. Speaker, I would have to agree with the gentleman, if he will further yield.

Mr. Speaker, the gentleman has been working overtime, I would have to say, in trying to help us fashion here for the 104th Congress and the reform-minded Members, and I have been pleased to work with you on just these issues.

Balancing the budget, as we said earlier, will not only help working families provide opportunities for jobs, opportunities for decreased costs of purchasing a car, of paying for a mortgage, but the tax reform issues that are before the Congress this week will, besides the way we talked about helping seniors by lowering taxes for working seniors and providing more seniors with long-term care coverage, our bill provides incentives for employers to offer to their employees and for individuals to purchase long-term care health insurance.

Children who are adopted into families, there is a $5,000 tax credit to help defray adoption expenses.

We also have in the legislation what I think will help increase savings and increase the opportunity for businesses to grow, produce and hire, decreasing the capital gains tax. This is for small businesses.

Mr. GUTKNECHT. Could I talk just a little bit about the capital gains taxes.

Mr. FOX of Pennsylvania. There is a lot of misinformation about that, I believe.

Mr. GUTKNECHT. Absolutely. When they talk about the tax cut for the rich, many times they are talking about the capital gains tax. But the truth of the matter is, and they know this, this is according to the House Budget Office, 44 percent of the people who get stuck paying a capital gains tax in the United States are rich for 1 day, the day they sell their farm, the day they sell their business or the day they sell some other investment that they have, in many cases, been paying taxes on for many years. So, in many cases, this is ridiculous.

And I think every economist that I have read in the last several months agrees that the United States has among the highest taxes on capital and on investment of any industrialized country in the world. If we are going to compete in the world marketplace, we have got to reduce our cost to capital.

You can argue, that, yes, the rich will benefit because they pay lower capital gains tax; but the real benefactors are those people out there looking for jobs. Because we hope, as people invest more, we are going to create more capital, more business, more production, more jobs.

So the real issue is, how do you create more jobs, a world-class economy as we go into the 21st century? I think lowering the cost of capital gains is a very important tax cut.

We are now joined by our colleague from the great State of Georgia, Mr. KINGSTON, and I would be happy to yield to him a few minutes.

Mr. KINGSTON. Mr. Speaker, I certainly appreciate that.

I wanted to follow the train of thought of the gentleman from Minnesota [Mr. GUTKNECHT] on this capital gains tax. I represent an area that is a big growth area and, actually, a lot of waterfront property. I represent the entire coast of Georgia. One of the things that I found is that you have a lot of people who moved out toward the coast 30 years ago to escape the city or just to kind of get closer to the marshes and the ocean and so forth. And now they are empty-nesters, in many cases widows living in those houses now that maybe in the 1950s they paid $25,000 for, probably a lot less than that, actually. Now they are worth $500,000. But that widow who is out there on a fixed income cannot sell it, because she would be taxed as if she was making $500,000 a year.

So when we talk about the capital gains tax cut and reduction, who is it going to help? It is going to help a whole lot of people like that widow on the fixed income. And, certainly, in terms of job creation, the numbers are incredible in terms of people investing money and turning around.

I do not know what it is about this administration that they seem to have a class war fetish: If you are rich, if you are successful, if you have done something, if you live the American dream, you are horrible as far as the crowd on Pennsylvania Avenue goes. I wish I had that Ted Turner, Steve Jobs, Colonel Sanders entrepreneurial genius. I love it. The fact is, we all do not have it.

However, think about all of the people who have gotten jobs because those entrepreneurs put the dream, put the money, put the material, put the product together and made a heck of a lot of people happy through the use of those products. Yet the administration cannot get enough of rich bashing and class warfare.

Mr. FOX of Pennsylvania. Mr. Speaker, if I could just add on to what Congressman KINGSTON just said, and I appreciate his joining us for this discussion on the issues of the day.

Frankly, by having the capital gains tax reduction, which is even greater for individuals than it is just for businesses, 19 percent for individuals and 25 percent for businesses, by creating those jobs, which are private sector jobs, as you were pointing out. If we do not give entrepreneurs and those great creators of new ideas the chance to build those new businesses here and provide jobs for our constituents, then those people can go overseas to countries that would gladly, with open arms, take them.

Let us make sure we do what you were talking about, Congressman KINGSTON, get those capital gains tax incentives there for businesses to grow, produce and hire. Therefore, we do not have the dependency on more jobs in the Government-sponsored positions, which do not necessarily help the economy and do not necessarily provide the kinds of improvements to our society and the new impetus to expansion that really is the vitality of America.

Mr. KINGSTON. That is right. There is so much in this reconciliation package that will bring us towards business prosperity and the creation of new jobs.

This is the first time I believe in 25 years that we have had a balanced budget to vote on on the floor of the House; and it is something that President Clinton, June 4th, 1992, pledged to the American people on Larry King Live that he would have a balanced budget, a 5-year plan, when he was president. So we clearly have bipartisan support on it. Now, I understand that the President has somewhat backed off of that promise, and he is not the first member of either party to do so.

Now is the time for everybody to come to the table and say, if you are interested in a balanced budget, if you are interested in turning this thing around, now, probably the month of November, is maybe one of the most critical months in terms of legislative history in our country in the last 100 years.

□ 2015

Mr. GUTKNECHT. The people who care about this, I think it is important in the next week or two that they contact their Members of Congress, and tell them, "We've heard one excuse after the other. The time has come, we've got to stand up and say, enough is enough, it's time to balance the budget, let's keep your promises."

If it means you have to limit the growth in entitlements, then so be it. If it means you have to put a flexible freeze on defense spending, then so be it. If it means that you have to make some changes in the way Congress has done business over the years, then so be it. But you cannot use all of these, "Well, I would balance the budget except." The yes, buts. I think that has to change. I think that is what the American people want, that is what they tell us. Frankly I hope they will call, I hope they will write and let their Members know that the time has come to bite the bullet. We have met the enemy, the enemy is us, let us balance the budget and let us do it now.

Mr. KINGSTON. That is right. This is a debate that is an American debate. Everybody needs to be involved in this. It might be a little more exciting right now to be watching that baseball game that is being played in Cleveland, but this is something that is going to keep everything afloat. I wanted to switch gears a minute to welfare, because so much of H.R. 4 is still in this budget, and it is the welfare reform plan. As you know, we have 4 basic goals with welfare reform—discouraging teenage pregnancy, a work requirement so that those who have the ability are required to work, State flexibility, because we may do it different than you guys do it in Minnesota and in California and in Pennsylvania, Georgia may want to do something a little bit differently; and then the fourth and final component of welfare reform is no benefits to illegal aliens. The gentleman from California I see is on the floor. He knows there were 37,000 babies born in Los Angeles County, CA last year whose mothers were not American citizens but as soon as they were born, they had dual citizenship and were entitled to $620 a month in California welfare benefits. We want to help the folks who are here, the needy, but if you are not an American, what we want to do is give you immediate medical attention, then get you home, because we do not want somebody who is just coming here for the benefits.

I have a welfare case that actually I became familiar with yesterday that I am watching closely. This is a typical case of the things that are out there.

I am not going to say which city this is in, I am not going to say the name of the family, but this is a real situation, two girls living with a surrogate father. The father is actually the common-law husband of their biological mother. The biological mother is addicted to crack and not living at home anymore. She only comes by occasionally to steal things. One occasion, when the common-law lover did not give her money, she threw potash in his eyes and blinded him, so he is not on disability.

The two girls are on disability, or SSI because their biological father was killed when they were toddlers. They also have a brother who is in jail right now, he is 20 years old, sentenced for 7 years on a number of charges. He is from the same biological mother but has a different biological father, but that father was killed when the boy was 1 year old.

One of the girls is 18. She is in 10th grade. The other girl is 15. She is in 8th grade. The 18-year-old 10th grader, which is the year she should be graduating from high school, as you know, has a 2-month-old baby.

Why do we need flexibility in welfare? Because the case that I have just given you is absolutely true, not embellished a bit. If you got confused, it took me a long time to realize it, but that welfare caseworker is trying to help these folks become independent, give them hope for tomorrow. He may need a little more flexibility than people in Washington, DC, are saying that he can have. We want to give them that flexibility.

More importantly, the bureaucrat in Washington who is telling the caseworker in Georgia what to do is commanding a salary and not a small salary but a large salary. I want the bureaucrat in Washington to lose his job and give that money back here so that we can get these folks in the socioeconomic mainstream. They are going to need a lot of help, some psychological help, some medical attention, some extra tutoring in school. This is a bigger problem than these kids and this family can get out of by themselves.

We need to have the compassion to help them. Yet, most importantly, that caseworker has to have the flexibility to do what works to get these folks independent

Mr. GUTKNECHT. But what we do not need is a bureaucratically centralized system that is centered here in Washington, DC. We need to get it out to the local communities where they understand the problems and they can help.

But I think also an important point when you talked about welfare reform and you talked about the goals, we have got to emphasize work, we have got to emphasize families, and we have got to emphasize personal responsibility. Because the system that we have today tends to consume the participants. You do not have to go very far from this building to see the results of spending over $5 trillion over the last 30 years on the war on poverty. We know right here in Washington, DC, for example, with the federally run housing projects.

I learned this just last week. I am on the Washington, DC, Oversight Subcommittee. Eighty percent of violent crime in the city of Washington, DC, is committed within two blocks of a Federal housing project. You can see it every day. You can see it in the hopelessness, the despair, the dependency that we have created with the Federal programs; and we have got to decentralize it, not just because it saves money. This is not just an exercise. This is not about saving money as it is about changing the system to help save people. The system we have today is wrong, it is destroying the participants, and it needs to be changed. If we really care about those people, then we will have the courage to reform the system we have now.

Mr. KINGSTON. I want to make one point, also.

I am on the Washington, DC, oversight on the appropriations side. The gentleman from Virginia [Mr. WOLF] and the gentleman from Virginia [Mr. DAVIS], the chairman, have offered kind of a cleanup Laurelwood, the Laurelwood Prison, which I understand that when people go to Laurelwood Prison that most of them have already been there. Absolutely no one comes out rehabilitated. What is seems to do is be a criminal think tank rather than any sort of positive rehabilitation facility.

While we are looking at things in Washington, DC, that is one more example of things that we have just got to change to make this Congress make a difference.

Mr. GUTKNECHT. And it is going to take some courage, because some of our friends on the other side are going to argue if you change welfare you are going to hurt people. I think some of us should argue unless we change welfare we are going to destroy even more human beings.

I want to yield to our colleague, the gentleman from California [Mr. RIGGS]. I am delighted to have him join us tonight for this special order.

We are talking a little bit about reconciliation, balancing the budget, some of the things that it is going to take, some of the tough votes it is going to take in the next several days if we are really serious about balancing the budget.

I yield to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. I thank the gentleman for yielding. I especially thank him for organizing this very important special order, and I thank the gentleman from Georgia for his participation and leadership, because I have had the opportunity to witness him down on this floor after hours participating in special orders over the last several weeks. He has been a very important member of what we call our theme team as we endeavor to get our message out to the American people and expose the scare tactics and this whole smoke screen of fear and deception that has been thrown up by the minority party.

I had to hustle over here, and it is unfortunate because I did not get here in time to catch the gentlewoman from Houston, TX, who had earlier tonight the audacity to stand over there on the other side of the aisle and say that we were going to completely eliminate the earned income tax credit.

As I said on the floor a few weeks ago, no matter how long I serve here, I do not believe I will ever be cynical enough to keep up with official Washington and this notion that you can literally say or do anything in this body and in the realm of Washington politics and not be accountable for what you say or do.

Really, I ask my colleagues, what is more mean-spirited or more extreme, the majority party that wants to responsibly govern and in the process give us the first balanced budget in 25 years, reform a failed welfare system that traps too many of our people in poverty and leaves too many of our young people far behind their peers, a majority party, as we proved last week, that is absolutely committed to saving and protecting Medicare for future generations and making that fund, both Medicare part A and Medicare part B, solvent well into the next century and a party that wants to cut taxes, that wants to undo the tax increase that was imposed upon American families and American businesses by the last Congress, the Clinton Democratic tax increase?

In fact, if you look at how much the Democratic party, which was the majority party in the last Congress, increased taxes, you will know pretty much how we arrived at the figure that we want to use for providing tax relief. The two figures are roughly similar.

So what is more extreme or mean-spirited? Our approach to responsibly governing as the new majority in the Congress for 9 months or those people on the other side of the aisle who apparently are unable to accept their status as the minority party, unable to make a constructive contribution in that capacity, report to these constant scare tactics and this whole fearmongering campaign that panders really to the worst instincts in the American people, actually encourage the American people to be cynical and suspicious of their elected representatives?

I want to set the record straight, because this is a terribly important issue. It is been demagogued all over this town in recent weeks. I want to talk just for a moment about the earned income tax credit.

Mr. KINGSTON. I want the gentleman to do one thing, define earned income tax credit, because I know there are a lot of people like myself unfamiliar with this.

Mr. RIGGS. I thank the gentleman for asking that question, and I thank the gentleman for continuing to yield.

I want to point out that when we take up budget reconciliation on this floor in a couple of days, it will be Thursday of this week, that several of us intend to enter into a colloguy with the gentleman from Ohio [Mr. KASICH], chairman of the House Committee on the Budget, and the gentleman from Texas [Mr. ARCHER], chairman of the House Committee on Ways and Means, who will be managing that very important bill out here on the floor.

The purpose of the colloquy is going to be to ensure that we get language in the CONGRESSIONAL RECORD that will protect every American family. That is to say, we have worked long and hard and both chairmen, I believe, have agreed to engage in a colloquy that will assure the American people that no family will be worse off as a result of our efforts to reconcile and balance the Federal budget and almost all American families will be far better off as a result of our reducing taxes on American families through the $500 per child tax credit.

Remember, this is a tax credit that comes right off your bottom line in terms of your tax liability on your Federal tax return. For a family of four, the tax credit works out to a $1,000 per year tax break.

In fact, a couple of months ago, I was doing an editorial board back in my district, meeting with the editors of one of the daily newspapers in my district and this rather liberal assistant editor asked me, "Well, what's in it for me, this $500 per child Republican tax credit?" I said, "Do you have any small children?" And he said, "Well, as a matter of fact I have two very young children." I said, "I'll tell you what's in it for you, a $1,000 tax break for those two children each and every year until they reach the age of 18."

Mr. GUTKNECHT. It is $1,000 to them. It is not a $1,000 deduction. This is a credit.

Mr. RIGGS. That is right. It is more of their hard-earned money that they keep, that they decide how to spend.

Mr. KINGSTON. Did you tell him he did not have to take the $1,000 and buy more food and clothing? He could send it to the ACLU, the American Civil Liberties Union.

Mr. RIGGS. I did not, but I could see his eyes widen as he realized what we were talking about. I daresay that gentleman would probably object to being described or depicted as a wealthy or rich individual.

The fact of the matter, and I want to get to the earned income tax credit in just a minute, but I want to explain that most of our tax cuts or tax relief go to middle- and lower-income families. If anyone on this side of the aisle takes issue with that, I defy them, come over now and we will debate this particular issue. Because the facts bear us up.

Let me stress again that the $500 per child tax credit will eliminate Federal income taxes for those families making less than $25,000 per year in adjusted gross income. You might call those families working poor or very low-income families, and the $500 per child tax credit will completely eliminate the Federal tax liability for those families, which are roughly estimated at 4.7 million American families.

So we talk about being heartless. We are accused of being heartless on this side of the aisle. Is anyone on that side of the aisle so heartless that they will come over here now and tell the American people and tell those 4.7 million working poor, very low-income American families, that they are not entitled to the $500 per child tax credit for their dependent children? I do not think that will be the case.

Furthermore, our $500 per child tax credit means those making between $25,000 a year and $30,000 a year in adjusted gross income will have their Federal taxes cut in half. So the majority of our tax cuts go to families that, by anyone's definition, even I daresay the objective, honest definition of those on the other side of the aisle who desperately want to demagog this issue, desperately demagoguing Democrats I guess you would have to call them, they would have to acknowledge this: The great majority of our tax breaks go to low- and middle-income families.

The gentleman asked an important and pertinent question about the earned income tax credit.

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Let me just point out to him that spending on the earned income tax credit has increased 1,000 percent. You heard me right: 1,000 percent over the last 10 years, making it the single fastest-growing entitlement in the Federal Government.

When Ronald Reagan described the earned income tax credit as "the best antipoverty program ever devised," it cost $2 billion a year and gave a modest tax rebate to low-income working families with children. Sounds very much like our $500-per-child tax credit, does it not? Except, again, ours is a tax credit. You can actually keep that money. You do not have to wait for a rebate from the Federal Government.

Mr. KINGSTON. Let me speak to that for a second. Is the gentleman aware on the earned income tax credit you can prefile before you have actually earned the money?

Mr. RIGGS. Yes. That is my understanding.

Mr. KINGSTON. In January you can get the tax credit on work you have not done. Then if you do not do the work, as I understand it, there is no mechanism for collecting that money.

Mr. RIGGS. That is exactly right.

The point I wanted to make, this program has actually exploded in cost and growth. I mentioned it has grown a thousand percent over the last 10 years in real dollars. That means it has grown from $2 billion a year in spending to offset the earned income tax credit to $20 billion a year. It gives a large cash rebate to people who do not even have kids.

So we want to target our tax relief to families. We want to strengthen the American family. The question is not about, you know, it is not the good old class warfare politics, the politics of envy. It is not about where we establish that income threshold, although that is, you know, as to where to cap the $500-per-child tax credit, even though that is a matter of ongoing discussions between the House and the Senate. The real issue is kids and families, and that is where we want to emphasize our efforts at tax relief, and as the gentleman from Georgia points out, the earned income tax credit is a program which today is riddled with fraud and has error rates that far outstrip those benefits.

Mr. KINGSTON. I wanted to say one other thing about this. You know, we have this frank privilege, the franking privilege, which is a fancy way of saying Members of Congress get free postage by signing their name where the stamp would be. Not long ago I saw a flier that was a franked mailing of one of our colleagues, and it looked like a lottery. It looked like Readers' Digest sweepstakes. It said in bold print, "The government has some of your money. Call us. Come get your check now."

I looked it over. I mean it really looked like a Readers' Digest sweepstake. What the Member of Congress, with taxpayers' dollars, was sending out was a franked piece saying, "Come get your earned income tax credit. Come get it right now. It is free money". And it was franked to every single person in his district.

Mr. RIGGS. If the gentleman would yield again, I happened to see that. I believe actually that was a recommended ploy in the last Congress, let us be honest about it.

Mr. KINGSTON. So why would you want to give away that? You know, hey, you see me; you are giving out money. I mean, of course, it would not be my money, and it certainly would not be money of a Member of Congress. They way this was, is, "I am going to get you your money." And you talk about appealing to the basest instincts of people. It was just a horrifying flier. But to think that that was sent out at taxpayers' money just is disgusting.

Mr. RIGGS. The gentleman makes a crucial point because I will be happy to point out, as I will be happy to debate with our colleagues on the other side of the aisle, we actually propose to increase spending in its 7-year House-Senate balanced budget plan, what is now going to be incorporated into the budget reconciliation plan. We propose to increase spending on Medicare, Medicaid, welfare, the earned income tax credit. But we are reducing the size of those programs because at the same time we are trying to help people who have traditionally been dependent, in many cases, for several families, going back several generations. We are trying to help people make the transition from government dependency to independence and self-sufficiency, and, yes, we are looking long and hard at all Federal taxpayers, which subsidize dependency, but the fact of the matter is we are increasing spending. I want to make sure the American people, seeing us tonight, understand clearly that in the last Congress when the Democratic Party controlled both Houses of the Congress, and obviously we had a Democratic President and a Democratic administration, they raised taxes by $258 billion, the largest tax increase in history.

Actually, the President tried to raise taxes even more. He originally proposed $359 billion in new taxes. So it is not quite true that he had to actually increase the amount of new taxes because of the ability to get any Republican votes on this side of the aisle. The reality is he proposed a much higher figure in new taxes, $359 billion, as I say, then came back down to $258 billion in new taxes.

Our tax relief package, as it is currently crafted right now, is $245 billion in tax relief. And why? Because none of us, in fact, probably no one on that side of the aisle has ever had a constituent come up to them at a town hall meeting or, for that matter, any other public appearance, and say, "You know, Congressman, I'd really like to pay more taxes. I really believe we are an undertaxed society." That is obviously not the case. We have 42 percent of our $6 trillion gross domestic product going to taxing authorities of one kind or another, local, State, Federal. We are trying to provide a little tax relief, again especially targeted to families.

Mr. KINGSTON. Last week, the President said he went too high, and he is now on record saying he raised taxes too much. So, you know, hopefully we have got an ally.

Mr. GUTKNECHT. I think I have that quote. That was a week ago tonight down in Texas. He said, "I think I raised your taxes too much," and, you know, that said it all. We agree. There are two questions we talk about taxes that I think are so critically important that do not get asked very much in this town. The first question is: Whose money is it in the first place? The second question, more importantly: Who can spend it more efficiently? I think the average American family knows the greatest health and welfare system ever created is the American family, and what we are really trying to do is strengthen families, improve the economy, create more jobs, so more people can be self-reliant. The real answer is not more welfare checks. The real answer is more payroll checks. That is what we want.

I am delighted to have the gentleman from Arizona [Mr. SHADEGG], a fellow freshman of mine, to join us, and I yield to the gentleman. We are talking about budget reconciliation, balancing the budget and related matters.

Mr. SHADEGG. I am thrilled to be with you tonight. I appreciate this opportunity.

First let me commend you and your colleagues here on the floor for carrying on this debate, talking out in front of the American people about this issue, particularly about the issue of tax cuts.

I have got to tell you I am here tonight to discuss that issue. I am here because I think it is a critical part of reconciliation. It is a hot debate before the American people.

I want to begin by imploring our colleagues to just stop in their tracks for a minute and consider a few of the facts that are before us, and then I want to urge them to do what I did, which is to quit accepting kind of the public view that they have in their own mind without checking it out and go out and ask people.

Let me explain what I mean by that. First of all, I heard here on the floor of this House and in the halls of Congress over and over again this rhetoric, "Well, we have to focus on deficit reduction. We should not be cutting taxes right now." You hear it clearly from the other side. You hear it occasionally from our side, Members genuinely concerned about should we be cutting taxes right now.

I have had a theory about that. I went home recently and went to an event in my district, an evening event. After the event was over, two different people came up to me, one a woman in probably her late seventies, the other a man in is sixties, and both of them came up to me and implored me not to cut taxes. They said, "You should not be cutting taxes. What you ought to be doing is focusing on deficit reduction."

I looked them right in the eye. I said, "You know what, I really appreciate that. I appreciate that because what you are saying is what you honestly believe. But let me tell you, you are dead, absolutely, 100 percent wrong."

When you say that to constituents, you get a little shocked reaction. They said, "Well, why?" I said, "Well, let me tell you why you are saying that and where we are in America. Let us start with the fact we have all heard 100 times," and I said probably a thousand times in my campaign, I was born in 1949. The year after I was born, in 1950, the average American family with children paid $1 to the Federal Government in taxes out of every 50 it earned. You earn a hundred-dollar bill, you send $2 to the Federal Government.

You know and I know, but I wonder how many people out there know and how many of our colleagues even think about the fact that in 1993, the figure is not 1 out of 50, it is 1 out of 4. Earn $4 and send 1 of those 4 to the Federal Government in taxes. We are not talking State Government. We are not talking local government. We are not talking fees to get into a park. We are talking taxes to the Federal Government. 1 out of 4; 1 out of 50 in 1950, 1 out of 4 in 1993. I tell audiences, "Have you gotten that much more out of the Federal Government for this mega tax increase we have had over the years?" And they are suddenly stunned, as these two constituents were.

Then I have this theory, and I have been telling it to our colleagues around here time and time again, and they kind of do not buy it. So I decided to prove it. My theory was we are hearing from people who come to our town halls, and we are hearing from people at Kiwanis Clubs and Rotary Clubs, where we go give speeches. Let me tell you, I love this Nation, and I admire the people that come to my town halls, and I respect the people who join a Kiwanis Club and care to go and make their part of making America better by being a member of a Kiwanis Club. But real America does not have time to come to my town hall. They do not. Real America does not even have time or the money to join a Kiwanis Club or a Rotary Club. It is a financial burden.

It costs my friends who are Kiwanis Club members $20 or $30 a week to go be part of that club, pay for lunch, take time out of work and support charitable things that club does. That is not America.

Mr. RIGGS. And be fined.

Mr. SHADEGG. And be fined. They get fined for whatever they do because that supports the club and they are helping society and they are helping charities in their community. You know what, that is not America.

Real America struggles to get their kids out of bed in the morning and get them dressed and get some Cheerios in them and get them off to school. Then they rush out the door to get to work. They struggle through their 8 hours of work or maybe 9 or 10 and maybe a second part-time job, then back home, pick up the kids from school or day care. You know what they have got to do, get the kids back home, take care of Little League, a couple different things. They have got to do their homework, get them back to bed and do it again.

They are not at JOHN SHADEGG's town halls. They are not at the townhalls of the gentleman from Minnesota [Mr. GUTKNECHT]. They are struggling to get by. Those people are not saying, "I am undertaxed." You said it right.

But you know what, we do not hear from them. We all go out and say, "Well, my constituents say, 'Don't cut my taxes, take care of the deficit. I am a big charitable person.'" They are right, we do have to take care of the deficit. That is for our children and our grandchildren.

But you know what we have to do today, we have to cut taxes because the burden is oppressive. I have been saying that whole thing about the people at town halls and Kiwanis Clubs are not real America around here for 3 months or maybe more. I finally said, you know what, with my colleagues saying, "You are wrong, SHADEGG. They are real people." I said I am going to test this. You know where I was at 2 o'clock yesterday afternoon? I grabbed one of my staffers. I said, "We are going out." I called last Friday, told my scheduler to put time on my calendar. We went last Friday. We went to an ABCO, a grocery store in my district, we went to a Walgreen's, a drug store in my district on the east side of my district. The east side of my district is a pretty good side of the district. They have some money. They are comfortable with life. They are doing all right. I started asking, "We have got this debate going on." I stood in one corner and he stood on the other and in front of a different store. We talked to them. We stopped everybody who would talk to us. We asked, "We have got this debate going on in Washington. Do you think we should be focused just on deficit reduction, this huge deficit we have that does bear on our children and grandchildren, or do you think we ought to also be doing tax cuts?" Well, on the east side of my district, kind of an even split, although somewhat favoring tax cuts. Interesting, these people said, "I need tax relief."

As a matter of act, I did some verbatims from them. We took down notes on what they said. One lady said, "Tax cuts are always good for people." Another one said, "The average person is paying too much in taxes, but I don't think we will ever see a tax cut."

So you know what we did after the first half-hour or 45 minutes at that location? We drove across to the west side of my district. Now you are in a more working-class society. You are in America. You are where people are struggling to get out of bed and pay their bills, and the numbers were dramatic. In front of the store where I stood, 11-to-1 was ratio; for 12 people I talked to, 11 said, "I need tax relief."

□ 2045

You talk about our friends on the other side of the aisle talking about tax cuts for the rich. This is not a tax cut for the rich. This is a tax cut for Mr. and Mrs. America who just got slapped with a tax increase by Bill Clinton. You know what he said? He looked the American people in the eye, just like I am looking you in the eye, JACK, and he said "We need a middle class tax cut." And you know what? He broke his word. And you know who is paying for it? Those people I was talking to on the working class side of my district, where they are struggling to get their kids out of bed in the morning, get them fed, get them to school, get them home and get their homework done, and get back to work again tomorrow. 11 to 1 they said we need a tax cut.

My staffer across the aisle, in front of a MegaFoods, as a matter of fact, that is a kind of get-groceries-cheap, those people are hurting, 17 to 1 was the ratio in front of that store.

Overall, we talked to 55 different individual people. Of that 55, 8 said they ought to be looking just at, said you and I and our colleagues watching tonight, ought to be looking at deficit reduction. 32 of the 55 said they wanted deficit reduction and tax cuts. 13 of the 55 said "I need a tax cut. I do not know about the deficit. I know I am going under."

Let me read you one of those quotes. "I pay taxes on everything. I just barely scrape by as it is. I need a tax break."

The bottom line, the number was out of 55 respondents, 45, or 82 percent, said they needed a tax cut, either as part of deficit reduction or as a part of just lowering the burden on them. Why? Because they cannot bear the burden any longer. They are not undertaxed.

You said, FRANK, not many of them come up to us and say "I am undertaxed." You know, the truth is, a great philosopher once said America is great only because America is good. If America ever ceased to be good, it will cease to be great.

America is good, and the average taxpayer does not want to walk up to you and say "I need a tax cut," because he cares about the other people in society who are not doing quite as well as he is. But you know what? For him bucking up and not coming to us and saying "I need a tax cut," in his heart of hearts he is struggling to get through, and we are making him pay bills for all kinds of things for which there is no justification.

I cannot tell you how many people in that conversation came up to me and said "Well, I pay my taxes, and I am not too worried about it, but, boy, I hate the way you guys spend it."

They hate the way we spend it. They do not have faith any longer. We have said as a party, and I am going to get partisan, for a long time we have said that the Federal Government is too big and it taxes too much and it spends too much. Before we do tax cuts, we have been doing something about cutting spending. And that is part of what we believe in.

But you know what? We told them for 40 years we also believed they were overtaxed. Now it is time to prove it. And that side of the aisle that said these are tax cuts for the rich, they are dead wrong. They are tax cuts for middle Americans who need it, but who cares so much about their brothers and sisters, they ain't raising it.

Mr. KINGSTON. If the gentleman will yield, let me say this: After the Reagan tax cuts in 1982, the revenues were $500 billion. At the end of 10 years, they were over $1 trillion, with 18 million new jobs.

Mr. SHADEGG. Revenues will grow.

Mr. KINGSTON. Give money to the people, they buy more; when they do, goods and services, demand goes up, small businesses have to expand, jobs are created, more revenue goes in. So, frankly, if I was a dictator and did not care about the people, I would have a low tax rate just to keep the economy going.

Mr. SHADEGG. Mr. Speaker, I implore my colleagues, if you are in doubt about this vote two days from now, do what I did: Call a staffer back in your district, if you cannot get home, and do what I did. Go stand in front of a grocery store, go stand in front of a K-mart, or have a staffer do it, and ask them. And they will tell you, if you let them open up to you, they are overtaxed and they need a break. This is the right thing to do for America and for the American people and the American taxpayer.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for organizing this special order and look forward to joining him again on the floor over the next couple days. I would just point out, our budget reconciliation balanced budget plan clearly shows we are going to keep our promise to the American people to balance the Federal budget for the first time in 25 years, without touching Social Security and while providing the American people with much needed tax relief.

Mr. GUTKNECHT. I would just close with a quote from Governors Weld, Engler, Thompson and Christine Todd Wittman, a letter they sent to Speaker GINGRICH on March 31 of this year. "As governor, we have all cut taxes. At the same time we have balanced our budget. We have not accepted the false dichotomy that claims governments at the State or Federal level can only balance their budgets or cut taxes but not both. There is no reason Washington cannot walk and chew gum at the same time, too."

We can balance the budget, if we are willing to limit the growth in entitlements, if we are willing cut discretionary domestic spending, as we have, by $44 billion this year. We eliminate over 300 departments and programs. And if we are willing to have a flexible freeze in the Defense Department, we can give tax relief to families and we can balance the budget, and the real winners will not be the rich. The real winners will be those blue collar folks out there, who get up every day, who do the work, who pay the bills. They are the glue, they are the mortar that hold the bricks of this society together. And they are going to be the big winners, because there will be more jobs, more income, lower interest rates and less debt only to them and their kids.

I think we can all be winners. I do agree, I hope more Members on the other side will join us in this historic vote for the first time where Congress is going to balance its budget and we are going to give tax relief to families and make it easier for businesses to grow and invest and create more jobs.

I want to thank you all for joining me tonight. This has been a great special order. I think this is going to be a very historic week for the American people.

ANNIVERSARY OF THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr.OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I would like to begin on a note of agreement tonight. The previous speakers have talked about the great need for the American middle class, and I will include the working class, to have a tax cut. They are 100 percent right. We need a tax cut for families and individuals. The way to get the tax cut for families and individuals, and at the same time not increase the deficit and balance the budget, all in one, is to take a look at this chart, the discrepancies here, why the taxes have greatly increased on individuals since 1943 and greatly decreased on corporations.

The red is the corporation, the blue is families and individuals. In 1943, corporations were paying 39.8 percent of the total tax burden, 39.8 percent, while individuals and families were paying 27.1 percent. Now, in 1995, individuals and families are paying 43.7 percent, and corporation are paying 11.2 percent. At one point it went haywire and it was even a worse ratio. Individuals and families were paying 48.1 percent in 1983 under Ronald Reagan and corporations went down as low as 6.2 percent.

I would like to begin on a note of agreement, that the gentlemen who were here before exclaiming that we need a tax cut, I agree, we need a tax cut for families and for individuals. You can have that tax cut and still balance the budget if you will deal with this inequity. The corporations should be paying a greater percentage of the overall tax burden. We should get rid of corporate welfare. The loopholes, a recent study shows that if the cuts you made on individuals and poor people, the percentage cut that was made in the Republican budget, if that same percentage cut was applied to corporations, corporations would be losing $124 billion over a 7-year period, if it were just equal in the application of the cuts and you cut corporate welfare as much as you cut low income programs.

I hope we will bear in mind that Democrats and Republicans should agree that families and individuals are due for a tax cut. They should have it, and they can have it, and you can have it without increasing the deficit and you can have it even with a balanced budget. We do not have to rush the balanced budget in 7 years; we can do it in 10 years and not make devastating draconian cuts. Just balance the tax burden and you can balanced the budget and do it without a deficit.

I agree with my colleagues, every American family ought to be angry at this kind of ratio, where the swindle has taken place, corporations have gone down, down, down in their portion of the tax burden, while individuals have gone up.

It is appropriate that we begin this discussion, I think, on the day where we are, I hope, celebrating, I will use the word celebrating, the anniversary of the institution of the first minimum wage law. Today, 57 years ago, the first minimum wage law was passed. Twenty-five cents per hour was set as the minimum wage, the first passed in this Nation. Today we have gone from 25 cents an hour to $4.25 an hour, and according to leading economists, including Nobel Prize winning economists, we are in worse shape in terms of the relative value, the purchasing power of that $4.25 an hour. It is down almost as low as it was, or lower, than it was in 1955. The purchasing power is at an all-time low. It is time to increase the minimum wage.

If you want to help working class families, then one of the first things we should do is increase the minimum wage, because even under the minimum wage, a family wage earner, working full-time, a 40-hour week, will earn less than $9,000. A family of four needs about $14,000 in this Nation not to plunge into poverty. But if you earn every working day of the year, earn the minimum wage, you will be way below that $14,000. So there are a number of problems that would be solved if we were just to move forward with an increase in the minimum wage.

There are reasons why that is not a bipartisan policy anymore, and we are going to talk about that.

I will be joined today by a number of my colleagues. We are going to talk about the anniversary of the minimum wage and the implications of it, where does it fit into the whole scheme of the budget reconciliation, into the whole insistence we must have a tax cut at the same time. Are we going to make draconian cuts in Medicare and Medicaid and cut school lunches? Where does it all fit in here? Where does it fit with welfare reform where they say people should go to work?

One Governor was recently quoted and saying people do not need job training, they need alarm clocks. Get them up and there is work out there. There is very little work out there in some places. An article in the New York Times today on the front page talks about the great Michigan experiment where the Governor of Michigan proclaimed he solved the welfare problem and put people to work. What they found is people have been put to work and remained on welfare because they are going to work making minimum wage and not making enough to live on. They still need help from the government. So you are going to replace a long cycle of people being on welfare who were not working with a new kind of person who is working and also on welfare, because the minimum wage is not high enough to allow them to take care of a family and meet basic needs.

Joining me immediately is my colleague on the Committee on Economic and Educational Opportunities. She knows quite a bit about all this. She has been on welfare and knows all about the minimum wage, and I am proud to have her join me today, the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I would like to compliment my colleague from New York for having this special order tonight on the anniversary of the minimum wage.

Mr. Speaker, 28 years ago I was a single, working mother with three small children receiving no child support and earning minimum wage. Even though I was working, I was earning so little, I was forced to go on welfare to provide my children with the child care; health care; and food they needed. Even though I was educated and had good job skills, I still wasn't making enough to fully support my kids.

My story bears repeating tonight, because too many families today are in the same predicament I was in 28 years ago. If this Congress is truly serious about reducing dependence on welfare, then let's increase the minimum wage and pay working parents enough to support their families and take care of their kids.

The minimum wage has not kept up with increases in the cost-of-living. Workers these days can put in a full day of work, 40 hours a week, at minimum wage and still live below the poverty line. The new majority in Congress wants to cut the earned income tax credit; kick single moms and their children off welfare; and reduce health benefits for low-income families, but they won't even hold a hearing on increasing the minimum wage.

If we want to reduce reliance on public assistance, doesn't it make sense to make work pay? Shouldn't entry level jobs pay more than public subsidies? Doesn't that make sense?

In addition to making good sense, a minimum wage increase is also a matter of basic fairness for millions of working Americans. In 1960, the average pay for CEO's of the largest U.S. corporations was 12 times greater than the average wage of a factory worker. Today, those CEO's receive salaries and compensation worth more than 135 times those, wages and benefits, of the average employee at the same corporation. That's not fair.

And it's not fair that 80 percent of minimum wage employees are women. It's not fair that from 1973 to 1993, real income for working men with high school diplomas dropped by 30 percent.

It's not as if businesses aren't doing well. Private business productivity has been increasing and profits are up. But wages are stagnant—there's something unfair and wrong with this picture.

Isn't it time to let American workers share the fruits of their labor?

Speaker GINGRICH and his allies say they support traditional American values. Well, let's return to the traditional American value of paying an honest wage for an honest day's work. Let's raise the minimum wage.

□ 2100

Mr. OWENS. Mr. Speaker, I thank the gentlewoman from California [Mrs. WOOLSEY], and reclaiming my time, I would like to note at this point that another of my colleagues intended to be here but could not make it. The gentleman from Puerto Rico CARLOS ROMERO-BARCELÓ, another Member of the Committee on Economic and Educational Opportunities, also would like to submit his statement for the RECORD.

Mr. Speaker, I think we should understand the difficulty with the minimum wage and the ability to achieve a bipartisan consensus on taking this very simple step that has been proposed. We are proposing we increase the minimum wage by a mere 90 cents over a 2-year period in a two-step operation. We want to increase it by 45 cents one year and 45 cents another year. A mere 90 cents increase. We will still be behind the inflation curve but that very meager effort is being opposed by the Republican majority in this House.

A statement has been made by the Republican majority that they will not entertain even 1 cent, even a 1 cent increase in the minimum wage. The Committee on Economic and Educational Opportunities, as pointed out before by my colleague from California, will not hold hearings to even discuss the matter of raising the minimum wage.

Mr. Speaker, what is the problem? Let us go back to the chart. These simple bars tell a great story about what is happening in America. These simple bars here tell a greater story about how power is being used to shape the American economy and to keep a large percentage of Americans in poverty and another large group of Americans in a state of perpetual insecurity. This is a story of greed and power. A story of greed and power.

The power resides in the corporations. Corporations are able to manipulate economy. Corporations are able to manipulate contributions to Congressmen and all other levels of political officials. Corporations are able to lobby endlessly and get a swindle situation like the one we see here, where in 1943 corporations were paying 39.8 percent of the taxes, and in 1983 it went down as low as 6.2 percent under Ronald Reagan's regime, and in 1995 we still have a situation where they are only paying 11.2 percent while individuals and families are paying 43.7 percent.

The power of the corporation is such that the corporations have sent down an edict as powerful as any totalitarian dictator that we do not want the minimum wage increased. Corporate power has said that, and the servants of corporate power, the Republican majority in this House, have said we will not entertain an increase in the minimum wage by even 1 cent.

Mr. Speaker, they want to have the lowest possible wage rates. They want to have a class of people that are paid the lowest amount of moneys in order to be competitive with the global marketplace. They want to have our workers slowly be pushed down to the level of the poorest people in Bangladesh or down to the level of the prisoners in China. Prisoners in China are forced to work for almost nothing. At least Bangladesh people get some kind of wages. They want that kind of condition.

They want the Mexican phenomenon to begin to operate here, where we begin to measure our wage rates against the wage rates across the board order in Mexico. And right away, every time we talk about wage increases, they say, well, we are getting further and further away from being able to be competitive with the Mexican labor market.

Today is the 57th anniversary of the date the minimum wage first took effect in this country. On October 24, 1938. I was only 2 years old. American employees were first guaranteed a minimum wage of 25 cents an hour to protect them from exploitation and ensure that their work would be fairly compensated.

Six years ago President Bush signed into law the last increase in the minimum wage. That increase was 90 cents over 2 years and enjoyed a broad bipartisan support in the Congress. The vote in this House of Representatives was 382 to 37. Only 37 Members of the House of Representatives voted against that increase in the minimum wage which took place under the Bush administration just 6 years ago. I was here. I remember that very well.

This year the real value of the minimum wage is at its lowest level since the early 1950's. While an increase in the minimum wage is clearly long overdue, and although we have a proposal from President Clinton to increase the minimum wage to $5.15 per hour over a 2-year period, there is no sign of that bipartisan effort that characterized the last increase.

The proposal has languished here in Congress while the leadership has refused to even schedule hearings. In fact, even the Committee on Economic and Educational Opportunities, which has jurisdiction over the bill, will not hold a hearing on the issue. How times have changed. How times have changed from the date when only 37 Members of the House of Representatives voted against an increase in the minimum wage to a time now where only a little more than half the Democrats in the House of Representatives are cosponsors of the minimum wage increase bill.

There is a bill, Mr. Speaker, and the primary sponsor is the Minority Leader, Mr. GEPHARDT. The President has endorsed the bill, yet only a little more than half the Democrats in the House of Representatives have signed onto that bill as cosponsors. Is it any wonder that the Republicans who are in the majority treat the effort with contempt if we cannot get most of the Democrats in the House to get on board.

If ever there was a clear issue which defined the differences between the two parties it ought to be an increase in the minimum wage. What is wrong with the Democrats who propose to represent the working people? Why can we not unite and fight for an increase in the minimum wage?

A chief argument against raising the minimum wage among both economists and some politicians, Democrats as well as Republicans, is the fear of job losses. The threat is that employers will dismiss thousands of workers on the grounds they lack the skills to be worth more than the minimum wage. Nearly all of these estimates of job losses have shrunk as the research has taken place.

Every time we have increased the minimum wage this argument has been made that we are going to decrease the number of jobs available because the employers will choose to employ fewer people. Every time that argument is made there have been studies done, and studies on top of studies, and they all conclude that it does not happen. There is a need for workers out there and they do not get thrown aside or laid off as a result of increases in the minimum wage.

Mr. Speaker, earlier this month 101 eminent economists effectively challenged this theory. These are economists whose lives it is to study the economy, all aspects of it, including minimum wage. They issued a strong and unprecedented call for an increase in the Federal minimum wage to help raise the living standards of families who rely on incomes of low-wage workers. These diverse and respected economists, including three recipients of the Nobel Prize in economics, and seven past presidents of the American Economics Association, endorsed President Clinton's proposed two-step 90-cent increase in the minimum wage.

Mr. Speaker, these economists noted that recent studies found that the last several increases in the minimum wage had "Negligible or small" effects on employment. A Nobel Prize laureate Robert Solow has said, "The fact that the evidence on job loss is weak suggests that the impact on jobs is small."

However, for some reason the leadership in this Congress seems obsessed with gutting the wages of hard working Americans. American citizens should ask their Congressmen, ask their Congressmen why he disagrees with 100 of the leading economists in the country. Why he disagrees with Nobel Prize winning economists that we need a minimum wage increase in this country. They should ask their Congressman. He may be a Democrat. Ask him, too.

Mr. Speaker, we have seen the Republican leadership attempt to destroy wages in other ways. In the construction industry they are seeking to repeal the Davis-Bacon Act. The Davis-Bacon Act requires that all jobs that are federally funded construction jobs must have a situation where the prevailing wages in that area are paid. I have looked very closely at what that means and I find in many States the prevailing wage level is quite low, and yet there is this tremendous drive to destroy the Davis-Bacon Act and not allow it to pay the prevailing wages in a given area.

There have been some efforts now to compromise that. People who wanted to destroy Davis-Bacon are willing to reconsider. After all, Davis-Bacon was primarily a Republican conceived act, both Davis and Bacon were Republicans. This is an act which very much helps middle class people. The people who are in those jobs in construction are middle class people. When they can find the jobs and are paid, they end up being a part of our basic middle class. So we have begun to get some kind of compromise on the Davis-Bacon Act.

The same people are insisting that the companion act, the Service Contract Act, which says that in situations where the Federal Government is involved, janitors and other service employees of that kind, also must be paid prevailing wages. Efforts are still underway to destroy the wages that are undergirded and supported by the Service Contract Act. Janitors and other service employees of that kind are involved here. Janitors at Federal facilities, who are working full time, are often paid wages which are below the poverty level. Working for Federal facilities they are paid wages below the poverty level. Yet the Republican leadership in this Congress believes that janitors are making too much money as a result of the Service Contract Act.

Who cares about working people? Who cares about families? They talk about $500 per child tax credit. Are they really sincere if they will not provide a decent wage for the average working person out there and allow them to earn enough money to be able to qualify for that tax credit? Most of them will file taxes but will not be able to get a tax credit because they are making such small amounts of money on minimum wage, less than $9,000 for a family of four. They will not have to pay any taxes. They will not be able to take advantage of a tax credit.

Mr. Speaker, let us bring all the people up as far as possible through the long-term, time honored device of paying a decent wage.

☐ 2115

Let us make work pay. We have just destroyed much of the welfare program. We have just taken away the entitlement for young children. Poor children, since the beginning of the New Deal, have been guaranteed that if their family qualifies, if they are really poor, if they are means tested and found to be really poor, they qualify for Aid to Families with Dependent Children.

That is an entitlement. It is a right. Everybody who meets it is supposed to get it. They get it at different levels in different States, but the States do it and the Federal Government stands behind them. No matter how much money is needed in a given year, the Federal Government will make certain that the money is available, because it is an entitlement.

That entitlement for poor children has been taken away. There is still an entitlement, by the way. Social Security provides an entitlement for the children of deceased members of Social Security. People who were enrolled in Social Security, their children are eligible if they should die, and they are eligible at much higher rates.

Fortunately, the Social Security Act does provide a more humane face and it provides it even without a means test. Let us not let them destroy the Social Security provision which takes care of orphans; yet, it is gone for those who are not fortunate enough to be covered by Social Security.

In another demonstration of their utter disdain for working people, the Republican reconciliation bill proposes to obliterate, greatly reduce, the earned income tax credit. The earned income tax credit provides much-needed tax relief for working families, those working poor.

Here is where some of the people earning those minimum wages are given some benefits and some incentives by their government to keep working. If you are earning minimum wage, and you have a family of four, or even a family of three, under present qualifications even no children under some circumstances, you are able to collect additional money as a result of your having earned money. The earned income tax credit rewards those who are working.

It is a small amount of money, but it is important and it adds up to quite a bit proportionately when you are poor. But now the Republicans will not stand for that. Do not reward the working poor. Do not be consistent.

They say they want to help families. We have heard long speeches tonight about helping families by providing a $500 tax credit. Why are they providing a $500 tax credit for those who are earning enough money to be able to qualify for a tax credit, while they refuse to provide help for those who are much poorer, but also working and in a lower bracket, needing some help through the earned income tax credit? Why are they getting rid of the earned income tax credit and providing a tax credit for people at a higher level?

I am not against a tax credit for people with children at a higher level. That is one of those tax cuts that ought to be given. When we get at much higher levels and we are dealing with capital gains being treated as if capital gains were some kind of privilege, versus wages, we have a higher rate of taxes on wages, people's sweat that go to work every day. The amount of money they earn through wages is very low and we tax those at a higher rate than capital gains, where nobody sweats. They are gains made on investments.

Why should capital gains be in a different category? And when you put capital gains on the table, we are rewarding the richest people. Who owns the property? Five percent of the people in America own 90 percent of the wealth in this country. So capital gains rewards that 5 percent, or the top 20 percent.

The tax decrease that is being proposed by the Republican majority is a tax decrease for the rich. We need a tax decrease. Families and individuals, rich or poor, deserve a better break than they have been getting under this construct here where corporations have been allowed to get off the hook, not bear their share of the burden, in order to pay for the fact that they are paying so little.

This was done under the Democrats. We cannot blame the Republicans solely for this. Ronald Reagan, with his trickle-down economics, accelerated it. It got to the worst point under Ronald Reagan in 1983, when corporations went as low as 6.2 percent of the tax burden.

And notice, as the corporations dropped low, individuals have to make up the difference. Always the individual taxes rise when the corporations' taxes drop. The highest points of individual and family taxes was 48.1 percent in 1983, at the same time that the corporations reached their lowest point of 6.2 percent.

This is where the deficit started too. A combination of the 6.2 percent and the 48.1 percent was not great enough to pay for the Government's expenses, so we were borrowing more money. Here is where the deficit started under Ronald Reagan where the deficit leaped geometrically in terms of its increase, and the problem we are trying to correct with the deficit-reduction policies now took off with a vengeance following this kind of situation where corporations were allowed to swindle the American people.

This swindle should not be allowed to go on. Here is the atmosphere that dictates that there shall be no increase in the minimum wage. These corporations in 1995 are making higher profits than ever before. They are booming. Technology, science, the peace of the world that all of us helped to make. The peace of the world that young men went off and died for in Vietnam and Korea, on the Normandy beaches. Everybody contributed to what is happening in the world today.

The technology and the science that American taxpayers paid for, a large base of it was paid for in Government research and military research, radar, computerization, a number of things that are really driving this economy and allowing corporations to make great amounts of money.

All of that is being taken advantage of by the corporate sector and they are not sharing it. The taxes are still too high for individuals and families. At the same time, these corporations are laying off people and not only will they refuse to pay an increase in the minimum wage, those who have jobs are less and less secure.

I grew up in a family which was very poor. My father, I think he was a genius but he only had a sixth grade education. I think he was a genius, because with his sixth grade education, any problem that I took home in my math book, those word problems that most kids could not work in school, my father never failed to solve those problems.

He did that until I reached algebra, where the X's and the Y's confused him. He could not deal with that. The basic intelligence was there. My father was very intelligent. My father was hard-working. He was a heavy drinker of Coca-Colas and RC Colas and Dr. Peppers. That is all he drank; nothing stronger.

My father always had a garden, no matter where we lived. Memphis was a big city, a big city in the South, there are always places where we could have a garden and he always grew things. But my father never made anything more than the minimum wage. There was never a time when he was working that he made more than the minimum wage.

The minimum wage was quite low at that time, but we were happy with the minimum wage as long as he had a job. Our fear was always that he was going to get laid off. We were struggling to make do on the minimum wage. My mother, who was smarter than my father, my mother knew the price of pinto beans in those little packages, and the northern beans, neck bones and spaghetti on Sundays. She could take a budget, a minimum wage budget, and feed us effectively.

I never went hungry when my father had a job. But there were oftentimes that he was laid off at the factory. Oftentimes. And there were times when they were on strike, and those were times we feared. The minimum wage, as low as it was, was a Godsend. We had security as long as he had the job. We could survive on the minimum wage.

But so many Americans right now who are earning above the minimum wage, as a result of this corporate greed atmosphere, the corporate greed era that we are in now, they are insecure about how long they are going to keep their jobs. Many of them were making much higher hourly wages and have been forced to take less. Many of them are changing jobs and are forced to start a whole new career as a result of the kinds of dislocations taking place in this era where the corporations are driving the economy, and they are doing it in a spirit of greed. Far more extreme measures are being taken than need to be taken.

The case for increasing the minimum wage is abundantly clear within this situation. It is a tiny step. It is a microactivity that would help individuals and families a great deal, but there will be no great dislocation in the economy. The case for increasing the minimum wage is abundantly clear and the overwhelming majority of Americans agree.

This is not something that the economists, the Nobel prize winners only understand. It is a general, common sense understanding. The minimum wage that was increased 6 years ago, as inflation as moved on and costs have increased, is obsolete and the purchasing power is far less than it was in 1955.

We need an increase. Eighty percent of the American people support an increase in the minimum wage. It is said that politicians are always responsive to their constituencies. Well, here is where the corporate dictators have said, "No, we do not want an increase," and the Republicans in the majority here, and a large number of Democrats also, are saying, "We will listen to the corporate dictators. We will not listen to the American people, our constituency."

Eighty percent of the people support an increase in the minimum wage. That is a sizable portion of the people in every congressional district who support an increase in the minimum wage. We heard a lot of talk on the House floor about surveys that have been done about taxes. Why not ask the American people and the people in your district what they think of the minimum wage. Should we increase it by a mere 45 cents this year and 45 cents a year later? Ninety cents? Why not ask the question of your constituents and hear what they have to say, Members of Congress and Members of the Senate. Ask the question and listen to the American people.

Opinion polls tell us that 80 percent of the people want an increase in the minimum wage. The people recognize that there is something wrong when a full-time worker making the minimum wage earns $8,500, far below the poverty level for a family of four, which as I said before is $14,754.

Consider these facts: The average minimum wage earner brings in at least half of the family's income. One-third of minimum wage earners are the sole breadwinners in their families. Over 4 million American workers are paid the minimum wage at this point. There is some notion of: Who works for the minimum wage anymore? That is too low. Over 4 million American workers are still working for the minimum wage, as low as it is.

No union goes out to bargain for the minimum wage, of course. They are far above minimum wage. But the minimum wage is a bargaining tool for all levels of workers. Because when you have that as a floor, it allows the bargaining process to move upwards. As long as the minimum wage is stagnant, all other wages are going to be stagnant too, and they are.

Two-thirds of the minimum wage earners are adults. There is this notion that only kids are earning minimum wage, and who cares whether kids earn 90 cents an hour more or not? What difference does it make? They are kids. They are in a family where somebody else is the breadwinner or head of the household. Let us not pay kids minimum wage.

Two out of three minimum wage earners are adults. Almost three-fifths of the minimum wage earners are women, including many women who are the heads of their households, single parents.

The minimum wage was originally enacted to help provide workers with a fair day's pay for a fair day's work. In today's economy, $8,500 a year falls way short of the mark of providing a fair day's work for a fair day's pay, or a fair year's work for a fair year's pay.

☐ 2130

We have proposed an increase from $4.25 to $5.15. Like the adjustment to the minimum wage enacted 6 years ago, this 90-cent increase is phased in over a 2-year period.

Contrary to claims of opponents, most economists agree that a modest increase such as this will have no significant effect on job creation. This is an issue of simple fairness. Workers deserve to be compensated for their efforts. Everybody deserves to be compensated for their effort at a reasonable level. Why can we not pay workers a mere $5.15 an hour?

In this corporate era, the corporations dictate what happens in the economy. They dictate who wins and who loses. The corporations create a situation where taxpayers are footing a disproportionate share of the tax burden. Corporations decide the policies in this Congress. They write the bills for the Republican majority.

Corporations are going along with a balanced budget scenario, but they are not going to make any sacrifices. If corporations were cut as much as the social programs, they would be contributing $124 billion over a 7-year period, would be the cuts in corporate welfare and corporate loopholes, et cetera, but that is not the case.

These same corporations have chief executive officers who make enormous salaries, some above $20 million a year, salaries and other compensation reach more than $20 million a year for the corporate chief executive officers of many corporations. So many earn more than $1 million a year that bills have been proposed.

Even the President supported at one time a bill which would limit the deduction in terms of business expenses. The salary of a chief executive would be limited in that business deduction situation when the corporate taxes are filed to no more than $1 million a year. After $1 million a year, the corporation would not be able to take the compensation for the chief executive officer off the taxes. That has, of course, not passed.

But when you compare the chief executive officers in America, in our economy, with the chief executive officers in Japan, which is a high-technology, booming economy like ours, or in Germany, another high-technology, booming economy, or most of the other industrialized nations, the compensation for chief executives is far below the compensation for chief executives in the United States.

Japanese tycoons at the head of huge corporations make as little as $300,000 a year—$300,000 to $500,000 a year is close to an average for some of the largest corporations in Japan. Even when you add in other parts of the compensation package, I assure you that they do not have anything like the compensation of the chief executive officers of American corporations.

In this economy of greed, where the corporations dictate the policies, they cannot allow a simple 90-cent increase in the minimum wage while the chief executives walk off with millions.

There is growing income inequality in this country that has been documented. Recent studies have shown that we have shifted place with Great Britain. Where the differences between the very rich and the very poor where once the greatest in Britain, now it is greatest in the United States. It if far worse in the United States than in any other place. The rich are far richer than the poor in this country for the first time in history. There is a growing income inequality.

In this atmosphere of corporate greed, after-tax profits are the highest that they have been in 25 years. But corporate America is not sharing the bounty with the average workers who help to produce it. The after-tax rate of return to capital investment in 1994 was 7.5 percent. By comparison, it averaged just 3.8 percent between 1952 and 1979. These higher profits have not been reinvested in the economy.

They claim that higher profits always lead to reinvestment. They have not been reinvested in the economy. Investment as a share of output, investment as a share of profit, has declined, instead of increased.

Nor have these higher profits been returned to workers. Since 1989, average real wages for most of the work force have either remained stagnant or declined. The hourly wage of the median male worker has declined 1 percent per year since 1989.

The gap between the wealthiest and poorest Americans is the widest it has been since the Census Bureau began collecting income statistics in 1947: 44.6 percent of U.S. income is controlled by the top 20 percent of the wealthiest American families. The bottom 20 percent earn just 4.4 percent of national income.

According to the Census Bureau, since 1980 the income of the top 20 percent of families has risen 16 percent over inflation. The income of the bottom 20 percent has fallen 7 percent below inflation in this period.

In this era where the corporations are dictating the policies here in Congress, the corporations have perpetuated a great swindle and refused to let up. They will continue to swindle. In the reconciliation bill that will be on the floor starting tomorrow, you will find nothing done to correct this great injustice.

Corporations have been cut, I understand, by about $6 billion in corporate welfare. But, in other ways, they have put back money which equals that $6 billion. So corporations will end up with a zero cut in corporate welfare after the reconciliation bill is passed in this House.

Corporations benefit greatly by all of the activities in the overall American economy. They do not just go off and make the money by themselves. There is a whole complex economy that supports them. There are the American consumers that support them. There is the Federal deposit insurance of the banks that helps to hold up the economy.

At a time when corporate leaders and banking leaders nearly wrecked the economy with the savings and loan swindle, it was the American taxpayer who had to step in to the tune of more than $300 billion to bail out the failing banks in order to keep the whole financial scheme of the economy from collapsing.

So we are all in this together when it comes to making America work. But when it comes to sharing the results of the benefits of our overall society, corporations want it all for themselves. They will not even allow a 90-cent increase in the minimum wage.

The ratio of average hourly pay of men in the top 10 percent of wage earners to those at the bottom 10 percent is 5.6 in the United States. In other words, the top 10 percent of people in our economy make 5.6 more than the bottom 10 percent. That means for every $10 that you make, the top people make almost 6 times that amount. In Germany, the ratio is only 2.7. In France the ratio is 3.2, in Japan the ratio is 2.8, in Britain the ratio is 3.4. But here in the United States the ratio of the earners at the top is 5.6, almost 6 times the earnings of the people at the bottom. Some of the highest paid chief executive officers in America are also the Nation's biggest job killers. The CEO of IBM earned $4.6 million last year. He has laid off 122,000 workers since 1992. The CEO of AT&T earned $3.5 million last year. He has laid off 83,000 workers since 1992. The CEO of General Motors earned $3.4 million last year. He has laid off 74,000 workers since 1992.

Some $122.5 billion of the Republican tax cut will go to Americans who are earning $100,000 or more. They will not help the people who need the minimum wage increase. Nearly all the Republican spending cuts are directed at the people who need the minimum wage increase. The Republican spending cuts are directed at low- and middle-income Americans, denying them access to quality health care, affordable housing and the opportunity to pursue the American dream through education.

Here is the photo, the snapshot of America, the kind of America that is now being dominated and dictated to by corporate greed.

Three Nobel Prize winners who are backing the minimum wage increase are Kenneth J. Arrow of Stanford University, Lawrence R. Klein of the University of Pennsylvania, and James Tobin of Yale. Many other former presidents of the American Economics Association also back the increase in the minimum wage.

They put out a simple statement. I will not read the entire statement. I will enter into the RECORD the statement of support for a minimum wage increase by the 100 top American economists. Along with the statement, of course, will go the actual names of those 100 economists who are responsible for this statement of support for minimum wage increase.

Mr. Speaker, the document is as follows:

STATEMENT OF SUPPORT FOR A MINIMUM WAGE INCREASE

As economists who are concerned about the erosion in the living standards of households dependent on the earnings of low-wage workers, we believe that the federal minimum wage should be increased. The reasons underlying this conclusion include:

After adjusting for inflation, the value of the minimum wage is at its second lowest annual level since 1955. The purchasing power of the minimum wage is 26 percent below its average level during the 1970s.

Since the early 1970s, the benefits of economic growth have been unevenly distributed among workers. Raising the minimum wage would help ameliorate this trend. The positive effects of the minimum wage are not felt solely by low-income households, but minimum wage workers are overrepresented in poor and moderate-income households.

In setting the value of the minimum wage, it is of course appropriate to assess potential adverse effects. On balance, however, the evidence from recent economic studies of the effects of increases in federal and state minimum wages at the end of the 1980s and in the early 1990s—as well as updates of the traditional time-series studies—suggests that the employment effects were negligible or small. Economic studies of the effects of the minimum wage on inflation suggest that a higher minimum wage would affect prices negligibly.

Most policies to boost the incomes of low-wage workers have both positive and negative features. And excessive reliance on any one policy is likely to create distortions. The minimum wage is an important component of the set of policies to help low-wage workers. It has key advantages, including that it produces positive work incentives and is administratively simple. For these and other reasons, such as its exceptionally low value today, there should be greater reliance on the minimum wage to support the earnings of low-wage workers.

We believe that the federal minimum wage can be increased by a moderate amount without significantly jeopardizing employment opportunities. A minimum wage increase would provide a much-needed boost in the incomes of many low- and moderate-income households. Specifically, the proposed increase in the minimum wage of 90 cents over a two-year period falls within the range of alternatives where the overall effects on the labor market, affected workers, and the economy would be positive.

SIGNATORIES TO ECONOMISTS STATEMENT OF SUPPORT FOR A MINIMUM WAGE INCREASE

Aaron, Henry—Brookings Institution.

Abramovitz, Moses—Stanford University.

Allen, Steven G.—North Carolina State University.

Altonji, Joseph G.—Northwestern University.

Applebaum, Eileen—Economic Policy Institute.

Arrow, Kenneth J.—Stanford University.

Bartik, Timothy J.—Upjohn Intitute.

Bator, Francis M.—Harvard University.

Bergmann, Barbara—American University.

Blanchard, Olivier—Massachusetts Institute of Technology.

Blanchflower, David—Dartmouth College.

Blank, Rebecca—Northwestern University.

Bluestone, Barry—University of Massachusetts Boston.

Bosworth, Barry—Brookings Institution.

Briggs, Vernon M.—Cornell University.

Brown, Clair—University of California at Berkeley.

Browne, Robert S.—Howard University.

Burtless, Gary—Brookings Institution.

Burton, John—Rutgers University.

Chimerine, Lawrence—Economic Strategy Institute.

Danziger, Sheldon—University of Michigan.

Darity, William Jr.—University of North Carolina.

DeFreitas, Gregory—Hofstra University.

Diamond, Peter A.—Massachusetts Institute of Technology.

Duncan, Greg J.—Northwestern University.

Ehrenberg, Ronald A.—Cornell University.

Eisner, Robert—Northwestern University.

Ferguson, Ronald F.—Harvard University.

Faux, Jeff—Economic Policy Institute.

Galbraith, James K.—University of Texas at Austin.

Galbraith, John Kenneth—Harvard University.

Garfinkel, Irv—Columbia University.

Gibbons, Robert—Stanford University.

Glickman, Norman—Rutgers University.

Gordon, David M.—New School for Social Research.

Gordon, Robert J.—Northwestern University.

Gramlich, Edward—University of Michigan.

Gray, Wayne—Clark University.

Harrison, Bennett—Harvard University.

Hartmann, Heidi—Institute for Women's Policy Research.

Haveman, Robert H.—University of Wisconsin.

Heibroner, Robert—New School for Social Research.

Hirsch, Barry T.—Florida State University.

Hirschman, Albert O.—Princeton University.

Hollister, Robinson G.—Swarthmore College.

Holzer, Harry J.—Michigan State University.

Howell, David R.—New School for Social Research.

Hurley, John—Jackson State University.

Jacoby, Sanford M.—University of California at Los Angeles.

Kahn, Alfred E.—Cornell University.

Kamerman, Sheila B.—Columbia University.

Katz, Harry C.—Cornell University.

Katz, Lawrence—Harvard University.

Klein, Lawrence R.—University of Pennsylvania.

Kleiner, Morris M.—University of Minnesota.

Kochan, Thomas A.—Massachusetts Institute of Technology.

Lang, Kevin—Boston University.

Lester, Richard A.—Princeton University.

Levy, Frank—Massachusetts Institute of Technology.

Lindbloom, Charles E.—Yale University.

Madden, Janice F.—University of Pennsylvania.

Mangum, Garth—University of Utah.

Margo, Robert—Vanderbilt University.

Markusen, Ann—Rutgers University.

Marshall, Ray—University of Texas at Austin.

Medoff, James L.—Harvard University.

Meyer, Bruce—Northwestern University.

Minsky, Hyman P.—Bard College.

Mishel, Lawrence—Economic Policy Institute.

Montgomery, Edward B.—University of Maryland.

Murnane, Richard J.—Harvard University.

Musgrave, Peggy B.—University of California at Santa Cruz.

Musgrave Richard A.—University of California at Santa Cruz.

Nichols, Donald—University of Wisconsin.

Ooms, Van Doorn—Committee for Economic Development.

Osterman, Paul—Massachusetts Institute of Technology.

Packer, Arnold—Johns Hopkins University.

Papadimitriou, Dimitri B.—Jerome Levy Economics Institute.

Perry, George L.—Brookings Institution.

Peterson, Wallace C.—University of Nebraska at Lincoln.

Pfeifer, Karen—Smith College.

Piore, Michael—Massachusetts Institute of Technology.

Polenske, Karen—Massachusetts Institute of Technology.

Quinn, Joseph—Boston College.
Reich, Michael—University of California at Berkeley.
Reynolds, Lloyd G.—Yale University.
Scherer, F.M.—Harvard University.
Schor, Juliet B.—Harvard University.
Shaikh, Anwar—Jerome Levy Economics Institute.
Smeeding, Tim—Center for Advanced Study in the Behavioral Sciences.
Smolensky, Eugene—University of California at Berkeley.
Stromsdorfer, Ernst W.—Washington State University.
Summers, Anita A.—University of Pennsylvania.
Summers, Robert—University of Pennsylvania.
Tobin, James—Yale University.
Vickrey, William—Columbia University.
Voos, Paula B.—University of Wisconsin.
Vroman, Wayne—Urban Institute.
Watts, Harold—Columbia University.
Whalen, Charles J.—Jerome Levy Economics Institute.
Wolff, Edward—New York University.

Mr. OWENS. They end by saying, "We believe that the Federal minimum wage can be increased by a moderate amount without significantly jeopardizing employment opportunities. A minimum wage increase would provide a much-needed boost in the incomes of many low and moderate income households. Specifically, the proposed increase in the minimum wage of 90 cents over a 2-year period falls within the range of alternatives where the overall effects on the labor market, affected workers, and the economy would be positive."

This is a conclusion of the 100 top economists in the United States.

To bring a special perspective to this discussion, the gentlewoman from North Carolina would like to speak on the question of rural poverty and minimum wage which is the way of life in most rural areas. People struggle to even make the minimum wage, so I am sure that whatever applies to rural situations and rural poverty is certainly involved in this whole discussion of the minimum wage.

I yield to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. I thank the gentleman from New York for bringing the subject to our attention, to the attention of the American people and thank him for sharing the time for me to speak on the subject and others as it relates to rural America.

It is true indeed that the minimum wage affects rural areas severely. Why? Because basically we earn about one-third of what everyone else in America earns. So already we are earning one-third as much as those in urban and other parts of this country are earning. The minimum wage in my State certainly is one that needs to be increased. There is a relationship between what everyone else earns in my area with the minimum wage. So as we celebrate this 57th anniversary of the minimum wage, those who are not making the minimum wage, are making considerably more, must recognize that as that minimum wage is remaining at the bottom so are other wages stagnant in rural America.

Also, I would share with the gentleman from New York that in addition to the minimum wage issue, you are right that this Congress is bent on affecting the poor and rural America. They are also more active in the divide between rural and urban. They are also interested in the divide between the rich and the poor. So we see great divisions and the emphasis being focused on those who have a lot of money.

I would also share that as a Nation how we spend our resources says a lot about who we are and who is important, which region of our Nation we favor, which region of our Nation we will ignore. To the extent that the budget reconciliation act that we are going to vote on this week ignores the plight of working families, ignores the plight of rural areas, it indeed will be very harmful. This budget will cause pain to many Americans, in inner cities as well, but it will cause particular pain to rural America.

Rural North Carolina, including my congressional district, where we have a poverty rate about 25 percent, if you combine that with the low minimum wage and the poverty rate and understand what the budget reconciliation act will do, you begin to understand the devastation that will happen to rural America. The very basic essentials like shelter, clothing, housing provisions as well as food, as well as health care will greatly suffer in terms of that. Most rural hospitals and other rural facilities will suffer as a result of us not having an opportunity.

I know that the gentleman has shared his time. I am going to ask to enter the remainder of my remarks into the RECORD, as follows:

Mr. Speaker, how a nation spends its resources says volumes about who is important, who is not, which regions of our Nation are favored and which are ignored.

When we vote on budget reconciliation this week, this Nation will know the winners and losers.

This budget will cause pain to many in America, but we will cause substantial harm to most in rural America.

Rural North Carolina, including my congressional district, like most of rural America, is struggling to provide a minimum quality of life for its citizens.

These communities, however, lack high paying jobs and often lack the infrastructure necessary for economic expansion.

The lack of basic resources and opportunities, such as employment, housing, education, and utility services, especially water and sewer, is compounded by limited access to quality health care and a shortage of health professional, especially primary and family physicians. Most of the rural hospitals in my congressional district, for example, depend on Medicare and Medicaid by as much as 65 percent of their budgets.

As Congress goes through its cost cutting, deficit reducing, budget balancing exercise, there is a message that needs to be emphasized among our colleagues—farmers and rural communities have been important to this Nation's past, and farmers and rural communities are essential to this Nation's future—most notably, the small, family farmers.

Ironically, this extreme and harmful budget cutting proposal comes at a time when my State is experiencing progress due to many of the very programs this Congress now seeks to restructure or eliminate, particularly those that encourage export activity and foreign trade.

After years of feeding the State and feeding the Nation, North Carolina agribusiness is now postured to expand its exports and feed the new customers offered by the world's foreign markets.

In short, as one recent magazine article noted, "Exports are up down on the North Carolina farms."

North Carolina agriculture exports amounted to $2.3 billion last year. We exported $534.5 million in tobacco, $199.5 million poultry and poultry products, $90.5 million in soybeans, $61.5 million in cotton, $40.3 million in meat and meat products, $33 million in wheat, $19.4 milion in peanuts, $14.4 million in fruits, $12.1 million in vegetables, and $38.6 million in all other products.

Those exports translate into jobs. Jobs translate into revenue for the State. And, revenue for the State translates into programs and services for our citizens.

In order to expand exports, create jobs, generate revenue and, thereby, provide programs and services to our citizens, agribusiness must have the support of our Government, and that support must be reliable, timely and, most of all, useful.

For the past several weekends, I have been meeting with groups of farmers in my congressional district.

One thing said to me, by them, has stayed with me. "Farming is a gamble," they said, "And, if you don't like to gamble, you should not be in farming."

That statement struck me because, while we can not control if it rains early, rains late, or if it rains at all, Government can have great influence over the resources that we make available to the farmer.

We can remove some of the uncertainty, some of the doubt, some of the gamble, by insuring that when farmers make judgments about what to produce and what markets to target, they do so knowing that, when needed, government will be there to support them—in lean times.

Unfortunately, however, despite the recent gains that have been made, because their important role has not been recognized, many rural communities in the United States are crumbling and decaying.

It is important to recognize that the long-term economic health of rural America depends on a broad and diverse economic base which requires investment—not disinvestment—in rural America—investment in business, education, infrastructure, agribusiness, housing stock and community facilities.

The major factors that inhibit rural economic development stem from the very characteristics that singularly define our rural areas—isolation from metropolitan services, low population density, small economics of scale, dependence upon a single industry and limited municipal capacity. These factors leave many rural areas without the necessary resources not only to plan, but also to develop basic services that attract competitive and profitable industries.

Those of us who are decisionmakers from rural areas are strongly committed to stimulating rural economic development by any and every means possible.

But, our task is made nearly impossible by a Congress intent on cutting agriculture and nutrition programs, determined to cut education, bent on cutting medicare and medicaid and focused on unfair tax cuts for some and increases for others.

And, so, Mr. Speaker, I must ask, when we vote on budget reconciliation this week, will we say to the small, family farmers, who literally work their fingers to the bone so that this Nation might be fed, that commodity and rural development programs must go because we are required to balance the budget—because we are giving the money to those with money? That will be the result if Congress continues on its current glide path and approves the Majority's budget resolution plan.

This evening I want to discuss several of the areas affected by the Republican budget reconciliation legislation, and I will begin with agriculture programs.

Mr. OWENS. I thank the gentlewoman from North Carolina for joining me. I will conclude now with a reading from the article that I have read sections from for the last 3 weeks.

□ 2145

That is the article that appeared in the New York Times on September 3, the Sunday before Labor Day, by Lester Thurow. Lester Thurow is a professor of economics at the Massachusetts Institute of Technology, and his opening paragraph still applies as we go toward this budget reconciliation, this budget reconciliation which will corporatize the power of the corporations of America. The budget reconciliation will freeze us into situations where corporations are going to be paying even less of the percentage of the total tax burden than they pay already.

The budget reconciliation is going to freeze us into a situation where nothing is being done or said about the more than $300 billion that we have already spent as taxpayers to bail out the savings and loans swindle. Nothing is said about trying to force the financial community to somehow repay some of those funds through some kind of tax policy, maybe a surcharge on banks and on accountants and lawyers, all of the people who were involved in that big swindle of the American taxpayers. Nothing is being said. The things that are not said are very important.

Nothing is ever said on this floor about this great tax swindle, how over a period from 1943 to 1995, the tax burden of corporations dropped so dramatically in proportion to the tax burden borne by the families and the individuals out there.

I agree with the Republicans. We need to tax cut. The tax cuts should come for individuals and families. At the same time, we need to get rid of the deficit and balance the budget by raising the taxes that are paid by corporations.

That all takes place within an atmosphere that is described best by this paragraph from Lester Thurow's article in the New York Times. Again I quote:

> No country without a revolution or a military defeat and subsequent occupation has ever experienced such a sharp shift in the distributions of earnings as America has in the last generation. At no other time have median wages of American men fallen for more than two decades. Never before have the majority of American workers suffered real wage reductions while the per capita domestic product was advancing.

I think that is a very profound statement. It very powerfully describes the situation that corporate America has generated in America.

We can take some tiny steps toward correcting our economy, toward making our society more workable, by agreeing to increase the minimum wage by 90 cents from $4.25 per hour to $5.15 an hour. That is what is being proposed, and that is the bill before us sponsored by minority leader GEPHARDT. I am a cosponsor of that bill. The President has endorsed that bill.

That simple step, I urge all Democrats to get on board and take that step. We only have a little more than half the Democrats who are now sponsoring that increase in the minimum wage.

Is it any wonder that the Republicans are treating the increase in the minimum wage with great contempt? And they have stated that they will not allow a single, 1-cent increase, in the minimum wage. Justice demands that on this anniversary, 57th anniversary of the minimum wage law, that we go forward and understand that this is just a tiny step that every lawmaker, every decision maker in Washington can take, not only for working people but for our overall economy.

Let us increase the minimum wage. Let us support the increase in the minimum wage bill now.

Mr. ROMERO-BARCELÓ. Mr. Speaker, today as we celebrate the 57th anniversary of the minimum wage, it is increasingly obvious that we must take action to raise the minimum wage. Such action will benefit millions of American workers throughout the Nation.

Earlier this year, I was pleased to join in sponsoring the legislation embodying the President's proposal for a moderate 90 cent increase in the minimum wage over 2 years. This is necessary because minimum wage workers have actually seen their real incomes decrease in the last decade. The minimum wage has not been raised since 1989, and its purchasing power has simply not kept pace with the rising cost of living.

At a time when the majority in this Congress is drastically revamping our welfare system and slashing the social safety net, we must maintain the incentives that reward hard work. The minimum wage is one such incentive.

When I was mayor of San Juan and later Governor of Puerto Rico, I took the innovative and unprecedented step of asking the Federal Government to extend the minimum wage laws to Puerto Rico where at the time they did not apply. Special interests and many corporations complained and objected to this move. They lobbied hard against it, predicting both economic havoc and job displacement.

Such bleak scenarios did not materialize. In fact, the minimum wage has been a blessing for the 3.7 million American citizens of Puerto Rico. It raised the standard of living of thousands of working families and brought added dignity to their daily endeavors at their job sites.

Let this experience serve as an illustration of the benefits of our making a commitment to improve the standard of living of ordinary, hard-working Americans by ensuring them a decent, living wage. Both sides of the aisle should be doing everything possible to promote and secure a decent standard of living for all Americans.

Increasing the minimum wage is the right thing to do. It is a wise move and one which is based on both common sense and solid economic policy. Millions of hard-working Americans who deserve better economic opportunities will appreciate our leadership.

Mr. STARK. Mr. Speaker, today, a minimum wage worker who work full-time, year round, does not earn enough money to keep a family of two out of poverty. For decades prior to the late 1980s, that was not the case. Actually, until the early 1980s, the minimum wage was high enough to keep the average three-person family out of poverty.

The staff of the Joint Economic Committee has taken a close look at the effects of raising the minimum wage. Their report convinces me that raising the minimum wage is the right thing to do, and will help low-wage workers. Those most likely to be helped are women, because disproportionate shares of women are harmed by the low value of the minimum wage. I think that is important to note, given the majority's attacks on Medicaid, the earned income tax credit, and food stamps—all programs that help working-poor women.

There is general agreement that there would be no job loss for adults who make up the majority of all minimum wage workers. The only debate is whether and how many teenagers would lose jobs if the minimum wage is hidden. During the Joint Economic Committee's two hearings on the minimum wage, witnesses confronted members with reports showing both negative and positive effects of increasing the minimum wage.

The Employment Policies Institute Foundation supported most of the witnesses claiming a negative effect from raising the minimum wage. During the hearings, we uncovered the fact that, from the beginning, the institute has been headed by Richard Berman, who continued to serve as a registered lobbyist for the restaurant and fast-food industry until recently. The same man was a supporter of the Speaker's so-called college course only after winning apparent assurance of having an influence on the course's content favorable to low-wage jobs.

However, I had a substantive problem with the witnesses from the Employment Policies Institute Foundation. No one argued that, when we increase the minimum wage, all those low wage teenagers making less than the new minimum wage would be thrown out of work. Instead, the debate was over whether a 10-percent increase in the minimum wage caused a 1 or 2 percent reduction in employment for teenagers.

An economist invited by the Republicans, and who had done work for the Employment Policies Institute Foundation, wrote in a recent paper for an academic journal, that there were no significant net employment effects of increasing the minimum wage. So, the worse we were told was that 98 or 99 percent of teenage low-wage workers would not lose their jobs when they got a 10-percent pay increase.

Why is that bad? Further, how is that possible? If those workers were not worth a 10-percent raise, why do only 1 percent of them lose their jobs? Could it be that their lower wage was unfair?

The report of the Joint Economic Committee staff suggests that the low wage of minimum wage workers is much more the result of where they work, than the quality of their work. The study uses a set of jobs whose wages change with the minimum wage, more than with changes in other wages in the economy. Workers in those jobs are said to be on the minimum wage contour. The harm in holding down the value of the minimum wage is that the wages of those workers also are held down.

By asking a different question than, "Can we count job losses or job gains after the minimum wage is increased?" the staff sought to answer the basic question of what would be a fair wage. By answering that question, they could show that workers on the minimum wage contour are not so low skilled that they could not hold other jobs.

Unless we take as a matter of faith that the world always works just like the diagrams in an elementary economics textbook, the question of how changes in the minimum wage affect employment and earnings among low income workers is an empirical one. This study's major finding—that workers whose skills and other characteristics seem similar to those in minimum wage contour jobs, but who have non-minimum wage jobs, make around 30 percent more—calls into question simple textbook analyses of low-wage labor markets.

Why is that important? Because it means that there is some reason, not related to the ability to produce, that explains the lower wages of minimum wage contour workers. A reason could be that minimum wage workers have fewer options to give them bargaining power with their employers. Because the ranks of the minimum wage work force are disproportionately female, in an economy slanted by gender discrimination, seeing why these workers may have less bargaining power than workers in other jobs is easy. So when we raise the minimum wage, we are restoring some balance to the equation. The net effect would be to increase economic efficiency and make low-wage workers better off.

We have heard those in the majority scoff at such a notion. They snicker that if raising the minimum wage helps the economy, why not set it at a really high level. However, that is not what this research suggests. It shows that the gap in the wages of minimum wage and other similar workers is larger than the proposed increase in the minimum wage. So a modest rise in the minimum wage can be helpful.

The JEC staff study shows that when we increased the minimum wage from $3.35 in 1989 to $4.25 in 1991, the wage gap between minimum wage contour and nonminimum wage workers shrank. Also, the gap between the wages of women and men shrank.

Further, the study showed that many young workers with a high school education, or less, suffered a substantial loss in relative wages between 1986 and 1991 because some of their earnings' history was in a minimum contour job.

Most Americans agree on one way to approach falling wages. More than three-fourths of Americans in recent polls favor the raise in the minimum wage proposed by President Clinton. I might add that 64 percent of those who said they voted for Republican Members of Congress support the President on this. If we are going to listen to the voters, we must listen to the voters on this issue.

Why do they favor raising the minimum wage? Because, most minimum wage workers are adults. Because, minimum wage workers provide an average of over half their family's weekly earnings. Because there is a direct relation between the minimum wage and keeping families out of poverty.

In 1979, when the minimum wage was worth almost $6 an hour in today's terms, almost 1.4 million Americans were working full time, year round living below poverty. Today, during an economic recovery, with the minimum wage at $4.25, the number of full time, year round workers living below poverty is more than 2 million. Americans know that having an increase in the number of people working full-time year round living below poverty is not right. Americans know that having almost 20 million workers being paid less today, in real terms than we legally allowed in 1979, is not right.

Prof. Daniel Hamermesh was one of two economists the Republicans called as a witness who had not done research sponsored by the Employment Policies Institute Foundation. When I asked him whether we should raise the minimum wage, his answer was yes. Earlier this month, we learned that a large number of other economists agree with him.

I thank the gentleman for yielding me this time. We should listen to voters. But we should also study proposals to best serve the public's needs. I think the JEC staff study helps us know that raising the minimum wage would be the right thing to do. So I am happy to support your efforts in getting this bill to the floor.

VIOLENCE AWARENESS MONTH

The SPEAKER pro tempore (Mr. BLUTE). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 60 minutes.

Mrs. MORELLA. Mr. Speaker, I am pleased to be involved in this special order to commemorate Domestic Violence Awareness Month. It really should be Domestic Eradication Month, year, decade, into the millennium and beyond that.

I would like to compliment the gentlewoman from California [Ms. ROYBAL-ALLARD], because she chairs the violence task force for the congressional Caucus for Women's Issues, and she is the one who compiled the list of people to participate in this special order. A number of them are not here because of the late hour, but they are submitting testimony for the CONGRESSIONAL RECORD.

It gives me great pleasure to yield to the gentlewoman from California [Ms. ROYBAL-ALLARD], who, as I say, chairs that violence task force and does it so well.

I thank the gentlewoman very much for arranging for this.

Ms. ROYBAL-ALLARD. Mr. Speaker, October is Domestic Violence Awareness Month. A time when we focus on the tragedy of violence that exists in many homes and families throughout our country.

As chair of the Violence Against Women Task Force, I sincerely thank Representative CONNIE MORELLA and Representative NITA LOWEY for their assistance in this special order. I also thank my colleagues, male and female, from both sides of the aisle, who have joined me to bring attention to a crime that destroys lives and undermines the foundation of our country—the family.

This is especially meaningful because domestic violence is not bound by geographic, racial, economic, or partisan lines. Domestic violence is a tragedy which affects people in all communities, both rich and poor, rural and urban, racially diverse or homogeneous.

Although acts of domestic violence are overwhelmingly committed against women; this is not just a women's issue.

The devastation of domestic violence extends well beyond the tragedy in the lives of these women. Domestic violence injures children, is a root cause of juvenile delinquency, a leading cause of homelessness and costs billions of dollars to this country in employee absenteeism and medical costs.

Domestic violence affects all of us directly or indirectly and whether we know it or not. Although we have raised the level of awareness about domestic violence, we are failing to prevent or reduce it. Current statistics reveal domestic violence is at epidemic proportions.

Today, a woman is battered every 13 seconds, compared to 15 seconds a few years ago and is still the single greatest cause of injury to women in the United States.

Today, over half the marriages in our country involve at least one incident of battering.

In 1993, 1 out of every 5 women in emergency rooms was there as a result of domestic violence—today that figure has risen to 1 in every 4 women.

In my own county of Los Angeles, over 50 percent of the 911 calls are a result of domestic violence. Even more tragically, these calls are often made, not by the victim, but by the children of the victim.

As an underreported crime, the actual number of women who experience such violence each year is unknown. Of the women who do report this violence, however, we know the battery is so severe that at least 4 million women a year require medical or police intervention. We also know the abuse ends in death for nearly 6,000 women a year.

As part of the Remember My Name Project started by the National Coalition Against Domestic Violence, this poster memorializes the thousands of women who have died at the hands of their batterers. These women were our mothers, daughters, sisters, friends, and neighbors.

These women did not have to die. Nor did Angelita Avita, a young woman from the L.A. area.

Jose Salavarria, Angelita's common-law husband, was first arrested for battery in November 1994. He spent 20 days in jail and was required to attend 1 year of counseling.

Angelita did everything possible to prevent the abuse. She left Jose and moved to a location unknown to him. When Jose repeatedly violated his parole and attempted to contact her, she notified the police.

On one occasion, Jose even threatened her with a gun, which happened to be unloaded. For this offense, Jose was given more jail time and 2 years parole.

On September 15, Jose again violated his parole and tracked Angelita down. He waited outside her house. This time his gun was loaded. When Angelita left for work Jose shot her. When she fell to the ground, he shot her three more times before turning the gun on himself.

Angelita was killed at the young age of 35 by her common-law husband of more than 18 years, leaving behind their two teenage children.

Tragically Angelita's story is all too common. But it is a story that does not have to be repeated. Domestic violence is preventable.

We must therefore all work together to stop this devastating crime by making it a national priority, supporting violence prevention and treatment programs, and expanding and strengthening the legal rights of victims.

We can break the cycle of family violence in this country.

We cannot afford to fail the families of America. If we do we will all be losers in the end.

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for that very true and eloquent statement about domestic violence and the fact that we do have controls to prevent it.

Mr. Speaker, the trial of O.J. Simpson unleashed a national conversation about domestic violence and a national awareness of the problems that have not ended despite the verdict rendered in Los Angeles earlier this month.

The verdict did nothing to alter the fact that domestic violence is an epidemic in the United States, nor did it alter the fact that Mr. Simpson was a batterer whose abusive behavior was ignored by the police, the courts, and society because of his celebrity status.

Every day, women of all ages, income, and education levels are beaten or killed by their husbands and boyfriends, no matter where they live or work.

Statistics from the Justice Department are grim. The National Crime Victimization Survey found that women experience ten times the amount of violence at the hands of intimate partners than men.

According to the Uniform Crime Statistics, in 1977, 54 percent of female murder victims were killed by husbands or boyfriends; by 1992, the percentage had soared to 77 percent. And we must not forget the millions of children who witness violence in their homes and who often grow up to become abusers or victims.

On October 2, at a White House ceremony honoring survivors of domestic violence, President Clinton proclaimed October as National Domestic Violence Month and spoke about the "vital partnerships [that] have formed between Federal agencies and private sector organizations to expand prevention services in urban, rural, and underserved areas across the country. * * *"

The landmark Violence Against Women Act, which I proudly sponsored in this House and which must be fully funded by this Congress, provides funding for these important programs and services targeting domestic violence: A national domestic violence hotline; training programs for police and judges; shelters, counseling programs, and other victims services.

When the Congress passed the crime bill last year, it pledged to substantially increase Federal efforts against domestic violence. We have come a long way in assisting our local governments and victim service groups by helping them fund programs that are tailored to their particular needs and circumstances. They are counting on us.

All across the United States, in communities large and small, in cities and towns and in rural areas, these professionals and volunteers quietly do their work in shelters, in counseling programs, in courts and police stations, and in our classrooms. I salute their devotion, their dedication, and their commitment.

Since 1980, the Maryland Network Against Domestic Violence has led the effort in my State to pass legislation to help battered women and their children, to train law enforcement personnel and judges, and to raise public awareness about domestic violence and its impact on our society.

Last year, the network's 23 domestic violence programs served 12,308 women and 3,295 children and helped 77,467 people who telephoned hotlines and shelters for help. What would have happened to these families, if the network had not been there?

The network, under the indefatigable leadership of executive director Susan C. Mize, has fought for increased shelter funding, for stiff spouse abuse and child custody laws, for warrantless and mandatory arrest laws, for stalking laws, and for fair trials for battered women in criminal cases.

This year, the network's staff will train judges about changes in Maryland family law and about domestic violence. They will teach police departments across the State how to collect evidence in domestic violence cases, and they will train prosecutors on how to use that evidence in court.

The network is also helping the State's Office of Aging develop a program targeting elder abuse. The AARP tells us that 58 percent of the abused elderly are abused by a spouse; by contrast 27 percent are abused by an adult child.

In Montgomery County, which I am honored to represent in the U.S. Congress, domestic violence rose more than 330 percent between 1984 and 1994. My district, one of the most affluent and highly educated districts in the Nation, is no exception when it comes to domestic violence.

Last year alone in Montgomery County, there were 2,101 reported cases of domestic violence. This year, with the help of the county's Task Force Against Domestic Violence, County Executive Doug Duncan introduced a Coordinated Program Against Domestic Violence, which combines our legal and judicial departments, our medical and social work professionals, and our public and private schools into one integrated system on behalf of battered women and their families. And because of the county's rich ethnic, racial, and language mix, the county has especially tailored its counseling programs to reflect its diverse populations.

I am proud of the work being done in my State and all across the country to combat the terrible scourge of domestic violence. With funds form the Violence Against Women Act, we can do so much more.

I look forward to the day when hotlines will no longer ring, when shelters will no longer be needed, and when children will no longer cower, terrorized in their homes by domestic violence.

□ 2200

Mr. Speaker, it now gives me pleasure to yield time to a very special Member of Congress, the gentlewoman from New York, Mrs. NITA LOWEY, who is the cochair with me of the Congressional Caucus for Women's Issues.

Mrs. LOWEY. Mr. Speaker, I want to thank the gentlewoman from Maryland [Mrs. MORELLA], who is not only my cochair of the Congressional Caucus on Women's Issues, but has truly been a leader and a fighter for domestic violence issues. Let us hope we can together reach that day when all this work will not be necessary. I am particularly pleased to be here with the gentlewoman from California, Ms. LUCILLE ROYBAL-ALLARD, who has been the chair of the Domestic Violence Tax Force. I thank the gentlewoman for leading us in this special order this evening.

Mr. Speaker, 1995 has been a landmark year in raising this Nation's consciousness about domestic violence.

Together, we listened in horror to the 911 tapes on which Nicole Brown Simpson pleaded for her life with a radio dispatcher while her husband raged in the background.

We were shocked to discover that a judge in Maryland sentenced a man to only 18 months after he had been convicted of murdering his wife, explaining the sentence by stating that murder was a reasonable response to finding one's wife in bed with another man.

We watched as the first criminal was convicted under the Violence Against Women Act, a man who beat his wife senseless, put her in the trunk of his car and drove around for 6 days before taking her to a hospital.

And for the first time we have a President who is dedicated to eradicating domestic violence from this Nation, a President who was raised in a home violated by abuse, a President who remembers seeing his own mother struck by her husband.

At this moment in the Nation's history, one would expect that Congress would be leading the fight to combat domestic violence. And yet, at the very time that we should be attacking violence against women, the programs that protect women are under attack.

This summer, the House leadership attempted to gut the funding for the Violence Against Women Act programs. The Violence Against Women Act was passed just last year by a bipartisan, unanimous vote. And yet, the House leadership tried to cut over $169 million of funding to the programs authorized under the act.

Fortunately, a bipartisan group of women Members stood up for these programs. Together, we ensured that Congress would not break its promise to the American people to protect victims of domestic violence. Working together, we restored $90 million of funding for these programs.

Currently, the Senate proposes to fully fund these vitally important programs. I can think of no better recognition of domestic violence awareness month than an agreement by the House to fully fund the Violence Against Women Act programs.

Domestic violence is an epidemic that is sweeping this Nation. The Violence Against Women Act programs are necessary to roll back this tide of violence. Just listen to these statistics:

The FBI estimates that a woman is battered every 5 to 15 seconds in America;

28 percent of women who were murdered in 1992 were killed by husbands or boyfriends;

Domestic violence will occur in at least 50 percent of all marriages;

Estimates show that one in six women in this country is, or has been, a victim of domestic violence;

The cost of domestic violence to U.S. health care is estimated between $5 to $10 billion a year;

The American Medical Association estimates that anywhere from 22 to 35 percent of women seeking emergency medical care are there due to injuries incurred by domestic violence.

These statistics are horrifying. The Violence Against Women Act was the Congress' way of signaling that this epidemic of violence must end. The failure to fully fund the programs makes the Violence Against Women Act meaningless. And it signals to the American people that this House is turning its back on America's families by cutting funding that protect its mothers, sisters, and children.

What will it take for the House leadership to realize the importance of funding these programs? How many women must be terrorized in their own homes? How many women must die?

As Domestic Violence Awareness Month comes to a close, I urge all of my colleagues to remember that focusing on this issues just once a year is not enough. In the months that come, we must all work together to ensure that women are safe from domestic violence. We must come together to demand that the Violence Against Women Act programs are fully funded. It is literally a matter of life and death.

Mr. Speaker, I again thank my colleagues, the gentlewoman from California [Ms. ROYBAL-ALLARD], the chair of this task force, and the gentlewoman from Maryland [Mrs. MORELLA], with whom I have worked very closely in fighting for the full funding of these programs. I thank the gentlewoman very much for this special order this evening.

Mrs. MORELLA. Mr. Speaker, I want to commend the gentlewoman publicly and for the RECORD for the very hard work that went into being able to obtain significant funding for the Violence Against Women Act. All America thanks her for doing that.

Mr. Speaker, I would like to now yield to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA]. I also want to thank my colleagues who have been so active in this effort for a long time and have made great strides and great accomplishments, the gentlewoman from New York [Mrs. LOWEY] and the gentlewoman from Maryland [Mrs. MORELLA], who have cochaired the Women's Caucus issues. They have been at the forefront of the fight, along with the gentlewoman from California [Ms. ROYBAL-ALLARD], who has chaired the Violence Task Force and has done so much to accomplish in several Congresses the important legislation at the forefront that has been requested by law enforcement officials and others who know that much has to be done.

We just have to look to the facts, that we have not completed this important battle. When you look at 1967 to 1973, battering men have killed 17,500 women and children in the United States. Women have suffered 5 million victimizations between 1992 and 1993. That is an unbelievable figure. Most of the violence against women cases have involved a husband, an ex-husband, a boyfriend, and an ex-boyfriend. Almost 70 percent of the men who batter their wife or girlfriend also abuse a child. So this is a problem that has been systemic. But thanks to the efforts of the three Members who I have mentioned, we have passed in this Congress two important bills, the Family Violence Prevention and Services Act, which provides awareness, prevention and assistance grants, and the Violence Against Women Act, which addresses the judicial side of sexual assault and domestic violence, including increased penalties.

We have other legislation which is important that is coming up for a vote, which I hope that those of our colleagues listening tonight who have not yet become involved as much as Representatives MORELLA, ROYBAL-ALLARD, and LOWEY have, will get involved with this legislation to make sure it is passed to help their communities and their districts, and they include the Domestic Violence Victims Insurance Protection Act, which is designed to protect the victims of domestic violence from being denied health insurance.

While women are encouraged to seek out help and report domestic violence abuses to local law enforcement authorities and family physicians, some women have found that doing the right things for themselves and their families may have a price, the loss of or inaccessibility to health insurance. Victims who come forward from domestic violence should not be denied insurance. In this legislation it would be prohibited.

A second bill, the Domestic Violence Identification Referral Act of 1995 will supply incentives for medical schools to provide comprehensive training, Mr. Speaker, in domestic violence identification, treatment, and referral. There is no better opportunity to receive permanent assistance for victims of domestic violence than in the privacy of their physician's office, but they will not receive that help unless all doctors are trained to identify and treat the victims of domestic abuse. By encouraging medical schools to incorporate training on domestic violence into their curricula, this bill will help ensure that America's health care providers of the future recognize and treat victims of domestic violence, and we will save the lives of women, children, and seniors who are most at risk of being victims of domestic violence.

Finally, I would advocate that my colleagues work with these Members to adopt the Domestic Violence Community Response Team Act, which is a bill designed to fortify America's fight against spousal abuse and domestic violence.

We find that, just looking to my district, Montgomery County, PA, like your Montgomery County, MD, we have important organizations, like the Montgomery County Victim's Services Center, Laurel House, the Montgomery County Women's Center, and the Montgomery County Commission on Women and Families. They are on the frontlines of this fight.

If we have a coordinated effort by working with our police departments, this legislation will increase the availability of communities to pool their resources in the fight against violence. I believe that we only have to look to the physical abuse suffered by Nicole Brown Simpson in Los Angeles, which has riveted the whole Nation, in making sure that we work with each of you, with the gentlewoman from California [Ms. ROYBAL-ALLARD], with the gentlewoman from New York [Mrs. LOWEY] and the gentlewoman from Maryland [Mrs. MORELLA] as the cochair. I look forward to working with these Members in a bipartisan fashion, both here in the House and with our Senators, to make sure that the legislation that you have introduced and worked with your colleagues will in fact become law, and we will all be better for it. I thank the gentlewoman for this opportunity to join in her special order.

Mr. MORAN. I thank the gentleman from Pennsylvania [Mr. FOX]. It indicates the fact that we have by art partisan support to eradicate domestic violence and come up with such programs, and we support from menace well as the women in the Congress and throughout the Nation.

You mentioned two other bills that I think are critically important. The one is to make sure that no insurance policy is going to prevent those people who are victims of domestic violence from getting the insurance. In some instances, and this is becoming rarer, but I think we do need to get the legislation in effect to fully prevent it, in some instances they have considered it a preexisting condition. This is a situation where the victim is victimized also by not being able to have that very thing that she needs so vitally, and that is the health insurance.

The other bill that the gentleman mentioned is one that would require that medical schools include within their medical training information abut domestic violence, how to recognize it, and protocols for treating it. We did pass in the last Congress a measure that required the Centers for Disease Control to come up with a demonstration program to be used in some hospitals where protocols would be established for domestic violence to be able to treat it.

So, again, I thank the gentleman very much from one Montgomery County to another for participating in this special order.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentlewoman will yield further, I just wanted to say as a former prosecutor and assistant district attorney in my hometown, I know how important it is to have a coordinated effort. What the gentlewoman has done in her home area as well as in Congress, it is very important to bring people together, because some issues may be cyclical and only happen once and they are done.

When it comes to domestic violence, I found by working with community groups, we had a Protection From Abuse Act in Pennsylvania, but we had to school police officers in that bill. But by doing so, and working with law enforcement and with clergy, with social service networks, and with individuals who are involved with positive parenting, together we can as lawmakers work with those who are out in the field and really make a difference long term.

□ 2215

Mrs. MORELLA. Mr. Speaker, in recognizing the fact that O.J. Simpson was, in fact, a batterer, we know that case really was sort of a wake-up call in a way. It told women throughout our country that such a thing as domestic violence is prevalent and that it is time for them to no longer put up with it, but to turn for help to the courts, to law enforcement, to the medical community, to their neighbors and organizations.

I am very pleased now to be able to yield time to our distinguished friend, the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I thank the gentlewoman from Maryland, and I congratulate her on this very important special order.

Mr. Speaker, as the chairman of the House subcommittee committee on select education and civil rights, and I served in that capacity for 6 years, I was proud to introduce the Domestic Violence and Family Services Act in both 1988 and 1992. We reauthorized this Domestic Violence and Family Services Act. This act funds a variety of prevention programs which are designed to promote the swift identification of domestic violence. It also provides critical operating support needed to sustain a national network of temporary shelters for the victims of domestic violence.

Mr. Speaker, these programs need greater Federal support. Family violence shelters must turn away three out of every four women who seek assistance due to insufficient space. The House has voted to free funding. I guess we should be grateful that they are not cutting the funding of these programs, but they voted to freeze funding for domestic violence programs at last year's levels, ignoring the enormous need for greater Federal assistance.

We do not have any great Federal bureaucracy in this area, but the Federal Government's participation is very important. Federal Government sets the tone, it sets the pace, it provides leadership in this critical area, and I think that leadership is needed more than ever. Temporary shelters are just that. They are temporary. We need a more enduring, a more effective response to the crisis of family violence in order to do that.

We have to invest in programs and enact policies which will enhance the economic well-being of women. No woman should be forced to remain with an abusive partner in order to feed her kids or because she needs a roof over her head. No woman should be forced to put her physical survival in jeopardy for the sake of assuring her economic survival.

Mr. Speaker, this Congress has taken a buzzsaw to Federal programs which support the economic well-being of women and children. Job services, training services are being cut by 20 percent. Low-income housing is being slashed by $3 billion. The safety net guarantee of AFDC payments for women with children, who are unable to find work, has been stripped away. A woman who flees an abusive husband will no longer be able to count on temporary income support while she tries to get back on her feet.

Minimum wage is important for women. Congress must also invest in women's economic well-being by increasing the minimum wage. Sixty-six percent of minimum wage workers are women. In all of these areas the Federal Government's leadership is very much needed. The pace is set by the Federal Government, the tone is set by the Federal Government. We must not neglect our duties in this area.

Mr. Speaker, I thank the gentlewoman and congratulate her for her leadership in this critical area.

Mrs. MORELLA. Mr. Speaker, I thank Congressman OWENS for the work that he has done in all kinds of human needs.

I am reminded in Beijing when Mrs. Clinton said women's rights are human rights, human rights are women's rights. And the other issues he mentioned too in the work force do affect women also.

And Mr. Speaker, I would just remind this body that there is no excuse for domestic violence. It is a crime and it should be treated as such, and I yield back the balance of my time.

Ms. WATERS. Mr. Speaker, it is time to break the silence. Four million American women were beaten by their husbands or boyfriends last year. At least 600 of them were killed.

Domestic violence is a crime. It is the single greatest cause of injury to American women—more than burglaries, muggings, or other physical crimes combined. Forty-two percent of murdered women are killed by their husbands or boyfriends. This must stop.

This crime crosses racial, social, and economic lines. It affects poor, rich, and minority women alike. Last year alone, Los Angeles County Law Enforcement received close to 73,000 domestic violence calls for assistance.

We must recognize that this problem plagues our society, often in secret. Many women—struggling to come to grips with the horror they are living—blame themselves for their abuse. Society and law enforcement officials can also make them feel at fault by not believing them or supporting them at the scene of the crime, by not prosecuting their abusers, or by blaming them for their life choices.

Battered women need help to escape a violent husband or boyfriend. Some women may be too afraid, or too ashamed to seek assistance. Battered mothers may not be able to support their children on their own. They may not know where to turn.

Even those who do manage to leave abusive relationships are not guaranteed safety. While separated and divorced women represent 7 percent of the U.S. population, they account for 75 percent of all battered women, and report being battered 14 times as often as women still living with their parents.

In Los Angeles County, where my district is located, there are 18 shelter facilities for battered women and their children. These places offer a temporary safe shelter for abused women and their families. In my county, 65 percent of the shelters' residents are the children of battered women. Even so, four out of every five families requesting shelter have to be turned away due to lack of resources.

Violence which begins in the home breeds violence elsewhere. Children who grow up in a violent household are at high risk for alcohol and drug use, depression, low self-esteem, poor impulse control, and sexual acting out. We must work to prevent this cycle of violence. Let us open our eyes in our families and communities, and take action to combat this heinous crime.

Ms. JACKSON-LEE. Mr. Speaker, I rise tonight to speak about the epidemic of violence facing the women of this Nation. The FBI estimates that every 15 seconds a woman is beaten by her husband or boyfriend. In 1992, 5,373 women in the United States were murdered. Six out of every ten of these women were killed by someone they knew. Of those who knew their assailant, about half were killed by their husband, boyfriend, ex-husband or ex-boyfriend. Although most assaults on women do not result in death, they do result in physical injury and severe emotional distress. Physical injuries are the most tangible manifestations of domestic violence, yet they are frequently not reported by women and go unrecognized by the professionals who are mandated to intervene. More than one million seek medical assistance for injuries caused by battering each year. Injuries from domestic violence account for 30 percent of visits by women to emergency rooms and require 1.4 million doctor visits annually.

In addition to the visible physical injuries that women suffer from violence, they also face emotional, physical, and social consequences. Survivors of domestic violence and rape are more likely than women who have not been abused to suffer from psychological problems, including suicide attempts, major depression, posttraumatic stress disorder, dissociative disorders, alcohol and other drug abuse, and sleep and eating disorders.

Too many Americans, including some in the criminal justice system domestic violence is dismissed as a "private or family matter", rather than a criminal offense. In some cases women who go to court are asked what they did to deserve the beating or why they just don't get up and leave. Too often in cases of family violence police do not make arrests, prosecutors do not press charges, judges do not impose tough sentences and women and children at risk go unprotected.

The impact of family violence on children is often underestimated. Thirty to seventy percent of children who live in violent homes become victims of child abuse and neglect. Infants and very young children, as innocent bystanders, may receive severe blows not meant for them but which also result in injuries. Older children also get hurt in trying to intervene and protect their mother. Even when they are not physically harmed, children who witness domestic violence experience short-term and long-term effects on their physical and mental health. They may suffer from chronic health problems, behavioral disorders and mental illness. Some may engage in antisocial behavior and repeat the cycle of violence in their own interpersonal relationships. In addition, battered women are often unable to care adequately for their children. They may use more physical discipline and may be more likely to physically abuse their children.

The 1994 Violence Against Women Act—which combines strong law enforcement provisions with Federal funding for States and communities to assist victims of domestic abuse and sexual assaults—was an important first step but there is more that must be done. We must work to identify effective measures for reducing the threat that women and children face of being physically abused or sexually assaulted by partners, acquaintances, and strangers. We must find a way to prevent abusive behavior and injuries before they occur.

Too often, wife-beating continues to be regarded as a private, not police matter. Until 1874, it was legal for husbands to physically chastise their wives, an attitude that persists today. The truth is that in 1995, batterers can get away with it, victims don't tell and often when they do no one pays attention. There continues to be a large difference between what is permitted inside the home and outside of it. In addition, women are likely to forgive and reconcile with their abusers, even in cases of severe injury. Studies have found that 50 percent of women who flee to a shelter will resume living with their abusers. And most often, the abuse continues. In many communities there is no incentive, such as the risk of jail, to start or complete, court-ordered treatment—if in fact, such treatment was even ordered.

A growing number of States have passed laws requiring police to follow through on their investigation of any complaint of domestic violence, even if the plaintiff subsequently asks to have the complaint withdrawn. Otherwise police often fail to follow up, and abuse victims may drop a complaint out of fear for their lives.

In 1982, Duluth, MN became the first jurisdiction to adopt a mandatory arrest policy in domestic violence cases. Police who respond to a domestic fight must make an arrest if they have probable cause to believe abuse occurred within 4 hours. The Duluth model seeks to hold an abuser accountable at every stage of the legal process. The program, which has an 87 percent conviction rate for spousal abuse cases, tracks a couple from a 911 call to the time an abuser finishes probation.

In addition to a mandatory arrest policy—first offenders typically spend at least one night in jail—there is a "no drop" prosecution policy. All cases are prosecuted regardless of whether the woman wants to proceed. Judges in Duluth sentence men who plead guilty to misdemeanor spousal assault to 30-to-90 days in jail, which is suspended if they enter the 6-month treatment program, consisting of weekly counseling sessions. Typically men who miss three consecutive classes are arrested and jailed. This model is one which should be replicated in communities throughout the Nation. Such policies send a clear message to batters that abuse will not be tolerated.

Violence against women is a public health problem of enormous magnitude which exacts a tremendous cost on our Nation's women and children. We cannot begin to address this problem until we all open our eyes to the magnitude of the problem. We can't make our streets safe if we can't make our homes safe. To do this we must all get involved. Neighbors must contact the police when they hear violent arguments, relatives should lend support to family members in need, and teachers should be aware of signs that students have witnesses violence at home. Pastors and clergy cannot tell a battered spouse to "try and make it work." Sending a woman home to a battering spouse often places a woman's life at risk. We need to let abuse victims know that there are options available to them and their children. And we in Congress and local governments must work to ensure that these options are available. Early intervention is crucial, and it is essential if we are to reduce the epidemic of abuse in our homes and our society.

Ms. HARMAN. Mr. Speaker, it is ironic that this month is Domestic Violence Awareness Month. It's been hard to compete for news coverage to raise awareness given all of the attention the O.J. verdict and trial has received—a trial where the issue of domestic violence should have played a critical role. This month, no one can get in a word about anything besides O.J., so I suppose I'll have to comment on the trial if I want to see my remarks in print.

Let me say that juror No. 7, Brenda Moran, was under a false impression when she implied there was no relationship between spousal abuse and murder. In 1990, 30 percent of women who were murdered were killed by husbands or boyfriends. Estimates show that one in six women in this country are, or have been, victims of domestic violence. Domestic violence knows no socio-economic, ethnic, or racial lines. Women across America are abused and killed by their partners, and we must do more to stop this.

Also occurring this month are negotiations between House and Senate conferees to the Commerce-Justice-State appropriations bill where the funding level for the Violence Against Women Act will be decided. In 1993, the Congress passed the Violence Against Women Act, a promise to finally treat domestic violence like the crime that it is, to improve law enforcement, to make streets and homes safer for women, and to vigorously prosecute perpetrators. We promised more counseling. We promised more shelter to provide a safe haven for abused women. Yet this summer, the House of Representatives abandoned these promises. The House-passed Commerce-State-Justice appropriations bill has a $50 million shortfall in funds for the Violence Against Women Act. I fear this may be interpreted as a message to battered women that there are few resources for them, only empty promises. I implore the conferees to adopt the Senate level of funding to fully fund the Violence Against Women Act at $175 million.

The funding is critical to stopping abuse and providing counseling. Rainbow Services is a shelter in San Pedro, CA, in my district, that desperately needs the money to implement its programs to combat domestic violence. Two women the Rainbow Services shelter and tried to help, were killed in the last 6 months—women whose lives could have been saved had they had been able to stay at the shelter longer. These women came forward and tried to do the right thing, but the resources were not there to keep them away from their abusers long enough. Clearly, grants from the Violence Against Women Act translate into saving human lives.

Rainbow Services has long waiting lists for counseling, beds, and all of its other services. The number of women who come seeking help has doubled in the last 3 months since a domestic violence hotline was established in May. The increased funds from California's VAWA grant only constitutes half of what they need for their emergency response program, a program operating 24 hours a day, 7 days a week. Rainbow Services recently received a grant for a new shelter—the first shelter for battered elderly women in the area—and the Violence Against Women Act grants are critical to its operation.

I recently visited several shelters in my district and talked to women and heard their stories. I have urged the Los Angeles district attorney, Gil Garcetti, to step up the local commitment to violence against women. But until our national consciousness is raised, local efforts will be inadequately supported and financed.

October is Domestic Violence Awareness Month, but we must realize that victims of domestic violence live in fear every day of every year. The FBI estimates that a woman is battered every 5 to 15 seconds in America. Our commitment must not be limited to recognizing a special month to combat domestic violence, or simply funding programs to stop the violence. We must continue to raise this issue at the local level, the State level, and the national level until women are no longer afraid to reach out for help, until there are no women turned away at shelters because they are too full, and until domestic violence is recognized as the crime that it is.

Mr. REED. Mr. Speaker, I rise today in recognition of Domestic Violence Awareness Month. Violent attacks are the No. 1 health threat to women in this country. In fact, women are at greater risk of injury from violent attacks than they are from cancer or heart attacks; or auto accidents, plane crashes, AIDS, or drowning.

Since coming to Congress, I have actively supported legislation to prevent violence against women. Unfortunately, the strides we made in the last Congress through passage of the Violence Against Women Act [VAWA] are being threatened by legislation this Congress which decreases levels of funding for essential programs.

My home State of Rhode Island is fortunate to have excellent resources for women who are victims of violence. I have had the opportunity to work with many of the people who have dedicated their lives to helping these victims, and I am well aware of the important and necessary work that they are doing. But we must continue to support these efforts. Much more remains to be done. Last year in Rhode Island more than 4,100 people asked the district and family courts for protection from abuse; 14,120 calls for help were answered on our State's seven domestic abuse hotlines; 854 abused women and children found safety and support in Rhode Island's six domestic violence shelters; 8,752 clients received advocacy and assistance from Rhode Island's domestic violence shelters and advocacy programs; and at least 12 people died in Rhode Island as a result of domestic violence, more than twice the number in 1993.

These numbers clearly illustrate the need for funding VAWA programs and strong laws to curb and prevent domestic violence. I will continue to work to strengthen laws, support legislation, and ensure Federal support for programs aimed at combating violence against women. I urge my colleagues to continue to raise awareness of this issue, and to support legislation aimed at solving this national crisis.

Ms. PELOSI. Mr. Speaker, I rise today to share my colleagues a disturbing news story. The Associated Press reported today that a chilling backlash against battered women has formed in this country since O.J. Simpson was acquitted of murder. Advocates for abused women say that calls to domestic violence hotlines have dropped sharply in some States because women fear their claims will not be taken seriously.

In the aftermath of the Simpson trial, several jurors stated for millions of viewers to hear that domestic violence has nothing to do with murder. Yet over 4,000 women each year are killed by husbands or partners who have abused them. Domestic violence has everything to do with murder, everything to do with abuse, pain, suffering, loss of self-esteem, and violence against women.

The passage of the Violence Against Women Act was a great achievement in the fight against domestic violence. Public awareness remains high. Communities are working to see that this problem is eliminated and that victims of abuse have somewhere to turn or a safe place to go.

I am pleased to report that in my district the San Francisco Police Department recently announced the formation of a special unit to investigate domestic violence cases, one of only two such special units in the State of California. But domestic violence is still our problem. It will be our problem so long as it exists. We as legislators are responsible for letting women in this country know that we taken them seriously—that there are funds and resources available for their needs, that they don't have to hide their problem or be afraid to report cases of abuse.

I urge my colleagues to support full funding of the Violence Against Women Act, and to take every opportunity to speak out against this unspeakable crime against women, not just during National Domestic Violence Awareness Month, but every day.

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to insert in the RECORD their comments with regard to our special order on Domestic Violence Awareness Month.

The SPEAKER pro tempore (Mr. BLUTE). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TAYLOR of North Carolina (at the request of Mr. ARMEY), for today, on account of a family medical emergency.

Mr. WELDON of Pennsylvania (at the request of Mr. ARMEY), for this week and next, on account of medical reasons.

Mr. MARTINEZ (at the request of Mr. GEPHARDT), for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mrs. THURMAN, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mr. DEUTSCH, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes each day, today and October 25.

Mr. MCINNIS, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. ROBERTS, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $4,577.00.)

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. STARK.
Mr. GEJDENSON.
Mr. MURTHA.
Mr. VENTO.
Mr. VISCLOSKY, in two instances.
Mr. HAMILTON.
Mr. LAFALCE.
Mr. FRANK of Massachusetts
Mr. KENNEDY of Massachusetts.
Mr. NADLER.
Mr. SCOTT.
Mr. CLYBURN.
Mr. MATSUI.
Mr. LEVIN.
Mr. LANTOS.
Mr. MANTON.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:)

Mr. COMBEST.
Mr. DAVIS.
Mr. CUNNINGHAM.
Mr. HYDE.
Ms. ROS-LEHTINEN.
Mr. FIELDS of Texas.
Mr. BAKER of California.
Mr. WOLF.
Mr. SMITH of New Jersey.
Mr. ROTH.
Mr. ALLARD.
Mr. HORN.

(The following Members (at the request of Mrs. MORELLA) and to include extraneous matter:)

Ms. DUNN of Washington.
Mr. HILLIARD.
Mr. BARTON of Texas.
Mr. DORNAN.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table, and, under the rule, referred as follows:

S. 868. An act to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Government Reform and Oversight.

S. 1309. An act to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project; to the Committee on Banking and Financial Services.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 402. An act to amend the Alaska Native Claims Settlement Act, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1254. An act to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.

ADJOURNMENT

Mrs. MORELLA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until Wednesday, October 25, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1542. A communication from the President of the United States, transmitting his request to make available emergency appropriations totaling $125,000,000 in budgetary authority for the Small Business Administration [SBA], and to designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–127); to the Committee on Appropriations and ordered to be printed.

1543. A letter from the Comptroller General of the United States, transmitting a review of the President's sixth special impoundment message for fiscal year 1995, pursuant to 2 U.S.C. 685 (H. Doc. No. 104–126); to the Committee on Appropriations and ordered to be printed.

1544. A letter from the Under Secretary of Defense; transmitting a report of a violation of the Anti-Deficiency Act which occurred at the U.S. Army Reserve Personnel Center, St. Louis, MO, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1545. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred when the Alaska Army National Guard used Federal funds to support a State public relations function, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1546. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department intends to renew lease of one naval vessel to the Government of Mexico, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

1547. A letter from the Secretary of Energy, transmitting the Department's thirty-first quarterly report on the status of Exxon and stripper well oil overcharge funds as of June 30, 1995; to the Committee on Commerce.

1548. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending September 30, 1995. pursuant to 22 U.S.C. 2768; to the Committee on International Relations.

1549. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of transmittal No. A–96 which relates to enhancements or upgrades from the level of sensitivity of technology or capability described in section 36(b)(1) AECA certification 95–11 of February 24, 1995, pursuant to 22 U.S.C. 2776(b)(5); to the Committee on International Relations.

1550. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the manufacture of significant military equipment [SME] in a non-NATO country, pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

1551. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council, pursuant to Public Law 102–1, section 3 (105 Stat. 4) (H. Doc. No. 104–128); to the Committee on International Relations and ordered to be printed.

1552. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1553. A letter from the Secretary, Panama Canal Commission, transmitting notification that it is in the public interest to use procedures other than full and open competition to award a particular Commission contract, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Reform and Oversight.

1554. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the 1994 annual report of the Director of the Administrative Office of the U.S. Courts containing reports of the proceedings of the Judicial Conference of the United States, activities of the Administrative Office of the United States, and judicial business of the U.S. courts for the fiscal year ending September 30, 1994, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 241. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–289). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1253. A bill to rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge (Rept. 104–290). Referred to the House Calendar.

DISCHARGE OF COMMITTEES

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 1020. The Committees on Resources and the Budget discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FIELDS of Texas (for himself, Mr. BLILEY, Mr. BURR, Mr. DINGELL, Mr. EDWARDS, Mr. FRISA, and Mr. MARKEY):

H.R. 2519. A bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes; to the Committee on Commerce.

By Mr. LEACH;

H.R. 2520. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, to reduce paperwork and additional regulatory burdens for depository institutions, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HORN (for himself, Mr. CLINGER, Mr. PETRI, Mrs. JOHNSON of Connecticut, Mr. CHRYSLER, Mr. EHLERS, Mr. FALEOMAVAEGA, Mr. HOBSON, Mr. KNOLLENBERG, Mr. LEACH, Mr. ROGERS, and Mr. DAVIS):

H.R. 2521. A bill to establish a Federal Statistical Service; to the Committee on Government Reform and Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTON of Texas:

H.R. 2522. A bill to establish a maximum level of remediation for dry cleaning solvents, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHABOT (for himself, Mr. OWENS, Mr. ROHRABACHER, Mr. CRANE, Mr. SCARBOROUGH, Mr. SHADEGG, and Mr. HOKE):

H.R. 2523. A bill to terminate the authority of the Secretary of Agriculture and the Commodity Credit Corporation to support the price of agricultural commodities and to terminate related acreage allotment and marketing quota programs for such commodities; to the Committee on Agriculture.

By Mr. FRANK of Massachusetts:

H.R. 2524. A bill to amend chapter 171 of title 28, United States Code, to allow claims against the United States under that chapter for damages arising from certain negligent medical care provided members of the Armed Forces; to the Committee on the Judiciary.

By Mr. HYDE (for himself, Mr. CONYERS, Mr. SENSENBRENNER, Mr. MCCOLLUM, Mr. GEKAS, Mr. SMITH of Texas, Mr. SCHIFF, Mr. CANADY, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. BONO, Mr. BRYANT of Tennessee, Mr. CHABOT, Mr. BRYANT of Texas, and Mr. RAMSTAD):

H.R. 2525. A bill to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities; to the Committee on the Judiciary.

By Mr. OWENS:

H.R. 2526. A bill to create a Creative Revenues Commission, to facilitate the reform of the Federal tax system, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H.R. 2527. A bill to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes; to the Committee on House Oversight.

By Mr. BRYANT of Texas:

H. Res. 242. Resolution providing for consideration of the bill (H.R. 2261) to provide for the regulation of lobbyists and gift reform, and for other purposes; to the Committee on Rules.

By Ms. WATERS (for herself, Mr. BECERRA, Mr. RUSH, Ms. VELÁZQUEZ, Mr. PAYNE of New Jersey, Mr. BISHOP, Mr. FORD, Mrs. MEEK of Florida, Mr. LEWIS of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WATT of North Carolina, Mr. HILLIARD, Mr. THOMPSON, Mr. CLYBURN, Mr. FIELDS of Louisiana, Ms. JACKSON-LEE, Mr. MFUME, Mrs. COLLINS of Illinois, Mrs. CLAYTON, Mr. FRAZER, Mr. JEFFERSON, Mr. HASTINGS of Florida, Ms. BROWN of Florida, Miss COLLINS of Michigan, Mr. FATTAH, Mrs. MINK of Hawaii, Ms. WOOLSEY, Mr. HINCHEY, Ms. ROYBAL-ALLARD, Mr. MILLER of California, Mr. STARK, Mr. SCOTT, Mr. MARTINEZ, Mr. KENNEDY of Massachusetts, Ms. MCKINNEY, Mr. TORRES, Mr. OWENS, Mr. SANDERS, Mr. FARR, Ms. FURSE, and Mr. EVANS):

H. Res. 243. Resolution urging the prosecution of ex-Los Angeles Police Detective Mark Fuhrman for perjury, investigation into other possible crimes by Mr. Fuhrman, and adoption of reforms by the Los Angeles Police Department; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

176. The SPEAKER presented a memorial of the House of Representatives of the State of Michigan, relative to funding for the Great Lakes Science Center; to the Committee on Appropriations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. VENTO.

H.R. 218: Mr. KINGSTON.

H.R. 350: Mr. MCHUGH.

H.R. 353: Mr. BOEHLERT.

H.R. 359: Mr. OLVER and Mr. NORWOOD.

H.R. 394: Mr. ROSE, Mr. BUNNING of Kentucky, and Mr. SALMON.

H.R. 528: Mr. SAWYER, Ms. PELOSI, Mr. LEWIS of Georgia, Mr. OLVER, Mr. WYNN, Mr. LEWIS of California, Mr. BAKER of Louisiana, Mr. CUNNINGHAM, Mr. GUNDERSON, Mr. SOUDER, and Mr. HANCOCK.

H.R. 580: Mr. NEAL of Massachusetts and Mr. HOYER.

H.R. 713: Mr. ROMERO-BARCELÓ.

H.R. 820: Mr. LAFALCE, Mr. TORRES, Mr. DAVIS, Mr. NEY, Mr. BARTLETT of Maryland, Mr. MYERS of Indiana, Mr. HALL of Ohio, Mr. BLUTE, and Mrs. LOWEY.

H.R. 842: Mr. PAXON.

H.R. 852: Mr. CLYBURN, Mr. TORRICELLI, and Mr. CONYERS.

H.R. 891: Mr. MFUME, Mr. JOHNSTON of Florida, and Miss COLLINS of Michigan.

H.R. 941: Mrs. MEYERS of Kansas.

H.R. 1203: Mr. DOOLEY and Mr. CHRISTENSEN.

H.R. 1552: Mr. EVANS.

H.R. 1595: Mr. SMITH of Texas and Mr. LOBIONDO.

H.R. 1625: Mr. FUNDERBURK.

H.R. 1684: Mr. HALL of Texas, Mr. DICKS, and Mr. SKEEN.

H.R. 1691: Mrs. LINCOLN, Mr. EHLERS, Mr. OLVER, Mr. FOLEY, Mr. BARTLETT of Maryland, Mr. CLYBURN, Mr. HORN, Mr. WOLF, Mr. BOEHNER, Mr. PAYNE of Virginia, and Mr. MORAN.

H.R. 1707: Mr. MATSUI.

H.R. 1733: Mr. MCHALE and Mr. BONO.

H.R. 1893: Mr. GILMAN.

H.R. 1920: Mr. QUINN, Mr. VENTO, Ms. JACKSON-LEE, Mrs. MEYERS of Kansas, and Mr. MATSUI.

H.R. 2008: Mr. MCHALE.

H.R. 2024: Mr. LUTHER.

H.R. 2029: Mr. KINGSTON.

H.R. 2180: Mr. Funderburk.

H.R. 2192: Mr. Levin.

H.R. 2216: Mr. Fields of Texas and Mr. Miller of Florida.

H.R. 2240: Mrs. Lowey, Mr. Boehlert, Mr. Manton, Miss Collins of Michigan, and Mr. Traficant.

H.R. 2245: Mr. Faleomavaega and Mr. Frazier.

H.R. 2357: Mr. Christensen.

H.R. 2441: Mr. Bono.

H.R. 2468: Mr. Riggs and Mr. Condit.

H.R. 2472: Mr. King.

H.R. 2508: Mr. Burr, Mrs. Clayton, Mr. Gilmor, Mr. Roth, Mr. Gutknecht, and Mr. Jacobs.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 390: Mr. Abercrombie.

H.R. 500: Mr. Saxton.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2491

Offered By: Mr. Orton

(Amendment to the Amendment Numbered 7)

Amendment No. 8: At the end insert the following new title:

TITLE XIV—BUDGET PROCESS PROVISIONS

CHAPTER 1—SHORT TITLE; PURPOSE

SEC. 14001. SHORT TITLE.

This title may be cited as the "Balanced Budget Enforcement Act of 1995".

SEC. 14002. PURPOSE.

The purpose of this title is to enforce a path toward a balanced budget by fiscal year 2002 and to make Federal budget process more honest and open.

CHAPTER 2—BUDGET ESTIMATES

SEC. 14051. BOARD OF ESTIMATES.

(a) Establishment.—There is established a Board of Estimates.

(b) Duties of the Board.—(1) On the dates specified in section 254, the Board shall issue a report to the President and the Congress which states whether it has chosen (with no modification)—

(A) the sequestration preview report for the budget year submitted by OMB under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 or the report for that year submitted by CBO under that section; and

(B) the final sequestration report for the budget year submitted by OMB under section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 or the report for that year submitted by CBO under that section;

that shall be used for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, chapter 11 of title 31, United States Code, and section 403 of the Congressional Budget Act of 1974. In making its choice, the Board shall choose the report that, in its opinion, is the more accurate.

(2) At any time the Board may change the list of major estimating assumptions to be used by OMB and CBO in preparing their sequestration preview reports.

(c) Membership.—

(1) Number and appointment.—The Board shall be composed of 5 members, the chairman of the Board of Governors of the Federal Reserve System and 4 other members to be appointed by the President as follows:

(A) One from a list of at least 5 individuals nominated for such appointment by the Speaker of the House of Representatives.

(B) One from a list of at least 5 individuals nominated for such appointment by the majority leader of the Senate.

(C) One from a list of at least 5 individuals nominated for such appointment by the minority leader of the House of Representatives.

(D) One from a list of at least 5 individuals nominated for such appointment by the minority leader of the Senate.

No member appointed by the President may be an officer or employee of any government. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(2) Continuation of membership.—If any member of the Board appointed by the President becomes an officer or employee of a government, he may continue as a member of the Board for not longer than the 30-day period beginning on the date he becomes such an officer or employee.

(3) Terms.—(A) Members shall be appointed for terms of 4 years.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4) Basic pay.—Members of the Board shall serve without pay.

(5) Quorum.—Three members of the Board shall constitute a quorum but a lesser number may hold hearings.

(6) Chairman.—The Chairman of the Board shall be chosen annually by its members.

(7) Meetings.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) Director and Staff.—

(1) Appointment.—The Board shall have a Director who shall be appointed by the members of the Board. Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of such personnel as the Director considers appropriate.

(2) Applicability of certain civil service laws.—The Director and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(3) Staff of federal agencies.—Upon request of the Board, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its duties, notwithstanding section 202(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(a)).

(e) Powers.—

(1) Hearings and sessions.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as it considers appropriate.

(2) Obtaining official data.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Chairman of the Board, the head of such department or agency shall furnish such information to the Board.

(3) Administrative support services.—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) Definitions.—As used in this section:

(1) The term "Board" refers to the Board of Estimates established by subsection (a).

(2) The term "CBO" refers to the Director of the Congressional Budget Office.

(3) The term "OMB" refers to the Director of the Office of Management and Budget.

Subtitle B—Discretionary Spending Limits

SEC. 14101. DISCRETIONARY SPENDING LIMITS.

(a) Limits.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking "and" at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

"(B) with respect to fiscal year 1996, $498,113,000,000 in new budget authority and $536,610,000,000 in outlays;

"(C) with respect to fiscal year 1997, $497,200,000,000 in new budget authority and $530,736,000,000 in outlays;

"(D) with respect to fiscal year 1998, $496,700,000,000 in new budget authority and $526,627,000,000 in outlays;

"(E) with respect to fiscal year 1999, $495,700,000,000 in new budget authority and $524,722,000,000 in outlays;

"(F) with respect to fiscal year 2000, $497,700,000,000 in new budget authority and $523,798,000,000 in outlays;

"(G) with respect to fiscal year 2001, $506,700,000,000 in new budget authority and $530,023,000,000 in outlays; and

"(H) with respect to fiscal year 2002, $509,700,000,000 in new budget authority and $530,023,000,000 in outlays.".

(b) Committee Allocations and Enforcement.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking "1995" and inserting "2002" and by striking its last sentence; and

(2) in subsection (d), by striking "1992 to 1995" in the side heading and inserting "1995 to 2002" and by striking "1992 through 1995" and inserting "1995 through 2002".

(c) Five-Year Budget Resolutions.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a), by striking "for fiscal year 1992, 1993, 1994, or 1995"; and

(2) in subsection (d)(1), by striking "for fiscal years 1992, 1993, 1994, and 1995" and by striking "(i) and (ii)".

(d) Effective Date Repealer.—(1) Section 607 of the Congressional Budget Act of 1974 is repealed.

(2) The item relating to section 607 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

(e) Sequestration Regarding Crime Trust Fund.—(1) Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (B), (C), and (D) and its last sentence and inserting the following:

"(B) For fiscal year 1996, $2,227,000,000.

"(C) For fiscal year 1997, $3,846,000,000.

"(D) For fiscal year 1998, $4,901,000,000.

"(E) For fiscal year 1999, $5,639,000,000.

"(F) For fiscal year 2000, $6,225,000,000.

"The appropriate levels of new budget authority are as follows: for fiscal year 1996, $4,087,000,000; for fiscal year 1997, $5,000,000,000; for fiscal year 1998, $5,500,000,000; for fiscal year 1999, $6,500,000,000; for fiscal year 2000, $6,500,000,000.".

(2) The last two sentences of section 310002 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14212) are repealed.

SEC. 14102. TECHNICAL AND CONFORMING CHANGES.

(a) General Statement.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first sentence and inserting the following: "This part provides for the enforcement of deficit reduction through discretionary spending limits and pay-as-you-go requirements for fiscal years 1995 through 2002.".

(b) Definitions.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(2) in paragraph (9), by striking "1992" and inserting "1996"; and

(3) in paragraph (14), by striking "1995" and inserting "2002".

SEC. 14103. ELIMINATION OF CERTAIN ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1995–2002";

(2) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002" and by striking "through 1998" and inserting "through 2002";

(3) in subsection (b)(1), by striking subparagraphs (B) and (C) and by striking "the following:" and all that follows through "The adjustments" and inserting "the following: the adjustments";

(4) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002" and by striking "through 1998" and inserting "through 2002"; and

(5) by repealing subsection (b)(2).

Subtitle C—Pay-As-You-Go Procedures

SEC. 14201. PERMANENT EXTENSION OF PAY-AS-YOU-GO PROCEDURES; TEN-YEAR SCOREKEEPING.

(a) Ten-year Scorekeeping.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "Fiscal Years1992–1998"; and

(2) in subsection (d), by striking "each fiscal year through fiscal year 1998" each place it appears and inserting "each of the 10 succeeding fiscal years following enactment of any direct spending or receipts legislation".

(b) Repeal of Emergencies.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(c) Pay-As-You—Go Scorecard.—Upon enactment of this Act, the Director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment of this Act of direct spending and receipts legislation for that year.

(d) Pay-As-You-Go Point of Order.—Section 311 of the Congressional Budget Act of 1974 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(d) Pay-As-You-Go Point of Order.—It shall not be in order in the Houe of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would increase the deficit above the maximum deficit amount set forth in section 253 for the budget year or any of the 9 succeeding fiscal years after the budget year, as measured by the sum of all applicable estimates of direct spending and receipts legislation applicable to that fiscal year.".

SEC. 14202. ELIMINATION OF EMERGENCY EXCEPTION.

(a) Sequestration.—Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (B), by striking the dash after "from", and by striking "(A)".

(b) Technical Change.—Section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "in the manner described in section 256." after "accounts" the first place it appears and by striking the remainder of the subsection.

Subtitle D—Miscellaneous

SEC. 14301. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 14302. REPEAL OF EXPIRATION DATE.

(a) Expiration.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by repealing subsection (b) and by redesignating subsection (c) as subsection (b).

(b) Expiration.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note; 2 U.S.C. 665 note) is repealed.

Subtitle E—Deficit Control

SEC. 14401. DEFICIT CONTROL.

(a) Deficit Control.—Part D of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Part D—Deficit Control

"SEC. 261. ESTABLISHMENT OF DEFICIT TARGETS.

"The deficit targets are as follows:

"Fiscal year	Deficit (in billions of dollars)
1996	179.853
1997	164.640
1998	133.279
1999	111.062
2000	86.221
2001	41.626
2002	0

The deficit target for each fiscal year after 2002 shall be zero.

"SEC. 262. SPECIAL DEFICIT MESSAGE BY PRESIDENT.

"(a) Special Message.—If the OMB sequestration preview report submitted under section 254(d) indicates that deficit for the budget year or any outyear will exceed the applicable deficit target, or that the actual deficit target in the most recently completed fiscal year exceeded the applicable deficit target, the budget submitted under section 1105(a) of title 31, United States Code, shall include a special deficit message that includes proposed legislative changes to offset the net deficit impact of the excess identified by that OMB sequestration preview report for each such year through any combination of:

"(1) Reductions in outlays.

"(2) Increases in revenues.

"(3) Increases in the deficit targets, if the President submits a written determination that, because of economic or programmatic reasons, only some or none of the excess should be offset.

"(b) Introduction of President's Package.—Within 10 days after the President submitted a special deficit message, the text referred to in subsection (a) shall be introduced as a joint resolution in the House of Representatives by the chairman of its Committee on the Budget and in the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after the 10th day the resolution may be introduced by any Member of the House of Representatives or the Senate, as the case may be. A joint resolution introduced under this subsection shall be referred to the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"SEC. 263. CONGRESSIONAL ACTION REQUIRED.

"(a) In General.—The requirements of this section shall be in effect for any year in which the OMB sequestration preview report submitted under section 254(d) indicates that the deficit for the budget year or any outyear will exceed the applicable deficit target.

"(b) Requirements for Special Budget Resolution in the House.—The Committee on the Budget in the House shall report not later than March 15 a joint resolution, either as a separate section of the joint resolution on the budget reported pursuant to section 301 of the Congressional Budget Act of 1974 or as a separate resolution, that includes reconciliation instructions instructing the appropriate committees of the House and Senate to report changes in laws within their jurisdiction to offset any excess in the deficit identified in the OMB sequestration preview report submitted under section 254(d) as follows:

"(1) Reductions in outlays.

"(2) Increases in revenues.

"(3) Increases in the deficit targets, except that any increase in those targets may not be greater than the increase included in the special reconciliation message submitted by the President.

"(c) Procedure If House Budget Committee Fails to Report Required Resolution.—

"(1) Automatic discharge of house budget committee.—In the event that the House Committee on the Budget fails to report a resolution meeting the requirements of subsection (b), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to section 5(b), and the joint resolution shall be placed on the appropriate calendar.

"(2) Consideration by house of discharged resolution.—Ten days after the House Committee on the Budget has been discharged under paragraph (1), any member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution. Consideration of such resolution shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

"(d) CONSIDERATION BY THE HOUSE OF REPRESENTATIVES.—(1) It shall not be in order in the House of Representatives to consider a joint resolution on the budget unless that joint resolution fully addresses the entirety of any excess of the deficit targets as identified in the OMB sequestration preview report submitted under section 254(d) through reconciliation instructions requiring spending reductions, or changes in the deficit targets.

"(2) If the joint resolution on the budget proposes to eliminate or offset less than the entire excess for budget year and any subsequent fiscal years, then the Committee on the Budget shall report a separate resolution increasing the deficit targets for each applicable year by the full amount of the excess not offset or eliminated. It shall not be in order to consider any joint resolution on the budget that does not offset the full amount of the excess until the House of Representatives has agreed to the resolution directing the increase in the deficit targets.

"(e) TRANSMITTAL TO SENATE.—If a joint resolution passes the House pursuant to subsection (d), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

"(f) REQUIREMENTS FOR SPECIAL BUDGET RESOLUTION IN THE SENATE.—The Committee on the Budget in the Senate shall report not later than April 1 a joint resolution, either as a separate section of a budget resolution reported pursuant to section 301 of the Congressional Budget Act of 1974 or as a separate resolution, that shall include reconciliation instructions instructing the appropriate committees of the House and Senate to report changes in laws within their jurisdiction to offset any excess through any combination of:

"(1) Reductions in outlays.

"(2) Increases in revenues.

"(3) Increases in the deficit targets, except that any increase in those targets may not be greater than the increase included in the special reconciliation message submitted by the President.

"(g) PROCEDURE IF SENATE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

"(1) AUTOMATIC DISCHARGE OF SENATE BUDGET COMMITTEE.—In the event that the Senate Committee on the Budget fails to report a resolution meeting the requirements of subsection (f), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to section 5(b), and the joint resolution shall be placed on the appropriate calendar.

"(2) CONSIDERATION BY SENATE OF DISCHARGED RESOLUTION.—Ten days after the Senate Committee on the Budget has been discharged under paragraph (1), any member may move that the Senate proceed to consider the resolution. Such motion shall be privileged and not debatable. Consideration of such resolution shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (h).

"(h) CONSIDERATION BY SENATE.—(1) It shall not be in order in the Senate to consider a joint resolution on the budget unless that joint resolution fully addresses the entirety of any excess of the deficit targets as identified in the OMB sequestration report submitted under section 254(d) through reconciliation instructions requiring deficit reductions, or changes in the deficit targets.

"(2) If the joint resolution on the budget proposes to eliminate or offset less than the entire overage of a budget year, then the Committee on the Budget shall report a resolution increasing the deficit target by the full amount of the overage not eliminated. It shall not be in order to consider any joint resolution on the budget that does not offset the entire amount of the overage until the Senate has agreed to the resolution directing the increase in the deficit targets.

"(i) CONFERENCE REPORTS MUST FULLY ADDRESS DEFICIT EXCESS.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution on the budget unless that conference report fully addresses the entirety of any excess identified by the OMB sequestration preview report submitted pursuant to section 254(d) through reconciliation instructions requiring deficit reductions, or changes in the deficit targets.

"SEC. 264. COMPREHENSIVE SEQUESTRATION.

"(a) SEQUESTRATION BASED ON BUDGET-YEAR SHORTFALL.—The amount to be sequestered for the budget year is the amount (if any) by which deficit exceeds the cap for that year under section 261 or the amount that the actual deficit in the preceding fiscal year exceeded the applicable deficit target.

"(b) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session and on May 15, there shall be a sequestration to reduce the amount of deficit in the current policy baseline and to repay any deficit excess in the most recently completed fiscal year by the amounts specified in subsection (b). The amount required to be sequestered shall be achieved by reducing each spending account (or activity within an account) by the uniform percentage necessary to achieve that amount.".

(c) CONFORMING CHANGES.—(1) The table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the items relating to part D and inserting the following:

"Sec. 261. Establishment of deficit targets.
"Sec. 262. Special deficit message by president.
"Sec. 263. Congressional action required.
"Sec. 264. Comprehensive sequestration.".

(2) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "or in part D" after "As used in this part".

SEC. 14402. SEQUESTRATION PROCESS.

(a) ESTIMATING ASSUMPTIONS, REPORTS, AND ORDERS.—Sections 254, 255, and 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

"SEC. 254. ESTIMATING ASSUMPTIONS, REPORTS, AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

Date:	**Action to be completed:**
Dec. 31	OMB and CBO sequestration preview reports submitted to Board.
Jan. 15	Board selects sequestration preview report.
The President's budget submission.	OMB publishes sequestration preview report.
May 1	OMB and CBO sequestration reports submitted to Board.
5 days later:	Board selected midsession sequestration report.
May 15	President issues sequestration order.
August 29	President's midsession review; notification regarding military personnel.
Within 10 days after end of session.	OMB and CBO final budget year sequestration reports submitted to Board.
5 days later	Board selects final sequestration report; President issues sequestration order.

"(b) SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate, OMB, and the Board and, in the case of OMB, to the House of Representatives, the Senate, the President, and the Board on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

"(c) EXCHANGE OF PRELIMINARY CURRENT POLICY BASELINES.—On December 15 or 3 weeks after Congress adjourns to end a session, whichever is later, OMB and CBO shall exchange their preliminary current policy baselines for the budget-year session starting in January.

"(d) SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On December 31 or 2 weeks after exchanging preliminary current policy baselines, whichever is later, OMB and CBO shall each submit a sequestration preview report.

"(2) CONTENTS.—Each preview report shall set forth the following:

"(A) MAJOR ESTIMATING ASSUMPTIONS.—The major estimating assumptions for the current year, the budget year, and the outyears, and an explanation of them.

"(B) CURRENT POLICY BASELINE.—A detailed display of the current policy baseline for the current year, the budget year, and the outyears, with an explanation of changes in the baseline since it was last issued that includes the effect of policy decisions made during the intervening period and an explanation of the differences between OMB and CBO for each item set forth in the report.

"(C) DEFICITS.—Estimates for the most recently completed fiscal year, the budget year, and each subsequent year through fiscal year 2002 of the deficits or surpluses in the current policy baseline.

"(D) DISCRETIONARY SPENDING LIMITS.—Estimates for the current year and each subsequent year through 2002 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(E) SEQUESTRATION OF DISCRETIONARY ACCOUNTS.—Estimates of the uniform percentage and the amount of budgetary resources to be sequestered from discretionary programs given the baseline level of appropriations, and if the President chooses to exempt some or all military personnel from sequestration, the effect of that decision on the percentage and amounts.

"(F) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

"(i) The amount of net deficit increase or decrease, if any, calculated under section 252(b).

"(ii) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

"(iii) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(G) REQUIREMENTS FOR THE DEFICIT.—An estimate of the amount of deficit reduction, if any, to be achieved for the budget year and the current year necessary to comply with the deficit targets or to repay any deficit excess in the preceding fiscal year.

"(H) DEFICIT SEQUESTRATION.—Estimates of the uniform percentage and the amount of comprehensive sequestration of spending programs that will be necessary under section 264.

"(I) AMOUNT OF CHANGE IN DEFICIT PROJECTIONS.—Amounts that deficit projections for the current year and the budget year have changed as a result of changes in economic and technical assumptions occurring after the enactment of the Omnibus Budget Reconciliation Act of 1995.

"(e) SELECTION OF OFFICIAL SEQUESTRATION PREVIEW REPORT.—On January 15 or 2 weeks after receiving the OMB and CBO sequestration preview reports, whichever is later, the Board shall choose either the OMB or CBO sequestration preview report as the official report for purposes of this Act. The Board shall add to the chosen report an analysis of which reports submitted in previous years have proven to be more accurate and recommendations about methods of improving the accuracy of future reports. That report shall be set forth, without change, in the budget submitted by the President under section 1105(a) of title 31, United States Code, for the budget year.

"(f) AGREEING ON EARLIER DATES.—The Chairman of the Board may set earlier dates for subsections (c), (d), and (e) if OMB and CBO concur.

"(g) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before August 29, the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 251(a)(3).

"(h) FINAL SEQUESTRATION REPORTS.—

"(1) REPORTING REQUIREMENT.—Not later than 10 days following the end of a budget-year session, OMB and CBO shall each submit a final sequestration report. On May 1 of each year, OMB and CBO shall each submit a midyear sequestration report for the current year.

"(2) CONTENTS.—Each such report shall be based upon laws enacted through the date of the report and shall set forth all the information and estimates required of a sequestration preview report required by subsections (d)(2)(D) through (H). In addition, that report shall include—

"(A) for each account to be sequestered, the baseline level of sequestrable budgetary resources and the resulting reductions in new budget authority and outlays; and

"(B) the effects of sequestration on the level of outlays for each fiscal year through 2002.

"(i) SELECTION OF OFFICIAL FINAL SEQUESTRATION REPORT.—Not later than 5 days after receiving the final OMB and CBO sequestration reports, the Board shall choose either the OMB or CBO final sequestration report as the official report for purposes of this Act, and shall issue a report stating that decision and making any comments that the Board chooses.

"(j) PRESIDENTIAL ORDER.—(1) On the day that the Board chooses a final sequestration report, the President shall issue an order fully implementing without change all sequestrations required by—

"(A) the final sequestration report that requires the lesser amount of discretionary sequestration under section 250; and

"(B) the final sequestration report that requires the lesser total amount of deficit sequestration under section 264.

The order shall be effective on issuance and shall be issued only if sequestration is required.

"(2)(A) If both the CBO and OMB final sequestration reports require a sequestration of discretionary programs, and the Board chooses the report requiring the greater sequestration, then a positive amount equal to the difference between the CBO and OMB estimates of discretionary new budget authority for the budget year shall be subtracted from the budget-year column and added to the column for the first outyear of the discretionary scorecard under section 107 as though that amount had been enacted in the next session of Congress.

"(B) If one final sequestration report requires a sequestration of discretionary programs and the Board chooses that report, then an amount equal to the difference between that report's estimate of discretionary new budget authority for the budget year and the discretionary funding limit for that year shall be subtracted from the budget-year column and added to column for the first outyear of the discretionary scorecard under section 107 as though that amount had been enacted in the next session of Congress.

"(k) USE OF MAJOR ESTIMATING ASSUMPTIONS AND SCOREKEEPING CONVENTIONS.—In the estimates, projections, and reports under subsections (c) and (d), CBO and OMB shall use the best and most recent estimating assumptions available. In all other reports required by this section and in all estimates or calculations required by this Act, CBO and OMB shall use—

"(1) current-year and budget-year discretionary funding limits chosen by the Board and the estimates chosen by the Board of the deficit reduction necessary to comply with the deficit targets in the budget year;

"(2) in estimating the effects of bills and discretionary regulations, the major estimating assumptions most recently chosen by the Board, except to the extent that they must be altered to reflect actual results occurring or measured after the Board's choice; and

"(3) scorekeeping conventions determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

In applying the two previous sentences, the major estimating assumptions and other calculations required by this Act that are included in the statement of managers accompanying the conference report on this Act shall be considered, for all purposes of this Act, to be the report of the Board chosen under subsection (e) for fiscal year 1993.

"(l) BILL COST ESTIMATES.—Within 10 days after the enactment of any discretionary appropriations, direct spending, or receipts legislation, CBO and OMB shall transmit to each other, the Board, and to the Congress an estimate of the budgetary effects of that law, following the estimating requirements of this section. Those estimates may not change after the 10-day period except—

"(1) to the extent those estimates are subsumed within (and implicitly changed by) the estimates made in preparation of a new baseline under subsections (c), (d), and (h);

"(2) to reflect a choice of the Board regarding an official set of estimates under subsections (l) and (n); and

"(3) to correct clerical errors or errors in the application of this Act.

"SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

"The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

"(1) net interest;

"(2) deposit insurance and pension benefit guarantees;

"(3) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

"(4) offsetting receipts and collections;

"(5) all payments from one Federal direct spending budget account to another Federal budget account; all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

"(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

"(7) nonbudgetary activities, including but not limited to—

"(A) credit liquidating and financing accounts;

"(B) the Pension Benefit Guarantee Corporation Trust Funds;

"(C) the Thrift Savings Fund;

"(D) the Federal Reserve System; and

"(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

"(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

"(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments, and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian land claims settlement fund (14–2202–0–1–806)

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Panama Canal Commission, operating expenses and capital outlay (95–5190–0–2–403);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payments to copyright owners (03–5175–0–2–376);

Payments to the United States territories, fiscal assistance (14–0418–0–1–801);

Salaries of Article III judges;

Soldier's and Airmen's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401).

"(10) the following noncredit special, revolving, or trust-revolving funds—

Coinage profit fund (20-5811-0-2-803);

Exchange Stabilization Fund (20-4444-0-3-155);

Foreign Military Sales trust fund (11-82232-0-7-155);

“(11)(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act);

“(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act;

“(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account;

“(12) the earned income tax credit (payments to individuals pursuant to section 32 of the Internal Revenue Code of 1986);

“(13) the uranium enrichment program; and

“(14) benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

“SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.

“(a) PERMANENT SEQUESTRATION OF DEFICIT.—

“(1) The purpose of any sequestration under this Act is to ensure deficit reduction in the budget year and all subsequent fiscal years, so that the budget-year cap in section 262 is not exceeded.

“(2) Obligations in sequestered spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first deficit sequestration, any later sequestration shall reduce spending outlays by an amount in addition to, rather than in lieu of, the reduction in spending outlays in place under the existing sequestration or sequestrations.

“(b) UNIFORM PERCENTAGES.—

“(1) In calculating the uniform percentage applicable to the sequestration of all spending programs or activities under section 266 the sequestrable base for spending programs and activities is the total budget-year level of outlays for those programs or activities in the current policy baseline minus—

“(A) those budget-year outlays resulting from obligations incurred in the current or prior fiscal years, and

“(B) those budget-year outlays resulting from exemptions under section 253.

“(2) For any direct spending program in which—

“(A) outlays pay for entitlement benefits,

“(B) a budget-year sequestration takes effect after the 1st day of the budget year, and

“(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget year,

the uniform percentage otherwise applicable to the sequestration of that program in the budget year shall be increased as necessary to achieve the same budget-year outlay reduction in that program as would have been achieved had there been no delay.

“(3) If the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased under paragraph (2), then it shall revert to the uniform percentage calculated under paragraph (1) when the budget year is completed.

“(c) GENERAL RULES FOR SEQUESTRATION.—

“(1) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

“(2) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an entitlement trust, special, or revolving fund account shall revert to the Treasury and be permanently canceled or repealed.

“(3) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

“(A) benefit payments are made to persons or governments more frequently than once a year, and

“(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index,

then for the first fiscal year to which a sequestration order applies, the benefit reductions in that program accomplished by the order shall take effect starting with the payment made at the beginning of January or 7 weeks after the order is issued, whichever is later. For the purposes of this subsection, Veterans Compensation shall be considered a program that meets the conditions of the preceding sentence.

“(4) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

“(5) IMPLEMENTING REGULATIONS.—Administrative regulations or similar actions implementing the sequestration of a program or activity shall be made within 120 days of the effective date of the sequestration of that program or activity.

“(6) DISTRIBUTION FORMULAS.—To the extent that distribution or allocation formulas differ at different levels of budgetary resources within an account, program, project, or activity, a sequestration shall be interpreted as producing a lower total appropriation, with that lower appropriation being obligated as though it had been the pre-sequestration appropriation and no sequestration had occurred.

“(7) CONTINGENT FEES.—In any account for which fees charged to the public are legally determined by the level of appropriations, fees shall be charged on the basis of the presequestration level of appropriations.

“(d) NON-JOBS PORTION OF AFDC.—Any sequestration order shall accomplish the full amount of any required reduction in payments for the non-jobs portion of the aid to families with dependant children program under the Social Security Act by reducing the Federal reimbursement percentage (for the fiscal year involved) by multiplying that reimbursement percentage, on a State-by-State basis, by the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities.

“(e) JOBS PORTION OF AFDC.—

“(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any sequestration order shall accomplish the full amount of any required reduction of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

“(2) NEW ALLOTMENT FORMULA.—

“(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act shall be equal to that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year, except that a State may not be allotted an amount under this subparagraph that exceeds the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

“(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

“(f) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

“(g) COMMODITY CREDIT CORPORATION.—

“(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

“(2) DAIRY PROGRAM.—(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundredweight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

"(3) Effect of Delay.—For purposes of subsection (b)(1), the sequestrable base for the Commodity Credit Corporation is the budget-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2), and subsection (b)(2) shall not apply.

"(4) Certain Authority Not to Be Limited.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its net realized losses.

"(h) Extended Unemployment Compensation.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

"(2) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

"(i) Federal Employees Health Benefits Fund.—For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. For purposes of subsection (b)(1), the sequestrable base for the Fund is the budget-year level of gross outlays resulting from claims paid after the sequestration order takes effect, and subsection (b)(2) shall not apply.

"(j) Federal Housing Finance Board.—Any sequestration of the Federal Housing Finance Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

"(k) Federal Pay.—

"(1) In General.—Except as provided in section 10(b)(3), new budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 264, as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

"(2) Definitions.—For purposes of this subsection:

"(A) The term 'statutory pay system' shall have the meaning given that term in section 5302(1) of title 5, United States Code.

"(B) The term 'elements of military pay' means—

"(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

"(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

"(iii) cadet pay and midshipman pay under section 203(c) of such title.

"(C) The term 'uniformed services' shall have the meaning given that term in section 101(3) of title 37, United States Code.

"(l) Guaranteed Student Loans.—(A) For all student loans under part B of title IV of the Higher Education Act of 1965 made on or after the date of a sequestration, the origination fees shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs for the fiscal year of the sequestration required by section 264, and all subsequent origination fees shall be increased by the same percentage, notwithstanding any other provision of law.

"(B) The origination fees to which paragraph (A) applies are those specified in sections 428H(f)(1) and 438(c) of that Act.

"(m) Insurance Programs.—Any sequestration in a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance Fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' life insurance programs) shall be accomplished by annual payments from the insurance fund or account to the general fund of the Treasury. The amount of each annual payment by each such fund or account shall be the amount received by the fund or account by increasing premiums on contracts entered into after the date a sequestration order takes effect by the uniform sequestration percentage, and premiums shall be increased accordingly.

"(n) Medicaid.—The November 15th estimate of medicaid spending by States shall be the base estimate from which the uniform percentage reduction under any sequestration, applied across-the-board by State, shall be made. Succeeding Federal payments to States shall reflect that reduction. The Health Care Financing Administration shall reconcile actual medicaid spending for each fiscal year with the base estimate as reduced by the uniform percentage, and adjust each State's grants as soon as practicable, but no later than 100 days after the end of the fiscal year to which the base estimate applied, to comply with the sequestration order.

"(o) Medicare.—

"(1) Timing of Application of Reductions.—

"(A) In General.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

"(B) Payment on the Basis of Cost Reporting Periods.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

"(2) No Increase in Beneficiary Charges in Assignment-Related Cases.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

"(p) Postal Service Fund.—Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

"(1) the uniform sequestration percentage, times

"(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue foregone for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and must follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

"(q) Power Marketing Administrations and T.V.A.—Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment by a fund shall be—

"(1) the uniform sequestration percentage, times

"(2) the estimated gross obligations of the fund in that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the presequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in rates, or by any combination, but may not be financed by a lower fund surplus or a higher fund deficit and must follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified above in order to make the annual payments to the Treasury.

"(r) VETERANS' HOUSING LOANS.—(1) For all housing loans guaranteed, insured, or made under chapter 37 of title 38, United States Code, on or after the date of a sequestration, the origination fees shall be increased by a uniform percentage sufficient to produce the dollar savings in veterans' housing programs for the fiscal year of the sequestration required by section 264, and all subsequent origination fees shall be increased by the same percentage, notwithstanding any other provision of law.

"(2) The origination fees to which paragraph (1) applies are those referred to in section 3729 of title 38, United States Code.".

(b) CONFORMING CHANGES.—(1) The item relating to section 254 in the table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 254. Estimating assumptions, reports, and orders.".

(2) The item relating to section 256 in the table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(c) Within 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each issue a report that includes projections of Federal spending, revenues, and deficits as a result of enactment of this Act and setting forth the economic and technical assumptions used to make those projections.

Subtitle F—Line Item Veto

SEC. 14501. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of the dollar amount of any discretionary budget authority specified in an appropriation Act for fiscal year 1996 or conference report or joint explanatory statement accompanying a conference report on the Act, or veto any targeted tax benefit provision in this reconciliation Act, if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than 10 calendar days (not including Sundays) after the date of the enactment of an appropriation Act providing such budget authority, or of this reconciliation Act in the case of a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message under this section for each appropriation Act and for this reconciliation Act.

(d) LIMITATION.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

(e) SPECIAL RULE FOR PREVIOUSLY ENACTED APPROPRIATION ACTS.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1996 that is enacted before the date of the enactment of this Act, the President may rescind all or part of that discretionary budget authority under the terms of this subtitle if the President notifies the Congress of such rescission by a special message not later than 10 calendar days (not including Sundays) after the date of the enactment of this Act.

SEC. 14502. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a) IN GENERAL.—

(1) Any amount of budget authority rescinded under this subtitle as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this subtitle as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) CONGRESSIONAL REVIEW PERIOD.—The period referred to in subsection (a) is—

(1) a congressional review period of 20 calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional 5 calendar days of session after the date of the veto.

(c) SPECIAL RULE.—If a special message is transmitted by the President under this subtitle and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 14503. DEFINITIONS.

As used in this subtitle:

(1) The term "rescission/receipts disapproval bill" means a bill which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this subtitle and—

(A)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ______.", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ______.", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(B) the title of which is as follows: "A bill to disapprove the recommendations submitted by the President on ______.", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of this reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act for fiscal year 1996, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations for fiscal year 1996.

SEC. 14504. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this subtitle or vetoes any provision of law as provided in this subtitle, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this subtitle;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this subtitle shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this subtitle shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under this subtitle.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this subtitle.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this subtitle.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this subtitle.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 14505. REPORT OF THE GENERAL ACCOUNTING OFFICE.

On January 6, 1997, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for fiscal year 1996, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for fiscal year 1996, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for fiscal year 1996 and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for fiscal year 1996, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for fiscal year 1996, together with their total dollar value.

SEC. 14506. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this subtitle violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

(4) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Subtitle G—Enforcing Points of Order

SEC. 14601. POINTS OF ORDER IN THE SENATE.

(a) WAIVER.—The second sentence of section 904(c) of the Congressional Budget Act of 1974 is amended by inserting "303(a)," after "302(f),", by inserting "311(c)," after "311(a),", by inserting "606(b)," after "601(b),", and by inserting "253(d), 253(h), 253(i)," before "258(a)(4)(C)".

(b) APPEALS.—The third sentence of section 904(c) of the Congressional Budget Act of 1974 is amended by inserting "303(a)," after "302(f),", by inserting "311(c)," after "311(a),", by inserting "606(b)," after "601(b),", and by inserting "253(d), 253(h), 253(i)," before "258(a)(4)(C)".

SEC. 14602. POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES.

Section 904 of the Congressional Budget Act of 1974 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) In the House of Representatives, a separate vote shall be required on that part of any resolution or order that makes in order the waiver of any points of order referred to in subsection (c).".

Subtitle H—Deficit Reduction Lock-box

SEC. 14701. DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES.

(a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

"SEC. 314. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of any general appropriation bill containing the appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee), but not less than the sum of reductions in budget authority resulting from adoption of amendments in the committee which were designated for deficit reduction.

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(c) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution that restricts the offering of amendments to any appropriation bill adjusting the level of budget authority contained in a Deficit Reduction Account.

"(d) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction. Any amendment pursuant to this subsection shall be in order even if amendment portions of the bill are not read for amendment with respect to the Deficit Reduction Lock-box.

"(e) It shall not be in order in the House of Representatives or the Senate to consider a conference report or amendment of the Senate that modifies any Deficit Reduction Lock-box provision that is beyond the scope of that provision as so committed to the conference committee.

"(f) It shall not be in order to offer an amendment increasing the Deficit Reduction Lock-box Account unless the amendment increases rescissions or reduces appropriations by an equivalent or larger amount, except that it shall be in order to offer an amendment increasing the amount in the Deficit Reduction Lock-box by the amount that the appropriate 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill.

"(g) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution which waives subsection (c).".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box provisions of appropriation measures.".

SEC. 14702. DOWNWARD ADJUSTMENTS.

(a) DOWNWARD ADJUSTMENTS.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Deficit Reduction Lockbox for that fiscal year under section 314 of the Budget Control and Impoundment Act of 1974. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur within ten days of enactment of any appropriations bill.

(b) DEFINITION.—As used in this section, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(c) RESCISSION.—Funds in the Deficit Reduction Lockbox shall be rescinded upon reductions in discretionary limits pursuant to subsection (a).

SEC. 14703. CBO TRACKING.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(i) SCOREKEEPING.—To facilitate compliance by the Committee on Appropriations with section 314, the Office shall score all general appropriation measures (including conference reports) as passed by the House of Representatives, as passed the Senate and as enacted into law. The scorecard shall include amounts contained in the Deficit Reduction Lock-Box. The chairman of the Committee on Appropriations of the House of Representatives or the Senate, as the case may be, shall have such scorecard published in the Congressional Record.".

Subtitle I—Emergency Spending; Baseline Reform; Continuing Resolutions Reform

CHAPTER 1—EMERGENCY SPENDING

SEC. 14801. ESTABLISHMENT OF BUDGET RESERVE ACCOUNT.

(a) ESTABLISHMENT.—A budget reserve account (hereinafter in this section referred to as the "account") shall be established for the purpose of setting aside adequate funding for natural disasters and national security emergencies.

(b) PRIOR APPROPRIATION REQUIRED.—The account shall consist of such sums as may be provided in advance in appropriation Acts for a particular fiscal year.

(c) RESTRICTION ON USE OF FUNDS.—(1) Notwithstanding any other provision of law, the amounts in the account shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(2) Funds in the account that are not obligated during the fiscal year for which they are appropriated may only be used for deficit reduction purposes.

(d) NEW POINT OF ORDER.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

SEC. 14802. CONGRESSIONAL BUDGET PROCESS CHANGES.

(a) CONTENTS OF JOINT RESOLUTIONS ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) total new budget authority and total budget outlays for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account;".

(b) SECTION 602 ALLOCATIONS.—(1) Section 602 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(f) COMMITTEE SPENDING ALLOCATIONS AND SUBALLOCATIONS FOR BUDGET RESERVE ACCOUNT.—

"(1) ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution) of total new budget authority and outlays to the Committee on Appropriations of each House for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account.

"(2) SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under paragraph (1) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(2) Section 602(c) of the Congressional Budget Act of 1974 is amended by inserting "or subsection (f)(1)" after "subsection (a)" and by inserting "or subsection (f)(2)" after "subsection (b)".

SEC. 14803. REPORTING.

Not later than November 30, 1996, and at annual intervals thereafter, the Director of the Office of Management and Budget shall submit a report to each House of Congress listing the amounts of money expended from the budget reserve account established under section 1 for the fiscal year ending during that calendar year for each natural disaster and national security emergency.

CHAPTER 2—BASELINE REFORM

SEC. 14851. THE BASELINE.

(a) The second sentence of section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "for inflation as specified in paragraph (5); and

(2) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "to offset pay absorption and for pay annualization as specified in paragraph (4)".

(b) Section 1109(a) of title 31, United States Code, is amended by adding after the first sentence the following new sentence: "These estimates shall not include an adjustment for inflation for programs and activities subject to discretionary appropriations.".

SEC. 14852. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount for the same activity (if any) in the current fiscal year.".

(d) Section 1105(a)(18) of title 31, United States Code, is amended by inserting "new budget authority and" before "budget outlays".

(e) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(30) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.".

SEC. 14853. THE CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the joint resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the Congressional budget for the next fiscal year shall be from such estimated levels."; and

(2) striking paragraph (8) and redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (7) the following new paragraphs:

"(8) a comparison of levels for the current fiscal year with proposed spending and revenue levels for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction; and

"(9) information, data, and comparisons indicating the manner in which and the basis on which, the committee determined each of the matters set forth in the joint resolution;".

SEC. 14854. CONGRESSIONAL BUDGET OFFICE REPORTS TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of spending growth in total mandatory spending for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 308(a)(1) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (C), by inserting ", and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted"; and

(2) by striking "and" at the end of subparagraph (C), by striking the period and inserting "; and" at the end of subparagraph (D), and by adding at the end the following new subparagraph:

"(E) comparing the levels in existing programs in such measure to the estimated levels for the current fiscal year."

(d) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"GAO REPORTS TO BUDGET COMMITTEES

(a) "SEC. 408. On or before January 15 of each year, the Comptroller General, after consultation with appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing all programs, projects, and activities that fall within the definition of direct spending under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. GAO reports to budget committees.".

CHAPTER 3—RESTRICTED USES OF CONTINUING RESOLUTIONS

SEC. 14871. RESTRICTIONS RESPECTING CONTINUING RESOLUTIONS.

(a) Rule XXI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"9. (a) Any item of appropriation set forth in any joint resolution continuing appropriations, or amendment thereto, shall not exceed the rate it would have been at assuming the continuation of current law.

"(b) It shall not be in order in the House to consider any joint resolution continuing appropriations, or amendment thereto, which changes existing law.".

(b) The amendment made by subsection (a) shall only apply to joint resolutions continuing appropriations for fiscal year 1996 or any subsequent fiscal year.

Subtitle J—Technical and Conforming Amendments

SEC. 14901. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DEFINITION OF BUDGET AUTHORITY.—Paragraph (2) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, the second time it appears, is amended by inserting "in any form" after "promissory notes", by inserting at the end of subparagraph (A) the following new sentence: "Such term excludes transactions classified as means of financing.", and by striking "With respect to" and all that follows through "retirement account, any" and inserting "Any", by inserting after subparagraph (B) the following:

"(C) RELATIONSHIP TO ENTITLEMENT AUTHORITY.—For purposes of titles III and IV, all references to budget authority shall be considered to include the amount of budget authority estimated to be needed to fund entitlement provisions under existing or proposed law, and all legislation increasing (or decreasing) the level of entitlement authority under existing law shall be considered to provide (or decrease) new budget authority in that amount.",

and by redesignating the next subparagraph accordingly.

(b) DEFINITION OF ENTITLEMENT AUTHORITY.—Paragraph (9) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "spending authority described by section 401(c)(2)(C)" and inserting the following: ", and the term 'entitlement program' refers to, any provision of law that has the effect of requiring the Government to make net payments (including intragovernmental payments) regardless of the amount of budget authority that may be available to make those payments. Those terms shall include amounts estimated to be required under provisions of law that depend on the fulfillment of nonlegislative conditions or are indefinite as to amount or timing. Except as provided in the next sentence, if a provision of law that otherwise requires the Government to make net payments is directly or indirectly limited by any other provision of law to an amount of available budget authority, then entitlement authority does not exist. Subchapter II of chapter 13 of title 31, United States Code, and the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be considered provisions of law that limit entitlement authority to the amount of available budget authority."

(c) DEFINITION OF MEANS OF FINANCING.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new paragraph:

"(11) The term 'means of financing' means the financial transactions of the Government that consist of exchanges of money or monetary proxies of equal value and therefore are not counted as obligations, outlays, or revenues, such as net Federal borrowing from the public in any form, debt redemption, seigniorage on coins and profits from the sale of gold, and changes in outstanding check or other monetary credits, including writeoffs.".

(d) CBO STUDIES.—Section 202(h) of the Congressional Budget Act of 1974 is amended by striking "outlays, credit authority," and inserting "outlays".

(e) REQUIRED CONTENTS OF BUDGET RESOLUTION.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking "planning levels", by striking "two" and inserting "four", by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" both places it appears and inserting "and outlays", by striking paragraphs (5), (6) and (7), by striking the semicolon at the end of paragraph (4) and inserting a period, by inserting "and" after the semicolon at the end of paragraph (3), and by striking the last sentence.

(f) TECHNICAL CORRECTION TO SECTION 301(e).—Section 301(e) of the Congressional Budget Act of 1974 is amended by inserting "new" before "budget authority" in the second sentence.

(g) COMMITTEE ALLOCATIONS AND SUBALLOCATIONS.—Section 602(a)(1)(B) of the Congressional Budget Act of 1974 is amended by striking "committee." and inserting "committee, except that new budget authority and outlays for entitlement programs funded through annual appropriations shall be allocated and scored both to the Committee on Appropriations and to the committee that authorized such programs.".

(h) COMMITTEE ALLOCATIONS.—Section 302 of the Congressional Budget Act of 1974 is amended to read as follows:

"COMMITTEE ALLOCATIONS

"SEC. 302. (a) REPORTS BY COMMITTEES.—As soon as practicable after a joint resolution on the budget is enacted—

"(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House—

"(A) subdivide among its subcommittees the allocation of budget outlays, new budget authority, and new credit authority allocated to it in the joint budget resolution;

"(B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

"(2) every other committee of the House and Senate to which an allocation was made in such joint budget resolution shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made—

"(A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction; and

"(B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

"(b) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

"(1) new budget authority for a fiscal year;

"(2) new spending authority as described in section 401(c)(2) for a fiscal year; or

"(3) new credit authority for a fiscal year; within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to section 301(a)(6) for such fiscal year, unless and until such committee makes the allocation of subdivisions required by subsection (a), in connection with the most recently enacted joint resolution on the budget for such fiscal year.

"(c) SUBSEQUENT JOINT RESOLUTIONS.—In the case of a joint resolution on the budget referred to in section 304, the subdivisions under subsection (a) shall be required only to the extent necessary to take into account revisions made in the most recently enacted joint resolution on the budget.

"(d) ALTERATION OF ALLOCATIONS.—At any time after a committee reports the subdivision required to be made under subsection (a), such committee may report to its House an alteration of such subdivision. Any alteration of such subdivision must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

"(e) LEGISLATION SUBJECT TO POINT OF ORDER.—After enactment of a joint resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year, or any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate allocation made pursuant to section 301(a)(6) or subdivision made under subsection (a) of this section for such fiscal year of new discretionary budget authority, new entitlement authority, or new credit authority, to be exceeded.

"(f) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays and new credit authority for a fiscal year, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.".

(i) COST ESTIMATES AND SCOREKEEPING REPORTS.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) in its title, by striking ", NEW SPENDING AUTHORITY, OR NEW CREDIT AUTHORITY,";

(2) by striking ", new spending authority described in section 401(c)(2), or new credit authority," the 3 times it appears;

(3) in subsection (a), by striking "in the reports submitted", by inserting "302(a) or" before "302(b)", in paragraph (1)(B) by striking "spending authority" and everything that follows through "401(c)(2) which is" and inserting "budget authority" and by striking "annual appropriations" and inserting "annual discretionary appropriations", and in paragraph (1)(C) by striking "such budget authority" and all that follows through "loan guarantee commitments" and inserting "new budget authority, outlays, or revenues"; and

(4) in subsection (c), by adding "and" at the end of paragraph (1), by striking "period;" and inserting "period." at the end of paragraph (2), and by striking paragraphs (3), (4), and (5).

(j) TECHNICAL CORRECTION TO SECTION 312.—Section 312 of the Congressional Budget Act of 1974 is amended by inserting "(a)" after "312.".

(k) CONSIDERATION OF LEGISLATION THAT HAS NOT BEEN REPORTED.—Section 312 of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(c) CONSIDERATION OF LEGISLATION THAT HAS NOT BEEN REPORTED.—In the House of Representatives, any point of order under title III or IV that would lie against consideration of a bill or joint resolution as reported by a committee shall also lie against a motion to consider legislation respecting which no report has been filed."

(l) CONFORMING AMENDMENTS TO SECTION 313.—Section 313 of the Congressional Budget Act of 1974 is amended by striking "or section 258C" and everything that follows through "Deficit Control Act of 1985", by striking "; and (F)" and everything that follows through "310(g)", by redesignating the second subsection (c) and subsection (d) as subsections (d) and (e), respectively, and by striking "or (b)(1)(F),".

(m) BORROWING AND CONTRACT AUTHORITY.—Section 401 of the Congressional Budget Act of 1974 is amended

(1) in subsection (a), by striking "new spending authority described in subsection (c)(2)(A) or (B)" both times it appears and inserting "borrowing authority or contract authority";

(2) by repealing subsections (b) and (c) and by redesignating subsection (d) as subsection (b); and

(3) in subsection (b) (as redesignated), by striking "Subsections (a) and (b)" and inserting "Subsection (a)", by inserting "noninterest" before "receipts" in paragraph (1)(B), by repealing paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(n) CREDIT AUTHORITY.—Section 402(a) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: ", except that this provision shall not apply with respect to programs that, as of August 15, 1992, provide credit authority as an entitlement".

SEC. 14902. TECHNICAL AND CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

(a) MISCELLANEOUS CONFORMING AMENDMENT.—Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "or section 602 (in the case of fiscal years 1991 through 1995)".

(b) REPEALER.—Rule XLIX of the Rules of the House of Representatives is repealed.

SEC. 14903. PRESIDENT'S BUDGET.

(a) DEFINITIONS.—Section 1101 of title 31, United States Code, is amended by adding at the end the following:

"(3) 'Expenditures' has the same meaning as the term 'outlays' in the Balanced Budget and Emergency Deficit Control Act of 1985.

"(4) All other terms used herein or in the documents prepared hereunder shall have the meanings set forth in the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) BYRD AMENDMENT.—Section 1103 of title 31, United States Code, is amended by striking "commitment that budget" and inserting "commitment that, starting with fiscal year 2002,".

(c) PRESIDENT'S BUDGET SUBMISSION.—Section 1105(a) of title 31, United States Code, is amended—

(1) in the first sentence by striking "On or after the first Monday in January but not later than the first Monday in February of each year" and inserting "On or before the first Monday in February or the 21st calendar day beginning after the date the Board of Estimates issues a report to the President under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in paragraph (15) by striking "section 301(a)(1)–(5)" and inserting "section 301(a)(1)–(4);

(3) in paragraph (16) by striking "section 3(a)(3)" and inserting "section 3(3)"; and

(4) by adding at the end the following new paragraph:

"(32) an analysis of the financial condition of Government-sponsored enterprises and the financial exposure of the Government, if any, posed by them.".

(d) USE OF OFFICIAL ESTIMATES.—Section 1105(f) of title 31, United States Code, is amended by inserting at the end the following new sentence: "That budget shall be consistent with the discretionary funding limit and the direct spending and receipts deficit reduction requirement for that year chosen by the Board of Estimates and shall be based upon the major estimating assumptions chosen by that Board.".

Subtitle K—Truth in Legislating

SEC. 14951. IDENTITY, SPONSOR, AND COST OF CERTAIN PROVISIONS REQUIRED TO BE REPORTED.

(a) IDENTITY, SPONSOR, AND COST.—Clause 4 of rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following:

"(j)(1) Except as provided by subparagraph (2), the report or joint explanatory statement accompanying each bill or joint resolution of a public character reported by a committee or committee of conference shall contain, in plain and understandable language—

"(A) an identification of each provision (if any) of the bill or joint resolution which benefits only 10 or fewer beneficiaries in any one of the following categories: persons, corporations, partnerships, institutions, organizations, transactions, events, items of property, projects, civil subdivisions within one or more States, or issuances of bonds;

"(B) the name of each beneficiary of such provision;

"(C) the name of any Member or Members who sponsored the inclusion of each such provision and an indication of each such provision requested by any agency, instrumentality, or officer of the United States; and

"(D) an estimate by the Congressional Budget Office or the Joint Committee on Taxation, whichever is appropriate, of the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision for the fiscal year for which costs or loss in revenues, as the case may be, first occurs and each of the next 5 fiscal years.

"(2)(A) Subparagraph (1) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the beneficiary of such provision is the United States or any agency or instrumentality thereof.

"(B) Subparagraph (1)(D) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision are identified clearly in the report or joint explanatory statement accompanying such bill or joint resolution.

"(3) It shall not be in order to consider any such bill or joint resolution in the House if the report or joint explanatory statement of the committee or committee of conference which reported that bill or joint resolution does not comply with subparagraph (1). The requirements of subparagraph (1) may be waived only upon a separate vote directed solely to that subject.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bills and joint resolutions reported by a committee of the House of Representatives after the date of enactment of this Act.

H.R. 2517

OFFERED BY: MR. DAVIS

AMENDMENT NO. 1: Page 1588, lines 3 through 7, amend subsection (c) to read as follows:

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—

(1) GOVERNMENT CORPORATION.—All functions of the National Technical Information Service are transferred to the Director of the Office of Management and Budget who shall within 6 months after the effective date specified in section 17101 submit to Congress a proposal for legislation to establish the National Technical Information Service as a wholly owned Government corporation. The proposal should provide for the corporation to perform substantially the same functions that, as of the date of enactment of this act, are performed by the National Technical Information Service.

(2) TRANSFER TO NATIONAL INSTITUTE FOR SCIENCE AND TECHNOLOGY.—Not later than 18 months after the effective date specified in section 17101, the National Technical Information Service (or any successor corporation established pursuant to a proposal under paragraph (1)) shall be transferred to the National Institute for Science and Technology established by section 17207.

(3) FUNDING.—No funds are authorized to be appropriated for the National Technical Information Service or any successor corporation established pursuant to a proposal under paragraph (1).

H.R. 2517

OFFERED BY: MR. HORN

AMENDMENT NO. 2: Page 308, after line 5, insert the following:

Subtitle A—Federal Employee and Congressional Benefits; Availability of Surplus Property for Homeless Assistance

Page 333, after line 15, insert the following new subtitle:

Subtitle B—Debt Collection Improvement Act of 1995

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Debt Collection Improvement Act of 1995".

SEC. 5202. TABLE OF CONTENTS.

The table of contents for this subtitle is as follows:

Sec. 5201. Short title.
Sec. 5202. Table of contents.
Sec. 5203. Effective date.
Sec. 5204. Purposes.

PART I—GENERAL DEBT COLLECTION INITIATIVES

SUBPART A—GENERAL OFFSET AUTHORITY

Sec. 5211. Expansion of administrative offset authority.
Sec. 5212. Enhancement of administrative offset authority.
Sec. 5213. Exemption from computer matching requirements under the Privacy Act of 1974.
Sec. 5214. Use of administrative offset authority for debts to States.
Sec. 5215. Technical and conforming amendments.

SUBPART B—SALARY OFFSET AUTHORITY

Sec. 5221. Enhancement of salary offset authority.

SUBPART C—TAXPAYER IDENTIFYING NUMBERS

Sec. 5231. Access to taxpayer identifying numbers; barring delinquent debtors from credit assistance.
Sec. 5232. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.

SUBPART D—EXPANSION AND ENHANCEMENT OF COLLECTION AUTHORITIES

Sec. 5241. Repeal of limitations on collection authorities.
Sec. 5242. Disclosure to consumer reporting agencies and commercial reporting agencies.
Sec. 5243. Contracts for collection services.
Sec. 5244. Cross-servicing partnerships and centralization of debt collection activities in the Department of the Treasury.
Sec. 5245. Compromise of claims.
Sec. 5246. Wage garnishment requirement.
Sec. 5247. Debt sales by agencies.
Sec. 5248. Adjustments of administrative debt.
Sec. 5249. Dissemination of information regarding identity of delinquent debtors.

SUBPART E—FEDERAL CIVIL MONETARY PENALTIES

Sec. 5251. Adjusting Federal civil monetary penalties for inflation.

SUBPART F—GAIN SHARING

Sec. 5261. Debt collection improvement account.

SUBPART G—TAX REFUND OFFSET AUTHORITY

Sec. 5271. Offset of tax refund payment by disbursing officials.
Sec. 5272. Expanding tax refund offset authority.
Sec. 5273. Expanding authority to collect past-due support.
Sec. 5274. Use of tax refund offset authority for debts to States.

SUBPART H—DISBURSEMENTS

Sec. 5281. Electronic funds transfer.
Sec. 5282. Requirement to include taxpayer identifying number with payment voucher.

SUBPART I—MISCELLANEOUS

Sec. 5291. Miscellaneous amendments to definitions.
Sec. 5292. Monitoring and reporting.
Sec. 5293. Review of standards and policies for compromise or write-down of delinquent debts.

PART II—JUSTICE DEBT MANAGEMENT

Sec. 5301. Expanded use of private attorneys.
Sec. 5302. Nonjudicial foreclosure of mortgages.

SEC. 5203. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the provisions of this subtitle and the amendments made by this subtitle shall become effective October 1, 1995.

SEC. 5204. PURPOSES.

The purposes of this subtitle are the following:

(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their financial obligations to repay amounts owed to the Federal Government.

(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5211. EXPANSION OF ADMINISTRATIVE OFFSET AUTHORITY.

Chapter 37 of title 31, United States Code, is amended—

(1) in each of sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting "the head of an executive, judicial, or legislative agency"; and

(2) by amending section 3701(a)(4) to read as follows:

"(4) 'executive, judicial, or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of government, including government corporations.".

SEC. 5212. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) PERSONS SUBJECT TO ADMINISTRATIVE OFFSET.—Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government.".

(b) REQUIREMENTS AND PROCEDURES.—Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

"(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office, or the Department of the Treasury; or

"(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (e); and

(4) by inserting after subsection (b) the following new subsections:

"(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), 15 percent of payments due to an individual under the Social Security Act, under part B of the Black Lung Benefits Act, under any law administered by the Railroad Retirement Board, or as compensation or benefits arising from service of an individual with the United States Government, shall be subject to offset under this section except that a greater percentage may be deducted by offset with the written consent of the individual.

"(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

"(C) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act, respectively.

"(D)(i) Payments to any qualified individual shall not be subject to administrative offset under this subsection. Prior to offset of any debtor's Federal benefit payment under this subsection, the debtor shall be provided a written notice of the exemption described in this paragraph and an opportunity to provide data to qualify for the exemption.

"(ii) In this subparagraph, the term 'qualified individual' means an individual whose income in the year preceding application of this paragraph did not exceed 150 percent of the poverty level and who has less than $5,000 in assets.

"(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(4) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing payments to a payee in accordance with section 552a of title 5, United States Code, even if the payment has been exempt from administrative offset. If a payment is made electronically, the Secretary may obtain the current address of the payee to the Secretary.

"(6) The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(7) Any Federal agency that is owed by a person a past due legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

"(8)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

"(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

"(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but not later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

"(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.".

(c) NONTAX CLAIM DEFINED.—Section 3701 of title 31, United States Code, is amended—

(1) in subsection (b) by inserting "and subsection (a)(8) of this section" after "of this chapter"; and

(2) in subsection (a) by adding at the end the following new paragraph:

"(8) 'nontax claim' means any claim, other than a claim of the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 5213. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 3716 of title 31, United States Code, as amended by section 5212(b) of this subtitle, is further amended by adding at the end the following new subsections:

"(f) The Secretary may waive the requirements of sections 552(o) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of the executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

"(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.".

SEC. 5214. USE OF ADMINISTRATIVE OFFSET AUTHORITY FOR DEBTS TO STATES.

Section 3716 of title 31, United States Code, as amended by sections 5212 and 5213 of this subtitle, is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

"(A) the appropriate State disbursing official requests that an offset be performed; and

"(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

"(i) requirements substantially equivalent to subsection (b) of this section; and

"(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

"(2) This subsection does not apply to—

"(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

"(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

"(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.".

SEC. 5215. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331), and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331)," after "voucher"; and

(3) in each of section 3711(e)(2) and 3717(h) by inserting ", the Secretary of the Treasury," after "Attorney General".

(b) INTERNAL REVENUE CODE OF 1986.—Subsection 6103(1)(10)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(10)(A)) is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" after "6402"; and

(2) in subparagraph (B), by inserting "and officers and employees of the Department of the Treasury" after "agency" the first place it appears.

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owned and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full costs for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) Paragraph (2) shall not apply to routine intraagency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(D) by amending paragraph (5)(B) (as redesignated by subparagraph (b) of this paragraph) to read as follows:

"(B) 'agency' includes executives departments and agencies, the United States Postal Service, the Postal Rate Commission, the Senate, the House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporation.";

(2) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.".

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Public Law 97-365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting "For purposes of subsection (a)"; and

(2) by adding at the end the following new subsections:

"(c) FEDERAL AGENCIES.—

"(1) IN GENERAL.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(2) DOING BUSINESS.—For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan administered by the agency; or

"(ii) a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by the agency; and

"(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

"(3) DISCLOSURE.—Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'taxpayer identifying number' has the meaning given such term in section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109); and

"(B) the term 'person'—

"(i) subject to clause (ii), means an individual, sole proprietorship, partnership, corporation, or nonprofit organization, or any other form of business association; and

"(ii) does not include debtors under third party claims of the United States, other than debtors owing claims resulting from petroleum pricing violations.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS AND OTHER INFORMATION.—Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services, Department of Labor, and Social Security Administration records to obtain names (including names of employees), name controls, names of employers, Social Security numbers, addresses (including addresses of employers), and dates of birth. The Department of Health and Human Services, the Department of Labor, and the Social Security Administration shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

"(e) ELECTRONIC PAYMENTS.—If a payment is made electronically by any executive, judicial, or legislative agency, the Secretary of the Treasury may obtain from the institution receiving the payment the taxpayer identification number of any joint holder of the account to which the payment is made. Upon request of the Secretary, the institution receiving the payment shall report the taxpayer identification number of the joint holder to the Secretary.".

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720A the following new section:

"§3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

"(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan guarantee administered by the agency if the person has an outstanding debt with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

"(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, the term 'person' means—

"(1) an individual; or

"(2) any sole proprietorship, partnership, corporation, nonprofit organization, or other form of business association.".

(b) CLERICAL AMENDMENTS.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

Subpart D—Expansion and Enhancement of Collection Authorities

SEC. 5241. REPEAL OF LIMITATIONS ON COLLECTION AUTHORITIES.

(a) DEBT COLLECTION ACT OF 1982.—Section 8(e) of the Debt Collection Act of 1982 (5 U.S.C. 5514 note) is repealed. Section 3701(d) of title 31, United States Code, is amended to read as follows:

"(d) Sections 3711(f) and 3716 through 3719 of this title do not apply to a claim or debt under, or to amounts payable under, the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) unless the Internal Revenue Service has ceased active collection efforts and the claim or debt is considered by the Secretary of the Treasury to be currently not collectible.".

(b) SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT OF 1994.—Section 5 of the Social Security Domestic Employment Reform Act of 1994 (Public Law 103-387) is repealed.

SEC. 5242. DISCLOSURE TO CONSUMER REPORTING AGENCIES AND COMMERCIAL REPORTING AGENCIES.

Section 3711(f) of title 31, United States Code, is amended—

(1) by striking "may" the first place it appears and inserting "shall";

(2) by striking "an individual" each place it appears and inserting "a covered person";

(3) by striking "the individual" each place it appears and inserting "the covered person"; and

(4) by adding at the end the following new paragraphs:

"(4) The head of each executive agency shall require, as a condition for guaranteeing any loan, financing, or other extension of credit under any law to a covered person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

"(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a covered person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

"(6) In this subsection, the term 'covered person' means an individual, a sole proprietorship, a corporation (including a nonprofit corporation), or any other form of business association.".

SEC. 5243. CONTRACTS FOR COLLECTION SERVICES.

Section 3718 of title 31, United States Code, is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: "Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets.";

(2) in subsection (d), by inserting ", or to locate or recover assets of," after "owed";

(3) by amending subsection (f) to read as follows:

"(f)(1) The head of each Federal agency that administers a program that gives rise to a delinquent debt or is responsible for collecting delinquent debt shall enter into contracts on a competitive basis with 3 or more persons for the collection of any such debt that is past-due and legally enforceable and on which the agency has ceased active collection efforts. Contracts under this subsection shall be awarded on a competitive basis.

"(2) The performance of contractors in carrying out such contracts shall be evaluated upon, and incentives shall be provided and sanctions imposed under such contracts, as appropriate, based upon—

"(A) collection success;

"(B) compliance with all applicable laws, including the Fair Debt Collection Practices Act (16 U.S.C. 1692 et seq.), the Omnibus Taxpayer Bill of Rights (102 Stat. 3720), and section 6103 of the Internal Revenue code of 1986 (26 U.S.C. 6103); and

"(C) incidence of valid debtor complaints.

"(3) The head of each agency referred to in paragraph (1) shall—

"(A) within 3 years after the date of enactment of the Debt Collection Improvement Act of 1995, refer for collection to persons with contracts under this subsection not less than 50 percent of the amount of delinquent debts upon which the agency has ceased active collection efforts;

"(B) begin referring debts not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1995 and require that collection efforts pursuant to such a referral begin by not later than 90 days after the date of referral; and

"(C) report to the Congress on debts referred by each Federal agency and amounts received by the United States pursuant to that referral.

"(4) For purposes of this subsection, an agency shall be considered to have ceased active collection efforts if—

"(A) the debt is not the subject of litigation and has not in the preceding 90 days been the subject of a payment, an execution of a written promise to pay, or an affirmative attempt to locate or contact the debtor, or

"(B) in the case of debt owed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), if the Internal Revenue Service has classified the debt as 'currently not collectible' or a similar classification in accordance with criteria and procedures substantially similar to those in effect for such classifications on September 20, 1995.

"(5) Each contract for collection services under this subsection shall—

"(A) include safeguards against unauthorized disclosure of confidential information;

"(B) provide that the Federal agency shall not disclose to a contractor any information concerning the debtor other than—

"(i) information necessary to locate and contact the debtor, such as name, address, telephone number, employer address and telephone number, and Social Security Number; and

"(ii) the nature and amount of the debt;

"(C) prohibit the release by the contractor of confidential information regarding a debtor obtained as a result of a contract under this subsection to any third person without the debtor's written consent;

"(D) limit the contractor's activities to—

"(i) contacting debtors by mail;

"(ii) contacting debtors by phone to remind taxpayers of a delinquency, provide information on payment options, and secure taxpayer intentions of repayment;

"(iii) providing skiptracing services and asset and employment location services to establish a mailing address or phone number for delinquent debtors;

"(iv) providing lockbox services for receipt and processing of payments; and

"(v) providing data processing services in conjunction with collection activities;

"(E) preclude the contractor from determining the amount of a debt, compromising a debt, receiving or processing collection proceeds, or mailing standard collection notices and billing statements; and

"(F) require the contractor to comply with section 552a of title 5 (popularly known as the 'Privacy Act'), the Fair Debt Collection Practices Act, and the Taxpayers Bill of Rights.

"(6) The Secretary of the Treasury may exempt from the application of this subsection any class of nontax claims as necessary to protect the interests of the United States."; and

(4) by adding at the end the following new subsection:

"(h) The Secretary of the Treasury may enter into contracts for Governmentwide collection of debts and recovery of assets consistent with subsections (a) and (f). The head of a Federal agency may enter into an agreement with the Secretary of the Treasury to obtain services under these contracts, and, if such agreement results in the performance of the required services for debt collection services for debt collection under subsection (f), the head of a Federal agency shall be deemed to be in compliance with subsection (f).".

SEC. 5244. CROSS-SERVICING PARTNERSHIPS AND CENTRALIZATION OF DEBT COLLECTION ACTIVITIES IN THE DEPARTMENT OF THE TREASURY.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or foreclosure;

"(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of contractors and debt collection centers eligible for referral of claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) At the end of each calendar year, the head of an executive, judicial, or legislative agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of the Internal Revenue Code of 1984 (26 U.S.C. 6050P) shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and the Internal Revenue Service. Before completing a discharge of indebtedness, the head of an executive, judicial, or legislative agency shall certify that all appropriate steps have been taken with respect to a delinquent debt, including (as applicable)—

"(A) administrative offset,

"(B) tax refund offset,

"(C) Federal salary offset,

"(D) referral to private debt collection agencies,

"(E) referral to agencies operating a debt collection center,

"(F) reporting delinquencies to credit reporting bureaus,

"(G) garnishing the wages of delinquent debtors, and

"(H) litigation or foreclosure.

"(10) To carry out the purpose of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a) (1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

SEC. 5245. COMPROMISE OF CLAIMS.

Section 11 of the Administrative Dispute Resolution Act (Public Law 101-552, 104 Stat. 2736, 5 U.S.C. 571 note) is amended by adding at the end the following sentence: "This section shall not apply to section 8(b) of this Act.".

SEC. 5246. WAGE GARNISHMENT REQUIREMENT.

(a) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720C, as added by section 5261 of this subtitle, the following new section:

"§ 3720D. Garnishment

"(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

"(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

"(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

"(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

"(A) the nature and amount of the debt to be collected;

"(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

"(C) an explanation of the rights of the individual under this section.

"(3) The individual shall provide an opportunity to inspect and copy records relating to the debt.

"(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

"(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

"(A) the existence or the amount of the debt, and

"(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

"(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

"(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

"(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order.

"(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

"(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

"(f)(1) The employer of an individual—

"(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

"(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

"(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

"(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

"(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

"(g) For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

"(h) The Secretary of the Treasury shall issue regulations to implement this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States code, is amended by inserting after the item relating to section 3720C (as added by section 5261 of this subtitle) the following new item:

"3720D. Garnishment.".

SEC. 5247. DEBT SALES BY AGENCIES.

Section 3711 of title 31, United States Code, is further amended by adding at the end the following new subsection:

"(h)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

"(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

"(3) Sales of nontax debt under this subsection—

"(A) shall be for—

"(i) cash, or

"(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

"(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

"(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

"(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1995, and every year thereafter, each executive agency with current and delinquent collateralized debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

"(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

"(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

"(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

"(v) The marketability of all debts.

"(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.".

SEC. 5248. ADJUSTMENTS OF ADMINISTRATIVE DEBT.

Section 3717 of title 31, United States Code, is amended by adding at the end of subsection (h) the following new subsection.

"(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

"(2) For the purpose of this subsection—

"(A) the term 'cost of living adjustment' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

"(B) the term 'administrative claim' includes all debt that is not based on an extension of government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.".

SEC. 5249. DISSEMINATION OF INFORMATION REGARDING IDENTITY OF DELINQUENT DEBTORS.

(a) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720D, as added by section 5246 of this subtitle, the following new section:

"§ 3720E. Dissemination of information regarding identity of delinquent debtors

"(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

"(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

"(2) Regulations under this subsection shall include—

"(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

"(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

"(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3720D (as added by section 5246 of this subtitle) the following new item:

"3720E. Dissemination of information regarding identity of delinquent debtors.".

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) IN GENERAL.—the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1995, and at least once every 4 years thereafter—

"(1) by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under the Internal Revenue Code of 1986, by the inflation adjustment described under section 5 of this Act; and

"(2) publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment under section 4"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase under this Act in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect.".

(b) LIMITATION ON INITIAL ADJUSTMENT.—The first adjustment of a civil monetary penalty made pursuant to the amendment made by to subsection (a) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 372B (as added by section 5232 of this subtitle) the following new section:

"§3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter in this section referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative, and tax refund offsets;

"(B) automated levy authority;

"(C) the Department of Justice;

"(D) private collection agencies;

"(E) sales of delinquent loans; and

"(F) contracts to locate or recover assets.

"(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

"(A) 5 percent of the amount of delinquent debt collected by the agency in the previous fiscal year, or

"(B) 5 percent of the amount of delinquent debt collected by the agency in the previous 4 fiscal years.

"(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

"(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

"(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

"(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this section, the term 'qualified expenses' means expenditures for the improvement of tax administration, credit management, debt collection, and debt recovery activities, including—

"(A) account servicing (including cross-servicing under section 3711(g) of this title),

"(B) automatic data processing equipment acquisitions,

"(C) delinquent debt collection,

"(D) measures to minimize delinquent debt,

"(E) sales of delinquent debt,

"(F) asset disposition, and

"(G) training of personnel involved in credit and debt management.

"(3)(A) Amounts in the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriation Acts.

"(B) As soon as practicable after the end of the third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.".

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B (as added by section 5232 of this subtitle) the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h) The disbursing official of the Department of the Treasury—

"(1) shall notify a taxpayer in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a correct point within the creditor agency that will handle concerns regarding the offset;

"(2) shall notify the Internal Revenue Service on a weekly basis of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

"(B) the amount of such offset; and

"(C) any other information required by regulations; and

"(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.".

SEC. 5272. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) DISCRETIONARY AUTHORITY.—Section 3720A of title 31, United States Code, is amended by adding after subsection (h) (as amended by section 5271 of this subtitle) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933, (16 U.S.C. 831h), may implement this section at its discretion.".

(b) FEDERAL AGENCY DEFINED.—Section 6402(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(f)), is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5273. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) NOTIFICATION OF SECRETARY OF THE TREASURY.—Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.".

(b) IMPLEMENTATION OF SUPPORT COLLECTION BY SECRETARY OF THE TREASURY.—Section 464(a) of the Act of August 14, 1935 (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end the following: "This subsection may be executed by the disbursing official of the Department of the Treasury."; and

(2) in paragraph (2)(A), by adding at the end the following: "This subsection may be executed by the disbursing official of the Department of the Treasury.".

SEC. 5274. USE OF TAX REFUND OFFSET AUTHORITY FOR DEBTS TO STATES.

(a) IN GENERAL.—Section 6402 of the Internal Revenue Code of 1986 (26 U.S.C. 6402) is amended by redesignating subsections (e) through (l) as subsections (f) through (j), respectively, and by inserting after subsection (d) of the following new subsection:

"(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE DEBTS.—

"(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State debt to such State or a legally constituted subdivision of the State, the Secretary shall apply this subsection with respect to the past-due, legally enforceable State debt if—

"(A) the appropriate State official requests that an offset be performed; and

"(B) a reciprocal agreement between the Secretary and the State is in effect to offset Federal and State debts.

"(2) ACTIONS TO BE TAKEN.—Under such conditions as may be prescribed by the Secretary, the Secretary shall—

"(A) reduce the amount of any overpayment payable to such person by the amount of such State debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

"(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment,

"(ii) subsection (c) with respect to past-due support, and

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency, and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from 1 or more State agencies of more than 1 debt subject to paragraph (1) that is owed by such person to such an agency, an overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

"(A) notifies the person owing the past-due State debt that the State proposes to take action pursuant to this section,

"(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable,

"(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable, and

"(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State debt.

"(5) PAST-DUE, LEGALLY ENFORCEABLE STATE DEBT.—For purposes of this subsection, the term 'past-due, legally enforceable State debt' means a debt—

"(A)(i) which resulted from—

"(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of debt to be due, or

"(II) a determination after an administrative hearing which has determined an amount of debt to be due, and

"(ii) which is no longer subject to judicial review, or

"(B) which resulted from a State tax which has not been collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State tax' includes any local tax administered by the chief tax administration agency of the State.

"(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State debts and the necessary information that must be contained in or accompany such notices. The regulations—

"(A) shall specify the types of State debts to which the reduction procedure established by paragraph (1) may be applied;

"(B) shall specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied;

"(C) shall specify the requirements for reciprocal offset in which participating States will participate; and

"(D) may require States to pay a fee to reimburse the Secretary to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State)."

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE DEBTS.—(1) Paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(10)) is amended by striking "(c) or (d)" and inserting "(c), (d), and (e)".

(2) The paragraph heading for such paragraph (10) is amended by striking "SECTION 6402(c) OR 6402(d)" and inserting "SUBSECTION (c), (d), OR (e) OF SECTION 6402".

(c) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 6402 of the Internal Revenue Code of 1986 (26 U.S.C. 6402(a)) is amended by striking "(c) and (d)" and inserting "(c), (d), and (e)".

(2) Paragraph (2) of section 6402(d) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(d)(2)) is amended by striking "and before such overpayment" and inserting "and before such overpayment is reduced pursuant to subsection (e) and before such overpayment".

(3) Subsection (f) of section 6402 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended—

(A) by striking "(c) or (d)" and inserting "(c), (d), or (e)", and

(B) by striking "Federal agency" and inserting "Federal agency or State".

(4) Subsection (h) of section 6402 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking "subsection (c)" and inserting "subsection (c) or (e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1996.

Subpart H—Disbursements

SEC. 5281. ELECTRONIC FUNDS TRANSFER.

Section 3332 of title 31, United States Code, popularly known as the Federal Financial Management Act of 1994, is amended—

(1) by redesignating subsection (e) as subsection (h), and inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120(a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who begins to receive that type of payment on or after January 1, 1996, shall be made by electronic funds transfer.

"(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

"(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120(a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

"(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

"(i) for individuals or classes of individuals for whom compliance imposes a hardship;

"(ii) for classification or types of checks; or

"(iii) in other circumstances as may be necessary.

"(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

"(g) Each recipient of Federal payments required to be made by electronic funds tranfer shall—

"(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

"(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1)."; and

(2) by adding after subsection (h) (as so redesignated) the following new subsections:

"(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

"(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

"(A) will have access to such an account at a reasonable cost; and

"(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

"(j) For purposes of this section—

"(1) The term 'electronic funds transfer' means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

"(2) The term 'Federal agency' means—

"(A) an agency (as defined in section 101 of this title); and

"(B) a Government corporation (as defined in section 103 of title 5).

"(3) The term 'Federal payments' includes—

"(A) Federal wage, salary, and retirement payments;

"(B) vendor and expense reimbursement payments;

"(C) benefit payments; and

"(D) tax refund payments and other miscellaneous payments.".

SEC. 5282. REQUIREMENT TO INCLUDE TAXPAYER IDENTIFYING NUMBER WITH PAYMENT VOUCHER.

Section 3325 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) The head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying number of each person to whom payment may be made under the voucher.".

Subpart I—Miscellaneous

SEC. 5291. MISCELLANEOUS AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) In subchapter II of this chapter, The term 'claim' or 'debt' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

"(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

"(B) expenditures of nonappropriated funds,

"(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

"(D) any amount the United States is authorized by statute to collect for the benefit of any person,

"(E) the unpaid share of any non-Federal partner in a program involving a Federal payment and a matching, or cost-sharing, payment by the non-Federal partner,

"(F) any fines or penalties assessed by an agency; and

"(G) other amounts of money or property owed to the Government.

"(2) For purposes of sections 3716 of this title, each of the terms 'claim' and 'debt' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico."; and

(3) by adding after subsection (f) (as added by section 5242 of this subtitle) the following new subsection:

"(g) In section 3716 of this title—

"(1) 'creditor agency' means any agency owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any agency that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5292. MONITORING AND REPORTING.

(a) GUIDELINES.—The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) REPORT.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by section 5244 of this subtitle.

(c) AGENCY REPORTS.—Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) CONSOLIDATION OF REPORTS.—Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.

SEC. 5293. REVIEW OF STANDARDS AND POLICIES FOR COMPROMISE OR WRITE-DOWN OF DELINQUENT DEBTS.

The Director of the Office of Management and Budget shall—

(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

(2) determine whether those standards and policies are consistent and protect the interests of the United States;

(3) in the case of any Federal agency standard or policy that the Secretary determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

(4) report annually to the Congress on—

(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

(B) progress made in improving those standards and policies.

PART II—JUSTICE DEBT MANAGEMENT

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) ELIMINATION OF LIMITATION ON FEES.—Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) REPEAL.—Sections 3 and 5 of the Act of October 28, 1986 (popularly known as the Federal Debt Recovery Act; Public Law 99-578, 100 Stat. 3305) are hereby repealed.

SEC. 5302. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28, United States Code, is amended—

(1) in the table of subchapters at the beginning of the chapter by adding at the end the following new item:

"E. Nonjudicial foreclosure........ .... 3401"; and

(2) by adding at the end of the chapter the following new subchapter:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.
"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"§ 3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an Executive department, as set forth in section 101 of title 5, United States Code;

"(B) an independent establishment, as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department, as set forth in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation, as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty, or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

“(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages, and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

“(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

“(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

“(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

“§ 3402. Rules of construction

“(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

“(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

“(1) the lease-back/buy-back provisions under section 335 of the Consolidated Farm and Rural Development Act, or regulations promulgated thereunder; or

“(2) The Multifamily Mortgage Foreclosure Act of 1981.

“(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

“(1) to foreclose a mortgage under any other provision of Federal law or State law; or

“(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

“(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

“§ 3403. Election of procedure

“(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

“(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

“§ 3404. Designation of foreclosure trustee

“(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

“(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

“(1) An agency head may designate as foreclosure trustee—

“(A) an officer or employee of the agency;

“(B) an individual who is a resident of the State in which the security property is located; or

“(C) a partnership, association, or corporation, if such entity is authorized to transact business under the laws of the State in which the security property is located.

“(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

“(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceedings with multiple foreclosures or a class of foreclosures.

“(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

“(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

“(f) REMOVAL OF FORECLOSURE TRUSTEES; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

“§ 3405. Notice of foreclosure sale; statute of limitations

“(a) IN GENERAL.—

“(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

“(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

“(A) a judicially imposed stay of foreclosure; or

“(B) a stay imposed by section 362 of title 11, United States Code.

“(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclose shall be deemed to accrue again at the time of each such payment or acknowledgement.

“(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

“(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

“(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

“(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

“(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

“(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

“(6) the date, time, and place of the foreclosure sale;

“(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

“(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

“(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

“§ 3406. Service of notice of foreclosure sale

“(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

“(b) NOTICE BY MAIL.—

“(1) At least 21 days prior to the date of the forecloure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

“(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

“(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

“(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subseciton (a); and

“(D) to any occupants of the security property.

If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

“(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

“(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

“(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

“§ 3407. Cancellation of foreclosure sale

“(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

“(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender; or

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§ 3408. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell tthe security propertyas provided in this subchapter.

"§ 3409. Conduct of sale; postponement

"(a) SALE PROCEDURES.—Foreclosure shall pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406(b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

"(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"§ 3410. Transfer of title and possession

"(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

"(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) RIGHT OF REDEMPTION; RIGHT OF POSSESSION.—This subchapter shall preempt all Federal and State rights of redemption, statutory, or common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) PROHIBITION OF IMPOSITION OF TAX ON CONVEYANCE BY THE UNITED STATES OR AGENCY THEREOF.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"§ 3411. Record of foreclosure and sale

"(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

"(6) the sale amount.

"(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

§ 3412. Effect of sale

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and their heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

§ 3413. Disposition of sale proceeds

"(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order:

"(1)(A) First, to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(I) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250.

"(B) The amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale.

"(2) Thereafter, to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers.

"(3) Thereafter, to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale of the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents.

"(4) Thereafter, to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale.

"(5) Thereafter, to pay any liens senior to the mortgage, if required by the notice of foreclosure sale.

"(6) Thereafter, to pay service charges and advancement for taxes, assessments, and property insurance premiums.

"(7) Thereafter, to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) SURPLUS MONIES.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

§ 3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale in insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

EXTENSIONS OF REMARKS

SMALL BUSINESS REMEDIATION ACT OF 1995

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. BARTON of Texas. Mr. Speaker, the environmental legislation that I am introducing today, the Small Business Remediation Act of 1995, is designed to ensure that small businesses and landowners will not be subjected to unreasonable remediation liability for drycleaning fluids. The intent of this bill is to strike a balance between adequate environmental protection and the avoidance of needlessly costly remediation not justified by human health exposure.

To fill the void in EPA's cleanup standards for the drycleaning fluid perchlorethylene (perc), the proposed legislation uses an extrapolation from another Federal agency, the Occupational Safety and Health Administration [OSHA], which already has a standard covering an estimated 99.9 percent of all exposure to perc. This is a rigorous standard required by law to adequately protect workers from harmful effects of a chemical, even if they are exposed 8 hours a day, 40 hours a week, for their entire working lives. Recognizing the difference between workplace and environmental standards such as the "healthy worker" effect and the potential exposure in the environment of 24 rather than 8 hours a day, the bill sets a safety margin or an entire order of magnitude. That is, the exposure standard for remediation in this bill 10 times stricter than OSHA allows for an entire working lifetime. If OSHA even lowers its standard, the remediation standard set in this bill will follow accordingly.

The bill seeks to address the real risks from perc exposure. It seeks to change the well-intentioned, hopefully apocryphal, process in which standards are selected to protect children even from eating tons of dirt for 70 years. Instead, an independent government scientific body will simply determine the equivalent exposure the general public faces, using realistic exposure and absorption assumptions. That information, plus the OSHA standard, will be used to calculate the proper amount of remediation necessary. Importantly, the bill protects all people from real human exposure by explicitly declaring it does not change existing Federal standards under the Safe Drinking Water Act.

While this bill does not specifically address third-party liability, it should remove all or most of that threat. If remediation is not necessary, except in the case of significant human exposure, and there is a congressional finding based on OSHA standards and the calculations of the National Institutes of Health that any health risks are small, it is difficult to see how there could be serious litigation, either under the environmental statutes or the common law.

I believe this bill is consistent with the Superfund reform legislation introduced last week and other regulatory reform legislation which seeks to relate environmental costs to real benefits. By doing so, the bill will benefit not only the tens of thousands of small drycleaners and their employees but also shopping mall owners, insurance companies, banks, and consumers. They will be free from the fear of crushing liability from an ordered remediation that could cost them a lifetime of savings, merely for such pointless requirements as cleaning up soil behind a shopping center to arbitrary pristine levels.

I look forward to working with my colleagues to pass this important bill.

H.R. —

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Remediation Act of 1995".

SEC. 2. FINDINGS AND INTENT OF CONGRESS.

(a) The Congress declares that the public should be protected from the risk of waste or spilled solvents and other chemicals in the soil, surface water, groundwater, and other environmental media.

(b) The Congress finds that the remediation requirements for spilled or waste chemical substances are often inconsistent, conflicting, and may impose a burden that bears little relationship to the potential harm to the environment and that these requirements pose a special burden on small businesses and landowners.

(c) Congress intends that standards shall be set for remediation that, with an adequate margin of safety, will protect public health from significant risk from these chemicals and below which level remediation will be permitted but not required.

(d) Congress resolves that to implement these conclusions a maximum level of remediation in soil, surface water, groundwater, and other environmental media shall be set, initially, for solvents for the dry cleaning industry.

SEC. 3. STANDARD FOR CLEAN-UP.

The maximum level of remediation of dry cleaning solvents in soil, surface water, groundwater, and other environmental media that a Federal, State, local agency, or court may require of a person engaged in dry cleaning or the owner of land or a facility in which such a person is conducting dry cleaning shall be one-tenth the equivalent exposure of the workplace standard for such solvents established by the Secretary of Labor under the Occupational Safety and Health Act of 1970.

SEC. 4. CALCULATION OF EQUIVALENT EXPOSURE

(a) In consultation with the Administrators of the Occupational Safety and Health Administration and the Environmental Protection Agency, the National Institute of Environmental Health Sciences shall, within 6 months of the date of the enactment of this Act, publish in the Federal Register its computation, based on realistic scientific assumptions, of equivalent exposure by ingestion, inhalation, and absorption indices for the general public, for soil, surface water, groundwater, and other environmental media in nonoccupational circumstances.

(b) The equivalent exposure shall be calculated from the workplace standard for dry cleaning solvents which assures on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure for the employee's entire working lifetime.

SEC. 5. AUTHORIZATION TO REMEDIATE AT A LOWER LEVEL THAN THE MAXIMUM LEVEL OF REMEDIATION.

Nothing in this Act—

(1) shall preempt or otherwise prevent a Federal, State, or local government or private party from remediating soil, surface water, groundwater, or other environmental media to a lower level than the maximum level of remediation at its own cost and expense, or

(2) shall alter or affect the Federal drinking water standards under title XIV of the Public Health Service Act.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) The term "other environmental media" means air and organic and inorganic material.

(2) The term "equivalent exposure" means the amount of a chemical substance found in air, surface water, groundwater, and other environmental media which is equivalent, under general and realistic conditions of human exposure, absorption, and toxicity, to that of the workplace standard for that substance.

(3) The term "maximum level of remediation" means one-tenth the equivalent exposure and is deemed fully protective of human health.

(4) The term "workplace standard for dry cleaning solvents" means the standard established by the Secretary of Labor under section 6(b)(5) of the Occupational Safety and Health Act of 1970 as the time-weighted average and set forth in section 1810.1000 Z-2 of title 29 of the Code of Federal Regulations.

CONGRATULATIONS TO REVEREND ALIFERAKIS AND THE CONGREGATION OF THE ST. GEORGE HELLENIC ORTHODOX CHURCH

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. VISCLOSKY. Mr. Speaker, it is my great honor to rise and call attention to St. George Hellenic Orthodox Church in Schererville, IN. On October 29, 1995, the congregation of St. George will hold a consecration celebration of their church. This celebration will begin with a vespers service on Saturday night, followed by a dedication, banquet, and ball on Sunday.

Citizens of Hellenic origin began settling in the Indiana Harbor community of East Chicago in 1903. In 1929, a very small group of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

industrious and young individuals coordinated plans to erect a church. Through their conscientious efforts, construction on the church was completed in 1938. The first parish priest was Reverend Demetriades. The church, named after a Roman soldier who was martyred for his faith, moved from East Chicago to Schererville in March, 1992. Today, St. George, which is currently under the leadership of the Reverend Constantine Aliferakis, proudly boasts a membership of over 300 families.

The consecration celebration is similar to the baptism of a child in that it symbolizes the setting apart of the church as a temple of God and its dedication to Him. This ceremony dates back to the fourth century, when St. Constantine dedicated the church after the Christian persecution ended. This once-in-a-lifetime ceremony for any church, will be conducted by Bishop Iakovos of the Greek Orthodox Diocese of Chicago. At the ceremony, the Bishop will dedicate the new furniture and painted wall hangings of six saints and martyrs.

Mr. Speaker, I ask you and my other colleagues to join me in a heartfelt message of congratulations to the Reverend Aliferakis and the congregation of St. George Hellenic Orthodox Church on this wonderful day of celebration. The members of St. George should be proud of their efforts to successfully preserve their Greek heritage.

A TRIBUTE TO FLOYD I. STUMBO

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. COMBEST. Mr. Speaker, I rise today to pay tribute to Mr. Floyd I. Stumbo. On October 1, 1995, Mr. Stumbo retired after 38 years of service to the Children's Home of Lubbock, TX.

Floyd has been associated with the Children's Home of Lubbock for the past 38 years. Since 1957 he has selflessly served in many roles with the home. In 1970 he was named their chief executive officer, in which capacity he served until 1989, when he was named president. During these years the Children's Home of Lubbock flourished and steadily grew under his leadership and service. Today, the home stands as a modern progressive institution which provides care for over 4,200 children. It operates as a debt-free campus, which boast 20 buildings, thanks to his guidance.

Floyd has also given of himself to many other professional and community organizations. He has served in the Lubbock Chamber of Commerce, Rotary Club of Lubbock, Texas Association of Executives of Homes for Children, Texas Association of Licensed Homes for Children, Southwest Association of Executives of Homes for Children, the National Association of Homes for Children, and the Texas Association of Licensed Children's Services, as its President. Even with the demands of these many organizations and responsibilities, he still has the time and energy to serve as an elder of his church, the Broadway Church of Christ in Lubbock.

His leadership abilities have not gone unnoticed; he has received numerous awards for his dedication to the children of Lubbock, among which are the Lubbock Christian University Leadership Award of 1986, the Christian Child Care Recognition for Leadership for 1985, the Pepperdine University Christian Service Award for 1983 and Citizen of the Year, Lubbock Chapter of the National Association of Social Workers for 1976. Now that he has stepped down from the Presidency, he has taken up the directorship of the Children's Home Foundation. This will enable him to enjoy some of life's finer pleasures such as golfing, travelling, visiting with friends of the Home, and spending more time with his family.

Mr. Speaker, I wholeheartedly thank Floyd for his dedication, untiring efforts, and his giving spirit of which the Children's Home of Lubbock is the greatest benefactor. I would also like to wish Floyd and Pat, his beloved wife, a happy and fulfilling retirement.

PROSPECTS FOR DEMOCRACY IN CENTRAL AND EASTERN EUROPE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. HAMILTON. Mr. Speaker, while we do not hear much about it, the struggle for democracy continues in Central and Eastern Europe. It is hard work, but it is important work because it affects the stability of Europe. Earlier this week, at a conference in Washington organized by Indiana University, a former colleague of ours, John Brademas, who represented the Third District of Indiana, delivered some very incisive remarks on the prospects for democracy in these countries. I commend these remarks to my colleagues.

CAN U.S.-STYLE DEMOCRACY WORK IN THE CEE REPUBLICS?

Allow me to welcome everyone to our panel on "Can U.S. Style Democracy Work in the CEE Republics?", part of the Indiana University International Forum on "Economic, Political & Military Security in Central and Eastern Europe."

I congratulate Indiana University on its initiative in organizing this Forum and I want to salute the Forum co-chairs, my fellow Hoosiers and distinguished former colleagues, Senator Richard Lugar and Representative Lee Hamilton; and to say how pleased I am that Congressman Hamilton, a valued friend of many years, is serving on this panel with Susan Atwood of the National Democratic Institute and Charles Gati of Interinvest. I am pleased also that two other friends, Rozanne Ridgeway and John Whitehead, both outstanding public servants, are chairing the other two panels at this Forum.

NED

At the outset, I would like to say a few words about why I am particularly interested in the issue of promoting democracy in Central and Eastern Europe and elsewhere.

First, since 1993 I have been chairman of the National Endowment for Democracy, one of the principal vehicles through which American Presidents, Senators and Representatives of both our political parties have sought over the last decade to promote free, open and democratic societies around the world.

Founded in 1983 by Act of Congress, NED is a bipartisan, non-governmental organization that champions, through grants to private organizations in other countries, the institutions of democracy. Although not a government entity, the Endowment is financed by an annual appropriation by Congress. The current budget is $34 million.

I note that the National Endowment for Democracy is the only private association in the country with two presidential candidates on its board, Senator Richard Lugar and Malcolm S. Forbes, Jr., and I am also pleased to add that our eminent keynote speaker today, Zbigniew Brzezinski, is also a member of the NED board and that Congressman Hamilton is one of our strongest supporters on Capitol Hill.

NED grants are made to organizations dedicated to promoting the rule of law, free and fair elections, a free press, human rights and the other components of a genuinely democratic culture. The Endowment has a long-standing and successful program of grants in Central, Southern and Eastern Europe.

I also note that to expand its role as a center of ideas about democracy, the National Endowment for Democracy established in 1990 the quarterly Journal of Democracy and, in 1994, the International Forum for Democratic Studies. The Forum serves as a center for the study of democratic developments, a repository of published research and documents on democracy and an electronic communications network for democratic thinkers and activists. The Forum's staff conducts regular seminars and twice yearly holds a major conference on a central issue in democracy-building. Last August, for example, the International Forum cohosted in Taiwan a very successful conference on "Consolidating the Third Wave Democracies."

Of course, we must acknowledge that those of us in the West who look to building democracy around the globe should not assume that it is we who have all the answers.

CULTURE OF DEMOCRACY

Because of my interest in issues of democracy building, you will not be surprised to hear that I believe we in the United States as well as our compatriots in Eastern Europe must do all we can to stimulate, in our own countries and abroad, a culture of open and accountable government.

This means, among other things, promoting the revival of civil society through the creation of "social capital." "Social capital," Professor Robert D. Putnam of Harvard University, writing, by the way, in the Journal of Democracy, describes the bonds of trust and cooperation that develop among citizens actively involved in non-governmental organizations and associations. And Putnam asserts that activity in such voluntary associations generates involvement in the institutions of democratic government.

Building a culture of open and accountable government also means encouraging respect for diversity of views and tolerance of those of different racial, religious, ethnic and national backgrounds.

ORTHODOXY AND DEMOCRACY

Now, in this vein I want to close these introductory remarks by briefly raising one issue, not widely discussed or even acknowledged, concerning our topic—"Can U.S. Style Democracy Work in the CEE Republics?".

The issue is whether the countries of the Balkans, with an Eastern Orthodox heritage or "civilization," as Samuel Huntington would put it, are capable of building fundamentally democratic institutions. Can those countries—the inheritors of the Byzantine and Ottoman Empires—develop a thriving civil society after decades of communist rule and centuries of church-state interpenetration? Will the former communist countries north and west of the Balkans be uniquely successful in the transition to democracy because they have inherited a different legacy, that of Western Christendom?

It will not, I am sure, surprise you to hear that I believe that Eastern Orthodoxy and "Western" democracy can be, indeed, are compatible and can co-exist in harmony.

First, as Richard Schifter has argued in his well-known article, "Is There a Democracy Gene?", we have no reason to assume that now that the ideas of the Enlightenment "have at long last been accepted by the West, they cannot spread any further." Indeed, "the onward march of the democratic ideal," says Schifter, need not halt at "the fault line of Western civilization."

Second, I must note the obvious: Greece, of course, is the birthplace of both Eastern Orthodoxy and democracy. Its very existence and success give the lie to the idea that these two traditions cannot be combined. If Greece can throw off the ill effects of the heritage of what some have described as "non-European" civilization, then it should not be impossible for Serbs, Bulgarians, Romanians, Ukrainians, even Russians, to overcome this "burden."

Finally, as I have said, I take issue with the notion that the Orthodox church, while often identified as a nationalist institution, cannot play a productive role in developing a lively civil society in the Balkan countries. Here I commend to you an article by Elizabeth H. Prodromou of Princeton University in Mediterranean Quarterly. Professor Prodromou writes of utilizing Orthodox custom in crafting modern democracy in East Central Europe and the Balkans. While acknowledging "a historical record that underscores the failure of the Orthodox churches in the Balkans to assume an activist stance in favor of democratic politics," Prodromou argues for the potential to engage Orthodoxy in remaking civil society and describes in detail "Orthodoxy's emphasis on freedom, community, and choice as values compatible with democratic culture."

In other words, it is not enough to say that the peoples on one side of an imagined dividing line have not heretofore experienced democracy and therefore cannot or will not. Particularly if one believes in a universality of Western values—democracy, individual liberty, human rights, to name a few—one must look not only to the potential but also to the opportunities to construct the institutions of self-government and the habits of freedom.

So against the background of these brief observations, I should like to ask our panelists for their comments on the question we've been assigned, "Can U.S. Style Work in the Central and Eastern European Republics?".

I'll ask each person to speak for five minutes and then we'll engage in discussion.

BRIDGEWATER WINS WASTEWATER TREATMENT AWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, because we in Congress must often focus on legislation and issues which pose problems for communities in our districts, we too rarely note those cases where municipalities we represent have complied with Federal laws in an effective manner to the benefit of their residents. I would like to take a few moments to recognize one community which has done just that: the town of Bridgewater, MA, which was recently selected as a recipient of the Environmental Protection Agency's 1995 national first place award for outstanding operation and maintenance program in the medium advanced category.

According to the letter announcing the award, "EPA based this selection on the facility's demonstrated innovative and cost-effective achievements." The town has a lengthy history of this type of accomplishment and recognition in water treatment, having already won the EPA regional award in the same category, an award which made the town eligible for the national award. The town became eligible for the regional award by virtue of having exceeded the EPA operating standards for the past 2 years. In fact, the town has been recognized for its innovative operation and maintenance procedures—particularly in the areas of septage and odor handling, which of course constantly present themselves to a facility of this kind—since the current wastewater treatment plant first went on line in 1989.

Mr. Speaker, while any award of this kind is inevitably the result of a team effort, a great deal of the credit for this exemplary work should go to Joseph Souto, the wastewater treatment plant superintendent. In addition, the following town officials also made important contributions to this success: Charles J. Kane, Allan S. Knight and Fawn L. Gifford (chairman, clerk and member, respectively of the board of water and sewer commissioners); Robert A. Correia, (assistant superintendent); Richard W. Boss, John E. Garabee, and Michael J. Studley (plant operators); and Katharine T. Dumas and Eileen J. Weinberg (water and sewer secretaries).

I offer my congratulations to the town of Bridgewater and the hard-working people involved in the operation of the wastewater treatment plant for their work in improving their community and for showing us the positive role government can play in our society.

WORLD POPULATION AWARENESS WEEK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. GEJDENSON. Mr. Speaker, I would like to submit for the RECORD an official proclamation by His Excellency John G. Rowland, Governor of the State of Connecticut. I would like to join the Governor in stressing the importance of the World Population Awareness Week for 1995, focusing on general equality. Placing family planning on top of our priority list, through eradication of female illiteracy, full employment opportunities for women, and universal access to family planning information, is of utmost importance. This is the only way to control an overpopulated world, to reduce the spread of disease and poverty, and to bring progress to many struggling areas of the world.

OFFICIAL STATEMENT

Whereas, world population is currently 5.7 billion and increasing by nearly 100 million per year, with virtually all of this growth in the poorest countries and regions—those that can least afford to accommodate their current populations, much less such massive infusions of human numbers; and

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, with three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life and, at the same time, have deleterious repercussions for the standard of living in more affluent regions; and

Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources, that was duly approved by 180 nations, including the United States; now

Therefore, I, John G. Rowland, Governor of the State of Connecticut, urge all citizens of this State to support the purpose and the spirit of the Cairo Program of Action, and call upon all governments and private organizations to do their utmost to implement that document, particularly the goals and objectives therein aimed at providing universal access to family planning information, education and services, as well as the elimination of poverty, illiteracy, unemployment, social disintegration and gender discrimination that have been reinforced by the 1995 United Nations International Conference of Social Development, endorsed by 118 world leaders in 1995, and by the 1995 United Nations Fourth World Conference on Women.

A THANK YOU FROM WESTERN NEW YORK

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. LAFALCE. Mr. Speaker, over 20 years ago Dr. Robert S. Marshall came to western New York to serve as president of Rosary Hill—an excellent small college with much to offer, but struggling financially and facing an uncertain future.

Today the college is alive, well, and facing a future full of promise. In the 1970's, Rosary Hill College was renamed Daemen College; since then, the Daemen curriculum and enrollment have grown significantly. The physical therapy department, for example, is now one of the largest and best programs of its kind in the Nation.

While the accomplishments of Dr. Marshall are described more fully below in the background material provided by Daemen College, let me, on behalf of the western New York community, thank Bob Marshall for all he has done for Daemen College, and offer him best wishes on his upcoming retirement.

ROBERT S. MARSHALL

Daemen has made considerable strides towards becoming one of the finest private colleges on the Niagara Frontier. This is a remarkable statement, if you stop and consider that there was a point not so very long ago when the College's very survival was in question. In 1974 Daemen, then known as Rosary Hill College, was at a crossroads. Changing times had brought the College, then less than 30 years old, to the brink of bankruptcy and an uncertain future. A new direction—and new leadership—was needed.

That year, Dr. Robert S. Marshall, then associate director for academic affairs at the Division of Biological Sciences at Cornell University, was chosen as the next president of the College. Bringing new vision and a fresh perspective, his challenge was to place Rosary Hill on sound financial footing, building a solid academic program for the future. It was a challenge he would vigorously embrace—and surpass—to the benefit of the entire Daemen College community.

Originally a Roman Catholic, women's college, Rosary Hill became co-ed in the 1960's, and began to evolve in a new direction. In order to reflect this, the College adopted a new name. It was a dramatic change, certainly; there were many more to come. One of Dr. Marshall's first—and most significant—accomplishments was providing the leadership necessary to guide and focus these changes.

Perhaps the most immediate need of the College at that time was to increase operating funds—and ensure the doors of the institution remained open. Over the next few years, through sound management practices, effective cost-containment, and aggressive development efforts, Daemen College turned a corner. Major fund raising campaigns reached—and surpassed—their goals, resulting in increased resources. Additional academic programs, faculty development, and a center for professional development were among the benefits of a $2.2 million grant, received in 1982, from the U.S. Department of Education.

These financial successes supported Daemen's academic programs. One of the most significant was the establishment of the physical therapy major in 1975. A confluence of heightened emphasis on physical fitness, a rapidly growing elderly population, and increasing interest in the emerging field of sports medicine have combined to make physical therapy one of the fastest-growing professions in the health field today. Thanks to Dr. Marshall's foresight, the Physical Therapy Department of Daemen quickly became a pace setter. Through new courses, equipment, and first-rate instructors, today it is one of the largest, and best, programs of its kind in the nation.

Dr. Marshall's vision for Daemen didn't stop there. In 1979, the College received authorization from the New York Board of Regents to offer a bachelor of science degree in nursing. The program was the first in Western New York to offer the degree to registered nurses, who, having studied in two or three year programs, decided to return to school to pursue their bachelor's degree.

To help implement the new program, the College received a grant of $110,000 from the Department of Health, Education, and Welfare. Because of its uniqueness, Daemen's bachelor of science in nursing has joined the College physical therapy program in garnering national attention. Since 1987, enrollment in the nursing program has increased by more than 350 percent.

Enrollment increases for the entire College over the last two decades are equally impressive. Since the beginning of Dr. Marshall's tenure as president—and during a time of decreasing college and university enrollments nationwide—the number of students attending Daemen College has steadily increased, to today's all-time high of more than 2000.

Dr. Marshall realized that no college or university can progress without a first-rate faculty. Thus, he provided Daemen students the benefit of instruction from a quality faculty from schools such as Harvard, Oxford, the University of Notre Dame, Columbia University, the University of California at Berkeley, and the University of Chicago, to name but a few.

Increasing enrollments create a need for expansion. Accordingly, Dr. Marshall's tenure has included significant additions to Daemen's attractive campus. In 1983, ground was broken for a long-awaited College athletic facility. The prominent brick structure, smoothly integrated into the profile of Duns Scotus Hall, is the center for College athletics, and home to the men's and women's basketball teams. Easily viewable from a busy section of Main Street, it has become one of the most prominent, and familiar features of the College.

The state-of-the-art science building, Schenck Hall, is another notable addition to the campus. Completed in 1992, the two-story structure houses the latest in a variety of laboratories, classrooms, faculty offices, a 300-seat lecture hall, student study lounge, and other facilities.

Another sign of development due to Dr. Marshall's leadership is Daemen's post-licensure master of science degree in Physical Therapy. The M.S. is specifically designed to provide licensed physical therapists with the much needed opportunity to acquire in-depth training and upgrade their skills. It is the first master's program to be offered at the College.

The future holds promise, as well. Programs in Daemen's Business and Commerce Division will be expanded, and housed in a new, state-of-the-art building, that has just been completed. New academic initiatives, such as the physician's assistant program, and the environmental studies major, are underway. Applications for admissions into several programs are at record levels. In short, the state of the College is sound. Daemen faced many challenges over the last two decades, and Dr. Marshall met each of them with sound judgement and vision.

We have much to be proud of at Daemen. Over the years, the College has demonstrated a special ability to integrate the resources of higher education with the needs of the community. Through the last two decades, Robert Marshall has provided the vision and leadership necessary for this institution's continued success. Tonight, pausing to look back, we take note of his many accomplishments, and express our appreciation to him for a job well done.

HONORING ARTHUR W. "NICK" ARUNDEL

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. DAVIS. Mr. Speaker, it is with great pleasure that my colleague and I honor one of northern Virginia's pioneers, Arthur W. "Nick" Arundel. Mr. Arundel, has over the last 30 years built the Times Community Newspapers into a chain of 16 weekly publications stretching from Fairfax County west through the Piedmont. Today we are proud that he has received the Suburban Newspapers of America's 1995 Dean S. Lecher Award for his decades of contributions to suburban journalism.

Mr. Arundel's career started when he was hired by famed CBS correspondent Edward R. Murrow to be a reporter in the network's Washington bureau in 1956. In 1960, having developed an entrepreneurial itch, he bought a bankrupt country and western radio station in Washington, renamed it WAVA and created the first all-news radio station in the country. The station was a phenomenal success.

In 1965 he started the Times Community Newspapers with his acquisition of the 175-year-old Loudon Times Mirror. His next acquisition was the fledgling Reston Times, which planted the Times Community Newspapers' flag in Fairfax County. Today the Fairfax group includes 11 papers.

Nick Arundel has continued to build his Times Community Newspaper chain right through last month, when he acquired the McLean Providence Journal and its sister paper, the Great Falls Current, from Dear Communications. With those acquisitions, Times Community Newspapers now circulates to nearly 200,000 households in northern Virginia.

In addition to his success as a newspaper mogul, Nick Arundel is a graduate of Harvard University. He served 4 years as a decorated and twice wounded Marine Corps parachute officer in both the Korean and Vietnam wars.

Nick Arundel and his wife Margaret "Peggy" live in The Plains, a community he has helped restore, particularly through his creation, in the 1980's, of Great Meadow. Through his hard work he has turned it into the home of the Virginia Gold Cup steeple chase races.

Mr. Speaker, we know our colleagues join us in paying tribute to Arthur W. "Nick" Arundel for his many years of hard work and dedication, and for making northern Virginia a better place to live.

IN RECOGNITION OF THE AIDS SERVICE CENTER OF LOWER MANHATTAN

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. NADLER. Mr. Speaker, I rise today to recognize the fifth anniversary of the AIDS

Service Center of Lower Manhattan, which will be commemorated October 30, 1995. Founded in October 1990 as the Lower Manhattan AIDS Task Force, the AIDS Service Center has grown into a multiservice community organization which is dedicated to serving individuals, families, and communities that are affected by HIV/AIDS. ASC has expanded its services to provide case management, advocacy and support services, peer education, community outreach, and training opportunities for people living with AIDS in Manhattan. The AIDS Service Center has served over 4,000 people through street outreach and education activities, and engaged over 300 people living with HIV/AIDS in case management services. I am honored to pay tribute to this fine organization, which is located in my district, and to mark its fifth anniversary. As the number of people with AIDS increases every day, it is gratifying that ASC is here to meet the needs of all who are affected by AIDS.

THIRTY-NINTH ANNIVERSARY OF THE HUNGARIAN REVOLUTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. SMITH of New Jersey. Mr. Speaker, 39 years ago yesterday, Hungarian students demanding reforms and democratization demonstrated in Budapest, touching off what has become known as the 1956 Hungarian Revolution. The 2 weeks that followed witnessed events that were truly incredible given the context of the times: following the initial demonstrations, Soviet troops and tanks entered Budapest; hundreds of peaceful marchers were killed at Parliament Square in Budapest; fighting spread across the country; a new Hungarian Government was formed and negotiations for Soviet troop withdrawals were begun; revolutionary workers' councils and local national committees rose to prominence and attention was given to political and economic demands, including calls for free elections, free speech, press, assembly, and worship. Hungary announced its withdrawal from the Warsaw Pact and proclaimed itself neutral. In early November, Soviet forces attacked Budapest and took over strategic locations across Hungary. By mid-November, any hope of advancement was crushed by the ruthless Soviet military assault. Mr. Speaker, the short lived, but courageous struggle against communism and Soviet domination so brutally quelled by Soviet tanks vividly illustrated to the entire world the realities and intentions of Soviet imperialism and totalitarianism.

The West offered no effective response, Mr. Speaker, and the bloody suppression of the Hungarian freedom fighters seemingly underscored the status quo of Soviet power and might. This led to a feeling of impotence in the West. The 1956 Revolution was, of course, a testament to the fortitude, heroism, and commitment to freedom of the Hungarian people. One could note that the uprising also signified the beginning of the end of Soviet rule. The famous Yugoslav dissident, Milovan Djilas, writing very shortly after the uprising, characterized the revolution in Hungary as "the beginning of the end of communism generally," and observed that "* * * the Hungarian fighters for freedom, struggling for their existence and country, may not have foreseen what an epochal deed they had initiated."

Innocent lives were lost, hopes were dashed, much of the potential of the States under Soviet dominance was never allowed to blossom, and almost two generations knew nothing of basic freedoms. But, Mr. Speaker, as later events showed, Djilas proved to be prescient in his analysis. The Hungarian Revolution began to expose, Mr. Speaker, the ultimate futility of communism and the inherent weakness of the Soviet Union. Henry Kissinger, in his 1994 book "Diplomacy," notes that: "A generation later, latent Soviet weakness would cast the Hungarian uprising as a harbinger of the ultimate bankruptcy of the communist system." Mr. Speaker, perhaps this was the most important legacy of the Hungarian uprising, attesting that the blood shed by the Hungarian people in 1956 ultimately was not in vain.

DOMESTIC VIOLENCE AWARENESS MONTH

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. VENTO. Mr. Speaker, I rise today to commemorate domestic violence awareness month. Domestic violence is a serious problem in communities across our Nation. Research conducted by the Department of Justice has uncovered a disturbing fact regarding this type of violence, that women are just as likely to be victimized by someone close to them, such as a spouse or friend, than they are by an acquaintance or stranger. It is frightening that in a time when crime rates in communities across the Nation are on the rise, many women are not even safe inside their own homes.

My home State of Minnesota has been on the forefront of the campaign to reduce the number of incidents of domestic violence. It was my hometown of St. Paul, MN, where the Nation's first battered women's shelter, Women's Advocates, began operating 25 years ago. Today, the Harriet Tubman shelter in Minneapolis, MN, is expanding its services to provide apartment living for women while they rebuild their lives. The State has also implemented a more effective arrest and prosecution procedure regarding domestic violence cases in an attempt to decrease dismissal rates and prosecute more offenders. I am proud of the efforts that all of Minnesota's communities, and their citizens, have made in the campaign to ensure that Minnesotans are safe from domestic violence.

One organization in the Twin Cities aiding this effort is the Casa De Esperanza Women's Shelter. The shelter focuses on domestic abuse in Latino families, but its services are available to all battered women, including those who have been previously abused, and their children. Housing 22 beds, the shelter served 87 women and 118 kids last year and ran a number of community programs. Operating in west side schools, Casa De Esperanza offers an antiviolence training program for children, which works to curb the cycle of violence that inflicts many families. The program reached 160 children last year alone. The shelter also operates a number of advocacy programs to help battered women and their children receive other services they may need such as medical care. Casa De Esperanza, and its executive director, Gloria Perez Jordan, are on the front lines of the effort to help victims of domestic violence in Minnesota. Their efforts must be supported by a strong commitment from Washington to work to decrease incidents of domestic violence and to help those who have been battered achieve abuse-free lives for themselves and their children.

Organizations like Casa De Esperanza are succeeding in the campaign to end domestic violence. However, there is still much work to be done. In Minnesota, 100,000 women use the State's battered women's services every year. The largest obstacle to be overcome is the silence that shrouds this abuse. Many victims of repeated domestic violence feel powerless to escape the abusive household and are unaware of the services available to help them.

Others are afraid to confront their attackers or try to leave the household, fearing further abuse. Domestic Violence Awareness Month was established to heighten awareness of domestic violence, its effects on our community and families, and the services available to its victims.

Informing the community about domestic violence, however, may not be sufficient to ensure that all victims of these violent acts are able to obtain the services they need. Another reason to dedicate this month to the cause of domestic violence is to focus attention on the fact that current programs and facilities are not adequate to help all victims. Nation-wide, two-thirds of the women who seek help at women's shelters are turned away because of a lack of space. Programs that aid victims of domestic violence must be expanded so that all citizens have the opportunity to obtain the services they need to live abuse-free lives. We must not turn away from victims seeking assistance to build better futures safe from abuse.

So far in 1995, 21 children and 9 women have died in incidents of domestic violence in Minnesota. By heightening awareness of domestic violence in communities across the Nation, we can step up efforts to ensure that all Americans live free from incidents of domestic violence.

FORTIETH ANNIVERSARY OF SYMMES, MAINI & McKEE

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to commemorate the 40th anniversary of Symmes, Maini & McKee Associates [SMMA], a multidisciplinary architectural, engineering, and strategic planning resources firm, of Cambridge, MA. During its 40 years of operation, SMMA has designed many facilities for industrial, commercial, and institutional uses, and has distinguished itself by providing a high level of creative design and responsive service. I would like to express my warmest congratulations to everyone at SMMA, who have worked so hard over the years to make the company so successful in recognition of their long standing commitment to excellence.

TRIBUTE TO THE LATE MR. IRV LEWIN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. VISCLOSKY. Mr. Speaker, it is my great honor to rise today to pay tribute to the late Mr. Irv Lewin. On October 27, 1995, the Salvation Army-East Chicago Corps is dedicating the Irv Lewin Fellowship Hall.

Irv served as a board member for the Salvation Army-East Chicago Corps for over 35 years. During a portion of this period, he served as chairman of the board. What is to be dedicated as the Irv Lewin Fellowship Hall is an area for the feeding program sponsored by the Salvation Army. According to the Salvation Army-East Chicago Corps: "Irv gave untiring support to the Salvation Army through unparalleled service and commitment."

Irv, who passed away earlier this year, was a resident of East Chicago for many years. He also resided in Hammond and Highland for a portion of his life. Irv was a graduate of McKinley Grade School and Roosevelt High School, both of East Chicago. Irv then graduated from Indiana University, where he played the clarinet with the Indiana University marching band.

After graduating from college, he served with the U.S. Army in World War II, and, later, became a co-owner of Lewin's Clothing Store in East Chicago with his brother, Ken. In addition, Irv was an educator at Indiana University Northwest in Gary, as well as Calumet College of St. Joseph. However, Irv is probably most well known for his 35 years as a radio commentator for WJOB Radio Center in Hammond. During his career at WJOB, he helped organizations by fulfilling requests from community, nonprofit agencies.

Irv was not only committed to the goals and success of the Salvation Army, but the community as a whole. Irv was a past exalted ruler for the Elks Lodge #981, as well as chairman of the Lake County Polio Foundation and the United Jewish Appeal. Moreover, Irv served as past president for the East Chicago Chamber of Commerce, East Chicago Community Chest, East Chicago Lions Club, East Chicago Board of Education, and the Calumet College of St. Joseph. Irv was a board member of the 1st Bank of Whiting, Katherine House of East Chicago, the American Legion Post #369, and B'nai B'rith. For 13 years, Irv served as the commissioner of higher education for the State of Indiana.

All this dedication proved to be successful as Irv earned the Man of the Year Award from St. Joseph College, a Sagamore of the Wabash from former Governor Orr, and a place in the East Chicago Hall of Fame.

Irv Lewin is survived by his children, Paul and Stuart Lewin, Rosemarie Broach, Carol Bogushi, and Judi Bach, as well as many grandchildren. He rightfully deserves the great honor of having the Irv Lewin Fellowship Hall dedicated to his memory by the Salvation Army-East Chicago Corps. Indiana's First Congressional District has surely benefited from Irv's dedication and commitment to improve the quality of life for all residents of northwest Indiana. Mr. Speaker, I ask you and my other colleagues to join me in commemorating the memory of this great man.

THE PHILANTHROPY PROTECTION ACT OF 1995

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. FIELDS of Texas. Mr. Speaker, the funding of hospitals, universities, scholarships, churches, and other organizations that help the needy are under attack. A Federal lawsuit filed in Wichita Falls, TX, is threatening the funding of thousands of these institutions, based, in part, on a misguided argument that the charitable donation programs that they maintain violate the Federal securities laws.

The charitable donation programs that are under attack are maintained by organizations like the Red Cross, the Salvation Army, the Boy Scouts, the Southern Baptist Foundation, and universities all across the country—including my alma mater, Baylor University. These programs have been operated since the 1830's, when the American Bible Society entered into the first planned giving arrangement. They have been a keystone of charitable giving in this country.

Charitable gift annuities and charitable trusts make it possible for donors to make a gift to a charity—while receiving some of the investment income produced by that gift. The purpose of these programs is simple: they provide a flexible way to help people help others. The people who donate to charities through charitable giving programs such as these are helping to feed and clothe the less fortunate, vaccinate children, care for the sick, and provide education for those who could not otherwise afford it. Every citizen in this country is better off for the hard work of these organizations.

Imagine the Oklahoma bombing tragedy without the American Red Cross. Imagine your own local church or your alma mater closing its doors in financial ruin. It sounds unthinkable, but these are very real possibilities.

The lawsuit in Texas alleges that the charitable trust program operated by the Lutheran Foundation violates the Federal securities laws. This is a flagrant misapplication of the law. The plaintiff in that suit is seeking to have that gift revoked. The plaintiff in the suit is not the donor who gave the donation—rather, she is an heir of the donor. Guess where that money will go if it is revoked—right to the plaintiff—and her lawyer.

Other plaintiff's lawyers are looking at this suit as a huge business opportunity. The judge has been asked to make the suit a class action—which would pave the way for copycat suits against every charitable organization in the country that operates a charitable annuity or charitable trust donation program.

Some organizations have already stopped accepting gifts through their charitable donation pools for fear a class action will send that money right back out the door—into the pockets of plaintiffs and their lawyers.

This abuse of our legal system must be stopped. And today I, together with Chairman BLILEY, are introducing a bill to do exactly that—and make sure that charities and universities and religious organizations will not be vulnerable to further attack.

The Philanthropy Protection Act of 1995 will amend the Federal securities laws to clarify that the provisions of those laws are meant to apply to investment in our capital markets, not to gift-giving. A person seeking to get the best possible return on this investment will go to a brokerage house—not to church.

This legislation is another step forward in our efforts to rid our legal system of needless, expensive, and harmful abuses. The people who give to churches, schools, hospitals, and other worthy causes should not be foiled in their generous efforts to help. At the same time, they should be protected against fraud—and this legislation does exactly that. It does not exempt charities or those who seek donations to charities from the anti-fraud protections of the Federal securities laws.

This summer Senator KAY BAILEY HUTCHISON and Senator CHRIS DODD introduced similar legislation to protect our country's charitable organizations. Governor Bush, of Texas, signed into law a provision that was passed unanimously by both houses of the Texas legislature to accomplish the same goal. And today, Chairman HENRY HYDE, of the House Judiciary Committee, has introduced a bill to prevent the misapplication of the Federal antitrust laws to these charitable efforts.

In this good company, I hope my colleagues in the House will join Chairman BLILEY and me in this important bipartisan effort to protect charitable giving in the United States. Those of us who believe in and support the work of charitable organizations located in my home State of Texas and throughout our country have an obligation to do what we can to help—not hinder—their efforts.

TRIBUTE TO PRESIDENT ARISTIDE

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. HILLIARD. Mr. Speaker, I want to congratulate President Aristide and the people of Haiti on the first anniversary of the restoration of democracy to Haiti. I believe that the role of the United States in the restoration of democracy to Haiti represents a high point in the United States foreign policy with respect to the Caribbean and Africa.

Further, I wish to commend President Aristide on his promise to adhere strictly to the Haitian Constitution by leaving office in 1996.

He has put himself above politics by not supporting efforts to ignore or amend the Constitution to enable himself to run again for the Presidency. Rather, he has put in the apparatus, so that his successor can continue the democratic process he has begun.

During the last year, President Aristide has worked relentlessly to move his country forward by reviving organizations destroyed during the years of corrupt military rule—organizations which are essential to the survival of democracy. In addition, President Aristide has made marked improvements in human rights.

As an enthusiastic supporter of democracy in Haiti, I wish the Haitian people continued success in their struggle to create a democracy that will withstand any efforts of individuals with aspirations to return Haiti to a totalitarian government. My Haitian friends, do not let anyone turn you around. Best wishes to you for a long, democratic life.

75TH ANNIVERSARY OF OUR MOTHER OF SORROWS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. MURTHA. Mr. Speaker, often in the course of our hectic, day-to-day lives we fail to remember the significance and importance of the activities and institutions that mean the most to us and our communities. One way in which we make up for this is in our celebration of anniversaries—the anniversary of our Nation's independence, the anniversary of important personal events, or the anniversary of the things that bind a community together. One important community institution in the Johnstown, PA area is Our Mothers of Sorrows Parish, which will be celebrating its 75th anniversary with a special Mass and dinner on October 29, 1995.

The community will be celebrating the founding of the Parish on November 3, 1920, by the Most Reverend John J. McCort. In its 75-year history of serving the people of Johnstown the parish has had only three Pastors—Rev. Msgr. Stephen A. Ward, Rev. Msgr. Linford F. Greinader, and the current Pastor, Rev. Msgr. Thomas K. Mabon, who is a native of Johnstown and was assigned to Our Mother of Sorrows Parish in 1993.

I'd like to join all the people of Johnstown in extending congratulations and best wishes to all the parishioners of Our Mother of Sorrows Parish as they celebrate their 75th anniversary. We've certainly experienced many ups and downs in the past 75 years in Johnstown, but it has been our faith and the guidance offered us by the stabilizing influences in our community that enable us to continue to look forward. I'm certain that Our Mother of Sorrows Parish will continue to be an important part of the lives of many of the people of Johnstown, and I wish you another wonderful 75 years and more as a Johnstown institution.

HONORING THE FLORIN JAPANESE-AMERICAN CITIZENS LEAGUE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. MATSUI. Mr. Speaker, I am honored to rise today to bring to my colleagues' attention the work of a distinguished public service organization, the Florin Japanese-American Citizens League [JACL]. On November 4, 1995, the Sacramento community will gather to honor this organization and celebrate its 60th anniversary.

The Florin JACL was formally organized in 1935 as one of the original 115 chapters nationwide. A volunteer nonprofit and educational organization, the Florin JACL has dedicated the past six decades to upholding the human and civil rights of Japanese-Americans and all Americans.

In their early years, the Florin JACL operated with dignity under the cloud of World War II. Though parents and relatives were confined in isolated relocation centers, 45 young Nikkei Florin soldiers fought a 2-front war: 1 against the enemy and 1 against national prejudice. After the war, the Florin JACL played an instrumental role in he resettlement of internees after the camps closed.

During the post-war era, after the passage of the landmark 1952 Walter-McCarran Act, the Florin JACL mounted a successful campaign which promoted and assisted Issei to become naturalized citizens, a privilege heretofore denied to them and others of Asian ancestry.

In more recent times, the Florin JACL has directed its efforts to social and educational service. In 1962, the Florin JACL Scholarships were initiated and for the past 23 years have provided students with the financial and moral support needed to pursue higher education. Always evolving to meet the needs of today's society, the Florin JACL now boasts such successful programs as an Annual Women's Day Forum and the Healthy Family Traditions project.

In addition to these interests, the Florin JACL has worked tirelessly to preserve the rich history of Japanese-Americans. For the past 12 years, the organization has sponsored Time of Remembrance programs featuring significant speakers, teachers, workshops, children's sessions, and Nikkei VFW participation via lectures, exhibits, video, dissemination of informational materials, and question-and-answer sessions relating to the Japanese-Americans and World War II.

One of the most ambitious and exciting new projects in Sacramento is the establishment of the Japanese-American Archival Collection. Started by the Florin JACL's donation of the Mary Tsukamoto collection, the project has grown dramatically and serves as assurance that Japanese-American history will be preserved with tangible proof for future generations.

The Florin JACL is most deserving of our thanks and praise for their efforts and compassion for all people in the Sacramento region. I know my colleagues will join me in wishing the Florin chapter of the Japanese-American Citizens League many years of continued success.

REMEMBERING AMERICA'S VETERANS

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. BAKER of California. Mr. Speaker, as we prepare to honor the sacrifices of America's veterans on November 11, I want to draw the attention of my colleagues to the words of a poem sent me by one of my constituents, Peter Whitney of Walnut Creek, CA.

John DiRusso served with Peter in the Second World War. They were among the tens of thousands of young Americans who, in the words of the late journalist Theodore H. White, "saved the world." The words of this poem remind us of the heroism that was so common it came to be taken for granted. Yet we should never take for granted what so many brave men and women did to preserve our liberty.

It is a pleasure for me to include John DiRusso's poem, "Please Remember Me," in the CONGRESSIONAL RECORD. We do remember America's veterans. To forget them would be to ignore our very freedom, something we must never do as long as our Republic lasts.

PLEASE REMEMBER ME

(By John DiRusso)

Remember me, America, for I was once your son
I fought and died at Valley Forge with General Washington.
I was there at Gettysburg on that tragic, tragic day
When brother fought against brother—the blue against the gray.
I rode with Teddy Roosevelt on the charge up San Juan Hill
Some came back to fight again—but I just lie there still.
I went to France with A.E.F. to bring the peace to you
I was twenty-one and full of fun—I never saw twenty-two.
I'm still here at Pearl Harbor since that Decenber seventh day of infamy
Lying silently with my shipmates on the U.S.S. Arizona at the bottom of the sea.
D-Day June 6TH 1994, we hit the beaches of Normandy
And we fought uphill every inch of the way
We routed the Germans and hurled them back but what a terrible price we had to pay.
I served on a U.S. submarine, the bravest of the brave
Until a German depth charge gave us a watery grave.
I bombed the Ploesti oil fileds, they blew with one big roar
But in the attack we were hit with flack—I'll never bomb anymore.
In Korea I heard the C.O. shout "we'll make it—I'm sure we will"
I lost my life to try and take a spot called Pork Chop Hill.

Vietnam! Vietnam! When will we ever learn
I'm one of sixty thousand who never will return.

I left my town, my wife, my kids, my home
so cozy and warm
I was killed in a SCUD attack in a war
called—Desert Storm!
And so in my eternity my thoughts are all
for thee
I'll never forget my America—I pray she remembers me.

THE "REAL" CUBA TODAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Ms. ROS-LEHTINEN. Mr. Speaker, in the debate a few days ago over the Cuban Liberty and Democratic Solidarity Act of 1995 we heard conflicting appraisals of Cuba today. From time to time, "Dear Colleague" letters and even congressional newsletters are distributed in this body about Cuba.

One aspect of Cuba that our sense of decency demands to incorporate in our discussions about the island is the continuing imprisonment of hundreds of political prisoners by Fidel Castro. This past June, the Cuban Commission for Human Rights and Natural Reconciliation prepared in Havana a partial list of Cubans detained for political reasons. The list has been submitted to Ambassador Carl Johan Groth, the United Nations Special Rapporteur for Cuba, who has yet to be granted permission by Fidel Castro's government to visit the island to carry out his human rights work.

Regardless of the differences of opinion some may have on U.S. trade sanctions against Havana, it is my hope that we do not turn a deaf ear to the cries for help from Castro's political prisoners. We must all work to obtain the prompt and unconditional release of all political prisoners in the island.

Their suffering for their Democratic convictions is an undeniable part of Cuba today.

Here are just a few of the more than a thousand names that appear on the list of political prisoners and the made up crimes they were charged with by the Castro regime: Alfonso Eduardo Agueda Perez, sentenced to 4 years for being considered dangerous; Arnaldo Pascual Acevedo Blanco, sentenced to 5 years for spreading enemy propaganda and rebellion; Antonio Guillermo Acevedo Labrada, sentenced to 7 years for spreading enemy propaganda; Ricardo Acosta Alvarez, sentenced to 3 years for air piracy; Humberto Dorga Acosta, sentenced to 3 years for disorderly conduct in public; David Aguilar Montero, sentenced to 30 years for piracy; Rafael Juan Alfonso Leyva, sentenced to 30 years for espionage; Alberto Guevara Aguilera, sentenced to 10 years for distributing enemy propaganda and attempted attacks against state officials and property; Ernesto Verto Aguilera, sentenced to 2 years for falsifying documents; and Arturo Aguirre Acuña, sentenced to 10 years for illegal exit from the island and piracy.

In the weeks to come, I will discuss other political prisoners languishing in Castro's gulags.

PRESIDENT TAKES DECISIVE ACTION AGAINST NARCOTICS TRAFFICKING AND CRIME

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. HAMILTON. Mr. Speaker, I would like to call my colleagues attention to the important steps announced by the President over the weekend with respect to fighting narcotics and organized crime.

As you are aware, the President announced a series of initiatives in his speech to the U.N. General Assembly designed to strike a blow against the everincreasing dangers posed by narcotics trafficking and organized criminal activity. Two of those initiatives, I believe, will seriously damage the narcotics trade.

First, the President issued an executive order under the International Emergency Economic Powers Act freezing assets in the United States of 47 individuals and 33 companies associated with the Cali cartel and prohibiting any individual or company in the United States from doing business with these individuals or companies. By U.S. Government estimates, the Cali cartel controls 80 percent of the cocaine entering the United States. This executive order will hit the cartel where it hurts the most: their money.

Second, the President announced his intention to impose sanctions under the Kerry amendment against countries that do not control effectively the use of their financial systems by narcotics traffickers, terrorists, and other criminal enterprises. Under the Kerry amendment, countries which do not have in place adequate laws and procedures to deter money laundering can be denied access to the U.S. financial system. President Clinton—for the first time since the Kerry amendment was enacted 7 years ago—has sent a clear message to countries that turn a blind eye to money laundering in return for short-term economic gains: There is a heavy price to pay for such actions and we will exact that price.

The actions of the President have stepped up the pressure on narcotics traffickers and organized crime, and show the commitment of this administration to attacking these problems both here in the United States and overseas. I commend the President and call on our friends and allies around the world to join him in his efforts.

SHARING THE PAIN OF ALZHEIMER'S

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. LEVIN. Mr. Speaker, on October 18, 1995, the Alzheimer's Town Meeting in Troy, MI, will give family members who care for Alzheimer's patients a chance to share with others the physical and emotional challenges they face daily.

They will have the opportunity to learn more about the options and resources available to them. And they will be able to share experiences with sympathetic listeners who know too well the devastation of the disease.

Alzheimer's does not discriminate. In America, 1 in 10 people know someone suffering from the disease. In metro Detroit, 60,000 people have Alzheimer's. Their families know that caring for an Alzheimer's patient is a supreme challenge. The tireless effort put forth by caregivers is remarkable and an example for all.

These caregivers have been called the hidden patients of Alzheimer's, and I agree. I commend the Alzheimer's Association for making this effort available and for raising consciousness about Alzheimer's in the metro Detroit area.

We must continue our fight against this painful disease. Through research, financial aid for Alzheimer's families, and a health care system that works for Alzheimer's victims, we can provide the best possible support for everyone affected by the ravages of Alzheimer's.

THE 11TH ANNUAL GREAT LAKES CONFERENCE ON EXPORTS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. ROTH. Mr. Speaker, on September 15, I held my 11th Annual Great Lakes Conference on Exports. We had 1,043 attendees, making this the largest exports conference in the Midwest.

Our opening speaker this year was C. Michael Armstrong, chairman and CEO of Hughes Electronics, and the Chairman of President Clinton's Exports Council.

As the chairman of the Trade Subcommittee of the House International Relations Committee, I have worked very closely with Mike. His insights have been invaluable to the committee as we have tried to increase U.S. exports.

I'd like to share some of those insights with you today. Following is the text of the address Mike Armstrong gave at the Exports Conference.

If we are to remain competitive, improve our balance of trade, and move strongly ahead into the 21st century, we need to listen to CEO's like Mike Armstrong. I urge you all to take heed of his advice.

THE EXPORT IMPERATIVE: PUBLIC POLICY AND PRIVATE ENTERPRISE FOR THE NEW CENTURY

(By C. Michael Armstrong, Chairman & CEO, Hughes Electronics)

Thank you for that very warm Wisconsin welcome. This conference, drawing so many high-powered participants not simply from Wisconsin but from across the Great Lakes region, is testament to the energies and insight of Congressman Toby Roth. The knowledge and pro-active approach he brings to the public debate about the market system and exports is critical to the future of this country.

Gatherings like this are instructive for another reason as well—as an indicator of the kind of collective, collaborative, effort we must have to turn economic opportunity to advantage. In the context of the local economy, some of you may be seated down the row this morning from a competitor. But in the context of the global economy, even competitors share a common interest in a system that permits and promotes economic opportunity and puts American firms on an equal footing with companies from other countries.

The theme of this year's conference captures the challenge we face: "Going global" is, quite simply, where the growth is. Companies, and ultimately countries, that refuse to recognize this reality, no matter how powerful, no matter how well-positioned, are destined to decline. By the same token, even small companies that grasp this reality will reap world-class rewards, I'll say here what I say to every businessman and Congressman I speak with: America's economic destiny is as an Export Superpower.

For my company, the export imperative is already the dominant fact of our economic life: Today, our competition, our customers, our standard of quality, are all global. I've tried to translate my experiences, at IBM, at Hughes and as Chairman of the President's Export Council into an advocacy of pro-export policies that will not only define the growth of our country, but will define the opportunities and standard of living for our children and our children's children.

That's the mission that shapes my message this morning: The change in mind-set—in public policy, and in the private sector—we need to see for this country to fulfill its economic destiny. For this to happen, we must act on three critical issues: Where government policy is hurting us, it has to stop; where government can help, it has to start; and where the private sector lacks reach or competitiveness, it has to change.

If I may, let me start with a snapshot of the importance of exports to the American economy. Take the current projections of 2½ percent growth for the U.S. economy—a steady, but unspectacular rate. Now, compare that 2½ percent to the growth rate for American exports which is 10 percent plus. Even during the 1990–91 recession, exports continued to grow putting a floor under a downturn I know all of us thought was deep enough. Each year export growth adds about $30 billion dollars to our GDP.

Now numbers like that can be distant from the day-to-day we deal with, they're almost unreal: So let me bring it a bit closer to home—at the average manufacturing wage nationwide, export growth, each year, is good for 1 million new jobs. Last year, right here in Wisconsin, 2,300 companies exported $7 billion dollars worth of goods, supporting 192,000 American jobs. And statewide, export earnings are up 19 percent from the year before.

And it's the same story in the other states represented here today. Last year in Minnesota, exports accounted for $10 billion dollars and 158,000 jobs; in Illinois, $24 billion dollars and 440,000 jobs; in Michigan, $36 billion and more than half-a-million jobs. And in every one of your states 95 percent of the businesses active in export are small to mid-size companies of 500 employees or less. That's the reality and the strength, of America's export economy.

However, for just a moment, imagine our economy without export growth. Our country would red-line almost instantly, plunging into recession. With export growth gone, we'd see unemployment head for double-digits, and a downward economic spiral historic in proportion and its affect on all of us. It's a nightmare scenario none of us want to look at much less live through.

The bottom line is, exports are the economic engine of our country and their importance is growing. Lets look ahead from where things are today to the world as we'll know it twenty years from now. A combination of demographics and development will join to spark an economic boom in the nations we once termed the Third World: 12 developing countries with a total population of 2.7 billion people—more than 10 times the population of the United States—will account for 40 percent of the world's export opportunities. Some may see this developing world emergence as a shift away from American economic dominance to a zero-sum future in which their sunrise is our sunset. I see it a different way. I see it as a whole new world hungry for the goods and services American companies can provide. I see it as long-term sustainable prosperity for the U.S., if more of us get off our domestic duff and into global markets.

But to crack those markets, to translate that opportunity into American exports and American jobs, will take more than American ingenuity and enterprise. It's going to take a shift in government policy as profound as the technological revolution taking place around us.

So let's start with public policy. Just what government support and policy is necessary for the United States to be globally competitive?

Here, I'm going to depart from the prevailing wisdom that puts a pox on both Houses as well as 1600 Pennsylvania Avenue—by asserting there is a constructive role government must play when it comes to exports.

First, we need to keep and extend export financing. There are opportunities for export that entail unique risks, deals where commercial banks with their balance sheets rightly fear to tread alone. We need adequate government-backed export financing. We need the Ex-Im Bank and OPIC—the U.S. Overseas Private Investment Corporation—to step in where political risk, or competitive country government involvement inhibits our opportunity. Government financing in international markets is not a form of foreign aid, it is a competitive imperative.

Second, we've got to improve export advocacy. I know some of the folks in Washington have declared war on the Commerce Department. I want to propose something short of a scorched-earth solution. All of us want to see non-essential government functions eliminated—and yes, we want to see the fat trimmed on federal spending—but we need to preserve a cabinet-level Commerce or Trade Secretary to give voice and substance to global export advocacy and policy. We need to retain an International Trade Agency that helps U.S. companies the way other governments back our foreign competitors. And fortunately today we have a very effective Secretary of Commerce who provides real help in growing this country's exports.

Third, and this is key for many of the companies represented at this conference, we need more national export support for small business. Support that helps the company in the industrial park down the street find and sell to new customers around the world. What makes the American economy thrive is the little guy with the big idea—the seed from which great things grow. For most of our history, small business has been a home-grown affair. But that's changing: It's becoming possible in America to be an export entrepreneur.

For example, the U.S. Commercial Service with its regional offices across the U.S., and links to every U.S. Embassy, is helping small American firms make the foreign contacts that lead to foreign contracts; that turns entrepreneurship into global business.

If you are not using these resources today, you should be. I do.

If these are 3 ways government can help us—our government is also hurting us. We ought to demand that government apply to its actions the physicians' Hippocratic Oath: "First, do no harm."

I'll limit myself this morning to one example, I think the most egregious example, of the way government policy is crippling our competitiveness, costing us jobs and limiting our growth: I'm talking about the impact of the old, Cold War-era export controls.

This is a case where bureaucracy simply can't keep pace with technology. It is a fact of life in the Information Age: Technology travels. The space between generations of technology is contracting, and the speed with which technology penetrates the marketplace is accelerating, making a mockery of borders and bureaucratic barriers of all kinds. In too many cases, export controls that limit U.S. firms, that keep us on the sideline, simply invite other countries to capture the market. It's a sad fact for those of us in the satellite and communications business that U.S. Government export controls constitute the single most significant competitive advantage our European competitors possess.

Ladies and gentlemen, that's wrong and it's got to change.

We've got to pass an Export Administration Act that clears away out-moded, antiquated export licensing that penalizes American companies.

Now, if we had a Congress filled with Toby Roths, this issue would be resolved tomorrow. But given the reality, we've got to keep educating, agitating, and pressing for change before the world passes us by. In just the 90s, these outdated export policies have cost my company several billion dollars and thousands of jobs. You and I must demand a new, realistic and competitive Export Administration Act.

So far I've focused on what government can and cannot do to promote export growth. But that brings me to my final issues this morning: The point where public policy ends and private sector responsibility begins.

Because the fact is, we can clear away counter-productive restraints and regulations and we can sustain and strengthen public sector assistance but there is a limit to what government can do, a line that separates what business must do for itself.

No policy, no program, no political fix can overcome a lack of American competitiveness. That's the responsibility of you and I, American management, and no one else.

And while there are some encouraging signs that American management is adapting and restructuring for global competitiveness, there is one significant indicator. I would submit, that says our house is not yet in order. Our problem is relatively weak investment in R&D, an important indicator that an enterprise is pursuing leading-edge and looking long-range. In 1994, the U.S. economy invested just 1.9 percent of GDP in civilian R&D. Our 1.9 percent compares to 3 percent for Japan and 2.7 percent for Germany: And remember in 1984, both of those countries were in recession.

While private investment would be aided by a permanent flat R&D tax credit, it is management's ultimate responsibility to invest, to train and to re-engineer our capabilities. Our shareholders, our customers and our employees will not, and should not, let us point the finger or pass the blame somewhere else. We simply must have the courage to challenge ourselves to change, and the conviction to invest to stay ahead of our global competitors.

And if this conference proves anything, it demonstrates there is plenty of courage and conviction right here in this room.

I know from talking to Toby Roth that there are companies in this room exploiting global economic opportunities to their advantage. No matter how many employees, they may have, that's no small accomplishment. I cite and compliment all today that are on this path—in the spirit of challenge to all of us; A challenge to be aggressive and enterprising in making the global market your customers.

And that, ladies and gentlemen, is my message:

First, we must all recognize the growing importance of exports in our increasingly global economy—and that America's economic destiny is as an Export Superpower.

Second, we must translate that export imperative into modern export public policies out of Washington.

And third, businesses in America should be assuring their competitiveness, investing in their conviction and pursuing global markets.

WELCOME TO PRESIDENT JUAN CARLOS WASMOSY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. LANTOS. Mr. Speaker, today Members of Congress will have the opportunity to meet with His Excellency Juan Carlos Wasmosy, President of the Republic of Paraguay, who is visiting the United States.

Mr. Speaker, President Wasmosy is the first civilian constitutional President of Paraguay in over half a century, and he has worked diligently to move his country and society along the path of democracy, social justice, and market economic development after years of the dictatorship of General Stroessner. As my colleagues know, the Stroessner regime permitted a number of leading Nazis, including Josef Mengele, to find refuge in Paraguay. I am delighted to report that under President Wasmosy important changes are being made in Paraguay's policies.

As my colleagues also know, terrorism has been a particular concern of mine. President Wasmosy has been a good ally in the effort to deal with Middle Eastern terrorists. Earlier this year, President Wasmosy courageously withstood pressure to release seven individuals arrested in Paraguay in connection with the bombing last year of the Jewish Community Center in Buenos Aires, Argentina, which resulted in the death of nearly 100 people. The Paraguayan courts ordered the extradition of these individuals to Argentina. For these actions, Bnai B'rith commended the Paraguayan Government.

Mr. Speaker, I commend President Wasmosy for his conscientious efforts to change the policies and the political culture of Paraguay. The institutionalized negative impacts of the Stroessner dictatorship have left a legacy that is difficult to eliminate. Paraguay still faces difficulties in dealing with international drug traffickers, and we in the United States must intensify our efforts to work with the government of President Wasmosy to eradicate this vicious scourge.

Mr. Speaker, I join my colleagues in welcoming to the Congress His Excellency Juan Carlos Wasmosy, President of the Republic of Paraguay.

CHARITABLE GIFT ANNUITY ACT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. HYDE. Mr. Speaker, today I am introducing the Charitable Gift Annuity Antitrust Relief Act of 1995 (H.R. 2525), legislation which grants antitrust protection to a charitable organization which issues gift annuities in accordance with the provisions of the Internal Revenue Code.

Charitable giving through gift annuities is currently under attack. For example, a Federal lawsuit in Texas alleges that charities are price fixing when they choose to offer the same annuity rates to their donors. A motion for class certification is pending which, if granted, would add as defendants virtually every charity in America. Regardless of the outcome of the suit, there is no denying that it has had and will continue to have a chilling effect on gift giving and that it is consuming financial resources which would otherwise be allocated to charitable missions.

Charitable giving has evolved well beyond the days when we simply put money in the collection plate or gave away our used clothes. There are now many innovative ways in which a donor can benefit a charity with a gift and himself with a charitable deduction. One increasingly popular mechanism is through a charitable gift annuity, which allows a person to give a chunk of money but obtain an income stream from it while alive, and also claim an immediate tax deduction. These gift annuities are attractive to both sides of the transaction: the donor still gets the income produced by his capital, and the charity gets immediate control over the entire amount of the donation.

Of course, the operative word here is "gift." Gift annuities are not intended to maximize the value of the lifetime income stream, as one would through a commercial annuity. Rather, they are intended primarily to result in a donation to the chosen charity. In order to accomplish this, the rate of return paid to the donor is intentionally set at a level which will allow the charity to retain a substantial portion of the value of the donation.

Our goal should be to encourage gift giving through legitimate means, and particularly through instruments which the IRS approves and regulates. Gift annuities carry this imprimatur. Allowing litigants to use antitrust law as an impediment to these beneficial activities should not be countenanced where, as here, there is no detriment associated with the conduct. In the first instance, it is a misnomer to use the term "price" to describe the selection of an annuity rate: an annuity rate merely determines the portion of the donation to be returned to the donor, and the portion the charity will retain. Second, the fundraising activities of charitable organizations are not trade or commerce, an essential predicate for establishing the application of our antitrust laws. Moreover, it is difficult to see what anticompetitive effect the supposed setting of prices has in a context where the decision to give is motivated not by price but by interest in and commitment to a charitable mission.

H.R. 2525 would make clear that the conduct alleged in these lawsuits would not be considered illegal under the antitrust laws. The protection it provides is narrowly tailored to cover only those activities required to market and create a gift annuity. I urge my colleagues to support this legislation so as to eliminate further frivolous lawsuits and barriers to charitable giving.

If you would like to cosponsor this measure, please call Diana Schacht on extension 53951.

75TH ANNIVERSARY OF SAINT ANTHONY HIGH SCHOOL

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. HORN. Mr. Speaker, I rise today to salute the 75th anniversary of Saint Anthony High School in Long Beach, CA—the oldest parish high school in the Los Angeles archdiocese. Since 1920, Saint Anthony High School has played a vital role in the education of our area's young people, shaping the lives of many who have gone on to become community builders and leaders—including a former Member of the House of Representatives, the Honorable Daniel Lungren, now California's able attorney general, and Archbishop William Levada of Portland, OR. Today, it has a student body of ethnically diverse young people who are building their futures on the solid base of a Saint Anthony High School education.

Academic excellence has always been the priority at Saint Anthony High School. As the school moves into the 21st century, this proud tradition continues. The school's newly developed medical science program is the only one of its kind in California. Its Air Force Junior ROTC program is the only one in the Los Angeles archdiocese. Saint Anthony's offers an extensive honors and advanced placement program. Students in the advance placement economics and accounting classes have a 100-percent passage rate, while in most public schools that rate is 15 percent. And, Saint Anthony High School students were the undefeated champions of the Long Beach Academic Challenge Bowl 3 of the five years the competition was held.

Schools such as Saint Anthonty High School have made our Nation strong—and hold the hope for the future of our country. For 75 years, Saint Anthony High School has taken this mission to heart. As the students and faculty move into the new century, I wish them many more years of success.

COMMEMORATING THE 10TH ANNIVERSARY OF LEON KLINGHOFFER'S MURDER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. ACKERMAN. Thank you, Mr. Speaker, and I thank my colleague, the gentleman from New York, for bringing this to the attention of the House in the form of a special order.

Unfortunately, we are not here today to celebrate, but rather, to commemorate a horrible tragedy perpetrated upon an American—for the sole reason that he was a Jew. Today marks the 10th anniversary of the brutal slaying of Leon Klinghoffer, an elderly, wheelchairbound, American Jew, who was, with his wife Marilyn, celebrating his wedding anniversary on the Italian luxury liner *Achille Lauro*.

The horrible days of the 1980's when terrorist hijackings abroad were becoming the norm, have dissipated. And yet now, on our own shores, we are being subjected to attacks by devious operants with dark agendas. Recent tragedies have made it clear that Americans are no longer immune to terrorist attacks, even upon our own soil. However, rather than lamenting the situation, there is something we can do about it.

What we can, and should do is send a strong united message from this country. This message needs to be clear in stating our complete and unquestionable intolerance against any perceived threat to our national security and domestic tranquility. We need to make these people who would undermine that security and tranquility understand that we will punish them severely for what they do.

As a democratic Nation, we have always prided ourselves on the time-honored tradition of healthy dissent and debate. The actions promulgated by these terrorists are in direct opposition to that tradition. It flies in the face of everything that this country represents. Therefore, I say enough. We need to tell these people that they have no place in our society. We need to tell these people that they will never receive either shelter or any other assistance from the United States or the American people. We need to tell these people that America will forever be a bastion of freedom and democracy.

Therefore, we stand together—as Americans and as human beings—in commemoration with Leon and Marilyn's two daughters, Lisa and Ilsa. Two women who are determined to preserve the memory of their father, and prevent a recurrence of this tragedy for another American family. We thank these two brave women for their work and their tireless spirit, and we reach out to them on this anniversary of grief, while we look forward to a celebration of unity against the forces of terrorism.

TRIBUTE TO DR. GABRIEL J. BATARSEH ON HIS RETIREMENT

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. Gabriel J. Batarseh of Florence, SC, for his dedication to serving his fellow citizens both publicly, through his professional career, and privately through the work he has done in his community.

Dr. Batarseh is a native of Bethlehem. He graduated from the Middle East College in Lebanon and received a masters degree and a doctorate of educational psychology from the University of South Carolina in 1964. Since then, Dr. Batarseh has unselfishly dedicated his life to enriching the lives of people with disabilities and their families in the State of South Carolina. He currently serves as director of the Pee Dee region in the South Carolina Department of Disabilities and Special Needs. Dr. Batarseh is retiring after 30 years of public service.

Dr. Batarseh's career has spanned many years. In 1966, he implemented all programmatic, educational, and cottage life services for the South Carolina Retarded Children's Habilitation Center, which is today known as Coastal Center in Ladson. Two years later, he opened the first South Carolina group home in Charleston. Since 1977, Dr. Batarseh has been working for the citizens with mental retardation and their families in the Pee Dee region of South Carolina to provide them with specialized programs and services. As superintendent of the Pee Dee Center in Florence, he reintegrated hundreds of residents in to prosperous lives in their home communities, while providing support mechanisms to enhance the lifestyles of remaining residents.

Over the years, Dr. Batarseh has not only modernized the Pee Dee Center, but he also initiated a number of novel services for people with mental retardation. He guided staff to provide early intervention training at home, encouraged the involvement of schools and families, and helped establish mental retardation boards in local communities to ensure people received the services they require.

Moreover, Dr. Batarseh has demonstrated his commitment to the community beyond his professional career. He is a very active member of All Saints Episcopal Church, where he has served as a warden and a lay reader. He was also a volunteer coach for the Family Y League and the Florence Soccer League for several years. Dr. Batarseh is married to the former Lillian McCarter of Clover, SC. They have three children: Leila, Mark, and Matthew.

Mr. Speaker, I join the South Carolina Commission on Disabilities and Special Needs to praise the work of Dr. Batarseh and salute the sacrifices he has made for the benefit of mentally retarded citizens and their families in the State of South Carolina. I am honored to represent such a citizen as Dr. Gabriel Batarseh in the Sixth Congressional District of South Carolina, and I hope you will join me in honoring this fine American.

TRIBUTE TO WILLIAM R. "PAT" PHILLIPS ON HIS RETIREMENT

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 24, 1995

Mr. SCOTT. Mr. Speaker, I rise today with my colleague, Congressman HERB BATEMAN, to pay tribute to a gentleman whose life and work have exemplified the values of hard work and dedication. Mr. William R. "Pat" Phillips ends a 46 year career when he retires from Newport News Shipbuilding on November 1st of this year.

Mr. Phillips completed the Apprentice School at Newport News Shipbuilding in 1954. He received a Bachelor of Science degree in Mechanical Engineering from Virginia Polytechnic Institute and has been awarded an Honorary Doctor of Science Degree by Old Dominion University.

During his impressive career at the shipyard, Mr. Phillips amassed a long list of achievements, holding over a dozen positions on his way to his current position as Chairman and Chief Executive Officer. Before reaching this status, he was the President and Chief Executive Officer of the shipyard.

Mr. Phillips' leadership was instrumental to the Shipyard's continued success during the challenges of military downsizing and the shipyard's effort to re-enter the international commercial shipbuilding market, a market closed to U.S. shipyards for almost four decades. He played the key role in landing a commercial contract for the yard to build eight double-hull tankers for export. This contract has led to letters of intent for the yard to build up to 10 more of these commercial ships.

Mr. Phillips is leaving the shipyard after a distinguished career and he will focus his future concerns upon his family and his community. He is very active in the local community, serving on numerous civic and educational boards. Among his many awards, Mr. Phillips was named the 1986 "Peninsula Engineer of the Year" by the Peninsula Engineers Committee and, in 1994, he was one of five to receive the "First Annual International Maritime Hall of Fame Award," presented by The Maritime Association of the Port of New York/New Jersey.

Pat Phillips has been a role model who has shown to his employees that hard work does pay. Having worked his way from the bottom ranks of the company to the top position, Mr. Phillips' outstanding achievement will not go unnoticed nor soon be forgotten.

SENATE—*Wednesday, October 25, 1995*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of power and providence, we begin this day of work in this Senate with the assurance that You will be with us, You will never leave us or forsake us, and we remember Your assurance to Joshua, "Be strong and of good courage."

You have chosen to be our God and elected us to be Your servants. You are the Sovereign Lord of this Nation and have destined us to be a land of righteousness, justice, and freedom. Now Your glory fills this historic Chamber.

Through Your grace, You never give up on us. With Your judgment, You hold us accountable to the absolutes of Your Ten Commandments. In Your mercy, You forgive us when we fail. By Your spirit, You give us strength and courage.

You also call us to maintain unity in the midst of diversity of differing solutions to the problems that we must address together. So, today, guide us in our discussion of the issues of the Budget Reconciliation Act and lead us to solutions that maintain our oneness. When the debate is ended and the votes are counted, enable us to press on to the work ahead with unity. I pray this in Jesus' name. Amen.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I do not believe that the bill has been laid down yet this morning.

I ask unanimous consent that I may proceed as in morning business for no more than 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE BRIDGE CONNECTING KENTUCKY AND INDIANA

Mr. FORD. Mr. President, in 1987, a study was made of a major bridge connecting my State of Kentucky and the State of Indiana. It was determined—this was on a major highway—that the bridge's life would be no more than 15 years as it related to the ability to carry major loads. At that time, Gov. Wallace Wilkinson decided that he would do everything he could to replace that bridge, and $10 million of Kentucky money was put up front.

To make a long story short, the people of that area approached then Congressman William H. Natcher, who was on the Appropriations Committee in the House, and was chairman a little bit later of the Appropriations Committee in the House. And after much study and discussion, in order to speed up the ability to have the funds as it related to that particular bridge, it was decided that it should become a demonstration project. Otherwise, it could have been delayed for a long, long time. The bridge was then designated, through Congressman Natcher's effort, as a demonstration project, and the construction started through the design, and almost 7 miles of road now has been built. That road has been built up to the river bank. The approach has been built on the Indiana side. And two piers have been built in the middle of the Ohio River.

Mr. President, Congressman Natcher was an unusual individual. Using his influence in the Appropriations Committee, he could have funded this bridge up front, some $80 million, the State paying the balance. But instead of doing that, Congressman Natcher would only take what was necessary for that one 12-month period, leaving the balance of the money then for his colleagues on the committee to use as they saw necessary.

Unfortunately, the death of Congressman Natcher eliminated a powerful voice and one who could be depended upon to fund the bridge. After the demonstration projects were eliminated on the House side and on the Senate side, Congressman Natcher was able to get some money in the bill as it related to appropriations and directed a line item for this particular bridge. After Congressman Natcher's untimely and unfortunate death, no funds were included on the House side as it related to the bridge.

I worked with my colleagues on the Appropriations Committee here in the Senate. We were able to make a modest contribution to the construction.

Now we have a budget going through the House and Senate with not one thin dime in there for that bridge.

As I said, there has been a lot of work done, four lanes now, for 7 miles on the Kentucky side, right up to the river bank. On the other side, the approach has been constructed by the State of Indiana. Two piers stick out of the Ohio River. We say, no, we are not going to finish or complete that bridge, with $58 million already expended.

I have an amendment I wanted to put on reconciliation to fund the bridge because it is a very necessary bridge because we are getting close to the day when the present bridge will not be able to carry traffic. That means trucks will have to go at least 100 miles out of their way in order to make deliveries in order to serve our area.

It is very important to the economic development of both the northern part of western Kentucky and the southern part of Indiana, a very key economic development tool, the life of that particular area.

In checking, Mr. President, on this particular amendment, I understand that the Budget Committee—which has the right to do so—would make a point of order against my amendment and that it would require 60 votes, a supermajority, in order for me to pass the amendment. Of course, I know I cannot do that.

There are things in this life that you realize cannot be done. You accept that and move on. Well, I accept this for the moment. I accept this for the moment. We are going to revisit this question time and time again because it is an abomination for a major highway to have a major bridge constructed to a point—two piers sticking out of the Ohio River—and not a dime to complete it.

My State is not a wealthy State, but the money is available by the State to pay for its part, and it has paid more than its part in the designation of the highway to the bridge and the four-lane facility, and the bridge will be a four-lane facility and has been recognized as one of the outstanding designs for not only design but safety that we have had in this country.

Mr. President, I regret the attitude of the Budget Committee. At least I thought I might have a fighting chance to be able to secure the funds for this bridge. However, if the Members on the other side stick together, then I have no chance.

I just wanted the record to reflect this morning that my constituents and those in Indiana are being denied infrastructure, that $58 million of our tax dollars have been spent, and they say, "No, we will not build the rest of it." It seems to me that it is no longer a demonstration project, with $58 million having been spent, the piers being built in the river, and the span now is all that is lacking.

This new majority here in the Congress has said to my people, "We are not going to finish it. It is up to you."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

They even reduced the funds to my State by some $45 million for this fiscal year compared to last fiscal year, and they say, "Just take it out of your funds and build it."

Well, that is not easy to swallow. I do not intend to see my people denied something that is real, something that is necessary, and something I do not think you could hold fault with, take umbrage with, because of its need, and we are in the position which we are in.

Mr. President, I will file my amendment. I will not call it up. I want it to be on record. It will be there. I will offer it this afternoon, at least file it at the desk and let my colleagues know of my interest and how much damage they are doing to the commerce from south to north that goes through Tennessee, Kentucky, on into Indiana, that hooks up with interstate highways.

It will cause major economic devastation to our area. Many companies that have built there, that have come there, have been depending on this mode of transportation because trucks are important to the new development of new businesses that have come into that area.

Mr. President, again, I regret that the majority has said to my people and those in southern Indiana that we are just going to let the piers stick out of the river like two sore spots and not complete the bridge.

Mr. President, I imagine my 5 minutes are up. I know the Chair is patient, and I appreciate that, but I did want the record to reflect that I am very disappointed in the way that the constituents in Indiana and Kentucky have been treated in this particular budget for this particular item.

I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). The Senator from North Dakota.

RECONCILIATION

Mr. DORGAN. Mr. President, today, the Senate will begin deliberating something called the budget reconciliation bill, which for most Americans is a term that does not mean very much. The reconciliation bill means reconciling spending on Federal programs to the terms of the budget agreement that was agreed to earlier this year by the Congress.

The reconciliation bill is probably one of the most significant pieces of legislation that has been considered in this Chamber in several decades. Yet we were provided with the reconciliation bill late yesterday afternoon.

For purposes of illustrating what the Senate is going to be considering, this bill is contained in these two volumes, about 2,000 pages of legislation. It is 1,949 pages, to be exact, and was delivered late yesterday to our desks.

Because there was a World Series game last night and I was preoccupied, unfortunately, until the 11th inning of that game—until quarter to 1 in the morning—I did try to muddle my way through these 2,000 pages but without great success. This is not a very good way to legislate.

However, I want to make two points about this bill. First, even though there will be a lot of criticism back and forth, and much of it justifiable, we should recognize that there are some provisions in this bill on which both political parties agree. There are things in this reconciliation bill that make a lot of sense, and I commend the majority party for a number of things that they intend to do. For instance, we do need to cut spending.

There are a number of areas of spending cuts offered by the majority party for which I say to them, "Good job; I support you." There are areas here where there is agreement. The American people in most cases hear only about where we disagree—for good reason, because there is no need to stand up and debate for hours about an issue where there's already agreement. In those areas where we agree, I think we should recognize there has been some good work done, bringing some of this to the floor of the Senate. I commend the people who worked to do that.

I do note, however, that some of the proposals in this bill are very troublesome and those are the ones that will engender a substantial amount of debate.

One of my colleagues took to the floor yesterday, and I am sure it took a fair amount of courage to do so. Senator SPECTER spoke at length about this reconciliation bill, and one thing he said struck me. He said, and I am paraphrasing, "I have concern that the tax cuts are unfair or at least give the perception of unfairness." Senator SPECTER said, "I express this concern because much of the pain of the spending cuts goes to the elderly, the young, the infirm, while allowing tax cuts for corporate America and those in higher brackets."

It is not often that someone in the Chamber speaks in such an unvarnished way. I am sure it was not easy for Senator SPECTER to do, because I do not think that is the prevailing message on that side of the aisle. Yet that is what is in these 2,000 pages.

It seems to me that, while containing some good recommendations and some commendable work, this bill is also a vehicle making profound changes in Medicare and Medicaid. It is also going to make it harder for middle-income parents to send their kids to college. It represents a set of priorities that I think Senator SPECTER properly says will impose most of the burden on lower income folks and will bestow most of the benefits on those who are very privileged in our country.

There is reason for us to be having a disagreement if we each believe in a different approach. I happen to agree that we should cut spending, but I do think there are some areas of spending that are more important than others. I personally do not support the star wars program. I do not think we have to build 20 more B-2 bombers at $30 billion. I could go through a whole list of items I think we should cut. But I do think it is valuable to keep the Head Start Program running and fully funded. I do not think it is wise to kick 55,000 kids off Head Start. I think it is valuable to keep kids in Head Start. That is a priority of mine. This is going to be a debate over the next 3 or 4 days about priorities.

Again, I have said this several times in the last couple of weeks, but people should not lament the fact that we are debating and aggressively disagreeing in this Chamber. The way you reach compromise is to take different positions that you might believe in very strongly, debate them aggressively, and from that debate comes compromise. My hope is that there will be a compromise on this reconciliation bill after these 2,000 pages are most likely passed by the Congress without my vote and then vetoed by the President of the United States. Following that veto, there must follow, by necessity, some kind of compromise. This system is predicated on compromise.

I think this is a sign of strength. We come to the floor. We discuss 2,000 pages. It is not a sign of strength that we get 2,000 pages in the late afternoon and are told, "By the way, we will start in the morning." That is not the right way to do it.

But we will have, I think, in the next few days, a pretty aggressive debate about priorities, and I hope at the end, after this bill is vetoed, we will come back to another set of priorities that better represents this country's interests.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DORGAN. I will be happy to yield to the Senator.

Mr. BYRD. It is a sign of strength just to be able to lift this monstrosity. Does anybody in this Senate know what is in this bill; 1,949 pages? We will be flying deaf, dumb, and blind, because we do not know what we are voting on here. I suppose there are a few members of the Budget Committee who will know something about it, but the rest of us, though, do not. It is a monstrosity. It is an abomination. And we have all of 20 hours—20 hours for debate, for amendments, motions, et cetera. It is ridiculous.

I thank the Senator for yielding.

Mr. DORGAN. I could not agree more with the Senator. Again, I think this will be vetoed and perhaps after that, we will have a more orderly process that results in better priorities.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as soon as Senator DASCHLE or Senator EXON are on the floor, I will call up the reconciliation package, but I will await their arrival and go ahead and make my remarks.

THE RECONCILIATION BILL

Mr. DOLE. Mr. President, 31 years ago this Friday, Ronald Reagan delivered a nationally televised speech that began his career in politics. The speech was called "A Time for Choosing."

Ronald Reagan made clear that the choice facing America was not one between right or left—rather it was one between up or down.

More than three decades later, this Congress now faces that same choice.

We can either go down the path of the status quo—a path that will lead America into a downward spiral of bigger government, higher deficits, more taxes, and a financially bankrupt Medicare system.

Or we can move America up to a brighter future, a future where our children and grandchildren are free from staggering deficits. A future where power flows from our States to Washington, and not the other way around. A future with a strong and secure Medicare Program.

Mr. President, I believe the choice is clear.

For this historic Republican Congress, the vote on the reconciliation bills will be a defining moment. It will be the moment when the American public will see that we are not business as usual. We are not the status quo. Rather, this Congress is one that keeps its promises to the American people.

There will be plenty of debate in the coming days, and I know the American people will be listening closely. Judging from what has been coming out of the White House lately, I know they will hear a lot of rhetoric, and a lot of scare tactics.

But I believe that in the end, they will see through this smokescreen, and they will see the truth.

And the truth is that the Republican budget contained in this bill is a realistic, thoughtful budget blueprint for America. The truth is that it will ratchet down the deficit by roughly $30 billion a year during the next 7 years. The truth is that it will balance the budget in the year 2002. And the truth is that it is the only real honest budget plan before the American people.

The truth also is that a balanced budget means a brighter future for our children and grandchildren. Our national debt is now so huge that a child born in 1995 will pay more than $187,000 in taxes over his or her lifetime just to pay their share of the debt. We owe our children a far better future.

A balanced budget will create lower interest rates, which means that more Americans will be able to own a house, buy a car, or go to college, or to borrow money. Lower interest rates also mean business will have more money to invest and hire workers.

The truth also is that the American people are more able to decide how to spend their hard earned money than are Government bureaucrats.

And with the $245 billion tax cut contained in this bill, millions of American families will have more money to spend. Our $500-per-child tax credit will mean that over the coming years, families will have thousands and thousands more dollars to spend on college tuition or braces for their kids.

We will include in the RECORD during the debate how such money will be coming to each State, such as my own State of Kansas. There are a lot of families with children. They are not rich. But a $500 tax credit—if you have two or three children, that is $1,500. They can spend it better on their families than any bureaucrat I know of in Washington, DC, or any Member of Congress, for that matter, on either side of the aisle.

By rewarding those who save and invest, our capital gains tax cut will also create jobs and opportunity.

There is an undeniable truth that the President has tried to ignore for months and months. And that is the fact that three of the President's own Cabinet members tell us that if no action is taken, Medicare will be completely broke by the year 2002.

This bill makes the tough decisions necessary to preserve, protect, and strengthen Medicare. And we have been aided a great deal in this effort by the Presiding Officer, the Senator from New Hampshire, Senator GREGG.

We do it by slowing its rate of growth, and by giving seniors more options in selecting their health care.

And despite the phony talk you may hear of "cutting Medicare," the Republican plan will increase Medicare spending from $4,800 per beneficiary in 1995 to $6,700 per beneficiary in 2002.

Let me repeat: The Republican plan will increase Medicare spending from $4,800 per beneficiary in 1995 to $6,700 per beneficiary in 2002.

I know that during the next few days, some of my friends on the other side of the aisle will be painting horrible pictures. They will tell us that passage of this bill means we are turning our backs on children, on seniors, and on the disabled. They will repeat it again and again. But no matter how many times they repeat it, it does not make it true.

Mr. President, I wish all Americans could read the column by budget expert James Glassman that was printed in the October 17 edition of the Washington Post. Mr. Glassman's column—and I ask unanimous consent that it be printed in the RECORD following my remarks—makes clear the falsehoods contained in some of the emotional rhetoric we have been hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. Glassman writes that under the Republican plan, Federal spending will rise between 1995 and 2002 by $358 billion—or 24 percent. It is going to rise 24 percent over the next 7 years. Is that devastation? Is that cutting programs? No. Only in Washington would a $358 billion increase be called a cut.

The media bought onto the President's spin for the most part; they keep talking about it. Turn on NBC, and Katie Couric is talking about "big cuts, big cuts." She does not know anything about the budget. All she is picking up on is the liberal spin which the Democrats have been dishing out there with no facts, no effort to save Medicare, to balance the budget, or tax cuts; a lot of talk, but that is about all.

Mr. Glassman makes very clear that President Clinton was absolutely off the mark when he said—and I quote—"I will not let balancing the budget serve as a cover for destroying the social compact."

The truth is, as Mr. Glassman writes, if the budget becomes law, the social compact will actually be strengthened, for not only will the Government keep its commitments to the elderly and the poor, it will also meet an even more important obligation to the public—the obligation to spend no more than it takes in.

Throughout this process, on every major issue contained in this legislation, the Speaker and I have invited President Clinton to join with us in giving the American people the fundamental change they want. Instead of sitting down with us, however, the President has flown around the country making speeches, playing politics, taking polls, and avoiding the work and making policy decisions. The President apparently believes that the American people do not really want a balanced budget. He believes that the people are so dependent on the Federal Government that they will not tolerate slowing its rate of growth. He believes the American people are willing to sacrifice the future of their children and grandchildren so that the Government can continue its free spending ways, and he is wrong, and he will find out that he is wrong. And one of these days he is going to find out how to contact the majority leader in the Senate and the Speaker of the House, and when he does we are willing to sit down with the President of the United States.

But right now it is all rhetoric. It is all politics. It is all polls. It is all scaring seniors, scaring veterans, scaring children, and all a week before Halloween. Maybe by the time Halloween comes he will have everybody in a state of frenzy and we will be in that funk the President talked about. He said America is in a funk. America is not in a funk. They want fundamental change, and we are about to give them fundamental change. We would like to do it with the President's cooperation.

I am reminded of the words of Winston Churchill who said:

> We have not journeyed all the way across the centuries, across the oceans, across the mountains, across the prairies, because we are made of sugar candy.

I say to President Clinton: Mr. President, the American people are not made of sugar candy. They are far stronger and wiser than you think.

I also say that this Republican Congress is not made of sugar candy. We promised we would balance the budget, and we will. We promised we would cut taxes, and we will. We promised we would preserve and protect and strengthen Medicare, and we will. We promised we would have welfare reform, and we will. October 1995 is a time for choosing, and I invite all Senators on both sides of the aisle and all Americans, regardless of their party, regardless of their philosophy, to stand with us as we move our country up to a future of unlimited hope, freedom, and opportunity. That is what this debate is going to be all about.

There will be some policy differences, obviously—some legitimate policy differences, but there will also be a lot of politics, and we prepared for that. And I just urge my colleagues on this side of the aisle, this is the most historic moment in my memory in the Congress of the United States. And I have been here for some time. Never before have we tried to bring about such fundamental change. It is going to be up to us. We have the majority. It is our responsibility. And we need 53 Republicans standing together when the final vote comes.

So I urge my colleagues to pay attention. I know that both Senators DOMENICI and EXON will be explaining in detail all the different amendments and their opposition or support for the different amendments.

EXHIBIT 1

[From the Washington Post, Oct. 17, 1995]

THE NO-CUT BUDGET

(By James K. Glassman)

Despite what you've read and heard, the Republican budget—now moving toward passage in its final, "reconciliation" form—does not cut total federal spending, nor does it cut tax revenues. Not by a long shot.

An illuminating way to look at this budget is to take what the government actually spent and raised over the past seven years and compare it to what Republicans propose to spend and raise over the next seven years. The results:

Spending will increase by $2.6 trillion.

Revenues will increase by $3.3 trillion.

These figures may surprise you; they run counter to what you've seen in the press, which continually uses the word "cuts" when referring to both spending and taxes. But in the misleading baseline-budgeting nomenclature of Washington, a cut is a reduction from a previously projected increase.

The real spending and revenue numbers show something quite different: that the Republican revolution is more modest than both Republicans and Democrats claim.

During the seven years from 1989 to 1995, federal spending totaled $9.5 trillion. During the next seven years, the congressional budget agreement calls for spending of $12.1 trillion.

As for revenues: During the seven years just past, the government collected $7.9 trillion in taxes. Over the next seven years, the Republican plan will raise $11.2 trillion in taxes—even taking into account the $500-per-child credit and GOP changes to capital gains that will reduce expected tax revenues by $245 billion.

If Congress did not make any changes to the budget, spending would rise by 37 percent and revenues by 44 percent, the Congressional Budget Office (CBO) estimates. But under the GOP seven-year plan, spending will rise by 27 percent and tax revenues by 41 percent.

Stop and think about those numbers. They seem to represent a reasonable path toward an objective that most Americans share: a zero deficit.

In the fiscal year that ended on Sept. 30, 1995, the government ran a deficit of $161 billion. If nothing is done, CBO says the annual deficit will continue to rise in 1996 and each successive year, reaching $256 billion in 2002.

Any business or household facing such a prospect would quickly reduce its spending. But the federal government doesn't have to do that—mainly because the U.S. economy, even growing at a moderate 2.4 percent a year, is so powerful that it will generate vastly higher tax revenues.

The aggregate numbers I've just cited—1989-95 vs. 1996-2002—are probably the best way to look at budget changes. But, in case you think I'm pulling a fast one, let's look simply at two specific years: the one just past (fiscal 1995) and the one in which the congressional resolution requires a zero deficit (fiscal 2002).

In 1995, federal spending was $1.5 trillion. If current policies were to continue, spending, according to the CBO, would be $2.1 trillion in 2002. That's an increase of $600 billion, or 40 percent. Under the GOP plan, spending will rise between 1995 and 2002 by $358 billion, or 24 percent. (That's slightly ahead of inflation if prices increase 3 percent annually.)

Only in Washington would a $358 billion increase be called a "cut." In fact, Republicans who want to sound as if they're making big changes and Democrats who want to frighten the public both say that the GOP budget "cuts" total about $1 trillion. This absurd figure is derived by taking the difference between the CBO's projection and the Republicans' proposed spending for each year from 1996 to 2002, then adding all seven numbers up.

Consider Medicare. Politicians talk about $271 billion in cuts, but actually, under the GOP plan, spending in 2002 will be $86 billion higher than in 1995, an increase of more than 6 percent annually.

The real question for voters assessing the GOP budget is where the additional $358 billion in federal spending in 2002 is going. The answer is entitlements: Social Security will cost $146 billion more in 2002 than in 1995, Medicare (for the elderly) will cost $86 billion more and Medicaid (for the poor) will cost $35 billion more.

Miscellaneous entitlements (food stamps, the earned income tax credit, military retirement, etc.) will rise $63 billion. Add interest on the national debt (there's nothing we can do about that one), and the total additional spending exceeds $358 billion.

By deciding to preserve and increase these entitlements, Congress had nothing left for increasing the "discretionary" side of the budget, where outlays will total $515 billion in 2002, down from $548 billion in 1995.

Defense comprises most of discretionary spending, and it will be flat at roughly $270 billion. Transportation spending will fall from $39 billion to $32 billion; education and training will drop from $39 billion to $35 billion; foreign aid and other spending on international affairs from $21 billion to $15 billion.

Intelligent folks can differ on where to spend the government's money. Maybe defense should be cut and transportation increased.

But once the nation has decided to balance the budget, keep Social Security intact and pare back expected tax revenues slightly (and voters made those decisions last November), the choices are pretty limited.

President Clinton knows this very well, but with a devotion to the first-person singular exceeded only by Sen. Phil Gramm's, he said on Friday, "I will not let balancing the budget serve as a cover for destroying the social compact."

The truth is that, if Congress's budget becomes law, the social compact will actually be strengthened. Not only will the government keep its commitments to the elderly and the poor on health care, it will also meet an even more important obligation to the public that it abrogated 30 years ago—to spend no more than it takes in.

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1357, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The Senate proceeded to consider the bill.

Mr. DOLE. I ask unanimous consent that Senator DOMENICI be recognized for up to 60 minutes for debate only and Senator EXON for up to 30 minutes for debate only.

Mr. EXON. Reserving the right to object, I would like to make a clarification on this, if I might, and I do not think we have a difference of opinion on this.

It is the desire of the majority to move as quickly as we can into the amendment process, and as Senator DOMENICI knows—and I suspect he has told the majority leader—we are working to try to cut these down to move this proposition along. However, since we are limited to 10 hours each, as I understand the unanimous-consent request that has just been offered by the majority leader, there would be 1 hour off of the Republican 10 hours, if we agree to this, and a half an hour on our side, which would mean that you are giving up an hour; we are giving up a half an hour of our 10. Is that right?

Mr. DOLE. We would like to have you give up more but we will settle for that.

Mr. EXON. Let us not press it at this time.

Mr. DOMENICI. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

Mr. DOLE. Let me just say—and I am going to depart here. I first want to say I hope we can work out some agreement so that we are not having 50 votes here before final passage when you do not have any time to debate the amendments. And I think I could speak for my colleagues on this side that we would be prepared, if there were a number of basic major amendments the Democrats wanted to offer period, we might be able to convince our colleagues not to second degree those amendments, if there were no other amendments following that. And I know that is being worked on, and we hope to reinvestigate that shortly after noon.

I now have to leave, but I would be happy to work with the Senator from Nebraska. We have in the past. Maybe we can this time around.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, we have no objection to Senator EXON's restatement of the proposition so long as it is not intended to in any way change the allocation other than this hour and this half-hour.

Mr. EXON. No, no.

Mr. DOMENICI. We are not agreeing on different allotments of time or different treatment of amendment times. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, would Senator EXON like to proceed with part of his time?

Mr. EXON. For clarification of all, I was advised the chairman of the Budget Committee, and Senator ROTH, the chairman of the Finance Committee, would be speaking, as I understand it, during part of the 1 hour that the Senator has reserved. As a result of that, I have alerted Senator MOYNIHAN, the ranking Democrat on the Finance Committee, and basically I would simply say that the opening remarks beginning on this side would be essentially 15 minutes for myself and 15 minutes for the ranking Democrat on the Finance Committee, which I think will basically take up most of the half hour. Then it is up to the Senator to allot the time on that side.

Is the chairman suggesting that he would like to have me proceed with my opening statement at this time?

Mr. DOMENICI. Yes, I think so other than if the Senator would give me 3 minutes for a little kind of housecleaning work.

Mr. EXON. Yes. And I would ask unanimous consent that this housekeeping work not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the following staff of both the majority and minority on the Budget Committee be permitted to remain on the Senate floor during consideration of S. 1357 and that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MAJORITY STAFF

Karen Bilton, Lisa Cieplak, Jim Hearn, Keith Hennessy, Bill Hoagland, Carol McGuire, Anne Miller, Roy Phillips, Denise G. Ramonas, Cheri Reidy, Ricardo Rel, J. Brian Riley, Mike Ruffner, Melissa Sampson, Jennifer Smith, Austin Smythe, Bob Stevenson, Beth Wallis.

MINORITY STAFF

Amy Abraham, Annanias Blocker, Bill Dauster, Kelly Dimock, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Phil Karsting, Jim Klumpner, Daniela Mays, Sue Nelson, Jon Rosenwasser, Jerry Slominski, Barry Strumpf.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators, as we have done heretofore, be permitted in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, 1 minute off my time at this point and then I will yield. To Republican Senators, this is, as I understand it for the last few weeks, a very important couple of days. Many of you want to speak on subject matters before the Senate and some want to just speak about a balanced budget. I want to say to all the Republican Senators I am going to do my very best to accommodate you, but I would tell Senators that it is not easy to just give you a time when you want it. So I would hope that Senators would be flexible, and if we call on you, if you turn in your names, if you really want to speak and if we call on you, you be able to do it on a half-hour's notice or so because I just cannot arrange the floor in any other way.

Having said that, I yield the floor at this time.

The PRESIDING OFFICER. The Senator in Nebraska.

Mr. DOMENICI. Before the Senator proceeds, will the Senator engage me in a little dialog about our efforts to see if we can better manage?

Mr. EXON. Yes.

Mr. DOMENICI. I believe, Senator EXON, we are going to have some time during this hour and a half, you and I, and perhaps your leader and I understand you have a small task force.

Mr. EXON. Yes.

Mr. DOMENICI. I have asked our leader if we could use his office, so I wonder if maybe looking at the clock, if you could arrange a meeting at maybe 20 after, 25 after. You would be finished speaking. And we would have our side start going. Could we meet in the leader's office about trying to reduce the number of amendments and make some accommodation?

Mr. EXON. It sounds reasonable. Are you suggesting the timeframe of 11:20?

Mr. DOMENICI. Yes. I said 10 but let us say 11:20.

Mr. EXON. Agreed.

Mr. DOMENICI. Let me make sure in this dialog, in this exchange that everybody understands——

Mr. MOYNIHAN. Will Senator ROTH have spoken by then?

Mr. DOMENICI. I hope so. We have sent word for him to come.

I thank the Senator very much.

Mr. MOYNIHAN. I thank the Senator.

Mr. DOMENICI. Everybody knows hopefully that the Senator from New Mexico on most matters coming before the Senate that he has anything to do with tries to be fair, and I truly intend to do that. But I do want to state right up front that there are many Republican Senators, if not every one, who do not want to have the Senate go through 50 or 60 votes on single targeted issues.

I might just suggest right up front, for those who are going to do that and insist, with the Senator's leadership, that they are going to do that, they will not get a vote on their amendment. I mean, they can be assured that they will not, because we will indeed second degree those kinds of amendments. And we have as much stamina, I think—I do not know—as much stamina as the other side of the aisle.

Mr. EXON. And more votes.

Mr. DOMENICI. And more votes. The Senator got it. That is very important. We only need 50. Let us make sure that is understood on both sides.

On the other hand, we are meeting to try to see if we can accommodate a more amicable approach. And let us hope that we can. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend and colleague. I want to continue to work together. We have sharp differences on these things, but I think over the period of time for the 18 years that we have served on the committee together we have been accommodating to each other. I think that is the desire.

I will simply say that the chairman of the committee has indicated that people on that side are very much concerned about how we proceed on this. That is true on this side. Unfortunately, with the time constraints that we have, with the mammoth bill we have before us, the Senator from Nebraska is going to have to be an unpopular traffic cop, trying to direct traffic to say no, since we do not have time. But at this time I yield myself 15 minutes, and ask that I be notified if I exceed that time.

Mr. President, there was a marriage on Monday, a marriage that did not quite make the wedding notices. As my colleagues know, the Republican majority on the Budget Committee generously provided $224 to $245 billion in tax breaks for the wealthiest Americans and wedded it officially to the $270 billion in Medicare cuts. The seniors of America paid for that wedding, and they will pay and pay and pay again over the years. The Congressional Budget Office issued the marriage license. In an October 20 letter to me, CBO Director O'Neill wrote that without the drastic cuts in Medicare, the tax break for the wealthy would not have been possible.

I ask unanimous consent that her letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. The happy couple of tax breaks and Medicare cuts are now before the Senate in the form of the reconciliation bill. They are asking for our blessing. We should not give it. This marriage should be annulled. Had the question been asked, "Is there anyone present who objects to the joining of these two, speak now or forever hold your peace?" I would have objected.

Mr. President, it has been almost 4 months since the Senate passed the conference report on the budget resolution which begat this reconciliation bill, a bill that has now grown to grotesque proportions.

This reconciliation bill was created behind closed doors. It is the first of the illegitimate births of this union. By comparison, it makes "Rosemary's Baby" look like a dream child. They brought it out into the light of the day for the first time at midday last Friday. There were no hearings on Medicare. There were no hearings on Medicaid. There were no hearings on the cuts of the earned income tax credit. There were no hearings on the cuts in education. There were no hearings on how this budget cuts a huge swath like a tornado through rural America.

Last Friday, during the markup of this reconciliation bill, I asked if we could not hear from just four witnesses who could describe how this Republican budget would do great violence to their lives. I asked for an hour. That is just 1 minute for each $4.5 billion in Medicare cuts. But my offer was spurned.

Why the hurry, Mr. President? Why is the majority so breathless about sealing the deal on this budget? Why are they now moving in convoy fashion to pass this bill? The great pitcher, Satchel Paige, might have had the answer. He once said, "Don't look back. Something might be gaining on you." Something is gaining on the Republicans. They are hearing footsteps. They are hearing the American people gaining on them. More and more Americans are finding out what is in this monstrous bill. And they feel deceived and betrayed.

Mr. President, I will speak in a moment about the particulars of this reconciliation bill and the terrible hardships that it inflicts. But I would like to take a moment to discuss what I believe is the large picture here.

When we get into these debates about budget resolutions and budget reconciliation bills, Senators can all too easily lose sight—lose sight—of the ordinary Americans. The stage overshadows the people on it. In this same vein, my colleagues on the other side cannot see beyond the gesture of the moment. They cannot see beyond the scaffolding they have erected in this reconciliation bill. They cannot see the people that they will harm. They cannot see the Nation that they are tearing apart. This Republican budget does not speak to the American values that I know and the ones that I cherish, values that I see every day in my fellow Nebraskans. The greatest of these values are shared sacrifice, fairness, and compassion for our neighbors. That is the social fabric that runs through our great Nation. But this Republican budget is tugging at every thread to unravel it.

In spite of the inflated rhetoric, the Republican budget reached a shallow bottom in no time at all. Some have called it social Darwinism at its shabby worst, I say, where citizens are pitted against citizens, young against the old, rural Americans against urban Americans.

Last week Speaker GINGRICH feigned that he wants no class warfare. What nonsense. It is this bill that fires the first shot of class warfare. It is this bill that goes to war against the working people on behalf of the wealthy.

Mr. President, the more this budget is exposed to the sunlight, the more we are finding that this is not the right key to open a complicated problem which we all agree is necessary—balancing the budget.

I am one of the few Senators who has actually balanced budgets and used the line-item veto to do it. I did it for 8 years as Governor of Nebraska. But I say to my colleagues today, this Republican budget is not the way to do it. Tax breaks for the wealthy are writ large all over this reconciliation bill. Tax breaks for the wealthy have riveted the attention of the Republicans to the exclusion of everything else. Tax breaks for the wealthy have established primacy over time-honored commitments to provide a safety net for our fellow citizens.

Medicare became the most convenient laboratory for conducting these tax breaks. The Republican Medicare plan cuts the program three times more than necessary to keep it solvent through the year 2006, just to pay the freight for the tax breaks.

The Republican reconciliation bill doubles the premiums under part B Medicare. It doubles the deductibles under part B. It increases the Medicare eligibility age from 65 to 67, all for the tax breaks.

And on October 2, in an editorial in the New York Times, the Times states, and I quote:

> Right now, Medicare makes up less than 12 percent of the Federal budget. But Medicare cuts account for more than twice that percentage of the lower spending in the Republican approved budgets over the next 7 years. Not withstanding Mr. Gingrich's appeal, the facts clearly demonstrate that health programs for the elderly are bearing a disproportionate share of the austerity pushed by the Republicans.

Mr. President, I ask unanimous consent that the full editorial that I have referenced in the New York Times be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. Mr. President, the shocking truth is that more than 88 percent of the Republican mandatory cuts come from means-tested programs, those which serve predominantly low- and moderate-income Americans, and from Medicare, where three-quarters of the beneficiaries have annual incomes under $25,000.

A Joint Economic Committee study also concluded that the poorest fifth of Americans would shoulder fully half of the proposed program cuts, for an average loss of nearly $2,500 per family in the year 2002. There are no breaks for these folks in this Republican bag of tricks.

The Republicans trumpet that their tax breaks will benefit all Americans, especially the middle class. The truth, however, sounds a different note, and it is definitely sour.

Last week, the Joint Committee on Taxation confessed that families making up to $30,000 a year—and that is about half of all taxpayers—would actually see their taxes go up under the Republican tax plan. Yes, Mr. President, their taxes would go up. They would pay more for increased Medicare premiums and deductibles. They would pay more for new student loan fees. They would pay more for higher taxes on State and local employees. They would pay more for higher contributions for GI bill benefits.

What about the other side of the gilded reconciliation bill? The Treasury Department estimates that nearly half—nearly half—of the Senate's tax breaks would go to 12 percent of the American families making $100,000 a year or more.

The New York Times also said, and I quote:

> The Republicans are rushing through Congress the greatest attempt in modern history to reward the wealthy at the expense of the poor.

Earlier in my statement, I mentioned that the Republicans are not only pitting young against old and rich against the middle class, but our rural areas against urban industrialized centers throughout the many States of our great land.

This Republican reconciliation bill is a cruel joke, above everything else, upon rural America. More than 9 million rural Americans will pay higher out-of-pocket costs for second-class Medicare programs. The typical rural hospital could find its annual budget cut by a third, forcing many to close and causing many physicians to leave and to never return. Medicaid cuts will eliminate coverage for 2.2 million rural Americans, including 1 million children. Net farm income will decline by $9 billion over the next 7 years. And for what, Mr. President? Once again, for the almighty tax breaks for the wealthy.

The evidence clearly keeps mounting. It is compelling. It is heart-wrenching. This reconciliation bill is wrong for our great Nation. For the good of our Nation, it should be defeated. At a time when we should be formulating a balanced budget that unites America and unites its people, this one only seeks to divide us.

We know that this reconciliation bill will be vetoed by the President. Those of us who reject the extremism of the day, both Republicans and Democrats, should be looking beyond this doomed reconciliation bill. We should be looking to a workable alternative, a compromise. We should be looking toward building on the structures and values of our great Nation, not tearing them down.

I have offered before, and I offer again now, to my Republican colleagues: Come, let us reason together and develop a true and workable compromise. If we can stop this Republican juggernaut and stop it now, we can get on with fashioning a reasonable formula to balance the budget.

The PRESIDING OFFICER. The Senator has used his time.

Mr. EXON. I allocate myself 2 additional minutes.

Mr. President, if we pass this bill, it will certainly receive a Presidential veto, and we will belatedly start all over again.

The American woman of letters, Lillian Hellman, once commented: "I cannot and will not cut my conscience to fit this year's fabric."

Nor will I, Mr. President. I will vote against this budget, and I urge my colleagues to do the same.

I reserve the remainder of my time, and I yield the floor.

EXHIBIT 1

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 1995.

Hon. J. JAMES EXON,
Ranking Minority Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR: Pursuant to Section 205(a) of the budget resolution for fiscal year 1996 (H. Con. Res. 67), the Congressional Budget Office on October 18 provided the Chairman of the Senate Budget Committee with a projection of the budget deficits or surpluses that would result from enactment of the reconciliation legislation submitted to the Budget Committee as of that date. As stated in the letter to Chairman Domenici, CBO projected that there will be a total-budget surplus of $10 billion in 2002, using the economic and technical assumptions underlying the budget resolution, and assuming the level of discretionary spending specified in that resolution. If the estimated Medicare savings in 1996 through 2002 resulting from the legislation submitted by the Finance Committee were excluded from the calculation, CBO would project a deficit of $82 billion in 2002. Similarly, if any other savings submitted to the Budget Committee were excluded from the calculation, CBO would project a higher deficit.

CBO also stated in the letter to the Chairman that the estimated deficit reduction would likely reduce federal interest costs and increase revenues by an amount similar to the fiscal dividend that CBO discussed in its August report, The Economic and Budget Outlook: An Update. If deficit reduction in each year were lower by the amount of the estimated Medicare savings (and the associated debt service), the fiscal dividend would likely be lower than the estimated CBO published in August.

If you wish further details on this projection, we will be pleased to provide them. The staff contact is Jim Horney, who can be reached at 226-2880.

Sincerely,

JUNE E. O'NEILL.

EXHIBIT 2

[From the New York Times, Oct. 22, 1995]

CLASS CONFLICT IN WASHINGTON

How touching it was for House Speaker Newt Gingrich to appeal for brotherly love at the end of the titanic debate over Medicare last week. "We want no class warfare," he declared. "We want no conflict between generations." Even by Mr. Gingrich's standards, this was a remarkable statement. The Republicans are rushing through Congress the greatest attempt in modern history to reward the wealthy at the expense of the poor. They are also sacrificing the health needs of the elderly to pay for a tax cut for the affluent. Incredible, Mr. Gingrich was accusing the *Democrats* of formenting class and generational resentments by pointing this out. President Clinton can do no less than veto the Republican legislative package that is roaring toward passage in Congress.

We have long argued that Medicare, the health insurance program for elderly Americans, is in need of reform. Many Republican ideas for introducing competition into the health care system and forcing providers to deliver care more efficiently are sound. But the cuts being pushed through Congress are so big they threaten to dry up money for medical training, devastate nursing homes and drive hospitals and doctors away from taking care of Medicare patients. Right now, Medicare makes up less than 12 percent of the Federal budget. But Medicare cuts account for more than twice that percentage of the lower spending in the Republican-approved budgets over the next seven years. Notwithstanding Mr. Gingrich's appeal, the facts clearly demonstrate that health programs for the elderly are bearing a disproportionate share of the austerity pushed by the Republicans.

The charge that Democrats have been playing on American resentments has also been sounded by Bob Dole, the Senate majority leader, who recently accused Mr. Clinton of encouraging "envy and class warfare." He made it sound almost Marxist to discuss which classes gain and which lose in any legislation. True, the Democrats are playing the politics of winners and losers, but their criticisms are rooted in a certain reality.

It was the Republican-controlled Joint Taxation Committee that acknowledged last week that families making up to $30,000, about half of all taxpayers, would actually see their taxes go up under the tax package heading toward approval in the Senate. The reason is that the Republicans are insisting on scaling back the earned-income tax credit, which goes to low-income workers to keep them out of poverty. The Treasury Department estimates that nearly half the Senate's $43 billion in tax cuts, meanwhile, would go to the 12 percent of Americans in families earning $100,000 or more.

On the spending side, it takes ideological blinders to argue that Republicans are not waging their budget wars on the poor. The budget bills racing through Congress embody a gargantuan $1.1 trillion in spending cuts over the next seven years, according to the nonpartisan Congressional Budget Office. Out of this sum, the Center on Budget and Policy Priorities, a liberal group, estimates that welfare, Medicaid, food stamps, housing and other programs for the poor are being cut by 37 to 47 percent. That is far more than seems fair given that only 21 percent of the Federal budget is spent on the poor.

Another way of looking at this is to see how the Republicans are approaching the two biggest health care programs in the country. Medicare is for everyone and Medicaid is for the poor. Both have been growing out of control and have to be reined in. But cost estimates of the Congressional Budget Office show that Medicare is being kept by Republican legislation at a 6.4 percent growth rate in the next several years and Medicaid is being kept as a 4 percent growth rate. There is no way to see this except as a deliberate effort to inflict greater hardship on those delivering health care to the poor.

The Republican Congressional handiwork of the last week provides a reminder of a grim truth. It is much easier to destroy something than it is to create it. Reform of many of these programs is surely in order. But reform is certain to be undermined if it is coupled with a reactionary redistribution of government resources.

In the coming weeks and months, the House and Senate will be struggling to reconcile their differences and put them in one

> massive piece of legislation, possibly attaching it to a measure keeping the United States out of default, Mr. Clinton must not be rattled by the threat. If he stands firm, the Republicans will be forced to scale back their assault and confront the reality that a huge and regressive tax cut is inappropriate as a matter of social equity and fiscal common sense.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, under the unanimous-consent agreement, we have almost 1 hour on this side?

The PRESIDING OFFICER. Fifty-nine minutes.

Mr. DOMENICI. I yield myself 15 minutes, and then I am going to excuse myself for a half hour or so and see what we can negotiate with the Democrats in terms of a more orderly process than confronts us today.

Mr. President, to all those interested in today's debate, let me suggest the other side, including my good friend, Senator EXON, plays very loose with words like "truth" and "right." As a matter of fact, before this debate is finished, I believe most of the contentions about the poor and about the rich will be dispelled and be disposed of. I think the Joint Committee on Taxation will acknowledge before this day is out that their estimates of the tax bill were wrong and based on erroneous assumptions. I believe we will prove that this is a fair budget.

Frankly, for those who think only of 10 days and of the next election, obviously they can come up with something much easier. But we are not talking about 10 days and the next election; we are talking about 10 years, we are talking about 50 years, and we are talking about our children and grandchildren.

Anybody who does not want to do that and wants to just say to America, "Don't worry about it, seniors, don't worry about it; we have amendments that will leave everything status quo," just listen. That is how America will fall. That is how America's money will become worthless. That is how interest rates will skyrocket. That is how our standard of living, which is already in jeopardy for a lot of things, will come falling and tumbling down. Because if we do not tell the truth about the fact that we are incurring debt at such an outrageous amount, we are saying we are talking about only 10 days or 6 months, do not worry about 10 years, do not worry about the future, worry about politics.

I believe when we are finished and when the President of the United States finally agrees to a real budget, the seniors are going to say, "What was this argument all about?" Medicare will be intact. Seniors will be taken care of across the land and, yes, they may be even surprised. They may decide to join some institutions that will deliver services differently, and they may save money. As a matter of fact, they may find in the next 2 or 3 years that they get more care and better care than under the Medicare Program we have today.

Let me dispose of two items. The distinguished Senator from Nebraska says we are doing all these things to the poor people of the country. I assume he is suggesting that we are cutting food stamps, child nutrition, AFDC, and that he really means they are being cut.

I want to insert in the RECORD just one simple chart. Food stamps, AFDC, child care, child nutrition, SSI, Medicaid, and EITC. In the year 1996, we will spend $195 billion on those programs. The next year, $202 billion; the next year, $211 billion; the next year, $221 billion; the following year, $235 billion. In summary, by the year 2002, these programs, which today are at $195 billion, will be $253 billion. Now, that is not contending anything. It is merely stating the facts of this reconciliation bill, as found by the Congressional Budget Office.

How about hearings? Just one little statement about hearings. The last time the Democrats controlled this body, they did the President's bidding. I believe some of them are sorry they did because, of late, he has suggested they had been duped. He did not want all those taxes you all voted for—only $270 billion, the largest tax increase in history. He is suggesting that somebody made him do it. As an aside, I want to say to the Democrats in this institution that that is not only bunk, he actually asked for $360 billion; you reduced it to $270 billion, because he had the Btu tax in there.

Mr. MOYNIHAN. Against my better judgment. We reduced it against my better judgment.

Mr. DOMENICI. Senator MOYNIHAN wanted to keep it higher. This is the chronology for the budget process. When they were in control, the number of hearings held by the then Democrat Budget Committee was 7; the number we held was 22. The number of witnesses who offered testimony in the Senate Budget Committee, throughout their hearings, was 10; we had 110. The number of days the Budget Committee spent in markup, they had 3; we had 4, giving them more opportunity to express themselves. The number of days spent in conference, they had 6; we had 18. We make no apologies with reference to hearings. We had plenty of hearings and the Budget Committee set the targets.

Mr. President, I want to suggest, by using just two quotes, what this issue is about. Thomas Jefferson said:

> The question of whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and are morally bound to pay them ourselves.

That is what this debate is about. Do we want to pay our debts, or do we want our children and grandchildren to pay for the Government we want to give to people that we cannot afford?

To put it another way, a modern lawyer and thoughtful person on America's Constitution, Laurence Tribe, philosophically a liberal lawyer from Harvard, said:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we seek somehow to tie our hands so we cannot spend our children's legacy.

Now, we are bent today and tomorrow on this floor to decide what kind of legacy we are going to leave our children—a legacy of debt, of diminished standard of living, a legacy which says to them, "We want you to work perhaps 30 or 40 percent of your working lives to pay our bills," for they will have to do that. It is estimated, Mr. President, that every child born today will spend at least $100,000 in new income tax to pay just the interest on the national debt. What kind of legacy is that? Is that a legacy that should permit us to hide from reality and to say to our seniors and our young people and our veterans and our students—every American—"You do not have to worry about it, we are going to leave everything alone. Whatever you are getting from your Government, you can keep getting." The legacy for that kind of leadership is a bleak future for the greatest Nation on Earth—$4.7 trillion in debt, and rising at the rate of $420 million a day; $420 million a day, just tick it off, tick it off. We will be here for 2 days, so that is $420 million times two while we decide a Republican proposal that says we have to stop it.

Now, before you pass judgment, fellow Senators and fellow Americans, about the bill and the summaries that will be given from the other side, hear from those who put the package together and put the programs together on our side. Somewhere you can pass judgment upon whether we are being fair or unfair. I believe you will come down on the side of saying that this is fair to our children and to our children's future, and everybody has to be part of the change that will bring that into fruition a couple of nights from now.

I must say to the President of the United States that veto and veto threats, as you might want to issue them day by day, do not get you a balanced budget; nor does it get you close to eliminating a legacy for our children and grandchildren of servitude, or perhaps a partial servitude of that next generation to ours, for they will work to pay our bills. Mr. President, is that the kind of leader you want to be? Democrats on the other side, is that what you want to be? You are going to bring before us, one at a time, amendments to strike pieces of this, and each one is going to sound neat, sound worrisome. I hope every single one of them is defeated, and I hope we take this budget resolution to conference and then to the President of the United States and let us see what he does; let us see what he offers. Mr. President, we extend that to you now, and we say it is going to happen. So get ready, Mr. President. Be prepared for what you are going to do when we give you this package. Fellow Democrats, we understand you differ with us. We will try our best to be truthful and to point out where you are wrong. In many of the statements made to the American people you are wrong on the facts. We will try to get them before you.

Having said that, I assume I have used 15 minutes, is that correct?

The PRESIDING OFFICER. The Senator has used 11 minutes.

Mr. DOMENICI. I do not want to reserve any of my time.

Mr. KENNEDY. May I have 15 seconds for a question?

Mr. DOMENICI. Sure.

Mr. KENNEDY. I am wondering when the Senator is going to explain the justification for the tax cuts. I have been on the floor listening to the justification that the Senator has given, without a single word about what the justification is in this bill for the tax cuts for the wealthiest individuals. I have not heard a discussion about the implications of that in those terms.

Mr. DOMENICI. You can rest assured that we will answer that. Many issues have been raised, and I am trying to give an overview. That will be answered a number of times.

Mr. MOYNIHAN. Could it be that you delegated that joyous task to the chairman of the Finance Committee?

Mr. DOMENICI. My friend knows that each committee does their work. He is in charge of that work. I will not take a back seat to anybody on explaining the tax bill. I do not know it in detail, but I think it is a very good tax bill. When the American people understand where the tax cuts really go, they are going to find out that what we said we would do was get a balanced budget, and we did; and then the economic dividend that comes from that, we would use to give American people back some tax dollars so they could spend it themselves. We think the tax writing committee has come very close to doing that in a way that almost all of that money will go to middle-income Americans, making $110,000 and under. We will show that unequivocally, and I believe the Joint Tax Committee will be saying that, too.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, point of inquiry; how much time does the Senator from Nebraska have under the unanimous-consent agreement in place now?

The PRESIDING OFFICER. The Senator from Nebraska has 14 minutes.

Mr. EXON. Mr. President, upon his seeking recognition, I ask unanimous consent the Chair recognize the Senator from New York, and the remaining time under my discretion is allocated to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, one observation, please and then I yield the time that Senator BROWN desires, with the Senator from Michigan controlling our time after that.

Mr. President, I forgot to mention on the tax cuts, obviously the President thinks the taxes were raised too much last year under his proposal. One way of looking at it, we are getting set to right that wrong which the President complained about in Houston, about which he was beginning to say he should not be blamed for that tax increase.

We will accommodate and reduce some taxes so that maybe he can support us on that.

I yield to Senator BROWN.

Mr. BROWN. Mr. President, I rise for just a short comment because I think it is important for the American people to keep this perspective in mind.

This package has been attacked by those opposed to it. That is the privilege and indeed the obligation of Members who find this unacceptable. No one should be fooled as to the contents of this package. This package ensures that Federal spending goes up 3 percent a year instead of 5 or 6 percent.

Now, some Members find that unacceptable, some find that cruel and inhumane. As a matter of fact, the description that was just given by the Democratic Budget Committee leader compared the package to "'Rosemary's Baby'—a look-alike dream child."

Mr. President, indeed, there are some Americans, particularly in Congress, particularly on the spending side, who think that increasing spending only 3 percent a year is the worst thing that has ever happened in Western civilization. We will hear a lot about that in debate.

The American people ought to keep in mind what this is. This is a plan to increase spending 3 percent a year instead of 6 percent a year. The difference is our future. By controlling the increases to a moderate rate we are able to offer a future to our children and our grandchildren. We are able to focus on the deficit. Mr. President, without doing that we consume their future with debt, deficits, and economic stagnation.

Mr. President, I simply want to make one other point that I think is relevant to this debate and very important. I hope the American people who listen to this, who listen to the rhetoric that has been made about this budget plan, will understand that we are not talking about cuts in most programs. What we are talking about is slowing the rate of increase.

In the discussion of tax cuts, let me simply mention that I hope Members will be on guard, or Americans will be on guard, as they listen. I have heard the most incredible debate of the tax cuts that I have ever heard or I ever thought I would hear in my life. Pinocchio's nose would be a world-record length if he had to listen to the discussions that we have had put on.

Let me give an example. I have heard of tax credits that are not yet implemented as being called increases in taxes. That is ludicrous. I have heard welfare programs that are being controlled in the rate they spend money as being increases in taxes.

Mr. President, an increase in spending is an increase in spending. A cut in spending is a cut in spending. Frankly, the American people have the good judgment to see through this kind of rhetoric.

What we need are real valid estimates. What we need is a solid budget that gets us where we want to go.

Mr. President, there is only one budget that is considered here today that will do that. There is only one budget that has been certified by the Congressional Budget Office as meeting those targets. There is only one alternative that brings us to a real balanced budget. That is the budget before us. This is the only game in town.

Are there critics? Of course there are critics. Are there people who simply cannot live with limiting growth of Federal spending? Of course there are.

Everyone knows this country does not have a future if we do not do the kind of things that are in this budget.

The question is whether or not we will act for blue smoke and mirrors, for invalid assumptions that the President suggests, or whether we will opt for the real thing.

Mr. President, this is the real thing. It offers a future to Americans. I retain the balance of our time.

Mr. MOYNIHAN. Mr. President, we are awaiting the arrival of the distinguished chairman of the Finance Committee who will set forth the proposals of the tax cut in this measure.

I say to my friend from Colorado that it might surprise him, there are those on this side of the aisle who see the debt crisis in the same crisis terms that he does and have a feeling that we know when it arose in the 1980's, and it was not from this side of the aisle—and we want to get hold of it.

We do not think you can solve a deficit problem by cutting taxes.

Mr. BROWN. Mr. President, I simply observe—and I greatly respect the distinguished Senator from New York, both his intellect and his integrity—from this Member's viewpoint, I believe an objective review of the programs that have risen in increased spending would indicate that the programs that are in question were not adopted during the 1980's.

I think any objective review of the question of the deficit will indicate that.

Second, I observe that there were valiant efforts made during the 1980's, a few by this Member. I am not sure I describe my efforts as valiant but they were persistent and they were consistently rejected by Democratic majorities in the House of Representatives where I served.

At least from this Member's point of view, if you want to talk about the history of the deficit, you look at when those programs were passed and who put them on automatic pilot.

Second, I think you cannot but look at the record and recognize that the Democratic-controlled Congress, at least in the House of Representatives during the 1980's, consistently opposed efforts to control that spending and limit the increase in spending.

I retain the balance of our time.

Mr. KENNEDY. Mr. President, where is the current time being charged?

The PRESIDING OFFICER. The time is under the control of the Senator from Michigan and the Senator from New York.

Mr. KENNEDY. Mr. President, who is being charged with the current time?

The PRESIDING OFFICER. If neither side yields time the time is distributed equally between the two sides.

Mr. KENNEDY. Could we have the attention of the Senator from New York? As I understand, the time is being charged against us at the present time. I just had a question for the Senator from Colorado for 15 seconds.

The PRESIDING OFFICER. Time is running equally at this time.

Mr. MOYNIHAN. Mr. President, I yield 15 seconds to the Senator from Massachusetts.

Mr. KENNEDY. Could the Senator from Colorado, regarding his review of the period of the 1980's—does the Senator understand every year what was actually appropriated by the Congress, with the exception of 1 year, was less than what was actually requested by President Reagan during that period of time?

Mr. BROWN. Let me say to the Senator, at least from this Member's viewpoint, that the relevant facts are not what was appropriated in the original. It was what Congress ended up spending.

If you look at what is totally spent by Congress versus what they did with the congressional budget, you come up with a much different viewpoint.

The fact is during that period Congress continuously overspent its own budget; so to compare it with official budget requests I think does not give the accurate picture.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. I yield the Senator from Iowa 10 minutes.

Mr. GRASSLEY. We ought to be very proud, Mr. President, of delivering in this Congress on a promise that Congresses have made probably for the last 15 years and maybe even longer than that, that we are going to balance the budget and that we have a nonpartisan Congressional Budget Office certification that we are balancing the budget.

Balancing the budget is the most important goal that we have accomplished since I have been a member of the Budget Committee, and I am glad we are able to do that.

Some people question whether or not we ought to decrease taxes as well as balance the budget. There are people that might say we ought to decrease taxes and forget about balancing the budget; there are other people that would say we might balance the budget and forget about decreasing taxes.

To me, it is a question of priority. The priority is to balance the budget. And if we can have tax cuts, and they are paid for, and the nonpartisan budget office will certify that we have a balanced budget, then it seems to me we ought to give the people back some of the money that the President took in OBRA '93. He said that he understands that he raised taxes too much 2 years ago. This will not give back all the money obtained when the President raised taxes then, but it will go a long way toward correcting that inequity.

So, in a very historic way—at least historic as far as the last 15 years is concerned—we have a chance today and tomorrow, during this 20 hours of debate, to show the people that the promises of the last election are delivered, those are the promises of a balanced budget and of a paid-for tax decrease. It seems to me that a balanced budget will go far in making our children's and grandchildren's futures much brighter and more hopeful.

I think this is a very, very good national program. It is good for all 50 States. But I can look at it and say it is good for my State as well as it is for the country as a whole. I look at the $500-per-child tax credit. This credit will bring approximately $300 million back into the pockets of Iowans, the pockets of middle-class working families in my State.

For the first time since 1986, students in my State, as well as those in the Nation as a whole, will be able to claim a tax credit for the interest on student loans because this bill provides a credit for 20 percent of the qualified interest, up to $500 per student.

This legislation is not partisan. This legislation is bipartisan because it is identical to the bill that I introduced earlier this year with my distinguished colleague from Illinois, Senator MOSELEY-BRAUN. The Joint Committee on Taxation estimates that this credit will send over $1 billion to young people all over the country who are just starting out in life after college. This change should especially aid young people who plan to stay in rural America instead of having to seek high-paying jobs in the cities to meet loan payments.

In addition to that, for the benefit of the country as a whole and the benefit of people in my State, there is a capital gains tax cut that will reduce an individual's effective capital gains tax rate by 50 percent. In Iowa we will be able to watch and see a lot of farmland and a lot of other capital assets that have been tied up begin to change hands. People have been waiting for the correct incentive and opportunity to sell because they naturally do not want to pay a high tax on inflation because that is not taxation, that is confiscation. You are going to see formerly less productive property change hands at record rates. This is going to be very beneficial for families passing on to younger generations the fruits of their labors and their investment in that business or that farm. Of course, when property is tied up in the Tax Code, that means our farm population is going to continue to get older, the average farmer in my State is 62 years old. Young people are not going into farming because they cannot. Only 3 percent of the farmers in my State are under 30 years of age. We have lost a whole generation of farmers because of bad tax policy and depression in agriculture in the 1980's. This will help that.

The same for the changes we are making in the estate tax; especially it is going to help family farmers and small business people. Family-owned businesses and farms do not have to be sold anymore in order to just pay the Federal taxes. The estate tax system will now serve small businesses instead of consume them.

While we are fixing the business of taxing small business, this bill also ratchets up the unified credit exemption equivalent all the way from $600,000 to $750,000. It has been at $600,000 since 1980 and, of course, it has been depleted considerably by the inflation of the last 15 years. The legislative move from $600,000 toward $700,000 recognizes both the fact of inflation and the fact that every asset in Iowa is not a member of a qualified family-owned business.

For my colleagues who are going to rant and rave about an estate tax exemption helping rich people, I hope they will take a little bit of time to understand that when you are talking about a family farm operation, operated just by family members who are providing the capital, providing the labor, providing the management, that you do not provide a job on a family farm for the same cost that you do in industrial America, about a $50,000 investment. For the American service industry, you can create a job for about $10,000 to $15,000 a year. Jobs on farms in America are created by the investment or the borrowing—and in most cases to get started it is borrowing—of hundreds of thousands of dollars in land and machinery to create one job, or an income for one family. I am not talking about hiring a lot of labor in the process. I am talking about the family doing the labor.

So you have, after a life of work, one half million dollars invested in land and machinery to create one job and one family income. Some people in this body might think small farmers are rich. Maybe a lot of America will think small farmers are rich. But, remember, small farmers create income for one family. It is not like the economy does in an industrial job, one income for a family with $50,000 investment and somebody else is investing it, somebody else is managing it; or in a service job where the economy needs only $10,000 or $15,000.

We are also providing, in this bill, tax changes that are meaningful in ending the marriage penalty for nonitemizers. We are answering the pleas of a lot of young people everywhere who want to know why their Government is penalizing them for exchanging marriage vows.

This bill says we are not going to tax reasonable dues to farm organizations. This IRS ruling, as stupid as it is, creates a lot of problems for a lot of cooperatives and nonfarm organizations out there. Just like the President's tax increase last year—albeit in that instance it was something passed by a Democrat controlled Congress, and not some uninformed ruling by the Internal Revenue Service.

Finally, I would like to highlight that this bill also improves and expands IRA's. We are reinstating an IRA to which working people can make tax-deductible contributions. Even homemakers and even nonworking spouses will be able to make contributions for the first time ever. There will be penalty-free taxable withdrawals for qualified uses.

Everyone knows that we need to double the current savings rate of 4 percent. Young people in my State know that they will have to save for their own retirements while they are financing the retirements of baby boomers, and the IRA incentives in this bill will provide the opportunity. Expanding and strengthening the individual retirement accounts is something I supported for many years. I am glad to see those efforts bear fruit, and I compliment the new chairman of the Finance Committee, Senator ROTH, for getting that job done.

The PRESIDING OFFICER. The 10 minutes of the Senator has expired.

Mr. GRASSLEY. I am going to yield the floor. I am not done, but I want to inform my colleagues I have spoken all I wanted to on the tax provisions. I do have something I want to say on the Medicare provisions, and I will get time on that later on.

Mr. MOYNIHAN. Mr. President, I yield myself the balance of the opening Democratic time. I had hoped to speak in response to my good friend, the distinguished chairman of the Finance Committee. He is unavoidably detained. So I will go ahead as if in rebuttal.

But first to continue the exchange I was having with the Senator from Colorado, there are those on this side of the aisle who are deeply offended by the continuing deficits which have increasingly produced stalemate in our Government. This sequence began in the late 1970's, early 1980's, and there was an idea behind it—the idea was that, if you wanted to paralyze the Federal Government you simply put it into a paralyzing debt by the reduction of revenues and simultaneously increasing spending on defense and such matters. Indeed, that happened. We forecast it. We tracked it. And we are here today to say that it is the case.

Just a few years ago in a wonderful book "The Deficit and the Public Interest," Joseph White, and the late revered Aaron Wildavsky, said: "Strife over the deficit has affected procedure as well as policy, monopolizing the congressional agenda, encouraging paralyzing and deceptive legislation like Gramm-Rudman, frustrating our public officials, and stalemating the Government."

As regards deceptive legislation, Mr. President, I have to place this present proposal in that category. We are not balancing the budget. We are adding $700 billion to the debt in the next 7 years. One of the ways we are doing it is, while talking about the deficit, while talking about the debt, we are going to cut taxes. Well, no. No, Mr. President. I correct myself. I correct myself. We are going to raise taxes on half the population, and cut taxes on the other half.

Mr. President, here is a table from data produced by the Joint Committee on Taxation, which is an authoritative, intermittently nonpartisan, body which calculates the effects of tax measures taken by the Committee on Ways and Means and the Committee on Finance. In the course of our markup, as we say, voting out the tax bill, I requested that the Joint Committee give us the distribution of the $245 billion tax cut, and they did, including the reductions in the earned income tax credit which are tax increases, in my view. If you have to pay more tax, you have had a tax increase.

Sir, here is the data: 51 percent of American taxpayers will have a tax increase; 49 percent will have a tax decrease. How we can do this, and then talk about fiscal responsibility eludes this Senator.

Now a second table from the Treasury, showing the actual distribution of the tax cuts and tax increases across the population of taxpayers, by income. It shows a tax increase for taxpayers with incomes of $30,000 or less. I should point out that according to the analysis of the Joint Committee on Taxation, 51 percent of American taxpayers make $30,000 or less. Once we get above $30,000, then we see tax cuts for everyone.

I am embarrassed for my friends on the other side of the aisle. This is a caricature. A comic Democrat might have come along and have said, "Let me show you what a Republican tax cut looks like."

Families with incomes above $200,000 will have a tax cut of $3,416. Families with incomes under $10,000 will have a tax increase. That simply is unacceptable.

Mr. President, the distinguished chairman of the Budget Committee earlier spoke about what Thomas Jefferson had to say on the subject of debt. I have not met Mr. Jefferson, but you can sense his presence in these precincts. The Senator said what Laurence Tribe has said about the accumulation of debt. I taught at the same university, and I know him well. And the legacy of debt of which the chairman spoke—we are the ones appalled by that legacy. We did not create it.

At the end of the 1970's, at the end of the administration of President Carter, the national debt was in the neighborhood of $800 billion. That was at the end of nearly two centuries in this Republic. After 15 years it is now approaching $5 trillion. That did not happen accidentally, and it did not happen as a consequence of activities on this side of the aisle.

To the contrary, 2 years ago the Democrats put together, in the Omnibus Budget Reconciliation Act of 1993, a combination of program spending cuts and "tax increases"—I do not forbear to use the term—of $500 billion. And we brought a deficit, which in that year, in fiscal 1992 was $290 billion. We started a glidepath down to where this fiscal year just concluded, the deficit will be somewhere between $160 and $170 billion. We cut the deficit in half.

In consequence of what we did, the so-called deficit premium on interest rates was reduced. The deficit premium is simply that extra charge which lenders exact when governmental deficits are running very high—because in the end the way governments typically have handled their debt was through inflation, to wipe it out, wipe out the currency, and wipe out the society frequently. But it happens. It happened enough that this premium exists. The "deficit premium" being charged on interest rates went down, and resulted in a savings to the Federal Government of about $100 billion more. So in total we achieved deficit reduction of $600 billion as a result of the 1993 legislation—

passed without a single Republican vote.

What have we to show for that? First, let we say that the average length of recovery for 10 postwar business cycles has been 50 months, but the current recovery has now lasted 55 months and is still going. The annual rate of growth in real gross domestic product has been 3.3 percent, more than twice what it was in the previous 4 years. Unemployment has fallen to 5.6 percent, which is very close to full employment. The annual inflation rate has dropped to 2.5 percent.

If you correct for the CPI overstatement, you may have something very close to zero inflation. The New York Times this morning devotes a lead article in its business section to it. "Has inflation finally been whipped?" It did not just happen. It was made to happen by what we did in 1993, and we do not apologize for a thing. We would rather state we have shown the way—shown what you can do, if you have the courage to govern. There are things in this present proposal from the majority with which I would disagree. There are things with which I would not disagree in the least. I do not object in the least to the statement of the Senator from Colorado that a reduction in the rate of increase is not a cut.

However, to cut taxes is an act of unforgiven irresponsibility. I did not say "unforgivable." I said the consequences will be unforgiving at this moment in our business cycle expansion. We do not need to do this and, Mr. President, we would not be doing it save for the House of Representatives.

In our hearings on this subject, in the Finance Committee, one Republican Senator after another said no, we have to bring the budget into balance. This is no time to cut taxes.

We do not have to stimulate the economy. The economy is in its 55th month of expansion; we are practically at full employment; inflation has practically disappeared. Business investment is at the highest rate in 30 years—investment savings is at the highest rate in 30 years. This is not the time to get into an inflationary stimulus. We know enough about our economy to know that.

One Senator after another from the other side of the aisle said no, certainly not; we would never pass a $245 billion tax cut. And then we learned that—and I do not mean in any way to seem to ridicule, but it turns out that the Contract With America written in the other body required this tax cut. And so here it is today. But it is not a tax cut for all. It is a tax cut for half the population and a tax increase for the other half. That surely is something we would not wish to do in ordinary circumstances.

Has the prospect of a Presidential election brought us to this? I hope not, Mr. President. I hope we would not be doing things we are doing in the process of cutting, cutting Medicare as much as we do, cutting Medicaid as much as we do.

Mr. President, before this decade is out, we are going to have a crisis in our teaching hospitals and our medical schools because of the measures in this bill. We currently have in Medicare a provision to provide medical schools and teaching hospitals with some extra support. We currently have a provision on disproportionate share which in effect compensates those hospitals, including teaching hospitals, that treat large proportions of the uninsured. They are already in a precarious financial position, and the bill before us will exacerbate their problems. They will be in genuine jeopardy if this bill becomes law. At the greatest moment of medical science for this country's institutions, we are decimating their finances in order to give a tax cut to people with incomes over $200,000.

Sir, I believe my time has expired.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. I thank the Chair for its courtesy, and I hope I will have the attention of my friends on the other side of the aisle. It is not too late to do the right thing.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Could I inquire as to how much time is remaining?

The PRESIDING OFFICER. Thirty minutes of the 1 hour remains.

Mr. ABRAHAM. Mr. President, I will take 2 minutes on our side and then I will yield the remainder of our time to the Senator from Delaware. I use my 2 minutes very briefly to be responsive to some of the comments that have been made here already about the nature of the tax cut. I am sure the Senator from Delaware, the chairman of the Finance Committee, will elaborate in more detail. But I was very concerned recently when I began to see this chart appear and some of the comments related to it that suggested somehow the tax cut that is being proposed as part of this reconciliation bill would disproportionately fall on the shoulders of the less affluent and tremendously benefit the wealthiest among us which is the frequently used term that we hear.

So I said to myself, gee, that does not sound like the tax bill the Finance Committee passed. And indeed, I then began looking into the tax bill the Finance Committee passed, and according to the Joint Tax Committee calculations, in the first year of this tax bill 90 percent of the tax cuts will go to people whose earnings are below $100,000 a year. Over three-quarters or 77 percent of the proposal's tax cuts will go to those making under $75,000 in the first year. Less than 1 percent of the proposal's tax cuts will go to those making over $200,000 in the first year. Over four-fifths, 84 percent, of the proposal's tax cuts will go to those making under $100,000 in the first 5 years; 70 percent of the proposal's tax cuts will go to those making under $75,000 in the first 5 years, and so on and so on.

Indeed, charts and statistics can always yield certain kinds of inferences, but those are the actual numbers that the Joint Tax Committee produced when it evaluated this plan.

I said maybe there has to be a discrepancy here. What could it be? Let me look at the individual provisions of this tax cut and see. In order to fulfill the numbers we have been hearing, they must all be tax cuts that benefit the wealthiest people in America. So I looked and I found a $500 per child tax credit; $141 billion of the total tax cut is the child tax credit, and it is phased out for people beginning at family incomes of $110,000.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ABRAHAM. I would yield myself 1 additional minute.

In addition, we have an adoption credit, marriage penalty relief, student loan interest deduction, individual retirement accounts, and countless other provisions in the bill that are aimed at people in the income categories I have already referenced, primarily people making under $75,000 a year and to a large extent, approximately 85 percent of this tax cut to people making less than $100,000 a year. It is a middle-class tax cut.

That is why yesterday, in describing the reconciliation bill, the Washington Post in referencing the tax sections described it as family friendly. It is family friendly to middle-class families, to people who have felt the squeeze for so many years. That is why it is part of this legislation and why we are supporting it.

Mr. President, at this time I yield the remainder of our side's time to the Senator from Delaware, the chairman of the Finance Committee.

ORDER FOR MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

Mr. ROTH. Mr. President, I would like to make a further unanimous-consent request to finish my statement as in morning business for up to 10 minutes, and have my remarks appear in the RECORD as uninterrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I would say, morning business will be until 1:15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Delaware.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that Mr. Andrew Eschtruth, a detailee to the Senate Finance Committee from GAO, be granted Senate floor privileges for the duration of the Senate's consideration of the budget reconciliation legislation.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

A MOMENTOUS TIME

Mr. ROTH. Mr. President, this is certainly a momentous time. Change is the order of the day. And it is a time to renounce old and unworkable programs and philosophies and adopt those that will move America forward, those that will offer prosperity, security, opportunity, and growth to our families and to our communities.

As Henry George once said, "The sailor who raises the same sail regardless of changes in the direction of the wind will never reach his port."

In this Congress, we have not only trimmed the sails but we have set a bold new course for the future. For the first time in more than a decade, we are serious about balancing the budget, and we have a plan to do it. For the first time in 50 years, we have changed the dynamics of the welfare State, creating incentives that encourage work and strong families, incentives that balance rights with responsibilities.

At last, we have changed the questions concerning Government. No longer do we ask: "How big can we make it?" No longer do we ask: "How can we control the States? How can we concentrate more power in Washington?"

These are not the questions anymore. Rather, the new questions are: "What is Government's proper role? How can we make it more cost-effective and efficient? And what do we need to do to create an environment of security for those who legitimately need Government assistance but an environment for economic growth and opportunity for the valiant taxpayers who provide that assistance?" And for the first time in my memory, we are returning power back to where it belongs, back to the States.

This is what we were sent here to do. It is the message we heard last November. And the job is getting done. At home we have energetic Governors with innovative plans, many with success stories. We have friends, neighbors, and constituents who want, once again, to feel like they have a powerful voice in the system. These are men and women who over the years have come to build this franchise as their Government has moved further and further away.

We are in the process of putting the power back where it belongs, in the States, where our friends, our neighbors, our constituents have a stronger voice and are more active.

As I watched this 104th Congress move forward, I have thought on many occasions that I can think of no other Congress in which I have been more honored to call myself a Member than this one. And I am grateful for my colleagues, colleagues on both sides of the aisle, who have come to agree that the old way just is not good enough, not for America, not for Americans.

In many ways there has been an immeasurable amount of cooperation in this Congress, and it should not be overlooked. In other areas I would like to see more. But I believe a part of the cooperation that is apparent, of course, is borne by the fact that we all know what needs to be done. Republican and Democrat, we all realize the challenges that must be addressed.

Even President Clinton, from time to time, has indicated his insight and understanding, saying that his record-setting tax increase was a mistake and finally agreeing with House and Senate Republicans that the budget could be balanced in 7 years.

With the reconciliation bill we bring to the floor today, we again need this cooperation, perhaps more than ever, as we turn our attention to saving and strengthening the Medicare system, toward curbing runaway spending and toward giving Americans what they most need now after a decade of tax increases: a real, workable, economy-expanding tax cut.

Frankly, Mr. President, there should be cooperation. President Clinton himself has been a most certain voice in expressing the importance of making real and lasting changes. As I said, he has admitted his tax increases were too high. He knows spending is out of control. He has proposed his own child credit, a credit of up to $800 per child. He has stated that it is possible to balance the budget in 7 years. And almost 2 years ago, he took a firm stand on Medicare, saying that—and I quote—"Today * * * Medicare [is] going up three times the rate of inflation. We propose to let it go up at two times the rate of inflation. This is not a Medicare * * * cut." End of the President's quote.

President Clinton understands what needs to be done. After all, he was the one who ran on the platform of bringing change to Washington. Now, he cannot have it both ways. We either change the old and failed ways of doing business, or we keep business as usual.

Well, Mr. President, I vote for change. I encourage my colleagues on the other side of the aisle to join us in making change possible, rather than retreating into gridlock and defending 30-year-old policies that have spent some $3 trillion to have more children living below the poverty line today than when those programs began. This is not progress.

According to economist Walter Williams, the taxpayers' money that Washington has spent on these programs to cure social ills over the last three decades could have bought the entire assets of the Fortune 500 companies and virtually all the U.S. farmland. But today the problems not only remain, they are even worse. The fact is, we cannot afford business as usual. Americans do not deserve business as usual, especially those Americans who in the last 30 years have fallen prey to the pathologies that attend poverty: dependency, crime, unwed mothers, broken families, decaying neighborhoods.

Certainly we must keep a safety net. None here argues that we should not. But we must change the system.

I believe that except for politics, President Clinton and many of his allies in Congress would be with us on most of the proposals we have included in the reconciliation package, even on our historic efforts to save and to strengthen Medicare.

Remember, it was the President's own Medicare trustee report that so vividly outlined the problems we are attacking today. According to that report:

> . . . the Hospital Insurance Trust Fund (Part A) continues to be severely out of financial balance and is projected to be exhausted in about seven years. The SMI Trust Fund (Part B), while in balance on an annual basis, shows a rate of growth of costs which is clearly unsustainable. Moreover, this fund is projected to be 75 percent or more financed by general revenues, so that given the general budget deficit problem, it is a major contributor to the larger fiscal problems of the Nation. The Medicare program is clearly unsustainable in its present form.

Mr. President, as I said, this is from the administration's own trustees.

There has been no question about the absolute need to restore the integrity of the Medicare Program, to save, to strengthen it, so that Government can meet its contract with the American people. Similarly, there has been no question concerning the need to control runaway Government spending. Government has grown accustomed to living beyond its means.

This must change, and reform efforts must be real. They must maintain the agreements Washington has made with the American people. They must see that the needy are cared for. They must keep the contract that exists between the Government and our retired constituents concerning Medicare. They must ensure the integrity of the program for a sufficient period of time to allow us to chart the distant future of that program so it can absorb the baby-boom generation.

And in doing all this, our efforts at reform must also create conditions, an environment, if you will, where our economy can expand and the harvest for coming generations can be planted. The reconciliation package we present today accomplishes just that. It keeps our promise to the American people.

Our proposal does not engender dependency on Government like the failed policies of the past. It does not perpetuate the negative incentive that feed the welfare bureaucracy and those who maintain their political power base by pandering to that bureaucracy.

Of course, our policies address the needs of citizens who cannot care for themselves, but, more importantly, they create conditions for upward mobility, conditions for economic opportunity, incentives for self-reliance. And I cannot express how important it is that we create these kinds of conditions.

At the moment our economy is not growing as strongly as it should be growing, and perhaps this is why President Clinton now believes his record-setting tax increases were a mistake. At the moment, there is little incentive for Americans to save and invest. Perhaps this is why today the average 50-year-old is so ill-prepared for retirement and why, among the industrial nations of the world, we lag behind even our competitors in our rate of personal savings. Incidentally, this, according to Federal Chairman Alan Greenspan, is one of the most pressing problems confronting our Nation economically.

At the moment, the Medicare Program stares into the abyss of bankruptcy, and this is why many of our seniors are living with fear and uncertainty. But not just our seniors; fear and uncertainty grip their children and grandchildren because they know that, left unchecked, entitlement spending is growing so fast that, along with interest on the national debt, it will consume almost all Federal revenues in the year 2010, just 15 short years from now. Left unchecked, by 2030, Federal revenues will not even cover entitlement spending alone.

Though we live in a Nation of infinite possibilities, we are, of course, a land of finite resources. At the moment, the Federal debt is approaching $4.9 trillion, deficit spending is well over $150 billion a year, and the fact is, Medicare, Medicaid, and earned income tax credit are some of the fastest growing entitlement programs on the books. Strengthening and restoring the integrity of these programs will not only benefit those who should appropriately receive them, but it will also help us balance the budget, and this, Mr. President, is what the vast majority of Americans not only want but demand.

A balanced budget is necessary for economic security. A balanced budget would increase job opportunity. Some forecast that over 6 million jobs would be created if the budget were balanced. Interest rates would be lower. They would fall by almost 2 percent, some say even higher. And Americans everywhere would enjoy a higher standard of living. There would be a reduced burden of debt on our children and our grandchildren, and people would be able to keep more of their hard-earned money rather than sending it to Washington.

To balance the budget, we must control the growth of entitlements. I am not suggesting these programs be abolished or even cut. We simply need to get them back within our budget, within our ability to pay for them. It is easy to see how they got out of control.

Simply put, these programs escape the discipline of the annual budget process. Increased entitlement spending occurs automatically, covering any individual who meets eligibility criteria. These increases are heavily influenced by the rapid rise in health care costs, the growing number of beneficiaries and real benefit expansion.

Of course, today America is aging. Our population is getting older as people are living longer. This is a good thing. It is indicative of progress. These changing demographics, however, must be accompanied by changing policies and programs. Programs that were created in 1965 when the average American lived to be 61 and when our Nation had five workers to support every one retiree must be modified to reflect current reality. Today, the average American lives more than 76 years, and there are less than four workers to support each retiree.

In 1965, when Medicare was enacted, the average American who reached retirement age could expect to collect benefits for 15 years. Today, the average 65-year-old will receive benefits for 18 years.

This is where we are now, Mr. President. Looking into the future gives us even greater reason to make the necessary changes we are proposing. The chart, which we will bring out a little later, demonstrates just how important it is that we begin now to make necessary changes in entitlement programs.

Today, there are less than 40 million Americans who qualify to receive Medicare. By the year 2010, the number will be approaching 50 million. By 2020, it will be over 60 million. While these numbers are increasing, there will be fewer workers to support each retiree, and while we have almost four workers per retiree today, we will have about two workers per retiree by the year 2030.

So, Mr. President, we must change the program. We cannot move into the future with blueprints that were designed for the past. Medicare and Medicaid have been the most significant contributors to entitlement growth in recent years. It is projected that these programs will cripple as a share of the economy within the next 35 years. Thus, they are unsustainable.

In 1994, Medicare spending was $160 billion. Over the past decade, Medicare grew by about 10 percent per year, and CBO projects similar growth over the next decade. Because of this rapid growth, the Medicare Hospital Insurance Trust Fund, part A, is projected to go bankrupt in 2002.

As the baby-boom generation retires, Medicare costs will continue to soar. The Medicare trustees project that between 1995 and 2020, Medicare will grow from 2.6 percent of the economy to 6 percent, an increase of over 200 percent. Likewise, Medicaid is out of control. This program alone is scheduled to grow at an annual rate of 10.4 percent between fiscal year 1995 and 2002, devouring both Federal and State budgets. Already, Medicaid consumes about 20 percent of State budgets, exploding from $15 billion in 1980 to a projected $180 billion in 2002.

These are serious concerns, and keeping in mind the demographics that I cited earlier, it is easy to see that without real change in policies and programs, there is no way the Federal Government will meet its obligation. There is no way that we can offer assurance to even the next generation of retirees that they will have coverage under Medicare and Medicaid.

The year 2002 is only 74 months away. However, as I have said on many occasions, I am an optimist. I am an optimist because we know what works. We know the right kinds of policy and program changes that need to be made, changes that will allow Medicare and Medicaid to meet their current obligations while at the same time saving these programs for future beneficiaries.

We know how to restore sound financial practices to the Federal Government, practices that can strengthen the economy, create an environment for employment growth and an environment where Americans are encouraged to work, save and invest. And achieving these conditions should be our primary responsibility.

Toward this end, we must see our proposal in this budget reconciliation process in its entirety, for its overall balance and how all components work together to benefit Americans at all ages and in all income groups. To single out one reform in our proposal, without looking at the others, is to do a great disservice to what this reconciliation package offers.

It is balanced, it is workable, and it is long, long overdue. It changes business as usual in Washington. It answers the clarion call from our constituents to make the kind of changes that so obviously need to be made.

I remember that an astute political adviser once warned his boss that there is nothing more difficult to take in hand, more perilous to conduct or more uncertain than to take the lead in the introduction of a new order of thing. I believe, with some of the inflammatory rhetoric we have heard surrounding this important debate, there is good reason to say that this adviser knew what he was talking about.

Change is difficult, but change is more necessary now than ever before. Where some may feel they lose in one aspect while single-mindedly absorbing one component of these changes, they are sure to gain in others. What we seek to achieve here is balance, balance that improves conditions and opportunities for all. It is not the voices of individual special interest groups that govern our actions, but the collective voice of America. And we understand one fundamental truth about reform—a truth stated eloquently by Vaclav Havel:

> The more half-measures we take, and the longer they drag on, the greater the sacrifices will be, the longer they will have to be made, and the more pointless sacrifices will have to be piled on top of those that are unavoidable.

We must be resolved; we must have confidence in the balance that our program offers. I have that confidence—as do other Members who join me today in introducing this reconciliation package.

Quite simply, there are four components to our program—promises we made to the American people—promises we are now keeping:

First, we provide for a balanced budget;

Second, we strengthen and preserve Medicare and Medicaid, thus allowing these two important programs to continue to protect Americans into the future;

Third, we reform welfare; and finally, once we show that the budget is balanced;

We create an environment for economic expansion through tax cuts that offer relief to our families and encourage Americans to work, to save, and to invest.

To give a little history, the EITC was a bipartisan program, created to offset the sting of payroll taxes on working families with children. The fact is, each dollar Government taxes creates a disincentive to work, while each dollar that people keep for themselves is an incentive to work. History has proven this point. The economies of nations that have cut taxes have thrived, while those nations who have increased taxes—even to the point of taking everything the people earn—have fallen into ruin.

The EITC was to create incentives for low-income parents to work. It was that simple. But as they say about too much of a good thing becoming dangerous, such is what happened to this once-well-intended program. Over the years, the EITC has been expanded by a welfare-oriented Congress into another Federal handout. And today, some 85 percent of the EITC is a Federal outlay paid directly to individuals. No longer do individuals need to have families or children to qualify; no longer does the EITC encourage work, as it once did; no longer is the program fair and cost-effective. Much of the EITC cannot even be considered tax relief because those who receive a direct payment from the Government pay no income taxes at all. Make no mistake about it, most of the EITC is a welfare check.

Beyond this, the EITC is plagued by fraud and abuse. It sports a fraud and error rate between 24 and 40 percent, making it the most fraudulent welfare program on the books. Though the administration has worked to reduce these high rates, there is no evidence that current rates are below double digits. Many of those who commit fraud are not even legally able to work in the United States. And the fact is, since the program's inception, American taxpayers have lost $25 billion to fraud, waste, and abuse in the program. The GAO estimates that if this kind of fraud continues over the next 5 years, the EITC could waste another $37 billion. We can't afford this.

We need to get the program back to its original purpose: to help families with children offset the sting of payroll taxes. And that is exactly what we do with our proposal. We focus the program on the population for whom it was originally intended. We return it from being just another welfare program to where it belongs as a legitimate tax break for lower income working Americans with children.

Our reforms will place an important degree of control on this program. They successfully address the problems of rampant growth, fraud, and abuse. The key phrase here is "controlling growth." Remember, EITC will continue to grow. It will continue to meet the needs of those most vulnerable among us.

According to the Joint Committee on Taxation, families with children, who now receive the maximum earned income tax credit, will continue to receive a larger earned income credit in the future. When combined with the $500 child credit and marriage penalty relief—issues that I will speak about in a minute—low-income working families will be better off under our bill than they are today. Finally, we will continue to spend in excess of $20 billion on the EITC, keeping it as a significant program for the working poor.

MEDICARE

Our second major objective with the proposal we are introducing is to strengthen, preserve, and protect the Medicare system—not only for those who depend on the system today, but for those who will need Medicare tomorrow. We accomplish this by allowing the program to grow at about twice the rate of inflation, and by introducing choice in the system. In this way, seniors are guaranteed continued coverage as well as the ability to choose those plans and health care providers that best meet their needs.

In our proposal, Medicare spending increases form $178 billion in 1995 to $286 billion in 2002. Average spending per beneficiary grows from $4,800 to $7,000.

Our proposal controls runaway costs by introducing choice into the system, giving our seniors the ability to remain in the current fee-for-service plan, if that is what they want. On the other hand, we also offer them an unlimited number of health care plan options that they may choose to better meet their needs. We call this Medicare choice, and it includes, beyond the current fee-for-service plan, the opportunity for our seniors to join plans sponsored by local hospital and physician groups, health maintenance organizations, point-of-service plans, or preferred provider organizations. It also allows for seniors to join high deductible medical savings account plans, union or association plans, and, in fact, any other kind of health plan that meets the standards we set to protect the beneficiaries. Beneficiaries will be protected under our proposal. Despite the plan they choose, all seniors will receive coverage for the same services and items that are currently covered by the traditional Medicare Program. The good news is that as these new plans compete with each other for business, it's likely that they will offer even more benefits and improved services.

The private sector, which has done much better in keeping costs down than the Government, has proven that choice creates competition, and competition is good for the consumer. And the fact is, in our proposal we are offering seniors even more efficient and effective health care plan options than are available to most working Americans through their employers.

By introducing private market incentives into the Medicare Program—by giving consumers options and encouraging providers to compete for business—we could control program growth sufficiently enough to save it in the longterm. It is no surprise that the private sector has been much more successful at controlling health care costs, with innovative programs based on market principles, than the Government, which has depended largely on price controls. To survive, the Medicare system must allow patients and providers to use health resources efficiently through a choice of plans.

This is not a new idea; it is an approach that's been tested and proven.

Offering choice in Medicare is based on the highly successful Federal employees health benefit plan. Largely because of choice, this year the average FEHBP premium was reduced by 3.3 percent. Next year, the average increase will only be 0.4 percent, proving that choice brings competition and savings. In fact, choice could work so well that our current projctions—projections that keep Medicare solvent through 2020—could be understated.

Beyond using choice to strengthen the program, beneficiaries will continue to pay 31.5 percent of the premium for part B. In 1997 we will phase out the taxpayer subsidy of the affluent for part B; we will increase the deductibles from $100 to $150, and then increase it $10 every year, thereafter. Savings will also be made on the part of Medicare providers, predominantly through reductions in scheduled payment increases. Despite these restraints, providers will continue to enjoy annual growth rates of between 4 and 10 percent over the next 7 years.

Our proposal also aggressively attacks fraud and abuse in the Medicare Program. The GAO estimates that the loss to Medicare from fraud and abuse equals some 10 percent of the program's total spending, and law enforcement officials claim that the majority of Medicare fraud goes undetected. What we propose is to earmark a portion of trust fund money, starting in its first year with $200 million, to use for investigation and prosecution of health care fraud. We also offer a number of new tools to assist investigators and prosecutors in attacking this problem. The CBO has estimates that our provisions in this area will save the program more than $4 billion over 7 years.

Under our program, reforms would extend the solvency of Medicare for about 18 years. According to the CBO estimates, under our proposal, the Medicare HI trust fund balance will total $300 billion in the year 2005. The CBO states, "the HI trust fund would meet the Trustees' test of short-range financial adequacy." In other words, for the next 10 years, the HI trust fund balance, at the end of every year, will be more than enough to pay Medicare benefits for the following year.

More importantly, using the CBO's estimates through 2005, our Finance Committee staff, in consultation with the Office of the Actuary within the Department of Health and Human Services, estimates that the Medicare Hi trust fund will be solvent through about the year 2020. That's 10 years—10 years—after the baby-boom generation begins to retire, a quarter of a century from today.

Concerning Medicaid, our objective is, again, quite simple, to control the unsustainable growth rate of this program—a rate which reached as high as 30 percent in 1993. Even at its current 10.4 percent, the growth rate is too high. We bring it down to a manageable and more realistic 5 percent. We can accomplish this by moving the program back to where it belongs—back to the States. In fact, Governors have said that they can manage the program with the more moderate spending increases if the Federal Government will simply get out of their way.

Medicaid is best addressed by giving States adequate funds and the authority necessary to meet the needs of their most vulnerable citizens, without interference and excessive regulation from Washington. Governors have been asking for this authority since 1989, when Bill Clinton, then Arkansas' chief executive, signed a resolution calling for a freeze on the enactment of further Medicaid mandates. By extending States' authority, allowing Governors the opportunity to find innovative ways to provide for the unique needs of their respective States, we can keep the program at a manageable 40 percent growth rate by 2002, rather than the 100-percent increase in spending now projected by CBO.

Certainly, under this new structure, the States will have certain requirements that must be met. For example, they will be accountable for how Federal dollars are spent. States will spend 85 percent of what they are now spending on mandatory benefits for the three of the most vulnerable populations: low-income pregnant women and children, the disabled, and the elderly. There will also be protection from nursing home costs against impoverishing spouses living at home. Likewise, States will be allowed to use Medicaid funds to see that children are immunized.

We must remember that Medicaid was designed to be an equal partnership between the Federal Government and the States. However, the Federal Government in recent years has effected what can only be seen as a takeover. Toward this end, all three branches of the Federal Government have played critical roles. Congress and the courts have expanded eligibility while the bureaucracy has paralyzed the States with regulations. The time has come to release the choke hold.

Medicaid now consumes 20 percent of State budgets—20 percent. That means fewer dollars for education, for fighting crime, and rebuilding infrastructure.

Since 1990, the number of Medicaid recipients have increased by nearly one-third, as the current law has created over 70 different ways for people to become eligible for benefits. Promising more benefits for more people plus using the political system to negotiate supply and demand is a prescription for failure. The price for this now includes annual deficits of up to $200 billion and a second mortgage on the future which our children and grandchildren will be forced to pay.

Today we change these dynamics. Today business as usual is over.

The reconciliation package we offer allows us to meet the needs of low-income individuals, while at the same time controlling costs, improving the program, and working toward a balanced budget. Under our proposal, Medicaid spending continues to grow, but at a slower, more predictable rate. The money is given to the States with the flexibility to design effective and innovative programs—programs to meet the individual needs of their low-income citizens.

States can cover individuals and families with income below 250 percent of the Federal poverty level—that's $31,475 for a family of three.

What we get away from are the thousands of pages of Federal mandates that stifle creativity and our States' ability to develop programs that are both efficient and effective. Under our proposal, we repeal all mandates. We allow States to standards and provider payment rates. And we no longer require Federal waivers to implement many of the innovative delivery systems that have proven to be so successful in the private sector. In fact, we encourage States to combine programs and experiment. However, as a safeguard, we ask States to develop a State plan and to submit annual reports and independent evaluations as well as provisions for fighting fraud and abuse.

As under current law, the Federal Government will match State funding, up to an aggregate cap. Under this proposal, total Federal Medicaid spending will continue to increase over the period 1996–2002. In this period, the Federal Government will provide $776 billion to the States to meet the needs of poor children, the elderly, and people who are disabled. This is the equivalent of half of the total of today's Federal budget.

Between 1995 and 2002, total Federal spending on Medicaid will still grow by over 40 percent.

Mr. President, the States will make these reforms work. Federal funding will continue to increase while we provide the States with control over how these funds will be spent. After 30 years of Federal control, it is time to put the State in charge. Capping Federal spending will allow the States to enforce fiscal discipline. They will clearly know that the deep pockets of the Federal Government are not bottomless.

With firm control over these funds, we will unleash the creativity of the States in meeting the needs of the low-income citizens. The States will be able to expand managed care without asking permission of the Washington bureaucracy. Coupled with the welfare reform package just passed, the States will be able to experiment with ways to move families off welfare and into work. The States will be able to design health insurance coverage so that the loss of Medicaid will no longer be a barrier to leaving welfare.

The States will plan, design, and implement Medicaid reform which will meet their own unique needs in ways Washington has not even started to think about. Taxpayers and beneficiaries alike will benefit from Medicaid reform and from achieving a balanced budget.

TAX REFORM

These are important reforms. Without them, the Medicare trust fund will become insolvent within a few years, and Medicaid will eat away at our children's future, forcing Federal and State governments to borrow money for generations yet unborn. According to University of California economist Alan Auerbach, if current spending trends and benefit formulas continue, "the tax burden would be very close to absorbing all the lifetime income of future workers."

To escape from this, we must prepare to move quickly and successfully beyond our first objective of passing the budget resolution to embrace what should be our second, adopting initiatives that create an environment for economic growth. The only way to break out of deficit spending, without cutting off essential services and forfeiting on the contracts the Federal Government has made with our senior citizens, is to renew healthy economic growth—growth which is above the 2.3- or 2.5-percent range currently projected by official forecasting agencies.

This environment will be created only as Government adopts real tax reform—reform that shifts the bias against savings and investment in the current Tax Code to a system that encourages saving and investment over consumption. Among the means to tap into the consumption base are: The flat tax, a national sales tax, or an expanded IRA.

While some have emphasized the differences between these three plans, they are grounded in the same economic concept of taxation, and I am pleased to see their growing acceptance among Americans. Ultimately some kind of compromise, possibly including elements from all of them, should be possible.

The current income tax system has not only undermined economic growth, it has also undermined the economic position of American families. We must act to provide tax relief for families that are already facing intense pressures on other fronts. It is my desire to provide tax relief in the context of the current reconciliation package, but I also believe we must not overlook the opportunity to provide the additional tax relief in future tax reform, financed by continued restraint in Federal spending growth.

The tax relief offered in this reconciliation package is very much in the realm of current possibilities. We offer a $245 billion tax cut which goes into effect only when the CBO has certified that deficit reduction is being achieved. Despite what some may say for political reasons, this tax relief does not come at the expense of Medicare. As the generally more liberal Washington Post admitted, "The Democrats have fabricated the Medicare-tax cut connection because it is useful politically." In an earlier editorial, the Post opined that,

> The Democrats are engaged in demagoguery, big time. And it's wrong. . . . [The Republicans] have a plan. Enough is known about it to say it's credible; it's gutsy and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What Democrats have [on the other hand] is a lot of expostulation, TV ads and scare talk.

That is the end of the quote from the Washington Post.

Under the bill we propose today, using Medicare savings for tax cuts is illegal. The law requires that money saved on the Medicare Program will stay in the Medicare Program. These are trust funds, the assets of which may not be used for any other purpose. And to say otherwise, as the Post points out, is little more than politically motivated scare tactics.

The fact is, our efforts preserve and strengthen the Medicare trust fund. This is a promise made and a promise kept. Likewise our efforts bring the Federal budget into balance and provide substantial tax relief for middle-income Americans. Again, promises made and kept. I can only guess that these scare tactics are being used by some because for so long these individuals have gotten by politically by making promises without keeping them. Well, you cannot have it both ways. You are either working for the kinds of changes the American people want, or you are locked into business as usual. You are either working for reform, or you are an agent of big Government, runaway spending, and political gridlock.

Let this reconciliation package show Americans who stands where on these important issues.

Our plan offers a $500-a-child tax credit, encourages savings and investment, and offers other incentives for economic growth. Our proposal to cut taxes by $245 billion, offers relief for our middle class—with over 70 percent of the $245 billion going to families making less than $75,000 a year. These provisions mean more security for our families, more jobs for Americans, and greater stability in our communities.

Of the $245 billion Senate relief package, a full $223 billion will go to families. The remaining $22 billion will strengthen businesses and lead to increased employment opportunity. It will also improve America's ability to compete in the global community, with other nations that provide their businesses with strong incentives to compete with us.

The four pillars of our proposal are: First, a $500 child tax credit; second, restoration and strengthening of individual retirement accounts; third, relief from overbearing estate taxes on families and businesses; and, fourth, reduction of the top rate of capital gains on individuals and corporations.

These measures meet our promise to the American people. They represent a bold beginning in our effort to break with the failed policies of the past. The current tax system double-taxes savings, thwarts investment, hinders productivity, increases prices, stifles wages, and hurts exports. It is complex, controlled by special interest groups, and places disincentives on work.

We move to correct these deficiencies, and because we have cut spending, our bill balances the budget while making room for tax relief. Americans need relief. Our economy needs a shot in the arm. Even Bill Clinton has admitted as much. I call on him to join us in our efforts to unleash the potential our economy has to move us into a bold and exciting future.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. ROTH. Mr. President, will the distinguished Senator from New York yield? I have about three more pages. May I finish?

Mr. MOYNIHAN. Of course. Could we then extend morning business until 1:30?

Mr. KENNEDY. Reserving the right to object—and I do not intend to object—if we can have the morning business time, whatever morning business there was, divided equally between the two sides, whatever amount of time, since we are off the bill. If we could have whatever amount of time to be divided equally, then I would not object. If we are not going to have that allocation of time, then I feel compelled to object.

Mr. MOYNIHAN. Mr. President, may I make the suggestion that morning business be continued to 1:30 and that the time be equally divided?

Mr. KENNEDY. Reserving the right to object, that does not include the last 10 minutes—just from the time we go to morning business, divided equally.

Mr. GRASSLEY. Mr. President, I have to object momentarily for the leader. We want to find out if Senator DOLE wants this time extended.

The PRESIDING OFFICER. Objection is heard. The Senator from New York has the floor.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the period of morning business be extended until 1:30 and that the time be equally divided. I believe it is the desire of the majority that the speakers alternate, if that is convenient.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Reserving the right to object, may I finish?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. Hearing no objection, without objection it is so ordered.

The Senator from Delaware.

Mr. ROTH. Mr. President, as I was stating, that is what this reconciliation package is all about—the future.

As Lincoln said, "The struggle of today is not altogether for today—it is for a vast future, also"—a future that I believe will be very bright if we succeed in our endeavors here today.

Our objective is to strengthen the American Dream—in our homes, in our schools, in our communities, in our States, and all across the land. Some have said that the dream is dead, that our children cannot expect to lead a better life than that led by their parents. I strongly disagree. However, I do believe that in order to meet the domestic challenges before us—as we look to put our house in order here at home—as we seek to maintain influence and leadership abroad, that we must reinvent America to reflect the profound changes that are taking place throughout the world as well as here in the United States.

We must build on principles that are tried and proven and good. We know what works. We know what's failed. And we cannot march boldly into the future with blueprints prepared for the past. This reinventing of America must be thorough, it must create a nation that is compassionate, responsible, and economically viable from the houses in our neighborhoods to the Houses of Congress. It must encourage self-reliance, risk-taking, and the confidence that diligent labor will be rewarded with security and even greater opportunity for reward.

These are the principles that built America, and they are the principles that will see us into a bright and expansive new millennium.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I wish to congratulate the chairman of the Finance Committee on a very thoughtful and deeply felt exposition of his views. They are not entirely shared on this side, but they are, nonetheless, admired for the grace in which he has presented them.

REPUBLICAN BUDGET PLAN

Mr. MOYNIHAN. Mr. President, earlier in the day, this morning, I was speaking without notes. I stated that under the Republican budget plan the national debt will increase by $700 billion in the next 7 years. I would like now to correct that to be the precise number, which is $669 billion. That is how much more we will borrow.

I surely cannot think of any figure more explicitly to state the irresponsibility of a $245 billion tax cut. We will borrow every penny of that tax cut. If that were not the last thing to say, it turns out that the tax cut is a tax increase on average for taxpayers with income up to $30,000—half of all taxpayers—because of the reduction in the earned income tax credit. For the rest the bill reduces taxes. And we will borrow every penny of the tax cut, and persons working, paying taxes, and trying to get along will pay for every cent of the tax increase.

Mr. President, there is no way to get rid of a $5 trillion debt. I hope we know. Once again, to say, if it were not for that Contract With America, we would not be talking about a $245 billion tax cut on this floor, in this Chamber. We know it. We all know it. And I need not repeat it again.

I thank the Chair. I appreciate the courtesy.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

MEDICARE

Mr. ROCKEFELLER. Mr. President, I have a motion here in my hand. It is a motion to recommit with instructions. And I would like to say to every one of my colleagues on both sides of the aisle that the first amendment that we deal with today in the U.S. Senate—that we are dealing with today, the day that we meant for dealing with amendments of absolutely enormous importance to the future of our country—is going to be the Medicare amendment.

I do not care how many meetings are held in the majority leader's office, I do not care how many long speeches are given, I do not care how many morning businesses are taken, and I do not care even to the fact that no Democrat, other than the chairmen of the Budget Committee and the Finance Committee, has been able to say a word on this day, the day we meant to be devoting an hour to a series of extraordinarily important amendments on Medicare, EITC, Medicaid, and other matters, this amendment is going to be the first amendment laid down. It will recommit the Republican $270 billion cut in Medicare to the Finance Committee for further work.

I just want my colleagues to be fully aware of that fact. That will be the first amendment, the Medicare amendment. And it will come regardless of what tactics are used or whatever dilatory procedures are adopted.

I will say that the reason we on the Democratic side are laying this motion down is that the Republicans are cutting three times as much out of Medicare as they need to do in order to make the hospital insurance trust fund solvent to the year 2006. There is no need to do $270 billion of cuts.

So between the $89 billion that the trustees of the trust fund say is needed to make the Medicare hospital insurance trust fund solvent, which is what all the rhetoric is around here, to make the thing solvent—they all say, the trustees, that is, $89 billion—and the majority party taking $270 billion out of Medicare to do the work for which only $89 billion is required, therefore, there is a gap of $181 billion, to which I would think an ordinary inquiring citizen would say: What is this $181 billion for if all we need is $89 billion to make the Medicare trust fund solvent? And the answer, of course, is oft proclaimed, oft denied on the other side but a matter of irrefutable fact, and that is that it is going to be used to give in part an enormous tax break to families and institutions of wealth, and that emanates from the fact that this was part of the contract. It had its genesis when NEWT GINGRICH on a sunny day went with a band of very committed, newly elected House Members and in front of all kinds of American flags pronounced the 10 commandments, of which the greatest was a tax cut, the crown jewel was a tax cut.

That having been done, obviously no less could be done in this body and so the $245 billion, or $225 billion tax cut became the mantra. So that tax cut has to be achieved. We do not have that kind of money laying around, nor does the average American family, and therefore where do we get it? We go to Medicare and to Medicaid, and we cut them egregiously in order to do that.

I have no idea of how I am going to explain the damage done to the people of West Virginia, to the seniors of West Virginia, to the health institutions of West Virginia, to the veterans of West Virginia by this Medicare cut. And I will be talking at length about that at the time we actually do lay the amendment down. But the amendment is simply to say on our side we will not accept a $270 billion cut when $89 billion will do the job, stamped and approved by those whose responsibility it is to do the job, the trustees of the hospital insurance trust fund, in order to not have to do the $270 billion cut which the majority party is doing for the purpose of raising enough money to give a tax cut to those who do not need it.

I find this extraordinary. I find it certainly worth the meager 1 hour that we are going to be able to have on each side to discuss the Medicare amendment. But the Medicare amendment there will be, and it will be the first one and it will happen.

I thank the Presiding Officer.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do we have? I see my friends from Minnesota and North Dakota. How much time do we have on this side under the consent agreement?

The PRESIDING OFFICER. There are 9 minutes and 20 seconds.

Mr. KENNEDY. I will yield myself 3 minutes. I think Senator MIKULSKI wanted time.

I yield myself 3 minutes, Mr. President.

IGNORING THE RECOMMENDATION OF THE MEDICARE TRUSTEES

Mr. KENNEDY. Mr. President, for 2 hours I have been on the floor of the Senate and the one thing we did not hear, which is at the heart of this whole program, is how our Republican friends possibly justify not taking the recommendation of the trustees, which is the amount to ensure solvency for Medicare is $89 billion, and for them to justify a $270 billion cut. For 2 hours we have waited to hear the reasons for that. We have not heard it. There is silence on the other side for the reasons that the Senator from West Virginia will point out and the reasons why we will have an opportunity to vote.

The Republican proposal is to provide not just the $87 billion, not just solvency for the Medicare Program but lavish tax breaks for the wealthiest individuals. That is what this is about. The Republicans have not made that case. They have not justified why that is necessary and what the impact is going to be on senior citizens. It will be double their deductible, double their copay, a raise in the premium, and raise the age eligibility from 65 to 67.

Have you heard that explained by our Republican colleagues? No, you have not, Mr. President. And squeeze the elderly so they will no longer have a choice of doctors. That is what this legislation is about. We want answers. We want answers from those who are trying to jam this through the Senate of the United States.

Why should we accept it? We will have an opportunity to reject it, and I hope that the Senate will speak for the American people and seniors this afternoon.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself 10 minutes.

CHANGES IN MEDICARE PROVISIONS

Mr. GRASSLEY. Mr. President, I want to touch on portions of this reconciliation bill that deal very effectively with the changes in Medicare provisions that are very good nationally and provisions that are very good for rural America.

The bill will put the financial situation of the Medicare Program, particularly the part A hospital trust fund, but also part B for physician services, on a sounder, more sustainable footing. This will ensure that current and future Medicare beneficiaries in Iowa and elsewhere can continue to depend on the program.

In addition to putting the program in good shape financially so that it lasts into the future, for the baby boomers particularly, we also create a new reformed Medicare alongside this traditional Medicare Program that we have known for the last 30 years.

The Medicare reforms in the Senate bill will increase substantially the per capita payments that Medicare programs make to low-reimbursement States like my State of Iowa, and other rural States of our Nation.

This is a very important component of this Medicare reform. If we are able to retain this reform by getting it through the Senate, by getting it through conference with the House, it would be a great benefit to rural communities of my State and of the United States—all of them. The critically important issue is whether Medicare's per capita payment will be reformed. I have to emphasize that. Reform of Medicare's per capita payment is the essential element of bringing fairness and soundness to the system. The payment Medicare makes to health plans for those who enroll is the core element in the new reform program.

Currently, those per capita payments vary greatly from one part of the country to another. The per capita payments in the highest reimbursement areas are as much as 300 percent greater than the per capita payments in the low-reimbursement areas.

I would now refer my colleagues to this map. Many of the counties on this map are in darker colors. All of those with darker colors are way below the national average in per capita reimbursement for Medicare.

The red areas make up only 10 percent of the counties. Dade County, FL, counties in California, counties in the metropolitan area of the East, and metropolitan counties of the South, particularly Texas and Louisiana. Those counties in red are the highest per capita reimbursement counties in the United States. The variation from the dark, low-reimbursement counties to the high-reimbursement counties, can be as much as 300 percent from the county with the highest per capita payment to the county with the lowest.

Now, remember that this map shows per capita reimbursement. So the rating of our counties from low-reimbursement to high-reimbursement does not depend in any way upon the numbers of Medicare beneficiaries in the area. There are differences in input prices around the country, of course. But those differences cannot account for the very substantial reimbursement differences between the low-cost areas, the dark areas, versus the red areas, the very high-cost reimbursement areas.

The differences then reflect the fact that providers in those high-cost counties, high-reimbursement counties, are getting more money for each beneficiary that passes through the system. The more you go through the system, the more services allowed, the more times you see the doctor, the more times you go to the hospital, the more payment you get.

There is no rational justification for such gross payment disparities from one region to another under the present Medicare system. This bill reforms that. Furthermore, I might say, the citizens in the low-reimbursement areas pay the same payroll taxes and the same Medicare premiums and the same deductibles as their cocitizens in the higher reimbursement areas. This is a problem that we should fix and fix soon. We have gone a long way toward fixing it in this bill. And if we can retain that through the House-Senate conference, we will have very good provisions for most of the United States because most of the United States is rural.

On the traditional Medicare side, the bill does call for a spending slowdown, but it contains several provisions which I helped get in this bill which will help sustain health care services in rural America. We reinstituted the Medicare-dependent hospital program, which will provide additional reimbursement for Iowa's 30 small rural counties that are very dependent on Medicare programs and in a lot of other States as well.

We establish a critical access hospital program which will help the very smallest hospitals in rural America, including Iowa, redefine their mission, receive better reimbursement and thereby continue to provide services in their communities.

We increase next the bonus payment for physicians who work in communities where there is a physician shortage. We do that from a 10-percent to a 20-percent bonus.

Next, we included for the third time in legislation sent from the Senate to the House my legislation which would reimburse physicians' assistants and nurse practitioners at 85 percent of the physician's rate when they provide the same services. I hope and believe that the bonus payment and the physician's assistance, nurse practitioner legislation will increase the availability of primary health care services in rural America, including my State of Iowa.

Finally, we authorize a program of telemedicine grants which could be very helpful in Iowa with our developing telemedicine services. And, of course, Medicare beneficiaries may continue to participate in the traditional Medicare Program and continue to choose their own doctors if that is what they want to do. They are going to have a choice for the first time, a choice of keeping exactly what the Government has offered for 30 years or a choice of choosing an HMO, a medical savings account, or their traditional association or union plan that they had where they last worked when they retired.

So, Mr. President, if we can hold the line in discussions with the House on these provisions, this Medicare reform could be good for the United States but also very good for our low-reimbursement rural counties.

Mr. President, how much time do I have left of the 10 minutes that I allotted myself?

The PRESIDING OFFICER. One minute fifteen seconds.

Mr. GRASSLEY. Mr. President, I want to respond to a point made by the distinguished Senator from New York earlier, Senator MOYNIHAN, when he said you cannot balance the budget by cutting taxes. I do not respond just to what Senator MOYNIHAN said; I respond to this point because it is made continually by people on the other side of the aisle.

First of all, it certainly is ironic to be getting lectures from the other side about how to balance the budget. The only alternative on their side was voted down yesterday 96 to 0. That was the President's budget. And it would never balance. A chimpanzee with a typewriter will bang out by accident the entire Encyclopedia Britannica before the President's budget would be balanced.

The question is whether or not Republicans then can walk and chew gum at the same time. And, of course, we can. We can balance the budget and then cut taxes at the same time. We must do this. We can do this with minimal risk because we use very conservative and very credible CBO estimates, unlike the President who has been afflicted, like some of his predecessors, with the narcotic of optimism.

I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield myself 3 minutes.

SAVING MEDICARE

Ms. MIKULSKI. Mr. President, I rise in strong support of a Democratic leadership amendment that will be offered to save Medicare. I support it because it will save lives and save American seniors from bankruptcy.

The Republican budget reconciliation before us would cut Medicare by $270 billion. And it does so for one reason: to pay for tax breaks for the wealthy.

In contrast, the Democratic amendment would eliminate all but $89 billion of this Medicare cut. This would guarantee enough savings to keep Medicare solvent, but we would eliminate the provisions which the Republicans have proposed as a new tax cut on senior citizens.

We want to eliminate the Republican plan to double Medicare premiums. We want to eliminate the Republican plan to double the out-of-pocket deductibles for seniors. We want to eliminate the Republican plan to force seniors who want to keep their own doctor to pay for higher charges for Medicare care. We believe that the American senior citizens should get to pick their own doctor and be able to have health care that they can afford and not have these increased premiums and deductibles. And we can do it by focusing on solvency and efficiency.

Mr. President, this amendment is not about partisan politics; it is about the men and women that I call the GI Joe generation. These are the men and women like my uncles and my father, ordinary men, who during World War II were called to do extraordinary things. They fought over there so we could be free here.

Those are the women in my community we call affectionately Rosie the Riveter, women who worked at Martin Marietta, in shipyards helping to keep the homefront going while our men were overseas.

Those are our senior citizens of today, the men and women of the World War II generation. They helped save Western civilization. So now it is up to us to save their Medicare. It is the very least we can do, that on the brink of a new century we give our honor and our respect to those who saved us during this last century.

Mr. President, in 1965, a great Democratic President knew that one illness could devastate a family, and they organized to be able to pass Medicare. That stands today. We have to keep the "care" in Medicare.

The Republican plan will mean less access to health care, fewer doctor visits, less necessary tests and less of a focus on prevention. This is not what we should be doing. Yes, we all want to balance the budget, but I believe we can save Medicare and focus on solvency.

Let us go after that waste, let us go after that fraud, let us be more efficient, but let us also remember the GI generation. They fought to save us, and the very least we can do now is to fight to save their health care.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair has been instructed to alternate between sides. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield the remainder of time on this side of the aisle in morning business to Senator COATS.

The PRESIDING OFFICER. The Senator from Indiana.

ONE FINAL ACT OF COURAGE AND VISION

Mr. COATS. Mr. President, just 8 short months ago, when Democrats defeated the balanced budget amendment, the minority leader challenged us by saying: "The budget is not going to be balanced in 2002 unless the responsible people in 1995 start to focus on their share of the work."

Well, Mr. President, I submit that responsible people in Congress have focused on their work, and now it is up to the minority to show whether their statements supporting a balanced budget were a conviction or an alibi.

The reconciliation bill we are debating not only makes sense, it makes history. For most of us, a balanced Federal budget is a distant memory. For decades, it has been an empty political promise, but now it is just one final vote away. All that remains is one final act of courage and vision.

That courage will be tested in the Congress by some difficult choices that we will have to make here in the next 3 days. That vision will be measured in the President, as he becomes either a partner in the process or a partisan opponent. If either he or we are unequal to this task, the patience of the public will be exhausted. We will have squandered a unique opportunity, and we will feed a dangerous disillusionment with American politics.

I am confident that this chance will not be missed; that this new Congress will show a new determination. But this bill involves more than fiscal restraint. It represents a radical shift of resources away from Government, directly to families. It contains the single-most practical, compassionate way to provide immediate help and support to children. That is a fact that Americans must understand and that opponents cannot be allowed to ignore, because this budget matches its commitment to cuts with commitments to families. It reduces both the reach of Government and the level of taxes, and it embodies important values that cannot be represented in a balance sheet.

Let me take three provisions of this budget as examples—priorities that I have championed for years. These are measures that would directly improve the lives of families and children in my State and people around the country. We have proposed them again and again, only to see them ignored or defeated. Now they are one step short from reality.

First, this budget includes a $500 child tax credit. This sounds somewhat abstract, so let me be specific. The reconciliation package would provide nearly $600 million of tax relief to Indiana families. Over 1 million Indiana children would be eligible for the credit, and nearly 100,000 Hoosier taxpayers would have their entire tax liability eliminated by this single measure alone.

Democrats in this debate have tried to draw attention to children, and that is precisely where our attention should be. But children are not raised by bureaucrats, they are raised by parents. If the choice is between $600 million spent by Government in Indiana and $600 million spent by parents, there is no choice. Parents are more compassionate and more capable than any Government program can ever be.

In reality, nearly 90 percent of the child tax credit will go to families making less than $75,000 a year. Over 50 million American children will be eligible. Cutting Government and cutting taxes are part of the same movement in America, the movement to limit our Government and empower our people. One idea implies and requires the other. When we reduce public spending, we should increase the resources to families to meet their own needs. The theory is simple: A dollar spent by families is more useful than a dollar spent by Government.

Second, this package also includes an adoption credit of $5,000. Along with the child tax credit, these two provisions represent about 60 percent of the entire tax package. There is no more compassionate act than to provide an abandoned or abused child with a loving family, and the number of children who need those families is rising sharply. Yet, at the same time, the number of adoptions has dropped by nearly 50 percent over the last 25 years and, on any given day, 37,000 children are waiting to be adopted.

Thousands of families would be eager to adopt if it were not for the prohibitive cost, now about $14,000 on average. A $5,000 credit would make this a reasonable option for more parents.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. WELLSTONE addressed the Chair.

Mr. COATS. Mr. President, I ask unanimous consent for 2 additional minutes. Is that permitted?

Mr. WELLSTONE. Reserving the right to object, I wonder whether morning business can be extended, in which case it will not be a problem. If we extend 2 minutes on both sides, that will be fine.

The PRESIDING OFFICER. With unanimous consent, morning business would be extended.

Mr. GRASSLEY. Reserving the right to object, I think probably we ought to give 2 minutes here and 2 minutes over there to be fair, which is the way we have done it in the past. In addition, I want to be careful we do not extend the time because we have been clearing that with the managers of the bill. I do not think I can just willy-nilly allow the expansion of time. I think 2 minutes is appropriate.

Mr. WELLSTONE. My understanding is 2 minutes will be extended to the Senator from Indiana and I will have 2 minutes on top of what I already have.

The PRESIDING OFFICER. The time on the minority side is 4 minutes and 6 seconds. That would extend the time to 6 minutes and 6 seconds. The majority side would have 2 minutes.

Is there objection? Without objection, it is so ordered.

Mr. COATS. Mr. President, thousands of families would be eager to adopt were it not for the prohibitive cost, now about $14,000 on average. A $5,000 credit would make this a reasonable option for more parents.

Encouraging adoption is one of the most effective ways to care for children in need and at risk. Abused and abandoned children require loving homes more than they require any amount of bureaucratic spending in the status quo bill presented by the Democrats.

Third, this reconciliation bill includes medical savings accounts, an idea that I was the first to introduce in the Senate. These accounts will give families independence and choice on health care, the opposite of the President's approach. It delivers security without bureaucracy, providing families the resources to care for their own needs.

The centerpiece of this reconciliation bill is a balanced budget. In the future, this will be recalled as our contribution to history. If we ignore our budget crisis, the child born this year will pay $187,000 over his lifetime just for interest on the national debt.

The argument for a balanced budget comes down to something simple: It is one of our highest moral traditions for parents to sacrifice for the sake of their children. It is the depth of selfishness to call on children to sacrifice for the sake of their parents.

If we continue on our current path, we will violate a trust between generations and earn the contempt of the future.

There is no doubt we must balance the budget, but in passing this bill, we will accomplish even more, because this bill displays a passion for limited Government, yet it also displays compassion for American families. It finally returns responsibility to the Federal budget, yet it also helps return abused and abandoned children to adoptive families.

It will improve the long-term health of our economy, and yet it will also deliver short-term help to families and to children, relief that will be felt next year and every year beyond.

These are not sideshows or distractions. This plan includes real relief that will be felt and appreciated by the American people, and that relief is specifically directed toward families with children. This is actual, meaningful compassion, not the synthetic, failed compassion of Government programs.

Mr. President, we have come to the beginning of the end of deficit spending in America. We have come to this place because there is no alternative. The work before us is difficult. But it is nothing more than most Americans expect.

We have come to a time that is unique—an authentic moment of decision. It is a moment to act worthy of our words, and to keep faith with the future.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Minnesota.

NO COMPASSION

Mr. WELLSTONE. Mr. President, I want to talk about an amendment we are going to have coming up on Medicare. Just for the record, let me briefly respond to the Senator from Indiana. In all due respect, I do not see this compassion. I see $35 billion of cuts in nutrition programs.

I had an amendment on the floor of the Senate that asked my colleagues to go on record saying that if, as a result of this reconciliation bill with its cuts disproportionately targeted on vulnerable children in America, there was more hunger and there was a situation where more children went without medical coverage, that we would revisit this question next year and take corrective action, and I could not get that sense-of-the-Senate amendment adopted. I do not see too much compassion in that vote, Mr. President.

Mr. President, I hope we start this debate soon on the Medicare. I want to start out by responding to my friend from Iowa. I just quote my friend from Illinois, Senator SIMON. He has said it once, twice, 10 times, that to say we are serious about deficit reduction and then to have $245 billion of tax giveaways is like saying to somebody we are going to put you on a strict diet but first we are going to give you dessert. It is a huge contradiction. I do not find people in cafes in Minnesota saying to me: Senator WELLSTONE, we are serious about deficit reduction, but would you first give us more tax breaks? That is not what I hear from people. They know it is a huge contradiction and that you being cannot dance at two weddings at the same time. It makes no sense.

Second point. Mr President, $89 billion is the figure for the trust fund. Instead, we have $270 billion. People in Minnesota know how to add and subtract. What we have going on here on the floor of the U.S. Senate today is no less than an effort to make Medicare the piggy bank for tax cuts, or tax giveaways. That is bad enough. What makes it worse is it is tax giveaways in inverse relationship to those people who least need the tax breaks. Mr.

President, that is simply unconscionable.

The third point. This is a rush to recklessness. I was surprised to hear my colleague from Iowa talking about the benefits of this for rural Iowa or rural Minnesota. I say to my colleague from Iowa, understand that in your proposal you have reimbursement to hospitals, rural hospitals, 2.5 percent less than rate of medical inflation. I tell you right now that our hospitals and clinics in rural America, in greater Minnesota, do not have the large profit margin; that is point one. Point two, they have a disproportionate amount of their patient mix—60 percent, 70 percent.

What I am saying to people watching this debate is that, in rural America, many of the people that come to our hospitals and clinics are elderly. Medicare is hugely important for them. That makes up a large share of the payments that go to these hospitals. They do not have the profit margin. They have a large percentage of the population that are elderly, who depend upon adequate Medicare reimbursement, and you have in your formula 25.5 percent less than the rate of inflation. In rural Minnesota and in North Dakota and in Kentucky and in rural Iowa, the rural heartland all across this country, the issue, Mr. President, is not just whether we can afford a doctor, it is whether we can find a doctor.

This is a rush to recklessness. This is a fast track to foolishness. Ask your providers, ask your nurses, ask your physician assistants, ask your doctors, ask your elderly, ask their children, ask their grandchildren. What you are about to do is very reckless with the lives of people.

Mr. President, I will tell you something. I just get more than a little bit angry when I see this stereotype and hear this stereotype about the elderly. You would think that the elderly are a bunch of "greedy geezers" that are traveling all over the country playing golf at the swankest golf courses there are. Mr. President, in my State of Minnesota, 70,000 seniors live below the Federal poverty line. In my State, of the 635,000 Medicare recipients, half of them have annual incomes under $20,000 a year. Mr. President, in my State of Minnesota, of the 635,000 Medicare beneficiaries, they are paying, on the average, over $2,000 out-of-pocket. Right now, for many seniors, catastrophic health care costs are a nightmare. They are terrified of prescription drug costs.

Mr. President, what we have here is an effort to make Medicare the piggy bank for tax cuts—rather tax giveaways, which flow in the main to the highest income citizens of the United States of America. There is no standard of fairness behind this proposal. People will see through it.

The second thing that is so unfortunate, so unconscionable, so unthinking about this proposal, will be its impact on the people of this country. Mr. President, $89 billion is not $270 billion. Please do not tell senior citizens their premiums will not go up, their copays will not go up, and in no way, shape, or form do you have to worry, and your hospitals, clinics, and providers will all get adequate reimbursement, and eligibility will not change, and we will just take $270 billion out of this health care sector.

Mr. President, senior citizens do not believe it, they should not believe it, they will not believe it. That is why this amendment that will be laid down by my colleague, the Senator from West Virginia, deserves the full support of every Senator in this Chamber.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, the pending business is what?

The PRESIDING OFFICER. S. 1357 is the pending business.

Mr. DOLE. It is my understanding that the ranking member, Senator EXON, is now prepared to offer the Medicare amendment. We have not yet reached an overall agreement. So I cannot say it will not be second-degreed, or whatever. At least we can start on that amendment. I guess it is a motion to recommit. I did not see the leader on the floor. I think we can start on that. That would give us some time to start talking back and forth.

Mr. DASCHLE. Mr. President, parliamentary inquiry. How much time has been consumed thus far?

The PRESIDING OFFICER. The majority leader has used 1 hour 15 minutes, and the minority leader has used 30 minutes.

Mr. DASCHLE. Mr. President, it would be our intention to devote an hour on this particular amendment.

Mr. DOLE. On each side?

Mr. DASCHLE. An hour on this side, and whatever amount of time the majority would care to use.

Mr. DOLE. I ask unanimous consent that we have an hour on each side on the motion to recommit.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Nebraska is recognized.

Mr. EXON. Mr. President, in view of the agreement just reached, we are prepared to offer the Medicare amendment. I hope that the chair will recognize the Senator from West Virginia for whatever time he might need. I remind him that we have an hour each, which can be divided between the managers of this particular amendment.

Mr. DOLE. Mr. President, we will later debate what the Senator from Minnesota had to say. I have these figures, which show that about $477 million per year would go into Minnesota to help families with children. I assume those families with children would be happy to have tax relief.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

MOTION TO COMMIT

Mr. ROCKEFELLER. Mr. President, I move to commit Senate bill 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, making changes in legislation within that committee's jurisdiction to eliminate any reductions in Medicare beyond the $89 billion necessary to maintain trust fund solvency through the year 2006, and to reduce revenue reductions for upper-income taxpayers by the amount necessary to ensure deficit neutrality.

The PRESIDING OFFICER. Was the Senator asking unanimous consent?

Mr. ROCKEFELLER. No. The Senator was laying down a motion, and the Senator wishes to speak on that motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion to commit is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days not to include any day the Senate is not in session making changes in legislation within that Committee's jurisdiction to eliminate any reductions in Medicare beyond the $89,000,000,000 necessary to maintain trust fund solvency through the year 2006 and to reduce revenue reductions for upper-income taxpayers by the amount necessary to ensure deficit neutrality.

Mr. ROCKEFELLER. In about 2 hours, I guess, every U.S. Senator will be asked to vote on the future of a program that makes the difference between security and insecurity, peace of mind and terror, health and illness, and sometimes, obviously, life or death for 30 million older Americans—including 330,000 seniors from my own State of West Virginia.

We offer this amendment, Democrats, to give Senators one more chance to preserve Medicare, and stop the destruction of one of America's proudest, most enduring achievements.

We make a very straightforward proposition with our amendment to save Medicare.

This amendment calls for sending the Medicare part of this package back to the Senate Finance Committee, and says Medicare should not be cut beyond the $89 billion needed to keep the trust fund solvent for another 10 years. That means we want to restore the $181 billion of unnecessary, dangerous Medicare cuts back to the trust fund, back to the health care system that seniors depend on every single day of their lives.

This amendment is a final opportunity, quite frankly, for our colleagues on the other side of the aisle to defend the Medicare trust fund from a mind boggling raid that will cut health care benefits, increase seniors' costs, and threaten the very existence of hospitals—a raid that is designed purely and simply to pay for tax breaks tilted in favor of the most affluent, comfortable households in this land.

The reconciliation bill on the floor cuts Medicare by $270 billion over 7 years. We all know that now.

We have all been told that this will save Medicare, keep it solvent, and, indeed, make the program stronger. Wrong, wrong, and wrong. The professional experts in charge of keeping the books for Medicare say exactly $89 billion is needed to keep Medicare solvent for the same number of years.

Hospitals, doctors, nurses, and other health care providers in every one of our States believe with absolute certainty that cuts of this size will disintegrate the kind of health care coverage that 30 million American senior citizens have counted on for over three decades.

When the average income of senior citizens is, in fact, $17,750 on a national basis, and closer to $10,700 in my own State, and when they pay 21 percent of their income for health expenses as it is now—that is, unless they are over 84, in which case the figure rises to 34 percent—no wonder they are incredulous, no wonder they are petrified to hear their Medicare is being used to pay for tax breaks, tax giveaways to far, far wealthier Americans and every imaginable kind of corporation.

I have no way that I can think of to explain to the 330,000 Medicare beneficiaries in my State why their Medicare deductibles will double, their premiums will skyrocket, and West Virginia hospitals are threatened with the possibility of losing $25 million in 1996 and more than $681 million over the next 7 years.

I keep saying I wish this were some kind of a dream. I keep expecting to wake up and find something different. I wish this were some kind of a dream. But the threat is real. It is written into the pages of the bill before the Senate unless we send it back.

I can only report what I read in the budget package. Mr. President, $270 billion will be cut out of Medicare. That is fact. Mr. President, $225 billion will be given away in tax breaks and giveaways. That is fact. Then there is the $187 billion sliced out of Medicaid, subject to another amendment leaving it in tatters as it is chopped into a block grants which States are not ready, in fact, to handle, with virtually none of the guarantees left for Americans hurting the most.

The response on the other side will be that we are exaggerating, that we are trying to scare seniors, that we do not understand.

Mr. President, this budget is a scary budget. It is a very scary budget. I am the very first to admit that I fear for my State. I fear for 330,000 older West Virginians. I fear for the health care system in America. I do not say that as a Democrat or as a Republican. I say that as a citizen of the State of West Virginia. I am afraid of the consequences of what it is likely we are going to do here, and hence this amendment.

When the very people who are trustees of Medicare say only $89 billion is needed to keep the trust fund solvent for 10 years, it is frightening to see a budget that sucks $270 billion out of the lifeline for older Americans. That is what older Americans are now coming to truly believe on their own, not because of what we say but because of what they are beginning to find out on their own. Their fear is genuine and justified.

Today, we offer one last chance to Senators to protect Medicare and older Americans. Vote for this amendment to ensure the solvency of Medicare for another 10 years. There is plenty of time for a bipartisan, thoughtful effort to plan Medicare's future for the 50 years beyond that period of time. Vote for this amendment to protect Medicare from highway robbery, from being used to pay for tax breaks, to take money from seniors with an average income of $17,500 and hand it over to Americans with incomes from $75,000 all the way up to millions. Vote for the right way to balance the budget and for a balance in the Nation's priorities.

We offer this amendment to remind every Senator that he and she can respond to the seniors, the families, and the health care providers of America who are scared by rejecting the part of this budget that casts a dangerous, deep, and dark shadow over Medicare—that is, unless this amendment is passed.

Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if this Republican bill becomes law, it will devastate senior citizens, working families, and children in every community in America. It is a transparent scheme to take from the needy to give to the greedy. It makes a mockery of the family values the Republican majority pretend to represent.

The Republican assault on Medicare is a frontal attack on the Nation's elderly. Medicare is part of Social Security. It is a contract between the Government and the people that says, "Pay into the trust fund during your working years, and we will guarantee good health care in your retirement years."

It is wrong for the Republicans to break that contract. It is wrong for Republicans to propose deep cuts in Medicare in excess of anything needed to protect the trust fund. It is doubly wrong for the Republicans to propose those deep cuts in Medicare in order to pay for tax breaks for the wealthy.

The cuts in Medicare are too harsh and too extreme. Mr. President, $280 billion over the next 7 years—premiums will double, deductibles will double, the age of eligibility will be raised to 67, and senior citizens will be squeezed hard to give up their own doctors and HMO's.

The fundamental unfairness of this proposal is plain. Senior citizens' median income is only $17,750. Mr. President, 40 percent have incomes of less than $10,000. Because of gaps in Medicare, senior citizens already pay too much for the health care they need. Yet the additional premiums alone under the Republican plan will add $2,400 to the health care of the average elderly over the next 7 years.

The Medicare trust fund trustees have stated clearly $89 billion is all that is needed to protect the trust fund for a decade—not $280 billion. The Democratic alternative provides that amount. It will not raise premiums an additional dime. It will not raise deductibles a dime. It will give senior citizens real choices, not force them to give up their own doctor.

The Republican Medicare plan also deserves to be rejected because of the lavish giveaways to special interest groups in the House and Senate proposals. Insurance companies got what they wanted—the opportunity to get their hands on Medicare and obtain billions of dollars in profits. The American Medical Association got what it wanted—lower reduction in doctors' fees and little on malpractice awards. The list goes on and on.

Clinical labs no longer have to meet Federal standards to guarantee the accuracy of tests. Federal standards to prevent the abuse of patients in nursing homes will be eliminated. Pharmaceutical firms will be given the right to charge higher prices for their drugs.

Because of this unjust Republican plan, millions of elderly Americans will be forced to go without the health care they need. Millions more will have to choose between food on the table, adequate heat in the winter, paying the rent, or paying for medical care.

Senior citizens have earned their Medicare benefits. They paid for them and they deserve them. The Republican attacks on Medicare will make life harder, sicker, and shorter for millions of elderly Americans who built this country and made it great. They deserve better from Congress. Our Democratic alternative protects senior citizens and preserves Medicare, and that is just what the Rockefeller proposal offers.

I see my colleague and friend from North Dakota here. I will be interested if he would tell us what his understanding of the implications of this program would be to those in rural America.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, we have been told by some that the $270 billion reduction to Medicare is not a cut, that Medicare spending will still increase under this budget reconciliation bill. That is true. But, Mr. President, 200,000 new Americans every month become eligible for Medicare. More Americans are becoming eligible for Medicare and health care costs are increasing.

We have determined what it will cost for the Medicare Program over the next 7 years based on these facts. The plan is to cut $270 billion from that projection, so of course it is a cut. This plan will end up offering senior citizens this kind of Faustian bargain: We will offer you a deal in which you get less health care and you pay more for it.

In our country, we have talked about labels recently. When you go to the grocery store, there is a label on the food. Pick up a can of peas or a box of pasta, and the label says what is in it—how much sodium, how much fat. You have to be honest and truthful about labels on a can of peas in a grocery store. No such requirement exists here in the Congress. You can label it whatever you want to label it and do it with impunity.

This proposal is labeled "A Proposal To Save Medicare." The very people who opposed Medicare when it was created 30 years ago—97 percent of the present majority party voted against Medicare because they said they did not believe in it—are now telling us they are the ones who are going to save it.

If these folks were physicians in an emergency room and you came in with an ingrown toenail, they would cut off your leg and then boast about how your toe does not hurt anymore.

The fact is, you do not have to cut $270 billion to save Medicare. We should make an adjustment in Medicare but it need only be about a $89 billion adjustment. That is what the experts tell us is needed to extend the hospital insurance trust fund. So what is this debate all about? It is about getting money from the Medicare Program, with substantial cuts, in order to provide tax relief to some other folks. That is about pols and pals—politicians and their pals.

Who gets the tax cut? Well, first of all, let's consider who gets the tax increase? The Joint Tax Committee says 50 percent of the people in this country are going to pay higher taxes as a result of reconciliation bill. Here's a multiple choice question—which people will pay higher taxes, those with incomes in the lowest 50 percent or those in the highest 50 percent? Guess what, the majority party has said to us that the lowest 50 percent of the income earners should pay higher taxes, but the top 1 percent shall pay substantially lower taxes.

Where does all that money come from, to provide for the tax break to the upper income folks? Out of the $270 billion cut in the Medicare Program.

As I have said repeatedly, this is all about choices and priorities. If one thinks Medicare has not been worthwhile in freeing senior citizens from the fear of getting sick and not having the money to attend to their health care needs, then just decide there should be no Medicare Program. I respect that. I do not agree, but I respect that.

But this is about choices. Those of us who believe there ought to be a Medicare Program that senior citizens can rely on—and we are the ones who started Medicare, still believe in it and believe it should be there in the future—we say, send this legislation back, recommit it, and bring it back to the Senate floor with an adjustment in the tax cut and use that money to reduce the cuts to Medicare.

I had an amendment on the floor of the Senate 2 days ago that was very simple. It said, let us at least limit the tax cut to those whose incomes are at or below $250,000 a year. Just limit the tax cut for at least those who make less than a quarter of a million dollars a year, and use the $50 billion in savings from that over 7 years to reduce the hit on Medicare—to reduce the hit on senior citizens.

Do you know what? We could not get that passed. It was a party-line vote. Every single Member of the majority party voted against that simple amendment.

This debate is about choices and priorities. Our choices are to save Medicare for the long term. Our choice is not to provide tax cuts to the richest Americans and send the bill for those tax cuts to some of the most vulnerable Americans.

By far the majority of the senior citizens in North Dakota live on less than $15,000 a year in income. To say to those folks that we are going to take from your Medicare Program so we can offer tax cuts to the richest Americans makes no sense at all. Those are priorities that are not in keeping with what the American people would like us to do.

We need to balance the budget. We need to agree on a sensible way to do that. But we do not need to dismantle programs that work. We do not need to injure the Medicare Program and place a higher burden on senior citizens in order to provide a tax cut to the richest Americans. That is a terrible choice and I hope Members of both sides of the aisle will vote for this amendment offered by Senator ROCKEFELLER, Senator KENNEDY, and others.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I ask the Senator from New Hampshire or the Senator from Michigan—a number of questions have been raised on this side. We have been listening for months now to the attack on an $89 billion cut as opposed to a $270 billion cut.

I raised the question, what has happened to the $181 billion? Is this really going to a tax cut? What about the doubling of the deductible in the premiums? Things of this sort.

I ask if any on the other side care to explain why they would vote against my amendment, if, in fact, they are going to? I would just be interested if they have anything they choose to say?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from——

Mr. GREGG. If the Senator will yield on his time, I will be happy to respond.

The PRESIDING OFFICER. Will the Senator from West Virginia yield?

Mr. ROCKEFELLER. I will not yield. Because I would like to hear the response from the majority party as to some of the reasons for their certainty as to the need for the $270 billion cut which is causing so much consternation throughout the land.

Mr. GREGG. If the Senator from West Virginia is going to propound a question to myself and the Senator from Michigan——

Mr. ROCKEFELLER. The Senator does not have to answer.

Mr. GREGG. I will be happy to respond to the question in the context of his timeframe. It seems rather unusual in speeches to be propounding questions and not wish to seek response.

The PRESIDING OFFICER. Does the Senator——

Mr. ROCKEFELLER. No; the Senator is not going to engage in this kind of game. It is clear the majority does not want to answer some of these basic questions. So at this point I will call on the Senator from Iowa.

Mr. WELLSTONE. Mr. President, while we are waiting I would like to be added as an additional cosponsor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. There are Democratic Members on their way down here to speak. They have not gotten down here to speak, and I hope they recognize they will have to get here very quickly. But I will yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, one of the things that most concerns me about all of this is the concept of senior citizens being able to keep their own physician. And one of the things that most scares me, that puts genuine fear in the heart not just of this Senator but of the seniors that I represent, is the fear they are going to lose their right to choose their own doctor.

I say this with a special feeling because, over the last couple of years, when we were debating health care, that was one of the things that was absolutely going to be able to happen. People are going to be able to have their own doctor. But there is this enormous movement in the private sector to move people into health maintenance organizations to cut costs down.

I read this, this morning, in the newspaper, that Washington General Hospital, now DC General, which is kind of the last resort for the people of Washington DC, is thinking, now, of closing down, merging with Howard University. That is happening now in the private sector. I hesitate to even imagine what happens if you take tens of millions of dollars away from them, or institutions like them, over the next number of years.

How many essential services in our city—I know in the city of Chicago, I know either seven or eight emergency rooms of hospitals have closed down under the current free-market system. And the exacerbation of all that, under these drastic Medicare cuts, is something which I think is truly terrifying.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. ROCKEFELLER. I will be glad to yield.

Mr. KENNEDY. What is the Senator's understanding of the effect of this particular provision in the Republican budget bill and the impact on the people of West Virginia, in terms of the seniors there, their incomes, and what the Senator thinks would be the impact?

Mr. ROCKEFELLER. I will answer the Senator from Massachusetts that for the average senior in West Virginia, their income would be about $10,700 a year, and 21 percent of that they already spend on health care. There is little left on the margin just to survive. If this happens, the deductible will double, and the premiums will go up. All kinds of costs will increase, and services I believe, particularly in the rural areas, will decrease.

I think that, No. 1, they are going to feel like they have been abandoned. Whether or not they will be is yet to be fully determined. But they are going to believe they are going to be abandoned. Hospitals in rural areas are going to close down. They already are closing. That will pick up.

So in a State which is 97 percent mountain and 3 percent flat, as the Senator knows, they are going to feel cut off from health care, and in many cases they will be cut off from health care because they will have no acute care beds that will be available to them because of hospitals that are closing down.

So expenses will go up. Their fear will skyrocket. Their hospitals will begin to close down. Doctors are going to become much more reluctant to go into the rural areas of West Virginia because of the cuts in the graduate medical education. You are going to find the kinds of doctors who have traditionally gone into rural areas to service seniors are not going to be trained because they are no longer going to be funded by the Republican cuts under Medicare because of the cuts in graduate medical education.

So I do not know any way that they win. I can think of no way that they win, and I can think of 10 ways they lose.

Mr. KENNEDY. Just finally, if part B goes up, that is directly deducted from your Social Security check. Do you anticipate that part B premiums will go up, and, therefore, the Social Security checks will be affected for those in West Virginia as well?

Mr. ROCKEFELLER. It is not necessary to anticipate it. It is a fact. They will go up. They will double.

Mr. KENNEDY. What is the impact on the Social Security check?

Mr. ROCKEFELLER. That is just more money out of pocket. Of course, the ironic thing there is that 40 percent of what it is that the majority party is cutting out of Medicare—$100 billion—cannot even be used to help the trust fund, cannot even be used because it is from part B.

I yield to the Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding. He makes an excellent point to the Senator from Massachusetts.

This comes right out of the Social Security checks. That is where it is coming from. It is not coming from some other place when an elderly person gets that Social Security check. The amount that they pay in that monthly premium is going to double under what the Republicans have before us.

Mr. President, Halloween is just around the corner. It is trick-or-treat time. This is a trick-or-treat bill. The trick is on American seniors, and the treats are the $245 billion tax cuts for the wealthiest in this country. That is what it is. They are saying we are trying to scare our seniors. It is not a scare. It is an actual assault on the seniors of this country so that we can treat the wealthiest.

What is this debate really about? Mr. President, here is what the debate is about right here on this poster. This is what the debate is about. Make no mistake about it. Notice the date on these words. October 24, 1995. That was yesterday. Last night in a speech to the American Conservative Union here in Washington, here is what the majority leader of the Senate said:

> "* * * I was there fighting the fight—voting against Medicare—one of 12—because we knew it wouldn't work in 1965.

There you have it. The majority leader is saying he is proud of the fact that he voted against Medicare in 1965 because he says, "We knew it wouldn't work." It will not work? Prior to 1965, only 46 percent of our elderly had health care. Today, 99 percent of our seniors have health care coverage. Tell me it has not worked. I want the majority leader to come out here on the Senate floor and tell the American public that Medicare has been a failure, that it has not worked, that he was right in 1965 when he voted against it. I wish he would tell me. I wish he would tell me. I wish he would tell me about my own family.

When my father was on Social Security and an ex-coal miner, we had no income. All he had was a Social Security check. We lived in a small town of 150 people. He had black lung disease. He was in his seventies. He had no health care. We had no money. We had no life savings. We had a little house and a half acre of property.

Every winter he would get sick and they would have to take him in to Mercy Hospital in Des Moines, and, thank God, the Sisters of Mercy would take care of him, and they would send him home. It happened like clockwork every year. That was the only health care he had when he was sick as a dog and they would have to rush him to the hospital. But before he died, Medicare came into existence in 1965. And the last 2 years of his life was by far the best years he had in his later years because then he could get health care. He got it when he needed it, not later on when he was so sick. But he got it up front, and he got it with his head held high and not coming in the back door to get charity.

I often think that if my father had had Medicare during the 1950's and in the early 1960's, he would have lived longer and he would have been a lot healthier.

So the majority leader better not try to tell this Senator that Medicare was a mistake and that it has not worked. I have seen too many in my own family. I have seen too many elderly people in Iowa who, before 1965, did not have health care living in those small towns and communities. Their lives were made better and healthier, and their children's lives were made better because Medicare came in and provided health care for the elderly.

I delight in talking to young people about Medicare. They think it is just for the elderly. I do this a lot of times with college students. I always ask them. I say, "How many of you have grandparents that are on Medicare?" Most of them raise their hands. I say, "After you get out of school and you start earning money, for every $100 that you earn, how much of that money is going to go into the Medicare trust fund to pay for Medicare? Out of every $100 you earn, how much goes in so that your grandparents get Medicare?" I tell you, you should hear the answers I get: $20 out of $100, $10 out of $100, and all kinds of wild guesses. When I tell them it is $1.45, for every $100 they earn, they spend $1.45 so their grandparents do not have to live with them, so their grandparents get quality, affordable health care, they are amazed.

I asked them. "Do you think it is worth it? Is it worth $1.45 out of $100 to put into the Medicare trust fund?" When you put it that way, they think it is a darned good deal.

So, yes. We have some problems with the Medicare trust fund, long term, short term, and we can address those. The other side is always talking about the trustees; how the trustees said it is broke and we have to fix it. There is nothing in the trustees' report that says we have to take $270 billion out of Medicare. That is what the Republicans want to do to—give a $245 billion tax break for the wealthiest in our country.

What our amendment does is send the bill back to Finance, and come back with an $89 billion cut in Medicare to make it secure but to keep it and to save it for our elderly. Let us not have this trick-or-treat bill that the Republicans have brought out here to trick our elderly and to take away their hard-earned savings and put it in a $245 billion tax break for the wealthiest in our country. That is what this battle is about. Make no mistake about it.

I yield back my time. I thank the Senator for yielding me that time.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 28½ minutes remaining, and the Senator from Michigan has 60 minutes.

Mr. ROCKEFELLER. Does the Senator from Michigan wish to allocate time to anyone?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Michigan.

Mr. ABRAHAM. At this time I yield myself such time as I may need, and I will be very brief. Then I will yield to other Members—the Senator from New Hampshire, who has been in the chair.

We have obviously been hearing a number of claims, accusations, and allegations both about the motives of the Republicans as well as the substance of the legislation before us. I know that other speakers will get into more detail in responding, but I will just point out a few things.

The comments with respect to the condition of the part A trust fund are not just whimsical comments, they are inaccurate comments, and they are very important comments to America's seniors. They should know today that starting in 1996, for the first year the part A trust fund will begin to run a deficit. We are no longer talking about problems that are somewhere out in the future that we cannot visualize. We are talking about concrete problems that are going to be before us in the very immediate sense soon.

Just last year we heard from the entitlement commission, a bipartisan group of Members of Congress who reported to us that at the rate of growth in entitlement spending in this country in just 15 to 20 years, entitlement spending and interest on the Federal debt alone would exceed all Federal tax collections combined. These are not problems that can be fixed by the old process of finding a few extra dollars and throwing them into the Medicare trust fund. These are problems that can only be fixed through substantive changes of the sort which we are offering here.

The Medicare Program is like a ship that is badly damaged. It is leaking water. There are two ways you can deal with the problem. You can pour more water over the side and try to bail your way out, but that will not solve the problem in a long-term sense. The alternative is to repair the damage. That is what we are trying to do because we do not want to just guarantee that Medicare will be safe for an additional 1 year or 2 years. We want to change the program to make it stronger, to protect it, to preserve it well into the future. We want to give seniors the right to choose a program that is best for them, and we want to make sure that we do that in a way that is not just cover us for the next election but, rather, in a way that truly protects seniors in the long-term sense.

And so at this time, I will yield the floor and grant whatever time he may need to the Senator from New Hampshire.

Mr. GREGG. I thank the Chair.

I associate myself with the comments of the Senator from Michigan. I wish to respond to some of the points made here by members of the other side who, I am sure, have done so with sincerity but who have been inaccurate to say the least.

Initially, let me state that the purpose of the Medicare reform which has been put into this bill is to significantly strengthen the program which has cared for our seniors well but which was designed in the 1960's and which is not functioning well as we move into the year 2000. It is like a 1960 automobile trying to drive on a turnpike in 1995. The fact is that the muffler has fallen off, the pistons are not working very well, the chassis is out of line, and it needs to be fixed.

In fact, it needs to be significantly strengthened, and that is what we have proposed. The basic thrust of the Republican plan is to give seniors essentially the same options which Members of Congress have.

Now, why is that so outrageous? We are saying to seniors, "You shall have choice. You shall have the ability to go into the marketplace, if you wish, and choose other options than what you are presently supplied under Medicare." We are not saying they have to do that. In fact, we are making it very clear, under the Senate plan, if a senior decides to stay with fee for service, which is what most seniors have today, which is where they go out and choose their doctor individually, they can continue in that framework, they can continue to do that. That is their decision.

What we are saying, however, is if they should choose, they will have other choices. If they should choose, as like many people, their sons and daughters, who are in the workplace, to go with some group of doctors who practice together in what is known as a PPO, they will have that option. If they choose, as many of their sons and daughters do today who are in the workplace, to go with an HMO, where you have an affiliation of doctors and hospitals and delivery systems, they will have that option.

There are a variety of other options which we cannot even anticipate because the marketplace has not created them yet that we will make available to our seniors.

And in giving our seniors those choices, what else do we do? We also say we are going to give you some economic benefit from being a thoughtful purchaser of your health care. Under the Senate plan, if a senior chooses a plan which delivers the same or better care than they are presently getting from their fee-for-service plan but happens to cost less, we are going to allow the senior to keep that savings. We are going to create an incentive amongst seniors to look at other options. We are not going to say they have to look at them. We are not going to say they even have to take them. We are simply going to say you have that option.

So what is so dastardly about giving seniors the same option which Members of Congress have? I do not understand it myself. But the other side is outraged for some reason. I think their outrage functions more from politics than from substance.

Let us talk a little bit about substance, about some of the points that have been made by the other side. First, they say there is a $270 billion cut. That is an interesting concept. Only in Washington would a program where you are going to increase spending by $346 billion over the next 7 years be deemed a cut in spending.

This is the chart, ladies and gentlemen. Medicare spending goes up $349 billion—I was off by $3 billion; I apologize— $349 billion over the next 7 years. That is a cut in spending? It still remains, under that spending increase, the fastest growing, most significant expenditure in the Federal budget. In fact, if you compare the rate of growth of Medicare spending over the next 7 years to the rate of Medicare spending over the last 7 years, you would have to conclude that over the last 7 years we "savaged it," under the Democrat terms, because in the last 7 years it grew to $923 billion spent on Medicare, but over the next 7 years we are going to spend $1.6 trillion on Medicare.

So clearly there is no cut here in spending on Medicare. In fact, per beneficiary, spending on each beneficiary will go up by approximately $2,000 between this year and what would be spent on that beneficiary in the year 2002.

We heard this equally rather interesting argument: Well, there are going to be more people in the system; therefore, more should be spent. Actually, demographically, there will not be a significant increase in seniors going into the system until we hit the year 2007. So that is not an accurate statement on its face.

We heard the statement of essentially, well, but really, to meet the obligations of Medicare we have to spend $8,700, or something like that, per senior in the year 2002. What does that presume? It presumes a rate of growth of Medicare which would be 10 percent per year for the next 7 years—10 percent per year. If that is what my colleagues on the other side of the aisle want for Medicare, they have just signed on to a prescription which the Medicare trustees have said will lead to bankruptcy, because it is that 10 percent rate of growth that the Medicare trustees, three of whom happen to be members of this administration, stated was totally unsustainable—totally unsustainable—and that if it is allowed to continue at that rate, if Medicare is allowed to continue to grow at an annual rate of 10 percent, the trust fund becomes bankrupt.

They gave us a rather definitive chart which reflects that, and that is this chart here. It is a plane crash, ladies and gentlemen. A 10-percent rate of growth leads to insolvency in the trust fund in the year 2002. So when my colleagues on the other side of the aisle say, "But you are simply not increasing spending enough when you are increasing spending by $2,000 per beneficiary over the next 7 years, you have to increase it by another $2,000," what they are really saying is we want insolvency of the trust fund.

We heard some other rather interesting comments, something about, well, the trustees never said that there had to be anything like $270 billion saved in order to accomplish the rescue of the Medicare trust fund. I think my colleague from Iowa said there is no place in the trustees' report where that occurs; all we need is $89 billion.

I strongly suggest that my colleagues on the other side of the aisle read the trustees' report. I will read it for them. I have to put on my glasses, though.

> The trust fund fails to meet the trustees' test of long-range close actuarial balance by an extremely large margin. To bring the HI program into actuarial balance even for the first 25 years—

Which happens to be their minimum year——

Mr. HARKIN. Will the Senator yield?

Mr. GREGG. I am sorry. I will not yield. The other side did not yield. I will not yield.

Mr. HARKIN. I wanted to clarify a point.

Mr. GREGG. I am not yielding to the Senator from Iowa.

> To bring the HI program into actuarial balance even for the first 25 years under the intermediate assumptions, would require an increase in the HI payroll tax of about 0.65 percentage points per employee or employer each or a comparable reduction in benefits.

What does that language mean in English if you convert it to numbers? That means that the trustees are stating that under their most conservative approach, on an actuarial basis, which they did not even agree should occur because they think it is too short of a timeframe, it would take $386 billion—$386 billion—of adjustment over a 5-year period in order to accomplish actuarial solvency. So this $89 billion number is specious on its face.

And then we have heard, "But the premiums of our seniors are going to double." That is a very interesting argument, because it just happens to ignore one major point. This plan that the Republicans have put forward does not increase the burden of the seniors on the percentage of premium that they pay in the part B premium.

Under the part B premium—I think this should be explained for those who may not be familiar with it; I know most in this room are—but under the part B premium, the senior citizen pays 31 percent of the cost, the general taxpayers, specifically the senior's children and grandchildren who are working, pay 69 percent of the cost.

Under the Republican proposal, the senior citizen will continue for the next 7 years to pick up 31 percent of the cost of his or her part B premium, and his children or her children and his or her grandchildren will continue to pay 69 percent of the cost of the part B premium.

We do not change that. Sure, it goes up. Health care costs go up. Of course it is going to go up. But as a percentage of the cost that is being borne between the senior citizen and their children who are paying the taxes, the subsidy, it will remain the same. Now, if we are to follow the logic of my colleagues from other side of the aisle, what they are saying is that the subsidy that the senior citizens' children should pay and their grandchildren should pay should go up.

That is the only logical conclusion from what they are saying. They are essentially saying that the senior citizens should receive a greater subsidy from their children and their grandchildren, so that they will not be paying 31 percent of the cost of their part B premium, so that they may be paying 28 percent or 25 or 26 percent of that cost. Who is going to pick up the difference? The senior citizens' children and grandchildren.

Their commitment, their subsidy to that premium paid for by the children and grandchildren of seniors will go from 69 percent to 70 percent, 75 percent. I do not know where they are going to end that number. But essentially they are pandering, on that side of the aisle, to one constituency at the expense of another constituency.

It is basically generational politics that are being played. What we have said in our bill is, "Listen, there's a fair distribution of subsidy between seniors and their children, the wage earners and the payers of their subsidy. Sixty-nine percent is paid for by their children; 31 percent by the seniors." We are saying we should continue it in that reference. We are not suggesting it be changed at all.

I think most seniors in this country would view that as a reasonable approach. I find very few seniors in this country who wish to pass on to their children either, one, a country that is bankrupt, two, a Medicare trust fund that is bankrupt, or, three, feel their children should be hit with a further charge for bearing the cost of their health care.

What else do we say in this plan? We say, let us ask the wealthy senior citizens to pay the whole cost or at least a larger percentage of the cost of the part B premium. You explain to me why a person who is working 40, 50, 60 hours a week on a computer assembly line in New Hampshire or at a restaurant or at a garage, why that person should have to subsidize the top 100 retirees from IBM last year. But that is exactly what is happening.

Under the present law, the top 100 retirees from IBM may make $150,000 a year when they retire. And they have a 69-percent subsidy of their part B premium paid for by John and Mary Jones who are working real hard just to make ends meet and take care of their families. It is not right.

We have corrected that in this bill. We have said if you have more than $75,000 as income as an individual, more than $120,000 of income as a married couple, then you have to begin paying a higher percentage of your part B premium. In fact, if your incomes get into the real high levels, $120,000, I think it is, for individuals and $150,000 or $160,000—I have forgotten the number for married folks—then you will not get any more subsidy.

What is wrong with that policy, my friends? Talk about income transfer from moderate income to wealthy, this part B premium, as it is presently structured, is the ultimate in the wrong way to approach income transfer. So we corrected that.

This whole premium argument is really inaccurate, as I mentioned a number of other points they have made. And then I think the core issue here becomes this question of solvency. How do you make the trust funds solvent so that seniors will have it, so that their children will have it? And what we have proposed is to put in place a system which generates a marketplace competition atmosphere which will help control the rate of growth of costs.

As I mentioned earlier, the trustees have made it very clear that a 10-percent rate of growth of the Medicare trust fund leads to bankruptcy. It leads to this horrendous event. It seems that some of my colleagues on the other side are willing to accept a 10-percent rate of growth. The trustees were not. I am not. Republicans on this side are not.

So what we have proposed is to try to slow that rate of growth from three times the rate of inflation to twice the rate of inflation. That still is a very generous increase. As I mentioned, there is a $349 billion increase in spending in the Medicare trust fund over the next 7 years. It is not a dramatic reduction in the rate of growth. You are still talking about a rate of growth which is twice the rate of inflation. In fact, if you compare it to what is happening in the private sector in health care, it happens to be six times the rate of growth of premium costs in the private sector today.

Last year, for example, the health care system which all of us here in the Congress benefit from had actually a drop in the rate of growth of our premium costs. Why? Because there was competition, because there was choice. What we are suggesting is that seniors should have those same types of choices that we as Members of Congress have, and as a result we will hopefully see a significant drop in the rate of growth in premium costs.

What we are projecting is a drop of 30 percent. We are not even expecting to get the same drop as in the Congress. But this is a reasonable drop. That is what this chart shows.

Instead of a 10-percent rate of growth, which my colleagues on the other side seem to be ready to endorse, which leads to bankruptcy, we are saying let us have a 6.4-percent rate of growth.

Ironically, the President, when he sent his budget up here in June—it was just a sheaf of papers that did not happen to make a lot of sense in other areas—the numbers in the Medicare area were not that far from our number. In fact, they were a lot closer to our number than they are to the 10-percent which my colleagues on the other side of the aisle seem so enthused for because the administration understands that it cannot absorb a 10 percent rate of growth in the Medicare trust fund.

So we have put forward a plan which will lead to a slowing of the rate of growth of the Medicare trust fund to 6.5 percent approximately. And how do we do it? We do it by using the marketplace and by giving seniors more choices, more options, a stronger health care system, rather than a weaker health care system. From my standpoint, that is what reforming and improving and strengthening the Medicare system is all about. That is what this whole issue is all about.

We have heard a lot of misrepresentation on this by the other side of the aisle already. We have only been at this for, what, about 45 minutes of debate from the other side of the aisle, and we have already heard about seven major misrepresentations, all of which I just noted.

I would hope, however, as we go into the rest of this debate, that we will have some integrity in the discussion, we will get back to talking about what we need to do in order to make the Medicare trust fund solvent, and get off of this issue of trying to scare seniors through politics, versus addressing the issue through substance.

I thank the Senator from Michigan for his courtesy and for his time and would yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 30 seconds to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I just have to respond to my friend from New Hampshire. He is absolutely wrong. Here is a statement of a managing trustee of the Social Security trustees. Let me just read this paragraph:

> Simply said, no Member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

So I say to my friend from New Hampshire, he is incorrect. The trustees never said, and in fact here is a statement just to the contrary, as the managing trustee said, it would be factually incorrect to say that $270 billion in cuts were recommended by the trustees. That was never the case.

Mr. ROCKEFELLER. Mr. President, I yield 4 minutes to the Senator from Louisiana.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the manager for yielding the time. I was in the New Orleans Airport coming back from Washington one time during the debate on health care 2 years ago. This elderly lady came up to me in the airport and said, "Senator, are you all working on health care in Washington?"

I said, "Yes, ma'am, we sure are."

She said, "No matter what you do, please don't let the Federal Government take over my Medicare."

This was a senior citizen who thought the Medicare Program was working just fine. She thought it was the best thing she ever had. It was taking care of her and taking care of her family. But it showed how concerned they were about Congress messing with Medicare.

Today, Congress is messing with Medicare in a way that is not necessary and is not essential.

Mr. President, 77 percent of the people in my State of Louisiana, who are on Medicare, earn less than $15,000 a year. Do we wonder why a lady would come up to me in an airport and say, "Please don't mess with Medicare"? Because if we destroy Medicare, where are these people going to go?

I understand that for some, earning $15,000 a year is something that they do not even think exists, that nobody can be that poor. I say that because I noticed a quote in the paper this morning from one of our colleagues in the other body which I think is just terrific and it says something about how some people think. A Congressman from North Carolina said:

> When I see someone who is making anywhere from $300,000 to $750,000 a year, that's middle class.

Middle class? It is not middle class in Louisiana. It is not middle class for 100 percent of the people who are on Medicare in Louisiana who earn less than $15,000 a year. I would agree with the Congressman if middle class is people earning up to $750,000, we do not even need Medicare. Let them go buy private insurance. Maybe let them buy a hospital if they earn that much money, or buy their own doctor.

But, Mr. President, seriously, we are talking about people who can least afford to be left without some kind of security in their senior years with Medicare.

Why is the Republican plan cutting $270 billion? Very simple, no magic about it: They need it to pay for the tax cuts.

The House created this. It was created over there. It was conceived over there. It was born over there. They decided they wanted to put the cart before the horse:

"We are going to decide if we want to cut taxes by over $300 billion. You know what, we have to pay for it."

"How are we going to pay for it?"

"Oh, I have an idea. Let's cut Medicare, let's cut Medicaid, let's cut earned income tax credit, let's cut welfare. By golly, that will do it."

So, today we have $270 billion taken out of Medicare, not to fix Medicare. This is not reform of Medicare. It is the same old status quo. It just has less money in it, by $270 billion.

Is that needed? No. It is very clear that actuaries—these are the guys who wear green shades. They are not Democrats or Republicans, they are actuaries, CPA's. What do they say we need to do to fix Medicare? It is very clear. The actuary for Health and Human Services says clearly you can fix Medicare to the year 2006 by reducing the spending $89 billion.

Guess what the Democratic package does? It reduces spending by $89 billion, not $270 billion, because that is not needed. You wonder why the people come up to us in airports and on Main Street and say, "Don't let Congress take over Medicare," because they are scared to death we might do exactly what this plan does: It rips it up, it cuts it up in an extreme manner and not to fix it. There is not a real innovative idea in their plan, but there are a lot of cuts, and the cuts are more than are necessary to fix it.

That is clear; that is simple. Nonpolitical people have said it, and we should get about the business of fixing it with $89 billion, which is difficult to do but must be done, and then I will suggest a bipartisan commission, with our colleagues on the Republican side working with us to come up with a long-term fix. It "ain't" going to get done by themselves, and we are not going to be able to do it by ourselves. Do the short-term fix, appoint a bipartisan commission and get the job done.

Mr. DORGAN. Will the Senator yield? We saw somebody stand up with a chart on the other side of the room and say, "What cut? We are not cutting Medicare." Can the Senator respond to that?

Mr. BREAUX. It is $270 billion less money than they had last year. You can call that whatever you want to call it, but if it looks like a duck, walks like a duck and quacks like a duck, it is probably a duck where I come from. This is a duck.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROCKEFELLER. I yield 5 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I hope the Senator from Louisiana was not referring to me in his animal comparison.

I regret to say I support this amendment, not because I believe that it is wrong but because I believe Medicare does need to be reformed. I do not believe, in fact, we need another bipartisan commission. We have a bipartisan commission recommendation that lays out what needs to be done long term with Medicare. Unfortunately, in the budget resolution, we do not do that. Unfortunately, in this reconciliation agreement, we do not do it.

What we have done is we have identified a short-term need, which is to come up with money to fund a series of tax breaks, and we are using, among other things, significant reductions in Medicare over the next 7 years to do it. And worse, Mr. President, we leave the long-term problem unchecked. If you doubt it, just look at the cost of mandated programs this year versus the cost of mandated programs at the end of 2002. It is one of the biggest reasons that I seriously doubt that this body or the House is going to be able to hang in there and vote these kinds of cuts over the next 7 years.

At the end of this budget cycle, at the end of this 7-year period, we will have 25 percent of our budget for appropriated items. That will be $400 billion this year for defense and nondefense, and anybody with just a rudimentary understanding of the budget would know it is unlikely that we are going to be able to get the job done.

First of all, Mr. President, it does, as many have already said, try to come up with savings in the short term in order to be able to fund tax breaks. It leaves the long-term problem unchecked. Do not waste another million on a bipartisan commission. There is one that Jack Danforth and I did. It will not be pleasant when you look at the recommendations. The long-term recommendations to phase in changes contain many of the things that are asked for by the Republicans, only even more so, but over a long period of time, giving people a chance to plan.

One of the reasons that seniors are frightened by this whole debate is, as many people have already said, their incomes tend to be low. They have a difficult time purchasing insurance and buying health care. It tends to be a very high percentage of their disposable income, and they are terrified that tomorrow they might receive some health care bill that they are unable to pay.

Second, as far as generational warfare, it is the concern of their children and of their grandchildren that they may get stuck with these bills as well. So this terror that seniors feel does not come as a consequence of Democratic rhetoric, it comes as a consequence of an honest evaluation of income and likely expenditures.

Third, I find objectionable the deals that were made with the AMA, particularly on the House side, to get an agreement over there.

Fourth, it does not reform the system and really use the market and allow competition. Mr. President, $152 billion of the savings comes from cuts to providers; $71 billion in increased payments by beneficiaries; $43 billion by reducing payments to HMO's; only $2 billion come from increased use of competitive market forces.

Next, rather than taking a step toward universal coverage, which we ought to be doing if we want to have a market economy in the late 20th century, when we say to businesses, "Go out there and be competitive, try to keep your costs under control and still have a civil society," we have to have universal coverage.

Republicans now have reached a conclusion that they want to preserve Medicare. I suspect Leader DOLE will come and say that his remark last night was taken out of context. If you want to preserve Medicare, that means you recognize at some point the market does not work. Well, it does not work for an awful lot of people—over a million in 1994 alone—who moved into the ranks of the uninsured.

We need a safety net that provides universal coverage. The problem, of course, is that to be able to do that, we are going to have to dramatically change the Medicare/Medicaid income tax deduction and the VA.

Next, I have heard it said that we want to give seniors exactly what Federal employees have. Please, let us not overpromise again. Our salaries are $133,000 a year. Look at the comparisons. We pay $44 a month; seniors pay $46, and under the GOP plan, it goes to $89. We have unlimited hospital care; theirs is limited. Our prescription drugs are covered; theirs are not covered. We have a deductible of $350; they are at $816. Here are more extensive services under preventive services, an out-of-pocket of $37.50. We do not want to say to seniors—and I have heard it said and I know the marketing is going on and this has been tested very well. Let us not overpromise here. If we say to seniors what we are doing in this proposal is giving you what Federal employees have, there is going to come a substantial and a rude awakening.

In conclusion, Mr. President, I hope that in fact a majority does vote for this amendment. I hope we recommit this to the Budget Committee and Finance Committee. I would love to participate now in a bipartisan effort to control the long-term cost of entitlement and mandated spending. I think we are extinguishing our capacity to invest in education, transportation, research, child care—those things you need in an active economy.

Mr. President, most particularly, I hope there can be a bipartisan consensus begin to emerge as a result of seeing the value of Medicare, that we need a new safety net that says if you are a citizen or legal resident, you will know with certainty that you are going to be covered.

This proposal takes us away from those goals rather than toward it. Therefore, I support the amendment offered by the Senator from West Virginia. I hope that a majority of Democrats and Republicans who understand the short- and long-term proposal will vote for this amendment so we can, hopefully, reach some kind of bipartisan consensus.

Mr. ABRAHAM. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from Michigan has 40 minutes left. The Senator from West Virginia has 15½ minutes.

Mr. ABRAHAM. At this time, I yield 9 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, on Monday, October 16, there was a very interesting article that ran in the Wall Street Journal. At the appropriate time, I am going to ask unanimous consent that it be printed in the RECORD.

The headline says: "Clinton Recruits Campaign Team of 'Nasty Boys' With Reputation as Tough, Savvy Hired Guns."

Then the lead paragraph says:

> Gearing up for 1996, President Clinton is fielding a motley crew of re-election strategists with reputations for shrewdness and ruthless tactics. A mainstay on his team, New Yorker Henry Sheinkopf, readily boasts, "I subscribe to terror."

That is a very interesting statement, Mr. President. I have had it put on a chart—we are debating this whole thing with charts—"I subscribe to terror."

He goes on to say in the article:

> Terror tends to work . . . because it is so easy to make people hate.

Now, back to the article, quoting:

> Mr. Sheinkopf doesn't deny the remarks, but says they were taken out of context. He says he was addressing the strategy for a noncandidate campaign . . .

A noncandidate campaign. That is very interesting because what we have running on the airwaves today is a series of television ads that are terrorizing our senior citizens, and this is a noncandidate campaign. Mr. Sheinkopf was the architect of this summer's unprecedented ad campaign on crime.

This is the next statement that I have here on a chart. He is part of the group that wanted to start the Medicare ads early this summer. Quoting now:

> The team wanted to attack the GOP with Medicare ads in early September . . . they got the go ahead.

Again, he said, "I subscribe to terror." That is the statement of the President's strategist on noncandidate campaigns.

There is more in the article. I will quote a few before I turn directly to the Medicare debate. But this demonstrates what we are faced with, as far as the ads currently running on television are concerned. Quoting:

> Already, friends of the administration peg these mercenaries "The Nasty Boys." Like Mr. Clinton, many of them are accused of lacking an ideological rudder, allowing them to roam from left to right on policies.

Elsewhere in the article, it says:

> Elizabeth Holtzman will never forget when she first heard about Mr. Sheinkopf. The former New York congresswoman was running for Brooklyn district attorney in the 1980s when, she says, her opponent fired off one of the "nastiest, sexist ads" she had ever heard. . . . She found out the spot was created by Mr. Sheinkopf.
>
> Her reaction? She hired him for her next campaign.
>
> "He's very creative," Mrs. Holtzman says. And, like other members of this media team, he'll bat for most anyone—as long as they are paying clients.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. Mr. President, I found this interesting because it demonstrated what is happening to political debate in this country when we are not debating the merits or demerits of the proposal before us. Instead, we are mounting 30-second spots to attack each other in the spirit of terror. That is not my word, but the word of the man whom the President of the United States has chosen to advise him on this particular issue.

By contrast, Mr. President, I am aware of some focus groups that have been held in an attempt to understand this issue, where the Republican plan was described in as neutral a term as possible and the Democratic proposal is described in as neutral a term as possible; they were presented to a group of senior citizens in a focus group, with the first called the Smith plan and the second one called the Green plan. Discussion was held, without any prejudice one way or the other. When it was over, they found that by about an 80 percent to 20 percent margin, in virtually every section of the country where this attempt has been made to find out people's reaction, the Smith plan out-polled the Green plan. And only then was it unveiled to these people that they had, in fact, by a vote of 4 to 1, subscribed to the Republican position rather than the Democratic position on this issue.

I find this very encouraging for this reason, Mr. President. I go back to the debate in the last Congress over health care when the President unveiled his health care proposal. A very substantial majority of Americans were in favor of it. We on this side of the aisle felt very lonely in our opposition to it, but we were sustained by this knowledge: The more people that knew about the President's plan, the less they approved of it. The more the information got out, the more the poll numbers fell. So that by the time we finally got to the resolution of that issue on this floor, they had switched completely. Instead of being 2 to 1 in favor of the President's plan, they were 2 to 1 in opposition to the President's plan.

Based on the research that has been done in this nonideological fashion, we find that the more people know the facts of the Republican proposal on Medicare, the more they support it. So that, over time, the American people—as they did with President Clinton's plan—are going to move in the direction of supporting the Republican position.

Right now, if you look at the polls, they are virtually identical. If you poll Americans, about 50–50 are saying we are for the Democrat position or we are for the Republican position. That would bother me a great deal if I did not know that the more people know about the particulars of our plan, the more they support it.

So I urge my fellow Republicans to stand firm with where we are, knowing that time is on our side, that facts are on our side, and do not be terrorized by the deliberate program of terror that is being mounted primarily out of the White House and from the Democratic National Committee.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Oct. 16, 1995]

CLINTON RECRUITS CAMPAIGN TEAM OF "NASTY BOYS" WITH REPUTATION AS TOUGH, SAVVY HIRED GUNS

(By Michael K. Frisby)

WASHINGTON.—Gearing up for 1996, President Clinton is fielding a motley crew of re-election strategists with reputations for shrewdness and ruthless tactics. A mainstay on his team, New Yorker Henry Sheinkopf, readily boasts, "I subscribe to terror."

Already, friends of the administration peg these mercenaries "The Nasty Boys." Like Mr. Clinton, many of them are accused of lacking an ideological rudder, allowing them to roam from left to right on policies. Bill Lacy, a strategist for GOP frontrunner Sen. Robert Dole of Kansas, says he expects "a scorched earth campaign" from this group.

The Clinton-Gore re-election campaign will be headed by a prominent Democrat, perhaps a cabinet member, who will set the grand blueprint with the president. But every campaign relies on its savvy strategists and creative media team to fire up voters. And Mr. Clinton has loaded his campaign with the most aggressive war counselors available.

Led by Dick Morris, of Connecticut, the president's media-message team also includes the New York polling firm Penn & Schoen Associates Inc. It's anchored by Washington veteran Robert Squier, a firebrand himself, who plays a calming role on this feisty group. "We are putting together an exciting creative team that can pick up where the strategic thinking leaves off," Mr. Squier says.

It is Mr. Sheinkopf, a whiz at low-budget ads, who has raised the most eyebrows. A year ago, he shared his trade secrets at a convention of political consultants and talked about using fear to win campaigns. Mr. Sheinkopf told the gathering, "Terror tends to work . . . . because it is so easy to make people hate."

Mr. Sheinkopf doesn't deny the remarks, but says they are often taken out of context. He says he was addressing the strategy for a noncandidate campaign, such as a referendum fight, in which the clients don't have much money. "I'm tough, but I'm not ruthless," he insists. "I fight for my clients."

Elizabeth Holtzman will never forget when she first heard about Mr. Sheinkopf. The former New York congresswoman was running for Brooklyn district attorney in the 1980s when, she says, her opponent fired off one of the "nastiest, sexist ads" she had ever heard. "The voice said, 'She's a very nice girl. I might like her for my daughter, but not district attorney,'" Ms. Holtzman recalls. She found out the spot was created by Mr. Sheinkopf.

Her reaction? She hired him for her next campaign.

"He's very creative," Ms. Holtzman says. And, like other members of this media team, he'll bat for most anyone—as long as they are paying clients.

Mr. Sheinkopf's claim to fame is hot radio spots for African-American candidates, many of whom are liberals. Yet, he and his partner, Gerry Austin, in the wake of the riots after the Rodney King case, worked on behalf of Los Angeles police officers fighting a reform measure on the ballot. Mr. Morris, a longtime associate of Mr. Clinton, has worked for conservative Republicans, such as Mississippi Sen. Trent Lott. Mark Penn, a partner in Penn & Shoen, worked for maverick Ross Perot in 1992, and the firm does considerable work for corporations.

Thus far, the consultants, with Mr. Morris calling the shots, have helped bring Mr. Clinton back to life after last fall's GOP sweep. "They have presented a disciplined and controlled message," said Democratic strategist Robert Beckel. "It has put the president back in the dance."

PUSH FOR BUDGET PLAN

Even Mr. Morris's critics tip their hats to his pushing the president to offer up a balanced-budget plan last spring, a move that embittered other Democrats. Mr. Morris argued it would gain the president credibility on economic issues, opening the door for him to now hammer the GOP for squeezing Medicare and education funds without appearing to be a tax-and-spend Democrat.

Mr. Sheinkopf was the architect of this summer's unprecedented ad campaign—16 months before the election—portraying Mr. Clinton as tough on crime. Using his connections, the former New York City police officer lined up cops around the country for the ads.

Inside the White House, the acceptance of Mr. Morris and his crew is growing, but there are still spats. The team wanted to attack the GOP with Medicare ads in early September, but were blunted by Deputy Chief of Staff Harold Ickes, who doesn't want to get caught short on campaign cash next summer. By late September, however, the media team got the go-ahead.

Aides say that while Mr. Clinton values his hired guns, the president is comfortable with Mr. Ickes controlling the purse strings and taking charge of relations with the Democratic base—unions, liberals and minority voters.

The team may prepare one more media hit before January; it is likely to be either a package on the budget battle or about Mr. Clinton cherishing the same values as average Americans.

Some Democrats privately raise concerns about whether this crew is ready for prime time, however. Mr. Morris, for one, is described by many as brilliant, but has his share of bloopers. Last year, he produced an ad for Tennessee GOP gubernatorial candidate Don Sundquist that people still talk about. It was a high-tech TV spot with a car driving in a video game, crashing into barriers with signs carrying the theme that the candidate was against taxes.

"It didn't have the desired effect," concedes Ray Pohlman, the campaign manager. But in the next breath, he says Mr. Morris is fabulous at deciphering polling data and crafting a message. And Mr. Sundquist won the election.

The strategizing on the Clinton campaign goes right down to bringing in an outside expert to do the video work. Mr. Morris, who was responsible for hiring Mr. Sheinkopf, also recruited Marius Penczner, who runs a video production house in Memphis, Tenn. Mr. Penczner, whom Mr. Morris met on the Sundquist campaign, is known more for country music videos than political work. Mr. Clinton has marveled at the quality of Mr. Penczner's Oval Office video shots, which are in most of the president's TV spots.

CONTROVERSIAL POLL

Mr. Morris also picked Penn & Schoen as the campaign pollsters, virtually ousting old Clinton hand Stan Greenberg. Their results, however, are sometimes controversial. Their poll put then-Ohio Rep. David Mann up 28 points in his Democratic primary fight against State Sen. William Bowen. A short time later, fund-raising letters went to political action committees, citing Mr. Mann's lead. He won the race, but by two percentage points. "We laughed at that poll," recalls Mr. Bowen. "It was just part of their tactical strategy to show him way in front; that wasn't the case."

The poll was five months before the election, and undecided voters later turned against the incumbent, says Douglas Schoen. "We always thought it would be close," he says, noting a poll closer to the election showed a tighter contest.

The new Clinton campaign team raises concerns among presidential scholars. While applauding their cleverness, experts search for the intellectual thrust. Mr. Clinton likes to be compared to President Truman, who overcame a hostile Congress to win re-election. But Fred Greenstein, a Princeton University historian, notes Truman's comeback was fueled by the intellectual energy of Clark Clifford and others—not image-makers. And that, he says, is missing from a Clinton team searching for the best political answer.

"Maybe you need someone with substantive fiber to give you advice," Mr. Greenstein says.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. I yield 30 seconds.

Mr. WELLSTONE. Mr. President, I say on behalf of my good friend, Senator HARKIN, and myself, the Senator from Utah says the more people learn about the plan—we just got there. There has not been one hearing. How many pages are there?

Mr. HARKIN. There are 2,000 pages.

Mr. WELLSTONE. Mr. President, 2,000 pages, and people do not know what is in here. We did not have experts come to committee. People in Iowa, Minnesota, and across the country——

Mr. HARKIN. How many days of hearings have we had?

Mr. WELLSTONE. Not anything.

Mr. HARKIN. Zero. The American people have no idea what is in this.

Mr. WELLSTONE. The people do not know about this.

Mr. JOHNSTON. Mr. President, 23 years ago I came to the U.S. Senate as what we call a Southern conservative. There are not as many of us left as I would like there to be, but throughout that time, Mr. President, I have frankly given my party some consternation by opposing some things which I thought were too liberal, particularly when it came to what I thought was income redistribution.

I can recall opposing the CETA Program because I thought it was sort of a make work program that would take money and give it to poor people, just sort of without working.

Now, Mr. President, in spite of the fact that I remained through all those 23 years as a Southern conservative, I oppose strongly this program.

Mr. President, this program goes in the exact opposite direction because it is income redistribution from bottom to the top.

Mr. President, I will be leaving this institution in another year. I must say that we are leaving, if this passes, we are leaving in its wake a real difficult situation for people of modest means in this country.

While we are taking care of those who are better off—the tax credit for children goes up to $110,000, people with those incomes—the top 1 percent, Mr. President, in this country, are going to get almost $5,000 per person.

Mr. President, what this does to poor people, what it does to people of modest means in my State—this is not scare tactics, Mr. President—we are going to have 4,700 fewer people on Head Start, school loans are going to be restricted, summer jobs are eliminated by the thousands in my State.

There will be 406,000 children in Louisiana whose nutrition is going to be cut because of this program. Mr. President, 60,000 people of modest means in my State are going to have to pay more for housing.

Mr. President, going right down the line—look at Medicare. We will have 17 million low and moderate-income people in this country who will have an average tax increase of $352. The Medicare people who are having their Medicare cut, their average income is $17,750, while we are giving tax cuts to those of greater income.

Now, Mr. President, there is a blizzard of propaganda——

The PRESIDING OFFICER. The 3 minutes yielded to the Senator has expired.

Mr. JOHNSTON. Mr. President, I oppose this program because it is income redistribution from the bottom to the top.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. ROTH. Mr. President, as chairman of the Finance Committee, I must oppose the Democrats' amendment for one simple reason: It does not preserve the Medicare Program for this generation, and, especially important, not for future generations. That was the conclusion that the Finance Committee came to when it voted down this amendment during our deliberations.

My good friends and distinguished colleagues, Senators MOYNIHAN and ROCKEFELLER, offered a similar amendment during the Finance Committee markup to save $89 billion from the Medicare Program over the next 7 years. Frankly, it did not go far enough then and it does not go far enough now.

The Congressional Budget Office did a preliminary estimate of the Medicare trust fund effects of the Democrats' amendment to save $89 billion from the Medicare Program. Remember, it is the CBO office that the President himself said is the one that should be making these kind of determinations.

Here is what CBO's preliminary estimates showed would happen to the Medicare HI trust fund if only $89 billion is saved over the next 7 years. The Medicare HI trust fund would only be solvent through the year 2004. In other words, it would get us through the next election.

CBO further said that the Medicare HI trust fund would have a negative balance of $8.4 billion in the year 2005. This would mean that Medicare could not pay its bills on time in the year 2005.

Even more alarming under the Democrats' proposal, CBO says that the Medicare trust fund could not even pay a full year's Medicare benefits starting in the year 2001. Mr. President, that is only 6 years from now.

In contrast, CBO says that our proposal meets the Medicare trustees. Remember, those trustees are primarily appointed by the President. It says it meets the Medicare trustees' 10-year test of financial adequacy. In other words, Medicare has enough money in the HI trust fund at the end of every year—that is critically important—at the end of every year for the next 10 years, to pay the entire next year's Medicare benefit.

Mr. President, the Medicare HI trust fund has a $300 billion balance in the year 2005. The Medicare trust fund balance is increasing—would be increasing instead of decreasing every year.

Using CBO's estimate through 2005, we went to the Office of the Actuary to get their preliminary estimate of how long solvency would be extended under our proposal. The Medicare HI trust fund solvency will be extended until about the year 2020 under the proposal. That is our estimate, in consultation with the Office of the Actuary. That is a quarter of a century from today.

What a contrast to what would happen under the proposal before when it would only be solvent to 2005.

Mr. President, $89 billion in Medicare savings just is not enough. Even the President earlier this year said that at least $127 billion in Medicare savings are necessary.

Let me just say, Mr. President, a few words about the need for savings to Medicare part B. Most attention has been focused on the need to restore solvency in the part A trust fund.

But part B spending is a big, big problem. According to Medicare public trustees—again, appointed by President Clinton—the Medicare part B spending shows a rate of cost which is clearly unsustainable. Medicare part B spending was $2 billion in 1970. In 1995 the Congressional Budget Office estimates Medicare part B spending to be about $66 billion.

The PRESIDING OFFICER (Mr. GORTON). The time yielded to the Senator from Delaware has expired.

Mr. ABRAHAM. I yield the Senator from Delaware an additional minute of time.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, let me conclude by saying that without savings in the part B program we cannot say that we have effectively tackled the problem of fixing Medicare. Therefore, I oppose the Democrats' amendment because we have already debated and voted down this amendment in the Finance Committee. It does not go far enough to help the Medicare HI trust fund, and we do not want to do it in small steps that will only cost more and create greater hardship. It appears to do nothing, to be candid, to slow Medicare part B spending, which is a significant problem. For that reason, I must oppose the amendment.

I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I inquire as to how much time is left at this point?

The PRESIDING OFFICER. The Senator from Michigan has 25 minutes. The Senator from West Virginia has 11½ minutes.

Mr. ABRAHAM. At this time I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, this whole debate baffles me. I think it really boils down to those who want the status quo and those who want to confront the fiscal dilemma.

The entitlement commission was chaired by the distinguished Senator from Nebraska who is on the floor right now and that sets the predicate for everything that has to be done. I commend the Senator for that work. I wish a lot more was being said about it.

But, in essence, that report says that within 10 years all U.S. revenue and wealth is exhausted by five programs: Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And then there is nothing left.

So it is entirely appropriate that the new majority confront these issues. In the discussion, with repeated frequency, the other side tries to link the tax reduction that we are proposing to Medicare. Over and over and over we hear that somehow, something is being taken away from Medicare to help a tax reduction.

The President, of course, has already admitted that he raised taxes too much in 1993. We are trying to help him fix it, even without the support of his colleagues here on the Senate floor.

But this is not a vacuum in which we are operating. What happens to the $245 billion in tax reductions? First of all, the savings on Medicare by law stay in Medicare and extend the solvency, which is why we have been given assurances that our Medicare proposal will assure solvency for a quarter century, 25 years. Their suggestion gives us 24 months. Is America looking for a Band-Aid or a solution for these senior citizens?

Let us step aside. Why are we coming forward with a tax reduction? I read here, from Llewellyn H. Rockwell, of the Ludwig Von Mises Institute in Auburn, AL. He says:

> Even as family income has declined since 1970, the Federal Government's tax hike in real terms has increased more than 600 percent.

An average family, making $40,000 a year, with two children, is seeing half their total income absorbed and taken away by a Government. In 1950, Ozzie and Harriet, the quintessential family, sent 2 cents out of every dollar off to Washington. If Ozzie was here today, he would be sending 24 cents to Washington.

The point is we have marginalized the average family. We have taken so much of their resource away from them that they are unable to fulfill their principal obligations to their children—to housing, to clothing, to education and health. So, it is important that there is a tax reduction. Their President has already acknowledged it. And we are fulfilling it.

Mr. President, 70 percent of this tax relief will go to families with incomes under $75,000. This proposal alone, for this family that makes $40,000, the combination of the tax reduction and the balanced budget, will put between 2,000 and 3,000 new dollars on the kitchen table of every family home. That is an equivalent increase of their disposable income of 10 to 20 percent, depending on the family. That relief is long overdue.

We will lower their interest payments on their mortgage, probably about $50,000, by $1,081. We will lower the interest expense on their car loan by about $180 a year; on the student loan, by $220 a year; on their credit card. With the two children, they will get $500 for each child.

This is just the beginning, and that is $2,500 to that average family. Given the fact we are taking half their income now, do we not think it is about time that something got back to the average family? This tax relief does not disappear. This goes to real working families, real people who are having a hard time making ends meet. To extend solvency and to help the middle-income family is entirely appropriate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, what I would like to do this afternoon, briefly, is to address the so-called part B premium situation. It seems to me, in all of this political maneuvering around here, the Democratic Party has overlooked the unfairness that is occurring in the part B premium.

What is the part B premium? The part B premium is an insurance program that those on Medicare take out if they wish. When Medicare was set up, under the part B proposal the Federal Government was going to pay half the cost of the premium, and the insured was going to pay the other half. But over the years that has deteriorated so now, currently, the insured is paying 31.5 percent. Not 50 percent of the premium, but 31.5 percent.

Do we change that? No, we do not change that at all. That remains constant at 31.5. I do not know how anybody could complain about that. You get 100 percent of the premium and you only pay 31.5 percent for it.

We then go on to say, wait a minute, this is costing the Federal Government a lot of money. It is costing the Federal Government $42 billion a year to subsidize that part B premium, the other 69 percent. So we say, is it not fair for the richer people to pay more of that premium? So that is what we provide. We provide for individuals with $50,000 of income—this is not some pauper, this is an individual with $50,000 of income—or a couple with $75,000 of income, that they will then start paying more of that premium than 31.5 percent. Apparently they do not think that is fair. I think it is eminently fair. Why should some jewelry worker in the city of Providence have his or her wages deducted and go into the general Treasury and come out to pay some wealthy person's premium under part B of Medicare?

But does that person at $50,000, or $75,000 a couple, have to pay all the premium?

The answer is no, they do not. They just start paying more than the 31.5 percent. When do they start paying the full part of the premium? When the individual reaches $100,000 and the couple reaches $150,000.

So, Mr. President, this is a very fair program. By the way, if the person does not want that insurance, they do not have to take it. It is an optional program. I do not know. Apparently, over on the other side they think it is wonderful that the Federal Government subsidizes these insurance programs.

Jack Kent Cooke, the owner of the Redskins, is having 70 percent of his doctors' bills paid for by some worker, somebody who cleans up the halls or works in a restaurant. I do not think that is fair.

I think the program that the Republicans have submitted in connection with Medicare is an eminently fair program, and, Mr. President, I urge its support in this Chamber.

I think there is no need for this recommittal motion whatsoever.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President. I thank my friend from West Virginia.

Mr. President, the Senator from Rhode Island said that he thinks it is eminently fair. Let me try to just reduce it to the simplest, and I think the most truthful assessment of what is fair and what is not fair. Most Americans, when they stop and look at what is about to happen, are going to wind up asking if it is fair to take an assessment by the trustees of Medicare that says there is a $90 billion problem, and turn it, through political sophistry, into a $270 billion problem so that you can give a $245 billion tax cut. That is absolutely what this comes down to.

This is a zero-sum game. This is a process of balancing the budget. And in their balanced budget, they are offering a $245 billion tax reduction to Americans. How do they get it? They do not pull it out of the sky. It has to be balanced against other items in the budget. And in order to find the room to balance the budget and provide the $245 billion tax cut, they give a $270 billion definition to a Medicare problem that the trustees themselves call an $89 billion problem. It is that simple. Take away the smoke, take away the mirrors, and take away the rhetoric. You cannot balance the budget with a $245 billion tax break without finding the money somewhere. And they find the money by taking it from seniors. Is that fair?

They say to Americans they are giving every American family a tax break for having children—the $500 credit. But analysis will show that, too, is not only not fair, but it is not truthful because not every American family will get the tax credit because not every American family qualifies because of income to have an income tax reduction. Most American families pay their taxes—a large burden—many, through the payroll tax. And because the tax credit is not refundable to them at the lower end of the income scale, they will not get the benefit. So not only do you have a skewed tax relief, so to speak, but you have a discrimination against the hard-working average taxpayer of America.

But it is even worse than that, Mr. President. Because while they give a tax break of about $5,000-plus to the person earning more than $350,000 a year, they raise the taxes on the person earning less than $30,000 a year.

That is an extraordinary definition of fairness. I do not know where you get that definition of fairness. The Medicare cuts themselves are going to be devastating, devastating. There are more and more post-World War II baby boomers who are reaching the age of 65, and the number of people paying taxes to pay for them is diminishing. Today you have an estimated four taxpayers supporting a Medicare part A beneficiary, four people supporting one. But when the baby boomers retire between the years 2010 and 2015 you are going to go down to about two people paying for each one of those on part A.

The result of that with these cuts is going to be that you are going to have an overall population increase of 2 percent, but are you you are going to have a 30-percent increase of people on Medicare looking for their retirement benefits under Medicare? The problem is under the cuts and the reductions of the total pot that will be made available by the Republicans, you are going to be having people come in at a 30-percent increase saying, "Where are the benefits that I am due?" And they are not going to have them.

Mr. President, this is not fair. It is not sensible. And I hope that we will adopt the amendment of the Democrats to have a fair distribution of solving the problem.

Mr. President, the Medicare and Medicaid cuts proposed by the Republicans hurt people and families.

The Republican cuts eliminate jobs, and these Democratic amendments protect jobs.

Republican cuts affect the quality of care for nursing home patients, and these Democratic amendments maintain care—for seniors, for people with disabilities, and for children while still containing costs.

These Democratic amendments scale back tax breaks for the wealthy to help people in my State and around the country who are struggling to make ends meet.

My Republican colleagues are offering a $270 billion solution—at least $160 billion more than is necessary to ensure the financial solvency of Medicare.

We have been told by the Medicare trustees that there is a pending financial disaster that could result in the total collapse of the Medicare part A program unless changes are enacted.

According to the trustees, the magnitude of the crisis is around $89 billion. The Republican solution is to make changes impacting both beneficiaries and providers that would save $270 billion—three times the amount necessary to fix the current financial crisis.

It is important that people across America recognize that Medicare is faced with a short-term crisis that can be fixed without totally dismantling a program that has provided economic health security to millions of retired Americans since its inception.

While I fully recognize that there is a financial crisis confronting Medicare, and believe it is probably somewhere beyond $89 billion, but substantially less than the Republican solution, the Gingrich solutions are anything but solutions.

The solutions being put forth fail once again to take into consideration the changing composition of the over-65 population. For example, do the solutions being proposed really fit the acute and long-term care needs of current and future generations of retired Americans?

With more and more post World War II so-called baby boomers beginning to reach age 65, the number of workers paying taxes will continue to decline, while the number of Medicare recipients continues to increase.

Today, an estimated four taxpayers support a Medicare part A beneficiary. However, when the baby boomers retire between 2010 and 2015, the estimated number of taxpayers paying for each Medicare part A beneficiary will have dropped by two.

Thus we will have gone from a 4-to-1 ratio to a 2-to-1 ratio in just a few years.

By 2008, our overall population will increase by 2 percent, but our retired population will increase by 30 percent.

The Medicare changes will, however, cause one additional problem—a reduction in health care employment and other jobs that indirectly benefit from the health care sector.

Let us look at the impact on my State: Jim Howell of the Howell Group has recently issued a study that shows that the proposed combined cuts in Medicare and Medicaid of $452 billion will conservatively result in a $13 billion loss to the State over 7 years.

Massachusetts could lose 71,000—71,000—health sector jobs and the indirect employment impact could result in $165,000 lost jobs.

The hardest hit towns would be Boston, Brockton, Cambridge, Fall River, Farmingham, New Bedford, Salem, Springfield, and Worcester.

The proposed $1 billion cut in funds for graduate medical education will have a devastating impact on institutions and it will hurt Massachusetts' knowledge-based economy by disrupting the network of medical schools, research institutions, health care providers, and biotech firms.

The proposed cuts would result in aggregate personal income losses in the State of $2.1 billion.

The health of seniors and children, and the loss of jobs at a time when working families are struggling to make ends meet is just too high a price to pay.

The problems for Massachusetts are intensified when we examine the potential impact of the proposed cuts in Medicaid—the health care program for poor children, disabled persons, and seniors.

Under the Republican plan, Massachusetts would lose approximately $4.6 billion.

With regard to children, one out of every three low-income who is currently receiving health insurance coverage from Medicaid is in jeopardy of losing their coverage.

For elderly persons in Massachusetts, the impact is more severe. Currently, 75 percent of all patients in Massachusetts nursing homes are dependent upon Medicaid to help pay for the costs of nursing home care.

Under the Republican plan, more than 25,000 seniors would lose their Medicaid eligibility by 2002.

I believe the Republican response to the Medicare crisis can best be summed up as follows: it does not focus on the future of the overall program; it does not address the growing long-term care crisis facing Americans of all ages but particularly elderly Americans; and it does not address or take into consideration the impact such dramatic cuts will have on employment in the health care sector, and on those communities who have become dependent upon this sector as a means of fighting or deterring rising unemployment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, at this time I yield to the Senator from Tennessee 7 minutes.

How much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 15 minutes-plus remaining, and the Senator from West Virginia has almost 7 minutes.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak against the motion. Why? Because the plan we have on the table addresses three central issues.

First, it prevents bankruptcy of not just for part A, not just the hospital part of the trust fund, but it prevents the bankruptcy of the entire program.

Second, our plan, our underlying bill, increases spending, increases spending from $4,800 by nearly $2,000 per beneficiary to $6,700. That is an increase in spending.

And, third, our program improves Medicare as we know it today.

As has been pointed out by my colleagues before, we have a program that is a good program. I say that as a physician who has taken care of thousands of Medicare patients. It is a good program. But it is an antiquated, out-of-date program that locks seniors' hands, that deprives them of choice. We want to give them choice. We want to give them the opportunities that you have, that I have, that most people, the majority of people have who are less than 65 years of age today.

The Democratic motion ignores the fundamental problem. The problem is twofold. It really has not been discussed very much over the last hour and a half.

The first part of the problem is that it is an outdated program. It does not meet the needs of our senior citizens today, or individuals with disabilities, or why would 70 percent of them have to go outside and buy additional coverage for Medicare? Why is it that Medicare today does not cover prescription drugs?

As a heart surgeon, as a lung surgeon, as somebody, again, who has taken care of so many Medicare patients, I can tell you our senior citizens need help with their prescription drugs. Today, we deny choice. We deny the right to choose to our senior citizens. Is that fair? Does the other side not want to offer the same choice that we have to our seniors?

That is the first part of the problem. To me, that is what is most exciting about our solution that is in the underlying bill—is that we improve the program.

Second, it is the program that has unsustained growth. The growth has been at about 10 percent a year. It is of the entire program. We talk a lot about the trust fund, part A. I think people broadly need to know that part A is one part of the problem. Part A is the hospitals. Part B is the doctors. This particular proposal by the Democrats today addresses the part A part of the trust fund without addressing the overall connection, without addressing the overall program.

That is really in spite of the fact that the trustee report says very specifically—and, again, this is the trustee report, six trustees, trustees of Medicare, three of whom are in the Clinton

Cabinet, and they say very clearly, "We strongly recommend that the crisis"—we cannot just put another Band-Aid on this—"presented by the financial condition of the Medicare trust funds"—funds, not just part A, funds, the overall program—"be urgently addressed on a comprehensive basis."

We cannot just throw $89 billion at part A, one part of these trust funds, and expect to solve the problem long term.

We address the program in a comprehensive way. We address part A, the hospitals; part B, physicians, the complex interaction that comes between the two. As a physician who works in a hospital and works in a clinic, I can tell you it is a complex interaction and you cannot address just part A. If you squeeze part A, part B will balloon out.

The Democratic motion addresses only part A. And, again, if you go back to the trustee report, the trustees say it is not a problem just with part A. It is both trust funds. "Both the Hospital Insurance Trust Fund"—that is part A—"and the Supplemental Medical Insurance Trust Fund show alarming financial results." The part A "trust fund continues to be severely out of financial balance and is projected to be exhausted in about 7 years."

The distinguished chairman of the Finance Committee just read the report from the CBO that says maybe the $89 billion which is in this proposal by the Democrats today will extend that trust fund, just that part A, for 2 years, maybe 2 years. It does not address the underlying problem.

Going back to the Medicare trustees report: "The HI Trust Fund continues to be severely out of financial balance. * * * The SMI Trust Fund"—part B, not addressed by this proposed amendment today—"shows a rate of growth of costs which is clearly unsustainable." Clearly unsustainable.

My point is, we have a program here you cannot just address one part without addressing the overall program.

Let me go back to a chart that was shown earlier by my colleague from New Hampshire that shows that we are going bankrupt in 7 years. In 7 short years there will be no Medicare part A trust fund.

Again, the distinguished chairman of the Finance Committee said that the CBO's preliminary estimate shows what will happen to the Medicare trust fund if only $89 billion is saved over the next 7 years. Their conclusion: The Medicare HI trust fund is solvent through the year 2004.

So what we have done is taken this curve and shifted it 2 years, put a Band-Aid on it without addressing the underlying problem—again, short-term solutions. That seems to be so much the approach here.

We are addressing it long term.

Let me see the next chart. Again, this is a chart that shows next year, if we do nothing, we will begin deficit spending in the year 1996. Again, what we do with the motion in the Chamber now is to shift this curve out, not change the slope of the curve at all but shift the curve out 2 years for some commission to decide in the future.

In summary, the problem today is an antiquated, outdated system which serves senior citizens well but not as well as the private system serves people under 64 years of age.

We address that problem. The proposal in the Chamber currently, which I oppose, by the Democrats does not address the overall antiquation of the system.

Second, the Democratic proposal in the Chamber ignores this complex relationship between A and B, touches just upon A.

And third, the Democratic proposal, as Senator ROTH pointed out, the only thing it does is move these problems out another 2 years beyond the next election.

Ours is a long-term solution.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield 3 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I will be necessarily brief, Mr. President.

Mr. President, I find it fascinating to hear none of my Republican colleagues stand up and say the Medicare system is bad. They say things like it is antiquated and outdated, but it serves the senior citizens well. How in the heck can that be done? How can it be antiquated, outdated, and serve the senior citizens well?

The second thing I would like to say is in response to my friend from Georgia talking about Ozzie and Harriet. Let me tell you how Ozzie and Harriet are going to work under this proposal. They are going to find out that their mother and their father on Medicare are going to pay $800 or $900 a year more come the year 2002. Then when grandmom and grandpop come to Ozzie and Harriet, because they have the same middle-class values as the Senator from Georgia and I do, and mom says, "Ozzie, I tell you what, these Republicans gave me a choice; I can pay $800 more or I can go into one of these HMO things, but I do not get to see Dr. Jones anymore," do you think Ozzie is going to stand there and say, "Hey, Mom, tough."

Ozzie is going to reach in his pocket, like all the Ozzies in this Chamber, and say, "Don't worry, mom. Even though I can't pay my taxes, even though I can't get my kid to school, I am going to increase my taxes, in effect, 800 bucks to pay for you and 800 bucks to pay for dad because I know your median income is about $18,000, so I will take care of it for you."

This is a tax increase for middle-class people who care about their parents.

And wait until we get to Medicaid, when Ozzie and Harriet get the phone call midyear and mom says, "Hon, they tell me I got to come home; it's June. I gotta come home from the nursing home." Watch what happens then to decent, honorable, middle-class people who are being crunched on the one hand by their children with the cost of a college education and the cost of maintaining their standard of living, which is slipping from them, and on the other hand, having to pick up the costs for mom and dad.

The last point I would like to make is one of the reasons to send this bill back, and that is, fraud, although Senator ROTH did much better than our House Members did. Everyone acknowledges there is about $34 billion a year in fraud in Medicare and Medicaid. This bill hardly touches the problem. This is the case, I might add, because health care providers do not like us dealing with fraud.

I have been working to combat health care fraud for over 3 years now—ever since I first introduced a health care fraud bill in the U.S. Senate and held hearings on health care fraud in the Senate Judiciary Committee.

I found in those hearings—and it has been reported elsewhere ever since—that fraud in the entire health care sector accounts for up to 10 percent of all health care spending.

The same, unfortunately, is true for Medicare.

The General Accounting Office estimates that fraud in the Medicare Program will total up to $18 billion this year alone. Medicaid fraud is another $16 billion.

Now, the vast majority of doctors and other health care providers are honest professionals. But, a few dishonest manipulators are ripping off the taxpayers and threatening the integrity of Medicare and Medicaid. A few cynical criminals are preying on those who need health care the most.

Going after these crooks and thieves who are defrauding the system must be our top priority. If this motion to commit is adopted—and I hope it will be—the first place we should try to find savings is in Medicare fraud.

Later in the debate, Mr. President, I will be joining Senator HARKIN and Senator GRAHAM in offering an amendment specifically on Medicare fraud—and I hope my colleagues will support that as well.

According to one estimate, for every dollar we spend fighting Medicare fraud, we save $10. One example of this: in 1994, in the Middle District of Pennsylvania, the Justice Department recovered almost $7 million in fraudulent Medicare and Medicaid payments—

more than what it cost to run the entire Justice Department office in that district.

This is an excellent return on our investment. So, before we raise costs to senior citizens—before we impose draconian cuts on benefits—we need to root the robbers out of Medicare.

Let me say up again that the Senate bill is much better than the House bill on this front. The House bill would make it much more difficult to prosecute health care fraud.

The House bill would change the standard of proof in a civil fraud case from "knows or should know" to "deliberate ignorance" or "reckless disregard."

The House bill would change the standard for enforcing the Federal antikickback laws. The current standard prohibits kickbacks when one of the purposes is to induce referrals. But, the House bill would prohibit kickbacks only for the significant purpose of inducing referrals.

Fortunately, these provisions are not in the Senate bill. But, let me mention one thing about the Senate bill that troubles me from the fraud perspective.

The Senate bill would repeal all Federal safety protections for seniors in nursing homes. Last week, in Delaware, I held a forum on Medicare fraud. At that forum, Federal prosecutors said that elimination of nursing home standards would create a significant problem in both the investigation and prosecution of patient abuse.

In addition, Mr. President, I believe the antifraud provisions in the Senate bill could be—and should be—stronger.

We need to guarantee that there will be funding to fight fraud—so that there are more investigators and prosecutors in the field to go after the crooks.

We should collect the costs of our investigations from those who are found guilty. And, we should require the guilty to pay restitution to the victims.

We need to strengthen the penalties for those found guilty of health care fraud—including increased fines for those who violate the antikickback laws.

And, we should provide rewards for consumers and patients who uncover fraud.

So, Mr. President, I hope my colleagues will support the motion to commit—so that fraud can be made the top priority in achieving Senate savings. And, I hope my colleagues will later adopt the Harkin-Graham-Biden antifraud amendment.

Now is not the time to make it easier for the crooks and con artists to get away with ripping off the American taxpayer. Instead, we need to renew and strengthen our efforts to fight Medicare fraud.

The PRESIDING OFFICER. The 3 minutes have expired.

Mr. BIDEN. I yield my time. Fraud is a problem. This bill does not address it.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 1½ minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have been in the Chamber for 5 hours, and what we have not heard from the other side is the justification for a $245 billion tax cut for the wealthiest individuals, the wealthiest corporations and an increase in the taxes on the working families.

The challenge of the Rockefeller amendment is to join with us, Republicans and Democrats alike, put aside the tax cuts for the wealthy, put aside the tax breaks for the large corporations, put aside the tax increase on the working families, and join with us in taking the recommendations of the trustees' report for $89 billion, work with us for a program that will mean no increase in premiums, no increase in copays, no increase in deductibles, not lifting the age eligibility issue and assuring the senior citizens of a meaningful choice.

We can do that. We should do it. That is the challenge. That effectively is the challenge of the Rockefeller amendment, and I hope it will be accepted.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, as I said at the beginning of this debate, all of this comes out of the Contract With America. All of the $270 billion cut in Medicare comes out of the desire to find the tax breaks for wealthy families and corporations.

When you are looking for that kind of money in the budget that we now have, you cannot look to the military. You cannot look to education. You have to look to the places where the money is. That is in Medicare, that is in Medicaid, to some degree in the earned income tax credit and, of course, to some degree in welfare.

So the Republicans have pounced upon Medicare, and they have decided not to solve the Medicare problem but to bury Medicare with the idea of making absolutely certain that they could get the most amount of money from Medicare for the purposes of their tax breaks for the wealthy that they possibly could.

This vote is about nothing else than that. If it is simply a matter of trying to solve the Medicare problem, then the Democratic solution in this amendment, which I hope people will support, is the answer: $89 billion will do it. If it is tax breaks for the wealthy, and that is what you are after, then you will want to vote against this amendment because that is not what we on this side are trying to do.

I hope my colleagues will understand the genesis and the nature of what this whole argument has been about from the very beginning.

This is a historic vote. It is a defining moment. It is an extremely dangerous moment for the seniors of our country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry.

What is the time situation?

The PRESIDING OFFICER. The Senator from New Mexico has just under 8 minutes remaining. The Senator from West Virginia has 28 seconds remaining.

Mr. DOMENICI. Mr. President, I yield myself 7 minutes of that.

Mr. President, there is no question this is a defining moment. It is a defining moment because today and tomorrow we are going to decide whether we want to have a Medicare Program for the senior citizens of the United States or whether we want, under this amendment, to protect one little part of it for a couple of years.

Which do the seniors really want? Do they want a Democratic proposal which essentially ignores more than half of the Medicare Program, does not even talk about it? It is in big trouble. And then it says we are only going to reform the hospital program sufficiently to keep that fund solvent for how many years, I ask Mr. FRIST?

Mr. FRIST. Two additional years.

Mr. DOMENICI. Two additional years, two additional years.

Now, for all the talk on that side of the aisle, the truth of the matter is, they do not really care about senior citizens. They would rather win this fight than protect the senior citizens. They are crisscrossing America and using the airwaves to frighten them to death. And what is their proposal? Their proposal is to extend the trust fund 2 years.

Now, let me suggest, nobody should believe with that dose of reality that this is anything more than a political exercise. It has little or nothing to do with American senior citizens. It has to do with trying to win at the ballot box. And let me say to the seniors, once we have resolved this issue, you will find the reality and you will not be duped by the debates of today. Rather, you will be convinced by the reality of tomorrow, which means we are going to have a Medicare System that is solvent, that we can afford, and that our young people who are helping pay for it can be proud of.

Now, there is no question that once again it is proven that the other side of the aisle, the Democrats, would rather tax and spend than to reduce expenditures and cut the American people's taxes. For what else is this? If there are no tax cuts in this bill, part A of Medicare goes broke. Take them off the table and it goes broke. That is not this Senator speaking. That is the trustees, four of whom work for the President. Forget the tax cut, it goes broke. So what are they talking about? They are talking about a political issue, not the reality of what we as leaders must do.

Frankly, there is no question that the trustees talked to us about both parts of Medicare. Seniors, you understand very few of you go to hospitals every year, but a lot of you go to see your doctors. The hospital coverage is the part that will be protected for 2 additional years, but the rest of the program will be, according to the Democratic version, will be left in the doldrums.

The trustees told us both part A and part B are in serious, serious trouble. And we have explained to everyone, we do not have to change things a lot to make this a far better program for the future and give seniors a choice rather than have them rattled by the bureaucracy and paperwork that frustrates them more than the doctors that serve them.

If you have ever heard a senior complain, they say, "Why do we have to fill out all these papers? We don't even understand them. We are getting defrauded. We can never find out what it costs." That will all change once we defeat this amendment today and move on with the Republican agenda.

Let me make one last remark. We used to hear that it was the House plan that was going to give all these tax cuts to the rich. And we used to come down here and say, "What plan are you talking about?" They would say, "The House plan." They cannot talk about it anymore because right here before us is the Senate plan. And the Senate plan does not cut taxes for the rich as described on the floor of the Senate by the distinguished Democratic Senators. Let me say, once and for all, 90 percent of the tax cut in this bill—not 60 percent, not 50 percent—90 percent will go to Americans with $100,000 in income or less. And that is not DOMENICI, that is the Joint Tax Committee—90 percent.

Now, they can get up and hypothetically say we are giving the rich back tax cuts. Ninety percent go to $100,000 earners and less. Are those the rich people of America or are those the people with families that need some help in raising their children? That is what this Senate bill is about. We have decided that our families raising children ought to get a better economic break because years ago we used to give them a break. We took it away.

In fact, I would close by saying a piece of this tax bill goes to correct what the Democrats did last time. They raised the marital deduction. They made it cheaper to be unmarried than married with the same income, another enticement not to get married, not to stay together and raise your kids because you get a break if you do not.

We have fixed that in this bill. Is that helping rich people of America or is that helping thousands of Americans that would like the benefit of not being treated inferior because they happen to file jointly as husband and wife?

It seems to me we are on the right side of these issues. And all we are going to hear is political rhetoric, half-truths. And by the time we are finished, and this program is implemented, I suggest it will be those prophets of gloom who predict what is unpredictable—because it will not happen—they will be the ones to suffer, not the Senators on this side who are going to stand up and be counted today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use leader time to accommodate my remarks.

Mr. President, I was told that the previous speaker just has indicated that it is his view that Democrats do not care about senior citizens. If that is what he said, I am very disappointed. He knows better than that. In fact, the issues in this debate are about finding the best approach for senior citizens, and finding a way to ensure that the commitment we made three decades ago will remain for as many decades as this country exists. These are the issues.

I think it is all too convenient—all too convenient—that at the very time our Republican colleagues propose a $245 billion tax cut, it just so happens they also propose to cut Medicare $270 billion.

I know there are some who say it is sheer coincidence. I know there are some who say we could come up with the tax cut or the tax break revenue in other ways. But I also know that there are not many pools out there that are big enough to accommodate a tax cut, a tax break of that size. This is the biggest rollback in health benefits to senior citizens in American history. This is the biggest financial transfer from low- and middle-income families to the upper-income brackets in American history. So no one should be misled. This will be the most important vote we will cast during the budget debate.

So, Mr. President it is with a great deal of concern, grave concern, that we offer this amendment this afternoon. There is no question about what this proposal in the reconciliation package means for senior citizens. I do not think there is any doubt. Any analytical report will show that this proposal will cause senior couples to pay more than $2,800 more in Medicare premiums and deductibles.

We know it will double premiums. We know it will double deductibles. We know it will increase the age of Medicare eligibility from 65 to 67. We know that it eliminates protections for seniors by providing doctors and managed care plans with opportunities to charge seniors more than a Medicare-approved rate. We know all of that. There is no doubt about it. No dispute.

No one should be misled. This proposal is going to hurt. And if it were in some way designed to really reform Medicare, and to bring the trust fund into solvency in ways beyond what the Democrats have offered, I could understand it. If we were in a position where it was this plan or bankruptcy, I could see that we might have to suck it in and do it.

But we know with certainty that is not the case. The actuaries and the trustees have told us that we need $89 billion to keep the trust fund solvent into the year 2006. Not a penny more. In an analysis of the House plan to cut $270 billion, the actuaries also indicated a solvency date in 2006. Where does the extra money go?

Again, no one should be misled. This is not a question about solvency. It is a question about where we go for revenue to pay for the tax cut that we have been debating now for several months.

Let me just say, Mr. President, the damage done under this plan reaches beyond seniors. The problem with the health care provisions in the reconciliation package is that 9 million people in rural America could find their clinics closed when they need health care in the future. Under these proposals, we know the hurt will be widespread.

We know that in South Dakota 10 to 15 rural hospitals would likely close.

We know that these proposals will undermine health care provided in rural America.

We know that huge cuts to teaching hospitals will decimate medical research and training programs.

We know that up to $100 billion is going to be cost-shifted on to those with insurance in the private sector, according to the Lewin-VHI study.

We know all of these things, and more. So this is not just an issue for senior citizens. This is an issue affecting rural America, and every single person with private insurance in the country.

And so, Mr. President, I just hope before we cast this vote that no one misunderstands our choices. If we choose to protect the trust fund by ensuring its solvency, to recognize the importance of this issue to senior citizens and their families, to say no to tax breaks in areas where they are not necessary, and to say no to tax breaks to the wealthy, then the choice is very clear. Democrats have presented an alternative that makes sense, that ensures solvency, that assures, in the long term, senior citizens are going to continue to get the best care that we could possibly provide and that protects a commitment that is now more than 30 years old. We owe them that. We ought to adopt this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time remains and who has time?

The PRESIDING OFFICER. Fifty-seven seconds to the Senator from New Mexico; 28 seconds to the Senator from West Virginia.

Mr. DOMENICI. Does the Senator from West Virginia want to save his 28 seconds?

Mr. ROCKEFELLER. I yield back my time.

Mr. DOMENICI. Mr. President, I just want to finish wrapping up. There is a suggestion when we talk about how much is being reformed, how many dollars are going to be saved, nobody talks about how much we are going to spend. The senior citizens ought to know we are really not intent on denying them money for health care. In fact, over 7 years on Medicare alone, we will spend $1.65 trillion. In the seventh year, we will spend $104 billion more than in the year it starts. It will go up to $104 billion more, a total of $1.65 trillion, which we cannot hardly understand.

With that, I yield back any time I might have and yield the floor.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2949 TO THE INSTRUCTIONS OF THE MOTION TO COMMIT

Mr. BROWN. Mr. President, I rise to offer an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2949 to the instructions to the motion to commit S. 1357 to the Finance Committee.

Strike all after "Finance" and insert the following: "With instructions to report the bill back to the Senate forthwith to include the findings of the Trustees of the Federal Insurance Trust Fund that, in order to save Medicare and to keep the Hospital Insurance Trust Fund solvent for future generations, Congress must address both the long-term and short-term shortfalls in the Medicare program."

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, the underlying amendment that is before the body suggests that this measure be returned to the committee and deal only with the amount of money that would need to keep the fund from going bankrupt or being insolvent through the year 2006.

That figure is based on their intermediate projections. I as one am familiar, as I think most Members are familiar, with our process. We do a conservative projection. We do an optimistic projection. We do an intermediate projection. I might remind Members that in Social Security projections, for most of the years we have had those Social Security projections, the optimistic projection has not proved to be correct. As a matter of fact, the intermediate projection has not proved to be correct. As a matter of fact, the conservative projection has not proved to be correct. Through most of the years we have had those Social Security projections, as a matter of fact, even the conservative one proved to be far too optimistic.

None of us have a crystal ball, but I think it would be foolish in the first order for us to assume that the $89 billion is going to be enough to keep this fund solvent through the year 2006. If history is to be the judge in looking at the projections we have had, it is quite clear that we may well see this fund go insolvent if the underlying amendment is adopted.

I think men and women of honesty and fortitude who have discussed this issue today can honestly disagree about the projections. It could be the intermediate projection is just fine. It could be that the conservative projection is far too optimistic, as history has shown. But one thing I do know and one thing is incontrovertible. If you read the report of the trustees—and let me remind the Members, the trustees are appointed by the President of the United States and all but one of them are Democrats; that is, of the seven trustees, all seven have been appointed by the President and all but one of them are Democrats—they say in their report that after the 10 years that is contemplated in the underlying amendment that this fund goes belly up, even if you do the $89 billion with the intermediate projections.

They say, in the long run, it does not meet the 7-year solvency test and they say, moreover, it becomes much, much more difficult to meet it, as you have the baby boomers coming in after this 2006 period.

So the suggestion in the underlying amendment is that you should deal only with the current crisis and close your eyes to the real insolvency that is coming in Medicare. I believe Americans deserve better. Frankly, Mr. President, I think Americans expect better. If you go out to the working men and women of this country and you tell them that we are going to come up with a program that will let you pay taxes for another 10 years, but at the end of 10 years, according to our intermediate projections, there will not be anything left for you to collect on, I think they would be outraged.

Frankly, I think they deserve to be outraged. The proposal that is before the body says, "Let us slip by for now, make working people pay another 10 years and then have nothing for them when we get to the end of 2006."

That is not HANK BROWN projecting with regard to the Medicare trust fund. That is not a group of Republicans projecting. That is a report by Presidential appointees themselves, six of the seven who are Democrats, all appointed by the President of the United States. That is not a Republican projection; that, if you want one, is a Democratic projection.

I think we need to do better than that. I think we need to say to the working men and women of this country, "We're not only going to take your money for the next 10 years," which the current law does, "but we're going to make sure there is something there for you when we finish."

That is what this amendment does. This amendment makes it quite clear that what we are to look at is not just the short term, but the long term as well. I believe that is a proper focus. I believe it meets our commitment.

We have a choice with this amendment. We can go with the short-term outlook that leaves the fund insolvent after 10 years, or we can go with the long-term outlook that requires that this end up being solvent in the long run as well.

Mr. President, I suppose one of the saddest things to see, with respect to Federal programs which we have put in place for working men and women, where they rely on the Federal Government themselves, is the Government being in a position where we cannot meet our obligations. This is by a Federal Government that, through ERISA, has come forward and said, with regard to private pension plans, that you are required to make them financially sound, and we put in place very tough rules on the private sector that forces them to fund them, with extreme penalties on anyone who would not.

I do not think anyone would fail to be uncomfortable with the proposition that says in the private sector we are going to mandate these to be actuarially sound, but in the public sector, trust us. Why would people not want to trust us? For exactly the reason for the underlying amendment. The amendment says we will fix it in the short term and leave a problem for the long term. That is the difference in the private sector. What we have done is impose on them burdens to be sound, to fund their obligations, and to face up to them. And in the public sector what we have done with the underlying amendment is say we are only going to fix it up and get by, and at the end of 10 years, after taking your money, there will not be a balance left there to help you meet your obligations.

I believe we have to do better. We have had a lot of people quoted here. Let me quote the President's nominees on this board. These are the conclusions of the board of trustees:

> Under the trustees' intermediate assumptions—

My own view is that the assumptions are far too optimistic.

> Under the trustees' intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years. As a result, the HI trust fund does not meet the trustees' short-range test of financial adequacy. Under the high-cost alternative, the fund is projected to be exhausted in the year 2001, approximately 6 years from present. Under the low-cost alternative, the conservative one, the trust fund is projected to be exhausted in the year 2006. Currently, about four covered workers support each HI enrollee. This ratio will begin to decline very rapidly in the next century. By the middle of that century, only about two covered workers will support each enrollee.

Let me pause here, Mr. President. I want to reiterate that because it underlines the problem we have and the reason we should address it. "By the middle of the next century"—quoting the Democratic majority on the board—"only about two covered workers will support each enrollee."

Mr. President, that is our problem and that is what needs to be addressed long term.

Mr. GREGG. Will the Senator yield for a question?

Mr. BROWN. Yes.

Mr. GREGG. I think the Senator highlighted a critical point, which was not made by the Senator or by anybody on our side, but made by the trustees of the hospital insurance trust fund, three of whom are members of this administration—Secretary Rubin, Secretary Shalala, and Secretary Reich—which is that the trust fund is headed toward insolvency, and that in order to correct the insolvency, there would have to be a significant adjustment in the trust fund, either in the way of revenue or benefit costs.

I would like to ask the Senator from Colorado if he noted also on page 27 that they put a number on what that adjustment would have to be. Their number, as I read it, is .65 percentage adjustment in payroll rates for employees and employers, which translates into $387 billion of adjustment which must occur over a 7-year period. This is the trustees speaking, saying an adjustment must occur over a 7-year period in order to get actuarial solvency, under their intermediate assumptions—which you say are rather rosy—for a 25-year period, which they consider to be a short time. They would rather it be for 75 years. That means when the other side comes forward with a proposal that only does $89 billion, they are missing the mark, according to their own trustees, by somewhere in the vicinity of $300 billion. Is that not correct?

Mr. BROWN. Let me say to the distinguished Senator that I believe his analysis is correct. It points out the enormous problem we have here. We will have an absolutely catastrophic impact if we do not address it now. The longer we wait, the more difficult the problem gets. I am reminded by staff that we need to make it clear in this amendment that we are exempting part B of the Medicare.

AMENDMENT NO. 2949, AS MODIFIED

Mr. BROWN. Mr. President, I send to the desk a modification of my amendment that clarifies that aspect.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2949), as modified, is as follows:

> I modify the text of my amendment to read as follows: "with instructions to report the bill back to the Senate forthwith providing that all savings to Part B of Medicare made by the Balanced Budget Reconciliation Act of 1995 shall be transferred from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund; to include the findings of the trustees of the Federal Insurance Trust Fund that, in order to save Medicare and to keep the Hospital Insurance Trust Fund solvent for future generations, Congress must address both the long-term and short-term shortfalls in the Medicare program."

Mr. BROWN. Mr. President, I want to continue, if I may, to make available in the RECORD the exact words of the board of trustees. I think they have credibility not only because this is a contentious issue between parties and they happen to be—six of them—Democratic members, all appointed by the President. I think that renders at least—even though they are partisan in their majority, it brings certain credibility to these deliberations. Frankly, I think that for most Americans looking at this, that is the first question they will have about this aspect of it.

Continuing on with this:

> Not only are the anticipated reserves and financing of the HI program inadequate to offset the demographic change, but under all sets of assumptions, the trust fund is projected to become exhausted even before the major demographic shift begins to occur.

What we are talking about here, Mr. President, is before you have that adjustment from four workers down to two workers supporting the persons who receive the benefits—even before that demographic change begins, you have problems with the solvency of the fund. The trustees go on:

> The trustees note that some steps have been taken to reduce the rate of growth in payments to hospitals, including the implementation of prospective payment systems for most hospitals, and experience to date suggests that this mechanism, together with provisions enacted by Congress, has restrained the growth in hospital payments that improve the efficiency of the hospital industry.

In their overview, they continue on, and I think this is more significant for our purposes:

> Extension of this payment system to other providers of hospital insurance services in further legislation limits payment increases to all hospital insurance providers, could postpone the depletion of the HI trust fund for about another 5 to 10 years. Much more substantial steps would be required, however, to prevent trust fund depletion beyond 2010 when the baby boom generation begins to reach age 65.

Mr. President, that is the nub of it. The trustees have put their finger on it. They hit it exactly. You can do a quick fix for 5, 10 years. That is, apparently, what is behind the thinking of the underlying amendment. But in the Democratic trustees' own words:

> Much more substantial steps would be required, however, to prevent trust fund depletion beyond 2010 when the baby boom generation begins to reach age 65. Under present law, as shown by the projections in this report, the Hospital Insurance program costs are expected to far exceed revenues over the 75 year long-range period under any reasonable set of assumptions.

Under any reasonable set of assumptions, Mr. President. As a result, the hospital insurance program is severely out of financial balance, and the trustees believe that the Congress must take timely action to establish long-term financial stability for the program.

The President's own nominees are admonishing Congress to take timely action to establish long-term financial stability.

I have listened on this floor to Members stand up and say, "Heavens, we do not need to take long-term timely action. No, that is not what the trustees said." Mr. President, it is in their report. It is in black and white. It is on page 4.

> The cost to the hospital insurance program is projected to increase over 1.6 percent of gross domestic product in calendar year 1994, to 4.4 percent of GDP in the year 2065. This rapid growth is attributable primarily to anticipated increases in hospital admissions and in the complexity of the services provided, together with expected changes in demographics.
>
> With the magnitude of the projected actuary deficit in the hospital insurance program and the high probability that the hospital insurance trust fund will be exhausted in less than 10 years, the trustees urge the Congress to take additional actions designed to control hospital insurance program costs and to address the projected financial imbalance in both the short range and the long range through specific program legislation. As part of a broad-based health care reform, the trustees believe that prompt, effective, and decisive action is necessary.

Mr. President, how much more clearly can it be said? The President's own nominees, six of the seven of them

Democrats, say it as clearly as is humanly possible: You have to take prompt, effective, and decisive action.

What is before the Senate is a suggestion we take a short-term view, that we patch it up for 10 years and leave people who paid in all their life without any coverage. That is not responsible. It does not conform with the guidelines set forth by the President's own nominees.

They go on:

> To facilitate this effort, the trustees further recommend legislation to establish an advisory council for the Medicare program. This action would help provide critical information that will be needed by the administration and Congress as they deliberate the future of the hospital insurance program.

Let me pause and simply mention this: The Republican leader himself asked the President—he was joined by the Speaker of the House—asked the President to help set up a commission to work this through, as it was done in Social Security, to come up with an answer in this area that was bipartisan, that would lend integrity to the commitments we have made to the men and women of this country who have paid into this program—some of them for almost all of their lives.

The President was unwilling to cooperate in that venture in a timely manner to get an alternative before Congress.

Now, Mr. President, the reality is this: This should be a bipartisan effort. I do not believe that my Democratic colleagues want this fund to go bankrupt in the long run. The American public is wise enough to know that many of the things each party says about the other are somewhat taken with the heat of the moment and not necessarily meant seriously.

I do not believe Democrats, any more than Republicans, want this program to go belly up. I believe the vast majority of Americans, whether Democrats or Republicans, would be shocked to know that this program will be out of funds in 10 years and we would not have taken care of it.

I do not think anybody—Democrat, Republican, or independent—feels that is responsible. I honestly believe that the people of this country expect us to come up with the long-term answer. That is why this amendment is offered. It talks about looking at the long run, not just the short run.

Mr. President, that is the essence of what this debate is all about. Members will have an option. They can vote "no" on this amendment and opt for a short-term solution only; or they can vote "yes" on this and help ensure that a long-term solution is in sight.

Mr. President, let me add a word of warning. The amounts of money in this bill are estimated to be adequate with other changes that would be made in the long run to help put us on sound footing and make it actuarily sound.

Mr. President, I must say, my own belief is that this does not go far enough. My own belief is that we should not be looking at the immediate projection. My own belief is we should do much more than what is suggested in this bill.

While we accept the immediate funds, and some would say what we need to do is have an $89 billion fix and others would say a fix in excess of $270 billion, my own estimate is that the problem is much greater than that; that the projections are far too optimistic.

If we are to be responsible, we should not only do what is in this bill, we should set about seriously in an effort to make sure that we have solved the problem for all time, that we have adopted the actuarial soundness principles that we impose on the private sector. We ought to be willing to stand up and do as this Congress does—begin to live by the same laws that we impose on others.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might consume.

Mr. President, no one is going to be fooled by this amendment. Our Republican friends are scared of this vote. They do not want this vote to happen. It is Halloween and they are running scared. It is clear the people who are running scared are the Republicans trying to cut the Medicare.

No one is fooled by this Halloween trick. The American people know what is at stake. Medicare is at stake and Democrats are trying to save it.

Now, Mr. President, I have been on the floor since the first hours, about 10:30 this morning, when we began that debate. I have listened hour after hour after hour after hour how our Republican friends justify the measure before the U.S. Senate. They talked about the different proposals of it. Why it was fair, why it was just, why it was equitable, how it was going to enhance health care for our senior citizens.

That is what they have talked about. They would not talk about the $240 billion tax cut for the wealthiest individuals, for the corporations, the tax increases on working families, the fact that they are raising the eligibility age from 65 to 67, the pressures that will be on the senior citizens in reducing their options to be able to choose their own doctors.

No, they did not address those particular issues. They did not address those particular issues. They said what we have here makes sense. It makes sense for those who are interested in the balanced budget. It makes sense for those who are interested in quality health care.

Now, our Republican friends have come, on top of this amendment that was offered by the Senator from West Virginia, and effectively eliminated, emasculated in a way which would have, if it had been accepted, preserved what had been recommended by the trustees, the $89 billion, and ensured there would be no increase in the copays and deductible premiums for our seniors.

But, no, they would not give the Senate a chance to vote on that. Instead, they are here saying, instead of your amendment, why not just have a study about the medium- and long-term interests of the Medicare system.

We are all for it. Why did you not do it when you had a chance? You had the votes to do it. Why did you not do that earlier? You could have reported out some kind of measure in the meantime, but you did not do it.

All Members are concerned about what is going to happen after 10 years of solvency for the Medicare system. Many of us believed that what you are concerned about and have offered recommendations and suggestions, when you recognize that there is nothing in this legislation that is going to do anything about providing preventive health care for our senior citizens. I am interested in that. What about the 30 percent of overutilization in our hospitals because of Medicare entries into the hospitals? I am interested in that.

What are we doing to expand long-term care? Or home care for our seniors? I am interested in that. What are we doing about prescription drugs so we can keep people out of the hospital and treat people in their homes and save billions of dollars? I am interested in that. Many of us are interested in that.

None of those issues was addressed by our Republican friends. No, none of those issues that would have had an impact on the medium- and long-term health care needs, none of those issues was addressed.

But, instead, after 5 hours of debate and justification of their own position, they refused—absolutely refused—the effort of many of us who want to try to protect Medicare, who want to defend Medicare. If they are so correct, as we have been listening to them say for 5 hours, why will they not let us vote? Why will they not go and make the speeches they have been making here on the floor of the U.S. Senate, back into the nursing homes, back in the senior citizens homes, back in the plants and factories, and to the elderly people all over this country, if they believe that they are so right about it? If they think the merits are on their side, why do they take this and defend it for 5 hours and then say, "But we will not defend it any longer. We will not defend it anymore. We will not defend it at all. We are going to try and emasculate what you are trying to do with regard to the protection of Medicare."

You do not have to be around here a long time to understand what this is all about. You only have to be around here about 2 or 3 months to know exactly what it is about, and that is you do not want to vote on it. You do not want to know about it.

You came up with this proposal without a hearing on the Medicare cuts. You refuse to listen to the elderly people about the impact it was going to have on them. You jam this through the Finance Committee and the Budget Committee. And you say that it is justified to provide $240 billion to the wealthy individuals and corporations and increase the taxes for working families.

You have done all that. You have it going your way, Senators. We have a time limitation, restriction in terms of being able to take some days and provide some debate on this so the country can know what it is all about. You have it going all your way. You can try to jam us because you have the votes that way.

But, no, you refuse to even let us have a vote on accountability. Come on. Come on. Your program did not make any sense before and you are now demonstrating here on the floor of the U.S. Senate it does not make any sense to you either, because you refuse to defend it. You refuse to defend it.

We listened to all those speeches about how correct you were. Why will you not let us have a vote on it? No. No, we are, instead, going to have a vote on something else, a long-term study on it. We are interested in long-term studies. We are interested in intermediate studies. What you do not want to face is your $245 billion tax cut that is coming out of the Medicare premiums, deductibles and copays for the seniors of the country—you do not, and refuse to let us have a vote on it.

Why? Why is it? Why have the Republicans not spoken about that? Why did you not at least say, "OK, we have addressed the short term and medium term of the Medicare. Now we think it is right to get a tax cut for the wealthiest individuals and we are proud to defend that position." I have not heard that. I have not heard that speech. I do not think we are going to hear it because it is indefensible, when you are looking at what they are attempting to do, and that is to undermine the Medicare system which has been a compact with the seniors of this country since 1965.

You know, when I look at the conduct of our colleagues and friends I can kind of understand why they do not want to vote on it. I was here in 1964 when the Medicare amendment was defeated. I was here 8 months later, in 1965, when it passed. I was here when 19 Members who voted "no" in the fall of 1964 voted "yes" in April of 1965. Do you know what had intervened? An election. An election intervened. Our colleagues who were opposed to it then went back home and gave the same kinds of comments that were given, evidently, by the majority leader last night, according to TOM HARKIN, saying the majority leader was proud to oppose Medicare when it first came up and is still proud to oppose it. Those were the speeches then.

And then they got a little awakening because the seniors knew what was out there. The American people understood what was out there. Not just the elderly, but their sons and daughters had a fundamental recognition that, when people grow older in our society, they have additional kinds of health care needs and, by and large, their incomes go down. That is what happens, not only industrial societies, but in other societies around the world. And, therefore, if we are going to be a compassionate Nation and care about our seniors—the men and women who fought in the wars, brought the country out of the Depression, sacrificed for their children, many of whom are sitting in the U.S. Senate—that there was going to be a compact. They were going to pay in and then they were going to be able to receive out.

The Democratic alternative is not perfect, but it provides for the fundamental integrity of the Social Security system for 10 years. That has been testified to by the trustees themselves. But what we have not done is included the tax goodies for wealthy individuals.

You ought to be ashamed of yourself. I am not surprised that you do not want to vote on this turkey. I can understand that. Refuse? I would certainly hope the leader would say, if we are not going to get the vote on this one, we are going to keep coming back and coming back and coming back, every single time that we have in the 10 hours left, and we are going to make every attempt to get a vote on it and let our Republican friends pull every kind of trick in the book on it and let us take that issue all across this country and let you defend it. You cannot defend it. You cannot defend it.

You come up here and say, "Let's get back to that trustees' report now. Let's see what is going to happen in 10, 15, 20 years down there." It is wonderful to hear all those voices now. We were attempting to deal with the medium- and long-term interests of this health care system in our country a year or so ago. It is wonderful suddenly to find they are all interested in this now, really interested in long-term care.

Where are the initiatives in home care? Where is a single proposal from someone on the other side of the aisle on prescription drugs? That is a No. 1 problem for our seniors. Where is it? If you provide prescription drug assistance for our seniors you will probably do as much or more in terms of reducing long-term costs, because seniors will be able to stay home instead of going to the hospitals in order to get their prescription drugs. And that is going to be true in a wide variety of different areas. Sure we need some advice and counsel on those.

What are we doing on home care, so we can give alternatives to our seniors whether they want to go into a nursing home or remain home and get some help and assistance? Where is the Senators' proposal on that? Where are these proposals on it, to demonstrate that suddenly we are interested in the long-term interests of our elderly people? Why do we not keep them out of high-cost facilities? Where are your proposals on that? Where are these proposals, that, suddenly we really care about these long-term interests?

They are not there. They are not there because at the core of it, this program on Medicare has not been a program that you supported over its history, and the record shows it. Suddenly, to find out that you care about this after, in the House of Representatives, they used $80 billion of part A for their tax program, and then a month later said, "Oh, my goodness, there is some difficulty in the insurance fund." And some said,

"Don't you think we ought to go back and restore the $80 billion?"

"Oh, no, we are going to need that for the tax cut, a tax cut which is even greater in the House of Representatives."

The reason we are debating this is they had no opportunity to do it in the House of Representatives—none, closed down. Here we have 1 hour, and were thinking we were going to at least have a chance to get some kind of result, at least get a chance so we can speak on these issues, to try to work out, in the time that is available, a series of amendments which would be defining in terms of what this debate is all about.

But we are even denied that opportunity, evidently. We are denied that opportunity on the first amendment out; denied the chance to have a rollcall vote on this issue.

So, Mr. President, I would have suggested to the minority leader and to our friends, Senator ROCKEFELLER and Senator EXON, that if they have that amendment and just use that as an add-on, as an add-on to this amendment, to have the language included. I had it here a moment ago. It is not the wording. Words can be worked out, that you send it back the way we suggested that it be sent back with a report for the $89 billion, and then we also include, if you want, recommendations in terms of meeting long-term care.

I do not understand why the Senator is so concerned about it, why that route would not be acceptable. But, oh, no, you cannot have it that way. We are not that concerned. We are not that concerned about medium and long term. But the Senator is hoping the whole thing will go down, that all of it will go down.

Do not fool us. We know what is going on around here. I do not know if the American people do. I hope that they have been watching—at least today—this debate and discussion to try to find out who is attempting to defend the Medicare system, who believes in it, who, by history and tradition, is a party of defending it and supporting it. They will know because they sure will not know it on the first proposition in defense of the majority leader's legislation that is before us.

So, Mr. President, everyone ought to have a very clear idea. I am sure the seniors do. There may be those around here who think they do not just because they are challenged with various physical illnesses and have difficulty sometimes in being able to hear all of the different words or read because their sight is facing difficulty, or unable to get around. They know when they are being fooled or when there is an attempt to be made a fool of. They can look through.

If they take the time to read this debate over the time here today, they will know who is on their side. It is not those who have promulgated this amendment, but it is those who have said, take back the giveaways, take back those tax breaks to the wealthy individuals and corporations, take back that age restriction for an eligibility increase, take back those additional taxes on working families. And let us get something out here that will assure our seniors that there will not be increases in the copays and deductibles, and that they will have the choice of their doctors.

We have asked to try to work that out together so we can have something that will deal with the economic challenges, but, most importantly, assure that our senior citizens are going to have their contract maintained with the American people and with the Congress.

Mr. President, I see my friend from Minnesota. I am glad to divide up the time.

How much time is on each side?

The PRESIDING OFFICER. The Senator's side has 42 minutes and 45 seconds, and the majority has 39 minutes and 34 seconds.

Mr. WELLSTONE. Mr. President, I would be pleased to alternate, if my colleagues want to do that.

Mr. COVERDELL. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. BROWN. Mr. President, we have taken more time than the other side. I will try to be brief so the distinguished Senator from Minnesota can go ahead. I simply want to respond to the discussion with regard to taxes.

My amendment does not deal with the tax portion. Mr. President, I am firmly committed to making sure the money in Medicare stays in Medicare, that none of it gets used for any other purposes. Frankly, that is what is in the bill.

Let me suggest this. Sometimes people organize demonstrations and they make the signs in advance, and it turns out the signs do not have anything to do with what the reality is. That is what has happened here. They made up their signs about tax cuts for millionaires, and it turned out they no longer apply. What they have done is used the signs anyway.

Mr. President, the biggest portion of this bill deals with the child tax credit, and it makes clear that higher income people do not get it. They not only do not get what everybody else gets, they do not get anything at all from the child tax credit. So the discussion about how you are somehow helping the millionaires out is quite misplaced, at least in this Member's view. What they have done basically is made up their signs in advance and have not been able to adjust them.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Who yields time?

Mr. KENNEDY. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I really welcome this debate, and in the spirit of debate, colleagues, I say to my colleague from Colorado that the problem with the tax credit proposal is that it is not refundable and that if you are a family with an income under $29,000 a year, you are not going to receive it. It makes no sense whatsoever.

Where is the standard of fairness? In my State of Minnesota, we are talking about a significant percentage of the population, families with incomes under $29,000 a year. If it is not a refundable credit, it does not do any good at all for that family.

Mr. President, I just want to respond to a couple of comments by my colleague that were made earlier. And in the main, what I would like to speak to is this argument that somehow part of this debate is a scare tactic or this is an effort to "terrorize senior citizens."

Mr. President, I think that, as a matter of fact, that is a bit insulting to senior citizens. It is a bit insulting to citizens in our country, period. People have their own wisdom.

I was in a debate the other day with several of my colleagues at U.S. News and World Report. I said, forget all of this discussion about scare tactics. I wish we were talking about scare tactics so I would not use it. People have their own intelligence. People can figure this out for themselves.

And, one more time, we have an amendment here that now is in the second degree. Why are my colleagues afraid to have an up-or-down vote on this? We had the debate. Now the rubber meets the road.

We have been saying to you that $89 billion—which is what you needed for the trust fund—what you are doing is cutting $270 billion for Medicare.

In addition, we have said, what is the meaning of $270 billion of cuts in Medicare juxtaposed with tax giveaways, in the main, and $245 billion that goes to people with higher income?

You can vote that up or down, colleagues. It is time now to match your votes with your rhetoric. Why are you afraid of an up-or-down vote?

Mr. President, the only people that are terrorized here right now are some of my colleagues on the other side who are in terror that they might have to vote what they have said they believe all along.

Mr. KENNEDY. Will the Senator yield?

Mr. WELLSTONE. I am pleased to yield.

Mr. KENNEDY. Will the Senator agree with me that if our friends on other side of the aisle are really interested in reforming Medicare, they would drop the tax cuts for the wealthy and large corporations, drop that, and let us see if we cannot find some way of trying to deal with this in a medium and long-term way?

Does the Senator believe, and is it the Senator's view, if they were prepared to do that, that this particular proposal would be the difference?

Mr. WELLSTONE. Mr. President, I would say to my colleague from Massachusetts his question is right on the mark, because what people are saying in Minnesota and around the country is, please permit us to be suspicious because you are cutting much more than is necessary for the trust fund, and we think you are making Medicare the piggyback for tax cuts for wealthy people. And if, in fact, you would give up on these tax giveaways—and we were not talking about the $245 billion—then I think we can get down to a discussion where we can focus on what we need to do, I say to my colleague from Massachusetts, for real reform.

Real reform, Mr. President, is universal coverage. Real reform is making sure that elderly people can afford prescription drug costs. Real reform is home-based care so that people can live at home in as near a normal circumstance as possible, with dignity, and not have to be institutionalized. Real reform is where there is a standard of fairness.

I tell you what is not real reform—reverse reform, where we cut $270 billion from Medicare and at the same time we have a $245 billion tax giveaway.

I have been in debates with colleagues, and they have said, I say to my colleague from Massachusetts, over and over and over again, no, this is all for Medicare. This is what we need to do. This makes Medicare solvent. This reforms Medicare. This is for the good. This amendment puts them to the test.

If that is the case, then vote against this amendment. Vote it up or down.

I find it just unbelievable that after all the speeches that have been given and after all the reassurances that have been given, my colleagues are unwilling to vote on this. That is what the second-degree amendment is all about. It is a huge dodge from a vote that people should have the courage to make.

One more time, in my State of Minnesota, 50 percent of senior citizens have incomes under $20,000 a year. In my State of Minnesota, many of our elderly live in rural communities, and those hospitals and those clinics have a huge percentage of their patient payment from Medicare and they do not have a profit margin. If you go ask those providers—has anybody asked them? Anybody asked the clinics? Anybody asked the doctors? Anybody asked the nurses? Anybody asked the physician's assistants much less the beneficiaries? They will tell you that they cannot survive some of these reductions. They will not be there to deliver health care.

So this is not about scare tactics, I say to my colleagues. This is about some unpleasant realities. And one more time, we have in our State 635,000 Medicare beneficiaries. It will be about 685,000, or 675,000, I believe, by 2002. Later on, we will talk about medical assistance. We have 425,000 beneficiaries of medical assistance. It will go up to 535,000. And anybody who wants to look at the policy carefully and understand its impact on citizens understands that the way you view health care is you look at the number of people who are going to be eligible, what the existing benefits are that people will need to have for quality health care and what the medical inflation level is, and these reductions fall far short of that.

I say to my colleagues, you just do not have the credible argument. You cannot cut $270 billion from Medicare at the same time you have $245 billion of tax giveaways, mainly going to wealthy people. You cannot do it. It makes no sense. And with this amendment, introduced by Senator ROCKEFELLER, we give you the chance to vote on what you say you believe in. We give you the chance for an up-or-down vote where you can match all of your speeches with your votes, where you can look the American people in the eye and you can say we believe that all $270 billion is necessary in order to, as you say, save Medicare.

I do not think you are saving Medicare. I think in the name of saving Medicare you are destroying part of Medicare. That is what this vote would have been about. I think the only people who are terrorized are colleagues on the other side of the aisle who are terrorized that they have to vote what they have been talking about for the last 6 or 7 months.

Mr. KENNEDY. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield.

Mr. KENNEDY. Again for a question. If this is such a great deal for the seniors, why do all of the seniors themselves and their principal representatives, the American Association of Retired Persons, Council of Senior Citizens, National Committee to Preserve Social Security/Medicare testify in opposition to the plan? If this is such a great deal—we listened to these Senators talk about it this morning for 5 hours—5 hours—and then the time came to call the roll. Oh, no, you cannot even have a vote on your amendment, even though we think it is so great. If it is so great, why will they not defend that back home to their seniors? Why will they not be able to go into their senior citizens homes and be able to justify it?

They cannot do it. They cannot do it. And the proposal and the idea that we want to look at medium or long term, they could have done that before. They could have reported out something with those kinds of provisions. But no, suddenly when they are just about to call the roll, they pull this amendment out and send it to the desk.

As we have said before, this is Halloween, and it is trick or treat time. This amendment is a trick on the seniors of this country, and it should not be accepted.

Mr. WELLSTONE. Mr. President, let me respond and then just simply yield the floor to some of my other colleagues who would like to speak.

First of all, let me just say to the Senator from Massachusetts and my colleague from Iowa—if I could get their attention just for a moment—it is very interesting; you asked the question, if this is so good for senior citizens and represents such good reform, with all the promises that have been made, how come all of the organizations and all the people who are going to be affected by this are opposed to it?

The answer is there is a huge disconnect between these proposals and the lives of people back in the States. These proposals are very reckless with the lives of senior citizens. And it is the intelligence of senior citizens in Minnesota not because anybody is leading them around by their noses; it is their own intelligence and their own insight which tells them that these proposals are not in their best interests.

I have to say to my colleagues on the other side of the aisle that your refusal to vote on your own proposal does nothing to reassure them. We have been hearing your speeches forever. We have been seeing your ads on television. You have been telling the senior citizens this is going to be so great, and now you have a chance to vote what you say you believe in, and all of a sudden, I say to my colleague from Iowa, we see them just running away, running away.

That is my first point. My second point is that—I do not even remember my second point.

Mrs. BOXER. Will the Senator yield to me for a question?

Mr. WELLSTONE. I would be pleased to yield for a question and then by then I will get my second point.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WELLSTONE. Mr. President, I ask unanimous consent for 3 more minutes so I can come up with my second point.

The PRESIDING OFFICER. The Senator has 3 more minutes off his side's time.

Mrs. BOXER. What I would love to do is simply say to my friend the reason he did not get to his second point is his first point was so good. But I have to say that in listening to my colleagues—and I truly was not going to participate in this particular amendment. I had come over here expecting a vote on it. What do I find? We are blocked from voting. What is the other side afraid of if they are so excited about their plan? They are afraid to vote.

I will tell you why they are afraid. Because they know that the American people are waking up and they understand now it only takes $89 billion to keep Medicare solvent, and they are cutting $270 billion. We know they need to cut that much to come up with what NEWT GINGRICH calls the crown jewel of the contract, the tax breaks for the wealthy. And I say to my friend, because he has been working on these issues a long time, in his hometown and his home State, do seniors understand why the Republicans want to give $5,500 a year back to people who earn over $350,000 while they destroy Medicare, Medicaid, student loans, and for God sakes repeal nursing home standards? Do the people in his State understand that?

Mr. WELLSTONE. Mr. President, I would say to the Senator from California, no. And I think this becomes an issue of Minnesota fairness and people just do not find it credible—$270 billion in cuts in Medicare but only $89 billion needed for the trust fund, and at the same time $245 billion in tax cuts, disproportionately going to people on the top. No, that violates the Minnesota standard of fairness.

My second point, which came to me, is that this whole business about some sort of a study of what the consequences of all this will be, Senators, we have this that just came to us—2,000 pages. And my colleague from Utah, whom I deeply respect, said the more people in the country get to know about our plan the better they like it. People do not know what is in this plan.

I say to my colleague from California, I have said for the last month this is a rush to recklessness, and it is because when you talk to the people who live in the communities that are affected by this and deliver the care to Medicare beneficiaries, they are saying this will not work. There is a disconnect. Anyone can add numbers and subtract numbers, but, for gosh sakes, colleagues, look at the connection between your numbers and people's lives.

We never had one hearing on your final set of proposals, not one hearing, not one expert flown in from anywhere in the country, much less the opportunity to take this back to our homes and ask the people who are affected by this whether or not it will be beneficial to them. If we had an up-or-down vote on this amendment——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. WELLSTONE. Then I think we would have had an opportunity for everybody to speak.

I yield the floor. I thank my colleagues.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this is an interesting——

The PRESIDING OFFICER. Who yields the Senator time?

Mr. ROCKEFELLER. The Senator from Massachusetts, I believe, is yielding me time.

Mr. KENNEDY. I yield the remainder of the time to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I guess it is my general impression that the other side, the Republican party, does not want to vote on this amendment which we started hours and hours ago. We have had all kinds of delaying tactics and we had second-degree and first-degree amendments, talks about all kinds of time agreements, but not a vote, not a vote.

I have not been on the floor. I have been working with our leader, but I assume that this point had been made over and over again. One of the things that I think seniors should be aware of is—which has not been talked about at all in the Republican amendment for Medicare, which cuts $270 billion out of Medicare—is something called the BELT agreement. It is not GATT, it is not NATO, it does not have forces, but it has lethal effect, absolutely lethal effect. And it is tucked away inside the Republican Medicare plan. And BELT, because I know you are anxious to find out, stands for the "budget expenditure limit tool." Interesting phraseology.

It is a budget gimmick that poses a very dangerous threat to our senior citizens. And when our colleagues on the other side of the aisle say we are trying to scare senior citizens, one of the things that comes back at me is, do our senior citizens even know the beginning of what they would be getting into if we ended up with the Republican amendment to cut $270 billion and other matters, for example, the BELT agreement?

Now, let me tell you what the BELT agreement does. This is the Republican device that will make automatic cuts in Medicare for years to come—for years to come—automatic cuts, no legislative authority, automatic cuts. And what will the cuts be made for? They will be made for the GOP tax breaks for the wealthy.

The budget gimmick is labeled, as I indicated, the "budget expenditure limit tool." And it is the Republican secret plan to make automatic cuts in the traditional—now catch my words—fee-for-service Medicare Program. Now, remember what we have been hearing this afternoon at great length is that "No, no, no, don't worry about these things called HMO's. Don't worry about that, because 90 percent of seniors are already in the fee-for-service program. Of course they'll be staying in the fee-for-service program."

So all seniors are meant to relax when they hear that argument. But they do not understand the BELT agreement, the BELT agreement, which is the "budget expenditure limit tool." And what it does is makes automatic cuts in the traditional fee-for-service Medicare Program, without any action by Congress or the President, for the next 7 years into the future.

Now, how would it work to hit seniors? First of all, it would put GOP, Republican, priorities ahead of seniors' health care needs in three ways.

First, the BELT—this budget limitation tool for seniors on fee-for-service Medicare, ordinary Medicare, 90 percent of seniors—it would set a fixed annual target on Medicare spending. Oh, we have not talked about that this afternoon. We have not talked about a fee or an expenditure limit on Medicare spending. I have not heard that from the other side this afternoon, because everything was geared to have seniors believe, so long as they were in the Medicare fee-for-service portion that they are now in, that life continues to be cheerful and wonderful and there is no worry. "Don't worry about that, HMO's." But they did not tell us about BELT.

So a fixed annual target is set on Medicare expenditures representing the amount necessary to secure the funds that Republicans need for tax cuts for the wealthy. And it becomes an absolute limit on what Medicare will contribute to seniors' health care. May I repeat that? It becomes an absolute limit, a ceiling, on what Medicare will contribute to Medicare regular enrollees, non-HMO seniors' health care.

Second, if Medicare's bill exceeds this limit, the BELT, which is the budget expenditure limit tool, imposes automatic—what is my next word?—reductions, reductions, arbitrary in nature, in key Medicare spending in the following year, imposing cuts in Medicare; for example, inpatient hospital services, reductions in expenditure for inpatient hospital services, inpatient hospital services for seniors; home health services, reductions; hospice care services, reductions; diagnostic tests, reductions; physician services and outpatient hospital services, reductions, Mr. President.

I am sorry, I am sorry, this is in the Republican plan. No, we have not heard about it because we did not have much time. And, no, we did not hear about it in the Finance Committee because we spent about a total of 10 minutes debating this entire thing—10 minutes per side.

Mr. HARKIN. Would the Senator yield?

Mr. ROCKEFELLER. I would be happy to, although I have my third Draconian measure that I would like to mention.

Mr. HARKIN. This is startling news to this Senator. I am not on the Finance Committee.

Is the Senator saying that this BELT provision, which sounds to me like the old sequestration, whereas, if you do not hit certain targets, there is automatic across-the-board cuts, is that what is going to happen, automatic, in all these services?

Mr. ROCKEFELLER. The word "sequestration" is the perfect word.

Mr. HARKIN. Well, what the Senator from West Virginia is talking about, are these BELT provisions, are they in this 2,000-page reconciliation bill? Is that what the Senator is saying? They are in this big thick bill someplace?

Mr. ROCKEFELLER. Yes.

Mr. HARKIN. I wonder what else is hidden in here. Two thousand pages, and we got it yesterday—2,000 pages. Who knows what is hidden in here—2,000 pages. We have not had 1 day of hearings on it, not 1 day. And now the Senator from West Virginia has brought up something that this Senator was totally unaware of, I will be frank to admit to everyone.

Why? We have not had a chance to look at this or have hearings and know what is in it. What the Senator is saying is buried in these 2,000 pages, which no one knows what is in there, is a provision that will allow for services to the elderly, in all the areas the Senator just outlined, to be automatically cut, automatically without any vote of this body or of the Congress of the United States. I find that incredible. I almost cannot believe it.

Mr. ROCKEFELLER. If the Senator will yield to his incredulity and mine. I would add that under the Republican $270 billion cut, Medicare will be squeezed in its growth rate at 4.9 percent per person. Now, you go into the private market, private health insurance, that is going to grow at 7.1 percent. But they are going to hold it down to 4.9 percent for Medicare.

Now, this is for your Medicare. So what is going to happen? Obviously, spending for Medicare, because you do not reduce the price of health services simply because you reduce the amount of money that you are willing to pay, to make available to pay for them, the price will continue to rise as it has in the past, but the amount of money will be much less. So what, in fact, you have guaranteed is this BELT procedure.

Mr. HARKIN. Not only that, if the Senator would yield further, not only that, not only the price increase, but the number of elderly is going to increase. People are living longer. They are healthier so they are living longer. So you will have more people in that bracket in the future.

So the belt is going to tighten even harder and faster because of both of those. I am just shocked about this. I am glad that the Senator brought this up. I daresay, there are very few people who understand this. We are indebted to the Senator from West Virginia for pointing this out. I just still find this incredible that this would be buried in this bill.

Mr. ROCKEFELLER. That is the point, I say to my friend from Iowa. And what is absolutely incredible is I have sat here under limited time, to be able to discuss any of this, this afternoon for hours, and I have heard all of this talk about this glorious—"All those seniors in the fee-for-service Medicare Program are going to be happy. We don't do anything. They are just there. They don't have to join the HMO's. They will be in that 90 percent of happy folks that we are going to do nothing to cut their services and life will go on." But this BELT procedure is reserved exclusively for them, I say to the Senator from Iowa.

So they are going to cap this at 4.9 percent, even though the private cost of health care costs are going to be 7.1 percent. So it is automatically guaranteed there is going to be a shortfall, at which point the sequester falls in, the BELT falls in, the reductions are made in inpatient hospital services, home health services, hospice care, diagnostic tests, physician services—that means visiting a doctor—and outpatient hospital services. That is the whole ball game in health care. There is not much else you can do.

I will say, I made a mistake, because the third part of this is that under the plan, since the first-degree amendment of the Senator from Colorado wiped out the $89 billion reduction in Medicare and supplanted it with a $270 billion Republican one, what I failed to say was that, in fact, they have been at least kind enough to say that the Congress could adjust this BELT or do something with this BELT procedure, but only under a supermajority.

I am not sure what a supermajority is, but it has to be at least 60 percent. It is probably closer to 66⅔ percent, which means that the Congress would not do it, so the BELT would be in effect.

Of course, BELT threatens access to choice. It applies only to Medicare fee-for-service expenditures. It hits only seniors who want to keep their current doctors. As a result, this budget gimmick will discourage doctors from accepting fee-for-service patients, senior patients, which, for reasons which we now understand much more clearly because of what is hidden in this Republican plan since obviously their payments will be cut, the physician payments will be cut, threatening the access of seniors to doctors' offices of their choice.

If there is anything you can say to a senior that will justifiably terrify that senior, it is that you are going to take that senior's doctor away.

All afternoon we have been hearing that is not going to happen, but it is the current beneficiaries who are going to be hit the hardest. I just would very much like for my colleagues to understand a new concept called BELT, budget expenditure limit tool, which automatically, if costs go up too much—which, of course, they will—it automatically sequesters and then reduces virtually all health care services for seniors. Nobody in this building knows about it.

Mr. HARKIN. Will the Senator yield?

Mr. ROCKEFELLER. Virtually nobody in the Finance Committee knew about it, because we only debated the thing for about 10 minutes. Now, the Senator from Iowa and the Senator from West Virginia know about it, and perhaps some others do, too.

Mr. HARKIN. Will the Senator yield for another question?

Mr. ROCKEFELLER. Of course, I will.

Mr. HARKIN. Again, I want to thank the Senator for pointing this out. I daresay, not too many people know about this hidden in these 2,000 pages. I just received a piece of paper on this which indicates that BELT applies only to Medicare fee for service. So it would hit only those elderly who want to keep their current doctors; is that right?

Mr. ROCKEFELLER. That is correct. The Senator is 100 percent correct.

Mr. HARKIN. Wait a minute. I had been led to believe by the other side that they want to give seniors choices, more choices; that they do not want to shoehorn or force the elderly into managed care systems but leave them their choices and their options.

But now what this says is that this BELT, this thing which would have these across-the-board cuts in all these areas, would apply only to fee for service. Again, am I correct, I ask the Senator from West Virginia, in saying that with this BELT provision, it is just another way of taking away more choice for the elderly?

Mr. ROCKEFELLER. The Senator is correct, but I will add a further dimension. It is another aspect in what it is that our Republican colleagues have to do, driven by this Contract With America, in order—you see, there is a reason for this. You do not do it because you want to do it, you do it because you have to get that tax-break money.

Mr. HARKIN. I am beginning to see.

Mr. ROCKEFELLER. That is why you have to come up with gimmicks like this which you do not talk about on the floor of the U.S. Senate, because you do not want anybody to know about it.

Mr. HARKIN. I ask the Senator from West Virginia if he will yield for another question. Then in the substitute that was offered by the Senator from West Virginia earlier today, on which they will not allow us to vote, it looks like, that BELT provision is not in the substitute of the Senator from West Virginia?

Mr. ROCKEFELLER. There is nothing—nothing—in the Democratic amendment which has that.

Mr. HARKIN. And one last question of the Senator from West Virginia, then. The only reason he can discern for having this provision in there is only so the Republicans can get their $270 billion cut in Medicare to fund the $245 billion tax break; is that correct?

Mr. ROCKEFELLER. To the Senator I say, you have to get your money somehow. If you are going to cut to get all this tax-break money, you have to go to where the money is. The money is in Medicare. The money is in Medicaid. There is some money in the earned income tax credit, which they call a welfare program, which is very interesting to me, because how come those same people then pay a personal income tax and Social Security tax? I did not think people on welfare paid those taxes.

It is just a very depressing aspect of how far they will go.

Mr. HARKIN. I am going to ask the Senator to yield. Again, I hold up this poster. I talked about it earlier. But just in light now of what I have found out from the Senator from West Virginia of what is hidden in this bill reminds me of what the majority leader said just last night, and I will quote again for the RECORD:

> I was there fighting the fight—voting against Medicare—one of 12—because we knew it wouldn't work in 1965.

That was the majority leader just last night.

So I guess I would say, who do you trust? I keep hearing from the other side that they want to save Medicare. From what the Senator from West Virginia just pointed out on this BELT, it ought to be called the "knife," because it is really cutting Medicare. That is what they are doing.

I thank the Senator. He has done a great service in bringing this to our attention.

Mr. ROCKEFELLER. I thank the Senator from Iowa. I just simply say that it is a shocking thing. It is a hidden thing. It is malicious to seniors, and it is particularly embarrassing, I think, in the context of fair debate, when people all afternoon have been talking about the fact that seniors on Medicare in the regular fee-for-service Medicare system, which is 90 percent of the system now, will continue to have this wonderful existence, when they know perfectly well that what they are doing is they are capping expenditures. They are capping expenditures several percentage points below what they know the cost of expenditures will rise in health care and then guaranteeing, therefore, the sequestering followed by the reduction in services on all fronts of health care for Medicare patients. Then the only way you can get out of it is through a supermajority, which I would assume is two-thirds of the Congress, both the House and the Senate, which I think would be very hard to do.

It is also interesting that—well, Medicare recipients on top of this will pay more out-of-pocket expenses. In other words, there is going to be $700 less per beneficiary in the year 2002. It is going to double deductibles, raise premiums, raise the Medicare eligibility age to 67. These are all very important, very troublesome problems. Private health premiums will be increased, as the minority leader indicated, by cost-shifting. Hospital closings will take place in States like West Virginia and, I assume, Iowa. I think most rural States.

Frankly, it is my judgment that doctors will be driven out of the program and will be turning away Medicare recipients.

Mr. HARKIN. If the Senator will yield again on that point, I will just say, if you have fee for service and the doctor is taking fee for service, and then you have this automatic provision to cut all these provisions, then it would be very discouraging to doctors to take fee-for-service elderly. Thus, once again, that would be lying—the intention of the Senators on the other side of the aisle that they want to provide more choices for seniors. They can say it all they want. You can say the Moon is made out of cheese, but that does not make it so. The facts are that this bill is going to push the seniors out of their fee for service.

If the Senator will yield further for a question, I want to ask the Senator what the Republicans are trying to do here with their $270 billion cut—and now with this BELT gimmick that I never heard about before—how that would work for an elderly person who just wrote me this letter from Iowa. A husband and wife—I will not use their names, because I do not have their permission yet. I will get in touch with them to ask for permission. Their total income per year with Social Security, plus they have an old house rental, is $20,000 or less. She adds up all of their health expenses and premiums, which totals $7,668 a year, out of a $20,000 income. She has diabetes and her husband has heart disease and a fractured hip socket. She had a stroke 3 months ago. She is talking about how wonderful Medicare has been for them. She said, "People around here are worried that Congress is destroying the best programs in our country, which have made people's lives so much better. My late grandparents lived in poverty receiving $40 a month welfare. Could we live on that?"

I ask the Senator from West Virginia, how could someone like this, making $20,000 a year—and I might add this: When I hear people on the other side of the aisle talk about the elderly, I swear all the elderly they know live in Beverly Hills, or Palm Beach, or something like that, because in my State of Iowa, 80 percent of the senior citizens make less than $20,000 a year, and 50 percent of the elderly in Iowa have incomes of $10,000 a year or less. That is what we are talking about.

Mr. WELLSTONE. Will the Senator yield for a second? How much out-of-pocket do they pay on health care expenses right now?

Mr. HARKIN. Well, right now about 21 percent of their income. So if they have $20,000 a year, you can figure right away that 21 percent of that—about $4,000 a year—is going for out-of-pocket expenses. One-fifth of their income is going out. Under the Republicans' proposal, that will go up, over the next several years, to 31 or 32 percent. So it will be one-third of their income that would go out. Right now, for us who are working, it is around 7 percent, 8 percent of our total income that goes for health care. So in Iowa, where we have 50 percent of our people making less than $10,000—and I have this letter which is a heartbreaking letter, where she talks about how much they have to pay for their premiums, what they have to pay for their deductibles and their prescription drugs. Their income is $20,000 a year, Mr. President, and they are paying $7,668 a year out-of-pocket. I ask the Senator from West Virginia, what hope would there be for this couple under the Republican proposal, cutting $270 billion out of Medicare? What could you tell this couple when their premiums and deductibles are going to double, yet, their income is not going to go up?

Mr. ROCKEFELLER. Well, of course, Social Security will be cut, too, will it not, under the Republican plan?

Mr. HARKIN. That is right. Not only that, but for some of the low-income elderly in Iowa making less than $10,000 a year, they are cutting the Low-Income Home Energy Assistance Program where they get a measly $80 or $100 a year to help out in that respect.

Mr. ROCKEFELLER. If the Senator will yield, after a period of 7 years, I believe it is, they are saying that you can no longer get Medicare when you are 65; you can only get it when you are 67.

Mr. HARKIN. It is going to go up to 67, right. The Senator is absolutely right.

If the Senator will yield further, the only thing I can come up with—and I really do not know why they are doing what they are doing on the other side of the aisle. I know they want to give tax breaks to their special interest friends. I understand that. That is what they want to do. They made their agreements and their contract, and they want to do that. But why do they believe they can take it out of the elderly? The only thing I can assume is that they think the elderly are so gullible that they are not going to pay attention. Maybe they are so busy, like this couple, paying their bills and making ends meet that they are not going to pay attention to what happens here. Maybe they feel that. I hope not because, I am telling you, the elderly have to understand that this is going to hurt and hurt badly for the next 7 years.

Mr. ROCKEFELLER. If the Senator will yield, I think there is a very interesting point that goes along with all of this. The majority party—the Republican Party—has accused us of "fear mongering," and scaring seniors. Yet, for a long period of time—and in telling the truth, everybody is entitled to their own opinion but not their own facts. We have been talking about some of the facts which the Senator and I have discussed this afternoon, a relatively new fact in that 2,000 pages. But, hopefully, more people will know about that. What is interesting is that the American Hospital Association really did not get very much—even though they are getting terrible cuts, they did not get involved too much in taking all of this on.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Michigan has 38 minutes.

Mr. ABRAHAM. At this time, I yield 7 minutes to the Senator from Minnesota.

Mr. GRAMS. Mr. President, if this is a contest of volume and rhetoric and half truths, we are going to probably come in second best. I would like to try to concentrate on some common sense and some truth about what we are trying to debate here on the floor.

We are really talking about a couple of major issues, and that is that a lot of the debate is whether we are going to put a Band-Aid over the Medicare

Program and extend it for maybe 2 years into the future of solvency, as the Democrats have proposed, and then be back here in another year or two and debate this all over again, or we are going to look at some real reform. We are going to talk about extending this program to 2012 and into the next generation, to make sure that we secure, that we improve, and that we protect the Medicare system, not only for those who depend on it today, but for the next generation as well.

If we do not begin real basic reform—that is, to reduce the rate of growth in this program, and we are not talking about cuts, we are talking about trying to put some common sense into this program and put out there a Medicare Program that not only provides good service but is one that we can afford. If we do not, the alternatives are just a couple. Either we can do as the Democrats have proposed, and that is extend the life of this program for just 2 years so we can come back here and debate this all over again after the next election. Or we can do nothing and we can let the trust fund go broke, as the trustees have told us it will do, in the year 2002. Or the other option would be that we can go back to the taxpayers with business as usual and say we need another $388 billion to keep this program status quo—business as usual.

That is what the Democratic answer has been over the last 30 years. Seven times they have gone to the taxpayers and said, "We need more money for this program," and raising taxes has always been the answer—never real reform, never restructuring the program, never trying to make it sound. Just more taxes. Throw more money at the problem and get us by another couple of years; just limp into the next century, and we will come back and address the question then. Then the linkage, the demagoging, of always $270 billion in reduced growth—not in cuts, but reduced growth—and they link this always to $245 billion in tax relief. They seem to have some kind of an objection to letting Americans keep more of their own money.

If this were a repeat of the 1993 record increase in taxes they would be down here in a second to vote to raise your taxes. But if there is any talk about tax relief for American families, hard-working families, they just demagog this to death. They do not want you to keep any more of your money.

Somehow, somehow the thought and the notion in this Capital City has been that the money belongs to Washington. We are going to decide how much to dole back to you, the hard-working Americans.

Those who get up every morning, go to work and put in 40-plus hours a week, husband and wife trying to take care of their family—they do not think you can spend their money as wisely as they can in Washington. If they allow you to keep this $245 billion over the next 7 years, you might spend it foolishly—like on food, clothing, shelter, education for your children. You might do something stupid with your money. So, send it to Washington and they will make sure that it is spent more wisely.

And talk about the scare tactics. Fearmongering—they do not fearmonger. They are not throwing out scare tactics. For the last hour, we have sat here and listened to nothing but scare tactics, that we are somehow gutting this program, that there will not be a dime for Medicare, for our senior citizens over the next 7 years or beyond.

If that is not a scare tactic, telling every senior citizen in America if we do not buckle under and not give any tax relief or raise taxes, that somehow all Medicare will disappear. My grandmother is one that got one of these scare tactic letters from her Democratic Congressman in northern Minnesota. It said that somehow the Republicans are going to put you into the street because they are going to take away Medicare.

Now, for a 92-year-old bedridden woman to get a letter like this, if this is not scare tactics, I do not know what is. To hear the rhetoric we have heard and will continue to hear, if that is not scare tactics, without addressing the problem, if the problem is so bad, where have the Democrats been over the last 30 years? How come all of a sudden we are on the brink of disaster, if they have all the answers today?

I do not know why a $500 per child tax credits somehow does not work in with their plan.

Another thing, the $270 billion in reforming Medicare. Now, if we do not do this, again, the trustees are saying it will go broke, that somehow Medicare—we know that over the next 7 years any savings in Medicare has to remain within the trust fund. There is a firewall.

In fact, Republicans have an amendment, as our amendment notes, using Medicare savings for tax cuts would be illegal under the Finance Committee bill. The Senate committee bill says it would be illegal to use it for anything but Medicare.

There is no linkage. The only way we can have tax relief is if we reform it and balance the budget. If we can do that, then the benefits are going to be some tax relief for hard-working Americans who have been paying $245 billion—do you realize that is only 1.5 percent of our total expenditures over the next 7 years?

But it sounds like that if somehow we give this small tax relief to American residents and hard-working middle-class families, that somehow this whole country is going to unravel; if we take this $245 billion and shift it out of Washington and into the hands of families, that somehow this whole country is going to collapse, because we have taken another $245 billion from bureaucrats in Washington to spend as they want.

So, again, one other thing I want to mention, if the Government is going to somehow pay for all of this, if we cannot afford it ourselves, how can we afford to pay taxes to let the Government do it? We cannot.

If we cannot as a society, as individuals or as families, somehow afford this, is the Government automatically going to have enough money in Washington? They will tax it away. Washington does not create wealth. It collects it and redistributes it.

Is this good for seniors? Yes, Mr. President, it is good for seniors. It will make sure that Medicare is protected and preserved.

Mr. WELLSTONE. Will the Senator yield?

Mr. GRAMS. I just have a few minutes left.

The PRESIDING OFFICER (Mr. ABRAHAM). All time has expired.

Mr. GRAMS. I think this is something that is so important that we cannot ignore it, and we have to make sure that Medicare is preserved and protected not for an additional 2 years but for the next generation.

I yield the floor.

Mr. FRIST. Mr. President I yield 8 minutes to the Senator from Wyoming.

Mr. THOMAS. Thank you, Mr. President.

I come to change the tone a little bit. I have been sitting here for 5 hours and have heard nothing but negative, depressing kind of things.

I am excited about the opportunities that we have. I am excited about the opportunities that we will have to do something that the people who have been complaining here have not done for 30 years. We will have a chance to balance the budget. We have not done it for 26 years. We will have a chance to do something about welfare. We have not done it for all these years. We will save Medicare. We have not had a plan to do that. We will leave a little more money in the pockets of Americans.

Now, that is not a bad idea. That is a pretty positive kind of a thing, it seems to me.

Frankly, I get a little weary of the same folks that have been here, who have brought us where we are, that we need changes, and they resist changes, and expect something different to happen by doing the same thing. I do not understand that.

That is what we have heard all afternoon. Do not change anything. Things are not good, but do not change them.

Someone mentioned the difficulty in rural States. I come from a rural State. As a matter of fact, there are a number of things here that I think will be greatly strengthened, including the health program in rural areas.

There are several specific things here that I want to mention. One is limited service hospitals. We have, over time, developed hospitals. We were encouraged over the years—properly—to develop full service hospitals in small towns. Quite a few of them sometimes were just 20 miles apart.

In Wyoming, we had a hospital with 4 percent occupancy. It cannot exist at that. So it has to fail.

So we will change in this bill the qualifications of a hospital so that you can have a limited service hospital, still be reimbursed by HCFA, the Federal Government for stabilizing facilities, for emergency facilities, so you can move to the next hospital. It would be a great asset. You need something in a town but you will not be able to have a full service hospital. That will be done here.

Medicare dependent hospitals—the 1993 budget let this program expire. We are going to reinstate that. The purpose is to assist facilities in high Medicare patient loads to continue.

The extension of the sole community hospital status, hospitals that have less than 50 beds, 35 miles away from the nearest hospital, will continue. This is good stuff for rural America.

It levels HMO payments in Medicare. There is a great disparity now. We settled that on the basis of fee-for-service as it existed. In Bronx County, New York, $678 can be paid per month for HMO's and Medicare; Fall River County, South Dakota, on the other hand, gets $177. We will fix that. That is good for rural America.

Medicare bonus payments to physicians will be increased from 10 percent to 20 percent. We talk about bringing service providers into the rural area. This will do that. Telemedicine grants—we have a great opportunity to increase services with telemedicine grants in rural communities.

I understand the marketing device, of being opposed—there are some very positive things here, starting with the fact if you do not do something, it fails. Second, you can preserve it for 2 years or you can preserve it for longer than that, and we are going for the long haul.

There are positive things here. One of them is the help for rural areas, like my State of Wyoming. I am very pleased we are looking forward, in these next 2 days, to do some positive things. I hope we begin to talk about the benefits that can accrue, benefits that will accrue, rather than seeking to worship the depressing scenario we have been going through for the last couple of hours.

I yield the floor.

Mr. SARBANES. Mr. President, I rise today to join my Democratic colleagues in expressing deep disappointment and outrage at the way in which those on the other side of the aisle have chosen to handle this critical issue.

Several weeks ago, I participated in hearings organized by Senators KENNEDY and ROCKEFELLER because it was—and remains—my view that the public ought to have the opportunity to review and understand what is being proposed by congressional Republicans with respect to the Medicare Program.

During these hearings, we heard testimony from the trustees of the Medicare Trust Fund. We believed it was important to hear from the trustees in order to give them the opportunity to clarify any misrepresentation of their annual report on the future solvency of the Hospital Insurance Trust Fund and to get their analysis of the Republican proposal to cut $270 billion from the Medicare Program.

What we found was that the Medicare trustees do not even suggest that $270 billion is required to address the problems of the trust fund. In fact, the trustees made it very clear that $89 billion over the 7 years is all that is required to address short-term solvency issues of the Hospital Insurance Trust Fund. In a recent letter to Republican leaders DOLE and GINGRICH, Secretary Rubin specifically states, and I quote him:

> No member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare Trustees or that such reductions are needed now to prevent an imminent funding crisis.

The amendment offered by Senator ROCKEFELLER gets right to the heart of this issue. Senator ROCKEFELLER's amendment would recommit the Medicare portion of the reconciliation bill with instructions to the Finance Committee to eliminate cuts beyond the $89 billion that the Medicare actuaries certify is necessary to ensure solvency of the trust fund through 2006.

Now, we find out that we will not be permitted a straight up-or-down vote on this amendment. I say to my colleagues on the other side of the aisle, if you believe as you say you do, that a $270 billion cut is needed to save the Medicare Program, then this vote should be simple and we should all have the opportunity to make our position clear on this important matter.

The effort to prevent a clear, recorded vote on Senator ROCKEFELLER's motion is even more distressing in light of the absolute refusal of the Republican leadership to hold the kind of open, public hearings that an issue of this magnitude requires. What they have done is spring the legislation on us and then immediately move to mark it up and report it to the floor without any chance for careful examination or thought as to what its implications are for our senior citizens. They try to move it so fast that people cannot, in effect, identify what is being done.

The best description of what they are doing was given, in my judgment, by the Republican political analyst, Kevin Phillips, in a recent radio interview where he was quoted as saying—now this is not me talking; this is the Republican political analyst Kevin Phillips. And he said, and I quote him:

> This revolutionary ideology driving the new Republican Medicare proposal is all so simple. Cut middle-class programs as much as possible and give the money back to private-sector business, finance and high-income taxpayers. Rhetoric about the cuts being to save Medicare is politics, not underlying GOP motivational reality. Remember, at the same time as the Republicans propose to reduce Medicare spending by $270 billion over seven years, they want to cut taxes for corporations, investors and affluent families by $245 billion over the same period. This is no coincidence.

The fact of the matter is, the Republican Medicare reform proposals are not about saving Medicare or about protecting senior citizens. They are not about true reform. To reform, by definition, means to make better or improve by removing faults. I submit that this entire reconciliation package is driven by an insatiable desire to give further large tax benefits to very wealthy people.

Mr. President, it would be truly irresponsible for the Congress to approve sweeping and drastic changes to the Medicare system without a thorough discussion of what those proposals mean to our Nation's health care system, and to the people it serves. We have not been afforded the opportunity for such a discussion and I regret that we will also not be afforded the opportunity to have straight up-or-down vote on this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the amendment that has been offered by the other side of the aisle is a statement that the Members on the other side of the aisle have lost their nerve. They have lost their nerve to really do something big about Medicare before it is too late.

We all know from the President's own people that Medicare will be bankrupt in the year 2002. This bill put forth by the majority party guarantees that Medicare will not be bankrupt by the year 2002.

The plan that is put before us addresses only the part A trust fund. We all admit that there is a crisis in part A, because it is growing at a very robust clip of 8.4 percent. But their plan does nothing to address part B. Part B is growing, as we know, at 14.5 percent, an unsustainable rate. So I think we all have to question their logic, that they raise a point about 8.4 percent being a crisis but will forget about the part of Medicare that is growing almost twice as fast, at 14.5 percent.

It is a simple fact, if we do not act now, there will not be a system around when baby boomers retire. The longer we put this off, the harder it will be to address. Just look at how difficult a time we are having to apply a stitch in time. The scare tactics being used now by the Democrats, of course, will look like Halloween compared to what we will see if we continue to put these reforms off until the years 1999, 2000, 2001. Maybe they will not even be dealing with it in the year 2002.

Then I look at the recent discussion from the other side of the aisle on the provisions dealing with what is called the BELT.

We have been fed a lot of horror stories by the other side. If I get any message from the seniors of America, it is this. They think the cost of medical care is too high and they blame us, because it is a Government program, for it being too high. They expect us to do something about the bills. They expect us to do something about the cost of Medicare. This provision only makes sure that Congress lives within its spending targets.

Ask any senior anywhere in America if they believe in a balanced budget. They will tell you that they do believe in a balanced budget.

Ask them if they think there ought to be some limits on what is spent on a Government program, health care or anyplace else, and they will say, yes, there should be.

That provision is in the bill to guarantee that costs do not exceed spending targets.

The impression was left from the debate between my colleague from Iowa and my colleague from West Virginia that this has never happened before. It did happen before. In 1987 there was a reduction of 2 percent, so do not say this is a provision that has never been applied before. It has been applied before. Do not say that this is a system Congress has no control over, because the law provides for a review by Congress. And if Congress wants to bite the bullet and take action before the President does, we can and we should and we will.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, I yield 7 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to compliment Senator FRIST, Dr. FRIST from Tennessee, for his leadership on this issue. I think he has brought a great deal of experience and expertise on the entire health care issue. I compliment him for it.

I also wish to compliment the Senator from Colorado for this amendment. The amendment that we have basically says this reports with instructions back to the Finance Committee to make sure that we have a lockbox provision to make sure all the savings or changes that we have in part B go into the savings in part A so it will help make sure part A does not go bankrupt.

Our colleagues on the other side do not have that in their provision, but I think it is a very good, solid provision. It is one the Finance Committee adopted. This is kind of a second key on the lockbox to make sure that of any of the costs that would be incurred by beneficiaries, that 100 percent of those costs go directly into the solvency of part A. I think that is an excellent amendment, so I compliment my colleague and I urge my colleagues to support this amendment.

Some people have alluded to the fact, well, we do not really have a problem with Medicare. I beg to differ. The trustees report clearly states we do. We have seen charts that next year under Medicare we start paying out more money than we take in, and that over a 7-year period of time the trust fund is totally used up and then they cannot pay the bills. That is not acceptable. That is not an alternative that is agreeable or acceptable to anyone.

Some say the $89 billion would solve the problem. It does not solve the problem. It does not even come close to solving the problem. If we take the changes that we have proposed in the Finance Committee, reiterated by the amendment that we have from the Senator from Colorado, we are ensuring the trust fund. We are saying we are going to make some changes in part B, as the trustees said we should, because the part B trust fund has problems, it is running out of money. We take those savings and use that to ensure the solvency of part A. That makes sense.

We are going to keep part A solvent, not just for 2 years but, really, for more than 10 years. I think that is an excellent step in the right direction. What have we done in the past when we had a problem under Medicare? In the past we have had problems. We have had reports from the trustees, as was alluded to by some of our colleagues, that it is running out of money. What have we done? Every time in the past what we have done is we have increased payroll taxes and we have had big, big increases in payroll taxes.

There are only two ways you can solve the Medicare trust fund problem. You either increase the money going in—that is paid for by a payroll tax. Presently we are paying 1.45 percent; the employee pays that. The employer matches that. So it is 2.9 percent of payroll going to fund Medicare. That is what we are doing today.

When we have had problems in the past, how have we financed it? We have financed it with a big increase in payment, in taxes. That is what the trustees said we are going to have to do. We are going to have to have big payroll tax increases to solve the problems in the trust fund or we are going to have to reduce the rate of growth of expenditures.

We elected not to increase taxes. That is unheard of. Because I will tell you something—I want to put something in the RECORD. In the past, all Congress has ever done is increased payroll taxes. I just ask a question, does anyone know what the maximum tax rate is, if someone paid maximum taxes in Medicare in 1978, what the total tax was for them and their employer combined? It was $177.

Do you know what the maximum tax rate was in 1993? It rose a little bit. It went from $177 to $3,915. And today it is even more, because we took the cap off. So it went from $177 to over $4,000 in a period of 15, 17 years. There are unbelievable increases in premiums, and that is still not enough. It is an unbelievable increase in taxes, and it is still not enough.

So what did we do? We said, let us reduce the rate of growth in spending. Some people said, you are cutting $270 billion. We are spending, today, $178 billion in Medicare; in the year 2002 we are going to spend $286 billion. That is an increase. I am going to put into the RECORD how much Medicare spending is increasing every year. Most people said 6.4 percent. I have said that. Actually, it averages out right at 7 percent. So I will put this into the RECORD.

It is interesting. I went back to see what the President's figures were when he revised his budget on June 22, 1995, what the President's figures were for Medicare. Guess what? He proposed changes. He uses OMB. He uses a different baseline, uses different growth rates, but the differences in outlays are minuscule.

In 1995, he estimates we are going to spend $4 billion less than what CBO does. He says 174. In 1996, we estimate we are going to spend 193 in our proposal; the President says we are going to spend 192—almost identical. In 1997, we estimate we are going to spend $207 billion, a 7 percent increase. The President says we are going to spend $208 billion. In 1998, there is only $3 billion difference. In 1999, the President said we should spend $5 billion more.

My point being there is very little difference in outlays estimation. Granted, the President is using OMB, he is using a rosier scenario, forecasting a lower growth rate in Medicare costs, but there is very little difference in outlays between what the President is estimating we are going to spend in Medicare than what we estimate using the Congressional Budget Office. Why did we use the Congressional Budget Office? Because that is what we agreed to use. That is what the President said he would use when he gave his State of the Union Message. He said he was going to use the Congressional Budget Office. Now he is not doing it. Now he is not doing it. But we are.

Mr. President, I am going to ask unanimous consent to have printed in the RECORD the Medicare spending comparisons, both by this budget resolution that we have before us and by the President, and tell my colleagues that over the 7 years, our plan says we should spend $1.655 trillion, and the President, over that same period of time, spends $1.676 trillion, a minuscule difference in the total spending over that period of time, of $21 billion—the difference in outlays between the President's budget and our budget granted that he uses OMB and a rosy scenario.

Also, Mr. President, I am going to ask unanimous consent to have printed in the RECORD the growth rates of the maximum amount taxable for Medicare, the tax rates, and the maximum amount paid, because it will shock our colleagues to find out that in 1978 we were spending total taxes of $177, and today the maximum tax is over $4,000. That is still not enough. That says we need to reduce the rate of growth in this program, not increase taxes.

I compliment my colleagues for this amendment.

I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDICARE SPENDING COMPARISONS

[Gross mandatory outlays; dollar amounts in billions]

	1995	1996	1997	1998	1999	2000	2001	2002	7-yr total	7-yr average
Senate Reconciliation	$178	$193	$207	$220	$234	$250	$267	$286	$1,655	
Growth over 1995		$16	$29	$42	$56	$72	$89	$108	$411	
Percent growth		9	7	6	6	7	7	7	61	7.0
President II	$174	$192	$208	$223	$239	$254	$271	$289	$1,676	
Growth over 1995		$18	$34	$49	$65	$80	$97	$115	$458	
Percent growth		10	8	7	7	6	7	7	66	7.5

Sources: CBO & OMB: Provided by Senator Don Nickles, 10/24/95.

INTENSIVE CARE—MEDICARE TAX RATES AND WAGES SUBJECT TO TAX FOR A SELF-EMPLOYED INDIVIDUAL 1966 THROUGH 1995

Year	Maximum taxable amount	Contribution rate (percent)	Amount
1966	$6,600	0.35	$23.10
1967	6,600	0.50	33.00
1968	7,800	0.60	46.80
1969	7,800	0.60	46.80
1970	7,800	0.60	46.80
1971	7,800	0.60	46.80
1972	9,000	0.60	54.00
1973	10,800	1.00	108.00
1974	13,200	0.90	118.80
1975	14,100	0.90	126.90
1976	15,300	0.90	137.70
1977	16,500	0.90	148.50
1978	17,700	1.00	177.00
1979	22,900	1.05	240.45
1980	25,900	1.05	271.95
1981	29,700	1.30	386.10
1982	32,400	1.30	421.20
1983	35,700	1.30	464.10
1984	37,800	2.60	982.80
1985	39,600	2.70	1,069.20
1986	42,000	2.90	1,218.00
1987	43,800	2.90	1,270.20
1988	45,000	2.90	1,305.00
1989	48,000	2.90	1,392.00
1990	51,300	2.90	1,487.70
1991	125,000	2.90	3,625.00
1992	130,200	2.90	3,775.80
1993	135,000	2.90	3,915.00
1994	no limit	2.90	unlimited
1995	no limit	2.90	unlimited
Total taxes paid (1966–93)			22,938.70

Mr. FRIST. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator has 13 minutes and 40 seconds.

Mr. FRIST. I yield 7 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I too listened with great interest to some of the rather vigorous debate, I believe is the phrase. It was rather strained a time or two, and almost a little bit hysterical, I thought a time or two also, just hearing snatches of it from those on the other side of the aisle. It would, indeed, as my good old friend from Wyoming has indicated, make you weary. And indeed it will.

What will make you even more weary is to read once again, which has been alluded to many times in this debate, "The Status of the Social Security and Medicare Programs in the United States of America," this wonderful little yellow pamphlet which has been recommended to all Americans for many months now. And I wish I could put it in more earthly vernacular, and I could ordinarily, but this forum does limit one in that particular dependency, so let us just say that Social Security is going to go broke and Medicare is going to go broke. So if you want to have another TV ad of somebody smashing into their oatmeal with the pitch that the Republicans are doing something horrid, get a real picture of someone who is watching Medicare go broke in the year 2002, where you do not have a "less" benefit in the years out; you have "no" benefit. Try that one on.

So too even with the hard work we have done here, be of stout heart. For Medicare will not go broke in the year 2002. It will now go broke in the year 2008. So gird your loins, cheer yourselves, and know that the draconian activity we have undertaken here on our side of the aisle—and we will do it, and we will do it by ourselves—will "save" it till then. And in a year we will tell the American people what we did, and they will be very pleased. This is what we are about.

I have not heard a single recommendation from the other side of the aisle that would do anything, and certainly $89 billion is not going to do anything because they did not even talk about part B. How phony can you get to come in and talk about you only need $89 billion to save Medicare, and leave off part B? How really phony can you get when you want to know, ladies and gentleman of America, that part B premiums are totally voluntary, they are not part of any Contract With America, and they were not part of any contract with senior citizens. In every sense, it is an income transfer. It is a welfare program because right now the senior citizen who has chosen to accept this is paying 30 percent of the premium, and the people who maintain this magnificent building at night when we are not here are paying 70 percent of the premium. I hope somebody will figure that one out.

So I want to watch the votes. Again, how we are going to handle part B premiums when we have this peculiar situation, to say the least, where "Joe Six-Pack" is paying 70 percent of the premium for somebody who is "Mr. Megabucks." If you want to get into this business about "the little guy," let us get really into this one. This is about the little guy, the guy that does not have anything, and he or she is going to work every day to pay 70 percent of the premium for everybody in Medicare part B. That is absolutely absurd.

So I am anxious that we do cast some votes in that area. We will smoke them out and see who really is for "the little guy."

Then, of course, we will see a unique and remarkable experience. We will get there in conference. The President of the United States has said that Medicare will not be allowed to go up over 7.1 percent, and we are saying we will not let it go up over 6.4 percent.

Does anybody in America believe we will not get there? There is not a single person on the other side of the aisle that does not know the President of the United States of America has already recommended that Medicare not be allowed to increase over 7.1 percent and not 10.5. We all know that. I hope the American people cut through the babble on that one.

We all know the President of the United States has now said we will have a 7-year budget instead of a 10-year budget. It is good that he is calling it a 7-year budget because his 10-year budget thing was just a thing. It was not a budget. So we will address that.

Now he has admitted that he went too far in raising taxes. I saw a fellow get beat on that once in a campaign—two of them, in fact. Now, surely, perhaps three.

So we are ready to go. We will go over the cliff together. We will not get a single vote from the other side of the aisle. And between now and next October, next election season, we will describe to the American people just exactly what we did, how we saved Medicare, how we began to get on track again all over the United States, and all over the world with our work, with our debt limit, our deficit, our savings rate with all of the things that are critical to us, and be a solvent country.

But in the next few days, and weeks, we will be accused of being the party that broke all the ketchup bottles over the heads of every child in the first grade, threw all the bed pans out of the nursing homes, destroyed every possible facility that shelters the homeless, the aged, and the infirm. And be ready for that.

And the charge may be led by the AARP, which is a group of 33 million Americans bound closely together by a love of airline discounts, automobile discounts, and insurance discounts—one of the biggest businesses in America who even have a thing called "tax advice" for their members. And this is a group that has paid the IRS $135 million in back taxes. Boy, I would love to have them giving tax advice. They need all the money they can to figure out how to get back $135 million. So be ready for it. Dig in. We are going to have a lot of fun. And when it is all over, we will have the votes. And when it is really completed, the American people are going to be very excited and pleased months from now when they figure it all out as to what we did and what they on the other side of the aisle did not do.

Mr. D'AMATO. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. FRIST. Mr. President, I give the Senator from Wyoming an additional 2 minutes.

Mr. D'AMATO. Mr. President, will the Senator comment on—how much? I think the Senator previously talked about, how much does the AARP have in investments?

Mr. SIMPSON. They are a ragged lot. They are just a tattered band of ragamuffins. They have a building downtown here which could be described as "the Taj Mahal," and their lease rental there per year is $17 million—$17 million a year on a 20-year lease. They have $314 million in the bank in T bills. They get $106 million a year from Prudential Life Insurance, taking 3 percent of every premium. They get premiums and royalties from Scudder on investments, from New York Life, from the R.V. insurance. They are a big, big, big business, and they also get $86 million from the U.S.A. to run some of their programs on top of all that.

Mr. D'AMATO. I thought it was interesting that they have over $300 million in Treasury bills that they have invested.

Mr. SIMPSON. That is true. But they are just struggling along. And we want to continue to send our $8 dues to them because my mail is running 16 to 1 against the AARP, and most of it comes from their own members who say, "I am still going to pay the 8 bucks, but go hit 'em a lick." And I am certainly going to be delighted to do that.

Mr. FRIST. Mr. President, parliamentary inquiry. Time?

The PRESIDING OFFICER. Five minutes remain on the Senator's side, no time remaining on the other side.

Mr. FRIST. I would like to yield the remaining 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. D'AMATO. Mr. President, I thank the Senator from Tennessee. He has done a magnificent job in attempting to combat the demagoguery that comes from nothing but partisan politics. And I have to tell you something. If it is not the drumbeat of the AARP, which is bad enough, scaring seniors, you cannot make a call into my office because they have got these poor people absolutely frightened. And I wish to apologize to the senior citizens for all of the fright that they have gone through. I think it is a shame. I think it is a shame that maybe we have not done a better job of getting the message through. I think it is a shame that some people who call themselves champions of the underprivileged have engaged in demagoguery that has hit new heights.

Only in Washington can you spend $110 billion more for a program, which we will be doing in Medicare over the next 7 years, $110 billion more, increasing expenditures at twice the rate of inflation, and call that a cut. Only in Washington can you be taking the average recipient who gets about $4,800 a year in benefits and almost increasing it by $2,000 so they will be getting $6,700 a year and call that a cut. Only in Washington can my colleagues on the other side demagog it and get up there with the big voice: Oh, we are going to cut; we are going to kill, totally negate, forget what is going to take place and come forth with not one constructive suggestion as it relates to how you are going to keep Medicare from going bankrupt.

They do not come forth and say anything. No, just spend it and spend it and bankrupt us in less than 7 years. There will not be any Medicare. Then what happens to the seniors? What do they say? They say you are cutting so you can give taxes to the wealthy. Nonsense. Mr. President, 70 percent of any tax advantages are going to go to working families in America; $141 billion out of the $224 billion that will be coming in cuts go just for the $500 per child tax credit— $141 billion. That is about 60 percent.

We hear yelling and screaming about the families, when we do something for adoption, when we do something to take care of the marriage penalty, when we do something to equalize and strengthen the family and give people IRA's, working families, middle-class families, not millionaires, not businesses, when we say, by the way, that those people who have incomes of $150,000 should pay for their own health insurance. A retired person with $150,000, by gosh, should pay for it, not working middle-class families subsidizing the wealthy.

That is what we do here. We hear nothing but demagoguery. I cannot believe it. I wish to tell you something. You do a great disservice to the American people with that kind of rhetoric. I think we will demonstrate quite clearly that we are the party that is responsible.

Here is the President's status of Social Security and Medicare Program, a summary. This comes out by the President, his commission. Three of his Cabinet officials are there. And I read the first page. It says, "The Federal Hospital Insurance Trust Fund will be able to pay benefits for only about 7 years and is severely out of financial balance long range."

What do our friends on the other side say about correcting that? Nothing. And we come forth with a program. They have had months and months to work with us. Do they offer any constructive suggestions? No. They demagog the issue. They say to people, they are going to cut your benefits. That is not true. They say, they are going to cut your benefits and give tax breaks to the wealthy. That is not true. They say, they are going to give you less. And, indeed, we are increasing that program again by $110 billion more.

Somehow we have to do a better job to get the message out. But that does not negate the negativism, the demagoguery, the sheer hypocrisy that comes from the other side. I have to tell you something. I make no apologies for branding their brand of legislative acumen in that manner because that is what it amounts to—sheer demagoguery.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? There are 25 seconds.

Mr. DOMENICI. How much time do I have to yield?

The PRESIDING OFFICER. The Senator has 25 seconds.

Mr. DOMENICI. Just 25 seconds. Does anybody want 25 seconds on our side? Does the majority leader want 25 seconds?

Mr. DOLE. No. Keep counting.

Mr. DOMENICI. Let me thank Senator BROWN from Colorado for originally coming to the floor with this second-degree amendment and helping us out. He did a very good job. And for those who spoke the last 2½ hours on our side, I think we have all done a good job.

The PRESIDING OFFICER. Time has expired.

Mr. DOMENICI. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Who yields time to the Senator from Washington?

Mr. ABRAHAM. Madam President, the majority leader yields to the Senator from Washington such time as he needs off the bill.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GORTON. I thank the Senator from Michigan.

Madam President, we are at the beginning of a debate over the most important piece of legislation that this body has considered during the course of the last decade. We have before us a proposal which will lead the United States to its first balanced budget in 26 years. Yes, Madam President, 26 years.

That proposal includes with it a plan to preserve, to protect, and to strengthen Medicare to see to it that the Medicare trust fund or hospital insurance does not go bankrupt; fairly to distribute the costs of Medicare part B, fees for physicians and for medical care across the course of the population; to provide our seniors with a greater degree of choice than they have at the present time and the selection of the way in which they receive their health care, one which will allow the expenses for Medicare to increase in each and every year during the time during which we are balancing the budget; a plan, a budget which will also ultimately include in it genuine welfare reform, reform of a system which has actually made worse the very conditions it was designed to alleviate in the first place, a welfare reform which will emphasize work, families, and hope for the future; and finally, but not at all incidentally, Madam President, tax relief for the hard-working American families in the middle class, those who are working and contributing to their society, those who are providing for their families and for their future.

Madam President, in the almost 13 years during which I have served in this body, we have never previously had an opportunity to do correctly and well any one of these things, much less all four of them together.

It is not as though we were presenting one alternative vision of the future and the opponents were presenting another valid, arguable vision of the future. We are presenting a plan, an idea, a course of action, and the other side is defending the status quo. They do not wish to propose an alternative.

The President of the United States has, in vague and general terms, proposed an alternative budget, a budget based not on projections made by our Congressional Budget Office, the office the President himself said should be the common ground of all proposals on future spending and tax policies. No, the President's proposal is based on his own figures, taken almost out of thin air, but, nonetheless, it is a proposal, Madam President, a proposal which was rejected by a vote of 0 to 96 in this body earlier this week. The President's party in this body does not propose to follow the course of action that the White House has outlined.

It simply proposes to vote no on all of the changes which we have advanced in this reconciliation bill.

But perhaps most significant, I believe, in connection with this debate is the estimate, the projection that our Congressional Budget Office has made conditioned upon our adopting these spending reforms and passing a statute which will lead to a balanced budget even 7 years from now in the year 2002.

The Congressional Budget Office has said that if there is in law a realistic and effective set of statutes, which it and independent economists can say with a high degree of confidence will balance the budget even after the turn of the century, then, in its view, the economy will grow sufficiently to provide an additional $170 billion in revenue as a result of a growth of the economy itself and as a result of lower inflation and lower interest rates—$170 billion, Madam President, for the Government of the United States. But that figure is not the total of the benefit to the people of the United States; it is only the share of the Federal Government. The total benefit—roughly four times that—will approach $1 trillion.

Where will the balance over that $170 billion be? It will be in the pockets of the American people in the form of higher wages, in the form of lower interest payments on the homes that they purchase, in the form of better jobs because of greater opportunity that the society will create. That is the reward—the cautious and conservative reward—that this country and its economy and its people can and will receive from a balanced budget. That is an argument which has been almost totally overlooked in this debate over specific programs and precise benefits, tax breaks, and the like, that simply by engaging in this action we will provide Americans with a brighter and a better economic future.

Of course, Madam President, that $170 billion of additional resources for the Government of the United States represents, itself, the overwhelming bulk of the tax relief which is contained in this proposal, and is conditioned upon this proposal becoming law in a way that will in fact balance the budget. When you add to that the closure of various corporate loopholes, the overwhelming majority of the tax reductions have as their source either those loophole closings or the fiscal dividend—the $170 billion dividend we get—simply because we will have balanced the budget. And it is our firm view that that dividend ought to be returned to the American people in the form of lower taxes and not retained by the Government for its programs.

As I said, Madam President, we do not have an alternate vision; we have an alternate set of criticisms. No, we cannot do this. No, we dare not do that. No, we cannot reduce that program and, above all, we do not dare reduce taxes on the American people. That alternative course of action is one which says, essentially, that the status quo is the best we can do; that whatever we have done in the past, we ought to continue to do in the future; that we can afford to ignore almost completely, but not quite, all of the challenges and problems of the most rapidly growing of our major entitlements—Medicare; that we can and should continue to say that the overwhelming bulk of the cost of Medicare should be paid by today's working people, even when that means that hard-working, middle-income Americans are paying for more than two-thirds, almost three-quarters, of the health expenses of wealthy, retired Americans—millionaire retired Americans. No, we cannot make these reforms. We should not make any changes. Everything that Congress has done in the past, all of the programs it has passed in the past should and must be continued.

Well, Madam President, I must say that the choices are relatively easy choices. With all of the difficulties and with all the changes in direction, with all of the groups with genuine or imagined concerns, we have a plan, we have a vision that will lead to a stronger America. Our opponents do not. It is time for us to move ahead, to do what we committed ourselves to do during the course of last year's election campaigns—to pass this proposal, to settle our differences with the House, and then, from a position of strength, to persuade the President to keep the commitments that he has made at one time or another, which, of course, included all of these elements—a reform in our Medicare system, a balanced budget, changing welfare as we know it, and a tax cut for middle-income Americans.

Every one of these four elements in our program is something that the President of the United States has promised or committed to at some time in the past and has since, to a greater or lesser degree, repudiated. We want to keep our commitments; we want to keep his commitments. The only way we can do so is by passing this reconciliation bill.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Madam President, I yield myself such time as needed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. We have heard today a number of arguments made on each side relative to the topic of the tax cut provisions in this legislation, and I think it is important for the American people to understand the clear distinction that exists on the two sides of the aisle over the issue of taxes.

Today, the Republican tax cuts that are part of this legislation have been described as tax cuts for wealthy Americans. They have been described as unfair. They have been described as unneeded. They have been described in a variety of other ways.

I think it is important before we analyze those tax cuts and who they really benefit, to begin by just stepping back from today and looking at some of the things that have transpired here in Congress in recent years. I find it interesting that the people who are on this floor attacking the tax cut provisions of this legislation are the very same people who just in the last Congress voted to raise the taxes of working Americans by $270 billion, the largest tax increase in history.

Indeed, it is very simple, I think, to differentiate between the parties and their positions on taxes. There is one party, the Republican Party, that is presenting Americans today with middle-class tax cuts; there is another party that in the last Congress raised taxes a record level of $270 billion.

I think that the opposition to the Republican tax cuts that are proposed in this legislation should not surprise anyone. It is coming from the people who already raised our taxes by a record amount, and who would hate to see those taxes go down at all.

The fact of the matter is, Madam President, that taxes represent the hard work of people in this country who are out playing by the rules. In my State of Michigan they are doing the things we need to keep our economy strong. They are average men and women whose income, at least in my State, for a family is about $32,000. They work hard for those dollars.

Some time ago in the 1950's and 1960's, those average families in Michigan like my own sent $1 to Washington for every $50 they earned; today that average family in Michigan spends $1 in Washington for every $4 it earns.

In part, I came here to the U.S. Senate and ran for this office so that families who are sending too many of their dollars to Washington would get a chance to keep more of what they earn.

We talk a lot today, and we have seen charts in the Senate over the last few months in which we talk about the problems of the so-called middle-class squeeze, the economic pressure on hard-working average middle-class families in our country to make ends meet.

We are often told it is so unfortunate today that it is now necessary often for two people in the household to work in order to be able to attain the same economic conditions that used to be available to middle-class families with only one person out there in the work force.

A lot of speculation goes on in the U.S. Senate as to why it is; why is that middle-class squeeze happening? Why is it that two people have to work to make ends meet?

A big part of the answer, Madam President, is the taxes have gone up so dramatically during the last 30 to 40 years in this country, and dramatically in just the last 2 years alone.

The fact is if the average family in Michigan was still sending $1 in Washington for every $50 it earned, the financial security of those families would be a lot greater today. The combination of paying higher taxes and paying higher interest rates on all the sorts of things that people in my State have to pay interest on, whether it is a mortgage for a home or interest on a car payment or interest with regard to consumer items or interest on student loans, if those interest rates were lower, people in my State would be better off as well. But they are not low.

One reason they are not low is because the Federal Government has not balanced its budget in the last quarter of a century. As we run up red ink in Washington, as the Federal Government is forced to borrow money from lending institutions, from individuals, from whomever, we have driven up interest rates.

The middle-class families find themselves in two separate ways dramatically affected by the policies here in Washington. On the one hand, it does not get to keep as many dollars as it earns because it has to send more dollars to Washington in taxes; and then with those fewer dollars that remain it has to pay more in the way of interest because Government policies have helped to drive up interest rates, because we cannot live here in Washington within our means.

That is why in this legislation we are trying to correct the two problems that afflict those middle-class families.

On the one hand, we are trying to give middle-class families the kind of Federal Government fiscal responsibility they have to exercise in their own homes. What we are trying to do is to bring about ultimately at the end of 7 years the balanced budget that has eluded us here in Washington for a quarter of a century.

As we bring down the deficit and as we maintain a balanced budget, and as we maintain a balanced budget after the year 2002, the impact of that will be a dramatic effect on middle-class families, because as we bring down the deficit, as we recognize in our own CBO reports here, interest rates that the Federal Government has to pay will go down.

That will save money for the Federal Government. It also will mean that interest rates in the private sector go down. It means the interest that people who are watching today and hearing all these frightening stories, as they go out into the housing market, as they go out to buy a car for the family, as they go out to make other purchases that are affected by interest rates, they will find their interest rates, just like the Federal Government interest rates that they have to pay, will be coming down, which will make items more affordable.

That is one reason we are trying to bring this budget into balance. At the same time, we are trying to address the other problem that affects average American families, the problem of sending too many dollars to Washington. That, of course, leads us to the issue of our tax cut.

There have been many, many descriptions of the tax cut. The tax cut was being described before it was ever even talked about in the Senate, before it was addressed, before anybody put a pen to paper to try to draft a tax cut. It was always described the same way it is being described today, as a tax cut principally desired by Republicans to be given to the wealthiest of Americans.

I was astonished when the other day in our Budget Committee meeting when we finally passed the reconciliation package to the floor, to hear talk that over half—over half—of those benefits from the tax cut were going to go to the wealthiest families in America.

That was not the tax cut I had heard about. It was not the way I had seen it described. I had even read the Washington Post in which the Washington Post described the tax cut as "family friendly."

I went out and asked for statistics and I was presented with the Joint Committee on Taxation's specific results of their analysis. Here is what I found: In the first year of this tax cut, 90 percent of the tax cut goes to those making under $100,000 in the first year; 77 percent of the proposal's tax cuts go to those making under $75,000 in that first year. Less than 1 percent of the proposal's tax cuts will go to those making over $200,000 in the first year. Over four-fifths, 84 percent of the proposal's tax cuts go to those making under $100,000 in the first 5 years. And 70 percent of the proposal's tax cuts go to those making under $75,000 in those first 5 years. Less than 6 percent of the proposal's tax cuts will go to those making over $200,000 in the first 5 years.

That is a completely different set of statistics than the ones presented to us at the Budget Committee. It is not the case that over half of the tax cuts are going to people making over $100,000, quite the contrary.

This is a family friendly tax cut. It is designed to address the second problem I earlier mentioned, the problem that middle-class families have had, the squeeze that has been put upon them because they have had to send too many dollars to Washington.

I did not want to just leave it at the Joint Tax Committee's numbers. Now, we had competing sets of statistics so I thought the next and most important thing I could do would be to look at the specific components of the tax cut to see which of the two versions was accurate. What I discovered was that, of course, the Joint Tax Committee's version, their statistics, are right on the mark.

Let us tell the American people some of the things that comprise this tax bill.

First, it provides a $500 per child tax credit for American families. That constitutes $141 billion of the $225 billion in tax relief under this bill, over 62 percent.

Some say for some of those children, they are part of families that make lots of money. That may be true. But, of course, this tax bill has been limited in its scope. Indeed, the $500 per child tax credit begins to be phased out, in the case of families with a single head of household at $75,000, in the case of a couple at $110,000. So, unless people between $100,000 and $110,000 have a vastly disproportionate number of children, the argument that many of the tax breaks from the family tax credit are going to go to wealthy people, as defined by some people here in Washington, just is simply not the case. Of course it is not the case.

Madam President, $141 billion, 62 percent of the tax cut, is the family tax credit, $500 per child, letting families keep $500 per child to spend, to try to make ends meet to provide those children with a better way of life.

Another important part of our tax credit in the family tax relief section is an adoption credit. That accounts for almost $2 billion of this tax cut. It is a nonrefundable tax credit allowing for the exclusion of up to $5,000 in adoption costs. The credit phases out. This is important. It phases out between the taxable income levels of $60,000 and $100,000 for both individuals and couples. In other words, not $1 of the adoption credit, the $2 billion of tax cuts that form the basis for that tax relief, will go to anybody making more than $100,000. Indeed, again, it is aimed at helping people in this country, middle-income categories, to be able to expedite the adoption of children, to provide children with loving homes and a few of the dollars necessary to make it possible for those adoptions to be carried out in a way that provides children with a better chance for their future.

The next part of it, another family-related tax section, is $12.3 billion to try to provide relief from the marriage penalty that we impose under our Tax Code. Maybe some people who make more than $100,000 will benefit from the elimination of the marriage penalty, but I hardly think anybody wants to come to the floor of the U.S. Senate and argue we should not eliminate this marriage penalty. It makes no sense for us to have ever done it in the first place.

Another part of our family tax relief is student loan interest deduction. That is another $1 billion. Once again, it is limited in scope to people who have adjusted gross incomes of between $40,000 and $55,000 for singles and between $60,000 and $75,000 for married couples. After that, this deduction is not available. Again, a deduction aimed at helping people of moderate means to try to better and more easily finance college educations.

On and on I went through this tax program. What I discovered was that in almost every section, the entire focus has been to try to provide middle-class families with tax relief, to try to let people keep more of what they earned, to try to allow families in this country to offset some of the hardships that come about when the Federal Government consumes too many of their dollars.

That does not mean that every part of the bill primarily benefits people of middle-income backgrounds. Yes, there are sections aimed at trying to create growth in our economy, that disproportionately benefit people and, to some extent corporations, people of greater means and corporations. Interestingly, though, a very substantial percentage of the benefits of those pro growth tax reductions and tax cuts go to the benefit of average working families in this country because, as we unleash the benefits of some of these growth-oriented tax cuts, what will it produce? It will produce more jobs, better paying jobs. As companies expand and grow, we will hire more people, we will provide more opportunities for Americans.

Remember this, too, Madam President, a great number of the people who benefit from capital gains tax cuts are families who are selling the family home, who are selling other capital assets, who own or are part of pension programs that invest in stocks and corporations and ultimately realize capital gains.

Moreover—and I think it is important to note—this bill does not have simply an up side for those in these wealthy categories or for corporations, because we are also closing a substantial number of tax loopholes. In fact, the closing of loopholes largely offsets the tax advantages that are provided to corporations and upper-income individuals under this bill.

In short, we are paying for most of the benefits derived by those individuals by the closing of these loopholes. In short, once again, this tax cut bill is designed to aid families in the middle class above all other families in this country.

For those reasons, I intend to come to the floor again as may be necessary to keep reminding our colleagues exactly who the beneficiaries of this tax cut are. It is simply, as you analyze the data as to where the tax cuts go and how specifically the tax cuts have been developed, you realize once again that the claims that our tax cut is designed to help so-called wealthy people simply miss the point. It is a tax bill designed to help middle-income families to address a problem that has been growing in this country for the last 40 years, the problem of the Federal Government getting too big, consuming too many resources, making it much more difficult for average families to make ends meet. By balancing the budget and thereby bringing down interest rates, by giving families tax cuts, we can try to help alleviate the middle class squeeze. That is what we are trying to accomplish in no small measure with this legislation.

At this time, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Iowa?

Mr. ABRAHAM. I yield to the Senator from Iowa such time as he may need off the bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, first of all, I thank the Senator from Michigan for an outstanding review of all of the various profamily, progrowth tax measures that are in this bill. This tax bill is a memorial to the proposition that we believe taxpayers' money comes to the Treasury for legitimate Government purposes, and the expenditure for those purposes and not one more penny should come from the pockets of the taxpayers. When we give this tax cut this year, we are just giving people back money that was ruthlessly taken from them in the last Congress by the President's budget.

We give it back in the way of helping middle-class working families who pay the bulk of the taxes in this country. We do it in a way that says that the foundation of our society is families and that we want to encourage the family as an institution. That is why three-quarters of the tax cuts in this bill go to families, primarily through the $500 per child tax credit. That is a tax credit that is off the bottom line of taxes otherwise owed to the Federal Treasury.

Whereas, the Senator from Michigan gave a very good explanation of what is in the tax provision, I want to speak about our efforts to balance the budget, our efforts to reduce the role of Government in our economy by reducing the size of the budget, by reducing the percentage of the budget to the gross national product over time, meaning a lessening of the amount of money that is run through the inefficient operation of the Federal budget, because we believe that the free market, the segment of the economy out there that comes from the private sector, the nonpublic part of our budget, is the most efficient distributor of goods and services, where the jobs are created, where we have efficiency within our economy.

Getting to a balanced budget sets a very, very good starting point for the reduction of interest rates. And it is projected that interest rates will go down 1.5 to 2 percent if we pass this year a budget that will balance by the year 2002. And we are gradually and responsibly reducing expenditures to get to that point that interest rates will go down. In fact, we started to reduce Government expenditures with a rescissions bill of $14 billion for fiscal year 1995, just completed.

By reducing interest rates, we are setting the stage, then, for growing the economy, for creating jobs and expanding, as we must be. There is so much of the job creation which comes from the private sector and the small business sector of the private sector that with interest rates going down, it is really going to encourage small businesses to create more jobs. They are the engine. Small business is the engine that drives our economy.

Getting to this point has been about a 10-month process. Remember, just 12 months ago there was a Republican program called the contract that had 10 features in it that was in a sense a national program. When normally we have 435 different races for Congress and campaigns for Congress, the Republican Party had one national campaign. And the centerpiece of that national campaign was to deliver a balanced budget. Twelve months ago we may not have foreseen a Republican victory the size that it was, we may not have foreseen the people's response to the program, but that program called for a balanced budget.

We took control of both Houses of Congress in January for the first time in 40 years. In a sense, when we took over in January we transformed our contract into New Year's resolutions with the American people. We said that we are going to put this bloated Government on a diet. Then for the last 10 months, we have been following a regime to achieve our resolution.

What happens in the Senate on Wednesday, Thursday, and Friday of this week, as far as delivering upon one of the major promises of the last campaign—to balance the budget, to reduce taxes, and to reduce taxes that are paid for by cutting spending—that is all of that 10 months of work. Everything that the people have been expecting since they voted 12 months ago for a new Congress is coming to an end on Wednesday, Thursday, and Friday. What decides whether or not we are successful is if we have 50 votes to pass this reconciliation bill. We Republicans then have been following a regime to achieve our resolution that we started on last January.

The other side of the aisle, meaning my Democratic friends, have been carping with neither shame nor credibility. They have no credible alternatives. Oh, the President said in June, after 6 months of finally waking up to what the people decided in the last election, that he was for a balanced budget, not in 7 years as the Republicans planned but in 10 years. But when the Congressional Budget Office, the nonpartisan Congressional Budget Office, looks at the President's program to balance a budget in 10 years, they do not find a budget balance in 10 years. They still find $200 billion deficits as far as you can see into the future.

That is no different than the President's program of 1993, which he claims has reduced deficits more than in any other 3-year period than any other President ever had. But the point is the President's program of 1993 still saw beyond the year 1997 $200 billion deficits as far as the eye can see. Two years later, in June 1995, the President says he is for a balanced budget by 2005. But when you score it the same way we score our budgets, it is still the same old story—unbalanced budgets as far as you can see into the future.

Maybe I should not say the other side has no alternative, because the President did say the budget ought to be balanced. He did not send up a program to do it. He just said that is something that he is for. But never before was he for a balanced budget. Then later on he said, well, maybe it can be done in 9 years. Then I believe it was just last week, or near to now, he said he could agree with the Republicans, that it ought to be done in 7 years and can be done in 7 years.

But for the most part, all we have heard from the opposition is naysayers. This diet that we Republicans want to put the Federal bureaucracy on, the other side has been saying no to, naysayers. It is kind of like those little voices that you hear in your head when each of us say that we ought to go on a diet, or we are going to go on a diet. That little voice in our head says, "I cannot do this. I cannot do this." That little voice says, "Let us wait until manana." Or it says, "I do not feel like doing anything today, do it tomorrow. Maybe tomorrow I will start, I will start my diet." Then you hear those little voices with millions of excuses why you cannot go on a diet.

The Republican program is putting the Federal bureaucracy and Federal programs on a diet. It is being downsized. That is the essence of our reconciliation bill before us. The other side, without shame or credibility, are naysayers to this process.

Madam President, sometimes to achieve the best results we ought to tune out those little voices, not listen to those little voices in our head who say, "I cannot do this," or, "I will do it tomorrow," or any of those other million excuses that we hear. Tune out those little voices.

So that is why I speak to my colleagues, particularly my colleagues on the other side of the aisle, because this is a very important debate about turning things around and no longer business as usual when it comes to the fiscal policy of the Federal Government because business as usual has been for 30 years, do not be concerned about a balanced budget. Or maybe I can say the last 10 years, be concerned about a balanced budget, but not really doing anything about it. That is business as usual.

The people in the last election sent us a clear signal that they no longer want business as usual in Washington. And the reconciliation bill up for debate on Wednesday, Thursday, and Friday for 20 hours of debate in this body, and then hence to final passage, is our statement of no longer business as usual, that we are going to deliver on the promises of the last election. For once, Congress is going to perform according to the rhetoric of the last campaign. Our performance will be commensurate with what we said in the last election. And the essence of that is our Government programs and our bureaucracy must go on a diet.

And so during this debate then, just tune out those little voices that say, "I can't do this. I can't go on a diet." Because we will. We must. And we sense the responsibility not only because it philosophically comports with what we feel Government must do, but it is also a behavioral change that comes from the large voice of the electorate that spoke in the last election.

This very important debate can be summed up in just one word. That one word is six letters, future, f-u-t-u-r-e. This budget plans for the future; this budget provides for the future; and by so doing gives our children and our grandchildren a future, the sort of future that we have a responsibility to leave them. It is not a responsibility that we judge our own. It is a responsibility that we have inherited from past generations of Americans who have given my generation and younger generations a great country to live in, a better future than our ancestors had and the generation that preceded it.

That would not be possible, Madam President, without providing a balanced budget and the secure future that it allows. In effect, it is a necessary forerunner to a guaranteed future as we know it and better for our younger generations.

This budget provides a positive vision for our country's future, a future in which we have a balanced budget that will help increase productivity, lower interest rates, create more jobs and, most importantly, lessen the tax burden we are placing on today's children.

Let us be clear. We talk about fiscal policy. We talk about doing economic good. We talk about a secure future in materialistic terms. But this is not just a debate about material betterment. It is not a debate about abstract fiscal policy or economic issues. This is more a moral issue than anything else.

The Republican Party simply believes it is not right for our generation to live high on the hog and to pass the bills on to the next generation of young people. We are saying that finally Congress realizes that is just not right. That is what we said in the last election. We did not know when we said it that people would respond positively to it. But the voters did respond positively to it by the biggest shakeup in Congress since the 1930 election. That 1930 election turned things around politically so much in Congress and Washington, DC, that there has not been a change from that direction until now.

Now, whether there was a whole new political environment ushered in by the election in 1994, I do not know for sure. I suppose the 1996 and 1998 elections will answer that question for me. But I do know this, that we got the message of the last election. We are responding to it. And we are passing a budget that is balanced based upon the fact that it is immoral for us to go in the hole, to deficit spend and not care who pays the bill while we live good and live well.

While we are worried about what the 1996 election or the 1998 election might mean for securing a long-term political change in Washington, DC, we have the responsibility to do what the voters asked us to do in the last election. So this budget states that we believe Americans know how to spend their hard-earned dollars better than bureaucrats as we decrease the size of Government as a proportion of the gross national product, as we reduce the number of Government employees, as we reduce and eliminate deficits by the year 2002. We show our faith in the American people by giving back to them $224 billion of their hard-earned tax dollars for them to decide how to spend for their future because we believe it will be more efficiently spent by them than by Government.

Finally, this budget ensures that the future of our seniors and the baby boomers who will soon be retiring is secure because we preserve Medicare in this budget and we ensure that it does not go bankrupt. Republicans have offered a comprehensive vision of the future. We have kept the promise of the last election. If we pass this resolution in the next 2 days, we have kept our New Year's resolution to the voters to put Government on a diet. We have not listened to those little voices in the minds who say, "I can't go on this diet. I can't do this today. I will do it tomorrow." We have listened to the loud voice of the electorate.

Now, incredibly, I have heard the President claim that the Republican balanced budget would mortgage our future—would mortgage our future. Can you imagine the nerve of the President saying the Republican balanced budget will mortgage our future when we have been mortgaging our future for the last 30 years because it was 1969—not quite 30 years, 26 years—since we have had a balanced budget. He did not say that out of ignorance because the President is a very intelligent person. I do not know really why he said it. I would like to know why. It seems to me that it could be part of a program to muddy the waters.

It is clear to the people what is going on up here on the Hill because this budget, this reconciliation bill before us, does not mortgage the future. The failed policies of the big spenders have already done that. We Republicans, with this balanced budget resolution, are successfully ridding ourselves of the deficit, the so-called mortgage that is on our future, so that we can have a bright future for our young people.

Unfortunately, the Democratic side offers nothing for the future. It seems the White House is happy to have a growing deficit that continues to mortgage our future. The White House, by not cooperating with Congress to balance the budget, is sending a clear message that they want in essence to take out a second mortgage to fund increased spending instead of doing the responsible thing of balancing the budget.

The White House policy will have our children and grandchildren continuing to pay not only the first mortgage but the second mortgage.

I guess, Mr. President, the essence is that the other side of the aisle has no New Year's resolution. They can only offer working families more of the same. They do not even want to sit down at the table with us to negotiate. Right after our summer recess in August, we returned after Labor Day, the President was invited to the Hill—not to the Hill, wherever the President wants to sit down with Republican leadership to talk compromise, work out differences. The President then would have to put his wares on the table for the whole world to see. Evidently, he was not ready to do that. No response.

October 1 comes, the end of the fiscal year. We have to move forward. We moved the time ahead to November the 13th, but we could not wait any longer to fulfill the constitutional responsibilities that the Congress has to provide a budget; and implicit in our Constitution, a balanced budget, because we have had more balanced budgets in peacetime than we have deficits throughout the history of our country.

Just last Thursday, the Speaker of the House and the Senate majority leader offered the President to sit down and talk. No response. So we move forward. I think this can be resolved. But it cannot be resolved by the other side having no program and at the same time carping and criticizing what the majority is doing. More of these same policies are going to bankrupt Medicare.

This bill before us solves that problem, as the trustees, the Democrat trustees, asked us to do on April 2. Not the President's proposal, it is going to provide for more out-of-control spending, with $200 billion deficits that will destroy our children's futures because that is what the President's 10-year balanced budget program—even though he did not give us specifics—would provide. That is not my determination. That is the determination of the nonpartisan Congressional Budget Office. And you know in this proposal it is going to still continue to give us more taxes, more taxes, and more taxes. And if there are not more taxes this day, because the President may not be proposing to change tax policy—he did it with the biggest tax increase in the history of the country in 1993—for the young people of America it is going to mean into the next century tax increases of 80-some percent because of irresponsible spending today.

So I think it is clear which New Year's resolution the American people want us to keep. It is the one of promising a future for our young people, a future for our country, a future for the world, as this engine of the United States, this economic engine of the United States, drives the rest of the world.

We have that opportunity to fulfill that promise for our future generations by adopting this resolution and to avoid being influenced by the carping from the other side of the aisle and from the White House that has no program to reach the goals that we do.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Nebraska.

Mr. EXON. Mr. President, I am pleased to yield 5 minutes to the Senator from Arkansas and, following that

5 minutes, to the Senator from Alabama from our time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, we have now been on this bill 6 hours—let us see, I believe a little over 6 hours, 6 hours, 30 minutes, and we have yet to vote. We only have 20 hours on the entire bill. And my question is this: This bill, which everybody on the other side of the aisle is so proud of, why do you not want to let us offer the amendments and let you defend it?

That is all we want. If you are so proud of that tax cut, let us offer an amendment to make that tax cut refundable for the people who really need it. You call it a middle-class tax cut. That does not even stand the giggle test. A family with four children, making $20,000 a year, probably pays no income tax. And they do not get the $500 per child tax credit. They get nothing. The $500 credit is only available if you pay $500 in income tax.

Contrast that situation with this: A man and wife with one child, and they pay, we will say, $500 in taxes. Under the Republican budget, they will get that $500 back through the child tax credit. But if you happen to have a house full of kids, your dependent exemptions will probably result in you paying no income taxes, so you will not be eligible for the same credit wealthier families get. That is a middle-class tax cut? We all know now that 49.5 percent of the people in this country make less than $30,000 a year. What do they get out of this middle-class tax cut? They get a tax increase. 50 percent of the people in this country are going to wind up paying more.

Now, I will never forget in 1981 when Ronald Reagan came to town on the promise he was going to balance the budget, and I was hot for him. I am one of three Senators in the U.S. Senate—I want to cleanse my skirts—who voted for every one of President Reagan's spending cuts, but I voted against that massive tax cut. If everybody had voted the way FRITZ HOLLINGS, BILL BRADLEY, and DALE BUMPERS voted, we would have had a balanced budget. But, no, we had to give the store away. General Electric made——

Mr. INHOFE. Will the Senator yield?

Mr. BUMPERS. No.

General Electric made $3.7 billion in 1983 and got a $700 million tax cut. That was all $3 trillion ago, $3 trillion from the promise of a balanced budget. In only 8 years, our $1 trillion debt went to $3 trillion. You talk about snake oil.

So what are we doing here? Are we going to pass an amendment that says the tax cut cannot come out of the Social Security trust fund? If you want to balance the budget, forget the tax cut. CBO says that without the tax cut we can balance the budget in the year 2001, a year earlier than under this budget. How is the tax cut being paid for? Out of Medicare, out of school lunches, out of Social Security, out of student loans, out of the earned income tax credit, out of agricultural programs. It does not make any difference which spending cut you say is the source of the tax cut. It does not matter.

What matters is that we are giving away $220 billion to $240 billion in taxes that ought to go on the deficit or, at a minimum, be placed back in those programs like school lunches and Head Start and student loans and things that give people at the bottom of the ladder a fighting chance to become somebody.

I got that chance when I went to one of the best law schools in the country on the GI bill, and I have been trying to pay it back ever since by reaching from the top of the ladder down to people on the bottom rung and bringing them up, because I think that makes me better and it makes our country stronger.

I consider this 2,000-page monstrosity of a bill, that must weigh at least 10 pounds, I consider it one of the worst disasters to befall this institution called Congress. You think of it—penalizing the elderly, penalizing poor children, penalizing the most vulnerable among us while we give away 76 percent of the capital gains tax cut to the wealthiest people in America. Meanwhile, we continue to sell lands for $100 an acre when the mineral rights are worth thousands of dollars an acre. So the StillWater Mining Co. in Montana will pay $200,000 for a plot of land worth $38 billion in platinum and palladium. We are giving away taxpayers' property while we penalize the most vulnerable among us.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. HEFLIN. Mr. President, the Senate will soon be faced with an up-or-down vote on proposals of mammoth proportions. These proposals will directly affect virtually every segment of the government and every citizen of this country. For some, the consequences will be positive. For the vast majority, however, the consequences will be bad—in some cases, like for the elderly, students, and working class, the effects will be economically devastating.

While this package as written will significantly reduce the deficit, at least in the short term, there is considerable doubt as to whether or not it will ultimately balance the budget by 2002. Some of the savings are artificial or even lose money despite producing CBO-scored savings. As we all know, future congressional action is likely to reduce other savings currently assumed by this plan. A major portion of the projected savings in this plan come from Medicare and Medicaid. Welfare reform, nutrition programs, the earned income tax credit, farm programs, and student loans are other areas facing enormous cuts.

I am strongly in favor of deficit reduction and, ultimately, the elimination of the national debt. I have long supported a balanced budget amendment to the Constitution. I supported the 1993 reconciliation bill which has already led to significant reductions in our annual deficits. But as with any omnibus legislation of this type, there is a right and wrong way to pursue the same goal. Themes and patterns emerge. Priorities and process do matter, and it appears that on balance, the priorities in the package before us are seriously misguided.

What our colleagues on the other side are attempting is to place a vastly disproportionate share of the pain which will inevitably result from cuts of this magnitude on those least able to absorb it—working people, the elderly, students. There is a bitter flavor that this package produces, and you do not have to bite off and chew on its details to taste its bitterness. Its basic ingredients were listed in the blueprint the Senate passed several months ago, but as they have been mixed together and as they have simmered in the context of this reconciliation package, they have become dramatically more bitter.

The theme throughout is to benefit those who have already benefitted greatly in this society, and to punish those who are simply trying to get by or to realize a share of the American dream.

I have several major concerns surrounding this legislation, but the most disturbing are the cuts in Medicare and Medicaid. The plan is to cut Medicare growth by $270 billion over 7 years. In addition to slowing the growth of spending from 10 percent a year to about 6.4 percent, it mandates a major restructuring of the program to supposedly give Medicare enrollees a wide range of options to join private health plans. I am concerned that instead of options, however, senior citizens will instead be faced with fewer alternatives, and will be forced into certain plans because they have no choice.

It is my understanding that $89 billion in savings would rescue the Medicare Program, but we are considering a bill which cuts it by $270 billion. The proposed $270 billion of savings is vastly more than is needed to preserve the solvency of the program. Therefore, we need honest answers as to why we are attempting to write into law a $270 billion reduction.

The direction we are going will ultimately cause senior citizens to be charged more for health care while receiving less in Medicare, all the while financing a tax break for those in the upper income brackets.

A great portion of the savings in Medicare would result by raising the part B premium. The premiums that our senior citizens pay would rise from the $46.10 per month to more than $90 by the year 2002.

I have reservations and misgivings with regard to any Medicare reform that threatens the access to, and quality of, health care for senior citizens. Specifically, this bill would cut inpatient hospital service, home health care services, extended care services, hospice care, physicians services, outpatient hospital services, diagnostic tests, and other important services to our senior citizens.

In addition to reduction in services, the following immediate burdens would be placed on our senior citizens: For fiscal year 1996, the monthly premium would rise to $54. Participants in the part B program would be required to pay the first $150 of expenses out-of-pocket rather than the current $100 deductible. This would rise by $10 annually through the year 2002. All these in combination with the proposal to raise the eligibility age to 67 leads me to believe that seniors are being singled out to bear the brunt of budget cuts.

We all realize that the Medicare Program cannot continue functioning indefinitely as it is now, but the cure is certainly not the Republican plan.

Not only do these proposals cut Medicare, but Medicaid is being reduced by $187 billion over the next 7 years. For the past 30 years, the Medicaid Program has been America's health and long-term care safety net. The Republican proposal is to repeal Medicaid, slash its Federal funding over the next 7 years by 20 percent, and to turn remaining Federal funds over to the States in the form of a block grant. According to the American Health Care Association, in 1993, 43 percent of the cost of Medicaid payments was born by the States. Under the block grant proposal, by 2002, the state share would be 56 percent—a 13-percent increase in just 7 short years. In a State like Alabama, which is habitually faced with budget proration, the effects of such additional burdens will be huge and devastating.

The National Association of Counties strongly opposes the block granting of Medicaid and the loss of a Federal guarantee to benefits. In a letter sent to my office yesterday, its executive director, Larry E. Naake, wrote,

> We do not believe that states will find enough budgetary efficiencies without reducing eligibility . . . Individuals will continue to have health needs, regardless of the payor source. That is why we have always supported the intergovernmental nature of the Medicaid program and the assurance that there is some minimum level of coverage guaranteed to eligible individuals, regardless of the state in which they reside.

The Democratic plan would reform Medicaid, not repeal it. It would restrain the rate of growth in Federal Medicaid spending in a responsible manner, not slash spending so much that huge cutbacks in eligibility, benefits, and payments to providers are inevitable. It would maintain a Federal fiscal partnership with the States for health and long-term care, not break the commitment to assist States and localities in paying for care to vulnerable Americans.

These proposed cuts in Medicare and Medicaid funding would also have a devastating impact on hospitals and health care systems since providers will take the brunt of $270 billion Medicare reductions. Alabama would get $1.45 billion less in Federal Medicaid assistance over the next 7 years. Such a drastic cut will have a profound effect on the ability of health care providers to meet the ever-increasing needs of the community and will also increase costs for those with private insurance plans. On the other hand, the right kinds of decisions could set the course for restructuring these programs in ways that will enable providers to deliver quality care more efficiently.

These extreme cuts to Medicare also threaten health care for millions of people of all ages living in rural America. Medicare spending in rural communities will be cut by $57.9 billion over the next 7 years—a 21-percent reduction by 2002. Since rural hospitals rely on Medicare for a significant proportion of their revenue, they will be particularly hard hit. Some will be forced to close altogether. Hospitals in rural areas are few and far between. A hospital closing affects all rural residents in the vicinity, not just seniors on Medicare. Under the GOP plan, these Americans will be forced to drive further to the nearest hospital, putting lives at risk.

As an alternative to closing, rural hospitals could turn to local residents to pay more for services or to pay higher taxes to subsidize their hospitals. So, taxpayers in rural America will be forced to pay more in order to protect access to health care as well as the quality of their services. Seniors in rural areas already have a limited choice for doctors and this plan will result in fewer doctors accepting Medicare patients or doctors charging seniors more.

Also with regard to rural America and agriculture, there are several provisions which have potential hidden costs. The savings from the Wetlands Reserve Program, for example, do not continue in the years beyond 2002. CBO anticipates that in those years, the program would actually be more expensive under this legislation than under current law. In addition, the removal of the requirement to purchase crop insurance will expose additional farmers to losses from poor weather, floods, and other natural disasters. In the past, Congress has responded to such events with supplemental appropriations for disaster relief. The removal of the crop insurance requirement provides budget savings for reconciliation but undermines a key element of last year's crop insurance reforms, which were intended to end the temptation for Congress to pass costly disaster assistance bills. If our past experience is any guide, the end result will be even higher Federal spending.

I am also deeply dismayed over the $10.8 billion cuts in student loans, most of which will come out of students' and parents' pockets through higher interest payments. Each school would be required to pay a 0.85 percent fee on the amount of Federal loans made for students attending the school. This would undoubtedly be passed on to the students in some form. It would cap the direct lending program at 20 percent of student loan volume. Rather than saving money, this change would only produce paper savings as a result of new scoring rules adopted by the majority.

Mr. President, in this Nation, we have prided ourselves on the quality and accessibility of our system of higher education. Today, through student loans, Pell grants, work-study, and other programs, virtually every person who wants to attend college is able to do so. We have made the correct decision that economic circumstances should not prevent a bright, young mind from being able to obtain a college degree if that is what they want to pursue. Why on Earth would we want to retreat from that commitment by making higher education less accessible to millions of academically qualified students? The bottom line is that to the vast majority of families who depend on student loans to pay tuition, slashing student loans will mean the difference between enrolling their children in college and not sending them.

Finally, Mr. President, I want to discuss my concerns over the changes to the earned income tax credit, which former President Reagan once described this way: "The EITC is the best anti-poverty, the best pro-family, the best job-creation measure to come out of Congress." Republicans in the Senate as well have supported the EITC for many years.

The plan before us dramatically increases taxes on the working poor by scaling back the EITC that so many Republicans have strongly supported in the past. The plan increases taxes by $43 billion over the next 7 years. This means an immediate $281 average tax increase on 17 million low-income American taxpayers. By the year 2005, 21 percent of all families currently eligible for the EITC would no longer be eligible. While its supporters praise hard work and self-reliance, their plan will make life more difficult for millions working in demanding, low-paying jobs.

In 1993, when the EITC was expanded, the Treasury Department estimated that approximately 374,700 Alabama families would qualify for a financial break under the plan. Actually, almost 388,000 families ultimately qualified under the EITC, a total of 22 percent of the entire returns filed. If this plan is adopted, these hundreds of thousands of families and millions of others across the country will see this benefit evaporate. Approximately 17 million low-income working Americans will see an immediate tax increase averaging $302; that tax increase will grow to an average of $471 per year by 2005. Treasury Secretary Robert Rubin has stated: "Low-income working families will suffer if the Senate Finance Committee's cut to the earned income tax credit becomes law. It is fundamentally unwise to raise income taxes on America's working families while high-income taxpayers are receiving the benefits of a tax cut."

As I stated before, this reconciliation package's priorities are misplaced, its effects unfair, and its assumptions dubious. In its current form, it will and should be vetoed. We should and will be forced to start over after the veto. It would be to our benefit and the benefit of the American people to return this legislative bitter pill back to its container now and come up with a plan that is equitable and that gets the job done the right way.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to take a moment from our time, if I might, to thank both my friend from Alabama and my friend from Arkansas, who preceded the Senator from Alabama, for excellent remarks.

The Senator from Alabama is the former chief justice of that State. I have served with the distinguished Senator from Arkansas since 1971 when we both were elected and began service to our States as Governors. They are extremely talented and dedicated people. I want to thank them for their excellent comments to try and recognize the serious problems with this budget bill that I addressed at some length at the beginning of the morning, about 10:30 this morning.

To all I want to say that while I am disappointed that we have not had a single vote yet, I advise all that some progress is being made, and I suspect that in the possibly not too distant future we may have some kind of an announcement by the majority leader and the minority leader, or the chairman of the Budget Committee, Senator DOMENICI, who is on the floor, and we can maybe move more progressively ahead and stop the talking and start the voting.

I thank the Chair.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Mexico yield time?

Mr. DOMENICI. Yes, are we just open-ended on time?

The PRESIDING OFFICER. The time is off the resolution, so the Senator can yield time.

Mr. DOMENICI. Mr. President, how much time does the Senator want?

Mr. INHOFE. Three minutes.

Mr. DOMENICI. I yield 3 minutes to the junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator from New Mexico for yielding. I wanted to ask a question of the distinguished Senator from Arkansas when he was very eloquently expressing his position. He was unable to yield to me.

What I was going to ask him is, I heard him state several times on the floor of this body the tax reductions that took place under the Reagan administration. There is a fact that has to be stated at this time, every time someone talks about that, and that is the total revenues for marginal rates in 1980 amounted to $244 billion; in 1990, from the marginal rates that had been decreased, the total tax amounted to $466 billion. In other words, we almost doubled the revenue during that 10-year period, and what happened during that period, as was pointed out by the Senator from Arkansas, is that we had the most significant tax reductions during that period of time. In other words, we increased revenue by reducing taxes, and that has gotten lost in this debate somehow.

Then another observation I had after listening to the Senator from Arkansas was that those same individuals who are fighting the tax reduction that we are proposing in this resolution are the same ones that supported the largest tax increase in the history of America, as it was characterized by not a conservative Republican, JIM INHOFE, but by the chairman of the Senate Finance Committee in 1993: The Clinton tax increase was the largest single tax increase in the history of America or the history of public finance.

Who are the ones who voted for that? Those individuals who voted for that tax increase were the big spenders as ranked by the National Taxpayers Union, National Tax Limitation Committee and all of the other organizations that ranked big spenders in Congress.

So you had the big spenders who were for a tax increase at that time. All we are trying to do is say, "Mr. President, you made a mistake back in 1993 by passing a big tax increase. We want to repeal some of that tax increase."

So the same individuals that are opposing our reduction in taxes now, to give some of the taxes back to individuals in America, are the ones who were supporting a major tax increase.

The last thing I want to mention is that those individuals who in 1993 supported the huge tax increases, a very large percentage of them are not around to vote today because those who came up for reelection during the 1994 election, when that was the major issue in their campaign, were defeated. We have shown that with charts on the floor many times before.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the pending ROCKEFELLER motion and the amendment thereto be laid aside in the status quo and that I may be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2950

(Purpose: To provide for beneficiary incentive programs)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] proposes an amendment numbered 2950.

At the end of chapter 6 of title VII, insert the following:

SEC. . BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

Mr. ABRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, on our time, I know a lot of Senators are in their offices and are wondering what we are doing. They have a right to wonder. I will explain that we had an understanding with the Democratic leadership that we would set aside in a status quo the previous motion to recommit and the amendment to it, leave it in a status quo format, and proceed to another amendment.

The other amendment is the amendment that Senator ABRAHAM offered. It is being reviewed, but I believe we ought to proceed with it. Why are we doing this? I think everyone knows that, since shortly before noon, we have been working with the Democratic leadership, and they have been working very hard, from what I can tell—and I truly believe that—to see if we cannot narrow down the number of amendments and establish some process which will be more orderly than just waiting until the end and having hundreds of amendments just offered. We are working on that, and we have not yet reached an agreement. We have agreed to take up the Abraham amendment in the normal course. We will take an hour, and that side can take what time they need. This will give us some time to further our negotiations, which will continue in a very lively manner.

I yield the floor.

Mr. FORD. Will the chairman of the Budget Committee answer a question?

Mr. DOMENICI. Of course.

Mr. FORD. As I understand it, we have a motion before the Senate and then we have a first-degree amendment. We do not have an amendment in the second degree here; is that right?

Mr. DOMENICI. We have a motion to recommit.

Mr. FORD. And then we have an amendment in the first degree. We have used up all of the time allotted, unless we get unanimous consent on both of those; is that correct?

Mr. DOMENICI. That is correct.

Mr. FORD. We have set both of those aside in this agreement here, and we have an amendment in the first degree.

Mr. DOMENICI. Which is totally separate and distinct, yes.

Mr. FORD. Now, this amendment has 2 hours. At the end of the 2-hour period, an amendment in the second degree, which would have an hour, would be in order; is that right?

Mr. DOMENICI. Correct.

Mr. FORD. I thank the Senator.

Mr. EXON. Will the Budget Committee chairman yield for a further question?

Mr. DOMENICI. Sure.

Mr. EXON. If I have understood what you have said, this is a Republican amendment, and 1 hour is allocated on that side and 1 hour on this side. If this side of the aisle only uses 5, 10, 15, or 20 minutes, then we would only be charged with that on our total 10-hour allotment; is that correct?

Mr. DOMENICI. The Senator is correct.

The PRESIDING OFFICER. That is not correct.

Mr. DOMENICI. What would happen, Senator, is 1 hour and 10 minutes is charged against the bill if you use 10 minutes and we start from that point to allot time again; if you used an hour and we use 10 minutes, 1 hour and 10 minutes would be charged against the total hours of the bill and we start from that new point.

That is no different than it has been forever.

The PRESIDING OFFICER. The time is divided equally in that case.

Mr. DOMENICI. Thereafter, the time is divided equally.

The PRESIDING OFFICER. The time is allocated equally.

Mr. DOMENICI. That is a different way of saying what I said.

Mr. FORD. Mr. President, the question is, What happens if the Democrats just take 10 minutes? They lose half of 50 minutes, which is 25 minutes?

The PRESIDING OFFICER. The Senator from Kentucky is correct.

Mr. FORD. So we are caught in the dilemma here now that if the Republicans take a full hour and we do not take but say 10 minutes, then we lose 25 minutes of which they could get on the next amendment.

It seems like there ought to be some other way. If we did not want to use our time or the Republican side did not want to use their time, we could save that for an amendment we would like. But the rules are the rules, and I understand.

Mr. DOMENICI. Maybe I ought to clarify it.

I think I expressed it my way but I would rather express it this way: It has been the rule since we had reconciliation on the floor in the Senate that whatever amount of time is used on an amendment by both sides is charged equally to both sides.

Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I told that to the distinguished Senator yesterday. We were discussing it. We are not changing a thing here. The shoe is on both sides. Sometimes it works the other way. It has worked both ways in the times I have managed the bills.

It will come out all right in the end. You will have your amendments, from what I can tell. We can use more time this way.

Mr. EXON. If I might just add some editorial comment here, the problem that we have is that at 9 o'clock this morning I was in the first meeting. We have been meeting and talking and advising and cajoling now going on almost 12 hours.

The point I make is that I think it is time we start voting. I simply say that the delaying tactics thus far are just cutting down the time that I think we would like to use on this side of the aisle on several very key, very important amendments.

I am not saying that the amendment being offered by the Senator from Michigan is not an important one. It probably is. But compared with the many amendments we have ready to offer and want to vote on this side—another way of saying this, I am very much disturbed by the fact we are continuing to use up the time.

We only have a total of 20 hours to debate the most far-reaching reconciliation bill, maybe the most far-reaching bill that has ever been presented to the U.S. Senate, when you consider all of its implications.

I recognize we may be playing by the rules but the rules in this particular instance might not be fair. I appeal once again as one who has worked on this all day long, I wish we could start voting up or down on the important amendments.

I do not believe that we should or could under the dictates of the 20-hour maximum limit, that we should be taking an hour on each side to debate the amendment that is being offered by the Senator from Michigan. It may be something, when I know more, that I will fully vote for.

I think time is wasting and I wanted to make that point. I yield the floor.

Mr. DOMENICI. I just want to say I think we have explained that we are using the time usefully. We are using the time usefully to try to make a better arrangement for the rest of the bill. We ought to be through with that soon.

Mr. ABRAHAM. Mr. President, I have sent an amendment to the desk which has been read.

Mr. President, the savings necessary to rescue the Medicare Program from bankruptcy will not be found solely through eliminating waste, fraud and abuse. Nevertheless, I believe it is incumbent upon us to diligently pursue and root out every vestige of inefficiency in the system.

Therefore, I am offering this amendment which I think will produce additional vigilance in the ballots against Medicare waste and fraud. This amendment calls on the Secretary of Health and Human Services to establish programs that enlist Medicare beneficiaries in our efforts to eliminate waste, fraud and abuse in the Medicare system.

These beneficiary incentive programs, as they would be called, would come in two forms: One program would reward individuals who report fraudulent activities; the other program would reward individual beneficiaries for suggestions they make which result in greater efficiency and overall savings to the program.

The Secretary of Health and Human Services would be responsible for setting up each program and for providing financial remuneration to those individuals reporting instances of tangible fraud and waste.

The Senate Finance Committee's reconciliation package currently does not contain a beneficiary incentive program or provision. The amendment I offer would include in the Senate reconciliation bill language which is similar to that currently in the House proposal.

It is difficult to explain to Medicare beneficiaries why dramatic changes in the program are necessary to keep it from going bankrupt when many of these same individuals have firsthand experience with waste and fraud in the system.

Indeed, Mr. President, in my own State we recently had an incident where a Congressman had a constituent come to him with an overcharging of something in the vicinity of $400,000 that was made in error. Nevertheless, it has been paid.

Those kind of circumstances make at least my constituents who are part of the Medicare Program frustrated, angry, and especially concerned when they hear about changes we are making in the program. They do not want to see us just address the growth issues or just the solvency issues. They also want us to address the problems they see every day with fraud, waste, and abuse in the program.

That, in my judgment, has to be addressed in our bill. That is why I offered this amendment.

If our efforts at Medicare reform are to succeed we must demonstrate our seriousness about ending these abuses. I believe enlisting the aid of Medicare beneficiaries, showing our resolve to combat the problem can prove to be a valuable asset in exposing and eliminating waste and fraud from the system.

Just to clarify, Mr. President, my amendment authorizes the Secretary of HHS to, within 3 months, establish two separate programs, one which would basically be called a beneficiary incentive program designed to allow seniors to report fraud, waste and so on, and if the fraud is significant, allow the Secretary to provide a financial reward to the individual who reports it.

The second program, also designed to allow Medicare beneficiaries to benefit from ideas and suggestions in improving the program, would provide Medicare beneficiaries awards for providing us with recommendations specifically to the Secretary of HHS for improvements to the Medicare Program by way of promoting greater efficiency. Once again, if the savings are significant, the Secretary of HHS may provide a financial award to the individual whose recommendation was submitted.

Mr. President, we are addressing the growth of Medicare and its expense in many different ways in this legislation. I think a key component in the long-term control of those costs has to be ferreting out this abuse and waste.

I believe this amendment, as part of a package of similar reform, can make a significant impact in reducing those kind of costs that stem from either inefficiencies in the program or fraud or mismanagement in the program.

I am pleased to offer this amendment tonight and I urge my colleagues to support the amendment.

Mr. EXON. Mr. President, I yield 10 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, all day I have listened attentively to both sides of this debate. Increasingly, I have grown deeply saddened because I see the polarization that is taking place between the two sides of the aisle. I tried to reflect on the profound impact this bill will have on people, specifically, the 32 million people in the State of California.

In a sense, it is ironic that this bill is called a "reconciliation" bill, for in reality, other than in Washington-speak, it is far from a reconciliation that we have here on the floor today.

If one just looks at the size of the Medicaid and Medicare cuts, one cannot help but be staggered by what its impact will likely be. Overall, the $450 billion cut in Medicaid and Medicare would affect my State of California to the tune of $54 billion in losses during the next 7 years. That breaks down as $36 billion in Medicare cuts and $18 billion in Medicaid cuts. Those cuts will have an enormous impact on the people of California.

Let me give you an example of this bill's harsh consequences. In California, 15 percent of the current Medicare recipients are also receiving Medicaid. That is 540,000 of the poorest seniors in the State of California. They need Medicaid to meet their Medicare premiums and copayments. Premiums are being doubled and, under the bill, they will not have the assistance of Medicaid. What is, obviously, the likely result? Without Medicaid to assist these seniors meet their payments, many will lose their benefits and be placed at higher risk.

Further, for people suffering with HIV/AIDS, Medicaid is the most important program in the Nation. With these Medicaid cuts, what happens? It puts added stress on the public hospital, the county hospitals, in the State.

So let's turn and look and see what is happening to the county hospital. In the 58 counties of my State, county hospitals—like San Francisco General in San Francisco or Martin Luther King, Jr., General in Los Angeles, will lose an estimated $150 million over the next 7 years.

Now let's turn to the great teaching hospitals in my State. The University of California system is a great system, probably the best in the world, with five great, major teaching hospitals. They are projected to lose $444 million over the next 7 years.

In a letter from the university system, they inform me that, for the first time in history, the University of California's teaching hospitals will go into deficit.

Great teaching hospitals going into deficit.

Public hospitals not being able to keep up.

Medicaid cuts that will prevent the poorest in our Nation from being able to use Medicare.

I really had to ask myself the question—is it really necessary to do it this way? This is where the bill becomes, I must honestly say, immoral. Because the answer to the question has to be, no, it is not necessary.

When you add it all up, you know that these cuts are as deep as they are for one reason, and one reason alone—to provide an enormous tax cut in this bill, while the poor get hit hard by the changes in the earned income tax credit.

I am one Democrat who supports a cut in capital gains, but not on the backs of poor people. It is simply not what we are supposed to do—either party, Republican or Democrat.

I have a basic philosophical belief. What Government should do is those things that the private sector cannot do. So Medicare and Medicaid are an important part of that philosophy. To take these deep cuts at this time, all at once, without any hearings or full knowledge of how these cuts will fall?

What does happen to the five great teaching hospitals?

When do they have a chance to give testimony and indicate what they can or what they cannot save? What does happen to 540,000 seniors who depend upon Medicaid to make their Medicare premium and copayments? What happens to them? We have not discussed it. Nobody knows.

What happens to the county hospitals, already cut deeply, the major providers of indigent care in many areas across California? The DSH payments are not going to be enough. What happens to the affected AIDS/HIV community, more dependent on Medicaid than any other single program?

These are questions that deserve a hearing. These are questions that deserve the wisdom of both parties sitting down and working it out.

Mr. President, I am delighted to see the Senator from Arizona in the chair, because we just had an example of where we can work together. He and I both know that the majority leader, and you as a major author, did not have to compromise on the Jerusalem bill we recently considered on the floor.

You had the votes to do it without it. And, yet, your feeling was—and I think correctly so—that it would be a better bill, with less divisiveness, if we sat down and tried to work out our differences. And, Mr. President, you and I and others sat down at least twice and we worked out our differences and we were able to produce a bill that got all but five votes in this esteemed body.

I really think that is the way our people—those people who elected us—think that is what they elected us to do. They didn't elect us to be so partisan that we drive a divisive wedge into two of the most important programs, Medicaid and Medicare, that touch human lives in this country.

I will tell you honestly—God strike me dead if it is wrong—I do not know how the State of California is going to cope with these cuts. They are deep, they are wide and they are enormous for a State that has a growing poor population, that is the site of 40 percent of all of the foreign born, that has more illegal immigrants in it than all the other States, combined, and has probably the largest number of needy people.

We recently considered welfare reform on the Senate floor. I voted for welfare reform, yet welfare reform is a $7 billion cut to California—no question—by any independent analyses. I voted for it because I felt there was a redeeming value in making the necessary changes and moving off chronic dependency.

Yet, how can I vote for this budget bill and show up back in California when I know the reason the cuts are so deep is simply to give a tax cut?

Who benefits?

My husband is a merchant banker. He deals in this kind of financial area. He would love to have a capital gains cut. He pays major income taxes. They went up in 1993, just like 275,000 other families out of 13 million taxpayers in the State of California.

But does he want to get a capital gains cut under these conditions? Anybody can call him and he will say no. It is morally wrong. It is not right to do it this way. And that is the gut-level problem that I have with this bill that so saddens me.

The Republican Party has been known as the party that is most concerned about the national debt. True, we have a national debt of $4.9 trillion, which has developed, largely, over the past 25 years. But this budget bill will add to the deficit over its 7 years. Under this bill, the Nation's debt will increase by about $670 billion over the next 7 years—about $245 billion more than if no tax cut is enacted. This is not fiscally responsible action.

Further, I recently learned that June O'Neill of the Congressional Budget Office reports that, if off-budget items, such as Social Security, where not incorporated into the deficit calculation, the budget would show a $105 billion deficit in 2002 under the Republican leadership's plan, not the balanced budget they claim. Now is not the time for an excessive, and misdirected, tax cut.

The current deficit is $160 billion and that is too high and needs to be eliminated. But the deficit has been as high as $290 billion only a few years ago. True, the deficit picks up in the outyears of this decade. And true, Medicaid and Medicare are partially responsible for it and need to be changed.

I will support changes in these programs, like an age of eligibility change. I will support means testing of premiums, not because I want to, but because I believe it has to be done.

But to take the cuts this way, for the purpose of being able to rationalize a tax cut directing billions to the investment banker types of this country, is absolutely wrong. It is morally wrong.

And to go back to California and tell senior citizens, some of whom, in my State are eating dog food—true story, eating dog food, and using Medicaid to pay their premiums, is something I cannot accept. The lower you are on the economic ladder the more difficult it is.

I am sure I have exceeded my time. I apologize. I got a bit wound up. But I think it suffices to say that I do not know how anyone can vote for this bill and return to their people and say, "You are not going to be hurt by it." I know I cannot.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to thank my friend and colleague from the State of California for a very excellent statement, and, as usual, she puts it into perspective so we can all understand it. I think the personal remark that she made with regard to her husband should set the tone of understanding that I think is very lacking on the budget reconciliation document that we have been addressing and that I addressed along similar lines this morning.

Mr. President, I would simply like to say that, subject to their recognition by the Chair, I yield 10 minutes, first to the Senator from Nebraska, Senator KERREY, and followed by that 10 minutes to the Senator from Arkansas, Senator PRYOR.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. KERREY. I thank the Chair.

Mr. President, several Members, Republicans and Democrats, have come to the floor and have decided to use the bipartisan Entitlement Commission—actually established by President Clinton last year—as either the basis for supporting the reconciliation agreement or the basis for opposing it. My opposition I must say is reluctant. I would love to be able to join with Senator GREGG, Senator SIMPSON, and others who participated in this effort and understand that the severity of the long-term problems with entitlements is not just Medicare and Medicaid, and other entitlements, but the big one, Social Security. The long-term problem is not something that we can afford to put off. Every year that we wait the problem gets worse.

All of us who look at the situation of retirement understand that the sooner you begin to plan the less you have to put away.

So those that say we will wait until 1997 to deal with Social Security are not doing beneficiaries any favor. The longer we wait the more severe the problem is, and the more the severe the adjustments we have to make. And we should recognize that when you are dealing with retirement or with health care, if there is a requirement to save money and accumulate reserves, as there is with our trust funds, that you have to do it over a prolonged period of time.

Mr. President, the reconciliation agreement does not solve that long-term problem. The appropriated accounts this year are about 26 percent of the whole budget at the end of the 7-year period. We are seeing a decrease in the appropriated accounts—a continuation. I mean it is the most dramatic chart that we have in the entitlement report. I commend it to colleagues who are interested in it, because when you get to the back and see what Senator DANFORTH, I, and Senator SIMPSON recommended you can see that you are dealing with real tough choices.

So I am not objecting to making tough choices. I am not objecting to saying that I will cast a vote for something that might be unpopular. I am not going to criticize the Republicans, for example, for choosing to increase the eligibility age. I think it has to be increased. But what we observe is a long-term problem. Again, when you say long-term problem the presumption is that we can wait a long time before we deal with it. You cannot because the longer you wait the more serious the issue becomes.

Mr. President, I want Members to understand that there are facts here in the Entitlement Commission report, as well as recommendations in the Entitlement Commission, that I believe need to be considered. I regret the President did not take those recommendations and make it a part of his budget. I think we would be in a different shape right now, if, in fact, the observations of the recommendations of the Entitlement Commission were accepted by the administration. But they were not. But there is still bipartisan support for action, and a willingness to risk political careers using facts and using the truth, and hoping the American people trust that we have to make change.

In short, Mr. President, the goal for us in this exercise cannot just be to balance the budget because, if all we do is balance the budget, we have other problems that will still need to be addressed. I have identified a second one.

The second one is the growing cost of entitlements as a percent of our Federal budget. With all the rhetoric on both sides of the issue, the amount of money that the Congress extracts from the U.S. economy has remained relatively constant over the last 50 years. It went up during World War II, and it went up during the Vietnam war, but it remained roughly 19 percent of GDP. It is unlikely that is going to change. It is likely that is going to remain the same even with the proposal to reduce taxes that is in this piece of legislation. It really does not make a dent in that. You are still going to be pulling about 19 percent of GDP. That means the more that we allocate for mandated programs the less we have; not just for defense but for nondefense appropriations accounts. It severely restricts our ability to build roads, our ability to educate our people, to do training, and to do things that I think Republicans and Democrats can agree need to occur.

So not only do we need to balance the budget but we need to interrupt this trend where America is moving in a direction which our Federal Government is moving in—a direction of becoming an ATM machine. Again, time is not on our side. You may say, "Oh, my gosh. I do not want to increase the eligibility age because that will make me unpopular. I do not want to deal with Social Security because it is too controversial." But we have to.

We have obligations on the table right now that we cannot meet. We can meet them over the next 5 or 6 years. We are not going to be able to meet them long term.

The flaw in the Republican proposal, in my opinion, comes from the need to satisfy a relatively small number of people that campaigned on a promise to reduce taxes. It is the tax cut that makes it imperative to get more over the short term and less over the long term. That is why I think this thing may have run aground. But Americans should not suffer under the illusion that there is an absence of bipartisan willingness to look at the future, and say, "We are going to change our laws so as to change that future." Not only should we be moving toward the balanced budget, but, second, we need to get consensus that we are going to cap all entitlement programs at a fixed percent of our budget—64 percent this year. I would be thrilled to get an agreement on 70 percent instead of the 74 percent that it is going to be in the year 2002.

Third, Mr. President, I have strong objections to this proposal because instead of building a new safety net for a changed economy, which I think we need, we are saying as businesses are downsized they become more productive, and more competitive. But as they do it dictates that we examine our safety net and build a different one. I think on the top of the list, if you are trying to rebuild a safety net, is to change the way we establish eligibility for health insurance in this country. And rather than saying we are going to just change Medicare and reform Medicare, we ought to be reforming Medicare, Medicaid, the income tax deduction, and the VA system—establishing a simplified system of eligibility saying, if you are an American and a legal resident, you are in but you have to participate personally in controls. We are not going to subsidize you, if you do not need to be. We have to, rather than block granting for budgetary reasons, have a new safety net.

If we want to remain an aggressive market economy where our businesses have an incentive to maintain their productive edge, we have to have a safety net that enables people when they find themselves out of work to still know that they have health insurance, and still know that they are going to be able to pay the medical bills.

I was down in Texas over the weekend and discovered in the State of Texas, a relatively conservative State, that 50 percent of all babies delivered in the State of Texas are paid for by Medicaid—Medicaid, Mr. President. This is supposed to be a poverty program, and it is supposed to be a minimal safety net.

The reason that it is increasingly being used by working people is that we do not have a very good and a very flexible program. We are saying, as many Republicans have come to the floor and said, there is something wrong when I have working people without insurance paying a 2.9 percent payroll tax to fund health care programs for some that can afford to pay the bills. There is something wrong with that.

But to reconstruct the health care safety net, we cannot just adjust the payment system in Medicare. We cannot just block grant Medicaid. We ought to be saying let us re-establish a fundamentally different way of becoming eligible for health care, and then let us make sure subsidies go to those who need it, and make sure we provide people with the basis as well, as both Republicans and Democrats have talked about, and accumulating the resources to be able to pay for it.

Mr. President, if this proposal in addition to balancing the budget fixes the cost of entitlements, instead of the Republicans looking across the aisle and saying we are in the majority, we have looked at this Entitlement Commission report, we agree, we have to control the cost of entitlements, here is the proposal to fix it—if the Republicans had said we now come to the table in an understanding that, as well as the market working right now to control the cost of health care, there are some individuals that are not going to be able to purchase it, that is the basis for Republicans supporting Medicare.

We understand that after 65, a lot of people cannot afford to pay the bills because health care gets more expensive. Well, if it is true for 75-year-old people, it is also true for 25-year-old people in the work force. We ought not just be changing Medicare to save money. We ought to reform our health care system so that every single American knows with certainty they are going to be covered.

If the Republican proposal did those three things at a minimum, then I would be standing here as a Democrat supporting it. I would love to be able to get to that point. I know there are many people on the other side of the aisle very uncomfortable with the tax cuts, very uncomfortable in particular with the Joint Tax Committee that has disclosed to Americans that every single person with a family income of $30,000 or under is going to have a tax increase. I know they are not comfortable about that and would prefer to have it changed. I know they understand that the entitlements are a problem, that we have to do more, not less, if we expect to have the resources to invest in our future.

I know there is the basis to produce a bipartisan reconciliation bill that we could send on to the President hopefully for his signature.

Unfortunately, that does not appear to be the direction we are heading. Unfortunately, we appear to be heading in a direction where we are going to sort of rigidly hold on, have a minimum amount of debate, limit the number of amendments offered, pass legislation for the short term and hope the people do not discover we left the long-term problem in place; that we have constructed a safety net that is not adequate for the kind of market economy we face today and unfortunately will have left our children, rather than blessed in the future, still cursed by an insufficient amount of investment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

I am just going to speak a very few moments on a subject that is and has been very near and dear to my heart during my entire period, you might say, in the field of public life. It relates to nursing home standards, Mr. President.

The legislation that we are considering tonight in this Chamber—I do not know how many thousands of pages, about 2,000, I think—includes what we might think of as just about everything, that nothing was forgotten, nothing was left out, nothing was omitted from the budget reconciliation bill that we are considering this Wednesday evening in the Senate. But there is something very critical left out of the budget reconciliation brought to us by our friends from the other side of the aisle. What was left out, what is notably absent is any Federal national nursing home standards.

Mr. President, only this week, in Time magazine, we see a remarkable article entitled "Back to the Dark Ages," which predicts what is going to happen in the American nursing home to some 2 million residents if we totally do away with Federal standards.

Mr. President, it was in 1987 when the late John Heinz, the Senator from Pennsylvania, the former Senator from Maine, Senator Mitchell, and many of us joined on this side of the aisle with our friends on the other side of the aisle to enact for the first time Federal standards for nursing homes.

If I might, Mr. President, I ask unanimous consent to place in the RECORD this article from Time magazine.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BACK TO THE DARK AGES

(By Margaret Carlson)

Anyone pondering his or her sunset years will remember the exposé of the shocking conditions in nursing homes circa 1970. Woefully undertrained workers strapped patients to hard-backed chairs, fed them cheap diets and kept them in a whimpering state of sedation. There were tales of urine-soaked hospital gowns and of false teeth collected at night and thrown into a communal vessel that patients had to fish through in the morning. All this and more was documented by the National Academy of Sciences in 1986. The next year Congress passed legislation to address decades of abuse of the elderly by profiteering nursing-home operators.

But in the blink of an eye these days, a carefully built construct of regulations can be blown away without so much as a formal hearing. As part of a crusade to curb federal authority, and with only a simple assertion that the regulations are burdensome, two congressional committees have sent to the floor for a vote this week legislation that would repeal federal standards. There would be no protection against patients being restrained, no standards on staffing or when someone could be discharged after using up all his or her money. Niceties like nurses would be optional, since there is no requirement in the new legislation that a licensed nurse be present. Instead there would be so-called patient rights—to receive mail, keep personal belongings and be free from abuse and forced labor—rights that may duplicate, but do not exceed, the Geneva Conventions for prisoners of war.

Republicans justify the changes by saying the states know best how to run nursing homes. Of course, it was the failure of state regulation that got the reforms passed in the first place. It is unlikely that with $182 billion less in federal Medicaid money over seven years the states will embrace high-quality care. The market solution would be to replace that nurse's aide at $10 an hour with an unskilled worker at $5 and to substitute thin soup and macaroni for meat and vegetables.

In fact, it turns out that being humane actually saves money. Catherine Hawes of the nonprofit Research Triangle Institute estimated that after the 1987 reform legislation was passed, $2 billion was saved by 269 nursing homes from fewer emergency hospitalizations, less malnutrition, a 30% decrease in the use of catheters and a 25% reduction in the use of restraints. Says Sarah Burger of the National Citizens Coalition for Nursing Home Reform: "Operators didn't know until they were forced to stop doing it that the main cause of incontinence and bedsores is being restrained and not being able to get to the bathroom." But wholesale budget slashing will no doubt pressure some facilities to cut corners. Senator William Cohen of Maine, one of the few Republicans to oppose the rollback, warns, "If we weaken federal enforcement, we will be sent back to the dark days of substandard nursing homes, with millions of elderly at risk."

Republicans may have entered the slaphappy phase of their revolution, killing regulations simply because they can. Indeed, the nursing-home industry has not even asked for regulatory relief, in part because it would allow unscrupulous operators to flourish and bring shame on all of them. But Speaker Gingrich is hurtling along, fearless about sending Mom and Dad back to the future, to the day of nursing homes that lack nurses and feel nothing like home.

Mr. PRYOR. I shall read only one sentence. "Indeed, the nursing home industry has not even asked for regulatory relief, in part because it would allow unscrupulous operators to flourish and bring shame on all of them."

Mr. President, that is going to be exactly the status of the residents who are living today in the American nursing home.

First, I would like, if I might, to show our colleagues the projected growth in the nursing home population. Today, we have approximately 2 million residents in American nursing homes. By the year 2003, just a few years from now, we are going to see 4.3 million American citizens residing in American nursing homes. In fact, most of the people who reach the age of 65 are going to be in this category. They are going to be living in a nursing home.

I can only imagine. If the 2 million nursing home residents in this country could be surveyed or polled on how they felt about removing all Federal nursing home standards, it does not take a great amount of imagination to know what the results would be. Of course, in overwhelming numbers, undoubtedly, they would vote to continue these present Federal standards.

For example, the choice of a physician, the care and the treatment in choosing a physician, the freedom from chemical and physical restraints, is this something that our colleagues on the other side of the aisle want to remove? Just last week in the Senate Finance Committee, on a vote of 10 to 10, every Democrat voted for retention of these Federal standards, every Republican except one, Senator CHAFEE of Rhode Island, voted to eliminate all Federal standards in nursing homes.

What about the issue, Mr. President, of privacy in receiving mail and communications? What about the confidentiality of medical records? What about the protection from unwarranted transfer to another nursing home or discharge in the middle of the night from the particular nursing home the resident finds himself or herself in?

Mr. President, another chart indicates something that I think is extremely dramatic and once again indicates the real need for us to retain at least the minimum of Federal standards for nursing homes. Look at the characteristics of the nursing home patient or resident today: 77 percent need help in dressing; 63 percent need help in toileting; 91 percent need help in bathing; 66 percent have a mental disorder. And there is one more figure that did not make it to the chart, Mr. President. That is that over 70 percent of the patients today residing in America's nursing homes have no relative and no advocate out there on a daily basis visiting them or advocating their cause or trying to support bringing them a better quality of life.

Mr. President, there is also a letter being circulated dated October 24 addressed to our colleague, Senator DOLE, making one final plea to Senator DOLE and all of us in this body to restore these meaningful nursing home standards. It is signed by the American Health Care Association, by the American Association of Homes and Services for the Aging, by the Catholic Health Association, and down the line.

I ask unanimous consent that this letter all of us received in the Senate be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 24, 1995.

DEAR SENATOR DOLE: As providers of long-term care services, we are concerned that the current Finance Committee proposal to impose a block grant financing mechanism for Medicaid fails to ensure that adequate resources will be made available to meet the needs of our nation's elderly, disabled, and infirm. We fear that the proposed annual increases in federal Medicaid funding for state programs will be insufficient to meet the quality of care needed by residents of long-term care facilities and subsequently reduce access to services. Furthermore, the failure to meet the resources needs anticipated in future years for these services will negate the many advances made in this area as a result of the enactment of the nursing home reform provisions of OBRA '87.

We urge you to support the retention of federal oversight of nursing home quality linked to a statutory provision ensuring that adequate financial resources are made available to meet prescribed levels of service. Although this linkage can take several forms, the current formulation which backs the nursing home reforms of OBRA '87 to a statutory direction that payors of services (both federal and state) must ensure the payment of adequate rates has proven a workable mechanism and should not be repealed.

Federal nursing home reform standards, joined with existing reimbursement standards have resulted in a steady improvement in the quality of long-term care services. Without such a linkage, this quality of care can not be sustained. It is our sincere desire to move forward with the quality of care provided in nursing homes, and recognize that the ability to do so is dependent upon the provision of adequate financial resources.

Sincerely,

American Health Care Association (AHCA)

American Association of Homes and Services for the Aging (AAHA)

Catholic Health Association

InterHealth

Horizon CMS

Clinton Village Nursing Home, Oakland, California

Qualicare Nursing Home, Detroit, MI

Westmoreland Manor, Greensburg, PA

Services Employees International Union (SEIU)

American Federation of State, County, and Municipal Employees (AFSCME)

United Auto Workers (UAW)

STATEMENT OF STEWART BAINUM, JR., SUBMITTED TO THE SENATE SPECIAL COMMITTEE ON AGING, OCTOBER 26, 1995

As the Chairman and Chief Executive Officer of Manor Care, Inc., I want to express our strong support for retention of the Nursing Home Reform Act of 1987 (OBRA '87). Manor Care owns and operates 170 skilled nursing facilities in 28 states, and provides care to over 20,000 residents.

The OBRA '87 reforms represent the most comprehensive revision of nursing home regulations since the inception of the Medicare and Medicaid programs in the sixties. As I recall, the bill was over 1000 pages long, and addressed critical areas of care, such as resident assessment and care planning, nurse aide training and testing, resident rights, nurse staffing ratios, and enforcement. The final product reflected the agreement reached among 60 national organizations, representing consumers, seniors, providers, and state regulators. It was a painstaking process that worked. In fact, OBRA might depict one of the finest collaborative achievements ever in the history of health care legislation.

Manor Care proudly supported OBRA in 1987 because the legislation offered a valuable means of protecting and promoting the quality of life for one of the most vulnerable segments of our population. We must afford nursing home residents an environment which is safe and ensures their physical and mental well-being. OBRA '87 has been widely successful in accomplishing this goal.

Manor Care pledges to continue to meet these federal quality standards because they are reasonable, and have led to significant improvements in the care delivered to our residents. As a national company, we are supportive of the uniformity and consistency these standards provide across the states.

OBRA created a system of care delivery to help guarantee the dignity and respect of institutionalized seniors. Do not undo the valuable work that has been done. We ask that Congress support retention of the Nursing Home Reform Act and its standards. Stated most simply, it is the right thing to do.

Mr. PRYOR. Mr. President, these particular standards which have been on the books now not even for quite a decade are already paying dividends. For example, if we would just look at an additional chart to see what is happening in improved resident outcomes, the maintenance of the ADL function, what it takes to daily exist, we see the pre-OBRA functional status in the purple, we see the red, the post-OBRA functional status showing a dramatic increase in the very basic quality of life because of these nursing home standards.

We look, Mr. President, and see what is happening in improved care for the nursing home resident. "Decreases in Problem Areas." Physical restraints are going down; dehydration is going down; indwelling urinary catheters, 29 percent, going down.

What we are seeing here, Mr. President, are hard-won gains that we are about to eliminate in one fell swoop simply because this particular budget reconciliation does not contain Federal nursing home standards to protect the American nursing home resident.

Finally, Mr. President, let me ask, how would we vote in this body—when this issue comes before the Senate, how would we vote if we knew that Monday our mother or our father or our son or our daughter or even ourselves were about to enter a nursing home and become yet another statistic? How would we vote, Mr. President?

I ask my colleagues to strongly consider the opportunity, when it becomes available, to retain these basic nursing home standards and to continue them as a part of the law of this land and the basic protections that we must not take away from these 2 million, and going to soon be 4 million, American citizens residing in our nursing homes.

Mr. President, I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Parliamentary inquiry.

How much time is left on each side?

The PRESIDING OFFICER. The Senator from Michigan has 48½ minutes, and the other side has 26 minutes.

Mr. ABRAHAM. Thank you, Mr. President.

Mr. President, I yield myself such time as I may need to make a few brief comments with regard to my amendment, which I would like to bring us back to for a moment.

First of all, the issue of fraud and abuse in Medicare is a problem that has been widely recognized by Members of the Senate, and I would like to call attention to several Members who have been actively engaged in trying to ferret out these problems so that we might address them in ways such as the amendment I am presenting here tonight.

First, I would like to acknowledge the efforts of Senator KYL and Senator MCCAIN—Senator MCCAIN in particular, who has worked in this area a lot, who has separate legislation, I know, on this topic; and his leadership on this issue has helped to bring it to our attention.

More recently, I would also like to acknowledge, and then quote, from a report, an ongoing, actual effort by Senator COHEN, who is also chairman of our Senate Special Committee on Aging, an investigative staff report which he conducted and which was released July 7, 1994. It has identified countless examples of Medicare fraud and abuse, the kind of abuse and fraud that, hopefully, this amendment which I have presented tonight can address.

Without going into all the details at this time—although I may from time to time during the debate mention specific cases—let me just focus on an area that was just touched on by the Senator from Arkansas; namely, the area of nursing homes.

The investigative report revealed a considerable number of cases involving direct targeting of nursing home patients in which both the industries that supply products and services to the homes and the owners and administrators of the homes are involved in fraudulent and abusive practices.

> Nursing home owners have been convicted of charging personal luxury items like swimming pools to Medicaid cost reports. HCFA, the HHS [inspector general's office], and the Minority committee staff are continuing to investigate nursing homes * * *

as was the case at the time this report was revealed.

Let me cite two specific cases.

> A Minnesota speech therapist submitted false claims to Medicare for services provided to nursing home residents. The therapist also received Medicaid payments for speech therapy he never actually performed—and the investigation revealed that he had been paid for services "rendered to patients" several days after they had died. He was also observed using flash cards with a blind resident, and then billing for reimbursement.

Another case:

> The owner of a Pennsylvania rehabilitation service was indicted for allegedly operating a scheme to defraud Medicare by submitting false claims for speech therapy provided to patients in nursing homes. The

owner allegedly told speech therapists to recruit Medicare clients even though he knew their therapy would not be covered under Medicare.

Before submitting the paperwork for reimbursement, the speech therapists would rewrite their patient reports so that they would appear to be medically necessary rehabilitation services. The employees then allegedly falsified bills submitted to Medicare, including certifications by doctors that patients needed continued speech therapy, and also falsified patients' medical records.

Mr. President, we can talk about the different problems in the nursing home issue, one many of us are concerned about. One of the reasons this amendment which I have offered tonight is before us is because it helps to address some of the problems that do go on in nursing homes.

I will cite other examples in other contexts in which Medicare fraud is running up the costs of Medicare, costs that we should address through this amendment that I am offering, as well as some of the other items included in the reconciliation bill before us.

At this time, Mr. President, I would like to yield 10 minutes of our remaining time to the Senator from Ohio.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Let me thank my colleague from Michigan for yielding time and say that I rise in strong support of the Abraham amendment.

My friend from Michigan said a moment ago that he has many examples of constituents who have had firsthand experiences. My guess is that there is not a Member of this body who could not say the same thing. As I travel the State of Ohio, I talk to people about the Medicare issue and what we need to do, the steps that we will have to take to preserve and protect and strengthen Medicare. And people will always talk to me about the fraud, talk to me about abuse. Many times I travel the State. And they have specific examples. I suspect that every single Member of this body could say the same thing.

I have had my staff go through some of the letters that we have received. Here are just a few of them, people who have written to us, people who I have talked to personally, who have described specific incidents that they believe constitute fraud.

I think my colleague from Michigan is right on point, because I think one of the things that we have to do is to enlist the public's help in this effort to deal with the fraud and abuse. It has been my experience, Mr. President, that the American people are generally right. And in this particular case, the American people, the people who are on Medicare, the children of people who are on Medicare who have been involved in maybe paying the bills or overseeing some of the finances, they are not wrong. They are right. There is fraud. There is abuse. There are things that need to be done.

So I would like to congratulate my colleague from Michigan and give him my full support for this particular amendment.

Mr. President, the reconciliation bill that we are debating tonight and will be debating tomorrow, probably also into Friday, has great historic significance. It has many different parts to it, as has already been pointed out tonight.

One of the provisions in this bill that my colleague from Michigan mentioned several hours ago when he was on the floor I would also like to briefly comment about, and that has to do with the tax credit, the $500 tax credit for those couples, those families, who have children. There has been a lot of talk about what this might do to help stimulate the economy, a lot of talk about what impact this has on this particular bill.

But I think the main reason, Mr. President, for having this provision, and why so many of us on this floor tonight insisted that this provision be in the bill, is because it is a question of fairness, it is a question of equity.

If we look at the tax burden that our Government has placed on working men and women and on their families, what we find is that that burden has really impacted how people live their lives today. Let me give you a statistic. If you took a family with four children in 1960 and compared them with a family of four children in 1995, what you find when you strip away inflation is that the tax burden on that family has gone up in real dollars 220 percent—220 percent. So each one of us has constituents back in our home States who are working second jobs, or third jobs or where the spouse has taken a second job or maybe taken a first job, who would not do that but for the fact that this tax burden has been imposed on them.

And so you have one of the spouses working one job full-time just to pay the taxes, just to keep the family standard of living where they believe it should be and to help educate their children. That is the perverse impact that the Tax Code has had on families, and the fact that the Tax Code has not, over the years since 1960, for example, kept up in any way, shape or form with inflation.

What this $500 tax credit does is helps to rectify that injustice and bring some equity to the tax system.

Mr. President, another major provision of this bill that we have in front of us has to do with welfare. I believe that this bill is an essential step toward creating jobs and opportunity for the American people, and I believe that the welfare provision goes a long way in doing that.

This particular provision encourages the culture of work instead of the culture of welfare. In the case of the welfare provision, again, there has been a lot of talk about dollars and cents, and those certainly are important. In the long run, I think this provision is going to save money, but that is really not the main reason it is in this bill.

It is really not the most significant thing about this welfare provision, because in this bill, we are changing the culture. In this bill, we are turning our back on the last 30 years where what we really have been doing in this society—it has been unintended—but what we really have been doing is keeping people alive. We have been feeding people, we have been keeping them on welfare.

I guess we have done a pretty good job in that respect. But what we really should be doing is what we are doing with this bill, and that is, moving from a system of welfare, whose goal is to maintain people, to a system of welfare whose goal is to help people realize the American dream, to help them get themselves off welfare so they can fully participate in the great American dream.

Let me briefly discuss, if I can, Mr. President, how this bill does this. This bill promotes work, not welfare. It proposes radical change based on the principle that the only way to succeed in reforming welfare is to get welfare out of Washington, DC. We are only going to change welfare when we turn the power back to the local communities, we turn the money back to the local communities. Washington, DC, has demonstrated for decades that it cannot reform welfare.

The innovation that has occurred in the welfare area in the attempt to get people to work has not occurred over the last few years in Washington. Where you see the innovation is in the 50 States. The States have truly become the laboratories of democracy. And so what we have seen in the last few years is Governors and State legislatures who have had to petition Washington, have had to come hat in hand to Washington and deal with some unelected bureaucrat to ask permission to be bold and innovative and to try a new program back in their home State.

What we are saying with this bill is enough is enough, we trust the States. That is where the innovation has been. That is where the changes are going to be made. Let us get the money out of Washington, get the power out of Washington.

Real change is only going to come, Mr. President, at the State level. And so the thrust of this bill is, as I said, to get the power and the money and the decisions out of Washington, DC.

It will take the States time to fix this broken system. I think we have to be very realistic about this. Welfare did not become a wreck overnight, and it is not going to be fixed overnight. In fact, it will not get fixed at all if the power course stays here at the Federal level.

The welfare provisions contained in this bill will help accomplish this historic transfer of power away from Washington. It will transfer welfare responsibility to the States in the form of block grants.

The bill would also establish a tough new uniform work requirement for welfare. Next year, under this legislation, to continue receiving block grant money, States will have to make sure that at least 25 percent of the people on welfare are working in return for the benefits that they receive.

I ask for 3 additional minutes.

Mr. ABRAHAM. Mr. President, I yield 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, that percentage will continue to rise every year, and by the year 2000 at least 50 percent of those receiving welfare will have to work.

The only long-term solution to welfare is work. This reconciliation bill recognizes this basic commonsense fact.

I am especially pleased by some of the improvements we were able to make during floor consideration of the bill. We established, when we were debating the welfare bill, a rainy-day fund to help cover economic emergencies, creating a grant fund of Federal money that will help tide States over in the event of a recession.

We also made it easier to track deadbeat parents. We know that we could reduce the welfare rolls by up to two-thirds if deadbeat parents would just pay their child support. Years ago, I was a prosecutor in Greene County, OH, and I learned then firsthand how difficult it can be to track down these deadbeat parents. You get banking information about them on a yearly basis, you find out their assets, find out their location, just in time to discover they vanished once again.

This bill would provide this vital tracking information on a quarterly basis, once every 3 months, not once a year. It will be a big plus for our efforts to track down the deadbeats and, thus, reduce welfare costs and, perhaps most important of all, we will give States credit for helping people avoid falling into the welfare trap.

We have found that helping people before they get on welfare through job training, job search assistance, and similar measures is a cheaper and more effective way to help them than simply waiting for them to fall off the economic cliff and become full-fledged welfare clients.

In conclusion, Mr. President, I strongly support the idea that we have to make welfare recipients work, but we need to make sure that meeting the work requirement does not become an end in and of itself. The goal, after all, is to help people avoid getting caught in the welfare trap in the first place. This bill gives States credit toward the work requirements for the efforts they make to help people stay off welfare. It will help keep States focused on the real problem: Making sure fewer and fewer people need welfare in the first place.

With these changes and the underlying idea of promoting work and getting welfare out of Washington, the Senate welfare reform package is a major step toward breaking the cycle of welfare dependency once and for all.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield 10 minutes to the Senator from Tennessee.

Mr. THOMPSON. Does the Senator from North Dakota wish to go next?

Mr. DORGAN. How much time remains on each side?

The PRESIDING OFFICER. There are 26 minutes on the minority side and 30 minutes on the majority side.

Mr. DORGAN. I defer to the Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank the Senator from Michigan. I also am strongly in support of his amendment. I think, as he says, eliminating fraud and abuse from the Medicare system certainly is not, in and of itself, going to cure the problem we are faced with. But it has to be part of the package and it represents doing something. I applaud his efforts in that regard. I also applaud the comments just made by the distinguished Senator from Ohio and his comments about the welfare portion of the reconciliation package.

Mr. President, I speak from a little bit different perspective than many of those who have spoken on the reconciliation package. I am a new Member to this body. I have not run for elected office before. I ran for the U.S. Senate. I decided to run for this body because I felt—as I think a lot of other people in this country feel today—that our country is at a crossroads, that our chickens have come home to roost, and it is time to make some strong decisions; and they are going to have to be made by people of courage and conviction. I felt that I could play a small part in making the difference, in helping make that happen.

It is all coming down now to these last few days, and that opportunity is going to be given to me, and it is going to be given to everybody in this body. Everything we have done in the last 10 days has led up to this time, has led up to this day of judgment. This is a day of judgment for ourselves as individuals. Some would say it is for our party, but it is more importantly for us as a body and us as a Nation. I think those difficult choices have to be made.

We are talking essentially here about change, Mr. President—change from the way that we have done things in the past. Change is always somewhat painful. Change is never easy, but change we must have.

There are legitimate issues to be debated and discussed, without question. I think it is quite clear that there are basically two different philosophies in this Chamber, as we approach these issues and problems. One believes that the Government, by growing larger and spending more money, can solve these problems, in the face of all the evidence to the contrary. We, on the other hand, believe that Government ought to do those things that Government does best, that we should shrink the size of the influence of the Federal Government on people's lives, give more power back to the States, back to the localities, and leave more dollars in the pockets of people who earn those dollars. It is a pretty simple proposition.

But there are legitimate issues. There is a legitimate issue as to how far we should go with regard to Medicare. Should we apply a Band-Aid? Sometimes a Band-Aid can work perfectly well for short periods of time. But the question is whether or not we should apply that Band-Aid or do something more serious for the future. Although, surely, we agree that something must be done.

There is legitimate debate as to what extent we should keep centralized here, control of the welfare program, or to what extent we should give those responsibilities back, closer to where the problem is. Although, surely, there can be no debate that we indeed have a failed welfare system and that something must be done.

There is even a legitimate debate with regard to a balanced budget. A while back, some were thinking maybe we did not really need one. Apparently, now we are all in agreement. We can debate those priorities, but, surely, we are all in agreement that we cannot continue down the road we are traveling on now, and that the next generation does not deserve it.

We can debate tax cuts. We can debate the effects of those tax cuts. But, apparently, we even agree across party lines and with the White House with regard to the need for tax cuts—the President having acknowledged that tax cuts are indeed needed.

So these are legitimate items of debate, and I have been looking forward to a discussion of those issues. We are in the midst of it now. I think the discussion tonight has been good. I must say that, throughout the day, it has not always reached a level that I would like to see reached in this Chamber. We have seen some mean-spiritedness, and we have seen some calls to fear. We have seen appeals to envy and appeals to greed. One Member, today, suggested that those who espouse our philosophy should be ashamed of ourselves. Another Member today, on the other side, said that apparently the only elderly people we know are those who live in Beverly Hills, which would come as a real shock to my mama in Franklin, TN. But that was said today. It has been implied that those on the other side of the aisle are the only ones who have any concern, any care, any compassion because, indeed, they are the ones who are willing to send out more dollars from Washington to solve those problems, as they have solved them in times past.

Mr. President, it has come now to a time where we must put partisanship aside. We can have legitimate debate on legitimate issues. I think the time is well past when we should be attacking other people's motivations as we reach to solve these problems, because some of us must take note of the fact that some of the ones arguing and screaming so loudly about these changes being made have been here for some time and have witnessed this legislation that has come out of this body and the other body, which has contributed to the problem over the last 40 years—much more than it has contributed to the solution, it has contributed to the policy of neglect and one that has, in every respect, failed. It has operated under false assumptions and false policies that must now be corrected. It is on our watch now—those who are coming in and who have been here a while. It is on our watch now, and we have to do something about what has been going on here for the last 40 years.

We have a lot of talk about the blame and partisanship on this side of the aisle and the other side of the aisle. I suggest that there is enough blame to go around, Mr. President. But we are now cleaning up after the act of the last few decades that was based on the proposition that we can eradicate welfare in this country, that we can eradicate poverty by spending more dollars on it. We spent $5 trillion and got about the same level of poverty, along with a lot of other socially undesirable results, which we surely must all agree on.

In 1965, the Ways and Means Committee estimated that the hospital insurance part A Medicare would cost $9 billion to finance by 1990. In 1990, hospital insurance actually cost $67 billion. That is quite a bit of disparity, even by congressional standards. Medicaid was intended to cost a billion dollars annually. Expenditures ballooned to $76 billion in 1992. In 1995, it went to $89 billion. That is just the Federal Government part alone. The States contributed $67 billion, in addition to that. False assumptions, which led to bad policies, which basically said, let us put this down and get to the next election and get an issue for the next election and on down as far as we can carry it, election after election, and let somebody else take care of the consequences. Well, we are now taking care of the consequences, we are taking care of those estimates that turned out to be so wrong.

What has that wrought? It is certainly more than an academic exercise. It has wrought a Medicare trust fund that is virtually bankrupt, a welfare system that is morally bankrupt; it has wrought a fiscal situation that is going to bankrupt the next generation if we do not do something about it. It has led us to a point where we have the lowest savings rate in the industrialized world. We have one of the lowest investment rates. We have a growth rate now that is about half of what it should be, about half of what it normally is coming out of a recession. That has resulted in leaving a legacy to those who come after us in a few short years of even higher and higher payroll taxes, of even higher interest rates, of not being able to compete in the international marketplace, and depending more and more on foreign dollars to subsidize our debt. That is what these miscalculations have wrought.

Yet, from everybody in this body, on both sides of the aisle, all you hear talk about is the "working person," or the "working family." Everybody is looking out for the working family. Everybody is taking care of those workers, and talking about the people in the upper income levels as if they were born that way and none of them ever worked. We know who we are talking about.

What have we done for the working family? Those are the folks who put me where I am standing here today. Those are the folks that elected most of us in this body. We ought to be looking out for them. But have we been doing that? Do our actions belie the words "looking out for the working family"? We have seen income levels stagnate, and in looking out for the working family we have seen among young working people actually income levels decline in this country.

Among working people, we have seen greater and greater tax burdens laid upon them, up to 220 percent. The Senator from Ohio a minute ago was exactly right. The very people who benefit from this $500-per-child tax credit—that is what we have been doing for the working family. I can hear working folks all across America saying, "Please don't help us out anymore. We can't stand it."

What is the solution to all of this? We have seen the President's first budget which gave $200 billion deficits as far as the eye could see. Nobody took it seriously, and it did not get one vote in this Chamber.

We saw the President's second so-called budget that created $245 billion out of thin air by changing some assumptions. Nobody is taking that seriously either. Apparently it did not get one vote in this Chamber.

Apparently, the idea is not to come forth with any constructive idea at all, not to help contribute to the solution, but lay the wood on those who are trying to solve the problem, and to keep on taxing and keep on spending.

With regard to the Medicare solution, my friends on the other side are correct in claiming that their $90 billion solution would keep the Medicare trust fund solvent until 2006, but in 2010, the last year the Republicans would keep the trust fund in the black, the Democrats would leave it in the red.

That date is important, because 2010 is the year the human wave of baby boomers really hits—those baby boomer retirees. Everyone acknowledges that further changes in Medicare will undoubtedly need to be made at that time. It is a different situation entirely. To meet it on an equilibrium is what we are trying to do, or not to meet it already $300 billion in arrears.

My time is running out. I want to address the tax component that we have heard so much about. The claim, of course, that the problem here really is that we want tax cuts for those who do not need them, and, therefore, the Medicare problem would not be as big, I can only hope the Washington Post—every knowledgeable observer, Mr. President, and traditionally Democratic, have basically made the same statement. The Washington Post on September 25, 1995, said, "The Democrats have fabricated the Medicare tax cut connection because it is useful politically."

Mr. President, this business about tax cuts for those who do not really need them—I find it interesting, kind of parenthetically, and this is historically espoused by those who want higher and higher taxes. We just had the largest tax increase in the history of the country and now that is supposed to be locked in and not touched.

We meet every year, practically, in this body, and decide who does need it, who deserves it. This group this year deserves a tax break. This group this other year does not deserve a tax break. So we have a tax bill. We had a tax bill in 1969, in 1971, 1976, 1978, 1980, 1981, 1982, 1984, 1986, 1990, 1993—major tax bills. That does not include the miscellaneous tax bills. And every time, we in this body decide who is deserving and who is not—passing judgment on our fellow citizens as to whose money we ought to take and who we ought to give a little back to, continuously focusing on the "who," the "who"—not the what.

In other words, who is going to be hit? Continuing to focus on how to divide up the pie, not focusing on policies as to how to make the pie bigger.

My time, I am sure, is close to being expired, so I will address this in a little bit more detail at a later time.

In conclusion, I urge that we get down to serious business, that we put the details of this aside. It is painful. There are things in this bill of this magnitude that are going to pain us in various areas.

The bottom-line question is whether or not we will get this fiscal house in order. We take the first step, which is only a first step. If we do everything we are talking about and go through all the pain, this is just the first step. We will have to continue to do it year after year after year. I suggest we get used to it and get on with it.

Mr. EXON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 26 minutes 50 seconds, and the other side has 15 minutes.

Mr. EXON. Mr. President, in order of their recognition by the Chair in this order, I wish to allocate the time remaining with 8 minutes to the Senator from North Dakota, followed by 10 minutes to the Senator from Illinois, and then 5 minutes to the Senator from New Mexico. I yield myself 3 minutes at this time.

All day long, Mr. President, we have had Republicans beating up on the President of the United States. I simply say that today the President announced that the year-end budget deficit was 160-some billions of dollars. That is the lowest deficit we have had for a long, long time in the United States of America.

I simply say to those who have been in this body now not a full year, none of them can hardly take any credit for the deficit going down dramatically under the leadership of the President of the United States.

While we all tend to beat up on the President of the United States once in a while, I think it is well to note that under his leadership and under his direction, under his determination, and in the policies that he has fostered, he has put his political muscles where his mouth is, and the deficit has come down dramatically.

I simply say that the last time we had a deficit this low was way back in 1989 at $153 billion. The intervening years it has been $221 billion, $270 billion, $290 billion, $255 billion, $203 billion, and so forth.

I simply say, Mr. President, that once again the President of the United States should be saluted for at least bringing the deficit down into the $160-billion range. I want to get that for the record because there have been so many brick bats thrown at the President of the United States today.

I yield the floor.

Mr. DORGAN. Mr. President, I have listened in recent hours to discussions by people who talk about what has been going on around here for the past 40 years in some disappointing way. Let me put in a good word for what has been going on in this country for the past 40 years.

I wonder how many people think that somebody would like to live elsewhere? Do you think that we have not progressed in this country in 40 years? Do you think Medicare does not matter to people? Do you think things are not better for a lot of Americans than they used to be? Do you think in this century the fact that we decided to provide electricity to the farms, that somehow that was not relevant? Created a Social Security system; that did not matter? Marshaled the will and the strength to beat back the forces of fascism and Nazism? Survived the Depression and created a period post-Second World War of unprecedented growth and opportunities?

I guess it is fine to talk about what has been going on the last 40 years. I happen to think this is a pretty good place. I do not see people rushing to leave. If they go, I do not know where they would go. Would they go to Tegucigalpa because the mail service is better? Krakow, because they have better roads? Budapest, because they have a better telephone system? I do not think so.

The fact is we ought to talk about what is right in this country for a while. Some of the things that are right in this country are now to be taken apart by 1,950 pages of legislation on which there has been no hearings, which we received yesterday afternoon about 4 o'clock, and on which we now have 10 hours of debate left.

It is a fairly disappointing thing to watch here in the Senate today. This 1,950 pages contains substantial policy changes—Medicare especially. Medicare matters to a lot of senior citizens. We offered an amendment today about 8 hours ago. It is very simple. It does not take 10 staff people to explain it to anybody here. It is not rocket science. It is very simple. It says those who propose to reduce the amount needed for Medicare by $270 billion—and that is what the proposal is—$270 billion less than is needed to fund Medicare in the next years, we say to those who want to do it, look, you also want to give a tax cut. We would like you to modify the tax cut and not provide tax relief to the upper income Americans, and use the savings from that limitation to reduce the hit on Medicare so that we are reducing Medicare by about the $89 billion that the trustees say are necessary to make it solvent.

Shorthand—reduce the cut on Medicare to about $89 billion. That is all you need to cut in Medicare to make it solvent, and get the money for that by eliminating the tax cut for the affluent Americans.

Very simple. It does not take 8 hours to figure out what you will do about this. We do not need people sitting around with fingernail files and clippers and just ruminating about the world.

We have 20 hours on this bill. We offered this amendment 8 hours ago. Do Members know what we are talking about now? We are talking about an amendment on Medicare fraud. This amendment ought to be accepted in a nanosecond. Want to talk about this forever? God bless you, come and get time next week and talk to the whole world for 40 hours until you are blue.

This amendment is fine. It is not controversial. Why are they talking about it? Why are they eating up time on this clock? Because they do not want to talk about our amendment. They certainly do not want to vote on our amendment. And it is not just this amendment. There are others exactly like it.

We have family farmers out there who know that the farm bill is in this piece of—reconciliation, this reconciliation bill. This budget bill has the farm bill in it.

We are supposed to write a farm bill this year. We did not. So what do they do, they put whatever they have written in this. There are no hearings, nobody knows what is there, really. I mean, it is a real a slap in the face for family farmers. This will cut farm income in North Dakota by 25 percent. The first time in history they throw a farm bill in a reconciliation bill —first time.

What else is here? Oh, a note to families in middle-income circumstances that we want to make it tougher for you to send your kids to college because we cannot afford student financial aid. So we tell the old folks we cannot afford Medicare. We can afford a tax cut for the wealthy; cannot afford Medicare. We cannot afford student aid for middle-income families whose kids are about to go off to college, but we can afford a tax cut for the affluent. We cannot afford Head Start for 55,000 kids in the appropriations bill, but we can afford a tax cut for the most affluent people in the country.

And people over there say, "You are being too sharp in your criticism. Class warfare." You bet it is class warfare. It is all here, 1,950 pages of class warfare, in this bill. And do not take it from me, take it from your colleague, Senator SPECTER, who said it on the floor yesterday. It took a little courage for him to say it, and I admire him for saying it.

> . . . the pain of the spending cuts goes to the elderly, the young, and the infirm while allowing tax cuts for corporate America and those in higher brackets.

You know what he said yesterday, and in your secret moments you know what he said was right. He said that if it were a secret ballot, 20 of you on the other side of the aisle would vote against this because you know it is the wrong priorities.

We have spent 8 hours and have not had a vote. We have several more people who want to speak to the amendment on Medicaid fraud. I compliment the Senator for offering it. I support it and think we ought to accept it in 4 minutes. But instead, we will take 2 hours on this, I suppose, because the other side does not want to vote on an issue that deals with hundreds of billions of dollars of Medicare for the elderly juxtaposed against tax cuts for some of the most affluent Americans.

I know there has been a lot of nonsense on this floor these days, but I just want one person to bring a chart to the floor that tells me this statistic is wrong: on average, the 51 percent of American families with incomes under $30,000 get a tax hike in these 2,000 pages. That is a fact. It comes from the Joint Tax Committee. We do not run that. Half of the American families, on average, get a tax hike. Guess which half—the top half? Oh, no. The bottom half, the very folks the people who are pushing this say they want to help. It is a curious way to help people, in my judgment, with a tax hike.

Who gets the benefit? For everybody that finds a loaf someplace, somebody else is getting it buttered. So who gets their bread buttered here? The top 1 percent, of course—big tax cuts. I want somebody to come to the floor in the next day or so, just to tell me this chart is wrong and tell me how it is wrong. You know it is right. Senator SPECTER knew it was right yesterday when he spoke. And you can do all the high-wire acts and you can do all the half gainers and all the gyrations you want, build all the word castles in the sky forever, and it is not going to change the central facts.

Old folks are going to pay more and get less health care. They are going to pay more for it and get less. Family farmers get the short end of the stick. Middle-income families are told college education is not so important for your kids. And young kids are told education is not a high priority for you—whether it is Head Start and dozens of other programs.

So I just ask people around here, when are we going to vote on something we offered 8 hours ago? A simple proposition. I do not have to read it again. Everybody in here understands it and everybody here understands why we are not voting on it. We are going to have 40 or 50 votes, I suppose, on this bill. But we are draining off all of this debate time on a noncontroversial issue. I understand why, but it is not right.

The rules provide 20 hours on this bill. We have limited time to deal with things that literally affect people's lives more than almost any measure in the last 30, 40 years. And we are told we just cannot vote on these issues up or down. We want to go talk about Medicare fraud.

I see Senators on the floor who have been working on this for a long while, and I commend them. I have worked on it. But I tell you, our constituents would much sooner understand how this bill affects their lives in a real way than deal with this noncontroversial amendment, an amendment we should have accepted 2 hours ago.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I commend my colleague from North Dakota for a brilliant statement. He has such a way with words, and I congratulate him for putting the issue in context.

Mr. President, at the outset, I want to make it clear that I am one Senator who believes that major changes are critically needed if we are to bring the Federal budget back under control. I also believe that major changes in our Tax Code are necessary to help generate new economic growth and to create new jobs.

I do not think any of us should fear change. Indeed, change is critically important if we are to succeed in meeting the challenges the future holds for us, for our children, and for future generations. The right kinds of changes can help create a climate that will produce the new jobs and economic growth that all of us want to see. The right kind of changes can open up opportunity, and help make this an America that makes use of all of the talents of all of its people, which benefits us all. The right kind of changes can help create a climate that will help Americans provide for their families and give them what we have had—the opportunity to live better than our parents did.

There is no argument but that change is needed. I strongly agree with the statement made in a letter written by the Competitiveness Policy Council on October 12 when the council issued its report entitled "Lifting All Boats—Increasing the Payoff from Private Investment in the U.S. Economy." The cover letter, talking about the report's conclusions, stated: "many of the Federal laws and regulations that influence private investment decisions were developed before World War II, and are out of sync with current economic and financial market conditions." That is exactly right!

Another of the council's recently issued major reports, entitled "Saving More and Investing Better—A Strategy for Securing Prosperity" makes it very clear why we must change Federal budget and tax policies, and other Federal policies. That report found, among other things, that:

> More Americans are employed, yet they are working longer hours and for less pay;
>
> Productivity growth has improved since 1990, yet it has not translated into higher compensation for workers;
>
> * * * public dissaving has been reduced by 2 percent of GDP since 1992 through cuts in the Federal deficit, [yet] the net national savings rate continues to fall * * * primarily due to the downward trend in household saving, as Americans currently consume 97 percent of their household income;
>
> * * * private investment is growing yet the stock of existing plant and equipment is flat; and
>
> * * * improvements in product quality and delivery, lower wages, corporate restructuring, the depreciating of the dollar and government support have helped American goods and services gain a greater share of world markets, yet the trade deficit is reaching historic highs.

The council set out three goals—goals that I believe make a great deal of sense—to deal with these and other problems raised by its reports:

First, doubling productivity growth to at least 2 percent per year;

Second, achieving 3 percent annual GDP growth, in order to reemploy workers made redundant through productivity improvements; and

Third, eliminating our current account deficit, in order to reduce U.S. reliance on foreign capital, and helping ensure that the other goals can be sustained over the long run.

I think these are goals this Congress must pursue, both through the Tax Code through Federal spending decisions, and through the other actions of the Federal Government. One critical question the Senate should be asking is whether this reconciliation bill moves us toward these goals or not. After all, restoring Federal budget discipline is not just an accounting game. Changing Federal policies is not just about making the numbers line up. The reason we are want to deal with the deficit problem, the reason the right kinds of changes are so important, is what they will mean to the American people, to the kind of opportunities our children will enjoy, and to our collective future as a nation. Tragically, this reconciliation bill does not move us toward these goals. It does not pursue the right changes. It is contentious and controversial precisely because it is shortsighted. We currently enjoy solid economic growth and low unemployment. Yet Americans are increasingly anxious about the future.

More and more Americans worry about whether they will be restructured out of their jobs. Americans entering the work force worry about whether there are enough good jobs out there for them to find. And most Americans increasingly worry about being priced out of the American dream.

Unfortunately, there is substantial cause for this anxiety and this worry. All too many Americans have been restructured into lower paying jobs. Eighty percent of Americans are not seeing any real increase in their pay. Yet between 1989 and 1990:

The average price of a home increased from about $76,000 to almost

$150,000, an increase of almost 100 percent;

The average price of a car went from about $7,000 to $16,000, an increase of over 125 percent, and the number of weeks an American had to work to pay for the average car increased from about 18 weeks to over 24 weeks, an increase of about one-third;

The cost of a year's tuition at a publicly supported college increased from $635 to $1,454, an increase of almost 130 percent, and a year's tuition at a private college increased from an average of $3,498 to $8,772, an increase of 150 percent; and

Health care costs increased at close to or at double digit rates each year.

We have a responsibility to do what we can to help address the causes of that anxiety. We have a responsibility to help ensure that the opportunity to achieve the American dream is open to every American—and that the dream is not priced out of reach for many Americans. We have a responsibility to ensure that Government tax, spending, and regulatory policies do not undermine the opportunity for Americans to find a good job, to keep a good job, to be able to provide for their families, and to help their children get ready to succeed in an ever more competitive world economy. We have a responsibility to adopt policies that encourage, rather than discourage, the creation of the new good jobs we so greatly need, and the kind of solid, sustainable economic growth on which our individual and collective futures so fundamentally depend. We have a duty to ensure that Government policies help, rather than hinder, Americans who want nothing more—and nothing less—than what we have all had: the opportunity to live better than our parents did.

We have to meet these responsibilities based on as complete an understanding as possible of the way our economy works now, and the way it is likely to work in the future, and not simply on the way it may have worked in the past. We have to meet these responsibilities without falling into the trap of doing the tax and budgetary policy equivalents of fighting the last war, instead of preparing for the next one.

Yet, that seems to be exactly what this reconciliation bill is all about. It does not meet our responsibilities to our children and to our future. Its remedies are based on a foundation of myths, and a time that has long since passed, instead of the economic realities that the American people live every single day.

There is no question that our budgetary situation has changed dramatically since the Federal Government last balanced its budget in 1969. In 1969, the national debt was $365 billion; now it is almost $4.9 trillion. In 1969, interest on the national debt cost only $12.7 billion; this year, interest alone will consume over $230 billion—over $40 billion more than total Federal spending in 1969. And the future holds even greater problems. Last year, I served on the Bipartisan Commission on Entitlement and Tax Reform. Finding No. 1 of the Commission's interim report to the President made it abundantly clear what will happen if we do not address the critical budget problems facing this country. The chart accompanying that finding was headlined, "Current Trends Are Not Sustainable"—a very understated way of pointing to the very real crisis we face. If we do nothing, by the year 2012, entitlement spending and interest expense consume every single dollar of Federal Revenue. If we do nothing, by 2030, Federal outlays could consume 37 percent of the entire U.S. economy, up from 22 percent today. If we do nothing, by 2030, just paying the interest on the national debt will take over $1 of every $10 our economy produces.

The Commission's reports are compelling evidence that we must act to get the Federal Government's fiscal house in order. They make it clear that we cannot afford to act based on any political party's or interest group's budgetary mythology. They reinforced my conviction that an amendment to our Constitution is good public policy.

That same objective—a balanced budget, restoration of fiscal discipline—is the stated objective of the reconciliation bill we are now considering. But what kind of message is being sent, what are the American people really being told, if the same bill that takes $893 billion out of the spending side of the budget over the next 7 years also takes $245 billion out of the revenue side of the budget. What kind of message is being sent if a bill that is supposed to lower deficits actually increases them by $93 billion over the next 7 years in order to help finance tax cuts?

The reason greater fiscal discipline is important is that we owe more to our children than a legacy of debt. How is that consistent with giving ourselves a tax cut now, thereby creating more debt for them to repay?

The tax changes now contained in this bill are very substantial in comparison to the deficits we face. They amount to 15 percent of the $1.6 trillion in deficits forecast for the next 7 years if we do not act to put our fiscal house in order. And they are an even larger percentage—38 percent—of the $638 billion in deficits forecast for that period in the budget resolution we are now working under. That is why the tax cut provisions of this bill have such an impact on the deficit reduction objective that both Democrats and Republicans want to achieve.

A tax cut right now is inconsistent with achieving real deficit reduction. And it is important to keep in mind that, even if the Senate does not act on these tax proposals, we would not be choosing to move toward a balanced budget by increasing the burden on American taxpayers. Whether these tax proposals become law or not, Federal revenues are not growing faster than our economy. Federal taxes consumed 19 percent of the U.S. Gross Domestic Product (GDP) in 1994. That is 1 percentage point less of GDP than Federal revenues accounted for a quarter of a century earlier, when the Federal Government last balanced its budget, back in 1969, by the way.

The rationale for tax cuts is that they will help promote savings, economic growth, and the creation of the kind of new, well-paying jobs Americans need. And it is true that $245 billion in tax cuts sounds like a number large enough to provide a substantial opportunity for those kinds of changes to happen. When compared to Federal revenues that will total more than $11.3 trillion over the next 7 years, however, that figure shrinks dramatically. It amounts to a tax cut of only about 2.1 percent. And, according to the Joint Tax Committee, it amounts to a cut in average effective tax rates for American taxpayers of only eight-tenths of 1 percent.

Moreover, even this tax reduction is illusory for many Americans. The reconciliation bill, to cite one example, creates a student loan interest tax credit, an idea I support. This tax credit puts approximately $1.5 billion in the hands of American taxpayers to help pay student loan expenses. However, the reconciliation also contains provisions designed to save $10.8 billion over that same 7-year period by making student loans more expensive. On a net basis, therefore, families with students are likely to be worse off, not better off.

The bill also creates a $500 per child tax credit for families. But many EITC families won't see much net relief, because once the EITC cuts are fully phased in, they will lose, on average, $457 in annual tax relief they are now receiving. For many of them, therefore, the net effect of the tax provisions in this bill is simply to move their tax benefits from one line of their tax returns to another line.

And even middle-income Americans will not receive much relief from the tax provisions in this reconciliation bill. Both the Joint Tax Committee and the Treasury Department agree that Americans with annual incomes of $30,000 or less, which is over half of all Americans, will see no net tax relief at all from this bill.

In the health care area, the bill calls for creating medical savings accounts, providing more favorable tax treatment for long-term care insurance, and a number of other changes. The benefit to American taxpayers of these changes amounts to approximately $12 billion. However, the bill also makes changes in Medicare and Medicaid that will take $452 billion out of those two programs over the next 7 years. The changes include doubling the Medicare part B premium, and the Medicare part B deductible. For most Medicare and virtually all Medicaid recipients, the tax relief they will receive under this bill, therefore, will probably not come close to covering their increased health care costs. And if, as many believe, one result of these Medicare and Medicaid changes is to put additional upward pressure on health insurance costs, than it is not just the elderly, the disabled, and the poor who will see their tax relief overwhelmed by increased health care costs, millions of other Americans who are not currently using these two health care programs will also face that same reality.

Cutting taxes is the oldest political trump card, and it has not lost its power. And tax cuts are easy to understand. The temptation to promise the proverbial "chicken in every pot," is too great for some to resist. But imposing new costs on American families while only partly offsetting these new costs with tax cuts does not represent real tax relief; instead, it is, at best, no more than a cynical shell game.

And the proposed tax cuts are far from the only problems with this bill. The bill makes student loans more expensive, adding an 85 basis point fee to the cost of every loan, most, if not all, of which will be passed on to students. It adds 100 basis points, or one full percentage point, to the cost of what are called PLUS loans, which could add up to $5,000 in student loan costs for American families who use that student loan program. It ends the interest free, 6-month grace period which is designed to provide an opportunity for students to find a job after they complete their education, which adds another $700 to $2,500 in costs to student loans. And it actually increases, rather than decreases, the redtape and administrative costs associated with student loans, by backing away from direct loans in favor of using the banks to make student loans guaranteed by the Federal Government.

The net effect of all of these cuts is to price college out of reach for more Americans. A study by two higher education economists—Michael McPherson of Williams College and Morton Shapiro of the University of Southern California concluded that each $250 increase in the cost of college will result in a 1-percent drop in the number of low-income students enrolling in college.

And low-income students will not be the only students affected by these changes in student loans. Middle class American families with students in college or approaching college-age will also be affected—all too many people will be unable to meet the new, higher costs, which means that their children will have their opportunities diminished by this bill, instead of expanded. We want a brighter future for our children, but if we are simply moving costs from the Federal balance sheet to the budgets of American families, we aren't helping them at all. That kind of approach does not meet our responsibility to American families or to our children, and it does not meet our obligation to the future.

These kinds of changes may produce budget savings in the short run, but they are not in the long-term interests of our country; this is not the kind of legacy we want to leave our children. After all, our people are the most important asset our country has. If we are to compete successfully in the future, if we are to generate the kind of economic growth we need, and if we want expanded, rather than diminished, opportunities for our children—and their children—we simply cannot skimp on essential investments in education.

We all know that education is one of the most important determinants of the amount our children will earn in their lifetimes. In this increasingly technological age, education is ever more important. How, therefore, does it make budget sense, or any other kind of sense, to cut our investment in education, when one of the top purposes of this bill is to improve the legacy we are leaving our children, and to create a brighter future for our children.

The bill's approach to health care is as shortsighted and misguided as its approach to education. Advocates of the bill's Medicare and Medicaid provision argue that the reconciliation bill does not cut either program; what is actually going on is simply a reduction in the rate of growth of these two programs from their current double digit increases to a bit more than 4 percent annually. They also argue that action is required in order to keep the Medicare trust fund solvent.

If the only important thing is the narrow budget numbers themselves, that argument is correct. If, however, the economic and health care realities behind those numbers are also considered, the argument collapses.

The truth is that this bill calls for reductions in Medicare of $270 billion—three times what is needed to protect the trust fund. And the truth is that the aggregate spending levels are not the whole story, but only the beginning of the story. There are two factors driving up the cost of Medicare and Medicaid, and health care costs generally: demographic change, and cost inflation. The simple fact is that the number of older Americans is increasing far more rapidly than the population generally, and that the increases in the number of elderly Americans will accelerate even further early in the next century when the "baby boomers" begin to hit retirement age. This fact has profound implications for Medicare, and also for Medicaid—because spending for older Americans takes 70 cents of every dollar spent on that program. Both Medicare and Medicaid must increase substantially just to keep pace with the increasing number of Americans using those programs.

Health care cost inflation is a perhaps even more important factor. Medicare and Medicaid inflation rates have been at double digit levels, or close to them, for a long time, and it is true that we have to get that inflation under control. However, this bill has no real plan for reducing health care inflation. Instead, its impact will be to reduce the quality of care and the health care choices available to millions of Americans. Under this bill hospitals and other health care providers will see over $200 billion less in reimbursement for services provided to Medicare patients, which will literally drive some of them into bankruptcy, and cause others to reject Medicare patients; Medicare premiums will double, as will deductibles; the two-thirds of all nursing home residents who depend on Medicaid will be thrown into jeopardy; and almost 9 million people, including almost 4½ million children, could be thrown off the Medicaid rolls.

Again, what seems to be happening is that costs are not being eliminated by making the delivery of health care cheaper and more cost-efficient, but by simply transferring costs from the Federal budget to the budgets of individual Americans. Medicare beneficiaries will not only see higher costs from the Medicare Program directly, but higher private insurance costs, as so-called Medigap insurance, which involves higher administrative costs and more inefficiency than Medicare—becomes more expensive due to this bill. Medicaid recipients will also face higher costs—the average cost of a year in a nursing home is $38,000—for less health care. And every American will likely see higher health insurance costs, as hospitals push costs formerly paid by Medicare and Medicaid over to privately insured patients. Lewin-VHI, an independent research firm, found that the $452 billion in Medicare and Medicaid changes will force doctors and hospitals to raise their fees for private patients by at least $90 billion.

Under this bill, Americans will get $245 billion in tax cuts, but if even half of the $452 billion in Medicare and Medicaid reductions show up in the budgets of individual Americans, then Americans are not better off at all. They deserve more than budgetary shell games. They deserve real reform—we need real reform—but all this bill provides is the rhetoric of reform, instead of the reality. The only reality it will deliver is less care and higher costs for every American. It takes a meat ax approach to health care system reform when a scalpel would do a better job.

I have focused a lot on the impact this reconciliation bill will have on all Americans, Mr. President, but I cannot conclude without expressing my outrage and my dismay on how it treats the poorest Americans. The proponents of this bill say it reforms welfare, that it reforms the EITC, that it reforms health care for the poor, that it reforms nutrition programs, and that it, along with the appropriations bills that encompass the rest of the program advocated by the other side of the aisle, reforms the rest of the social safety net. But these reforms are even less real than the health care reforms. Instead, these proposals represent a shredding of the social safety net. This reconciliation bill walks away from the working poor. It walks away from the welfare recipients who want to work. It walks away from poor children who want the opportunity to escape their poverty.

It walks away from opportunity, from inclusion, and from making use of all of the talents of all of our people. It walks away from the problems of our cities, and of economically distressed rural areas.

It calls for further reductions in welfare, even though welfare benefits per beneficiary have been declining for years. It fails to recognize the real problems involving child care, and access to jobs, and job training that have to be addressed in order to make real progress in reducing our welfare rolls by bringing people into the work force. It ignores the fact that two-thirds of welfare recipients are children. It divides us from one another, viewing the poor as a cost to be cut, instead of as an asset to be developed. I could go on, and on, and on.

Considering the overall impact of the bill, one has to ask the question, "What do the supporters of this bill have against poor people?" After all, Americans who make less than $20,000 get a tax increase, instead of a tax cut, under this bill. Americans who make less than $30,000 get no tax cut at all. And the poorest 20 percent of American families have to bear half of the total cuts in Federal spending. This reconciliation bill is so unbalanced that the distributional impact is—or should be—a stunning embarrassment.

It is the long term that I believe must guide our deliberations. We must deal with Federal budget problems, but our objective must be to deal with our budget problems in a way that enhances our country's future, and our children's future. A bill that undermines education, that simply transfers costs from the Federal Government's balance sheet to the budgets of American families, and that needlessly jeopardizes, instead of reforming, our health care system, cannot end the anxiety so many Americans are experiencing.

How can making education more expensive that is already too expensive be in our long-term national interest? How can cutting taxes by $245 billion, at a time when we have $4.9 trillion in Federal debt outstanding, and at a time when we are experiencing nine-figure budget deficits every year, be in our long-term national interest. And how does lowering taxes for some Americans while pushing more health care costs, education costs, and so many other costs onto every American family help them better meet their own long-term objectives. Finally, how is walking away from the poor—and particularly poor children—consistent with either our own long-term interests or our own core values.

The answers are, of course, obvious. It cannot, it does not, and it is not. It does not meet the long-term needs of American families. It does not prepare our Nation or our children to meet the challenges the future holds. It does not include the kinds of reforms we need. All this bill offers is diminished opportunities, a loss of competitiveness, and a continuation of the current anxieties that so plague the American people. When it inevitably fails, its only lasting result will be to further increase the already pervasive cynicism that so poisons our public dialog.

We can and must do better. We have an obligation to our country, to American families, to our children, and to their children to enact the kind of reforms that will help make our individual and collective futures brighter. However, the only way for this Senate to do the right thing is to first defeat the wrong one. I therefore urge my colleagues to join me in opposing S. 1357, the Balanced Budget Reconciliation Act.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAFEE. Mr. President, I wonder if the distinguished Senator from Illinois would answer a question.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. CHAFEE. Maybe I could have 5 minutes off the bill, if I might.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the distinguished Senator from Illinois is a member of the Finance Committee. So she is familiar with some of these items, obviously. But I heard her say that under the Republican measure the Medicare part B premiums are going to double. What is her source of information for that? What is she basing that on?

Ms. MOSELEY-BRAUN. I am going to have to find the record. But I would be delighted to get back to my colleague with regard to the effect as to some of the recipients of Medicare. The premium will double, and those are the numbers provided for us in committee. I would be delighted to get the base information. I do not have it.

Mr. CHAFEE. I wonder if the Senator from Illinois is objecting to the affluent testing of the part B premiums.

Ms. MOSELEY-BRAUN. Objecting to the affluent testing? No. I would say to my colleague that the point I have been trying to make in this statement today is that we are with this bill in all 20 instances robbing Peter to pay Paul, taking from one pocket to put in another, and that, therefore, the notion that we are just restraining, restoring, and saving the program becomes illusory given the overall impact of the changes that are suggested in this reconciliation bill.

There do have to be changes. That is the main import of my statement as well. There have to be changes in the way that this program works. Certainly, affluent testing is one. Some parts of the affluent testing proposed in the Finance Committee are laudable and will help the program overall. But the overall impact on the way we treated the part B premiums will be to increase the cost on senior citizens and will double the costs in some instances.

Mr. CHAFEE. Let me just say this. As the Senator knows, we both worked together in the Finance Committee on the Medicare matters. To say that the Republicans are doubling the premiums on part B is an inaccurate statement, if I may say so to the Senator. We maintain the percentage that an individual pays under the part B premium at exactly the same amount that is there now, the same amount that was there under a Democratic administration and under us. It is 31.5 percent.

Now, if the predictions show that the costs of the premiums are going up, that has nothing to do with Republicans being in charge. That is a fact of costs of health care. But to say it is a Republican fault is a charge that I think is a very unfortunate one to make.

I say to the distinguished Senator from Illinois that what we have done on the Medicare Program is justified. Have there been some deductibles increased? Yes, there have. But the part B premium remains at exactly the same percentage that exists now. And if the distinguished Senator from Illinois objects to the affluence testing, then she is on a different course than I am and I think most of the American public.

Ms. MOSELEY-BRAUN. I would like to reclaim my time and to read to the Senator some numbers:

> Under this plan, increased premiums alone will cost every elderly couple an additional $2,800 over the next 7 years. By the year 2000, premiums will double to more than $1,100 per beneficiary per year. Upper income beneficiaries—

And this gets to the affluence testing that the Senator mentioned.

> will pay even more. For some of them, the premiums will triple.

It is documented. So maybe——

Mr. CHAFEE addressed the Chair.

Mr. DORGAN. Will the Senator yield to me?

Ms. MOSELEY-BRAUN. I yield.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Rhode Island controls the time.

Mr. CHAFEE. It is my time, Mr. President. I believe I am on my time.

The PRESIDING OFFICER. The Senator from Rhode Island controls the time.

Mr. CHAFEE. All right. Now, I would just say this, that those premiums she is discussing would go up no matter which administration and under whose program you are talking about.

Ms. MOSELEY-BRAUN. But that does not make my statement in error, does it?

Mr. CHAFEE. If the premiums are going up—and who knows what the costs are going to be out there because we do not set forth a dollar amount, as the distinguished Senator knows. We stay at exactly the same percentage. And if health care costs should go down, then the premiums will go down. If health care costs go up, then the premiums go up. To blame that on the Republicans and on our Medicare Program is just a charge that I believe is highly unfair.

Ms. MOSELEY-BRAUN. I would like to claim my time.

Mr. CHAFEE. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back his time.

Who yields time on the amendment?

Ms. MOSELEY-BRAUN addressed the Chair.

Mr. ABRAHAM. Mr. President, I believe the previous agreement——

Ms. MOSELEY-BRAUN. Mr. President, I have not yet yielded the floor.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

The Senator from Rhode Island claimed time under the Republican side on the bill and was recognized for 5 minutes. He has yielded back his time.

Who yields time?

Mr. ABRAHAM. Mr. President, just as a point of clarification, I believe the Senator from Nebraska is not in the Chamber now, but he had previously sought and obtained consent for the Senator from New Mexico to proceed at this point.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Ms. MOSELEY-BRAUN. Will the Senator from New Mexico allow me, because I think we got into a parliamentary pickle here for a second, and I just want 30 seconds.

Mr. BINGAMAN. I would be glad to yield 30 seconds to the Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator.

Again, to Senator CHAFEE, the Office of Management called. Part B here more than doubled. That is to be found on page 8 of the statement of policy. And I would like to provide that for the Senator. I did not misspeak. We may have a different interpretation, but the statement that I made was factual with regard to the impact on part B premiums. I yield the floor, and I thank the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak for just a few minutes about the Republican tax plan, the plan which is before us. It is title XII of the bill. It begins on page 1463 and runs through page 1949. In case some of my colleagues have not read all aspects of it, I have not either, but I do think I understand the main thrust of it. The main thrust of it is that it does place an additional burden on those who are least able to pay. In doing so, it provides tax breaks to those who are doing the best in our economy.

The Joint Committee on Taxation, which has been referred to many times here in this debate, has released some findings that I think all of us have to agree are accurate, and those findings are that people who earn $30,000 a year or less will be shouldering a heavier tax burden once this bill becomes law. The new data are the result of the effort and the proposal to reduce by $43 billion the earned-income tax credit.

Mr. President, this chart here, I think, makes the point about as well as anyone could. We have here the people who have $10,000 of income or less. Their taxes will be expected by the year 2000 to rise 9.6 percent. In the case of people with $20,000 of income, it is 2.2. In the case of people with 30,000, it is a smaller percentage. But everyone in that entire range would see their taxes increased. At the same time, those above $30,000 would see a decrease.

Mr. President, what we have, which is a fairly remarkable result, in my opinion, is a bill that cuts Federal taxes, reduces Federal taxes by $245 billion and at the same time increases taxes on more than half of all Americans who pay tax.

Let me point to one other chart here which I think makes the point very dramatically.

The Senator from North Dakota earlier was saying that the bottom 50 percent of all taxpayers are the ones who are going to see their taxes go up. In my home State—and we have State-by-State breakdowns of this—in my home State of New Mexico, it is not the bottom 50 percent who are going to see their taxes increased; it is the bottom 70 percent. Because we are a low per capita income State, we have a substantial number of people who are in that income category that puts them at $30,000 or less. So 70 percent of the taxpayers in my State will in fact see their taxes rise under this bill according to the Joint Tax Committee.

What is most disturbing about this is that this is happening at a point in American history where the average American worker is having a tougher time making ends meet. They are seeing their wages, the real spending power of their wages decline. Families are increasingly finding themselves without adequate health care coverage or pension options. It is a time when the stock market is at new highs, when corporate profits have never been higher than they are at this time in our history.

In fact, talking about the stock market and corporate profits, there have been many times in the last month or so when I wished I owned some stock. We own very little stock. And I am sure there are many working families in this country who look at the rise in the stock market and wish they had a piece of that pie. But the reality is they do not.

What we are doing here is the rich are taking a bigger share of the Nation's economic pie than ever before. We are proposing in this bill to reduce the burden on those who are relatively well off.

Some have recently argued that the $500 child tax credit is more than an adequate offset to those working poor who will be getting tax increases. This is simply not true. Clearly, a family has to have substantial enough income on which to pay taxes for a $500 credit to make a difference. More than a third of the Nation's children will not benefit at all or will only receive partial credit from this proposal. If we are serious about giving tax relief to the working poor, then the child tax credit should be refundable or offset against payroll taxes, not just against the income tax.

A working family in my State with two children and $15,000 adjusted gross income has no Federal tax liability and thus has no opportunity to receive any benefit from the child tax credit. This worker, however, has a real increase in tax burden by the reduction in EITC that helps the family keep working, not falling back into welfare programs. But this same worker has payroll taxes of $1,148.00. If the child tax credit were an offset against these taxes, then this might do some good.

Mr. President, this Senate has been here before—in fact, 14 years ago. In 1981, it was the passage of the Kemp-Roth bill which was a major cause of the deficit we are now struggling with. In 1983, 1985, and at other subsequent times, this Congress has quietly undone parts of Kemp-Roth, which cut taxes during a time when the Nation's financial circumstances could not bear the pressure. But we have never recovered—and that is why the budget balancing process today is so terribly difficult. It is very unwise to attempt to cut the programs that we are cutting toward the noble cause of balancing the budget, and at the same time cut taxes for the wealthy. It was the wrong thing to do in 1981, and it is the wrong thing to do today.

Mr. President, if we are going to promise tax relief, it needs to be equitable. We must go back to the drawing board and reverse these EITC reductions.

The Republican tax plan, as it now reads, benefits the wealthy at the expense of the poor. We would be better off leaving the whole issue of taxes to another day when we can afford it, and when it can be done fairly.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time I would like to yield 10 minutes of our remaining time to the Senator from Maine, but before I do I just want to recognize and commend the efforts of the Senator from Maine.

It was Senator COHEN who last year served as the ranking minority member of the Senate Special Committee on Aging, and it was his staff that produced the document which I have read from several times tonight pertaining to investigations of the kinds of Medicare fraud and abuse which the amendment I have brought this evening tries to address. It was his fraud and abuse legislation, in fact, introduced earlier this year, which served as the basis for the antifraud and abuse provisions contained in the legislation before us. His earlier legislation had bipartisan support.

Provisions in the pending legislation are tough. They are comprehensive and they are unprecedented in their effectiveness. I believe that this is the first time health care fraud and abuse provisions have been scored by the Congressional Budget Office as generating savings.

In fact, according to CBO, these provisions yield over $4 billion in savings. So, I want to commend the Senator from Maine for these efforts. They are productive ones. And I applaud what he has done. And at this time I turn the floor over to him.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. COHEN. I thank my colleague and friend from Michigan. I want to join in support of the amendment that he has offered to make what I believe to be very strong antifraud measures even stronger.

Mr. President, I have listened at length to the debate today, and I think the American people are wondering, why are we here at this point in time debating this issue in the fashion that we are debating it?

We are here because there has been a lot of politics involved in the entire debate. Ever since the release of the trustees' report on the Medicare trust fund last spring, Republicans have said, "We have to do something." I recall that Senator DOLE, the majority leader, last spring urged that President Clinton try to put together some kind of a bipartisan commission or committee or group of Senators and House Members to see if we could not resolve this on a bipartisan basis.

There were no takers. There were no takers at that time. They simply said there is not a problem. "There is no problem with Medicare, and you Republicans are simply trying to blow it out of proportion." Well, there is a problem. There is a problem that has to be fixed.

Let me say very candidly, as we talk about taxes, that I, for one—I may be a minority of one—do not favor tax cuts at this time. I think that we should be balancing the budget, period, at this time. But I think we have to separate out the issue of the reformation of the Medicare fund itself.

I compare it to a situation of a home in Maine, by way of example. We are going into the winter season. We have a home that needs to be heated. And there is frost on the walls, and the inside of the walls, not the outside. That is how cold it is. We have a home that is losing heat. We need to get heat into the home to keep people warm. The problem is, you have several holes in the roof, and the windows are broken, and we have an inefficient furnace in the basement.

Now, there are one or two ways that we can keep warm in that home. We can try to buy more fuel. We do not have enough money, so we have to get a second or third job, assuming you can find a second or third job. And so we have to buy more fuel to put more fuel into the home to keep the frost from freezing us inside. That is one way of doing it. That way would be to simply increase taxes. If you want the analogy to be made properly, we just have more taxes to keep the system going at a rate of 10 percent growth. That is what we have to do, increase the taxes.

I have not heard one single person on the other side call for a 44-percent increase in taxes, in the payroll tax of part A of the Medicare trust fund. So we know that we would have to get more fuel oil or get a second or third job to buy more fuel oil to put oil in that house.

Or we could make the house more energy efficient. We could fix the holes in the roof. We could fix the windows that are broken. We could put a new furnace that is energy efficient in the basement and conserve energy as opposed to allowing it to go out through the chimney and the holes in the roof and the windows.

That, basically, is what the Republicans have tried to do in terms of slowing down the growth of the Medicare fund as such to make it more efficient, to stop growing at a rate of 10 percent to 6.3 or 6.5. Now, President Clinton, to his credit, admitted that we have a problem, and he suggested that we slow the growth down to 7.5 percent.

Mr. President, I suggest that there is room for agreement between our two parties, between the President and the Senate and the House. And right now, unfortunately, we are in a stage where we are setting the posture for a potential agreement sometime down the line.

But let us not make any mistake about it, we still need to reform the Medicare system. Part A and part B have to be reformed if we are going to ever stop the growth rate of 10 percent a year, which cannot be sustained under anyone's calculations without a major tax increase. And no one on that side of the aisle is talking about a major tax increase.

I would like to come back to a subject matter which I think has been addressed earlier but is of great importance to me because it deals, not with Medicare, but Medicaid. One of the mistakes, I believe, that has been made in the bill as reported out of the committee is that we are suddenly waiving many of the standards and regulations that have been hard fought in the field of nursing home care.

One of the first bills that I introduced back in 1973, in December 1973, was the Nursing Home Patients' Bill of Rights. That came in the wake of a number of congressional investigations into absolutely intolerable conditions in nursing homes where patients were tied to their beds or wheelchairs, where they were medicated and overmedicated to the point where they were practically zombies, where a Senate aging committee called them warehouses for the dying.

As a result of the expose of the abuses that were taking place in the nursing home industry itself, we were able to, over a period of time, establish nursing home patients' rights. Many of them have been put into place by Executive order. Finally, under OBRA 87, the Omnibus Reconciliation Act of 1987, we finally were able to put into law specific regulations and standards about how these homes should be run and maintained.

We have, for all practical purposes, eliminated that under the bill. I hope that we can correct that. I believe that we can correct that, and we should correct it.

But tomorrow we are holding a hearing in the Aging Committee in which we will again discuss the reasons why we need a continuation of the Federal standards and oversight and enforcement of nursing homes.

Let me give you just a couple examples. By the way, this is not a new issue.

I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Congressional Hearings and Reports Leading Up to the Enactment of the Nursing Home Reform Act in 1987

May 1986: Nursing home care: The unfinished agenda—an information paper.

May 21, 1986: Nursing home agenda: The unfinished agenda, vol. 1.

Feb. 26, 1985: Sustaining quality health care under cost containment.

July 1985: America's elderly at risk.

July 9, 1985: Health care cost containment: Are America's aged protected?

Sept. 10, 1985: The long term care ombudsman program: A decade of service to the institutionalized elderly.

Sept. 18, 1985: The rights of America's institutionalized aged: Lost in confinement.

October 1985: Dying with dignity: Difficult times, difficult choices.

October 1, 1984: Discrimination against the poor and disabled in nursing homes.

November 1983: Staff data and materials related to Medicaid and long term care.

February 2, 1982: Medicare coverage and reimbursement of skilled nursing facility services.

March 22, 1982: Long term care for the elderly in Florida.

March 27, 1982: Medicaid fraud: A case history in the failure of state enforcement.

July 15, 1982: Nursing home survey and certification assuring quality and care.

July 16, 1982: Nursing home inspections: New Jersey.

December 9, 1981: Oversight of HHS inspector general's effort to combat fraud, waste, and abuse.

May 15, 1980: Medicare and Medicaid fraud.

October 17, 1979: Special problems in long-term care.

July 25, 1978: Medicaid anti-fraud programs: The role of state fraud control units.

August 11, 1978: Medicare-Medicaid administrative and reimbursement reform act.

March 1977: Fraud and abuse in nursing homes: Pharmaceutical kickback arrangements.

June 8, 1977: The national crisis in adult care homes.

June 17, 22, 23, 30 and July 1, 1977: Civil rights of institutionalized people.

June 30, 1977: Kickbacks among Medicaid providers.

March 1976: Nursing home care in the United States: Failure in public policy.

June 3, 1976: The tragedy of nursing home fires: The need for a national commitment for safety.

August 1976: Fraud and abuse among practitioners participating in the Medicaid program.

September 1976: The tragedy of multiple death nursing home fires. The need for a national commitment to safety.

January 1975: Nursing home care in the United States: Failure in public policy.

February 1975: Nursing home care in the United States: Failure in public policy.

August 1975: Nursing home care in the United States: Failure in public policy.

September 1975: Nursing home care in the United States: Failure in public policy.

September 26, 1975: Medicare and Medicaid fraud.

November 11, 1975: Society's responsibilities to the elderly.

November 13, 1975: Medicare and Medicaid fraud.

December 5, 1975: Medicare and Medicaid fraud.

December, 1974: Nursing home care in the United States: Failure in public policy—an introductory report.

December 1974: The litany of nursing home abuses and an examination of the roots and controversy, supporting paper #1.

February 11, 1965: Conditions and problems in the nation's nursing homes, part-1.

February 15, 1965: Conditions and problems in the nation's nursing homes, part-2.

February 17, 1965: Conditions and problems in the nation's nursing homes, part-3.

February 23, 1965: Conditions and problems in the nation's nursing homes, part-4.

August 9, 1965: Conditions and problems in the nation's nursing homes, part-6.

August 13, 1995: Conditions and problems in the nation's nursing homes, part-7.

May 5, 1964: Nursing homes and related long term care services, part-1.

May 7, 1964: Nursing homes and related long term care services, part-3.

For a listing of Congressional hearings and reports related to nursing home care since 1987 and/or for a listing of state and national reports on nursing home care, please contact The National Citizens' Coalition for Nursing Home Reform.

[From the Indianapolis Star, Oct. 10, 1995]

Existing Protections

The Republican Congress has taken steps to eliminate burdensome federal regulations, many of which are unnecessary and costly to individuals and businesses.

But when it comes to abolishing nursing home regulations, which protect the health and safety of elderly citizens, some caution is in order.

Before repealing a law that has vastly improved conditions at nursing homes in Indiana and nationwide, lawmakers should study the sordid history that led to its enactment. They are likely to find this is one area where uniform federal standards make sense.

At issue is the Nursing Home Reform Act of 1987, the final phase of which took effect just this past July. As part of the move to turn Medicaid into block grants for the states, Congress is trying to repeal the law and drastically reduce funding of the nursing home enforcement system.

The 1987 law—which requires nursing homes that receive Medicaid dollars to follow good nursing practices and protect residents' rights—was the result of years of study, public hearings and documentation of abuses, such as the use of unnecessary physical restraints and excessive reliance on drugs for behavior control.

The standards have been gradually phased into effect over the past eight years. As of July 1, agencies such as the Indiana State Department of Health have federal authority to levy fines and ban admissions at homes that violate the standards. As recent experience has shown, the law has dramatically changed how officials police bad facilities.

For example: During the entire 11-year period from 1984 to 1995, Indiana assessed only 33 fines against nursing homes for violating regulations. In the three months since July 1, 28 state fines have been levied, three homes barred from accepting new residents pending resolution of problems and four homes scrutinized by state monitors inside their facilities. In addition, the federal government denied Medicaid to 12 homes and issued 48 civil financial penalties.

If the proposed legislation passes, it is highly unlikely states will replicate the federal law. In fact, they will be under intense pressure from the nursing home industry to deregulate facilities to compensate for Medicaid reimbursement cuts. Beds for those who depend on Medicaid will become sparse since long waiting lists are already common.

Scott Severns, an Indianapolis attorney and president the National Citizens' Coalition for Nursing Home Reform, believes federal rules may actually save taxpayers' money spent on the elderly. As a result of the '87 law, he notes, hospitalizations of nursing home residents have dropped 25 percent, which means less spent through Medicare.

"Nursing home residents who are hospitalized for broken bones, bedsores and infections from neglect cost far more than residents who receive proper care," he says.

If Congress wants a compelling reason to preserve the federal protection, it need look no further than Ritter Health Care Center in Indianapolis.

Last month, state inspectors found Ritter residents tied with gauze to rails and beds and smeared with food and body wastes. Some were confined to rooms by greased door handles because too few staff were available to supervise. One resident on a liquid diet choked on a piece of food.

Ritter had been cited for numerous violations since 1993, but never really punished. Thanks to the new federal tools, the health department moved swiftly this time. The owners have been fined and denied Medicaid eligibility. Tragically, residents must now move elsewhere because of the facility's failure to correct its problems.

That is how the federal law was designed to work. That is how it is working in Indiana. At this point, it would be a mistake to repeal what isn't broken.

[From USA Today, Sept. 27, 1995]

Dropping Federal Regs Is an Invitation to Tragedy

Eight years ago, after 15 years of argument, Republicans and Democrats in Congress got together to correct a public embarrassment. They passed a law to stop nursing home operators from abusing or neglecting the elderly.

They had ample incentive. Reports of residents lying in excrement, dehydrated, malnourished or overmedicated were commonplace. State regulation was a failure. Public outrage was high.

It should be just as high now. The regulations created by that law are about to be weakened or stripped away—victims of a ideological crusade to curb federal authority, good or bad.

Control would return to the state, despite their history of failure.

Those pushing the new plan, House and Senate Republicans, claim their legislation is not a repeal. They say the law is ineffective. And they say it's hugely expensive.

All three claims are fiction.

Not a repeal? Under existing regulations violators are subject to financial penalties, decertification, denial of payments or takeover by temporary managers if they violate health and safety standards. Proposed changes would weaken enforcement by states that are vulnerable to powerful lobby groups. The Senate wouldn't require inspections, nurse staffing or protections against restraints or medication.

Not effective? A government study of 269 homes in 10 states cited impressive results. The study found hospitalization of nursing home residents down 25%, use of restraints down 25%, and detection and punishment of abuses increasing.

Too expensive? Quite the contrary. A study of 9,000 Georgia nursing-home residents reports a monthly $76,738 savings by curtailing unnecessary drug therapy, thanks to the regulations. And that's not an isolated case. The National Citizens Coalition for Nursing Home Reform, a resident advocacy group, says the changes saved billions in costs attributed to poor treatment.

Even the American Health Care Association, representing nursing home owners, says costs have not been a problem.

In fact, nursing home owners signed onto the legislation when it passed in 1987. So did consumer groups. So did state officials. So did the Institute of Medicine, research arm of the National Academy of Sciences, whose 1986 report on nursing home conditions led to the reform.

No credible evidence exists to justify reversing course. If changes are necessary they should be based on the same kind of thorough study and public hearings that produced the original regulations.

Seniors are in nursing homes because of advanced age, mental or physical disabilities, to recover from hospitalization or because they have no one to care for them. They are frail and vulnerable. They deserve all the protection the public can provide.

[From the New York Times, Oct. 18, 1995]

KEEP NURSING HOME STANDARDS

In its ongoing effort to give more power to the states, Congress wants to scrap Federal standards for quality of care in nursing homes. Given past abuses that the standards were designed to guard against, and the future need for even more nursing homes, this is an invitation to trouble. There may well be room to revise the Federal standards to make them simpler and less costly. But with vast changes occurring in the health-care system, the need for Federal standards to insure minimal quality is greater than ever.

It was only about 20 years ago that a series of media exposés, state government reports and legislative hearings revealed widespread abuses in nursing homes, from unsanitary conditions and malnutrition to overmedication, neglect and sexual, and physical abuse. In 1987 Congress passed the Nursing Home Reform Act, which set national standards for staff training, individual assessments of patients and protection of basic patient rights, including the right not to be physically restrained, the right to voice grievances and the right to be notified before transfer or discharge.

The law has begun to make a difference. In the mid-1980's, about 40 percent of nursing home patients were physically restrained; now, less than 20 percent are. Improved care has also led to savings on medications and unnecessary hospitalizations.

Now Congress is trying to reshape the health-care system by sharply cutting Medicaid, which provides about 60 percent of nursing home funding, and shifting the money to state control through block grants. Congress wants to cut $182 billion out of Medicaid over seven years, which would likely lead to reduced reimbursement rates for nursing home services and facilities.

Many states are insisting that, if they are to assume control of a reduced pot of money, they must have the power to set their own nursing home standards to eliminate needless costs. House and Senate committees have separately passed bills that would give states primary responsibility for setting quality-of-care standards for nursing homes, with Washington offering only general categories to be covered. Nursing home providers could lean on states to cut back on standards that they will not be able to live up to for lack of funds.

Nearly two million people now reside in nursing homes. But with an estimated 43 percent of people over 65 years of age likely to spend some time in a nursing home, and an aging baby-boomer population, the demand for these facilities will only grow. To abandon national standards now may invite a return to the nursing home disasters of the past.

Mr. COHEN. We have had over 50—at least 50—congressional hearings and reports over the years dealing with nursing homes, going back all the way to 1965. This only starts in 1986. We have had many more since that time.

But let me just cite you some examples of what is taking place, even as I speak.

Recently in Maryland, a resident expired due to strangulation from an opposing restraint because the resident was not properly wearing a restraint.

In Ohio, we had a resident who died due to strangulation from a vest-type restraint that was incorrectly applied.

In Florida, we had a resident who was sexually assaulted by a nurse's aide.

In Indiana, a resident was found with maggots in wounds.

In Ohio, a resident was being fed with a syringe and aspirated. The staff was unaware what to do. The resident became cyanotic and was subsequently hospitalized.

In Louisiana, we had a resident who was left unattended in a geriwalker and fell. She hit her head and required hospitalization.

In Texas, a resident was force fed with a syringe and aspirated and was hospitalized.

In Maine, we had a resident die of pressure sores.

In Indiana, a resident fell down the stairs and was killed.

In Indiana, a resident in respiratory distress was left unattended for 7 hours. The resident died.

In North Carolina, a resident required thickening liquids to prevent choking. It was not provided. The resident developed aspiration pneumonia.

In Indiana, a resident was missing from the facility. He was found two blocks away.

I could go on for some length this evening, which I will not do. I suggest we have to make modifications to this legislation to make sure that we tell the States, "No, we are not simply turning it all over to you, that, because Medicaid has been turned over in the form of a block grant as such, we still expect some standards and oversight and enforcement on the part of the Federal Government."

This is not something that the States can say, "Wait a minute. This is a Federal mandate here." We have $800 billion going to the States in the next 7 years, $800 billion. That gives us some right, it would seem to me, to say that there ought to be standards that have been set. They ought to be enforced, and we ought to maintain a level of oversight that will, in fact, make sure that we do not have a repetition of some of the things that I have outlined here tonight. These are just symptomatic; these are just a small sample.

I know my friend from New Mexico is sensitive to this. He served with me on the Aging Committee. The Presiding Officer sitting in the chair also serves in that committee. And we will hear more about this. We need to make sure that when you finally come to that position in life where you have to take a parent or a grandparent and turn them into the arms of those who run our nursing homes—that is just the beginning—we have to make sure that those facilities are well run, they are well managed, that the residents are properly cared for, so that the people who have entrusted their loved ones into the hands of these individuals who are running the nursing homes do, in fact, treat them with loving care, and make sure that we are satisfied that that is so.

Now, Mr. President, I will not take the time this evening—I have, I think, just a few moments remaining—other than to indicate that my friend from New Mexico is aware of my concern about this. I know that he and others are working along, hopefully, with others on both sides to make sure that this is corrected. I believe it is a deficiency. We need to correct it. And it should be done, if not this evening, certainly tomorrow before we proceed further. And I yield back.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI addressed the Chair.

Mr. DOMENICI. I yield 2 minutes to the Senator from California.

Mrs. BOXER. I thank the Senator very much.

I would like to commend the Senator from Maine for his words about a hidden part of this bill.

It is a very large bill, and in it is a repeal of Federal nursing home standards. In the Budget Committee on which I serve, I raised this issue. I have spoken about this issue on the floor. It is truly music to my ears to hear you speak about this as eloquently as you have.

I am sure you are aware that Senator PRYOR has put together an amendment. I know he was looking forward to working with you on it, and I am a cosponsor of that amendment.

I happen to have had the sad circumstance of losing my mother a few years ago, and she died in a nursing home. Even with the Federal standards, I say to my friend, it is an awfully difficult situation. The people are so vulnerable. They are as vulnerable, in many ways, as little babies. It just tears your heart out.

To think that we would allow 50 separate legislatures and 50 separate Governors to say, "Well, gee, maybe we don't have enough money in this, maybe we do," I think is just too important.

I am so pleased to hear the Senator from Maine say that the Senator from New Mexico, my chairman, is concerned about this matter. I hope we can reach across the aisle and maybe restore those national standards.

I think it is something we did because there was a crying need. I agree that change is wonderful, but sometimes it does not make sense to change something when we learned how rough it was out there in those nursing homes.

I want to thank my friend very much. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, do I have time remaining?

The PRESIDING OFFICER. Two minutes and twenty-two seconds.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes off the bill.

I want to thank Senator COHEN for his statement tonight and his efforts in the past on the Aging Committee. He has done excellent work. Everybody knows the committee is a factfinding committee, but you have turned it into more than a factfinding committee because much legislation has come from the hearings you held.

We had one in the recent past, which you actually brought forth, with reference to fraud, saving money, some abuses on the side of the SSI Program, which were clearly brought out by your committee. I thank you for that, and I can assure you we have your concerns under our serious consideration, as we move through in an effort to get a good bill that passes the Senate and goes on its way to a conference in the House.

Let me also compliment Senator ABRAHAM for this particular amendment that we are now addressing. Actually, nothing bothers senior citizens more than what they consider to be a rat's nest as they look at their bills and they look at the processes and they receive documentation on what they owe and what Medicare owes or what Medicaid owes—total confusion.

Some of them try to find out if they have been gouged. Some try to find out if they have been overcharged or even that they have been charged for something they do not remember getting.

Frankly, it is so complicated that they give up. We are losing because of that. One of the most credible and reliable ways to control costs is by having an informed patient concerned about costs. In fact, I think that everyone would agree that over the past 30 years, one of the reasons that health care costs have spiraled is because we are developing a culture where the recipient of the benefits pays so little or nothing that they never challenge the bills and, as a result, if it goes unchallenged long enough, it gets pretty loose, to be kind of modest in one statement.

This amendment says we want to take back the patient, the senior citizen and make them part of the army that polices fraud and abuse. This says if, in fact, the senior finds that they are going to share, by way of a portion of the recovery that is made, it will be an incentive to them.

This is new and different. Some might say it will not work but, frankly, what we have been doing is not working. So it seems to this Senator that what we ought to do is adopt this amendment, make sure it becomes part of the law, and as we move through our reform, give seniors more choice which is going to permit them to be more selective, more concerned and to gain more from watching the bills. This ought to become part of the substantive law of the land.

Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

Mr. HARKIN. Before the Senator puts in a quorum call, I hope he will yield for a question.

Mr. DOMENICI. Without losing my right to the floor I will.

Mr. HARKIN. This Senator came to the floor in good faith because I thought that when time was through, then there would be an opportunity for an amendment. I was going to offer a second-degree amendment. I wonder why that is not appropriate to do at this time.

Mr. DOMENICI. Mr. President, I humbly apologize. What is the Senator's question again? I was trying to get your question answered, but I did not listen to you. So that is not very good.

Mr. HARKIN. My question was, I thought under the rules, after the time on the amendment ran out, that it would be open for amendment. I had a second-degree amendment I was going to offer. I was going to do it at this time.

Mr. DOMENICI. Mr. President, let me tell you what I understood the situation was, and we have the minority leader here. I think what we said is the Abraham amendment will be second-degreed, and you all can amend it, but we would like to see the amendment before we agree to that. I just got the amendment, and I would like very much just to look at it for a minute and get right back to you, during which time I will ask for a quorum call. I reinstate my request.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, let me sort of outline here what we have agreed to do. I want to thank the Democratic leader and the Senator from New Mexico and others who have been working on this, along with the Senator from Kentucky, Senator FORD.

As I understand it, we have laid aside the Rockefeller Medicare amendment and the Brown amendment to Rockefeller. The Abraham amendment is pending, and that will be second-degreed by Senator HARKIN. After that debate, that will be laid aside, and then the Senator from New Jersey [Mr. BRADLEY] will offer a motion to recommit EITC, and Republicans will offer a first-degree amendment.

Following that, we will recess for the night, leaving approximately 8 hours remaining. Then tomorrow morning, the Senator from New Jersey will have an additional 20 minutes or 30 minutes starting at 9 o'clock on the EITC.

Mr. DOMENICI. How much time is Senator BRADLEY getting? Is he getting a special privilege or the regular time?

Mr. DOLE. The regular time. He will save 30 minutes of his allotted time.

Mr. DOMENICI. I think the Senator should speak tonight. The whole world will turn him on and turn the baseball game off.

Mr. BRADLEY. If the Senator will yield, I think the Senator is quoting me in my conversation with him, and he should attribute that to me.

Mr. DOMENICI. I was merely repeating what the Senator said.

Mr. DOLE. Anyway, there will be 30 minutes, and then after that, that would be laid aside and then there would be a motion to recommit Medicaid, and there will be no first-degree amendments to that. That will be followed by either an amendment or a motion on education, and then an amendment or motion on deficit reduction, or an amendment or motion on rural restoration.

That takes us to approximately 12:30, at which time we hope to be able to say that we have worked out some agreement, where they will have either up or down votes on their first-degree amendments or motions to recommit, and we will have up or down votes. There will not be any second-degrees on, say, the Abraham amendment, or on the other amendments, but vote on or in relation to, and motions to table. I think that fairly well covers it. In other words, if we reach an agreement, Republicans may withdraw all second- and first-degree amendments and have votes in relation to the major amendments. Democrats will do the same on the amendments pending. That will take us to 12:30 p.m. tomorrow. Do I properly state the understanding, I ask the Democratic leader?

Mr. DASCHLE. Mr. President, that clearly articulates, I think, the agreement that we have. We will have a series of amendments tomorrow morning. I urge all Democratic Senators to be on the floor to offer the amendments and participate in the debate. We will continue to negotiate during that time, with an expectation of having some final understanding of whether or not we can reach an agreement by tomorrow noon. And then we will work from there.

Mr. DOLE. That would, in effect, take care of your so-called tier 1 amendments.

Mr. DASCHLE. That is correct.

Mr. DOLE. I make that request. Is there any objection to my request?

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, it has been accepted, but might I ask both leaders this. It is clear that if we do not have an agreement and all of the first-degree amendments that were offered by the Democrats that have been set aside, we can offer our second-degrees to them, is that understood?

Mr. DOLE. That is the understanding of the two leaders. Hopefully, we can reach an agreement where they can get up or down votes or motions to table and we can have the same. If we cannot, we are back to square one and we start voting.

Mr. DOMENICI. Mr. President, might I thank the minority leader and those who worked with him, including Senator EXON and others. We offered you something a little different than that and, frankly, I think this accommodates both, and we are very pleased you were able to help us work it out. I thank you very much.

Mr. FORD. Mr. President, may I ask the distinguished majority leader, when do we vote? Are all the votes going to be stacked? It appears to this Senator that once you debate an amendment, you debate the second-degree, you ought to vote on it and then we lose—maybe that is what you want to do—but it seems to me that once an amendment is debated, if there is a second-degree amendment, that is debated and, at that point, we ought to vote on it rather than keep stacking. I know you are trying to work out an arrangement here, but something is going to be retroactive based on whatever the agreement might be.

I just hope that at some point we will get to where we can vote and get that part behind us. We understand probably the numbers of the votes, but there might be a surprise or two in this.

Mr. DOLE. I do not disagree with the Senator. But I think until we have an agreement, it probably would not work, because we would be forced, in effect, to offer amendments and may not want to offer amendments. We will keep that in mind. I think you are right, we ought to have the amendment and second degree, and then vote. I think while we are trying to work this out—well, we should know by 1 o'clock tomorrow.

Mr. DASCHLE. In addition to that, Mr. President, I share with the distinguished minority whip that it is our intention to try to utilize the time we have and to avoid second-degrees, if it is at all possible, to allow us more opportunities to offer our amendments.

I ask the majority leader, we have shared the first and the second tier with the leader. I am wondering if you might have the list of Republican amendments that you are planning to offer so that we might have the evening to take a look at them. If that could be accommodated, that would be helpful.

Mr. DOLE. The majority whip is working on a list and when it is available, we can do that. I think the majority whip is working on that list as I speak.

Is there any objection?

The PRESIDING OFFICER. It has been agreed to.

Mr. DOLE. That will be the last vote today. There will be no more votes today or during the evening.

AMENDMENT NO. 2957 TO AMENDMENT NO. 2950

(Purpose: To strengthen efforts to combat Medicare waste, fraud, and abuse)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2957 to amendment No. 2950.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, this amendment is an amendment to the amendment offered by the Senator from Michigan, Senator ABRAHAM, and it deals with waste, fraud, and abuse in the Medicare system. I might just say at the outset that while I have no real disagreements with the amendment offered by the Senator from Michigan—it is not a bad amendment—it just does not go very far. There is a lot more that I think needs to be done in the whole area of waste, fraud, and abuse than is encompassed either in the underlying bill or the amendment offered by the Senator from Michigan.

Mr. President, for the last several years, I have been privileged to chair the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies.

In that capacity, at least once a year, I had a hearing on the issue of waste, fraud, and abuse in Medicare. Just about every year I asked the GAO to do a study on one facet or another of the waste, abuse, or fraud in the Medicare System.

We have had several of those, and two or three inspector general reports on that subject also during that period of time.

It seems that every year we would uncover something and try to take some action to stop it, and it would only pop up in another place and be even worse.

I became convinced over the last couple of years that major changes had to be made in the way we address the issue of waste, fraud, and abuse in the Medicare Program.

Mr. President, these GAO reports that we have had done are available to Senators. Here is one that we had on medical supplies that was done over the last year, issued in August 1995.

Let me say for the record what the GAO found in their study of the purchase of medical supplies. They went in and did a random sample of supplies that were paid for by Medicare. They went behind the supplies to get an itemized list.

When they looked at it, the result was startling. The GAO found that 89 percent of the claims should have been partially or totally denied; 61 percent of the money paid out should never have been paid out.

That is a lot of money, Mr. President, because last year Medicare paid out about $6.8 billion for medical supplies. If that sample that GAO took was representative, and I believe it probably was, you are talking somewhere in the neighborhood of $4 billion going for wasteful, duplicative, and fraudulent spending.

While we may not get all of that, we certainly ought to be able to get a good share of that money back for our taxpayers who are paying this money in.

There are a lot of other programs. The computer system that HCFA used, for Health Care Financing Administration, the computers are outdated. It is as if we were all using manual typewriters, that is how outdated their hardware and software is. Here is another report we had from the GAO outlining that.

Very briefly, what the amendment I have offered does is add to the amendment offered by the Senator from Michigan. Basically, it strengthens the sanctions against providers who rip-off Medicare. Those convicted of health care fraud and felonies would be kicked out of Medicare. Maximum fines would be increased. What we also did, Mr. President, I think the heart and soul of the whole thing, is that we have to go to competitive bidding.

We found, for example, that Medicare was paying up to 86 cents for a bandage that the Veterans Administration only pays 4 cents for. We found in durable medical equipment that Medicare was paying up to $3,600 a year for an oxygen concentrator that only costs $1,000. The Veterans Administration was reimbursing at only about $1,200 a year—one-third of what Medicare was reimbursing. Same for oxygen equipment and everything.

Time and again, we have found the Veterans Administration was substantially below what Medicare was paying for the same items. The reason for that is because the Veterans Administration competitively bids for durable medical equipment, services, and for supplies; Medicare does not.

Usually, when I tell audiences that, they cannot believe it. They cannot believe we would not do something so simple and straightforward and so market-oriented as to require competitive bidding for supplies, services, and durable medical equipment.

This started when Medicare first came in 1965—a fee schedule was set up for the items, and it has rolled on year after year after year.

Quite frankly, Mr. President, I say in all candor, those entities, those companies involved in this, have had a sweetheart deal. They have opposed efforts in this Congress and in other Congresses to do away with the fee schedule and go to competitive bidding. I can understand why—because they are really ripping off the system.

Mr. President, we had a study done on duplicative claims. Case after case where a doctor put in for, say, two X rays; the GAO found out he should have only been paid for one X ray. On and on.

Again, this is because GAO's computers could not pick it up. We had testimony from one private insurance carrier who also did the billing for Medicare. They had one set of computers and software for their private side of what they did; they had another set for what they did for Medicare.

The examples were astounding about how for the same claims, covering the same items, under the private side the computers and their programs would pick up duplicative claims and spit those out so they would not pay it. On the Medicare side, because of the old software and computers, they would not catch it and out would go the money for two x rays when only one was required.

So our amendment, the amendment I offered, requires competitive bid. That, I believe—we can do anything we want to Medicare. Want to cut money, want to save money in Medicare you can do all you want to and jimmy the system, but until we have competitive bidding we are really not going to get to the bottom of the extensive amount of money that goes out.

What are we talking about? GAO estimates that up to 10 percent of Medicare spending goes for waste, fraud, and abuse. You figure $170 billion this year in Medicare, if we took 10 percent, that is $17 billion a year. We are talking about 7 years here. Mr. President, $17 billion a year for 7 years, and you have more than enough to take care of fixing up the Medicare system just by clamping down on waste, fraud, and abuse.

I realize we cannot get all of that but if we could just get half of it, if we could just get half of it, we would save our taxpayers and we would save the beneficiaries from having to pay more money.

Our amendment provides for that competitive bidding. It would specifically prohibit also Medicare payments for a number of items clearly not related to quality patient care.

For example, we found, Mr. President, that Medicare was paying for tickets to sporting events, personal use of automobiles, and we even found that they were paying for travel to Italy to examine art to be put into a hospital. Medicare was picking that up. Our amendment expressly prohibits that.

Another part of our amendment clamps down on improper payment for ambulance services. Again, another GAO report that we had done shows that ambulance services are charging the highest rate for ambulance services even though they are not using all of the equipment or they are not using the more expensive ambulance services when they go out to pick up a patient.

Also, our amendment, as I said, puts funds in there so they can get updated computers, so they can stop the double billing.

GAO estimated that if this amendment, this part of the amendment that we offered, to require Medicare to employ the commercial software that is available and to do it within 6 months—and GAO said they could do it within 6 months—that in the first year we could save $600 million just by employing this software.

Mr. President, our amendment would strengthen the criminal penalties and also provide rewards up to $10,000 to individuals who report violations of the law which result in criminal convictions for health care fraud.

Our amendment also provides for uniform application process for health care providers seeking to participate in Medicare and Medicaid. Right now, there is just too much paperwork. Our amendment says one standardized form for the submission of claims under Medicare and Medicaid. Again, Mr. President, that would save countless millions of dollars.

So, in sum, Mr. President, this amendment builds on what the amendment offered by the Senator from Michigan does and what is in the bill. What is in the bill, and even with the amendment offered by the Senator from Michigan, really does not get to the real problem.

I repeat for emphasis' sake, the real problem in Medicare is lack of competitive billing. All of those who believe in the market system and who believe the market system gets you the best services and the best prices, you ought to be for this amendment. We ought to, for once and for all, require competitive bidding for Medicare just like we do the Veterans Administration.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself such time as I may use to briefly comment on the amendment before us, and then I will yield further time to other Members on our side.

Mr. DOMENICI. Will the Senator yield 5 minutes to me first and then proceed?

Mr. ABRAHAM. I will.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. In the short timeframe of this evening, not even an early part of the day, because I did not keep tabs on all times, but Senators on the other side of the aisle—this evening it was Senator DORGAN and my colleague, Senator BINGAMAN—took to the floor and talked about the distribution of the tax cuts. And Senator DORGAN said nobody has disavowed and disproved that 50 percent goes to the very wealthy people.

Mr. President, the truth of the matter is that was first reported in the Wall Street Journal article, and the Joint Tax Committee writes the chairman of the Finance Committee a letter on October 24. Let me read a paragraph.

> No factual basis exists for the assertion (since retracted) contained in the Wall Street Journal of last week asserting that one-half of all households would experience a tax increase under the Senate Finance Committee revenue [package].

In other words, it was retracted by the Wall Street Journal but it continues to be used. And in this letter the Joint Tax Committee states the following, and let me read it. Calendar year 1996, without EITC changes.

Some will say wait, you have to have EITC in it. I will put it in. Just a minute.

For 1996, it says, "Under $75,000 is 77 percent; under $100,000 is 90 percent." In 1996, they confirm that the tax cut, that 77 percent goes to people under $75,000 in earnings.

In the year 2000, because there are some changes—let us put it all on the table—68 percent of the then-completed tax cuts go to $75,000 and under, and 83 percent to $100,000 and less.

Now, let us use EITC, since Chairman ROTH asked them: Check about the EITC. So we make sure we got that. With the EITC tax changes, this confirmation letter says the following. In 1996, the tax distribution is as follows: "Under $75,000, 75 percent. Under $100,000, 89 percent." It has been changed by 1 percent, from 90 percent to 89 percent.

In the year 2000, with the EITC tax changes, 65 percent of the distribution is wage earners under $75,000 and 81 percent under $100,000.

If you are talking about taxes, that is the authentic story, from the authentic source. And this one, even the President has decided not to do his own. Everybody uses the Joint Tax Committee. And they are saying this.

So, when anyone comes down on the other side and says nobody has disproved it, disavowed it, we are going to put the letter in the RECORD.

I ask unanimous consent it be printed in the RECORD at this point, the letter dated October 24, and I yield the floor.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, October 24, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: I am writing in response to your letter of October 23, 1995, in which you asked me to address several questions with respect to the revenue recommendations approved by the Senate Finance Committee on Thursday, October 19, 1995, and previously approved reforms to the Earned Income Credit ("EIC"). The highlights of my response to your questions are set forth immediately below. Detailed answers to each of your questions are provided in the supplemental submission which accompanies this letter.

No factual basis exists for the assertion (since retracted) contained in the Wall Street Journal of last week asserting that one-half of all households would experience a tax increase under the Senate Finance Committee revenue recommendations—even if one were to include the effects of the EIC reforms previously approved by the Senate Finance Committee.

The Joint Committee on Taxation did not change its distribution analysis of the Senate Finance Committee's revenue recommendations. Our analysis of this set of proposals indicates:

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

Calendar year	Percent	
	Under $75,000	Under $100,000
1996	77	90
2000	68	83

The distribution analysis does not change significantly if one also includes the EIC reforms (including the EIC outlay reductions) approved by the Senate Finance Committee in a separate mark-up (as requested by Senator Moynihan):

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

Calendar year	Percent	
	Under $75,000	Under $100,000
1996	72	88
2000	61	79

At Senator Nickles' request we also prepared an analysis of the Senate Finance Committee's revenue recommendations, including the effects of EIC reforms previously approved by the Senate Finance Committee, but limited to the revenue effects of the EIC reforms, i.e., excluding the outlay or spending portion of the proposed EIC reforms. That analysis indicates the following:

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

Calendar year	Percent	
	Under $75,000	Under $100,000
1996	75	89
2000	65	81

With respect to the Senate Finance Committee's previously approved EIC reforms, our analysis of the combined effects of the Senate Finance Committee's EIC reforms, the $500 child credit and marriage penalty relief for 1996 indicates that less than 1.5 percent of all households will have an income tax increase as a result of the EIC reforms. Other key points to consider include: 3.6 million households without children would no longer receive an EIC beginning in 1996. This reform reinstates the pre-1993 policy of providing an EIC only to families with children. Approximately 1.2 million households will owe income taxes as a result of this change.

Of the remaining 14.7 million households with children who would be eligible for the EIC, approximately 14 million would not have an increase in their income taxes over current law. Approximately 700,000 households would owe income taxes because of the Senate Finance Committee's EIC anti-fraud and illegal alien provisions and the affluence reforms that count certain types of income in determining eligibility for the EIC.

Families who are currently eligible for the maximum EIC (families with children and having adjusted gross income under $12,000) will receive an even larger EIC next year and thereafter. For example: (i) The maximum EIC for a family with one child will increase from $2,094 in 1995 to $2,156 in 1996. (ii) The maximum EIC for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996.

In addition, since these families would not owe any taxes under the Senate Finance Committee's revenue recommendations, the full amount of their EIC would represent an outlay payment from the Federal government.

Families living at or near the poverty line (one-child families with earnings under $12,500 and two-child families with earnings under $15,500) would continue to receive an EIC in excess of the family's Federal payroll taxes (employee and employer shares).

Even after the Senate Finance Committee's EIC reforms, the cost of the EIC would exceed $20 billion in 1996 and thereafter.

The share of federal taxes paid by higher-income individuals under the Senate Reconciliation bill would actually increase as compared with Federal taxes paid under current law.

If you have any questions about this information, please do not hesitate to contact me.

Sincerely,

KENNETH J. KIES,
Chief of Staff.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself as much time as I may need just to make a couple of comments on the second-degree amendment to the first-degree amendment, and then I will yield the balance of time on that point.

The Senator from Iowa commented that the first-degree amendment was a good amendment, but not nearly adequate to deal with the issues of fraud and abuse in the Medicare system. I do not disagree with that point. It was not intended to be the comprehensive solution to fraud and abuse problems with Medicare.

Indeed, we do not need that in my amendment because the reconciliation bill includes a whole variety of projects and sections which try to address these problems.

First, the Senate Republican proposal directs the Secretary of HHS, through the inspector general, and the Attorney General to establish a joint program to coordinate Federal, State, and local law enforcement efforts to combat health care fraud and abuse.

Second, our bill creates a new health care antifraud and abuse account to cover the cost of this coordinated health care antifraud and abuse program between the inspector general at HHS, the FBI, State fraud control units, and Department of Justice prosecutors. All moneys collected in the form of penalties, fines, forfeitures, and damages from health care fraud cases will be turned back over to the Medicare hospital insurance trust fund.

Third, the bill establishes new health care antifraud and abuse guidelines relating to safe harbors, interpretative rulings, and special fraud alerts. For instance, under this provision, any person may request the HHS inspector general investigate and issue a special fraud alert informing the public about suspected fraudulent activities against Medicare or Medicaid.

Fourth, the bill strengthens current sanctions by requiring the Secretary of HHS to exclude from receiving Medicare or Medicaid payment individuals and entities against whom there have been convictions for fraudulent activities.

Fifth, we create intermediate sanctions for the Secretary of HHS to use against Medicare HMO's which fail to live up to contractual responsibilities. Civil monetary penalties range from $10,000 to $100,000.

Sixth, our bill establishes a national health care fraud and abuse data collection program and requires the information collected be made available to Federal and State government agencies and health care plans.

Seventh, this proposal increases the amount of civil monetary penalties for current law, adds new offenses to those subject to civil monetary penalties, and requires that all civil monetary penalties be used to reimburse the Medicare or Medicaid program and any remaining dollars be returned to the health care fraud account.

Eighth, for the first time, a health care fraud section is added to the criminal code.

Ninth, this measure extends the authority of State health care fraud control units by allowing the Units to investigate other Federal fraud abuses and allowing investigation and prosecution in the case of patient abuse in non-Medicaid board and care facilities.

Finally, Mr. President, the 10th reason the Senate Republican bill is tough on fraud and abuse is that it will clarify existing provisions of the criminal antikickback law in the areas of discounting and managed care related to Medicare choice plans. Direct the Secretary of HHS to study the benefits of volume and combination discounts to the Medicare Program and develop regulations based on the findings of such a study.

And I just conclude my statement by saying we have worked hard already in this legislation to address the areas of fraud and abuse in Medicare to try to save the taxpayers' dollars. I would just add this point. As I inspected the things that we had already done, it struck me the one missing ingredient, important missing ingredient was to provide an incentive whereby the Medicare beneficiaries themselves could help us to solve these problems in the years ahead and to provide an incentive for the Medicare beneficiaries to help us solve these problems in the twin approaches which we have outlined in our amendment.

That said, at this point——

Mr. HARKIN. Will the Senator yield just to engage in a 2-minute colloquy?

Mr. ABRAHAM. I committed time at this point to other Members. Maybe they would be able to yield at this point, but I have to, at this point, yield my time to the Senator from New Hampshire.

Might I make an inquiry as to how much time we have left?

The PRESIDING OFFICER. The Senator has 22½ minutes.

Mr. HARKIN. I just wanted to ask one very small thing.

Mr. ABRAHAM. Sure.

Mr. HARKIN. The Senator was very thoughtful. As I said, I do not really have much argument with what is in the bill. I am not trying to undo what is in it, nor the Senator's amendment. But I still think the heart and soul of this is competitive bidding. I hope the Senator will think about that. Maybe we might reach some agreement on this. But I think the time is long past when we should put out competitive bidding just like they do in the Veterans Administration. I hope your side might take a look at that.

I thank the Senator.

Mr. ABRAHAM. At this point, I would like to yield 12 of our remaining minutes to the Senator from New Hampshire, to be followed by 10 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 12 minutes.

Mr. GREGG. Mr. President, I thank the Senator from Michigan for yielding this time. I think it is important at this juncture in the debate, because so much has been discussed relative to the impacts of the Medicare activity within this bill and all these numbers that have been put on the floor, to maybe go back and review where we are, especially in the context of this amendment that has been brought forward by the Senator from Michigan, which is an excellent amendment, and the amendment which has been brought forward by the Senator from Iowa, because the Senator from Iowa keeps referring to the fact that the essence of cost control in Medicare should be competitive bidding.

If that is the Senator's position, and that is the position of the Members on the other side of the aisle, then they should be embracing with enthusiasm the proposal for strengthening Medicare which we have put forward in this bill because our proposal is competitive bidding. What we are saying to the senior citizens of this country is today you are locked into a single-source provider, or approach called fee for service. But we are going to open the marketplace up to you. We are going to give you, the seniors of this country, choices—essentially the same choices in concept that Members of Congress have. We are going to allow you to choose between groups of doctors practicing together in what is known as PPO's, and doctors practicing together with hospitals in what is known as HMO's, and groups of doctors and hospitals practicing together in all different kinds of imagination for which we do not have names and titles for, euphemisms, initials, and titles for; medical savings accounts, and your present fee-for-service proposal which you can participate in. We will not limit your ability to participate in that. But we will open the marketplace to competitive bidding for your dollars that you are spending on Medicare today and on your health care.

That is the essence of our proposal. It is to bring the marketplace into the Medicare system, something that has been ignored over the last 20 years as we have seen Medicare evolve.

The impact of doing that is essentially what the Senator from Iowa has mentioned. He thinks the impact of bringing competitive bidding into a narrow band of purchasing activities on Medicare, the impact of bringing competitive bidding to the entire concept of health care and the marketplace into the Medicare system, is to control the rate of growth of costs of the Medicare system. Why are we doing this? We are doing it because if we do not control the rate of growth for the Medicare system we have been told by the Medicare trustees that the Medicare system will go bankrupt. Unfortunately, earlier today we heard about the fact that statements were made on the other side of the aisle from some of the Members that we, in controlling the rate of growth of the Medicare system, are undermining the Medicare system; the fact we are trying to keep the Medicare system from growing at the 10-percent rate of growth, which the trustees have said is going to lead to bankruptcy, is being construed on that side of the aisle as somehow irresponsible.

I find it very difficult to follow the logic of that argument because, as the trustees have told us, a 10-percent rate of growth is not sustainable, and will lead to bankruptcy. How can you come forward on the floor of this Senate and say that, when we are trying to control that rate of growth and allow a rate of growth which is sustainable which allows the trust fund to remain solvent, we are being irresponsible?

The irresponsibility lies with those who continue to allow the costs to escalate uncontrolled at a 10-percent rate of growth and, therefore, would lead to bankruptcy of the system. The way we are planning to control those costs is through competitive bidding, using the marketplace, giving seniors options which they presently do not have, to go out and choose different forms of health care delivery; being absolutely clear at the same time that, if they want to stay in the system they want today, if they want to stay in fee for service, they can do that.

What has been the experience that leads us to believe that by giving seniors more choices we will end up being able to control the rate of growth in health care costs? It is what has happened in the private sector. The private sector, over the last 5 years especially, has seen a major move of employee insured groups going from fee for service into some sort of coordinated care delivery, some sort of fixed cost insurance program. The experience has generated some fairly clear guideposts for us in the public sector as we attempt to give our seniors who are getting Medicare today the same type of options that those of us in the Senate have, and that many people in the private sector have, which is the opportunity to choose different types of health care delivery services.

This chart that I have here reflects what has happened in the private sector as we have seen a movement of approximately 60 percent of the population from fee for service into different types of coordinated care, or care with a fixed cost paid up front. This red line is the rate of inflation in health care costs. The blue bars indicate the rate of enrollment in managed care types of plans. As you see with the managed care enrollment going up, the rate of health care costs, inflation, has gone down. In fact, it has dropped by about 50 percent. It has dropped so much that, for example, in the Federal employee plan, which is the plan that basically we are tracking at least in concept—not specific but in concept—with what we are going to offer senior citizens, last year the Federal employee plan had no health care inflation. This year it will have no health care inflation. Last year it actually had a drop in health care inflation. So there was actually a negative increase in premium costs.

That is why we believe that when we give seniors the option to participate in a marketplace, why when we bring the marketplace forward to compete for the seniors' dollars, we will see the type of efficiency which is inherent in a capitalist system, in a marketplace system, in the type of approach which the Senator from Iowa has said will work in a narrow band. It will work in a broad band also.

Therefore, under our plan we are essentially going to be able to address not just the narrow costs of how much a bandage costs but the broad costs, the overall health care delivery system cost for our senior citizens. That, of course, should be our goal. Why should it be our goal? Let us get back to why that should be our goal—controlling the rate of growth of health care costs. Because, if we do not control that rate of growth, once again it is important to emphasize the fact that the hospital trust fund goes broke. It goes bankrupt.

Once again, I want to point out that I keep hearing this number on the other side of the aisle that all we need is $89 billion to adjust the Hospital Health Care Trust Fund. That number is simply not accurate according to the trustees' report. The trustees' report was very definitive in stating that in order to get actuarial solvency of the hospital trust fund of the most minimal nature, the absolute bare minimum actuarial solvency, you need an adjustment that amounts to $387 billion over 7 years, not $89 billion.

So by using the method of creating competition for seniors, we expect to be able to control the rate of growth of costs. And we are really not controlling it all that much, quite honestly. We are talking about still allowing the rate of growth of Medicare to be 6.5 percent, essentially the same rate of growth of health care that the President wanted. As pointed out earlier by Senator NICKLES on this floor, the President's budget, as it was sent up, allowed for a rate of growth in Medicare which was essentially the same as our rate of growth in Medicare.

Why did the President send those numbers up? Because the President understands or at least his trustees understand that a rate of growth which we are presently suffering from—the 10-percent rate of growth—is unsustainable, and will lead to bankruptcy. You have to slow that rate of growth. But a 6.5-percent rate of growth is a huge—an absolutely huge—infusion of money into the Medicare system. That infusion of money—I will return to another chart which I had earlier—which represents $349 billion of new spending on Medicare over the next 7 years will be the type of dollars necessary to generate competition in the marketplace for our senior citizens as they go out in the marketplace and look for different types of health care to obtain.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 6 seconds remaining.

Mr. GREGG. I am running out of time. I probably will not have time to touch on it. But let me simply say in concluding on this point that the plan which we as Republicans have put forward is a plan which fundamentally strengthens the Medicare system.

It says to seniors that we are going to give you an opportunity to participate in similar programs that Members of Congress and Federal employees have, the opportunity to go out in the marketplace and look at different health care plans and decide which one is best for you.

And remember, we also say in our plan that if you, the senior, happen to purchase a health care program which costs less than what it presently costs us as a Federal Government to pay for your fee-for-service health care, we are going to let you keep the savings.

For example, in New England, for the average senior we are paying about $5,000. To the extent that senior is able to go out and find a health care plan that has to supply the same basic benefits and will probably supply many more—eyeglasses, some sort of drug benefit—to the extent that senior gets that plan because the marketplace prices that plan at a lower price, say they get it for $4,500 instead of $5,000, we are going to let the senior under our plan keep up to a minimum 75 percent of that $500 or possibly the whole $500, which is another huge marketplace incentive to control costs because it makes seniors thoughtful and, yes, cost-conscious purchasers of their health care.

It also creates in the marketplace a tremendous dynamic to compete for those senior dollars, which is the whole theory behind what we think is known as capitalism and what we think will generate, first, better and higher quality care and, second, care which will be more cost-effective and therefore will be affordable and therefore will guarantee the solvency of the trust fund.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. I thank the Chair.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I join my colleagues tonight to debate this most important provision of the Senate reconciliation bill that is before us and the Republican proposal that I am so proud to support because of the kind of elements that we have put before the American public as truly positive change, while at the same time recognizing I think some of the very real needs that many of our citizens have.

The one that the Senator from New Hampshire has just addressed and the one I will spend some time with this evening that I think is critical for us to understand, of course, is Medicare and the changes we are proposing to bring stability and strength to the system and the kind of choice and independence that the seniors of this country, who are the recipients, the beneficiaries of this program, have expected and deserve to expect from their Medicare program.

The Senator from Iowa this evening has introduced a competitive bid bill in the antifraud and abuse provision of Medicare reform, and for a few moments this evening I think it would be very important to spend some time with that and to understand it.

The Senator from Michigan has put forth an amendment that addresses many of the provisions and adds to many of the provisions of the Republican proposal as it relates to Medicare reform; that I think is a tremendously positive approach; that in combination with the 10 reforms already in our legislation, when scored by the Congressional Budget Office, represents a proposed savings to Medicare of $4.1 billion.

Now, I must say that I am told the amendment of the Senator from Iowa has not been scored, and I wish he were in the Chamber so that I could seek that out with him, and if he returns I will ask him that question, because as we strive to balance the budget and keep ourselves on course as the American people have asked us to, it is important that amendments that come to the floor, if they are credible, if they really want to vote on them, ought to be scored. Ours has been, and it does represent a $4.1 billion savings.

What is significant about that is representative of what is going on in health care delivery today in this country and the fact that there are dedicated efforts at defrauding both the American taxpayer and the consumer of Medicare benefits.

Senator COHEN was in the Chamber this afternoon or later this evening. He serves as the chairman of the Senate Special Committee on Aging. I have the privilege of serving on that committee with him. Over the last several years, both he and Senator PRYOR, who chaired that committee before him, and I and others who have served on that committee have held a series of hearings to try to ferret out and understand the kind of waste, fraud, and abuse especially being perpetrated on the seniors of this country that would have the kind of impact on Medicare that it currently has.

Let me give you a couple of figures, Mr. President. As much as 10 percent of U.S. health care spending or about $100 billion is lost each year to health care fraud and abuse. That is a phenomenal figure. And yet we believe it is reasonably accurate. Over the last 5 years, estimated losses from these fraudulent activities have totaled $408 billion.

Now, that is not the only program or benefit that would have gone to the senior. That is tax money. That is the hard-working, tax-paying American citizen's dollar that some charlatan is making off with because they have learned to game the system and because we have not been able to catch them in gaming the system, or at least we certainly have not caught them at the level that I think all of our taxpayers would want.

So the 10 provisions that are in our Medicare reform bill, that were spoken to earlier this evening, along with the additional provision in the amendment from the Senator from Michigan, will register a savings of about $5 to $6 billion, and that is significant. That is big dollars where I come from, big dollars in anybody's estimation, and when it comes to delivering health care needs to our seniors, those are truly important dollars.

One of the things that is most significant in all of this, while we create brand-new bureaucratic schemes to ferret out all of this, is the very simple concept with which the Senator from Michigan has come forward. That is that individual Medicare beneficiaries report suspected fraud and abuse and we create an incentive program to allow them to do that.

Let me tell you why that is important. I think if every Senator would stop for just a moment, they could remember almost instantly that within the last several months they have had 1, 2, 3, 5, 10 letters from Medicare recipients in their State questioning whether their bill was accurate, whether they had been bilked out of a service that was not delivered and whether in fact their account had been charged.

Mr. President, less than 3 months ago, a former citizen from my State, who now lives in California, called my office one day. I had not heard from this man in years. He had happened to be from my hometown. He is now retired and living in California, and he had major surgery, and he is on Medicare. For some reason, he thought something was wrong with the billing; that he not only had been overcharged but there were fraudulent charges involved.

He sent me all of his material and said, "Senator, I know I no longer live in your State but we have known each other over the years. Would you look into it?"

Mr. President, we looked into it. It was thousands of dollars of billing that he was questioning. Within a period of about a month, we had discovered, in working with HCFA and working with Medicare, that this was, in fact, fraudulent billing.

Now, that is only one example, and I have chosen not to use his name tonight because I did not ask his permission, but I have done that on many occasions in working with my constituents, and I know nearly every Senator in the Senate has. We recognize without question that the current structure of Medicare simply cannot get at the kind of waste, fraud, and abuse that is current and prevalent within the program, and in trying to secure it, trying to make it stable, being able to turn to our citizens and say to them that Medicare will be there in the out years, strong and ready to serve them and their needs, we must get at these programs. They must result in the kinds of savings, more importantly, the kind of tightening up of it, that I think is so critically necessary.

So the 10 provisions we have talked about, certainly the one that the Senator from Michigan has offered that creates the incentives for the beneficiaries themselves to become involved, working with Federal, State, and local law enforcement units to combat especially the fraud sides of the program, are going to be increasingly valuable, and this is what I am proud to say we have offered. It has been scored. It saves $4.1 billion over the period of this legislation, and that is of critical need to all of us.

Mr. President, may I inquire how many minutes are remaining in my time?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. CRAIG. As we continue the debate over the next 12 to 14 hours, Mr. President, I hope that those citizens of our country who are watching will recognize the importance of what we do; and that is, for the first time in my time in public service for the State of Idaho, that this Congress will truly bring about a balanced budget proposal, and one that will set our Government in motion toward a balanced budget.

This is exactly what the American people were asking for last November. They were asking us not only to change the way Government thinks and acts, most assuredly the way Congress thinks and acts, but to do the kinds of things that we are doing in the Medicare reform, to clean it up, to stabilize it, to give them choice, to give them the freedom of not just fee for service, but the kinds of options that the private citizen of this country has, and to keep the program.

We know we can balance the budget and allow these programs to continue to serve the truly needy in our country and those that are direct participants, like the Medicare beneficiaries, and to do so in a way that allows the program to remain strong and assures that in the long term we will be able to have a balanced budget, turn to the American people and say, "We've done it. Your debt is now under control." Let us then begin to work on debt structure.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO COMMIT

Mr. BRADLEY. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from New Jersey [Mr. BRADLEY] moves to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee on Finance report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with identical language, except that the Committee on Finance shall strike sections 7462, 7463, 7464, and 7465 of the bill. The Committee on Finance shall also include provisions which offset the revenue losses from the striking of such sections with an elimination of corporate tax welfare provisions.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for one-half hour.

Mr. BRADLEY. Mr. President, I know that this debate is being held opposite the eighth inning of the World Series. And I will keep all Members in the Senate guessing as to what the score is, so we can focus on the issue before us, which is the earned-income tax credit.

Mr. President, the earned-income tax credit is a way to provide tax relief to working Americans of modest income. It is the most significant tax relief provided to working Americans of modest income that we have seen in the last 20 years. It has given many who are striving to make a better life for themselves and their families under very difficult circumstances the money they need to send their kids to parochial school, the money they need to maybe buy a little bigger apartment, pay the utility bills. It gives them the money that allows them to continue up the ladder of upward mobility.

Mr. President, the bill that we are considering now raises taxes on those working Americans. It essentially defers the third year of the tax cut that was passed in 1993 for those working Americans. In 1981, we passed a tax cut that benefited disproportionately the wealthy, and Democrats constantly made the debate that we should defer the third year of that tax cut because the wealthy did not need more tax relief.

We now have a proposal where the third year of a tax cut is about to be provided to working Americans of modest income, and the Republicans are attempting to defer that tax cut for working Americans of modest income.

Mr. President, I oppose this effort. I opposed it in the committee. I think that it is shortsighted. I think that it is not progrowth. I think it is not profamily. I think to raise taxes on families earning under $28,000 a year in income is an antifamily, antigrowth measure.

Mr. President, in this bill, according to the Department of the Treasury, almost 50 percent of the tax breaks go to people making more than $100,000 a year; at the same time, families with incomes below $30,000, which represent over 40 percent of the American families, face a tax increase.

Now, Mr. President, if this were the only measure in this bill, this tax increase on working families, I would oppose it. If it were the only measure in the bill, I would oppose it. But it is not the only measure in the bill. There are many other provisions that benefit many special interests, but there is one provision, in addition to this tax increase on working Americans of modest income, that I think draws the distinction between the parties very clearly, and that is the estate tax provision in this bill.

The estate tax is, of course, a tax assessed when one passes one's estate on to one's heirs. There is a $600,000 exemption, meaning that if you have an estate, when you pass away, if it is under $600,000 you pay no estate tax. Every year only 1 percent of those who die pass on estates of more than $600,000. Only 0.2 percent of those who die in a year pass on estates of more than $2 million.

Embodied in this bill that increases taxes on families working and earning under $30,000 a year, is a tax cut for estates of $5 million, a tax cut of $1.7 million on average. Let me repeat that. In this tax bill is a tax cut of $1.7 million for estates valued at $5 million.

Once again, Mr. President, the distinction is stark. While on the one hand, a $1.7 million tax cut is given to estates of $5 million, we have a tax increase on families earning under $30,000. I personally cannot understand the politics of this. I do not understand the politics of why. I do not understand the politics of really to whose advantage it lies, except those who get the $1.7 million tax cut.

So, Mr. President, the amendment that I have offered says, "Let's not increase taxes through eliminating the earned-income tax credit." I will get to that in a minute.

But the other thing that this tax cut does is, frankly, increase the national debt. Let me repeat that. This tax cut increases the national debt. This is a deficit reduction package. A deficit reduction package is for the purpose of reducing the national debt. This increases the national debt.

Why? Because in the budget resolution, there is a provision that says if there is an economic benefit from all this budget cutting, then that economic benefit, in its total amount, will be spent as a tax cut. That is what the budget resolution said.

The CBO says if we enact this budget with these budget cuts that it will save about $170 billion that according to the budget resolution, over a period of 5 to 7 years, would be used for a tax cut.

But this tax cut costs $221 to $224 billion. So this tax cut adds about $54 billion to the national debt over this period. There is no disputing those numbers. There are no mysterious letters from the Joint Tax Committee. There are no nuances on words, no playing on the difference between income, Social Security, and excise. There is just a stark number, a $54 billion more increase of the national debt.

So it seems to me that on two grounds, this is not merited. First, because it gives it away to estates of $5 million a $1.7 million tax cut and raises taxes on families earning under $30,000.

In addition to that, it increases the national debt by $54 billion over the period of this bill. But that is not the worst when it comes to the question of the national debt, because immediately after the window of 7 years, there is an explosion of debt.

For example, the capital gains provision will cost about $40 billion in the first years, which is about $5 to $6 billion a year, but in the remaining years, it costs $30 billion. So it jumps from $10 billion, $11 billion, $12 billion a year. Or take the IRA proposal; the backloaded IRA cost $7 million in the first 7 years, and $12 billion, a little less than $2 billion a year, and in the next 3 years costs $21 billion, which is another $7 billion a year.

So talking about the budget deficit, this is an explosion of the debt, an explosion of the debt in the outyears. On both those grounds, I strongly oppose these provisions.

The question is, is this a tax increase? We have a very skillful maneuvering being exercised by the other side. The distinguished Senator from New Mexico reported his numbers that for people earning under $75,000, 72 percent of the tax cut goes to people earning under $75,000 a year. True. But let us look a little deeper. The bulk of that goes to people earning between $30,000 and $75,000. The tax increase on families earning under $30,000 is still there.

In other words, what the distinguished Senator from New Mexico said can be true and still not refute the fact that there is a dramatic tax increase on families earning under $30,000.

Then, of course, we have this famous joint tax study which concludes that less than 1.5 percent of all households will have an income tax increase as a result of EITC reforms. "There it is," says the Senator from New Mexico and the Senator from Delaware, "only 1.5 percent have an income tax increase."

Maybe, but what about Social Security taxes? If you are earning $25,000 a year, the income tax is going to be a big problem; you are going to pay it. The big tax you pay is a Social Security tax, and the earned income credit is for the purpose of offsetting taxes and Social Security taxes. So everything that the Joint Tax Committee says in their letter can be true and a $20 billion increase in Social Security taxes can still be valid.

So, Mr. President, anyway you cut this, this results in a tax increase for families earning under $30,000 a year. In my State, which has the second highest per capita income, that means about 13 percent of the families in my State will have a tax increase.

I saw the distinguished Senator from New Mexico on the floor saying 40 percent of the families in his State would have a tax increase because they earn under $30,000 a year. That is because their per capita income is lower.

So, Mr. President, we are going to hear a lot about errors and yet in the opponents' provision, only $1.6 billion deals with anything related to compliance. If they are so interested in fraud and error, why are they not doing more to deal with compliance?

In the amendment I have suggested, I keep $1.6 billion in compliance measures. And then, of course, the other side will show a graph. "This is a gigantic explosion of growth in this program, an explosion of growth."

Mr. President, when you give somebody a tax cut, you lose revenue. In 1993, we chose to give families earning under $30,000 a year a 3-year tax cut, which means that tax cut grows. So when you see the chart that they might show that shows a figure with a line going up saying "Growth of EITC," translate in your mind: Increasing tax cut for families earning under $30,000 a year. Yes, and if you do not want to give them a tax cut, then you would support the Republican position. If you believe they should have the third year of their tax cut, just as the wealthy had the third year of their tax cut under the bill passed in 1981, then you would support the Democratic position. Do we want to raise taxes on working families or not? Which is the progrowth, profamily policy? I do not think that there is much of an argument on the other side.

They will say, "Oh, no, we have a child credit." Bravo. Let me compliment them. I wish they had supported my amendment in the Finance Committee that would have stricken everything in this bill except the child credit, the adoption credit, the student loan interest deduction. They voted against it. Why? Because you want to have that other provision in the bill, the estate tax provision.

Remember? A $5 million estate gets an average tax cut of $1.7 million. That is why you did not support the amendment and simply have a tax cut for working families, because you wanted the tax cut for estates of $5 million. Strike it from the bill, show us that you want only tax cuts for working families. If not, admit to what this game is all about.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. ROTH. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. ROTH. Mr. President, you have heard a great deal of demagoging during the past few days from the President, from Congressional Democrats, and from the Treasury Department, a lot of bogus claims about our tax package. We are here this evening to bring you the truth about the Republican tax package. The bottom line is this: American families will be better off next year under our tax package than they are today. Our tax relief package is the biggest tax cut for middle-income families in more than a decade.

Mr. President, I agree with the President of the United States when he says that the tax increase of 1993 was a mistake—the largest tax increase in the history of this country. I would hope that there would be bipartisan support for our tax cut, in view of the President's message.

Under our reform, more than 98 percent of all U.S. households will receive either a tax cut or no tax increase. And this includes our reforms to the earned income tax, the $500 per child credit, and the marriage penalty relief in the Senate Republican bill. Those are the facts.

I challenge the Administration and Congressional Democrats to prove their assertion that 51 percent of all taxpayers would receive a tax increase under our bill. This assertion has no basis in fact, and it seriously strains the credibility of the Treasury Department. The Joint Tax Committee analysis, released today, shows that the facts are on our side. Republicans are focusing the earned income credit on the working poor with children—the people for whom it was originally intended. We give a tax cut to most families that pay income tax, and we preserve the EIC for those who need it the most. The indisputable fact is that more than 98 percent of all U.S. households will either receive a tax cut or have no tax increase with the Senate Republican bill.

The earned income credit program started in 1975 in an environment focused on reforming welfare policies for families with dependent children. Senator Long was a driving force behind the establishment of the earned income credit program, and this program provided cash assistance to working low-income families with children. The Finance Committee report on the Tax Reduction Act of 1975 stated that the program should be of importance in inducing individuals with families receiving Federal assistance to support themselves. There is no doubt that since the inception of the earned income credit, its focus has been on hard-working, low-income families with children.

In 1993, the program strayed from its original intent of helping working families with children, when President Clinton expanded the program to include childless, able-bodied working adults. My colleagues across the aisle often point out that President Reagan supported the program. Yet, when President Reagan lauded the earned income credit, the program only covered working parents of children and cost about $2 billion in 1986.

Today, the program makes payments to childless adults, and its costs have skyrocketed to over $20 billion. The reforms of the earned income credit contained in the Republican Senate bill will return the program to its original goals, those lauded by Senator Long and President Reagan, of a welfare program focused on low-income working families with children.

My colleagues across the aisle should realize that this will help children. Under our bill, the earned income credit will be available only to individuals who are eligible to work in the United States. Illegal aliens will no longer benefit at the expense of hard-working taxpayers.

Make no mistake about it, Mr. President, EIC is a cash transfer program, a welfare program, administered through the Tax Code, rather than through a Federal agency like the Department of Labor. If Congress were to reduce the amounts paid to food stamps, no one would say that Congress is raising taxes. Changes to the EIC are the same as changes to the Food Stamp Program. We are not raising taxes on EIC recipients.

The Democrats are arguing that changes to the EIC will raise people's taxes. In response to these concerns, I have asked the Joint Committee on Taxation tc perform a detailed analysis of the Senate proposal to reform the EIC. This information is now available, and I released it earlier today to the public.

Mr. President, the purpose of the changes in EIC is to focus the program on the working poor with children. We do make four policy changes. We eliminate any EIC payment for individuals with no children. As I indicated, this program was intended to help families with children, and that should continue to be the policy of this program. We also prevent illegal aliens from obtaining this benefit. We also provide that outside income should be considered in determining whether or not one is eligible for the EIC. Why is tax-free interest not considered in determining eligibility? Why is tax-free Social Security or pensions not considered in determining eligibility for the earned income credit? Fourth, we take steps to eliminate the fraud and abuse in this program. Unfortunately, this program has had deplorable rates of fraud and abuse, as high as 30 to 40 percent a year. Recently, there has been, hopefully, some improvement in that. But it is estimated that it could still be as high as 20 percent. People are outraged and shocked with the waste, fraud, and abuse in food stamps or AFDC, but they only amount to 5 to 6 percent. In this program—the EIC—it amounts to as high as 20 to 30 percent.

Now, some Democrats have claimed the EIC reform results in those in the lower-income brackets—51 percent or less—paying higher taxes. That is totally false, inaccurate, and misleading. As I mentioned, I recently wrote the Joint Committee on Taxation to answer a number of questions. I pointed out that on Thursday, October 19, 1995, an article appeared in the Wall Street Journal entitled "Tax Analysis Now Shows GOP Package Would Mean Increase For Half the Payers."

Is there any validity to the assertion that the Senate Finance Committee revenue recommendations would result in a tax increase for one-half of all households?

In responding to this question, please consider the impact of the earned income credit reforms approved by the Senate Finance Committee in a separate markup last September.

We received the answer, and the answer says, "No factual basis exists for the assertion, since retracted, contained in the Wall Street Journal of last week asserting that one half of all households would experience a tax increase under the Senate Finance Committee revenue recommendations."

Even if one were to include the effects of the EIC reforms previously approved by the Senate Finance Committee, our analysis indicates that less than 1.5 percent—let me repeat that, 1.5 percent—of all households would experience an income tax increase.

I think that shows the falseness of the claim that 50 percent of the American families would suffer a tax increase because of this package we are considering today.

Now, during the Senate Finance Committee's markup of revenue recommendations on October 18–19, 1995, various assertions were made with respect to the impact of the EIC reforms previously approved by the committee.

I asked the Joint Committee on Taxation to address the following questions: Would any households receiving an EIC today pay more income taxes under the combined efforts of the Senate EIC reform, $500 per child credit, and marriage penalty relief? If so, provide how many households will be impacted in this manner and explain why.

The answer is that, "with respect to the Senate Finance Committee's previously approved EIC reform, our analysis of the combined effects of the Senate Finance Committee EIC reforms, the $500 child credit, and marriage penalty relief for 1996 indicate that less than 1.5 percent of all households will have an income tax increase as a result of the EIC reforms."

Would families with children who are currently eligible for the maximum EIC—that is, families with earnings under $12,000 —continue to receive in future years at least as much EIC as they now receive?

Again, the answer is, "families who are currently eligible for the maximum EIC with children and having adjusted gross income under $12,000 will receive an even larger EIC next year and thereafter. For example, the maximum EIC for a family with one child will increase from $2,094 in 1995 to $2,156 in 1996. The maximum EIC for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996."

This is illustrated here on the chart. It shows, for example, that a family with children that has income of $10,000 would receive this year $3,110; that would go up to $3,208 in 1996. The same is true for a family with children that has income of $15,000. This year they would get $2,360; that would rise to $2,488 in 1996. Not only would they continue to get EIC, but it would continue to increase.

Mr. President, let me just again emphasize that the claim that people with incomes below $30,000 would have a tax increase is totally false. First, what the Democrats are doing is calling a reduced welfare check a tax increase.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. ROTH. I yield myself 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Second, if someone receives a check from the Government for $50 in 1995, and then in 1996 under our reforms receives a check for $75, that is $25 higher. Republicans and most people would call that a bigger check from the Government. But the people on the other side of the aisle call it a tax increase if the person was supposed to receive a check for $100 in 1996.

What we are doing is slowing the rate of growth of this program. In the last 10 years this program has grown something like 1,000 to 1,200 percent. The tax credit which was 14 percent plus 5 years ago is now 36 percent.

What we are trying to do is to slow down the rate of growth so that we can balance the budget.

Now, I listened, Mr. President, with great interest to my Democratic colleagues' description of what we are doing. People are saying that they do not like the tax package. They make fun of the changes in the estate taxes. Just let me say, as I have gone around back home and talked to the family farmer or to the owner of a family farm, as I talk to the owner of a small business, one of their greatest concerns is that they are not going to be able to turn over that farm or that business to their children.

What we are seeking to do in our changes in the estate taxes is to make that possible, make it possible for the family farm to continue as it has in the past, or to make it possible for the entrepreneur who is successful in creating a small business to leave it to his children.

We think our package is a humane package. We are proud of the fact that it means tax cuts for the American people. We agree with President Clinton when he says that the big tax increase of 1993 was too high.

Mr. President, I yield back the floor.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts.

Mr. KERRY. Mr. President, at the outset of the comments of the Senator from Delaware, he talked about telling the truth versus bogus claims. Then he refers to a Joint Taxation Committee study to try to refute some comments made by the Senator from New Jersey.

If we want to talk about bogus claims, the Joint Taxation Committee—which I might add is chaired by the majority party —sends a statement saying there is no linkage and no increase, but refers only to income tax.

Here you have another sleight-of-hand, bogus effort to avoid the reality, the same way the reality is being avoided right now with the debate on the thousands of pages that takes place during the World Series. It is a great way of avoiding accountability.

The fact is that the earned income tax credit is a credit not just against income tax but also against the payroll tax. The Joint Taxation Committee says nothing about the payroll tax impact. So, in effect, it is another sleight of hand.

If you want to talk about bogus—you just heard the chairman of the committee say, Mr. President, that we are going to slow down the rate of growth of the program.

What is the program? The program is a tax cut for working poor—by his own admission—when what he has come to the floor and said is we will slow down the capacity of working poor Americans to participate because we are not going to give as much of a tax cut to them. It is that simple. This is not complicated. We are going to slow down the rate of growth in the tax cut for working poor Americans, but we are going to increase the tax break for people who have it already in America. That is what this is all about.

If you happen to have a $5 million estate, you are going to get a $1.7 million tax break. But if are a working poor person—and I have 194,000 families in Massachusetts that will be affected by the cut in this program, 194,000 families in Massachusetts are going to pay $370 more in taxes because they want to slow down the rate of growth in the program. That may not be a lot to the person who has a $5 million estate, but let me tell you something, for somebody who is working, working, working—which is what we all talk about here—to get off of welfare and make it, $370 is a lot of money. People count those nickels and dimes when they are in that position. It is whether or not they are riding on the T.

There was a front-page story in the New York Times, I think last Monday. It talked about the impact of the earned income tax credit on working people. Here was a woman in New York City who, because she got the tax credit for working, was able to cut back on her apartment rent. She went back and got rid of a $700 rent, went down to a $400 rent so she could add it to the money that she got from the earned income tax credit. Do you know what she did? She bought herself a 15-year-old car so she could drive outside of the area that is served by public transportation so she could get a better job that earned more money. And that is exactly what she did. She broke out of poverty by making hard choices because she had the earned income tax credit.

Our friends are coming along here. They are giving people who earn $300,000 a very nice, fat break. And they are taking away from the people who earn $30,000 or less.

There is no way for them to cut it any other way. Is there some fraud in the program? Yes, there is some fraud in the program. Can we cure that without reducing the program for eligible people? Sure we could. But that is not what they are choosing to do. They are going to throw everybody in the pot of fraud.

I keep hearing about illegal immigrants. That is a nice hot button in America now. I do not know many people who think illegal immigrants ought to be getting a lot. But that has now entered into this debate. That is not what we are talking about here.

It just is beyond comprehension that in this country we are going to play such games with definitions and reality when everybody understands what the reduction means.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KERRY. Mr. President, I really hope we are going to have a better sense of fairness here than is being exhibited in this approach to people who are working and trying to break out of the cycle of poverty.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. ROTH. Mr. President, if I might just yield myself 1 minute?

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. ROTH. The one question we asked of the Joint Tax Committee is:

> Would families with children living below the poverty line continue to receive an EIC in excess of the family's Federal payroll taxes?

And the answer is that:

> Families living at or near the poverty line, one-child families with earnings under $12,500 and two-child families with earnings under $15,500, would continue to receive an EIC in excess of the family's Federal payroll taxes, including both employee and employer shares.

So the answer is that EIC more than offsets the payroll and other taxes of the family.

I yield the floor.

Mr. BRADLEY. Will the Senator yield at that point for a question?

Mr. ROTH. Yes.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. The Senator said—would the Senator read again, once again, what was it the Joint Tax Committee said about the various taxes that were offset?

Mr. ROTH. The question was:

> Would families with children living below the poverty line continue to receive an EIC in excess of the family's Federal payroll taxes?

And the answer is:

> Families living at or near the poverty line, one-child families with earnings under $12,500 and two-child families with earnings under $15,000, would continue to receive an EIC in excess of the family's Federal payroll taxes, employee-employer shares.

Mr. BRADLEY. Mr. President, no one disputes what the Senator has just said. EIC is available for families under to $28,000. He is saying at the same time this is nothing but a welfare program. He is saying, fine, we will keep the welfare part of this. But if you start to make it a little bit—sorry. We will not offset your payroll taxes.

I mean, that is not an answer to the problem that we posed. Yes, they posed it so that if you have poverty and you are right at the poverty level and you have family now, you have kids—not if you are single and poor, but if you have kids, then, yes, it will offset the Social Security earned income. Of course, you do not pay a whole lot of income taxes in poverty. You pay virtually no income tax when you are in poverty.

So you only have Social Security. So the earned income would offset Social Security in poverty. But not at $28,000. Not when the family starts to make a little money. Not when they are making $20,000, $25,000, $28,000, $29,000. Not there, no, no, no. That way, you pay more taxes. Welcome to the middle class, the Republican middle class.

You are middle class. You begin to make it? Pay more taxes. If you have that estate of $5 million, you get a $1.7 million tax cut. That is the story here. There is no other story. It has not been refuted. A 3-year tax cut in 1993 for working families? Republicans say do not give them that third year. Do not give them that third year of tax cut.

Pro-family? Pro-growth? Hardly.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, how much remains on this amendment?

The PRESIDING OFFICER. There are 10 minutes and 8 seconds remaining.

Mr. NICKLES. Mr. President, I would like to answer my colleague from New Jersey. He said, "What about a family that makes $28,000." Under current law they have a great big earned income tax credit of $116. But, look out, they pay income taxes of $1,665.

Under our proposal they are going to get a $1,000 tax cut. Under the proposal of the Senator from New Jersey, they get $165. My figures calculate they come out better by $835, under our proposal. And that is only dealing with the tax credit for children. It does not include the fact we are reducing the marriage penalty, so that gives them another $100, I will just tell my colleague from Massachusetts you did not calculate the fact that you are offsetting payroll taxes.

My friend is wrong.

Mr. KERRY. Will the Senator yield for a question?

Mr. NICKLES. He will not yield.

Mr. KERRY. Will he yield for a correction?

Mr. NICKLES. I will not. I want to answer a couple of allegations that were made. When somebody said you did not refute it, I want to refute a couple of them.

Mr. KERRY. Will the Senator yield?

Mr. NICKLES. No.

The PRESIDING OFFICER. The Senator is advised that the request should be made through the Chair, when addressing another Member.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, a couple of statements were made that the Republicans do not know that the EIC is used to offset payroll costs. That is wrong. This program not only offsets income taxes and payroll taxes, in most cases it offsets them and gives a check back.

In looking at incomes of less than $15,000—my colleague from New Jersey is right—in most cases, income tax liability is zero. But this not only offsets income tax, but it also offsets the so-called FICA, or payroll taxes.

Does it offset what an individual pays? That is 7.65 percent of their payroll. Yes, but it also offsets what the employer pays. That is 15.3 percent.

So not only does it offset all payroll taxes, but it offsets it them by 233 percent.

This is a program that is writing out checks. This is a program, Mr. President, that will cost $23 billion this year, $3 billion of it offsetting taxes, and $20 billion were cash payments—Uncle Sam writing checks. This cash outlay program now exceeds the cost of Aid for Families with Dependent Children, a program that costs $18 billion. This program costs $20 billion.

Families making $25,000 pay income taxes. For families that are paying income taxes, we give a tax cut. If they have children, we give $500 per child. That is pretty easy to figure. You have two children. That is $1,000. If they have four, that is $2,000. So our tax cut is very family friendly and very positive.

I want to mention some of the reforms that we make on EITC because they are long overdue, and they are part of our overall budget plan. We do have a budget. We have a budget that is balanced. President Clinton's budget is not balanced. We had a vote on it, thanks to my colleague from Pennsylvania. His budget is not balanced. We use the Congressional Budget Office for estimating purposes. He said he was going to use the Congressional Budget Office, and they say at the end of 7 years his budget has a deficit of $210 billion. At the 7 years, our budget has a $13 billion surplus.

We will have a balanced budget. President Clinton does not have one, certainly not by using the Congressional Budget Office. My colleagues on the Democrat side do not have one. They disowned the President's budget. They do not have their own budget. It is nonexistent.

Mr. SANTORUM. Will the Senator from Oklahoma yield for a question just so I understand the point he just made? It is an interesting point. I am not too sure I was fully aware of it. What the Senator is suggesting is that the earned income tax credit for low-income Americans actually pays out money in excess of all their Federal tax obligations. Is that correct?

Mr. NICKLES. That is correct.

Mr. SANTORUM. The new definition of what is a tax increase is when the Federal Government does not pay out more money to you, and you already do not pay, that is a tax increase. So if you are entitled to get more welfare—let us call it what it is. It is a welfare check. It is a check not to offset taxes, but it is a cash payment to families or to individuals. If you were expected to get more money, then by not giving them more money, we are giving them a tax increase even though they do not pay taxes.

Mr. NICKLES. The Senator is exactly right.

Mr. SANTORUM. That is an amazing statement. How can anyone call not getting more money from the Federal Government when you pay no taxes a tax increase?

Mr. NICKLES. I appreciate the statement.

Mr. SANTORUM. I would love the Senator from New Jersey—I know he is a Rhodes scholar—but redefine for me, please, how someone who does not pay taxes——

Mr. NICKLES. I say to my colleague that I have the floor.

Mr. SANTORUM. On his time, I would love to have him answer that question.

Mr. NICKLES. I only have 6 minutes. I have several points that I want to make. The point being when someone says they are offsetting FICA, the amount not only offsets FICA, but 200 percent, actually 235 percent of FICA, and that includes employer and employee. The employees actually only pay half of that amount. In reality, it is about four and a half times what an employee pays on FICA.

The cost of this program is exploding—my colleague from New Jersey said he knows the Senator is going to stand up and show how this program has exploded. I grinned at him because I am. This program cost less than $2 billion in 1985; in 1986, less than $2 billion. Today the program costs $23 billion. That is 11 times what it cost in 1986.

This is an entitlement program. What is the definition of an "entitlement" program? It is when you pass a law under which, if you met certain criteria, you are going to get a check. That is what the EITC is. It is a cash payment program—$23 billion in payments.

Actually, I will give the exact figure. In 1995, the figure is $23.7 billion, over $20 billion of it is a cash outlay with Uncle Sam writing checks—not reducing somebody's cash income taxes and/or payroll taxes on a monthly basis. It is Uncle Sam, in 99 percent of the cases, writing a check once a year, a cash outlay program that I mentioned before which exceeds Aid for Families with Dependent Children. AFDC is paid out in a monthly basis to help low-income families. This is a lump-sum payment that is paid out at the end of the year at a cost of $20 billion.

This program was lauded by President Reagan and others when it was a $2 billion program and when the maximum benefits were $435. The maximum benefit in 1985 was $550. By 1990, it had increased to $953. It was actually $1,500 in 1992, and President Clinton doubled it again. It went up to $3,110.

So we are talking about a program, if you have two or more children, where your maximum benefit went from $500 to over $3,000.

Some people said these Republicans have just slashed this program, and people are going to receive less. I saw a program on CBS tonight, they interviewed a woman who had a couple of kids. She had a couple of jobs. I compliment her. They made her think that she was going to get less money than she got this year. The facts are, if she is getting $3,110 this year, next year she gets over $3,200, and the next year she gets over $3,300. Under our proposal the benefit rises from $3,110 to $3,888, an increase of over $700 in the next 7 years.

So we did not freeze this program. We did not cut it. We do say some people should not be eligible because we found hundreds of thousands of people that make over $30,000 a year who are qualifying for it. They should not be. We found out that illegal aliens are receiving benefits, and they should not. So we eliminate them.

Frankly, we agree with Senator Russell Long that we should drop the benefit for individuals without children. This program was always formulated with the idea of helping individuals and families with children.

We are reforming the system. We are trying to target the assistance to those people who really need it. But then we allow the system to grow. That is my point. It really is bothersome to have individuals stand up and say, you are increasing somebody's taxes when I know what the facts are. I will read the figures. If you have two or more children, the maximum benefit today is $3,110. The maximum benefit next year is $3,208. The maximum benefit the next year is $3,312. And, again, it increases over $100 per year to the maximum benefit. In the year 2002, it is $3,888, a significant increase every single year. It grows with inflation.

So how can people say, "Well, you are increasing taxes"? It does not make sense.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator's time has expired.

Mr. NICKLES. Has all time expired on our side on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NICKLES. I will wait until my colleague from New Jersey concludes. At that point in time, I will send an amendment to the desk.

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes, 20 seconds remaining.

Mr. BRADLEY. Mr. President, the assertions by the other side that the child credit is more generous than the earned income tax credit for families with children at all income levels bewilders me. I have four kids. I make $15,000 a year. I have a very tiny income tax liability, very tiny. The child credit is not refundable. I get no benefit at all from the child credit—zero. I lose about $3,500 in benefits with the loss in the EITC at $28,000.

The Senator picks the absolute perfect number. Why? Because the earned income tax credit loses its value the higher the income level. So when it gets to $28,000, it is not worth anything. At that point, clearly the child credit is more valuable. That is not policy. That is mathematics.

Then the issue of—well, the chart that the Senator had with the growth of the EITC, it grows because we are giving them bigger tax cuts. That is why it grows. So you put that chart up, and you see the bars go higher and higher. That means a bigger tax cut for families earning under $28,000 a year. If you do not want a tax cut, then you want to support the program that would curtail this. Deny the third year of the tax cut. That is what you are saying essentially.

Basically, the tax cut for working families was put in in 1993. It was phased in over 3 years and the other side is saying do not give the third year.

That is why it grows. Once you get to the next year, it is flat because the tax cuts will have been provided. There will be no more tax cut in the fourth year. It is not some kind of conspiracy. It is mathematics. You give a bigger tax cut, you lose more revenue. We chose to give a big tax cut to offset Social Security, to offset income taxes for working families. And you know what. There are a lot of provisions in the Tax Code that say you get a credit against income. They are largely corporate. The other side is not calling that welfare. That is not welfare. But somehow when it offsets the income of a working family with kids, that is welfare.

Mr. President, it is beyond me; 78 percent of the earned income tax credit goes to offset Social Security and income tax. The other portion is a refundable credit to those families making $13,000, $14,000 a year who otherwise would not get anything.

The distinguished Senator from Pennsylvania is correct. If you want to give those families something because they are working, but they do not pay any income tax and they are at a low enough income, they do not pay enough Social Security tax, you have to make it refundable and then you have to appropriate the money.

That is what we do here. And this vast amount of money that is appropriated, as the distinguished Senator from Oklahoma says, is appropriated because there is not a way to offset the Social Security taxes. It is pretty simple. It is not complicated. And it boils down to whether you want to give a break to families with children or whether you do not.

There is the big deal about families that do not have children. We do not want to give them anything. If you are making $16,000, $17,000 a year, you do not have any kids, somehow or another you do not get anything here. Forget it. You are not worth it. You are struggling. You are working hard. But somehow you do not qualify for this. In fact, we do not care about it. We do not care what your Social Security taxes are. Somehow you are a nonentity.

We do not think that. We think that if you earn under $28,000 a year, you ought to get a break, particularly in a bill that gives $1.7 million in relief for estates of $5 million or more.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

AMENDMENT NO. 2958

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself and Mr. BROWN, proposes an amendment numbered 2958 to the instructions of the Bradley motion to commit S. 1357 to Finance Committee:

Strike all after "Finance" and insert:

"With instructions to report the bill back to the Senate forthwith including a provision stating:

"The maximum earned income credit for a family with one child will increase from $2,094 in 1995 to $2,156 in 1996 and the maximum earned income credit for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996.";

"And the effective date for section 7461, 'Earned income credit denied to individuals not authorized to be employed in the US', shall be moved to taxable years beginning after December 31, 1994."

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, this is an amendment offered by myself and Senator BROWN that tried to clarify a couple things.

One, we want to state very clearly exactly what we did in the bill and that is an increase in the earned income credit for individuals with one child from $2,094 in 1995—that is present law—to $2,156 in 1996.

That is an increase of about—whatever the difference is—$60 some-odd, and an income credit for a family of two from $3,110, to $3,208. That is an increase of about $100—$98. So we make that very clear.

The second part of that is we say we want to deny benefits to illegal aliens and make the effective date December 31, 1994. Some people are shocked to find out that they were eligible. I was surprised. But I looked at a GAO report, and it said:

Illegal alien receipts. IRS expects more than 160,000 illegal aliens received the EIC in 1994.

We ought to stop that. Right now it is legal.

It says:

The Internal Revenue Code does not prohibit illegal aliens from receiving EIC if they meet prescribed eligibility requirements.

Well, they should be, and so let us make that illegal. If they are here illegally, why in the world should we be giving them a check, especially a check if you are talking about to the tune of $3,000. So let us tighten that up. That is a loophole that needs to be tightened. We need to tighten up loopholes.

Senator ROTH mentioned several. I compliment Senator ROTH because he has shown great courage and leadership in trying to tackle the fastest growing entitlement program in Government. No other program is growing as rapidly, as fast as the so-called EIC. No other program costs over 10 times as much as it did 10 years ago and continues to explode. So it needs to be reformed. And no other program that I know of has error rates and fraud rates at such astronomical levels as the EIC.

This is a GAO report that is dated March 1995: "Earned Income Credit Targeting to the Working Poor."

Well, we should target. I just read from a couple of their highlights. It says the IRS did a study in 1994 on electronic returns only. They said 29 percent of the returns received too much EIC, and 13 percent were judged to have received intentional errors. In other words, that is fraud. It also mentioned, it says that the most recent taxpayer compliance measured showed that about 42 percent of EIC recipients received too large a credit and about 32 percent were not able to show that they were entitled to any credit. One out of three in the comprehensive study were not able to show they were entitled to any credit. And that is about 34 percent of the total EIC.

What other program has a 34 percent failure rate, or 30 some-odd-percent error rate? This program does. And part of it is because the cost has just exploded. You have a program that grows at 10 times the rate it was just a few years ago, and you have a program where the maximum benefit is six times what it was 10 years ago, you realize you have a program that is rife with fraud and needs to be reformed. It has not been yet. The IRS is trying to tighten down around the edges, but they have not been totally successful. They may have reduced it somewhat, and I compliment them, but they have a long way to go if you have an error rate of 30, 40 percent. And so we need to make some changes. Senator ROTH has made many of those changes.

We say that we must count almost all income. We find hundred of thousands of people who receive benefits that make a lot more than the income eligibility called for, people making a lot more than $30,000, some making more than $50,000. They have interest income that is tax free. It does not count toward their income eligibility and therefore they can continue receiving EIC benefits.

Mr. President, we need to make some reforms and we need to make clear that we want to target these benefits to those people who are truly needy. That is the kind of reforms that we are making today.

I want to answer my colleague from New Jersey. He said, what about the—maybe I could get his attention. My friend from New Jersey asked about a couple that made $15,000. Well, in 1995, they received an EIC of $2,360. In 1996, under our reform proposal, they are going to have an EIC of $2,488. That is a $128 increase.

Now, my colleague from New Jersey would like that increase to be $400, but we have it increased by $128. They have an increase. And, again, they did not pay any income taxes. They are getting a return in excess, or at least 100 percent of all their FICA taxes, including what their employer paid, and we are giving them $100 more than they had last year. That is not a tax increase.

My colleague from Pennsylvania said, "Well, how in the world can you call something a tax increase if you are giving somebody $3,000, and next year you are going to give them $3,200? How can you call that a tax increase?"

Well, let us just take, for example, that you have a rich uncle. The rich uncle wants to encourage certain behavior, saying if you work a little bit, he is going to give you a bonus. If you work about $10,000 or $12,000 worth, he is going to give you a $3,000 bonus because he wants you to work. Is that not nice?

The uncle says, "I'm going to give you $3,000. Next year I am planning to give you $3,500." But your uncle's board of directors said you cannot afford that, you are breaking the bank. So instead, they gave you $3,000 next year—actually $3,100 next year instead of giving you $3,500. "We cannot afford it. Let's give him $3,200. Let's keep it to a more moderate growth. Give him an increase, $100, but not $400 or $500. Don't do that; the program is growing too fast. But it is a bonus."

It does not have anything to do with taxes. This is far in excess of any tax liability, either FICA or income tax. That recipient said, "You increased my tax base. I hoped I was going to get more money." I do not think so.

This body is going to show, I believe, that we have the courage to curtail the growth of Medicare, which is a very popular entitlement program. And we are going to have that program grow about 7 percent per year. We have a program here that continues to grow. The total growth in the EIC Program is going to grow about 10 percent over the next few years. The out-of-pocket costs in fiscal year 1995 are about $20 billion. It will be about $23 billion in the year 2002. That is an increase of 15 percent in 7 years.

That is an increase in outlays, so the program grows. It does not grow as fast as some people would like. President Clinton and others would like it to grow up to $30 billion. Well, frankly, we cannot afford that. We can never balance the budget if we do not have the courage to at least control the growth of entitlement programs. And this is the fastest, most fraudulent entitlement program in Government.

We need to curtail its growth. That is what we are trying to do. We allow the EIC benefits to go up for individuals with two or more children. They do not grow as fast as some people would like. President Clinton and others would like it to grow faster. We cannot afford it. So we allow the benefit to go up by over $100 a year.

For individuals who have one child, we make no change. Individuals that have one child get the exact same benefit as they get under present law, under our proposal or President Clinton's proposal. We did not make a change. We did eliminate the benefits for individuals without children.

And I think about that. I have kids that could qualify. Other people do. We are expanding eligibility by several million people. How much money are we talking about? We are talking about $308, I think, this year, giving that benefit to lots of people. And you say, "Why do you care about that? That is a small amount of money."

Well, look at what this program cost a few years ago. The maximum payment on families with two or more children was $500 in 1985. Today, 10 years later, it is $3,000. What is the benefit going to be for that individual that happens to be $300 or $400 today? Ten years from now maybe it is $3,000. We will have a program again that continues to escalate.

This program, Russell Long mentioned it. I have an article in which he states this program should not have been expanded. Russell Long was one of the fathers of this program. He said it should not have been expanded for individuals without children.

I might mention in the 1993 tax bill, there was no Republican that voted for it, and when it passed the Senate it did not have a benefit for individuals without children. That was added on in the House. And, unfortunately, the Senate concurred with the House in conference. But it was not in the bill that passed in the Finance Committee in the Senate nor in the bill that passed on the floor of the Senate. It was added in conference. That was a mistake. It was a massive expansion of entitlement, added entitlement to several million people.

So we changed that. We eliminate illegal aliens. And we say we should count almost all income. You should count tax-exempt interest as far as determining who is eligible for this program. You should count other income in determining who is eligible. We allow eligibility, and the amount of income to determine eligibility, to increase.

Right now you qualify for this program if you have income up to $26,673. Some people say, "You really cut that back." No. The facts are, under our proposal, by the year 2002 you can have income up to $29,200 and qualify.

Now, that does not grow quite as fast as President Clinton would like for it to. He allows people to receive the benefit if they have income equal to $34,600. Let us think about that. Are we going to have Uncle Sam writing checks—remember, 85 percent of this program is Uncle Sam writing a check, not reducing anybody's taxes, but writing checks—for families that have incomes less than $34,000. You are going to be talking about a majority of American families. And old Uncle Sam is going to be paying people. So we use this income for a massive income redistribution program.

Contrast that to what we are trying to do on the Republican side. We are saying, "No. We are going to give a tax cut for families, a tax cut for people who pay taxes," not just come up with schemes to have a negative income tax and have Uncle Sam write big checks at the end of the year. No. We are going to try to reduce all families paying taxes, reduce their taxes so they can take the tax reduction on a monthly basis and keep more of their own money. That is what we are talking about doing. That is what is fair.

Then my colleague from New Jersey, or one of my colleagues, was denigrating the fact that we made some changes on the inheritance tax, said how terrible that was. Maybe they should come into my State and talk to some of the members of the Oklahoma Farm Bureau or Farmers Union or some of the wheat growers, because you have a situation where inflation has built up the value of some of these farms and ranches, estates, machine shops, whatever, to say they are worth something.

Uncle Sam comes in and says, "We want to—" Somebody dies. They want to pass the property on to their family, and Uncle Sam says, "Well, we want 18 percent of it or we want 55 percent of it." That makes it very difficult to pass on to succeeding generations.

So what did we do? Well, we said for a family estate, let us increase right now the exemption from $600,000 and increase that over 6 years to $750,000. We increased that amount $25,000 per year. And then we also say if it is a family-held business, we want to encourage that. We happen to be profamily, and we happen to be probusiness. We want to encourage family-owned corporations, whether it is a janitor service or whether it is a car dealership or whether it is an insurance company. We want to encourage family ownership, whether it is a farm or a ranch or a dairy operation. We want to encourage that.

We say, if they are going to pass the property on to their own heirs, they should be able to have a better deal. So we raise that estate exemption up to $1.5 million. And we cut the rate down for those between $1.5 million and $5 million so they can keep it in the family and not have to sell it, not have to sell a family business just to pay an inheritance tax. I think that is a fair and a good idea.

I think that is profamily and that is going to encourage growth and encourage a father, instead of saying, "Well, I might as well spend the money because I cannot pass it on. I do not want to give it to Uncle Sam," we want to encourage people to build up businesses, to expand, to hire more people, to create more jobs, and give that to their children, and let their children build it up and be second, third, fourth, fifth generations in some of these family-owned operations or businesses.

Now, we limit it really to the lower size family operations. We did not help the people that have the very largest estates. But I think we were very family friendly. And I think this entire tax bill is very family friendly. And again I want to compliment the chairman for crafting, I think, a very good, targeted approach, one that has 70-some-odd percent—three-fourths of this package is very family friendly. If you look at the tax credits for children, you look at the gradual reductions in the marriage penalty, you look at the estate tax exemptions that we make for family-owned farms and ranches and businesses, this is a very family friendly tax bill, probably the most profamily bill that Congress has ever seen.

I would encourage my colleagues to support it and to reject those who say we should not make any reduction whatsoever in the growth of EIC, which is the fastest growing, most fraudulent program that we have in Government today.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the reconciliation bill tomorrow, that the Democrats have 5 hours remaining on the bill and the Republicans have 3 hours and 15 minutes remaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

TARGETED JOBS TAX CREDIT

Mr. BAUCUS. Mr. President, I want to ruminate for a few minutes about the Work Opportunities Tax Credit, now called the WOTC, which is the substitute for the Targeted Jobs Tax Credit, which expired at the end of last year.

Mr. President, the TJTC had some problems, but let me tell you, it got the job done. It encouraged employers to put kids and young adults to work. Youth who probably would not have gotten their first job but for TJTC.

I have a letter, Mr. President, from a good friend of mine in Montana. W.E. Hainline operates 4 B'S Restaurants across Montana and several other Western States. They serve good food and employ a lot of young adults.

Bill has had a lot of experience in the TJTC area. In fact, the 4 B'S is nationally recognized as a leader when it comes to hiring disadvantaged and handicapped youth, many of whom had their first job with 4 B'S.

Bill can tell you about these kids and how they went on to other jobs and to success in many fields. In fact, that is what TJTC was about, and what we want to achieve with WOTC—we want to move kids off of the streets, off of welfare and we want to keep them out of the criminal justice system.

Bill is concerned, as am I, Mr. President, that the WOTC is currently contained in the Reconciliation Bill before us, will not do the job. Bill notes in his letter that WOTC:

> As written, virtually eliminates most companies from participating in [WOTC] by ignoring the youth group (18 to 24 year olds) not located in an empowerment Zone.

Mr. President, I joined with Senator MOSELEY-BRAUN last week in an amendment that would have expanded WOTC to create two new categories of youths which employers could hire under WOTC: individuals 18 through 24 receiving or living with families on food stamps; individuals 18 through 24 who are noncustodial parents of a child residing in a family receiving AFDC or successor programs; and individuals 18 through 24 who are receiving Supplemental Security Income.

Senator MOSELEY-BRAUN and I are working with Joint Tax to find the money to include these youths in WOTC.

Mr. President, as always, Bill Hainline hits the nail on the head. I request that his letter to me be printed in the RECORD. Bill has the credentials. He has used the TJTC program. He knows what it takes to make it work. I would encourage my colleagues to read their letter and to heed what he has to say. Replacing TJTC with WOTC will accomplish little if employers, like Bill, do not utilize the WOTC program.

If that happens, kids are the big losers.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RESTAURANTS, INC.,
Missoula, MT, October 17, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

I understand that the Senate Finance Committee is proposing a new TJTC bill, which was similar to the one developed by the House Ways and Means Committee.

Their bill, as written, virtually eliminates most companies from participating in the new program by ignoring the youth group (18 to 24 year olds) not located in an empowerment zone, not to mention the increased retention period from 120 hours to 500 hours.

Those two changes would preclude most Montana companies from participating in the proposed program as there are no designated empowerment zones in our state that I am aware of, nor would the proposed tax incentive offset the expense of tracking an eligible employee for 400 hours. After all, the objective of the program is to give people on government assistance, job training to take advantage of all employment opportunities. Why should the initial employer train those types of people for other employers to receive the tax credit?

In my opinion, the proposed bill eliminates all employers, not located in an empowerment zone, from participating in the new program. The cost of identifying new hires eligible under the remaining categories, and the expense of tracking those eligible for 500 hours, would far exceed the tax benefits proposed.

The only way our company could effectively participate in the new program would be with the inclusion of 18 to 24 year olds that were "means tested", and the retention period is lowered to either 200 or 250 hours.

The above changes to the program would allow all Montana employers to participate equally with large city employers and insure that all people, with employment barriers, have an equal opportunity to seek employment for any profession they choose.

I would greatly appreciate you informing me if these changes can be effected.

Sincerely,

W.E. HAINLINE,
President.

THE SUMMIT BETWEEN PRESIDENT CLINTON AND CHINA'S PRESIDENT JIANG ZEMIN

Mr. PELL. Mr. President, I rise today to call attention to yesterday's summit meeting between President Clinton and Chinese President Jiang Zemin in New York.

Last summer, relations between the two countries fell rapidly and unexpectedly to their lowest point since the Tiananmen massacre, largely over the visit of Taiwan President Lee Teng-hui to Cornell University, his alma mater. Most of us in the Senate, myself included, supported that visit as a private one for a distinguished alum. I continue to believe that the Chinese leadership in Beijing overreacted to the visit and allowed the bilateral relationship to unravel unnecessarily. I was sorry that Beijing chose to react to Lee's visit by withdrawing the Chinese ambassador to the United States, suspending ongoing bilateral discussions on proliferation, canceling visits of United States officials to China and visits of Chinese officials to the United States, and by canceling bilateral discussions with Taiwan. But now, after several months of discord, it appears we have the opportunity to bring some stability back to the relationship and I support the President's decision to hold this summit in New York.

I did not believe that this summit meeting would produce a significant breakthrough on any of the issues with which we continue to disagree with Beijing, including Tibet, ballistic missile proliferation, nuclear testing, suppression of dissent in China, and trade issues. It did not. Recent press reports state that Chinese leaders had demanded certain concessions from the United States, such as written assurances that members of Taiwan's top leadership will never again be granted a visa to the United States or that the United States will refrain from criticism of China's human rights record in international fora. The administration rightly gave no such assurances. These are important policy issues, with significant domestic and international ramifications for both governments. Both governments seem convinced that the other is being unreasonable and obstinate. It is unrealistic to expect any major accords could have come under current circumstances.

This is an unfortunate state of affairs between two of the world's most influential countries and hopefully a passing one. But for the time being we must focus on keeping the relationship steady and effective. That is why a summit meeting between the two Presidents was so important at this time. The United States raised all of the issues that we believe to be important and let the Chinese leadership know our commitment to them, and we should continue to do so. But it was also right to listen to President Jiang's concerns and to strive for mutual understanding, if not mutual agreement. Those who criticize our President for failing to win major concessions likely fail to recognize the realities of the current relationship and the necessity of strengthening contacts at all levels that will outlast this period and carry forward a stronger relationship in the future. I commend the President for holding the summit yesterday and hope that this meeting will mark the beginning of a more solid and productive period of United States-China relations.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the

Federal debt, how about another go, as the British put it, with our pop quiz. Remember? One question, one answer.

The question: How many millions of dollars does it take to add up a trillion dollars? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the Federal debt that is $27 billion away from $5 trillion.

To be exact, as of the close of business yesterday, October 24, the total federal debt—down to the penny—stood at $4,975,508,732,304.35. This figure is approximately $27 billion away from $5 trillion. Another depressing figure means that on a per capita basis, every man, woman, and child in America owes $18,887.12.

Mr. President, back to our pop quiz, how many million in a trillion: There are a million million in a trillion.

TRIBUTE TO DON BROWN

Mr. INOUYE. Mr. President, I rise today to pay tribute to Mr. Donald S. Brown, who throughout his exceptional career dedicated himself to public service. Mr. Brown has been a pioneer in the field of economic development. He worked tirelessly to help the poor around the world achieve a better way of life. He has also been instrumental in shaping the agenda of both bilateral and multilateral development institutions, encouraging them to focus closely on the needs of the people.

For the last 12 years, Don Brown has served as the vice president of the International Fund for Agricultural Development [IFAD], a specialized agency of the United Nations in Rome. As the most senior American in the organization, he has been an innovator of new and creative ideas that IFAD has implemented effectively on the ground. He has helped sharpen the focus of IFAD, which is the only international agency which devotes all of its resources to the rural poor. Most recently he has worked diligently, with other senior IFAD officials, to streamline IFAD, increase its efficiency, and reduce its administrative costs. Don Brown has labored unselfishly to promote development and reduce poverty and has been an inspiration to all of us working for a better world.

Mr. Brown also ably served in the U.S. Government for over 20 years. He willingly accepted very difficult assignments in various U.S. Agency for International Development [U.S. AID] posts throughout Africa and the Near East. During this time he held the position of mission director to Morocco and Zaire. In his last field assignment, Mr. Brown served as the director of the U.S. AID Mission to Cairo, Egypt, one of AID's largest missions. Mr. Brown also served at AID headquarters in Washington as the Deputy Assistant Administrator of AID to help formulate U.S. development policy. He also was the Executive Director of the Commission on Security and Economic Assistance, established by the Secretary of State.

Throughout his career, Don received numerous awards recognizing his outstanding achievements. His colleagues both within international organizations and the government found his sound advice and the many insights gained from his rich experience invaluable to their work. We and they will always remember him as someone who was ever willing to lend a helping hand or a word of comfort. Mr. Brown is a thoughtful, pragmatic, and dedicated individual who touched many of our lives and who made an enormous contribution to the lives of many poor people around the world. I ask my colleagues to join me in paying tribute to Don Brown and in wishing him well in his future endeavors.

THE ISTOOK-McINTOSH AMENDMENT

Mr. SIMPSON. Mr. President, I rise to respond to the statement made yesterday by the distinguished Senator from Michigan, my old friend Senator CARL LEVIN. We came here to the Senate together. I have the greatest admiration and personal regard for him.

I trust that my colleagues will listen very carefully to what I have to say about this issue—the so-called "Istook-McIntosh" amendment which may be included in the Treasury-Postal appropriations conference report.

I ask for your close attention because I am certain that your offices are hearing about this language, just as the Senator from Michigan has been hearing about it. And, if the material coming across my desk is any guide at all, a clump of what you are hearing about it is plain hogwash, or more civilized, rubbish. I would surely include the commentary of the New York Times within that description.

I have been in the negotiations concerning the Istook-McIntosh language. I have been working side by side with my colleague from Idaho, Senator LARRY CRAIG. One could not ask for a better ally in this or any other cause. The Senator from Idaho brings many singular qualities to this work—a commitment to genuine reform, great realism about what it is possible to achieve in legislating, and unflagging consideration for the concerns of his colleagues—especially including me.

We know what this proposed amendment does, and what it does not do. And I can certainly assure my colleagues that much of the lobbying on this amendment has been hysterical at the worst, misleading at best. It is no wonder that my friend, the Senator from Michigan, is agitated about it, given the abjectly horrifying portrayal by those lobbying this issue.

It almost tempts me to coin a new aphorism—"hell hath no fury like an individual whose access to Federal bucks has been conditioned in any way." Because that is what this issue is about—access to the Federal Treasury. It is not about "free speech" or the first amendment, or anything of the sort. Those are merely the terms which are being applied during the argument by those who wish to continue to ensure themselves of continued delivery of Federal money.

Let me begin my description of this amendment by going back to first principles. I have a few views which might be termed eccentric or quaint or even naive in this era of behemoth government, and one of them is that there are "responsibilities" which follow from being a custodian of Federal money.

I know that is a strange and even bizarre thing in this day and age, to talk about "responsibility" instead purely of "rights," or purely of "victims." We are all experts on our own rights, but rarely do we acknowledge that these rights confer responsibilities. And that is what this issue is about—the responsibilities of those who receive Federal money.

The Senator from Michigan is justly concerned about the influence of lobbyists over the public policy process. This concern animates his sincere desire to pass lobbying reform legislation—and he is proceeding remarkably toward that end.

I agree with that concern, and I would add to it by saying that the American public knows that "something is wrong" with the process. They know that the process itself interferes with good policy. They know that the interests of the public at large are not served well when Washington has so contrived matters as to amplify the access and the influence of certain special interests, which comes effectively at the expense of the interests of the whole.

The average person on the street would be scandalized to find out that we, the Congress, have been blithely engaging for years in the practice of favoring political organizations with taxpayer-provided money.

I am not talking about simply the narrow practice of using Federal dollars to lobby. That is illegal already, as the Senator from Michigan has so ably pointed out.

But I think we need to agree that it is wrong to be giving Federal dollars to political organizations, whether or not we "mark" those bills they receive and then say that only those dollars can't be used for lobbying Congress.

Can you imagine the outcry, wailing and gnashing of teeth that would exist if the Federal Government were found to have channeled millions in grant money to the Christian Coalition? Or the Heritage Foundation? It wouldn't matter whether that money was used to hold seminars or to buy stationery. The public would swiftly know that this was wrong, that Government should not be in the business of propping up the operations of political organizations.

And yet that is precisely what we in America have been doing. I found this year that the AARP received $86 million in Federal grants—this, the largest and most powerful lobbying organization in the country—the King Kong of lobbying "gorillas."

At the time, I was criticized for "singling out" the AARP. I was told that the only way "to be fair" was to deal with the problem as a whole, to put a stop to the practice across the board. That is what Congressmen ISTOOK, MCINTOSH, and EHRLICH are attempting to do.

Let me repeat that I believe we should all agree on the basic premise from which we should be working; we should not be in the practice of funding political organizations with Federal money.

Thus, I have been working with my colleagues on the House side to try to develop a reasonable and balanced test for eligibility for public funds. Not to restrict anyone's rights of political expression—but rather, to specify minimum standards for the non-political, impartial distribution of public monies. I believe that our final product will try to set reasonable boundaries for the types of organizations which should be receiving Federal money.

Let me remind my colleagues that this is not a novel concept. Already in the law there are restrictions on the amount of lobbying which can be done by 501–C–3 organizations which take the 501–H election to identify themselves as charities. In return for the benefit of tax deductible contributions, these organizations agree to limit their lobbying expenses. They may spend 20 percent of their first $500,000 on lobbying, 15 percent of their next $500,000, 10 percent of their next $500,000, and 5 percent after that, on up to a global cap of $1 million on lobbying.

Let me repeat for my colleagues: This formula is already in the law. Now. It is accepted by all as a reasonable and balanced limit upon the political activities of such organizations. No one construes this as an abridgement of first amendment rights. It is a consequence of our consensus opinion that predominantly political organizations should not receive certain Government benefits.

I urge my colleagues to go out in the land and talk to various individuals about the 501–H spending formula. Not the ones "beating the drum" about this legislation. But most others would agree that the formula is extremely lenient, very generous—some would say it is so generous as not to constitute a significant restriction at all.

I have been working with my House colleagues to develop reforms of these boundaries to make certain that they work in practice in a way that they have not always worked before this time.

The Senator from Michigan highlighted one particular feature of the originally proposed Istook language, singling it out for criticism. This concerns the application of the spending formula to non-Federal money. I listened carefully to that commentary, and I wonder whether or not my old friend from Michigan and the rest of the Senate are aware of the way in which the law already works in this area.

I have been distressed to see the howls and shrieks of outrage from Government grantees when we suggest that they should no longer be able to "count" the amount of their Federal grants in computing their lobbying expenses under the formula which I just outlined. This has even been a rallying cry against the principles in the grant reform amendment—how outrageous, it is said, that there should be any restriction on the use of private funds.

Let me try to calm the heaving bosoms out there by asking my colleagues to think about this substantively for just a moment. First of all, the existing formula—already in the law—already applies to all 501–H groups even if they don't receive Federal money. So this supposed restriction on the use of private funds already exists.

Furthermore, consider the paradox that results if we continue to "count" the Federal money when computing allowed lobbying expenses. If you have two organizations—each with the same amount of private support—then, under current law, the one that pulls down a Government grant can spend more on lobbying than the one which doesn't. That is the very essence of taxpayer-subsidized lobbying, which we all agree is wrong. It only makes sense for an organization's lobbying expenses to be based on their degree of private support, not on the amount given to them in Federal money.

I expect that this debate will heat up still further, and I expect that hysteria and distortion will abound. I can see some of it already. I have read articles saying that somehow this legislation will stop organizations from being able to write editorials and to even make their opinions known. That is nonsense, unless somewhere in this country it costs you $1 million to write a letter to the editor.

I personally will have my old bald dome battered because I have stated all along that I would seek to protect the "true" charities from the scope of any legislation—the 501–C–3 organizations which we all care so much about—and should.

Well, the amendment which hopefully will shortly be presented as an Istook-Simpson compromise will indeed protect them. We will protect them not by creating a blanket exemption for all charitable groups, but by leaving "in place" the spending restriction formulas that already apply to charitable organizations.

I have also heard various muted and sometimes raucous imputations that this amendment is somehow discriminatory, that it singles out a particular "type" of recipient for restriction. It has been implied—although not overtly stated—that somehow we are working to exclude for-profit lobbyists from this legislation, targeting the legislation only against "nonprofits."

That is simply untrue. The Istook-McIntosh-Ehrlich amendment does not distinguish between for-profit and nonprofit entities. If a grant is given to a for-profit taxpaying organization, they are subject to the same lobbying caps.

The language does not exclude "contractors" in any general way, although the language does not apply specifically to "contracts." There is a very good reason for this, and this is the ambiguity as to what constitutes a "contract" with the Federal Government. The inclusion of "contracts" in this legislation would mean that every HMO around the country which contracts to provide services under Medicare would be covered. That and similar consequences are the reasons that "contracts" are not included; it is not some sinister conspiracy to exclude or target any particular group. If opponents of the legislation can figure out a way for us to responsibly include "contracts" in the scope of this legislation without creating serious ambiguities and contradictions, we would be most happy to work with those suggestions.

Mr. President, I will conclude my remarks, because there will be time to debate this later at length. But for the record today, I do not want to let the current characterization of this legislative language go unchallenged.

I want first and foremost to repeat my response to a central point made by the opposition. Somehow the Istook language is said to be sinister because it applies the spending formula to the non-Federal, private money.

Of course it does. Which money is the existing 501–H spending cap formula supposed to apply to? The Federal money? That is supposed to be illegal, to use Federal money for lobbying. No, it has always been understood that those restrictions applied to the private support; there is nothing novel or sinister of evil about that. The Proposed language would simply make this explicit.

We are still working with House negotiators to try to craft a package which we believe will be worthy of Senate support. I trust that my colleagues will study the details about the finished product rather than to listen to the characterizations that have been made by those who are lobbying against it.

This could be our best chance to effect true lobbying reform—and the best measure of that is the degree to which this has agitated those lobbyists suckling at the Federal breast. We should be equally vigilant about gifts from lobbyists, and gifts to lobbyists. This measure attempts to deal with the latter.

I thank my colleagues and I yield the floor.

MESSAGES FROM THE HOUSE

At 12:19 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 117. An act to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwellings units in public housings designated for occupancy by elderly families, and for other purposes.

H.R. 782. An act to amend title 18 of the United States Code to allow members of employee associations to represent their views before the United States Government.

H.R. 1114. An act to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 716) to amend the Fishermen's Protective Act.

The message also announced that the Speaker appoints Mr. CUNNINGHAM as an additional conferee in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1617) to consolidate and reform work force development and literacy programs, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. GOODLING, Mr. GUNDERSON, Mr. CUNNINGHAM, Mr. MCKEON, Mr. RIGGS, Mr. GRAHAM, Mr. SOUDER, Mr. CLAY, Mr. WILLIAMS, Mr. KILDEE, Mr. SAWYER, and Mr. GREEN as the managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as managers of the conference on the part of the House:

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. TAUZIN, Mr. FIELDS of Texas, Mr. COX of California, Mr. WHITE, Mr. DINGELL, Mr. MARKEY, Mr. BRYANT of Texas, and Ms. ESHOO.

As additional conferees from the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. MCCOLLUM, and Mr. CONYERS.

At 3:21 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 117. An act to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwellings units in public housings designated for occupancy by elderly families, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 782. An act to amend title 18 of the United States Code to allow members of employee associations to represent their views before the United States Government; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 1361. A bill to provide for the repurchase of land acquired by the United States from Native American organizations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HOLLINGS:

S. 1362. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Focus*; to the Committee on Commerce, Science, and Transportation.

By Mr. ABRAHAM:

S. 1363. A bill to terminate the agricultural price support and production adjustment programs for sugar on the date the President certifies to Congress that a General Agreement on Tariffs and Trade has been entered into that prohibits all export subsidies for sugar, price support and production adjustment programs for sugar, and tariffs and other trade barriers on the importation of sugar, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 1361. A bill to provide for the repurchase of land acquired by the United States from Native American organizations, and for other purposes; to the Committee on Governmental Affairs.

SURPLUS REAL PROPERTY LEGISLATION

• Mr. INOUYE. Mr. President, I introduce a measure that would authorize the repurchase of surplus real property by Native American trust organizations.

This measure is unusual in that it not only serves the objective of restoring to such organizations—real property that was acquired by the United States should such property be deemed to be surplus to the need of the Federal Government—but also provides for the repurchase of the property at today's fair market value, which will enable the United States to recapture the original value of the property, as well as any associated appreciation in value which has accrued since the time of acquisition.

Mr. President, this measure also authorizes the establishment of a trust fund in the United States Treasury, in which would be deposited that amount which represents the appreciated value of the reacquired property. For each property so repurchased by a Native American Trust Organization—the amount associated with the appreciated value of such property—would be added to the corpus of the trust. In turn, the income accruing on the investment of the trust corpus funds would be expended for the purposes of health and education authorized under existing Federal law.•

By Mr. HOLLINGS:

S. 1362. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Focus*; to the Committee on Commerce, Science, and Transportation.

TRADING PRIVILEGES LEGISLATION

Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Focus*, U.S. Official Number 909293, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, U.S. Code.

The *Focus* was constructed in Kowloon, Hong Kong, in 1983 and is a sailing vessel presently used for recreational purposes. It is 47.8 feet in length, 15.8 feet in breadth, has a depth of 6.5 feet, and is self-propelled.

The vessel is owned by John Passaloukas of Hilton Head Island, South Carolina. Mr. Passaloukas would like to utilize his vessel in the coastwise trade and fisheries of the United States. However, because the vessel was built in a foreign shipyard, it does not meet the requirements for coastwise license endorsement in the United States. The present owner purchased the *Focus* in a state of disrepair, after the vessel had been neglected for ten years, and has totally refurbished the vessel in U.S. shipyards. Coastwise documentation is mandatory to enable the owner to use the vessel for its intended purpose.

The owner of the *Focus* is seeking a waiver of the existing law because he wishes to use the vessel for recreational and ecotourism charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Focus* to engage in the coastwise trade and the fisheries of the United States.

By Mr. ABRAHAM:

S. 1363. A bill to terminate the agricultural price support and production adjustment programs for sugar on the date the President certifies to Congress that a General Agreement on Tariffs and Trade has been entered into that prohibits all export subsidies for sugar, price support and production adjustment programs for sugar, and tariffs and other trade barriers on the importation of sugar, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUGAR LEGISLATION

• Mr. ABRAHAM. Mr. President, today I am introducing a bill to terminate U.S. agricultural price support and production adjustment programs for sugar contingent upon a GATT agreement which would eliminate export subsidies and price supports in other countries of the world. While I firmly believe that the free market should be allowed to work, it does not make sense to put our producers at a competitive disadvantage in the world subsidized market.

I can't speak for the rest of the country, but Michigan sugar beet producers are some of the most efficient producers in the world, yet without a U.S. sugar program they would most likely find it impossible to compete against less efficient foreign producers who are more highly subsidized. Other countries subsidize their sugar at a level so high that they are able to dump the excess sugar on the world market at a price well below the world's cost of production. Unilateral elimination of our sugar program would put the best producers of sugar in the world at a competitive disadvantage to less efficient producers. This simply does not make sense.

We cannot give up the hope that the world will have a free sugar market. Through the GATT, we have begun and will continue to work diligently toward that goal. I am hopeful that my legislation will prompt other Members of the House and Senate to contact the Administration in favor of further GATT talks that would move us closer to a free world market for agriculture. Until this occurs, however, we must carefully examine the consequences of the steps we take to reform or eliminate our support programs so that we do not put our producers in a position of weakness compared to other countries. Furthermore, we cannot simply assume other countries would follow our lead if we were to eliminate our sugar program. In fact, the result may be quite the opposite. Without a trade agreement, other countries would have greater access to the U.S. market, helping to perpetuate these foreign subsidies rather than encourage their elimination.

Mr. President, I assure you that during my tenure as a Member of this body I will fight diligently on the side of free trade. Understanding the importance of global free trade in a growing world market, I will continue to work to eliminate export subsidies and other price supports worldwide so that we may eventually achieve true free trade.•

ADDITIONAL COSPONSORS

S. 612

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 612, a bill to amend title 38, United States Code, to provide for a hospice care pilot program for the Department of Veterans Affairs.

S. 1248

At the request of Mr. WELLSTONE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1248, a bill to amend the Internal Revenue Code of 1986 to allow the alcohol fuels credit to be allocated to patrons of a cooperative in certain cases.

S. 1271

At the request of Mr. CRAIG, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1271 a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE JOINT RESOLUTION 22

At the request of Mr. GRAMS, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of Senate Joint Resolution 22, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

FORD AMENDMENT NO. 2948

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

At the end of title VI, add the following:

SEC. 6. CONSTRUCTION OF NATCHER BRIDGE NEAR OWENSBORO, KENTUCKY.

(a) AUTHORIZATION.—The Secretary of Transportation may pay the Federal share of the cost of a project to complete construction of the William H. Natcher Bridge near Owensboro, Kentucky.

(b) FEDERAL SHARE.—The Federal share of the cost of the project shall be 80 percent.

(c) DELEGATION TO STATES.—Subject to title 23, United States Code, the Secretary of Transportation shall delegate responsibility for construction of the project to the State of Kentucky, on request of the State.

(d) ADVANCE CONSTRUCTION.—If the State of Kentucky has been delegated responsibility for construction of the project and the State—

(1) has obligated all funds made available to the State under this section for construction of the project; and

(2) proceeds to construct the project without the aid of Federal funds, in accordance with all procedures and all requirements applicable to the project, except to the extent that the procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously made available to the State;

the Secretary of Transportation, on the approval of the application of the State, shall pay to the State the Federal share of the cost of the project at such time as additional funds are made available for the project under this section.

(e) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the manner provided for funds apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of an project under this section shall be determined in accordance with this section and the funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986 (other than the Mass Transit Account) to carry out the project $44,000,000, to remain available until expended.

In section 23(b)(2) of the Internal Revenue Code of 1986, as added by section 12001(a), strike "$110,000" in subparagraph (A) and insert "$100,000" and strike "$55,000" in subparagraph (C) and insert "$50,000".

Mr. FORD. Mr. President, over the next few days, we will be debating the logic of a $245 billion tax break that adds to the deficit and cuts dangerously deep into critical programs for middle-income Americans—from Medicare to education. My Republican colleagues will justify adding to the deficit and making those cuts by striking the familiar refrain that these tax breaks will boost the economy.

But Mr. President, those tax breaks are not only jeopardizing important investments in our future economy like education and job training, they're jeopardizing critical infrastructure improvements that mean much more to local economies than a tax break for America's wealthiest few.

One of those infrastructure projects is a bridge linking my home State of Kentucky with Indiana. Without a doubt, the Natcher Bridge would mean much more to the local economies of Kentucky and Indiana than this tax break. From the increased interstate commerce to making the region more attractive to future businesses, industry, and tourism, the Natcher Bridge is a long-term investment for every Kentuckian and Hossier. But, unfortunately, it was sold down the river for a tax break for a wealthy few.

I have filed and had planned to offer an amendment to the Budget Reconciliation bill authorizing funding for the Natcher Bridge connecting Kentucky to Indiana. It would be offset by reducing the Republicans' $500 per child tax credit from the proposed income cap of $110,000 to $100,000.

However, it's my understanding that the same Republicans who killed this bridge project, will also raise a point of order against my amendment. That means I would have to get a supermajority for approval of my amendment. Without that huge road block, I think I could have persuaded my colleagues on the merits of finishing this project.

That's right. Not starting this project—but finishing this project.

It's a little bit like the young officer who pointed to the place on the map he planned to have the troops cross the river. "Excellent," remarked this superior, "but your finger is not a bridge." Well neither are two piers sticking out of the Ohio River.

Nearly $56 million in State and Federal funds have been spent on this bridge so far. Along with that financial commitment you'll find the initial stages of a new 7.4 mile, four-lane section of U.S. 60 that should—and I stress should—connect with a 4.7 mile highway leading to the bridge.

We began this bridge project back in 1988, because the current bridge was deemed incapable of dealing with future capacity, fated to become functionally obsolete. Because of the serious capacity concerns, we had to find the quickest and most efficient way to allocate funds—a demonstration project. Kentucky was very lucky to have Congressman William Natcher working diligently to get yearly funding for the bridge.

In hindsight, it probably would have been better to get total funding for the bridge in just 1 year. But at the time, that would have been over $80 million in Federal funds and Mr. Natcher just wasn't that way. He didn't want to take any money away from other States, and leave them in a pinch. He just took what was essential to the bridge's progress each year.

With his passing, the job of securing funds became much harder, but certainly not less worthy. Despite the fact that it was not included in the House Transportation Appropriations bill last year, I was able to secure the next installment. That's because my colleagues recognized at the time that the Natcher Bridge was a critical link in our national infrastructure.

That hasn't changed. And, ending this project now—with nearly $56 million already invested—would be a considerable waste of Federal and State funding, not to mention all but shutting the door to the economically important I-64 corridor for these communities.

While I will not be offering this amendment today, I will be offering it in the future. Because the communities on either side of the river, and those businesses counting on that corridor for moving their goods safely and efficiently, know that building this bridge should come before providing a tax break to those making $110,000.

BROWN AMENDMENT NO. 2949

Mr. BROWN proposed an amendment to the motion to commit proposed by Mr. ROCKEFELLER to the bill S. 1357, supra; as follows:

Strike all after "Finance" and insert the following: "With instructions to report the bill back to the Senate forthwith to include the findings of the Trustees of the Federal Insurance Trust Fund that, in order to save Medicare and to keep the Hospital Insurance Trust Fund solvent for future generations, Congress must address both the long-term and short-term shortfalls in the Medicare program."

ABRAHAM AMENDMENT NO. 2950

Mr. ABRAHAM proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 6 of title VII, insert the following:

SEC. . BENEFICIARY INCENTIVE PROGRAMS.

(a) Program To Collect Information on Fraud and Abuse.—

(1) Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) Payment of portion of amounts collected.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) Program To Collect Information on Program Efficiency.—

(1) Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) Payment of portion of program savings.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

LEAHY AMENDMENTS NOS. 2951–2954

(Ordered to lie on the table.)

Mr. LEAHY submitted four amendments intended to be proposed by him to the bill S. 1357, supra; as follows—

Amendment No. 2951

Amend section 1109(1)(D) to read as follows—

"(D) by amending subsection (h) to read as follows—

(h) Flood Control.—

(1) In general.—The Secretary may enter into contracts in accordance with paragraph (2) with producers with crop acreage base on farms with land that is frequently flooded.

(2) Terms of contract.—The contract described in paragraph (1) shall include the following terms—

(A) With respect to the acres which are the subject to the contract, the producer shall agree to—

((i) the removal of crop acreage base;

(ii) not build crop acreage base in future years;

(iii) not apply for crop insurance issued by the Secretary or reinsured by the Secretary;

(iv) comply with applicable wetlands and highly erodible land conservation compliance requirements described in Title XII of the Food Security Act of 1985;

(v) not apply for any conservation program payments from the Secretary;

(vi) not apply for any disaster program benefits issued by the Secretary; and

(vii) refund the payments with interest issued under the contract to the Secretary, if the producer violates the terms of this contract or if the producer transfers the property to another party who violates the terms specified in this contract.

(B) The Secretary shall agree to pay producers an amount not more than 95 percent of the projected benefits and subsidies payable to crops planted on the acres from the Commodity Credit Corporation and the Federal Crop Insurance Corporation for the fiscal years covered by the agreement during the period 1997 through 2002.

(3) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation."

AMENDMENT NO. 2952

(a) In section 1201(c)(2) by striking (A) and inserting the following:

"(A) IN GENERAL.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

"(i) in subsection (b)—

"(I) in paragraph (1) by striking 'and';

"(II) in paragraph (2) by—

"(aa) by striking 'not less' and inserting 'not more';

"(bb) by striking '2000' and inserting '2002'; and

"(cc) by striking the period and inserting '; and'; and

"(III) adding the following to the end:

'(3) to the maximum extent possible during the 1996 through 2002 calendar years, one-third of the acres in permanent easements, one-third of the acres in 30 year easements, and one-third of the acres in restoration cost-share agreements.'"

(b) In section 1201(c)(2) strike subparagraph (B) and insert the following:

"(B) COST SHARE AGREEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837A) is amended by—

"(i) amending the section heading to read as follows:

"'SEC. 1237A EASEMENTS AND AGREEMENTS';

(ii) in subsection (f) striking 'except in the case of' through 'and the Secretary'; and

(ii) adding the following the end:

"'(h) COST SHARE AGREEMENTS.—The Secretary may enroll land into wetland reserve through agreements which require the landowner to restore wetlands on the land, provided the agreement does not provide the Secretary with an easement.

"(C) COST SHARE AND TECHNICAL ASSISTANCE.—Section 1237C(b) of the Food Security Act of 1985 (16 U.S.C. 3837c(b)) is amended to read as follows:

'(b) COST SHARE AND TECHNICAL ASSISTANCE.—

'(1) For easements entered into from the 1991 through 1995 calendar years in making cost share payments under subsection (a)(1), the Secretary shall pay the owner an amount that is not less than 50 percent but not more than 75 percent of eligible costs with respect to an easement which is not permanent, and not less than 75 percent but not more than 100 percent of eligible costs with respect to a permanent easement.

'(2) For easements and agreements entered into from the 1996 through 2002 calendar years, in making cost share payments the Secretary shall—

(A) pay the owner an amount that is not less than 75 percent but not more than 100 percent of the eligible costs with respect to preeminent easements and cost share agreements;

(B) pay the owner an amount that is not less than 50 percent, but not more than 75 percent of the eligible costs with respect to 30 year easements; and

(C) provide owners technical assistance to assist land owners in complying with the terms of easements and agreements."

"(C) AGREEMENTS.—

'(g) EASEMENTS AND AGREEMENTS.—The Secretary shall enroll lands in the wetland reserve through easements and agreements in accordance with this subsection.

'(1) EASEMENTS.—The Secretary may enroll land into wetland reserve through the purchase of easements as provided for in section 1237A.

'(2) AGREEMENTS.—The Secretary may enroll land into the wetland reserve through agreements which require the landowner to restore wetlands on the land, provided the agreement does not provide the Secretary with an easement. Through such agreements the Secretary shall provide landowners cost share and technical assistance in accordance with section 1237C(b).'"

(c) In section 1201(c)(2) strike subparagraph (B) and insert the following:

"(B) COMPENSATION.—Section 1237A(f) of the Food Security Act of 1985 (16 U.S.C. 3837a(f)) is amended by striking', except in the case of through and the Secretary'."

AMENDMENT NO. 2953

Amend section 1201(b) by adding the following after "To receive cost sharing or inventive payments, or technical assistance, participating operators shall comply with all terms and conditions of the contract and a plan, as established by the Secretary".

'(3) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.'"

AMENDMENT NO. 2954

Amend section 1106 by striking "for calendar year 1996, subject to subsection (d)." through "beginning January 1, 1996, and ending December 31, 2002".

GRASSLEY AMENDMENTS NOS. 2955–2956

(Ordered to lie on the table.)

Mr. GRASSLEY submitted two amendments intended to be proposed by him to the bill S. 1357, supra; as follows:

AMENDMENT NO. 2955

Subsection (e) of Section 2123 is amended by adding ", other than a program operated or financed by the Indian Health Service," after "other federally operated or financed health care program".

As amended, the subsection would read:

(e) MEDICAID AS SECONDARY PAYER.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its medicaid plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care program, other than a program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 2122(b) shall apply.

AMENDMENT NO. 2956

On Pages 764 and 765, section 2106, Medicaid Task Force—under subsection (c) Advisory Group for the Task Force, add new number (14) to read: "(14) AMERICAN OSTEOPATHIC ASSOCIATION".

Redesignate old No. 14 to be No. 15
Redesignate old No. 15 to be No. 16
Redesignate old No. 16 to be No. 17
Redesignate old No. 17 to be No. 18.

HARKIN AMENDMENT NO. 2957

Mr. HARKIN proposed an amendment to the bill S. 1357, supra; as follows:

Strike all after the word "SEC." on page 1 line 3 and insert the following:

SEC. . The following provisions shall constitute all of the provisions regarding Medicare Fraud and Abuse in Title VII of this bill:

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud and Abuse Prevention Act of 1995".

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program"; and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b)—

(i) by striking "and willfully" each place it appears;

(ii) by striking "$25,000" each place it appears and inserting "$50,000";

(iii) by striking "title XVIII or a State health care program" each place it appears and inserting "Federal health care program";

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and inserting "kind with intent to be influenced—";

(v) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(vi) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend";

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person";

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.";

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking "Paragraphs (1) and (2)" and inserting "Paragraphs (1), (2), and (3)"; and

(xi) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

"(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

"(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsections:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).

"(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

"(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

"(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(h) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7103. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7b) (in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 7104. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) RECOGNITION AND PUBLICATION OF CONTRIBUTIONS.—The program established by the Secretary under this section shall recognize and publicize significant contributions made by individual health care patients toward the combating of health care fraud and abuse.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

SEC. 7105. MEDICARE BENEFIT QUALITY ASSURANCE.

(a) IN GENERAL.—Part D of title XVIII (42 U.S.C. 1395 et seq.), as redesignated in section 7003, is amended by inserting after section 1888 the following new section:

"MEDICARE BENEFIT INTEGRITY SYSTEM

"SEC. 1889. (a) APPROPRIATION.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for each fiscal year such amounts as are necessary to carry out the benefit quality assurance program activities described in subsection (b), subject to subsections (c) and (d).

"(b) ACTIVITIES DESCRIBED.—The benefit quality assurance program activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other persons in connection with this title, including medical and utilization review and fraud review.

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) AMOUNTS SPECIFIED.—The amount appropriated under subsection (a) for a fiscal year is as follows:

"(1) For fiscal year 1996, such amount shall be $525,000,000.

"(2) For fiscal year 1997, such amount shall be $550,000,000.

"(3) For fiscal year 1998, such amount shall be $575,000,000.

"(4) For fiscal year 1999, such amount shall be $600,000,000.

"(5) For fiscal year 2000, such amount shall be $619,000,000.

"(6) For fiscal year 2001 and each succeeding fiscal year, the greater of—

"(A) $619,000,000 increased by a percentage equal to the percentage increase in expenditures under this title (other than expenditures pursuant to this section) for the preceding fiscal year over fiscal year 1999; or

"(B) an amount equal to the aggregate amount expended for activities described in subsection (b) in fiscal year 2000, increased, as determined by the Secretary, to reflect—

"(i) inflation; and

"(ii) any costs attributable to oversight responsibilities added with respect to periods after fiscal year 2000.

"(d) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under subsection (a) shall be allocated to reasonably reflect the proportion of expenditures associated with part A and part B.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations incurred after fiscal year 1995.

SEC. 7106. MEDICARE BENEFIT INTEGRITY SYSTEM.

(a) IN GENERAL.—Part D of title XVIII (42 U.S.C. 1395 et seq.), as redesignated in section 7003 and amended by section 7045, is amended by inserting after section 1888 the following new section:

"MEDICARE BENEFIT INTEGRITY CONTRACTS

"SEC. 1890. (a) AUTHORITY TO CONTRACT.—

"(1) IN GENERAL.—In order to improve the effectiveness of benefit quality assurance activities relating to programs under this title, and to enhance the Secretary's capability to carry out program safeguard functions and related education activities to avoid the improper expenditure of assets of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall enter into contracts with organizations or other entities having demonstrated capability to carry out one or more of the activities described in section 1889(b). The provisions of sections 1816 and 1842 shall be inapplicable to contracts under this section.

"(2) NUMBER OF CONTRACTS.—The Secretary shall determine the number of separate contracts which are necessary to achieve, with the maximum degree of efficiency and cost effectiveness, the objectives of this section. The Secretary may enter into contracts under this section at such time or times as are appropriate so long as not later than the fiscal year beginning October 1, 1998, and for each fiscal year thereafter, there are in effect contracts that, considered collectively, provide for benefit quality assurance activities with respect to all payments under this title.

"(b) CONTRACT REQUIREMENTS.—A benefit quality assurance contract entered into under subsection (a) must provide for one or more benefit quality assurance program activities described in section 1889(b). Each such contract shall include an agreement by the contractor to cooperate with the Inspector General of the Department of Health and Human Services, and the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of the activities described in such section, and shall contain such other provisions as the Secretary finds necessary or appropriate to achieve the purposes of this part. The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time when it is in the best interests of the United States. A contract under this section may be renewed from term to term without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—In carrying out this section, the Secretary may not enter into a contract with an organization or other entity if the Secretary determines that such organization's or entity's financial holdings, interests, or relationships would interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner.

"(2) LIMITATION OF LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under this section, and such regulations shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 7110. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7111. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7112. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7113. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7114. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a-7(b)(6)(A)) is amended—

(1) by inserting "(as specified by the Secretary in regulations)" after "substantially in excess of such individual's or entity's usual charges"; and

(2) striking "(or, in applicable cases, substantially in excess of such individual's or entity's costs)" and inserting ", costs or fees".

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

SEC. 7116. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7117. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7120. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r-2(d)) is amended by inserting "and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 7121. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board."; and

(2) by amending subsection (b)(4) to read as follows:

"(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.".

SEC. 7112. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

CORPORATE WHISTLEBLOWER PROGRAM

"SEC. 1128C (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

"(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

"(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

"(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.".

PART IV—CIVIL MONETARY PENALTIES

SEC. 7121. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(b)(f))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Medicare Improvement and Solvency Protection Act of 1995 (as estimated by the Secretary) shall be deposited into the Hospital Insurance Trust Fund.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))";

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)"; and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking "; or" at the end of subparagraph (D) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);".

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting ", directed, or prescribed" after "furnished".

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7131. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 7132. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 7133. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 7134. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 7135. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1035. False statements relating to health care matters.".

SEC. 7136. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.".

SEC. 7137. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 7138. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7139. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7141. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7151. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7152. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7153. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7154. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7155. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7161. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7162. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be within, or be centered around metropolitan statistical areas;

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

"(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Durable medical equipment and medical supplies.

"(2) Oxygen and oxygen equipment.

"(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction. Notwithstanding this section, in no case can the Secretary make a payment for items and services described in Section 1847(c) that are greater than that required by other provisions of the Balanced Budget Reconciliation Act of 1995.

SEC. 7163. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 7164. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 7165. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7171. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as "ADPE") meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7172. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7173. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7171(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7174. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7171.

SEC. 7175. DEFINITIONS.

For purposes of this chapter—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7181. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, (except Section 1861(v)(1)(V)) with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

"(A) the actual charges for the services; or

"(B) the amount determined by a fee schedule developed by the Secretary.

"(2) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

"(3) SEPARATE PAYMENT LEVELS.—

"(A) IN GENERAL.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

"(B) NONROUTINE BASIS.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

"(4) ANNUAL ADJUSTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee schedules shall be adjusted annually (to become effective on January 1 of each year) by a percentage increase or decrease equal to the percentage increase or decrease in the consumer price index for all urban consumers (United States city average).

"(B) SPECIAL RULE.—Notwithstanding subparagraph (B), the annual adjustment in the fee schedules determined under such subparagraph for each of the years 1996 through 2002 shall be such consumer price index for the year minus 1 percentage point.

"(5) FURTHER ADJUSTMENTS.—The Secretary shall adjust the fee schedule to the extent necessary to ensure that the fee schedule takes into consideration the costs incurred in providing the transportation and associated services as well as technological changes.

"(6) SPECIAL RULE FOR END STAGE RENAL DISEASE BENEFICIARIES.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

"(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

"(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

"(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7191. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General (a) authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. ___. BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

NICKLES (AND BROWN) AMENDMENT NO. 2958

Mr. NICKLES (for himself and Mr. BROWN) proposed an amendment to the motion to commit proposed by Mr. BRADLEY to the bill S. 1357, supra; as follows:

Strike all after "Finance" and insert: "with instructions to report the bill back to the Senate forthwith including a provision stating:

" 'The maximum earned income credit for a family with one child will increase from $2,094 in 1995 to $2,156 in 1996 and the maximum earned income credit for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996.';

"and the effective date for section 7461, 'earned income credit denied to individuals not authorized to be employed in the U.S.', shall be moved to taxable years beginning after December 31, 1994."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, October 25, 1995, at 10 a.m. in executive session, to consider certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 25, 1995, at 10 a.m. to hold a hearing on religious liberty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. NICKLES. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on pending veterans' health care legislation at 10 a.m., on Wednesday, October 25, 1995. The hearing will be held in room 418 of the Russell Senate Office Building.

The agenda includes: An original bill to expand VA authority to contract for health care services; S. 293, a bill to authorize payments to the States of per diem for veterans receiving adult day health care; S. 403, the Readjustment Counseling Service Amendments of 1995; S. 425, a bill to require the establishment of mental illness research, education, and clinical centers; S. 548, the Women Veterans' Mammography Quality Standards Act; S. 612, the Veterans Hospice Care Services Act; and S. 644, a bill to reauthorize the establishment of research corporations in the Veterans Health Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NICKLES. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 25, 1995, at 2 p.m. to hold an open hearing on Intelligence Support to Law Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NICKLES. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 25, 1995 at 9:30 a.m. to hold an open hearing on Intelligence Support to Law Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NICKLES. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 25, 1995 at 4 p.m. to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Special Committee to Investigate Whitewater Development and Related Matters be authorized to meet during the session of the Senate on Wednesday, October 25, 1995, to review the status of the special committee investigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through October 24, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget (H. Con. Res. 67), show that current level spending is below the budget resolution by $3.6 billion on budget authority and above the budget resolution by $3.4 billion in outlays. Current level is $2.2 billion above the revenue floor in 1996 and $125.4 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $249 billion, $1.2 billion above the maximum deficit amount for 1996 of $247.8 billion.

Since my last report, dated October 12, 1995, Congress cleared, and the President signed the Agriculture Appropriations Act—Public Law 104-37. In addition, pursuant to section 205(b)(2) of House Concurrent Resolution 67, the revenue aggregates for the concurrent resolution have been revised. These actions changed the current level of budget authority, outlays, and revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 25, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through October 24, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, October 11, 1995, Congress cleared, and the President signed the Agriculture Appropriations (P.L. 104-37). In addition, pursuant to Section 205(b)(2) of H. Con. Res. 67, the revenue estimates for the concurrent resolution have been revised. These actions changed the current level of budget authority, outlays and revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS OCTOBER 24, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current level [1]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,285.5	1,281.9	−3.6
Outlays	1,288.1	1,291.5	3.4
Revenues: [2]			
1996	1,040.3	1,042.5	2.2
1996–2000	5,565.4	5,690.8	125.4
Deficit	247.8	249.0	1.2
Debt subject to limit	5,210.7	4,884.7	−326.0
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The revised revenue aggregate for the Budget Resolution is effective for the purposes of consideration of S. 1357, the Balanced Budget Reconciliation Act of 1995.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS OCTOBER 24, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	
Appropriation legislation	0	242,052	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS OCTOBER 24, 1995—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Offsetting receipts	−200,017	−200,017	
Total previously enacted	630,254	840,958	1,042,557
ENACTED THIS SESSION			
Appropriation Bills			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	
Military Construction (P.L. 104–32)	11,177	3,110	
Agriculture (P.L. 104–37)	62,602	45,620	
Authorization Bills: Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Total enacted this session	73,683	44,678	−101
PENDING SIGNATURE			
Alaska Native Claims Settlement Act (H.R. 402)	1	1	
CONTINUING RESOLUTION AUTHORITY			
Continuing Appropriations, FY 1996 (P.L. 104–31)[1]	442,336	273,573	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements other mandatory programs not yet enacted	135,631	132,258	
Total Current Level[2]	1,281,905	1,291,468	1,042,456
Total Budget Resolution	1,285,500	1,288,100	1,040,257
Amount remaining:			
Under Budget Resolution	3,595		
Over Budget Resolution		3,368	2,199

[1] This is an estimate of discretionary funding based on a full year calculation of the continuing resolution that expires November 13, 1995. It includes all appropriation bills except Military Construction, which was signed into law October 3, 1995, and Agriculture, which signed into law October 21, 1995.

[2] In accordance with the Budget Enforcement Act, the total does not include $3,275 million in budget authority and $1,504 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

Note.—Detail may not add due to rounding.•

WELFARE TO JOBS

• Mr. BREAUX. Mr. President, we have heard a lot of horror stories about how bad the welfare system is, how it discourages people from getting married, finding work, and taking responsibility for themselves and their children. I would agree that the system needs an overhaul, and that is why I worked so hard on the Senate welfare reform bill we passed just last month. But I also believe that, within this broken system, there are many places that have already begun to experiment with innovative solutions to their welfare problems. And some of these initiatives are working—they are getting people off of welfare and into jobs.

One of the best examples of this success is what is happening right now in my State of Louisiana. Since October 1990, the number of families in Louisiana receiving Aid to Families with Dependent Children has dropped 20 percent. A report issued by the Public Welfare Association in 1994 ranked Louisiana last in the country in AFDC caseload growth for 1989 through 1993. Last in the country. That is good news.

And that is due in large part to Project Independence, our statewide program that moves families from welfare dependency to independence. Project Independence provides transportation and child care—absolutely essential elements in moving people from welfare to work. It helps participants build up self-esteem by showing them their own ability to succeed in the work world. It also helps participants receive their GED's or high school diplomas, associate or 4-year degrees, or skill training, and builds their resumes through community service.

One Project Independence Program in particular, the Hamilton Terrace Learning Center in Shreveport, has been singled out for its outstanding success. Tomorrow, Vice President GORE will name this second-chance high school a winner of an Innovations in American Government Award from the Ford Foundation and the John F. Kennedy School of Government at Harvard University. This prestigious award honors 15 initiatives each year that have developed effective, creative solutions to important social and economic problems. It carries with it a $100,000 grant to disseminate information about Hamilton Terrace and encourage its replication.

I have had the opportunity to visit Hamilton Terrace twice and each time, I was impressed by the dedication of the staff and the motivation of the students.

Hamilton Terrace Learning Center puts adult welfare recipients and students expelled from other local high schools in the same classes, where the adults convey a strong message to the teens on the importance of taking school seriously and avoiding some of the mistakes they made. At the same time, the teens give the welfare mothers a fresh look back at their own behavior, and give them a better sense of the role they can play in preventing their children from making the same mistakes. Putting these two groups together brings out a strong sense of responsibility in both.

The curriculum combines traditional academic courses with vocational training in fields such as food service, travel and tourism, health care, and child care. Classes are longer and about half the normal size to allow teachers time to get to know their students better. Lessons are tailored individually to each student's particular learning style. On Fridays, students either spend their time in community service or in counseling to work on specific academic concerns, and teachers meet for training and to work on solutions to problems they are facing in the classroom.

And it is all work-oriented. A school-to-work coordinator works closely with the Shreveport Chamber of Commerce to assist every student in planning a course of study that will result in a good job after graduation. Every graduate is guaranteed a job or enrollment in post-secondary training.

Their success has been outstanding. Of the school's 118 graduates from the class of 1994, 71 percent went on to college. Of the 58 graduates who were on welfare, all but 7 are working or in college. At 21 percent, the school's dropout rate is considerably lower than the State average of 51 percent—and that's particularly good if you consider that most students failed in the traditional system.

Hamilton Terrace's success is well-known across Louisiana, and I am proud that it will be recognized nationally as well. It is an outstanding example of the real successes that are going on all around us. I congratulate its principal, John Baldwin, and all of its staff and students for their good work.•

CHARACTER COUNTS WEEK

• Mr. DOMENICI. Mr. President, several months ago, the Senate passed Senate Resolution 103, designating the week of October 15–21, 1995, as National Character Counts Week. Across the country, hundreds of towns, cities, schools, and 60 national organizations ranging from the YMCA to the Little League, encompassing about 35 million young people and adults, celebrated this week.

As most in this chamber are aware, character counts advocates the teaching of the six pillars of character, six ethical values that transcend political, cultural, religious, and socioeconomic differences: trustworthiness, respect, responsibility, caring, fairness, and citizenship.

The character counts nationwide effort is one whose time has come. As explained in the Carnegie Council on Adolescent Development report, "Great Transitions," adolescents need help and support from not just their families and schools, but also the entire community. I agree with the statement of Julius Richmond, professor of health policy at Harvard Medical School and surgeon general under President Carter, "The schools go their way, the after-school programs go their way. . . . This report really points out the importance of all community resources coming together."

The idea of a total community approach is an important one. This is why I am such an enthusiastic supporter of the character counts programs across the State of New Mexico. By way of background, about a year ago, I asked the Mayor of Albuquerque Martin Chavez (D), to join me in a bipartisan effort to establish a communitywide character counts program. We pursued this effort with the local churches, the entire Albuquerque public school system, civic and social organizations, unions, the police department, parent groups, and the private sector. As a result, Albuquerque became the first city in America to adopt a citywide character counts program.

Several weeks ago, the spokesman for the national Character Counts Coalition, actor and producer Tom Selleck, joined me in Albuquerque to visit schools participating in this community effort. I cannot begin to relate the excitement of the students at the Osuna Elementary and the Garfield Middle Schools as the entire student body met in their gymnasiums to honor their character counts programs.

The schools were celebrating the word of the month, citizenship. The students were able to discuss what citizenship meant and why it was important, and the little ones loved to shout out the spelling of "citizenship" or join in the singing of the theme song about character. The character counts message is being delivered city-wide by many different voices, and it is obvious the children and teachers are enthusiastic participants in this program.

After the successful startup of the Albuquerque character counts model, other New Mexico communities started similar programs. Roswell invited other nearby towns to join them in the effort so that the program could be developed beyond the city's geographical boundaries, and this communitywide program has exceeded the expectation of the hundreds of organizations and individuals who have joined forces to support character counts. As an example, in honor of Character Counts Week, at the annual high school football game, the entire halftime program was devoted to character counts. The event included all of the high schools and middle schools in the area.

The State of New Mexico received one of the Department of Education grants for developing character education programs, a grants program that we developed and passed on last year's Elementary and Secondary Education Act. These funds will help many other New Mexico communities who are initiating similar character education programs in their schools and youth organizations.

To emphasize that this issue is one of concern to millions of Americans besides New Mexicans, I think it is noteworthy that after Roswell was featured on a nationally televised news story, my State office has received more than 1,000 requests from all across the country for information about establishing a character counts program. This is something new and vibrant—an approach that touches the lives of children and adults alike. It reaches out to encircle the youth with similar messages—that respect and responsibility and caring, for example, are appropriate responses and actions.

The Albuquerque Public School District, consisting of 118 schools, has now developed an extensive and remarkable program. As stated in their recent report:

> What began in APS as a grass roots movement in schools interested in promoting more productive behavior in their students, has grown to be a focus area in the strategic planning process for the district and a major educational goal of the superintendent. . . . What followed was an outpouring of interest and action as schools enthusiastically integrated the pillars of character into their own curricula.

I ask that the text of the APS report be printed in the RECORD at the conclusion of my remarks.

As we read report after report about the state of America's children, and we know from talking with parents, teachers, and community leaders that children need strong and compassionate support, I believe that the character counts program is one effort that can help. As important, I believe the model established in cities across New Mexico is the right approach. It is an all-encompassing approach that does not start and stop with the ringing of a school bell, or last for a single hour in church or at a youth organization meeting. Instead, the communitywide approach really says that with a rather simple and single message, everyone cares, and that everyone in that city is willing to put time, money and energy behind its youth.

Mr. President, for the last 2 years we have passed a resolution in support of National Character Counts Week. I know I speak for the other nine Senators of the Senate character counts group when I say that our legislative efforts are a support mechanism for the really important grass roots efforts we see across this country. The reason character counts programs are developing in schools and communities across America is because there is a genuine quest for resolving the problems of our young citizens. This program is an approach where everyone, young and old, can be part of a larger effort to make their towns and cities better places to work and live. It seems to me that this approach is well worth the effort, and I offer my congratulations to the thousands of committed citizens who are working together and building a program not only for the good of the present, but also for the next, generation of Americans.

The report follows:

APS CURRICULUM SUPPORT

The Albuquerque Public School District opened the 1995–96 school year with renewed dedication to the principles of character education as exemplified in the Character Counts! philosophy. What began in APS as a grass roots movement in schools interested in promoting more productive behavior in their students has grown to be a focus area in the strategic planning process for the district and a major educational goal of the Superintendent. When the Board of Education for the Albuquerque Public Schools endorsed the pillars of character as named in the Josephson Foundation's Aspen Declaration, it wisely left the implementation of this philosophy up to the teachers and principals of the 188 schools in the district. What followed was an outpouring of interest and action as schools enthusiastically integrated the pillars of character: trustworthiness, respect, responsibility, citizenship, caring, and fairness, into their own curricula.

For 1995–96 APS has adopted a goal for character education, stating, "The Albuquerque Public Schools will provide learners of all ages the knowledge and ethical foundation needed to become productive citizens in our community." Objectives to meet this goal are:

The Albuquerque Public Schools has endorsed and will support the Character Counts! program as a way to develop character based on the six core ethical values.

The Albuquerque Public Schools will continue collaborations with community entities to reach agreements about the role of each in promoting ethical behavior among young people and adults in various aspects of life.

The Albuquerque Public Schools commit to creating models of ethical behavior among all adults who serve students and schools.

The APS Core Curriculum will continue to give explicit attention to character development as an ongoing part of school instruction. Materials, teaching methods, partnerships, and services for school programs shall be selected by APS, in part, for their capacity to support the development of character among youth and adults.

The Albuquerque Public Schools will provide training to enable schools and other administrative units to implement the principles of character education.

All schools will examine school curriculum, classroom practices, and extra curricular activities to identify and extend opportunities for developing character.

APS School to Work initiatives will integrate character education with the employability skills necessary to prepare students to enter the workplace.

The emphasis on character education in the public schools has been met with immediate and enthusiastic support in the business and volunteer community in Albuquerque. Members of the Leadership Council formed to support Character Counts! include representatives from financial institutions, non-profit youth agencies, Sandia National Laboratory, the NAACP, the NM Bar Foundation, the Chamber of Commerce, the City of Albuquerque, the Albuquerque Teachers Federation, and others. This coalition was formed to support the Character Counts initiative financially, and by giving parents in the work force the same message given to their children in schools. The marketing committee from this council planned and implemented a Character Counts rally in Albuquerque's Civic Plaza, Character Counts day at the New Mexico State Fair, and numerous other events to support the program. Citizens of Albuquerque read the Character Counts message on billboards, on soft drink cans, and in city utility bills.

As schools begin conversations based on character education, they enjoy the freedom to plan learning activities tailored for their own students, staff, and communities. District support for these ventures in the first year included a training session given by Michael Josephson, founder of Character Counts, for representatives of each geographical cluster of schools. There teachers, parents, and administrators will act as trainers and facilitators for the rest of the school district and community. Other support activities included the development of a bibliography for Character Counts based on the six pillars, a parent manual for use in schools, and a manual for administrators interested in initiating a program in their own schools.

Second year support activities include the distribution of a commitment form for schools to indicate their plans for character education to district administrators, followed by a starter kit to be distributed to interested teachers and students. Other administrative units in the public schools have developed their own plans for character education, including a program for school bus behavior and safety. Join-A-School business partnerships in 1995-96 will focus on respect, responsibility, and trustworthiness as demonstrated in school-to-work training.

Much of the growth in the second year of Character Counts involvement will be supported by a grant through the New Mexico State Department of Education and the U.S. Department of Education. The New Mexico Character Education Pilot Project will allow the school district to continue its formal plans to provide extended training in character education, further develop a marketing component, involve parents and community members as active partners in character education, mentor a Native American school/community in character education, and develop a clearinghouse for information related to character education.

The true joy in the growing involvement of APS schools in character education is found not in administrative structure and planning, but in the classrooms and school programs developed to support Character Counts. Examples of student participation include school Character Counts kickoffs like the one at Cochiti Elementary School where staff and students celebrated the word of the month with original songs, raps, and poetry, all focused on "Respect." At this school, student-authored slogans are announced daily and posted in the cafeteria to remind everyone to be respectful to self and to others. At Sombra del Monte Elementary School, teachers and parents performed skits demonstrating "respect" to the delight of their students. Students at Chelwood launched their program as they released balloons, each representing a pillar of Character Counts. The students attached cards to the balloons, asking the finder to return the card to the school. Children at Wherry Elementary School sang a rap they composed about character and children performed examples of "do's" and "don'ts" of good character at an all school assembly. Middle school activities include rewarding students at Madison Middle School for demonstrating behavior related to the six pillars by presenting coupons good for redemption at local businesses, and holding a Jog-A-Thon to kickoff activities at Grant Middle School. McKinley Middle School hosted a breakfast for its school bus drivers to begin their pilot project integrating school bus safety and the concepts of Character Counts. Eldorado High School students are reminded of Character Counts with the printing of the six pillars above all school doorways.

While APS is presently caught up in the launching of the Character Counts! philosophy, members of the district know that the true test of the value of this initiative will lie far down the road for our young students. The participants in Character Counts in the Albuquerque Public Schools believe the true value in this program will be measured in succeeding years, when student learning and behavior reflects not only the enthusiasm of launching a worthwhile program, but demonstrates the internalization of the six pillars of Character Counts.•

ARCTIC NATIONAL WILDLIFE REFUGE

• Mr. GRAHAM. Mr. President, I would like to take a few moments to speak on the Arctic National Wildlife Refuge.

In their budget reconciliation package, Republican budget planners have mandated the oil exploration and drilling of the fragile coastal plain of the Arctic National Wildlife Refuge. This 125-mile stretch is the last protected area of the 1,100-mile Alaskan coastline. It is home to many precious species including caribou, polar bears, golden eagles, and grizzly bears.

We have all seen the devastation wreaked by the drilling of the North Slope of Alaska and Prudhoe Bay. Before oil was discovered in the North Slope, it was part of the largest intact wilderness in the United States. The oil development of the North Slope has resulted in hundreds of open waste pits containing millions of gallons of oil industry waste and the destruction of thousands of acres of wildlife habitat. There is no reason to believe that the drilling of the coastal plain would produce any less devastating effects. The damage caused by the construction of oil rigs, roads, and pipelines and the inevitable oil and chemical spills are simply not worth the assumed revenues of this short term private gain induced pillaging.

As stewards of our few remaining wildlife refuges, I believe that we have an obligation to protect them and the animals that seek shelter within them.

Mr. President, I also ask that an editorial by Jessica Mathews, which appeared in the Washington Post on October 23, 1995, be printed in the Record.

The article follows:

[From the Washington Post, Oct. 23, 1995]

Lusting After Black Gold

(By Jessica Mathews)

Alaskans think they have a terrible financial problem. To solve it they propose to ruin the last protected fragment of the arctic coastal plain—part of the Arctic National Wildlife Refuge (ANWR)—by opening it to oil drilling.

Here's the problem. Alaska has no state income tax, no sales tax and the lowest fuel taxes in the nation. It has the highest per-capita income from the federal government of any state. State spending is twice the national average. And it has an $18 billion savings account, the Permanent Fund, that provides an annual Christmas-in-September check of a little less than $1,000 for every man, woman and child. You might think of it as Saudi Alaska.

Here's the bad news. The North Slope oil revenues that underwrite this easy living are drying up, and the state now has a half-billion-dollar deficit that's heading skyward.

One can still think offhand of about 49 governors who would love to have a fiscal problem like Alaska's. Solutions leap to the mind. Impose a small sales tax. Raise the fuel tax a bit. Cut the most egregious spending frills. Use some of the income from the oil-funded savings account for the purpose for which it was created instead of as a universal bonus entitlement. Alaskans have a different answer. Drill ANWR—and hope that puts off the day of reckoning for a few more years.

In an unguarded moment of honesty, Alaska's congressional delegation—Sens. Ted Stevens (R) and Frank Murkowski (R) and Rep. Don Young (R)—made the linkage explicit in a recent letter to constituents. The relevant passage says, in full: "Oil revenue funds about 85 percent of the state's budget, but Prudhoe Bay is in decline. The administration is threatening to veto legislation to open the coastal plain."

The other arguments for drilling in the refuge range from flimsy to specious. For years, a favorite has been that it would enhance national security by reducing the country's oil import dependence. That won't wash anymore since Congress and the administration have agreed to lift the 22-year-old ban on exporting Alaskan oil. If we need to reduce oil imports, why export our own?

The best came Presidents Reagan and Bush could make for opening ANWR was that chances were one in two that its production would rise in a few years to 4 percent of U.S. oil use, dropping to one percent five years later and less thereafter. Not surprisingly, Congress didn't find that a compelling reason to make an irreversible sacrifice of the wilderness. If in some presently unimaginable future the nation absolutely required ANWR's oil it would still be there for the taking.

Since then, the U.S. Geological Survey has slashed the expected find by more than half. An offshore well drilled in one of the most promising areas was a bust. Another hit oil but not in developable quantity, though the company, Atlantic Richfield, is still enthusiastic.

Meanwhile, the expected market in which ANWR oil would have to compete, has turned from tight to squishy. Projected oil prices for the year 2000 are down from $38 to $19 per barrel. That turns the industry's five-year-old projection, which it is now shamelessly recycling, of 700,000 jobs created nationwide, from highly unlikely to laughable.

The last-resort claim is that drilling won't make much difference to this narrow plain that is the biologically crucial part—the birthing, denning, feeding and nursery ground—of a much larger, fragle and unique arctic ecosystem. But no matter how environmentally sensitive the effort, 400 miles of roads, 11 production facilities, four airstrips, two ports, massive gravel mining and housing for several thousand, plus associated emissions and toxic wastes are not what most peole expect of wilderness. Neither will the plants and animals.

What's left? A short-term fix that might or might not prolong the oil-welfare state. Not much there to arouse support, even in Washington. So the state's powerful congressional delegation, whose members chair both the House and Senate Natural Resources Committees, came up with a sweetener. They propose to give half of the hoped-for leasing revenue to Washington, which helps make the numbers work in the Republicans' deficit-reduction plan. If Congress counts on the money, however, it is playing a chump's game. The state has promised to sue for any split less than the 90 percent it believes is guaranteed by its Statehood Act.

Alaska's congressmen want the name of the Arctic National Wildlife Refuge changed to the Arctic Oil Reserve. It's revealing that what's gone is not just wildlife, but the national interest as well. Until Congress acts, they unilaterally have adopted a new acronym, AOR. If the ANWR proposal does pass, the delegation has a lot more to follow, including develop in the Tongass National Forest and turning back 70 million acres of federal lands to the state.

Instead, Congress should give the ANWR proposal the treatment it deserves. In the spirit of adopting new acronyms it could send along a message as well: GRA. Get Real, Alaska. The rest of us would trade for your troubles. Face the real choices now—ANWR isn't the answer.•

DISCRIMINATION AGAINST MENTALLY DISABLED VETERANS

• Mr. ROCKEFELLER. Mr. President, on September 26, during the Senate debate on H.R. 2099, the VA-HUD appropriations bill, I offered an amendment to strike a provision in the bill which would discontinue disability compensation payments to certain mentally disabled veterans when their savings reach $25,000. Unfortunately, my amendment was not adopted. I continue to believe strongly that this provision should not be enacted and urge the conferees on H.R. 2099 to drop it.

Mr. President, as I noted in that debate, this provision discriminates against a small group of veterans: those who are mentally disabled. It does terrible harm to these veterans. One proponent of the provision expressed the view that the provision does not affect the standard of living or the condition of any veteran. I disagree.

Mr. President, let me describe the situation of a veteran who called my office to explain how this provision affects her. She is from New Mexico. She receives VA compensation for a mental disorder that resulted from her military service. At times over the years, her disability has been particularly bad and she has been rated incompetent by VA. Right now, she is doing better and is not rated incompetent. However, she never knows when things will turn bad again and she will again be at risk of being rated incompetent.

Because of this risk, she told committee staff that, if this provision is enacted, she will not go to the VA hospital for treatment because she is afraid they will determine her condition is worse and they will recommend she be rated incompetent. If that happened, she would lose her compensation. Then she would lose her house because she could not make the mortgage payments. That is what she said. So, she will not seek treatment.

Mr. President, I understood that this bill would take away disability compensation from incompetent veterans whose estates exceed $25,000, and I have opposed it as rank discrimination against a small group of veterans who are unable to protect themselves. Until this veteran called, however, I had not focused on how this provision would inhibit the very people we are trying to help from seeking medical treatment. I am convinced that this woman's condition will be affected by this provision. She is so afraid of this provision she will not seek the help she needs—help she has earned—help she is entitled to. That is what this provision does to mentally disabled veterans. That is why it should be dropped in the conference report.•

VETERANS HEALTH CARE ELIGIBILITY REFORM ACT OF 1995

• Mr. WELLSTONE. Mr. President, I understand that the House Budget Reconciliation bill incorporates the provisions of the "Veterans Health Care Eligibility Reform Act of 1995," a draft bill which addresses some of the critical problems faced both by veterans seeking health care and by the VA in providing health care services. I applaud the sponsors of the bill for their efforts to help the VA fulfill its lofty purpose: to take care of those who have served their country with pride and honor.

The House bill would enable the VA to provide its services more efficiently and in the most appropriate setting, assuring our Nation's veterans that they could receive the care they need. Specifically, it would ensure that VA health care providers are granted the freedom to treat veterans on an outpatient basis when appropriate and would broaden the VA's authority to contract for outpatient services. In other words, the VA at long last could pursue methods of treatment based on medical and economic common sense, benefiting veterans and providers alike.

Let me highlight some of the key provisions of this innovative legislation which is of major importance to America's veterans. It would:

Enable VA, within appropriations, to provide all needed hospital care and medical services to eligible veterans, including preventive and home health care;

Call for VA to manage the provision of care and services through enrollment or registration, based on a system of priorities;

Assign priority for enrollment in the following order: First, veterans 30 percent or more service-connected disabled, second, former POW's and veterans with service-connected disabilities rated 10 or 20 percent, third, veterans receiving aid and attendance or housebound benefits and otherwise eligible veterans who suffer from a catastrophic disability, fourth, veterans unable to defray the cost of medical services, and fifth, all others;

Give VA discretion to determine how an enrollment system would operate and authority to set additional priorities within the above priority groups; and

Protect specialized VA programs, such as those for veterans with spinal cord injuries and post-traumatic stress disorder.

Mr. President, I want to stress that this legislation not only enjoys broad bipartisan support in the House, but that it is very much in the spirit of the Senate Appropriations Committee report issued last month on the VA, HUD, and Independent Agencies Appropriations bill under the aegis of my distinguished colleagues Senators BOND and MIKULSKI.

This report noted the committee had included a provision "enabling VA to treat veterans eligible for hospital care or medical service in the most efficient manner," adding that the Committee supported the VA's efforts "to shift as much of its inpatient workload to ambulatory care settings as possible, to make better use of its resources." This is precisely what the House bill seeks to accomplish.

I also want to underscore that this legislation has won widespread support from numerous veterans service organizations [VSO's], experts on veterans health care, and the VA.

There have, however, been widely differing estimates from the VA and CBO on how the bill will affect demand for VA services and what impact if any it will have on the VA budget, even though the bill specifies that it is to be implemented within appropriations. While the VA contends the House proposal is budget neutral and that it would make available as much as $268 million within 2 years to expand VA outpatient services, CBO estimates that any savings will be offset by over $3 billion in costs incurred as a result of increased demand for VA outpatient care. A number of VSO's have joined the VA in taking sharp issue with the CBO cost analysis.

Mr. President, it seems that proposals which satisfy so many needs of both patients and their health care providers deserve our deepest commitment and support, but at the same time we need to fully explore the consequences of such reforms. We need to change the way veterans receive their health care. That much is clear from how eager both sides of the equation—patients and providers—are to make the same changes. But we also need to ask ourselves: "What are the costs if any?"; Could these reforms cause other unintended problems in the future?; Will the proposed reforms alleviate problems plaguing the VA health care system?; and Will cuts in Medicare and Medicaid lead to increased demand for VA services so that the need for eligibility reform becomes even more pressing? We need answers to each of these pivotal questions before we can proceed.

I strongly believe that the provisions in the House bill or some variant of these provisions could at the very least provide a vital first step to achieve long-overdue eligibility reform, and to do so in a responsible manner. However, we first need to sit down and get all the facts out on the table so we can come up with clear answers to complex questions.

In anticipation of the possibility that the provisions of the House veterans bill will not be included in the final Senate/House version of the budget reconciliation package, I propose that the Committee on Veterans' Affairs conduct hearings to solicit the views of those who would be affected by such reforms and those who have thoroughly investigated their future effects on veterans' health care and their budgetary impact. I would welcome the chance for the committee to hear from representatives from the VA, VSO's, the Congressional Budget Office, and anyone else who could bring crucial insights to the forum. We need to include all viewpoints, to look critically at all data, and to listen to all voices before we can move forward responsibly. We need to institute eligibility reform but we need to carefully craft reform to ensure that it improves the quality of VA health care, makes it more user friendly, and increases its cost effectiveness.

I have requested that my distinguished colleague Chairman SIMPSON hold hearings on this topic when feasible and, if he concurs, look forward to working closely with him on preparations for the hearings.•

ELECTION OF JOHN J. SWEENEY AS PRESIDENT OF THE AFL-CIO

• Mr. MOYNIHAN. Mr. President, for the past three months, two of the Nation's foremost labor leaders, John J. Sweeney and Thomas R. Donahue, have campaigned for the presidency of the AFL–CIO. This afternoon in New York City at the AFL–CIO's biennial convention, the delegates chose Mr. Sweeney. I rise to congratulate him, and Thomas Donahue as well, for their dedication, service, and not least, their civilities.

Mr. Sweeney and Mr. Donahue remain strong and united in their pledge to lead the labor community into the next century. Both are sons of Irish working class families from the Bronx—home of another great labor leader, the legendary George Meany. As friends and allies in the labor movement for over 35 years, Mr. Sweeney and Mr. Donahue have vied for the presidency with energy, but without bitterness. There is much we in political life can learn from such earnest and talented men. Victory need not mean vanquishing the opponent. Good ideas are not the province of any one faction. These are the lessons John Sweeney and Tom Donahue have taught us all.

There is more to these men than their recent contest. There is much testimony given to the value of work and the dignity that comes from having a job. John Sweeney and Tom Donahue, and the millions they represent, embody those values even as they advance them.

It is prophetic that John Sweeney, born in St. Joseph's parish in the Bronx—named for the patron saint of working men and women—has been chosen to lead the 13 million members of the AFL–CIO. The son of a bus driver, he learned the value of a job and the dignity of hard work from his father. Mr. Sweeney first joined a union as a part-time grave digger while attending Iona College in New Rochelle, New York, and began his trade union career in 1950 with the International Ladies' Garment Workers Union. Later, in 1961, he joined Local 32B of the Service Employees International Union (SEIU), and eventually rose through the ranks to become the SEIU's president in June of 1980. Today, this union, representing doormen, elevator operators, custodians, all manner of workers, is 1.1 million members strong.

Tom Donahue, another Bronx native, has had an equally long and distinguished career in the labor movement. He has served most recently as the acting president of the AFL–CIO after Lane Kirkland stepped down in August of 1994. Mr. Donahue began his career at the AFL–CIO as executive assistant to George Meany, and was later elected to serve as secretary-treasurer, a post he held for many years. I am indebted to him for advice, and counsel throughout my near two decades on the Senate Finance Committee.

While there could only be one winner today, the election is not so much a victory for John Sweeney, but for the labor movement as a whole. Let there be no question that Mr. Sweeney has his work cut out for him, as they would say in the "ICG", for this is a critical time in labor's history. But his record as an organizer of workers promises great things. And may I say that it is a tribute to New York and to the Bronx especially that in these turbulent times for labor, the membership of the AFL–CIO has once again entrusted its leadership to a New Yorker. I wish my friend John Sweeney great things as he embarks on the newest phase of his remarkable career.

The origins of today's AFL–CIO go back to 1881, or some will argue 1886. Which is to say, in the first century of the American nation. They have sustained their principles and organization into what is now the third century of our Nation. It has been a remarkable and eventful journey and it is only begun. I stand with them in solidarity and joy for this fine moment.•

"AMERICA, I LOVE YOU SO"

• Mr. REID. Mr. President, I rise today to recognize the work of a well known, long time resident of Las Vegas. Mike Corda is a very accomplished songwriter, having written songs for such artists as Robert Goulet, Sammy Davis Jr., Nancy Wilson, Wayne Newton, and Lou Rawls. But as successful as he has been as a songwriter, Mike's greatest pride comes from his service to this country as a United States Marine. In the wake of the Oklahoma City bombing, Mike rolled up his sleeves and went back to work to put the finishing touches on a song that would capture the patriotic pride of yesterday. That song, is entitled "America, I Love You So" and I ask that the lyrics of the song be printed in the RECORD.

The lyrics follow:

AMERICA, I LOVE YOU SO

America, I love you,
No place on Earth can match your style.
Your helpin' hand's world famous—
And your heart is in your smile.

No nation rates above you,
Where seeds of freedom proudly grow—
I feel the need to "fall in",
There's something here that's callin',
America, I love you so.

No nation rates above you.
When into outer space you go
I feel the need to "fall in"
There's something here that's callin',
America, I love you so—
America . . . I love you so!

(Words & Music by Mike Carda)•

ORDERS FOR THURSDAY, OCTOBER 26, 1995

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m., Thursday, October 26; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the Calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of calendar No. 216, S. 1357, the reconciliation bill, and Senator BRADLEY be recognized for up to 30 minutes for debate on the EITC motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I further ask unanimous consent that following the remarks of Senator BRADLEY, Senator GRAHAM or Senator PRYOR be recognized to offer a motion to recommit with respect to Medicaid, to be followed by amendments or motions relative to education, deficit reduction and rural restoration.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. Mr. President, for the information of all Senators, the Senate will resume consideration of the reconciliation bill tomorrow morning at 9 a.m. Therefore, Members can expect votes throughout Thursday's session of the Senate on amendments, but those votes are not expected prior to 12 noon.

The Senate is expected to be in session late into the night in order to complete action on the reconciliation bill.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86–380, appoints the Senator from Wyoming (Mr. THOMAS) to the Advisory Commission on Intergovernmental Relations, vice Senator DORGAN.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:58 p.m., adjourned until Thursday, October 26, 1995, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 25, 1995*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. BARRETT of Nebraska].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 25, 1995.

I hereby designate the Honorable BILL BARRETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind every person, O gracious God, that it is in giving that we receive, that we are blessed when we appreciate the unity that is Your will for us. Teach us, O God, that we can never be the people You would have us be unless we discern that our lives and hopes and dreams are intertwined with one another and that our good fortune is linked to the good fortune of others. As we have received the support of our family and friends through prayer and encouragement and counsel, so may we give of ourselves in service to others and so do the work of justice and mercy. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Florida [Ms. ROS-LEHTINEN] come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1026. An act to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1606. An act to designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1328. An act to amend the commencement dates of certain temporary Federal judgeships.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, OCTOBER 25, 1995

Mr. NORWOOD. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that fifteen 1-minutes will be allowed on each side this morning.

FIDEL CASTRO'S VISIT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute.)

Ms. ROS-LEHTINEN. Mr. Speaker, today, Cuban tyrant Fidel Castro will leave the United States after having been the catalyst for the most shameful behavior seen in a long time. It was disgusting to observe how many ignored the documented repression in Cuba.

Let me remind world leaders that while they dined with Castro, thousands of political prisoners remain in Castro's gulags. Let me remind the American media, that while they asked Castro about who will win the World Series, 11 million Cubans continue to be denied their human rights. And let me remind United States business leaders, and even some of my congressional colleagues that while they glorified Castro, Cuban workers continue to live in misery, as they are paid almost nothing in Castro's new plantation style economy.

Ironically, in the midst of its 50th anniversary celebration, the United Nations was the clear loser, for that same organization which now wants to create global taxes, accepted and idolized as one of its own, the last tyrant of the hemisphere, and turned its back on the millions of Cubans who suffer under his dictatorship. Shame on all.

THE REPUBLICAN BUDGET

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, for months now, I've had a hard time understanding how the Republican Members of this House could push a budget that demands huge sacrifices from the many, to lavish huge tax cuts on the few.

I've had a hard time understanding how the Republicans could double Medicare premiums and carve up middle class incomes like a Halloween pumpkin—all to give about $20,000 a year to people who earn $500,000 a year.

Above all, I've had a hard time understanding how any Member of this House could so brazenly and shamelessly turn their backs on the middle class to dole out new perks and privileges for the wealthy.

But now, I'm beginning to understand where all this injustice comes from. My Republican colleague, FREDERICK HEINEMAN of North Carolina, has given us a unique window onto the Republican world view—and why it's so weighted toward wealth and privilege.

According to Congressman HEINEMAN, his own salary—more than $180,000 a year, and I quote, "does not make me rich. That does not make me middle class. In my opinion that makes me lower middle class." Never mind that he earns more money than 97 percent of all Americans.

Congressman HEINEMAN then builds on this delusional world view, to tell us that someone earning $750,000 a year is simply middle class. Never mind that they earn more than 99 percent of all Americans.

I suppose in Congressman HEINEMAN's fiscal fantasy land, slashing Medicare,

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cutting student loans, and kicking the elderly out of nursing homes—all to pay for tax cuts for people earning hundreds of thousands of dollars per year—is a true blue middle-class agenda.

But if you live in the real world, it's just plain wrong. The Republicans just don't get it. If they would step out and talk to hard-working, struggling families every once in a while, they'd understand why their views are so radical and extreme.

And then maybe they'd learn that for the vast majority of Americans, the Republican budget is more than unfair—it's more than a bunch of silly mistakes and assumptions—it's an absolute outrage. And in the name of common decency, it deserves to be denounced and defeated.

THE 104TH CONGRESS KEEPS ITS WORD

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, in 1993, the liberal Democrats of the 103d Congress battled long and hard to raise taxes. They were successful to the tune of $260 billion. The American people didn't like that at all. So we had us a revolution at the ballot box. A lot of the Members of the 103d Congress didn't get reelected because of the tax increase. The 104th Congress has a lot of new faces, including mine. The American people asked us to balance the budget; they asked us to return some of the money they send to Washington.

So Mr. Speaker, what will we do for the people this week? In the budget reconciliation, we will pass a balanced budget; we will cut Federal spending; and we will give back $245 billion to the working men and women of this country. That's less than the 103d Congress took out, but it will go to help families, seniors, and the middle class. It is simply a matter of keeping our word to the American people and doing as they wish.

THE COMEBACK CITY

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, yesterday, my good friend and colleague, JOHN LEWIS, stood in this well and delivered a passionate speech supporting the Atlanta Braves as they landed in Cleveland for game three of the World Series. For those who might have gone to bed early last evening, let me sum things up for you.

In comeback city, last night, the wind-chill factor hovered at 29 degrees. A little help from Mother Nature, Eddie Murray, Kenny Lofton, and José Mesa, proved to be just what the Indians needed. The team was magnificent in winning game three of the World Series.

Mr. Speaker, to my colleague from Atlanta, JOHN LEWIS, I would say, It ain't over 'til it's over. To the fans and players from the Atlanta Braves, I say, Welcome to Cleveland, the comeback city.

TRAVEL AND TOURISM

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I have taken this time to make a point. If we want a strong economy, then we have to act now. Travel and tourism is the fastest growing industry in America and in the world. Yet look at what other countries are spending on just advertising. Greece for example $143 million. The United States is way down to $16 million. What does that mean? That means this year we are losing a large market share. Look at what is taking place. In 1993 we had almost 19 percent; now we have less than 16 percent, and it is going down.

We want to capture this market share because what this means is that we are losing $177,000 and $2 billion of revenue right here. What we have to do is to have a strategy. That is why on October 30 and 31 we are having this large White House conference on travel and tourism. This is the most important conference we are going to have by far this decade because it is addressing the economy of the 1990's and the 21st century. We now have in our Travel and Tourism Caucus 304 Members. I am asking Members to join because this will be a historic week and a historic conference.

LET US HAVE A VOTE ON YUGOSLAVIA

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, I spent the weekend visiting American troops in what was Yugoslavia and those troops who are on the ground today in Italy preparing to go into what was Yugoslavia. Mr. Speaker, we are doing a lot of important things in this body. I do not think anything we do is silly. But there is nothing more important than deciding the fate of those young American men and women who have given their word to defend our country.

If this Congress does nothing, 25,000 young American men and women will be sent into a situation where they know many of them will die. This Congress will have shirked its responsibility.

Mr. Speaker, we can bring that bill to the floor. We deserve a vote. Every Member of this body should decide whether or not those young men and women should be called upon, many of them to die, and a peace accord that will not bring peace to that part of the world. Tito could not do it in 50 years. The United States of America cannot do it in 1. We have to vote on this issue.

NO UNITED STATES TROOPS TO BOSNIA

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, I wholeheartedly endorse the remarks of the preceding speaker, the distinguished gentleman from Mississippi. I believe, as he does, that the President is on the verge of making the mistake of a lifetime. Without clearly defining our mission in Bosnia, without proving a compelling national interest or without a precise plan of action, the President is about to commit 20,000 to 25,000 American combat troops to Bosnia.

Mr. Speaker, U.S. troops should not be ordered to keep a peace where no peace exists. If Members believe peace has been achieved in the former Yugoslavia, then Members believe Elvis is alive. The President is clearly jumping the gun in committing troops to Bosnia. It is a dangerous move and has all the makings of a very, very deadly quagmire.

Mr. Speaker, there is no plan. There is no compelling national interest to send young American men and women to die in Bosnia. Mr. Speaker, there is no compelling reason to take this action.

Let us lift the arms embargo against the Bosnian Moslems so they can defend themselves, but let us not place United States troops in a deadly situation. Let us not spend $2 billion of American taxpayers' money.

CONGRESS CUT NOT ONE PENNY FROM ISRAEL OR EGYPT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, everybody realizes that cuts must be made, but there is something definitely wrong here. Congress cuts seniors in America. Congress cuts housing in America. Congress cuts kids in America. Congress cuts education in America. Congress cuts farmers in America. Congress cuts services in America. Congress cuts bridges and roads in America.

I might be able to accept that, but, on the other hand, Congress did not cut one penny from the aid to Egypt or Israel. Now, a Congress that can find money for Israel and Egypt while cutting all of this in America, in my opinion, is not only misdirected but out of touch with America.

I am going to vote "no" on this budget. We should treat everybody alike; even if it is like dogs, treat everybody alike.

□ 1115

IT IS TIME TO BALANCE THE BUDGET

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute.)

Mr. WATTS of Oklahoma. Mr. Speaker, this week the House will debate H.R. 2491, the fiscal year 1996 budget reconciliation. For the first time in a generation, Congress will pass a balanced budget. By the year 2002, the deficit will be zero and we will be on our way to paying down the national debt.

Mr. Speaker, this is the right thing to do. For the first time in 25 years, Congress has run out of excuses for not doing the right thing for America's future. Previous Congresses totally avoided the most basic financial responsibilities. They squandered billions on frivolous, ineffective, and repetitive bureaucracies. They repeatedly raised taxes, making it appear that the problem was the American people's problem and not their own. Americans paid 37 percent of their income in Federal taxes in 1995. Today their total is over 40 percent with Federal, State, and local taxes combined.

Last November, the American people said "enough." Republicans campaigned on a promise to balance the budget, and we will keep that promise. No excuses. No gimmicks. It is time to balance the budget.

A QUICK QUIZ

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. As we do budget reconciliation, a quick quiz, Mr. Speaker, three questions:

First, why are Republicans cutting Medicare and hurting seniors? A—to save the Medicare Program? B—to balance the budget? C—to pay for a tax cut for the rich?

If my colleagues said "C" they are right. The Republicans are cutting Medicare to help their rich friends.

Second, who do Republicans care most about? A—senior citizens? B—America's children? C—the B-2 bomber?

Again, if my colleagues said "C" they are correct. While the Republicans are cutting Federal funding to Medicare and education, they are increasing funding for the B-2 bomber, that even the Pentagon says we do not need.

Third, which programs will be protected under Republican proposals? A—Social Security? B—Medicare? C—Pork barrel projects in Republican districts?

Again, the answer is "C." While Republicans are hurting seniors by reducing their Social Security and Medicare benefits, they are conducting business as usual by increasing funding for fat cat projects.

Well, Mr. Speaker, all three answers were "C."

I guess the "C" stands for cuts—Republican cuts. Cut the heart out of our seniors by raiding Medicare. Cut the heart out of our children's education. Cut the heart out of America's future.

THE AMERICAN PEOPLE UNDERSTAND IT IS TIME FOR FUNDAMENTAL CHANGE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the gentleman from New York [Mr. ENGEL] play a game that really should be called, Who does he think he's fooling? I at least was happy it was a multiple-choice test because we will provide seniors something that has been lacking in health care for the last three decades, a choice, the most fundamental element of American freedom, the freedom to choose what health care plan is best for them, and once again, Mr. Speaker, only in Washington, with the twisted Washington mathematics of the guardians of the old order, can an increase from $4,800 this year to $6,700 in the year 2002 be considered a cut. How is that a cut? It is an increase of almost $2,000.

Mr. Speaker, the American people will not be fooled. They understand it is time for fundamental change. That is why we were sent here, and that is why we will change things for the better.

THIS IS NOT A FAIR BUDGET

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, good morning. Balancing the budget may be a good idea. Tax breaks for the wealthy is not. I want to talk about Medicaid.

In this so-called reconciliation bill the Republicans cut $182 billion out of Medicaid. Now some people are saying, "There you go, talking about the poor again." No, I am talking about the elderly, the disabled, and the blind. They had not one public hearing. They cut $182 billion. They tell us, well, it is to make things better for future generations.

Mr. Speaker, the future is now. The future is my parents, my colleagues' parents. It is my colleagues' parents, my colleagues' grandparents, my colleagues' aunts, and my colleagues' uncles who are in these nursing homes. In the year 2002, when they tell us they will have a great balanced budget, they will also be spending 30 percent less on Medicaid. They also are eliminating the standards that protect seniors from oversedation, protect their nutrition, protect their health standards in nursing homes.

The other night I met with the Alzheimer's support group. They are worried. They are concerned that they may have to spend their children's college education to support their parents in nursing homes. They are concerned that the elderly are sometimes eating cat food because they cannot afford it.

This is not a fair budget, and they worsen the pain by adding tax breaks for the rich. We need to protect our seniors. Reject the Republican budget approach.

REPUBLICAN MAJORITY DELIVERS CLINTON'S CAMPAIGN PROMISE FOR A TAX CUT

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, President Clinton's reelection campaign is now in full swing, so once again he has flip-flopped his position on taxes. Now the President admits that he raised taxes too much in his 1993 budget. Let us listen to what the pundits around this Nation are saying:

Eleanor Clift said, "This is just one notch below 'Read my lips.'"

Margaret Carlson said, "It was pandering of the worst sort, and it's indefensible."

Morton Kondracke said, "It's evidence of a character disorder on Bill Clinton's part."

Mr. Speaker, candidate Bill Clinton promised a middle-class tax cut, but then President Bill Clinton raised taxes on the American people. This week the Republican majority will deliver on those promised tax cuts, and it is about time.

WE CANNOT ALLOW THIS RECONCILIATION TO TAKE OUR ECONOMY HOSTAGE

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today, as we begin debating the reconciliation, we are debating nothing less than the path the United States will take in the future. On issues from education to the environment, health care to nutrition, the choices we make will have an impact for many years.

But of all the choices we make, none is more critical than this: We cannot allow our very significant differences over reconciliation to take our economy hostage. We cannot allow a failure to raise the debt ceiling to force America into default.

I want to make just two simple points (about this:) First, no matter how stringent the budget action we take this week, the debt ceiling will still have to be raised. There is no way to avoid it it without pushing us into default.

And second, no one knows what the consequences of default could be because it has never happened before. I, for one, see a real potential for worldwide economic disruption. I urge my colleagues to avoid politics or grandstanding on this incredibly important issue.

TAXES ARE KILLING THE AMERICAN PEOPLE

(Mr. SHADEGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHADEGG. Mr. Speaker, enough of the rhetoric from the other side. We are engaged in a great debate here about the budget, about the issue of tax cuts or deficit relief.

Mr. Speaker, I just heard the minority leader come to this floor and say the Republicans were out of touch. He said they ought to take a step out and talk to real working Americans.

Mr. Speaker, he did not know what I did last weekend because last weekend I spent hours in front of grocery stores and drug stores in any district, and I asked the American people the question my colleagues and I are debating, "Do you need tax relief?" And their answer, and I did this in a working-class neighborhood in my district with real people, was that we need tax relief.

Mr. Speaker, one of them said, "Taxes are killing the American people."

Now the other side calls this tax relief for the rich, but that is garbage, and they know it. Rich people do not have any more children than poor people.

As young ladies walked up to me with one baby in their arms and another dragging along behind them, I asked them, "Could you use a thousand dollars' tax credit?"

Mr. Speaker, they said to me, "You bet I could."

I ask my colleagues, "Whose money is it, and who can better spend it?" That side says government can spend it better. I say we can spend it better by giving it to the American people.

WELCOME TO THE GINGRICH REVOLUTION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, my Republican colleagues say their tax package benefits the middle class. I guess it all depends on how you define middle class.

In today's Washington Post one Republican Congressman explains that GOP tax credits for people making $200,000 a year are not tax breaks for the wealthy, because people making $200,000 a year are not wealthy, they are lower middle class.

The Congressman is quoted as saying: "When I see someone who is making anywhere from $300,000 to $750,000 a year, that's middle class."

If Republicans consider a person making $750,000 a year as middle class, I am beginning to understand how they can claim that this budget helps the middled class. In fact, by GOP calculations, NEWT GINGRICH might qualify for food stamps. Except there would not be food stamps, because they are being cut to help out those poor, struggling families making $750,000 a year. Welcome to the Gingrich revolution.

A PATRIOTIC OBJECTION

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, tomorrow a courageous young man named Michael New is to be arraigned for a court martial.

Mr. New's offense is that he refused to wear the blue uniform of the United Nations on a peacekeeping mission to Macedonia.

He has not refused to go overseas on the peacekeeping mission as ordered.

He simply has taken the position that his oath upon entering military service was to the United States—not the United Nations—and he wanted to wear his U.S. Army uniform.

Obviously, this young man loves America, and he has taken a very patriotic stand.

Most Americans believe that the young men and women in our Armed Forces should not be sent overseas except under the command of American generals and admirals.

The Members of Congress who are the most concerned with the treatment of Mr. New are generally the Members who are among the strongest supporters of the U.S. military.

Our Armed Forces are going to squander a great deal of public and congressional support if they continue to prosecute Michael New.

They could easily have found other duty for someone who was making a reasonable, principled, and patriotic objection as was Mr. New.

RECONCILIATION WITH A "W"

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, yesterday I talked about the words that the Gingrich revolution uses to sneak up on people and make them think that they are all warm fuzzies. Reconciliation is one of those words. It sounds so warm and wonderful, but let me say, unless you are in the middle class that the Republicans have had defined by them, by the gentleman from North Carolina, Congressman HEINEMAN, as those people from $300,000 a year to $750,000, unless you are in that middle class, reconciliation is spelled this way for you.

This is really "wreconciliation" for the middle class. That is where I am, and I think we need to go into this much further and point it out before this all happens and before people are lulled to sleep.

What happens to the elderly? Boom. What happens to families? Boom. What happens to children? Boom. We are going to wreck families, children, and all sorts of people's sustainable income that has kept them in what we define as the middle class.

So, pull it away, and away they fall. This is wreconciliation; do not be fooled by the word.

THE TRUTH ABOUT BUDGET RECONCILIATION

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, Jay Thomas, who lives in Wichita, KS, said, "I would just like to know where I could go to hear the truth," and, as we heard before, supposedly we snuck up on people, because he heard that nutrition programs were being cut and that children would starve, but there have been no reports of children starving. In fact, nutrition programs are up 4 percent in the Republican budget.

My colleagues heard that Medicare was at a $270 billion cut. Yet it has gone from $4,800 per year to $6,700 per year with more people in the system in 7 years, an increase. Plus it has a lockbox provision so any savings goes right back into providing more health care and not for tax breaks for the rich like we would hear some other people allegedly saying.

And tax breaks for the rich; let us talk about that. When he knows that women who have three children are driving to work this morning so they can provide for those children and the tax breaks, I want that young woman to know that she will get $1,500, $1,500, of a tax break. She is not rich, she is poor.

So where is the credibility? Listen, Jay. The truth is that we are going to balance the budget to preserve a future for the children. We are going to preserve and protect Medicare. We are going to reform welfare, requiring work, bringing the work ethic back in, and we are going to give tax breaks to families, all under the 7-year balanced budget Reconciliation Act.

□ 1130

SUPPORT THE COALITION BUDGET

(Mr. PAYNE of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of Virginia. Mr. Speaker, if you could vote for a bill that would balance the budget in 7 years, cut the deficit faster and deeper than any plan now on the table, and achieve real budget process reforms, would you?

That's the choice every Member of this House will face tomorrow when the House votes on the Budget Reconciliation Act. We can vote for the bill that was written by the Republican leadership, or we can vote for a better plan, the substitute bill that was developed by the conservative Democratic Coalition.

It is the coalition's budget that spends less of our constituents' hard-earned money over 7 years.

It is the coalition's budget that contains real budget process reforms like a line item veto that applies right now and a deficit reduction lockbox that can't be picked.

And it is the coalition's budget says its wrong to borrow money from our kids to pay for big tax cuts right now.

But that's not all, Mr. Speaker.

Because the coalition rejects tax cuts and doesn't back-load its spending cuts as the Republican plan does, we are able to provide $100 billion more for Medicare and $100 billion more for Medicaid than their plan. And we don't slash spending for student loans and agriculture.

The conservative Democratic Coalition's budget is tough and it is fair. It's a better deal for your constituents and mine. I urge my colleagues to vote for it.

SUPPORT TAX CUTS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, last week in my home State of Texas the President admitted what Republicans and the American people already knew—he raised taxes too much.

Two short years ago Mr. Clinton and the Democrats raised America's taxes by $258 billion, the largest tax increase in American history.

Republicans now want to return that money back to hard-working Americans by providing tax cuts for families, for seniors, and for America's job creating businesses. It is time to put the people back in charge of their wallets. Let's get government out of our pockets.

It's nice to see the President admit his own mistake. Fortunately it's not too late for him to right his wrong, he can let all Americans keep more of what they earn. Support tax cuts and sign the budget. It's good for America.

REPUBLICAN BUDGET CUTS SCORN RURAL AMERICA

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, this week we will vote on proposed budget cuts that ignore the past, disregard the present, and worse: Scorns the future, especially for rural America.

Scorn is a harsh word to use in describing the impact of Republican budget cuts on our children, but consider what these cuts will do to rural children in North Carolina.

Almost a quarter of a million needy children in North Carolina, and 4½ million nationwide will be dropped from Medicaid.

More than 60,000 North Carolina young people will be denied a summer job, 4,000 will lose Head Start, and all 129 school districts will lose money for Safe and Drug Free Schools, affecting three-quarters of a million rural children.

Nutrition assistance for North Carolina children is cut by more than 20 percent, $500 million, affecting 320,000 children.

When combined with housing cuts affecting thousands of North Carolina children, the elimination of heating assistance from 200,000 children, and the denial of child care help for 20,000 children—scorn may not be a harsh enough word—cruel and inhuman might be more appropriate choices.

HELP THE POOR BY CUTTING TAXES

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, as we debate tax cuts this week, I think we should look to the example of President Reagan.

In 1981, President Reagan cut taxes, setting off the longest peacetime expansion in American history. What happened during the ensuing decade?

More than 19 million high paying jobs were created.

Real median family income increased 13 percent.

The number of Americans trapped in poverty dropped by 4 million.

The rich carried a greater percentage of the tax burden.

Now listen carefully. Of those in the bottom fifth income bracket in 1979, 65 percent jumped at least two income brackets during the 1980's. And more made it to the top income bracket than stayed in the bottom.

My colleagues on the other side of the aisle: Do you want to help the poor? Well then, cut taxes.

FOCUS SHOULD BE ON THE CHILDREN

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, Hubert Humphrey once said that "the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped."

I would like to focus on the children. In the United States today, a child is born into poverty every 30 seconds.

Yet my Republican colleagues are systematically throwing millions of lower middle class families with children into poverty.

By cutting Medicaid, school lunch programs, student loans, low income heating assistance, the earned income tax credit, Federal housing assistance, aid for families with dependent children, and education they are cutting short the hopes of the children of this country.

These cuts will push millions of children into the shadows of life, and into lives of uncertainty, insecurity, and poverty.

In the United States, every 30 seconds a baby is born into poverty. Are we now shooting for every 15 seconds?

At some point, Mr. Speaker, my colleagues on the other side of the aisle must ask themselves if giving a tax break to the wealthiest Americans is worth the cost of our children.

PASSING THE RECONCILIATION BILL IS THE BEST THING CONGRESS CAN DO FOR THE AMERICAN ECONOMY AND THE POOR

(Mrs. WALDHOLTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WALDHOLTZ. Mr. Speaker, we have heard a lot from the other side of the aisle about why we should not balance the budget, we should not reduce Federal regulations, and why we should not cut taxes. Let me recommend to my doubting colleagues that they get hold of the recent DRI-McGraw-Hill report on the economic impact of the reconciliation bill we will soon be considering. According to that study, the reconciliation bill will "bring down interest rates for fixed rate mortgages by 2.7

percentage points, and those for adjustable mortgages by 1.7 percentage points by the year 2000."

The result, said DRI, would be an 8-percent boost in home values, and an increase in household net worth for Americans of over $1 trillion, $1 trillion.

Mr. Speaker, passing this reconciliation bill is the best thing we can do for the people of our country, the middle class and the poor. No Government spending program could ever come close to achieving what balancing the budget will do, if we just have the courage to do it.

Mr. Speaker, I hope the President will put aside politics for a while and join us to balance this budget.

URGING MEMBERS TO COSPONSOR BILL TO CREATE A NATIONAL COMMISSION TO STUDY GAMBLING

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I want to let the Members know that we now have 92 cosponsors on our bill to create a national commission to study the impact of gambling in the United States. Twenty years ago only two States had gambling. Now almost every State but Hawaii and Utah has gambling.

This is a bipartisan bill. We have the majority whip and the minority whip. It is time we pass it, whereby we can have a study to see, is there a problem of corruption? We know corruption does follow. Is there a problem of crime? Is there a problem of organized crime? Is there a problem of teenage addiction? Let us find out. Let us have a national commission to examine it.

The bill is being cosponsored in the Senate by Senator SIMON from Illinois, and Senator LUGAR from Indiana. We hope to pass it in the House this year and pass it in the Senate this year. I urge all my colleagues who are not cosponsors, please call my office today to cosponsor the bill, H.R. 497, National Commission to Study the Impact of Gambling.

THE REPUBLICAN BUDGET: THE BIGGEST GAMBLE OF THE DECADE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, the House, with its budget, is set for the biggest gamble of the decade. The gamble is to reduce the deficit. I do not think it will do that. More important, it is going to increase the human deficit, the human suffering in this country. It reneges on the basic commitments we have had to decency and to families.

In fact, speaking of unfairness, last week's Wall Street Journal pointed out that the Republican tax breaks increases taxes for those under $30,000 income, because it eliminates part of the earned income tax credit; because the child tax credit you have been hearing about does not help low-income people.

In fact, of course, it cuts programs like education, Medicaid, school lunches. The Medicaid program is completely decimated by this Republican budget measure. We are going to see the reopening of the institutions for the disabled in our States. There is going to be inadequate funds to meet basic health needs.

The Governors in this country, good Governors they may be, are not capable of the miracle of loaves and fishes. They cannot make something out of nothing. That is what they are being handed by the GOP proposed programs. A block grant. This has all the grace of cement blocks being dropped on our States. These block grants are going to deliver stones back home in place of help. This Republican plan will especially hurt children—16 million kids receive Medicaid; they need their health care, education, and nutrition programs.

Mr. Speaker, reject this, reject the tax breaks for the affluent. Let us keep our commitments to our American families and to the kids, our hope for tomorrow. Let's not gamble away the children's milk, health, and school money.

ACCURATE PERSONAL REMARKS TAKEN OUT OF CONTEXT BY THE DEMOCRATIC MINORITY

(Mr. HEINEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEINEMAN. Mr. Speaker, the depth of the Democratic agenda is no deeper than a bumper sticker. Their whole agenda in this 104th Congress has been out of context remarks, lies, and distortions. That is the depth of their initiatives.

The minority leader, in his failure to keep his party together, is now desperately clutching for straws. The remarks of myself, FRED HEINEMAN, in an informal discussion with his hometown paper as to what and who are rich, were completely taken out of context. Now they have been incorporated into the Democratic platform to defeat the Republican initiatives to save this country.

My remarks were directed to my situation and my situation alone. Each person can better judge where he or she stands as it relates to the variables of their economic status. Mine were accurate for me and others like me.

BULK SALES OF BUDGET RECONCILIATION PACKAGE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, we've heard a lot lately about possible bulk sales of NEWT GINGRICH's book.

Yes, reports say GINGRICH is doing exactly what he accused a former Speaker of. But, guess what? His $2 million book is not the only thing NEWT GINGRICH is trying to sell in bulk. Here's the new book—the GOP's 1,500 page, budget-busting reconciliation package. In it, NEWT GINGRICH is going to try to sell—in bulk—some gems of fiction that you just won't believe.

He'll try to sell you on the idea that we should give a tax cut to the wealthy few while we cancel tax credits for the working poor. And he wants you to buy into the fiction that students don't ever need a college loan.

NEWT GINGRICH called his first book: "To Renew America."

He should call this one: "How to Undo America," undoing decades of what is good and decent and fair. This book might not be a best-seller, but it certainly is a good example of how to sell-out.

REQUEST FOR IMMEDIATE CONSIDERATION OF S. 1060, LOBBYING DISCLOSURE ACT OF 1995

Mr. SKAGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1060) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, which has passed the Senate, and proceed to its immediate consideration.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The Chair does not recognize the gentleman for that purpose at this time.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. I have a parliamentary inquiry, Mr. Speaker. I have here the Republican whip notice saying here that the first item of business this morning will be the legislative branch appropriations, and the very gift ban and lobby reform the gentleman refers to.

Is it true that after the vote of the Democratic Caucus calling for immediate gift ban reform this morning, that that has been pulled from the agenda and we will not have a chance to have a gift ban reform and lobby reform considered today?

The SPEAKER pro tempore. The Chair cannot comment on that particular inquiry. The Chair will recognize the gentlewoman from Utah [Mrs. WALDHOLTZ], for the purpose of calling a privileged rule.

□ 1145

CONFERENCE REPORT ON H.R. 2002, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 241 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 241

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DOGGETT. Mr. Speaker, under this particular resolution, is the legislative branch appropriation affected by this particular rule, or is it exclusively the Transportation branch?

The SPEAKER pro tempore. This rule will make in order the Department of Transportation Appropriation conference report.

Mr. DOGGETT. Mr. Speaker, since the gentlewoman from Utah [Mrs. WALDHOLTZ] has herself circulated a letter on this gift ban issue, does this resolution and rule permit the offering of gift ban or lobby reform legislation, as the Republican whip notice said we would have an opportunity to consider this morning?

The SPEAKER pro tempore. This rule does not relate to that subject.

Mr. DOGGETT. I thank the Speaker.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized.

Mrs. WALDHOLTZ. Mr. Speaker, House Resolution 241 provides for the consideration of the conference report for H.R. 2002, the fiscal year 1996 transportation appropriations bill. The rule waives all points of order against the conference report. The waiver covers provisions relating to legislation and unauthorized items on a general appropriations bill and, further, protects certain provisions which exceed the scope of differences between the House and the Senate.

Waivers under the rule are in accordance with previous tradition on appropriations conference reports, and in fact, the rule was reported out of committee on a voice vote with no controversy or opposition.

H.R. 2002 provides critical funding for improving and investing in our Nation's infrastructure and transportation needs. For example, the bill increases funding for the Federal Aviation Administration in order to improve aviation safety. It provides $1.45 billion for the airport improvement program, which is the same level of spending as last year, and provides $19.9 billion for total highway program spending.

At the same time, Mr. Speaker, the bill recognizes the need to restructure and downsize the Federal Government. This bill includes provisions to terminate the Interstate Commerce Commission, reduce transit operating assistance funds, and cut administrative expenses of the Department of Transportation, including a requirement to consolidate the Department's extensive field offices, for a savings of $25 million.

Mr. Speaker, importantly, this bill also changes how we make our funding decisions in this Congress. This bill totally eliminates funding for highway demonstration projects, which previously were a way to funnel more money to favored lawmakers' districts, and instead uses these funds for the benefit of the entire Nation.

Under this bill, we spend next year virtually all of the highway trust funds collected instead of stockpiling those funds to mask the true size of the national debt.

Mr. Speaker, this bill reflects fiscal responsibility, and at the same time provides sufficient funding for our transportation and infrastructure needs.

Mr. Speaker, I urge my colleagues to adopt the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentlelady from Utah [Mrs. WALDHOLTZ] for yielding me the customary one-half hour of debate time, and I yield myself such time as I may consume.

Mr. Speaker, we do not oppose this rule. It is a traditional rule for a conference report on an appropriations bill, waiving all points of order against the conference report and against its consideration.

However, we would like to point out to the membership our concerns about the legislation that the rule makes in order, which provides appropriations for transportation programs for fiscal 1996.

Our primary concern is that this bill shortchanges, we believe, many valuable services that the American people have come to depend upon for the safety and reliability of our Nation's transportation systems. For example, the legislation cuts AMTRAK rail passenger service by $158 million; it cuts the Coast Guard by $281 million; it cuts the Federal Transit Administration by $563 million; and it cuts the Federal Aviation Administration by $178 million.

Mr. Speaker, I would also like to note that the House Democratic conferees took unaminous exception to one provision in the conference report, amendment number 174, which allows the Federal Aviation Administration Administrator to waive current law pertaining to labor management and employee relations. The reasons for our Members' objections to this particular provision will be one of the issues discussed during the course of debate on this legislation.

Mr. Speaker, to repeat: we have no objections to this rule, and we urge its passage so that the House can proceed to consideration of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I have no further requests for additional time at this point, and so I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding time to me. I basically take the floor to talk about the FAA, because this is a rule bringing up the transportation appropriations in which the FAA is getting more money.

Let me say that I am here today pleading with the FAA to please, please come clean with the Denver media and the people who live in Denver. Let me tell you why.

Mr. Speaker, many of you know we had a huge snowstorm. We have a brandnew airport. I think people have read a lot about that new airport, and they read a lot of negative things about what happened in the control tower at that airport during the snowstorm. The roof started leaking like mad. They had water coming down over all of the instruments. They were putting plastic over all of the instruments. The problem has been that the FAA will not let even one camera in there to see it.

Yesterday another tile fell on one of the air traffic controllers' heads. Luckily, she was not hurt, but they made her sign all sorts of statements and all sorts of everything else. They have also had to remove two air traffic controllers, take them out of service because apparently the leaks are so bad that there is no place to sit in those positions.

Now, here is the problem: Denver is getting dinged for all of this. Everybody is going to laugh at Denver, laugh at Colorado. Denver did not build that tower. That tower was totally under the control of the Federal Aviation Authority. They oversaw it, and they built it. They selected a contractor who has had, I guess, some problems in the past with roofs. That has been the rumor; but whatever, they ought to be big enough to come out and talk about the problems.

No one expects a brandnew facility like this to kind of open up and leak like it did when this kind of a storm comes through, then to be in this state of denial where they are denying access so cameras cannot even come in and to refuse to come out and really talk to people about what you are going to do to get this up and going is very troubling.

There were some other problems with the ground radar. I understand, and I was very pleased, that the FAA was out there, they went out, they looked at it, they decertified it, but then they recertified it and turned it back on. Many of the people we have talked to out there have said that they just turned it off, they turned it on, it did not solve the problem. It is not seen in that corner of the airport where it was seen at the time the almost-accident occurred.

So we do not want the FAA trying to paint over that either and put a happy face on it.

Mr. Speaker, the FAA has had a model record in the world for air traffic safety, and I absolutely cannot figure out why we are kind of getting the brushoff and why they are not dealing straight with the Denver media. If they want to keep this reputation, they have to come clean. This is not a fungus. It can thrive in sunshine, but if they do not let it in the sunshine, people will wonder what kind of a fungus the FAA is growing.

The taxpayers and everyone else made a huge investment. This investment was to add to the capacity. This airport would have been totally closed down in this storm had it been the old airport. This is to be an all-weather airport. When you have the air traffic control tower built so poorly that you are going to have water coming in and people are having to read the instruments under plastic because the water might short something out, and now you cannot even have as many people up there and you cannot even let the cameras in to see it because no one wants to admit it happened on their watch. That is why people are cynical about government.

So I plead with the FAA, I plead with them, to go and come clean. Let the media see what happened, tell us how you are going to fix that. Do not put it on my city. They did not do that. You oversaw it. Take the responsibility. Stand up, stand for something, because I think the citizens of Colorado are getting to be a little impatient with all of this, everybody pointing at everyone else and then locking the doors so nobody can really get in and see.

If the contractor made a mistake, go get the contractor. Tell us how you are going to fix it. Make sure that airport does what the taxpayers paid for: Become the best all-weather and the safest all-weather airport in the world.

I am a pilot. I understand how important that is. We were so proud of how it worked on the opening day when we had a terrible, terrible snowstorm and everything went like this. The ceiling did not collapse or leak at that point and the ground radar was working properly, I guess, at that point.

Mr. Speaker, we want it to work. This is like getting a new car and it falls down as you drive it out of the showroom. Get it fixed, FAA, because we are getting impatient.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, what is happening here this morning is truly amazing. By this rule, we set the order of debate here in this House, and last night we were given an indication of what the order of debate would be, and again, as recently as a few hours ago this morning we were given an indication of what the order of debate would be in the official Republican whip notice. That order was to consider the legislative branch appropriations bill. With that in mind, the Democratic Caucus met this morning and overwhelmingly voted to support the gift ban legislation, the gift ban rule to be more specific, that the Senate has approved on a bipartisan basis 98 to 0.

However, for some reason, bipartisanship in this building stops in the middle of the Capitol rotunda, because instead of dealing with the issue of gifts this morning, we are dealing with another piece of legislation all along. What has happened is, a giant pulled stamp should be put on the legislative appropriations bill. Right after the Democratic Caucus votes for reform, and tries to change business as usual here, deal with this issue of gifts, what happens? The measure is pulled.

Mr. Speaker, I maintain that it is appropriate for this body to focus on reforming itself before, not after, it deals with all of these substantive issues. It is particularly ironic, given the fact that the gentlewoman from Utah [Mrs. WALDHOLTZ] has circulated a letter to all of her colleagues in favor of gift ban reform, and yet we have had opportunity after opportunity after opportunity to vote on it, not just to talk about it, not just to issue a press release about it, not just to posture about it, but to vote about it and do something about these gifts, and the Republican majority has continually voted the other way, voted against reform from the first day of this session when a gift ban item came up. Through June, twice, through July, and in October of this year, the last time the legislative branch appropriations were up, the same thing happened, and now today, when we have an opportunity to look in this box and see what gifts people can still be given, the snow is about to fall, I understand, in Colorado, where the gentlewoman from Colorado just spoke.

You need a trip to the ski slopes? It is still permitted. You need a little chateaubriand and Cabernet Sauvignon? It is still permitted. Do you need tickets to the World Series or the Super Bowl? It is still permitted to be a gift to Members of this body. The only thing that is preventing that problem being dealt with here as our colleagues, Republican and Democrat alike have dealt with it in the U.S. Senate, is the obstructionism and the objection of Speaker GINGRICH and the Republican leadership.

Indeed, the first vote that we took on this issue when every single Republican voted against gift reform was on the first day of this session, where people stood at this very spot and said, let us change business as usual, let us clean up the relationship between legislators and lobbyists, and the response of Speaker GINGRICH to that initiative was that "it was an astonishingly narrow and self-destructive act."

□ 1200

What a comment by those who claim to be revolutionaries, who say they really want to change the way business operates in this House. It is time to address the issue of gifts, and no amount of press releases and no amount of speeches can make up for the continual delay. At every opportunity immediately after action is called for and a united Democratic Caucus gets behind this issue, the Members of the Republican Party jerk it from the agenda.

The American people are not going to stand for continual delay, for continued obstructionism, for continued objection to really changing the way this business of the Congress operates. They want an open House. They want the kind of revolution they were promised but have not gotten from our Republican colleagues.

This is a bill about transportation. It deals with railroads. It deals with highways. It deals with airplanes. Whether you fly, you ride the rails, or you take a trip somewhere, this can still occur today under the rules that do not apply in this House.

Last year the Democratic Congress, before I ever got here, passed a rule to deal with that, passed it twice, and it was killed by Republicans in the Senate.

This year we have asked for action on it again. All we get is it pulled from the agenda so that the legitimate desires of the American people to deal with the issue of real reform in this body, changing business as usual, have been thwarted. If the American people make their voice known that they want real change, not just phony change, we are going to get that change.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

I am glad to have an opportunity to talk about what is really happening on gift ban legislation in this Congress. I am very encouraged, Mr. Speaker, that we are going to have an opportunity to give this issue the full hearing and vote on the floor that it deserves.

The gentleman who just spoke objected to the fact that one item was pulled from the legislative agenda today. However, Mr. Speaker, I think it is very important to note that last night pursuant to a request from the minority there was a unanimous-consent agreement entered into to add 3 hours of general debate on the budget reconciliation package. The minority asked for that time; the majority decided to accede to their request, a unanimous-consent agreement was entered into.

As a result, another item was pulled from the schedule to allow that 3 hours of debate to be added to our agenda for today.

But in particular, Mr. Speaker, on the gift ban legislation, last week those of us who have been working on this legislation from the beginning of this Congress received a commitment from our leadership, from the gentleman from Texas [Mr. ARMEY], the majority leader, that by the end of this week he would make an announcement as to when we would take up the gift ban legislation. Mr. Speaker, I am proud to report that yesterday, Mr. ARMEY, in a discussion personally with me, reaffirmed his commitment that by the end of Friday of this week, he will make an announcement as to when we will take up a vote on the gift ban legislation.

Mr. Speaker, I think it is very important that we allow this legislation to go through the hearing process before this measure comes to the floor for a vote. I am not so vain, Mr. Speaker, as to believe that the bill is perfect in the way that I introduced it, because the gentleman said that I have circulated a letter on gift ban. I have done more than that, Mr. Speaker. I am the sponsor of the gift ban legislation that I hope will come, that I believe will be the vehicle that we will discuss when the gentleman from Texas [Mr. ARMEY], the majority leader, makes his announcement.

But I am not so vain, Mr. Speaker, as to believe that that bill cannot be improved through the hearing process. It has not gone through the hearing process yet. That will be a part of the announcement that will come later this week.

Mr. Speaker, I am glad that the minority party this morning voted in conference to support the gift ban bill. Frankly, Mr. Speaker, we have had some difficulty in getting some cosponsors from the other side of the aisle. The gentleman from California, Mr. BEILENSON, my colleague on the Committee on Rules, was one of the very first to join me in sponsoring that gift ban legislation. I appreciate that.

I would say, Mr. Speaker, to my colleagues on the other side of the aisle that we welcome their support and invite them, including the gentleman who previously spoke, who is not yet a cosponsor of that legislation, to join us in cosponsoring that legislation, so that, when we move it to the floor, we can have true bipartisan support of this important legislation.

Mr. Speaker, I yield to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I wanted to be sure that I am clear about what the gentlewoman has said. As I understand, her position is we do not take up gift ban this morning because we will have an announcement of a time at some future time, sometime this year, next year, when the majority leader will tell us that we can take up gift ban.

Mrs. WALDHOLTZ. Mr. Speaker, reclaiming my time, we are not taking up gift ban this morning because it is not germane to the Transportation appropriations bill.

Mr. DOGGETT. Mr. Speaker, if the gentlewoman will continue to yield, and with reference to the scheduling, she is not suggesting, I am sure she was here when I queried the gentleman from New York [Mr. SOLOMON], about this at the conclusion of business last night. She is not suggesting that the additional 3 hours of debate which was scheduled for tonight until the legislative branch appropriations was pulled, that that has anything to do with this gift ban, is she?

Mrs. WALDHOLTZ. Mr. Speaker, I was not here when the gentleman discussed this with the gentleman from New York [Mr. SOLOMON] last night. But I do know that the majority leader felt that it was important to allow the 3 hours of general debate that colleagues on his side of the aisle requested. And so this measure was pulled in an attempt to provide the gentleman with the time that his side has requested.

Reclaiming my time, Mr. Speaker, I think it is important that we move on. This is not germane to the discussion of the rule that we are discussing.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Mrs. WALDHOLTZ. I yield to the gentlewoman from Colarado.

Mrs. SCHROEDER. Mr. Speaker, I just was wanting to make clear, the gentlewoman said that there is going to be hearings on the gift ban legislation before it comes to the floor.

Mrs. WALDHOLTZ. Mr. Speaker, what I said was that the majority leader will be announcing by the end of the this week, as he announced last week, a time at which we will take up gift ban legislation. As the sponsor of the measure, it certainly is my intent and I have expressed that to my leadership and believe that they will follow through with that to provide for a hearing to see if this is a measure that cannot be improved in some way.

Mrs. SCHROEDER. Mr. Speaker, if the gentlewoman will continue to yield, one of the concerns I have had, and I just am sharing this for information, is that once we introduce and pass a bill here that is different from the one adopted in the Senate, it never becomes law.

We have seen that one of the reasons we have never gotten this passed is this body has passed it before, and it goes to the other body, and it dies, or they pass a different one or they never get together.

What I was hoping is that we could accept what the other body has done and then start with that as a new higher level of morality on this issue to then begin a new, a higher debate. Otherwise, I fear, if we go to hearings, I mean we did not even have hearings on Medicare or Medicaid.

Mrs. WALDHOLTZ. Reclaiming my time, Mr. Speaker, I am glad to be able to report to the gentlewoman that whatever we do this gift ban does not need to go back to the Senate because the gift ban is a rule of the House and will not need to be acted on by the other body. So we have complete latitude within the House to do what we feel is appropriate without having to consult with the other body.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I would like to once again, as my good friend from Utah has, remind our colleagues that we are debating the rule on the transportation appropriations legislation. I think that that is something that we should recognize.

I was just a few minutes ago walking out in the Speaker's hallway and was headed back up to the Committee on Rules where we are at this point considering the rule for the reconciliation bill which will begin, as was said earlier, debate this evening and go through tomorrow.

I heard the statement of my very good friend from Texas somehow implying, or I inferred from this, that we had not proceeded with the kinds of reforms that he believed were necessary. I have got to say that, having authored the opening day reforms, having worked with, and I see my friend, the gentleman from Wisconsin [Mr. OBEY], during 1993 on the Joint Committee on the Organization of Congress that was established. And he worked on the issue of congressional reform before; we spent hours and hours and hours.

We had 37 hearings in 1993; 243 witnesses came before us in 1993. The former majority leadership, as everyone knows, did absolutely nothing with the report that came forward. It was not until we won this new majority, and frankly many Democrats on a regular basis remind me of this, it was not until we won the new majority that we were able to implement the greatest reforms that this institution has seen in a half century.

We all know what those reforms have been. They have been for the most part received extraordinarily well: changing the committee structure, eliminating proxy voting, insisting on congressional compliance with laws imposed on other Americans.

To claim that nothing has been done in the area of reform, as many have, unfortunately, is absolutely preposterous.

My friend from Utah is the sponsor, as she has just said, of legislation dealing with the gift ban issue. As we look at overhauling the entire makeup of the Federal Government, this clearly is a priority and something that we are going to be considering. But I believe that it is crazy to in any way imply that this historic 104th Congress has not brought about major reforms. I hope very much that the American people and our colleagues will recognize that.

With that, I urge strong support of this rule that is being carried by my friend.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, with all due respect to my colleague from California, while he may have made some changes that Democrats recommended in the last Congress, when it came to separating the lobby and the legislators, he has done absolutely nothing. The only lobby this group cares about are the Girl Scouts and Catholic charities. They are all worked up about them lobbying. But when it comes to polluters, when it comes to loophole lawyers, they have done nothing but to fill this box to overflowing with gifts for Members of this House.

The comments of the gentlewoman from Utah are absolutely amazing. I stood on this floor last night and asked the gentleman from New York [Mr. SOLOMON] myself about the schedule for today. There was no suggestion that there would not be time today to take up the issue of gifts. Quite the contrary, he indicated we would be debating on into the evening with reference to this issue.

The suggestion that we need to have a hearing is an unusual one because the lobby reform bill, if the gentlewoman will go up to the Speaker's dais, she will find it sitting there. It has been sitting there since it passed the Senate, not even a referral from the Speaker of the lobby reform bill.

With reference to the gift ban itself, it is true that there was a secret closed-door meeting in front of the Ethics Committee concerning the possibility of a gift ban. They have had weeks and months to act on it, just as this body has had an opportunity to act. The suggestion that we ought to delay again today in order to wait not for action but for another promise from the majority leader that maybe some day, some year, some week, some month we will get around to doing something about this problem of gifts and lobby reform is the only thing crazy that I have heard, with all due respect to the gentleman from California who used that phrase.

I suggest that, when the House has had an opportunity to vote on this measure and has been continually thwarted, it is time to give us an opportunity to take up the issue again today. There is no reason, this body will finish its business by mid-afternoon under this new schedule. There is absolutely no way that this Congress cannot reform itself today, if we were permitted to do so.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

I would simply remind the body that we are trying to move forward on a rule for the transportation appropriations budget. I think it is important that we move forward so that we can reach the other items on our agenda today, not only this bill. We have important discussions to enter into regarding the budget reconciliation bill, which is probably the most important bill that this Congress will take up this year.

So I would simply say to my colleague that I do not think it is asking too much of our majority leader to be able to wait until Friday of this week to make an announcement as to when we will take up the gift ban measure and discuss other congressional reform measures beyond that which we have discussed here today so that we have an opportunity to finish the budget reconciliation bill, which we must move forward on today and tomorrow. Then the very next day we can expect an announcement as to when we are going to move this important gift ban legislation and other congressional reforms forward.

Mr. Speaker, I would simply encourage my colleagues on the other side of the aisle who feel so strongly about this issue to join me in sponsoring this legislation, as some of them have not yet done.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I would say to my friend from Utah that we appreciate her patience. If she will give us about 5 minutes more, we will be done.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I just want to follow up on some of the comments that were made by my colleague from Texas because I think he has made some important points.

I have been involved, as the gentlewoman from Utah knows, in the bipartisan effort to reform this institution. I do so because I fervently believe that institutional reform is not a Democratic issue. It should not be a Democratic issue. It should not be a Republican issue. It should be an issue that brings the parties together because it is an issue that strikes at the integrity of this institution.

I have to acknowledge, Mr. Speaker, that I have been frustrated over the last 8 or 9 months because it reminds me about Lucy holding that football for Charlie Brown. Each time we get close to being able to debate these issues and bring them to the floor, the football is taken away. Another reason is given to us as to why we cannot debate gift reform and lobbying reform. I think it is important that we keep those two issues together.

□ 1215

I certainly will be encouraged if we do have a date certain for gift ban reform to be brought to this floor. I think it is important that we do so, but we cannot forget that equally important issue of lobbying reform. I find it somewhat perplexing and ironic that now the leadership wants to divide these two issues, bring the gift ban reform to the floor, but not bring the lobbying reform to the floor. Now why is this? Why do we not want to move them together? Both bills or both measures have gone through the Senate. They are both in excellent shape. We should have the opportunity to debate these and move them forward.

I think that this legislative appropriations vehicle is a very good vehicle, and for my friends on the other side of the aisle who have not been through this exercise before, I can assure them that there are people, mostly people who have been around here many, many years longer than we have, who want to love these issues to death. That is what they want to do, they want to love these issues to death. They do not want these issues brought to the floor, and they are going to find as many ways as they can to kill it.

That reminds me a little bit of the Paul Simon song "Fifty Ways To Leave Your Lover." They are going to find 50 ways to make sure these measures do not go into effect to affect this institution.

So, I think the people truly interested in reforming this institution, I think there are people on both sides, have to step up and say, "Enough is enough is enough. It is time that the gift ban legislation comes to the floor, and it is definitely time that the lobbying legislation comes to the floor as well."

It is unfortunate that the legislative appropriations bill was pulled. I am hopeful, perhaps naively so, but I am hopeful that we will have enough push from people from both sides of the aisle that, when these measures come up again in the next day or two, that the leadership will finally acknowledge the reality that there is support from a majority of people in this institution to vote on it, and I truly hope that we do get a chance to vote on it.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BARRETT of Wisconsin. I yield to the gentleman from Texas.

Mr. DOGGETT. Is the gentleman aware that Speaker GINGRICH has kept since July 26 the lobby reform bill that the gentlewoman wants an announcement for us to wait on? It has been sitting there since July 26 and has not even been referred to a committee for any hearing or any appropriate action.

Mr. BARRETT of Wisconsin. I was not aware of that until yesterday, and again I think it is something that should move forward.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding this time to me. I just wanted to clarify a point.

I came over to the floor hearing a rather lively, but nongermane, discussion about a gift ban in the context of the, as I understand it, transportation appropriations conference report, and I want to clarify a point that the gentlewoman made earlier. The gentleman from Texas [Mr. DOGGETT] is one of the more eloquent and dynamic speakers in the House, is thundering along with righteous indignation about the fact that the House has not taken up a gift-ban related legislation to date. She made the point that she is the primary sponsor and author of a gift ban for House Members, and I want to clarify again that the gentleman from Texas is not a cosponsor of the gentlewoman's legislation.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield on that point?

Mr. RIGGS. Actually, Mr. Speaker, I am asking the gentlewoman to clarify that point.

Mr. Speaker, I yield to the gentlewoman from Utah [Mrs. WALDHOLTZ].

Mrs. WALDHOLTZ. That is correct.

Mr. RIGGS. Mr. Speaker, I yield to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. The gentleman is aware that I was the third person in this House to call for a discharge petition on the gift ban last spring, long before the gentlewoman from Utah [Mrs. WALDHOLTZ] bothered to even initiate any action, but if it is such a good idea, why do we not pass her bill today?

Mr. RIGGS. Reclaiming my time, I would ask the gentleman, if he feels that strongly, to the point where he has signed a discharge petition, why he is unwilling or unable to cosponsor the gentlewoman's bill.

Mr. DOGGETT. I am not only willing to cosponsor it, I am willing to vote for it today, and that is what I am asking for, a vote on her particular proposal, but what she wants is to delay it——

Mr. RIGGS. Reclaiming my time, then the gentleman would have no objection then if we were to prepare a form now and add his name as a cosponsor of the gentlewoman's bill. We will just drop it right down here at the slot where it is appropriate to add cosponsors of congressional legislation at any time. If the gentleman would like to write that out, I would be happy to drop it in the slot.

Mr. DOGGETT. I would ask unanimous consent to do it and further ask unanimous consent to take it up and consider it at this time so we can go on and vote it out of here right now if it is such a great idea.

Mr. RIGGS. Reclaiming my time, unanimous consent is certainly not necessary for the gentleman to become a cosponsor. All that is necessary for the gentleman to become a cosponsor is for him to simply write something out to that effect, and I would be happy to provide it in the slot down there——

Mr. DOGGETT. Mr. Speaker, I ask unanimous consent to add my name as a cosponsor to the legislation of the gentlewoman from Utah [Mrs. WALDHOLTZ].

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). In the opinion of the Chair the chief sponsor of the bill is responsible for that.

Mr. DOGGETT. Mr. Speaker, I am asking unanimous consent.

Mrs. WALDHOLTZ. Mr. Speaker, I believe unanimous consent is not necessary. We welcome the gentleman in support of our legislation.

Mr. DOGGETT. She could do it right now by unanimous-consent request.

The SPEAKER pro tempore. It is only the responsibility of the chief sponsor to add names.

REQUEST FOR IMMEDIATE CONSIDERATION OF LOBBY REFORM LEGISLATION

Mr. DOGGETT. Then, Mr. Speaker, I ask unanimous consent to take up and consider that bill at this time.

The SPEAKER pro tempore. The Chair has already denied that recognition earlier.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, the reason that we are forced to discuss this matter on a nongermane bill is because we are not allowed to discuss this matter when it is germane. The Republicans, I believe three or four times now, have opened up the rules of this House to make minor changes to the rules and the runnings of this House, and yet they have refused even at that time to take up the gift ban. All that is necessary for the gift ban in this House is for the Speaker just to say "no" to the lobbyists and just to say "yes" to letting the bill come up. It affects only the rules of the House, as the gentlewoman has pointed out, and it can be done in a matter of moments, and we can be done with it, and we can then go to the public and show them what we have severed, that relationship with lobbyists and with others who seek on a daily basis to shower the Members of this House with gifts hoping to seek an audience, time, effort, or whatever on behalf of their interests. Many of us have done this in our own offices, but it ought to be the policy of this House, and what is standing in the way is the Speaker and the majority leader who want to keep telling us about the procedure that they want to consider as opposed to the changes in the laws, and therefore, we have to raise this issue on the legislative appropriations bill, or now in the transportation bill, because we cannot get an audience, and we cannot get a hearing, and when we raise it where it might be vulnerable, we see the bill is taken from the schedule because there may be a vote in support of this position, and now we see that when it looks like gift ban is coming to a head, they want to sever it from the lobbying bill. The lobbying bill has been sitting at the desk. We know that another bill can be sent, it can be sent to conference, and our colleagues can finesse this, and the public will never get lobbying reform that they are clamoring for and that they are demanding from this institution.

Mr. Speaker, we cannot go through a legislative dance. Our leadership went through this legislative dance 2 years ago, and we ended up with no results. Our colleagues can go this legislative dance again, and those of us who are interested in lobby reform, gift reform, and election law reform, and even campaign finance reform, we can sit here and watch the dance, and nothing will happen, and the public will be deprived. We are entitled, as Members of this House, to better than that, and the public is entitled to better than that. What they are entitled to is the consideration of this legislation.

I appreciate proxy reform, but it does no good if we do not allow proxy voting and the Members who are sitting in the committee are there burping from the dinners that they have had with lobbyists and others as they vote on legislation that is before the committee. It is more important that we take care of the severing of those relationships, that we reform the lobbying practices around here and we get on with campaign finance reform. That is what we ought to do, that is what the public wants us to do, that is what they thought our colleagues were going to do when they voted for them in the last election, but that is not what has happened, and it has not happened because Speaker GINGRICH, majority leader ARMEY, they continue to thwart the path of this legislation and consideration of it to the floor of the House.

We ought to be able to deal with that and deal with it now, and the continued delay, when we have the rules up, it is not the right time; when we have the bill up, it is not the right time; when we have the conference report up, it is not the right time, it is not germane. That is the dance of legislation that has kept us away from these kinds of reforms for the last 20 years.

Mrs. WALDHOLTZ. Mr. Speaker, I would simply point out that the last 20 years have been controlled by the gentleman's party. In the first 8 months we have accomplished extraordinary change in this Congress. We are going to enact a bill this week that will balance the budget over the next 7 years, and then the very next day our majority leader is going to announce when we will take up this legislation.

I think we are making progress, Mr. Speaker. I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], our colleague.

Mr. WALKER. Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding this time to me.

This has been such a fascinating discussion, and, as my colleagues know, it would be laughable if some of these people on the other side actually were not taking it seriously.

I mean here is a party that literally controlled the House for 40 years and never did any of these things, and now they are all upset because they have to wait a day or two. I mean it is a joke. These folks, as my colleagues know, for years made certain that none of this kind of thing ever got to the floor.

Mr. Speaker, there has been more reform in the first 9 months of this Congress than we saw in the entire 20 years that I have served here, and the gentleman from California [Mr. MILLER] who just spoke, he was here before I got here.

So the fact is that we are seeing a number of reforms, and they are just not coming as fast as some of the other people on the other side would like them to come because they are now in a position, not having much to do, they do not have much in the way of policy that they are pursuing, they are losing issue after issue, and so they have now decided that everything they thought was wrong during the 40 years that was their control, they now try to bring over and put on the heads of the people who now control the body.

I mean this is a joke, my colleagues, and I mean it is even kind of a crummy joke.

Now let us get to the real issue of why they want to bring the legislative appropriations bill out here and debate it. The fact is what they are really against is the fact that the legislative appropriations bill actually cuts spending for the Congress. It is a real reform. We actually for the first time are reversing the trend of ever-increasing congressional budget and are actually reducing the amount of money that comes to the Congress. And guess what? When that went down to the President, the President vetoed that bill.

Now here was a bill that cuts the amount of money going to the Congress substantially, and the President vetoed the bill. Now we have got folks defending the President's position. They want to have some reason to vote against this bill that cuts the Congress, and so the fact is what we are really hearing is from people who do not want to cut legislative spending. For 40 years they had that spending climbing. They had staffs around here that burst the seams of the place. We had office buildings full of staff.

Mr. Speaker, we are now trying to cut the budget, and we are going to actually try and sell off an office building, and guess what? The folks who put all of that in place want to continue the spending, and so they are looking for every excuse possible to try to stop the legislative appropriations bill from being successfully completed.

So now they have latched on to lobbying reform, or gift ban reform, or whatever it is they can come up with. They come to the floor with packages wrapped like Christmas presents and so on, every gimmick in the world. I am surprised they do not go out on the lawn and hold a hearing in the rain again on the issue because every possible gimmick they come up with to try to explain why they want the status quo, but in reality the reality of what is happening here on the floor today is we have got a bunch of people who do not want to cut congressional spending, they do not want the reforms, they do not want the congressional spending cut, and they will use every excuse.

Now I realize that I am engaging in a nongermane debate here as well, and the only reason why I did it is because the other side has decided they are going to have nongermane debate on the floor, which does raise an interesting question. They claim that what they want to do is something about lobbies and gifts. What makes us think that they will obey the rules that we set up under those provisions any more than they obey the rules of the House by coming out here and having these nongermane discussions? The fact is that they are subject to a point of order, that what they have been discussing is totally beyond the rules of the House, it ought not be discussed out here today, and they are discussing having more rules that they say that they will obey those when they cannot obey even the simplest ones on the House floor.

□ 1230

Interesting subject matter, but it is a joke.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, would the gentleman agree that House rules were broken blatantly in conjunction with both the House Bank and Post Office scandals, and that that was during, of course, the Democratic Party's control of the House of Representatives?

Mr. WALKER. Mr. Speaker, reclaiming my time, yes, and they did everything possible to try to prevent us from bringing those matters to the House floor. They did everything they could to try to stop us from looking at that.

Mr. RIGGS. If the gentleman will continue to yield, Mr. Speaker, would the gentleman agree that the ongoing audit by one of the big six accounting firms of congressional finances, of the House of Representatives' books, has indicated many prima facie violations of House rules, and that that audit is an audit of the administration of the House of Representatives by the Democratic Party?

Mr. WALKER. Mr. Speaker, reclaiming my time, the fact is that what it at least has indicated is that the books they kept were a mess and no responsible auditing firm could even tell us what really went on, because the books are almost undecipherable. They were an absolute scandal in the way they kept the finances of the House, and yes, it does appear that some people took advantage of that scandalous kind of bookkeeping.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin [Mr. OBEY], ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I had not intended to get into this. I came over here to talk about the Transportation appropriation bill. However, since I do have some considerable experience with the history of reform in this place, I think I would like to put in some perspective what I have heard here on this issue.

I was appointed by the Speaker in 1975 to chair the House Commission on Administrative Review, which was supposed to do a top-to-bottom reform of the House administrative structures, write a new code of ethics, and produce new rules on outside income. That was probably the most bloody and brutal experience I have ever had in this place. It cost me a lot of friends, because we did some very tough things that a lot of people did not like.

I can recall at the time when John Rhodes, who was then the Republican minority leader, appointed his members of my commission. He had the courtesy to come to me and say "DAVE, this is going to be a tough job for you. Understand, I am appointing Bill Frenzel as the ranking Republican," but he said "Just because you get his vote on these issues does not mean you will get any other Republican vote, because frankly, the political pressures in this place are going to take over, and whatever you are going to pass, you are going to have to pass on your own side of the aisle." That is very much what happened. We brought the administrative reforms to the floor of the House, reforms which, among other things, would have created the first professional administrator in the House. I am convinced we would never have had the banking problem or any of the other problems if we had had a professional administrator at that time.

However, when the votes came, we were clobbered. We had significant defections on my side of the aisle, we had a majority voting for it, a big majority, but we had some losses on my side of the aisle, and we got not a single Republican vote to take up those reforms that we had worked so hard on. Through the years, some of them were later adopted, but they were adopted on a piecemeal basis because we had not been able to get them all done on that day. And in fact a few of them were actually put into the rules of the House this year by the new majority party. I congratulate them for doing that. It is about 20 years late that they came to that position, but better late than never. I will take help on those issues anywhere I can get it.

However, I simply want to take this time to point out that we will probably hear, just as we did a long time ago on those reforms, we are going to hear a lot of hypocrisy, because there are going to be people who say that they really do want reform on gift ban and on lobby reform, but they are going to find every way procedurally to drag their feet, hoping in the end we never finish the job. That, frankly, is at least partially what I think is going on right now.

I just want to warn Members, Mr. Speaker, that when we were involved in this fight over outside income, for instance, we were importuned by a lot of Members not to proceed because it would be unfair to the Members. And when we tried to put limits on outside income, for instance, I remember one Member of the House coming to me and saying "DAVE, you don't understand. It isn't that my law practice takes anything away from my time. It is just that as I rise in seniority, the lobbies toss more business our way and I get a piece of the action." I said, "Yes, I understand that is the deal. That is why we are trying to change it." And he understood, all of a sudden, that this was not a typographical error that we had in our bill, we were really trying to get something done with some teeth.

I would simply say that there is, in my view, nothing more important that this institution can do to restore public confidence in it than to immediately deal with the issue of lobby reform and gift ban. I have had it up to here with having to see television stories about how Members will go off on these phony seminars, that are really golfing vacations disguised as seminars, run by some interest group that lobbies this place. That should not happen. That should not be allowed. That should be outlawed today, not a week from now, not a month from now, but today.

We tried to do that last year. We passed it in this House. It was bottled up in the other body by the majority leader, and I would say the record on that is clear. I fully agree with the gentleman from California [Mr. MILLER] and the gentleman from Texas [Mr. DOGGETT] when they say that this matter ought to be disposed of now and immediately.

I have been involved in these reform efforts for some 20 years. I know foot dragging when I see it, and I have seen an awful lot of it the last 3 months. I think the gentleman from California [Mr. MILLER] is right on when he describes where that foot dragging is coming from and why it has to change.

Mrs. WALDHOLTZ. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in ending, I would say we are on the Transportation bill, and we have no objections to the rule. I do want to thank the gentleman from Wisconsin [Mr. OBEY] for his helpful and I think useful review efforts to pass some reforms in this place, and salute him for his efforts. Nobody has been more deeply involved in trying to get the right kinds of things done around here than the gentleman from Wisconsin. I also would like to congratulate the gentlewoman from Utah [Mrs. WALDHOLTZ] this year for her efforts, to wish her well, and to express the hope that in fact we will be able to vote soon on this particular matter.

Mr. Speaker, I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the efforts the gentleman from Wisconsin has made on congressional reform in the past. I appreciate the efforts this Congress has made in the last 10 months.

Real progress was made in this new majority, Mr. Speaker. We have already limited the terms of committee chairmen, we have banned proxy voting, so Members of Congress need to attend their committee hearings, rather than simply allow someone else to exercise their authority for them. We cut committee staffs by one-third.

We have had a house audit that has resulted, unfortunately, in the prior books of this House receiving the lowest rating possible from the accounting firm hired to perform that audit. We have changed the committee structure, and we intend to do more change of that committee structure in the future. And, for the first time, we passed the Shays Act, which will apply all of the laws regarding employment to Congress, so Congress will live by the same laws that we impose on everyone else throughout the country.

These are real reforms, Mr. Speaker, that were enacted by this Congress, and I would suggest that those who believe in reform and want to see reform continue to pay attention to what is going to happen by the end of this week as we announce a schedule for moving forward on additional reforms that were not sufficiently supported in the past, but I believe will be passed by this Congress. I welcome and am encouraged by the attention and the interest from the other side of the aisle to join with those of us who have been working on this issue to get these reforms passed in this Congress.

With that, Mr. Speaker, I would simply remind my colleagues that we are voting on the Transportation appropriations bill, that this is an important bill that has received support from both sides of the aisle. I would urge my colleagues to support the rule and the bill so we can move forward in making some substantial investment in transportation infrastructure in our country.

With that, Mr. Speaker, I yield back the balance of my time, and move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WOLF. Mr. Speaker, pursuant to the provisions of House Resolution 241, I call up the conference report on the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies, for the fiscal year ending September 30, 1996, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 20, 1995, on page 28471.)

GENERAL LEAVE

Mr. WOLF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to the bill, H.R. 2002, and that I may be permitted to include tabular and extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. WOLF] will be recognized for 30 minutes, and the gentleman from Texas [Mr. COLEMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we present to the House the conference report to accompany H.R. 2002, the Fiscal Year 1996 Department of Transportation and Related Agencies Appropriations Act.

As Members know, the start of the fiscal year began 3 weeks ago, and the time to conclude the remaining appropriation bills wanes with each passing day. The Department of Transportation, like 11 other Government departments, is operating under the strict terms of the continuing resolution. This conference report will provide funding to further the important operation of transportation programs, including air traffic control, Coast Guard operations, and other critical transportation safety programs outside the continuing resolution.

The Transportation bill always requires a delicate balancing act, and this year proved to be no different. The conferees have had to deal with competing demands for very limited funds. The conference agreement represents the very best effort of the conference committee to achieve a balanced and fair bill, and may I say to colleagues on both sides, a bipartisan bill. This bill has been totally and completely bipartisan. We did not make any decisions in the bill based on partisanship, and we hope and pray, Mr. Speaker, that we can continue that for many years to come.

The conference report before the House today totals $12.5 billion in discretionary budget authority, and $11.4 billion in new outlays. The conference report is below the subcommittee's allocation for discretionary budget authority, and just at its allocation for outlays. The total budgetary resources provided, including new budget authority, limitation on obligations, and exempt obligations, is $13.1 billion in budget authority, and $37.3 billion in outlays.

The agreement represents an increase of $1.5 billion in budget authority over last year. However, this figure is a bit misleading. If the totals are adjusted to exclude a rescission of $2.6 billion in contract authority that does not fall within the jurisdiction of the Committee on Appropriations, but was enacted by Congress this year, the conference report actually reduces spending by $1.1 billion below comparable fiscal year 1995 levels.

I would like now, Mr. Speaker, to turn to some of the specific provisions of the conference report. First, the conference agreement drops the Senate provision which designates the National Highway System. I have been assured by the chairman of the Committee on Transportation and Infrastructure that the conferees are making progress on that piece of legislation, and that States will soon be in receipt of some $5.4 billion in highway apportionments that are being held pending the enactment of the NHS. It is imperative that the NHS be designated very soon, as the withholding of $5.4 billion in NHS and interstate maintenance funds threatens hundreds of thousands of construction jobs and the Nation's infrastructure.

After the worst year in aviation safety in decades, the conference agreement provides $4.7 billion for the operation of the Federal Aviation Administration and the Nation's air traffic control facilities, $110 million over last year's and slightly above the administration's request; let me say it again, above the administration's request.

□ 1245

In addition, $1.9 billion is provided for FAA facilities and equipment.

The conference agreement includes $159.6 million above the President's request for equipment to enhance safety and capacity of the aviation system, restoring funds to the FAA for safety equipment, such as airport surface detection systems, wind sheer detection systems, improved weather detection and forecasting systems, and replacement for computers at Aurora, IL, and our other centers.

In addition, the conference agreement also provides procurement and personnel reform for the FAA. These reforms would permit the FAA to operate much more efficiently and are fully supported by and included, in part, and at the request of the administration.

Despite suggestions made, and I was somewhat disappointed to see this, by the National Air Traffic Controllers Union, the conference agreement does not force the disestablishment of any existing management labor agreement or lead to the dissolution of any union currently representing the FAA employees.

Mr. Speaker, let me be clear about this and quote from the statement of managers, and I quote: "The conferees do not intend that the personnel management reforms in this bill force the disestablishment of any existing management-labor agreement, or lead to the dissolution of any union currently representing FAA employees."

It is interesting that when the air traffic controllers came by to see us, they raised the issue of the 5 percent pay differential. The House went with the 5 percent pay differential, because we think it is important to support the air traffic controllers. The Senate did not. Yet now we hear not that the air traffic controllers union is grateful that this was done and they appreciate what the committee did. They now come in with something that they never raised with us during a meeting on the day of the conference when they spoke to us; they never even raised the issue. They never even raised the issue.

These provisions, Mr. Speaker, would not become effective until April 1, 1996, allowing for sufficient and adequate review by the appropriate authorizing committee. In the wake of the worst year in aviation safety and with equipment failing on a nearly daily basis, as we heard from the gentlewoman from Colorado [Mrs. SCHROEDER] when she talked about the Denver Airport situation, FAA personnel procurement reforms are necessary. In fact, people would come and say we need to do something. If you just exempt the FAA from procurement and personnel regulations, we can do some of these things, and safety is so important. So we did this in order to bring about these safety changes, and we did it, I might say in fairness to the gentleman from Texas [Mr. COLEMAN], in a bipartisan way.

So I think when you come to the FAA, it is safety, safety, safety.

Mr. Speaker, the conference agreement, as I said, restores the reduction of $45 million for the 5 percent paid bonus for air traffic controllers. However, in order to accommodate the $88.6 million estimated for this program, the conferees were required to hold funding for the airport improvement program to the fiscal year 1995 level of $1.45 billion. The conference report drops controversial language relating to workers' compensation. The conference report also provides new budget authority and obligation limitations for the Federal Highway Administration totaling almost $20 billion.

The bill includes $17.550 billion for the primary Federal-aid highway program, and an additional $2.3 billion for highway programs exempt from the limitation. In total, highway spending will increase nearly half a billion dollars over comparable fiscal year 1995 levels, to a level that is only half a billion below the fully authorized level of $20.4 billion.

The conference report includes no special highway demonstration projects, returning some $350 million appropriated last year in Federal highway aid to the States. Doing so provides greater equity among the States and allows State Governors and departments of transportation to determine the appropriate expenditure of limited Federal highway assistance. Federal highway demonstration projects have gone the way of the past.

Mr. Speaker, I think everyone agrees that this is the right thing to do. Every member in the House and in the Senate will now be treated fairly. It will not matter that you happen to be particularly powerful or famous or on a particular committee or having voted a certain way or having come from a certain region or having known somebody. Everybody now will be treated fairly, and I think that is something on which both the Republican party and the Democratic party can agree.

Mr. Speaker, the agreement provides $2.053 billion for transit formula grants, the midpoint between the House and Senate proposed levels. Within this amount, $400 million is available for operating assistance, a reduction of $310 million from last year's level, and $100 million below the level requested by the President.

Recognizing the limited ability of smaller and more rural transit providers to respond to reductions in Federal subsidies, the conference agreement provides that operating assistance to urbanized areas under 200,000 not be cut more than 25 percent from last year's level.

A total of $3.375 billion is provided for the Coast Guard. These funds are supplemented by an additional $300 million to be transferred to the Coast Guard from the Department of Defense, and I appreciate the DOD appropriations subcommittee doing that, because we would have been very hard pressed had we not had the good cooperation of Chairman YOUNG and also Senator STEVENS on the Senate side. In total, funds for the Coast Guard rise $108 million over fiscal year 1995 levels.

Program increases, however, came at the expense of other programs, like Amtrak. Federal subsidies for Amtrak are curtailed by 20 percent, falling from $793 million in fiscal year 1995 to $635 million in fiscal year 1996. Other program reductions include: essential air service, down $10.8 million; the northeast corridor improvement program, down $85 million; transit operating assistance, down $310 million; transit research and development, down $6.8 million; pipeline activities, down $6 million.

In total, the conference report kills 20 programs, including local rail freight assistance, the interstate transfer grants for transit, the right-of-way revolving fund, numerous Coast Guard and FAA activities, and supportive service of the Federal Highway Administration.

Consistent with the will of Congress, the Interstate Commerce Commission is eliminated in fiscal year 1996 and is funded at $13.8 million only for the first quarter of the fiscal year. An additional $8.4 million is provided for the successor to the ICC and once enacted into law by an authorization Administrative activities of the Department are also trimmed, including awards and bonuses, an 8 staff in the office of the Secretary and 10 political appointees department-wide. The Department is required to consolidate or co-locate its extensive field offices saving $25 million in this fiscal year.

Mr. Speaker, the conference agreement prohibits training that is offensive to Federal workers including the HIV-AIDS and diversity training which was so controversial.

Mr. Speaker, additional details of the bill are addressed in the conference report and in a joint statement of the managers. H.R. 2002 is a fair and balanced and bipartisan bill. It represents a compromise between the House and the Senate. It falls within the committee's 602(b) allocation, and has the support of the administration.

Mr. Speaker, I spoke to Secretary Peña on Friday, and he said that this bill would be signed, that the administrator was in agreement. In fact, all indications, as I said, from the White House as well as the Office of Management and Budget, I assume, are certain that the President will sign the bill.

Mr. Speaker, it does deserve the support, frankly, of all of the Members, and I urge its adoption swiftly.

I want to thank all of the members of the committee on both sides of the aisle for their help and their cooperation. I also want to pay a tribute to all of the staff members, and identify them individually, for the good and the diligent work that they have done on both sides. It was a new team, a new operation, and they did a good job. I would like to acknowledge the following staff who worked on this bill: from the majority subcommittee staff: John Blazey; Rich Efford; Stephanie Gupta; Linda Muir; Deborah Frazier; and Ken Marx; from the majority associate staff: Lori-Beth Feld Hua; Glenn LeMunyon; Connie Veillette; Jennifer Miller; Bill Deere; Ray Mock; Sean Murphy; Steve Carey; and Paul Cambon; from the minority subcommittee staff: Cheryl Smith; and from the minority associate staff: Christy Cockburn; Kristen Hoeschler; Jim Jepsen; Barbara Zylinski-Mizrahi; and Paul Carver.

I also want to thank Senator HATFIELD, personally somebody that I have always admired for many years. It was a privilege for me to have the opportunity to work with him. He was a complete gentleman, and we really never had any differences that were really the type that you sometimes think about. So I just want to thank Senator HATFIELD and his staff and the Members of that side for their work.

Mr. Speaker, I insert the following information for inclusion in the RECORD:

H.R. 2002 - Transportation and Related Agencies, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	58,094,000	57,459,000	55,011,500	56,500,000	56,189,000	-1,905,000
Immediate Office of the Secretary	(1,220,000)					(-1,220,000)
Immediate Office of the Deputy Secretary	(583,000)					(-583,000)
Office of the General Counsel	(7,876,000)					(-7,876,000)
Office of the Assistant Secretary for Transportation Policy	(2,309,000)					(-2,309,000)
Office of the Assistant Secretary for Aviation and International Affairs	(7,887,000)					(-7,887,000)
Office of the Assistant Secretary for Budget and Programs	(4,400,000)					(-4,400,000)
Office of the Assistant Secretary for Governmental Affairs	(2,250,000)					(-2,250,000)
Office of the Assistant Secretary for Administration	(22,425,000)					(-22,425,000)
Office of Public Affairs	(1,380,000)					(-1,380,000)
Executive Secretariat	(932,000)					(-932,000)
Contract Appeals Board	(630,000)					(-630,000)
Office of Civil Rights	(1,779,000)					(-1,779,000)
Office of Small and Disadvantaged Business Utilization	(936,000)					(-936,000)
Minority Business Resource Center	(4,000,000)					(-4,000,000)
Office of Intelligence and Security	(800,000)					(-800,000)
Office of Intermodalism	(1,000,000)					(-1,000,000)
Undistributed	(-2,313,000)					(+2,313,000)
Office of civil rights		12,793,000	6,554,000	12,083,000	6,554,000	+6,554,000
Transportation planning, research, and development	8,293,000	15,710,000	3,309,000	9,710,000	8,220,000	-73,000
Office of Commercial Space Transportation: Operations and Research	6,060,000					-6,060,000
Working capital fund	(93,000,000)	(104,364,000)	(102,231,000)	(104,364,000)	(103,149,000)	(+10,149,000)
Payments to air carriers (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(33,423,000)		(15,000,000)	(26,738,536)	(22,600,000)	(-10,823,000)
(Limitation on obligations)	(33,423,000)		(15,000,000)	(26,738,536)	(22,600,000)	(-10,823,000)
Rescission of contract authority	(-4,000,000)	(-38,600,000)	(-23,600,000)	(-11,861,464)	(-16,000,000)	(-12,000,000)
Rescission		(-6,786,971)	(-6,786,971)	(-6,786,971)	(-6,786,971)	(-6,786,971)
Rental payments	144,419,000	143,436,000	130,803,000	139,689,000	135,200,000	-9,219,000
Headquarters facilities		331,000,000				
Minority business resource center program	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000	
(Limitation on direct loans)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	
Minority business outreach		2,900,000	2,900,000	2,100,000	2,900,000	+2,900,000
ICC Sunset		4,705,000		4,705,000		
State Infrastructure Banks (sec. 349)				250,000,000		
Total, Office of the Secretary	218,766,000	569,903,000	200,477,500	476,687,000	210,963,000	-7,803,000
(Limitations on obligations)	(33,423,000)		(15,000,000)	(26,738,536)	(22,600,000)	(-10,823,000)
Total budgetary resources	(252,189,000)	(569,903,000)	(215,477,500)	(503,425,536)	(233,563,000)	(-18,626,000)
Coast Guard						
Operating expenses	2,598,000,000	2,618,316,000	2,565,607,000	2,286,000,000	2,278,991,000	-319,009,000
Acquisition, construction, and improvements:						
Vessels	187,900,000	203,700,000	191,200,000	178,000,000	167,600,000	-20,300,000
Aircraft	11,800,000	19,500,000	16,500,000	14,500,000	12,000,000	+200,000
Other equipment	29,700,000	56,300,000	42,200,000	47,600,000	49,200,000	+19,500,000
Shore facilities and aids to navigation	89,350,000	99,800,000	82,275,000	80,200,000	88,875,000	-475,000
Personnel and related support	44,200,000	48,900,000	43,000,000	46,500,000	44,700,000	+500,000
Subtotal, A C & I	362,950,000	428,200,000	375,175,000	366,800,000	362,375,000	-575,000
Environmental compliance and restoration	23,500,000	25,000,000	21,000,000	21,000,000	21,000,000	-2,500,000
Port Safety Development				15,000,000	15,000,000	+15,000,000
Alteration of bridges		2,000,000	16,000,000	2,000,000	16,000,000	+16,000,000
Retired pay	562,585,000	582,022,000	582,022,000	582,022,000	582,022,000	+19,437,000
Reserve training	64,981,000	64,859,000	61,859,000	62,000,000	62,000,000	-2,981,000
Research, development, test, and evaluation	20,310,000	22,500,000	18,500,000	20,000,000	18,000,000	-2,310,000
Boat safety (Aquatic Resources Trust Fund)	25,000,000		20,000,000		20,000,000	-5,000,000
Emergency Fund (Oil Spill Liability Trust Fund) (limitation of permanent appropriation)			(3,000,000)			
Total, Coast Guard	3,657,326,000	3,742,897,000	3,660,163,000	3,354,822,000	3,375,388,000	-281,938,000
Federal Aviation Administration						
Operations	4,595,394,000	4,704,000,000	4,600,000,000	4,550,000,000	4,645,712,000	+50,318,000
Facilities and equipment (Airport and Airway Trust Fund)	2,087,489,000	1,917,847,000	2,000,000,000	1,890,377,000	1,934,883,000	-152,606,000
Rescission	(-35,000,000)		(-60,000,000)	(-70,000,000)	(-60,000,000)	(-25,000,000)
Research, engineering, and development (Airport and Airway Trust Fund)	259,192,000	267,661,000	143,000,000	215,886,000	185,698,000	-73,494,000
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	
(Limitation on obligations)	(1,450,000,000)	(1,500,000,000)	(1,600,000,000)	(1,250,000,000)	(1,450,000,000)	
Rescission of contract authority				-5,000,000		
Rescission of contract authority (sec. 349 j)				-250,000,000		

H.R. 2002 - Transportation and Related Agencies, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Aircraft purchase loan guarantee program	148,000	50,000	50,000	50,000	50,000	-98,000
(Limitation on borrowing authority)	(9,970,000)	(1,600,000)	(1,600,000)	(1,600,000)	(1,600,000)	(-8,370,000)
Total, Federal Aviation Administration	6,942,223,000	6,889,558,000	6,743,050,000	6,656,313,000	6,766,343,000	-175,880,000
(Limitations on obligations)	(1,450,000,000)	(1,500,000,000)	(1,600,000,000)	(1,250,000,000)	(1,450,000,000)	
Total budgetary resources	(8,392,223,000)	(8,389,558,000)	(8,343,050,000)	(7,906,313,000)	(8,216,343,000)	(-175,880,000)
Unified transportation infrastructure investment program (limitation on obligations)		(-1,500,000,000)				
Total budgetary resources	(8,392,223,000)	(6,889,558,000)	(8,343,050,000)	(7,906,313,000)	(8,216,343,000)	(-175,880,000)
Federal Highway Administration						
Limitation on general operating expenses	(525,341,000)	(689,486,000)	(495,381,000)	(548,434,000)	(509,660,000)	(-15,681,000)
Highway-related safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(10,800,000)	(10,000,000)	(10,000,000)	(13,000,000)	(11,000,000)	(+200,000)
(Limitation on obligations)	(10,800,000)	(10,000,000)	(10,000,000)	(13,000,000)	(11,000,000)	(+200,000)
Rescission of contract authority	(-20,000,000)					(+20,000,000)
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(17,160,000,000)	(20,254,255,000)	(18,000,000,000)	(17,000,000,000)	(17,550,000,000)	(+390,000,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
(Liquidation of contract authorization)	(17,000,000,000)	(19,200,000,000)	(19,200,000,000)	(19,200,000,000)	(19,200,000,000)	(+2,200,000,000)
Right-of-way revolving fund (Highway Trust Fund) (limitation on direct loans)	(42,500,000)					(-42,500,000)
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(73,000,000)	(68,000,000)	(68,000,000)	(68,000,000)	(68,000,000)	(-5,000,000)
(Limitation on obligations)	(74,000,000)	(85,000,000)	(79,150,000)	(75,000,000)	(77,225,000)	(+3,225,000)
Surface transportation projects	352,055,000			39,500,000		-352,055,000
Rescission	(-12,004,000)					(+12,004,000)
High priority corridor (sec. 314A)	6,000,000					-6,000,000
Orange County, CA toll road project (sec. 336a)	8,000,000					-8,000,000
Total, Federal Highway Administration	366,055,000			39,500,000		-366,055,000
(Limitations on obligations)	(17,244,800,000)	(20,349,255,000)	(18,089,150,000)	(17,088,000,000)	(17,638,225,000)	(+393,425,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
Total budgetary resources	(19,878,556,000)	(20,429,255,000)	(20,401,082,000)	(19,459,007,000)	(19,969,732,000)	(+91,176,000)
Unified transportation infrastructure investment program (limitation on obligations)		(-20,134,255,000)				
Total budgetary resources	(19,878,556,000)	(295,000,000)	(20,401,082,000)	(19,459,007,000)	(19,969,732,000)	(+91,176,000)
National Highway Traffic Safety Administration						
Operations and research	79,556,000	84,598,000	73,316,570	71,261,000	73,316,570	-6,239,430
Rescissions			(-4,547,185)			
Operations and research (Highway Trust Fund)	46,997,000	59,744,000	52,011,930	50,344,000	51,884,430	+4,887,430
Subtotal, Operations and research	126,553,000	144,342,000	125,328,500	121,605,000	125,201,000	-1,352,000
Highway traffic safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(151,000,000)	(180,000,000)	(153,400,000)	(155,100,000)	(155,100,000)	(+4,100,000)
State and community highway safety grants (Sec. 402) (limitation on obligations)	(123,000,000)	(168,600,000)	(126,000,000)	(128,000,000)	(127,700,000)	(+4,700,000)
National Driver Register (Sec. 402) (limitation on obligations)	(3,400,000)	(2,400,000)	(2,400,000)	(2,100,000)	(2,400,000)	(-1,000,000)
Alcohol-impaired driving countermeasures programs (Sec. 410) (limitation on obligations)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	
Total, National Highway Traffic Safety Administration	126,553,000	144,342,000	125,328,500	121,605,000	125,201,000	-1,352,000
(Limitations on obligations)	(151,400,000)	(196,000,000)	(153,400,000)	(155,100,000)	(155,100,000)	(+3,700,000)
Total budgetary resources	(277,953,000)	(340,342,000)	(278,728,500)	(276,705,000)	(280,301,000)	(+2,348,000)
Federal Railroad Administration						
Office of the Administrator	13,090,000	17,370,000	14,000,000	14,018,000	14,018,000	+928,000
(By transfer)	(611,950)					(-611,950)
Local rail freight assistance	17,000,000					-17,000,000
Rescission	(-6,563,000)					(+6,563,000)
Railroad safety	47,729,000	51,104,000	49,940,660	49,105,000	49,919,000	+2,190,000
Railroad research and development	20,500,000	48,947,000	21,000,000	25,775,000	24,550,000	+4,050,000
Northeast corridor improvement program	200,000,000	235,000,000	100,000,000	130,000,000	115,000,000	-85,000,000
Next generation high speed rail	20,000,000	30,000,000	10,000,000	20,000,000	19,205,000	-795,000
Trust fund share of next generation high speed rail (Highway Trust Fund):						
(Liquidation of contract authorization)	(3,400,000)	(7,118,000)	(5,000,000)	(5,000,000)	(7,118,000)	(+3,718,000)
(Limitation on obligations)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	
Alaska Railroad rehabilitation				10,000,000	10,000,000	+10,000,000
Pennsylvania station redevelopment project	40,000,000	50,000,000		25,000,000		-40,000,000
Rescission	(-40,000,000)					(+40,000,000)
Rhode Island Rail Development	5,000,000	10,000,000		2,000,000	1,000,000	-4,000,000

H.R. 2002 - Transportation and Related Agencies, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Grants to the National Railroad Passenger Corporation:						
Operations	542,000,000	420,000,000	336,000,000	305,000,000	305,000,000	-237,000,000
Transition costs			62,000,000	100,000,000	100,000,000	+100,000,000
Capital	251,500,000	230,000,000	230,000,000	200,000,000	230,000,000	-21,500,000
Long-term restructuring transition		100,000,000				
Total, Grants to the National Railroad Passenger Corp	793,500,000	750,000,000	628,000,000	605,000,000	635,000,000	-158,500,000
Total, Federal Railroad Administration	1,156,819,000	1,192,421,000	822,940,660	880,898,000	868,692,000	-288,127,000
(Limitations on obligations)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	
Total budgetary resources	(1,161,819,000)	(1,197,421,000)	(827,940,660)	(885,898,000)	(873,692,000)	(-288,127,000)
Unified transportation infrastructure invest program		-1,045,000,000				
Total budgetary resources	(1,161,819,000)	(152,421,000)	(827,940,660)	(885,898,000)	(873,692,000)	(-288,127,000)
Federal Transit Administration						
Administrative expenses	43,060,000	44,202,000	39,260,000	42,000,000	42,000,000	-1,060,000
Formula grants	640,000,000	1,244,200,000	490,000,000	585,000,000	542,925,000	-97,075,000
Operating assistance grants	710,000,000	500,000,000	400,000,000	400,000,000	400,000,000	-310,000,000
Formula grants (Highway Trust Fund) (limitation on obligations)	(1,150,000,000)	(1,120,850,000)	(1,110,000,000)	(1,120,850,000)	(1,110,000,000)	(-40,000,000)
University transportation centers	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	
Transit planning and research	92,250,000	100,027,000	82,250,000	90,000,000	85,500,000	-6,750,000
Metropolitan planning program		(41,512,500)	(39,436,250)	(40,500,000)	(39,500,000)	(+39,500,000)
Rural transit assistance program		(4,612,500)	(4,381,250)	(4,500,000)	(4,500,000)	(+4,500,000)
Transit cooperative research program		(8,475,000)	(8,051,250)	(8,250,000)	(8,250,000)	(+8,250,000)
National TPR program		(33,952,000)	(19,480,000)	(25,500,000)	(22,000,000)	(+22,000,000)
State TPR program		(8,475,000)	(8,051,250)	(8,250,000)	(8,250,000)	(+8,250,000)
National transit institute		(3,000,000)	(2,850,000)	(3,000,000)	(3,000,000)	(+3,000,000)
Subtotal, Transit planning and research	(92,250,000)	(100,027,000)	(82,250,000)	(90,000,000)	(85,500,000)	(-6,750,000)
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(1,150,000,000)	(1,120,850,000)	(1,120,850,000)	(1,120,850,000)	(1,120,850,000)	(-29,150,000)
Discretionary grants		59,944,000				
Discretionary grants (Highway Trust Fund) (limitation on obligations):						
Fixed guideway modernization	(725,000,000)	(724,976,000)	(666,000,000)	(666,000,000)	(666,000,000)	(-59,000,000)
Bus and bus-related facilities	(353,330,000)	(274,992,000)	(333,000,000)	(333,000,000)	(333,000,000)	(-20,330,000)
New starts	(646,670,000)	(724,976,000)	(666,000,000)	(666,000,000)	(666,000,000)	(+19,330,000)
Subtotal, Discretionary grants	(1,725,000,000)	(1,724,944,000)	(1,665,000,000)	(1,665,000,000)	(1,665,000,000)	(-60,000,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(1,500,000,000)	(1,700,000,000)	(2,000,000,000)	(1,700,000,000)	(2,000,000,000)	(+500,000,000)
Interstate transfer grants - transit	48,030,000					-48,030,000
Washington Metropolitan Area Transit Authority	200,000,000	200,000,000	200,000,000	170,000,000	200,000,000	
Violent crime reduction program (Violent Crime Trust Fund)		5,000,000				
Total, Federal Transit Administration	1,739,340,000	2,159,373,000	1,217,510,000	1,293,000,000	1,276,425,000	-462,915,000
(Limitations on obligations)	(2,875,000,000)	(2,845,794,000)	(2,775,000,000)	(2,785,850,000)	(2,775,000,000)	(-100,000,000)
Total budgetary resources	(4,614,340,000)	(5,005,167,000)	(3,992,510,000)	(4,078,850,000)	(4,051,425,000)	(-562,915,000)
Unified transportation infrastructure invest program		-2,154,373,000				
(Limitation on obligations)		(-2,785,850,000)				
Total budgetary resources	(4,614,340,000)	(64,944,000)	(3,992,510,000)	(4,078,850,000)	(4,051,425,000)	(-562,915,000)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	10,251,000	10,243,000	10,190,500	10,150,000	10,150,000	-101,000
Research and Special Programs Administration						
Research and special programs	26,238,000	31,662,000	26,030,000	24,281,000	23,937,000	-2,301,000
Hazardous materials safety	(12,897,000)	(12,782,000)	(12,600,000)	(12,987,000)	(12,650,000)	(-247,000)
Aviation information management	(2,453,000)	(2,282,000)	(2,322,000)			(-2,453,000)
Emergency transportation	(1,326,000)	(1,301,000)	(1,086,000)	(962,000)	(1,022,000)	(-304,000)
Research and technology	(2,530,000)	(7,604,000)	(3,209,000)	(3,451,000)	(3,288,000)	(+758,000)
Program and administrative support	(7,032,000)	(7,693,000)	(7,394,000)	(7,292,000)	(7,388,000)	(+356,000)
Accountwide adjustment			(-581,000)	(-411,000)	(-411,000)	(-411,000)
Subtotal, research and special programs	(26,238,000)	(31,662,000)	(26,030,000)	(24,281,000)	(23,937,000)	(-2,301,000)
Pipeline safety (Pipeline Safety Fund)	34,991,500	39,720,000	27,243,000	30,275,000	28,750,000	-6,241,500
Pipeline safety (Oil Spill Liability Trust Fund)	2,432,500	2,698,000	2,698,000	2,698,000	2,698,000	+265,500
Subtotal, Pipeline safety	37,424,000	42,418,000	29,941,000	32,973,000	31,448,000	-5,976,000

H.R. 2002 - Transportation and Related Agencies, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Alaska Pipeline task Force (Oil Spill Liability Trust Fund) (rescission)	(-544,000)					(+544,000)
Emergency preparedness grants:						
(Emergency preparedness fund)	400,000	400,000	400,000	400,000	400,000	
(Limitation on obligations)	(10,800,000)	(11,338,000)	(8,890,000)	(9,200,000)	(8,890,000)	(-1,910,000)
Total, Research and Special Programs Administration	64,062,000	74,480,000	56,371,000	57,654,000	55,785,000	-8,277,000
(Limitations on obligations)	(10,800,000)	(11,338,000)	(8,890,000)	(9,200,000)	(8,890,000)	(-1,910,000)
Total budgetary resources	(74,862,000)	(85,818,000)	(65,261,000)	(66,854,000)	(64,675,000)	(-10,187,000)
Office of Inspector General						
Salaries and expenses	40,000,000	40,238,000	40,238,000	39,891,200	40,238,000	+238,000
Bureau of Transportation Statistics						
Salaries and expenses				2,200,000	2,200,000	+2,200,000
General Provisions						
Administrative provision: Procurement (sec. 323a)	-65,120,000					+65,120,000
Bureau of Transportation Statistics (transfer from Federal-aid Highways)	(15,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(+5,000,000)
Federal railroad transfer (sec. 341)	3,000,000					-3,000,000
Federal-aid highways (sec. 310 (e))		-574,341,000				
Working capital fund reduction (sec. 327)	-7,000,000		-10,000,000	-5,000,000	-7,500,000	-500,000
DOT field office consolidation (sec. 335)			-25,000,000	-25,000,000	-25,000,000	-25,000,000
ICC transition (sec. 344)			8,421,000		8,421,000	+8,421,000
Total, title I, Department of Transportation (net)	14,134,164,000	14,203,727,029	12,754,756,004	12,559,071,765	12,624,519,029	-1,509,644,971
Appropriations	(14,252,275,000)	(14,249,114,000)	(12,849,690,160)	(12,902,720,200)	(12,707,306,000)	(-1,544,969,000)
Rescissions	(-118,111,000)	(-45,386,971)	(-94,934,156)	(-343,648,435)	(-82,786,971)	(+35,324,029)
(Limitations on obligations)	(21,770,423,000)	(24,907,387,000)	(22,646,440,000)	(21,319,888,536)	(22,054,815,000)	(+284,392,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
Total budgetary resources including (limitations on obligations) and (exempt obligations)	(38,172,288,000)	(39,191,114,029)	(37,713,128,004)	(36,210,467,301)	(37,010,841,029)	(-1,161,446,971)
Adjustments made for unified program		-3,199,373,000				
(Limitation on obligations)		(-24,420,105,000)				
Unified transportation infrastructure invest program		24,392,976,000				
Total budgetary resources	(38,172,288,000)	(39,163,985,029)	(37,713,128,004)	(36,210,467,301)	(37,010,841,029)	(-1,161,446,971)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	3,350,000	3,656,000	3,656,000	3,500,000	3,500,000	+150,000
National Transportation Safety Board						
Salaries and expenses	37,392,000	38,774,000	38,774,000	37,500,000	38,774,000	+1,382,000
Emergency fund		360,802	160,802	360,802	360,802	+360,802
Total, National Transportation Safety Board	37,392,000	39,134,802	38,934,802	37,860,802	39,134,802	+1,742,802
Interstate Commerce Commission						
Salaries and expenses	30,302,000	28,844,000	13,379,000	13,379,000	13,379,000	-16,923,000
Payments for directed rail service (limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	
Total, Interstate Commerce Commission	(30,777,000)	(29,319,000)	(13,854,000)	(13,854,000)	(13,854,000)	(-16,923,000)
Panama Canal Commission						
Panama Canal Revolving Fund:						
(Administrative expenses)	(50,030,000)	(50,741,000)	(50,741,000)	(50,741,000)	(50,741,000)	(+711,000)
(Limitation on operating and capital expenses)	(540,000,000)					(-540,000,000)
Washington Metropolitan Area Transit Authority						
Interest payments and repayments of principal	9,193,000					-9,193,000
Total, title II, Related Agencies	80,237,000	71,634,802	55,969,802	54,739,802	56,013,802	-24,223,198
(Limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	
Total budgetary resources	(80,712,000)	(72,109,802)	(56,444,802)	(55,214,802)	(56,488,802)	(-24,223,198)

H.R. 2002 - Transportation and Related Agencies, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Total appropriations in this bill (net)	14,214,401,000	35,468,964,831	12,810,725,806	12,613,811,567	12,680,532,831	-1,533,868,169
Scorekeeping adjustments	-2,671,053,000	375,011,000	370,983,000	367,511,148	383,676,148	+3,054,729,148
Grand total (net)	11,543,348,000	35,843,975,831	13,181,708,806	12,981,322,715	13,064,208,979	+1,520,860,979
Appropriations	(11,661,459,000)	(35,889,362,802)	(13,276,642,962)	(13,324,971,150)	(13,146,995,950)	(+1,485,536,950)
Rescissions	(-118,111,000)	(-45,386,971)	(-94,934,156)	(-343,648,435)	(-82,786,971)	(+35,324,029)
(Limitations on obligations)	(21,770,898,000)	(487,757,000)	(22,646,915,000)	(21,320,363,536)	(22,055,290,000)	(+284,392,000)
(Exempt obligations)	(2,267,701,000)	(80,000,000)	(2,311,932,000)	(2,331,507,000)	(2,331,507,000)	(+63,806,000)
Grand total budgetary resources including (limitations on obligations) and (exempt obligations)	(35,581,947,000)	(36,411,732,831)	(38,140,555,806)	(36,633,193,251)	(37,451,005,979)	(+1,869,058,979)
CONGRESSIONAL BUDGET RECAP						
Total mandatory and discretionary	11,543,348,000	35,843,975,831	13,181,708,806	12,981,322,715	13,064,208,979	+1,520,860,979
Mandatory	571,926,000	582,072,000	582,072,000	582,072,000	582,072,000	+10,146,000
Discretionary:						
Crime trust fund	....	5,000,000	....	....	....	....
General purposes	10,971,422,000	35,256,903,831	12,599,636,806	12,399,250,715	12,482,136,979	+1,510,714,979
Total, Discretionary	10,971,422,000	35,261,903,831	12,599,636,806	12,399,250,715	12,482,136,979	+1,510,714,979

Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join with Chairman WOLF, the gentleman from Virginia, in supporting the conference report on H.R. 2002, the fiscal year 1996 Transportation and related agencies appropriations bill. The conferees faced a tremendous challenge, Mr. Speaker, in determining how to make critical investments in our Nation's transportation infrastructure under what were very tight budget constraints given us as a result of the actions of this Congress on the budget in our 602(b) allocations.

We were $100 million in budget authority and $193 million in outlays below the original House 602(b) target for the bill. Accordingly, we did not do what many of us on our side of the aisle believed we should have done in many, many areas. Nonetheless, I believe that this bill has the support of the administration and that the President will indeed sign it.

Mr. Speaker, the statement of managers I think amply documents the final product of the conferees on the transportation bill as was alluded to by Chairman WOLF.

At this time, Mr. Speaker, I would only make a few statements with respect to the issue of reorganization within the FAA. I understand that this was a critical issue, a matter of high priority not just of the Republican majority, but indeed Secretary Peña came forward very early on, prior indeed to this Congress even convening, telling us how it was that the administration intended to do the kinds of cuts, to make the kinds of streamlining that he felt the Department of Transportation should engage in in order to more effectively serve the American people.

I would say in that regard, Mr. Chairman, that the Congress, in taking up overall the issue of having the FAA administrator, we require him in this legislation to develop new personnel and acquisition systems for the FAA. I am one, and I think I can speak for most of the Democrats on our side in saying that we support freeing the FAA from many problems that may indeed be undermining its ability to modernize the air traffic control system; and we want to be sure, as does the chairman, that we respond efficiently to the needs of the aviation industry and all airline passengers.

Air traffic control system failures in Chicago, New York, Leesburg, Oakland and, just recently, Dallas highlight all too dramatically that the FAA's problems are real and do need immediate attention.

The personnel reform section of this legislation, I want to correct only one statement made by the chairman and that was certainly a lot of us were raising the issue about where we were going to be with respect to air traffic controllers and FAA employees some weeks prior to the conference, so the chairman may recall that I had raised that issue with him. The conference agreement does charge the FAA Administrator with developing a new personnel system which would give the FAA greater flexibility in hiring and firing, determining promotions and pay, training and location of employees.

It is true, Mr. Speaker, that I opposed in conference the committee majority decision to allow the FAA administrator to waive current law pertaining to labor management and employee relations' issues.

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I think this is exactly the wrong time to be doing that. When we discuss the issue of being able to have a reorganization to put into jeopardy or to cause fear among employees about whether or not they will continue to have the ability to be represented by their current union management contract, whether or not we are going to rewrite labor law in this reorganization or not, I think is bad policy, particularly in an appropriation bill.

We all know that we have authorizing committees in the House and the Senate to take testimony, to deal with issues such as these. My preference all along was that we not do that in this legislation.

I think the right thing to do is to let those committees properly address the matter through a much more deliberative process than our appropriations could have given it had we even done so. We really did not take into account various and sundry, oftentimes very complicated, labor relations issues in any hearings. We just did not do that.

I believe that in the transportation appropriations bill, with the personnel reform provisions not becoming effective until April 1, 1996, I am very hopeful that that will give time to the appropriate authorizing committees in the House and the Senate, ultimately a conference, and hopefully ultimately signing into law, moving to correct what I consider to be a problem in this bill. It is simply we did not waive that as one of the things we could have waived, and that is the reason I offered that amendment which failed, so that we could waive that and not do this in an appropriations bill.

With that having been said, I will come back to some of the issues a bit later.

Mr. Speaker, I reserve the balance of my time.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. CALLAHAN], a member of the committee.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, admittedly at this time last year when we became the majority, or thereabouts when I knew that we were going to be in the majority, the first thing I asked for was a position to serve on this subcommittee. The reason I wanted to serve on this subcommittee is because historically it has been an opportunity to pick and choose, like from a Christmas tree, special projects for my own home district.

I knew as soon as BOB LIVINGSTON told me that he had assigned me to this subcommittee that it was going to be clear sailing for SONNY CALLAHAN because my highway projects, my demonstration projects, my airport projects, and everything, just like it has been for the last 20 years, were going to be in that bill because I was sitting at the table bargaining.

How surprised I was at the first meeting when the chairman called us together and said there are going to be no demonstration projects. I smiled somewhat, saying, yes, I know. But we still are going to get them, is what I thought in the back of my mind.

But let me compliment the chairman. He stood his ground against some of the most powerful, some of the most persuasive people in the House and the Senate, and he did not budge one inch. This is responsible government.

No, I did not get the special 14 projects that I wanted to get. We will get them sooner or later, but we will do it the responsible way, by giving the money to the rightful committee or the rightful agency under our jurisdiction, and we will do it in competition with a fair competition with all States. But we are doing this because of one man and certainly with the cooperation of the minority.

I do not want to take anything away from them, because I did not hear that much argument to his philosophy. But for the first time in at least 20 years we have a responsible transportation bill that no one can come back next month and say, "Look what you did. You gave these special projects without any meaningful purpose all of this money simply because of political pressure and compromising, trying to get a transportation appropriation bill through this House."

Mr. Speaker, this Congress owes a debt of gratitude to the chairman, and this country owes him a great debt of gratitude for the responsible way in which he has handled this bill.

Mr. COLEMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member on the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I rise in support of this conference report. I simply want to make a few short remarks about it before we vote.

I think the agreement reached by the conferees is, for the most part, a fair agreement that respects the priorities of the House and recognizes the conflicting pressures on us as we try to work in a very difficult budget situation.

I am especially pleased, on a personal note, that my State has continued the progress which it has made the past few years in receiving a fair share of Federal highway funds. I appreciate the fact that this committee has been helpful in seeing to it that we do not make or that we do not experience any significant backsliding in that respect.

I would note that there is not as much in this bill as we would like to have for highways or for airport investments, but given the fact that the 602(b) allocation, which is set by the chair of the committee, provided less funding for that than we would have liked, the committee had no choice but to produce a bill within those limitations, and I think it has done a fairly reasonable job under those circumstances.

I would note that there is a significant reduction in transit operating subsidies for communities around the country. Communities are not going to like that. I know some communities in my own district are going to be uncomfortable about it. I wish it could have been otherwise. But the fact is if the public is asking for budget cuts, they have to expect that they are going to get budget cuts, and this is one of the places where those cuts are going to bite.

I hope that we can make some adjustments in the future, but, frankly, it is probably going to be tougher next year than it was this year.

I would make just one observation with respect to the personnel reforms at the Federal Aviation Administration that have been mentioned by both the subcommittee chairman and the gentleman from Texas [Mr. COLEMAN], the ranking member. I think all of us wanted to give the FAA additional ability to reorganize its shop, but I want to say that I think that a number of us have concerns about the lack of protections which we feel are in this bill for workers' rights during that reorganization process. The bill, in our view, does not preserve existing statutory requirements pertaining to labor-management and employee relations' issues, and that concerns us very much.

I would simply say to the FAA that, in exercising the prerogatives which they will have under this legislation, I would urge the agency to proceed with utmost caution; and I would urge them to recognize basic elements of fairness as they deal with their employees. Because, if they do not, I think this Congress will and should in short order be right on their tail; and I think the FAA will wish that they had behaved in a sensitive manner.

I would hope that, given the authority which they have been given by this committee, which I think is too broad, I would hope that they would exercise that authority with great discretion. We will be watching.

Let me also say that I will hope the authorizers would take note of the lack of clarity in this bill on that issue, and I would hope that the authorizers would see to it, in legislation that they develop, that the agency does, in fact, meet decent standards of decency in dealing with the employees of that agency. I think Congress has a right to expect that and so do the workers at that agency.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. LIGHTFOOT], a member of the committee.

Mr. LIGHTFOOT. Mr. Speaker, I appreciate the gentleman yielding me the time.

Mr. Speaker, I rise in support of this conference report.

I would, first of all, like to commend the fine work of the gentleman from Virginia [Mr. WOLF]; the chairman, and the gentleman from Texas [Mr. COLEMAN], the ranking minority member, in putting this package together. I think they have done an excellent job of developing and guiding this important funding bill through the entire process.

I believe this is a conference report that we all can support. The House and Senate conferees have developed a transportation funding bill which funds our Nation's urgent infrastructure needs while meeting the tough first-year targets of our drive to balance the Federal budget.

The aviation funding levels in this bill will allow us to move forward with high-priority safety projects such as the new air traffic control system which will finally take us out of the vacuum tube era.

By rejecting a Senate proposal for new aviation taxes, we have taken the first important step toward rejecting the administration's misguided claim of a pending aviation funding shortage. Frankly, a close examination of future aviation funding needs does not automatically suggest a need for more aviation taxes, and the conferees recognized that fact. In fact, with the personnel and procurement reform in the bill, we may find that we have more than adequate money within the FAA.

The personnel procurement reforms we have put in place will save taxpayers' money, at the same time accelerate the modernization of the FAA and drag them out of the 1950's into the 1990's.

Contrary to what some might say, an FAA personnel reform plan will not disband the unions. In fact, with the gentleman from Virginia [Mr. WOLF] as chairman of this committee and his strong support for Federal employees, that is a great stretch of the imagination in the first place. But what it will do is give the administrator the flexibility that the administration requested and needs to make FAA run in a more efficient way.

We have also included language in the statement of managers recommending the FAA establish a high-level industry working group to assist in developing the FAA's personnel and procurement reform plans. This is the first step toward a permanent FAA management advisory committee.

These FAA reform provisions are a start. I am pleased to say the cause of FAA reform will move further tomorrow when my friend, the gentleman from Tennessee [Mr. DUNCAN], the chairman of the Subcommittee on Aviation, will hold a markup of the Duncan-Lightfoot independent FAA bill.

Again, in closing, let me commend the gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. COLEMAN] as well as the subcommittee's fine staff: John Blazey, Rich Efford, Stephanie Gupta, Lori-Beth Hua, Debra Frazier and Linda Muir. Without their help, we could not get any of this done. They have done a very fine job.

I urge the adoption of this report.

Mr. COLEMAN. Mr. Speaker, I yield 4 minutes to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Texas for yielding me the time.

Mr. Speaker, I rise for the purpose of engaging the distinguished chairman of the Transportation Appropriations Subcommittee in a brief colloquy regarding a critical bay area transportation project. The Tasman Corridor light rail project is an integral piece of the local rail agreement fashioned by our regional metropolitan planning organization, the Metropolitan Transportation Commission. All of the bay area jurisdictions are a party to this agreement which represents the best in local planning and decisionmaking. When the California Supreme Court on September 28 invalidated the so-called Measure A, a half-cent sales tax dedicated to many important highway, commuter rail, and transit construction projects in Santa Clara County, the planned-for local match for the Tasman project was assumed to be lost. Due to the perseverance of all involved, in the few short weeks since the ruling, the Tasman Corridor plan has been revised to reflect the new fiscal realities. It has been proposed that only the west extension to Mountain View be built at this time. This segment is compelling. The 7.5-mile line is expected to cost $125 million less than the original project, with 50 percent of its funding derived from Federal Sec. 3 New Start funds. Of the $122 million in proposed new starts funding, some $33 million has already been appropriated and dedicated to the Tasman project by the MTC. The remainder of the funding will come from identified State, local, and ISTEA flexible funding sources. This revised plan has the unanimous backing of the transit agency board, and I expect shortly will be approved by the MTC and later included in the California Transportation Commission's revised States Transportation Improvement Program.

Mr. Speaker, particularly in view of these positive developments, and in deference to the local and regional planning process which has served us well, I would ask if the chairman agrees that if the revised Tasman project secures all requisite Federal, State, and regional approvals in a timely fashion, the $33 million in unobligated balances referenced in the conference report may be provided by the MTC for the commencement of construction on the Tasman West extension.

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Mr. WOLF. Mr. Speaker, will the gentlewoman yield?

Ms. ESHOO. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, yes, that is my understanding.

Ms. ESHOO. Mr. Speaker, I would like to thank the chairman for his understanding. I am very grateful for his thoughtful response.

I would also like to acknowledge the gentleman's staff that has worked with us on this. I look forward to working with the gentleman in making certain that the plan for the Tasman West extension is financially sound, that it is accountable, that it is responsible and that it continues to enjoy the important broad-based support it has had in the past.

Mr. Speaker, I yield to the gentlewoman from California [Ms. LOFGREN] who would like to make some comments on this.

Ms. LOFGREN. Mr. Speaker, I would like to thank my colleague, the gentlewoman from California [Ms. ESHOO] for taking the lead in this colloquy as well as my other Bay Area colleagues on both sides of the aisle for coming together in support of the Tasman light-rail project.

I particularly would like to thank the chairman for reaffirming his commitment to local transit agencies and their authority over transit funding decisions.

Mr. WOLF. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. PACKARD], a member of the committee.

Mr. PACKARD. Mr. Speaker, I rise today in support of the fiscal year 1996 transportation funding conference bill. Chairman FRANK WOLF deserves high praise for his hard work and diligence in structuring funding for our Nation's transportation infrastructure.

This bill continues Congress' investment in the Nation's infrastructure, providing $12.5 billion in discretionary budget authority for highways, transits systems, airports, and the Coast Guard. Also included in this bill, is a provision I wholeheartedly support. It denies funding for HIV/AIDS awareness training unless it specifically relates to the workplace rights of HIV-positive employees or to the medical ramifications of HIV/AIDS.

In tight fiscal times such as these, Congress must evaluate all Federal spending and determine where we can get the most bang for the buck. We took a long hard look at the merits of every program in our bill.

For example, the conference agreement includes no special highway demonstration projects, returning some $350 million in Federal highway aid to the States. Doing so provides greater equity among the States and allows State Governors and departments of transportation to determine the appropriate expenditure of limited Federal highway assistance.

This bill builds America. We provide a network of transportation that moves America—its people, its products, its services—across town or across the Nation. This bill provides necessary funding to make our citizens mobile and allow our goods and services to get to market. It creates jobs, builds our Nation's infrastructure and ensures the safety of our traveling public.

This is a good, solid bill. I urge my colleagues to support it.

Mr. COLEMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I rise today to thank the gentleman from Virginia [Mr. WOLF], the chairman, and the ranking member, the gentleman from Texas [Mr. COLEMAN], and all the members of the conference committee for holding fast in the face of strong opposition from the other body on section 501 of the House version of the transportation appropriations conference report.

This section, an amendment originally offered by myself and by the gentleman from Wisconsin [Mr. NEUMANN], the gentleman from California [Mr. ROYCE], and the gentleman from Minnesota [Mr. MINGE], provides that no funds appropriated in this bill may be used to tear down and move a few hundred feet at a cost of $300 million a highway we just finished rebuilding in place for $90 million.

The only purpose of this proposed boondoggle was to support a proposed luxury housing project being developed and to make the views of this housing project being developed in my district by Donald Trump and his business associates. This measure was supported unanimously by sides of the aisle and shows how this body can come together on issues to benefit the American tax payer. Again, I want to thank the leaders of the conference committee for their support in this matter.

Mr. WOLF. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. COLEMAN. Mr. Speaker, I yield myself such time as I may consume.

I would only attempt to, if I could, since I do not have any other requests for time of any Members that are here to simply add, if I might, in closing, my appreciation for the fine work and hard effort of the gentleman from Virginia [Mr. WOLF], the chairman, and the staff that they assembled, Mr. Speaker. All of us know that we cannot do these jobs without the hard work of a lot of very dedicated and fine men and women who help us put together these numbers so that they work, but also they negotiate many times for us with the agencies so we can understand some of the problems some of the cuts might cause.

In addition, they are able to carry forward some of the arguments that we as Members literally in the committees and in conference do not always get to hear. I particularly want to thank and commend the persons who work hard on the staff.

In addition, if I might, Mr. Speaker, I think it would be wrong for any of us as Members standing here today to talk about a transportation bill that has been nearly a year in the making to not also signal our appreciation to certainly our colleagues on the committee. I know a number have spoken from the other side. I only wanted to highlight the fact that I have been on my side of the aisle blessed with having wonderful cooperation, a lot of history, by the way, from Members who are actually more senior than I on this particular subcommittee.

I wanted to thank the gentleman from Wisconsin [Mr. OBEY], the gentleman from Illinois [Mr. DURBIN], and certainly one of the more important Members because of his status as the ranking member on the Committee on the Budget, the gentleman from Minnesota [Mr. SABO], and one of our newer Members but a Member who understands mass transit in its very intricate forms, the gentleman from Pennsylvania [Mr. FOGLIETTA], and all of their staffs for their advice and counsel as well.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE], who wanted to discuss some of the issues pertinent to the Coast Guard.

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Texas for yielding time to me.

I wanted to indicate support for the conference on two fronts. One is with regard to the office of pipeline safety.

I think some of the Members know that almost 2 years ago now in my congressional district in New Jersey we had an explosion, a natural gas pipeline explosion in the area known as Durham Woods. As a consequence of that, I realized how significant funding levels for pipeline safety were, not only in terms of what has to be done in terms of investigation but, even more important, in terms of prevention.

The amount of money that is provided in this conference bill for pipeline safety is better, significantly better than what I thought might result. I am very pleased with that because I know it will allow us to continue to do the kind of work that needs to be done to prevent accidents as the one that occurred in Edison, in my district.

I also wanted to congratulate the conferees and the bill on the fact that, with regard to the small boat Coast Guard stations, there is language that would prohibit their closures. Those of us who fought very hard on the House floor, who felt that the small boat plan that the Coast Guard had put forward was not going to save a significant amount of money and would actually cost lives appreciate the fact that there is language in this bill now that would prohibit those small boat station closures.

It was not something that was going to save money. So I think that it is consistent with the effort on the part of the committee to try to reduce expenditures, but allowing those stations to close would not have accomplished that fact. So I want to congratulate, thank again the gentleman from Texas as well as the chairman of the subcommittee for their efforts in the conference and urge support for the conference bill.

Mr. WOLF. Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN. Mr. Speaker, I yield myself such time as I may consume.

Again, in closing, if I might, Mr. Speaker, I have only one other speaker who may or may not be able to be here because of a conflict in meetings. So in any event, if I could, the gentleman from Alabama [Mr. CALLAHAN], my friend, earlier referred to the fact that the chairman stood strong against any particular highway demo projects.

One of our colleagues in the conference from another State, however, did correctly point out that he was from a State that was not as populous as Virginia or Texas or California, and that indeed sometimes it is necessary to provide the highway funding instead of doing airport improvement projects or instead of doing bus or transit new starts. Therefore, he felt it was perfectly legitimate that we indeed as members of our respective committees in the House and the Senate be able to provide funding for highways.

As the gentleman from Alabama [Mr. CALLAHAN] knows, as the gentleman from Virginia [Mr. WOLF] knows, we have not stopped anybody over on the authorizing committee from also authorizing and providing contract authority for specific highway demonstration projects. That has happened in the past under ISTEA. We are told it may happen in the future. I think we have got a ways to go. I think this is a good beginning.

I know that the chairman recalled that in an actual vote on the House side, all of the Democrats on our side of the aisle did not oppose him. Indeed, to a person, we supported his effort to not—we think this is a good beginning—to not designate highway demo projects. Many of us think that perhaps we can move forward next year and do the same thing, when it comes to transit. Maybe we should do exactly the same thing when it comes to buses and other kinds of projects of that nature.

We think it is a good beginning, Mr. Speaker. So, therefore, I want to finally only thank specifically two Members without whom I could not have operated my first term as ranking member of a Subcommittee on Appropriations, Ms. Cheryl Smith and Christy Coburn for their hard work. Cheryl has had to wear on our side many hats this session. She had to juggle her responsibilities of this subcommittee as well as to the Subcommittee on the District of Columbia. She has done an exemplary job, and then Ms. Coburn also from my office staff who has worked with the committee on all of these issues.

Mr. DELAY. Mr. Speaker, I rise in strong support of the Transportation appropriations conference report. It is a responsible bill—one that I believe all Members can support.

I want to thank my chairman, Mr. WOLF, for having the patience over the last few weeks waiting to get this bill through conference and onto the floor. On his first trip through the process as chairman, he has done a masterful job of crafting this legislation that is before us today and I commend him on his efforts.

It is important to note that there are many good things in the bill which keep us on message. This bill, while providing for a strong national infrastructure, also includes many policy statements that will benefit our Nation immediately and in the future. A good example must be the fact that there are no highway demonstration projects in this bill. What that means is there are no unforeseen priorities that the States have to take into consideration. What this means is that there is more money for States to accomplish their priorities in a timely manner. Having no highway demonstration projects in the bill gives the legislation integrity, and it gives the States confidence in the way we conduct business. This is what the American people and the State governments expect and this is what they deserve.

In my home State of Texas, a donor State, highway spending will increase by $31 million over last year's level. Hopefully, this increase will assist the State in their construction of some important projects including several U.S. Highway 59 projects through my district. The conference agreement also approves continued funding for Houston metro's regional bus plan. Houston Metro is noted for having the lowest cost-per-new-rider index in the Nation. The continued funding for this program will assist in the efficient movement of people, goods, and services through the Houston area.

With regards to airports, the conference elected to fund airport improvement programs at last year's level. In the face of both competing funding demands and ironclad budget constraints, I am pleased that were at least able to halt the downward funding spiral that airports have experienced over the last 3 years. However, in light of future air travel demands, I feel that it is important that Congress be ready with a plan that allows for the proper financing of our airport infrastructure in the future.

Mr. Speaker, this is a good bill, a bill all Members can support. I urge all Members to support this responsible measure before us today.

☐ 1330

Mr. COLEMAN. Mr. Speaker, I yield back the balance of my time.

Mr. WOLF. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 29, not voting 10, as follows:

[Roll No. 735]

YEAS—393

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez

Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—29

Ackerman
Andrews
Becerra
Beilenson
Borski
Clyburn
Collins (IL)
Danner
Filner
Foglietta
Hilliard
Kaptur
Martinez
Menendez
Payne (NJ)
Peterson (MN)
Pomeroy
Roybal-Allard
Rush
Sanders
Schaefer
Sensenbrenner
Slaughter
Torres
Traficant
Waters
Watt (NC)
Williams
Yates

NOT VOTING—10

Abercrombie
Chapman
Fields (LA)
Funderburk
Sisisky
Skelton
Tucker
Volkmer
Weldon (PA)
Wilson

☐ 1353

Ms. KAPTUR, Mrs. COLLINS of Illinois, Ms. ROYBAL-ALLARD, Mr. BORSKI, and Mr. FOGLIETTA changed their vote from "yea" to "nay."

Ms. EDDIE BERNICE JOHNSON of Texas and Mr. CLAY changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, on October 25, I inadvertently missed rollcall vote No. 735, the conference report on H.R. 2002, the transportation appropriation for fiscal year 1996. Had I been present I would have voted "yea."

MOTION TO INSTRUCT CONFEREES ON S. 4, THE SEPARATE ENROLLMENT AND LINE ITEM VETO ACT OF 1995

Mr. DEUTSCH. Mr. Speaker, I offer a motion to instruct conferees on the Senate bill (S. 4) to grant the power to the President to reduce budget authority.

The SPEAKER pro tempore. The Clerk will report the motion to instruct.

The Clerk read as follows:

> Mr. DEUTSCH moves that the managers on the part of the House at the conference on the disagreeing votes on the two Houses on the House amendments to the bill S. 4 be instructed, within the scope of the conference, to insist upon the inclusion of provisions to require that the bill apply to the targeted tax benefit provisions of any revenue or reconciliation bill enacted into law during or after fiscal year 1995.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to rule XXVIII, the gentleman from Florida [Mr. DEUTSCH] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I yield myself 1 minute and 10 seconds.

Mr. Speaker, on February 6 of this year, this House passed by a 294 vote a line-item veto bill. The Senate subsequently passed the vote as well. It took 7 months. We went through the winter, the spring, the summer, and then we came into the fall, just about the fall again, and September 20, conferees were appointed.

I think there is a question, really, of the sincerity of conferees and appointing conferees when it has taken this long. This is an idea which not only has the support or the voting support of the majority of the Members of this House, but I really think a clear majority of the American people as well; 38 States have line-item vetoes. If we are talking about fiscal restraint, this is the way to go.

What this proposal does, Mr. Speaker, what this motion to instruct says is if we are going to have a line-item veto, let us get the job done. Let us apply it to 1995 appropriations bills and budget bills.

Mr. CLINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I will be brief. We are in the midst of a prolonged hearing on the reconciliation bill up in the Committee on Rules. We have listened to five witnesses over 3½ hours. We have 65 more to go. Hopefully, we will be able to bring the Members a bill tomorrow.

Let me just say to the gentleman from Florida [Mr. DEUTSCH], if he will pay attention over there, without all the discussion, he mentioned or questioned the sincerity of the conferees. Mr. Speaker, I am not going to question his sincerity. I do not think we should do that. He is a friend of mine, and he is a good Member of this body. But, I just have to point out, it is strange that his name appears on the National Taxpayers Union list of big spenders, and yet, he is up here talking about the sincerity of the conferees on the line-item veto. That bothers me a little bit.

First, let me just say this. The amendment does not do what the gentleman claims it does. Neither the House nor the Senate version of the line-item veto contained any retroactive provisions dealing with targeted tax benefits.

The House version did contain retroactive language regarding the applicability to appropriation measures for fiscal year 1995, but that authority was not extended to revenue measures. The gentleman's motion calls upon conferees to apply the targeted tax provisions to any revenue or any reconciliation measure enacted into law during fiscal year 1995. At the same time, the motion urges the conferees to stay within the scope of the conference. These instructions are inconsistent. We cannot have it both ways.

If the gentleman had not included the phrase "within the scope of the conference," he would have been deliberately instructing the conferees to go beyond the scope of the conference, which the gentlemen well knows would be a violation of the rules of the House, and subject to a point or order.

Because he did include this phrase, we can only conclude that this entire motion is purely politically driven, a poor attempt to try and embarrass those Members who happen to support both the line-item veto and the landmark balanced budget we will be approving here on this floor tomorrow.

Because the gentleman's motion is inherently contradictory, I urge that we accept the motion and can honestly state that we will follow the instructions. We will make the line-item veto, as it applies to targeted tax benefits, as retroactive as possible within "his amendment," the scope of the conference, which, according to the gentleman's motion, is not retroactive at all.

□ 1400

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, they are important groups and I seek their support. The organization that you mention is not one of them.

Let me also mention that I would like to offer a wager to the gentleman from New York [Mr. SOLOMON], of Florida oranges versus New York apples, as the whether this is ultimately adopted into law. In front of the world I offer the gentleman that wager. If the gentleman is willing to accept it, I would be happy for him to accept it.

Mr. SOLOMON. Mr. Speaker, I would be glad to take the gentleman's bet.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the Committee on Government Reform and Oversight.

Mrs. COLLINS of Illinois. Mr. Speaker, I support the motion to instruct offered by the gentleman from Florida [Mr. DEUTSCH].

The line-item veto was always intended to apply both to appropriations and to targeted tax benefits. House conferees have already been instructed to make the line-item veto applicable to current and future fiscal year appropriations. The motion offered by Mr. DEUTSCH reemphasizes that current and future targeted tax breaks should also be covered.

Some have suggested that after receiving publicity for passing the line-item veto, Republican proponents of this legislation wanted to deny President Clinton use of the line-item veto against appropriations bill and against special interest tax breaks.

Floor debate earlier this year suggested that the majority wanted to move ahead in a bipartisan way and also to encourage cooperation between the legislative and executive branches.

Speaker GINGRICH said at that time:

> For those who think that this city has to always break down into partisanship, you have a Republican majority giving to a Democratic President this year without any gimmick an increased power over spending, which we think is an important step for America, and therefore it is an important step on a bipartisan basis to do it for the President of the United States without regard to party or ideology.

Mr. Speaker, I do not personally support the line-item veto, but if it is the answer to the country's spending problems that its proponents say it is, then this President should have it now.

Once Congress cedes the line-item veto to a President, it is unlikely ever to get it back. In the future, there will always be Presidents to whom the Congress may not want to give line-item veto power, but they will not have that choice.

If the majority truly believes that the head of the executive branch deserves this power, then there is no excuse to deny him such power now. To deny it is to admit that the bill is merely an exercise in political gamesmanship, to be discarded once it has served its purpose.

Mr. Speaker, this is the second instruction that has been brought to the floor on the line-item veto. I offered the first dealing with applicability of the line-item veto to appropriations, and my motion passed by voice vote. Mr. DEUTSCH's motion also deserves bipartisan support. His is especially timely as we prepare to consider the omnibus budget reconciliation bill, which contains numerous provisions deserving the President's veto.

Mr. Speaker, I urge a vote for the gentleman's motion.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], a very valued member of the Committee on Government Reform and Oversight.

Mr. BLUTE. Mr. Speaker, I thank the Chairman for recognizing me and for his leadership on this important issue for our country. We on the House side agree, I think with what the gentleman from Florida [Mr. DEUTSCH] is trying to do and trying to accomplish. Mr. Speaker, 294 Members of the House agreed to limit the use of tax benefits to certain individuals or special interests, and therefore, we agree with the underlying premise of the motion, but no retroactivity language is in either the House or Senate versions dealing with tax benefits. Because it is outside the scope of the conference, it will be subject to a point of order in both the House and the Senate.

I think the gentleman from Florida and others realize that we still have a fight on our hands to get a strong line-item veto in the hands of the President. We still have a fight to put together the right number of votes to put this over the top. I believe we are moving, and the conference committee is moving, toward agreement with the Senate, and we are getting close to producing a report that will once and for all give the President of the United States a strong line-item veto, as I think most of us support.

Mr. Speaker, I must say, as it regards the sincerity question, as a member of the conference committee, I certainly have observed that Members of the minority party who are appointed to this conference from both the House and the Senate have prefaced their remarks consistently with the statement: I am unalterably opposed to a line-item veto. I am against a line-item veto. I do not want to give the President a line-item veto.

So perhaps, if the conferees from the minority on this conference committee could join with us to do the right thing and give the President the line-item veto, we could move this process forward.

Mr. DEUTSCH. Mr. Speaker, I yield myself 10 seconds. Mr. Speaker, I would point out to my colleague from Massachusetts [Mr. BLUTE] that the majority controls the conference committee and there are Members of your party and my party that voted against this. The Republican party, the day it wants, can pass out of conference without a doubt.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I want to thank my colleague from Florida for, one, bringing this motion to instruct to the floor and also for yielding myself 3 minutes.

Mr. Speaker, when the debate came up not only in our committee, and I serve on the Committee on Government Reform and Oversight, I supported the line-item veto both in the committee and also on the floor. I served 20 years in the legislature where we lived under the line-item veto, and I always joked I had the distinction of having line-item veto by both Republicans and Democrats when I was in the legislature, so it was bipartisan.

During my campaigns for a couple of years people said, "Well, we need the line-item veto to control Federal spending." It is not the panacea to control Federal spending. It is just a small weapon in the arsenal to do it.

I guess my concern and the reason I am rising today in support of my colleague from Florida is that the line-item veto has a great deal of bipartisan support; and it seems amazing, here we are at the end of the tenth month of this year and we have not seen it come back to us out of conference committee. In fact, again, as my ranking member on the committee mentioned, this is the second instruction that we have had.

We need to see that as part of the Contract With America and one of the items I supported to my colleague from Massachusetts, because I think it is a good program, it is something that not just future Presidents, but this President should do.

Mr. Speaker, I remember several months ago that this bill was part of the Republican's Contract With America. In fact, the majority took great pains to pose on former President Reagan's birthday and provided, as my colleague Mr. OBEY tells us, holy pictures and likes to say and show their devotion to the Contract With America.

Well, I am sorry that President Reagan has not been able to enjoy the actual gift that they were going to give to him. The problem is, evidently, that maybe they like the idea of line-item veto, but maybe not for President Clinton.

Again, I have had the honor of having items vetoed by both Republican and Democrat Governors in Texas and what is good for the goose is good for the gander. I would hope that before we stay here too long that we will see that come out of the conference committee, a real line-item veto that the President can deal with.

Again, I regret my colleague from New York, Mr. SOLOMON, our chairman of the Committee on Rules, talking about my colleague being listed by some lobby group as a big spender. That group that he mentioned, I noticed a lot of folks from both parties are on their list. Sometimes I wonder if people are more interested in perpetuating their groups than they are actually looking at the Federal budget.

Mr. Speaker, with that, I would hope that my Republican colleagues, to paraphrase St. Augustine, will remember saying, Lord, I am really for the line-item veto, but just not yet.

Mr. CLINGER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Pennsylvania [Mr. CLINGER] for yielding me this time.

Mr. Speaker, I think that some issues are coming out here that are rather clear.

First of all, I think everybody understands that bringing this subject up at this point is a fine time to again focus a little interest on the line-item veto for those of us who want it and have been working very hard to get it. In fact, we have been trying to get it out of conference as rapidly as we can.

I am delighted to have the opportunity to get up and say publicly to the world we are working on this, and we are working on it as rapidly and as faithfully as we can, as we promised we would, to the body.

But it has not been quite as easy as some might imagine. The other body, in fact, has some very significant differences of opinion. We have had an open conference meeting so far. We have met. It turns out that the gap that we predicted was there is, in fact, there.

The other body has some things called special enrollment procedures, some sunset ideas, some things that are very different than what we wanted and are working out to get a tough, effective line-item veto that works for the great majority here who supported that.

So I can report back and I am happy to take advantage of this time and this motion to say that progress is being made and faithful pursuit of the commitment is, in fact, underway.

Now, without sounding partisan, because I do not think we need any more strident, red-not rhetoric and partisanship out here on this issue right now, I would point out that it strikes me that the main opposition we are getting is from the gentleman who makes the motion, his own party in the other body, from some of the more revered and senior Members, I would say. Again, I do not want to speak out of school about what is going on in conference committee.

I would also point out that the problem with the motion to instruct conferees that we have before us today is self-canceling.

The gentleman, my friend from Florida [Mr. DEUTSCH], well knows that we have to stay within the scope of the conference. The problem is that we have to stick within the scope, and we therefore cannot reach back into decisions about tax provisions that occur before the line-item veto becomes law. That is not within scope.

So what the motion to instruct involves is something that is impossible to do within the rules of the House. Consequently, what we have is a somewhat meaningless motion in front of us, a meaningless resolution in front of us.

However, I am willing to take that meaninglessness in terms of the substance and try and turn it into a self-purpose by saying, I am glad we have the opportunity to report back to the gentleman and those who care that, indeed, progress is going forward, and I believe we should accept this motion in the interests of bipartisan cooperation to reinforce that position of the House team in conference that will, in fact, accomplish the line-item veto according to what we wanted to be in the House at the very earliest opportunity.

Mr. DEUTSCH. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, I am hearing sort of a repetition of debate. I keep hearing being pointed out that there are Democrats opposed to this issue. There are also Republicans opposed to this issue, but they have been in the majority not that long. Maybe they have not gotten it yet, that they, in fact, are in the majority now; and they do not need any of our votes.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I also support the line-item veto, and I applaud the gentleman from Florida [Mr. DEUTSCH] for moving this issue forward.

The American people want the line-item veto, and they want the line-item veto because they are concerned about two things: They are concerned, on the one hand, about pork barrel spending. They want to see an end to pork barrel spending. On the other hand, they also want to see an end to special interest tax breaks that are tucked away into revenue bills. I think that the gentleman from Florida [Mr. DEUTSCH] does a good job in pointing these two things out.

The American people also want us to act now. They do not want us to go forth with business as usual and say, Well, let us just have one more round, one more for the road, one more round of special interest tax breaks and pork barrel spending in this year's revenues bills. What they want us to do is they want us to act to have it apply to the revenue bills and the appropriation bills that are moving through Congress right now.

They do not want the Republicans, who I understand where they are coming from. They have been out of power a long time. They have a lot of Christmas tree presents that they want to hang, and they want to hang them on these bills. But that is not what the election last fall was all about. The election last fall was ending that type of practice. So I think that the Republicans would be best served if they would just acknowledge what everybody in here knows, and that is that the American people want this practice to stop and they want this practice to stop right now.

Now, the charges that go back and forth on the floor today from the Republicans is that they are saying that the Democrats really are not concerned about this, that they are opposed to it. Well, as Mr. DEUTSCH pointed out, there are many of us who support this.

□ 1415

We frankly are somewhat dubious of the motives of the Republicans because we think what they are going to do is they are going to keep confereeing and confereeing and confereeing until we get to the middle of next year and then pass a measure so President Clinton does not have the opportunity to get rid of their pork.

The best way for us to come together is for the Republicans and the Democrats to say, well, let us do it right now. Let us pass this measure and let us have this measure apply to appropriation bills right now. Then we can all walk away with clean hands. That is what the American people want.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. BARRETT of Wisconsin. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, would the gentleman be willing to use his articulate argument on some Members of his own party in the other body? Because in the other body, the gentleman well understands, we only have 53 of us over there and there is something called filibuster and cloture problems.

Mr. BARRETT of Wisconsin. I would be more than happy to.

Mr. GOSS. We need Members of the gentleman's party to help us.

Mr. BARRETT of Wisconsin. I would be more than happy to. As I have indicated here and as the gentleman from Florida [Mr. DEUTSCH] has indicated, certainly you in the majority have the power in this body to move forward. The problem in appointing conferees came from this body. That is where the delay was. It was only September 20 that the Speaker in this body appointed those conferees. So there was a lot of foot-dragging, but the foot-dragging was on this side of the aisle.

Mr. GOSS. Mr. Speaker, will the gentleman yield further?

Mr. BARRETT of Wisconsin. I yield to the gentleman from Florida.

Mr. GOSS. I would admit that it did not go as rapidly as I wanted, but in 9 months we got further than your party got in 40 years and I think that is a fair comment.

Mr. BARRETT of Wisconsin. I think the test is going to be when this bill reaches the President's desk. If you drag your feet until mid September of next year, then you have succeeded in your goal. That is, depriving President Clinton of the ability to get rid of your pork-barrel spending and your special interest tax loopholes.

Mr. GOSS. If the gentleman will yield further, with your help, that will not happen.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, as our freshman class came in, we fought for the line-item veto. The second class to follow that fought for the line-item veto, the 73 Members, and most of them voted for it.

What I have found in the couple of hundred days that we have been here is if we take a look at the delaying tactics, the gridlock tactics of the business at hand.

Let us get through the balanced budget, let us get through the Medicare, let us get through the tax back to the people, let us get back to welfare reform. Let us take care of the business at hand.

We have got everything to go before Christmas. Yes, I have bought my Christmas tree here because I think we are going to be here at Christmas.

When we get through with that business, we will bring up the line-item veto. But until you quit your delaying tactics on all the legislation from your liberal leadership, then we will never get it done.

Looking at every single bill that we have here, they want to continue spending. There is always a good reason for it. they want to continue more spending.

Your heart is not in what you are saying. Some of the Members are and they fought for line-item veto and I appreciate that. But the overall leadership of the Democratic Party does not have their heart in it and they will not follow through and the continuing gridlock will not allow us to bring it up.

Help us do that and we will be more than happy to bring it.

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume.

I am going to point out two things. One to my good friend and colleague from Florida, there is a reconciliation bill that we are going to take up actually in a very short period of time that is this high, or higher. It includes untold numbers of pieces of legislation. The gentleman is on the Committee on Rules. He probably does not even know how many different bills.

My colleague still has time. There is another bill you can put in reconciliation, which is the line-item veto bill. That in fact deals with your issue of the Senate filibuster, because as the gentleman is well aware, in the Senate the reconciliation bill needs only 50 votes, or 51 votes. Actually 50 votes because that is something that the President has supported. I assume the Vice President will follow the President's leads on that issue.

You have put everything else in the reconciliation bill. Here is your opportunity to do the right thing.

I have to respond to my colleague's last statement on the floor. Gridlock. My God, when this Chamber has wanted to do something, the rules of this House allow you to do things pretty darn fast when you want to do them fast, without debate, without any discussion. You get it done. We have one day hearing, less than a day of hearing on Medicare, 27 days on Whitewater, 84 days on Ruby Ridge. You guys control the time.

There is an incredible limit in terms of what we can do. You can do it today. Here is your opportunity.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Speaker, I rise in support of this motion. I voted for the line-item veto. I campaigned on it as well as I talked to people across the 13th District in Michigan. I believe the line-item veto is an effective tool in controlling spending in this House and more importantly in reining in the cronyism which tends to permeate the whole appropriations process.

Even in this supposedly reformed Congress, we have seen more than a little pork work its way into the budget. I have voted to cut billions of dollars, many others have as well, and many others were unsuccessful in removing pieces of the budget.

The question of whether or not people are being sincere in their activities since they are now in conference begs the issue of why it took so long to send people to conference. I am left to question whether or not we are dealing with real values here, real principles, or, rather, situational political posturing that says, a line-item veto is good for a Republican President but not very good for a Democratic President.

I put aside my partisan differences to vote for this veto because I believed it was the right thing to do. I would ask the conferees to do exactly the same in order to pass this proposal into law. Our constituents sent us here to do a job, not to fight, not to whine, not to rely on our party affiliation, but to do a job, and they want this veto. Move it now.

Mr. CLINGER. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I just felt that it is important that we understand that we in this body, in the House, are much blessed by orderly rules and a wonderful Committee on Rules that makes sure that things are properly brought forward.

I believe the suggestion of my colleague and good friend, the gentleman from Florida [Mr. DEUTSCH], that we throw this thing into some kind of an omnibus reconciliation bill because we have already passed it on the floor would make sense from the House side. Indeed it might. But we have a problem on the other side. Again, maybe the gentleman and some of his colleagues on that side of the aisle can help us with somebody over there who has a special rule in the other body, where they have a different approach than we do, might be able to prevail on them. Because it still takes the necessary number of votes to overcome objections and the procedures in the other body.

This is not where the problem is here. I know the gentleman from Florida is not suggesting anything as diabolical as that we have got one group in his party here revving this thing up and another group in his party stopping it over there. That would be unthinkable.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. I thank the gentleman for yielding me the time.

Mr. Speaker, perhaps I was a little naive when I came here on the evening of February 6 to speak in favor of this line-item veto initiative. You see, I labored as a new Member under the misimpression that there might be a way for some genuine bipartisan participation to do something about the budget deficit, to provide some new tools to get a handle on this Nation's financing, and to change business as usual in this House.

So I, along with other Members on the Democratic side of the aisle, spoke in favor of the Republican initiative on the line-item veto. We have it in Texas. Democrats and Republican Governors alike have used the line-item veto and have used it effectively. I was particularly impressed with the last speaker on the night of February 6 on this issue, the Speaker of the House, NEWT GINGRICH. This was not a speech like so many, one of these gloating speeches about we won and you are dumb. No; this was a serious speech in favor of the line-item veto in which Speaker GINGRICH allowed as how he as a Republican in an act of bipartisanship wanted to be sure that President Clinton, a Democrat, had the line-item veto power in order to get at pork barrel in this budget.

What happened after all the speeches were said and done? Well, the Senate on a bipartisan basis proceeded to act, and they passed the measure. By March or April, they had appointed conferees to consider the line-item veto. And what happened at this rostrum? Nothing. Nothing happened. Nothing happened in March, nothing happened in April, nothing happened in May, nothing happened in June, nothing happened in July, nothing happened in August, and nothing happened through most of the month of September because despite the fine speech that was given here, the Speaker did not want to give President Clinton the power to use the line-item veto to cut through this pork that has been put in these appropriations bills. That is not my opinion alone. Various Republican Members of the U.S. Senate have voiced the same concern about the delay that has transpired month after month, that it was all talk and no action. We saw the very same thing happen here this morning. There is a lobby reform bill that the Senate on a bipartisan basis, Republicans and Democrats coming together, passed 98 to 0.

What happens to it over here? It is still sitting there this afternoon. It has been sitting there for 3 months. The Speaker will not even refer this lobby reform bill to a committee to study it. That is not revolutionary, despite all the proclamations that have been made here about these great revolutionaries reforming the way the budget is handled, reforming the way this House acts, but it is a little revolting that we cannot get bipartisanship to resolve these problems.

I salute the gentleman from Florida for coming here and keeping his word. These people may break their word about what they say they are willing to do on line-item veto but at least you are providing us another opportunity to really come to grips with this problem.

Mr. CLINGER. Mr. Speaker, I yield an additional 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], one of the champions of the line-item veto and a member of the conference committee.

Mr. BLUTE. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, I think those colleagues on the other side of the aisle for the most part are very serious about this issue, as we are, have a sense of urgency with the state of fiscal affairs in our country and think that the line-item veto would work in our system of government here at the Federal level like it does in 43 some odd States including my State of Massachusetts, the State of Texas and many, many other States of the union. But I am hearing some very serious selective memory loss problems here on the other side. Because as someone who is relatively new to this Chamber, I recall watching the debates years and years ago in which President Reagan as early as 1981 asked for the line-item veto, and the then majority denied him that line-item veto each and every year of his tenure. Then President Bush was elected and he asked for the line-item veto, and the then majority denied him the line-item veto each and every year. Then President Clinton was elected, and he asked for a strong line-item veto, in the first 2 years of his tenure, and the then majority denied him, their own President, a strong line-item veto.

The new majority has been in office now for about 10 months. In addition to coming forward with the reform of our welfare system, reform of Medicare, Medicaid, and a reconciliation package that I think will bring us toward a balanced budget, we have also gone to conference committee on the line-item veto in 10 short months.

Let us be serious with the American people. In any comparison of who is moving forward quickly on this agenda item, I think the new majority here has to get great credit for moving quickly. It is not easy. There are Members on both sides of the aisle who are opposed to the line-item veto on principled grounds but they have strong reasons for opposing it.

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume on two points.

One is there is no Member of this Chamber, no political party in this country that has a monopoly on wisdom. I credit my Republican colleagues for moving some issues that I supported and I supported in the last Congress. In fact, this House passed out a line-item veto in this Congress. The House did. The Senate did not in the last Congress.

Again, this truly is a bipartisan issue. This is what is the right thing, 38 States have it, and the thing I think that the American people want. But also let me talk about disingenuous, and I think the American people to some extent are watching this, they have the ability to watch this, this debate going on.

How disingenuous can someone be to take 7 months to appoint conferees? This is not rocket science. This is not building the Taj Mahal. This is not building the space shuttle. This is naming five people. Just like writing the names. Again, and this is out of a high-technology office, they probably have computers there and they can probably even pull the computers out so it is probably seven key strokes.

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To take each month, if they did one keystroke, it is totally disingenuous. The smiles and smirks on the other side on this issue really are disturbing.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I want to do a little revising and extending of some of my own remarks here for just a moment. I was one of those that opposed the line item veto for many years because I believe giving any President one-third plus one minority override was too much power, and I argued that point. I argued it again this year, but a little bit differently.

I came to believe several years ago that line item veto was a good thing and a very positive thing. But I still did not want to give a President one-third plus one. I wanted to give majority rule. In other words, if any President were to go in and veto CHARLIE STENHOLM's favorite line item, that is, somebody else's definition of pork, he could do so. It would be my charge to get 50 percent plus one of my colleagues to agree with me. If the President got 50 percent to agree with him, it would go. I argued that this year, and we lost.

Those who believe true line-item veto, one-third plus one won on the floor of the House.

I have been looking at this and listening to this debate. Tomorrow you will get a chance to vote again for line item veto, H.R. 2. I will vote for it because I believe now those who have convinced me that giving a President one-third plus one is something that is very, very important. So I have changed my mind to the degree that I now believe it is time to do that, whoever the President is.

But I find it very interesting in listening to some of the debate today saying we cannot do it because of the Senate. The Byrd rule is 60 votes. At any time two-thirds of the House or the Senate wish to give a President line item veto, it may be done. I think it is time to turn up the ratchet. I think it is time to turn up the heat bipartisanly and say to both bodies, to the conferees, let us agree on what we are going to give this President and the next President and let us do it now. Let us make it applicable to this year's reconciliation bill, this year's tax bill, this year's appropriation bills, because I think it will be very helpful to a lot of the other debate going on concerning the reconciliation bill and how we are going to get a balanced budget by the year 2002, which I totally agree with. So I have been listening very, very carefully to all of the debate that is going on and about a train wreck and how we can avoid it.

I think it is extremely important for all of us now, both sides of the aisle, people like me that have had reservations about doing a line item veto, like some of my colleagues on both sides of the aisle have been wanting to do; I have been putting a lot of time and effort into the thought processes, and I think now is the time for us to test this theory and do it the right way.

Let us instruct the conferees in the House and send the message to the other body. Now is the time for us to do this because it will be very constructive to avoiding a train wreck and to getting us to make the tough decisions that are going to be required in getting to a balanced budget in the year 2002.

So I encourage my fellow colleagues on both sides of the aisle, let us look at this issue as it is being portrayed today and support this motion.

Mr. DEUTSCH. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, the reason why I wanted this time is because I wanted to point out we have heard repeatedly during this debate on the other side the conferees are doing this and they are doing that. What I want to ask is when were these meetings held. I am a conferee also. I have been to one meeting at which we gave these great speeches and nothing more.

So my question is: When have we had all of these conferences? If so, the Democrats have been left out. I would ask that of the committee chairman, the gentleman from Pennsylvania [Mr. CLINGER], when have we had conference meetings?

Mr. CLINGER. If the gentlewoman will yield, as the gentlewoman well knows, in preparing a conference report, obviously there are staff discussions that lead up to member meetings. The staff discussions have been going on at a very vigorous rate, very expedited rate. We anticipate we will have a members' meetings soon because many of the issues in dispute are being resolved. I think we are going to be able to move to that.

Mrs. COLLINS of Illinois. Reclaiming my time, my staff tells me they have not been invited to any meetings in conference. I would just like to say to the chairman that I would very much appreciate it if the minority staff are invited to these conference staff meetings on this particular issue.

Mr. DEUTSCH. Mr. Speaker, how much time is left on each side?

The SPEAKER pro tempore (Mr. WALKER). The gentleman from Florida [Mr. DEUTSCH] has 7½ minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 18 minutes remaining.

The gentleman from Florida [Mr. DEUTSCH] is entitled to close the debate.

Mr. DEUTSCH. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I think it is important to realize this line-item veto is only half of the line-item veto that we were offered in the Contract With America. The portion about giving line-item power to remove tax loopholes, that went out the door anyway, and now the question is whether we get the other half on spending, and I would just yield the rest of my time to anyone on the Republican side that can explain why it took the Speaker from the spring to September 20 to appoint conferees. If there is any explanation other than to thwart President Clinton's use of it, I would love to hear it. Clearly, the only reason was to thwart President Clinton's use of the line-item veto to get at pork barrel.

If there is any other reason why the Senate appointed conferees in March and April, the House had to wait to name those five conferees all that time, this would be a good time to explain it.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I would just throw the question back. We would like to know on this side of the aisle, while your party was in control of the Congress, why we did not get any opportunity to deal with line-item veto.

Mr. DOGGETT. I think that does answer the question. There is no reason that they could offer other than to thwart President Clinton.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume, just to say we have had an interesting debate, an interesting discussion.

The other side has had an opportunity to beat their breast and make some political points about why we have taken so long to get to conference. I think we have to really focus on what is at issue here, and that is the gist of what the gentleman proposes in his motion to instruct. I am not going to oppose it, because it really has no meaning. It really does not have any impact.

While both the House and Senate bills apply a line-item veto to targeted tax benefits, presented after the date of the line-item veto's enactment, neither S. 4 or H.R. 2 apply the line-item veto retroactive to any tax provisions, and, therefore, tax benefits enacted prior to signing H.R. 2 are not within the scope of either bill and remain fully outside the scope of the conference.

Therefore, by the very terms of the gentleman's motion to stay within the scope of the conference, that is an impossibility, given the nature of the instruction.

So it is an exercise, obviously, to give the other side an opportunity to talk about these things. But the impact of it is meaningless. I am not going to oppose it, because it has no impact.

Mr. Speaker, I yield back the balance of my time.

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, ladies and gentlemen, this body is the greatest deliberative body in the world. I mean, I have a thrill every time I come into this Chamber, and really thank God that I have the opportunity to serve the people of my district and the people of this country.

I think what the people of this country want from us is nothing more than taking the high road. That is what they want from us. You know, there is an old expression that all of us know: If it walks like a duck and sounds like a duck and quacks like a duck and smells like a duck and feels like a duck, you know, there is probably a pretty darn good chance it is a duck.

You know, if it sounds like you delaying, if it sounds like you are delaying, if it talks like you are delaying, if it smells like you are delaying, if it hears like you are delaying, if it feels like you are delaying, then you are delaying.

You can protest as much as you want. But, you know, I just do not believe it stands up to the light of day.

Let me talk about something that has been reported in the press today. This is a USA Today article talking about some of the tax breaks that are in the reconciliation bill as it is coming before us, things like college football coaches, college football coaches. You can read it in today's USA Today: College football, not basketball coaches or volleyball coaches, but college football coaches get a special tax break because they have friends in powerful places. Convenience store owners, because of a large company in a particular Member's district, get a special tax break, and that is someone from Oklahoma who is able to get that into the bill. I mean, this is business as usual. This would make Dan Rostenkowski proud.

Let me just say that, you know, that is what is going on, and that is what should not be going on. If my colleagues on the other side want to be the majority party into the next century, then shame, shame, shame, shame. They should not be doing this.

The same thing in terms of appropriations. Here is a list that my staff prepared for me of really turkeys, I mean outrageous, turkeys, that, you know, it seems as if what is going on to pass this reconciliation bill is a bidding war. You know, Members come and they say, "This is what I need and buy me off and give it to me." Well, that is business as usual. That is not what the American people want.

Again, I say to my colleagues on the other side, the smartest thing they can do and the best politically but also from a policy perspective is to stop playing the games and pass this bill.

As has been pointed out before, there are 38 States in this country that provide a line-item veto for their Governors, and it has also been pointed out, I served 10 years in the State legislature in Florida.

I served under Republican Governors and served under Democratic Governors as well. I tell you the system worked. It worked in Florida. I have talked to Members from other States. It has worked there. Not only does it give the Governor an opportunity to veto turkeys, outrageous things like these outrageous things like this that we are going to be voting on that are flat-out wrong. What it does, it prevents them from happening. People do not want to be embarrassed by highlighting those issues that might be in there.

You know, it is a very simple debate, as well. The bill needs to apply to this year. If there is going to be line-item veto, apply it this year. There is no rational policy reason why it should not apply to this year, and, you know, we both talk about how we want to get away from the partisan politics, and that is not why people sent us here. I mean, I represent everyone in my district whether they are registered as a Democrat, as a Republican, or Independent or any other party. Americans are Americans. They are not Americans by party definition. What is good for this country does not just fall on individuals in political parties. It is good for this country, and it continues to make this country the greatest country in the world and the greatest country in the history of the world.

I really urge my colleagues who have the ability on the other side of the aisle to use their majority as it should be used, to do the right thing, not to talk on the floor and say one thing but take 7 months to appoint conferees, to smirk when we are talking about issues in terms of resolving this issue, which just has not been done.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding.

I would stand to urge my colleagues to support this motion to instruct conferees.

I have been laboring for many years here to bring to pass a line-item veto. In concept, there are many ways to accomplish it, whether through enhanced rescission, through the line-item veto provisions we recommended earlier in the year. How it is accomplished is not as important as accomplishing it.

I believe that there are some concerns about the constitutionality of some of these issues, but it is proper to instruct conferees at this point.

Let me just add a word of caution. If all we do is instruct conferees and the conferees never really meet and we never really have a conference report, we still have not accomplished anything. We have been working now for many months to try to push forward the line-item veto concept. I asked on five different appropriation bills to include line-item veto. Rules would not make it in order.

☐ 1445

We have attempted to have it included and, in fact, there is one certain way that all of my colleagues could ensure that line-item veto would apply this year, and that is pass the coalition budget alternative tomorrow, the budget reconciliation alternative, because we have this very provision in the coalition budget reconciliation alternative. It would apply line-item veto to the 1996 spending cycle.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, the gentleman surely is aware that the provision included in his bill tomorrow would be subject to some provisions in the Senate that probably would see it stricken?

Mr. ORTON. Mr. Speaker, the Senate could in fact try to strike it. Does that mean that because the other body may try to strike it that we do not act? I think we have to continue to act, to push forth what the people who elected us and sent us here to do, want us to do.

The SPEAKER pro tempore (Mr. WALKER). All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida [Mr. DEUTSCH].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DEUTSCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 44, not voting 7, as follows:

[Roll No. 736]

YEAS—381

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)

Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—44

Abercrombie
Becerra
Beilenson
Chenoweth
Clay
Conyers
Dellums
Dixon
Engel
Evans
Gonzalez
Greenwood
Hastings (FL)
Jefferson
Johnston
Klink
Lewis (CA)
Martinez
McDade
McKinney
Meek
Mink
Mollohan
Myers
Ortiz
Owens
Pastor
Payne (NJ)
Rahall
Rangel
Roukema
Roybal-Allard
Sanders
Serrano
Shuster
Stokes
Thompson
Torres
Towns
Traficant
Waters
Watt (NC)
Williams
Yates

NOT VOTING—7

Bereuter
Chapman
Fields (LA)
Sisisky
Tucker
Volkmer
Weldon (PA)

☐ 1506

Messrs. LEWIS of California, HASTINGS of Florida, MYERS of Indiana, TOWNS, KLINK, and CONYERS changed their vote from "yea" to "nay."

Messrs. KENNEDY of Massachusetts, ZIMMER, BASS, McDERMOTT, LEWIS of Georgia, STARK, and COYNE changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—DIRECTING SPEAKER TO PROVIDE REMEDY IN RESPONSE TO USE OF FORGED DOCUMENT AT A SUBCOMMITTEE HEARING

Ms. SLAUGHTER. Mr. Speaker, I offer a privileged resolution (H. Res. 244) to direct the Speaker to provide an appropriate remedy in response to the use of a forged document at a subcommittee hearing, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 244

Whereas, on September 28, 1995, the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the Committee on Government Reform and Oversight held a hearing on political advocacy of Federal grantees;

Whereas, the president of the Alliance for Justice, a national association of public interest and civil rights organizations testified at that hearing;

Whereas, a document was placed upon the press table for distribution at the hearing which contained the letterhead, including the name, address, phone number, fax number, and E-mail address of the Alliance for Justice, and the names of certain member organizations and the dollar amounts of Federal grants they received;

Whereas, in her opening statement at the hearing, the president of the Alliance for Justice identified the document as being forged and contained errors and requested an explanation from the chairman of the subcommittee as to the source of the document;

Whereas, in response, the chairman acknowledged that the document was created by the subcommittee staff;

Whereas, House Information Resources, at the request of the subcommittee staff, prepared the forged document;

Whereas, the document was prepared using official funds;

Whereas, the chairman of the subcommittee acknowledged in a letter, dated September 28, 1995, to the president of the Alliance for Justice that "the graphics, unfortunately, appeared to simulate the Alliance's letterhead";

Whereas, the September 29, 1995, issue of the National Journal's CongressDaily reported that Representative McIntosh's communications director said that "the letterhead was taken from a faxed document, scanned into their computer system and altered"; and

Whereas, questions continue to arise regarding the responsibility for preparation of the forced document: the chairman of the subcommittee stated during the hearing that he had no prior knowledge of the document's preparation; the chairman later stated that the subcommittee staff prepared the document: and other published reports suggested that Chairman McIntosh's personal office staff prepared the document:

Whereas, on September 27, 1995, the Speaker expressed concern over the distribution of unattributed documents and announced a policy requiring that materials disseminated on the floor of the House must bear the name of the Member authorizing their distribution;

Whereas, Members and staff of the House have an obligation to ensure the proper use of documents and other materials and exhibits prepared for use at committee and subcommittee hearings and which are made available to Members, the public or the press, and to ensure that the source of such documents or other materials is not misrepresented;

Whereas, committees and subcommittees should not create documents for use in their proceedings that may give the impression that such documents were created by other persons or organizations, as occurred at the September 28, 1995, hearing of the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs;

Whereas, the dissemination of a forged document distorts the public record and affects the ability of the House of Representatives, its committees, and Members to perform their legislative functions, and constitutes a violation of the integrity of committee proceedings which form a core of the legislative process: Now, therefore, be it

Resolved, That the Speaker shall take such action as may be necessary to provide an appropriate remedy to ensure that the integrity of the legislative process is protected, and shall report his actions and recommendations to the House.

The SPEAKER pro tempore (Mr. WALKER). The resolution constitutes a question of privileges of the House under rule IX.

Ms. SLAUGHTER. Mr. Speaker, I am bringing to the floor of the House an issue of basic responsibility of the people who serve here either by election or appointment. This privileged resolution affirms the need for this House to ensure that all documents which come before us in an official capacity are accurate and authentic.

We have an obligation to history, scholars, authors, and the courts to ensure that all who serve here are cognizant of this responsibility and are determined to carry it out. Senator TRENT LOTT, when he served in the House, made an eloquent statement of the importance of the sanctity of our records:

> For if the legislative history made by the duly elected Representatives of the people is subject to malicious alteration and distortion by anonymous, nonelected staffers, then the credibility of this institution, the people's branch is in serious jeopardy.
>
> All our written records become suddenly suspect in the eyes of the people, the press, and the courts.
>
> How much weight, for instance, are the courts likely to give to the legislative history we supposedly made as Representatives when the actual source of that history is in doubt? And yet that is the situation in which we find ourselves until the guilty are found and punished and adequate steps are taken to prevent the recurrence of such abuse [CONGRESSONAL RECORD, June 30, 1983].

We must guarantee that we are putting together a fair and accurate record of our legislative history. We cannot let our standards fall.

In the past few weeks, I have participated in a number of hearings regarding the McIntosh-Istook-Ehrlich proposal to limit the political advocacy of organizations which receive Federal grants. Now, regardless of your position on this legislation, what occurred during the September 28 hearing cannot be ignored by anyone who believes that Congress must obey and follow the laws of the land. It cannot go unchallenged by anyone who claims to honorably represent the United States in these hallowed Halls of Congress. It cannot be accepted by those of us who have vowed to uphold the laws of the United States. In short, the unauthorized creation and falsification of documents, to be distributed to the general public, must not be tolerated.

At a hearing of the Government Reform and Oversight Subcommittee on Economic Growth, Natural Resources, and Regulatory Affairs on September 28, a document was placed on the press table which appeared to be on the letterhead of the Alliance for Justice. It included a logo, an address, phone number, fax number, e-mail address, and a listing of member organizations, laid out in such a manner as to replicate the alliance's own letterhead. Incorrect information was placed on this document, in such a way in which any reasonable person would believe it came from the Alliance for Justice. Because there was no disclaimer, anyone could have picked up this piece of paper, left the hearing, and remained under the false impression that this document came from the Alliance for Justice.

However, upon closer examination during the hearing, it became clear that this document was falsified. The logo was incorrect, the names of some of the member groups were inaccurate, and the amount of the grants were in error. The chair of the subcommittee has admitted that his staff created this document, and, as stated by his communications director, they had taken a faxed document, had House Information Resources scan it into their computer system, and altered it.

And, there appeared to be no understanding by the people who created the document of the seriousness of their actions.

We need to assure that this kind of deception should not, and cannot, happen in the House of Representatives. And, today we must affirm this House's belief that all documents which are produced by us are authentic, accurate, and dependable.

We are here to represent the people of the United States. And, particularly those of us on the Government Reform and Oversight Committee, we are here to provide oversight—to protect the people of this Nation from wrongdoing by the Government—the kind of wrongdoing we have witnessed by this incident.

This resolution is designed to reaffirm, to the American people, our commitment to honesty and to history. It is to protect the integrity of the legislative history. It is to safeguard our legislative proceedings and to guarantee that what we do is trustworthy and honorable. Again, we must guarantee that we put together a fair and accurate record.

Mr. Speaker, in the name of the men and women who have served this Congress in the past, and in the name of those who will come after us, we must be unwavering in our standards. Forgery will not be tolerated.

I urge adoption of this resolution.

MOTION TO LAY THE RESOLUTION ON THE TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY] to lay on the table the resolution offered by the gentlewoman from New York [Ms. SLAUGHTER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 189, not voting 7, as follows:

[Roll No. 737]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Chapman
Fields (LA)
Goodling
Sisisky
Tucker
Volkmer
Weldon (PA)

☐ 1530

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret that I missed rollcall vote 737 on the motion to table. Had I been present I would have voted "yea."

GENERAL LEAVE

Ms. SLAUGHTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just tabled.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentlewoman from New York?

There was no objection.

□ 1530

THE 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the order of the House of Tuesday, October 24, 1995, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 2491.

□ 1532

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, with Mr. BOEHNER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, October 24, 1995, the bill is considered as having been read the first time.

The gentleman from Ohio [Mr. KASICH] will be recognized for 90 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 90 minutes.

Mr. SABO. Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. GIBBONS] be allowed to control the first 30 minutes of debate on our side, and have the authority to yield to other Members, and that the gentleman from Alabama [Mr. BROWDER] be allowed to control the following 10 minutes and have the authority to yield to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I yield myself 10 minutes to begin.

Mr. Chairman, in a way, it almost seems anticlimactic to be on the floor today to talk about the most sweeping amount of change that we have seen in this country over the last 60 years. I want to kind of go back and set the foundation for this. Frankly, we have to go back all the way before the last election. The reason why it is important to go back there is it is all about promises made and promises kept.

My colleagues may recall that the Republican majority, at the time the Republican minority, has a program called a Contract With America. We laid out a number of things that we wanted to do to reestablish contact with the American people, including cutting the size of the Congress, the congressional staffs, applying the same laws that we pass on the American people to apply to us known as the Shays Act, the line-item veto, and, of course, the balanced budget amendment and family tax relief, designed to eliminate or ease the burden on the tax increase that the American people suffered in 1993.

We said that we would be able to give Americans tax relief; we said we would be able to balance the budget; we said that we would be able to provide for a strengthened national security situation, and we would get all of this accomplished. Then the horror stories started about what this would really mean for Americans.

My colleagues may remember some of the famous memos that were put out that talked about the fact that Republicans could not do it unless they robbed all of these programs.

Well, back last November we won an election, and a lot of it had to do with our Contract With America. Then in December it was said that there is simply no way we can balance the budget and give tax relief and provide for a stronger national defense and make government smaller; it could not be done. Well, last January or February, I came to the floor with a program to pay for the tax cuts, with a program to pay for less of a tax burden on Americans.

People said, "Well, you can do that, John, but you cannot pass a budget resolution that will enact this entire program." I then came back later that spring with the help and support of my colleagues in the Republican Party, and we then laid down a budget resolution that balanced the budget in 7 years, provided the tax relief we promised, brought about a smaller, more focused, more efficient Federal Government, and strengthened national defense.

People said, "Oh, well, we know you can do the budget resolution, that is the easy part. What you will not be able to do is reconciliation where the rubber meets the road."

So, Mr. Chairman, I come here today with a reconciliation bill that in fact keeps our word, provides tax relief to Americans, sharpens the focus of the Federal Government, strengthens national defense, and keeps all of the promises that we were making last fall.

Is it not a great thing in America that a group of elected officials are going to keep their promises? In fact, we are going to balance the budget over 7 years and save the next generation. Mr. Chairman, just to explain a little bit about it, probably the greatest misnomer or the greatest misunderstanding about this proposal, if we listen to the tenor of the debate, is that Federal spending is going to go down in this budget.

Well, let me just put a couple of things in perspective. JFK, John Kennedy, created the first $100 billion budget in this country, and that occurred in 1962. We created our first $100 billion budget in 1962. From 1962 to 1995, the Federal budget grew from $100 billion to $1.5 trillion in spending per year.

If a person started a business when Christ was on earth, if that person lost $1 million a day, 7 days a week, he or she would have to lose $1 million a day, 7 days a week for the next 700 years to create $1 trillion. Our budget is $1.5 trillion and our national debt is approaching $5 trillion, and this November we are going to have to lay down a debt service payment paying interest on our national debt approaching $25 billion.

Mr. Chairman, the gentleman from Mississippi, SONNY MONTGOMERY, one of the great gentleman of this House, came to me almost in a panic saying, "John, did you know, $25 billion in interest payments?"

I say to my colleagues, with the national debt approaching $5 trillion, the American people, the mothers and fathers, the mothers and fathers in this country know one thing, that if the Federal Government is unable to control its appetite, if we are unable to slow the growth in Federal spending, it is going to eat us alive.

Now, over the last 7 years in Washington, and we will get some charts out here later, we have spent cumulatively on Federal spending $9.5 trillion. Remember what I said about how long it took to make $1 trillion? We spent $9.5 trillion. Over the next 7 years, in an effort to balance the budget, give Americans tax relief, strengthen national defense, shrink the size and scope of government and make it more focused, we are going to go from $9.5 trillion in spending to $12.2 trillion in spending. Federal spending is going up by almost $3 trillion.

Now, in Washington, they claim that only having a $3 trillion increase in spending rather than a $4 trillion increase in spending is a revolution. Frankly, on Main Street in every small town, in every large city in America, a $3 trillion increase is not a revolution, it is barely an evolution.

The simple fact of the matter is that people who struggle every day in their families or people who struggle every day in their businesses do not view a $3 trillion as opposed to a $4 trillion increase something that would be impossible to do. Frankly, they wonder why it goes up so much.

Mr. Chairman, the bottom line is, we have a rational plan over time to slow the growth in Federal spending, to slow the growth in Federal spending while at the same time giving people some of their money back, so that they can spend it on things that they think are most important.

Do my colleagues know what the bottom line here is today? The bottom line here today is about the pendulum, it is about power, it is about money, and it is about influence. For 30 years we have sent an awful lot of power and an awful lot of money and a lot of influence to this city.

What we are trying to do is, in a commonsense way, bring the pendulum back so that the American people can be entrusted, so that the American people can be empowered, so that the American people can get their money, their power, and their influence back to fix problems and to show true compassion in the communities in which they live across this great country. Our belief is, it does not work best here; it works best when administered with common sense by people who live all across this country in Main Street, USA.

Mr. Chairman and Members, this is clearly a historic vote, a historic opportunity. This is our chance to restore fiscal sanity and to guarantee economic security for this country. If we are up to this job by slowing the growth in Federal spending, if we can live within a $3 trillion increase rather than a $4 trillion increase, do we know what? We have made the first down payment on guaranteeing the prosperity of the United States of America for another century. Mr. Chairman, let us pass the reconciliation bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio [Mr. KASICH] always makes such a nice speech. It is a pleasure to hear him. I get to dreaming when the gentleman speaks, but let us get back to reality, let us get back to reality.

Mr. Chairman, I would ask the gentleman from Ohio [Mr. KASICH], has the gentleman read this bill? Has the gentleman read this bill? Has the gentleman from Ohio read the bill?

Mr. KASICH. Yes.

Mr. GIBBONS. When?

Mr. KASICH. Well, we wrote most of it.

Mr. GIBBONS. Mr. Chairman, the gentleman has not read it. He has not read it. Nobody has read it.

I can tell you one thing it does not contain. It does not contain a $500-per-child tax cut, does it? Does this bill contain a $500-per-child tax cut? Yes or no. The answer is no.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. No; the gentleman has plenty of time. You have 5 hours.

Mr. KASICH. Well, then, how am I supposed to answer the question?

Mr. GIBBONS. Does it contain a $500 tax cut?

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. Mr. Chairman, I yield to the gentleman from Ohio, very briefly.

Mr. KASICH. Mr. Chairman, of course the gentleman knows that we are going to have a $500 tax cut. Contained actually in that bill, it is not there, but it is our full intent to do it, and the gentleman understands the purely technical grounds under which we do not have that in there right now.

Mr. GIBBONS. Mr. Chairman, reclaiming my time, the first thing we have established is that it does not contain any $500 tax cut, so anybody that gets up and says that does not know what is in the bill.

Second, 33 percent of all of the children in families under 18 years of age do not get any tax cut of any sort in the Kasich bill, or should I say in the Gingrich reconciliation bill. Thirty-three percent of all of the children in the United States get nothing out of the Kasich-Gingrich bill. Another 10 percent get a minimal amount of the Kasich tax cut for children and families.

The bill is a fraud. There are so many outrages in this bill that it is impossible to state them all, but there are some real principles that everybody ought to understand. Most of the children and families in tax cuts are in upper income families. They get the tax cuts. The lower income families that really need the money, that have really suffered in all of this revolution, do not get a thing out of this bill, not a cotton-pickin' penny out of this bill.

□ 1545

It is obvious that what is happening in this huge reconciliation bill is that the budget balancing is coming on the backs of poor people, of sick people, of children, and of the working poor. The earned income credit, a bipartisan, partial solution to the problems of the working poor, is being decimated in this bill. That is just a part of the problems that are contained in this bill.

Mr. Chairman, I have a limited amount of time; and I want to be fair with Members on my side about this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, the reconciliation bill will harm average people just to give that huge tax cut to the wealthiest of people in this country. I would just like to point out, in several areas, some 15 million children in this country will be impacted with the welfare cuts that are being made to give that tax cut to the rich and wealthy of this country.

When we look at children who are receiving public assistance or those who are receiving some type of assistance under the welfare program, it punishes a child by denying cash aid when a State drags its feet on paternity establishment. It leaves children holding the bag if the State runs out of Federal money in any given time. It does not assure safe child care for children when their parents work. It allows children to die when in State care, and the only thing the State is required to do is to make notification to the family upon death.

It throws some medically disabled children off SSI because of the bureaucratic technicalities. It denies SSI benefits to children who did not become disabled soon enough. It cuts aid to poor children just to pay the tax cuts to the rich in this country. There is no guarantee of foster care for children who are abused or neglected under the welfare reform package.

Mr. Chairman, welfare reform that we are working on now with the conferees in the Committee on Ways and Means, the House version of that bill is cruel to children in this country. Just to pay for the huge tax cut, the $245 billion, that we are going to say to 15 million children who live below the poverty threshold in this country, that we are going to take from the children of this nation to give to the rich and wealthy of this Nation.

The bill harms average people—to provide tax cuts for the wealthiest. Reconciliation should focus on balancing the budget—not tax cuts for the privileged class.

WELFARE

The Republicans have chafed at suggestions that their welfare reform bill—H.R. 4—is cruel to children. The truth hurts. Here are just ten examples of the cruel policies embedded in the Republican contract on America.

It punishes the child—until the mother is 18 years old—for being born out of wedlock to a young parent—title I. Number of children punished: 70,000.

It punishes a child—for his entire childhood—for the sin of being born to a family on welfare, even though the child didn't ask to be born—title I. Number of children punished: 2.2 million.

It punishes a child—by denying cash aid—when a State drags its feet on paternity establishment—title I. Number of children punished: 3.3 million.

It leaves children holding the bag if the State runs out of Federal money—title I. Number of children punished: ?

It does not assure safe child care for children when their parents work—title I. Number of children punished: 401,600.

It allows children to die while in State care without requiring any State accountability beyond reporting the death—title II. Number of children punished: ?

It throws some medically disabled children off SSI because of bureaucratic technicalities—title IV. Number of children punished: 75,943.

It denies SSI benefits to children who didn't become disabled soon enough—title IV. Number of children punished: 612,800.

There is no guarantee of foster care for children who are abused or neglected—title II. Number of children punished: ?

It cuts aid to poor children to pay for tax cuts for the rich. Number of children punished: 15 million.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I appreciate the gentleman yielding me the time.

As we go through this debate, I hope we will have an opportunity to talk about some of these issues and hopefully to respond to some of the things that were said here. I just want to respond to two of them.

The gentleman from Florida spoke about the fact that it does not have the $500 tax cut. He knows full well what is going on here, the fact that the Contract With America, how the tax cut was passed, the fact that the Senate resolution is somewhat different, there is a haircut or a shave in here to reduce the amount.

The bottom line is, and we have been hearing from the other side, that there is a tax cut in here, that it is all going to the rich. We know there is going to be a tax cut in this bill. There is a tax cut. And it is going to be a tax cut that is going to benefit middle America. That is the second thing I wanted to respond to the gentleman from Florida, talking about this is all going to the wealthy.

Look at this. This chart here demonstrates that the vast majority of that goes to those of the income levels between $30,000 and $70,000. That is per family. That is not what, in my definition, is the wealthiest Americans.

Those at the very low end get less, yes, because they pay less, considerably less taxes. In fact, in terms of the tax burden, if you are to put this on the basis of where the tax burden goes, the vast majority of this tax relief, percentagewise, goes to those who are paying the least amount of taxes. So it is distributed over income groups by giving more of it to those at the lower end of the scale.

In fact, the top 1 percent of income earners in this country pays 27.5 percent of all the taxes. They do not get anywhere near that amount of the tax relief. The top 10 percent pay 57.5 percent of the tax. They do not get anywhere near that amount of the tax relief.

I hope as we go through this debate we will have the opportunity to realize that what we are talking about is a tax cut that is going to benefit families. It is saying we are not going to take that money out of your pocket, we are going to leave it in your pocket, and maybe the American family can figure out how to spend the money better than we in Washington can. Maybe they can decide what is best for their education, health care, clothing and feeding and housing their families. That is what this tax cut is all about, benefiting the American family.

Mr. GIBBONS. Mr. Chairman, I yield 2½ minutes tot he gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, I have heard the gentleman from Ohio talk about keeping promises. Keeping promises is important. So is looking at the content of those promises. If the content is harmful, there is no great honor in keeping misguided promises. That is what is true here today.

Yesterday, this was said on the floor of the Senate:

> As much as I want to reduce the size of government, I question spending cuts directed so disproportionately against the elderly, the young, and the infirm.

That did not come from a Democratic Senator. It came from a Republican Senator, ARLEN SPECTER.

There is a great unease in this country about this Republican package. I think it is the source of the low popularity ratings of the Speaker. It is because I think people in this country feel this budget is not so much courageous as it is callous, reducing by $23 billion the earned income tax credit for working families, having a tax cut. Two-thirds of the tax cut go to those with incomes above $75,000. That is what the Treasury Department says.

But I want to go beyond those figures, and I want to talk, for example, about SSI for handicapped kids. These are kids with serious handicaps in families that are low, middle and low income, earning $28,000 and less. Mr. Chairman, this budget eliminates the cash payment for 700,000 families with seriously handicapped kids.

We have to get the budget under control. We have to eliminate this deficit. But I plead, how we do it is also important.

This is a budget that is a callous budget. It deserves to be rejected. I am sure it will be vetoed by the President, and then we will get down to a bipartisan negotiation as to how to turn around the budget deficit in America.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. I am proud, Mr. Chairman, to stand here with my colleagues on one of the most historic days in the last 30 years. We have today begun the process of shifting the very fabric of government from reckless spending and huge deficits toward responsible fiscal policy.

The last time Congress exhibited fiscal responsibility Sam Rayburn was Speaker. He told us something that some have forgotten. He said, "You'll never get mixed up if you simply tell the truth."

In November of 1994 and over the past 10 months, Republicans have been completely honest with the American people. We have told them the truth. The truth is, the Federal Government taxes too much. The truth is, the Government spends too much.

The national debt is nearing $5 trillion, and if we continue on the course that the Democrats have proposed, the number will reach over $8 trillion by 2010.

The truth is, the Republicans have the only certified plan to balance the budget. If you want to talk about caring about children, how much can you care about children if you are not willing to change a pattern of spending that will give to each baby born in 1995 over $187,000 in taxes in their lifetime just for the interest on the debt?

The truth is, the President sent not just one but two budgets to the Hill; and he requested that Congress spend $200 billion more than it takes in every year.

The truth is, a balanced budget means a lot to Americans and our children, not only because it is the right thing to do but because it sets us on the road to prosperity. Federal Reserve Chairman Alan Greenspan said that a balanced budget will lower interest rates by 2 percent.

On Election Day, we promised we would present a plan to balance the budget; and now we are delivering on that promise. Unlike the President, ladies and gentlemen, we will have no regrets a year from now. By telling the truth to the American people, we are making history, and we are keeping our commitment. We will deliver hope to a Nation that believed it never could happen again.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, the reconciliation bill before us today is an affront to American standards of fairness and decency. Of course the American people want to see the deficit reduced, but they do not want to do it by gutting Medicare, Medicaid, the earned income tax credit, child nutrition, student loans, and a host of other valuable Government programs; and they especially do not want to do it while giving huge tax cuts to those who do not need it.

The Democratic staff of the Joint Economic Committee looked into who is likely to get the tax cuts and who is likely to suffer from the presumed cuts the Republicans are proposing. The results are stunning.

The poorest 20 percent of American families, those making $13,000 a year or less, those whose income represent only 3.5 percent of the total income in this country, will bear one-half the cuts in programs that help people directly. The poorest 20 percent get half the cuts of benefits, and they are going to get no tax cut whatsoever. Instead, they will see their taxes go up because of the change in the earned income tax credit.

Most middle-income American families get a bad deal as well. Some will get a tax cut, but many will lose benefits worth much more. What is going to be left is they are going to be holding the bag when the Medicaid money is no longer available. They get a net cut, if there is a tax cut, in their gross benefits of $500 a year.

But under the Republican plan for deficit reduction, the richest 20 percent of American families come out way ahead. They are slated to get two-thirds of the tax cuts, and their tax breaks exceed their losses in program benefits. They get fewer program benefit cuts and more of the tax cuts.

Mr. Chairman, the shared sacrifice in reducing the deficit would look very different if we had a Democratic plan. I urge Members to oppose the obscene reconciliation package.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Chairman, it is a pleasure to stand here in behalf of my own leadership and the gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, to compliment them for their yeoman work.

I want to share a little bit of a personal vignette that relates to this entire experience. My father served as Governor of Maine, but my father was also a former Democrat. In 1974, he left the Democratic Party because he was sick of the tax-and-spend philosophy and the attitude that there was no limit to what this Government can do.

There is an irony also because in 1976 he was the first national cochairman of the National Committee for a Balanced Budget Amendment. The irony was this: When his son was sworn in as a Member of this Congress, his two grandchildren, my son, Matthew, age 11, and my daughter, age 7, Sarah, were on the floor with me. It made me sick to think that after 20 years my two children were at a point where they are looking at paying hundreds of thousands of dollars in taxes on interest alone on the Federal debt without a single reduction of principal. That is what this is all about.

We have a plan today. There is no plan on the Democratic side. In fact, any plan that has been offered barely gets past any plan that has been offered by our own leadership, barely passes the muster of your own caucus.

I have got another little secret to share with you today. Last November, the Republicans took control of the Congress by 13 seats. In that freshman class we have 14 former Democrats, myself included, who are sick of the tax-and-spend attitude that has been pushed.

The issue is, are we going to do it or not? Are we finally going to bite the bullet and pass a plan that gets us on a track to a balanced budget or are we going to continue the game, the charades, and the lack of honesty about an issue that is fundamental to the future of this country, including the future of my two children?

□ 1600

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I love all of this ethereal talk about the wonder-wonderland that is being created by our Republican colleagues.

But when are we going to get down to business? When are we going to talk about what is in this monstrous bill they have got here? Let me just ask the gentleman on the other side if they can explain any of the language on pages 1296 and 1297? Just pick it up and read it, and if you can explain it, take your time and try to do it.

But, you know, that is what this debate is about. It is not about dreams. It is about reality. It is what is contained in here, and this is a bill that is going to be vetoed. It deserves to be vetoed. Then perhaps we can talk some common sense around here.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, the former speaker, I say, yes, we know you are going to do it, pass this bill. But it is the way you do it that we have the problem with.

I stand here in opposition to the part of this bill, the earned income tax credit, which is under attack. This is the one feature of the Tax Code generally designed to help working families. The majority side's runaway growth is justification for taking away $23 billion from the earned income tax credit. This claim conveniently ignores the fact that this is the way the law was written on purpose.

President Reagan supported the earned income tax credit. President Bush expanded it, and then President Clinton embraced it, and that is where we are today: Working people get a tax credit.

The majority goes on to great lengths to point out that families with too much income are receiving this credit and uses this as the primary justification for phasing out the credit. However, the majority well knows the very structure of the credit results in families with incomes above the poverty line receiving the credit. Destruction of the credit so a family would lose the entire working credit for earning 1 additional dollar above the base amount would destroy the work incentive.

Therefore, to phase out the credit faster, the majority raises the marginal rate on every family. This change is nothing less than $8.7 billion tax relief on the 9.4 million families with children, earning between $11,000 and $28,000.

This is really beyond the beyond, and I do not see how anybody can defend it. This is an egregious example of paying for tax breaks by raising taxes on some of America's most hard-working families.

The tax credit was the first effort of bipartisanship to keep working families working, and then it was the first step in welfare reform, and now to attack it and say it does not work, it works. You need the $23 billion, but it should not be taken from the tax credit.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. FRANKS].

Mr. FRANKS of New Jersey. Mr. Chairman, ladies and gentlemen, I think something is important to put into perspective. If we choose to allow this Government to run on the course it is currently taking, in 17 short years every single dollar that every individual taxpayer sends to this town, every tax dollar paid by every corporation in America will all be consumed by just five programs: Social Security, Medicare, Medicaid, Federal Employee Retirement Benefits, and the interest payment on the national debt. In just 17 short years we will not be talking about possible reductions in student financial assistance that will allow a child to help get to college. There will simply be no money available to help send children to college, because all of our tax revenues will be consumed by those five mandatory entitlement spending programs.

If we need to help put police on the streets in our neighborhoods that are high-crime areas, the Federal Government will be unable to help any of those communities, because all of our available revenue will be consumed by just those five programs.

If you are concerned about the quality of our air and our water, there will not be any Environmental Protection Agency, because all of the money will have been consumed by just those five mandatory entitlement spending programs; no money for infrastructure, for our roads, our bridges, our highways, our mass transit systems.

The bottom line is that the next generation will inherit an America with far fewer opportunities because the Government will have taken all of its available revenue, yet still be enable to meet some compelling needs of our citizens.

For 30 years, we have been deficit spending. We have lost sight of our fundamental responsibilities to make certain that we measure our commitment to compassion with our ability to sustain programs financially.

It has gotten out of balance. Ladies and gentlemen, this is the hour to balance the budget.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, let me congratulate my Republican friends for making a promise and keeping it. People did not understand the contract. I did. I have known you for along time.

You said you were going to reduce the deficit. You said you were going to balance the budget. I knew darn well what you meant. You meant you were going to give back some taxes, tax cuts, because I understand what you were talking about.

If you give more money to the rich, they are smart enough to know what to do with it. They are going to invest it. Right? That is why most of it goes to rich people. They invest it, create jobs, and sooner or later, 10 or 15 years, it trickles down, the poor get something. I understand what you are talking about.

You say you want to help people with health care. The best way to help old folks with health care is take away what they have got, so you take away $270 billion, give them a voucher, and tell them, "You are sick. Go out and find yourself a health maintenance program".

The previous speaker said we would not have money to fight crime. That is the cruelest thing of all, because you cut education, you cut job training, you cut the little cushion we have in the earned income tax credit to keep people working instead of having to go on welfare. And so what do we have in our cities that really cost us, not just in losing deficit but in losing lives, is that instead of giving job opportunities, you give us jails, instead of talking about having schools and educators and going into partnership, you allow drugs to come and provide the hope.

Let me say this, yes, you balanced the budget. Yes, you give the tax cut. But when you said you were reforming these programs, believe me, the American people can read the fine print in that contract.

You may have fulfilled the goal as you read it, but if you go to Catholic Charities, if you go to the Jewish Council Against Poverty, if you go to the Protestant Council, those people who provide the health care and try to help the poor among us, they will tell you you breached that contract with the American people and sooner or later when they come back you will soon know that America would not tolerate what you are doing to them today. They will pay you back tomorrow.

Mr. KASICH. Mr. chairman, I yield myself 2½ minutes.

Mr. Chairman, again to the total Federal spending, it is going from $9.5 trillion to $12.2 trillion. We want it to go up.

I mean, it is almost absurd to argue this because it shows you how modest we are being. We want it to go from $9.5 trillion to $12.1 trillion; total Federal spending will grow like this.

What do the big spenders want? They want to grow at $13.3 trillion. If we keep doing this, the country is going bankrupt.

You want to talk about kids? They will have no chance. You want to talk about the rich? The rich will get richer and the poor will get poorer.

The fact is our Federal spending goes up.

Let us talk about the rest of the program. Medicare, we are going to go from $926 billion to $1.6 trillion. If we grow at $1.8 trillion, guess what, Medicare goes bankrupt. We had that debate last week, and our senior citizens are going to be in wonderful shape if they want to stay in the current program, and, frankly, they ought to look at the private plans where they are going to get more.

But under any circumstance, Medicare grows from $926 billion to $1.6 trillion.

Now Medicaid, to listen to the other side, you would think we are going down. Medicaid is going from $443 billion, you hear those numbers out there on main street, billion, to $773 billion. The big spenders want to go to $955 billion. Of course, the country will go bankrupt.

But it does not make for a good speech to talk about facts.

Welfare reform, in our welfare program, we are going to go from $492 billion to $838 billion. Some want it to grow to $949 billion.

If we do this, you know what will happen. The country will go bankrupt.

The bottom line is, folks, can we, in fact, grow from $9.5 trillion to $12.1 trillion? Can we restrain ourselves from that extra trillion dollars? If we restrain ourselves, we will balance the budget. We will give tax relief, and the earned income tax credit is going to go up 40 percent under our plan. I think that is pretty good, a 40-percent increase over the next 7 years, and nobody will get less money in 1996 than they got in 1995.

These are the facts. This is what will save the country. Pass this reconciliation bill.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

I always love the beautiful dreaming charts of the gentleman from Ohio [Mr. KASICH]. He overlooks two factors. One, the country as a whole grows in total number of people, as does the eligible population, for the types of things he was castigating.

Second, there is the impact of inflation that unfortunately is with us and has been with us for, well, for generations, really. So all of his figures are just make-believe.

Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in strong opposition to a budget reconciliation package that violates every concept of truth in labeling and truth in advertising. If you believe this reconciliation bill is about balancing the budget and keeping promises, you believe Joe Camel was created to teach children about dangers of smoking.

The problems with this bill begin with the numerous horrendous provisions that betray the middle class, working Americans who pull the wagon. The attack on the middle class is broad and bold. This bill opens the door to those who would raid pension funds and put at risk the retirement benefits of working Americans. At the same time, it closes the door to higher education for millions of Americans by restricting access to student loans.

Elderly Americans also face a double-barreled attack. Two hundred seventy billion dollars of Medicare cuts threaten the availability and affordability of basic medical care. Another $180 billion of cuts in Medicaid will tear at the family budgets of millions of elderly Americans, and their children, who are trying to cope with the costs of nursing care.

The promises broken in this bill are far too many to mention in just a few minutes. But one deserves special attention. The promise of the Contract With America—in the Speaker's term, the crown jewel—was a $500-per-child tax credit. Under the bill before us today, the crown jewels have been devalued by 27 percent. This bill walks away from that promise and many more. But the bill does preserve the spirit of the contract in one important way—the elderly, the middle class, and the poor bear the burden of paying for tax cuts that overwhelmingly benefit wealthy taxpayers.

There will be an opportunity tomorrow to vote for a plan that will balance the budget in 7 years. We can vote for a plan that will borrow less money than the Republican plan, that will balance the budget without tax increases, and that does not require the harsh and unwise cuts proposed by the Republican budget.

I refer to the coalition budget. That substitute demonstrates you can balance the budget in 7 years without the extreme proposals of the Republicans, with less borrowing, if you only will give up the special-interest tax breaks that are included in the Republican bill.

□ 1615

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. LARGENT], a member of the Committee on the Budget.

Mr. LARGENT. Mr. Chairman, it was Robert Kennedy who said that progress is a nice word, but change is its motivator, and change has its enemies. It should come as no surprise to anybody that our plan of change, that represents the most significant change within the Federal Government in the last 60 years, a truly historic vote that will occur on this floor tomorrow, has its enemies. That should come as no surprise.

We have the defenders of the status quo, that have said we need to spend more and more and more, and continue to load the debt on to our children and our grandchildren, arguing against this plan. In fact, I would submit to Members that had our plan come from on high on tablets of stone, that these same people would be voicing their opposition to these extreme measures that the Republican plan puts forth in the reconciliation bill.

Yes, change is difficult, but change is absolutely necessary. We cannot continue to add more and more debt on to the heads of our children and grandchildren. We cannot allow Medicare to go bankrupt. We cannot continue to overtax our families and our businesses. We cannot continue to allow government to grow and grow and grow.

No, Mr. Chairman, it is time to resist the enemies of change, to be courageous, something that has been lacking in Washington, DC for too long; to do the right thing, for our country and for our children.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, I would suggest to the gentleman from Oklahoma that if this bill had come down from on high, our good Lord would not be doing to the poor, sick, and disabled of this country what is in this bill.

We went through a charade here last week to convince the American people that there was no connection between Medicare and the tax cuts. We had speaker after speaker saying no, we are doing one this week, and we are doing one the next week, and there is no connection.

But if you take this bill, 724 pages, go to page 1324, and it says "H.R. 2425 as passed by the House of Representatives is hereby enacted into law." Medicare is mixed in with the tax breaks. Now, that is the essence of what this bill is all about.

There is no question that the Republican revolution is intended to give 1 percent of Americans who make more than $200,000 annually a tax cut that averages $12,600. But if you are in the 19 percent of the families in this country earning less than $10,000, you will have a tax increase of $25 a year. More than half of the cuts, 52 percent, go to 5.6 percent of the Americans at the top of the schedule.

Now, at the same time, this bill takes $23 billion and puts it as a tax increase on the low-income families in this country who are trying to stay off welfare. These families will be hit doubly hard, first by the $23 billion cut in the earned income tax credit, and second by the complete or partial ineligibility they have for the nonrefundable $500 tax cut.

We also see in this bill a paltry $2 billion taken out of corporate welfare in this country. The question is, why are the poor people hit 11 times harder than the corporations of this country?

It is a bad bill. I urge Members to vote against it. It means that we are going to balance the budget on the backs of the poor, and that is wrong. I would say to the gentleman from Oklahoma [Mr. LARGENT], God would not have done that.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LAZIO], a member of the Committee on the Budget.

Mr. LAZIO of New York. Mr. Chairman, do you know what the fastest growing area of the Republican budget is? It is Medicare. We are taking care of older Americans. The rhetoric on the other side is that we are taking care of the rich. Is the family tax credit taking care of the rich? Is giving breaks for working families through an adoption tax credit taking care of the rich? Is giving families the ability to use an IRA for first-time home buying, for health care expenses, to encourage savings, is that taking care of the rich? I think not.

Let us call this what it is. Inherent in this question is the moral question of what type of world we will leave to the children of America.

There can be no serious question as to the two paths before us. We can stay on the path we have been on and deliver a future of unsustainable spending and crushing debt, huge increases in taxes that dash hopes and dreams, and in the end that promise fewer opportunities and a poorer quality of life for the smallest among us, who, incidentally, do not have the ability to vote.

Or we can take another path, a brighter path. It will require courage, but it represents the hopes and the aspirations of every parent for every child in America. It promises an America where our children can have better lives than we. It will make America stronger for our generation, for our children's generation, and for generations to come. It maps out a positive future for our country by beginning the tough task of balancing the Federal budget and beginning to pay off our national debt.

With the national debt approaching $5 trillion and expected to reach almost $8 trillion by 2010, and interest payments scheduled to surpass the money we now spend on our national defense, now is not the time for our political needs to buckle. A balanced budget is the surest strategy to increase American productivity and living standards. That is not according to some Republican rhetoric, that is according to Alan Greenspan, the Chairman of the Federal Reserve. A balanced budget means 6 million new jobs, rising family income, making homes, cars, education, or starting a new business more affordable.

If we cave into 30-second sound bites, Mr. Speaker, if we fail to do the right thing because we do not agree with every single change that has been made in this pivotal package, will fail to do the right thing for our children.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I thank the gentleman from Florida for yielding me this time.

Mr. Chairman, well, here we go again. Fifteen years after George Bush warned this Nation about voodoo economics, our friends on the other side of the aisle are up to their old tricks again. They are trying to tell the American people that a 7 year $245 billion tax cut is an important step along the road to a balanced budget.

This time, the American people know better. They know that to cut taxes by $245 billion, when you are $5 trillion in debt and when you are experiencing deficits of more than $160 billion annually, is not just bad economics, it also runs against simple common sense. It may please some, but it is bad public policy.

There is a better, more fiscally responsible course for us to follow. It will be on the floor tomorrow. This is a budget written by our Conservative Democratic Coalition, which takes this Nation straight to a balanced budget by the year 2002, and it does so without these costly tax cuts. It contains real budget reforms, and it cuts the budget faster and deeper than the Republican plan. Because our bill rejects tax cuts, it provides a more moderate glide path to the balanced budget.

We assure the solvency of the Medicare Program, but we do it fairly. Medicare will receive $100 billion more than the Republican plan. Medicaid will receive $100 billion more. The vulnerable rural hospitals in my district and elsewhere so dependent on Medicare and Medicaid will receive fair reimbursements under our program. We reject deep cuts in student loan programs, retain the earned income tax credit, and provide $80 billion more in discretionary spending in the areas ranging from education to economic development, to agriculture and to conservation.

Mr. Chairman, let us reject this business as usual. We can and we should not cut taxes when we have to borrow this money from our children. Vote tomorrow for the Conservative Democratic Coalition alternative. Vote against the Republican reconciliation bill.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I just want to respond to one thing said by the last speaker, and that is the implication of deep cuts in student loans. That is just simply not true. Mr. Chairman, we are not cutting student loans. Student loans, the Pell grants are going to grow; there are going to be a higher amount of Pell grants than before. The total amount of student loans is going to grow. The only thing we are doing is saying when you graduate in college in the 6 months that the taxpayer, the working Americans, single parents and mothers, are subsidizing that loan, we are saying they are going to pay the interest. They are going to accumulate the interest for that 6 months. That is the only difference. That is the only change we are making.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I will start with a quote that I would like to bring to your attention: It goes as follows:

> We have no right, frankly, to continue to finance a Government budget that is 20 percent debt-financed, and will be more debt-financed in the years ahead, and leave it to our children to figure out how to live with lower incomes than they otherwise would have. And believe me, it isn't just our children. We're going to be living with the consequence in the very near future.

Mr. Chairman, that is not NEWT GINGRICH, our Speaker. That is not DICK ARMEY. That is not our chairman, JOHN KASICH. In fact, it is not even you, Mr. Chairman. That is President Bill Clinton in 1993 talking about the budget.

Well, Mr. Chairman, I have 2 children, Lucy and Jonathan, ages 2 and 4. They owe the Federal Government today over $18,000. As has been said before, if we do nothing, in their lifetimes they could owe as much as $180,000. I am not going to leave this country to that kind of a destiny. The future of this country is indeed in our hands today, and indeed, one could say, the world.

Now, this reconciliation package is not perfect. There are problems with it. There are problems with any document that is developed as a result of consensus. But what is at stake today is the very institution of this Government and the country. We have spent beyond our means now for over 30 years, and if we fail to get this country on a path to a balanced budget starting today, I do not know where my children, Jonathan and Lucy, are going to be 20 years from now.

Mr. Chairman, when all the rhetoric goes down, the shrill rhetoric and Chicken Little discussion about how the sky is falling in is over, the American people will remember this Congress for many, many years after the rest of us are gone.

Please join me today in passing this reconciliation package. It is needed.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the gentleman, the prior speaker, said that this reconciliation proposal is not perfect. The gentleman is correct, and when imperfections are raised, the Members of this body should try to do something about it before Members are going to be asked to vote on it. I will give you one example: It is the pension reversion issue. Many of you know about it. Some do not know about it. You better get to know about it soon, because it is going to hit you in the first 6 months of 1996.

If you recall, in the eighties we had massive withdrawals of pension funds by companies, companies that were basically in trouble, $20 billion, and the Pension Benefit Guaranty Corporation had to take over a lot of these pension programs. What we did in 1986, 1988, and 1990 under Reagan and Bush, on a bipartisan basis, is clean it up. So there is now an excise tax of 50 percent if you take pension fund moneys out of these pension programs, unless it goes to health care benefits for your retirees.

What the Committee on Ways and Means did, what the majority did, was put a provision in to allow companies to take money out of their pension funds without any restraint. They can use the money not only for health care, but they can use it to buy luxury cars, they can take the money out for bonuses for their executive employees, they can take the money out for leveraged buyouts.

In fact, the Pension Benefit Guaranty Corporation, which is a nonpartisan group, says that over $40 billion will be taken out of this fund over the next couple of years, probably in the first 6 months of 1996, when all of us are going to feel it, mainly because there is an incentive. There is no excise taxes for the first 6 months of 1996.

This is a provision that is going to do major damage to the average American worker, and this is a provision that is strictly special interest. We received reports written by companies that were special interests that basically supported this provision, but all objective outside groups have said this is going to do major damage, major damage, to the average American worker. I would just be aware of this, because we are going to feel this in the first 6 months of 1996.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for yielding me time.

I think the question is to this side of the aisle, to the American people, do we want to balance this budget, or do we not? The American people are not too concerned about how we keep our books, but let me just make a couple of comments why it is so important to the American family, to our kids, and our grandkids.

If you had a stack of $1,000 bills pushed tightly together, $1 million would be 4 inches high. Our debt in this country is over 300 miles into outer space of tightly stacked $1,000 bills. Government has got its arm in the pot of available money that can be lent out in this country to the tune of borrowing 40 percent of all of the money lent out last year.

What does that mean as far as demand goes? Alan Greenspan, our top banker, Chairman of the Federal Reserve, says if we could end up with a balanced budget we would see a 1.5 to 2 percent lower interest rate. What do you think that means to somebody that is paying off a college loan?

□ 1630

I will tell Members what it means. It means on the average an individual would save $2,000 over the payback period of their loan. What does it mean to a family paying off a $100,000 home that they are buying on that mortgage? It means a $2,000 savings. It means that we are going to expand jobs and the economy in this country.

The President sent us a budget. CBO says it is never going to balance. And yet right now, in his press conference, the President is announcing that with the growth in the economy we probably would not have to have any spending cuts.

Mr. Chairman, just let me finish by saying back in 1947 the Federal Government operated on 12 percent of the GDP. We used 12 percent of the GDP to operate this place. We know what it is now. It is almost double that. We have expanded this Government, spending 22 percent of our gross domestic product.

If we care about our kids and our grandkids, let us get back in focus, let us balance this budget.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, this bill is really not a reconciliation bill, it is a wrecker ball bill on middle class families.

Mr. Chairman, an ugly spirit has risen in our Nation's Capital. A mean spirit. A cruel spirit. A spirit that gave rise to this Republican bill.

Republicans raise taxes on the working poor—and cut taxes for the idle rich. Republicans raise taxes on 30 million working families.

Republicans spend more on defense, but cut Head Start, school lunches, and student loans. They choose bombers over babies, defense contractors over children, star wars over schools.

Do you really want a welfare bill that would put children in orphanages? Do you want to return to the days when families put the disabled in back rooms. Do you want to send senior citizens to dilapidated hospitals and second rate medical care?

I cannot believe, I truly cannot believe what this bill does to our country. There are Americans who need our help. Children do not choose to go hungry. The elderly do not choose to become sick. The handicapped do not choose to be disabled.

Mr. colleagues—there, but for the grace of God, go I. Each and every

Member of this body is blessed. We have a responsibility—a moral obligation—to do right by our children, our seniors, and our working families. This bill fails that test.

Two hundred and forty-five billion dollars can help a lot of families earn a livable wage. It can feed a lot of children. It can help a lot of students get through school. It can provide medical care for hundreds of thousands of seniors. With $245 billion, you can do a lot of good for a lot of people.

Or you can squander it on a privileged few. You can pay for a tax cut for rich, political friends. That is the choice you make today. I urge you to look within your heart—to do what is right. Vote "no" on this proposal. It is cruel, it is mean, it is downright lowdown.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Chairman, I come to the floor with a great deal of pride today. We can and should take pride in the fact that for the first time in a very long time the House of Representatives is going to do what is right for the future of this great Nation—we are balancing the budget.

We will pass this balanced budget and set the country's finances back on the right path for the first time since 1969. It is a vote for the future and a vote for our children and grandchildren.

We are stemming the flow of red ink from the Federal Treasury so that my 28 grandchildren won't be stuck with bills run up by their grandfather's generation.

I am also proud of the fact that we listened to the American people and we are doing what we promised to do. We are delivering on the change that the people want.

The people want welfare reform; and, we are delivering. The people want tax relief; and, we are delivering. The people want us to save Medicare from going bankrupt; and, we are delivering. The people want more power returned to the States; and, we are delivering.

The baby boomers will be retiring soon and that means that they will be looking for Social Security and Medicare benefits. This budget helps to ensure that those benefits will be there when they need them.

This is a good budget. For a change, it shows that we can keep our promises and it shows the American people that we listened to what they want instead of acting like the national nanny.

There are many in this House who do not like the new way of doing things. But, I am willing to bet that the American people like knowing that we are doing things their way, for a change.

My friends, this is the opportunity to fulfill the vision that President Reagan set forth in his first inaugural address when he said:

> It is not my intention to do away with government. It is rather to make it work—work with us, not over us; stand by our side, not ride on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.

This budget meets the Reagan goals. We must pass it. We must show the American people that we can and will deliver the change that they want.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I want to thank the gentleman from Florida [Mr. GIBBONS] for yielding me the time. We have heard a lot of talk today about deficit reduction and, clearly, this bill is intended to do that. But as we talk about, like the former speaker, about reducing the deficit, very few of my Republican colleagues tell us how they are doing this.

We spent 1 day of debate last week talking about the Medicare cuts that are embodied in this bill. Also embodied in this bill are substantial tax cuts. Now, my friends, if we are trying to resolve a budget deficit and we have no money, where, I ask my colleagues, are the dollars coming from to fund a tax cut, one which, I have to tell Members, is purportedly going to the middle class.

Well, my Republican friends have a new definition of Republican middle class. I will share that with Members. Here is a quote from one of the Republican Members of the House, and he indicates "When I see someone who is making anywhere from $300,000 a year to $750,000 a year, that is middle class. When I see anyone above that, that is upper middle class." I think this indicates to us where the tax cuts are going and where this whole deficit reduction bill is going.

Mr. Chairman, I specifically want to address an issue which I think is very, very important to the working men and women of this country. My friend, the gentleman from California, BOB MATSUI, talked about this before. In this bill there is a provision which will permit corporations to raid their pension plans to the tune of $40 billion. Corporations under this bill can take out of their pension plans, which is put there by workers, reserved for their workers' pension. This bill says they can take up to about $40 billion out of that nationwide.

The problem with that policy, Mr. Chairman, is who will pick up the tab if these pension plans cannot meet their obligations? We have an answer. It is called the Pension Guaranty Corporation, a Federal agency ensuring pension plans. But they have their financial problems on their own even without this. So I say, and my other colleagues will say to Members, this will end up another savings and loan bailout. Because if the Pension Guaranty Corporation does not have the money after the corporation is skimmed $40 billion, it is the taxpayers who will have to shell out the money.

The CHAIRMAN. The Chair reminds all Members that they should direct their remarks to the Chair and not to the audience or anyone else outside of the Chamber.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Chairman, the national debt now stands at $4.8 trillion, and this means that a child who is born today is going to have to pay $180,000 just to pay the interest on the debt over their lifetime. That is $3,500 in taxes every year of their working life. We are literally mortgaging our children's future and straddling them with a mountain of debt.

As a mother of five and grandmother of six, almost seven, I have a moral obligation to balance this budget for them because I want my kids and grandkids to have a better future, to have more opportunity than I have. But, how can that happen if they start out with this great mountain of debt on their backs?

Mr. Chairman, it has been stated if we balance the budget, interest rates will drop 2 percent. Now, that may not sound like a lot, but just consider the fact that that means, on a 30-year mortgage on a $75,000 house, an individual would save $37,000. That is enough to put our kids through college. It also means that an individual would save $900 on a $15,000 car loan. My goodness, look at what that would mean to a young person starting out or a young couple.

Mr. Chairman, the family is the most important part of society in America today and a balanced budget is good for the American family. On behalf of our children and our children's children we need to vote for a balanced budget and to do that so we will be sure that tomorrow's dream, the American dream, does not turn into tomorrow's nightmare.

Mr. GIBBONS. Mr. Chairman, I yield the balance of my time of the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I stand here before you today to oppose this budget reconciliation package. We are beginning this historic debate on the future direction of our country. This budget heads the country in the wrong direction. It is a shame that we could not be here today debating a bipartisan budget which has a sole purpose of meaningful deficit reduction.

This budget harms the American people. The Medicare cuts totaling $270 billion go too far. These extreme cuts are needed in order to pay for $245 billion in tax cuts to wealthy Americans. We debated this tax cut back in the spring and I still believe it is not needed.

I have been traveling throughout my district and I have heard angry complaints about other aspects of this budget. Seniors are scared about drastic cuts to Medicare. They fear what will happen to them if they are struck with a catastrophic illness.

College students are afraid about the changes to student loans. Will they be able to afford to finish college? Parents are afraid they will not be able to pay for the college tuition of their children.

Individuals who have worked their way off of welfare are angry about changes to the earned income tax credit. The EITC has been an extremely successful incentive for work. Even President Reagan was supportive of the EITC. In 1986, he stated that EITC was "the best anti-poverty, the best profamily, the best job-creation measure to come out of Congress."

Hard-working Americans do not understand the corporate pension reversion provision. Why should corporations be allowed to raid pension plans? I look at this provision and all I can see is the ghost of the S&L crisis. How do we explain this onerous provision to the American people? We cannot light a match to the pension funds of hardworking individuals.

The Citizens For Tax Justice's analysis of the tax cuts included in this reconciliation package indicates that 52.3 percent of the tax cuts go to 5.6 percent of Americans with incomes greater than $100,000 a year. Less than 1 percent of these tax cuts would go to the 40 percent of families earning $20,000 or less per year.

This budget heads the country in the wrong direction. We need to be responsible legislators. This legislation is not responsible. I urge you to vote against budget reconciliation.

We owe the American people more than this budget. It is our obligation to do better.

□ 1645

The CHAIRMAN (Mr. BOEHNER). All time has expired. Under the unanimous-consent agreement previously agreed to, the gentleman from Alabama [Mr. BROWDER] is recognized for 10 minutes.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Chairman, this is an historic occasion as we get ready to vote on the budget reconciliation bill tomorrow. For those of us who have worked so hard to get to this point, it really is exciting.

Mr. Chairman, we have made some difficult choices getting to this point today, but I look at this as a moral issue that we are fighting today. Just as our parents and grandparents fought the war against fascism, and we recently had the war against communism, we won those; the moral fight we are having today is about balancing this budget. It is a moral issue. It is obscene what we are doing by overspending in the Federal Government by over $600 for every man, woman, and child in the United States.

Today, the national debt is $18,800 for every man, woman, and child in the United States, and is getting larger and larger every year.

We are spending more money on interest on the national debt than we do for the Army, Navy, Air Force, Marines, and the CIA combined. The greatest threat we have to all the good programs in this Government, like Medicare or Head Start, the threat is interest on the national debt. If we do not get that under control, we are going to make the future generations pay dearly.

Mr. Chairman, it only makes sense to balance our budget. I was home this weekend and talked to a city councilman from Venice, FL, and a city commissioner from Sarasota, and county commissioners and State legislators. They have to balance their budget. Everybody understands that. Why do we not understand it in Washington?

All we want to do is balance the Federal budget. It makes sense. No one can argue with that. We argue about all this we are cutting; we are increasing spending and we are doing it for the kids and the future generations.

Mr. Chairman, the cruelest thing we can do is to continue to overspend and leave this horrible debt with our kids and our future generations. We must pass this budget reconciliation tomorrow.

Mr. BROWDER. Mr. Chairman, I think we are going to give our colleagues a break and change the topic of the conversation around here because, frankly, the folks over to my right and my friends on the Republican side are right, and the folks to my left who have been discussing that budget are right.

The fact is, the reconciliation bill that the Republicans have presented does try to balance the budget by 2002. But the folks over here are right too, in that it goes too far.

Mr. Chairman, what we would like to do is take a few minutes and have a few of our colleagues talk about an alternative budget, an alternative reconciliation plan that was prepared by the coalition. We think that our alternative plan is better than what has been offered by the Republicans, because it achieves balance by the year 2002, as the Republicans' plan does, but ours does it in a way that is more responsible. It accumulates less debt for our Nation over that period, and it is fairer to the people such as senior citizens, farmers, and students and other people that we think the plan should be fair to.

What I would like to do is recognize a few of our coalition members, and a few Members of Congress who are not coalition members, to talk about the coalition budget.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I am proud to be speaking on the House floor today in what I feel is an historic debate. This Congress is finally considering plans to balance our Nation's budget in 7 years, and I think we should all be proud of that.

However, there are two plans that will be considered tomorrow that will achieve a balanced budget and I feel the coalition alternative is the most fair and honest approach to this goal.

The coalition budget reconciliation is a responsible budget alternative that meets all the deficit reduction requirements for a balanced budget by 2002.

In order to balance the budget, we must all support some cuts in valuable programs. However, cutting programs fairly and gutting them are two totally different alternatives. The coalition budget is much kinder on many programs important to all Americans than the Republican budget reconciliation.

First, we make no cuts in guaranteed student loans. The coalition understands the importance of education and will not make it more expensive for middle- and low-income families to obtain college loans like the Republican bill.

The coalition budget cuts $80 billion less from education, Head Start, rural health care, and economic development than the Republican bill. And, we cut $10 billion less from agriculture programs, preserving agriculture subsidies in a way that doesn't unilaterally disarm American farmers in a global marketplace.

We cut $100 billion less from Medicare coverage for our Nation's seniors than the Republican budget. We cut $100 billion less from Medicaid than the Republican bill. And, in addition to that, we accumulate much less debt than the Republican plan over 7 years, because we set a more responsible glidepath.

Mr. Chairman, this substitute reaches the same goal as the Republican budget—a balanced budget by 2002. And, yet the coalition substitute provides more money for those in need.

Mr. Chairman, whether or not you support tax cuts is not the issue today. Many of us in the coalition support tax cuts, however, we firmly believe you ought to cut spending first before you give the money out for tax cuts.

The coalition alternative also rewards work with a welfare plan that, according to the CBO, will put more people to work than the Republican plan. We preserve the earned income tax credit to reward those who are working to stay off welfare rolls. The Republican plan would cut drastically from this valuable work program.

Mr. Chairman, this alternative is the only reasonable solution to putting our Nation's fiscal house in order. The people of this country have asked us to do this, and I think this plan achieves that goal more quickly, and less painfully than the Republican plan. I urge my colleagues to take a long, hard, look at the coalition's alternative and vote for the coalition budget reconciliation substitute tomorrow.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, there has been a great deal of scare tactics here on the floor today about the pension reversion issue that is a part of this bill. Let me tell my colleagues that we should be interested in strengthening pension plans in this country.

Over the last 5 years, there have been no new defined benefit plans created in the United States of America. Many have been frozen or terminated. It is because of the very unwise policy that this country has conducted toward pension plans over the last 10 to 12 years.

Mr. Chairman, this bill turns that around. It includes pension simplification, and, yes, it includes the ability of employers to withdraw excess funding above 125 percent, of liability.

ERISA only requires that employers keep 100 percent of liability in the fund to qualify. But if they get 125 percent, they still cannot withdraw any of those funds. As a result, employers are not going to fund extra above the 100 percent, because they know they can never get their money back if they get above 125 percent.

Mr. Chairman, our bill encourages employers to fund more in the marginal plans, and that is what we should be doing. If ERISA was inadequate in having plans qualify with only 100 percent of accrued liability, ERISA needs to be changed. The plans that are vulnerable in the event of a decline in the market are the plans that are 90 to 100 percent, but which qualify under ERISA, not the plans that are funded above 125 percent of liability.

So, Mr. Chairman, we constructively and proudly move forward with this bill to encourage more defined benefit plans, adequately funded.

Mr. BROWDER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I want to talk about the coalition's alternative budget for a minute, because on the floor earlier today there was a statement made that the Republicans had the only budget reconciliation plan that got to a balance in 2002. That simply is not the case.

Mr. Chairman, the coalition plan cuts spending first. We get to a balanced budget in 2002, borrowing about $50 billion less than the Republican plan will borrow between now and then.

Mr. Chairman, we do something else that is responsible, fair, and wise. We send a signal to the military veterans of our country that we are going to keep their commitment. Our values are to keep the commitment from a grateful country to our Nation's veterans and we have military retiree subvention, so that they can use their Medicare at military hospitals or any other facilities they so desire.

The important point to come out of this debate over the next 2 days, Mr. Chairman, is that our coalition budget gets to balance in 2002, in a more responsible, fair, and wise manner than does the Republican plan.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. HERGER], a member of both the Committee on Ways and Means and the Committee on the Budget, and the great catcher for the Republican baseball team.

Mr. HERGER. Mr. Chairman, today we have embarked on a truly historic debate that will ultimately culminate in the passage of the first balanced budget in over a quarter of a century.

Mr. Chairman, the American voters sent Members of this Congress here to Washington to change business as usual and put our national fiscal house in order. Mr. Chairman, the American people understand how to balance a budget. They do it every day. Unlike Washington, small business owners have to meet budgets and payrolls or they will go out of business.

Local governments have to live within their means. Mr. Chairman, families across this Nation sit around their kitchen tables every month to figure out how to provide shelter, food, and clothing for their families with only the money they currently have. Indeed, the American people know how to balance a budget and, Mr. Chairman, it is time that Washington does the same.

Yet, ironically, the Americans that will benefit the most from this balanced budget are not even old enough to vote: our children.

Mr. Chairman, it is morally wrong to ask future generations to pay for the current excessive expenditures. For example, past spending has left a $5 trillion legacy for a child born today, which faces $187,000 in taxes just to pay their inherited share of interest on the national debt.

Mr. Chairman, the budget before us today is a fair one. It puts an end to frivolous expenditures by finally prioritizing spending and making the tough choices that previous Congresses refused to make.

Mr. Chairman, it is our moral obligation to pass this historic balanced budget.

Mr. BROWDER. Mr. Chairman, I yield 1 minute to the gentlewoman from Arkansas [Mrs. LINCOLN], an outstanding coalition member.

Mrs. LINCOLN. Mr. Chairman, there is a saying: Be careful what you wish for, because you may get it. I think as the Republicans embarked on this idea of balancing the budget, and under the auspices of balancing the budget presented this package, they thought there would not be any Democrats that actually honestly wanted to balance the budget.

Well, Mr. Chairman, there are. We have worked hard at coming up with a responsible, fair package that will actually do that. There is an old southern saying that, there is more than one way to skin a cat, and I think that is exactly what we have done.

Mr. Chairman, we have addressed agriculture here. We do not unilaterally disarm American farmers in a global agricultural marketplace where other nations are subsidizing far more than we are, and we are working hard to balance the budget on behalf of our children and our children's children. But, we also recognize that they need educational opportunities to be competitive in a global marketplace. We not only balance the budget for our children, but we give them the capability and the resources they need to be able to be independent and productive for themselves in years to come.

□ 1700

This is a fair, reasonable, and wise approach to making sure that we do balance the budget. We look at all aspects of it and do it in a fair way.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from the State of Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, let me first pay my respects to my blue dog Democratic friends and acknowledge the effort they have made in presenting an alternative budget for us today. The fact that there is a second budget, which does promise us a balanced budget in 7 years, is encouraging.

Let me also congratulate the President for saying that he, too, believes that we can do this thing in 7 years and end this terrible debt we are creating for our children by balancing our budget over 7 years. Let me also acknowledge the fact that the President admitted that maybe he did raise taxes too much last Congress.

For all of my colleagues who believe that in this choice between the Republican balanced budget, which includes the capacity to reduce the tax burdens on Americans and the balanced budget proposed by my friends, the blue dog Democrats, let me suggest to them something: If my colleagues oppose those tax increases the President now regrets, if Members opposed that bill last year, then they ought to be for the Republican budget which promises that we are at least going to repeal about two-thirds of those awful tax increases that my colleague opposed last Congress.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, would the gentleman say that again?

Mr. TAUZIN. Mr. Chairman, I will be happy to say it again. If anyone in this House voted against that tax increase bill that President Clinton gave us last Congress, if Members opposed it, they ought to this year be for repealing two-thirds of it, which is what the Republican budget reconciliation bill promises. It promises both the balanced budget in 7 years, and it promises to repeal at least two-thirds of that awful tax increase in the last Congress.

Let me make one final pitch to my colleagues. I am going to try to put this in terms I think families understand. I was raised, I think most of my colleagues were raised, to believe that we ought to leave something good to our children. We ought to leave them some patrimony, something of an inheritance out of what we earn and do not spend.

If we were raised to believe that we ought to leave something to our children that they can build their future on, then I think members will understand what I am about to say. We talk about crime in America. If we take all the crime that is committed on the streets of America and lump them all together, they are a misdemeanor compared to the crime we commit here in Washington when we budget not only the income we make this year but the income or children have not yet earned. When we spend every year the unearned income of our children and grandchildren to satisfy whatever we think is important for our life this year, we violate the most sacred pledge I think we make as parents to our children.

We ought to be giving them something good to build on. Instead, we are giving them debt and mortgage. We are giving them a promise that they will spend 80 percent of their income in Federal taxes to pay this debt.

Can we not agree to end it now? Can we not agree to pass a balanced budget amendment, and can we not agree to repeal some of that awful tax increase of the last Congress?

Mr. BROWDER. Mr. Chairman, I am tempted to take time to remind the gentleman that I voted against that bill 2 years ago and ask him how he voted. But I do not think I will take that time.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, I, too, am a member of the coalition and proud of the work that our group has done. I appreciate the opportunity to address the question of how do we balance the budget in the United States in the mid-1990's.

I specifically would like to address the topic of the tax cuts. All politicians support efforts to cut taxes. The question is, when can it be done responsibly? The people of this country recognize that it is not prudent to cut taxes at this time. It is not prudent. In fact, it is pandering.

I have talked to a number of county commissioners throughout my congressional district, and there are 27 counties in my district; there are many county commissioners. These are gentlemen and women that appreciate the value of the dollar in obtaining maximum value from that dollar in the operation of Government. They have said to me, if you cut programs as deeply as you must in order to offset the loss of tax revenue in Washington, these are programs that will be picked up in rural America. As these programs are picked up in rural America, you will be increasing the property taxes on farmers in order to pay for tax cuts for affluent people in urban areas.

This is a shift of taxes. It is not a cut in taxes. This is shift No. 1.

The previous speaker eloquently reminded us of our obligations to our children. In fact, by cutting taxes at this point in time, what we are doing is enjoying the opportunity to spend more, to have more, at the expense of our children. This is shift No. 2. We are not cutting taxes, we are shifting taxes to our children.

Third, we are cutting other taxes and we are cutting other benefits. We are cutting an earned income tax credit in order to offset the loss of revenue. Shift No. 3.

We, indeed, have a bloated spending policy in this country. We must correct it. But the coalition believes that we need a diet. We do not need a dessert at this point in time. That is what the Republicans are dishing up, a dessert of a tax cut.

The CHAIRMAN. The gentleman from Alabama [Mr. BROWDER] has 1 minute remaining.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. BROWNBACK], a member of the Committee on the Budget.

Mr. BROWNBACK. Mr. Chairman, today I can say I am proud to be a Member of this Congress. Since 1969, this body has rejected its responsibility to balance the Federal budget. Today we vote to accept that responsibility, and I am proud that we are accepting that responsibility.

We were elected to this Congress to balance the budget, and this bill does that. We were elected to Congress for another reason, too. That was to make the Federal Government smaller, more efficient and more focused. This bill starts that process as well.

For instance, it eliminates the Department of Commerce, an agency that leads the list of those providing corporate welfare. This will be the first time in the history of the Republic that we have actually eliminated a Cabinet-level agency. That is in this bill to do it. We save $6 billion in the process of doing that.

This budget reconciliation bill balances the budget, makes the Federal Government smaller, more efficient, more focused. This makes it a proud day for me, a good day for this country and a great day for my children and your children.

Mr. BROWDER. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I rise in strong support of the coalition budget for four reasons. First of all, it looks toward the future first, not the past. Second, it does the heavy lifting first. Third, it borrows less money, leaves us with a surplus at the end of 2002 and again proves the prudence of doing the heavy lifting first. Finally, it is enforceable. It will do what it says it will do. It is not engaged in subverting other social policy goals such as robbing workers' pensions.

Mr. Chairman, I rise today in opposition to the Republican budget reconciliation bill and in support of the coalition alternative plan.

I believe the time has come to balance the budget. This is what my constituents want because they know that the economic futures of their children and grandchildren depend on it. They want us to balance the budget in a way that is both fair and effective, and this is what the coalition substitute would do.

While I do not endorse each of its provisions, the coalition substitute is fair because it asks everyone, regardless of age or circumstance in life, to share the sacrifice for the benefit of the common good. Unlike the Republican plan, it does not transfer funding for social programs, that benefit the old and poor, to subsidize tax cuts for the rich.

The coalition substitute would balance the budget in 7 years. It places deficit reduction first and does not borrow money to pay for upfront tax cuts, like the Republican plan. Further, the coalition substitute will work, and it takes a rational and responsible approach to balancing the budget. Not only would it restore sane spending priorities by adding back funding for education, health, and economic development programs, it also achieves a budget surplus in 2002.

Less pain with more gain—Why? Because this alternative reconciliation bill reaffirms the logic of achieving a balanced budget one step at a time. The coalition plan would provide about $42 billion more in deficit reduction—and less total debt—than envisioned in the budget resolution conference report. This means holding off on enacting expensive tax cuts, which require slashing vital programs, until we are well on our way to ensuring a health national economy that can be enjoyed by generations to come.

In contrast, the Republican budget backloads deficit reduction until after the year

2000, when the spending cuts kick in and interest rates decline. In fact, nearly two-thirds of the deficit reduction in the Republican plan occurs in the final 3 years. This is an approach that was tested in the early 1980's under President Reagan and failed. When it came time to make the difficult cuts, they did not materialize. Remember, the 1980's was the decade when the debt tripled under Republican control of the White House. Therefore, as far as the effectiveness of the approach to deficit reduction is concerned, I would say, "Been there, done that, let's not do it again."

Further, I have grave concerns about the approach taken in the Republican budget reconciliation bill. One of the most egregious parts of the Republican plan is a misguided proposal to raid workers' pensions that could jeopardize up to $100 billion in pension assets and the retirement security of almost 15 million American families. Specifically, this bad proposal would gut pension rules so that companies would be able to remove the so-called excess money—defined as 125 percent of current liabilities—from their pension funds. Currently, if a company takes excess funds out of a pension plan, a 20 percent to 50 percent excise tax is levied on the withdrawal. In addition, the company must pay income tax on the amount removed. To raise revenue, the Republican proposal would eliminate the excise tax entirely, giving companies a strong incentive to dip into pension funds.

Pension plan assets represent deferred compensation for plan participants. As such, workers and retirees should benefit from the profitable investment of these funds. I believe that any surplus assets should be used to insure the soundness of workers' pensions, or to fund benefit increases for plan participants, rather than going into unrelated management ventures.

I am adamantly opposed to this proposal because it would leave workers' pensions vulnerable in the event of an economic downturn. It could create a pension raid similar to the 1980's when the Federal Government was forced to take over underfunded pension plans, paying out billions of dollars in the process.

It seems the new Republican majority has forgotten the old Republican rallying cry—"Cut Spending First!" Balancing the budget is like curing a cold, the longer you put off swallowing bad-tasting medicine, the longer it takes to return to good health.

Finally, I am pleased that the coalition substitute includes enforcement language similar to what is contained in legislation I introduced earlier this year, along with our colleagues, Representatives STENHOLM, DOOLEY, BARRETT, MINGE, and POSHARD. Like my bill, H.R. 1516, the coalition substitute would enact tough, new measures to reform the budget process and eliminate the Federal budget deficit by the year 2002. It would do so by setting spending caps and using across-the-board cuts if the targets, set and evaluated by a nonpartisan board of estimates, are not met.

In January, I supported a constitutional amendment to balance the budget for the first time because I finally lost faith that the President and the Congress have the resolve to balance the budget without a constitutional mandate. While this initiative failed, I still believe that we need to hold our feet to the fire and enforce our budgetary decisions.

In closing, Mr. Chairman, I believe that balancing the budget is our responsibility as Members of Congress. I have always supported a balanced budget, and the responsibility to achieve this is not one that I take lightly. Over the years, I have frequently taken the political road less traveled in the name of deficit reduction. When I am in northwest Indiana, I tell my constituents that I am opposed to cutting their taxes because it would undermine serious efforts to reduce the deficit. In March, I was one of only six Democrats to support the rescissions bill, H.R. 1158, because I believe we need to start making tough spending decisions now.

It is time to get serious about balancing the budget. I urge the adoption of the coalition substitute and the rejection of the Republican budget reconciliation bill.

Mr. KASICH. Mr. Chairman, I yield 2 minutes and 30 seconds to the distinguished gentleman from Ohio [Mr. HOBSON], a member of the Committee on the Budget and the Committee on Appropriations.

Mr. HOBSON. Mr. Chairman, I turned 59 years old last week, and in an effort to remind me of the advanced age I'm reaching, one of my friends sent me a birthday card which displayed the prices of common household items in the year I was born. A gallon of gas was a dime, a new car was $600, and a new home was $6,000.

My second grandchild was born recently, and I think of these prices when I consider what kind of future he will face. How much will Jameson, David, my most recent grandchild, and Katie Marie, see prices rise during their lifetime? Will the country still be a place of opportunity? Will there still be a thriving economy to support their generation? When I think about the answers to these questions, it becomes increasingly clear to me that the best thing I can do for my new grandchild is to vote "yes" on the reconciliation package.

When they look back on this day, our own children and grandchildren will judge us—and judge us harshly—if we fail to do our duty, if we continue to rob future generations because we do not have enough backbone to control our spending in this Chamber. Every time we deficit-spend we are refusing to take responsibility for our actions. We know what needs to be done, we should follow through with what we know is right.

Many constituents I've talked to have had concerns about specific programs they benefit from, but without fail, they also remind me to follow through with the promise to balance the budget. People are willing to accept the changes necessary to preserve our country's fiscal security, but they want us to make sure that what we do is fair, and that we follow through on our commitment to balance the budget.

What we do in this bill impacts the full scope of Federal spending. It engages everyone in the task of balancing the budget. I know there are many here today whose parochial interests lead them to declare this plan unfair. To those people I ask them to consider this: Is it fair to take the money, future, and opportunity from generations of Americans who aren't even born yet, who don't have representation yet? That's what we do when we deficit-spend and run up the debt. Someone pays and it isn't those of us in this room, it is our children and grandchildren who trust us to look out for them.

Protect our children's and grandchildren's future, ensure a future of opportunity, hold Government to the same balanced budget standards of families and businesses: pass reconciliation.

Mr. BROWDER. Mr. Chairman, I yield the sum total of 30 seconds to the gentleman from Indiana [Mr. ROEMER] to conclude the discussion of the coalition reconciliation bill.

Mr. ROEMER. Mr. Chairman, balancing the budget is like trying to turn a blimp around in an alley. It is a tough task. Our coalition budget proposal balances the budget by the year 2002, and it is preferable to the Republican budget for two reasons:

First, because it has tough choices with fair outcomes. We keep children in Head Start. We do not buy B-2 bombers that the Defense Department does not even want.

Second, we say we should not pander to the electorate for tax cuts. Let us require shared sacrifice from all Americans to achieve a balanced budget. We do that. I encourage my colleagues to vote for the coalition budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. SHADEGG], a member of the Committee on the Budget.

Mr. SHADEGG. Mr. Chairman, we are here engaged in a debate, and a central issue of that debate is the question of tax cuts. I hear my colleagues on the other side say we should not be doing tax cuts for the wealthy. Yet at the heart of our tax cut is a tax cut for every American who pays taxes and has children. I do not think that is the definition of the wealthy.

But I take the issue of whether or not we ought to be doing tax cuts as a serious one. I have a theory. The theory is that those of us here in this Congress all too often go home and talk to people who attend our townhalls or Rotary clubs or Kiwanis clubs. We do not talk to real Americans. So this last weekend, I went home and spent 2 hours talking to real Americans in front of drug stores and grocery stores and discount stores. I had a staffer do it, too. The results will shock my colleagues, and I urge them to do the same thing.

□ 1715

I talked to 55 different real Americans in my district, women who walked up with one child in their arms and a second following along behind them, and I asked them, I said, The Congress is engaged in a debate about whether we need deficit reduction or tax cuts or both. Do my colleagues know how they responded? I will tell my colleagues how they responded. Eighty-two percent said they need real tax cuts in their lives. Of the 55 people I talked to, 8 said we ought to be focused on deficit reduction, just 8 of 55. Thirty-two of the fifty-five said they want to see us both do deficit reduction and tax cuts because they do feel overburdened by today's taxes. Thirteen said they wanted tax cuts only. The burden of Federal taxes in their lives is oppressive.

By the way, in 1950 it was 1 dollar out of 50. Today it is 1 dollar out of every 4 that an American family earns.

So a total of 45 of the 55 said they needed tax cuts in their families. That is not wealthy Americans. That is not rich Americans. I was not standing in front of ritzy stores. I was standing in front of the grocery stores and the discount markets, the Kmarts, in my district talking to real Americans.

This is not a tax cut for the wealthy. It is a tax cut for every single American, and why are we going to do it? Mr. Chairman, it is their money, and they can spend it better than we can.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. SABO], who, under a previous unanimous-consent agreement, has 50 minutes remaining.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, what is most troubling about this reconciliation proposal is tens of thousands of dollars of tax cuts will go to people who make $300,000 and more. Working men and women will be hurt in numerous ways. Even Jack Kemp says that there is an increase in this proposal that the Republicans are offering on poor working families and the impact of dismantling the Commerce Department will leave them not just without a tax cut, a tax increase for these working families, it will leave them without a job.

Mr. Chairman, the Commerce Department over the last year and a half has been responsible for 300,000 new jobs in this country. Doing away with a Cabinet position of Commerce and replacing it with an agency head would be akin to taking the Secretary of Defense in the midst of the cold war and removing him from the Cabinet. As other countries increase their efforts at export promotion to make sure there are jobs for working Americans, this proposal from the Republican majority will undercut our country's ability to compete internationally, and it is, again, skewed illogically. While three-quarters of our exports are nonagricultural, three-quarters of the money in support of exports goes to agriculture and 25 percent, a cut of 25 percent, occurs on the manufactured side of exports, hurting our ability to compete further with Japan, with France, and other countries who take this competition very seriously.

One of the Republicans earlier called the middle-class people who make $300,000 to $700,000 a year. I only wish that was the middle class in America, but one thing the middle class wants more than anything is to make sure that their parents are safe with Medicare, if they need nursing home care, that is provided, and that they and their children have jobs and have the ability to work so that they can feed and pay for their family needs. That is central among what Americans want. Doing away with the Cabinet position of Secretary of Commerce saves no money and will cripple the Cabinet Secretary's ability to deal with Japan, and France, and Germany and our other economic competitors.

Anyone who proposed after Pearl Harbor to do away with the Defense Department, to do away with the Secretary of Defense in the Cabinet, would have been run out of town. Today, as we have tens of billions of dollars of trade deficit with China and Japan, people who propose to diminish our ability to compete economically also ought to be run out of town.

Mr. Chairman, tax cuts do not do any good for working men and women who lose their jobs. This proposal will not only leave our mothers and fathers without adequate health care, it will leave them without jobs.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Budget.

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentleman from Ohio for yielding this time to me, and I think everyone knows here, Mr. Chairman, that we have a problem. The problem is we spend more money than we have got. The American people know that, too, and they want a solution.

Now the one or two ways to do it. One of the ways that was tried here in 1993, and that is the President's approach, is to raise taxes. But, as we have all discovered, the American people are paying about 50 cents out of every dollar they make in taxes. Federal, State, and local; we add it all up, and it is 50 cents out of every dollar they make. Therefore on this side we have concluded that is an unacceptable approach. We cannot raise taxes. In fact, in order to lessen that crushing burden we need to reduce taxes and allow people to keep more of what they have got.

So, the only solution is the other one, and that is to cut spending. That is why I am excited about this reconciliation bill. It gives us the best opportunity we have had, in my time here surely, to get a handle on this problem and to deal with the fact that we are spending more money than we have got.

Mr. Chairman, this bill has the welfare reform proposals that we so desperately need, it has Medicare proposals that will keep the system from going broke, it has the appropriations bills that are on budget target. The result of all that is that we will be on the path to balancing the budget in the year 2002, something the American people desperately want us to do.

The only thing that I would urge my colleagues to avoid in all this process though is the danger of demagoguery, and there is a tremendous danger, we are all guilty of it at times on our side, maybe when we are talking about President Clinton's tax increase. They engage in a little bit of that on their side in this debate. There is a lot of demagoguery that scares a lot of people to death. There is only one difference: We did not scare many people that were well-to-do with a fear about a tax increase. But if my colleagues continue the demagoguery on Medicare, they are going to scare a whole lot of people to death out there in America that are very worried about how they are going to make it. We intend to save the program so that they can make it.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, before I yield briefly to the distinguished gentleman from Alabama [Mr. CRAMER], let me set the scene. The Committee on Science has referred to this as the Commerce Dismantling Act because we have either full or partial jurisdiction over about two-thirds of the Commerce budget, particularly NOAA and NIST, and we considered that and took certain actions which basically were taken unanimously in the committee which would have protected to some degree the programs of NOAA and NIST, which includes some very important functions critical to the safety of the country. The amendments that we adopted unanimously in committee and reported out to the floor mysteriously disappeared on their way to the reconciliation bill, and therefore they do not appear, and we want to point some of these things out, and this chart shows what happened.

First of all, the programs under our jurisdiction were faced with an arbitrary cut of 25 percent. A considerable number of programs were transferred to other jurisdictions, and some of them were specifically cut or eliminated, particularly in NIST, where the Advanced Technology Program and the

Manufacturing Extension Program were emasculated.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield briefly to the gentleman from Alabama [Mr. CRAMER] for some comments about the subject that he spent a lot of time on, the weather programs.

Mr. CRAMER. Mr. Chairman, I thank the ranking member for yielding to me, and I want to make a point, perhaps with the gentleman's help, about our Weather Service programs carried under the umbrella of NOAA, the National Weather Service.

Two weeks ago in the debate on the omnibus science bill, Mr. Chairman, we came to the floor with an issue that relates to the certification of the Weather Service offices, and a lot of us from both sides of the aisle were very concerned that unless this amendment, the amendment that I offered in the Cramer amendment, passed, that we could see the offices shut by a bureaucrat rather than going through the certification process that the existing law preserved.

I would ask the ranking member of the Committee on Science, if we passed the Republican reconciliation plan today, the Cramer amendment that passed that preserved the certification process, that would be done away with; is that correct?

Mr. BROWN of California. Yes, that is correct, and that would be a serious blow to the efficacy of our weather system throughout the United States because we are going through a major transition. The law requires, and the gentleman's amendment required, that we do not close stations unless it is certified by appropriate authority, that this does not decrease the availability of service, and that is not a part of the language that is contained in this bill.

Mr. CRAMER. If the ranking member would continue to yield, that is a very important public safety issue that we would be giving up if we passed the Republican plan today.

Mr. BROWN of California. That is absolutely correct.

Now in the brief time that I have I am just going to make a couple of points, and I hope my colleagues can see this chart. What we were faced with, what we have in this bill, is the 25-percent mandatory reduction plus the elimination of the ATP program, the Manufacturing Extension Program, the NOAA Ocean Environmental Program. These have to be a part of the 25-percent cut, but they are not sufficient to make it all up. After we make all of these cuts which in effect destroy these technology programs, there is still a gap of $203 million which has to be made up in order to meet the 25-percent requirement.

Mr. Chairman, I do not want to scare people by saying that we will utterly destroy the Nation's weather system or anything like that. On the other hand I want to rebut the statement that this does no harm to the weather system. We cannot take $203 million, which is the amount that NOAA will have to absorb in a program which is largely weather-related, without doing severe damage to our existing weather reporting system which is undergoing a major transition at that time. We will undoubtedly have to close more stations and close them more rapidly than we would otherwise.

This is not what the committee voted to do when we had this bill before us, the Commerce Reorganization Act or dismantling act. We do not think it should be in this bill, and we suggest that this is another good reason to vote no on this reconciliation bill.

Mr. Chairman, I rise in opposition to H.R. 2517 and the process that has prevented Members on both sides of the aisle from making this a workable reconciliation process.

When the Rules Committee met, I offered two amendments relating to title XVII of the bill which abolishes the Department of Commerce. These, in fact, were similar to amendments successfully adopted when the Science Committee marked up this bill.

The first of these would delete the arbitrary funding cap which, we have found, would heavily impact the Government's ability to provide basic weather services for the protection of the public.

Section 17207(g) of the bill aims to reduce the funding for the remnants of the National Oceanic and Atmospheric Administration and the National Institute of Standards by 25 percent below fiscal year 1995 spending levels. The intent, I believe, was to eliminate administrative overhead. The problem here is that both agencies have depended heavily on departmental level administrative support since they have been a part of the Department of Commerce. Less than 10 percent of each agency's 1995 budget is related to program management at all, and only a fraction of that could be considered administrative overhead.

The chart before you shows how this arbitrary budget cap would affect the functions of the two agencies. For NOAA, over 70 percent of the agency funding is directly related or supports weather forecasting. This involves the weather offices around the country, the Doppler radars that are being installed to provide better severe weather tracking, and the satellites that have revolutionized hurricane tracking and overall weather predictions. The remainder of NOAA is related to coastal and fishery programs and supports a multibillion dollar industry.

The NIST supports the setting of standards, basic research, and of course, technology programs which the Republicans have found ideologically objectionable.

The formula contained in the bill requires a 25-percent reduction to these programs. The right-hand bar shows how these reductions will play out.

First, the bill would target investment programs such as the Advanced Technology Program and the Manufacturing Extension Program, which incidentally the House has voted on several occasions to support.

Next, the bill targets certain coastal and fishery programs and environmental programs which have been carried out by NOAA.

After all is said and done, the formula still requires over $200 million in arbitrary reductions to ongoing programs which will have to come out of weather services within NOAA and basic research within NIST.

In advance of consideration of this bill today, I conducted a survey of State Governors to determine how they would cope with the possibility of a diminished level of services, especially for weather and fishery programs. In particular, I wanted to address the issue of how the States would pick up the slack and supplement any shortfall as a result of this provision. I would like to include in the record at the appropriate time a sample of the responses that I have received. I will also include a more detailed analysis of how this overall budget cap will affect the two agencies.

When the Chrysler bill was brought before the Science Committee, an amendment was offered to delete a similar budgetary provision. This amendment was strongly supported by both sides of the aisle and easily adopted. I want to acknowledge, however, that there is a technical difference in the base text compared to that we deleted in committee.

Rather than forcing an across-the-board reduction as the original Chrysler bill did, this bill makes a general reduction. The effect is the same, however. Both legislative forms mask the true impact of such budgetary reductions. Both seek to convey the impression that it is easy to make cuts—just pick a number. The reality is that when authorizing or appropriating committees look at the substance of these programs, such cuts do not come so easily. This top down, arbitrary approach to budget cutting avoids our basic responsibility as an institution to conduct oversight and set priorities.

The details of how the cuts would be implemented are still lacking because of the magnitude of the changes that would have to be made. In a recent hearing before the Science Committee, Dr. Elbert Friday, Director of the National Weather Service, testified that such cuts would force a fundamental restructuring of the modernized weather forecasting system we are now more than half way through. There is no question that some and perhaps many weather offices would have to be closed. I am cognizant that the Republican leadership does not want to hear such talk and they have branded it as a scare tactic. I believe that we will find that it is the reality.

I would now like to speak briefly on another amendment I offered before the Rules Committee. That amendment would delete the provision in this bill that repeals the organic legislation establishing NIST's Manufacturing Extension Program. This is a back-door attempt to kill a program which has received bipartisan support every time it has come up for a vote this year for authorizations or appropriations.

The MEP is a proven program which has breathed new life into thousands of small businesses around the country, and in no small measure, has contributed to the resurgence of American manufacturers. MEP often has been the only place that traditional small businesses, faced with extinction unless they learned how to become a just-in-time, high tech supplier for their traditional customers, could go for help in making the transition. MEP also is cost-effective; one independent review documented $8 of direct benefit to small businesses for every Federal dollar going into the program. It clearly would be penny-wise, pound-foolish to use this bill to override the reasoned judgment about MEP of the committees of jurisdiction.

There are many matters in this bill that deserve far greater attention than has been given them in this process. I hope that my colleagues will join me in voting against this misguided bill.

IMPACT OF RECONCILIATION BILL ON SCIENCE AGENCIES

The Chrysler bill does three things: (a) it transfers certain functions to other agencies, (b) mandates the termination of certain functions, and (c) places a cap of 75% of F.Y. 95 spending for the sum of NOAA and NIST programs excluding the transferred programs.

All program transfers are related to NOAA and account for $55 million. Thus the adjusted base for the combined total is:

NOAA F.Y. 95 level 1972 (−55)	1,917
NIST F.Y. 95 level	700
Total	2,617

The 75% limitation would allow a total spending of 1963.

The resulting reduction of $654 million would, to some extent, be offset by mandated terminations which account for $36 million in NOAA and $415 million in NIST. This would leave $203 million in net reductions that would need to be allocated to the remaining NOAA/NIST programs. The agencies would allocate this on a pro rated basis proportional to the remaining budget requirements.

NOAA 95—1972 less transfers/terminations equals 1881.

NIST 95—700 less transfers/terminations equals 285.

Total—2672 less transfers/terminations equals 2166.

Thus, of the remaining combined budgetary requirements, 87% are related to NOAA and 13% are related to NIST. Applying these to the $203 million cut, assume that NOAA is cut by 177 and assume that NIST is cut by 26.

This will result in a NOAA budget of $1,704 million and a NIST budget of $259 million. The following table shows how this compares to other budgetary actions.

Agency	Fiscal year 1995	Fiscal year 1996					
		Request	Authorization	House appropriation	Senate appropriation	Budget requirement[1]	H.R. 2517
NOAA	1,972	2,094	1,725	1,817	1,993	1,881	1,704
NIST	701	1,023	338	404	351	285	259
Total	2,673	3,117	2,063	2,221	2,344	2,166	1,963

[1] The "Budgetary Requirements" is defined in this context as the 1995 spending level minus program transfers and terminations. That is, this is the remaining funding needed for NOAA and NIST from which the general reduction of $203 million must be made.

Thus, NOAA would be cut by 11% below the F.Y. 95 baseline adjusted for program transfers and 9% below the baseline remaining after both transfers and terminations are subtracted from the base.

NIST would be cut by 63% below the F.Y. 95 baseline and 9% if terminations are subtracted from the base.

For the resulting NOAA/NIST conglomerate, the spending cap will cut below the House appropriations level by 11% and the Senate appropriations level by over 16%.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,
Providence, RI, October 10, 1995.

Rep. GEORGE E. BROWN, JR.,
House of Representatives,
Washington, DC.

HON. GEORGE E. BROWN, JR., Thank you for your timely warning with regards to H.R. 1756, which would dismantle the Department of Commerce and terminate or severely reduce state fisheries and estuary research grant programs. The impacts on Rhode Island's programs of such actions would be devastating.

Our Division of Fish and Wildlife currently receives $126,320 from NOAA, National Marine Fisheries Service via the Inter-jurisdictional Fisheries Act P.L. 99-659. Funding from this Act is used for support of the Rhode Island Marine Fisheries Council ($37,500) and the Rhode Island Lobster Research and Management Program ($88,740). Loss of funds would require that we terminate two biologists and reallocate funds to cover staff activities which support the Marine Fisheries Council, our state's lead fisheries management organization.

The Division also receives $118,800 from the federal Atlantic Coastal Fisheries Cooperative Management Act. No state match is required. Currently the funding is utilized to provide support to the Atlantic States Marine Fisheries Council fisheries management process. It allows staff to provide input to ASMFC management boards and to collect field data in support of the ASMFC process. Half of the appropriation has been awarded to the Division of Enforcement to supporting species management plan mandates.

As you know, the ACFCMA gives the Secretary of Commerce the authority, through the ASMFC, to close fisheries in Atlantic Coast states if they fail to comply with fisheries management plans implemented under its authorization. This action would have a devastating impact on the Rhode Island fishing industry and its ability to participate in the management process. Our inability to provide timely fisheries regulations could further jeopardize the fishing industry's ability to survive during this era of depressed stock abundance and availability.

Reduction of the Narragansett Bay National Estuarine Reserve Grant by 25% or $28,000 would require either eliminating the entire monitoring program or the entire education program, or reducing both by one half which would effectively be the same as elimination of both.

A final possible reduction would be to lay off the Reserve's part-time manager, which would render the Reserve non-operational and deprive the monitoring program of his substantial volunteer efforts. Any alternative would functionally shut down the Reserve.

If I can be of any assistance to you or your committee in defending NOAA's marine fisheries assistance programs as the valuable and cost-effective programs that they are, I would be most happy to do so.

Sincerely,

TIMOTHY R.E. KEENEY,
Director,
Department of Environmental Management.

STATE OF LOUISIANA, DEPARTMENT OF WILDLIFE AND FISHERIES
Baton Rouge, LA, October 11, 1995.

Hon. GEORGE E. BROWN, JR.,
House of Representative, Committee on Science,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN BROWN: This is in response to your letter of September 26, 1995 to Governor Edwin W. Edwards relative to proposed legislation, HR 1756 by Congressman Dick Chrysler, which intends to dismantle the Department of Commerce. It is our understanding that in its current form the bill would transfer many programs within the National Oceanic and Atmospheric Administration (NOAA) to other agencies, terminate state fisheries grants and promotions programs, terminate basic research programs, and severely reduce the budget for remaining NOAA programs. Our agency strongly supports the National Marine Fisheries Service (NMFS) and its parent, NOAA, and feel that these agencies should continue their mission unchanged. We have worked closely with the NMFS over the years on a wide variety of issues and have found this group to be effective in bringing together diverse interests to develop mid-ground solutions and create a fair balance among conflicting positions.

Repeal of NMFS' authority to provide fisheries related grants and substantial reductions in NMFS' research and management capabilities, would severely impede important Federal activities including the rebuilding of fish stocks, expansion of the economic benefits of the nation's marine fisheries, and the enhancement of the U.S.'s position in global trade. From a state's perspective it would also severely curtail our research and management activities for our important renewable marine resources.

While we agree with the overall goal of eliminating unnecessary programs and increasing governmental efficiency, we feel that NOAA and NMFS' have proven their effectiveness and respectively suggest that any reduction or dismembering of these important agencies would not be in our best interest.

Thanks for the opportunity to comment on this proposed legislation.

Sincerely,

JOE L. HERRING,
Secretary.

☐ 1730

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman yielding time to me.

Mr. Chairman, I rise in support of the Budget Reconciliation Act. I support it because this is a true blueprint to reach a balanced budget for the Federal

Government. Reaching a balanced budget is not going to be easy. There are a number of decisions that were made in the Budget Reconciliation Act with which I do not agree. I hope they will be changed as this bill goes through the system to the other body, and then the conference.

Further, I want to acknowledge that some good programs are going to feel a pinch under this budget, but the fact is that we have to stop deficit spending. For 25 years in a row our Government has spent more than it has taken in. The first result of that is we have a national debt of almost $5 trillion. That is an immoral legacy to leave to our children.

The problem with deficit spending is not just in the national debt that will have to be paid off some day by future generations. It affects us in today's budget. The interest on the national debt, and when the Federal Government borrows the Federal Government pays interest, like anyone else, any individual or business would do, the interest on the national debt for the last fiscal year that just ended September 30 will come in at about $235 billion. That is the third highest line item in Federal spending today, after Social Security and the military, but not by much.

The point is that $235 billion is money that the taxpayers already send to Washington, but we throw it out the window in the sense that we take the taxpayers' money, write a check to pay interest on the national debt, and get nothing back in return, because interest buys nothing.

I think those that are emphasizing the effect of balancing the budget on various programs, and they may be correct, should ask themselves, how much could we do for health care, how much could we do for other programs, for science, for example, if we had the use of $235 billion that is lost in interest?

That is why I urge adoption of the Budget Reconciliation Act.

Mr. SABO. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, the majority once again bypassed the normal committee process by asking the Rules Committee to include in the reconciliation bill a package of civil service provisions which have never been approved by the Government Reform and Oversight Committee.

The majority proposes to make changes in the civil service retirement system, some of which have not even received the benefit of a hearing. They would delay retiree COLA's, increase agency and employee contributions into the retirement fund, and then, incredible as it may seem, establish a commission to study the retirement system and report recommendations for reforms, 7 months after the so-called reforms in this bill have already been made.

Both the General Accounting Office and the Congressional Research Service have said, contrary to what Republican leadership claims that there is no crisis affecting the solvency of the retirement system which necessitates passage of these reforms to resolve. Therefore, there is absolutely no need to require agencies and employees to pay more into the retirement trust fund to make it financially secure. Clearly, this is not an attempt at serious reform. There is another purpose.

With tax cuts for the rich being packaged into the reconciliation bill in a second attempt to get them enacted, the civil service pension system is once again being used by the Republican leadership as a source of offsetting revenue to pay for them. That's what this package is all about. I am opposed to it. For those rich folks who are not middle class, who earn more than $100,000 a year, that is what this package is about. I am opposed to the manner in which it was brought forward. Our committee's work should not be done by the Rules Committee, but through the normal, open, and deliberative legislative process.

In addition, Mr. Chairman, the Rules Committee is also expected to include the Debt Collection Improvement Act in the reconciliation bill. While the bill had a number of good features, it also has many important flaws, which we Democrats have hoped to resolve when the bill would be marked up in the committee. It now appears that we will not have that chance.

Let me describe three of the worst features of the debt collection bill. The first provision would allow private debt collection companies to collect debts owed to the Internal Revenue Service. While the Ways and Means Committee is working on a taxpayer bill of rights, this bill allows the IRS to give confidential tax information to private bill collectors, who could use all sorts of harassment to get the money.

The second provision would require our constituents who get Federal benefits, such as Social Security or veterans benefits, to receive their benefits through electronic funds transfers to a bank. Not everybody has a bank account. Not everybody has a checking account. I believe that particularly senior citizens and others who are disabled ought to be able to have the option to choose whether or not they want the check to go through an electronic process.

The third provision would allow the Federal Government to garnish Social Security checks to collect debts owed to the Government, and make deductions from Social Security checks even for individuals making just $10,000 a year. If we want to improve debt collection, we shouldn't focus on people who need every nickel just to pay the rent, heat, and grocery bills.

Putting the debt collection bill on the reconciliation bill without committee consideration is an example of the sloppy, unthinking approach that has gone into this terrible reconciliation bill.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from the great State of Texas [Mr. SAM JOHNSON], a member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Chairman, for 40 years the Democrats have tried to tax this Nation out of debt. Everyone knows you can't tax and spend your way out of debt, it's a failed policy, and it's time for change. Today, Republicans have a plan not only to balance the budget, but to return to our families, our workers, our seniors, and our businesses their hard-earned money by enacting much-needed tax relief.

Democrats must learn that taxes do nothing for our economy except slow its growth and stifle job creation. Just last week, in my home State of Texas, the President finally admitted that the Democrat policies of the past have failed, by admitting that his $258 billion tax increase was a mistake. He was right.

We must end the Government thirst for taking America's tax dollars and spending it on more Government programs, more Government bureaucrats, and more Government waste. We must remember that it's the people and businesses of this country that produce the capital, the goods, and the jobs that make this country the most powerful economic Nation in the world.

If we keep the Democrat plan of higher taxes and higher Government spending we will finally collapse under the weight of a tremendous debt. Our children will pay over $187,000 in taxes just to pay the interest on that debt.

That is why it is so important for the Senate and the House to pass this balanced budget plan. And the President should sign it in the best interest of the American people. Unlike the President's unbalanced budget, this bill will balance the Nation's budget by the year 2002.

We must remember history. Every time this body has cut taxes in the past, we have experienced more growth, created more jobs, and brought more revenue into the Federal Government.

Each time we let the American people keep more of their money for investment and savings—we have induced a healthier, more robust economy. That's a fact.

Mr. Chairman, Republicans believe in the American people, not the Federal Government. A vote against this budget is a vote for more debt, more Government, and more taxes.

A vote for this balanced budget is a vote for a better, a freer Nation, vote for America's future. Put your faith in this Nation and vote for this bill.

Mr. SABO. Mr. Chairman, for accuracy in history, I yield 1 minute and 30 seconds to my friend, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it is important as we make the various statements, and my good friend, the gentleman from Texas, has just made an excellent statement regarding the political rhetoric to which I agree, but when we look back at the actual facts and go back to 1981, there is one thing that he conveniently leaves out. That is that we increased our national debt $3.9 trillion during the 10-year period that followed the decisions of 1981.

Spending, and this is something we have been talking about today, spending, and spending in the 1993 budget agreement, there was one thing about the 1993 budget agreement that I would think most of us on both sides of the aisle would agree with. That is, when we look at spending. The 1993-based discretionary spending was $542 billion. In 1997, it was $553 billion that is a 2-percent increase since 1993 assumptions, baseline. In 1981, the base was $308 billion. In 1985, 4 years later, $416 billion, a 35-percent increase.

Mr. Chairman, our point is the Coalition budget that we submit is better than, better than the majority's budget. It gets to balance in 2002. We do not quarrel about the spending. We agree. However, we say do the spending first. Let us not repeat the mistakes of 1981, when we did the tax cuts first and the deficit exploded. Let us do the spending cuts, and do not be as critical of the 1993 budget as many of the people are if they are concerned about spending, because it has done much better than we were able to do in the early 1980's.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER], a member of the Committee on the Budget.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to make the point that the reason why Democrats are going to offer a budget on the floor tomorrow that they claim cuts the deficit is because they are increasing taxes again. Sure, we can continue to talk about all these things if we are willing to increase taxes, but the fact is what their budget does is increase taxes in 1996 for the average taxpayer by $188, and in 1997, by about $150 more. They do it by simply keeping in place what they passed back in 1993 in the President's proposal that raises taxes out through infinity. What they do is, instead of doing what we are trying to do, cut taxes for the American people, what they do is increase taxes. They continue to increase taxes indefinitely, and that is the reason why they have argued.

Democrats love taxes. They love to increase them, they love to spend them, and that is exactly what they are going to do here. They are going to increase taxes over the next couple of years by about $300 or more on each individual taxpayer, and then tell us that we should not cut taxes and try to give those people a break.

The fact is that the budget they are going to bring on the floor is a tax increase budget.

Mr. SABO. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, that argument we just heard is so ludicrous, to suggest that our budget is increasing taxes by failing to repeal taxes in existence. Under the same argument, the Republican budget is increasing taxes by failing to repeal many of the provisions of the 1993 tax increase, which they do not repeal in their budget. I voted against that, just as many of them voted against that. But to suggest that we are increasing taxes by failing to repeal taxes is ludicrous beyond belief.

Mr. KASICH. Mr. Chairman, I yield 5 minutes to the very distinguished gentleman from the great State of Texas [Mr. ARCHER], chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am privileged to rise today and join a great debate at a turning point in this country's history. This debate is not only about balancing the budget to save our children. The debate is about ushering out the era of tax and spend and beginning a new era of smaller Government, less taxes, and less spending.

Mr. Chairman, when this bill is passed, the years of tax and spend will be buried on the ash heap of an unsuccessful history, and a new, more prosperous era marked by economic prosperity for all Americans will begin.

For too many years, Congress' first and last solution to every problem was to raise taxes. I am here to say that those days are over, and we are here to bring tax relief to the American people, especially to middle-income Americans who have paid the price and seen their taxes go up and up to support big Government solutions that fail to achieve their intended results. Our tax relief package has two goals. One is tax relief to strengthen the American family. The second is tax relief to create jobs and economic growth for all Americans.

Our centerpiece is a $500 per child tax credit that will mainly benefit lower- and middle-income Americans. Twenty-seven million families with 51 million children will benefit from this credit. If you are a family with two children and you make $30,000 a year, this credit will wipe out more than one-half of your income tax liability. It will give you a 15 percent total tax cut, including payroll taxes. You will get $1,000 more in your pocket for you to use as you see fit, not for the Government to use on your behalf.

If you make $50,000, your tax cut with two children will be 8 percent, including payroll taxes.

□ 1745

As a result of this credit, 2 million lower-income families will no longer pay any income tax. They will be removed from the income tax rolls.

Mr. Chairman, our bill provides relief from the marriage penalty; it provides a credit to help families adopt children; it provides help for those who care for their ailing parents in the loving environment of their own home. We provide a new American dream savings account; and yes, with a spousal IRA to go with it for the woman who stays in the home, to help families at the most important moment in their lives, the first time they purchase a home, or when they need to tap into their savings for medical expenses and for their educational needs. All of these provisions will help strengthen the heart and soul of the Nation: The American family.

Mr. Chairman, our second goal is to create an economic climate that includes good jobs for all of our workers. That is why we include a capital gains tax cut that fortifies America's private sector job-crating machine.

This week I realized two new studies indicating that more than 200,000 jobs will be created every year as a result of the Contract With America capital gains tax cut. Revenues to the Treasury will be increased, and GDP will increase by 1.7 percent. Mr. Chairman, cutting capital gains taxes is a winner for every American. We must also remember that 59 percent of the returns that declare capital gains are with Americans whose income is $50,000 or less.

As we move ahead to balance the budget, it is appropriate that the middle-income taxpayers of this country, who have worked so hard and paid so much, receive their share of the dividend that a balanced budget brings.

This is not our balanced budget bill, Mr. Chairman. This balanced budget belongs to the people of the United States, and it is high time that they get the tax relief they so rightfully deserve.

Ms. SLAUGHTER. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, it was good to hear the distinguished chairman of the Committee on Ways and Means. The only problem is that 85 percent of the people in West Virginia, those earning under $50,000 a year, will see significant benefit cuts, program cuts like student loans and other programs, so that 1.5 percent, those earning over $100,000 a year, can get $2,400 back in their envelope, which is not a very good deal by any means.

Mr. Chairman, I want to talk about the Economic Development Administration, and particularly, what the Kasich substitute does to that. Because what would happen with the EDA, it would be transferred to the Small Business Administration where it would be a block grant program administered by 25 employees.

Now, conversely, the bipartisan Committee on Transportation and Infrastructure-reported EDA bill provides meaningful reform for the same amount of money to the existing EDA program without jeopardizing the local, State, and Federal partnership critical to building distressed communities.

Our bill would launch the Nation's economic development programs on a new effort. It would remove much of the bureaucracy. It would remove archaic eligibility requirements. Gone would be the time-consuming and cumbersome approval process. This is not pie in the sky. It has been reported from the Committee on Transportation and Infrastructure by a unanimous vote, and yet the Kasich substitute would gut the EDA.

This bill saves every penny that the Kasich substitute saves. It authorizes, as the Kasich bill does, EDA programs at $340 million per year, saving $1.5 billion over 5 years. It has, as I mentioned, both unanimous support, and certainly the bipartisan support of the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Maryland [Mr. GILCHREST], former ranking member of the subcommittee from California, Mr. Mineta, myself as ranking member of the subcommittee, and the Republican freshman class president.

This committee has repeatedly supported the EDA, despite what is in the Kasich substitute. It was unanimously reported the first time and readopted when the Commerce Department Dismantling Act included in the Kasich substitute was before the committee.

Indeed, on the floor of this House, by a 310 to 115 vote, this House supported, with the majority of Democrats, a majority of Republicans and a majority of the new Members, supported keeping the EDA.

Members know that the EDA works. In its 30-year history, EDA has created or retained 2.8 million jobs, invested $15.6 billion in our distressed communities, and generated $3 of private investment for every EDA dollar spent.

Just recently I was at a groundbreaking where I calculated that for the $2 million to $3 million of EDA funds that went into a water system that leveraged $130 million of private investment, the Federal taxpayer would get back every penny that was invested in a 3.5-year period, and the result would be 800 new jobs. That is investment. That is growth, and that is how you really get about balancing the budget.

Mr. Chairman, I urge Members to help me strip this EDA-killer from this bill.

Mr. KASHICH. Mr. Chairman, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN], a very distinguished member of the Committee on Ways and Means.

Ms. DUNN of Washington. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have been listening to debate on this reconciliation bill that we will be voting on here in the House tomorrow, and I am astounded at the lack of understanding that the other side continues to give to the idea of cutting taxes for American citizens. They still are telling us that cutting taxes is a dirty word. Mr. Chairman, I would like to know, what is so wrong with leaving money in the pockets of the American citizens?

Let us take a look at what we are really talking about here in the Budget Reconciliation Act. Twenty-five percent of the tax cuts that we are talking about are going to businesses, especially to small business. Seventy-five percent of the tax cuts focus specifically on building and strengthening and restoring the American family. We do not just give tax cuts to the rich. We give tax cuts to everybody, to individuals, to families, rich, poor, middle class. That is the strength of this plan. We give tax cuts to all Americans.

A couple of facts, Mr. Chairman. In 1950, the average American family with children paid 2 percent of its income in taxes to the Federal Government. Today, 45 years later, that very same family pays 24.5 percent, and adding State and local taxes, the total percentage adds up to 37.6 percent percent of their income in taxes to all levels of government. That means, Mr. Chairman, in families where both of the parents work, a very common situation today, two-thirds of the wife's earnings go to pay increased Federal taxes.

In fact, Mr. Chairman, the average American family literally spends more on total taxes than on food, clothing, and housing combined. Shouldering heavy burdensome taxes is no way for an American family to achieve the American dream. We want to make it easier. We want to keep these dollars in the pockets of the American citizens.

Let us talk about some of the tax cuts that we believe make our bill unique that we are really getting done for the American people.

First of all, a $500-per-child tax credit. This is the centerpiece of our efforts to give American families a little bit of a breakthrough tax relief, $500 for each child under age 18.

The current tax systems penalized families with children because it does not properly reflect the very expensive cost of rearing children. According to the Census Bureau data, the cost of raising a child averages more than $5,000 per year. By allowing families to keep a little bit more of what they earn, the family tax credit increases the resources available to parents to properly raise their children.

Second, the American dream savings account. Mr. Chairman, the American dream savings account is a unique, innovative use of the IRA concept to stimulate additional savings. The new proposal allows distributions to be made penalty-free and tax-free for worthwhile purposes like first-time home purchase, college or educational expenses, and medical expenses.

Lastly, the spousal IRA. This permits $2,000 for the stay-at-home, just as a working spouse. I urge all of my colleagues to support reconciliation.

Ms. SLAUGHTER. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois [Mr. GUTIERREZ], a member of the Committee on Veterans' Affairs.

Mr. GUTIERREZ. Mr. Chairman, I hear my friends on the other side of the aisle say that they are making history. I see them patting each other on the back for devising a budget scam that protects the wealth of the powerful and the privileged. I hear them say that they are doing this because it takes a lot of courage on their part.

Well, I would like to ask them to put their own self-congratulations on hold for a moment and to think about the people who truly made history, who truly protected our Nation, and those who truly demonstrated courage. Who has the answer to that question? America's veterans.

With all of the grand rhetoric you hear, the Republicans would have you believe that they would never harm the men and women who have served our Nation. Well, let us listen to some of the facts instead. Let us start with the cuts proposed over the next 7 years to the VA.

One result, increased copayments for veterans who need a prescription. It might sound like a good example of self-sacrifice to some. Well, Members of this House have that luxury. We are not living on an income of $12,000 or $10,000 a year, but many veterans do.

Members of this House talk about how hard a job this is to be a Member of the U.S. Congress. Well, most of us do not have to sacrifice our health for the sake of serving our country, but many veterans did sacrifice their health. Yet this House will force the VA to care for 1 million fewer veterans by the year 2002. By the year 2002, it is estimated that over 175,000 veterans will lose coverage under Medicaid, one-third of whom are severely disabled, with crippling diseases or mental illnesses.

About 20,000 veterans a year depend on Medicaid, not the VA, not Medicare, but Medicaid, for their nursing home care. What do they have to look forward to during the next 7 years? The possibility that their spouses will have to give up their homes in order to retain eligibility for long-term care. The threat that a widow's VA pension gets counted against her in determining her eligibility for Medicare. The likelihood that in States like California, Florida, New York, and Illinois, thousands of veterans will have no alternatives for health care.

Let us keep in mind that just a few short years ago, one State, Tennessee, proposed denying health care to veterans.

More importantly, it is not the job of the States to take care of this issue. When I speak to veterans back in Chicago, they did not fight for the great State of Illinois, they fought for our Nation, our country. Veterans in the district of the gentleman from Ohio [Mr. KASICH], they did not fight for Ohio, they fought for our country, the United States of America.

If you are a Republican and you have not found a reason to oppose this budget, please make sure you have thought this through. This budget is antiveteran. Your tax cuts for millionaires are being paid for by millions of veterans. Instead of veterans' health, you have chosen to protect someone else's wealth. It is wrong. Vote against this proposal.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SHAW], one of the leading experts in the Nation on welfare reform.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, after expanding the welfare state for 60 years, President Clinton and the Democrat Party failed to deliver on the Clinton campaign promise to end welfare as we know it. Yet, while every lever of power was controlled by the Democrats, no one acted to save the millions of children that today remain trapped on welfare as we know it.

In the Democratic Congress, no Democrat welfare reform bill was approved in committee, none was advanced to the House and Senate floor, and none came to the President's desk for signature. Republican and bipartisan efforts to reform welfare were stymied.

In contrast, House Republicans today are taking another huge step to deliver on our pledge to the American people to replace the failed welfare system. We promised to bring real welfare reform to the House floor for a vote, and we kept our word. We pledged to cut programs, to cut redtape, and to slow exploding welfare spending, and we did just that.

In the next few weeks, we will send a bill to President Clinton that will forever change welfare from a way of life into a way to help America's poor get work and free themselves from government handouts.

Mr. Chairman, everyone agrees that reforming welfare is necessary. Candidates in both parties have campaigned on the need to reform welfare and have won a lot of votes talking about change. But there is a big difference in this town between talk and action.

To Republicans, the options have been clear: Whether to save the failed welfare system or save the children it traps in poverty forever. We chose to save the children. That is why Members who want to reform the failed welfare system will vote for this reconciliation bill, because they know it is right for our children and it is particularly right for our children's future.

□ 1800

Ms. SLAUGHTER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I rise to oppose the Budget Reconciliation Act due to the fact that it opposes the dreams and aspirations of all Americans and wrecks health care for all Americans.

Mr. Chairman, I spoke last night about the devastation Republican budget cuts would inflict on children throughout the United States. Tonight, I rise to speak about the impact these cuts would have on children in my home State of Texas.

The Republican plan to balance the budget would eliminate Medicaid coverage for as many as 206,641 children in Texas and 4.4 million children nationwide in 2002. The Republican budget cuts Medicaid funding to Texas by $7 billion over 7 years and by 20 percent in 2002 alone.

Currently, 20 percent of children in Texas rely on Medicaid for their basic health needs. Medicaid pays for immunizations, regular checkups, and intensive care in case of emergencies for about 1,407,000 children in Texas. Even if Texas could absorb half of the cuts by reducing services and provider payments, it would still have to eliminate coverage for 360,097 people, including 206,641 children in 2002.

Many of the children in Texas who would be denied coverage are disabled. Medicaid provides valuable services for many disabled children, often making the difference that allows them to live at home with their parents. Medicaid provides for items such as wheelchairs, communication devices, in-home therapy, respite care and home modifications. Without these services, parents may be forced to give up their jobs or seek institutional placement for children. The cuts would also deny as many as 44,070 disabled children in Texas SSI cash benefits in 2002.

Republican cuts are terribly short-sighted. Cutting the debt today, Republican argue, will save children from paying unbearable taxes in the future. But this only benefits those children who grow up to be job holders and taxpayers. Budget cuts would fall heavily on poor and lower-middle class children, leaving them less able to hold jobs in the years to come. Hungry, malnourished, nonimmunized children cannot be expected to concentrate in school. These children will prove less able to compete for good jobs with children from affluent families.

For example, Republican cuts would deny Head Start to 12,512 children in Texas and 180,000 children nationwide in 2002. The Republican budget repeals the Vaccines for Children Program, putting at risk at least $1.5 billion over 7 years that would otherwise provide vaccinations for children in Texas and across the Nation. The Republicans would cut food stamp benefits for families with children in Texas by $3,107 over 7 years. These cuts would jeopardize child nutrition programs on which 2,743 children in Texas depend. The House Republican budget block grants funding for the school lunch and WIC Program. Nationally, their budget reduces funding for child nutrition programs by more than $10 billion over 7 years and 11 percent in 2002, compared with current law.

The Republican cuts in educational programs would have a devastating, long term effect on our Nation's youth. For example, Republicans would cut the Safe and Drug Free Schools Program, which 1,043 out of 1,053 school districts in Texas use to keep crime, violence, and drugs away from their children, schools, and communities. They would eliminate Goals 2000, denying improved teaching and learning for as many as 413,4000, denying improved teaching and learning for as many as 413,4000 school children in Texas in 1996, and 949,800 children in 2002. And they would eliminate both the AmeriCorps National Service Program, denying 3,171 young people in Texas the opportunity to serve their communities in 1996; and the summer jobs program for 42,491 youths in Texas in 1996 and 297,437 youths over 7 years.

The Republicans would scale back environmental protections which keep our children healthy and strong. The Republican budget would allow sewage to flow into waters where Texan children live and play. Texas will lose $16.7 million used to treat water pollution and protect public health.

The Republican budget halts the President's effort to protect the health and safety of children living near the 32 oil refineries in Texas. These refineries emitted more than 27,141,998 pounds of toxic air pollution in 1993, putting children in surrounding communities at risk of serious health problems including cancer and respiratory illnesses such as asthma.

The Republican budget cuts spending on toxic waste cleanups by 36 percent. There are at least 4 toxic waste sites in Texas. The Republican cuts will stop, or slow the clean-up, of sites near Jasper, Texarkana, Arlington, and my district of Houston.

The Republican's proposed $500-a-child tax credit would do little to help children in low-income households. Families that have no Federal income tax liability after other exemptions and deductions would not be eligible for refunds. In Texas, 2,466,000 children in working families would have their taxes raised by an average of $430 in 2002. Families with two or more children in Texas will face an average tax increase of $500.

Too many children in my district of Houston are in poverty, and too many are at risk of poverty. I find it hard to believe that this Congress would further cut the safety net for these children. But that is exactly what the Republican budget would do.

Cuts in the safety net would deny 30,540 children in Texas child care assistance in 2002 and would cut foster care and adoption for vulnerable Texas children by $359.5 million over 7 years. The House welfare bill would erode the safety net further, cutting child protection for abused and neglected children in Texas by 24 percent in 2002. The Republican budget eliminates $29.1 million that helps low-income families—and 22,325 children—in Texas with their home heating and cooling bills, and forces families of 204,700 children in Texas to pay more rent. The budget would also eliminate protection for 4,744 children in Texas from drugs and drug-related crimes in public housing and deny 5,092 children the opportunity to move from public housing to renting their own home. Finally, the Republican budget denies assistance to 1,143 homeless children in Texas. The budget cuts homeless assistance by 40 percent in 1996, cutting funding for the homeless in Texas by $30.3 million in 1996.

Mr. Chairman, I stand here today in disbelief. Disbelief over the fact that Members of this Congress would deny assistance to homeless children, medical care to the disabled, and food to the hungry child. How can they look their children in the eyes, knowing what they are going to do to children like them across the Nation? I fear for the future and I can only hope that my Republican colleagues will come to their senses before it is too late for the children involved. Let there be no uncertainty: the damage they would inflict upon the children of this Nation will last a lifetime and its legacy will last even longer. Therefore, I oppose the Budget Reconciliation Act and will encourage the President to veto it.

Ms. SLAUGHTER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], a member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Let me start off by just answering one of the charges made on the other side and that was that we Democrats did not know what was in here and that we really were all pro-taxes.

Let me just point out this chart that I borrowed from someone else—68.4 percent of middle-income families are going to get a tax increase if that bill passes, or they are going to pay the same. And 64.3 percent of the wealthy people are going to get a tax cut.

Yes, we know what is in it. And that is why we are upset. But let me go to my next chart which is what I planned, to talk about representing the Committee on the Judiciary. That is, why we ought to call this WRECKonciliation with a "W."

Let me tell Members why. We are doing something to our economy in this bill that I find unconscionable. We are putting a tax on innovation. Innovation is as American as apple pie. What we have done, there was an agreement many years ago that we have really been abiding by and that was the patent and trademark office ought to run on its own fees, that the fees that come in from the inventors should pay for the services and that is it.

Well, guess what we are doing today? WRECKonciliation is tapping into those fees and pulling them out of the patent and trademark office. What that means is obviously the fees are either going to go up or the service is going to go down.

I happen to think that innovation is the basis of the growth of this economy. If we look at the Japanese, they spend $1,500 for patents and they do not have as many as we do. We now have a fee of $7,500. Heaven knows what it will be when we get done with WRECKonciliation because every little inventor is going to have to pay more or it is going to take them much longer to get that essential protection out there that they need, and both are wrong.

This is a hidden fee that those of us who sit on Judiciary on the Subcommittee on Courts and Intellectual Property on both sides of the aisle really resent. This is one of the many things that are in there.

I also resent the fact that people on the other side of the aisle stand up and say, we do not know what is in it. Does the other side of the aisle know this is in it? Do you know what you are doing here? Do you really want to choke off innovation and patents and the efficient service that we have been seeing? Is it really fair to raise their fees to pay for the debt that came out of general revenues? I do not think so. I hope that we talk about this some more.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a very distinguished member of the Committee on Ways and Means, an individual who has been very instrumental in drafting many provisions of the Medicare and Medicaid part of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Chairman, some of my colleagues believe we should be discussing here today merely a budget bill. I believe that would be inadequate to meet today's demands or our Nation's needs over the next 7 years. I am proud that we are offering here today a budget plan that includes numerous tax reforms that together will help our companies compete in an intensely competitive international market and so assure the millions of jobs these companies provide. It will help small companies grow by providing them better expensing rights, restore the home office deduction, and make it easier for them to provide pension plans for their employees. The tax provisions in this bill will help middle-class families and put in place the only solution through which we can guarantee our seniors, ourselves, and our children freedom from the fear of the catastrophic costs of long-term care.

This bill expands people's opportunity to gain the education they need to increase their economic power. We extend the right of employers to subsidize the education of their employees. We create the right to develop American dream saving accounts with its flexible rules allowing the use of these savings for education, tax-free. And we create a new research and development tax credit that will help start-up companies, collaborative research efforts, and old-line defense companies create the products of the future. These tax provisions are pro-education, pro-technology, pro-economic growth, pro-family, pro-health care reform.

These tax provisions are just as essential to the well-being of the Nation over the next 7 years as the specific budget provisions of our proposals. Together they plan a path for our Nation to reach a balanced budget by the year 2002 with a healthy economy, strong families and enlightened health and education policy.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, I rise in opposition to the Republican budget bill. We have heard a lot about the consequences of the $270 billion in Medicare cuts, but the impact on our States and communities may be even more severe because of the $182 billion cuts in Medicaid.

Our Nation already faces the challenge of providing health care to 40 million Americans who are uninsured. This Congress should be working on that problem. Instead, we are voting on a repeal of Medicaid that would add 8.8 million people to the list of the uninsured.

Texas will be one of the hardest hit States, and this bill makes matters worse because of a funding formula that does not adequately account for population growth and poverty levels. Altogether, Texas would lose $11 billion over the next 7 years under this Medicaid repeal, a 29 percent reduction in 2002 alone. Even if Texas could absorb half the cuts by reducing services, it would still have to eliminate coverage for 687,000 people by the year 2002.

No formula will correct the inequity of the repeal of the individual entitlement of Medicaid. It is mathematically impossible.

This Republican plan would force Texas to eliminate coverage for about 43,000 elderly people needing long-term care. Without Medicaid, families of the elderly and disabled could not afford nursing home care that costs an average of $38,000 a year.

The Republican Medicaid repeal would force Texas to eliminate coverage for 394,000 children in the year 2002. Currently, 20 percent of children in Texas rely on Medicaid for their basic health needs, including immunizations, regular checkups and intensive care in case of emergencies. They get top-quality care at such facilities as Hermann Hospital and Texas Children's Hospital at the Texas Medical Center in my district. But this guarantee of care would be gone under the Republican plan.

Texas could avoid these difficulties but only by increasing its own spending on Medicaid by 48 percent by raising taxes and cutting other critical programs such as education.

Hospitals in my district would also be hard hit by this Medicaid repeal. The Harris County Hospital District, the Nation's sixth largest, will lose between $350 and $422 million over the next 7 years. Hermann Hospital will lose $112 million, and Texas Children's Hospital will lose $100 million.

This plan is wrong. It is wrong to cut this plan to pay to tax cuts for the rich.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD], another distinguished member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, President Kennedy said it best back in 1961. "Our true choice is not between tax reductions on the one hand and the avoidance of large Federal deficits on the other. It is clear that an economy hampered by restrictive tax rates will never produce enough revenues to balance the budget, just as it will never produce enough jobs or profits."

Mr. Chairman, President Kennedy was right. The bill before us today is about two things: one, eliminating the deficit and balancing the budget for our children and grandchildren; and, two, providing jobs and opportunities for all Americans with the tax stimulus provisions of the bill.

Economist after economist came to our Committee on Ways and Means testifying about job creation. One economist testified 1.4 million new jobs will be created over the next 5 years from the capital gains tax cut. As he put it, the capital gains tax reductions will stimulate economic activity, increase jobs, capital spending and capital formation, improve national savings, increase entrepreneurship and raise economic output.

Mr. Chairman, we are hearing a lot from the other side about capital gains tax cuts being a tax break for the rich. Let us talk about the facts. An IRS analysis of 1993 tax returns found 77 percent of the tax returns reporting capital gains were filed by taxpayers with adjusted gross incomes of less than $75,000, 77 percent; and 60 percent had adjusted gross incomes of less than $50,000, hardly the rich in America.

But even more impressive than any of these statistics was a young man in my district. When I talked to a high school assembly, a 17-year-old young man from the least affluent part of my district came up to me afterward, and he said, "Ramstad, I liked what you said about capital gains."

I was not accustomed to such feedback from 17-year-old high school students. I asked him, "Young man, do you have any capital gains?" He looked back at me and his eyes got about this big and he said, "No, not now, Ramstad, but someday I hope to."

Mr. Chairman, that is the kind of incentive we have to restore to the Tax Code in this country.

All Americans, Mr. Chairman, will benefit from this bill. Let us keep faith with the American people. Let us balance the Federal budget. Let us pass budget reconciliation because the taxpayers of America deserve nothing less.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. I thank the gentlewoman from New York for yielding me the time.

Mr. Chairman, I am going to spend my brief time in talking about an area of this immense and devastating bill that I know firsthand, Medicaid. My ideas about Medicaid did not come from theory or books. I know it. I lived it.

Twenty-eight years ago, I went from being a married woman with complete health care coverage for my children to being a single mother with three small children receiving no child support and working at a job that initially provided no health care coverage for my three kids. Overnight, a simple checkup became an impossible luxury in our household. I will never, never forget what it was like, Mr. Chairman, to lie awake at night worried to death that one of my children would get sick.

Thankfully, I was able to turn to Medicaid and other forms of public assistance to add to my salary so I could provide my children with the health care, child care, and food they needed.

Mr. Chairman, that safety net is what helped my family get back on their feet. But I will never, not for 1 minute, think that just because my family made it, so can the millions of families who are in similar or worse situations than we were today.

That is why I am so outraged by Speaker GINGRICH's assault on Medicaid. The Speaker and his allies are taking health care from our children. In fact, they are cutting $182 billion to help pay for $245 billion in tax breaks to the wealthiest special interests.

In my home State of California alone, almost 470,000 children on Medicaid will lose their health care coverage under this plan. Twenty-eight years ago, Mr. Chairman, that would have been my three children.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. I thank the gentleman from Arizona for yielding me the time.

Mr. Chairman, for 40 years, the Republicans in the House have been trying to demonstrate how they differ from Democrats on the role of government in the lives of the American people. The true difference between Republicans and the Democrats is that the Republicans want less government and for Americans to keep what they earn. Democrats want more government and as much tax money as they can get so they can run a social engineering experiment from Washington, DC.

Now, for the first time in many, many years, we have the opportunity to give back to the American people some of the hard-earned dollars they have been sending to the bureaucrats in Washington. That is exactly what the tax cuts in this reconciliation bill does, give something back to the taxpayers so that they can decide for themselves how best to spend and invest their hard-earned dollars.

The Democrats are not going to agree with me, but the vast majority of the American people agree that our Government taxes too much and spends too much.

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Even the President recently said, after he pushed through the largest tax increase in history, it was too much. Now, with this bill, we have the chance to help the President by rolling back two-thirds of the tax revenues and the tax increase he started and started to put through on the American people in 1993, with the largest tax increase in history.

The main thing wrong with this bill is we should be rolling back President Clinton's 1993 tax increase in its entirety. Unlike the President, we are keeping our word by providing tax cuts for all Americans while the Democrats will proclaim their wornout class warfare chant that these are tax cuts for the rich. The truth is the biggest individual tax income tax cuts as a percentage of taxes paid go to taxpayers earning $30,000 to $75,000 annually.

So when you hear the Democrats whine and complain about our tax cut and budget balancing bill, remember they are really opposed to our efforts to shift power from the Federal Government to individual Americans.

The American people should be proud of what we are about to do.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I am reminded of the words of the late Justice Hugo Black: "Great nations, like great men, should keep their word." A provision in the bill before us today makes a mockery of this noble guiding principle.

The proposed tax on tribal gaming income breaks innumerable promises. It violates U.S. treaty obligations, ignores the U.S. Constitution, circumvents the new Republican rules of House procedure—and, it flies in the face of common sense.

Indian tribes are sovereign entities with the power to govern themselves. They have the right to engage in and regulate their own economic activity, and as such, are immune from Federal income tax. From the first days of this country's existence, Congress has recognized the sovereign status of Indian tribes. The U.S. Constitution recognizes tribal sovereignty. And the U.S. Government, in over 500 treaties, has recognized Indian tribes as sovereign entities.

How can the Ways and Means Committee presume to overturn 200 years of Federal law and policy by treating tribes, not as nations, but as corporations?

Further, how dare they do this without a single hearing, a single notice, or a single opportunity for public, administration, legislative, or tribal comment? This is not due process. This is not the democratic way. In fact, it's not even the Republican way. The new majority promised not to institute new taxes without careful study. They even passed a rule requiring a supermajority, three-fifths vote, to raise taxes. Is this new rule to be abandoned so soon? Mr. Chairman, this body's historical memory seems to be getting shorter by the day.

There is another reason Republicans should reject this proposed new tax. The provision will defeat the ability of tribes to become economically self-sufficient. Tribal gaming presents a singularly viable opportunity to eliminate the horrendous poverty on Indian lands. All profits from tribal gaming must go to meet the needs of tribal people. In other words, revenues can only be used for governmental or charitable purposes, such as: education, housing, health care, police, fire departments, child care, roadbuilding, and sanitation. Greater tribal self-sufficiency means less cost to the Federal Government. Indian gaming represents an opportunity to get tribal members off of welfare rolls. The proposed Republican tax is just plain bad economics.

Let me take this chance to correct a myth. The economic success of the Pequot Tribe's gaming operations in Connecticut is the exception, not the rule. The perception that all Indians are gaining great personal wealth from gaming could not be further from the truth. In fact, across the entire country, only one other tribe besides the Pequots are paying significant per capita payments to their members. These members already pay Federal income tax on every cent distributed.

To a degree, gaming has helped alleviate the long-term problems faced by Indian nations. But most Indian people and children in the United States still live below the poverty line. This Congress has recommended serious reductions in appropriations for Federal programs for Indians. Imposing an illegal, reckless, and suffocating tax on top of these cuts is cruel. It is also self-defeating. We are obliged to treat tribes with due respect. We are obliged to meet our treaty and trust responsibilities. We ought to be helping tribes that help themselves. We must keep our promises. My colleagues, reject this bogus tax.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we have heard a lot of comments tonight about how we cannot balance the budget while providing tax relief to the American people. You know, I think we cannot balance the budget without providing tax relief to the American people, because it is not just balancing the budget, it is reorienting the way the Federal Government relates to the rest of American society, lightening the burden of Government on people.

As we disempower the Federal Government to some extent, we have got to reempower the private institutions of society, families, so that they can raise their children, individuals, so that they can invest in their own future, small businesses, so that they can create jobs. But we hear tonight, well, we cannot, because that means we are going to have to cut the Federal budget.

Mr. Chairman, we are not cutting the Federal budget. It is growing under our plan over 7 years at 2.8 percent a year, at the rate of inflation. What people are saying who do not want the tax relief is we have to deny tax relief to the American people so that the Federal Government can grow faster than the rate of inflation over the next 7 years, as if the American people were undertaxed.

Mr. Chairman, in 1952, the average American family paid 2.5 percent of its income in Federal taxes of all kinds. That same average family today pays 25 percent, or 10 times as much, of its income in Federal taxes, and people are saying they do not need tax relief so the Federal Government can grow faster than the rate of inflation.

If people paid taxes at 1970 levels, they would have $4,000; the average family earning in the $40,000 range would have $4,000 a year more in disposable income.

Mr. Chairman, the reconciliation bill which is before the House today is a good bill. It balances the budget in 7 years. It is the least that we ought to do, and we need tax relief for the American people so that they can do what they do so well for themselves, for their families, for their communities, and for this country.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, the budget debate today is or really should be about people, and the whole purpose of government should be to help people.

So what does the Republican reconciliation bill do to people? First, children get hurt. Three million children will lose their health care coverage through Medicaid, 2 million children will have their school lunches cut, 1 million babies and their mothers lose Healthy Start, a prenatal health care, 700,000 disabled children will be denied SSI benefits, 180,000 preschool children will not get Head Start. That is for starters. Teenagers and students trying to get an education so they can be part of the American dream are hurt, too. Four million high school and college-age Americans will lose summer jobs; 50,000 young people will lose the opportunity to earn money for college through AmeriCorp's national service. Two million students will be denied Pell grants, and about 30 million students will have their college loans cut.

Finally, working families get hurt as well. Fourteen million working families will have their taxes raised directly, all of those families having $25,000 a year or less of income, many of them working at minimum wage, many of them trying to raise their children on those kinds of incomes. And a real sleeper, an estimated 13 million workers will have their pensions raided by their employers, money that they paid out of their salaries to provide for their retirement.

So why are we then voting on such extreme and vicious legislation? Well, basically because all of those cuts taken together, all of them taken together allow the Republicans to provide more than $100 billion of tax cuts for fewer than 5 percent of Americans, those people making more than $100,000 per year. That is who the Republicans care about.

Well, the distinguished Chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], said earlier 59 percent of the people who report capital gains have income under $50,000. What he did not bother to say was that that almost two-thirds of all Americans who are in families whose incomes are less than $50,000 per year, that they get less than 10 percent of all the capital gains. That is typical of this bill. That is who the Republicans care about.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, when the earned income tax credit was enacted in 1975, its concept was to help families move from welfare to the work force by increasing their after-tax earnings and providing relief from the burden of payroll taxes.

Since then, three legislative revisions have expanded the program's cost tenfold to almost $25 billion a year and rising. The Democrat's philosophy, as usual, was if a little is good, than a whole lot must be better. As a result, the EITC is the fastest growing cash assistance program in the Federal budget. The current spending trends simply aren't sustainable.

If we are to preserve the EITC for working poor families who most need its benefits, we must reform it to slow down the program's fantastic growth rate. Even the Clinton administration knows this. In the budget President Clinton submitted to Congress this year, he proposed denying the EITC to families with more than $2,500 in dividend and interest income. Why? because the EITC eligibility criteria excludes many sources of income that families now receive. As a result, some families with incomes as high as $70,000 a year are eligible for the credit.

Also, we should not give the EITC to childless workers. For 18 of the EITC's 19-year existence, both Republicans and Democrats agreed its benefits should go to working families with dependent children, because the whole purpose of the EITC was to help working families with young children stay off the welfare rolls.

Under our proposal, low-income working parents who support their children will see their tax credit rise substantially. This increase, coupled with our $500 per child tax credit, will go a long way to helping American families get back on their feet and provide for their children.

Even the Clinton administration agrees that in order to preserve and protect this program for the working families who need its benefits, we must reform it to slow down the rate of growth. I urge my fellow Members to help us preserve and protect the earned income tax credit for American families.

Ms. SLAUGHTER. Mr. Chairman, I yield the balance of my time on our side this evening to the gentleman from California [Mr. MILLER], who is the ranking Democrat member on the Committee on Resources, and I ask unanimous consent that he be permitted to manage that time and yield time to other Members.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, already this evening Americans have begun to learn the tragic manner in which this legislation treats the elderly and treats our students and treats our children and the poor of this country, and that is a shame, and it is tragic. It is embarrassing for the Congress to do that to its citizens.

But there is much more in this legislation, because this legislation is being used to hide a whole series of decisions by the Republicans in the Committee on Resources to just be lavish and to lard on taxpayer subsidies to a whole series of industries that cannot justify them, do not need them, and that this Congress has voted against extending those subsidies time and again.

So what have the Republicans chosen to do? They chose to fold them into the reconciliation bill so they will not be visible to the public, so the public will not be aware of the fact that the decision has been made by the Republicans to continue to give away public lands at essentially no cost to mining companies, to foreign-owned mining companies, and let them extract billions of dollars of gold, silver, and platinum from the public lands owned by the taxpayers.

The House of Representatives has voted time and again against that provision. It has voted twice this year not to allow that to happen. But that is in this reconciliation bill because the Republicans cannot tear themselves away from that type of corporate welfare.

We see that they do the same thing with the grazers, people using the public lands to graze cattle. In this legislation we are giving reduced fees when, in fact, the recommendation by GAO and others is that they should be increasing those fees for the use of those public lands, that they do not pay what people pay on private land, but this bill continues the subsidies to those individuals.

This bill sells off the forest lands of some of the largest ski resorts in this country, and it does not guarantee that the American public will continue to have access to areas like Aspen and Vail and other areas of recreation. No, it turns them into a private domain. That is what this bill does.

Why does it do it in this legislation? Because that legislation cannot win a majority of the vote on this House standing alone, just as the deepwater royalty subsidies that have been inserted into this legislation in the Senate were turned down in this House, turned down in the Senate. In this legislation, you cannot amend them out, take them out.

So they lavish hundreds of millions of dollars, hundreds of millions of dollars in subsidies to the largest and richest oil companies in the world.

Who pays for those subsidies? The children that you heard about earlier, the poor people in this country, the elderly with their health care. That is who pays for those subsidies.

We continue to see the Committee on Resources just go after and continue to lavish taxpayer subsidies on industry after industry where there is no demonstrated financial need for that subsidy but simply doing it because they did it.

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We could not even tear ourselves away from providing double subsidies, where we provide water subsidies to irrigators in the West, and they grow subsidized crops with the subsidized water. We tried to say pick one subsidy. Do not double dip us.

No, that was not good enough. Again, this House has voted numerous times to end that practice, but it is in this reconciliation bill, because they know that if it was brought to the House floor by itself, it in fact would be turned down by this Congress and by this House, because the water subsidies have been turned down, the grazing subsidies have been turned down, the royalty provisions have been turned down, on a bipartisan basis in the last several months in this House. So they put them all together, and then they put them into the bill, and there is no amendments allowed, it is up or down tomorrow.

Corporate welfare for the western extractive industries worth billions of dollars is maintained in this legislation, and it will be reported off of the House floor tomorrow.

Of course, then there is the granddaddy, and that is giving away the Arctic Wildlife Refuge in this legislation. Once again, that provision cannot pass on the floor of the House of Representatives as a freestanding bill. They say it is an emergency; that we must open up the Arctic Wildlife Refuge for oil drilling because America imports half of its oil.

Well, they also have legislation here to make sure that we allow the export of Alaskan oil to Japan and to other countries on the Pacific rim. so it is not for America, it is for their corporate clients.

It is for the opening up of these kinds of areas, and they cannot only do it in a reconciliation bill. They cannot do this in a freestanding bill, because these provisions, these provisions, cannot stand the light of day, they cannot stand the scrutiny of the taxpayers, they cannot stand the scrutiny of our constituents, and that is why they are in this legislation.

This legislation is an absolute Christmas tree. This is absolutely a Christmas tree of gifts to special interests in the form of corporate welfare. The tragedy is that every dollar that is given away to mining companies and to irrigators and to grazers and timber companies, is paid for by Mr. and Mrs. America. It is paid for by people paying the payroll taxes, paid for in reduced Medicare benefits, paid for in reduced Head Start and reduced education. That is the tragedy of this legislation.

Mr. Chairman, this legislation is supposed to reduce the deficit, cut the cost of Government, and protect taxpayers from waste.

But the resources portion of this bill is truly Christmas in October—a legislative rummage sale of valuable Federal assets at bargain basement prices that runs rampant over the environmental laws of our country.

Many of those who implore us to run Government like a business are leading the fight to give away these public resources.

The bill breaks with over 30 years of law and policy and opens the Arctic National Wildlife Refuge to oil development. And we may not even get the money. This bill breaks a legal agreement with Alaska that could reduce revenues to one-tenth the amount projected. And why are we doing this in reconciliation? Surely not because of the need for energy independence: this House just passed—at the urging of ANWR proponents—legislation to allow the export of Alaska oil.

This bill's phony mining reform package would make the Mineral Kings blush. Not 2 yeas ago, this House voted for real mining reform that would impose a real royalty for the first time, raising $540 million over 7 years and initiating the cleanup of contaminated abandoned mine sites. This phony reform raises a total of $76 million over 7 years, virtually none of it from a royalty, which is so laden with deductions and exemptions that any mining company that pays it should fire its accountant. The House voted three times this year to maintain the moratorium on giving away public mining lands to multinational mining conglomerates. This bill ignores those votes and instead charges the mining company the surface value only, which is like selling Fort Knox for the value of the roof.

This bill contains an absolute sham reform of national parks concessions, an irresponsible plan that makes a mockery of the true bipartisan concessions reform that was approved by the House of Representatives by a vote of 386–30 just last year. This sham reform locks in the current concessionaires—who have enjoyed bargain basement contracts.

This bill orders the Government to sell national forest lands used as ski resorts—places like Vail and Aspen—to monopoly bidders, promoting the intensive development of these lands and potentially closing access to millions of Americans. Why is this in reconciliation? It violates PAYGO by increasing direct spending and locks in place the ski industry's fee schedule that GAO says fails to provide a fair return to taxpayers.

This bill has a phony reform of Federal grazing policy that lets cattle graze for discount rates on public lands—far cheaper than on adjacent State or private lands. Antireform leaders pretend this has something to do with family ranching, but they know that just 25 percent of the permittees control 75 percent of the forage, including "wingtip cowboys" like J.R. Simplot, a national brewery, a Japanese land and livestock company, and a national oil company. The House has voted 5 times since 1990 to substantially raise the grazing fee, most recently, in 1993 by a vote of 317 to 106. This bill gives the victory—and the subsidies—to the ranchers.

This is a disgrace, and a very costly disgrace for the American taxpayer. The majority is using tiny so-called savings to qualify for the reconciliation process gigantic changes in resource and environmental law. On ANWR, on mining, on grazing, on concessions—they not only fail to pass stronger provisions, they undermine and repeal vast areas of existing public law before they turn the miners and the grazers and the drillers loose on the public lands.

Now, there is another way to do this: We can reform resource management, protect the environment, strengthen competition and the free market—and raise serious money. But the majority would rather shill for the exploiters than vote for the taxpayers.

The majority failed to accept Democratic proposals to end below-cost timber sales by the Forest Service that would save $315 million over 7 years.

The majority voted against ending double subsidies to farmers who receive Federal subsidized water, although the House has voted for this reform time after time. So, we will continue to pay farmers to grow crops we are paying other farmers not to grow—and cost the taxpayers a half billion dollars over 7 years.

Now, why are all these destructive, wasteful policies loaded into a budget reconciliation bill, especially when many of them do not really raise money? Why have the Republicans insisted on including phony reforms when it is readily apparent that, given a fair vote on the floor, the House would be willing—and has been anxious—to vote for real reform? After all, the House has voted against mining patents, against deep water royalty holidays—not under Democratic control, but this year.

I will tell you why this is all loaded into reconciliation.

It is to protect these outrageous, expensive giveaways to corporate interests from real debate and real review. These capitulations to corporate welfare are unacceptable to the American taxpayer and unacceptable to this House: But they can get loaded into a great big reconciliation bill, hidden away from scrutiny and amendment, and then strongarmed through without amendment.

These proposals are in this reconciliation bill because they could not survive on their own on this floor. They cannot stand taxpayer scrutiny. They cannot survive the light of day.

Giveaways to the mining corporations, the ranching corporations, the irrigation conglomerates, the recreation industry. Billions of dollars, our dollars, dollars that belong to the American people, given away without real scrutiny. And the environment gets devastated to boot.

This is a cynical and deceptive act of legislative sleight-of-hand. They are raising pennies, but giving away billions. These provisions alone more than justify a vote against corporate welfare, against the destruction of the environment, and against this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, for purposes of a colloquy, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would like to ask the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from California [Mr. RIGGS] to join me in a colloquy on the earned income tax credit.

Mr. Chairman, first I would like to commend you and the members of the Committee on Ways and Means for your outstanding work on reforming the EITC. It is a program that has grown way beyond its original scope and intent, and is in dire need of review.

Having said that, I am very concerned that we have inadvertently devised a formula that could result in a number of low-income working families actually being a net loser compared to current law, even after the enactment of the $500 per child tax credit.

I know that the gentlewoman from Connecticut [Mrs. JOHNSON] is strongly committed to helping the working poor in our country. The gentlewoman has labored diligently for some time now in welfare reform legislation, and I believe that reform of the EITC program goes hand in hand with this work. I believe this EITC problem can be fixed with a very slight modification of a technical change, and I would like to work with the gentlewoman and members of the committee to accomplish that.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from California, who has worked very diligently on this problem.

Mr. RIGGS. Mr. Chairman, I thank my colleague for yielding and for his fine work in this area. I want to associate myself with his comments.

Mr. Chairman, I, too, want to express my concern over the potential negative effects that our much needed and long overdue efforts to reform the earned income tax credit could have on a small number of very low-income working families, and I want to let the gentlewoman from Connecticut [Mrs. JOHNSON] and her colleagues on the Committee on Ways and Means know we would very much like to work with them on correcting this problem when the budget reconciliation bill goes to conference.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank my colleagues for their support of our reforms of the earned income tax credit, reforms that are reasonable, that are fair, and that are needed; but also to their pointing to a problem that exists in that reform, in that it does actually disadvantage a small group of people who need that earned income tax credit. We are working on that problem. We are delighted to have the gentlemen work with us. We will have some of that problem before this becomes law. I thank the gentlemen for their interest, concern and leadership.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the 1996 budget reconciliation bill. Someone said "wreckonciliation" is really what it is. But today I wanted to especially highlight the impact on the environment and the natural resource area.

This gives rise to a new era of robber barons that were in the 19th century. Now we have the robber barons in the 1990's. They act as if the only good tree is a horizontal tree, and that the creator endowed our Nation with a vast and wonderful resource so the special interests could make a profit.

This legislation sets in motion the wholesale exploitation, the subsidization and degradation of America's natural resource legacy, our children's heritage. We see the imprint of the special interests, including mining, timber, oil, and gas industries, throughout the Republican budget measure.

The decision totally destroyed the Arctic Natural Wildlife Refuge [ANWR], by permitting oil and gas exploration and drilling, stands out as the spirit in which this law is being written. This last great piece of arctic wilderness, the arctic plain, is the home to the 160,000 member porcupine caribou herd, where the calves are born, right on the Arctic plain. Beyond that, of course, the grizzlies, the polar bears, the arctic foxes, the conspicuous and inconspicuous fauna and flora abound in this area, an area that has been untouched since the ice age.

But that is not stopping the robber barons in 1995. The majority of the American people, both on CNN and other polls, two to one oppose this action. But that does not have any impact. We disregard the polls. We disregard the people when you take a policy like this forward. You disregard the scientific information. Everything is shunted aside. No consideration, no deliberation. The Republican policy makers know best, push instant gratification for oil development and speculative leasing.

That is what we need, a few more leases sitting, they are not doing anything with, but do not let that bother you. This does not stop with Alaska. It goes on to grazing, it goes on to timber. It lets the park concessionaires take over the park.

What we have here is a great new mountain, a mountain of special interest benefits, a new national monument to the greed and special interest is being built today.

Let us name it what it is, Mount GINGRICH, brought to you by the contract scheme in conjunction with the 1990 robber barons, who ride high in the saddle of the Republican Congress. That is what they are giving to you, the destruction of your legacy.

They are going to worry about the deficit. They are worried about the deficit? They are giving away the resources. They are selling the assets and then score it as if it is money in the bank. They are selling the future of this country, they are selling our natural resources, they are destroying the things that have been built and that have made this country what it is today. But the fact is that everything goes in the name of reconciliation. Well, reconciliation is named right, especially when you spell it w-r-e-c-k, "wreckonciliation," wrecking the country and destroying our natural resource legacy.

Mr. Chairman, the 1996 budget reconciliation bill environmental provisions continue the tradition of 19th century robber barons who exploited our Nation natural resources and lands. From the bill, one would think the only good tree is a horizontal tree and that the Creator endowed our Nation with vast and wonderful resources so that the special few could make a profit. This legislation sets in motion the wholesale exploitation, subsidization, and degradation of America's natural resource legacy, our children's heritage. We see the imprint of special interests, including the mining, timber, oil and gas industries, throughout the Republican budget measure.

The decision to destroy the Arctic National Wildlife Refuge [ANWR] by permitting oil and gas exploration and drilling stands out as the spirit in which this law is being written. The last great piece of American Arctic wilderness, the Arctic plain is home to the 160,000 Porcupine Caribou herd, where the calves are born. Beyond the caribou the grizzly and polar bears, arctic foxes, and numerous other species conspicuous and inconspicuous flora and fauna abound. Opening this refuge area to drilling will guarantee destruction of this Arctic desert wilderness.

The majority of the American people oppose drilling for oil in ANWR. A CNN poll conducted in September showed two-thirds of the respondents opposed opening up ANWR for exploration. A more recent poll conducted by Deardourff/The Media Group in mid-October confirmed the CNN findings. Those polled strongly believe ANWR is a unique area that must be protected and they opposed drilling in the Arctic Refuge by a margin of almost 4 to 1. Despite the overwhelming public support for protecting ANWR, the Republican leadership has refused to pull this specific provision from the reconciliation bill or permit a vote. The polls are disregarded. The scientific information is shunted aside no consideration—no deliberation. The GOP policy makers who know best push instant gratification for oil development, and speculative leasing takes priority over common sense.

The egregious provisions of this legislation do not end at the Alaska border. The bill gives private park concessionaires in our National Parks control over the National Park itself and the NPS stewards. Grazing permit fees on public lands are reduced below the already scandalously low prices. The so-called mining reform provisions are nothing but a sham. Selling the land at fair market value for the surface without consideration of the value of the minerals enshrines into law for the mining industry yet another subsidy at American taxpayer expense at the cost of our natural heritage. While the Republican majority leadership has determined to slash education, health care, and other social spending for the children, the poor and the elderly, they have piled on the corporate welfare in the natural resources provisions of this budget reconciliation bill into a new mountain of special interest benefits—a new national monument to greed and the special interests is being built today. Let's name it what it is, Mount GINGRICH, brought to you by the contract scheme in conjunction with the new 1990's robber barons who ride high in the saddle of this good Congress.

Mr. KOLBE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I rise in support of the reconciliation package.

Mr. Chairman, I rise today in strong support for the 7-year Balanced Budget Reconciliation Act of 1995. As the name implies, this package of reforms outlines a clear path to a balanced budget in the year 2002. We promised the American people that we would bring the budget to balance in 7 years and tomorrow we plan to deliver on that promise. While balancing the budget in itself is an admirable goal, our bill does much more, including: reforming our broken welfare system, providing needed tax relief for American families, saving Medicare from certain bankruptcy, restructuring Medicaid so States can meet their own specific needs, and many other reforms that ensure that the legacy we leave our children is debt free and full of opportunity, rather than ever increasing Federal deficit and a bloated, more intrusive Federal Government. Mr. Chairman, I would like to commend the various committee's that worked diligently to complete this package of long needed reforms. I look forward to a productive debate that will show the American people that their elected representatives can act in a responsible manner for the future of our country.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the greatest challenge to this Congress is its deficit and the greatest threat to this Nation is its national debt. I believe it was Mr. Jefferson, one of our Founding Fathers, that said a democracy is indefinite because those who are governed under a democracy will learn of the benefits they can reap from its treasury and they will vote for people who will enhance those benefits.

Well, our democracy is in jeopardy. We are spending some $500 million a day now more than we take in to help pay for benefits that have been enhanced by this Congress. The reconciliation bill will change this. It will end the deficit spending by balancing the people's books. It will change welfare from the current welfare system, a system which is out of control, a system which has spent $5 trillion over the last 30 years creating a dependency of benefits on the people's treasury, a welfare system that is anti-family and is anti-work.

The budget reconciliation bill will reduce welfare dependency. It will limit cash, cash for having children out of wedlock, cash for misbehavioral children, cash for drug addicts and alcoholics. Yes, Mr. Chairman, it limits cash to able-bodied, irresponsible parents. But it does one other thing; it still provides health care, nutrition and child care for unfortunate children.

Mr. Chairman, I urge the Members of this body, support ending the addiction that we have created to the people's budget, the people's Treasury. Support balancing the people's books. Vote for the Budget Reconciliation Act.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, I rise in vehement opposition to the reconciliation bill before us tonight, and in particular to the provisions of title IX as reported by the Resources Committee. As I am the ranking Democrat on the Mining Subcommittee, I will restrict my comments to the energy and mineral resources portions of the bill.

Let me start by saying that Jesse James never had it so good. The sham mining law reform package included in this bill will make it easier to steal gold—and oil and gas—from the American taxpayer than even Jesse, Butch Cassidy, and the Sundance Kid could have ever possibly hoped for or imagined.

Under the Mining Law of 1872, signed by President Ulysses S. Grant, gold miners can gain fee simple title to Federal gold, silver, and other minerals and the land containing them upon payment of a nominal sum: $2.50 or $5 an acre. Supporters of the bill before us will profess that their bill will change this situation. But instead it merely replaces a bad system with one which is no better.

The Republicans will boast that their proposal will require that mineral-rich lands be priced at fair market value. But, what they won't tell you is that, under their bill, the land will be sold for the value of the surface without consideration for mineral values. It makes no sense to sell our minerals for a pittance of their intrinsic value—it would be like selling a bottle of Dom Perignon for the price of the cork.

Under the Kasich substitute, the Department will be forced to fast track approval of the 233 patent applications in the pipeline, and give away as much as 15.5 billion dollars' worth of gold and silver and reserve no royalty whatsoever.

To be fair, we should note that the Republican bill would reserve a royalty on hard rock minerals mined on Federal lands for the first time in this Nation's history. Unfortunately, due to the way the Republican majority drafted the bill, it will not raise any money.

And, it didn't have to be that way. In the February 1995 budget estimates, CBO scored the 8-percent net smelter return royalty, previously passed by the House with a 3 to 1 margin, as raising $90 million per year; over 7 years, that equals $540 million—with 1 year for transition.

The Republicans will try to tell you that their royalty is the same as the Nevada net proceeds severance tax which raises a lot of money for the State—so their royalty will eventually raise revenues. But, the royalty in their bill is not the same as the Nevada severance tax. The Republican proposal would allow additional deductions to be made from gross revenues; such as engineering costs, costs of support services and support personnel, environmental compliance, permitting and other administrative costs. Obviously, by decreasing the gross, the royalty will be levied on a far smaller net and thus we will collect far less than is fair.

The Republicans will try to tell you that their royalty will raise revenues in the long term—that after everybody gets their patents and new claims are being staked on Federal lands, that their royalty will be in place and will raise money. But, they won't tell you that all other Federal royalties are charged on gross revenues because net royalties are notoriously difficult to administer and just don't raise all that much money in return. And they won't tell you that according to a review of the Nevada net proceeds tax report for 1992–1993, royalties paid by the Nevada mining industry to private interests averaged 3 percent of gross revenues and 11 percent of net proceeds. In the bill before you, the American taxpayer is getting the short end of the deal—combining the lowest rate with the least value—3.5 percent of net proceeds.

The bill would also change the current $100 rental fee to a sliding scale fee starting at $100 for the first years and ending with $500 for years the claim is held beyond 20 years. But it also allows deduction of up to 75 percent of the costs of developing the claim for mining. In addition, the bill would give away the first year's rental fee. According to CBO, the Republican royalty and holding fee would raise about $14 million over 5 years. By simply extending the $100 holding fee, as the Democrats proposed, we would have raised $33 million in each year—or twice as much in 1 year as the 5-year total in the Republican proposal.

CBO scores the Republican mining proposal—both royalties and holding fees at a meager $14 million over 5-years—that averages out at less than $3 million per year—that's less over 5 years than the royalty we proposed would raise in 1 year.

The mining reform bill passed by the House in 1993 would have raised real money and still protected vested mining rights on those claims that could not qualify for a patent. The Republican mining proposal before you today enables all 300,000 existing claims to get a patent. All claims that are able to qualify for a patent get out of paying any royalty to the taxpayer in the future.

It's evident to me that their intent is not to raise funds to meet reconciliation or deficit reduction goals, but rather to pass a sham mining law in order to quell the momentum for responsible reform.

FEDERAL OIL AND GAS ROYALTIES

The Republican bill also includes a giveaway for big oil. The Santa Fe Reporter said in its October 11 issue:

> The result—of the Oil and Gas Royalty Fairness proposal—could be a slashing of untold millions of dollars the state normally uses for schools, highways, and social programs.

The Western States Land Commissioners and the conservative Republican Governor of Wyoming have come out against the proposal.

It doesn't even raise all that much money—in fact it was a money loser when it came out of the Resources Committee. So why include it? Maybe it has something to do with a fact the bill's sponsors freely admit—that the oil and gas industry had a big hand in writing the bill.

The Republican oil and gas proposal is seriously defective. It would drastically modify the existing statute of limitations on the collection of royalties due taxpayers, and would create dangerous precedents that will diminish the government's ability to collect royalties.

The bill would limit Federal oversight of the lands companies lease for oil and gas. One section would allow marginal leases to operate without paying any royalties.

Also, the bill would change longstanding Federal policy and require the payment of interest to lessees who make overpayments. This change will cost, according to CBO, $60 million over 7 years, hardly a suitable provision for a reconciliation bill intended to reduce, not expand, Federal deficits.

HELIUM PRIVATIZATION

Finally, the helium privatization section adopted by the committee would terminate the Federal helium program. While the ending of the archaic helium program is generally supported, the committee rejected an important amendment I offered to provide assistance to Federal helium employees such as extending life and health insurance, allowing the use of local employment agencies to help place employees, relocation assistance, and governmentwide priority rather than just departmentwide preference in hiring.

CBO advised the committee that the amendment would have had no budgetary effect. Even so, the committee refused to provide this additional assistance to the 200-plus employees and their families who will lose their jobs in Amarillo, TX in the next year. Although there is general agreement that we need to reduce unnecessary functions of government like the helium program, it is unfortunate that the majority was unwilling to provide this assistance to the employees, and their families, who have served their government and taxpayers for many years.

In conclusion, I would reiterate that this is a bad bill because it is abusive to the environment, because it deprives the taxpayers of the value of the resources that belong to them, and because it makes a mockery of the reconciliation and legislative processes. These provisions are illustrative of the willingness of the majority to bow to the special interests represented by lobbyist for resource consumptive corporations at the expense of the national interest and the taxpayers. Severe and in many cases irreparable damage will be done to our Treasury, to our Nation's legacy of natural resources, to our fish and wildlife resources, and to our public lands by passage of this legislation.

I urge my colleagues to vote "no" on H.R. 2517, the budget reconciliation bill.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alaska [Mr. YOUNG] chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to address some of the things that have been said on this floor in the recent moments of this debate.

First, I want to stress one thing, in the reconciliation package that came out of our committee, the Committee on Resources, we addressed the grazing provisions that were mentioned by the gentleman from California. We in fact raised the fees for grazing. I do not see that in their substitute.

The second thing, with what we call the hard rock mining provisions, for the first time we created a royalty provision for the taking of minerals from the so-called public lands. So we have addressed that. We just do not speak out in anger or frustration. We have really tried to do what we think is correct to help balance the budget. We are not giving anything away in this provision which came out of our bill that came to the Reconciliation Act.

I would also like to suggest that there has been more misinformation, more flat out dishonesty, about the Alaskan Oil Reserve in the past, I would say, 6 to 8 months than I have ever experienced in my 22 years here.

We have to keep a little bit of history in mind. In 1980 we set aside 147 million acres of land for single use purpose in the State of Alaska. But the Congress at that time said that we ought to look at the coastal plain, where the oil possibly could be, and then there would be a recommendation by the President whether we should drill. That recommendation came down after a period of time, a period of time, that said yes, the Congress should have leasing for oil on the oil reserve, the so-called ANWR area. There has been 40 days of hearings held since 1978 after the recommendation came down. It is estimated that there is between 3 billion and 30 billion barrels of oil 74 miles away from the existing pipeline.

□ 1845

This area is strongly supported to be leased by the native people of Alaska. Many Members might have had a chance to visit with them. These are people that had little or nothing before the development of oil and now have what they think is their right due off of their land. They have water and sewage and schools and health, which they did not have before.

But more than that, Mr. Chairman, we are now importing $1 billion a week of foreign oils—$1 billion per week. It is important that the truth of this matter comes forth. Do not look at the ads and the misinformation that has been conveyed to this body and to the general public. Let us look at this Reconciliation Act as a responsible resource development and protection of the environment.

Mr. MILLER of California. Mr. Chairman, if I might inquire of the Chair, am I correct that I have 10 minutes remaining?

The CHAIRMAN. The gentleman from California [Mr. MILLER] has 9½ minutes remaining, and the gentleman from Arizona [Mr. KOLBE] has 10 minutes remaining.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I thank the gentleman from California [Mr. MILLER] for yielding me time.

Mr. Chairman, I hear from my constituents that those of us serving in Congress should give the three-way test to all bills. The three-way test that my district holds me accountable for is the three E's, which stand for education, economy, and the environment. This bill fails on all three accounts.

First, it hurts education. It eliminates the 6-month interest subsidy on student loans for new college graduates which will cost students $3.5 billion. It also caps spending for school lunch and child nutrition programs which help students meet the basic nutritional need.

Second, it hurts the economy. It cuts $13.4 billion from agricultural programs without reinvesting any of those savings into research or trade, threatening our Nation's critical agricultural industry. It cuts the earned income tax credit which gives millions of Americans incentive to be productive members of our work force. Above all, it cuts programs that encourage trade, research, and development which have the serious impact on our economic growth.

Finally, this bill hurts the environment. The Committee on Resources part of this bill are a fire sale on some of our most precious natural resources. It sells the Alaska National Wildlife Refuge to the oil companies. It sells mountains to the ski resorts, and sells the rivers to the water developers. It sells the trees to the timber cutters. It sells the precious minerals to the mining companies. None of the funds that are derived from these sales get reinvested into the environment. It grabs it all and hides it.

Mr. Chairman, this bill also eliminates dozens of programs from the National Oceanographic and Atmospheric Administration, NOAA, including those that study global warming and research on the ocean environment.

This bill does not answer our fiscal problems. Congress has already cut the deficit by $130 billion and did so without hurting education, without hurting the economy, and without hurting the environment. It also did so without balancing the budget on the backs of the poor and the elderly, yet this bill does exactly that by increasing the cost of Medicare and giving tax relief to the very wealthy.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, the theme of this reconciliation bill is controlling spending. As Republicans have been saying for years, the Federal deficit is driven not by low tax revenues but by too much spending.

A 1992 study by the Joint Economic Committee demonstrated beautifully and tragically that over the last 30 years, every time Congress raised taxes $1 we increased spending $1.59. That demonstrates the problem. So where is all the spending going? Some will argue that it is coming primarily in the defense area. But guess what? Ten years ago, in 1986, we spent $273 billion on defense. This year we are spending $272 billion on defense, a billion dollars less than in 1986. And if we factor in inflation, defense spending has actually declined by $73 billion, or 27 percent in real terms in the last decade.

Mr. Chairman, if the spending increases are not in defense, where are they? A big part of the answer, as shown on this chart, is in the area of Federal spending on means-tested programs that increased dramatically for more than three decades. In constant dollars it grew from less than $10 billion in 1950 to the incredible sum of $262 billion this year. And, ladies and gentlemen, that is an increase of 2,600 percent. That is right, 2,600 percent.

Mr. Chairman, according to the bipartisan Kerrey Commission, in their report, they said unless we do something about entitlement spending, in just a few short years entitlement spending, plus interest from the national debt, will consume the entire Federal budget. That is right, not a penny for the three E's, as the gentlemen said. Not a penny for the environment. Not a penny for education. Not a penny for the economy. Not a penny for school loans. Not a penny for defense. Not a penny for our veterans.

Not a penny for any of it in the discretionary area unless we deal with the explosion in entitlement spending.

The conclusion to be drawn from these numbers, Mr. Chairman, is understood by almost everyone in America. There are only a few on the other side of the aisle that still fail to appreciate it. The Nation's budget deficit is caused by wild spending increases. These increases have been going on for three decades and it is time to stop them.

This reconciliation vote and this bill is not about the future of the GOP, it is not about the future of the Democratic Party, it is not about the future of who will control this body, but it is about the future of our children. It is about the future of this country. It is about the future of our grandchildren and what kind of opportunity they are going to have and whether they will be saddled with debt. We have the opportunity in this bill to begin to control spending, to control our destiny once again. We have that opportunity within our grasp, let us not let it slip away.

Mr. MILLER of California. Mr. Chairman, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, let me introduce a concept into this discussion that does not often get heard, and that is the concept of justice. Our Republican friends are right when they talk about the serious problem of the national debt and the interest on the national debt. They are dead wrong in terms of their reconciliation package.

Mr. Chairman, what sense does it make and how are we moving toward a balanced budget when we give huge tax breaks to the wealthiest people in America? How does that help us move toward a balanced budget? How does it help us move toward a balanced budget when we repeal the alternative minimum corporate tax so that the largest corporations in America will end up paying nothing in taxes? Explain to the American people how that moves us toward a balanced budget.

This morning, Mr. Chairman, the Progressive Caucus held a press conference and we documented that if this Congress had the guts to stand up to the large corporations and the wealthiest people in this country and eliminated the $125 billion a year in corporate welfare that we currently provide, we could move toward a balanced budget in 7 years, but we would not have to slash Medicare, we would not have to slash Medicaid, student loans, fuel assistance, or children's nutrition programs.

There is a way to move us toward a balanced budget which is fair, Mr. Chairman, which does not come down heavy on the poorest and most vulnerable people in this country. Let us have the guts to stand up to the big money interests and move toward a balanced budget in that way.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Chairman, I appreciated my colleague, the gentleman from Vermont, Mr. SANDERS' remarks, and there have been a lot of suggestions in the last few minutes about how we should have balanced the budget, but none of those were incorporated in a plan from the other side when they had a chance to offer them.

Another reason to pass this reconciliation bill is because it incorporates the Personal Responsibility Act, the welfare reform bill this House passed in the spring, a bill designed to replace a failed system that is destroying families and neighborhoods in America with a system of assistance that is based on family, that is based on work, and that is based on responsibility.

Why do we need to do that, Mr. Chairman? Let us look at a couple of historical facts. In 1948 in the United States the poverty rate was about 30 percent. It declined steadily all throughout the postwar era until it reached about 15 percent in 1965. And a seminal event occurred in 1965. The Federal Government declared war on poverty.

In the 30 years since that date, Mr. Chairman, the Federal Government has spent, in means-tested entitlement programs, in Federal spending or Federally mandated State spending, $5 trillion in transfer of payments from the middle class to lower income America. And the poverty rate, which was 15 percent in 1965, after 20 years of going down, is 15 percent today. We have bought nothing in terms of a decrease in poverty. What we have bought is a six-fold increase in the out-of-wedlock birthrate.

In 1965, 6 percent of the children born in the United States were born out of wedlock. Today that figure is 32 percent. Why did this happen? Why no poverty decrease but an increase in the out-of-wedlock birthrate? Because, Mr. Chairman, the two most effective antipoverty programs, proven through generations of experience, through all the scholarship, the two most effective programs are work and family, usually marriage.

The Federal welfare system conditions assistance to poor people on them doing neither of those things. If they work or if they get married, they get no assistance. That is why poverty has not gone down and illegitimacy has gone up. We have taken the dads away from millions of American children and we have given them the Government instead, and we are now living with the result.

Senator MOYNIHAN said, 30 years ago, that a society that does that asks for and gets chaos. And we have chaos in hundreds and hundreds of neighborhoods around the United States where this model predominates.

What do we do in this bill, Mr. Chairman? It is really pretty simple. We take the welfare system and we shift it so that instead of discouraging and penalizing work, we encourage it, and in many cases we require if for able-bodied people because it is good for them and their families. Instead of encouraging illegitimacy, we discourage it by removing the incentives in the welfare package that encourage people to make a decision that is terribly destructive for themselves and for their families. And then we return power over the administrative details of this system to the people, exercised through their State and local authorities.

Mr. Chairman, this is not the last step in welfare reform, it is the first step. We have a long way to go. This lesson has been hard to learn. It has taken us years. We have paid a lot to learn it, and now I hope we learn it. It is important that we pass this bill and the welfare reform in it.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, we are past the debate about balancing the budget. Fiscal responsibility has come to Washington, DC. But the question is whose priorities will we use in balancing the budget?

The Republican majority says that we should start out by, first, reducing taxes on the largest most profitable corporations in America, reducing taxes on the wealthy; that we should increase military spending, buy weapons that even the Pentagon does not want, like the B-2 bomber, at $1.5 billion per copy, a weapon that does not work, has no earthly purpose and the Pentagon does not even want.

Now, Mr. Chairman, if we start there then we have to do what they are doing. That means $10 billion out of student loans. The Republicans are going to cut $10 billion out of student loans. Members of that party got student loans like I did to get here. The Speaker of the House got student loans to get here.

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Now we are going to pull up the ladder and say, "Sorry, we do not have the money anymore." That is absurd. We have got to balance the budget with the right priorities.

Now, it is pathetic. We cannot even tax foreign corporations operating in America. American corporations operating overseas have to pay taxes, but no, the United States of America cannot levy a minimum tax against foreign corporations operating here. They take all their profits out and pay nothing in taxes to this country. That would raise $25 billion a year. That would offset the cuts in student loans and in the low-income housing tax credit program.

Mr. Chairman, we have heard a lot about running the Government like a business. If we are running the Government like a business, look at the subject before us at this moment, the natural resource policy of the United States of America. Mining royalties, no one else gives away their precious natural resources. No other country on Earth, no other landowner, no government; just the U.S. Government at $2.50 an acre.

Mr. Chairman, we got $10,000 last year for a $20 billion gold mining claim, and we gave it away for $10,000 to a Canadian company that does not pay taxes in the United States. Is that running Government like a business? This bill would not fix that problem. This bill has a phony, sham mining royalty clause that would raise $14 million over 7 years. Hey, that is pretty stiff.

The Congressional Budget Office, and the gentleman from Ohio [Mr. KASICH], a Republican, says that we could do $540 million without even drawing a breath, and we would still have plenty of mining activity in the Western United States.

New loopholes for the poor and suffering oil and gas industry. You know, they have not been too profitable lately. Actually, they have been quite profitable, but they need new loopholes. Why? Because it is payoff time here. There was an election. There was an expensive election. There is going to be an election. That is going to be an expensive election. Do my colleagues know what? Those PAC's, the banking PAC's, the mining PAC's, the oil and gas PAC's, are dumping money into the new majority and they are getting their payoff right here today. The Republicans are talking about cutting welfare. Cut corporate welfare first.

Mr. KOLBE. Mr. Chairman, I will close the debate on our side, and so I am the last speaker and would ask the gentleman from California [Mr. MILLER] to complete his time.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I wanted to just speak briefly in opposition to the reconciliation bill in part because of the opening up of the Arctic National Wildlife Refuge for oil drilling.

Mr. Chairman, this is an example of the corporate handouts that the Republicans on the Committee on Resources included in the reconciliation bill. This bill gives away one of the last most valuable pieces of wilderness that the American taxpayer owns, in order to boost up falling revenues in the oil industry. In return we get nothing more than a few dollars we could get anyway if we reform our mining and grazing laws to guarantee a fair return to the American taxpayer.

Mr. Chairman, energy security is not the issue. I am a member of the Committee on Resources, but also the ranking Democrat on the Committee on Commerce Subcommittee on Energy and Power. I can tell my colleagues that oil consumption is on the rise, but we are not doing the things we need to do to ensure that security. We are not investing in mass transit or renewable fuels research or alternative fuel vehicles. That is the way to ensure our security.

Opening up ANWR will only prolong our addiction to oil. It does nothing to wean the United States of its oil addition or to wean corporations from the welfare rolls.

Mr. Chairman, at a time when Republican Members are raising Medicare taxes on our seniors to provide a $270 billion tax break to the wealthiest Americans, I really find it appalling, but not surprising, that the Republicans on the Committee on Resources would include this corporate welfare for the oil, mining, and cattle industries.

Mr. MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman this bill is the most obvious example yet of the long parade of far-right anti-environmental bills that we have had to consider in this Congress.

And this bill is probably the most damaging bill that we have yet to consider because it deals with many complex issues that should have been considered by authorizing committees, not rammed through in this giant bill which is being rammed through the House this week.

As I have said, there are many problems with this bill from the perspective of the environment. But, right now, I want to focus on two of the most important: The opening of the Arctic National Wildlife Refuge [ANWR] and the National Park Service concessions provisions.

ANWR—BUDGET BILL ASSUMES SAVINGS FROM ITS DEVELOPMENT

We have been told by the majority party that opening up ANWR is important because the American people support it and industry needs it to create jobs and cut the deficit.

But, this provision is not supported by the American public. As recently as July of this year, a national poll of 1,000 voters found that voters reject the idea of allowing oil drilling in ANWR by more than three to one. In fact, in that poll 57 percent of those surveyed opposed opening up ANWR while only 17 percent favored opening it up.

This same poll also found that when told that revenue from ANWR oil fees would be used to cut the deficit, the numbers went up: Seventy percent said protecting this area should be our first priority and only 20 percent said we should use the fees from oil drilling to reduce the deficit.

The American people do not support opening up the refuge, but it is also important to note that the oil we are told is supposed to be there may not be there after all.

An Interior Department study has found that there is only a 1 in 5 chance of there being any recoverable oil in ANWR at all.

And, even if there is oil there, it has been estimated that full production of this field would likely only provide enough oil to supply the United States for 200 days. How are we going to cut the deficit and create new jobs if there's no oil there? Is the price we'll pay in environmental protection worth that risk?

I ask the House, are we willing to trade away one of the most remarkable natural areas in North America for a few months worth of oil? Are we so desperate for a quick buck that we would sacrifice our natural heritage for a few drops of oil that may or may not be where it's supposed to be? I hope not and I urge a "no" vote on the legislation on these grounds alone.

PARK SERVICE CONCESSIONS GIVEAWAYS IN THE BUDGET RECONCILIATION BILL

The National Park Service concessions policies included in this reconciliation bill constitute a raid on the wallet of the American taxpayer: This bill specifically allows concessionaires to set their own prices and rates unless there is no competition in or near the parks.

This bill gives concessionaires greater protection than current law by severely limiting the ability of the Secretary of Interior from raising fees for concessionaires.

This bill writes a blank check to current Park Service concessionaires by setting the standards for contract renewal at such a simple level that competition for concessions will be effectively silenced.

I did not think that the lesson of the 1994 elections was less competition, reduced returns to the Treasury and a bigger backlog of park problems to deal with.

Mr. Chairman, the budget reconciliation bill is a sham for the Treasury, a travesty for the environment and a disaster for the American people. I urge a "no" vote on this dangerous legislation.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, tomorrow we will come back and we will resume this debate, but perhaps it is a good point, at the midpoint of this debate, to stop and take stock of where we are and ask this basic fundamental question: Why do we do this?

Earlier it was pointed out, it was said in the words of the Contract With America, "Promises made, promises kept." But these were not promises that were made behind some closed door with some special interest group out of view of the American people, which is all too often the way it used to be done. These were promises that were made out there on the west steps of this Capitol; promises that were made in the full light of the American people.

They were promises that were put down on paper. They were promises that were made in a Contract With America that was printed in national publications.

They were promises that were repeated in town halls in stump speeches across the Nation. They were promises that were written down in campaign brochures. All of America could see them. They were there for all the world to see.

Mr. Chairman, there is a more fundamental reason for doing this than promises made, and promises kept. We do this, we do this reconciliation for the young people of America. The young people who have a right to their future, as my generation grew up knowing that we had a bright future for us.

We do it for the working Americans of this country who have a right to be able to provide for their families. And, yes, Mr. Chairman, we do it for the senior citizens of this country who have a right to live out their lives in dignity.

The sad fact is, Mr. Chairman, Washington has been lying to these people all too long. We have lied to senior citizens by telling them we could increase their benefits and their payments and the programs that were available to them without suffering the consequences of inflation.

We lied to working Americans by telling them we cared about their families, but then we denied them the wherewithal to provide for those families. Today, we see the evidence around us, the evidence litters the landscape with broken and shattered families.

We just plain lied to young people. We heaped debt on them and scorned them because by and large they did not vote and now the bill comes due for them.

The sad fact is that more Americans believe in unidentified flying objects and UFO's than believe that Generation X will ever see one dime out of their Social Security.

Mr. Chairman, this is a moral crisis. This is a moral obscenity. We have broken the link of trust between generations in this country. But today, tomorrow, we can begin to restore, to repair that link, to restore that trust.

Mr. Chairman, we can do it with this reconciliation bill, which makes deeper changes to Government than anything we have done on the floor of this House in the last 60 years. But it is not a wrecking ball, it is a mason's trowel, carefully reworking and rebuilding the walls and the floors, the doors and the windows of this edifice.

At the end, what we will see is a castle, a castle that is good to live in for all Americans; a castle built on a sound fiscal foundation; a castle that is lighted with the shining light of compassion and caring by all those who live within it; a castle that is filled with hope, because there is opportunity for all to grow, to have a better life.

This, Mr. Chairman, is what it is about. It is about our future. It is probably, the most important vote in the careers of any of us here, no matter how long we have been here or how many more years we will stay.

We are often accused of casting our votes for today's special interests and for tomorrow's votes, but today we have a historic opportunity to do something different; to cast our vote for the future.

Mr. Chairman, I know we will do the right thing. We will vote for the dignity of senior citizens. We will vote for the opportunity of working Americans. We will vote for our children's future. We will vote to pass this reconciliation bill tomorrow.

Mr. COYNE. Mr. Chairman, I rise today in opposition to this legislation. I do not disagree with the goal of reducing the Federal deficit. I do, however, disagree with the way in which this legislation attempts to achieve that goal.

Some changes in Federal programs are necessary in order to control Federal spending and bring the budget under control, but this legislation makes deep cuts in programs that help average Americans—programs like Medicare, Medicaid, the earned income tax credit, and the low-income housing credit—in order to pay for $245 billion in tax cuts that will disproportionately benefit the wealthy. I find such a trade-off totally unacceptable.

Last week the House passed legislation cutting $270 billion from the Medicare Program. This legislation has since been incorporated into the reconciliation bill before us today. This legislation makes cuts that are much deeper than those necessary to keep Medicare viable over the next 10 years. Most Democrats, myself included, supported an alternative Medicare reform package that would have made only $90 billion in cuts in Medicare, but which would have kept the program solvent for the same period of time. The reason the Republicans want to make $180 billion in additional Medicare cuts is that they need the extra savings if they are going to balance the budget and pay for their tax cuts.

For the same reason, they plan to cut Medicaid by $180 billion over the next 7 years. The Republican plan would block grant Medicaid and transfer control over the program to the States. While the bill before us today does increase spending on Medicaid, it does so at a rate that is not sufficient to keep up with the program's anticipated increases in caseload and health care costs. The net result will most likely be an increase in the number of uninsured people in this country, a lower quality of health care for those who are still covered by Medicaid, and an increase in cost-shifting—transferring the burden of paying for health care for the poor from the Federal Government to other patients with private health insurance.

This legislation also makes $22 billion in cuts to the earned income tax credit. These cuts will affect 14 million working families—three quarters of all current recipients of the EITC. These people need tax relief more than most families, and yet, they will have less disposable income than under current law if this legislation is adopted in its current form. Marginal tax rates for many of these families will increase by more than 2 percentage points if this legislation is passed. This appears to be the only case where Republicans are unconcerned about the effect of increased marginal tax rates on work decisions; apparently, if you do not make much money, you do not deserve their sympathy.

The impact of the proposed changes in the EITC would be compounded by the welfare reform provisions contained in this legislation. Taken together, these provisions would have a devastating impact on people on the margins of the work force, many of whom are already working full-time at minimum wage and are still unable to make ends meet. The welfare reform bill passed by the House earlier this year would force single mothers off welfare after 2 years without adequate health care or child care assistance in many cases. Thanks to the cuts in the EITC, welfare mothers who eventually manage to find a job—or several jobs—and earn less than $30,000 would have less disposable income than under current law. Are these policies the mark of a family friendly Congress? I do not think so. The EITC provides a positive alternative to welfare by making work pay. Apparently, now that the Republicans have succeeded in cutting welfare dramatically, they no longer see any need to maintain such a generous work incentive. Social Darwinism has returned with a vengeance.

And, of course, that is not all. The Republican reconciliation bill would phase out the low-income housing credit as well. This credit has helped provide affordable housing for more than 800,000 low-income families. Without the continuation of this credit, less affordable housing will be available for these families, and they will have to spend more of their meager income on housing.

And to make matters even worse, the Republican reconciliation bill contains language that would allow companies to withdraw to $40 billion from their employees' pension funds over the next 5 years. This action could jeopardize or reduce the pension benefits of millions of working-class families. It looks as if the Republicans want to make certain that if families do work hard, struggle to get ahead, and manage to land a job with a pension, they would not enjoy the fruits of their labors when they retire.

All of the cuts I have mentioned would fall disproportionately on the working poor, the elderly, and poor children. Are these really the groups we want to bear the burden of deficit reduction? Are these folks really failing to hold up their end of our social contract? Are the affluent families that will benefit most from this reconciliation bill's tax cuts the families most in need of assistance?

By all means, Congress should address the deficit, and the Federal Government should provide the most hard-pressed American families with a little tax relief. What amazes me is that the Republican party believes that the 10 or 20 percent of households in this country with the highest incomes are the families most in need of government assistance. It seems as if the Republicans consistently attempt to solve society's problems at the expense of the most vulnerable members of our communities.

I find such actions reprehensible and shortsighted. They certainly undermine Republican professions of concern for children and the family. The policies in this bill will do more to destroy communities and hurt children than all the excesses—real and imagined—of the New Deal and the Great Society combined. I urge my colleagues to oppose this legislation.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, October 24, 1995, all time for general debate has expired.

Pursuant to the order of the House of that day, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WELDON of Florida) having assumed the chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 2491), to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, had come to no resolution thereon.

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material in the RECORD on H.R. 2491, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WELDON of Florida). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SUPPORT AN ENLARGED NAFTA TO ENSURE COMPETITIVENESS OF AMERICAN EXPORTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, today I want to continue the discussion which began in a joint subcommittee hearing of the House International Relations Committee on trade issues regarding Chile and other Latin American countries in light of the North American Free Trade Act [NAFTA] experience.

No doubt, we will continue to hear a plethora of statistics and anecdotes about the benefits and costs of NAFTA as well as increasing information about the benefits and costs of Chile's possible accession to that agreement. As a Member, I strongly supported NAFTA. Now, I strongly support Chile's accession to NAFTA. In fact, this Member said at the time, and will repeat it here today, that in a straightforward economic decision, it would have been more appropriate to accept Chile into a free-trade agreement with the United States even before Mexico because of Chile's dramatic economic progress and liberalization.

It is very easy to get lost in all the statistics about the benefits of NAFTA or Chile's accession. But those statistics don't reveal one thing. One should ask: "What would have happened if we had not passed NAFTA?"

There can be no doubt that many American companies have relocated to Mexico recently. Undoubtedly, many Americans have lost their jobs to cheaper Mexican labor. But that does not mean that many Americans would have kept their jobs if we had not adopted NAFTA. No, instead, Americans would have lost many low-wage jobs to Southeast Asia, South Asia, and other parts of Central and South America. This situation has been greatly exacerbated by the peso crisis in Mexico which itself, this Member emphasizes, was in no way caused by the NAFTA agreement.

Mr. Speaker, when this body courageously adopted the Uruguay Round implementing legislation, this Member said that many opponents of that historic trade legislation were in essence saying, "Stop the world, I want to get off." Well, this Member stands by that comment and believes it still applies here today.

The simple truth is that the United States, and the American people, have no good economic choice but to push for expansion of NAFTA gradually and appropriately to the entire Western Hemisphere or risk being excluded from a rapidly liberalizing world economy. Economic integration and trade liberalization is occurring in nearly every part of the world including Europe, Asia, and South America.

For example, the European Union [EU] has already created the world's largest free-trade zone and has recently expanded this block by adding three members of the European Free Trade Association (Austria, Finland, and Sweden). The EU's single market includes 369 million consumers and a gross domestic product [GDP] of about $6.3 trillion (1993). This "Fortress Europe," as some call it, is seeking to add the low-wage Eastern European economies of Poland, Hungary, the Czech Republic and Slovakia by the year 2000 and the North African and Middle Eastern countries of Morocco, Algeria, Libya, Tunisia, Egypt, Jordan, Syria, Lebanon and Israel by the year 2010. Together, this free-trade zone of low-wage labor Eastern European and Mediterranean countries and such high-tech, high-wage economies of the EU as the countries of Germany, France, and the United Kingdom represent a very formidable competitor to U.S. businesses and service industries which are attempting to compete in the new world economy.

Similarly, East Asian countries have begun the process of integrating their economies through such regional free-trade groups as the Asia Pacific Economic Cooperation [APEC], which recently agreed to establish free trade in the region by 2020 for all of its 18 members, and the Association of Southeast Asian Nations [ASEAN], which currently has seven members but is seeking to incorporate other countries such as Vietnam, Cambodia, Laos and Burma. ASEAN has rapidly become the world's largest regional trade area (with over 400 million people) and its members recently announced they would lower their tariffs from 0–5 percent shortly after the year 2000.

If the United States fails to continue to insist on its inclusion in these regional groups, supporters of the East Asia Economic Caucus (ASEAN plus China, Japan, and South Korea), which has been proposed by the outspoken Malaysian Prime Minister Mr. Mahathir, may be successful in excluding the United States from Asia and the Pacific region—the fastest growing market in the world.

Not to be left out of trade liberalization, South and Central America and the Caribbean have recently fragmented into several regional free-trade groups including:

Andean Pact: Bolivia, Colombia, Ecuador, Peru, and Venezuela.

Mercosur or Southern Common Market: Argentina, Brazil, Paraguay, Uruguay.

Central American Common Market: El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica.

Caricom: Antigua, Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, the Grenadines, Trinidad, Tobago.

Clearly, the United States will suffer economically, politically, and strategically if it chooses to isolate itself from global and regional trade liberalization efforts. History is replete with examples of countries, like China, who turned inward instead of facing the difficult but necessary challenges of adapting to new circumstances, and therefore greatly suffered.

With only 250 million people, the United States cannot afford to refuse to trade with emerging markets in the world's developing countries. Through the year 2025, developing countries are expected to account for 95 percent of the world's population growth. More staggering is the fact that only 10 markets—those of Mexico, Brazil, Argentina, Poland, Turkey, China, South Korea, Indonesia, India, and South Africa will produce one-half of the world's goods and services by the year 2010, but will account for $1 trillion in incremental U.S. exports during that same period.

Mr. Speaker, this Member strongly believes Americans can compete to sell their innovative products and services anywhere in the world provided they are given a fair and equal opportunity without excessive Government interference. Consequently, I vigorously oppose unilaterally surrendering these future markets to our industrialized competitors in the Asia and Pacific region and in Western Europe by isolating ourselves from regional and global economic liberalization. Accordingly, this Member urges his colleagues to support free-trade agreements, such as an enlarged NAFTA, which help ensure that American exporters will be able to compete on a level playing field.

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IMMIGRATION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. BARR] is recognized for 5 minutes.

Mr. BARR of Georgia. Mr. Speaker, earlier this week the Committee on the Judiciary of this 104th Congress reported out, after extended hearings and even more extended markup, immigration reform legislation which for the very first time in modern times will in fact actually substantively and positively reform both the system of illegal immigration and our efforts by this Government to combat this tremendous drain on our national resources as well as legal immigration.

I am happy to have been a part of that process, but what makes me even happier is an event that happened in my own district in Smyrna, GA, this past Monday evening. This past Monday evening, State Representative Randy Sauder pulled together for the very first time in the district—and probably for the first time in the State of Georgia—a comprehensive task force to study the effects of illegal immigration and to develop solutions to the problem of illegal immigration in our district.

Representative Sauder pulled together as members of this task force, in addition to myself and representatives from other congressional and Senatorial offices, a vast array of local and State law enforcement officials, other State representatives, municipal authorities, police chiefs, other law enforcement officials, the regional director of the Immigration and Naturalization Service, representatives of the Department of Labor, other agents and, perhaps most importantly of all, a number of private citizens who were involved with illegal immigration—combating illegal immigration—that is, in their communities and in their businesses.

And through the work of this task force, which began last Monday evening, on the eve of our historic action in the Committee on the Judiciary, passing this important legislation to be considered hopefully very soon by this very body, was a process of really coming to grips with and letting those of us in the Congress responsible for drafting the laws with regard to both legal and illegal immigration, a comprehensive look at how illegal immigration has affected and continues to adversely affect our communities in terms of the number of illegal aliens involved in criminal activity, in terms of the financial burdens placed on our communities, not just in the Seventh District of Georgia but indeed in many respects all across this country, the drain on the medical services, the drain on our welfare system and, indeed, other problems that are too lengthy to go into here this evening.

I would like to take this opportunity to congratulate Representative Sauder for his foresightedness in recognizing this problem, in recognizing that its solution goes far beyond the bounds of any one jurisdiction. It affects our homes, our schools, our businesses, our hospitals, our religious institutions, our local government, our State government and, indeed, all taxpayers of this country.

Through the work of Representative Sauder's task force, we hope over the next several months, Mr. Speaker, to really delve into the problem of illegal immigration and how it affects our communities. This work will be especially important to me as a Representative from the Seventh District to assist me in crafting the very best legislation possible, to identify those areas where additional work needs to be done, to helping direct precious taxpayer resources to combat the problem of illegal immigration in America. And I salute Representative Sauder for his work and look forward to working closely with him as an important part of the overall legislative effort of this Congress and future Congresses to come to grips with the crippling problem of illegal immigration in our country.

NURSING HOME STANDARDS PRESS CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, it defies common sense that Republicans are stripping away basic protections for elderly residents of nursing homes, under the guise of cutting the bureaucracy. The fact of the matter is that quality standards for nursing homes are not bureaucratic and onerous: they are necessary. These regulations don't tie the hands of nursing homes, they keep nursing homes from tying the hands of seniors.

Now, I cannot believe that my Republican colleagues are deliberately trying to put nursing home residents at risk, so I must conclude that they simply don't understand how these regulations protect nursing home residents from neglect and abuse. So, let me explain, briefly, how they work in my home State of Connecticut.

As one Connecticut official comments in this article: "Without these standards and people to watch them, these situations will continue. That man might still be counting the dots on the ceiling."

The Republican Medicaid plan will mean the end of uniform safety standards for nursing home residents. It will create a patchwork of standards across the country. Some States may do a great job, others may not. For nursing home patients it will be a crap shoot. The quality of your care will depend on where you live. That's wrong. Our seniors deserve better.

Now, my Republican colleagues want the American people to believe that this budget package is about shared sacrifices for a noble purpose. But, there is nothing shared in this sacrifice and there is nothing noble in its purpose.

This is a story from Monday's Connecticut Post which explains how these Federal protections worked for two people. It reads:

> Paralyzed in a car accident, a 38-year-old man lay flat on his back for four days in a Connecticut nursing home, able only to count the dots on ceiling tiles * * *
>
> In another Connecticut nursing home, an elderly man who suffered a sudden onset of dementia was overdrugged by staff to the point where he was unrecognizable and couldn't function * * *
>
> In both cases, it took intervention by state ombudsmen wielding copies of federal nursing home standards to correct the problems and protect the residents.

And, there is nothing revolutionary about returning America's seniors to the health care dark ages of bed restraints and mind-altering drugs.

CASTRO'S TRAVELING ROAD SHOW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, this week the Nation was witness to a great traveling road show which arrived from Havana. Its main star was the Cuban tyrant Fidel Castro, in his never ending campaign to reform his image from a ruthless dictator, which he is, to a harmless politician, which he is not.

Even though Castro's acting is cruelly trite and cynically predictable, it hypnotized much of American media, business leaders and, I am disappointed to say, some Members of our body. It was quite revolting to see how this dictator, who leads a regime that our State Department characterized as "sharply restricting basic political and civil rights, including the rights of citizens to change their government, the freedoms of speech, press, association, assembly and movement, as well as the right to privacy and various workers rights," well, he was warmly greeted in the Bronx by three of my colleagues from the other side of the aisle who hail from New York City, including the dean of the city's delegation.

This group of Congressman ignored the well-known repression of the Castro regime, repression which is condemned by human rights groups like Amnesty International, which said about Castro's regime that "members of unofficial political human rights and trade union groups continue to face imprisonment, short-term detention and frequent harassment."

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Instead, the congressional groupies accepted Castro with open arms. My Democrat colleague from the Bronx hosted a rally for the dictator on Monday evening telling the Cuban tyrant that he would always be welcomed in that city. My favorite however, was another Member of this body from that city's delegation who, even though she was forced to wait in line to attend the rally, stated that she did not mind waiting in line to see Fidel Castro.

You would think that such enthusiasm is reserved only for movie stars, but not in this instance. It is a shame that Members of this body carry such low respect for our democratic system that they would salivate over the leader who has gone to great extremes to destroy democracies around the world, and who stills speaks negatively of political pluralism.

Sadly, another one of my colleagues has accepted Castro's invitation to travel to Cuba, along with a delegation of representatives of American corporations. How can our Federal official authorize such a business trip? Let us hop that they do not.

Mr. Speaker, similarly outrageous was the reception that the United Nations gave Castro. Secretary General Boutros Boutros-Ghali warmly embraced Castro as he entered the organization. This shameful portrayal made by the United Nations leader is symptomatic of the hypocrisy embodied in that body, as it speaks of freedom and human rights, but then goes ahead and turns its back on the millions of Cubans who suffer under Fidel Castro.

This same organization now wants to implement global taxes to fund its inefficient bureaucracy. Reports have emerged recently that the United Nations wants to implement taxes on international currency and stock transactions, as a means to gain greater revenue for its activities. This initiative would gravely affect American citizens and businesses who already are the biggest contributors to the United Nations. This is a dangerous phenomenon which grossly expands the scope and mission of the organization and one which the Congress should raise its voice against.

The great missing link in Castro's visit were questions about his regime. None of the American media, congressional Members or business leaders bothered to ask Castro about the repressive nature of his regime. Nobody asked him about the political prisoners. No one asked him about the fate of Rev. Orson Vila Santoyo, who continues imprisoned for practicing his religious faith. No one asked him of the fate of Nilvio Labrada, who was put in a mental institution for demonstration against Fidel Castro. No one asked Castro when he would leave power, conduct elections, allow freedom of expression, allow opposition on the island. Nobody. Instead, those who fraternized with Castro had a mission. Business leaders want to make a quick buck off the Cuban workers sweat in Castro's plantation economy. The media continued its romanticized description of Castro, ignoring his human rights offenses, and my liberal congressional colleagues were just willing political pawns in Castro's propaganda.

Mr. Speaker, Castro came and went but his repression against the Cuban people remains today. This should always be the bottom line when dealing with Castro, and it is unfortunate that many sold their soul to the devil for, in the end, their mission will be unsuccessful. The Cuban people will be free someday, and they will remember, together with history, who stood for freedom and who preferred to prostitute themselves to the whims of the tyrant.

CONFERENCE REPORT ON H.R. 2020, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

Mr. LIGHTFOOT submitted the following conference report and statement on the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-291)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2020) "making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 10, 30, 32, 33, 39, 41, 42, 44, 50, 51, 64, 73, 83, 85, 87, 89, 90, 91, 98, 99, 110, 111, 118, 124, 134, 137, 138, and 141.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 8, 9, 11, 13, 14, 16, 19, 21, 25, 28, 29, 34, 35, 36, 38, 40, 45, 49, 53, 54, 55, 61, 63, 66, 71, 72, 75, 79, 80, 81, 82, 86, 92, 94, 95, 96, 100, 102, 103, 105, 106, 108, 112, 113, 114, 115, 116, 117, 119, 120, 121, and 123, and agree to the same.

Amendment No. 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment insert: *$105,929,000, of which up to $500,000 shall be available to reimburse the District of Columbia Metropolitan Police Department for personnel costs incurred by the Metropolitan Police Department between May 19, 1995 and September 30, 1995 as a result of the closing to vehicular traffic of Pennsylvania Avenue Northwest and other streets in the vicinity of the White House: Provided, That Section 640 of Title VI of the Treasury Postal Service and General Government Appropriations Act, 1995 (Public Law 103-329, 108 Stat. 2432), is amended by adding at the end thereof the following new sentence: "This section shall not apply to any claim where the employee has received any compensation for overtime hours worked during the period covered by the claim under any other provision of law, including, but not limited to, 5 U.S.C. 5545(c), or to any claim for compensation for time spent commuting between the employee's residence and duty station.*"; and the Senate agree to the same.

Amendment No. 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

TREASURY BUILDINGS AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and annex, and the Secret Service Headquarters Building, $21,491,000, to remain available until expended.

And the Senate agree to the same.

Amendment No. 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$10,000,000*; and the Senate agree to the same.

Amendment No. 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

Restore the matter stricken in said amendment amended to read as follows: *travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation;*

And the Senate agree to the same.

Amendment No. 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$22,198,000; Provided, That notwithstanding any other provision of law, the Director of the Financial Crimes Enforcement Network may procure up to $500,000 in specialized, unique or novel automatic data processing equipment, ancillary equipment, software, services, and related resources from commercial vendors without regard to otherwise applicable procurement laws and regulations and without full and open competition, utilizing procedures best suited under the circumstances of the procurement to efficiently fulfill the agency's requirements: Provided further, That funds appropriated in this account may be used to procure personal services contracts*; and the Senate agree to the same.

Amendment No. 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$184,300,000*; and the Senate agree to the same.

Amendment No. 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

Restore the matter stricken in said amendment, amended to read as follows: *: Provided further, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994*; and the Senate agree to the same.

Amendment No. 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided further, That the Commissioner of the Customs Service designate a single individual to be port director of all United States Government activities at two ports of entry, one on the southern border and one on the northern border: Provided further, That $750,000 shall be available for additional part-time and temporary positions in the Honolulu Customs District* ; and the Senate agree to the same.

Amendment No. 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows:

In lieu of the matter proposed in said amendment, insert: *$64,843,000 which* ; and the Senate agree to the same.

Amendment No. 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,723,764,000* ; and the Senate agree to the same.

Amendment No. 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows:

Restore the matter stricken in said amendment, amended to read as follows: *: Provided, That $13,000,000 shall be used to initiate a program to utilize private counsel law firms and debt collection agencies in the collection activities of the Internal Revenue Service in compliance with section 104 of this Act* and, on page 13, line 3, of the House of Representatives engrossed bill, H.R. 2020, after "which" insert "up to" and, on line 4, after "Program," delete "no amount of which shall be available for IRS administrative costs," ; and the Senate agree to the same.

Amendment No. 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,527,154,000, of which no less than $695,000,000 shall be available for tax systems modernization activities* ; and the Senate agree to the same.

Amendment No. 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment, insert: *: Provided, That of the funds appropriated for tax systems modernization, $100,000,000 may not be obligated until the Secretary of the Treasury provides a report to the Committees on Appropriations of the House and the Senate that (1) with explicit decision criteria, identifies, evaluates, and prioritizes all systems investments planned for fiscal year 1996, (2) provides a schedule for successfully mitigating deficiencies identified by the General Accounting Office in its April 1995 report to the Committees, (3) presents a milestone schedule for development and implementation of all projects included in the tax systems program, and (4) presents a plan to expand the utilization of external expertise for systems development and total program integration*; and the Senate agree to the same.

Amendment No. 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$531,944,000*; and the Senate agree to the same.

Amendment No. 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment, insert:

(a) As authorized by section 190001(e), $69,314,000 of which $25,690,000 shall be available to the United States Customs Service for expenses associated with "Operation Hardline"; of which $21,010,000 shall be available to the Bureau of Alcohol, Tobacco and Firearms of which no less than $14,410,000 shall be available to annualize the salaries and related costs for the fiscal year 1995 supplemental initiative, and of which no less than $3,500,000 shall be available for administering the Gang Resistance Education and Training program, and of which $3,100,000 shall be available for ballistics technologies; of which $21,600,000 shall be available to the United States Secret Service, of which no less than $1,600,000 shall be available for enhancing forensics technology to aid missing and exploited children investigations; and of which $1,014,000 shall be available to the Federal Law Enforcement Training Center; and ; and the Senate agree to the same.

Amendment No. 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows:

In lieu of the section number named in said amendment, insert: *107*; and the Senate agree to the same.

Amendment No. 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows:

In lieu of the matter inserted in said amendment, insert:

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,180,000.

And the Senate agree to the same.

Amendment No. 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $23,500,000, of which $16,000,000, to remain available until expended, shall be available to the Counter-Drug Technology Assessment Center for counternarcotics research and development projects and shall be available for transfer to other Federal departments or agencies; and of the funds made available to the Counter-Drug Technology Assessment Center, $600,000 shall be transferred to the Drug Enforcement Administration for the El Paso Intelligence Center: Provided, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

And the Senate agree to the same.

Amendment No. 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $103,000,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than $55,000,000 shall be transferred to State and local entities for drug control activities; and of which up to $48,000,000 may be transferred to Federal agencies and departments at a rate to be determined by the Director: Provided, That the funds made available under this head shall be obligated within 90 days of the date of enactment of this Act.

And the Senate agree to the same.

Amendment No. 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Intergovernmental Relations, $784,000, of which $334,000 is to carry out the provisions of Public Law 104–4, and of which $450,000 shall be available only for the purposes of the prompt and orderly termination of the Advisory Commission on Intergovernmental Relations.

And the Senate agree to the same.

Amendment No. 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established under subchapter V of chapter 5 of title 5, United States Code, $600,000: Provided, That these funds shall only be available for the purposes of the prompt and orderly termination of the Administrative Conference of the United States by February 1, 1996.

And the Senate agree to the same.

Amendment No. 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$20,542,000*; and the Senate agree to the same.

Amendment No. 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$5,066,149,000*; and the Senate agree to the same.

Amendment No. 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$545,002,000*; and the Senate agree to the same.

Amendment No. 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

New Construction:

Colorado:

Lakewood, Denver Federal Center, U.S. Geological Survey Lab Building, $25,802,000

Florida:

Tallahassee, U.S. Courthouse Annex, $24,015,000

Georgia:

Savannah, U.S. Courthouse Annex, $2,597,000

Louisiana:

Lafayette, Federal Building and U.S. Courthouse, $29,565,000

Maryland:

Prince Georges County, Food and Drug Administration, $55,000,000

Nebraska:

Omaha, Federal Building and U.S. Courthouse, $53,424,000

New Mexico:

Albuquerque, Federal Building and U.S. Courthouse, $6,126,000

New York:

Central Islip, Federal Building and U.S. Courthouse, $189,102,000

North Dakota:

Pembina, Border Station, $11,113,000

Pennsylvania:

Scranton, Federal Building and U.S. Courthouse Annex, $24,095,000

South Carolina:

Columbia, U.S. Courthouse Annex, $3,562,000

Texas:

Austin, Veterans Affairs Annex, $7,940,000

Brownsville, Federal Building and U.S. Courthouse, $27,452,000

Washington:

Point Roberts, U.S. Border Station, $3,516,000

Seattle, U.S. Courthouse, $5,600,000

West Virginia:

Martinsburg, Internal Revenue Service Computer Center, $63,408,000

Non-prospectus Projects Program, $12,685,000; and the Senate agree to the same.

Amendment No. 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided further, That the $6,000,000 under the heading of non-prospectus construction projects, made available in Public Laws 102–393 and 103–123 for the acquisition, lease, construction and equipping of flexiplace work telecommuting centers, is hereby increased by $5,000,000 from funds made available in this Act for non-prospectus construction projects, all of which shall remain available until expended: Provided further, That of the $5,000,000 made available by this Act, half shall be used for telecommuting centers in the State of Virginia and half shall be used for telecommuting centers in the State of Maryland: Provided further, That of the funds made available for the District of Columbia, Southeast Federal Center, under the heading, "Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue" in Public Law 101–509, $55,000,000 are rescinded: Provided further, That the limitation on the availability of revenue contained in such Act is reduced by $55,000,000*; and the Senate agree to the same.

Amendment No. 60

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$637,000,000*; and the Senate agree to the same.

Amendment No. 62

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Repairs and Alterations:

Arkansas:

Little Rock, Federal Building, $7,551,000

California:

Sacramento, Federal Building (2800 Cottage Way), $13,636,000

District of Columbia:

ICC/Connecting Wing Complex/Customs (phase 2/3), $58,275,000

Illinois:

Chicago, Federal Center, $45,971,000

Maryland:

Woodlawn, SSA East High-Low Buildings, $17,422,000

North Dakota:

Bismarck, Federal Building, Post Office and U.S. Courthouse, $7,119,000

Pennsylvania:

Philadelphia, Byrne-Green Complex, $30,909,000

Philadelphia, SSA Building, Mid-Atlantic Program Service Center, $11,376,000

Puerto Rico:

Old San Juan, Post Office and U.S. Courthouse, $25,701,000

Texas:

Dallas, Federal Building (Griffin St.), $5,641,000

Washington:

Richland, Federal Building, U.S. Post Office, and Courthouse, $10,000,000

Nationwide:

Chlorofluorocarbons Program, $43,533,000

Elevator Program, $13,109,000

Energy Program, $20,000,000

Advance Design, $22,000,000; and the Senate agree to the same.

Amendment No. 65

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,326,200,000*; and the Senate agree to the same.

Amendment No. 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That the Administrator is authorized to enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia, or with any person, firm, association, or corporation, as may be necessary to implement the trade center plan at the Federal Triangle Project*; and the Senate agree to the same.

Amendment No. 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$5,066,149,000*; and the Senate agree to the same.

Amendment No. 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment, insert:

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for asset management activities; utilization of excess and disposal of surplus personal property; transportation management activities; procurement and supply management activities; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; $119,091,000.

And the Senate agree to the same.

Amendment No. 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$33,274,000*; and the Senate agree to the same.

Amendment No. 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows:

In lieu of the section number named, insert: *5*; and the Senate agree to the same.

Amendment No. 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

SEC. 7. Notwithstanding any provision of this or any other Act, during the fiscal year ending September 30, 1996, and thereafter, no funds may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

And the Senate agree to the same.

Amendment No. 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

SEC. 8. Notwithstanding any provision of this or any other Act, during the fiscal year ending September 30, 1996, and thereafter, no funds may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

And the Senate agree to the same.

Amendment No. 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows:

In lieu of the first section number in said amendment, insert: *9*; and the Senate agree to the same.

Amendment No. 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *$88,000,000, of which not to exceed $1,000,000 shall be made available for the establishment of health promotion and disease prevention programs for Federal employees*; and the Senate agree to the same.

Amendment No. 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows:

Restore the matter stricken in said amendment, amended to read as follows:

Section 1. Section 1104 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by inserting after "title" the following: ", the cost of which examinations shall be reimbursed by payments from the agencies employing such judges to the revolving fund established under section 1304(e)"; and

(ii) by striking the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(B) by striking the matter following paragraph (2) through "principles."; and

(2) in subsection (b) by adding at the end the following new paragraph:

"(4) At the request of the head of an agency to whom a function has been delegated under subsection (a) (2), the Office may provide assistance to the agency in performing such function. Such assistance shall, to the extent determined appropriate by the Director of the Office, be performed on a reimbursable basis through the revolving fund established under section 1304(e).".

And the Senate agree to the same.

Amendment No. 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$33,269,000*; and the Senate agree to the same.

Amendment No. 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 512. Notwithstanding any provision of this or any other Act, during the fiscal year ending September 30, 1996, and thereafter, no funds may be obligated or expended in any way to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

And the Senate agree to the same.

Amendment No. 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *in fiscal year 1996 for those operations and programs previously provided for by appropriation*; and the Senate agree to the same.

Amendment No. 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted in said amendment, insert: *(retention of receipts is for the circulating operations and programs): Provided further, That the Secretary of the Treasury shall*; and the Senate agree to the same.

Amendment No. 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *Provided further, That provisions of law governing procurement or public contracts shall not be applicable to the procurement of goods or services necessary for carrying out Mint programs and operations*; and the Senate agree to the same.

Amendment No. 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agreed to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 524. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions, after the last day of the contract currently in force for any such negotiated plan.

SEC. 525. The provision of section 524 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or that the pregnancy is the result of an act of rape or incest.

And the Senate agree to the same.

Amendment No. 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 627. (a) None of the funds made available in this Act may be obligated or expended for any employee training when it is made known to the Federal official having authority to obligate or expend such funds that such employee training—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988;

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or

(6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

And the Senate agree to the same.

Amendment No. 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows:

In lieu of the first section number in said amendment, insert: *628*; and the Senate agree to the same.

Amendment No. 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 629. (a) None of the funds appropriated by this or any other Act may be expended by any Federal Agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) that agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

(b) After July 31, 1996, subsection (a) shall apply if the Administrator of General Services

has reported that the FTS2000 procurement is producing prices that allow the Government to satisfy its requirements for such procurement in the most cost-effective manner.

(c) The Comptroller General of the United States shall conduct and deliver a comprehensive analysis of the cost of the Federal government of all Federal agency telecommunications services and traffic, by agency, and provide such report to the House and Senate Committees on Appropriations by no later than May 31, 1996: Provided, That such report shall (1) identify which agencies are using FTS2000 systems; (2) determine whether or not such usage is cost-effective; and (3) provide a comparison of telecommunication costs between agencies that use or do not use FTS2000.

And the Senate agree to the same.

Amendment No. 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *630*; and the Senate agree to the same.

Amendment No. 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 631. (a) Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "During the period beginning January 1, 1985, and ending January 1, 1999, the " and inserting in lieu thereof "The"; and

(2) in subsection (g)(1) by amending subparagraph (D) to read as follows:

"(D) have provided scheduled service within the State of Alaska for at least 12 consecutive months with aircraft—

"(i) up to 7,500 pounds payload capacity before being selected as a carrier of nonpriority bypass mail at an applicable intra-Alaska bush service mail rate; and

"(ii) over 7,500 pounds payload capacity before being selected as a carrier of nonpriority bypass mail at the intra-Alaska mainline service mail rate."

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall be effective on and after August 1, 1995.

(2) Subparagraph (D) of section 5402(g)(1) title 39, United States Code (as in effect before the amendment made under subsection (a)) shall apply to a carrier, if such carrier—

(A) has an application pending before the Department of Transportation for approval under section 41102 or 41110(e) of title 39, United States Code, before August 1, 1995; and

(B) would meet the requirements of such subparagraph if such application were approved and such certificate were purchased.

(c) Section 41901(g) of title 49, United States Code, is repealed.

And the Senate agree to the same.

Amendment No. 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 632. LIMITATION ON USE OF FUNDS FOR THE PROVISION OF CERTAIN FOREIGN ASSISTANCE

(a) In General.—Notwithstanding any other provision of law, none of the funds made available by this Act for the Department of the Treasury shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would permit the Secretary of the Treasury to make any loan or extension of credit under section 5302 of title 31, United States Code, with respect to a single foreign entity or government of a foreign country (including agencies or other entities of that government)—

(1) with respect to a loan or extension of credit for more than 60 days, unless the President certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives that—

(A) there is no projected cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the United States from the proposed loan or extension of credit; and

(B) any proposed obligation or expenditure of United States funds to or on behalf of the foreign government is adequately backed by an assured source of repayment to ensure that all United States funds will be repaid; and

(2) other than as provided by an Act of Congress, if that loan or extension of credit would result in expenditures and obligations, including contingent obligations, aggregating more than $1,000,000,000 with respect to that foreign country for more than 180 days during the 12-month period beginning on the date on which the first such action is taken.

(b) Waiver of Limitations.—The President may exceed the dollar and time limitations in subsection (a)(2) if he certifies in writing to the Congress that a financial crisis in that foreign country poses a threat to vital United States economic interests or the stability of the international financial system.

(c) Expedited Procedures for a Resolution of Disapproval.—A presidential certification pursuant to subsection (b) shall not take effect, if the Congress, within thirty calendar days after receiving such certification, enacts a joint resolution of disapproval, as described in paragraph (5) of this subsection.

(1) Reference to Committees.—All joint resolutions introduced in the Senate to disapprove the certification shall be referred to the Committee on Banking, Housing and Urban Affairs, and in the House of Representatives, to the appropriate committees.

(2) Discharge of Committees.—(A) If the committee of either House to which a resolution has been referred has not reported it at the end of 15 days after its introduction, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same matter.

(B) A motion to discharge may be made only by an individual favoring the resolution, and is privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees.

(3) Floor Consideration in the Senate.—(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

(4) In the case of a resolution, if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(5) For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 632(b) of the Treasury, Postal Service, and General Government Appropriations Act, 1996, notice of which was submitted to the Congress on .", with the blank space being filled with the appropriate date.

(d) Applicability.—This section—

(1) shall not apply to any action taken as part of the program of assistance to Mexico announced by the President on January 31, 1995; and

(2) shall remain in effect through fiscal year 1996.

And the Senate agree to the same.

Amendment No. 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 633. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1996 in the rates of basic pay for the statutory pay systems.

And the Senate agree to the same.

Amendment No. 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *634*; and the Senate agree to the same.

Amendment No. 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 636. This section may be cited as the "Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act".

(a) As used in this section—

(1) the term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in subparagraphs (B) through (H) of section 5721(1) of title 5, United States Code;

(2) the term "Federal building" means—

(A) any building or other structure owned in whole or in part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease agreement; and

(B) includes the real property on which such building is located;

(3) the term "minor" means an individual under the age of 18 years; and

(4) the term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

(b)(1) No later than 45 days after the date of the enactment of this Act, the Administrator of General Services and the head of each Federal agency shall promulgate regulations that prohibit—

(A) the sale of tobacco products in vending machines located in or around any Federal building under the jurisdiction of the Administrator or such agency head; and

(B) the distribution of free samples of tobacco products in or around any Federal building under the jurisdiction of the Administrator or such agency head.

(2) The Administrator of General Services or the head of an agency, as appropriate, may designate areas not subject to the provisions of paragraph (1), if such area also prohibits the presence of minors.

(3) The provisions of this subsection shall be carried out—

(A) by the Administrator of General Services for any Federal building which is maintained, leased, or has title of ownership vested in the General Services Administration; or

(B) by the head of a Federal agency for any Federal building which is maintained, leased, or has title of ownership vested in such agency.

(c) No later than 90 days after the date of enactment of this Act, the Administrator of General Services and each head of an agency shall prepare and submit, to the appropriate committees of Congress, a report that shall contain—

(1) verification that the Administrator or such head of an agency is in compliance with this section; and

(2) a detailed list of the location of all tobacco product vending machines located in Federal buildings under the administration of the Administrator or such head of an agency.

(d)(1) No later than 45 days after the date of the enactment of this Act, the Senate Committee on Rules and Administration and the House of Representatives Committee on House Oversight, after consultation with the Architect of the Capitol, shall promulgate regulations under the Senate and House of Representatives rulemaking authority that prohibit the sale of tobacco products in vending machines in the Capitol Buildings.

(2) Such committees may designate areas where such prohibition shall not apply, if such area also prohibits the presence of minors.

(3) For the purpose of this section the term "Capitol Buildings" shall have the same meaning as such term is defined under section 16(a)(1) of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193m(1)).

(e) Nothing in this section shall be construed as restricting the authority of the Administrator of General Services or the head of an agency to limit tobacco product use in or around any Federal building, except as provided under subsection (b)(1).

And the Senate agree to the same.

Amendment No. 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 637. NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) FINDINGS.—The Congress finds the following:

(1) While the budget for the Internal Revenue Service (hereafter referred to as the "IRS") has risen from $2.5 billion in fiscal year 1979 to $7.3 billion in fiscal year 1996, tax returns processing has not become significantly faster, tax collection rates have not significantly increased, and the accuracy and timeliness of taxpayer assistance has not significantly improved.

(2) To date, the Tax Systems Modernization (TSM) program has cost the taxpayers $2.5 billion, with an estimated cost of $8 billion. Despite this investment, modernization efforts were recently described by the GAO as "chaotic" and "ad hoc".

(3) While the IRS maintains that TSM will increase efficiency and thus revenues, Congress has had to appropriate additional funds in recent years for compliance initiatives in order to increase tax revenues.

(4) Because TSM has not been implemented, the IRS continues to rely on paper returns, processing a total of 14 billion pieces of paper every tax season. This results in an extremely inefficient system.

(5) This lack of efficiency reduces the level of customer service and impedes the ability of the IRS to collect revenue.

(6) The present status of the IRS shows the need for the establishment of a Commission which will examine the organization of IRS and recommend actions to expedite the implementation of TSM and improve service to taxpayers.

(b) COMPOSITION OF THE COMMISSION.—

(1) ESTABLISHMENT.—To carry out the purposes of this section, there is established a National Commission on Restructuring the Internal Revenue Service (in this section referred to as the "Commission").

(2) COMPOSITION.—The Commission shall be composed of thirteen members, as follows:

(A) Five members appointed by the President, two from the executive branch of the Government, two from private life, and one from an organization that represents a substantial number of Internal Revenue Service employees.

(B) Two members appointed by the Majority Leader of the Senate, one from Members of the Senate and one from private life.

(C) Two members appointed by the Minority Leader of the Senate, one from Members of the Senate and one from private life.

(D) Two members appointed by the Speaker of the House of Representatives, one from Members of the House of Representatives and one from private life.

(E) Two members appointed by the Minority Leader of the House of Representatives, one from Members of the House of Representatives and one from private life.

The Commissioner of the Internal Revenue Service shall be an ex officio member of the Commission.

(3) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(4) MEETING; QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) APPOINTMENT; INITIAL MEETING.—

(A) APPOINTMENT.—It is the sense of the Congress that members of the Committee should be appointed not more than 60 days after the date of the enactment of this section.

(B) INITIAL MEETING.—If, after 60 days from the date of the enactment of this section, seven or more members of the Commission have been appointed, members who have been appointed may meet and select a Chairman who thereafter shall have the authority to begin the operations of the Commission, including the hiring of staff.

(c) FUNCTIONS OF COMMISSION.—

(1) IN GENERAL.—The functions of the Commission shall be—

(A) to conduct, for a period of not to exceed one year from the date of its first meeting, the review described in paragraph (2), and

(B) to submit to the Congress a final report of the results of the review, including recommendations for restructuring the IRS.

(2) REVIEW.—The Commission shall review—

(A) the present practices of the IRS, especially with respect to—

(i) its organizational structure;

(ii) its paper processing and return processing activities;

(iii) its infrastructure; and

(iv) the collection process;

(B) requirements for improvement in the following areas:

(i) making returns processing "paperless";

(ii) modernizing IRS operations;

(iii) improving the collections process without major personnel increases or increased funding;

(iv) improving taxpayer accounts management;

(v) improving the accuracy of information requested by taxpayers in order to file their returns; and

(vi) changing the culture of the IRS to make the organization more efficient, productive, and customer-oriented;

(C) whether the IRS could be replaced with a quasi-governmental agency with tangible incentives and internally managing its programs and activities and for modernizing its activities, and

(D) whether the IRS could perform other collection, information, and financial service functions of the Federal Government.

(d) POWERS OF THE COMMISSION.—

(1) IN GENERAL.—(A) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may deem advisable.

(B) Subpoenas issued under subparagraph (A)(ii) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(2) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this section.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this section. Each such

department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(4) ASSISTANCE FROM FEDERAL AGENCIES.—(A) The Secretary of the Treasury is authorized on a nonreimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

(B) The Administrator of General Services shall provide to the Commission on a nonreimbursable basis such administrative support services as the Commission may request.

(C) In addition to the assistance set forth in subparagraphs (A) and (B), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) STAFF OF THE COMMISSION.—

(1) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(2) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(B) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) FINAL REPORT OF COMMISSION; TERMINATION.—

(1) FINAL REPORT.—Not later than one year after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in subsection (c)(2).

(2) TERMINATION.—(A) The Commission, and all the authorities of this section, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under paragraph (1).

(B) The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

(h) AUTHORIZATION OF APPROPRIATIONS.—Such sums as may be necessary are authorized to be appropriated for the activities of the Commission.

(i) APPROPRIATIONS.—Notwithstanding any other provision of this Act, $1,000,000 shall be available from fiscal year 1996 funds appropriated to the Internal Revenue Service, "Information systems" account, for the activities of the Commission, to remain available until expended.

And the Senate agree to the same.

Amendment No. 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 638. The Administrator of General Services shall, within six months of enactment of this Act, report to Congress on the feasibility of leasing agreements with State and local governments and private sponsors for the construction of border stations on the borders of the United States with Canada and Mexico whereby—

(1) lease payments shall not exceed 30 years for payment of the purchase price and interest;

(2) an agreement entered into under such provisions shall provide for the title to the property and facilities to vest in the United States on or before the expiration of the contract term, on fulfillment of the terms and conditions of the agreement.

And the Senate agree to the same.

Amendment No. 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *639*; and the Senate agree to the same.

Amendment No. 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 640. Service performed during the period January 1, 1984, through December 31, 1986, which would, if performed after that period, be considered service as a law enforcement officer, as defined in section 8401(17) (A)(i)(II) and (B) of title 5, United States Code, shall be deemed service as a law enforcement officer for the purposes of chapter 84 of such title.

and, on page 78, line 23 of the House of Representatives engrossed bill, H.R. 2020, after "code", insert the following: "or Sec. 613 of this Act".

And the Senate agree to the same.

The committee of conference reports in disagreement amendment numbered 132.

JIM LIGHTFOOT,
FRANK R. WOLF,
ERNEST ISTOOK,
JACK KINGSTON,
MIKE FORBES,
BOB LIVINGSTON,
Managers on the Part of the House.

RICHARD C. SHELBY,
JAMES M. JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
BOB KERREY,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Treasury, Postal Service, and General Government Appropriations Act, 1996, incorporates some of the language and allocations set forth in House Report 104-183 and Senate Report 104-121. The language in these reports should be complied with unless specifically addressed in the accompanying statement of the managers.

REPROGRAMMING AND TRANSFER REQUIREMENTS

The conferees agree with the Senate language stating requirements for agency requests for reprogramming and transfer actions.

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

Amendment No. 1. Inserts Senate language permitting $2,950,000 for information technology modernization to remain available until expended and deletes House language limiting the availability.

Amendment No. 2. Appropriates $105,929,000 instead of $104,000,500 as proposed by the House, and $110,929,000 as proposed by the Senate. Also includes up to $500,000 in reimbursements to the District of Columbia for personnel costs incurred as a result of the closure of Pennsylvania Avenue, and amends Section 640 of P.L. 103-329.

OFFICE OF THE UNDER SECRETARY FOR LAW ENFORCEMENT

The House reduced funding for the Office of the Under Secretary of the Treasury for Law Enforcement by $1,066,000; the Senate did not address this issue. The conferees agree that $66,000 shall be reduced from the fiscal year 1996 request for the Office of the Under Secretary of the Treasury for Law Enforcement. The conferees direct that no funds be reprogrammed into this Office without prior Congressional approval.

Of the amounts provided to the Office of the Under Secretary, the conferees direct that up to $500,000 shall be transferred to the District of Columbia for its costs associated with the closing of Pennsylvania Avenue. This transfer is consistent with a provision recommended by the Senate which requires the Department of the Treasury to reimburse the District of Columbia for these costs.

The conferees have also become aware of disparate personnel laws and regulations among the various Federal law enforcement agencies, as well as concerns that certain

Treasury law enforcement bureaus have had difficulty disciplining employees because of overly restrictive personnel regulations. The conferees therefore direct the Office of the Secretary to report back to the House and Senate Committees on Appropriations on options for changing the statutory and regulatory structure for Treasury law enforcement agencies to make recruiting, hiring, firing, promotions, demotions and lateral moves easier. The report should include options such as moving all Treasury law enforcement personnel to the excepted service and creating a broad-band pay structure for such employees. The report shall be due to the House and Senate Committees on Appropriations no later than March 1, 1996.

The conferees remain concerned with regard to the difficulties on the part of Treasury law enforcement bureaus in obtaining authorization from the Department of State in securing foreign posting for law enforcement officers. The conferees therefore request a report from the Department of Treasury to the House and Senate Committees on Appropriations that identifies where Treasury bureaus need to post agents by country, the types of cases that those agents would be assigned, the rationale for such assignments and the cost of such postings. The report should include options on reducing the cost of overseas postings to Treasury bureaus. The report shall be submitted to the House and Senate Committees on Appropriations no later than March 1, 1996.

ASSISTANT SECRETARY FOR MANAGEMENT/CHIEF FINANCIAL OFFICER

The conferees withdraw the requirement included in the House report that the Mint and the BEP report directly to the Assistant Secretary of Treasury for Management/Chief Financial Officer. The conferees do agree with the House that the Treasurer shall provide only oversight and guidance for the Mint and BEP and should not monitor day-to-day operations.

UNDER SECRETARY FOR DOMESTIC FINANCE

The conferees note that a major Treasury Department issue which involves the Bureau of Engraving and Printing (BEP) is the ongoing currency redesign initiative which is rightfully being tasked out from the Office of the Under Secretary of Treasury for Domestic Finance. Major Treasury Department issues which involve the United States Mint are ongoing discussions over the introduction of the one dollar coin as well as electronic forms of cash such as stored-value cards. These efforts are also rightfully tasked out from the Office of the Under Secretary of Treasury for Domestic Finance. However, both the BEP and the Mint are organizationally found under the Assistant Secretary for Management, not the Under Secretary for Domestic Finance. It appears that this is not the proper organizational location for these agencies which have much more in common with the Financial Management Service and the Bureau of Public Debt, both of which report to the Under Secretary for Domestic Finance, than with Treasury organizations which report to the Assistant Secretary for Management.

In the interests of securing the most appropriate mechanism for these two organizations to receive proper policy oversight, the conferees recommend that the Secretary of Treasury review his organizational structure to ensure that the BEP and the U.S. Mint are reporting to the most appropriate Treasury official. The Secretary should report to the Committees only if he determines that there should be no change in the current organizational structure.

U.S. DUTCH TREATY PROTOCOL AMENDMENTS OF 1993

The conferees strongly agree with the House report language regarding the U.S. Dutch Treaty Protocol Amendments of 1993. While the Department has until October 31, 1995 to submit a report to the House and Senate Committees on Appropriations, the Committees have not received any indication that the Department is moving to permanently correct this problem. The conferees instruct the Department of Treasury to implement a permanent solution as stated in the House report.

PROPERTY ACCOUNTABILITY IMPROVEMENTS

The conferees are encouraged by the widespread interest in moving property/asset accountability activities from a periodic physical audit and inventory process to an automated information based process. The interest in automated information management procedures, as expressed by various Department officials, and put forth in the National Performance Review, shows a significant potential for meaningful cost savings.

It is the belief of the conferees that the Department's property management function lends itself to, and could benefit from, commercial off-the-shelf information technology including software, computer-based laminate barcode printers, barcode readers and storage devices.

TREASURY BUILDINGS AND ANNEX REPAIR AND RESTORATION

Amendment No. 3. Appropriates $21,491,000 instead of no appropriation as proposed by the House and $7,684,000 as proposed by the Senate. Included in this amount is $7,684,000 for repairs and alteration requirements of the Treasury Building and Annex and $13,807,000 for the Secret Service's new headquarters building.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 4. Appropriates $29,319,000 as proposed by the House instead of $30,067,000 as proposed by the Senate.

TREASURY FORFEITURE FUND

Amendment No. 5. Appropriates $10,000,000 instead of eliminating this account as proposed by the House and $15,000,000 as proposed by the Senate. Because of the importance of standardizing law enforcement communications and moving to narrow band communications equipment, the conferees agree that the Department may apply up to $3,500,000 of the $10,000,000 appropriated in the Treasury Forfeiture Fund to the Enforcement Federal Wireless Communications project. The conferees furthermore agree that resources within this account may be transferred to ATF for costs related to development of its canine explosives detection program.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

Amendment No. 6. Restores and modifies House language authorizing FinCEN to offset the cost of travel for law enforcement personnel only.

Amendment No. 7. Appropriates $22,198,000 as proposed by the Senate instead of $20,273,000 as proposed by the House. Also includes House proposed language allowing FinCEN to procure up to $500,000 for specialized automated data processing equipment without complying with procurement regulations and authorizing the use of its funds to procure personal services contracts.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

Amendment No. 8. Deletes House provision permitting the Director of FLETC to offset part of the cost of travel expenses for certain individuals training at FLETC.

Amendment No. 9. Deletes House provision authorizing FLETC to obligate funds for site security and expansion of antiterrorism training facilities.

Amendment No. 10. Appropriates $36,070,000 as proposed by the House instead of $34,006,000 as proposed by the Senate.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACQUISITION, CONSTRUCTION IMPROVEMENTS, AND RELATED EXPENSES

Amendment No. 11. Appropriates $9,663,000 as proposed by the Senate instead of $8,163,000 as proposed by the House. The conferees agree that the "related expenses" of this account may be used to pay for the cost of direct hire and contractor personnel entirely engaged in the execution of expansion and repair projects.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

Amendment No. 12. Appropriates $184,300,000 instead of $181,837,000 as proposed by the House and $186,070,000 as proposed by the Senate.

Amendment No. 13. Inserts Senate language permitting $14,277,000 to remain available until expended for systems modernization requirements.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS (ATF)

SALARIES AND EXPENSES

Amendment No. 14. Appropriates $377,971,000 as proposed by the Senate instead of $391,035,000 as proposed by the House.

The conferees have reduced the request by $7,874,000 for program enhancements and $5,000,000 for base equipment needs because the Congress funded these activities in the Fiscal Year 1995 Supplemental Appropriations Act. The conferees have increased the request by $1,150,000 and five FTE's to reflect a transfer-back of the funding and positions which the Administration proposed to be funded in the "Foreign Law Enforcement" account. The conferees have denied the $4,700,000 in ATF's base for the violence reduction alliance initiative. The conferees have reduced the account by $2,800,000 for ATF's support role in the GREAT Program. This funding has been shifted to the Violent Crime Trust Fund along with continued funding for GREAT grants to existing communities. Finally, the conferees have reduced administrative overhead object classes by $3,690,000 to be applied at the discretion of the Director. The reductions shall be applied to object classes 21.0, 22.0, 23.3, 24.0, 25.0, 26.0, and 31.0. The reduction in the equipment activity should be restored to ATF's base in fiscal year 1997. Funding for counterterrorism initiatives has been included in the "Violent Crime Trust Fund" account.

Amendment No. 15. Restores and modifies House language prohibiting ATF from obligating funds for administrative expenses or compensation or for any employee to amend the definition of "curios or relics" as published in the Code of Federal Regulations or remove items from ATF publication 5300.11 as it existed on January 1, 1994.

EXPLOSIVES DETECTION PROGRAM

The conferees understand that ATF has developed a method of training canines to detect explosive and fire accelerants that is more accurate and reliable than techniques employed elsewhere. This success has resulted in urgent requests by foreign governments such as Israel, Egypt and Greece for technical assistance in establishing their own programs in the ATF style. The conferees are concerned, however, that, although other nations have benefited from this technique, it has not been widely disseminated in the United States.

The conferees therefore direct ATF to develop a formal program to train explosives and accelerant detection canines and handlers from local, state and Federal agencies. Treasury Asset Forfeiture funds may be used for positions and capital improvements at the training facility currently being used in Front Royal, Virginia.

The conferees encourage all Federal agencies with a need for explosives and accelerant detection capabilities to consider using ATF's canine explosives and accelerant detection program.

EXPLOSIVES DESENSITIZATION

The conferees are aware of an Office of Technology Assessment (OTA) recommendation that Naval Surface Weapons Center Indian Head play a major role in any Ammonium Nitrate desensitization initiatives. The OTA report states that Indian Head has the highest concentration of explosives experts in the world, and that Indian Head is running the only insensitive munitions program in the U.S., with extensive experience in Ammonium Nitrate mixtures. In addition, the ATF has worked with the International Fertilizer Development Center. The conferees recommend that ATF continue to strongly involve Indian Head and the Center in any desensitization program.

FIRE RESEARCH

The conferees would also like to recognize the accomplishments in fire research conducted by the University of Maryland. The conferees are aware that ATF and the University of Maryland have in the past shared expertise and knowledge. Considering the important work yet to be done in the area of fire science and arson investigation, the conferees encourage the continuation and expansion of this partnership.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

Amendment No. 16. Appropriates $1,387,153,000 as proposed by the Senate instead of $1,392,429,000 as proposed by the House. The conferees deny the President's request to transfer $8,280,000 to foreign law enforcement and assumes savings of $2,677,000 from administrative overhead.

WESTERN HEMISPHERIC TRADE

The conferees have included funding for review of trade issues to be equally divided between the Center for Study of Western Hemispheric Trade in Texas and the Northern Plains and Rockies Center for the Study of Western Hemispheric Trade in Montana at no more than half the level provided in 1995.

Amendment No. 17. Restores House language and inserts Senate language requiring the Commissioner to designate a single individual to be port director of all government activities at two ports of entry and earmarks $750,000 for additional part-time and temporary positions in the Honolulu Customs District.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

Amendment No. 18. Appropriates $64,843,000 instead of $60,993,000 as proposed by the House and $68,543,000 as proposed by the Senate.

Amendment No. 19. Deletes House language allowing $5,644,000 to remain available until expended.

BUREAU OF ENGRAVING AND PRINTING

CURRENCY REDESIGN EFFORT

The conferees do not agree with the House language directing that the U.S. Treasurer have full operational control over all aspects of the public relations effort for currency redesign. The conferees agree that the currency redesign effort should remain under the jurisdiction of the Bureau of Engraving and Printing and the Under Secretary of Treasury for Domestic Finance.

The conferees further agree that transferring or detailing full time equivalents and/or funding from any Treasury bureau or department to the Office of the Treasurer represents an augmentation of appropriations for Departmental Offices and should not be pursued without prior Congressional approval.

DISTINCTIVE PAPER FOR CURRENCY

The conferees agree that the House and Senate report language concerning the procurement of distinctive paper for the printing of currency is complimentary and is therefore supported by the conferees. Additionally, the conferees agree that none of the report language shall contradict the law which states that all requirements for the domestic manufacture of paper shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for currency or securities exists.

U.S. MINT PUBLIC ENTERPRISE FUND

Both the House and the Senate Committees on Appropriations included language establishing the United States Mint Public Enterprise Fund. The Senate language included minor changes to the House proposed language to which the conferees agree. The conferees agree with language included in the House report requiring the Director of the U.S. Mint and the Secretary of Treasury to file certain financial statements and reports.

The conferees further agree that the Director shall ensure that the revenues and expenses from the circulating coinage and numismatic operations are recorded separately. Additionally, receipts from coinage operations shall not be used to fund numismatic operations, nor shall receipts from numismatic operations be used to fund circulating coinage operations.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

Amendment No. 20. Appropriates $1,723,764,000 instead of $1,682,742,000 as proposed by the House and $1,767,309,000 as proposed by the Senate.

IRS REGULATIONS AFFECTING INTERCITY BUS FUEL EXCISE TAX REFUNDS

The conferees are concerned that many intercity bus companies are not receiving Federal diesel fuel excise tax refunds that are due to them. The IRS regulation regards the dyeing of diesel fuel to prevent illegal use of tax-free diesel fuel. Intercity buses are allowed to use either tax-free and remit the appropriate excise tax or use fully taxed fuel and seek an appropriate refund.

While the conferees understand the rationale for this regulation, they are concerned that it may be impeding services provided by intercity bus companies to rural areas, the elderly, the young and the poor. The conferees expect the IRS to work with the appropriate Congressional committees to resolve this serious problem expeditiously.

ELECTRONIC FILING

The conferees fully support the goals accompanying Tax Systems Modernization (TSM) as outlined by the Internal Revenue Service (IRS). However, the conferees seek a better understanding of actions taken by the IRS during the most recent tax season that have caused a dramatic decline in electronic filing, the cornerstone of TSM. The conferees request the IRS to include in the TSM business plan, the specific steps the IRS, in cooperation with the electronic filing industry, intends to take to maintain and increase the current levels of electronic filing.

The conferees believe that the IRS has made significant strides in deterring and detecting fraud, but make the observation that many hardworking, honest taxpayers have been inconvenienced due to last filing season's changes. Further, the conferees believe that the IRS should work constructively with all participants (Congress, electronic filing industry, and taxpayers) who have a stake in electronic filing to ensure that the problems experienced during the most recent tax season will not be repeated.

INTERNAL REVENUE SERVICE

TAX LAW ENFORCEMENT

Amendment No. 21. Appropriates $4,097,294,000 as proposed by the Senate instead of $4,254,476,000 as proposed by the House.

TAX COMPLIANCE INITIATIVE

In fiscal year 1995, Congress provided a total of $4,385,459,000 for Tax Law Enforcement which was comprised of a base program of $3,980,459,000 and $405,000,000 for the first installment of a new five year, $2,000,000,000 tax compliance initiative. In fiscal year 1996, the Administration requested a total of $4,524,351,000 for Tax Law Enforcement which is comprised of a base program of $4,119,351,000 and the second installment of $405,000,000 for the tax compliance initiative. The conferees have appropriated $4,097,294,000 for the base program, a three percent increase over the 1995 level and .5 percent less than the request, but due to funding constraints could not provide the second installment of $405,000,000 for the tax compliance initiative. However, the conferees agree that within the funds available IRS should aggressively pursue tax compliance.

The conferees do not believe that this action sends a signal that voluntary compliance is no longer a priority or that the action rewards tax cheats. The conferees are dedicated to ensuring the effective and efficient collection of taxes and strongly agree that IRS should pursue those who willfully and purposefully provide erroneous information to the IRS. The fact that overall IRS funding provided by the conference agreement represents 65 percent of the total discretionary allocation available to the conferees is a testament to this dedication.

Amendment No. 22. Restores and modifies House language authorizing $13,000,000 for a private debt collection initiative.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

Amendment No. 23. Appropriates $1,527,154,000 instead of $1,571,616,000 as proposed by the House and $1,442,605,000 as proposed by the Senate and places a "floor" of $695,000,000 on the expenditures for Tax Systems Modernization (TSM), which is $26,000,000 less than the House minimum for TSM and $25,000,000 more than the Senate minimum for TSM.

Amendment No. 24. Deletes House language and modifies Senate language on Tax Systems Modernization.

TAX SYSTEMS MODERNIZATION

The conferees have also included legislative language which "fences" $100,000,000 of the funds appropriated for tax systems modernization until the Secretary of the Treasury reports to the Committees on Appropriations of the House and the Senate. The report shall use explicit decision criteria to identify, evaluate, and prioritize all systems investments planned for fiscal year 1996; include a schedule for successfully mitigating deficiencies identified by the General Accounting Office (GAO) in its April 1995 report to the Committees; establish a schedule for development and implementation of all projects included in the tax systems modernization program; and, provide a plan to expand the utilization of external, not Internal Revenue Service (IRS), expertise for systems development and integration.

The conferees direct GAO to review the IRS report, when completed, to ensure that, in fact, deficiencies identified by GAO have been corrected. GAO shall provide an independent assessment of the actions taken by IRS to address these deficiencies in a report to the House and Senate Appropriations Committees by no later than April 1, 1996. Should the IRS report not be available prior to that time, the conferees direct the GAO to provide status reports to the Committees on IRS corrective actions and provide such assessment within 30 days of receipt of the IRS report.

The IRS has been told by a number of sources, including the House and Senate Appropriations Committees, the GAO, and the National Academy of Sciences that, within the IRS, there is not the level of expertise required for proper development and implementation of TSM. The House and the Senate Appropriations Committees have urged IRS to move toward greater use of the contractor community and its expertise in the area of systems development and total program integration. Thus far, IRS has been reluctant to pursue this approach, relying instead on internal organizational structures. The conferees have therefore included language which requires the IRS to develop a plan to expand the utilization of contractor expertise for systems development and total program integration. As stated by the Senate, the IRS is a revenue collection agency, not an automation design company and should use contractor resources more effectively.

Furthermore, the conferees believe that the Secretary of the Treasury should continue to exercise direct oversight control of the management of TSM, providing guidance and assistance when necessary.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

Amendment No. 25. Deletes House language prohibiting the transfer of funds from the tax law enforcement account in fiscal year 1996.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

Amendment No. 26. Appropriates $531,944,000 instead of $542,461,000 as proposed by the House and $534,502,000 as proposed by the Senate. The conferees deny funding of $2,300,000 for mainframe computer replacement and financial systems enhancements, deny the transfer of $3,100,000 to Foreign Law Enforcement, and assume administrative overhead savings of $7,646,000, as proposed by the Senate. The conferees include $16,295,000 to restore base funding requirements which have eroded over the past several years. The conferees fund $13,807,000 associated with the new headquarters building in a separate account and $3,278,000 in protection costs associated with the upcoming Summer Olympics in the Violent Crime Trust Fund account.

VIOLENT CRIME REDUCTION PROGRAMS

Amendment No. 27. Appropriates $69,314,000 instead of $51,686,000 as proposed by the House and $68,300,000 as proposed by the Senate. This includes $21,010,000 for the ATF, of which $3,100,000 shall be available for the further development of ballistics imaging technologies as part of the "CEASEFIRE" program, $3,500,000 shall be available for administering the GREAT program, and the remaining $14,410,000 shall be available to continue funding for recent expansions in the arson and explosives detection and investigation program. The conferees also provide $25,690,000 for the U.S. Customs Service's "Operation Hardline" to bolster drug law enforcement efforts at the U.S.-Mexico border, $21,600,000 for the United States Secret Service, and $1,014,000 for the Federal Law Enforcement Training Center.

Of the $21,600,000 provided to the Secret Service, the conferees include $5,000,000 for anti-counterfeiting efforts, $1,600,000 for missing and exploited children, $400,000 for the Treasury Recipient Income Verification Program and $3,278,000 for the upcoming Summer Olympics and the remaining funds for other Secret Service activities.

Amendment No. 28. Appropriates $7,200,000 as proposed by the Senate instead of $12,200,000 as proposed by the House.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

Amendment No. 29. Deletes House language authorizing Treasury to transfer up to 2 percent between appropriations accounts with the advance approval of the House and Senate Committees on Appropriations.

Amendment No. 30. Deletes Senate language exempting Customs personnel funded through reimbursement from the Puerto Rico Trust Fund from government-wide work force reductions.

Amendment No. 31. Inserts Senate language authorizing the Treasury Department to use its aircraft to assist Federal agencies in carrying out emergency law enforcement support to protect human life, property, public health or safety.

Amendment No. 32. Deletes Senate language authorizing the expenditure of up to $500,000 to reimburse the District of Columbia for personnel costs incurred as a result of the closure of Pennsylvania Avenue.

TITLE II—U.S. POSTAL SERVICE

FEDERAL POSTAL SERVICE EMPLOYEES

The conferees strongly believe that the Federal postal employees who volunteered to fight the recent fires on Long Island, NY, from August 21 to September 6, 1995 should be paid their equivalent salaries for the time that they devoted to fighting fires. The Postal Service has previously indicated the employees must take vacation time or unpaid leave, but the conferees believe that the Presidential declaration of a national disaster in this case warrants, and the Postmaster General concurs, that all postal workers who were engaged as volunteer firefighters in the Long Island fires will be "held harmless," not lose vacation or personal time, and be paid the equivalent of their salaries for their time donated to the disaster.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

Amendment No. 33. Appropriates $39,459,000 as proposed by the House instead of $38,131,000 as proposed by the Senate.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

Amendment No. 34. Appropriates $7,827,000 as proposed by the Senate instead of $7,522,000 as proposed by the House.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

WHITE HOUSE REPAIR AND RESTORATION

Amendment No. 35. Inserts Senate language establishing an appropriation of $2,200,000 to fund repairs and restoration activities at the White House.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

Amendment No. 36. Appropriates $3,280,000 as proposed by the Senate instead of $3,175,000 as proposed by the House.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

Amendment No. 37. Appropriates $3,180,000 instead of eliminating this account as proposed by the House and $3,439,000 as proposed by the Senate.

NATIONAL ECONOMIC POLICY FORMULATION

The conferees have restored funding for the Council of Economic Advisers in the amount of $3,180,000 but remain concerned over the duplication of effort within the Executive Office of the President as it relates to advising the President on economic policy. The conferees are also concerned that the specific functions and responsibilities of the Council are not ones which necessarily require a full time Federal employment level of 35 and annual operating costs of $3.5 million. The conferees direct CEA to submit, as part of its fiscal year 1997 budget request, a report on the current organizational structure of economic advice to the President including an assessment of the roles of the Office of Management and Budget and the National Economic Council as they relate to the formulation, coordination, and implementation of national economic policy. This report should also include a specific plan for streamlining economic advice to the President and structuring a full time volunteer Council of Economic Advisers using, for instance, academicians, fellows, and other individuals to provide independent economic advice to the President.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

Amendment No. 38. Appropriates $6,648,000 as proposed by the Senate instead of $6,459,000 as proposed by the House.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 39. Appropriates $25,736,000 as proposed by the House instead of $25,560,000 as proposed by the Senate.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

Amendment No. 40. Appropriates $55,573,000 as proposed by the Senate instead of $55,426,000 as proposed by the House.

Amendment No. 41. Deletes a provision inserted by the Senate prohibiting the obligation of fiscal year 1996 funds by OMB until a report on longer-term budgeting has been submitted to the House and Senate Committees on Appropriations. The conferees did not include the Senate provision since the information required from OMB on this subject was provided to the Committees prior to conference action.

LONG-TERM BUDGETING

The first and most significant recommendation endorsed by a majority of the Bipartisan Commission on Entitlement and Tax Reform was that the Federal government make major spending and tax decisions with reference to a longer time period than the traditional five year budget window. As a result, the Senate Committee on Appropriations requested OMB to provide a 30-year analysis of the costs of the major entitlement programs. That information was submitted to the Committee in a letter dated, September 12, 1995. The conferees have decided to print that letter and the accompanying document in the statement of managers so that the American public can be aware of the long-range costs facing the country as a result of entitlement programs. That information follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 12, 1995

Hon. J. ROBERT KERREY,
U.S. Senate
Washington, DC.

DEAR SENATOR KERREY: In response to your interest in the long-range outlook for the Federal budget, enclosed is a table that lists long-range baseline projections. These projections extend the baseline estimates published in the Administration's Mid-Session Review of the 1996 Budget for a period of thirty years.

These projections use the best methodology and data available. However, it is very important to recognize the large uncertainties inherent in making projections of receipts and outlays this far into the future. The projections are obviously highly sensitive to the underlying economic and demographic assumptions. In addition, they rely on a simplified model of the budget. Receipts projections are based on a simplified derivation of tax bases implied by the underlying economic assumptions. Discretionary budget authority and outlays follow the caps specified in the Omnibus Budget Reconciliation Act of 1993 through FY 1998 and rise at the rate of inflation thereafter. Outlays for major entitlement programs are projected using a combination of underlying economic assumptions, available actuarial data and an analysis of recent trends.

It is also important to recognize that all of the projections in the enclosure are baseline estimates. They do not reflect the policies in the President's balanced budget plan or in the Congressional Budget Resolution. Instead, they only project the effects of current laws assuming the policies underlying those laws are not changed.

I hope this information is helpful to you and I look forward to working with you to address both the short- and long-term fiscal problems our nation faces.

Sincerely,

ALICE M. RIVLIN,
Director

LONG-RANGE BASELINE PROJECTIONS

[In billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Baseline totals:										
Receipts	1,418	1,485	1,561	1,644	1,737	1,831	1,928	2,028	2,133	2,251
Outlays	1,603	1,682	1,756	1,846	1,946	2,037	2,143	2,250	2,368	2,499
Deficit (−)	−185	−197	−194	−202	−208	−206	−216	−222	−235	−248
Memorandum:										
Discretionary budget authority	522	535	542	558	576	594	612	631	650	671
Trust fund surplus/deficit (−):[1]										
OASDI[2]	75	81	87	92	98	105	112	120	127	135
HI/SMI	6	−4	−9	−16	−23	−31	−40	−49	−59	−70
Civil service retirement	27	27	28	29	32	33	34	35	36	36
Military retirement	3	2	2	1	1	0	0	−1	−2	−2

[1] Based on most recent actuarial reports.
[2] Figures are for calendar years.

LONG-RANGE BASELINE PROJECTIONS

[In billions of dollars]

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Basline totals:										
Receipts	2,363	2,485	2,611	2,742	2,878	3,020	3,167	3,320	3,477	3,639
Outlays	2,627	2,763	2,908	3,066	3,235	3,413	3,602	3,806	4,026	4,264
Deficit (−)	−264	−278	−298	−324	−357	−393	−435	−487	−549	−625
Memorandum:										
Discretionary budget authority	691	713	735	758	781	805	830	856	883	910
Trust fund surplus/deficit (−):[1]										
OASDI[2]	144	152	157	159	162	164	161	154	143	128
HI/SMI	−83	−97	−111	−128	−148	−170	−196	−227	−261	−299
Civil service retirement	37	37	38	38	39	39	40	40	40	41
Military	−3	−4	−5	−6	−7	−8	−8	−9	−9	−5

[1] Based on most recent actuarial reports.
[2] Figures are for calendar years.

LONG-RANGE BASELINE PROJECTIONS

[In billions of dollars]

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Baseline totals:										
Receipts	3,807	3,985	4,167	4,355	4,552	4,755	4,967	5,188	5,413	5,650
Outlays	4,511	4,772	5,053	5,353	5,675	6,017	6,383	6,775	7,194	7,644
Deficit(−)	−704	−787	−886	−998	−1,123	−1,261	−1,416	−1,587	−1,782	−1,995
Memorandum:										
Discretionary budget authority	938	967	997	1,028	1,060	1,093	1,127	1,162	1,198	1,235
Trust fund surplus/deficit(−):[1]										
OASDI[2]	108	81	49	12	−30	−78	−132	−193	−260	−334
HI/SMI	−341	−389	−444	−505	−571	−644	−727	−821	−924	−1,037
Civil service retirement	42	43	44	45	46	47	49	50	52	54
Military retirement	8	11	41	46	52	59	66	74	82	92

[1] Based on most recent actuarial reports.
[2] Figures are for calendar years.

PRIVATIZATION OF NONPERFORMING FEDERAL LOAN AND LOAN GUARANTEES

The conferees are aware that some Federal agencies are exploring the privatization of Federal loan and loan guarantees. For example, the Department of Housing and Urban Development (HUD) recently held an auction of 177 multifamily loans that had defaulted on mortgage insurance written by HUD. The unpaid amount of these defaulted loans was more than $900,000,000, but because of the Government's poor collection history, the loans were valued by OMB as worth only $286,000,000 if they continued to be held by the Government. However, these same loans were sold to private investors for $710,000,000. This one transaction alone reduced the deficit by $424,000,000.

The private sector was, in this case, willing to pay more than twice the value of these loans to the Government because there is a huge productivity gap between the Government and private sector (technology, infrastructure and expertise in managing bad loans, and profit motive). In short, the private sector has the technology, capacity, ability and motivation to produce more value than the Government ever could.

The conferees believe that more consideration should be given to the sale of loans and loan guarantees held not only by HUD, but by all Federal agencies that provide credit programs. The Federal Government holds huge amount of loans and loan guarantees that are worth more in the hands of the private sector. The estimated amounts are $800,000,000 of loan guarantees and $200,000,000,000 in loans.

Using conservative estimates, it may be that between $20,000,000,000 to $50,000,000,000 could be realized if much of the Federal credit program was to be turned over to the private sector. However, it is impossible to ascertain the value of such an effort because many of the agencies are unaware of the value imbedded in their credit programs and how such transfers might be achieved.

Therefore, the conferees direct the Office of Management and Budget to direct, and coordinate with, the Federal agencies involved in credit programs to evaluate the value of their credit programs, including the cost of annual administrative expenses and develop a plan for the privatization of such credit programs. The Director of OMB shall be responsible for assuring the implementation of this directive and coordinating the activities of all Federal agencies hereunder.

Specifically, OMB is directed to have the various agencies provide the following information: for each financing account and for each liquidating account, as those terms are defined in sections 502(7) and 502(8) of the Federal Credit Reform Act of 1990; the cumulative balance of direct loans outstanding, the estimated net present value of such direct loans, the annual administrative expenses (the portion of salaries and expenses that are directly related to such loans outstanding), and the estimated net proceeds that would be received if such direct loans were sold; the cumulative balance of guaranteed loans outstanding, the estimated net present value of such loan guarantees, the annual administrative expenses (the portion of salaries and expenses that are directly related to such guaranteed loans outstanding), and the estimated net proceeds that would be received if such loan guarantees were sold; and the cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivable, the estimated net present value of such loan assets, the annual administrative expenses (the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received if such direct loans were sold.

On or before March 31, 1996, OMB shall require each Federal agency that makes or has made direct loans or loan guarantees, as those terms are defined in sections 502(1) and 502(2) of the Federal Credit Reform Act of 1990, to prepare and issue a report to the Director of the Office of Management and Budget, the Director of the Congressional Budget Office and the chairmen of the appropriate committees of the House and Senate and a detailed plan containing the agency's proposed schedule, by fiscal year, and providing for the transfer to the private sector the sale, by September 30, 2002, of all direct loans, loan guarantees and defaulted loans that were previously guaranteed and have resulted in loans receivable to the extent such transfer would result in a net profit to the Treasury. Such schedule shall be updated annually on the first day of each successive fiscal year, and shall include a detailed plan for the sale of all direct loans, loan guarantees and defaulted loans that were previously guaranteed that are added to the agency's financing accounts subsequent to October 1, 1995.

STREAMLINING THE EMPLOYEE GRIEVANCE PROCESS

The conferees note that there are a number of Federal agencies involved in settling employee grievances: the Federal Labor Relations Authority, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, the National Labor Relations Board, and the Office of Personnel Management. The conferees believe that there are opportunities to streamline this somewhat unwieldy structure and therefore direct the Administration to develop a legislative proposal to restructure all Federal employee adjudicatory functions and submit this plan to Congress no later than February 1, 1996.

Information Security Oversight Office

Amendment No. 42. Deletes Senate language appropriating $1,482,000 for salaries and expenses under the Executive Office of the President.

The original President's 1996 budget request included $1,482,000 for a new Independent Agency titled "Information Security Oversight Office". A subsequent budget amendment eliminated the request for an Independent Agency and moved the Information Security Oversight Office (ISOO), and $1,482,000, to the National Archives and Records Administration. The House eliminated funding, within the National Archives, for the ISOO and the Senate funded it as a separate agency under the Executive Office of the President at a level of $1,482,000.

The conferees agree that as a separate agency, ISOO shall cease to exist and have eliminated the funding recommended by the Senate. The conferees have provided funding for ISOO in the National Archives and Records Administration appropriation.

Office of National Drug Control Policy

SALARIES AND EXPENSES

Amendment No. 43. Restores and modifies funding and language inserted by the House and stricken by the Senate. The conferees have provided $23,500,000 for Office of National Drug Control Policy activities in fiscal year 1996. Included in this amount is $7,500,000 for salaries and expenses of the Office and $16,000,000 for the research and development projects of the Counter-Drug Technology Assessment Center (CTAC). Of the amounts appropriated to CTAC, $600,000 is for automated data processing improvements at the Drug Enforcement Administration's El Paso Intelligence Center.

CALIFORNIA GUNLINK PROJECT

The conferees direct the Office of National Drug Control Policy to use a portion of the $3,100,000 made available under the fiscal year 1995 Treasury, Postal Service, and General Government Appropriations Act to purchase no more than six ballistics imaging machines for the California Gunlink project and use remaining resources to develop networking capabilities among the different models of ballistics imaging systems.

MODEL STATE DRUG LAWS

The conferees direct the Office of National Drug Control Policy to apply $1,000,000 for the National Alliance for Model State Drug Laws for conferences to be held by Governors to review model state drug laws as proposed by the President's Commission on Model State Drug Laws.

DRUG AND ALCOHOL ADDICTION PROJECT

The conferees urge the Chief Scientist to consider a collaborative effort, designed by the Medical College of Pennsylvania and Hahnemann University, to implement a demonstration project to explore the causes and treatments of drug and alcohol addiction, in collaboration with Albert Einstein Medical Center of Philadelphia.

Amendment No. 44. Deletes language and funding inserted by the Senate for the Office of National Drug Control Policy. While the conferees have agreed to delete the bill language proposed by the Senate, the conferees remain concerned about the trends of drug abuse in this country and the effectiveness of the Office of National Drug Control Policy to deal with this continuing problem. Despite an investment of over $86 billion in Federal anti-drug programs since Fiscal Year 1988, the number of hardcore drug users has remained constant at 2.7 million. More disturbing are recent surveys which indicate that since 1992 there has been an increase in the use of illicit drugs amongst our nation's youth and a disturbing change in attitudes toward the acceptability of drug use.

Despite significant increases in Federal spending there has been a lack of a clear and loud voice from the Administration in speaking out on drug abuse. If the Federal Government is going to continue to provide billions of dollars to combat illicit drug trafficking and abuse then it must ensure that the problem receives the highest level of attention at the Cabinet level, and private sector representatives participate in policy development and direction. Therefore, the conferees strongly urge the President to convene a Cabinet Council, involving all Cabinet members whose departments play a role in drug control policy, to meet on a regular basis to discuss and formulate strategies to effectively reduce drug abuse in this country. In addition, the conferees strongly urge the President to convene a bipartisan conference on drug control, inviting representatives from prevention, law enforcement, education, treatment, business leadership, media and parent organizations to participate in the formulation of a strategy to reduce drug abuse. The conferees expect the Director of the Office of National Drug Control Policy to report to the Committees on Appropriations by no later than January 15, 1996, on the progress being made in this regard.

Federal Drug Control Programs

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

Amendment No. 45. Deletes Housing language appropriating $104,000,000 for the HIDTA program.

Amendment No. 46. Appropriates $103,000,000 for the HIDTA program instead of $104,000,000, as proposed in Amendment No. 45 and $110,000,000 as proposed by the Senate, including $55,000,000 for state and local governments and $48,000,000 for Federal agencies. The conferees direct that these reductions in the Federal share be taken proportionately from all the existing HIDTAs.

TITLE IV—INDEPENDENT AGENCIES

Advisory Commission on Intergovernmental Relations (ACIR)

SALARIES AND EXPENSES

Amendment No. 47. Appropriates $784,000 instead of $334,000 as proposed by the Senate and no appropriation as proposed by the

House and includes language directing the orderly termination of ACIR.

The conferees have appropriated a total of $784,000 for ACIR: $334,000 to conduct a study on unfunded mandates and $450,000 for costs associated with the termination of the agency.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES (ACUS)

SALARIES AND EXPENSES

Amendment No. 48. Appropriates $600,000 instead of no appropriation as proposed by the House and $1,800,000 as proposed by the Senate.

TERMINATIONS COSTS

The conferees have agreed to provide a total of $600,000 for the orderly termination of operations at ACUS which shall begin on October 1, 1995, and be completed no later than February 1, 1996. The conferees agree that this agency shall cease to exist and the appropriation of $600,000 shall be used only to close down operations at ACUS.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

Amendment No. 49. Appropriates $1,800,000 as proposed by the Senate instead of $1,682,000 as proposed by the House.

FEDERAL ELECTION COMMISSION (FEC)

SALARIES AND EXPENSES

Amendment No. 50. Appropriates $26,521,000 as proposed by the House instead of $28,517,000 as proposed by the Senate and earmarks $1,500,000 for internal automated data processing systems.

Amendment No. 51. Restores House language prohibiting the use of funds by FEC until a report is submitted to the Committees on Appropriations on a systems requirements analysis on the development of an ADP system.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

Amendment No. 52. Appropriates $20,542,000 instead of $19,742,000 as proposed by the House and $21,398,000 as proposed by the Senate.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

Amendment No. 53. Inserts Senate language inserting an account heading.

Amendment No. 54. Inserts Senate language allowing an appropriation into the Federal Buildings Fund (FBF).

Amendment No. 55. Inserts Senate language appropriating $86,000,000.

Amendment No. 56. Limits obligation from the FBF to $5,066,149,000 instead of $5,066,822,000 as proposed by the House and $5,086,019,000 as proposed by the Senate.

Amendment No. 57. Makes available $545,002,000 for new construction of Federal buildings instead of $367,777,000 as proposed by the House and $573,872,000 as proposed by the Senate.

Amendment No. 58. Inserts and modifies Senate language which provides funding for the construction of certain Federal buildings and facilities.

YOUNGSTOWN, OHIO U.S. COURTHOUSE

The fiscal year 1996 request includes $17,436,000 for the U.S. Courthouse in Youngstown, Ohio. The conferees have not provided funds for the construction of this project in fiscal year 1996 because the General Services Administration (GSA) has advised the conferees that the contract for this project cannot be awarded in fiscal year 1996. Because of the urgent need of the courts in Youngstown, the conferees instruct GSA to continue preliminary design work on this project in fiscal year 1996 and request funds in fiscal year 1997 for the construction of this new courthouse project. The conferees further note that they will do their best to fund this project as one of the highest priorities in fiscal year 1997.

SEATTLE, WASHINGTON COURTHOUSE

The conference agreement provides $5,600,000 to continue design work on the new courthouse in Seattle, Washington. Should this amount be insufficient to fully fund the design efforts for this facility, the conferees encourage the GSA to reprogram funds from other available resources.

BROOKLYN, NEW YORK COURTHOUSE

The conferees are aware of the "space emergency" facing the U.S. District Court, Eastern District of New York. GSA has proposed two projects to accommodate the space requirements of the Brooklyn Courthouse acquisition and renovation of the adjacent General Post Office Building and demolition of the Federal building portion of the Celler complex, followed by construction of a new court annex on that site. Earlier Congresses have appropriated funds for the initial phases of his project. The House bill contained $49,400,000 to partially fund the renovation of the General Post Office Building. The Senate bill contained no funding because GSA had notified the Committee that it would not be able to expend any additional funds in fiscal year 1996. The conferees support continuation of this project and urge GSA to submit a prospectus in fiscal year 1997 to move to the next phase.

RAPTOR RESEARCH CENTER

The conferees support the GSA's efforts to consolidate the Raptor Research Center at Boise State University in a building donated to the University. It is the understanding of the conferees that GSA's renovation costs of the donated building will be far less than leasing new space.

TELECOMMUTING CENTERS

Of the funds made available by this Act for telecommuting centers in Northern Virginia, the conferees urge GSA to establish at least one center at a suitable location in western Fairfax County, one in Loudoun County, and one in eastern Prince William County, Virginia.

CONCORD, NEW HAMPSHIRE, PARKING

The conferees agree that given the lack of available parking at the newly constructed Warren B. Rudman Federal Courthouse in Concord, N.H., and an employees' reliance upon auto transportation, a parking space availability problem will undoubtedly arise. Accordingly, the conferees believe that should the City of Concord build a parking facility to accommodate the vehicles of 400 people, (including 300 federal employees, as well as various citizens and court officials), the federal government should use this new parking facility for its employees' benefit to the maximum extent possible.

LAS VEGAS, NEVADA, COURTHOUSE

The conferees are aware of the need for a new courthouse in Las Vegas, Nevada. Land for the site for this project will be donated to the Federal government by the City of Las Vegas at no cost. The conferees have not provided funds for the construction of this project in fiscal year 1996 because the General Services Administration has advised the conferees that the contract for this project cannot be awarded until June 1997. Because of the urgent need of the courts in Nevada, the conferees instruct GSA to continue preliminary design work on this project in fiscal year 1996 and request funds in fiscal year 1997 for the construction of this new courthouse project. The conferees further note that they will do their best to fund this project as one of the highest priorities in fiscal year 1997.

FDA CONSOLIDATION

The conferees request GSA study the White Oak, Maryland site for the consolidation of FDA facilities.

Amendment No. 59. Restores House language on Flexiplace Telecommuting Centers and inserts Senate language which rescinds $55,000,000 from the Southeast Federal Center in Washington, D.C.

Amendment No. 60. Makes available $637,000,000 for repairs and alterations instead of $713,086,000 as proposed by the House and $627,000,000 as proposed by the Senate.

Amendment No. 61. Inserts Senate language authorizing unobligated balances in the repairs and alterations account to be used for implementing security improvements at Federal buildings, upon compliance with reprogramming guidelines of the Committees on Appropriations.

Amendment No. 62. Inserts and modifies Senate language providing funding for repairs and alterations of certain Federal buildings and facilities.

Amendment No. 63. Makes available $304,757,000 for basic repairs and alterations as proposed by the Senate instead of $307,278,000 as proposed by the House.

Amendment No. 64. Restores House language earmarking $100,000 for the advanced design for the renovation of the national veterinary science laboratory and a biocontainment facility.

Amendment No. 65. Makes available $2,326,200,000 for rental of space instead of $2,341,100,000 as proposed by the House and $2,327,200,000 as proposed by the Senate.

Amendment No. 66. Makes available $1,302,551,000 for building operations as proposed by the Senate instead of $1,389,463,000 as proposed by the House. Also inserts Senate language earmarking $1,000,000 for support for the Xth Paralympiad.

Amendment No. 67. Restores and modifies House language moving the Pennsylvania Avenue Development Corporation to the General Services Administration (GSA).

Amendment No. 68. Limits obligations from the Federal Buildings Fund to $5,066,149,000 instead of $5,066,822,000 as proposed by the House and $5,086,019,000 as proposed by the Senate.

Amendment No. 69. Inserts and modifies language proposed by the Senate which provides funds for GSA policy and operations and appropriates $119,091,000 instead of $113,827,000 as proposed by the Senate and $111,629,000 as proposed by the House.

GENERAL SERVICES ADMINISTRATION

OPERATING EXPENSES

The Administration requested that the traditional single account for the Policy and Operations of the General Services Administration (GSA) be separated into two appropriations. The House agreed with this approach and funded the Policy Oversight appropriation at $62,499,000 and the Operating Expenses appropriation at $49,130,000. The Senate retained that traditional approach and funded both of these organizations in one appropriation of $113,827,000.

The conferees agree with the Senate position to provide funding for Policy and Operations within the Operating Expenses appropriation and have funded this appropriation at $119,091,000. However, the conferees direct GSA to ensure separate and distinct offices for Policy/Oversight and Operations. The Policy and Oversight office should be responsible for developing and overseeing government-wide policy while the Operations office should carry out GSA's other mission of providing services.

The conference agreement should not prejudice any decision by the Office of Management and Budget to once again submit a budget request for GSA which provides separate appropriations for Policy and Operations. The conferees agree with the House position that the goal of developing government-wide policy direction could be at odds with GSA's other goal of increasing its operational base and the OMB should consider future budgets which would provide a more definitive separation of these two goals.

Within the $119,091,000 appropriated for GSA, funds shall be available for the ongoing ICN project, as directed by the House.

The conferees have also included funds for the CLASS project in Lincoln, Nebraska, a telecommunications demonstration project for an on-line accredited education program leading to a high school diploma or its equivalent.

REVIEW OF FEDERAL SUPPLY SCHEDULES

The Senate included language which directed the General Services Administration (GSA) to postpone rules to implement section 1555 of the Federal Acquisition and Streamlining Act (FASA) until a comprehensive analysis of the effect of such rules has been completed. The House did not address this issue.

The conferees agree that considerable concern has been raised by some private sector vendors on the effect of the implementation of section 1555 of FASA, and believe that additional study should be undertaken before implementation of some of the more controversial schedules. Therefore, the conferees direct that the GSA enforce a one-year moratorium on the implementation of section 1555 of FASA for certain more controversial schedules until final action on this matter is taken by the appropriate Congressional committees.

CHILD CARE CENTERS

On June 28, 1995, the U.S. Department of Justice submitted to Congress its report, "Vulnerability Assessment of Federal Facilities". This document establishes minimum security standards for Federal buildings. Within these standards, the conferees believe the General Services Administration (GSA) should review the placement of child care centers in Federal buildings. The conferees direct the Administrator of GSA to provide the House and Senate Committees on Appropriations an evaluation of future plans to ensure the safety of child care centers within the standards, as established.

GENERAL SERVICES ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

Amendment No. 70. Appropriates $33,274,000 instead of $32,549,000 as proposed by the House and $34,000,000 as proposed by the Senate.

The conferees request that the Office of the Inspector General (IG) audit the policies and procedures for using the Flexiplace Telecommuting Centers to determine adequacy of the methods currently being used by agencies to account for employee time and attendance. Additionally, the IG should review the process used by GSA to determine the costs and benefits of additional telecommuting centers and submit a report on this review to the Committees on Appropriations no later than February 1, 1996.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

Amendment No. 71. Inserts Senate language adding Judicial Conference as a participant in determining Courthouse construction priorities.

Amendment No. 72. Inserts Senate language adding Judicial Conference as a participant in determining Courthouse construction priorities.

Amendment No. 73. Restores House language authorizing GSA to accept and retain income to offset the cost of flexiplace work telecommuting centers.

Amendment No. 74. Restores House language authorizing the transfer of $2.2 million to the Charles County Community College and repeals a previous authorization.

Amendment No. 75. Deletes House language providing transfer authority between "Operating Expenses" and "Policy and Oversight".

Amendment No. 76. Inserts and modifies Senate language prohibiting excessing land in the vicinity of Norfork Lake, Arkansas by making the provision permanent.

Amendment No. 77. Inserts and modifies Senate language prohibiting excessing land in the vicinity of Bull Shoals Lake, Arkansas by making the provision permanent.

Amendment No. 78. Inserts Senate language amending previous language concerning a land transfer in Hawaii.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

Amendment No. 79. Appropriates $24,549,000 as proposed by the Senate instead of $21,129,000 as proposed by the House.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

Amendment No. 80. Appropriates $199,633,000 as proposed by the Senate instead of $193,291,000 as proposed by the House. Within this amount, the conferees have provided a total of $1,482,000 for the Information Security Oversight Office. The conferees further recommend that the National Security Council continue to provide guidance and policy support to ISOO.

ADMINISTRATIVE REDUCTIONS

The conferees agree to apply the same level administrative reductions to the National Archives and Records Administration appropriation as were applied to other appropriations. The reduction totals $1,482,000 and shall be applied to the following object classes at the discretion of the Archivist: 21, travel; 22, transportation of things; 23, communications and utilities; 24, printing, reproduction; 25, other services; 26, supplies and materials; and 31, equipment.

CATALOGING, ARCHIVING, AND DIGITIZING ACTIVITIES

The conferees agree to include $4,500,000 for cataloging, archiving, and digitizing activities at the National Archives as detailed in the Senate report. However, the conferees expect the Archives to submit a finalized plan for the long-term requirements for these activities, including an estimate of the total cost. The conferees require that the Archivist provide a report to the House and Senate Committees on Appropriations, detailing the National Archives and Records Administration five-year plan on the activities it desires to undertake in the areas of cataloging, archiving, and digitizing activities. The plan shall include detailed budget requirements for fiscal years 1996 and 1997, and estimated requirements for the remaining years.

ARCHIVES FACILITIES AND PRESIDENTIAL LIBRARIES

REPAIRS AND RESTORATION

Amendment No. 81. Inserts Senate language appropriating $1,500,000.

The conferees are aware of requirements that may exist for repair and alteration of Presidential Libraries around the country, especially the Hoover and Eisenhower libraries. The conferees direct that the National Archives submit a plan for any required repairs or alterations of the Hoover Presidential Library and the Eisenhower Presidential Library to the Committees on Appropriations.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

Amendment No. 82. Appropriates $5,000,000 as proposed by the Senate instead of $4,000,000 as proposed by the House.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

Amendment No. 83. Appropriates $7,776,000 as proposed by the House instead of $8,328,000 as proposed by the Senate.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

Amendment No. 84. Appropriates $88,000,000 instead of $85,524,000 as proposed by the House and $93,106,000 as proposed by the Senate and inserts language proposed by the Senate regarding health promotion programs.

Reductions from President's budget are as follows: $14,423,000 from occupational testing; $2,524,000 from Job Information Offices; $2,720,000 from Regional Offices; $808,000 from Federal Quality Institutes; $140,000 from International Affairs Office; $376,000 from Executive Direction; $2,605,000 from Common Services; and $2,200,000 from Research Office. The conferees provide an additional $5,224,000 for office close-down costs.

SENIOR EXECUTIVE PAY

Members of the Senior Executive Service (SES), Senior Level, Senior Technical, Board of Contract Appeal Judges and other similarly situated Federal employees did not receive the 2 percent comparability raise granted to all other Federal employees on January 1, 1995. The conferees recognize that during this time of government reorganization and downsizing, it is especially important that the career executive leadership, which is bearing the burden of leading their agencies through this difficult period, be treated in a fair and equitable manner. Therefore, the conferees urge the President to provide the same comparability and locality increase announced for all other employees to these career executives in January, 1996.

Amendment No. 85. Makes available $102,536,000 for insurance and retirement programs as proposed by the House instead of $93,261,000 as proposed by the Senate.

Amendment No. 86. Deletes House language prohibiting a reduction-in-force in the Office of Federal Investigations prior to June 30, 1996. The conferees agree that such a reduction in force should not take place before March 31, 1996.

GENERAL PROVISIONS—OFFICE OF PERSONNEL MANAGEMENT

Amendment No. 87. Restores House language regarding the title of this section.

Amendment No. 88. Restores and modifies House language allowing Federal agencies to reimburse OPM for examinations for common occupations by not allowing for delegation of examinations for Administrative Law Judges.

Amendment No. 89. Restores House language allowing OPM to withhold state taxes from payments to annuitants.

Amendment No. 90. Restores House language extending retirement provisions under the Federal Workforce Restructuring Act to individuals taking delayed buyouts.

Amendment No. 91. Restores House language allowing OPM to charge fees to other Federal agencies for the dissemination of employment information.

Amendment No. 92. Inserts Senate language changing reporting requirements for OPM on pay status of employees outside the continental U.S.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

Amendment No. 93. Appropriates $33,269,000 instead of $32,899,000 as proposed by the House and $33,639,000 as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

THIS ACT

Amendment No. 94. Deletes House language prohibiting the establishment of offices outside the District of Columbia unless certain criteria are met.

Amendment No. 95. Deletes House language authorizing the payment of incentive awards.

Amendment No. 96. Deletes House language making reference to the Federal Quality Institute.

Amendment No. 97. Restores and modifies House language concerning the designation of Front Royal, Virginia, as a Customs Service Port of Entry by making the provision permanent.

Amendment No. 98. Restores House language providing that fifty percent of unobligated balances may remain available for certain purposes.

Amendment No. 99. Restores House language establishing the rate of pay for the Chief of Police of the Bureau of Engraving and Printing.

Amendment No. 100. Inserts Senate language regarding the Mint Revolving Fund.

Amendment No. 101. Inserts and modifies Senate language regarding the Mint Revolving Fund.

Amendment No. 102. Inserts Senate language regarding the Mint Revolving Fund.

Amendment No. 103. Inserts Senate language regarding the Mint Revolving Fund.

Amendment No. 104. Inserts and modifies Senate language regarding the Mint Revolving Fund.

Amendment No. 105. Inserts Senate language regarding the Mint Revolving Fund.

Amendment No. 106. Inserts Senate language clarifying intent by adding numismatic collectibles to list of covered items.

Amendment No. 107. Inserts and modifies Senate language regarding the Mint Revolving Fund.

Amendment No. 108. Deletes House language prohibiting funds in this Act to be used for abortions unless the life of the mother is endangered (addressed in amendment number 109).

Amendment No. 109. Inserts and modifies Senate language prohibiting the funds in this Act to be used for abortions unless the life of the mother is endangered or the pregnancy is the result of an act of rape or incest modified so that this provision shall become effective once current contracts expire.

Amendment No. 110. Restores House language placing procurement authority for Tax Systems Modernization under the Secretary of the Treasury.

Amendment No. 111. Restores House language providing for relief of certain weekly periodical publications that have been adversely affected by a 1989 mail classification regulation designed to control the inclusion of loose supplements in magazines and similar publications.

Amendment No. 112. Deletes House language limiting training funds to topics that meet identified needs for knowledge skills, and abilities bearing directly upon the performance of official duties.

Amendment No. 113. Inserts Senate language increasing the amount the Secret Service can expend at one non-governmental property of a sitting President from $75,000 to $200,000 for security enhancements.

Amendment No. 114. Inserts Senate language prohibiting implementation of an ATF ruling pertaining to the citric acid content of vodka.

CITRIC ACID IN VODKA

Although conferees agree with the Senate proposal that no part of any appropriation made available in this Act shall be used to implement the ATF and Treasury decision ATF-360 (59 FR 67216, 12/29/94), which limited the amount of citric acid that could be added to vodka to 300 parts per million (PPM), the conferees recognize the complex nature of the various issues surrounding any standard of identity determination with respect to the labeling of vodka. Therefore, the ATF is directed to conduct a study, in consultation with industry members, to determine whether a more reasonable industry standard can be established that better balances the interests of the consumer, the industry, and the government.

Amendment No. 115. Inserts Senate language requiring that Secret Service pay for scheduled overtime when they have worked at least 2 hours of unscheduled overtime for protective duties.

TITLE VI—GOVERNMENTWIDE GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Amendment No. 116. Deletes House language regarding employment of non-U.S. citizens.

Amendment No. 117. Deletes House language prohibiting the use of grant funds for the acquisition of goods or services unless certain announcement criteria is met.

Amendment No. 118. Deletes Senate language limiting the number of political appointees.

Amendment No. 119. Inserts Senate language clarifying the use of energy savings from Federal agencies to permit 100% of savings to be used as contained in P.L. 102-393.

Amendment No. 120. Deletes House language on establishing the Commission on Federal Mandates.

Amendment No. 121. Deletes House language regarding the FDA Building.

Amendment No. 122. Restores and modifies House language prohibiting Federal training not directly related to the performance of official duties.

FEDERAL TRAINING PROGRAMS

The language in this section is intended to prohibit expenditure of Federal funds on training that is offensive to Federal workers and unnecessary in the prosecution of their official functions. The conferees in no way intend this legislation to prohibit any type of training that is necessary for Federal workers to effectively complete their assigned tasks. In particular, the conferees agree that training that produces high levels of psychological stress may be absolutely necessary in the training of law enforcement officers, pilots, and other occupations that encounter high levels of stress in the course of official duties.

In addition, this language is not intended to affect any training for displaced workers designed to help them find new employment.

Amendment No. 123. Deletes House language prohibiting the use of the Exchange Stabilization Fund to bolster foreign currencies (addressed in amendment number 129).

Amendment No. 124. Deletes Senate language requiring the Executive Branch to report to Congress on detailees and where they are assigned.

Amendment No. 125. Inserts Senate language prohibiting the expenditure of funds for implementation of agreements in nondisclosure policies unless certain provisions are included.

Amendment No. 126. Inserts and modifies Senate language requiring mandatory use of FTS2000.

Amendment No. 127. Inserts Senate language addressing death benefit requirements for survivors of Secret Service officers.

Amendment No. 128. Inserts and modifies Senate language pertaining to future contract requirements for carrying mail in Alaska.

Amendment No. 129. Inserts and modifies Senate language regarding the Exchange Stabilization Fund; modified for technical corrections.

EXCHANGE STABILIZATION FUND

The conferees agree that to assure continued United States government involvement in international monetary transactions—and the ability to continue to use the Exchange Stabilization Fund in the manner that the Congress has supported for over 60 years—this provision should allow for contemporaneous and confidential certification by the Secretary of the Treasury.

This need for confidentiality is supported by the market sensitivity of these transactions and is consistent with the confidential nature of the monthly reports that the Treasury has provided and continues to provide to the Banking Committees on a confidential basis.

Amendment No. 130. Inserts and modifies Senate language prohibiting a cost of living adjustment during 1996 for Members of Congress; modified to include Federal judges, and executive level personnel.

Amendment No. 131. Inserts Senate language transferring two seized and forfeited A-37 Dragonfly jets to the National Warplane Museum in Geneseo, NY for museum purposes.

Amendment No. 132. Reported in disagreement.

Amendment No. 133. Inserts and modifies Senate language banning tobacco vending machines in Federal buildings to which children have access.

Amendment No. 134. Deletes Senate language concerning direct delivery of high value supplies.

HIGH VALUE SUPPLIES AND DEPOT SYSTEM

The conferees direct that the General Services Administration should increase use of direct deliver high-dollar value supplies, and only stock items that are profitable, and review the depot system

Amendment No. 135. Inserts and modifies Senate language establishing an Independent Commission on Restructuring the Internal Revenue Service by making technical corrections.

Amendment No. 136. Inserts and modifies Senate language requiring the Administrator of GSA to review the feasibility of leasing agreements with state and local governments for the construction or acquisition of border facilities.

Amendment No. 137. Deletes Senate language requiring each agency to achieve a five percent reduction in energy costs during fiscal year 1996 and makes up to 50 percent of the savings available to the agency.

Amendment No. 138. Deletes Senate language reducing maximum leave that can be accumulated by members of the Senior Executive Service.

Amendment No. 139. Inserts Senate language transferring a building.

Amendment No. 140. Inserts and modifies Senate language providing law enforcement credit to law enforcement officers hired during the three year transition period before FERS was fully implemented.

Amendment No. 141. Deletes Senate language expressing sense of Senate that the GSA and FAA should review personnel rules and labor agreements regarding Federal assistance when relocating personnel because of a change of duty station.

DENVER INTERNATIONAL AIRPORT EMPLOYEE RELOCATION

The conferees are concerned about reports that, under FAA and GSA rules, employees in the Denver, Colorado area were permitted to claim personal housing relocation allowances in connection with their transfer from FAA facilities at Stapleton Field to the new Denver International Airport, even in some cases where an employee's new home was farther from the new job site than the employee's former home. This kind of misuse of public funds is unacceptable and insults American taxpayers. The conferees expect GSA and FAA to review and reform current personnel rules and labor agreements to avoid any repetition of this experience and to restrict relocation allowances to cases in which a job site transfer reasonably and proximately necessitates a change in home site.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$23,500,947,000
Budget estimates of new (obligational) authority, fiscal year 1996	24,896,488,000
House bill, fiscal year 1996	23,177,286,500
Senate bill, fiscal year 1996	23,141,970,000
Conference agreement, fiscal year 1996	23,163,754,000
Conference agreement compared with:	
New Budget (obligational) authority, fiscal year 1995	−337,193,000
Budget estimates of new (obligational) authority, fiscal year 1996	−1,732,734,000
House bill, fiscal year 1996	−13,532,500
Senate bill, fiscal year 1996	+21,784,000

JIM LIGHTFOOT,
FRANK R. WOLF,
ERNEST ISTOOK,
JACK KINGSTON,
MIKE FORBES,
BOB LIVINGSTON,
Managers on the Part of the House.

RICHARD C. SHELBY,
JAMES M. JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
BOB KERREY,
ROBERT C. BYRD,
Managers on the Part of the Senate.

NO TAX CUTS WHILE TRYING TO BALANCE THE BUDGET

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. GENE GREEN of Texas. Mr. Speaker, an editorial ran in yesterday's Houston Chronicle that affirmed what a lot of us have been saying for months. It is ridiculous to cut taxes at a time when the Federal Government is desperately trying to balance its budget. In fact, Congress' own analysts pointed out that the tax cut would needlessly add almost $100 billion to the swollen national debt and increase taxes for working people who make under $30,000. No one likes to pay taxes. It would be great to give every taxpayer a tax cut. We should balance our budget first.

Speaking of the budget, the new majority has been backslapping and congratulating themselves for weeks about passing a balanced budget, but wait a minute, there is a problem. I see on page 3 of the budget conference report, it says in the budget document in the year 2002 that we will have a $108 billion deficit. Only in Washington could a deficit of $108 billion be considered balanced in the year 2002, when we are supposed to have a balanced budget.

In their heart they know the budget is not balanced. All this pomp and celebration is one big joke on the seniors of this country. Do they know why? Yes, because that $108 billion will come out of the Social Security trust fund to balance that budget.

Mr. Speaker, I include for the RECORD an article from the Houston Chronicle of Tuesday, October 24, 1995.

[From the Houston Chronicle, Oct. 24, 1995]

BREATH AND TAXES—BALANCED BUDGET SHOULD COME BEFORE ANY TAX CUT

Democrats are arguing that Republicans in Congress are trying to cut the taxes of the rich and the benefits of the poor. Republicans counter that the Democrats are waging a campaign of fear and class warfare.

There is some truth to both these charges, but most Americans are neither rich nor poor. They should view the political battle as logic vs. irrationality. So far, logic is losing.

Take for instance, the recent vote of the Senate Finance Committee to cut taxes by some $245 billion. No American enjoys paying high taxes, but a large majority of Americans believe that the nation's No. 1 priority is lowering the federal deficit, a goal that the tax cut would make more difficult.

Republicans say they can cut taxes and still balance the budget in seven years. But Congress' own analysts point out that the tax cut would needlessly add almost $100 billion to the swollen national debt—debt that no balanced budget will ever diminish.

Balancing the budget requires hard choices, such as the necessity to curb spending on Medicare. But why make the choices any harder than they have to be?

While the GOP tax cut would give parents a tax credit of up to $500 per child, the Medicare plan would increase fees—taxes—on the elderly. What's the point of giving with one hand only to take away with the other?

The Republicans in Congress deserve the credit for their efforts to balance the budget. The Democrats who held sway for decades had the power to balance the budget—even when Republicans occupied the White House—but never did.

But with the tax cut, the Republicans erode the chances that the budget will actually be balanced in seven years and signal a fragile economy that their spirit may be willing, but their commitment is weak.

President Clinton has done little to clarify the debate. While vowing to veto the GOP tax cuts, he worried in Houston recently that he might have raised taxes too much in 1993 in his successful attempt to temporarily bring down the deficits. If taxes are too high, then why his opposition to reducing them? Now the president says he just misspoke, but such wavering at the top will not produce public understanding.

One can debate whether the GOP tax cuts amount to a "giveaway for the rich" (much of the money will flow out in dribs and drabs to the middle class). However, one feature of the Republican agenda would drastically affect the large number of Americans who make up the working poor.

There is a national consensus that the federal welfare system needs reform. Congress' proposed welfare reform would limit and eventually end welfare for hundreds of thousands of families, but the Republicans' inconsistent budget plan would reduce the Earned Income Tax Credit program that helps keep poor Americans on the job and off the welfare rolls.

How can members of Congress insist on passing a tax credit for middle-class parents if they have to make things tougher on the poorest families in order to pay for it and still balance the budget?

Conservatives argue that the Earned Income Tax Credit is rife with fraud and abuse, but the proper response is to step up enforcement against the abusers.

THE CHOSEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, the reconciliation legislation, that legislation which will end up controlling all spending and tax cuts to come before the Congress this year, is about choices. It is about choices that the Republicans have made for millions and millions of Americans. It is about the choice that they made to cut Medicare by $270 billion. It is about the choice they made in those Medicare cuts, Medicaid cuts, to remove nursing home standards for the protection of our elderly, to remove our elderly from the entitlement of having nursing home care paid for if they and their families cannot afford it in the twilight of their lives. It is about the choices that they made to cut $10 billion from student loans so that now America's students, their families, are deeper in debt to pay educational costs than any time in the history of this country. It is about the choices that they made to cut the school lunch program and to cut back on nutrition programs for those who are the most vulnerable in our society.

Mr. Speaker, those are the choices of the Republican Party in this budget reconciliation bill. Those are the choices that they made about this generation of Americans. Those are the choices they made about that generation of Americans that fought the world wars, that fought the Korean conflict, that fought in Vietnam, who fought hard for democracy, who fought hard to save Western civilization in its time of need, but the Republicans are not prepared to fight for their Medicare.

Mr. Speaker, we should fight as hard for their Medicare as they fought on the beaches of Normandy, or the beaches of Iwo Jima, or Okinawa, or in Korea. But we are going to cut that Medicare $270 billion.

Why? Because the Republicans did not want to make other choices. They chose not to have high-income Americans continue to pay their fair share. In fact, what they chose was what the Wall Street Journal points out. The choose to give them a tax cut. As the Wall Street Journal said to the rich of this country, "Don't do anything yet, but start salivating." Why should they start salivating? Because the tax bill passed on Wednesday by the House of Representatives could turn out to be the biggest tax saving bonanza in years for upper-income Americans so we have $270 billion in cuts in Medicare to pay for $245 billion in cuts to some of the wealthiest people in this country. As we see, under the Republican plan, Mr. Speaker, 64 percent of the wealthy families in this country get a tax break, but 86 percent of middle-income families get a tax increase or they pay the same.

Those are choices that the Republicans have made in this proposal. They have chosen to give the wealthy, the rich, those who do not need a tax cut, a tax cut. They chose to pay for it by cutting the health care to our elderly, by cutting the health care to our poor, by cutting the health care to millions of Americans' children. They chose to pay for it by cutting student loans, and they chose to pay for it by cutting school lunches. They chose to create millions of desperately poor Americans so that they could take care of the wealthiest in this country.

They also chose to hold the Defense Department harmless. Everybody else has to contribute to balancing the budget, but not the Department of Defense.

They also chose to hold harmless corporate welfare, the large timber companies, the large mining companies, the large oil companies on which this bill lavishes billions of dollars in subsidies to those who do not need it, to some of the most profitable companies in this country. But those were the choices that the Republicans made. They chose to lead those people out of the sacrifice that millions of Americans will be making in the coming years to balance the budget, to balance the budget so we can have a prosperous economy, but they chose that some would not have to enlist in that fight.

Mr. Speaker, I say to my colleagues, If you're very wealthy, you won't have to enlist in that fight. If you're a defense contractor, you won't have to enlist in that fight. If you're on the corporate welfare dole, you won't have to enlist in that fight. But if you're aged, or if you are a student seeking an education, or a child seeking nutrition, or a family seeking a safe, a safe and healthy, nursing home for your grandparents, or your parents, or your spouse, you have to enlist, and you have to pay, and you have to pay more because the Republicans chose that many of the well off in this country would have to pay less and not contribute at all.

THE REPUBLICANS ARE MAKING TOUGH DECISIONS WHILE BALANCING THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, I cannot believe the gentleman from California [Mr. MILLER]. What? Are you putting your head in the sand and forgetting the deficit: This country is facing a deficit at a rate of $37 million an hour. I ask the gentleman from California to go out and show me one of your constituent families out there that can overspend their budget at the same percentage rate or proportionate to their own budget as this Federal Government overspends its budget. When are you going to come to your senses, my colleagues? We got to get this budget in balance. If we do not, there is no greater threat to the future of this country. There is nothing greater that is going to break the backbones of the working people of this country than allowing this country to continue to spend, and spend, and spend, and spend.

You can divert all the attention you want to away from what I am saying, but the fact is, if you do not do something about this deficit, the people in this country are going to face a fiasco, a financial fiasco the likes of which we have not seen.

Now the gentleman talks about Medicare, how horrible that we do something about a Medicare. My colleagues, we better do something about Medicare. It is going to be bankrupt. It was this body that created Medicare. It is a good program, it was intended for good purposes, but, as many other Federal programs, it has gotten out of hand, the spending has gone crazy. The trustees, bipartisan by the way, Democrats and Republicans, some of the trustees appointed by President Clinton, have come to a mutual agreement, and that is if we do not do something with Medicare, if we do not reform Medicare, that system will be bankrupt, bankrupt by the year 2002.

Now sure it is easy to stand up here, and use lots of fancy charts, and quote this newspaper and that newspaper, but who is doing the hard work back here to stand up to government spending and say, "Enough is enough; you can't spend more than you bring in"?

I stopped one time a rancher. He told me in Colorado; Meeker, CO; said to me, "Scott, before you put any more water in the bucket you better plug the holes," and I venture to say to the gentleman from California that is exactly what this Republican bill does.

The Democrats have had an opportunity to bring this budget in balance for 25 years. They have refused to do it. We are not going to refuse to do it. Sure we are going to take heat from you, sure we are going to take cheap shots about this and that, and sure we have to make tough decisions, not necessarily between good and bad programs, but between good and good programs, but we are willing to make those decisions because, if we do not, you will not, and if you will not, this country faces a fiscal disaster.

Mr. Speaker, the people of this country deserve a government that can control its spending. The people of this country deserve a government that knows how to balance its checkbook. The senior citizens of this country deserve a Medicare Program that is not going to go bankrupt in 7 years.

□ 1945

The people of this country can expect their Congress to act in a responsible, a fiscally responsible manner. I would urge all Members to set aside the partisan politics and take a look at the best interests of this country. The best interest of this country is that this country quit spending more than it brings in.

SPEAKING FOR THE POOR CHILDREN OF AMERICA

The SPEAKER pro tempore (Mr. WELDON of Florida). Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, I take the well this evening on behalf of a special interest group. This is not an ordinary special interest group. In fact, it is not a very effective one here in Washington. This special interest group does not have a Political Action Committee, they do not own a fax machine. In fact, they do not even vote. Yet, they are an interest group which is going to be affected by a bill which is on the floor of the House of Representatives tomorrow. I am speaking for them because, frankly, very few people this evening on the Republican side of the aisle want to acknowledge this group.

The special interest group I am speaking on behalf of are the poor children in America, the poor children in America who rely almost exclusively on a program known as Medicaid. It is a health care program for kids from lower income families. The Medicaid Program provides for immunizations for these children, health screening, examinations, and if they get very sick, it provides for their hospital care.

The Republican plan, which the gentleman from Colorado just described, is going to make a massive cut in this Medicaid Program. As a direct result of it, many of the poor children in America who are sick will not have health care, quality health care, available to them.

Yesterday morning I visited La Rabida hospital in Chicago. It is an amazing hospital. Eighty-five percent of the revenue to this hospital comes from this Medicaid Program. It is a beautiful hospital with wonderful people, doctors and nurses and administrators, and they took us on a tour and gave us a chance to meet some of the children; great kids, very sick children, but kids who, with their parents, are fighting a struggle every day to make it. They are fighting it, and the resources they use are the Medicaid Program.

I met Robert. Robert is a perfect kid, perfect except for diabetes. But if you meet him and you see his smile and his attitude, you think "I want to give this kid a chance. I want Medicaid to be there to pay his hospital bill, so that he has a chance in life." Yet, the Republican side is suggesting that Robert and many like him are, frankly, casualties of this budget debate.

The gentleman from Colorado a few minutes ago was chiding us for saying the Democrats can never tell us where to cut spending. Let me give a couple of examples in his own Republican reconciliation bill where they can cut spending. First, let me go back to this chart. Do you not think at a time when we are cutting health care for Robert under Medicaid, that we ought to think twice about giving 64 percent of the wealthy families in America a tax break, a tax cut? These are the wealthiest families in this country, making over $150,000 a year, and the Republicans believe they need a tax cut. This is not new. The Republicans have traditionally believed that if you make the rich rich enough, it will help working families.

Democrats see it a little differently. We are worried about the fact that 86 percent of middle-income families are going to see a tax increase. If you want to come up with some money to pay for Robert and for other children under Medicaid, let me suggest to my Republican friends, take out the benefits for the fat cats in your bill, take out the tax breaks for the wealthiest families. if we are going to reduce the deficit and not hurt poor children like Robert, do not go after those kids for the benefit of wealthy families.

Let me also give you another idea, if you want to save $17 billion. The Republicans close a loophole which has existed in the law. They are going to allow alternate income, minimum income, for corporations not to be taxed. Let me tell you what that means. If a corporation is profitable in this country and has hired a sufficient number of attorneys and accountants to escape all tax liability, the Republicans say "Fine, great, let them off the hook. They pay nothing," even though they made a profit.

We decided under President Reagan, not a screaming liberal, under President Reagan, to put an alternate minimum tax and say that every corporation has to pay something if it is profitable. Is that unreasonable? I do not think it is; $17 billion will be taken out of Medicaid for poor children for their health care.

Let me tell you what it means in our State of Illinois. When these cuts are being made, it means that in my State of Illinois, 128,000 children in Illinois, poor children, will not get quality health care. That is what is part of this Republican plan. They tell us they are going to balance the budget. They have not told us what we are going to do about Robert and his diabetes. They have not told us what we are going to do about La Rabida hospital, Children's Memorial Hospital, Wyler's Children's Hospital, Presbyterian St. Luke's, Children's Hospital, that depend on Medicaid to serve these poor children.

I stand tonight to speak on behalf of this special interest group. They are never going to come to my fundraisers. They are not going to send me a PAC check. They do not own a fax machine, they cannot fax a message, but these kids are going to be nailed this week by the Republican budget plan. It is totally unnecessary. For at least those kids and their families, I hope the people of this country will contact their Members of Congress and urge them to vote against the Gingrich Republican budget plan.

ITEMS RELATED TO THE BUDGET RECONCILIATION BILL

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

Mr. MILLER of California. Mr. Speaker, I object to recognizing the gentleman.

The SPEAKER pro tempore. The Chair will alternate recognition for 5-minute special orders.

Mr. MILLER of California. Mr. Speaker, did you run out of people for the 5-minute special order list?

The SPEAKER pro tempore. The Chair entertains requests on the spot.

Mr. MILLER of California. For unanimous consent?

The SPEAKER pro tempore. For unanimous consent.

Mr. MILLER of California. I object, Mr. Speaker. We have people who have been waiting who were on the list.

The SPEAKER pro tempore. All these special orders are 5 minutes.

Mr. MILLER of California. I thought you had to be on the list.

The SPEAKER pro tempore. All names on the list have been completed.

Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I want to briefly discuss several items which are directly or indirectly related to the budget reconciliation presently before us.

First, let me say that no one has cornered the market on compassion. No one has a monopoly on virtue.

Yet some around here seem to believe that they have.

Every time any budget cut is proposed, we are told that it is mean spirited, or that it shows a lack of compassion.

Yet what really lacks compassion is for the Federal Government to take so much money from families that they don't have enough money left to support their children in the way they should.

This is what is happening in this country today where the average person has to pay half of his or her income now in taxes when you count taxes of all types, Federal, State, and local—sales, property, income, gas, Social Security, and so forth.

What really shows a lack of compassion is an unwillingness to cut anything so that we can get Federal spending under control.

What really shows a lack of compassion is to continue running up large deficits so that we absolutely destroy the economic futures of our children.

What really shows a lack of compassion is to tell the people of this country, through votes on this floor, that bureaucrats can spend their hard-earned money for them better than they can themselves.

And let me say something else—almost every leading economist tells us that our $5 trillion national debt really holds this country back economically.

Times are good for some now. But they could and should be good for everyone. People who are making $5 to $6 an hour could and should be making $10 or $12 an hour.

It sure isn't compassionate to let our national debt get even higher so that the gap between the rich and the poor keeps growing.

The choice is simple. Are we going to side with overpaid and underworked bureaucrats, or are we going to side with the average people who are footing the bill.

Second, I could live with a lower tax cut than $245 billion. But let's put this in perspective.

This is not an all-at-once cut. It is spread over 7 years.

This cut comes out to less than 2 percent—less than 2 percent—of Federal spending over this period.

This follows a 15-year period during which Federal spending has gone up almost 300 percent.

The first Reagan budget was $581 billion. We're spending almost triple that now.

Federal spending has gone up 300 percent in the last 15 years—is it asking too much to give back less than 2 percent?

Seventy percent of this tax cut goes to people making less than $50,000 a year. Do we ever think about that?

Most Republicans support flat tax which totally excludes people making less than $26,000 or couples making less than $38,000 from Federal income taxes altogether.

Do you ever think about that? Who is really for lower income people—someone who wants to keep their taxes high like now, or someone who wants to greatly reduce their taxes.

Third, last week we passed a Medicare bill that provides for a huge increase in Medicare spending.

In Tennessee, we now spend approximately $5,000 per year on the average recipient of Medicare. This will go up to over $7,000, an increase of $2,000 over the next 7 years.

This bill provides for an increase in Medicare spending at twice the rate of inflation. And this is called a cut.

There is no disagreement that Medicare is going broke. The President's own trustees tell us this.

Is it compassionate to sit around and let it go under. Is it right just to fix it until after the next election.

The Medicare bill we passed may not be perfect. But it is sure not a cut; it is a huge increase.

Fourth, we will spend $4 billion in Haiti by the time our troops pull out next February.

Now, the President wants to send 20,000 to 25,000 troops to Bosnia. We are already paying almost one third of the so-called peacekeeping costs there now. We will end up spending billions in Bosnia, too, if we are not careful, and the situation in these places is going to go right back the way it was as soon as we stop pouring our billions and billions into those places.

We should not send young American men and women to fight and die on foreign battlefields, Mr. Speaker, unless there is a vital U.S. interest present, or unless there is a real threat to our national security. Neither of these is present in Bosnia.

Finally, Mr. Speaker, let me say that when I got home last Thursday night, I read in the USA Today that Allen Greenspan is planning through the Federal Reserve Board to spend billions to prop up the Japanese financial system. We should not be doing that, Mr. Speaker. Our obligation should be to the American taxpayers, and not to the big Japanese banks. They would not bail us out if we got in financial trouble, and we should not be bailing out their big banks with billions of our dollars at this time.

RURAL AMERICA AND THE IMPACT OF BUDGET CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, how a nation spends its resources says volumes about who is important, who is not, which regions of our Nation are favored and which are ignored.

When we vote on budget reconciliation this week, this Nation will know the winners and losers.

This budget will cause pain to many in America, but we will cause substantial harm to most in rural America.

Rural North Carolina, including my congressional district, like most of rural America, is struggling to provide a minimum quality of life for its citizens.

These communities, however, lack high-paying jobs and often lack the infrastructure necessary for economic expansion.

The lack of basic resources and opportunities, such as employment, housing, education, and utility services, especially water and sewer, is compounded by limited access to quality health care and a shortage of health professionals, especially primary and family physicians.

As Congress goes through its cost cutting, deficit reducing, budget balancing exercise, there is a message that needs to be emphasized among our colleagues: Farmers and rural communities have been important to this Nation's past, and farmers and rural communities are essential to this Nation's future, most notably, the small, family farmers.

Today, I want to briefly discuss two of the areas affected by the Republican budget reconciliation legislation, and I will begin with agriculture programs.

AGRICULTURE

Agriculture faces deeper, across-the-board cuts in Federal programs, such as the cotton and dairy programs, the food and nutrition programs, and the rural development and housing programs.

Agricultural cuts have been going on for years, $50 billion since 1981, but these are especially painful because of the nature of the cuts and in light of all the other cuts.

The freedom to farm proposal offered by the House Agriculture Committee chairman—which will be part of the reconciliation package—contains $13.4 billion in additional cuts to farm programs over the next 7 years.

How much muscle and bone do we have to cut from the body of agriculture?

Why should we compensate for a $245 billion tax cut for the wealthy, by destroying a mainstay of rural life—the American farmer?

My primary opposition to the Freedom to Farm Act is that the link between prices and production will be severed as a result of these severe cuts. A fixed payment that disregards market price cannot possibly provide the help necessary when market prices are lower, while providing unnecessary payments when prices are high.

I am also apprehensive about the availability of production financing, which will most certainly diminish as the agricultural safety net disappears.

And, my final concern is that the Freedom to Farm Act is solely concerned with the next 7 years—but what will farmers and farm communities do after 2002?

The Freedom to Farm Act will reduce farm income by 5 percent in 1998. Over the next 5 years, it has been estimated that net farm income will drop by an average of $1.5 billion per year for a total of $7.5 billion—that's $7.5 billion lost from farm income to pay for an unfair tax cut. I do not consider that to be fair or just—do you?

Congress needs to address agriculture in a fair and measured way—97 percent of the population of the United States is fed by the 3 percent of farmers.

The Freedom to Farm Act is neither fair nor is it prudent.

The name is deceptive—instead of freedom to farm it should be called freedom to fail.

EDUCATION

In the area of education, more than 100,000 rural children will be denied basic and advanced skills, at a time when many small towns and rural communities are having a difficult struggle with their budgets.

Rather than promoting education, this bill is an obstruction to education and is disastrous to small and rural education systems.

Thousands of disadvantaged children who need a little help in the beginning of their lives—at the onset of their education—will not get that help.

Head Start is cut by $137 million—abandoning 180,000 children nationwide and almost 4,000 in North Carolina.

Title I is cut by $1.1 billion—denying critical basic and advanced skills assistance to 1.1 million students nationwide and 20,400 students in North Carolina.

Drug-free schools is cut by 59 percent—this program is currently used by 129 of the 129 school districts in North Carolina.

The program is designed to keep crime, violence, and drugs away from students and out of our schools. And, the Republican majority wants to gut the program.

The Goals 2000 Program is completely eliminated—381 schools in North Carolina will be denied this vital program.

And, Vocational Education is cut by 27 percent.

Thousands of those school children, willing to work, who have found hope in a mountain of hopelessness, will not be able to work. The School-to-Work Program is cut by 22 percent. Americorps, the National Service Program, is eliminated, denying an opportunity to 1,107 young people in North Carolina.

And, the summer jobs program is eliminated altogether. Some 9,000 young people in North Carolina will be put out of work for 1996 and some 61,000 will be out of work in our State by the year 2002. And, sadly, Mr. Speaker, that includes the 22 young people who wrote me that letter.

The privilege of an education belongs to all in America.

But, education cuts of the majority, with the stroke of a pen, takes that privilege away from many low income and rural children.

This blind march to a balanced budget, without considering the merits of programs, is taking us down the wrong path.

I wonder where it is taking our young people?

Where is the balance in this kind of budget?

Mr. Speaker, I urge my colleagues, when we consider budget reconciliation, let us not forget rural America.

□ 2000

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MARTINI] is recognized for 5 minutes.

Mr. MARTINI. Mr. Speaker, the vote tomorrow represents the very essence of why I was sent to Congress.

One year ago I made a commitment to my constituents that I would balance the budget and save the future of our country from irresponsible reckless spending and ever higher debt and national bankruptcy.

That is what I will vote to do tomorrow.

A child born today will pay an average of $187,000 in taxes over his or her lifetime just to pay off the interest on the national debt, not to mention the principal.

This is unconscionable; we have to balance the budget and begin to relieve our children of this unfair burden.

But the positive impact of this bill will be felt much sooner by current generations as well.

One can always find excuses not to balance the budget.

A balanced budget will help lower interest rates, making it easier for families to finance the purchase of homes, cars, and college educations.

It will create jobs, and maintain a rising standard of living for us and our children.

In short, the package contains the most important goals of the 104th Congress: a balanced budget, tax relief, welfare reform, and Medicare solvency.

In stark contrast to Congresses of years past, today we present the American people with a responsible plan not of ever higher taxes and rapidly increasing programs, but of serious prioritizing and meaningful tax relief for working parents and their children.

The reconciliation package sets the budget on a 7-year glidepath toward eliminating the deficit by the year 2002.

Balancing the budget is simply good economic policy.

It will result in lower interest rates, a more vibrant private sector, and a reduction in the huge and growing part of our budget comprised of interest payments on our debt.

But this is also a moral imperative.

In effect, continuing to heap debt upon future generations for our short-term benefits taxes our posterity without their consent, all because, until now, we have lacked the will to make difficult decisions on budgetary matters.

Balancing the budget is the overall aim of this package, but the bill also provides some much needed and significant tax relief for the working families of America.

This bill provides families a $500 per child tax credit, helping the middle class save and pay for college, braces, clothes, or whatever.

The point is that families, not the government, will be empowered to make decisions for themselves.

American innovators will seize upon the capital gains tax reduction as an opportunity to invest in new businesses and create hundreds of thousands of new jobs, better jobs than any government bureaucrat can ever imagine creating.

And the bill provides tax relief for seniors, repealing the 1993 Clinton tax increase on Social Security.

Also included in the bill are the provisions of the Medicare Preservation Act that saves Medicare from bankruptcy.

Solvency is achieved in a fair and reasonable manner, containing no increase in deductibles or copayments, and no changes in the rate of premium growth while offering more choices to Medicare beneficiaries than ever before.

Long overdue welfare reform is also in there.

We put an end to the Great Society notions that Washington knows best without abandoning our commitments to the Nation's poorest and most vulnerable.

As poverty rates hover around 1965 levels and illegitimacy rates skyrocket, this Congress has taken action and ended the cruel cycle of dependency and encourages workfare, not welfare.

Thirty years and $5 trillion of misguided spending are enough: Welfare reform is long overdue.

Let's contrast this overall plan with that espoused by our President only a few short years ago.

On June 4, 1992, he promised a balanced budget.

A Democrat Congress never delivered.

He promised a tax cut for middle-class families.

A Democrat Congress never delivered.

Worse than never delivering, they actually implemented the biggest tax increase in the history of our Nation.

And now, the President has even admitted he raised our taxes too much.

He never offered a plan to end welfare as we know it, and he stayed on the sidelines as we saved Medicare from going bankrupt.

This Congress is about keeping promises, not breaking them.

In the end, I will cast my vote for a bill that fulfills my commitment to the people who sent me here.

The last election was a clear statement by my constituents: They want a balanced budget and a smaller Government that works more efficiently for them.

They want a Congress committed to solving problems, not avoiding them.

They want a Congress that keeps its promises, and gets the job done.

Mr. Speaker, I am very pleased to say that this is what we will give them tomorrow.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. THURMAN] is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, like many of my colleagues, I have been here during these special order sessions for several nights to inform the public about what is in the fine print of the Republican budget package.

I think our efforts are starting to pay off. The people of America are becoming aware of the enormity of the cuts in this reconciliation package and their effects on the children, the working poor, the disabled, and the elderly.

Sen. ARLEN SPECTER speaking on the GOP budget:

> . . . much of the pain of the spending cuts goes to the elderly, the young and the infirm while allowing tax cuts for corporate America . . .

This is a Republican.

Not included on this list is the group that stands to gain the most from the Republican package; The wealthiest Americans. The Republicans are financing tax cuts for their rich by increasing taxes on the middle-class and low-income working Americans.

Republicans claim they are helping the poor by reforming welfare, however, it is dishonest to say that you believe in work over welfare and then cut the earned income tax credit and medicaid.

Again, Jack Kemp.

> I hope you guys do not go too far on removing the EITC because that is a tax increase on low-income workers and the poor which is unconscionable at this time . . .

In Florida, 1.3 million low-income workers and their families depend on the E.I.T.C. The working poor are barely getting by as it is, and now the Republicans are pulling the rug out from under them by cutting a program that was expanded by both Presidents Reagan and Bush.

The Republican Welfare reform plan, which is part of the bill, includes additional impediments to work, such as underfunding child care support services and underfunding the workfare requirement. The Republican plan is weak on work and tough on kids.

Republicans talk about freedom and choice for the States. But the cuts in this plan will do nothing but force Governors to abandon any creative programs they have been able to initiate. Instead, Governors will be spending their time trying to stretch limited dollars to provide basic services for the poor and the elderly.

The inconsistency in the Republican agenda is confusing. Are they for work, or are they for further injuring the working poor? Are they for allowing Governors to be creative and innovative in developing programs or are they for dumping the social problems of the Nation on the Governors while denying them the funds necessary to address the problems?

The plan to block grant the Medicaid Program will be disastrous for Florida. Shifting from a program designed to meet individual needs to a capped program constrains a State's ability to meet health care demands. People will either be kicked off of Medicaid, or State taxes will have to be raised. A block grant formula allows for little flexibility to address not only variable economic conditions, but also events like natural disasters that increase the Medicaid need.

While I no not support block granting Medicaid, if that is the framework within which we are operating, let us at least make the formula a fair one.

Today, I went before the Rules Committee to offer an amendment to make the Medicaid funding formula equitable.

Under my formula, Governors who use their Medicaid dollars efficiently would receive a bigger increase in their Medicaid grant. My formula encourages efficiency and the innovative use of Medicaid dollars.

We need to correct the fundamental unfairness underlying the Republican Medicaid funding formula. Under their proposal, Florida is among the eight States that will shoulder fully one-half of the $182 billion in cuts. Over the 7 years of the Republican plan, Florida will lose between $9 and $11 billion.

The formula I offered was proposed to me by the Joint Legislative Auditing Committee of the Florida Legislature. It allows for adjustments in calculations to reflect increases in a State's elderly population, and increases in the number of people in poverty.

Florida and other high growth States should not be penalized for increases in our population. We also should not be penalized for being efficient in our use of funds. Under the current plan, if a State has profited at the expense of the system, in some cases bordering on outright fraud, it gets rewarded with higher block grant numbers. To remedy this error and to encourage proper use of funds, my formula rewards States that use Medicaid dollars effectively and efficiently.

But I will be denied the opportunity to offer my amendment tomorrow. This is just another reason why I cannot support the Republican reconciliation plan.

I am glad America is listening. We will continue to try to get our voices heard so that Americans will know and understand the devastation that will result from the Republican plan.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I come to the floor to rise in opposition to the reconciliation bill that is before the House today and tomorrow. For those who are not aware of this, the reconciliation bill is the budget bill, and in it we are supposed to reconcile taxes and spending.

I believe that a budget bill should be a statement of our national values and how we spend our money is a statement of those values, and how we tax and who we tax is a statement of our sense of values in our country. I do not think that this reconciliation bill before the House meets any test that our constituents would have as a statement of values, a statement of national values, and a statement of a sense of fairness in our country. Indeed, in trying to achieve a balanced budget financially, we are indeed producing a lopsided budget way out of balance in terms of values and meeting the needs of our country.

Mr. Speaker, the other day I was at an event and they asked me what the three biggest challenges to America were. What are the three biggest issues? As a Member of Congress, they wanted to know what I would name as the three issues.

□ 2015

I said, that is easy. The three biggest issues in our country are our children, our children, and our children. The sad thing about this legislation before us, the Republican majority reconciliation bill, is the devastation that it wreaks on children.

Our colleagues are fond of saying on the other side of the aisle that this puts us on a glide path to a balanced budget. It puts us on a glide path to a crash.

Because unless we invest in our children, we will never have a balanced budget. Unless we invest in our children and our families, we will not be able to produce the productive people that we need to keep our country competitive. Instead, we will continue, as this bill calls for, a continuation of the Republican notion of trickle down.

But it is on the issue of children that I would like to speak this evening. Because, as I say, if it is a statement of values of what we stand for as a country, it should be a statement of how we care for our children.

I do not think any of our listeners or viewers would consider it a statement of their values to cut millions of children out of Medicaid, guaranteed health care, in order to give a tax break to the wealthiest people in America. At the same time, I do not think our constituents consider it a statement of their values for us to give a tax break that the overwhelming majority of it benefits the top 6 percent earners in our country, the wealthiest people in our country.

Do not take it from me, though. Listen to what a Republican has to say. My colleague from Florida already referenced Senator SPECTER's remarks when he said, "Much of the pain of the spending cuts goes to the elderly, the young and the infirm, while allowing tax cuts for corporate America."

Senator SPECTER then also went on to say, "I suggest to my Republican colleagues that we all rethink support for a combination of tax cuts and spending cuts that may lead to the perception of the Republican Party as the party of wealth, power and privilege, and not the party of ordinary workers."

As you can see here, Jack Kemp also had his concerns about what is in this bill. Jack Kemp, a leading light in the Republican Party, said, "I hope you guys do not go too far on removing the earned income tax credit, because that is a tax increase on low-income workers and the poor, which is unconscionable at this time."

Of course, the earned income tax credit is cut back in this bill. That is a tax credit that is given to the working poor in our country. Some of us view it as a subsidy for an unfair low minimum wage in our country, and it benefits America's businesses as much as it benefits the families. But no matter what, it does benefit the families. But we have to cut that back—a tax credit for the working poor—in order to give a tax break to the wealthiest people in our country.

Who was it who said that, to listen to this debate, one would think that the poor people had too much money and the rich people did not have enough?

But let us get on to the children.

The Republican budget repeals the Medicaid Program as we know it which provides health security to 36 million low-income Americans. Half of the beneficiaries are children. Consumers Union estimates that the Medicaid provisions in this bill will result in 12 million Americans losing health insurance coverage in the cutbacks that are proposed. The majority are uninsured children.

Mr. Speaker, I want to just, in closing, say that we all care about our children. We want the best for our children. But unless we understand that the well-being of our own children is directly connected to the well-being of poor children of America, our own children will not be well-served. That is the reconciliation we must provide for our country.

I urge our colleagues to vote "no" on the Republican glidepath to a crash.

PREVENT THE RAID ON AMERICAN PENSIONS

The SPEAKER pro tempore (Mr. WELDON of Florida). Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I am only in my second term in Congress, but I remember last year one of the issues I heard a great deal was how many Members of Congress when we passed one of those massive bills has read the bill.

I would like to throw that down today as a challenge for the folks who happen to be watching tonight, Mr. Speaker, in that they would look at both H.R. 2491 and H.R. 2517, and tomorrow we are getting ready to vote on this bill. I am sure the reason all our colleagues are not here is they are pouring over the pages of these bills tonight before they vote on them and I hope they would because if they had the chance to look at this, they would also see one section I am going to talk about tonight.

This morning, members of the Committee on Ways and Means and the Committee on Economic and Educational Opportunities that I am a member of and the Committee on the Budget held a press conference in a joint effort to alert American workers and retirees what effect the bill will have on their pension plans.

Several weeks ago, Republicans in the Committee on Ways and Means proposed changes in the Internal Revenue Code allowing employers to take assets from pension plans and use them for any purpose. This dangerous proposal would allow companies to take money from employee pension plans that they say are more than 125 percent funded. Those excess pension assets, the funds not needed to pay immediate pension benefits, can be used freely for purposes that may not certainly be in the interest of those retirees or potential retirees.

Allowing companies to strip so-called surplus pension assets from the employee pension plans would take us back to the early 1980's, when companies took away $20 billion from over 2,000 pension plans, covering nearly 2.5 million workers and retirees.

Prior to the 1980's, the reversions of pension assets to employers were almost nonexistent. Pension assets were returned to employers only after the plan had been terminated and after all benefits to plan participants were paid. However, as pension assets grew because of the inflation in the late 1970's and the rising stock market of the 1980's, corporations began to take these excess pension funds.

In fact, in 1983, the Reagan administration issued guidelines making pension reversions easier, in other words, to get at that pension increase. From, 1982 to 1990, over $20 billion was taken from the over 2,000 retirement plans covering those 2.5 million workers and retirees. From 1982 to 1985, the size of the reversion grew rapidly: $404 million reverted in 1982 alone to $6.7 billion reverted in 1985.

As retirees were left without adequate retirement, Congress took strong action to stem the tide of the pension reversions or the raiding of the pension funds. Beginning in 1986, Congress imposed a series of excise taxes. A 10-percent excise tax on the amount of the reversion was in the Tax Reform Act of 1986, a 15-percent excise tax in the Technical and Miscellaneous Revenue Act of 1988, and in the Omnibus Reconciliation Act of 1990 a 20-percent tax was on employers who established a successor plan with similar benefits or they had to pay a 50-percent tax if no successor plan was established. So they could not just come in and raid the taxes, the pension plans from 1986 to 1990.

So with these congressional measures, the number and size of the reversions substantially fell. So today we see increased pension plans, the assets of the pension plans that, by the way, Mr. Speaker, they are investing in our country. We hope they are investing in jobs and in our country. So it is for savings, but that money is not sitting somewhere and not earning money because we want those retirees to earn from the benefits of our country.

The effect of the reversion on the American worker in the Republican proposal would encourage employers to take billions of dollars out of these pension plans, leaving them possibly with insufficient funds to protect the future of current retirees. Money previously set aside for workers' retirement would now be pocketed by these same corporations and used for any purpose over that 125 percent.

The removal of these funds from pension plans increases the risk of loss to workers, retirees and their beneficiaries at a time when the need to make sure we have a strong pension system is great, when we worry about if social security is going to be there. And we all talk about that Social Security is not where people can survive on but it is just a beginning, and here we are going to hurt private pension plans by allowing employers to take money from them.

Pension plans are not the employers' money. Workers pay into those pension contribution funds and oftentimes accept lower wages, and I did that in the 1970's. We actually accepted, when I was in the printing business, a lower amount in our paycheck to make sure we paid into the pension plan. So today, Mr. Speaker, I am now a beneficiary of the printers pension that I do not know how much I will receive when I am 65.

But under the current pension and tax regulations, pension funds are in trust to be used only for the exclusive benefit of workers and retirees and should not be considered as piggy banks. This irresponsible provision encourages efforts to pilfer workers' pensions. This proposal is bad public policy.

A pension plan with excess assets today can quickly become underfunded if those assets are taken away. Because most pension plans are tied to the stock market, any downward turn will have a negative effect on the plan. In addition, a reduction in the interest rate of 1 percentage point, together with an asset reduction of 10 percent, reduces the funding level from 125 percent to 96 percent.

The American public must let the majority Republicans in Congress know that pension assets are held in trust for the exclusive benefit of plan participants and their beneficiaries. Taking money away from pension plans will reverse the progress made to increase the national savings rate. Let us not permit companies to take pension assets from the American worker. Let us ensure that pensions will be safe and available for those who saved for their retirement.

Mr. Speaker, in closing I would hope that our majority tomorrow would realize what it will do to the future of the pension plans and, hopefully, the U.S. Senate will change that or, as Secretary Reich said today, this is veto bait in this bill.

REPUBLICANS TURN BACKS ON FAMILY FARMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, I come before you tonight to discuss the shameful way the Republican Members of Congress are treating the American single family farmer with the farm and reconciliation bills.

The Republicans are treating our farmers like a bunch of ruined chickens, throwing them into the equivalent of the legislative compost heap, to slowly decompose, to rot, to wither, and then to simply waste away.

I am a member of the House of Committee on Agriculture, and I listen and read what the Republican Members have proposed. I know that the Republicans, as usual, have decided to choose sides with the big, rich corporations, rather than with American farm families.

America needs more than this. America expects more than this. Republicans always side with the big corporations. Republicans always promote the interests of the rich over the working people. Republicans have no remorse when it comes to bleeding and starving our farm families until they have absolutely nothing left, no profit, no home, and no hope for a future.

America is a great Nation today, not because we have a mighty military but because we can feed our military and our citizens, and, of course, the rest of the world.

The majority of the Republicans in this country are gung ho when it comes to funding the military. Look at the budgets that they propose. When it comes to investing in our farmers, they shun them, turn their backs on them, and in essence they are saying we Republicans do not need family farmers. After all, they are expendable, because we have big corporate farmers that can farm huge farms and make big profits.

Yes, America is great today because we can feed the world. And Americans can feed the world because in the past this Congress has had the wisdom to invest in our farm families.

Some people would have you believe that all the farmers have a bag of Federal subsidies and moneys that they do not need and to eliminate this country's debt, we must eliminate all of the farm programs. Well, the truth is that the Republicans are still trying to pass the buck on to other people so that they can give their friends multibillion-dollar tax cuts, their rich friends.

What the Republicans will not tell Americans and what they will not tell our family farmers is that all of this money that they are saving will go to the rich, not to reducing the debt. I will tell you something else, that is a shame.

Most farmers are good, patriotic Americans. As most patriots will do, they have volunteered to eliminate many vital farm programs so that they can do their part in eliminating this Republican Reagan-Bush-caused deficit. Well, fair is fair and enough is enough.

The Republicans always talk a good talk when it comes to supporting families and family values. But when it comes to delivering on these promises, they always side with business and the wealthy. I hope all farmers have learned this lesson and remember it when election time comes rolling around again.

The Republicans have drafted a farm bill. As a matter of fact, they have drafted two. But neither one passed because the Republicans girdlocked on the committee. The Republicans simply cannot decide how much they want to take from the American farmers.

Ironically, the Republicans call their farm bill the Freedom to Farm Act. Unfortunately for our farmers under this Republican bill, no one will have the freedom to farm but large, big corporations.

□ 2030

The Republicans have turned their backs on the family farmers, and it is a shame, a dirty, rotten, Republican shame.

America is a world power because of our family farmer and what they have historically done for this country, and I for one am grateful to them for their sacrifices and all that they have done to make this country great.

I feel that we in Congress must protect them by voting against this reconciliation bill and the farm bill when it comes before this Congress.

GETTING OUR FINANCIAL HOUSE IN ORDER

The SPEAKER pro tempore (Mr. WELDON of Florida). Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I have been sitting in my office, and I have been hearing some of the most partisan, outrageous comments I have heard in the history of this place, and I guess that is saying a lot.

I have been in office 20 years now. I was 30 years in the statehouse in Hartford, CT, and now 7, almost 8 years now, in Congress, and I remember my time in the statehouse looking at Members of Congress and looking up to them but wondering how they could, how they would be allowed to, and why they would spend more money than they raised in taxes and why they would deficit spend. I knew I could not do that in the statehouse. I knew that in the statehouse that we had to spend only what we raised in taxes. If we spent more, we would have a deficit, and we were not allowed to by law.

I just think that it is immoral for a country that gets, in a sense, I hear the imagery of a farmer, I will use that same imagery, our forefathers gave us a farm and it did not have much debt, and this generation has mortgaged the farm to the hilt and is passing it on to the next generation with so much debt you can hardly pay the bills, and that is where we were at. We are here because 20 years of deficit spending has put us in the mess we are in.

I am not going to say that it is the Democrats' fault, because it is not. We had a Congress on one side which was mostly Democrat. You had a Republican Presidency for most of that time. The White House, Republicans did not want to cut defense, or at least they did not even want to control the growth of defense. You had Democrats who did not want to control entitlements. You had Republicans who thought there was no defense program that they did not want to spend money on, and you had Democrats who realized that half the budget are entitlements, and they continued to go up and up. So Republicans did not give in on defense, and Democrats did not give in on entitlements. The end result is we have had one deficit after another.

I vowed when I was elected that I would be part of a process to help get our financial house in order, and that is what we are doing. The sad thing is we are doing it now without the help of my colleagues on the other side of the aisle that know we have to get our financial house in order, and we are doing it without the help of the President.

I am as proud as I could be to be part of this effort to get our financial house in order. We want to do that and balance the budget.

The second thing we want to do is save our trust funds, particularly Medicare which needs to be protected and preserved and strengthened. It is going insolvent next year. It goes bankrupt in 7 years, totally bankrupt.

The third thing we want to do is we want to change the social, corporate, and farming welfare state into an opportunity society. I look at this, and I say how can anyone justify 4 miles of public housing in Chicago, 17-story buildings, that is the legacy of the welfare state; the legacy of the welfare state, our 13-year-olds having babies, 14-year-olds selling drugs, 16-year-olds killing each other, 18-year-olds who cannot even read their diplomas, 24-year-olds who have never had a job, 30-year-old grandparents. We have got to change that.

In our society we become a caretaking society instead of a caring society. What ultimately has to happen is Republicans and Democrats, one, have to realize we have to balance the budget. I would like it in 4 years. If it takes 7, so be it. We have to get our financial house in order.

The second thing we have to do, clearly, is decide how we do that. We have a disagreement with the White House right now. The White House does not want to weigh in on a 7-year budget. They are going to have to do that. The one thing I am not giving in on is to continue to say we are going to balance the budget out years and years out, but the President does not have to take our 7-year budget. The Democrats do not have to take our 7-year budget. If they do not like that, they can come in with a proposal as some of them have, but the bottom line is we have to get our financial house in order.

I hear the dialog about cutting things, cutting school lunch programs. No. They are going up 4.5 percent each year. Yes, they would have gone up 5.2 percent. We think they should go up 4.5 percent.

Cutting Medicare? Give me a break. Medicare, we are going to spend $1.6 trillion in the next 7 years. The last 7 years we spent about $900 billion. It is going to go up over $675 billion. We are going to spend 75 percent more in the next 7 years than we did in the last 7, 75 percent more, excuse me, 73 percent more. Only in this place where the virus is fed, where you spend 73 percent more, do people say it is a cut.

In this year compared to the 7th year, we are going to spend 54 percent more. The 7th year, in Medicare, 54 percent more than today. People say you have more beneficiaries. Even if you take it on that, we are going to spend $4,800 per beneficiary today, $4,800. It is going to go up to $6,700 in the 7th year. That is a 40-percent increase. Only in this place when you spend 40 percent more per beneficiary do people call it a cut.

Are we going to force people out of Medicare into private care? No. They can stay where they are. They have no increase in copayment, no increase in deductions. The premium is going to remain the same, 31.5 percent. Taxpayers are going to continue to pay 68.5 percent unless you are the most affluent.

I have the most affluent in my community. Yes, they are going to have to pay more. If they are married, after $150,000, they pay all of Medicare part B. If they are single, after $100,000, they pay all of Medicare part B. For the most affluent, people want to talk about how we want to help the wealthy, we are saying the wealthy should pay for more for Medicare to help save the trust fund.

Do we force people to get off private care? No. They can stay there. If they want to go into private care, they can do that. Why would they want to do that? Because they can maybe get better eye care for the same cost, might get dental care, might get a reduction or rebate in their premium. They might not have to pay that copayment or a deductible with some private care plans. So they can do that. Nobody makes them. If they decide to go into private care under our Medicare-plus plan and they do not like it, they can come back.

For 2 years every month they can go in and come out. They do not have to wait a year. Only in the third year would they have to stay in the plan.

When I hear people say we are cutting, I think, yes, we are cutting some programs. We are not cutting Medicare. We are not cutting Medicaid. They continue to go up. We are slowing the growth of those programs. We are changing them. We are allowing people to have other opportunities.

I hope eventually the rich-and-poor dialog just falls by the wayside because it is simply a sham. We have the biggest cut in our tax program is two-thirds of our cut is $500 tax credit per family. You mean to tell me if you have a kid under 18 and those who might be listening to this right now, you ask yourself if you are wealthy, if you have a child under 18, you are going to get a $500 tax credit; you are going to get one; and if you are wealthy, then we fit the description. But if you happen to be like most Americans, 75 percent of whom make less than $75,000, they are going to get that $500 tax credit.

The earned income tax credit is being eliminated? No. We are saying it is not going to increase above $28,000. If you are at $28,000 and you and your husband are working and you only make $28,000 or just one is working and you have 4 kids, you pay no Federal taxes. You get actually a rebate. You are paid by the Federal Government, no tax; you are paid. We are just saying we cannot increase that to $35,000. We are also saying that if it applies to a senior, you know, Social Security should count as an income.

So I listened to the rhetoric and some of it has some truth to it, some of it, but some of it is just so off base.

I am just proud to be part of this Republican majority that has the courage and the determination to get our financial house in order.

REPEAL OF THE NURSING HOME PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DEUTSCH] is recognized for 5 minutes.

Mr. DEUTSCH. Mr. Speaker, I have been listening to the 5-minutes this evening for over an hour now, about an hour and a half, and I think one thing that anyone who has been watching or been listening can conclude is that neither side of this aisle has a monopoly on wisdom, and there really is both wisdom and ignorance on both sides of the aisle.

I think that when you look at this bill that we are going to vote on tomorrow, there are things that I can support and that I do support in this bill, but there are some things that truly will cause unneeded suffering for Americans and really things that are just out of place when you look at the facts.

Yesterday evening I talked about one of them. I talked about the Medicare program, the fact that the $270 billion in cuts has nothing to do with what the actuaries say. The 7-year actuarial life, in 12 of the 30 years it has had a shorter actuarial life.

Tonight I want to focus in on something that has no place in that bill, and that is, it is not in a couple of thousand page bill, it is really probably just a page and a half, and that is repealing the 1987 Nursing Home Protection Act. That is one of the many things this bill does that really is unprecedented and really, truly tragic.

Prior to 1987, I think there are many people who are listening and watching remember reading and seeing stories, really horrible stories, stories about nursing home patients being tied down in nursing homes, being in their own feces, in their own urine, being drugged so they would not move, nursing home residents really dying in nursing home facilities because of lack of fire exits, nursing home facilities that had no 24-hour staff, I mean, horror stories on, if not a weekly basis, definitely on a monthly basis throughout the country.

There is a reason we do not hear those horrors today, because in 1987 this Congress passed a law providing nursing home residents, the weakest of the weak, the most vulnerable of the most vulnerable in our society, protection against things like being tied down, like being drugged, like making sure that there was 24-hour nursing facility and a trained person in that facility, three meals a day, fire exits. You know, if that is overregulation, then I am for overregulation.

But I do not think most Americans think that that is overregulation. I think most Americans think that that is sound public policy that really is in the public interest.

Let me just go on in terms of what this regulation prevents from happening. I served in the State legislature for 10 years, from 1982 to 1992. Prior to that I served as a director of a Medicare advocacy group, 1982 and 1981. During that period, about once a week I would get a call from either the spouse or the child of someone who was being evicted from a nursing home, and I will tell you, I remember as if it were today, those phone calls because I have never heard since really just the tragedy. You can imagine what it means, someone's spouse, their parent is being evicted from a nursing home, and they called me and they asked me to do something. My response had to be there was nothing I could do, because the law did not protect those people either in Florida or in the United States.

That does not exist today. People cannot be evicted from nursing homes in the United States of America today. No one gets those calls in the United States of America today.

The tragedy that happened to thousands, tens of thousands of families in this country, does not happen, and in fact, the facts are that there was just lots of empirical evidence that was pointed out in hearings for this legislation in the 1980's that people died when evicted from nursing homes. That does not happen today, because of a piece of legislation that is going to be repealed tomorrow by that bill, and it should not be.

My colleagues on the other side of the aisle, and I propose this as an amendment to the Committee on Rules, my colleagues on the other side of the aisle say, well, the States can do better; the States know better; we want to return this issue to the States.

You know, my colleagues on the other side of the aisle really have selective memory when they think about the States doing better. They pick and choose the issues they think the States can do better on.

Two hundred years of tort law in America, forget that, the Federal Government knows best in the areas of medical malpractice. We are going to obliterate 200 years of States' rights in that area. My colleagues on the other side of the aisle, there is one mandate, one State mandate in the Medicaid bill, in this bill. There is one State mandate, and that State mandate is that States cannot choose to spend money for abortions.

□ 2045

It is an amazing concept when you think about that. Mandating that issue, which they prioritize, but they say we cannot mandate, that there cannot be nursing home evictions.

I urge my colleagues tomorrow to really defeat this legislation for this and other reasons, and hopefully that people who are listening and watching will call their Members to let them know this is a provision in this bill that they do not want to see enacted.

CONGRESS' MARCHING ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Washington [Mr. TATE] is recognized for 60 minutes as the designee of the majority leader.

Mr. TATE. Mr. Speaker, I am excited tonight to talk about what is truly a historic day that is going to occur tomorrow, and I have four of my colleagues here this evening. I have the gentleman from Spokane, Mr. NETHERCUTT, the gentleman from up north Washington State, in the second district, Mr. METCALF, and what I call an honorary member of the Washington delegation, my good friend the gentleman from Pennsylvania, Mr. FOX, and also Mr. WHITE here from Washington State as well.

The reason we are all here tonight to talk and really have a dialog among ourselves, but with the American people, is about what is going to occur tomorrow. It is truly a historic day. It really brings to a close in really a grand finale of what we have said is our motto, "Promises made, promises kept."

That is what we have done. We all ran and campaigned with the Contract With America because we believed it was the right thing to do. When we got here, we started on day one and began implementing the Contract With America, many of those issues we believe that are important. Between now and the time that we conclude, some time in mid-November, the sooner the better, to get the people's work done, there are four main issues we are going to accomplish, and those are embodied in this Reconciliation Act we are going to be working on tomorrow and passing.

The four main issues, and really they are Congress' marching orders, first and foremost, obviously, is to balance the budget within 7 years. The second is saving Medicare from bankruptcy, not for just this generation of seniors but the next. Reforming the welfare system, to get people on self-dependency. Last, but definitely not least, is allowing people to keep more of their hard earned money.

All of us here tonight engaged in this colloquy can bring personal experiences from people we talked to at home about these important issues. The first issue we will talk about is the whole issue of balancing the budget.

I know the gentleman from the second district in Washington State has probably been working on this issue longer than all of us in his elected career. He has done a phenomenal job. I would like to ask the gentleman from the second district of Washington, to tell us a little bit about what you have heard at home, why balancing the budget is important and why you are looking forward to casting an aye vote tomorrow and what this will really mean to working people at home, not just using the overall numbers, but what it will mean to families.

Mr. METCALF. Mr. Speaker, this is in fact more than just how it will impact the individuals, and it will. We have to solve this problem. I look at it from my point of view basically as more about my grandchildren. What are we leaving for them?

Norma and I have really in a small way realized the American dream. We own our own home, we use our own home for our own small business, and we were able to gain our home and we own it free and clear. I worry about that for my grandchildren. I think that the debt, the huge debt, the payments of $1,300 per person per year, not taxpayers, $1,300 per man, woman, children, all over America, I believe that is destroying the American dream for our children and grandchildren. I think their chance to own a home is 10 percent of the chance that I had to own a home.

I think that this American dream is a thing that I resent most about year after year of overspending, needless, wasteful overspending, by people who voted over and over and over for unbalanced budgets and raising the debt limit. I believe that they are busily destroying the American dream for our children, and we intend to fix that.

Mr. TATE. The point that I have heard at least when I have been home, and the point that really drives it home more than anything, is the first point on why the Republicans are balancing the budget, and it is for our children. My daughter, Madeleine, and I use this number over and over but it drives a point home, in her lifetime she will have to spend $187,150 in taxes just for her share of the national debt.

Mr. METCALF. Just for her share of paying the interest on the national debt.

Mr. TATE. The gentleman is correct, not for defense, not for Social Security, but just her share of the interest. I know the gentleman from Spokane was home this weekend and had a chance to talk to constituents through the Fifth District of Washington. Mr. NETHERCUTT, give us some of your insights of what you have heard and why you believe this issue is so important back home to working people back in Spokane?

Mr. NETHERCUTT. I thank the gentleman for yielding and for your leadership in trying to meet the goals of this Republican Congress, and that is to balance this Federal budget. That is the overriding concern that I think all of us have as we look at the fiscal responsibility that we exercise here and the fiscal responsibility that the Federal Government needs to exercise.

I spoke with a constituent today who communicated with me after watching the debate on the reconciliation bill today. His name is Rich Kuling. He made a comment to me after watching this debate, he quoted Aristotle, and he said, "It is not ignorance, but false knowledge that is the greatest impediment to human progress."

We are seeing a lot of that today, as we listen to the debate on this issue of reconciliation and the rhetoric of the critics of balancing the Federal budget.

The gentleman is right. I hear from my constituents on a daily basis, several hundred letters a day, just like all Members do in the Washington delegation. They see, "Keep going. Be true to your promises and your commitments that got you elected, and balance this

Federal budget, not only for our generation, mine, but for my parents' generation and for my children's generation."

So it is just a simple fact that we need to keep in mind as we look at the debate and the issue-by-issue examination of the reconciliation bill. Is it a perfect bill? Probably not. But certainly the overriding purpose is perfect, and that is to balance this Federal budget.

Mr. TATE. The gentleman is correct. It is for our children. We have heard about that at home. It will accelerate long-term growth, we know that, by lowering interest rates. It will strengthen financial markets, when the markets know we are actually serious this year about balancing the budget. It is going to raise productivity, when people can keep more of their own money, they can spend more money on their families and business. It will reduce inflation, make products a little more affordable, and strengthen the dollar.

I know the gentleman from Pennsylvania, though he is 3,000 miles away from Washington State, I know he has heard some of these same kinds of things from his constituents.

Mr. FOX of Pennsylvania. I thank the gentleman. The gentleman has been a leader in our freshman class and this 104th Congress in helping us move ahead toward a balanced budget. Whether one is a Republican or Democrat, we have a historic opportunity this week to actually balance the budget and do some things that I think my constituents and your constituents in Washington State want us to achieve for the first time since 1969. That will be to lower housing costs.

If we balance the budget, according to a study by the National Association of Realtors, the average 30-year mortgage will drop by almost 3 percent. Our car expenses, your car loan rates for your constituents and mine, will lower by at least 2 percentage points. That is on a $15,000 5-year car loan, at about 9.75-percent interest, that is an extra $900 in the family budget. We will have lower college costs as a result of balancing the budget. Student loan rates will drop at least two points. A college student who borrows $11,000 will pay $2,500 less for the car loan, student loan, and even more when it comes to the mortgage. We will also, by lowering interest rates and having a balanced budget, will create 6.1 million in new jobs.

Mr. TATE. If the gentleman would allow me, we are basically paying a deficit tax. We are paying higher interest rates because the budget is not balanced. Higher interest rates on a car, an average car loan, $180 a year; on a student loan, an extra $216 a year; on an average mortgage, $2,162 a year, for a grand total, most people have a car loan, many people out there still paying their college loans, most of us have a home loan, on average, $2,558 more per year that we are paying in basically a deficit tax, higher payments to a particular financial institution, because interest rates are higher because of the Government borrowing so much money.

Mr. FOX of Pennsylvania. If the gentleman will yield further, the fact is our State governments have to balance their budgets, county budgets, school districts, townships, towns, boroughs, they all have to balance their budgets, and so do our families. But the Federal Government, from many years of not balancing the budgets, now has a $5 trillion debt. As said by the gentleman from Washington [Mr. NETHERCUTT] and the gentleman from Washington [Mr. METCALF], we are now having to have our children pay $187,000 over their lifetime just on the interest. That is going to end, or we are not going to have the salvation that this Congress can bring for the economic future for senior citizens, for working families, and for the children who are going to take over the positions of leadership across this United States.

Mr. TATE. I appreciate the gentleman's comments. The gentleman has been a real leader as well in the freshman class. I appreciate that.

I know the gentleman from the First District of Washington State has four children, and is very interested in the future of this country. Tell us what you have heard at home and what are the constituents of the First District of Washington saying and why is it important to balance this budget and pass this reconciliation act tomorrow?

Mr. WHITE. I thank my friend. I also congratulate the gentleman for being a leader. I also say that when you really sit down and think about why we have to balance the budget and why we have to make some decisions on our spending priorities, I think the way the gentleman from the second district has put it several times in the past is probably the most telling way to talk about it. Because when he talks about it, he says do we need this program or do we need to spend this money so badly that we should borrow money from our children to pay for it?

Frankly, that is the way we have to approach every single nickel of Federal spending. There is only one way to get our spending under control and I think we have all talked about this at some length, and that is to make sure that every nickel of spending with nothing sacrosanct is on the table, and that we make fair cuts across the board, so all of us are participating in this program and setting the priorities which we should set for the Federal Government.

I think this bill we are going to vote on tomorrow takes a very good step in that direction. It is not perfect, and I think we have heard the people talk to us all day about how there is one particular thing in this bill that just about everybody can find not to like. But the fact is it takes 218 people to get anything done in this Congress, and we are not going to have a much better product than the bill we have before us tomorrow, with all the millions and billions of dollars that it deals with, to actually balance the budget.

From my perspective, I think the Speaker of the House was right this morning when he said to all of us gathered here this morning, "If you are not prepared to vote for this bill, which balances the budget for the first time in 30 years, why in the world are you here?"

We gave our word to the American people last year when we ran for office that we were going to balance the budget, somehow, some way. We have worked for 10 months on a program to do that. We have had to make a lot of decisions, we have had to set a lot of priorities, and we have probably made a few mistakes.

But the bottom line is we have a product that will balance the budget, and, frankly, I am going to be very proud to support it.

Mr. TATE. Could the gentleman answer a question: When was the last time the budget was balanced?

Mr. WHITE. I believe it was in 1969 was the last time the budget actually balanced, and I think that actually might have been a bit of a fluke. I do not think the budget that was passed that year actually anticipated it to be balanced. It happened to work out that way because of revenue.

Mr. TATE. So only in Congress was the last time the budget was balanced was in 1969 by happenstance or mistake. Only in Congress could that occur.

Mr. WHITE. By dumb luck. We have had a quote from Aristotle. I might mention a quote from Socrates I like to use sometimes, which is that democracy only works as long as the electorate does not figure out that they can continue to vote themselves benefits from the public treasury, because a majority of people, theoretically, once they figure it out, can decide they are going to vote to increase benefits to themselves.

You had to kind of wonder last year whether we had found the Achilles heel of democracy, whether unfortunately the American electorate figured that out and whether democracy was really going to work. Had a majority figured out a way to borrow money into the future? I think what were are seeing in this bill we are going to pass tomorrow is the answer is no. We have decided to make democracy work, exercise some fiscal responsibility, and come up with a balanced budget.

Mr. TATE. The gentleman is exactly right. I believe the public has known it all along we are in a time where we need to make tough decisions. We were elected to do that. That is what I heard.

People at home when I am at home, I do not care whether I am at the local grocery store, standing in line at the ATM machine, people come up to me and say, "Randy, just keep going. My biggest fear is you will not go all the way, as opposed to we are going too far." Their biggest concern is they are all for the balanced budget, but are we really going to do it. Tomorrow we are going to do it. They are concerned, are we going to reform welfare? Tomorrow we are going to do it. They are concerned with tax relief. Tomorrow we are going to do it. Are we going to save Medicare? Tomorrow we are going to do it.

I know the gentleman from Pennsylvania is dying to get a word in.

Mr. FOX of Pennsylvania. I just wanted to add to this dialog in this sense. As we approach the budget this year, to make it balance, there were two overriding concerns I think all of us had who were freshmen Members of this 104th Congress, and that is one, if the Government is involved with an activity now, could it be better handled by the private sector? If it could not be the private sector, is there another level of government that can give that service better, more efficiently, more effectively, less expensively and more directly to the people. That has been accomplished to some extent in this budget.

But second, and I think just as important, if not more important, we have looked to find ways to consolidate, downsize, privatize, to eliminate waste, fraud, and abuse that has been in this budget for many yeas. By doing that, we are retaining the actual services that we want to get back to people.

We do not want to have $30 billion of fraud, waste, and abuse in Medicare. We want $30 billion of that savings to go back for health care for our seniors. That is exactly what we have done. It has not gotten through in the media as much as we wanted it to, the real facts, but, frankly, this group of 104th Members, both sides of the aisle, I think, are dedicated to their seniors, working families, and our children, to make sure that we provide the services, without overtaxing, overspending, and overregulating.

□ 2100

Mr. TATE. The gentleman is exactly right, Mr. Speaker. When I am home talking to folks, I always hear that the government that is the closest to their home, their government, their city councils, their county councils, their State legislators, whoever, better know their needs. They know where Tacoma is, they know where Everett is, they know where Spokane is, they know where the cities are in your district. They know best what is needed.

The question I always ask is, well, can this program best be done in the private sector? If not, what level of local government can it be done by? The Federal Government should be the last resort, but for the last 60 years it has been the first resort. We have always said, boy, if we just had more money at the Federal level, if we had one new program, but it has not worked. And we do not have to look further than welfare.

The gentleman from Spokane, Mr. NETHERCUTT, as a member of the Committee on Appropriations, they have scoured through thousands of Federal programs looking for areas to reduce, putting money into those programs that work, but taking away from those that do not or change them.

I would yield to the gentleman from Spokane.

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman for yielding. This is a huge, huge Government. As appropriators looked at the breadth and scope of the Federal Government, it was astounding how many programs and agencies within agencies within agencies we fund. I think what the American people have to realize is that it is not the Government's money that funds these programs, it is the taxpayers' money. It is their money, and my money and everybody else who writes a check on April 15th and sends it to Washington and trusts us in the Congress to do what is right with their money.

So we hear discussion about, well, we do not want to give any kind of a tax cut. What those critics are saying, and the party on the other side is saying is, we want to keep all that tax money that the taxpayers send us because we want to spend it, and the Government wants to spend it and not let the American people spend it.

The majority leaders made statements, and all of us have made statements over the past months saying how can the Government decided how best decide to spend our money? Is that not something that we can decide as citizens better than the Federal Government?

That is what we are trying to do is have a recognition, and we need to have a recognition that it is the taxpayers' money that we are dealing with here. And if we feel we do not want to take more of their money, then I think that is to the taxpayers' best interest and we all have to understand that, especially the critics of this balanced budget concept.

Mr. TATE. Mr. Speaker, the gentleman is right on in his message on that. The point is there are good people working for the Federal Government, and I am not here to bash Federal workers, but they do not know where the cities are in our State. They do not know our children. We know our children. We know what their needs are. We know if they need a vacation or a new pair of Nikes or a little money put away for health care or a little away for higher education. We know best.

That is what this is about, sending programs out to the States to empower people, not to build bureaucracies here along the Potomac that are filled. A person cannot go anywhere without running into a Federal building. They are full of people working here. We need to send that power out to the States and let them make the decisions.

I want to touch on one point. I know there is so much rhetoric from across the aisle about these terrible cuts we are making. I want to point out that over the last 7 years we have spent $9.5 trillion, if we add up all the spending that has occurred. Over the next 7 years, under our balanced budget plan, we spend $12.1 trillion. If we did nothing, if we did things just how we have always done, the status quo, and we would not have a balanced budget and the kind of change we really want to see, we would spend $13.3 trillion.

So we are slowing the growth by about $1 trillion. Spending will increase but it will be spending that is directed at people and helping them out and empowering folks back home in our districts.

I can tell my colleagues as we are dealing with this whole issue of changing the way Government works, there is probably no more volatile issue than the whole issue of Medicare. I think we are all aware that it needs to be saved, protected, preserved, and I know the gentleman from the second district of Washington, Mr. METCALF, has a very special interest in the program. I know he is actually on Medicare, but tell us why and start up a dialog on why we need to save and protect Medicare.

Mr. METCALF. Well, Mr. Speaker, as I say and said the other day, I am the only one in the delegation who has a particular interest because not only do I qualify for Medicare, my wife qualifies for Medicare, my brother is on Medicare and three older sisters are. So I am absolutely dedicated to seeing that this program is not damaged, not put in jeopardy, does not go bankrupt, and it is there for those people counting on it. Because there are millions of people across this Nation that are truly counting on it and it has to be there as they need it.

Mr. TATE. Mr. Speaker, if the gentleman would allow me, I hear the rhetoric from across the aisle that somehow Medicare is being cut. Could we answer that question?

Mr. METCALF. Well, only in the Congress could a 6-percent increase be considered a cut. It is the new math that they learned and it does not work very well.

Mr. TATE. Exactly. I have a chart here to really illustrate. If an individual is on Medicare today, they will receive on average across this country

$4,816 a year. In the year 2002, they will receive $6,734. Now, like we just said, when we went to school and we received more the next year than we had the last year, that was an increase.

Talk about new math. Maybe it is just verbal grenades that are being thrown from across the aisle trying to scare senior citizens, and that is too bad, but the bottom line is Medicare spending will continue to rise.

I know the gentleman who serves on the Committee on Commerce, Mr. WHITE, I know he has been real active in this debate, really in the cat bird seat as we have been working on it. Tell us a little about what the trustees have said, why this is important and why seniors will actually be better off under this plan than if we just buried our heads like ostriches and ignored the problem.

Mr. WHITE. Well, Mr. Speaker, the gentleman is absolutely right. The Medicare bill came to our committee, and although I did not know a whole lot about it until I got involved on the committee, I have sure learned a heck of a lot about it in the last 2 or 3 months, and I would say a couple things about it.

First, I hope people understand how significant it is what we are trying to accomplish today. A year ago, when I was running for office, there were lots of people who would tell me it is basically impossible as a political matter to balance the Federal budget. Why? Because nobody will ever dare touch Medicare, nobody will ever dare touch Medicaid, nobody will ever dare touch welfare. Three entitlement programs that basically are the biggest problems we have in the Federal budget.

And everybody knows unless we get those problems under control, we cannot balance the budget. And a year ago people were saying it is politically impossible to do so.

Well, tomorrow, and actually last week when we voted on Medicare, we started to prove those people wrong. I think we did so in a way that when people look at the changes that we have made in the Medicare program, for example, they will be proud, proud as I am, of the sort of solution that we have come up with.

What we have done is basically say if an individual likes the current Medicare system the way it is, they get to keep it. That is end of it. If they like what they have right now, they will keep it. The same percentage basis of premiums, same arrangement with their doctors, same paybacks by the Federal Government. The whole system stays the same. But if they would rather have some of the other choices that most modern health care plans make available to other people in the current health care system, they will have some of those choices, too. And we have five or six choices: Medical savings account, managed care, provider service networks, and several other possibilities that people can choose from.

So, really, by modernizing this program we are able to save some money, provide health care more efficiently, but for people who are not comfortable making that transition or want to keep what they have now, they are entitled to do that.

Mr. TATE. So, Mr. Speaker, what the gentleman is stating very clearly is that seniors will have more choices next year under this plan than they currently have today.

Mr. WHITE. They will have the same choices everybody out in the economy already has.

Mr. TATE. Mr. Speaker, what I like about the plan is, if an individual does not want to change, they can stay on the plan. If they do not fill out the form, they are automatically on your current plan.

The other frustrating thing I have seen, and I think we have all been attacked in some capacity back in our districts, that these are somehow tax cuts for the rich; that somehow we are cutting taxes for the rich and we are paying for it out of cuts out of Medicare.

If the gentleman would respond. I know the other gentlemen, Mr. FOX and Mr. NETHERCUTT, will want to respond as well.

Mr. WHITE. I will be happy to say a couple of words about that. The fact is this budget does not cut anything, as your charts have shown. It just allows things to increase a little more slowly than they otherwise would have.

We have saved, is the way I like to talk about it, we have saved about $900 billion, almost $1 trillion over the 7-year period. And we are going to use that money for lots of different things. We are going to use it to bring down the deficit, so that we get the budget under control. We will use it to provide some fairly small tax cuts to a number of people, primarily people with children, so that they can do a better job of raising their own families. We will use that money for lots of different purposes.

So it is a mistake to say that the Medicare savings are going to go for tax cuts for the rich. In fact, the Medicare bill we passed last week says it is illegal to use those savings to pay for a tax cut. We have to use them to provide for additional benefits to Medicare beneficiaries.

Mr. TATE. So the attacks on the other side, as well as those attack ads we have seen at home in some capacity, are just blatantly false.

Mr. WHITE. I would like to say they are, unfortunately, misguided.

Mr. TATE. That might be a nicer way to say the same thing.

Mr. WHITE. A subtler way of saying the same thing.

Mr. TATE. I know the gentleman, Mr. FOX, has had a number of townhall meetings back in his district. The gentleman has a senior advisory committee that helps him on Medicare. If he would tell us what he has heard.

Mr. FOX of Pennsylvania. Yes, our Preservation Task Force looked at the problem last April. The President's trustees came out and said in 7 years we will be out of money in this Medicare Program. So what can we do about it? We said, how did we get this problem? Well, health care goes up 4 percent a year, but Medicaid goes up 10 percent a year. What is the problem? We found out there is $30 billion a year in fraud, waste, and abuse.

This legislation, for the first time, is going to create the Federal offense of health care fraud. If it is violated by a provider, they will not only be out of the Medicare Program as a provider, but they can go to jail for 10 years. This is the first time we have attacked that problem. And under the lockbox, which Congressman WHITE just talked about, the savings we get from getting the fraud and abuse and waste eliminated has to go back to the Medicare Program.

I think it is important to point out, and, Congressman TATE, we appreciate your bringing this issue forward, but we want to separate the myth from the facts. The myth is that it will not be a better program. The facts are it will be a much better than we have today. Besides the fact we have fee-for-service and other choices for medisave accounts and managed care, it will not raise Medicare copayments or deductibles, it will not reduce services or benefits for the program, it will not force anyone to join an HMO. They can stay in the fee-for-service that we have now. We will retain the current fee-for-service plan. It will ensure the solvency of the program for the first time.

And as the gentleman stated earlier, it will increase from $4,800 a year to $6,700, which is a 40-percent increase, and it will increase the amount of money spent in the program $659 billion over that spent in the prior 7 years. And with the lockbox and the savings we are going to get from fraud, abuse, and waste elimination, we will make sure that Medicare is strong for this generation of seniors and the ones that follow.

Mr. TATE. And, Mr. Speaker, that is what it is all about. The gentleman has hit it on the nose. Medicare is going broke. The trustees said it is. The Clinton-appointed trustees. We are going to save, protect, and preserve it. Seniors are going to get more money next year and the year after and the year after, and every single year, and they will have more choices and less waste, fraud, and abuse.

Mr. WHITE. If the gentleman would yield, there is one other great thing about this program that we overlook sometimes. We should focus on what is going to happen to beneficiaries, but this program will have some real big benefits for our medical care system as a whole.

Right now the Government, under the Medicare Program, writes the checks for 30 percent of all the health care in the United States. The Medicaid Program is another 20 percent. So between those two programs, we, right now, are buying half of the medical care that Americans get in the United States.

We have been saying for the last 40 years that we think it is going to go up about 15 percent next year, and so that is why we have to raise the budget every year. It is about time for the Federal Government to exercise a little fiscal restraint. It becomes a self-fulfilling prophecy. If someone is selling something to someone and they tell them that they think they will have to pay 10 percent more for it next year, we can be sure they are going to have to pay 10 percent more because they are going to charge them 10 percent more. That is what the Federal Government has been doing.

So one of the things we do under this plan is to say we will not continue those old ways. We are going to try to exercise some restraint, maybe save a little money, and we are going to say it should rise at about 6.5 percent next year. I think that is a real step in the right direction.

Mr. TATE. Mr. Speaker, I would now yield to the gentleman from Spokane.

Mr. NETHERCUTT. I was going to say this is a 30-year-old system. This was begun about 30 years ago, and Congressman WHITE made mention of it a moment ago. This is a courageous step. Without being too self-serving here, this is a courageous step to tackle this monster program and try to get our arms around it and fix it, because it is broken.

When the private sector is only growing at about 4 percent a year, and have reduced actually a little over 1 percent last year, but yet the Federal system grows at 10½ percent a year, it is not working. And I think we in the Congress, this reformed Congress have stood up and said this can be a better system, and that is what we do have is a better Medicare system. It will give my mom and your parents and Jack and his family a greater range of choices. What is wrong with that? That is a good system, a good system change.

□ 2115

As the gentleman from Washington [Mr. WHITE] says, senior citizens who want to stay on the existing system can do so. And that should give everybody in this country of senior citizen age a great satisfaction, that they can either keep what they have, or get something better. We think it is a better Medicare system.

One other quick point. In 1993, President Clinton made mention about his tax increases, that they were too much. They affected directly the senior citizen population that the critics of Medicare reform and preservation are arguing so hard to protect.

Mr. Clinton raised, and the Democrat Congress increased the tax rate from 50 percent to 85 percent on Social Security benefits for individuals with incomes in excess of $34,000 and couples in excess of $44,000. This reconciliation bill repeals that tax increase.

So, I do not agree with anybody who says that we are not trying to protect senior citizens in this tax bill, not only through Medicare reform and preservation, but through the repeal of the Clinton and Democrat Congress tax increases.

Mr. TATE. If my colleagues listen to the administration, someone who makes $34,000 a year or $40,000 a year would be under the title of rich. I know in my town hall meetings, the issue comes up about the tax cuts and I ask everyone in the room that makes under $200,000 a year, that has kids under 18, to raise their hand, and I tell them to keep their hand up. I say, you are looking at the rich. These are the people that are rich.

We are trying to give more money back to working people and senior citizens. They are the people that helped us get through World War II and were the backbone of this country through some of the darkest times, the Depression. We should let them keep more of their money. They worked for it, they pay for it, they should keep it.

Mr. Speaker, I know that the gentleman from the First District of Washington [Mr. WHITE] has some comments on that.

Mr. WHITE. Mr. Speaker, I was going to say that those comments reminded me of a great political cartoon some may remember from last year. There was a poor, old farmer going out to the rural route on the road to open his mailbox and see what he has got in his mail today. He is there with his wife and he is opening the rickety mailbox. He is on a small farm and proud of himself, but he is obviously struggling. He takes out of the mailbox an envelope that is marked "Clinton Tax Increase," and his comment is, "Oh, no, we're rich."

That is about the way some people are approaching this; everybody is rich if they have got some money to be taxed.

Mr. TATE. The statement has always been, "There are two certainties in life, death and taxes, but death does not get worse every single year." That is the point. The taxes keep going up and there is less and less income at the end of the month.

Mr. FOX of Pennsylvania. I just wanted to add to this dialogue that you are having about the overall approach. Not only are we trying to make sure we balance the budget for all the reasons that you stated earlier, Congressman TATE, to help our families, to help our jobs, to reduce mortgage costs and reduce college costs, but in addition the tax reform proposal that the majority party have presented will not only help seniors as far as preserving Medicare, but we are going to make sure that we roll back that unfair 1993 tax on Social Security. As well, over the next 5 years, we are going to raise the amount of money that seniors under 70 can earn from $11,280 to over $30,000 in the next 5 years, without having deduction from the Social Security.

This is going to keep seniors independent to the extent to be able to do what they want to do with their lives. While many of them are volunteers, some of them want to continue working, and we should not have a disincentive with our Social Security system not allowing them to make up to $30,000 a year.

Our proposals that have been adopted by the House, if adopted by the Senate as well and signed into law by the President, are two more ways that we are going to try to help seniors.

Mr. TATE. The gentleman from Pennsylvania is right. I know the gentleman from Spokane is very interested in providing more money for working families. We talked earlier about the issue of a tax credit for those who want to adopt. I yield to the gentleman.

Mr. NETHERCUTT. Mr. Speaker, in my former life as a lawyer in Spokane, WA, 10 months ago, I did probably 100 adoptions a year. It is the greatest service that anybody can provide in our society for another human being, that is to adopt a child and give that child love and care and attention for his or her lifetime.

This bill, this reconciliation bill that is coming in before us tomorrow, which we will pass, provides a tax credit as an incentive for people to ease the burden of adopting a child. Sometimes hard-to-place children, children with health problems and others are difficult to place in a home with the ability to provide the resources necessary to raise that child.

And make no mistake about it, it does cost more money to raise children than to not raise children. That is why we are providing some tax relief to families with children. Along with that, we provide assistance to people to encourage adoption and encourage security for young people in this country for their future life in a loving family.

That is admirable in this tax bill and this reconciliation package that we are putting together. This is a good thing for families. It is a good thing for children. So do not let anyone tell us that we are not sensitive about the children of this country. We are, and we will be as we pass this bill tomorrow.

Mr. TATE. The gentleman is correct. That is why we are providing the tax relief for families, the $500 tax relief. I know the gentleman from the First District is real interested and I know his constituents have talked to him about that issue, I am sure.

Mr. WHITE. They absolutely have, and I wanted to make a comment to my friend from Spokane. The gentleman mentioned that he was a lawyer and the fact is, I try not to emphasize it too much, but I was a lawyer too about 10 months ago. Unlike my friend, I was a bankruptcy lawyer.

As I told people when I was running for Congress last year, frankly, that is pretty darn good training for coming to Congress. Over my legal career, I probably dealt with 100 or 200 companies that had financial problems and I had to figure out how to solve their problems, how to cut their budgets, how to get them to live within their means and find out what programs were working and what programs were not working.

If there is any institution in the world that is a financially troubled institution, it is this Congress. I have frankly found that that has been pretty good experience to come to this body and find out: What programs do we need to have? We are not going to shut down the whole Federal Government. There are some things that the Federal Government needs to do. But there are also some things that are lower on the priority list.

Mr. Speaker, I always say, and what we have done in the reconciliation bill tomorrow is to say: What should the Federal Government do? Let us make sure we do those things well. Let us not do everything in a mediocre way. Figure out what we should do and do those things well.

But the things that we should not do, things for example that maybe the Commerce Department was doing, or in my view some of the education programs, which I think are better done at the State level, things that really can be better done by people in their families or by State and local governments, let us not do those at the Federal level. Let us not do those at the Federal level, and concentrate on what we should be doing.

Mr. Speaker, I think this budget is a good first step in that direction. It does not take us all the way there. We have plenty of work to do, but I do think it does take us part of the way down the road.

Mr. TATE. The message I heard at home from people was that they elected us because they did not want more of the same, but they did not also just want less of the same. They wanted things to be done differently than it has been done for the last 40 years, and definitely since 1969, when the budget was last balanced.

Mr. Speaker, I would ask the gentleman from Spokane to talk to us a little bit more about what the tax cuts really entail. The capital gains tax cut, the family tax cut, what will that mean to folks at home?

Mr. NETHERCUTT. It is going to mean more money in their pockets and a better economy for this country, especially for eastern Washington.

Mr. TATE. So it is not just for the rich?

Mr. NETHERCUTT. Certainly not. It deals with agriculture too. Agriculture is a very important part of my district in the eastern part of the State of Washington. It is going to help farmers and storekeepers and small businesspeople. It is going to help single moms and single dads raise children, recognizing that that is the most important thing we can do in this country, is raise a good child to be a good citizen.

We are encouraging that as we devolve this, transfer this Federal authority to State authority and local and county authority. That is all in the best interest of local citizens; people in Spokane and Walla Walla and Colville and Colfax and every other city in my district.

It affects the broad range of people in this country; not only by a balanced budget, but by the tax relief we are trying to provide to people and leave more money in their pockets so they can spend it as they deem appropriate.

Mr. TATE. I hear quite often, "Tax cuts for the rich. Oh, it's tax cuts for the rich." We are really talking about working people. The capital gains tax cut, who does that help? Small business owners. Someone who owns a family farm, they sell their house. It affects all of us. The people we know next door or people we work with or people at church. It is just everyday folks.

I know that Mr. METCALF would like to make a few comments on this as well.

Mr. METCALF. My comments are related more back to the children, and that is something that I would just like to comment briefly on, as far as this irresponsible spending over decades. That is what has racked up this $5 trillion debt. But in actual fact, it is worse than that.

There is $5 trillion national debt, over $3 trillion of unfunded liability for pensions and retired military Federal employees, hundreds of billions that we have borrowed from the Social Security funds. It is far more serious than just the deficit. We have to solve them all and we do not have a lot of years. That is why our start now, and the vote we will take tomorrow, is one of the major steps along the way.

I worry more. There was a previous speaker that said, "The most important three things, the three most important responsibilities are our children, our children and our children." What we have done, what we have allowed as people to have happen is to extend this huge debt, load this huge debt on the backs of our children. As I mentioned before, we are destroying the American dream for our children.

It is more than that, even. The continued inability of Congress to balance the budget has become a national disgrace that threatens to permanently destroy public trust in our government. More than that, more than just public trust, if we cannot stop it, it will destroy the government itself.

Mr. Speaker, we cannot continue to borrow more money. I just want to harp on this a little bit more and sort of close with this. What we are doing is selling our children into debt slavery. This is something we have got to consider. The $187,000 that a child born in 1995 will pay in interest on the debt would buy a pretty respectable house for $187,000.

That is what has been taken from them, probably, by the previous Congresses that have racked this huge debt that takes these terrible interest payments.

When it comes to interest, I guess I will close on this by saying the people of England are still paying interest on the money that they borrowed to fight Napoleon. They paid that money over 13 times as much as they borrowed, but they still owe it. That is the kind of debt slavery we are promising for our children, instead of the American dream, if we do not fix it.

Mr. Speaker, I am proud to be a Member of a Congress that plans to fix it, because we owe this to the future.

Mr. TATE. The gentleman is exactly right and I appreciate the gentleman coming out.

Mr. Speaker, there is one last issue that I want to talk about in closing and then we will wrap up for the evening. It is the whole issue of welfare reform. It is an issue I have been involved in in trying to reform at the State level. It is really, to me, not about balancing the budget. We can talk about the $5 trillion we have spent since the 1960's on welfare programs. We spend somewhere around $300 billion a year, if we add up all the programs that are really related to welfare, whether it be health care, direct payments, or AFDC.

That is three times what it would take just to pay people to get above the poverty level, if we could give direct payments. What we have done in the process by these programs, to me it is worse than anything we could do to people. It takes away their self-esteem. It takes away their dignity and destroys families and promotes illegitimacy and irresponsibility, because once they get on the system, they are punished. If they get a job, we cut them off. If they have more children, we give them more money.

It has been said as long as I can remember, we tax more of what we want less of; we subsidize what we want more of. We have subsidized a system that really breeds dependence.

Mr. Speaker, I know there are several provisions in this particular bill. We all have our interests: Time limits; work requirements, and so forth; sending it back to the States. I know our State in the legislature this year, there was a comprehensive bill that passed the State House. It did not pass the Senate. We should turn it back to the States.

I know the gentleman from the First District would like to comment on that as well. I know the gentleman is interested in welfare reform.

Mr. WHITE. Mr. Speaker, I am interested in welfare reform and I agree with my good friend's comment that this has really very little to do with balancing the budget. Sure, we want to make this program as efficient as possible. But the fact is we have spent $5 trillion on this program since 1965 and the problems we are trying to solve are a little bit worse than they were in 1965.

If we assume there are 50 million people in poverty in the United States, that is 20 percent of the population. That is probably far too much. The fact is, if we have spent $5 trillion on 50 million, that is about a million per person over this 20-year period. Frankly, if we gave these people a million dollars, that would probably do more to get them out of poverty than anything else we could do.

So, really, this is not about the budget; it is a moral imperative. At some point, we can try things for a long period of time and then we have to admit that, by golly, it has not worked. And if it has not worked, then we need to try something else.

That is what we are trying to do in this bill.

Mr. TATE. Exactly. The gentleman from Spokane?

Mr. NETHERCUTT. Even here in the State of Virginia and I think in New Jersey there is an experiment of giving the States the ability to experiment with welfare reform and have more flexibility from the Federal system.

In those two States I mentioned, they have had people who have been on welfare and also have had an incentive to work while continuing to receive some welfare benefits. That is work. They are now filling out tax returns and actually getting into the habit of working, instead of just receiving welfare money or welfare assistance and having a disincentive to work.

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I think our plan is very clearly designed to provide an incentive for people to ease themselves off welfare. Two years will be an ample time.

While America, I believe all of us would agree, needs to take care of people who need our help, we do not need to take care of people who just want our help. That is what this bill is intended to do, is to create incentives for people to be off the system and to make our entire national system of free enterprise and capitalism work better, and it will.

Mr. TATE. The gentleman is right. I could not have said it better myself, even if I had attempted to. The point is well taken. There is no better feeling. It is a human feeling, that you are doing something, that you are getting up and going to work, getting up and contributing to society. We need to do everything we can to encourage them to go out there and work.

Doggone it, a 2- or 3-year time limit, there has got to be an end. Eventually you have got to say, if you are able-bodied, maybe I should get out there and get a job, give a little something back. That is what this welfare reform is all about.

I know the gentleman from Pennsylvania has been an active participant in this particular issue.

Mr. FOX of Pennsylvania. I think it is very clear.

First, I appreciate your bringing this dialog forward because, without having welfare reform, we are not going to attack one of the biggest issues in the country; and Republicans and Democrats alike, as well as the Congress and the President, know that this welfare system is not working. Everybody has said so.

What are we going to do about it? The President recommended in the food program and WIC that we have a 3.1-percent increase. The other side of the aisle said 3.6. We adopted a 4.5-percent Republican majority position for an increase in those food programs. But, more importantly, we said we are going to block grant those programs to the States but with a 15-percent administrative cost we used to spend in administering at the Federal level. We said to the Governors, you can only spend 5 percent. But with the additional 10 percent we are giving you, you must feed more children more meals.

Going back to the States, back to the individual local levels, we are going to give them more money, going right to services. That is what the welfare reform bill is all about. The fact is there are able-bodied people who will be given the opportunity under this legislation to have job training, job placement, job counseling, and day care, if necessary.

So those are very important points. It is a compassionate bill that gets service to those who need it, but those that do not deserve to be on welfare and are not really qualifying should be removed from those rolls.

Mr. TATE. I thank the gentleman from Pennsylvania [Mr. FOX].

I know the gentleman from Illinois [Mr. WELLER] is here. I appreciate you taking the time to come out this evening.

Mr. WELLER. I welcome the opportunity to join with you. I see my colleagues here from Washington State and Pennsylvania. Of course, I come from the heartland, the State of Illinois, the land of Lincoln. Let me tell you, I have heard so much frustration coming from the taxpayers that I represent regarding our welfare system.

Today, we have a welfare system in which, over the last 30 years, the taxpayers have invested $5 trillion. That is T, as in trillion dollars. What have we gotten as a result? Higher rates of juvenile crime, more children living in poverty today than ever before and higher rates of teenage illegitimacy. That is the result of our current welfare state.

It has failed. We have got to change it. Like you, I am committed to changing our welfare system. I am proud to say that our welfare plan that passed the House this year emphasizes family and responsibility and emphasizes work and goes after those deadbeat parents that are not meeting their obligation to their own flesh and blood, their own children. I am proud to say that we passed a good welfare reform.

But, at the same time, if we are going to say, okay, folks, it is time to get off welfare, it is time to go to work, we have to make sure that there are jobs there for them to go to work at.

Under our program, our balanced budget, there are so many benefits for people who want to work. In the last few days, I have met with building tradesmen, members of a local labor union in my district, with the African-American leadership in my district, with the farmers, the small businesspeople and the students; and they all say, jobs are important. If we are going to move people off welfare and put them to work, we have got to make sure there are jobs there for them.

It was interesting, there has been some what you would call independent statistics that really show why our economic plan is so important and why it is so important to balance the budget. These are not plans that come from the Democrats or the Republicans or information that comes from the Office of Management and Budget appointed by the President so it has got political leanings. You understand that. They say, if we balance the budget, we will lower taxes, lower interest rates and also have a stronger economy as a result.

McGraw Hill, a respected think tank, an independent organization, released a study that they did for the National Association of Realtors which concluded that a balanced budget would result in a 2.7 percent drop in mortgage interest rates. What that means for a family in Illinois, in my home State, is that a family with a 30-year $50,000 mortgage at just a little over 8 percent interest would save $32,000 over the life of the loan. That is over $1,000 annually. That is an even bigger tax cut just by lowering interest rates.

A college student, student loans, giving young people the opportunity to go to school, a college student borrowing $11,000 at 8 percent interest, a lower rate than they currently would get at their local bank or through the direct lending program, would save $2,100 over the life of the loan.

Lower taxes, lower interest rates will create a stronger economy and create jobs.

In fact, the Joint Economic Committee estimates that by lowering interest rates, brought about by a balanced budget because the Federal Government is no longer competing with our small businesses, those who want to go to school or our local families by lowering interest rates over 2 percent it would create 6.1 million new jobs over the next 10 years just because interest rates are lower.

That is the best kind of tax cut. Lower interest rates, lower taxes, better-paying jobs. That is why I stand in support of balancing the budget for the first time in 26 long years, and I am proud to say I will be casting a vote tomorrow to balance the budget and live within our means just like every American family.

Mr. TATE. I thank the gentleman. I know the hour is late. The gentleman from Washington [Mr. NETHERCUTT] would like to make some closing remarks as we finish up our evening colloquy.

Mr. NETHERCUTT. I just want to say as new Members of Congress, all of us have cast some very serious votes in this 104th Congress. It is a historic Congress. Tomorrow's vote probably will be bigger than any of the votes we will have made thus far, the last of which was on our Medicare vote.

This is an important vote. It means the future of the country for the next 7 years. It means we will balance the Federal budget in 7 years and this is the starting point as we go each year and meet our financial obligations for the country.

I think this is a proud moment for all of us as freshmen. It is a difficult moment as we all have said. This is not a perfect bill, but it has got so much good in it and so little bad, I think as you really balance it out. But I think we have no choice but to vote for the future of the country and vote in favor of this reconciliation bill.

I thank the gentleman for his leadership on this and certainly the gentleman from Washington [Mr. WHITE], the gentleman from Pennsylvania [Mr. FOX], the gentleman from Washington [Mr. METCALF], and the gentleman from Illinois [Mr. WELLER] for all the work we have done as freshmen. I know there is a lot more work to do, but we will meet the task.

Mr. TATE. A few closing remarks by the gentleman from Washington [Mr. WHITE] as you reflect on tomorrow's vote.

Mr. WHITE. I cannot resist the opportunity to make a few closing remarks.

No. 1, I would like to thank the gentleman for putting together this program allowing us to have this time. I would like to tell you and the other Members that have spoken tonight how proud I am to be a part of this class. We are all freshmen, all kind of learning our job, but frankly I think by and large we make good decisions and I think we are committed to doing what needs to be done.

Finally, I would like to say we are going to take an important vote tomorrow. I think we will vote to balance the budget, but let us not forget, that that is really only the beginning of our job. Because every day for the next 7 years after this bill tomorrow, we are going to have the opportunity to bust the budget again. This is not an amendment to the Constitution and every day Congress can undo what it did the day before.

So tomorrow is very important. It is essential that we take this vote and I know that we will but let us not forget the long term. Because we are going to have to keep the faith, keep our fiscal restraint, keep the discipline every day for 7 years if we are actually going to get this job done. I am committed to that, I think a majority of the Members of the House are committed to it. I just look forward to getting through that process and actually getting to a balanced budget in the year 2002.

Mr. TATE. I thank the gentleman from Washington [Mr. WHITE]. This bill will be binding by our vigilance and how hard we work on it. I thank you for your courage and involvement in this as a leader in the freshman class.

A few last comments by the gentleman from Pennsylvania [Mr. FOX] as we close out this evening, before our vote tomorrow.

Mr. FOX of Pennsylvania. I just want to say I appreciate, as the others do, that you have taken a central role here in the 104th Congress in bringing forth I think the vision that you had in Washington State here to Washington, DC. That is, to get our fiscal house in order, to be accountable to people back home, and to also make sure that the services that the people truly need from their Federal Government, they will get. But they will get them without the waste, without the fraud, without the abuse, without overregulating, without overspending. We can make a difference by working with both sides of the aisle, working with the President and in the end I think we are going to have a bill that starts with tomorrow's vote but will end sometime before the holidays, which I think will bring about a bipartisan effort which will be better for all of America.

I appreciate the fact that I know you will be at the table there making sure that your vision and that which the 104th Congress has to make the country stronger, fiscally more responsible will in fact be the reality.

Mr. TATE. I thank the gentleman for his kind words. I thank the gentleman from Pennsylvania [Mr. FOX], the gentleman from Illinois [Mr. WELLER], the gentleman from Washington [Mr. METCALF], the gentleman from Washington [Mr. NETHERCUTT], and the gentleman from Washington [Mr. WHITE] for taking the time to come out tonight. The fact remains seniors next year will have more Medicare than they had this year. Welfare recipients are going to get back to work. There are going to be more college loans next year than there were this year. And school lunches are still going to be there. All this kind of Chicken Little, the sky is going to fall, the threats of fiscal Armageddon if these things do not pass, we have been blamed for everything but the war in Bosnia. The bottom line is we are interested in making sure our kids have a brighter future. It is about providing more jobs. It has been mentioned several times in different ways, we want to lower interest rates, not just because it feels good and it is a great accounting thing. It affects people's real lives. It provides more jobs, more opportunities and that is what it is all about, the things that we are going to cover tomorrow.

We are going to balance the budget for the first time in 7 years, we are going to save Medicare not only for seniors on it today but for our children tomorrow. We are going to reform welfare, to give people dignity again, to get them off the system that really abuses them and to provide tax relief not only for families but for economic opportunities, allow people to spend more of their money. That is what it is all about. It is about opportunity. The question really tomorrow is do we borrow or do we balance? Opportunity or fear? That is what it is all about. This Congress is going to balance. We are no longer going to continue the ways of just borrowing ourselves into oblivion. I thank the gentlemen for taking the time. I look forward to casting this historic vote tomorrow.

FRENCH NUCLEAR TESTINGS A DANGER TO MORUROA ATOLL

The SPEAKER pro tempore (Mr. WELDON of Florida). Under the Speaker's announced policy of May 12, 1995, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes as the designee of the minority leader.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise again to share with my colleagues and the American people a very serious problem with France's resumption of nuclear testing in the South Pacific, which started last month despite near universal condemnation by the Nations of the world.

Mr. Speaker, the first Sunday of this month France detonated a 110-kiloton nuclear device more destructive than seven Hiroshima bombs that were dropped in Japan about 50 years ago. It was the second in a series of nuclear explosions to take place in France's test facilities in French Polynesia.

Mr. Speaker, over three decades, France has detonated in excess of 200 nuclear bombs, almost all of them taking place in the South Pacific. Yet this is still not enough to satisfy France's ambitions to become a nuclear power.

French President Chirac boldly claims that their nuclear tests have no ecological consequences and that they have nothing to fear nor to hide. President Chirac has even invited scientists from the international community to come to their testing facilities to see for themselves.

When the countries of Europe recently took Chirac up on his offer for an "open door" inspection, however, it is interesting to note the results of this so-called open door policy.

The European Union team of scientists sent to examine Mororoa Atoll has now returned to Brussels, stating that they were denied full access to test sites and radioactivity monitoring facilities. Moreover, the French authorities failed to supply necessary health and safety data requested by the European Union scientists.

Not surprisingly, the European Union team has not been able to issue conclusive findings regarding France's testing program, as they were prevented by the French government from conducting a true study.

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While the French Government claims they have nothing to hide and welcome international scrutiny of their nuclear testing program, Mr. Speaker, President Chirac's actions reveal nothing more than sheer hypocrisy not only to the good citizens of France, but to the world as well.

Mr. Speaker, I would also note that Reuters News Agency last week reported from Brussels that a French scientist states that France's South Pacific weapons test site is unstable. There is a risk of landslides and tidal waves which could submerge islands in French Polynesia. Dr. Pierre Vincent, a volcanologist and professor at the University of Clermont-Ferrand, testified at a European Parliament hearing on France's South Pacific nuclear testing, and he said this is an unstable atoll. He was referring to the Mururoa atoll, Mr. Speaker. I would say this situation constitutes a high risk.

All the factors which we know now favor destabilization in volcanoes are gathered together at Mururoa, Dr. Vincent testified, pointing to the atoll's steep sides, fissuring in the atoll and alterations of substructure by previous tests.

Dr. Vincent further states the shock wave from a new explosion could be the trigger that would cause detachment of previously disturbed sections of rock. He said such landslides could cause tsunamis, which means tidal waves, seismic waves from undersea earthquakes or landslides which could submerge the whole of certain islands of Polynesia.

Mr. Speaker, Professor Vincent concluded it was high time to stop the nuclear testing program France is conducting now in the Pacific, but even an immediate halt to France's current series of tests in the region would not remove the risk. He said if we stop tomorrow, if that could happen, we could certainly have to continue to monitor this atoll for decades and probably a lot longer than that.

Mr. Speaker, France's resumed nuclear tests on Mururoa and Fangataufa atolls, which are actually dormant volcanic formations below sea level, has also initiated an investigation by the European Parliament and the New Zealand Government into possible connections with the recent eruptions of New Zealand's Mt. Ruapehu, a volcano dormant for the past 50 years.

Internationally Mr. Speaker, the movement against France's nuclear testing in the South Pacific is growing stronger and stronger. Over 100 nations adopted in Vienna an international Atomic Energy Agency resolution condemning nuclear testing. The United Nations General Assembly in New York is soon to pass a resolution opposing all nuclear testing, while in London the British Commonwealth is pressuring France about its insensitivity in conducting nuclear tests in the South Pacific.

Mr. Speaker, I would hope all of our colleagues in the Congress would join us in sending an urgent message to Paris to stop their nuclear nightmare in the Pacific. Mr. Speaker, I want to share with my colleagues, this is what a French nuclear bomb explosion looks like on this atoll, the Mururoa atoll in French Polynesia. I have also made an illustration of exactly what the concerns have been for the nations of the Pacific for all of these years and for many scientists.

As you can see, Mr. Speaker, this is the Mururoa atoll from the vertical as seen from an airplane. This is what the atoll looks like, and by the way, this illustration was gotten from documents of the French Government showing areas that were completely contaminated in the aftermath of the French nuclear program and the testing for the past 20 years.

This is the profile of what the Mururoa atoll, which is this green strip, which is right on sea level; Mururoa atoll is only about 3 feet above sea level, and below this whole atoll is this volcanic formation. As you can see, Mr. Speaker, these dots, these red dots are 165 atomic explosions that have taken place on that atoll for the last 20 years.

In addition to this, France has also exploded 12 nuclear bombs above sea level, which is basically in the atmosphere. I submit, Mr. Speaker, who is going to clean up this mess if this atoll ever, ever should leak, come out of this, because of what has happened inside this atoll?

Now some people might say, well, let us not be concerned about it, because it is thousands of miles away from the State of Hawaii as well as along the Pacific Coast States. Mr. Speaker, I submit if this atoll every breaks or starts to leak and all the nuclear contamination that is contained here after France conducting 165 nuclear explosions inside this volcanic formation that supports this atoll, I submit, Mr. Speaker, who is going to clean up this mess?

I submit also that France does not have the capability to clean up this mess if it ever does come to this within the next 10, perhaps even 50 years that this will transpire.

Mr. Speaker, this is a sad occasion, given the fact that over 60 percent of the French people themselves do not want France or President Chirac to conduct this nuclear testing nightmare, as we see it, in the Pacific. And yet the French Government persists that they do this in the name of its national interest.

Mr. Speaker, I am very concerned in the fact that President Chirac does not take into account the fact that 28 million men, women, and children, live in this Pacific region, let alone there are some 200,000 French citizens who are of Tahitian ancestry that live also in these islands, and yet we hear nothing but absolute stubbornness, and I would also submit, Mr. Speaker, perhaps you could even say arrogance on the part of the French Government, not the goodness of the French people, but the French Government to continue doing this despite the condemnation of over 160 countries throughout the world.

Why are we doing this?

Is it not ironic, Mr. Speaker, that while we condemn germ warfare, while we outlaw chemical and biological warfare, we continue to allow not only industrial countries but the fact that we have got nuclear bombs all over the place that cause just as much, if not more, harm and damage not only to the environment but to human beings, and yet we continue to allow this.

I stated earlier that the nuclear bomb that was dropped on Hiroshima 50 years ago, Mr. Speaker, killed, maimed approximately 200,000 men, women, and children. In addition to that, 90,000 men, women, and children were also killed with the bomb that we dropped on Nagasaki. In the aftermath of this, and I would make a personal appeal to the American people, we have got to send a strong message to President Chirac and the only way to do this, perhaps not necessarily through governmental channels, but the conscience of the American people and the conscience of the people in Japan and even in Germany to voluntarily not purchase French products, French wine, French goods, to send a strong message to the French Government that this policy of continuing to explode nuclear bombs in the South Pacific, not only is it insane but it is an outright shame for the Government of France to continue to do this in the aftermath, at least at the expense of the health and safety and the lives of those people who live in that part of the world.

The information referred to follows:

[From the Honolulu Star-Bulletin, Oct. 11, 1995]

French Paper Runs a Photo of Mururoa Coral Cracks

PARIS.—Raising new questions about the safety of French nuclear tests, a newspaper published photographs today that it says show cracks in one of the South Pacific atolls where the underground explosions took place.

Ouest-France said the photographs contradict government claims that the tests caused no damage to Mururoa Atoll in French Polynesia.

Critics say the nuclear tests could cause the atoll to break apart, spewing radioactivity into the water and air in what many consider to be one of the world's last paradises.

The government denied a similar report last week in the respected daily Le Monde. It had no immediate comment on Ouest-France's claims.

Ouest-France said the photos were taken in 1987 and 1988 by a diver several dozen yards under the Mururoa Lagoon.

The cracks are about 9 to 10½ feet wide and several miles long, the newspaper said.

Normally only military personnel and scientists working on the French nuclear program have access to the isolated atoll, about 750 miles southeast of Tahiti.

After the Le Monde report, French Foreign Minister Herve de Charette told the National Assembly that "no crack of any sort has ever been discovered" on the atoll.

Experts at the French Atomic Energy Commission said some fractures were created by the first tests carried out directly under Mururoa's reef.

But they said there had been no further cracks since tests were moved to the middle of the lagoon.

European Commission President Jacques Santer demanded Wednesday that France supply more information about the nuclear tests "without delay."

[From the Honolulu Advertiser, Oct. 5, 1995]

French Deny Report That N-Test Site Full of Cracks

PARIS.—A report that a South Pacific island used for France's nuclear tests is full of cracks put the government back on the defensive yesterday over its underground testing program.

The Defense Ministry dismissed the report as "trivial and whimsical," and said it has the situation at Mururoa Atoll under "perfect scientific and ecological control."

The Paris newspaper Le Monde reported Tuesday that a 1980 French army map shows that years of nuclear pounding had cracked the atoll, site of a 20-kiloton nuclear test blast on Sept. 5.

Some scientists have warned that the atoll could break open under the force of continued test blasts or a natural disaster, releasing radioactivity and poisoning an area known for its coral reefs and crystal waters.

Gen. Raymond Germanos denied the newspaper report and accused the environmental group Greenpeace of twisting decade-old unofficial data about the atoll. He said the newspaper's map misplaced key features of the island and the test facility.

[From the Honolulu Star-Bulletin, Oct. 9, 1995]

Suspicion Clouds French Nuclear Tests

(By Gary T. Kubota)

PAPEETE, TAHITI.—Three of his babies were stillborn.

An infant son lived for a year before dying of leukemia.

His 1-year-old daughter died from a painful disease that blackened her skin.

Edwin Haoa, 57, believes his five children died from illnesses related to a change in his body that produced defective sperm, a result of radioactive contamination while he worked at nuclear testing sites in French Polynesia.

Haoa said he can't prove he was contaminated, nor confirm his suspicions about his children's causes of death, because the French have refused to release his medical records for his period of work from 1963 through 1977.

While the French government claims the radioactive fallout was too little to harm workers or islanders, some experts say the lack of medical information tells them France has no proof the nuclear testing is safe.

Critics say the failure to provide answers to workers such as Haoa undermines the government's credibility in French Polynesia, where more than 80 percent of the 212,000 residents are Polynesian or part-Polynesian. It has also contributed to growing worldwide opposition to the current underground testing, which began with a first test Sept. 5 at Mururoa atoll, 750 miles southeast of Tahiti. A second test was done beneath Fangataufa atoll Oct. 1. The French plan up to eight tests through next spring.

More than 10,000 civilians and military personnel worked at Mururoa and Fangataufa atolls, the site of 41 nuclear atmospheric tests between 1966 and 1974. But bound by a code of silence they signed while applying for jobs, most have avoided publicity.

Haoa and 53 other former workers who witnessed the nuclear tests stepped forward recently, when France announced its resumption of nuclear tests in French Polynesia.

"Some of them have seen their friends die of unknown causes," said Oscar Temaru, mayor of the poor working-class district Faaa.

CANCER RATES HIGHER

A report by the group "Centre de Documentation & Recheche sur la Paix et les Conflits," which translates center of documentation and research on peace and conflict, indicates leukemia and thyroid cancer rates were significantly higher in French Polynesia than other Pacific island nations.

The group's facts come from compiling cancer incidence rates from the South Pacific Commission. Among French Polynesian women the incidence of thyroid cancer was 17.6 cases per 100,000 population in 1989–90, compared with 8.6 for Fijian women in 1990 and 10.5 for Hawaii women from 1978–1982.

Maire Masson, 38, a Tahitian woman who had a thyroid operation at 19, wants to know if her illness and similar health problems in her family are hereditary or a result of nuclear fallout.

"When I ask one doctor, he says, 'It's hereditary.' When I ask another, he says, 'No, it's not hereditary,'" Masson said.

Haoa said the doctors at the French government hospital did not list the cause of deaths for his five children—and when he told them he thought it was due to his work at the nuclear sites, they told him he was crazy.

But he recalled one physician taking him aside and saying that if he wanted the real answers, he would have to get them at medical facilities in a different country.

RECORD-KEEPING CRITICIZED

While France has spent millions of dollars on nuclear tests, its gathering of health statistics in French Polynesia during the early years of nuclear testing has been sorely lacking, critics say.

The official cancer registry of French Polynesia has existed only since 1985. As late as 1988, only 60 percent of cancers were being recorded in French Polynesia, critics say.

Death certificates became compulsory after 1981 but the cause of death is not always listed.

"The statistics are very badly gathered and very badly used," said Marie-Therese Danielsson, author of the book "Poisoned Reign," published in 1986.

Until 1985, the main hospital in French Polynesia was controlled by the military. Patients who had major medical problems were flown to France.

The physicians group Medecins Sans Frontieres, has charged that the French government failed to fulfill its ethical responsibility toward those potentially at risk from atmospheric testing.

The group, in its review of information this year, said no reliable health statistics were available to see if people were adversely affected as a result of 41 atmospheric tests.

"If such data do exist, they are not available in the public domain," the group said.

The group in July recommended French Polynesia improve its registry of cancer patients, publish all available facts on the health of French nuclear workers, and track the health of the general population.

It also called for improving health care access for residents of Gambier and Tureia, islands close to Mururoa.

Roger Ducousso, director of radiological protection for the French defense department, said he doesn't think medical tests for the people in French Polynesia are necessary.

Ducousso said the radioactive fallout was so low in dosage that there is no possibility of chromosome damage.

Ducousso said the high rate of thyroid cancer among Polynesians in French Polynesia is an ethnic characteristic and is common among Polynesians in Hawaii, New Caledonia and New Zealand. He said during the years of testing at Mururoa and Fangataufa, no one died or got sick from radioactivity.

CASE MAY BE HARD TO PROVE

Haoa disagrees but doesn't know if he'll ever be able to prove it. He knows information about his health was recorded while he was working at the nuclear test sites. He said he took a physical every three weeks, including a blood test.

Haoa, who claims he witnessed more than 30 atmospheric tests, recalled viewing one from about 45 miles away that produced a mushroom cloud rising more than 1,300 feet.

He and other workers would return to the test sites a few hours to a few days later, depending on the wind direction. He wore a special suit to shovel sand over contaminated areas. Later, he and other workers built walls and bunkers over the sandy areas.

At Fangataufa, employees who arrived by air went into an enclosure and entered a bus to travel to parts of the atoll. Signs outside warned workers not to walk across the lagoon. One day, a friend did. That night, his friend died, Haoa recalled.

[From the Honolulu Star-Bulletin, Oct. 9, 1995]

FRANCE CLAIMS NO RADIATION INCREASE FROM TEST

PARIS.—France said today that its recent test of a nuclear warhead with the explosive force of just below 110,000 tons of TNT had not raised radiation levels at its Fangataufa atoll testing site in the South Pacific.

Measurements taken at the site in French Polynesia found the same low "background" level of radioactivity after the Oct. 1 test as before the blast, European Affairs Minister Michel Barnier wrote to EU Environment Commissioner Ritt Bjerregaard.

The level of radioactivity on the atoll corresponds to weak natural background levels, Barnier said in his letter to Bjerregaard, which was sent on Friday.

A copy of the letter has been released by the French Foreign Ministry.

Bjerregarrd has complained that France prevented European Commission experts from visiting Fangataufa and refused to turn over data on radioactivity in the water and marine life around the Mururoa atoll, where the first French nuclear test in the current series took place on Sept. 5.

Barnier, in his letter, dismissed her complaints, saying the commission experts were allowed to visit more sites than had initially been planned and were given all the data they sought.

[From the Congressional Research Service, the Library of Congress, Washington, DC]

Source: Le Monde, August 2, 1995, n.p.

PARIS PUBLISHES FIRST LIST OF ITS NUCLEAR TESTS

François Mitterrand was the first French President to authorize a greater number. More than two hundred shots since 1960, three caused initial contamination.

France has just published for the first time a complete and detailed list of her nuclear tests since 1960, the date of the first test in the Sahara. This list, which contains the code name for each operation, the hour of the explosion, place and explosive power released has been published in a general survey (three volumes and a fourth in preparation) of nearly 670 pages published jointly by the Administration of Military Applications (DAM) for the Atomic Energy Commission (AEC) and the management of the Centers for Nuclear Experimentation (DIRCEN). It appears that in toto France has had 240 launches, of which 12 are classified. It was François Mitterrand who was the one of all the heads of state during the Fifth Republic to order the—by far—the greatest number of tests.

In the Sahara between February 1960 and February 1966, France initiated 17 launches in all (four atmospheric tests and 13 underground tests at the bottom of a mine in a mountain. In Polynesia, between July 1966 and July 1991, France undertook 175 tests (41 in the atmosphere and 78 underground ones in shafts dug in the crown of coral atolls and 56 underground ones in shafts sunk into the lagoon.) The Mururoa Atoll was used for the greatest number of shots (163). There were also 12 tests carried out on Fangataufa, about 40 kilometers away.

TWELVE "SECURITY" SHOTS

Of all the tests three were of the same kind: It concerned dropping a life-size weapon from a plane (a Mirage IV, a Mirage III–E, and a Jaguar) in July 1966, in August of 1973, and in July, 1974 several dozen kilometers away from Mururoa Atoll. These gravitational weapons were the NA-22 (60 kilotons) and the AN-52 (20 kilotons) then in use in the French Air Force. They were replaced by the ASMO missile, weighing 300 kilotons.

To the above total must be added 12 security experiments on Mururoa between July 1966 and November 1989. The security shots were intended to verify whether the weapon was safe, i.e., that it would not explode inopportunely when subjected to external pressures of shock, uncontrolled vibrations, or fire. Security bolts are thought to be able to stop the launching of the weapon. These bolts also have a more political purpose, as the head of the government is the one who in the last resort would be the one to start the nuclear conflagration—if need be—by raising the bolts by remote control.

Most of the tests, including the Sahara ones, were moderate- or low-energy ones. So, just to stay with Polynesia, 63 tests (18 atmospheric tests and 45 underground ones) developed a force of between 5 to 20 kilotons (the energy emitted at Hiroshima was about 18 kilotons). Likewise 56 tests (11 atmospheric and 45 underground) were between 20 and 200 kilotons. Finally 54 tests (10 atmospheric and 44 underground) emitted energy between 150 and 1000 kilotons. Only three atmospheric shots (the first in May of 1968 on Fangautafa, and the second in August of the same year on Mururoa) developed very high energy, higher than a megaton.

The tests, according to AEC engineers caused initial contamination. The first, named "Ganymede" was an atmospheric shot under a balloon on Mururoa in July 1966. The second, called "Rigel" was an atmospheric (the bomb was put on a barge) in September 1966 on Fangataufa. The third one, called "Parthenope" was an atmospheric shot under a ballon [sous ballon] in August 1973 on Mururoa. The areas had to be decontaminated, i.e., surface sediments freed from radioactivity.

The comparisons undertaken afterwards by French technicians with the news being broadcast at the time by the New Zealanders—at the time France issued no statements concerning the testing—show that the method of detection using seismic sensors at a distance from the explosion is not reliable.

THREE TIMES MORE THAN DE GAULLE

If the error in assessing energy is greater than 100 percent in 20 percent of cases, which means that the detection by New Zealand stations of the shock caused by the underground test overestimated by a factor of two the actual power of the bomb tested in Polynesia. This method of oversight is, at present, the only one available, if you exclude direct espionage on test sites themselves or in the laboratories which subsequently use the results obtained. Its non-reliability could prove to be disturbing in the long run during discussions on the Nuclear Test Ban Treaty in Geneva, in dealing with countries likely to carry out clandestine low-energy tests in areas difficult to reach or prohibited from any one site control.

A final observation may be made from this information, published for the first time from an official French source. Between February of 1960 and August of 1968 (there were no tests in 1969), General De Gaulle authorized 30 shots: the 17 recorded in the Sahara and 13 more in Polynesia. Between July 1981 and July 1991 (the moratorium was declared in April 1992), Francois Mitterrand ordered 86 tests. During a period of time comparable enough for the two men, give or take a few months—Mitterrand undertook roughly three times the number of tests than did the founder of the Fifth Republic and theoretician of dissuasion.

However, despite this pronuclear zeal, history will no doubt remember that in 1992, Mitterrand decreed without prior consultation with the administration, chiefs of staff or AEC officials a unilateral suspension of French tests, which General de Gaulle defied the international community by deciding in 1960 to launch the first French tests in the Sahara, while the United States (and hence Great Britain, which tested on American territory) and the ex-Soviet Union were observing a joint moratorium.

MOTION TO ADJOURN

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. WELDON of Florida). The Chair at this time before entertaining a motion to adjourn, will declare a recess.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the House will stand in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 54 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 1 o'clock a.m.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2491, 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–292), on the resolution (H. Res. 245) providing for the further consideration of the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, which was referred to the House Calendar and ordered to be printed.

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent to proceed out of order for 5 minutes.

The SPEAKER pro tempore (Mr. DREIER). The Chair wishes to inform the gentleman from New York [Mr. SOLOMON] that after midnight, it is not in order to proceed for 5 minutes under the special order arrangement, but the gentleman is recognized for 1 minute and the Chair would like to inform the gentleman that he will be very generous with the 1 minute.

Mr. SOLOMON. I thank the Speaker. Mr. Speaker, the rule that we have just filed is the enabling legislation to bring the so-called reconciliation bill to the floor, which will guarantee that this body is going to act fiscally responsible for the next 7 years and bring about a balanced budget.

Mr. Speaker, the Chair knows, and I know, that the single most serious problem facing this Nation today is the deficits that are literally turning this Nation into a debtor nation. We are, in effect, no better off than a Third World debtor nation today because of it.

I came here in 1978, 2 years before you, Mr. Speaker, and that great President, Ronald Reagan who arrived here in 1980, and we at that time started the Reagan Revolution to shrink the size and the power of the Federal Government and return that power to the States and to the countries, towns, villages, cities, and local school districts, and to the private sector.

Mr. Speaker, we could not quite accomplish it, because we did not have control of the House and the Senate. Ronald Reagan, being the leader that he was, was forced to compromise and never succeeded in doing what we are doing here today.

Today, Mr. Speaker, you and I and the Republican leadership in both the House and the Senate, we now have the votes to pass this kind of legislation which is going to restructure this Federal Government. It is going to shrink its size and we are going to set that example throughout this entire country where we are going to have less government, less bureaucratic regulation, so that business and industry can strive and be successful in creating jobs and making profits in this country.

So, Mr. Speaker, I appreciate the Chair's indulgence in letting me speak this morning.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of California) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, today, for 5 minutes.

Mrs. CLAYTON, today, for 5 minutes.

Mr. OWENS, today, for 5 minutes.

Mr. WISE, today, for 5 minutes.

Mr. GENE GREEN, today, for 5 minutes.

Mrs. THURMAN, today, for 5 minutes.

Ms. JACKSON-LEE, today, for 5 minutes.

Mr. DOGGETT, today, for 5 minutes.

Mr. SANDERS, today, for 5 minutes.

Ms. DELAURO, today, for 5 minutes.

Mr. STUPAK, today, for 5 minutes.

Mr. PALLONE, today, for 5 minutes.

Mr. ROEMER, today, for 5 minutes.

Mr. MILLER of Califronia, today, for 5 minutes.

Mr. DEUTSCH, today, for 5 minutes.

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, today, for 5 minutes.

Mr. BEREUTER, today, for 5 minutes.

Mr. HORN, today, for 5 minutes.

Mr. KIM, today, for 5 minutes.

Mr. DUNCAN, today, for 5 minutes.

Mr. MARTINI, today, for 5 minutes.

Mr. BURTON of Indiana, October 31 for 5 minutes and November 1 for 5 minutes.

Mr. DORNAN, today, for 5 minutes.

Mr. BROWNBACK, today, for 5 minutes.

Mr. BARR, today, for 5 minutes.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DURBIN, today, for 5 minutes.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SHAYS, today, for 5 minutes.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HILLIARD, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MILLER of California) and to include extraneous matter:)

Mrs. COLLINS of Illinois.

Mr. SCHUMER in two instances.

Mr. MILLER of California.

Mr. SERRANO in eight instances.

Mr. COLEMAN.

Mrs. LOWEY.

Mr. LIPINSKI in two instances.

Mr. HAMILTON in two instances.

Mr. MARKEY.

Mr. GEPHARDT.

Mr. SANDERS.

Mr. VENTO.

Mr. LANTOS.

Mr. STOKES.

Mr. FARR.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. BONO.

Mr. SHUSTER.

Mr. BASS.

Mr. CAMP in three instances.

Mr. GOODLING.

Mr. RAMSTAD.

Mr. TAYLOR of North Carolina.

Mr. MARTINI.

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. TAUZIN.

Ms. FURSE.

Mr. OWENS.

Mrs. EDDIE BERNICE JOHNSON of Texas.

Mr. BARCIA.

Mr. FARR of California.

Mr. ORTON.

Mr. STOKES.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 3 minutes a.m.), under its previous order, the House adjourned until today, October 26, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1555. A letter from the Chief Financial Officer, National Aeronautics and Space Administration, transmitting the Administration's report on mixed waste, pursuant to 42 U.S.C. 6965; to the Committee on Commerce.

1556. A letter from the Secretary of Energy, transmitting a draft of proposed legislation entitled the "Federal Energy Regulatory Commission Act of 1995"; to the Committee on Commerce.

1557. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. B-96 which relates to enhancements or upgrades from the level of sensitivity of technology or capability described in section 36(b)(1) AECA certifications 91-03 of June 11, 1991, and 94-017 of February 28, 1994, pursuant to 22 U.S.C. 2776(b)(5); to the Committee on International Relations.

1558. A letter from the Chairperson, Navy Exchange Service Command, transmitting the Navy Exchange Service Command retirement trust for plan year 1993, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

1559. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a copy of the U.S. Army Corps of Engineers flood plain management assessment of the Upper Mississippi and Lower Missouri Rivers and their tributaries [FPMA]; to the Committee on Transportation and Infrastructure.

1560. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to expand the authority of the Secretary of Veterans Affairs to suspend a special pay agreement for physicians and dentists who enter residency training programs; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIGHTFOOT: Committee of Conference. Conference report on H.R. 2020. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–291). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 245. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 109) expressing the sense of the Congress regarding the need for reform of the Social Security earnings limit, and providing for further consideration of the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996 (Rept. 104–292). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RADANOVICH:

H.R. 2528. A bill to require the Secretary of the Interior to renew to the heirs of permittees permits for historic cabins located in the Mineral King Addition of the Sequoia National Park, and for other purposes; to the Committee on Resources.

By Mr. MARKEY (for himself, Mr. FALEOMAVAEGA, and Mr. STARK):

H.R. 2529. A bill to increase by 800 percent the duty on imports of beaujolais wine that is the product of France; to the Committee on Ways and Means, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ORTON (for himself, Mr. STENHOLM, Mr. PETERSON of Minnesota, Mr. CONDIT, Mr. PAYNE of Virginia, Mr. BROWDER, Mrs. LINCOLN, Mr. BREWSTER, Mr. TANNER, Mr. BAESLER, Mr. MINGE, Mr. HALL of Texas, Mr. HAYES, Mr. PETE GEREN of Texas, Mr. CRAMER, Mr. ROSE, Mr. SISISKY, Mr. SABO, Mr. POSHARD, and Mr. ROEMER):

H.R. 2530. A bill to provide for deficit reduction and achieve a balanced budget by fiscal year 2002; to the Committee on the Budget, and in addition to the Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, House Oversight, the Judiciary, National Security, Resources, Rules, Transportation and Infrastructure, Veterans' Affairs, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUTCHINSON (for himself, Mr. GOODLING, Mr. ARCHER, Mr. TALENT, Mr. FAWELL, Mr. CANADY, Mr. PETRI, Mr. GRAHAM, Mr. GREENWOOD, Mr. FUNDERBURK, Mr. HOEKSTRA, Mr. CUNNINGHAM, Mr. GUNDERSON, Mr. BARRETT of Nebraska, Mr. KNOLLENBERG, Mr. MCINTOSH, Mr. MCKEON, Mr. SOUDER, Mr. NORWOOD, Mrs. MEYERS of Kansas, Mr. EWING, Mr. INGLIS of South Carolina, Mr. SMITH of Texas, Mr. EDWARDS, Mr. CHRISTENSEN, Mr. QUILLEN, Mr. CRANE, and Mr. LIPINSKI):

H.R. 2531. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that act, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. MINGE (for himself, Mr. JOHNSON of South Dakota, Mr. PETERSON of Minnesota, Mr. POMEROY, Mr. HOLDEN, Mr. HILLIARD, and Mr. WILLIAMS):

H.R. 2532. A bill to provide marketing loans and a total acreage base for the 1996 through 2002 crops of upland cotton, feed grains, rice, oilseeds, and wheat, and for other purposes; to the Committee on Agriculture.

By Mr. MOORHEAD (for himself and Mrs. SCHROEDER) (both by request):

H.R. 2533. A bill to amend title 35, United States Code, to establish the U.S. Intellectual Property Organization, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Mr. OWENS, Ms. NORTON, Mr. KINCHEY, Mr. ROMERO-BARCELO, and Mr. CONYERS):

H.R. 2534. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, National Security, Science, Resources, Commerce, Transportation and Infrastructure, Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCARBOROUGH:

H.R. 2535. A bill to provide for withdrawal of the United States from the United Nations; to the Committee on International Relations.

By Mrs. SMITH of Washington (for herself and Mrs. CHENOWETH):

H.R. 2536. A bill to terminate certain entitlements of former Speakers of the House of Representatives; to the Committee on House Oversight.

By Mr. HASTERT (for himself, Mr. ARCHER, Mr. BUNNING of Kentucky, Mr. ARMEY, Mr. FOX, Mr. CHABOT, Mr. FLANAGAN, Mrs. FOWLER, Mr. GOSS, Mr. GOODLATTE, Mr. STEARNS, Mr. FOLEY, Mr. HEINEMAN, and Mr. BARR):

H. Con. Res. 109. Concurrent resolution expressing the sense of the Congress regarding the need for raising the Social Security earnings limit; to the Committee on Ways and Means.

By Mr. HINCHEY (for himself, Mr. BONIOR, Mr. STARK, Mr. GONZALEZ, Mr. SCHUMER, Mr. EVANS, Mr. BEILENSON, Ms. KAPTUR, Mr. FILNER, Mr. SANDERS, Mr. WYNN, Mr. FATTAH, Mr. FROST, Mr. OBEY, Mr. RAHALL, Mr. CLAY, Mrs. MINK of Hawaii, Mr. ENGEL, Ms. WOOLSEY, Mr. VENTO, Mr. KENNEDY of Massachusetts, Ms. MCKINNEY, Mr. MEEHAN, Miss COLLINS of Michigan, Mr. BALDACCI, Mr. SERRANO, Ms. PELOSI, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. SPRATT, Ms. SLAUGHTER, Ms. VELAZQUEZ, Mr. OWENS, Mr. CONYERS, Ms. NORTON, Mr. MILLER of California, Mr. HASTINGS of Florida, Mr. WATT of North Carolina, Mr. DEFAZIO, Mr. OLVER, Mrs. LOWEY, Mr. FARR, Mr. BECERRA, Mr. PAYNE of New Jersey, and Mr. MARTINEZ):

H. Con. Res. 110. Concurrent resolution expressing the sense of the Congress that the current Federal alternative minimum tax requiring all corporations and individuals with substantial economic income to pay minimum taxes should be retained; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H. Res. 244. Resolution to direct the Speaker to provide an appropriate remedy in response to the use of a forged document at a subcommittee hearing; laid on the table.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. COLLINS of Illinois:

H.R. 2537. A bill to provide for the reliquidation of certain entries of imported chemicals; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. KLINK, Mr. SCOTT, and Mr. CHAMBLISS.

H.R. 663: Mr. FRANKS of New Jersey.

H.R. 784: Mr. BACHUS, Mr. BONILLA, Mr. CRANE, Mr. TALENT, Mr. ZIMMER, and Mr. HEFLEY.

H.R. 835: Ms. WOOLSEY.

H.R. 862: Mrs. CHENOWETH.

H.R. 922: Mr. FRANK OF MASSACHUSETTS, Mr. KANJORSKI, and Ms. KAPTUR.

H.R. 1033: Mr. DURBIN and Mr. PORTER.

H.R. 1229: Ms. WOOLSEY.

H.R. 1274: Mr. KLINK.

H.R. 1353: Mr. HUTCHINSON.

H.R. 1483: Mr. GOODLATTE.

H.R. 1496: Mr. HINCHEY.

H.R. 1514: Mr. WELLER, Mr. BOEHNER, Mr. CLEMENT, Mr. OLVER, Mr. DEAL of Georgia, Mr. EVANS, Mr. COBLE, Mr. DURBIN, Mr. PACKARD, Mr. PETE GEREN of Texas, Ms. WOOLSEY, and Mr. LAUGHLIN.

H.R. 1540: Mr. BACHUS.

H.R. 1619: Ms. ROYBAL-ALLARD and Mr. SOLOMON.

H.R. 1787: Mr. CHRYSLER, Mr. BUNNING of Kentucky, Mr. UPTON, Mr. CUNNINGHAM, and Mr. BONO.

H.R. 1821: Mrs. THURMAN.

H.R. 1883: Mr. SPENCE.

H.R. 1946: Mr. MCHUGH, Mr. SOUDER, Mr. NEY, Mr. MCCRERY, Mrs. CUBIN, Mr. MCINTOSH, Mr. KASICH, and Mr. CUNNINGHAM.

H.R. 1950: Mr. WARD.

H.R. 1951: Mr. KILDEE.

H.R. 1970: Mr. UNDERWOOD, Mr. ENGEL, Mr. GENE GREEN of Texas, Ms. BROWN of Florida, Ms. VELAZQUEZ, and Ms. WOOLSEY.

H.R. 2011: Mr. ANDREWS, Miss COLLINS of Michigan, Mr. MCDADE, Mrs. MEYERS of Kansas, Mr. FOX, Mr. FILNER, Ms. PELOSI, and Mr. BRYANT of Texas.

H.R. 2098: Mr. UPTON and Mr. DICKEY.

H.R. 2180: Mr. STUMP, Mr. BLILEY, Mr. TAYLOR of North Carolina, Mr. HANCOCK, Mr. BARTLETT of Maryland, Mr. MILLER of Florida, Mr. COOLEY, Mr. EMERSON, Mr. CRANE, Mr. HUTCHINSON, and Mr. HOSTETTLER.

H.R. 2200: Mr. LUCAS, Mr. COOLEY, Mr. MANTON, Mr. COX, Mr. SALMON, Mr. NEY, Mr. SMITH of Michigan, Mr. TAYLOR of North Carolina, and Mr. TOWNS.

H.R. 2205: Mr. DURBIN, Mr. FROST, Mr. BAKER of Louisiana, and Mr. LUCAS.

H.R. 2249: Mrs. MEYERS of Kansas.

H.R. 2261: Mr. OLVER, Mr. BENTSEN, and Mrs. SCHROEDER.

H.R. 2270: Mr. TATE, Mr. HOKE, AND Mr. MCINNIS.

H.R. 2276: Mrs. FOWLER, Mr. KIM, and Mr. EMERSON.

H.R. 2333: Mr. LAHOOD, Mrs. KELLY, Mr. BUNNING of Kentucky, and Mr. EHRLICH.

H.R. 2342: Mr. RICHARDSON, Mr. MCCRERY, Mr. COBURN, and Mr. FIELDS of Louisiana.

H.R. 2351: Mrs. CHENOWETH.

H.R. 2364: Mr. COOLEY, Mr. STOCKMAN, Mr. DORNAN, and Mr. BONILLA.

H.R. 2429: Mr. HOYER and Ms. WOOLSEY.

H.R. 2463: Mr. UNDERWOOD, Mr. VENTO, Mr. CLYBURN, and Mr. FILNER.

H.R. 2507: Mr. SALMON and Mrs. MYRICK.

H.J. Res. 70: Mr. THOMPSON.

H. Con. Res. 47: Mr. DIXON.

EXTENSIONS OF REMARKS

THE UNITED STATES MISSION IN BOSNIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. LANTOS. Mr. Speaker, I commend my colleagues' attention to an excellent analysis of the difficult issues surrounding a possible United States troop deployment in Bosnia by our former Secretary of State and my good friend, Dr. Henry Kissinger. The article, which appeared in last Sunday's Washington Post, rightfully calls for Presidential leadership and congressional approval for a well-defined and realistic mission in Bosnia—including American military forces.

Dr. Kissinger offers a persuasive argument for why a U.S. participation in such a NATO mission is necessary, and he identifies the dire consequences for inaction. The President has extended a "commitment of U.S. troops for every foreseeable contingency," according to Dr. Kissinger, and therefore must lead Congress and the American public in a discussion of American objectives in the Balkans.

I enthusiastically agree with Dr. Kissinger's call for an open and frank discussion of these extremely important matters, and I hope that a debate of this magnitude, on an issue where American lives will be at stake, will not be tainted by partisan politics. I made that point during the recent International Relations Committee hearing on this issue with Secretary of State Warren M. Christopher, Secretary of the Treasury William J. Perry, and chairman of the Joint Chiefs of Staff Gen. John Shalikashvili. In the past partisanship stopped at the water's edge, but lately, unfortunately, our Nation's foreign policy has become a domestic political issue, and this has made it increasingly difficult to conduct a rational and effective international policy.

Mr. Speaker, I urge my colleagues to read and carefully consider the issues raised by Dr. Kissinger and to fully participate in the upcoming debate.

[From the Washington Post, Oct. 22, 1995]

WHAT IS THE MISSION?

(By Henry Kissinger)

President Clinton's pledge to contribute 25,000 American troops to a peacekeeping force for Bosnia has been greeted with a mixture of resignation and uneasiness. Resignation because, despite deep misgivings, it would be a grievous blow to NATO if America failed to back an agreement it had negotiated on behalf of NATO—an agreement that U.S. air power, buttressed by British and French ground forces, played a major role in bringing about. And uneasiness because failure to fulfill the president's promise would almost certainly lead to the withdrawal of British and French forces, testing yet another presidential promise: that U.S. troops will protect any allied withdrawal.

To send troops when there is ambiguity regarding the objectives, rules of engagement or relationship of NATO to non-NATO forces such as Russia's would be to stockpile dilemmas that the passage of time would be sure to magnify. Therefore, the administration, Congress and NATO must clarify goals and strategies in Bosnia. The agreements they reach must be incorporated into the peace negotiations slated to begin Oct. 31. Far better to pay the price to delay than to have a NATO peacekeeping effort break down under the weight of its internal contradictions or of American domestic pressures. Repeating the experience of Somalia, where an ill-defined commitment concluded in ignominious withdrawal, would gravely damage America's leadership position in the world as well as in the Atlantic Alliance.

Recent American efforts to bring peace to Bosnia have been constructive. American power was used skillfully, and our negotiator Richard Holbrooke has displayed persistence and ingenuity.

Nevertheless, before we go any further we must examine the two "commitments" made by President Clinton that created the dilemma on the horns of which we are in danger of being impaled. The first was to promise some 10,000 troops to assist in the withdrawal of British and French forces should our NATO allies abandon their effort. The second was to pledge an American contingent of 25,000 toward a NATO force of 50,000 if a Bosnian peace agreement is concluded. Both undertakings, amounting to a commitment of U.S. troops for every foreseeable contingency, represented attempts to ease immediate pressures without examining the full implications.

The commitment to facilitate British and French withdrawal was designed to provide a safety net to encourage our allies to continue NATO's role in Bosnia. If a peace agreement fails, the nearly inevitable British and French withdrawal is expected to last 24 weeks, assuming such a redeployment is possible at all.

Whatever the schedule, a situation in which American forces were being committed while allied forces were progressively being reduced could tempt the three Bosnian ethnic rivals to involve us in their brutal struggle, whether by inflicting casualties to speed up withdrawals or by trying to incite us against ethnic enemies by committing atrocities that would be blamed on the other side, as has already happened. And at a moment when our allies had washed their hands of the whole affair, our military commitment would become increasingly lonely. Thus the deployment of American forces to cover a British and French retreat is the most precarious option. But an American refusal to police a settlement would be likely to make such a deployment unfavorable.

I opposed the War Powers Act when it was legislated; current domestic realities, however, permit no other choice than to obtain clear and unambiguous congressional backing. As a first step, the administration must answer these threshold questions: What exactly is the peacekeeping force supposed to protect? And how do we measure success?

Until now, the administration has been extremely vague (or perhaps merely confused) about its political objectives. This ambiguity may have been helpful in encouraging the cease-fire negotiations but when it comes to determining what is to be safeguarded, ambiguity is dangerous and, in the end, self-defeating.

Two schools of thought have dominated the debate about America's objectives. The first treats Bosnia as a case of Serb aggression calling for a collective response by the world community or NATO or the United States. Convinced that Serbia should be punished, this school of thought would fortify the Bosnian Muslims with American arms, instructors and perhaps air support to resist pressures and reestablish a multi-ethnic, unitary state. Advocates of this approach consider a cease-fire tantamount to collusion with aggression, and are willing to agree to American peacekeeping forces only to provide a secure basis from which to compel dissident Serbs and Croats to return to a unified Bosnia.

The other point of view sees Bosnia as an ethnic conflict sparked by thoughtless NATO decisions in 1991 to treat Bosnia as a unitary state, which it is not and never has been. Composed of Croats, Serbs and Muslims united only by their common determination never to be ruled by either of the other groups, the resulting—nearly inevitable—ethnic conflict was waged with the barbarities unfortunately characteristic of all its forerunners.

While the Serbs initiated the present round of slaughter, they would no doubt hark back to comparable depredations inflicted by Croats and Muslims within the memory of most family groups. Early resistance by the Western allies to ethnic cleansing might well have stopped the outrage, but by now too many brutalities have been wrought by all groups against their enemies to envision coexistence under a single government as a realistic option.

Indeed, such a project would court resumption of the slaughter. Any change in territorial boundaries by any side would produce ethnic cleansing; the quest for a unitary state is therefore a prescription for open-ended war and continued suffering.

So far the administration has tried to carry water on both shoulders. Its policy has promoted a cease-fire, which implies partition, while its rhetoric has advocated a unitary, multi-ethnic Bosnia that is unachievable without continued war. Our action on the ground is not synchronized with our rhetoric. As a result, the peacekeepers could end up in an intellectual as well as physical no man's land. Is the central government entitled to try to extend its authority? Can the various ethnic enclaves receive arms from the outside? Who controls the armed forces of the state and how?

We need to stop dodging the central issue. An independent, ethnically diverse Bosnia would require a concerted Western strategy with a vast program of troops, arms and training and constitutional tutoring for an indefinite time. Are we and our allies prepared for a program of transforming peacekeeping into nation-building—as we were not in Somalia—and for the casualties it entails? Would it actually work? How would other countries, especially Russia, react?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The three ethnic groups have in effect been separated by the revolting ethnic cleansing they have practiced. The so-called Croat-Muslim federation is a fraud. No Muslim authorities are permitted in Bosnia's Croatian territory, and the currency remains Croat. Therefore, the first question to be settled is what the peacekeeping force is supposed to protect—the dividing lines between ethnic groups or the borders of a unified Bosnia? If it is the former, the political goal must be partition; if the latter, we need to be prepared for an open-ended, brutal conflict. Ironically, a continuation of the war in the name of a unified Bosnia is likely to be most disadvantageous to the original victims, the Muslim community. For it is likely to result in the partition of Bosnia between Serbia and Croatia.

Bosnia is not Haiti, where we can declare victory while the country relapses into historical squalor under only slightly modified oppression. In Bosnia, fudging the issue spells continued conflict; the only outcome that has a slight chance of surviving a time limit is partition, and even that is unlikely to be effective in the one-year period that so many American experts believe will be imposed by our electoral timetable.

It will not do for the president to try to propitiate media and congressional concerns by assuring his interlocutors that American troops will not be put in harm's way, as he has done in some recent comments. In Bosnia, troops are inherently in harm's way. And if we insist that the front lines be manned primarily by allies, with little U.S. participation, we will undermine the NATO alliance.

What the American people, Congress, and the allies must hear is precisely what the risks are in Bosnia, why they must be run and over what period of time. And we must ask ourselves where we will be a year from now, after casualties have been suffered and journalists and other observers report that they can discern no moral distinction among the warring parties.

No magic solutions are available to avoid the need for clarity and purpose. Defense Secretary William Perry mentioned a time limit of one year for American peacekeepers. He has yet to explain what will have changed in one year and who will then take on the burden if ethnic hatreds persist. The feasibility of withdrawal depends on conditions on the ground that cannot possibly be predicted at this juncture. Nor will the use of American peacekeepers to arm and train the Bosnians change the problems described here.

I favor abandoning the arms embargo, which in any event does not seem to have inhibited the Croats (and through them, the Muslims) from developing a significant military capability. But no military aid program, even backed by American instructors, can change the demographic realities in which Serbs and Croats between them outnumber the Muslims nearly 10 to one.

If we want an ethnically diverse, unitary Bosnia, we must be prepared to pay the price—which is not peacekeeping but the support of one side in a civil war. At the same time, if American peacekeepers are deployed for whatever purpose, care should be taken to convey determination. Doubt and hesitation will invite attacks to speed our departure. Reducing the size of our troop contribution too much might also have the effect of limiting the risk to potential violators. Adversaries must understand in advance that attacks on the peacekeeping force will not, as in Somalia, go unpunished. Endurance becomes vitally important if non-NATO, especially Russian troops join the peacekeeping operation. Given Russia's historical ties to Serbia, a Russian role in negotiations is desirable, and a Russian role in peacekeeping could prove useful, provided we are ready to maintain a symmetry of commitments.

Still, it would be ironic if Russian peacekeepers on the Serbian side and NATO peacekeepers on the Muslim side moved an East-West confrontation line from the Elbe to the Drina. And if we leave precipitately, we tilt the scales toward Serbia and enhance Moscow's influence in the Balkans—all in the name of peacekeeping.

The deployment of troops to Bosnia is a fateful decision requiring a full national debate that, in the nature of our system, must be led by the president. He must clarify America's political objectives—especially our view of the relationship of the three ethnic groups to each other—and explain the rules of engagement, the risks and the duration of our commitment. There must be public agreement with our allies about strategies and rules of engagement.

In addition, the Bosnian parties must agree on dividing lines and undertake not to change them by force.

And Congress must unambiguously endorse the program.

The word of the president is a national asset not to be trifled with; the cohesion of NATO remains a vital national interest. But we serve these causes only by devising undertakings that can command consensus and be sustained over a period of time.

TRIBUTE TO ASSEMBLYWOMAN CARMEN ARROYO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Assemblywoman Carmen Arroyo, who was honored for her outstanding service to the community on October 6, at the 1995 St. Benedict the Moor Neighborhood Center's Dinner Dance, in the South Bronx.

She is one of eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being carried out at St. Benedict the Moor Neighborhood Center.

A native Puerto Rican who holds a Bachelor of Arts from the College of New Rochelle, Ms. Arroyo overcame many economic difficulties during her youth. She had to fight in a world where women were mostly relegated to the home. First, Ms. Arroyo was determined to become a bookkeeper, and studied to finish a course leading to secretarial-bookkeeper certification.

Her studies were interrupted when she moved to New York and started working at a factory. Her seven children joined her a year after, but unable to find day care services for them, Ms. Arroyo was forced to rely on public assistance. This experience moved Ms. Arroyo to help those who, like her, were struggling to improve their lives. She founded the South Bronx Action Group, an organization dedicated to empower women, Latinos and blacks in the community. Later, suitably empowered herself, she became president of the Puerto Rican Women in Political Action Organization.

In 1977, Ms. Arroyo became the executive director of the South Bronx Community Corporation, an organization committed to aggressive urban development in the South Bronx. As a Puerto Rican woman, she understood the need to advance the socioeconomic condition of Hispanic women.

Ms. Arroyo is the first Puerto Rican woman elected to the New York State Assembly and the first Puerto Rican woman appointed to the New York State Medical Advisory Board.

Mr. Speaker, I ask my colleagues to join me in honoring the Assemblywoman of New York's 74th Assembly District, Carmen Arroyo, for her lifelong career and dedication in the service of the poor, the disenfranchised, women, children, and the elderly.

TRIBUTE TO SARAH FABRY SMEJA

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. CAMP. Mr. Speaker, I rise today to honor Sarah Fabry Smeja as she is recognized for her vast contribution to polka and the State of Michigan. Sarah Fabry Smeja was inducted into the State of Michigan Polka Music Hall of Fame on Sunday, October 1, 1995.

America was built by the hard work and commitment of settlers who brought with them a rich and varied heritage. Polka flourished in Michigan largely due to the devotion of those who brought with them their families' traditions and customs, as well as their love of polka. Sarah is just one of those special individuals who is proud to keep an honored tradition alive.

Sarah Fabry Smeja is from Swartz Creek, MI, especially enjoys Czechoslovakian melodies first introduced to her by her father at a very early age. Throughout her career she has played the piano, trumpet, and baritone. Sarah also conducted a choir which consisted of 56 regular members. With some help in language editing, Sarah researched, composed, and typed three song books which helped maintain the singers club. Sarah and her husband, Al Smeja, are now retired and reside in Plant City, FL. They are currently associated with the St. Petersburg, C.S.A. and are members of the Czech-American Tourist Club.

Mr. Speaker, thanks to Sarah's efforts, we are all able to enjoy an old musical tradition from many years ago. She was honored at a reception in Owosso, MI, because of her dedication and commitment to spreading the polka tradition and helping others enjoy this special music. I am confident that the musical legacy of this outstanding individual will be remembered for decades to come.

WORK FORCE DEVELOPMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 25, 1995, into the CONGRESSIONAL RECORD.

INVESTING IN A SKILLED WORKFORCE

As business technology has become more complex and the world economy more competitive, the strength of the American economy increasingly depends on the skills and training of our workforce. A strong back and the patience to do the same task over and over, day after day, is no longer enough to command a well-paid and secure job. Today's good jobs, including many factory jobs, require much more sophisticated skills. Some skills are job-specific but many are more basic, such as good math, communication, decisionmaking, and teamwork skills. People who develop these skills will be in high demand by employers as we move into the 21st century; people who don't will not.

SOUTHERN INDIANA

We have a good, hard-working labor force in southern Indiana, and employers understand that. But the changes that are taking place across the country are taking place here too, and the education and skills required for good jobs in the future will only increase.

As I travel around the Ninth District, I meet many people who would like to work but cannot find jobs. At the same time, many employers tell me they have openings for good-paying jobs but cannot find people with the right skills. We are seeing a growing mismatch between the skills many people have and the skills employers need. This is a double tragedy. People are frustrated by their inability to find work, while firms are forced to put expansion plans on hold or to go elsewhere to expand. That means the growth and development of southern Indiana will be hurt and so will our living standards.

LOCAL ECONOMIC DEVELOPMENT

A few weeks ago, I held two roundtable discussions on the subject of economic development in southern Indiana, one in Batesville and one in Corydon. Both featured representatives from various sectors of the economy, including local businesses (both large and small), economic development officials, university researchers, school officials, and farmers.

The participants raised many important issues—including the quality of local infrastructure, the burden of government regulations, tax abatements to attract industry, the threat of competition from foreign producers, and the high cost of medical insurance.

But I was particularly impressed by the fact that virtually everyone brought up the need to improve the quality of education and access to skill training in southern Indiana. This one topic dominated, and many concerns were expressed. One participant discussed the difficulties many working parents face in contributing to their children's early education. Others were concerned about the quality of secondary school education in parts of southern Indiana and insufficient higher education and vocational training facilities. Many of the business representatives indicated that the growth of their firms is being restrained because trained, or even trainable, workers cannot be found to fill the job openings. One participant said that he had not hired anyone from the local high school in seven years.

Problems like these are not unique to southern Indiana. They are occurring all around the country. Nationwide we hear of companies having to screen thousands of applicants to find only a few who are qualified, and of basic math and English tests being routinely failed by applicants. Employers complain that many recently-hired workers do not show up ready to work, lack the capacity to learn, and frequently quit after a few weeks.

DEVELOPING A TOP QUALITY WORKFORCE

But we cannot use the widespread nature of this problem as an excuse for not tackling it vigorously here at home. It is clear that top priority needs to be given to developing a highly skilled and educated workforce in southern Indiana. This is especially crucial to the future prospects of today's young people, who will be working in an increasingly interconnected and competitive global economy. We need to focus our attention on the skills workers will need in the 21st century. They will need to know how to use computers to gather and process information. They will need to develop good interpersonal skills and be able to work in teams. They will need to understand how their own work fits into the work around them, so they can contribute to solving problems.

But even more important, workers in southern Indiana will need to be proficient in the basic skills of reading, writing, and math. Mastering the skills for a specific job can no longer guarantee a lifetime of secure employment. Without these basic skills, the other skills will be of little value. The important thing is that the education system in southern Indiana must produce people who will be comfortable with a lifetime of learning. Workers will need to be able to master new skills and adjust to new technologies in an economy that will be characterized by constant and unexpected change.

COMBINED EFFORTS

The task of better preparing our workers for these challenges falls on many of us. Parents need to impress upon their young people the crucial importance of good education and work skills. Local schools are giving more attention to linking academic training with on-the-job work experience and technology training at local community colleges. The State of Indiana has several programs to help make the school-to-work transition easier. The private sector has played a big role in training and retraining the workforce, especially in larger businesses.

The federal government has a secondary, though important, role. Congress is currently reforming federal job training efforts—streamlining various programs and giving more flexibility to the states. At the same time, House Speaker Gingrich has proposed deep cuts in youth job training, school-to-work transition programs, and vocational and adult education. Certainly we need to balance the federal budget, but making deep cuts in programs that would help upgrade the work skills of our young people and brighten their economic future does not make a lot of sense to me, especially at a time when Speaker Gingrich wants to provide very expensive tax breaks to the wealthy.

One of the best investments we can make is in the skills of our workers. It means improved quality of life, higher productivity and living standards, stronger economic growth, better communities, and a brighter future for our young people. Helping to provide a better trained workforce just makes good sense.

THE FRONTIERSMAN: PIONEERS FOR PROGRESS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. BARCIA. Mr. Speaker, when any one of us faces a problem, the right answer is to work toward a solution. The Frontiers Club has been an organization that has done just that—work toward a solution—for many years. This Saturday, at the 40th annual banquet for the Frontiers Club, we will again celebrate another year's accomplishments as we prepare for yet another year of challenges.

The Frontiers Club lives on cooperation. It brings together civic leaders, business leaders, education leaders, and a host of others concerned about how to make lives in their communities better. It is built on the ideals of concentration of local resources on matters of local interest. The club parallels itself on the early pioneers who forged ahead to make new and vital discoveries with no convenient road maps, taking risks as they found them and using their experiences to steel their later efforts. It is an image that should inspire all of us to do more because we have the opportunity to blaze new trails, not just follow after someone else.

Frontiers International began in 1936 as an organization that was all black, looking to help the black community. Over the years its membership has expanded, its focus has retained its core interest in the needs of the black community, and expanded to include other matters of similar importance.

The creed of the club sets an ideal for all us: to be committed; to know the club's agenda; to be prepared to change with changing conditions; to never be satisfied that matters are good enough; and that the key point of the organization is to help others who still need help. Every member is viewed as a potential leader, and can count on being called to be a leader. Every member is expected to meaningfully participate in planning club activities, club expansion, and club success.

The list of projects supported by the Saginaw Frontiers Club is most impressive. The United Negro College Fund, the Children's Christmas Party, the Vitiligo Foundation, Education Scholarship Sponsorship, First Ward Community Center, Opportunities industrialization Center of Metropolitan Saginaw, Saginaw County Senior Citizens' Picnic, Lake Huron Area Boy Scouts, Saginaw High School Attendance Lottery, Friendship Games, Trinity-St. John Community Center, Edith Baillie School Washington, DC, Field Trip, Saginaw Community Education Science Fair, the NAACP, Frontiers City-Wide Youth Tennis Tournaments, and the Ruben Daniels Educational Foundation are all projects that benefitted from the wonderful, selfless activism of Saginaw Frontiers and its members.

Mr. Speaker, I believe that one passage of the induction ceremony for new members says it all. Members "are bound by duty, honor, and gratitude." What a wonderful, simple and provocative mandate. It is one which would serve all of us well to follow. At a time when we are expecting the Federal Government to do less, and for people to do more within their own communities, organizations like the Frontiers Club are vital and deserve to be heralded. I urge you, Mr. Speaker, and all of our colleagues to join me in thanking and congratulating the leadership and membership of the Frontiers Club for its efforts, and urge them to continue to lead by example.

WORLD POPULATION AWARENESS WEEK

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Ms. FURSE. Mr. Speaker, as of October 1995 the world population is estimated to be 5.7 billion with an annual growth of 88 million. World population is an issue that the citizens of the United States and people all over the world should be concerned with due to its wide spread environmental, social, economic, and political impacts.

The people of Oregon recognize the need for greater awareness of population levels and their implications. Mr. Speaker, I am inserting this statement from Governor John Kitzhaber of Oregon into the RECORD, proclaiming October 22 through October 29, 1995, World Population Awareness Week.

The proclamation follows:

PROCLAMATION

OFFICE OF THE GOVERNOR,
State of Oregon.

Whereas world population is currently 5.7 billion and increasing by nearly 100 million per year, with virtually all of this growth added to the poorest countries and regions—those that can least afford to accommodate their current populations, much less such massive infusions of human numbers; and

Whereas the annual increment to world population is projected to exceed 86 million through the year 2015, with three billion people—the equivalent of the entire world population as recently as 1960—reaching their reproductive years within the next generation; and

Whereas the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and, at the same time, have deleterious repercussions for the standard of living in more affluent regions; and

Whereas the 1994 International Conference on Population and Development in Cairo, Egypt crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources, that was duly approved by 180 nations, including the United States—Now therefore, I, John A. Kitzhaber, Governor of the State of Oregon, hereby proclaim October 22–29, 1995: "World Population Awareness Week," in Oregon and encourage all Oregonians to join in this observance.

TRIBUTE TO SHARON A. JOSLYN

HON. JOSE E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Sharon A. Joslyn, who was honored, on October 6 at the 1995 St. Benedict The Moor Neighborhood Center's Dinner Dance for her great contributions to our community.

Ms. Joslyn is one of the eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being implemented at St. Benedict The Moor Neighborhood Center.

As a nurse and a member of the International Grail Women's Movement, Ms. Joslyn has worked in community health projects in the United States and in Brazil. After her relocation to the South Bronx, she has continued working as a nurse at the Dominican Sisters Family Health Service on Alexander Avenue. Ms. Joslyn also served as an active member of the St. Ann's Development Corp., which branched out from St. Ann's Episcopal Church.

Along with other members of the corporation, Ms. Joslyn had risked bodily harm by operating an office and living in a building scheduled for demolition, in order to save it and to preserve the office that services our community.

Ms. Joslyn currently works at St. Luke's Catholic Church where she is responsible for community programs and is the coordinator of the U.S. Grail International Team.

Mr. Speaker, I ask my colleagues to join me in recognizing Sharon A. Joslyn for her undying sense of commitment to our community, which has in turn embraced her efforts and dedication.

TRIBUTE TO BILL MILANO

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to Bill Milano of Pittsburg, CA, who was honored by his brothers and sisters in the labor community and the city of Pittsburg last Saturday, October, 14, 1995, when the United Steelworkers Union Local 1440 renamed its union hall for him, their founder and distinguished leader.

First and always, Bill Milano is a union man who grew up in the coal mines of Kansas and moved west to work in the steel mills of Pittsburg, CA. He is the very heart and soul of the United Steelworkers Local 1440, having served in every possible capacity for over 50 years. Even in retirement, he is a constant source of pride, enthusiasm, and inspiration for his fellow union members.

Not only is Bill Milano a leader in union halls, he has also served his community with distinction and honor as a former member of the Pittsburg City Council, founder and member of the Pittsburg Boys club, and service to the Pittsburg Red Cross, Pittsburg Community Hospital, Contra Costa Park and Recreational Council, Pittsburg Schools PTA organizations, Pittsburg Lions Club, Boy Scout troops, American Cancer Society and many, many more community service organizations. His longtime support of Ducks Unlimited and his keen interest in hunting is legendary among his family and friends.

I grew up hearing about Bill Milano from my father and how he organized local party politics in Pittsburg at a time when only shoe leather and hard work got your people elected to office. Bill Milano supported my father in his campaigns for the California State Senate, as well as my elections to the U.S. House of Representatives. He has been a friend of our family for three generations, and I am proud to call Bill Milano my friend.

I would like to share with my colleagues the attached article from the Ledger Dispatch, Wednesday, October 4, 1995, "Bid for Better Life Lead to Long Union Career."

[From the Ledger Dispatch, Oct. 4, 1995]

BID FOR BETTER LIFE LED TO LONG UNION CAREER

(By Sam Richards)

PITTSBURG, CA.—Bill Milano came to Pittsburg on a freight train in 1939, looking for a better life for his family.

Now, almost two decades after retiring from his job as financial secretary of United Steelworkers Local 1440, Milano will have his name attached to the Steelworkers' building in Cumberland Street.

For a guy who has spent the past 53 years either working or volunteering at the union hall, a guy who helped oversee tremendous growth of the local during World War II, and then saw the union shrink again as local steel employment declined . . . is this honor a surprise?

Yes, in a way, the 82-year-old Milano said. "I've been retired 17 years and they've never done a damn thing to honor me," said Milano, with a smile on his face. "But I never really pursued that anyway."

Milano's time has finally come. Local 1440 will formally rename their building after Milano at a ceremony Oct. 14 at the building, 677 Cumberland Ave. Everyone is invited to attend that, and a reception following at the Marina Clubhouse, 31 Marina Blvd.

"This isn't just any man . . . this is the man," said Rose Cavallaro, office secretary for Local 1440 since 1959. "He's the 'godfather' of the local union; he's the one who got the union going."

Milano grew up in Kansas, and was working in the coal mines there in strip mine shafts and driving a steam locomotive shuffling coal hopper cars. But he wanted something better for his family.

"The coal mines just weren't working too good," he said. "We'd heard a lot about California, so we went to California."

Without enough money to take a passenger train, Milano and a friend hopped a Frisco Railway freight train near Cherokee, Kan., Aug. 14, 1939. A week later, they arrived in Pittsburg on a Santa Fe freight train. Within days, both were working at the Columbia Steel Co. mill, Milano as a "reeler" putting steel wire onto reels to be galvanized.

Also, Milano found the local union office quickly.

"I'd had 'union' drilled into me by my dad and everyone around me for years," Milano said. "The first thing I did was go down to the union."

In 1942, he was elected 1440's financial secretary, a post he held until 1979. During that time, he saw the union change from the Steelworkers Organizing Committee to the United Steelworkers Union of America. Milano also oversaw wartime expansion at Columbia Steel swell union membership from about 265 to more than 4,000.

Milano also plunged into community involvement in Pittsburg. He served on the City Council from 1944 until 1952, helped found the Pittsburg Boys Club (the predecessor of the East County Boys and Girls Club), was a secretary for the Contra Costa Grand Jury and numerous other civic, fraternal and local school activities.

His wife, Virginia died in 1990. And the USS-POSCO Industries plant in Pittsburg employees number fewer than 1,000 people now. But he is still involved with Local 1440 activities.

"Anytime there's something wrong here down at the union, Bill gets involved," said Carl Meilicke, 43, a former U.S. Steel employee in Pittsburg. "He started the union, and he knows more about it than anyone."

The union hall opened in the 1940s. It almost didn't outlast Milano, because the city had wanted to knock it down as part of redevelopment in 1992.

As it was. The Village at New York Landing housing tract was literally built around the union hall, which also includes the Union Club tavern.

"If you start pushing us, we'll get the whole rank and file coming after you" Cavallaro said. "We're never going to leave this building now."

Still a hunter and fisherman, Milano gave up abalone diving only two years ago. But he hasn't given up being involved in politics; in keeping with union tradition, he's supported, almost exclusively, Democrats over the years. This includes three generations of George Millers, including. Assembly candidate George Miller IV . . . sort of.

"I know him and I'm friends with Tom Torlakson (Miller's election opponent)," Milano said. "I told them, 'Whoever wins the primary, I'll put my full weight behind you.'"

Tickets to the Bill Milano Building's dedication are $10 each, and are available by call 432-7396.

A POINT-OF-LIGHT FOR ALL AMERICANS: JOSEPH FRANCOIS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. OWENS. Mr. Speaker, I rise to honor Joseph Francois, an individual who has tirelessly dedicated his life to making our society better. This individual is directly responsible for community enhancement efforts that impact education, social/human services and health care. His vision, sincerity and competence have resulted in the writing of winning grant proposals and valuable research studies that empower the community. Mr. Joseph Francois is a great "Point-of-Light" whose work must not go unappreciated or unnoticed.

Since 1978, Mr. Francois has been chief executive officer of the Brownsville Community Development Corporation. He is also the project director of the Brownsville Multi-Service Family Health Center, responsible for the overall management of a comprehensive health facility. He is responsible for proposal writing, financial and budgetary conditions of the corporation, and is in the process of developing an alcoholism outpatient clinic and halfway house. Joseph Francois is also planning the creation of a birthing center.

Throughout the years, Joseph Francois has worked diligently in top positions that he found to be beneficial to his community. He was personnel director of the New York City Board of Education, Community School District No. 23. As such, he was responsible for the employment of all pedagogical and administrative staff necessary for the operation of elementary and junior high schools in district No. 23.

Mr. Francois served as a program analyst, responsible to the New York State Minority Leader for the analysis and evaluation of problems facing New York City and State. Recent publications on which he served as chief analyst included "Study of Men's Shelter," and a study of anti-poverty programs entitled "Serving the Poor," which was nominated for an award for outstanding legislative research and was jointly recommended by the then city council president, Carol Bellamy.

Mr. Francois also served as director of operations for Wildcat Service Corporation in New York City where he was responsible for the overall management of more than 350 employees. His primary area of expertise is evident by his effort in creating the first health group in the city where community and hospital leaders jointly planned to coordinate health needs for the community with a private hospital in Brooklyn. There he acted in the capacity of chairman of the board. In 1969, this group was known as the Brownsville Brookdale Health Coalition. Mr. Francois was affiliated with the Mayor's Organization Task Force for Comprehensive Health Planning. He also headed the Anti-Poverty Program for Brownsville which planned and devised programs which assisted the community in receiving grants from the National Institute for Mental Health [NIMH] to run demographic studies relevant to community needs. He is a past member of the New York City Council Against Poverty.

Mr. Speaker, Joseph Francois is truly a "Renaissance Man" whose interests and deeds extend to all critical areas of community survival and development. Mr. Francois has never hesitated to speak out and fight against political abuse and corruption. In 1982, Joseph Francois personally drove nonstop from New York City to Albany to deliver legal briefs to the New York State Court of Appeals in the case where the Kings County political machine plotted to rob congressional candidate MAJOR OWENS of a Democratic Party primary election victory. His heroic ride to meet the filing deadline resulted in the declaration by the State's highest court that MAJOR OWENS was unquestionably the winner of that 1982 election.

Along with Mr. Francois' dedication to his community, in addition to his traditional educational achievements, he completed 4 years of theological training and was ordained a Deacon by the Diocese of Brooklyn and Queens.

Married and a resident of Brooklyn, NY, Joseph Francois' distinguished life marks one of dedication to community, to God, and to family. Undoubtedly, his input in New York State legislative policy, outstanding research, and effective design of programs have improved the overall quality of life for many children, men, women, and families. Joseph Francois is a great "Point-of-Light," not only for the people of his New York community, but for all of the people of America.

ANNIVERSARY OF THE KILLING OF LEON KLINGHOFFER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mrs. LOWEY. Mr. Speaker, it has been 10 years since a band of terrorists hijacked the *Achille Lauro* cruise ship, holding the crew and passengers hostage for several days.

It has also been 10 years since these murderous terrorists shot to death Leon Klinghoffer, a wheelchair-bound American citizen, and threw his body and his wheelchair overboard. This hijacking and murder stunned all of us, and showed us—in no uncertain terms—that terrorism threatens all Americans.

In the decade since the *Achille Lauro* incident, we have seen many more incidents of terrorism around the world and in this country. Each incident underscores that we need to pass tough antiterrorism legislation. We cannot tolerate the terrible and cowardly acts of violence that have rocked the United States and the world. It is time to close the door on terrorism.

Mr. Speaker, Leon Klinghoffer's death was a horrible tragedy. And now, a decade later, it is clear that we have not done enough to stop terrorism. We must do more to ensure that no other families face the tragedy that Mr. Klinghoffer faced 10 years ago. We must pass tough antiterrorism legislation.

JACK LASKOWSKI, A TRUE LEADER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. BARCIA. Mr. Speaker, many of us know how important the labor movement has been for the improvement of working conditions and fair compensation for millions of Americans. None of this would have happened if it had not been for tireless, visionary individuals who were willing to work on behalf of their coworkers. Jack Laskowski, the current director of UAW region 1D, has been such an individual who is being honored for his dedication at a retirement party this Friday.

Jack has been a member of UAW Local 362 since 1958 when he started to work at General Motors' CPC Powertrain plant in Bay City. He followed on the traditions established by his father, Walter "Bullet" Laskowski, who took part in the UAW's first strike at the Chevrolet plant in Bay City in 1936, which led to the formation of Local 362.

Since 1958, Jack has served as a member of the bargaining committee, chaired by his father. He also was a benefit plans representative and editor of the local paper until he joined the staff of the international union. Jack served on the staff of 1D since 1971, and then became the assistant director in June 1986, and finally director on June 17, 1992. He has been a vital component of labor's presence in Saginaw, Bay City, and the northern portion of Michigan's lower peninsula.

Jack's involvement in matters affecting people extend beyond his activities in the UAW. He has served as a member of organizations like the NAACP and the Coalition of Labor Union Women. He served a 3-year term as a city commissioner of Bay City. He has throughout his adult life been active in the Democratic Party, including his current membership of the Kent County Democratic Party executive committee.

He and his wife Sally also raised three wonderful sons, Greg, Tim, and Mike, who have become a bilingual special education teacher, a director of labor at Occupational Health Care, and another generation of GM worker and member of UAW Local 2031, respectively.

I have had the good fortune to know Jack personally for many years. I consider him to be a friend, a capable advisor, and someone I am proud to know. Mr. Speaker, in recognition of a career of devotion and a lifetime of leadership, I urge you and all of our colleagues to join me in wishing Jack Laskowski a happy, and well-deserved retirement from his years with the United Auto Workers.

TRIBUTE TO MOTHER MARTHA OVERALL

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mother Martha Overall, who was honored for her tireless contributions in the service of the community on October 6 at the 1995 St. Benedict the Moor Neighborhood Center's dinner dance, in the South Bronx.

Mother Overall is one of eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being implemented at St. Benedict the Moor Neighborhood Center.

A native New Yorker, Mother Overall finished law school at New York University. Soon she was helping tenants and providing volunteer legal services for the improvement of residential buildings.

While taking care of an ailing brother who died from AIDS, she was called to the priesthood. She received a master's in divinity from Union Theological Seminary. Mother Overall was ordained at the Cathedral of St. John The Divine and began working at St. Ann's Episcopal Church, next door to St. Benedict the Moor.

In her public and private life, she has never given up the commitment to help those who need her. Mother Overall became the mother of her godson Joey Daniel Spearman II, after his biological mother died from breast cancer. Her dedication to the community has gained her the admiration and respect of all of us in the South Bronx.

Mr. Speaker, I ask my colleagues to join me in recognizing Mother Overall for her immense love and devotion in helping those who are the least fortunate among us.

LEGISLATION TO ENCOURAGE FRANCE TO HALT NUCLEAR TESTING

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. MARKEY. Mr. Speaker, I am pleased that Congressman FALEOMAVAEGA and Congressman STARK have joined me in introducing legislation today to encourage the French Government to stop exploding nuclear test devices. Despite an international nuclear testing moratorium in effect since 1992 and the important progress made by the permanent extension of the Nuclear Non-Proliferation Treaty, France has detonated two nuclear test devices at its facilities in the South Pacific. Additional tests are planned.

This legislation is very straightforward: Until France's nuclear tests stop, the bill makes importing France's celebrated Beaujolais wine more expensive in the United States and therefore less palatable to American consumers.

As this year's ripe French grapes are pressed into another vintage of France's prized Beaujolais wine, French nuclear testing in the South Pacific is reaping a bitter harvest: A harvest of worldwide criticism, protest, and censure. We are sending France a clear and simple message: To paraphrase Ernest and Julio Gallo "You will sell no wine during testing time."

The bill increases the current import fee on Beaujolais by 800 percent. All France needs to do to stop this year's Beaujolais from going down the tubes is to stop testing nuclear weapons.

The French Government has pledged to sign a comprehensive test ban next year that will outlaw all future nuclear test explosions. President Chirac recently has said that France will shorten its planned series of test explosions in the South Pacific. In addition, last Friday, France promised to sign the South Pacific Nuclear Free Zone Treaty by the first half of 1996. These steps are encouraging. However, France should take them now instead of making promises while continuing to blow up nuclear test devices on fragile coral reefs in the middle of the ocean.

France's underground nuclear test explosions at these reefs produce radioactive materials that will, over time, leak into the surrounding environment. In fact, scientific studies conducted in the area around the test site have found evidence that this is already occurring. In 1987, marine researcher Jacques Cousteau examined the reefs and collected water samples. In his report, Cousteau indicated that the water samples contained concentrations of the radioactive isotope cesium-134. Cousteau also noted that reefs are the "worst possible choice" for locating a test site because of the potential for leakage of radioactive contamination.

In addition to environmental damage, French nuclear testing also severely undermines ongoing efforts to conclude a CTB outlawing all tests for all time. French testing slows the momentum toward global nuclear disarmament which was achieved at the U.N. conference permanently extending the Nuclear Non-Proliferation Treaty.

I am pleased that Congressman FALEOMAVAEGA and Congressman STARK have joined me in this effort, and I hope that France listens to the message we are sending today and stops testing immediately.

TRIBUTE TO JOHN T. AND LORRAINE HEDRICH

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. CAMP. Mr. Speaker, I rise today to honor John T. and Lorraine Hedrich as they are recognized for their vast contribution to polka and the State of Michigan. John and Lorraine were inducted into the State of Michigan Polka Music Hall of Fame on Sunday, October 1, 1995.

America was built by the hard work and commitment of settlers who brought with them a rich and varied heritage. Polka flourished in Michigan largely due to the devotion of those who brought with them their families' traditions and customs, as well as their love of polka. John and Lorraine are two of those special individuals who are proud to keep an honored tradition alive.

John T. Hedrich of Chesaning, MI has been playing the drums since the age of 5. His wife Lorraine has been playing the accordion since she was 11 years old. John and Lorraine first met in 1962 when Lorraine played with John's Hot Shots at the Quaker Inn in Corruna. The two were married in February of 1965. In 1973 they began playing together in a two-piece band still known today as The J & L Bluetones. Currently, John and Lorraine are members of the Saginaw Musical Association Local 57.

Mr. Speaker, thanks to John and Lorraine's efforts, we are all able to enjoy an old musical tradition from many years ago. They were honored at a reception in Owosso, MI because of their dedication and commitment to spreading the polka tradition and helping others enjoy this special music. I am confident that the musical legacy of these outstanding individuals will be remembered for decades to come.

MEDICARE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, October 18, 1995 into the CONGRESSIONAL RECORD.

WHAT'S WRONG WITH THE GINGRICH MEDICARE PLAN

Congress will consider soon proposals to reform the Medicare system. Everybody agrees that reducing the growth in Medicare spending is essential to eliminating the federal budget deficit, but there is disagreement over the level of cuts that should be made.

Is the Medicare system broke? Medicare consists of a Part A program, which pays for hospitalization of older Americans and is financed through a payroll tax of 2.9% of wages, half paid by employers and half by employees; and a voluntary Part B program, which covers doctor bills and outpatient expenses and is financed by general tax revenues and monthly premiums paid by beneficiaries.

Part B is not in danger of bankruptcy because it is financed from general revenues. The Part A trust fund, however, will not have enough money to fully cover the benefits required by law, according to the program's trustees. The Office of Management and Budget (OMB), which oversees the federal budget, and the Medicare trustees say that $90 billion in cutbacks are needed to ensure the future solvency of Part A over the next 10 years. The Congressional Budget Office (CBO), the non-partisan budget arm of Congress, estimates that around $150 billion in cutbacks are needed for the next 10 years, which is as far as CBO will measure it.

The trustees have issued similar findings for almost every year since 1970, and Congress and the President have always raised taxes or adjusted benefits in plenty of time to prevent bankruptcy. The real problem for Medicare is long term. Its costs are growing rapidly and soaking up a large share of the federal budget. Significant structural changes are necessary early in the next century. To illustrate, there are almost 4 workers paying taxes for each person covered by Medicare today. The ratio will fall to 2½ workers per beneficiary in 2025.

Why are costs increasing? The costs of Medicare are increasing for two basic reasons. First, the population is getting older and living longer—which means more health care problems, greater health care spending and more demands on the Medicare system as the number of beneficiaries climbs (there are presently 37 million Medicare beneficiaries). Second, health care costs are rising, driven largely by inflation and the advance of medical technology.

What is Speaker Gingrich's plan? Speaker Gingrich would cut $270 billion from projected Medicare spending over 7 years. He would control costs by shifting beneficiaries into private plans and Medical Savings Accounts, holding down payments to doctors and hospitals, and doubling premiums paid by beneficiaries.

Does the plan cut Medicare benefits or just slow the rate of growth in spending? The answer is both. To provide the benefits required under current law, the amount the government spends for each Medicare beneficiary is projected to rise from the current level of $4,800 to $8,400 in 2002. Gingrich's plan would reduce the projected increase to $6,700 per beneficiary. The increase, however, would be inadequate to keep pace with inflation and more expensive medical treatments. Consequently, Medicare will buy fewer services for each beneficiary.

Will Medical Savings Accounts (MSAs) and managed care networks save money? Gingrich's plan relies on MSAs and managed care to save money. MSAs offer retirees the option to buy with government money a catastrophic policy to cover large medical bills along with a tax-free savings account to pay routine medical bills. The MSA in his plan may include a $10,000 deductible. This option appeals mostly to healthy retirees who expect small medical bills and therefore could expect tax-free buildup of money in the MSA. The sicker patients would remain in Medicare, driving up costs.

Gingrich's plan also seeks to generate savings by encouraging seniors to enroll in managed care networks, such as health maintenance organizations. The theory behind managed care is that networks can offer more comprehensive coverage than traditional fee-for-service plans because they are better able to hold down costs. Managed care may save money (at least in the near term), but it also entails less physician choice for beneficiaries.

Does the plan add up? CBO has indicated that Gingrich's plan falls short of the projected savings of $270 billion. Gingrich proposes a "fail-safe" to make up for any shortfall by taking additional (but unspecified) budget-cutting steps in the future, such as further reducing payments to doctors and hospitals.

Are there alternative plans? An alternate House plan has been introduced which would make $90 billion in cuts over seven years, the amount recommended by Medicare trustees to ensure Medicare's solvency for 10 years. The plan includes modest reductions in hospital payments, limits on physician reimbursement, tough fraud and abuse prevention, and a commission to address the long-term solvency of Medicare. There would be no increased costs to beneficiaries. A similar plan has been introduced in the Senate.

What is my view: I believe that Medicare must be cut and reformed, but changes have to be made in such a way to protect the lower income elderly and the disabled who lack the means to buy their own health care. The Gingrich plan extracts two to three times what is necessary in order to help pay for a huge tax cut, and does this too fast. We need to ease up on Medicare and find savings elsewhere.

Managed care should be an option, but we do not want to shove beneficiaries into it if they prefer to choose their own doctor. The Gingrich plan will likely make physician choice too expensive for beneficiaries, and could push doctors into managed care arrangements. We should also eliminate the "fail-safe" devices in the Speaker's plan which will bring about direct price controls.

Medicare is a vitally important program to the American people and it must be protected. The congressional leadership and the President must work together in a cooperative spirit to ensure the program continues to be there when people need it. I think this is what Americans want. Time is running out for careful deliberation in 1995. We all want affordable, high quality health care—goals we must be careful not to undermine.

TRIBUTE TO BILL MARX

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. TAUZIN. Mr. Speaker, on Thursday evening, October 26, 1995, the Council of Industrial Boiler Owners [CIBO] will pay tribute to its founder, Mr. William B. Marx, in honor of his retirement. I would like to join his family, many friends, and associates in honoring his distinguished career and the many contributions he has made to the industrial community and the energy industry of this great United States of America.

Bill Marx was born in Easton, PA on December 20, 1923. He graduated with a bachelor of arts degree from Lafayette College in 1948, including 3 years as a first lieutenant in field artillery. He earned a masters degree from the Fletcher School of Law & Diplomacy in 1949, and began working for the CIA in the Far East and other locations. After marrying his wife Marge 45 years ago, he returned to the States where he raised three bright and independent daughters. His career in the energy industry included TransAmerica, Babcock & Wilcox, and executive director of the American Boiler Manufacturers Association, finally founding the Council of Industrial Boiler Owners. In 1986 Bill was named "Coal Man of the Year" by the Washington Coal Council.

In 1978 Bill saw the need for a voice to represent the highly diverse industrial energy user community to bring the facts of the industrial situation, the production base of the United States, to Washington to ensure the development of technically sound, rational and cost-effective energy and environmental legislation and regulations. Bill, through his leadership, initiative, foresight, and perseverance in unifying this group, brought reality to the public policy debates on these issues; and, was instrumental in achieving the dual objective of maintaining a strong industrial energy base and simultaneously improving the environment.

The task that Bill successfully accomplished was extremely important to the long-term economic health of the industrial energy community, and it helped improve the Nation's environment. His accomplishments are numerous and will benefit the United States in ways yet to be seen in the many years to come.

Mr. Speaker, please join me and my colleagues as we recognize, with honor and respect, Mr. Marx's contributions as he retires to enjoy the benefits of this great country he has helped promote and preserve.

TRIBUTE TO MARY KAY LOUCHART

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mary Kay Louchart, a dedicated social worker who was honored for her generous service to the community on October 6 at the 1995 St. Benedict the Moor Neighborhood Center's dinner dance, in the South Bronx.

Ms. Louchart is one of eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being implemented at St. Benedict the Moor Neighborhood Center.

Born and raised in Michigan, Ms. Louchart devoted 10 years to helping Mexican migrants through the Saginaw Catholic Diocese Committee, and another 10 years assisting the elderly with the Saginaw County Commission on Aging.

In 1981 she came to the South Bronx to work with the Grail Team, with whom she remodeled burned out apartments at 383 St. Ann's Avenue and led the community to create the original park and garden. The St. Ann's residence currently houses women and men recovering from drugs and alcohol.

Ms. Louchart is a U.S. delegate to the Grail International Council and serves on the U.S. International Team. She earned a master degree in adult education and an APD in religious studies.

One of her most significant achievements has been through her work at the Bronx Grail Women's Group helping to empower them and to improve their self esteem.

Mr. Speaker, Ms. Louchart's efforts in the community should not pass unnoticed, therefore, I ask my colleagues to join me in recognizing her today on this special occasion.

POLICE OFFICERS KILLED IN THE LINE OF DUTY

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. RAMSTAD. Mr. Speaker, a few months ago I delivered a statement on the occasion of National Peace Officers Memorial Day, a day dedicated to the thousands of peace officers who have given their lives to protect their communities.

I listed the names of 17 Twin Cities' area police officers who were killed by a gunman's bullet since 1970. These names are inscribed on the walls of the National Law Enforcement Officers Memorial, located just a few blocks from the Capitol.

Two other brave Twin Cities officers—John J. O'Brien and John Harold Larson—are also immortalized on the memorial's walls. These two men also sacrificed their lives serving their communities.

Officer John Larson died tragically on August 10, 1974, in a collision with a fire vehicle responding to the same emergency to which he had been called.

On April 16, 1981, Officer John O'Brien was killed in an auto accident resulting from a high-speed chase. John's older brother Frank and younger brother Michael are still serving on the St. Paul police force.

These two men epitomize the finest qualities of our brave men and women in law enforcement—dedicated to serving their communities and selfless in their sense of duty, putting their lives on the line daily for people they may never know and people who may never be able to think them.

Their ultimate sacrifice will live on forever, not only on the walls of the National Law Enforcement Officers Memorial, but also in the hearts of the people they served and the officers who served with them.

On behalf of a grateful State and a grateful Nation, I salute these two brave men and the thousands like them who lay down their lives every day so our streets can be safer and our children have a secure place to grow up.

COALITION BUDGET RECONCILIATION SUBSTITUTE

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. ORTON. Mr. Speaker, I am submitting for the RECORD an amendment in the nature of a substitute to H.R. 2491, The Seven Year Balanced Budget Reconciliation Act. This amendment reflects the changes to amendment No. 7 which I submitted on Friday. The changes that we have made to our alternative are technical changes that we have made as the Congressional Budget Office has reviewed our language. As a minority within the minority party, we have been at the back of the line in having our substitute scored by CBO. CBO provided us with preliminary estimates on Monday and has continued to supply us with additional scoring throughout the week. We did not receive final scoring of some of the items until a few hours ago. This delay in having our substitute scored has prevented us from submitting our amendment earlier, because we are committed to ensuring that our substitute will balance the budget by 2002.

Most of the changes in this amendment are minor changes in the drafting of individual provisions that were necessary to clarify out intent for CBO. Other minor changes in the amendment were necessary to achieve the savings that we anticipated in certain areas. The changes in the amendment I am submitting today are as follows:

MEDICARE

Based on CBO scoring and interpretation of our Medicare proposal, we had to make several changes in order to achieve the objectives we had set out in our plan:

The capitated payments to Medicare Choice plans was reduced to 6 percent in 1996 through 1998 and to 5.5 percent in 1999 and thereafter. Payments in areas with reimbursements between 85 percent and 100 percent of the national average would be set at 160 percent of the national average. Payments in areas with reimbursements above 120 percent of the national average would be set at 35 percent of the national average;

The freeze on clinical labs and durable medical equipment was extended from 4 years to 7 years;

The medical economic index floor on payments to physicians was reduced to 91 percent in order to achieve the level of saving from physicians we had anticipated; and

We corrected drafting errors to clarify that PPS hospitals were included in the 1-year update freeze and that the 10-percent reduction in capital payments is extended for 7 years. In addition, we corrected effective dates for several provisions.

MEDICAID

Because CBO scored the per capita limits on Medicaid significantly differently than it had scored similar proposals earlier this year, we had to reduce the per-capita growth rate on Medicaid to CPI minus 0.5 percent in 1996 through 1998 and CPI minus 0.3 percent in 1999 and thereafter; and

In order to have the savings from targeting the Disproportionate Share Payments to hospitals with low-income utilization of more than 25 percent scored by CBO we had to write in National DSH limits of $6.5 billion in 1997 and 1998, $5.5 billion in 1999 and 2000 and $5 billion thereafter. These lower national limits are consistent with the savings that will result from targeting DSH payments.

WELFARE REFORM

After reviewing the work provisions and other welfare reform provisions that were in the Deal welfare reform substitute, CBO concluded that the welfare reform provisions would achieve greater savings than it had estimated when the Deal substitute was considered in March. As a result, we have made changes to the welfare reform provisions to remain consistent:

Section 9806, "Narrowing of SSI Eligibility on the Basis of Mental Impairments" was dropped; and

The participation rates in the Work First program were increased by 4 percent a year in each year from 1997 through 2001. The new participation rates are 20 percent in 1997, 24 percent in 1998, 28 percent in 1999, 32 percent in 2000 and 36 percent in 2001.

DISCRETIONARY SPENDING LIMITS

The discretionary spending limits were adjusted slightly in each year. The new outlay caps are as follows: $536.6 billion in 1996, $530.2 billion in 1997, $526.1 billion in 1998, $524.2 billion in 1999, $523.3 billion in 2000, $529.5 billion in 2001, and $529.5 billion in 2002.

DEFICIT TARGETS

After receiving final estimates from CBO, we adjusted the deficit targets to reflect the deficit reduction glide path that we anticipate will result from this bill. The deficit targets are as follows: $179.2 billion in 1996, $160.4 billion in 1997, $132.5 billion in 1998, $111 billion in 1999, $85.3 billion in 2000, and $41 billion in 2001.

Mr. Speaker, I encourage my colleagues to review this amendment carefully and join me in voting for "The Common Sense Balanced Budget Reconciliation Act" tomorrow.

EAGLE SCOUT HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding young individual from the Third Congressional District of Illinois who has completed a major goal in the Scouting career. Joseph Michael Bulvan, a young man from Boy Scout Troop 475, Saint Daniel the Prophet Parish, Chicago, IL, will be honored at an Eagle Scout court of honor.

It is important to note that less than 2 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those Scouts demonstrating extraordinary leadership abilities.

Joe has been actively involved in Scouting since September 1985 when he joined Cub Scout Pack 3475. There his enthusiasm and eagerness earned him consecutive years of perfect attendance and Scout of the Year awards. The Parvuli Dei Award, the Christian religious award meaning Family of God, was presented to Joe on behalf of his religious beliefs and practices. Joe also earned the Cub Scout World Conservation Award and reached the highest Cut Scout rank, the Arrow of Light.

Joe began his trail to Eagle Scout in September 1988 when he joined Boy Scout Troop 475. Since that time, he has earned 30 badges, 9 more than were required of him. Joe displayed leadership abilities by serving his troop as den chief, quartermaster, historian, instructor, patrol leader, and senior patrol leader. The Ad Alteri Dei award was presented to Joe for his continued Christian beliefs and knowledge of the sacraments. His duty to country was displayed various times when Joe marched in the annual Memorial Day parades paying tribute to our veterans. He also helped organize a collection of basic necessities and support letters for the troops in Desert Storm. He volunteered his help to homeless shelters, soup kitchens, handicapped functions, and visited nursing homes. Joe was in charge of a clothing drive to benefit the Saint Vincent DePaul Society and the homeless.

Joe put his camping and scouting skills to use on numerous weekend campouts and his five summer camp excursions to Owasippe Boy Scout Camp in Whitehall, MI. He also had the opportunity to be part of the 1993 National Jamboree held at Fort A.P. Hill, VA. Joe again earned the World Conservation Award, this time at the Boy Scout level. His fellow scouts honored him by electing him into the Order of the Arrow, a brotherhood of fellow campers.

In light of the commendable leadership and courageous activities performed by this fine young man, I ask my colleagues to join me in honoring Joseph Michael Bulvan for attaining the highest honor in Scouting—the rank of Eagle. Let us wish him the very best in all of his future endeavors.

TRIBUTE TO RON NOWACZYK

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. CAMP. Mr. Speaker, I rise today to honor Ron Nowaczyk as he is recognized for his vast contribution to polka and the State of Michigan. Ron Nowaczyk was inducted into the State of Michigan Polka Music Hall of Fame on Sunday, October 1, 1995.

America was built by the hard work and commitment of settlers who brought with them a rich and varied heritage. Polka flourished in Michigan largely due to the devotion of those who brought with them their families' traditions and customs, as well as their love of polka. Ron is one of those special individuals who is proud to keep an honored tradition alive.

Ron Nowaczyk of Saginaw, MI started his musical career as a drummer for a band he and his friends called the Melody Boys. Over the past 40 years, Ron has been privileged to play the drums for several bands including the Jimmy Chronowski Band, John's Polka Band, and the Andy Nester Band. He even recorded two albums with the John Lipinski Orchestra. He was awarded the European American Music Award from radio station WOAP in 1994, and currently volunteers and serves as a radio personality on WKNX in Frankenmuth, MI.

Mr. Speaker, thanks to Ron's efforts, we are all able to enjoy an old musical tradition from many years ago. He was honored at a reception in Owosso, MI because of his dedication and commitment to spreading the polka tradition and helping others enjoy this special music. I am confident that the musical legacy of this outstanding individual will be remembered for decades to come.

TRIBUTE TO STEFAN R. ZUCKER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Stefan R. Zucker, who was honored for his service in aiding individuals to recover from their substance abuse problems on October 6, at the 1995 St. Benedict the Moor Neighborhood Center's dinner dance, in the South Bronx.

Mr. Zucker is one of eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being carried out at St. Benedict the Moor Neighborhood Center.

Born in Germany in a U.N. refugee relief camp, young Stefan Zucker came to the United States in 1949 at the age of 3. He graduated from Muhlenberg College and obtained a master's degree in anthropology from Hunter College.

Mr. Speaker, Mr. Zucker's achievements in the community are in addition to his important work as a teacher. He has dedicated 20 years to teaching students at the elementary school level and served as a coordinator of the community school program at Public School 30. In 1992, he received the Samuels Award for Excellence in Teaching from the Fund For New York City Public Education.

Mr. Speaker, I ask my colleagues to join me in honoring Mr. Zucker, an individual who has made the United States his home and who through his tireless efforts has contributed greatly to our community.

INTRODUCTION OF THE CORPORATE RESPONSIBILITY ACT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SANDERS. Mr. Speaker, it is now crystal clear: When it comes to cutting corporate welfare the Republican majority in charge of the 104th Congress does not get it. They are determined to balance the Federal budget during the next 7 years on the backs of the most vulnerable Americans—our Nations' sick, elderly, and children.

Corporate welfare programs in the Federal budget add as much as $125 billion to the Federal deficit every year.

But Speaker GINGRICH and the Republican budget that will probably be approved by the Republican majorities in the House and Senate cut virtually nothing from corporate welfare over the next 7 years. Instead, they prefer to slash Federal funding for programs for millions of Americans who are struggling to provide for themselves and their families and for some measure of economic security.

Like many Americans, the members of the Progressive Caucus ask this fundamental question: Why won't the Republican majority cut the immense corporate welfare benefits provided every year by the Federal Government to very profitable corporations and wealthy Americans as an essential component of any fair plan to balance the Federal budget during the next 7 years?

This is very unfair. There is a better way. That is why today several members of the 49-member Progressive Caucus and myself introduced legislation to cut $800 billion in corporate welfare over the next 7 years. We call our legislation the Corporate Responsibility Act and it represents one of the foundations of the 11-part Progressive Caucus alternative to the Contract With America and the rest of the GOP agenda in the 104th Congress.

We have identified dozens of tax breaks, subsidies and other Federal benefits for corporations and upper income taxpayers which should be considered for cutting or elimination. These cuts would save $570.8 billion over a 5-year period according to estimates by respected economists such as the Congressional Budget Office and the Joint Tax Committee of the Congress.

Some of these programs are outright subsidies, such as for Export-Import Bank loans. Others are indirect subsidies through charging less than market rates—or nothing at all—for goods and services sold to corporations—for example uranium enrichment, irrigation water, use of public land for grazing. Still others are indirect subsidies through Government purchases for unnecessary programs, such as the strategic petroleum reserve or the space station.

Tax expenditures are special provisions of the Tax Code which reduce rates, increase deductions, provide advantageous depreciation, or otherwise reduce the taxes corporations and wealthy individuals pay.

A number of reports have been issued on the subject of corporate welfare in recent months, and we have used data from all of them. However, every selection of programs that can be cut involves choices, and the principles that guided our selection should be made clear. In general, we have chosen to favor: Family farms over agribusiness; small businesses over multinational corporations; domestic investment and job creation as opposed to offshore production; consumer health and safety over short-term profitability; and sustainable economic development over environmental exploitation.

We have emphasized supporting the needs of the average working people of America and cutting programs in which taxpayers' money is used to help companies and wealthy individuals who can, and should, be self-sufficient.

A summary of this 80-page bill is available through my office. In it, the corporate welfare programs are grouped by the industries which benefit from them and are listed with estimates of their cost over a 5-year budget period based on the sources cited at the end of the summary. Projections were then estimated for an additional 2-year period to have some rough frame of reference for different approaches to balancing the Federal budget over the next 7 years.

THE 25TH ANNIVERSARY OF THE CREDIT UNION SHARE INSURANCE FUND

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. VENTO. Mr. Speaker, I rise to recognize the 25th anniversary of the Credit Union Share Insurance Fund which was celebrated earlier this month.

I would like to include for the RECORD a message from President Clinton commemorating the 25th anniversary of the NCUSIF and join him in congratulating credit unions for the key role they play in so many communities across the Nation.

I think it is especially important to recognize the unique role that credit unions play now that Republican proposals are being pushed that would force credit unions to pay for Financing Corporation [FICO] bonds. The credit union NCUSIF is a fund totally separate and distinct from those at the Federal Deposit Insurance Corporation that insure banks and thrifts. In fact, the credit union movement recapitalized and stabilized the NCUSIF itself, without any taxpayer or government support in the late 1980's. Charging credit unions for the FICO bonds used to pay for the problems of the thrift industry is not appropriate and could be the first step toward loading down and hindering credit unions. The next step could fold the entire credit union movement under the banks and thrifts deposit insurance fund rubric and shift complete control to the Treasury, Federal Reserve Board, and the FDIC.

THE WHITE HOUSE,
Washington, DC, October 11, 1995.

I am delighted to join in celebrating the twenty-fifth anniversary of federal share insurance for America's credit unions.

Credit unions play an integral part in the development of our communities and in the financial stability of millions of families. Providing fair loans, sound fiscal advice, and high quality consumer services to their members, credit unions have earned the trust of their shareholders and the respect of financial institutions throughout our nation.

The creation of share insurance for credit unions has played a vital role in this success story, helping to guarantee continued stability in the industry and peace of mind for the millions of Americans who rely on these unique financial institutions every day. I commend the members of the NCUA and all who have helped to make this legislation so effective over the past quarter-century. All of you can be proud of your commitment to the ongoing growth and prosperity of our nation.

Best wishes for a wonderful celebration and every continued success.

BILL CLINTON.

EXTRAORDINARY COMMUNITY ACTIVISM

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SCHUMER. Mr. Speaker, I rise today in honor of an extraordinary story of community activism in Windsor Terrace, Brooklyn, a neighborhood guided by the strength of its parish. Local neighborhood bartender, Jimmy Houlihan, in a casual conversation with Rev. Dennis Farrell of Holy Name Church, learned of the ailing physical condition of the church's grade school. Anyone from Windsor Terrace knows that Farrell's Saloon, the bar where "Houlie" works, is also a solid neighborhood landmark well known for its involvement in community events.

As one who understands the importance of helping his fellow neighbors, Houlie immediately began soliciting others to paint the schools' 33 classrooms. He called upon Charlie Kawas, a firefighter for the New York Fire Department and a graduate of Holy Name School, to gather support among his friends and neighbors for this altruistic undertaking. Since almost everyone in the community had either gone to Holy Name or had children who currently attended, it was not long before their volunteer list reached 300 enlistees.

Through the efforts of Kawas, the entire community of Windsor Terrace became actively involved in the preparation and planning of this painting project. Local merchants also devoted resources to the painting crew, providing coffee, bagels, food, and beer. Farrell's donated money for the party afterward and the parish donated the paint.

The people of Windsor Terrace prove once again that community activism still exists in America. Men and women gave up a day off, donated money and resources and joined hands with their fellow parishioners to improve the appearance of their local school. This overwhelming tale serves as an inspiration to every community in every city in America. I commend these courageous and thoughtful citizens for exhibiting the true spirit of community and public service.

TRIBUTE TO SAMUEL BRAEN

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. MARTINI. Mr. Speaker, I rise today to honor a very special resident of the Eighth Congressional District. Tonight in my congressional district there will be a ceremony honoring Mr. Samuel Braen, the 1995 Man of the Year for the Boys and Girls Club of Paterson. Mr. Braen was selected for this honor in recognition of his long history of involvement in civic and business interests throughout northern New Jersey and particularly for his philanthropic activities, especially those focusing on youth. Mr. Braen joins a select group of 29 distinguished men and women who have helped raise hundreds of thousands of dollars for the Boys and Girls Clubs in Paterson through the annual man of the year honor.

Samuel Braen is the chairman/CEO of Stone Industries, Inc., located in Haledon, NJ. The company is in the crushed stone and aggregate business. They are major suppliers of stone, aggregate, and asphalt in the northern New Jersey and southern New York area. Mr. Braen represents the fourth generation of his family in this industry.

Mr. Braen has lived in Wyckoff, NJ, all of his life. He was educated in the local schools and after graduation from Ramapo High School he attended Shelton College before his involvement in the family business. He has many years experience in the road construction, aggregate and road building industry. Many major highways, bridges, schools, and hospitals were built in Bergen and Passaic Counties by the Braen family.

Mr. Braen is married to the former Janet Knapp and they have six children and two grandchildren. Sam spends most of his weekends involved with his children in sports activities such as football, basketball, tennis, and golf.

Mr. Braen is very involved in many civic, business, and trade organizations. Some of these organizations include the board of trustees of the Wyckoff Library, advisory board of the Atlantic stewardship bank, the past president of the Wyckoff Rotary Club, executive board of the Passaic Valley Council of the Boy Scouts, Society of the Valley Hospital, life member of the Wyckoff Fire Department and Exempt Association, the New Jersey Asphalt Paving Association, and the board of trustees of Steven's Institute of Technology.

Mr. Speaker, I know you will join me in congratulating Sam Braen for the contributions he has made to his community.

TRIBUTE TO ROLAND JONATHAN LEWIS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Roland Jonathan Lewis, who was honored for his outstanding contribution to the community on October 6 at the 1995 St. Benedict the Moor Neighborhood Center's Dinner Dance, in the South Bronx.

Mr. Lewis is one of eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being implemented at St. Benedict the Moor Neighborhood Center.

Mr. Lewis earned his bachelor of arts degree from Columbia University, and both a master's in regional planning and a juris doctor's from Rutgers University.

Lewis is currently a partner at Dellapa & Lewis where he had been successful in facilitating the development of affordable housing projects. He is married to Faye Lewis and has two children.

Mr. Speaker, I ask my colleagues to join me in honoring Roland Lewis for the generous service rendered for the benefit of our community.

FUNDING FOR JUDICIAL GENDER, RACIAL FAIRNESS TASK FORCES

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. GEPHARDT. Mr. Speaker, I rise today in support of funding for judicial gender and racial fairness task forces.

The Violence Against Women Act of 1994 authorized research and education programs to enhance judicial knowledge and awareness of domestic violence and sexual assault. The act authorized $700,000 for Federal court task forces studying gender and racial bias in the Federal judicial system. The Commerce, Justice, State, and judiciary appropriations bill as passed by the House included the full $700,000 authorized by VAWA; the Senate version did not fund these important task forces. I would like my colleagues on the conference committee to stand firm for the House position and also that you fully fund the VAWA.

It is essential that funding for these important task forces be retained. To date, at least 40 reports on gender bias and racial bias have been issued by Federal and State task forces on gender and racial fairness. Many of the improvements suggested by these reports have been implemented.

Several years ago the court system in my home State of Missouri conducted a gender bias study which was received favorably by the legal community and the State judiciary. This study revealed that gender bias is a very real problem in the courts. It identified several key problems which ranged from the unequal treatment of women and minority witnesses, to statements of outright bias from judicial officers directed both to lawyers and to litigants.

To preserve the integrity of our judicial system, it is essential that bias be identified and eliminated. Gender and racial bias task forces are part of a longstanding effort on the part of Federal courts to look closely at their own performance in an effort to improve the administration of justice. Continued funding for these task forces is essential if the judicial process is to be fair to all, regardless of gender or race.

Mr. Speaker, I encourage my colleagues to support funding of these task forces for their continued efforts to ensure that all persons are treated equally in our Federal courts.

IN HONOR OF CHIEF DAVID G. WALCHAK

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. BASS. Mr. Speaker, it gives me great pleasure today to rise to pay tribute to David G. Walchak, Chief of Police for the city of Concord, NH, as he becomes the 83d President of the International Association of Chiefs of Police.

Chief Walchak has a long and distinguished record of service as a law enforcement officer, going back to his days as a patrolman for the LaCrosse, WI, Police Department in the 1960's. David Walchak also excelled in law enforcement positions in Minnesota and, for many years, in Maine, where he served as the director of the Maine Criminal Justice Academy and the law enforcement director of the Maine Municipal Association.

For the past two decades, David Walchak has served as the chief law enforcement officer for the city of Concord, NH, the capital of our great State. He has earned the respect and admiration of the citizens of Concord, the city's elected leaders, his police department, and his colleagues from around New Hampshire and around the country.

Chief Walchak has served as the First Vice-President of the International Association of Chiefs of Police and serves on numerous professional and civic boards at the local, State, and Federal levels. His long record of dedication to the field of law enforcement speaks volumes about his character, his honor, and his respect for the law.

I know that his family and friends are very, very proud of his accomplishments, and I know that he will do a fantastic job as President of the International Association of Chiefs of Police.

Mr. Speaker, I ask all of my colleagues to join me in congratulating Chief Walchak in his new role representing law enforcement officers from around the country and across the globe.

COMMENDS PRESIDENT CLINTON FOR SUPPORTING ENDA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. FARR of California. Mr. Speaker, I rise today to commend President Clinton for supporting the Employment Non-Discrimination Act [ENDA]. This act seeks to extend Federal employment discrimination protections currently provided based on race, religion, gender, national origin, age, and disability to include sexual orientation under title VII of the Civil Rights Act. It does not create any special rights for lesbians and gay men.

The bill prohibits employers from subjecting an individual to different standards or treatment because of that individual's sexual orientation. Hiring quotas are expressly prohibited. ENDA applies to Federal, State and local governments, including U.S. Congress. There are certain exemptions to this legislation which include small businesses, the Armed Forces, and religious organizations.

ENDA ensures that all Americans will be able to keep their jobs based on their performance and quality of work, regardless of sexual orientation. The bill is designed to protect the rights of all Americans to participate in the job market without the fear of unfair discrimination. Professional skills and job performance should be the sole factors by which employers judge their employees.

I am pleased that the President decided to endorse this very important piece of legislation. Currently, discrimination in employment on the basis of sexual orientation is legal in 41 States. Forty-one States. It shocks me that this blatant discrimination continues in our society. Solid, upstanding citizens in all walks of life—businessmen and women, doctors, lawyers, teachers, artists, and others—are subject to unfair treatment in the workplace simply because of their sexual orientations. The fact that sexual orientation has nothing to do with the quality of work product does not seem to matter in the face of this most onerous discrimination. Legislation such as ENDA is definitely needed. While the Federal Government is still trying to pass this bill, many local jurisdictions in my State of California have already enacted antidiscrimination laws.

I am an original cosponsor of the Employment Non-Discrimination Act. This bill is about ending discrimination in the workplace. Every American gay or not, deserves the right to equal opportunity. Discrimination continues to exist in our society and must be fought. We all must be willing to create jobs for all people who want to work and we must dedicate ourselves to end the hate which continues to plague our country.

RECOGNITION OF JUDE HARRINGTON

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SHUSTER. Mr. Speaker, far too often the work of the men and women who are charged with preserving our Nation's natural resources goes unnoticed. These individuals, many of whom dedicate their lives toward maintaining America's treasures are rarely recognized for the importance of the service which they provide.

Mr. Speaker, I rise today to pay tribute to such an individual from my own congressional district; Mr. Jude Harrington of Huntingdon, PA. A native of Pennsylvania, Mr. Harrington began his career with the U.S. Army Corps of Engineers in 1980 as a student intern with the Pittsburgh district. He received a bachelors degree in parks and recreation from Slippery

Rock University in 1982. After graduating from Slippery Rock, Jude has served the corps at several different locations and in the process has earned a solid reputation as a man of integrity and conviction.

Since 1992, Jude has served as the supervisory ranger for Raystown Lake. His work at the lake has enabled it to become one of the largest tourist and recreation attractions in my district. In fact, last year 1.3 million people traveled to rural Pennsylvania to visit Raystown Lake. Mr. Harrington's primary responsibilities at Raystown are centered upon the management of the lake's natural resources and recreation programs.

Recently, the U.S. Army Corps of Engineers selected Jude Harrington as the National Resources Management Employee of the Year. The corps hand-picked Jude out of a field of a possible 1,200 candidates from across the Nation. They recognized what we in the Ninth District have known for years, that Jude Harrington is the best of the best when it comes to natural resources management. His work on behalf of Raystown Lake is a testament to both his love for the area and his commitment to the preservation of natural resources. I will close by thanking Jude Harrington for his service to Raystown Lake and congratulating him on being recognized for this honor which he richly deserves.

TRIBUTE TO MICHAEL A. BENJAMIN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Michael A. Benjamin, an active community leader and a dear friend who was honored for his outstanding contribution to health community issues on October 6 at the 1995 St. Benedict the Moor Neighborhood Center's Dance Dinner, in the South Bronx.

Michael A. Benjamin is one of eight individuals who were recognized for their remarkable achievements in helping rehabilitate individuals who had been struggling with substance abuse problem. The rehabilitation program is being implemented at St. Benedict the Moor Neighborhood Center.

A Bronx resident, Mr. Benjamin started his career as an alcoholism counselor. He served in this capacity at various centers over a 7-year period, including Hunts Point Multi Service Corp., Prospect Hospital, Dr. Martin Luther King Jr. Health Center, and Our Lady of Mercy Medical Center.

After his exemplary career as a counselor, Michael worked as a special assistant to Assemblyman Hector Diaz. I had the privilege of bringing him on board in this same capacity while I was serving the N.Y. Assembly, just before I was elected to Congress.

Michael presently serves as parliamentarian of the executive committee of the Bronx Democratic County Committee and is a member of the community advisory board of the Morrisania Diagnostic and Treatment Center. He also served as chairman of the Youth Services Planning Committee and has sat on various committees and boards, including the South Bronx People For Change Anti-Drug Committee, the New York Lung Association Minority Task Force, and the Community Advisory Board at the Bronx Alcohol Treatment. He earned a bachelor of arts degree in political science at Syracuse University and has done graduate work at State University of New York.

Mr. Speaker, I ask my colleagues to join me in honoring Michael Benjamin for his success and lifelong commitment to community health issues.

PROVIDING RELIEF FOR AKZO NOBEL CHEMICALS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, today I am introducing legislation on behalf of a company in my congressional district, Akzo Nobel Chemicals of Chicago, that seeks to provide Federal relief to them for their past overpayments of U.S. Customs import duties.

In 1992, the Federal Government mistakenly collected excess import duties and Akzo Nobel has now exhausted all administrative remedies to recover money that rightfully is theirs. The U.S. Customs Service seems to agree with Akzo that the imported goods in question should have carried with them a lower duty rate, but at this point in time Customs' hands are tied, so to speak, in that the Service cannot refund the overpayments absent legislation requiring them to do so.

Therefore, the bill I am introducing today provides for the reliquidation of relevant customs entries, which would ensure that Akzo Nobel will have paid only the duties required by law and will receive compensation only for the excess import duties mistakenly charged them.

Last year the House Ways and Means Committee agreed to incorporate the language of my bill as an amendment to the GATT implementing legislation. Unfortunately, this language, along with other similar provisions, were not retained in the conference agreement.

I want to strongly emphasize that this legislation is not a "gimme." This bill is intended to right a wrong done to my constituent: It is intended to refund excess import duties that Akzo Nobel paid due to a series of other people's errors, including errors by the U.S. Government.

I am hopeful that my bill will move swiftly through the legislative process and finally rectify an unfortunate situation. I urge my colleagues to join me in support of this important and fair initiative.

CANCER-RELATED INSURANCE REFORM—COVERAGE OF CLINICAL TRIALS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. COLEMAN. Mr. Speaker, clinical trials provide the best available treatment for many patients with cancer, AIDS, and other life-threatening diseases, for whom standard therapies offer a limited chance for survival or enhanced quality of life. This is particularly true for children with cancer, over 60 to 70 percent are treated in clinical trials.

However, many health care insurers refuse to reimburse patient care costs which result from participating in clinical trials by claiming such therapy is "investigational" or "experimental." When this happens, individuals cannot receive what potentially may be the best treatment for their condition unless they can afford to pay significant out-of-pocket expenses often running into thousands of dollars. Unless these patient care costs are included in a standard benefits package, it is likely that the reformed system will evolve into one of two tiers of care—potentially one in which only the wealthy have access to the best anticancer treatments.

Reimbursement denials impede the ability to conduct effective and timely clinical research by increasing administrative burdens on medical institutions and reducing the number of patients eligible to participate in trials. If reimbursement is not available, fewer hospitals will be willing to participate in clinical research and the opportunity to test new and effective treatments will be lost. The data collected while providing state-of-the-art care to patients in clinical trial advance medical science and improve our ability to provide cost-effective therapies.

COVERAGE OF UNLABELED DRUG USES

Between one-half and three-fourths of all anticancer therapy involves uses of drugs for purposes other than those described in FDA-approved labeling. Frequently insurers will refuse to reimburse so-called "unlabeled" uses of approved anticancer drugs referring to the treatment as "experimental" or "investigational".

This trend has been criticized by the FDA as depriving the patients of the most effective therapy as well as discouraging drug development. The FDA has made it clear that the drug's label is in no way intended to regulate or restrict the ability of practicing doctors to use the drug for other purposes consistent with their professional judgment. Additionally, many of the unlabeled uses are for a combination of drugs. The FDA does not routinely approve combinations of drugs.

Any health care reform measure should include coverage of unlabeled drug uses in the treatment of cancer and other life-threatening diseases which has been referenced in the medical compendia or other peer-reviewed literature.

ACCESS TO SPECIALIZED CARE

The rapid increase in the number of managed care systems across the country has led to growing concerns regarding the ability to access specialized cancer care. For example, often managed care plans do not include any pediatric oncologist in their networks. If no specialized care is available, the individual is often penalized for going outside of the network to find the proper care.

Managed care plans should contract with a sufficient number of oncologists and specialized cancer centers or allow the members to go outside of the network without penalization.

Managed care enrollees should have appropriate access to specialists providing cancer screening and diagnosis, as well as treatment. Timely screening and referral to specialized care not only saves lives, but also contributes to a more cost-effective and efficient health care system.

HONOR LEON KLINGHOFFER'S MEMORY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SCHUMER. Mr. Speaker, 10 years ago this month the world changed forever for the family of Leon Klinghoffer. A decade ago a gang of coldblooded Palestinian terrorists brutally shot Mr. Klinghoffer and threw his body into the sea. Nothing can ever repair the mindless horror that act of terror visited upon the innocent. Nothing can replace the love of a husband and father.

Yet we can learn from this cowardly act of terror and others like it. Indeed we must learn from it if we are to survive as a free Nation in a world stalked by the terrorist gun and bomb. First, we must understand that terrorism has gotten more dangerous to the United States since Leon Klinghoffer's murder. The bombing of the World Trade Center shattered the last hope that America would be spared the lash of international terrorism. America is a target. It will be hit again and again unless we act strongly.

Second, terrorism is becoming more and more lethal. The grotesque carnage of the Oklahoma City bombing may be only the beginning. Terrorists now have in their grasp technology capable of creating horror unthinkable 10 years ago. All Americans are at risk, here and abroad.

I urge my colleagues: Do not forget Leon Klinghoffer. Honor his memory by standing up now for strong action against international and domestic terrorism. Join me in seeking discharge of the terrorism bill. Do it now.

TRIBUTE TO MICHAEL THOMAS DOYLE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 25, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Michael Thomas Doyle, who was honored, on October 6 at the 1995 St. Benedict The Moor Neighborhood Center's dinner dance, for his leadership and guidance.

Mr. Doyle is one of eight individuals who were recognized for their remarkable success in helping rehabilitate individuals who had been struggling with substance abuse. The rehabilitation program is being implemented at St. Benedict The Moor Neighborhood Center.

Born in Manhattan, raised in the South Bronx and currently residing in the Bronx, Mr. Doyle's commitment to his community began early. While attending DeWitt Clinton High School in the late sixties, he volunteered his time as a tutor at an after school program sponsored by St. Peter's Lutheran Church in the South Bronx. Later, as a full time sophomore at City College of New York, he became the director of that program, working with troubled youths and youthful offenders. Mr. Doyle did not stop there; as part of his college studies, he became a student teacher at St. Peter's School and Brandeis High School.

Upon graduation from City College in 1974 with a B.A. in English, Mr. Doyle worked in the New York State Office of Drug Abuse Services. He served as a drug treatment assistant at a residential center specializing in the treatment and detoxification of adult men.

Mr. Doyle's commitment to our community is demonstrated by these and many more accomplishments within his illustrious communal services career. His appointment as the area director of The Bronx Operations in 1995 is further evidence. He is now responsible for 6,900 occupied units of In-Rem housing for the city of New York.

Mr. Speaker, I ask my colleagues to join me in recognizing Michael Thomas Doyle for his endeavors in an area that provides an invaluable service to our community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 26, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 31

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine global proliferation of weapons of mass destruction.
SD-342

10:00 a.m.
Judiciary
To hold hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.
SD-106

Small Business
To hold joint hearings with the House Committee on Small Business to examine the cost of Federal regulations on small business.
SD-G50

2:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

NOVEMBER 1

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation to reform the United States shipping industry.
SR-253

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To resume hearings on S. 851, to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program.
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine global proliferation of weapons of mass destruction.
SD-342

10:00 a.m.
Judiciary
To continue hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.
SD-106

NOVEMBER 2

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings to examine alternatives to Federal forest land management and to compare land management cost and benefits on Federal and State lands.
SD-366

NOVEMBER 7

10:00 a.m.
Indian Affairs
To hold hearings on S. 1159, to establish an American Indian Policy Information Center.
SR-485

NOVEMBER 8

10:00 a.m.
Judiciary
To hold hearings to examine mandatory victim restitution.
SD-226

NOVEMBER 9

2:00 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 231 and H.R. 562, bills to modify the boundaries of Walnut Canyon National Monument in the State of Arizona, S. 342, to establish

the Cache La Poudre River National Water Heritage Area in the State of Colorado, S. 364, to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and H.R. 629, the Fall River Visitor Center Act.

SD–366

NOVEMBER 14

10:00 a.m.

Judiciary

To hold hearings to examine the operation of the Office of the Solicitor General.

SD–226

NOVEMBER 15

10:00 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 582, to amend United States Code to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding.

SD–226